

A417 Missing Link DCO

Joint Councils comments on Deadline 3 submissions

Gloucestershire County Council, Cotswold District Council,
Tewkesbury Borough Council

14 February 2022

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1. Introduction

- 1.1.1. Gloucestershire County Council (GCC), Cotswold District Council (CDC), and Tewkesbury Borough Council (TBC) 'the Joint Councils' are the three host authorities for the National Highways' (NH) A417 Missing Link DCO Scheme 'the Scheme'.
- 1.1.2. This document is the Joint Councils response to the submissions made at Deadline 3 on the 2 February 2022 by National Highways (NH) and Interested Parties (IPs).
- 1.1.3. This document is structured in the following way:
- Chapter 2, Table 2.1 – Responses to NH submissions:
 - 8.17 Summary of Applicant's Oral Submissions at Issue Specific Hearing 1 (ISH1)
 - 8.23 Areas Subject to Archaeological Surveys
 - Chapter 2, Table 2.2 – Responses to IPs' submissions:
 - Cotswold Conservation Board – Written Representation at Deadline 3

2. Response to National Highways Deadline 3 submissions

Table 2.1 – Joint Councils response to National Highways Deadline 3 submission

Table ref	Document Paragraph / Table Reference	NH comment at Deadline 3	Joint Councils response at Deadline 4
8.17 Summary of Applicant's Oral Submissions at Issue Specific Hearing 1 (ISH1)			
2.1	Appendix B B.1.1.4 to B1.1.6	<p>The Secretary of State's responsibility for discharging National Highways DCO requirements is based on previous practice under the Highways Act 1980 regime, when the Secretary of State delegated their functions to the Highways Agency. It also reflects similar internal processes to those employed by the Department of Transport in taking other quasi-judicial decisions (for example, in deciding whether to make a DCO or a Transport and Works Act Order).</p> <p>The justification for the Secretary of State discharging National Highways' DCO requirements is that the Department for Transport has the resources and the necessary expertise to perform this role. This approach also recognises that National Highways has significant expertise and experience in delivering nationally significant highway schemes.</p> <p>The dDCO requirements ensure transparency and scrutiny in the discharge of requirements by way of prescribed consultation with the relevant local authorities and the requirement for an online register (as further detailed below).</p>	<p>The Joint Councils recognise the standard approach for National Highways' DCOs is for the Secretary of State for Transport to discharge DCO requirements rather than local authorities. The Joint Councils confirmed at Deadline 1 that it is satisfied with this approach.</p> <p>It is the Joint Councils position that in the absence of preliminary design information in the application, the DCO should include a Requirement which secures the Secretary of State's written approval of detailed design of key elements of the scheme prior to construction and that the relevant local planning authority and the highway authority should be prescribed consultees for the purposes of this requirement. However, should a sufficient level of preliminary design information be secured under Requirement 11, the written approval of the Secretary of State may not be necessary.</p>
2.2	B.2.1.2	The dDCO requirements effectively limit the ability of the applicant to depart from those preliminary details that are present within the application documents as a whole, which have been the subject of detailed assessment and are now being examined.	Requirement 11 Detailed Design would require detailed design to be compatible with the preliminary design detail on the general arrangement plans and works plans only. As referenced above this could be open to interpretation when comparing preliminary design with detailed designs still to be produced.
2.3	B.2.1.3	The detailed design is principally controlled under Requirement 11, which ensures that any departures from the preliminary design shown on the works plans and general arrangement plans must be approved by the Secretary of State and cannot give rise to any materially new or materially worse environmental effects. Further controls over the eventual design are included within the EMP, which is secured under Requirement 3. The Applicant would point to the following controls that have been developed to control the appearance of the scheme crossings and the Air Balloon Way in consultation with key stakeholders, as described in the Design Summary Report (Document 7.7, APP-423):	The proposed approach to secure preliminary design detail indirectly within a multitude of DCO documents will cause confusion and delays for prescribed consultees whom may be unfamiliar with the documents within the DCO submission and the design commitments National Highways has made. The preliminary design also has limited specifics in terms of detailing and therefore the implementation of Requirement 11, noting any materially new or materially worse effects, will be vague and open to interpretation.
2.4	B.2.1.4 - B.2.1.6	<p>The dDCO also provides for consultation with prescribed consultees, as appropriate, before relevant details can be submitted to the Secretary of State for approval. This is secured by way of Requirement 4, which requires the Applicant to prepare and submit a summary report setting out the consultation undertaken by the undertaker to inform any details submitted for discharge, where prescribed, and the undertaker's response to that consultation. A copy of the summary report must be provided to the relevant consultees.</p> <p>Requirement 4(3) provides that Applicant must ensure that any consultation responses are reflected in the details submitted to the Secretary of State for approval under this Schedule, where it is appropriate, reasonable and feasible to do so, taking into account considerations including, but not limited to, cost and engineering practicality. Where the Applicant has not adopted the recommendations of consultees, the Applicant must explain in its summary report why this is the case (Requirement 4(4)).</p> <p>The Secretary of State must consider all relevant information including the views of consultees before discharging any requirement.</p>	This response misses the point. Requirement 4 only applies where National Highways must submit an application to the Secretary of State to discharge a Requirement. This is not the case for Requirement 11 as proposed, as National Highways would only need to make a submission to the Secretary of State for its written approval if it considers that the detailed design may be incompatible with the inadequate level of preliminary design.
2.5	B2.1.16	Additionally, the draft DCO for the A303 Stonehenge scheme, which is currently being re-determined, would also reserve details that could impact a sensitive landscape.	The A303 Stonehenge scheme does not include any overbridges within the boundary of the World Heritage Site and therefore this example is not directly comparable to this Scheme.

Table ref	Document Paragraph / Table Reference	NH comment at Deadline 3	Joint Councils response at Deadline 4
2.6	B.2.1.17	The Applicant has not been able to obtain all the relevant documents from the PINS website as these have been archived but will make further attempts to do so and provide an update at a future deadline.	The Joint Councils can provide hyperlinks to, or PDF copies of the publicly available National Grid Hinkley Point C Connection DCO documents on request, including document 8.32 Design Approach to Site Specific Infrastructure and 4.8.2 Design Drawings 400kV Underground Cables.
2.7	B.4.1.1	The Applicant considers that the amount of detail that has been provided on the design of the scheme and the level of engagement that has been undertaken with stakeholders goes beyond what would usually be expected for a scheme of this type. This reflects the fact that this is a landscape-led project.	The Joint Councils disagree with the assertion that the Scheme provides a level of design detail beyond what is usually expected for schemes in nationally designated areas, and this is well evidenced in the Joint Councils Deadline 3 submission document <i>Written Summary of Case put orally at hearings during the week commencing 24 January 2022 Appendix A Detailed Design in DCOs Case Studies</i> [REP3-018].

8.23 Areas Subject to Archaeological Surveys

2.8	Plan of Areas subject to archaeological surveys	N/A	<p>There are some discrepancies between the plan provided and the records held by the Joint Councils including:</p> <ul style="list-style-type: none"> • In the area north of the A436 and east of the Leckhampton junction, the Joint Councils have less geophysics than indicated. • In the area east of Emma's Grove and south of the A436 the Joint Councils have not been provided with the geophysics in the fields containing trenches 38-83, 87 and 329-330. • In a small area northeast of Stockwell Farm, containing trenches 173-174 and 183, the Joint Councils do not have any geophysics. • The field containing T95 is shown as having geophysics which the Joint Councils don't have. <p>In addition, the Joint Councils agree the fields containing T96, 98 and 99 don't have geophysics but we would like to ask what is intended in that area. This question may be answered in the revised DAMS/OWSI, which the Joint Councils are currently reviewing.</p> <p>Finally, the Joint Councils would like to ask how the area now being proposed for extra geophysical survey was chosen and was this simply on the basis of access being available.</p>
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Table 2.2 – Joint Councils response to Interested Parties Deadline 3 submissions

Table ref	Document Paragraph / Table Reference	Interested Party comment at Deadline 3	Joint Councils response at Deadline 4
Cotswold Conservation Board – Written Representation at Deadline 3			
2.2.1	2. Lighting	<p>At the ISH1 (Development Consent Order) the Joint Councils and National Highways discussed lighting on roundabouts. The scheme currently has no provision for lighting on roundabouts but the Joint Councils requested that lighting infrastructure should be included as the scheme is delivered. The Board would like clarity over which roundabouts are being considered for lighting infrastructure. The potential of lighting being introduced at a future date raises a concern for the Board as it would have an adverse impact on Dark Skies, one of the special qualities of the AONB.</p>	<p>GCC as the local highway authority is requesting the installation of below-ground infrastructure at the Ullenwood roundabout only.</p> <p>CDC support the Scheme's intent not to light the highway but considers that any lighting demonstrated to be required on highway safety grounds must be designed to avoid unacceptable impacts on the special qualities of the AONB. GCC also takes the view that any lighting within the Scheme must be designed to avoid unacceptable impacts on the special qualities of the AONB.</p> <p>TBC has not taken a position as the Ullenwood roundabout would be located in Cotswold District.</p> <p>GCC considers the roundabout should be lit in the interests of highway safety but has accepted the outcome of National Highways' Road Safety Audit Stage 1 and subsequent risk assessment. GCC is requesting National Highways install the below-ground infrastructure at the Ullenwood roundabout as part of the proposed works to be authorised by the DCO.</p> <p>GCC's view is that the installation of the below-ground infrastructure would future proof the design and expedite the installation of lighting in the event that it is demonstrated to be required in the future. Only once the Scheme is operational and accident data is collected will the need (or lack thereof) become apparent. If the need for lighting becomes apparent, the pre-installed below-ground infrastructure would ensure that a lighting scheme can be delivered swiftly to minimise risk of further accidents.</p> <p>National Highways have undertaken an initial environmental assessment of a preliminary lighting scheme at Ullenwood roundabout and have shared the initial results with the Joint Councils and other environmental bodies and discussions are ongoing.</p>

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