



**REPORT of
DIRECTOR OF STRATEGY, PERFORMANCE AND GOVERNANCE**

**to
COUNCIL
8 SEPTEMBER 2022**

A12 CHELMSFORD TO A120 WIDENING SCHEME DEVELOPMENT CONSENT ORDER

1. PURPOSE OF THE REPORT

- 1.1 The purpose of this report is to update the Council on the progress that has been made by National Highways on its A12 Chelmsford to A120 Widening Scheme Development Consent Order (DCO) and to seek the Council's approval of an Engagement Mandate that will be used when engaging further with National Highways, neighbouring authorities and the Planning Inspectorate during the Examination stage of the DCO.

2. RECOMMENDATIONS

- (i) that the update on the progression of National Highways Nationally Significant Infrastructure Project Development Consent Order: the A12 Chelmsford to A120 Widening Scheme, its context, engagement to date, the planning performance agreement, the project's next steps and estimated timescales be noted;
- (ii) that the Maldon District A12 DCO Engagement Mandate as set out in 3.6 be endorsed for use by Officers and/ or appointed witnesses at Pre-Examination and Examination stages confirming the extent of the Council's support and concern as a Host Authority concerning the A12 Chelmsford to A120 Widening National Strategic Infrastructure Project (NSIP);
- (iii) that the Director of Strategy, Performance and Governance be given delegated powers to appoint (in writing) specific Officers, as well as external contractors if required, to act as witnesses for Maldon District Council for the A12 DCO Examination; and
- (iv) that the Director of Strategy, Performance and Governance be given delegated authority in consultation with the A12 DCO Member Consultation Group as defined in 3.7 to approve any formal response or statement, as required to be made, from time to time, during the Pre-Examination and Examination stages to either National Highways, or the Planning Inspectorate.

3. BACKGROUND

3.1 Project Context

3.1.1 The A12 is an important economic route in Essex and across the east of England. It provides the main south-west / north-east route through Essex and Suffolk, connecting Ipswich with London and the M25.

3.1.2 The A12 Chelmsford to A120 Widening Scheme is a 'highways' NSIP as defined by Section 22 of Planning Act 2008 (PA2008) (as amended). It is a proposal to widen the A12 from two to three lanes between Junction 19 (Boreham Interchange, Chelmsford) and Junction 25 (A120 Marks Tey Interchange, Colchester).

3.1.3 The project would be delivered by National Highways, a government-owned company charged with operating, maintaining and improving England's motorways and major A-roads; also referred to as the Strategic Road Network (SRN). National Highways is delivering £27.4bn of investment in the SRN between 2020 and 2025 as described in the Department for Transport's Road Investment Strategy 2 (RIS2), which includes a commitment to fund the A12 NSIP scheme.

3.1.4 National Highways advise that the section proposed for widening carries high volumes of traffic, with up to 90,000 vehicles every day. Between 9%-12% of this traffic is in the form of Heavy Goods Vehicles (HGVs), which underlines its importance to freight connection, particularly the Ports of Felixstowe and Harwich. It is also an important commuter route, which leads to congestion and delays and means average speeds are particularly slow, despite its A-road status.

3.1.5 The project therefore aims to:

- Improve safety for road users and maintenance workers by removing the current private accesses to the SRN and provide alternatives;
- Reduce traffic congestion by increasing the capacity of the road, making journey times more reliable;
- Smooth traffic flow by helping the road cope with incidents such as breakdowns and accidents
- Support economic and housing growth identified in Local Plans in Essex and the surrounding region, by reducing congestion-related delays, improving journey time reliability and increasing overall transport capacity on the A12;
- Reduce the visual, air and noise quality impacts of the proposed scheme on affected communities on the route; and
- Reduce severance of communities along the route and provide safer alternative routes away from the A12 for walkers, cyclists, public transport users and horse-riders.

3.1.6 Maldon District Council (MDC) is a 'host' local authority for the NSIP, primarily in relation to Junction 22 at Witham that provides access from the A12 to Little Braxted within the Maldon District. However, closure of the existing slip roads, Junctions 20a and 20b at Hatfield Peverel, onto the A12 and construction of a new Junction 21 east of Hatfield Peverel, will also impact connections to the A12, via the B1019 from Maldon and Heybridge where access to the new Junction 21 is proposed to *remain* as being via the Duke of Wellington mini-roundabout at the junction of Maldon Road with The Street, Hatfield Peverel. The Maldon District has specific sections of the A12's 'lane corridors' which cross into the District, via Danbury on the A414 in the

west of the District and the B1022 from the A12 via the Braxteds in the northwest of the District.

- 3.1.7 Separately, there is also the potential location of enabling works including which could affect the District, including the diversion of a high-pressure gas main required to facilitate the route's widening. It should be noted that the diversion of the gas main is considered an NSIP in its own right and would be submitted separately to the A12 NSIP by Cadent; the owner of the UK gas distribution network.

3.2 Engagement to date

- 3.2.1 The project programme for its Development Consent Order (DCO) is now well advanced as there have been five core rounds of public consultation between 2017 – 2021. These were:

Stage	Status	Dates
Non-Statutory A12 Chelmsford to A120 Widening Scheme Route Options (J.19 to 25)	Non-Statutory	23 Jan 2017 to 3 Mar 2017
A12 Chelmsford to A120 Widening (Junctions 23-25) Public Consultation	Non-Statutory	21 Oct 2019 to 1 Dec 2019
Draft Statement of Community Consultation with LPAs	Statutory	29 Jan 2021 to 1 Mar 2021
A12 Chelmsford to A120 Widening Preliminary Design Consultation J19-25	Statutory	22 Jun 2021 to 16 Aug 2021
A12 Chelmsford to A12 Widening Supplementary Design Consultation (inc. Cadent Gas Main Diversion) Nov 2021	Statutory	9 Nov 2021 to 19 Dec 2021

- 3.2.2 MDC has been engaged throughout the pre-application stage of the NSIP with officer technical meetings, Member Forums and community engagement including direct engagement with Parish Councils. A consistent approach to the consultation stages set out above has been made by the Council that has been reported to the former Planning and Licensing Committee and the Strategy and Resources Committee.

3.3 Submission and Next Steps

- 3.3.1 As the A12 NSIP has progressed, it has become evident that if MDC intends to continue to participate in the DCO process that it will require sufficient officer delegation and resourcing to be able to respond within the tight statutory timescales prescribed in the Planning Act 2008 (PA2008) (Figure 1). National Highways have also requested that any future engagement in the pre-examination stage is secured through a Planning Performance Agreement (PPA) to an accelerated project programme timetable. Advice from the Planning Inspectorate (PINS) strongly recommends that Councils need to ensure that they have sufficient delegated powers in place to make representations on technical issues as they emerge, especially once a DCO application has been submitted for Examination.

Figure 1: Six stages of the NSIP Development Consent Order (DCO) process

*Time in **bold black** are statutory



3.3.2 National Highways submitted their DCO to PINS on 15 August 2022; triggering the start of the process by the Planning Inspectorate to determine the application.

Stage	Action	Start date / completion date
Submission of DCO Application	National Highways submitted DCO Application to the Planning Inspectorate	15/08/2022
Adequacy of Consultation Request	PINS write to Host Authorities and interested parties and seek response in 14 calendar days over 'Adequacy of Consultation'.	16/08/2022-29/08/2022
Acceptance of DCO by Planning Inspectorate	Accept or Not Accept the Application	12/09/2022
<i>If Not Accepted, National Highways will need to consider Planning Inspectorate decision and determine what is required to demonstrate adequacy and resubmit at later date.</i>		
If Accepted , DCO can proceed to Examination...		
Pre-Examination	National Highways will seek Statements of Common Ground with key participants	Sept - Dec 2022
Examination of DCO Application	Examination of the DCO Application.	10/01/2023-10/07/2023
Secretary of State decision on DCO Application	National Highways to receive decision from Secretary of State for Transport regarding the DCO.	09/10/2023-20/12/2023

3.4 Adequacy of Consultation Response

3.4.1 On 16 August 2022, the Council, as a host authority and key stakeholder, received correspondence from the Planning Inspectorate concerning the Section 55 of the Planning Act 2008 (as amended), also called the "Adequacy of Consultation". The Council had 14 calendar days to respond to the consultation, which closed on 29 August 2022, Bank Holiday Monday. A request to the Planning Inspectorate to extend this by one day to accommodate the Bank Holiday was not responded to. In effect, this meant the Council's response had to be submitted on 26 August 2022.

3.4.2 National Highways has to demonstrate to the Planning Inspectorate that for the purposes of Sections 42 (Duty to Consult), 47 (Prepare Statement of Community

Consultation) and 48 (Duty to Publicise) of the Planning Act 2008 that they have met their legal requirements.

- 3.4.3 In evaluating the three duties and in discussions with Essex County Council and other Local Authorities invited to respond, agreement was reached National Highways had done enough to demonstrate compliance with their legal duties; a position Maldon District Council also adopted. However, what was made clear in the response to the Planning Inspectorate was that whilst the minimum requirements for the duties had been met, the effectiveness of what had been done to amend the A12 scheme, as a result of the engagement, was not considered to be satisfactory and this point will be explored vigorously in the Examination.

3.5 Planning Performance Agreement Update

- 3.5.1 Engagement in the DCO process for such large and complex NSIPs can place considerable strain on local authorities limited financial and human resources. NSIPs are not defined as new duties for local authorities however, and engagement in the DCO process is not a supported new burden. There is no requirement in legislation for project promoters to resource local authorities' engagement in the DCO process. This is despite guidance widely acknowledging the important role that local authorities have in providing local knowledge and democratic accountability to support a high-quality development consent application being made, and in the monitoring and management of a DCO when implemented.
- 3.5.2 MDC and all other host local authorities and the Highway Authority are now in advanced negotiations with National Highways to secure PPAs to contribute towards the costs involved in participating in all further stages of the DCO process, including post-consent.

3.6 A12 NSIP Development Consent Order – Engagement Mandate

- 3.6.1 In order to participate effectively in the Examination, it is proposed that an 'Engagement Mandate' is approved by Council to assist Council Officers and external witnesses working for the Council to engage effectively during the Examination. This sets out the supporting principles and primary concerns the Council continues to have which it has sought for changes to be made to the NSIP during previous consultation stages. These remain outstanding and have not been addressed adequately in the submitted National Highway's DCO. Officers and witnesses will use this Engagement Mandate to seek to negotiate changes in full, or in part, to the scheme on the Council's behalf. The Mandate is that the Council:
- 1) Supports the principle of widening the A12 to three lanes in both directions between Chelmsford and the A120 to support improving the capacity of the route to support Maldon District residents and businesses;
 - 2) Seeks to change the scheme at the new Junction 21 at Hatfield Peverel to ensure it includes a new link road between the new junction and Maldon Road to improve access for Maldon District residents and businesses, better serving District growth as set out in the approved Maldon District Local Development Plan 2014-2029 and reduce congestion caused by making no changes in Hatfield Peverel that serves Maldon District; and
 - 3) Seeks to ensure that the enabling works to redirecting the Cadent gas main, selects an alternative route corridor that causes the least biodiversity, landscape and heritage harm to the Maldon District from construction disturbance and ensures it completely avoids a diversion through Blue Mills Nature Reserve, Great Totham.

3.7 Ongoing Member Engagement

- 3.7.1 In accordance with the Planning Act 2008 (as amended), the A12 NSIP DCO Examination will be relatively fast-paced, compared to LDP Examinations for example. As set out in *Figure 1*, if the DCO is accepted by the Planning Inspectorate, the Pre-Examination stage legally cannot last any longer than three months and the Examination cannot last any longer than six months. It is imperative therefore, that Maldon District has a process in place for the NSIP DCO, which enables democratic engagement within those time frames, as it will not be able to wait for Committee / Council cycles.
- 3.7.2 As a practical solution, and following discussions with the Council's Monitoring Officer, it is therefore being proposed that a specific "A12 DCO Member Consultation Group" (the Consultation Group) be established to support the officers and external witnesses delegated with powers to engage with until the end of the Examination to support the sign-off of any decisions associated.
- 3.7.3 Membership of the Consultation Group is proposed to be:
- Leader of the Council;
 - Deputy Leader of the Council;
 - Chairman of the Strategy and Resources Committee; and
 - Ward Members of wards along the A12 route corridor.
- 3.7.4 The Consultation Group would meet as frequently as necessary to ensure that officers are supported by Member soundings throughout the Examination and will ensure that the relevant Members are briefed about progress.
- 3.7.5 The merits of continuing with the Consultation Group after the Examination has finished and should the NSIP be approved by the Secretary of State, can further be reviewed by the Council at a later date.

4. CONCLUSION

- 4.1 It is vital that the Council represents the need for new infrastructure to support residents, businesses and visitors connecting to and from the District and takes the opportunities from proposed new development to improve local connections to and from the District connecting to and from the wider strategic road network.
- 4.2 Individually, as a Host Authority and collectively with the other Host Authorities, including Essex County Council as the Highway Authority, this Engagement Mandate will enable the Council to have a strong voice Pre-Examination and during Examination as part of this DCO process.

5. IMPACT ON STRATEGIC THEMES

- 5.1 The Place Strategy with associated Corporate Outcomes supports 'reducing the impact of pollution on the environment' and 'delivering new infrastructure through development'.

- 5.2 The Prosperity Strategy with associated Corporate Outcomes supports 'enabling future economic/inward investment and new jobs' and 'enhancing the visitor economy'.

6. IMPLICATIONS

- (i) **Impact on Customers** – Medium – This report recommends that delegation is given to officers to effectively respond to the demands of the A12 NSIP DCO, ensuring that customers of the Council, that have previously sought specific engagement with the project due to impacts on their business or residence can ensure, the District Council's voice is heard during the statutory examination.
- (ii) **Impact on Equalities** – None.
- (iii) **Impact on Risk** – Medium – The primary risks are Reputation and Environmental that without the approvals this report is seeking, the ability of the Council to engage effectively in a nationally significant infrastructure project that will otherwise impact on the District's residents and businesses, will be reduced.
- (iv) **Impact on Resources (financial)** –Medium – A PPA with National Highways will assist the Council in meeting some of the additional cost burden created by their NSIP. For this to be effective, it needs to empower officers to work effectively on the Council's behalf during the Pre-Examination and examination.
- (v) **Impact on Resources (human)** – Medium – A PPA with National Highways will assist the Council in meeting some of the additional cost burden created by their NSIP, which will primarily involve in officer expertise being diverted from other corporate projects and priorities. The income from the PPA could therefore support back-filling for essential roles, or the commissioning of specific expertise to support the Examination. Anyone working on the project for MDC needs to be empowered with a clear and effective mandate so that they can work as proactively as possible for the benefit of the District.
- (vi) **Impact on the Environment** – Low – The decision to empower officers and other witnesses and delegate authority for the A12 DCO NSIP does not impact on the environment directly; albeit the project being sought by National Highways will have an environmental impact to the wider region and the District to different extents. Officers need an effective mandate from which to negotiate and seek to influence the Examination to reduce the impact as much as possible.
- (vii) **Impact on Strengthening Communities** – Low – During the preparation of the A12 NSIP DCO, communities and individuals from around the District have been encouraged to participate in the pre-application stages of the project. This report's recommendations do not improve that but the engagement of the Council at the Pre-Examination and Examination stages can help to support this community messaging.

Background Papers: Committee Reports related to non-statutory and statutory consultations.

Enquiries to: Paul Dodson, Director of Strategy, Performance and Governance.