

M42 Junction 6 Improvement

Scheme Number TR010027

Volume 3

3.3 Consents and Agreements Position Statement

Regulation 5(2)(q)

Planning Act 2008

Infrastructure Planning (Applications: Prescribed
Forms and Procedure) Regulations 2009

January 2019

Infrastructure Planning

Planning Act 2008

**The Infrastructure Planning
(Applications: Prescribed Forms
and Procedure) Regulations 2009**

M42 Junction 6 Improvement
Development Consent Order 202[]

Consents and Agreements Position Statement

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1 Introduction

1.1 Purpose and objective

- 1.1.1 This paper sets out Highway England's intended strategy for obtaining consents and associated agreements needed to implement the proposed M42 Junction 6 Scheme (the Scheme).
- 1.1.2 It is submitted in accordance with regulation 5(2)(q) of the Infrastructure Planning (Applications: Prescribed Forms and Procedures Regulations) 2009, as amended.
- 1.1.3 The purpose and objective of this position statement is to identify at a high level what consents are expected to be needed for the Scheme, together with how those consents will be obtained.

1.2 The Scheme

- 1.2.1 The Scheme proposes the creation of a new junction (Junction 5A) approximately 1.8km south of the existing Junction 6 off the M42 and a new 2.4km long dual carriageway link road between the new Junction 5A and Clock Interchange with a free flow slip road to the A45 Coventry Road. Subsequently, there will be capacity and junction improvements at Clock Interchange roundabout.
- 1.2.2 The development will comprise of the realignment and modification of the B4438 Catherine-de-Barnes Lane, Clock Lane and St. Peters Lane located west of the M42, and of East Way and the Middle Bickenhill Loop north east of M42 Junction 6. The Scheme will also include the modification and improvements to public rights of way, footbridges and private accesses, as well as to the location and spacing of emergency refuge areas, overhead gantries and message signing along the M42
- 1.2.3 For a more detailed description of the Scheme proposals, refer to Chapter 3 The project of the Environmental Statement [TR010027/APP/6.1].

2 Strategy

2.1 Consents strategy

- 2.1.1 The basis of Highways England's consents strategy is that:
- a. a Development Consent Order (DCO) must be sought as the principal consent for the works (under the Planning Act 2008 (the 2008 Act)) and to provide the necessary land acquisition and temporary possession powers;
 - b. where possible and practicable, additional consents should be included within the DCO; and
 - c. the proposed Scheme has and will be developed on the basis of strong collaboration between the key stakeholders, and agreements will be secured at key stages of project development as necessary.

2.2 Highways England approach

- 2.2.1 The intent of the 2008 Act and Government policy is to enable development and construction-related consents to be included within the DCO.
- 2.2.2 The Scheme benefits from the intent of the Act and Government policy as the majority of the consents required for the construction of the Scheme are in place at the point of the making of the DCO. This minimises the need for any further approvals before the works covered by the DCO can commence.
- 2.2.3 The consents strategy is based on the National Policy Statement for National Networks to ensure that relevant permissions that need to be obtained for activities within the development have been identified.
- 2.2.4 Engagement with statutory consultation bodies has informed the approach during the pre-application stage. Highways England is seeking to agree with each body the principles against which applications for the other consents, licences, and permits should be considered, in order that all relevant issues may be explored during the Examination of the application for development consent.

3 Consents and agreements

3.1 Consents

3.1.1 The principal consent for the proposed Scheme will be a DCO. The DCO process provides development consent for the works and enables land acquisition and temporary possession of land, along with many consents and powers to be dealt with at the same time.

3.1.2 The DCO application may, however, need to be supplemented by other applications because:

- a. a specific consent cannot be contained in the DCO;
- b. a consenting authority declines to allow a consent to be contained within the DCO; or
- c. it is not desirable or it is inappropriate to include a consent within a DCO due to the stage of design development and thus the detail available.

3.1.3 At this point (i.e. the submission of the DCO application) the majority of consents and all of the powers required, have been included, or addressed, within the DCO as permitted by various provisions of the 2008 Act. These fall into the following categories:

- a. authorisation of all permanent and temporary works (equivalent of planning permission). None of the following consents need to be addressed on this scheme: scheduled monument consent, listed building consent, common land consents; tree preservation orders;
- b. compulsory acquisition of land and of rights over land such as easements, restrictive covenants and the temporary possession of land;
- c. consent to carry out street works and to stop up highways permanently or temporarily;
- d. highway matters (such as designating highway as trunk road);
- e. traffic regulation matters (such as speed limits, clearways and restrictions on use);
- f. consent to stop up and divert public and private rights of way;
- g. consent to carry out specified operations within a Site of Special Scientific Interest;
- h. consent to erect structures in, over or under a main river;
- i. consent to obstruct ordinary watercourses;
- j. consent to fell or lop trees or remove hedgerows (including any 'important hedgerows'); and
- k. consent to carry out any required utility diversions (subject to protective provisions).

- 3.1.4 The following permits, consents and agreements may also need to be sought separately from the DCO:
- a. Land Drainage Byelaw consent for works in, under or over, any relevant watercourses;
 - b. Trade effluent consent (e.g. for welfare facilities) (Water Industry Act 1991);
 - c. Mobile plant licences for crushing operations or site permits if not using a subcontractor with their own mobile licences [Pollution Prevention and Control Act 1999, Environmental Permitting (England and Wales) Regulations 2016];
 - d. Exemptions for operations such as U1 (import of waste for use in construction) and T15 (crushing of aerosols to minimise hazardous waste) (if exemption limits can be met) [Pollution Prevention and Control Act 1999, Environmental Permitting (England and Wales) Regulations 2016];
 - e. Environmental Permit for waste operations (Pollution Prevention and Control Act 1999, Environmental Permitting (England and Wales) Regulations 2016);
 - f. Section 61 consent if requested by the Local Authority (Control of Pollution Act 1974);
 - g. Water abstraction licence (if need to remove more than 20m³/day) (Water Resources Act 1991 (as amended by the Water Act 2003), Environment Act 1995, The Water Resources (Abstraction and Impounding) Regulations 2006);
 - h. Permit(s) from the Environment Agency to discharge surface/ground waters pursuant to the Environmental Permitting (England and Wales) Regulations 2016;
 - i. CL:aire Materials Management Plan;
 - j. Environmental Standard Rules Permit (Flood Risk Activity) to construct an outfall on a Main River (The Environmental Permitting (England and Wales) Regulations 2016);
 - k. Badger Licence (Protection of Badgers Act 1992, s. 10); and
 - l. Protected Species Licence (Wildlife and Countryside Act 1981, s. 16).
- 3.1.5 The above list is not exhaustive and the final set of permits, consents and agreements are largely dependent on finalisation of the detailed design, the detailed construction site set up and methodologies, and discussions with stakeholders (e.g. Environment Agency and Local Authority). These are not sufficiently developed at this stage to confirm the requirements and therefore it is not practicable to include them within the DCO.

3.2 Agreements

- 3.2.1 Agreements with third parties may be required in parallel to the DCO process and may take a variety of forms.

- 3.2.2 A fundamental part of the DCO process is the preparation and agreement of Statements of Common Ground (SoCG) with third parties to identify the matters on which parties are in agreement, in order to narrow the focus for examining the application concerned and to make the examination process more efficient. These will be progressed by Highways England where appropriate.
- 3.2.3 Other possible forms of agreement alongside SoCG are legal agreements regulating land and works powers undertakings and memoranda of understanding and letters of comfort. Again, these will be progressed by Highways England where appropriate.