

**M54 to M6 Link Road**

**TR010054**

**Volume 6**

**6.3 Environmental Statement**

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January 2020

Infrastructure Planning

Planning Act 2008

**The Infrastructure Planning  
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**M54 to M6 Link Road**  
Development Consent Order 202( )

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**6.3 Environmental Statement Appendices**  
**Appendix 8.2 Legislation and Policy Framework**

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# 1 Legislative and Policy Framework

## 1.1 Legislation

1.1.1 The following legislation and planning policy is of direct relevance to the assessment of biodiversity, and summarises the detailed policy and legislative context presented within Chapter 8, which has informed the assessment methodology.

1.1.2 Compliance with legislation and policy relating to biodiversity is addressed within the Planning Statement.

### **Conservation of Habitats and Species Regulations 2017**

1.1.3 The Conservation of Habitats and Species Regulations 2018 (Ref 1) transpose the requirements of the EC Habitats Directive (Ref 2) and Birds Directive (Ref 3) into UK law, and provide for the designation and protection of European sites (and adapt planning and other controls for the protection of these sites). This includes Annex I (including habitats) and Annex II (including species) for which such sites can be designated.

1.1.4 The legislation (Ref 1) also provides protection for certain European Protected Species (EPS) that are listed on Schedule 2 (plants) or Schedule 4 (animals). Provision is made for the granting of licences that permit certain acts as lawful, providing the appropriate authority is satisfied that there is no satisfactory alternative and the favourable conservation status of the species will be maintained.

1.1.5 The presence of European sites (referred to as designated sites of international importance) and their relationship to the Scheme has been considered in the Habitats Regulations Assessment: No Significant Effects Report [TR010054/APP/6.9]. The presence of Annex I habitats and Annex II species, and also of any EPS, has been considered within the assessment.

### **Ramsar Convention 1971**

1.1.6 The Ramsar Convention 1971 (Ref 4) provides international legislation for the designation of wetlands of international importance. Government policy extends the same level of protection to Ramsar wetlands as that afforded to sites that are designated under the Habitats Directive (Ref 2). Consideration has been given in the assessment to the presence of any Ramsar wetlands.

### **Wildlife and Countryside Act 1981**

1.1.7 The Wildlife and Countryside Act 1981 (Ref 5) (as amended) is a primary piece of UK wildlife legislation, protecting birds, other animals and plants (including vascular plants, bryophytes, lichens and fungi) and allowing for the designation of protected areas including Sites of Special Scientific Interest (SSSIs). The Act also defines a list of invasive non-native species, making it illegal to spread them in the wild.

1.1.8 Designated sites, protected flora and fauna and invasive species covered by the Act (Ref 5) that would be affected by the Scheme have been considered in the assessment.

### **Countryside and Rights of Way Act 2000**

- 1.1.9 The Countryside and Rights of Way Act 2000 (Ref 6) extends powers relating to the protection and management of SSSIs. This includes powers for entering management agreements, placing a duty on public bodies to further the conservation and enhancement of SSSIs, increasing penalties for conviction, and appeal processes for the notification, management and protection of SSSIs. It also introduced the offence of 'reckless' disturbance of threatened species.
- 1.1.10 The legislative provisions relating to designated sites and flora and fauna affected by the Scheme have been considered in the assessment.

### **Natural Environment and Rural Communities Act 2006**

- 1.1.11 Section 40 of the Natural Environment and Rural Communities Act 2006 (Ref 7) (NERC Act) places a duty on public authorities in England to conserve biodiversity, which includes restoring or enhancing of a population or habitat.
- 1.1.12 Section 41 of the NERC Act requires the Secretary of State for Environment to publish and maintain a list of habitats and species that are of 'principal importance' for the purpose of conserving biodiversity, and are regarded as conservation priorities under the UK Post-2010 Biodiversity Framework (Ref 8).
- 1.1.13 The occurrence of habitats and species of principal importance (HPI & SPI) has been identified in the assessment through a desk study and field surveys, and the design of the Scheme includes measures for their conservation and enhancement.

### **Protection of Badgers Act 1992**

- 1.1.14 The Protection of Badgers Act 1992 (Ref 9), provides specific legislation to protect badgers from cruelty. The protection of badgers through best working practices, including the legal requirement for licences from Natural England (where required), has been considered as part of the assessment.

### **The Hedgerows Regulations 1997**

- 1.1.15 The Hedgerows Regulations 1997 (Ref 10) covers legislation for the protection of countryside hedgerows that are considered 'important' as they meet specific archaeological, wildlife or landscape criteria. The assessment has evaluated hedgerows potentially affected by the Scheme by way of field survey, to determine whether any qualify as important under the criteria.

### **Salmon and Freshwater Fisheries Act 1975**

- 1.1.16 The Salmon and Freshwater Fisheries Act 1975 (Ref 11) (as amended) relates to the protection of freshwater fish, with a focus on salmon and trout species. The assessment has considered the provisions of the Act in relation to the risk of morality, migration barriers, pollution and the degradation of habitats potentially resulting from the Scheme.

### **Animal Welfare Act 2006**

- 1.1.17 The Animal Welfare Act 2006 (Ref 12) protects vertebrate animals from harm and extends to domesticated animals and those under the control of people. The

provisions of the Act have been taken account of within the assessment by ensuring the welfare of any animals potentially affected by the Scheme are considered.

#### **Wild Mammals (Protection) Act 1996**

- 1.1.18 The Wild Mammals (Protection) Act 1996 (Ref 13) makes it an offence to harm wild mammals with intent to inflict unnecessary suffering. The assessment has considered the requirements of the Act, and includes measures to ensure any risk of unnecessary suffering of wild animals is avoided.

#### **Water Framework Directive (WFD) 2000/60/EC**

- 1.1.19 The WFD (Ref 14) aims to ensure that waterbodies attainment of good ecological status, prevention of deterioration in status, and prevention of failure to achieve future attainment of good status where it is not already achieved within waterbodies. Proposed developments or activities that have the potential to affect the water environment require a WFD Assessment. However, Article 4.7 provides legislation for exemption conditions that could allow implementation of schemes that cause deterioration in ecological status, for example for reasons of overriding public interest.

## **1.2 Planning Policy**

#### **National Policy Statement for National Networks (NPSNN) December 2014**

- 1.2.1 The NPSNN (Ref 15) provides guidance for the development of nationally significant infrastructure projects (NSIPs) on the national road and rail networks in England. Table 8.1 in Chapter 8: Biodiversity of the Environmental Statement [TR010054/APP/6.1] details the policies relevant to the biodiversity assessment.

#### **National Planning Practice Guidance (NPPG) for the Natural Environment**

- 1.2.2 The NPPG for the Natural Environment (Ref 16) provides information on how to address key issues when implementing policy to protect the natural environment including in relation to agriculture, green infrastructure, biodiversity and geodiversity and local planning policy.

#### **National Planning Policy Framework (NPPF) (2019)**

- 1.2.3 The NPPF was published in July 2018 and updated in February 2019 (Ref 17) and sets out the Government's planning policies for England and how these should be applied. It replaces the first NPPF published in March 2012.
- 1.2.4 Section 15 of the NPPF (paragraphs 170 to 177) considers the conservation and enhancement of the natural environment. Paragraph 170 states that planning and decisions should contribute to and enhance the natural and local environment by:
- *"protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);*
  - *recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services - including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland; and*

- *minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures".*

1.2.5 Paragraph 171 states that plans should distinguish between the hierarchy of international, national and locally designated sites; allocate land with the least environmental or amenity value; take a strategic approach to maintaining and enhancing networks of habitats and green infrastructure; and plan for the enhancement of natural capital at a catchment or landscape scale across local authority boundaries.

1.2.6 Paragraph 174 states that in order to protect and enhance biodiversity and geodiversity, plans should:

- *"Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity; wildlife corridors and stepping stones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation; and*
- *promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity."*

1.2.7 When determining applications, Paragraph 175 states that local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:

- *"if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;*
- *development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;*
- *development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and*
- *development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity."*



- 1.2.8 As stated in paragraph 176 the following should be given the same protection as habitats sites:
- *"potential Special Protection Areas and possible Special Areas of Conservation;*
  - *listed or proposed Ramsar sites; and*
  - *sites identified, or required, as compensatory measures for adverse effects on habitats sites, potential Special Protection Areas, possible Special Areas of Conservation, and listed or proposed Ramsar sites."*
- 1.2.9 Paragraph 177 states that the presumption in favour of sustainable development does not apply where the planned project is likely to have a significant effect on a habitat site (alone or in combination) unless an appropriate assessment concluded the plan or project will not adversely affect the integrity of the habitats site.
- 1.2.10 The NPPF contains similar provisions to the NPSNN although a key difference is the removal of references to "avoiding net loss of biodiversity" and the inclusion of "minimising impacts and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures".

#### **South Staffordshire Local Plan Core Strategy and Site Allocations Document**

- 1.2.11 The South Staffordshire Core Strategy (Ref 18) was adopted in 2012 and the site allocations document (Ref 19) in 2018. They contain the following policies that seek to protect the Natural Environment:
- Policy EQ1: Protecting, Enhancing and Expanding Natural Assets:  
*"Permission will be granted for development (alone or in combination) which would not cause significant harm to sites and/or habitats of nature conservation, geological or geomorphological value, including ancient woodlands and hedgerows, together with species that are protected or under threat. Support will be given to proposals which enhance and increase the number of sites and habitats of nature conservation value, and to meeting the objectives of the Staffordshire Biodiversity Action Plan (SBAP).*
- In line with the objectives of the Water Framework Directive (WFD), development proposals must not adversely affect the ecological status of a water body and wherever possible take measures to improve ecological value in order to help meet the required status.*

#### *International Sites*

*Any proposed development that could have an adverse affect on the integrity of an international wildlife, geodiversity or landscape site (e.g. Natura 2000 or Ramsar site, Special Area of Conservation) or on ground water flows to those sites, alone or in combination with other plans or projects, will not be permitted unless it can be demonstrated that the legislative provisions to protect such sites can be fully met.*

#### *National Sites*

*Protected wildlife, geodiversity and landscape sites designated under national legislation are shown on the Policies Map [e.g. Sites of Special Scientific*



*Interest (SSSIs), National Nature Reserves (NNRs)] and will be protected under the terms of that legislation.*

#### *Local Sites*

*Locally important sites are also identified e.g. Sites of Biological Importance (SBIs), Regionally Important Geological Sites (RIGs), Local Nature Reserves (LNRs)] and will be protected and enhanced. Outside the areas designated, the interests of nature conservation must be taken into account in accordance with national guidance.*

*The restoration or creation of new habitats and the expansion of habitats in South Staffordshire will be supported where these contribute to priorities in the UK Biodiversity Action Plan and the Staffordshire Biodiversity Action Plan including priority habitats such as native woodland, hedgerows, and lowland heathland. Areas or sites for the restoration or creation of biodiversity priority habitats will be identified through Biodiversity Opportunity Mapping working in partnership with Natural England, Staffordshire Wildlife Trust and Staffordshire County Council.*

*Wherever possible, development proposals should build in biodiversity by incorporating ecologically sensitive design and features for biodiversity within the development scheme.*

*Development proposals should be consistent with the Supplementary Planning Documents on Biodiversity and Landscape Character and other local planning policies.”*

- Policy EQ2: Cannock Chase Special Area of Conservation:

*“Development will only be permitted where it can be demonstrated that it will not be likely to lead directly or indirectly to an adverse effect upon the integrity of the Cannock Chase Special Area of Conservation (SAC).*

*A net increase of housing development within the areas of South Staffordshire that fall within the Zone of Influence around Cannock Chase SAC (as identified by current evidence and subject to further research) that is likely to have an adverse impact upon Cannock Chase SAC should mitigate for such effects, in line with the ongoing work to outline the pressures on the SAC caused by recreation and visitor pressure.*

*This may include contributions to habitat management, access management and visitor infrastructure, publicity, education and awareness raising; and provision of suitable alternative natural green recreational space, within development sites where they can be accommodated and where they cannot by contributions to offsite alternative green space.*

*The effective avoidance of and/or mitigation for any identified adverse effects on the Cannock Chase SAC must be demonstrated to the Council as the Competent Authority and Natural England and secured prior to the Council giving approval of development. This Policy has jurisdiction over developments within South Staffordshire only; however, it will be implemented jointly with*

*neighbouring authorities via the application of complementary policies in partner Local Plans.*

*Development proposals should be consistent with other local planning policies.”*

- Policy EQ7: Water Quality:

*“Development will be permitted where proposals do not have a negative impact on water quality, either directly through pollution of surface or groundwater or indirectly through overloading of Wastewater Treatment Works. Consultation must be held with Severn Trent Water ahead of the progression of any potential development to ensure appropriate wastewater infrastructure is in place in sufficient time, particularly where potential development will depend on Codsall, Penkridge and Wombourne Wastewater Treatment Works where there is a known capacity restriction.*

*Further site specific analysis of any development proposals located in proximity or upstream of environmentally significant sites, including Sites of Special Scientific Interest (SSSIs), and European Sites including Motte Meadows Special Area of Conservation (SAC) will be required in order to validate any relevant planning application to demonstrate that the development will have no adverse effect on environmentally significant sites. Non mains drainage will not be permitted where it is likely to cause adverse effects at sensitive ecological sites. In line with objectives of the Water Framework Directive (WFD), development proposals must not adversely affect the water quality of waterbodies in the District and wherever possible take measures to improve it.*

*All planning applications must include a suitable Sustainable Drainage (SUDs) scheme, and greater detail will be considered in a Sustainable Development Supplementary Planning Document. Developers are advised to refer to the guidance on SUDs contained in section 4.3 of the Southern Staffordshire Outline Water Cycle Study.*

*Development proposals should be consistent with other local planning policies.”*

### 1.3 Other Guidance

#### **Standing advice from Natural England and Department for Environment Food and Rural Affairs (Defra)**

- 1.3.1 This advice (Ref 20) provides guidance on protected species and includes reference to the best practice approaches to surveying, mitigation and compensation. Guidance is also provided on the procedure for obtaining protected species licences. This advice has informed the planning of surveys and the approach to mitigating impacts upon protected, including where necessary the requirement for derogation licences.

#### **UK Biodiversity Action Plan (UK BAP)**

- 1.3.2 The UK BAP (Ref 21) was launched in 1994 and established a framework and criteria for identifying species and habitat types of conservation concern. From this list, action plans for priority habitats and species of conservation concern were published and, in July 2012, were succeeded by the ‘UK Post-2010 Biodiversity

Framework' (Ref 22). The UK list of priority species and habitats, however, remains an important reference source and has been used to help draw up statutory lists of priority habitats and species in England, Scotland, Wales and Northern Ireland. For the purpose of this assessment, the UK BAP is still used as one of the criteria to assist in assigning national value to an ecological receptor.

#### **Biodiversity 2020: A strategy for England's wildlife and ecosystem services**

- 1.3.3 This guidance (Ref 23) sets out the strategic direction for biodiversity policy up to 2020. In accordance with the objectives of the strategy, the assessment includes consideration of ecological networks and measures to reduce pressure upon, and enhance, the environment.

#### **Staffordshire Biodiversity Action Plan 2001 (SBAP)**

- 1.3.4 SBAP (Ref 24) provides action plans that define conservation objectives for local priority habitats and species. Species action plans of relevance to the Scheme include all mammal species, barn owl and great crested newt. Habitats action plans of relevance to the Scheme include woodland, arable field margins, rivers and streams. The assessment has taken account of the SBAP conservation objectives to evaluate effects upon relevant species and habitats, and also as a means to guide the targeted improvement of biodiversity.

#### **Enhancing Biodiversity Across the West Midlands 2008**

- 1.3.5 This regional guidance (Ref 25) sets out to demonstrate, to local planning authorities, how local opportunity mapping for biodiversity in the West Midlands will make a major contribution to achieving national and regional policy objectives and statutory requirements for enhancing biodiversity.

#### **Highways England Road Investment Strategy**

- 1.3.6 The Road Investment Strategy (Ref 26) sets an aspiration that the operation, maintenance, and enhancement of the strategic road network should move to a position that delivers no net loss of biodiversity and, in the long term, should deliver a net gain in biodiversity. The potential for the Scheme to deliver biodiversity gains has been considered as part of the design-development and assessment processes.

#### **Highways England Biodiversity Plan 2015**

- 1.3.7 The Highways England Biodiversity Plan (Ref 27) sets out how the organisation will work with service providers to halt overall biodiversity loss, and to maintain and enhance habitats and ecological networks. The objectives of this plan have been considered through the assessment of the Scheme's effects upon biodiversity and by identifying enhancements within the design of the Scheme.

## 2 References

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- Ref 2 The Habitats Directive 1992. Available online at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:31992L0043>
- Ref 3 The Birds Directive 2009. Available online at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32009L0147>
- Ref 4 Ramsar Convention on Wetlands of International Importance especially as Waterfowl Habitat (1971). Available online at: [http://portal.unesco.org/en/ev.php-URL\\_ID=15398&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=15398&URL_DO=DO_TOPIC&URL_SECTION=201.html)
- Ref 5 The Wildlife & Countryside Act 1981. HMSO (1981). Available online at: <https://www.legislation.gov.uk/ukpga/1981/69>
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- Ref 13 Wild Mammals (Protection) Act 1996. Available online at: <http://www.legislation.gov.uk/ukpga/1996/3/contents>
- Ref 14 The Water Framework Directive (Standards and Classification) Directions (England and Wales) 2015, Available online at [http://www.legislation.gov.uk/uksi/2015/1623/pdfs/uksiod\\_20151623\\_en\\_003.pdf](http://www.legislation.gov.uk/uksi/2015/1623/pdfs/uksiod_20151623_en_003.pdf)
- Ref 15 Department for Transport (2014). National Policy Statement for National Networks. Available online at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/387223/npsnn-web.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/387223/npsnn-web.pdf)
- Ref 16 National Planning Practice Guidance (2019) Natural Environment. Available online at: <https://www.gov.uk/guidance/natural-environment>

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- Ref 19 South Staffordshire District Council (2018) Site Allocations Document. Available online at: <https://www.sstaffs.gov.uk/planning/site-allocations.cfm>
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- Ref 25 Enhancing Biodiversity Across the West Midlands 2008. Available online at: [https://www.nuneatonandbedworth.gov.uk/download/downloads/id/138/f2\\_-\\_enhancing\\_biodiversity\\_across\\_the\\_west\\_midlands\\_2008.pdf](https://www.nuneatonandbedworth.gov.uk/download/downloads/id/138/f2_-_enhancing_biodiversity_across_the_west_midlands_2008.pdf)
- Ref 26 Department for Transport (2015) Road Investment Strategy for the 2015/16 to 2019/20 Road Period. Available online at: <https://www.gov.uk/government/collections/road-investment-strategy>
- Ref 27 Highways England: Our plan to protect and increase biodiversity. (2015). Available online at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/441300/N150146\\_Highways\\_England\\_Biodiversity\\_Plan3lo.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/441300/N150146_Highways_England_Biodiversity_Plan3lo.pdf)