

THE PLANNING ACT 2008

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

TR010019

**Application by Highways England for an Order Granting Development Consent for the M4
Junctions 3 to 12 Smart Motorway (Case ref. TR010019)**

Written Summary of Issue Specific Hearing Dealing With Compulsory Acquisition

19 November 2015

A. INTRODUCTION

1. The Examining Authority began by making introductions and explaining the purpose of the hearing.

B. PRELIMINARY MATTERS

2. *Update from the applicant on progress in assembly of Order lands through private treaty*
Highways England Response
 - 2.1 A numbers of letters were sent to landowners to commence negotiations as follows:
 - 2.1.1 All freeholders got an initial letter in June 2015, which was sent to 201 parties.
 - 2.1.2 A soft chaser letter was then sent to 145 parties in July.
 - 2.1.3 At the same time in June 2015 an opening letter was sent to leaseholders, being some 208 parties.
 - 2.1.4 270 letters were also sent out to those who had completed the pre-action questionnaire for the Scheme, but whose land was no longer required, in order to inform them that there would be no compulsory acquisition of their land interest.
 - 2.2 Claire Giles, the District Valuer acting on behalf of Highways England to negotiate the acquisition of the required interests in land confirmed that she is in active contact with 57 parties. Ms Giles explained that some landowners who own small plots of land to be acquired for the Scheme have not engaged in the process. There are a number of potential reasons for the lack of engagement being experienced. Some landowners are essentially refusing to acknowledge that the land assembly process is occurring in the hope that it will not come to fruition. Others have expectations of growth in land values and are therefore 'holding off' in the expectation of enhanced values at some point in the future if the Scheme is granted development consent.
 - 2.3 Ms Giles explained that she is in discussions with agents appointed on behalf of landowners in relation to certain land parcels and is attempting to agree fees with those agents in connection with the negotiations. Some agents are hoping for higher fees than are being offered. However, Ms Giles notes that the fees paid to agents must be commensurate with the complexity involved in the negotiations.
 - 2.4 Ms Giles confirmed that the negotiation of land acquisition is progressing in line with experience on other projects of a similar magnitude to this Schemes. However, she noted that

Highways England cannot force people to negotiate or engage with the process. Whilst Ms Giles has considered sending a further letter in an attempt to promote further engagement with the compulsory acquisition process on the part of landowners, Ms Giles explained that she is conscious that the landowners have had many letters from Highways England, Highways England's legal team, the District Valuer and PINS and does not wish landowners to feel harassed by the level of contact. However, this will be kept under review and it may be appropriate for further contact to be made in due course.

3. *Clarification of the Land Plans and current Book of Reference (BoR), including:*

i. amendments to reflect transfer of Crown land to Highways England (HE)

ii. updates to the BoR pursuant to the ExA's first written questions and any new information in respect of land interests which has arisen since the submission of the application (including additional submission from Thames Water regarding interest in plots 26-12 and 26-13 AS-021)

Highways England Response

3.1 The Book of Reference and Land plans were updated and resubmitted to the Examination for Deadline III. The changes included those requested by the Examining Authority in its first written questions – to reflect the transfer of titles and interests from the Department for Transport ("DfT") to Highways England Company Limited as requested by the Examining Authority in first written question 9.9. That submission was accompanied by a note explaining the additional land information that was submitted, and the changes that it reflected.

4. *Questions arising from the applicant's response to the ExA's first written questions REP2-003.*

a. Question 9.3: Clarification in respect of the scope of powers sought at Construction Compound 3.

i. Can HE explain how any reduction in temporary possession (TP) power is intended to be agreed with the landowner (Wokingham Borough Council (WBC)) and how impacts on the park and ride operator have been considered? When is it expected for the extent of the reduction in TP power ('assumed to be 1 ha') to be confirmed/agreed?

Highways England Response

4.1 Now that the Park and Ride facility has been constructed and brought into operation its use as a full satellite construction compound is no longer considered viable. This means that Construction Compound 3 will no longer be taken forward as a construction compound for the Scheme. Highways England is currently looking for replacement land elsewhere, and will promote the use of such land as a construction compound for the Scheme via the usual

planning permission process under the Town and Country Planning Act 1990. Highways England confirmed that this has no implications on the Development Consent Order ("DCO") being sought.

ii. Can WBC confirm whether a specific objection to compulsory acquisition (CA) is made in its relevant representation (RR)? (HE's response to the Council's RR states 'HE notes no specific objection made here by WBC').

No Highways England Response Required

b. Questions 9.9 and 9.10: Update from the applicant in respect of Crown land consent.

i. Can HE provide an update on progress with consent sought from the Secretary of State for Transport (SoST) and the Secretary of State for the Environment, Food and Rural Affairs (SoSEFRA) (or any transferee Secretary of State)?

ii. How can the ExA be assured that all lands transferred from SoST to HE will be correctly titled at Land Registry before the expiry of the examination?

iii. These lands are therefore Crown land and the tests in s135 PA2008 apply. Can HE provide an update in relation to achieving Crown land consent from the SoST?

iv. Can HE provide an update in respect of these parcels of land? To what extent can the ExA be comforted that Crown land consent from the SoSEFRA (or any transferee Secretary of State) will be achieved before the expiry of the examination?

Highways England Response

SoST

- 4.2 The majority of titles formerly owned by SoST have already been transferred to Highways England and are already correctly titled. One title remains in the name of SoST (title BK461004). Plots relevant to this title have continued to be shown as Crown Land in the Book of Reference and on the updated Land Plans. Highways England believes that title BK461004 was left out of the transfer of land to Highways England in error. Highways England's land team is currently seeking to have that plot transferred to Highways England, and hopes to be able to update the Examining Authority at Deadline V that no interests of SoST remain to be acquired, such that SoST consent under s.135 of the Planning Act 2008 will not be required.

SoSEFRA

- 4.3 There are 5 parcels down as owned by SoSEFRA:

4.3.1 Plot 16-04;

4.3.2 Plot 16-05;

- 4.3.3 Plot 17-04c;
- 4.3.4 Plot 17-05;
- 4.3.5 Plot 17-08; and
- 4.3.6 Plot 18-24.

4.4 Highways England approached the Department of Environment, Food and Rural Affairs ("DEFRA") on several occasions to obtain s.135 consent, as explained in the response to the Examining Authority's first written question 9.10. When contact was finally made with DEFRA's Estates Team, they explained that DEFRA is unsure as to the ownership of the plots listed above, and believed that ownership of those plots may have been transferred to an alternative Government Department. Following advice from the DEFRA Estates Team, Highways England has contacted the Government Clearing house to establish which Government department owns this land, and therefore which Secretary of State is required to give consent under s.135 of the Planning Act 2008. Highways England will update the Examination on the progress of its discussions with the Government Clearing House in due course.

4.5 In response to a question from the Examining Authority as to the procedure that would occur were the request s.135 consent not to have been obtained by the close of the Examination in March 2016, Highways England confirmed that it hoped that such consent would have been obtained. However, Highways England did note that, whilst it would seek to avoid a delay in obtaining s.135 consent, there was precedent for s.135 consent being granted after the close of the Examination, as occurred in relation to the Able Marine Energy Park Development Consent Order 2014.

4.6 The Examining Authority queried what the position would be if close to the end of the Examination it is still not clear which body is required to give s.135 consent. S.135 requires that, where an order granting development consent includes provisions for the compulsory acquisition of an interest in Crown land, the consent of the appropriate Crown authority must be received. The meaning of 'appropriate Crown authority' is defined in s.227 of the Planning Act 2008, which provides at s.227(5)(f) that in the case of land belonging to a government department, the appropriate Crown authority is that government department. In light of the fact that, as a matter of law, the Secretaries of State are one and indivisible¹, the putative

¹ *Harrison v Bush* (1855) 5 E & B 344; *Hinchy v. Secretary of State for Work and Pensions* [2005] UKHL 16

Crown authority listed on the title for the land - being the Secretary of State for the Environment, Food and Rural Affairs - is capable of giving the requisite consent.

- 4.7 Further, s.227(6) of the Planning Act 2008 provides that if any question arises as to what authority is the appropriate Crown authority in relation to any land, it must be referred to the Treasury, whose decision is final. Consequently, if no response has been received from the Government Clearing House in relation to the ownership of the land (and therefore which body amounts to the appropriate Crown authority from whom consent under s.135 is required) prior to the next issue specific hearings, a reference will be made by Highways England pursuant to s.227(6) of the Planning Act 2008 for determination by the Treasury.

c. Question 9.12: Update from the applicant in respect of common land at plots 10-01a and 10-01b.

Can HE provide an update on progress with WBC in respect of its application to deregister these plots? What is the lead time for a decision on such an application to be produced?

Highways England Response

- 4.8 Highways England explained that it was not the case that an application was being made to deregister plots 10-01a and 10-01b as common land under s.16 of the Common Act 2006. Instead, an application is being made under s.19 of the Commons Act 2006 for the correction of a mistake in the Register. Highways England is of the view that a mistake was made in entering these plots of land on the Register, as at the time of registration, they already formed part of the M4 motorway, which the Commissioner was aware of at the time the registration was made, and therefore rights of common could not be exercised over the plots. The application has been drafted and is due to be submitted in the week commencing 23 November 2015. Whilst Highways England was not able to give an indication as to how long it could take to receive a decision on the application, it noted that the process was much shorter than an application to deregister the land. If the application is not successful, and the land remains registered as a common, Highways England will continue to rely on the powers sought in Article 35 of the Order on the basis that replacement land is being provided in accordance with the requirements of s.131 and 132 of the Planning Act 2008.

C. REPRESENTATIONS BY AFFECTED PERSONS AND OTHER INTERESTED PARTIES

In particular consideration of:

- *the applicant's response to RRs submitted to Deadline I (2 October 2015) REP1-003;*
- *the applicant's response to the ExA's first written questions submitted to Deadline II (8 October 2015) REP2-002 and REP2-003; and*

- *the applicant's comments on written representations (WR) submitted to Deadline III (5 November 2015).*

5. *Representations from local authority interests.*

a. London Borough of Hillingdon (LBHill) object to the need for HE to temporarily possess specific lands [plots 28-04, 28-05, 28-06, 28-07, 28-09, 28-10, 28-11 and 281-12] as it is 'significantly more than is required for temporary access and working space for extension to Sipson Road subway' REP2-060. Further concern is expressed in respect of public rights of way (PRoW) closures and engagement with neighbouring occupiers.

i. Can HE respond to the objection raised by LBHill in respect of the extent and duration of TP power sought at Sipson Road?

Highways England Response

5.1 With respect to the plots owned by LBHill, this issue is dealt with in HE's response to LBHill's LIR paragraphs 4.13.3 to 4.13.6 as follows:

4.13.3 The order limits, in particular the northern limit of plots 28-04, 28-05 and 28-06 have been positioned to avoid the access point from Sipson Road to Cherry Lane Primary School and Cherry Lane Children's Centre. Reasons for the temporary acquisition are detailed below in paragraphs 4.13.4 and 4.13.5.

4.13.4 Plot 28-10 covers a length of Sipson Road south of the subway. Temporary acquisition of this plot is required as working space and access for construction of the southern extension of Sipson Subway (Work Number 28).

4.13.5 Sipson Road subway will be closed for approximately one year. This is principally due to the requirement for temporary diversions of Statutory Undertaker's plant and their subsequent relocation after completing the subway alterations.

4.13.6 Plot 28-06 is required to accommodate construction access for the works to Sipson Road subway and is limited to the strip of grass outside the fenceline adjacent to Cherry Lane Children's Centre.

5.2 The Order limits, in particular the northern limit of plots 28-04, 28-05 and 28-06 have been positioned to avoid the access point from Sipson Road to Cherry Lane Primary School and Cherry Lane Children's Centre. Reasons for the temporary acquisition are as follows.

5.2.1 Plot 28-10 covers a length of Sipson Road south of the subway. Temporary acquisition of this plot is required as working space and access for construction of the southern extension of Sipson Subway (Work Number 28).

5.2.2 Sipson Subway will be closed for approximately one year. This is principally due to the requirement for temporary diversions of Statutory Undertaker's plant and their subsequent relocation after completing the subway alterations.

- 5.2.3 Plot 28-06 is required to accommodate construction access for the works to Sipson Subway and is limited to the strip of grass outside the fenceline adjacent to Cherry Lane Children's Centre.
- 5.3 Highways England confirmed that Plots 28-07, 28-09 and 28-11 are not owned by the LBHill. However, those plots are also required for the same reasons, that is, working space around the subway.
- 5.4 Highways England also confirmed that pedestrian access will be maintained through plot 28-06 between Sipson Road and Vine Close.

ii. Can HE respond to the concern raised by LBHill in respect of PRow closures and engagement?

Highways England Response

- 5.5 As detailed in paragraph 2.2.1 to 2.4.1 of Highways England's response to the LBHill Local Impact Report submitted at Deadline III the scheme has no effect on:
- *“any of the 14 footpaths or four Public Rights of Way within London Borough of Hillingdon.”*
 - *“the six footpaths form part of three adopted highway roads which are aligned either over or under the M4, namely on both sides of A437 High Street (Harlington) Bridge, A3044 Holloway Lane and Harmondsworth Road.”*
 - *“the two subways that connect St Peter's Way to the south with Shepiston Lane to the north and provide access to Cranford Park namely south of Fuller Way and south of Roseville Road. “*
- 5.6 However a temporary closure at Sipson subway is required to deliver the Scheme (extension of the subway and associated utility diversion). It is understood that the subway is an important pedestrian route within the area and that, if closed for the works, a diversion route would be unpopular with the local community. The design for the extensions can be built keeping the subway open for the majority of the time. For the north end, the existing parapet upstand is to be removed and upgraded. This work will be undertaken behind barriers on the M4 and from above the subway. An encapsulation could be installed to the ramp to afford protection to the subway users during this work.
- 5.7 To the southern end, the structure has to be extended and the new and old connected together. As with the north end, the majority of work can be undertaken with the subway remaining in use. There will however be a requirement for a safety encapsulation of the ramp to separate the construction work from the public right of way.

- 5.8 At both ends, closures will be required when there is a conflict between the work being undertaken and the safety of the public using the subway. These closures will be of a short duration and phased to be at periods of minimal usage, e.g. overnight, weekends and school holidays. It would be our preferred solution that closures are not in place just prior, during and just after the school day. This will ensure that there is minimal impact to school children and attendees of the Cherry Lane Children's Centre.
- 5.9 Operations of this nature requiring a closure include:
- 5.9.1 Installing/relocating of piling plant
 - 5.9.2 Installation/removal of the safety enclosures
 - 5.9.3 Installation of precast concrete beams
 - 5.9.4 Demolition/connection works between new and old sections of the structure
 - 5.9.5 Works to the access ramps/approaches
- 5.10 The diversion route during the closures will be via Vine Close, linking to Holloway Lane either via Blossom Way and Cherry Lane, a distance of approximately 1.5km.
- 5.11 It should be noted that the proposals described above are based on the preliminary design drawings and final clarification from the Statutory Undertakers of the work required to their plant and equipment is required. The Statutory Undertakers' work could have a significant impact on the detailed design and form of the works to this structure. Consequently the method, sequencing and phasing of the works could change significantly. Highways England's intention regarding the continued use of Sipson Subway, as described above, will be recorded in the CEMP.
- 5.12 At the hearing, the Examining Authority queried the length of diversion that would be required if the subway is closed. A diversion route for any temporary closure of Sipson Subway will be available via Holloway Lane to the east. This diversion route via Vine Close will be approximately 1.5km in length as described in paragraph 14.12.6 of Chapter 14 (Community and Private Assets) of the Environmental Statement (Application Document Reference 6-1, APP-154) and paragraph 5.10.1 of the Socio-economic Report (Application Document Reference 7-2, APP-090); both references have the following wording:
- 5.13 *Mitigation measures that are specific to this link relate to the need for appropriate information and diversion measures in relation to the lengthening of the Sipson Road subway.*

A proposed pedestrian diversion is available via Holloway Lane, a distance of approximately 1.5km. Consultation with Sustrans has identified that this is not a major route for cyclists; however the interests of school children cycling to Cherry Lane Primary School should be taken into account, with consideration given to the shared use of footpaths as appropriate if the Holloway Lane diversion is pursued.

- 5.14 In relation to the query from the Examining Authority regarding when a signed SoCG will be provided between Highways England and the London Borough of Hillingdon, Highways England noted that it has met with the London Borough of Hillingdon on a large number of occasions to discuss a number of topics, including PRoW closures. A list of engagement will be detailed in the SoCG. The parties agreed at the hearing that they would aim to complete a signed SoCG two weeks following Deadline IV.

iii. Can HE respond to the statement in LBHill's Local Impact Report (LIR) that there is 'insufficient information provided to assess if the extent of the CPO's [compulsory purchase orders] (permanent and temporary) accord with the PA2008 with regard to the land being required, necessary and in the public interest'? REP2-060

Highways England Response

- 5.15 This issue is dealt with in HE's response to LBHill's LIR paragraphs 4.13.2 to 4.13.6.
- 5.16 Paragraph 4.13.2 addresses the plots where permanent compulsory acquisitions required (plots 27-22b, 28-01, 28-02, 28-08, 28-14, 28-20, 29-05a and 29-06) and states: "*Highways England notes that, in principle, London Borough of Hillingdon do not raise any objections to permanent compulsory acquisition of the listed plots.*"
- 5.17 Paragraphs 4.13.3 to 4.13.6 explain the need for temporary acquisition of the remaining LBHill plots (28-04, 28-05, 28-06, , 28-10,) which are required for access and working space for extension of Sipson Subway as described in 5.a.i above:

4.13.3 The order limits, in particular the northern limit of plots 28-04, 28-05 and 28-06 have been positioned to avoid the access point from Sipson Road to Cherry Lane Primary School and Cherry Lane Children's Centre. Reasons for the temporary acquisition are detailed below in paragraphs 4.13.4 and 4 13.5.

4.13.4 Plot 28-10 covers a length of Sipson Road south of the subway. Temporary acquisition of this plot is required as working space and access for construction of the southern extension of Sipson Subway (Work Number 28).

4.13.5 Sipson Subway will be closed for approximately one year. This is principally due to the requirement for temporary diversions of Statutory Undertaker's plant and their subsequent relocation after completing the subway alterations.

4.13.6 1) Plot 28-06 is required to accommodate construction access for the works to Sipson Subway and is limited to the strip of grass outside the fenceline adjacent to Cherry Lane Children's Centre.

5.18 Highways England also draws the Examining Authority's attention to pages 104-106 of its response to the London Borough of Hillingdon's LIR, which addresses the comments made regarding the case for compulsory acquisition powers being granted.

iv. When can a Statement of Common Ground (SoCG) between the parties be expected to be submitted to the examination?

Highways England Response

5.19 Highways England and LB Hillingdon are in continued discussions regarding the Statement of Common Ground (“SoCG”) between the two parties.

5.20 Highways England issued the latest version of the SoCG to LB Hillingdon on 5 November 2015. LB Hillingdon confirmed that they would be reviewing the document on 12 November 2015, however in their email of 12th November noting “*Following an internal meeting held today, it is not possible for the council to review all of the details and provide feedback on the SoCG by Tuesday 17th November, as requested by the ExA. We will continue to work with HE, however there have been substantial alterations made to the SoCG and it is not therefore possible to provide comments and sign up to an agreed position.*”

5.21 The parties agreed at the hearing that they would aim to complete a signed SoCG two weeks following Deadline IV.

b. South Bucks District Council’s (SBDC) LIR expresses outstanding concern in relation to the TP of lands in the Council’s interest REP2-050. The LIR contradicts the SoCG agreed with HE in respect of the SBDC’s satisfaction with retained access arrangements at Dorney Village Hall REP2-009.

For the avoidance of doubt, can SBDC confirm which document represents the current position of the Council?

Highways England Response

- 5.22 Temporary use of the access track to Dorney Village Hall (land parcel 19-56) is required in order to construct a new retaining wall to the motorway to accommodate a new sign gantry. The works will mostly be carried out from the motorway with the access track remaining open. Certain operations will require the track to be narrowed or closed for short periods for health and safety reasons. The closures will be timed so as to not impact events at the Village Hall or the use of the Village Hall car park for school car parking. The finalised Construction Traffic Management Plan ("CTMP") for the Scheme will incorporate all issues associated with the management of vehicular and non-vehicular traffic impacted by the works. The CTMP will be finalised prior to commencing the construction of the works. During development of the final CTMP consultation with all stakeholders will be undertaken and, where practicable, all issues will be addressed, as provided for in the Construction Environmental Management Plan submitted with the Application (Application Document Reference Number 6.3, APP-293).

*c. In its WR, the **Royal Borough of Windsor and Maidenhead** seek assurance in respect of the treatment of PRow at River Thames Bridge, Thames Path National Trail and Datchet Footpath 1 (Bridge 11) REP2-030.*

i. Can HE clarify and confirm its intended treatment of these PRow?

Highways England Response

- 5.23 This clarification is included in section 8 of HE response to Royal Borough of Windsor and Maidenhead ("RBWM") Written Representation, provided at deadline III (extract below). Note that the footway/cycleway over the River Thames Bridge referred to is along the northern side of the M4. The footway/cycleway over the bridge along the southern side of the motorway will be retained at its current width of 1.67m

River Thames Bridge

- 5.24 We have assumed it is the northern bridge (there are two). Highways England intends to maintain and improve the footway/cycleway at Thames Bray bridge. The bridge widening has been designed to accommodate a widening of the existing cycleway/footpath. The existing width of 1.67 metres will be improved to 2.5 metres as part of the structural solution. This complies with current design standards. The widening arrangement with a 2.5m footway has been configured to closely replicate the existing girder spacings and edge cantilever dimensions as far as possible for reasons of buildability, structural capacity and aesthetics. The resulting edge cantilever is 2.15m wide matching the existing width, and the girders are spaced at 4m (with two additional girders on the bridge) compared with the existing 3.81m

spacing. Widening in this configuration has been the subject of detailed structural assessment of the existing bridge to confirm the technical feasibility of widening. This assessment has shown that strengthening is required to the existing structure as part of the widening scheme.

- 5.25 The increase in loading caused by widening the footway further to 3m would be highly likely to increase the amount of strengthening required. The size of structural sections, crane sizes and temporary falsework needed to construct the widening would also need to increase to accommodate the wider footway.
- 5.26 An additional consideration at this structure is the presence of a high pressure gas pipeline approximately 15m to the north of the structure which cannot be permanently loaded or caused to settle by the bridge and associated embankment widening. Reinforced steepened embankment slopes are required for several hundred metres on the approaches to the bridge to accommodate the wider highway alignment. Therefore further widening the structure, to accommodate a wider footway, would further steepen these embankments which in turn would significantly increase the overall construction cost.
- 5.27 For these reasons Highways England has designed a 2.5m wide footway on the widened structure and approach embankments which is sufficient for shared pedestrian and cyclist use and improves the existing situation.

Thames National Trail

- 5.28 The existing path along the banks of the River Thames runs along the eastern bank and passes under the Thames Bray Bridge. Highways England recognises the importance of the trail and the duration of any closures will be kept to the minimum necessary. Closures of the footpath will be required when construction activities have the potential to put the safety of footpath users at risk; examples may include installing steelwork beams or installing and removing parapet temporary works.
- 5.29 When the new eastern abutment is constructed the current route will become a work site which will extend from the edge of the water and past the face of the existing abutment. To maintain the national trail, a local diversion will be required to route the path away from the construction of the abutment. For the trail to remain open, the only viable option is to route the path on pontoons or a temporary structure in/above the river. In order to arrange this diversion, approval of the appropriate authorities (e.g. Canal and River Trust, Environment Agency) will be sought. Trail diversions and closures will be advertised in advance and will form part of the finalised CTMP for the Scheme.

- 5.30 There are no plans to undertake work on the trail, itself, at this stage. Should however any be needed to facilitate the bridge construction, the trail will be reinstated to its original condition.

Datchet Footpath 1

- 5.31 The bridge replacement works and associated side road improvements were developed on the basis that such works would be on a like for like basis to the existing situation. However, the cyclist usage of this bridge is recognised and as such the parapet height provisions for the new bridge have been enhanced compared to the existing situation. The parapet heights at Recreation Road overbridge will be 1.4m compared to the existing which are 1.0m high.

ii. When can a SoCG between the parties be expected to be submitted to the examination?

Highways England Response

- 5.32 Highways England confirm that a SoCG was signed on 9 November 2015 and has been submitted to the Planning Inspectorate.

*d. The LIR submitted by **Slough Borough Council (SBC)** states that 'matters relating to land acquisition are still under discussion' REP2-047.*

Can HE update the examination on the progress of discussions with SBC and indicate when a SoCG between parties can be expected to be submitted to the examination?

- 5.33 Following discussion with Slough Borough Council a signed statement of common ground will be submitted for Deadline IV.

6. *Representations from statutory undertaker interests.*

*a. **Network Rail Infrastructure (NRI)** sustain objection until such time as protective provisions (PP) are agreed with HE. A suite of concerns are set out in respect of its interests as recorded in the BoR REP2-038.*

i. Can HE provide an update to the examination on the progress with NRI in respect of agreeing PPs?

ii. Can HE respond to the concern expressed by NRI in its WR in respect of the BoR?

iii. To mitigate NRI's omission from Table 1 (appended to the ExA's first written questions), can HE please provide a written response to NRI's pre-examination submissions AS-002 and AS009?

Highways England Response

- 6.1 Highways England has responded in detail to Network Rail's concerns in its response to Network Rail's Written Representations submitted at Deadline III.

6.2 Highways England confirmed that standard protective provisions for the benefit of Network Rail have been included in the DCO at Part 3 of Schedule 9. Highways England noted that the concerns raised in Network Rail's written representation are not consistent with its previous communications with Highways England and its submissions to the Examination. On 8 July 2015, Network Rail confirmed by email that "Network Rail is content with the protective provisions in the draft Order being in the same form as for previous Highways England schemes". A copy of that email was provided at Appendix B to Highways England's response to Network Rail's Written Representations submitted at Deadline III.

6.3 Further, on 9 July 2015, Network Rail submitted a section 56 representation to the Examining Authority (Appendix C), which stated:

"There are standard protective provisions for the benefit of Network Rail which are well precedented in TWA Orders and now in DCOs. Prior to submission of the application, Network Rail was in contact with the promoter regarding the appropriate form that these provisions should take and is pleased to see that these have been incorporated within the draft Order. Network Rail would like to highlight to the Examining Authority the absolute need for these protective provisions to remain included in a DCO where Network Rail's operational infrastructure is affected by the proposal."

6.4 Given those previous representations made by Network Rail, on receiving Network Rail's written representation, Highways England contacted those acting for Network Rail and were told that they were currently reviewing the protective provisions provided at Part 3 of Schedule 9 to determine whether there was any departure from Network Rail's standard protective provisions and that a response would be provided in due course. Highways England has not had such a response from those acting for Network Rail. Highways England will chase a response and hopes to be able to update the Examination.

b. Representations have been made by a number of other statutory undertakers, and not withdrawn.

i. Can HE provide an update on progress in respect of agreeing PPs with relevant statutory undertakers, including:

- *National Grid RR-303, REP2-028, REP2-042;*

Highways England Response

6.5 Highways England has agreed to adopt National Grid's proposed standard drafting in relation to the protective provisions provided for the benefit of National Grid at Part 1 of Schedule 9 to the DCO, and will be including them in its next draft of the DCO. On that basis, Highways

England understands that National Grid is satisfied that its apparatus is suitably protected, and for that reason chose not to attend the Compulsory Acquisition hearing. A document submitted to the Examination on behalf of National Grid confirming the position has been provided at Appendix A.

- *Affinity Water RR-208;*

Highways England Response

6.6 Highways England has been in discussions with Affinity Water regarding the protective provisions proposed for the benefit of Affinity Water in Part 1 of Schedule 9 to the DCO since June 2015. The latest contact between the parties was at a meeting on 12 November 2015 to discuss the potential impacts of the Scheme on Affinity Water's assets and the protective provisions that have been included in the DCO. Highways England understands that Affinity Water are satisfied that the protective provisions are appropriate in relation to the majority of their assets. However, they have concerns regarding two large tunnels in the proximity of Old Slade Lane. Engineers from Highways England and Affinity Water are scheduled to meet in the coming weeks to discuss the possible impacts of the Scheme on these assets, and any additional protective provisions that may be required as a result.

- *South East Water RR-149, REP2-040, REP2-058;*

Highways England Response

6.7 Highways England has been in discussions with South East Water regarding the protective provisions proposed for the benefit of South East Water in Part 1 of Schedule 9 to the DCO since June 2015. A meeting was held with South East Water on 16 September 2015 at which the potential impacts of the Scheme on South East Water's assets were discussed. South East Water confirmed that it was happy with the protective provisions in relation to the majority of its assets, but would consider the need for the provisions to be amended to protect its boreholes. Discussions are on-going between the parties as to the impacts of the Scheme on South East Water's assets and the protective provisions, and Highways England is waiting to hear from South East Water in relation to any amendments to the protective provisions that South East Water regards as necessary to protect its undertaking.

- *British Pipeline Agency RR-045?*

Highways England Response

6.8 Highways England has been in discussions with the British Pipelines Agency regarding the protective provisions proposed for the benefit of the British Pipelines Agency in Part 1 of

Schedule 9 to the DCO since June 2015. British Pipelines Agency contacted Highways England regarding those matters that they require to be covered in the protective provisions. Highways England responded explaining how those matters were already dealt with in the protective provisions in Part 1 of Schedule 9 to the DCO. Highways England understands that the British Pipelines Agency is considering the protective provisions and will respond to Highways England with its comments.

- *Thames Water*

Highways England Response

6.9 Highways England confirmed at the hearing that protective provisions for the benefit of Thames Water are included in Part 1 of Schedule 9 to the DCO. Highways England has contacted Thames Water on a number of occasions to discuss those protective provisions, but has not received a response from Thames Water. However, following representations made by the representative of Thames Water at the hearing, a meeting has been arranged between the parties to discuss Thames Water's concerns and any amendments that may be required to the protective provisions in the DCO. That meeting is due to take place on 3 December 2015, and Highways England hopes to be in a position to update the Examining Authority on the progress of discussions with Thames Water at Deadline V.

ii. To what extent can the ExA be comforted that all representations made by statutory undertakers' will be withdrawn before the expiry of the examination?

Highways England Response

6.10 Highways England confirmed that discussions with statutory undertakers were on-going and were hopeful that representations could be withdrawn by the close of the Examination. In this regard, Highways England confirmed that it would be submitting applications under s.127 and s.138 of the Planning Act 2008. Those applications are in the process of being prepared and Highways England hopes to be able to submit them to the Secretary of State in the next few weeks.

7. *Representations from commercial interests.*

*a. **European Property Ventures Ltd** are affected persons and have requested to make oral representations at a compulsory acquisition hearing (CAH).*

Representations from European Property Ventures Ltd.

No Highways England Response Required

b. **CEMEX** express concern that Work no. 22a in the Order appears to overlap with lands subject to temporary planning permission 13/01667 (for extraction by CEMEX of sand and gravel) RR-277 and REP2-046.

i. Can HE clarify why the lands at Riding Court Road/James Meadow Roundabout, and in the interest of CEMEX, are required for the scheme?

Highways England Response

7.1 This issue has been addressed in HEs submission at Deadline III. In paragraph 1.7.1 of our response to CEMEX reply to Examining Authority's first written questions HE state:

7.2 *Highways England has reviewed the drawings which CEMEX has provided in response to the Examining Authority's first written questions (Question 9.24) and note that there are three areas where the Order Limits for the Scheme coincide with the site of PP13/01667.*

7.2.1 **To the northwest of the existing Riding Court Road overbridge.** This area is indicated by a blue line on CEMEX drawing M/869/2 and overlaps with plot numbers 24-27, 24-28 and 24-29 (refer to sheet 24 of the Land Plans (Application Document Reference 2-2)). Plots 24-27 and 24-28 are required permanently to enable the offline construction of Riding Court Road overbridge and the realignment of Riding Court Road, and plot 24-29 is required temporarily for access and working space. Highways England has already noted that CEMEX is supportive of the offline reconstruction.

7.2.2 **To the northeast of the existing Riding Court Road overbridge.** This is the area where the pink "permitted boundary" shown on CEMEX drawing M/869/2 overlaps with plot 24-32, which is required temporarily for access and working space (refer to sheet 24 of the Land Plans). CEMEX intend that this land is used for hedging and bunding while Highways England require temporary acquisition to create working space for the realignment of Riding Court Road to suit offline reconstruction of the overbridge. This plot will not be required for the entire duration of the Scheme construction, rather it would be required during the construction of the new bridge and highway tie-in works (estimated to be approximately 16 months). Highways England's detailed design and construction teams propose to consult CEMEX to develop a programme and methodology of work to enable both parties to achieve their desired outcomes. This is set out in section 3.5 of the Construction Environmental Management Plan ("CEMP"), which details the collaboration and coordination across concurrent schemes with the aim of avoiding potential conflict in arrangements and minimising disruption to road users. An outline CEMP was included in the Application, at Appendix 4.2A of the Environmental Statement ("ES") (Application Document Reference 6-3). The CEMP is secured by Requirement 8, Schedule 2 of the Draft DCO (Application Document Reference 3-1).

7.2.3 **Riding Court Road including CEMEX's proposed site access point.** This is the existing Riding Court Road from Riding Court to James Meadow roundabout and Ditton Road near junction 5 (plot numbers 24-34a, 24-36, 24-34, 24-40, 25-01 to 25-06 and 25-09 - sheets 24 and 25 of the Land Plans). Highways England does not propose any permanent works in these plots but requires temporary acquisition to allow for any traffic management that may be required on Riding Court Road to enable safe construction of the adjacent works including four gantries in work number 1a and work associated with the extension of Ashleys

Arch culvert in work numbers 23a and 23b (see sheet 24 of the Works Plans (Application Document Reference 2-3)). Highways England's detailed design and construction teams will consult with CEMEX to develop a programme and methodology of work to minimise any impact on the CEMEX site access (as explained in ii above).

- 7.3 At the hearing, Mr Clarke on behalf of Highways England confirmed that more than 14 days notification of the implementation of traffic management could be given, and that it was usual to provide 28 days' notice. In this regard, it is noted that the contractor will prepare the final construction traffic management plan ("CTMP") prior to the commencement of the Scheme. One of the requirements of the CTMP will include a programme of traffic management measures to be implemented and details of traffic management proposals for the works on or adjacent to public roads. Further, as set out in Section 4 of the CEMP, Highways England and the Contractor will maintain close communication links with local businesses such as CEMEX.

ii. Has CEMEX read HE's response to its RR REP1-003? To what extent is CEMEX satisfied in the light of the assurances provided by HE in the response to its RR?

Highways England Response

- 7.4 Highways England believe that CEMEX has indicated that it is satisfied with the assurances given by Highways England in the responses to relevant representations.

iii. Beyond its response to RRs, what further comfort can HE provide to CEMEX that the delivery of temporary planning permission 13/01667 will not be jeopardised by the HE scheme?

Highways England Response

- 7.5 Highways England have been in contact with CEMEX since the first set of exhibitions when partly in consideration of the effects of a long term closure on their proposals the then on-line bridge design was moved to offline. Although there are some interfaces to manage as part of the works to allow the construction of the Scheme and the CEMEX proposals to both successfully proceed Highways England will continue to work to find mutually acceptable solutions, as detailed above.

*c. The WR from **Dunelm Estates Ltd and Dunelm Soft Furnishings Ltd** sustains concern in respect of the location of Construction Compound 2 (plot 02-12, 02-08) REP2-020.*

i. Has Dunelm read HE's response to its RR REP1-003? To what extent is NFER satisfied in the light of the assurances provided by HE in this response?

No Highways England Response Required

ii. Beyond its response to RRs, what further comfort can HE provide to Dunelm that the store's trading ability will not be negatively impacted?

Highways England Response

- 7.6 Highways England have addressed Dunelm's concerns in the response to Dunelm's written representation that was provided at Deadline III. However, Highways England reiterated that the Scheme proposals do not include altering the junction 12 roundabout nor the roundabout access off the A4 to the Dunelm store.
- 7.7 The construction compound located off Dorking Way is proposed to be a satellite compound, the main compound being at junction 8/9, and will support activities at the west end of the Scheme as well as a vehicle recovery area.
- 7.8 An outline CTMP was submitted with the Application and this will be developed as the Scheme design progresses and detail is added to the construction methodology.
- 7.9 Highways England will keep Dunelm informed of any updates to the traffic modelling which may occur as the Scheme progresses and the submission of the CTMP, as detailed in the response to Dunelm's written representation.

d. The University of Reading is interested in a number of plots on Sheet 7 and Sheet 8 of the Land Plans REP2-033.

i. To what extent is the University satisfied in the light of the assurances provided by HE in the response to its RR and in the light of HE's response to written question 9.19 REP1-003 and REP2-003?

No Highways England Response Required

ii. Can HE provide an update on liaison with the University?

Highways England Response

- 7.10 All correspondence held with The University of Reading can be seen in the table below:

Date	Form of Contact	Summary
10 March 2014	Invitation to attend a Preview Public Information Exhibition, to be held on 18 March 2014	Preview Public Information Exhibition as part of initial stakeholder engagement and information exercise.
17 October 2014	Letter from Highways England requesting completion of land ownership confirmation questionnaire	Questionnaire to obtain confirmation that the details previously provided regarding the Scheme are still valid and to offer the opportunity to provide any updates.

Date	Form of Contact	Summary
29 October 2014	Email response to request for land ownership confirmation questionnaire	Completed questionnaire on request for land ownership details for The University of Reading.
29 October 2014	Outgoing email to The University of Reading regarding confirmation questionnaire	Follow up email reading requesting for additional information.
29 October 2014	Incoming email from The University of Reading regarding confirmation questionnaire	Regarding previous email requesting additional information following confirmation questionnaire response.
10 November 2014	Planning Act 2008 Section 42: Notice of statutory pre-application consultation period	Notification of the formal pre-application consultation between 10 November and 21 December 2014 about the Scheme in accordance with Section 42 of the Planning Act 2008.
10 November 2014	Planning Act 2008 Section 47 Notification Letter	Details of the pre-application consultation to be held between 10 November and 21 December 2014.
19 February 2015	Letter from Highways England requesting completion of land ownership confirmation questionnaire	Questionnaire to obtain confirmation that the details previously provided regarding the Scheme are still valid and to offer the opportunity to provide any updates.
23 February 2015	Copy letter from Highways England requesting completion of land ownership confirmation questionnaire	Questionnaire to obtain confirmation that the details previously provided regarding the Scheme are still valid and to offer the opportunity to provide any updates.
27 February 2015	Email response to request for land ownership confirmation questionnaire	Completed questionnaire on request for land ownership details for The University of Reading.
28 May 2015	Planning Act 2008 Section 56: Notice of acceptance of an application for a development consent order	Notification of acceptance of application together with details of land which The University of Reading have an interest.
03 July 2015	Relevant Representation Objection raised by The University of Reading	Consultation questionnaire response; concerns for the operational needs of the University and to the development of its landholdings.
29 July 2015	Outgoing Letter from Highways England to The University of Reading	Letter from District Valuer: Property Negotiation
07 October 2015	Outgoing email from Highways England to The	Survey Access request for the ecology team to carry out non-invasive surveys

Date	Form of Contact	Summary
	University of Reading	
08 October 2015	Incoming email to Highways England from The University of Reading	Discussions regarding ecological surveys.
08 October 2015	Outgoing email from Highways England to The University of Reading	Continued discussions regarding ecological surveys.
12 October 2015	Written Representation submitted for Deadline II from The University of Reading	Letter relates to the operational needs of the University and to the development of its landholdings concerns.
13 October 2015	Incoming email to Highways England from The University of Reading	Continued discussions regarding ecological surveys.
13 October 2015	Outgoing email from Highways England to The University of Reading	Continued discussions regarding ecological surveys.
15 October 2015	Incoming email to Highways England from The University of Reading	Continued discussions regarding ecological surveys.
15 October 2015	Outgoing email from Highways England to The University of Reading	Continued discussions regarding ecological surveys.
18 November	Email from University of Readings Contractor	Provision of detailed design drawings

iii. Can HE confirm, or otherwise, whether it intends to include the Shinfield Eastern Relief Road in any updated versioning of the Works Plans, as requested in the University's WR?

Highways England Response

7.11 Highways England confirmed that the Works Plans will be updated for Deadline V.

e. The National Foundation for Educational Research (NFER) did not make submissions to Deadline I or II.

i. Has NFER read HE's response to its RR REPI-003? To what extent is NFER satisfied in the light of the assurances provided by HE in the response to its RR?

No Highways England Response Required

ii. Beyond its response to RRs, what further comfort can HE provide to NFER that the normal day-to-day activities will not be adversely impacted?

Highways England Response

- 7.12 The Highways England Deadline III response confirms Highways England is happy to engage in such discussions with NFER and that the access to this driveway, which may be temporarily required as a consequence of the realigning of Datchet Road Bridge and its ties in to Datchet Road, will be maintained at all times during the demolition of the existing structure and the construction of the proposed Datchet Road Bridge.
- 7.13 As set out in Section 4 of the Construction Environmental Management Plan (“CEMP”), should the works be required, Highways England and the contractor will be in close liaison with the National Foundation for Educational Research to minimise the disruption caused by the works.

f. Anita Thomas has a land promotional agreement with Bloor Homes Southern at Construction Compound 5 (plot 18-02) RR-294 and RR-300.

Ms Thomas sustains objection to the inclusion of the whole of Construction Compound 5 within the Order. A holding objection to the relocation of the A330 Ascot Road Bridge is also sustained.

In its response to RRs, HE state that the appointment of the scheme contractor has allowed discussion with Ms Thomas/Bloor Homes to progress in respect of frontage and access to the A330, and also in respect of the potential reduction in extent of Construction Compound 5 after scheme opening.

Highways England Response

- 7.14 Highways England made contact with Bloor Homes on 12/11/2015 and following discussions on some of Bloor Homes concerns and the ability to address provide the detail within the requirement of the DCO submission. It was to meet initially at the Hearings so more detailed dialogue could be arranged.

i. To what extent are Ms Thomas/Bloor Homes satisfied with HE’s response to their RRs REP1-003? Do these responses provide the necessary assurances for Ms Thomas/Bloor Homes to withdraw their objections to the scheme?

Highways England Response

- 7.15 A position statement from Bloor Homes was received during the hearing. Discussions took place with Bloor Homes at the hearing and a meeting has been arranged for 1 December 2015 to discuss the concerns raised by Bloor Homes. Highways England will update the Examining Authority on the progress of discussions with Bloor Homes following the meeting on 1 December 2015, at Deadline V.

g. Railway Pension Nominees (RPN) object to the inclusion of land in their interest in the Order (plot 18-07, 18-08) RR-297.

i. HE's response to RRs states negotiations in respect of agreeing private treaty are ongoing. Can an update be provided?

Highways England Response

7.16 In Highways England's comments on Relevant Representations submitted for Deadline I – 2 October 2015, it was stated as follows:

“The District Valuer, on behalf of Highways England, wrote to the Respondent on 8th June and followed up again in writing on 29th July. Other sundry exchanges have taken place. There will be full engagement with all landowners affected by compulsory purchase proceedings (as stated in the application) and we are hopeful to reach a negotiated settlement with your client. Highways England is willing to acquire the land by agreement and notes that the Respondent does not object to proceeding by private treaty.”

7.17 Ms Giles confirmed that she has written to RPN, but that no correspondence or contact has been received from either the RPN or any agent appointed to act on their behalf. Following the hearing, Ms Giles sent a further letter and email to RPN on 23 November 2015. Highways England hopes to be able to update the Examining Authority on the position with RPN as the Examination progresses

ii. To what extent is RPN satisfied with HE's response to its RR REP1-003?

No Highways England Response Required

8. *Representations from community and individual private interests*

a. Stewart and Beverley Hakesley and SMXP Motocross are affected persons and have requested to make oral representations at a CAH.

i. Representations from Stewart and Beverley Hakesley.

Highways England Response

8.1 Mr Martin on behalf of Highways England explained why the Hakesley's land is required for construction of the Scheme. He explained that alternative options for the widening of Bray Bridge were considered, (as outlined in Table 7 of the Engineering and Design Report ("EDR") (Application Document Reference 7-3, APP-096), including symmetrical widening and widening to the south. However, those options were rejected on the basis that symmetrical widening of the bridge would result in impacts to both sides. Widening to the south was rejected, in particular, in light of impacts on Dorney school. Consequently, widening to the North was the preferred option. Further detail is included in table 7 of the Engineering and Design Report an extract of which is included below:

<i>Structure</i>	<i>Alternatives considered</i>	<i>Option selected</i>
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<i>Thames Bray</i>	<i>Asymmetric widening to north/south side</i>	<i>Asymmetric 7.8m widening to north side selected due to savings in construction operations, reduced vegetation clearance, reduced traffic disruption and overall reduced complexity. North widening selected to minimise impact on the local school and residential properties located to the south.</i>
	<i>Symmetric widening both sides</i>	<i>Symmetric widening on both sides was rejected due to the increased number and complexity of construction operations, and the greater impact on road users, vegetation, the local school and nearby residents.</i>

- 8.2 The reason for the widening is that the existing bridge has no hard shoulder and so needs to be widened by two lanes' width or approximately 8m. Highways England has also considered steepening the embankment to minimise permanent land take. However, this option would preclude any replanting of the embankment. Highways England understands from a meeting with the Hakesleys that they wish the embankment to be replanted, which preclude this option being taken forward. Temporary land is also required for working space and access.
- 8.3 Mr Clarke on behalf of Highways England explained that the detailed construction programme and temporary works construction details are still being development to provide the specific detail at Thames Bray Bridge. The detailed construction programme and methods will be developed as the detailed design information is progressed. Mr Clarke explained that the Thames Bray Bridge is a significant structure and that the temporary land, which is within the ownership of the Hakesley is required for laydown areas and the preparation of the new bridge beams. In addition, it will be used to house the large cranes, which will be required to erect the new bridge. The current estimated programme for works at Thames Bray bridge is 27 months (paragraph 7.5.36 of the EDR) between January 2018 and May 2020 (Outline Construction Programme, Annex B of the EDR (Application Document Reference 7-4, APP-107) although this is subject to detailed construction planning.
- 8.4 At the hearing, the Hakesleys raised concerns regarding the vegetation removal and replanting proposals in this location. The present proposals contained in the EDR, Annex A, Environmental Masterplan, Sheet 19 (Application Document Reference 7-4, APP-100) indicate a 20m wide strip of new native species shrub and tree planting. This would run along the toe of the realigned embankment, as it would not be possible to plant up the adjacent steepened embankment as a result of the northerly realignment. It is anticipated that at Design Year 2037, fifteen years after opening, the established replacement planting would not

fully mitigate the visual effects of the Scheme, and a moderate to slight adverse visual effect would remain.

8.5 In discussion with Mr and Mrs Hakesley after the Open Floor Hearing on 20 November 2015, two issues were discussed in relation to minimising the anticipated large adverse visual effects of the Scheme during construction and the anticipated moderate to slight adverse visual effects during the Scheme operation. In regard to the construction phase, Mr and Mrs Hakesley said that they would like to see additional planting outside the Order limits on the adjacent open land owned by Highways England and would need this to be implemented early during the construction phase. This could comprise fast growing conifer species of potentially a temporary nature, which would be removed at a later date once the bulk of the adjacent planting within the Order limits has established. The detail of this additional planting would need to be discussed between Highways England and Mr and Mrs Hakesley. In regard to the operation phase, Mr and Mrs Hakesley confirmed that they would like to see the adjacent steepened embankment extended outwards to provide a slackened slope and planted up with native species shrub and tree planting. It is anticipated that with the slackened embankment option the proposed shrub and tree planting, being more elevated in relation to that presently proposed, would help screen the traffic beyond over a shorter period of time. However, the proposed nearby Gantry G6-08 would not be screened under either scenario by Design Year 2037. Highways England is currently considering this request by the Hakesleys and will progress discussions on this matter when a meeting takes place between the parties.

8.6 Ms Giles confirmed that she has written to Mr and Mrs Hakesley and also spoke to them concerning the Scheme. Mr Hakesley also confirmed at the hearing that Lynne Stinson, the Scheme project manager from Highways England visited them to discuss the Scheme earlier this year. Ms Giles explained that she understands that the Hakesleys have received contact from an agent in connection with the compulsory acquisition proposed and that Ms Giles is open to beginning negotiations once their agent is confirmed. Highways England will arrange to visit the Hakesley along with its technical advisors to discuss the Hakesley's concerns regarding the Scheme.

ii. Representations from SMXP Motocross.

Highways England Response

8.7 Mr Martin on behalf of Highways England explained the reasoning behind the construction required for Recreation Ground Road overbridge, and why the decision had been taken to

build the bridge online. Mr Martin explained that the options considered including construction offline to the east, offline to the west and online. Constructing the bridge offline to the east would have been through the allotments, and was therefore rejected due to the sensitive nature of this location. Construction of the bridge offline to the west would have resulted in more of SMXP Motocross' land being acquired for the Scheme. Consequently, constructing the bridge online was selected as the preferred option. This will require the existing bridge to be demolished prior to construction of the new replacement bridge. Therefore, there will be no access across the motorway at this location during the bridge construction period. The new bridge will have a deeper deck so the level of Recreation Ground Road will be raised meaning the embankments need to be higher. temporary land for access and working space will be required to complete these works.

8.8 Mr Clarke confirmed that the existing embankments will be required during of demolition and reconstruction of the bridge and that the indicative construction schedule suggested that the bridge would be offline as a result of the works for approximately 8 months.

8.9 Ms Giles explained that she wrote to Mr Morgan as his personal address, and recommended that he appoint an agent to negotiate the acquisition of his land interests. Highways England will arrange to visit SMXP Motorcross along with its technical advisors to discuss its concerns regarding the Scheme. Suggested dates for meetings with SMXP Motorcross have been provided by Highways England, which is currently awaiting a response.

8.10 Mr Whale on behalf of Highways England noted that the representations had explained that alternative options had been considered that would not require the acquisition of the Hakesley's and SMXP Motorcross's land, but that for the reasons provided, the Scheme had to be constructed in the form proposed. As such, the criteria for compulsory acquisition in s.122 of the Planning Act 2008 have been met, as is explained in greater detail in the Statement of Reasons (Application Document Reference 4.1, APP-030).

*b. Carrie Darby for the **Slough Allotment Federation (SAF)** refers to a proposal to reduce the extent of TP at plot 20-33 REP2-024.*

i. Can HE confirm, or otherwise, the occurrence/progress of discussion with SAF in respect of reducing the extent of CA at plot 20-33?

Highways England Response

8.11 This issue is dealt with in HE's response to Written Representation by Carrie Darby paragraphs 3.2.1 and 3.3.1. (Deadline III):

3.2.1 Highways England has been engaging with Thames Water to determine the size of excavations, access arrangements and the working space required to undertake the works. This has led to a substantially reduced working area affecting fewer plots than first envisaged. Following a site survey on 28 October 2015, Highways England can confirm that only plot numbers 25, 26, 27, 28 and 29 will be affected by the works. Furthermore, Plots 25 and 29 which are located at the edges of the working area will only be partially affected during the works. A 3.5m wide strip of plot 25 and a 4m wide strip of plot 29 will remain available for use by the plot holders, as shown on Drawing TR010019-iii-01 in Appendix B to this response.

3.3.1 Thames Water has confirmed that the full length of each plot will be required, as shown on Drawing TR010019-iii-01 in Appendix B to this response, to undertake the works safely. This is in light of the space needed to accommodate plant, material and equipment storage areas, areas for pumping and disposal of ground water; access/egress for heavy plant/vehicles, turning of same vehicles and welfare facilities.

ii. Can HE respond to the implication that Thames Water has expressed a preference to access culvert works directly from the M4?

Highways England Response

8.12 This issue is dealt with in Highways England's response to Written Representation by Carrie Darby paragraph 3.4.1 (Deadline III):

3.4.1 Highways England confirms that access for Thames Water to undertake the works will be from the M4 motorway and not through the allotment site or via the concrete road within the allotment site boundary. The access arrangements from the M4 will be included within the CTMP.

iii. What consideration has been given to this preference and how might it impact the scheme as proposed? Is it intended for TP powers to be reduced at plot 20-33? How and when will any amendment be brought before the examination?

Highways England Response

8.13 Highways England propose that the access of Thames Water from the M4 rather than the allotment access track is secured via the CTMP as the land covering the access track is not within any plot required by the scheme (just outside plot 22-35). Plot 20-33 is located to the west of the Old Slade Lane Bridge as shown on sheet 20 of the land plans.

8.14 Mr Clarke on behalf of Highways England confirmed that access to the allotments would be maintained throughout the construction of the Scheme. This will be secured in the next version of the Construction Environmental Management Plan.

8.15 In relation to the concerns raised in relation to noise in this location, Mr Maneylaws confirmed that this location was part of the enhanced noise mitigation strategy currently being considered by Highways England. In relation to the concern raised that the removal of vegetation in this location for construction of the Scheme would have an impact on noise

levels, Mr Maneylaws explained that whilst it is a commonly held belief that vegetation provides noise attenuation effects, in reality a substantial band of vegetation is needed to mitigate the effects of noise. Mr Maneylaws was of the view that the vegetation in this location was not sufficient to provide any noise attenuation.

*c. The **Burnham Abbey Conservation Group (BACG)** is chaired by Mohinder Jaswal (an affected person), and supported by David Springbett.*

The ExA understand that outside of the examination HE has confirmed that no lands in the interest of Mr Springbett (Abbey House) are included in the Order.

i. As purported at the Preliminary Meeting, can the proposed acquisition of lands in the interest of Mr Springbett be confirmed, or otherwise, to the examination?

Highways England Response

8.16 Highways England has responded to Mr Springbett in its Deadline III response to the Written Representation for Burnham Abbey Conservation Group in respect of the proposed acquisition of lands in the vicinity of his property. Highways England have confirmed that Mr Springbett does not have any interest in land that falls within the Order. Mr and Mrs Springbett do not appear in the Book of Reference, and will not be affected by Compulsory Acquisition.

ii. Beyond matters relating to Mr Springbett's land interests, have HE responded to the concerns set out in the additional submission made by BACG AS-014?

Highways England Response

8.17 Highways England has responded to Mr Springbett in its Deadline III response to the Written Representation for Burnham Abbey Conservation group addressing all the concerns that were raised.

iii. To what extent are BACG satisfied in the light of the assurances provided by HE in any response?

No Highways England Response Required

iv. To what extent is Mr Jaswal satisfied in the light of the assurances provided by HE in the response to his RR REPI-003?

No Highways England Response Required

*d. RRs from **Ted Plenty, Colnbrook Parish Council and the Colnbrook Community Association** express concern in respect of the location of Construction Compound 9 (plots 25-32, 25-33 and 25-34), which is within an air quality management area (AQMA) RR-269, RR-304, RR-201.*

i. Can HE respond to the request for Construction Compound 9 to be replaced by the London Concrete site (formerly Construction Compound 10)?

Highways England Response

8.18 Paragraph 8.2.3 of the Engineering and Design Report (“EDR”) provides reasoning for the requirement on multiple construction compounds throughout the length of the Scheme. Furthermore point b) to paragraph 8.2.3 explains why Construction Compound 10 was unsuitable:

8.2.3 Construction of the Scheme will require the establishment of a main office compound (c.5ha) and several smaller section compounds (c.1ha each) to accept material deliveries, provide distribution of plant and equipment and provide office and welfare facilities for workers and a base for vehicle recovery. These locations will need to be adjacent to the motorway or motorway junctions to allow easy access and egress from site. Initially 13 possible areas along the Scheme were identified through desktop study and preliminary site visits. Four compounds were then regarded as unsuitable as follows:

b) compound 10 (existing London Concrete (Bardon) site adjacent to the M25 (northbound) and to the M4 (westbound slip road)) on the basis that further investigations identified the area as more significantly developed than expected and insufficient area was available for a suitable compound without affecting existing businesses

8.19 Furthermore, the response to the Examining Authority’s first written question 9.2 (provided to Deadline II) outlines the benefits associated with the location of Construction Compound 9 and the reasoning behind its use and size:

8.20 *The site of this compound provides good access to junction 5. This area (3.4ha) is suitably located to provide vehicle recovery and offices and welfare throughout the construction and commissioning phase of the works between junction 8/9 and junction 3. It is also proposed to use this compound to process materials for this Eastern section of the works. Consequently it is proposed that the compound would be operational throughout the period of construction and commissioning of the M4 between junction 8/9 and junction 3. During the bridge widening works it will be utilised for office/welfare; formwork fabrication, material storage for bridges, processing and storage of bridge demolition materials from other bridges. The compound will remain in operation both during the bridge and highway works. The works on the highway includes earthworks, drainage, ducting, cabling for lighting and communications, gantry installation, safety barriers and traffic management. All of these operations will require materials to be stored at different times during the course of the works.*

<i>Section Office inc parking</i>	<i>0.40 ha</i>
<i>Recovery</i>	<i>0.40 ha</i>
<i>Container Stores area</i>	<i>0.20 ha</i>
<i>Plant Store area</i>	<i>0.50 ha</i>

<i>Materials Store (Incl. Drainage; communication equipment etc) min</i>	<i>0.50 ha</i>
<i>Materials Store (FRC work initially then highway materials cables, etc)</i>	<i>0.50 ha</i>
<i>Material processing and preassembly area</i>	<i>0.60 ha</i>
<i>TM Equipment Store min</i>	<i>0.30 ha</i>

8.21 Therefore, on the basis that Construction Compound 10 is of insufficient area without affecting existing businesses and acknowledging the access benefits associated with Construction Compound 9, Highways England does not regard that Construction Compound 10 could be a suitable replacement for Construction Compound 9.

ii. Why is Construction Compound 9 more appropriate than former Construction Compound 10?

Highways England Response

8.22 The suitability of both construction compounds is addressed in response to point i) above.

iii. To what extent are the interested parties satisfied with HE's response to their RRs in respect of the mitigation measures proposed at Construction Compound 9 through the Outline Construction Environmental Management Plan (CEMP) (in its current form) REP1-003?

No Highways England Response Required

e. Jeannine Cooper and J A Harris sustain concern in respect of land acquisition matters, despite clarification being provided in HE's response to the interested parties' RRs REP2-032 and REP2-021.

Have Ms Cooper and Mr Harris read HE's response to their RRs REP1-003? To what extent are they satisfied in the light of the assurances provided by HE in the response to their RRs, particularly in respect of confirmation that no lands in Ms Cooper or Mr Harris's interest are intended to be acquired, and in respect of the measures included in the Outline CEMP (in its current form)?

No Highways England Response Required

f. WRs from J A Harris and Malcolm Hunt sustain objection to the location of Construction Compound 8 (plot 23-29), as it is too close to existing residences REP2-022 and REP2-021.

i. To what extent are Mr Harris and Mr Hunt satisfied with HE's response to their RRs, particularly in respect of the measures included in the Outline CEMP (in its current form) REP1-003?

No Highways England Response Required

ii. Can HE explain why Construction Compound 8 is considered to be the most appropriate of any rejected alternatives?

Highways England Response

- 8.23 Paragraph 8.2.3 of the EDR provides reasoning for the requirement on multiple construction compounds throughout the length of the Scheme and explains why four construction compound options (Construction Compounds 1, 10, 12 and 13) were deemed unsuitable.
- 8.24 The response to the Examining Authority's first written question 9.2 (provided to Deadline II) outlines the benefits associated with the location of Construction Compound 8 and the reasoning behind its use and size:

The location of this proposed compound is sited in a triangle of land between the M4, Datchet Road and Recreation Ground access road. The compound area (2.1ha approx.) is proposed to be used initially to support the demolition and construction of both Datchet Road and Riding Court Road bridges which are immediately adjacent to the site. However, it will be used throughout the period of construction and commissioning of the M4 between junction 8/9 and junction 3. It will be used to provide welfare and office facilities during the construction phase. The linear production nature of the highway works will require the compound to be used for the storage of different materials to suit the construction stage. This will include earthworks, drainage, ducting, cabling for lighting and communications, gantry installation, safety barriers and traffic management. Plant and equipment associated with these works will also be stored in the compound area during the works. Consequently it is proposed that the compound will be operational throughout the period of construction and commissioning of the M4 between junction 8/9 and junction 3.

<i>Office/Welfare inc parking</i>	<i>0.40 ha</i>
<i>Formwork manufacture</i>	<i>0.40 ha</i>
<i>Container Stores area</i>	<i>0.20 ha</i>
<i>Plant Store area</i>	<i>0.40 ha</i>
<i>Materials Storage</i>	<i>0.50 ha</i>
<i>Earthworks materials/drainage</i>	<i>0.20 ha</i>

g. Louisa Maxwell-Watters and John Watters are interested in plots 19-53 and 19-54. Their objection to the scheme is sustained in their WRs REP2-025.

Have Ms Maxwell-Watters/Mr Watters read HE's response to their RRs REP1-003? To what extent are the Ms Maxwell-Watters/Mr Watters satisfied in the light of the assurances provided by HE in the response to their RRs, particularly in respect of the measures included in the Outline CEMP (in its current form)?

No Highways England Response Required

D. ANY OTHER MATTERS

Goodman Colnbrook on the SIFE

Highways England Response

- 8.25 Mr Whale on behalf of Highways England confirmed that the email from Goodman Colnbrook dated 13 November 2015 had been received by Highways England and that discussions were progressing between the parties. Mr Whale confirmed that Highways England would update the Examining Authority on the progress of those discussions throughout the course of the Examination.
- 8.26 In closing the Compulsory Acquisition hearing on behalf of Highways England, Mr Whale noted that the representations made at the hearing had not questioned the principle of the need for compulsory acquisition as part of the Scheme, or suggested that the test for the granting of powers of compulsory acquisition under the Planning Act 2008 had not been met.

Eames, Angus

From: MURRAY Emily [mailto:EmilyMURRAY@bdb-law.co.uk]
Sent: 26 November 2015 12:29
To: 'M4 Junction 3-12 Smart Motorway'; Richard Price
Cc: Fry, Michael
Subject: M4 Junctions 3 to 12 Smart Motorway application for development consent (reference TR010019) [BDB-BDB1.FID9854552]

Dear Richard

Further to previous emails, National Grid and the promoter have now reached agreement on the protection of National Grid's apparatus. Highways England has agreed to adopt National Grid's proposed standard protective provisions, and will be including them in its next draft of the DCO. On that basis, National Grid is satisfied that its apparatus is suitably protected.

Kind regards



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For and on behalf of Bircham Dyson Bell LLP
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