

Meeting Note

File reference	TRO10009
Project	M1 Junction 10a Grade Separation, Luton
Status	Final
Author	Tracey Williams

Meeting with	Project Team and representatives of Luton Borough Council (as applicant and statutory consultee)
Meeting date	12 October 2011
Attendees (IPC)	Pauleen Lane (Pre-application Commissioner) Dave Cliff (Case Leader) Tracey Williams (Case Officer) Alison Down (EIA and Land Rights Advisor) Andrew Luke (EIA and Land Rights Advisor) Luke Barfoot (Lawyer)
Attendees (non IPC)	Luton Borough Council (LBC) Michael Kilroy (Assistant Project Manager - Major Projects Team) Wendy Rousell (Senior Planning Officer) URS Scott Wilson Simon Betts (Principal Planner) Bernie Roome (Associate Major Roads) Sheila Banks (Principal Environmental Scientist)
Location	IPC Offices, Temple Quay House, Bristol

Meeting purpose	Introduction to scheme and discussion of pre-application and examination processes.
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Summary of key points discussed and advice given	<p>Introduction to the Teams</p> <p>The IPC advised on its openness policy and that any advice given will be recorded and placed on the IPC website under section 51 of the Planning Act 2008 (PA 2008). The IPC can only advise about the process for nationally significant infrastructure projects (NSIPs), not on the merits of a project. Any advice given does not constitute legal advice.</p> <p>Pauleen Lane explained the role of the pre-application Commissioner and that they can advise only on process at the pre-application stage. Once an application is submitted a different Commissioner will be appointed to decide whether or not to accept the application. Similarly, the Examining Authority (ExA) (a single Commissioner or panel of Commissioners, depending on the complexity of the project) is appointed once the</p>
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applicant has complied with the notification duties following acceptance. The ExA can be the same as/include the acceptance Commissioner.

Michael Kilroy of LBC confirmed that he was undertaking the role of Assistant Project Manager for this application and Wendy Rousell of LBC confirmed that she was carrying out the Council's planning regulatory role.

Introduction to the Scheme

The M1 Junction 10a (J10a) is located to the south of Luton. The existing junction is a large roundabout which connects the M1 Spur to Airport Way and London Road, linking Luton to the wider motorway network.

The developer gave an insight into the background of the scheme. The scheme was originally part of the East Luton Corridor scheme (ELC) (2004), where the remit was to widen the dual carriageway from J10a to Luton, and separate airport traffic from key regeneration sites that the local authority wanted to free up for development. This was dropped from the ELC because of conflicts with the Highways Agency M1 Junction 6a to 10 scheme which was being implemented at the same time.

In 2008 LBC secured Growth Area Funding (GAF) from the Homes & Communities Agency and appointed URS Scott Wilson Limited to develop the scheme. In 2009 they carried out options studies and capacity investigations.

The developer summarised the key objectives of the current scheme proposals, and stated that improvements are required to cope with the existing traffic problems as well as to provide capacity for increased demand arising from proposed employment and housing growth in the area. The developer stated that they were confident that the GAF funding will be forthcoming because the scheme unlocks economic benefits in terms of jobs.

Further up to date information about the scheme can be found in the Community Consultation material provided for the public exhibitions to be held on 14 and 15 October 2011.

Overview of the Planning Act Process

The IPC gave a presentation on the IPC and its procedures which acted as a basis for discussion during the meeting.

Pre-application

General discussion took place about the pre-application process. The IPC advised the developer to have a clear audit trail of

consultation carried out and to take account of the recently revised IPC Guidance Note 1 which offers advice on the pre-application stages and the procedures leading up to the submission of an application for a Development Consent Order (DCO). The Consultation Report required to be submitted with the application should clearly detail the consultation and engagement carried out by the developer at the pre-application stage including how issues raised by consultees have been taken into account in the development of the scheme (*Advice Note 14 – Compiling the Consultation Report*).

The developer stated that they carried out pre-application procedures based on the original IPC Guidance Note 1 before it was revised. The IPC advised that this was acceptable in principle, but that the developer should explain in its consultation report that, for work already carried out, it followed the guidance that applied at the time. It should ensure that, moving forwards, it has regard to the revised IPC Guidance Note 1.

The IPC also advised that the Consultation Report should include information on informal consultation and engagement in addition to the formal consultation under the Planning Act PA2008.

Statement of Community Consultation (SoCC)

Discussion followed about the published SoCC. The IPC emphasized the requirements of Regulation 10(b) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009, under which the SoCC must, if a project is EIA development, include information on how the applicant intends to publicise and consult on the preliminary environmental information (PEI). The IPC advised that compliance with this requirement is one of the matters that would be considered when the IPC considers whether or not to accept the application under section 55 of the PA 2008. The developer advised that it would consider these requirements and respond to the IPC on the approach taken.

The Role of the Local Authorities

The IPC explained that local authorities, as statutory consultee under the PA 2008, have a key role in the IPC process. They are encouraged to discuss and work through the issues raised by NSIP proposals with prospective applicants before an application is submitted, and to engage with applicants in the preparation of statements of common ground. Local authorities also have a consultee role on what is to be contained in the SoCC and on the adequacy of the applicant's consultation process; producing a Local Impact Report (LIR); and making their own representations on an application.

The IPC spoke about the LIR and advised the LBC to have regard to IPC *Advice Note 1 Local Impact Reports*. They advised that adjacent Local Authorities may wish to produce a joint LIR if they wish. LBC indicated that they intend to take the lead on the preparation of this document.

The IPC highlighted that LBC has a dual role in this application as both developer and undertaking its statutory duties in its regulatory planning role as a statutory consultee. Therefore, internal arrangements need to be clearly separated and LBC needs to be able to demonstrate how it is going to fulfil its obligations as a statutory consultee as a 'B' authority under s43(2) of the PA 2008.

Development Consent Order

The IPC referred to *Advice Note 13 'Preparing the draft order and explanatory memorandum*.

The IPC encouraged the developer to send in a draft of their DCO at least six weeks before formal submission. The earlier this is provided the more opportunity there is to provide advice.

Post Application Revisions

The developer asked whether it was possible to make changes to an application after the 'Acceptance' stage. The IPC advised the developer that there is very limited opportunity to do so, particularly where material amendments are proposed which result in changes to the scheme that have not been previously consulted on. Developers should consider any flexibility required within their draft DCO. The developer should also refer to IPC *Advice Note 9: The Rochdale Envelope*, and information on the Brig y Cwm energy from waste project and the procedural advice the IPC gave the developer regarding amendments to an application following acceptance.

The IPC explained that the 'Rochdale Envelope' approach is a recognised method of dealing with an application comprising EIA development where details of a project have not been resolved at the time the application is submitted. This approach, as set out in Advice Note 9, seeks to provide an acceptable solution under the PA 2008 to address areas of uncertainty as proposals progress.

Simon Betts requested a copy of the IPC's electronic application index, which the IPC agreed it would forward.

IPC Scoping Opinion (SO) and Preparation of Environmental Statement (ES)

The IPC Scoping Opinion for this project, and subsequent letter

from URS Scott Wilson of 29 September 2011 raising points about particular topics, was discussed.

The developer asked if the IPC could reconsider its judgement that particular matters should not be scoped out for consideration in the ES. The IPC explained that the SO was based on the information before it at the time, and cannot be re-issued, and neither can the IPC provide separate, free-standing written agreement that particular topics can be scoped out.

The IPC clarified that a SO is the IPC's view of the matters that should be covered in an ES based on the developer's information contained in the Scoping Report. The IPC explained that it is at the developer's discretion whether to include in the ES matters which the SO indicated should not be scoped out. Additionally, information may come to light after the issue of a SO which may lead a developer to revise their conclusions about the matters that should or should not be included in the ES.

The IPC confirmed that in all instances developers should ensure that decisions to scope out matters are fully justified and explained; that an appropriate level of information proportionate to the scale of the issue should be provided in support of a decision to scope matters out; and that where relevant any correspondence with statutory consultees about and agreeing the scope of the assessment should also be included within the ES.

The IPC explained that it is open to a developer to request a subsequent SO but the developer would need to bear in mind the resource and programming implications of such a request.

The developer asked whether it was acceptable to cover the socio-economic effects of the scheme in a document separate to the ES. The IPC explained that it was their decision, but that the ES must be a stand alone document that they are confident assesses all of the potentially significant environmental effects (both adverse and beneficial) of the scheme.

The developer asked whether photomontages must be provided in relation to the landscape effects section of the ES. The IPC advised that photomontages provide a useful visual aid but are not a mandatory requirement. Should the developer consider that they are not necessary then the justification for excluding them should be provided within the ES. The need for photomontages is likely to depend on the location of receptors and the nature of the potential impact, and the need and scope for photomontages should be discussed with the relevant consultees. Should the ES include photomontages it should also identify any limitations.

There was some discussion about the need for and purpose of submitting a draft ES to the IPC prior to submission of the DCO

	<p>application. The IPC clarified that it is useful for the IPC to view the draft ES alongside other draft documents, although it is unable to comment specifically on it.</p> <p>Programme</p> <p>The developer advised that it is currently intending to submit the DCO application prior to Christmas 2011.</p> <p>The IPC explained about the statutory timetable and that the deadlines are calculated in calendar days that do not discount non-working days such as bank holidays.</p> <p>Future meetings were also discussed and the possibility of making a site visit and holding an outreach meeting were discussed. LBC indicated that it would give consideration to whether it considers it helpful for an IPC outreach event to be held.</p> <p>The developer advised that they have begun to think about possible venues for the preliminary meeting and any examination hearings, and asked if there was any guidance on venue requirements. The IPC confirmed that there is and agreed to forward a copy of the guidance.</p> <p>The IPC advised that the length of the examination period will partly depend upon the number and nature of those issues that remain unresolved on submission of the application. It is in the interests of the applicant to resolve as many issues as possible during the pre-application stage.</p> <p>As the Secretary of State (SoS) will make the decision on this application following the ExA's recommendation, the developer asked for an indication of how soon the DCO would be likely to be issued in the event of a decision of the SoS to grant development consent. The IPC advised that under current timescales the ExA has three months to make its recommendation (assuming it is not able to make a decision itself), and that the SoS has a further three months to make its decision. The publication of the Localism Bill is expected to set out the position under the new regime. *</p> <p>*To note - The Localism Act received Royal Assent on the 15 November 2011 and provides that the decision-making role of the IPC is to be taken over by the Secretary of State with an extension to the timetable of 3 months.</p>
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Specific decisions/ follow up required?	<p>ACTION POINTS</p> <ul style="list-style-type: none"> • The IPC to forward to Simon Betts a copy of the IPC's electronic application index - IPC
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	<ul style="list-style-type: none"> • The IPC to forward to Simon Betts a copy of the application checklist - IPC • The IPC to forward information on venue requirements for the preliminary meeting and any examination hearings – IPC • The IPC to advise on including, in an application for development consent, land within the boundary of a “controlled motorway” - IPC • The IPC to further advise on the expected timescales and SoS decision-making following a recommendation from the IPC – IPC • The developer to consider and advise the IPC of its position regarding the omission of specific reference to PEI in the published SoCC - developer
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Circulation List	All attendees of meeting