



Meeting note

Project name	A303 Sparkford to Ilchester Dualling
File reference	TR010036
Status	Final
Author	The Planning Inspectorate
Date	31 May 2018
Meeting with	Highways England
Venue	Planning Inspectorate offices
Attendees	The Planning Inspectorate Susannah Guest – Infrastructure Planning Lead Richard Price – Case Manager Karen Wilkinson – EIA and Land Rights Advisor Michael Breslaw – EIA and Land Rights Advisor The Applicant Will Spencer – DCO and Statutory Process Manager (Highways England) Mark Wilson – DCO Advisor (Arup) Serena Gosden – Assistant Project Manager (MMSJV) Paula McGeady – Lawyer (Burgess Salmon) Julian Bosworth – Lawyer (Burgess Salmon)
Meeting objectives	Feedback on Draft Documents
Circulation	All attendees

Summary of key points discussed and advice given

The Planning Inspectorate (the Inspectorate) advised that a note of the meeting would be taken and published on its website in accordance with section 51 of the Planning Act 2008 (the PA2008). Any advice given under section 51 would not constitute legal advice upon which applicants (or others) could rely.

It was noted that the key purpose of the meeting was for the Inspectorate to provide clarifications in respect of its written feedback on the draft application documents provided by the Applicant for review in April and May 2018.

Draft documents feedback

In order to inform discussion, the Inspectorate had provided the written feedback at **Annex A** ahead of the meeting.

The Applicant provided an update on its preparation of the Consultation Report and stated that Exmoor National Park, which the Inspectorate had identified were originally omitted, had now been consulted. Their responses would be considered in the Consultation Report. The Health and Safety Executive had been re-consulted and its



response would also be considered in the Consultation Report. In addition, the references in the Consultation Report, which referred to consultation with some prescribed consultees, had been improved to make it clear they had been consulted.

The Inspectorate asked the Applicant for an update on the preparation of its draft Development Consent Order (DCO), and whether a decision had been taken about whether Compulsory Acquisition (CA) powers would be included in it. The Applicant confirmed that CA powers would be sought, and summarised progress in respect of its assembly of the order lands. Discussion with the Ministry of Defence was ongoing regarding an area of Crown land in respect of which the Applicant may need to seek to acquire the Crown interest.

Regarding the Inspectorate's comments on the draft Works Plans (**Annex A**), the Applicant stated that they would be amended to provide greater clarity prior to submission. In respect of the Land Plans, the Inspectorate advised for the Applicant to refer to the Land Plans for the M20 Junction 10a as an example of where a contrasting colour had helpfully been used to depict plot boundaries. The applicant noted the advice but would consider this further on the basis that red plot boundaries are generally standard practice.

The Explanatory Memorandum (EM) was discussed. The Applicant explained the 'Explanatory Note' provided with the draft documents was intended to outline the format and approach for the draft EM to be submitted with the application. The Applicant asked the Inspectorate for guidance on what to include within the EM, beyond the level of detail provided in the Explanatory Note. The Inspectorate advised that for each provision, in addition to establishing precedents, the Applicant should justify why the provision is applicable and justified in its case. The Inspectorate advised that publication of an update to its Advice Note 15: Drafting Development Consent Orders was imminent which included new content on the preparation and maintenance of EMs.

The Inspectorate's other comments regarding the draft DCO were discussed, and the Applicant agreed to consider making relevant amendments prior to submission. The Applicant provided a brief update on the draft Protective Provisions (PP), adding that it was awaiting a response from the Environment Agency in respect of the relevant PPs as currently drafted.

The Inspectorate's comments regarding the draft HRA Report were discussed, and the Applicant agreed to consider making relevant amendments prior to submission.

Update from previous meeting

The Inspectorate enquired whether there had been an update to the design of Hazlegrove Junction. The Applicant stated that it was still in discussion with Somerset County Council, and confirmed that there remained a possibility that the junction design could be altered to a design which was likely to perform better in environmental terms. Bespoke limits of deviation for the associated works would be drafted into the DCO to allow for the potential change in height/ depth of the eastbound on-slip.

The Applicant provided an update on the parallel access road which had been requested by West Camel Parish Council. The Applicant stated that traffic models had been



completed and had demonstrated that the effect of the parallel road on traffic on local roads in and around West Camel was negligible. As such, alternative, traffic calming measures for West Camel were being considered outside of the DCO application on a voluntary basis by Highways England. These measures were being taken forward in consultation with the Parish Council and Somerset County Council.

The Inspectorate questioned whether there were any outstanding objections to the Proposed Development in principle, or any specific elements of it. The Applicant explained that the British Horse Society had requested for an existing bridge over the A303 be upgraded into a bridleway. The Applicant stated that the bridge was not suitable as a bridleway, and this was a pre-existing situation that was within the remit of the highway authority to resolve. The Inspectorate recommended that the Applicant refer to a related issue that had arisen in respect of the A30 Temple to Higher Carblake Improvement examination.

Anticipated submission (confirmed post-meeting)

The Applicant confirmed that the application would be submitted on 27 July 2018.

Specific decisions/ follow-up required?

The following actions were agreed:

- Both parties to schedule a project update meeting in advance of submission.
- Both parties to keep in close contact on the run-up to submission.

TR010036: A303 Sparkford to Ilchester Dualling**Draft documents review**

This document comprises the comments made by the Planning Inspectorate on the form and content of the following draft application documents provided by the Applicant (Highways England) in April and May 2018:

- Draft Consultation Report
- Draft Habitats Regulations Assessment Report
- Draft Development Consent Order and Explanatory Memorandum
- Draft Land Plans
- Draft Book of Reference
- Draft Works Plans

The review of draft documents forms part of the Planning Inspectorate's Pre-application service for applicants¹. The commentary included in this document comprises advice issued by the Planning Inspectorate under section 51 of the Planning Act 2008 (PA2008). It does not constitute legal advice upon which the Applicant (or others) should rely.

¹ <https://infrastructure.planninginspectorate.gov.uk/application-process/pre-application-service-for-applicants/>

1. Draft Consultation Report

Section of the PA2008	Requirement	Observations
s53(3)(e)	Did the applicant (prior to carrying out consultation in accordance with s42) either (a) request the Secretary of State to adopt a screening opinion in respect of the development to which the application relates, or (b) notify the Secretary of State in writing that it proposed to provide an environmental statement in respect of that development?	<p>Paragraph 3.1.3 of the Consultation Report states that the Applicant notified the Inspectorate on 29 November 2017, before the start of s42 consultation on 26 January 2018.</p> <p>However, the notification letter received by the Inspectorate is dated 27 November 2017. The Inspectorate's letter that accompanied the Scoping Opinion also states the notification letter was dated 27 November 2017.</p>
s42(1)(a)	Did the applicant consult the applicable persons set out in s42(1)(a) of the PA2008 about the proposed application?	<p>Annex G of the Consultation Report sets out the list of Prescribed Consultees and whether they have been identified and consulted under s42(1)(a).</p> <p>The first column of the table is titled "Prescribed consultee" however, the table sometimes lists the Schedule 1 Description instead, leading to ambiguity as to who consultee is. For instance, entry '5' lists the Prescribed consultee(s) as:</p> <p><i>"The National Health Service Commissioning board and the relevant clinical commissioning group (CCG)"</i></p> <p>However, neither the relevant National Health Service Commissioning Board nor the clinical commissioning board for the scheme have been identified.</p>

		<p>Furthermore, column five of the table, titled "<i>Prescribed consultee contact details</i>", sometimes does not include the organisation name as the first line of the address, adding more ambiguity as to who has been consulted. Entry '27' identifies "<i>the relevant strategic Highways Authority</i>" as being consulted under s42. However, the relevant strategic Highways Authority has not been identified anywhere in the entry and the fifth column only lists the consultee contact details as:</p> <p><i>"Area 2, Skanska, Unit 2</i> <i>St. Brendan's Court,</i> <i>Bristow Broadway,</i> <i>Avonmouth, Bristol BS11</i> <i>9FB"</i></p> <p>It would also be more helpful if each Prescribed consultee had an entry of its own, with separate columns for the Schedule 1 description and the identified organisation. For instance, entry '11' again lists the Schedule 1 description as the Prescribed consultee:</p> <p><i>"The relevant parish council, or, where the application relates to land in Wales or Scotland the relevant community council"</i></p> <p>The fourth column titled "<i>Reason for inclusion/exclusion</i>" then sets out the relevant parish councils that have been identified and consulted.</p>
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		<p>In addition to the above, the Inspectorate has identified the following parties based on a precautionary interpretation of the regulations that are not identified as being consulted in Annex G:</p> <ul style="list-style-type: none"> • NHS England • Somerset Clinical Commissioning Group • Highways England (South West) • South West Ambulance Service NHS Foundation Trust • Network Rail • Highways England Historical Railways Estate • NATS En-Route Safeguarding <p>It is noted that some of the above may have been consulted but were not clearly identified within Annex G.</p>
s42(1)(b)	Did the applicant consult each local authority within s43?	<p>Table 4.4 of the Consultation Report lists the relevant local authorities that were identified and consulted under s43 and s42(1)(b) of the PA2008. However, Exmoor National Park Authority, identified as a 'D' authority by the Inspectorate, appears to not have been consulted.</p> <p>Table 4.4 of the Consultation Report has identified North Somerset as an 'A' authority when it should be a 'D' authority. It is also noted that Wiltshire County Council has been identified only as a 'D' authority when it is both an 'A' authority and a 'D' authority.</p>

s46	Did the applicant supply information to notify the Secretary of State of the proposed application; and if so was the information supplied to the Secretary of State on or before the date it was sent to the s42 consultees? Was this done on or before commencing consultation under s42?	<p>Paragraph 4.4.1 of the Consultation Report states that the Applicant gave notice under s46 on 24 January 2018.</p> <p>However, the s46 notification the Inspectorate received is dated 25 January 2018, which was on the first day of s42 consultation. The Inspectorate's s46 notification acknowledgement letter also states the notification was dated 25 January 2018.</p>
s47(za)	Once the applicant has prepared the statement, the applicant must make the statement available for inspection by the public in a way that is reasonably convenient for people living in the vicinity of the land.	It is noted that a map to illustrate the locations of where the SoCC was made available would be helpful to judge whether their locations were reasonably convenient for the public to get to.
s49	Has the applicant had regard to any relevant responses to the s42, s47 and s48 consultation?	<p>Annex N of the Consultation Report sets out how the Applicant has had regard to responses to the s42, s47 and s48 consultation.</p> <p>When the Applicant sets out how regard was taken to the responses under s42(1)(d) (people with an interest in the land), the respondent's name and address have been provided in full. It may be more appropriate to create a bespoke reference for each response to avoid providing this information.</p>



2. Draft Habitats Regulations Assessment Report

Habitats Regulations Assessment

Following a request for a ruling, the European Court of Justice issued a judgement on 12 April 2018 about the interpretation of Article 6(3) of Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora ('the Habitats Directive'). The reference of the case is C-323/17 - People Over Wind, Peter Sweetman v Coillte Teoranta.

The judgement concerns the stage at which mitigation measures should be taken into account when undertaking an assessment under The Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations). The Applicant is advised to consider, in discussion with Natural England, whether the judgement has any implications for the Habitats Regulations assessment that has been undertaken in respect of the Proposed Development.

Ref	Extract	Question/Comment
Para 1.2.5	Figure 1.1 illustrates the location of the proposed scheme. The proposed red line boundary representing the full extent of the scheme can be seen in appendix B.	Is the red line boundary in Appendix B consistent with the amended red line boundary as contained within the ES?
Para 3.1.3	The footprint of the scheme is anticipated to be approximately 60 hectares.	Para 3.2.1 states 95 hectares. Are these figures consistent with ES?
Para 3.2.1		Are the figures in this paragraph consistent with the amended ES?
Para 3.2.3	75 hectares of temporary habitat loss.	
Matrices	-	Mitigation measures – refer to People over Wind, Sweetman v Coillte Teoranta court case.
Appendix A (b) Matrix for Somerset Levels and Moors SPA	With mitigation measures in place, impacts to water quality within the surrounding drainage network will not occur during the construction or operational phase. Therefore, pollutants will not be carried downstream to impact upon water quality within the SPA.	Refer to Sweetman court ruling.



Matrix for Somerset Levels and Moors Ramsar	With mitigation measures in place, impacts to water quality within the surrounding drainage network will not occur during the construction or operational phase. Therefore, pollutants will not be carried downstream to impact upon water quality within the SPA.	Incorrectly titled Table A:4 rather than Table A:5. Refer to Sweetman ruling regarding reliance on mitigation measures.
Appendix B	Key to symbols	Refers to Somerset Levels and moors Special Protected Area, rather than Protection.

3. Draft Development Consent Order and Explanatory Memorandum

Draft DCO

- Where the M20 Junction 10a Improvement DCO 2017 has been used for drafting precedents, the Applicant should consider where any provisions have been refined by the SoST in the Silvertown Tunnel Order 2018.
- There should be no unpopulated gaps.
- There should be no 'rogue' wording (eg "*Error! Reference source not found*" in current Requirement 15).
- The Applicant should ensure all legislative references in the DCO are to extant provisions.
- Applicant should ensure all Schedules refer to the correct articles (at the top right of each Schedule).
- If any provisions (other than works descriptions and definitions of bespoke plans, etc) in this draft which also appear in the M20 J10a DCO (as made by the SoST) differ in any way from the corresponding provisions in that M20 J10a DCO, the Applicant is advised to explain how and why they differ (including, but not limited to, changes to statutory provisions made by, or related to, the Housing and Planning Act 2016). The explanations would appear in an updated version of the EM.
- The Applicant is advised to consider the Examining Authority's solution in respect of having to redefine what constituted the 'environmental statement' in the recommended M20 Junction 10a DCO.
- Preamble: Are s127 and/or s138 of the PA2008 engaged by this Order? Is s123 engaged? Is s135 engaged?



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- Article 2: the definition of 'maintain' is different to the M20 Junction 10a DCO. Should it include the drafting "*to the extent assessed in the environmental statement*"?
- Article 24 and Schedule 5: see previous comments under BoR.
- Article 47: where is this article taken from? The Applicant is advised to decapitalise 'Undertaker'.
- Article 48 – Crown rights: does this mirror developed versions of this type of provision (as in eg The Hornsea Two Offshore Wind Farm Order 2016, which is similar to article 35(1)(b) of The North Wales Wind Farms Connection Order 2016)? The Applicant is advised to consider this, and to consider deleting the word 'take'.
- Requirement 3(2)(e): drafting not relevant to this Order ie Church Road, Kingsford Street Bridge.
- Requirement 14: redraft in respect of use of 'shall'. Check modernisation standards throughout Order. Check all drafting imperative, as appropriate.
- Requirement 15: what are the precedents for this drafting? Decapitalise heading. How will noise mitigation be maintained?
- Schedule 3 Part 2, Schedule 4 Parts 3 & 4, (and, as already stated, Schedule 5), and Schedule 7 are blank. They need to be populated.
- Schedule 3 Part 8: 'TBC' is inappropriate. The Applicant needs to specify exact Orders.
- Schedule 8 Part 3: is the Environment Agency satisfied with this drafting?

Draft Explanatory Memorandum

- As currently drafted, the EM includes insufficient detail and does not follow the Inspectorate's Advice Note Fifteen (paragraphs 15.1 to 15.4).
- The Applicant should ensure that every explanation appearing in the EM submitted with the formal application does follow the advice in AN15, is both accurate and comprehensive in terms of what the corresponding draft DCO provision provides, and that all references to other documents/legislation are accurate.
- The explanation of Article 8 refers to consultation (that has already taken place) with a highway authority? Is that someone other than the Applicant?
- The EM refers to other 'recent Highways England orders'. The Applicant is advised to specify exactly which Orders (and which provisions within those Orders).



4. Draft Book of Reference and Land Plans

Book of Reference

- The Applicant is reminded of the advice in the Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land; and, in particular, paragraphs 7, 8 and 10 of Annex E to that guidance.
- The Applicant should ensure anyone listed in Part 3 of the BoR is also listed in Part 1.
- Where are any new rights the Applicant wishes to create (by compulsion) defined in the BoR? The Applicant is advised to set out in the description of land for each relevant plot the exact nature of any new right required eg as per the M20 J10a BoR (see plots 2/3/a, 2/4/b, 3/14/a, 3/16/d, 3/16/g, 4/1/d, 4/16/a, 4/16/b of M20 J10a BoR).
- Blank spaces should be populated. Instead of leaving columns blank for a particular plot, the Applicant could enter 'None' (if there are none). See M20 J10a BoR.
- There are lots of blank pages which the Applicant is advised to remove.
- Where Highways England is listed as an owner, two separate 'care of' addresses are provided. The Applicant is advised to clarify this distinction so that there is no ambiguity as to whether the second address is actually meant to be a different owner.
- See eg plot 7 in part 1, final column: why do the words 'in respect of' not appear (as they do in plot 6 and other plots)?
- Some plots show owner as 'unknown', but then 'occupier' is left blank. Is there no occupier (in which case could say 'none') or is the occupier unknown (in which case say 'unknown')?
- In the third column:

Part 2 – why do some plot numbers have no names or addresses in them?

Part 2 – 'in respect of': is this meant to be the address for service of each person listed? Or does it mean the land in respect of which the persons can make a claim, which may not be their address for service?

Part 3 – final column: apparent spacing inconsistencies where multiple persons listed for a plot, and apparent inconsistencies as to including some addresses but not others (despite the heading including 'addresses').

Part 4 – refers to a Crown interest in plot 256. That plot is not listed at all in Part 1. Does the Applicant mean plot 156? In plot 156 in Part 1, why aren't Crown interests expressly excluded from the description of the land in third column? Also, if there's only one plot with a Crown interest, why does the draft EM say there are two small areas of land?



- In the third column throughout the BoR, the Applicant repeatedly uses wording such as “*All interests and rights of land to be acquired and used permanently of*”. The Applicant is advised to consider whether this makes sense and whether it is sufficiently clear whether it refers to existing “rights” or (undefined) new ones it intends to acquire.
- The Applicant is advised to consider instead using wording such as that used in the M20 J10a BoR, both in relation to plots where it requires acquisition of new rights and in relation to plots where it does not. The BoR should also be clear as to which plots (if any) will be subject **only** to temporary possession/use (again, see eg M20 J10a BoR).

Compulsory acquisition of new rights/restrictions: general comments

- A draft Statement of Reasons is not provided to be read in conjunction with the draft BoR. The Inspectorate therefore cannot establish the extent of CA sought by the Applicant eg the types of new rights or restrictions or the extent of them that the Applicant may require. The draft BOR defines nothing in this regard, which is unsatisfactory.
- The draft DCO includes Article 24, which purports to give very wide-reaching powers to create new rights, subject to certain limitations set out in Schedule 5. Schedule 5 in the draft DCO is blank. Schedule 5 must be populated, and the second column of it (*Purpose for which rights over land may be acquired*) should not simply state a wide or general ‘purpose’, but should define the exact nature of right required, as in the M20 J10a DCO.

Crown land: s135 PA 2008

- Will the Applicant need any s135(1) or s135(2) consents? If so, how far progressed are those discussions with the Ministry of Defence?

Land Plans

Note: Limited scope for commentary in absence of introduction to draft Book of Reference or draft Statement of Reasons.

- The scheme does not appear in the key plan inset on each sheet.
- Plot reference numbers and boundary depictions are formatted differently in the legend.
- The Applicant is advised to use a different colour to the Order Limits (red) to depict plot boundaries (eg dark blue).
- In the legend, should pink land be ‘Land to be permanently acquired’.



5. Draft Works Plans

- The works centrelines appear very 'thick'. What meterage do they represent, and how is this reconciled with requisite certainty and the limits of deviation proposed?
- A number of arrows used to identify works either should be extended to meet the relevant works centrelines, or be extended to breach the boundaries of the relevant non-linear works eg Work 7, Work 19.
- In respect of 'ATTENUATION BUND' depictions: is the orange line a centreline?
- On sheet 1, there is an annotation for 'WORK NO.2' that points to an existing overbridge outside of the Order Limits.
- The graphic depiction of the 'DEVELOPMENT CONSENT ORDER BOUNDARY' in the legend is absent.
- In respect of Work 11 and other "*works associated with the retention of existing A30*" eg Work 21, Work 39: what works are they? If they are linear, should there be a centreline between the reference points cited? If not, what are the works boundaries?
- In respect of eg Work 22 and Work 26: 'noise bund' and 'false cutting' are both depicted as 'ATTENUATION BUND' on the Works Plans. Does this provide sufficient clarity?
- In respect of Work 24: in Schedule 1 to the draft DCO it is described as being constructed between reference points 45 and 46. Reference point 45 does not appear to extend to the end of the work as proposed. What is the spur to the east, and should it be described in Schedule 1 to the draft DCO?
- The works numbers are non-sequential eg Work 27 and Work 32 are missing. Will this be explained in the application?
- In respect of Work 38: should Pond 6, whilst an existing attenuation pond, be identified by the same blue line depicting 'ATTENUATION POND BOUNDARY' in the legend.
- In respect Work 44: should reference points be provided in Schedule 1 to the draft DCO?
- Work **45** in Schedule 1 to the draft DCO appears to describe Work **55** on the Works Plans. Should reference points be provided as per comment on Work 44.
- In respect of Work 50: should the second reference point in the description in Schedule 1 to the draft DCO be '83'?
- Work 52 is described in Schedule 1 to the draft DCO as shown on sheets 1 and 2 of the Works Plans. It is not annotated on Sheet 1.



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- Some 'accommodation track' works are articulated with a centreline and reference points (eg Work 55), and some are not (eg Work 56). Can the Applicant explain this distinction?
- In respect of Work 57: what do reference points 50 and 51 on the Works Plans depict? Should they be included in the description in Schedule 1 to the draft DCO?