



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

Customer
Services: 0303 444 5000
e-mail: [M54toM6LinkRoad@
planninginspectorate.gov.uk](mailto:M54toM6LinkRoad@planninginspectorate.gov.uk)

To
The Applicant, Interested Parties,
Statutory Parties and Other Persons

Your Ref:
Our Ref: TR010054

Date: 7 January 2021

Dear Sir/Madam

The Planning Act 2008 (as amended), Section 89 and The Infrastructure Planning (Examination Procedure) Rules 2010 – Rule 9

Planning Act 2008 (as amended) – Section 123 and the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 – Regulation 6

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

Notification of decision to accept as part of the application the proposed provision for the compulsory acquisition of additional land.

We are writing to inform you of the procedural decision made by the Examining Authority (ExA) regarding the Applicant's formal change request to the Development Consent Order (DCO) application.

The Applicant submitted an Additional Land Application under Regulation 5 of the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 (as amended) and section 123(4) of the Planning Act 2008 (as amended) on 17 December 2020 [Examination Library Reference AS-125].

Compulsory Acquisition

The proposed changes are summarised as:

- A Change to the land plans in respect of plot 6/25 to show a reduced plot 6/25 identified for Temporary Possession for construction purposes and a new plot 6/38 identified for Compulsory Acquisition for the junction works at M6 Junction 11.

The Applicant's reasons for the proposed changes are:

'The Examining Authority will recollect that the original land plans submitted with the application (Document reference APP-007) identified Plot 6/25 as land to be acquired permanently for the works to construct the embankment at Junction 11 of the M6 as part of the works to realign the southbound merge slip road ("the Junction Works") and for the provision of environmental mitigation.

In August/September 2020, Highways England consulted on proposed changes to the Scheme, which included proposed design change 7 to reduce the extent of land required for environmental mitigation. A revised Environmental Masterplan was published as part of that consultation exercise and showed part of Plot 6/25 as being required for the Junction Works and the remainder as no longer being required for environmental mitigation. The proposed change to Plot 6/25 was communicated to the landowners, I & A Simkin, who were supportive of the reduction in area to be permanently acquired at plot 6/25.

In early October 2020, Highways England formally applied to make the changes to the DCO application. That application was accompanied by the Works Plans (Document reference AS-066) and Environmental Masterplan (Document reference AS-086 to 092) which, in the area of Plot 6/25, were consistent with the August/September 2020 consultation documentation. Unfortunately, however, the Land Plans (Document reference AS-065) submitted with the application were inconsistent with these drawings because they showed Plot 6/25 as being required for temporary possession only (for use during construction) rather than as being part permanent acquisition for the Junction Works and part temporary possession for construction purposes. This error was also present on a draft Land Plan sent to the landowner for comment on 14 September 2020. This was in error and contrary to the changes which have been consulted on and communicated to the landowners.

The Land Plans document with corrected sheet 6 is enclosed which shows a reduced Plot 6/25 as temporary possession for construction purposes and a new Plot 6/38 as permanent acquisition for the Junction Works. As indicated above, Sheet 5 of the Land Plans also displays plot 6/25 and 6/38 beyond the cut lines and has been updated for completeness. We confirm that all other plans are accurate and no other changes or corrections to the DCO plans are necessary.

Plot 6/38 is required for construction of the realignment of the M6 Junction 11 southbound merge slip, construction of the new M6 Junction 11 circulatory carriageway and the realignment of the A462 to M6 Junction 11 (Works numbers 34, 36 and 37 as shown on sheet 6 of the Works Plans). The works include a widened verge to enable visibility to the junction and a 7 m wide corridor to allow for a drainage ditch, boundary hedge and fence.'

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 are aware that the owners of Plot 6/25, I & A Simkin, are aware of the error in the Land Plans and made representations to us as part of their Deadline 3A submissions and at the Compulsory Acquisition hearing on 10 December 2020. We are further aware that the owners and Highways England remain engaged and in dialogue concerning this matter.

Whilst Plot 6/25 as identified in the original application was all identified for Compulsory Acquisition this was altered to Temporary Possession with the changes accepted into the examination following the Applicant's change request in October 2020. The proposal now to identify part of that Plot as a new Plot 6/38 which is to be Compulsorily Acquired amounts to 'additional land' and as such engages the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 (as amended) (the 'CA Regulations'). The proposal does not result in an extension to the Order Lands as these changes are within the Order Limits. The information submitted with the previous change request regarding the Environmental Impact has not changed and the revised Environmental Master Plan submitted at that time remains as the appropriate document. The funding statement assessed the original and previously revised submission.

The ExA accepts that the proposed changes to the Land Plans are in effect a correction to align the Land Plans with the other Development Consent Order Plans. As such the ExA considers the change to be a non-material change and therefore can be accepted for consideration into the Examination as part of the application.

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)). However, this is contingent on the Applicant completing the various procedural requirements set out in the CA Regulations, particularly those set out in Regulations 7, 8 and 9, to allow the ExA to issue a revised Examination Timetable in due course. If this is not achieved, then we will not be in a position to take the change request into account in our recommendation report to the Secretary of State as it will not have complied with the relevant statutory procedures.

We note that the Applicant has suggested that the necessary Hearings to allow any additional affected person to be heard should take place in the period 16 to 18 and 23 March 2021. We have not yet reached a conclusion on when any such Hearing associated with this change request should take place, but we will issue a revised Examination Timetable that will incorporate any necessary amendments to deal with this change request in due course.

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

Next steps

It is now the Applicant's responsibility to publicise the proposed changes that incorporate additional land in accordance with the CA Regulations. We would stress that it is critical for this to start as soon as possible to allow the Examination to be completed within the statutory six-month time frame.

The Applicant must consider any additional provisions that may be required in dealing with the necessary publicity for any parties who may be affected by the current Government public health restrictions associated with the COVID-19 pandemic and the Infrastructure Planning (Publication and Notification of Applications etc.) (Amendment) Regulations 2020.

The Applicant must advise the Case Team of its proposed schedule as soon as possible, so that an appropriate form can be made available on the project page of the Planning Inspectorate's National Infrastructure website² for representations to be made on the proposed changes only.

At that time, we will also issue a revised Examination Timetable, which will include the deadline for representations to be submitted on the proposed change.

Please contact the Case Team if you have any questions about this letter.

Yours faithfully

Robert Jackson

Robert Jackson, Lead Member of the Panel

² <https://infrastructure.planninginspectorate.gov.uk/projects/west-midlands/m54-to-m6-link-road/>