HIGHWAYS AGENCY

29 JUN 2009

Our ref: P397932
Your ref: 09/00340/CONDIT
09/00343/CONDIT

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DEVELOPMENT SERVICES
29 JUN 2009
RECEIVED

26 June 2009

Dear James

DODWELLS ROUNDABOUT, HINCKLEY, LEICS

Thank you for notifying the Highways Agency of the planning applications (09/00340/CONDIT and 09/00343/CONDIT) for the deletion of conditions attached to two applications (05/00615/FUL; 07/01150/FUL) requiring improvements to the Dodwells Roundabout on the A5.

The Highways Agency's interest in the applications relates to the operation of the A5 as part of the Strategic Road Network (SRN). We have reviewed the application and are presently undertaking modelling work to validate the transport assessment submitted in support of the applications.

The applicant's planning statements for both applications contend that the conditions do not accord with the relevant tests set out in Circular 11/95, which requires that conditions should only be imposed where they are i) necessary; ii) relevant to planning; iii) relevant to the development to be permitted; iv) enforceable; v) precise; and vi) reasonable in all other respects. In particular the applicant contests the necessity, reasonableness, precision and relevance of the conditions. These matters are dealt with below in turn.

It is important that the consideration of these matters takes place in the context of the planning history of the site. As you will be aware, the development of the application site for industrial purposes was originally permitted at appeal in 2000 (99/00048/OUT). This application was considered alongside an application (99/00047/OUT) – made by the same applicant – for residential development on the south side of Coventry Road.

The conclusions of the Inspector relate to both developments and therefore the traffic impacts, and the measures agreed to mitigate them, relate to both developments. It is

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noted that the Inspector found the conditions attached to both permissions to be necessary, reasonable, precise and relevant at the time of the appeal. It is also noted that Crest Nicholson has now substantially completed the residential development.

Necessity

The applicant has submitted two transport modelling reports (using S-Paramics and ARCADY) which purport to show that the 'improvements required [by the conditions] were no longer necessary in highway terms in 2005 and remain unnecessary at the date of this application'. The modelling work undertaken so far on behalf of the Highways Agency is at variance to this view. The Agency therefore disputes this assertion and maintains the improvements at Dodwells Roundabout are necessary in order to mitigate the cumulative transport impact of the proposed industrial development and the completed housing development.

Reasonableness

The applicant states that the works are unreasonable on the grounds of cost, and also the distance of the roundabout from the site. In particular, it is contended that 'it is unreasonable for the cost of the works to be imposed upon a single development'. It is reiterated that the improvements at Dodwells are not required solely as a result of the industrial development, but due to the cumulative impact of this development and the associated residential development already completed by the applicant (without complying with the corresponding condition for that development). It should also be noted that, notwithstanding the distance of Dodwells from the site, the modelling work undertaken at the time of the appeal and the subsequent work for the Highways Agency shows that the requirement for junction improvements is entirely reasonable.

Precision

The applicant states that the conditions are imprecise on the basis that 'in the absence of the plan being submitted with the application the condition is therefore insufficiently clear and uncertain. It is difficult for the applicant to ascertain what must be done to comply with the condition'. The Highways Agency is of the view the precision of the condition is not in question: there is a clear link to the original permission, the drawing reference is specific, and the drawing is available for public inspection.

Relevance to the Development Permitted

The applicant states that, because the condition 'relates to a roundabout at a distance of half a mile from the development ... it therefore follows that it will have limited relevance to the development permitted'. The distance of the roundabout from the site is not considered to be the main determinant of the 'relevance' of the condition. As is noted above, the Highways Agency is confident that, notwithstanding this distance, the

impacts created by the industrial development and the associated housing development are significant enough to require the improvements at Dodwells. It is reiterated that the Inspector who heard the original appeal considered the condition to be relevant to the development permitted.

In conclusion, the Highways Agency objects to the removal of condition 21 attached to permission 05/00615/FUL and condition 13 on 07/01150/FUL. However, the Agency is keen to maintain a constructive dialogue with the Council and the developer, and is currently in discussion with the applicant's representatives on the most appropriate way forward in relation to the required improvements at Dodwells. The Agency therefore directs that planning permission should not be granted until these matters are resolved. Please find attached a TR110 form to this effect.

Yours sincerely



Geoff Wise
Network Operations East Midlands
Email: geoffrey.wise@highways.gsi.gov.uk

cc: T. Darke HBBC

HIGHWAYS AGENCY

TR110 (May 2007)

An Executive Agency of
The Department for Transport

Developments Affecting Trunk Roads and Special Roads
Highways Agency Response to an Application for Planning Permission

From: Divisional Director, Network Operations, East Midlands Region, Highways Agency.

To: Hinckley & Bosworth Borough Council

Council's Reference: 09/00340/CONDIT; 09/00343/CONDIT

Referring to the notification of two planning applications dated 19th May 2009, your references 09/00340/CONDIT; 09/00343/CONDIT, in connection with the A5 Land Adjcanet to 391 Coventry Road, Hinckley, Leicestershire, notice is hereby given under the Town and Country Planning (General Development Procedure) Order 1995 that the Secretary of State for Transport:-

~~a) offers no objection;~~

~~b) recommends that planning permission should either be refused, or granted only subject to conditions~~

~~c) directs conditions to be attached to any planning permission which may be granted;~~

~~d) directs that planning permission is not granted for an indefinite period of time;~~

e) directs that planning permission not be granted for a specified period (see Annex A).

(delete as appropriate)

Signed by authority of the Secretary of State for Transport

Date: 26 June 2009	**Signature:**
Name: Geoff Wise	**Position: Planning Manager**

The Highways Agency: C3, 5 Broadway
Broad Street
Birmingham
B15 1BL

Annex A

Reason(s) for the direction given at b), c) or d) overleaf and the period of time for a direction at e) when directing that the application is not granted for a specified period:

Period:

Until such time as the outstanding issues raised in the attached letter have been resolved and approved in writing by the Highways Agency.

Reason:

To ensure that the A5 Trunk Road continues to serve its purpose as part of a national system of routes for through traffic in accordance with Section 10 (2) of the Highways Act 1980 by minimising disruption on the trunk road resulting from traffic entering and emerging from the application site and in the interests of road safety.