

M42 Junction 6 Development Consent Order Scheme Number TR010027

8.69 Post Hearing submissions - Written summary of Oral Case for the ISH on Living Conditions on 1 October 2019

Planning Act 2008

Rule 8(1)(k)

The Infrastructure Planning (Examination Procedure)
Rules 2010

Volume 8

October 2019

Infrastructure Planning

Planning Act 2008

The Infrastructure Planning
(Examination Procedure) Rules 2010

M42 Junction 6
Development Consent Order 202[]

**Post Hearing submissions – Written summary of Oral Case for the ISH
on Living Conditions on 1 October 2019**

Regulation Number	Rule 8(1)(k)
Planning Inspectorate Scheme Reference	TR010027
Document Reference	8.69
Author	M42 Junction 6 Development Consent Order Team and Highways England

Version	Date	Status of Version
1	11 October 2019	Submitted for Examination – Deadline 6

Table of contents

Chapter	Pages
1. Introduction	1
2. Representations at ISH 5	2
2.1 The effects on residents of the activities to be undertaken within the proposed main compound and the land required for stockpiling construction materials (Plot 3/51a)	2
2.2 The effects on residents and businesses of construction in relation to specific elements of the scheme, in particular the realignment of Catherine-de-Barnes Lane and consequent works, the construction of the main-line link and associated works and the construction of Junction 5a	5
3. Responses to questions from Interested Parties	8

Appendices:

- A. Construction hours permitted by SMBC for HS2 Phase.
- B. Table of construction hours permitted in other DCOs.

1. Introduction

- 1.1.1 This document summarises the case put forward by Highways England (the Applicant), at the fifth Issue Specific Hearing (ISH 5) considering the construction and operational effects of the proposed development to Junction 6 of the M42 on the living conditions of local residents which took place at the Ramada Hotel, Church Hill Road, Solihull on 1 October 2019.
- 1.1.2 Nick Evans of BDB Pitmans (NE) represented the Applicant and was assisted by experts at AECOM and Skanska in providing submissions in light of the technical nature of the agenda for the hearing.
- 1.1.3 The Examining Authority (ExA) explained that it was the purpose of the hearing to consider the construction and operational effects of the scheme on local residents, including consideration of air quality, noise and traffic management.

2. Representations at ISH 5

2.1 The effects on residents of the activities to be undertaken within the proposed main compound and the land required for stockpiling construction materials (Plot 3/51a)

Construction of the main site compound

2.1.1 Mark Sutton (MS) of Skanska confirmed that it would take approximately eight weeks to build the main site compound. He explained that the side of the main site compound facing Bickenhill would be shielded by two-metre high bunding formed from the top soil and sub soil of the existing field which would provide some mitigation to the noise and visual impact of the compound. The bunding would be seeded to protect the top soil and to improve the visual effect. He said the bunding would be approximately 10 metres wide.

Activities within the main site compound

2.1.2 MS confirmed that the main activities that would take place in the main site compound would be for storage and stock piling or were administrative in nature and would include:

- site offices;
- staff wellbeing facilities;
- car parking for staff and visitors; and
- portable lavatories

2.1.3 It was agreed that the Applicant could confirm the specific activities that will take place as well as the likely number of vehicles accessing the compound. He also provided details of the permanent material lay down area, which would include high value materials that would need to be stored securely in the compound, but noted that other construction equipment will be moved to the construction areas themselves once the compound is built. He said that HGVs would access the laydown area to collect and to store materials.

Noise

2.1.4 The ExA noted that the Applicant had identified the use of a concrete crusher and water douser in its assessment of the noise emanating from the main site compound. The ExA asked whether those items of equipment were assessed as an example of the potential noise impacts of the main compound or whether that equipment would be used within the main compound. MS said that concrete crushing may be required to make reusable aggregate, although he did not anticipate this activity would generally take place at the main site compound. This activity would normally occur close to demolition works, such as the Solihull Road overbridge, out on site. He said operations would be limited by the terms of the Construction Environmental Management Plan (CEMP) and that any day-time concrete crushing required would be likely to take place at times agreed under

section 61 of the Control of Pollution Act 1974 (Section 61 Consent), and could be limited to more restrictive hours (to be confirmed).

- 2.1.5 In response to further questions on the noise effect of the main site compound, NE confirmed that the Applicant would submit in writing details of assessed impact of noise from the main compound on Rose Cottage.

Location

- 2.1.6 MS confirmed that the Applicant would consider moving activities within the main compound further north within the field system, and moving the means of egress further towards Clock Roundabout in order to alleviate the impact on local residents.
- 2.1.7 MS explained that the suggestion of moving the main site compound further north had not been finalised and would require agreement with Solihull Metropolitan Borough Council (SMBC) on traffic management but he thought the proposition was workable.
- 2.1.8 MS confirmed that the Applicant had considered other locations for the main site compound which were further away from residents but the Applicant had determined that those locations were not practicable for a number of different reasons (as set out in **REP3A-004** – Consideration of Alternative Locations for the M42 Junction 6 Main Site Compound). He confirmed that the Applicant would provide a map demarcating the useable area of Option 5 for D6 to demonstrate why it is not a practical location for the main compound.

Lighting

- 2.1.9 In responding to a question from the ExA regarding the lighting of the main compound, MS stated that there would be lighting on the laydown area and low level bollard lighting at the exit to the compound for security reasons. MS said that in some places motion sensitive lighting could be used and noted that lighting would be limited due to the proximity to Birmingham Airport and to limit visual disruption to residents. MS submitted that he anticipated that little night working would take place in the main site compound with limited security lighting.

Privacy

- 2.1.10 In response to questions from residents about their privacy, MS confirmed that temporary office buildings in the main compound would be single-storey to further prevent them from overlooking neighbouring properties. MS said that further hoarding could be used to help mitigate the visual impact of the compound and to protect the privacy of Bickenhill residents.

Construction of NMU bridge over the A45

- 2.1.11 In response to questions from residents, MS explained that construction of the new pedestrian bridge would have to take place at night. He said he was not certain of the specific construction hours but that it was usual for such works to take place between 10pm-3am to allow for the reopening of the road below for traffic by 6am.

The site for stockpiling top soil (3/51a)

- 2.1.12 MS explained that the Applicant intends to use site 3/51a for stockpiling top soil excavated as part of the permanent works. He said the stockpile would be two metres high and would be seeded to protect the soil. He explained that when the site is reinstated, the top soil would be removed by a tipper wagon.
- 2.1.13 The ExA asked whether the Applicant had considered the noise implications of the site. Phil King (PK) of AECOM explained that although the Environmental Statement may be silent on the specific noise implications of the site, Appendix A of the Outline Environmental Management Plan (OEMP) [APP-172/Volume 6.11] addresses the measures that will need to be put in place. Those measures would be secured in the CEMP. He also noted that a Section 61 Consent could set out the appropriate noise levels which should not be breached. He said that the Applicant is unable to precisely predict construction activity but will have controls in place to ensure there are no significant adverse effects.

Community Liaison Officer

- 2.1.14 The ExA noted that the Outline Management Plan for the Main Site Compound [REP3A-003] refers to a community liaison officer and requested further information from the Applicant to ensure that person will liaise properly with the community.
- 2.1.15 MS explained that it would be a full-time role based in the main compound and that their primary role would be to work with the local community. He said that they would host open events to show residents the site and that there would be a hotline set up for residents should they have any concerns, which would be shared amongst the senior management team. He said that it is common on schemes of this nature to set up specific websites or social media pages to give residents information on the construction process.

Complaints

- 2.1.16 In responding to questions on how complaints will be dealt with, MS said that residents should use the hotline to raise any complaints. SMBC said that it would also maintain a register of any complaints it receives.

2.2 The effects on residents and businesses of construction in relation to specific elements of the scheme, in particular the realignment of Catherine-de-Barnes Lane and consequent works, the construction of the main-line link and associated works and the construction of Junction 5a

Construction noise

- 2.2.1 The ExA asked how the Applicant had assessed the effect of construction noise on certain receptors in the Environmental Statement (ES), in particular the effect of night-time demolition works at receptor C2 The Paradise [**paragraph 12.9.13 of Chapter 12, APP-057/Volume 6.1**]. Debbie Preston (DP) of AECOM explained that the assessment was based upon an average of the worst case scenario over a period of time and that the noise levels will vary over time.
- 2.2.2 The ExA explained that he thought the assessment was based on an assumption that noise levels will vary so there will be some nights in which noise levels are below the SOAEL, but that noise levels could vary within one night. DP explained that not all equipment will be used at the same time so noise levels will vary. She said the assessment in the ES was based upon the information available to the Applicant at that time and a full assessment of the noise impacts will be undertaken in the construction management report. She confirmed that the Applicant would provide further information in writing to the ExA at Deadline 7 on its assessment and its impact on several receptors in writing to the ExA. The ExA said that he wanted to ensure that all significant effects are accounted for.

Lighting

- 2.2.3 In response to questions from the ExA, Jamie Gleave (JG) of AECOM explained the Applicant will consider the impact of construction lighting. NE said that construction lighting was addressed in Sections 8.7 of the ES and possible mitigation identified in Section 8.8 of the ES [**APP-053/Volume 6.1**]. He said that lighting will be covered in the CEMP.

Post hearing clarification

- 2.2.4 The Applicant can confirm that the temporary effects of construction lighting have been considered within the Cultural Heritage [**APP-052/Volume 6.1**], Landscape [**APP-053/Vol 6.1**] and Biodiversity [**APP-054/Volume 6.1**] chapters, these being topics containing environmental resources and/or receptors that are susceptible to changes in lighting. The construction phase assessments reported within these chapters have considered the temporary effects of this lighting as an integral component of the works associated with the Scheme's construction working areas and compounds.

Construction hours

- 2.2.5 SMBC explained that its usual position in respect of conventional planning applications would be to not permit construction activity that is audible beyond the premises outside the hours of 8am-6pm Monday to Friday and 8am-1pm on Saturday. SMBC explained that on HS2 an hour either side of the permitted hours was allowed for set up and wind down. A summary of the construction hours afforded to HS2 is provided at **Appendix A**.
- 2.2.6 NE explained that the Applicant had proposed a hard start time of 7am to avoid the ambiguity as to what works can be conducted during start up times. He explained that the Applicant had considered other DCOs and the Applicant's proposed construction hours were not unusual. A table of DCOs which allow construction to commence before 8am is provided at **Appendix B**.
- 2.2.7 NE explained that the Applicant had been considering specific construction hours for work which may be particularly disruptive. He stated that the Applicant's intention was to provide clarity and to avoid ambiguity as to which activities may take place at what time. He said that the Applicant was still discussing working hours with SMBC and that it would provide an update to the ExA at D7.

2.3 The operational effects of the scheme on residents and businesses

Air quality

- 2.3.1 The ExA asked for an update on the discussions between the Applicant and SMBC on air quality. PK said that the draft Statement of Common Ground between the Applicant and SMBC makes it clear that both parties are in agreement that there are no significant adverse effects anticipated as a result of the scheme and that there is potential for the improvement of air quality in certain areas.

Severance

- 2.3.2 Richard Lloyd of the Open Spaces Society presented his suggestions for the provision of additional pedestrian rights of way within the scheme. NE said that the Applicant would consider his suggestions and respond accordingly.

Operational noise and annoyance

- 2.3.3 NE confirmed that the Applicant's assessment suggested the comparison between the do minimum and do something models for 2038 demonstrate an improvement in the number of residents affected by noise in the night time assessment and suffering annoyance from traffic noises.

Post hearing clarification

- 2.3.4 Table 12.12 of Chapter 12 of the ES shows the long-term traffic noise levels from 2023 to 2038 in a Do Minimum (DM) scenario. Table 12.21 of Chapter 12 of the ES shows the predicted long-term traffic noise levels from 2023 to 2038 in a Do Something (DS) scenario. Tables 12.13 and 12.14 show changes in DM traffic noise annoyance. Table 12.22 shows the worst case change in DS traffic noise annoyance. As reported in Chapter 12 of the ES, in the long term Do-Something scenario there is a slight increase in the number of properties predicted to experience a 'negligible' increase during the daytime period and a slight reduction in the number of properties experiencing a negligible increase in road traffic noise levels at night. However, whilst there is a slight shift in the number of properties in the 'negligible' (adverse or beneficial) and 'no change' bands, there remain no predicted significant adverse or beneficial effects as a result of the Proposed Scheme.

Unregulated taxi parking

- 2.3.5 SMBC said it was aware of the issues concerning unregulated taxis in the area and was attempting to address the issue with Birmingham Airport. NE confirmed that if local residents identified specific areas that were particularly vulnerable to unregulated taxi parking, the Applicant will consider measures to mitigate against it with SMBC.

3. Responses to questions from Interested Parties

- 3.1.1 Camilla Burton of Church Farm Accommodation asked whether there were any alternatives to the temporary realignment of Catherine-de-Barnes Lane that were further from her property. MS explained that the proposed location of the temporary realignment was selected because of the constrained area in which the new bridge can be built and the need to avoid the construction area. He confirmed that once the bridge is built the temporarily realigned Catherine-de-Barnes Lane would be removed and that the Applicant would submit the likely timescale for the temporary realignment at Deadline 6.
- 3.1.2 Heath Cotterill asked about how local residents may be able to input into the landscaping of the area on completion of construction. Jon Horton of Bickenhill and Marston Green Parish Council asked that parish councils be consulted on landscaping. NE submitted that the Applicant would be happy for the relevant parish councils to be involved, but this would be subject to the position of SMBC as the statutory local planning authority.
- 3.1.3 Philip O'Reilly (POR) of Four Winds asked about possible mitigation measures to minimise the effect of construction noise on his property. The ExA asked whether the noise assessment conducted on POR's property took into account mitigation measures or not. NE explained that noise barriers would mitigate the impact of some but not all of the works on POR's property and that appropriate mitigation measures would be confirmed at the time the construction activities are planned. Where noise levels hit the trigger for insulation, the Applicant will comply with the appropriate regulations.
- 3.1.4 POR asked the Applicant to explain why Barber's Coppice roundabout was designed to be lit, whereas Bickenhill roundabout was not. He asked whether the Applicant's calculation of the size of the roundabout (which affects the cost-benefit analysis of lighting the roundabout) was correct. NE confirmed that the Applicant was confident in its calculations, but recognised that an inaccuracy would affect the results, so the Applicant would check its calculations. NE also noted that other factors such as whether a roundabout is below the flight path of Birmingham Airport are relevant to determining whether a roundabout should be lit.
- 3.1.5 POR expressed his concern that Barber's Coppice roundabout would cause an increase in noise pollution affecting his property due to decelerating and accelerating vehicles at the roundabout. NE said it was the Applicant's position that, as Catherine-de-Barnes Lane would be moved further away from POR's property, there would be less of an impact as demonstrated in Table 12-28 in Chapter 12 [APP-057/Volume 6.1] of the Environmental Statement. He said that the Applicant's noise experts anticipated a negligible decrease in the noise affecting POR's property.
- 3.1.6 POR suggested that the Sport England guidance used to determine the noise impact of the Warwickshire Gaelic Athletic Association on his property only considered the noise level of practice sessions, not actual matches. JG said that the Applicant would check the guidance and confirm the position.

- 3.1.7 POR said that Catherine-de-Barnes Lane in front of his property is affected by more traffic than the Applicant has suggested, especially when there is significant traffic on the M42 which he estimated occurred once a week. NE said that the Applicant would check traffic data to confirm how often the M42 is at a standstill, and traffic diverted to Catherine-de-Barnes Lane. NE said that the scheme would provide extra capacity to Junction 6 of the M42 meaning that significant traffic would be less likely. It was one of the key purposes of the scheme to ease traffic in the area.
- 3.1.8 Heath Cotterill asked a question on behalf of CB and JH, who had had to leave the hearing. He asked whether the current Catherine-de-Barnes Lane could be kept open whilst the new bridge is constructed. MS explained that the excavation required to construct the structure would impact Catherine-de-Barnes Lane and so keeping Catherine-de-Barnes Lane within its current configuration would not be possible.

Appendix A: Construction hours permitted for HS2 Phase 1

5.2.2 -5.2.3 of Local Environmental Management Plan with SMBC

“5.2.2 Core working hours will be from 08:00 – 18:00 on weekdays (excluding bank holidays) and 08:00 – 13:00 on Saturdays. See also HS2 Information Paper D4: Working Hours.

5.2.3 A period of up to one hour before and up to one hour after core working hours will be required for start-up and close down activities as detailed within the CoCP. To maximise productivity within the core working hours, the 1hr start up and close down periods will include activities such as deliveries, workforce arrival/departure, unloading, maintenance and general preparation works. During this period, plant and machinery that is likely to cause disturbance to local residents will not be allowed to operate. This period will not be an extension of the core working hours. Working outside of these hours would need to be agreed through the Section 61 consenting process with SMBC. Please note that emergencies (not repairs and maintenance) may be undertaken outside core hours.”

Appendix B: Table of construction hours permitted in other DCOs

Status	Project	Requirement Number	Working Hours	Notes
DECIDED	A160-A180 Port of Immingham Improvement	Schedule 2, Requirement 3. Construction Environmental Management Plan Clause 6 (b)	07:30 to 18:00 Mondays to Fridays and 07:30 to 13:00 on Saturdays.	Except for installation of new rail bridge, bridge decks for new bridges, works in the carriageway that cannot be completed in normal working hours and extended working hours in summer months for earthworks.
	A19/A1058 Coast Road Junction Improvement	Schedule 2, Requirement 3. Construction Environmental Management Plan (e)	Working hours of 07:00 to 19:00 Mondays to Fridays and 07:00 to 13:00 on Saturdays.	Series of works excluded from this, specific reference at clause f) to 08:00 - 18:00 Mondays to Fridays for all works involving impact piling.
	A556 Knutsford to Bowdon Scheme	Schedule 2, Requirement 4. Environmental management plan.	CEMP not available online via Planning Inspectorate website.	Requirement 4 does not explicitly reference working hours, however these are to be outlined within the CEMP.
	M4 Junctions 3 to 12 Smart Motorway	Schedule 2, Requirement 8. Construction Environmental Management Plan	The latest version (XX) set out Core working hours (paragraph 5.4.1) of 08:00 to 19:00 on weekdays (excluding bank holidays) and from 07:00 to 16:00 on Saturdays. Exclusions are then set out at 5.4.3 including installation/demolition of bridges and temporary works/resurfacing to M4.	Requirement 8 does not explicitly reference working hours, these are however outlined within the CEMP.

Status	Project	Requirement Number	Working Hours	Notes
	A14 Cambridge to Huntingdon Improvement Scheme	Schedule 2, Requirement 4. Code of construction practice	The latest version (November 2015) sets out Core working hours are set out at paragraph 5.1.2 which will be from 08:00 to 18:00 on weekdays (excluding Bank Holidays) and from 08:00 to 16:00 on Saturdays.	Requirement 4 does not explicitly reference working hours, these are however outlined within the submitted Code of construction practice.
	A19/A184 Testos Junction Improvement	Schedule 2, Requirement 4. Construction and handover environmental management plans (c)	07:300 to 18:00 Mondays to Friday's and 08:00 – 13:00 Saturdays.	Clause c) sets out seven scenarios where those do not apply including night time closures for bridge demolition/installation, emergencies and junction tie in works for example.
	M20 Junction 10A	Schedule 2, Requirement 3. Construction Environmental Management Plan (e)	07:00 to 18:00 Mondays to Fridays and 07:00 to 13:00 Saturdays.	Clause e) sets out three scenarios where those timings do not apply including work requiring the full or partial closure of or would otherwise adversely affect operation of the M20.
	Heysham to M6 Link Road	Schedule 2, Requirement 15. Hours of Working	07:00 to 18:00 Mondays to Fridays and 07:00 to 15:00 Saturdays or on Public Holidays.	Allows for exceptions for the use of pumping equipment or essential on-site repairs or with prior approval of LPA.
	Norwich Northern Distributor Road	Schedule 2, Requirement 9. Hours of Working	07:00 to 19:00 Mondays to Fridays and 07:00 to 13:00 Saturdays or on Public Holidays.	Allows for exceptions for the use of pumping equipment or essential on-site repairs or with prior approval of LPA.

Status	Project	Requirement Number	Working Hours	Notes
	Morpeth Northern Bypass	Schedule 2, Requirement 20. Construction hours	08:00 to 18:00 Mondays to Fridays and 08:00 to 13:00 Saturdays or on Public Holidays.	Benefits from an additional clause which allows a start up/shut down hour either side of times for weekdays provided that such works aren't audible at site boundary.
Decision	A303 Sparkford to Ilchester Dualling	Deadline 8 Draft DCO, Schedule 2, Requirement 3. Construction Environmental Management Plan 2 (e)	07:00 to 18:00 Mondays to Fridays and 07:00 to 13:00 Saturdays.	Series of sub-clauses outlining works excluded including bridge beam lifts, traffic management activities and demolition for example.
	Lake Lothing Third Crossing	ExA draft DCO, Schedule 2, Requirement 4. Code of construction practice	07:00 to 19:00 Mondays to Fridays and 07:00 to 12:00 Saturdays.	Requirement 4 does not explicitly reference working hours, these are however outlined within the submitted Code of construction practice (para 2.3.1).
Recommendation	A30 Chiverton to Carland Cross Scheme	Deadline 7 Draft DCO, Schedule 2, Requirement 3. Construction Environmental Management Plan 2(d)	07:30 to 19:30 Mondays to Saturdays from 1 st March to 31 st October, 07:30 to 18:00 Mondays to Saturdays from 1 st November to 28 th February and 08:00 to 13:00 on Sundays.	Series of sub-clauses outlining works excluded including bridge beam lifts, traffic management activities and demolition for example.
	West Midlands Interchange	Deadline 8, Draft DCO, Schedule 2, Requirement 6. Construction hours	07:30 to 18:30 on Mondays to Fridays and 08:00 – 13:00 on Saturdays.	Benefits from an additional clause which allows a start to up/shut down hour either side of times for weekdays and other works e.g. archaeological investigations provided that such works aren't audible at site boundary.

Status	Project	Requirement Number	Working Hours	Notes
Examination	A19 Downhill Lane Junction Improvement	Deadline 2 Draft DCO, Schedule 2, Requirement 4. Construction and Environmental Management Plan Clause 2 (c)	07:30 to 18:00 on Mondays to Fridays and 08:00 – 13:00 on Saturdays.	Series of sub-clauses outlining works excluded including bridge beam lifts, traffic management activities and demolition for example.
	A303 Stonehenge	Deadline 8, Draft DCO, Schedule 2, Requirement 4. Outline Environmental Management Plan Table 3.2	07:30 to 18:00 on Mondays to Fridays and 07:30 to 13:00 on Saturdays.	Requirement 4 does not specify specific timings, these are however outlined within the latest OEMP (Deadline 8).
	A585 Windy Harbour to Skipool Improvement Scheme	Deadline 5, Draft DCO, Schedule 2, Requirement 4 Construction and handover environmental management plans 2 (c)	07:30 to 18:00 on Mondays to Fridays and 08:00 to 14:00 on Saturdays.	Series of sub-clauses outlining works excluded including junction tie ins, traffic management activities and demolition for example.
	A63 Castle Street Improvement – Hull	Deadline 6, Draft DCO. Schedule 2, Requirement 4 Construction and handover environmental management plan 2 (c)	07:30 to 18:00 on Mondays to Fridays and 08:00 to 13:00 on Saturdays. No works on Sundays or Bank Holidays.	Series of sub-clauses outlining works excluded including junction tie ins, traffic management activities and demolition for example.
Pre-Examination	A1 Birtley to Coal House Improvement Scheme (Accepted for Examination)	Submission Draft DCO, Schedule 2, Requirement 4 Construction and handover environmental management plan 2 (d)	07:00 to 19:00 Mondays to Fridays and 07:30 – 13:00 on Saturdays.	Series of sub-clauses outlining works excluded including junction tie ins, traffic management activities and demolition for example.

Status	Project	Requirement Number	Working Hours	Notes
	A38 Derby Junctions (Preliminary Meeting Scheduled)	Submission Draft DCO, Schedule 2, Requirement 3 Construction and Environmental Management Plan 2 (d)	07:30 to 18:00 Mondays to Fridays and 08:00 – 13:00 on Saturdays.	Series of sub-clauses outlining works excluded including junction tie ins, traffic management activities and demolition for example.
	M25 Junction 10/A3 Wisley interchange improvement (Accepted for Examination)	Submission Draft DCO, Schedule 2, Requirement 3 Construction and Environmental Management Plan 2 (b)	07:30 to 18:00 Mondays to Fridays and 08:00 – 13:00 on Saturdays.	Series of sub-clauses outlining works excluded including junction tie ins, traffic management activities and demolition for example.