



Department
for Transport

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Dear Laura,

I would like to begin by apologising for the letter that was emailed to you on 12 September. It has been brought to my attention by my officials that this was sent in error.

Further to the holding reply of 22 March, in which you asked the then Secretary of State for Transport to re-open the Road Investment Strategy 2: 2020 – 2025 (RIS2), I am writing to inform you of the decision.

The Secretary of State has a discretion to vary a strategy which has already been set, under s. 3(1) of the Infrastructure Act 2015. The Act does not set out the circumstances in which a strategy may be varied. It does however require that if consideration is given to varying a strategy, the Secretary of State must have regard to the desirability of maintaining certainty and stability in respect of road investment strategies (para. 6(3) of Schedule 2).

You have requested that the Secretary of State re-opens RIS2 based on a number of changes in circumstances you have identified since RIS2 commenced:

- a) Recasting of funding and scheme delays;
- b) Withdrawal of the Lower Thames Crossing (LTC) Development Consent Order (DCO) application in November 2020 and its strategic importance to RIS2;
- c) The pausing of the smart motorways programme;
- d) Review of the National Networks National Policy Statement (NNNPS) which you note should lead to the policy being updated to reflect the UK's legal commitment to Carbon Net Zero (based on your assertion that the policy is outdated and not compliant with UK law);
- e) The need for a Food Security Strategy, with your assertion that RIS2 would destroy much valuable agricultural land; and,

- f) The new legal levels for air pollution being enshrined into UK law by the end of October this year.

You have stated that these amount to major variations to the integrity of RIS2, requiring the re-opening of RIS2.

Your letter relies on paragraph 6.29 of the Licence issued by the Secretary of State to Highways England (now National Highways). The Licence constitutes statutory directions and guidance provided to National Highways. It is not policy or guidance which the Secretary of State must follow when determining whether to vary a road investment strategy. The only mandatory consideration which the Secretary of State must consider when deciding whether or not to vary a RIS is that set out above, namely the desirability of maintaining certainty and stability in respect of road investment strategies. The Secretary of State retains a wide discretion as to the circumstances in which it is appropriate to vary a road investment strategy.

The Secretary of State has had regard to the matters you have raised in your request. Regard has also been given, as required, to the desirability of maintaining certainty and stability in respect of road investment strategies. Having done so, the Secretary of State has determined that it is not appropriate to re-open RIS2. This is for the reasons set out at sections a) to f) below.

- a) Recasting of funding and scheme delays.

You state in your letter that, at Spending Review 2021, the RIS2 budget was reduced by £3.4 billion and you also refer to “considerable delays in so many areas of RIS2”.

The Secretary of State does not consider that the recasting of funding, or the scheme delays, are appropriate reasons justifying the re-opening of RIS2. The change in total funding for the RIS2 period of 2020–2025 has been made in order to bring the funding profile more into line with the latest delivery forecasts, largely as a result of delays that had already occurred to some of the largest schemes earmarked for funding in this period, including LTC and A303 Stonehenge. The small number of delays to DCO decisions that were announced after the Spending Review have a very limited financial impact. Neither these changes in funding, nor the delays, affect the integrity of RIS2.

The vast majority of the schemes in RIS2 are proceeding as planned, and the performance targets and objectives in RIS2 remain as valid now as they were when RIS2 was first set. The road investment strategy remains substantially the same as the strategy that was originally consulted upon.

- b) Withdrawal of the LTC DCO application in November 2020 and its strategic importance to RIS2.

The withdrawal of the LTC DCO application has resulted in the scheme being delayed, making it necessary to recast the funding (as discussed above). The Secretary of State does not consider that the withdrawal of the application affects the overall integrity of RIS2 and does not consider it an appropriate reason to justify reopening RIS2. This is because the RIS does not specify the precise scheduling of schemes within the 5-year period. The overall integrity of RIS2 is, therefore, not materially affected. Your letter notes that National Highways Annual Report 2021 identifies the failure to promote the proposed LTC successfully as an “extreme” and “likely” risk, “extreme” being defined as an “existential threat” to National Highways. However, the Annual Report also makes clear the mitigating action National Highways are taking to manage the identified strategic risks in what is a significant project.

- c) The pausing of the smart motorways programme.

You have stated in your letter that the LTC is being designed to smart motorway standards. As explained in National Highways letter of 24 March 2021, the LTC will be designated an all-purpose trunk road (A-road) and is being designed to GD300 standard. This standard provides the design requirements and guidance for new and upgraded all-purpose trunk roads. By contrast, smart motorways are designed in accordance with the GD301 standard. The GD300 standard does now include some of the same safety features of the GD301 standard but this does not make roads which include some GD301 features smart motorways. Therefore, the LTC scheme is not affected by the pause to the delivery of new All Lane Running (ALR) motorways.

On the topic of smart motorways, in January 2022 it was announced in our response to the Transport Select Committee report on smart motorways that there will be a pause in the rollout of future ALR smart motorway schemes until a full 5 years’ worth of safety data was available. In addition, it was confirmed that the conversion of dynamic hard shoulder smart motorways to ALRs would also be paused. The pause affects eleven planned RIS2 smart motorway schemes and this does not impact the overall funding for RIS2 because it is likely to be balanced by the additional spending on the construction of more emergency areas and other safety measures on existing sections of smart motorways, as also announced in response to the report, so the Secretary of State reiterates the points made above regarding funding changes.

- d) Review of the NNNPS.

Your letter describes the NNNPS as “the policy that governs the consenting for RIS2 schemes”.

As made clear in paragraph 1.21 of the NNNPS the RIS is an investment programme for roads that sits alongside the NNNPS. As you note, the NNNPS is currently being reviewed and it is expected that it will be completed no later than spring next year. Until this review is complete the current NNNPS remains relevant Government policy for the purpose of DCO decisions.

- e) The need for a Food Security Strategy with the assertion that RIS2 would destroy much valuable agricultural land.

National Highways, as scheme promotor for the LTC and other schemes in the RIS, is committed to mitigating the environmental impact of their projects. National Highways and my Department use thorough selection processes to identify and assess potential locations for their schemes and choose the route which provides the best balance between meeting the scheme objectives and minimising impact on the environment and local communities.

The use of agricultural land has been the subject of consultation, including the Local Refinements Consultation, which has just concluded. In addition, the RIS must not be seen in isolation, and as set out above, the RIS sits alongside the NNNPS. A DCO project, such as the LTC, will be subject to an examination. Following that examination, the Examining Authority in preparing the recommendation report, and the Secretary of State in making the decision under section 104 of the Planning Act 2008, will consider compliance with the NNNPS and other important and relevant matters, including the loss of agricultural land and appropriate environmental mitigation.

In light of the above, it is not considered this is an appropriate basis for exercising the discretion to re-open RIS2.

- f) The new legal levels for air pollution being enshrined into UK law by the end of October this year.

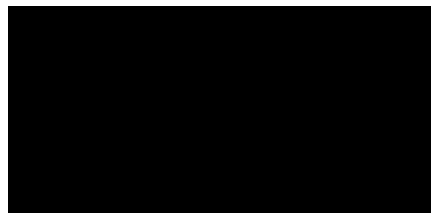
The Environment Act 2021 sets out a number of requirements, including the requirement for legally-binding, long-term environmental targets. The Department for Environment, Food & Rural Affairs consultation on the first Environment Act 2021 environment targets closed on the 27 June 2022. The deadline in the Environment Act 2021 for laying the draft statutory instruments is 31 October 2022, coming into force once approved by Parliament. Therefore, as you highlight, no specific targets have yet been set under this Act.

In addition to the above reasons, there would be limited value in re-opening RIS2 so close to RIS3. We are halfway through the five-year delivery period of RIS2.

The process for developing the next RIS begins nearly five years before a RIS goes live and we are already nearing the end of the first of three phases for developing RIS3. National Highways is due to publish its SRN Initial Report this autumn which sets out proposals and recommendations for Road Period 3 (2025-2030). The Department will consult on these proposals to gather views and ensure we have as complete a picture as possible of what RIS3 should seek to achieve.

Consequently, even if it was appropriate to re-open RIS2, it is unlikely that a re-set RIS2 could be published until towards the end of the RIS2 period. As RIS3 would be ready to start at that point, there would be a significant duplication of effort and additional cost, for little additional value. Incurring extra public resources (and cost to the public purse) risks taking valuable resources away from setting future priorities.

The Secretary of State considers that none of the matters raised, individually or collectively, justify re-opening RIS2. This is all the more so when regard is given, as required, to the desirability of maintaining certainty and stability in respect of road investment strategies in accordance with the Infrastructure Act 2015. The Secretary of State considers that the matters raised in your letter do not affect the integrity of RIS2 and, regardless, do not outweigh the importance of maintaining certainty and stability in RIS2.



BARONESS VERE OF NORBITON