

THE PLANNING ACT 2008

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

TR010019

Response to First Written Questions

Section 9: Appendix E - Correspondence with SoSEFRA

Deadline II - 8 October 2015

Secretary of State for Environment, Food and Rural
Affairs
Department for Environment, Food and Rural Affairs
Nobel House
17 Smith Square
London
SW1P 3JR

Your reference

Our reference

REH/REH/351137/2
UKM/67868944.2

30 March 2015

Dear Sir

**SECTION 135 PLANNING ACT 2008 ("PA 2008")
THE M4 MOTORWAY (JUNCTIONS 3 TO 12) (SMART MOTORWAY)
DEVELOPMENT CONSENT ORDER ("ORDER")**

DLA Piper UK LLP acts for the Highways Agency ("**Agency**") in respect of its application for the Order ("**Application**"), which will, if made, grant development consent for the improvement of the M4 motorway to a smart motorway between Junctions 3 and 12 ("**Scheme**"). Whilst the Agency is an executive agency of the Secretary of State for Transport, on 1 April 2015 its powers in relation to the Application will be assumed by Highways England. Highways England is a private company, albeit owned by the Government. Consequently, we are writing to you in relation to land in which there is a Crown interest that is affected by the Application.

1. If made, the Order would authorise acquisition of land and/or interests in land. As part of the land referencing exercise, land in the ownership of the Secretary of State for Environment, Food and Rural Affairs ("**Secretary of State**") has been identified as being required by the Agency for the delivery of the Scheme, including for the purposes of environmental mitigation. The Agency wrote to you consulting you pursuant to section 42(d) PA 2008 as a person with an interest in land on 10 November 2014.
2. Land identified as affected by the Scheme, in which the Secretary of State has an interest, includes three parcels of land in the vicinity of Junction 8/9 with plot references 17-04c, 17-05 and 17-08, over which the Secretary of State holds rights to construct and maintain The Cut, as shown shaded pink and stippled on Land Plan Sheet 17, which is enclosed with this letter at Appendix A.
3. The Agency proposes to acquire the land identified above for the purposes of works associated with Work No. 1a, Work No. 1b, Work No. 6a and Work No. 6b in Schedule 1 to the Order (a copy of which is enclosed at Appendix B) ("**Works**"). Details of these Works are shown on Works Plan Sheet 17, which is enclosed with this letter at Appendix C.

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UK switchboard
+44 (0)8700 111 111



4. Section 135 of the PA 2008 provides that an order granting development consent may include provisions authorising compulsory acquisition of an interest in Crown land only where it is an interest which is for the time being held otherwise than by or on behalf of the Crown and where the appropriate Crown authority has consented to the acquisition. Further section 135(2) PA 2008 provides that an order granting development consent may include any other provision applying in relation to Crown land, or rights benefiting the Crown, only if the appropriate Crown authority consents to the inclusion of the provision.
5. The Agency considers that the Secretary of State is capable of being an appropriate Crown authority for the purposes of section 135 PA 2008.
6. We should be grateful if you could confirm that, for the purposes of section 135 PA 2008 only, the Secretary of State consents to the inclusion of powers of compulsory acquisition in the Order, in relation to the land identified above, and the provisions therein generally in relation to Crown land.
7. However, if the Secretary of State is not willing to give the consent sought in accordance with paragraph 6, we should be grateful if you would please confirm the position and any amendments to the Order which you may require so that the consent can be granted, which will then be considered by the Agency. We look forward to receiving your response as soon as you are able.

Please do not hesitate to contact Howard Bassford at howard.bassford@dlapiper.com or on 0207 796 6969 or Emma Harling-Phillips at emma.harling-phillips@dlapiper.com or on 0207 153 7554 should you wish to discuss this matter further.

Yours faithfully

DLA Piper UK LLP.

DLA PIPER UK LLP

Encs.



DLA Piper UK LLP
3 Noble Street
London
EC2V 7EE
United Kingdom
DX 33866 Finsbury Square
T +44 20 7153 7400
F +44 20 7796 6312
W www.dlapiper.com

Secretary of State for Environment, Food and Rural Affairs **Your reference**

Department for Environment, Food and Rural Affairs **Our reference**

Nobel House
17 Smith Square
London
SW1P 3JR

REH/REH/366530/1
UKM/70131798.1

27 July 2015

By Post Only

Dear Sir

**SECTION 135 PLANNING ACT 2008
THE M4 MOTORWAY (JUNCTIONS 3 TO 12) (SMART MOTORWAY)
DEVELOPMENT CONSENT ORDER
PLANNING INSPECTORATE APPLICATION REFERENCE NUMBER
TR010019**

We write further to our letter of 30 March 2015 to the Secretary of State for Environment, Food and Rural Affairs (the "**Secretary of State**") regarding the Highway Agency's, now Highways England's, application for the M4 Motorway (Junctions 3 to 12) (Smart Motorway) Development Consent Order (the "**Order**"). The Application was accepted for Examination by the Planning Inspectorate, on behalf of the Secretary of State for Transport, on 27 April 2015. Highways England wrote to you on 28 May 2015 giving you notice of the acceptance of the Application pursuant to s.56 of the Planning Act 2008 (the "**2008 Act**").

As noted in our letter of 30 March 2015 (a copy of which is enclosed for your reference), Highways England is seeking the Secretary of State's consent pursuant to s.135 of the 2008 Act for the inclusion of powers of compulsory acquisition in the Order, in relation to the land identified in which the Secretary of State has an interest, and the provisions therein generally in relation to Crown land.

We should be grateful if the Secretary of State would confirm her position in relation to the above, and any amendments to the Order which she may require so that the consent can be granted. Highways England is seeking to resolve this matter prior to the commencement of the Examination into the Order in September 2015, and therefore looks forward to hearing from you as soon as possible.

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Please do not hesitate to contact Emma Harling-Phillips at emma.harling-phillips@dlapiper.com or on 0207 153 7554 should you wish to discuss this matter further.

Yours faithfully

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Enc.