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Via e-mail:
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27 February 2020

Dear Sam

**ENVIRONMENT AGENCY RESPONSE (REF: 74320/APP/2019/3187)
HS2 COLNE VALLEY VIADUCT - FURTHER REQUEST FOR CLARIFICATION**

Thank you for your correspondence dated 18 February in response to my letter dated 4 February 2020.

Unfortunately, your letter fails to address the matters that are of fundamental concern to this borough and its residents and places this Authority in a position of uncertainty with regards to the Colne Valley Viaduct. Your letter also has the effect of waiving the Environment Agency's obligations placed on it by Parliament to assist with the protection of the environment as set out in Schedule 17 of the HS2 Act. The Council cannot, in all reasonableness, consider the design of the Colne Valley Viaduct and its impact on a highly sensitive natural environment whilst the Environment Agency is silent on the matters it is duty bound to consider.

As set out in my original letter, the design of the Colne Valley Viaduct has been submitted to the London Borough of Hillingdon for consideration under Schedule 17(2) of the HS2 Act. This requires consideration of the design or external appearance with regards to three specific areas:

1. To preserve the local environment or local amenity
2. to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area

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3. to preserve a site of archaeological or historic interest or nature conservation value,

Matters 1 and 3 are crucial to the location in which the Viaduct is located which includes multiple sites of importance for nature conservation and a Site of Special Scientific Interest designated in part because of wildfowl that relies on the water environment. The Viaduct also crosses many recreational lakes as well networks of habitats that all rely on the water environment.

We are required to consult the Environment Agency on building works in very specific circumstances and these were set out in my original letter. However, in response, you state:

We are only likely to provide a detailed response to a Schedule 17 application where we wouldn't also be consulted under Schedule 33

And

As such, any HS2 work that could impact on the conservation features within the area, including flora and fauna reliant on the aquatic habitat, and the River Colne and local groundwater will be regulated through our robust powers under Schedule 33.

Schedule 33 is no proxy for Schedule 17 in which the matters for consideration are entirely different and limited to specific matters related to what HS2 Ltd apply for. They will not apply for the design of the Viaduct under Schedule 33 and the matters for consideration under that schedule do not in any way cover the design of the viaduct at Schedule 17 stage. Furthermore, your letter states:

Throughout our interaction with HS2 Ltd, we have made it clear that they should twin-track their Schedule 17 and Schedule 33 applications to ensure that they complement, and never contradict one another.

However, you have failed to provide any assistance as to how your involvement in Schedule 33 has and will assist with the concerns relayed in my previous letter or even whether this twin tracking process is underway. If it is, then you should be readily able to answer the questions posed, if not, then this is evidently a serious matter. Your letter does indicate that you have been in discussions regarding some of the matters of concern for over 10 years yet provides no description, update or evidence as to what these discussions entail.

Consequently, the Council cannot confirm that the Viaduct design is appropriate with regards to the local environment, or that ecology of the area is suitably protected. For example, will the design of the noise barriers impact the wildlife relying on the water environment (a statutory ground for the Environment Agency to provide comments on and completely unrelated to Schedule 33), or are the piers and bearings appropriately located with respect to flood levels (not an issue for Schedule 33). In turn, the Council cannot consider what changes may need to be made to the Viaduct to reduce, minimise or remove any such harm.

The Council also cannot consider the above ground design (the matters relevant under Schedule 17) without some assistance from the Environment Agency on the below ground works. To date the Environment Agency has operated in a degree of secrecy regarding the impact of HS2, and the Viaduct in particular, on the highly sensitive groundwater (including principle aquifers and source protection zones) and in turn the impacts on the water environment from an ecological and recreational perspective. This has implications for the design notwithstanding other concerns related to public water supply which the Environment Agency continues to be unwilling to disclose information on despite the outstanding requests.

You were requested to provide this comment as part of this Schedule 17 consultation, and then followed up with a specific series of questions which you have failed to provide any assistance with. Instead you have advised that your only interest is in relation to Schedule 33 which is to resile from the statutory consultation requirements set out in Schedule 17. This is not collaborative working. The Environment Agency is not the only interested party with regards to the Colne Valley; as you would expect, with such a significant piece of infrastructure a great range of interest and concern about the design of the Viaduct and its impacts on this particularly sensitive environment has been shared with the Council. The Environment Agency's approach is effectively to disavow its responsibilities in either allaying these concerns or helping to manage or reduce them.

The Council cannot positively determine this Schedule 17 until the matters raised in the previous letter are addressed. Indeed, the Council does not believe any decision can be taken on the design of the Viaduct without the proper appraisal and due consideration from the Environment Agency supported by appropriate evidence.

We will seek to defer the application and secure a further extension of time until the end of March pending helpful and meaningful engagement from the Environment Agency; however, should HS2 Ltd invoke its right to appeal against non determination then the Council would expect the Environment Agency to make appropriate representations at the subsequent appeal that satisfies the outstanding concerns.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Ian Thynne', is positioned above the printed name.

Ian Thynne
Planning Specialists Team Manager