

Date: 10<sup>th</sup> October, 2019

APPLICATION NO.: M42Junction6  
CASE OFFICER: Derek Lawlor  
Tel: 0121 704 6434  
dlawlor@solihull.gov.uk

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

Dear Sirs

**TR010027 - Application by Highways England for an Order Granting Development Consent for the M42 Junction 6 Improvement**

**Matters to be responded to in accordance with Deadline 6 of Rule 6 letter dated 23<sup>rd</sup> September 2019**

Further to the Rule 6 letter issued by The Planning Inspectorate on 23<sup>rd</sup> September 2019 and subsequently discussed at the Preliminary Meeting and Issues Specific Hearings, please accept this letter from Solihull Metropolitan Borough Council in response to Deadline 6 matters;

Ref		Question	SMBC Response
<b>Environmental Statement [APP-046 to APP-164]</b>			
<b>3.2.1.</b>	Applicant and SMBC	Air quality directions The Panel would welcome an update on the progress made in ensuring that SMBC can fulfil its obligations relating to Ministerial Directions on air quality.	Progress made in ensuring that SMBC can fulfil its obligations relating to Ministerial Directions on air quality is as follows:  <ul style="list-style-type: none"> <li>• Initial Plan – produced and submitted by the 31st July deadline. This has been signed off by JAQU.</li> <li>• Initial Evidence Submission – produced and submitted by 30th September deadline. This is currently being reviewed by JAQU but initial feedback is positive.</li> <li>• Final Plan – the deadline for the submission of the Final Plan is 30th April 2020. Work has commenced on preparing the Final Plan based upon the results detailed in the Initial Evidence Submission with a view to achieving compliance in the ‘shortest possible time’.</li> </ul> Detailed discussions are still taking place regarding the details of any timing of works and in particular in relation to footpath closures in the area and the full extent of the closures and any proposed diversions.
<b>Cultural Heritage ES Chapter 7</b>		Archaeology	
<b>3.3.1.</b>	Applicant and SMBC	The ExA would welcome the comments of the Applicant and SMBC/ the County Archaeologist on the implications of the findings of the Archaeological Investigation Report [REP4-004] for the conclusions of Chapter 7 of the ES [APP-052].	SMBC have no further comments
<b>3.4.1</b>	Applicant, SMBC, CPRE and Mr Phillip O’Reilly	Lighting	

		<p>The scheme would introduce street lighting into locations which currently have little or limited lighting. This includes:</p> <ul style="list-style-type: none"> <li>• The area of the main line link road approach to Junction 5A as it emerges from cutting and rises to the elevated dumbbell roundabouts and overbridge, which would be lit with lighting columns between 12m and 15m in height.</li> <li>• Barber’s Coppice roundabout and approaches which would be lit with 12m and 15m high columns, located close to residential receptors at Four Winds. The ExA note the Applicant's previous responses (ExQ 1.6.9-1.6.11 REP2-007). But, given the information in [REP2-21], is there potential for the night time views to have a significant effect on Viewpoints S, T and EE, given the quantum and height of luminaries relative to existing ground levels and proposed planting? And, is there potential for receptors at Viewpoint EE to experience effects from parts of the lighting for Junction 5A and Barber’s Coppice Roundabout in combination?</li> </ul>	<p>For the Barbers Coppice roundabout, SMBC consider that Street lighting should be provided as approach speeds onto the roundabout are still likely to be high. The route will be heavily trafficked with the adjacent road/junctions layouts subjected to departures from standard which would compromise the road users safety. Street lighting was common mitigation factor on most of those departures from standard, For these reasons, street lighting is required. However, the street lighting design should cater for the local environment by providing low mast columns (street lighting to provide their design) which will only direct light directly on to the carriageway, utilising shields, if necessary.</p> <p>SMBC have also recommended to HE that they consult the local Police on the speed limit on Catherine de Barnes Lane from Solihull Rd roundabout to the proposed Barbers Coppice Roundabout to see if the Police would consider that a reduction from the current 50mph limit to a 40mph limit would be appropriate</p>
<b>3.4.2</b>	Applicant, SMBC and CPRE	Lighting	
		Is there the potential for the lighting at junction 5a and at Barber’s Coppice Roundabout to have a significant effect on the landscape, given the relative isolation of both locations in relation to major lit developments such as the NEC and Birmingham Airport, and given that much of the M42 in this location is in cutting?	see above

<b>3.4.3</b>	<b>Applicant and SMBC</b>	Lighting	
		Please indicate what mechanisms are proposed to ensure that the latest lighting technology with the most appropriate lantern and colour temperature will be installed to minimise light-spill and reduce night time visual effects. [REP2-007 ExQ 1.0.1 and REP2-037 ExQ 1.0.1 and 1.0.2, refer]	see above
<b>3.4.4</b>	<b>Applicant and SMBC</b>	Assessment	
		It appears from REP3-011 that the Residential Visual Amenity Assessment technical note was not considered within the LVIA and that neither the Landscape Character Assessment (SMBC 2016) nor the Local Character Guide (SMBC 2016) were reviewed to establish the baseline environment for the LVIA. Please explain why these omissions may, or may not, affect the findings of the LVIA.	SMBC would request the applicant to respond on this question
<b>3.5</b>	<b>Biodiversity – ES Chapter 9 and HRA</b>		
<b>3.5.1</b>	<b>Applicant, Natural England, SMBC and Warwickshire Wildlife Trust</b>	<b>Mitigation and monitoring: Surveys</b>	
		The Panel would welcome an indication of when the 'biodiversity off-setting report' (referred to in REP2-033) and the Fungi surveys will be made available to the Examination. In addition, is any further comment required in relation to the Lichen Survey [REP4-003] or the GCN survey [REP4-005]?	SMBC would request the applicant to respond & then SMBC can review

3.5.2	Applicant, Natural England, SMBC and Warwickshire Wildlife Trust	Mitigation and monitoring: Protection	
		Are measures required in the OEMP to ensure the protection of the white-clawed crayfish in the Shadow Brook catchment located to the east of the proposed scheme?	White-Clawed Crayfish are not known to be present in Shadow Brook and the Scoping Study in ES Appendix 9.13 deemed it unlikely that they are present. They are however present in Low Brook, to the west of the site. The Appendix D of the OEMP outlines outline biosecurity measures to prevent the spread of signal crayfish and crayfish plague between catchments. These measures should form a detailed method statement within the CEMP.
3.5.3	Natural England, SMBC, WCC, NWBC and Warwickshire Wildlife Trust	Mitigation and monitoring: Ecology	
		Are there any outstanding concerns raised by the Applicant's responses set out in section 5.2 of REP3-011 in connection with the effects of the scheme on the SSSI at Coleshill and Bannerly Pools and the ecological connectivity of the area?	SMBC have no outstanding concerns regarding Coleshill and Bannerly Pools SSSI
3.5.4	Natural England, SMBC, WCC, NWBC and Warwickshire Wildlife Trust	Mitigation and monitoring: Bickenhill Meadows SSSI	
		The ExA would welcome the Applicant's response to the comments from Natural England [REP4-017] regarding the 'Bickenhill Meadows SE Unit Draft Position Statement'.	SMBC would like to see management plan and how affected landowners will have restricted covenants to ensure mitigation is maintained

3.5.5	Natural England, SMBC, WCC, NWBC and Warwickshire Wildlife Trust	Mitigation and monitoring: Ancient Woodland	
		The ExA would welcome comments from Natural England, The Woodland Trust and SMBC on the Applicant's Soil Survey Report [REP4-007] submitted at Deadline 4.	SMBC consider that there is a balance between replanting ratios and suitable available land and translocation of soils issues – SMBC & WWT would like to see more details inc any other HE schemes where Ancient woodland relocation had been carried out work. SMBC would support Natural England's case by case strategy and if NE consider that HE's proposal in TR010027-000725-AS-Highways England -8.64 is acceptable (which SMBC have yet to receive confirmation from NE) then SMBC would support reasonable endeavours to achieve the planting ratios detailed in Doc 8.54
3.6	Geology and Soils - ES Chapter 10	Contamination	
3.6.1		Please explain why it may or may not be necessary to test more than 4 groundwater samples within the DCO site. If additional testing would be necessary, please indicate when this data may become available to the Examination?	This is a matter for the applicant to respond to

3.7	Noise and Vibration - ES Chapter 12		
	Applicant to the SMBC	Noise policy and significant adverse effects	
3.7.1		<p>The Panel understand the responses to ExQ 2.6.1 and 2.6.2, but they do not agree with them; the responses confuse a SOAEL with an unacceptable noise environment. The NIR offer an insulation package to reduce external noise to an acceptable internal level, eg 35dB LAeq, 16hr ≈ 37dB LA10, 18hr, (not achievable by a closed single glazed window, normally resulting in a reduction of only about 25dB(A)). The internal level might be acceptable, but the external noise level would remain 'unacceptable' and, for that reason, the original guidance (now revoked) was that 'planning permission should not normally be granted' for residential development in areas falling within NEC-C (≈ 68dB LA10, 18hr and above). Such a noise environment might engender material changes in behaviour; not sitting out in the garden or keeping windows closed, both contributing to a diminished quality of life. But, those changes in behaviour do not identify the SOAEL currently suggested; the derivation is the other way around. The Defra Study quoted (NANR316) falls into the same trap; there is no cogent reason why 20%, rather than 10%, of the population must be 'highly annoyed' for the effect to be 'significant'.</p>	SMBC are awaiting further details from HE and can then respond

<p><b>3.7.1</b></p>		<p>In contrast, the WHO guidance is derived from observed changes in behaviour, attitudes or other physiological responses (all examples of the outcomes from an appropriately defined SOAEL, according to Government Guidance - 30-005-20190722, updated July 2019), since 55dB LAeq,16h ≈ 57dB LA10, 18hr is taken to engender the onset of serious community annoyance. Moreover, that level is confirmed in the latest WHO Environmental Noise Guidelines (2018) since it is strongly recommended that noise from road traffic should be below 53dB Lden ≈ 55dB LAeq, 16hr ≈ 57dB LA10, 18hr as 'road traffic noise above this level is associated with adverse health effects. Although the NIR have served as the basis for a SOAEL in several previous NSIPs, that does not justify the fallacy, particularly in a rural location where people might reasonably be expected to experience the 'quiet enjoyment' of their gardens (see also ExQ3.7.2, below).</p>	<p>SMBC are awaiting further details from HE and can then respond</p>
<p><b>3.7.1</b></p>		<p>Please provide any additional explanation necessary as to why a day-time SOAEL should be set at a level which might prelude the 'quiet enjoyment' of residents gardens.</p>	<p>SMBC are awaiting further details from HE and can then respond</p>



	Applicant and SMBC	Noise policy and significant adverse effects	
3.7.2		<p>Our suggestion that an appropriate daytime SOAEL might be set at 60dB LA10,18h was based on the WHO Guidelines as indicated above, albeit with 3dB(A) added for simplicity and robustness. Those Guidelines have informed the definition of the NECs in the old PPG24 and they chime with some standards, eg BS 8233 2014. The distinction between the CNG and the ENG is more apparent than real. Not only does the latter largely confirm the level of the former (as indicated above), but also an important indicator of the latter is similar to the former, namely that 10% of the population is 'highly annoyed' by the noise of road traffic. It is recognised that the incidence of 'high annoyance' occurs at lower noise levels (providing the basis for a LOAEL) as well as the onset of ischaemic heart disease where 'road traffic noise is above this level'.</p>	<p>SMBC are awaiting further details from HE and can then respond</p>

<p><b>3.7.2</b></p>		<p>The NPSE assiduously avoids identifying any standard. It states that: It is not possible to have a single objective noise-based measure that defines SOAEL that is applicable to all sources of noise in all situations. Consequently, the SOAEL is likely to be different for different noise sources, for different receptors and at different times. It is acknowledged that further research is required to increase our understanding of what may constitute a significant adverse impact on health and quality of life from noise. However, not having specific SOAEL values in the NPSE provides the necessary policy flexibility until further evidence and suitable guidance is available. Hence, precedents should not automatically apply, and the Panel consider that an appropriate SOAEL should reflect the largely rural characteristics of the area and the residential nature of the affected settlements. Of course, the consideration of the economic and social benefits of this road scheme must be integrated with its adverse environmental effects. But that depends on properly balanced judgement. It should not entail a SOAEL set above a level masking evident significant adverse effects resulting in acknowledged material changes in behaviour.</p>	<p>SMBC are awaiting further details from HE and can then respond</p>
<p><b>3.7.2</b></p>		<p>For those reasons, please re-assess the significance of the operational traffic noise effects against a day-time SOAEL set at 60dB LA10,18h.</p>	<p>SMBC are awaiting further details from HE and can then respond</p>

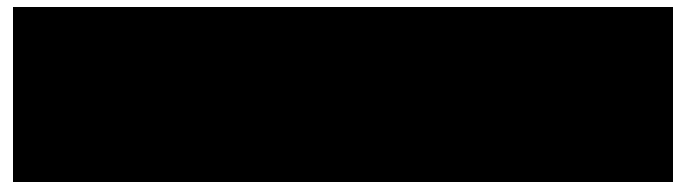
	<b>Applicant and SMBC</b>	<b>Noise policy and significant adverse effects</b>	
<b>3.7.3</b>		The Panel agree that an external noise environment of 55dB LAeq,8h would result in an internal level of about 30dB LAeq,8h behind a closed single glazed window. 'Having to keep windows closed most of the time because of noise' is one characteristic of a SOAEL set out in the Noise Exposure Hierarchy (30-005-20190722). But although that identifies a 'material change in behaviour', it does not identify a level where the onset or incidence of that material change might occur. The WHO Guidelines provide some insight since they suggest that 45dB LAeq,8h is the level at which the onset of sleep disturbance would occur inside bedrooms behind a partially open window. And, that level is confirmed in the latest WHO Environmental Noise Guidelines (2018), which indicate that the sleep of 3% of respondents is highly disturbed by external noise at roughly 45dB Lnight ≈ 45dB LAeq, 8hr. As above, there is no obvious reason why 45dB LAeq, 8hr should not be the SOAEL in this location and in relation to the noise sensitive properties affected here; medical effects are not explicitly listed as a 'descriptive characteristic' in the Noise Exposure Hierarchy (although they do help to identify an 'unacceptable adverse effect') and a LOAEL of 40dB LAeq, 8hr could still be appropriate.	SMBC are awaiting further details from HE and can then respond
<b>3.7.3</b>		Hence, please provide any additional explanation necessary as to why a night-time SOAEL should be set at a level where more than 3% of residents would be likely to suffer a highly disturbed night's sleep, unless sleeping behind closed windows.	SMBC are awaiting further details from HE and can then respond
<b>3.7.4</b>	Applicant and SMBC	<b>Noise policy and significant adverse effects</b>	
		For similar reasons to those outlined above, please re-assess the significance of the operational traffic noise effects against a night-time SOAEL set at 45dB LAeq,8h.	SMBC are awaiting further details from HE and can then respond

<b>3.8</b>	<b>Population and Health - ES Chapter 13</b>	<b>Assessment; footpaths</b>	
<b>3.8.1</b>		The Panel agree that the implementation of route A [REP3-018] under the DCO would be likely to entail a material change. Although that need not be an insurmountable obstacle to the scheme, it might be administratively easier to pursue the proposal in conjunction with SMBC. The response from SMBC would imply that they believe the current proposals to be adequate. Nevertheless, the Applicant and SMBC are asked to indicate whether or not a joint arrangement to implement route A might be pursued and, if the latter, why it is inappropriate to adhere to the policy set out in paragraphs 3.15-3.17 of the NPSNN in this particular case.	SMBC support the policy set out in paragraphs 3.15-3.17 of the NPSNN. SMBC are willing to work with HE to explore whether Route A could be practically delivered and if so, the mechanisms required
<b>Transport Assessment Report (APP-174)</b>			
<b>3.9</b>	<b>The Applicant, SMBC and WCC</b>	<b>The growth gap</b>	
		The Panel welcome the responses to ExQ 2.9.1. We now know that although the traffic forecasts for 2041 do not incorporate all the jobs envisaged in the emerging planned vision for Solihull, this scheme is expected to be an integral element to accommodate the overall growth currently anticipated, as follows:	
		Phase 1 Highway Works were completed in 2016 with the A45 South Bridge over the West Coast Main Line.	
		Phase 2 are the improvements by the Applicant at Junction 6 of the M42.	
		Phase 3 are works by HS2 and UGC to modify junctions on the A45, A452 and A446 due to start by the end of 2019 and to be completed before 2026.	

		<p>Phase 4 would be further improvements to address growth in the Hub area after 2026 and up to 2041 outlined in the UK Central Hub - Growth and Infrastructure Plan. These involve the provision of further road capacity, one potential solution being link roads on both sides of the motorway between the new M42 J5a and the existing J6 providing direct access to the UK Central Hub and the HS2 'Interchange Station'.</p>	
		<p>Is this all the detail currently available? The need for the scheme identified in the Planning Statement includes facilitating the regional growth outlined in the UK Central Hub proposal [APP-173, paragraph 3.3.5]. And, one of the 4 objectives [paragraph 3.5.2] is to encourage continued investment in the regional economy and support new corporate, commercial and residential opportunities, including the proposals by UK Central. Also, a 'strategic objective' set out in the Statement of Reasons is to support new corporate, commercial and residential opportunities including proposals for UK Central [APP-018, paragraph 1.9.14].</p>	
		<p>Hence, if it is available, please provide any further detail of how this scheme might integrate with currently envisaged proposals for future growth.</p>	<p>Delivery of the UK Central masterplan is a key strategic aim of the Council, the Greater Birmingham and Solihull Local Enterprise Partnership (GBSLEP) and the WMCA. The recently published West Midlands Industrial Strategy highlights the scale of opportunity at the UK Central as 'unprecedented in the region'. A range of interventions are required to unlock this opportunity, including investment in new and enhanced infrastructure. SMBC have shared the UK - Central Hub proposals. There is also a NEC Masterplan and Airport Masterplan which would provide more details on the planned growth. Arden Cross has recently appointed a masterplanner and are developing proposals for the area around the proposed HS2 Interchange</p>

**Additional Questions asked at September Hearings**

1	<b>Kingshurst Brook</b>	Highways England’s comments in TR010027-000462-TR010027_M42J6_8.6_Responses- paragraph 1.7.6 regarding Kingshurst Brook pLWS	SMBC have no concerns regarding Highways England’s comments in paragraph 1.7.6 regarding Kingshurst Brook pLWS.
2	<b>Protected species</b>	Updated Bat Survey 2019 (Document 8.6.2)	SMBC have no additional comments with regards to bats



**Signed**

**Derek Lawlor  
 UK – Central Delivery Group Manager  
 Metropolitan Borough of Solihull Council**

