



**Canal &
River Trust**

Making life better by water

Paul Singleton,
Examining Inspector
The Planning Inspectorate
National Infrastructure Planning
Temple Quay House
2 The Square
Bristol
BS1 6PN

Your Ref TR050005

Our Ref West Mids NSIP (IPP-22)

Wednesday 7th August 2019

Dear Mr Singleton,

Application by Four Ashes Limited for an Order Granting Development Consent for the proposed West Midlands Interchange

Examination deadline 7 submissions

Thank you for your consultation in respect of the above.

We are the charity who look after and bring to life 2000 miles of canals & rivers. Our waterways contribute to the health and wellbeing of local communities and economies, creating attractive and connected places to live, work, volunteer and spend leisure time. These historic, natural and cultural assets form part of the strategic and local green-blue infrastructure network, linking urban and rural communities as well as habitats.

By caring for our waterways and promoting their use we believe we can improve the wellbeing of our nation. As you will be aware, the Trust is a statutory undertaker for the purposes of S.127 Planning Act 2008 ("the 2008 Act") and a statutory party for the purposes of s.88(3)(c) of the 2008 Act. In addition, the Trust are also a landowner

The Trust have reviewed the latest draft of the Development Consent Order and do not have any further comments to raise. The Trust's position in respect of the protective provisions is set out at paragraphs 6.1.1-6.1.3 of the Statement of Common Ground on which there remains one outstanding query, and we hope to have a signed version of the Statement of Common Ground with the applicant later this week. Paragraphs 6.1.1-6.1.3 are reproduced below for information.

Please do not hesitate to contact me with any queries you may have.

Yours sincerely,

Ailith Rutt MRTPI
Planning Manager

ailith.rutt@canalrivertrust.org.uk

Canal & River Trust

Fradley Junction, Alrewas, Burton-upon-Trent, Staffordshire DE13 7DN

T 0303 040 4040 E canalrivertrust.org.uk/contact-us W canalrivertrust.org.uk

Patron: H.R.H. The Prince of Wales. Canal & River Trust, a charitable company limited by guarantee registered in England and Wales with company number 7807276 and registered charity number 1146792, registered office address First Floor North, Station House, 500 Elder Gate, Milton Keynes MK9 1BB

6. Protective Provisions

Matters not agreed: Protective Provisions

- 6.1.1 The protective provisions contained within Part 7 of Schedule 13 of the dDCO have been discussed between FAL and the Trust. They are agreed with the sole exception that the Trust are seeking to include wording in the protective provisions which clarifies that Four Ashes' indemnity to the Trust shall include any loss sustained by the Trust in the event that the Trust's tenants/licensees terminate their agreements in respect of the use of the waterway (including the reservoir and marina) as a consequence of the effects of the DCO, during construction and operation of the WMI.
- 6.1.2 The Trust consider this to be reasonable because this loss is reasonably foreseeable particularly given that some of the Trust's tenants have already raised concerns regarding the proposals. If the Trust experience loss as a consequence of the DCO then it is equitable for the Trust to be compensated for this loss. The wording suggested in the protective provisions was intended to clarify a position that already exists; that FAL are required to fully compensate the Trust for any loss based upon the principle of equivalence.
- 6.1.3 FAL do not believe that such a provision is necessary or workable given that there could be a number of reasons why tenants might wish to terminate a tenancy which are unrelated to the development.