	Question	SMBC Response
	Rule 8 Letter	
1.0.1	Lighting Paragraph 7.8.6 of the ES explains that lighting of new and improved sections of road within the Scheme has been confined to locations where road safety is a priority, in order to reduce the potential for light spill to intrude into the setting of heritage assets. Paragraph 3.5.137 states that consideration has also been given in the lighting design to minimise the potential for lighting to intrude into existing night time views. Can the Applicant therefore confirm whether a lighting strategy has been produced and can be made available to the Examination? Also, could the Applicant and SMBC confirm how it is intended that the final lighting scheme would be controlled? Could the Applicant confirm whether consideration has been given to the effects of traffic headlights on heritage assets (and the living conditions of local residents)?	Any new assets, if any that would come under the control of Solihull Council would be controlled by way of a dusk to dawn photocell. It is for Highways England to provide the details of how they will control their assets. SMBC will provide details of their suggested lighting
1.0.2	Lighting Paragraph 8.3.6 of the ES explains that "Following a review of the type and location of road lighting incorporated into the design of the Scheme it was determined that night time visual effects would not be significant on visual receptors due to the distance between receptors and the components of the Scheme that would be lit. Furthermore, it was identified that the M42 motorway corridor and development such as the National Exhibition Centre (NEC) and Birmingham Airport are already lit, and, are the principal source of light spillage in existing night time views within the landscape. Accordingly, night time visual effects associated with road lighting were scoped out of the assessment." The LPAs, Natural England (NE) and Campaign to Protect Rural England, Warwickshire Branch (CPRE) and the Open Space Society are asked for their views on this.	We welcome the use of lighting only where road safety priorities have been identified. Noting the advances in lighting technology over the past few years, particularly with LEDs which are much more directional and reduce light spillage considerably, we would ask that HE use the most appropriate lantern and colour temperature suitable for the scheme in order to reduce any night time visual effect.
1.0.3	Motorway Service Area (MSA) Could SMBC provide an update on the progress of the two undetermined planning applications for MSAs at Junctions 4 and 5?	1.0.3 – Both planning applications (EXTRA MSA and Applegreen MSA) remain undetermined currently for the following reasons: - EXTRA MSA – Request for an addendum to the Transport Assessment for a detailed safety case for the combined schemes, including the DCO scheme and the Extra MSA proposal given that this a material consideration for the Extra MSA application. Applegreen MSA – There are a number of technical areas relating to the highway design and structural engineers that the applicant's remain in discussion with Highways England. The latest letter dated 14th May 2019 from Highways England (copy attached) indicate the following additional information: 1. Consideration of options for strengthening or replacement of the North Bridge of M42 Junction 7 which require modification to be capable of supporting the extra land of traffic over the bridge deck. Highways England need to be assured that the proposed works to the bridge structure are both technically suitable and capable of practical delivery without causing sever disruption of the M42 motorway during construction. 2. A number of further technical drawings are also required to be submitted by the applicant alongside securement of Approvals in Principal for consideration of how the scheme will affect a number of existing Departures from Standards from Highways England. Highways England have advised that these form a necessary part of the agreement of the Preliminary Design of the scheme. On satisfactory completion of these outstanding matters of engineering design the scheme would then be subject to an independent Road Safety Audit (RSA) and a Safety Risk Assessment (SRA). The Council has advised both applicants that the applications need to be determined simultaneously to enable a proper comparative exercise to be undertaken. No date has been currently set for both applications to be considered by the Council's Planning Committee.
1.0.4	MSA Paragraph 4.3.5 of the ES explains that north facing slip roads were removed from the proposed new Junction 5a as it was considered that the junction is too close to Junction 6 and providing them would cause safety and operational issues. Paragraph 3.1.9 of the ES states that "Although the MSA currently does not benefit from planning consent, Highways England has engaged with the applicant for the MSA and has sought to ensure that, where practicable, the design of Junction 5A would not preclude delivery of the MSA, should the MSA be authorised by SMBC following the implementation of the Scheme." However, the proposed MSA for Junction 5a includes northern slip roads. Could the Applicant, SMBC and Extra MSA Solihull Ltd and Applegreen plc. comment on this potential contradiction.	1.0.4 Clearly, the statements at paragraph 4.3.5 and 3.1.9 compete against each other. The ES clearly confirms that north facing slips cause safety and operational issues, but Highways England continue to engage with EXTRA MSA The siting of the junction of the DCO scheme and EXTRA MSA proposal are broadly in the same location. Ultimately, the MSA would share the DCO junction on the M42 with amendments. The details submitted with MSA planning application infer that design changes would be required to tie the MSA scheme into the DCO proposal including the northbound and southbound slip roads. Highways England in relation to the EXTRA MSA proposal have identified four departures from standard for highway geometry. These are: 1. Northbound weaving length between the MSA merge and junction 6 diverge; 2. Southbound weaving length between junction 6 merge and the MSA diverge; 3. MSA northbound merge taper length; and 4. MSA northbound diverge slip road Site Stopping Distance (SSD) The Council in determining the MSA application would need identify and quantify the harm that is caused by these departures to standards in highway safety terms and balance them against the very special circumstances case advanced.
1.0.5	MSA Has the positioning of the proposed MSA influenced the proposed siting and design of Junction 5a? If it has, should this be determinative given that the planning application remains undetermined and there is an alternative site at Junction 4 being considered under a separate planning application?	
1.0.6	DRMB (4.35) indicates that for Rural Motorways (as the M42 nominally is) the desirable minimum weaving length must be 2km. However, the distance likely to be available between any north facing slip roads at junction 5a and the south facing slip roads at junction 6 is roughly 1.7km. In view of the high traffic flows on the M42 (nearly 7,000 vph northbound by 2041 in the AM peak and over 6,000vph southbound, APP-174, Figure 7.2) a longer weaving section might be warranted or desirable. What is the justification for countenancing the potentially sub-standard arrangement envisaged?	1.0.6 The Council acknowledges that TD 22/06 'Layout of Grade Separated Junctions', which applies to new junctions on existing motorways, requires a weaving length of 2km for a rural motorway. The Council would point out that the proposed northbound weaving length proposed with the EXTRA MSA proposal would be 1.15km which is clearly a significant departure from TD 22/06. The Secretary of State in previous decisions has identified that there is need for a MSA between J3A and J6 of the M42. The DfT Circular 02/2013 – The Strategic Road Network and the Delivery of Sustainable Development sets out the current government policy with regard to the function and provisions of MSA on the motorway network. It notes and advises that a well functioning strategic road network enables growth by providing safe and reliable journeys. Paragraph B4 of Annex B deals with spacing of motorway service area and other facilities. The Circular notes that MSA's and other road side facilities perform an important road safety function by providing opportunities for the travelling public to stop and take a break in the course of their journey. Government advice is that motorists should stop and take a break of at least 15 minutes every two hours. The network of service areas on the strategic road network has been developed on the premise that opportunities to stop are provided at intervals of approximately half and hour. However, timing is not prescriptive as at peak hours, on congested parts of the network, travel between service areas may take longer. Highways England therefore, recommends that the maximum distance between motorway service areas should be no more than 28 miles. The distance between services can be shorter, but to protect the safety and operation of the network, the access/egress arrangements of facilities must comply with the requirements of the Design Manual for Roads and Bridges including its provisions in respect of junction separation. Speed limits on the strategic road network vary and therefore, applying the same principles, the maximum distance between signed services on trunk roads should be the equivalent of 30 minutes driving time. Paragraph B8 of Annex B to the Circular confirms that the distances set out are considered appropriate for all parts of the strategic road network and to be in the interest and for the benefit of all road users regardless of traffic flows or route choice. In determining applications for new and improved sites, Local Planning Authorities should not need to consider the merits of the spacing of sites beyond conformity with the maximum and minimum spacing criteria established for safety reasons. Nor should they seek to prevent competition between operators; rather they should determine applications on their specific planning merits. The introduction of an MSA on the M42 would fill a gap in provision of rest and refreshment facilities and would create the potential for a reduction in fatigue related incidents on the network. It should be noted that these benefits are however difficult to quantify.
1.0.7	Other than potential trips to and from the MSA proposed at junction 5a, please enumerate other journeys that might depend on the provision of north facing slip roads at junction 5a and outline the circumstances in which such trips might serve a useful purpose	1.0.7 - The inclusion of the north facing slips road within the proposed design for the MSA would add some degree resilience to the Highways England DCO scheme. This is mainly due to the safety valve in the event that junction 6 and or its north facing slips become congested or blocked by way of providing a necessary or selected alternative route via the new southern junction. The MSA proposal and evidence provided with the application does not support such a case and has not quantified whether the north bound slip roads would deliver any enhancement to the DCO.
1.0.8	Sensitivity tests have been undertaken entailing provision at junction 5A for the proposed motorway service area (MSA) [APP-174, 3.9]. What are the results of those tests?	We have asked Highways England to provide a response to this question which we will then review and provide a response to the Inspector
1.0.9	Do the tests referred to in ExQ1.0.8 entail ARCADY outputs for the roundabouts at junction 5A? If so, what are the results and what do they demonstrate? If there is no ARCADY output, please justify its absence.	We have asked Highways England to provide a response to this question which we will then review and provide a response to the Inspector
1.0.10	In the absence of an MSA at junction 5a, would a junction designed along the lines indicated by Mr David Cuthbert [AS-018] be more efficient and represent something close to the optimum arrangement?	We would not support this proposal - HE do not consider that it would meet their standards and non-motorway vehicles would not be able to exit at the Clock Interchange. HE also consider that it would have more affect on the ancient woodland. We consider that the current HE proposal is the most efficient and would allow for future expansion.
1.5.5	Archaeology What is the County Archaeologist for Warwickshire's view on the findings on the construction impacts and effects on known archaeological assets set out in Chapter 7 of the ES and any of the above archaeology related questions?	see attached letter from County Archaeologist

	Question	SMBC Response
1.5.6	Assessment Methodology Table 7.1 of the ES apportions a high asset value to Grade I and Grade II* listed buildings as well as to conservation areas containing very important buildings. Conservation areas with important buildings are categorised as having a medium asset value. On this basis, the Applicant, LPAs and EH are asked whether there is a contradiction between the medium heritage value afforded to both Hampton in Arden Conservation Area and Bickenhill Conservation Area, insofar as the former contains one Grade I listed building and two Grade II* listed buildings, whilst the latter contains one Grade I listed building? If so, how would this affect the significance of effects for both of these heritage assets?	see attached report from Conservation Officer Comments cover three areas: 1. Reporting of the significance of Heritage Assets at Bickenhill and Hampton in Arden Conservation areas 2. Landscape mitigation 3. Lighting
1.5.7	Bickenhill Conservation Area Is there a discrepancy between the moderate adverse construction effects on Bickenhill Conservation Area set out in Table 7.7 with the large adverse construction effects predicted for Viewpoint J set out in Table 8.5 and large adverse effects on Landscape Character Area 2 (LCA2) set out in paragraph 8.9.10 of the ES?	see attached report from Conservation Officer as above
1.5.8	Bickenhill Conservation Area Similarly, could the Applicant explain any perceived inconsistencies between the prediction of a neutral significance operational effect on Bickenhill Conservation Area as set out in Table 7.8 with the large adverse effects on visual amenity predicted for Viewpoint J in Table 8.6, both in year one and year 15 as well as the large adverse effect predicted for LCA2 in year 1, reducing to moderate adverse in year 15?	see attached report from Conservation Officer as above
1.5.9	Bickenhill Conservation Area Given that the Scheme would result in the loss of several historic field boundaries of medieval origins, and the partial loss of medieval and post-medieval landscape as well as ancient woodland, could the Applicant provide further justification to the conclusion within the ES of a slight adverse effect on the historic landscape during the construction phase?	see attached report from Conservation Officer as above
1.5.10	Paragraphs 7.8.2 – 7.8.4 of the ES states that the Scheme has been designed, as far as possible, to avoid and minimise impacts and effects on cultural heritage through the process of design development, and by embedding measures into the design of the Scheme. A number of standard measures have been identified, which would be implemented by the contractor to reduce the impacts and effects that construction of the Scheme would have on cultural heritage receptors. No compensation or enhancement measures have been identified as being required. The Applicant, LPAs and EH are requested to comment further on this position, having regard to paragraph 5.137 of the NNNPS, which states that applicants should look for opportunities for new development within the setting of heritage assets to enhance or better reveal their significance.	see attached report from Conservation Officer as above
1.11.1	Do the 'low' and 'high' traffic development demand scenarios identified in 3.9.1e of the TA [APP-174] equate to scenarios 1 and 3 respectively in the M42 ECONOMIC GATEWAY MASTERPLAN? If not, how do they differ?	We have asked Highways England to provide a response to this question which we will then review and provide a response to the Inspector
1.11.2	For Solihull, the job totals for each relevant LAM zone are stated to have been derived from the employment land uses in scenario 2 as set out in the M42 ECONOMIC GATEWAY MASTERPLAN [APP-174, 3.4.26). That Plan posits a total of about 32,000 new jobs in Solihull by 2040 under scenario 2 and, in reasonable agreement (given the differing time periods and methods), the relevant table in Annex A of the TA [APP-174] identifies a total of 28,221 new jobs by 2041. However, several of those jobs are classified only as 'reasonably foreseeable' or 'hypothetical' both of which 'should be excluded from the core Scenario' but may figure in alternative scenarios. Excluding those jobs would result in only some 9,655 new jobs being provided in Solihull by 2041 from that 'core scenario'. Is the interpretation outlined above correct?	As Answer to Q 1.11.1
1.11.3	How many additional jobs in Solihull are accommodated within the traffic modeling?	As Answer to Q 1.11.1
1.11.4	What are the views of Solihull MBC in relation to Q1.11.2	As Answer to Q 1.11.1
1.11.5	The external forecasts for growth at Birmingham Airport are calculated from DfT UK Aviation Forecasts, January 2013 Constrained Central Forecast, and CAA Passenger Survey Report, 2011 [APP-174, 3.3.1]. Those documents are now somewhat 'long in the tooth' and although they suggest some 12.2m and 17.3m passengers by 2021 and 2031 respectively, more recent forecasts (DfT UK Aviation Forecasts, 2017) indicate higher figures - 12m already (2016), 18m in 2030 and 27m in 2040, albeit that airport expansions elsewhere could reduce those numbers a bit. Is the traffic modeling based on a noticeable under-estimation of passengers at Birmingham Airport? And, if so, can adjustments be made to incorporate the most recent forecasts?	As Answer to Q 1.11.1
1.11.7	A feature of the traffic at Junction 6 on the M42 is its variability, both at peak times and over the year in response to exhibitions, events and holidays etc. Moreover, this variability appears to significantly affect congestion. In the TA this variability is addressed by the year of parking and traffic data obtained from the NEC and the resulting traffic flow on South Way for 2017 [APP-174, Figures 6.4-6.6]. However, the 2016 peak hour modelled flows of 782 AM and 762 PM [APP-174, Figure 6.2], reflect the average actually observed (600-800). It is therefore inevitable (not just possible) that flows higher than the modelled flows will occur quite frequently (and from the daily distribution, APP-174 Figure 6.4) on about 37% of days. The traffic modelling would thus appear to effectively ignore much of the variability identified, some of which is substantial. Is that a fair assessment? And, if not, why not?	As Answer to Q 1.11.1
1.11.8	What are the effects of such variation on the operation of junction 6? Perhaps examine those effects at $\mu+\sigma$ and at the 85%ile of the observed daily and peak hour distributions [APP-174, Figures 6.4-6.6] with the aid of LinSig, if appropriate. If LinSig would not be appropriate, please explain why.	As Answer to Q 1.11.1
1.11.9	How do those higher volumes of traffic leaving the NEC via South Way compare with the annual and peak hour distributions of traffic recorded in the TA [APP-174, Figures 6.4-6.6]?	We have advised HE that during peak periods, in particular in the evenings, that a Resilience plan is put into action when there are shows and exhibitions at the NEC. Effectively, if M42 J6 is at capacity then the NEC direct traffic out of Northway even though their destination may be M42 S. Once the new junction and new dual carriageway are in operation, there will be less traffic exiting from M42 Northbound but the NEC will take up this capacity by directing more traffic on to Southway and up to Junction 6. SMBC suggest that a sensitivity test might resolve this.
1.11.10	What is the effect of including weekends, school holidays and Bank Holidays on those distributions of traffic leaving the NEC [APP-174, Figures 6.4-6.6]?	As Answer to Q 1.11.1

	Question	SMBC Response
1.11.11	What are the effects on the operation of the Clock Interchange and junction 6 of the higher traffic levels addressed in the sensitivity testing and relating to? APP-174, 3.9 b. NEC – the traffic demand tests for potential higher traffic volumes accessing or egressing the site, and APP-174, 3.9 e. the 'low and 'high' traffic development demand scenarios for the UK Central development proposals? Please illustrate those effects with LinSig analyses and, if appropriate, by a suitable 'screenshot'. For junction 6 a comparable table to Table 7.7 [APP-174] might also be useful.	As Answer to Q 1.11.1
1.11.18	The LinSig analysis for the Clock Interchange shows that the improved junction will operate within capacity, but only just during the AM peak with a PRC of just 1% (Table 7.9 of the TA [APP-174]). What are the consequences for the analysis of the variations or additions in traffic flows that are likely to occur? Please provide a comparable LinSig analysis for the current situation.	As Answer to Q 1.11.1
1.11.19	The ARCADY output at TA table 7.11 [APP-174] demonstrates that the CdeB roundabout operates well above what is normally considered as a maximum operational capacity and with a mean maximum queue of 13 cars. Please explain what is happening here and indicate the traffic flows that are impeding entry onto the roundabout.	As Answer to Q 1.11.1
1.11.20	Please indicate the length of the 13-car queue referred to in Q1.11.19 and modelled in TA table 7.11 [APP-174] on a plan.	As Answer to Q 1.11.1
1.11.24	What is the increase in travel time from St Peter's Church, Bickenhill to the Birmingham Airport terminal comparing current conditions and the routes possible once the 'do-something' scenario has been implemented?	As Answer to Q 1.11.1
	Additional comments from SMBC	
	Rule 6 letter	
1.4	Several individual articles (e.g. Art 16, Art 20, Art 21, Art 23) make provision for deemed consent to be granted if a consultee does not respond within a certain period – a 'guillotine' provision. There are precedents, however, they have tended to be justified with reference to the characteristics of particular dDCOs. This type of provision is not automatically appropriate to all NSIP development and has to be justified on a project-specific basis. The Applicant is therefore asked to justify why the proposed 'guillotine' provisions are necessary and appropriate for this dDCO. If 'guillotine' provisions are to be recommended, should any notice provided associated with an application for consent under the relevant article draw attention to the existence and effect of the 'guillotine' period? Could any other provisions than 'guillotine' provisions suffice? How would the operation of the 'guillotine provisions' interact with the arbitration provision under Art 47?	Agreed
7	The Applicant is asked to justify (having regard to the views of the LPAs) whether or not it is appropriate, given the length of time during which the temporary works may be in place, to modify the CIL Regulations in this way in order to exclude CIL liability.	Temporary works such as compounds do not appear on the Solihull MBC charging schedule and therefore are CIL exempt.
9	This is a wide power – authorising interference with any street within the Order limits. The Applicant is asked whether this is necessary? If not, should it be limited to identified streets, as in article 8 in the Model Provisions?	We would request a list of streets
10	The Applicant is asked to justify (having regard to the views of the LPAs) why this power might be necessary. Is it reasonable or necessary to remove the powers (available to the street works authority) listed in paragraph (3)?	The Council consider that these Powers would be more effective to be with the Council due to the liaison required with other bodies such as Utilities
12	This article authorises the Applicant to use temporarily stopped up streets as temporary working sites. The Applicant is asked whether this article is appropriate on the facts of this particular DCO (including the impacts of authorising temporary working sites in such circumstances) and taking account of any views expressed by the highway authority? Although other DCOs are cited as precedents, this DCO applies to a rather more densely developed area than many.	• Construction Environment Management Plan – CEMP – we note the intention by Highways England to develop a CEMP to detail how the management of the project will avoid, minimise or mitigate the effects on the environment and the surrounding area which should include compounds and temporary working site. We would like to offer our support in drafting any clauses based upon good practice that we have developed with our own contractors. This would include toolbox talks to ensure the culture to protect the environment is also embraced by the workforce and also Highways England's sub contractors. We also believe that the mitigation of these issues would reinforce any values which a Considerate Contractor would wish to demonstrate. The Council would also like to share the concerns of local residents and our Ward and Cabinet Members which were discussed at their Full Cabinet meeting on 13th June, 2019. These are summarised as :- • Traffic movements – the Council have requested a commitment from Highways England that there is no reduction in the current capacity on the strategic road network during peak periods. This is a very sensitive area where the strategic road network serves nationally significant sites such as Birmingham Airport, the National Exhibition Centre and Jaguar Land Rover. Congestion in this area can have a major impact on these businesses and all major road works which have been carried out over recent years have had this requirement built into the construction contracts as works information. The Council has also requested details of lorry routes and how these will be enforced. • Compounds – there is concern over the extent of the proposed main compound and its proximity to local residents. The Council has requested details from Highways England of the assessment of other locations for compounds and temporary work sites. The Council has also asked Highways England if they had considered a compound near the new Junction 5a. • Construction Hours of operation – Highways England are proposing a start time for construction at 7.00am which the Council consider is too early in a rural environment and also considering that the workforce would arrive before this time with deliveries and the sounds of reversing vehicles. The Council would also like to see that any work audible beyond the boundary of the site should only be carried out between the hours of 8.00 am to 6.00 pm on Mondays to Fridays and 8.00 am to 1.00 pm on Saturdays; there should be no noisy works carried out on Sundays or Bank Holidays. • Early engagement – The Council would welcome an early meeting with Highways England to discuss and agree a way forward for these issues which are causing some local residents a significant amount of concern. This could then be followed by a joint meeting with the Parish Council.
17	The Applicant is questioned whether these provisions are necessary or expedient for this particular dDCO? Please could the Applicant illustrate the circumstances where the power to carry out surveys on land outside but adjacent to the Order limits would be required. When might this be 'reasonably necessary'?	HE to advise where / when might this be required - e.g. SMBC understand great crested newts may travel 500m, similar issue or Bats, drainage is another example
22	This is a general power (which effectively disapplies the provision of the Hedgerow Regulations because it allows any hedgerow to be removed whether or not it is 'important'). Advice Note 15 suggests that that articles such as these should include a Schedule and a plan to specifically identify the hedgerows to be removed (whether in whole or in part). This will allow the question of their removal to be examined in detail. The same applies to protected trees either subject to a TPO or within a Conservation Area. Alternatively, the Article within the DCO could be drafted to include powers for general removal of hedgerows or trees (if they cannot be specifically identified) but this must be subject to the later consent of the local authority. The Applicant is asked to justify the form of Article 39 in the light of the guidance in Advice Note 15, with regard to the views of LPAs. The Applicant is also asked to cross-reference any Schedule or plan prepared in accordance with that guidance with information to be prepared for Requirement 5 – Landscaping, which entails the preparation of a schedule	We have asked Highways England to provide a response to this question which we will then review and provide a response to the Inspector

	Question	SMBC Response
26	This article requires the Applicant's justification in the circumstances of this particular dDCO and NSIP. Why is it that the Applicant considers human remains may be found? Although the scheme includes significant cutting, it is not necessarily comparable to Crossrail, cited as a precedent.	26 - Human remains - reasonable that it is covered