

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

Your Ref: TR010054

Response to The Examining Authority's written questions and requests for information (ExQ1) issued on 20 July 2020 [PD-010] and comments on Applicant's change application of 29 May 2020 [AS-004], accepted on 20 July 2020 [PD-005] on behalf of City of Wolverhampton Council (CWC)

Submitted: 3rd November 2020

The responses below are organised in relation to the table produced by the ExA and issued on the 20th July 2020.

ExQ1	Question to:	Question:
1.0 General and Cross-topic Questions		
1.0.11	The Applicant SCC WCC	<p>Outline Environmental Management Plan</p> <p>a) Paragraph 1.1.12 of the OEMP [APP-218] states that once the Proposed Development has been completed some of its components may be maintained by SCC or WCC. It is not explained which components this might be or whether this approach has been agreed with these Councils. Can the Applicant identify the likely relevant components of the Proposed Development and confirm the level of agreement to this approach to-date with SCC and WCC?</p> <p>b) Can the Applicant explain if these components relate to the proposed environmental mitigation?</p> <p>c) If so, could the Applicant explain how?</p> <p>d) Could SCC and WCC provide their response to this approach?</p>
CWC Response	The only components of the scheme within the CWC area are signage, whilst no detailed discussion has been undertaken regarding maintenance responsibilities, these are minor components and do not have a material impact upon the proposed environmental mitigation	

ExQ1	Question to:	Question:
	1.2 Air Quality	
1.2.5.	The Applicant EA SSC WCC	<p>Base Air Quality Data</p> <p>Paragraph 5.6.12 of Chapter 5 of the ES [APP-044] says that of the 128 Defra links present in the ARN the highest predicted annual mean NO₂ concentration in 2024 will be 28.7 µgm⁻³. Could the Applicant advise where this 28.7 µgm⁻³ figure has been obtained from and could the interested parties confirm that they are content with this analysis?</p>
CWC Response	<p>The applicant should identify which road link this relates to and how it has been calculated. Assuming it relates to the M6 which had the highest predicted annual mean concentration of 41µg/m³ in 2017 (Table 5.8 of chapter 5 of the ES; the predicted 2024 concentration of 28.7 µg/m³ for this link is consistent with the figure calculated using Defra’s Local Air Quality Management roadside projection factors for projecting measured annual mean roadside NO₂ concentrations to future years.</p>	
	1.5. Draft Development Consent Order (DCO) [APP-018]	
1.5.4.	SCC ShC WCC	<p>Article 2(1)</p> <p>a) Could SCC, ShC and WCC please confirm whether they consider the definition of “maintain” is appropriate in all circumstances and whether it is drawn either too narrowly or too widely.</p> <p>b) Definition of Special Road page 6 requires closing bracket second line.</p>

ExQ1	Question to: Question:	
CWC Response	There is very limited impact upon CWC highway therefore WCC are satisfied with the definition. "maintain" in relation to the authorised development includes to inspect, repair, adjust, alter, remove or reconstruct and any derivative of "maintain" is to be construed accordingly.	
1.5.7.	The Applicant SCC SSC ShC WCC NE EA	Article 3(2) This article utilises the term "adjacent land", and this term is used elsewhere. However, this is not defined in the dDCO. a) Should it be so defined? b) If so, what should this definition be?
CWC Response	It should be defined, defer to applicant, SCC and SSC to agree.	
1.5.8.	The Applicant SCC SSC ShC WCC	Article 3(3) This Article caveats various works from the effect of pre-commencement Requirements. However, various Requirements in Schedule 2 require the approval of such schemes (for example R9). a) Could the Applicant please reconcile these provisions? b) Are the Councils content with the intention behind these provisions?
CWC Response	We are content with the intention behind these provisions	

ExQ1	Question to:	Question:
1.5.11	SCC WCC	Article 12(6) a) Do SCC and WCC consider that the 28 day period is appropriate? b) If not, what should it be?
CWC Response	This is acceptable. The Council (CWC) would respond within this timescale.	
1.5.16	The Applicant HBMCE SSC ShC WCC	Article 18 a) Is there a reasonable chance that this provision could apply to works to a listed building? b) If so, are there any particular provisions that should then follow?
CWC Response	Unlikely to apply to any asset within our administrative area.	
1.5.19	The Applicant Statutory undertakers SCC ShC WCC	Article 23(6) This provision allows the undertaker to create right for third parties. However, this appears to be very widely drawn and does not specify which third parties and thus could apply to any legal person. Could the parties consider whether this should be more tightly drawn to specify a limit and/or purpose for those third parties?
CWC Response	As there is limited impact on CWC land, there are no issues.	

ExQ1	Question to:	Question:
1.5.43	The Applicant SCC SSC ShC WCC EA NE Any other interested party	Schedule 2, Requirement 13 a) While the explanation for not complying with the consultees request is given to the SoS, how is the consultee to know that the undertaker has rejected its reasoning? b) Would it be sensible that, at the same time as sending to the SoS the application for approval of the detailed design, the undertaker is required to send to any consultee who made representation a copy of the report explaining why it came to the conclusion that it so did? This would allow the consultee, if it felt that the consultation exercise had been deficient, or there was some matter which the Applicant had not fully appreciated, to make simultaneous representations to the SoS which the SoS would take into account in making the final decision
CWC Response	Procedural – no comment	
	1.7 Landscape and Visual	
1.7.6.	SCC SSC NE Interested parties	General Approach: Is the assessment undertaken against a baseline conclusion that the receiving landscape is of low landscape value – is this reasonable and agreed position by all parties?
CWC Response	A viewpoint assessment from the top of Bushbury Hill may be considered appropriate. It is some distance from the main junction with the M54 at Featherstone and that the revised junction proposed is partly shielded by existing buildings which reduced the impact of the proposed works from this viewpoint, however, an assessment would confirm that no harm would arise.	

ExQ1	Question to:	Question:
	1.9. Geology and Soils	
1.9.3	NE SCC SSC ShC WCC	<p>Best and Most Versatile Land</p> <p>a) In considering the loss of the BMV agricultural land the Applicant has assessed this against the quanta of the various categories in the National Character Area of the application site. Do the interested parties consider that this is a valid approach, or should some other metric be utilised?</p> <p>b) If another metric is to be used, what should this be and what would be the value judgement of this loss?</p>
CWC Response	The only components of the scheme within the CWC area are signage. Defer to SCC and SSC for comment.	
	1.10. Traffic and Transport	
1.10.4	SSC SCC ShC WCC	<p>Cumulative effects of new development</p> <p>a) Paragraph 4.3.13 of the Transport Assessment [APP-222] indicates that the traffic model for future years only includes additional sites for over 150 dwellings. Do the Councils consider that utilising this threshold is reasonable, particularly taking into account the allocations and housing trajectories in their local plans?</p> <p>b) If not, could the parties please identify why they do not consider that this is reasonable.</p> <p>c) What, if any, alternative threshold should be utilised, explaining why that is appropriate?</p> <p>d) Could the Councils provide details of those sites which they consider should also be included, along with whether they consider that they are committed, more</p>

ExQ1	Question to:	Question:
		than likely, reasonably foreseeable or hypothetical, explaining why they consider that they should be included.
CWC Response	This is reasonable.	
1.10.5	SSC SCC ShC WCC	<p>Cumulative effects of new development</p> <p>a) Do the parties consider that the long list and short list of other developments (applications and allocations) and assessment for potential significant cumulative effects set out in Table 15.1.1 of Appendix 15.1 [APP-210] is appropriate?</p> <p>b) Are there any other applications and allocations that should have been included, and on which list should they have been included?</p> <p>c) Are any applications and allocations identified on the long list that should have been included on the short list?</p> <p>d) Is the Cumulative assessment with other development (applications and allocations) (Stage 4) set out in Table 15.1.2 considered appropriate?</p> <p>e) If not, please explain your reasoning.</p>
CWC Response	This list is appropriate.	
1.10.12	The Applicant SCC WCC	<p>Effect on NMUs</p> <p>a) It is understood that non-motorised users (NMUs) will not be prevented from using the new link road. Is this correct?</p> <p>b) If this is the case, should they be so prevented (except in an emergency), and how should this be secured?</p> <p>c) Or, should only certain categories of users be prevented?</p> <p>In any event, NMUs will not be able to use the slip roads to/from the motorways which does not appear to be the case in Figures 6.1 to 6.7 of the Transport Assessment Report [APP-222]. Could this be clarified.</p>
CWC Response	This is a query for the applicant.	

ExQ1	Question to: Question:	
	1.12 Socio-economic effects	
1.12.12	The Applicant SCC ShC WCC	<p>Recycled aggregates</p> <p>a) Paragraph 3.3.68 of Chapter 3 of the ES [APP-042] in it is indicated that a target of 27% of secondary and recycled aggregates had been set, and this is in accordance with Regional Guidelines. Can these Guidelines and the relevant reference be precisely identified?</p> <p>b) Given that the location of the Proposed Development is relatively close to large sources of secondary and recycled aggregate what consideration has been given to setting a higher, realisable, target?</p> <p>c) Could a higher target be reasonably achieved?</p>
CWC Response	We are not aware of any West Midlands regional guidelines regarding levels of use of secondary and recycled aggregates during construction. The applicant should confirm where that reference is drawn from.	

Comments on Applicant's change application of 29 May 2020 [AS-004], accepted on 20 July 2020 [PD-005]

We have reviewed the changes and consider them to be mostly minor in nature, most of the local impacts would be specific to South Staffordshire District Council and Staffordshire County Council administrative boundaries.

In relation to the change 4 and the traffic management on the M54, we see this shorter period preferable to the 2-2.5 years of disruption that would happen otherwise, however, it will be essential in the detailed Traffic Management Plan to engage with City of Wolverhampton Council so that the closure and related diversion(s) fully consider potential highway impacts on our network. It will also be necessary to take into account the views of the local community and businesses on the precise details of the Plan.