



## Meeting note

<b>File reference</b>	A19/A184 Testos Junction Improvement (TR010020)
<b>Status</b>	<b>Final</b>
<b>Author</b>	Ian Wallis
<b>Date</b>	26 June 2014
<b>Meeting with</b>	Highways Agency
<b>Venue</b>	The Cube, Birmingham
<b>Attendees</b>	<u>The Highways Agency (HA) (Applicant)</u> Adam Clelland (HA – Project Manager) Helen Apps (HA – Assistant Project Manager) Tsuwun Bevan (HA - Technical Assurance)  <u>The Planning Inspectorate (The Inspectorate)</u> Andrew Luke (Infrastructure Planning Lead) Richard Kent (EIA Advisor) Ian Wallis (Case Officer)
<b>Meeting objectives</b>	Introduction to the A19/A184 Testos Junction improvement project
<b>Circulation</b>	All attendees

### Summary of key points discussed and advice given:

#### Introduction and Background

Following introductions, the Planning Inspectorate (The Inspectorate) advised on its openness policy that any advice given would be recorded and placed on the National Infrastructure Planning Portal website under section 51 of the Planning Act 2008 as amended (PA2008). Any advice given under section 51 does not constitute legal advice upon which applicants (or others) can rely.

The Inspectorate explained that the purpose of the meeting was to gain an understanding of the project, outline the role of The Inspectorate in the Nationally Significant Infrastructure Project (NSIP) process under the PA2008 and discuss next steps for the project.

#### Project overview and update

The Highways Agency (HA) (the applicant) provided an overview of the proposal for a new nationally significant infrastructure project (NSIP): the A19/A184 Testos Junction improvement project.

The project is located at the junction of the A19 and the A184, 3.5 miles south of the Tyne Tunnel and 6 miles southeast of the Tyne Bridge in Newcastle. The site is located within the boundary of South Tyneside Borough Council (STBC) and north of Sunderland City Council (SCC).

The project is to replace the existing at-grade roundabout junction between the A184 and the A19 with a grade separated junction. This involves raising the A19 carriageway above ground on an embankment and carrying it over the existing roundabout via two bridges. The new A19 alignment is slightly west of its existing alignment to avoid an electricity sub-station and to retain the existing A19 southbound carriageway for use as new slip roads. Access to Downhill Lane junction, south of the A19/A184 Testos junction, would be via parallel link roads connecting to the new south-facing slip roads of Testos Junction.

The HA outlined some of the key constraints in and around the project location, which include residential and commercial properties, overhead lines and supporting pylons, a National Grid Substation, Local Wildlife Sites (LWS) (Boldon Lake and Mount Pleasant Marsh), and a number of public rights of way.

The HA explained that the project was initially progressed under the Highways Act and was consulted on as early as 2001. A number of options were considered and consultation continued up until 2009. The scheme was subsequently halted in 2009-10 for funding reasons.

The project has since been identified within the UK Government's National Infrastructure Plan (<https://www.gov.uk/government/collections/national-infrastructure-plan>) as one of the priority investment projects to be developed further, and the applicant intends to seek development consent through the PA2008 process.

The Inspectorate enquired as to the applicant's view on which threshold under the PA2008 the project falls within in order for it to be considered an NSIP, and therefore subject to the PA2008 consenting process. The applicant referred to Section 22 of the PA2008. The Inspectorate advised that the applicant should seek legal advice on this matter in order to come to a clear view on which threshold in the PA2008 would apply in order to define the project as an NSIP. In doing so, the applicant should fully consider whether the scheme is defined as an improvement or alteration and the basis for this conclusion, and should provide clear evidence and justification to support the overall conclusion on which threshold applies. The Inspectorate advised that it cannot provide legal advice on this matter, but could comment on the approach adopted by the HA in determining which threshold applies.

The HA set out the scheme objectives being to improve safety, reduce congestion and minimise environmental impacts with a further aim of facilitating development and providing benefits for the local economy.

The HA stated that the junction is approaching its practical capacity during peak periods, and the traffic growth originally projected for the junction has already been exceeded.

The current highway arrangement has been identified as a constraint to growth in the local area. By way of an example, the HA identified that the junction is located 3km north of the Nissan factory for which the A19/A184 is the distribution route to the port of Tyne, and this operation could benefit from increased capacity.

The HA stated that consultation on a number of layout options was held during 2009, and that the views from consultation had informed the selection of the preferred option announced this year. The HA stated that in their view the preferred option provides the best outcome against the project objectives.

The project will require the diversion of pylons and overhead power lines, and the HA are currently in discussion with National Grid over how this could be achieved.

The HA outlined that the STC and SC Local Plans include a number of housing, commercial and industrial development allocations that could potentially affect the Testos junction. There are also future proposals for development of land north of the Nissan factory site.

### **Pre-application programme and consultation**

The HA outlined the current programme to submission of an application for development consent.

The HA indicated that in their view the development comprised EIA development and stated an intention to submit a request for a Scoping Opinion from The Inspectorate in mid-July 2014.

The intention is to publish the Statement of Community Consultation (SoCC) by mid-August 2014. The HA stated that they have taken into account STC's Statement of Community Involvement (SCI) in drafting the SoCC, and initial discussions have been scheduled to be held with the relevant local authorities. They have identified key stakeholders including Nissan, and consultation locations are likely to include a venue within the Nissan plant as well as in a number of other venues in the vicinity of the scheme. The Inspectorate advised that the applicant would need to clearly demonstrate how regard has been had to comments received from the local authority on the draft SOCC.

The HA confirmed that following the statutory pre-application consultation period, consultations would remain on-going as part of the consultation process. The Inspectorate enquired whether this further consultation was likely to form part of the statutory consultation, and if so this should be documented in the SoCC.

A Section 46 notification, under the PA2008, is intended to be submitted to The Inspectorate in mid-August 2014 notifying of the proposed application in advance of consultation with prescribed bodies, which is currently scheduled to commence in September 2014 and run until mid-October 2014. The Inspectorate highlighted the relatively short period between scoping and S42 consultation, identifying the possibility that further surveys or assessments could be identified through scoping which would provide limited time if these were to inform the preparation of preliminary environmental information (PEI) as part of the statutory consultation.

Given the level of work undertaken to date on the project (associated with the progression of the scheme up until 2009/10), The Inspectorate advised that when consulting prescribed bodies and the wider public under sections 42 and 47 of the Act, the applicant should clearly identify which areas of the application can be influenced by the consultation. The Consultation Report should document both statutory and

non-statutory consultation, and should clearly demonstrate how regard has been had for comments received.

The HA anticipates that following completion of preliminary design of the project and consideration of comments received through consultation, the application will be submitted to The Inspectorate by June 2015. The Inspectorate advised that the applicant submit draft documents to The Inspectorate in advance of submitting an application, and identified the timeframes for this process as set out in the Pre-application Prospectus.

The Inspectorate queried the extent to which local authorities (LAs) had been involved to date and what experience they have of the NSIP process. HA responded that they have been in contact with LAs, and to their knowledge the local authorities' involvement in NSIP projects to date had been limited. The Inspectorate identified that there are a number of options for working with local authorities to assist them in understanding the process, including resources on the Planning Portal Website (<http://infrastructure.planningportal.gov.uk/application-process/the-process/>) and outreach if required. The Inspectorate stated that the need for outreach could be kept under review and determined in discussion with the applicant and relevant local authorities.

### **Project specific issues**

The HA raised a number of points around the timing of preparatory works in relation to the potential timetable for the examination and decision for the Testos Junction Scheme. These included works required to accommodate changes to overhead lines, the storage and reuse of cuttings generated from the A19/A1058 Coast Road Junction Improvement project should it be consented, and non-motorised users diversion routes. The Inspectorate advised that the applicant would need to seek their own legal advice on these matters and that they would give further consideration to how similar matters may have been addressed on other NSIP projects.

The HA identified that there are a number of planned developments that it intends to include in the cumulative assessment for the project. The possible further development to the north of the Nissan plant could affect the scheme, and the applicant stated that it intends to carry out further investigation into the potential traffic impacts to inform their approach. The Inspectorate advised that the scoping report should clearly set out the proposed approach to assessing cumulative effects including the developments that it intended to incorporate and the current status of these developments, in order to allow The Inspectorate and other consultees to comment on the approach.

The HA indicated that changes could be required to the scheme as a result of the further traffic assessment work, for example changes to the layout of the Downhill Lane junction, and queried what the implications of such a change could be at pre-application stage. The Inspectorate advised that this would depend on the timing of the change, whether the scheme as previously consulted upon incorporated these changes, and on the nature of the change. Depending on the above, there could be a need to re-consult. The Inspectorate advised that the HA should be mindful of the possible need to alter the scheme when preparing the DCO. The Inspectorate queried the extent to which the applicant would be seeking flexibility in the DCO, noting that incorporating and assessing the worst case may assist in minimising risk and that the applicant should seek legal advice on this matter. The Inspectorate drew attention to

## Advice Note 9: Using the Rochdale Envelope

(<http://infrastructure.planningportal.gov.uk/wp-content/uploads/2013/05/Advice-note-9.-Rochdale-envelope-web.pdf>).

The HA identified the potential for changes in guidance close to submission of an application, for example the "webtag" updates which are published annually in May, just before the applicant's programmed application submission. The Inspectorate advised that ideally the application submitted should comply with the most up to date guidance, and if this was not the case then the Examining Authority may ask questions on these matters. The HA discussed the possibility of submitting updated information during pre-examination or examination should the guidelines be updated. The Inspectorate advised that the ability to do so may depend on the extent to which the issues are covered in the ES and whether they would require a material change to the scheme. The applicant should seek their own legal advice on this matter.

### **Overview of the NSIP process**

The Inspectorate provided an overview of the NSIP process, setting out the key features of each stage of the PA 2008 process, statutory timescales, and lessons learnt from projects to date. Attention was drawn to CLG guidance and The Inspectorate advice notes available on the National Infrastructure Planning Portal website: <http://infrastructure.planningportal.gov.uk/legislation-and-advice/advice-notes/>.

The Inspectorate stressed the importance of 'front loading' and where possible resolving issues in advance of submission of an application for development consent. The HA expressed the intention to agree as much as possible through Statements of Common Ground (SoCGs) with key consultees in advance of submission. The Inspectorate welcomed this approach and indicated that SoCGs could usefully be provided with the application when submitted, and that they could form a 'working document'.

Attention was drawn to the Pre-application Prospectus for Applicants which can be located on the Planning Portal Website and sets out the Planning Inspectorate's service for applicants at the pre-application stage of the PA2008 process ([http://infrastructure.planningportal.gov.uk/wp-content/uploads/2014/05/NSIP-prospectus\\_May2014.pdf](http://infrastructure.planningportal.gov.uk/wp-content/uploads/2014/05/NSIP-prospectus_May2014.pdf)). It was agreed that the HA would digest this information and let The Inspectorate know the level of service they would require. A voluntary contact plan could be agreed if the applicant viewed this as being useful.

The Inspectorate identified the potential service that can be provided by the Consents Service Unit and offered to provide a contact for the project if the HA were interested in this service. Further information is provided on the Planning Portal website: <http://infrastructure.planningportal.gov.uk/legislation-and-advice/consents-service-unit/>.

The HA raised the issue of the S55 checklist. The Inspectorate explained the purpose of the checklist as an aid to decision-making on whether or not to accept applications for examination, based upon the criteria set out on s55 of the PA 2008. The Inspectorate advised that this could be a useful tool for applicants to check that the application meets the relevant tests, and that some applicants select to include this as part of their application in order to signpost the evidence that in their view

demonstrates compliance with those tests. The Inspectorate advised the checklist is appended to Advice Note 6 on the Planning Portal Website.

### **Environmental Impact Assessment (EIA)**

The HA indicated that in their view the development comprised EIA development and that it intends to submit a request for a Scoping Opinion from The Inspectorate in mid-July 2014. The Inspectorate requested that a GIS Shapefile of the proposed project boundary be provided at least 10 working days prior to submission of the scoping request. HA intend to notify in writing that they propose to provide an environmental statement in respect of the development in accordance with Regulation 6 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (the EIA regulations), at the same time as submitting a scoping request. Further advice on the content, format and submission of a scoping request is set out in The Inspectorate Advice Note 7 (<http://infrastructure.planningportal.gov.uk/wp-content/uploads/2013/07/Advice-note-7v3.pdf>).

The Inspectorate advised that the scoping report should clearly set out where significant effects were considered likely to occur, and where the applicant seeks to exclude an issue from the scope of the EIA then adequate evidence and reasoned justification should be provided in order that The Inspectorate and other consultees can take a view on the proposed approach.

The HA stated that the original Environmental Statement (ES) for the previous project was produced in 2009 and will be updated; surveys were currently being undertaken. The Inspectorate advised that the scoping report submitted to The Inspectorate should clearly identify how current the data is, and should make clear and provide justification for which surveys and assessments are or are not to be updated. Any correspondence agreeing this approach with the relevant consultees should be included in the scoping report.

The Inspectorate advised that the HA take a precautionary approach when scoping for additional land that may be necessary for the development. The HA stated they were intending to adopt such an approach.

The HA stated that they were currently considering what mitigation measures may be required. The Inspectorate confirmed that mitigation measures, where relied upon in the ES, would need to be secured as part of the DCO. The Inspectorate advised that the ES should include a table clearly setting out where specific mitigation measures are secured in the DCO.

The Inspectorate commented that where mitigation is proposed to be delivered through detailed management plans that draft plans should be provided with the application.

### **European protected species licences**

The Inspectorate advised that should European protected species be identified as potentially being affected, then the applicant would need to demonstrate and agree with the relevant statutory nature conservation body that, having regard to the derogation tests, there is no reason why a license would not be granted. The examining authority for the application will need to be satisfied that there is no

impediment to the DCO being carried out and The Inspectorate advised the applicant to seek confirmation of this in writing from Natural England.

### **Habitats Regulations Assessment**

The Inspectorate identified the need to provide either a 'No Significant Effects Report' (NSER) or a Habitats Regulations Assessment Report (HRA Report) where a proposed development may affect a European site. The HA advised that they did not anticipate that the development would affect any European Site. The Inspectorate advised that a statement to that effect, along with supporting evidence to demonstrate that no impact pathways exist to European sites, should be provided with the application, and that written confirmation of any agreement from Natural England should be sought.

### **Next Steps: Specific decisions / follow up required**

- HA to provide The Inspectorate with information on which threshold within Section 22 of the PA2008 is likely to apply to this project as soon as is practicable.
- HA and The Inspectorate to discuss the level of service required from The Inspectorate at pre-application stage and to consider agreeing a contact plan.
- The Inspectorate to provide the Inspectorate Consents Service Unit contact to HA.
- HA to provide GIS shape file at least 10 working days in advance of submission of a request for a scoping opinion.