

Ian Thynne

Planning Specialists Team Manager

By email only

13th January 2021

Dear Ian,

Schedule 17 Request for Approval of Lorry Route (Dews Lane)

Application Reference: 75596/APP/2020/1553

I firstly wanted to recognise all the hard work undertaken by both organisations last year to gradually start to shift the dial with respect to the working relationship at officer level and the dialogue being undertaken across a range of diverse matters. We note that there are still a number areas of difference, however we are confident that if we continue to maintain regular open and frank dialogue, monthly updates and eventually undertake site visits once Covid-19 lockdown restrictions end we will eventually get to a point of resolution.

The purpose of this letter is to set out our formal response to your latest email dated 26th November 2020 requesting additional information in connection with the above application. As you know we have been working with the Council over the last twelve months on this and we thought it would be useful to set out the Schedule 17 request for approval timeline below;

- January and February 2020 - Align JV met with the Council to discuss the proposed Schedule 17 submission. At both meetings the Council requested peak time vehicle numbers be included in the submitted information. No other information was requested.
- 30th April 2020 - The request for approval was submitted, with determination due 8 weeks later on the 25th June 2020 (a committee meeting was held on the 24th June, but this request was not determined at that meeting).
- 22nd June 2020 - the Council requested clarification regarding the impacts of existing consents in place on Harvil Road, with Align JV providing the requested information on the 7th July 2020.

- 7th July 2020 - Following a request from the Council, HS2 Ltd and Align JV agree to an extended determination date of the 30th July 2020.
- 17th July 2020 - The Council provided two draft conditions which required the agreement of HS2 Ltd. HS2 Ltd were unable to agree to these conditions because neither set out how the route subject to the approval should be modified, or why – a position upheld in the Schedule 17 appeal decision APP/HS2/5. The Council subsequently cancelled the planning committee schedule for the 29th July 2020 and requested an extension of the determination period until 13th August 2020, which was agreed by HS2 Ltd.
- 13th August 2020 - Following the Court of Appeal Judgment, the Council requested information about baseline traffic flows in the peak hours, further details of LGV trips within those peak hours, and an explanation of what mitigation and monitoring measures are proposed. This information was provided to the Council by Align JV on the 6th October 2020.
- Various dates September–December 2020 - Following the provision of further information, both Align JV and HS2 Ltd sought to agree extensions to the determination date with the Council; no agreement was forthcoming.
- 29th October 2020 - the Council indicated a they would be proposing a condition regarding monitoring and recording, with draft wording to follow, and that the next committee date was the 24th November 2020. No such condition was proposed.
- 3rd November 2020 - the Council then requested cumulative traffic information for Swakeleys Roundabout and whether this has been assessed in the peak hours. The nature of the request led to both the phone call listed below and the subsequent more detailed request that this letter responds to (date noted below).
- 10th November 2020 - the Council advised in a telephone call that there would be further information requests.
- 26th November 2020 - Email received from LBH requesting an additional six areas of information which are responded to in this letter.

Enclosed with this letter is an update to the Addendum to the Written Statement (Version C02) provided to the Council on the 6th October 2020 (as Version C01). The Addendum has been corrected and updated to reflect both Align JV and SCS's LGV movements and to present the LGV movements as individual trips for clarity.

Requests for Further Information

1 – The traffic assessment showing the impacts on the network which includes data plugged in from the interventions of the project, i.e. the non traffic movements and the changes to road operations through temporary traffic lights.

Under Schedule 17 paragraph 6, the approval being sought is for the arrangements for the routes by which anything is to be transported on a highway by LGVs to a worksite. Additional interventions of the project are beyond the scope of the Schedule 17 approval being sought.

The traffic assessment is reported in the HS2 Environmental Statement (ES). This assessment includes the effects of both construction vehicle and worker trips which were assessed against a set of defined criteria specified in the ES Scope and Methodology Report that was consulted upon prior to undertaking the ES.

Section 2.2.13 – 2.2.14 of the Written Statement sets out the traffic and transport delay effects reported in the ES arising from the use of the route subject to this application by LGVs; this is taken from the ES and its associated Supplementary and Additional Provision ES (this is also relevant to the other responses below).

With regards to the use and timings of temporary portable signals, these will be managed in accordance with the relevant standards¹. The provision of traffic signals will go through the relevant design and assessment requirements of TfL, as the signals authority for London. The provision of signals has been reviewed at the end of Dews Lane as a part of the Schedule 4 consent (Align reference: ALJ-HW-0003) that the London Borough of Hillingdon allowed to run to deemed approval, and subsequently, have been accepted by Transport for London.

2 – We then need to understand what arrangements you are proposing to put in place to ensure a free flow of traffic and to reduce prejudicial effects on highways safety. Essentially, we need to understand how many movements you want in the peak hours, and then whether this will increase congestion, and if so, what measures you intend to take (the obvious being restricting peak hour movements to a minimum).

The arrangements for which approval is sought is for the routes by which anything is to be transported on a highway by an LGV to a worksite. Under the application of Schedule 17, it is for the Council to demonstrate if the arrangements ought to be modified and how in relation to the grounds for determination under Schedule 17 paragraph 6 (5)(b)(ii).

The information requested regarding LGV movements in the peak hours was included in the information (Addendum) provided to the Council on the 6th October 2020. This sets out the daily average LGV movements per month in both morning and evening peak times. The information is set out as both combined totals for contractors' routes using Harvil Road

¹ See

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/509198/introduction-use-portable-vehicular-signals.pdf for a general introduction

(Figure 2), and individually for the Dews Lane lorry route (Figure 4) subject to this Schedule 17 request. The pack provided as an attachment to this letter updates this information.

For reference, the AM/PM LGV movements are set out in ES Volume 5 Traffic Assessment Part 6² in Tables 7-10 and 7-11 (Harvil Road – Swakeleys Roundabout), and 7-13 and 7-14 (Harvil Road).

3 – This assessment needs to take into account displacement of traffic given the ‘test’ in the Act relates to traffic movements in the local area. An issue that has never been resolved.

The traffic assessment was undertaken against defined criteria specified in the Scope and Methodology Report of the ES. The displacement of traffic from the route proposed has not been identified as a significant effect against those criteria.

4 – We also need to understand what arrangements are put in place to ensure safe access to and from worksites.

The Schedule 4 consent (Align reference: ALJ-HW-0003) allowed to run deemed by your Council sets out the approved design of the access to the worksite; for reference it is included in Appendix 2 of information (Addendum) provided to the Council on the 6th October 2020 and is also included in page 50 of the latest LTMP which has been shared with the Council.

The access and egress arrangements for LGVs using the Dews Lane worksite access is set out Appendix 3 of information (Addendum) provided to the Council on the 6th October 2020 (specifically section 4 of the Operating Manual – Dews Lane regarding access and egress).

5 – Given your traffic is in cumulation with that of SCS then there needs to be a collective approach to this exercise.

Align JV and SCS integrated project teams (IPT's) are fully co-ordinated with regular delivery unit project interface/integration sessions being held for the S2/C1 packages. It has been agreed that Rohan Perin, the C1 Project Client Director, will act on behalf of both packages with respect to B2B relationship management and therefore your point of escalation for matters arising in the borough. The information set out in the latest LTMP shared with the Council and the information (Addendum) provided to the Council on the 6th October 2020, sets out the collective approach to contractors LGV movements. This includes details of the routes and the arrangements, with all the proposed numbers of movements are below those reported in the ES and the Hillingdon assurance.

6 – Finally, we need to have a dialogue about how we capture traffic movements and get more regular reporting from HS2 Ltd. Either this is through a planning condition or through a more robust form of reporting. Either way, we need to have a mechanism for ensuring that whatever restrictions are set through 1-5 are recorded and reported to the Council.

² See [https://webarchive.nationalarchives.gov.uk/20140613024226/http://assets.dft.gov.uk/hs2-environmental-statement/volume-5/traffic/Vol 5 TA Country assessment CFA7-15 %28Sec7a%29 Part6.pdf](https://webarchive.nationalarchives.gov.uk/20140613024226/http://assets.dft.gov.uk/hs2-environmental-statement/volume-5/traffic/Vol%205%20TA%20Country%20assessment%20CFA7-15%20%28Sec7a%29%20Part6.pdf)

As part of the EMRs a monthly report is issued to the HS2 Hillingdon TLG which sets out the actual number of movements to and from each site compound by LGVs for the AM and PM peak periods, as well as an all-day total. The report also provides an estimated daily total for each compound for the following month. A commitment to continue to provide this level of information has been made to the Highways and Traffic sub-group to the Planning Forum and is provided consistently to Local Authorities across the Phase 1 route. These figures are provided to broadly align with the assessment in the ES, so that HS2 and authorities are comparing “like for like” for construction traffic. This is the only information that we routinely monitor.

You will recall that a monitoring and reporting (Condition 3) was considered in appeal reference APP/HS2/2. The Planning Inspector concluded that condition failed as it did not meet the requirements of Schedule 17 paragraph 6(5)(b) and would duplicate an existing EMR control. Further proposals for conditions relating to monitoring were also dismissed in appeals APP/HS2/5, APP/HS2/7 and APP/HS2/8.

Therefore, we believe a condition dealing with this matter is not an appropriate mechanism, but hope the Council can engage with HS2 and based on the information provided and the responses outlined above.

Align's innovation team are beginning to look at the viability of adopting a technology solution from one of the Joint Venture parent companies that has the potential to provide more detailed HGV movement reporting. I need to caution that this is currently in its infancy and will require a piloting and evaluation phase before any decision to implement is taken. We will commit to providing regular updates on the potential innovation solution.

In addition, we are examining the approach to monitoring flows at Swakeleys Roundabout in relation to the limit set out in the Hillingdon agreement.

Overview

We have always endeavoured to respond collaboratively and agreed to all of the Council's previous requests to extend the determination date for this Schedule 17 request. It is therefore highly disappointing that the Council is unable to provide a revised determination date for this application.

This consent is now directly driving the Align critical path for the southern end of the Colne Valley Viaduct construction. The inevitable outcome will be to incur substantially increased costs to the tax payer by seriously impacting our site establishment which will have a consequential knock on impact to our permanent works programme. Throughout the determination of the request for approval, including the pre-submission stage, the Council has changed its requests for information and as well as its indicated approach to the determination.

It is accepted that the Council is fully entitled to adequate information in order to perform its statutory tasks in determining Schedule 17 requests. However, it is requested that the Council works collaboratively with HS2 Ltd and Align JV and avoids multiple requests for further information with no clear prospect of ever achieving determination.

Summary

In accordance with the HS2 Act, the Planning Memorandum and the Court of Appeal Judgment, the Council has been provided with adequate information in order to perform its statutory tasks in determining this Schedule 17 request. The information provided sets out the arrangements for the routes by which LGVs will transport anything on a highway to a working site. This is informed by the ES which assessed the use of the route and outlined the impacts together with any subsequent mitigation.

If the Council wishes to propose a modification to the proposed arrangements or refuse the request for approval, the burden of proof in undertaking this approach remains with the local planning authority to explain what those modifications are. This requirement, through the 'ought to' test in the Schedule 17 grounds for determination is enforced by the various HS2 appeal decisions and the Court of Appeal Judgment.

I therefore respectfully ask that the Council proceed in accordance with Schedule 17, paragraph 6(5) to the Act and either approve the request or suggest modifications to the arrangements of the proposed route in accordance with the grounds for determination.

In light of the responses and explanation provided in this letter, please can you:

- Confirm you will proceed with the determination of this critical path Schedule 17 request for approval.
- Provide in writing a proposed date for the determination for our agreement.

Yours sincerely,

Rohan Perin

Rohan Perin
HS2 Project Client Director (C1 Align JV)

CC:

Billy Ahluwalia – HS2 Senior Project Manager (C1 Align JV)
Steve Austin – HS2 Town Planning Manager (C1 Align JV)
John Woodhouse – Align JV Town Planning Manager (C1 Align JV)
Karl Dafe – Planning Case Manager (LB Hillingdon)
Rajesh Alagh - Borough Solicitor (LB Hillingdon)