

Minister for Local Government, Housing and Planning,

**RECALLED PLANNING APPEAL, WORKS ADJACENT TO AND WITHIN THE
CONFINES OF BO'NESS ROAD, GRANGEMOUTH**

Purpose

1. To invite you to agree with the reporters' recommendation to refuse planning permission for this recalled appeal. The reporters' full report will be sent under separate cover.

Priority

2. Routine. A response by 15 January 2019 would allow for our processing target to be met.

Proposed Development and Site

3. The planning application seeks permission for works comprising the construction of a security management centre, 2 security gate houses, security fencing and 5 no. pipe bridges for utilities (gas, water, electric, effluent treatment) and utilities for chemical production (steam, cooling water, nitrogen and compressed air) and feedstock pipelines (ethane, propane, ethylene, propylene, crude oil) crossing the Bo'ness Road. It is proposed to construct new controlled access points with sliding gates at the western end of the road, close to Inchyra Roundabout, and hinged gates at the eastern end, near to the Avon Bridge. Annex 1 shows the site in context, whilst annex 2 shows the application boundary. Images of the site are set out in annex 3.

4. The proposals impact upon the A904 public "Bo-ness Road", which runs from Grangemouth to Bo-ness. The site boundary encloses a section of this road between the Inchyra Roundabout and the Avon Road Bridge. As a consequence of approval of this planning application, the section of this road running through the Grangemouth industrial complex would be closed. This is the "direct" route between the settlements. Alternative access exists via existing A roads running around the perimeter of the Grangemouth Industrial and refinery site.

Background and Reasons for Appeal and Recall

5. INEOS appealed against non-determination by Falkirk Council. The appeal was recalled for Ministers' determination, by means of a recall direction dated 6 October 2017 *because of the proposal's location within the Grangemouth Investment Zone which is identified in the NPF3 as a national development. NPF also notes that Grangemouth is a nationally important area for infrastructure and investment.*

Procedure

6. The appeal has been considered by means of site visits, written submissions and via multiple inquiry and hearing sessions. The reporters heard inquiry evidence from the Appellant and Falkirk Council, and Hearing Statements from Falkirk Council, Bo'ness Road Action Group, Shieldhall and California Community Council, and Bo'ness Community Council.

National Planning Framework and INEOS development vision

7. The **Grangemouth Investment Zone** is identified in Scotland's Third National Planning Framework (NPF3) as a national development. This status strengthens its nationally important role in freight handling, providing energy-related infrastructure and facilitating wider economic activity. The application supports INEOS's '20:20 Vision' of modernising their manufacturing facilities, upgrading infrastructure, and delivering new opportunities.

Consideration

Consultation Responses

8. Annex 4 sets out a note of the consultation responses from various consultees and interested groups in the application.

Policy Considerations

9. The reporters assessment (summary report of which is at annex 5) notes that the LDP lacks specific policy content on the proposals under consideration, and does not make any reference to the closure of the Bo'ness Road. Support can be drawn from the site being a development opportunity, and supporting inwards investment and redevelopment.

10. However the reporters' assessment also identified a degree of conflict with adopted LDP policies (Bus02, D02 and ED16, due to lack of a co-ordinated and master planned approach; Bus02 due to conflict with other LDP policies; and Policy Inf02 due to uncertainty around the sufficiency of the proposed mitigation in the medium and longer term).

Security and Master planning

11. The proposals have a clear security objective, but this is not presented as part of an overall access strategy for the wider INEOS site. The submitted Masterplan Framework considered these wider security objectives, but not its details, and the document was not subject to public or community engagement, and has not been ratified or approved by the Council. Essentially INEOS have submitted this planning application in isolation from any more detailed set of proposals or masterplan for the wider adjoining land, and have not holistically dealt with the traffic implications which will arise in the medium and long term.

12. The reporters found that a master planned and co-ordinated approach was required through the NPF and development plan, and they also require any impact

on local communities to be addressed. They found that the potential benefits for the proposals do not outweigh their concerns regarding the lack of a comprehensive approach to future development of the INEOS site or the Grangemouth Investment Zone that the impact upon communities.

13. Whilst some of the issues identified by the reporters around risk and uncertainty around mitigation can be addressed in a suspensive condition, this would not address the absence of a master planned approach. It would be possible for a more comprehensive approach to be developed, which could result in a future scheme being found acceptable.

Traffic Impacts and Mitigation Measures

14. The reporters noted that closure of the road, by erecting the new gates as proposed, would result in adverse impact on journey times. It would be possible for some short term mitigation to be put in place, but in absence of clarity on details of the future development of surrounding parts of the INEOS site, it would not be possible to mitigate for future development on the basis of the current information.

15. The report notes that future access arrangements, investment and employment assumptions set out in INEOS indicative Masterplan Framework for the site had not been factored into the Transport Assessment for the development.

16. The reporters set out that it would be possible, via planning condition, to set out an initial detail for mitigation. However this could only deal with impacts in the immediate short term. This mitigation would be insufficient in a relatively short period of time.

Economic Considerations

17. The reporters acknowledge the significant priority attached to economic growth in Grangemouth and in the INEOS site through its designation in the NPF. However, the reporters found that there was an absence of any clear assessment of net economic benefit taking account of the community impacts arising from the loss of a locally valued main road between Grangemouth and Bo'ness.

Recommendation

18. It is recommended by the reporters that the appeal be dismissed, and the application be refused. The reporters found that whilst there was clear support for the principle of economic development and redevelopment within the NPF and LDP, they noted that this application is for supporting infrastructure only. No sufficient justification was advanced which led the reporters to conclude that the road should close. The reporters found that to reach a positive conclusion on the application would require a conclusion that the nature of the proposal justified setting aside the need for a master planned approach, and also the stated intentions of the NPF, and they were unable to reach such a conclusion.

19. Having reviewed the case documentation and the reporters' report, we agree with the reporters' conclusions and recommend that you agree to refuse planning permission.

Presentation

20. We will liaise with communications colleagues prior to any decision being issued on this case.

21. In terms of presentational matters, it is noted that:

- The application has been locally controversial, with significant community opposition. Bo'ness Road Action Group (BRAG) was set up in the local community to oppose the proposed development. Refusal of the application would attract a degree of local support, given the potential adverse impact on transport and connectivity that approval would result in.
- Scottish Government Energy Industries Division Colleagues advise that INEOS have been clear that the success of further redevelopment (demand and potential for co-location / inward investment at the site) could be significantly impacted by a decision to leave the road open. Energy Industries Division colleagues also advise that Grangemouth is a nationally and strategically important site, Scotland's largest manufacturing complex, and a key source of regional employment. Grangemouth has a cluster of major oil and gas, refining and petrochemicals assets, including: petrochemical plant, owned by Ineos O&P; an oil and gas transportation and processing facility owned by Ineos FPS; and Scotland's only crude oil refinery, owned by the Petroineos JV. Each of these facilities is facing unique challenges, and have all recently undergone (or are in the process of considering) significant investment.
- Recent investment plans of INEOS at Grangemouth were broadly focused around processing of imported shale gas, delivered by tanker ship to Grangemouth Docks. There is potential for future investment, and co-location at the site.
- The 'Grangemouth Investment Zone' is referred to in the NPF3 (2014);
- Work is underway to advance a Business Case for the 'Falkirk Investment Zone' connected with the City Region/Growth Deal process.
- Ineos has its own '2020 Vision' and Masterplan, which they are engaging SG and local govt on. This is not however an adopted or statutory planning document.
- A key strand of Ineos' plans and also the business case for the Falkirk Investment Zone, is to encourage co-location in the land that has been reclaimed as parts of the site which are now decommissioned – Scottish Government Enterprise agencies have been targeting this as a key economic development opportunity.
- In 2017, The Independent and Herald newspapers, and the Greenpeace Unearthed website, reported on the unintended release into the public realm of sensitive UK government documents from 2011 outlining the refusal of INEOS to pay for enhanced security measures

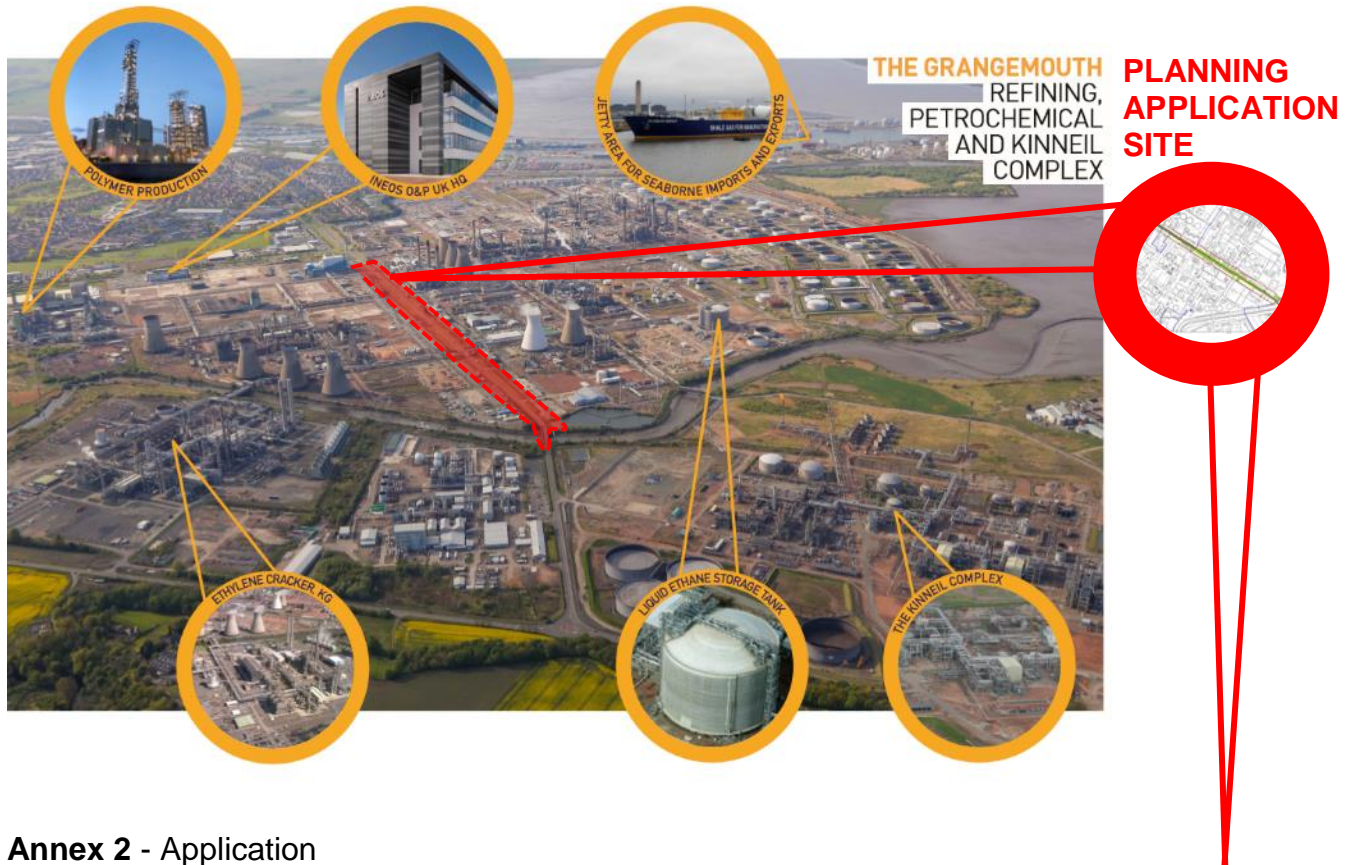
which had been recommended to it by the UK Security Services. Security across the INEOS Grangemouth estate was subsequently improved, post 2011, with new fencing and cameras installed.

Copy List:	For Action	For Comments	For Information		
			Portfolio Interest	Constit Interest	General Awareness
Cabinet Secretary for Communities and Local Government			X		
First Minister			X		
Cabinet Secretary for Finance, Economy and Fair Work			X		
Minister for Energy, Connectivity and the Islands			X		
Minister for Trade, Investment and the Innovation			X		
Cabinet Secretary for Environment, Climate Change and Land Reform			X		
Cabinet Secretary for Transport, Environment and Connectivity			X		

Permanent Secretary;
 Stephen Gallagher, Director, LG&C;
 DG Economy;
 DG Education, Communities and Justice (Paul Johnston);
 Jonathan Pryce, DG Economy Director;
 Kersti Berge, Director of Energy and Climate Change;
 Mary McAllan (Dir for Economic Development);
 Bridget Campbell (Dir for Environment and Forestry); Chief Reporter [REDACTED]
 Chief Planner;
 [REDACTED] Asst Chief Planner;
 [REDACTED] - Asst Chief Planner;
 [REDACTED] Planning Decisions;
 [REDACTED] Planning Decisions;
 [REDACTED] Planning Decisions;
 [REDACTED], Planning Decisions;
 [REDACTED], Planning Decisions;
 [REDACTED], Planning Decisions;
 [REDACTED] Planning Decisions;
 [REDACTED]; Planning Decisions;
 [REDACTED], Planning;
 [REDACTED], Energy Industries Division
 [REDACTED]; SGLD;
 Comms CSSE;
 [REDACTED] Comms;
 [REDACTED], Comms;
 [REDACTED], SpAd;

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Annexe 1 – Site Context – Planning Application / Boness Rd in red area.



Annex 2 - Application



Annex 3 – Site Imagery



Image 1 - At Avon Bridge on A904



Image 2 - A904 looking North West



Image 3 - Existing pipe bridge



Image 4 - A904 looking North West



Image 5 - A904 Inchyra Roundabout looking South East



Image 6 - Existing Ineos HQ building

Annex 4 – Note of Consultation Responses

Community Councils (Grangemouth, Bo'ness, Shieldhill & California, Avonbridge & Standburn, Reddingmuirhead & Wallacestone.	Object, citing a combination of detailed matters, including policy conflict, security concerns, lack of certainty of future investment, and adverse community impact.
Falkirk Council (Roads)	Object, citing numerous points including: - Importance of Bo'ness Road; - Mitigation measures; - Resilience; - Future Development; Accident Rate; - Road Design Standards; Turning Areas; - Parking; and - Signage.
Falkirk Council (Environment)	Requests noise informative; contamination condition, and an Air Quality Assessment.
Falkirk Council (Access)	Improved pedestrian / cycle provision is required east of Inchyra Road in order to address the loss of Bo'ness Road.
Falkirk Council (Energy Advisor)	Meets low carbon standards with the exception of the Power plant. An Air Source Heat Pump should be considered.
Scottish Fire and Rescue Service	Road closure would add to response times. This initial objection subsequently overcome by allowing direct / advanced communications arrangement to enable gates to be opened for fire service, no speed bumps to be installed, and the 24 hour operation / manning of security gates (some remotely), along with frequent testing of system.
Ambulance Service	Diversion may cause delay responding to Linlithgow incidents. As long as road network improved as proposed, would be able to cope.
Police Scotland	No concerns.
Scottish Water	Sufficient capacity - Notes new structures are close to SW assets that follow the road.
SEPA	Parts of the site are within a 1:200 year flood zone. Finished Floor Levels to follow relevant level.
Scottish Natural Heritage	Close to SSSI / Ramsar – assumed no operational or construction activity, and an Appropriate Assessment is not required.
Health and Safety Executive	No safety grounds against granting but pipeline operators views should be sought.
Scottish Gas Networks	The High pressure gas pipeline would not be affected, but no works should take place within 30m without agreeing best practice with SGN.
BP Wayleaves	No impact on the Forties Pipeline, and their interest in the proposed CHP power plant at Kinneil are now being acquired by INEOS.

Annex 5 – Summary of Reporters Report and DPEA Preamble letter

Planning and Environmental Appeals Division
Summary of Report



Scottish Government
Riaghaltas na h-Alba
gov.scot

Works Adjacent to and within the confines of Bo'ness Road, Grangemouth comprising the construction of a Security Management Centre, 2 Security Gatehouses, Security Fencing and 5 No. Pipe Bridges with Supporting Infrastructure at INEOS Bo'ness Road Grangemouth FK3 9XH

• Case reference	PPA-240-2051
• Case type	Appeal against non-determination
• Reporters	[REDACTED]
• Appellants	INEOS Chemicals Grangemouth Ltd
• Planning authority	Falkirk Council
• Other parties	Bo'ness Community Council Shieldhill and California Community Council Bo'ness Road Action Group
• Date of application	18 January 2017
• Date case received by DPEA	27 July 2017
• Methods of consideration and dates	Written submissions Unaccompanied site inspections on 24 January and 15 March 2018 Inquiry session(s) on 27, 28 February & 13 March 2018 Hearing session(s) on 14 & 15 March 2018
• Date of report	20 November 2018
• Reporters' recommendation	Dismiss the appeal and refuse planning permission

The Site

The application boundary encloses a section of the A904 between Inchyra Roundabout and the west end of Avon Road Bridge near Grangemouth. This is one of two routes on the road network which connects Grangemouth and Bo'ness. The site boundary also includes land on either side of that road which is part of the INEOS petro-chemical plant.

The Proposal

The proposed development includes the following components:

- **Security Management Centre:** a two storey structure designed to reflect the INEOS headquarters building on Inchyra Road.

- **Controlled Access Points:** one at the west entrance with sliding gates and one at the east with hinged gates and new security fencing linking with the existing fencing around the site.
- **Site Wide Utility Corridors and up to five pipe bridges:** provision of above ground services for basic utilities (electricity, natural gas, potable water and effluent treatment) utilities for chemical production (steam, cooling water, nitrogen and compressed air) and feedstock pipelines (ethane, propane, ethylene, propylene, crude oil).

The Appellants' case

That the proposal is a national development and that there is a clear economic and security case for the infrastructure included as part of this application. The current application does not seek road closure as that process would fall to another legislative process- a Stopping Up Order under s207 of the Town and County Planning Scotland Act 2017. However this application is a pre-cursor to that process. The current proposals achieve compliance with the development plan and the National Planning Framework. There is no conflict with Scottish Planning Policy. Support is also drawn from a number of other documents and strategies including a prepared Masterplan Framework and the Falkirk Economic Strategy 2015-2025.

The application seeks to address the mitigation associated with loss of the public road and the diversion of traffic onto the surrounding network. The proposed mitigation does not take account of future proposals for the wider petro-chemicals site as referenced in the submitted masterplan. Focus is placed on sufficient mitigation based on the current proposals only. In this context the following mitigation as proposed is considered sufficient being in accordance with the development plan and with the terms of Circular 3/2012:

- Inchyra Road - upgrading of existing footway to New Footway / Cycleway including closure of several historic accesses on the east side of Inchyra Road and infilling of these gaps in the existing footway network;
- Wholeflats Road - upgrading of existing National Cycle Route - South side;
- Inchyra Road - new bus stops;
- Wholeflats Road - new Bus Stops with footway connections;
- Wholeflats Road / Grange Road junction improvement – Upgrading from existing Simple Priority-controlled Junction to Ghost Island Priority Junction;
- Inchyra Road / Wholeflats Road junction improvement - Upgrading of existing roundabout to a Signal-controlled junction;
- Inchyra Road / Kersiebank Avenue junction improvement - Upgrading of existing Signal-controlled junction; and

- Inchyra Road from Wholeflats Road to Kersiebank Avenue - Widening the existing carriageway from a Wide Single 2-Lane carriageway to a Single 4-Lane carriageway.

The Council's Case

This is an appeal against non-determination and the council's stance has evolved to some extent over the course of the process. Its formal position in advance of the inquiry was that the appellants have not demonstrated that the need for the closure of Bo'ness Road is established. The proposal is not therefore in accordance with National Planning Framework (NPF3) and Local Development Plan Policy BUS 02 or Proposal ED16. These do not identify the requirement for the closure of Bo'ness Road. The closure of the road would:-

- reduce the resilience of the road network
- be a loss of an important road, footway and cycle route
- have a detrimental impact on the Transport Scotland High Load Road
- cause significant inconvenience by extending travel times to car drivers, taxi users, bus users and cyclists travelling between Grangemouth and Bo'ness.

In addition the proposed mitigation was not considered sufficient.

In closing submissions, following the inquiry, the council's position was that this application is not concerned with the closure of the road but only with whether the design and planning merits of the specific components of this application are acceptable. The appeal should not stray into matters relating to the closure of the road which are for another legislative process. Nonetheless a condition is required to control the mitigation works required upon closure of the road to address consideration of the relevant standards/guidance, resilience, redundancy, capacity, mitigation effect and safety and to take account of the masterplan. In this respect there is disagreement over the extent of the proposed mitigation works. The council's view is that the local road network is close to capacity and that wider development proposed through the masterplan should have been assessed. Contrary to the appellants' view the council considers the following mitigation would also be required:

- Dualling of Inchyra Road between Wholeflats Road and Kersiebank Avenue;
- Dualling of Wholeflats Road from Inchyra Road to Inveravon Roundabout;
- New Footway / Cycleway – Inchyra Road East Side, Wholeflats Road North Side; and
- New Roundabout at Wholeflats Road / Grange Road Junction

Community Councils' Case

Bo'ness, Grangemouth and Shieldhill & California Community Councils participated in the Hearing process and objected to the closure of the road given its local

importance in providing a link between the communities and businesses of Grangemouth and Bo'ness. The road enables reduced journey times, an alternative in the event of Wholeflats Road closure and an important means of emergency access. Its closure would have costs in relation to time, fuel, taxi fares and to local businesses. The proposals for investment by INEOS are entirely speculative and there are no benefits for the local community. There is no clear security basis for closure of the road. The proposed mitigation is insufficient and raises road safety issues.

Bo'ness Road Action Group (BRAG)

This group was set up specifically to oppose closure of Bo'ness Road and to represent those who signed a petition against the proposals. It raises similar issues as the community councils' but also adds detail regarding the potential local costs of road closure and the absence of any real benefit. INEOS has failed to demonstrate a net economic benefit.

Reporters' Conclusions

The main issues raised by parties focus on the proposed gates in so far as these would enclose part of Bo'ness Road within the INEOS petro-chemical site. However, that element of the works could only become operational in the event that road closure was approved through the relevant future decision making process.

This is a proposal within an area recognised in the National Planning Framework. A security and business case has been presented in support of the proposals.

Our assessment is placed in the context of the development plan, the National Planning Framework and other material considerations. This assessment relates solely to the details of this current application which has been classified as National Development and has been called in by Scottish Ministers on that basis. However we are aware that a positive outcome from this process has been linked by the appellant to a future Stopping Up Order for Bo'ness Road.

Legislative provision under the Town and Country Planning (Scotland) Act 1997 requires a planning permission as a precursor to any subsequent decision to close the road.

If a positive outcome to this application were to lead onto a Stopping Up Order then it is our understanding that it would be assumed that the planning merits of the proposal were accepted. It is not disputed that a positive outcome to this application would still leave discretion for a Stopping Up Order to be refused. However, it appears to us that there would be no basis through that process to revisit the specific requirements of the development plan or the National Planning Framework. Conflicting legal submissions have been made regarding the scope of this application and its relationship to any Stopping Up Order. We have drawn these to the attention of Ministers who may wish to seek their own legal advice.

This is an unusual case where the scale and nature of the proposals are somewhat at odds with its classification as a National Development. Nevertheless as it was classified as such this brings with it the requirement for a co-ordinated approach and to take account of impacts on local communities. It is the lack of such an approach that leads us to the conclusion that planning permission should be refused.

That said we have been careful in our conclusions to avoid prejudging the appropriateness or otherwise of future road closure or being drawn into a wider debate about potential development and assumed traffic growth. In our view these are not matters appropriately assessed through this current application but rather in the wider context of such future development proposals as and when these are confirmed.

We have fully considered the planning implications of the works proposed in this application. The impacts of the proposal, the sufficiency of the proposed mitigation, the costs and benefits are all in our view material to that consideration.

Our overall conclusions are:

- There is clear support for the principle of economic development and redevelopment within the site from the National Planning Framework and local development plan but this application is for supporting infrastructure only;
- The works would facilitate a reconfiguration of the INEOS site to exclude public access through the core area but the proposal does not include or deliver economic growth or investment either within the site or for the Grangemouth Investment Zone;
- The proposal has a clear security objective but this is not presented as part of an overall access strategy for the wider INEOS site;
- The submitted Masterplan Framework clarifies these wider objectives but is not detailed and has not been subject to community engagement nor approval by the council: it is submitted in support of but not as part of this application;
- Future access, investment and employment assumptions for the site, as set out in the indicative Masterplan Framework and other strategies, were not factored into the transport assessment;
- Collectively the National Planning Framework and the development plan require a co-ordinated and master-planned approach and also require any impact on local communities to be addressed. The limited terms of this application do not allow such an approach. This runs contrary to Local Development Plan Policies BUS1, D02 and ED16 and does not address co-ordinated action as advocated in the National Planning Framework (paragraph 3.41);
- This lack of a co-ordinated and master-planned approach means the proposed mitigation measures can take no account of future growth even although this is anticipated by INEOS within a five year time frame. This

causes tension with Local Development Plan policies INF02 and INF10 and the efficient approach to infrastructure provision as referenced in Scottish Planning Policy (paragraph 29);

- Suspensive conditions could secure the mitigation necessary to address the direct impacts of the gated enclosure of Bo'ness Road on traffic distribution, capacity and the operation of the local road network;
- However, the current absence of a co-ordinated and master-planned approach runs the risk of the proposed works being insufficient in a relatively short time frame and prevents consideration of cumulative effects as well as any future role for Bo'ness Road;
- The potential benefits of the proposal do not outweigh our concerns regarding the current lack of a comprehensive approach to future development of the INEOS site or the Grangemouth Investment Zone.

Consequently our conclusion is that the proposal does not achieve compliance overall with the development plan or the National Planning Framework and there are no material considerations sufficient to lead us to a different conclusion. Our recommendation is to dismiss the appeal and refuse planning permission.

Scottish Government
Planning and Environmental Appeals Division
4 The Courtyard
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Callendar Road
Falkirk
FK1 1XR

PPA-240-2051

The Scottish Ministers
Edinburgh

Ministers

We have conducted a public examination into the proposed works adjacent to and within the confines of Bo'ness Road, Grangemouth comprising the construction of a Security Management Centre, 2 no. security gatehouses, gates, security fencing and 5 no. pipe bridges with supporting infrastructure. Ministers issued a Direction that the appeal would be determined by them on 6th October 2017 given the location with the Grangemouth Investment Zone which is identified in the National Planning Framework (NPF3) as a National Development. Grangemouth is identified as a nationally important area for infrastructure and investment.

We held a pre-examination meeting on 13 November 2017 to consider the arrangements and procedures for the Inquiry. It was agreed that the following issues would be addressed at an inquiry session:

- the nature and scale of the transport impacts on the surrounding road network arising from the closure of Bo'ness Road (A904) and the required mitigation measures;
- the justification necessary for such mitigation (as required by Circular 4/1998 Use of Conditions in Planning Permissions and Circular 3/2012 Planning Obligations and Good Neighbour Agreements) with assessment set in the context of the Falkirk Council Local Development Plan namely INF 02, INF 07-9; and
- the scope of and findings of the transport assessment in the context of Policy INF 10.

In addition it was agreed that there would be Hearing sessions on the following issues:

A. Policy context and the case for the proposed development

- Support or otherwise from the National Planning Framework and Scottish Planning Policy.
- Policy BUS 02 and ED 16 of the Falkirk Local Development Plan.
- Future aspirations of the site (including in terms of access), the current status of the masterplan, potential future transport implications.

- Security/Safety issues including Policy BUS 05 Major Hazards and Pipelines.
- The potential for alternative arrangements avoiding the need for road closure.

B. Community Impacts

- The alternative routes available and implications for emergency access to local communities.
- The impact on Wholeflats Road in terms of the new traffic movements and the proposed mitigation measures.
- The impacts on other parts of the road network Jinkabout Bridge, Grange Road, Kersiebank Avenue and Inchyra Road.
- The consequences for air quality, local businesses and journey times.

The inquiry sessions were held on 27, 28 February and 13 March and the Hearing sessions took place on the 14th and 15th of March. Closing submissions were exchanged in writing, with the final closing submission (on behalf of the appellant) being lodged on 29 March 2019. We conducted unaccompanied inspections of the appeal site, its surroundings and other locations referred to in evidence.

Our report, which is arranged on a topic basis, takes account of the precognitions, written statements, documents and closing submissions lodged by the parties, together with the discussion at the Inquiry and Hearing sessions.