

26 August 2021
Our ref: AU/KCW/LZH/1724/01
Your ref: WS010005

National Infrastructure Planning
Temple Quay House
2 The Square
Bristol
BS1 6PN

BY EMAIL ONLY TO [REDACTED] [@planninginspectorate.gov.uk](mailto:[REDACTED]@planninginspectorate.gov.uk)

Dear Mark

East Northants Resource Management Facility - WS010005

Thank you for your time during the call yesterday. We write further to our letter dated 23 August 2021 responding to your signposting questions and to the discussions during the call.

We understand from our discussion on 25 August that you remain of the opinion that the provision of the Book of Reference is applicable for our DCO application, and the lack of one constitutes an acceptance issue.

Our position remains that as no compulsory purchase powers are sought in our DCO application, a Book of Reference is not applicable under Regulation 5(2) of The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009. There is no express requirement in either the regulations or the relevant guidance which stipulates that a Book of Reference must be provided where no compulsory purchase powers are sought. We acknowledge that where a Book of Reference is applicable pursuant to Regulation 7, it must include Category 3 persons as part of it.

We also consider that our application form and associated application documents are very clear in stipulating that we are not applying for any compulsory purchase powers (see further our letter dated 23 August). We note that you accept that Article 12(7) is easily amended to provide absolute clarity on this. We do not consider that a reference in one consultation letter which contemplated an ability to apply for compulsory acquisition of rights means there is any inconsistency in our application documents – that letter does not form part of the necessary application documents required under section 37 of the Act.

We have set out at paragraph 6.12 of the Consultation Report the following:

"Although the Applicant does not anticipate that the Proposed Development will impact any person, so that they would be entitled to make a relevant claim as defined in section 44(6), the Applicant decided as a precaution to consult any landowners whose land is adjacent to the boundary of the Proposed Western Extension. Therefore 5 additional



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persons were identified who had not already been consulted under Category 1 or Category 2 and these persons were consulted in June 2021 under Section 44(4). They are listed in the Land Ownership and Interests Schedule (PINS 6.3) and in Appendix CRP to this report”.

As such, we believe we have satisfied the main requirement in the Act to notify relevant Category 3 persons and importantly, there is no prejudice to these parties by virtue of including such parties in a Land Ownership and Interests Schedule rather than a Book of Reference. Copies of the Category 3 consultation letters are attached for reference.

It is disappointing that the views of PINS regarding the need for a Book of Reference and the way the information should be presented in our application documents were not raised sooner, given that the draft Land Ownership and Interests Table including a section for Category 3 interests and Land Plans were shared with PINS as part of the pre-application advice service and no concerns were raised with us.

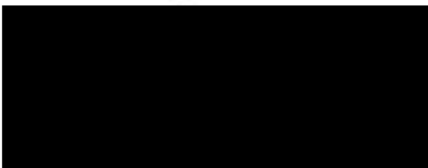
Section 55 of the Act requires the Secretary of State to have regard to the extent to which the application complies with section 37(3), any standards set under s37(5) and any guidance under section 37(4) of the Act. The Applicant is confident that it has complied with all relevant guidance and met the applicable standards.

We appreciate that Augean's title is complex (including a Land Registry error on one title plan) but as stated in our application Augean has all the necessary land interests to implement the proposed development. Further details of Augean's land interests would not be required to be presented in a Book of Reference in any event, but if we can assist PINS in understanding how the various interests interrelate, we will happily provide such further information as you may require, but this ought not to form part of any determination you may make on accepting our application.

We appreciate that PINS may have a preference to have land interests presented in a Book of Reference and Land Plans showing separate plots, even where no compulsory acquisition powers are applied for. We respectfully suggest that if this is the case, it would be helpful to future applicants that Advice Note six is updated to make PINS' position clear.

For the reasons above, we maintain the application is of a satisfactory standard and confirm we will not be withdrawing our application. In the event you do still determine to reject the application we will be re-submitting the application within the next few days.

Yours sincerely



Leslie Heasman

cc K Ashworth, Womble Bond Dickinson
C Brook, Womble Bond Dickinson
G Wilson, Augean
K Haddrell, Planning Inspectorate



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J Stephens, Planning Inspectorate

T Williams, Planning Inspectorate

K Mignano, Planning Inspectorate

ENRMF Extension, Planning Inspectorate

Enclosure: Category 3 consultation letters.



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