

From: [Haywood Planning Services](#)
To: [M54 to M6 Link Road](#)
Cc: [REDACTED]
Subject: M54/M6 Link Road Deadline 6 - 12 February 2021 Planning Inspectorate.
Date: 11 February 2021 15:07:16
Attachments: [Copy of Dark Lane data.xlsx](#)
[Copy of 6 months Dark Lane data.xlsx](#)
[Third set of written questions -response.docx](#)

For the Attn of Louise Evans Case Manager M54 to M6 link road Case Team.

SSC IP Ref: 20025362

I attach responses from South Staffordshire Council (SSC) to the Examining Inspectors third set of written questions for Deadline 6. Spreadsheets showing incidences of fly tipping in Dark Lane are also attached as requested in question 3.7.1.

SSC has reviewed the Technical Note 8.22 (TN) 'Assessment of Alternative Locations for mitigation in plot 5/2' (TR020054) submitted by Highways England at Deadline 5 and representations made by Allow Ltd on this TN. The Council Conservation Officer has been consulted on the TN/representations from Allow Ltd, with the latter published on the website on 21 January 2021. However, due to time constraints, the SSC Conservation Officer has been unable to provide a response by Deadline 6 (this is a shared service with the Officer concerned only working 1 day a week (Tuesdays) for SSC). SSC therefore respectfully requests whether its comments on these documents can be submitted after Deadline 6. Would the 24 February be acceptable to the Examining Inspectors? This would allow for the Conservation Officer to respond/account for officer leave commitments over half-term.

Regards

Tom Cannon
Haywood Planning Services (on behalf of South Staffordshire Council)

Sent from [REDACTED] for Windows 10

Third set of written questions

3.1.1. Interested Parties

Whether inappropriate development

Can the parties please give their analysis as to whether the proposed development may be covered by the exception to inappropriate development set out in paragraph 145 c) of the National Planning Policy Framework, “local transport infrastructure which can demonstrate a requirement for a Green Belt location”.

SSC has submitted a LIR which sets out its interpretation of Green Belt policy and how it relates to the proposal. For clarity, SSC acknowledges that the proposed development may be covered by the exception to inappropriate development set out in paragraph 146 c) of the National Planning Policy Framework, “local transport infrastructure which can demonstrate a requirement for a Green Belt location”. However, as set out in the LIR, the Council contends that the scheme would harm openness and conflict with one of the purposes of including land within the Green Belt i.e. fail to safeguard the countryside from encroachment. On this basis it would conflict with paragraph 146 of the Framework.

3.3.2. SSC

Biodiversity net gain

While not a requirement of NPSNN, and thus not part of CA/TP, this does not mean that Biodiversity net gain could not be delivered as part of the project on land that is required in any event – ie up-grading biodiversity on this land beyond the minimum. The Applicant’s approach has been to show that the CA land is needed holistically, ie to ensure that the development best-fits the many facets of the scheme. What is there to prevent the upgrading in terms of biodiversity of land which is required in any event, for example, the verges, cuttings, so as to meet the Government’s overall aim of enhancement to ecology and biodiversity?

Whilst this would be welcome, there are two potential problems with this approach – one is that it will necessarily involve quite narrow parcels of land which will restrict their usefulness to a range of species as noise, light and disturbance levels either side will probably be considerable. The other is the difficulty of securing adequate remediation during establishment or management in future. Species-rich grassland requires annual cut and collect management, while woodland will need regular thinning and possibly coppicing on rotation, which are tasks that require personnel and / or specialist machinery.

SSC supports the concerns of the SCC Ecologist that net gain to biodiversity is unlikely with this scheme and believe that the applicant should be prepared to make available a commuted sum towards off-site habitat compensation. SSC considers this position to be in accordance with the requirement in paragraph 5.33 of the NPSNN for such opportunities to be maximised in or around developments, including through use of planning obligations. While we understand that the applicant is pursuing habitat benefits through the Community Fund, this is not a guaranteed outcome as any bid will be competing with other schemes.

3.3.7. SSC

Veteran Trees

Allow Limited proposal is that mitigation planting should be located to the east of the proposal. Could the parties set out their positions as to the effects of this planting, were it to occur, on the special interest of the two veteran trees in this field (trees T-178 and T-182) as shown on Environmental Statement Figure 2.5 (Ver P15) [AS-090]?

SSC considers that the proposed landscaping is unlikely to affect the veteran trees. The location of the landscaping is at a distance that would not affect the trees through increased shading, changes in hydrology etc. The end use of the land assuming its agricultural, may have more of an effect, through live stock poaching and rubbing against the trees, or land preparation for crops with ploughing too close to these trees. SSC recommends that the veteran trees are fenced off in the long term to prevent damage from future land uses and a management plan secured for the management of the veteran trees.

Carefully designed planting could benefit the veteran trees by adding additional habitat and a degree of protection. It could be used to incorporate additional dead wood as log piles and could be designed as wood pasture, rather than dense woodland. Planting should allow for a halo space around each tree, preferably advised by an arboriculturalist with a Vet Tree certificate.

3.6. Cultural Heritage

3.6.1. SSC

Archaeological WSI

(a) Do the parties consider that the proposed Written Scheme of Investigation [REP4-032] is a robust approach to dealing with this matter?

(b) How is this to be secured within the draft DCO?

SSC will be guided by the Staffs CC Archeologist on the above matters who provide specific advice on archeology to the DC.

3.6.2. SSC

Less than substantial harm

The parties have made various comments effectively relating to a 'spectrum' of harm that would represent 'less than substantial harm'. Could the parties please provide their representations as to how that should be considered in the light of the High Court judgement of *Shimbles v City of Bradford MBC* [2018] EWHC 195 (Admin).

The spectrum of harm ranges from betterments through to substantial harm. In terms of the proposed scheme, SSC concludes that the proposals cause "less than substantial harm" to the setting of the listed buildings and the non-designated heritage asset (the parkland itself). Whilst the new road will not be visible from either of the Grade I listed buildings and there will potentially be an increased road noise, there is already road noise associated with the other main routes in existence in the area. The listed buildings are significant (Grade I listed), but the changes will need to be weighed against the public benefits of the new road. A balanced judgement will need to be taken when considering this impact upon the parkland which as has been noted is a non-designated heritage asset. The public benefits of the road will need to be taken into consideration.

3.6.3. SSC

In its paper on Assessment of Alternative Locations for Mitigation in Plot 5/2 submitted at D4 [REP4-036] the Applicant appears to accept that Hilton Park was designed by Humphrey Repton. (a) Is this a fair summation of the Applicant's view? (b) If Hilton Park was designed by Humphrey Repton does this make any difference to the consideration of the Proposed Development?

Point b), if the park was able to be assigned to Repton by definitive evidence then it would obviously increase the importance of the landscape (both Brown and Repton are highly regarded landscape architects). If it could be attributed to Repton it would be like attributing a building to an architect such as Nash or any other of the major C18 architects. The grounds are obviously a designed landscape associated with the hall, but we cannot definitively identify the person responsible for the design. The Gardens Trust may have more information on this, but SSC are unaware if any specific evidence in this regard.

3.7.1. SSC

Dark Lane Fence and fly-tipping

Could Allow Limited and SSC provide any records they may have of fly-tipping, as to when and precisely where such fly-tipping occurred, and nature and quantity tipped?

Please see the attached spreadsheets which identify incidences of fly tipping on Dark Lane over the period April – December 2020. If the Examining Inspectors require, the Council can also provide records of such activity for the first 2 months of 2021.

3.7.2. SSC

Dark Lane Fence

It is indicated that the existing Dark Lane fence is to be removed to be replaced by a hedgerow and fence. The fence being of similar height to that existing.

(a) Could it be clarified whether the hedgerow or fence is to be on the highway side?

(b) If it is the fence, could it please be explained why this is appropriate given the effect on the landscape?

(c) Could SSC and SCC give their comments on the appropriateness of this design approach?

SSC understands that the hedgerow would be on the highway side, with a rigid mesh fence (colour green) of a similar height to the existing fence to be installed. Discussions appear to be ongoing between the applicant and the Parish Council regarding the cost of the future maintenance of the hedge.

SSC consider that the new fence should be erected behind a new native hedgerow to ensure that this feature respects the character and appearance of the countryside and represents a design enhancement over the existing fence. It is also noted that this approach may not be possible to the east of the last property along Dark Lane due to restricted space in this area. SSC considers that alternative options should be considered here i.e. could a hedgerow be planted directly behind this section of fence which grows through the fence to soften its impact or additional planting added between existing trees?

REFERENCE (ALLONMOBILE)	TITLE (ALL DATE CREATED (ALLONMOBIL datetime-1	road name-1	parish-1	map-1	land type-	primary lis	quantity-1	other-1
AOM2146189	Fly Tipping 07/10/2020 13:35 2020-10-07T12:33:44.983Z	Dark lane	Shareshill LOC 3	"52.64674 Road	Other Hou	Tipper Lorry Load		
AOM4350618	Fly Tipping 02/06/2020 13:18:02 2020-06-02T12:16:56.266Z	Dark lane	Essington LOC 3	"52.64678 Road	White Goc	Small Van Load		
AOM2479227	Fly Tipping 02/06/2020 13:22:31 2020-06-02T12:19:38.452Z	Dark lane	Essington LOC 3	"52.64731 Road	Other	Small Van Load		
AOM0986717	Fly Tipping 04/08/2020 13:20:22 2020-08-04T12:18:30.500Z	Dark lane	Featherstone and E	"52.66437 Road	Other Hou	Multiple Loads		
AOM6050816	Fly Tipping 04/08/2020 13:25:23 2020-08-04T12:24:25.164Z	Dark lane	Featherstone and E	"52.66437 Road	Other Hou	Transit Van Load		
AOM2349942	Fly Tipping 07/10/2020 13:27:41 2020-10-07T12:26:36.657Z	Dark lanr	Shareshill LOC 3	"52.64925 Road	Constructi	Tipper Lorry Load		
AOM0085612	Fly Tipping 08/07/2020 11:29:02 2020-07-08T10:25:26.112Z	Dark lane	Hilton LOC 3	"52.65304 Road	Other Hou	Small Van Load		
AOM3632942	Fly Tipping 08/07/2020 11:34:20 2020-07-08T10:32:22.588Z	Dark lane	Featherstone and E	"52.65304 Road	Other Hou	Small Van Load		
AOM4301599	Fly Tipping 09/04/2020 07:17:16 2020-04-09T06:14:23.593Z	Dark lane	Hilton	"52.65539 Road	Other	Small Van Load		
AOM7358881	Fly Tipping 11/09/2020 12:19:58 2020-09-11T11:18:22.305Z	Dark lanes	Shareshill LOC 3	"52.65635 Road	Constructi	Small Van Load		
AOM4293515	Fly Tipping 12/08/2020 07:03:06 2020-08-12T06:02:25.651Z	Dark lane	Featherstone and E	"52.65270 Road	Other	Car Boot or Less		
AOM0977845	Fly Tipping 14/08/2020 12:52:39 2020-08-14T11:50:55.369Z	Dark lane	Hilton LOC 3	"52.64775 Road	Black Bags	Small Van Load		
AOM5088962	Fly Tipping 15/04/2020 13:15:41 2020-04-15T12:13:57.786Z	Dark lane	Featherstone and E	"52.64049 Road	Other Hou	Car Boot or Less		
AOM2223815	Fly Tipping 16/04/2020 07:24:47 2020-04-16T06:23:45.047Z	Dark lane	Shareshill	"52.66806 Road	Other	Small Van Load		
AOM0864231	Fly Tipping 18/06/2020 09:04:41 2020-06-18T08:02:15.648Z	dark ln	Featherstone and E	"52.63991 Road	Black Bags	Car Boot or Less		
AOM3794838	Fly Tipping 18/06/2020 09:13:25 2020-06-18T08:11:44.394Z	dark ln	Featherstone and E	"52.63568 Road	Other Hou	Transit Van Load		
AOM7627259	Fly Tipping 18/11/2020 10:15:30 2020-11-18T10:13:32.236Z	Dark ln	Featherstone and E	"52.64748 Road	Black Bags	Car Boot or Less		
AOM1283299	Fly Tipping 18/11/2020 10:37:37 2020-11-18T10:37:32.400Z	Dark ln	Featherstone and E	"52.64958 Road	Other	Small Van Load		
AOM5609343	Fly Tipping 18/12/2020 10:27:01 18/12/2020 10:12:39	Dark ln	Featherstone and E	"52.66307 Road	Other Hou	Small Van Load		
AOM3633747	Fly Tipping 19/06/2020 07:04:55 2020-06-19T06:03:28.275Z	Dark lane	Featherstone and E	"52.63601 Road	Other Hou	Small Van Load		
AOM4256957	Fly Tipping 19/06/2020 07:40:45 2020-06-19T06:36:34.724Z	Dark lane	Featherstone and E	"52.63601 Road	Other Hou	Small Van Load		
AOM4075768	Fly Tipping 24/09/2020 11:36:00 2020-09-24T10:25:27.877Z	Dark lane	Featherstone and E	"52.63977 Road	Other Hou	Tipper Lorry Load		
AOM6206895	Fly Tipping 27/04/2020 09:22:30 2020-04-27T08:20:53.772Z	Dark lane	Featherstone and E	"52.64237 Road	Black Bags	Tipper Lorry Load		
AOM6635331	Fly Tipping 27/05/2020 08:03:58 2020-05-27T07:03:08.049Z	Dark lane	Featherstone and E	"52.64853 Road	Black Bags	Small Van Load		

2020-09-24T10:25:27 Dark lane	Featherstc Road	Other Household	Tipper Lorry Load
2020-08-04T12:18:30 Dark lane	Featherstc Road	Other Household	Multiple Loads
2020-08-04T12:24:25 Dark lane	Featherstc Road	Other Household	Transit Van Load
2020-08-12T06:02:25 Dark lane	Featherstc Road	Other	Car Boot or Less
2020-07-08T10:32:22 Dark lane	Featherstc Road	Other Household	Small Van Load
2020-06-19T06:03:28 Dark lane	Featherstc Road	Other Household	Small Van Load
2020-06-19T06:36:34 Dark lane	Featherstc Road	Other Household	Small Van Load
2020-08-14T11:50:55 Dark lane	Hilton LOC Road	Black Bags Household	Small Van Load
2020-07-08T10:25:26 Dark lane	Hilton LOC Road	Other Household	Small Van Load
2020-10-07T12:33:44 Dark lane	Shareshill I Road	Other Household	Tipper Lorry Load
2020-08-19T09:07:14 Dark lane Cross gree	Featherstc Road	Other Household	Tipper Lorry Load
2020-08-19T09:24:35 Dark lane Cross gree	Featherstc Road	Black Bags Household	Tipper Lorry Load
2020-08-19T09:52:24 Dark lane Cross gree	Featherstc Road	Black Bags Household	Small Van Load
2020-07-24T10:20:44 Dark lane kinver	Kinver LOC Road	Other Household	Other Single Item
2020-09-11T11:18:22 Dark lanes	Shareshill I Road	Construction	Small Van Load
2020-10-07T12:26:36 Dark lanr	Shareshill I Road	Construction	Tipper Lorry Load
2020-11-18T10:13:32 Dark In	Featherstc Road	Black Bags Household	Car Boot or Less
2020-11-18T10:37:32 Dark In	Featherstc Road	Other	Small Van Load
2020-06-18T08:02:15 dark In	Featherstc Road	Black Bags Household	Car Boot or Less
2020-06-18T08:11:44 dark In	Featherstc Road	Other Household	Transit Van Load