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20 December 2010

Dear Sirs,

**TRANSPORT AND WORKS ACT 1992
TOWN AND COUNTRY PLANNING ACT 1990
HIGHWAYS ACT 1980
TRANSPORT ACT 2000**

THE MERSEY GATEWAY PROJECT

1. We are directed by the Secretary of State for Transport ("the Secretary of State") to say that consideration has been given to the report of the Inspector, Mr Alan T Gray MRICS DipTP MRTPI, concerning the applications made by your client, Halton Borough Council ("the Promoter"), for:-

- (a) The River Mersey (Mersey Gateway Bridge) Order to be made under sections 3 and 5 of the Transport and Works Act 1992 ("the TWA Order");
- (b) a direction as to deemed planning permission for the development provided for in the TWA Order to be issued under section 90(2A) of the Town and Country Planning Act 1990;
- (c) confirmation of The Halton Borough Council (A533 Central Expressway) Side Roads Order 2008 ("the Central Expressway SRO");
- (d) confirmation of The Halton Borough Council (The Mersey Gateway – Central Expressway) Compulsory Purchase Order 2008 ("the Central Expressway CPO");
- (e) confirmation of The Halton Borough Council (A533 Queensway) Side Roads Order 2008 made under section 14 and 125 of the Highways Act 1980 ("the Queensway SRO");
- (f) confirmation of The Halton Borough Council (The Mersey Gateway - Queensway) Compulsory Purchase Order 2008 ("the Queensway CPO"); and

(g) confirmation of The A533 (Silver Jubilee Bridge) Road User Charging Scheme Order 2008 made under section 168 of the Transport Act 2000 ("the RUCO").

2. The Inspector held concurrent public local inquiries into these applications between 19 May and 28 July 2009. He was assisted by Mr Andrew L Roberts CB CBE AFC FRAeS. A copy of the Inspector's report dated 13 January 2010 is enclosed together with his supplementary report of 26 March 2010 in which he clarifies three matters arising from the main report.

3. Of the applications relating to the Mersey Gateway Project ("the Project") that were before the inquiry, this letter refers only to those described above, which fall to be determined by the Secretary of State. Decisions on the Promoter's related applications for planning permission, listed building consent and open space certificates required for the Project are set out in a separate letter being issued today on behalf of the Secretary of State for Communities and Local Government ("Secretary of State for CLG").

4. Each of the Promoter's applications relating to the Project has been assessed on its merits by the relevant Secretary of State, under its particular statutory regime. At the same time, since the Project is a single, integrated scheme, decisions on all the applications under the different statutory regimes have been taken with due regard to each other, in view of their very close inter-relationship and mutual dependency.

The Mersey Gateway Project

5. The main elements of the Project are as follows: construction of a road bridge across the River Mersey between Widnes and Runcorn consisting of two 3-lane carriageways, referred to as the Mersey Gateway Bridge ("MGB"); improvements to related highways; tolling of the MGB; tolling of the existing Silver Jubilee Bridge ("SJB"); and changes to the SJB including the reduction of the carriageway to two lanes and de-linking works. The Promoter has sought various Orders and consents which are required for the purposes of the Project. Those to which this letter relates are summarised below.

6. **The TWA Order**, if made, would authorise the Promoter to construct, maintain and operate the MGB, including the toll plazas and connecting viaducts, highways and bridges. It would also (among other things) authorise the compulsory acquisition and use of land and rights required for those works; charging and varying tolls for use of the MGB; and the making of byelaws about the use of and maintenance of order on the MGB. If given, the direction referred to at paragraph 1(b) above would deem planning permission to be granted for the development provided for in the TWA Order. It would not extend to highway works south of Bridgewater Junction or on the SJB and its approaches which are the subject of the separate planning applications referred to in paragraph 3 above.

7. **The Central Expressway SRO**, if confirmed, would authorise the Promoter to improve, stop up and construct highways all on or in the vicinity of the route of the classified road known as the A533 Central Expressway; the A557 Weston Point Expressway; the A533 Southern Expressway and the A5216 Weston Link.

8. **The Central Expressway CPO**, if confirmed, would authorise the Promoter to purchase compulsorily the land described in the Order for the purposes of:

- (a) the improvement of an existing highway, being the classified road known as the A533 and A557 Weston Point Expressway;
- (b) the construction and improvement of highways authorised by the Central Expressway SRO;
- (c) use by the Promoter in connection with the construction and improvement of the highways referred to at (a) and (b); and
- (d) mitigating any adverse effects which the existence or use of the highways proposed to be constructed or improved by the Promoter will have on the surroundings.

9. **The Queensway SRO**, if confirmed, would authorise the Promoter to improve, stop up and construct highways all on or in the vicinity of the route of the classified road known as the A533 Queensway.

10. **The Queensway CPO**, if confirmed, would authorise the Promoter to purchase compulsorily the land described in the Order for the purposes of:

- (a) the construction and improvement of highways forming part of the A533 Queensway, south of the existing Ditton Road junction with Speke Road;
- (b) the improvement of Desoto Road West between its junction with Queensway and Macdermott Road;
- (c) use by the Promoter in connection with the construction and improvement of the highways referred to at (a) and (b); and
- (d) mitigating any adverse effects which the construction, improvement, existence or use of the highways proposed to be constructed or improved by the Promoter will have on the surroundings.

11. **The RUCO**, if confirmed, would authorise the Promoter to impose and vary charges for the use of the SJB.

Summary of Inspector's recommendations

12. The Inspector's conclusions are set out in sections 10 and 11 of his main report, as supplemented by the advice given in paragraphs 4 to 8 of his supplementary report. His recommendations are at section 12 of the main report and in paragraphs 9 and 10 of the supplementary report. He has recommended that the Orders described above be made or confirmed with modifications; and that planning permission be deemed to be granted, subject to conditions, for the development provided for in the TWA Order.

Summary of the Secretary of State's decisions

13. For the reasons given in this letter, **the Secretary of State has decided to:-**

- a. make the TWA Order, with modifications;**

- b. **direct that planning permission be deemed to be granted for the development authorised by the TWA Order, subject to the conditions set out in Annex 1 to this letter; and**
- c. **confirm with modifications the Central Expressway SRO, the Central Expressway CPO, the Queensway SRO, the Queensway CPO, and the RUCO.**

Secretary of State's consideration

14. Careful consideration has been given to all the arguments put forward by, or on behalf of, the parties. The Secretary of State's consideration of the Inspector's report is set out in the following paragraphs, which include a summary of the Inspector's conclusions under each main topic heading. Numbers in brackets are references to relevant paragraphs of the Inspector's main report with those prefixed by "SUP" referring to paragraphs in the Inspector's supplementary report.

Aims and objectives of, and the need for the Project

15. The Inspector was satisfied that the Promoter's objectives for the Project were appropriately directed at meeting identified and well-defined economic, transport, environmental and network resilience needs. He considered that, among those objectives, relieving congestion on the existing SJB had special significance because of its physical dominance of the Borough of Halton ("the Borough") and the wider area. The Inspector was convinced of the need for the Project which was confirmed by the existing situation. This included the adverse consequences of congestion on the SJB for journey times and public transport provision. He also accepted the Promoter's view that the transport network in and around the Borough had limiting effects on environmental regeneration and on social and economic life (11.2, 11.3.1.1-3, 11.5.2).

16. The Secretary of State agrees with the Inspector, for the reasons given by the Inspector in his conclusions, that the objectives of the Project have been appropriately defined. He also agrees that there is a clear need for the Project to improve current conditions on the transport network in the Borough.

Justification for the Project

17. The Inspector was satisfied that the Project was broadly consistent with national, regional and local planning, transport and environmental policies. As regards the development plan, comprising the Regional Strategy for the North West 2008 and the Halton Unitary Development Plan 2005 ("UDP"), the Inspector considered that the Project essentially complied with policy RT10 in the Regional Strategy and he noted that Policy S14 in the UDP supported the provision of another crossing of the Mersey in this location. His consideration of relevant national planning policy guidance is referred to in the following paragraphs, under the appropriate topic headings. The Inspector concluded overall that, to the extent that there would be policy conflict, it would be either minor and capable of being contained by mitigation where appropriate, or permissible exceptionally (11.3.2.2, 11.4.2-7, 11.5.4).

18. The Inspector considered that the Project would offer transportation, regeneration, environmental and socio-economic benefits. These included the easing of congestion, direct and indirect job creation, support for the development of regional strategic sites and improved air quality. The Inspector did not consider that the challenges which had been made to the predicted benefits of the Project were persuasive. While recognising that there would also be some disadvantages, he was satisfied that they would be more than outweighed by the benefits (11.3.2.3-7).

19. The Inspector noted that there had been an exhaustive examination of alternative ways of meeting the need for the Project, and of routing another crossing of the Mersey, before the Project was promoted as the best means of addressing the identified need in concert with other measures which formed an interdependent package of sustainability measures. He was satisfied that the alternative solutions argued for by some had either already been carefully analysed and properly discounted, or would be insufficient to have any significant effect in isolation or in combination, or were simply impractical or unacceptable (11.3.2.8-12, 11.5.2).

20. The Secretary of State agrees with the Inspector, for the reasons the Inspector gives, that the Project conforms broadly with relevant policy at all levels; that the anticipated benefits of the Project are well-founded; and that the Promoter adequately investigated alternatives before deciding to proceed with the Project. The Secretary of State notes that, following the decision of the Courts on 10 November 2010 on *The Queen on the application of Cala Homes (South) Limited v Secretary of State for Communities and Local Government* (COO/8474/2010), the Regional Strategy (RS) for the North West still forms part of the development plan for the area. He is also aware that the Secretary of State for CLG has made clear that it is the Government's intention to revoke RSs, and he has taken this intention into account in determining the applications before him. However, he does not consider it necessary to refer back to parties on its implications before reaching his decisions. The Secretary of State considers that, whilst relevant RS policies were considered at the inquiry and have been taken into account in the Inspector's conclusions and recommendations, he would come to the same decisions on the applications before him irrespective of the intention to revoke RSs, for the reasons given in this letter.

***The likely environmental impacts of the Project:
Noise and vibration***

21. The Inspector considered that, despite the concerns of objectors about increased traffic volumes particularly on the Central Expressway in Runcorn, the Project would, once constructed, have an overall benefit for noise impact. He noted in this respect that, with the Project, fewer dwellings in the study area would experience an increase in noise than without it; and that no unacceptable noise impacts on dwellings were predicted. The Inspector noted also that some commercial and industrial premises and Wigg Island would experience moderate or major increases in traffic noise, which would be regrettable, but he was satisfied that to a very significant extent the adverse impacts of traffic noise would be minimised by physical mitigation measures incorporated within the design (11.3.3.1-3).

22. The Inspector recognised that there would be more significant impacts during construction, particularly during piling on Wigg Island, but these would be subject to

statutory regulation and to a Noise and Vibration Management Plan (“NVMP”) which would limit noise, vibration and hours of working. As regards the impact of noise on four schools within 100 metres of construction activities, he considered it important that the NVMP should incorporate appropriate working practices to ameliorate this impact such as scheduling nearby works during school holidays (11.3.3.4–5).

23. The Inspector considered that vibration effects would be unlikely during the operational phase but would be experienced at some residential locations as a result of construction activities. He was satisfied that substantial efforts would be made to minimise the generation of noise and vibration and to contain it through physical mitigation and controlled working practices. Overall, he found no serious conflict with PPG24: Noise and he was satisfied that the adverse effects of noise and vibration for some would be outweighed by the Project's wider benefits and the public interest (11.3.3.6, 8-9).

24. The Secretary of State agrees with the Inspector's conclusions on noise and vibration impacts. In particular, he endorses the Inspector's view that the NVMP should include appropriate measures to minimise impacts on the schools referred to at paragraph 22 above.

Landscape and other visual impacts

25. The Inspector accepted that the Project would result in some adverse landscape and visual impacts being experienced in relatively close proximity to the MGB that could not wholly be offset by mitigation. However, since most views of the bridge would be from farther away where it would be seen as an interesting feature in the wider landscape, the Inspector did not regard the adverse visual impacts as sufficiently serious to militate against the Project, with its wider visual and other benefits (11.3.3.10–12). The Secretary of State agrees with the Inspector's assessment of these impacts.

Effects of the Project on the Mersey Estuary and flood risk

26. The Inspector considered that effects on the hydrodynamic and sedimentary regimes of the Mersey Estuary would be relatively insignificant. He was satisfied also that there would be no risk of flooding arising from construction or operation of the Project (11.3.3.13-14). The Secretary of State agrees with these conclusions.

Impacts on air and water quality; contamination risks; waste

27. The Inspector noted that, compared with the ‘do minimum’ scenario, more properties were forecast to experience a reduction in pollutants as a result of the Project than would suffer an increase and that those who would experience an increase would remain well below Air Quality Strategy Objectives. With the Project in place, the Borough was also forecast to experience a demonstrably smaller level of generated CO₂. During the construction phase, with appropriate mitigation in place, the air quality impacts would be low at most receptors. With regard to concerns about climate change, the Inspector said that there was no implied or implicit embargo on infrastructure projects, especially when they would reduce the need to travel and result in an overall reduction in CO₂ emissions (11.3.3.15–19).

28. As regards water quality, the Inspector accepted that, with mitigation, there would be no adverse effects on any of the relevant water bodies. He was also satisfied that, given the intention to leave contaminated land undisturbed where possible, and remediate it where necessary, concerns about contamination need not prevent the Project going ahead (11.3.3.20-21).

29. The Inspector was satisfied that the advice in PPS10: Waste would be appropriately observed and that any effects associated with the handling, storage, treatment, transportation and disposal of waste materials would be adequately contained by the proposed Site Waste Management Plan (11.3.3.23).

30. The Secretary of State agrees with the Inspector's conclusions on these matters, for the reasons the Inspector has given.

Green Belt

31. The Inspector noted that only a very small part of the Green Belt, at Wigg Island, would be affected by the Project. He accepted that the development proposed at that point would be inappropriate by definition and would detract from the openness of the Green Belt. However, bearing in mind that the MGB could not be provided without affecting this land, the Inspector concluded that the need for and benefits of the Project would clearly outweigh the harm by way of inappropriateness and loss of openness, and would represent very special circumstances to justify, exceptionally, permitting the inappropriate development in the Green Belt, contrary to the strong presumption in PPG2: Green Belts (11.3.3.24–25). The Secretary of State agrees with the Inspector's conclusions on this issue.

Open space

32. The Inspector noted that the Project would result in some temporary and permanent losses of open space or greenspace without replacement. In particular, there would be a significant loss of greenspace at the contaminated and closed St Michael's Golf Course, although the Inspector noted that it could be reinstated to an 18-hole facility were remediation undertaken. While accepting that this would not be wholly compliant with PPG17: Planning for Open Space, Sport and Recreation and that there was also conflict with UDP Policies GE6 and GE7, the Inspector considered that there were sound reasons for the Project to proceed and therefore exceptional reasons for overlooking the policy conflict (11.3.3.26–29). The Secretary of State agrees with the Inspector's assessment.

33. With regard to the Promoter's proposals for replacing the areas of open space at Widnes and at Wigg Island, which are to be compulsorily acquired under the TWA Order, the Secretary of State is aware that the Secretary of State for CLG has today decided to give the open space exchange land certificates applied for by the Promoter. The Secretary of State is satisfied that, as a result of these certificates, the TWA Order does not need to be subject to special parliamentary procedure.

Biodiversity and protected species

34. The Inspector noted that the Project would have an adverse effect on flora and fauna although with mitigation, including a monitoring regime, it would be of low

significance. He was satisfied that mitigation would provide appropriate redress if any breeding sites or resting places of protected species were damaged or destroyed, and he did not see any barrier to licences being granted in relation to mitigation measures for bats and great crested newts. He concluded that, with mitigation, there would be no conflict with the provisions of PPS9: Biodiversity and Geological Conservation (11.3.4.1-5).

35. Subject to the following comments, the Secretary of State agrees with the Inspector's conclusions on biodiversity and protected species. With regard to the potential impacts of the Project on bats, a European protected species, the Secretary of State is satisfied from the environmental information available to him, including the results of bat surveys, that there is no clear evidence at present that bat roosts would be affected. Furthermore, he notes that, as a precautionary measure, condition 23 in Annex 1 to this letter would require further bat surveys to take place in advance of demolition works, and for any necessary mitigation measures to be approved by the local planning authority. The Secretary of State agrees that this would be a sensible precaution, to address any change in circumstances that might arise. Bearing in mind also that if, despite present evidence, it later came to light that bat roosts would be affected, a licence would need to be obtained from Natural England, he is satisfied that the interests of bats would be adequately protected.

36. As to impacts on great crested newts, another European protected species, survey evidence shows that this species and its habitats would be affected by highway works at Rocksavage near Weston Link Junction. Hence, a licence would be required from Natural England, who would need to agree to proposed mitigation measures, which the Promoter intends would include a newt exclusion fence. In this situation, the Secretary of State wishes to be satisfied, before authorising the Project, that the requisite licence is unlikely to be withheld, such as could prevent implementation of the Project.

37. In this respect, the Secretary of State notes firstly that the Inspector saw nothing to suggest that a licence would be withheld by Natural England. Secondly, the Secretary of State is aware that Natural England, having regard to the long lead-in time for construction of the Project, consider that in this case a licence should be applied for closer to the commencement of works, to ensure that survey information is up-to-date. Thirdly, he is satisfied from the available evidence that there is no satisfactory alternative to the scheme such as would avoid any impact on newts; that, as concluded elsewhere, there is an overriding public interest for the project; and, furthermore, that sufficient mitigation is planned for the impact on newts. In all the circumstances, the Secretary of State has concluded that there is no obvious reason why a licence should be withheld; indeed, it seems to him that the Project will provide a good opportunity to provide greater protection for those great crested newts that are affected by it.

The Mersey Estuary Special Protection Area and Ramsar Site ("the European site")

38. The Inspector said that he had examined closely the effects constructing the MGB in the Upper Estuary would have on the European site in the Middle Estuary, downstream from the MGB. With regard to aquatic ecology, he was satisfied that, with the proposed mitigation measures and subsequent monitoring, construction and operational effects would be of low significance, or insignificant, in the Upper Estuary with no adverse impact on the integrity of the European site in the Middle Estuary. As for avian ecology, the

Inspector noted that the Promoter had undertaken a "shadow appropriate assessment" in relation to both the Upper Estuary and the European site. The assessment found that bird populations in the Upper Estuary would be affected by disturbance and loss of habitat, but would benefit from improvement of the river salt marshes. The Inspector concluded that there would be no significant adverse effect on the integrity of either the Upper Estuary or the European site in relation to avian ecology. With regard to terrestrial ecology, he considered that the design of the MGB would minimise the physical loss of habitat and that mitigation measures for the grazed salt marshes would represent an overall benefit (11.3.5.2-7).

39. From all the environmental information, and having regard to the withdrawal of Natural England's objection, the Inspector concluded that the Project would not adversely affect the integrity of the European site. No appropriate assessment under the Conservation (Natural Habitats, &c.) Regulations 1994 was therefore required. He emphasised, however, that the absence of significant effects on the European site depended significantly on the efficacy of mitigation measures in the Upper Estuary and thus relied on the imposition and effective discharge of conditions (11.3.5.8-13, 11.3.14.2).

40. The Secretary of State agrees with the Inspector's conclusions on this matter. From the environmental information available to him, the Secretary of State is satisfied that with the proposed mitigation measures in place the Project is very unlikely to have any significant adverse effect on the integrity of the European site. He therefore considers it unnecessary for him to carry out an appropriate assessment for the purposes of the Conservation of Habitats and Species Regulations 2010 (which have superseded the 1994 Regulations). The Secretary of State also agrees with the Inspector that the mitigation measures in the Upper Estuary are essential to safeguard the European site and should be the subject of conditions on the deemed planning permission for the MGB.

Impact on businesses, residents and traffic

41. The Inspector recognised that there would be impacts on businesses because of the need to acquire land and premises, but he considered that those impacts could be ameliorated by the Promoter's comprehensive relocation strategy and compensation. In regard to operation of the Project, he said that there was virtually no evidence to suggest that tolls would be a threat to the viability of businesses, whereas there was convincing evidence that the Project would be of net benefit to employment and local businesses. The Inspector was also satisfied that mitigation measures would ensure that continuous access to premises was maintained during construction, and that the effects of the Project on traffic using the wider road network would be relatively benign (11.3.6.1-7).

42. The Inspector was satisfied that, to the extent that there would be negative effects on residents close to the existing expressways from altered traffic levels in terms of noise, vibration or air quality, those impacts would be relatively slight and within acceptable national thresholds. In his opinion, they did not present any impediment to the Project going ahead (11.3.6.8,9).

43. The Inspector considered that the effects of the Project on public transport, including improved reliability and shortened journey times for buses, could only be beneficial. He was satisfied that the proposed closures and diversions of streets were

required for the Project to proceed and that alternative rights of way would be provided where required. As regards the impacts of the Project on navigation interests, utility companies and wildfowling on the banks of the Mersey he considered that relevant interests were sufficiently protected, for example, by the protective provisions in the TWA Order or mitigation measures (11.3.6.10-18, 11.3.7.11-12).

44. The Secretary of State agrees with the Inspector's conclusions on these impacts of the Project for the reasons given by the Inspector. In relation to public rights of way, the Secretary of State is satisfied for the purposes of section 5(6) of the Transport and Works Act 1992 ("TWA") that, where an existing right of way is to be extinguished, either a suitable alternative right of way will be provided or, where that is not the case, an alternative is not required.

Proposed mitigation measures

45. The Inspector considered that the Construction Environmental Management Plan and the Construction Transport Management Plan were indicative of the extent to which mitigation during construction would be taken very seriously. He regarded that as vitally important because of the wide range and sensitivity of the interests that would need to be protected in the construction of the Project. He was satisfied that both these plans - which would be required by conditions 7 and 8 in Annex 1 to be in place prior to construction - would ensure the integrity of the relative interests (11.3.7.1-3).

46. The Inspector identified a range of other measures for mitigating the significant adverse environmental impacts of the Project, including the NVMP referred to in paragraph 22 above, possible sound insulation for dwellings (where eligible), noise barriers, landscaping, the Promoter's relocation strategy for businesses, and the various management and monitoring arrangements proposed to minimise or avoid adverse impacts. He concluded that, as a consequence of the design of the Project and the extensive mitigation measures, few adverse environmental impacts would remain, of which the impact on Wigg Island was probably the worst. Where adverse impacts remained in the longer term, he considered that they would be justified in the public interest and outweighed by wider environmental, economic and other benefits (11.3.7.4-10, 11.5.3).

47. The Secretary of State agrees with the Inspector's assessment of the proposed mitigation measures and the residual adverse impacts of the Project. For the purposes of section 14(3AA) of the TWA, the Secretary of State considers that the main measures to avoid, reduce and, if possible, remedy any major adverse environmental effects are those referred to in paragraphs 45 and 46 above and the conditions in Annex 1 to this letter.

Planning conditions

48. The Inspector's assessment of the planning conditions suggested by the Promoter and agreed with the local planning authority, including those suggested for the deemed planning permission for the development provided for in the TWA Order, is provided at Section 10.7 of his main report, with further clarification given at paragraphs 4-6 of his supplementary report. Having considered the suggested conditions in the light of DOE Circular 11/95 and the views expressed by The Alliance, the Inspector recommended that the conditions set out at Annex 2 to his main report should be attached to the deemed planning permission (10.7.1-6, 11.3.81). His proposed conditions incorporate a number

of modifications intended to ensure compliance with the tests of DoE Circular 11/95 or to remove inconsistency, for example by removing wording such as "except with the prior approval of the local planning authority" (10.7.7), extending to 10 years the period within which development must commence (10.7.9; SUP 6) and deleting requirements to consult with third parties such as the Environment Agency (SUP 5).

49. Subject to the comments and qualifications in paragraphs 50 to 54 below, the Secretary of State agrees that the Inspector's proposed conditions on the deemed planning permission for the MGB are necessary and appropriate for the reasons given by the Inspector.

50. In relation to condition 1, the Secretary of State does not agree with the Inspector that a period of 10 years should be allowed for development of the MGB to commence instead of the 5 year period proposed by the Promoter. The Secretary of State does not consider that there is compelling justification to allow more than 5 years, taking into account the risks of creating unnecessary blight and uncertainty. Whilst he notes that the 5 year period is shorter than that proposed in the separate planning application for alterations to the SJB (which is for decision by the Secretary of State for CLG), the Promoter explained at the inquiry that works to the SJB could not be undertaken until the MGB was open (5.7.14). The Secretary of State does not therefore agree with the Inspector that having different time limits for commencement of works to the MGB and SJB respectively would be inconsistent, as this can be attributed to the proposed phasing of the works.

51. The Secretary of State notes the Inspector's view that it is unnecessary to include in the conditions a specific requirement on the local planning authority ("LPA") to consult with another body such as the Environment Agency (e.g. conditions 16 and 19). He does not agree with the Inspector that this would effectively amount to requiring the consent of a third party in contravention of DoE Circular 11/95, given that the consultee would have no right of veto, and he does not wish to rule out the use of such conditions in appropriate circumstances. The Secretary of State nevertheless accepts that it should normally be reasonable to rely on the LPA to act responsibly in consulting expert bodies as appropriate on any submitted details, and he has decided to accept the Inspector's recommendation that this requirement can be deleted in this case.

52. The Secretary of State recognises that, in those suggested conditions requiring implementation of an approved plan, programme or method statement, the use of the qualifying wording "except with the prior approval of the local planning authority" could be interpreted as allowing the LPA to waive compliance with the requirement entirely. This introduces an element of uncertainty and could be said to introduce an informal process for amending or waiving a condition. The Secretary of State nevertheless considers it important, in view of the scale and complexity of the Project, to permit the LPA to approve revisions to details approved under the conditions, should that prove necessary. He notes also that the Inspector accepted that a similar approach was appropriate in the context of the approved phasing strategy and construction methods report (conditions 4 and 5). The Secretary of State has therefore decided to modify conditions 6 to 10, 12 to 16, 20 to 22, 24, 26 to 30, 34, 37 and 40 to allow the LPA to approve revisions to previously approved details, plans etc..

53. The Secretary of State also considers that it would be appropriate to use the wording originally proposed for condition 35, which would allow the LPA to agree how the site of construction compounds should be restored once the MGB was open for use. This is because requiring a site to be reinstated to its former condition with no scope for variation could require the site to be returned to an unsatisfactory condition.

54. The Secretary of State has decided to make further miscellaneous drafting amendments to the Inspector's proposed conditions in the interests of clarity and consistency. These changes do not materially alter the effect of the conditions. The conditions as amended are set out at Annex 1 to this letter. The Secretary of State considers that the conditions as revised meet the tests in DoE Circular 11/95 of being necessary, relevant, enforceable, precise and reasonable.

Funding

55. The Inspector said that the £604 million cost of the Project would be funded by toll revenues and PFI credits. Taking into account the Promoter's funding analysis, including predicted traffic levels, he was persuaded that the Project was reasonably capable of attracting the necessary funding (11.3.9.1-4, 11.5.4).

56. The Secretary of State wishes to clarify first that the Project is intended to be funded from a mixture of toll revenues, PFI credits and RFA funding. As your client is aware, the Secretary of State announced on 10 June 2010 that decisions on statutory orders for schemes which require funding from the Department would be postponed pending the outcome of the Spending Review. This was because he needs to be satisfied, before authorising a scheme which requires compulsory purchase powers, that there are reasonable prospects that it will attract the funding necessary to implement it. In his statement to Parliament on 20 October 2010 about the Spending Review (Hansard col. 963), the Chancellor of the Exchequer announced that the Government would provide funding for the Project. The Secretary of State is accordingly satisfied that, for the purposes of his decisions on the applications referred to in this letter, the Project is reasonably capable of attracting the necessary funding. However, he wishes to make it clear that these decisions are without prejudice to the final decision in due course on your client's funding bid for the Project.

Charging tolls on the MGB and introducing charges on the SJB

57. While noting that there was opposition to both the principle and perceived effects of tolling, particularly as regards the imposition of charges on the SJB, the Inspector said it was clear that the MGB could proceed only if tolled and that an un-tolled crossing would generate significant additional traffic contrary to transport policy. He accepted also that, without tolling the SJB, traffic would not use the MGB and the Project would not meet its objectives.

58. The Inspector concluded that the case for tolls and charges on the bridges was well-made and that the arrangements for setting and varying their levels would be appropriate. Having considered the case against tolls and charges made by objectors, he was persuaded that the balance of advantage lay firmly with tolls as provision of the Project with its economic, social and other benefits would outweigh the disadvantage of having to pay to cross what would otherwise be an increasingly congested and unreliable

SJB. He also noted that the impacts of tolls and charges on private and commercial users would be mitigated by exemptions for some users and discounting for frequent and local users (11.3.10.1-11).

59. The Secretary of State agrees with the Inspector that it will be necessary for the Promoter to charge tolls for the use of the MGB and impose charges for use of the SJB, both to provide revenue for construction of the Project and to avoid unacceptable levels of congestion on the SJB. He also agrees with the Inspector that, subject to the further modifications described at paragraph 60 below, the TWA Order and the RUCO would establish an appropriate framework within which the Promoter could set and vary tolls and charges.

60. The Secretary of State considers that the RUCO and TWA Order as submitted by the Promoter are both unsatisfactory insofar as neither makes provision for payment of charges and tolls to be made retrospectively where payment is required to be made through a "composition agreement" (that is, with open road tolling) rather than at a toll booth. He has therefore decided that paragraph 4 of the Schedule to the RUCO and article 42 of the TWA Order should be modified to make provision for retrospective payment without penalty where the method of payment for the crossing is not secured by the use of barriers. He is satisfied that this change to the Orders will not disadvantage users of either bridge and that it is unnecessary to notify parties of the change before he proceeds to a decision.

The Central Expressway and Queensway Side Roads Orders

61. The Inspector considered that the proposed works on the northern and southern approaches to the SJB and on the Central Expressway would be necessary and acceptable. He was satisfied that the provisions of the SROs were acceptable, that the alternative routes for highways to be stopped up were all reasonably convenient and that no community severance would result from the changes (11.3.11.1-13). The Secretary of State agrees with the Inspector's conclusions on these matters, for the reasons given by the Inspector.

Compulsory purchase powers in the TWA Order and the Central Expressway and Queensway CPOs

62. The Inspector considered that, because the need for the Project was justified, there was a compelling case in the public interest for compulsorily acquiring the land for the purposes of the Project. He was satisfied that all the land identified for compulsory purchase was required. Furthermore, he saw nothing to suggest that any of the other consents that were needed for the Project to proceed were likely to be withheld, and he was therefore satisfied that the Project was unlikely to be blocked by any impediments to delivery. He was accordingly satisfied the tests in ODPM Circular 06/2004 were met for all the above Orders (11.3.12.1-7, 11.3.13.1, 11.5.4-6).

63. The Secretary of State agrees with the Inspector, for the reasons he gives, that the criteria for giving compulsory purchase powers, as set out in the ODPM Circular, are met. He has carefully considered whether the purposes for which those powers are required sufficiently justify interfering with the human rights of those with an interest in the land affected and he is satisfied that they do. In particular, he has considered the provisions of

Article 1 of The First Protocol to the European Convention on Human Rights. In this respect, the Secretary of State is satisfied that in deciding to confirm the CPOs and make the TWA Order a fair balance has been struck between the public interest and interests of those affected by the compulsory purchase powers.

Adequacy of the Environmental Statement ("ES")

64. The Inspector considered that the ES was comprehensive, thorough and adequate. He was satisfied that the totality of environmental information available, including all the evidence before the inquiry, was sufficient to ensure properly informed decisions and that there had been compliance with the appropriate statutory formalities (11.3.14.1-3).

65. The Secretary of State agrees with the Inspector that the ES taken together with the environmental information submitted to the inquiry provides him with sufficient information to assess the likely environmental impacts of the Project. He confirms that, in reaching his decisions, he has complied with the requirements of paragraphs (a) to (c) of section 14(3A) of the TWA about the consideration of the environmental information.

Modifications to the Orders

66. The Inspector said that a substantial number of changes were proposed to each of the Orders referred to in this letter, as detailed in sections 10.1-6 of his main report and SUP 7 and 8 of his supplementary report. These were mainly of an administrative or corrective nature, or were to overcome inconsistencies between Orders, or were in response to inquiry evidence. He considered that none of the proposed modifications would affect the interests of anyone who was not already aware of them and that there would be no need for further notification. He concluded that all these changes should be made (11.3.15.1-2, 11.5.5-7).

67. The Secretary of State agrees with the Inspector that, with one exception, the proposed changes are acceptable. The exception is that he does not agree that Part 1 of Schedule 3 (streets to be stopped up) to the TWA Order should be modified to allow the local planning authority to approve a different alignment for the new street specified in that Schedule from that shown on the Rights of Way Plans. In addition to the further modifications referred in paragraph 60 above, he considers that a number of miscellaneous minor drafting amendments are required which do not affect the substance of the Orders. The Secretary of State is satisfied that none of these modifications amount to a substantial change in the proposals such as would require him to give an opportunity to the parties at the inquiry to consider and make representations on them. (Details of all the modifications to which the SROs, the CPOs and the RUCO as submitted by the Promoter are subject are set out in Annex 3 to this letter.)

The Inspector's overall conclusions and recommendations

68. The Inspector concluded overall, following an extensive process of considering the pros and cons of the Project and its implications, that there was a need for the Project as the existing situation confirmed. He was satisfied that the environmental impacts of the scheme would be contained by its design and by the extensive mitigation measures proposed. Where adverse impacts remained in the longer term, they would be justified in the public interest and outweighed by wider environmental, economic and other benefits.

For these reasons, he recommended that all the Orders to which this letter relates should be made or confirmed subject to the modifications referred to in paragraph 66 above; and that deemed planning permission should be given for the MGB subject to the conditions in Annex 2 to his main report (11.5.1-3, 11.6, 12.1.1,2).

Post-inquiry representations

69. The Secretary of State received a number of post-inquiry representations. Some were from parties who had appeared at the inquiry and who considered that developments since the inquiry reinforced their arguments against the Project, for example, in relation to climate change and the need for the Project. Others concerned objections to the principle of tolling the MGB and SJB. The Secretary of State considers that nothing in the representations constitutes new evidence, or raises a new issue, which needs to be referred to the parties to the inquiry before he proceeds to a decision. They do not cause him to take a different view of the matters before him than he would otherwise have taken based on the evidence before the inquiry.

Secretary of State's overall conclusions and decisions

70. Having considered all the evidence, the Secretary of State considers that a clear need has been established for a new road crossing of the Mersey in this location in order to relieve congestion on the SJB and to address the adverse transportation, environmental, social and economic consequences of the existing situation. Furthermore, he is satisfied that the Project represents the most appropriate means of meeting that need, taking into account national and local planning, transport and environmental policies and the exhaustive consideration of alternatives undertaken by the Promoter.

71. The Secretary of State recognises that the Project would have some adverse impacts on the environment and residents which could not be avoided. He is, however, satisfied that the extensive mitigation measures proposed by the Promoter would reduce those impacts to an acceptable minimum and that the residual adverse impacts would be significantly outweighed by the overriding public interest in securing the Project's transportation, regeneration, environmental and socio-economic benefits - including the easing of congestion, direct and indirect job creation, support for the development of regional strategic sites, and improved air quality. The Secretary of State is satisfied that the powers in all the Orders to which this letter relates are necessary and appropriate for the implementation of the Project.

72. Accordingly, the Secretary of State has decided to make the TWA Order and to confirm the Central Expressway SRO, the Central Expressway CPO, the Queensway SRO, the Queensway CPO and the RUCO, subject to the modifications referred to in paragraph 67 above. He has decided also to direct that planning permission be deemed to be granted, subject to the conditions set out in Annex 1.

73. The TWA Order will be made following publication of a notice in the London Gazette of the decision to make the Order. A letter conveying the direction as to deemed planning permission for the MGB will issue at the same time as the TWA Order is made.

Notice under section 14 of the TWA

74. This letter constitutes the Secretary of State's notice of his determination to make the TWA Order, with modifications, for the purposes of section 14(1)(a) and section 14(2) of the TWA. Your client is required to publish newspaper notices of the determination in accordance with section 14(4) of the TWA.

Compensation

75. Details of compensation arising from the exercise of compulsory purchase powers are for negotiation with the Promoter and not the Secretary of State. Accordingly, your client will need to discuss with the owners and occupiers of land subject to such powers in the TWA Order and the CPOs the amount of compensation payable to them in respect of their interests in the land required for the Project. If the amount cannot be agreed the matter may be referred for determination by the Upper Tribunal under the Lands Tribunal Act 1949 and the Land Compensation Act 1961.

Challenge to decisions

76. The circumstances in which the Secretary of State's decisions may be challenged are set out in the note attached at Annex 2 to this letter.

Distribution

77. Copies of this letter and of the Inspector's conclusions and recommendations are being sent to those who appeared at the inquiry, to all statutory objectors who did not appear at the inquiry, and to each other remaining objector to the CPOs.

Yours faithfully

Three handwritten signatures in black ink. The first signature on the left is 'Ellis Harvey', the middle one is 'Geraldine Christie', and the one on the right is 'Kitty Vernon' with a horizontal line under the name.

Ellis Harvey
TWA Orders Unit

Geraldine Christie
Local Authority Orders

Kitty Vernon
Road Demand
Management Division

CONDITIONS WHICH THE SECRETARY OF STATE INTENDS TO ATTACH TO THE DEEMED PLANNING PERMISSION

In these conditions, unless the context otherwise requires:

“**building**” means any structure or erection, above the surface of the ground, but does not include any traffic light or sign or any plant or machinery;

“**the development**” means the development authorised by the Order;

“**the Environmental Statement**” means the Environmental Statement submitted with the application for the Order on 30 May 2008;

“**the local planning authority**” means Halton Borough Council;

“**the Order**” means the River Mersey (Mersey Gateway Bridge) Order 201[];

“**the Planning Direction Drawings**” means the drawings of that description accompanying the application for the Order submitted on 30 May 2008; and

“**phase**” means a defined section or part of the development, the extent of which has been submitted to and approved by the local planning authority in accordance with condition 4.

Time Limits

1. The development shall be begun before the expiration of five years from the date that the Order comes into force.

Reason: To ensure that the development is begun within a reasonable period of time commensurate with a development of this magnitude.

2. Written notification of the date of commencement of development and any phase thereof shall be submitted to the local planning authority at least seven days prior to such commencement.

Reason: To allow for the appropriate monitoring of the development to take place.

Drawings

3. Prior to the commencement of the development, drawings showing the final design of the development shall be submitted to and approved in writing by the local planning authority in accordance with the Planning Direction Drawings. The development shall be carried out in accordance with the approved drawings.

Reason: To ensure the design and external appearance of any works comprised in the development do not injure amenity and the development carried out is development which was approved.

Phasing of Development

4. Before the development is commenced, a phasing Strategy setting out the phases of the development shall be submitted to and approved in writing by the local

planning authority. All development shall be carried out in accordance with the approved phasing strategy, or any subsequent revisions that have been submitted to and approved in writing by the local planning authority.

Reason: To provide certainty as to the development programme and the associated discharge of planning conditions.

Construction Methods Report

5. Before the development is commenced, a Construction Methods Report shall be submitted to and approved in writing by the local planning authority. The Construction Methods Report which is submitted for approval shall, unless otherwise agreed in writing by the local planning authority, be in accordance with the Construction Methods Report having reference B4027/OA/200REVD and dated March 2009. All development shall be carried out in accordance with the approved report, or any subsequent revisions that have been submitted to and approved in writing by the local planning authority.

Reason: To ensure that proper controls are exercised during the construction of the development.

Design, External Appearance and Materials

6. No phase of the development shall be commenced until details of the design, external appearance and facing materials of any building to be constructed within that phase have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details, or any subsequent revisions that have been submitted to and approved in writing by the local planning authority.

Reason: To enable proper control to be exercised over the design of the development.

Construction and Operation Code of Practice for Environmental Management

7. Prior to the commencement of development, a Construction and Operation Code of Practice for Environmental Management (COPE) shall be submitted to and approved in writing by the local planning authority. The COPE which is submitted for approval shall have regard to the Construction Methods Report referred to in condition 5 and shall, unless otherwise agreed in writing by the local planning authority, be in accordance with the draft COPE having reference B4027D/COPE/RO1 and dated April 2009 (Inquiries Document CD291), as amended by Inquiries Document HBC/0/53 dated 25 June 2009.

The COPE which is submitted for approval shall include a Construction and Environmental Management Plan (CEMP). The CEMP shall include the following elements:

- (a) Site Waste and Resources Management plans;
- (b) Pollution and contingency control, including monitoring regimes;
- (c) Noise and Vibration management plan;
- (d) Contamination and remediation management;

- (e) Air quality management;
- (f) Biodiversity management;
- (g) Water and Hydrodynamics management;
- (h) Construction health and safety plan;
- (i) Hours of working; and
- (j) Community Consultation provisions.

The approved COPE and CEMP, or any subsequent revisions that have been submitted to and approved in writing by the local planning authority, shall be adhered to throughout the construction period.

Reason: To reduce the risk of adverse impact of construction on sensitive environmental resources and to minimise disturbance to local residents.

Construction Transport Management Plan

8. Prior to the commencement of development, a detailed Construction Transport Management Plan (CTMP) shall be submitted to and approved in writing by the local planning authority. This shall include details of the following:
 - (a) Traffic management at roads and junctions directly affected by construction of the development;
 - (b) Emergency vehicle routes;
 - (c) Bus routes and stops;
 - (d) Emergency vehicle recovery;
 - (e) Emergency plans;
 - (f) HGV routes and bans;
 - (g) Construction worker parking areas and routes;
 - (h) Times of operation;
 - (i) Vehicle washing; and
 - (j) Construction workforce travel plan.

The approved CTMP, or any subsequent revisions that have been submitted to and approved in writing by the local planning authority, shall be adhered to throughout the construction period.

Reason: To ensure that adequate measures are put in place to maintain highway safety.

Travel Plan

9. Prior to the development being opened to traffic, a Workplace Travel Plan shall be submitted to and approved in writing by the local planning authority. The development shall be operated in accordance with the approved Workplace Travel

Plan, or any subsequent revisions that have been submitted to and approved in writing by the local planning authority.

Reason: To ensure so far as appropriate that the development functions in a sustainable fashion.

Landscaping

10. Prior to the commencement of each phase of the development, a detailed landscaping scheme and associated working methodology for that phase shall be submitted to and approved in writing by the local planning authority. The scheme shall be in accordance with the landscape proposals comprised in the drawings contained in Chapter 12 of the Environmental Statement, and shall include details of the following:

- a) Vegetation to be retained and its means of protection during construction;
- b) Existing, proposed and finished levels and contours;
- c) Earth mounding, screen bunds, vertical barriers for noise and visual attenuation, including details of height, width and location;
- d) All materials and finishes; and
- e) Soft landscaping including trees and shrubs to be planted, including their location, number, species, size and planting density, such trees to include the provision of black poplars, where appropriate.

All landscaping shall be carried out in accordance with the approved scheme for that phase of the development, or any subsequent revisions that have been submitted to and approved in writing by the local planning authority.

Reason: To ensure the appropriate landscaping of the development.

11. If, within a period of five years from the date of planting in accordance with the approved landscaping scheme any tree is removed, uprooted, destroyed or dies, another tree of the same species and size as that originally provided shall be planted unless written consent to any variation is provided by the local planning authority.

Reason: To ensure that the landscape treatment is brought forward and maintained in accordance with the agreed principles.

Street Furniture and Lighting

12. Prior to the commencement of each phase of the development, details shall be submitted to and approved in writing by the local planning authority for all elements of street furniture that are to be included in that phase of development. The street furniture shall be provided in accordance with the approved details, or any subsequent revisions that have been submitted to and approved in writing by the local planning authority.

Reason: To ensure that the detail is appropriate.

13. Before any permanent lighting is erected on any part of the site, a scheme for the provision of such lighting shall be submitted to and approved in writing by the local planning authority. The lighting shall be provided in accordance with the approved scheme, or any subsequent revisions that have been submitted to and approved in writing by the local planning authority.

Reason: To ensure that the detail is appropriate and to avoid disturbance to adjoining premises and the surrounding area from glare or excessive light spillage.

Permanent and Temporary Highway and Footpath Access

14. Before the development of each phase commences, details of the siting, design and layout of any new or altered vehicular access to the highway network (which will serve the works within that phase) and any highway junction improvements other than those shown on the Planning Direction Drawings, shall be submitted to and approved in writing by the local planning authority. The vehicular accesses/highway junction improvements shall be provided/undertaken in accordance with the approved details, or any subsequent revisions that have been submitted to and approved in writing by the local planning authority. Any works necessary to ensure highway safety shall be completed before construction activity served by such works or accesses is commenced.

Reason: To ensure highway safety.

15. Prior to the commencement of each phase of the development, details of alternative access routes and/or diversions along the existing greenway, footway and cycle networks within that phase shall be submitted to and approved in writing by the local planning authority. The alternative access routes and/or diversions shall be provided in accordance with the approved details, or any subsequent revisions that have been submitted to and approved in writing by the local planning authority. The temporary and permanent closures of any street permitted by the Order shall not be implemented until the designated alternative or diversion routes are available.

Reason: To enable community routes and facilities to be accessed during the construction stage of the development, and to ensure that the integrity of the footpath network is maintained.

Contaminated Land

16. Prior to the commencement of each phase of the development a method statement shall be prepared in respect of contaminated land, soils and groundwater within the development site. The statement shall address all matters as identified within Chapter 14 of the Environmental Statement. The statement shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be undertaken in accordance with the provisions of the approved method statement, or any subsequent revisions that have been submitted to and approved in writing by the local planning authority.

Reason: To ensure that the identified contaminants are dealt with in an appropriate manner.

Hydrodynamics

17. All temporary works undertaken as part of this development and sited within the Upper Mersey Estuary shall be removed within three months of the end of the construction of any relevant phase.

Reason: To ensure the appropriate restoration of the Upper Mersey Estuary.

18. Details of a suitable programme for morphological monitoring of the Upper Mersey Estuary shall be contained in the COPE submitted to and approved in writing by the local planning authority under condition 7 prior to development commencing. Monitoring shall then be undertaken in accordance with the approved programme.

Reason: To monitor the hydrodynamic impacts of the development and to enable an appropriate assessment of the effects of the proposal to be identified.

Surface Water Quality

19. Prior to the commencement of any phase of the development affecting existing watercourses, the details of the physical techniques to be utilised to prevent pollution of water bodies caused by the accidental spillage of materials and surface run-off shall be submitted to and approved in writing by the local planning authority. The measures to be adopted shall be in accordance with the draft COPE referred to in condition 7 above. The approved provisions shall be implemented in accordance with the approved COPE.

Reason: To enable reasonable and proper control to be exercised over those aspects of the development which could potentially harm existing surface water.

Drainage

20. Prior to the commencement of each phase of the development details of the drainage works to be carried out in accordance with an approved drainage strategy shall be submitted to and approved in writing by the local planning authority. The works shall be implemented in accordance with the approved details, or any subsequent revisions that have been submitted to and approved in writing by the local planning authority.

Reason: To ensure adequate drainage provision is provided and subsequently implemented.

Terrestrial and Avian Ecology

21. Prior to the commencement of each phase of development, details of construction methods and techniques to minimise the physical impacts of development upon avian ecology, species and habitats at the following locations shall be submitted to and approved in writing by the local planning authority together with a programme for their implementation:
- a) Upper Mersey Estuary Local Wildlife Site;
 - b) Middle Mersey Estuary;
 - c) St. Helens Canal Local Wildlife Site;

- d) Manchester Ship Canal Local Wildlife Site; and
- e) Wigg Island Local Wildlife Site and Local Nature Reserve.

The development shall be carried out in accordance with the approved details, or any subsequent revisions that have been submitted to and approved in writing by the local planning authority.

Reason: To protect and minimise the impacts of development upon existing areas of ecological value.

22. Prior to the commencement of any development, details of an ecological monitoring programme to be undertaken during site clearance and throughout the construction and operation phases of the development shall be submitted to and approved in writing by the local planning authority. Monitoring shall thereafter be undertaken in accordance with the approved programme, or any subsequent revisions that have been submitted to and approved in writing by the local planning authority.

Reason: To ensure that mitigation is effective.

23. Before any demolition commences within each phase or before any buildings or structures are externally altered or removed within a phase, a survey shall be undertaken for the purpose of establishing the presence of any bats in those structures and any other likely bat roosts.

The survey and details of any mitigation measures shall be submitted to and approved in writing by the local planning authority. The survey, together with any programme of mitigation measures, shall be undertaken in accordance with the relevant, current guidance prepared by Natural England and the Department for Environment, Food and Rural Affairs. In locations where pre-demolition mitigation measures are approved, no other works shall commence until these measures have been completed.

Reason: To ensure that any species that may be found are sufficiently protected.

24. Before the commencement of any relevant phase of development a Method Statement in respect of the impact of the development on the water vole population within that phase or otherwise likely to be affected shall be submitted to and approved in writing by the local planning authority. The Statement shall have regard to colonisation, creation of habitats and necessary mitigation. The approved Statement, or any subsequent revisions that have been submitted to and approved in writing by the local planning authority, shall be adhered to throughout the construction period.

Reason: To ensure that the species is sufficiently protected.

25. Any clearance of vegetation undertaken as part of any phase of the development which is likely to affect bird breeding habitat shall be undertaken outside of the bird breeding season of March to September in any calendar year in accordance with the provisions as set out within the Terrestrial and Avian Ecology Chapter 10 of the Environmental Statement.

Reason: To ensure that the bird population is sufficiently protected.

26. A scheme and programme in accordance with the COPE referred to in condition 7 above for the mitigation of the effects of the Project on Wigg Island Local Nature Reserve shall be submitted to and approved in writing by the local planning authority prior to the commencement of development. The proposed scheme and programme shall have regard to the creation of new and managed habitats and, opportunities for translocation as set out within Chapter 10 of the Environmental Statement. The development shall be carried out in accordance with the approved scheme and programme, or any subsequent revisions that have been submitted to and approved in writing by the local planning authority.

Reason: To deliver an appropriate degree of mitigation within the Local Nature Reserve.

27. Before any phase of development is commenced which will have a physical impact on the saltmarsh land at Astmoor and Widnes Warth, as agreed in writing with the local planning authority, a Saltmarsh Method Statement in accordance with the Biodiversity Management Plan contained in the COPE referred to in condition 7 above shall be submitted to and approved in writing by the local planning authority. The Statement shall set out the details of the following:

- a) restoration and reinstatement of the affected saltmarsh following Completion of Construction Works;
- b) mitigation and conservation management techniques that will be employed following Completion of the Works approved under paragraph (a) above; and
- c) measures for protection of retained and restored saltmarsh areas (fencing, monitoring methodology etc.).

The approved Statement, or any subsequent revisions that have been submitted to and approved in writing by the local planning authority, shall be adhered to throughout the construction period, and the restored saltmarsh shall thereafter be managed in accordance with the Biodiversity Management Plan.

Reason: To ensure appropriate protection of the identified saltmarsh areas.

28. A scheme for the improvement of bird breeding habitat, including the creation of pools, and the conversion of ungrazed to grazed saltmarsh in accordance with the Biodiversity Management Plan contained in the COPE referred to in condition 7 above shall be submitted to and approved in writing by the local planning authority before development commences. The approved Biodiversity Management Plan, or any subsequent revisions that have been submitted to and approved in writing by the local planning authority, shall be adhered to throughout the construction period.

Reason: To secure the wider benefit to the saltmarsh areas.

Aquatic Ecology

29. Prior to the commencement of any phase of development which will affect the River Mersey, as agreed in writing with the local planning authority, aquatic ecology sampling shall be conducted within the Upper Mersey Estuary to establish whether any change in baseline conditions has occurred since the initial monitoring programme was completed in 2007. Details of these investigations together with

an aquatic ecology management scheme, which shall include details of monitoring to be carried out during construction of the development and remedial measures to be deployed during construction, shall be submitted to and approved in writing by the local planning authority. If the aquatic ecology sampling carried out pursuant to the management scheme shows significant changes (the thresholds for which shall be specified in the management scheme) in the Upper Mersey Estuary then any remedial measures approved by the local planning authority as part of the aquatic ecology management scheme, or any subsequent revisions submitted to and approved in writing by the local planning authority, shall be implemented and maintained thereafter.

Reason: To ensure that existing ecological habitats are protected.

Archaeology

30. Before development is commenced, a scheme for the investigation of areas of archaeological potential (as defined in Chapter 13 of the Environmental Statement) shall be submitted to and approved in writing by the local planning authority. That scheme shall provide for further detailed walk-over surveys and document study; intrusive investigation before construction is commenced, in any location where this is necessary; a watching brief during construction, in any location where this is necessary; and appropriate measures for recording any archaeological finds. All archaeological investigations and recording shall be carried out in accordance with professional best-practice and in consultation with the archaeological advisors approved by the local planning authority. The scheme, or any subsequent revisions submitted to and approved in writing by the local planning authority, shall be carried out as approved.

Reason: To ensure adequate protection and recording of archaeological remains.

Navigation

31. Prior to the commencement of any phase of development which will have an effect on navigation, as agreed in writing with the local planning authority, signage shall be installed to notify masters of vessels to the presence of cofferdams, piled jetties and air cushioned plant within the Estuary, in accordance with a scheme which shall be submitted to and approved in writing by the local planning authority.

Reason: To minimise the risk to vessels and site workers.

32. Prior to the commencement of development, the Civil Aviation Authority shall be informed of all temporary obstacles to be erected which will exceed 300 feet (91.4 metres) above ground level.

Reason: To ensure aircraft safety.

33. Except in an emergency, Fiddlers Ferry Sailing Club and West Bank Boat Club shall be given notice in writing not less than 28 days prior to commencement of any maintenance works to the new bridge that will reduce navigational air clearance or result in obstructions to navigation in the Upper Mersey Estuary.

Reason: To ensure user safety.

Construction Compounds

34. Before each phase of development is commenced, details of the location of any site construction compound for the proposed development within that phase shall be submitted to and approved in writing by the local planning authority. The details shall include a methodology setting out the proposed working arrangements and the proposals for restoration. The approved details, or any subsequent revisions that have been submitted to and approved in writing by the local planning authority, shall be adhered to throughout the relevant phase of construction.

Reason: To avoid obstruction of the highway by delivery vehicles manoeuvring and unloading, and from on-street parking by construction workers.

35. Within one year of the development being opened to traffic, any land which has been used as a temporary site compound shall be restored in accordance with a scheme to be submitted to and approved in writing by the local planning authority.

Reason: To ensure effective restoration of land not permanently required by the development.

Wheel Cleaning Facilities

36. Prior to the commencement of each phase of development, details of wheel washing facilities to be provided in accordance with the provisions of the Construction Transport Management Plan shall be approved in writing by the local planning authority. The facilities shall be used and maintained for the whole period of construction of the relevant phase.

Reason: To prevent mud, stones or other debris being carried on to the public highway to the detriment of road safety.

Signage Strategy

37. Before development is commenced, a construction and handover signage strategy to be carried out within the Borough of Halton shall be submitted to and approved in writing by the local planning authority. The construction and handover signage strategy shall also have regard to the desirability of limiting CO₂ emissions produced by traffic. The details shall include a full methodology setting out the proposed arrangements and signage types at all new junctions. The approved signage strategy, or any subsequent revisions that have been submitted to and approved in writing by the local planning authority, shall be implemented prior to the opening to traffic of the phases of the development to which it relates.

Reason: To ensure that both during construction and operation of the development appropriate and clear signage across the borough is maintained having regard to the requirements and sustainability objectives of the Mersey Gateway Project and good highway design principles.

St Helens Canal

38. The temporary infilling of the St Helens Canal as part of the construction of the development shall comprise no substances except inert materials. Culverts or pipes shall be maintained at all times during the period of infilling works and the period the infill is in place.

Reason: To ensure that the appropriate materials and methods are used in order to maintain the connectivity of the waterway at St Helens Canal.

Tower Construction

39. The main bridge towers to be constructed as part of the development in the River Mersey shall have a plan form within the tidal range that is circular or a regular polygon having at least 8 sides.

Reason: To ensure that the towers for the bridge are constructed in accordance with the approved design and to limit the effects of scour in the River Mersey.

Widnes Replacement Open Space

40. Prior to commencement of that element of the development lying between the Garston to Timperley Freight Railway Line and St Helens Canal, incorporating the new Widnes Loops junction, a detailed landscaping scheme for that replacement open space shown on Inquiries Document HBC/7/5Sup Figure W4 (Revision C) shall be submitted to and approved in writing by the local planning authority. The scheme shall reflect the overall approach set out within the landscape proposals comprised in the drawings contained in Chapter 12 of the Environmental Statement and shall also reflect the following objectives:

- (i) design and layouts shall take account of public health, crime prevention and community safety considerations;
- (ii) the space should provide uncluttered open space, with pedestrian routes clearly defined by ground moulding and textured surfaces chosen to suit each particular use and function;
- (iii) the space should retain both a physical (pedestrian route) and a visual link beneath the structure of the new bridge to ensure that there is a direct connection between the elements of the space either side;
- (iv) both the structural and hard landscaping elements should be designed to avoid or reduce shadowing effect;
- (v) the appearance of the bridge abutment, piers and other surfaces should be softened by the use of texture and colour; and
- (vi) lighting should be provided to increase the levels of safety and the usability of the space and to make the space and its users more visible.

The scheme shall include details of the following:

- (a) existing, proposed and finished levels and contours;
- (b) all materials and finishes;
- (c) lighting of the area under St Helens Canal bridge structure; and
- (d) soft landscaping including trees and shrubs to be planted, including their location, number, species, size and planting density.

All landscaping shall be carried out in accordance with the approved scheme, or any subsequent revisions that have been submitted to and approved in writing by the local planning authority.

Condition 11 shall apply to this landscaping scheme in the same manner as it applies to any landscaping scheme approved under condition 10.

Reason: To ensure that the replacement open space is equally advantageous to the users of the existing open space and to the public.

Silver Jubilee Bridge Works

41. The roads comprised in the development shall not be opened to traffic or subject to tolls unless and until a contract has been let for the carrying out of:
- (a) works to the A533 Silver Jubilee Bridge authorised by listed building consent granted pursuant to application reference APP/D0650/V/08/2095114; and
 - (b) the de-linking works in Widnes authorised by planning permission granted pursuant to application APP/D0650/V/1203384/2095069.

Reason: To ensure that, before the new roads are opened, there is a commitment to undertake the associated works to the Silver Jubilee Bridge and the de-linking works in Widnes.

RIGHT TO CHALLENGE ORDERS MADE UNDER THE TRANSPORT AND WORKS ACT 1992 (“TWA”)

Any person who is aggrieved by the making of a TWA Order may challenge its validity, or the validity of any provision in it, on the ground that –

- it is not within the powers of the TWA, or
- any requirement imposed by or under the TWA or the Tribunals and Inquiries Act 1992 has not been complied with.

Any such challenge may be made, by application to the High Court, within the period of 42 days from the day on which notice of this determination is published in the London Gazette as required by section 14(1)(b) of the TWA. This notice is expected to be published within three working days of the date of this decision letter.

CHALLENGES TO DEEMED PLANNING PERMISSION GIVEN IN CONNECTION WITH A TWA ORDER

There is no statutory right to challenge the validity of the Secretary of State’s direction that planning permission shall be deemed to be granted for development for which provision is included in a TWA Order. Any person who is aggrieved by the giving of the direction may, however, seek permission of the High Court to challenge the decision by judicial review.

RIGHT TO CHALLENGE SIDE ROADS ORDERS OR COMPULSORY PURCHASE ORDERS

Notice is to be published in the London Gazette, the Runcorn Weekly News and the Widnes Weekly News of the confirmation of the Orders. Any person who wishes to question the validity of the confirmed Orders, or any particular provision contained in them, on the grounds that the Secretary of State has exceeded his powers or has not complied with the relevant statutory requirements in confirming the Orders may, under the provisions of Schedule 2 to the Highways Act 1980 and section 23 of the Acquisition of Land Act 1981, do so by application to the High Court. Such application must be made within six weeks of publication of notice that the Orders have been confirmed. The High Court cannot entertain an application under Schedule 2 or section 23 before publication of notice that the Secretary of State has confirmed the Orders.

CHALLENGES TO CONFIRMATION OF A ROAD USER CHARGING ORDER

There is no statutory right to challenge the validity of the Secretary of State’s decision to confirm a RUCO (with or without modification). Any person who is aggrieved by the confirmation of the order may, however, seek permission of the High Court to challenge the decision by judicial review.

A person who thinks they may have grounds for challenging the decisions to make or confirm the Orders to which this letter relates, or the decision to give the

direction as to deemed planning permission, is advised to seek legal advice before taking any action.

MODIFICATIONS

THE HALTON BOROUGH COUNCIL (A533 QUEENSWAY) SIDE ROADS ORDER 2008

Article 1(a) – Insert the wording “and edged in red” at the end of the paragraph. The Order Plan would be modified accordingly by adding cross hatching (in red) Desoto Road West and part of Queensway.

Article 3.(3)(a) - Modify the Classified Road definition to read “the A533 Queensway which the Council propose to improve and which is a highway which is a classified road in accordance with section 12 of the Highways Act 1980”

Articles 3.(3) (e) - Delete the following wording “Citygate, Gallowgate, Newcastle upon Tyne, NE1 4WH” and insert the following “; and”

Insert a new definition at Article 3.(3)(f) “(f) “new highway” “means a highway authorised by this Order to be constructed and “new highways” shall be construed accordingly;”

Highways to be Improved – Delete “A533”

THE HALTON BOROUGH COUNCIL (THE MERSEY GATEWAY – QUEENSWAY) COMPULSORY PURCHASE ORDER 2008

Delete at Article 1(2) the following wording “all in pursuance of The Halton Borough Council (A533 Queensway) Side Roads Order 2008.

THE HALTON BOROUGH COUNCIL (A533 CENTRAL EXPRESSWAY) SIDE ROADS ORDER 2008

Article 4.(3)(a) – Insert the following wording at the end of the paragraph “which the Council propose to improve and which are highways which are classified roads in accordance with section 12 of the Highways Act 1980”

Articles 4.(3)(f) - Delete the following wording “Citygate, Gallowgate, Newcastle upon Tyne, NE1 4WH” at the end of the paragraph;

THE HALTON BOROUGH COUNCIL (THE MERSEY GATEWAY – CENTRAL EXPRESSWAY) COMPULSORY PURCHASE ORDER 2008

Article 1.(1) - Amend at the second line "A553" to read "A533".

The Schedule - Plot 205 – Delete “10754” and insert “9094” and modify the map accordingly

THE A533 (SILVER JUBILEE BRIDGE) ROAD USER CHARGING SCHEME ORDER 2008

1. The A533 (Silver Jubilee Bridge) Road User Charging Scheme Order 2008 shall be amended as follows.
2. The preamble to the Order shall be amended by inserting a footnote “(a) 1984 c.27” after the reference the Road Traffic Act 1984 and by inserting a footnote “(b) 2000 c.38” after the reference to Transport Act.
3. The Schedule to the Order shall be amended as follows:
 - 3.1 in the heading of the Schedule, the number “1” shall be deleted.
 - 3.2 In paragraph 1:
 - 3.2.1 After the definition “Transport Act 2000”, the footnote shall be deleted.
 - 3.3 In paragraph 4:
 - 3.3.1 in sub-paragraph (1), for the word “A” there shall be substituted the words “Subject to sub-paragraphs (6) and (14)”;
 - 3.3.2 in sub-paragraph (3), the words “in advance” shall be deleted;
 - 3.3.3 in sub-paragraph (6), for the word “The” at the start of the sub-paragraph, there shall be substituted the words “Where the condition applies the”;
 - 3.3.4 after sub-paragraph (6) there shall be added:

“(7) Where the Council has elected pursuant to sub-paragraph (6) that the exclusive method of paying charges shall be by means of entering a composition agreement, such a composition agreement may be entered into-

 - (a) on the day concerned, the first day concerned, or (when it relates to a single journey) the day of the journey concerned;
 - (b) on a day falling within the period of 64 days immediately preceding the day concerned, the first day concerned, or (when it relates to a single journey) the day of the journey concerned; or
 - (c) on the day after the day concerned, the first day concerned, or (where it relates to a single journey) the day of the journey concerned.”.

- 3.3.5 for the existing number “(7)” there shall be substituted “(8)” and for the second “(b)” there shall be substituted “(c)” and the remaining sub-paragraphs shall be re-numbered accordingly;
- 3.3.6 in new sub-paragraph (8)(c), the words “or any number of single days” shall be added after the words “a single day”;;
- 3.3.7 for the existing number “(8)” there shall be substituted “(9)” and at the end of new sub-paragraph “(9)(b)” there shall be added “and”;
- 3.3.8 in new sub-paragraph (9) (c) the words “; and (d) a composition agreement shall not be valid for any vehicle having a registration mark different from the mark so specified” shall be deleted ;
- 3.3.9 for the existing number “(9)” there shall be substituted “(10)” and for the word “it” in sub-paragraph (10), there shall be substituted the word “is”;
- 3.3.10 in sub-paragraph (11), the words “display a document in that vehicle or to” shall be inserted after the words “agreement to” and the for the words “a badge, token or device” shall be substituted the words “in or fix equipment to that vehicle.”;
- 3.3.11 at the end of sub-paragraph (11), there shall be added:
- “(12) Where a composition agreement provides for a discount or waiver of any charge or part of any charge and is calculated solely by reference to the use of the scheme road-
- (a) for a number of journeys; or
- (b) for any period
- a user or prospective user of the scheme road shall not be prevented from entering into such a composition agreement by reason of their place of residence or business.
- (13) Where any scheme of discount or waiver is proposed in respect of charges payable or prospectively payable under this scheme the Council shall have regard to the most appropriate means of providing the benefit of such a scheme to those socio-economic groups within the Borough of Halton least able to afford the full price of charges in deciding to apply any such scheme.
- (14) The Council may impose such reasonable conditions upon the making of a composition agreement as it considers appropriate including in relation to the transfer of the benefit of composition agreements or the refund of payments.
- (15) The condition referred to in sub-paragraph (6) is fulfilled when the method of payment for use of the scheme road is not secured by the use of barriers preventing vehicles from proceeding until a charge is paid”.

3.4 In paragraph 6:

- 3.4.1 in sub-paragraph (3), after the words “charges to” there shall be inserted the words “display a document in that vehicle or to”, the words “a badge, token or device” shall be deleted and the words ”or fix equipment to that vehicle” shall be added at the end of the sub-paragraph;
- 3.5 In paragraph 7:
- 3.5.1 in sub-paragraph (1), for the words “new crossing” there shall be substituted the words “scheme road”, for sub-paragraph “(3)” there shall be substituted sub-paragraph “(4)”; for sub-paragraph “(4)” there shall be substituted sub-paragraph “(5)” and for sub-paragraph “(5)” there shall be substituted sub-paragraph “(6)”;
- 3.5.2 in sub-paragraph (4), at the end of the definition of “charge range” there shall be added “subject to paragraph (9)” and in the table the word “range” shall be inserted after the word “Charge”;
- 3.5.3 in sub-paragraph (8), for sub-paragraph “(7)” there shall be substituted sub-paragraph “(6)”.
- 3.6 In paragraph 8:
- 3.6.1 in sub-paragraph (1), the words “except where a reduction in those limits will result” shall be added at the end of sub-paragraph (1);
- 3.6.2 at the end of sub-paragraph (4) there shall be added:
- “(5) It shall not be necessary to vary any charge by reason of a revision to a charge range resulting in a charge subsisting that is lower than the lower limit of a charge range”.
- 3.7 In paragraph 9:
- 3.7.1 at the end of the heading for the word “charges” there shall be substituted the words “charge ranges” and after the word “charge” in the first line of paragraph 9, there shall be added the word “ranges”;
4. Annex 1 shall be amended as follows:
- 4.1 in the definition of “**Class 1 vehicle**”, for the word “clarifications” there shall be substituted the word “classifications”;
- 4.2 in the definition of “**Class 3 vehicle**”, after the words “means motor” there shall be inserted “caravans falling within classifications L(a) and L(b); motor” and the words “motor caravans falling within classifications L(a) and L(b)” shall be deleted;
5. Annex 2 shall be amended as follows:
- 5.1 the words “Register of” shall be inserted at the beginning of the title and Part 1 shall be re-located below the title;

5.2 for Part 1; the existing words shall be substituted by:

“1. Charges may not be levied in respect of-

(a) a vehicle whose details have been recorded on the exemptions register in accordance with Part 2 of this Annex and, in the case of those listed in sub-paragraphs 2(a) to (d) of Part 2 of this Annex, being used in execution of duty;
or

(b) a vehicle being used in connection with-

(i) the collection of charges; or

(ii) the maintenance, improvement or renewal of, or other dealings with, the Silver Jubilee Bridge or the new crossing or any structure, works or apparatus in, on, under or over any part of the new crossing or Silver Jubilee Bridge; or

(c) a vehicle which, having broken down on the Silver Jubilee Bridge or the new crossing while travelling in one direction, is travelling in the opposite direction otherwise than under its own power; or

(d) a military vehicle, that is, a vehicle used for army, naval or air force purposes, while being driven by persons for the time being subject to the orders of a member of the armed forces of the Crown”.

5.3 In Part 2:

5.3.1 in paragraph 1, the words “2 (exempt vehicles etc.)” shall be deleted;

5.4 paragraph 2 shall be amended as follows:

5.4.1 for the word “The“ at the start of the paragraph, there shall be substituted the words “Vehicles falling within the” and the word “exemptions” shall be inserted before the word “register”;

5.4.2 in sub-paragraph (a), the words “and issued with a Registration Certificate being used in the execution of duty” shall be deleted;

5.4.3 sub-paragraph (b) shall be deleted and the remaining sub-paragraphs shall be re-numbered accordingly;

5.4.4 in the new sub-paragraph (b) there shall be inserted a footnote “(a) 1994 c. 22” after the words “Vehicle Excise and Registration Act 1994”;

5.4.5 in the new sub-paragraph (d) the words “being used in the execution of duty” shall be deleted;

5.4.6 in the new sub-paragraph (e) the words “registered as” shall be deleted and the words “to which paragraphs 1(d)(i) or (ii) of Part 1 of this annex apply” shall be substituted by the words “and which displays a current disabled person’s badge issued under-

- (i) section 21 of the Chronically Sick and Disabled Persons Act 1970¹,
or
- (ii) section 14 of the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978².

5.4.7 at the end of new paragraph 2 there shall be added:

“3. Registration of a vehicle upon the exemptions register, and the use to which that vehicle must be put to qualify as exempt from charges, shall be subject to the imposition of such further conditions as the Council may reasonably impose.”.

5.4.8 the remaining paragraphs in Part 2 shall be re-numbered accordingly;

5.4.9 in new paragraphs 4 to 6, 7, 8(a) and 9 before the word “register” there shall be inserted the word “exemptions”;

5.4.10 in new paragraph 5, for the reference to paragraph “3”, there shall be substituted a reference to paragraph 4 and the words “that complies with paragraph 4” shall be moved to after the words “an application”;

5.4.11 in new paragraph 6, the words “1(d) of Part 1” shall be substituted by the words “2(e) of this Part;” and sub-paragraph “(b)” shall be deleted ;

5.4.12 in new paragraph 6, sub-paragraph “ (c)” shall be re-numbered “(b)”, the words “charging” shall be deleted from the new sub-paragraph (b) and the words “by or on behalf of the new keeper.” shall be added at the end of new sub-paragraph (b);

5.4.13 in the new paragraph 7, the words “an exempt” shall be substituted by the word “a”, after the third “vehicle” there shall be inserted the words “eligible to be entered on the exemptions register,”, for the word “forthwith” there shall be substituted the words “as soon as reasonably practicable”, the word “such” shall be deleted and at the end of the new paragraph 7 there shall be added “eligible to be entered on the exemptions register.”;

5.4.14 after the new paragraph 8, the words “4. The first day of a registration period shall be a working day.” shall be deleted;

5.4.15 in the new paragraph 9, for the word “article” there shall be substituted the word “paragraph”.

6 Annex 3 shall be amended as follows:

6.1 by the deletion of the words “ the Mersey Gateway Bridge and” from paragraphs 2 (a),(d) and (f);

6.2 by the deletion of the words “, or for any other purposes” from paragraph 2 (e);

¹ 1970 c.44

² 1978 c.63

- 6.3 by the deletion of the words “and the new crossing” from paragraph 2(f).
- 7 Annex 5 shall be amended by substituting the word “**CHARGES**” for the word “**TOLLS**” from the title to Annex 5.