



Developments Affecting Trunk Roads and Special Roads

Highways England Planning Response (HEPR 16-01)

Formal Recommendation to an Application for Planning Permission

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To: **Solihull Metropolitan Borough Council – FAO Lawrence Osborne**

CC: transportplanning@dft.gsi.gov.uk
growthandplanning@highwaysengland.co.uk

Council's Reference: **PL/2016/02754/MAJFOT**

Referring to the notification of a planning application dated 4 November 2016, **Proposed development of new Motorway Service Area, associated highway improvement works and other associated infrastructure**, Land Adjacent J4 M42 Box Tree Farm Stratford Road Hockley Heath Solihull, notice is hereby given that Highways England's formal recommendation is that we:

- a) ~~offer no objection;~~
- b) ~~recommend that conditions should be attached to any planning permission that may be granted (see Annex A – Highways England recommended Planning Conditions);~~
- c) recommend that planning permission not be granted for a specified period (see Annex A – further assessment required);
- d) ~~recommend that the application be refused (see Annex A – Reasons for recommending Refusal).~~

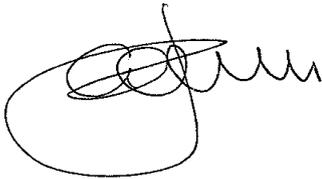
Highways Act Section 175B is not relevant to this application.¹

This represents Highways England's formal recommendation and is copied to the Department for Transport as per the terms of our Licence.

Should you disagree with this recommendation you should consult the Secretary of State for Transport, as per the Town and Country Planning (Development Affecting Trunk Roads) Direction 2018, via transportplanning@dft.gsi.gov.uk.

Signature:

Date: 14 March 2019



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¹ Where relevant, further information will be provided within Annex A.

Annex A Highways England recommended further assessment required

HIGHWAYS ENGLAND (“we”) has been appointed by the Secretary of State for Transport as strategic highway company under the provisions of the Infrastructure Act 2015 and is the highway authority, traffic authority and street authority for the Strategic Road Network (SRN). The SRN is a critical national asset and as such works to ensure that it operates and is managed in the public interest, both in respect of current activities and needs as well as in providing effective stewardship of its long-term operation and integrity.

This response represents our formal recommendation with regard to the above referenced planning application and has been prepared by Adrian Johnson, Asset Manager for Highways England.

Context

Highways England received initial notification in November 2016, of the planning application (ref PL/2016/02754/MAJFOT) for a proposed Motorway Service Area (MSA) at M42 Junction 4. We subsequently wrote to you on 24 November 2016 setting out our review of the applications conformity to our policy on developments which affect the SRN. This policy, contained within the Department for Transport (DfT) Circular 02/2013 (‘the Circular’), includes Annex B: Roadside Facilities for road users on Motorways and All-Purpose Trunk Roads in England; this annex is applicable to this development proposal.

Our initial review found that this application was lacking in sufficient detail to enable us to provide a definitive response, therefore resulting in our recommendation that the application would not be determined for a period of 6 months to allow the applicant time to improve the evidence base underpinning the application.

We subsequently renewed our formal response to the application on 23 May 2017, 2 November 2017, 2 May 2018, 1 August 2018, 1 November 2018 and 1 February 2019.

In our last response to you (Solihull Council) we acknowledged that you had notified the applicant of your intent to determine this application on 27th March 2019, and we confirmed we would write to update you on our position ahead of this date with respect to progress made by the applicant in addressing our concerns. While we recognise the applicant has made significant endeavours over this period to address these matters however these have yet to be fully resolved such that they satisfactorily address our concerns.

On 31st January 2019 the applicant made a substantial submission of additional information to you that included items intended to address concerns critical to our position. The applicant has also been engaged directly with us over this period including with our Safety Engineering and Standards (SES) division and our consultancy teams to finalise the evidence underpinning these proposals. Notwithstanding these efforts we note the following matters have yet to be resolved:

Highway Design & Safety

There remain a number of significant and interrelated issues to be considered with regards the principals of the submitted design of the highway scheme necessary to enable the delivery of the application. This requires confirmation of the appropriateness of the applicant's approach with regards the requirements of the Design Manual for Roads and Bridges (DMRB) and includes matters in relation to highways design, structural engineering, and audit.

Highways England operates a Safety Risk Governance protocol on the management of risk on our road network. This requires appropriate safety risk assessment, evaluation and management to be undertaken to inform all activities, projects, decisions and schemes. A Safety Risk Assessment of the scheme needs to be undertaken in accordance GG 104 of the DMRB, which has yet to be submitted by the applicant.

A formal Road Safety Audit (RSA) assessment is a requirement of any scheme to be developed on a Trunk Road. While the applicant has included a Stage 1 RSA within the application this was not carried out in accordance with our agreement to the formal Road Safety Audit brief. Our agreement to the RSA brief is a mandatory requirement of our role as the Overseeing Organisation to the audit. The applicant has acknowledged this and has sought to agree a revised RSA brief with us and has we understand, instructed a revised Stage 1 audit. Approval to a Stage 1 RSA and its associated requirements is necessary to confirm that the preliminary design of the highways scheme is suitable and is a requirement before planning permission can be granted.

The Preliminary Design of the scheme and RSA must also consider whether any necessary Departures from Standard ('Departures') would be required or whether any existing Departures for features of the existing road network would be affected. There remains a lack of clarity within the applicants Design Strategy Record (DSR) regarding the need for Departures. A need for a DSR has been identified due to the scheme's impact upon the M42 Smart Motorway system. It is known to us that a number of existing Departures exist at this location which could be impacted upon by the development. The DSR therefore needs to be updated to consider all existing departures and confirm whether they are impacted by the proposals.

While it is not necessary that a full submission for approval of any Departures be made prior to award of planning permission our Approval in Principle ('AiP') process should be followed and an AiP for all such Departures needs to be submitted (and approved) by our SES division.

The implications of this lack of clarity on Departures may have further implications for the revised RSA brief and as such there is no certainty that the additional RSA that has been instructed by the applicant would be acceptable to us. In any case we are yet to receive either an audit report or designer's response to review.

M42 Junction 4 Northern Bridge & proposed footbridge

The applicant has not yet demonstrated that the strengthening works which are necessary to accommodate the provision of an additional lane on the northern overbridge of the circulatory are capable of being delivered. The applicant remains engaged with us in the investigation of the feasibility of these proposals which it has been established would necessarily include strengthening of the bridge foundations as well as reinforcement to the structure itself. Indeed the applicant has submitted directly to us a revised Technical Note considering the North Bridge Foundations Strengthening Options on 13th March 2019 which we understand considers these issues. We are not however yet in a position where we can confirm whether this provides the necessary technical calculations to demonstrate that any of the proposed options are feasible and/or can be effectively delivered within the bounds of an operating motorway.

It is also the proposed approach of this bridge scheme to relocate the existing pedestrian facilities to a separate (new) footbridge north of the northern overbridge. This is broadly acceptable to us subject to the achievement during the detailed design of the provision of the adequate minimum distance of 4m between the structures. This element would then require control through planning conditions.

M42 SB off slip widening

An additional lane on the southbound exit slip road is proposed to be provided to accommodate additional traffic as a result of the MSA and there are also a number of interlinked matters related to the highways design with consequential implications for the highway structures, geotechnical and environmental implications.

The slip road further borders the development site where an earth bund is proposed such that it should be capable of reducing the visibility of the proposed MSA. To accommodate this element of the proposal, changes to grounds levels are proposed around the highway boundary which could affect the stability of the motorway embankment.

To achieve the necessary width within the existing highway and verge there are further a number of features of the highway design that are necessary to be minimised to limit the environmental impact of the proposals. It is vital that the consequences of these changes to the structural stability of the embankment are confirmed as well as any environmental implications upon flooding arising from the widening and extension of the nurseries river bridge (culvert). We have a number of concerns regarding the consistency of the plans in this regards.

The applicant has proposed retaining structures be located along the southbound exit slip road. The interaction of these elements has yet to be demonstrated to cohesively address interrelated issues set out above. Should our outstanding queries be addressed such that we could agree the current form of the proposals, then we have established this would require a number of stipulations (managed via planning conditions).

Transport Assessment

The applicant's Transport Assessment has been through a number of iterations following on from our original recommendation that this be supported by traffic modelling evidence based upon microsimulation modelling. During 2018 the applicant developed and submitted to us for review traffic modelling in the form of base modelling and future year assessments and has worked with us to develop this evidence so it is capable of robustly supporting the conclusions of the Transport Assessment.

Of principal concern to Highways England is that the traffic modelling should be able to demonstrate that there is sufficient capacity within the junction to ensure traffic is able to safely egress the motorway with the addition of the MSA. This evidence is critical to ensuring the form of engineering scheme of improvement proposed is appropriate in traffic terms.

Following our initial set of reviews of the modelling, we wrote to you in August 2018 setting out that based on our view of the available evidence at the time, the traffic modelling appeared sufficient. However we also notified you that we had interest in the position of Solihull Council in these matters as the relevant local highways authority which includes responsibilities for the M42 Junction 4 traffic signals as well as a number of other areas of the junction.

Following a technical modelling meeting held between the applicant, Solihull and Highways England in November 2018 which considered technical issues you had identified within your own review, we agreed with your position that this would require further updates to the modelling. The updates subsequently issued by the applicant within the '2019 VISSIM Assessment' (dated 29/01/19) sought to address these

matters. Following our review of this modelling we subsequently identified that there remained issues with the future year assessment that considers the 'with MSA' scenarios. Due to a number of issues with the way the model has been coded, the assessment of the queue lengths recorded within this work are inaccurate. It is therefore not possible to rely upon these in judgement of the development implications for the SRN.

The applicant has continued to work with us to address these issues and immediately prior to our issuance of this letter had issued a revised set of modelling files in draft to us. These do appear to demonstrate that the issues highlighted above have been resolved. Nonetheless it is our view that the information contained within the published VISSIM assessment, and therefore results of the Transport Assessment, cannot be relied upon. An updated alternative set of results and conclusions will need to be provided to you. Based upon this additional technical evidence issued to us in draft we are of the view however this should be capable of satisfactorily demonstrating the traffic principles of the scheme.

We also remain interested in the final position of Solihull Council as Local Highway Authority, with regards considerations related to the operation of the traffic scheme at M42 Junction 4.

Drainage with the area of a TR111

Proposed works associated with the surface water drainage strategy arising from the application fall within an area identified by Highways England as being subject to a TR111 notice issued by the Secretary of State as accords with Article 15 of the Town & Country Planning General Development Order 1995. The purpose of this notice is to allow for any possible future widening of the M42. The proposed works require the tying in of the proposed drainage system to an existing point of connection to systems that lays within these lands.

In consideration of these existing constrains the applicant's approach appears reasonable. However a future legacy issue would arise such that the proposed drainage system would require relocation as part of any such future improvement. Our view is that it is likely that this matter could be resolved with an appropriately worded planning condition that limits any compensatory rights, as well as placing a bond or other suitable mechanism upon the development that would secure sufficient payment to the future cost of any necessary relocation. This matter is anticipated to require further discussion between Highways England, Solihull Council as to the detail of this approach and the precise form of an associated planning condition.

Conclusions

On the basis of the updated submissions provided into the application in January 2019, as well as a number of direct submissions made to us since, there remain a number of significant matters outstanding regarding these proposals.

These outstanding matters remain fundamental to the principle of the proposals and the safe operation of the SRN. Therefore our position remains that planning permission cannot be granted unless and until these matters are resolved. We acknowledge however the applicant has made significant efforts to address these items within the timescales requested by Solihull Council, and that the outstanding matters are not necessarily without the potential for later resolution.

We note that in the context of there being two concurrent proposals for MSA facilities on this section of the M42, it is your stated intention to co-determine of these applications on 27 March 2019. The timing and approach to determination is a matter for you. However we would confirm our position that the primary purpose of an MSA facility is to meet the needs of the travelling public, and that safety benefits arising of such facilities are predicated upon there being no present MSA facility within this general locality. Our assessment of the merits of each proposal have therefore been arrived at on this basis and we are aware of no case that has been made for two such facilities to coexist.

In light of the above we **therefore recommend that the application not be granted planning permission for a further period of 2 months beginning today 14 March 2019**. This is to allow further time for the applicant to address these outstanding matters and to provide additional information as may be required.