

# A47 Wansford to Sutton Dualling

**Scheme Number: TR010039**

**Volume 9**

## **9.37 Applicant's Response to Examining Authority's Recommended Amendments to the Draft Development Consent Order**

Infrastructure Planning (Examination Procedure) Rules 2010  
Rule 8(1)(c)

Planning Act 2008

June 2022

Infrastructure Planning

Planning Act 2008

**The Infrastructure Planning  
(Examination Procedure) Rules 2010**

A47 Wansford to Sutton  
Development Consent Order 202[x]

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**9.37 APPLICANT'S RESPONSE TO EXAMINING  
AUTHORITY'S RECOMMENDED AMENDMENTS TO THE  
DRAFT DEVELOPMENT CONSENT ORDER**

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<b>Rule Number</b>	Rule 8(1)(c)
<b>Planning Inspectorate Scheme Reference</b>	TR010039
<b>Application Document Reference</b>	TR010039/EXAM/9.37
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Rev 0	June 2022	Deadline 8

**A47 WANSFORD TO SUTTON SCHEME**

Provision	Change	Reasoning	Applicant's Response
Article 2(1)	In the definition of the "Secretary of State" add before "Secretary of State", "except in Article 53".	To ensure clarity.	For consistency with all other definitions in Article 2(1) (which begin with the defined term), the wording has been amended to: "Secretary of State" means the Secretary of State for Transport, except in article 53 where directions may be given by the Secretary of State for Justice.
Article 49 and Schedule 2, Requirement 16.	<p>Replace text with:</p> <p><b>Certification of documents, public register, etc.</b></p> <p>49.— (1) As soon as practicable after the making of this Order, the undertaker must submit copies of each of the plans and documents set out in Schedule 10 (documents to be certified) to the Secretary of State for certification as true copies of those plans and documents.</p> <p>(2) Where any plan or document set out in Schedule 10 (documents to be certified) is required to be amended to accord with the terms of the Secretary of State's decision to make the Order, that plan or document in the form amended to the Secretary of State's satisfaction is the version of the plan or document required to be certified under paragraph (1).</p> <p>(3) A plan or document so certified will be admissible in any proceedings as evidence of the contents of the document of which it is a copy.</p> <p>(4) The undertaker must, as soon as practicable following the making of this Order, establish and maintain in an electronic form suitable for inspection by members of the public:</p>	To simplify the drafting to make clear that all documents are held in a single location (online and owned by the undertaker) in the interests of transparency.	Agreed. The text of Article 49 has been replaced as suggested. Requirement 16 has been deleted and subsequent requirements re-numbered.

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	<p>(a) a copy of each of the documents listed in Schedule 10 (documents to be certified) as may be amended in accordance with paragraph (2); and</p> <p>(b) a register of those requirements contained in Part 1 of Schedule 2 of this Order (requirements) that provide for further approvals to be given by the Secretary of State.</p> <p>(5) The register pursuant to sub-paragraph (4)(b) must set out in relation to each such requirement the status of the requirement, in terms of whether any approval to be given by the Secretary of State has been applied for or given, providing an electronic link to any document containing any approved details.</p> <p>(6) The electronic record set out in paragraph (4) must be maintained by the undertaker for a period of 3 years following completion of the authorised development.</p> <p>Renumber requirements as necessary.</p>		
<p>Schedule 2, Requirement 3</p>	<p>Add on the fifth line after “their functions” “and Sutton and Wansford Parish Councils in respect of matters within their geographic areas”.</p>	<p>To ensure consultation takes place with the respective parish councils, as requested, in relation to matters in their areas.</p> <p>Assertions of delay by the Applicant are rejected as the time for response is set out in Requirement 18 and would be no longer than as presently drafted.</p>	<p>The Applicant resists consultation with the parish councils not only due to concerns about delay, as has been noted by the ExA, but also on the basis that parish councils often do not have the administrative resource and are therefore not equipped and do not have the required expertise to consider details to be approved. Also, where practicable, the relevant highway or planning authority may seek the views of parish councils. In no other circumstances, such as the grant of planning permission under the Town and Country Planning Act regime, are parish councils usually named on the</p>

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			face of planning certificates to approve details. Moreover, neither the M25/J8 DCO nor the M54/M6 DCO have reference to parish councils being consulted.
Schedule 2, Requirement 4(1)	(a) In line two delete the word "substantially". (b) Before final full stop insert ", and Sutton and Wansford Parish Councils in respect of matters within their geographic areas".	(a) To ensure that the constructed development accords with that examined. (b) To ensure consultation takes place with the respective parish councils, as requested, in relation to matters in their areas.  Assertions of delay by the Applicant are rejected as the time for response is set out in Requirement 18 and would be no longer than as presently drafted.	(a) The Applicant resists deletion of "substantially" since it is retained in M54/M6 DCO. Use of the adverb also provides an element of flexibility, reality and pragmatism. (b) The Applicant resists consultation with the parish councils for the reasons given above.
Schedule 2, Requirement 5(1)	Before final full stop insert ", and Sutton and Wansford Parish Councils in respect of matters within their geographic areas".	To ensure consultation takes place with the respective parish councils, as requested, in relation to matters in their areas.  Assertions of delay by the Applicant are rejected as the time for response is set out in Requirement 18 and would be no longer than as presently drafted.	The Applicant resists consultation with the parish councils for the reasons given above.
Schedule 2, Requirement 5(4)	In the last line replace "or" with "and".	To ensure that the Proposed Development would be implemented in accordance with best practice.	The Applicant resists the deletion of "or" as it is retained in M54/M6 DCO. In addition, if "and" were to be accepted, there could be any

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			number of codes of practice to comply with.
Schedule 2, Requirement 8(1)	In line two replace “reflecting” with “in accordance with”.	For clarity, since “reflecting” can mean an opposite.	Agreed
Schedule 2, Requirement 11(1)	(a) In line two delete the word “substantially”. (b) Before final full stop insert “, and Sutton and Wansford Parish Councils in respect of matters within their geographic areas”.	(a) To ensure that the constructed development accords with that examined. (b) To ensure consultation takes place with the respective parish councils, as requested, in relation to matters in their areas.  Assertions of delay by the Applicant are rejected as the time for response is set out in Requirement 18 and would be no longer than as presently drafted.	(a) The Applicant resists deletion of “substantially” so as to provide an element of flexibility, reality and pragmatism given that the traffic management plan is in outline.  (b) The Applicant resists parish councils being consulted for the reasons given above.
Schedule 2, Requirement 12	Replace “Manual of Contract Documents for Highway Works” with “EMP (First Iteration)”.	The Manual of Contract Documents for Highway Works is a document explaining how the fence is to be constructed rather than what it is to achieve. The method of construction does not meet the tests for requirements and conditions as set out in the NPSNN, Framework and PPG.	The Applicant has incorporated this amendment for the reasons given by the ExA.
Schedule 2, Requirement 14	After paragraph (2) insert: (3) Where the Secretary of State requests further information pursuant to paragraph 15, and no further information has been submitted eight weeks from that day immediately following that on which the application was received by the Secretary of State, the	To ensure that if the Secretary of State requests further information on a requirement and that information is not provided the matter is not approved in	The Applicant has incorporated these amendments for the reasons given by the ExA.

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	<p>application or (if applicable) the part of the application to which the request for further information relates is taken to have been refused by the Secretary of State.</p> <p>Re-number sub-paragraph (3) as (4).</p>	<p>default through the submission of insufficient information.</p>	
<p>Schedule 2, Requirement 18</p>	<p>Replace provision with:</p> <p>Details of pre-submission consultation</p> <p>18.- (1) In relation to any provision of this Schedule requiring details to be submitted to the Secretary of State for approval following consultation by the undertaker with another party, the undertaker must provide such other party with not less than [10 business] days for any response to the consultation.</p> <p>(2) With respect to any requirement which requires details to be submitted to the Secretary of State for approval under this Schedule, the details submitted must be accompanied by a summary report setting out the consultation undertaken by the undertaker to inform the details submitted and an account as to how the undertaker has had regard to the responses received.</p> <p>(3) At the time of submitting an application to the Secretary of State, the undertaker must provide a copy of the summary report to the requirement consultees referred to in the requirement under which approval is being sought.</p> <p>(4) The undertaker must ensure that any consultation responses are reflected in the details submitted to the Secretary of State for approval under this Schedule, but only where it is appropriate, reasonable and feasible to do so, taking into account considerations including, but not limited to, cost and engineering practicality.</p> <p>(5) Where the consultation responses are not reflected in the details submitted to the Secretary of State for approval, the undertaker must state in the summary report referred to under sub- paragraph (1) the reasons why the consultation responses</p>	<p>To ensure that submissions to the Secretary of State are transparent, and to allow consultees to make representations direct to the Secretary of State should consultees consider their concerns have been misunderstood.</p> <p>Please note: The time period in square brackets in 18(1) may change following receipt of the responses to ExQ3.6.5.</p>	<p>The Applicant has replaced Requirement 18 (now 17) with the ExA's proposed wording.</p> <p>In respect of the 10 business day consultation response window, the Applicant has amended the deemed consent period to 14 days in line with the wording of Requirement 13(1) of the M54/M6 DCO.</p> <p>Please also see the Applicant's response to ExQ3 3.6.5 which explains why the 42 day response window introduced for the M25 Junction 8 DCO has not been adopted.</p>

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	have not been reflected in the submitted details with the reasons published in the public register published pursuant to Article 49.		