

1 Summary

- 1.1.1 This Statement of Reasons ("Statement") relates to an application for development consent to the Secretary of State for Transport ("Secretary of State") ("Application") made by the Highways Agency ("Agency") to authorise the improvement of the M4 Motorway ("M4") between Junctions 3 and 12 in order to upgrade it to a smart motorway ("Scheme"). The Scheme is some 51km (32 miles) in length, between junctions 3 and 12 of the M4, and will be a nationally significant infrastructure project ("NSIP") as defined in section 14 of the Planning Act 2008 ("PA 2008").
- 1.1.2 This Statement has been prepared in accordance with the requirements of Regulation 5(2)(h) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 ("APFP Regulations") and the *Planning Act 2008 - Guidance related to procedures for the compulsory acquisition of land* (Department for Communities and Local Government September 2013) ("Guidance").
- 1.1.3 Section 2 provides a detailed introduction to the Scheme and the Application. It also addresses the relevant policy background to the Scheme, so far as relevant to this Statement of Reasons.
- 1.1.4 Section 3 provides a detailed description of the Scheme.
- 1.1.5 Section 4 describes the scope of compulsory acquisition powers that are being sought to be included in the development consent order ("DCO") that would authorise the Scheme, together with an assessment of the Scheme against the relevant legislative background.
- 1.1.6 Section 5 explains the purpose of the Application and provides background information in respect of the Agency.
- 1.1.7 Section 6 describes the location of the Scheme, provides detail as to the surrounding area and describes the land that will be subject to the powers of compulsory acquisition contained in the DCO, if made.
- 1.1.8 Section 7 addresses the matters that the Secretary of State must have regard to when deciding whether to include powers of compulsory acquisition in the DCO. This section concludes that the powers of

compulsory acquisition sought by the Agency are necessary for the delivery of the Scheme, justified, proportionate and in the public interest.

- 1.1.9 Section 8 describes special considerations in respect of the Scheme, such as Crown land, special category land and other consents that are required for the delivery of the Scheme. This section concludes that special parliamentary procedure is not required for the Scheme and that there are no impediments to the delivery of the Scheme.
- 1.1.10 Section 9 addresses the Human Rights Act and the European Convention on Human Rights. This section concludes that the inclusion of powers of compulsory acquisition in the DCO would not constitute any unlawful interference with convention rights.

2 Introduction

2.1.1 The Application is for a DCO. If made by the Secretary of State, the M4 Motorway (Junctions 3 to 12) (Smart Motorway) Development Consent Order 201[*] will authorise the improvement of some 51km (32 miles) of the M4 between junctions 3 to 12. The Scheme has a number of principal elements:

- a) conversion of the hard shoulder of the M4 to a permanent running lane and, where no hard shoulder is in place at present, the construction of a new lane. This widening will mainly take place between junctions 4b and 8/9;
- b) replacement of overbridge structures that are too narrow to accommodate the improved motorway;
- c) extension of underbridges and other structures such as culverts and subways to accommodate the improved motorway;
- d) changes to junctions and slip roads needed to accommodate the improved motorway, and use of the hard shoulder as a running lane, as well as allowing "through junction running";
- e) 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
- f) other infrastructure needed for the improved motorway, such as enhanced communication systems, closed circuit television and electrical supplies, as well as environmental mitigation works, and works to accommodate statutory undertakers and other parties who may be affected by the Scheme.

2.1.2 The National Policy Statement for National Networks ("NN NPS") was designated on 14 January 2015. The NN NPS states that the Government's strategic policy objective is to:

- a) *deliver national networks that meet the country's long-term needs; supporting a prosperous and competitive economy and improving overall quality of life, as part of a wider transport system. This means:*

- b) *Networks with the capacity and connectivity and resilience to support national and local economic activity and facilitate growth and create jobs.*
- c) *Networks which support and improve journey quality, reliability and safety.*
- d) *Networks which support the delivery of environmental goals and the move to a low carbon economy.*
- e) *Networks which join up our communities and link effectively to each other.*

2.1.3 These strategic aims are reflected in the objectives of the Scheme, which are to:

- a) reduce congestion, smooth the flow of traffic to improve journey times and make journeys more reliable;
- b) support and enhance the role of the M4 as a major national and inter-urban regional transport artery;
- c) support the economy and facilitate economic growth within the regions by providing much-needed capacity on the motorway;
- d) continue to deliver a high level of safety performance of the network using smart motorway techniques; and
- e) deliver environmental improvements and mitigation where appropriate and required.

2.1.4 The Scheme lies wholly within England and includes the alteration and improvement of a highway for which the Secretary of State is the highway authority. The area of development for the Scheme is greater than 15 hectares and the improvement of the highway is likely to have a significant effect on the environment. As such, the Scheme is classified as a NSIP for the purposes of sections 14(1)(h) and 22 of the PA 2008. Under section 37 of the PA 2008, an application for development consent is required to authorise the alteration or improvement of such a highway. Consequently, the Agency has made the Application to the Secretary of State (by way of the Planning Inspectorate) of which the draft DCO forms part.

- 2.1.5 This Statement accompanies the Application and has been prepared in accordance with section 37(3)(d) of PA 2008, Regulation 5(2)(h) of the APFP Regulations and the Guidance. It forms part of the documents supporting the Application, submitted in accordance with section 55 of PA 2008 and Regulation 5 of the APFP Regulations.
- 2.1.6 The Statement is part of a suite of Application documents, which are listed in the Guide to the Application (**Doc. ref. 1.4**). These Application documents, such as the:
- a) Land Plans (**Doc. ref. 2.2**);
 - b) Book of Reference (**Doc. ref. 4.3**);
 - c) Environmental Statement (**Doc. ref. 6.1**) ("ES"); and
 - d) Planning Statement (**Doc. ref. 7.1**)
- inform this Statement and should be read alongside it.
- 2.1.7 This Statement has been submitted on the basis that the DCO, if made, confers upon the Agency the following powers in respect of land required in order to deliver the Scheme ("Order land"):
- a) compulsory acquisition of estates in land (Article 20);
 - b) compulsory acquisition of rights (Article 22);
 - c) extinguishment of private rights over land (Article 24);
 - d) compulsory acquisition of subsoil or airspace only (Article 26);
 - e) compulsory acquisition of rights under or over streets (Article 28);
 - f) temporary use of land for carrying out the Scheme (Article 29); and
 - g) temporary use of land for maintaining the Scheme (Article 30).
- 2.1.8 These powers are further described in section 3 of this Statement.
- 2.1.9 In accordance with the requirements of the APFP Regulations and the Guidance, the Agency has provided the following documents relating to the compulsory acquisition powers sought as part of the Application:

- a) this Statement;
- b) a statement to explain how the proposals contained in the Order for compulsory acquisition will be funded (the "Funding Statement" (**Doc. ref. 4.2**));
- c) Land Plans, which show the land over which it is proposed to exercise compulsory acquisition powers (**Doc. ref. 2.2**); and
- d) the Book of Reference (**Doc. ref. 4.3**).

2.1.10 The Order land is more fully described in section 6 of this Statement.

2.1.11 The Agency considers that there is a compelling case in the public interest for the inclusion in the DCO of compulsory acquisition and temporary possession powers, which will enable the Agency to secure any outstanding land interests and rights that cannot be acquired by agreement and are required to facilitate the delivery of the Scheme. That compelling case is articulated in this Statement and is evidenced further in the wider documentation comprising the Application.

3 Description of the Scheme

- 3.1.1 The Scheme is approximately 51km (32 miles) in length from junction 3 (Hayes) to junction 12 (Theale) of the M4. It will result in the conversion of the hard shoulder of the M4 to a permanent running lane, while providing the necessary signing and technology to manage traffic using variable mandatory speed limits. This will require the construction of gantries with lane specific, variable message signs. A motorway with these features is referred to as a “smart motorway”.
- 3.1.2 The majority of the works along the motorway corridor will be within land currently owned by the Secretary of State. Additional land will be required permanently to accommodate the Scheme, such as for side road realignment at overbridges and underbridge widening. This will be kept to the minimum area required. Land will also be required temporarily for access, storage and construction activities, and will be reinstated to its former use on completion of construction.
- 3.1.3 An overview of the general approach to the Scheme, describing the principles of through junction running (“TJR”) and the general works required to structures along the M4 is provided in section 4.2 of chapter 4 of the ES (Doc. Ref. 6.1), and further detail can be found in the Engineering and Design Report (**Doc. Ref. 7.3**), which accompanies the Application. The preliminary design of the Scheme is illustrated in the Scheme Plans (Drawings 4.1 and 4.2 to the ES (**Doc. Ref. 6.2**)). The Order limits of the Scheme are depicted on Drawings 1.1 to the ES (**Doc. Ref. 6.2**)).
- 3.1.4 The majority of the M4 within the Scheme will be converted to four-lane all lane running (“ALR”). In addition, five-lane carriageways are proposed between junction 4b and junction 4 (which currently has four lanes in each carriageway) to provide additional capacity for traffic exiting/joining the main carriageway, whilst enabling TJR at junction 4. Five lanes will also be provided on the eastbound carriageway from Sutton Lane overbridge (east of junction 5) to junction 4b. This will give additional diverge capacity for traffic leaving the M4 to join the M25. These lanes are shown on the Scheme Plans (Drawings 4.1 and 4.2 to the ES (**Doc. Ref. 6.2**)).
- 3.1.5 For a motorway with ALR, emergency refuge areas (“ERAs”), which are similar to laybys, are required to provide a safe area for vehicles to stop in an

emergency without interrupting the flow of traffic. The current design for the Scheme is for 33 ERAs, no more than 2.5km apart, as indicated on the Scheme Plans (Drawing 4.1 to the ES (**Doc. Ref. 6.2**)). These will measure 100m in length (25m entry taper, 30m full width, and 45m exit taper) and will be a minimum of 4.6m wide. So far as possible, they will be built on existing highway verges and within the existing highway boundary (and hence within the ownership of the Secretary of State). Police observation platforms (“POPs”), providing a safe area for stationary police vehicles, will be positioned adjacent to some ERAs.

- 3.1.6 The provision of TJR along the route corridor allows long distance, through traffic to remain in the nearside lane (“lane 1”) and not make successive lane changes, prior to and after each junction. This reduces the number of lane changes and the associated hazards. TJR is the preferred operating regime for ALR schemes, with the exception of motorway-to-motorway interchanges (i.e. junctions 4b and junction 10) and at junctions at either end of the Scheme (i.e. junction 3 and junction 12), where the Scheme ties back into the existing lane configuration. TJR is proposed at junctions 11, 8/9, 7, 6, 5 and 4 (as shown on Drawing 4.1 to the ES (**Doc. Ref. 6.2**)), and at the Reading Motorway Service Areas.
- 3.1.7 For much of the length of the Scheme it will be necessary to widen the existing carriageway of the M4 by 200mm to 500mm. This will be done within the existing central reserve. Other features of the Scheme in the central reserve and offside lanes are:
- a) a hard surface and a rigid concrete barrier (“RCB”) will be installed for the full length of the central reserve. This will minimise the requirement for future maintenance work in the centre of the motorway, which has benefits for road worker safety;
 - b) the existing central reserve drainage system will be replaced with surface water channels or linear drains; and
 - c) new replacement lighting will be provided in currently lit sections of the Scheme. Lighting columns will be mounted on top of the new concrete barrier to carry light emitting diode (“LED”) luminaires 12m above the carriageway.

3.1.8 Where necessary, the existing hard shoulder will be strengthened to enable it to carry motorway traffic. Other features of the Scheme in the verges and nearside lanes are:

- a) underground ducts, jointing chambers and control cabinets will be installed in the verge to carry the cables required for the new signals and other technology;
- b) new steel safety barriers will be installed around hazards in the verge such as bridge abutments, gantries and large signs;
- c) drainage in the verge will be modified and improved as required to accommodate ALR and to suit the new gantries, ERAs and other features. This will involve replacing some sections of verge drainage with new linear drains. Existing kerbs and gullies will be replaced with a “combined kerb” drainage system which comprises hollow kerb units with regular inlets to allow the surface water in. Spillage control devices and other pollution interceptors will be provided at all ERA sites, prior to the outfalls;
- d) new replacement verge lighting will be provided at the junction slip roads; and
- e) existing environmental barriers will be retained or replaced. In some locations it will be necessary to take down the existing barriers during construction either to relocate them or to create temporary working space. Additional barriers will be provided in some areas to mitigate noise. Where barriers are taken down to create working space, temporary replacement barriers will be erected.

3.1.9 Some carriageway and earthworks widening will be required at junctions to accommodate the slip roads, and in areas where there is no existing hard shoulder.

3.1.10 On completion of the central reserve and verge phases of construction, the M4 will be resurfaced where required to ensure that all lanes of both carriageways are surfaced using a thin surface course system (“TSCS”), which is classified as low-noise surfacing. This will reduce the noise impact of the Scheme and will minimise the need for further maintenance work in the five years after Scheme opening.

- 3.1.11 The structures on the M4 from junction 8/9 to junction 4b were mostly built during the 1960s to accommodate a dual two lane motorway. In the 1970s the motorway was widened to dual three-lanes, but the structures were generally not modified. This resulted in the hard shoulder being discontinuous at some overbridges and some underbridges. Provision of ALR will require these constraints to be removed so that the hard shoulder can function as a continuous running lane.
- 3.1.12 Areas of vegetation lost to construction activities will, where possible, be re-planted using local species that are considered appropriate to the nature of the soil and with due regard to ecological requirements. In the medium to long-term, this planting will mature to provide habitats and visual screening, which will replace the vegetation removed.
- 3.1.13 Overhead signs will be mounted on gantries to provide drivers with information and to help them select the most appropriate lane.
- 3.1.14 Operation of the smart motorway will be controlled via LED signals, which will be mounted on overhead gantries, or pole mounted in the verge of slip roads.
- 3.1.15 Remotely controlled temporary traffic management (“TTM”) signs will be provided to support TTM, to allow for future maintenance activities. These will be located in the central reserve or on the verges and can be turned on remotely to warn road users of lane closures ahead.
- 3.1.16 Approximately 130 Pan, Tilt and Zoom closed circuit television cameras (“CCTV”) installed on 15m masts will be provided to ensure there is full coverage of all driving lanes. This enables Traffic Officers at the Agency’s existing Regional Control Centre at South Mimms to manage incidents and set the appropriate signs and signals.
- 3.1.17 Gantry structures are required to support overhead signs, signals, CCTV, vehicle detection and speed limit enforcement equipment. Existing gantries will be retained where possible. However, in some cases existing gantries will be demolished and new ones provided.

4 Powers of Compulsory Purchase under the PA 2008

4.1 Powers

4.1.1 Section 122 of PA 2008 provides that an order granting development consent may include provisions authorising compulsory acquisition of land. To the extent that this is sought, the decision maker (i.e. the Secretary of State) in respect of the Application must be satisfied that the land is:

- a) required for the development;
- b) required to facilitate or is incidental to the development; or
- c) replacement land for commons, open spaces, etc.

4.1.2 Section 122(3) of PA 2008 requires the decision maker to be satisfied that there is a compelling case in the public interest for the inclusion of powers of compulsory acquisition in a DCO.

4.2 Other Powers

4.2.1 In addition to powers of compulsory acquisition, section 120 of PA 2008 provides that a DCO may make provision relating to, or to matters ancillary to, the development in respect of which a DCO is sought. The matters in respect of which provision may be made includes (but is not expressly limited to) the matters listed in Schedule 5 to PA 2008. This includes:

- a) the acquisition of land, compulsorily or by agreement (paragraph 1);
- b) the creation, suspension or extinguishment of, or interference with, interests in or rights over land, compulsorily or by agreement (paragraph 2);
- c) the abrogation or modification of agreements relating to land (paragraph 3); and
- d) the payment of compensation (paragraph 36).

4.2.2 Pursuant to these provisions, Articles 20-35 are included in the draft DCO. The need for the incorporation of compulsory acquisition provisions in the

DCO pursuant to these powers is described in further detail at section 7 of this Statement.

- 4.2.3 This Statement sets out the information relevant to the considerations listed above. Where necessary for this purpose it makes reference to more detailed information elsewhere in the Application documents.

4.3 Powers pursuant to the draft DCO for the Project

Principal powers

- 4.3.1 The powers in the DCO, if made, will allow the Agency to undertake the Scheme, and acquire the rights and interests in and over land that it needs to do so. Articles 3 to 5 of the draft DCO contain provisions for the principal powers needed to construct, operate and maintain the Scheme. The detail of the Scheme works is set out in Schedule 1 of the draft DCO. These works will be carried out within the Order limits, as shown on the Land Plans (**Doc. ref. 2.2**) and the Works Plans (**Doc. ref. 2.3**), which accompany the Application. The works will be carried out in accordance with the approved plans. These powers, and details relating to their drafting, are set out in the Explanatory Memorandum (**Doc. ref. 3.2**) to the DCO.

Powers of acquisition - land and rights

- 4.3.2 Articles 20 to 28 of the draft DCO contain provisions for the compulsory acquisition of land for the purposes of, or in connection with, the Scheme. They include the power to acquire new rights and to extinguish and/or override any existing rights over the Order land which would be inconsistent with the operation and use of the Scheme. They further provide for the payment of compensation, such provisions being based on the statutory compensation code. Powers are included to use the general vesting procedure, which will simplify the process of assembling the land for the Scheme should powers be granted. The parcels of land to be acquired, and over which new rights may be taken and existing rights extinguished and/or overridden, are described in the Book of Reference (Doc. ref. 4.3) and shown on the Land Plans (Doc. ref. 2.2).

Temporary use of land

4.3.3 Articles 29 and 30 contain the power to occupy land temporarily for the purposes of construction, and for maintenance, of the Scheme. For the former, this power is required for those sites and their working areas that are needed to accommodate construction of the Scheme. On completion of the Scheme, the land identified for temporary use, and any other land within the Order limits not identified for permanent acquisition, will, unless otherwise agreed with the landowner, be handed back to the owner in a restored state. This will be subject in some cases to permanent rights of access or other similar rights needed to operate and maintain the permanent structures of the Scheme. These plots, the rights to be acquired and the purposes for which the rights are required are detailed in schedule 5 to the DCO and in Table 1 of this Statement.

Table 1 - Land in which rights may be acquired

Plot Reference Number shown on Land Plans	Purpose for which rights over land may be acquired
Land Plans - Sheet 2	
02-20, 02-22, 02-23, 02-25	At river level and river bank level: permanent access for inspection and maintenance of the bridge.
Land Plans - Sheet 19	
19-19, 19-19b, 19-20, 19-20a, 19-25, 19-27, 19-28a, 19-30, 19-30a, 19-33, 19-33a, 19-35, 19-35a, 19-37, 19-37a, 19-38, 19-39	At river level and river bank level: permanent access for inspection and maintenance of the bridge.
19-18	At river level and river bank level: permanent access for inspection and maintenance of the bridge.

4.3.4 Compensation would be payable for losses incurred as a result of temporary use of these parcels of land. These plots are identified on the Land Plans (**Doc. ref. 2.2**), specified, together with their proposed use, in the Book of

Reference (**Doc. ref. 4.3**) and specified at Schedule 7 of the draft DCO. In terms of temporary use of land for maintenance, the relevant plots are identified on the Land Plans (**Doc. ref. 2.2**) and in the Book of Reference (**Doc. ref. 4.3**).

5 Background to and Purpose of the Application

5.1.1 This section deals with:

- a) A The Agency;
- b) B The purpose of the Application;
- c) C Requirement for a DCO; and
- d) D Powers of compulsory acquisition.

A The Agency

5.1.2 The Agency is the promoter of the Scheme and the undertaker for the purposes of the Application. The Agency is an executive agency, sponsored by the Department for Transport, with the purpose of operating, maintaining and improving the strategic road network in England.

5.1.3 On 1 April 2015 the Agency will become Highways England, an arms-length, government-owned company. All rights and obligations of the Agency, as well as the Application, will vest in Highways England from 1 April 2015.

5.1.4 Further details about the Agency and its status as promoter, as well as in respect of Highways England, are included in the Funding Statement (**Doc. ref. 4.2**).

B The Purpose of the Application

5.1.5 The need for additional capacity on the M4 has been identified through a number of studies and reports, including:

- a) the Thames Valley Multi-Model Study (2003);
- b) the Advanced Motorway Signalling and Traffic Management Feasibility Study (Department for Transport, March 2008); and
- c) 'Britain's Transport Infrastructure: Motorways and Major Trunk Roads' (Department for Transport, January 2009).

5.1.6 In addition, the NN NPS identified strategic objectives in order to improve national networks (see paragraph 2.1.2 of this Statement). Further details of

the policy background to the Application can be found in the Planning Statement (**Doc. Ref. 7.1**).

- 5.1.7 In this context, the Scheme represents a vital contribution to the fulfilment of UK policy and objectives in relation to transport.

C Requirement for a DCO

- 5.1.8 Pursuant to sections 14(1)(h), 22(1)(b) and 22(1)(c) of PA 2008, highway-related development constitutes an NSIP (provided that certain criteria are met - see paragraphs 5.1.9 and 5.1.10 of this Statement).
- 5.1.9 As the Scheme is highway-related development, comprising alteration of a highway that is wholly in England, for which the Secretary of State is the highway authority and for which the area of development is greater than 15 hectares, it constitutes an NSIP for the purposes of sections 14 and 22(1)(b) of PA 2008.
- 5.1.10 As the Scheme is highway-related development, comprising improvement of a highway that is wholly in England, for which the Secretary of State is the highway authority and the improvement of which is likely to have a significant effect on the environment it also constitutes an NSIP for the purposes of sections 14 and 22(1)(c) of PA 2008.
- 5.1.11 Section 31 of PA 2008 provides that development consent is required for the Scheme under that Act to the extent that the development is or forms part of a NSIP.
- 5.1.12 The PA 2008 requires that in order to authorise construction and operation of the Scheme an application must be made to the relevant Secretary of State under section 37 of that Act. So far as the Scheme is concerned, the decision maker will be the Secretary of State for Transport.
- 5.1.13 The works comprising the Scheme, and intended to be authorised by the DCO, are described in Schedule 1 of the draft DCO (**Doc. ref. 3.1**). An outline is as follows:
- i. Work No. 1a – The improvement of the eastbound carriageway of the M4 Motorway (51.3 kilometres in length).
 - ii. Work No. 1b – The improvement of the westbound carriageway of the M4 Motorway (51.3 kilometres in length).

- iii. Work No. 2a – The realignment of the M4 Junction 12 (Theale) eastbound on-slip.
- iv. Work No. 2b – The realignment of the M4 Junction 12 (Theale) westbound off-slip.
- v. Work No. 3a – The realignment of the Reading Motorway Service Area eastbound off-slip.
- vi. Work No. 3b – The realignment of the Reading Motorway Service Area eastbound on-slip.
- vii. Work No. 3c – The realignment of the Reading Motorway Service Area westbound off-slip.
- viii. Work No. 3d – The realignment of the Reading Motorway Service Area westbound on-slip.
- ix. Work No. 4a – The realignment of the M4 Junction 11 (Three Mile Cross) eastbound off-slip.
- x. Work No. 4b – The realignment of the M4 Junction 11 (Three Mile Cross) eastbound on-slip.
- xi. Work No. 4c – The realignment of the M4 Junction 11 (Three Mile Cross) westbound off-slip.
- xii. Work No. 4d – The realignment of the M4 Junction 11 (Three Mile Cross) westbound on-slip.
- xiii. Work No. 5a – The realignment of the M4 Junction 10 (Winnersh) eastbound off-slip.
- xiv. Work No. 5b – The improvement of the M4 Junction 10 (Winnersh) eastbound on-slip (1).
- xv. Work No. 5c – The realignment of the M4 Junction 10 (Winnersh) eastbound on-slip (2).
- xvi. Work No. 5d – The realignment of the M4 Junction 10 (Winnersh) westbound off-slip.

- xvii. Work No. 5e – The improvement of the M4 Junction 10 (Winnersh) westbound on–slip (1).
- xviii. Work No. 5f – The realignment of the M4 Junction 10 (Winnersh) westbound on–slip (2).
- xix. Work No. 6a – The realignment of the M4 Junction 8/9 (Holyport) eastbound off–slip.
- xx. Work No. 6b – The realignment of the M4 Junction 8/9 (Holyport) eastbound on–slip and widening of the eastbound carriageway of the M4 motorway at the location of Ascot Road overbridge.
- xxi. Work No. 6c – The realignment of the M4 Junction 8/9 (Holyport) westbound off–slip and widening of the westbound carriageway of the M4 motorway at the location of the existing Ascot Road overbridge.
- xxii. Work No. 6d – The realignment of the M4 Junction 8/9 (Holyport) westbound on–slip.
- xxiii. Work No. 7a – Construction of new bridge over the M4 to the east of the existing Ascot Road overbridge, demolition of the existing bridge and the realignment of Ascot Road.
- xxiv. Work No. 7b – The construction of a new retaining wall below grade at the eastern side of Ascot Road in the realigned section north of the M4 motorway at the location shown on the works plans.
- xxv. Work No. 8a – The widening of the eastbound carriageway of the M4 motorway on the north side at the location of the existing Monkey Island Lane overbridge.
- xxvi. Work No. 8b – The widening of the westbound carriageway of the M4 motorway on the south side at the location of the existing Monkey Island Lane overbridge.
- xxvii. Work No. 8c – The construction of new bridge over the M4 to the west of the existing Monkey Island Lane overbridge, demolition of the existing Monkey Island Lane overbridge, the realignment of Monkey Island Lane and the extension of 2 no. flood channel culverts under Monkey Island Lane at the locations shown on the works plans

- xxviii. Work No. 9a – The widening of the M4 motorway at the location of the existing Thames Bray underbridge, including realignment of the M4 central reserve and realignment of the footway and cycle way along the motorway.
- xxix. Work No. 9b – The widening of Thames Bray underbridge over the River Thames to the north of the existing bridge at the location shown on the works plans including widening of foundations, substructure and bridge deck to accommodate Work 9a
- xxx. Work No. 10a – The widening of the eastbound carriageway of the M4 motorway on the north side at the location of the existing Marsh Lane overbridge.
- xxxi. Work No. 10b – The widening of the westbound carriageway of the M4 motorway on the south side at the location of the existing Marsh Lane overbridge.
- xxxii. Work No. 10c – The realignment of Marsh Lane, including construction of retaining walls, raising of earthworks, demolition of the existing Marsh Lane overbridge over the M4 and construction of a new bridge over the M4.
- xxxiii. Work No. 11a – The widening of the eastbound carriageway of the M4 motorway on the north side at the location of the existing Lake End Road overbridge.
- xxxiv. Work No. 11b – The widening of the westbound carriageway of the M4 motorway on the south side at the location of the existing Lake End Road overbridge.
- xxxv. Work No. 11c – The construction of new bridge over the M4 to the west of the existing Lake End Road overbridge, the demolition of the existing Lake End Road overbridge, the realignment of Lake End Road, and the provision of a new junction between Lake End Road and Huntercombe Lane.
- xxxvi. Work No. 12a – The realignment of the M4 Junction 7 (Huntercombe) eastbound off-slip.

- xxxvii. Work No. 12b – The realignment of the M4 Junction 7 (Huntercombe) eastbound on-slip.
- xxxviii. Work No. 12c – The realignment of the M4 Junction 7 (Huntercombe) westbound off-slip.
- xxxix. Work No. 12d – The realignment of the M4 Junction 7 (Huntercombe) westbound on-slip.
- xl. Work No. 12e – The construction of a new bridge for the south bound carriageway of the Junction 7 Link Road (Huntercombe Spur) over the M4 to the west of the existing Huntercombe Spur overbridge, demolition of the existing Huntercombe Spur overbridge, construction of a new bridge for the north bound carriageway of the Junction 7 Link Road (Huntercombe Spur) over the M4 and the realignment of the Junction 7 Link Road (Huntercombe Spur) together with the construction of a new super-span cantilever gantry above the south bound carriageway of the Junction 7 Link Road (Huntercombe Spur) within the gantry siting location shown as “Gantry Type 3” on the works plans, including gantry foundations, gantry structure, signs, signals, sign illumination, control cabinets, and power cable connections.
- xli. Work No. 12f – The construction of a new retaining wall between the Junction 7 Link Road (Huntercombe Spur) and the Junction 7 eastbound on-slip at the location shown on the works plans
- xlii. Work No. 13a – The realignment of the M4 Junction 7 (Huntercombe) eastbound off-slip.
- xliii. Work No. 13b – The widening of the westbound carriageway of the M4 motorway on the south side at the location of the existing Oldway Lane overbridge.
- xliv. Work No. 13c – The realignment of Oldway Lane, including construction of retaining walls, raising of earthworks, demolition of the existing Oldway Lane overbridge over the M4 and construction of a new bridge over the M4.
- xlv. Work No. 14a – The widening of the eastbound carriageway of the M4 motorway on the north side at the location of the existing Wood Lane overbridge.

- xlvi. Work No. 14b – The widening of the westbound carriageway of the M4 motorway on the south side at the location of the existing Wood Lane overbridge.
- xlvii. Work No. 14c – The construction of a new bridge over the M4 to the east of the existing Wood Lane overbridge, the demolition of the existing Wood Lane overbridge and the realignment of Wood Lane.
- xlviii. Work No. 15 – The extension of Chalvey Culvert to both north and south at the location shown on the works plans to accommodate Works 16a and 16d.
- xlix. Work No. 16a – The realignment of the M4 Junction 6 (Chalvey) eastbound off-slip.
 - i. Work No. 16b – The realignment of the M4 Junction 6 (Chalvey) eastbound on-slip.
 - ii. Work No. 16c – The realignment of the M4 Junction 6 (Chalvey) westbound off-slip, including widening of the M4 motorway to the south side at the location of the existing Windsor Branch Railway overbridge, realignment of the M4 central reserve to the south and widening the M4 earthworks embankment to the south using strengthened or retained earthworks.
 - iii. Work No. 16d – The realignment of the M4 Junction 6 (Chalvey) westbound on-slip.
 - iiii. Work No. 17 – The widening of Windsor Branch Railway underbridge to the south side of the existing bridge, at the location shown on the works plans, including widening of foundations, substructure and bridge deck to accommodate Works 16b and 16c.
 - lv. Work No. 18 – The extension of water and gas main subway under the M4 carriageway west of Datchet Road to both north and south at the location shown on the works plans including diversion of the utilities passing through the subway and closure of the existing access manholes in the hard shoulders of the M4 motorway.

- iv. Work No. 19a – The widening of the eastbound carriageway of the M4 motorway on the north side at the location of the existing Datchet Road overbridge.
- lvi. Work No. 19b – The widening of the westbound carriageway of the M4 motorway on the south side at the location of the existing Datchet Road overbridge.
- lvii. Work No. 19c – The construction of a new bridge over the M4 to the east of the existing Datchet Road overbridge, utility diversion works, the demolition of the existing Datchet Road overbridge and the realignment of Datchet Road.
- lviii. Work No. 20a – The widening of the eastbound carriageway of the M4 motorway on the north side at the location of the existing Recreation Ground overbridge.
- lix. Work No. 20b – The widening of the westbound carriageway of the M4 motorway on the south side at the location of the existing Recreation Ground overbridge.
- lx. Work No. 20c – The demolition of the existing Recreation Ground overbridge over the M4 and construction of a new bridge over the M4, and the realignment of Recreation Ground Road.
- lxi. Work No. 21 – The extension of water main subway under the M4 carriageway east of Recreation Ground Road to both north and south at the location shown on the works plans including diversion of the utilities passing through the subway and closure of the existing access manholes in the hard shoulders of the M4 motorway.
- lxii. Work No. 22a – The widening of the eastbound carriageway of the M4 motorway on the north side at the location of the existing Riding Court Road overbridge.
- lxiii. Work No. 22b – The widening of the westbound carriageway of the M4 motorway on the south side at the location of the existing Riding Court Road overbridge.
- lxiv. Work No. 22c – The construction of a new bridge over the M4 to the west of the existing Riding Court Road overbridge, demolition of the

existing Riding Court Road overbridge, the realignment of Riding Court Road, modification of a private means of access to Riding Court at its junction with Riding Court Road.

- lxv. Work No. 23a – The widening of the eastbound carriageway of the M4 motorway on the north side at the location of the existing Ashley’s Arch Culvert.
- lxvi. Work No. 23b – The extension of Ashley’s Arch culvert to the north at the location shown on the works plans to accommodate Work No. 23a.
- lxvii. Work No. 24a – The realignment of the M4 Junction 5 (Langley) eastbound off–slip.
- lxviii. Work No. 24b – The realignment of the M4 Junction 5 (Langley) eastbound on–slip.
- lxix. Work No. 24c – The realignment of the M4 Junction 5 (Langley) westbound off–slip.
- lxx. Work No. 24d – The realignment of the M4 Junction 5 (Langley) westbound on–slip.
- lxxi. Work No. 24e – The widening of the eastbound carriageway of the M4 motorway on the north side at the location of the existing M4 Junction 5 (Langley).
- lxxii. Work No. 24f – The widening of the westbound carriageway of the M4 motorway on the south side at the location of the existing M4 Junction 5 (Langley).
- lxxiii. Work No. 24g – The widening of Langley underbridge (West) to the north and south side of the existing Langley underbridge (West), at the location shown on the works plans, including widening of foundations, substructure and bridge deck to accommodate Work Nos. 24e and 24f.
- lxxiv. Work No. 24h – The extension of Langley subway to both north and south at the location shown on the works plans to accommodate Work Nos. 24e and 24f.
- lxxv. Work No. 24i – The widening of Langley underbridge (East) to the north and south side of the existing Langley underbridge (East), at the

location shown on the works plans, including widening of foundations, substructure and bridge deck to accommodate Work Nos. 24e and 24f.

- lxxvi. Work No. 25 – 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, including construction of retaining walls.
- lxxvii. Work No. 26a – The realignment of the M4 Junction 4b (M25) eastbound off-slip and widening of the eastbound carriageway of the M4 motorway on the north side at the location of the existing Old Slade Lane overbridge.
- lxxviii. Work No. 26b – The realignment of the M4 Junction 4b (M25) westbound on-slip and widening of the westbound carriageway of the M4 motorway on the south side at the location of the existing Old Slade Lane overbridge.
- lxxix. Work No. 27a – The realignment of the M4 Junction 4b (M25) eastbound on-slip and the construction of a sign-only cantilever gantry above the on-slip within the gantry siting locations shown as “Gantry Type 4” on the works plans, including gantry foundations gantry structure, signs, sign illumination, control cabinets and power cable connections.
- lxxx. Work No. 27b – The realignment of the M4 Junction 4b (M25) westbound off-slip.
- lxxxi. Work No. 28 – The widening of Sipson Road Subway to the south at the location shown on the works plans to accommodate Work No. 29d.
- lxxxii. Work No. 29a – The realignment of the M4 Junction 4 (Heathrow) eastbound off-slip.
- lxxxiii. Work No. 29b – The realignment of the M4 Junction 4 (Heathrow) eastbound on-slip.
- lxxxiv. Work No. 29c – The realignment of the M4 Junction 4 (Heathrow) westbound off-slip.

lxxxv. Work No. 29d – The realignment of the M4 Junction 4 (Heathrow) westbound on-slip.

lxxxvi. Work No. 30a – The realignment of the M4 Junction 3 (Hayes) eastbound off-slip.

lxxxvii. Work No. 30b – The realignment of the M4 Junction 3 (Hayes) westbound on-slip.

5.1.14 All works are detailed on the Works Plans (**Doc. ref. 2.3**) and a full, technical explanation of the Scheme is contained in Chapter 4 of the ES (**Doc. ref. 6.1**).

D Powers of Compulsory Acquisition

5.1.15 In addition, the Agency is seeking authority in the DCO to acquire land, and interests in land, compulsorily together with other related powers.

5.1.16 These powers, and the land to which they relate, are described in section 4.C of this Statement and are set out in Articles 20 to 35 of the draft DCO.

6 Location and description of the Order land

6.1.1 This section describes the Order land, together with any key features and characteristics of the surrounding landscape. A full description of the Order land can be found in Chapter 2 of the ES (**Doc. ref. 6.1**). The Order land is shown on the Land Plans (**Doc. ref. 2.2**) and the Scheme works are shown on the Works Plans (**Doc. ref. 2.3**).

A Order land

6.1.2 The land which is subject to the DCO is described as the Order land. The boundary of the Order land is defined as the Order limits for the purposes of the DCO

6.1.3 This section describes the Order land, including the purposes for which the land is required to deliver the Scheme. All of the Order land is intended to be subject to powers of compulsory acquisition. A full description of the Order land can be found in Chapter 2 of the ES (**Doc. ref. 6.1**). A summary is set out below.

6.1.4 The Order land covers approximately 386,000ha. and is located entirely in England. The Order land is required for the main groups of works, which comprise:

- a) widening of the M4 carriageway;
- b) widening of overbridges and underbridges;
- c) construction of gantries above the M4;
- d) construction of emergency refuge areas;
- e) construction of police observation platforms;
- f) re-alignment of off-slips and other roads; and
- g) widening of subways under the M4 carriageway.

6.1.5 The Order land comprises land in the areas of the following local authorities:

- a) West Berkshire Council;

- b) Wokingham Borough Council;
- c) Reading Borough Council;
- d) The Royal Borough of Windsor and Maidenhead;
- e) Bracknell Forest Council;
- f) South Bucks District Council and Buckinghamshire County Council;
- g) Slough Borough Council;
- h) The London Borough of Hillingdon;
- i) The London Borough of Hounslow; and
- j) The Greater London Authority.

B Surrounding Area

6.1.6 The areas that surround and are accessed from, the Scheme are addressed in detail throughout the ES (**Doc Ref. 6.1**). A summary follows.

6.1.7 The following locations are accessed from the Scheme (all being some distance away), listed together with the relevant connecting roads to the M4:

- a) London;
- b) Reading (A5, A33, A329(M));
- c) Theale (A4);
- d) Basingstoke (A33);
- e) Wokingham (A329(M));
- f) Bracknell (A329(M));
- g) High Wycombe (A404(M));
- h) Henley (A404(M));
- i) Maidenhead (A308(M));

- j) Slough (A4, A355);
- k) Windsor (A322);
- l) Colnbrook (A4);
- m) Langley (A4);
- n) Eton (B470);
- o) Datchet (B470);
- p) Heathrow Airport (M25, M40, M11, M3, M23, M20);
- q) Gatwick Airport (M25, M40, M11, M3, M23, M20);
- r) Stansted Airport (M25, M40, M11, M3, M23, M20);
- s) Watford (M25, M40, M11, M3, M23, M20);
- t) Oxford (M25, M40, M11, M3, M23, M20);
- u) Maidstone (M25, M40, M11, M3, M23, M20);
- v) Uxbridge (A408);
- w) Hillingdon (A408), (A312);
- x) Hayes (A312);
- y) Harrow (A312); and
- z) Hounslow (A312).

6.1.8 The following designated and non-statutory designated sites are in the vicinity of the Scheme (none of which comprise land that is proposed to be subject to powers of compulsory acquisition):

- a) the Mole Gap to Reigate Escarpment (located approximately 25km south-east of the Order limits);
- b) eight sites of Special Scientific Interest;

- c) 11 Local Native Reserves (three of which are adjacent to the Order limits);
- d) seven sites of Nature Conservation Interest (five of which are adjacent to the Order limits);
- e) 32 Local Wildlife sites (12 of which are adjacent to the Order limits);
- f) one Biological Notification Site (this is adjacent to the Order limits); and
- g) one Area of Outstanding Natural Beauty (to the western extremity of the Scheme).

6.1.9 The Rivers Thames, Kennet, Jubilee and Loddon are either in the vicinity of, or are crossed by, the Scheme.

7 The justification for the Use of Powers of Compulsory Acquisition

7.1.1 This section addresses:

- a) A. Matters to which the decision maker must have regard;
- b) B. Requirement for the Order land (s122(2));
- c) C. Need for a power to override rights and easements;
- d) D. Alternatives;
- e) E. Availability of funds for compensation; and
- f) F. Compelling case (s122(3)).

A Matters to which the decision maker must have regard

7.1.2 Section 122 of the PA 2008 provides that a DCO that includes compulsory acquisition powers may be granted only if the conditions in sections 122(2) and 122(3) of the PA 2008 are met. The conditions are:

- a) at section 122(2), that the land is required for the development to which the Order relates, or is required to facilitate or is incidental to the development; and
- b) at section 122(3), that there is a compelling case in the public interest for inclusion of powers of compulsory acquisition in the DCO. The decision maker must be persuaded that the public benefits derived from the compulsory acquisition will outweigh the private loss suffered by those whose land is to be acquired.

7.1.3 In respect of the section 122(2) condition, the Guidance makes clear (at paragraph 11) that the decision maker must be in no doubt as to the purposes for which any land is to be compulsorily acquired. The Guidance makes clear that in respect of:

- a) land required for development to which the development consent relates, the applicant should be able to demonstrate to the satisfaction of the Secretary of State that the land in question is needed for the

development for which consent is sought. The Secretary of State will need to be satisfied that the land to be acquired is no more than is reasonably required for the purposes of the development; and

- b) land required to facilitate or land incidental to the proposed development, the land to be taken is no more than is reasonably necessary for the facilitating or incidental purpose and that it is proportionate.

7.1.4 In respect of the section 122(3) condition, the Guidance makes clear at paragraph 12 that the decision maker must be satisfied that there is a compelling case in the public interest for the land to be acquired compulsorily. This is the view taken by Parliament - that the public benefit should outweigh the private loss. In order for this condition to be met (see paragraph 13 of the Guidance), the Secretary of State needs to be satisfied that the public benefits that would be derived from the compulsory acquisition will outweigh the private loss that would be suffered by those whose land is to be acquired.

7.1.5 Paragraphs 8 to 10 of the Guidance set out a number of general considerations that the applicant must demonstrate to the satisfaction of the Secretary of State in respect of justifying an order authorising compulsory acquisition. These are as follows:

- a) that the Agency has a clear idea of how the Order land will be used. Section 7.B of this Statement demonstrates unequivocally that the Agency has a clear idea of how it intends to use the Order land;
- b) that the proposed interference with the rights of those with an interest in the Order land is for a legitimate purpose and is necessary and proportionate. This matter is explored at section 7.C of this Statement;
- c) that all reasonable alternatives to compulsory acquisition (including modifications to the Scheme) have been explored. The issue of alternatives is addressed at section 7.D of this Statement;
- d) that there is a reasonable prospect of the requisite funds for compensation becoming available. The availability of funding is dealt with at section 7.E below and, in greater detail, in the Funding Statement accompanying the Application (**Doc. ref. 4.2**);

- e) that there is a compelling case in the public interest for the land to be compulsorily acquired (section 7.F); and
- f) that the purposes for which such powers are included are legitimate and sufficiently justify interfering with the human rights of those with an interest in the land affected. The implications of the Scheme in the context of the Human Rights Act 1998 are examined and weighed at section 9 of this Statement.

7.1.6 The following sections of this Statement set out the factors that the Agency considers demonstrate that the conditions in section 122, and the considerations set out in the Guidance, are satisfied.

B Requirement for the Order land - s122(2)

7.1.7 In broad terms, the Agency requires the Order land in order to construct, operate and maintain the Scheme, which is an NSIP, and which will ultimately contribute to the fulfilment of UK Government policy in terms of the improvement of national networks (see section 5.B for further details). For that purpose, a range of compulsory acquisition powers are necessary.

7.1.8 It is intended to acquire land necessary to deliver the Scheme. This comprises 7 main elements (relevant to compulsory acquisition):

- a) widening of the M4 carriageway;
- b) widening of overbridges and underbridges;
- c) construction of gantries above the M4;
- d) construction of emergency refuge areas;
- e) construction of police observation platforms;
- f) re-alignment of off-slips and other roads; and
- g) widening of subways under the M4 carriageway.

7.1.9 Without powers of compulsory acquisition, the Order land might not be assembled, uncertainty will continue to prevail and the Agency considers that the Scheme's strategic objectives (see paragraph 2.1.3 of this Statement) and those of UK Government policy would not be achieved. In

particular, land required for bridge widening in order to accommodate all lane running and removal of discontinuities in the extinguished hard shoulder could not be achieved. Furthermore, there would be a failure to take a necessary step to ensure that the national need for improved national networks would be met.

7.1.10 The Agency's purpose in acquiring the Order land, in accordance with the provisions of PA 2008, is to secure the powers to construct and operate the Scheme. The inclusion of powers of compulsory acquisition in the DCO is sought in order to ensure that this is achieved.

7.1.11 The Agency will seek to acquire the necessary interests in the Order land by private agreement in order to ensure implementation of the Scheme. However, some parcels of land may prove impossible to acquire by private treaty because the owners may not agree terms that are acceptable to both parties. Pending the availability of compulsory acquisition powers, the Agency will continue to seek to purchase interests by agreement. This parallel approach of making the Application (including powers of compulsory acquisition) and conducting negotiations to acquire land by agreement is in accordance with paragraph 25 of the Guidance. Paragraph 25 states that:

Where proposals would entail the compulsory acquisition of many separate plots of land (such as for long, linear schemes) it may not always be practicable to acquire by agreements each plot of land. Where this is the case it is reasonable to include provision authorising compulsory acquisition covering all the land required at the outset.

This Scheme is a long, linear scheme of the type envisaged by paragraph 25 of the Compulsory Acquisition Guidance. Therefore, the Agency considers that it is reasonable and appropriate for powers of compulsory acquisition to be included in the draft DCO at the outset (i.e. at Application).

7.1.12 The non-exhaustive purposes for which land subject to compulsory acquisition is proposed for the Scheme set out in Table 2. This is described by reference to the numbered plots set out in the Book of Reference (**Doc. ref. 4.3**) and shown on the Land plans (**Doc. ref. 2.2**). Table 2 should be read in conjunction with and by reference to those documents.

Table 2 - Purposes for land to be compulsorily acquired

Sheet Number 1		
Plot Numbers	Purpose for which land is required	Work No.
01-01, 01-02, 01-03	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
Sheet Number 2		
Plot Numbers	Purpose for which land is required	Work No.
02-16, 02-17, 02-18	At motorway level: land within existing motorway boundaries retained for construction and operation of the Scheme. At railway level: temporary land required for access for inspection and possible refurbishment of bridge	1a, 1b, 2a, 2b
02-01, 02-15, 02-19	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 2a, 2b
02-21, 02-24	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
02-02	At motorway level: land within existing motorway boundaries retained for construction and	For work: 1a, 1b For access: all

	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	works within Schedule 1
02-02a, 02-05	Land within existing highway boundary used for access to Scheme construction site and construction compound, including traffic management	All Works
02-20, 02-20a, 02-20b, 02-22, 02-22a, 02-22b, 02-23, 02-23a, 02-23b, 02-25, 02-25a, 02-25b	At motorway level: land within existing motorway boundaries retained for construction and operation of the Scheme. At river and river bank level: temporary use for inspection and possible refurbishment of bridge	1a, 1b
02-08, 02-12	Temporary land required for use as construction compound	All Works
02-09, 02-10, 02-11	Temporary land required for use for access to construction compound	All Works
Sheet Number 3		
Plot Numbers	Purpose for which land is required	Work No.
03-01, 03-02,	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b

03-03, 03-04, 03-05, 03-08, 03-13, 03-14, 03-15	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 3a, 3b, 3c, 3d
03-07, 03-12	Temporary land required for use for improvement and realignment of sliproads including traffic management and cross carriageway ducting	3a, 3b, 3c, 3d
Sheet Number 4		
Plot Numbers	Purpose for which land is required	Work No.
04-06, 04-08, 04-10	At motorway level: land within existing motorway boundaries retained for construction and operation of the Scheme. At railway level: temporary land required for access for inspection and possible refurbishment of bridge	1a, 1b
04-01, 04-05, 04-07, 04-09, 04-11, 04-12	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
04-03, 04-04	Temporary land required for use for inspection and possible refurbishment of culvert	1a, 1b
Sheet Number 5		
Plot Numbers	Purpose for which land is required	Work No.

05-01, 05-02, 05-03, 05-04, 05-05, 05-06, 05-07, 05-08	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
05-09, 05-10	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 4a, 4d
05-13	Temporary land required for use as construction compound	All Works
05-11, 05-12	Temporary land required for use for access to construction compound	All Works
Sheet Number 6		
Plot Numbers	Purpose for which land is required	Work No.
06-01, 06-02, 06-11a, 06-11b	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
06-07a, 06-07b, 06-09, 06-09a, 06-11, 06-19a	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 4b, 4c
06-06, 06-07, 06-19	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	For work: 1a, 1b For access: All Works

	construction site, including traffic management	
06-03, 06-04, 06-05, 06-08	Temporary traffic management and for access to Scheme construction site	All Works
06-09b, 06-10, 06-10a, 06-10b, 06-12, 06-12a, 06-12b, 06-13, 06-14, 06-14a, 06-14b, 06-20	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
Sheet Number 7		
Plot Numbers	Purpose for which land is required	Work No.
07-01, 07-02, 07-03, 07-03a, , 07-09, 07-10	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
07-07	Land for new access to Cutbush Lane transmission station	1a
07-04, 07-05, 07-06, 07-08	Temporary land required for use to create working space for construction of new access to Cutbush Lane transmission station	1a
07-11	Temporary land required for use to create working space for removal of existing police observation platform	1a

Sheet Number 8		
Plot Numbers	Purpose for which land is required	Work No.
08-01, 08-03, 08-05	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
08-02, 08-04	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
Sheet Number 9		
Plot Numbers	Purpose for which land is required	Work No.
09-01, 09-02, 09-03, 09-04, 09-05, 09-06, 09-07, 09-08, 09-09, 09-10	and within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
Sheet Number 10		
Plot Numbers	Purpose for which land is required	Work No.
10-06, 10-07, 10-08, 10-09, 10-12	At motorway level: land within existing motorway boundaries retained for construction and operation of the Scheme. At railway level: temporary land required for use for inspection and possible refurbishment of	1a, 1b, 5a

	bridge	
10-01, 10-01a, 10-01b, 10-02	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
10-03	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 5a
10-13, 10-14, 10-15, 10-16, 10-17, 10-22	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 5a, 5f
10-18	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 5b, 5f
10-19, 10-20, 10-21	Land within existing motorway boundaries retained for construction and operation of the Scheme and temporary land required for use as a construction compound	For work: 1a, 1b, 5b, 5f For construction compound: All Works
Sheet Number 11		
Plot Numbers	Purpose for which land is required	Work No.
11-04	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 5c, 5d, 5e

11-04a, 11-04b, 11-06, 11-07	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 5c, 5d
11-07a, 11-07b	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
11-01, 11-02, 11-03	Land within existing motorway boundaries retained for construction and operation of the Scheme and for temporary use as a construction compound	For work: 1a, 1b, 5e For construction compound: All Works
Sheet Number 12		
Plot Numbers	Purpose for which land is required	Work No.
12-01, 12-02, 12-03, 12-03a, 12-04, 12-05	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
Sheet Number 13		
Plot Numbers	Purpose for which land is required	Work No.
13-01, 13-02, 13-03, 13-04, 13-05, 13-06	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
Sheet Number 14		

Plot Numbers	Purpose for which land is required	Work No.
14-01, 14-02, 14-03, 14-04, 14-05, 14-06, 14-07	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
Sheet Number 15		
Plot Numbers	Purpose for which land is required	Work No.
15-01, 15-02, 15-03, 15-04, 15-05	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
Sheet Number 16		
Plot Numbers	Purpose for which land is required	Work No.
16-01, 16-02, 16-03, 16-04, 16-05, 16-06	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
Sheet Number 17		
Plot Numbers	Purpose for which land is required	Work No.
17-01, 17-02, 17-13, 17-14	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
17-03, 17-04a, 17-	Land within existing motorway boundaries retained for	1a, 1b, 6a, 6d

15	construction and operation of the Scheme	
17-04e, 17-09, 17-10, 17-11	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 6b, 6c
17-04, 17-04b, 17-04c, 17-04d, 17-05, 17-06, 17-07, 17-08	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
17-12	Temporary land required for use as construction compound	All Works
Sheet Number 18		
Plot Numbers	Purpose for which land is required	Work No.
18-01, 18-05, 18-18	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 6a, 6b
18-20, 18-21, 18-22, 18-23, 18-24	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
18-25	Land within existing motorway boundaries retained for	1a, 1b, 8a

	construction and operation of the Scheme	
18-04	Land required for the realignment of Ascot Road	7a, 7b
18-15, 18-16, 18-16a, 18-16b	Land required for the realignment of Ascot Road	7a
18-02, 18-03	Temporary land required for use as construction compound	All Works
18-07, 18-08	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
18-09, 18-10, 18-17, 18-17a, 18-17b, 18-19	Temporary land required for access and working space to construct realigned Ascot Road and new Ascot Road overbridge	7a
Sheet Number 19		
Plot Numbers	Purpose for which land is required	Work No.
19-19, 19-19b, 19-20, 19-20a, 19-25, 19-27, 19-28a, 19-30, 19-30a, 19-33, 19-33a, 19-35, 19-35a, 19-37, 19-37a, 19-38, 19-39	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

19-01, 19-05 19-13, 19-13a 19-19a, 19-20b, 19-37b, 19-38a, 19-39a, 19-42a, 19-43, 19-44 19-50 19-71, 19-78 19-81	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 1a, 1b, 8a, 8b, 9b 1a, 1b, 9b 1a, 1b, 9b, 10a, 10b 1a, 1b, 10a, 10b 1a, 1b
19-60, 19-60a, 19-60b, 19-60c, 19-60d, 19-66, 19-69, 19-72, 19-74, 19-74a	Land required for the online reconstruction of Marsh Lane	10b
19-01a, 19-03, 19-04, 19-04a, 19-04b, 19-05a, 19-05b, 19-07, 19-09, 19-09a, 19-09b, 19-10a, 19-10b	Land required for the online reconstruction of Monkey Island Lane	8c
19-12, 19-12a, 19-15, 19-42, 19-48, 19-52	Land required for northern realignment of M4 over widened Thames Bray underbridge	8a, 9a
19-02, 19-02a, 19-02b, 19-06, 19-10	Temporary land required for access and working space for online reconstruction of Monkey Island Lane and Monkey Island Lane overbridge	8c

19-11, 19-14	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
19-11a ,19-14a, 19-16, 19-18, 19-21, 19-22, 19-23, 19-24, 19-26, 19-28, 19-29, 19-31, 19-32	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
19-34, 19-36, 19-40, 19-41, 19-45, , 19-46, 19-47,19-49, 19-51, 19-53, 19-54, 19-55,	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
19-56, 19-57, 19-57a	Temporary land for access and working space for widening of the M4 and M4 embankment.	10b
19-58, 19-59, 19-61, 19-62, 19-65, 19-73, 19-75, 19-76, 19-77, 19-79	Temporary land required for access and working space for online reconstruction of Marsh Lane and Marsh Lane overbridge	10c
19-80	At motorway level: land within existing motorway boundaries retained for construction and operation of the Scheme. At river and river bank level: Access for inspection and possible refurbishment work to Jubilee	1a, 1b

	River Bridge	
Sheet Number 20		
Plot Numbers	Purpose for which land is required	Work No.
20-01	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a,1b, 11a, 11b, 12d
20-11		1a,1b, 11a, 11b, 11c, 12d
20-24		12e
20-29		1a,1b, 12b, 13a, 13b, 13c
20-39		1a,1b, 13a, 13b, 13c
20-40		1a,1b, 13a, 13b, 13c
20-21	Land within existing motorway boundaries retained for construction and operation of the Scheme, and for temporary use as a construction compound	For work: 1a,1b, 11a, 11b, 12a, 12b, 12c, 12d, 12e, 12f For construction compound: all Works
20-02a, 20-05, 20-06, 20-12a, 20-13, 20-14, 20-15	Land required for the realignment of Lake End Road	11a, 11b, 11c
20-02, 20-03, 20-03a, 20-07, 20-08,	Temporary land required for access and working space to	11a, 11b, 11c

20-09, 20-10, 20-12, 20-17, 20-20	construct realigned Lake End Road and new Lake End Road overbridge	
20-22, 20-25, 20-26, 20-27, 20-28	Temporary land required for access and working space to construct realigned Huntercombe Spur and new Huntercombe Spur overbridge	12b, 12c, 12d, 12e, 12f
20-23	Land required for the realignment of Huntercombe Spur	12e
20-30, 20-31, 20-32, 20-32a, 20-33, 20-34, 20-35, 20-36, 20-37, 20-37a, 20-37b, 20-37c, 20-38, 20-41b, 20-41c	Temporary land required for access and working space for online reconstruction of Oldway Lane and Oldway Lane overbridge	13a,13b,13c
20-41, 20-41a	Temporary land required to enable temporary diversion of Rights of Way between Oldway Lane and Wood Lane	13c, 14c
Sheet Number 21		
Plot Numbers	Purpose for which land is required	Work No.
21-03, 21-11	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 14a, 14b, 14c
21-19	Land within existing motorway boundaries retained for construction and operation of the	1a, 1b, 14a, 14b, 14c, 15, 16a, 16d

	Scheme	
21-08, 21-09, 21-10, 21-12, 21-12a	Land required for the realignment of Wood Lane	14c
21-01, 21-02, 21-02a	Temporary land required to enable temporary diversion of Rights of Way between Oldway Lane and Wood Lane	13c,14c
21-02d, 21-04, 21-05, 21-06, 21-07, 21-13, 21-14, 21-15, 21-16, 21-17, 21-18	Temporary land required for access and working space to construct realigned Wood Lane and new Wood Lane overbridge	14a,14b,14c
21-02b, 21-02c	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
21-20, 21-21	Temporary land required for access and working space for the extension of Chalvey Culvert	15
Sheet Number 22		
Plot Numbers	Purpose for which land is required	Work No.
22-22, 22-23, 22-24, 22-25	At motorway level: land within existing motorway boundaries retained for construction and operation of the Scheme. At	1a, 1b, 16b, 16c, 17

	railway level: 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	
22-13a, 22-27a, 22-28, 22-29, 22-29a, 22-30, 22-30a, 22-30b, 22-31, 22-32, 22-33	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
22-16, 22-23a, 22-23b, 22-27	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 16b, 16c, 17
22-22a, 22-22b, 22-24a, 22-24b	Land required for widening Windsor Branch Railway underbridge	16b, 16c, 17
22-01	Temporary access for inspection and possible refurbishment of culvert	1a, 1b
22-09, 22-10	Temporary land required for use for access to construction compound and to Scheme construction site	All works
22-11	Temporary land required for use as construction compound	All Works
22-12, 22-26	Temporary land required for access and working space for	1b,16c,17

	widening Windsor Branch railway underbridge to the South, including realignment of M4 and J6 Westbound off-slip and embankment strengthening and widening	
22-18, 22-21	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
22-13, 22-14	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
Sheet Number 23		
Plot Numbers	Purpose for which land is required	Work No.
23-01, 23-14, 23-15	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 19a, 19b, 19c
23-30, 23-31, 23-36	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 20a, 20b, 20c

23-05, 23-06, 23-06a, 23-09, 23-10, 23-13, 23-16, 23-17, 23-18, 23-20, 23-21, 23-22, 23-23, 23-24, 23-25, 23-25a, 23-26	Land required for realignment of Datchet Road	19a, 19b, 19c
23-28	Land required for the online reconstruction of Recreation Ground overbridge	20b, 20c
23-02, 23-03, 23-04	Temporary land for access and working space to extend Water Main and Gas Main subway	18
23-11, 23-12	Temporary land required for access and working space to construct realigned Datchet Road and new Datchet Road overbridge	19a, 19c
23-07, 23-08	Temporary land for possible realignment of private means of access to Datchet Road	19c
23-32	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 land required for access to finishing works on	20c

	Recreation Ground road and Recreation Ground overbridge	
23-34, 23-35	Temporary land required for access and working space to extend Water Main subway	21
23-29	Temporary land required for use as construction compound and temporary land required for access and working space to construct realigned Datchet Road and new Datchet Road overbridge, and temporary land required for access and working space for online reconstruction of Recreation Ground overbridge	For work: 19c, 20c For construction compound: all Works
23-19	Temporary land required for use as construction compound and temporary land required for access and working space to construct realigned Datchet Road and new Datchet Road overbridge	For work: 19c For construction compound: All Works
Sheet Number 24		
Plot Numbers	Purpose for which land is required	Work No.
24-01, 24-26	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 22a, 22b, 22c
24-35	Land within existing motorway boundaries retained for construction and operation of the	1a, 1b, 22a, 22b, 22c, 23a

	Scheme	
24-19, 24-27, 24-28	Land required for the realignment of Riding Court Road	22a, 22b, 22c
24-31	Land required for realigned side junction off Riding Court Road	22c
24-02, 24-03, 24-04, 24-05, 24-06, 24-07, 24-08, 24-09, 24-10, 24-11, 24-12, 24-13, 24-14, 24-15, 24-16, 24-17, 24-18, 24-20, 24-21, 24-22, 24-23, 24-24, 24-25, 24-29, 24-30, 24-32, 24-33, 24-34a	Temporary land required for access and working space to construct realigned Riding Court Road and new Riding Court Road overbridge	22a, 22b, 22c
24-34, 24-36, 24-40	Temporary traffic management, including lane restrictions on Riding Court Road, to create working space for construction of the Scheme	1a, 23a,23b
24-37, 24-38	Temporary traffic management, including lane restrictions on Majors Farm Road, to create working space for construction of the Scheme	1b
Sheet Number 25		
Plot Numbers	Purpose for which land is required	Work No.

25-04, 25-05, 25-10, 25-12, 25-14, 25-16, 25-17, 25-18	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 24a, 24d
25-13, 25-26		1a, 1b, 24a, 24b, 24c, 24d, 24e, 24f, 24g, 24h, 24i
25-27, 25-28, 25-29		1a, 1b, 24b, 24c
25-35, 25-36		1a, 1b
25-21	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
25-01, 25-02, 25-03, 25-06, 25-09	Temporary traffic management, including lane restrictions on Riding Court Road, to create working space for construction of the Scheme	1a, 24a
25-11, 25-15, 25-19	Temporary traffic management, including lane restrictions on Majors Farm Road, to create working space for construction of the Scheme	1b, 24d
25-20, 25-22	Temporary traffic management for access to Scheme	All Works

	construction site	
25-30, 25-31, 25-32, 25-33, 25-34	Temporary land required for use as construction compound	All Works
Sheet Number 26		
Plot Numbers	Purpose for which land is required	Work No.
26-01, 26-04, 26-20	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 25, 26a, 26b
26-04a, 26-17	Land requirement for the online reconstruction of Old Slade Lane and Old Slade Lane overbridge	25
26-02, 26-03, 26-06, 26-07, 26-09, 26-10, 26-18, 26-19	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, 26-10a, 26-11, 26-12, 26-13	Possible temporary access or diversion route for Old Slade Lane	25
Sheet Number 27		
Plot Numbers	Purpose for which land is required	Work No.
27-12a , 27-12b, 27-12c, 27-12d, 27-12e, 27-12f	At motorway level: land within existing motorway boundaries retained for construction and operation of the Scheme. At railway level: temporary access	1a, 1b, 27a, 27b

	for inspection and possible refurbishment of the bridge.	
27-13a, 27-13b, 27-13c, 27-13d	At motorway level: land within existing motorway boundaries retained for construction and operation of the Scheme. At railway level: temporary access for inspection and possible refurbishment of the bridge.	1a, 1b, 26a, 26b
27-01, 27-02, 27-03, 27-04, 27-05, 27-07, 27-08, 27-09, 27-10, 27-11, 27-13	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 26a, 26b
27-12, , 27-14, 27-15, 27-17, 27-18, 27-19, 27-20, 27-20a, 27-20b, 27-21, 27-22, 27-22a, 27-22b, 27-22c, 27-25, 27-26	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 27a, 27b
Sheet Number 28		
Plot Numbers	Purpose for which land is required	Work No.
28-01, 28-01a, 28-02, 28-28,	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
28-03, 28-08, 28-13		1a, 1b, 28, 29a, 29d
28-14, 28-15, 28-29		1a, 1b, 29a, 29d

28-16	At motorway level: land within existing motorway boundaries retained for construction and operation of the Scheme. At roundabout and Heathrow Spur Road levels: land within existing highway boundary used for access to construction site, including traffic management	For work: 1a, 1b For access: all wWorks within Schedule 1
28-18, 28-19, 28-20, 28-21	For refurbishment of two existing gantries and construction of one new gantry on Heathrow Spur Road	29d
28-04, 28-05, 28-06, 28-07, 28-09, 28-10, 28-11, 28-12	Temporary land required for access and working space for extension of Sipson Road subway	28, 29a,29d
Sheet Number 29		
Plot Numbers	Purpose for which land is required	Work No.
29-04, 29-05, 29-05a, 29-05b	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 29b, 29c
29-06, 29-07	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
29-01, 29-02, 29-03	Temporary land required for use as construction compound	All Works

Sheet Number 30		
Plot Numbers	Purpose for which land is required	Work No.
30-01, 30-02	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b, 30a, 30b
30-04a, 30-04b, 30-08, 30-11, 30-12	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b
30-03	For inspection and possible refurbishment to St Dunstons Subway	1a, 1b
30-04, 30-05	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
Sheet Number 31		
Plot Numbers	Purpose for which land is required	Work No.
31-01	Land within existing motorway boundaries retained for construction and operation of the Scheme	1a, 1b

- 7.1.13 The Agency considers that this, and information elsewhere in the Application documents, demonstrates that any interference with rights is for a legitimate purpose, both prima facie and under PA 2008. It is also plain that the Agency has identified specific purposes as to how the Order land will be used.
- 7.1.14 For all of these areas, the Agency is seeking to acquire the necessary land, rights in land, or powers to override rights and interests in land, in order to construct and operate the Scheme. It is seeking these powers to ensure that the Scheme can be delivered and that the Government's policy that national networks be improved is met within a reasonable timescale. In this respect, the Agency considers that the test of section 122 of PA 2008, that the land is required for the Scheme to which the DCO relates, or is incidental to the Scheme, is met.

C Need for Power to Override Rights and Easements

- 7.1.15 Existing rights and easements that affect the Order land are listed in part 3 of the Book of Reference (**Doc. ref. 4.3**), to the extent that they are known. The Agency is seeking powers in the Application to override rights and easements. This is provided for in Article 23 of the draft DCO.
- 7.1.16 The Agency considers that, in order to construct and operate the Scheme, it will interfere with those interests or rights, or otherwise breach restrictions on the use of the land, the beneficiaries of which are listed in the Book of Reference (**Doc. ref. 4.3**). The Agency has consulted parties it considers are the current beneficiaries of these rights, as part of the diligent inquiry it has made in respect of the identity of persons with an interest in land, and pursuant to sections 42 and 44 of PA 2008.
- 7.1.17 In particular, in respect of utilities or other statutory undertakers who may have plant, apparatus or other infrastructure on, in or over the Order land, the Agency has made diligent inquiry of potentially relevant statutory undertakers and other like bodies to establish whether or not such persons have an interest or right in the Order land. This exercise has been undertaken in accordance with paragraph 9 of Annex D of the Guidance. Notwithstanding the diligent inquiry made, it has not been possible in all cases to identify conclusively where such equipment may be kept in the Order land. The Agency has adopted a precautionary approach, which is reflected in the Book of Reference (**Doc. ref. 4.3**). That approach entails

identifying a party that may have an interest in any parcel as if it does have such an interest.

- 7.1.18 Article 23 does not provide for the overriding of all rights and easements in the Order land. It provides that such rights may be overridden "only to the extent and required for or necessary or incidental to the authorised development" (Article 23(4)). The Agency has adopted this measure because there is not a justification for overriding all rights within the Order land where this is not required for or necessary or incidental to the authorised development.
- 7.1.19 Without a provision allowing the Scheme to be carried out and allowing these rights to be overridden, the beneficiaries of these rights might seek to enforce them by injunction. The risk that beneficiaries might be successful in such action means that it is necessary to provide that the rights of those affected be changed to a right to compensation. This would be for injurious affection, and is an accepted measure of compensation payable under section 237 of the Town and Country Planning Act 1990 ("TCPA 1990"). Article 23 of the draft DCO is based on these provisions.
- 7.1.20 Given that the Order land is the only location that this Scheme can be carried out (as the M4 is already constructed and in operation, and the Scheme is an improvement to the M4), and given the availability of compensation for injurious affection under the provisions of the Compensation Code, it is necessary and appropriate for the DCO to contain provisions specifically and expressly authorising the benefit of those restrictions to be overridden. Further, the contribution made by the Scheme to the evinced need for improved national networks in the UK demonstrates that any interference with rights occasioned by the Scheme will be for a legitimate purpose.

D Alternatives

Alternatives to compulsory acquisition

- 7.1.21 Chapter 3 of the Environmental Statement (**Doc. ref. 6.1**) addresses in detail the alternative options for achieving the objectives of the Scheme that were considered and provides an explanation of how the Scheme design evolved in order to achieve those objectives.

- 7.1.22 In 2003, the Secretary of State endorsed the 'Thames Valley Multi-Modal Study'¹ ("TVMMS") which recommended against the widening of the M4 in favour of demand management measures
- 7.1.23 A feasibility study in 2008² found that Hard Shoulder Running ("HSR") with Active Traffic Management ("ATM") could be implemented and would provide the best value solution. This study recommended that the preferred solution should be for the dynamic use of hard shoulder with TJR at junctions 5, 6 and 7 only. This involves allowing traffic on the hard shoulder during peak hours to create four lanes in each direction
- 7.1.24 Options work continued in 2010 and 2011 and identified that increased value could be achieved through the permanent conversion of the hard shoulder into a running lane.
- 7.1.25 The Department for Transport's ("DfT") first Road Investment Strategy ("RIS") sets out the Department's longer term investment and planning, outlining how it will invest in the SRN between 2015/16 and 2020/21
- 7.1.26 The DfT's aim, set out within the RIS, is that by 2040 "we will have transformed the busiest sections of the network to enable improved safety levels, smoother traffic flow, and increased capacity. Smart Motorways, which use technology to expand capacity and regulate the flow of traffic, will form the core of the SRN [strategic road network]."
- 7.1.27 Looking forward to 2040, the RIS seeks an upgraded network, supported by technology, which involves "Smart Motorways becoming the standard for the busiest sections of the network, delivering smoother traffic flow, increased capacity and improved safety".
- 7.1.28 Smart motorways typically have a lower environmental impact than traditional motorway widening schemes as there is less physical work. This minimises the potential impact on watercourses, habitats and landscapes. Additionally, the technology used for smart motorways allows traffic flows to be regulated; reducing congestion.

¹ Atkins (2003) Thames Valley Multi-Modal Study.

² Department of Transport (2008) Advanced Motorway Signalling and Traffic Management Feasibility Study.

- 7.1.29 The Scheme will relieve traffic congestion and improve journey times for all road users as a result of utilising the hard shoulder, part of the central reserve and some localised carriageway widening to create an extra running lane. The permanent addition of a extra running lane will ease traffic congestion and improve journey times for the wider community.
- 7.1.30 The number of people that could use the motorway may not increase significantly following development of the Scheme, however, travel journey times are anticipated to reduce, saving user's time and potentially reducing fuel usage. Reduced congestion could also improve road safety by increasing safety distances between vehicles and allowing more opportunities for safer vehicle overtaking. The improvements would represent a positive impact for road users. Further details can be found in Chapter 13 of the ES (**Doc. Ref. 6.1**).
- 7.1.31 It must be demonstrated that the Scheme will be safe from flooding for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall. Notwithstanding the fact that parts of the existing motorway may be located within fluvial Flood Zones, mitigation measures, such as flood storage, will ensure flood risk levels to surrounding properties remains the same as pre-development levels.
- 7.1.32 The Scheme drainage design, secured by the Drainage Strategy Report, will mitigate the potential surface water flood risk to the Scheme and third parties as a result of widening works. If an alternative motorway was to be constructed to provide the same community benefits, the impacts on the environment and community would be far greater, due to the increased land, construction and environmental costs associated with the construction of a new motorway. The use of other transport modes was considered in the TVMMS, and it was concluded that other modes were required to be improved in addition to the promotion of the Scheme.
- 7.1.33 The Scheme is in accordance with the DfT's RIS and provides maximum benefit with minimal impact on the community, environment or flood risk relative to any alternative scheme. Further, none of the alternative options to the Scheme would have obviated the need for compulsory acquisition and temporary possession of land - a widening, a new alignment or a new road to replace the M4 would have greater impacts. Public transport solutions (rail/light rail) similarly affect wider areas and require additional land-take.

- 7.1.34 The land identified to be subject to compulsory acquisition is no more than is reasonably required for the construction, operation and maintenance of the Scheme. Indeed, the areas of land proposed to be acquired are very modest.

Negotiation

- 7.1.35 Pending the availability of compulsory acquisition powers, the Agency will seek to purchase interests or to secure rights by agreement wherever possible. This approach of making the application for powers of compulsory acquisition in the Application and, in parallel, conducting negotiations to acquire land by agreement is in accordance with the direction provided in paragraph 25 of the Guidance.

E Availability of funds for compensation

- 7.1.36 Reference should be made to the Funding Statement (Doc. ref. 4.2) that accompanies the Application, provided under Regulation 5(2)(h) of the APFP Regulations. This sets out that the Agency and/or Highways England has or will have the ability to procure the financial resources required for the Scheme, which include the cost of acquiring any land and the payment of compensation, as applicable (see section 3 of that document).
- 7.1.37 The Agency considers that the decision maker can be satisfied of the Agency's (and Highways England's) ability to secure funding for the Scheme and that the requisite funds for payment of any compensation will be available at the appropriate time.

Blight

- 7.1.38 The concept of blight derives from the provisions of sections 149 to 171 of TCPA 1990. The blight provisions operate as a form of reverse compulsory acquisition, where a person owning land within certain limited categories of landowner is able to require the acquisition of his land by an acquiring authority. That ability arises where the land is or may be subject to powers of compulsory acquisition, as provided under paragraph 24 of Schedule 13 to the TCPA 1990. That paragraph applies the blight provisions to land which is subject to an application for development consent and which seeks authority to acquire the land in question compulsorily.

- 7.1.39 A blight notice can be served under the TCPA 1990 by owner occupiers of certain types of land. These are:
- a) where the land is, or is part of, a hereditament under Section 64 the Local Government Finance Act 1988, which has an annual value less than that specified by the Secretary of State in an order (which is £34,800) and the whole or a substantial part of the land is occupied by the owner. This applies primarily to small businesses;
 - b) where the land is a hereditament occupied by an individual who occupies the whole or a substantial part of the hereditament as a private residence, i.e. a private residential dwelling; and
 - c) where the land is an agricultural unit or part of a unit. The term "agricultural unit" in this context means land which is occupied for agricultural purposes including any dwellinghouse or any other building occupied by the same person for the purpose of farming the land.
- 7.1.40 So far as the Scheme is concerned, and the Order land over which the Agency is seeking powers of compulsory acquisition, none of these three tests are met. In respect of compulsory acquisition, the Scheme is not predicted to affect any dwellings, small businesses below the relevant rated value or any agricultural holdings. Consequently, there is no land comprised in the Order limits in relation to which a blight claim could be validly made out. As such, it is not anticipated that any claims for blight will arise.

F Compelling case in the public interest (s122(3))

- 7.1.41 A Planning Statement accompanies the Application (**Doc. ref. 7.1**). In addition to the information set out above, the Planning Statement explains how the Scheme:
- a) contributes to the improvement of national networks as sought by policy;
 - b) contributes to the delivery of local strategic development as set out in the identified development plan;
 - c) has addressed the potential for environmental impacts; and
 - d) satisfies the planning balance.

- 7.1.42 The Planning Statement provides an extensive review of these matters and so they are not repeated here. The Planning Statement demonstrates that there is a very strong and compelling case for the Scheme to be delivered. The need for the Scheme is, thereby, established.
- 7.1.43 There is also a compelling case in the public interest to include compulsory acquisition powers in the DCO, the exercise of which (and the associated interference with the rights of those with an interest in the land over which the powers of compulsory acquisition are to be exercised) are necessary and proportionate because:
- a) there is an established need and a compelling case for the Scheme to come forward, as described at paragraphs 7.1.41 and 7.1.42 of this Statement;
 - b) the powers of compulsory acquisition (in respect of powers of permanent or temporary acquisition of land, or the acquisition of rights only) are no more than are necessary for delivery of the Scheme, as described in sections 7.B and 7.C of this Statement;
 - c) the land over which powers of compulsory acquisition are sought is no larger in extent than is necessary for delivery of the Scheme and all land to be subject to compulsory acquisition has an identified purpose in delivering the Scheme, as provided in Table 2;
 - d) there are no alternatives to the Scheme that would reduce the amount of land that is to be subject to powers of compulsory acquisition, as described at paragraph 7.1.33 of this Statement; and
 - e) the inclusion of powers of compulsory acquisition in the DCO at the outset (i.e. at Application) is appropriate for a Scheme such as this, as provided for at paragraph 25 of the Guidance and described at paragraph 7.1.11 of this Statement.

8 Special Considerations and any Obstacles

8.1.1 This section deals with:

- a) Crown Land;
- b) Special Category Land - common land, open space and allotments;
and
- c) Other Consents Required.

A Crown Land

Secretary of State for Transport

8.1.2 The Secretary of State is interested in the majority of the Order land that is proposed to be subject to the powers of compulsory acquisition.

8.1.3 For the purposes of section 135 of PA 2008, land in which the Secretary of State is interested is Crown land, which is reflect on the Land Plans (**Doc. ref. 2.2**). Under section 135 of PA 2008, no interests of the Crown can be acquired without its consent.

8.1.4 Therefore, a letter requesting consent has been sent to the Secretary of State. The Agency will provide a copy of any consent that it receives in due course.

Secretary of State for the Environment, Food and Rural Affairs ("SoSfEFRA")

8.1.5 The SoSfEFRA is also interested in a small number of parcels of land that lie within the Order limits.

8.1.6 For the purposes of section 135 of PA 2008, land in which the SoSfEFRA is interested is Crown land, which is reflect on the Land Plans (**Doc. ref. 2.2**). Under section 135 of PA 2008, no interests of the Crown can be acquired without its consent.

8.1.7 Therefore, a letter requesting consent has been sent to the SoSfEFRA. The Agency will provide a copy of any consent that it receives in due course.

Bona Vacantia Land

- 8.1.8 A small number of parcels of land that lie within the Order limits are bona vacantia. For the purposes of section 135 of PA 2008, bona vacantia land is Crown land, which is reflect on the Land Plans (**Doc. ref. 2.2**).
- 8.1.9 Bona vacantia land is administered by the Treasury Solicitor's Department ("TSOL"). Therefore, a letter requesting consent has been sent to TSOL and the Agency will provide a copy of any consent that it receives from TSOL in due course.

The Crown Estate

- 8.1.10 During pre-application land referencing, parcels of land were identified for which the Crown Estate is the relevant Crown authority. However, as the Scheme evolved these parcels of land were excluded from the Order limits. The Crown Estate was provided with consultation material as a courtesy thereafter.

B Special Category Land

- 8.1.11 The Agency is seeking powers of compulsory acquisition in the draft DCO in respect of common land and open space.
- 8.1.12 Common land and open space land (and fuel or field garden allotments) are a small number of categories of land provided for in PA 2008. Special category land is subject to additional provisions where it is proposed to be compulsorily acquired, which primarily provide for the possibility that provisions relating to compulsory acquisition in a DCO are subject to special parliamentary procedure.
- 8.1.13 Sections 131 and 132 PA 2008 deal with the requirements of an applicant in seeking to acquire an interest in special category land compulsorily.

Common Land

- 8.1.14 The plots of land included within the Order limits that are registered as common land are:
- a) plots 10-01a and 10-01b within the Borough of Wokingham; and

b) plot 20-03 within the County of Buckinghamshire, District of South Bucks.

Plot 10-01a and Plot 10-01b

- 8.1.15 Plots 10-01a and 10-01b are subject to rights of permanent compulsory acquisition.
- 8.1.16 Plot 10-01a is 931 square metres in size and plot 10-01b is 92 square metres in size. Both plots are within the ownership of the Secretary of State.
- 8.1.17 These plots were registered as common land following the decision of a Commons Commissioner dated 30 March 1973 (see Appendix A to this Statement). As is evident from sheet 10 of the Land Plans (**Doc. ref. 2.2**), this common land forms part of the M4 carriageway and, as is evident from the decision of the Commons Commissioner, was registered as common land after the completion of construction of the M4. Therefore, the Agency considers that this land should never have been registered as common land because no rights of common could, at the time the land was registered as common, or can, presently, be exercised over the land.
- 8.1.18 The Agency intends to make a separate clarificatory/confirmatory application (outside the DCO process) to the relevant commons registration authority, being Wokingham Borough Council, under section 19 of the Commons Act 2006 in order to correct the Commons Register, such that plots 10-01a and 10-01b are no longer registered as common land and can be subject to powers of compulsory acquisition without falling within the provisions of sections 131 and 132 of PA 2008. This application is referred to in the List of Other Consents (**Doc. ref. 5.5**) submitted as part of the Application.
- 8.1.19 Further, section 131(4) of PA 2008 provides that an order granting development consent is not subject to special parliamentary procedure to the extent that it authorises the compulsory acquisition of common land if:
- a) (section 131(4)(a)) "replacement land has been or will be given in exchange for the order land"; and
 - b) (section 131(4)(b)) "the replacement land has been or will be vested in the prospective seller and subject to the same rights, trusts and incidents as attach to the order land"

with the term "order land" meaning the land that is "authorised to be compulsorily acquired" (section 131(12)).

- 8.1.20 Out of an abundance of caution and in the event that the application to correct the commons register (see paragraph 8.1.18 of this Statement) is unsuccessful, replacement land has been identified to be provided in exchange for this common land ("Replacement Land") in accordance with the exception contained in section 131(4) of PA 2008.
- 8.1.21 The Replacement Land is registered at the Land Registry under title number BK75150 and is in the ownership of the Secretary of State. No other person has an interest in the Replacement Land, there are no restrictions against the Replacement Land's title and the Replacement Land is not currently common land. The Replacement Land is 1023 square metres in size, which is the same as the combined size of plots 10-01a and 10-01b. The Replacement Land is shown shaded yellow on the Land plan provided at Appendix B to this Statement. It does not fall within the Order limits but its delivery as replacement land is already secure because it is in the ownership of the Secretary of State.
- 8.1.22 Article 35 of the draft DCO provides, in accordance with section 131(4) of PA 2008, that plots 10-01a and 10-01a are not to be discharged from rights, trusts and incidents to which they were previously subject until the Secretary of State has certified that a scheme for the provision of the Replacement Land has been implemented.
- 8.1.23 In the event that the application to correct the commons register described at paragraph 8.1.18 of this Statement is successful before the close of the Examination, Article 35 will be amended to remove reference to, and the relevant provisions in respect of, plots 10-01a and 10-01b.

Plot 20-03

- 8.1.24 Plot 20-03 is subject to rights of temporary compulsory acquisition. It is 1083 sq. m. in size and is in the ownership of Jeremy Richard Adams, William Donald McLean Buckley and Jill Marion Malmer as trustees of the PPD Palmer Will Trust.
- 8.1.25 No replacement land is intended to be provided by the Agency for plot 20-03 because the Agency considers that the exception to special parliamentary

procedure contained within section 131(5) of PA 2008 applies to the compulsory acquisition of this plot.

8.1.26 Section 131(5) of PA 2008 provides that an order granting development consent is not subject to special parliamentary procedure to the extent that it authorises the compulsory acquisition of common land if:

- a) (section 131(5)(a)) "the order land does not exceed 200 square metres in extent or is required for the widening or drainage of an existing highway or partly for the widening and partly for the drainage of such a highway"; and
- b) (section 131(5)(b)) "the giving in exchange of other land is unnecessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public".

8.1.27 Plot 20-03 is required for the widening of Lake End Road and the M4 as part of the Scheme, thus satisfying section 131(5)(a) of PA 2008. The giving in exchange of other land is unnecessary because plot 20-03 will only be acquired on a temporary basis and it is strongly in the public interest for the Scheme to come forward (see paragraphs 7.1.41 and 7.1.42 of this Statement), which requires the temporary acquisition of plot 20-03. Thus, section 131(5)(b) of PA 2008 is satisfied.

8.1.28 Therefore, the Agency does not consider that special parliamentary procedure applies in respect of the powers of compulsory acquisition to be authorised over plot 20-03.

Open Space - Temporary Acquisition

8.1.29 Twenty eight plots of open space land are intended to be compulsorily acquired on a temporary basis by the Agency as part of the Scheme. These are plots (listed in the order in which they appear in the Book of Reference):

- a) 18-19;
- b) 23-32;
- c) 23-34;
- d) 23-35;

- e) 20-27;
- f) 20-28;
- g) 20-32;
- h) 20-33;
- i) 20-34;
- j) 20-35;
- k) 20-36;
- l) 20-37a;
- m) 20-37c;
- n) 20-41a;
- o) 20-41c;
- p) 21-01;
- q) 21-02a;
- r) 21-02c;
- s) 21-02d
- t) 21-12a;
- u) 21-13;
- v) 21-15;
- w) 21-16;
- x) 21-17;
- y) 22-12;
- z) 22-26;
- aa) 23-04; and

bb) 23-33.

8.1.30 Section 131(4B) of PA 2008 provides that an order granting development consent is not subject to special parliamentary procedure to the extent that it authorises the compulsory acquisition of open space land if:

- a) (section 131(4B)(a)) "the order land is, or forms part of, open space";
- b) (section 131(4B)(b)) "none of the order land is any of the other descriptions in subsection (1)", i.e. none of this land to be compulsorily acquired is common land or a fuel or field garden allotment; and
- c) (section 131(4B)(c)) "the order land is being acquired for a temporary (although possibly long-lived) purpose".

8.1.31 Each of the plots listed at paragraph 8.1.29 of this Statement is:

- a) open space, thus satisfying section 131(4B)(a);
- b) neither common land nor a fuel or field garden allotment, thus satisfying section 131(4B)(b); and
- c) being acquired for a temporary purpose, thus satisfying section 131(4B)(c).

8.1.32 Therefore, the Agency does not consider that special parliamentary procedure applies in respect of the powers of compulsory acquisition to be authorised over the plots listed at paragraph 8.1.29 of this Statement.

Open Space - Permanent Acquisition

8.1.33 The Agency does not intend to compulsorily acquire any plots of open space land on a permanent basis.

8.1.34 Plot 21-12a is showing in the Book of Reference and on the Land plans as a plot of open space land that is intended to be compulsorily acquired on a permanent basis. However, this is an error, which will be corrected on the Book of Reference and Land plans in due course. The DCO accurately provides in schedule 7 that plot 21-12a is only to be compulsorily acquired on a temporary basis its acquisition is addressed at paragraph 8.1.29 of this Statement, together with the other plots of open space land that are to be compulsorily acquired on a temporary basis.

Fuel or Field Garden Allotments

- 8.1.35 The Agency is seeking powers of compulsory acquisition in the draft DCO in respect of allotment gardens, which the Agency does not consider fall within section 131 of PA 2008 because allotment gardens are not classified as special category land.
- 8.1.36 Powers of compulsory acquisition over allotment land are only subject to special parliamentary procedure under section 131 of PA 2008 if the allotment land is a fuel or field garden allotment (section 131(1) of PA 2008). Allotment gardens are not afforded the same protection as fuel or field garden allotments by PA 2008.
- 8.1.37 Section 131(12) provides that "fuel or field garden allotment" has the "same meaning as in section 19 of the Acquisition of Land Act 1981" ("ALA 1981"). Section 19 of ALA 1981 provides that "fuel of field garden allotment" means "any allotment set out as a fuel allotment, or a field garden allotment, under an Inclosure Act". Allotment gardens, on the other hand, are established under an Allotment Act rather than an Inclosure Act.
- 8.1.38 The three plots of allotment land over which the Agency is seeking powers of compulsory acquisition are plots 20-25, 20-26 and 23-35.

Plot 20-25 and Plot 20-26

- 8.1.39 Plots 20-25 and 20-26 form part of the same allotment area, registered at the Land Registry under title number BM343217 with Slough Borough Council named as the registered proprietor.
- 8.1.40 A conveyance of this land to the Mayor Aldermen and Burgesses of the Borough of Slough dated 21 April 1970 is registered at the Land Registry ("1970 Conveyance") and is provided at Appendix C to this Statement. At clause 3 of the 1970 Conveyance it is stated that the "permitted use of the said land ... is for allotments under the Allotments Act 1950" ("AA 1950").
- 8.1.41 The AA 1950 makes various provisions, all of which relate to allotment gardens, not fuel or field garden allotments. Section 14 of AA 1950 also provides that the term "allotment garden" has the same meaning as under the Allotments Act 1922 ("AA 1922"). Section 22 of AA 1922 provides that "allotment garden" means "an allotment not exceeding forty poles in extent which is wholly or mainly cultivated by the occupier for the production of

vegetable or fruit crops for consumption by himself or his family." This is also important because fuel and field garden allotments were established in order to make provision for the poor, whereas allotment gardens are a private undertaking by individuals, as described in AA 1922.

- 8.1.42 Therefore, the Agency considers that the allotments comprised within Plot 20-25 and Plot 20-26 are allotment gardens, and can be subject to powers of compulsory acquisition without coming within section 131 of PA 2008 and, consequently, without a requirement that these powers are to be subject to special parliamentary procedure.

Plot 23-35

- 8.1.43 The land comprised within Plot 23-35 is registered at the Land Registry under title number BK449606 with Slough Borough Council named as the registered proprietor.
- 8.1.44 A conveyance of this land to the Minister of Transport from the Mayor Aldermen and Burgesses of the Borough of Slough dated 10 March 1969 is registered at the Land Registry ("1969 Conveyance"), which is provided at Appendix D to this Statement.
- 8.1.45 Plan E appended to the 1969 Conveyance shows that the land comprised within plot 23-35 is identified as "Plot 119" in the 1969 Conveyance. On both pages 9 and 10 of the 1969 Conveyance, it is stated that "the portion of the said land [Plot 119] considered most suitable for cultivation for the provision of allotments in substitution for the 'Upton Allotments' under the Allotments Acts 1908 to 1925". Section 1 of the Allotments Act 1925 provides that "allotment" means "an allotment garden as defined by the Allotments Act 1922", which has already described at paragraph 8.1.41 of this Statement.
- 8.1.46 Therefore, the Agency considers that the allotments comprised within Plot 23-35 are allotment gardens, and can be subject to powers of compulsory acquisition without coming within section 131 of PA 2008 and, consequently, without a requirement that these powers are to be subject to special parliamentary procedure.

C Other Consents Required

- 8.1.47 A full list of the other consents and licences required to deliver and operate the Scheme is provided in a separate document submitted as part of the

Application - the List of Consents (**Doc. ref. 5.5**). The most important consents that will be required are:

- a) European Protected Species ("**EPS**") licences in respect of bats and great crested newts. Applications will be made to Natural England for the grant of the EPS licences under the Conservation of Habitats and Species Regulations 2010 ("**Habitats Regulations**") prior to commencement of development. There is no impediment to securing such licences;
- b) a badger disturbance licence and a Protected Species Licence in respect of badgers, applications for which will be made to Natural England for the grant of such licences under the Protection of Badgers Act 1992 and the Habitats Regulations respectively. The applications will be made prior to commencement of development and there is no impediment to securing such licences;
- c) hazardous waste consent in respect of the verges of the M4 and any asbestos that is found in any of the structures, an application for which will be made to the Environment Agency under the Waste (England and Wales) Regulations 2005 prior to the commencement of development. There is no impediment to securing such a licence; and
- d) flood defence consent in respect of works to be undertaken near a main river. An application will be made to the Environment Agency under the Water Resources Act 1991 prior to the commencement of development. There is no impediment to securing such consent.

8.1.48 A number of other standard consents will be required for the Scheme. These are set out in full in the List of Consents (**Doc. ref. 5.5**). Given that these are standard consents required for similar projects to that of the Scheme, the Agency does not consider that these represent an impediment to implementation of the Scheme.

D Statutory Undertakers

8.1.49 The Order land includes land in which statutory undertakers have rights or other interests. These statutory undertakers are listed in the Book of Reference (**Doc. ref. 4.3**).

8.1.50 The Agency will continue to negotiate with statutory undertakers to ensure that their interests are not adversely affected by the exercise of powers of compulsory acquisition. In this respect, the Agency has already included a proviso in Article 23 of the DCO that the power to override rights will only be exercisable to the extent required for, or incidental to, the Scheme.

9 The Human Rights Act 1998

- 9.1.1 The Human Rights Act 1998 incorporated into domestic law the European Convention on Human Rights ("Convention"). The Convention includes provisions in the form of Articles, the aim of which is to protect the rights of the individual.
- 9.1.2 The provisions of particular relevance to the determination as to whether the DCO should be made so as to include powers of compulsory acquisition as sought in the Application are:
- a) Article 1 of the First Protocol to the Convention
 - i. This protects the right of everyone to the peaceful enjoyment of possessions. No one can be deprived of possessions except in the public interest and subject to the relevant national and international laws.
 - b) Article 6
 - i. This entitles those affected by powers sought for the Project to a fair and public hearing. This includes property rights and can include opportunities to be heard in the consultation process.
 - c) Article 8
 - i. This protects private and family life, home and correspondence. No public authority can interfere with these interests except if it is in accordance with the law and is necessary in the interest of national security, public safety or the economic well-being of the country.
- 9.1.3 The decision maker, as a public body, is under a duty to consider whether the exercise of its powers interacts with the rights protected by the Convention. The approach to be taken to give effect to rights under the convention is reflected in the advice in the Guidance.
- 9.1.4 The DCO has the potential to infringe the human rights of persons who own property in the Order land. Such infringement is authorised by law so long as, firstly, the statutory procedures for making the DCO are followed and there is

a compelling case in the public interest for the inclusion of powers of compulsory acquisition in the DCO, and, secondly, the interference with the convention right is proportionate. On the basis of decisions of the Courts, the test of proportionality is satisfied provided that the DCO strikes a fair balance between the public benefit sought and the interference with the rights in question.

- 9.1.5 Therefore, in preparing the Application, the Agency has weighed the potential infringement of convention rights in consequence of the inclusion of compulsory powers within the DCO with the potential public benefits if the DCO is made. Firstly, the Agency considers that there would be significant public benefit arising from the grant of development consent for the Scheme. That benefit can only be made certain if the development consent is accompanied by the grant of powers of compulsory acquisition. The Agency has concluded that the significant public benefits outweigh its effects upon persons who have existing interests in the Order land. Secondly, the Agency is aware of the right in law for those affected by expropriation or dispossession to claim compensation under principles established by law and has the resources to provide such compensation.
- 9.1.6 In relation to Article 6, there has been opportunity to make representations regarding the preparation of the Application for the DCO. In accordance with Part 5 of PA 2008, the Agency consulted persons set out in the categories contained in sections 42(1)(d) and 44 of PA 2008. This includes owners of the Order land and those who may be able to make claims either under section 10 of the Compulsory Purchase Act 1965 in respect of injurious affection or under Part 1 of the Land Compensation Act 1973. The beneficiaries of restrictive covenants and other rights overridden by exercise of powers in the DCO would be capable of making claims under section 10 Compulsory Purchase Act 1965.
- 9.1.7 Further, in relation to Article 6, in addition to the publicity and consultation on the Application, all known owners and occupiers of land within the Order land have been contacted regarding the proposals for the DCO by agents acting on behalf of the Agency.
- 9.1.8 Furthermore, representations can be made by way of objections to the Application in response to any notice given under section 56 of PA 2008 (Notifying persons of accepted application), the examination of the Application by the examining authority, any written representations procedure that the

examining authority decides to hold or adopt in connection with the Application and, in particular, any compulsory acquisition hearing(s) under section 92 of PA 2008.

9.1.9 Should the DCO be made, a person aggrieved may challenge the DCO in the High Court if they consider that the grounds for doing so are made out pursuant to section 118 of PA 2008. In relation to disputes about compensation, affected persons have the right to apply to the Upper Tribunal (Lands Chamber), which is an independent judicial body.

9.1.10 For the above reasons, the Agency considers that the inclusion of powers of compulsory acquisition would not constitute any unlawful interference with Convention rights and that it would be appropriate and proportionate to make the DCO, including the grant of powers of compulsory acquisition.

10 Conclusions

10.1.1 Accordingly, the Agency submits, as set out in this Statement, that the inclusion of powers of compulsory acquisition in the DCO for the purposes of the Scheme meets the conditions of section 122 of PA 2008 and the Guidance.

10.1.2 In particular:

- a) the land identified to be subject to compulsory acquisition that is required for the Scheme is no more than is reasonably required and other land required to facilitate or land incidental to the Scheme is no more than is reasonably necessary for that purpose and is proportionate, as is shown in the DCO, works plans and other information both in this Statement and in other documents accompanying the Application; and
- b) the need for the Scheme, the lack of alternatives and the support for such projects in national policy show that there is a compelling case in the public interest for the land to be acquired compulsorily.

10.1.3 Further, the use of powers of compulsory acquisition is justified because:

- a) all reasonable alternatives to compulsory acquisition have been explored. Given the national need for the Scheme and the support for it found in policy, as well as the lack of availability of alternative sites (as the Scheme constitutes an upgrade to an existing motorway), the land identified by the Agency (which comprises the existing M4 and land adjoining it) for the Scheme is the only land available for those purposes;
- b) the proposed interference with the rights of those with an interest in the Order land is for a legitimate purpose, namely the Scheme, and is necessary and proportionate to that purpose;
- c) the Agency has set out clear and specific proposals of how the Order land will be used;

- d) the requisite funds are available to meet any costs of land acquisition or amount of compensation payable as a result of the use of powers of compulsory acquisition; and
- e) the purposes of powers of compulsory purchase to be included in the DCO is entirely legitimate, namely for the purposes of the Scheme, and justifies interfering with the human rights of persons with an interest in the land proposed to be acquired.

**APPENDIX A COMMONS COMMISSIONER DECISION
DATED 30 MARCH 1973**

STATEMENT OF REASONS

DLA PIPER UK LLP - 30 MARCH 2015

RTN/NW/351137/2/UKM/68098672.2

APPENDIX B PLAN SHOWING REPLACEMENT LAND

STATEMENT OF REASONS

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APPENDIX C THE 1970 CONVEYANCE

STATEMENT OF REASONS

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APPENDIX D THE 1969 CONVEYANCE

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