



Meeting note

File reference:	TR010016
Status:	Final
Author:	Sarah Gudgin
Date:	27 May 2014
Meeting with:	Highways Agency and Mott MacDonald Grontmij
Venue:	Highways Agency office, The Cube, Birmingham
Attendees:	Sarah Gudgin - The Planning Inspectorate Robert Ranger - The Planning Inspectorate Sarah Kearns – Assistant project Manager – Highways Agency Darren Powell – Project Manager – Mott MacDonald Grontmij John Akers – Assistant Project Manager - Mott MacDonald Grontmij
Meeting objectives:	Meeting between the promoter (Highways Agency), their consultants (Mott Macdonald Grontmij) and the Planning Inspectorate on the A63 Castle Street improvements, Hull following receipt of draft documentation.
Circulation:	All

Meeting attendees was made aware of the Planning Inspectorate's openness policy (that any advice given will be recorded and placed on the Planning Inspectorate's website under s51 of the Planning Act 2008, as amended by the Localism Act 2011 (PA 2008)). Any advice given does not constitute legal advice upon which applicants (or others) can rely.

Sarah Kearns from the Highway Agency (HA) gave a brief outline of the scheme. HA advised that the submission of the application had been delayed and submission is now likely towards the end of October 2014.

Following on from this the Planning Inspectorate relayed comment on draft documentation that had been submitted to the Planning Inspectorate on 29 April 2014. The advice from the Planning Inspectorate was as per the following letter:



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Ms Sarah Kearns
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Major Projects
Lateral
8 City Walk
Leeds
LS11 9AT

Your Ref:

Our Ref: TR010016

Date: 29 May 2014

Dear Ms Kearns

Application by Highways Agency for highway improvements to the A63, Castle Street, Hull

Thank you for sending draft documents to the Planning Inspectorate for comment. The review was not at the level of detail that will be required to inform a decision under Section 55 of the Planning Act 2008 (as amended by the Localism Act 2011) (PA 2008); and does not pre-judge any future decision of the Secretary of State. Similarly, it does not predetermine any matter that is properly for the Examining Authority appointed to consider any application, who may take a different view.

This letter makes comment on the draft documents received. Each document is addressed in turn below under the relevant heading.

Draft Development Consent Order (DCO) and Explanatory Memorandum

Below are specific points to take into consideration:

- Work Number 1 requires completion.
- Article 3 only refers to the authorised development and has no mention of ancillary works.
- There is no article relating to the removal of human remains, which I understand to be a potential issue here. There is a model clause relating to this which could be adapted if necessary to reflect the added complication of the bodies being cholera victims, if it turns out that any extra steps need to be taken.
- The DCO has an article relating to the felling or lopping of trees (33), but this is usually accompanied by a second article dealing with trees protected by a tree preservation order. I don't know if there are any protected trees, but I would generally expect city centre trees to be protected because of the amenity value they provide.
- The M1 Junction 10A DCO has an article (39) making it clear that Requirements

- are to be treated in the same way as planning permission conditions for the purposes of appeals, etc. This DCO does not have a similar provision, so you may wish to consider this.
- In Article 15, “traffic officer” is not defined.
- The compulsory purchase powers in Article 19 should also be subject to Article 21 (time limit).
- The numbering in Schedule 2 (Requirements) should start again at 1 rather than continuing the article numbers.

There are no comments to make on the explanatory memorandum.

Consultation Report

The draft documents received indicate that the designs of the footbridges are still being determined. It is important that you are happy that you have consulted sufficiently on the design of the footbridge and include reference to this in your consultation report.

With regard to the layout of consultation report I would recommend visiting the National Infrastructure pages of the Planning Portal website to view the “Example Documents” section. Your report could benefit by from making a clearer distinction between what was statutory and non-statutory consultation; this could possibly be improved by simply amending some of the chapter names to reflect this.

The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (APFP) sets out the prescribed form of the application at Schedule 2 and the prescribed accompanying documents and information at Regulations 5 and 6. Section 37 of the PA 2008 requires the applicant to produce a consultation report, and for this report to accompany the application. At acceptance, the details of how the applicant has complied with the consultation requirements set out in PA 2008, as described in the consultation report, will be tested at acceptance.

In addition to referring to any non-statutory advice notes issued by the Planning Inspectorate in compiling a consultation report, we recommend applicants have regard to the relevant documents produced by the Department for Communities and Local Government (DCLG), such as the ‘Planning Act 2008: Guidance on the pre-application process’. This guidance is part of the package of statutory instruments and guidance for PA 2008 and the major infrastructure sections of the Localism Act. This guidance relates to both Chapter 1 (applications) and Chapter 2 (pre-application procedure) of Part 5 of PA 2008. Under section 50(3) of PA 2008, applicants must have regard to this and any other guidance published by the Secretary of State which covers the pre-application procedure for major infrastructure applications.

In consideration of the variety and scope of applications submitted under the PA 2008 regime, no prescriptive advice is given on the format and content of consultation reports. Nonetheless, the Planning Inspectorate’s Advice Note Fourteen seeks to give advice to applicants about the format and content of the consultation report in order to enable the Secretary of State to identify whether the statutory requirements have been met during the acceptance stage.

Other Comments

It is important that you are explicit about which subsection of section 22 of the PA2008 applies to this project and to include thorough reasoning for this. This should be included in the current paragraph 2.3 of the explanatory memorandum and can also go into the planning statement. It is important that the submitted documents are consistent when you refer to the reason for the proposal being considered as a NSIP.

If your application is considered to be an NSIP under s22(4) of the PA2008 then it is important that the construction and alteration areas that result in the scheme meeting a threshold are included in the works areas.

For further clarification on any of the criteria that the Planning Inspectorate has to consider when deciding if to accept an application it would be beneficial for you to look at the S55 checklist which can be found at Appendix two of Advice Note six.

Please be aware that Regulation 6 of the APFP Regs requests the following for highway schemes:

(2) If the application is for highway related development or for the construction or alteration of a railway, it must be accompanied by section drawings to suitable horizontal and vertical scales, which show, by reference to Ordnance Survey or Chart datum—

(a) the levels of the proposed works, including in particular and where relevant—

(i) ground levels;

(ii) the height of every proposed bridge, viaduct, aqueduct, embankment and elevated guideway;

(iii) the depth of every proposed cutting and tunnel;

(iv) the levels of the bed of any tidal waters or inland waterway in which it is proposed that any works should be situated;

(v) the height of every structure or device (including a cable, but not catenary and related equipment) intended to be erected above, on or below the surface of, or on or beneath the bed of tidal waters or an inland waterway; and

(vi) drainage outfall details for highways;

(b) a cross section of every intended tunnel and any altered gradient of a carriageway or a way forming part of a guided transport system on either side of every level crossing, bridge, tunnel or underpass which would carry the carriageway or way or through which it would pass.

I hope the above comments are helpful to you however if you have any further questions please do not hesitate to contact me.

Yours sincerely

Sarah Gudgin

Sarah Gudgin
Case Manager

Advice may be given about applying for an order granting development consent or making representations about an application (or a proposed application). This communication does not however constitute legal advice upon which you can rely and you should obtain your own legal advice and professional advice as required.

A record of the advice which is provided will be recorded on the Planning Inspectorate website together with the name of the person or organisation who asked for the advice. The privacy of any other personal information will be protected in accordance with our Information Charter which you should view before sending information to the Planning Inspectorate.