

Preliminary Meeting Note

Summary of Key Points Discussed and Advice Given

Application	M4 Junctions 3 to 12 Smart Motorway
Reference	TR010019
Date	3 September 2015
Venue	The Desborough Suite, Royal Borough of Windsor and Maidenhead Town Hall, St Ives Road, Maidenhead, SL6 1RF

This meeting note is not a full transcript of the Preliminary Meeting. It is a summary of the key points discussed and responses given. An audio recording of the event is available on the National Infrastructure Planning website.

The Planning Inspectorate	
Name	Role
Wendy Burden	Examining Authority
Richard Price	Case Manager
James Bunten	Case Officer
Joseph James	Administrative Assistant

Welcome and Introductions

Wendy Burden (WB) opened the meeting at 10.30am and introduced herself as the Examining Authority (ExA), appointed by the Secretary of State for Communities and Local Government, to examine the application for development consent made by the Highways Agency (now Highways England) for the proposed M4 Junctions 3 to 12 Smart Motorway. **WB** introduced the Planning Inspectorate's staff, including the case manager; **Richard Price (RP)**.

WB gave housekeeping instructions and reminded attendees that the meeting would be recorded. The recording would be made available on the National Infrastructure Planning website as soon as practicable after the meeting. A note of the meeting would also be published in the same manner. Emergency arrangements and facilities details were also explained.

WB summarised the purpose of the Preliminary Meeting (PM); to consider issues relating to the way in which the application was to be examined, and not the merits of the application. Those attendees who intended to speak at the meeting were invited to introduce themselves. Where attendees represented a group, it was requested for them confirm their authority to speak on behalf of that group and to approximate the number of members that they represented.

ExA's remarks about the examination process

WB explained that the formal examination of the application would commence the day after the PM had closed. It was confirmed that as soon as practicable after the

meeting, a letter would be sent to all interested parties (the 'Rule 8 letter') confirming the examination timetable and any other procedural decisions made. It was made clear that no procedural decisions would be made at the meeting. The need for any procedural decisions would be considered in the days following the meeting having considered the representations received.

WB summarised the decision-making process under the Planning Act 2008 (PA2008). It is an inquisitorial and predominantly written process. Where written representations are received to the examination, interested parties will be afforded the opportunity to make comments responding to them. Only where the ExA remains uncertain about the position on a particular issue, or where it becomes essential in order to complete the examination, would the ExA cause an oral hearing(s) on a specific issue to be held. The types of oral hearings that the PA2008 makes provision for would be summarised in discussions about the examination timetable.

WB explained that there would be a statutory six month period within which to complete the examination, to a deadline of 3 March 2016. The examination stage would be followed by a three month period for the ExA to report on its findings, conclusions and recommendations to the Secretary of State for Transport (SST). The SST would then have a further three months in which to reach its final decision about whether development consent should be granted. A decision should therefore be anticipated twelve months from the date of the PM.

WB explained that a first round of written questions to interested parties would be published alongside the Rule 8 letter; on or before 11 September 2015. These questions would be informed by the ExA's reading of the application documents and of the relevant representations, and would broadly reflect the Initial Assessment of Principal Issues annexed to the 'Rule 6' letter of 7 August 2015 (Annex B). While each written question would be directed to a specific party or parties, this would not preclude any other interested party from responding to it where they felt that the subject matter was relevant to issues important to them. Where any interested party felt that the answer to a written question was already contained within the application documentation or subsequent representation, the associated information should be clearly cross-referenced. The draft Examination Timetable (Annex C of the Rule 6 letter) also makes provision for the issue of a second round of written questions, if required. The ExA also has the power to request further information from any interested party¹.

Hearings

WB summarised the three types of hearing that the PA2008 makes provision for:

- Open floor hearings (OFH) – which must be caused to be held if requested by any interested party (**WB** confirmed that such a request had already been received and that therefore at least one OFH must be held). The number and location of OFHs would be informed by the number of interested parties expressing a wish to attend.
- Compulsory acquisition hearings (CAH) – which also must be caused to be held if requested by an affected person².

¹ Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010 (as amended)

² Special status afforded to persons with a legal interest in the Order lands

- Issue specific hearings (ISH) – which are only held if the ExA thinks that they are necessary to ensure the robust examination of the issue in question (**WB** confirmed that an ISH about matters relating to the draft Development Consent Order was likely to take place in November).

WB reminded attendees that the examination would be a predominantly written process, and that interested parties should not therefore rely on the occurrence of a hearing in order to put forward their evidence. The draft Examination Timetable confirms the date by which interested parties must request to be heard at an OFH or CAH. Attention was drawn to the dates reserved for any hearings in the draft Examination Timetable, and it was confirmed that the venue and start times for any hearings would be notified to interested parties at least 21 days in advance of them taking place.

WB expressed encouragement for anyone wishing to be heard at an OFH, and who has a common view or common points to make with others, to group together and appoint one spokesperson. This would make best use of the time rather than have the same point repeated. Repetition of a point would not cause it to carry more weight in the examination and the ExA would intervene where oral submissions became repetitious. Anyone who speaks at an OFH should be prepared to answer questions from the ExA about their submissions.

Initial Assessment of Principal Issues

WB drew attention to Annex B of the Rule 6 letter. It was reemphasised that this list of principal issues was not comprehensive or exclusive and that all relevant and important matters raised by interested parties would be considered in the ExA's examination of the application.

WB referred to representations received in the Pre-examination period commenting on the issues included on the list. These representations were to be published following the PM, and are now available to view, here:

<http://infrastructure.planninginspectorate.gov.uk/projects/south-east/m4-junctions-3-to-12-smart-motorway/?ipcsection=docs&stage=3&filter=Additional+Submissions>

WB requested for any further comments on the list, or responses to the comments already made, to be made in Written Representations to Deadline II (8 October 2015) in the draft Examination Timetable.

WB invited questions from attendees on the initial assessment of principal issues.

Stephen Whale (SW) of DLA Piper (for the applicant) suggested to the ExA that an explanation should be provided to interested parties about certain matters which could not be considered in the initial assessment of principal issues, such as matters of national policy. **WB** agreed that an explanation would be provided in response to the representations referred to above.

Mike Finch for Slough Borough Council (SBC) made reference to the applicant's proposed construction programme and the potential for interactions with a number of other infrastructure schemes being brought forward in the area. **WB** responded that the points made should be repeated in writing.

On behalf of his clients, **Douglas Bond (DB)** for Woolf Bond Planning queried whether issues beyond the initial assessment would be taken into account, and **Katie Woollard** for South East Water expressed the opinion that impacts on water resources should be added to the list. **Jason Newman** for SBC queried whether Written Representations requesting for the list of principal issues to be expanded would be considered. **WB** confirmed that all relevant and important matters would be examined, and reiterated that the list of principal issues was neither comprehensive nor exclusive. Written Representations suggesting an expansion of the list of principal issues would be considered.

SW for the applicant queried whether the ExA would be consolidating the initial assessment of principal issues into a list of 'ultimate issues' in due course. **WB** stated that while this was not her normal practice, the merits of such an approach would be considered.

Statements of Common Ground

WB drew attention to Annex E of the Rule 6 letter which had requested the preparation of a suite of Statements of Common Ground (SoCG). Requests for SoCGs would be confirmed in the Rule 8 letter. The content and function of a SoCG was explained and it was emphasised that the identification of issues upon which agreement had been reached would not preclude those issues from being examined further.

WB invited to the applicant to provide an update on the preparation of the SoCGs listed in Annex E of the Rule 6 letter.

SW for the applicant confirmed that SoCGs were being progressed with all parties listed, and in addition with Transport for London; Earley Town Council; Wokingham Town Council and London Borough of Hammersmith and Fulham. Draft SoCGs would be sent to each of those parties in the week following the PM.

WB drew attention to the draft deadline for the submission of SoCGs to the examination, Deadline II (8 October 2015), and referred to representations received in the Pre-examination period which indicated that SoCGs would be difficult to finalise by this date.

SW for the applicant agreed that the delivery of finalised SoCGs by the proposed deadline of 8 October 2015 would be difficult to achieve. This concern was echoed by SBC and London Borough of Hillingdon (LBH). In order to maximise the usefulness of SoCGs, a two week extension to the proposed deadline to late October/early November 2015 was suggested by the applicant. **WB** highlighted that the proposed deadline of 8 October 2015 had been chosen to allow the content of SoCGs to inform the topics upon which ISHs might need to be held, and suggested that where SoCGs could not be finalised by the proposed deadline, drafts should be submitted to the examination.

WB drew attention to the request for a SoCG to be produced dealing with the Requirements in the draft Development Consent Order, and requested that in addition that SoCG deal with the Articles in the draft Order. That SoCG should consider any agreement (or outstanding disagreement) about wording/drafting; whether any additional Requirements should be inserted; and the extent to which the

Requirements would meet the tests set out by the section entitled 'Use of Planning Conditions' in the National Planning Practice Guidance³.

SW for the applicant queried whether a separate SoCG dealing with the draft Order should be prepared, or whether issues relating to it could be incorporated (and made distinct) in generic SoCGs. **WB** advised that the approach would be a matter for the applicant to consider, but stated that a separated SoCG dealing with the draft Order might be useful to the examination.

Acquisition of land and rights

WB requested for the applicant to provide an update about progress in relation to discussions with affected persons.

SW for the applicant stated that most recently contact had been made with affected persons in letters dated 8 June 2015 and 29 July 2015. Those letters had attracted a response rate of 27%. It was confirmed that the District Valuer had been appointed in relation to land acquisition matters. Concerning the acquisition of interests in Crown land, **SW** confirmed that one consenting response had been received and two were outstanding.

WB requested for the applicant to prepare a document identifying the extent to which private agreements had been reached in relation to each plot on the Land Plans. **SW** for the applicant agreed that such a document could be provided.

Local Impact Reports

WB explained that the Planning Inspectorate had notified the relevant local authorities of the proposed application on 16 March 2015. That letter had included advice in relation to the early preparation of Local Impact Reports (LIR). The extent to which LIRs would inform the ExA's examination of the application was emphasised, and the local authorities in attendance were requested to confirm whether LIRs would be submitted by Deadline II (8 October 2015) in the draft Examination Timetable.

Nicole Cameron for LBH summarised concern about the delivery of its LIR and SoCG in the context of its internal delegation procedures, and questioned the benefit of the provision of drafts of these documents to the examination. It was suggested that due to the interrelationships of the two documents, final LIRs and SoCGs should be submitted to the examination at the same time. LBH's concerns were echoed by SBC. **SW** for the applicant suggested that the submission of final LIRs should be maintained to the proposed 8 October 2015 deadline. The provision of a local authority's case in the LIR could help inform any ongoing discussions on the SoCG. There was no reason why a final or draft SoCG should not be submitted to the same deadline if they were progressed and finalised between the applicant and the local authorities in a timely fashion.

Accompanied site inspection (ASI)

WB drew attention to provision in the draft Examination Timetable for a site inspection in the company of interested parties to take place between 11 and 12

³ Which replaced Planning Circular 11/95.

November 2015. It was explained that ASIs would not provide an opportunity for those in attendance to express any views about the merits of the application, and could only provide an opportunity for the ExA to view the route of the application and the surrounding area and to identify relevant physical features.

A draft itinerary had been provided by the applicant and is available to view on the National Infrastructure Planning website, here:

<http://infrastructure.planningportal.gov.uk/document/3373264>

WB queried whether the applicant had consulted with relevant local authorities on the content of the draft itinerary. **SW** for the applicant stated that the draft itinerary had been prepared in consideration of the relevant representations submitted by local authorities.

WB confirmed that comments on the applicant's draft itinerary had been invited in the Rule 6 letter, that submissions should be received by Deadline II (2 October 2015) in the draft Examination Timetable. It was explained that the ExA would need to be accompanied by representatives of the local authorities, relevant statutory parties, and the applicant. There may be opportunities for some representatives of the public to attend, but for logistical and safety reasons large numbers of people would be unable to participate for the duration of the inspection. It may however be possible for representatives of the public to be met on the route of the ASI, and this would need to be reflected in the itinerary.

WB emphasised a commitment to inspect the localities relating to issues of most concern to interested parties. Where this could not be achieved during the ASI, the ExA would ensure they were inspected on an unaccompanied basis. The applicant was requested to liaise with interested parties in relation to the feasibility of the inclusion of any additional locations proposed. It was confirmed that the final itinerary for the ASI, taking into consideration any suggestions made by interested parties, would be published on or before 26 October 2015.

Clive Jones requested for the ExA to visit Earley as part of the ASI. **WB** asked for the request to be put in writing to the appropriate deadline.

Glossary of Terms

WB drew attention to a draft Glossary of Terms submitted by the applicant in response to the ExA's request in Annex E of the Rule 6 letter. It was confirmed that the glossary would be published to the National Infrastructure Planning website and updated, as appropriate, throughout the examination.

Timetable for the examination

WB drew attention to Item 21 in the draft Examination Timetable and the statutory deadline of 3 March 2016 by which the examination of the application must be completed. It was emphasised that the examination of the application could not exceed this deadline, but that the ExA could choose to close the examination before 3 March 2015 should it consider that all of the evidence required to inform the report and recommendation to the SST had been acquired. Any submissions received after

the close of the examination could not be taken into consideration by the ExA and would be forwarded to SST to be handled accordingly.

WB referred to a request from the applicant to change the deadlines in the draft Examination Timetable from 12 noon to midnight. It was explained that noon deadlines are commonly implemented by case teams due to advantages associated with teams being in the office as deadlines pass. Views were invited on the applicants' request.

Tony Massingham summarised problems associated with 12 noon deadlines and Royal Mail's special delivery service, and **SW** reiterated the applicant's request for midnight deadlines. **WB** stated that the points would be considered in finalising the timetable.

WB went on to explain the draft Examination Timetable on an item by item basis and invited questions in relation to its content.

DB for Woolf Bond Planning queried whether the applicant's response to the Relevant Representations would be submitted at the same time, or one by one. **SW** for the applicant confirmed its intention to respond to all of the Relevant Representations in a single document submitted to Deadline I (2 October 2015) in the draft Examination Timetable.

Brenda Pollack for South East Friends of the Earth (FoE) queried whether submissions to deadlines would be published to the National Infrastructure Planning website as they were received, or after each deadline had elapsed. **RP** confirmed the latter.

Jenny Bates (JB) for FoE suggested that more time should be allowed for hearings to be held, particularly to deal with air quality and traffic forecasting. **WB** reemphasised that the examination was primarily a written process and that therefore all evidence should be presented initially in writing. It is for the ExA to decide the topics upon which any ISHs should be held. **JB** responded to the ExA to confirm FoE's intention to instruct expert witnesses. The ExA requested for FoE's experts to liaise with the applicant's consultants to agree baseline data and the main differences in their positions. Both FoE and the applicant agreed to do so.

Rachel Cook for Maidenhead FoE requested for an OFH to be held in Maidenhead and **John Booth (JBo)** for Reading FoE requested for an OFH to be held in Reading. **JBo** also suggested that OFHs should be held on evenings and weekends. **WB** reiterated that the number and location of OFHs would depend upon the written requests received, and that requests for any OFH and/or CAHs should be made in writing to the appropriate deadline in the Examination Timetable which would be confirmed in the Rule 8 letter.

Closing remarks

WB thanked those in attendance for their participation and closed the meeting at 12.32pm.