



Application by National Highways for A12 Chelmsford to A120 Widening Scheme
The Examining Authority's written questions and requests for information (ExQ3)
Issued on 22 May 2023

The following table sets out the Examining Authority's (ExA's) written questions and requests for information – ExQ3.

Questions are 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.

Column 2 of the table indicates which Interested Parties (IPs) and other persons each question is directed to. The ExA would be grateful if all persons named could answer all questions directed to them, providing a substantive response, or indicating that the question is not relevant to them for a reason. This does not prevent an answer being provided to a question by a person to whom it is not directed, should the question be relevant to their interests.

Each question has a unique reference number which starts with 3 (indicating that it is from ExQ3) and then has an issue number and a question number. When you are answering a question, please start your answer by quoting the unique reference number.

If you are responding to a small number of questions, answers in a letter will suffice. If you are answering a larger number of questions, it will assist the ExA if you use a table based on this one to set out your responses. An editable version of this table in Microsoft Word is available on request from the case team: please contact A12chelmsfordA120@planninginspectorate.gov.uk and include 'A12 ExQ3' in the subject line of your email.

Responses are due by Deadline 6: Monday 12 June 2023



Abbreviations used:

PA2008	The Planning Act 2008	LIR	Local Impact Report
Art	Article	LPA	Local Planning Authority
ALA 1981	Acquisition of Land Act 1981	LSE	Likely Significant Effect
AQMA	Air Quality Management Area	MDC	Maldon District Council
AQO	Air Quality Objective	MP	Model Provision (in the MP Order)
BDC	Braintree District Council	MP Order	The Infrastructure Planning (Model Provisions) Order 2009
BoR	Book of Reference	NE	Natural England
CA	Compulsory Acquisition	NO₂	Nitrogen Dioxide
CoCC	Colchester City Council	NNNPS	National Networks National Policy Statement
CCC	Chelmsford City Council	NSIP	Nationally Significant Infrastructure Project
CPO	Compulsory purchase order	PAQAP	Project Air Quality Action Plan
dDCO	Draft DCO	R	Requirement
EA	Environment Agency	RR	Relevant Representation
ECC	Essex County Council	SI	Statutory Instrument
EM	Explanatory Memorandum	SoS	Secretary of State
ES	Environmental Statement	SuDS	Sustainable Drainage System
ExA	Examining Authority	TP	Temporary Possession
HE	Historic England	WHO	World Health Organisation



The Examination Library

References in these questions set out in square brackets (eg [APP-010]) are to documents catalogued in the Examination Library. The Examination Library can be obtained from the following link:

<https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010060/TR010060-000463-TR010060%20A12%20Chelmsford%20to%20A12%20Widening%20Scheme%20Examination%20Library.pdf>

It will be updated as the examination progresses.



Index

1.	General and Cross-topic Questions.....	5
2.	Air Quality and Emissions	5
3.	Biodiversity, Ecology and Natural Environment (including Habitats Regulations Assessment (HRA)).....	5
4.	Climate change.....	5
5.	Compulsory Acquisition, Temporary Possession and Other Land or Rights Considerations.....	6
6.	Draft Development Consent Order (DCO).....	8
7.	Historic Environment	8
8.	Land Use.....	8
9.	Landscape and Visual.....	9
10.	Material Assets and Waste	9
11.	Noise and Vibration.....	9
12.	Socio-economic Effects.....	9
13.	Transportation and Traffic.....	10
14.	Water Environment	10

ExQ3	Question to:	Question:
1. General and Cross-topic Questions		
Q3.1.1	The Applicant	At ISH4, the Applicant referred to the SoS for Transport taking the decision on the whole application, following consultation with the SoS for Energy Security and Net Zero in relation to matters concerning the proposed gas pipeline diversion. Can the Applicant provide any evidence to confirm this position.
2. Air Quality and Emissions		
		No further questions at this stage.
3. Biodiversity, Ecology and Natural Environment (including Habitats Regulations Assessment (HRA))		
Q3.3.1	The Applicant	At ISH4, ECC identified that they still had some reservations in relation to the effectiveness of proposed planting and possible bat hop-overs. Please can the Applicant provide an update on the discussions with ECC. With regards to the effectiveness of these hop-overs, is any future monitoring proposed in relation to these crossover points to ensure they are operating effectively? If not, please justify why. If yes, please explain what measures are proposed should this monitoring show that the hop-overs are not operating as expected.
Q3.3.2	The Applicant	Please can the Applicant provide an update on the likely timescales for issue of a Letter of No Impediment from NE with respect to bats, as referred to at ISH3 [REP5-020].
Q3.3.3	The Applicant EA	Please can the parties provide a further update on the issues that have been raised throughout the Examination to date (including those raised at ISH4 regarding disapplication of permits), in relation to the proposed use of culverts. From the Applicant, this should include a response to the EA's Deadline 5 submissions including implications for compliance with the Water Framework Directive. Should the parties not achieve an agreed position by the end of the Examination, the ExA requests that by DL8 each party provides a final position statement outlining the key matters of contention.
Q3.3.4	The Applicant	In REP5-020 at page 53, the Applicant refers to further information being submitted under reference C2-023. Please clarify what and where this is contained.
Q3.3.5	The Applicant EA	In REP5-031, the EA state that they have <i>'repeatedly stated throughout our pre-application engagement with the Applicant that main river crossings should be as wide and light as possible, retaining a natural channel and natural bank margins.'</i> Please can the EA provide evidence to support this statement. Please can the Applicant demonstrate how and where they have considered these comments.
4. Climate change		

ExQ3	Question to:	Question:
		No further questions at this stage.
5. Compulsory Acquisition, Temporary Possession and Other Land or Rights Considerations		
Q3.5.1	The Applicant	We are now over two thirds through the statutory period for the Examination. The latest CA schedule [REP-019] indicates that there are still 55 objections to be resolved. The ExA is expecting real progress can be made in the remaining 8 weeks with these negotiations and can the Applicant provide some reassurance about this? A further CA hearing has been scheduled for Tuesday 27 June in view of the number of outstanding objections.
Q3.5.2	The Applicant Bolton Family and Hammond Estates LLP	In the reply to ExQ2 2.5.1 [REP4 –055], it is stated that the parties are “working towards a position that can be agreed.” However, the Interested Parties have a sizeable landholding which is affected, was represented at Compulsory Acquisition Hearing 2 (“CAH2”) and still maintained their objection. What is the latest position?
Q3.5.3	The Applicant Roger Wacey	It is noted that the colour on the updated CA schedule [REP5-019] has been amended but agreement still needs to be reached on market value. Is this realistic before the end of the Examination?
Q3.5.4	The Applicant John Lindsay and Mary Lindsay	A further response was provided at ExQ2 2.5.7 but the Interested Party indicated at CAH2 and in their later submission at REP4-087 that the updated Management Plans showed little improvement for their property. It is difficult to see that any contribution for this property will really provide any kind of precedent for other highways schemes. The Applicant is asked to revisit their response.
Q3.5.5	The Applicant Crown Estates	The Applicant has said that the s.135, PA2008 will be available by the close of the Examination. Please can the Applicant provide evidence in the form of correspondence from Crown Estates to confirm this?
Q3.5.6	The Applicant Edmundson Electrical and Royal London	It was said at CAH2 that the Applicant would try to facilitate the position so that discussions could take place direct between the Interested Party and Cadent Gas especially since it is Cadent who will be undertaking any construction work. Has this been arranged?
Q3.5.7	The Applicant NFU	The Applicant explained at CAH2 that a mechanism for the landowners of the four Borrow Pits to retain possession of the land had been agreed and it is appreciated that this differs from other landholdings in view of the long-term mitigation required. However, the Applicant does say at ExQ2 2.5.12 that there is “no legal mechanism that would appropriately protect it from potential criminal liability.” In view of the agreements being negotiated with the Borrow Pit landowners, this would not appear to be the case. Can the Applicant comment further? It is noted that the NFU have at REP4-093 referred to a relatively simple mechanism which includes a right of entry for the Applicant in the event of non-compliance.

ExQ3: 22 May 2023**Responses due by Deadline 6: Monday 12 June 2023**

ExQ3	Question to:	Question:
Q3.5.8	The Applicant The Brice Family	It is noted that notwithstanding the Statement of Common Ground submitted with the Brice family [REP4-041] the current position is summarised at entry 19 of the CA Schedule [REP5-019]. If agreement is not reached, then the position over the backfill required for the void becomes more questionable. It appears that this agreement is critical. Can the Applicant provide reassurance that this will be available before the end of the Examination?
Q3.5.9	The Applicant Brice Family Essex County Council	As indicated at both CAH1 and CAH2, the position over Colemans Quarry was not clear to a number of Interested Parties and also to the ExA. This has now been explained further with the Borrow Pits summary [REP5-015] and also the officer report to Essex County Council in respect of the planning application. The uncertainty has to some extent arisen over the delays in the grant of planning permission which was approved by Essex County Council in January. What are the reasons for delay in completing the section 106 agreement and is this likely to be finalised any time soon?
Q3.5.10	The Applicant	Following from the previous query at Q3.5.9 above, if it is possible to import 650,000 cubic metres from external sources, then if this contingency supply is not required at Colemans Quarry, is it not possible for these materials to be used for the Project which would reduce the requirement for the four Borrow Pits identified? The reasoning provided by the Applicant in REP5-020 is noted.
Q3.5.11	The Applicant J. F. Strutt and Lord Rayleigh's Farms	There was an original objection on behalf of the Honourable John Frederick Strutt and Lord Rayleigh's Farms at RR185 and RR186 but no further comment during the Examination. Their ownership includes Borrow Pit E and whilst an update is provided in the updated CA Schedule [REP5-019] the discussions seem to be continuing without any agreement being finalised. It is noted from REP5-019 that draft Heads of Terms were issued on 12 April and a "private position statement" will be issued soon. Is there any likelihood of a joint statement or letter of intent?
Q3.5.12	The Applicant Henry Siggers and Parker Strategic Land	Representations have been made on behalf of Henry Siggers throughout the Examination and repeated at CAH2 and also in a subsequent submission [REP4-095]. The latest response from the Applicant at pages 80 to 84 of REP5-020 is noted but the Interested Party has been asking for a fuller explanation for some time and this is an important landholding as it includes Borrow Pit I. Reference is made in the application documents to the possibility of additional materials being taken from Pit J (App-278 at para 2.4.9). Draft Heads of Terms were submitted on 26 April but the indication is that the parties are still some way apart. Is this still the case?
Q3.5.13	The Applicant The Bunting Family	The owner of the fourth Borrow Pit is the Bunting family (Pit J) and their adviser raised a number of questions at CAH2. These may to some extent have been answered in the latest Borrow Pits Summary and an update is requested from both sides?

ExQ3: 22 May 2023

Responses due by Deadline 6: Monday 12 June 2023

ExQ3	Question to:	Question:
Q3.5.14	The Applicant Countryside Zest	This objection is being maintained whilst the drafting of a legal agreement is awaited [REP4- 082]. At CAH2, it was stated in the CAH2 that agreement had been reached on 26 April. Please provide confirmation of this.
Q3.5.15	The Applicant	Queries were raised over the considerable redactions made to the Borrow Pits Costs Information [REP3-023] and a detailed response and legal justification has now been provided at REP5-020 with a summary [REP5-015] which contains far fewer redactions. It is noted that one of the principal aims outlined in the latest Borrow Pits Summary [REP5 -015] is to clarify the “gist” of the costs information and thereby relying upon the comments from Mr Justice Flaux in the East Staffordshire case. This refined position seems reasonable but the conclusion has to be that the “gist” of the information was not provided at an earlier stage and the redactions made to the earlier Borrow Pit Information [REP3-023] which was lodged more than two months ago on 9 March 2023 were not justified. Does the Applicant now accept this?
6.	Draft Development Consent Order (DCO)	
		No further questions at this stage.
7.	Historic Environment	
Q3.7.1	The Applicant	Historic England have again repeated their concerns and have made a further submission at REP5-036 with an expectation of some further mitigation. This was not accepted at the recent hearing and the Applicant continues to maintain this position with a lengthy explanation in the recent REP5-020 between pages 87 to 99. In view of the latest representation, can the Applicant review its position?
8.	Land Use	
Q3.8.1	The Applicant	There have been a number of further submissions in relation to the proposal for the Gershwin Boulevard Bridge and it is the intention of the Examining Authority to undertake an unaccompanied site inspection in order to view the site from the other side of the existing A12. It is noted that both Essex County Council and Braintree District Council are of a settled view that there needs to be a footbridge at some location in this vicinity. Has the Applicant any further comment to add following the additional comments that have recently been made [REP5-038; REP5-053; and REP4-083]
Q3.8.2	The Applicant Essex County Council	Essex County Council have objected [REP5-033] to the proposed footpath alignment at Colemans Cottage Fishery on the basis that it creates a semi enclosed corridor footpath. They do not consider that this is the optimum design for a public footpath when it is created as a result of a new development. Can the Applicant give this positioning and design additional thought as this does not seem a

ExQ3	Question to:	Question:
		satisfactory outcome? A further meeting was proposed for Monday 13 May and was there any progress at this?
Q3.8.3	The Applicant	Following on from the above, reference is made to the National Planning Policy Framework which provides at paragraph 100 that: <i>“Planning policies and decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails”</i> It does not seem that the proposal at the Fisheries meets this requirement and is the Applicant able to offer any further justification?
Q3.8.4	The Applicant Essex County Council	Several Interested Parties have referred to the need for access to bridges to be designed in accordance with the LTN1/20 Guidance but there has been no commitment from the Applicant so far. It is noted that a further meeting with Essex County Council was to take place on 4 May. What was the outcome of this?
9.	Landscape and Visual	
		No further questions at this stage.
10.	Material Assets and Waste	
Q3.10.1	The Applicant	Whilst it is accepted that the Borrow Pit Report [REP5-015] provides additional detail on the overall approach to the use of borrow pits across the proposed development, in considering the benefits of borrow pits against alternative sources, the submission makes limited reference to their environmental impact, focusing principally on technical matters, risk, cost and greenhouse gas emissions. How have other matters such as loss of agricultural land, biodiversity, landscape, noise, archaeology etc been factored into the overall assessment, and how and where have these impacts been considered alongside similar impacts from other potential sources?
Q3.10.2	The Applicant	In relation to the costs provided for the winning of material from the borrow pits, can the Applicant confirm that all costs associated with the extraction of materials from the proposed borrow pits is included within the cost figure quoted. Does it include the cost of providing the necessary haul roads and the proposed temporary bridge across the A12 to serve Borrow Pit I.
11.	Noise and Vibration	
		No further questions at this stage.
12.	Socio-economic Effects	

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ExQ3	Question to:	Question:
Q3.12.1	The Applicant	At CAH2 concerns were again raised on behalf of Prested Hall over the impact on their business. The Applicant mentioned the possibility of avoiding key dates in the summer when the wedding business would be most affected. Can the Applicant confirm if/how it intends to secure this?
13.	Transportation and Traffic	
Q3.13.1	The Applicant	The Department of Transport has recently announced forthcoming guidance on 'Accounting for COVID-19 in transport modelling', with an expected release date of May 2023. At the time of drafting this question, the new guidance had yet to be published, however it is likely that it will be available before the close of the Examination. Therefore, please can the Applicant identify what the implications are for the application.
14.	Water Environment	
		No further questions at this stage.