

From: [Lawlor, Derek \(Places Directorate - Solihull MBC\)](#)
To: [M42 Junction 6](#)
Subject: M42 Junction 6 Improvement Project
Date: 15 November 2019 11:50:41
Attachments: [20191115 SMBC to PINS .pdf](#)

Dear Planning Inspectorate – Please accept the enclosed letter from Solihull Metropolitan Borough Council in response to Deadline 9 matters for M42 Junction 6.

Could you kindly acknowledge receipt please?

Kind regards

Derek

Derek Lawlor
UK – Central Delivery Group Manager
Metropolitan Borough of Solihull Council
Tel 0121 704 6434



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Date: 15th November, 2019

APPLICATION NO.: M42Junction6
CASE OFFICER: Derek Lawlor
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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 9 of Rule 6 letter dated 8th November 2019

Further to the Rule 6 letter issued by The Planning Inspectorate on 8th November 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 9 matters;

Part of DCO	Extract from DCO	Commentary	SMBC Response
<p>Art 15 - Classification of roads etc</p>	<p>15(7) Unless otherwise agreed by the relevant planning authority, the public rights of way set out in Part 6 (public rights of way) of Schedule 3 and identified on the rights of way and access plans are to be constructed by the undertaker in the specified locations and open for use from the date on which the authorised development is open for traffic.</p>	<p>Obstruction or severing of existing PROWs is likely to occur well before the authorised development is brought into use, so that if replacement footpaths were to be available before the authorised development was open to traffic, their use would help to restore connectivity and accessibility for pedestrians, cyclists and other non-motorised users. The Applicant should employ a form of words for Art 15(7) to promote that possibility. We propose that the following amendments to Art 15(7): Delete: Unless otherwise agreed by the relevant planning authority Add to the end of Art 15(7): ' unless the earlier opening of a public right of way might be achievable and warranted, as may be agreed with the relevant local planning authority.'</p>	<p>SMBC support this but suggest the amendment is changed to <i>unless the earlier opening of a public right of way might be achievable and warranted, as may be agreed with the relevant highway authority.</i></p>

<p>Art 20 - Traffic regulation</p>	<p>20(1) This article applies to roads in respect of which the undertaker is not the traffic authority. (2) Subject to the provisions of this article, and the consent of the traffic authority in whose area the road concerned is situated, which consent must not be unreasonably withheld, the undertaker may, for the purposes of the authorised development- (b) permit, prohibit or restrict the stopping, waiting, loading or unloading of vehicles on any road;</p>	<p>Art 20(2)(b) provides wide powers to introduce parking restrictions for the purposes of this scheme, subject to the consent of the traffic authority. The Applicant is willing to use these powers to deter anti-social parking (including taxis) in the areas identified by local residents and parish councils, particularly in REP6-028 and REP6-040. It is agreed that details are to be devised, in consultation with SMBC, indicating how appropriate restrictions might be imposed while preventing, as far as possible, anti-social parking towards the centre of the village. The ExA welcome this approach and considers that the anti-social parking should be deterred. The Applicant should, as appropriate, either make changes to this article so that the traffic regulation powers are focussed enough to allow the imposition of restrictions to prevent anti-social parking, or amend R10 (traffic management) to achieve the same.</p>	<p>Following the introduction of Red Route parking restrictions on the roads in the immediate vicinity of Birmingham Airport in 2018, there has been an increase in the volume of short term parking relating to vehicles waiting to pick up people arriving at Birmingham Airport parking on the streets in Bickenhill Village.</p> <p>Presently, there are no parking restrictions in this area as any restrictions are only likely to displace the parking further towards the centre of the village and if introduced across the village, will then start to impact on the residents or their visitors. In addition, events at the local church or village hall would also be affected by any new parking restrictions</p> <p>Whilst these vehicles are predominately Private Hire Taxis, there are also normal privately owned vehicles, generally cars, using this area to wait for arrivals, which are concerned about the high cost of airport short stay parking tariffs. Conversations have taken place with the Airport, who are aware of the problem but have no plans at the present time to mitigate for the displaced parking.</p> <p>The Council is generally not supportive of Residents Only parking schemes, unless they are self-funded or externally funded so that there is no additional burden for the council's Parking Services budget.</p> <p>There is no easy solution here and we doubt whether the Highways England scheme will make any significant difference to current parking practices. If anything it could be argued that the new highway arrangement could make parking in the village less attractive.</p>
<p>Art 39 - Felling or lopping of trees and removal of hedgerows</p>	<p>39(1) The undertaker may fell or lop any tree or shrub within or overhanging land within the Order limits, or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree or shrub- (a) from obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in</p>	<p>The <i>Ancient Woodland Clarifications and Proposed Additional Measures Technical Note [AS-035]</i> includes several measures to reduce the impact on, and to enhance the management of, ancient woodland. Subject to undertaking reasonable endeavours, those measures are to be incorporated in an updated REAC and made binding through the OEMP. Moreover, it is stated that such measures should bind the Applicant over and above the provisions set out in Art 39 [REP7-009]. The ExA's preferred dDCO requires this to be explicitly stated in Art 39 for</p>	<p>SMBC would wish to discuss the removal of any hedges or trees required for temporary works with the applicant and their Contractor beforehand to see if any loss could be reduced</p>

	<p>connection with the authorised development; or</p> <p>(b) from constituting a danger to persons using the authorised development.</p> <p>(2) In carrying out any activity authorised by paragraph (1), the undertaker must do no unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from such activity</p> <p>(3)</p> <p>(4) The undertaker may, for the purposes of carrying out the authorised development but subject to paragraph (2), remove any hedgerow within the Order limits and specified in Schedule 9A (hedgerows to be removed or managed) that is required to be removed.</p> <p>(5)...</p>	<p>the avoidance of any doubt.</p> <p>Also, it is proposed that Art 39 includes schedules and plans showing the trees and hedgerows likely to be affected by the scheme to comply with good practice point 6 of Advice Note 15. (It is understood that Schedule 9A is to be completed.)</p> <p>The following amendments are suggested:</p> <p>Amend Art 39(1) as follows: ‘The undertaker may fell or lop any tree or shrub identified in Schedule 9B...’</p> <p>New Schedule 9B should bring together the information at Appendix 1, Table 1 of APP-128, Table 1-1 of REP6-019 and the plans in Appendix 1 of REP7-089.</p> <p>Amend Art 39(2) as follows: ‘The undertaker may, for the purposes of carrying out the authorised development but subject to paragraph (3), remove any hedgerow within the Order limits and specified in Schedule 9A (hedgerows to be removed or managed) that is required to be removed.’</p> <p>Amend Art 39(3) to: ‘In carrying out any activity authorised by paragraphs (1) and (2), the undertaker must do no unnecessary damage to any hedgerow, tree or shrub and must pay compensation to any person for any loss or damage arising from such activity.’</p> <p>Amend Art 39(4) as follows: ‘Any dispute as to a person’s entitlement to compensation under paragraph (3), or as to the amount of compensation, is to be determined under Part 1 of the 1961 Act.’</p> <p>Schedule 9A should reflect Table B-5-3 of APP-131 and the plans in</p>	
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		Figure 1 of REP6-020.	
Work No.76	<p>Work No.76 as shown on Sheet No. 3 of the works plans and being the installation of a pumped system to mitigate for the loss of surface water catchment area to the Bickenhill Meadows SSSI – Shadowbrook Meadows unit. Works to feature collection drains and chambers, a pump station and a pressured pipeline to feed replacement water to an appropriate water feature in the vicinity of the SSSI.</p>	<p>Careful work and consultation between the Applicant, Natural England, Warwickshire Wildlife Trust and SMBC have resulted in an agreed <i>Bickenhill Meadows SSSI Hydrological Investigation Technical Note (v9.1)</i> [REP3-004]. This promotes a ‘passive’ solution to provide sufficient water to maintain the Shadowbrook Lane (SE) unit of the SSSI rather than the ‘pumped’ solution currently referred to in Work No.76, unless the required monitoring, together with the commitments given in the REAC, demonstrates the necessity to implement a ‘pumped’ solution. The required monitoring of the proposed solution is to be contained in the <i>Outline Bickenhill Meadows SSSI Monitoring and Management Plan</i> [REP7-015].</p> <p>The Applicant is asked to amend Work No.76 to reflect the proposed solution set out in the <i>Bickenhill Meadows SSSI Hydrological Investigation Technical Note (v9.1)</i> [REP3-004].</p> <p>The following amendment is suggested:</p> <p>Insert after ‘as shown on Sheet No.3 of the works plans and being the installation of’</p> <p>‘(a) a passive system to mitigate for the loss of surface water catchment area to the Bickenhill Meadows SSSI – Shadowbrook Meadows unit. Works to feature collection drains, ditches and conveyance swales to deliver water to the northern ditch in accordance with the details and the monitoring protocol set out in the <i>Outline Bickenhill Meadows SSSI Monitoring and Management Plan</i> or</p>	<p>SMBC would prefer that land areas that includes swales etc are handed back to the land owners with restricted covenants on landowners to ensure swales etc are maintained and not amended in the future</p>

		(b) in the event that the monitoring protocol indicates the provision of insufficient water to maintain the SSSI, the installation of a pumped system...'	
R4	<p>(3) The CEMP must be written in accordance with ISO14001 and must ...</p> <p>(c) require adherence to working hours of 07:00–18:00 on Mondays to Fridays and 08:00–13:00 on Saturday</p>	<p>In agreeing to the working hours proposed, SMBC seek to prevent annoying or disturbing noisy activities taking place between the hours of 07:00 and 08:00, following the approach that they have adopted for the construction works for HS2. Although BS 5228 provides objective thresholds for construction noise in various situations, such noises may well be annoying or disturbing when heard between 07.00 and 08.00 hours. Discussions are underway between the Applicants and SMBC to devise a protocol for addressing such issues.</p> <p>In those circumstances, the ExA consider that R4(3)(c) should refer to the intended limitations on construction noise levels between 07.00 and 08.00 hours. The following amendment is proposed: Insert after 'working hours of 07:00–18:00 on Mondays to Fridays and 08:00–13:00 on Saturday' ', subject to no annoying or disturbing noise activities [referencing the identified protocol] taking place between the hours of 07:00 and 08:00 on those days except for-... (i)-(xiv) etc.'</p>	<p>SMBC's prefer preventing annoying or disturbing noisy activities taking place between the hours of 07:00 and 08:00 near sensitive properties (many residents of these properties attended the hearings) which could be agreed with SMBC in advance.</p> <p>The activities shown as an exception in the proposed amendment below would normally be covered by a Section 61 notice</p> <p><i>In relation to the amendment proposed: Insert after 'working hours of 07:00–18:00 on Mondays to Fridays and 08:00–13:00 on Saturday' ', subject to no annoying or disturbing noise activities [referencing the identified protocol] taking place between the hours of 07:00 and 08:00 on those days except for-... (i)-(xiv) etc.'</i></p>
R4	R4(3)d(xvi) Outline Compound Management Plan Appendix 1: Indicative Proposal for Main Compound and Office for the Scheme [REP8-009]	The 'Indicative Proposal for Main Compound and Office for the Scheme' replicates the initial arrangement set out at D3A [REP3A-003] rather than the alternative configurations put forward at D6 (REP6-015 – page 13) and D7 (REP7-011 – Appendix 1, Page 2 of	SMBC would welcome more detailed discussions with HE and their contractor to see how this alternative would work safely and not have traffic backing up on to the Clock Interchange

		<p>2). It was agreed that an alternative configuration was possible with an entrance and exit onto Catherine-de-Barnes Lane at the northern end of the compound (Figure 1 at Action No.4 of REP6-015). Moreover, a plan at page 13 in the same section of the same document details how the compound could be reconfigured to the north and east to increase the buffer significantly between the compound perimeter and the adjacent properties on Church Lane. Although the laydown areas would then be closer to residents at the north east of Church Lane, they would be screened by existing trees and hedgerows and the proposed stockpile bunds as shown in the cross sections on page 2 of Appendix 1 of REP7-011. The ExA recognise that this configuration might require a right turn from the northern exit to be prohibited and the installation of traffic lights there and additional phases in constructing the main line link road. However, the scale of the embankments and earth moving required for the scheme suggested in EV-040 could be prohibitive.</p> <p>The following amendment is therefore proposed (see also new R14 below):</p> <p>Substitute the existing Plan at Appendix 1 of the Outline Compound Management Plan [REP8-009] with the plan shown at Action No.4 of REP6-015 (page 13) detailing how the compound could be pushed further to the north and east to increase the buffer and as also shown in the cross sections on page 2 of Appendix 1 of REP7-011.</p>	
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R9	<p>Archaeological remains 9(1) No part of the authorised development is to commence until for that part a written scheme for the investigation of areas of archaeological interest has been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority on matters related to its function.</p>	<p>Discussions are underway with SMBC on the wording that could be added to R9. It is agreed that the Written Scheme of Investigation is the best document to include such detail. The ExA welcome this agreement. We look forward to receiving the final Written Scheme of Investigation and any consequent changes to the DCO at D9.</p>	<p>It is expected that the proposed Written Scheme of Investigation (WSI) will be prepared in advance of the commencement of works, in consultation with SMBC, rather than being submitted with the updated Draft Consent Order at D9. That WSI should detail the proposed archaeological fieldwork, and subsequent post-excavation analysis, reporting, publication and archiving arrangements.</p> <p>It should also detail the arrangements to be put in place should any archaeological remains not previously identified be revealed during the development. As unexpected features could be identified across any part of the site (though the risk of this has been significantly reduced by the evaluative archaeological fieldwork undertaken to date), the WSI should be produced and agreed before any development works commence and should apply to the whole development area. SMBC do, however, acknowledge that further, planned, archaeological work will only be necessary across the areas of 'archaeological potential' (including those areas that have not been archaeologically examined to date).</p> <p>Whilst an archaeological Written Scheme of Investigation (WSI) has been included in Appendix 7.1 of the Environmental Statement, we would highlight that this only covers the arrangements for archaeological evaluation by trial trenching; it does not include any provision for undertaking any further archaeological works should archaeological features be identified during that trial trenching, or provision for alternative approaches to assessing and mitigating archaeological impacts if these are considered more appropriate.</p>
R13	<p>13(1) No part of the authorised development that affects Bickenhill Meadows SSSI is to commence until a detailed Bickenhill Meadows SSSI monitoring management plan has been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority on matters related to its function. (2) The detailed</p>	<p>The ExA welcome the preparation of the Bickenhill Meadows SSSI Monitoring and Management Plan. Suggested amendments to R13, discussed and agreed at ISH 7 (DCO 4), entails amending the text to R13(1) after relevant local planning authority as follows: 'and Natural England on matters related to their function.' And, inserting at the end of R13(2)(b): ' , which must be taken in the event that the trigger points are met or exceeded.'</p>	<p>We have not been able in the short time to be able to obtain a response from our expert Officers but we could provide more feedback within 2 weeks if this was helpful</p>

	Bickenhill Meadows SSSI monitoring management plan must set out— (b) details of trigger points and action measures...		
12	New R14 Configuration of the main site compound	<p>The ExA propose the insertion of a new R14 as follows:</p> <p>14(1) Notwithstanding the details shown on any Certified Plan and Document listed in Schedule 11 of this Order, work to construct the main site compound shall not commence until a scheme for its configuration has been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority on matters related to its function.</p> <p>(2) Unless otherwise agreed by the relevant planning authority, the scheme must show how the compound could be configured to the north and east and an entrance and exit onto Catherine-de-Barnes Lane achieved at the northern end of the compound. Those access arrangements may entail prohibiting a right turn at the northern exit, or the provision of traffic lights and the possible re-programming of additional phases in constructing the main line link road.</p>	See our comments above

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New R15
Altering the Priority of
the Catherine-de-Barnes
Lane and St Peters
Lane Junction

The ExA note that the Applicant has previously considered the altered priority for this junction but discounted it due to the need for a departure from standards for the horizontal radius of the bend onto the northern overbridge, for the consequent visibility round the bend and for the visibility to the left at St Peter's Lane: and, the possibility that the 'straight' alignment might encourage vehicles leaving St Peter's Lane to do so without stopping. The ExA acknowledge that the road layout might need to be altered, but they do not agree that land beyond the Order limits would be required, or that necessary road signs and safety features would clutter the roadside scene (similar signs and features would be required by the current proposal) or that the departure from standards would lead to worse or unacceptable road hazards; the opposite would be the case.

Hence, the ExA propose the insertion of a new R15 as follows:

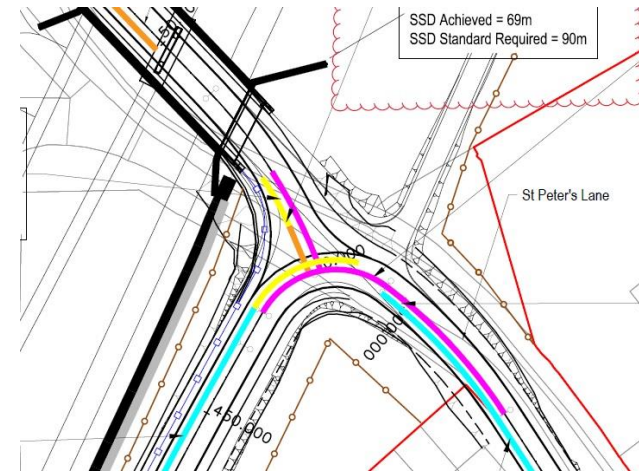
15(1) Notwithstanding the details shown on any Certified Plan listed in Schedule 11 of this Order, no part of the realignment of Catherine-de-Barnes Lane is to commence until a scheme for the northern junction of St Peter's Lane and Catherine-de-Barnes Lane has been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority on matters related to its function.

(2) Unless otherwise agreed by the relevant planning authority, the scheme must change the vehicular

SMBC would not support a change in priority at this junction

SMBC and HE explored 3 design options for the priority at re-aligned Catherine de Barnes Ln/ St Peters Ln junction depending on the available land and taking into consideration the number and severity of the departures from standard that associated with each design option;

Option 1; priority for traffic on re-aligned Catherine de Barnes Lane to St Peters Ln.



Option 1; the priority is for traffic on the re-aligned Catherin de Barnes Lane heading toward St Peters Ln, due to the limited available land for this design layout, this option introduced a sharp bend on Catherine de Barnes Ln and limited forward visibility. This combination of a substandard layout and short of visibility would create a black spot of accident on this junction. In total there would be 11 departures from standard on this option.

junction priority from St Peter's Lane to the realigned section of Catherine-de-Barnes Lane.

Option 2 ; priority for traffic on re-aligned Catherine de Barnes lane onto Catherine de Barnes Ln North overbridge



Option 2, Due to the existence of street features including safety barriers and the limited available land, this option introduced sharp bend on Catherine de Barnes Ln and a short stopping sight distance around the corner. This combination of departures would create a high risk of accidents especially for traffic turning right on St Peters Ln. In total there are 8 departures from standard on this option

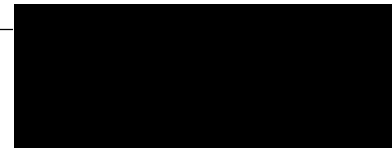
Option 3; priority for traffic on St Peters Ln to Catherine de Barnes Ln North overbridge – the preferred option



Option 3 has a priority for traffic on St Peters Ln heading toward

			<p>Catherine de Barnes Ln North overbridge, with this layout, traffic on the re-aligned Catherine de Barnes Ln has to give way/stop for the traffic on the St Peters Ln. Therefore the sharp bend would have no effect on the traffic manoeuvres around the junction, also traffic intending to turn right onto/out of re-aligned Catherine de Barnes Ln would have good forward visibility, therefore the potential risk of accident on this layout have been reduced to the minimum. In total there are 5 departures from standard on this option</p> <p>SMBC therefore support Option 3</p>
14		<p>It is agreed that the relocation of the underground storage tank and its access on land to the south of St Peters Lane would not affect the drainage arrangements and that it would be within the Limits of Deviation for Work No.35 [REP6-015]. However, this option is discounted because the access and egress would require a departure from standard and those defects (the provision of a layby off the realigned Catherine-de-Barnes Lane) are deemed to entail an increased risk of fly tipping and unregulated taxi parking. The ExA consider that those impediments could be avoided with measures within the dDCO. Moreover, this option has the advantage of locating the drainage arrangements to a roadside rather than introducing them to an otherwise relatively secluded area; the access to the fields and the aqueduct on the northern side of St Peters Lane need thus only be to an agricultural standard. Hence, the ExA propose the insertion of a new R16 as follows: 16(1) Notwithstanding the details shown on any Certified Plan listed in</p>	<p>We have not been able in the short time to be able to obtain a response from our expert Officers but we could provide more feedback within 2 weeks if this was helpful</p>

		<p>Schedule 11 of this Order, no part of the realignment of Catherine-de-Barnes Lane is to commence until an amended scheme for the underground storage tank and associated access (Work No.35) is submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority on matters related to its function.</p> <p>(2) Unless otherwise agreed by the relevant planning authority, the amended scheme must relocate the underground storage tank and access from the northern to the southern side of St Peter's Lane.</p>	
16		<p>Schedule 9A – Hedgerows to be removed or managed</p> <p>It is understood that Schedule 9A is to be completed at D9.</p> <p>The ExA look forward to receiving that information and the updated DCO.</p>	Noted



Signed

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