

# A57 Link Roads TR010034

## 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) Regulations 2009

### A57 Link Roads Scheme

#### Development Consent Order 202[x]

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### 3.3 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”) sets out Highways England’s intended strategy for obtaining the consents and associated agreements needed to implement the proposed A57 Link Roads (the “Scheme”).
- 1.1.2 This Consents and Agreements Position Statement (CAPS) 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 Statement is to identify what consents and agreements are expected to be needed for the Scheme, and how these will be obtained (subject to the Scheme gaining development consent).
- 1.1.4 This document should be read in conjunction with the Draft Development Consent Order [TR010034/APP/3.1] and the Explanatory Memorandum [TR010034/APP/3.2].

## 1.2 The Scheme

- 1.2.1 The A57 and A628 between Manchester and Sheffield currently suffer from heavy congestion, creating unreliable journeys, which limits journey time reliability. This restricts economic growth due to the delays experienced by commuters and business users alike. The congestion also results in rat running through smaller towns and villages, as vehicles attempt to reduce queuing times.
- 1.2.2 The Scheme has been developed to improve journeys between Manchester and Sheffield, and has evolved over more than 50 years, as different improvements have been explored. The current A57 around Mottram in Longdendale suffers from congestion which limits journey time reliability. This restricts economic growth due to the delays experienced by commuters and business users alike. This has a negative effect on local businesses and employment opportunities. The congestion also results in rat running through smaller towns and villages, as vehicles attempt to reduce queuing times. Much of this heavy traffic travels along local roads, which disrupts the lives of communities, and makes it difficult and potentially unsafe for pedestrians to cross the roads. It is likely that these issues would get worse with time, if significant improvements are not made.
- 1.2.3 A full Scheme description is provided in Chapter 2 of the Environmental Statement (ES) [TR010034/APP/6.3] and is summarised below:
- A new offline bypass of approximately 1.2 miles (1.8 km) of dual carriageway road connecting the M67 junction 4 to Mottram Moor
  - A new offline bypass of 0.81 miles (1.3 km) of single carriageway connecting the A57(T) Mottram Moor to the A57 Woolley Bridge
  - Creation of two new junctions, Mottram Moor Junction and Woolley Bridge Junction and improvement works to the existing M67 Junction 4
  - Creation of five new structures (Old Hall Farm Underpass, Mottram Underpass, Carrhouse Lane Underpass, River Etherow Bridge and Roe Cross Road Overbridge)
  - One main temporary construction compound area located on agricultural land to the east of the M67 Junction 4

- Detrunking, including safety measures from the M67 Junction 4 to Mottram Back Moor Junction, to be agreed with Tameside Metropolitan Borough Council (Tameside MBC).
- Safety measures and improvements to the A57 from Mottram Moor Junction to Gun Inn Junction and from Gun Inn Junction to Woolley Lane Junction, to be agreed with Tameside MBC.

## 2. Strategy

### 2.1 Background to the consenting regime under the Planning Act 2008

- 2.1.1 It is possible for a wide range of matters to be included within the scope of a Development Consent Order (DCO). Section 120 of the Planning Act 2008 (the "2008 Act") provides that a DCO may make provision for, or relate to, any matters listed in Schedule 5 of the Act, including the application, modification or disapplication of certain relevant statutory provisions where necessary or expedient for the purposes of giving full effect to the Order. In addition, there are specific sections within the Act, which provide that a DCO may include certain other provisions.
- 2.1.2 There are however some limitations, most notably in Section 150 of the Act, which stipulates that certain prescribed non-planning consents may only be included within a DCO with the agreement of the relevant consenting body. The DCO does not include any Section 150 consents.

### 2.2 Highways England's Consents Strategy

- 2.2.1 The basis of Highways England's consents strategy is that:
- A DCO must be sought as the principal consent for the works (under the 2008 Act) including 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 Scheme has and will be developed based on strong collaboration between the key stakeholders, and any additional consents 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 of this document and in the Appendices.
- 2.2.2 The consents strategy is informed by the National Policy Statement for National Networks to ensure that all relevant permissions that need to be obtained for activities within the development have been identified.

## 3. Consents and Agreements

### 3.1 Introduction

- 3.1.1 The principal consent for the proposed Scheme will be a DCO itself, a draft version is submitted as part of this application [TR010034/APP.3.1]. The DCO process provides development consent for the works and enables land acquisition and temporary possession, 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 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 meaning the detail required is unavailable.

### 3.2 Consents included within the DCO

- 3.2.1 At this point (the submission of the DCO application) most of the consents and all 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)
  - Compulsory acquisition of land (including subsoil) and / or 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
  - Highways matters (including matters such as, construction of site access, designating highway as trunk road or special road, de-trunking the existing A57, specification of classes of traffic authorised to use the highway, adoption of a new highway, highway drainage)
  - Traffic regulation matters (including speed limits)
  - Consent to temporarily or permanently stop / extinguish and divert public and private rights of way (including footpaths, cycleways and diversion of restricted byways)
  - Consent to carry out tree works (including works to trees subject to a Tree Preservation Order)
  - Consent to carry out tree works (including works to trees in Conservation Areas)
  - Consent to remove hedgerows (including any 'important hedgerows')
  - Powers to carry out utility diversions (subject to protective provisions)
  - Consent to carry out any required utility diversion (subject to protective provisions)
  - Authority to survey and investigate the land

- Matters relating to Statutory Nuisance including the working outside of specified hours and the exceedance of thresholds
- Consent to carry out civil engineering or other works including landscaping works and tree planting
- Consent and powers to remove any apparatus belonging to statutory undertakers and / or carry out utility diversions (subject to protective provisions), plus consents to keep electric lines installed above ground
- Consent and powers to carry out miscellaneous tasks including payment of contributions and compensation, the transfer, leasing, suspension, discontinuance and revival of undertakings, the transfer of property, rights, liabilities or function, exclusion of obligation act and the protection of the property or interests of any person.

3.2.2 With the exception of planning permission, none of the consents listed in Section 33 (1) of the Act will be required for the Scheme. This includes the following consents:

- Listed Building Consent under the Planning (Listed Buildings and Conservation Areas) Act 1990. This is because the Scheme will not involve any works to a Listed Building;
- Common Land Consent under the Planning Act 2008. This is because the Scheme will not affect any Common Land;
- Site of Special Scientific Interest (SSSI) under the Conservation of Habitats and Species Regulations 2010. This is because the Scheme will not affect any SSSI;
- Scheduled Ancient Monument consent or any consent under the Ancient Monuments and Archaeological Areas Act 1979. This is because no works are proposed within the boundary of any Scheduled Ancient Monument and the Scheme is not situated within an area of archaeological importance designated under the 1979 Act;
- A pipe-line construction authorisation under the Pipe-lines Act 1962. This is because the Scheme will not require the diversion of a pipeline of more than 800mm in diameter or exceeding 8 bar gauge or any other limit stipulated by the 1962 Act; and
- A consent under the Gas Act 1965 the Energy Act 1976 or the Electricity Act 1989.



### 3.3 Other Consents to be obtained

- 3.3.1 The permits, consents and agreements that may need to be sought separately from the DCO are identified in Appendix A.
- 3.3.2 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.

### 3.4 Agreements

- 3.4.1 Agreements with relevant stakeholders may be required in parallel to the DCO process and may take a variety of forms.
- 3.4.2 A fundamental part of the DCO process is the preparation and agreement of Statements of Common Ground (SoCG) with a variety of relevant stakeholders to identify the matters on which parties agree and disagree, to narrow the focus for examining the application concerned and to make the examination process more efficient.
- 3.4.3 Highways England is currently in discussions with:
- Natural England
  - Environment Agency
  - Historic England
  - Tameside Metropolitan Borough Council (TMBC)
  - Derbyshire County Council (DCC)
  - High Peak District Council (HPDC)
  - United Utilities
  - National Grid
  - Cadent
  - Electricity North West
  - BT Openreach
  - Greater Manchester Archaeological Advisory Service (GMAAS), and
  - Transport for Greater Manchester (TFGM)
- 3.4.4 The Draft SoCG with TMBC; DCC/HPDC and TfGM are all provided as part of this DCO submission [TR010034/APP/8.2-8.4].
- 3.4.5 The remaining SoCG will be progressed by Highways England where appropriate.
- 3.4.6 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.
- 3.4.7 Other forms of agreement are also likely to be required alongside SoCGs, e.g. legal agreements regulating land and works powers, undertakings, memoranda of understanding, letters of comfort, etc.

# Appendix A. Agreements and Consenting Authorities Table

**Table 3.1: Consents and Agreements Table**

Issue:	Consent/Licence/Agreement & Legislation:	Consenting Authority:	Requirement:	Status of negotiations:
Protected species licensing	A license under section 10 of the Protection of Badgers Act 1992	Natural England (NE)	Active badger setts have been identified within the DCO boundary and will require relocation. This consent is therefore likely to be required prior to commencement of construction activities.	The Principal Contractor is to gain this consent and liaise with NE to obtain a Letter of No Impediment during the Examination period. Discussions with NE are ongoing. Badger activity may alter before construction commences.
	Regulation 55 of the Conservation of Habitats and Species Regulations 2017, a European Protected Species mitigation licence from Natural England (in respect of Bats)		Ecology surveys have identified that the Scheme may have an impact upon bats. This consent is therefore likely to be required prior to commencement of construction activities.	The Principal Contractor is to gain this consent and liaise with NE to obtain a Letter of No Impediment during the Examination period. Discussions with NE are ongoing.
Hazardous substance	Revocation of hazardous substances consent on change of control of land. Determination of applications for continuation of hazardous substances consent under the Planning (Hazardous Substances) Act 1990. Any consignment note or notification under the Hazardous Waste (England and Wales) Regulations 2005.	Environment Agency	Determination of applications for continuation of hazardous substances consent or presence of hazardous substances within condition attached to previous consent. The consents are applicable if the disposal of hazardous waste is required.	Further site investigations are necessary to determine whether the excavations include hazardous substances. Discussions with the EA are ongoing.
Waste	Materials Management Plan (MMP) Any waste carrier licences or transfer licences that may be required under the Control of	Environment Agency	A MMP is required for the reuse of materials defined as non-waste or end-waste and greater than exemption limits. The Principal Contractor is required to ensure their selected waste disposal	Further site investigations and the assessment of potential surplus of material reuse is required.

Issue:	Consent/Licence/Agreement & Legislation:	Consenting Authority:	Requirement:	Status of negotiations:
	Pollution (Amendment) Act 1989.		contractor holds a Waste Carrier Licence.	<p>Specific deposit sites are identified within Schedule 1 of the DCO, work numbers 17 and 18.</p> <p>The use of a MMP in relation to the CL:AIRE guidance, and the requirement for other waste consents is currently being examined with the EA. Discussions are ongoing.</p>
Regulation 12 consents	Environmental Permitting (England and Wales) Regulations 2016 (as amended) <ul style="list-style-type: none"> <li>Mobile plant permit</li> <li>• Waste exemption permit</li> <li>• Concrete batching plant</li> <li>• Mobile crushers</li> <li>• Grout plants</li> <li>• Environmental permit for waste operation</li> <li>• Environmental permit for discharge to surface water or groundwater</li> </ul>	Environment Agency and Local Authorities	<p>A variety of environmental permits will be required to support the Scheme.</p> <p>They are to be gained by the Principal Contractor who will be responsible for their acquisition and works associated with them.</p>	Discussion regarding the use of waste permits are ongoing with the EA and are documented within the SOCG. Following Brexit, this regulation is being reviewed.
Noise pollution	Section 61 consent (Control of Pollution Act 1974).	Local Authority	It is possible that a Section 61 consent may be sought due to the creation of noise related to construction.	This consent is usually gained immediately prior to or during construction when a detailed description of the construction programme is available.
Invasive species	Consent under the Control of Pesticides Regulations 1986 (as amended) for the use of and control of any pesticides within 8m of a watercourse (e.g. if Himalayan Balsam is found and requires to be sprayed) Notification to the Environment	Environment Agency, DEFRA and Natural England	<p>Consent required for disposal of invasive species to a waste facility, if required.</p> <p>Consent for associated storage of pesticides.</p>	It has yet to be determined whether invasive species are present or will require removal.

Issue:	Consent/Licence/Agreement & Legislation:	Consenting Authority:	Requirement:	Status of negotiations:
	Agency of any Japanese Knotweed, Goldenrod, Himalayan Balsam or Giant Hogweed removal, treatment or burial under the Waste (England and Wales) Regulations 2011			
Health and Safety	<p>Notification to the Health and Safety Executive about the commencement of construction in accordance with the Construction (Design and Management) Regulations 2015 (F10 Notification)</p> <p>Approvals under the Health and Safety at Work Act 1974</p> <p>Compliance with duties under The Regulatory Reform (Fire Safety) Order 2015</p> <p>Asbestos Management in line with CAR-SOILS</p>	Health and Safety Executive, Local Authority, Fire and Rescue Authority, Fire Inspector, Asbestos Removal Contractors Association	Consents required to demonstrate compliance with fire safety duties and site safety legislation.	Consents to be gained by the Principal Contractor, following its preparation of associated documentation.
Transport	Consent under Road Traffic Regulations Act 1984 – s.14 (Temporary Traffic Regulation Order)	Highways England and Local Authority	Traffic management diversions, including temporary traffic signals, which are <b>not included in the DCO</b>	Consents to be gained by the Principal Contractor as the detailed construction programme is required to inform the application process.
Water and Drainage	<p>The Environmental Permitting (England and Wales) Regulations 2016 (as amended)</p> <p>Environmental Permit – Surface Water discharge consent (Regulation 12(1)(b) of the Environmental Permitting Regulations 2016)</p>	Environment Agency	<p>Works in, under or over a main river watercourse, including culverting, construction of bridges and viaducts.</p> <p>Discharge into main river watercourses</p>	Consents to be gained by the Principal Contractor

Issue:	Consent/Licence/Agreement & Legislation:	Consenting Authority:	Requirement:	Status of negotiations:
	Environmental Permit - Groundwater discharge consent. Consent to discharge into an available watercourse under the Regulation 12(1) (b) of the Environmental Permitting Regulations 2016		Discharge of a pollutant into groundwater	
	Water Abstraction Licence Section 24 of the Water Resources Act 1991 Consent to Investigate a groundwater source Licence under sections 24 of the Water Resources Act 2003 (restrictions on abstraction).		A consent under section 32 (restriction on abstracting) Water Resources (Environmental Impact Assessment) (England and Wales) Regulations 2003 (47).	
	Water Impoundment Licence - Licence under sections 25 of the Water Resources Act 2003 (restrictions on impounding).		Water Impoundment	
	Section 143 of the Planning Act 2008 and Schedule 5 Pt 1.		The diversion of navigable or non-navigable watercourses.	
	Water Framework Directive (WFD)		A WFD risk assessment will need to be undertaken. If the works will affect a water body that is at high status or high status morphology or if applying for a Flood Risk Assessment Permit (FRAP) for a specific type of activity on a main river (see FRAP below).	
	Foundation works and piling risk assessment.		For piling and piling over an aquifer.	
	Environmental Permit - Flood Risk Activities (for Main Rivers) under the Environmental		A Flood Risk Activity Permit will be required where works are to be carried out within eight metres of the bank of a	

Issue:	Consent/Licence/Agreement & Legislation:	Consenting Authority:	Requirement:	Status of negotiations:
	Permitting (England and Wales) Regulations 2016.		main river. This is also relevant for ecological bank side habitats, such as otters. A WFD risk assessment must be undertaken for the EA to issue the permit (see WFD above).	
	Ground Dewatering under the Water Resources Act 1991 sec 32.		Temporary dewatering during construction works.	Discussions with Environment Agency are ongoing.
	Land Drainage Act 1991 (and sections 20 and 32) and any LLFA Byelaws or for Highways Authorities Section 339 of the Highways Act 1980. Consent or approval for the carrying out of the works required under any relevant byelaws made under the Water Resources Act 1991 or the Land Drainage Act 1991.	Lead Local Flood Authority – Tameside MBC	Works affecting the flow of an ordinary river watercourse.	Consents to be gained by the Principal Contractor.
	Section 100 of the Highways Act 1980.	Highway Authority	Highway drainage.	Consents to be gained by the Principal Contractor.

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