

**Application by Highways England for M54 to M6 Link Road**

**The Examining Authority’s written questions and requests for information (ExQ1) Issued on 20 July 2020**

<b>ExQ1</b>	<b>Question to:</b>	<b>Question</b>	<b>Nurton response / comment</b>
1.0.	<b>General and Cross-topic Questions</b>		
1.0.2	SSC	<p><b>Development Plan</b></p> <p>a) Could SSC please provide a copy of both the South Staffordshire Core Strategy and the South Staffordshire Site Allocations Document together with the Policies Map for the area, along with any Supplementary Planning Documents which may affect consideration of the Proposed Development.</p> <p>b) Is this plan subject to review?</p> <p>c) If so, at what stage has it reached?</p> <p>d) Does this have any implications for the Proposed Development?</p>	<p>The Site (as defined in our Relevant Representations) is being promoted by Nurton through the local plan process and is considered highly suitable for substantial employment development serving both local and strategic markets. We consider that the Site is an obvious candidate for allocation by SSC as a strategic employment site as part of its Local Plan review, with the new Local Plan due to be adopted prior to the opening of the new link road.</p> <p>The Applicant is aware of the importance of the Site in terms of delivery of the Council’s economic objectives, the same objectives of the neighbouring local planning authorities (especially the Black Country), and of the development potential of the Site as a whole. As such, it is critical that allowance is had by the Applicant for the redevelopment of the Site within the Scheme. This accords with the guidance provided in the National Policy</p>

			Statement for National Networks 2014, para 4.3.
1.0.13	The Applicant	<p><b>Environmental Masterplan</b></p> <p>The Environmental Masterplan [APP-057] to [APP-063] is titled 'Draft' and is described as illustrative in the dDCO R5 (Landscaping). On this basis can the Applicant explain its status, its relationship to proposed mitigation measures and how these will be secured through the DCO.</p>	<p>We agree that the status of the Environmental Masterplan is unclear. The plan indicates three new ponds within the Site; two ecology ponds to the west of the roundabout junction with the M6 and a drainage pond to the north of the new road next to the accommodation bridge. The drainage pond appears to be a compensation pond to replace existing ponds. Its current proposed location is likely to reduce the natural attenuation which exists in the land to the south east of the new road and hence increase the flood risk associated with our retained land. The size and location of the drainage pond also appears to be significant compared to the area being drained. A liner dry swale type structure would be more effective and provide improved pollution control and could reduce overall land take.</p>
1.0.15	The Applicant	<p><b>Environmental Mitigation</b></p> <p>a) The Environmental Mitigation Schedule (EMS) in ES Appendix 2.1 [APP-157] provides a summary of the proposed 'embedded' operational mitigation measures (Table 2.1). Paragraph 2.5.80 of ES Chapter 2 [APP-041] states that the EMS lists measures that are not</p>	<p>As set out in our Relevant Representations, the approach to great crested newts ("GCN") appears highly precautionary and is based on a methodology which significantly overestimates both the number and size of GCN breeding populations within 500m of the</p>

		<p>included in the OEMP, however it is stated in the EMS that Table 2.1 replicates Table 3.4 of the OEMP, which it appears to do. Can the Applicant explain and clarify the purpose of the EMS and confirm its status?</p> <p>As recommended by the Inspectorate's Advisory Note 7 can the Applicant provide a table which includes all mitigation measures relied on in the ES and <u>the mechanism by which that mitigation is secured for the DCO.</u></p>	<p>road. The methodology adopted is not a reasonable or rational one to take in terms of providing a meaningful baseline and it follows that the assessment is flawed. This will likely lead to significant over-mitigation in the provision of the ecology ponds, the location of which will introduce an additional constraint on the future development of the Site.</p> <p>However, there is an opportunity to reach an agreement with the Applicant to minimise the impact of the mitigation measures on the future redevelopment of the Site. Given Nurton's future development proposals in respect of the Site, it is entirely sensible to agree that the additional capacity provided by the Scheme for GCN mitigation should be ring-fenced for, and utilised by, any development proposals in respect of the Site.</p>
1.1.	<b>Green Belt</b>		
1.1.4.	SSC Interested parties	<p><b>Woodland Planting</b></p> <p>In paragraph 8.6.14 of the Case for the Scheme [APP-220] the Applicant indicates that it considers 'Where woodland planting is proposed, it is considered that the environmental benefits of the planting outweigh the impact to the openness of the Green Belt in that location.' Do other interested parties agree with this analysis and if not, could they explain why they take that view.</p>	<p>The Scheme proposals will impact upon the openness of the Green Belt and this will not be mitigated fully by the proposed landscape proposals.</p>

1.3.	<b>Biodiversity, Ecology and Natural Environment</b> (including Habitats Regulations Assessment (HRA))		
1.3.3.	The Applicant	<p><b>Clarification</b> Paragraph 8.3.16 of Chapter 8 of the ES [APP-047] identifies impacts on ecological features. Under duration the category has been divided into permanent/temporary. However, temporary may be long-term. Could the Applicant please explain the difference in definition and approach between “permanent” and “long-term” in this context?</p>	It is imperative for the Applicant to confirm what mitigation is permanent and what is temporary given that it is acquiring land interests.
1.3.17.	The Applicant Interested parties	<p><b>External mitigation</b> Paragraph 8.8.10 of Chapter 8 the ES [APP-047] states ‘However, the Scheme would achieve improvements to specific habitats as part of this overall objective and Highways England will seek to achieve further enhancements where possible outside the DCO process.’ As this is outside the DCO process what weight do you consider should be afforded to these unsecured and undetailed enhancement measures?</p>	<p>Given Nurton’s long term plans for the Site, which the Applicant is aware of, it is critical that the Applicant engages meaningfully with us with regard to maximising any potential biodiversity enhancements, especially regarding any over-mitigation for GCN within the Scheme.</p> <p>To date, the Applicant has failed to engage with Nurton on this point and no third-party agreement to maximise any biodiversity enhancements has been proposed. It is imperative that the Applicant provide clarity on the level of any over-mitigation and how it may be measured and ring-fenced for the benefit of future development on the Site.</p>

1.3.22.	The Applicant	<p><b>Long Term maintenance of compensatory habitats</b></p> <p>Paragraph 8.9.126 of Chapter 8 of the ES [APP-047] states 'This would likely require implementation through the provisions of the DCO and via third party agreements'. In reference to retained and newly created habitats and ensuring connectivity. Can the Applicant confirm the provisions proposed to address this and if any third party agreements have been or are in the process of being concluded/proposed?</p>	See response to questions 1.0.15 and 1.3.17.
<p><b>1.4. Compulsory Acquisition, Temporary Possession and Other Land or Rights Considerations</b></p>			
1.4.1	The Applicant	<p><b>CA and TP Negotiations</b></p> <p>Can the Applicant please provide an update of the current situation of negotiations with affected landowners and occupiers over potential acquisition by agreement? Please complete Annex A with this information.</p>	<p>We are concerned with the lack of engagement with Nurton to date. We understand that the Applicant has been in advanced discussions with the various landowners. However, we have only just received on 8 October the draft Statement of Common Ground (SoCG) from the Applicant. The draft SoCG states that the Applicant does not consider the Site to constitute 'development land' and that it will therefore not make any allowance for the likely future development of the Site contrary to the guidance provided in the National Policy Statement for National Networks 2014, para 4.3. It is imperative that the Applicant takes the future development potential of the Site into account and engages meaningfully with Nurton on this.</p>

1.4.4.	The Applicant	<p><b>CA and TP</b></p> <p>a) Paragraph 12.4.3 of Chapter 12 of the ES [APP-051] deals with the temporary use of land for mitigation, but makes the point:          “The long-term management strategy for this land has yet to be finalised but the assessment assumes a worst case basis (from a landowner perspective) that the ownership of the land would remain with the acquiring authority with a land management company being retained to manage the land. Where this occurs, the restored land would not be available to the original landowner and the impact on the holdings affected would not be reduced”.</p> <p>In this scenario, is the landowner being effectively deprived of the benefit of the land on a permanent basis?</p> <p>b) Therefore, is TP appropriate?</p> <p>c) Could the Applicant explain why, in this scenario, CA is not being sought.</p> <p>d) Could the Applicant please set out those parcels of land which are so affected?</p>	<p>The Scheme bisects the Site which Nurton has an interest in. We submit that any long-term management rights over that land currently earmarked for TP be provided to the landowners (which can then be transferred to Nurton in due course) so that the management of that land can be done in conjunction with the adjoining landowners within any future development scheme.</p> <p>At the very least, it is imperative for us to have clarity on what the long-term land management strategy is for those areas currently earmarked for TP. Currently, there is no such clarity.</p>
1.7.	<b>Landscape and Visual</b>		
1.7.6.	SCC	<b>General Approach:</b>	

	SSC NE Interested parties	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?	We agree that the existing baseline landscape quality is graded as low and should be recognised as such.
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