

**M42 Junction 6 Development Consent Order
Scheme Number TR010027**

**8.70 Post Hearing Submissions – Written
Summary of Oral Case for the ISH on
Environmental Matters on 2 October 2019**

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Table of contents

1.	Introduction	1
2.	Representations at ISH 6	2
2.1	Air quality	2
2.2	Water and water quality	2
2.3	Ancient woodland	5

1. Introduction

- 1.1.1 This document summarises the case put forward by Highways England (the Applicant), at the sixth Issue Specific Hearing (ISH 6) on the environmental effects of the proposed works to Junction 6 of the M42 which took place at the Ramada Hotel, Church Hill Road, Solihull on 2 October 2019.
- 1.1.2 Nick Evans (NE) of BDB Pitmans represented the Applicant and was assisted by experts at AECOM in providing submissions in light of the technical nature of the agenda for the hearing.

2. Representations at ISH 6

2.1 Air quality

- 2.1.1 The Examining Authority (ExA) said it considered that this agenda item had been adequately addressed at the previous day's hearing (ISH 5 on living conditions).
- 2.1.2 Philip O'Reilly (POR) said that he was concerned about the level of traffic in the local area and that if there was any problem with the M42 that traffic would use the local road network. POR said he did not understand how the scheme would alleviate traffic issues. NE said that the Applicant had agreed to consider how often there are significant traffic issues on the M42, which encourages traffic on to the local road network and that the Applicant would respond for D7.
- 2.1.3 Solihull Metropolitan Borough Council (SMBC) said that it was looking at a range of measures to improve traffic in the area and the proposed scheme was only one of those measures.

2.2 Water and water quality

Kingshurst Brook pLWS

- 2.2.1 The ExA asked whether an assessment should be made of the possible impact of the scheme on Kingshurst Brook pLWS. NE said that the Applicant does not expect there to be an impact given the distance of the brook from the scheme [**see answer to question 1.7.6 at REP2-007/Volume 8.6**]. Warwickshire Wildlife Trust (WWT) said that it had worked collaboratively with SMBC and the brook had not been raised as an issue.

Bickenhill Meadows SSSI

- 2.2.2 The ExA asked for an update on the Statement of Common Ground between the Applicant and Natural England. Jamie Gleave (JG) of AECOM explained the Applicant was still in discussions with Natural England and that the Applicant was awaiting Natural England's response.
- 2.2.3 Owen Tucker (OT) of AECOM summarised the hydrological investigation of the Bickenhill Meadows SSSI and provided an explanation of the gravity-fed mitigation solution (the Passive Solution) which the Applicant had proposed as an alternative to the pumped solution it had previously considered to provide a compensatory water supply to Shadowbrook Meadow (wet meadow only). The pumped solution would have pumped water from the west to the east of the new mainline link road to provide water which could have been lost by the reduction in the hydrogeological catchment area of the SSSI unit. The Passive Solution was prepared in response to submissions made by Natural England and WWT who had reservations with the pumped solution's heavily engineered elements and maintenance requirements.

- 2.2.4 He said that the design of the Passive Solution was based on different sources of data such as dipwells and ecology surveys. OT said the findings from this data showed that the ground conditions that would be severed by the cutting were such that there is unlikely to be significant ground water flow due to shallow depth of more impermeable Mercia Mudstone and clay-rich superficial deposits that do not include significant sand layers.
- 2.2.5 OT said that the Applicant considered the central ditch as a source of water to recharge the superficial deposits beneath the wet meadow. He said that it was found that the recharge of the site as indicated by water level loggers likely occurred in advance of when the central ditch began to flow more regularly which suggested that the ditch wasn't a significant source of water. He said that the Applicant undertook further hydrology analysis to understand the impact of the scheme on the direct surface water catchment supplying the wet meadow to develop a solution to replicate the loss of water to the site.
- 2.2.6 Mohamed Edroos (ME) of AECOM said that the Passive Solution would capture surface water runoff from the realigned Catherine-de-Barnes Lane between the Catherine-de-Barnes Lane South Overbridge and the Bickenhill roundabout and surface water runoff from the greenfield area adjacent to the northbound carriageway. This would be conveyed underground by an underground drainage system through the junction at Shadowbrook Lane and the drainage system will connect to a swale adjacent to Shadowbrook Lane. He said that it will then connect to the existing ditch at the northern perimeter of the SSSI area.
- 2.2.7 In response to a question from the ExA as to whether the water running off from the road should be treated, OT explained that as Catherine-de-Barnes Lane is deemed to be relatively lowly trafficked there is a relatively low risk that the water running off it would be significantly contaminated. He said that water will be treated by a swale and filtered by drains as it runs off the road. The design incorporates levels of treatment, some within the swale and in other vegetation.

Post hearing clarification

- 2.2.8 The water quality risk from this section of the road is relatively low, as compared with the runoff that would be expected from larger trunk roads and motorways. As such, this does not mean the runoff will be uncontaminated and some pre-treatment prior to use on the SSSI is likely to be required.
- 2.2.9 It was an error to say that two forms of treatment would be provided on road runoff from Catherine de Barnes Lane, a filter drain followed by a swale. The current design is for a filter drain for runoff towards the road from the adjacent green field area. Only a swale is provided currently for treatment of the road runoff.
- 2.2.10 Based on the existing HAWRAT assessment completed to date, the swale will provide a good level of treatment when compared with Design Manual for Roads and Bridges (DMRB) standards, and the Scheme will reduce the traffic flows along Catherine-de-Barnes Lane (and therefore the source of vehicle derived contamination), which is believed to discharge to the central ditch flowing through the Shadowbrook Meadow SSSI Unit.

- 2.2.11 The ExA asked whether any calculations were undertaken to assess the possible pollution levels of oil and debris from the road being mixed in with the water. OT said that the entire Scheme had been assessed in accordance with DMRB guidance. OT noted that, with reference to the guidance, the assessment of highway runoff risks to waterbodies was typically required on roads with traffic flows exceeding 10,000 vehicles per day. ME said that the Applicant will review the predicted traffic flows on Catherine-de-Barnes Lane and whether other potential treatments to the water running off the road are required. The Applicant confirmed it would provide a response by D7.
- 2.2.12 The ExA noted that as the Applicant is monitoring MG4 grass in Bickenhill Meadows it should be in a position to monitor MG5 grass. The ExA asked whether such provisions could be included in a Statement of Common Ground or in a monitoring Scheme. Marcus Wainwright-Hicks (MWH) of AECOM said that the Applicant's current investigations show that there will not be an impact on MG5 grass in the dry meadow and the Applicant noted there is a requirement to monitor MG5 grass in the future. He said that MG5 in the wet meadow will be monitored.
- 2.2.13 WWT submitted that it agreed that the Passive Solution was a better approach than the pumped solution but that it would prefer for long-term maintenance to be the responsibility of SMBC.
- 2.2.14 SMBC said that it would wait for the Statement of Common Ground between the Applicant and Natural England.

Effects on protected species

- 2.2.15 The ExA mentioned that the Applicant had submitted a Bat Survey Report on 23 September [AS-034/Volume 8.62]. The ExA said the report identified additional impacts to those presented in the Environmental Statement (ES) and sought confirmation that no changes should be made to the conclusions in the ES.
- 2.2.16 MWH of AECOM said that the main additional impact identified was the confirmation of additional bat roosts. However, MWH noted that these additional roosts are day roosts which bats use for a single night. He said that the Report had not identify any roosts that were of more significance. MWH said that the Applicant reconfirmed the types of roosts found in buildings and determined that they had not changed. As the additional roosts are considered to be of the same nature as those found in previous reports, the Applicant does not consider there to be an additional impact. Therefore, the findings and conclusions of the ES remain unchanged.
- 2.2.17 In response to a question from the ExA, MWH said that in his view the letter of no impediment still stands.

- 2.2.18 The ExA asked whether the measures in the Outline Environmental Management Plan (OEMP) [**APP-172/Volume 6.11**] would be adequate if otters are discovered within the scheme. MWH said that the Applicant believed the potential for otters to be found within the scheme is low, following the results of survey evidence. He said that in the unlikely event that otters were found he was satisfied that the measures in the OEMP were sufficient.
- 2.2.19 The ExA noted that the Applicant had submitted an amended Outline Bird Strike Management Plan [**REP5-006/Volume 8.25(a)**]. The Applicant agreed to provide a tracked version of the plan to show the amendments made to the previous version submitted at D2 [**REP2-023/Volume 8.25**].

2.3 Ancient woodland

Mitigating the loss

- 2.3.1 The ExA noted that in advance of the hearing the Applicant submitted the Ancient Woodland Technical Note [**AS-035/Volume 8.64**] and Phil King (PK) of AECOM explained its contents to the Interested Parties present. He said that the Applicant prepared the technical note to provide clarifications on initial findings and to set out other measures the Applicant intended to put in place to enhance compensation measures.
- 2.3.2 PK explained that the 0.46 ha area of loss reported in Chapter 9 of the Environmental Statement [**APP-054/Volume 6.1**] represented the worst-case impact the Scheme could have on Aspbury's Copse ancient woodland. However, he suggested that if Junction 5A were to be built exactly as shown in Sheet 2 of the General Arrangement Plans [**APP-008/Volume 2.4**] the total habitat loss within the ancient woodland would be 0.36ha.
- 2.3.3 PK said that the Applicant was considering moving the Solihull Road Overbridge further north within the Limits of Deviation, which could further reduce the loss of ancient woodland within Aspbury's Copse to 0.21 ha. He said that the precise distance that the overbridge could be moved would be subject to detailed design but that moving the overbridge further north would significantly reduce the impact on ancient woodland. He explained that the overbridge could only be moved so far before it would impact on other structures and that a movement of approximately 10 metres was considered the furthest it could be moved without giving rise to this impact.
- 2.3.4 PK said that the Applicant would use reasonable endeavours to enter into a woodland management plan with the owners of Aspbury Copse. He said that if such an agreement can be reached, the Applicant will develop a management plan in consultation with Natural England. Although there is detail to be agreed, the measures will be secured in the register of environmental actions and commitments (REAC).

2.3.5 The ExA asked whether the Applicant should use best endeavours to reduce the impact on ancient woodland. NE said that it was appropriate that the Applicant use reasonable endeavours to reduce the impact on ancient woodland from that reported in the ES so far as practicable. He said that if the bridge was moved too far north it may interfere with other structures. He said that the Applicant believes that moving the overbridge 10m north would be feasible but without going through the buildability process it cannot say for certain. He said that the Applicant is aware that the abutments to Junction 5A and the existing footing of the overbridge could be potential constraints. He said that the Applicant is reasonably confident that the overbridge can be moved further north but that it is not certain how far north it can be moved.

2.3.6 NE confirmed that the Applicant did not consider that there would be other environmental impact in moving the overbridge 10m north.

Compensation planting ratio

2.3.7 PK said that if the Applicant was unable to increase the compensation ratio through reducing the impact on ancient woodland, it would consider acquiring additional land to achieve a replanting ratio of at least 7:1. He explained that by moving the overbridge north the receptor site could potentially deliver a ratio of approximately 9:1.

2.3.8 In response to submissions from WWT and SMBC asking the Applicant to consider the 24:1 ratio in Natural England guidance, NE said that the guidance was intended to be illustrative and each case should be determined by its own circumstances. He said that the Applicant understood that it is preferable to avoid any impact on ancient woodland where possible rather than replace it. He noted that the Applicant had considered the compensation ratios in other DCOs and that the proposed ratio was in excess of that offered by HS2. He said the Applicant had looked at a variety of ways to ensure that the Applicant could deliver a ratio of at least 7:1. NE said that the Applicant would consider how best to secure the commitment, possibly by including it in the REAC or in a management plan.

2.3.9 POR asked why the Applicant would not increase the compensation planting ratio. NE explained that the Applicant would require a significant amount of land for the replanting and that any replacement planting should be as close as possible to the ancient woodland. He said that the Applicant is unable to justify acquiring private land to secure a 24:1 replanting ratio and that it also had to consider airport safeguarding.

2.3.10 In response to questions from the ExA regarding how the Applicant could provide comfort to the ExA that such ratios would be delivered, NE confirmed that although the minimum replanting ratio in the technical note was 4:1, a minimum of 5.3:1 was more likely. However, he said that the Applicant was confident that there were sufficient measure in place that the Applicant should be in a position to achieve a replanting ratio of 7:1.

2.3.11 MWH confirmed that the Applicant had previously translocated ancient woodland on schemes. The Applicant agreed to provide information on how ancient woodland was managed in other schemes for D7. He said that the soil survey demonstrated that the receptor site is appropriate for translocation.