

THAMES WATER UTILITIES LIMITED (BRUCE FOWLER)

WRITTEN REPRESENTATION

HIGHWAYS ENGLAND

1. INTRODUCTION

1.1 *Dear Sirs, Your ref 1543594 Our ref 58218 DCO Application re M4 Smart Motorway - Colnbrook Slough. I refer to your letters sent over previous months that have now been forwarded on to Bruton Knowles as agents for Thames Water.*

2. SUMMARY

2.1 *Two emails have been received from Bruce Fowler of Bruton Knowles acting as agents for Thames Water with their concerns with regards to the M4 (Junctions 3 to 12) (Smart Motorway) Development Consent Order Application relating to the private Lakeside Road. There has also been a phone conversation between Mr. Fowler and Highways England in relation to their issues.*

3. INCOMING EMAIL ONE

3.1 *Please be advised that Thames Water own the land on the attached plan and more specifically in the screen shot below. Thames Water are also the freehold owners of the land known as Lakeside Road from the A4 junction.*

Highways England Comment

3.1.1 Highways England acknowledges that Thames Water own plots 26-09, 26-09a, 26-11 (in respect of part) and 26-13 (Lakeside Road) and this is reflected in the Book of Reference (“BoR”) (Application Document Reference 4-3, APP-038, as now updated as part of the Deadline III submission). The plan referred to is Land Registry title number BK426234 which covers these plots. These plots are located on sheet 26 of the land plans (Application Document Reference 2-2, as now updated as part of the Deadline III submission, REP3-008).

3.1.2 Highways England also acknowledges that Thames Water are the freehold owners of the land known as Lakeside Road from the A4 junction through to plot 26-13, but notes that this land resides outside of the M4 junctions 3 to 12 smart motorway scheme’s (the “Scheme”) Order limits and therefore is not included within the BoR.

3.1.3 *This land was acquired under CPO and any third party occupiers of the industrial estate were re-granted rights over Lakeside Road by Thames Water.*

Highways England Comment

3.1.4 Third party interests have been listed in the BoR as having rights of access in order to gain entry to the industrial estate where relevant.

3.2 *Please can you urgently acknowledge receipt of this email and amend your records to show that Thames Water are the freehold owners of this highway and that Lakeside Road is not highway maintainable at public expense.*

Highways England Comment

3.2.1 An email acknowledgment, dated 3 November 2015, was sent by Highways England as requested and a follow up phone call was conducted. Within the email Thames Water were:

3.2.1.1 Advised that their interest for plot 26-13 was recorded in the BoR correctly, listing the organisation as a freeholder and Category 1 interest. Plot 26-13 is recorded as a “*Private access road*” with the freeholder being Thames Water Utilities Limited;

3.2.1.2 Provided links to relevant documents, including those to view the submitted BoR and Land Plans where relevant sections and parts that might be of interest were also highlighted. Further updates to the BoR and Land Plans have since been submitted for Deadline III; links to the updated documents are provided below:

- BoR: <http://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010019/Events/Deadline%20III%20-%2005-11-2015/Highways%20England%201.pdf>
- Land Plans: <http://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010019/Events/Deadline%20III%20-%2005-11-2015/Highways%20England%202.pdf>

3.2.1.3 Provided a condensed list of previous correspondence between Highways England and Thames Water in relation to the Scheme; and

3.2.1.4 Given an opportunity to report any changes required to the BoR; Highways England welcomes any updates Thames Water may have.

3.2.2 As stated above in the response to paragraph 3.1, the length of Lakeside Road from the A4 junction to plot 26-13 resides outside of the Scheme's Order limits and therefore does not need to be recorded in the BoR.

3.3 *Can you please amend your records to show that Thames Water are Category 1 owners of this land and that our client will be treated as such under your consultation provisions under PA2008.*

Highways England Comment

3.3.1 Highways England confirms that the BoR does not require amendment as Thames Water are currently recorded as being Category 1 owners of plot 26-13 and the length of Lakeside Road from the A4 junction to plot 26-13 is outside of the Scheme's Order limits and therefore is not required to be included within the BoR.

4. INCOMING EMAIL TWO

4.1 *It has come to our attention that the ownership of Lakeside Road in the BOR for the abovementioned scheme is assumed to be in public ownership or highway maintainable at public expense.*

Highways England Comment

4.1.1 Highways England disagrees with the statement that the BoR assumes that Lakeside Road is publically owned or maintained at the public's expense. As shown below in the extract from Sheet 26 of the Land Plans (Application Document Reference 2-2, APP-012), plot 26-13 is the only specified plot along Lakeside Road that is located within the Scheme's Order limits; the description of plot 26-13, in the BoR, is "Private access road (Lakeside Road)".



Figure 1 – Extract from Sheet 26 of the Land Plans

4.1.2 There is no local authority listed in the BoR as maintaining the road, rights of access have been documented and Thames Water is shown to be the freehold owner.

4.2 *Can we please put on notice all parties that the ownership of Lakeside Road from the A4 up to Plot 26-12/26-13 is as freehold by Thames Water and we would ask that the BOR is altered accordingly and discussions entered in to immediately with Thames Water via ourselves as to the use of Lakeside Road for this project as third party users are concerned that their service charges should not pay for use by Highways Agency contractor traffic.*

Highways England Comment

4.2.1 Highways England acknowledges that the ownership of Lakeside Road between the A4 and plots 26-12/26-13 is a freehold by Thames Water, but notes that this length of road is outside of the Scheme’s Order limits.

4.2.2 Thames Water are the registered freehold owner of plot 26-13, as listed on Land Registry title BK426234. The BoR lists Thames Water as the freeholder of plot 26-13 and therefore does not need to be altered. Plot 26-12 is owned by Grundon Sand and Gravel Limited (as listed on Land Registry title BK427677) and leased by Grundon Waste Management Limited (as listed on Land Registry title BK400799). This is listed in the BoR.

4.2.3 Plots 26-12 and 26-13 are listed in the Statement of Reasons (Application Document Reference 4-1, APP-030) as for the “Possible temporary access or diversion route for Old Slade Lane”; reasons for possible temporary access will include providing the

contractor with an access route to the south abutment following demolition of the existing structure.

4.2.4 With regards to plot 26-13, the District Valuer (on behalf of Highways England) sent letters to Thames Water on 8 June 2015 and 29 July 2015 to commence negotiations in relation to land interests. The District Valuer will continue to correspond with Thames Water until an agreement with Thames Water is reached regarding the temporary acquisition of this plot.

4.2.5 Highways England confirms that a private agreement between the contractor and Thames Water will be sought, outside of the DCO, should it be determined that construction access is required along the length of Lakeside Road, which lies outside of the Scheme's Order limits.

4.2.6 Therefore, no further alterations to the BoR are required with regards to Lakeside Road as the length of Lakeside Road between the A4 and plots 26-12/26-13 will remain outside the Scheme's Order limits.

4.3 *Thames Water acquired Lakeside Road under The Thames Water Utilities Limited (Land at Colnbrook Iver South) CPO 1995. This CPO did require much interface with the Highways Agency and we are concerned that this information is not within their domain already.*

Highways England Comment

4.3.1 Highways England undertook due diligence in relation to the land ownership enquiries regarding the Scheme to ensure that any land interests created, modified or changed in the years since 1995 were accurately recorded in the BoR.

4.3.2 Highways England has been in contact with Thames Water through land referencing, survey access communication, and consultation letters relating to Section 42 and Section 47 of the Planning Act 2008. Letters were also sent to Thames Water from the appointed District Valuer acting on behalf of Highways England on 8 June 2015, and again on 29 July 2015 to progress the acquisition of necessary interests by agreement. A list of these additional communications is provided in the table below:

Date	Form of Contact	Summary
11 March 2013	Outgoing letter from Highways England to South East Water. C2 Buried Services Request	Request for information on Buried Services and apparatus.
10 March 2014	Invitation to attend a Preview Public Information Exhibition, to be held on 18 March 2014	Invitation to a Preview Public Information Exhibition as part of initial stakeholder engagement and information exercise.
2 May 2014	Letter from Highways Agency requesting completion of land ownership questionnaire	Requesting land interest details for identified areas of land which may be affected by the Scheme
23 May 2014	Response to request for land ownership confirmation questionnaire	Completed questionnaire on request for land ownership details for Thames Water.
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. Delivery of the Preliminary Environmental Information Report and Non-Technical Summary.
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 Agency 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
25 February 2015	Email from Highways Agency requesting completion of Major Land Owner 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
26 February 2015	Response to request for land ownership confirmation questionnaire	Completed questionnaire on request for land ownership details by Thames Water Utilities Limited, which was addressed to Thames Water Investment Limited.
27 February 2015	Incoming phone call from Thames Water acknowledging confirmation questionnaire.	Comparing plans with the questionnaire against their GIS systems.
27 February 2015	Email to Thames Water regarding the completion of the confirmation questionnaire that was intended for Thames Water Investment Limited.	Requesting confirmation that the details shown on the questionnaire sent are correct for Thames Water Investment Limited.
27 February 2015	Email from Thames Water regarding email sent relating to Thames Water Investment Limited.	Will investigate and get back to Highways England.
2 March 2015	Email from Thames Water regarding email sent relating to Thames Water Investment Limited.	Confirming the information shown on the confirmation questionnaire is a correct reflection on Thames Water Investment Limited interests.
3 March 2015	Email response to request for Major Land Owner land ownership confirmation questionnaire.	Completed questionnaire on request for land ownership details by Thames Water Utilities Limited, with additional queries.
3 March 2015	Email response to Thames Water regarding Major Land	Follow up enquires and clarification on queries raised on the completed land ownership

Date	Form of Contact	Summary
	Owner confirmation questionnaire.	confirmation questionnaire.
4 March 2015	Email from Thames Water regarding Major Land Owner confirmation questionnaire.	Continued discussions regarding the completed land ownership confirmation questionnaire and contact details for further infrastructure information.
4 March 2015	Email to Thames Water regarding Major Land Owner confirmation questionnaire.	Continued discussions regarding the completed land ownership confirmation questionnaire.
5 March 2015	Email to Devcon Team with a copy of land ownership confirmation questionnaire.	Questionnaire sent as advised in previous correspondence dated 4 March 2015.
10 March 2015	Highways England copied into Thames Water internal emails.	Forwarding of land plans in order to complete land ownership confirmation questionnaire.
13 March 2015	Email from Thames Water to Highways England.	Regarding the completed land ownership confirmation questionnaire.
1 May 2015	Email from Highways England to Thames Water regarding ecological surveys.	Initial survey access request in order to contact non-invasive ecology surveys.
5 May 2015	Email to Highways England from Thames Water regarding Ecology Surveys.	Acknowledgment for survey access request.
6 May 2015	Email to Highways England from Thames Water regarding Ecology Surveys.	Discussions regarding access for ecology surveys.
6 May 2015	Email from Highways England to Thames Water regarding ecological surveys.	Continued discussions regarding access for ecology surveys.
6 May 2015	Email to Highways England from Thames Water regarding Ecology Surveys.	Discussions regarding access for ecology surveys and agreement.

Date	Form of Contact	Summary
	Ecology Surveys.	
6 May 2015	Email from Highways England to Thames Water regarding ecological surveys.	Regarding access agreement for ecological surveys.
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 Thames Water Utilities Limited have an interest.
2 June 2015	Email from Thames Water to Highways England.	Response to previous engagement. Listing conditions to be met as proposed works could affect their apparatus.
8 June 2015	Letter from Highways England regarding Freehold Land Interests	Requesting confirmation whether Thames Water Utilities Limited is willing to enter into negotiating terms relating to the purchase of land.
16 June 2015	Letter from Highways England to Thames Water.	Letter from DLA Piper: Protective Provisions Letter
14 July 2015	Email from Highways England to Thames Water.	Email enquiry regarding Old Slade Lane.
14 July 2015	Email from Thames Water to Highways England	Discussion regarding Old Slade Lane.
17 July 2015	Email from Thames Water to Highways England	Continued discussions regarding Old Slade Lane.
17 July 2015	Email from Highways England to Thames Water.	Continued discussions regarding Old Slade Lane and follow up enquiries.
21 July 2015	Phone call from Highways England to Thames Water.	Voicemail left requesting a call about regarding Old Slade Lane discussions.
23 July 2015	Email from Highways England to Thames Water.	Follow up email regarding Old Slade Lane discussions.
23 July	Email from Thames Water to	Out of Office response following previous

Date	Form of Contact	Summary
2015	Highways England	email relating to Old Slade Lane discussions.
29 July 2015	Letter from Highways England regarding Freehold Land Interests	Chasing letter requesting confirmation whether Thames Water Utilities Limited is willing to enter into negotiating terms relating to the purchase of land.
29 July 2015	Letter from Highways England regarding Leasehold Land Interests	Requesting confirmation whether Thames Water Utilities Limited is willing to enter into negotiating terms relating to the purchase of land.
29 July 2015	Email from Thames Water to Highways England.	Continued discussions regarding Old Slade Lane and follow up enquiries.
29 July 2015	Email from Highways England to Thames Water.	Continued discussions regarding Old Slade Lane and follow up enquiries.
31 July 2015	Email from Thames Water to Highways England.	Continued discussions regarding Old Slade Lane and follow up enquiries.
31 July 2015	Email from Thames Water to Highways England.	Continued discussions regarding Old Slade Lane and follow up enquiries.
4 August 2015	Email from Highways England to Thames Water.	Initial additional survey access request in order to contact non-invasive ecological surveys.
4 August 2015	Email from Thames Water to Highways England.	Regarding access in order to carry out additional ecology surveys.
10 August 2015	Email from Thames Water to Highways England.	Access agreement for ecology team to conduct surveys.
11 August 2015	Email from Highways England to Thames Water.	Discussion reading Old Slade Lane.
2 November 2015	Email from Brunton Knowles (on behalf of Thames Water) to Highways England.	Email confirming ownership of Lakeside Road and the request for amendments to the BoR.
3 November	Email from Highways England	Acknowledgement of the receipt of the email

Date	Form of Contact	Summary
2015	to Brunton Knowles.	dated 2 November 2015.
3 November 2015	Brunton Knowles submission of a Written Representation on behalf of Thames Water.	Written Representation confirming ownership of Lakeside Road and the request for amendments to the BoR.
17 November 2015	Email from Highways England to Brunton Knowles.	Provision of a copy of the S56 notice and confirmation of additional correspondence with Thames Water regarding land queries along Wood Lane.
17 November 2015	Email from Brunton Knowles to Highways England.	Request for a phone call to discuss email dated 17 November 2015.
17 November 2015	Phone call from Highways England to Thames Water.	Discussion of three locations throughout the Scheme where existing bridges are being replaced close to the Thames Water works.
18 November 2015	Email from Highways England to Brunton Knowles.	Written confirmation of the phone call discussion on 17 November 2015.
18 November 2015	Email from Brunton Knowles to Highways England.	Request for meeting on either 1, 2 or 3 December 2015 and confirmation of attendance at Compulsory Acquisition Issue Specific Hearing.
18 November 2015	Email from Highways England to Brunton Knowles.	Confirmation that the meeting date will be agreed at the Compulsory Acquisition Issue Specific Hearing.
19 November 2015	Compulsory Acquisition Issue Specific Hearing	Brunton Knowles attendance at the Compulsory Acquisition Issue Specific Hearing to confirm the issues raised by Thames Water.

- 4.3.3 Highways England confirms that a meeting has been scheduled for 3 December 2015 to discuss the issue raised in relation to Lakeside Road. This issue is anticipated to be resolved in advance of Deadline V.
- 4.3.4 It should be noted that the meeting on 3 December 2015 will also investigate the issues raised in relation to Oldway Lane and Wood Lane.

CARRIE DARBY

ADDITIONAL REPRESENTATION

HIGHWAYS ENGLAND'S RESPONSE

1. ACQUISITION OF PLOTS:

- 1.1 *Highways England have confirmed by email 30th October 2015 from Chris Tooth, Mouchel PM that the planned area to be taken over has been reduced to c.1/3 of the original area, specifically 5 plots numbered 25-29. Part of plots 25 and 29 will be excluded. We very much welcome this development and will seek compensation for affected tenants through the DVS.*

Highways England Comment

- 1.1.1 Highways England confirms that the plots affected by the works have been reduced to part of plot 25 and part of plot 29, together with all of plots 26, 27 and 28. Any requests for compensation should be made through the District Valuer Services ("DVS"). The District Valuer ("DV") has already offered to meet the affected tenants at a suitably convenient time including weekends or evenings.
- 1.2 *We seek clarification on how the plots will be returned. Allotment holders spend a considerable amount of time improving their soil structure. It was indicated at the Site Inspection Meeting that topsoil from the plots will be scraped back and held within the compound area during the works and then replaced before the plot is returned to the tenant. Please could this be confirmed.*

Highways England Comment

- 1.2.1 Highways England can confirm that the existing topsoil over the area of the allotments will be removed and set to one side. Following the works to construct the Scheme, this topsoil will be replaced before the plots are returned to the tenants. This measure will be secured in the Construction Environmental Management Plan ("CEMP") (Application Document Reference 6.3, APP-293) and will be reflected in the next version of the CEMP to be submitted to the Examination.
- ##### **2. NOISE REDUCING FENCING:**
- 2.1 *Many tenants consider their allotment as a way of life and some spend many hours every day on their plot. The site is already a very noisy environment for all tenants but especially for the 60 with plots that directly border the motorway. Currently we have a standard fence and a thin strip of vegetation separating the allotments from the hard shoulder. There are currently no plans to upgrade this fencing.*

Highways England Comment

- 2.1.1 The Scheme does not make noise or vibration any worse at this location, hence there is no need to upgrade the noise protection fencing.
- 2.1.2 The noise and vibration assessment is reported in Chapter 12 of the Environmental Statement (ES) (Application Document Reference 6-1, APP-152). The operation of the Scheme generally results in noise reductions in the short term and in the long term. These noise reductions are shown in the ES at Figure 12.4 for the short term, and in Figure 12.5 for the long term (Application Document Reference 6-2, APP-265 to 272). Sheet 12 of Figure 12.4 and Figure 12.5 is relevant to the Myrke allotments area. As can be seen from these drawings the operation of the Scheme will result in negligible noise reductions in the short term and in the long term. On this basis, additional noise mitigation in the form of a noise barrier is not required to mitigate the effects of the Scheme.
- 2.1.3 Notwithstanding the above, it is noted in paragraph 12.4.112 of the ES that there is the potential to improve further the noise climate along the Scheme through enhanced mitigation. This location is currently being considered as an area where enhanced mitigation could be provided.
- 2.1.4 A detailed quantitative assessment is being carried out to confirm the requirement for enhanced mitigation. Should this quantitative assessment confirm the appropriateness of enhanced mitigation at this location (through the provision of noise barriers), there will be an improvement to the noise climate across the allotments. Highways England will be updating the Examination with the results of the assessment of enhanced noise mitigation in due course.
- 2.2 *We understand that the low-noise surfacing will help reduce noise however, it is our view that now the hard shoulder will become a lane of fast moving traffic, allotment tenants will experience a significant increase in noise disturbance.*

Highways England Comment

- 2.2.1 As noted in paragraph 2.1.2 above, contrary to the view expressed in the representation that the operation of the Scheme will result in significant noise increases to the allotments, as shown in Sheet 12 of Figure 12.4 and Figure 12.5 of the ES, the study found that negligible noise reductions are predicted in the short term and in the long term with the Scheme in operation.

- 2.3 *In addition, part of the strip of vegetation will be permanently lost, forming the Emergency Refuge Area which will result in additional noise in that area. Other areas of vegetation will be removed for the works and replanted which until fully grown will also result in increased noise levels.*

Highways England Comment

- 2.3.1 The noise assessments mentioned above take into account the completed Scheme, including the newly created Emergency Refuge Area ("ERA"). To that end the results above show that there will be negligible noise level reductions in this area, even taking into account the impact of the new ERA.
- 2.3.2 As pointed out in the representation, all removed vegetation will be replaced wherever possible. In any event, a substantial band of trees or shrubs is required to provide any significant noise attenuation. Consequently, removal of vegetation in the vicinity of the allotments is not assessed to result in increased noise levels.
- 2.3.3 In specific terms, given the likely infrequent usage of the ERA and the fact that noise from that ERA will be much lower in comparison with the noise from traffic on the motorway, it is not considered that use of the ERA will make a significant contribution to the noise levels across the allotments (as is confirmed by the assessments mentioned above).
- 2.4 *We would ask that consideration be given to erect a taller noise reducing boundary. This would also potentially improve air quality on the site which is an additional issue for growers.*

Highways England Comment

- 2.4.1 As noted above, this location is currently being considered as an area where enhanced mitigation could be provided.
- 2.4.2 The representation suggests that a taller noise barrier could improve air quality in this location. However, the use of barriers is not currently an approved technique for mitigating air quality effects on Highways England road schemes. This is because there is some uncertainty over the effectiveness of this type of measure in the UK. Therefore, based on both the viability of the measure and that the effect is not quantifiable, it is not an appropriate measure to use.
- 2.4.3 In any event, no significant air quality impacts are expected at this location as a result of the Scheme. The air quality assessment for the Scheme has explicitly

considered locations nearby the allotment area at the Myrke through air quality modelling and air quality monitoring information from diffusion tubes. This includes residential properties along Whites Lane, Slough Road and The Myrke.

2.4.4 The air quality modelling and monitoring available for the above nearby locations can be used to infer air quality conditions at the Myrke allotment site. Measurement data collected at the Myrke (in closer proximity to the motorway than the nearest property) measured NO₂ concentrations of 30.9-32.4 µg/m³. The results at nearby locations from the air quality modelling exercise indicate that, at the year of Scheme opening, air quality is predicted to be less than 38 µg/m³ compared to the objective value of 40 µg/m³ with the Scheme in place.

2.4.5 However, as the Myrke allotment area is not a location classified as being of long term relevant exposure, such as residential properties, the annual air quality objective of 40 µg/m³ is not considered to be applicable, rather the short term objective would be more appropriate. This short term air quality objective for nitrogen dioxide is an hourly concentration of 200 µg/m³, not to be exceeded more than 18 times per year.

2.4.6 Within the air quality assessment the risk of the short term objective being exceeded is considered through an empirical relationship that at annual average concentrations of less than 60 µg/m³ will mean that one hour exceedences are unlikely. This is based on research undertaken for the Department for Environment, Food and Rural Affairs ("Defra"). It is therefore anticipated that exceedences of the 1-hour average objective are unlikely in this location as annual average concentrations at all modelled receptors are less than 60 µg/m³, by a large margin (at least 22 µg/m³).

2.5 *We also seek reassurance on a safety issue - what will be in place to prevent vehicles breaking through the fence onto the allotment site in the event of an accident?*

Highways England Comment

2.5.1 The level of Vehicle Restraint System ("VRS") provision to stop such incidents occurring is determined by undertaking the Road Restraint Risk Assessment Process ("RRRAP"). During this process hazards alongside the motorway are entered into the software along with other aspects such as traffic flows, HGV percentage, and the required level of provision of VRS is returned as the output. This process is undertaken in the detailed design stage when survey information is

available to allow the situation to be modelled in detail. Details of new VRS provision are found in paragraph 6.3.43 of the Engineering and Design Report (Application Document 7.3) and the requirement to carry out the RRRAP and provide any further VRS is secured under Requirement 25, Schedule 2 of the draft Development Consent Order (“DCO”) (Application Document Reference 3-1).

3. ACCESS TO THE SITE DURING THE WORKS:

3.1 *Access to the site for all vehicles - including HGV's – will be need to be maintained throughout the works apart from temporary short duration closures and we ask that these temporary closures are notified in advance to all tenants. It was mentioned during the site Inspection visit that this was agreed; please could this be confirmed.*

Highways England Comment

3.1.1 As detailed in paragraph 4.3.15 of the Construction Environmental Management Plan ("CEMP") (Appendix 4-2A of Application Document Reference 6.3, APP-293) during construction a programme of high quality, effective and sustained communications will be held with residents. This notification to local residents will be given a minimum of two weeks in advance of planned construction works that may affect them. The notification will provide details of the enquiries and complaints procedure developed in accordance with section 4.3 of the CEMP. Additional information included in the notifications will include, as appropriate:

- 3.1.1.1 the location of the planned works;
- 3.1.1.2 the activities to be carried out;
- 3.1.1.3 the duration of the planned works and the periods within which works will be undertaken (i.e. whether during normal working hours, during the evening or overnight);
- 3.1.1.4 the anticipated effects of the planned works; and
- 3.1.1.5 the measures to be implemented in line with the final CEMP to mitigate the impact of the planned works.

EARLEY TOWN COUNCIL

ADDITIONAL REPRESENTATION

HIGHWAYS ENGLAND RESPONSE

1. *A Statement of Common Ground (SoCG) has been signed by Earley Town Council and returned to Highways England, but I am of the view that the Council was pressured to return the document by a tight deadline, and unfortunately it did not address a number of issues that the Council raised. However, I do not think that the SoCG addresses the issue of "requirements", or planning conditions, and these are at the discretion of the Inspectors appointed by PINS.*

Highways England Comment

- 1.1 Highways England is disappointed to learn that Earley Town Council has additional concerns that were not addressed in the agreed SoCG that was signed on 14th October 2015. However, Highways England will address the concerns the Town Council has raised and provide a response to each of those matters.
2. *I would raise concerns about requirements 3, 4, 5 and 15 as I consider that they are not "precise" and are therefore potentially not enforceable. Requirements 3, 4 and 5 surely need the "certain works" defining, and requirement 15 requires to be worded to require an archaeological investigation prior to commencement, and for the investigation of any unexpected archaeological features encountered during construction and their protection and recording.*

Highways England Comment

- 2.1 It is not clear what the concerns are in relation to Requirements 3, 4 and 5. There is no reference to "certain works" in the draft Development Consent Order ("DCO") so a definition of this term would be redundant. Requirement 3 specifically refers to Works No. 7a, 8c, 9b, 10c, 11c, 12e, 13c, 14c, 17, 19c, 20c, 22c, 24g, 24j and 25; Requirement 4 refers to works to "Gantry Type 5" as described in Schedule 1 of the DCO; and Requirement 5 refers to Work No. 1a and 1b. These are specific and enforceable. Highways England explained at the issue specific hearing into the DCO, as reflected in the summary of the hearing provided at Deadline IV, that the requirements have been drafted to as to provide the requisite flexibility for a project

of this size, thereby ensuring the deliverability of the Scheme, whilst also subjecting the Scheme to appropriate constraints.

2.2 In regards to Requirement 15, as stated in paragraphs 7.2.22 to 7.2.24 of the Environmental Statement (Application Document Reference 6-1, APP-147), works that are likely to disturb previously unexcavated ground will be subject to archaeological watching briefs during topsoil stripping and excavations, followed by an appropriate level of assessment, analysis and reporting. As explained at the issue specific hearing into the DCO, implementation of requirement 15 is not linked to commencement of the authorised works, but is included in the DCO to address any unknown archaeological remains found during construction of the Scheme. Further, the requirement at sub-paragraph (3) does provide for investigation and recording of any remains found, where necessary.

3. *In addition I believe requirements are required to address motorway noise and air quality, and suggest wording along the lines of the following*

- *A scheme for air quality monitoring, including timescale, periods of measurement and the location of monitoring stations, is to be submitted to and approved by the relevant planning authority and the approved scheme is to be implemented and action taken as the results of the monitoring indicate. Reason, to ensure that dwellings and other susceptible uses along the motorway are protected from any decrease in the air quality as a result of increased traffic.*

Highways England Comment

3.1 The Lower Earley area has been subject to air quality monitoring undertaken by both Highways England and Wokingham Borough Council. This includes monitoring with diffusion tubes at locations adjacent to residential properties in Lower Earley that are closest to the M4 in Lower Earley (within approximately 60 m). The monitoring at these residential locations indicates that existing air quality is good, with concentrations of nitrogen dioxide less than 32 µg/m³. Additionally, the Air Quality Management Area ("AQMA") declared by Wokingham Borough Council along the M4 in Lower Earley does not include the properties closest to the M4 in this area. This indicates that Wokingham Borough Council does not anticipate exceedences of the air quality objective in the vicinity of the M4.

- 3.2 The air quality assessment undertaken for the Scheme concludes that overall there will be no significant effects of the Scheme on air quality, as summarised in Table 6.23 of the ES (Application Document Reference 6.1, APP-146). Within Earley Town Council's jurisdiction, the air quality modelling indicates that there will be an imperceptible to small increase in NO² concentrations with the Scheme in place, but all receptors are predicted to continue to be well below the annual average objective value with the Scheme. Therefore all receptors in the Earley Town Council's jurisdiction will experience a negligible change in air quality.
- 3.3 It is also anticipated that exceedances of the 1-hour average objective are unlikely between junctions 11 and 10 as annual average concentrations at all sensitive receptors are less than 60 µg/m³. This is described in paragraph 6.6.12 of the ES (Application Document Reference 6.1, APP-146) and illustrated on Drawings 6.4 and 6.4b (Application Document Reference 6.2, APP-192).
- 3.4 On the basis of the existing air quality, that is well below the NO² objective values (more than 8 µg/m³ below the objective in the baseline), and the negligible effects (maximum future with Scheme concentration of 20.4 µg/m³ and a maximum increase of 0.6 µg/m³) anticipated in this area, monitoring provisions are not considered to be required.
- *A scheme for the construction of new noise barriers and the replacement of existing noise barriers is to be submitted to and approved by the relevant planning authority and the approved scheme is to be implemented. Such a scheme should take account of future increases in traffic for 15 years after the motorway works are completed. Reason, to ensure that dwelling and other susceptible uses along the motorway are not affected by increases in traffic noise due to increases in traffic numbers.*

Highways England Comment

- 3.5 Requirement 22 in the draft DCO requires a scheme for the installation or replacement of acoustic noise barriers in the locations shown on Figure 2.2 of the Environmental Statement (Application Document Reference 6.2, APP-257 to APP-260) to be approved in writing by the Secretary of State in consultation with the relevant planning authorities, and implemented prior to construction of the Scheme.

3.6 The Design Manual for Roads and Bridges, Volume 11, Section 3, Part 7 (DMRB) provides the required approach for the noise assessment. DMRB is clear on the scenarios which must be employed in the noise assessment. These are:-

- (a) Do Minimum 2022 (i.e. the situation in 2022 without the Scheme);
- (b) Do Something 2022 (i.e. the situation in 2022 with the Scheme);
- (c) Do Minimum 2037 (i.e. the situation in 2037 without the Scheme); and
- (d) Do Something 2037 (i.e. the situation in 2037 with the Scheme).

3.7 The year 2022 is the opening year for the Scheme. The year 2037 is 15 years after the opening year and is known as the “future assessment year”. The noise assessment employs the predicted future traffic flows on all roads (including the M4) in the study area for 2022 and 2037.

3.8 The proposed mitigation, which is to be provided pursuant to requirement 22, is based on the results of the noise assessment, which employs the above four scenarios. Hence, the scheme for the provision of new noise barriers and the replacement of existing noise barriers takes into account the future increases in traffic over the 15 years after the motorway opens.

The 15 years in the noise condition comes from the old PPG24 which recommend that any noise assessment should consider changes during such a period after a use commences. It is my impression that Highways England are only considering the impact at the date the works are completed.

Highways England Comment

3.9 This is incorrect, as demonstrated in the response to Item 3 above.