

APPENDIX 1: CONSULTATION PLAN

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Technical Note 514451-MUH-00-ZZ-TN-DC-200001-2D Consultation Plan

1. PURPOSE OF THE REPORT

The Highways Agency (HA) intends to submit a Development Consent Order (DCO) for a new project to update the M4 (J3 to J12) to a “Smart motorway”, with all lane running and variable speed limits.

A DCO is required as the land and environmental impacts of the scheme are such that the scheme will require an Environmental Statement, thus making this scheme a Nationally Significant Infrastructure Project (NSIP) under the Planning Act 2008 (PA2008).

This technical note sets out the Consultation Plan, as suggested by the Alliance for discussion with the HA. It sets out the legislation requirements of the PA, precedence set by previous schemes, responsibilities of the project team and actions going forward.

2. RESEARCH

A. LEGISLATION REQUIREMENTS

The following sets out the consultation requirements as listed in the PA2008 and associated regulations.

Table 1: Statutory consultation requirements in Planning Act Legislation

Prepare consultation strategy and what is to be included in Statement of Community Consultation (SOCC)

Consult local authorities as to content of SOCC setting out how applicant proposes to consult
S.47(2) (Planning Act)

28 days min starting the day after the day consultee receives documents *S.47(3) (Planning Act)*

Receive consultation responses regarding SOCC from local authorities

Prepare SOCC (with regard to responses received above) *S.47(1) & (5) (Planning Act)*
 (n.b. must include if application is EIA development and how the applicant intends to publicise and consult on preliminary environmental information)
Reg 10 (EIA)

Publish SOCC in a newspaper circulating in the vicinity of the land, and in such other manner as may be prescribed
S.47(6) (Planning Act)

Duty to consult local community - complete community consultation as per SOCC
S.47(7) (Planning Act)

Duty to publicise - publish notice as content in per 4(3) of Regulations for 2 weeks in local newspaper that covers the scheme, once in national, once in London Gazette, including a deadline for receipt of responses
S.48 (Planning Act)
 If EIA development, send a copy of the notice to the prescribed consultees & 9(1)(c) bodies and parties notified
Reg 11 (EIA)

Duty to Consult - send consultation packs, notify consultee of deadline for receipt of responses
S.42 (Planning Act):
 a) prescribed consultees (Schedule 1 in Regulations)
 b) each local authority in S43
 c) GLA where land is in Greater London
 d) persons in categories in S.44

Duty to notify PINS - notify PINS with information as if they were included in S.42 on or before commencing S.42
S.46 (Planning Act)

B. OTHER SIMILAR PROJECTS

Highways Agency – A556 Knutsford to Bowden Environmental Improvement Scheme – DCO

- Held early consultations in 2007 and 2009 on outline route options (Pre SOCC)
- Following publishing of a SOCC, the project held 12 week public consultation between November 2011 and February 2012
- Provided consultation material on specific issues
 - junction layout and strategy
 - works to existing roads (de-trunking) and side roads
 - environmental assessments and potential impacts
 - environmental mitigation measures
 - arrangements during construction
- Provided information as part of consultation material:
 - Preliminary Environmental Information and non-technical summary – including effects and proposed mitigation
 - Plans showing design proposals
 - Scheme Assessment Report – summarising engineering design and business case
 - Statement of Community Consultation
- Methods
 - 3 exhibition dates (Wed, Sat, Mon of same week)
 - Leaflet and information on Highways Agency website (downloadable)
 - Leaflet to addresses in parish
 - Meetings with local residents, businesses and groups (used SOCC to invite interest)
 - Consultation material at 6+ deposit points between November 2011 and February 2012 (Leaflet and non-technical summary available to take)
- Responses on Highways Agency website, Highways Agency email, phone, post, local authority website

Luton Borough Council – M1 J10a Grade Separation - DCO

- Held early consultations in 2009 and 2010 (Pre SOCC)
- Following publishing of a SOCC, Methods used were:
 - 2 exhibition dates (Fri and Sat of same week) (and posters advertising these exhibitions)
 - Held 1 month public consultation between October 2011 and November 2011
 - Produced leaflet
 - Scheme information on LBC website
 - Consultation material at 3 deposit locations for 1 month+
- Second Round of targeted consultation held in February 2012 regarding changes to the proposed scheme.
- Responses on freepost comments cards, local authority website, post, email, Twitter, Facebook

Thames Water (TW) – Thames Tideway Tunnel - DCO

- Held two phases on consultation (both following a separate publication of a SOCC) – 2010 and 2011
- Held 14 week Phase 2 consultation between November 2011 and February 2012
- Offered targeted consultation of 28 days following phase 2 to allow for further changes (based on consultation)
- Method
 - Phase 1 exhibitions over 4 weeks located in 10 different locations (open up to 3 consecutive days)
 - Phase 2 exhibitions over 5 weeks located in 19 different locations (open minimum 2 consecutive days)
 - Letter drops to everyone within 250m from boundary of site
 - TW website
 - Community briefings – offer community representatives a briefing on the project
- Responses on TW website, phone, email, post

3. CONSULTATION OPTIONS

A. HOW WILL WE CONSULT?

Phased consultation process

There are three options for consultation on the M4 DCO, involving a one-stage or a two-stage approach. The risks and benefits of each option are set out below.

A one-stage approach is where one statutory process of consultation is completed after the publication of the SOCC, resulting in one round of relevant responses. This would occur part way through 2014, probably around April/May

A two-stage approach is where two statutory rounds of consultation are completed after the publication of the SOCC. The first would cover general arrangements, options for detailed design and a general overview of the scheme. The second would incorporate responses made in the first stage, consulting on a preferred design.

The third option would incorporate the two above options, whereby two stages of consultation would be held but the first would be non-statutory (and before the publication of the SOCC).

Table 1: Three options for consultation on M4 DCO, and their related risks and benefits

Option 1: One-statutory stage approach	Option 2: Two-statutory stage approach	Option 3: Two-stage non-statutory/statutory approach
RISK / BENEFIT	RISK / BENEFIT	RISK / BENEFIT
BENEFIT: Programme stability/time saving - More time is available to allow contingency for delays, or to bring the deadline for submission forward (depending on other disciplines)	RISK: Programme non-stability/critical path - The late start of this consultation means this process is on critical path – any delay will result in a delay to the submission of the DCO	BENEFIT: Programme stability/time saving – We would be able to consult initially on the information we have, and consult on greater detail for the statutory stage
RISK: Against precedence - Other projects have generally completed two rounds of consultation or have undertaken “early consultation” before the scheme was identified as an NSIP	BENEFIT: Following precedence - This would allow the Project to say it has completed “early consultation” and show where we have/haven’t incorporated feedback from that consultation in the second round	BENEFIT: Following precedence to a degree - This would allow the Project to say it has completed “early consultation” and show where we have/haven’t incorporated feedback from that consultation in the second round (although the first round consultation will not be preceded by a SOCC
RISK: Failure to comply with legal requirement - This would be our one chance at consulting. If any responses are received that result in a change to the scheme, we would not have the opportunity to consult again – if this is a material change, we could be considered to have failed in our duty to take account of relevant responses. It therefore could mean further un planned round of consultation would have to be undertaken, thus delaying the scheme’s programme. This delay is likely to be longer than if two rounds of consultation is include in the programme at the start.	BENEFIT: Surety of fulfilling legal requirement - We can use stage 1 consultation to discuss options, take account of responses, decide on the preferred scheme, and consult on that more finalised scheme at consultation stage 2.	RISK: Compliance with legal requirements - We understand this method complies with legal requirement, but would seek advice from the legal team
RISK: Non-understanding of issues - We would only have one chance at understanding the issues/concerns held by consultees, and would otherwise be blind leading into the examination stage.	BENEFIT: Knowledge/opportunity to address issues - We would have opportunity to find out a wider extent of issues/concerns, aiming to address them ahead of the examination stage.	BENEFIT: Knowledge/opportunity to address issues - We would have opportunity to find out a wider extent of issues/concerns, aiming to address them ahead of the examination stage.
BENEFIT: Consulting on more detailed project - We would have more time to work up a more detailed design ahead of going out to consultation	RISK: Appearing unknowledgeable - We could be asked questions that we do not know the answer to, especially at consultation stage 1 when the proposed design and resultant assessment have not been completed.	RISK: Appearing unknowledgeable - We could be asked questions that we do not know the answer to, especially at consultation stage 1 when the proposed design and resultant assessment have not been completed. However, being separate to the formal statutory consultation process, people may be more accepting of this
BENEFIT: Cost saving – One stage of consultation means only one round of associated costs	RISK: More expensive – Two stages of consultation mean two stages of associated cost, and additionally the extra resource needed to reach the tight timescale will increase that cost again	RISK: More expensive – Two stages of consultation mean two stages of associated cost, and additionally the extra resource needed to reach the tight timescale will increase that cost again

Process of agreement of decision

It is recommended that the two stage Option 3 approach should be adopted as it fulfils the legal requirements of the PA2008. It means that the M4 project can prove it has taken account of relevant responses, in accordance with S.49 of the PA 2008 and would therefore be less likely to be challenged by the Planning Inspectorate. This provides more security that the submitted application will be accepted. If a two-stage approach is adopted, the S.48 notice would be issued in line with Consultation Stage 2 only.

However, the short timeframe of the M4 project means a two-statutory stage approach (allowing time enough to consider and take account of responses) would present a challenge. For this reason, it is suggested that the two stage non-statutory/statutory approach (option 3) should be adopted as it is the best option in the timeframe available (it can be commenced ahead of securing an agreed SOCC). This solution complies with the legal requirement of the PA2008.

This recommendation was accepted by the Highways Agency project team in a meeting on 2nd December 2013. The first stage of consultation will cover HA's existing consultation material for Smart motorways, plus information that is available for Design Freeze 2 (including any available options) and preliminary details of the DCO process. Consultation Stage 2 will additionally cover information on the preferred scheme, plus more scheme specific detail (in particular the environmental effects and any proposed mitigation).

Methods for consultation

Agreed method of consultation

It was agreed by the Project team in a meeting on 2nd December 2013 that the minimum level of consultation should be:

Table 2: Agreed method of consultation

Consultation stage 1 (non-statutory – pre-SOCC)	Consultation stage 2 (statutory – post-SOCC)
Printed media covering HA's existing consultation material on Smart motorways, and an introduction to the scheme	Printed media covering DCO process and some more detailed information on the proposed scheme
Posters advertising information event venues	Posters advertising exhibition venues
Letter drops to all known named parties (i.e. local land owners/statutory consultees) including leaflet	Letter drops to named parties within scheme limits (to diligent inquiry standard) (i.e. local land owners/statutory consultees) including leaflet
Letter drops to all addresses within 100m from the highway boundary along the route of J3-12	Leaflet drops to all addresses within 100m from the highway boundary along the route of J3-12
Staffed exhibitions (Stage 1 boards to be similar to those produced for the M6 J10a-13 MM-ALR scheme, see Appendix 1. <ul style="list-style-type: none"> ○ West Drayton ○ Slough ○ Maidenhead ○ Reading Boards will cover <ul style="list-style-type: none"> ○ HA's existing consultation material on 	Staffed exhibitions (Stage 2 boards will hold information on the final preferred scheme as per design freeze 4) <ul style="list-style-type: none"> ○ West Drayton ○ Slough ○ Maidenhead ○ Reading Photomontages for gantries will be provided, based on those produced for the ES. If not

<p>Smart motorways</p> <ul style="list-style-type: none"> ○ An introduction to the scheme ○ Information up to the level of detail we have reached by that stage (design freeze 2), including any available options ○ HA's generic drive-through of a Smart motorway 	<p>available for Consultation Stage 1, these should be provided for Stage 2</p>
<p>Unstaffed exhibitions at the Motorway Service Area within or near to the site (subject to agreement)</p> <ul style="list-style-type: none"> ○ Heston Services J2-3 ○ Reading service J11-12 ○ Chieveley Services J13 	<p>Unstaffed exhibitions at the Motorway Service Area within or near to the site (subject to agreement)</p> <ul style="list-style-type: none"> ○ Heston Services J2-3 ○ Reading service J11-12 ○ Chieveley Services J13
<p>HA website</p>	<p>HA website</p>
<p>Press release and subsequent interview if requested. Advertising in the press will follow statutory requirement (none required at this stage)</p>	<p>Press release and subsequent interview if requested. Advertising in the press will follow statutory requirement (publishing SOCC and publishing S.48 notice)</p>
<p>Record outgoing correspondence and responses on one system – Pinpoint</p>	<p>Record outgoing correspondence and responses on one system – Pinpoint</p>
<p>Active management of key stakeholders and affected parties</p>	<p>Active management of key stakeholders and affected parties</p>
<p>Working group (with a panel of key team members) to assess all consultation feedback and assess implications/inclusion. This exercise should start as soon as a reasonable number of responses have been received and will require the working group to be based in the Alliance office on a regular basis.</p>	<p>Working group (with a panel of key team members) to assess all consultation feedback and assess implications/inclusion. This exercise should start as soon as a reasonable number of responses have been received and will require the working group to be based in the Alliance office on a regular basis.</p>

B. WHO WILL WE CONSULT?

We will be consulting in line with the Planning Act requirements.

Section 47

Under S.47, we are required to consult the local community. This will be done via the methods set out in Table 2.

The extent of this community consultation will need to be determined. Since the majority of the scheme is expected to be built within Highways Agency boundaries, it is suggested that the scheme will have little compulsory purchase impact on the local community. However, there may be temporary environmental effects felt by local communities relating to the demolition and replacement of bridges, and permanent environmental effects of noise and construction felt along the route of the scheme. It is therefore suggested that community consultation should include the following:

- 100m either side of the M4 boundary (including directly affected land owners/occupiers)
- Local parish, district and county councils

- General distribution list (including MPs, MEPs, local businesses and attractions)

Section 42

Under S.42, it is necessary to consult prescribed consultees, relevant local authorities, Greater London Authority and relevant Category 1, 2 & 3 interests (land owners and interests with a relevant claim for compensation). A relevant claim for compensation under Category 3 relates to claims made according to Part 1 of the Acquisition of Land Act 1981 or Section 10 of Compulsory Purchase Act 1965. The Alliance will identify the Category 1, 2 and 3 interests through a Land Referencing process, and consult appropriately.

A workshop was held with attendance by the HAs discipline leads for environment, engineering and land, as well as advice from a district valuer in order to identify land within which interests may have a claim for compensation. It is anticipated that a cautionary approach should be adopted to the identification of the red line boundary to include everyone who may eventually have a relevant claim. This workshop resulted in a S.42 line – a line within which the Lands Team will reference land ownership and consultation material will be sent.

The workshop was completed on 18th December 2013. It was decided the S.42 line should follow the highway boundary along the route (i.e. the district valuer confirmed that no compensation claims would be relevant beyond this line), and follow the limits of identified land take around the bridges. In addition, where the environment team had identified significant effects in terms of noise, air quality or visual impact, those properties should also be included within the S.42 line.

Prescribed consultees are listed in Schedule 1 of The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009. Some of the listed consultees will be checked with the Highways and Environment Teams as to whether there will be a requirement to consult them.

Section 46

Under S.46, we are required to consult the Planning Inspectorate.

Key Stakeholders and affected parties

A stakeholder mapping workshop was held with the aim of identifying the key stakeholders for the project. This workshop was completed on 12th December 2013, resulting in a list of key stakeholders to be included within the consultation programme.

C. WHEN WILL WE CONSULT?

A programme has been prepared showing the amended methodology from two statutory consultation processes within limited response consideration time, to one statutory and one non-statutory consultation process, beginning earlier.

D. WHAT WILL WE CONSULT ON?

We will be consulting on the following themes, asking for feedback on them.

Consultation stage 1 (non-statutory – pre-SOCC)	Consultation stage 2 (statutory – post-SOCC)
The need for the project (as opposed to the do nothing approach)	The need for the project (as opposed to the do nothing approach)
Use of smart motorways (as opposed to another solution)	Use of smart motorways (as opposed to another solution)
Junction/bridge/side roads layout – high level options for the permanent works	Junction/bridge/side roads layout – preferred option for construction and permanent works
Preliminary environmental impacts and mitigation / Landscaping design (basic level only)	Preferred side road/access diversion routes
	Environmental impacts and mitigation / Landscaping design

4. PROJECT ROLES

A. HIGHWAYS AGENCY

Project Management Team

The Highways Agency Project Management Team will be responsible for:

- Initial contact with key stakeholders
- Attendance at key stakeholder consultation (may include Communications Team)
- Approving Consultation Strategy (to feed into Communication Strategy, with Communications Team)
- Publishing notices in newspapers (drafted by the DCO and Legal Teams)
- Issuing consultation material to identified parties (unless delegated to Alliance)
- Publishing consultation material on Highways Agency website (drafted by the DCO and Highways Agency Project Teams)
- Receiving consultation responses, reviewing them and responding to them where required or forward relevant responses to Alliance to respond
- Record all consultation responses on Pinpoint (or forward to Alliance to complete this task)
- Record all direct Highways Agency consultation/communication including uploading on Pinpoint
- Identify and arrange exhibition venues
- Approval of consultation material and responses to consultation replies
- Stakeholder mapping – identification of initial list of consultees including identification of key stakeholders
- Preparing consultation material drafted by DCO Team, and signing off on content of that material
- Printing of consultation material
- Publishing consultation material on Highways Agency website (drafted by the DCO and Highways Agency Project Teams)
- Attendance at key stakeholder consultation
- Approving Consultation Strategy (to feed into Communication Strategy)
- Publishing notices in newspapers (drafted by the DCO and Legal Teams), working alongside Project Management Team
- Issuing consultation material to identified parties (unless delegated to Alliance). Working alongside the Project Management Team
- Receiving consultation responses, reviewing and responding to these where required or forward relevant responses to Alliance to respond. Working alongside the Project Management Team
- Record all consultation responses on Pinpoint (or forward to Alliance to complete this task). Working alongside the Project Management Team
- Record all direct Highways Agency consultation/communication including uploading on Pinpoint. Working alongside the Project Management Team
- Undertake press releases and arrange any media interviews.

B. Alliance

DCO Team consultation responsibilities

The DCO team is made up of both members of the Highways Agency and the Alliance, who together drive the progress of the DCO, stakeholder engagement and consultation.

The DCO Team will be responsible for:

- Preparing the project's DCO Consultation Strategy
- Arranging workshops to identify S.42 line and extent of community consultation (specifically leafleting)
- Preparing the project's DCO Statement of Community Consultation (SOCC)
- Consulting with the relevant authorities on that SOCC
- Identifying/checking the list of consultees to receive consultation material at each stage of consultation
- Setting up and managing Pinpoint.
- Attendance at key stakeholder consultation
- Engagement with key stakeholders, including emergency services (the Police, etc) and key players (e.g. Network Rail)
- Undertaking key stakeholder consultation or ensuring it is undertaken by the nominated member of the delivery team. This will include starting work on obtaining the Operation Agreements required for the Smart motorway.
- Recording that engagement, including meeting minutes, telephone/site visit records and correspondence with stakeholders. Ensuring these records are recorded on Pinpoint
- Receiving consultation responses, reviewing them and responding to them where required
- Record all consultation responses on Pinpoint
- Collating the content to be included in consultation material and drafting that consultation material
- Ensuring compliance with the PA2008 legal requirements for consultation under Sections 42, 46, 47(7) and 48.
- Preparing consultation packs (for landowners)
- Arranging workshops to consider consultation responses
- Drafting Consultation Report

Highways Team consultation responsibilities

The Highways team will be responsible for:

- Engagement with the Local Highway Authorities regarding the side roads works, as stakeholders
- Identification and consultation with statutory undertakers
- Attendance at key stakeholder consultation events
- Recording that engagement, including meeting minutes, telephone/site visit records and correspondence with stakeholders. Ensuring these records are recorded on Pinpoint
- Liaising with statutory undertakers

Environment Team consultation responsibilities

The Environment team will be responsible for:

- Engagement with the Environment Agency, Natural England, English Heritage and Environment Teams at Local Authorities, as stakeholders
- Attendance at key stakeholder consultation events
- Recording that engagement, including meeting minutes, telephone/site visit records and correspondence with stakeholders. Ensuring these records are recorded on Pinpoint

Lands Team consultation responsibilities

The Lands team will be responsible for:

- Identifying affected parties through land referencing and recording on Pinpoint
- Engagement with affected parties and land owners across the scheme, specifically those people identified Category 1, 2 and 3 people.
- Attendance at key stakeholder consultation
- Recording that engagement, including meeting minutes, telephone/site visit records and correspondence with stakeholders. Ensuring these records are recorded on Pinpoint

C. LEGAL

Legal advice is to be sought over the following:

- Consultation Strategy – phased approach with one non-statutory process, followed by consultation on the SOCC as part of the statutory consultation process
- Consultation Strategy – methods of consultation and that this meets the requirements of the PA2008
- Limits within which to consult, along with the identified consultees and that these meet the requirements of the PA2008
- Scoping Report
- Review of draft SOCC
- Ongoing engagement with PINS

5. NEXT STEPS

Highways Agency

- HA to set up series of early meetings with key stakeholders / local authorities
- HA to identify exhibition locations/venues, and discuss these with local authorities at initial consultation:
 - West Drayton
 - Maidenhead
 - Slough
 - Reading

- HA to begin communication with venues to discuss availability (and book) for Consultation Stage 1 and Stage 2
- Stakeholder Mapping Workshop – arranged for 12th December 2013 (now complete)
- HA to invite Highways Agency Netserv colleagues to next collaborative planning meeting on 15th January 2014 to realise tight timescales
- HA to check if 28 day statutory Planning Act consultation period is acceptable to Highways Agency and when to start the consultation “clock” (i.e. start or end of PIE)

Alliance

- Workshop to identify S.42 boundary – held for 18th December 2013
- Structures Options Workshop – held 10th December 2013
- Start preparation of Consultation Stage 1 material

Version	Prepared by	Date	Verified by	Date	Reviewed By	Date	Approved by	Date
0D	Vicky Bramhill	22/11/13	James Cuthbert	26/11/13				
1D	Vicky Bramhill	06/12/13	James Cuthbert	10/12/12	Lynne Stinson & Adam Lloyd	18/12/13		
2D	Vicky Bramhill	21/02/13						

Revisions

Version 0D – First Issue

Version 1D – Second Issue

Version 2D – Third and final issue

Appendix 1 – Example display boards




Managed motorway
Junctions 10a to 13 **M6**

Modernising the appearance of our motorways

Welcome



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Managed motorway **M6**
Junctions 10a to 13

Modernising the operation of our motorways

C Timeline

2011

Project completion of the M6
modernisation project at
junctions 10a to 13.

2012

Completion of the M6
modernisation project at
junctions 10a to 13.

2013

Completion of the M6
modernisation project at
junctions 10a to 13.

Timeline of
construction

Completion of the M6
modernisation project at
junctions 10a to 13.