

From: [REDACTED]
To: [M25 Junction 28](#)
Subject: Environment Agency comments for Deadline 5 and WQ2
Date: 13 April 2021 17:22:51
Attachments: [image006.png](#)
[EA comments Deadline 5.pdf](#)

Dear Examiners

Please find attached our response to procedural deadline 5 including answers to WQ2.

Kind regards

Keira

Keira Murphy MRTPI

Strategic Specialist, Hertfordshire and North London Sustainable Places

Environment Agency | Alchemy, Bessemer Road, Welwyn Garden City, Hertfordshire, AL7 1HE



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

Our ref: NE/2020/132089/03-L01
Your ref: TR010029
Date: 13 April 2021

Dear Messrs. Allen and McArthur

Procedural Deadline 5.

Application by Highways England for an Order granting Development Consent for the proposed M25 Junction 28 Improvement Scheme

Please find enclosed our comments for procedural deadline 5 relating to the M25 Junction 28 improvement scheme Development Consent Order examination. This includes our update to the Examiners on progress made to-date and answers to the Examining Authority's Written Questions (WQ2) in Appendix A.

Ongoing engagement with the applicant

Since we provided our Written Representation to you on 4 February 2021 at Deadline 2 (REP2-025), we have made substantial progress in our talks with the applicant on the outstanding matters we raised.

Draft Order

As explained in our Written Representation (REP2-025), the protective provisions for the Environment Agency (Schedule 9, Part 3) within the draft Order (APP-015) deviated from our standard protective provisions and had yet to be agreed. Our answer to Examining Authority's Written Question DCO 2.6 in Appendix A outlines that we are now satisfied with the revised wording of the Protective Provisions for the EA submitted at Deadline 4 [REP4-002] as this is now in line with our standard protected provisions.

In addition we are content with the applicants proposed amendments to Article 48 'Disapplication of legislative provisions' of the draft DCO submitted at Deadline 4 to include *'the provisions of any byelaws made under, or having effect as if made under, paragraph 5, 6 or 6A of Schedule 25 (bye-law making powers of the appropriate agency) to the Water Resources Act 1991'* as our interest is adequately covered by the Protective Provisions (Schedule 9, Part 3).

Regarding Schedule 2 Part 1 'Requirements' we have asked the applicant to be included as a specific authority to be consulted for Requirements 4 (Construction Environmental Management Plan) and Requirement 5 (Landscaping). This is in addition to Requirement 6 (Contaminated Land and Groundwater). We have an essential interest in both these requirements due to the specific relevance to our remit on water related biodiversity, waste and water quality. To conclude we have no further comments on either Schedule 9, Part 3 or Article 48 of the draft



DCO, but we will wait to hear back from the applicant regarding Requirements 4 and 5 of Schedule 2 Part 1.

Waste Deposits

Our original concern was that the only mechanism referenced in ES Chapter 12 'Materials and Waste' (APP-034) for dealing with the re-use of waste materials through the construction process is a Materials Management Plan (MMP). As the materials previously deposited on site within the historical landfill and the unauthorised recently deposited waste are considered controlled waste, the recovery of them will require an Environmental Permit from the Environment Agency. Therefore we requested (RR-009) that the REAC (APP-097) includes the need to obtain an Environmental Permit. Subsequently we recommended that both ES Chapter 12 Materials and Waste (APP-034) and the Outline Construction Environmental Management Plan (APP-096) are updated to ensure that the Environmental Permitting requirements are appropriately incorporated within these documents. We support the changes proposed to these documents submitted at Deadline 3a (REP3A-036 10.8 ES Chapter 12 Materials and Waste – Changes 1-4 and Appendix E of REP3A-030 10.1 Report on Proposed Scheme Changes 1-4 for the REAC and CEMP). We understand that these changes will be incorporated shortly.

The applicant submitted to us on 14 December 2020 a draft Waste Recovery Plan for a permit pre-application. Our National Permitting Service (NPS) are finalising the assessment of the draft Waste Recovery Plan and we expect a decision to be issued shortly. The indications so far are that this should be a positive outcome, allowing the applicant to move to the next stage of applying for the Environmental Permit.

Water Framework Directive Mitigation Works

Our Written Representation to Deadline 2 (REP2-025) reiterated that the Water Framework Directive (WFD) mitigation and compliance in respect of works to the River Ingrebourne and Weald Brook is in principle an area of agreement. At that stage we were close to reaching agreement on a legal side agreement to deal with the offsite mitigation works.

We can now confirm the legal agreement has been approved by ourselves and the applicant. Therefore our representations made on this subject have been addressed by Highways England, and this matter has now been concluded. We look forward to working with Highways England on future details when working towards obtaining the necessary approvals via the Protected Provisions.

Final comment

Highways England will be submitting the updated Statement of Common Ground for Deadline 5. We look forward to continuing to work with the applicant on the detailed design stages of the project to ensure the best environmental outcome for this project. Please see Appendix A below for answers to WQ2.

Please do not hesitate to contact me if you require any further information.

Yours sincerely

Keira Murphy
Planning Specialist
Sustainable Places, Hertfordshire & North London

Appendix A

Environment Agency responses to Examining Authority's final written questions (WQ2)

1.0 We have provided our answers to the direct questions to the Environment Agency as relevant.

1.1 Question **GQ2.4** – *Consents and Licences*

At the Issue Specific Hearing 2 (ISH2) held on Friday 5 March 2021 [EV-010], the ExA asked the Applicant for a progress update on the Consents and Agreements Position Statement [APP-017] in respect to obtaining other consents and licences needed for the Proposed Development. The Applicant responded, confirmed in its written summary of oral submissions submitted at Deadline 4 [REP4-017] that most consents, permits and licences are agreed but that the following are outstanding:

i) Disapplication of s23, 30 and 32 of the Land Drainage Act 1991 agreement from Essex County Council;

ii) Protected species licence for great crested newts from Natural England; and

iii) Waste recovery permit in relation to controlled waste from Grove Farm from the Environment Agency (EA).

Confirm the consents, licences and permits required for the Proposed Development and that the above is an accurate reflection of matters outstanding.

The Environment Agency confirms that (iii) Waste Recovery Permit in relation to controlled waste from Grove Farm remains outstanding. We are anticipating a decision in principle to be issued soon by our National Permitting Service on the pre-application request by Highways England submitted December 2020. This will hopefully confirm that the draft Waste Recovery Plan is in principle acceptable and that a permit can be applied for in due course.

1.2 Question **DCO 2.6** – *Schedule 9 – Protective Provisions for the Environment Agency*

Comment on the revised wording of the Protective Provisions for the EA submitted in the updated draft DCO at Deadline 4 [REP4-002].

We are satisfied with the revised wording of the Protective Provisions for the EA submitted at Deadline 4 [REP4-002] as this is now in line with our standard protected provision and alleviates our concerns with regard to maintenance of drainage works (paragraph 22). This matter is now concluded.

1.3 Question **FDW 2.3** – *Outline Surface Water Management Plan*

Comments on the adequacy of the outline SuWMP provided at Deadline 3A as an appendix to the outline CEMP [REP3A-010].

We provided feedback to the applicant on 30th March 2021 that although this is mostly acceptable, it is missing information about how the SuDs measures will be managed for the long-term during the operational phase of the scheme. This is essential to ensure the

long-term effectiveness of the sustainable drainage measures in protecting water quality. The applicant has shared with us an updated version setting out the longer-term plan as section 3.1 which we think adequately covers this relating to our specific remit. The applicant has indicated they intend to submit this updated version for Deadline 5. We are satisfied this concludes the matter from our perspective.

1.4 Question **GS 2.1** – *Ground Investigation Report*

Comment on the adequacy of the Ground Investigation Report (GIR) submitted at Deadline 1 [REP1-023, REP1-024 and REP1-025] and the Applicant's response as set out at ISH1, confirmed in its oral submissions at Deadline 4 [REP4-016] that an outline Materials Management Plan does not need to be submitted into the Examination.

Unfortunately and our apologies that we had missed the GIR which had been submitted at Deadline 1. We will provide feedback on the GIR as soon as we can and by Deadline 6, 27th April 2021 at the latest. We are aware that the LB of Havering have reviewed and commented on the GIR.