

**The Highways
Agency and The
Planning
Application
Process**

A New Protocol

DLP BRIEFING NOTE 51

Prepared by
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The Highways Agency are consulted on planning applications where proposals are deemed to materially affect the strategic road network. Current Highways Agency Policy and Guidance on the planning process is set out in the Department for Transport (DFT) circular 02/2007 "Planning and the Strategic Road Network". It is understood that the view of many applicants and their consultants is that this process has not always been a smooth one. It is perhaps because of this that the Highways Agency has recently produced a supplementary document "**A Protocol for Dealing with Planning Applications**".

The Highways Agency states that they have prepared the protocol to assist developers and their representatives in working alongside the Highways Agency when submitting planning applications. It is also to assist local planning and highway authorities, their own planning teams and to enable a prompt and consistent response to be made to planning applications. Ultimately, it is suggested that this may avoid abortive costs and minimise potential delays through the process.

Whether the Highways Agency is consulted on a planning application is at the discretion of the Local Planning Authority. The issue whether any proposed development may materially affect the strategic road network is a judgement that the local planning authority needs to make.

It is therefore strongly encouraged by the Highways Agency and something that DLP Transportation also suggest, **that the applicant or their consultants should make contact with the Highways Agency pre-application to give the Agency an opportunity to take a view on the issue of material impact.** The new protocol sets out a path way for the pre-application and consultation period process and sets out actions for various parties and the timescales. The first key timescale of **21 days is the period between the submission of a pre-application scoping report and Highways Agency response.** Following the submission of a planning application, together with a transport assessment and travel plan, the agency state that they will respond again within 21 days. A further period of 56 days is stated to allow any issues to be resolved and for the Agency to make their final response.

It is important to note that if the full time period is required following the planning application then this would appear still to be in excess of the consultation period allowed by the planning authorities even for larger applications.

It is important to note that **the Highways Agency, on behalf of the Secretary of State for Transport, may give directions restricting the grant of planning permission** by local planning authorities where they feel permission would adversely impact on the current network or on the route of a proposed future strategic road. The protocol restates the options that the Agency has in responding to a Local Planning Authority.

- a) *We offer no objection to the development*
- b) *We recommend that the application should be refused, or granted only subject to conditions.*
- c) *We direct the Local Planning Authority to impose specified conditions on any permission which may be granted.*
- d) *We direct that planning permission is not granted for a specified period.*
- e) *We direct that planning permission is not granted for an indefinite period.*

Following the submission of a Transport Assessment and Travel Plan and the determination that the development does indeed have an impact upon the strategic road network, then mitigation measures must be proposed and agreed sufficient to offset the detriment to the strategic road network. **Should the necessary mitigation be considered unaffordable, by the applicant, the agency would have no option but to recommend refusal, and where appropriate, direct indefinite and non-approval of the application.**

The Agency's preference is that all mitigation measures should be secured through the use of planning conditions. Negative or "Grampian-style" conditions are used where mitigation measures can only be delivered by third parties or have financial implications. The Agency consider acceptable mitigation of impacts based on the following hierarchy:

- 1. All reasonable steps shall be taken to minimise the level of physical mitigation required, through the use of measures such as Travel Plans, development phasing, heavy goods vehicle booking systems and encouraging flexible working.*
- 2. Physical measures on the local road network to minimise the impact on the strategic road network shall be utilised as far as is reasonably possible.*
- 3. Once all reasonable minimisation and off-network mitigation has been implemented, we will consider capacity improvements on the strategic road network. We will not accept local capacity improvements where they would overload the wider network.*

All proposals for physical mitigation to the strategic road network must be subject to a Stage 1 Road Safety Audit and the Design must be fully consistent with the relevant standards set out in the Design Manual for Roads and Bridges "DMRB". **Circular 02/2007 requires that these works are paid for by the developer through an agreement under Section 278 of the Highways Act 1980** and shall include the Agency's administration costs and the future cost of maintenance, which must be paid as a commuted lump sum.

DLP Transportation have considerable experience in dealing with the transport implementations of planning applications which affect the strategic road network and strongly recommend that a pre-application contact and if necessary a scoping report is prepared to ensure that the application stands the best possible chance of obtaining consent during the Local Authority determination period. DLP Transportation also have good working relationships with a number of the Highway Agency's regional planning officers which assists in ensuring the early resolution of any issues.

If you require more information or would like to discuss the issues mentioned in further detail please contact:

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