

Application by Highways England for an Order Granting Development Consent for A57 Link Roads
The Examining Authority's draft first written questions and requests for information
Issued on 16 December 2021

This document sets out the Examining Authority's (ExA's) first written questions and requests for information.

This final version of the first written questions supersedes the draft version that was published on 8 December 2021.

Questions that have been changed from the draft version	Historic Environment questions renumbered from question 6.6 onwards.
Questions that did not appear in the draft version	2.4; 3.37 to 3.38; 5.1 to 5.23; 9.1 to 9.21; 10.1 to 10.8; 12.20; 13.1 to 13.16; 14.1 to 14.9

Responses are requested to this final version and should be received by the ExA by Deadline 2 on 14 January 2022.

The Planning Inspectorate's document references in these questions [in square brackets] can be found on the National Infrastructure Planning website at: [REDACTED]

Please could all parties answer all questions directed to them or explain why the question is not relevant to them. If questions can be **fully** answered within another submission, then a reference to the relevant paragraph(s) of the submission will be enough.

When you are answering a question, please start your answer by quoting the question number.

If you are answering no more than 3 questions, responses in a letter format will suffice. If you are answering several questions, it will assist the ExA if you could use a table based on that used below. An editable version of this table, in Microsoft Word, is available on request from the Planning Inspectorate. Please email your request to: A57LinkRoads@planninginspectorate.gov.uk.

Abbreviations

AQMA	Air Quality Management Area	NPPF	National Planning Policy Framework
BS	British Standard	NPSNN	National Policy Statement for National Networks
dDCO	Draft Development Consent Order	PA2008	The Planning Act 2008 as amended
DMRB	Design Manual for Roads and Bridges	PRoW	Public rights of way
EMP	Environmental Management Plan	RR	Relevant Representation
ES	Environmental Statement	SPA	Special Protection Area
ExA	Examining Authority	SuDS	Sustainable Drainage Systems
NO₂	Nitrogen Dioxide	TPO	Tree Preservation Order

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No	Question to	Reference	Question
1.	The draft Development Consent Order (dDCO) and other consents		
	Reference is made to the dDCO submitted by the Applicant for Deadline 1 [REP1-041].		
	General matters and other consents		
1.4	Applicant Environment Agency Natural England Local planning authorities	Other consents Updates	<p>a) Please provide an up-to-date position in respect of obtaining the necessary consents, licenses, and agreements.</p> <p>EA response: The applicant will require a number of consents from the Environment Agency including a dewatering and flood risk activity permit.</p> <p>b) Is there any reason to believe that any relevant necessary consents, licenses, and agreements will not subsequently be granted?</p> <p>c) Where appropriate, can letters of no impediment be provided by the Environment Agency and Natural England?</p> <p>EA response: The Environment Agency doesn't issue letters of impediment</p> <p>d) Please could a summary of progress in securing other consents be provided at each relevant Examination deadline?</p>
	Part 4 – Supplemental Powers		
1.23	Applicant Environment Agency	Article 19 Discharge of water Works to main rivers	Should the following provision be added:

No	Question to	Reference	Question
			<p><i>"The undertaker must not, in carrying out or maintaining works under this article, damage or interfere with the bed or banks of any watercourse forming part of a main river"?</i></p> <p>EA Response: We are reviewing this amendment and will provide comments at the next deadline.</p>
Schedule 2 – Requirements			
1.32	Local planning authorities Local highway authorities Environment Agency Natural England Historic England	Requirements 3-11 Provisions for consultation and agreement	<p>a) Please identify where it would be helpful, for example to bring clarity or to help avoid any later misunderstandings, for specific provisions to be included in any Requirement for consultation or agreement to be required with relevant bodies.</p> <p>b) In each case, please explain why the provisions should be included.</p> <p>EA Response: The Environment Agency wish to be consulted on any detail with regards to the Construction and Environment Management Plan to ensure mitigation for pollution prevention impacts of the construction are considered for the water environment.</p>
1.33	Applicant Local planning authorities Local highway authorities Environment Agency	Requirement 4(1) and (2) Second Iteration EMP	<p>a) Should there be a requirement for consultation on the second iteration EMP with the local highway authorities and the Environment Agency, as well as with the relevant planning authority?</p> <p>b) To give certainty that the measures identified in the ES are secured, should the second iteration EMP be required to incorporate the measures for the construction stage referred to in the ES as being incorporated in the EMP?</p>

No	Question to	Reference	Question
			<p>c) Should there be a requirement for the second iteration EMP to contain a record of the consents, commitments and permissions resulting from liaison with statutory bodies?</p> <p>d) Should there be a requirement for the second iteration EMP to be kept up to date with any material changes during construction and for consultation to be required on those changes?</p> <p>EA Response: We agree with all of the requirements that have been raised as methods for mitigation for pollution control are unclear at present. This will also ensure measures identified in the ES are secured as part of the EMP</p>
1.35	<p>Applicant</p> <p>Local planning authorities</p> <p>Local highway authorities</p> <p>Environment Agency</p>	<p>Requirement 4(4) and 4(5)</p> <p>Third Iteration EMP</p>	<p>a) Should there be a requirement for the third iteration EMP to be submitted to and approved in writing by the Secretary of State?</p> <p>b) Should there be a requirement for consultation on the third iteration EMP with relevant planning authorities, the local highway authorities and the Environment Agency?</p> <p>c) To give certainty that the measures identified in the ES are secured, should the third iteration EMP be required to:</p> <ul style="list-style-type: none"> • be substantially in accordance with the measures for the management and operation stage first iteration EMP; and to • incorporate the measures for the management and operation stage referred to in the ES as being incorporated in the EMP? <p>EA Response: a) No comment b) Yes – please see previous comments against 1.32 and 1.33 c) Yes to ensure these are delivered</p>
1.39	Environment Agency	Requirement 6	Should this requirement include:

No	Question to	Reference	Question
		Contaminated land and groundwater	<p>a) for no part of the authorised development to commence until a contamination risk assessment has been produced for that part;</p> <p>b) details of what is to be included in a contamination risk assessment and in a written scheme and programme;</p> <p>c) for contamination risk assessments to be submitted to and approved by the Secretary of State in consultation with the Environment Agency; and</p> <p>d) for construction to cease in the vicinity of any contaminated material that is found until a risk assessment and written scheme and programme have been submitted and approved?</p> <p>Does the Environment Agency have any other comments?</p> <p>EA Response:</p> <p>We would support the inclusion of the inspectors recommendations within the requirements but would also recommend the following requirements are included in the DCO which is a standard form of wording which we utilise to address this matter:</p> <p>(1) In the event that contaminated land, including groundwater, is found at any time when carrying out the authorised development which was not previously identified in the environmental statement, it must be reported as soon as reasonably practicable to the Secretary of State, the relevant planning authority and the Environment Agency, and the undertaker must complete a risk assessment of the contamination in consultation with the relevant planning authority and the Environment Agency.</p> <p>(2) Where the undertaker determines that remediation of the contaminated land is necessary, a written scheme and programme for the remedial measures to be taken to render the land fit for its intended purpose must be submitted to and approved in writing by</p>

No	Question to	Reference	Question
			<p>the Secretary of State, following consultation with the relevant planning authority on matters related to its function and the Environment Agency</p> <p>(3) Remediation must be carried out in accordance with the approved scheme.</p> <p>We would also highlight that following the review of the water quality data, we identified that the groundwater contained elevated concentrations of specific substances with an EQS including cadmium, chromium, cyanide, manganese, and total PAH, and that the applicant was unable to demonstrate compliance with the EQS. As the proposed discharge would provide most of the flow in the stream, <i>i.e.</i>, 60l/min discharge rate compared to 5l/min flow in the stream, there would be minimal dilution of the discharge, resulting in the stream being unsuitable for the proposed discharge. Therefore, we would recommend that alternative arrangements are sought for the disposal of the pumping test waters.</p>
1.41	Local planning authorities Local highway authorities Environment Agency	Requirement 8 Surface and foul water drainage	<p>Should there be a requirement for the relevant planning authority, local highway authority and/ or the Environment Agency to be consulted on written details of the surface and foul water drainage system?</p> <p>EA Response:</p> <p>Matters relating to surface water should be referred to the Lead Local Flood Authority as they are the statutory body for surface water. However, surface water outfalls constructed to Main River watercourses may require a Flood Risk Activity permit under the EPA 2016 Regs.</p>

No	Question to	Reference	Question
1.42	Environment Agency Lead local flood authorities	Requirement 9(2) Flood risk assessment	<p>a) Should any works otherwise in accordance with the flood risk assessment require the relevant lead local flood authority to be satisfied, as well as the Environment Agency?</p> <p>b) Are the Environment Agency and lead local flood authorities content that works do not need to be carried out in accordance with the flood risk assessment if all affected landowners accept the predicted exceedances of flood levels?</p> <p>EA Response</p> <p>(a) Matters relating to surface water should be referred to the Lead Local Flood Authority as they are the statutory body for surface water</p> <p>(b) We do not consider the requirement appropriate as National Planning Policy is clear that flood risk should not be increased as a result of any development (Para 159).</p>
1.44	Applicant Local planning authorities Local highway authorities Environment Agency	Requirement 12(1) Details of consultation Minimum period	<p>Should a minimum period be specified for the “<i>consultation with another party</i>” and, if so, what period would be reasonable?</p> <p>EA Response</p> <p>We are reviewing this statement and will provide comments at the next deadline.</p>
Schedule 9 – Protective Provisions			
1.57	Statutory Undertakers	Parts 1 and 2	Please could each Statutory Undertaker and the Environment Agency:

No	Question to	Reference	Question
	Environment Agency		<p>a) confirm whether it agrees with the provisions of the relevant Part of Schedule 9;</p> <p>b) identify all relevant side agreements;</p> <p>c) identify any matters that are still subject to agreement.</p> <p>EA Response</p> <p>The Environment Agency would like to recommend a shorter form of Protective Provisions</p>
2.	General matters		
	Other general matters		
2.3	Local authorities Environment Agency	Pollution control	<p>Paragraph 4.48 of the National Policy Statement for National Networks (NPSNN) refers to discharges or emissions which affect air quality, water quality, land quality or include noise and vibration. It notes that these may be subject to separate regulation under a pollution control framework or other consenting and licensing regime. Paragraph 4.55 refers to a need to ensure that the relevant pollution control authority is satisfied that potential releases can be adequately regulated and that the pollution effects would not be unacceptable.</p> <p>Are the relevant authorities satisfied that:</p> <p>a) the potential discharges and emissions from the Proposed Development would be adequately regulated under the appropriate regime; and that</p> <p>b) the effects of existing sources of pollution are not such that the cumulative effects of pollution when the Proposed Development is added would make the development unacceptable, particularly in relation to statutory environmental quality limits?</p>

No	Question to	Reference	Question
			<p>EA Response</p> <p>We are satisfied that for such matters that fall within the remit of the Environmental Permitting Regulations 2016, these can be adequately regulated.</p>
8.	Climate change		
	Legislation, policy and international obligations		
8.1	Applicant Local authorities Environment Agency Interested Parties	Legislation, policy and carbon reduction targets	<p>Section 14.2 of ES Chapter 14 [REP1-019] sets out relevant international, national, and local policies, the UK's carbon reduction targets and carbon budgets, and the Applicant's commentary on the requirements and implications for the Proposed Development.</p> <p>a) Are there any other key matters that should be added to the Applicant's commentaries on the legislation and policies?</p> <p>b) Is there any other important or relevant legislation or policy that the ExA should consider?</p> <p>c) Are there any other carbon reduction targets or carbon budgets that are relevant to the Proposed Development and for which there is a clear legal or policy basis for them to be considered?</p> <p>d) Should any UK case law/ court judgements be identified?</p> <p>e) Do National Highways have any carbon reduction targets that have not been published and/ or that it intends to apply on the Proposed Development?</p> <p>EA Response</p> <p>No comments.</p>
	Construction materials, transport and construction processes		

No	Question to	Reference	Question
8.11	8.11 Applicant Local authorities Environment Agency	Mitigation measures PAS 2080: 2016	<p>Item C1.8 of the REAC [REP1-037] states that: <i>"A comprehensive Carbon Management Plan would be implemented from the Detailed Design stage and through construction. This would follow a data collection and analysis methodology which adheres to the requirements of the PAS 2080. This would assess carbon use for the whole lifecycle of the project and promote embodied carbon management and commit to achieving carbon reductions."</i></p> <p>The ExA wishes to ensure that the mitigation measures are enforceable and precise and will result in mitigation being delivered.</p> <ol style="list-style-type: none"> a) Please could more detail be provided on the Carbon Management Plan and how it would be enforced? b) How can the precision be improved to clarify that carbon emissions would be reduced? c) To be precise, should the reduction be quantified? d) How will the mitigation ensure that the carbon footprint is not unnecessarily high? e) Who should be consulted with, how should it be approved, and what monitoring measures are appropriate? <p>Please could the local authorities and the Environment Agency comment?</p> <p>EA Response No comments.</p>
8.14	Applicant Local authorities Environment Agency	Mitigation	<p>Paragraph 14.13.1 of ES Chapter 14 [REP1-019] states that <i>"...mitigation measures have been embedded into the Scheme design (Section 14.9) to reduce emissions as far as possible."</i></p> <p>Have appropriate carbon-reduction measures been secured for the operational phase, including but not limited to:</p> <ul style="list-style-type: none"> • reducing traffic; • increasing the use of other transport modes;

No	Question to	Reference	Question
			<ul style="list-style-type: none"> • behavioural change; • the use of energy, including for lighting; • the use of trees or other plants in the soft landscaping to absorb carbon dioxide; • carbon offsetting; • any other measures. <p>EA Response No comments.</p>
Adaptation and resilience			
8.16	Local authorities Environment Agency	Outstanding concerns	<p>Do the local authorities or the Environment Agency have any outstanding concerns regarding the assessment methodology, potential impacts, mitigation measures, monitoring, or compliance with policy with respect to climate change?</p> <p>EA Response No comments.</p>
10.	Soils, ground conditions, material assets and waste		
Waste Management			
10.5	10.5 Local authorities EA	Waste management ES Chapter 10 [APP-066] NPSNN paragraph 5.43	<p>Please comment on:</p> <ul style="list-style-type: none"> a) The ability of the local waste infrastructure to satisfactorily deal with waste from the Proposed Development? b) Whether any adverse effect is anticipated on the capacity of existing waste management facilities to deal with other waste arisings in the area?

No	Question to	Reference	Question
			<p>EA Rresponse</p> <p>We can confirm that we consider that there will be minimal impact of our local waste infrastructure and no adverse effect is anticipated on the capacity of the existing waste management facilities</p>
10.6	10.6 Applicant EA NE Local authorities	Pollution control permits and licenses REAC [REP1-037] ES Chapter 10 [APP-066]	<p>a) With reference to the NPSNN, are the relevant pollution control authorities satisfied that potential releases can be adequately regulated under the pollution control framework?</p> <p>b) Is it considered that the effects of existing sources of pollution in and around the project are not such that the cumulative effects of pollution when the Proposed Development is added would make that development unacceptable?</p> <p>c) Is there any good reason to believe that any relevant necessary operational pollution control permits, or licences or other consents will not subsequently be granted?</p> <p>EA Response</p> <p>We are currently not aware of any reason that would prevent the granting of any necessary consents and that we considered that such matters can be adequately dealt with under the Environmental Permitting Regulations 2016.</p>
2.1.	10.8 Local authorities EA NE	Other policy and factual issues	<p>Are there any other comments with respect to waste management?</p> <p>EA Response</p> <p>No comments.</p>

No	Question to	Reference	Question
11.	The water environment, drainage, flood risk assessment, Water Frameworks Directive		
	Baseline information		
11.4	11.4 Environment Agency	ES Chapter 13 [APP-069]	<p>The Applicant, in their assessment, should ascertain whether there are any impacts on water bodies or protected areas under the Water Framework Directive or source protection areas around potable water abstractions.</p> <p>a) Are you satisfied that the effects of the proposal on the water environment are suitable for management within the Environmental Permitting and discharge consent systems?</p> <p>b) Is suitable mitigation proposed and how can this be secured?</p> <p>EA response: EA Response</p> <p>We are satisfied with the assessment regarding current impacts on the water environment from a WFD perspective and other pollution control matters will be regulated under the Environmental Permitting Regulations 2016.</p> <p>Further assessment of impacts to the water environment (including source protection zones) will covered by the existing requirements within the DCO.</p>
11.5	11.5 Applicant Environment Agency	ES Chapter 13 [APP-069] paragraph 13.6.54	<p>The Applicant refers to additional ground investigation.</p> <p>a) Is the Hydrogeological Risk assessment mentioned available?</p> <p>b) If so, what additional effects of the Proposed Development, if any, does it indicate?</p> <p>c) If not, when will this information be available?</p>

No	Question to	Reference	Question
			<p>EA Response</p> <p>The EA requires the HRA to understand the impact of the proposed development on groundwater and its users.</p>
<p>The Water Framework Directive and The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017</p>			
11.6	Environment Agency	Water Framework Directive Assessment Compliance Assessment Report [APP-055] paragraph 6.1.8	<p>The Applicant, in their assessment, should ascertain whether there are any impacts on water bodies or protected areas under the Water Framework Directive or source protection areas around potable water abstractions.</p> <p>a) Do you agree with the Applicant's conclusion that the proposal is likely to be Water Framework Directive compliant?</p> <p>b) If not, which effects of the proposal do you have concerns over?</p> <p>EA Response</p> <p>We are satisfied with the assessment with respect to Biodiversity. However, we are in the process of assessing the document in relation to Groundwater and the current impacts on the water environment from a WFD perspective and other pollution control matters will be regulated under the Environmental Permitting Regulations 2016. The Environment Agency would seek to be further engaged on the EMP detail in relation to landscape and ecology matters where this relates to the water environment.</p>
<p>Flood risk and drainage</p>			
11.8	11.8 Environment Agency	ES Chapter 13 [APP-069] Flood Risk Assessment [REP1-013]	<p>Climate change allowances were anticipated to change in 2021. Are you satisfied that any such changes have been incorporated within on peak river flow and that the compensatory flood storage volume is adequate over the lifetime of the proposed highway structure?</p> <p>EA Response</p>

No	Question to	Reference	Question
			The FRA needs to be updated to reflect the latest climate change allowances which were published in July 2021. The applicant will also need to update the FRA to reflect the latest fluvial allowances for the Upper Mersey catchment in order to ensure the provision of appropriate compensatory storage.
11.12	11.12 Natural England Environment Agency Local authorities Local highway authorities	REAC [REP1-037] Table 2.1 Section 10 ES Chapter 13 [APP-069] NPSNN paragraphs 4.48 and 4.55-6	<p>The REAC identifies a number of permits required, amongst other things, but not limited to, the control the discharge, or extraction of water and control pollution.</p> <p>d) With reference to the NPSNN, are the relevant pollution control authorities satisfied that potential releases can be adequately regulated under the pollution control framework?</p> <p>e) Is it considered that the effects of existing sources of pollution in and around the project are not such that the cumulative effects of pollution when the Proposed Development is added would make that development unacceptable?</p> <p>f) Is there any good reason to believe that any relevant necessary operational pollution control permits, or licences or other consents will not subsequently be granted?</p> <p>g)</p> <p>EA Response</p> <p>We are currently not aware of any reason that would prevent the granting of any necessary consents and that we considered that such matters can be adequately dealt with under the Environmental Permitting Regulations 2016.</p>
	Water habitat		
11.16	Applicant Environment Agency		a) To what degree will the proposed watercourses be subject to runoff containing road salt or grit?

No	Question to	Reference	Question
	Tameside Metropolitan Borough Council		<p>b) Will this have any effect on wildlife using these watercourses and, if so, to what degree?</p> <p>EA Response</p> <p>A) Road salt or grit may potentially have implications on the water quality of watercourses. The applicant will need to assess this within Chapter 13 Road Drainage and Water Environment.</p>
Opportunities for enhancement			
11.17	Applicant Local authorities Environment Agency	Sustainable Drainage Systems (SuDS) ES Chapter 13 [APP-069] (Road Drainage and the Water Environment)	<p>NPSNN paragraph 5.115 states that "<i>Applicants should seek opportunities to use open space for multiple purposes such as amenity, wildlife habitat and flood storage uses. Opportunities can be taken to lower flood risk by improving flow routes, flood storage capacity and using SuDS.</i>"</p> <p>Does the Proposed Development take the opportunities identified in the NPSNN? Is there anything else that could be reasonably achieved?</p> <p>EA response</p> <p>We welcome the use of SuDS, which will contribute toward wider environmentally sustainable outcomes (Biodiversity and Water Quality). We have no further comment with regards to additional opportunities.</p>
13.	Land use, social and economic, human health		
Other land use, social and economic, human health matters			
13.16	Local authorities Local highway authorities EA	Other policy and factual issues	<p>Are there any other comments with respect to:</p> <ul style="list-style-type: none"> • agricultural land or soils; • local social and economic impacts; • human health; • mitigation and opportunities for enhancement; and

No	Question to	Reference	Question
			<ul style="list-style-type: none"> any other policy and factual issues? <p>EA Response</p> <p>No comments</p>
14.	Other environmental topics		
14.1	14.1 Local authorities Local highway authorities Environment Agency	<p>Common law nuisance and statutory nuisance</p> <p>Section 79(1) of the Environmental Protection Act 1990</p> <p>Statement in Respect of Statutory Nuisance [APP-053]</p> <p>ES Chapter 11 – Noise and Vibration [REP1-017]</p> <p>Outline EMP [APP-183]</p> <p>REAC [REP1-037]</p> <p>Outline Traffic Management Plan [REP1-038]</p> <p>dDCO [REP1-041] Article 41</p>	<p>The Applicant identifies the potential for the Proposed Development to create statutory nuisance in relation to smoke emitted from premises, dust, steam or effluvia arising on business premises, artificial light emitted from premises, noise emitted from premises and noise emitted from or caused by a vehicle, machinery or equipment in a street. It then states that with the mitigation measures secured by the EMP and REAC, Traffic management Plan and DCO, none of the statutory nuisances are predicted to arise. The ES predicts significant noise and vibration effects during construction and operation.</p> <p>a) Are there any comments regarding the assessment of the potential for statutory nuisance?</p> <p>b) Are the dDCO provisions for defence to proceeding in respect of statutory nuisance necessary and appropriate?</p> <p>EA Response</p> <p>Statutory nuisance is a matter for the Local Authority</p>
14.7	14.7 Local authorities Local highway authorities EA	Other policy and factual issues	<p>Are there any other comments with respect to:</p> <ul style="list-style-type: none"> common law nuisance and statutory nuisance utility infrastructure civil and military aviation and defence

No	Question to	Reference	Question
	NE Statutory Undertakers		<ul style="list-style-type: none"> • safety, security and major accidents and disasters • cumulative and combined effects; and • any other policy and factual issues? <p>EA Response</p> <p>No comments.</p>