From: Patrick Hackett

Sent: 28 January 2021 09:13

To: M54 to M6 Link Road < M54to M6 linkroad@planninginspectorate.gov.uk >

Cc: Barrowman, Spencer <

Subject: RE: M54 to M6 Link Road - TR010054 [BK-BK.FID156352]

Dear Sirs,

We represent Messrs Simkin, Whitehouse and Jones in this matter and I am writing in response to your recent letter concerning all three of our clients "Notification of decisions to postpone Site Inspection and associated variations of timetable for the Examination"

I understand the deadline for responses to this letter was 27th January 2021, so apologies this response has arrived late, I hope it can be accepted.

We appreciate your comments that you are mindful of guidance which seeks to reduce movement and to avoid meeting for work where possible, particularly during this period of uncertainty and in the midst of a global pandemic.

I am not sure you are aware but Highways England have proposed a series of extensive intrusive/non intrusive surveys over the next 12 months on all our clients land. Of particular concern are the Archaeological trial trenching which are due to commence on Messrs Simkins land next week.

These surveys include:

- -Bat surveys
- Badger surveys
- Otter surveys
- Barn Owl surveys
- Great Crested Newt surveys
- Archaeological trial trenching
- Ground Investigation
- Water Quality / Gas monitoring surveys
- Ground water monitoring
- Topographical surveys
- Watercourse surveys
- Bathymetry surveys
- Arboricultural surveys
- Water environment and water quality monitoring surveys
- Drainage surveys
- Pavement surveys
- Dust monitoring (tbc)
- Utilities surveys

I would point out that the archaeological trial trenching surveys are of the most concern to our clients – especially in the case of Messrs Simkin who are having 40 trenches dug across their land – each trench is up to 50m x 2m. These works also involve a number of personnel and mechanical diggers crossing land to dig the trenches.

Highways England wrote to our clients concerning these surveys in November 2020 – I spoke to Messrs Simkin and I responded to Highways England to advise our clients did not wish the surveys to go ahead for the below reasons;

- 1) They are both in opposition to the scheme and have raised objections to the Planning Inspectorate
- 2) They are disappointed that recent meetings with Highways England have been rearranged or changed to online meetings at short notice Paul Simkin had a personal appointment for the 8th October that he had to cancel and then was subsequently advised at short notice that the meeting had moved online.
- They do not agree with many of the comments in the SOCG and feel there is much that will not be resolved. Generally they feel unhappy with the approach Highways England have taken as they feel that landowner engagement has been poor and their views have been overlooked in short they are not willing to co-operate with Highways England at this moment in time.
- 4) These surveys are based on the assumption that the order is granted and are in relation to further works as our clients are in objection to the scheme they would prefer to see the outcome of the Planning Inspectorates decision before considering allowing further surveys on their land.

At the time of writing my response, the pandemic had not entered its second wave, however had I known that we would be in lockdown at the time the surveys were due to commence, I would have certainly added this to the above list.

As a response, Highways England issued the attached Section 174 letter to our clients, sent 23rd December 2020 – Messrs Simkin are in their 60's and are very concerned about the scheme in general, the impact on their land and the Covid 19 pandemic, therefore to issue a letter such as this, just in time for Christmas seems particularly insensitive on Highways England's part.

As most people in our firm were off for the holidays I was not able to address this matter until week commencing 4th January 2021 at which point Highways England's agent contacted me to try and seek a licence by agreement, however to quote part of an email from the agent "I will prepare a Licence pack for Messrs Simkin and revert back to you ASAP, however, I must stress, Highways England will rely upon their Statutory Powers, should land access not be agreed."

Therefore having been given Hobsons Choice by Highways England our clients have reluctantly agreed for us to sign licences on their behalf so the surveys can take place, which we have now done.

It seems that Highways England are happy to apply pressure and bullying tactics when they want something from our clients, however are very slow to respond and uncommunicative on other matters – for example I sent responses on the latest versions of the Statements of Common Ground for all our clients on the 10th December 2020 and have not yet received a response to the points raised in the letters, other than acknowledgement of receipt.

Finally to summarise, in light of the above comments our client has no objection to you accessing their land whenever you see fit, as this access poses an insignificant risk in comparison to the extensive surveys and activities that Highways England will be carrying out on our clients land over the next 12 months.

Regards,

Patrick Hackett AssocRICS Senior Land Rights Officer



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Our ref: Your ref: TR010054/PS/001

R010054/PS/001



Andrew Kelly
Project Manager
Highways England
M54 to M6 Link Road
2 Colmore Square
Birmingham
B4 6BN

23/12/20

Dear Mr Simkin,

Access for surveys pursuant to section 174 of the Housing and Planning Act 2016 M54 to M6 Link Road (the "Project")

As you know, Highways England has previously corresponded with you or your representative on 17 September 2020, 15 October 2020 and 7 December 2020 in relation to the requirement for its consultants to access your property ("Property") for surveys.

Unfortunately Highways England has not been able to agree the terms for voluntary access and enclosed with this letter are two notices under section 174 of the Housing and Planning Act 2016 ("the Act") giving you notice that Highways England intends to take access to your Property for surveys under section 172 of that Act. The first notice is relating to land solely in your ownership, the second notice is relating to land that is jointly owned between yourself and Nigel Simkin.

Under section 172 of the Act, Highways England may authorise a person in writing to enter and survey or value land in connection with a proposal to acquire an interest in or right over land.

Details of the proposed access are included with the notices enclosed with this letter. For the avoidance of doubt, the notices do not constitute a notice to or of intention to acquire all of this land by compulsory acquisition. Whilst you are aware that some land is required for the scheme itself other land is needed for the purposes of surveying only.

Highways England would still however prefer to arrange access by agreement with you. If you are willing to allow access by agreement, please contact Andrew Kelly via the contact details at the top of this letter as soon as possible. In any event Highways England would like to discuss with you arrangements to gain access under the notice at reasonable times during the periods identified in the notices.





If you have any questions in relation to this letter or the notices please contact Andrew Kelly via the contact details at the top of this letter or if you prefer seek independent advice.

Yours faithfully



Andrew Kelly

Project Manager for M54 to M6 Link Road Scheme

Encl: Notice relating to land solely in Paul Simkin's ownership

Notice relating to land that is jointly owned between Paul Simkin and Nigel Simkin

cc Bruton Knowles







Our ref: Your ref: TR010054/PS/002



Andrew Kelly Project Manager Highways England M54 to M6 Link Road 2 Colmore Square Birmingham **B4 6BN**

23/12/20

Dear Mr Simkin

LEGAL NOTICE FOR ACCESS FOR ENTRY FOR SURVEYS PURSUANT TO SECTION 174 OF THE HOUSING AND PLANNING ACT 2016 AS AMENDED

Highways England is an acquiring authority for the purposes of the Highways Act 1980 and as such, benefits from the powers conferred by sections 172 to 178 of the Housing and Planning Act 2016, as amended ("the Act").

Under section 172 of the Act, Highways England may authorise a person in writing to enter and survey or value land in connection with a proposal to acquire an interest in or right over land.

Highways England hereby gives you notice that, pursuant to section 174 of the Act, it intends to exercise its power under section 172 of the Act over the part of your property shown coloured green on the attached plan (the "Property") in connection with the M54 to M6 Link Road Project.

Highways England intends to enter the Property on no less than 14 days' notice beginning the day after the date of this notice to undertake the surveys detailed on the enclosed Schedule

Under the provisions of section 176 of the Act you, as a person with an interest in the Property, are entitled to compensation for any damage occurring as a result of the exercise of the powers. Any disputes relating to compensation will be determined by the Upper Tribunal of the Lands Chamber and the provisions of section 4 of the Land Compensation Act 1961 apply to the determination of such disputes although Highways England hopes that any compensation can be agreed with you.

Yours faithfully



Andrew Kelly

Project Manager for M54 to M6 Link Road Scheme





Encl. Survey Access Plan: HE514465-BAM-LLO-M54-DR-ZH-0003. Schedule of surveys

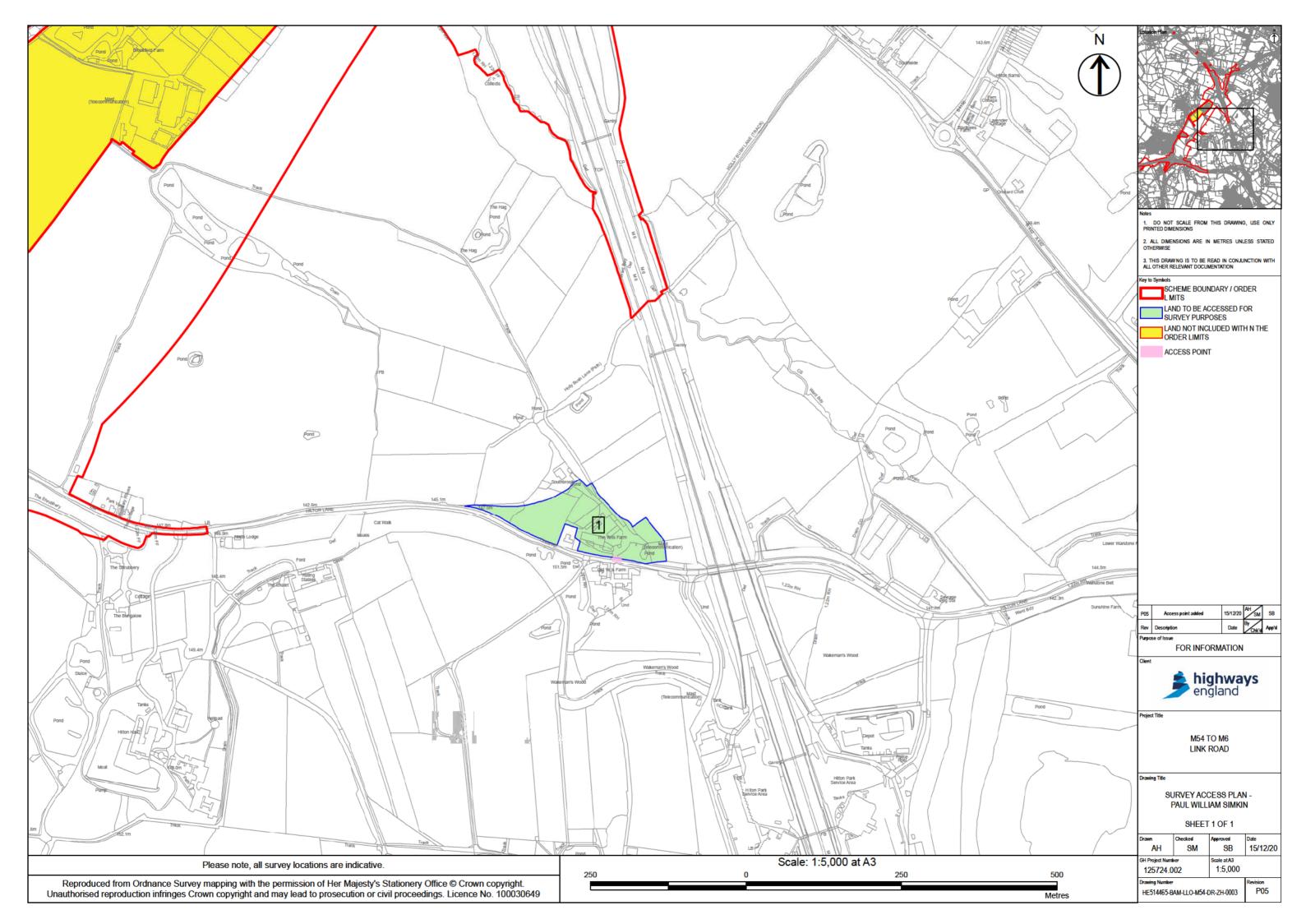
cc Bruton Knowles



M54 TO M6 LINK ROAD PROJECT SCHEDULE OF SURVEYS REQUIRED BY HIGHWAYS ENGLAND

Property: Land off Hilton Lane (SF655692), as shown on the attached plan in green

Survey	Type/purpose	Approximate location	Any further details	Timeframe	Estimated number of visits
Barn Owl	Walkover surveys of trees and buildings which may harbor barn owl roost presence. These surveys will supplement surveys used to inform the Environmental Impact Assessment reported in the Environmental Statement to ensure the scheme remains in compliance with Council Directive 85/337/EEC.	Land parcels shaded green on attached plan ref - HE514465-BAM- LLO-M54-DR-ZH- 0003.	Inspection of buildings and trees within land parcels shaded green on attached plan.	1 Apr – 30 Jun 2021. Daytime	Precise dates of access will be provided on no less than 7 days' notice where feasible





Our ref: Your ref: TR010054/PS/003

Paul William Simkin

Andrew Kelly
Project Manager
Highways England
M54 to M6 Link Road
2 Colmore Square
Birmingham
B4 6BN

23/12/20

Dear Mr Simkin

LEGAL NOTICE FOR ACCESS FOR ENTRY FOR SURVEYS PURSUANT TO SECTION 174 OF THE HOUSING AND PLANNING ACT 2016 AS AMENDED

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Yours faithfully



Andrew Kelly





Project Manager for M54 to M6 Link Road Scheme

Encl. Survey Access Plan: HE514465-BAM-LLO-M54-DR-ZH-0001.

Schedule of surveys

cc Bruton Knowles



M54 TO M6 LINK ROAD PROJECT SCHEDULE OF SURVEYS REQUIRED BY HIGHWAYS ENGLAND

Property: Land north of Hilton Lane, Shareshill, shaded green on the attached plan

Survey	Type/purpose	Approximate location	Any further details	Timeframe	Estimated number of visits
Bat	Including walkover survey and tree climbing, bat emergence, bat crossing and bat trapping surveys to identify the presence of bat roosts, to inform mitigation and a licence application to Natural England. These surveys will supplement surveys used to inform the Environmental Impact Assessment reported in the Environmental Statement, to ensure the scheme remains in compliance with Council Directive 85/337/EEC.	Land parcels shaded green on attached plan ref - HE514465-BAM-LLO-M54-DR-ZH-0001.		From 11 Jan 2021 - 31 Mar 2021, 1 Jun 2021 - 30 Sept 2021 (daytime) 1 May 2021 - 30 Sep 2021 (dusk / dawn) 1 May - 30 Sep 2021 (dusk / night-time).	Up to 10 days in January. Between 1-5 days in February. <5 days in March (and only as contingency if earlier surveys are constrained e.g. by unsuitable weather). Up to 30 visits between May and Sept. Precise dates of access will be provided on no less than 7 days' notice where feasible
Badger	Walkover survey to identify presence of badger setts. These surveys will supplement surveys used to inform the Environmental Impact Assessment reported	Land parcels shaded green on attached plan ref - HE514465-BAM- LLO-M54-DR-ZH- 0001.	Survey required to update existing badger activity across the scheme. Badgers are very mobile and new setts can be created rapidly.	From 11 Jan 2021 - 30 Apr 2021 Daytime	4 monthly walkovers – Possible additional visits may be required based on any badger movements highlighted. These will be notified as identified.

Survey	Type/purpose	Approximate location	Any further details	Timeframe	Estimated number of visits
	in the Environmental Statement, to ensure the scheme remains in compliance with Council Directive 85/337/EEC.				Precise dates of access will be provided on no less than 7 days' notice where feasible
Otter	Camera trap to be left on land for at least 28 days with checks once a week These surveys will supplement surveys used to inform the Environmental Impact Assessment reported in the Environmental Statement, to ensure the scheme remains in compliance with Council Directive 85/337/EEC.	Land parcels shaded green on attached plan ref - HE514465-BAM- LLO-M54-DR-ZH- 0001.	Camera trap to be left on site for at least 28 days with checks once a week	From 11 Jan 2021 – 28 Feb 2021 Daytime	Precise dates of access will be provided on no less than 7 days' notice where feasible
Barn Owl	Walkover surveys of trees and buildings which may harbor barn owl roost presence. These surveys will supplement surveys used to inform the Environmental Impact Assessment reported in the Environmental Statement to ensure the scheme remains in	Land parcels shaded green on attached plan ref - HE514465-BAM- LLO-M54-DR-ZH- 0001.		1 Apr – 30 Jun 2021. Daytime	Precise dates of access will be provided on no less than 7 days' notice where feasible

Survey	Type/purpose	Approximate location	Any further details	Timeframe	Estimated number of visits
	compliance with Council Directive 85/337/EEC.				
Great Crested Newt	Pond survey to determine GCN presence. and to inform mitigation and a licence application to Natural England. Water samples will be collected for eDNA analysis.	Land parcels shaded green on attached plan ref - HE514465-BAM- LLO-M54-DR-ZH- 0001.	Water samples will be collected for eDNA analysis at the start of the surveys and where negative, less visits will be required on site.	1 Apr 2021 – 30 Jun 2021 Daytime and night- time	6 (potentially less where eDNA survey results are negative) Precise dates of access will be provided on no less than 7 days' notice where feasible
	These surveys will supplement surveys used to inform the Environmental Impact Assessment reported in the Environmental Statement, to ensure the scheme remains in compliance with Council Directive 85/337/EEC.				
Ground Investigation (intrusive survey)	Ground Investigation (GI) to confirm ground properties beneath foundations of three proposed structures, within a proposed attenuation pond and within a proposed cutting for the main link road. Intrusive Ground Investigation, standpipes to be installed for ongoing monitoring.	Locations shown on attached plan ref - HE514465-BAM-LLO- M54-DR-ZH-0001.	Three types of intrusive GI testing are proposed: dynamic probing (DPSH-B) noted as DPA and Boreholes noted as BHA. In two of the boreholes, standpipes will be installed to enable ongoing monitoring of ground water quality and the presence of ground gas.	From 11 January 2021 – 28 Feb 2021. Daytime	Continuous programme of works – further detailed information to be provided in advance of works commencing. Precise dates of access will be provided on no less than 7 days' notice where feasible

Survey	Type/purpose	Approximate location	Any further details	Timeframe	Estimated number of visits
Water Quality / Gas Monitoring Survey	Validation of the initial base water contamination and for the presence of gas. Further ground water level monitoring through a 11 month period.	Locations shown on attached plan ref - HE514465-BAM-LLO-M54-DR-ZH-0001. Boreholes outlined as part of Ground Investigation (above). 1no borehole will be within the location of a proposed attenuation pond. 1no borehole will be within the proposed footprint of the Ride Farm accommodation bridge.	Standpipe installation is completed as part of the GI works. Surveys will be split into firstly three initial weekly site visits for ground gas / water quality survey. Secondly 11 monthly visits for water level monitoring.	3 no initial visits – 1 Feb 2021 – 31 Mar 2021. 11no monthly site visits – 1 Mar 2021 – 28 Feb 2022. Daytime.	3no weekly Then: 11no monthly Precise dates of access will be provided on no less than 7 days' notice where feasible.
Archaeological trial trenching (Intrusive Survey)	To determine the presence or absence of archaeological deposits. Intrusive survey – trial trenches will be machine excavated. These surveys will supplement the desk study used to inform the Environmental Impact Assessment reported in the Environmental Statement, to ensure the scheme remains	A series of evaluation trenches set out to evaluate the area of impact from the Scheme. Please see plan for proposed locations: HE514465-BAM-LLO-M54-DR-ZH-0001.	All trial trenches will be machine excavated using a toothless ditching bucket under direct archaeological supervision. Machined surfaces will then be excavated by hand where required and any features recorded. Trenches may remain open for a week or more as they need to be viewed and signed off by	From 11 Jan 2021 – 30 Apr 2021 Daytime.	Continuous programme of works – further detailed information to be provided in advance of works commencing. Precise dates of access will be provided on no less than 7 days' notice where feasible

Survey	Type/purpose	Approximate location	Any further details	Timeframe	Estimated number of visits
	in compliance with Council Directive 85/337/EEC.		the County Archaeologist prior to backfill.		
			The trenches will be backfilled by machine with arisings returned in the correct sequence but not compacted.		
			Full details of the work will be set out in a written scheme of investigation agreed with the county archaeologist.		
Survey levels, details of existing trees that are to be impact by the Scheme, the details the existing watercourses and waterbodies	To confirm existing ground levels, details of existing trees that are to be impacted by the Scheme, the details of	Land parcels shaded green on attached plan - HE514465-BAM- LLO-M54-DR-ZH-0001	It is anticipated that the topographic survey will be obtained using an aerial drone survey.	From 11 Jan 2021 - 31 Mar 2021. Daytime.	Continuous programme of works – further detailed information to be provided in advance of works commencing.
			The arboricultural / bathymetry / watercourse survey will need to be undertaken in person by a survey team.		Precise dates of access will be provided on no less than 7 days' notice where feasible
Watercourse Survey	Survey to confirm line and level of existing watercourse.	Land parcels shaded green on attached plan ref - HE514465-BAM- LLO-M54-DR-ZH-	Watercourse Survey at Pond 4 is required to inform the hydraulic design of the watercourse diversion.	From 11 Jan 2021 - 31 Mar 2021 Daytime.	Continuous programme of works – further detailed information to be provided in advance of works commencing.
		0001.			Precise dates of access will be provided on no less than 7 days' notice where feasible

Survey	Type/purpose	Approximate location	Any further details	Timeframe	Estimated number of visits
Bathymetry Survey	Survey of water pond proposed to be removed adjacent to Brookfield Farm.	Land parcels shaded green on attached plan ref - HE514465-BAM- LLO-M54-DR-ZH- 0001.	The bathymetric survey of ponds to be abandoned and adjacent ones, is required to support the design of the abandonment of the fishing and other ponds.	From 11 Jan 2021 - 31 Mar 2021. Daytime.	Continuous programme of works – further detailed information to be provided in advance of works commencing. Precise dates of access will be provided on no less than 7 days' notice where feasible
Arboricultural Survey	Survey to confirm location and size of existing trees and to establish full extent of proposed removal. These surveys will supplement surveys used to inform the Environmental Impact Assessment reported in the Environmental Statement, to ensure the commitments within the Outline Environmental Management Plan are implemented, and the scheme remains in compliance with Council Directive 85/337/EEC.	Land parcels shaded green on attached plan ref - HE514465-BAM-LLO-M54-DR-ZH-0001.	Arboricultural Survey of impacted trees is required to ensure that protection for trees to be retained during construction is planned accordingly.	From 11 Jan 2021 – 31 Mar 2021. Daytime.	Continuous programme of works – further detailed information to be provided in advance of works commencing. Precise dates of access will be provided on no less than 7 days' notice where feasible
Dust monitoring	Baseline dust deposition/soiling survey is required to establish baseline rates of deposition/soiling against which construction phase	Land parcels shaded green on attached plan ref - HE514465-BAM- LLO-M54-DR-ZH- 0001.	Survey equipment will be left in situ at each monitoring location for the duration of the baseline and construction surveys. Each monitoring location will be visited by AQ staff once	1 Apr 2021 – 30 Sep 2021 For baseline data, survey likely to be	Up to 13 visits Precise dates of access will be provided on no less than 7 days' notice where feasible

Survey	Type/purpose	Approximate location	Any further details	Timeframe	Estimated number of visits
	monitoring results can be compared. Apparatus to be left on land. These surveys will provide an indication of the current baseline to inform the development of the Dust Management Plan and detailed mitigation measures for construction. This is required to ensure the commitments within the Outline Environmental Management Plan are implemented during construction, and the scheme remains in compliance with Council Directive 85/337/EEC.		every two to four weeks to change over the sampling medium, depending on the exposure rate of samples.	for three to six months. Daytime.	
Drainage survey	Survey of existing drainage and culvert assets.	Locations shown on attached plan ref - HE514465-BAM-LLO- M54-DR-ZH-0001.		From 11 Jan 2021 - 31 Mar 2021. Daytime.	Further detailed information to be provided in advance of works commencing. Precise dates of access will be provided on no less than 7 days' notice where feasible
Water environment and water	To record characteristics of water bodies to understand their health and water quality	Land parcels shaded green on attached plan ref - HE514465-BAM-	Monthly sampling of watercourses and ponds	From 11 Jan 2021 - 31 Dec 2021 Daytime	Monthly (12)

Survey	Type/purpose	Approximate location	Any further details	Timeframe	Estimated number of visits
quality monitoring	through visual inspections and sampling.	LLO-M54-DR-ZH- 0001.			Precise dates of access will be provided on no less than 7 days'
	Walkover survey and water sampling.				notice where feasible
	These surveys will provide an indication of the current baseline to inform the development of the Water Management Plan and detailed mitigation measures for construction. This is required to ensure the commitments within the Outline Environmental Management Plan are implemented during construction, and the scheme remains in compliance with Council Directive 85/337/EEC.				
Pavement survey (Intrusive Survey)	To identify the existing pavement characteristics in order to design any required pavement strengthening works and associated tie-ins to the proposed carriageway. Intrusive survey requiring trial holes.	Locations shown on attached plan ref - HE514465-BAM-LLO- M54-DR-ZH-0001.	Trial hole reinstatement to be completed to a standard agreed with the landowner.	From 11 Jan 2021 – 30 Mar 2021. Daytime.	Trial holes and required reinstatement works to be completed in one shift, subject to confirmation. Precise dates of access will be provided on no less than 7 days' notice where feasible

Survey	Type/purpose	Approximate location	Any further details	Timeframe	Estimated number of visits
Utilities Survey	To locate existing underground utility apparatus and confirm its line and level for co-ordination with proposed diversions a utility survey consisting of ground penetrating radar and electromagnetic location techniques is required.	Land parcels shaded green on attached plan ref - HE514465-BAM- LLO-M54-DR-ZH- 0001.		From 11 Jan 2021 – 30 Mar 2021. Daytime.	Continuous programme of works – further detailed information to be provided in advance of works commencing. Precise dates of access will be provided on no less than 7 days' notice where feasible

