

A1 Birtley to Coal House

Scheme Number: TR010031

3.3 Consents and Agreements Position Statement

APFP Regulation 5(2)(q)
Planning Act 2008
Infrastructure Planning (Applications: Prescribed
Forms and Procedure) Regulations 2009



Infrastructure Planning

Planning Act 2008

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

**The A1 Birtley to Coal House
Development Consent Order 20[xx]**

CONSENTS AND AGREEMENTS POSITION STATEMENT

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1 INTRODUCTION

1.1 Purpose of this Document

- 1.1.1 This Consents and Agreements Position Statement (this “Statement”) relates to an application made by Highways England (the “Applicant”) to the Planning Inspectorate (the “Inspectorate”) under the Planning Act 2008 (the “2008 Act”) for a Development Consent Order (DCO). If made, the DCO would grant consent for the Applicant to undertake the A1 Birtley to Coal House (the “Scheme”). A detailed description of the Scheme can be found in **Chapter 2** of the Environmental Statement (ES) (**Application Document Reference: TR010031/APP/6.1**).
- 1.1.2 The purpose of this Statement is to set out what consents and associated agreements are expected to be needed for the Scheme along with the Applicant’s intended strategy for obtaining those consents and associated agreements.
- 1.1.3 This Statement has been prepared and submitted in compliance with Regulation 5(2)(q) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (the “2009 Regulations”) which states:
‘(q) any other documents considered necessary to support the application’.

2 STRATEGY

2.1 Consents Strategy

2.1.1 The basis of the Applicant's consents strategy is that:

- 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;
- The intent of the 2008 Act and Government policy is to enable development and construction-related consents to be included within the DCO; therefore, where possible and practicable, additional consents have been included within the DCO;
- The Scheme benefits from the intent of the 2008 Act and Government policy as most of the consents required for the construction of the Scheme will be 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; and
- 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. The progress on these items will be reported to the Examining Authority, with a summary of the current situation reported in section 3 and the appendices of this Statement.

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, along with many consents and powers to be dealt with at the same time.

3.1.2 However, the DCO application may need to be supplemented by other applications because:

- a) A specific consent cannot be contained within 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 meaning the detail required is unavailable.

3.1.3 At this point (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:

- Authorisation of all permanent and temporary works (equivalent of planning permission). None of the following consents need to be addressed on the Scheme: listed building consent, conservation area consent, common land consents, and SSSI consents.
- Compulsory acquisition of land and of rights over land such as easements, restrictive covenants and the temporary possession of land;
- Consent to carry out street works and to stop up highways permanently or temporarily;
- Highway matters (such as designating highway as trunk road);
- Traffic regulation matters (such as speed limits, clearways and restrictions on use);
- Powers to stop up and divert public and private rights of way;
- Consent to discharge into a watercourse, public sewer or drain for the drainage of water;
- Consent to carry out tree works (including works to trees subject to a Tree Preservation Order);
- Consent to remove hedgerows (including any 'important hedgerows');
- Consent to carry out works that affect a Scheduled Monument (Bowes Railway);
- Powers and consents to carry out utility diversions (subject to protective provisions).

- 3.1.4 The permits, consents and agreements that may need to be sought separately from the DCO are identified in **Appendix A**.
- 3.1.5 The content of **Appendix A** is largely dependent on finalisation of the detailed design, the detailed construction site set up and methodologies, and discussions with the consenting authorities. 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 relevant stakeholders 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 a variety of stakeholders to identify the matters on which parties are in agreement, to narrow the focus for examining the application concerned and to make the examination process more efficient. This will be progressed by the Applicant and it is proposed that SOCG are being sought with the following bodies:
- Gateshead Council
 - Historic England
 - Natural England
 - Environment Agency
- 3.2.3 Progress on finalising any SoCG or other forms of agreement, along with updated / final documents, will be reported to the Examining Authority before the close of the examination.

APPENDIX A: CONSENTS AND AGREEMENTS TABLE

Issue:	Consent/ Licence/ Agreement & Legislation:	Consenting Authority:	Requirement:	Status of negotiations:
	A licence under section 10 of the Protection of Badgers Act 1992.	Natural England	To ensure badgers are not disturbed and ensure legal compliance with the Protection of Badgers Act 1992.	<p>Negotiations not required as no badgers were found on site during the surveys carried out to inform the ES (Application Document Reference: TR010031/APP/6.1).</p> <p>However, pre-construction badger surveys will be carried out at least three months prior to the commencement of works. Should badger activity be confirmed within the area of works, a licence will be sought from Natural England prior to the start of construction works.</p>
Protected species licensing	A licence under section 16 of the Wildlife and Countryside Act 1981 (power to grant licence) for roosting bats with associated mitigation and compensation requirements	Natural England	To comply with conservation legislation and protect roosting bat species (specifically common pipistrelle) as a confirmed bat roost is located at Eighton Lodge South Underbridge.	<p>Discussions have taken place with Natural England in relation to bats and the proposed European Protected Species (EPS) Licence required.</p> <p>Natural England has received Chapter 8: Biodiversity of the ES (Application Document Reference: TR010031/APP/6.1) and confirmed in a phone call on 25 April 2019 that from the information provided, the bat assessment and survey efforts looks sufficient to inform the EPS licence and meet standards. They have also advised that a full draft licence application and separate method</p>

			<p>statement is required to inform the Letter of No Impediment. The Applicant has drafted the licence application for Natural England (see Appendix 8.14 of the ES (Application Document Reference: TR010031/APP/6.3)) and it is anticipated that a Letter of No Impediment will be provided during Examination.</p>
	<p>A licence under section 16 of the Wildlife and Countryside Act 1981 (power to grant licence) for great crested newts.</p>	<p>Natural England</p>	<p>To ensure Great Crested Newts are not disturbed and ensure legal compliance with the Wildlife and Countryside Act 1981.</p> <p>Discussions have taken place with Natural England in relation to Great Crested Newts and mitigation required. During a meeting with Natural England on 7 March 2019, it was discussed that works would be subject to a Precautionary Working Method Statement (PWMS) in relation to Great Crested Newts.</p> <p>This would cover works within 500m of the following waterbodies, as shown on Figure 2 in Appendix 8.6 of the ES (Application Document Reference: TR010031/APP/6.3):</p> <ul style="list-style-type: none"> • WB14 • WB15 • WB16 • WB17 • WBB <p>It is proposed that the PWMS would be secured through the Outline Construction Environmental Management Plan (CEMP) (Application Document</p>

				<p>Reference: TR010031/APP/7.4), and through the Requirements in the Draft DCO (Application Document Reference: TR010031/APP/3.1). Should Great Crested Newt activity be confirmed within the area of works, a licence will be sought from Natural England prior to the start of construction works.</p>
	A licence under section 16 of the Wildlife and Countryside Act 1981 (power to grant licence) for red squirrels and their dreys.	Natural England	To comply with conservation legislation and protect red squirrels and their dreys within woodland east of Allerdene Bridge.	No red squirrels and their dreys were found on site during the surveys carried out to inform the ES. However, pre-construction red squirrel surveys would be carried out prior to the start of construction works and if found, a licence would be applied for.
Water /Drainage consents	<p>Water Abstraction: Licence under sections 24 and 25 of the Water Resources Act 1991 (restrictions on abstraction and impounding; restrictions on impounding), (as amended by the Water Act 2003). (also refer to The Environment Act 1995 and The Water Resources (Abstraction and Impounding) Regulations 2006.)</p>	Environment Agency	To comply with environmental legislation. Required if construction works need to remove more than 20m ³ /day.	<p>Full details of the construction methods for the Scheme are not sufficiently developed at this stage as a contractor is not yet appointed. Therefore, the Applicant is not currently able to confirm whether an abstraction licence is required.</p> <p>Should a water abstraction licence be deemed necessary, this would be obtained prior to the start of construction works.</p>
	An environmental permit under the Environmental Permitting (England and Wales) Regulations 2016 for	Environment Agency	To comply with environmental legislation for any works required within the channel or	An Environmental Standard Rules Permit (Flood Risk Activity) for any works within the channel or 8m from the top of the River Team bank

	<p>Flood Risk Activities. (also refer to Pollution Prevention and Control Act 1999).</p>		<p>8m from the top of the River Team bank.</p>	<p>(including construction of and modifications to outfalls) would be applied for once the contractor is appointed and prior to the start of construction works once construction methods are known.</p> <p>This has been discussed with the Environment Agency and they have confirmed that they would expect and agree with this approach.</p>
	<p>Land Drainage Consent under Section 23 of The Land Drainage Act 1991.</p>	<p>Lead Local Flood Authority (Gateshead Council)</p>	<p>To obtain ordinary watercourse consent for works, in, under or over any relevant watercourses.</p>	<p>Full details of the construction methods for the Scheme are not sufficiently developed at this stage as a contractor is not yet appointed. Therefore, the Applicant is not currently able to confirm whether ordinary watercourse consent is required.</p> <p>Should ordinary watercourse consent be required for works in, under or over any relevant watercourses, then this consent would be applied for from the Lead Local Flood Authority in advance of the works commencing.</p>

<p>Waste /Pollution consents</p>	<p>Waste 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) under the Environmental Permitting (England and Wales) Regulations 2016. (also refer to Pollution Prevention and Control Act 1999).</p>	<p>Environment Agency</p>	<p>To ensure waste exemptions for re-use of material on site are in place (if required).</p>	<p>Full details of the construction methods for the Scheme are not sufficiently developed at this stage as a contractor is not yet appointed. Therefore, the Applicant is not currently able to confirm whether waste exemptions are required. With regards to U1, exemptions would only be secured once an appropriate supplier and material has been identified by the contractor. Should a waste exemption be required to enable materials identified as waste to be reused on the Scheme, then this would be applied for in advance of the works commencing. Relevant exemptions to be identified and registered in advance of works (pre-construction).</p>
	<p>A Trade effluent consent under the Water Industry Act 1991.</p>	<p>Northumbrian Water</p>	<p>To obtain consent for discharge of any trade effluent into a public sewer</p>	<p>Full details of the waste water that would be produced on site and the construction methods for the Scheme are not sufficiently developed at this stage as a contractor is not yet appointed. Therefore, the Applicant is not currently able to confirm whether a trade effluent consent is required. Should a trade effluent consent be required to discharge any trade effluent into a public sewer, then this would be applied for in advance of the works commencing.</p>