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Dear Richard,

I write further to your email of 3rd November 2023 in which you invited Thames Water Utilities Limited ("**TWUL**") to set out its position in respect of the requirements contained in Section 16 of the Acquisition of Land Act 1981 ("**ALA 1981**") ("**Section 16**").

Background

As you are aware, the Oxfordshire County Council (Didcot Garden Town Highways Infrastructure – A4130 Improvement (Milton Gate to Collett Roundabout), A4197 Didcot to Culham Link Road, and A415 Clifton Hampden Bypass) Compulsory Purchase Order 2022 ("**the Order**") was made by Oxfordshire County Council ("**the Acquiring Authority**") on 21 December 2022.

Section 16 provides a mechanism for a statutory undertaker to make a representation to the 'relevant minister' on the basis that the land proposed to be acquired was acquired by the relevant statutory undertaker for the purposes of its undertaking and is also used for the purposes of the carrying on of its undertaking. The relevant minister must then certify that they are satisfied that the land can be:

- (s16(2)(a)) acquired and not replaced without serious detriment to the carrying on of the undertaking; or
- (s16(2)(b)) acquired and replaced by other land belonging to, or available for acquisition by, the undertaker without serious detriment to the carrying on of the said undertaking,



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in order for the land to be compulsorily acquired. If such an objection is made in time and the relevant minister does not provide such a certificate, then the land cannot be acquired.

In the present instance, representations were not made to the Minister for Environment, Food & Rural Affairs, however, we note that you have kindly agreed to consider the position as though representations were received within the relevant timescales, and therefore I have set out below details of the material detriment which will be caused to TWUL's undertaking by the proposed acquisition.

Section 16 Representations

Thames Water Utilities Limited is a water and sewerage undertaker under the Water Act 1989. The land which is proposed to be acquired by the Acquiring Authority pursuant to the Order comprises part of the same parcel of land as TWUL's operational equipment at the Culham Sewage Treatment Works, from which it operates as a statutory undertaker. The land proposed to be permanently acquired is therefore operational land for the purposes of the undertaking, notwithstanding that it does not presently contain operational equipment (save for plot 17/11i which contains monitoring equipment). Plot 17/11i is currently used as part of TWUL's daily Operational activity, as final effluent sampling is carried out and the final effluent flow monitor is also situated in this area and 24/7 access is required to this apparatus. This land has been identified as being required for the expansion of the Culham Works, which is necessary to respond to increased growth in the catchment area.

The test set out in Section 16(2) requires that the appropriate minister (in this case, the Minister for Environment, Food & Rural Affairs) consider *whether "(a) the land proposed be acquired can be purchased and not replaced without serious detriment to the carrying on of the undertaking, or (b) that if purchased it can be replaced by other land belonging to, or available for acquisition by, the undertakers without serious detriment to the carrying on thereof"*.

I address each of these limbs of the test below.

(a) whether the land proposed be acquired can be purchased and not replaced without serious detriment to the carrying on of the undertaking

The Culham Works currently treats the flow of an approximate population equivalency ("PE") of 4,000 from the villages of Berinsfield, Culham and Clifton Hampden, as well as the Culham Science Centre.

The Culham Works currently operates with sufficient headroom for the PE which it serves so as to meet the key sanitary parameters set out in its operating Permit TH/CSSC.2374 ("the Permit"). Those are: biochemical oxygen demand; suspended

solids; and ammoniacal nitrogen. The key sanitary parameters provide a measure of the permitted 'load' entering the river, which has an impact on the health of the river and water quality.

The Process Model for the Culham Works indicates that between 2021 and 2026, which is the start of Asset Management Period 8 ("AMP8"), the Culham Works currently has enough treatment capacity to remain compliant with the sanitary parameters for the projected growth up to 2026.

FUTURE NEED FOR DEVELOPMENT AT THE CULHAM WORKS AND GROWTH PROJECTIONS

The expansion of the Culham Works will be required in order to meet projected growth within the catchment of the Culham Works.

There are two large development locations within the catchment, namely, Culham Science Centre and Berinsfield Garden Village. Both development sites have been allocated within the Local Plan for housing development. The land around the Culham Science Centre has been released from the Green Belt to enable the land to deliver approximately 3,500 new homes with occupation starting in 2029. Land at Berinsfield has also been released from the Green Belt and was awarded Garden Village status in 2019. The land will be developed to provide around 1,700 new homes with occupation starting in 2030. The delivery of development at these locations will be facilitated by the Scheme and as such is anticipated to come forward after completion of the Scheme.

The population within the Culham Works catchment area is expected, therefore, to increase by approximately 46% by 2031. This means that the PE for the Culham Works will increase from circa 4,000 PE to over 5,800.

The planned growth in the population of the catchment is projected to further increase during asset management plan period 9. The PE for the Culham Works is expected, therefore, to be circa 10,500 by 2036. This represents an increase of 162% from the current estimated PE for the Culham Works. This is the highest growth projection of any asset within TWUL's estate.

Major upgrades of the Culham Works are required to meet this increased growth. Upgrades are required, in order to respond to the growth projections, to:

1. The volume of treated, final effluent discharging to the environment.

2. The ability to treat flows to the required quality parameters as set out in the Permit.
 3. The Flow to Full Treatment (to ensure that the Flow to Full Treatment permit is sufficient to not increase the number or duration of storm overflow events).
 4. The storm tank capacity so that in the event of rainfall or snow melt, premature discharges to the environment do not occur.
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TWUL has carried out a process of designing solutions to meet the projected growth as part of producing its AMP8 Business Plan (PR24 (Price Review 2024)). The preferred solution is for an extension of the existing equipment at the Culham Works. This upgrade has been included in the draft business plan submitted by TWUL to the Water Services Regulation Authority ("Ofwat") in October 2023.

The upgrade of the Culham Works has the following operational and financial advantages:

1. It would enable TWUL to accommodate the projected growth by making use of approximately 90% of the land that is already owned by TWUL at the Culham Works;
2. The design of the proposed expansion works would secure capacity for 10 years up to the 2036 design horizon, which is the most appropriate timeframe to design growth upgrades;
3. It delivers the most efficient solution for TWUL customers by ensuring efficient expenditure of customer money.

If the Order were confirmed, TWUL would have no alternative but to acquire additional land adjacent to the Culham Works (subject to such land being suitable) in order to implement its preferred solution. If such land could not be acquired by agreement, TWUL would have to rely on its powers of compulsory acquisition. The consequence of such a process would be a delay of 2 to 2.5 years caused by assembling the land required for the upgrades.

In order to accommodate the projected growth, the proposed upgrades will commence within the next 2 to 5 years in order to ensure that the upgrades are delivered ahead of 2031. If the Order is confirmed, such that TWUL has to acquire alternative land through compulsory acquisition to facilitate the upgrades, TWUL would not be able to meet this timeframe.

THE IMPACT OF THE SCHEME ON OPERATIONS

Developers are entitled to connect to TWUL's sewerage network regardless of capacity. TWUL, as the statutory undertaker, has a responsibility to provide upgrades to the Culham Works to accommodate increased demand and growth. Confirmation of the Order will result in the permanent acquisition of the land identified for the upgrade of the Culham Works, thereby preventing the implementation of TWUL's preferred solution for meeting forecast growth within the catchment.

Confirmation of the Order could delay TWUL's ability to ensure an adequate sewerage system for the Culham Works catchment area. If development was to be delivered as planned within the catchment, the inability to upgrade the Culham Works as proposed could result in the following:

1. Flooding of land surrounding the Culham Works as a result of increased flows within the catchment without adequate treatment capacity;
2. Internal and external property flooding as a result of foul water flows surcharging the network, for example, at manholes;
3. Storm overflow events;
4. Events that result in breaches of the site's statutory permits, impacting TWUL's performance rating and resulting in financial penalties; and
5. Non-compliance with the site's quality parameters in each year that upgrades are delayed, resulting in financial penalties.

Contrary to the Acquiring Authority's position at paragraphs 15.26 – 15.27 of its Statement of Case, TWUL considers that the confirmation of the Order will result in serious detriment to the carrying on of TWUL's undertaking at the Culham Works and would result in real environmental risks resulting from delays to the upgrade of the facility.

(b) whether if purchased, the land can be replaced by other land belonging to, or available for acquisition by, the undertaker without serious detriment to the carrying on of the undertaking

There is no other land within TWUL's ownership which would be suitable for expansion. Any land which could be acquired by TWUL pursuant to a compulsory purchase order would not be able to be acquired in sufficient time for the necessary development. As set out above, the upgrades will need to commence within the next 2 to 5 years in order ensure that the upgrades are delivered ahead of 2031.

I therefore respectfully request, on behalf of TWUL, that the Minister for Environment, Food & Rural Affairs, in consideration of the above information and the attached document prepared by TWUL confirms that the tests set out in subsection (2) of Section 16 are not met and that the proposed acquisition would have a material detriment on TWUL's statutory undertaking at the Culham Sewage Treatment Works.

We look forward to hearing from you.

Yours sincerely



Robert Smith BSc MRICS

Associate – RICS Registered Valuer