

M54 TO M6 DCO

Review of land acquisition at Hilton Park

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Hilton Park
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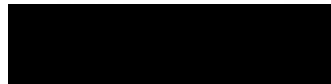
INITIAL REVIEW OF LAND ACQUISITION

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1 INTRODUCTION

- 1.1 This report presents a review of issues regarding the Development Consent Order (DCO) application for the M54 to M6 Link Road (the scheme), which has been submitted to the Planning Inspectorate by Highways England. Specifically the review examines the proposed acquisition of land (temporary and permanent) within the historic estate of Hilton Park.
- 1.2 The proposed new link road passes through the western side of the historic estate, with the scheme design requiring additional land acquisition to the west of the new road for environmental mitigation purposes. Principally the land to the west of the new road at this location would be used for the planting of new woodland and the establishment of ecology ponds edged by species-rich grassland and/or marsh and wet grassland. Currently this land is predominantly grade 2 agricultural land.
- 1.3 An initial review by RPS responded to a question posed by the owners of the land to the west of the proposed new road (as part of a larger land-holding which includes much of the historic park):
- *Would provision of mitigation/compensation to the east of the road cause unacceptable harm to the Hilton Park Historic Landscape Area?*
- 1.4 This more detailed review expands on some of the points made in the initial review, and also examines other issues relating to the scheme which have a bearing upon the effect of the scheme on the client's landholding.
- 1.5 Examination has been made of documents which form part of the DCO application and which have been viewed on the PINS website:
<https://infrastructure.planninginspectorate.gov.uk/projects/west-midlands/m54-to-m6-link-road/?ipcsection=overview>
- 1.6 In particular, the following documents and drawings have been appraised:
- Environmental Statement Chapter 2: Scheme Description
 - Environmental Statement Chapter 4: Assessment Methodology
 - Environmental Statement Chapter 6: Cultural Heritage, including Figures 6.7 – 6.10;
 - Environmental Statement Appendix 6.5: Further information on Hilton Hall, including photos from Hilton Hall;
 - Draft Environmental Masterplans; and
 - Land Plans
- 1.7 Additional material also examined includes a map of 1816 (by Robert Dawson), the South Staffordshire Historic Environment Assessment (HEA) prepared by Staffordshire County Council, and an additional document published by the Applicant in June 2020 entitled Environmental Mitigation Review – Plot 4/20c and 5/2.
- 1.8 The 1816 map can be viewed online at:
<https://www.oldmapsonline.org/map/britishlibrary/002OSD000000010U00171000>

2 REVIEW

Hilton Park

- 2.1 Hilton Park is an area of historic parkland and gardens surrounding Hilton Hall, located to the east of Featherstone in the administrative district of South Staffordshire.
- 2.2 Hilton Park is not included on the non-statutory *Register of Parks and Gardens of Special Historic Interest in England*, which is maintained by Historic England. It is however locally designated by South Staffordshire Council as a Historic Landscape Area (HLA).
- 2.3 The current Hilton Hall is a Grade I listed building of early 18th century date which replaced an earlier building which was probably of later medieval date. The early 18th century house was built for the Vernon family and the design is attributed to the architect Richard Trubshaw.
- 2.4 Additional listed buildings within Hilton Park comprise:
- The Conservatory (Grade I) – small circular glasshouse in wood and cast-iron located to the north-west of the house;
 - Coach house and stable block (Grade II) – courtyard building of early 19th date to the north-east of the house;
 - Gatepiers (Grade II) – pair of early 18th century gatepiers to the south-west of the house, associated with a former entrance route; and
 - The Portobello Tower (Grade II) – a commemorative tower of mid-18th century date which records the capture in 1739 of the Spanish town of Porto Bello in the West Indies by Admiral Vernon, a distant cousin of the owners of the house.
- 2.5 The gardens and grounds of Hilton House are known as Hilton Park. Although some elements of the medieval estate are likely to have survived, the only known feature likely to be of this date is the moat which surrounds the house, and this has almost certainly been re-landscaped.
- 2.6 Chapter 6 of the ES notes that the design of the post-medieval park '*is associated with the late 18th century landscape gardener, Humphrey Repton*', before going on to say that '*While the landscape design of Hilton Park is attributed to Repton, there are few details of the specific design principles for Hilton Park available. Assumptions can be made regarding the design of Hilton Park using other examples of his work, but information of the details of rational (sic) behind his influence on the park is limited*'. [6.6.77]
- 2.7 The evolution and development of Hilton Park is reviewed in Appendix 6.5 of the Environmental Statement (ES) submitted as part of the DCO application. This also identifies an 'association' with Humphrey Repton (1752-1818) whilst stating that '*it is not certain if he ever produced a design for the park*'. [2.1.4]. No further information is provided with regard to this 'association' with Humphrey Report.
- 2.8 Appendix 6.5 of the ES does not seem to have benefitted from the input of a specialist garden historian, or from consultation with the Gardens Trust (formerly the Garden History Society) and/or other appropriate organisations.
- 2.9 It has not been possible to visit the National Archives (Kew) or any other archives during the preparation of this review (due to the COVID-19 pandemic) so any research by RPS into the

- historic development of the designed landscape at Hilton Park, including the ‘association’ with Humphrey Repton, has been limited to available source material.
- 2.10 From 1790 to 1811, *Peacock’s Polite Repository or Pocket Companion* (an almanac published yearly from around 1788 to 1830) included illustrations by Humphrey Repton. The 1796 edition included an image of Hilton Hall, which indicates at least that Repton had visited the park at some point before or during that year in order to produce the illustration.
- 2.11 Repton produced a ‘Red Book’ for many of his clients in order to showcase his design proposals. The garden historian Cherry Ann Knott carried out research into Hilton Hall and Hilton Park on behalf of Tarmac plc when the house was owned by the company, having previously undertaken research into Sudbury Hall which was similarly owned by the Vernon family. Reference is made to archive material held at Hilton Hall and also to Vernon family papers deposited at the Staffordshire County Record Office, but also to a Repton Red Book believed to be held by the Vernon family. Detailed research may therefore provide further information regarding the ‘association’ of Repton with Hilton Park.
- 2.12 There is no reference within Appendix 6.5 of the ES to the examination of archive material such as the Vernon family papers held at the Staffordshire County Record Office, or to any contact with the Vernon family regarding other material that they may still hold and which could provide additional understanding of the ‘association’ with Humphrey Repton. Instead the Appendix merely claims that *‘it is not certain if he ever produced a design for the park’*. [2.1.4]. Given that the proposed M54 to M6 Link Road passes through Hilton Park and impacts upon several elements of the designed landscape, the failure to properly examine this claimed ‘association’ with Repton is a serious flaw when it comes to understanding the significance of the historic park.
- 2.13 Appendix 6.5 of the ES makes reference to a series of historic maps in order to illustrate the development of Hilton Park, some of which are reproduced as figures within the ES. These include an Estate Map of 1796 (Figure 6.7) and the Tithe Map of 1842 (Figure 6.8). There is no reference in Appendix 6.5 to William Fowler’s Hilton Survey of 1651 or to Robert Dawson’s map of 1816. The latter is the original preliminary drawing for the Ordnance Survey, prepared at a scale of one inch to the mile.
- 2.14 The route of the proposed M54 to M6 Link Road passes through the western side of Hilton Park, crossing directly over (and removing) the south-western part of an ornamental lake known as the Lower Pool. The review of historic maps presented within Appendix 6.5 of the ES correctly identifies that the Lower Pool is not shown on the estate map of 1796 (Figure 6.7), and that it is present on the Tithe Map of 1842 (Figure 6.8). The authors of Appendix 6.5 therefore included the Lower Pool in the review of the park’s development during the 19th century.
- 2.15 In the assessment of the 20th century development of the park within Appendix 6.5, it is stated that the Lower Pool is *‘first depicted on the 1842 Tithe Map’*. [4.1.1]. This statement is incorrect - the Lower Pool is actually clearly depicted on Robert Dawson’s 1816 map of the area (see Figure 1 of this review for comparison with Figures 6.7 and 6.8 of the ES).
- 2.16 The significance of this earlier date for the establishment of the Lower Pool (i.e. at some point between 1796 and 1816) is that it puts it within the design period of Humphrey Repton, who died in 1818 and who we know must have visited Hilton Hall at some point prior to or during

- 1796 in order to produce the image seen in that year's edition of *Peacock's Polite Repository*. By failing to review all available historic maps, the authors of Appendix 6.5 have missed this hugely important point regarding the development of the park and the potential consequence of the scheme in removing part of the Lower Pool.
- 2.17 Examination of Dawson's map of 1816 (Figure 1 of this review) shows considerable development of the park from that depicted on the 1796 estate map, thus again all of this would be within the design period of Repton. To the west of the house are two thick parallel linear belts of trees. An outer perimeter belt along the eastern edge of what is now the A460 road is named on the Ordnance Survey 6" (to the mile) map of 1902 as the Belt or the Lower Belt. To the east is a second tree belt running south from the Lower Pool towards the southern edge of the park. In the other direction it curves around the northern edge of the Lower Pool and is then aligned to the north-east until it merges with another tree belt along the southern side of Hilton Lane, collectively named on the Ordnance Survey 6" (to the mile) map of 1902 as The Shrubbery. Other linear tree belts were established to the east and south of the house and are shown clearly on the 1816 map; these were all established as shelter belts to screen views into and out of the park. None of the shelter belts were depicted on that part of the 1796 estate map reproduced as Figure 6.7 of the ES and it is likely therefore that they are part of the same phase of parkland development which saw the establishment of Lower Pool. The 1816 map shows the tree belts as being fully matured, therefore they must have been laid out and planted soon after 1796 – again well within the design period of Humphrey Repton.
- 2.18 Other changes to the park in the period 1796 – 1816 can be seen through examination of the relevant historic maps (Figure 6.7 of the ES and Figure 1 of this review). The principal entrance drive leading to the house was moved so that by 1816 the approach was from the west (from what is now the A460 road) and passing through both of the western tree belts. The 1796 map shows that access was from the south, linking to a road or track which had been removed by 1816. However, the same map also shows a route approaching from the south-west and linking to what is now the A460 road, this is denoted on the map as '*New proposed way to Hilton*'. It is possible that the 1796 estate map was prepared ahead of the planned redesign of the parkland in order to allow initial thoughts on the new design to be presented to the Vernon family. The road now known as Dark Lane, which passes around the north side of Lower Pool, was also established between 1796 and 1816.
- 2.19 The historic park has not fared well with regard to the establishment of the modern trunk road network. The M6 motorway passes through the eastern side of the park (and the associated Hilton Park motorway service station is largely within the historic park), while the M54 motorway passes through the southern part of the park, severing the southern perimeter tree belts from the rest of the designed landscape. Additionally, parts of the former park to the south of the M54 motorway have been subject to extraction (gravel) with some subsequent manufacturing and light industrial development being established here. However, the western and northern extents of the park are still intact, with the western edge represented by the current A460 road and the northern edge by Hilton Lane.
- 2.20 The proposed route of the M54 to M6 link road passes through the western side of the historic park, removing part of the ornamental lake known as Lower Pool and separating the western perimeter tree belt from the remaining part of the park. It also severs both the historic access route leading from the A460 road (at Lower Lodge) to Hilton Hall, which was established as the

- principal access to the house from at least 1816, and the road known as Dark Lane which is also part of the designed landscape dating to the period 1796 - 1816.
- 2.21 In addition to the land required for the new road and road junctions within the historic park (including some land to be temporarily acquired for construction purposes), additional land is proposed to be acquired for environmental mitigation or compensation. This includes two fields to the west of the new road and the Lower Pool, both of which are within the Hilton Park HLA. These fields are marked on the Land Plans as Plot 5/2 and 4/20c and are currently grade 2 agricultural land.
- 2.22 Plot 5/2 includes the western perimeter tree belt (on the eastern side of the A460 road) and the northern perimeter tree belt (on the southern side of Hilton Lane). It is proposed that almost all of this field will be planted as woodland, with a small area in the south-east (adjacent to the new road) being used for two small 'ecology ponds' surrounded by narrow strips of species-rich grassland. Plot 4/20c is to the south of Plot 5/2, and at the western edge of this field is Lower Lodge which is located at the former main western entrance to the park. The land here is proposed to be planted with woodland around the southern and eastern edges, with the northern part to contain three small 'ecology ponds' surrounded by an area of marsh and wet grassland and then strips of species-rich grassland.
- 2.23 To the east of the new road and to the south of Hilton Lane, a section of the historic tree belt along the south side of Hilton Lane is also to be permanently acquired. This is part of Plot 5/4 and Annex A of the Statement of Reasons (part of the DCO submission) states that the purposes for acquisition of plot 5/4 includes '*the establishment of woodland enhancement measures*'.
- 2.24 The assessment of the impact and effect of the proposed scheme on Hilton Park and the associated listed buildings is presented within Chapter 6 of the ES. Hilton Park is described as having historic interest '*as it illustrates a mid- to late 18th century parkland that was designed to form the setting of a country house*'. [6.9.37]. There is no recognition in this statement of the major redesign of the parkland in the period 1796 – 1816, which saw the establishment of Lower Pool, the extensive tree belts around all sides of the park, the principal western access and also the road now known as Dark Lane.
- 2.25 The assessment acknowledges the direct impact on the park during construction, describing the scheme as affecting the western boundary of the park through severance from the rest of this designed landscape. [6.3.9]. It then explains that the scheme '*would be located close to the alignment of Dark Lane, running parallel along the western boundary of the park*'. This is erroneous; the scheme actually severs Dark Lane at a point just beyond its junction with Park Road. The historic nature of Dark Lane as an element of the 1796 – 1816 landscape design is not recorded within the assessment, nor is any weight given within the assessment to the severance of this route as a result of the scheme.
- 2.26 Para 6.3.39 identifies that 'key elements' of the park would be affected, including the Lower Belt, The Shrubbery, the Lower Pool and surrounding woodland. The assessment goes on to say that although these '*are elements that illustrate the historic development of the park ...they would not be lost completely. The remaining woodland around the Lower Pool would be retained along with the open parkland between the Hall and the Shrubbery. The remaining trees would continue to provide screening to the Scheme from the eastern side of the park, as well as from Hilton Hall and its associated buildings and structures*'.

- 2.27 Overall the assessment presented in Chapter 6 of the ES concludes [6.9.40] that (during construction) the magnitude of impact would be 'moderate adverse' and the effect (as this is an asset of medium value) would also be 'moderate adverse', which is significant in EIA terms. According to the methodology presented in Chapter 4 of the ES, moderate effects '*can be considered to be material decision-making factors*'.
- 2.28 However, there is no discussion at all within the assessment presented in Chapter 6 of the ES with regard to the impact of the environmental mitigation measures proposed for the land to the west of the new road. The assessment focuses on the impact of the new road and even then it fails to take into account the severance of the former principal access route to the house and the severance of Dark Lane which is also part of the designed landscape.
- 2.29 The environmental mitigation measures (for the scheme) proposed within Hilton Park include new woodland planting across all of Plot 5/2 west of the new road. This would merge with the historic tree belts on the east side of the A460 and the south side of Hilton Lane, and therefore these tree belts, which were key elements of the redesign of the parkland in the period 1796 - 1816, would lose their separate identity. The South Staffordshire HEA includes recommendations for Hilton Park and states that '*The surviving heritage assets of the historic landscape park which lie within this zone comprise the shelter belts, woodland and lake which are important components to understanding the history and design of Hilton Park*'. Thus not only will the proposed new road sever the western edge of the historic park, but the proposed woodland planting will impact greatly on the nature and character of the western perimeter tree belt as an important component of that designed landscape. This is not acknowledged or discussed within Chapter 6 of the ES and has not been taken into account in the assessment of the impacts and effects on Hilton Park.
- 2.30 Similarly, the new road would sever the route of the former principal access route to the house (leading from the A460 at Lower Lodge), and the proposed woodland planting in plot 4/20c extends over this access route. There is no mention in Chapter 6 of the ES regarding the impact (on the historic park) of severing and planting over what was formerly the principal access through the park to Hilton House, nor any recognition of this access route within the designed mitigation.
- 2.31 In a document of June 2020 entitled *Environmental Mitigation Review – Plot 4/20c and 5/2* (Report No. HE514465-BAM-EGN-Z1_ZZ_ZZ_ZZ_TN-LE-0001-PO2 S4), the Applicant states that '*Consultation with Historic England has confirmed they require the retention of form of features within the retained historic park such as the historic boundary of Lower Pool/The Shrubbery, and they would prefer not to extend the woodland into the open parkland between The Shrubbery and the Hall*'. [4.3.11].
- 2.32 No further information is presented with regard to this consultation. It is assumed that Historic England's principal concern is with regard to the setting of Hilton Hall and the Conservatory rather than the park itself, as both of these are Grade I listed buildings whereas Hilton Park is not included on the non-statutory Register of Parks and Gardens of Special Historic Interest in England. However, the park is locally designated by South Staffordshire Council as a Historic Landscape Area (HLA), but there is no information presented in respect of consultation with South Staffordshire Council with regard to the impact of the proposed environmental mitigation. Given that the appraisal of the historic park presented in Appendix 6.5 of the ES and taken through into the assessment presented in Chapter 6 of the ES is woefully inadequate, how can

- the ExA be sure that Historic England (and South Staffordshire Council if they were indeed consulted) were provided with adequate information on which to base their advice?
- 2.33 In Chapter 6 of the ES, a ‘medium’ value is ascribed to Hilton Park [6.9.40-6.9.41]. In terms of the methodology used within the ES and described within Chapter 4 of the ES, this level of value means ‘*High or medium importance and rarity, regional scale, limited potential for substitution*’. [Table 4.1]. There is no information presented within Chapter 6 of the ES which explains why this ‘medium’ value has been ascribed to Hilton Park. Appendix 6.5 of the ES provides basic descriptions of various elements within the historic park, set within a temporal framework of 18th century, 19th century and 20th century (although not the 21st century), however it fails to present any statement of significance (either for any individual element or for the historic park as a whole).
- 2.34 Identification of significance (or value) lies at the heart of the process of the assessment of impacts and effects on heritage assets. The web-based National Planning Practice Guidance (NPPG) includes a section entitled ‘**How can proposals avoid or minimise harm to the significance of a heritage asset**’, which states ‘*Understanding the significance of a heritage asset and its setting from an early stage in the design process can help to inform the development of proposals which avoid or minimise harm*’. Historic England have recently published detailed guidance on how to describe heritage significance in a document called ‘*Statements of Heritage Significance: Analysing Significance in Heritage Assets*’ (Historic England Advice Note 12 – October 2019). This document is referenced within Chapter 6 of the ES, however there is no clear statement of significance regarding Hilton Park within that chapter or within the supporting Appendix 6.5.
- 2.35 Without any clear statement of significance with regard to Hilton Park, it is difficult to see how the Applicant has concluded that the historic park is of ‘medium’ value. The descriptor provided in Chapter 4: Methodology of the ES for a ‘high’ level of value is ‘*High importance and rarity, national scale, limited potential for substitution*’. [Table 4.1]. For Hilton Park, a key element of any discussion around significance and whether the park should be considered to be of high or medium importance at a regional or national scale is the ‘association’ with Humphrey Repton. Given the failure of the Applicant to undertake any meaningful research into this matter (as described above), it is hard to see how an accurate statement of significance could be produced at this stage.
- 2.36 Chapter 6 of the ES concludes that the magnitude of impact on Hilton Park as a result of the construction of the proposed scheme would be ‘moderate adverse’ [6.9.40]. According to the methodology described in Chapter 4 of the ES, this level of magnitude equates to ‘*Loss of resource, but not adversely affecting the integrity; partial loss of/damage to key characteristics, features or elements*’. [Table 4.2]. As noted above in paragraphs 2.28 – 2.30, this assessment of the magnitude of impact failed to take into account any impacts associated with the proposed environmental mitigation planting on the west side of the new road, or the proposed severance of Dark Lane, or the proposed severance of the former principal access through the park to the house and the proposed planting over of the route of this former principal access.
- 2.37 The chapter goes on to conclude that (during construction), this assessed ‘moderate adverse’ magnitude of impact on an asset of ‘medium’ value would result in a ‘moderate adverse’ significance of effect. [6.9.40]. In the overall methodology presented in Chapter 4 of the ES, a

- 'moderate adverse' effect is one that is typically considered to be significant [4.3.16], and one that can be considered to be a material decision-making factor. [Table 4.4].
- 2.38 If detailed research into the history of Hilton Park had been undertaken by the Applicant, and particularly if clarity had been provided regarding the 'association' with Humphrey Repton, it is possible that a clear statement of significance could have been produced from which a 'high' value may have been ascribed to the designed landscape. In this situation, a 'moderate adverse' magnitude of impact would result in a 'moderate or large' significance of effect. [Chapter 4 of the ES; Table 4.3]. If the assessor then considered that the correct significance of effect was 'large', then this would be *'likely to be material in the decision-making process'*. [Chapter 4 of the ES; Table 4.4].
- 2.39 In Chapter 6 of the ES, the Applicant equates the assessed 'moderate adverse' significance of effect with *'less than substantial harm to the significance of the asset'* in order to reconcile the terminology used in the ES with that used in the National Planning Policy Framework (NPPF). In this context, it is interesting to note the Relevant Representation (RR) from Historic England which was received by the ExA on 23 March 2020. In this RR, Historic England state *'Whilst the overall impact upon Hilton Park may be 'less than substantial', our view is that because of the direct physical impact upon the lower belt, the shrubbery, the lower pool and surrounding woodland, the impact would in these cases be locally 'substantial'*. The RR goes on to say that engagement between Historic England and Highways England should continue and that detailed mitigations strategies should be developed, including a planting and detailed landscape design proposal which *'should be informed by an expert and informed understanding of the development and significance of the historic landscape'*.
- 2.40 There are two key issues arising from this RR submitted by Historic England in response to the DCO application. The first is the opinion of Historic England regarding the magnitude of impact on elements of the designed landscape within Hilton Park. The statement that the impact with regard to certain elements of this designed landscape would be 'substantial' is hugely important.
- 2.41 The terms 'substantial harm' and 'less than substantial harm' were introduced in *Planning Policy Statement 5: Planning for the Historic Environment* (PPS5) but were not defined in *Annex 2: Terminology* of that PPS. When these terms were used within the NPPF, again they were not defined, however the supporting NPPG does provide some clarification: *'Whether a proposal causes substantial harm will be a judgement for the decision-maker, having regard to the circumstances of the case and the policy in the National Planning Policy Framework. In general terms, substantial harm is a high test, so it may not arise in many cases'*.
- 2.42 While this guidance is rather broad, the extent to which substantial harm can be considered to be a 'high test' has been confirmed within a number of legal decisions, most notably *Bedford Borough Council v Secretary of State for Communities and Local Government and NUON UK Ltd* [2013] EWHC 2847.
- 2.43 In the Bedford case, focusing on setting issues, the Inspector originally identified in his Report that: *'There is no specific guidance as to the level at which harm might become substantial but on a fair reading, it is clear that the author(s) [of the PPS5 Practice Guide] must have regarded substantial harm as something approaching demolition or destruction'* (Bedford judgment, paragraph 22).

- 2.44 While it was queried whether this was setting too high a bar for substantial harm, Mr Justice Jay identified that with regard to the above statement, given that the harm under consideration was based on change within the setting of the listed building rather than physical intervention, the above quotation was clearly intended to be appended by the words ‘to significance’. J Jay therefore concluded that: *‘What the inspector was saying was that for harm to be substantial, the impact on significance was required to be serious such that very much, if not all, of the significance was drained away. Plainly in the context of physical harm, this would apply in the case of demolition or destruction, being a case of total loss. It would also apply to a case of serious damage to the structure of the building. In the context of non-physical or indirect harm, the yardstick was effectively the same. One was looking for an impact which would have such a serious impact on the significance of the asset that its significance was either vitiated altogether or very much reduced’* (Bedford judgement, paragraphs 24-25).
- 2.45 This judgement, together with subsequent judgements and decisions (*cf.* the decision by the Secretary of State for Communities and Local Government relating to the site known as Land at Chapel Lane, Wymondham, Norfolk (APP/L2630/A/13/2196884) have subsequently been cited in a number of planning decisions at which the definition of ‘substantial harm’ is taken to be the point at which the significance of a heritage asset is ‘very much drained away’ or ‘vitiating altogether’.
- 2.46 Thus in the context of the present DCO application, the RR submitted by Historic England sets out their position that, with regard to certain elements of the designed landscape within Hilton Park (including the Lower Pool, The Shrubbery, the Lower Tree Belt and the surrounding woodland), their significance as heritage assets would be ‘very much drained away’ or ‘vitiating altogether’ as a result of the construction of the proposed scheme.
- 2.47 The second part of the RR submitted by Historic England which requires further consideration is the statement that further consultation on a planting and detailed landscape design proposal *‘should be informed by an expert and informed understanding of the development and significance of the historic landscape’*. This statement thus recognises the inadequacy of the work presented in Appendix 6.5 of the ES and Chapter 6 of the ES regarding the appraisal of the designed landscape within Hilton Park. It also reinforces the comments in this review (see above) on the need for detailed appraisal of archive material and the input of a specialist garden historian, also the need for a clear statement of significance. However, this work should not be happening at detailed design stage as suggested by Historic England in their RR, it should have been done already by the Applicant in order to inform the current design as indicated within the application documents. This absence of this *‘expert and informed understanding’* also means that the assessment of impacts and effects as presented within Chapter 6 of the ES is fundamentally flawed.

Potential Archaeological Remains

- 2.48 The ExA issued the first written questions and requests for information (ExQ1) on 20 July 2020. Question 1.6.10 deals with the issue of archaeological trial trenching. The ExA ask about the timing of the programme of trial trenching – has it already happened or it is programmed for the future? Question 1.6.10c raises a very serious point – if the trial trenching is to be undertaken at some point in the future, *‘how can the Secretary of State (SoS) assess the particular*

- significance of any heritage asset that may be affected (NPSNN, paragraph 5.128) if there is no available evidence on this'?*
- 2.49 The reference in the quotation above from ExQ1 refers to the National Policy Statement for National Networks (NPSNN). Although the reference in ExQ1 is to paragraph 128, it is actually paragraph 129 of NPSNN which addresses this specific issue:
- 'In considering the impact of a proposed development on any heritage asset, the Secretary of State should take into account the particular nature of the significance of the heritage asset and the value that they hold for this and future generations. This understanding should be used to avoid or minimise conflict between their conservation and any aspect of the proposal.'*
- 2.50 Paragraph 129 of NPSNN sets out the requirements placed on the applicant with regard to the provision of information on the significance of any heritage assets that could be affected by a proposed scheme:
- 'The applicant should describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the asset's importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant Historic Environment Record should have been consulted and the heritage assets assessed using appropriate expertise. Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, the applicant should include an appropriate desk-based assessment and, where necessary, a field evaluation'. [emphasis added]*
- 2.51 The undertaking of archaeological field evaluation ahead of submission or determination of an application for a development is standard practice within the UK planning system. Evaluation can be phased and can include non-intrusive fieldwork such as geophysical surveys and intrusive fieldwork such as trial trenches.
- 2.52 For the proposed M54 to M6 DCO scheme, geophysical survey has been undertaken over much of the land required for the scheme. This represents an initial phase of the field evaluation as referenced in paragraph 129 of NPSNN.
- 2.53 Chapter 6 of the ES states that evaluation trenching will be undertaken after submission of the DCO, but early in the programme – presumably meaning the detailed design programme as the results are supposed to feed into the detailed design of the scheme. [6.3.23]. The results will also enable the development and implementation of further mitigation measures (for archaeological sites and features), including, where possible, preservation in situ. [6.8.4].
- 2.54 The geophysical survey of parcel 5/2 (Survey Area 6) was fairly unsuccessful due to the presence of a considerable amount of modern material (probably associated with car boot sales), and the eastern part of the field was not surveyed at all due to obstructions related to a car boot sale. The geophysical survey of parcel 4/20c (Survey Area 3) was more successful but also found modern material to be present. There were also some anomalies which may represent archaeological activity.
- 2.55 As no trial trenching has been undertaken within parcels 5/2 and 4/20c (or indeed anywhere at all within the Scheme boundary), the presence/absence of archaeological sites/features remains uncertain – this means that the SoS cannot assess the particular significance of any such sites/ features that may be affected.

- 2.56 Of equal importance on this point is what happens if significant archaeological remains are found to be present in parcels 5/2 and 4/20c once the trial trenching has been carried out? The further mitigation suggested in Chapter 6 of the ES includes preservation in situ of archaeological remains – but this would mean no woodland planting and no ecology ponds, thus the proposed environmental mitigation would not be possible and would need to be reallocated to another location as part of the detailed design.