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Our ref: 229853



**BY EMAIL ONLY**  
[gail.boyle@pins.gsi.gov.uk](mailto:gail.boyle@pins.gsi.gov.uk)

Customer  
Services  
Hornbeam  
House  
Crewe  
Business Park  
Electra Way  
Crewe  
Cheshire  
CW1 6GJ

T 0300 060  
3900

Dear Ms Boyle,

**Environmental Impact Assessment Scoping consultation Regulations 2017(the EIA Regulations) – Regulations 10 and 11: Application by Highways England for an Order granting Development Consent for the M42 Junction 6 Improvement Scheme**

Thank you for seeking our advice on the scope of the Environmental Statement (ES) in your consultation dated 25 October 2017. We are sorry for the delay in replying. Natural England notes this response is provided after the consultation period and acknowledges it will be forwarded to the applicant for information only.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

**Proposed scope of the EIA**

Natural England are satisfied that the proposed approach to EIA adequately addresses those themes and issues within our remit. Moreover, while recognising the time constraints applying to NSIPs, the iterative nature of EIA provides in principle scope for continued dialogue as the assessment progresses.

***Aspects of the environment likely to be significantly affected and interrelationships between these***

Natural England is satisfied that the report indicates those aspects of the environment within our remit that are likely to be significantly affected – landscape (protected areas), soils and land quality, internationally and nationally designated sites and protected and priority species. Regarding climate change<sup>1</sup> we acknowledge the approach described in the report whereby the consultants propose to address this over-arching theme through the relevant contributory themes and issues.

***Description of the likely significant effects of the development on the environment – direct, indirect, secondary, cumulative, short/medium/long term, permanent & temporary, positive and negative.***

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<sup>1</sup> Paragraph 14.1.2

We offer the following comments on 'landscape', 'soils and land quality' and 'protected species'. We comment separately below on the assessment of likely significant effects on 'Internationally and nationally designated sites':

### Soils and land quality

Soil is a finite resource that fulfils many important functions and services (ecosystem services) for society, for example as a growing medium for food, timber and other crops, as a store for carbon and water, as a reservoir of biodiversity and as a buffer against pollution. It is therefore important that the soil resources are protected and used sustainably.

The following issues should be addressed as part of the Environmental Statement:

1. The degree to which soils are going to be disturbed/harmed as part of this development and whether 'best and most versatile' agricultural land is involved. Para 9.5.2 indicates that further clarity is needed on this point as Grade 3 land may or may not comprise best and most versatile land. For further information on the availability of existing agricultural land classification (ALC) information see [www.magic.gov.uk](http://www.magic.gov.uk). Natural England Technical Information Note 049 - [Agricultural Land Classification: protecting the best and most versatile agricultural land](#) also contains useful background information.

2. Natural England acknowledge that an agricultural land classification soil survey will be carried out. This should normally be at a detailed level, e.g. one auger boring per hectare, (or more detailed for a small site) supported by pits dug in each main soil type to confirm the physical characteristics of the full depth of the soil resource, ie 1.2 metres.

3. The Environmental Statement should provide details of how any adverse impacts on soils can be minimised. Further guidance is contained in the *Defra Construction Code of Practice for the Sustainable Use of Soil on Development Sites*.

### Protected Species

Natural England are aware and are satisfied with the unavailable surveys as highlighted<sup>2</sup> and as part of an ongoing dialogue with the applicant's consultant will examine and survey results and proposed mitigation, compensation and potential net gain opportunities prior to ES submission.

### **Internationally and nationally designated sites**

The ES should thoroughly assess the potential for the proposal to affect designated sites. European sites (eg designated Special Areas of Conservation and Special Protection Areas) fall within the scope of the Conservation of Habitats and Species Regulations 2010. In addition paragraph 118 of the National Planning Policy Framework requires that potential Special Protection Areas, possible Special Areas of Conservation, listed or proposed Ramsar sites, and any site identified as being necessary to compensate for adverse impacts on classified, potential or possible SPAs, SACs and Ramsar sites be treated in the same way as classified sites.

Natural England acknowledge and support the reports scope of statutory nature designations<sup>3</sup>.

### Air quality

We note and welcome the report's reference to the assessment of air quality issues arising from traffic generation during the construction and operational lifetime of the scheme and offer the following comments:

1. In terms of the methodology for screening and the need for any subsequent levels of assessment the relevant methodology is set out in the Highways Agency 'Design Manual for Roads and Bridges – Volume 11'<sup>4</sup>. The Air Pollution Information System (APIS) provides specific information on the air quality theme for each designated site and should be factored into the

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<sup>2</sup> Paragraph 8.5

<sup>3</sup> Table 8.1 pp.71

<sup>4</sup> Paragraph 5.9.2 pp 44.

methodology when establishing the 'baseline'. I refer to para 5.9.6 and reference to 'special ecological sites',

2. With regard to the construction phase the focus on NO<sub>2</sub>, PM<sub>10</sub>, PM<sub>2.5</sub> set out at para 5.7.1 should be reviewed with regard to its suitability for ecological receptors including designated sites in the context of the APIS information (site relevant critical loads).

3. In respect of the operational phase we note **no** proposed use of Institute of Air quality Management (IAQM) and Environmental Protection UK (EPUK) guidance and criteria. As for the construction phase we welcome clarity regarding suitability of the assessment methodology for ecological receptors such as designated sites<sup>5</sup>.

4. In terms of the scope of biodiversity assets to be considered in addition to nationally and internationally designated sites we refer you to the National Planning Statement (NPS) and NPPF. The following excerpt from the NPS refers:

### ***Applicant's assessment***

**5.22** *Where the project is subject to EIA the applicant should ensure that the environmental statement clearly sets out any likely significant effects on internationally, nationally and locally designated sites of ecological or geological conservation importance (including those outside England) on protected species and on habitats and other species identified as being of principal importance for the conservation of biodiversity and that the statement considers the full range of potential impacts on ecosystems.*

**5.23** *The applicant should show how the project has taken advantage of opportunities to conserve and enhance biodiversity and geological conservation interests*

Please see all the way down to para 5.38 of this NPS.

While Natural England will provide advice on the outcomes from your assessment in relation to nationally and internationally designated sites, those outcomes relating to non-statutory sites and priority habitats and species will be of interest to the local planning authorities involved in the project.

### **Landscape and visual impacts**

Natural England would wish to see details of local landscape character areas mapped at a scale appropriate to the development site as well as any relevant management plans or strategies pertaining to the area. The EIA should include assessments of visual effects on the surrounding area and landscape together with any physical effects of the development, such as changes in topography. The European Landscape Convention places a duty on Local Planning Authorities to consider the impacts of landscape when exercising their functions.

The EIA should include a full assessment of the potential impacts of the development on local landscape character using [landscape assessment methodologies](#). We encourage the use of Landscape Character Assessment (LCA), based on the good practice guidelines produced jointly by the Landscape Institute and Institute of Environmental Assessment in 2013. LCA provides a sound basis for guiding, informing and understanding the ability of any location to accommodate change and to make positive proposals for conserving, enhancing or regenerating character, as detailed proposals are developed.

Natural England supports the publication *Guidelines for Landscape and Visual Impact Assessment*, produced by the Landscape Institute and the Institute of Environmental Assessment and

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<sup>5</sup> Paragraph 5.9.17 pp46

Management in 2013 (3rd edition). The methodology set out is almost universally used for landscape and visual impact assessment.

In order to foster high quality development that respects, maintains, or enhances, local landscape character and distinctiveness, Natural England encourages all new development to consider the character and distinctiveness of the area, with the siting and design of the proposed development reflecting local design characteristics and, wherever possible, using local materials. The Environmental Impact Assessment process should detail the measures to be taken to ensure the building design will be of a high standard, as well as detail of layout alternatives together with justification of the selected option in terms of landscape impact and benefit.

The assessment should also include the cumulative effect of the development with other relevant existing or proposed developments in the area. In this context Natural England advises that the cumulative impact assessment should include other proposals currently at Scoping stage. Due to the overlapping timescale of their progress through the planning system, cumulative impact of the proposed development with those proposals currently at Scoping stage would be likely to be a material consideration at the time of determination of the planning application.

The assessment should refer to the relevant [National Character Areas](#) which can be found on our website. Links for Landscape Character Assessment at a local level are also available on the same page.

### **Regionally and Locally Important Sites**

We note and welcome the report's consideration of impacts upon local wildlife and geological sites. Local Sites are identified by the local wildlife trust, geo-conservation group or a local forum established for the purposes of identifying and selecting local sites. They are of county importance for wildlife or geodiversity.

We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us. For any queries relating to the specific advice in this letter only please contact James Hughes on 07827 808248. For any new consultations, or to provide further information on this consultation please send your correspondences to [consultations@naturalengland.org.uk](mailto:consultations@naturalengland.org.uk).

We really value your feedback to help us improve the service we offer. We have attached a feedback form to this letter and welcome any comments you might have about our service.

Yours sincerely

James Hughes  
Lead Adviser  
West Midlands Planning Team