

Messing and Inworth Action Group Ltd

and

Messing-cum-Inworth Parish Council

A12/A120 Widening Scheme

Junction 24

Response to National Highways following Issue Specific hearing agenda items draft Development Consent Order and Statement of Common Ground, 27th June

Following the original 'Statement of Position' submitted to the ExA on 12th June, which remains unaltered and definitive, the intention of this document is to additionally 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), following the **Issue Specific Hearings of 27th June**, and the statements and subsequent comments from National Highways and their legal representatives.

MIAG and MciPC continue to believe;

- NH have ignored and marginalised MciPC and MIAG. The approach taken to the presentations made by Ashfords, concerning the legal validity of the *d*DCO, remain unaddressed and have not been satisfactorily explained. The position taken by MciPC and MIAG **continues to be that the *d*DCO should be sent back as it is both invalid and illegal;**
- After failing to include MciPC/MIAG in the list of the 'status' of all Statements of Common Ground (SOCG), it is apparent that NH continue to fail in their duty to consult in any form with MIAG and MciPC and NH are operating in a manner that is obdurate, untruthful and myopic. It is with thanks to the ExA for bringing this to the attention of the ISH and forcing NH to comment and admit their litany of failings;

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;

This abrupt email was received as addressed and without preamble from NH's legal team. It is evident, once again, that NH have marginalised and 'forgotten' promises and commitments made to MIAG/MciPC. This email clearly demonstrates that there is no intention on the part of NH to seek, or even try to seek, any common ground. The endeavour to find *any* common ground is doomed to fail by the attitude on show through this communication.

Email received by MIAG and MclPC and Ashfords,

Sent from Mr Richard Guyatt, Partner Womble Bond Dickinson, representing NH

Quote;

From: [REDACTED]
Sent: 29 June 2023 18:41
To: [REDACTED]
Cc: [Messing Cum Inworth Parish Council](#)
Subject: FW: A12 - Messing and Inworth (379023.16) [WBDUK-AC.FID124263388]

Andrew and Stephen,

Andrew reminded me at the hearing on Tuesday I was yet to fully respond following the email exchanges regarding the proposed statement of common ground meeting.

Andrew's previous emails indicate that the Parish Council and MIAG both do not believe that progress is possible on the Statement of Common Ground.

The Statement of Common Ground and the proposed agenda relating to it were designed to try to narrow down the issues between us, rather than spend time on issues that have been dealt with by the parties before the Panel and where common ground is not going to be found. The Main Alternative was not included as a separate agenda item for the SOCG meeting because the parties' positions on the Main Alternative is clear. The Main Alternative is dealt with in the draft Statement of Common Ground, but my client anticipated the parties' position on this aspect would not change. A separate agenda item was therefore not provided for.

You have since submitted in to the examination your document from February commenting on the initial draft Statement of Common Ground, to which my client has already responded. We also have your position paper. My client's recording of the position between the parties in the Statement of Common Ground will be that there is no commonality, as you have indicated.

As you indicated there was little purpose in arranging a further Statement of Common Ground meeting, my client will assume that this particular line of communication between the parties is now at an end.

My client remains open to meeting with the Parish Council and MIAG. If you would like to arrange a meeting and to set out the purposes of such a meeting my client can consider the proposal. I would not at this time anticipate my being involved in such a meeting but can serve as the initial conduit for communicating meeting arrangements, if that assists.

Richard Guyatt
Partner
Womble Bond Dickinson (UK) LLP

End quote

It is fortunate the previous emails and exchanges are in the possession of the ExA, and we urge a thorough re-examination of the sequence of events. This will expose the errors, misstatements and flaws of NH and in our view Mr Guyatt has mis-remembered the communication stream.

The original statement of 'lack of commonality' was from Mr Guyatt. It referred to the matter of the agenda for the SOCG meeting and was about including the vital **Main Alternative** topic for discussion. It is to dissemble and engage in *legerdemain* to suggest that this failure is on the part of either MclPC or MIAG.

Responsibility for the failures in reaching any common ground are all entirely due to NH.

As matters progress, this, and all other failings, are being quantified, filed and recorded for future reference.

MIAG/MclPC also wish to emphasise;

As in the matter of the Blue Mills Nature Reserve, NH are refusing to answer valid vital questions. Concerns repeatedly raised by MIAG and MclPC have similarly been ignored and NH simply turn away from any responsibility or effort to give truthful replies. NH failure to even attempt a response, to the extent of refusing to answer the ExA questions on 27th June, should be reason alone to dismiss the *d*DCO on grounds of failure to consult.

It is therefore the continued position of MclPC and MIAG that;

The *d*DCO 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.