



National Infrastructure Planning
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To All Interested Parties
and the Applicant

Your Ref:

Our Ref: TR010056

Date: 17 December 2021

Dear Sir/ Madam

The Planning Act 2008 – sections 89, 91, 92 and 93; The Infrastructure Planning (Compulsory Acquisition) Regulations 2010; The Infrastructure Planning (Examination Procedure) Rules 2010 – Rules 13 and 17

Application by National Highways (formerly Highways England) for an Order Granting Development Consent for the A417 Missing Link

Notification of Hearings and Request for Further Information

This letter notifies parties of the Hearings to be held during the week commencing 24 January 2022, and also requests further information from the Applicant.

Notification of Hearings

The Examination Timetable at [Annex A of the Examining Authority's \(ExA\) Rule 8 letter](#) dated 16 November 2021 included reserved dates for Issue Specific Hearings (ISH), Open Floor Hearings (OFH) and Compulsory Acquisition Hearings (CAH) in January 2022. We are now writing to confirm the arrangements for the following Hearings to be held under Sections 91, 92 and 93 of the Planning Act 2008:

Date	Hearing	Time	Venue
Monday 24 January 2022	Open Floor Hearing 1 (OFH1)	10.00am (Arrangements Conference starts at 9.30am)	Virtually via Microsoft Teams
Tuesday 25 January 2022	Issue Specific Hearing (ISH1) Draft Development Consent Order	10.00am (Arrangements Conference starts at 9.30am)	Virtually via Microsoft Teams

Wednesday 26 January 2022	Compulsory Acquisition Hearing 1 (CAH1)	10.00am (Arrangements Conference starts at 9.30am)	Virtually via Microsoft Teams
Thursday 27 January 2022	Issue Specific Hearing 2 (ISH2) Environmental Matters	10.00am (Arrangements Conference starts at 9.30am)	Virtually via Microsoft Teams
Friday 28 January 2022	Continuation of ISH2 (if required) Environmental Matters	10.00am (Arrangements Conference starts at 9.30am)	Virtually via Microsoft Teams

Format of Hearings

Considering ongoing public health concerns related to Coronavirus (COVID-19), the ExA has looked carefully into the possibility of the January Hearings being held as blended Examination events (part in-person and part virtual). However, given the current situation, particularly in relation to the Omicron variant, the ExA has concluded that it will be using solely virtual methods for those Hearings. The Planning Inspectorate's [Advice Notice 8.6](#) provides detailed advice regarding virtual Examination events.

Please see details in the section below regarding how to register to participate in the virtual Hearings. If your request to participate in a Hearing is accepted, you will receive an invitation which will include instructions on how to join the virtual event. The Arrangements Conference will admit you to the event, and will provide information on the Hearing and reminders about using the technology. Please arrive early so the Case Team can admit you before the start time of the Hearing.

The fact that the Hearings notified of herein are being held virtually does not preclude the possibility of holding blended Examination events later in the Examination, subject to any restrictions relating to COVID-19 in force at the time. Time has been reserved in the Examination Timetable to undertake further Hearings during the w/c 28 February 2022, if required. The format of any further Hearings will be confirmed in the formal Hearing notification sent to Interested Parties at least 21 days in advance of them taking place.

The ExA wishes to emphasise that there will be no difference in the treatment of evidence presented to each Hearing orally at a virtual or physical event, or in writing after the event.

Notification of a wish to speak by Interested Parties

If you wish to participate and be heard orally at any of the above Hearings, please let the Case Team know by contacting the email address above as soon as possible, and no later than:

➤ **Monday 17 January 2022**

<https://infrastructure.planninginspectorate.gov.uk>

Any request to participate in a Hearing must include the following information:

- Name and Unique Interested Party reference number.
- Email address (if available) and contact telephone number.
- Name and Unique Interested Party reference number of any person/ organisation that you are representing.
- The Hearing(s) you wish to participate in and brief details of the topic(s) that you would like to raise.
- For the Compulsory Acquisition Hearing: the plot number(s) of the relevant land provided in the [Book of Reference](#) and the [Land Plans](#).
- The Examination Library reference number (with paragraph/ page number where appropriate) of any documents you wish to refer to.

Please ensure that you include your Interested Party reference number in your correspondence. This can be found either in the email covering this letter or on the hard-copy letter you have received.

If you do not have access to email, you may write to the Case Team to confirm your participation at the postal address above. Please address any letter to the 'A417 Missing Link Case Team' and include the case reference TR010056 and a contact telephone number. Postal communications must be received by the Planning Inspectorate by **Monday 17 January 2022**. Interested Parties should therefore be mindful of the potential delays associated with the postal system, particularly over the festive period.

Procedure at Hearings

The procedure to be followed at Hearings is set out in The Infrastructure Planning (Examination Procedure) Rules 2010¹.

Participation in the Hearings will be subject to the ExA's powers of control. It is for the ExA to determine how Hearings are to be conducted, including the time allowed at the Hearings for the making of a person's representations. Any oral representations must be based on either the Relevant Representation or Written Representation made by the person by whom, or on whose behalf, the oral representations are made.

The Hearings will be managed in the interests of ensuring fair access to the events for all parties and to ensure that the submissions of all invited persons are fully heard within the allotted time.

Issue Specific Hearings and Compulsory Acquisition Hearings

Issue Specific Hearings provide an opportunity for the ExA to invite Interested Parties to make oral representations about specific issues relating to the Application.

¹ Rule 14

A Compulsory Acquisition Hearing is being held because the Application includes a request for an order granting development consent to authorise Compulsory Acquisition (CA) of land or CA of an interest in or right over land.

Depending on the number of participants at each Hearing, and the progress made during the events, it may be necessary to have breaks in proceedings. As such, prospective participants are advised to keep the whole day available for each event.

If Friday 28 January 2022 is not required for a continuation of ISH2 on Environmental Matters, this will be confirmed during proceedings on Thursday 27 January 2022, and will also be confirmed in the banner on the [project webpage of the National Infrastructure Planning website](#) following the conclusion of proceedings on Thursday 27 January 2022.

Open Floor Hearings

Open Floor Hearings are open to any Interested Party to attend, and are not related to a particular issue.

Those wishing to be heard orally at the Open Floor Hearing are requested to note:

- A maximum speaking time guide of 5 minutes per Interested Party will apply to oral submissions by individual Interested Parties. If a group of Interested Parties share common areas of concern, it is acceptable and preferable for a spokesperson to be nominated to represent the group.
- Organisations and groups with shared representations will receive a maximum speaking time guide of 10 minutes.

Hearing agendas

We will publish detailed draft agendas for the Issue Specific Hearings and Compulsory Acquisition Hearing on the [project webpage of the National Infrastructure Planning website](#) at least five working days in advance of each Hearing date, although our aim is to publish them sooner than this. The actual agenda on the day of each Hearing may be subject to change at the discretion of the ExA.

For Open Floor Hearings an agenda may not be published.

Hearing livestream and recording

For those parties who do not wish to participate in these Hearings, a link to the livestream of the events will be made available on the [project webpage of the National Infrastructure Planning website](#) shortly before each event. A recording of each Hearing will also be published on the project webpage as soon as practicable after each Hearing.

If you have any further queries, please do not hesitate to contact the Case Team using the email address above.

Request for Further Information

We also write to request further information from the Applicant under Rule 17 of the Infrastructure Planning (Examination Procedures) Rules 2010.

In reviewing Historic England's (HE) [Written Representation](#), the ExA has noted the concern expressed regarding the adequacy of information contained in [Chapter 6 of the Environmental Statement](#) [APP-037] in respect of heritage assets. In particular, HE has suggested that the potential impact upon the archaeological record was not adequately assessed prior to submission of the ES (including the Archaeological Assessment missing key sites, the omission of a full Desk-Based Assessment, limited geophysics and evaluation and no geo-archaeological investigations). It goes on to note that the lack of pre-determination evaluation and survey of the archaeological resource means that there is a large amount of work to be undertaken post-consent and pre-construction.

The approach Historic England appears to be taking is that of using its own knowledge and expertise to advise on impacts and mitigations, focusing on making good the situation through revisions to the Detailed Archaeological Mitigations Strategy (DAMS) and Outline Written Scheme of Investigation (OWSI), on the basis that Chapter 6 of the ES will not be rewritten.

The ExA notes that the National Policy Statement for National Networks (NPSNN) at paragraphs 5.120 through to 5.142 sets out the policy requirements in respect of the historic environment. This includes at 5.127 *'Where a site on which development is proposed includes or has potential to include heritage assets with archaeological interest, the applicant should include an appropriate desk-based assessment and, where necessary, a field evaluation.'* In respect of decision-making it goes on to advise at 5.128 that *'the Secretary of State should seek to identify and assess the particular significance of any heritage asset that may be affected by the proposed development'* and at 5.129 that *'in considering the impact... Should take into account ... the nature of the significance and the value they hold. This understanding should be used to avoid or minimise conflict...'*. The advice does also note that recording should not be a factor in deciding whether consent should be given (para 5.139).

The ExA seeks clear comment from the Applicant in its Deadline 2 submissions responding to HE comments explaining how the evidence submitted in the Environmental Statement is adequate and can be used to underpin any conclusions the ExA may arrive at and in its recommendation to the Secretary of State, and the Secretary of State's decision to meet the obligations and tests in the NPSNN. These matters may also form the basis of part of the Issue Specific Hearings on Environmental Matters in the January hearings detailed earlier in this letter. In particular, the Applicant should respond to the following points:

- Can the Applicant explain why Chapter 6 cannot be updated and why further evaluation is not possible within the timeframe of the Examination? What is the rationale behind this conclusion and why HE was told further work will not be undertaken? If it cannot be updated, what is the Applicant's proposed resolution to assessing heritage assets that HE has identified as being omitted from the ES?
- If there is reasonable doubt about archaeological interests and a high probability that the site may include as yet undiscovered heritage assets, how

- can the ExA be in a position to make a proper and informed decision about the full effects of the scheme on heritage assets and weigh these in the balance?
- If the DAMS and OWSI approach is followed what confidence can the ExA (and Secretary of State have) that there is adequate protection of undiscovered remains?
 - How would the risk that significant undiscovered remains are indeed uncovered be mitigated, and what consequences could this have on the construction programme?
 - Is 9 months' worth of pre-construction activities a suitable time period to handle archaeological matters, given the concerns expressed by HE regarding the potential amount of material that may yet be discovered?
 - HE, and other Interested Parties, have referred to a holistic approach to assessing the historic relationship between heritage assets and the landscape in which they sit (including setting). Does the Applicant intend to provide more information in this regard and when? If not, why not?

The ExA looks forward to receiving responses at **Deadline 2, 13 January 2022**. This request specifically focuses on the issues of adequacy of information as this relates to the information contained in the Environmental Statement assessment and does not seek to comment on the other issues raised by HE in its representations at this point in time, which are relevant and important.

Yours faithfully

Ken Stone

Lead Member of the Examining Authority

This communication does not constitute legal advice.
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