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17 September 2024

Dear Mr McFadden

**PLANNING ACT 2008: PROPOSED NON-MATERIAL CHANGE TO  
THE WEST MIDLANDS RAIL FREIGHT INTERCHANGE  
DEVELOPMENT CONSENT ORDER 2020**

**REGULATION 7(3) OF THE INFRASTRUCTURE PLANNING  
(CHANGES TO, AND REVOCATION OF, DEVELOPMENT CONSENT  
ORDERS) REGULATIONS 2011 - WRITTEN CONSENT FROM THE  
SECRETARY OF STATE FOR NOT CONSULTING A PERSON OR  
AUTHORITY**

1. Thank you for your email and attached letter of 10 September 2024, submitted on behalf of Four Ashes Limited (“the Applicant”), providing details of the intended approach to consultation on the proposed non-material change (“NMC”) application to amend the West Midlands Rail Freight Interchange Order 2020 (SI:2020 No.511) (“the 2020 Order”) as amended by the West Midlands Rail Freight Interchange (Correction) Order 2020 (SI:2020 No.1163) and the West Midlands Rail Freight Interchange (Amendment Order) 2023 (SI:2023 No.1132) (“the 2023 Amendment Order”).

2. The Secretary of State notes that the change that will be sought through the proposed application includes amendments to the consented finished road level on

the eastern section of the A5/A449 Link Road identified on the Parameters Plans relating to Development Zones, Building Heights & Floor Levels and Green Infrastructure.

3. The Secretary of State notes the reasons for the proposed NMC application as set out in paragraph 1.2 and 1.3 of the Applicant's letter, namely; the Parameters Plans approved by the 2020 Order have been inadvertently amended by the 2023 Amendment Order. The Secretary of State is aware that the 2020 Order allowed for a level of 106.5m Above Ordnance Datum ("AOD"), with a maximum vertical deviation tolerance of +/-0.5. The 2023 Amendment Order decreased the height of the A5/A449 Link Road from 106.5 AOD to 105.6m AOD and permits a tolerance of up to 106.1m AOD. The Secretary of State notes that the proposed NMC application seeks to amend the AOD to 107.2m so that it is able to:

- provide sufficient vertical cover to the new culvert to be installed underneath the proposed A5/A449 Link Road adjacent to the proposed A5 Roundabout, to facilitate the necessary and planned diversion of the Canal and River Trust feeder channel from Calf Heath Reservoir into the Staffordshire and Worcestershire Canal;
- deliver a gravity-driven surface water drainage system connecting the proposed A5/A449 Link Road to the new surface water attenuation pond adjacent to the proposed A5/A449 Link Road – North South Spine Road Roundabout, in accordance with Staffordshire County Council's design standards for adoption as local highway authority; and
- provide a vertical highway geometry design in accordance with the Design Manual for Roads and Bridges, aligned with the agreed road speed design, as required by Staffordshire County Council as local highway authority.

4. The Applicant's letter requested the Secretary of State's consent for a limited consultation exercise and set out in Table 1 (and Appendix 1) a list of parties the Applicant proposes to consult on the non-material change application, and at Table 2 a list of parties that the Applicant does not intend to directly consult with reasons why these parties should not be consulted.

5. The Secretary of State has considered the request under regulation 7(3) of the Infrastructure Planning (Changes to, and Revocation of, Development Consent; Orders) Regulations 2011 (as amended) ("the 2011 Regulations"). The Secretary of State agrees that the parties listed in Table 1 should be consulted on the proposed application given their possible interest in the amendments sought.

6. The Secretary of State notes that the proposed amendments relate to design changes to highways infrastructure in one isolated location on the proposed A5/A449 Link Road, and that in relation to the relevant parish councils (other than Penkridge parish council where the proposed change is located) the Applicant considers that the degree of change compared with the Parameters Plans to be de minimus in the context of the 0.2 metre difference in road level compared with the 2020 Order. The Secretary of State also notes that the Applicant is of the view that the proposed amendments do not:

- relate to the strategic road network;
- affect the design or function of the Staffordshire & Worcestershire Canal;
- materially alter the general arrangement of the highway used by the fire and rescue services;
- alter the general arrangement and design of the proposed bridges across the WCML Loop;
- affect the principles of development granted development consent such as quantum of rail-served warehousing or specification of the Rail Terminal and therefore does not alter likely traffic movements or the estimated number of employees associated with the development;
- affect the overarching sitewide transport strategy, change modal shift or levels of traffic associated with the Development alter likely traffic movements or the estimated number of employees associated with the Development;
- affect Cannock Chase AONB, Four Ashes SSSI and Belvide Reservoir;
- result in impact on any battlefield, garden or park of special historic interest which is registered in accordance with section 8C of the Historic Buildings and Ancient Monuments Act 1953 or affect the site of a scheduled monument;
- include land within the Ministry of Defence safeguarding areas;
- change the areas of woodland to be removed or planted;
- result in any changes to, or impacts on, infectious diseases, chemical, biological, radiological and nuclear incidents and other health threats;
- result in any changes to the proposed sitewide surface water drainage strategy approved as 2018 ES Technical Appendix 16.7; or
- result in alterations to the Staffordshire and Worcestershire Canal or affect any marine or other ecological designations.

7. The Secretary of State agrees that the consultees listed in Table 2 need not be consulted as, due to the highly localised nature of the change, they are not directly affected either because the proposed amendments will not affect their interests or because their interests relate to a different part of the scheme.

8. Accordingly, the Secretary of State gives written consent for the consultation to proceed in accordance with the details set out above, under regulation 7(3) of the 2011 Regulations.

9. In taking this decision the Secretary of State notes that while those persons not proposed to be consulted on the non-material change application will not be consulted directly in relation to the change proposals, the Application will be publicised in line with the requirements in regulation 20 of the 2011 Regulations.

10. Finally, the Secretary of State's written consent in this matter should not be taken as indicating approval for any aspects of the proposed change to the 2020 Order

which fall to her for consideration and determination, or whether the proposed change will be regarded as material or not.

Yours faithfully,

Nicola Stone

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