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

Your Ref:

Our Ref: TR010054

Date: 18 January 2021

Dear Sir/Madam

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

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

Notification of decisions to postpone Site Inspection, matters relating to changes, Hearings scheduled for March and variations of timetable for the Examination

We write further to our letter of 19 November 2020 wherein we advised of the Procedural Decision made at that time postponing the Accompanied Site Inspection (ASI) that was due to take place in early December 2020 to early February 2021.

Among other matters this letter is to advise you of a further Procedural Decision relating to that Site Inspection made by the Examining Authority (the ExA).

Site Inspection Matters

Since that letter the Health Protection (Coronavirus, Restrictions) (All Tiers) (England) Regulations 2020 have come into force and been amended. The ExA remains conscious of the Secretary of State for Housing, Communities and Local Government's Written Ministerial Statement of 13 May 2020 of the importance of maintaining progress on the determination of planning applications and appeals to support the UK's economic recovery.

While undertaking an ASI would be permissible under these Regulations on the basis that it would represent work, the ExA is also mindful of guidance which seeks to reduce movement and to avoid meeting for work where possible, particularly during this period.

The Examination period for the Application continues until 20 April 2021, and the ExA therefore does not consider it essential that the Site Inspection takes place as scheduled in early February as there remains sufficient time to allow a Site Inspection to take place later in the Examination timetable.

The Examination timetable already has dates reserved for a 'Further Accompanied Site Inspection (if required)' in the period Tuesday 16 to Thursday 18, and Tuesday 23 March 2021 and the ExA intends to utilise these dates.

The parties are reminded that the ExA undertook an Unaccompanied Site Inspection in summer 2020, and therefore has a general understanding of the locality.

The ExA has therefore taken the Procedural Decision to postpone the scheduled Site Inspection from 9 and 10 February 2021 and to utilise one or more of the dates scheduled for March 2021.

The ExA regrets the need to make this change but is sure that all parties will fully understand the need for this amendment.

It is also the case that undertaking an Accompanied Site Inspection where the ExA visits various parts of the site with the Applicant and Interested Parties in attendance will not be feasible. Any inspection would therefore be predominantly unaccompanied. However, where access is required onto private land to allow ExA to inspect those areas affected which are not in the public domain, Interested Parties and the Applicant would facilitate such access. As is conventional, there would be no opportunity to make any representations at such an inspection.

The ExA would emphasise that it wishes to physically visit the site and surroundings again, rather than undertake a 'virtual' site inspection. However, the ExA considers that it needs to plan for a virtual site inspection on a contingency basis should the public health situation not allow a physical visit.

Attached to this letter is **Annex A** that sets out those locations that the ExA wishes to visit and would have otherwise published within the Site Inspection Timetable.

For the contingency, should a physical site inspection be not possible, it would appear to the ExA that there are two options. Either these locations could be filmed by comprehensive high-resolution drone (hereafter referred to as an Unmanned Aerial Vehicle (UAV)) video footage of the proposed development site or 360° photography from specific locations. Both would be a safer means of understanding the site.

Should UAV be utilised, the ExA would remind the Applicant that in providing any video footage, they must ensure that any UAV flight undertaken in relation to the M54/M6 Link Project must be undertaken in full compliance with the law, particularly that in relation to drone flights.

Should 360° photography be utilised, this should enable the whole route to be played back and the viewer should be able to look around 360° at all times during playback. It should be possible to stop at certain locations and select specific locations along the route to look at different views.

Whatever approach is followed, the Applicant will also need to ensure full compliance with the General Data Protection Regulations/Data Protection Act 2018 and the ExA would draw its attention to the Information Commissioner's Office's publication [In the picture: A data protection code of practice for surveillance cameras and personal information](#), especially Section 7.3. The UAV and any video footage recorded must be undertaken in a responsible way that is safe and respects the privacy of others. You will need to ensure you have the appropriate consent of any third party who's land you include within the video footage and the consent of any identifiable person included in the footage. The ExA would ask the Applicant to confirm what measures will be undertaken and/or put in place to ensure third parties, including owners of

third party land, are made aware of the potential to be included within the video footage.

In terms of the high-resolution video footage itself the ExA would ask for consideration in regard to the size of the data file created and how this could be hosted so it is publicly accessible in the interests of openness, fairness and impartiality. The ExA would also ask for full details of the nature/type of camera used in the filming to be provided, including full details of whether any special functions on the camera are in use and when during the footage (for example full details of the camera in use, it's settings, the nature of any focus/zoom being used and when, whether auto focus, white balance or image sharpening is in use and when, etc.)

In addition to the above, the high-resolution video footage should also contain information about telemetry, including, but not limited to, height of the UAV at any given time, direction of flight, wind speed and wind direction, GPS data, orientation of the camera (both vertically and horizontally), etc.

Should a virtual Site Inspection take place, then the ExA would ensure that parties have the opportunity to highlight features that they would like the ExA to particularly note.

The ExA would welcome the views of the Applicant and other Interested Parties on these alternative approaches should they be necessary and would re-iterate that its preference would be for the Panel to physically visit the site and the locations identified.

These views should be submitted by a new **Deadline 5A of Wednesday 27 January 2021**, and in addition, the Applicant should provide information as to the necessary lead-in times so that the ExA can know by when it would have to make a final decision as to whether a Site Inspection would take place physically or virtually and allow for a proper consideration of the virtual information.

Change accepted into Examination on 7 January 2021

On 7 January 2021 the ExA accepted [PD-019] into the Examination a non-material change which would have the effect of increasing the area of land to be Compulsorily Acquired in the area to the southeast of M6 Junction 11 which had previously been shown for Temporary Possession only. This was shown as Plot 6/38 in the latest version of the Land Plans [REP3-005]. Plot 6/25, shown for Temporary Possession, was also amended as a consequence.

In the letter notifying parties of that change, the ExA indicated that it would issue a revised Examination Timetable to allow that to be examined following the necessary publicity which would be undertaken by the Applicant.

Regulation 4 of The Infrastructure Planning (Compulsory Acquisition) Regulations 2010 (as amended) sets out the procedure to be followed. However, this Regulation only applies where, for these purposes, the person(s) with an interest in the additional land do not consent to the inclusion of the provision. Where they do consent, there is no requirement to undertake additional procedures.

There are only two "additionally affected persons", as so defined, and the Applicant has provided communication signed on their behalf of "their agreement to the changes set out ... and confirm their consent to the permanent acquisition of new Plot 6/38".

In light of this there is no need for the ExA to amend the Examination Timetable to take account of this change.

Hearings scheduled for March 2021

As previously stated, the ExA had hoped to hold some of the Hearings physically at a venue in the vicinity of the Proposed Development. However, it is clear that even by the middle of March this year such events would be problematic at best.

The ExA has therefore taken the Procedural Decision that, if the Hearings take place, that they will be held virtually on MS Teams and gives notice to this effect. This decision has been made at this time to provide certainty in this regard for all parties.

The ExA has found that the use of MS Teams is effective to allow it to undertake those parts of the examination that need to be considered orally, without disadvantaging any party.

It should, however, be noted that a decision as to whether the Hearings will take place has not yet been confirmed as the ExA is still assimilating the information submitted at Deadline 4 (8 January 2021) and will also need to take account of the information to be submitted at Deadline 5 (20 January 2021) and thereafter.

Changes to timetable

To accommodate this Procedural Decision, the ExA has also made a Procedural Decision to make changes to the Examination Timetable from that published on 19 November 2020. These are:

- Not to publish the ExA's Site Inspection Timetable for Site Inspections. Should this take place in March 2021 then this will be published nearer that time and associated changes made to the timetable.
- A new deadline has been entered (Deadline 5A) on Wednesday 27 January 2021 for receipt by ExA of comments on the suitability of virtual site inspection methods and necessary lead-in.
- In the entry for 16 March 2021 replace "Further Accompanied Site Inspection (if required)" with "Site Inspection".

Consequently, the ExA has published at **Annex B** a revised Examination Timetable taking into account all matters to date.

Yours faithfully

Robert Jackson

Robert Jackson, Lead Member of the Panel

Annex A – Site Inspection Locations

Annex B – Revised Examination Timetable

M54/M6 Link Project – Site Inspection Locations

	Location	To view	Access
1	M6 Junction 11	Visit Bridleway Saredon 13 and plot ¹ 6/25 to view potential CA land.	Access required to land – although can use Public Right of way (PRoW).
2	Brookfield farm	Including south of farm to see the fishing ponds and location of the over bridge in the vicinity of Brookfield farm.	Private land access required – although can use PRoWs to some extent
3	M6 Diesel	To view access arrangements and traffic flows	Public land
4	Mill Lane/ Hilton Lane/A460/ Dark Lane	To view plots 5/2 and 5/25 field for car boot sales etc	Private land access required
5	Hilton Hall site	To see Hilton Hall, Conservatory, Portobello Tower, the Lower Pool, The Shrubbery, woodland areas etc. within Hilton Park and plot 4/20c.	Private land access required
6	The Shrubbery, The Gardeners Cottage and The Bungalow	To see proximity of properties to scheme.	Private land access required
7	Old Moseley Hall	Site and land including Whitegraves Wood. No need to access Hall.	Private land access required
8	Remnant of Ancient Woodland to north of M54	Site and land including.	Private land access required
9	Mann & Hummel site	To see junction with A460 and proximity to proposed site.	Public land

¹ All references to plots are to those set out in the Land Plans [AS-127]

	Location	To view	Access
10	Bushbury Hill	To view site from higher ground to south	Public car park and then PRow

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 are set out below in **red** for additions, and ~~blue~~ for deletions.

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) ²	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

² 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.	No Entry	
14.	<p>Deadline 3 (D3)</p> <p>Deadline for receipt by the ExA of:</p>	<p>Tuesday 24 November 2020</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 	
15.	No entry	
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 	Tuesday 1 December 2020
16.	No Entry	
17.	<p>Issue by the ExA of: Further Written Questions (if necessary).</p>	Friday 4 December 2020
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 ○ Cultural Heritage ○ Green Belt ○ Geology and Soils ○ Landscape and visual ○ Noise and Vibration ○ Socio-Economics ○ Traffic and Transport ○ Water issues ○ Draft DCO <ul style="list-style-type: none"> • Compulsory Acquisition Hearing (CAH1) (if required) 	Tuesday 8 to Thursday 10 December 2020

19.	Hearings Dates reserved for hearings (if necessary due to overrun or technical issues)	Tuesday 15 to Thursday 17 December 2020
19A	Procedural Deadline EA <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.	Deadline 4 (D4) Deadline for receipt by the ExA of: <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
20aA	Publication of ExA's Site Inspection Timetable for Site Inspections identified for 9 and 10 February 2021.	Monday 18 January 2021
20A.	Hearings Dates reserved for hearings (if necessary, in respect of the Changes accepted on 29 October 2020)	Tuesday 19 and Wednesday 20 January 2021
21.	Deadline 5 (D5) Deadline for receipt by the ExA of: <ul style="list-style-type: none"> Comments on any revised/updated SoCG (if any) 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 	Wednesday 20 January 2021

21A.	Deadline 5A (D5A) Deadline for receipt by the ExA of comments on the suitability of virtual site inspection methods and necessary lead-in	Wednesday 27 January 2021
22.	Publication of: <ul style="list-style-type: none"> The ExA's Third set of Written Questions (if required) 	Friday 29 January 2021
22A	Procedural Deadline EB 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 9/10 February	Monday 1 February 2021
22B:	Dates reserved for Site Inspection³	Tuesday 9 & Wednesday 10 February 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 	Friday 5 March 2021

³-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.

	Hearings and Accompanied site visit in March (if required).	
26.	<p>Hearings</p> <p>Dates reserved for:</p> <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) • Further Compulsory Acquisition Hearing (if required) • Further Accompanied Site Inspection⁴ (if required) 	<p>Tuesday 16, Wednesday 17, Thursday 18 and Tuesday 23 March 2021</p>
27.	<p>Deadline 7 (D7)</p> <p>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 	<p>Friday 26 March 2021</p>
28.	<p>Deadline 8 (D8)</p> <p>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 	<p>Wednesday 7 April 2021</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"> • 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 	
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 • Statements of Final Position in respect of matters examined 	Friday 16 April 2021
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