

Rail Central Strategic Rail Freight Interchange – EIA Regulations (2009 and 2017)

At the meeting between the Planning Inspectorate (PINS) and Rail Central (the Applicant), held on 13 June 2017, the Applicant discussed the recent introduction of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (the 2017 EIA Regulations). The Applicant highlighted that it had submitted a scoping request accompanied by a Scoping Report for the Proposed Development to the Secretary of State (SoS) before 16 May 2017 and consequently considered that the transitional provisions included in the 2017 EIA Regulations would apply.

The Inspectorate notes that Regulation 37 of the 2017 EIA Regulations includes transitional provisions allowing for the continued use of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (the 2009 EIA Regulations), where prior to the commencement of the 2017 EIA Regulations the Applicant has requested that the SoS adopt a scoping opinion (as defined in the 2009 Regulations) in respect of the development to which the application relates.

At the meeting the Applicant explained that the detailed design of the highways mitigation for the Proposed Development had been progressed. As a result, the Applicant noted that the description of the works to be consented under the DCO will include road improvements which were previously only referred to in broad terms in the Scoping Report. The Applicant advised PINS that some elements of the road improvements may be a Nationally Significant Infrastructure Project (NSIP) in their own right.

PINS has considered this information and provides the following advice.

The Applicant is required to consider carefully the extent to which the transitional provisions of the 2017 EIA Regulations apply. In particular the Applicant should consider the extent to which the information provided in support of the scoping request received by the SoS relates to the development that will be the subject of the DCO application. PINS also draws the Applicant's attention to paragraph 2.44 of the SoS's [Scoping Opinion](#) (January 2016) which states "*..that the Applicant may wish to consider the need to request a new scoping opinion if the proposed development changes substantially during the EIA process and prior to application submission.*"

Notwithstanding the above, the Applicant is also reminded of the option to voluntarily produce an Environmental Statement in accordance with the 2017 EIA Regulations without submitting a request for a scoping opinion.

PINS would emphasis strongly the importance of following the applicable regulations. If the Applicant is content that the transitional provisions of the 2017 EIA Regulations apply following detailed design of the highways mitigation

for the Proposed Development made subsequent to the submission of the Scoping Report to the SoS, then they should provide a robust justification in support of the approach within their Environmental Statement.

Advice may be given about applying for an order granting development consent or making representations about an application (or a proposed application). This communication does not however constitute legal advice upon which you can rely and you should obtain your own legal advice and professional advice as required.

A record of the advice which is provided will be recorded on the National Infrastructure Planning website together with the name of the person or organisation who asked for the advice. The privacy of any other personal information will be protected in accordance with our Information Charter which you should view before sending information to the Planning Inspectorate.