



## Meeting note

|                           |  |
|---------------------------|--|
| <b>Project Name</b>       | A47 Blofield to North Burlingham                     |
| <b>File reference</b>     | TR010040   |
| <b>Status</b>             | <b>Final</b>   |
| <b>Author</b>             | The Planning Inspectorate                            |
| <b>Date</b>               | 8 September 2020                                     |
| <b>Meeting with</b>       | Highways England                                     |
| <b>Venue</b>              | Microsoft Teams Meeting                              |
| <b>Meeting objectives</b> | Project update meeting and review of draft documents |
| <b>Circulation</b>        | All attendees  |

### Summary of key points discussed and advice given

The Planning Inspectorate (the Inspectorate) advised that a note of the meeting would be taken and published on its website in accordance with section 51 of the Planning Act 2008 (the PA2008). Any advice given under section 51 would not constitute legal advice upon which Applicants (or others) could rely.

### Project update

The Applicant confirmed that further targeted consultation is taking place following minor changes to the red line boundary. The Applicant explained that a review of the 2018 Book of Reference has been undertaken and a Project Update Brochure along with a cover letter has been issued to the parties that have changed since the 2018 review. The Applicant has also undertaken wider engagement issuing the Project Update Brochure and cover letter to all the prescribed parties, local authorities and the parties on the section 47 list.

The Applicant confirmed that the proposed application for the A47 Blofield to North Burlingham is anticipated to be submitted in the Q4 2020.

### Draft documents

The Inspectorate reviewed the following draft documents provided in August 2020:

- Draft Development Consent Order
- Draft chapters of the Environmental Statement
- Explanatory Memorandum
- Consultation Report
- Works Plans and Land Plans
- Book of Reference
- Funding Statement
- Statement of Reasons
- Consents and Licenses

A brief discussion of the Inspectorate’s comments on the draft documents was held. Detailed comments are provided in the Table below.

## **A47 Blofield to North Burlingham**

### **Section 51 Advice –draft Application Document by Highways England for PINS review**

This advice relates solely to matters raised upon PINS review of the draft application documents submitted by Highways England (“the Applicant”), and not the merits of the proposal. The advice is limited by the time available for consideration, and raised without prejudice to the acceptance or otherwise of the eventual application. It is provided to assist the preparation of the next iteration.

#### ***Abbreviations used***

|             |                               |             |  |                                      |
|-------------|-------------------------------|-------------|--|--------------------------------------|
| <b>BoR</b>  | <i>Book of Reference</i>      | <b>dDCO</b> | <i>draft Development Consent Order</i> |                                      |
| <b>EM</b>   | <i>Explanatory Memorandum</i> | <b>ExA</b>  | <i>Examining Authority</i>             |                                      |
| <b>PINS</b> | <i>Planning Inspectorate</i>  | <b>SoR</b>  | <i>Statement of Reasons</i>            | <b>SoS</b> <i>Secretary of State</i> |

#### **General Drafting points**

1. The Applicant should ensure that when the development consent order (DCO) is finalised all internal references and legal footnotes are checked and that the drafting follows best practice in Advice Note (AN) 13 and 15 and any guidance on statutory instrument drafting.
2. Notwithstanding that drafting precedent has been set by previous DCOs, whether or not a particular provision in this DCO application is appropriate will be for the Examining Authority (ExA) to consider and examine taking account of the facts of this particular DCO application and having regard to any views expressed by the relevant authorities and interested parties.

| <b>Draft Development Consent Order</b> |                                     |   |   |
|--|-------------------------------------|---|---|
| <b>Q No.</b>                           | <b>Article (A)/ Requirement (R)</b> | <b>Extract from DCO (for ease of reference)</b> | <b>Comment/Question</b>   |
| 1.                                     | General                             |   | The Applicant should ensure that all cross references within the dDCO are checked and corrected where necessary/relevant, this includes references to any plans and we would assume this will be corrected in the application version.  |
| 2.                                     | General                             |   | The Applicant will be asked to maintain a list of all plans and other documents that will require SoS certification (including plan/document references), updated throughout the examination process, and supplied to the ExA before the close of the examination   |
| 3.                                     | General                             |   | The DCO is proposed to be a SI and so should follow the statutory drafting conventions. The draft DCO (and any subsequent revisions) should be in the form required by the statutory instrument template (see Planning Inspectorate AN15) and validated as such using the current SI template, including detailed footnotes to all statutory references.  |
| 4.                                     | General                             |   | <p>The application DCO and any subsequent versions of the submitted to the examination:</p> <ul style="list-style-type: none"> <li>• should be supplied in both .pdf and Word formats, the latter showing any changes from the previous version by way of tracked changes.</li> <li>• should be accompanied by a document explaining the changes made– see e.g. Document explaining changes made to dDCO for Deadline 5 in the A19 (Testo's Junction) DCO examination.</li> </ul> |

| Draft Development Consent Order |                              |   |   |
|---------------------------------|------------------------------|---|---|
| Q No.                           | Article (A)/ Requirement (R) | Extract from DCO (for ease of reference)  | Comment/Question  |
|                                 |                              |   | The examination timetable will usually provide a deadline for receipt of the Applicant's final or preferred version of the DCO. That version should be supported by a report of the outcome of validating it through the Publishing section of the legislation.gov.uk website.  |
| 5.                              | General                      | <i>Formatting</i>   | The formatting of the document needs repairing.   |
| 6.                              | General                      | <i>Use of "shall"</i>   | The Office of the Parliamentary Counsel Drafting Guidance (June 2020) at Para 1.2.9 recommends against the use of "shall" in drafting statute, preferring the use of "must", "is/are to" or similar wording. The current version uses it in various locations.  |
| 7.                              | A3                           | <i>Definition of "commence"</i><br><i>"other than operations consisting of archaeological investigations, ecological surveys and pre-construction ecological mitigation, investigations for the purpose of assessing and monitoring ground conditions and levels, remedial work in respect of any contamination or other adverse ground conditions, erection of any temporary means of enclosure, receipt and erection of construction plant and equipment, diversion and laying of underground apparatus and site clearance"</i> | <p>How are these exclusions from the statutory definition of commencement justified?</p> <p>Works such as site clearance and laying of services could have impacts on archaeological sites. R9 (Archaeological remains) seeks to prevent commencement until a scheme of investigation has been approved. With the current wording, the development consent would allow services to be laid (for example) through a possible archaeological site without restriction.</p> <p>There are similar issues in relation to R7 (Protected species).</p> |

|     |        |   |  |
|-----|--------|---|--|
| 8.  | A11(6) | <i>Consent to transfer benefit of Order<br/>"Where the Secretary of State is minded to re under this article and notifies the undertaker accordingly, or the Secretary of State fails to determine the application for consent under this article within the period prescribed in paragraph (5), the undertaker may refer the matter for determination in accordance with article 51 (arbitration)."</i> fuse an application for consent made | Is it appropriate for decisions of the SoS to be subject to arbitration? Such clauses are usually removed by the SoS prior to the making of the DCO. |
| 9.  | A51    | <i>Arbitration</i>  | Should the SoS be explicitly excluded from the provisions of this article?   |
| 10. | R9     | <i>Archaeology</i>  | See comments on definition of "commence", above.   |
| 11. | R13    | <i>Applications made under requirements<br/>"in the event that the Secretary of State does not determine an application within the period set out in sub-paragraph (1), the Secretary of State is taken to have granted all parts of the application (without any condition or qualification) at the end of that period."</i>   | Is it appropriate for the agreement of the SoS to be deemed after the period specified?  |
| 12. | Sch 9  | <i>For the protection of Anglian Water</i>  | These protective provisions are repeated   |

| Draft Explanatory Memorandum |           |   |   |
|------------------------------|-----------|---|---|
| Q No.                        | Paragraph | Extract from EM (for ease of reference) | Question/comment  |
| 1.                           | General   |   | <p>Generally, the dEM tends to explain the <i>effect</i> of the relevant provision in the DCO, rather than explaining <i>why</i> it is necessary.</p> <p>Further explanation and evidence (including the outcomes of any consultation) is required to explain why the content of each article, schedule etc to the dDCO is relevant and required for this proposal. Please refer to AN15.</p> <p>The EM should provide explanation and justification where a provision departs from the model provisions or a precedent. (See AN13 and 15).</p> <p>This should include reference to the particular circumstances of this development and an explanation as to why this is necessary or desirable.</p> |
| 2.                           | General   |   | The Inspectorate reminds the Applicant to ensure that the same font is used throughout. For example, Paragraph 2.3.7  |

| Draft Statement of Reasons |                   |  |  |
|----------------------------|-------------------|--|--|
| Q No.                      | Paragraph/Section | Extract from SoR (for ease of reference) | Question/Comments  |
| 1.                         | General           |  | The Inspectorate recognises that this document is yet to be finalised and as such notes that references to Articles, Chapters and Appendices as well as details regarding the specifics of the scheme remain incomplete. |

| <b>Draft Land Plans</b> |                      |  |   |
|-------------------------|----------------------|--|---|
| <b>Q No.</b>            | <b>Land Plan Ref</b> |  | <b>Question/Comments</b>  |
| 1.                      | General              |  | <p>A reminder for the Applicant to make sure all plot descriptions are double checked prior to submission and that plot indicators are precise. Listed below are a few examples:</p> <ul style="list-style-type: none"> <li>• Plot number 1/2c. Plot perimeter not very clear, plot line indicators could be clearer.</li> <li>• Plot 1/2i. Waterlow Road not labelled on the Land Plans sheet 1.</li> <li>• Plot 2/10. There are 2 plots labelled 2/10.</li> </ul> |
| 2.                      | General              |  | Where possible, it would be clearer if plot labels which need indicator lines could be located on the white areas not on other plots (e.g. see 1/14 and 1/15) and if the lines don't cross over each other (e.g. 1/2c and 1/6).   |
| 3.                      | Plot 1/6             |  | Plot 1/6 is difficult to identify due to the borderlines.   |

| <b>Draft Works Plans</b> |                      |  |  |
|--------------------------|----------------------|--|--|
| <b>Q No.</b>             | <b>Work Plan Ref</b> |  | <b>Question/Comments</b>   |
| 1.                       | General              |  | A reminder for the Applicant to double check descriptions and ensure works markers are accurate prior to submission. |



| Draft Book of Reference |                   |  |  |
|-------------------------|-------------------|--|--|
| Q No.                   | Paragraph/Section | Extract from BoR (for ease of reference) | Question/Comments  |
| 1.                      | Plot 1/2f         |  | The description for this plot is unclear when reading alongside the Land Plans.  |
| 2.                      | Plot 1/17         |  | Should Plot 1/17 be coloured pink in the Land Plans as per the description in the BoR? The description in the BoR is that this plot is CA, the plan does not reflect this. |

| Draft Consultation Report |                   |   |  |
|---------------------------|-------------------|---|--|
| Q No.                     | Paragraph/Section | Extract from CR (for ease of reference)                                     | Question/Comments  |
| 1.                        | General           |   | The Inspectorate recognises that this document is an unfinished draft and notes that areas of content remain incomplete. |
| 2.                        | 2.4.2             | <i>'press release issued on Wednesday 15 March 2017...'</i>                 | The following link leads to a 'page not found' notification.   |
| 3.                        | 2.8.4             | <i>'The EIA Scoping Report...'</i>  | The following link does not take the reader to the EIA Scoping Report.   |
| 4.                        | 3.5.2             | <i>'...which is provided in <b>Annex X</b> of this Consultation Report'</i> | There is no Annex X, as referred to, in the list of Appendices.  |

| Draft Funding Statement |                    |   |  |
|-------------------------|--------------------|---|--|
| Q No.                   | Paragraph/ Section | Extract from FS (for ease of reference) | Question/Comments  |
| 1.                      | General            |   | <p>Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land (September 2013) states that:</p> <p><i>'Applicants should be able to demonstrate that adequate funding is likely to be available to enable the compulsory acquisition [CA] within the statutory period following the order being made, and that the resource implications of a possible acquisition resulting from a blight notice have been taken account of.'</i></p> <p>The draft Funding Statement does not identify the CA costs separately from the project costs or explain how the figure for CA costs was arrived at. ExAs appointed to examine recent highway schemes have through written questions asked Highways England to establish the anticipated cost of CA (and the proportion of the most likely project cost estimate attributed CA costs) and explain how the figure was arrived at. The Applicant is advised to consider providing this breakdown upfront, within the submitted Funding Statement, to potentially avoid the need for questioning during the examination.</p> |

| <b>Draft Consents &amp; Licenses</b> |                          |  |   |
|--------------------------------------|--------------------------|--|---|
| <b>Q No.</b>                         | <b>Paragraph/Section</b> | <b>Extract from CLPS (for ease of reference)</b> | <b>Question/Comments</b>  |
| 1.                                   | General                  |  | <p>ExAs appointed to examine highways applications have, through written questions, asked for Highways England to provide assurance that the need for other consents outside of the dDCO would not present any obstacle to the implementation of the Proposed Development should development consent be granted.</p> <p>The Applicant is advised to consider providing this assurance upfront, within the submitted CLPS, to potentially avoid the need for questioning during the examination. Acknowledging that some of the information within this document represents a snapshot in time, an appointed ExA is likely to request for the CLPS to be updated in the course of the examination.</p> |

| <b>Environmental Statement Chapters 1 – 4</b> |                          |  |  |
|---|--------------------------|--|--|
| <b>Q No.</b>                                  | <b>Paragraph/Section</b> | <b>Extract from ES (for ease of reference)</b>   | <b>Question/Comments</b>   |
| 1.  | Ch 1<br>1.3.16           | <i>'The Highways England Delivery Plan sets out Highways England's long-term plans for the modernisation and renewal of our road network over the 5-year period from 2015-2020. It provides a brief outline of what Highways England have delivered during 2015-2016 and sets out a clear programme of activity for 2016-2017, as well as annual and future commitments. It complements the original Delivery Plan (Highways</i> | Text appears out of date and refers to a programme of activity for 2016 -2017. |

|    |                     |  |   |
|----|---------------------|--|---|
|    |                     | <i>England Delivery Plan 2015-2020), outlining progress made with this work.'</i>  |   |
| 2. | Ch 2<br>Section 2.3 | <i>Location of Proposed Scheme</i>   | <p>Cross-reference to a location plan would assist readers, or the inclusion of a plan showing the location of the Proposed Development as described within Chapter 2 and the locations listed in paragraph 2.3.3.</p> <p>The use of figures, similar to how Figure 2.1 and 2.2 of the PEIR are used, would help the reader to gain an understanding of the Proposed Development description in ES Chapter 2.</p> |
| 3. | Ch 2<br>2.4.6       | <i>'The existing conditions within the scheme boundary and surrounding area relevant to each of the chapter topics, is reported in Chapters 5 to 14 of this ES under 'Baseline Conditions'. An overview of the baseline is provided in the Non-Technical Summary of the Preliminary Environmental Information Report prepared for the Proposed Scheme (2018), available here:....'</i> | Is the information within the referenced document still representative of the current baseline environment? It would assist readers if the baseline overview was included in this chapter rather than outwith the ES.   |
| 4. | Ch 2<br>Section 2.5 | <i>Project description</i>   | Very limited information is provided on the size, dimensions or number (eg, lighting columns) of the various elements of the project. References to plans on which each of the elements are clearly depicted need to be specific, rather than a broad reference to the GA plans. No information is provided on the materials of which the various elements will be comprised.                                     |
| 5. | Ch 2<br>2.5.13      | <i>'Parallel merge and diverge lanes will be provided to mitigate speed differentials between side road and</i>  | No information has been provided on what the proposed revised access arrangements would comprise.   |

|    |                |  |   |
|----|----------------|--|---|
|    | B1140 junction | <i>mainline traffic. Revised access arrangements will be provided for residents.'</i>  |   |
| 6. | Ch 2<br>2.6.1  | <i>'The approach to construction described below is indicative but it is representative of the likely approach to be adopted. Further provisions in relation to construction of the Proposed Scheme are be provided in the Environmental Management Plan (EMP) (DCO Document 7.8).'</i>  | Full details of the anticipated construction activities should be provided in the description of the project within this chapter. |
| 7. | Ch 2<br>2.6.9  | <i>The main construction compound is proposed to the south east of the proposed B1140 junction, with two satellite compounds (one north of the junction and one to the west). The compound would include temporary site offices, parking, and welfare facilities. Table 2.2 indicates indicative timings of use of each of the compound locations.</i> | It would assist the reader if cross-reference was made to a plan that depicts the location of the compounds.                      |
| 8. | Ch 2<br>2.6.17 | <i>'For the purposes of the EIA, it is assumed that 75% of all deliveries would go to the main construction compound at the proposed B1140 junction, 20% to the satellite compounds and 5% to the laydown areas'.</i>  | This is the first and only reference to laydown areas. Their location should be identified.                                       |
| 9. | Ch 2           | <i>Limits of Deviation (LoD)</i>   | The LoD should be depicted on a plan.   |

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|     | Section 2.6            |  |  |
| 10. | Ch 2<br>2.7.2          | <i>'Demolition of the Proposed Scheme is not therefore considered further in this ES.'</i>   | For the avoidance of doubt, suggest 'decommissioning' is used rather than 'demolition'.  |
| 11. | Ch 3<br>3.1.2 & 3.3.2. | <i>'In seeking to resolve the transport problem between Blofield and North Burlingham (further detail on issues provided in Chapter 2 (The Proposed Scheme), eight potential options were developed..... These options can be reviewed in the Scheme Assessment Report at the following link...'</i> | Documents relevant to the DCO application should be submitted with the application and a cross-reference provided from the chapter, rather than providing hyperlinks to documents/ information outside of the ES.  |
| 12. | Ch 3<br>3.2.13         | <i>Figures 3.1 to 3.4</i>  | The figures within the ES should be larger and include a scale to aid the reader.  |
| 13. | Ch 3.3                 | <i>Justification for chosen option</i>   | <p>The justification for the chosen option does not include any evidence for the claims stated in paragraph 3.3.1, and the hyperlinks to the Preferred Route Announcement (2017), Scoping Report and PEIR do not include further information or provide this evidence.</p> <p>Ch 3 and the information provided via the hyperlinks do not compare the environmental effects or land size of the route options.</p> |
| 14. | Ch 4<br>General        | <i>Methodology</i>   | It should be made clear whether the methodology described in Ch 4 is overarching, and it should be confirmed in the aspect chapters whether it applies to that particular assessment. If it doesn't, the methodology used should be clearly explained in the aspect chapter.   |

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| 15. | Ch 4<br>General       | <i>Use of hyperlinks</i>  | As above, documents relevant to the DCO application should be submitted with the application and cross-reference provided from the chapter, rather than providing hyperlinks.  |
| 16. | Ch 4<br>4.1.9         | <i>'The design manual for roads and bridges (DMRB) environmental and sustainability guidance was re-written and published in 2019 and 2020. Where updates to guidance have changed scope to the 2018 Scoping Report, consultation has been undertaken with the Planning Inspectorate and relevant environmental bodies.'</i>  | Need to ensure that the assessments etc take account of the most recent updates to the DMRB.<br><br>PINS has not been consulted on changes to the DMRB guidance since the 2018 Scoping Report. Please amend the text to reflect this.  |
| 17. | Ch 4<br>4.2.1 - 4.2.2 | <i>'The methodologies used for the assessments for individual topics in this ES are based on those set out in the EIA Scoping Report, Scoping Opinion and Preliminary Environmental Information Report (PEIR) for the Proposed Scheme (2018), and discussions with relevant consultees. In undertaking the EIA, Highways England has applied the key principles, topics, approaches and criteria set out in these documents...'</i> | Key information should be contained in this chapter, rather than a generalised reference made to information located elsewhere.  |
| 18. | Ch 4<br>Section 4.4   | <i>Significance criteria</i>  | It appears that the criteria set out in this chapter is overarching and will be applied to all of the assessments except air quality, noise and vibration, and climate. However, the only criteria provided is in respect of the significance of effect categories. None is provided in relation to sensitivity of a receptor or magnitude of impact; they need to be defined. |

|     |                        |   |  |
|-----|------------------------|---|--|
| 19. | Ch 4<br>4.4.9 – 4.4.11 | <i>Mitigation</i>   | Compensation and offsetting are not usually described as mitigation.   |
| 20. | Ch 4<br>4.4.9          | <i>'Mitigation measures associated with construction are described in the Environmental Management Plan (EMP)(DCO document 7.8).'</i> | Mitigation measures, and the effects they are designed to reduce or avoid, should either be clearly described in the ES technical chapters, or summarised therein and clear and specific cross-referencing provided to the location of the more detailed information.  |
| 21. | Ch 4<br>Section 4.4    | <i>Mitigation</i>   | Mitigation is usually described as either embedded/integral or additional (ie measures that do not form part of the project design). The ES should define and differentiate between these types of mitigation.   |
| 22. | Chapters 1 –<br>4      | <i>General</i>  | The ES should not involve a paperchase. The ES should contain all of the information required by the EIA Regulations, and all other relevant documents relied upon for the purposes of the EIA should form part of the DCO application. Cross-references from the ES to relevant information contained in other application documents should be clear and specific, and those documents must contain the information as purported in the ES. |

## General

1. Where references are provided to other Application documents it would be beneficial to provide the full title thereof inclusive of document reference number. Should further draft documents be provided for review, the Applicant may wish to consider providing a full list of known application documents (for purpose of sign-posting) as well as their respective reference number.
2. [DCLG: Application form Guidance](#), paragraph 3 states: *The application must be of a standard which the Secretary of State considers satisfactory: Section 37(3) of the Planning Act requires the application to specify the development to which it relates, be made in the prescribed form, be accompanied by the consultation report, and be accompanied by documents and information of a prescribed description. The Applications Regulations set out the prescribed form at Schedule 2, and prescribed documents and information at regulations 5 and 6.*