



The Planning
Inspectorate

A14 Cambridge to Huntingdon Improvement – Draft Documents Meeting

File reference: TR010018

Status: Final

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Date: Tuesday 7 October 2014

Meeting with: Highways Agency (the applicant)

Venue: 3rd Floor Eagle Wing, Temple Quay House

Meeting objectives: For the Planning Inspectorate to provide feedback on the draft documents and the applicant to provide an update on the project.

Attendees:

Applicant

Martin Clarke (J2A)

Rebecca Ford (J2A)

David Fairman (J2A)

John Rowland (HA)

Russell Cryer (J2A)

Olivia Fava Verde (J2A)

Jeremy Damrel (HA)

Gordon McCreath (Pinsent Masons)

Heidi Slater (Pinsent Masons)

Planning Inspectorate

Andrew Luke (Infrastructure Planning Lead)

Ken Taylor (Infrastructure Planning Lead)

John Pingstone (Case Officer)

Noreen Sutton (Lawyer)

Jenny Colfer (Senior Environmental Advisor)

Philippa Davey (Assistant Case Officer)

Welcome and introductions (all)

Following introductions, the Planning Inspectorate (The Inspectorate) advised on its openness policy that any advice given would be recorded and placed on the National Infrastructure Planning Portal website under section 51 of the Planning Act 2008 as amended (PA2008). Any advice given under section 51 does not constitute legal advice upon which applicants (or others) can rely.

The Inspectorate explained that the purpose of the meeting was to gain an update on the project programme and provide comments on draft documents.

Summary of key points discussed and advice given:

Project Update

The HA gave a brief overview of the project. The options consultation was carried out in September 2013 with a total of 7 possible route options presented, which at the time included proposals for tolling. Statutory consultation took place between 7 April 2014 and 15 June 2014 under Sections 42, 47 and 48 of the Planning Act 2008, where there was an opportunity to comment on the proposed scheme along with an opportunity to comment on previously considered options. However, following concerns raised through the initial consultation, tolling did not form part of the proposals consulted upon at this stage. Approximately 1500 responses were received in response to the consultation. The HA conducted further statutory consultation where new land interests were identified as a result of changes to the scheme. The HA stated an intention to submit a DCO application in late November 2014.

The Inspectorate queried whether the HA had consulted on draft mitigation proposals, the draft Development Consent Order (DCO) and the requirements included within. The HA stated that they have an active ongoing programme of engagement with key stakeholders and will be consulting on the above prior to submission. The Inspectorate noted the short timescale to submission given the level of work outstanding, and that it would encourage adequate consultation with key stakeholders on the outcomes of the EIA, the draft DCO and requirements to ensure that issues are resolved where possible prior to the submission of an application.

The Inspectorate identified a number of actions that the HA could undertake in order to minimize risks at the acceptance stage and at examination, should an application be accepted. These included:

- Collate all consultation responses in advance of submission in order to issue if requested by PINS during the acceptance period under Reg 5(5) of the APFP regulations.
- Include as part of the application documents any key correspondence that demonstrates where agreement has been reached with key bodies.
- Clearly address which criteria under S22 of PA2008 applies to the project, and provide evidence and justification in support.
- Provide a draft S55 checklist, being as specific as possible about how the application complies, providing clear justification and identifying where any supporting evidence can be located in the documents.
- An advice note on DCO drafting may be published prior to submission, and the HA are advised to check the DCO against the advice provided within.
- The HA to be clear about where agreements are outstanding (including with Statutory Undertakers and Prescribed Bodies), and to address disagreements and agree protective provisions in advance of submission wherever possible.
- Where possible submit Statements of Common Ground (SoCGs) with the application.

The HA confirmed that all of these tasks were in hand and incorporated in its programme leading up to submission. In respect of SoCGs, the HA noted that meetings to agree these documents were ongoing. The Inspectorate advised that where possible these could usefully be included with the application. The HA indicated

that it was unlikely that this would be achievable, but that the submission of SoCGs could occur shortly after the acceptance period, should the application be accepted for examination.

Feedback on Draft Documents

Plans

The works plans were all in order. The Inspectorate noted that it was not clear on all plans where land fell within the order limits, and suggested that the HA consider shading the land within the order limits to make this more clear.

The Inspectorate stated that there were a number of inconsistencies between the Book of Reference (BoR) and the land plans. These included plots identified within the BoR but not clearly shown on the plans, and it was proposed that insets could be used to more clearly identify small plots of land (Please see Annex A for a summary of inconsistencies between plans and Part 1 of BoR). The HA stated that the BoR is currently being rewritten and plans revised to address these points.

DCO and Explanatory Memorandum (EM)

The Inspectorate highlighted a number of points in relation to the DCO/EM. Please see Annex B for a summary of the Inspectorate's comments on the DCO/EM. The HA advised that the DCO had been updated considerably since the version that was submitted to PINS.

The Inspectorate queried whether it was appropriate for the applicant (the Secretary of State) to also be the body responsible for discharging the requirements and whether other options, such as the LPA being responsible for discharging requirements had been considered. The applicant confirmed that this approach had been taken in other HA DCOs made by the Secretary of State and that it was their intention to submit the DCO drafted in this manner. The applicant highlighted that the DCO was drafted so that the LPA would be consulted on the detail submitted to discharge many of the requirements.

Book of reference

The Inspectorate advised that the schedule of statutory undertakers should be moved to the Statement of Reasons.

The Inspectorate noted that Part 2 of the Book of Reference was split into sections 2A and 2B. The Inspectorate acknowledged that provided a clear explanation for this division was given, this format would be acceptable. It was suggested that in Part 3 of the BoR it would be helpful to include the type of right.

Statement of Reasons (SoR)

The Inspectorate stated that there was some confusion over the opening statement of para 1.2. The SoR also contained no mention of Category 3 persons (relevant claims), nor the parameters applied to determine these persons. The Inspectorate advised that it would be helpful to reference the part of the Act that is triggered in Section 9

(statutory undertakers) and more clarification is needed in Section 12 on whether it is land or rights being acquired. The HA confirmed that it would add text to the SoR to clarify these points.

Consultation report

The Inspectorate found the structure of the report to be comprehensive and well structured. The use of a diagram on Page 6 was found to be particularly helpful.

The Inspectorate queried whether the MOD had been consulted with as a prescribed body under S42 of the PA2008, noting that the MOD are identified in Table A at Appendix C as not being consulted because the "Application is not likely to affect current or future operation of a site identified in a safeguarding map". However, the Inspectorate queried whether the site was located within an area identified on the safeguarding map and proposed that the HA clarify this point within the report. It was however noted that the MOD were consulted under s42(1)(d) as an affected person, and also on a non-statutory basis. On Page 62 of the report it was noticed that district authorities were listed as highway authorities, but only unitary and county councils are highway authorities, therefore this section should be amended.

The Inspectorate always caveat that it is the applicant's duty to undertake diligent enquiries to ensure that all parties who are likely to be affected are consulted, and while the Regulation 9 list that we produce can inform the applicant's own consultation it should not be relied upon for that purpose. The Regulation 9 list is therefore not a 'confirmation of consultees' as indicated in the HA's draft Consultation Report. The HA confirmed that they understood and accepted that.

The Inspectorate advised that the report should clearly define the status of councils in terms of whether they constitute A, B, C and D authorities when categorised under s43 of the PA2008.

Assessment of implications on European Sites (AIES) and European Protected Species (EPS)

The Inspectorate highlighted a number of points in the AIES. Please see Annex C for a summary of the Inspectorate's comments on the AIES.

The applicant confirmed that they did not intend to submit draft licence applications for the European Protected Species (EPS) to Natural England (NE) in advance of submitting a DCO application. The Inspectorate sought an update on progress as to discussions with Natural England (NE). The applicant confirmed that discussions were on-going but that the draft versions of the EPS documentation had not yet been shared with NE. The applicant would seek to provide a SoCG with NE on EPS issues.

The Inspectorate indicated that it would need to better understand what is being proposed in relation to EPS matters and what NE's view on the current proposal is, in order to be able to advise on any risk to this approach in terms of whether this would provide the information required for an Examining Authority (ExA) to engage with the Habitats directive and consider the relevant derogation tests. It was noted that this appeared to be a diversion from what has become standard practice for NSIP schemes. It was agreed that the HA would provide further information on the approach being applied, and if necessary a tri-partite meeting could be held to address the issue prior to submission of a DCO application.

Specific decisions / follow up required

- HA to provide GIS shape file to the Inspectorate in advance of submission.
- HA to submit a s55 check list alongside the application which sets out where the evidence of compliance is located within the documentation.
- The Inspectorate to write to the HA to secure their agreement that documents can be published upon submission of the application.
- HA to outline the process being followed in respect of EPS licensing and to identify what the outputs of that process will be. PINS/HA to determine the need for tripartite meeting with NE in advance of submission.

Annex A – Summary of inconsistencies between land plans and Part 1 of BoR

It was noted that the comments in related to an early draft of the BoR and Land Plans. The HA confirmed that the land parcelling (and related plot numbering) and the BoR were being reworked.

Land Plan sheet number	Plot reference	Page number in BOR	Issue
18	18/5a	3	Plot reference was not shown on land plan
18		10	No plot reference nor description of land or right in BoR
20	20/1a + 1b	14	No description of land or right
20	20/9a	22	Plot is not shown on plan
20	20/10a	23	No plot 10a in BOR or land plan – perhaps a numbering issue
20	20/20a	26	No plot 20a in BoR– numbering issue
20	20/21a	26	Plot not shown on land plan
20	20/23a	29	Not shown on land plan
20	20/25c	30	The plot reference on the land plan could be clearer – could not tell which plot it was referring to.
20	20/34a + 34b	36	No description of land or right
20	20/39a	37	No description of land or right
21	21/11b	42	11b missing on BOR but showing on land plan
21	21/12b	42	Plot is not shown on land plan
21	21/18d	46	Plot missing in BOR
21	21/19a	46	Plot looks to be too small on plan
21	21/19b	46	Plot looks to be too big on plan
21	21/28a	49	Measurement appears to be incorrect. States 1m but looks too big on plan
22	22/1a	52	Plot not on plan
22	22/22 6a + 6b	55	No description of land or right
23	23/14a	77	Inset is named both 'Inset A' and 'Inset 1' – needs consistency
24	24/1c + d	84	Measurements don't correspond with their size on the plan.
24	24/6a	89	Plot not shown on land plan
24	24/17a	93	2 plots called 17a which don't seem to be connected
24	24/18?	95	No plot 18 in plan or BOR
25	25/1b	99	No description of land or right
25	25/1c	100	No description of land or right
25	25/2a	100	No description of land or right

25	25/7a	103	No plot 7a in BoR
25	25/11a + 11b	104	No description of land or right
25	25/20a	106	No description of land or right
25	25/21a	107	No description of land or right
25	25/23a	107	No description of land or right
26	26/3a	111	Plot not shown on land plan
26	26/19a	115	No Plot 19a in BoR
26	26/27a	117	Plot not on land plan
26	26/31a	118	Plot not on land plan + no description of land or right
26	26/34a	119	Plot not on land plan
26	26/36a	119	Plot not on land plan
26	26/41a	120	Plot not on land plan
26	26/45a	120	Plot not on land plan
26	26/46a	120	Plot not on land plan
26	26/48a	121	No plot 48 in BoR
26	26/52b	122	Plot not shown on land plan
26	26 -	122	No plot references - there are measurements but no description of land
27	27/9b	127	Plot not shown on land plan
27	27/24,25,26	130	There are no plot references for these
27	27/32a	133	No plot 32a in BoR, yet is on land plan
27	27/33a	133	Plot not shown on land plan
27	27/42a	135	Plot not shown on land plan
27	27/43	136	No plot 43 in BoR
27	27/48a,49a	137	No plot 48,49 in BoR
27	27/57	140	No plot 57 in BoR
28	28/1a	141	Plot not shown on land plans.
28	28/2a	141	No description of land or right
28	28/2c	142	No description of land or right
29	29/13a	153	Plot not very clear on land plan
29	29/14a	154	Plot not shown on land plan.

Annex B

COMMENTS ON DRAFT DEVELOPMENT CONSENT ORDER (DCO) AND EXPLANATORY MEMORANDUM (EM) SUBMITTED ON 15 September 2014 – A14 Cambridge to Huntingdon Improvement Scheme

INTRODUCTION

This note sets out comments on the following main elements of the DCO and related documents . These elements are:-

- general comments on the draft EM
- Comments on DCO provisions
- Requirements
- Other comments

These comments are provided without prejudice to any decision of the Secretary of State (SoS) or of the Examining authority (if the application is accepted for examination). For the avoidance of doubt, the absence of a comment on a particular provision is not intended to indicate that such a provision is likely to be acceptable to the Secretary of State or the Examining Authority.

The applicant should satisfy itself, that the draft DCO contains all powers it requires in order to undertake the project.

No comments at this stage are made on drafting style or on typographical errors.

GENERAL COMMENTS ON THE DRAFT EM

A fuller explanation of the provisions in the DCO is encouraged. Regulation 5(2)(c) of the APFP Regulations requires the purpose and effect of the provisions to be set out in the EM. This includes the purpose and effect of the provisions in the Schedules which are currently not covered.

Where there is departure from model provisions (MP) or a provision has been used in similar legislation, fuller explanation of this is encouraged as whilst the MP no longer have a statutory role this is still considered a helpful way of proceeding.

COMMENTS ON DRAFT DCO PROVISIONS

Thought should be given to the criteria by which the project is an NSIP in accordance with section 22. The EM describes the Order as one for 'improvement'. The DCO should clearly distinguish between elements regarded as being integral to the principal development and any associated development (Schedule 1 – Works)

Article 2 Interpretation –

Should there be definitions for 'bridleway' 'footpath' 'footway'

'relevant planning authorities' It is suggested that as there are a number of planning authorities whose areas are affected by the proposals which are identifiable, it would be useful to identify them

‘maintain’ – the power to maintain is widely drawn and should be circumscribed by reference to the Order limits

‘Order limits’ – should the Order limits be the DCO boundary on the work plans within which the authorised development may be carried out, rather than as drafted

‘statutory undertaker’ – both s128 and 129 are repealed

Article 3 – Disapplication of legislative provisions – have the various authorities referred to in the EM (5.10) been consulted. At 3(d) the relevant Act should be specified

Article 5 – see comment above on the definition of ‘maintain’ – should maintenance be limited to works not likely to have significant effects on the environment and within the Order limits

Article 8 – Although this Article purports to be ‘consent’ (from the Secretary of State) it is in fact a provision allowing transfer by the SoS to another party since the SoS itself has the benefit of the DCO

Article 11 - We suggest the EM should clearly explain the purpose and effect of this provision. The DCO would normally set out any modification to existing statutory provisions in connection with classification of roads (Schedule 3 – currently with no entries) with particular reference to s120 PA 2008

Articles 19-34 - Compulsory acquisition –

Generally: We draw your attention to the new guidance on compulsory acquisition and in particular, that negotiation should take place in parallel for acquisition by agreement and to meet objections by statutory undertakers so that by the time of examination, there would be a minimum number of objections

Article 19 – You may wish to explain in the EM the purpose and effect of making this article (compulsory acquisition of land) subject to articles 22 and 29

Article 22 - The power to impose restrictive covenants on any land has been disapproved by the SoS in the making of other DCOs

Article 26 – We suggest that the purpose and effect of the deviation from the model provision in relation to acquisition of airspace, is explained in the EM

Article 34 - We are not clear that 34(2) is necessary. In the normal course of events the examining authority would need to be satisfied on the issue and the SoS’s position made clear as recited in the Preamble to the DCO

REQUIREMENTS (SCHEDULE 2)

General: Requirements are considered to be the equivalent to planning conditions and in this respect comprise of 3 elements; a submission of detail for approval, the grant of approval of that detail and the implementation in accordance with the approval. It is noted that procedure for discharge of requirements requires approval of the SoS after having consulted various key stakeholders and there is no appeal procedure consequent upon any refusal of detail.

The system of approval implies that the SoS has the in-house expertise to be able to decide on the adequacy of the detail provided? Query as to who will be the monitoring and enforcing body (arms -length) for any requirements that are not (or not properly) fulfilled?

You may wish to consider the requirements in the M1 10a Separation DCO issued by the secretary of state in respect of two issues 1) clarity in drafting of requirements and 2) the use of 'tailpiece' conditions ;

Requirement 3 – The requirement is considered to be vague and lacks precision. We suggest the term 'in general accordance with' is imprecise and could possibly be construed as allowing the kind of flexibility that is not intended in the DCO process. In addition the tailpieces 'unless otherwise agreed in writing ..' have been similarly disapproved of.

Requirement 4 – Comments similar to above on tailpiece.

Requirement 5 – Comments similar to above with regard to tailpiece and consultee. Is it intended that Natural England should have powers of inspection etc in the event of unexpected protected European species being found? Currently none is provided

Requirement 6 – Comment similar to above on tailpiece. We suggest that there should be provision for any temporary fencing to be removed at the end of the process

Requirements 7 –The tailpiece allows SoS to override his own approved scheme (having consulted).

Requirement 8 – Similar comments to above on the ability of the consultee to approve landscaping. It is usual for species to be replaced within five years – only two specified here

Requirement 9 – Similar comments on consultee and tailpiece points as above in relation to archaeology. In 9(3) the word 'referred' should be 'approved'

Requirement 10 – It is suggested that this requirement should be expanded to include a list of matters which will be included in any TM plan

Requirement 11 – We suggest that the words 'to be constructed' should be inserted after 'foul water drainage system' at 11(1). Similar comments to above on consultee and tailpieces

Requirement 12 – Any amendments to a DCO must be considered in the context of the materiality of such an amendment and it is considered this requirement is too widely drawn

OTHER COMMENTS

Statement of Reasons

1.2 states – 'The location of the Works on the Works Plans demonstrate that the Land on the Land Plans is needed to construct the scheme' There is no mention of relevant claims nor any parameters used to determine whether anyone might have a relevant claim

At section 9 (Statutory undertakers) there is no mention of which part of the Act is triggered

Should section 12 refer to s132 (not 131) to make clear whether land or rights are to be acquired

Book of reference (BOF)

BOF has not been considered in any detail. However it is noted:

All areas described in the BOF are referred to as approximate, explanation for this should be provided in the EM/BOR.

We note there are non-prescribed parts to the BOF namely a list of statutory undertakers and also Category 3 persons that have been split into Parts 2A and 2B. CA Guidance discourages this at Annex D (paragraph 9)

At page 10 there is a missing plot reference and part of the description is missing

Annex C

Review of the: A14 Cambridge to Huntingdon improvement scheme – (draft) Assessment of implications on European Sites (AIES) Stage 1: Screening and finding of no significant effects report matrix (dated 11 June 2014)

Following the meeting held on the 24 June 2014 the Highways Agency (the applicant) supplied the Planning Inspectorate (the Inspectorate) with a draft Assessment of Implications on European Sites (AIES) on 5 September 2014 and requested the comments of the Inspectorate. The Inspectorate welcomes the opportunity to comment on draft documents, enabling the provision of advice about any omissions or procedural risks for the acceptance or examination stages. This advice forms parts of our pre-application service, details of which are available in the Inspectorate's pre-application prospectus which outlines the structured and facilitative approach to support the Inspectorate can offer during the pre-application stage.

Please see below the Planning Inspectorate's (the Inspectorate) comments on the Highways Agency's (the applicant) draft Assessment of Implications on European Sites (AIES), this document constitutes the screening stage (stage 1) only. Please note that the comments provided are without prejudice to any decisions taken by the Secretary of State during acceptance or the Examining Authority (ExA) during examination, if the proposed development is accepted for examination. These comments are not intended to be a detailed review of the AIES and its findings, but are rather a high level review intended to provide helpful comments/observations as appropriate.

Please note that reference to 'European sites' within this document is to Special Areas of Conservation (SAC), candidate SACs (cSAC), Special Protection Areas (SPA), potential SPAs (pSPA) and Ramsar sites.

It is noted that in paragraph 2.1.2 reference is made to the Development Control Order this should be amended to Development Consent Order in the final AIES document.

Non Technical Summary (section 1 of the draft AIES)

The Inspectorate notes that in paragraph 1.1.4 the applicant refers to the distance used to determine which European sites will be considered in the assessment, it appears that this approach has been taken from the instruction in the Design Manual for Roads and Bridges (DMRB). The Inspectorate does not agree that this is an appropriate approach by which to identify potentially affected European sites. The Inspectorate recommends that the European sites considered are determined by reference to the likely potential impact on the site and the potential impact pathways rather than relying on the arbitrary distances advised in DMRB.

Introduction (section 2 of draft AIES)

The Inspectorate notes that in paragraph 2.3.1 and 2.4.1 the scheme is referred to as having Trans-European Network status, it is recommended that the relevance of this designation is discussed further with the Inspectorate and highlighted in the final AIES.

In paragraph 2.3.2 it is stated that the scheme has been described in sections to reflect practical divisions that relate to the design process and to the anticipated procurement process. The Inspectorate advises that at examination the project will

need to be considered in its entirety and therefore the assessment should be carried out for the project as a whole.

Figures have not been produced within the document, reference is made within paragraph 2.3.5 to Figure 1 (in which the locations of the sites in relation to the scheme are illustrated) and Figure 2 (in which key bat flightlines and foraging areas critical to the SAC population are illustrated) however neither figure has been presented in the document. The applicant should ensure that these figures are included in the final AIES document.

Methodology (section 3 of the draft AIES)

In-combination Assessment

The Inspectorate has reviewed the list of projects to be included in the in-combination assessment provided in paragraph 3.2.7. It is noted in Natural England's letter dated 11 August 2014 that the in-combination assessment should probably also include the North West Cambridge development between Huntingdon Road and Madingley Road, the Inspectorate recommends the inclusion of this development in the final in-combination assessment included in the AIES. It is essential that the applicant keeps in contact with the relevant local authorities in order to keep the list of developments to be included in the in-combination assessment up to date.

It is recommended that the applicant provide evidence of the agreement of the statutory nature conservation bodies (SNCB's) over which developments will be considered in the in-combination assessment. The applicant should also confirm that the relevant SNCB's agree with the study area that has been used to identify sites for inclusion in the in-combination assessment.

The Inspectorate again recommends that it is demonstrated that this is determined having regards to the potential impact on the site and the potential impact pathways.

The Inspectorate recommends that the other developments considered/included in the in-combination assessment should be depicted on a plan in order to illustrate the relationship to both the proposed scheme and the European sites.

Information Sources

The Inspectorate welcomes the inclusion of the list of the information sources utilised in preparation of the AIES in paragraph 3.3.1. It is recommended that where practical copies of the information resources utilised should be appended to the AIES. The Inspectorate also advises against the use of links wherever possible as they may become defunct over the timeframe of an application, ideally such information should be included within the AIES appendices.

As appropriate the applicant should make use of cross references to supporting information provided in other relevant documents elsewhere in the application including, for example the Environmental Statement (ES).

Surveys

Table 3.4 in the AIES report includes a summary of the relevant ecological surveys undertaken for various iterations of the proposed development. The AIES states that the assessment data is based on survey data collected between 2003 and 2013 and on previous designs of the Scheme in 2007, 2009 and 2013.

The Inspectorate reminds the applicant of the need to ensure that the survey information used is both up to date and relevant to the scheme for which a

development consent order is being sought. The Inspectorate notes that particular care should be taken when referring to older documents to avoid confusion. The Inspectorate notes and welcomes the commitment made at paragraph 3.4.1 to completing more surveys during 2014. However, the draft AIES also states the intention to publish the final AIES in October 2014. Therefore the Inspectorate requests that the final AIES makes it explicitly clear how the survey work conducted in 2014 has been taken into account.

In Table 3.1 – ‘Summary of relevant ecological surveys 2003-2013’, information about sites that are not internationally designated is included, if this information is not relevant to the European sites it would be appropriate to remove it from the AIES or explain how this relates to the assessment of the impact on the European site. In Table 3.2 – ‘Summary of ecological surveys to be conducted in 2014’, some of these surveys are unlikely to be relevant to the European sites potentially impacted; it is recommended that this table include only those surveys relevant to the AIES i.e. those that relate to features of the European sites under consideration.

European Sites Potentially Affected by the Scheme (section 4 of the draft AIES)

The European sites that have been identified as potentially being affected by the scheme include Portholme SAC which is located within approximately 37m of the proposed scheme and Eversden and Wimpole Woods SAC, one of the qualifying features of this SAC are barbastelle bats and the site lies within 30km of the proposed scheme.

Females can range up to 20km from maternity roosts in mature woodland and males can range further. No other European sites have been identified as likely to be affected by the proposed scheme.

The Inspectorate would refer the applicant to previous comments made in relation to the need to ensure selected study areas are adequate.

The Inspectorate welcomes that the citation information for European sites considered in the AIES has been included in section 4.2 and 4.3 respectively. It is also noted that in their letter dated 11 August 2014 Natural England have confirmed that they are satisfied with the scope and detail of the assessment.

Consultation (section 5 of the draft AIES)

The Inspectorate welcomes the inclusion of the section explaining the consultation process that has been followed in preparing the AIES.

The Inspectorate also welcomes the applicant’s commitment to an on-going dialogue and effort to agree issues with the SNCB at the pre-application stage. The Inspectorate recommends that the final AIES for submission with the application is updated to reflect the final position of the SNCB.

Avoidance and/or Mitigation Measures (section 6 of the draft AIES)

Section 6 of the draft AIES refers to ‘assumed (plainly established and uncontroversial) mitigation measures’. The Inspectorate welcomes the inclusion of such measures in the AIES but reminds the applicant to ensure that measures relied upon for the assessment and in particular to support in the finding of no likely significant effect on a European site are appropriately secured by requirement within the draft DCO. Express reference should be made in the final AIES to the draft requirements in the DCO which secure any such mitigation. If it is not possible to

include certain mitigation measures in the DCO, the applicant would need to provide evidence that can demonstrate with certainty that the mitigation would be delivered through other legally binding means.

The final AIES should include a clear and detailed description of all relevant mitigation measures relied on to reach the conclusions of the AIES. At present the draft AIES only refers to 'plainly established and uncontroversial' measures such as best practice guidance. The Inspectorate anticipates further detail relating to measures that are specific to the scheme with the submission of the final AIES.

Screening Assessment (section 7 of the draft AIES)

The Inspectorate recommends that the final AIES includes an introduction to this section with a summary justifying the impacts considered in the assessment.

Paragraph 7.4.22 states that 'air pollution could conceivably have an adverse effect on the SAC if it adversely affected flightlines or foraging habitat used by bats from the SAC population'. However, it is unlikely that bats from the SAC are using the areas conceivably affected by air pollution.' The Inspectorate recommends that further information be supplied by the applicant to demonstrate that the bats from the SAC are unlikely to use the areas conceivably affected by air pollution. Where uncertainty remains it is recommended that the applicant describe the potential impact on the bats from the SAC as a result of the predicted decline in air quality.

When making statements or drawing conclusions in this section it is recommended that the relevant data / evidence is referenced, the use of clear cross-referencing in the AIES is essential.

Where appropriate it will be necessary to update this section using the most up to date survey data available. Impacts should be described during the construction, operation and decommissioning phases of the development, in-combination effects also need to be described.

Measures to prevent the spread of invasive species are mentioned in paragraph 7.5.4; such measures are welcomed by the Inspectorate; however it is recommended that the applicant ensures they are secured within the draft DCO. Express reference should be made in the AIES to the draft requirements in the DCO which would secure this mitigation.

Conclusions (section 8 of the draft AIES)

In section 8 of the draft AIES it is concluded that the scheme is unlikely to have significant effects on the conservation objectives of either Portholme SAC or Eversden and Wimpole Woods SAC and consequently it is not necessary to undertake a Stage 2 Appropriate Assessment. In Natural England's letter dated 11 August 2014 they have stated that while they do not disagree with this statement, they advise that the findings and conclusion of the AIES, including mitigation requirements, will need to be updated as the findings of the ongoing Environmental Impact Assessment emerge. The Inspectorate recommends that the applicant adheres to this advice. The Inspectorate welcomes the applicant's commitment to an on-going dialogue and effort to agree issues with the SNCB at the pre-application stage.

No Significant Effects Report (Appendix C of the draft AIES)

The Inspectorate recommends that the title of Appendix C be amended as eventually the final AIES will ultimately constitute a No Significant Effects Report and not just Appendix C alone.

The matrices included in Appendix C are not in the format recommended in the Inspectorate's Advice Note 10 with the footnotes presented below the matrices; this should be amended accordingly in the finalised AIES.

All footnotes should contain a robust justification to the conclusion drawn with cross reference to specific paragraphs in other application documents as appropriate (i.e. either to the AIES itself or specific paragraphs of the ES). Where appropriate, reference to proposed mitigation measures should also be made.

The matrices provide limited differentiation between impacts likely to be experienced during the construction, operation and decommissioning phases of the development, it is recommended that the final AIES is more specific in identifying and assessing impacts during all phases of development.

The applicant is also requested to provide both a PDF and Word copy of the matrices with the application.