

THE PLANNING ACT 2008

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

PINS REFERENCE NO: TR010019

Position Paper on Statements of Common Ground Deadline III - 5 November 2015

Introduction

1. As part of the submissions for Deadline III, Highways England has been asked to provide an update on Statements of Common Ground ("**SoCG**") that have been concluded between Highways England and various parties. Since the last submission, a number of additional SoCG have been agreed. Details of these signed SoCG are as follows:
 - 1.1 Buckinghamshire County Council ("**BCC**") - A SoCG was signed by Highways England on 2 November 2015 and Buckinghamshire County Council on 3 November 2015, a copy of which is provided. A meeting between Highways England and BCC is scheduled for 12 November 2015 to discuss matters not agreed regarding traffic modelling and Old Slade Lane overbridge.
 - 1.2 Earley Town Council ("**ETC**") - A signed version of the SoCG was provided at Deadline II. This showed tracked changed text requested by ETC, in relation to one matter which is not agreed. ETC returned the signed SoCG to Highways England on 8 October 2015. However, this draft did not have the words 'Without Prejudice' removed. An email from ETC was provided with the SoCG at Deadline II that confirmed that it had agreed the draft as submitted. A clean, signed version of the SoCG was submitted to the Examining Authority on 16 October 2015.
 - 1.3 Transport for London ("**TfL**") and the Greater London Authority ("**GLA**") - A draft SoCG was sent to the GLA and TfL on 11 September 2015. The GLA and TfL wrote to Highways England by email dated 8 October 2015 agreeing the draft SoCG. However, a signed SoCG was not provided with that email. A version signed by Highways England on 8 October 2015 and TfL and GLA on 12 October 2015 was submitted to the Examining Authority on 16 October 2015.

- 1.4 Reading Borough Council (“**RBC**”) - A SoCG signed by both parties on 8 October 2015 was provided to the Examining Authority at Deadline II. RBC returned the signed SoCG to Highways England on 8 October 2015. However, this draft did not have the 'Draft' watermark or the words 'Without Prejudice' removed. An email from RBC was provided with the SoCG at Deadline II that confirmed that it agreed the draft as submitted. A clean, signed version of the SoCG was submitted to the Examining Authority on 16 October 2015.
2. A number of SoCG remain outstanding and a summary of the current position on each is provided below:
- 2.1 Slough Borough Council (“**SBC**”) - A draft SoCG was submitted to SBC on 14 September 2015. Following receipt of the draft SoCG, SBC sought additional information from Highways England, which was provided. Highways England sought a response from SBC on the draft SoCG and was told by the Council on 8 October 2015 that it was working on completing its Local Impact Report ("LIR") in respect of the Scheme and would provide comments on the SoCG once the LIR had been submitted. On 30 October 2015 SBC confirmed that the draft SoCG had been reviewed and a revised draft was being prepared for discussion. On the 2 November 2015 SBC provided comments on all sections of the draft SoCG with the exception of Air Quality and Noise. SBC provided the remaining comments on 3 November 2015. Highways England are currently reviewing these comments and will be responding to SBC shortly. Highways England will keep the Examining Authority updated on the progress of the SoCG with SBC and hopes to be able to provide the Examining Authority with a signed SoCG prior to the Hearings.
- 2.2 The London Borough of Hillingdon (“**LBHi**”) - A draft SoCG was sent to the LBHi on 14 September 2015. A subsequent meeting to progress this SoCG was held between Highways England and the LBHi on 21 September 2015. Prior to and following this meeting, Highways England continued to engage with the LBHi, providing information which sought to address the Council's concerns. The LBHi provided an amended version of the SoCG on 8 October 2015. The changes to the draft SoCG were extensive and included revisions to the original wording, which also purported to amend Highways England's own position. It was not possible in the time available to review the amendments made by the LBHi or provide a response to both the Council and the ExA on the updated draft. Since Deadline II Highways England has been reviewing the amendments to the SoCG proposed by LBHi as well as responding to LBHi’s LIR which details its concerns further. Highways England

completed this work on 5 November 2015 and provided a revised draft of the SoCG to LBHi for its review. Highways England will keep the Examining Authority updated on the progress of the SoCG with LBHi and hopes to be able to provide the Examining Authority with a signed SoCG prior to the Hearings.

- 2.3 Wokingham Borough Council ("**WBC**") - A draft SoCG was provided to WBC Council on 13 September 2015. Additional information was requested by WBC, which was provided to the Council by Highways England. Initial comments were received from WBC on 25 September and 1 October 2015. A revised draft of the SoCG was sent to Wokingham Borough Council on 1 and 2 October 2015. Further comments were provided by WBC on 5 and 6 October 2015 and an amended draft SoCG returned by Highways England on 16 October 2015. WBC provided ecology comments on 19 October 2015 and a meeting was held on 21 October 2015 to discuss the Council's concerns in relation to archaeology. On 23 October 2015 WBC sought a response from Highways England on progress relating to re-issuing an updated SoCG. On 4 October 2015 WBC provided further ecology comments. Highways England provided a revised draft of the SoCG, along with a response to WBC's request for additional traffic data, on 5 November 2015. Highways England will keep the Examining Authority updated on the progress of the SoCG with WBC and hopes to be able to provide the Examining Authority with a signed SoCG prior to the Hearings.
- 2.4 Royal Borough of Windsor and Maidenhead ("**RBWM**") - The SoCG was drafted based upon the relevant representations submitted by RBWM and provided for its consideration on 11 September 2015. Following a subsequent follow up email, a response note was received from RBWM on 29 September 2015. Highways England has prepared a revised draft SoCG based upon the content of RBWM's note, which will be issued to RBWM once Highways England's response to RBWM's note has been submitted to the Examining Authority at Deadline III. Highways England will keep the Examining Authority updated on the progress of the SoCG with RBWM and hopes to be able to provide the Examining Authority with a signed SoCG prior to the Hearings.
- 2.5 The London Borough of Hammersmith and Fulham ("**LBHF**") - A draft SoCG was sent to LBHF on 11 September 2015. LBHF wrote to Highways England by email dated 30 September 2015 confirming that it was content with the draft SoCG provided. On 22 October LBHF confirmed that all their concerns had been resolved and they requested an updated SoCG to be provided for signing by their director.

Highways England redrafted the SoCG moving traffic and modal shift sections into matters agreed and re-issued the draft to LBHF on 26 October 2015. A signed version has not yet been returned by LBHF. Highways England will keep the Examining Authority updated on the progress of the SoCG with LBHF and hopes to be able to provide the Examining Authority with a signed SoCG prior to the Hearings.

- 2.6 Environment Agency ("EA") - Highways England provided the EA with a draft SoCG on 13 September 2015. Highways England wrote to the EA on 16 September 2015 requesting a meeting to discuss the draft SoCG. That meeting took place on 25 September 2015. Prior to, and following, that meeting various pieces of information were provided to the EA to inform its consideration of the draft SoCG. Initial comments on the draft SoCG were provided by the EA on 2 October 2015. Further information was provided by Highways England in response to those comments, which led to a revised draft of the SoCG being provided by the EA on 8 October 2015. It was not possible in the timeframe provided to fully review the amendments made by the EA or provide a response to both the EA and the Examining Authority on the updated draft SoCG for Deadline II. Highways England has continued discussion with the EA since Deadline II and held a meeting with them to discuss outstanding issues on 28 October 2015. Highways England issued a revised draft SoCG on 2 October 2015 and, following further discussion, the EA issued the following statement on 5 November 2015, which they asked to be submitted to the ExA:

“Following exchanges of the draft Statement of Common Ground on 2 and 8 October 2015 Highways England and the Environment Agency have been liaising on the issues of concern and agreement between the parties. This has included the provision of further evidence and clarification by Highways England and flood data and associated correspondence by the Environment Agency. A further meeting between the two parties was held on 28 October 2015. At that meeting it was agreed that Highways England would provide revised copies of flood risk assessment and Statement of Common Ground for the Environment Agency’s consideration. A revised draft statement of common ground was sent to the Environment Agency on 2 November 2015. Due to Environment Agency IT issues this was received on 3 November 2015. A revised FRA was submitted on 4 November 2015. It is not possible in the timeframe provided to fully review the amendments made by HE or provide a response to both HE and the Examining Authority on the updated draft statement of common ground. The parties will keep the Examining Authority updated on the

progress with the statement of common ground and hope to be able to provide the Examining Authority with a signed copy on or before Friday 13 November 2015.”

Highways England can confirm that this is an accurate reflection of its position with the EA.

Public Health England

3. A draft SoCG was sent to Public Health England ("**PHE**") on 13 September 2015. However, PHE responded by letter dated 8 October 2015, stating that it preferred to provide comments in the form of a letter rather than a SoCG. That letter was provided to the ExA at Deadline II. Highways England has felt it necessary to comment on a number of points made by PHE in its letter of 8 October 2015, and has provided that response at Appendix 1 to this Position Paper.

DLA Piper UK LLP

On behalf of Highways England

5 November 2015

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Position Paper on Statements of Common Ground

Appendix 1

Response to Public Health England's Letter of 8 October 2015

Deadline III - 5 November 2015

Thank you for providing a draft statement of common ground (SOCG) relating to the above development. Where possible Public Health England (PHE) prefers to provide comments in the form of a letter rather than a SOCG.

We have reviewed the submitted Statement of Common Ground and can confirm the following :-

Matters with which PHE is in agreement

1. ***Methodologies used for the Assessment of Health Impacts via Air, Land and Water.***
 - 1.1 *It is agreed that the methodologies used for the assessment of health impacts via air, land and water are appropriate (refer to Chapters 6, 10 and 15 of the ES respectively) (Application Document Reference 6.1).*

Air quality

- 1.2 *As described in paragraph 6.2.25 of the Environmental Statement (Application Document Reference 6.1), the air quality objectives¹, which form the basis of the assessment of the impact of the Scheme on air quality, are selected based on the way they affect human health, with mean annual objectives relating to chronic impacts on human health and 24 hour objectives relating to acute impacts on human health. Paragraph 6.2.81 of the ES (Application Document Reference 6.1) explains that sensitive receptors have been selected based on locations where people will be present, given the potential impact of air quality on human health. It is agreed that the approach set out in the ES (Application Document Reference 6.1) is suitable to assess the impacts of the Scheme on air quality as it affects human health.*

Land Contamination

- 1.3 *It is agreed that likely impacts to areas of land contamination can be managed or mitigated by the use of good construction practice which are included in the Outline Construction Environmental Management Plan (Appendix 4.2A of the ES) (Application Document Reference 6.3), which is secured by a requirement in the DCO. Whilst the Scheme has the potential to impact on several source protection zones, Public Health England acknowledges that this issue predominately falls under the statutory remit of the Environment Agency.*

Highways England Comment

- 1.3.1 Highways England acknowledges and appreciates Public Health England's agreement on the above matters and confirms that matters relating to land contamination and source protection zones are being addressed with the Environment Agency.

2. *Assessment of Potential Impacts on Human Health*

- 2.1 *It is agreed that the ES (Application Document Reference 6.1) does not contain a specific section summarising the potential impacts on human health. Public Health England considers that such a section would provide a focus which ensures that public health is given adequate consideration. However, it is agreed that impacts on health are addressed in the various topic-specific chapters of the ES (Application Document Reference 6.1) in accordance with the National Networks National Policy Statement as follows:*

Air quality.

- 2.2 *An overview of the Scheme-wide impacts on air quality is presented in paragraphs 6.4.1 to 6.4.5 of the ES (Application Document Reference 6.1), followed by the results of the assessment of the Scheme on the local air quality on a link-by-link basis in Sections 6.5 to 6.13 of the ES (Application Document Reference 6.1), and for receptors along off-Scheme roads in Section 6.14 of the ES (Application Document Reference 6.1). The modelling results for individual receptors are presented on Drawings 6.1 to 6.35 (Application Document Reference 6.2) and tabulated in Appendix 6.6 (Application Document Reference 6.3).*

3. *Assessment of Electromagnetic Field Impacts*

- 3.1 *Public Health England notes that electromagnetic field ("EMF") impacts have not been addressed. Highways England technology equipment must comply with TR1100 'General Specification for Motorway Signs, Signalling and Communications Equipment'. Within this specification it requires equipment to be capable of meeting the acceptance criteria of the tests listed in BS EN 50293 'Road traffic signal systems electromagnetic compatibility'. TR1100 also states that "Equipment shall comply with the requirements current at the date of tender of relevant European Directives and UK legislation, in particular those related to Product Liability, Safety, Electromagnetic Compatibility (EMC), Waste Management and Restrictions on the use of Hazardous Substances".*

Highways England Comment

- 3.1.1 The issue of electromagnetic fields has been addressed in paragraph 4.2.4 of the Health Impact Assessment ("HIA"), which has been submitted at Deadline III. Paragraph 4.2.4 of the HIA states that "*Highways England's technology*

equipment complies with TR1100 ‘General Specification for Motorway Signs, Signalling and Communications Equipment’. Within this specification it requires equipment to be capable of meeting the acceptance criteria of the tests listed in BS EN 50293 ‘Road traffic signal systems electromagnetic compatibility’. TR1100 also states that “Equipment shall comply with the requirements current at the date of tender of relevant European Directives and UK legislation, in particular those related to Product Liability, Safety, Electromagnetic Compatibility (“EMC”), Waste Management and Restrictions on the use of Hazardous Substances”. The motorway communication equipment installed on the strategic road network is manufactured bespoke for Highways England and, as part of Highways England's procurement process, is required to comply with TR1100 (that prevents electromagnetic interference). Consequently, all such equipment installed for the Scheme will be TR1100 compliant and therefore Highways England can confirm that the Scheme does not result in the movement or construction of any significant sources of electromagnetic field (“EMF”).

- 3.2 *In the recently submitted Health Impact Assessment, Highways England confirms that the proposed scheme does not result in the movement or construction of any significant sources of EMF. On this basis PHE can confirm that the assessment is sufficient to cover possible EMF impacts. Whilst it would be preferable if the applicant had provided more detail, the statement that the equipment shall comply with relevant European Directives and UK legislation, including those on safety, can be taken as providing the necessary assurance.*

Highways England Comment

- 3.2.1 Highways England welcomes Public Health England’s agreement on the above matters

4. ***Development Consent Order Requirements***

- 4.1 *Public Health 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.*

Highways England Comment

- 4.1.1 Highways England welcomes Public Health England’s agreement on this matter.

Limitations of the PHE response

PHE is a statutory consultee for applications which fall under the provisions of the Nationally Significant Infrastructure Planning (NSIP) regime. Our statutory remit in these consultations covers applications likely to involve chemicals, poisons or radiation which could potentially cause harm to

people and are likely to affect significantly public health. For this reason PHE will not provide comments on the following matters included in the draft SOCG.

4.2 *Aspects of the application relating to noise exposure/mitigation.*

Highways England Comment

4.2.1 Highways England notes that this does not fall within Public Health England's remit.

4.3 *In the case of road drainage and the water environment PHE believes that, unless a credible risk to public health has been identified as part of the assessments, The Environment Agency is better placed to provide comments associated with this aspect of the proposed development.*

Highways England Comment

4.3.1 Highways England has not identified in its assessment any serious risk to public health caused by the road drainage system.

4.3.2 During operation of the Scheme rainfall runoff will be collected by a drainage system that is described in paras 1.2.1 to 1.2.3 of the Drainage Strategy Report (Document Reference 7.5). The Strategy involves utilising existing drainage infrastructure where possible, including outfalls, with the most significant modification of the existing system needed in the central reserve and in the verges. New drainage infrastructure will also be required where Emergency Refuge Areas (ERAs) are created, and will connect into the existing systems.

4.3.3 Details of mitigation measures to be built into the drainage system are provided in para 1.3.16 of the Drainage Strategy Report (Document reference 7.5). No new outfalls are to be created, discharges from all existing outfalls will not exceed current rates and volumes and drainage from ERAs will pass through oil interceptors prior to discharge. Also, following a full survey of the existing drainage system, which will be completed prior to the commencement of construction, areas where repairs or replacement of drainage infrastructure is needed would be identified and this work undertaken.

4.3.4 This approach would ensure that drainage standards and run-off catchments are maintained to the same as existing as a minimum and that there will be no increase in risk to public health.

4.3.5 Highways England confirms that other matters related to the drainage arrangements for the Scheme are being considered and progressed with the Lead Local Flood Authorities.