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15 July 2019

National Infrastructure Planning
Temple Quay House
2 The Square
BRISTOL
BS1 6PN

Your Ref. TR010027

Dear Sir,

Planning Act 2008 – Section 88 and The Infrastructure Planning (Examination Procedure) Rules 2010
Application by Highways England for an Order Granting Development Consent for the M42 Junction 6 Improvement
Deadline 3 : Extra’s Response to the Deadline 2 Submissions

On behalf of the Extra MSA Group (Extra), we are pleased to attach representations made in response to the Deadline 2 Written Submissions.

Given Solihull MBC’s written submissions, it is particularly important that we clarify the position on the north facing slip roads. Highways England has fully assessed the proposed departures associated with Extra’s MSA proposals, including those associated with the north facing slip roads, and has confirmed through the issue of the HEPR 16-01, that they are safe. If they were not safe, then Highways England would have raised an objection.

We also wish to confirm the oral submission that we made in response to Mr Cuthbert’s verbal submissions at the DCO hearing on 2nd July 2019. To assist the Panel Extra can confirm that, *“The north facing slip roads are and have always been an integral component of Extra’s current planning application proposals for a Motorway Service Area.”*

Finally, we can confirm that a draft SoCG between Highways England and Extra is in preparation and will be submitted to the Panel in due course.

We have no other comments to make at this stage on the matters listed by the Panel for response at Deadline 3.

Extra reserves the right to make further submissions once the Deadline 3 responses have been published.

Yours sincerely



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Enc. Extra's Responses to the Deadline 2 Submissions for the DCO Examination

DCO Examination Deadline 3 – 15th July 2019

Extra MSA Responses to M42 Junction 6 Improvement DCO Deadline 3 Submissions

No.	DCO Panel Inspectors' Question	Extra's Responses at Deadline 3 – 15 th July 2019
1.0.3	<p>Motorway Service Area (MSA)</p> <p>Could SMBC provide an update on the progress of the two undetermined planning applications for MSAs at Junctions 4 and 5?</p>	<p>Extra MSA acknowledges the Deadline 2 response from Solihull MBC (SMBC). Extra MSA can confirm that SMBC has recently requested further information from Extra to demonstrate how the Extra MSA and DCO schemes could work together in the event that both schemes are approved, specifically in relation to traffic capacity at the junction and the impact on the safety case.</p> <p>Extra MSA can confirm that these additional details are currently in the course of preparation. The planning application remains for a 'stand alone' MSA scheme and is not being amended at this point in time to reflect this potential scenario, since the DCO scheme does not yet have planning permission.</p> <p>Given the need for the two competing MSA planning applications to be determined simultaneously and SMBC's obligations to consult on the additional information that Extra and Applegreen have been requested to provide, it is unlikely that a decision will be reached on the applications before Autumn 2019.</p> <p>Extra MSA notes that the response from Applegreen mainly relates to its opinion on the content of the two competing MSA planning applications and therefore falls outside the scope of the DCO panel's remit. Consideration of the merits of the two MSA planning applications are clearly for SMBC, as the local planning authority, to determine.</p>

No.	DCO Panel Inspectors' Question	Extra's Responses at Deadline 3 – 15 th July 2019
1.0.4	<p data-bbox="315 233 376 256">MSA</p> <p data-bbox="315 296 1173 647">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."</p> <p data-bbox="315 687 1184 778">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.</p>	<p data-bbox="1220 233 2103 355">Extra MSA acknowledges the Deadline 2 response from Highways England and notes that the response agrees with the Extra MSA response at Deadline 2. There is no contradiction – these are two stand alone, yet compatible, schemes.</p> <p data-bbox="1220 395 2103 647">Given Solihull MBC's written submissions, it is particularly important that we clarify the position on the north facing slip roads. Highways England has fully assessed the proposed departures associated with Extra's MSA proposals, including those associated with the north facing slip roads, and has confirmed through the issue of the HEPR 16-01 to SMBC, that they are safe. If they were not safe, then Highways England would have raised an objection.</p> <p data-bbox="1220 687 2092 1007">Extra MSA notes the response from Applegreen promoting a change in the DCO scheme design to a free-flow form of junction. It seems unlikely that such a change could be promoted within the limits of the DCO currently before the panel and therefore such a change would require the current DCO application to be withdrawn. Whilst this would remove an impediment to determination of the Extra MSA planning application, Extra MSA does not agree with Applegreen that this change is justified, based upon responses to the DCO public consultation.</p>

No.	DCO Panel Inspectors' Question	Extra's Responses at Deadline 3 – 15 th July 2019
1.0.5	<p>MSA</p> <p>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?</p>	<p>Extra MSA acknowledges the response from Highways England that whilst the positioning of the proposed MSA influenced the design of the junction, it did not determine it. Extra MSA concludes that is entirely reasonable for Highways England to recognise the presence of an, as yet, undetermined planning application during the design process.</p> <p>Extra MSA would also like to highlight that Highways England maintained a Holding Recommendation on the Extra MSA planning application for several months after the technical matters were agreed in order to enable an unfettered consultation on the options for the M42 J6 improvement scheme to take place. This position was maintained until such time as the Preferred Route Announcement was made. Approximately two weeks later the HEPR 16-01 was issued confirming no objection by Highways England to the Extra application, subject to agreed conditions. Extra MSA understands that this process was based on legal advice and was intended to ensure that should an option be selected that was not compatible with the Extra MSA proposal, Highways England would be able to raise an objection. Therefore, it would be incorrect to say that the proposed MSA had a determinative impact on the DCO scheme junction location and design.</p>

No.	DCO Panel Inspectors' Question	Extra's Responses at Deadline 3 – 15 th July 2019
1.0.6	<p>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?</p>	<p>Extra MSA acknowledges the responses from SMBC and Applegreen clarifying that the weaving length between Junction 5a and Junction 6 would be 1.15km and confirms that this is correct.</p> <p>Extra MSA refers the panel to its response at Deadline 2. Given Solihull MBC's written submissions, it is particularly important that we clarify the position on the north facing slip roads. Highways England has fully assessed the proposed departures associated with Extra's MSA proposals, including those associated with the north facing slip roads, and has confirmed through the issue of the HEPR 16-01, that they are safe. If they were not safe, then Highways England would have raised an objection.</p>
1.0.7	<p>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.</p>	<p>Extra MSA acknowledges and agrees with the response from Highways England that there are no trips other than to enter or exit the MSA which would, under normal traffic circumstances, use the north-facing slip roads. Trips to the MSA would serve the safety and welfare of the travelling public.</p> <p>Extra MSA also notes the response from SMBC that the north facing slip roads would add some degree of resilience to the DCO scheme by acting as a safety valve in the event that Junction 6 becomes congested or is blocked. Extra MSA agrees with this assessment but notes that the MSA planning application is not intended to address this function and would not do so if it existed in isolation from the DCO scheme. The north facing slip roads are provided for MSA traffic and any associated benefits (economic and traffic flows) that derive from their presence are secondary to this use.</p>

No.	DCO Panel Inspectors' Question	Extra's Responses at Deadline 3 – 15 th July 2019
1.0.8	<p>Sensitivity tests have been undertaken entailing provision at junction 5A for the proposed motorway service area (MSA) [APP-174, 3.9].</p> <p>What are the results of those tests?</p>	<p>Extra MSA acknowledges and welcomes the submission of Highways England Technical Note 13 which demonstrates that a compatible scheme exists for the DCO scheme with the MSA and that this compatible scheme has sufficient traffic capacity in the 2041 assessment year with the higher sensitivity MSA turn-in rates.</p> <p>Extra MSA reserves the right to comment further once the responses to Deadline 3 have been published.</p>
1.0.9	<p>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.</p>	<p>Extra MSA acknowledges and welcomes Highways England response that ARCADY modelling has been used to assess the traffic capacity of the junction, as set out in Highways England Technical Note 13.</p>
1.0.10	<p>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?</p>	<p>Extra MSA refers the panel to its response at Deadline 2. Extra MSA notes that the Highways England and SMBC responses closely correspond with Extra MSA's own response.</p> <p>Extra MSA notes the Applegreen response promoting a change in junction form to a free-flow arrangement. Extra MSA does not support such a change. It seems unlikely that such a change could be promoted within the limits of the DCO currently before the panel and therefore such a change would require the current DCO to be withdrawn. Extra MSA notes that Applegreen have not provided the DCO panel with an alternative design which is demonstrably better than that promoted by Highways England.</p>

No.	DCO Panel Inspectors' Question	Extra's Responses at Deadline 3 – 15 th July 2019
1.7.2 3	<p data-bbox="309 233 555 256">Ancient Woodland</p> <p data-bbox="309 296 1193 392">What consideration has been given to NE's suggestion to explore further woodland creation contiguous with the western half of Aspbury's Copse?</p>	<p data-bbox="1216 233 2103 520">Extra MSA acknowledges the response from Highways England that the woodland DCO planting scheme should not prejudice the MSA planning application. Extra MSA consider that it is entirely appropriate and reasonable for Highways England to recognise the presence of an undetermined planning application during the design process. For the sake of clarity, the Extra MSA application proposes additional woodland planting in a number of locations, including to the east of the M42, contiguous with the eastern half of Aspbury's Copse.</p>
1.7.2 8	<p data-bbox="309 563 555 587">Ancient Woodland</p> <p data-bbox="309 627 1193 1010">It is noted that Chapter 4 (alternatives) of the ES states that a southern junction option is considered to represent the only viable solution to improve Junction 6. It is also noted that paragraphs 4.4.19 to 4.4.21 of the ES state that the proposed layout of M42 Junction 5a was developed to reduce the impact of the scheme on ancient woodland at Aspbury's Copse. However, can the Applicant explain why the dumb-bell layout for Junction 5a cannot be moved further north to avoid or further minimise the encroachment of the southern slip roads and associated works into or immediately adjoining Aspbury's Copse, particularly as the scheme is not constrained by providing slip roads to the north?</p>	<p data-bbox="1216 563 2103 850">Extra MSA acknowledges and welcomes Highways England confirmation that moving the junction further north was rejected as it would preclude the north facing slip roads from being constructed. The DCO panel will be aware that the north facing slip roads are an important component part of Extra's MSA planning application proposals and would ensure (in line with DfT Circular 02/2013 stated preference for online MSA facilities) that road traffic can conveniently leave and re-join the M42 in both directions.</p> <p data-bbox="1216 882 2103 1074">Extra MSA would also like to highlight that SMBC has requested that the option of adding the north facing slip roads to the DCO scheme at a later date in case these are needed to support local and regional economic growth. This is noted in the SMBC Cabinet's meeting minutes dated 8th June 2019. (See SMBC response to Question 1.0.7)</p> <p data-bbox="1216 1106 2103 1329">Extra MSA notes Applegreen's response which disputes the Highways England assessment. Extra MSA does not agree with Applegreen that the weaving length between Junction 5 and Junction 5a is substandard and in need of extension. It seems entirely reasonable to Extra MSA that Highways England should recognise the presence of an undetermined planning application during the design process.</p>

No.	DCO Panel Inspectors' Question	Extra's Responses at Deadline 3 – 15 th July 2019
1.7.2 9	<p>It is noted that the horizontal alignment of Solihull Road would remain largely the same as the existing to minimise land-take, although the new alignment would move off-line slightly to the north by 10m on the approaches to the overbridge, where the embankment height would be at its peak of 7.5m. Paragraph 3.5.21 of the ES explains that this offset would contribute towards reducing the amount of land-take required within Aspbury's Copse ancient woodland, and mitigating adverse impacts on properties to the south of the existing Solihull Road. However, if a new Solihull Road overbridge is to be built, can the Applicant explain why can't it, and the raised vertical alignment of its approaches, be positioned further to the north so as to avoid or further minimise encroachment into the Aspbury's Copse? Although the general arrangement drawings show relatively steep embankments to the raised sections of Solihull Road, they appear to take a considerable amount of land around the edges of the Aspbury's Copse. How would such earthworks be constructed without causing additional harm?</p>	<p>Extra MSA acknowledges the Deadline 2 response from Highways England and notes that the response largely agrees with the Extra MSA response at Deadline 2, which observed that there are engineering constraints upon the alignment of Solihull Road which restrict the position of the new structure.</p>
1.11. 7	<p>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</p> <p>(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?</p>	<p>Extra MSA acknowledges the Deadline 2 response from Highways England.</p> <p>In view of the responses from SMBC and Applegreen, Extra MSA reserves the right to comment further once the responses to Deadline 3 have been published.</p>

No.	DCO Panel Inspectors' Question	Extra's Responses at Deadline 3 – 15 th July 2019
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.	<p>Extra MSA acknowledges the Deadline 2 response from Highways England.</p> <p>In view of the responses from SMBC and Applegreen, Extra MSA reserves the right to comment further once the responses to Deadline 3 have been published.</p>
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]?	<p>Extra MSA acknowledges the Deadline 2 response from Highways England.</p> <p>In view of the responses from SMBC and Applegreen, Extra MSA reserves the right to comment further once the responses to Deadline 3 have been published.</p>
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]?	<p>Extra MSA acknowledges the Deadline 2 response from Highways England.</p> <p>In view of the responses from SMBC and Applegreen, Extra MSA reserves the right to comment further once the responses to Deadline 3 have been published.</p>
1.11.12	What are the views of the Local Authorities and the operating businesses mainly served by the Clock Interchange and junction 6 on the approach to the likely variations in traffic flows in the TA [APP-174]?	<p>In view of the responses from Highways England, SMBC and Applegreen, Extra MSA reserves the right to comment further once the responses to Deadline 3 have been published.</p>
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.	<p>Extra MSA acknowledges the Deadline 2 response from Highways England.</p> <p>In view of the responses from SMBC and Applegreen, Extra MSA reserves the right to comment further once the responses to Deadline 3 have been published.</p>