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To all Interested and Statutory
Parties

Your Ref:

Our Ref: TR010054

Date: 20 July 2020

Dear Sir/Madam

Planning Act 2008 - Section 88

The Infrastructure Planning (Examination Procedure) Rules 2010 – Rules 5 and 17

Application by Highways England for an Order Granting Development Consent for the M54 to M6 Link Road

I write to you following my appointment by the Secretary of State as the lead member of a Panel who will be the Examining Authority (the ExA) to carry out an examination of the above application. I am Robert Jackson and the other member of the ExA is Ken Stone. A copy of the appointment notice can be viewed here:

<https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010054/TR010054-000384-Notice%20of%20Appointment%20of%20Panel%20of%20Examiners%20TR010054.pdf>.

We would like to thank those of you who submitted Relevant Representations. These representations have assisted us when preparing our proposals regarding how to examine this application.

The Effect of COVID-19 and Participation in the Examination

The current public health situation, caused by the COVID-19 pandemic, continues to affect the running of our day-to-day lives, and it is likely that restrictions on social movements, public gatherings and work practices will remain in place for some time.

At the same time, activity in the economy remains crucial, and businesses are adapting their procedures and ways of working to allow continued services and productivity. The Government recognises the importance of progressing the consideration and determination of applications for development, including National Infrastructure projects, and we have been exploring ways of protecting public health while allowing the Preliminary Meeting (PM) and Examination of the project to proceed in an open, fair and impartial manner in due course.

It also makes sense to use the time before the PM in a productive manner to enable the Examination to proceed effectively and efficiently once the Examination starts.

While the latest Government announcements may mean that it is possible to hold the Preliminary Meeting and Issue Specific Hearings physically, it may be that certain individuals may not be able attend sessions or that future restrictions may prevent physical assemblies. With that in mind, consistent with the [Written Ministerial Statement of 13 May 2020](#), the ExA is considering whether and how virtual or part-virtual (i.e. with some people in a room together and others joining via electronic means) events should proceed for this case, including the practical measures needed to ensure fair participation by all.

To this end, the Planning Inspectorate and ExA are exploring the possibility of conducting the PM and subsequent Examination events either partially or wholly without the need for public gatherings. Any such changes to the established approach will be made in the context of the Examination being principally a written process, and with full regard to the applicable legislation, Government guidance and the Planning Inspectorate's Customer Charter available [here](#).

Under Rule 17 of The Infrastructure Planning (Examination Procedures) Rules 2010 (the Examination Procedure Rules), the ExA therefore requests information from each of you about your availability and capability to engage with the Examination remotely, including the use of virtual events. Our specific questions are set out in the questionnaire at the link below <https://forms.office.com/Pages/ResponsePage.aspx?id=mN94WIhvq0iTIpmM5VcIjWBCnygzRxIjLsjHsnGQhtUOFJaNE9YWTJGRjI1RkM1UjdDQVNIUk1UVS4u>.

If you are not able to access this link please contact the case team on m54toM6linkroad@planninginspectorate.gov.uk to request a MS Word version of the form by email or post.

I would be grateful for your response to this by **10 August 2020**. Whilst there may appear to be a lot of questions, please be assured of the importance of obtaining your answers. We consider it crucial to hear your views on the way in which the application should be examined and they will help us to finalise our arrangements in due course. This is an information-gathering exercise only and it does not commit the ExA to any particular action. No date has yet been set for the PM. The responses to the questionnaire will not be published as they are considered to relate to practical matters around the timing and organisation of Examination events and do not constitute submissions on the merits of the Proposed Development. As such, they will not influence our recommendation or, ultimately, the Secretary of State's decision.

Once responses are received and analysed then further communication will be made setting out how it is intended to proceed with the Examination. But in the meantime, I have set out a list of Frequently Asked Questions at **Annex A** which answers some questions about the Examination process, timetable, procedures and arrangements to assist persons who have registered to be involved. It may be updated from time to time at the discretion of the Examining Authority.

Requested drawings

In the likely occasion that the event will have to be held virtually, it would considerably assist the ExA if the drawings could be provided by the Applicant at small electronic size. Several of the drawings are over 20MB in size which is likely to make them unwieldy for display in the MS Teams environment.

The ExA therefore requests the Applicant to re-provide the drawings in accordance with the following specification. For avoidance of doubt this also includes Figures to the Environmental Statement.

- No individual drawing/set of plans to exceed an absolute maximum of 10 MB; as a guide 5 to 6 MB should be achievable
- If the scheme has a large plan set, consider splitting the plans set into more than one 'book'
- Pay attention to the output of plans on .pdf from, for example, CAD systems, as certain systems output these in multiple layers which load successively and thus take a long time to load; layers should be merged/switched off
- Files should be given intelligent short names that enable the ExA and others to understand the content of the file from its filename or the beginning of its filename (i.e. 'Worksplans sheet 1' not 'E-may7746943_projecct_449_xbleep_large_works_sheets44'); the name should be intelligible in the tab when multiple document windows are open in a browser
- Files should be read checked before submission to ensure that all relevant details can still be read when zoomed in; e.g. plot numbers on land plans and labels for road, field or property names
- Files should be given a 'screen share' test before submission, ensuring that when shared over the internet the plan distributes to multiple viewers in a timely manner, the cursor remains mobile and no unlooked for behaviours (screen freezing, pixilation, judder, etc.) are experienced by multiple users.

Where drawings for part of a series, it would also assist if the drawings were geographically located one with each other, so that the most northerly element is first, with the adjoining drawing to the south second and so on. The ExA has no issue with the drawings being in order 07, 06, 05, etc.

Assessment of Principal Issues

In line with Section 88 of the Planning Act 2008 (as amended) and Rule 5 of the Infrastructure Planning (Examination Procedure) Rules 2010 (as amended), I am today publishing the initial assessment of the principal issues arising on the application. This can be found at **Annex B**.

Statements of Common Ground and other documents

As set out above, it makes sense to utilise the time before the PM. To this end the ExA has made a procedural decision to request Statements of Common Ground between the Applicant and various parties which are set out at **Annex C**. This would normally be sent out later in the examination process, and it may be that additional Statements are required.

As can be seen, we are particularly interested in areas where parties disagree with each other at this time. For each of those areas that are in dispute, it would be beneficial if each party would put their estimation as to the likelihood that disagreement will remain at the end of the Examination. This should be done on a "High", "Medium" and "Low" traffic light model. This will allow the ExA to assess those areas where oral discussions may be most beneficial.

We urge the Applicant and Interested Parties to press ahead with the work necessary to prepare these statements, using remote and digital communication and working methods to replace meetings as required. There are also other tasks that the ExA strongly encourages the Applicant and Interested Parties to continue in preparation for the PM, including those listed in **Annex D** of this letter.

We are today also issuing our First Written Questions so that parties can be aware of them and start to prepare written responses. The preliminary deadline for responses is 14 days after the close of the PM and the date will be confirmed in the Rule 8 letter following the PM. We would therefore urge all participants to make suitable arrangements to meet this.

We have also undertaken an Unaccompanied Site Inspection and a note of this is being published on the project web page today.

Response to Section 51 letter and Request for a Non-Material Change

On 29 May 2020 the Applicant wrote to the Planning Inspectorate setting out its response to the letter pursuant to Section 51 of the PA2008 written by the Planning Inspectorate on 28 February 2020 following the acceptance of the application, along with a request for a non-material change and to correct an error. This letter and associated documents has been published today on the [project web page](#).

In respect of the request for the asserted non-material change, this involves an amendment to the Order limits to remove land identified within the Shropshire Council area for the replacement of a sign (Plot 1/1a as identified on the Lands Plan (Examination Document reference [APP-007])).

The ExA has reviewed the information provided and assessed the Applicant's request in line with paragraphs 109 to 115 of former DCLG Guidance 'Planning Act 2008: Examination of Applications for Development Consent' and the Planning Inspectorate's Advice Note 16: How to request a change which may be material.

The ExA has concluded that the proposal would not materially affect the overall scheme for which consent is sought, the Environmental Statement or its conclusions, would reduce effects on affected landowners, and would not materially affect the consents and powers in the proposed Development Consent Order. Consequently, the proposed change can be accepted as a non-material change to the application. The accepting of this change would not affect the time in which the examination is to take place.

The effect of this non-material change is that there is no longer any land within the area covered by Shropshire Council.

To date Shropshire Council has not written to advise whether it wishes to be an Interested Party to the examination. This may be that it has assumed that because it is an "interested party" by virtue of being a local authority within the scope of s102(1)(c) of the Planning Act 2008, namely a local authority "in whose area the land" is located.

With the deletion of this land from the application through the amendment this may no longer be the case. In order to avoid confusion, the ExA therefore requests under Rule 17 of the Examination Procedure Rules that Shropshire Council confirms or otherwise whether wishes to be an Interested Party for the purposes of this examination. If it does wish to be an Interested Party then it will be given the opportunity to play a full part in the examination in due course.

Further amendments

Finally, in line with the normal arrangements for pre-application consultation technical issues should be identified and resolved as far as possible during the Pre-application stage so that they will not act as an impediment to the examination of the application within the statutory timescales. However, in light of the representations to date or any

other change in circumstance, should the Applicant wish to make any amendments, whether material or not material, the ExA would ask that these are processed at this stage. This would avoid delays later in the examination process. The Applicant is particularly referred to the [Planning Inspectorate's Advice note Sixteen: How to request a change which may be material](#). The ExA particularly asks that should there be any such requests that these should be undertaken comprehensively rather than incrementally.

Should the Applicant wish to make any changes the ExA particularly remind the Applicant of the implications of the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 (as amended) should any additional land be the subject of proposed compulsory acquisition either of land or rights, or temporary possession. Should this be the case then the Applicant is requested to explain how it considers that this might be included in any examination timetable given certain timescales set out in those Regulations.

Conclusion

I would urge all participants to keep up-to-date through the [project web page](#) on the Planning Inspectorate's National Infrastructure website and please continue to follow the advice of the Government with regard to the developing COVID-19 situation.

Please accept my apologies for any disruption that results from this decision. I trust that you will appreciate that the approach we set out is necessary given the exceptional circumstances in which we all currently find ourselves.

Yours faithfully

Robert Jackson

Lead Member of the Panel of Examining Inspectors

[Annex A: Frequently Asked Questions](#)

[Annex B: Principal Issues arising on the Application](#)

[Annex C: List of Statements of Common Ground](#)

[Annex D: Tasks for parties](#)

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