

PLANNING ACT 2008

THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES 2010

**THE PROPOSED M4 (JUNCTIONS 3 TO 12) (SMART MOTORWAY) DEVELOPMENT
CONSENT ORDER**

APPLICATION REFERENCE NUMBER TR010019

SUBMISSION UNDER SECTION 138 OF THE PLANNING ACT 2008

STATUTORY UNDERTAKER - BRITISH GAS LIMITED

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1. Introduction

- 1.1 This submission ("**Submission**") relates to the application made to the Secretary of State for Transport on 30 March 2015 under section 37 of the Planning Act 2008 ("**2008 Act**") (the "**Application**") by Highways England Company Limited ("**Highways England**") for development consent to improve some 51km (32 miles) of the M4 between junction 3 (Hayes) and junction 12 (Theale) by making it a smart motorway (the "**Scheme**"). The Application was accepted on 27 April 2015, and an Examining Authority has been appointed by the Secretary of State for Transport to examine the Application on his behalf.
- 1.2 The Submission is made by Highways England in respect of British Gas Limited to the Secretary of State for Energy and Climate Change (the "**Secretary of State**"). It is also sent to the Examining Authority in order to inform its recommendation to the Secretary of State for Transport. It is made in respect of the proposed powers within the Application that require consideration by the Secretary of State under section 138 of the 2008 Act to authorise the extinguishment of relevant rights and/or removal of relevant apparatus.
- 1.3 The Application seeks a development consent order (the "**Proposed Order**") which would confer powers of compulsory acquisition for the purposes of the Scheme. The Scheme involves permanently converting the hard-shoulder into a traffic lane (referred to as "**All Lane Running**"), and using technology to vary speed limits and manage traffic, creating extra capacity on the motorway. Signs and signals will be used to inform drivers of conditions on the highway network, when and where variable mandatory speed limits are in place, and when lanes are closed. There are a number of hard shoulder discontinuities on the M4 between junction 4 and junction 8/9, where existing bridges over or under the M4 limit the available carriageway width. It is proposed that these bridges are widened, or demolished and rebuilt, in order to enable All Lane Running along the Scheme. The Application for the Proposed Order also includes powers of compulsory acquisition for the purposes of the Scheme.
- 1.4 The Proposed Order includes powers sought in respect of, *inter alia*, the improvement of the eastbound and westbound carriageway of the M4 Motorway, and the realignment of junctions and roads and the construction of overbridges as part of the Scheme. British Gas Limited has interests in land upon which the Scheme will be constructed, as well as rights in land and relevant apparatus (as defined in section 138 of the 2008 Act).
- 1.5 This Submission is made in order to satisfy the Secretary of State, pursuant to section 138(4) of the 2008 Act, that the extinguishment of British Gas Limited's relevant right(s) or removal of its relevant apparatus are necessary for the purposes of carrying out the Scheme.

2. The Purpose of Compulsory Acquisition

- 2.1 The Proposed Order sought by Highways England seeks powers to acquire land compulsorily and to obtain new rights for the purposes of constructing, operating and maintaining the Scheme.
- 2.2 The land which is the subject of compulsory acquisition powers sought in the Proposed Order is referred to as the Order Land and is shown on the Land Plans that accompany the Application for the Proposed Order. The Land Plans are also attached to this Submission (see Appendix 4).

3. Interests Subject to this Submission

- 3.1 Part of the land to be acquired compulsorily comprises land or rights over land benefitting British Gas Limited for the purposes of section 138 of the 2008 Act.
- 3.2 The plots referenced in the Book of Reference (see Appendix 2) relevant to this Submission are as follows:

Book of Reference plot number	Acquisition permanent or temporary	Purpose for which land is required	Work No.
20-03	temporary use of special category land	Temporary land required for access and working space to construct realigned Lake End Road and new Lake End Road overbridge	11a, 11b, 11c
26-04	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 25, 26a, 26b
27-04	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 26a, 26b
27-05	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 26a, 26b
26-07	temporary	Temporary land required for access and working space for online reconstruction of Old Slade Lane and Old Slade Lane overbridge	25, 26a, 26b
26-09	temporary	Temporary land required for access and working space for online reconstruction of Old Slade Lane and Old Slade Lane overbridge	25, 26a, 26b
18-19	temporary use of special category land	Temporary land required for access and working space to construct realigned Ascot Road and new Ascot Road overbridge	7a

20-03a	temporary	Temporary land required for access and working space to construct realigned Lake End Road and new Lake End Road overbridge	11a, 11b, 11c
26-04a	permanent	Land requirement for the online reconstruction of Old Slade Lane and Old Slade Lane overbridge	25
26-09a	temporary	Possible temporary access or diversion route for Old Slade Lane	25
26-17	permanent	Land requirement for the online reconstruction of Old Slade Lane and Old Slade Lane overbridge	25
27-26	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 27a, 27b
28-29	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 29a, 29d

3.3 The relevant apparatus of British Gas Limited is contained in the parcels of land listed above.

4. Documents in support of the Submission

4.1 In support of the Submission, the following documents are enclosed:

- 4.1.1 Appendix 1: Draft of the Proposed Order;
- 4.1.2 Appendix 2: Book of Reference;
- 4.1.3 Appendix 3: Statement of Reasons;
- 4.1.4 Appendix 4: Land Plans (as amended);
- 4.1.5 Appendix 5: Schedule of Correspondence between Highways England and British Gas Limited.

4.2 The full suite of documentation comprised in the Application for the Proposed Order is available on the National Infrastructure Planning website at the following web address:

4.3 A copy of this Submission and its enclosures has been provided to British Gas Limited.

5. **Section 138 of the 2008 Act**

5.1 Section 138 of the 2008 Act makes provision for circumstances where a proposed development consent order provides for rights benefitting statutory undertakers to be extinguished and for their apparatus to be removed. Pursuant to the 2008 Act, a right in land is included in the concept of land. The provisions of section 138 allow the extinguishment of relevant rights - being rights of way and rights to install, keep and maintain apparatus - and the removal of apparatus. However, this is only permitted where the Secretary of State concludes that it is necessary to do so.

6. **Applicant's Case under Section 138 of the 2008 Act**

6.1 The case for compulsory acquisition is set out in Highways England's Statement of Reasons (Appendix 3). For the purpose of the Submission, it is Highway England's case that:

6.1.1 the acquisition of land and the creation of new rights in favour of Highways England pursuant to the Application for development consent could affect British Gas Limited's undertaking as it has infrastructure which may be affected by the Scheme;

6.1.2 the land is required for the purposes of:

10.5.1.1 construction and operation of the Scheme;

10.5.1.2 the construction of the realigned Lake End Road and the new Lake End Road overbridge;

10.5.1.3 the online reconstruction of Old Slade Lane and Old Slade Lane overbridge;

10.5.1.4 temporary access or a diversion route for Old Slade Lane; and

10.5.1.5 the construction of the realigned Ascot Road and Ascot Road overbridge;

6.1.3 protective provisions appropriate for British Gas Limited's undertaking are included in the Proposed Order; and

6.1.4 the nature of the proposed works and the inclusion of protective measures in the Proposed Order means that the Secretary of State can be confident British Gas Limited's rights, whilst subject to interference, will not be affected to the detriment of its ability to carry out its undertaking.

6.2 Highways England is seeking to negotiate with British Gas Limited to acquire the rights necessary for the Scheme and manage interfaces as such by private treaty. Highways England has been in negotiations with the statutory undertaker since 10 March 2014. A schedule of the communications with British Gas Limited is provided at Appendix 5. Whilst it has not been possible to reach agreement with British Gas Limited prior to the making of this Submission, Highways England continues to progress private treaty negotiations in parallel

with the compulsory acquisition process with a view to reaching an agreement as soon as possible.

- 6.3 In the absence of private treaty agreements with British Gas Limited, it is necessary to seek the proposed powers to ensure that all the land that is required to deliver the Scheme is assembled within an appropriate timeframe and interfaces with British Gas Limited's apparatus are managed appropriately. Therefore, it is necessary that the Secretary of State is satisfied that the matters in section 138(4) of the 2008 Act have been met.

7. **Submission**

- 7.1 Highways England considers that for the reasons set out in this Submission, the requirements of section 138 have been satisfied and that the proposed interference with the rights of British Gas Limited is necessary and proportionate. Highways England does not consider that it is necessary to replace the land being acquired for the Scheme.
- 7.2 Highways England respectfully requests that the Secretary of State publishes that she is satisfied that the conditions in section 138 of the 2008 Act in respect of the rights and interests of British Gas Limited in the Order Land have been met.

APPENDIX 5
Schedule of Correspondence

	Date	Type of Contact	Outcome
1.	10/03/2014	Invitation to attend a Preview Public Information Exhibition, to be held on 18 March 2014	Preview Public Information Exhibition as part of initial stakeholder engagement and information exercise.
2.	02/05/2014	Letter from Highways England requesting completion of land interest questionnaire	Questionnaire to obtain land details of interested parties who may be affected by the works.
3.	17/10/2014	Letter from Highways England requesting completion of land ownership confirmation questionnaire	Questionnaire to obtain confirmation that the details previously provided regarding the Scheme are still valid and to offer the opportunity to provide any updates.
4.	10/11/2014	Consultation undertaken pursuant to Section 42 of the 2008 Act.	Notification of the formal pre-application consultation between 10 November and 21 December 2014 about the Scheme in accordance with Section 42 of the Planning Act 2008.
5.	10/11/2014	Further consultation undertaken pursuant to Section 42 of the 2008 Act.	Notification of the formal pre-application consultation between 10 November and 21 December 2014 about the Scheme in accordance with Section 42 of the Planning Act 2008.
6.	10/11/2014	Consultation undertaken pursuant to Section 47 of the 2008 Act.	Details of the pre-application consultation to be held between 10 November and 21 December 2014.
7	25/02/2015	Letter from Highways England requesting completion of land ownership confirmation questionnaire	Major Land Owner/ Utility questionnaire to obtain confirmation that the details previously provided regarding the Scheme are still valid and to offer the opportunity to provide any updates.
8	28/05/2015	Planning Act 2008 Section 56: Notice of acceptance of an application for a development consent order	Notification of acceptance of application together with details of land which British Gas Limited have an interest
9	28/05/2015	Planning Act 2008 Section 56: Notice of acceptance of an application for a development consent order	Notification of acceptance of application

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**THE PROPOSED M4 (JUNCTIONS 3 TO 12) (SMART MOTORWAY) DEVELOPMENT
CONSENT ORDER**

APPLICATION REFERENCE NUMBER TR010019

SUBMISSION UNDER SECTION 138 OF THE PLANNING ACT 2008

STATUTORY UNDERTAKER - BRITISH PIPELINE AGENCY LIMITED

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1. Introduction

- 1.1 This submission ("**Submission**") relates to the application made to the Secretary of State for Transport on 30 March 2015 under section 37 of the Planning Act 2008 ("**2008 Act**") (the "**Application**") by Highways England Company Limited ("**Highways England**") for development consent to improve some 51km (32 miles) of the M4 between junction 3 (Hayes) and junction 12 (Theale) by making it a smart motorway (the "**Scheme**"). The Application was accepted on 27 April 2015, and an Examining Authority has been appointed by the Secretary of State for Transport to examine the Application on his behalf.
- 1.2 The Submission is made by Highways England in respect of the British Pipeline Agency Limited to the Secretary of State for Energy and Climate Change (the "**Secretary of State**"). It is also sent to the Examining Authority in order to inform its recommendation to the Secretary of State for Transport. It is made in respect of the proposed powers within the Application that require consideration by the Secretary of State under section 138 of the 2008 Act to authorise the extinguishment of relevant rights and/or removal of relevant apparatus.
- 1.3 The Application seeks a development consent order (the "**Proposed Order**") which would confer powers of compulsory acquisition for the purposes of the Scheme. The Scheme involves permanently converting the hard-shoulder into a traffic lane (referred to as "**All Lane Running**"), and using technology to vary speed limits and manage traffic, creating extra capacity on the motorway. Signs and signals will be used to inform drivers of conditions on the highway network, when and where variable mandatory speed limits are in place, and when lanes are closed. There are a number of hard shoulder discontinuities on the M4 between junction 4 and junction 8/9, where existing bridges over or under the M4 limit the available carriageway width. It is proposed that these bridges are widened, or demolished and rebuilt, in order to enable All Lane Running along the Scheme. The Application for the Proposed Order also includes powers of compulsory acquisition for the purposes of the Scheme.
- 1.4 The Proposed Order includes powers sought in respect of, *inter alia*, the improvement of the eastbound and westbound carriageway of the M4 Motorway and the realignment of Junction 4b(M25) of the M4, the demolition of the existing Old Slade Lane overbridge over the M4 and construction of a new bridge over the M4 and the realignment of Old Slade Lane as part of the Scheme. The British Pipeline Agency Limited has interests in land upon which the Scheme will be constructed, as well as rights in land and relevant apparatus (as defined in section 138 of the 2008 Act).
- 1.5 This Submission is made in order to satisfy the Secretary of State, pursuant to section 138(4) of the 2008 Act, that the extinguishment of The British Pipeline Agency Limited's relevant right(s) or removal of its relevant apparatus are necessary for the purposes of carrying out the Scheme.

2. The Purpose of Compulsory Acquisition

- 2.1 The Proposed Order sought by Highways England seeks powers to acquire land compulsorily and to obtain new rights for the purposes of constructing, operating and maintaining the Scheme.
- 2.2 The land which is the subject of compulsory acquisition powers sought in the Proposed Order is referred to as the Order Land and is shown on the Land Plans that accompany the Application for the Proposed Order. The Land Plans are also attached to this Submission (see Appendix 4).

3. **Interests Subject to this Submission**

3.1 Part of the land to be acquired compulsorily comprises land or rights over land benefitting the British Pipeline Agency Limited for the purposes of section 138 of the 2008 Act.

3.2 The plots referenced in the Book of Reference (see Appendix 2) relevant to this Submission are as follows:

Book of Reference plot number	Acquisition permanent or temporary	Purpose for which land is required	Work No.
26-01	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 25, 26a, 26b
26-07	temporary	Temporary land required for access and working space for online reconstruction of Old Slade Lane and Old Slade Lane overbridge	25, 26a, 26b
26-09A	temporary	Possible temporary access or diversion route for Old Slade Lane	25
25-36	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b

3.3 The relevant apparatus of the British Pipeline Agency Limited is contained in the parcels of land listed above.

4. **Documents in support of the Submission**

4.1 In support of the Submission, the following documents are enclosed:

4.1.1 Appendix 1: Draft of the Proposed Order;

4.1.2 Appendix 2: Book of Reference;

4.1.3 Appendix 3: Statement of Reasons;

4.1.4 Appendix 4: Land Plans (as amended);

4.1.5 Appendix 5: Schedule of Correspondence between Highways England and the British Pipeline Agency Limited.

- 4.2 The full suite of documentation comprised in the Application for the Proposed Order is available on the National Infrastructure Planning website at the following web address:

<http://infrastructure.planninginspectorate.gov.uk/Schemes/South%20East/M4-Junctions-3-to-12-Smart-Motorway/>.

- 4.3 A copy of this Submission and its enclosures has been provided to the British Pipeline Agency Limited.

5. **Section 138 of the 2008 Act**

- 5.1 Section 138 of the 2008 Act makes provision for circumstances where a proposed development consent order provides for rights benefitting statutory undertakers to be extinguished and for their apparatus to be removed. Pursuant to the 2008 Act, a right in land is included in the concept of land. The provisions of section 138 allow the extinguishment of relevant rights - being rights of way and rights to install, keep and maintain apparatus - and the removal of apparatus. However, this is only permitted where the Secretary of State concludes that it is necessary to do so.

6. **Applicant's Case under Section 138 of the 2008 Act**

- 6.1 The case for compulsory acquisition is set out in Highways England's Statement of Reasons (Appendix 3). For the purpose of the Submission, it is Highway England's case that:

6.1.1 the acquisition of land and the creation of new rights in favour of Highways England pursuant to the Application for development consent could affect the British Pipeline Agency Limited's undertaking as it has infrastructure which may be affected by the Scheme;

6.1.2 the land is required for the purposes of:

10.1.1.1 construction and operation of the Scheme;

10.1.1.2 access and working space in connection with the online reconstruction of Old Slade Lane and Old Slade Lane overbridge; and

10.1.1.3 possible temporary access or a diversion route for Old Slade Lane;

6.1.3 protective provisions appropriate for the British Pipeline Agency Limited's undertaking are inserted in the Proposed Order; and

6.1.4 the nature of the proposed works and the inclusion of protective measures in the Proposed Order means that the Secretary of State can be confident that British Pipeline Agency Limited's rights, whilst subject to interference, will not be affected to the detriment of its ability to carry out its undertaking.

- 6.2 Highways England is seeking to negotiate with the British Pipeline Agency Limited to acquire the rights necessary for the Scheme and manage interfaces as such by private treaty. Highways England has been in negotiations with the statutory undertaker since 11 March 2013. A schedule of the communications with the British Pipeline Agency Limited is provided at Appendix 5. Whilst it has not been possible to reach agreement with the British Pipeline Agency Limited prior to the making of this Submission, Highways England

continues to progress private treaty negotiations in parallel with the compulsory acquisition process with a view to reaching an agreement as soon as possible.

- 6.3 In the absence of private treaty agreements with the British Pipeline Agency Limited, it is necessary to seek the proposed powers to ensure that all the land that is required to deliver the Scheme is assembled within an appropriate timeframe and interfaces with the British Pipeline Agency Limited's apparatus are managed appropriately. Therefore, it is necessary that the Secretary of State is satisfied that the matters in section 138(4) of the 2008 Act have been met.

7. **Submission**

- 7.1 Highways England considers that for the reasons set out in this Submission, the requirements of section 138 have been satisfied and that the proposed interference with the rights of the British Pipeline Agency Limited is necessary and proportionate. Highways England does not consider that it is necessary to replace the land being acquired for the Scheme.
- 7.2 Highways England respectfully requests that the Secretary of State publishes that she is satisfied that the conditions in section 138 of the 2008 Act in respect of the rights and interests of the British Pipeline Agency Limited in the Order Land have been met.

APPENDIX 5
Schedule of Correspondence

	Date	Type of Contact	Outcome
1.	11/03/2013	Letter from Highways England to British Pipeline Agency Limited	Request for information on C2 Buried Services and apparatus
2.	19/03/2013	Email from British Pipeline Agency Limited to Highways England	Response to request for information on C2 Buried Services and apparatus
3.	10/03/2014	Invitation to attend a Preview Public Information Exhibition, to be held on 18 March 2014	Preview Public Information Exhibition as part of initial stakeholder engagement and information exercise.
4.	10/11/2014	Consultation undertaken pursuant to Section 42 of the 2008 Act.	Notification of the formal pre-application consultation between 10 November and 21 December 2014 about the Scheme in accordance with Section 42 of the Planning Act 2008.
5.	10/11/2014	Further consultation undertaken pursuant to Section 42 of the 2008 Act.	Notification of the formal pre-application consultation between 10 November and 21 December 2014 about the Scheme in accordance with Section 42 of the Planning Act 2008.
6.	10/11/2014	Consultation undertaken pursuant to Section 47 of the 2008 Act.	Details of the pre-application consultation to be held between 10 November and 21 December 2014.
7.	13/11/2015	Letter to Highways England from British Pipeline Agency Limited	Letter received in response to Section 42 Notification, detailing pipelines in relation to the application
8.	19/02/2015	Letter from Highways England requesting completion of land ownership confirmation questionnaire	Questionnaire to obtain confirmation that the details previously provided regarding the Scheme are still valid and to offer the opportunity to provide any updates
9.	25/02/2015	Letter from Highways England requesting completion of land ownership confirmation questionnaire	Major Land Owner/ Utility questionnaire to obtain confirmation that the details previously provided regarding the Scheme are still valid and to offer the opportunity to provide any updates.
10.	23/02/2015	Response to request for land ownership confirmation questionnaire	Completed questionnaire on request for land ownership details for British Pipeline Agency Limited

11.	27/02/2015	Response to request for land ownership confirmation questionnaire	Completed questionnaire on request for land ownership details for British Pipeline Agency Limited
12.	06/05/2015	Letter to Highways England from British Pipeline Agency Limited	Consultation report objection response
13.	28/05/2015	Planning Act 2008 Section 56: Notice of acceptance of an application for a development consent order	Notification of acceptance of application together with details of land which British Pipeline Agency Limited have an interest
14.	28/05/2015	Planning Act 2008 Section 56: Notice of acceptance of an application for a development consent order	Notification of acceptance of application
15.	16/06/2015	Letter from Highways England to British Pipeline Agency Limited	Protective Provisions Letter
16.	16/06/2015	Letter to Highways England from British Pipeline Agency Limited	Relevant Representation
17.	25/06/2015	Email to Highways England from British Pipeline Agency Limited	Correspondence regarding pipeline vicinity

PLANNING ACT 2008

THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES 2010

**THE PROPOSED M4 (JUNCTIONS 3 TO 12) (SMART MOTORWAY) DEVELOPMENT
CONSENT ORDER**

APPLICATION REFERENCE NUMBER TR010019

SUBMISSION UNDER SECTION 127 AND SECTION 138 OF THE PLANNING ACT 2008

STATUTORY UNDERTAKER - NATIONAL GRID ELECTRICITY TRANSMISSION PLC

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1. Introduction

- 1.1 This submission ("**Submission**") relates to the application made to the Secretary of State for Transport on 30 March 2015 under section 37 of the Planning Act 2008 ("**2008 Act**") (the "**Application**") by Highways England Company Limited ("**Highways England**") for development consent to improve some 51km (32 miles) of the M4 between junction 3 (Hayes) and junction 12 (Theale) by making it a smart motorway (the "**Scheme**"). The Application was accepted on 27 April 2015, and an Examining Authority has been appointed by the Secretary of State for Transport to examine the Application on his behalf.
- 1.2 The Submission is made by Highways England in respect of National Grid Electricity Transmission plc ("**NGET**") to the Secretary of State for Energy and Climate Change (the "**Secretary of State**"). It is also sent to the Examining Authority in order to inform its recommendation to the Secretary of State for Transport. It is made in respect of the proposed powers within the Application that require consideration by the Secretary of State:
 - 1.2.1 under section 127 of the 2008 Act to authorise the acquisition of land owned by and/or interest benefiting a statutory undertaker; and
 - 1.2.2 under section 138 of the 2008 Act to authorise the extinguishment of relevant rights and/or removal of relevant apparatus.
- 1.3 The Application seeks a development consent order (the "**Proposed Order**") which would confer powers of compulsory acquisition for the purposes of the Scheme. The Scheme involves permanently converting the hard-shoulder into a traffic lane (referred to as "**All Lane Running**"), and using technology to vary speed limits and manage traffic, creating extra capacity on the motorway. Signs and signals will be used to inform drivers of conditions on the highway network, when and where variable mandatory speed limits are in place, and when lanes are closed. There are a number of hard shoulder discontinuities on the M4 between junction 4 and junction 8/9, where existing bridges over or under the M4 limit the available carriageway width. It is proposed that these bridges are widened, or demolished and rebuilt, in order to enable All Lane Running along the Scheme. The Application for the Proposed Order also includes powers of compulsory acquisition for the purposes of the Scheme.
- 1.4 The Proposed Order includes powers sought in respect of, *inter alia*, the improvement of the eastbound and westbound carriageway of the M4 Motorway, the realignment of junctions, the widening of the carriageway, the demolition and rebuilding of existing bridges over and under the M4, the construction of a new bridge over the M4, the widening of Sipson Road Subway and the realignment of local roads as part of the Scheme. NGET has interests in land upon which the Scheme will be constructed, as well as rights in land and relevant apparatus (as defined in section 138 of the 2008 Act).
- 1.5 This Submission is made in order to satisfy the Secretary of State that NGET's land or interest in land can be purchased and not replaced without serious detriment to the carrying on of its undertaking, pursuant to section 127(3) the 2008 Act. In addition, it seeks to satisfy the Secretary of State, pursuant to section 138(4) the 2008 Act.

2. The Purpose of Compulsory Acquisition

- 2.1 The Proposed Order sought by Highways England seeks powers to acquire land compulsorily and to obtain new rights for the purposes of constructing, operating and maintaining the Scheme.

2.2 The land which is the subject of compulsory acquisition powers sought in the Proposed Order is referred to as the Order Land and is shown on the Land Plans that accompany the Application for the Proposed Order. The Land Plans are also attached to this Submission (see Appendix 4).

3. Interests Subject to this Submission

3.1 Part of the land to be acquired compulsorily comprises land or rights over land benefitting NGET for the purposes of sections 127 and 138 of the 2008 Act.

3.2 The plots referenced in the Book of Reference (see Appendix 2) relevant to this Submission are as follows:

Book of Reference plot number	Acquisition permanent or temporary	Purpose for which land is required	Work No.
26-01	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 25, 26a, 26b
28-03	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 28, 29a, 29d
28-04	temporary	Temporary land required for access and working space for extension of Sipson Road subway	28, 29a, 29d
28-05	temporary	Temporary land required for access and working space for extension of Sipson Road subway	28, 29a, 29d
29-05	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 29b, 29c
28-07	temporary	Temporary land required for access and working space for extension of Sipson Road subway	28, 29a, 29d

3.3 The relevant apparatus of NGET is contained in the parcels of land listed above.

4. Documents in support of the Submission

4.1 In support of the Submission, the following documents are enclosed:

- 4.1.1 Appendix 1: Draft of the Proposed Order;
- 4.1.2 Appendix 2: Book of Reference;
- 4.1.3 Appendix 3: Statement of Reasons;
- 4.1.4 Appendix 4: Land Plans (as amended);
- 4.1.5 Appendix 5: Schedule of Correspondence between Highways England and NGET.

4.2 The full suite of documentation comprised in the Application for the Proposed Order is available on the National Infrastructure Planning website at the following web address:

<http://infrastructure.planninginspectorate.gov.uk/Schemes/South%20East/M4-Junctions-3-to-12-Smart-Motorway/>.

4.3 A copy of this Submission and its enclosures has been provided to NGET.

5. Section 127 and Section 138 of the 2008 Act

5.1 Section 127 makes provision for cases where an applicant for development consent under the 2008 Act seeks the inclusion in a development consent order of provision for the compulsory acquisition of land, or a right over such land, which has been acquired by a statutory undertaker (as defined in section 127(8)) for the purpose of its undertaking. The following provisions, set out in section 127(1)(b) and (c), should apply:

- (b) *a representation has been made about an application for an order granting development consent before the completion of the examination of the application, and a representation has not been withdrawn; and*
- (c) *as a result of the representation, the Secretary of State is satisfied that:*
 - (i) *the land is used for the purposes of carrying on the statutory undertakers' undertaking; or*
 - (ii) *an interest in the land is held for those purposes.*

5.2 In the circumstances, the 2008 Act provides that a development consent order including provision for compulsory acquisition of statutory undertakers' land can only be made to the extent that the Secretary of State is satisfied of the matters set out in section 127(3).

5.3 The matters set out in section 127(3) are that the nature and situation of the land are such that:

- (a) *it can be purchased and not replaced without serious detriment to the carrying on of the undertaking; or*
- (b) *if purchased it can be replaced by other land belonging to, or available for acquisition by, the undertakers without serious detriment to the carrying on of the undertaking.*

5.4 Sub-sections (4) to (6) of section 127 make similar provision for cases where an applicant seeks to acquire new rights over statutory undertakers' land compulsorily. In such cases, a development consent order can only include such provisions where the Secretary of State is satisfied of the matters set out in section 127(6). The matters set out in section 127(6) are that the nature and situation of the land are such that:

(a) *the right can be purchased without serious detriment to the carrying on of the undertaking; or*

(b) *any detriment to the carrying on of the undertaking, in consequence of the acquisition of the right can be made good by the undertakers by the use of the land belonging to or available for acquisition by them.*

5.5 Section 138 of the 2008 Act makes provision for circumstances where a proposed development consent order provides for rights benefitting statutory undertakers to be extinguished and for their apparatus to be removed. To an extent these provisions overlap with those of section 127 of the 2008 Act in that a right in land is included in the concept of land. The provisions of section 138 allow the extinguishment of relevant rights - being rights of way and rights to install, keep and maintain apparatus - and the removal of apparatus. However, this is only permitted where the Secretary of State concludes that it is necessary to do so.

6. **Applicant's Case under Section 127 and Section 138 of the 2008 Act**

6.1 The case for compulsory acquisition is set out in Highways England's Statement of Reasons (Appendix 3). For the purpose of the Submission, it is Highway England's case that:

6.1.1 the acquisition of land and the creation of new rights in favour of Highways England pursuant to the Application for development consent could affect NGET's undertaking as it has infrastructure which may be affected by the Scheme;

6.1.2 land is required for the purposes of the construction and operation of the Scheme and temporary access and working space for the extension of the Sipson Road subway;

6.1.3 protective provisions appropriate for NGET's undertaking are included in the Proposed Order; and

6.1.4 the nature of the proposed works and the inclusion of protective measures in the Proposed Order means that the Secretary of State can be confident that NGET's rights, whilst subject to interference, will not be affected to the detriment of its ability to carry out its undertaking.

6.2 Highways England is seeking to negotiate with NGET to acquire the rights necessary for the Scheme and manage interfaces as such by private treaty. Highways England has been in negotiations with the statutory undertaker since 11 March 2013. A schedule of the communications with NGET is provided at Appendix 5. Whilst it has not been possible to reach agreement with NGET for the acquisition of the necessary rights and land prior to the making of this Submission, Highways England continues to progress private treaty negotiations in parallel with the compulsory acquisition process with a view to reaching an agreement as soon as possible.

6.3 In the absence of private treaty agreements with NGET, it is necessary to seek the proposed powers to ensure that all the land that is required to deliver the Scheme is assembled within an appropriate timeframe and interfaces with NGET's apparatus are managed appropriately. Therefore, it is necessary that the Secretary of State is satisfied that the matters in sections 127(3) and 127(6) (and 138(4)) have been met.

7. **Submission**

7.1 Highways England considers that for the reasons set out in this Submission, the requirements of section 127 and section 138 have been satisfied and that the proposed interests in land and land sought by Highways England can be acquired without serious detriment to NGET's operational undertaking and that interference with the rights of NGET is necessary and proportionate. Highways England does not consider that it is necessary to replace the land being acquired for the Scheme.

7.2 Highways England respectfully requests that the Secretary of State publishes that she is satisfied that the conditions in sections 127 and 138 of the 2008 Act in respect of the rights and interests of NGET in the Order Land have been met.

APPENDIX 5
Schedule of Correspondence

	Date	Type of Contact	Outcome
1.	11/03/2013	Letter from Highways England to National Grid Electricity Transmission plc	Request for information on C2 Buried Services and apparatus
2.	21/03/2013	Email from National Grid Electricity Transmission plc to Highways England	Response to request for information on C2 Buried Services and apparatus
3.	10/03/2014	Invitation to attend a Preview Public Information Exhibition, to be held on 18 March 2014	Preview Public Information Exhibition as part of initial stakeholder engagement and information exercise.
4.	02/05/2014	Letter from Highways England requesting completion of land interest questionnaire	Questionnaire to obtain land details of interested parties who may be affected by the works.
5.	11/06/2014	Email from National Grid Electricity Transmission plc to Highways England	Land interest questionnaire follow up enquiry
6.	14/07/2014	Email Highways England to National Grid Electricity Transmission plc	Discussions regarding land interest questionnaire
7.	17/10/2014	Letter from Highways England requesting completion of land ownership confirmation questionnaire	Questionnaire to obtain confirmation that the details previously provided regarding the Scheme are still valid and to offer the opportunity to provide any updates
8.	10/11/2014	Consultation undertaken pursuant to Section 42 of the 2008 Act.	Notification of the formal pre-application consultation between 10 November and 21 December 2014 about the Scheme in accordance with Section 42 of the Planning Act 2008
9.	10/11/2014	Further consultation undertaken pursuant to Section 42 of the 2008 Act.	Notification of the formal pre-application consultation between 10 November and 21 December 2014 about the Scheme in accordance with Section 42 of the Planning Act 2008
10.	10/11/2014	Consultation undertaken pursuant to Section 47 of the 2008 Act.	Details of the pre-application consultation to be held between 10 November and 21 December 2014
11.	17/10/2014	Response to request for land ownership confirmation questionnaire	Completed Major Land Owner/ Utility questionnaire on request for land ownership confirmation
12.	18/11/2014	Email from Highways England National Grid Electricity Transmission plc	Relating Major Land Owner/ Utility questionnaire and follow up enquires
13.	18/11/2014	Email to Highways England from National Grid Electricity Transmission plc	Response Major Land Owner/ Utility questionnaire and follow up enquires

14.	21/11/2014	Email from National Grid Gas plc to Highways England	Objection raised
15.	25/02/2015	Letter from Highways England requesting completion of land ownership confirmation questionnaire	Major Land Owner/ Utility questionnaire to obtain confirmation that the details previously provided regarding the Scheme are still valid and to offer the opportunity to provide any updates.
16.	25/02/2015	Email from Highways England to National Grid Electricity Transmission plc	Email copy of Major Land Owner/ Utility questionnaire to obtain confirmation that the details previously provided regarding the Scheme are still valid and to offer the opportunity to provide any updates.
17.	02/03/2015	Email to Highways England from National Grid Electricity Transmission plc	Major Land Owner/ Utility confirmation questionnaire request acknowledgement
18.	03/03/2015	Telephone call to Highways England from National Grid Electricity Transmission plc	Confirmation questionnaire enquiry
19.	03/03/2015	Telephone call to Highways England from National Grid Electricity Transmission plc	Further confirmation questionnaire enquiries
20.	03/03/2015	Email to Highways England from National Grid Electricity Transmission plc	Major Land Owner/ Utility confirmation questionnaire response
21.	04/03/2015	Email from Highways England National Grid Electricity Transmission plc	Continued discussions regarding confirmation questionnaire enquiries
22.	06/03/2015	Email to Highways England from National Grid Electricity Transmission plc	Continued discussions regarding confirmation questionnaire enquiries
23.	11/03/2015	Email to Highways England from National Grid Electricity plc	Continued discussions regarding confirmation questionnaire enquiries
24.	06/05/2015	Letter from Highways England to National Grid Electricity Transmission plc	Consultation report objection response
25.	28/05/2015	Planning Act 2008 Section 56: Notice of acceptance of an application for a development consent order	Notification of acceptance of application together with details of land which National Grid Electricity Transmission plc have an interest
26.	28/05/2015	Planning Act 2008 Section 56: Notice of acceptance of an application for a development consent order	Notification of acceptance of application
27.	21/05/2015	Meeting with National Grid and Highways England	Meeting relating to assets
28.	02/06/2015	Telephone conversation between Highways England and National Grid	Discussion regarding National Grid C3s Electrical Part 1
29.	05/06/2015	Email from Highways England to National Grid	Following up for previous C3 discussions
30.	05/06/2015	Email from National Grid to	Continued discussions for C3 request

		Highways England	
31.	08/06/2015	Email from Highways England to National Grid	Minutes of meeting and comments relating to assets
32.	09/06/2015	Email from National Grid to Highways England	Continued discussions for C3 request
33.	10/06/2015	Email from National Grid to Highways England	Continued discussions for C3 request
34.	15/06/2015	Email to Highways England from National Grid Electricity Transmission plc	Relating to diversions
35.	15/06/2015	Email from Highways England to National Grid	Meeting minutes
36.	03/07/2015	Letter from National Grid Electricity Transmission plc to Highways England	Relevant representations objection raised
37.	20/07/2015	Telephone call from Highways England to National Grid Electricity Transmission plc to Highways England	Matters outstanding in relation to Bray Bridge
38.	30/09/2015	Email on behalf of National Grid to Highways England	Regarding relevant representations objection raised
39.	07/10/2015	Email on behalf of National Grid to Highways England	Response to the Examining Authority's first written questions submitted for Deadline II - 8 October 2015
40.	26/11/2015	Email from National to Highways England	Agreement reached on the protection of assets

PLANNING ACT 2008

THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES 2010

**THE PROPOSED M4 (JUNCTIONS 3 TO 12) (SMART MOTORWAY) DEVELOPMENT
CONSENT ORDER**

APPLICATION REFERENCE NUMBER TR010019

SUBMISSION UNDER SECTION 127 AND SECTION 138 OF THE PLANNING ACT 2008

STATUTORY UNDERTAKER - NATIONAL GRID GAS PLC

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1. Introduction

- 1.1 This submission ("**Submission**") relates to the application made to the Secretary of State for Transport on 30 March 2015 under section 37 of the Planning Act 2008 ("**2008 Act**") (the "**Application**") by Highways England Company Limited ("**Highways England**") for development consent to improve some 51km (32 miles) of the M4 between junction 3 (Hayes) and junction 12 (Theale) by making it a smart motorway (the "**Scheme**"). The Application was accepted on 27 April 2015, and an Examining Authority has been appointed by the Secretary of State for Transport to examine the Application on his behalf.
- 1.2 The Submission is made by Highways England in respect of National Grid Gas plc ("**NGG**") to the Secretary of State for Energy and Climate Change (the "**Secretary of State**"). It is also sent to the Examining Authority in order to inform its recommendation to the Secretary of State for Transport. It is made in respect of the proposed powers within the Application that require consideration by the Secretary of State:
- 1.2.1 under section 127 of the 2008 Act to authorise the acquisition of land owned by and/or interest benefiting a statutory undertaker; and
- 1.2.2 under section 138 of the 2008 Act to authorise the extinguishment of relevant rights and/or removal of relevant apparatus.
- 1.3 The Application seeks a development consent order (the "**Proposed Order**") which would confer powers of compulsory acquisition for the purposes of the Scheme. The Scheme involves permanently converting the hard-shoulder into a traffic lane (referred to as "**All Lane Running**"), and using technology to vary speed limits and manage traffic, creating extra capacity on the motorway. Signs and signals will be used to inform drivers of conditions on the highway network, when and where variable mandatory speed limits are in place, and when lanes are closed. There are a number of hard shoulder discontinuities on the M4 between junction 4 and junction 8/9, where existing bridges over or under the M4 limit the available carriageway width. It is proposed that these bridges are widened, or demolished and rebuilt, in order to enable All Lane Running along the Scheme. The Application for the Proposed Order also includes powers of compulsory acquisition for the purposes of the Scheme.
- 1.4 The Proposed Order includes powers sought in respect of, *inter alia*, the improvement of the eastbound and westbound carriageway of the M4 Motorway, the realignment of junctions, the widening of the carriageway, the demolition and rebuilding of existing bridges over and under the M4, the widening of existing bridges over and under the M4, the construction of new bridges over the M4, the extension of Ashley's Arch culvert, the widening of Sipson Road Subway the realignment of local roads as part of the Scheme. NGG has interests in land upon which the Scheme will be constructed, as well as rights in land and relevant apparatus (as defined in section 138 of the 2008 Act).
- 1.5 This Submission is made in order to satisfy the Secretary of State that NGG's land or interest in land can be purchased and not replaced without serious detriment to the carrying on of its undertaking, pursuant to section 127(3) the 2008 Act. In addition, it seeks to satisfy the Secretary of State, pursuant to section 138(4) the 2008 Act.

2. The Purpose of Compulsory Acquisition

- 2.1 The Proposed Order sought by Highways England seeks powers to acquire land compulsorily and to obtain new rights for the purposes of constructing, operating and maintaining the Scheme.

2.2 The land which is the subject of compulsory acquisition powers sought in the Proposed Order is referred to as the Order Land and is shown on the Land Plans that accompany the Application for the Proposed Order. The Land Plans are also attached to this Submission (see Appendix 4).

3. Interests Subject to this Submission

3.1 Part of the land to be acquired compulsorily comprises land or rights over land benefitting NGG for the purposes of sections 127 and 138 of the 2008 Act.

3.2 The plots referenced in the Book of Reference (see Appendix 2) relevant to this Submission are as follows:

Book of Reference plot number	Acquisition permanent or temporary	Purpose for which land is required	Work No.
15-01	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
17-01	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
18-01	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 6a, 6b
19-01	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme, including widening of M4 and Thames Bray underbridge to the north	1a, 1b, 8a, 8b
25-01	temporary	Temporary traffic management, including lane restrictions on Riding Court Road, to create working space for construction of the Scheme	1a, 24a
26-01	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 25, 26a, 26b
29-01	temporary	Temporary land required for use as construction compound	All works within Schedule 1 to the DCO

17-02	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
25-02	temporary	Temporary traffic management, including lane restrictions on Riding Court Road, to create working space for construction of the Scheme	1a, 24a
26-02	temporary	Temporary land required for access and working space for online reconstruction of Old Slade Lane and Old Slade Lane overbridge	25, 26a, 26b
17-03	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 6a, 6d
18-03	temporary	Temporary land required for use as construction compound	All works within Schedule 1 to the DCO
25-03	temporary	Temporary traffic management, including lane restrictions on Riding Court Road, to create working space for construction of the Scheme	1a, 24a
17-04	permanent	At motorway level: land within existing motorway boundaries retained for construction and operation of the Scheme. At roundabout and A404(M) and A308(M) levels: land within existing highway boundary used for access to Scheme construction site, including traffic management	For work: 1a, 1b For access: All works within Schedule 1 to the DCO
18-04	permanent	Land required for the realignment of Ascot Road	7a, 7b
19-04	permanent	Land required for the online reconstruction of Monkey Island Lane	8c

26-04	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 25, 26a, 26b
28-04	temporary	Temporary land required for access and working space for extension of Sipson Road subway	28, 29a, 29d
30-04	permanent	At motorway level: land within existing motorway boundaries retained for construction and operation of the Scheme. At roundabout and The Parkway levels: land within existing highway boundary used for access to construction site, including traffic management	For work: 1a, 1b For access: all works within Schedule 1 to the DCO
16-05	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
17-05	permanent acquisition of Crown Land	At motorway level: land within existing motorway boundaries retained for construction and operation of the Scheme. At roundabout and A404(M) and A308(M) levels: land within existing highway boundary used for access to Scheme construction site, including traffic management	For work: 1a, 1b For access: All works within Schedule 1 to the DCO
21-05	temporary	Temporary land required for access and working space to construct realigned Wood Lane and new Wood Lane overbridge	14a, 14b, 14c
28-05	temporary	Temporary land required for access and working space for extension of Sipson Road subway	28, 29a, 29d
29-05	permanent	Land within existing motorway boundaries retained for construction and operation of the	1a, 1b, 29b, 29c

		Scheme	
30-05	permanent	At motorway level: land within existing motorway boundaries retained for construction and operation of the Scheme. At roundabout and The Parkway levels: land within existing highway boundary used for access to construction site, including traffic management	For work: 1a, 1b For access: all works within Schedule 1 to the DCO
17-06	permanent	At motorway level: land within existing motorway boundaries retained for construction and operation of the Scheme. At roundabout and A404(M) and A308(M) levels: land within existing highway boundary used for access to Scheme construction site, including traffic management	For work: 1a, 1b For access: All works within Schedule 1 to the DCO
20-06	permanent	Land required for the realignment of Lake End Road	11a, 11b, 11c
21-06	temporary	Temporary land required for access and working space to construct realigned Wood Lane and new Wood Lane overbridge	14a, 14b, 14c
25-06	temporary	Temporary traffic management, including lane restrictions on Riding Court Road, to create working space for construction of the Scheme	1a, 24a
28-06	temporary	Temporary land required for access and working space for extension of Sipson Road subway	28, 29a, 29d
29-06	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b

17-07	permanent	At motorway level: land within existing motorway boundaries retained for construction and operation of the Scheme. At roundabout and A404(M) and A308(M) levels: land within existing highway boundary used for access to Scheme construction site, including traffic management	For work: 1a, 1b For access: All works within Schedule 1 to the DCO
21-07	temporary	Temporary land required for access and working space to construct realigned Wood Lane and new Wood Lane overbridge	14a, 14b, 14c
17-08	permanent acquisition of Crown Land	At motorway level: land within existing motorway boundaries retained for construction and operation of the Scheme. At roundabout and A404(M) and A308(M) levels: land within existing highway boundary used for access to Scheme construction site, including traffic management	For work: 1a, 1b For access: All works within Schedule 1 to the DCO
21-08	permanent	Land required for the realignment of Wood Lane	14c
28-08	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 28, 29a, 29d
17-09	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 6b, 6c
18-09	temporary	Temporary land required for access and working space to construct realigned Ascot Road and new Ascot Road overbridge	7a

21-09	permanent	Land required for the realignment of Wood Lane	14c
28-09	temporary	Temporary land required for access and working space for extension of Sipson Road subway	28, 29a, 29d
18-10	temporary	Temporary land required for access and working space to construct realigned Ascot Road and new Ascot Road overbridge	7a
21-10	permanent	Land required for the realignment of Wood Lane	14c
28-10	temporary	Temporary land required for access and working space for extension of Sipson Road subway	28, 29a, 29d
21-11	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 14a, 14b, 14c
30-11	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
19-12	permanent	Land required for northern realignment of M4 over widened Thames Bray underbridge	8a, 9a
20-12	temporary	Temporary land required for access and working space to construct realigned Lake End Road and new Lake End Road overbridge	11a, 11b, 11c
21-12	permanent	Land required for the realignment of Wood Lane	14c
28-12	temporary	Temporary land required for access and working space for extension of Sipson Road subway	28, 29a, 29d
17-04a	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 6a, 6d

17-04e	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 6b, 6c
17-13	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
17-14	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b,
17-15	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 6a, 6d
18-15	permanent	Land required for the realignment of Ascot Road	7a
18-16	permanent	Land required for the realignment of Ascot Road	7a
18-16a	permanent	Land required for the realignment of Ascot Road	7a
18-17	temporary	Temporary land required for access and working space to construct realigned Ascot Road and new Ascot Road overbridge	7a
18-18	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 6a, 6b
18-19	temporary use of special category land	Temporary land required for access and working space to construct realigned Ascot Road and new Ascot Road overbridge	7a
18-20	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
18-22	permanent	Land within existing motorway boundaries retained for construction and operation of the	1a, 1b

		Scheme	
18-23	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
18-25	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 8a
19-04a	permanent	Land required for the online reconstruction of Monkey Island Lane	8c
19-04b	permanent	Land required for the online reconstruction of Monkey Island Lane	8c
19-05a	permanent	Land required for the online reconstruction of Monkey Island Lane	8c
19-10b	permanent	Land required for the online reconstruction of Monkey Island Lane	8c
19-12a	permanent	Land required for northern realignment of M4 over widened Thames Bray underbridge	8a, 9a
19-13	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme, including widening of M4 and Thames Bray underbridge to the north	1a, 1b, 8a, 8b, 9b
19-13a	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme, including widening of M4 and Thames Bray underbridge to the north	1a, 1b, 8a, 8b, 9b
19-14	temporary	Temporary land required for access and working space for online reconstruction of Monkey Island Lane and Monkey Island Lane overbridge and for widening of Thames Bray underbridge, including widening of the M4 and M4 embankment	8a, 8b, 8c, 9b

19-14a	temporary	Temporary land for access and working space for widening of Thames Bray underbridge to the North, including widening of the M4 and M4 embankment	8a, 8b, 9a, 9b
19-19b	permanent at motorway level and permanent rights required to maintain below the motorway level and temporary construction	At motorway level: land within existing motorway boundaries retained for construction and operation of the Scheme. At river level and river bank level: temporary land required for widening Thames Bray underbridge	1a, 1b, 9a, 9b
19-30a	permanent at motorway level and permanent rights required to maintain below the motorway level and temporary construction	At motorway level: land within existing motorway boundaries retained for construction and operation of the Scheme. At river level and river bank level: temporary land required for widening Thames Bray underbridge	1a, 1b, 9a, 9b
19-33a	permanent at motorway level and permanent rights required to maintain below the motorway level and temporary construction	At motorway level: land within existing motorway boundaries retained for construction and operation of the Scheme. At river level and river bank level: temporary land required for widening Thames Bray underbridge	1a, 1b, 9a, 9b
19-35	permanent at motorway level and permanent rights required to maintain below the motorway level and temporary construction	At motorway level: land within existing motorway boundaries retained for construction and operation of the Scheme. At river level and river bank level: temporary land required for widening Thames Bray underbridge	1a, 1b, 9a, 9b

19-35a	permanent at motorway level and permanent rights required to maintain below the motorway level and temporary construction	At motorway level: land within existing motorway boundaries retained for construction and operation of the Scheme. At river level and river bank level: temporary land required for widening Thames Bray underbridge	1a, 1b, 9a, 9b
19-36	temporary	Temporary land for access and working space for widening of Thames Bray underbridge to the North, including widening of the M4 and M4 embankment	9a, 9b
19-37	permanent at motorway level and permanent rights required to maintain below the motorway level and temporary construction	At motorway level: land within existing motorway boundaries retained for construction and operation of the Scheme. At river level and river bank level: temporary land required for widening Thames Bray underbridge	1a, 1b, 9a, 9b
19-37a	permanent at motorway level and permanent rights required to maintain below the motorway level and temporary construction	At motorway level: land within existing motorway boundaries retained for construction and operation of the Scheme. At river level and river bank level: temporary land required for widening Thames Bray underbridge	1a, 1b, 9a, 9b
19-37b	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme, including widening of M4 and Thames Bray underbridge to the north	1a, 1b, 9b
19-42	permanent	Land required for northern realignment of M4 over widened Thames Bray underbridge	8a, 9a
19-42a	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme, including widening	1a, 1b, 9b

		of M4 and Thames Bray underbridge to the north	
19-48	permanent	Land required for northern realignment of M4 over widened Thames Bray underbridge	8a, 9a
19-50	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme, including widening of M4 and Thames Bray underbridge to the north	1a, 1b, 9b, 10a, 10b
19-52	permanent	Land required for northern realignment of M4 over widened Thames Bray underbridge	8a, 9a
19-54	temporary	Temporary land for access and working space for widening of Thames Bray underbridge to the North, including widening of the M4 and M4 embankment	9a, 9b
19-55	temporary	Temporary land for access and working space for widening of Thames Bray underbridge to the North, including widening of the M4 and M4 embankment	9a, 9b
19-58	temporary	Temporary land required for access and working space for online reconstruction of Marsh Lane and Marsh Lane overbridge	10c
19-60	permanent	Land required for the online reconstruction of Marsh Lane	10b
19-60a	permanent	Land required for the online reconstruction of Marsh Lane	10b
19-60d	permanent	Land required for the online reconstruction of Marsh Lane	10b
19-62	temporary	Temporary land required for access and working space for online reconstruction of Marsh Lane and Marsh Lane overbridge	10c

19-72	permanent	Land required for the online reconstruction of Marsh Lane	10b
19-73	temporary	Temporary land required for access and working space for online reconstruction of Marsh Lane and Marsh Lane overbridge	10c
19-74	permanent	Land required for the online reconstruction of Marsh Lane	10b
19-78	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme, including widening of M4 and Thames Bray underbridge to the north	1a, 1b, 10a, 10b
20-12a	permanent	Land required for the realignment of Lake End Road	11a, 11b, 11c
20-13	permanent	Land required for the realignment of Lake End Road	11a, 11b, 11c
20-14	permanent	Land required for the realignment of Lake End Road	11a, 11b, 11c
20-15	permanent	Land required for the realignment of Lake End Road	11a, 11b, 11c
20-17	temporary	Temporary land required for access and working space to construct realigned Lake End Road overbridge	11a, 11b, 11c
21-12a	permanent	Land required for the realignment of Wood Lane	14c
21-13	temporary use of special category land	Temporary land required for access and working space to construct realigned Wood Lane and new Wood Lane overbridge	14a, 14b, 14c
21-15	temporary use of special category land	Temporary land required for access and working space to construct realigned Wood Lane and new Wood Lane overbridge	14a, 14b, 14c

21-16	temporary use of special category land	Temporary land required for access and working space to construct realigned Wood Lane and new Wood Lane overbridge	14a,14b,14c
21-17	temporary use of special category land	Temporary land required for access and working space to construct realigned Wood Lane and new Wood Lane overbridge	14a,14b,14c
21-19	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 14a, 14b, 14c, 15, 16a, 16d
22-31	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
22-32	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
23-13	permanent	Land required for realignment of Datchet Road	19a, 19b, 19c
23-17	permanent	Land required for realignment of Datchet Road	19a, 19b, 19c
23-25	permanent	Land required for realignment of Datchet Road	19a, 19b, 19c
23-25a	permanent	Land required for realignment of Datchet Road	19a, 19b, 19c
24-34	temporary	Temporary traffic management, including lane restrictions on Riding Court Road, to create working space for construction of the Scheme	1a, 23a, 23b
24-35	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 22a, 22b, 22c, 23a
24-36	temporary	Temporary traffic management, including lane restrictions on Riding Court Road, to	1a, 23a, 23b

		create working space for construction of the Scheme	
24-37	temporary	Temporary traffic management, including lane restrictions on Majors Farm Road, to create working space for construction of the Scheme	1b
24-40	temporary	Temporary traffic management, including lane restrictions on Riding Court Road, to create working space for construction of the Scheme	1a, 23a, 23b
25-19	temporary	Temporary traffic management, including lane restrictions on Majors Farm Road, to create working space for construction of the Scheme	1b, 24d
25-20	temporary	Temporary traffic management for access to Scheme construction site	All works within Schedule 1 to the DCO
25-21	permanent	At motorway level: land within existing motorway boundaries retained for construction and operation of the Scheme. At roundabout and London Road levels: land within existing highway boundary used for access to construction site, including traffic management	For work: 1a, 1b, 24 e, 24f, 24g, 24h, 24i For access: all works within Schedule 1 to the DCO
25-22	temporary	Temporary traffic management for access to Scheme construction site	All works within Schedule 1 to the DCO
25-35	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
25-36	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
26-17	permanent	Land requirement for the online reconstruction of Old Slade Lane and Old Slade	25

		Lane overbridge	
27-22	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 27a, 27b
28-13	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 28, 29a, 29d
28-15	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 29a, 29d
28-18	permanent	For refurbishment of two existing gantries and construction of one new gantry on Heathrow Spur Road	29d

3.3 The relevant apparatus of NGG is contained in the parcels of land listed above.

4. Documents in support of the Submission

4.1 In support of the Submission, the following documents are enclosed:

4.1.1 Appendix 1: Draft of the Proposed Order;

4.1.2 Appendix 2: Book of Reference;

4.1.3 Appendix 3: Statement of Reasons;

4.1.4 Appendix 4: Land Plans (as amended);

4.1.5 Appendix 5: Schedule of Correspondence between Highways England and NGG.

4.2 The full suite of documentation comprised in the Application for the Proposed Order is available on the National Infrastructure Planning website at the following web address:

<http://infrastructure.planninginspectorate.gov.uk/Schemes/South%20East/M4-Junctions-3-to-12-Smart-Motorway/>.

4.3 A copy of this Submission and its enclosures has been provided to NGG.

5. Section 127 and Section 138 of the 2008 Act

5.1 Section 127 makes provision for cases where an applicant for development consent under the 2008 Act seeks the inclusion in a development consent order of provision for the compulsory acquisition of land, or a right over such land, which has been acquired by a statutory

undertaker (as defined in section 127(8)) for the purpose of its undertaking. The following provisions, set out in section 127(1)(b) and (c), should apply:

- (b) *a representation has been made about an application for an order granting development consent before the completion of the examination of the application, and a representation has not been withdrawn; and*
- (c) *as a result of the representation, the Secretary of State is satisfied that:*
 - (i) *the land is used for the purposes of carrying on the statutory undertakers' undertaking; or*
 - (ii) *an interest in the land is held for those purposes.*

5.2 In the circumstances, the 2008 Act provides that a development consent order including provision for compulsory acquisition of statutory undertakers' land can only be made to the extent that the Secretary of State is satisfied of the matters set out in section 127(3).

5.3 The matters set out in section 127(3) are that the nature and situation of the land are such that:

- (a) *it can be purchased and not replaced without serious detriment to the carrying on of the undertaking; or*
- (b) *if purchased it can be replaced by other land belonging to, or available for acquisition by, the undertakers without serious detriment to the carrying on of the undertaking.*

5.4 Sub-sections (4) to (6) of section 127 make similar provision for cases where an applicant seeks to acquire new rights over statutory undertakers' land compulsorily. In such cases, a development consent order can only include such provisions where the Secretary of State is satisfied of the matters set out in section 127(6). The matters set out in section 127(6) are that the nature and situation of the land are such that:

- (a) *the right can be purchased without serious detriment to the carrying on of the undertaking; or*
- (b) *any detriment to the carrying on of the undertaking, in consequence of the acquisition of the right can be made good by the undertakers by the use of the land belonging to or available for acquisition by them.*

5.5 Section 138 of the 2008 Act makes provision for circumstances where a proposed development consent order provides for rights benefitting statutory undertakers to be extinguished and for their apparatus to be removed. To an extent these provisions overlap with those of section 127 of the 2008 Act in that a right in land is included in the concept of land. The provisions of section 138 allow the extinguishment of relevant rights - being rights of way and rights to install, keep and maintain apparatus - and the removal of apparatus. However, this is only permitted where the Secretary of State concludes that it is necessary to do so.

6. Applicant's Case under Section 127 and Section 138 of the 2008 Act

6.1 The case for compulsory acquisition is set out in Highways England's Statement of Reasons (Appendix 3). For the purpose of the Submission, it is Highway England's case that:

- 6.1.1 the acquisition of land and the creation of new rights in favour of Highways England pursuant to the Application for development consent could affect NGG's undertaking as it has infrastructure which may be affected by the Scheme which includes but is not limited to: gas pipelines and other apparatus;
 - 6.1.2 the land is required for the purposes of the construction and operation of the Scheme, temporary traffic management, use as a temporary construction compound, temporary access and working space for online reconstruction of Old Slade Lane and Old Slade Lane overbridge, the realignment of Ascot Road and temporary access and working space in relation to the construction of the new Ascot Road overbridge, the online reconstruction of Monkey Island Lane, temporary access and working space for extension of Sipson Road subway, the realignment of Wood Lane and the construction of the new Wood Lane overbridge, the realignment of Lake End Road and the construction of the new Lake End Road overbridge, the northern realignment of M4 over the widened Thames Bray underbridge, the online reconstruction of Marsh Lane and the Marsh Lane overbridge, the realignment of Datchet Road and the refurbishment of two existing gantries and construction of one new gantry on Heathrow Spur Road;
 - 6.1.3 protective provisions appropriate for NGG's undertaking are included in the Proposed Order; and
 - 6.1.4 the nature of the proposed works and the inclusion of protective measures in the Proposed Order means that the Secretary of State can be confident that NGG's rights, whilst subject to interference, will not be affected to the detriment of its ability to carry out its undertaking.
- 6.2 Highways England is seeking to negotiate with NGG to acquire the rights necessary for the Scheme and manage interfaces as such by private treaty. Highways England has been in negotiations with the statutory undertaker since 11 March 2013. A schedule of the communications with NGG is provided at Appendix 5. Whilst it has not been possible to reach agreement with NGG for the acquisition of the necessary rights and land prior to the making of this Submission, Highways England continues to progress private treaty negotiations in parallel with the compulsory acquisition process with a view to reaching an agreement as soon as possible.
- 6.3 In the absence of private treaty agreements with NGG, it is necessary to seek the proposed powers to ensure that all the land that is required to deliver the Scheme is assembled within an appropriate timeframe and interfaces with NGG's apparatus are managed appropriately. Therefore, it is necessary that the Secretary of State is satisfied that the matters in sections 127(3) and 127(6) (and 138(4)) have been met.

7. **Submission**

- 7.1 Highways England considers that for the reasons set out in this Submission, the requirements of section 127 and section 138 have been satisfied and that the proposed interests in land and land sought by Highways England can be acquired without serious detriment to NGG's operational undertaking and that interference with the rights of NGG is necessary and proportionate. Highways England does not consider that it is necessary to replace the land being acquired for the Scheme.

7.2 Highways England respectfully requests that the Secretary of State publishes that she is satisfied that the conditions in sections 127 and 138 of the 2008 Act in respect of the rights and interests of NGG in the Order Land have been met.

APPENDIX 5
Schedule of Correspondence

	Date	Type of Contact	Outcome
1.	11/03/2013	Letter from Highways England to National Grid Gas plc	Request for information on C2 Buried Services and apparatus.
2.	21/03/2013	Email from National Grid to Highways England	Response to request for information on C2 Buried Services and apparatus.
3.	10/03/2014	Invitation to attend a Preview Public Information Exhibition, to be held on 18 March 2014	Preview Public Information Exhibition as part of initial stakeholder engagement and information exercise.
4.	02/05/2014	Letter from Highways England requesting completion of land ownership questionnaire	Requesting land interest details for identified areas of land which may be affected by the Scheme.
5.	11/06/2014	Email from National Grid Gas plc to Highways England	National Grid Gas plc acknowledgement email regarding land ownership questionnaire and request for further information
6.	14/07/2014	Email from Highways England to National Grid Gas plc	Land ownership questionnaire enquiry
7.	17/10/2014	Letter from Highways England requesting completion of land ownership confirmation questionnaire	Questionnaire to obtain confirmation that the details previously provided regarding the Scheme are still valid and to offer the opportunity to provide any updates.
8.	10/11/2014	Consultation undertaken pursuant to Section 42 of the 2008 Act.	Notification of the formal pre-application consultation between 10 November and 21 December 2014 about the Scheme in accordance with Section 42 of the Planning Act 2008.
9.	10/11/2014	Further consultation undertaken pursuant to Section 42 of the 2008 Act.	Notification of the formal pre-application consultation between 10 November and 21 December 2014 about the Scheme in accordance with Section 42 of the Planning Act 2008.
10.	10/11/2014	Consultation undertaken pursuant to Section 47 of the 2008 Act.	Details of the pre-application consultation to be held between 10 November and 21 December 2014.
11.	18/11/2014	Response to request for land ownership confirmation questionnaire	Completed questionnaire on request for land ownership details for National Grid Gas plc.
12.	21/11/2014	Email from National Grid Gas plc to Highways England	Objection raised
13.	25/02/2015	Letter from Highways England requesting completion of land ownership confirmation questionnaire	Major Land Owner/ Utility questionnaire to obtain confirmation that the details previously provided regarding the Scheme are still valid and

			to offer the opportunity to provide any updates.
14.	25/02/2015	Email from Highways England requesting completion of land ownership confirmation questionnaire	Copy of letter and Major Land Owner land ownership confirmation questionnaire sent to National Grid Gas plc
15.	02/03/2015	Email from National Grid Gas plc to Highways England	Major Land Owner/ Utility confirmation questionnaire acknowledgment
16.	03/03/2015	Response to request for land ownership confirmation questionnaire	Completed questionnaire for requested land ownership details for National Grid Gas plc
17.	03/03/2015	Telephone call from National Grid Gas plc to Highways England	Enquiry regarding Major Land Owner/ utility confirmation questionnaire
18.	03/03/2015	Telephone call from National Grid Gas plc to Highways England	Additional enquiry regarding Major Land Owner/utility confirmation questionnaire
19.	04/03/2015	Email from Highways England to National Grid Gas plc	Enquiry response – additional information sent
20.	06/03/2015	Email from National Grid Gas plc to Highways England	Additional information relating to the confirmation questionnaire
21.	10/03/2015	Email from Highways England to National Grid Gas plc	Standard Highways England acknowledgment response
22.	11/03/2015	Email from National Grid Gas plc to Highways England	Standard National Grid Gas plc response
23.	21/05/2015	Meeting between Highways England and National Grid	Meeting
24.	28/05/2015	Planning Act 2008 Section 56: Notice of acceptance of an application for a development consent order	Notification of acceptance of application together with details of land which Affinity Water Limited have an interest.
25.	28/05/2015	Planning Act 2008 Section 56: Notice of acceptance of an application for a development consent order	Notification of acceptance of application.
26.	08/06/2015	Email from Highways England to National Grid	Draft meeting minutes and comments on the table of assets document
27.	10/06/2015	Email from National Grid to Highways England	National Grid Diversions
28.	15/06/2015	Email from Highways England to National Grid Gas plc	Meeting minutes from 21 May 2015
29.	16/06/2015	Letter from Highways England to National Grid Gas plc	Protective Provisions Letter.
30.	03/07/2015	Letter from National Grid Gas plc to Highways England	Objection raised

31.	20/07/2015	Email from Highways England to National grid – under electricity on PP	DLA record of chasing National Grid for Bray Bridge Information
32.	07/08/2015	Email from National Grid Gas plc to Highways England	Pins representation: response to Examining Authority's first written questions submitted for Deadline II – 8 October 2015
33.	30/09/2015	Email from National Grid Gas plc to Highways England	Pins representation
34.	26/11/2015	Email from National Grid Gas plc to Highways England	Pins representation

PLANNING ACT 2008

THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES 2010

**THE PROPOSED M4 (JUNCTIONS 3 TO 12) (SMART MOTORWAY) DEVELOPMENT
CONSENT ORDER**

APPLICATION REFERENCE NUMBER TR010019

SUBMISSION UNDER SECTION 138 OF THE PLANNING ACT 2008

**STATUTORY UNDERTAKER - SCOTTISH AND SOUTHERN ENERGY POWER
DISTRIBUTION LIMITED**

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1. Introduction

- 1.1 This submission ("**Submission**") relates to the application made to the Secretary of State for Transport on 30 March 2015 under section 37 of the Planning Act 2008 ("**2008 Act**") (the "**Application**") by Highways England Company Limited ("**Highways England**") for development consent to improve some 51km (32 miles) of the M4 between junction 3 (Hayes) and junction 12 (Theale) by making it a smart motorway (the "**Scheme**"). The Application was accepted on 27 April 2015, and an Examining Authority has been appointed by the Secretary of State for Transport to examine the Application on his behalf.
- 1.2 The Submission is made by Highways England in respect of Scottish and Southern Energy Power Distribution Limited ("**Scottish and Southern**") to the Secretary of Energy and Climate Change ("**Secretary of State**"). It is also sent to the Examining Authority in order to inform its recommendation to the Secretary of State for Transport. It is made in respect of the proposed powers within the Application that require consideration by the Secretary of State under section 138 of the 2008 Act to authorise the extinguishment of relevant rights and/or removal of relevant apparatus.
- 1.3 The Application seeks a development consent order (the "**Proposed Order**") which would confer powers of compulsory acquisition for the purposes of the Scheme. The Scheme involves permanently converting the hard-shoulder into a traffic lane (referred to as "**All Lane Running**"), and using technology to vary speed limits and manage traffic, creating extra capacity on the motorway. Signs and signals will be used to inform drivers of conditions on the highway network, when and where variable mandatory speed limits are in place, and when lanes are closed. There are a number of hard shoulder discontinuities on the M4 between junction 4 and junction 8/9, where existing bridges over or under the M4 limit the available carriageway width. It is proposed that these bridges are widened, or demolished and rebuilt, in order to enable All Lane Running along the Scheme. The Application for the Proposed Order also includes powers of compulsory acquisition for the purposes of the Scheme.
- 1.4 The Proposed Order includes powers sought in respect of, *inter alia*, the improvement of the eastbound and westbound carriageway of the M4 Motorway, the realignment of junctions, the widening of the carriageway, the demolition and rebuilding of existing bridges over and under the M4, the widening of existing bridges over and under the M4, the construction of a new bridge over the M4, the extension of water and gas main subways under the M4 and the realignment of local roads as part of the Scheme. Scottish and Southern has interests in land upon which the Scheme will be constructed, as well as rights in land and relevant apparatus (as defined in section 138 of the 2008 Act).
- 1.5 This Submission is made in order to satisfy the Secretary of State, pursuant to section 138(4) of the 2008 Act, that the extinguishment of Scottish and Southern's relevant right(s) or removal of its relevant apparatus are necessary for the purposes of carrying out the Scheme.

2. The Purpose of Compulsory Acquisition

- 2.1 The Proposed Order sought by Highways England seeks powers to acquire land compulsorily and to obtain new rights for the purposes of constructing, operating and maintaining the Scheme.
- 2.2 The land which is the subject of compulsory acquisition powers sought in the Proposed Order is referred to as the Order Land and is shown on the Land Plans that accompany the Application for the Proposed Order. The Land Plans are also attached to this Submission (see Appendix 4).

3. Interests Subject to this Submission

- 3.1 Part of the land to be acquired compulsorily comprises land or rights over land benefitting Scottish and Southern for the purposes of section 138 of the 2008 Act.
- 3.2 The plots referenced in the Book of Reference (see Appendix 2) relevant to this Submission are as follows:

Book of Reference plot number	Acquisition permanent or temporary	Purpose for which land is required	Work No.
06-13	Temporary	Temporary traffic management, including lane restrictions, to create working space for construction of the Scheme including a gantry Type 1 and realignment of Junction 11 Eastbound on slip	1a, 4b
06-14	Temporary	Temporary traffic management, including lane restrictions, to create working space for construction of the Scheme including a gantry Type 1 and realignment of Junction 11 Eastbound on slip	1a, 4b
01-01	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
02-01	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 2a, 2b
04-01	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b

07-01	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
08-01	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
09-01	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
14-01	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
15-01	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
16-01	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
26-01	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 25, 26a, 26b
28-01	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
30-01	Permanent	Land within existing motorway boundaries retained for construction and operation of the	1a, 1b, 30a, 30b

		Scheme	
02-15	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 2a, 2b
02-02	Permanent	At motorway level: land within existing motorway boundaries retained for construction and operation of the Scheme. At roundabout and A4 levels: land within existing highway boundary used for access to Scheme construction site and construction compound including traffic management	For work: 1a, 1b For access: All works within Schedule 1 to the DCO
07-02	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
09-02	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
15-02	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
18-02	Temporary	Temporary land required for use as construction compound	All works within Schedule 1 to the DCO
20-02	Temporary	Temporary land required for access and working space to construct realigned Lake End Road and	11a, 11b, 11c

		new Lake End Road overbridge	
03-03	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 3a, 3b, 3c, 3d
06-03	Temporary	Temporary traffic management and for access to Scheme construction site	All works within Schedule 1 to the DCO
07-03	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
08-03	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
10-03	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 5a
16-03	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
17-03	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 6a, 6d
21-03	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 14a, 14b, 14c
23-03	Temporary	Temporary land for access and working space to extend Water	18

		Main and Gas Main subway	
04-04	Temporary	Temporary land required for use for inspection and possible refurbishment of culvert	1a, 1b
05-04	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
06-04	Temporary	Temporary traffic management and for access to Scheme construction site	All works within Schedule 1 to the DCO
11-04	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 5c, 5d, 5e
13-04	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
15-04	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
17-04	Permanent	At motorway level: land within existing motorway boundaries retained for construction and operation of the Scheme. At roundabout and A404(M) and A308(M) levels: land within existing highway boundary used for access to Scheme construction site, including traffic management	For work: 1a, 1b For access: All works within Schedule 1 to the DCO

18-04	Permanent	Land required for the realignment of Ascot Road	7a, 7b
19-04	Permanent	Land required for the online reconstruction of Monkey Island Lane	8c
21-04	Temporary	Temporary land required for access and working space to construct realigned Wood Lane and new Wood Lane overbridge	14a,14b,14c
23-04	Temporary	Temporary land for access and working space to extend Water Main and Gas Main subway	18
28-04	Temporary	Temporary land required for access and working space for extension of Sipson Road subway	28, 29a,29d
30-04	Permanent	At motorway level: land within existing motorway boundaries retained for construction and operation of the Scheme. At roundabout and The Parkway levels: land within existing highway boundary used for access to construction site, including traffic management	For work: 1a, 1b For access: All works within Schedule 1 to the DCO
05-05	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
18-05	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 6a, 6b

20-05	Permanent	Land required for the realignment of Lake End Road	11a, 11b, 11c
21-05	Temporary	Temporary land required for access and working space to construct realigned Wood Lane and new Wood Lane overbridge	14a, 14b, 14c
23-05	Permanent	Land required for realignment of Datchet Road	19a, 19b, 19c
28-05	Temporary	Temporary land required for access and working space for extension of Sipson Road subway	28, 29a, 29d
29-05	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 29b, 29c
30-05	Permanent	At motorway level: land within existing motorway boundaries retained for construction and operation of the Scheme. At roundabout and The Parkway levels: land within existing highway boundary used for access to construction site, including traffic management	For work: 1a, 1b For access: All works within Schedule 1 to the DCO
06-06	Permanent	At motorway level: land within existing motorway boundaries retained for construction and operation of the Scheme. At roundabout and A33 levels: land within existing highway boundary used for access to Scheme construction site, including traffic	For work: 1a, 1b For access: All works within Schedule 1 to the DCO

		management	
09-06	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
20-06	Permanent	Land required for the realignment of Lake End Road	11a, 11b, 11c
24-06	Temporary	Temporary land required for access and working space to construct realigned Riding Court Road and new Riding Court Road overbridge	22a, 22b, 22c
06-07	Permanent	At motorway level: land within existing motorway boundaries retained for construction and operation of the Scheme. At roundabout and A33 levels: land within existing highway boundary used for access to Scheme construction site, including traffic management	For work: 1a, 1b For access: All works within Schedule 1 to the DCO
09-07	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
14-07	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
17-07	Permanent	At motorway level: land within existing motorway boundaries retained for construction and operation of the	For work: 1a, 1b For access: All works within Schedule 1 to the DCO

		Scheme. At roundabout and A404(M) and A308(M) levels: land within existing highway boundary used for access to Scheme construction site, including traffic management	
18-07	Temporary	Temporary land required for use for access and working space to construct realigned Ascot Road and new Ascot Road overbridge including retaining wall to east side of Ascot Road	7a, 7b
21-07	Temporary	Temporary land required for access and working space to construct realigned Wood Lane and new Wood Lane overbridge	14a, 14b, 14c
09-08	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
17-08	Permanent acquisition of Crown Land	At motorway level: land within existing motorway boundaries retained for construction and operation of the Scheme. At roundabout and A404(M) and A308(M) levels: land within existing highway boundary used for access to Scheme construction site, including traffic management	For work: 1a, 1b For access: All works within Schedule 1 to the DCO
24-08	Temporary	Temporary land required for access and working space to construct realigned Riding Court Road and new Riding Court	22a, 22b, 22c

		Road overbridge	
28-08	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 28, 29a, 29d
30-08	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
09-09	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
19-09	Permanent	Land required for the online reconstruction of Monkey Island Lane	8c
22-09	Temporary	Temporary land required for use for access to construction compound and to Scheme construction site	All works within Schedule 1 to the DCO
23-09	Permanent	Land required for realignment of Datchet Road	19a, 19b, 19c
27-09	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 26a, 26b
07-10	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
09-10	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b

18-10	Temporary	Temporary land required for access and working space to construct realigned Ascot Road and new Ascot Road overbridge	7a
19-10	Temporary	Temporary land required for access and working space for online reconstruction of Monkey Island Lane and Monkey Island Lane overbridge	8c
20-10	Temporary	Temporary land required for access and working space to construct realigned Lake End Road and new Lake End Road overbridge	11a, 11b, 11c
22-10	Temporary	Temporary land required for use for access to construction compound and to Scheme construction site	All works within Schedule 1 to the DCO
23-10	Permanent	Land required for realignment of Datchet Road	19a, 19b, 19c
27-10	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 26a, 26b
28-10	Temporary	Temporary land required for access and working space for extension of Sipson Road subway	28, 29a, 29d
04-11	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
06-11	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b

19-11	Temporary	Temporary land required for access and working space for online reconstruction of Monkey Island Lane and Monkey Island Lane overbridge and for widening of Thames Bray underbridge, including widening of the M4 and M4 embankment	8a, 8b, 8c, 9b
23-11	Temporary	Temporary land required for access and working space to construct realigned Datchet Road and new Datchet Road overbridge	19a, 19c
25-11	Temporary	Temporary traffic management, including lane restrictions on Majors Farm Road, to create working space for construction of the Scheme	1b, 24d
27-11	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 26a, 26b
30-11	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
19-12	Permanent	Land required for northern realignment of M4 over widened Thames Bray underbridge	8a, 9a
22-12	Temporary	Temporary land required for access and working space for widening Windsor Branch railway underbridge to the South, including realignment of M4 and J6 Westbound off-slip	1b, 16c, 17

		and embankment strengthening and widening	
02-02a	Temporary	Land within existing highway boundary used for access to Scheme construction site and construction compound, including traffic management	All works within Schedule 1 to the DCO
06-07a	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 4b, 4c
17-04a	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 6a, 6d
17-15	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 6a, 6d
18-15	Permanent	Land required for the realignment of Ascot Road	7a
18-18	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 6a, 6b
18-20	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
18-21	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b

18-22	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
19-04b	Permanent	Land required for the online reconstruction of Monkey Island Lane	8c
19-05a	Permanent	Land required for the online reconstruction of Monkey Island Lane	8c
19-05b	Permanent	Land required for the online reconstruction of Monkey Island Lane	8c
19-09b	Permanent	Land required for the online reconstruction of Monkey Island Lane	8c
19-10a	Permanent	Land required for the online reconstruction of Monkey Island Lane	8c
19-10b	Permanent	Land required for the online reconstruction of Monkey Island Lane	8c
19-13	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme, including widening of M4 and Thames Bray underbridge to the north	1a, 1b, 8a, 8b, 9b
19-13a	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme, including widening of M4 and Thames Bray underbridge to the north	1a, 1b, 8a, 8b, 9b

19-50	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme, including widening of M4 and Thames Bray underbridge to the north	1a, 1b, 9b, 10a, 10b
19-57	Temporary	Temporary land for access and working space for widening of the M4 and M4 embankment.	10b
19-57a	Temporary	Temporary land for access and working space for widening of the M4 and M4 embankment.	10b
19-60	Permanent	Land required for the online reconstruction of Marsh Lane	10b
19-60a	Permanent	Land required for the online reconstruction of Marsh Lane	10b
19-60b	Permanent	Land required for the online reconstruction of Marsh Lane	10b
19-60c	Permanent	Land required for the online reconstruction of Marsh Lane	10b
20-02a	Permanent	Land required for the realignment of Lake End Road	11a, 11b, 11c
20-14	Permanent	Land required for the realignment of Lake End Road	11a, 11b, 11c
20-17	Temporary	Temporary land required for access and working space to construct realigned Lake End Road and new Lake End Road overbridge	11a, 11b, 11c
20-20	Temporary	Temporary land required for access and working space to construct realigned	11a, 11b, 11c

		Lake End Road and new Lake End Road overbridge	
20-25	Temporary	Temporary land required for access and working space to construct realigned Huntercombe Spur and new Huntercombe Spur overbridge	12b, 12c, 12d, 12e, 12f
20-27	Temporary	Temporary land required for access and working space to construct realigned Huntercombe Spur and new Huntercombe Spur overbridge	12b, 12c, 12d, 12e, 12f
21-02b	Temporary	Temporary land required to enable temporary diversion of Rights of Way between Oldway Lane and Wood Lane and for access and working space to construct and realign Wood Lane and new Wood Lane overbridge	13a, 13c, 14a, 14c
21-02c	Temporary	Temporary land required to enable temporary diversion of Rights of Way between Oldway Lane and Wood Lane and for access and working space to construct and realign Wood Lane and new Wood Lane overbridge	13a, 13c, 14a, 14c
21-02d	Temporary	Temporary land required for access and working space to construct realigned Wood Lane and new Wood Lane overbridge	14a, 14b, 14c
21-12a	Permanent	Land required for the realignment of Wood Lane	14c
22-13	Permanent	At motorway level: land within existing motorway boundaries retained for	For work: 1a, 1b For access: All works within Schedule 1 to

		construction and operation of the Scheme. At roundabout and A355 level: land within existing highway boundary used for access to Scheme construction site, including traffic management	the DCO
22-14	Permanent	At motorway level: land within existing motorway boundaries retained for construction and operation of the Scheme. At roundabout and A355 level: land within existing highway boundary used for access to Scheme construction site, including traffic management	For work: 1a, 1b For access: All works within Schedule 1 to the DCO
22-16	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 16b, 16c, 17
22-18	Temporary	Temporary land required for access and working space for widening Windsor Branch railway underbridge to the South, including realignment of M4 and J6 Eastbound on-slip	1a, 16b, 17
22-21	Temporary	Temporary land required for access and working space for widening Windsor Branch railway underbridge to the South, including realignment of M4 and J6 Eastbound on-slip	1a, 16b, 17

22-26	Temporary	Temporary land required for access and working space for widening Windsor Branch railway underbridge to the South, including realignment of M4 and J6 Westbound off-slip and embankment strengthening and widening	1b, 16c, 17
22-27	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 16b, 16c, 17
22-27a	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
22-28	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
22-29a	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
22-30	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
22-31	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
22-32	Permanent	Land within existing motorway boundaries retained for construction and operation of the	1a, 1b

		Scheme	
23-17	Permanent	Land required for realignment of Datchet Road	19a, 19b, 19c
23-25	Permanent	Land required for realignment of Datchet Road	19a, 19b, 19c
23-25a	Permanent	Land required for realignment of Datchet Road	19a, 19b, 19c
23-28	Permanent	Land required for the online reconstruction of Recreation Ground overbridge	20b, 20c
24-19	Permanent	Land required for the realignment of Riding Court Road	22a, 22b, 22c
24-26	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 22a, 22b, 22c
24-27	Permanent	Land required for the realignment of Riding Court Road	22a, 22b, 22c
24-34	Temporary	Temporary traffic management, including lane restrictions on Riding Court Road, to create working space for construction of the Scheme	1a, 23a, 23b
24-35	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 22a, 22b, 22c, 23a
24-36	Temporary	Temporary traffic management, including lane restrictions on Riding Court Road, to create working space for construction of the	1a, 23a, 23b

		Scheme	
24-37	Temporary	Temporary traffic management, including lane restrictions on Majors Farm Road, to create working space for construction of the Scheme	1b
24-38	Temporary	Temporary traffic management, including lane restrictions on Majors Farm Road, to create working space for construction of the Scheme	1b
24-40	Temporary	Temporary traffic management, including lane restrictions on Riding Court Road, to create working space for construction of the Scheme	1a, 23a, 23b
25-13	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 24a, 24b, 24c, 24d, 24e, 24f, 24g, 24h, 24i
25-18	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 24a, 24d
25-19	Temporary	Temporary traffic management, including lane restrictions on Majors Farm Road, to create working space for construction of the Scheme	1b, 24d
25-20	Temporary	Temporary traffic management for access to Scheme construction site	All works within Schedule 1 to the DCO

25-21	Permanent	At motorway level: land within existing motorway boundaries retained for construction and operation of the Scheme. At roundabout and London Road levels: land within existing highway boundary used for access to construction site, including traffic management	For work: 1a, 1b, 24 e, 24f, 24g, 24h, 24i For access: All works within Schedule 1 to the DCO
25-22	Temporary	Temporary traffic management for access to Scheme construction site	All works within Schedule 1 to the DCO
25-26	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 24a, 24b, 24c, 24d, 24e, 24f, 24g, 24h, 24i
25-35	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
25-36	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
28-14	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 29a, 29d
28-15	Permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 29a, 29d
29-05a	Permanent	Land within existing motorway boundaries retained for construction and	1a, 1b, 29b, 29c

		operation of the Scheme	
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3.3 The relevant apparatus of Scottish and Southern is contained in the parcels of land listed above.

4. Documents in support of the Submission

4.1 In support of the Submission, the following documents are enclosed:

4.1.1 Appendix 1: Draft of the Proposed Order;

4.1.2 Appendix 2: Book of Reference;

4.1.3 Appendix 3: Statement of Reasons;

4.1.4 Appendix 4: Land Plans (as amended);

4.1.5 Appendix 5: Schedule of Correspondence between Highways England and Scottish and Southern.

4.2 The full suite of documentation comprised in the Application for the Proposed Order is available on the National Infrastructure Planning website at the following web address:

<http://infrastructure.planninginspectorate.gov.uk/Schemes/South%20East/M4-Junctions-3-to-12-Smart-Motorway/>.

4.3 A copy of this Submission and its enclosures has been provided to Scottish and Southern.

5. Section 138 of the 2008 Act

5.1 Section 138 of the 2008 Act makes provision for circumstances where a proposed development consent order provides for rights benefitting statutory undertakers to be extinguished and for their apparatus to be removed. Pursuant to the 2008 Act, a right in land is included in the concept of land. The provisions of section 138 allow the extinguishment of relevant rights - being rights of way and rights to install, keep and maintain apparatus - and the removal of apparatus. However, this is only permitted where the Secretary of State concludes that it is necessary to do so.

6. Applicant's Case under Section 138 of the 2008 Act

6.1 The case for compulsory acquisition is set out in Highways England's Statement of Reasons (Appendix 3). For the purpose of the Submission, it is Highway England's case that:

6.1.1 the acquisition of land and the creation of new rights in favour of Highways England pursuant to the Application for development consent could affect Scottish and Southern's undertaking as it has infrastructure which may be affected by the Scheme;

6.1.2 the land is required for the purposes of:

6.1.2.1 the construction and operation of the Scheme;

- 6.1.2.2 temporary traffic management;
 - 6.1.2.3 use as a construction compound;
 - 6.1.2.4 access to construction compounds;
 - 6.1.2.5 temporary diversions of Rights of Way;
 - 6.1.2.6 the realignment and reconstruction of roads and bridges;
 - 6.1.2.7 maintenance of access to local roads;
 - 6.1.2.8 the extension of water and gas mains subways;
 - 6.1.2.9 the demolition and reconstruction of existing bridges; and
 - 6.1.2.10 the building of new bridges;
- 6.1.3 protective provisions appropriate for Scottish and Southern's undertaking are included in the Proposed Order; and
- 6.1.4 the nature of the proposed works and the inclusion of protective measures in the Proposed Order means that the Secretary of State can be confident that Scottish and Southern's rights, whilst subject to interference, will not be affected to the detriment of its ability to carry out its undertaking.
- 6.2 Highways England is seeking to negotiate with Scottish and Southern to acquire the rights necessary for the Scheme and manage interfaces as such by private treaty. Highways England has been in negotiations with the statutory undertaker since 10 November 2014. A schedule of the communications with Scottish and Southern is provided at Appendix 5. Whilst it has not been possible to reach agreement with Scottish and Southern prior to the making of this Submission, Highways England continues to progress private treaty negotiations in parallel with the compulsory acquisition process with a view to reaching an agreement as soon as possible.
- 6.3 In the absence of private treaty agreements with Scottish and Southern, it is necessary to seek the proposed powers to ensure that all the land that is required to deliver the Scheme is assembled within an appropriate timeframe and interfaces with Scottish and Southern's apparatus are managed appropriately. Therefore, it is necessary that the Secretary of State is satisfied that the matters in section 138(4) of the 2008 Act have been met.

7. Submission

- 7.1 Highways England considers that for the reasons set out in this Submission, the requirements of section 138 have been satisfied and that the proposed interference with the rights of Scottish and Southern is necessary and proportionate. Highways England does not consider that it is necessary to replace the land being acquired for the Scheme.
- 7.2 Highways England respectfully requests that the Secretary of State publishes that she is satisfied that the conditions in section 138 of the 2008 Act in respect of the rights and interests of Scottish and Southern in the Order Land have been met.

APPENDIX 5
Schedule of Correspondence

	Date	Type of Contact	Outcome
1.	10/11/2014	Consultation undertaken pursuant to Section 42 of the 2008 Act.	Notification of the formal pre-application consultation between 10 November and 21 December 2014 about the Scheme in accordance with Section 42 of the Planning Act 2008.
2.	10/11/2014	Further consultation undertaken pursuant to Section 42 of the 2008 Act.	Notification of the formal pre-application consultation between 10 November and 21 December 2014 about the Scheme in accordance with Section 42 of the Planning Act 2008.
3.	19/11/2014	Email from Scottish and Southern Energy Power Distribution Limited to Highways England	Standard Highways England response email confirming comments received will be taken into consideration.
4.	26/11/2014	Email to Scottish and Southern Energy Power Distribution Limited from Highways England	Standard Highways England response email confirming comments received will be taken into consideration.
5.	26/11/2014	Email from Scottish and Southern Energy Power Distribution Limited to Highways England	Continued communications relating to consultation response
6.	26/11/2014	Email from Scottish and Southern Energy Power Distribution Limited to Highways England	Continued communications relating to consultation response
7.	09/12/2014	Email to Scottish and Southern Energy Power Distribution Limited from Highways England	Standard Highways England response email confirming comments received will be taken into consideration.
8.	25/02/2015	Letter from Highways England requesting completion of land ownership confirmation questionnaire	Major Land Owner/ Utility questionnaire to obtain confirmation that the details previously provided regarding the Scheme are still valid and to offer the opportunity to provide any updates.
9.	10/03/2015	Email to Scottish and Southern Energy Power Distribution Limited/ SSE Services plc from Highways England	Seeking clarification to the recording of buried services and apparatus
10.	11/03/2015	Internal emails with Scottish and Southern Energy Power Distribution Limited and SSE Services plc with Highways	Discussions relating to the seeking of clarification for the recording of buried services and apparatus

		England as a copy addressee	
11.	13/03/2015	Email from Scottish and Southern Energy Power Distribution Limited/SSE Services plc with Highways England	Response to our initial enquiry regarding clarification for the recording of buried services and apparatus
12.	28/05/2015	Planning Act 2008 Section 56: Notice of acceptance of an application for a development consent order	Notification of acceptance of application together with details of land which Scottish and Southern Energy Power Distribution Limited have an interest
13.	28/05/2015	Planning Act 2008 Section 56: Notice of acceptance of an application for a development consent order	Notification of acceptance of application

PLANNING ACT 2008

THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES 2010

**THE PROPOSED M4 (JUNCTIONS 3 TO 12) (SMART MOTORWAY) DEVELOPMENT
CONSENT ORDER**

APPLICATION REFERENCE NUMBER TR010019

SUBMISSION UNDER SECTION 138 OF THE PLANNING ACT 2008

STATUTORY UNDERTAKER - SOUTHERN ELECTRIC POWER DISTRIBUTION PLC

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1. Introduction

- 1.1 This submission ("**Submission**") relates to the application made to the Secretary of State for Transport on 30 March 2015 under section 37 of the Planning Act 2008 ("**2008 Act**") (the "**Application**") by Highways England Company Limited ("**Highways England**") for development consent to improve some 51km (32 miles) of the M4 between junction 3 (Hayes) and junction 12 (Theale) by making it a smart motorway (the "**Scheme**"). The Application was accepted on 27 April 2015, and an Examining Authority has been appointed by the Secretary of State for Transport to examine the Application on his behalf.
- 1.2 The Submission is made by Highways England in respect of Southern Electric Power Distribution PLC ("**Southern Electric**") to the Secretary of State for Energy and Climate Change (the "**Secretary of State**"). It is also sent to the Examining Authority in order to inform its recommendation to the Secretary of State for Transport. It is made in respect of the proposed powers within the Application that require consideration by the Secretary of State under section 138 of the 2008 Act to authorise the extinguishment of relevant rights and/or removal of relevant apparatus.
- 1.3 The Application seeks a development consent order (the "**Proposed Order**") which would confer powers of compulsory acquisition for the purposes of the Scheme. The Scheme involves permanently converting the hard-shoulder into a traffic lane (referred to as "**All Lane Running**"), and using technology to vary speed limits and manage traffic, creating extra capacity on the motorway. Signs and signals will be used to inform drivers of conditions on the highway network, when and where variable mandatory speed limits are in place, and when lanes are closed. There are a number of hard shoulder discontinuities on the M4 between junction 4 and junction 8/9, where existing bridges over or under the M4 limit the available carriageway width. It is proposed that these bridges are widened, or demolished and rebuilt, in order to enable All Lane Running along the Scheme. The Application for the Proposed Order also includes powers of compulsory acquisition for the purposes of the Scheme.
- 1.4 The Proposed Order includes powers sought in respect of, *inter alia*, the improvement of the eastbound and westbound carriageway of the M4 Motorway, and the realignment of junctions and roads and the construction of overbridges as part of the Scheme. Southern Electric has interests in land upon which the Scheme will be constructed, as well as rights in land and relevant apparatus (as defined in section 138 of the 2008 Act).
- 1.5 This Submission is made in order to satisfy the Secretary of State, pursuant to section 138(4) of the 2008 Act, that the extinguishment of Southern Electric's relevant right(s) or removal of its relevant apparatus are necessary for the purposes of carrying out the Scheme.

2. The Purpose of Compulsory Acquisition

- 2.1 The Proposed Order sought by Highways England seeks powers to acquire land compulsorily and to obtain new rights for the purposes of constructing, operating and maintaining the Scheme.
- 2.2 The land which is the subject of compulsory acquisition powers sought in the Proposed Order is referred to as the Order Land and is shown on the Land Plans that accompany the Application for the Proposed Order. The Land Plans are also attached to this Submission (see Appendix 4).

3. Interests Subject to this Submission

3.1 Part of the land to be acquired compulsorily comprises land or rights over land benefitting Southern Electric for the purposes of section 138 of the 2008 Act.

3.2 The plots referenced in the Book of Reference (see Appendix 2) relevant to this Submission are as follows:

Book of Reference plot number	Acquisition permanent or temporary	Purpose for which land is required	Work No.
25-02	temporary	Temporary traffic management, including lane restrictions on Riding Court Road, to create working space for construction of the Scheme	1a, 24a
20-03	temporary use of special category land	Temporary land required for access and working space to construct realigned Lake End Road and new Lake End Road overbridge	11a, 11b, 11c
25-03	temporary	Temporary traffic management, including lane restrictions on Riding Court Road, to create working space for construction of the Scheme	1a, 24a
21-05	temporary	Temporary land required for access and working space to construct realigned Wood Lane and new Wood Lane overbridge	14a, 14b, 14c
06-10	temporary	Temporary traffic management, including lane restrictions, to create working space for construction of the Scheme including a gantry Type 1 and realignment of Junction 11 Eastbound on slip	1a, 4b
21-10	permanent	Land required for the realignment of Wood Lane	14c
21-11	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 14a, 14b, 14c

20-03a	temporary	Temporary land required for access and working space to construct realigned Lake End Road and new Lake End Road overbridge	11a, 11b, 11c
20-33	temporary use of special category land	Temporary land required for access and working space for online reconstruction of Oldway Lane and Oldway Lane overbridge	13a,13b,13c
21-14	temporary	Temporary land required for access and working space to construct realigned Wood Lane and new Wood Lane overbridge	14a,14b,14c

3.3 The relevant apparatus of Southern Electric is contained in the parcels of land listed above.

4. Documents in support of the Submission

4.1 In support of the Submission, the following documents are enclosed:

4.1.1 Appendix 1: Draft of the Proposed Order;

4.1.2 Appendix 2: Book of Reference;

4.1.3 Appendix 3: Statement of Reasons;

4.1.4 Appendix 4: Land Plans (as amended);

4.1.5 Appendix 5: Schedule of Correspondence between Highways England and Southern Electric.

4.2 The full suite of documentation comprised in the Application for the Proposed Order is available on the National Infrastructure Planning website at the following web address:

<http://infrastructure.planninginspectorate.gov.uk/Schemes/South%20East/M4-Junctions-3-to-12-Smart-Motorway/>.

4.3 A copy of this Submission and its enclosures has been provided to Southern Electric.

5. Section 138 of the 2008 Act

5.1 Section 138 of the 2008 Act makes provision for circumstances where a proposed development consent order provides for rights benefitting statutory undertakers to be extinguished and for their apparatus to be removed. Pursuant to the 2008 Act, a right in land is included in the concept of land. The provisions of section 138 allow the extinguishment of relevant rights - being rights of way and rights to install, keep and maintain apparatus - and the removal of apparatus. However, this is only permitted where the Secretary of State concludes that it is necessary to do so.

6. Applicant's Case under Section 138 of the 2008 Act

- 6.1 The case for compulsory acquisition is set out in Highways England's Statement of Reasons (Appendix 3). For the purpose of the Submission, it is Highway England's case that:
- 6.1.1 the acquisition of land and the creation of new rights in the favour of Highways England pursuant to the Application for development consent could affect Southern Electric's undertaking as it has infrastructure which may be affected by the Scheme;
 - 6.1.2 the land is required for the purposes of:
 - 6.1.2.1 the construction and operation of the Scheme;
 - 6.1.2.2 temporary traffic management;
 - 6.1.2.3 the realignment of Wood Lane;
 - 6.1.2.4 temporary access and working space in relation to the construction of the realigned Lake End Road and the new Lake End Road overbridge;
 - 6.1.2.5 temporary access and working space in relation to the construction of the realigned Wood Lane and Wood Lane overbridge;
 - 6.1.2.6 the realignment of Junction 11 Eastbound on-slip; and
 - 6.1.2.7 the online reconstruction of Oldway Lane and Oldway Lane overbridge;
 - 6.1.3 protective provisions appropriate for Southern Electric's undertaking are included in the Proposed Order; and
 - 6.1.4 the nature of the proposed works and the inclusion of protective measures in the Proposed Order means that the Secretary of State can be confident that Southern Electric's rights, whilst subject to interference, will not be affected to the detriment of its ability to carry out its undertaking.
- 6.2 Highways England is seeking to negotiate with Southern Electric to acquire the rights necessary for the Scheme and manage interfaces as such by private treaty. Highways England has been in negotiations with the statutory undertaker since 14 August 2014. A schedule of the communications with Southern Electric is provided at Appendix 5. Whilst it has not been possible to reach agreement with Southern Electric prior to the making of this Submission, Highways England continues to progress private treaty negotiations in parallel with the compulsory acquisition process with a view to reaching an agreement as soon as possible.
- 6.3 In the absence of private treaty agreements with Southern Electric, it is necessary to seek the proposed powers to ensure that all the land that is required to deliver the Scheme is assembled within an appropriate timeframe and interfaces with Southern Electric's apparatus are managed appropriately. Therefore, it is necessary that the Secretary of State is satisfied that the matters in section 138(4) of the 2008 Act have been met.

7. **Submission**

- 7.1 Highways England considers that for the reasons set out in this Submission, the requirements of section 138 have been satisfied and that the proposed interference with the rights of Southern Electric is necessary and proportionate. Highways England does not consider that it is necessary to replace the land being acquired for the Scheme.
- 7.2 Highways England respectfully requests that the Secretary of State publishes that she is satisfied that the conditions in section 138 of the 2008 Act in respect of the rights and interests of Southern Electric in the Order Land have been met.

APPENDIX 5
Schedule of Correspondence

	Date	Type of Contact	Outcome
1.	14/08/2014	Letter from Highways England requesting completion of land interest questionnaire	Questionnaire to obtain land details of interested parties who may be affected by the works.
2.	17/10/2014	Letter from Highways England requesting completion of land ownership confirmation questionnaire	Questionnaire to obtain confirmation that the details previously provided regarding the Scheme are still valid and to offer the opportunity to provide any updates.
3.	10/11/2014	Consultation undertaken pursuant to Section 42 of the 2008 Act.	Notification of the formal pre-application consultation between 10 November and 21 December 2014 about the Scheme in accordance with Section 42 of the Planning Act 2008.
4.	10/11/2014	Further consultation undertaken pursuant to Section 42 of the 2008 Act.	Notification of the formal pre-application consultation between 10 November and 21 December 2014 about the Scheme in accordance with Section 42 of the Planning Act 2008.
5.	10/11/2014	Consultation undertaken pursuant to Section 47 of the 2008 Act.	Details of the pre-application consultation to be held between 10 November and 21 December 2014.
6.	25/02/2015	Letter from Highways England requesting completion of land ownership confirmation questionnaire	Major Land Owner/ Utility questionnaire to obtain confirmation that the details previously provided regarding the Scheme are still valid and to offer the opportunity to provide any updates.
7.	28/05/2015	Planning Act 2008 Section 56: Notice of acceptance of an application for a development consent order	Notification of acceptance of application together with details of land which Southern Electric Power Distribution plc have an interest
8.	28/05/2015	Planning Act 2008 Section 56: Notice of acceptance of an application for a development consent order	Notification of acceptance of application

PLANNING ACT 2008

THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES 2010

**THE PROPOSED M4 (JUNCTIONS 3 TO 12) (SMART MOTORWAY) DEVELOPMENT
CONSENT ORDER**

APPLICATION REFERENCE NUMBER TR010019

SUBMISSION UNDER SECTION 138 OF THE PLANNING ACT 2008

STATUTORY UNDERTAKER - SOUTHERN GAS NETWORKS PLC

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1. Introduction

- 1.1 This submission ("**Submission**") relates to the application made to the Secretary of State for Transport on 30 March 2015 under section 37 of the Planning Act 2008 ("**2008 Act**") (the "**Application**") by Highways England Company Limited ("**Highways England**") for development consent to improve some 51km (32 miles) of the M4 between junction 3 (Hayes) and junction 12 (Theale) by making it a smart motorway (the "**Scheme**"). The Application was accepted on 27 April 2015, and an Examining Authority has been appointed by the Secretary of State for Transport to examine the Application on his behalf.
- 1.2 The Submission is made by Highways England in respect of Southern Gas Networks plc to the Secretary of State for Energy and Climate Change (the "**Secretary of State**"). It is also sent to the Examining Authority in order to inform its recommendation to the Secretary of State for Transport. It is made in respect of the proposed powers within the Application that require consideration by the Secretary of State under section 138 of the 2008 Act to authorise the extinguishment of relevant rights and/or removal of relevant apparatus.
- 1.3 The Application seeks a development consent order (the "**Proposed Order**") which would confer powers of compulsory acquisition for the purposes of the Scheme. The Scheme involves permanently converting the hard-shoulder into a traffic lane (referred to as "**All Lane Running**"), and using technology to vary speed limits and manage traffic, creating extra capacity on the motorway. Signs and signals will be used to inform drivers of conditions on the highway network, when and where variable mandatory speed limits are in place, and when lanes are closed. There are a number of hard shoulder discontinuities on the M4 between junction 4 and junction 8/9, where existing bridges over or under the M4 limit the available carriageway width. It is proposed that these bridges are widened, or demolished and rebuilt, in order to enable All Lane Running along the Scheme. The Application for the Proposed Order also includes powers of compulsory acquisition for the purposes of the Scheme.
- 1.4 The Proposed Order includes powers sought in respect of, *inter alia*, the improvement of the eastbound and westbound carriageway of the M4 Motorway and the realignment of junctions as part of the Scheme. Southern Gas Networks plc has interests in land upon which the Scheme will be constructed, as well as rights in land and relevant apparatus (as defined in section 138 of the 2008 Act).
- 1.5 This Submission is made in order to satisfy the Secretary of State, pursuant to section 138(4) of the 2008 Act, that the extinguishment of Southern Gas Networks plc's relevant right(s) or removal of its relevant apparatus are necessary for the purposes of carrying out the Scheme.

2. The Purpose of Compulsory Acquisition

- 2.1 The Proposed Order sought by Highways England seeks powers to acquire land compulsorily and to obtain new rights for the purposes of constructing, operating and maintaining the Scheme.
- 2.2 The land which is the subject of compulsory acquisition powers sought in the Proposed Order is referred to as the Order Land and is shown on the Land Plans that accompany the Application for the Proposed Order. The Land Plans are also attached to this Submission (see Appendix 4).

3. Interests Subject to this Submission

3.1 Part of the land to be acquired compulsorily comprises land or rights over land benefitting Southern Gas Networks plc for the purposes of section 138 of the 2008 Act.

3.2 The plots referenced in the Book of Reference (see Appendix 2) relevant to this Submission are as follows:

Book of Reference plot number	Acquisition permanent or temporary	Purpose for which land is required	Work No.
06-13	temporary	Temporary traffic management, including lane restrictions, to create working space for construction of the Scheme including a gantry Type 1 and realignment of Junction 11 Eastbound on slip	1a, 4b
06-14	temporary	Temporary traffic management, including lane restrictions, to create working space for construction of the Scheme including a gantry Type 1 and realignment of Junction 11 Eastbound on slip	1a, 4b
01-01	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
04-01	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
07-02	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
10-02	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
04-03	temporary	Temporary land required for use for inspection and possible refurbishment of culvert	1a, 1b
07-03	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
09-03	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b

10-03	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 5a
06-04	temporary	Temporary traffic management and for access to Scheme construction site	All works within Schedule 1 to the DCO
09-06	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
11-06	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 5c, 5d
06-07	permanent	At motorway level: land within existing motorway boundaries retained for construction and operation of the Scheme. At roundabout and A33 levels: land within existing highway boundary used for access to Scheme construction site, including traffic management	For work: 1a, 1b For access: all works within Schedule 1 to the DCO
07-07	permanent	Land for new access to Cutbush Lane transmission station	1a
09-07	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
06-08	temporary	Temporary traffic management and for access to Scheme construction site	All works within Schedule 1 to the DCO
07-08	temporary	Temporary land required for use to create working space for construction of new access to Cutbush Lane transmission station	1a
09-08	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
07-10	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
06-11	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b

06-07a	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 4b, 4c
06-12b	temporary	Temporary traffic management, including lane restrictions, to create working space for construction of the Scheme including a gantry Type 1 and realignment of Junction 11 Eastbound on slip	1a, 4b
10-01b	permanent acquisition of special category land	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b

3.3 The relevant apparatus of Southern Gas Networks plc is contained in the parcels of land listed above.

4. Documents in support of the Submission

4.1 In support of the Submission, the following documents are enclosed:

4.1.1 Appendix 1: Draft of the Proposed Order;

4.1.2 Appendix 2: Book of Reference;

4.1.3 Appendix 3: Statement of Reasons;

4.1.4 Appendix 4: Land Plans (as amended);

4.1.5 Appendix 5: Schedule of Correspondence between Highways England and Southern Gas Networks plc.

4.2 The full suite of documentation comprised in the Application for the Proposed Order is available on the National Infrastructure Planning website at the following web address:

<http://infrastructure.planninginspectorate.gov.uk/Schemes/South%20East/M4-Junctions-3-to-12-Smart-Motorway/>.

4.3 A copy of this Submission and its enclosures has been provided to Southern Gas Networks plc.

5. Section 138 of the 2008 Act

5.1 Section 138 of the 2008 Act makes provision for circumstances where a proposed development consent order provides for rights benefitting statutory undertakers to be extinguished and for their apparatus to be removed. Pursuant to the 2008 Act, a right in land is included in the concept of land. The provisions of section 138 allow the extinguishment of relevant rights - being rights of way and rights to install, keep and maintain apparatus - and the removal of apparatus. However, this is only permitted where the Secretary of State concludes that it is necessary to do so.

6. **Applicant's Case under Section 138 of the 2008 Act**

- 6.1 The case for compulsory acquisition is set out in Highways England's Statement of Reasons (Appendix 3). For the purpose of the Submission, it is Highway England's case that:
- 6.1.1 the acquisition of land and the creation of new rights in favour of Highways England pursuant to the Application for development consent could affect Southern Gas Networks plc's undertaking as it has infrastructure which may be affected by the Scheme;
 - 6.1.2 the land is required for the purposes of the construction and operation of the Scheme including temporary traffic management, for the inspection and possible refurbishment of culverts and for the new access to Cutbush Lane transmission station;
 - 6.1.3 protective provisions appropriate for Southern Gas Networks plc's undertaking are included in the Proposed Order; and
 - 6.1.4 the nature of the proposed works and the inclusion of protective measures in the Proposed Order means that the Secretary of State can be confident that Southern Gas Networks plc's rights, whilst subject to interference, will not be affected to the detriment of its ability to carry out its undertaking.
- 6.2 Highways England is seeking to negotiate with Southern Gas Networks plc to acquire the rights necessary for the Scheme and manage interfaces as such by private treaty. Highways England has been in negotiations with the statutory undertaker since 11 March 2013. A schedule of the communications with Southern Gas Networks plc is provided at Appendix 5. Whilst it has not been possible to reach agreement with Southern Gas Networks plc prior to the making of this Submission, Highways England continues to progress private treaty negotiations in parallel with the compulsory acquisition process with a view to reaching an agreement as soon as possible.
- 6.3 In the absence of private treaty agreements with Southern Gas Networks plc, it is necessary to seek the proposed powers to ensure that all the land that is required to deliver the Scheme is assembled within an appropriate timeframe and interfaces with Southern Gas Networks plc's apparatus are managed appropriately. Therefore, it is necessary that the Secretary of State is satisfied that the matters in section 138(4) of the 2008 Act have been met.

7. **Submission**

- 7.1 Highways England considers that for the reasons set out in this Submission, the requirements of section 138 have been satisfied and that the proposed interference with the rights of Southern Gas Networks plc is necessary and proportionate. Highways England does not consider that it is necessary to replace the land being acquired for the Scheme.
- 7.2 Highways England respectfully requests that the Secretary of State publishes that she is satisfied that the conditions in section 138 of the 2008 Act in respect of the rights and interests of Southern Gas Networks plc in the Order Land have been met.

APPENDIX 5
Schedule of Correspondence

	Date	Type of Contact	Outcome
1.	11/03/2013	Letter from Highways England to Southern Gas Networks plc	Request for information on C2 Buried Services and apparatus
2.	25/03/2013	Email from Southern Gas Networks plc to Highways England	Response to request for information on C2 Buried Services and apparatus
3.	10/03/2014	Invitation to attend a Preview Public Information Exhibition, to be held on 18 March 2014	Preview Public Information Exhibition as part of initial stakeholder engagement and information exercise.
4.	17/10/2014	Letter from Highways England requesting completion of land ownership confirmation questionnaire	Questionnaire to obtain confirmation that the details previously provided regarding the Scheme are still valid and to offer the opportunity to provide any updates.
5.	10/11/2014	Consultation undertaken pursuant to Section 42 of the 2008 Act.	Notification of the formal pre-application consultation between 10 November and 21 December 2014 about the Scheme in accordance with Section 42 of the Planning Act 2008.
6.	10/11/2014	Further consultation undertaken pursuant to Section 42 of the 2008 Act.	Notification of the formal pre-application consultation between 10 November and 21 December 2014 about the Scheme in accordance with Section 42 of the Planning Act 2008.
7.	10/11/2014	Consultation undertaken pursuant to Section 47 of the 2008 Act.	Details of the pre-application consultation to be held between 10 November and 21 December 2014.
8.	25/02/2015	Letter from Highways England requesting completion of land ownership confirmation questionnaire	Major Land Owner/ Utility questionnaire to obtain confirmation that the details previously provided regarding the Scheme are still valid and to offer the opportunity to provide any updates.
9.	28/05/2015	Planning Act 2008 Section 56: Notice of acceptance of an application for a development consent order	Notification of acceptance of application together with details of land which Southern Gas Networks plc have an interest

10.	28/05/2015	Planning Act 2008 Section 56: Notice of acceptance of an application for a development consent order	Notification of acceptance of application
11.	08/06/2015	Letter from Highways England regarding Freehold Land Interests	Requesting confirmation whether Southern Gas Networks plc is willing to enter into negotiating terms relating to the purchase of land
12.	17/06/2015	Letter to Southern Gas Networks plc from Highways England	Protective Provisions Letter
13.	29/07/2015	Chaser to freeholders that have not responded to request to negotiate land by agreement	Requesting confirmation whether Southern Gas Networks plc is willing to enter into negotiating terms relating to the purchase of land

PLANNING ACT 2008

THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES 2010

**THE PROPOSED M4 (JUNCTIONS 3 TO 12) (SMART MOTORWAY) DEVELOPMENT
CONSENT ORDER**

APPLICATION REFERENCE NUMBER TR010019

SUBMISSION UNDER SECTION 138 OF THE PLANNING ACT 2008

STATUTORY UNDERTAKER - SSE SERVICES PLC

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1. Introduction

- 1.1 This submission ("**Submission**") relates to the application made to the Secretary of State for Transport on 30 March 2015 under section 37 of the Planning Act 2008 ("**2008 Act**") (the "**Application**") by Highways England Company Limited ("**Highways England**") for development consent to improve some 51km (32 miles) of the M4 between junction 3 (Hayes) and junction 12 (Theale) by making it a smart motorway (the "**Scheme**"). The Application was accepted on 27 April 2015, and an Examining Authority has been appointed by the Secretary of State for Transport to examine the Application on his behalf.
- 1.2 The Submission is made by Highways England in respect of SSE Services plc to the Secretary of State for Energy and Climate Change (the "**Secretary of State**"). It is also sent to the Examining Authority in order to inform its recommendation to the Secretary of State for Transport. It is made in respect of the proposed powers within the Application that require consideration by the Secretary of State under section 138 of the 2008 Act to authorise the extinguishment of relevant rights and/or removal of relevant apparatus.
- 1.3 The Application seeks a development consent order (the "**Proposed Order**") which would confer powers of compulsory acquisition for the purposes of the Scheme. The Scheme involves permanently converting the hard-shoulder into a traffic lane (referred to as "**All Lane Running**"), and using technology to vary speed limits and manage traffic, creating extra capacity on the motorway. Signs and signals will be used to inform drivers of conditions on the highway network, when and where variable mandatory speed limits are in place, and when lanes are closed. There are a number of hard shoulder discontinuities on the M4 between junction 4 and junction 8/9, where existing bridges over or under the M4 limit the available carriageway width. It is proposed that these bridges are widened, or demolished and rebuilt, in order to enable All Lane Running along the Scheme. The Application for the Proposed Order also includes powers of compulsory acquisition for the purposes of the Scheme.
- 1.4 The Proposed Order includes powers sought in respect of, *inter alia*, the improvement of the eastbound and westbound carriageway of the M4 Motorway, and the realignment of junctions and roads and the construction of overbridges as part of the Scheme. SSE Services plc has interests in land upon which the Scheme will be constructed, as well as rights in land and relevant apparatus (as defined in section 138 of the 2008 Act).
- 1.5 This Submission is made in order to satisfy the Secretary of State, pursuant to section 138(4) of the 2008 Act, that the extinguishment of SSE Services plc's relevant right(s) or removal of its relevant apparatus are necessary for the purposes of carrying out the Scheme.

2. The Purpose of Compulsory Acquisition

- 2.1 The Proposed Order sought by Highways England seeks powers to acquire land compulsorily and to obtain new rights for the purposes of constructing, operating and maintaining the Scheme.
- 2.2 The land which is the subject of compulsory acquisition powers sought in the Proposed Order is referred to as the Order Land and is shown on the Land Plans that accompany the Application for the Proposed Order. The Land Plans are also attached to this Submission (see Appendix 4).

3. Interests Subject to this Submission

3.1 Part of the land to be acquired compulsorily comprises land or rights over land benefitting SSE Services plc for the purposes of section 138 of the 2008 Act.

3.2 The plots referenced in the Book of Reference (see Appendix 2) relevant to this Submission are as follows:

Book of Reference plot number	Acquisition permanent or temporary	Purpose for which land is required	Work No.
04-01	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
08-01	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
08-02	permanent	At motorway level: land within existing motorway boundaries retained for construction and operation of the Scheme. At river level: access for inspection and maintenance of the bridge	1a, 1b
19-02	temporary	Temporary land required for access and working space for online reconstruction of Monkey Island Lane and Monkey Island Lane overbridge	8c
07-03	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
08-03	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
19-03	permanent	Land required for the online reconstruction of Monkey Island Lane	8c
17-04	permanent	At motorway level: land within existing motorway boundaries retained for construction and operation of the Scheme. At roundabout and A404(M)	For work: 1a, 1b For access: All works within Schedule 1 to the DCO

		and A308(M) levels: land within existing highway boundary used for access to Scheme construction site, including traffic management	
21-04	temporary	Temporary land required for access and working space to construct realigned Wood Lane and new Wood Lane overbridge	14a,14b,14c
26-04	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 25, 26a, 26b
27-04	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 26a, 26b
21-05	temporary	Temporary land required for access and working space to construct realigned Wood Lane and new Wood Lane overbridge	14a, 14b, 14c
27-05	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 26a, 26b
26-07	temporary	Temporary land required for access and working space for online reconstruction of Old Slade Lane and Old Slade Lane overbridge	25, 26a, 26b
26-09	temporary	Temporary land required for access and working space for online reconstruction of Old Slade Lane and Old Slade Lane overbridge	25, 26a, 26b
07-10	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
18-10	temporary	Temporary land required for access and working space to construct	7a

		realigned Ascot Road and new Ascot Road overbridge	
21-10	permanent	Land required for the realignment of Wood Lane	14c
27-10	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 26a, 26b
21-11	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 14a, 14b, 14c
27-11	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 26a, 26b
21-12	permanent	Land required for the realignment of Wood Lane	14c
26-12	temporary	Possible temporary access or diversion route for Old Slade Lane	25
17-04a	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 6a, 6d
17-04e	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 6b, 6c
19-02a	temporary	Temporary land required for access and working space for online reconstruction of Monkey Island Lane and Monkey Island Lane overbridge	8c
19-36	temporary	Temporary land for access and working space for widening of Thames Bray underbridge to the North, including widening of the M4 and M4 embankment	9a, 9b
19-37	permanent at motorway level and permanent rights required to maintain below the motorway level and	At motorway level: land within existing motorway boundaries retained for construction and operation	1a, 1b, 9a, 9b

	temporary construction	of the Scheme. At river level and river bank level: temporary land required for widening Thames Bray underbridge	
19-37a	permanent at motorway level and permanent rights required to maintain below the motorway level and temporary construction	At motorway level: land within existing motorway boundaries retained for construction and operation of the Scheme. At river level and river bank level: temporary land required for widening Thames Bray underbridge	1a, 1b, 9a, 9b
19-37b	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme, including widening of M4 and Thames Bray underbridge to the north	1a, 1b, 9b
21-14	temporary	Temporary land required for access and working space to construct realigned Wood Lane and new Wood Lane overbridge	14a,14b,14c
23-32	temporary use of special category land	Temporary land required for access and working space for online reconstruction of Recreation Ground overbridge. The northern abutment of the new Recreation Ground overbridge will be located in this plot	20a, 20c
23-33	temporary use of special category land	Temporary land required for access to finishing works on Recreation Ground road and Recreation Ground overbridge	20c
23-34	temporary use of special category land	Temporary land required for access and working space to extend Water Main subway	21
26-04a	permanent	Land requirement for the online reconstruction of Old Slade Lane and Old Slade Lane overbridge	25

26-09a	temporary	Possible temporary access or diversion route for Old Slade Lane	25
26-13	temporary	Possible temporary access or diversion route for Old Slade Lane	25
26-17	permanent	Land requirement for the online reconstruction of Old Slade Lane and Old Slade Lane overbridge	25
26-18	temporary	Temporary land required for access and working space for online reconstruction of Old Slade Lane and Old Slade Lane overbridge	25, 26a, 26b
27-14	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 27a, 27b
27-15	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 27a, 27b
27-18	permanent	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 27a, 27b

3.3 The relevant apparatus of SSE Services plc is contained in the parcels of land listed above.

4. Documents in support of the Submission

4.1 In support of the Submission, the following documents are enclosed:

4.1.2 Appendix 1: Draft of the Proposed Order;

4.1.3 Appendix 2: Book of Reference;

4.1.4 Appendix 3: Statement of Reasons;

4.1.5 Appendix 4: Land Plans (as amended);

4.1.6 Appendix 5: Schedule of Correspondence between Highways England and SSE Services plc.

4.2 The full suite of documentation comprised in the Application for the Proposed Order is available on the National Infrastructure Planning website at the following web address:

<http://infrastructure.planninginspectorate.gov.uk/Schemes/South%20East/M4-Junctions-3-to-12-Smart-Motorway/>.

4.3 A copy of this Submission and its enclosures has been provided to SSE Services plc.

5. Section 138 of the 2008 Act

5.1 Section 138 of the 2008 Act makes provision for circumstances where a proposed development consent order provides for rights benefitting statutory undertakers to be extinguished and for their apparatus to be removed. Pursuant to the 2008 Act, a right in land is included in the concept of land. The provisions of section 138 allow the extinguishment of relevant rights - being rights of way and rights to install, keep and maintain apparatus - and the removal of apparatus. However, this is only permitted where the Secretary of State concludes that it is necessary to do so.

6. Applicant's Case under Section 138 of the 2008 Act

6.1 The case for compulsory acquisition is set out in Highways England's Statement of Reasons (Appendix 3). For the purpose of the Submission, it is Highway England's case that:

6.1.2 the acquisition of land and the creation of new rights in favour of Highways England pursuant to the Application for development consent could affect SSE Services plc's undertaking as it has infrastructure which may be affected by the Scheme;

6.1.3 the land is required for the purposes of:

6.1.3.1 the construction and operation of the Scheme;

6.1.3.2 the online reconstruction of Old Slade Lane and Old Slade Lane overbridge;

6.1.3.3 a possible temporary access or diversion for Old Slade Lane;

6.1.3.4 the extension of Water Main subway and the online reconstruction of Recreation Ground overbridge;

6.1.3.5 the construction of the realigned Wood Lane and new Wood Lane overbridge;

6.1.3.6 the online reconstruction of Monkey Island Lane and Monkey Island Lane overbridge;

6.1.3.7 the construction of the realigned Ascot Road and new Ascot Road overbridge; and

6.1.3.8 the widening of Thames Bray underbridge;

6.1.4 protective provisions appropriate for SSE Services plc's undertaking are included in the Proposed Order; and

6.1.5 the nature of the proposed works and the inclusion of protective measures in the Proposed Order means that the Secretary of State can be confident that SSE

Services plc's rights, whilst subject to interference, will not be affected to the detriment of its ability to carry out its undertaking.

- 6.2 Highways England is seeking to negotiate with SSE Services plc to acquire the rights necessary for the Scheme and manage interfaces as such by private treaty. Highways England has been in negotiations with the statutory undertaker since 11 March 2013. A schedule of the communications with SSE Services plc is provided at Appendix 5. Whilst it has not been possible to reach agreement with SSE Services plc prior to the making of this Submission, Highways England continues to progress private treaty negotiations in parallel with the compulsory acquisition process with a view to reaching an agreement as soon as possible.
- 6.3 In the absence of private treaty agreements with SSE Services plc, it is necessary to seek the proposed powers to ensure that all the land that is required to deliver the Scheme is assembled within an appropriate timeframe and interfaces with SSE Services plc's apparatus are managed appropriately. Therefore, it is necessary that the Secretary of State is satisfied that the matters in section 138(4) of the 2008 Act have been met.
7. **Submission**
- 7.1 Highways England considers that for the reasons set out in this Submission, the requirements of section 138 have been satisfied and that the proposed interference with the rights of SSE Services plc is necessary and proportionate. Highways England does not consider that it is necessary to replace the land being acquired for the Scheme.
- 7.2 Highways England respectfully requests that the Secretary of State publishes that she is satisfied that the conditions in section 138 of the 2008 Act in respect of the rights and interests of SSE Services plc in the Order Land have been met.

APPENDIX 5
Schedule of Correspondence

	Date	Type of Contact	Outcome
1.	11/03/2013	Letter from Highways England to SSE Services plc	Request for information on C2 Buried Services and apparatus
2.	19/03/2013	Email response from SSE Services plc to Highways England	Response to the request for information on Buried Services and apparatus
3.	10/03/2014	Invitation to attend a Preview Public Information Exhibition, to be held on 18 March 2014	Preview Public Information Exhibition as part of initial stakeholder engagement and information exercise.
4.	02/05/2014	Letter from Highways England requesting completion of land interest questionnaire	Questionnaire to obtain land details of interested parties who may be affected by the works.
5.	10/11/2014	Consultation undertaken pursuant to Section 42 of the 2008 Act.	Notification of the formal pre-application consultation between 10 November and 21 December 2014 about the Scheme in accordance with Section 42 of the Planning Act 2008.
6.	10/11/2014	Further consultation undertaken pursuant to Section 42 of the 2008 Act.	Notification of the formal pre-application consultation between 10 November and 21 December 2014 about the Scheme in accordance with Section 42 of the Planning Act 2008.
7.	10/11/2014	Consultation undertaken pursuant to Section 47 of the 2008 Act.	Details of the pre-application consultation to be held between 10 November and 21 December 2014.
8.	25/02/2015	Letter from Highways England requesting completion of land ownership confirmation questionnaire	Major Land Owner/ Utility questionnaire to obtain confirmation that the details previously provided regarding the Scheme are still valid and to offer the opportunity to provide any updates.
9.	10/03/2015	Email to Scottish and Southern Energy Power Distribution Limited/SSE Services plc from Highways England	Seeking clarification to the recording of buried services and apparatus
10.	11/03/2015	Internal emails with Scottish and Southern Energy Power Distribution Limited and SSE Services plc with Highways England as a copy addressee	Discussions relating to the seeking of clarification for the recording of buried services and apparatus
11.	13/03/2015	Email from Scottish and Southern Energy Power Distribution Limited/SSE Services plc with Highways England	Response to our initial enquiry regarding clarification for the recording of buried services and apparatus

12.	28/05/2015	Planning Act 2008 Section 56: Notice of acceptance of an application for a development consent order	Notification of acceptance of application together with details of land which SSE Services plc have an interest
13.	28/05/2015	Planning Act 2008 Section 56: Notice of acceptance of an application for a development consent order	Notification of acceptance of application
14.	08/06/2015	Letter from Highways England to SSE Services plc	Letter from District Valuer: Property Negotiation.
15.	06/07/2015	Email from SSE Services plc to Highways England	Email regarding negotiation of protective provisions fees
16.	29/07/2015	Letter from Highways England to South East Water	Letter from District Valuer: Property Negotiation: Follow Up

PLANNING ACT 2008

THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES 2010

**THE PROPOSED M4 (JUNCTIONS 3 TO 12) (SMART MOTORWAY) DEVELOPMENT
CONSENT ORDER**

APPLICATION REFERENCE NUMBER TR010019

SUBMISSION UNDER SECTION 127 AND SECTION 138 OF THE PLANNING ACT 2008

STATUTORY UNDERTAKER - NATIONAL GRID PLC

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1. Introduction

- 1.1 This submission ("**Submission**") relates to the application made to the Secretary of State for Transport on 30 March 2015 under section 37 of the Planning Act 2008 ("**2008 Act**") (the "**Application**") by Highways England Company Limited ("**Highways England**") for development consent to improve some 51km (32 miles) of the M4 between junction 3 (Hayes) and junction 12 (Theale) by making it a smart motorway (the "**Scheme**"). The Application was accepted on 27 April 2015, and an Examining Authority has been appointed by the Secretary of State for Transport to examine the Application on his behalf.
- 1.2 The Submission is made by Highways England in respect of National Grid plc to the Secretary of State for Energy and Climate Change (the "**Secretary of State**"). It is also sent to the Examining Authority in order to inform its recommendation to the Secretary of State for Transport. It is made in respect of the proposed powers within the Application that require consideration by the Secretary of State:
- 1.2.1 under section 127 of the 2008 Act to authorise the acquisition of land owned by and/or interest benefiting a statutory undertaker; and
- 1.2.2 under section 138 of the 2008 Act to authorise the extinguishment of relevant rights and/or removal of relevant apparatus.
- 1.3 The Application seeks a development consent order (the "**Proposed Order**") which would confer powers of compulsory acquisition for the purposes of the Scheme. The Scheme involves permanently converting the hard-shoulder into a traffic lane (referred to as "**All Lane Running**"), and using technology to vary speed limits and manage traffic, creating extra capacity on the motorway. Signs and signals will be used to inform drivers of conditions on the highway network, when and where variable mandatory speed limits are in place, and when lanes are closed. There are a number of hard shoulder discontinuities on the M4 between junction 4 and junction 8/9, where existing bridges over or under the M4 limit the available carriageway width. It is proposed that these bridges are widened, or demolished and rebuilt, in order to enable All Lane Running along the Scheme. The Application for the Proposed Order also includes powers of compulsory acquisition for the purposes of the Scheme.
- 1.4 The Proposed Order includes powers sought in respect of, *inter alia*, the widening of the carriageway, the demolition of existing bridge over the M4, the construction of a new bridge over the M4 and the realignment of local roads as part of the Scheme. National Grid plc has interests in land upon which the Scheme will be constructed, as well as rights in land and relevant apparatus (as defined in section 138 of the 2008 Act).
- 1.5 This Submission is made in order to satisfy the Secretary of State that National Grid plc's land or interest in land can be purchased and not replaced without serious detriment to the carrying on of its undertaking, pursuant to section 127(3) the 2008 Act. In addition, it seeks to satisfy the Secretary of State, pursuant to section 138(4) the 2008 Act.

2. The Purpose of Compulsory Acquisition

- 2.1 The Proposed Order sought by Highways England seeks powers to acquire land compulsorily and to obtain new rights for the purposes of constructing, operating and maintaining the Scheme.
- 2.2 The land which is the subject of compulsory acquisition powers sought in the Proposed Order is referred to as the Order Land and is shown on the Land Plans that accompany the

Application for the Proposed Order. The Land Plans are also attached to this Submission (see Appendix 4).

3. Interests Subject to this Submission

3.1 Part of the land to be acquired compulsorily comprises land or rights over land benefitting National Grid plc for the purposes of sections 127 and 138 of the 2008 Act.

3.2 The plots referenced in the Book of Reference (see Appendix 2) relevant to this Submission are as follows:

Book of Reference plot number	Acquisition permanent or temporary	Purpose for which land is required	Work No.
20-12	temporary	Temporary land required for access and working space to construct realigned Lake End Road and new Lake End Road overbridge	11a, 11b, 11c
19-62	temporary	Temporary land required for access and working space for online reconstruction of Marsh Lane and Marsh Lane overbridge	10c
20-12a	permanent	Land required for the realignment of Lake End Road	11a, 11b, 11c

3.3 The relevant apparatus of National Grid plc is contained in the parcels of land listed above.

4. Documents in support of the Submission

4.1 In support of the Submission, the following documents are enclosed:

4.1.1 Appendix 1: Draft of the Proposed Order;

4.1.2 Appendix 2: Book of Reference;

4.1.3 Appendix 3: Statement of Reasons;

4.1.4 Appendix 4: Land Plans (as amended);

4.1.5 Appendix 5: Schedule of Correspondence between Highways England and National Grid plc.

4.2 The full suite of documentation comprised in the Application for the Proposed Order is available on the National Infrastructure Planning website at the following web address:

<http://infrastructure.planninginspectorate.gov.uk/Schemes/South%20East/M4-Junctions-3-to-12-Smart-Motorway/>.

- 4.3 A copy of this Submission and its enclosures has been provided to National Grid plc.
5. **Section 127 and Section 138 of the 2008 Act**
- 5.1 Section 127 makes provision for cases where an applicant for development consent under the 2008 Act seeks the inclusion in a development consent order of provision for the compulsory acquisition of land, or a right over such land, which has been acquired by a statutory undertaker (as defined in section 127(8)) for the purpose of its undertaking. The following provisions, set out in section 127(1)(b) and (c), should apply:
- (b) *a representation has been made about an application for an order granting development consent before the completion of the examination of the application, and a representation has not been withdrawn; and*
 - (c) *as a result of the representation, the Secretary of State is satisfied that:*
 - (i) *the land is used for the purposes of carrying on the statutory undertakers' undertaking; or*
 - (ii) *an interest in the land is held for those purposes.*
- 5.2 In the circumstances, the 2008 Act provides that a development consent order including provision for compulsory acquisition of statutory undertakers' land can only be made to the extent that the Secretary of State is satisfied of the matters set out in section 127(3).
- 5.3 The matters set out in section 127(3) are that the nature and situation of the land are such that:
- (a) *it can be purchased and not replaced without serious detriment to the carrying on of the undertaking; or*
 - (b) *if purchased it can be replaced by other land belonging to, or available for acquisition by, the undertakers without serious detriment to the carrying on of the undertaking.*
- 5.4 Sub-sections (4) to (6) of section 127 make similar provision for cases where an applicant seeks to acquire new rights over statutory undertakers' land compulsorily. In such cases, a development consent order can only include such provisions where the Secretary of State is satisfied of the matters set out in section 127(6). The matters set out in section 127(6) are that the nature and situation of the land are such that:
- (a) *the right can be purchased without serious detriment to the carrying on of the undertaking; or*
 - (b) *any detriment to the carrying on of the undertaking, in consequence of the acquisition of the right can be made good by the undertakers by the use of the land belonging to or available for acquisition by them.*
- 5.5 Section 138 of the 2008 Act makes provision for circumstances where a proposed development consent order provides for rights benefitting statutory undertakers to be extinguished and for their apparatus to be removed. To an extent these provisions overlap with those of section 127 of the 2008 Act in that a right in land is included in the concept of land. The provisions of section 138 allow the extinguishment of relevant rights - being rights of way and rights to install, keep and maintain apparatus - and the removal of apparatus.

However, this is only permitted where the Secretary of State concludes that it is necessary to do so.

6. Applicant's Case under Section 127 and Section 138 of the 2008 Act

6.1 The case for compulsory acquisition is set out in Highways England's Statement of Reasons (Appendix 3). For the purpose of the Submission, it is Highway England's case that:

6.1.1 the acquisition of land and the creation of new rights in favour of Highways England pursuant to the Application for development consent could affect National Grid plc's undertaking as it has infrastructure which may be affected by the Scheme;

6.1.2 the land is required for the realignment of Lake End Road and temporarily required for access and working space to construct the realigned Lake End Road and new Lake End Road overbridge and the online reconstruction of Marsh Lane and Marsh Lane overbridge;

6.1.3 protective provisions appropriate for National Grid plc's undertaking are included in the Proposed Order; and

6.1.4 the nature of the proposed works and the inclusion of protective measures in the Proposed Order means that the Secretary of State can be confident that National Grid plc's rights, whilst subject to interference, will not be affected to the detriment of its ability to carry out its undertaking.

6.2 Highways England is seeking to negotiate with National Grid plc to acquire the rights necessary for the Scheme and manage interfaces as such by private treaty. Highways England has been in negotiations with the statutory undertaker since 10 November 2014. A schedule of the communications with National Grid plc is provided at Appendix 5. Whilst it has not been possible to reach agreement with National Grid plc for the acquisition of the necessary rights and land prior to the making of this Submission, Highways England continues to progress private treaty negotiations in parallel with the compulsory acquisition process with a view to reaching an agreement as soon as possible.

6.3 In the absence of private treaty agreements with National Grid plc, it is necessary to seek the proposed powers to ensure that all the land that is required to deliver the Scheme is assembled within an appropriate timeframe and interfaces with National Grid plc's apparatus are managed appropriately. Therefore, it is necessary that the Secretary of State is satisfied that the matters in sections 127(3) and 127(6) (and 138(4)) have been met.

7. Submission

7.1 Highways England considers that for the reasons set out in this Submission, the requirements of section 127 and section 138 have been satisfied and that the proposed interests in land and land sought by Highways England can be acquired without serious detriment to National Grid plc's operational undertaking and that interference with the rights of National Grid plc is necessary and proportionate. Highways England does not consider that it is necessary to replace the land being acquired for the Scheme.

7.2 Highways England respectfully requests that the Secretary of State publishes that she is satisfied that the conditions in sections 127 and 138 of the 2008 Act in respect of the rights and interests of the Environment Agency in the Order Land have been met.

APPENDIX 5
Schedule of Correspondence

	Date	Type of Contact	Outcome
1.	10/11/2014	Consultation undertaken pursuant to Section 42 of the 2008 Act.	Notification of the formal pre-application consultation between 10 November and 21 December 2014 about the Scheme in accordance with Section 42 of the Planning Act 2008.
2.	10/11/2014	Further consultation undertaken pursuant to Section 42 of the 2008 Act.	Notification of the formal pre-application consultation between 10 November and 21 December 2014 about the Scheme in accordance with Section 42 of the Planning Act 2008
3.	25/02/2015	Letter from Highways England requesting completion of land ownership confirmation questionnaire	Major Land Owner/ Utility questionnaire to obtain confirmation that the details previously provided regarding the Scheme are still valid and to offer the opportunity to provide any updates
4.	21/05/2015	Meeting with National Grid and Highways England	Meeting relating to assets
5.	28/05/2015	Planning Act 2008 Section 56: Notice of acceptance of an application for a development consent order	Notification of acceptance of application together with details of land which National Grid plc have an interest
6.	28/05/2015	Planning Act 2008 Section 56: Notice of acceptance of an application for a development consent order	Notification of acceptance of application
7.	02/06/2015	Telephone conversation between Highways England and National Grid	Discussion regarding National Grid C3s Electrical Part 1
8.	05/06/2015	Email from Highways England to National Grid	Following up for previous C3 discussions
9.	05/06/2015	Email from National Grid to Highways England	Continued discussions for C3 request
10.	08/06/2015	Email from Highways England to National Grid	Minutes of meeting and comments relating to assets

11.	09/06/2015	Email from National Grid to Highways England	Continued discussions for C3 estimates
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