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8th January 2025

National Trust

Secretary of State for Transport
c/o Transport Infrastructure Planning Unit,
Department for Transport,
Great Minster House,
33 Horseferry Road,
London,
SW1P 4DR

By email only.

Dear Sir or Madam,

Transport and Works Act 1992

The Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006

The Proposed Cambourne to Cambridge Order ("the Order")

Request for deemed planning permission under section 90(2A) Town and Country Planning Act 1990

Objection of the National Trust

INTRODUCTION

1. This objection is made by the National Trust for Places of Historic Interest or Natural Beauty ("the National Trust").

2. The National Trust has an interest in the Cambourne to Cambridge Busway Scheme ("the Scheme") because it is a party to two restrictive covenants ("the Covenants") over land in the parish of Coton which is included within the Order limits ("the covenanted land"). The Covenants were entered into in 1958 under section 8 of the National Trust Act 1937 in order to give greater protection from urban development to this area of countryside lying to the south of the A1303.

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3. The route extends across covenanted land parcels on Madingley (Whitwell) Hill, which at 62 metres AOD is the highest point immediately west of Cambridge, and Coton Orchard through to the M11. The land parcels in question are identified in article 55(8) of the Order in the definitions of “the burdened land”, “the burdened replacement land” and “the Coton Orchard burdened land”.

4. The founders of the Cambridge Preservation Society, now Cambridge Present and Future (CPPF) purchased land in this area to protect the rural character of the area and associated views of the city from the western approaches to Cambridge at a time when the area was at risk from proposals for a ring road to the south of the city. The land was subsequently included within the Cambridgeshire Green Belt, and for the past 50 years Green Belt policy has effectively prevented the encroachment of Cambridge into Coton and the surrounding countryside.

5. The covenants were put in place to protect the rural character of the area, preserve the well-loved views to and from Cambridge and to prevent it being damaged by urban sprawl (the “Conservation Interests”). Coton Orchard is considered to be especially significant on the grounds that orchards are characteristic of rural landscapes.

6. It is important to acknowledge that covenants do allow changes if, in the opinion of the National Trust, they are acceptable in the context of the intended purpose of the covenant.

NATIONAL TRUST SUMMARY POSITION

The Trust understands and supports the need for public transport infrastructure and sustainable transport proposals that will improve journey times and reduce congestion for residents and is generally supportive of the aims of the project.

The National Trust **object** to the draft Transport Works Act Order and deemed planning permission on the grounds of the inclusion of Article 55 (disapplication of agreements restricting use of land) within the draft Order and the adequacy of the proposed mitigation (including the Tree Mitigation Strategy), which the Trust considers inadequate in respect of the impact on the removal of trees at Coton Orchard. The Trust also has further concerns about the design of the proposals.

The National Trust continues to engage with the Applicant for the Order and considers that it is possible that its concerns may be addressed by agreement with the Applicant.

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DETAILED RESPONSE AND GROUNDS FOR OBJECTION

7. The Scheme is an off-road route which would cross covenanted land held by the National Trust at Coton and Coton Orchard. The National Trust have been in discussion with the Greater Cambridge Partnership (GCP) as the proposed developer of the Scheme about how, if the Order were to be made, the conflict between the Covenants and the Scheme could be addressed.

8. Alongside this, the National Trust has considered the implications of the proposal on the purposes of the covenant, which is in place to protect the rural character of the area, preserve the famous views to and from Cambridge and to prevent it being damaged by urban sprawl. The National Trust's Senior National Consultant - Landscape Planner has reviewed the proposals in terms of the landscape and visual impact and concluded that the proposals would amount to a slight adverse impact on the character of the covenanted land.

9. However, the Cambourne to Cambridge busway would create a linear, engineered feature across a key piece of previously undeveloped Green Belt land in a landscape of visual, heritage and natural significance which would have an urbanising effect on the western approach to the city, and the Cambridge Green Belt. The Scheme would have an impact on a particularly valued landscape within the Green Belt which has intrinsic visual, historic, natural and cultural significance, and which is fundamental to preserving the setting and special character of the historic city of Cambridge in accordance with the original purposes of the Covenants. In the context of the public benefit that the proposed public transport scheme would achieve when balanced against the harm that the Scheme would have upon the Covenants, the National Trust accept that the harm would likely be outweighed by the benefits that can be delivered by the Scheme particularly if the impact on the conservation interest the Covenants are designed to protect is well managed.

The draft Order

10. The construction works, the continued presence of the permanent works, and the operation of the Scheme would result in breaches of the Covenants. To deal with this conflict, the applicant for the Order ("the Applicant") has included a provision in the Order (article 55) which would have the effect of suspending the Covenants, making them unenforceable to the extent that they prevent, hinder or in any way interfere with the construction of the Scheme or the use or occupation of land for the purposes of this Order.

11. The National Trust considers that a more appropriate approach would be for the conflict between the Covenants and the Scheme to be dealt with by agreement which is the approach commonly taken by the Trust when working with landowners of land covenanted under section 8 of the National Trust Act 1937 who are seeking to sympathetically develop their property. Here discussions with the Applicant to date have included the imposition of suitable replacement covenants for the land which is

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acquired compulsorily and allowing the suspension of the Covenants in the case of temporary land take for construction and for the replacement open space. This preferred approach would also enable the agreement to include provision for mitigation of the effects of the scheme on the matters which the Covenants are intended to protect and would provide certainty for both parties as to the administration of the Covenants going forwards, should the Order be made, both in terms of enabling the green transport scheme and ensuring that the conservation interest the Covenants are in place to protect is preserved to the extent possible. The Applicant has agreed to this approach in principle has been working with the National Trust to conclude the terms this agreement.

12. The National Trust also notes that article 20 of the Order (planning permission and supplementary powers) appears to disapply the tree protection order regime as regards the Scheme. Whilst the National Trust understands the reason for this, it has concerns about the mitigation for tree loss, explained later in this document.

Deemed Planning Permission

13. Along with the application for the Order, the Applicant has also requested a direction from the Secretary of State for deemed planning permission to be granted for the Scheme. This request includes a series of conditions that would be attached to any grant of planning permission. The National Trust has considered these conditions and note that a number of them relate to specific details of the Scheme that would have an implication on the covenanted land at Coton and at Madingley Hill.

14. We provide our comments on each condition we consider relevant to our interests accordingly:

15. *2. Approved Plans and Documents* – This condition seeks that development should be delivered in accordance with approved plans and documents. Should the details of the Scheme vary and result in changes to the plan which would have an impact on covenanted land at Coton, we would expect that the National Trust should be consulted on any change, notwithstanding whether the Covenants have been suspended in part on the basis that the variation within the design could exceed the suspension of the covenanted land or replaced. As part of any agreement for the suspension or replacement of the Covenants, the National Trust would also expect there to be specific restrictions on the detailed design of the permanent works which minimise the impact on the matters which the Covenants protect.

16. *3. Development Phasing Plan* – This condition relates to the sequence of delivery of the Scheme to include a proposed sequence for providing detailed design of certain elements and areas including, where appropriate, the securing of additional detailed planning permissions. Given the wording of the Covenants, which require prior consent for the erection of any buildings or structure on covenanted land, the National Trust considers that it should be a consultee with regards to the detail of location and design of any building or structure forming part of the Scheme and located on covenanted

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land. Locations of proposed site compounds, landscaping and enabling works are also of particular concern to the National Trust given the implications that they could have upon the covenants.

17. *9. Local Environmental Management Plan* – This condition requires a LEMP to be submitted and approved by the LPA prior to commencement of any phased development works. This includes details of temporary fencing and means of enclosure, and construction lighting. Such features are of interest to the National Trust in respect of the covenanted land. The National Trust consider that prior consultation with the National Trust should be undertaken on these matters which would conflict with the Covenants were they not to be suspended or replaced and should be accounted for in the preparation of such management plans.

18. *10. Tree Protection* – This condition requires a phased tree protection methodology in the form of an Arboricultural Method Statement and a Veteran Tree Mitigation (including compensation) Strategy to be submitted to and approved by the relevant local planning authority prior to the commencement of development. The National Trust has significant concerns regarding this condition. Further commentary is provided in respect of our concerns regarding tree mitigation elsewhere in this submission. The National Trust requests that the condition be amended to provide that the National Trust is consulted on the details of the documents to be submitted under this condition given the purpose of the Covenants, particularly with regards Coton Orchard.

19. There appears to be no requirement for the method statement and tree mitigation strategy to be complied with, and the National Trust considers that this should be addressed.

20. *11. Removal of Trees or Hedgerows* – this condition seeks to restrict the removal of trees during the bird nesting period. Whilst the National Trust is supportive of the content of this condition, given the purpose of the Covenants, we would want to ensure that this is specifically enforceable.

21. *17. Hard and Soft Landscaping Scheme* – this condition relates specifically to details regarding the hard and soft landscaping design of the Scheme. Given the purpose of the Covenants to preserve the rural character and openness of the land, the National Trust consider that the details required as part of this condition are of particular relevance to the National Trust's interests and consider that consultation should take place with the National Trust to ensure that the design of the hard and soft landscaping scheme is acceptable in respect of the covenanted land. As part of any agreement for the suspension or replacement of the Covenants, the National Trust would also expect the parameters of the design of the permanent works to be clearly scoped.

22. *19. Location, layout, scale and external appearance* – guided busway and its associated structures - this condition requires the approval of the local planning authority for the location, layout, scale and external appearance of:
    a. Any building, including utility enclosures and substations;

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b. Any Busway Stop;
c. The M11 overbridge, Bin Brook crossing or any other bridge and their associated structures including embankments, abutments and parapets;
d. Location and type of environmental noise barriers (comprised of earth mounds, landscaping or physical acoustic fence / barriers structures or a combination thereof if required) associated with the guided busway system; and
e. Retaining structures.

23. Many of these elements could be located within covenanted land or land in proximity to it. On this basis, given the purpose of the covenant, it is considered that the National Trust should be identified as a consultee in respect of these details. The National Trust therefore requests that the condition be amended to require the relevant local planning authority to consult the National Trust before giving any approvals under the condition which relate to development on covenanted land. As part of any agreement for the suspension or replacement of the Covenants, the National Trust would also expect there to be specific restrictions on the detailed design of the permanent works which minimise the impact on the matters which the Covenants protect.

24. *20. Location, design and layout – Access* - as per condition 19, the details of the access for temporary haul roads and or site access could have implications for covenanted land. It is considered that the National Trust should be a consultee in respect of these details.

25. *21. Operational Lighting* – this condition requires that no external lighting be installed prior to a full assessment and mitigation scheme being approved by the local planning authority. With regards to the implications for the covenanted land, given the purpose of the Covenants to preserve the rural character, it is considered that this is relevant to the National Trust, and we would require consultation to be undertaken before approval is given to understand the impact on covenanted land.

26. *25. Soft Landscape Maintenance and Management Plan* – this condition is linked to condition 17. The condition indicates that "Any trees or plants provided as part of the soft landscape scheme which, within a period of 10 years from the planting date, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species as those originally planted. Whilst the National Trust is supportive in principle of this approach, again, we would require consultation with GCP to ensure that this meets the requirement of any covenant that may be in place alongside an assurance that this would be a period of 20 years.

27. *27. Provision of Replacement Open Space Land* – this condition requires an area of replacement open space land to be allocated as public open space and be made available to the public at a location west of the M11 at Rectory Farm and south of the proposed M11 Overbridge. It is understood that the replacement open space land is intended to be located in covenanted land in close proximity to Coton Orchard and would accommodate some replacement tree planting. Given the National Trust's

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interest in the scheme and the remit of the Covenants to be impacted by the Scheme, we consider that further consultation with the National Trust should take place before approval is given under this condition, in respect of the final layout and hard and soft landscaping details of the replacement open space land.

General Comments

Tree Mitigation strategy

28. The wording of each of the Covenants specifically references trees, in a stipulation which states that "*No timber or timberlike trees shall without the previous written consent of the Trust be felled lopped topped cut removed or replaced by other species or by a different mixture of species or any different distribution of species*".

29. The Scheme results in the loss of many orchard trees and the busway would bisect Coton Orchard.

30. Furthermore, the Scheme would result in the loss of a significant number of trees in the existing orchard to facilitate the creation of the busway. The covenants stipulate that "*No timber or timberlike trees shall without the previous written consent of the Trust be felled lopped topped cut removed or replaced by other species or by a different mixture of species or any different distribution of species*". GCP has submitted a mitigation strategy for the loss of trees, which accounts for 6no. veteran trees within the replacement open space land. This does not account for the loss of non-veteran trees.

31. The primary issue from the perspective of the National Trust lies not in the sheer number of apple trees lost, but rather in the fragmentation of the orchard caused by the busway, which disrupts its overall integrity of Coton Orchard. Therefore, the focus should be on establishing a new orchard character instead of merely replacing a specific quantity of trees and the National Trust are looking for suitable proposals which address this. This dimension is considered to be crucial for the Scheme to be considered acceptable to the National Trust, in respect of the impact that the Scheme could have upon the covenanted land.

32. The National Trust consider that the extent of the orchard area that is proposed to be removed should serve as a foundation for determining the necessary replacements. It is our view that the proposed 'open access land' (i.e. the replacement open space) is not the most suitable location for compensation. The topography is inappropriate due to the embankment adjacent to the busway and the presence of the attenuation pond, which results in an undulating landscape that is not conducive to commercial orchards. Additionally, the ponds and busway further divide this area, resulting in fragmentation of its character. It is the National Trust's view that it would be more beneficial to plant the replacement open space as woodland to effectively screen and integrate the busway and attenuation ponds within the surrounding context. Further consideration

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should be given to the proposed and required tree mitigation in an alternative appropriate open space.

33. It is understood that GCP have sought to engage the landowner of Coton Orchard to discuss possible mitigation however such negotiations have not been possible at this stage.

34. The National Trust are concerned regarding the proposed wording of condition 10 of the deemed planning permission, on the basis that the condition does not appear to require compliance with the tree mitigation strategy should a revised version be agreed. Further consideration of the wording of this proposed condition and the pre-requisites of the condition should be pursued throughout the examination of the TWAO.

Landscape Character

35. Given the wording of the Covenants and the intention behind them to preserve the rural character of the area, advice has been taken from our Senior National Consultant – Landscape Planner.

36. The National Trust have concerns regarding the potential negative impact of the Scheme on the landscape within the National Trust's covenanted land at Coton. This concern is particularly rooted in:

- The impact of the Scheme on the character of Coton Orchard, where the introduction of the busway will have the effect of subdividing and fragmenting the orchard into two sections, resulting in a significantly smaller northern section and a southern section that would be a remnant and would no longer be perceived as an orchard. This situation is exacerbated by the elevated nature of the busway and the screen planting on both sides, which further contributes to the division.

- The impact of the Scheme on the landscape to the south of Maddingly Road where the Scheme will introduce changes that will erode the rural agricultural character, and albeit to a lesser extent, where the appearance of the busway in the landscape will erode the quality of the views enjoyed from Red Meadow Hill.

37. The National Trust hold the view that the Landscape and Visual Impact Assessment (LVIA) has been conducted in accordance with best practice and assesses the value, susceptibility, and sensitivity of the landscape in a suitable manner. It is considered that the LVIA somewhat underestimates the magnitude of change resulting from the Scheme and sensitivity of the landscape and visual receptors (see earlier comments in appendix A for an full assessment) —particularly in terms of the impact of buses traveling at 50 mph and the potential need for lighting along the entire busway – the National Trust are of the opinion that any adjustments to reflect a greater magnitude of change or sensitivity would still not elevate the scale of effect to a level that could be considered significant in terms of Environmental Impact Assessment (EIA). The conclusions of the LVIA are therefore largely agreed, which state that:

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38. **In regard to impact on Coton Orchard**, this lies within the LCA 3B Bourne Tributaries Lowland farmlands, the impact at year 1 is assessed as being slight to moderate adverse with the impact at year 15 being slight adverse, which is not significant in EIA terms. In regard to visual impact, the orchard is not seen from public areas and the impact on visual receptors at year 1 is assessed as being slight adverse with the impact at year 15 being neutral, which is not significant in EIA terms.

39. **In regard to impact on the landscape south of Madingley Road**, this lies within the LCA 4B Lolworth to Longstone Wooded Claylands, the impact is assessed as being moderate adverse year 1 (significant) slight moderate adverse year 15 (not significant). With regard to lighting, the effect would be slight adverse which is not significant in EIA terms. With regard to visual impact and views from Red Meadow Hill, the Scheme will largely be screened by intervening topography and existing vegetation and further mitigated by the bunding and planting to the south side of the busway, although, even with this, it is anticipated that buses will be seen for some time. This is assessed as being slight adverse at year 1 and year 15, although this is not regarded as being significant in EIA terms.

40. In summary, the National Trust consider the landscape effects on the covenanted land at Coton as being a noticeable change affecting a few characteristics of the landscape of moderate sensitivity, and that in terms of visual amenity, the Scheme would be a noticeable somewhat discordant feature resulting in a small change to parts of some sensitive views. Such an assessment would sit the level of effect as being slight to moderate adverse, which is considered to be a fair assessment and not out too of line with the LVIA. The National Trust would judge this scale of effect as being something that could be accommodated without too much harm.

41. Despite this, the National Trust maintain the view that the landscape to the south of Madingley Road could benefit from a more rural approach to the detailing of the earth bunds flanking the busway. By doing so, the agricultural land removed could be minimised, thereby mitigating the landscape impact, especially in the short term. Furthermore, regarding Coton Orchard, the damage inflicted is best addressed by restoring the areas of Coton Orchard that have previously fallen out of production. The compensation suggested in the application falls short of what is necessary to accomplish this restoration.

42. With regard to the covenanted landscape within the Lolworth to Longstowe Wooded Claylands, within which there is a small section of bus route, the Assessment judges that, in the long term, the overall effect will be slight to moderate adverse.

43. With regard to the covenanted landscape within the Bourne Tributaries Lowland Farmlands landscape, in which the bulk of the changes will take place, the Assessment judges, that in the long term, the scale of effect to be slight adverse.

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44. Whereas for the Lolworth to Longstowe Wooded Claylands landscape this judgement is considered reasonable, it is considered that, for the following reasons, the judgement of the scale of effect for the Bourne Tributaries Lowland Farmlands landscape is underrated:

- The Assessment underrates the value of the landscape context, this is because, although the Assessment notes the presence of Coton Orchard provides "distinctive local landscape features", it fails to acknowledge that Colton Orchard is a highly valued remnant of a cultural landscape that contributes to the rural character of the LCA and is hugely appreciated by the community, and that the medium value, attributed by the Assessment, underrates its value. It should be noted that, the Greater Cambridge Shared Partnership Greater Cambridge Landscape Character Assessment, identifies that, "further loss of traditional orchards", as being one of the forces for change in the Bourne Tributaries Lowland Farmlands landscape.

- The Assessment, under evaluates the susceptibility of the landscape to accommodate the bus route, this is because:
  - the landscape already accommodates infrastructure, and its capacity to accommodate further infrastructure without losing its character as a green open wedge that connects Cambridge to Coton and the wider countryside, will be severely eroded;
  - Also, the form and orientation of the orchard, it being wider (east – west), than it is tall (north - south) is more susceptible to being dissected in two and turned into two narrow strips of land by the east west bus route, and so loose its intrinsic, relatively square proportions, (characteristic that distinguishes an orchard from a row of apple trees), than if the dissection was north - south, because, in that way, the remaining orchards would retain a roughly square form and so still read as orchards.

- The Assessment, under evaluates the magnitude of change, this is because:
  - the Assessment, omits to fully describe that: the bus route is fenced, and other than where there are crossing points, will dissect the landscape in two and restrict movement perpendicular to the line; and
  - the Assessment does not clearly indicate that the buses will be travelling at speeds of up to 50mph, and that the introduction of this will be highly noticeable, distracting and further erode the sense of rurality tranquillity of the landscape.

45. Collectively, these attributes add up to a scale of change that is considered greater than the minor - moderate adverse effect magnitude of change attributed by the Assessment. Accordingly, the National Trust raise significant concerns with regards to the impact that the Scheme would have on the established rural landscape character.

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CONCLUSION

46. The National Trust have reviewed the proposals in the context of their interests in the form of covenanted land in the Coton area, including Coton Orchard, and at Madingley Road. Whilst the National Trust are supportive of sustainable transport proposals, we have prevailing concerns in respect of the proposed approach to tree loss and mitigation on this covenanted land and impact that the Scheme would have on landscape character, as set out in the commentary provided throughout this submission.

47. We trust that these representations sufficiently set out the National Trust's position in respect of the Scheme and would welcome the opportunity to engage further with the Transport Works Act Order process as it proceeds.

Yours sincerely

Claudia Clemente-Benfield BSC (Hons.) MA MRTPI
Planning Adviser

Encs: National Trust plan of covenanted land and busway route

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National Trust

Property: Wimpole

Title: Full Busway Bounds / NT Covenant Overlap

Date: 03/05/2023

Scale: 1:27,500 (A3)

Grid Ref: 538551E 259115N m

GIS Consultancy
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Heelis
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Boundary Line (Busway)

Covenant Land

Coton Orchard

Land at Coton

0 3 Km

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