

A12 Chelmsford to A120 Widening Project

Deadline 2 submission – ExQ1
Responses to Written Questions

13 February 2023

ExQ1 - Responses to Written Questions

On the 20 January 2023 the Examining Authority published a series of questions and requests for information in the form of Examination Question 1 (ExQ1) within a table which is set out using an issues-based framework derived from the Initial Assessment of Principal Issues provided as Annex C to the Rule 6 letter of 12 December 2022. Questions have been added to the framework of issues set out there as they have arisen from representations and to address the assessment of the application against relevant policies.

The issued list requires responses from a number of parties. Essex County Council (ECC) answers questions as are made to them, each question being given a unique reference, the respondent the relevant question it relates to, and the answer to the same, which can be seen as set out in the table below.

ExQ	Respondent	Question	ECC response
Air Quality			
2.0.1	Host Authorities	Has the Applicant's Construction Dust Assessment, as set out in Section 6.9 of ES Chapter 6 [APP-073], had regard to the latest guidance and is the method used by the Applicant acceptable? Are the LPAs satisfied with the Applicant's proposed mitigation in relation to dust as outlined in the Dust Management Plan, Appendix E to EMP [APP-189]? If not, please explain why?	Detailed controls are exercised through specific pollution prevention and control regimes primarily regulated by the Environment Agency (EA) and Local Authority Environmental Health Officers (EHOs). The impact on human health is also material consideration in making planning decisions. However, national policy expects that in determining applications ECC should not be concerned with "the control of processes which are a matter for the pollution control authorities. Waste planning authorities should work on the assumption that the relevant pollution control regime will be properly applied and enforced." If permission is granted, planning conditions may be imposed to help mitigate any impact on local amenity.
2.0.4	Host Authorities	Has Table 6.5 of ES Chapter 6 [APP-073] identified all the key relevant local policies that	This falls to the relevant LPA's to consider.

ExQ	Respondent	Question	ECC response
		relate to air quality? If not, please identify those that are missing.	
3. Biodiversity, Ecology and Natural Environment (including Habitats Regulations Assessment (HRA))			
3.0.1	Host Authorities	In relation to Applicant's approach toward biodiversity net gain, are the parties satisfied with this approach and the Applicant's conclusion? If not, please explain why.	The Applicant's approach to only reach no net loss and the lack of appetite for BNG is unimpressive. We consider that a wide range of habitats might provide long term biodiversity benefits.
3.0.2	Host Authorities	Has ES Chapter 8: Biodiversity [APP-076], identified all relevant legislation and policy, in particular local policy? If not, please identify which elements are missing and how this relates to the proposed development.	<p>We note that ES Chapter 9 [APP-076] relates to Biodiversity not Chapter 8.</p> <p>The hasty DCO submission before sufficient information is available is considered to be at odds with meeting legislative and policy requirements.</p> <p><u>NERC Act 2006 s40 biodiversity duty</u> We have requested that all impacts on protected and Priority species and habitats are considered for the scheme, not just significant impacts, which need to be considered separately from the ES. However, non-significant impacts have not been mitigated; this is required for ECC as it needs to demonstrate it has met its s40 biodiversity duty under the NERC Act 2006 – as will the SoS for Transport.</p> <p><u>Irreplaceable habitat:</u> We are aware of a lack of survey and assessment of, and mitigation for impacts to, veteran trees and potential veteran trees. We wish to express our concerns at the level of uncertainty at this stage as to the true scale of impacts.</p>

ExQ	Respondent	Question	ECC response
			<p><u>Priority habitats:</u> There are no proposals for provision of compensatory Open Mosaic Habitat on Previously Developed (OMH) Land Priority habitat. Paragraph 4.2.5 of the Biodiversity Net Gain report states that, “For open mosaic habitats on previously developed land, the 4.74ha identified in the baseline is largely lost permanently and there are no proposals for creation of this habitat.” There is insufficient justification in the reports as to why this important Priority habitat within Essex will not be compensated.</p> <p><u>Policy S12 of the Essex Minerals Local Plan 2014 and the Mineral Site Restoration for Biodiversity Supplementary Planning Guidance:</u> It is unclear how the Scheme would ensure adequate Priority habitat provision relating to the restoration of Colemans Farm Quarry to meet the MLP and SPG requirements. The ES states that, “<i>The design of habitats to mitigate direct loss of habitats at the flagship biodiversity site at Colemans Farm Quarry is shown on Figure 2.1 Environmental Masterplan [TR010060/APP/6.2] and will be further developed at detailed design</i>”. However, the Environmental Masterplan (sheet 10 of 21) does not include the wider Quarry restoration and so does not sufficiently demonstrate how the A12 landscaping will ultimately dovetail with the Quarry’s restoration scheme, and we therefore seek further information.</p> <p>In addition, the realignment of Burghey Brook Ordinary Watercourse would include a sharp bend south of the A12 and new roundabout, to the northwest of Coleman’s Quarry. This should be altered to reinstate it closer to its existing line.</p>

ExQ	Respondent	Question	ECC response
3.0.3	Host Authorities	In terms of ES Chapter 8: Biodiversity [APP-076] and its Assessment Methodology, including scope, approach, assessment of significance, assumptions and limitations and study area, do the parties consider the approach and conclusions to be robust? If not, please explain why and what is required.	There has only been one meeting between the Place Services Principal Ecologist and National Highways, which was in May 2022. We do not know whether all of our concerns raised during the course of the production of environmental documents and associated consultation period have been taken into account at this stage. We do not consider the approach adequate and therefore the conclusions are far from robust.
3.0.4	Host Authorities	Are the parties satisfied with Applicant's approach towards mitigation of impact upon protected species? If not, please explain why.	<p>We have a number of concerns about impacts on protected species which we don't know whether the mitigation is appropriate or likely to be effective.</p> <p>We have previously raised a number of concerns with respect to gaps in ecology information that is required to provide certainty of likely impacts. Without this additional information, there may currently be insufficient levels of mitigation, compensation and enhancements. At this stage, we do not consider that there is sufficient certainty that the Scheme would deliver effective and appropriate mitigation and compensation for likely ecological impacts for either the construction or operational phases of this Scheme.</p> <p><u>Bats</u></p> <p>The full extent of the severance of linear habitat features used by bats moving through the landscape remains unclear. At the meeting held on 26 May 2022 between Place Services Principal Ecologist & a National Highways representative, a plan showing which static detectors recorded Barbastelle bats was requested to ensure that mitigation is embedded in all current locations used where the road</p>

ExQ	Respondent	Question	ECC response
			<p>will affect connectivity. This has not been provided. As the commuting and foraging movements of bats are not currently shown on a map it is difficult to understand their current utilisation of the landscape, although we recognise that the Bat Survey highlights that, “<i>Key areas for commuting and foraging bats in the survey area included Prested Hall and along the River Blackwater and the River Ter, where high levels of bat activity were recorded, including for rarer species such as barbastelle and Nathusius’ pipistrelle</i>”. We have previously raised concerns that adequate evidence is not yet proposed to demonstrate that the proposed bat crossing points will be sufficiently effective. This is particularly true of the hop-overs and over bridges which are “greened up”. This is important as certain species of bat will not use culverts, such as Barbastelle bats. We therefore still anticipate that additional information will be forthcoming to assess the likely impacts on these species before the Examination Hearings.</p> <p><u>Hazel Dormouse</u> We are still waiting to receive the results of Hazel Dormouse surveys in the vicinity of the gas main diversion to provide certainty of likely effects from the Scheme. This is necessary to assess predicted impacts and review mitigation proposals.</p>
3.0.5	The applicant and the Host Authorities	Paragraph 9.10.26 of ES Chapter 9 [APP-076] states ‘Impacts to Whetmead LNR and LWS would be offset through creation of habitats within the proposed scheme. Due to ground conditions, there is limited scope for additional planting to improve the existing LNR/LWS or to	We note that the loss of scrub habitat at Whetmead LNR & LoWS will be compensated by habitat creation south of the River Brain but have not been involved with any discussions on the location options. However we are concerned that only land within the proposed scheme is being considered which may not be able to deliver the ecological functionality needed or secure the necessary

ExQ	Respondent	Question	ECC response
		<p>restore or improve the condition of formerly wet habitats within the site.’ Please explain in more detail and in particular, identify where within the proposed scheme will the impact be offset. Are the parties satisfied with the Applicant’s approach?</p>	<p>long term management to reach the promised condition of compensatory habitat to deliver no net loss.</p> <p>We highlight that the site chosen for compensatory scrub will also need to be suitable for scrub. However we understand that the likely land will also deliver the necessary mitigation habitat for protected species being translocated from other areas of the scheme e.g. creating a pond and ditch complex designed specifically for the benefit of water voles and acting as the receptor site for reptiles with the creation of reptile hibernacula and log piles as stated in Paragraph 9.10.29 of the ES Biodiversity Chapter. We are not confident that the provision of bird boxes to be installed within Whetmead LNR & LoWS, the nearby Shelley’s Meadow and the River Walk as mitigation for loss of scrub habitat while new habitats mature is not considered to deliver for the range of bird species likely to be impacted. We note that Paragraph 9.10.31 refers to mitigation for Whetmead LNR & LoWS being secured through the REAC within the first iteration of the EMP [TR010060/APP/6.5] although the full details will need to be assessed before this matter can be included in the SoCG.</p>
6. Draft Development Consent Order			
6.0.15	The applicant and ECC.	<p>Art 17, Power to alter layout etc, of streets. This is a wide power, authorising alteration etc. of any street within the Order limits. Please provide further justification as why this power is necessary. Has consideration been given to whether or not it should be limited to identified</p>	<p>ECC are of the view that the consultation is needed, at (4) the timetable to respond to this is set at 28 days, this is considered insufficient, and should be a minimum of 42 days as set out in 3 (a).</p>

ExQ	Respondent	Question	ECC response
		streets? What is the view of ECC in respect of this Article?.	
6.0.16	The applicant and ECC.	Art 18, Street works: Should this article be restricted to specific streets set out in a Schedule? Should the powers be exercised with the consent of the street authority subject to consultation? What is the view of ECC in respect of this Article?	ECC would like to see what NH can do on its assets to be as tight as possible to the scheme as proposed.
6.1.4	The applicant and ECC	Requirement 7. Should (5) also include for consultation with the County Archaeologist?	That would be the condition we would recommend. We would then release the areas as the mitigation work is completed on each. As part of that we will have agreement with either NH's or the archaeological contractor to pay for our monitoring visits and sign off of the archaeological work. Services
6. Geology and Soils			
1.6.9	Host Authorities	In relation to best and most versatile land, are the LPAs satisfied with the approach and conclusions taken by the application with regards to unsurveyed agricultural land? If not, please explain why.?	Unsurveyed land accounts for 2% of the land within the Order limits and conclusions on the same have been based on aerial imagery. ECC are of the opinion that such factors are not considered to pose material limitations to the assessment .
11. Historic Environment			
1.7.3	The Applicant Historic England Local Authorities	There are a number of archaeological remains, in and close to the Order Limits, which would be adversely affected by the construction of the Proposed Development. In addition, please provide more detailed justification for concluding moderate adverse residual effects from the Proposed Development on the	<u>Approach and scope</u> : Place Services have worked closely with the archaeological consultant for Jacobs to devise and carry out a comprehensive evaluation strategy. This included Desk-Based Assessments, Aerial Mapping, Geophysical Survey and Trial trenching over much of the order limits as it was proposed. Place Services are satisfied with the approach for archaeology.

ExQ	Respondent	Question	ECC response
		<p>archaeological remains [APP-074]. Historic England and LAs to comment. Applicant – what consideration has been given to the effect of the Proposed Development on all these remains combined? Are parties satisfied with the approach, scope and conclusions of the archaeological assessment, and proposed mitigation?</p>	<p>Due to the extent and location of the scheme within areas where potential significant Palaeolithic and palaeoenvironmental remains may be preserved at depth a separate Palaeolithic Desk-Based Assessment was requested and a specialist geoarchaeological evaluation was required. The Palaeolithic Desk Based Assessment did not cover the full extent of the scheme and was used to inform the geoarchaeological investigation. The approach for the investigation of Palaeolithic and Palaeoenvironmental remains has not been comprehensive and was targeted on identified areas of worst impact. The approach is not satisfactory as areas of the scheme have received no assessment. This can be addressed through the completion of the Palaeolithic Desk Based Assessment to cover the entire scheme to determine the identification of any areas of significance which may require further evaluation prior to the determination of the DCO.</p> <p>There are a number of archaeological sites recorded on the HER which would be impacted by the proposals, the trial trench evaluation has also identified a number of previously unknown sites within the order limits which will be adversely impacted upon by the construction of the Proposed Development. The purpose of the evaluation work has been successful in providing information to allow determination of the impact and to mitigate this through a strategy of preservation by design or preservation by record.</p> <p>The presentation of the technical appendices to support the Cultural Heritage Chapter has been of varying quality and not to the standards expected however the conclusions in regard to archaeological remains are agreed.</p>

ExQ	Respondent	Question	ECC response
			<p>With regard to archaeological sites further discussion and more clarity in the presentation of results should help to reach agreement of a suitable mitigation strategy for archaeology (excluding Palaeolithic archaeology).</p> <p>With regard to the impact of the scheme on potential Palaeolithic and palaeoenvironmental remains the impact of the Proposed Development across the whole of the scheme has not yet been fully assessed and therefore the impact of the scheme on Palaeolithic and palaeoenvironmental deposits has not been fully established. As a consequence, the mitigation strategy is limited in its extent and excludes areas where the potential for Palaeolithic remains has not been established</p> <p><u>Conclusions:</u> The assessment concludes that the Proposed Scheme is predicted to have a moderate residual adverse effect on archaeology. ECC agree that there will be moderate adverse residual effects from the Proposed Development on many of the archaeological remains that were revealed as part of the archaeological trial trench evaluation, however the significance of potential Palaeolithic sites has not yet been established through the fieldwork undertaken and any identified Palaeolithic sites would be considered of high significance. It is accepted that the identification and investigation of Palaeolithic sites is difficult on a scheme of this size and further consideration of the potential for identification and, if required, preservation will need to be considered within the mitigation strategy.</p>

ExQ	Respondent	Question	ECC response
			<p>With regard to the Palaeolithic and palaeoenvironmental potential the mitigation strategy proposed is not considered adequate and further geoarchaeological investigation would be required to understand the impact of the scheme on Palaeolithic and paleoenvironmental remains which have potential to be of national significance. In the first instance this needs to be addressed through the completion of the Palaeolithic DBA which should include recommendations for further work which would allow adequate investigation of those areas that have, as yet, not been assessed. This may require a fieldwork element which will need to be completed prior to the determination of the DCO.</p>
14. Minerals and Waste Assets			
14.0.01	ECC	<p>Are ECC satisfied that the Applicant, through their Minerals Resource Assessment [APP-144] have proposed appropriate sterilisation mitigation measures to safeguard mineral resources. If not, please explain why?</p>	<p>ECC has considered the arguments put forward in the MRA justifying the sterilisation of all minerals within the Order Limits. ECC concludes that given the extent of the application site, there could be the potential for prior extraction opportunities to exist which the MRA has not fully explored. For example, Colemans Farm Quarry has reconfigured its previously permitted scheme of works to avoid the sterilisation of mineral as a result of the proposed A12 route and therefore it is considered that more opportunities for prior extraction could have been realised within the Order Limits.</p> <p>However, no objection is raised in relation to this point. The conclusions of APP-144, where material to the principle of mineral safeguarding, are appropriate at this point in time. ECC accepts that it has no information to demonstrate that other prior extraction</p>

ExQ	Respondent	Question	ECC response
			<p>opportunities would definitely exist within the Order Limits and ECC further accepts that the implications on the project timetable now of carrying out a full assessment of the practicality of prior extraction across the entirety or part of the site, both in terms of whether processing can occur on site or not, as well as the timeframe for granting permission for mineral development and the carrying out of the activity itself would be significant and possibly detrimental to the strategic benefits bought by the scheme. ECC supports the scheme in general as it will enable future housing development at scale, relieve traffic congestion on the existing A12 corridor and provide a strategic link for Essex and the wider east and southeast of England. Such delays as articulated above are not considered practical in the wider context of the benefits that the proposed development would bring. On that basis, with practicality being a consideration of the requirement for prior extraction, ECC accepts that further exploration of the prior extraction of mineral is not practical and the conclusions made in APP-144 are appropriate when considered in the planning balance.</p>
14.0.02	ECC	<p>Are ECC content with the Applicant’s baseline assessment, assessment methodology and significance categories and criteria as identified in ES Chapter 11 Material Assets and Waste [APP-078]? Is it based upon the most recent data? If not, please explain why?</p>	<p>Paragraph 11.5.9 of the ES [App-078] states that ‘There is limited information available at this stage regarding the precise material requirements and waste quantities associated with constructing the proposed scheme.’ Whilst the Environmental Statement (ES) states that these limitations are typical of an EIA, this limited information could impact on ECCs ability to determine any local impact of the scheme on the availability of consented material and the capacity</p>

ExQ	Respondent	Question	ECC response
			of its waste facilities to accommodate waste arising from this project. All ECC's assessments are therefore made with the caveat that they are not based on the precise requirements of the scheme. That said, given the likely quantum of mineral take and waste arising as set out in the relevant chapter, ECC is satisfied that all the issues assessed through the Chapter result in not-significant effects, that is effects that are not material in the decision-making process. Yes, the response to this can be found in the LiR which is submitted at the same examination deadline.
14.0.03	ECC	In the view of ECC, has the Applicant sought to minimise the volume of waste produced and the volume of waste that will be sent for disposal? If not, please explain why and what needs to be done to achieve this.	Yes, waste is sought to be minimised. The success of the same will be down to monitoring.
14.0.04	The Applicant and ECC	Please can the parties provide an update on the current position of the planning application referred to in 11.6.16 of Paragraph 11.6.6 of ES Chapter 11 Material Assets and Waste [APP078], along with a likely position by the end of Examination. It would be helpful if regular updates can be provided by the parties during the course of the Examination.	Brice Aggregates Limited submitted a planning application to ECC (planning reference ESS/98/21/BTE) which allows the quarry to change the phasing, accelerate extraction and allow import of inert material to backfill the quarry to pre-quarrying ground levels ahead of the proposed scheme works. The application proposed: <i>"to address proposed changes to existing schemes and conditions at the site over and above the applications set out above. This application is for the variation of conditions 4, 11, and 55 of planning consent ESS/40/18/BTE and approved Ecological Management Plan under the attendant S106 Agreement to enable the continued importation of inert materials to facilitate restoration; the re-phasing of the working and restoration of the consented site to enable accelerated progression of site restoration</i>

ExQ	Respondent	Question	ECC response
			<p><i>to return the land to formation level; changes to the approved restoration concepts and management plans; and the establishment and operations of an inert materials recycling facility, in advance of the A12 road widening and improvement national infrastructure project on land at Colemans Farm Quarry.</i></p> <p><i>The A12 realignment will affect the northern elements of the approved operations at the site, in particular Phases 1-7 inclusive, as detailed on the approved Working Plan. In the event that the Council were minded to grant consent for the schemes and conditions set out in this application, it will enable BAL to restore the extraction void in the current site to a level that allows HE and its project partners to start the A12 build. It will also enable BAL to address shortfalls in indigenous restoration materials that would be generated as a result of the presence of the A12 scheme. This is the most substantiable solution to the options considered and offers the best value to HE as an independent government body, the wider HM Treasury and the UK taxpayer. Notwithstanding the potential effect of the A12 on the extraction of consented mineral reserves, BAL as the operators of the site, are under an obligation to provide over 24 hectares of Priority Habitat as part of the restoration of the mineral working. The realigned route of the A12 would mean that this objective could not be met under the approved schemes and plans, and therefore a key component of this application is to present a revised scheme of restoration that ensures that these obligations are met, and the site continues to deliver significant biodiversity enhancement and habitat creation, consistent with local planning policy, and the obligations enshrined in existing planning consents for the site.</i></p>

ExQ	Respondent	Question	ECC response
			This application was considered by ECC's Development and Regulation Committee on the 27 January 2023 and a resolution to grant was made subject to completion of legal agreements. The approved scheme had been developed in cooperation with the A12 team as stated above in order to enable the construction of the DCO to be implemented should Consent ultimately be granted.
15. Noise and Vibration			
15.0.1	Host Authorities	ES Chapter 12: Noise and Vibration [APP-079], does table 12.4 reflect the latest and most relevant development plan policies? If not, please identify those that are missing.	These are Policies as held by the relevant Local Authorities along the route and hence fall to them to respond.
15.0.2	Host Authorities	Are the LPAs satisfied with the Applicant's identified methodology as set out in 12.5 of ES Chapter 12: Noise and Vibration [APP-079]? If not, please explain why. In particular, do the parties have any views on the Applicant's use, approach and conclusions with regards to the use of SOAEL and LOAEL?	This is for the Local authorities along the route to answer.
15.0.3	Host Authorities	Paragraph 12.5.24 of ES Chapter 12: Noise and Vibration [APP-079]? identifies the Applicant's consideration of significant effects from construction activities. Are the parties satisfied with this approach as set out? If not, please explain why.	See answer above.
18. Water Environment			
18.0.1	Host Authorities	Are the parties content with the Applicant's Flood Risk Assessment (FRA) and drainage proposals as detailed in Appendix 14.5 [APP-	ECC as LLFA supports the development with reference to flood risk mitigation and surface water drainage strategy, including appropriate measure by using sustainable drainage system (SuDS).

ExQ	Respondent	Question	ECC response
		162] and Appendix 14.6 [14.6] of ES Chapter 14: Road drainage and the water environment [APP-081]? If not, please explain why and what additional information is required	<p>Exceedance flow analysis (Surface water Drainage Strategy Appendix 14.6) have shown localised flooding within the order limits of Proposed development however, it is not considered significant as the scheme is designed to DMRB standards.</p> <p>LLFA has significant concerns in relation to pollution prevention to water environment. The runoff generated from A12 drainage catchments is discharging into an outfall considering no to minimum treatment.</p> <p>Majority of the proposed drainage catchments are not meeting ECC water quality standards.</p> <p>ECC supports the Chapter 14: Road drainage and the water environment including baseline condition.</p>
18.0.2	Host authorities	ES Chapter 14: Road drainage and the water environment [APP-081], do the parties agree that section 14.8, baseline conditions, is an accurate assessment of the current situation? If not, why not	The baseline conditions for the water environment are accurately presented using available resources with reference to quality of surface water and groundwater water as well baseline flood risk from both sources.

This information is issued by:
Essex County Council

Contact us:
Mark Woodger
[REDACTED] [@essex.gov.uk](mailto:[REDACTED]@essex.gov.uk)
Principal Planning Officer
Sustainable Growth

Essex County Council
County Hall, Chelmsford
Essex, CM1 1QH
[REDACTED]

The information contained in this document
can be translated, and/or made available in
alternative formats, on request.