



M42 Junction 6 Development Consent Order Scheme Number TR010027

8.54 Position Statement on SSSI Mitigation

Planning Act 2008

Rule 8 (1)(k)

The Infrastructure Planning (Examination Procedure) Rules 2010

Volume 8

September 2019

Our ref: M42J6/DCO_SSSI_DPS
Your ref: TR010027

The Planning Inspectorate
Temple Quay House
2 The Square
Bristol
BS1 6PN

Chris Harris
Project Manager
Highways England
2 Colmore Square
Birmingham
B4 6BN

Tel: 0300 123 5000

M42 Junction 6 Bickenhill Meadows Site of Special Scientific Interest (SSSI) Position Statement

This Position Statement (the Statement) has been produced as requested by the Examining Authority (ExA) as part of the second round of written questions (Section 2.3, ExQ2.3.1) issued on the 5 August 2019. The Statement has been discussed, drafted and agreed between the following stakeholders (the Stakeholders):

- Natural England (NE);
- the Warwickshire Wildlife Trust (WWT)¹;
- Solihull Metropolitan Borough Council (SMBC); and
- Highways England (the Applicant).

Summary of the SSSI Mitigation Solution

As part of the Environmental Impact Assessment (EIA) for the M42 Junction 6 scheme (the Scheme), the assessment of Road Drainage and the Water Environment (Chapter 14 of the ES [**APP-059/Volume 6.1**]) highlighted the potential for the Scheme to generate a significant adverse environmental effect on one of the units (Shadowbrook Meadow unit) that comprises Bickenhill Meadows SSSI.

This potential effect arises due to the new mainline link road passing through – in cutting – the identified hydrogeological catchment area of the SSSI unit, potentially diverting water away from the site. Consequently, the Development Consent Order (DCO) application for the Scheme included a mitigation solution (“the Application Draft Solution”) to reduce the identified adverse effect. The Application Draft Solution proposed that water would be pumped from the west to the east of the new mainline link road, in order to replenish the water potentially lost as a result of the reduction in the overall hydrogeological catchment area of the SSSI unit.

Whilst the Stakeholders accepted that the Application Draft Solution would achieve its purpose, NE and WWT did not favour its heavily engineered elements or the

¹ Due to availability throughout August 2019, the WWT were unable to provide comment upon the draft Position Statement for the ExA Deadline 4 submission. However, the WWT discussed and conveyed with NE and SMBC the information they wished for inclusion within the Position Statement. These requests have been fully considered by the Applicant when drafting this Position Statement.

maintenance requirements, and so asked the Applicant to explore other design measures to replenish the lost water to the SSSI unit. Taking into consideration the requests of the Stakeholders, the Applicant progressed and refined a number of alternative mitigation options that were presented and discussed with NE and WWT.

Subsequently, a passive gravity-fed mitigation solution (the Passive Solution) emerged as the preferred option for implementation. This Passive Solution has subsequently been refined further and presented to the ExA within the Appendix 14.2(a) Bickenhill Meadows Site of Special Scientific Interest – Hydrological Investigation Technical Note (v9.1) [**REP3-004/Volume 6.3**] at Deadline 3 of the examination.

The Agreed Position

The following sections outline the commitments, based upon requests from the Stakeholders, which the Applicant agrees to fulfil:

Monitoring

The Applicant will be responsible for an on-going monitoring programme (both hydrological and ecological) of the Shadowbrook Meadow SSSI unit. This will continue throughout the construction phase of the Scheme. Subsequently, operational monitoring will continue for five years, commencing from the date on which that part of the Scheme affecting the Shadowbrook Meadow SSSI unit is first opened for use.

Upon completion of the five years of operational monitoring, the Applicant will discuss with the Stakeholders the necessity of continued monitoring, based upon analysis of data collected as part of the initial monitoring programme. If considered appropriate and necessary, a further duration and scope of monitoring will be agreed by means of voluntary agreement between Stakeholders.

A baseline for the Shadowbrook Meadow SSSI unit from which to monitor thresholds/triggers against will be agreed between the Stakeholders. Additionally, the Applicant will provide quarterly reports of all monitoring (construction and operation) of the SSSI to the other Stakeholders. In the event the monitoring identifies a change to the MG4 habitat² that can be attributed to the Scheme, the thresholds/triggers for quantifying and implementing any possible intervention measures will be detailed in a SSSI Hydrological Monitoring and Management Plan which, once completed, will be distributed to the Stakeholders for discussion. The SSSI Hydrological Monitoring and Management Plan will also include a contingency plan for the event that the agreed thresholds are exceeded.

² The National Vegetation Classification (NVC) great burnet floodplain meadow *Alopecurus pratensis-Sanguisorba officinalis* grassland that is species-rich and typical of neutral soils.

The Applicant can confirm that construction monitoring and an initial period of five years of operational monitoring of Shadowbrook Meadow SSSI unit is a commitment within the Register of Environmental Actions and Commitments (REAC) which is appended to the Outline Environmental Management Plan [APP-172/Volume 6.11] and are secured by Requirement 4(3)(a) of the dDCO [REP3-002/Volume 3.1(a)].

The inclusion of monitoring into the DCO in this manner provides assurances to all parties involved that an appropriate mechanism has been afforded to the monitoring and condition of the habitats within the Shadowbrook Meadow SSSI unit.

Land Access and Acquisition

There are provisions within the Scheme DCO which grant the necessary powers to construct and maintain the passive solution. The Land Plans [APP-006/Volume 2.2] for the Scheme show that, if the DCO is made, the Applicant will have the power to temporarily use the land owned by WWT (Parcels 3/22a, 3/22b) to construct component parts of the Passive Solution and to acquire permanent rights of access to the land to maintain the Passive Solution (Parcels 3/16, 3/27, 3/32a, 3/32c and 3/4a).

Ownership of the Passive Solution

The Applicant notes the desire of SMBC to own and manage the swale at Shadowbrook Lane and the filter drain system adjacent to the re-aligned Catherine-de-Barnes Lane and will work collaboratively with SMBC to this effect as part of the wider transfer of relevant assets from Highways England to SMBC.

Management and Maintenance of the Proposed Passive Solution

The Applicant can confirm that the maintenance of the Passive Solution during the first five (linked to monitoring) years of operation will be the responsibility of the Applicant.

It is agreed that the long-term management and maintenance of the installed Passive Solution, including maintenance frequency and access requirements, will continue to be discussed and co-ordinated by the Applicant, WWT and SMBC. Notwithstanding this, the general powers afforded by the DCO (as outlined above) will enable the Applicant to secure the access rights (as per Part 5, Article 27 of the dDCO) [REP3-002/Volume 3.1(a)] needed to maintain the passive solution so that it may operate effectively and as intended until a final agreed position is identified.