



The Planning Inspectorate

Application by National Highways for an Order Granting Development Consent for the M3 Junction 9 Improvement Project

Notification of the date, time, and venue for the Issue Specific Hearing (ISH2) on 1,2 and 3 August 2023 was provided in the Examining Authority's letter dated 25 May 2023 [PD-007].

Detailed Agenda for Issue Specific Hearing 2 (ISH2) - Draft Development Consent Order (DCO), Traffic and Transportation, Public Rights of Way and NMU Routes, Biodiversity, Air Quality and Noise and other Health Impacts

Date: Tuesday 1, Wednesday 2 and Thursday 3 August 2023

Arrangements Conference: 9.30am on each day

Participants must join the Arrangements Conference in order to register and be permitted access to the virtual Issue Specific Hearing.

Hearing start time: 10.00am on each day

Venue: Mercure Wessex Hotel Winchester, Paternoster Row, Winchester, Hampshire.
SO23 9LQ

And

Virtual hearing via Microsoft Teams

Full instructions on how to join online or by phone will be sent to parties registered to attend, shortly before the Hearing.

The event will be livestreamed and a link for watching the livestream will be posted on the project page of the National Infrastructure Planning website closer to the event date. Interested Parties (IPs) and members of the public who wish to observe the event can therefore view and listen to the Hearing using the livestream, or the recording, after it has concluded.

Participation, conduct and management of the Hearing

The Examining Authority (ExA) has identified the matters to be considered at this ISH, and those on which it requires further information, and these are set out in this agenda. It is intended that the scope of the ISH will be limited to those matters. However, the ExA may wish to raise matters arising from oral submissions and pursue lines of inquiry in the course of the discussions which are not listed on the agenda. The actual agenda on the day including the order of items may be subject to change at the discretion of the ExA.

Oral submissions on other matters or from persons who are not IPs may only be heard at the discretion of the ExA. However, reliance should not be placed upon the exercise of that discretion and attention is drawn to the opportunity for any such submissions to be made in writing by **Deadline 4, 18 August 2023**.

The ExA invites and would particularly like to hear from the following IPs during this Hearing:

- The Applicant;
- Hampshire County Council;
- South Downs National Park Authority;
- Winchester City Council;
- Cycle Winchester;
- Winchester Action on the Climate Crisis; and
- Winchester Friends of the Earth.

Those IPs listed above are those from whom the ExA would particularly like to hear from on this topic. By way of clarification, IPs who are not included in that list, but who have specifically requested to speak at this ISH will also be sent a joining link. They are reminded that the ISH will be livestreamed in the usual way.

Participation in the Hearing is subject to the ExA's power to control the Hearing. It is for the ExA to determine how hearings are to be conducted, including the time allowed at the Hearing for the making of a person's representations. IPs may be invited to make oral representations at the Hearing¹ (subject to the ExA's power to control the Hearing), on the specific issues being examined at the event, as set out in this agenda. The Hearing will be managed in the interests of ensuring that the submissions of invited persons are fully heard within the allotted time.

Oral representations should be informed by the Relevant Representations, Written Representations and Local Impact Reports made by the person by whom (or on whose behalf) the oral representations are made.

However, representations made at the Hearing should not simply repeat matters previously covered in a written submission. Rather, they should draw attention to those submissions in summary form and provide further detail, explanation, and evidential corroboration to help inform the ExA.

The ExA may ask questions about representations or ask the Applicant or other parties to comment or respond. The ExA will probe, test and assess the evidence through direct questioning of persons making oral representations. Questioning at the Hearing will therefore be led by a member of the Panel, supported by other Panel members.

All participants are advised that written summaries of their oral submissions at this Hearing should be submitted at **Deadline 4, 18 August 2023**.

The Hearing will run until the ExA is content that all matters on the agenda have been addressed.

Arrangements Conference

Invitees attending virtually will receive a joining link or telephone number in a separate e-mail, shortly before the Hearing. Please join the Arrangement Conference at the appointed time for the Hearing. The Case Team will admit you from the Lobby and register your attendance. The Arrangements Conference allows procedures to be explained and will enable the Hearing to start promptly.

¹ Section 91 Planning Act 2008

About the Hearing relating to the Draft DCO, Traffic and Transportation, Public Rights of Way, Biodiversity, Air Quality and Noise and other Health Impacts

The main purpose of this ISH is to undertake an examination of a number of issue topics which are related to the changes in the highway layout that would result from the Proposed Development. It will provide an opportunity for the issues raised by IPs, in particular the differences between them, to be explored further by the ExA.

The draft DCO part of the hearing will concentrate on the specific issue of the draft DCO and any agreements needed to secure mitigation. This is the Order which the Secretary of State would make if he decided to grant consent for the application. The discussion will principally be informed by the draft DCO submitted by the Applicant to Deadline 3 in the Examination Timetable [REP3-004]. Discussion on this aspect of the hearing is 'without prejudice'; this means that parties may make contributions to improve the quality of the draft DCO without invalidating their own positions of support or opposition to the Proposed Development as a whole.

Irrespective of its recommendation, the ExA is required to present a draft DCO to the Secretary of State. Discussion about the specifics of the draft DCO does not indicate that the ExA has made up its mind about the application. The hearing into the draft DCO is likely to be of a technical nature and will be based on the specific wording of the Order.

Relevant applications and other documents to be considered are detailed in **Annex 1**. Please note some references to documents may be very limited but have been included for completeness. References made to page number during ISH2 will relate to electronic version of the documents.

Detailed Agenda for Issue Specific Hearing 2 (ISH2)

The Draft DCO, Traffic and Transportation, Public Rights of Way and NMU Routes, Biodiversity, Air Quality and Noise and Other Health Impacts

(Note : it is currently envisaged that the topics will be spread over the 3 allocated days in the following way. This is subject to change, and we ask that the relevant attendees make themselves available for the eventuality of the matters exceeding the envisaged schedule. For clarity, to allow participants to plan their attendance, topics scheduled to start on 2nd August will **not** be brought forward to 1st August)

| Date | Topics |
|------------------------|--|
| 1 st August | The Draft DCO; Traffic and Transportation; Public Rights of Way and NMU Routes |
| 2 nd August | Biodiversity; Air Quality; Noise and Other Health Impacts |
| 3 rd August | Reserve session if required for completion of topics |

1. Welcome, introductions and arrangements for the Hearing

Reference will be made in Agenda items 2 - 7 to the Applicant's and IP's responses to ExQ1 and relevant submission documents.

2. The Draft DCO

Articles

Part 1 Preliminary

(i) Article 3 - Disapplication of legislative provisions

- The justification for Article 3(1)(c) of the draft DCO (formerly 3(1)(d)) which seeks to disapply section 23 of the Land Drainage Act 1991.
- The progress of discussions between the Applicant and the Hampshire County Council (HCC) as regards Protective Provisions and amendments for the protection of the drainage authority.
- Whether the Article 3 amendments made in the Revision 2 of the draft DCO overcome the concerns of the Environment Agency (EA).

Part 2 Principal Powers

(i) Article 8 - Limits of deviation

- The extent of and justification for the limits of deviation (LoD) set out in the draft DCO, including those in respect of the attenuation ponds. In particular, why is it necessary to have the flexibility that is sought for these aspects of the Proposed Development?

Part 3 Streets

(i) Article 11 - Street Works

- Whether it is necessary for Article 11 to be amended to make it clear that the Hampshire County Permit Scheme would apply to all street works,
- The progress of discussions between the Applicant and the HCC as regards the amendments sought to Article 11(3) and the proposed addition of new Articles 11(4) and 11(5).

(ii) Article 12 - Power to alter layout etc of streets

- The adequacy of the six weeks period for notification by the street authority on the decision as to whether to consent to proposed street works under Article 12(4) and whether a period of three months would instead allow a reasonable time period for consideration of the requests by the HCC.
- The amendments proposed by HCC to Articles 12(2) and 12(3)(b).

(iii) Article 14 - Construction and maintenance of new, altered or diverted streets and other structures

- The progress of discussions between the Applicant and HCC in relation to the completion of a legal agreement and the need for the new requirement proposed by HCC in response to ExQ 9.1.54.
- The amendments sought by HCC in relation to Articles 14(5)(b), 14(6) and 14(7).

(iv) Article 15 - Classification of Roads

- The amendments sought by HCC in relation to Article 15(4) and other HCC concerns in relation to Article 15(5).
- The progress of discussions between the Applicant and HCC as regards the completion of a legal agreement to support the arrangements for the de-trunking of roads.

(v) Article 16 - Temporary Stopping up and restriction of use of streets

- Whether the period for a decision set out in Article 16(6) of 28 days from the date of the application is unreasonably short.

Part 5 Powers of Acquisition

(i) Article 28 - Public rights of way

- The proposed new Article 28(4) sought by HCC to require the undertaker to provide notice of any extinguishment of relevant public rights of way.

(ii) Article 34 - Temporary use of land for carrying out the unauthorised development

- The justification for the inclusion of the powers set out in Article 34(1)(b) (remove and building and vegetation from that land) and (c) construct temporary works (including the provision of means of access) and buildings on that land.

Part 6 Operations

(i) Article 39 - Felling and Lopping of trees

- The justification for the inclusion of the powers set out in Article 39.
- Whether Article 39 requires any drafting changes to clarify that it only authorises those hedgerows that are set out in Schedule 8 of the draft DCO as confirmed by the Applicant's response to ExQ 9.1.36.

Schedule 2 – Requirements

(i) Requirement 3 - Environmental Management Plan

- Whether the hours of operation set out in Requirement 3(2)(b) are reasonable and necessary.

(ii) Requirement 4 - Details of consultation

- The amendment sought by the South Downs National Park Authority (SDNPA) in relation to Requirement 4(3) namely that the words *'taking into account considerations including, but not limited to, cost and engineering practicality'* should be deleted.

(iii) Requirement 5 – Landscaping

- Whether any further drafting changes to this requirement should be made in order to secure the necessary mitigation.

(iv) Requirement 9 – Archaeology

- Whether any further drafting changes should be made to this requirement and/or the Archaeology and Heritage Outline Mitigation Strategy to ensure that they are precise and enforceable and would deliver the necessary mitigation.

(v) Requirement 12 - Detailed Design

- Whether Requirement 12, as drafted, provides sufficient safeguards and control in respect of design?
- Whether there is a need for a 'design code' which would establish the approach to delivering the detailed design specifications such as bridges, and fencing and choice of materials to be secured by a draft DCO requirement.
- The amendment proposed by HCC by way of the inclusion of an additional subparagraph to Requirement 12 in relation to the approval of the detailed design

of any part of the authorised development that is intended to be the maintenance responsibility of the local highway authority.

(vi) Requirement 13 - Surface Water Drainage

- Whether it is necessary and reasonable to make the amendments to Requirement 13 proposed by HCC including the addition of a new 13(2).

(vii) Whether any additional Requirements are necessary?

- The draft requirement proposed by HCC to secure the provision of a Local Highway Legal Agreement to govern the performance and transfer of maintenance responsibility of the Local Highway Works.
- The draft requirement proposed by SDNPA to control the phasing of different stages of the Proposed Development?
- The draft requirements and amendments proposed by SDNPA in relation to public rights of way, and temporary routes.

Schedule 10 – Protective Provisions

- (i)** The progress of any negotiations relating to the agreement of Protective Provisions including:
- The progress of discussions between the Applicant, the EA and HCC as regards Protective Provisions and amendments for the protection of drainage authorities.
 - Update on any current negotiations and agreements with individual Statutory Undertakers including Southern Gas Networks plc, and Southern Water.

Section 106 Planning Obligations and any other agreements

- (i)** Whether any planning obligations or other agreements to secure mitigation, enhancement or other matters are required and intended to be completed prior to the close of the Examination.

3. Traffic and Transportation

(i) Traffic modelling

- Whether non-strategic modelling is sufficient and if junction movements assessments have been undertaken with sufficient detail.
- How the assessment of rail freight modal shift has been considered within the modelling.
- Whether modelling of traffic increase sufficiently takes account of future growth and how this has been factored.

(ii) Road Safety

- How the predicted crash savings have been analysed and whether updating the historic collision data from 2019 should be undertaken and how this may change the analysis.

(iii) Journey time savings

- Whether the predicted journey time savings are considered significant.
- Journey time savings on Solent to Midlands strategic route.

(iv) The wider transport network and other highway related issues

- Whether improvement measures are required on the highway network outside the application boundary.
- The impact of the application on the A33/B3047 (Cart and Horses) junction.

(v) Temporary Traffic Diversions during Construction

- Whether the predicted impact on the wider transport network during construction has been adequately assessed and considered, including how increased traffic on diversion routes could impact on NMUs.
- Whether the proposed temporary diversions during the construction period are proportionate and the impacts have been mitigated.
- Whether the impact of diverted traffic at Junction 11 has been adequately assessed and mitigated.

(vi) General Highway Matters

- Whether stopping up and de-trunking is being progressed in a way that is acceptable to the local highway authority.
- Whether there is sufficient details of proposed highway boundaries and future maintenance requirements of the non-strategic highway network.

4. Public Rights of Way & NMU Routes

(i) Legal Status of proposed NMU routes and PROWs

- Whether there is clarity and agreement between parties of the legal status of new and affected routes.
- Whether there is a need to confirm the legal status of other existing routes within the application boundary.

(ii) Design standards

- Whether proposed design standards are suitable and applied appropriately.
- Whether opportunities to maximise the potential benefit for NMU users and routes has been suitably considered.
- How usage surveys and assessments have been undertaken and their relevant application.

(iii) Future Maintenance

- Whether future maintenance responsibility and cost has been sufficiently considered.

(iv) Construction Impact

- Whether alternative routes during construction have been fully considered and appraised.
- General approach to how diversions during construction will be agreed, approved and managed.

5. Biodiversity

(i) Species Survey Information

- Whether the current survey information provided is sufficient to assess mitigation and compensation measures.

(ii) Mitigation and post construction management

- Whether proposed mitigation is sufficiently developed and detailed to allow assessment of overall impact.
- Whether the detail in the fiEMP is sufficient and how it will be secured within the DCO.
- How opportunities for enhancements to biodiversity are being developed with relevant bodies.

(iii) Biodiversity Net Gain

- Whether the balance and prioritisation between biodiversity net gain and visual impact and landscape character requirements in the SDNP is being achieved.
- General commentary on the adequacy of the BNG assessment and calculation.

6. Air Quality

(i) Operational Phase Forecasts and Thresholds

- Whether increases and decreases in predicted NO₂ has an overall beneficial, negative or neutral effect on Winchester and the AQMA.
- Whether PM_{2.5} concentrations and forecasts have been considered fully and assessed in line with current legislation.
- How issues highlighted by Natural England regarding habitats are being assessed and reported.
- Mitigation measures and monitoring.

(ii) Construction phase impacts

- Whether sufficient mitigation has been considered to minimise the impact on air quality.
- The impact of construction dust and how it will be mitigated.

7. Noise and Other Health Impacts

(i) Operational Phase Forecasts and Mitigation

- Whether the forecasts for operational noise take sufficient account of the noise and tranquillity of the SDNP.
- The effect of low noise surfacing as the main mitigation for noise, how this is maintained in the future and what impact this would have to the baseline in a do-minimum scenario.
- The sufficiency of the overall operation phase mitigation and monitoring.

(ii) Construction phase impacts

- General understanding of the assessment of noise generation and impact during construction.
- Whether the impact of traffic diversions are considered proportionate and can be managed within the DCO and EMP.
- Whether mitigation and planning for reducing noise impacts during construction is sufficient and detailed adequately.

(iii) Other Health Impacts

- Whether a full health impact assessment is required to support the DCO.

8. Any other matters

9. Close of hearing

Annex 1 – Relevant application and other documents to be considered:

Please note some references to documents may be very limited but have been included for completeness. References made to page number during ISH2 will relate to electronic version of the documents

| Examination Library Reference | Document Title |
|-------------------------------|--|
| [REP3-018] | First Iteration Environmental Management Plan (Rev 3) |
| [REP2-051] | Applicant responses to Written Questions |
| [REP2-066] | Hampshire County Council Deadline 2 Submission - Local Impact Reports (LIR) from Local Authorities |
| [REP2-067] | Hampshire County Council Deadline 2 Submission - Responses to ExQ1 |
| [REP2-071] | SDNPA - Local Impact Reports (LIR) from Local Authorities |
| [REP2-072], [REP2-073] | SDNPA - Responses to ExQ1 |
| [REP2-075] | SDNPA - Written Representations (WRs), including summaries of all WRs exceeding 1500 words |
| [REP2-083] | WCC - Local Impact Reports (LIR) from Local Authorities |
| [REP2-084] | WCC - Responses to ExQ1 |
| [REP2-085] | WCC - Written Representations (WRs), including summaries of all WRs exceeding 1500 words |
| [REP3-003] | National Highways Deadline 2 Submission - 2.3 Works Plans Rev 2 |
| [REP2-005] | National Highways Deadline 2 Submission - 2.6 Engineering Plans and Sections Rev 1 |
| [REP3-020] | National Highways Deadline 3 Submission - 8.6 Applicant Response to Written Summaries of Oral Submissions at Open Floor Hearing 1 (OFH1) (Rev 1) |
| [REP3-022] | National Highways Deadline 3 Submission - 8.8 Applicant Comments on Written Representations |
| [REP3-023] | National Highways Deadline 3 Submission - 8.9 Applicant Comments on Local Impact Reports |
| [REP3-025] | National Highways Deadline 3 Submission - 8.11 Applicant Comments on Deadline 2 submissions |
| [REP3-027] to [REP3-030] | South Downs National Park Authority Deadline 3 Submission - Comments on responses to ExQ1 |
| [REP3-004] | Draft Development Consent Order (Rev 3) |
| [APP-020] | Explanatory Memorandum |
| [REP2-087] | Consents and Agreements Position Statement (Rev 2) |
| [REP1-028] | National Highways Deadline 1 Submission - 7.13 Transport Assessment Report - Rev 1 |
| [REP2-044] | National Highways Deadline 2 Submission - 7.8 Outline Traffic Management Plan (Rev 1) |
| [REP2-008] | National Highways Document Index Deadline 2 Submission - 2.10 De-Trunking Plans Rev 1 |
| [APP-162] | National Highways 7.9 Design and Access Statement |
| [REP1-038] | Winchester Action on the Climate Crisis Document Index Deadline 1 Submission - Post hearing submissions including written summary of oral submissions at Open Floor Hearing 1 (OFH1) |
| [REP1-033] | Hannah Greenberg on behalf of 20s Plenty for Hampshire, Winchester Cycle Bus Network Deadline 1 Submission - Post hearing submissions including written summary of oral submissions at Open Floor Hearing 1 (OFH1) |

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|-----------------------|---|
| [REP2-004] | National Highways Deadline 2 Submission - 2.4 Rights of Way and Access Plans Rev 1 |
| [REP1-034] | Cycle Winchester Deadline 1 Submission - Post hearing submissions including written summary of oral submissions at Open Floor Hearing 1 (OFH1) |
| [APP-082] | National Highways 6.3 Environmental Statement - Appendix 3.3 - Non-motorised User Route Options |
| [APP-049] | National Highways 6.1 Environmental Statement - Chapter 8 – Biodiversity |
| [REP2-031] | National Highways Deadline 2 Submission - 6.2 Environmental Statement Chapter 8 Biodiversity - Figures (Rev 1) |
| [APP-104] to [APP130] | National Highways Environmental Statement Appendix 8.1a to Appendix 8.1z2 * |
| [APP-158] | National Highways 7.5 Habitats Regulations Assessment |
| [APP-131] | National Highways Document Index 6.3 Environmental Statement - Appendix 8.2 - Biodiversity Net Gain Assessment Report |
| [REP2-023] | National Highways Deadline 2 Submission - 6.1 Environmental Statement Chapter 5 - Air Quality (Rev 1) |
| [REP2-030] | National Highways Deadline 2 Submission - 6.2 Environmental Statement Chapter 5 Air Quality - Figures (Rev 1) |
| [APP-085] | National Highways 6.3 Environmental Statement - Appendix 5.1 - Air Quality Modelling Methodology and Verification |
| [APP-086] | National Highways 6.3 Environmental Statement - Appendix 5.2 - Human Receptors Backgrounds and Operational Phase Results |
| [APP-087] | National Highways 6.3 Environmental Statement - Appendix 5.3 - Designated Habitats Backgrounds and Operational Phase Results |
| [APP-088] | National Highways 6.3 Environmental Statement - Appendix 5.4 – Traffic Data |
| [APP-132] | National Highways 6.3 Environmental Statement - Appendix 8.3 - Assessment of Operational Air Quality Impacts on Biodiversity |
| [APP-073] | National Highways 6.2 Environmental Statement - Chapter 11 - Noise and Vibration - Figures |
| [APP-137] | National Highways 6.3 Environmental Statement - Appendix 11.1 - Construction Activities in Noise and Vibration Assessment |
| [APP-139] | National Highways 6.3 Environmental Statement - Appendix 11.3 - Construction Noise Receptor Results |
| [APP-140] | National Highways 6.3 Environmental Statement - Appendix 11.4 - Operational Noise Receptor Results |
| [APP-052] | National Highways 6.1 Environmental Statement - Chapter 11 - Noise and Vibration APP-053 National Highways 6.1 Environmental Statement - Chapter 12 - Population and Human Health |
| [APP-074] | National Highways 6.2 Environmental Statement - Chapter 12 - Population and Human Health – Figures |
| [APP-141] | National Highways 6.3 Environmental Statement - Appendix 12.1 - Schedule of Population and Human Health Effects |

* Note : full list of species survey appendices are not shown and not all will be referenced in the ISH, but the full range of references is shown for completeness.