

M4 JUNCTIONS 3 TO 12 SMART MOTORWAY

**The M4 Motorway (Junctions 3 to 12)(Smart Motorway)
Development Consent Order 201[]**

Planning Inspectorate Scheme Reference: TR010019

STATEMENT OF COMMON GROUND

between

(1) HIGHWAYS ENGLAND

and

(2) NATURAL ENGLAND

STATEMENT OF COMMON GROUND

This Statement of Common Ground has been prepared and agreed by (1) Highways England Company Limited and (2) Natural England.

Signed 
on behalf of Highways England

Signed 
on behalf of Natural England

Date: 7 October 2015

Date: 7th October 2015

CONTENTS

1	Introduction	3
2	Overview of Previous Engagement.....	7
3	Matters Agreed	10
4	Matters Not Agreed	13

1 Introduction

Purpose of Statement of Common Ground

- 1.1 This Statement of Common Ground ("SoCG") has been prepared in respect of an application ("Application") made by the Highways Agency (which has now become the "Highways England Company Limited", known as "Highways England") to the Secretary of State for Transport ("Secretary of State") for a Development Consent Order ("DCO") under section 37 of the Planning Act 2008 ("PA 2008").
- 1.2 The draft DCO is referred to as The M4 Motorway (Junctions 3 to 12) (Smart Motorway) Development Consent Order 201[*] (the "Order"). The Order would grant powers to improve the M4 motorway ("M4") to a smart motorway between junction 3 (Hayes) in west London and junction 12 (Theale), which is near Reading (the "Scheme").
- 1.3 Guidance on the purpose and possible content of SoCGs is given in paragraphs 58 - 65 of the Department for Communities and Local Government's "Planning Act 2008: Guidance for the examination of applications for development consent" (March 2015).
- 1.4 Paragraph 58 confirms the basic function of SoCGs:

"A statement of common ground is a written statement prepared jointly by the applicant and another party or parties, setting out any matters on which they agree. As well as identifying matters which are not in real dispute, it is also useful if a statement identifies those areas where agreement has not been reached. The statement should include references to show where those matters are dealt with in the written representations or other documentary evidence."

Parties to this Statement of Common Ground

- 1.5 This SoCG has been prepared by (1) Highways England as the Applicant and (2) Natural England.
- 1.6 The Application was made by the Highways Agency. On 1 April 2015, the Highways Agency became a government-owned Strategic Highways Company, limited by shares, with the Secretary of State as sole shareholder. Highways England is the new company. It is established as the highway authority in England for the strategic road network and has the necessary powers and duties to operate, manage, maintain and enhance the network. Regulatory powers remain with the Secretary of State. The

legislation establishing Highways England made provision for all legal rights and obligations of the Highways Agency, including in respect of the Application, to be conferred upon or assumed by Highways England.

- 1.7 Natural England is a non-departmental public body established under the Natural Environment and Rural Communities Act 2006. Natural England is the statutory advisor to Government on nature conservation in England and promotes the conservation of England's wildlife and natural features.

Summary of the Scheme

- 1.8 The M4 is the main strategic route between London and the west of England, and on to South Wales. Major towns and cities along the M4 include London, Reading, Swindon, Bristol, Newport, Cardiff and Swansea.
- 1.9 The M4 between junctions 3 and 12 carries over 130,000 vehicles per day, and more in places. At peak times, traffic flows on many links are close to or exceed the total flow that the link is designed to handle. This causes heavy congestion on the M4, which can lead to unpredictable journey times.
- 1.10 The Scheme will help to relieve congestion by permanently converting the hard shoulder of the M4 to a running lane and using technology to vary speed limits and manage traffic. Signs and signals will be used to inform drivers of conditions on the highway network, when and where variable speed limits are in place, and when lanes are closed.
- 1.11 The Scheme is some 51 km (32 miles) in length and will have a number of principal elements:
- 1.11.1 conversion of the hard shoulder to a permanent running lane and, where no hard shoulder is in place at present, the construction of a new lane. This will mainly take place between junction 4b and junction 8/9;
 - 1.11.2 replacement of overbridge structures where portals are too narrow to accommodate the improved motorway;
 - 1.11.3 extension of underbridges and other structures such as culverts and subways to accommodate the improved motorway;

- 1.11.4 changes to junctions and slip roads needed to accommodate traffic joining and leaving the improved motorway, and to allow use of the hard shoulder as a running lane, as well as allowing "through junction running" ("TJR");
- 1.11.5 provision of new gantries and signs to allow the motorway to function as a smart motorway with a variable speed limit, and to provide messages to road users; and
- 1.11.6 other infrastructure needed for the improved motorway, such as Emergency Refuge Areas ("ERAs"), enhanced communication systems, closed circuit television ("CCTV") and electrical supplies, as well as works to accommodate statutory undertakers' apparatus and other parties who may be affected by the Scheme.
- 1.12 The works are more particularly described in Part 1 of Schedule 1 of the Draft DCO (Application Document Reference 3.1).
- 1.13 The Application was submitted to the Planning Inspectorate on 30 March 2015, and the Planning Inspectorate, on behalf of the Secretary of State, accepted the Application on 27 April 2015.

Structure of this Statement of Common Ground

- 1.14 This SoCG has been prepared for the purposes of the Examination to be held by the Secretary of State in accordance with PA 2008. In this SoCG, Highways England has provided a summary of its assessment for each issue addressed, as recorded in the Application documentation and subsequent reports.
- 1.15 Throughout this SoCG the phrase "It is agreed..." is used as a precursor to any point of agreement that has been specifically stated to be agreed between (1) the Applicant and (2) Natural England. The phrase "It is not agreed..." is used as a precursor to any point that (1) the Applicant and (2) Natural England wish to state as clearly not yet agreed. Points that are "not agreed" will be the subject of ongoing discussion wherever possible to resolve, or refine, the extent of the disagreement between the parties.
- 1.16 This SoCG considers the items raised by Natural England in their relevant representation on the Application. The SoCG has also been drafted having regard to the list of principal issues set out at Annex B of the Examining Authority's Rule 6 letter dated 7 August 2015. However, only the principal issues of concern Natural England are addressed in this SoCG. Any of the principal issues identified which are not

specifically referenced in this SoCG are to be taken to be agreed between the parties.

1.17 This SoCG considers the following items:

1.17.1 European and Nationally designated sites; and

1.17.2 Protected species.

1.18 This SoCG considers data and assesses it in respect of the above topics and the methodologies set out in:

1.18.1 The Environmental Statement ("ES") (Application Document Reference 6.1);
and

1.18.2 The Outline Construction Environmental Management Plan (Appendix 4.2A of the ES) (Application Document Reference 6.3).

1.19 Where items in the ES and/or the accompanying technical reports are agreed, this is stated with the relevant document reference. Where items of data are new or represent an agreed variation presented in a technical report or other document, then a list of those documents is provided in Appendix 1 to this SoCG.

1.20 The assessments include a combination of desk based studies, site investigations and technical assessment work. The ES sets out mitigation and remedial measures where appropriate, concluding with a summary of the residual effects following mitigation.

2 Overview of Previous Engagement

2.1 A summary of key meetings, workshops and consultation undertaken between (1) Highways England and (2) Natural England can be found in the following tables:

Table 2.1.1: Pre-application Engagement

Date	Form of Contact	Summary
10 March 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
18 March 2014	Preview Public Information Exhibition	Did not attend
8 August 2014	Invitation to attend an Environmental Information Workshop – Scoping (1), to be held on 20 August 2014	Invitation to an information meeting to discuss the Environmental Impact Assessment (“EIA”) Scoping Report
20 August 2014	Environmental Information Workshop – Scoping (1)	Did not attend
1 September 2014	Invitation to attend an Environmental Information Workshop – Scoping (2), to be held on 12 September 2014	Invitation to an information meeting to discuss the EIA Scoping Report
3 September 2014	Scoping Opinion Response	Advice on the scope of the ES
12 September 2014	Environmental Information Workshop – Scoping (2)	Did not attend
10 November 2014	Planning Act 2008 Section 47 Notification Letter	Details of the pre-application consultation period to be held between 10 November and 21 December 2014
10 November 2014	Planning Act 2008 Section 42: Notice of statutory pre-application consultation period	Notification of the formal pre-application consultation period between 10 November and 21 December 2014 about the Scheme in accordance with Section 42 of the Planning Act 2008.

Date	Form of Contact	Summary
		Delivery of the Preliminary Environmental Information Report and Non-Technical Summary
19 December 2014	Planning Act 2008 Section 42 Consultation Response	Natural England made no comments on the information provided
6 January 2015	Invitation to attend an Environmental Information Workshop – Preliminary Environmental Information Report, to be held on 20 January 2015	Invitation to an information meeting to discuss the Preliminary Environmental Information Report
8 January 2015	Letter issued by Highways Agency with regard to the variable mandatory speed limit	Consultation response requested from Natural England with regard to the variable mandatory speed limit
20 January 2015	Environmental Information Workshop – Preliminary Environmental Information Report	Did not attend
28 January 2015	Email response from Natural England to letter issued 8 January 2015	The information provided in relation to this application does not fall within the scope of consultations of Natural England. No comment made
11 February 2015	Conference call between Highways Agency and Natural England	Discussed the information that was presented in Chapter 9 and associated appendices of the Preliminary Environmental Information Report, in preparation for agreeing a Statement of Common Ground with Natural England

Table 2.1.2: Post-application Engagement

Date	Form of Contact	Summary
6 May 2015	Letter from Highways England to Natural England	Provision of link to Consultation Report
28 May 2015	Section 56 notice of acceptance of an application for a Development Consent Order	Copy of the Section 56 letter sent to the relevant local planning authorities for information
3 July 2015	Relevant Representation	No remaining issues resulting from the Scheme
11 September 2015	Email from Highways England to Natural England	Issue of the draft SoCG
18 September 2015	Email from Natural England to Highways England	Confirmed receipt of the draft SoCG. Commented that the draft looks fine but the input of a protected species colleague will be required
18 September 2015	Email from Highways England to Natural England	Requested discussion on 5 October 2015
5 October 2015	Telephone discussion between Highways England and Natural England	Reviewed content of draft SoCG and Written Question responses
6 October 2015	Telephone discussion between Highways England and Natural England	Agreed to minor alterations relating to protected species
7 October 2015	Email from Highways England to Natural England	Issue of a revised draft SoCG

2.2 It is agreed that this is an accurate record of the key meetings, workshops and consultation undertaken between (1) Highways England and (2) Natural England in relation to the issues addressed in this SoCG.

3 Matters Agreed

3.1 European and Nationally Designated Sites

3.2 Natural England has a statutory duty to ensure that the natural environment (including European and nationally designated sites) is conserved, enhanced and managed for the benefit of present and future generations, thereby contributing to sustainable development. In the event that a “likely significant effect” on a European designated site is identified or is uncertain, the competent authority, here the Secretary of State, may need to prepare an Appropriate Assessment, under Regulation 61 of the Conservation of Habitats and Species Regulations 2010 (as amended).

3.3 An assessment of the impact of the Scheme on European and nationally designated sites due to changes in air quality has been undertaken. The forecasted changes in air quality are reported in paragraphs 6.14.32 to 6.14.37 and Tables 6.15 and 6.16 of the ES (Application Document Reference Number 6.1), and a discussion of the consequences of air quality changes on these designated sites is presented in paragraphs 9.4.10 to 9.4.105 of the ES (Application Document Reference 6.1).

3.4 It is agreed there are two European designated sites and four Sites of Special Scientific Interest (“SSSI”) within 200m of an affected road link and that these are:

3.4.1 Thursley, Ash, Pirbright and Chobham Special Area of Conservation (“SAC”);

3.4.2 Thames Basin Heaths Special Protection Area (“SPA”);

3.4.3 Chobham Common SSSI (forms part of the Thursley, Ash, Pirbright and Chobham SAC);

3.4.4 Foxlease and Ancell's Meadows SSSI;

3.4.5 Colony Bog and Bagshot Heath SSSI (forms part of the Thames Basin Heaths SPA); and

3.4.6 Sulham and Tidmarsh Woods and Meadows SSSI.

3.5 It is agreed that the Scheme will not have a “likely significant effect” upon the European sites, or result in harm to the SSSIs listed above. For all the designated sites, except the Sulham and Tidmarsh Woods and Meadows SSSI, there would either be no change or a small decrease in NO_x, comparing the Do Minimum and Do Something scenarios in the Opening Year (2022). For the Sulham and Tidmarsh Woods and Meadows SSSI, a small increase in NO_x is predicted for the worst case

scenario, which raises concentrations above the objective. However, this affects a small area of the site close to the M4 and the predicted NOx concentrations fall below the standard within 10m of the motorway. Overall, the residual effect is neutral, as described in paragraphs 9.4.103 and 9.4.105 of the ES (Application Document Reference 6.1). On this basis, there is no requirement for the competent authority to undertake an Appropriate Assessment.

3.6 It is agreed that it is appropriate to control construction dust using best practice techniques, and it is further agreed that the recommendation made in the ES (Application Document Reference 6.1) that this is secured via a planning condition if necessary is suitable. Appendix 4.2A of the ES 'Outline Construction Environmental Management Plan' (Application Document Reference 6.3) sets out the general measures to control construction dust in paragraph 6.2.1.

3.7 Protected Species

3.8 It is agreed that a European Protected Species ("EPS") licence will be required for bats and a Natural England licence will be required for badgers in relation to the following specific proposed works:

3.8.1 Bats: Disturbance of a common and soprano pipistrelle maternity roost in Beansheaf Farm Culvert, as described in paragraph 9.5.40 of the ES (Application Document Reference 6.1); and

3.8.2 Badgers: Closure of Sett No. 6 and creation of an artificial badger sett; and disturbance to Sett No. 22 to allow carriageway widening and construct a new gantry, as described in Appendix 9.3 of the ES (Application Document Reference 6.3).

3.9 It is agreed that bat and badger licence applications need to be submitted to Natural England, and that a "letter of no impediment" is required in relation to bats and an "in principal decision letter" is required in relation to badgers.

3.10 As stated in paragraph 9.4.40 of the ES (Application Document Reference 6.1), for each known great crested newt population, the need for a licence has been assessed using Natural England's 'Rapid Risk Assessment' calculator. Due to the small numbers of breeding ponds, their distance from the Order limits, and the small anticipated area of vegetation clearance in each case, the risk of an offence (i.e. direct mortality, injury or disturbance in a place of shelter or while breeding or the shelters' obstruction or destruction) is considered to be 'highly unlikely'.

- 3.11 Mitigation for other protected species is discussed (in general) in paragraphs 9.2.14 to 9.2.17 of the ES (Application Document Reference 6.1), and more specifically within each 'link to link' section of Chapter 9 of the ES (Application Document Reference 6.1). As stated in paragraph 9.2.17 of the ES (Application Document Reference 6.1), specific details of these measures will be set out within the Construction Environmental Management Plan, which is secured under Requirement 8, Schedule 2 of the Draft DCO (Application Document Reference 3.1).
- 3.12 It is agreed that there are no further issues relating to protected species for the Scheme.
- 3.13 DCO Requirements
- 3.14 Natural England has reviewed the draft requirements in Schedule 2 to the draft DCO and agrees that they are appropriate to secure the mitigation and other matters to be addressed in that Schedule.

4 Matters Not Agreed

4.1 There are no matters that are not agreed.