

15 March 2021

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Our ref:
FE1/RG1/381278.1
Your ref:
TR040011

Dear Mr Bartkowiak

Applicant: North Somerset District Council
Development Consent Order application for Portishead Branch Line – MetroWest Phase 1
Application Reference: TR040011
DCO Document Reference: 9.37 ExA.CL.D6.V1

Applicant's Deadline 6 Submissions

In accordance with the examination timetable at Annex A of the Rule 8 letter, I provide the following updates:

1. Applicant's responses to Interested Parties' responses to ExA ExQ2 and written representations submitted at Deadline 5 Submissions;
2. An updated version of the dDCO (in clean, tracked and Word versions);
3. Schedule of changes to the dDCO;
4. An updated Explanatory Memorandum (in clean and tracked against Version 3);
5. An updated Statement of Reasons (in clean and tracked against Version 3);
6. An updated CA Schedule;
7. Applicant's responses to Panel's actions for ISH4;
8. Applicant's responses to Panel's actions for CAH2;
9. Applicant's responses to Panel's actions for ISH5;
10. Applicant's summary of oral submissions for ISH4;
11. Applicant's summary of oral submissions for CAH2;
12. Applicant's summary of oral submissions for ISH5;
13. Fencing grades summary;
14. The following drawings, which have been revised:

2.10 - Railway Landscape Plans (Disused Line) – **Version 2**

2.30 - Permanent & Temporary Stopping Up and Diversion Plan - **Version 2**

2.32 - Crossings to be Extinguished Plans - **Version 2**

2.33 - Public Rights of Way Plans - **Version 2**

2.35 - New Highways Plans - **Version 2** (Additional Change: Reference to Ashton Vale pedestrian ramp removed)

15. Responses to further information previously requested for Deadline 6;
16. Crown Land Schedule of Negotiations

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17. Update on S127 Issues and
18. An updated Guide to the Application.

It has not been possible to provide all of the requested documents at Deadline 6. The Applicant is endeavouring to provide the additional documentation as soon as it can and will aim to provide the documents by 5 pm on 16 March. The Applicant has been working with the interested parties, principally Forestry Commission, Natural England and Environment Agency, to provide a settled Habitats Regulations Assessment and supporting documentation, as well as a settled environmental statement. Excellent progress has been made.

To the extent that agreement with the relevant parties has been reached in terms of the content of the proposed documentation and the consequential drafting of the DDCO, CEMP and other key documents. However as agreement was either reached either late last week or indeed earlier today, there remain a number of consequential changes that the Applicant's team are still working on.

Rather than submit versions today that are either then the subject of a new submission at the Panel's discretion, or which are delayed to deadline 7, the Applicant believes it is more efficient for all concerned to have finalised, settled and checked documents with the Panel as soon as possible, rather than submit a further round of a large number of voluminous documents.

The documents still being worked on are:

19. Flood Risk Assessment Addendum
20. Updated Environmental Statement;
21. Updated Habitats Regulation Assessment;
22. Updated Avon Gorge Vegetation Management Plan;
23. Stephen Tromans QC's revised legal opinion;
24. Copy of agreement with Forestry Commission; and
25. An update on progress with SoCG, including an updated Statement of Commonality of SoCG
26. Proposed certified documents schedule.

Documents Provided with this letter:

Item 1: Applicant's responses to Interested Parties' responses to ExA ExQ2 and written representations submitted at Deadline 5 Submissions

The Applicant encloses the Applicant's responses to Interested Parties' responses to ExA ExQ2 and written representations submitted at Deadline 5 Submissions.

Item 2: An updated version of the dDCO

The Applicant now encloses an updated draft DCO, that contains a number of changes to requirements and altered Protective Provisions. The Protective Provisions with the Environment Agency are now agreed. There are consequential numbering changes to subsequent protective provisions, which are otherwise unaltered in this version of the dDCO

Protective Provisions for National Grid Electricity Transmission PLC (NGET) in a form acceptable to the Applicant and Network Rail are being prepared for the Panel to consider and will be provided for deadline 7, either as agreed with NGET or as an alternative to NGET's proposed protective provisions.

A Validation Report (DCO Document Reference: 3.3 (Version 5) for the dDCO and an updated Schedule of Changes to the dDCO (DCO Document Reference 9.1 ExA.Sch.D5.V5) are also enclosed.

Item 3: Schedule of changes to the dDCO

A list of changes to the dDCO from version 4 is enclosed.

Item 4: Updated Explanatory Memorandum

The Applicant encloses an updated Explanatory Memorandum to reflect the changes made to the dDCO (in clean and tracked against Version 3). Please see DCO Document: 3.2 (Version 4)).

Item 5: Updated Statement of Reasons

The Applicant encloses an updated Statement of Reasons to reflect the recent changes made to the dDCO. Please see DCO Document: 4.1 (Version 4).

Item 6: Updated Compulsory Acquisition Schedule

This is enclosed as DCO Document 9.11 ExA.CA.D5.V4. The format has been revised as required by the ExA.

The ExA requested a plan for progressing negotiations with affected parties between now and the close of the Examination – Item 7 of the CAH2 Action List. The plan is provided as an Appendix to the Applicant's response to the ExA's Action List.

Item 7: Applicant's responses to Panel's actions for ISH4

The Applicant provides its responses to the Panel's list of actions for ISH4, together with appendices.

Item 8: Applicant's responses to Panel's actions for CAH2

The Applicant provides its responses to the Panel's list of actions for CAH2, together with appendices.

The ExA requested a plan for progressing negotiations with affected parties between now and the close of the Examination – Item 8 of the CAH2 Action list. The plan is provided as an Appendix to the Responses to the action list.

Item 9: Applicant's responses to Panel's actions for ISH5

The Applicant provides its responses to the Panel's list of actions for ISH5, together with appendices.

Item 10: Applicant's summary of oral submissions for ISH4

The Applicant provides a summary of its oral case put at ISH4 together with appendices.

Item 11: Applicant's summary of oral submissions for CAH2

The Applicant provides a summary of its oral case put at CAH2 together with appendices.

Item 12: Applicant's summary of oral submissions for ISH5

The Applicant provides a summary of its oral case put at ISH5 together with appendices.

Item 13: Fencing grades summary

The Applicant has provided a document (which tends to be a certified document) indicating the detail of the types of fencing referred to in the General Arrangement Plans. The intention is that this document will be read in conjunction with the General Arrangement Plans and it provides clarification of the details provided in Chapter 4 of the Environmental Statement and the assessments that were consequentially made for the Landscape and Visual Impact Report.

Item 14: Revised drawings

The Applicant is providing additional revised drawings to reflect the changes made to the scheme as a result of the non-material change decisions:

- 2.10 - Railway Landscape Plans (Disused Line) – **Version 2**

- 2.30 - Permanent & Temporary Stopping Up and Diversion Plan - **Version 2**
- 2.32 - Crossings to be Extinguished Plans - **Version 2**
- 2.33 - Public Rights of Way Plans - **Version 2**
- 2.35 - New Highways Plans - **Version 2** (Additional Change: Reference to Ashton Vale pedestrian ramp removed)

Item 15: Responses to further information previously requested for Deadline 6

Please find enclosed the Applicant's review of actions outstanding from previous deadlines.

Item 16: An updated Guide to the Application.

This is enclosed. Please see DCO Document Reference 1.4 (Version 9).

Item 17: Crown Land Schedule of Negotiations

The Panel has asked for an update on S135 consents and the position if consent is not forthcoming. This is enclosed

Item 18: Update on S127 Parties

An update on S127 parties is provided. The Applicant's S127 and s138 submissions will be provided at Deadline 7.

Documents not provided with this letter but which will follow shortly:

Item 19: Flood Risk Assessment Addendum

The Applicant, following consultation with the Environment Agency, is finalising a Flood Risk Assessment Addendum. The Environment Agency has today indicated its agreement to the Applicant's approach to the draft order and CEMP. Following this news, final changes are being made to the document and the Applicant will provide the FRA Addendum and Statement of Common Ground as requested by the Examining Authority as soon as possible.

Item 20: Updated Environmental Statement

The Applicant has, as requested, been working on the updated the Environmental Statement and this will shortly be provided for the Panel. The final changes are being made to the document and the Applicant will wishes to ensure that the ES and supporting documentation are accurate and reflects the position following discussions over the last few days, including today, with the Environment Agency and Natural England. Despite working all weekend and today it has not been possible to complete the updates to the documents.

Item 21: Updated Habitats Regulations Assessment

The Applicant is now updating and finalising its Habitats Regulations Assessment for consideration by the Panel, reflecting the agreement with Natural England and Forestry Commission. The revised HRA will be provided as soon as possible.

At ISH5 it was proposed that the Applicant would provide:

- a summary of its IROPI case; and
- a "Road Map" showing how the Habitats Regulations Assessment meet the new DEFRA Guidance.

These are no longer separate documents but instead are included in the HRA.

Item 22: Updated Avon Gorge Vegetation Management Plan

As a result of agreement with the Forestry Commission the Avon Gorge Vegetation Management Plan is now also being updated. The revised, and final, version will be provided for the Panel as soon as possible.

Item 23: Stephen Tromans QC's revised legal opinion

Again as a result of agreement being reached with the Forestry Commission, Mr Tromans QC has revised his legal opinion and this is to be provided for the Panel with the HRA and AVGMP.

Item 24: Copy of Agreement with Forestry Commission

The Agreement with the Forestry Commission has now concluded and a copy will be provided as soon as possible.

The Agreement has not yet been executed and dated by the parties, principally because of the limited occasions on which sealing is possible because of COVID restrictions. The Applicant is endeavouring to complete the Agreement as soon as possible and will provide a completed, certified copy of the final Agreement once dated as soon as it is able. Again the Applicant aims to provide this before 29 March.

In the interim a copy of the engrossment version of the agreement will be provided to the Panel. Engrossment has had to await the AVGMP being concluded, as the AVGMP is appended to the agreement.

Item 25: Updated progress on SoCG and the Statement of Commonality

The Applicant continues to progress matters with stakeholders in relation to SoCGs.

The Applicant will shortly issue for signing and then submit the signed versions of the SoCG with:

- (a) Natural England – an unsigned but final version of the SoCG is submitted. This will be circulated for signature shortly and the final version will be provided to the ExA by Deadline 7 if not before.
- (b) As noted above, the Environment Agency has agreed key issues today and the Applicant will provide an updated Statement of Common Ground as soon as possible. .

The SoCG with Openreach (DCO Document Reference 9.3.10 ExA.SoCG-OL.D5.V2) was submitted as the final, signed SoCG with Openreach and Network Rail at Deadline 5. However one paragraph requires updating, as flagged by the Panel – the Applicant is arranging for the SoCG to be revised and resubmitted for Deadline 7 with the relevant paragraph altered. The Applicant does not anticipate other changes.

The SoCG with North Somerset Council as Local Planning Authority remains largely agreed but not yet signed. The Applicant has had several discussions with North Somerset, and will be aiming to finalise the SoCG in the next 2 weeks. This is with a view to submitting an updated version to the ExA by Deadline 7, if not earlier.

The SoCG with Bristol City Council as Local Planning Authority remains largely agreed but not yet signed. The Applicant has had several discussions with the City Council, and will be aiming to finalise the SoCG in the next 2 weeks. This is with a view to submitting an updated version to the ExA by Deadline 7, if not earlier.

The SoCG with Wessex Water (DCO Document Reference: 9.3.13 ExA SoCG-WW.D5.V2). was submitted at deadline 5. No further progress has been made albeit discussions with Wessex Water continue.

The SoCG with Western Power Distribution (DCO Document Reference: 9.3.14 ExA.SoCG-WPD.D5.V1) was submitted at Deadline 5 and still represents the current position as the Applicant understands it. Comments are awaited on this version from WPD. Discussions with WPD continue.

The Applicant is aware that the ExA specifically requested in the Rule 6 letter dated 7 September 2020 SoCGs with the National Trust and The Bristol Port Company. The Applicant is working with the organisations to agree commercial terms and enter into subsequent agreements in relation to their respective interests in the Application. The Applicant's view is therefore that it would be more appropriate and efficient to concentrate on finalising those agreements, rather than entering into SoCGs with those parties.

The Applicant no longer proposes a SoCG with Forestry Commission as agreement on commercial terms has been reached – see item 24 above.

The Statement of Commonality of the SoCGs (DCO Document Reference: 9.7 ExA.SoC.D5.V4) has not been updated given the progress with Environment Agency and Natural England today. The Applicant will review its content and provide an updated version shortly.

Item 26: Proposed certified documents schedule

The Applicant is preparing a separate version of Schedule 17 to the dDCO to show its latest thinking regarding certification of documentation. This will be provided for the Panel to consider as soon as possible, as well as interested parties as required. Given the large volume of changes taking place with regard to key documents to be certified the Applicant proposes to provide its suggested schedule once the status and version number of the relevant documents is finalised.

The final version of the dDCO at Deadline 7 will provide the latest list of certified documents.

Concluding Remarks

The Applicant apologises that some documentation is delayed but believes that the excellent progress made with key interested parties means that the short delay is the most efficient way forward. The Applicant's team has been working extremely hard on the remaining documentation and will continue to do so. Whilst regretting the short delay the Applicant believes the provision of a single updated and finalised suite of documentation, reflecting the extensive agreement now achieved, is the most efficient use of examination time and the time of interested parties.

The Applicant is happy to provide such further information as the ExA may require in respect of the above submissions and will endeavour to provide the further documentation as soon as it can.

Please confirm safe receipt of this letter and enclosures.

Yours sincerely

Richard Guyatt
Partner
Womble Bond Dickinson (UK) LLP