

From: [Clapworthy, Dean](#)
To: [M60 Simister Island](#)
Subject: Examining Authority Ref. TR010064 - M60/M62/M66 Simister Island Project - ISH1 post hearing submission
Date: 20 September 2024 16:57:45

Good morning,

This email includes Bury Council's response to the following matters:

1. Issue Specific Hearing 1 (ISH1) – Supplementary Agenda Additional Questions

2. Issue Specific Hearing 1 (ISH1) – Action Points arising

1. Issue Specific Hearing 1 (ISH1) – Supplementary Agenda Additional Questions

ISH1.A.19: Article 11(3) – Application of the 1991 Act

Paragraph (3) seeks to disapply several sections of the New Roads and Street Works Act 1991, as amended by the Traffic Management Act 2004. Please clarify if you are satisfied that these sections can be disapplied and if not, why not?

Council response: Satisfied that the sections can be disapplied.

ISH1.A.23: Article 13(4)(b) – Classification of roads etc.

2. Do Bury Council consider it necessary for paragraph 4(b) to be expanded by specifying that any agreement should be made in writing by the local highway authority? If so, please explain why and if not, explain why not.

Council response: Agree the suggested amendment.

ISH1.A.26: Article 14(6) – Temporary closure and restriction of use of streets

Is the 28 day period specified for issuing a decision of an application for consent a sufficient period of time? If not, explain why not and what you consider an appropriate period of time for issuing a decision would be.

Council response: Agree that 28 days is sufficient.

ISH1.A.34: Article 18(5) – Discharge of water

1. Paragraph 5 refers to 'main river' although no definition is provided as to what this includes. Should the following definition highlighted in bold be added to paragraph (8) after sub-paragraph (b) to improve precision: "‘main river’ means watercourses as defined under section 113(1) of the Water Resources Act 1991 and shown as such on the statutory main river maps held by the Environment Agency and the Department for Environment, Food and Rural Affairs.'?"

2. Can the Environment Agency and Bury Council provide any comments on this suggestion (as set out at (1))?

Council response: Considered to be an acceptable definition.

ISH1.A.36: Article 18(9) – Discharge of water

Is the 28 day period specified for issuing a decision of an application for consent a sufficient period of time? If not, explain why not and what you consider an appropriate period of time for issuing a decision would be.

Council response: Agree that 28 days is sufficient.

ISH1.A.71: Article 14(6), Article 17(11), Article 20(6)

Is the 28 day period stipulated for determination of an application for consent under these paragraphs a sufficient period of time? If not, why not and what would be an appropriate determination period?

Council response: Agree that 28 days is sufficient.

ISH1.S2.10: Requirement 5(4) – Landscaping

1. As diverted Public Rights of Way and maintenance tracks are proposed and potentially

boundary treatment, does an additional criterion need to be added requiring details of hard landscaping and materials including colour, boundary treatment of any fences and walls, structures and street furniture?

2. In criterion (c), does reference need to be made for the scheme to be in accordance with the Arboricultural Impact Assessment [APP-086]?

3. Landscaping can often require significant earthworks and changes to levels. Therefore, should the list in criterion (d) be expanded to incorporate details to show this, such as (but not limited to) details of changes to existing land levels, gradients for areas of permanent earthworks (such as sides of northern loop), and/or cross sections to illustrate slope profiles where embankments are formed?

4. Should criterion (e) be reworded and expanded to include reference to 'maintenance' ie 'timetables for the implementation and maintenance for all landscaping works'?

Council response:

1. Agree that an additional criterion should be added.

2. Would not object to its inclusion.

3. Agree to the expansion of criterion (d).

4. Agree to the suggestion in relation to criterion (e).

ISH1.S2.12: Requirement 5(6) – Landscaping

Are parties satisfied with the 5 year period specified? If not, what would a sufficient period of time be and why?

Council response: Would agree that 5 years is sufficient.

ISH1.S2.13: Requirement 5 – Landscaping

Does an additional sub-paragraph need to be added requiring the authorised development being operated and maintained in accordance with the Third Iteration EMP to ensure that the contents of paragraphs N.1.5 and N.6.3 of Appendix N Outline Landscape and Ecology Management Plan of the First Iteration EMP [APP-141] would be secured? If not, why not?

Council response: Agree to the suggestion.

ISH1.S2.15: Requirement 7 – Protected species

1. Paragraph N.3.8 of Appendix N Outline Landscape and Ecology Management Plan of the First Iteration EMP [APP-141] states that preconstruction surveys for protected species are required by R7 of the dDCO yet the wording of R7 does not include this. Should an additional paragraph be added at the beginning of the requirement to secure this? If not, explain why not.

2. If a paragraph is inserted to incorporate the above, should the wording in sub-paragraph (1) be expanded to include the following: 'In the event that the pre-construction survey prepared under subparagraph (1) identified the presence of protected species, or any protected species which were not previously identified in the environmental statement...'

Council response:

1. Agree to the suggestion.

2. Agree to the suggestion.

ISH1.S2.16: Requirement 7(2) – Protected species

2. Do Bury Council also wish to be consulted on the written scheme of protection and mitigation measures? If so, explain why.

Council response:

It is considered that the Council is copied in to any consultation with Natural England on species mitigation protection.

Whilst accepting that Natural England are the consultee and have the final say, it is important for the Council to know where mitigation is proposed, particularly where off-site, as is noted for Barn owl. The main reason is:

- The adjacent land is allocated for development in the Places for Everyone (PfE) Joint Development Plan Document. It is important for the Council to be aware where mitigation is proposed, as first it may be located in such a place that it will be difficult to avoid when and if development occurs and second, if avoidable, the Council would need to know where it has occurred to prevent accidental damage during development.
- Secondly, for certain species the Council would want to avoid duplication of effort when and if the PfE allocation came forward. Whilst some species are colonial and therefore the more suitable habitat available the higher the population, for others that are territorial, additional breeding opportunities would be unlikely to succeed.

ISH1.S2.24: Requirement 12(1) – Application made under requirements

As currently drafted this requirement would give deemed approval for the discharge of any application, subject to a number of caveats, if no decision is made by the Secretary of State within 8 weeks from submission of those details. Is this time period appropriate? If not, please advise what an appropriate time period would be and why.

Council response: Agree that the 8 week time period is appropriate.

2. Issue Specific Hearing 1 (ISH1) – Action Points arising

For Deadline 1 (24/09/2024)

Action 5 - Provide detail of the permissions / notifications being sought under Article 10 and the provisions under Article 11(5).

The Council requires advance notice of works within the streets for which it is responsible (as the Street Authority) so that it is able to coordinate works. Article 10(3) confirms that relevant sections of New Roads and Street Works Act (NRSWA) 1991 still apply and this includes the need to give advance notice (Section 54) and notice of the start date for works (Section 55). The Council is therefore satisfied with the requirements of Article 10(3) and agrees with the provisions of the NRSWA 1991 that are disapplied by Article 11(3).

Action 23 - Agree with Bury Council what the method of agreement would be under Requirement 4(c)(xiii) and whether it can be more accurately defined in the drafting.

The Council and the Applicant have agreed that the draft DCO will be revised to include the wording “in advance in writing”. The Council and the Applicant will communicate during the works period to agree the method to be used e.g. by email.

END

Regards

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