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13 April 2018

Dear Sirs,

TRANSPORT AND WORKS ACT 1992: APPLICATION FOR THE PROPOSED HIGH SPEED (LONDON - WEST MIDLANDS) (GREATMOOR RAILWAY SIDINGS ETC) ORDER AND DEEMED PLANNING PERMISSION

1. I am directed by the Secretary of State for Transport to say that consideration has been given to the report of the Inspector, Mr Clive Nield BSc(Hon) CEng, MICE, MCIWEM C.WEM who held a public Inquiry between 18 and 20 July 2017, into the application made by your clients High Speed Two (HS2) Limited ("HS2 Limited") for:

(a) the High Speed Rail (London – West Midlands) (Greatmoor Railway Sidings Etc.) Order to be made under sections 1 and 5 of the Transport and Works Act 1992 ("TWA"): and

(b) a direction under section 90(2A) of the Town and Country Planning Act 1990 for deemed planning permission to be provided for in the Order ("the Planning Direction").

2. The Order and the Planning Direction, if made, would authorise HS2 Limited to construct railway sidings and associated works adjacent to the Aylesbury Link Railway for the transfer of waste and spoil material, to the Calvert Landfill and Greatmoor Energy from Waste Facility in the District of Aylesbury Vale, County of Buckinghamshire. The works are required in connection with Phase One of the High Speed Railway between London and Birmingham. The provisions in the Order would replace existing railway sidings and facilities for the transfer of waste currently operated by FCC Waste Services (UK) Limited ("FCC").

3. Enclosed with this letter is a copy of the Inspector's report. The Inspector's conclusions are set out in paragraphs 146 to 185 and his overall conclusions are set out in paragraphs 186 to 189 of the report. The Inspector's recommendations are set out in paragraph 190 of the report.

4. In making this application, HS2 Limited complied with the publicity requirements of the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006 ("the 2006 Rules"). This included serving copies of the application and the accompanying documents on the persons specified in the 2006 Rules and making the documents available for public inspection. As also required by the 2006 Rules, HS2 Limited displayed and published notices giving information about the application and how to make representations and served notice on those whose rights over land would be extinguished under the Order.

Summary of Inspector's recommendations

5. The Inspector recommended that the Order should be made, subject to modifications, and that deemed planning permission be granted subject to conditions.

Summary of the Secretary of State's decision

6. For the reason given in this letter, **the Secretary of State has decided to make the Order with modifications, and to give the planning direction, subject to the conditions set out in Annex 1 to this letter.**

Secretary of State's consideration

7. 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. All other paragraph references, unless otherwise stated, are to the Inspector's report ("IR").

Aim and need for the High Speed Rail (London-West Midlands Greatmoor Railway Sidings Etc.) Order Scheme ("the scheme")

8. The Inspector noted that the new sidings are needed to replace those to be displaced by the HS2 Phase One rail lines. The sidings currently provide facilities for deliveries of waste and spoil to the Calvert Landfill site and the Greatmoor Energy from Waste facility which together make up a strategic waste complex (IR paragraphs 158).

9. The Secretary of State notes that the proposed new sidings would aim to replicate the capacity of the existing sidings, which currently accept 4 trains per day but has capacity for up to 8 trains per day (IR paragraphs 23, 88 and 159). The Secretary of State accepts that the aims and need for the scheme are clearly established.

The main alternative options considered by HS2 Ltd and the reasons for choosing the proposals comprised in the scheme.

10. The Secretary of State notes that the scheme has been developed as a better alternative to the sidings replacement scheme included in the High Speed Rail (London-West Midlands) Act 2017 (“HS2 Act”) which would have involved new sidings being constructed on the opposite side of the existing rail lines, close to the present sidings (IR paragraph 24). The Secretary of State notes that there were objections to that scheme and criticism from the House of Commons Select Committee in their report when it was considering these provisions of the HS2 Act (IR paragraphs 25-27 and 160). The Secretary of State notes that several alternative layouts have been considered and that the Inspector considered that the scheme would have the least effect on the surrounding area, affect less agricultural land, and have fewer landscape and visual effects. The Secretary of State agrees with the Inspector’s conclusions that there has been no dispute that it is the best scheme available (IR paragraph 161).

Consistency with the National Planning Policy Framework (“NPPF”), National Transport Policy, and Local Transport, environmental and local planning policies

11. The Secretary of State notes the Inspector’s view that the scheme is aligned with national and local policies that promote the use of rail as a low carbon alternative for freight movement (IR paragraph 162). The Secretary of State agrees with the Inspector’s conclusions that the scheme would be compliant with the relevant development plan and national policies (IR paragraph 163).

Impacts on Landowners and Tenants, Local Residents, General Public, Utility Providers and Statutory Undertakers

12. The Secretary of State notes that five parties have landowner or tenant interests in the land but that objections were only received from two of these parties, Portway Farm Partnership (“PFP”) and the Berkshire, Buckinghamshire and Oxfordshire Wildlife Trust (“BBOWT”). The latter was, however, noted to have objected to the impact of the scheme on bats and not the granting of powers necessary for the scheme (IR 164). The Secretary of State notes that with regard to PFP, that it farms land owned by FCC under an Agricultural Holdings Act tenancy, part of which would be subject to compulsory purchase. The Secretary of State notes that PFP objected to the scheme due to the effect on the viability of its business due to loss of land, loss of vehicle access and the effects of construction on land drains (IR 36). The Inspector noted that a tripartite agreement between PFP, HS2 Limited and FCC had recently been agreed (IR 164). The Secretary of State notes that whilst the parties agreed to the making of the tripartite agreement, that agreement was not formally completed at the close of the Inquiry. However, the Secretary of State notes that subsequent to the close of inquiry, agreement between the parties has been signed and that PFP withdrew their objection on 13 March 2018.

13. The Secretary of State notes the Inspector’s conclusion that the scheme has been designed to minimise its landscape and visual impacts and includes extensive use of mitigation planting and that noise during construction would be controlled through measures in the Code of Construction Practice (IR paragraph 166).

14. The Secretary of State notes that all objections from utility providers and statutory undertakers have been withdrawn (IR paragraph 167).

15. The Secretary of State is satisfied that there are sufficient measures in place to minimise the impacts on landowners and tenants, local residents, the general public, utility providers and statutory undertakers.

The measures proposed to mitigate any adverse impacts of the scheme

16. The Secretary of State notes that the Inspector considered that suitable mitigation measures for landowners and tenants affected by the scheme have been included in various draft agreements and that measures for the protection of gas and electricity undertakers are included in the HS2 Act and are applied to the scheme through Schedule 7 of the Order. The Inspector also noted that the wider environmental effects would be controlled through provisions within the Order that limit the land to be used, planning conditions and existing legislation for environmental protection (IR paragraph 169). The Secretary of State agrees with the Inspector's conclusion and is satisfied that the long term benefits of the scheme considerably outweigh any harm that would remain particularly with the mitigation measures that would be in place.

Impacts on the Natural Environment including Protected Species and Mitigation Measures

17. The Secretary of State notes that the Environmental Statement ("ES") provides an assessment of the likely effects of the scheme on the natural environment, including in combination effects with the main HS2 Phase One scheme and the proposed East West Rail Phase 2 scheme (EWR2). The Secretary of State notes that terrestrial and aquatic habitat loss was identified, including effects on the great crested newt population and a pair of breeding barn owls and that mitigation will be put in place to address this (IR paragraphs 47-48 and 170-171). The Secretary of State notes that the main environmental effects were identified as being on the assemblage of woodland bats in the area and this is considered below.

Effects on Bats

18. The Secretary of State notes that the site of the proposed sidings is of especially high value for woodland bats and in particular the Bechstein's bat species, which are amongst the rarest mammals in the UK and that objections were received from Natural England ("NE"), BBOWT and other parties due to concerns about the impact of the scheme on bats (IR 147-148). The Secretary of State notes that bats are a European protected species ("EPS") and are protected in the UK by the Conservation of Habitats and Species Regulations 2010 and the Wildlife and Countryside Act 1981. It is therefore an offence to deliberately disturb them or destroy a breeding site or resting place unless an EPS licence is granted by NE. (IR paragraphs 150).

19. The Inspector noted that NE advised that a combined EPS licence would be required for the construction phase of the scheme and the HS2 Phase One scheme but not for the subsequent operation of the scheme (IR paragraph 155). The Inspector noted that following the submission of a revised draft application pack by HS2 Limited to NE for a EPS Licence, NE was content that it saw no impediment to the grant of this licence subject to HS2 Limited

entering into an agreement under sections 7 and 13 of the Natural Environment and Rural Communities Act 2006 (“the NERC agreement”) and to several detailed requirements being met, which HS2 Limited and NE agreed could be readily complied with (IR paragraphs 115-117 and 172). The Secretary of State further notes that HS2 Limited can only enter the NERC agreement once it owns the land concerned but it has entered into an agreement to do so as soon as it is legally possible. The NERC agreement would cover the long-term management and mitigation requirements for the post construction phase of the scheme (IR paragraph 155).

20. The Secretary of State notes that the Inspector set out that NE’s initial objections related to; ensuring sufficient assessment and mitigation of the cumulative effects of the scheme, the HS2 Phase One and the EWR2 scheme, and the Greatmoor Energy from Waste facility; uncertainty and lack of detail as to the effectiveness of some of the proposed mitigation measures; and the delivery of remediation in the future if it was found to be needed (IR paragraphs 148). The Secretary of State notes that the Inspector confirmed that: following the provision of further information by HS2 Limited; the development of legally enforceable mechanisms for securing effective long-term monitoring; and the additional mitigation or remediation measures, if necessary, to ensure favourable conservation status for the species is maintained; NE confirmed it conditionally withdrew its objection (IR paragraphs 148-149). The Inspector also noted that although BBOWT’s representative was unable to attend the Inquiry, their concerns were similar to NE and that the Inspector considered that the further information provided by HS2 Limited would satisfy BBOWT in the same way it had for NE (IR paragraph 149).

21. The Secretary of State agrees with the Inspector that on the basis that the EPS licence would likely be granted, there would be no reason to refuse the Order or planning application on this ground (IR paragraph 156) and that the scheme would include sufficient mitigation and control measures (including those set out below at paragraph 26) to ensure that no significant harm would be caused to the bat population (IR paragraph 173).

The adequacy of the Environmental Statement

22. The Secretary of State agrees with the Inspector that the ES submitted with the Order application is thorough and adequate with reference to the requirements of the Transport and Works (Applications and Objections Procedure) (England and Wales Rules 2006 (IR 174). The Secretary of State confirms that he has complied with the requirements of paragraphs (a) to (c) of section 14(3A) of the TWA relating to the consideration of the ES.

Proposals for Funding the scheme

23. The Secretary of State accepts the Inspector’s findings that funding for the scheme will be met from the funding for the HS2 Phase One project and thus sufficient funding would be available to implement the scheme (IR paragraph 179).

Compulsory Purchase Powers with regard to the Ministry of Housing, Communities and Local Government (“MHCLG”) (formally DCLG) Guidance and the Crichel Down Rules for the disposal of surplus land acquired by, or under that threat of compulsion.

24. MHCLG’s Guidance on the Compulsory Purchase Process and the Crichel Down Rules 2015 indicates that the acquiring authority will need to be able to show that the scheme is unlikely to be blocked by any physical or legal impediments to implementation, including any need for consent. As set out in paragraph 23 above the Secretary of State is content that sufficient funding would be available to implement the scheme and as set out in paragraph 21 above that an EPS licence would likely be granted. The Secretary of State as the appropriate authority, has also agreed for the purposes of section 25 of the TWA to the inclusion in the Order of the land which is to be subject of compulsory acquisition for the creation of new rights. It therefore means that there is also no impediment to the implementation of the scheme in this respect.

25 The Secretary of State is therefore satisfied that overall, there is no physical or legal impediment to the scheme being implemented. The Secretary of State notes that the amount of land to be acquired or used is defined in the Order by the Limits of Deviation. The Secretary of State is satisfied that all acquisition of the lands and rights referred to in the Order are necessary for the implementation of the scheme and agrees with the Inspector that there is a compelling case in the public interest for the construction and operation of the scheme and that the compulsory purchase of the land and rights specified in the Order is justified and in the public interest (IR paragraph 176).

Conditions to be attached to the Deemed Planning Permission

26. The Secretary of State notes the suggestion put forward by NE (and supported by BBOWT) for an additional condition to the deemed planning permission to eliminate as much risk as possible from the prospect of favourable conservation status being maintained for the population of bats (IR paragraph 177). The Secretary of State notes the arguments put forward by NE, BBOWT, HS2 Limited (IR paragraphs 118-122) in relation to this additional condition. The Secretary of State agrees with the Inspector that there is legal precedent for the use of planning conditions in similar circumstances and in this case the rarity of the Bechstein’s bat and the importance attached to ensuring the maintenance of their favourable conservation status makes it essential to eliminate as much risk as is reasonably possible (IR paragraph 144). The Secretary of State concurs with the Inspector that condition 9.2 set out in the appendix to the Annex in the Report is worthwhile and necessary (IR paragraph 178). The Secretary of State is satisfied that the Planning Conditions set out in the Annex to the report and to the Annex to this letter are reasonable and satisfy the 6 tests set out in paragraph 206 of the National Policy Planning Framework.

Other Matters

27. The Secretary of State notes that the Inspector highlighted that several other concerns were raised by third parties but that these mostly related to queries about detailed design matters or concerns in relation to the wider rail network in the area, particularly the proposals currently being developed for the EWR2 scheme. The Inspector’s consideration of these matters is set out in IR paragraphs 180-184. The Secretary of State agrees with the Inspector that the control mechanisms that would be applied to the scheme, including

conditions imposed through the deemed planning permission would provide appropriate means for ensuring suitable detailed designs were adopted. The Secretary of State agrees with the Inspector that the EWR2 scheme has little direct relevance to the scheme as this scheme stands alone. The Secretary of State is however satisfied that ES for the scheme has taken into account the in-combination effects of the EWR2 scheme and the HS2 Phase One scheme. The Secretary of State notes that concerns were raised about the route used to seek powers to construct and operate the scheme and agrees with the Inspector's view that the Transport and Works Order is the appropriate method to seek powers to construct and operate the scheme and it is not appropriate with the proposed sidings for the scheme to be integrated with the EWR2 scheme for the reasons set out in IR paragraph 184. The Secretary of State concurs with the Inspector that the topics raised by third parties do not materially affect the main conclusions (IR paragraph 185).

Secretary of State's overall conclusion and decision

28. The Secretary of State agrees with the Inspector that for all the reasons given above, the Order is justified on its merits and there is a compelling case in the public interest for making it. The Secretary of State is satisfied that the substantial public benefit of the scheme outweighs any residual adverse impacts. The Secretary of State also notes the support for the scheme at IR paragraphs 85-109. The Secretary of State, has, accordingly, decided to make the Order, but subject to these amendments:

- to update the compulsory acquisition provisions which reflect the coming into force of the relevant parts of the Housing and Planning Act 2016;
- in relation to the provisions concerning the acquisition of land and rights, the reference to "the Company" has been replaced by a reference to "the Secretary of State" as land acquired in relation to the HS2 project is held in the name of the Secretary of State so that it is consistent with the High Speed Rail (London - West Midlands) Act 2017;
- the remaining references to "the Company" have been replaced by the "Nominated Undertaker" so that it is consistent with the High Speed Rail (London – West Midlands) Act 2017;
- the removal of article 3 that would have allowed the provisions in the High Speed Rail (London – West Midlands) Act 2017 (related to the original location of the sidings) to be repealed on a date chosen by HS2 Limited that would be different to the date that this Transport and Works Order would come into effect; and
- a number of minor drafting amendments.

These do not make a substantial change in the proposals such as would require notification to affected persons under section 13(4) of the TWA and to give the planning direction subject to the conditions at Annex 1 of the letter which include the modifications set out in IR 90(a).

Notice under section 14 of the TWA

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

Challenge to Decisions

30. 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

31. Copies of this letter are being sent to those who appeared at the inquiry and to all statutory objectors whose objections were referred to the inquiry under section 11(3) of the TWA but who did not appear.

Yours sincerely,

Natasha Kopala

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

Interpretation

In the following conditions:–

“the HS2 Act” means the High Speed Rail (London – West Midlands) Act 2017;

“the Development” means the works authorised by the Order and this Direction as to deemed planning permission;

“the Environmental Statement” means the environmental statement submitted with the application for the Order:

“the external lighting” means all the lighting equipment other than those that are temporary lighting or lighting located within a building comprised within the Development;

“the Greatmoor Sidings Mitigation Plan” means Planning Direction Drawing sheet 13;

“Heavy Goods Vehicle (HGV)” means motor vehicles with a maximum allowed mass (MAM) or gross combination mass (GCM) of over 3.5 tonnes – 3,500 kilograms (7,716 lb);

“HS2 CoCP” means the control measures and standards to be implemented throughout construction of Phase One of the HS2 project specified in the High Speed Rail (London - West Midlands) Environmental Minimum Requirements Annex 1: Code of Construction Practice as finalised at Royal Assent for the Bill;

“the Local Planning Authority (LPA) means either Aylesbury Vale District Council or Buckinghamshire County Council as the context requires;

“Non Road Mobile Machinery (NRMM)” means any mobile machine, item of transportable industrial equipment, or vehicle – with or without bodywork – that is: not intended for carrying passengers or goods on the road installed with a combustion engine – either an internal spark ignition (SI) engine, or a compression ignition diesel engine;

“the operational hours” mean those hours specified in column (2) of the table set out in Condition 9 by reference to the corresponding periods of time set out in column (1) of the table;

“the Operational Lighting” means the lighting used for loading and off-loading of container trains at the operational sidings but does not include lighting to illuminate the movement of trains;

“the Operational Sidings” means the railways sidings comprised within Work No. 2 and Work No. 3 in Schedule 1 to the Order;

“the Order” means the High Speed Rail (London – West Midlands) (Greatmoor Railway Sidings Etc.) Order 2018;

“Preliminary Works” means the Development works consisting of the establishment of the site compounds, the erection of office and welfare facilities, boundary fencing, hoardings, ecological mitigation planting, utility diversions or alterations and the excavation of trial trenches for the purposes of Condition 7.1;

“programme of archaeological work” means a programme of proposed works to implement the Written Scheme of Investigation;

“the Reception Sidings” means the railway siding comprised within Work No. 1 in Schedule 1 to the Order;

“the relevant works” means that part of the Development consisting of the construction of the Scheduled Works and the weighbridge proposed to be constructed within the Site;

“the scheduled works ” has the same meaning as in the Order; means the Operational Sidings and Reception Sidings;

“the Site” means the land contained within the red line boundary as shown on Planning Direction Drawings 1, 2 and 3 referred to in Condition 2;

“the Vegetation Management Zone” means the land contained within the red line boundary as shown on Planning Direction Drawings 1, 2 and 3 referred to in Condition 2;

“the Written Scheme of Investigation” means a scheme which outlines the known and potential archaeological features and deposits and proposes a structure for exploring them using appropriate investigation techniques;

1. Time Limit to Implement the Permission

The Development shall commence before the expiration of 5 years from the date that the Order comes into force.

Reason: *To ensure that the development is commenced within a reasonable period of time.*

2. Plans and Drawings

The Development shall only be carried out in accordance with the following approved plans and documents, unless otherwise agreed in writing by the Local Planning Authority in accordance with Condition 13:

Planning Direction Drawing Sheet 1	Location Plan
Planning Direction Drawing Sheet 2	Site Plan (Sheet 1 of 3)
Planning Direction Drawing Sheet 3	Site Plan (Sheet 2 of 3)
Planning Direction Drawing Sheet 4	Site Plan (Sheet 3 of 3)
Planning Direction Drawing Sheet 5	Existing Plan (Sheet 1 of 2)
Planning Direction Drawing Sheet 6	Existing Plan (Sheet 2 of 2)
Planning Direction Drawing Sheet 7	General Arrangement Plan (Sheet 1 of 2)
Planning Direction Drawing Sheet 8	General Arrangement Plan (Sheet 2 of 2)
Planning Direction Drawing Sheet 9	Reception Sidings and Bridleway QUA/36 Accommodation Green Overbridge (Work No.4) Sections
Planning Direction Drawing Sheet 10	Reception Sidings (continued) and Bridleway GUN/28 Accommodation Green Overbridge (Work No.6) Sections
Planning Direction Drawing Sheet 11	Operational Sidings Sections
Planning Direction Drawing Sheet 12	Greatmoor Railway Sidings Mitigation Context Plan
Planning Direction Drawing Sheet 13	Greatmoor Railway Sidings Mitigation Plan
Planning Direction Drawing Sheet 14	Office and Welfare Facilities General Arrangement Plan

Planning Direction Drawing Sheet 15	Bridleway GUN/28 Accommodation Green Overbridge General Arrangement (Work No.6) General Arrangement
Planning Direction Drawing Sheet 16	Bridleway QUA/36 Accommodation Green Overbridge General Arrangement (Work No.4) General Arrangement
Planning Direction Drawing Sheet 17	Bridleway QUA/36 Diversion Plan and Profile
Planning Direction Drawing Sheet 18	Realigned EfW Access Plan and Profile
Planning Direction Drawing Sheet 19	Bridleway GUN/28 Diversion Plan and Profile
Planning Direction Drawing Sheet 20	Operational Sidings Plan and Profile
Planning Direction Drawing Sheet 21	HS2 Phase One Balancing Pond Access Plan and Profile
Planning Direction Drawing Sheet 22	Lighting Boundary Plan

Reason: *For the avoidance of doubt and in the interests of proper planning.*

3. Lighting

3.1 No permanent floodlighting or other form of permanent external lighting shall be installed within the Site unless it is in accordance with details which have previously been submitted to and approved in writing by the Local Planning Authority. Such details shall include location, height, type and direction of light sources and intensity of illumination. Any permanent floodlighting or other form of permanent external lighting which is so installed shall not thereafter be altered unless otherwise agreed in writing by the Local Planning Authority in accordance with Condition 13.

3.2 Operational lighting, including lighting from operational plant and equipment and vehicles and trains accessing the Sidings, shall not result in a lighting level in excess of 0.5 lux at the periphery of the Operational Sidings and Reception Sidings and at other ecologically sensitive boundaries as delineated in red on the Lighting Boundary Plan (shown on Planning Direction Drawing Sheet 22 referred to in Condition 2) unless otherwise agreed in writing by the Local Planning Authority in accordance with Condition 13.

Reason: *In the interests of mitigating ecological and landscape and visual impacts.*

4. HS2 CoCP (Environmental Management Plan, Travel Plan, Construction Working Hours, Traffic Management Plan etc.)

Construction of the Development shall be carried out in accordance with the HS2 CoCP unless otherwise agreed in writing by the Local Planning Authority in accordance with Condition 13.

Reason: *In the interests of the amenity of the area and the purpose of environmental protection.*

5. Ecology and Landscape Management Plan (ELMP)

5.1 The Development shall be constructed in accordance with an Ecological and Landscape Management Plan (ELMP) submitted to and approved in writing by the Local Planning Authority. The ELMP shall include long term design objectives, management responsibilities and maintenance schedules for all landscaped areas and drainage ponds. The ELMP shall be based upon the mitigation measures contained within the Environmental Statement and shall include a programme of implementation, management and maintenance and details of connectivity of wet features, treatments of site boundaries and buffers around water bodies and fencing along the road edge. The ELMP shall be carried out as approved unless otherwise agreed in writing by the Local Planning Authority in accordance with Condition 13.

5.2 During the construction phase of the Development Black Hairstreak habitat will be monitored along Greatmoor Road to ensure the quality of the habitat is maintained. Where impacts from construction activities are identified, appropriate remediation to mitigate the impacts will be submitted to and agreed in writing with the Local Planning Authority and implemented as agreed.

Reason: *To mitigate the impact of the Development on biodiversity.*

6. Landscape Design

Prior to commencement of the Development, other than the Preliminary Works, a Landscape Mitigation Scheme shall be submitted to and approved in writing by the Local Planning Authority. The details of the Landscape Mitigation Scheme shall conform generally to those illustrated in the Greatmoor Railway Sidings Mitigation Plan (Planning Direction Drawing Sheet 13) and those measures contained within the Environmental Statement. The Scheme shall include the following details:

- i. Details of vegetation to be removed within the Vegetation Management Zone;
- ii. Details of the retention of existing vegetation including a tree survey to BS5837 'Trees in relation to construction';
- iii. Details of species of trees and shrubs to be planted;
- iv. Location of planting of new trees and shrubs;
- v. Phasing planting plan;
- vi. Protection measures to be provided to new planting including weed control;
- vii. Five year programme of management and maintenance and replanting of any trees or shrubs, which die or become diseased; maintenance to include those within the Vegetation Management Zone.

The approved Development shall be implemented in accordance with the Landscape Mitigation Scheme.

Reason: *In the interests of mitigating ecological impacts, to ensure a satisfactory appearance and to secure biodiversity enhancements as part of the Scheme.*

7. Archaeology

7.1 No part of the Development, other than the preliminary works, shall commence until an archaeological evaluation in the form of a geophysical survey and/or trial trenching, as appropriate, in accordance with the Written Scheme of Investigation, has been submitted to and approved in writing by the Local Planning Authority.

7.2 Where archaeological remains of national importance are found, no Development at the relevant location shall take place until an appropriate methodology for their preservation in situ, where reasonably practicable, has been submitted to and approved in writing by the Local Planning Authority. The methodology shall be implemented as approved.

7.3 Where archaeological remains are recorded by the evaluation carried out under Condition 7.1 and are not of sufficient significance to warrant preservation in situ but are worthy of recording, the development at the relevant location shall be carried out in accordance with a Programme of Archaeological Work which has been submitted to and approved in writing by the Local Planning Authority in accordance with a Written Scheme of Investigation.

Reason: *To record or safeguard any archaeological evidence that may be present at the site.*

8. Flooding and Surface Water Drainage

8.1 Prior to the commencement of the Development, other than the Preliminary Works, a flood risk assessment shall be submitted to the Local Planning Authority. A detailed design for all surface water systems shall also be submitted to and approved in writing by the Local Planning Authority in consultation with Buckinghamshire County Council. This design will detail how any increase in flood risk will be avoided and how natural water flow will be maintained by encouraging storm water to soak into the ground or, where that is not reasonably practicable, by discharge into watercourses or surface water/combined sewers at a controlled rate by means of Sustainable Drainage Systems (SuDS). This will include the flood compensation areas and balancing ponds. The details submitted shall include but not be limited to: location, storage volume calculations, cross sections, ecological and amenity benefits in relation to the flood storage area, and location, storage volume, discharge rate, and cross sections. The Development shall be implemented in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority in accordance with Condition 13.

8.2 Prior to the commencement of the Development, other than the Preliminary Works, a “whole-life” maintenance plan for all surface water systems for the Site shall be submitted to and approved by the Local Planning Authority. The plan shall set out how and when to maintain the drainage system (e.g. a maintenance schedule for each drainage/SuDS component) following construction, with details of who is to be responsible for carrying out the maintenance. The Development shall be implemented in accordance with the approved “whole-life” maintenance plan.

Reason: In order to protect water quality, ensure peak flow and total volume of surface water run-off from the developed site is no greater than the rates prior to the Development, and to mitigate flood risk.

9. Operational Hours - Bat Mitigation

9.1 Activities associated with the offloading or loading of spoil or container trains, Operational Lighting, and train movements within the Operational Sidings (other than permitted in accordance with Condition 11) shall only be carried out between the following GMT times:

Table (1) Month	(2) GMT Hours of Operation	(3) Informative BST
January	0430 – 2300	
February	0430 – 2300	
29th February – 13th March	0645 – 1830	
14th March – 26th March	0615 - 1830	0715 - 1930
27th March – 10th April	0545 - 1830	0645 – 1930
11th April – 24th April	0515 - 1845	0615 – 1945
25th April – 8th May	0445 - 1915	0545 – 2015
9th May – 22nd May	0415 - 1930	0515 – 2030
23rd May – 5th June	0400 - 2000	0500 – 2100
6th June – 19th June	0345 - 2015	0445 – 2115
20th June – 3rd July	0400 - 2015	0500 – 2115
4th July – 17th July	0415 - 2015	0515 – 2115
18th July – 31st July	0430 - 1945	0530 – 2045
1st August – 14th August	0500 - 1915	0600 – 2015
15th August – 28th August	0515 - 1845	0615 – 1945
29th August – 11th September	0530 - 1815	0630 - 1915

12th September – 25th September	0600 - 1745	0700 - 1845
26th September – 9th October	0600 - 1730	0700 – 1830
10th October – 29th October	0600 - 1730	0700 – 1830
30th October – 30th November	0430 - 2300	
December	0430 - 2300	

Hours of operation shown in column (2) are in GMT. Informative BST hours are provided in column (3) but the actual date of change to and from BST varies year on year.

9.2 Until such time as the period of the HS2 Bernwood European Protected Species Licence (Bats) ceases, High Speed Two (HS2) Limited (and its successors) will produce an annual monitoring report. This annual monitoring report shall be agreed with Natural England and submitted, on the last working day of November each year, to the Local Planning Authority and the operator of the Operational Sidings.

a) To the extent it is concluded that the evidence in the monitoring report identifies that the hours of operation of the Operational Sidings may have a material effect on the Favourable Conservation Status of the bats, the monitoring report shall explain that conclusion and refer to such evidence, and the Local Planning Authority, HS2 Limited and FCC, in consultation with Natural England, will consider whether remediation measures may be appropriate in respect of operational activities within the hours set out in Condition 9.1 above to preserve the Favourable Conservation Status of the bats, within six weeks of receipt of the report.

b) If other remediation measures in respect of operational activities within the hours set out in Condition 9.1 above are not appropriate, the operator of the Operational Sidings shall, in consultation with Natural England and HS2 Ltd, submit a scheme within a further six weeks for approval by the Local Planning Authority, of modified operational hours to address the findings of the monitoring report.

c) The scheme for approval under paragraph b) shall include a timetable for implementation of the modified operational hours.

The approved scheme of modified operating hours shall thereafter be implemented by the operator of the Operational Sidings, and the Operational Sidings shall be operated only within the approved hours.

Reason: *To avoid disturbance of protected species (bats).*

10. Design, External Appearance and Materials

No works in respect of the items listed below shall be commenced until details of the location, layout, scale, appearance and external materials of that item have been

submitted to and approved in writing by the Local Planning Authority. Development shall accord with the approved details.

Item (a): Office and Welfare facilities.

Item (b): Bridleway GUN/28 Accommodation Green Overbridge.

Item (c): Bridleway QUA/36 Accommodation Green Overbridge.

Item (d): Rail mounted gantry crane.

Item (e): Permanent boundary fencing, including Environmental Fencing (noise and light) or other means of enclosure.

Item (f): Weighbridge

Item (g): Hard surfacing

Reason: *In the interests of visual amenity.*

11. Management of Trains Arriving at Sidings Outside of Operational Hours

11.1 Trains entering the Reception Sidings from the mainline or the Operational Sidings from the Reception Sidings outside of the operational hours shall shut down their engines and switch off all internal and external lighting within 30 minutes of arrival.

11.2 Trains exiting the Reception Sidings onto the mainline or exiting the Operational Sidings into the Reception Sidings outside of the operational hours shall do so within 30 minutes of engine start up or any internal or external lighting being switched on.

All train movements within the Reception Sidings and the Operational Sidings shall be subject to the above restrictions.

Reason: *To avoid disturbance of protected species (bats).*

12. Air Quality Mitigation for Adjacent SSSIs

The operator of the Operational Sidings will only use, and permit to be used, the following vehicles on the site of the Operational Sidings to transport spoil or waste:

a) Non Road Mobile Machinery (NRMM), in accordance with the Non Road Mobile Machinery (Emission of Gaseous and Particulate Pollutants) Regulations 1999 as amended) with engine emissions compliant with Type Approval Stage IV, or with lower emissions;

b) Or road-going Heavy Goods Vehicles (HGV) with engine emissions compliant with the Euro VI standard (in accordance with European Commission Regulation 595/2009), or with lower emissions.

Reason: *To mitigate the impact of the Development on biodiversity and protected designated sites.*

13. Approval of Amendments

Where under any of the Conditions the Local Planning Authority may approve amendments to details submitted and approved, such approval must not be given except in relation to changes where it has been demonstrated to the Local Planning Authority that the approval sought will not give rise to any materially new or materially different significant environmental effects from those assessed in the Environmental Statement.

Reason: *For the avoidance of doubt and in the interests of proper planning.*

14. Highway design

14.1 No Development shall commence until the detailed design of the Sidings access road, including its junction with Greatmoor Road within the Development has been submitted to and approved in writing by the Local Planning Authority. That part of the Development shall be laid out and constructed only in accordance with the approved design details.

14.2 No Development shall commence until details of the vehicle loading and manoeuvring areas within the Development have been submitted to and approved in writing by the Local Planning Authority. That part of the Development shall be laid out and constructed only in accordance with the approved details and thereafter the vehicle loading and manoeuvring areas shall be retained as approved, unless otherwise agreed by the Local Planning Authority.

Reason: *in the interests of highway safety and capacity.*

15. Noise

15.1 The Development shall be designed, constructed, installed and maintained so that the rating level of noise from the fixed mechanical and electrical plant and equipment, in normal operation, shall not exceed +5dB above the background level determined in accordance with BS4142:2014 at the worst affected residential receptor.

15.2 Prior to the commencement of the operation of the Sidings a competent person shall carry out a noise assessment in accordance with BS4142:2014 to calculate the rating level of noise expected to be emitted from the Site (being the land contained within the red line boundary as shown on Planning Direction Drawings 1, 2 and 3 referred to in Condition 2), on nearby residential dwellings. The assessment shall include all potential noise sources associated with activities at the Operational Sidings and Reception Sidings and shall include (but not be limited to) all static and mobile plant and ancillary equipment, and road and rail vehicles servicing operations within the Site. Prior to commencement of the assessment the methodology to be used shall be submitted to and agreed in writing with the Local Planning Authority. On completion of the assessment the results shall be submitted to the Local Planning Authority. Should the assessment show that any residential dwelling may be impacted by noise at a rating level of +10dB or more above the representative background sound level, all reasonably practicable

mitigation measures, at or near to the noise sources, shall be applied to reduce the potential rating level at the dwelling to below +10dB above the representative background sound level. Such measures shall be submitted to and agreed in writing by the Local Planning Authority.

15.3 Prior to the commencement of the operation of the Sidings a Noise Management Plan shall be submitted to and agreed in writing by the Local Planning Authority. The Noise Management Plan must set out the operational controls for noise management on the Site and how and at what frequency this will be monitored. The Noise Management Plan will include a documented recording system to record incidents and the resulting actions taken. The approved Noise Management Plan shall be complied with during the operation of the Sidings.

15.4 Within 6 weeks of the commencement of the operation of the Sidings noise monitoring shall be undertaken at nearby residential dwellings in accordance with the Noise Management Plan approved under Condition 15.3. Should such monitoring indicate that noise rating levels at any of the nearby residential dwellings are +10 dB or more above the representative background sound level (as assessed using BS4142; 2014 methodology) those dwellings affected shall be eligible for additional noise mitigation measures at the dwelling. Such measures shall be submitted to and agreed in writing by the Local Planning Authority.

Reason: *To ensure that the development hereby permitted is not detrimental to the amenity of the surrounding area by reason of undue noise emission and/or unacceptable disturbance.*

END

Annex 2

RIGHT TO CHALLENGE ORDERS MADE UNDER THE TWA

Any person who is aggrieved by the making of the Order may challenge its validity, or the validity of any provision in it, on the grounds 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 made be made, by application to the High Court, within the period of 42 days beginning with 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.

A person who thinks they have grounds for challenging the decision to make the Order is advised to seek legal advice before taking action.