

M42 Junction 6 Development Consent Order

Scheme Number TR010027

8.85 Applicant's Comments on Responses Received at Deadline 6 to the Panel's Third Written Questions

Planning Act 2008

Rule 8(1)(c)(ii)

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[]

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| Regulation Number | Rule 8(1)(c)(ii) |
| Planning Inspectorate Scheme Reference | TR010027 |
| Document Reference | 8.85 |
| Author | M42 Junction 6 Development Consent Order Team and Highways England |

| Version | Date | Status of Version |
|----------------|-----------------|--------------------------|
| 1 | 28 October 2019 | Final for Deadline 7 |

1 Applicant's Comments on Responses Received at Deadline 6 to the Panel's Third Written Questions

- 1.1.1 This document provides the comments of Highways England (the **Applicant**) on some of the responses by Interested Parties to the Examining Authority's (**ExA**) third written questions submitted to the Planning Inspectorate for Deadline 6, 11 October 2019.
- 1.1.2 The Applicant has sought to provide comments where it appeared to be helpful to the Examination to do so, for instance where a response includes a request for further information or clarification from the Applicant or where the Applicant considers that it would be appropriate for the ExA to have the Applicant's comments on a matter raised by an Interested Party in its response.
- 1.1.3 Where an issue raised within a response has been dealt with previously by the Applicant, for instance in the Applicant's own response to a question posed by the ExA in previous rounds of written questions or within one of the documents submitted to the Examination, a cross reference to that response or document is provided to avoid unnecessary duplication. The information provided in this document should, therefore, be read in conjunction with the material to which cross references are provided.
- 1.1.4 The Applicant has not provided comments on every response made by an Interested Party to the questions raised. In some cases, no comments have been provided, for instance, because the response provided a short factual response, or because it reiterated previously expressed objections in principle to the scheme or expressions of opinion without supporting evidence.
- 1.1.5 For the avoidance of doubt, where the Applicant has chosen not to comment on matters raised by Interested Parties this is not an indication that the Applicant agrees with the point or comment raised or opinion expressed in that response.
- 1.1.6 The comments are set out in **Table 1-1** below.

Table 1-1: Applicant's Comments on Third Party Responses to the ExA's Third Written Questions Submitted for Deadline 6

| Question No./ Party | Question/Response/Comments (and drafting example where relevant) |
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| 3.5.1 | <p>Mitigation and monitoring: Surveys</p> <p>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]?</p> |
| Natural England's Comment | <p>Biodiversity Offsetting Report and Fungi Survey</p> <p>Natural England confirms it has not as yet had sight of these documents. We understand that the Fungi Survey is intended submission at Deadline 6.</p> <p>Lichen Survey Report (8.48)</p> <p>The site is assessed as being regionally important for lichens and as having some bryological potential. This assessment adds weight to the importance of this irreplaceable ancient woodland habitat. See Annex B of this correspondence for further Natural England comment in respect of the survey including woodland management recommendations.</p> <p>GCN Survey Report (8.52)</p> <p>Natural England has considered report 8.52 Great Crested Newt Report 2019. We concur with AECOMs conclusions that the updated survey information does not alter the impact assessment and as such the mitigation proposed remains appropriate. Consequently, Natural England confirms that our assessment of the previously submitted draft licence applications and the letter of no impediment (LONI) we issued on 16 November 2018 remain valid.</p> |
| Applicant's Comment | <p>Annex B of Natural England's response to the Deadline 4 Submission – 8.48 Lichen Survey Report 2019 [REP4-003/Volume 8.48] makes a series of recommendations for the protection of lichens and future woodland management. The measures to protect lichens include the retention of trees and deadwood, which are already committed to in the Environmental Statement Chapter 9 - Biodiversity [APP-054/Volume 6.1]. Other measures to manage the retained areas of Aspbury's Copse form part of the reasonable endeavours that are described in Section 3.2 the Additional Submission - 8.64</p> |

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| | <p>Ancient Woodland Clarifications and Proposed Additional Measures Technical Note [AS-035]. In the event that future management of Aspbury's Copse (or other areas of ancient woodland) is secured then the measures requested, such as canopy thinning, promoting regeneration and species and structural diversity would be discussed with Natural England upon finalising a woodland management plan for the Scheme.</p> <p>Natural England also referred to the requirement to buffer and extend the woodland to reduce edge effects. Edge effects have been considered as part of the overall assessment of effects upon Aspbury's Copse that are presented in the Environmental Statement Chapter 9 - Biodiversity [APP-054/Volume 6.1]. The highway verge will provide a buffer of green infrastructure providing some amelioration of edge effects, particularly where this is planted with trees and scrub. Further, as detailed in Table 9.10 of the Environmental Statement Chapter 9 - Biodiversity [APP-054/Volume 6.1], and in relation to the potential edge effects of aerial pollutants, the long-term air quality effects at Aspbury's Copse are expected to improve. The existing assessment is therefore considered to remain appropriate and no additional measures are considered necessary.</p> |
| 3.5.4 | <p>Mitigation and monitoring: Bickenhill Meadows SSSI</p> <p>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'.</p> |
| Natural England's Comment | <p>Natural England confirms we have not as yet received a formal response to our comments on the 'Bickenhill Meadows SE Unit Draft Position Statement' submitted to your authority 2 September 2019. We understand that the SSSI Management Plan will be issued to us for comment shortly which we hope will address these issues.</p> |
| Applicant's Comment | <p>The Applicant can confirm the working draft of the Outline Bickenhill SSSI Monitoring and Management Plan was issued to Warwickshire Wildlife Trust, Natural England and Solihull Metropolitan Borough Council (SMBC) for consultation on the 14th October 2019.</p> <p>Natural England responded to the Applicant on the 22 October 2019 stating, "<i>We are pleased that our recommended 'passive' approach to mitigation has been adopted and we are supportive of the broad principles outlined.</i>"</p> |

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| Solihull Metropolitan Borough Council's Comment | SMBC would like to see management plan and how affected landowners will have restricted covenants to ensure mitigation is maintained |
| Applicant's Comment | The Applicant does not consider that restrictive covenants are necessary to deliver this mitigation solution and therefore none are included within the monitoring plan. |
| 3.5.5 | <p>Mitigation and monitoring: Ancient Woodland</p> <p>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.</p> |
| Natural England's Comment | See Annex A of this correspondence for Natural England's detailed comments in relation to the 8.55 Soils Survey Report: Soil suitability assessment for ancient woodland and grassland translocation. |
| Applicant's Comment | <p>The Applicant acknowledges Natural England's recommendation to translocate grassland turves and, where practicable, this will be included in the grassland translocation strategy. The other recommendations made by Natural England are in-line with those already presented in the Chapter 9 – Biodiversity [APP-054/Volume 6.1] and 6.11 - Outline Environmental Management Plan (OEMP) [APP-172/Volume 6.11].</p> <p>Natural England make a set of recommendations in relation to the approach for ancient woodland translocation. These are considered to be in-line with the recommendations of the Deadline 4 Submission - 8.55 Soil Survey Report [REP4-007] and the measures already presented in the Chapter 9 – Biodiversity and 6.11 - Outline Environmental Management Plan (OEMP) [APP-172/Volume 6.11]. The type of permeable backfill material used at the receptor site would be specified at the detailed design stage.</p> |

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| The Woodland Trust's Comment | <p>Section 4 (Soil suitability and resources): The Trust acknowledges the applicant's attempt to replicate the soil qualities of the donor and receptor sites. However, we hold concerns with regards to the nutrient content of the receptor site, as this is likely to encourage the growth of more ruderal species that are likely to out-compete the more sensitive, ancient woodland flora.</p> <p>Section 5 (Soil Management): With reference to the soil removal method, the Trust is not clear on whether the soil will be scraped from the surface or removed as telves. The process of scraping is likely to significantly disturb the soil profile of the ancient woodland soil, as the method often creates bare areas of ground that are more suitable to the establishment of ruderal species¹. The Trust also recommends that the soil is translocated in autumn/winter to limit disturbance.</p> |
| Applicant's Comment | <p>The Applicant accepts that there is potential for ruderal and scrub species to establish given the nutrient status of the existing ancient woodland soils, which are higher on the western woodland compartment. However, this has already been considered in design of the translocation strategy and the criteria for the monitoring of its success. As detailed in the Environmental Statement Chapter 9 - Biodiversity [APP-054/Volume 6.1] and 6.11 - Outline Environmental Management Plan (OEMP) [APP-172/Volume 6.11], the risk of nutrient release will be managed through careful handling of soils, and any colonisation by unwanted ruderals will be controlled through specific management measures. The latter may include hand weeding or spot herbicide treatment. Monitoring of the success of translocation (as judged by a number of factors, including maintenance and colonisation of ancient woodland ground flora) will inform the type and intensity of treatment. This approach is considered the most appropriate to maximise the success of translocation.</p> <p>The ancient woodland soils will be transferred to the receptor by loose-tipping rather than turf translocation. As detailed in the Deadline 4 Submission - 8.55 Soil Survey Report [REP4-007] this approach is proposed in order to manage the risk of compaction damage of soils. Although this will lead to changes to the existing woodland soil structure, effort has been made to minimise the disruption, for example, by including the translocation of trees and stumps which will maintain some structure and plant-soil relationships. The protocol outlined in paragraph 9.8.48 of the Environmental Statement Chapter 9: Biodiversity [APP-054], also in addition to within the soil report, specifies that the translocation of ancient woodland soils will be undertaken in autumn/winter.</p> |

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| Warwickshire Wildlife Trust's Comment | <p>Warwickshire Wildlife Trust has reviewed the Soil Survey Report. We note that this surveys the soil characteristics of nutrient, texture and drainage for topsoil and upper subsoil on the donor and receptor sites.</p> <p>Whilst we acknowledge that the survey conclusion is that the soil characteristics are suitable at these proposed donor and reception sites for translocation, clearly there are other considerations which will determine successful translocation in the long-term. We would repeat our request for details of previous successful projects carried out by the Highways Agency and wider details on the methodologies proposed and long-term management. We maintain our objection to the translocation of ancient woodland, this should be avoided as it is an irreplaceable habitat.</p> |
| Applicant's Comment | See response in Volume 8.87 . |
| Solihull Metropolitan Borough Council's Comment | <p>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-ASHighways 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</p> |
| Applicant's Comment | See response in Volume 8.87 . |