

From: [Clayton Rick](#)
To: [A30 Chiverton to Carland Cross](#)
Cc: [Daly Chris](#); [Davis Vanessa \(LEGAL\)](#); [Curnow Ben](#)
Subject: FW: A30 Chiverton to Carland Cross - ExA's Written Questions
Date: 19 March 2019 17:32:57
Attachments: [20190311_CC response to Ins questions_draft4_clean.docx](#)

Dear Sian

Please find attached Cornwall Council response to written questions raised by the Examining Authority that relate to the Councils position on various matters. I trust this is self-explanatory, but please get back to Chris or I if you have any further queries on these.

Also can we confirm Cornwall Council attendance at the following upcoming hearings and site visits. We do not plan to attend the Open floor hearing or the Compulsory Acquisition hearing unless requested.

Event	Time/ Date	Location	Name	Representing
Accompanied site visit 1	1pm, 1 April	Nancarrow Farm	Rick Clayton Chris Daly	CC Highways CC Planning
Accompanied site visit 2	9.30am, 2 April	Tregurra P+R	Rick Clayton Chris Daly	CC Highways CC Planning
Issue Specific hearing 2 - dDCO	10am, 3 April	Old Bakery Studios	Rick Clayton Chris Daly Ben Curnow Vanessa Davis	CC Highways CC Planning CC Legal CC Legal
Issue Specific hearing 3 – Walking, Cycling and horse rider provision	10am, 4 April	Old Bakery Studios	Rick Clayton Chris Daly Ben Curnow Vanessa Davis	CC Highways CC Planning CC Legal CC Legal

Thanks and regards Rick

Rick Clayton

Major Transport Scheme Lead | Transport & Infrastructure | Economic Growth & Development | Floor 4B, Pydar House, Pydar Street, Truro TR1 1XU | www.cornwall.gov.uk

Tel: 01872 224685

Mob: [REDACTED]

Int: 504685

rick.clayton@cornwall.gov.uk

From: A30 Chiverton to Carland Cross

<A30ChivertontoCarlandCross@planninginspectorate.gov.uk>

Sent: 04 March 2019 10:43

To: Daly Chris <Chris.Daly@cornwall.gov.uk>

Cc: A30 Chiverton to Carland Cross

<A30ChivertontoCarlandCross@planninginspectorate.gov.uk>

Subject: A30 Chiverton to Carland Cross - ExA's Written Questions

Dear Mr Daly

It has been brought to our attention that the cross reference in the Examining Authority's Written Question 1.12.2 is incorrect. Question 1.12.2 should read:

*If the matters set out in question **1.5.35** were accepted how would an appropriate consenting regime for ordinary water courses be addressed?*

We are getting the online version updated but I am just alerting you in case you have already downloaded the questions.

Regards

Siân Evans

Case Manager

National Infrastructure Planning

The Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay House, Temple Quay, Bristol, BS1 6PN

Direct line: 0303 444 5671

Helpline: 0303 444 5000

Email: sian.evans@planninginspectorate.gov.uk

Web: <https://infrastructure.planninginspectorate.gov.uk> (National Infrastructure Planning)

Web: www.gov.uk/government/organisations/planning-inspectorate (The Planning Inspectorate)

Twitter: @PINSgov

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Cornwall Council response to questions raised in advance of A30 Carland to Chiverton preliminary meeting

Ref	Directed to	Question	CC Response
2. BIODIVERSITY, ECOLOGY AND NATURAL ENVIRONMENT			
1.2.10	Applicant, CC	<p>Paragraph 9.3.15, ES, refers to the draft Minerals Safeguarding Development Plan Document (2018). The Cornwall Minerals Safeguarding Development Plan Document was adopted by CC on 4 December 2018.</p> <p>a) Are you satisfied that the ES takes appropriate account of the adopted plan?</p> <p>b) If not please indicate which measures are considered to be material and whether and/or how the proposal would comply or otherwise to that policy?</p>	The Council's Minerals Policy team are satisfied that the ES takes appropriate account of Minerals Safeguarding DPD, which itself went through a rigorous examination process, prior to adoption on 3 December 2018.
5. DRAFT DEVELOPMENT CONSENT ORDER (dDCO)			
1.5.10	Applicant, CC	<p>As explained in paragraph 4.15 of the EM article 5 paragraph (2) of the dDCO would provide that any enactment applying to land within or adjacent to the Order limits would have effect subject to the provisions of the Order.</p> <p>a) Are you satisfied that it would be appropriate to simply refer to the term 'adjacent' without greater clarity on the extent and limit?</p> <p>b) Are there any specific enactments causing concern in relation to the proposed Order land?</p>	<p>A) Yes</p> <p>B) Not that we are aware of</p>
1.5.11	Applicant, CC	<p>a) In relation to article 7 of the dDCO, are there any known planning permissions within the Order limits?</p> <p>b) If so, is there any reason to suspect that implementation of them may lead to a breach of the Order if granted?</p>	<p>a) Highways England to confirm, CC not aware of any permissions</p> <p>b) n/a</p>

Ref	Directed to	Question	CC Response
1.5.12	Applicant, CC, EA, Any affected parties	<p>Paragraphs 4.22 – 4.25 of the EM refer to article 8 of the dDCO, which provides for deviation laterally or vertically from the authorised development with respect to certain specified works. Although reference is made to recent example Orders where this was used, it is my understanding that in the M20 and A14 the ability to exceed the maximum limits of deviation was limited to vertical, not lateral and in the M4 no such power was set out.</p> <p>a) Would it be appropriate to exceed the vertical and horizontal limits of deviation without applying for a change to the DCO in accordance with the processes set out under the 2008 Act?</p> <p>b) Given that the limits of deviation are themselves designed to permit flexibility to deviate from the proposed scheme, what processes would be put in place for the Secretary of State to determine whether or not the development proposed, in excess of the limits, would give rise to any new or worse environmental effects? Although there is a process in place for the discharge of requirements set out in Part 2 of Schedule 2 (requirements 16 and 17) there is no similar provision for the submission of any information to the Secretary of State in accordance with article 8.</p>	<p>a) in principle, yes. However, we note that such deviation would be subject to SoS satisfaction in any event.</p> <p>b) for HE applicant to confirm their approach</p>
1.5.15	CC	<p>Article 11 allows the undertaker to carry out works to interfere with and execute works in or under the streets within the Order limits. a) Has this been discussed with you as the relevant highway authority? b) Are you satisfied that the provisions of this article would be appropriate?</p>	<p>a) Yes</p> <p>b) yes</p>

Ref	Directed to	Question	CC Response
1.5.16	CC	As explained in paragraph 4.35 of the EM article 12 paragraph (3) of the dDCO provides that certain provisions of the 1991 Act would not apply. Are you satisfied that the disapplication of these provisions is appropriate, given the scale of the proposed works, the specific A30 CHIVERTON TO CARLAND CROSS 7 authorisation and the specific provisions in the dDCO regulating the carrying out of the works?	Yes, but we would expect the undertaker to take into consideration 'traffic sensitive' seasonal embargo on the A390 and work closely with the CC Streetworks team
1.5.17	CC	Article 13 places obligations on the highway authority in relation to the construction and maintenance of new, altered or diverted streets and other structures. a) Has this been discussed with you as the relevant highway authority? b) Are you satisfied that the provisions of this article would be appropriate?	a) Yes b) LHA not responsible for Private streets therefore not agree with para 3 of article 13
1.5.18	Applicant, CC	As explained in paragraph 4.51 of the EM the purpose of article 14 paragraph (9) of the dDCO is to confirm that the matters covered in paragraphs (1) to (7) could be varied or revoked in the future without the need to apply under the 2008 Act for an amendment to the Order. Are you satisfied that this would be appropriate or would it circumvent the provisions of the 2008 Act?	Yes
1.5.19	CC	As explained in paragraph 4.57 of the EM article 15(6) of the dDCO provides that a street authority which fails to notify the undertaker (the applicant) of its decision in respect of an application for consent within 28 days of the application being made is deemed to have given its consent. Are you satisfied that deemed consent would be appropriate in order to remove the possibility for delay and provide certainty that the authorised development can be delivered in a timely fashion, without risk of being held up due to a failure to respond to an application for consent?	Yes satisfied 28 days sufficient

Ref	Directed to	Question	CC Response
1.5.20	CC, Any affected parties	<p>As explained in paragraphs 4.64 and 4.65 of the EM article 17 of the dDCO provides that accesses could be created within the Order limits - it is anticipated to provide temporary accesses as required during the construction period - providing the undertaker with a general power to provide means of access, similar to those available under the Highways Act 1980. The provisions of this article confer slightly broader powers than those contained in the 1980 Act. a) Are you satisfied that the provision of such powers would be appropriate to ensure that the authorised development can be carried out expeditiously, allowing the creation of new temporary accesses as, where and when required, particularly in response to requests from landowners, occupiers and other affected parties? b) It appears that the powers would not simply be limited to requests from landowners, occupiers and other affected parties but could enable the applicant to make new accesses where the landowner or occupier did not consent, without any examination of the need for them. Would this be appropriate? c) Is the limit to the power to those that are 'reasonably required' sufficiently certain? d) What processes would be put in place to deal with any dispute as to what was 'reasonably required'?</p>	<p>a) Yes b) Yes c) Yes d) For undertaker (HE) to make proposals for disputes, and in consultation with CC</p>
1.5.21	CC, EA, Any affected parties	<p>As explained in paragraph 4.80 of the EM article 20, paragraph 7 of the dDCO provides that a person who fails to notify the undertaker of their decision in respect of an application for consent within 28 days of the application being made is deemed to have granted consent or given A30 CHIVERTON TO CARLAND CROSS 9 approval. Are you satisfied that deemed</p>	<p>Yes 28 days ok</p>

Ref	Directed to	Question	CC Response
		consent/approval would be appropriate in order to remove the possibility for delay and provide certainty that the authorised development can be delivered in a timely fashion, without risk of being held up due to a failure to respond to an application for consent/approval?	
1.5.22	CC	As explained in paragraph 4.82 of the EM article 22, paragraph 6 of the dDCO provides that a highway authority or street authority which fails to notify the undertaker of its decision in respect of an application for consent within 28 days of the application being made is deemed to have granted consent. Are you satisfied that deemed consent would be appropriate in this case?	Yes 28 days ok
1.5.29	Applicant, CC, Any affected parties	Following the Planning Inspectorate's Advice Note 15, Drafting Development Consent Orders, paragraph 22.1 and Good Practice Point 6, in relation to article 39, where it is known that specific hedgerows need to be removed they should be listed in a Schedule and this article amended to refer to that Schedule. An additional paragraph should be added to this article to the effect that any other hedgerows should only be removed once the prior consent of the local planning authority has been obtained. Is there any reason not to include this matter within the DCO?	No, save for fact that the definition of 'important hedgerows' within The Hedgerow Regulations 1997 does not apply to 'Cornish hedges,' which are quite different in their makeup. Therefore clarification is needed from applicant in terms of how they intend to address mitigating the impact on Cornish hedges.
1.5.32	CC, Any affected parties	As explained in paragraphs 4.167 – 4.171 of the EM article 48 of the dDCO is intended to provide a streamlined process in relation to appeals relating to the Control of Pollution Act 1974.	Noted

Ref	Directed to	Question	CC Response
1.5.34	Applicant, CC	Schedule 2, Part 1, Requirement 12, permits the Secretary of State, following consultation with the relevant planning authority and the local highway authority, to permit the development to be carried out other than in accordance with the preliminary scheme design shown on the works plans and the general arrangement and sections plans, provided that the departure would not give rise to any materially new or materially worse adverse environmental effects. It seems that this could allow development to take place contrary to the works plans and general arrangements and sections plans. Although paragraph 5.29 of the EM says that any variations to the Scheme design must be within the limits of deviation, article 8 permits further deviation from the maximum limits of deviation where the Secretary of State, following consultation with the relevant planning authority and local highway authority, certifies that this would not give rise to any materially new or worse environmental effects than those reported in the ES (see question 1.5.11 above). Is it necessary and appropriate for amendments to be permitted to these key documents and the detailed design of the project without A30 CHIVERTON TO CARLAND CROSS 13 consultation or examination?	Would expect any changes beyond agreed deviation to be in consultation with Planning Authority and Local Highway Authority
1.5.35	Applicant, CC, EA	a) Given the comments by the EA [RR-098] in relation to Schedule 9, Part 3 of the dDCO, should this part of the Schedule be removed from the dDCO? b) Given that the proposal crosses ordinary water courses is the appropriate consenting regime addressed and, if so, how? c) If this is not the case how would an appropriate consenting regime be addressed?	More appropriate for EA to comment

Ref	Directed to	Question	CC Response
8. NOISE AND VIBRATION			
1.8.2	Applicant, CC,	<p>Schedule 1 to the dDCO, Authorised Development, includes at "(g) landscaping, noise bunds and barriers, works associated with the provision of ecological mitigation and other works to mitigate any adverse effects of the construction, maintenance or operation of the authorised development."</p> <p>Paragraph 7.10.11, section 6.2, Environmental Statement, Chapter 7 refers to agreement to provide a 3 m high timber noise barrier in relation to Nancarrow Farmhouse.</p> <p>Are you satisfied that this fits with Local Plan policies regarding local distinctiveness and design?</p>	<p>No, in terms of local distinctiveness and reflecting local landscape character a Cornish hedge planted with native trees and shrubs would be more appropriate. This was a point raised in my email to Chris Daly of 21 January 2019:</p> <p>'VP12 – winter view year 1 – I question whether close board fencing is appropriate to the southern side of the road. A planted Cornish hedge would be more appropriate in terms of character and visual impact. This boundary treatment is also shown in VP13 winter year 1, and VP15 winter view year 1'</p>
11. TRAFFIC AND TRANSPORT			
1.11.4	Applicant, CC, RR-002, RR-059, RR-100, RR-102 & RR-105	<p>The design provides west-facing junctions only at Chybucca, where the B3284 and the A30 meet and there are questions over the lack of a full junction at this location.</p> <p>a) Please provide the traffic data used to inform the decision regarding the proposed partial junction at Chybucca, the junction of the A30 and the B3284.</p> <p>b) Taking account of the comments made in this respect, please indicate how you believe the decision for a partial junction in this location would, or would</p>	<p>a) Applicant to provide details of traffic data</p> <p>b) Ref commentary in LIR, CC accepts HE analysis that insufficient traffic demand for east facing slips to justify inclusion in scheme. The de trunked A30 would provide appropriate route to serve low eastward traffic demand from Chybucca area.</p>

Ref	Directed to	Question	CC Response
		not, represent the best available option.	
12. WATER ENVIRONMENT			
1.12.2	Applicant, CC, EA	If the matters set out in question 1.5.35 were accepted how would an appropriate consenting regime for ordinary water courses be addressed?	HE to confirm their approach
1.12.3	Applicant, CC, EA, Any affected parties	How should and would protection be provided for private water supplies and ephemeral headwaters?	As an LPA, we have sometimes included conditions that would require an applicant to satisfy us that a proposed development will not harm the adjoining water supplies and their quality. The EA are the lead on this issue and so we would defer to them to confirm the proposals meet their monitoring requirements and/ or that a permit can be granted.