

From: Jo Wilkins
To: A303 Sparkford to Ilchester
Subject: RE: A303 Sparkford to Ilchester Dualling - Secretary of State Consultation
Date: 26 November 2020 09:24:08
Attachments: image0f30c.PNG
image0f5fe7.PNG
image012261.PNG
image3ec8aa.GIF
image2ee308.PNG
SSDC Submission November 2020 Final.pdf

Dear James,

Further to your email below, please find attached the comments of South Somerset District Council in response to the consultation in relation to the Unilateral Undertaking submitted in respect of issues of bird strike.

Kind regards,
Jo

Jo Wilkins
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Stronger Somerset

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From: A303 Sparkford to Ilchester [mailto:A303SparkfordtoIlchester@planninginspectorate.gov.uk]

Sent: 12 November 2020 17:33

To: Jo Wilkins <Jo.Wilkins@SouthSomerset.Gov.Uk>

Subject: A303 Sparkford to Ilchester Dualling - Secretary of State Consultation

Importance: High

Dear Ms Wilkins

I hope you and your team are well.

The Secretary of State for Transport has today invited comments from the Applicant and Defence Infrastructure Organisation in relation to the issue of bird strike. South Somerset District Council has been cross-copied into this request:

<https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010036/TR010036-001641-201112-l-consultaiton%20letter%20to%20HE%20and%20DIO%20FINAL.pdf%20.pdf>

The deadline of **11th December 2020** has been given for any response. If your council wishes to respond, please do so by email via the Inspectorate's A303 Sparkford to Ilchester project email: A303SparkfordtoIlchester@planninginspectorate.gov.uk.

To allow time for the parties to submit further information by this deadline, the Secretary of State has set a new deadline of 29 January 2021 for his decision on this application:

https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010036/TR010036-001635-201112_WMS_A303%20Sparkford.pdf

Please could you confirm receipt of this request at your earliest convenience.

Kind regards

James

James Bunten

NSIP Officer

National Infrastructure Planning

The Planning Inspectorate

Direct Line: 0303 444 5081

Helpline: 0303 444 5000

Email: james.bunten@planninginspectorate.gov.uk

Web: <https://infrastructure.planninginspectorate.gov.uk/> (National Infrastructure Planning)

Web: www.gov.uk/government/organisations/planning-inspectorate (The Planning Inspectorate)

Twitter: @PINSgov

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DPC:76616c646f72

Planning Act 2008 and The Infrastructure Planning (Examination Procedure) Rules 2010

Application by Highways England for an Order Granting Development Consent for the A303 Sparkford to Ilchester Dualling project

South Somerset District Council response - in relation to the Unilateral Undertaking submitted in respect of issues of bird strike

On 11 November 2020 the Secretary of State for Transport invited comments from the Applicant and Defence Infrastructure Organisation (DIO) in relation to the issue of bird strike. South Somerset District Council was also invited to respond.

Having reviewed the documents submitted by the Applicant and the DIO South Somerset would like to make the following comments:

Response

Notwithstanding the comments on the bird-strike issue set out below, South Somerset District Council (the "Council") continues to be in support of this DCO application by the Highway Authority ("HE").

The Council also acknowledges the vital role of the MoD in reaching a satisfactory conclusion on the extremely important issue of increased potential for bird strikes which arise as a result of the Development.

As the Local Planning Authority for the area within which the site is located, the Council would rely on the expertise of the MoD when considering the extent of any obligation dealing with bird strikes; the Council would continue to do so for the purposes of this DCO. On that basis the following points are raised in addition to those made by the MoD and in the Council's role as an enforcing authority in respect of the Unilateral Undertaking ("UU"):

1. For the purposes of clarity, confirmation could be provided on the face of the UU that the Ponds will be within the continuous red line as shown on Plan 1 by amending the definition of the Ponds to refer to its location within the Site.
2. If there is any prospect of the final location of the Ponds will be outside of the continuous red line on Plan 1 (through the detailed design requirements or the process generally) then this must be addressed as it would appear that obligations in the UU may not be enforceable in that scenario.
3. Clause 2.4. The Council may not be aware that the MoD has ceased use of RNAS Yeovilton for purposes of flying aircraft and therefore it would seem prudent that this notice is given by MoD to HE and, for informational purposes, from MoD to the Council.
4. Clause 4.2. The "Developer" is not defined and should be amended to "Highways England"
5. Schedule 1, Paragraph 1.7: the document should provide for contact information to be updated as and when the identity of the relevant "Bird Management Officer" changes to avoid delays when issues of bird strike arise.

6. Schedule 1, paragraph 1.13: The document is not in the form of an agreement between the parties and therefore HE cannot unilaterally place obligations on the other parties. The section on Co-Operation should be reworded taking this into account.
7. Schedule 1, paragraph 1.20: The UU it should place an obligation to provide the confirmatory deed prior to the Commencement of the Development or Commencement of the Ponds (as may be agreed as appropriate). The trigger as suggested in paragraph 1.20 to acquire interest or possession in the Ponds or part thereof prior to the Site being open to public traffic is not appropriate on the basis that the issue is not traffic safety but safety of the aircraft from potential bird-strikes as occasioned by the development of the Ponds
8. Further and in addition to point 7 above, the Council is concerned that the UU is lacking the necessary clarity on when HE will become the freehold landowner of the Ponds, whether this will be before or after the Commencement of the Ponds. HE must be in sufficient control of the Ponds at the point the obligations need to be capable of enforcement.

If HE are not in sufficient control of the land (as may be suggested in paragraph 1.20) the land will not be bound and the obligations in the UU could not be enforced. For example, if HE were to undertake the works to the Ponds by way of temporary possession (e.g. a licence; something less than a freehold or leasehold) at any point in the Development then the obligations in the UU could not be transferred and bind the land upon which the Ponds sit.

There are a number of ways this issue could be rectified:

- a) The confirmatory draft is completed and provided to the Council and MoD prior to Commencement of Development or Commencement of the Ponds (whichever point is likely to give rise to potential for bird-strikes). The obligations would thereafter bind a necessary the land upon which the Ponds sit.
- b) The current landowner of the land upon which the Ponds sit is party to a new UU on the agreed terms. This would mean there is no requirement for a declaratory deed and the land would be bound from the point the DCO is granted and on Commencement of Development or Commencement of the Ponds (as appropriate).
- c) There is an agreement outside of the UU, of which the Council is not aware, between HE and the current landowner upon which the Ponds sit that secures HE right to carry out the works necessary and gives HE the rights to permit the MoD onto the Land to carry out the actions in default for the length of time necessary.