

### M3 Junction 9 Improvement Project

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### Comments on ExA 2<sup>nd</sup> Questions

For the most part we wait to see what the responses are for the ExA questions, but we wish to make comments on some of the questions in time for D5.

|                                      | ExA 2 <sup>nd</sup> Questions  | Winchester FoE comment   |
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| <p>Q2.2.1<br/>WCC, NE,<br/>SDNPA</p> | <p><i>In ISH2, the question of increased Nitrogen levels in soil was specifically raised. The Applicant has responded to this in their Deadline 4 submission, Applicant written summaries of oral case for Issue Specific Hearing 2 (ISH2) [REP4-035] and in the updated ES Environmental Statement - Appendix 8.3: Assessment of Operational Air Quality Impacts on Biodiversity [REP4-020]. Please provide any comments on this or advise the ExA if you accept the assessment and conclusions provided.</i></p> | <p>The Applicant states, re the St Catherine's grassland: <i>The critical load for this habitat is 15 kg N/ha/yr. Natural England Report 210 indicates increases of at least 0.4kg N/ha/yr can result in the loss of one species from a habitat. Whilst this research does not relate to the habitats present within the St Catherines Hill SSSI and so is not directly comparable, it is considered to be a precautionary threshold based on sensitive heathland habitats. This research also shows that habitats that have already been subject to high background nitrogen deposition, as in this instance, can develop an effective tolerance to the effects of further deposition.</i></p> <p>I believe tolerance of nitrogen by grassland species to be an erroneous assumption that the applicant needs to cite evidence for. Wildlife Trust downland management experience is that NE requires us to physically remove nitrogenous material, such as ash from brash burning, from the grassland sites.</p> |
| <p>Q3.2.1<br/>WCC</p>                | <p><i>At ISH2, it was stated that PM2.5 in Easton Lane has increased in the last year. Please can WCC provide details of PM2.5 readings from their monitoring stations in the city and vicinity of the application boundary for the past 5 year</i></p>  | <p>I am not aware that WCC actually measures PM2.5 except at its fixed station in St George's Street (and it has only measured these particulates since 2020). Presumably the figures cited derive from the general DEFRA model which fits to various sensors around the country.</p>  |
| <p>Q6.2.4</p>                        | <p><i>Please confirm that it is agreed that the Winchester Carbon Neutrality Action Plan is not applicable to the scheme given that it states that the scope of the Action Plan will exclude motorways as these are national infrastructure and will require a national response. If that is not agreed, please explain why you consider it to be a relevant and important consideration</i></p>   | <p>The question presumably stems from a sloppy statement in the Climate Action Plan:<br/><i>The total emissions from Winchester district in 2017 were 834,000 tonnes if the motorway emissions are included. For the purpose of this Action Plan the scope will exclude motorways as these are national infrastructure and will require a national response.</i></p> <p>This cannot be taken to mean that the scheme is irrelevant to the Council's Action Plan. While WCC has no possibility of control (though it always has the possibility of influence through lobbying government etc.) over traffic passing through the District, it must have a legitimate <i>locus standi</i> for action on reducing carbon from all trips with a trip end in the District. Both those trips that already exist and those that are generated (induced, reassigned etc.) by this scheme.</p>   |
| <p>Q6.2.13</p>                       | <p><i>The Climate Emergency Planning and Policy Post Hearing submissions [REP4-042] Section 5.4 includes criticism of the WCC's significance statement. He does not agree that a significance assessment of "moderate adverse" or "major adverse" can be transmuted to "minor adverse" (and not significant) by "mitigation, offsetting and monitoring measures. His position being that</i></p>   | <p>The WCC already has a significant problem with finding measures to fit to its 2030 decarbonisation trajectory and has not even yet fully identified the offsetting shortfall of its own estate emissions, let alone the much bigger emissions of the District. Any additional emissions within the District, therefore, have to be considered as major risk factors to the achievement of its decarbonisation strategy. It is especially significant that these additional emissions are in the transport sector, where</p>   |

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|                | <p><i>“No amount of mitigation or offsetting is going to bring this assessment down to the level of “minor adverse”.” Please comment upon the criticism made by Dr Boswell in this respect and explain why you consider that such measures would bring the assessment down to the level of “minor adverse”.</i></p>  | <p>strategy failure is already most likely.</p>  |
| Q6.2.14        | <p><i>The Post Hearing submission of Winchester Action on Climate Crisis [REP4-049] makes a number of criticisms of the information provided by the Applicant in support of the application.</i></p> <p><i>(i) Please respond in detail to the criticism of the cost:benefit analysis that has been carried out and clearly explain the position in relation to that calculation including the application of any weightings and the potential exclusion of any disbenefits.</i></p> <p><i>(ii) Please respond in detail to the criticism of the GHG modelling and its compliance with the guidance in NPSNN and DMRB LA 144 including the appropriate geographic area for consideration and clarifying the scope of the transport emissions modelling and the roads that were taken into account.</i></p> <p><i>(iii) In relation to the DM and DS emissions figures for 2027 and 2042, please respond to the criticism that these show that emissions related to this proposal will reduce at only one sixth of the rate required by the Net Zero Growth Plan for transport and that the application poses a serious risk to the whole plan.</i></p> <p><i>(iv) Please provide further details of the economic benefits claimed for the scheme including how these have been calculated and a clear explanation as to the weighting given to each item.</i></p> <p><i>(v) Please comment on the omission of certain factors such as PM2.5 pollution.</i></p> | <p>We have already made a number of comments in this area and await the Applicant’s response to these questions before further comment.</p>  |
| Q6.2.17        | <p><i>The Climate Emergency Planning and Policy post hearing submissions [REP4-042] Section 5.3 Significance assessment and decision making by the SoS states that the SoS has always made DCO road decisions on the assumption that Net Zero, and/or previous climate budgets and targets, is going to be delivered. Dr Boswell’s position is that it is no longer credible, to rely upon the delivery of Net Zero (and the CBDP).</i></p> <p><i>(i) Please comment on the reliance that can be made by the SoS in relation to DCO road decisions upon the assumption that Net Zero, and/or climate budgets and targets, are going to be delivered.</i></p> <p><i>(ii) Please explain your position in relation to the consideration of the significance of carbon emissions from the scheme, and whether it can be assumed that Net Zero and the CBDP will be delivered.</i></p> <p><i>(iii) Please comment on whether it must first be established that the UK carbon budgets and targets are secured before it can be determined whether this scheme would have significant impacts on the ability of the Government to meet its carbon reduction targets</i></p>  | <p>Following the Prime Minister’s recent U-turn, it is now apparent that the Government’s transport decarbonisation trajectory is no longer applicable to estimating the operational carbon consequences of the scheme, since it results in increased proportion of ICE vehicles relative to that previously assumed. We submit that this specific issue needs separate consideration within this inquiry and a revision of the Climate modelling documents and the cost-benefit assessment of the carbon emissions.</p> |
| Q14.2.6<br>WCC | <p><i>As the main employment area for Winchester, can WCC explain how the</i></p>  | <p>If WCC has carried out such analysis it has not been in the public domain and should have been consulted on. The issue with all</p>   |

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|                | <p><i>proposed application will benefit the Winnall Industrial Estate and what currently limits economic growth.</i></p>   | <p>hand-waving assertions on local economic benefit always comes into questioning the effects of peripherality. Will this road take economic activity away or bring it to Winchester and what is the net benefit or cost to the nation (or levelling up policy) of such geographical relocation?</p> |
| <p>Q14.2.7</p> | <p><i>The ExQ 14.1.10 refers to the Case for the Scheme [APP-154] Table 3.2 in relation to the NPSNN strategic objective to provide 'Networks which support the delivery of environmental goals and the move to a low carbon economy'. The Errata sheet to the Applicant response to written question 14.1.10 was provided at Deadline 4 [REP4-032]. This confirms that Design Manual for Roads and Bridges (DMRB) and the Institute of Environmental Management &amp; Assessment (IEMA) guidance are both widely used to assess climate change in EIA. However, it is stated that for a road scheme, the UK-wide industry standard methodology to use for assessments are those set out within the DMRB.</i></p> <p><i>(i) Please indicate whether there are any reasons other than the achievement of consistency in road schemes, that the DMRB LA 114 standard has been used in this case.</i></p> <p><i>(ii) Please comment on any differences in outcomes that would result from the alternative use of the Institute of Environmental Management &amp; Assessment (IEMA) guidance in the light of the submissions of Dr Boswell on this topic.</i></p> <p><i>(iii) The response makes reference to the case of Goesa Ltd, R (On the Application Of) v Eastleigh Borough Council [2022] EWHC 1221 (Admin) (23 May 2022) in support of the principle that the use of national carbon budgets as a benchmark for the assessment of carbon emissions represents a lawful approach. In that case, the ExA notes that the Council utilised the IEMA guidance, and the subject matter was an airport runway extension. The court also found it to be noteworthy that the claimant did not suggest what alternative criterion would be compliant with the EIA Regulations to help the court assess its criticisms of the legality of the Council's approach. Please comment on the relevance of the findings of the court in that case given these differences in context and subject-matter.</i></p> <p><i>(iv) Please confirm that the Applicant's position in the light of the court cases referred to can be summarised as being that, as matter of principle, there is nothing unlawful in a decision-maker using benchmarks he considers to be appropriate, including national targets, in order to help arrive at a judgment on those issues unless such a decision could be regarded as being unreasonable in the Wednesbury sense.</i></p> |  |
| <p>Q14.2.8</p> | <p><i>The SoCG between the Applicant and WCC [REP4-030] at 2.1 indicates that the WCC agrees that the five strategic objectives of the scheme including reducing delays at the Winchester junction, as well as the M3, A33 and A44, supporting economic growth and improving walking, cycle, and horse routes align with the City of Winchester Movement</i></p>   | <p>We stress again here that, if the Movement Strategy has made arguments relating to how this scheme and its objectives align to its strategy, those arguments have not been made public and the public has not been consulted on them.</p>   |

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|          | <p><i>Strategy (2019) key priorities. The ExA notes the WCC's outstanding concerns and potential conflicts with Local Plan policies in relation to climate change issues. Please clarify the position of WCC in relation to the acceptability of the principle of the scheme and whether it would be consistent with the overall aims of the Local Plan</i></p>  |   |
| Q14.2.20 | <p><i>The Climate Emergency Planning and Policy Post Hearing submissions [REP4-042] at Appendix A [REP4-040] includes the report from the Transport Select Committee on "Strategic Road Investment" (Published 27 July 2023).</i></p> <p><i>(i) In relation to what is stated at paragraph 15 of the submissions, please comment on the significance for this application of the Transport Select Committee report stating that accommodating demand for new roads in the context of increasing forecasts of traffic on the SRN is a risky strategy.</i></p> <p><i>(ii) Please comment on whether the M3 Junction 9 scheme is one of the projects that would generate the demand and that this is an issue which the SoS must consider in the decision making.</i></p> | <p>We make comment elsewhere (in a Deadline 5) submission that we do not believe the Applicant's contention that the scheme does not have significant traffic induction effects.</p>  |
| Q16.2.5  | <p><i>Q16.1.14 of ExQ [PD-008] requested details of the risk allowances made in the scheme estimate in the absence of using optimism bias. This was not detailed in the Applicants response [REP2-051], therefore please provide an explanation to how WebTag adopts the Treasury Green Book required approach to risk and optimism bias and provide the ExA with detailed information of how the current scheme estimate sufficiently includes for full costs of the proposed project, including the percentage of risk allowance that contributes to the scheme cost that has been used in the economic appraisal and BCR assessment.</i></p>  | <p>We reiterate that "Most Likely" estimate has to come with an error bar – i.e. risk factor that ought to figure in the cost-benefit. "Most likely" is a statistical term and relates to the known probability distributions of the factors that enter the calculation. The error bar on this estimate can be computed from those distributions. Optimism bias is an additional factor recognising that the Applicant, on average, distorts the "Most likely" calculations significantly downwards. Strictly in risk analysis, the error bar on "Most-likely" needs to be added (in the normal way of summing variances) to the average optimism bias for this sort of scheme.</p>   |
| Q16.2.7  | <p><i>ExQ Q14.1.15 [PD-008] asked how the value of environmental impacts for the BCR had been derived. Please explain in further detail how the air quality benefit of £4.7m have been derived over the 60 year assessment period, please make reference to the ComMA Data Annex of the Combined Modelling and Assessment report [REP1-025] which details an increase in NOx and PM10. Please explain the geographical area of assessment included in the air quality benefits assessment and if habitat air quality changes are included and if not, why not.</i></p>   | <p>Our understanding of the air quality benefit is that it arises from the supposed traffic reductions (actually the modelled traffic reductions from the increased traffic levels that are predicted for Do Minimum, but which can only be brought about by the scheme allowing such traffic growth in the corridor – see our other D5 submission) on the internal network of Winchester. Since we have demonstrated that no statistical significance can be given to those reductions the AQ economic benefit has to be regarded as illusory. Since traffic is induced by this scheme there will of course be AQ disbenefits elsewhere, particularly in the areas where new trips begin or end. These disbenefits are ignored by the Applicant.</p> |