

A417 Missing Link
TR010056

8.1 Responding to the revised National Planning Policy Framework

Planning Act 2008

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

A417 Missing Link

Development Consent Order 202[x]

Responding to the revised National Planning Policy Framework

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1 Introduction

1.1 Purpose of this document

- 1.1.1 The A417 Missing Link Development Consent Order (DCO) application was submitted on 31 May 2021 and accepted for examination on 29 June 2021. The DCO application considers the effects of the scheme in the context of relevant legislation and policy in place at the time of submission. The assessment of the scheme's compliance with national and local planning policy is set out in the Case for the scheme (Document Reference 7.1, APP-417).
- 1.1.2 Since the submission of the A417 DCO application, a revised National Planning Policy Framework (NPPF) has been published. As this is a national policy document relevant to the determination of the scheme, this document provides a summary of the changes and assesses their likely impact on the scheme and supporting documents as submitted.
- 1.1.3 This document serves to assist with the determination of the scheme by demonstrating that the conclusions made at the time of submission remain valid and that the scheme remains compliant with national policy and legislation.

2 Changes to national planning policy

2.1 Introduction

2.1.1 On 20 July 2021, the then Ministry for Housing, Communities and Local Government (MHCLG)¹ published a revised version of the National Planning Policy Framework (NPPF)². This document considers how the changes to the NPPF impact the policy position of the A417 DCO application.

2.2 Background

2.2.1 The NPPF sets out the Government's planning policies for England and sets out how they should be applied through the preparation of local development plans and in decision-making.

2.2.2 The primary policy relevant to the determination of the A417 Missing Link is the National Policy Statement for National Networks (NPSNN)³, which sets out policy specific to nationally significant highways and rail schemes. The Secretary of State (SoS) will assess the compliance of the proposed A417 scheme with the NPSNN in deciding whether or not to grant the DCO in accordance with section 104 of the Planning Act 2008 (the Act). It is acknowledged that the SoS announced on 22 July 21 an intention to review the NPSNN, which it is understood is likely to result in a new NPSNN being published in Spring 2023. The existing NPSNN remains in force as the primary policy in accordance with which the SoS must decide the DCO application

2.2.3 The revised NPPF does not contain any specific policies relating to Nationally Significant Infrastructure Projects (NSIPs), although paragraph 1.17 of the NPSNN states that its overall strategic aims and that of the NPPF are consistent. NPSNN paragraph 1.18 states that the NPPF is likely to be an important and relevant consideration in decisions on NSIPs, 'but only to the extent relevant to [the] project'

2.2.4 Within this context, the Case for the Scheme (Document Reference 7.1, APP-417) submitted with the DCO application provides a comprehensive assessment of how the scheme complies with the NPSNN. It also sets out, in Chapter 11, how the scheme is in accordance with relevant policy within the NPPF. The assessment in Chapter 11 is proportionate to the weight of the NPPF in the DCO determination process and is therefore provided in less detail than the assessment of its accordance with the NPSNN.

2.2.5 A revised version of the NPPF has been published following submission and acceptance of the DCO application. It is therefore necessary to consider whether any changes to the NPPF are of relevance to the scheme.

2.2.6 The review is set out below and focuses on those sections of the NPPF that are relevant to the scheme as set out in the Case for the Scheme (Document Reference 7.1, APP-417). The review also considers if any other changes to the NPPF mean that any additional sections of it are now also relevant to the scheme.

1 Now The Department for Levelling Up, Housing and Communities

2 <https://www.gov.uk/government/publications/national-planning-policy-framework--2>

3 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/387222/npsnn-print.pdf

- 2.2.7 Where changes have not been made or are not relevant to the scheme, a review is not provided of that section of the NPPF unless there is a need to acknowledge a particular matter relevant to the submission, for example where an explanation of the change and its relationship to the scheme could be helpful, or if Paragraph references have changed that are likely to affect cross references made in DCO application documents.

2.3 Changes to relevant sections of the NPPF

Section 2 – Achieving sustainable development

- 2.3.1 Paragraph 7 of the NPPF has been revised to additionally refer to the agreement of the United Kingdom and other United Nations (UN) members to pursue the 17 Global Goals for Sustainable Development in the period to 2030⁴. This reasserts the commitment to sustainable development that underpins the NPPF. The inclusion of goals of building resilient infrastructure (Goal 9), addressing climate change (Goal 13) and halting biodiversity loss (Goal 15) are of particular relevance to the scheme and matters raised by stakeholders to date (see Consultation Report, Document Reference 5.1, APP-027, and Statement of Commonality, Document Reference 7.3, APP-419).
- 2.3.2 Paragraph 8 of the NPPF, which defines three objectives of sustainable development, has also been amended. The definition of Objective B ‘a social objective’ has been revised to include reference to fostering creation of ‘beautiful’ places, placing greater emphasis on design in development. This is relevant to the scheme given its location within an Area of Outstanding Natural Beauty (AONB).
- 2.3.3 The definition of Objective C ‘an environmental objective’ has also been amended to have stronger wording around the role of development. Where previously it had stated that sustainable development would ‘contribute to protecting and enhancing’ the natural, built and historic environment, it is now expected that development will ‘protect and enhance’. Similarly, the previous wording that this would involve development ‘helping to improve biodiversity’ is now amended to state that enhancing and protecting the environment involves ‘improving biodiversity’. It is considered that this change is of particular relevance given the interest of some key stakeholders in how the scheme will impact biodiversity, and ambitions for the scheme to achieve biodiversity net gain (see Statement of Commonality, Document Reference 7.3, APP-419).
- 2.3.4 The changes to Section 2 of the NPPF do not give rise to any new specific requirements relevant for the scheme and it is considered that the assessment in the Case for the Scheme (Document Reference 7.1, APP-417) is still appropriate in demonstrating that the scheme contributes toward sustainable development as defined in the NPPF.
- 2.3.5 Given the increased emphasis on beauty, the landscape-led design of the scheme as set out in the Design Summary Report (Document Reference 7.7, APP-423) is useful in demonstrating that the scheme has sought to protect and enhance the beauty of the AONB.
- 2.3.6 With regard to improving biodiversity, Chapter 8 of the Case for the Scheme (Document Reference 7.1, APP-417) sets out in detail how the scheme would

⁴ <https://sdgs.un.org/2030agenda>

conserve and enhance biodiversity and has sought to maximise biodiversity delivery in its design, improving biodiversity features which are of greatest value to the local environment.

- 2.3.7 The scheme is therefore considered to continue to comply with Section 2 of the NPPF.

Section 8 – Promoting healthy and safe communities

- 2.3.8 There have been no changes to Section 8 of the NPPF which are relevant to the scheme, however it should be noted that Paragraph references have changed. As such there will be discrepancies to references made in the Case for the Scheme (Document Reference 7.1, APP-417) when cross referring to the revised NPPF, given they were made in reference to the previous version of the NPPF (as published at the time of the DCO application).

Section 9 – Promoting sustainable transport

- 2.3.9 There have been no changes to Section 9 of the NPPF which are relevant to the scheme, however it should be noted that Paragraph references have changed. As such there will be discrepancies to references made in the Case for the Scheme (Document Reference 7.1, APP-417) when cross referring to the revised NPPF, given they were made in reference to the previous version of the NPPF (as published at the time of the DCO application).

Section 12 – Achieving well-designed places

- 2.3.10 Section 12 of the NPPF has been revised to place greater emphasis on the importance of design and the creation of beautiful and sustainable places through development.
- 2.3.11 Paragraph 134 of the revised NPPF states that significant weight should be given to development that reflects local design policy and government design guidance, or in which outstanding, innovative or highly sustainable design is evident that also fits in with local surroundings.
- 2.3.12 Given the emphasis on achieving a high quality and locally sensitive design as part of the scheme, it is considered that the scheme remains compliant with the revised NPPF and this can be appropriately demonstrated through the Design Summary Report (Document Reference 7.7, APP-423).
- 2.3.13 Section 12 of the revised NPPF also includes a new Paragraph 131, which sets out the important role of trees in local character, environmental quality and climate change adaptation. It requires that: new streets are tree-lined; opportunities are taken to incorporate trees in development; appropriate ongoing maintenance measures of new trees are secured; and, that existing trees are retained wherever possible.
- 2.3.14 Chapter 8 of the Case for the Scheme (Document Reference 7.1, APP-417) sets out how the scheme complies with the NPSNN in relation to ancient woodland and veteran trees, where adverse impacts have been avoided wherever possible. More broadly, the scheme would result in net gain of 9.59ha of broadleaved woodland, with new woodland creation targeting the creation of lowland mixed deciduous woodland priority habitat, which is an appropriate habitat type for biodiversity enhancement within the Cotswolds AONB. The long-term

maintenance of all new planting is adequately secured through the Environmental Management Plan (ES Appendix 2.1, Document Reference 6.4, APP-317).

- 2.3.15 The scheme is therefore considered to continue to comply with Section 12 of the NPPF.

Section 14 – Meeting the challenge of climate change, flooding and coastal change

- 2.3.16 Changes to Section 14 of the NPPF relate to flood risk and provide additional direction to local planning authorities in considering flood risk in plan-making and determination of individual applications.
- 2.3.17 Given that the scheme is in Flood Risk Zone 1 and as such is at low risk of flooding, and with no significant effects identified as being likely in ES Chapter 13 Road Drainage and the Water Environment (Document Reference 6.2, APP-044), it is considered that the changes made to Section 14 of the NPPF are not of particular relevance to the scheme.

Section 15 – Conserving and enhancing the natural environment

- 2.3.18 The scheme is entirely located within the Cotswolds AONB. As such, section 15 of the revised NPPF and its additional wording relating to development in AONBs is relevant to the scheme.
- 2.3.19 The wording of Paragraph 176 (previously Paragraph 172) has been amended to strengthen the national policy position, identifying that in addition to development within nationally designated areas (including AONBs) being of limited scale and extent, development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.
- 2.3.20 Whilst this revision to the NPPF is relevant to the scheme, it does not greatly impact its case of policy compliance. This is because, as detailed in the Case for the Scheme (Document Reference 7.1, APP-417), the NPSNN sets stringent policy criteria for any nationally significant highways scheme to meet in order to be permissible within an AONB or other nationally designated landscape.
- 2.3.21 As explained in the Case for the Scheme (Document Reference 7.1, APP-417) and Design Summary Report (Document Reference 7.7, APP-423) National Highways considers that the scheme has been designed sensitively to avoid or minimise adverse impacts both to the AONB itself and the wider setting, so meets the tests of the NPSNN as an acceptable scale and extent of development in the Cotswolds AONB.
- 2.3.22 Section 15 of the NPPF also sets policy relating to habitats and biodiversity. Paragraph 180(c) in the revised NPPF (previously Paragraph 175(c)) strengthens the position relating to biodiversity improvement through development. Previously, the NPPF advised that opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where it would secure measurable net gains for biodiversity. As revised, Paragraph 180(c) states that *'opportunities to improve biodiversity in and around development should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate'* [emphasis added].

- 2.3.23 As set out in the Case for the Scheme, paragraph 11.1.31 (Document Reference 7.1, APP-417), the scheme has sought to maximise biodiversity delivery through its design, taking advantage of all opportunities to enhance biodiversity value within the land to be acquired for the scheme. Further, it would deliver gains in priority habitats, and points to the more detailed assessment of the scheme in relation to NPSNN biodiversity policy in Chapter 8 of the Case for the Scheme (Document Reference 7.1, APP-417). The assessment of the scheme's compliance with the previous wording of this section of the NPPF therefore remains relevant for the revised policy wording.
- 2.3.24 The scheme would additionally comply with the revised wording of Paragraph 180(c) of the revised NPPF in that it would enhance public access to nature, by providing improved recreational access to the Cotswolds AONB through provision and upgrading of public rights of way (PRoW) and traffic free crossings via the Cotswold Way and Gloucestershire Way crossings. This is detailed in paragraphs 6.3.142 to 6.3.153 of the Case for the Scheme (Document Reference 7.1, APP-417) in relation to NPSNN policy requirements. It is considered that the reasons provided for policy compliance remain applicable to the revised NPPF.
- 2.3.25 The scheme is therefore considered to continue to comply with Section 15 of the NPPF.

Section 16 – Conserving and enhancing the historic environment

- 2.3.26 The revised NPPF introduces one additional paragraph to its Section 16, which states 'In considering any applications to remove or alter a historic statue, plaque, memorial or monument (whether listed or not), local planning authorities should have regard to the importance of their retention in situ and, where appropriate, of explaining their historic and social context rather than removal.'
- 2.3.27 It is considered that this additional paragraph relates more specifically to instances where such historic assets may be identified for removal or modification due to their historic context (for instance by honouring those involved in the slave trade).
- 2.3.28 It is therefore not considered to be of relevance to the scheme. However, if the paragraph is viewed as relevant by the SoS in determining the scheme, the option to retain in situ historic assets lost through the scheme (of which there would be 11 non-designated assets totally or partially removed) would not be viable. As set out in Chapter 10 of the Case for the Scheme (Document Reference 7.1, APP-417), the removal of any assets has been avoided where possible and the resulting removal (either partially or totally) of the 11 identified assets is necessary to deliver the scheme and is demonstrably justified in accordance with the NPPF and NPSNN.
- 2.3.29 The scheme is therefore considered to continue to comply with Section 16 of the NPPF.

2.4 Other changes to the NPPF

- 2.4.1 Beyond the relevant sections of the NPPF considered in the Case for the Scheme (Document Reference 7.1, APP-417) and in the review set out above, it is not considered that there any other changes by virtue of the revised NPPF that result in new or different policy when considering their relevance to the scheme.

2.4.2 As such, it is not considered that any additional assessment or evidence of policy compliance is required as part of the DCO application.

3 Conclusion

- 3.1.1 The NPSNN is the relevant NPS for this scheme and is the primary policy document against which the scheme must be determined by the SoS, in accordance with section 104 of the Act. The revised NPPF does not contain any specific policies relating to NSIPs, however is likely to be an important and relevant consideration in decisions on NSIPS, 'but only to the extent relevant to [the] project'.
- 3.1.2 The revised NPPF takes a stronger policy position on delivering good design and improving biodiversity through development (including trees). This increased emphasis at a national level is relevant to the scheme due to its location entirely in an AONB landscape, which is valued for its beauty and biodiversity.
- 3.1.3 The revised NPPF reinforces the need for the scheme to demonstrate how it delivers a good design and improves biodiversity. It is considered that the DCO application documents already serve to demonstrate this, particularly through the Case for the Scheme (Document Reference 7.1, APP-417) and the Design Summary Report (Document Reference 7.7, APP-423).
- 3.1.4 This document has identified and considered the revisions to the NPPF in July 2021 which are relevant to the A417 Missing Link DCO scheme. It is concluded that the revisions to the NPPF do not materially impact the scheme in terms of its assessment of national policy compliance and that the scheme remains in compliance overall with the revised NPPF.