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Policy paper

Direction by the Secretary of State under section 35(1) of the planning act 2008 (as amended) relating to the River Thames flood alleviation scheme

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Applies to England



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By email to the Secretary of State received on 25 November 2020 the Environment Agency (“the applicant”) formally requested that the Secretary of State exercise the power vested in the Secretary of State under section 35(1) of the Planning Act 2008 (as amended) (“the Planning Act”) to direct that the proposed River Thames Flood Alleviation Scheme as set out in the applicant’s letter and supporting submissions (“the proposed project”) be treated as development of national significance for which development consent is required.

Having considered the applicant’s request and the details of the proposed project, the Secretary of State is satisfied that:

- the proposed project does not fall into the category of projects described in section 14 of the Planning Act
- that therefore the proposed project does not currently automatically fall within the definition of a “nationally significant infrastructure project” (“NSIP”) and therefore it is appropriate to consider use of the power in section 35
- the part of the proposed project that is requested to be development for which development consent is required either is, or is part of a project in the field of water
- the applicant’s request therefore constitutes a “qualifying request” in accordance with section 35ZA(1)

In coming to this conclusion, the Secretary of State notes that the proposed project relates to the construction of new and modification of existing infrastructure to facilitate flood alleviation and thus sits within one of qualifying infrastructure fields listed in section 35(2)(a)(i) - water - of the Planning Act.

The Secretary of State notes that the proposed project encompasses the following:

- the construction of a new flood relief channel in one or more sections
- capacity improvements on the River Thames
- managed country parks
- biodiversity net gain sites
- new or improved active travel provision outside of the flood relief channel corridor

as set out under the “The Proposed Nationally Significant Infrastructure Project in Annex 1 of the letter received from the Environment Agency on 25 November (together “the NSIP development”)

- the delivery of “associated development” (within the meaning of section 115(1)(b) of the Planning Act including, but not limited to, temporary working sites, new public rights of way, temporary and permanent utilities and highway diversions and environmental mitigation (“the associated development to the NSIP development”)
- ancillary matters (“the ancillary development to the NSIP development”)

The proposed project does not include the construction of any dwellings as part of the NSIP development.

The proposed project can therefore be summarised as:

1. the NSIP development;
2. the associated development to the NSIP development; and
3. the ancillary development to the NSIP development

all as detailed in the applicant’s letter to the Secretary of State received on 25 November 2020.

Having considered the details of the Environment Agency’s proposals as set out in their letter of 25 November 2020, the Secretary of State is of the view that this development is nationally significant, for the reasons set out in the Annex below. The Secretary of State is further of the view that the NSIP development would:

- be for a complex and substantial scheme, involving extensive infrastructure works and requiring multiple consents (ranging from multiple planning permissions, compulsory acquisition for the whole route and environmental consents), that should be seen as a NSIP in its own right; and
- will benefit from the application being determined in a timely and consistent manner by the Secretary of State and by removing the need and uncertainty of applying for a large amount of separate consents

Furthermore, the proposed project has potential to:

- better protect 11,000 homes and 2000 businesses (some 100,000m² of commercial floor space) from flooding, properties which experienced major flood events in 2013 and 2014, and currently rely on temporary flood defences
- act as a significant piece of blue-green infrastructure, facilitating 106ha of public open space that will encourage the use of active travel measures, and creating 250ha of new habitat
- avoid up to £1bn economic impact in the Thames Valley region, leading to £2.7billion of economic benefits across six local authorities during the lifetime of the scheme - recognising the Thames Valley one of the most economically productive areas in England, producing a significant share of the UK's wealth
- better protect over 300km of highway infrastructure across the scheme area, including parts of the strategic road network (M25 junctions 11, 13 and 14, M4 junction 6), as well as better protecting and reducing damage to public utilities infrastructure, including multiple electricity and electricity distribution stations • avoid adverse impacts to nationally and internationally protected biodiversity and heritage sites, whilst also delivering an additional 250 hectares of new habitat – thus resulting in a significant net gain to biodiversity

The Secretary of State has made a decision within the primary deadline set out in section 35A(2) of the Planning Act and wishes to convey that decision.

THE SECRETARY OF STATE HEREBY DIRECTS that the NSIP development is to be treated as development for which development consent is required. Any development consent order application for the NSIP development may also include any matters that may properly be included in a development consent order (within the meaning of section 120 of the Planning Act) including ancillary matters (section 120(3)), associated development (within the meaning of section 115(2) of the Planning Act) and related housing development (within the meaning of sections 115(4B) and (4C) of the Planning Act).

THE SECRETARY OF STATE FURTHER DIRECTS in accordance with section 35ZA(3)(b) and (5)(b) of the Planning Act that any proposed application for a consent or authorisation mentioned in section 33(1) or (2)

of the Planning Act in relation to the NSIP development is to be treated as a proposed application for which development consent is required.

This direction is given without prejudice to the Secretary of State's consideration of any application for a development consent order which is made in relation to all or part of the proposed project.

Signed by

Louise Morris

Head of Flood Infrastructure and Funding Policy For and on behalf of the Secretary of State for the Department of Environment, Food and Rural Affairs

24 December 2020

Annex - reasons for the decision to issue the direction

The Secretary of State is of the opinion that the Direction should be issued because the proposed development demonstrates the following:

Substantial physical size

The Lower Thames floodplain is the largest undefended urban floodplain in the UK, a major flood would put c.15,000 homes and 2,000 businesses (some 100,000m² of commercial floor space) at risk.

The proposed development would be the largest inland flood defence scheme ever undertaken in the UK. It would be four times larger than any other inland flood defence scheme in England, and the largest single project within the Environment Agency's Flood and Coastal Erosion Risk Management (FCERM) Investment Programme. The proposed development is consistent in both size and scale with (and in many cases larger than) other NSIPs falling with Section 14 of the Planning Act.

Impact across an area wider than a single local authority area

The proposed development is a linear scheme that would reduce flood risk along a 30km stretch of the Thames, covering an area of 5.3km².

Benefits from the proposed development would be spread across six local authority areas, again making it comparable to NSIPs defined under Section 14 of the Planning Act, which are linear e.g. highways, railway or pipeline developments. Due to its linear nature, the proposed development would have regional impacts across the Thames Valley, beyond one single local authority area. The proposed development would require multiple consents and authorisations which would benefit from the single authorisation process offered by the NSIP regime.

Significant economic impact, or important for driving growth in the economy

Situated in one of England's most economically productive regions, the proposed development would support the avoidance of up to £2.7billion of damage within the Thames Valley.

The proposed development would also significantly benefit key infrastructure, better protecting over 300km of highway infrastructure across the scheme area, including parts of the strategic road network (M25 junctions 11,13 and 14, M4 junction 6). The proposed development would also reduce risk to public utilities infrastructure, particularly water and electricity distribution stations.

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