



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

Customer
Services: 0303 444 5000
e-mail: M54toM6LinkRoad@planninginsp
ectorate.gov.uk

To Interested Parties, Statutory Parties
and Other Persons invited to the
Preliminary Meeting

Your Ref:

Our Ref: TR010054

Date: 29 October 2020

Dear Sir/Madam

The Infrastructure Planning (Examination Procedure) Rules 2010 (as amended) – Rules 8(3), 9 and 17

The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (as amended) – Regulation 14

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

Notification of decisions to accept as part of the Application the proposed design changes submitted on 9 October 2020 and variation of timetable for the Examination

We are writing to inform you of the procedural decisions made by the Examining Authority (ExA) regarding the Applicant's proposed changes to the Development Consent Order (DCO) application.

The Applicant submitted a request to the ExA on 9 October 2020 in a document entitled "Formal Request for Scheme Changes" [Examination Library Reference AS-117]. This proposed a number of design changes which the Applicant considers to be minor and as such considers them to be non-material.

The Applicant's reasoning for the proposed changes is that it considers them to be a "design evolution or refinement, which deliver improvements to the design and reduce Scheme impacts, but do not change the purpose or objectives of the original Scheme".

The Proposed Changes are summarised as:

1. Realignment of the eastbound slip road from the M54 at Junction 1 towards Featherstone, moving it further from Featherstone village.
2. Reducing the width of the link road's central reservation and placing the drainage in the verge, rather than next to it.

3. Increase to the steepness of the section of the link road approaching M6 Junction 11 to reduce the height of the embankment.
4. Change to the bridge design and construction method at M54 Junction 1.
5. Relocation of the new bridge over the proposed link road at Hilton Lane and change to route of nearby Public Right of Way (Shareshill Footpath 5).
6. Change to alignment of the slip road at the revised M54 Junction 1 leading on to M54 eastbound to reduce the impact on Tower House Farm.
7. Amendments to the Environmental Masterplan based on 2020 survey results and ongoing consultation.

The Proposed Changes were accompanied by various amended and additional documents, including alterations to the Environmental Statement and the draft Development Consent Order and associated documents, including the Book of Reference.

The Proposed Changes would also affect the land which would be subject of either Compulsory Acquisition (CA), Temporary Possession (TP) or the subject of the imposition of rights. The Applicant has confirmed that in no case would the Proposed Changes result in "additional land" for the purposes of the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 (as amended). In other words, as a result of the Proposed Changes, no person would be more adversely affected than as set out in the original Book of Reference.

ExA Conclusion

The ExA has reviewed the information provided and assessed the Applicant's request in line with paragraphs 109 to 115 of DCLG Guidance 'Planning Act 2008: Examination of Applications for Development Consent' and the Planning Inspectorate's Advice Note 16¹. The ExA notes that all of the identified amendments to the design are set within the red line boundary for the scheme and would not result in a substantially different project, and that the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 (as amended) are not engaged.

The ExA notes that the Applicant has undertaken non-statutory consultation prior to the formal submission of the request that the Proposed Changes be accepted into the Examination. The ExA has carefully considered the extent of that non-statutory consultation and considers that it has been sufficient for these purposes. The ExA, however, notes that additional changes have been made since the non-statutory consultation, although these are relatively minor.

It is a different matter as to whether sufficient pre-submission consultation has been undertaken from how interested parties, who may wish to, can make representations on those Proposed Changes. This will be addressed below in this letter.

The ExA notes that the Applicant has been in discussions with those who would be directly affected by the proposed changes. The ExA accepts that the proposed changes would still allow for the examination to be completed within the statutory timetable of six months (section 98(1) Planning Act 2008 (as amended)).

While the Applicant has considered that the Proposed Changes would represent a non-material change, the ExA disagrees on this point. It considers that cumulatively they would represent a material change due to the number and extent of the Proposed

¹ Advice note sixteen: How to request a change which may be material

Changes, including the changes of significant effects identified in the Environmental Statement Addendum, and the statement that the construction period would be reduced by six months to two years. However, notwithstanding this, they are not so substantial nor has the development now being proposed been changed in substance from that which was originally applied for. The Proposed Changes are therefore such that they can be accepted into the Examination, and the ExA makes a Procedural Decision to that effect. They hereafter are referred to as the "Accepted Changes".

In light of this, the ExA makes a further Procedural Decision under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010 (as amended) to ask the Applicant to respond to the following question by **Deadline 2** (Tuesday 17 November 2020).

- Does the Applicant believe that the submission of the addendum to the Environmental Statement and multiple associated documents introduces a need for any additional notification or consultation under the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 or in the interests of best practice? If so, what measures has, or will, the Applicant put in place?

Changes to timetable

Following the ExA's procedural decision to accept the changes, we now invite comments in relation to them by a new **Deadline 3A** (Tuesday 1 December 2020), and any response to these comments, including from the Applicant, should be submitted by **Deadline 4** (Friday 8 January 2021).

We consider that it should be possible to address any issues arising from the Accepted Changes in the Hearings scheduled for between 8 and 10 December 2020². Indeed, not to do so would not be an efficient and effective use of Examination time, since this could involve discussions about matters that were no longer relevant.

However, we are conscious of representations from Interested Parties that this may be too early to allow them to fully assimilate the information in the Accepted Changes and comprehensively represent their respective clients' positions. Therefore, we have additionally and provisionally reserved an additional two days of Hearings for Tuesday 19 and Wednesday 20 January 2021. A decision as to whether it will be necessary to hold those additional Hearings will be made by the ExA following the Hearings in December.

As an adjunct to this, should these January Hearings take place, the timetable has been amended to provide for an additional **Procedural Deadline EA** (Friday 18 December 2020) for Interested Parties to notify of any wish to speak at those Hearings and add at **Deadline 6** (Friday 12 February 2021) for the receipt of Post Hearing submissions, including written submissions, of oral cases made at those January Hearings.

Yours faithfully

Robert Jackson

Robert Jackson, Lead Member of the Panel

Annex A – Revised Examination Timetable

² And the following week should this be necessary.

Revised Examination Timetable

The Examining Authority (ExA) is under a duty to **complete** the examination of the application by the end of the period of six months beginning with the day after the close of the Preliminary Meeting.

Deadlines A, B, C, etc relate to **procedural** matters relating to the operation of the Examination.

Deadlines 1, 2, 3, etc relate to the **submission of evidence** as part of the consideration of the merits of the Proposed Development.

The Examination of the application primarily takes the form of the consideration of written submissions. The ExA will also consider any oral representations made at hearings.

This timetable includes events that have already occurred, so the full timetable is set out in a single location.

The changes from the previously issued Examination Timetable (22 October 2020) are set out in **red**.

Item	Matters	Due Dates
1.	<p>Procedural Deadline A</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> • Confirmation as to wish to participate in or observe Preliminary Meeting (Part 1) • Submission of written comments or questions on the proposed procedural arrangements for the Examination • Submission by Applicant of suggested Accompanied Site Inspection (ASI) itinerary 	<p>Thursday 10 September 2020</p>
2.	<p>Preliminary Meeting (Part 1)</p>	<p>Thursday 1 October 2020</p>
3.	<p>Reserve date for Preliminary Meeting (Part 1) (if necessary due to overrun or technical issues)</p>	<p>Friday 2 October 2020</p>
4.	<p>Procedural Deadline B</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> • Submission of written responses to matters discussed at the Preliminary Meeting (Part 1) 	<p>Monday 12 October 2020</p>

	<ul style="list-style-type: none"> • Confirmation as to wish to participate in or observe Preliminary Meeting (Part 2) • Confirmation as to wish to participate in or observe Open Floor Hearing 1 (OFH1) 	
5.	Preliminary Meeting (Part 2)	Tuesday 20 October 2020
6.	Open Floor Hearing 1 (OFH1)	Wednesday 21 October 2020
7.	Reserve date for OFH1 (if necessary due to overrun or technical issues) ³	Thursday 22 October 2020
8.	Publication by the ExA of: <ul style="list-style-type: none"> • The Examination Timetable 	As soon as practicable following the PM
9.	<p>Deadline (D1)</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> • Responses to Written Questions, issued on 20 July 2020 [PD-010] • Comments on Applicant's change application of 29 May 2020 [AS-004], accepted on 20 July 2020 [PD-005] • Comments on Additional Documents submitted by the Applicant and other parties since the application was accepted [AS-001] to [AS-059] • Comments on Relevant Representations (RRs) • Summaries of all RRs exceeding 1500 words • Written Representations (WRs) • Summaries of all WRs exceeding 1500 words • Applicant's submission of Integrity matrices as to effects on European sites • Post Hearing submissions including written summaries following PM and OFH1 • Interested Party comments on Applicant's suggested ASI itinerary • Local Impact Reports (LIRs) (Annex B) 	Tuesday 3 November 2020

³ This was not necessary.

	<ul style="list-style-type: none"> • Statements of Common Ground (SoCG) requested by the ExA (Annex B) • Responses to any further information requested by the ExA for this deadline 	
10.	<p>Procedural Deadline C</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> • Notification by Statutory Parties of their wish to be considered as an IP by the ExA • Notification of wish to speak at an Open Floor Hearing (OFH2) • Notification of wish to make oral representations at an Issue Specific Hearings (ISH) together with indication of specific topics that the party wishes the ExA to discuss • Notification of wish to speak at a Compulsory Acquisition Hearing (CAHs) • Notification of wish to have future correspondence received electronically 	<p>Tuesday 3 November 2020</p>
11.	<p>Deadline 2 (D2)</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> • Comments on responses to the ExA's Written Questions • Applicant's first revised draft DCO • Responses to comments on RRs • Comments on any additional information/submissions received by D1 • Responses to any further information requested by the ExA for this deadline including the question relating to publicity 	<p>Tuesday 17 November 2020</p>
12.	<p>Procedural Deadline D</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> • Confirmation as to wish to participate or observe at Hearings scheduled for December 2020 • Notification of wish to attend, or part attend, an ASI should this be possible 	<p>Tuesday 17 November 2020</p>
13.	<p>Publication of ExA's Site Inspection Timetable for Site Inspections identified for 1 and 2 December 2020.</p>	<p>Monday 23 November 2020</p>

14.	<p>Deadline 3 (D3) Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> • Comments on WRs • Comments on SoCGs • Comments on LIRs • Comments on Applicant’s first revised draft DCO • Comments on Integrity matrices as to effects on European sites • Submission by the Applicant of low-resolution documents (see Annex F) • Comments on any additional information/submissions received by D2 • Responses to any further information requested by the ExA for this deadline 	<p>Tuesday 24 November 2020</p>
15.	<p>Procedural Deadline E Deadline for confirmation that Site Inspections access can be provided and matters that parties would like the ExA to particularly look for at Site Inspection on 1/2 December</p>	<p>Thursday 26 November 2020</p>
15A.	<p>Deadline 3A (D3A) Deadline for the receipt by the ExA of:</p> <ul style="list-style-type: none"> • Comments on the Changes accepted on 29 October 2020 	<p>Tuesday 1 December 2020</p>
16.	<p>Dates reserved for Site Inspection⁴</p>	<p>Tuesday 1 & Wednesday 2 December 2020</p>
17.	<p>Issue by the ExA of: Further Written Questions (if necessary).</p>	<p>Friday 4 December 2020</p>
18.	<p>Hearings Dates reserved for:</p> <ul style="list-style-type: none"> • Open Floor Hearing (OFH2) (if required) • Issue Specific Hearings (ISH 1 to 3) (if required) <p>Possible topics:</p> <ul style="list-style-type: none"> ○ Air Quality ○ Biodiversity 	<p>Tuesday 8 to Thursday 10 December 2020</p>

⁴ Please note: A Site Inspection can only go ahead if Government guidance on COVID-19 at that time permits. In the event it cannot be undertaken as a physical visit, alternative approaches (including the use of technology) will be explored, and all participants will be notified.

	<ul style="list-style-type: none"> ○ Cultural Heritage ○ Green Belt ○ Geology and Soils ○ Landscape and visual ○ Noise and Vibration ○ Socio-Economics ○ Traffic and Transport ○ Water issues ○ Draft DCO ● Compulsory Acquisition Hearing (CAH1) (if required) 	
19.	<p>Hearings</p> <p>Dates reserved for hearings (if necessary due to overrun or technical issues)</p>	Tuesday 15 to Thursday 17 December 2020
19A	<p>Procedural Deadline EA</p> <ul style="list-style-type: none"> ● Confirmation as to wish to participate or observe at Hearings scheduled for January 2021 (should they take place) 	Friday 18 December 2020
20.	<p>Deadline 4 (D4)</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> ● Post December 2020 Hearing submissions including written submissions of oral case ● Any revised/updated SoCG ● Responses to the ExA's Further Written Questions (if issued) ● Applicant's revised draft DCO (if required) ● Comments on any additional information/submissions received by D3 and D3A ● Responses to any further information requested by the ExA for this deadline 	Friday 8 January 2021
20A.	<p>Hearings</p> <p>Dates reserved for hearings (if necessary, in respect of the Changes accepted on 29 October 2020)</p>	Tuesday 19 and Wednesday 20 January 2021
21.	<p>Deadline 5 (D5)</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> ● Comments on any revised/updated SoCG (if any) 	Wednesday 20 January 2021

	<ul style="list-style-type: none"> • Comments on Applicant's revised draft DCO (if any) • Comments on responses to ExA's further written questions (if issued) • Comments on any additional information/submissions received by D4 • Responses to any further information requested by the ExA for this deadline 	
22.	Publication of: <ul style="list-style-type: none"> • The ExA's Third set of Written Questions (if required) 	Friday 29 January 2021
23.	Deadline 6 (D6) Deadline for receipt by the ExA of: <ul style="list-style-type: none"> • Post January 2021 Hearing submissions including written submissions of oral case (if required) • Responses to the ExA's Third set of Written Questions (if required) • Comments on any additional information/submissions received by D5 • Responses to any further information requested by the ExA for this deadline 	Friday 12 February 2021
24.	Publication of: <ul style="list-style-type: none"> • Report on the Implications for European Sites (RIES) (if required) • The ExA's proposed schedule of changes to the draft DCO (if required) 	Friday 26 February 2021
25.	Procedural Deadline F <ul style="list-style-type: none"> • Confirmation as to wish to participate or observe the Open Floor Hearings, Issue Specific Hearings, Compulsory Acquisition Hearings and Accompanied site visit in March (if required). 	Friday 5 March 2021
26.	Hearings Dates reserved for: <ul style="list-style-type: none"> • Further Issue Specific Hearings (if required) • Further Issue Specific Hearing on the draft DCO (if required) • Further Open Floor Hearing (if required) 	Tuesday 16, Wednesday 17, Thursday 18 and Tuesday 23 March 2021

	<ul style="list-style-type: none"> • Further Compulsory Acquisition Hearing (if required) • Further Accompanied Site Inspection (if required) 	
27.	<p>Deadline 7 (D7) Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> • Post Hearing submissions including written submissions of oral case (if required) • Comments on responses to the ExA's further Written Questions (if required) • Comments on the RIES (if issued) • Comments on the ExA's proposed schedule of changes to the draft DCO (if issued) • Comments on any additional information/submissions received by D6 • Responses to any further information requested by the ExA for this deadline 	Friday 26 March 2021
28.	<p>Deadline 8 (D8) Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> • Responses to comments on the RIES (if issued) • Responses to comments on the ExA's proposed schedule of changes to the draft DCO (if issued) • Final DCO to be submitted by the Applicant in the SI template with the SI template validation report (MS Word) • Final updated Book of Reference • Final SoCGs • Final Statement of Commonality of SoCG • Final Compulsory Acquisition Schedule • Final updated Guide to the Application • Comments on any additional information/submissions received by D7 • Responses to any further information requested by the ExA for this deadline 	Wednesday 7 April 2021
29.	<p>Deadline 9 (D9) Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> • Comments on any additional information/submissions received • Responses to any further information requested by the ExA for this deadline 	Friday 16 April 2021

	<ul style="list-style-type: none"> • Statements of Final Position in respect of matters examined 	
30.	The ExA is under a duty to complete the Examination of the application by the end of the period of 6 months beginning with the day after the close of the Preliminary Meeting.	Tuesday 20 April 2021

Publication dates

All information received will be published on the project page of the National Infrastructure Planning website as soon as practicable after each deadline for submissions.

Hearing agendas

We will aim to publish a draft agenda for each hearing on the project page of the National Infrastructure Planning website at least five working days in advance of the hearing date. The actual agenda on the day of each hearing may be subject to change at the discretion of the ExA.

Report on the Implications for European Sites

Where the Applicant has provided a No Significant Effects Report or a Habitats Regulations Assessment (HRA) Report with the DCO application, the ExA may decide to issue a Report on the Implication for European Sites (RIES) during the Examination. The RIES is a factual account of the information and evidence provided to the ExA on HRA matters during the Examination up to the date of the publication of the RIES, for the purposes of enabling the Secretary of State, as competent authority, to undertake its HRA. It is not the ExA's opinion on HRA matters. Comments on the RIES will be invited by the ExA and any received will be taken into account as part of the ExA's Recommendation to the relevant Secretary of State.

The Secretary of State may rely on the consultation on the RIES to meet its obligations under Regulation 63(3) of the Habitats Regulations⁵.

⁵ The Conservation of Habitats and Species Regulations 2017