

Application by Highways England for a Development Consent Order in relation to the A30 Chiverton to Carland Cross Scheme.

The Examining Authority's Further Written Questions and requests for information in relation to the dDCO

Issued on 21 May 2019

The following document comprises the Examining Authority's (ExA) Further Written Questions and requests for information in relation to the draft DCO (dDCO).

Each question has a unique reference number which combines a section number (derived from the Initial Assessment of Principal Issues) and a question number. When you are answering a question, please start your answer by quoting the unique reference number.

Each question makes explicit which party it is directed at. The ExA would be grateful if all parties named could answer all questions directed at them, providing either a substantive response, or indicating that the question is not relevant to them and why. For example, it may be that an agreed position on relevant matters is to be included in a Statement of Common Ground, or for local authorities the matter is covered in a Local Impact Report.

The direction of questions in this way does not prevent an answer being provided by a person to whom a question is not directed, should the question be relevant to their interests.

Unless otherwise stated, the Applicant and other Interested Parties should provide any new or amended documentation prepared in support of the answers to these questions for submission by Tuesday 18 June (Deadline 5 in the Examination Timetable).

Where an Examination document is referred to within a question, the Examination Library reference is provided in square brackets e.g. [APP-001]. The Examination library link is:

<https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010026/TR010026-000541-A30%20Examination%20Library%20.pdf>

If you are answering a limited number of questions, responses in a letter format will suffice. If you are answering several questions, it will assist the ExA if you use a table which reproduces the question and incorporates the referencing conventions used in the questions. An editable version of this table in Microsoft Word is available on request from the case team by emailing A30ChivertontoCarlandCross@planninginspectorate.gov.uk.

With regard to areas of disagreement with the application, please provide evidence including any counter proposals.

Abbreviations used:

BoR	Book of Reference
CA	Compulsory Acquisition
CAH	Compulsory Acquisition Hearing
CC	Cornwall Council
CEMP	Construction Environmental Management Plan
dDCO	Draft Development Consent Order
EA	Environment Agency
ES	Environmental Statement
ExA	Examining Authority
HMBCE	Historic Buildings and Monuments Commission for England
NE	Natural England
SAC	Special Area of Conservation
SoS	Secretary of State
SPR	ScottishPower Renewables

Questions:

Number	Directed to	Question
0	GENERAL MATTERS	
1	AIR QUALITY AND EMISSIONS	
	<ul style="list-style-type: none"> • Construction and operational effects. 	
2.1.1	NE	<p>Paragraph 8.11.122 of Environmental Statement (ES) Chapter 8 [APP-061], explains that if a designated site was within 200m of an affected road, NOx concentrations within the site should be calculated. A potential significant effect was identified for the Breney Common and Goss and Tregoss Moors SAC (paragraph 8.11.124). This resulting from exceedances of the vegetation criterion (30 µg/m³) and the 1% threshold (0.3µg/m³) were predicted to occur between 0-10 meters from the highway boundary. Further investigation found that 0.2% of the total area of the SAC lies within 10m of the Affected Road Network and of this area, only a small part was found to contain an Annex 1 Habitat for which the SAC has been designated – H4c <i>Ulex gallii</i> <i>Agrostis curtisii</i> heath, <i>Erica tetralix</i> sub-community. As such a small amount of the qualifying habitat may be affected, it was concluded that an effect of neutral significance was predicted.</p> <p>Can Natural England confirm whether they are satisfied with this conclusion?</p>
2	BIODIVERSITY, ECOLOGY AND NATURAL ENVIRONMENT	
	<ul style="list-style-type: none"> • Loss of or change to the ecological value of terrestrial and aquatic habitats and their species, including impacts on the ecological value, quality and capacity of land, waterways and water bodies. • Implications for European/international sites and their qualifying features. • Implications for statutorily and locally protected sites. • Effects on specific fauna and flora species and their habitats (including European protected species). 	

		<ul style="list-style-type: none"> • Potential subsidence from shallow mine workings. • Timing of works and potential seasonal effects. • Construction and operational effects.
2.2.1	Applicant, NE	<p>The proposed 1.8m noise barrier (Cornish hedge) at the Chiverton Junction and 3m barrier (noise fencing) at Marazanvose would reduce noise levels for some bat roosts.</p> <p>a) Please identify which bat roosts would benefit from a reduced noise level?</p> <p>b) Would the proposed noise reduction measures avoid likely significant effects on bat roost receptor locations?</p>
2.2.2	Applicant	<p>Chapter 8 of the ES [APP-061] refers to the Environmental Masterplan (provided as 20 plans with a key [APP-180 – APP-200]. Chapter 7 of the ES [APP-060] refers to the Environmental Masterplan including Landscape Elements (LE), Environmental Elements (E) and Planning Policy Features (P). Within the dDCO [REP3-007] the only reference to the Environmental Masterplan is in Schedule 2, Requirements, Article 5, Landscaping.</p> <p>a) Please confirm whether there are any components of the Environmental Masterplan which would not be treated as 'landscaping' as set out in the dDCO.</p> <p>b) If appropriate, please explain how other elements of the Environmental Masterplan would be treated.</p> <p>c) If appropriate, please explain how these elements would be secured in the dDCO?</p>

2.2.3	Applicant	Please provide a plan showing all the European designated sites which have been included within the assessment of European Sites.
2.2.4	Applicant	Paragraph 8.10.65 of ES Chapter 8 [APP-061] states that where in-stream works are unavoidable, consultation with the appropriate conservation bodies should be ensured to minimise any impacts. Can the Applicant explain if the measures necessary to reduce impacts are agreed and detailed within the CEMP?
2.2.5	Cornwall Council (CC)	The Applicant has indicated in response to CAH Hearing Action Point 10 [REP3-021] that CC was the promoter for the A30 Higher Carblake to Temple scheme. Please provide information on the establishment dates for planting on that section and/or parts thereof.
3	COMPULSORY ACQUISITION AND /OR TEMPORARY POSSESSION	
		<ul style="list-style-type: none"> • The need for the land proposed to be subject to compulsory acquisition and / or temporary possession. • Effects on statutory undertakers. • Effects on infrastructure and infrastructure providers. • Adequacy and security of funding for compensation.
2.3.1	Applicant	The Applicant has suggested a number of alterations to the DCO in response to matters arising through the course of the Examination. They have indicated that they believe these changes to be non-material changes [REP3-019]. The Infrastructure Planning (Compulsory Acquisition) Regulations 2010 (The CA regulations) set out the procedures to be followed where it is proposed to include a provision in a DCO authorising the CA of additional land.

		<p>"Additional land" means land proposed to be subject to Compulsory Acquisition (CA) and which was not identified in the Book of Reference (the BoR) submitted with the application as land.</p> <p>"Land" is defined by reference to s.159 of the Planning Act 2008 as including any interest or right over land.</p> <p>As a result, I consider that "additional land" for the purpose of the CA regulations includes the CA of a new right, even if the land itself was originally included in the BoR, and so within the Order limits.</p> <p>a) Please provide a table indicating each affected plot number and providing the following information:</p> <ol style="list-style-type: none"> i. the rights originally proposed; ii. the rights now sought; iii. the evidence of agreement from all affected persons in relation to the proposed alterations to the application. <p>b) If there is no agreement from affected persons for any plot please indicate whether and how the Applicant could fulfil the requirements of the CA regulations.</p> <p>c) Legal submissions may be provided on the above matters.</p>
4	<p>CULTURAL HERITAGE</p> <ul style="list-style-type: none"> • Listed buildings and Scheduled Monuments. • Construction effects. 	
2.4.1	Applicant, HBMCE	<p>Paragraph 6.12.1, ES Chapter 6 [APP-059], states that monitoring would be required during the construction phase to ensure that mitigation measures were applied as agreed with consultees.</p> <p>a) Which mitigation measures would require monitoring?</p> <p>b) How would this be monitored?</p>

		c) How would such monitoring be secured?
2.4.2	Applicant, HBMCE	<p>The Trial Trenching Report [APP-323] states that 123 out of 161 trenches designed to investigate anomalies and test geophysically blank areas had been excavated.</p> <p>a) Please provide an update regarding excavation of the remaining 38 trenches.</p> <p>b) Have the findings from the additional trenches changed the conclusions of the ES?</p>
5	DRAFT DEVELOPMENT CONSENT ORDER (dDCO)	
		<ul style="list-style-type: none"> • The structure of the dDCO. • The appropriateness of proposed provisions. • Relationships with other consents.
2.5.1	Applicant	<p>The responses to questions 1.5.24 and 1.5.27 are noted [REP2-020]. However, the effect of Article 33(8) is reliant on the power contained in Article 26. Article 26 does not reflect the drafting of the model provision which authorised the CA of rights. As a result, Article 33(8) of the dDCO would have a different effect to that of the equivalent drafting in the model provisions; it would allow the CA of undefined new rights in land described as being for temporary possession only in addition to the creation of the new rights defined in Schedule 5. The model provisions are no longer in force and, as the Planning Inspectorate's Advice Note Fifteen: Drafting Development Consent Orders makes clear, the ExA and SoS need to understand why each provision would be appropriate for the scheme applied for.</p> <p>a) If it is your intention to obtain a power to create undefined new rights in the land identified as being for temporary possession, please provide justification for this.</p>

		<p>b) Please confirm that all persons with interests in the relevant plots have been consulted on this basis and understand the full nature of the powers you are seeking.</p> <p>c) If this is not your intention please provide alternative drafting to ensure that it is only CA of the new rights in Schedule 5 which are permitted in the land described as being for temporary possession in Schedule 7.</p>
2.5.2	Applicant	Do you have any comments with regard to the matter raised in item 4 of the response by SPR [REP4-008]?
2.5.3	Applicant	<p>Please respond to the comments raised in relation to Pennycomequick [REP4-009].</p> <p>a) Clarify the intention in relation to the land plots, indicating why that would be the appropriate use of the land in question.</p> <p>b) Clarify whether the dDCO would achieve that intention.</p>
6	<p>ELECTRICITY & GAS CONNECTIONS AND OTHER INFRASTRUCTURE</p> <ul style="list-style-type: none"> • Effects on existing and proposed transmission and distribution alignments and facilities, including windfarms and HP Gas Pipeline. • Effects on other infrastructure, including broadcast, satellite and mobile phone masts. • Construction and operational effects. 	
7	<p>LANDSCAPE AND VISUAL</p> <ul style="list-style-type: none"> • Including light pollution. • Impact on heritage features and landscape designation areas. • Impact on residents and users of locality. • Construction and operational effects. 	

2.7.1	Applicant	<p>In relation to visual operational effects paragraph 7.11.25 of ES Chapter 7 [APP-060] refers to moderate adverse insignificant effects at VP21, VP22 and VP31. This does not appear to correlate with the information in Table 7-13 or full assessment [APP-329].</p> <p>a) Please confirm that the correct assessments have been made with regard to these – and all other - residential receptors.</p> <p>b) Please confirm that the appropriate mitigation has been identified with regard to these – and all other - residential receptors.</p>
2.7.2	Applicant, CC	<p>The agreement on the lighting strategy [REP1-003] and the relevant matters under the Scheme Design referred to in Responses to the Examining Authority’s Written Questions [REP2-020] are noted. Will the Lighting Strategy be formally submitted to the Examination?</p>
2.7.3	Applicant	<p>Please respond to the comments raised in relation to the safety barrier height in the response by HMBCE [REP4-007].</p>
2.7.4	Applicant, CC	<p>a) Please respond to the comments raised in relation to Pennycomequick [REP4-009] regarding underpass design.</p> <p>b) How would the proposed design in this location fit with Local Plan policies regarding local distinctiveness and design?</p>
8	NOISE AND VIBRATION	
	<ul style="list-style-type: none"> • Construction and operational effects. 	
2.8.1	Applicant	<p>Please respond to the comments raised in relation to Pennycomequick [REP4-009] regarding traffic noise.</p>
9	PUBLIC INTEREST BALANCE	
	<ul style="list-style-type: none"> • Including route choice. 	

10	SOCIO-ECONOMIC EFFECTS <ul style="list-style-type: none"> • Economic and employment effects. • Effects on surrounding communities. • Effects on agriculture, tourism, other businesses and residents. • Construction and operational effects. 	
11	TRANSPORT AND TRAFFIC <ul style="list-style-type: none"> • Traffic modelling: the case for and benefits of the scheme. • Effects on the nearby road network. • Effects on the Public Rights of Way (PRoW) network, particularly cycling access. • Construction and operational effects. 	
2.11.1	Applicant	Please respond to the comments raised in relation to Pennycomequick [REP4-009] regarding road safety and traffic conflict.
12	WATER ENVIRONMENT <ul style="list-style-type: none"> • Construction effects on water courses and water bodies. • Water abstraction and drainage. • Operational effects, including road traffic accidents. 	
2.12.1	Applicant, EA	Details of Other Consents and Licences [APP-046] provides information regarding the DCO, licences, consents and permits which it is anticipated would be required. This indicates that consent would be sought from EA to catch and relocate fish. <p>a) Where is it anticipated that fish would be caught?</p> <p>b) Where would they be relocated?</p>