

**Messing and Inworth Action Group Ltd**

**and**

**Messing-cum-Inworth Parish Council**

**A12/A120 Widening Scheme**

**Junction 24**

The intention of this document is to demonstrate to the Planning Inspectors (PI) and the Examining Authority (ExA), for the above designated Draft Development Consent Order (*d*DCO) enquiry submitted by National Highways (NH), the position of Messing and Inworth Action Group (MIAG), and the Messing-cum-Inworth Parish Council (McIPC), 12<sup>th</sup> June, 2023.

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**MIAG and McIPC believe;**

- A valid alternative exists to NH plans for Junction 24, the '**Main Alternative**';
- NH have failed in their legal obligations and duty to consult in a fair and reasonable manner;
- NH have failed in their duty to fully consider other alternatives, and have demonstrated both confirmation bias and created a false narrative throughout the Examination of the *d*DCO;
- NH have failed in their duty to provide a legal *d*DCO. The document is incorrect, unintelligible and wrong;
- NH submitted a *d*DCO that was inadequately prepared and researched, and has constantly been amended as NH failings have been exposed;
- NH are in breach of planning laws by not submitting the 'new road' build (of 7kms between Kelvedon and Marks Tey), as a separate and identifiable Nationally Significant Infrastructure Plan (NSIP), DCO;
- NH have failed in their duty to ensure the safety of all road users;
- NH have failed to prove the case for their plan, and have relied on confirmational bias and false narrative;
- NH have failed to recognise and evaluate the consequences in financial, human and environmental terms of their plan;
- NH have failed to acknowledge that their plan for Junction 24 will destroy the community of Inworth and seriously harm that of Messing;
- NH have not been compelled to justify costs, instead avoided explanation by claiming the information is 'commercially sensitive';
- The ExA has allowed too great a latitude to NH, and has failed to hold them sufficiently to account;

- MIAG and McIPC do not consider that the current NH proposals meet the relevant policy tests in the National Networks National Policy Statement, (NNNPS). In particular this is in reference to;
  - avoiding significant adverse impacts on health and quality of life from noise and vibration;
  - increasing safety for all road users;
  - proper evaluation and consideration of alternatives;
  - the scheme design, for both functionality and aesthetics;
  - the design process was conducted with effective engagement with communities and stakeholders;
- The views of Interested Parties and all Stakeholders have been misrepresented, curtailed, ignored and marginalised by NH;

The dDCO should be referred to the Secretary of State with a recommendation from the ExA that NH should be compelled to re-examine the **Main Alternative** and to **adopt it**.

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**MIAG and McIPC herewith fully explain all details, facts and information for the assistance of the ExA and to help in reaching a recommendation in regard to Junction 24:**

The villages of Messing and Inworth established the MIAG to work alongside McIPC to support and champion the **Main Alternative**. This plan was prepared after consultation with the residents of the villages and other interested and concerned parties, and then drawn up with expert and professional help. The object of the campaign has been clearly stated throughout the ExA hearings and supported by substantial written submissions;

These submissions form the basis of all the statements here, and the position taken by MIAG and McIPC is robustly justified and explained. At no point has MIAG or McIPC challenged the need for the A12/A120 widening scheme or suggested that it does not need remedial action. The entire position has been that whilst such action may be necessary, it is absolutely not necessary to destroy the village of Inworth and seriously damage the village of Messing. These damages are not just physical - the roads, properties and historic monuments cannot be adequately protected - they are also mental and environmental. The concern and anxiety already caused by the actions of NH and their determination to push ahead with their flawed plan, will intensify and get substantially more serious as the project attempts to proceed;

National Highways, (NH), have caused great mental harm and angst to everyone in both villages;

Evidence has been provided and substantiated concerning the disruption to wildlife, their habitat and the effect on migratory birds;

MIAG and McIPC, together with local politicians and local MP, all believe that there has been insufficient examination of the proposed and supported **Main Alternative**. This would have reduced, removed and/or substantially mitigated all the matters and issues that have consumed the months of enquiry concerning Junction 24;

NH have further failed to demonstrate why this locally supported, politically supported and engineer proven **Main Alternative** was not fully and properly investigated and costed;

MIAG/McIPC maintains that the NH plan for Junction 24 is entirely unnecessary, and the **Main Alternative** addresses all the needs of Junction 24 without the irreparable harm of the NH plan;

NH have failed to fairly and reasonably investigate the viability of the **Main Alternative**. NH have ignored their own failures surrounding the NSIP case for a tunnel at Stonehenge, which led to the Judicial Review finding against NH, the SoS and the Department for Transport. This judgement was made as a result of inadequate consideration of alternatives;

It has been repeatedly shown and proven that NH have used inaccurate, wrong and confirmational bias figures to prove a case they had predetermined was the only one they would assess. This attitude has led to contradictory emails from senior officers of NH. These emails have been obscured and deflected by a barrage of ever-changing numbers and figures that NH fail to adequately explain or justify;

NH have failed to adequately demonstrate why the simple widening at certain points of the A12 – for which land acquisition and plans have already been drawn up - would not be sufficient;

Further, it is the strong belief of MIAG and McIPC that the anticipated costs, currently in excess of £1.4bn for just 25km of road, is a totally unnecessary. Much of the existing A12 between Kelvedon and Marks Tey can be simply widened with land already acquired for the failed 'Marks Tey Development';

The total costs which are now conveniently hidden by NH for 'sensitive economic reasons' – which MIAG/McIPC do not accept as valid – is only minimally altered by the adoption of the **Main Alternative**. This valid alternative has not been costed accurately or properly by NH, whose attitude in this regard, as all others, and has conformed to their pattern of inadequate responses and false narrative;

NH have proffered no justification for a 25km stretch of road to cost, as an estimated minimum, £1.4bn, despite the matter being raised at Issue Specific Hearings by MIAG and McIPC and other Interested Parties. NH are attempting to withhold vital public interest information about all costs and associated provisions, including their use of highly paid Kings Counsellors, legal advisors and other paid experts. All these costs are ultimately borne by taxpayers, and it is an egregious misuse of falsely assumed powers to attempt to prevent proper enquiry and scrutiny;

In matters of cost the clear intention and strategy of NH, and its legal representatives, has been to foolishly waste money on what was described by them as 'legal ping pong'. This is an egregious waste of raised funds (as well as taxpayer monies), and clearly points to an attitudinal approach by NH that is both arrogant and inappropriate as an agency of the Government. Their failure to address the upset, angst and distress caused by their plans is evident;

NH have failed in their duty to be open and transparent and have insisted that all financial information is 'sensitive' and/or 'commercial'. This position is untenable given that this is a public enquiry to investigate and substantiate claims and statements made by NH. It is inconceivable that any 'commercial' secrets will be exposed as, by definition, NH is a government agency working under The Department for Transport (DfT), and there are no counter bids to their inflated self-serving costings and estimates;

It is the belief of MIAG and McIPC that vast sums of money have been wasted without due and proper scrutiny. This includes property purchases that are now not required, and land purchases for stretches of road that are not needed or are outside the NSIP provisions of the flawed *d*DCO;

MIAG and McIPC maintain that the entire process undertaken by NH for this project has been deeply flawed and biased. Throughout the enquiry, and in the months leading up to it, NH have failed to consult in a reasonable or openminded manner, as required by law, and at least in the minimum, by the Gunning Principles;

NH have blundered ahead with substantial land and property acquisitions that are now proven to be unnecessary. The over-estimate of land needed for this was by a margin of error in excess of 50%. This includes land purchased for attenuation and flooding provisions that are now found to be 'not needed'. Had NH exercised proper professional control and monitoring systems, the *d*DCO would not, and should not, have been presented in such a poor state of unreadiness;

NH have failed to explain why the *d*DCO was submitted to the ExA as one project, when it has been clearly demonstrated that the creation of an entirely new section (which is not needed anyway), was not the subject of its own NSIP *d*DCO. Lawyers representing NH have been evasive and dismissive of the genuine concerns and arguments raised by all stakeholders and have failed to answer and justify themselves;

The attitude of senior executives at NH, none of whom have attended a single meeting, is highly discourteous and disrespectful. Indeed, it once again proves the absence of respect and consideration due to the affected residents, Interested Parties and other Stakeholders.

It is of enormous concern that the *d*DCO was allowed by the ExA, even at that early stage, to continue, despite these breaches of process. Documents presented have included new, deleted, and non-existent clauses which are vital to the actual legality of the *d*DCO;

It is therefore clear that the *d*DCO could not be adequately examined;

NH attitude of denial and arrogance even extended to denying knowledge of a terminally ill and disabled child, whose parents had repeatedly raised concerns to NH about the plan for Junction 24. They had been ignored until MIAG exposed NH at the OFH in Witham for their lack of response and concern;

Essex Highways, (EH), have been heavily critical of NH in their reports, yet NH continue to repeat the false mantra that they are in productive 'discussion'. This is to dissemble and obfuscate – NH have reached no

substantive agreements with EH or Essex County Council, (ECC), and the King's Counsellor for ECC continues to dissect, dismantle and destroy NH arguments;

There have been many attempts to arrange a 'face to face' meeting to discuss a 'Statement of Common Ground' (SOCG), with MIAG and McIPC. Throughout these attempts to agree a format for this meeting, MIAG and McIPC believe NH have been unwilling to recognise that whilst they are paid employees of profit-based contractor organisations, all members of both MIAG and McIPC are volunteers giving their own time.

Following the refusal of NH to agree to suggestions to amend the agenda, and repeated refusals to send attendees who had appropriate authority, the latest meeting, scheduled for 25<sup>th</sup> May, did not go ahead. NH refused to allow the **Main Alternative** to be included on the agenda, refused to submit an updated and accurate SOCG and predetermined the outcome of the meeting through various categorical statements from their lawyers. MIAG and McIPC felt this to be grossly unreasonable, and in consultation determined that the meeting should not proceed. At all times the ExA has been fully apprised of this;

NH have misled the ExA, MIAG and McIPC about statements from ECC, and have consistently denied that NH invented scenarios and statements. This has been proven to be false by documented evidence from the Leader of ECC, who has made categorical assurances that he said no such things or gave no such instruction;

MIAG and McIPC concerns about the safety of the design and planning of Junction 24 have been treated with disdain and contempt by NH, who then disregarded them. This is despite several clear instances showing that these concerns have eventually resulted in tangible and obvious changes to the NH plan. These dangers were repeatedly drawn to their attention, and even now changes to their roundabout redesign, which had resulted directly from technical shortcomings MIAG and McIPC highlighted, is still severely flawed. Even though NH have belatedly amended part of their plan at the roundabout, by removing the Segregated Left Turn Lane, (SLTL), severe dangers in shortened sight lines, approach speeds and angles all still dominate this entirely mis-designed junction;

This was clearly shown at the OFH and ISH, and in all written submissions from MIAG and McIPC on the entire roundabout and approach road design, as well as in specific regard to the SLTL.

This dangerous and ill designed part of the NH plan has now been abandoned. This is as a direct result of the Technical Engineering Report about the Junction 24 NH design, commissioned by MIAG, and still without acknowledgement from NH. This is a failure to confront their many obvious and dangerous errors. NH have used and promulgated various unproven and unjustified traffic figures, incorrect road descriptors for both sight lines and speed requirements. They have also made false statements about ECC's position and instructions.

It is apparent that NH do not heed advice and expert detail that does not conform to their confirmational bias. They have created an entirely false narrative surrounding the feasibility of their plan and have resolutely turned against any rational and accurate counter argument until they are exposed and forced to accede to that which can no longer be denied;

The design of the entire Junction 24 is fatally flawed, whilst the **Main Alternative** offers solutions to all the issues and matters that afflict the design from NH;

NH have repeatedly refused to consider the consequences to public safety and the danger their plan will create at Hinds Bridge. It is apparent, even to the ExA, after its site visits, that this bridge simply will not be able to cope with the predicted traffic flows. Predictions that NH then amend and alter with no validation or justification, simply to suit their position. Having failed to adequately explain these changes, NH have simply abandoned the whole matter to EH/ECC. This abrogation of responsibility is not only inexcusable, it is potentially life threatening;

NH have abandoned any responsibility for the traffic design through the village of Inworth, with admissions that any proposed traffic measures will be inadequate. NH admit there is no solution nor remedy to the consequences of their plan. EH/ECC cannot take over this situation, and NH have simply turned away. The obvious resolution to this is to adopt the **Main Alternative**;

The ExA has allowed NH great latitude in the presentation of inadequate and error strewn documentation. This has been poorly, and improperly, amended with a mixed and jumbled version being 'shared' at the most recent ISH, making it impossible for any Interested Party to track changes and to challenge the entirety of the *d*DCO.

The ExA has allowed NH to present documentation (for example, the roundabout design), at OFH that no other Stakeholder, Interested Party or even lawyers representing NH, had seen;

It is also the case that the ExA had not seen these 'revised' plans;

NH had no explanation for their failings beyond the excuse of blaming their computer system.

It is of equally great concern to MIAG and McIPC, that whilst our presentations at the initial OFH were cut short, the ExA has allowed such flagrant abuse from NH to go uncriticised and unchallenged;

It is clear to MIAG and McIPC that the presentation of the *d*DCO was premature, ill-conceived and wrong. It is of concern that the ExA simply did not dismiss the entire process as a result of NH failings, inadequacies, errors and breaches;

MIAG and McIPC urge the ExA and the Planning Inspectorate to send the NH plans for Junction 24 back, and to recommend that further research, consultation and consideration be given to all viable alternatives, with especial focus on the Main Alternative.

*Attached hereto is a complete list of all papers and reports submitted by MIAG and/or McIPC and/or experts and other Interested Parties relevant to NH Junction 24 Plans. These papers demonstrate the catastrophic effects of the plans on the villages of Messing and Inworth. The list is exhaustive and complete. It is intended to cover all matters raised by the dDCO, 'The Statement of Common Ground', and all other relevant submissions.*

<u>Document title</u>	<u>date submitted to ExA</u>
1.6km Radius NH J24 Inworth Roundabout	06.03
Inworth Road Roundabout Design	01.03
MIAG – Relevant Representations A P Harding	01.02
MIAG – Ashfords/DCO	08.02
MIAG – Bat Survey Report	07.02
MIAG – Benefits of Main Alternative	02.02
MIAG – Combined Paper and Electronic Petition	02.02
MIAG – McIPC and MIAG combined responses	02.02
MIAG – Comments on NH response	02.02
MIAG – Village Hall Meeting Papers	02.02
MIAG – Friends of Messing Church	03.02
MIAG – Inworth Roundabout New Design	27.02
MIAG – Response to NH statements at ISH	13.03
MIAG – Protected Species Presentation	08.02
MIAG – Swept Path Analysis	02.02
MIAG – Report on Existing Access Roads	02.02
MIAG – Report on Inworth Road	02.02
MIAG – Report on <b>Main Alternative</b>	02.02
MIAG – Report on Inworth Road	02.02
MIAG – Report on technical aspects Junction 24	02.02
MIAG – Response to EXQ2	27.02
MIAG – Transport Planning Associates full report	10.02
MIAG – Written Representations following ISH; Air Quality; Biodiversity; Cultural Heritage; dDCO; Geology; 1.6km barrier zone; Noise; Traffic; ISH 28.02;	06.03
MIAG and McIPC – Presentation and Full response to ExA	20.01/05.02