

**From:** [Sarah Hickey](#)  
**To:** [A303 Sparkford to Ilchester](#)  
**Subject:** RE: TR010036 - Deadline 6  
**Date:** 01 May 2019 18:45:55  
**Attachments:** [image002.png](#)  
[image004.png](#)  
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[Comments on the Draft DCO for submission at deadline 6.pdf](#)

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Dear Ms Coffey,

**PLANNING ACT 2008**

**APPLICATION BY HIGHWAYS ENGLAND FOR AN ORDER GRANTING DEVELOPMENT CONSENT FOR THE A303 SPARKFORD TO ILCHESTER DUALLING**

**SUBMISSION MADE PURSUANT TO DEADLINE 6**

As mentioned in the email below, please now find attached South Somerset District Council's comments on the Applicant's revised dDCO.

Kind regards  
Sarah

**Sarah Hickey**  
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**From:** Jo Wilkins <Jo.Wilkins@SouthSomerset.Gov.Uk>

**Sent:** 01 May 2019 16:22

**To:** 'A303SparkfordtoIlchester@planninginspectorate.gov.uk' <A303SparkfordtoIlchester@planninginspectorate.gov.uk>

**Subject:** TR010036 - Deadline 6

Dear Ms Coffey

**PLANNING ACT 2008**

**APPLICATION BY HIGHWAYS ENGLAND FOR AN ORDER GRANTING DEVELOPMENT CONSENT FOR THE A303 SPARKFORD TO ILCHESTER DUALLING**

**SUBMISSION MADE PURSUANT TO DEADLINE 6**

This submission is in response to the Examining Authority ("ExA") Rule 8 letter dated 21<sup>st</sup> December 2018 and comprises the relevant information requested from South Somerset District Council.

The submission includes the following: -

- South Somerset District Council's comments on D5 submissions.

South Somerset District Council's comments on the applicant's revised draft DCO will be forwarded later to-day.

Yours sincerely

Jo Wilkins

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**A303 Sparkford to Ilchester Dualling  
PINS Reference: TR010036**

**Comments of the draft Development Consent Order 2019**

**Submitted by South Somerset District Council  
on 1 May 2019**



**Note:**

In order to reduce duplication, the comments set out in this document are in addition to the comments SSDC raised in response to the Examining Authority's 3rd set of questions relating to the dDCO.

Item Number	Relevant Provision	Background	Outstanding issue with the dDCO
1	Article 2 Definition of "commence"	<u>SSDC Issue</u> The works could have a detrimental effect on existing ecology and as such works (including pre-commencement works) should be subject to ecological supervision of a suitably qualified person  <u>Applicant's Position</u> Proposed new wording in Requirement 10(1). The Applicant's comments are in the Table of Amendments at 3.3	<p>The Applicant has accepted the need for ecological supervision of all works.</p> <p>However SSDC considers the drafting needs further consideration to clearly identify the supervision is required for pre-commencement works.</p> <p>Currently the draft requires the reader to know that the act of <i>undertaking the development</i> requires ecological supervision of the pre-commencement works (as per new draft Requirement 10(1)) as opposed to <i>commencing the development</i> which does not. The term undertaking/undertaken is not defined in this context in the dDCO</p> <p>The sole use of the word "undertaken" to signify this is inadequate in SSDC's view.</p> <p>In order to resolve this issue Requirement 10(1) could expressly state the need for ecological supervision of the pre-commencement works and the definition of commence cross-refer to Requirement 10.</p>
2	Article 2 Definition of "relevant planning authority"	<u>SSDC Issue</u> SSDC believes it is in all parties interests that the relevant planning authority (RPA) is identified based on its functions (and therefore expertise). This will mean the process for the applicant/contractor is easy to	<p>Section 173 is the relevant section within the Planning Act 2008. If section 173(4) of the Act 2008 does not apply section 173(5) will. That would result in the district council being identified as the relevant planning authority regardless of functions.</p> <p>To resolve this either define "SSDC" as the RPA for its functions and "SCC" as RPA for its functions and then throughout the document refer to SSDC and SCC as appropriate. The definition could be future-proofed for changes in</p>

		<p>follow, reduce the risk of confusion and delay and reduce the workload for the Councils should the DCO be confirmed. It would also follow paragraph 6.2 of Guidance Note 15 which states that where there is more than one relevant planning authority this should be made clear in the definitions</p> <p><u>Applicant's Position</u> The Applicant removed the definition of relevant authority to rely on the definition in the Planning Act 2008</p>	<p>local government organisation by referring to "or any other local government body that may undertake its relevant function".</p> <p>This amendment would ensure that the Councils are consulted where this has been agreed regarding an area not usually considered its primary function (e.g. SSDC being consulted in Requirement 11 on traffic management issues)</p> <p>Alternatively, SSDC could also support the RPA being defined as SSDC and SCC followed by a list of which articles and requirements relate to each authority.</p>
3	Article 5(2) development consent etc.	<p><u>SSDC Issue</u> The ability for the powers in the DCO to apply to adjacent land is not within the model provisions and is a significant power that should not be accepted unless it is sufficiently justified and limited</p> <p><u>Applicant's Position</u> The Applicant disagrees on this point and sets out its reasons at 3.6 of the Table of Amendments</p>	<p>The District Council's concerns as detailed in submissions are 3-fold and have not be adequately addressed by the Applicant:</p> <ol style="list-style-type: none"> <li>1. The powers given are proportionate and necessary</li> </ol> <p>It might be acceptable to have some temporary powers over land adjacent to the Order Limits for limited purpose of allowing the <i>construction</i> of the development. SSDC does not consider, as has been suggested by the Applicants, that it should be permissible for this power to extend to, amongst other things, amending speed limits through the villages.</p> <p>The District Council does not consider the Applicant has sufficiently addressed this issue to warrant the retention of the provision in its current form.</p>

			<p>2. Any existing rights and protections given to members of the public are not overridden by the wide interpretation of the definition.</p> <p>The District Council will defer to the County Council position on the processes for setting and altering of speed limits but the District Council is keen to ensure that the residents rights to be consulted on such matters are not overridden by the applicants wish to be able to impose such matters as efficiently as possible.</p> <p>3. Creation of a boundary that is identifiable</p> <p>If the reference to adjacent land is retained the Council would seek to define “adjacent” by means of a boundary. The Council has submitted for a map which identifies the boundary of “adjacent” land as being a 20 meter perimeter around the Order Limit.</p> <p>The map has the benefit of clearly identifying the extent of the area in question which will be crucial for enforcement purposes, that the extent of the powers are transparent to the public and ensure that any sensitive areas for ecological or other purposes will not be affected.</p> <p>If the ExA accept retention of the power in the DCO (if granted) then there are also drafting issues that should be addressed, including the fact the definition does not correspond with the wording in the Article.</p>
4	Article 8	<p><u>SSDC Issue</u> A 1m Vertical Limit of Deviation for the Works could render screening mitigation measures inadequate.</p> <p>An amendment to the DCO should make it clear that a variation in the vertical level should not give rise</p>	<p>SSDC’s concerns remain. The documents provided by the Applicant do not overcome SSDC’s observations concerning unsynchronised vertical adjustments between different works, i.e. a one metre fall in the height of Work No. 89 (Bund 6) alongside a one metre rise of Work No. 85 (Hazlegrove Junction Eastbound Link) would remove the two metre high bund screen.</p>

		<p>to a relative reduction in height of a designed screening measure.</p> <p><u>Applicant's Position</u> Sectional drawings have been provided as confirmed in the Table of Amendments at 3.7</p>	
5	Articles 15 and 19	<p><u>SSDC Issue</u> The Applicant has included consultation with SSDC in Articles 15 and 19 however the process for the consultation needs to be reconsidered</p> <p><u>Applicant's Position</u> The applicant has accepted that SSDC should be consulted in the latest dDCO</p>	<p>Article 15 The onus should be on the Applicant to consult SSDC (not require the highway authority to consult SSDC as is currently drafted at Article 15(7)) and such consultation should take place prior to and the results be notified to the highway authority at the time the application for consent is sought under Article 15(4)</p> <p>Article 19 SSDC should be consulted by the Applicant at the same time that it consults other relevant authorities. As a result SSDC should be referred to in Article 19(4) rather than in a separate article (currently Article 19(12)).</p>
6	Article 21	<p><u>SSDC Issue</u> The, yet to be specified, protective works could be harmful to a heritage assets, including the curtilage, and should be subject to consultation with the relevant planning authority, Historic England for scheduled monuments and approved by the Secretary of State</p> <p><u>Applicant's Position</u> The Applicant suggested an amendment to Requirement 12 as</p>	<p>The applicant has accepted that the works to listed buildings should be subject to consultation. However it is only intended to consult on matters which would cause <i>"a permanent change or alteration of the listed features"</i>.</p> <p>This raises issues about what are the "listed features" and does not include consultation regarding works that might cause a temporary change. The Applicants intention in respect of this drafting should be clarified.</p> <p>In light of the fact it is not clear at this stage what the works may involve and the risk that they might pose to the asset, any protective works to a listed building should be subject to consultation with the relevant bodies and approval by the Secretary of State.</p>

		set out in the Table of Amendments at 3.9	
7	Article 38	<p><u>SSDC Issue</u> The Article allowed for the removal of veteran trees and historic hedgerows from the RPG where trees and hedgerows are in conflict with the construction operations beyond that envisaged by the outline plan and those in conflict with the measures permitted by Regulation 5 (Landscaping). For example, a construction compound is proposed in the south-west corner of the RPG which includes a number of veteran trees.</p> <p><u>Applicant's Position</u> The applicant has amended Article 38 as set out in 1.4 of the Table of Amendments</p>	<p>The additional provision relates to the limitation of removal of trees shown as retained on the work plans and detailed designs.</p> <p>Article 38(1)(a) is an extremely wide power. Article 38(1)(a) should expressly state that it is subject to (that is to say, limited by and subservient to..) Article 38(6) and Article 38(7).</p> <p>SSDC is concerned is a potential lack of control over what Veteran Trees and Historic Hedgerows as well as other important but undesignated trees and hedgerows will be retained and as a result requests that it is made clear that the removal of a tree or hedge should be subject to specific consultation with the relevant planning authority and the approved by the Secretary of State and the Tree Protection Plan in the Arboricultural Impact Assessment (APP-071) is referenced. SSDC does not consider the detail currently contained in the Work Plans adequate</p> <p>The new Article 38(7) highlights the need for consultation and approval of the HEMP.</p> <p>Requirement 3(f) should also refer to the Tree Protection Plan in the Arboricultural Impact Assessment to avoid unnecessary removal of trees or hedgerows during the landscaping maintenance period.</p>
8	Schedule 1 – Authorised Development	The District Council is seeking relocation of Pond 5.	SSDC accepts changes have been made but its position remains that Pond 5 should be relocated. Discussions are currently on-going
9	Requirement 1 Definition of HEMP	<p><u>SSDC Issue</u> The wording of the definition should be more precise insofar as the HEMP is to be “<i>developed towards the end of the</i></p>	Council concerns remain that there is no provision for approval of the HEMP; as this document will effectively replace the CEMP and be the basis upon which any enforcement action can be taken the Council believes there should be consultation and approval provisions included in the DCO.

		<p><i>construction of the authorised development”.</i></p> <p>There should be consultation and approval provisions for the HEMP</p> <p><u>Applicant’s Position</u> Is set out at 3.17 of the Table of Amendments and confirms that no change has been made to the dDCO</p>	<p>The Council is also concerned about the timetable for provision of the HEMP.</p>
10	Requirement 5(1)	<p><u>SSDC issue</u> There are a number of places within the dDCO which refer to matters relating to “that part” e.g. Requirement 5(1) refers to “a landscaping scheme for that part”.</p> <p><u>Applicant’s Position</u> The applicant has said they want the flexibility to work on parts of the development whilst other parts are still being considered. (3.21 of the Table of Amendments)</p>	<p>Without a phasing plan and further detail it is unclear how the development will be provided and may be in a manner that would be unacceptable – i.e. there can be no oversight of the effect of one phase of the development on another; the phasing extends to the detail design requirements.</p> <p>The phasing of the development without a phasing plan or notification procedure will cause issues for the enforcing authority</p> <p>As a result “for that part” should be removed throughout the document</p>
11	Requirement 5(4)	<p><u>SSDC Issue</u> Howell Hill Stone Boundary Wall should be retained through its repair or retention on its current alignment or rebuilt on the alignment of the revised boundary to the Howell Hill carriageway and as such Article 5(4) should include:</p>	<p>The matter is still subject to discussion</p> <p>The WSI is limited to the recording of the stone wall before it is dismantled and does not provide for its replacement. Confirmation is needed that its full realignment is secured in the approved documents.</p>



		<p><i>details of retention, repair or rebuilding of the Howell Hill Stone Boundary Wall and the alignment</i></p> <p><u>Applicant's Position</u> At 3.22 of the Table of Amendments the Applicant states that the asset is adequately dealt with in the WSI</p>	
12	Requirement 12(6)	<p><u>SSDC Issue</u> It should be ensured that the relevant planning authority and local highway authority are also informed electronically of any approved amendments to the development</p> <p><u>Applicant's Position</u> The Applicant stated at 3.30 of the Table of Amendments that it does not issue individual notification of the approved amendments</p>	<p>There is an inconsistency in the position put forward by the Applicant in the dDCO and in its comments in the Table of Amendments.</p> <p>If the Applicant can undertake to notify members of the public electronically of the decision of the Secretary of State regarding amendments to the approved details, SSDC does not see why it can not also notify other interested bodies and thereby ensure all relevant persons and bodies are notified at the same time.</p>
13	Requirement 16	<p><u>SSDC Issue</u> The words "or agreed" should be removed from the last line as superfluous</p> <p><u>Applicant's Position</u> The Applicant agreed with the deletion at 3.33 of the Table of Amendments</p>	<p>The amendment has not been picked up in the latest draft (revision 0.4)</p>

14	New Requirement Relating to the RPG	<p><u>SSDC Issue</u> A new requirement for the preparation and implementation of a conservation management plan for the RPG approved by Secretary of State in consultation with the relevant planning authority is necessary.</p> <p><u>Applicant's Position</u> The Applicant has accepted the need for a conservation management plan in response to the ExA further Written Question 2.1.7 but states otherwise in 3.34 in the recent Table of Amendments</p>	The Councils position remains that a conservation management plan is necessary
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