

APPLEGREEN PLC

DEADLINE 2 SUBMISSIONS

relating to

**M42 Junction 6
Development Consent Order Application**

SUBMISSION OVERVIEW DOCUMENT

24th June 2019

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1. INTRODUCTION

- 1.1 Applegreen Plc is registered as an interested party to the M6 Junction 42 Development Consent Order ("**DCO**") Application submitted by Highways England ("**HE**").
- 1.2 On 13 March 2019 Applegreen submitted its relevant representation¹ ("**RR**") outlining its support in principle for the DCO but at the same time raising serious concerns regarding the design of junction 5a. Applegreen's primary concern is that the DCO scheme is incompatible with a separate planning application for a proposed Motorway Service Area at junction 5a, which has been submitted by Extra (the "**Extra MSA**") and to which Highways England does not object. The specific points raised by Applegreen in its Relevant Representation as regards the incompatibility with the Extra MSA are as follows:
- 1.2.1 The DCO Scheme does not include the north facing slip roads onto the M42.
- 1.2.2 The DCO Scheme does not include the access road into the Extra MSA.
- 1.2.3 The Extra MSA scheme does not include the proposed dual carriageway main line link to the A45.
- 1.2.4 In the DCO Scheme the northbound and southbound Emergency Refuge Areas to the north of the junction are to be retained; in the Extra MSA scheme they are to be closed, as they clash with the proposed north facing slip roads.
- 1.2.5 In the DCO Scheme the vertical alignment of Solihull Road west of the overbridge drops down to tie in to the existing road earlier than on the Extra MSA scheme; this would affect the available headroom for the MSA access road that passes below Solihull Road.
- 1.2.6 The DCO Scheme does not require the M42 between Junction 5 and 6 to be converted to All Lane Running, while the Extra MSA scheme does.
- 1.3 The planning application for the Extra MSA currently awaits determination by Solihull Metropolitan Borough Council, the local planning authority ("**LPA**").
- 1.4 Applegreen has submitted a separate planning application to the LPA in respect of a Motorway Service Area at M42 junction 4 ("**Applegreen MSA**"). A crucial difference between the Applegreen MSA and the Extra MSA is that the Applegreen MSA has no interface with or impact on the DCO scheme. Therefore, the Applegreen MSA is compatible with the DCO scheme, whereas the Extra MSA is not.
- 1.5 The fact that the DCO scheme is incompatible with the Extra MSA is at odds with Highways England's stated position on the Extra MSA scheme. Highways England has asserted in its response to Applegreen's RR that it "*does not consider its position to be ambiguous: the Scheme does not preclude, nor cater for the proposed MSA*". Applegreen disagrees entirely with this assertion in that firstly, the schemes are not compatible and, secondly, that in specifically seeking to cater for the Extra MSA, the DCO scheme is itself compromised.
- 1.6 Applegreen's position is elaborated on in the responses to the following Examination documents which are submitted as part of its Deadline 2 submissions. These documents are as follows:
- 1.6.1 Responses to the Examining Authority's first written questions (**Appendix 1**); and

¹ Submitted by Axis on behalf of Applegreen

1.6.2 Responses to Highways England's comments on the Relevant Representations [REP1-002] (**Appendix 2**);

1.7 In order to assist the Examining Authority we set out a summary of the responses to the documents below.

1.8 In addition, we also make brief reference to the submissions of Pegasus on behalf of Extra MSA and make some general observations regarding Highways England's suggestion that it might pursue a modification of the draft DCO as a means of accommodating the Extra MSA.

2. SUMMARY OF APPLGREEN'S RESPONSES

2.1 The following key points arise from Applegreen's responses to the Examining Authority's written questions.

2.1.1 Planning Position

Whilst the two MSA planning applications remain to be determined it is clear that the Applegreen MSA is preferable from a planning perspective in a number of material respects. Not only is the Applegreen MSA smaller, and therefore has lesser landscape and visual impacts (including from the green belt), but it crucially does not give rise to the significant highways impacts which see the Extra MSA application trigger four departures from the Design Manual for Roads and Bridges. [*Appendix 1, response to ExA wq 1.0.3*]

2.1.2 North Facing Slip Roads and Modification

The fact that the DCO scheme does not include north facing slip roads presents a clear contradiction with Highways England's position in relation to the Extra MSA which does require north facing slip roads. There is simply no need for north facing slip roads which would cause safety issues and would require significantly longer journey lengths between the A45(W) to M42(N) and M42(N) to A45(W). [*Appendix 1, response to ExA wq 1.04*]

Highways England suggests that modifications can be delivered through the DCO or amendments to the Extra MSA planning permission which would deliver the north facing slip roads. However, the proposed modifications would lead to an unsatisfactory position and furthermore there has been no assessment from a road safety perspective (*Appendix 2 RR011i*). Neither has there been any capacity modelling to indicate that the DCO scheme or a modification of it would be acceptable (*Appendix 1 RR011k*).

2.1.3 Design and Siting of Junction 5a

The development of the options for junction 5a demonstrates that Highways England has sought to accommodate the Extra MSA and that the design and siting are particularly constrained by the location of the proposed Extra MSA. [*Appendix 1, Ex wq 1.05*]

Highways England seek to justify the siting by referring to its comments at section 2.4 and sections 3-6 of Appendix 4 in the Planning Statement [APP-173/Volume 7.1]. However, these only serve to reinforce the point that the Junction 5a design has been influenced by a potential future modification to incorporate the Extra MSA. Had the Extra MSA not been a significant factor in the design of junction 5a then the constraints cited by Highways England simply would not arise (see *Appendix 2 response to RR011f*). Applegreen contends that this has compromised the design process (*Appendix 2, response to RR011m*).

2.1.4 Weaving Lengths

With the introduction of the north bound slip road, the weaving distance between junction 5a and 6 will in fact be 1.15km against a standard of 2km, and significantly below the 1.7km referenced in the Examining Authority's question 1.0.6. Highways England has itself acknowledged that this is a sub-standard weaving length and will create safety issues should the Extra MSA come forward at junction 5a.

The risks associated with the sub-standard weaving length can be avoided by the alternative Applegreen MSA being preferred. [Appendix 1, Ex wq 1.06]

2.1.5 David Cuthbert's Redesign of the Junction

The free-flow arrangement of the design is demonstrably preferable to the dumb-bell configuration. A review of all "M" roads in England evidences that all junctions which have slip roads facing one way and connecting to a single side road (as is the case with the DCO scheme) are free flow. This reinforces the dis-benefits of the design of junction 5a in the DCO scheme. [Appendix 1, Ex wq 1.10]

2.1.6 Ancient Woodland

The study undertaken by Highways England considered the impact on Aspbury's copse but this was constrained by the parameters of the study which considered the impact on the Extra MSA proposals. Had these constraints not applied to the study then it seems likely that the junction could have been accommodated further north to avoid impact on the copse. [Appendix 1, Ex wq 1.28]

Similarly, the location of Solihull Road Bridge is intrinsically linked to and constrained by the form and location of junction 5a. With the proposed dumbbell arrangement, the slip roads under Solihull Road Bridge are raised necessitating that the bridge be reconstructed circa 5m higher than existing, with consequential impacts on the ancient woodland. If a free flow design along the lines of that proposed by Mr Cuthbert was pursued then this could enable the link road to be positioned further north and potentially lower. [Appendix 1, Ex wq 1.7.29]

3. RESPONSE TO THE PEGASUS LETTER ON BEHALF OF EXTRA

- 3.1 Applegreen has considered the submissions from Pegasus on behalf of Extra as set out in its letter dated 30 May 2019. Save for one point Applegreen does not propose to respond at this stage to the submissions which largely concern Extra's planning application.
- 3.2 In relation to the point made about the additional support for the Extra MSA junction alignment Applegreen does not dispute that the north facing slip roads could provide resilience if junction 6 was congested/blocked (as would be the case for adding further slips to any junction that only has 2 slip roads). However, the benefits of this have to be offset against the number of times this might happen and whether it justifies the safety risks of the north facing slips and the significant wider impacts arising from constructing them including landscape and visual impact issues and the loss of a significant amount of the Ancient Woodland.
- 3.3 In respect of other matters raised in the Pegasus response, Applegreen reserves its position to comment further if the Examining Authority considers it helpful to do so. Otherwise, Applegreen is content to rely on its wider submissions and specifically the responses contained in Appendix 1 and Appendix 2 to these Deadline 2 submissions.

4. MODIFICATION TO THE DCO

- 4.1 In light of the incompatibility between the DCO scheme and the Extra MSA it will simply not be possible to bring forward both the Extra MSA and the DCO scheme in the forms currently proposed. Given that the Extra MSA is wholly dependent on the design of junction 5a, the only way in which the Extra MSA can be brought forward is if the DCO scheme is modified.
- 4.2 It is noted that Highways England has already considered the potential to modify the draft DCO to accommodate the Extra MSA [REP1-002]. This is not surprising given its stated objective to avoid an objection to the DCO scheme from Extra.
- 4.3 Applegreen accepts the principle that it is legally possible to amend a draft DCO during the Examination process. However, Applegreen is seriously concerned that Highways England would consider an application to modify a DCO in order to ensure that the DCO scheme is compatible with a third party planning application when there is no requirement to do so. The concerns are reinforced by the fact that there is no benefit at all to the underlying purposes for the DCO scheme by making such modifications. In fact, the ensuing highway and traffic impacts would be adverse.
- 4.4 Notwithstanding the above, Applegreen's position is that the draft DCO scheme should be modified. Applegreen has identified that there are serious deficiencies in the current design of junction 5a and as a result these need to be addressed. These deficiencies can be remedied by having a free flow arrangement at junction 5a which Applegreen has demonstrated is the case across the country on other similar junctions. The benefits of the free flowing junction are set out clearly in Applegreen's response 1.0.10 to the ExA's written questions. In this context, it would be an entirely reasonable and indeed an advisable modification to make in order to improve the efficiency and safety of the DCO scheme.

APPENDIX 1

**APPLEGREEN'S RESPONSES TO THE EXAMINING AUTHORITY'S FIRST WRITTEN
QUESTIONS**

APPENDIX 2

**APPLEGREEN'S RESPONSES TO HIGHWAYS ENGLAND'S COMMENTS ON ITS
RELEVANT REPRESENTATIONS**