

## London Borough of Hillingdon

### COMMENTS ON EXA'S SECOND WRITTEN QUESTIONS

#### HIGHWAYS ENGLAND'S RESPONSE

Question	Council Response	Highways England Response
<b><u>4. Environment</u></b>		
<b>Landscape and Visual Effects</b>		
4.2.1	<p>The council maintains that the impact on Cranford Park is significant and warrants appropriate mitigation.</p> <p>Drawing no. 514451-MUH-00-ZZ-RP-EN-300374 (Enhanced Mitigation Strategy) identifies in pink that 'existing replacement noise barriers' will be provided along the southern stretch of the M4 adjoining Cranford Park, however this plan provides no clarity on whether this 'pink line' refers to replacement noise barriers and if it is to be replaced, what the proposed height of this barrier is- this requires full clarification and explanation and until this received, it is maintained that this scheme has a detrimental impact on the heritage assets of Cranford Park in the absence of appropriate mitigation being in place. It is noted that the HE written submission at Deadline V does state that a 2metre acoustic fence is propose in this location, however the plans, which are to be approved do not provide any such clarity.</p>	<p>Sheet 15 of Drawing 12.4 of the Environmental Statement (“ES”) (Application Document Reference 6-2, APP-268) shows that, far from the impact on Cranford Park being significant, the implementation of the M4 Junctions 3 to 12 Smart Motorway scheme (the “Scheme”) (without enhanced noise mitigation) will result in noise decreases across Cranford Park.</p> <p>Highways England will provide a new 2m metre high noise barrier at this location under its commitment, secured under Requirement 22 in the draft Development Consent Order (“DCO”), that any existing barriers included as acoustic barriers in the noise assessment, which turn out not to be acoustic barriers, will be replaced with acoustic barriers.</p>

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	<p>With regard to the photomontages provided at Deadline V, it is clear that the photo from Cranford walled garden shows that Gantry G1-02 will be visible in some views from this area, which is maintained as an objection due to the impact of the visual amenity of park users.</p>	<p>With this new acoustic barrier in place, the noise reductions with the Scheme in operation will be an improvement on those shown in Sheet 15 of Drawing 12.4 of the ES.</p> <p>With reference to photomontages Nos 62, 63 and 64 labelled Cranford Park Walled Garden View, Highways England agrees that some part of Gantry G1-02 on the eastbound side of the Scheme would be perceptible in heavily filtered winter views from the Walled Garden. However, with reference to the Engineering and Design Report, Annex 1 Environmental Masterplan Sheet 30 (Application Document Reference 7-4, APP-101), Highways England notes that the existing gantry at approximate chainage 11150 (eastbound), located approximately 30m to the east of the proposed gantry, would be removed as part of the Scheme. On that basis, Highways England considers that the appearance of Gantry G1-02, as a barely perceptible feature, would not change the overall composition of the view, resulting in a neutral significance of effect.</p>

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	<p>An additional photomontage has been provided from the back of the stables, however this view is of no assistance in an assessment as it looks directly into a bush yet the gantry is likely to be visible in part from the yard at the rear of the stables.</p> <p>The applicants argue that the councils concerns about traffic being closer to the Park as a result of ALR is not agreed because traffic is already able to use the hard shoulder in emergency situations. This argument is obtuse, as that occurs all along the M4 motorway at present.</p> <p>It is maintained that noise barriers of a sufficient height (to minimise views over the walled garden ergo greater than 2 metres) should be provided in order to minimise the impact on the Cranford Park and associated heritage asserts.</p>	<p>Highways England does not agree that photomontages Nos. 59, 60 and 61 are of no assistance in the assessment. The purpose of the exercise is to identify a range of views from the north edge of Cranford Park looking towards the Scheme. A view which does not show the gantry is just as valid as one that does and helps to provide an understanding of how the visual influence of the Scheme changes as the user moves around the Park.</p> <p>Highways England considers that the appearance of all lane running traffic on what is presently the hard shoulder would not materially change the composition of the view. The traffic running on the nearside lane on the existing M4 is a present feature of the filtered view and the marginally closer all lane running traffic would form a similar feature in the view resulting in no perceptible change and a neutral significance of visual effect.</p> <p>As set out below, Highways England disagrees that a barrier is necessary, let alone one of over 2m height, which itself would result in further visual impacts.</p> <p>On the basis that there is a nearby existing gantry to be removed and that Gantry G1-02 would form a barely perceptible new feature, Highways England considers that this proposed gantry would not change</p>

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		<p>the overall composition of the view, resulting in a neutral significance of effect. Highways England therefore does not consider that a barrier, whether it be a noise barrier or not, is necessary to mitigate the visual effects of the Scheme on views from the Walled Garden or to minimise the impact on Cranford Park and the associated heritage assets.</p>
4.2.2	<p>The Council welcome the proposed 2.5m high fencing (EM34), but it is requested that this fence line is extended to enclose the proposed refuge and police pull in E1-A1, this is also necessary in the event that the Frogsditch is to be culverted, as additional vegetation is likely to be experienced in this instance and the existing vegetation which provides much necessary screening may be lost.</p>	<p>The enhanced noise mitigation study was based on a robust quantitative assessment (the methodology for which was agreed with Highways England's principal noise adviser). As described in the Enhanced Noise Mitigation Study Report (Ref 514451-MUH-00-ZZ-RP-EN-400158), this assessment is a three step process comprising:</p> <ul style="list-style-type: none"> <li>i) calculation of the perceptible noise reductions achieved through enhanced mitigation;</li> <li>ii) a cost/benefit analysis (in terms of health benefits related to noise reductions against mitigation costs); and</li> <li>iii) professional judgment where the combination of i) and ii) does not provide an obvious conclusion.</li> </ul>

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		<p>Harlington was included in the enhanced noise mitigation study (reference EM34), and was treated in exactly the same manner as all other areas in the study. The outcome was that a new 2.5 metre high barrier would be provided. The new barrier is 323 metres long and, in conjunction with the provision of low noise surfacing, provides significant noise decreases to properties in Harlington.</p> <p>Noise emanating from the proposed refuge and police pull-in is not considered to be a significant contributor to the noise climate across Harlington, with noise from free flowing traffic on the motorway being the dominant source hence there is no need for a barrier here.</p> <p>Highways England reiterates its commitment not to culvert Frogs Ditch as set out at 14.7.13 of the CEMP.</p>
4.2.3	<p>The HE comments are noted and the council maintain their position as per Deadline V, that S253 is not a feasible option to the substantial number of local residents effected by this scheme and therefore a</p> <p>Development consent Obligation would be an appropriate mechanism. See Deadline V comments for more details.</p>	<p>Highways England disagrees that it would be reasonable or appropriate to impose a development consent obligation on the Scheme in respect of offsite planting. Highways England provided a full response to Question 4.2.3 in its Deadline V submission.</p>

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		<p>The key point in relation to this is that with the mitigation proposed for the Scheme within the London Borough of Hillingdon, the majority of visual effects in the Design Year (2037) are predicted to be 'neutral'.</p> <p>Highways England acknowledges that 'slight adverse' effects on some receptors are predicted. Notwithstanding this, Highways England does not consider 'slight adverse' effects to be significant and therefore does not consider it necessary to provide further mitigation through the provision of off-site planting to further mitigate the visual effects of the Scheme. Consequently, Highways England does not consider it necessary, reasonable or appropriate for a Development Consent Obligation to be entered into.</p>
4.2.4	HE comments are noted and the increase in height of acoustic barriers are welcomed, however the council maintain that higher acoustic barriers with clear upper panels are viable options open to the HE and ExA and should be provided.	As explained in previous submission, Highways England's preference is to use timber noise barriers, as these have been tried and tested over a number of years on the motorway network. Highways England considers timber to be an appropriate material for noise barriers, where they are proposed in the context of existing retained vegetation, and in circumstances where the proposed replacement planting would help to soften and over time integrate the timber barrier in terms of the colouring and weathering properties of the timber fence panels.

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		<p>At a strategic level, Highways England is presently investigating whether there is a commercially available timber barrier which can be adapted to have a top transparent panel. However, it is unlikely that such a fencing panel would be appropriate for use on the Scheme. Whilst a transparent upper panel would reduce potential shadowing effect in some gardens, it would also permit partially screened views of motorway traffic. Moreover, as there is no provision to clean or maintain the transparent fencing panels, they are likely to become obscured by dirt. Requiring regular cleaning and maintenance of transparent panels would be costly to the public purse, and create unnecessary risk for Highways England's maintenance contractor.</p>
4.2.6	The Council welcome and support the provision of 3.5metre high fencing to the rear of Savoy Ave, Cleave Ave, Cranford Drive.	No comment required.
<b>Flooding</b>		
4.3.1	It is noted that a revised FRA has been submitted, the council are still reviewing the details of this document and therefore reserve their position in respect of the additional information submitted.	

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	<p>Initial comments on the revised FRA include:</p> <p>The Council does not consider that a complete assessment has been undertaken as it does not include the potential impact of the works to culverting of the Frogs Ditch in the Drainage Strategy Section 1.3.20 which include a cantilevered concrete slab or gabion retaining wall over the Frogs Ditch. In Section 1.3.20 The Drainage Strategy, the document states it will not culvert, divert or realign the Frogs Ditch. Council do not object to the diversion or realignment of the Frogs Ditch and would support the exploration of these options rather than the cantilevered or gabion retaining wall order to preserve the Frogs Ditch.</p> <p>The area referred to in Section 2.10 Junctions 4b -3 Although this states that the scheme is not at risk from various sources of flood risk it is misleading as Section 3.1.12 of the Drainage Strategy it states that the area is at risk of groundwater flooding and is identified in Council records that residents on the Common, adjacent to Junction 4b suffer from flooding which could be attributed to the overflowing of a drainage channel along the edge of the M4. Section 4.12.2 Hillingdon have advised Highways England of recent reports of flooding on the Common. This should be included in the FRA. Highways England in the Drainage Strategy section 3.1.30 have committed to investigating and ensuring that the drainage system is maintained and functions appropriately. Any proposed solutions needed, should be submitted to and approved by LBH.</p>	<p>Highways England reiterates its commitment not to culvert Frogs Ditch, as stated at 1.3.20 of the Drainage Strategy, and will provide an engineering solution that minimises the impact of the Emergency Refuge Area construction on the flow conveyance capacity and other attributes of this watercourse.</p> <p>A detailed survey of the geometry of the ditch will be undertaken and this data will inform modelling of the watercourse and the selection of the best solution during the detailed design stage.</p> <p>In clarification of this matter, paragraphs 1.5.10 and 1.5.11 of the updated Flood Risk Assessment submitted at Deadline V (REP5-002), outline that the Scheme is generally considered to be at low risk of flooding from groundwater. However, the assessment of the feasibility of the use of land located centrally within junction 4b to accommodate above ground SuDS (para 3.1.12 of the Drainage Strategy report submitted at Deadline V (REP5-002)) highlights the potential for groundwater near to the surface, due to the topography and because the land at this location is heavily vegetated.</p>

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		<p>In relation to existing localised flooding issues, that can be attributed to the performance of the drainage systems of the motorway. Requirement 14 of Schedule 2 of the DCO requires Highways England to undertake any remedial works necessary to ensure that the drainage system functions appropriately. Where such works concern a ditch or other drainage asset over which the London Borough of Hillingdon has authority, the London Borough of Hillingdon will be consulted appropriately.</p>
<b>Air Quality</b>		
4.6.1	<p>LBH is still of the view that <i>"it would not be inappropriate for the ExA to request a further sensitivity test based upon the recently issued EPUK/IAQM guidance"</i>. HE note in their para 2 that in their view <i>"little weight should be applied to (the EPUK/IAQM guidance) ..."</i>. This in LBHil's view does not mean 'no weight' should be applied. It is for the Secretary of State to decide what weight to give to it, but it is appropriate to present the results of the assessment in a way that allows the implications of the new guidance to be seen. This has not been done. LBH has carried out this exercise for the 78 receptors for which the modelling has been carried out by HE using the AURN to calibrate the results (as described in Question E4.6.6, para 8). Results are provided for 78 receptors, and applying the EPUK/IAQM guidance there would be 'negligible' impacts at 15 receptors, 'slight' at 60 receptors, 'moderate' at 2 receptors and substantial at 1 receptor. A spreadsheet is attached</p>	<p>Highways England does not dispute that the London Borough of Hillingdon has carried out this evaluation of significance correctly or question the figures produced. However this significance criteria is wholly inappropriate for assessing Air Quality for the Scheme and should not be used.</p> <p>The EPUK/IAQM processed results presented by the London Borough of Hillingdon are noted. As noted by Highways England in earlier submissions, EPUK/IAQM guidance is not applicable to Highways England schemes, as that document states in both the introductory section:</p> <p><i>"This document has been developed for professionals operating within the planning system. It provides them with a means of reaching sound</i></p>

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	<p>setting out LBHil's assessment of the results provided by HE. (Appendix A).</p>	<p><i>decisions, having regard to the air quality implications of development proposals. It also is anticipated that developers will be better able to understand what will make a proposal more likely to succeed. This guidance, of itself, can have no formal or legal status and is not intended to replace other guidance. For example, industrial development regulated by the Environment Agency, and requiring an Environmental Permit, is subject to the Horizontal Guidance Note H11, while for major new road schemes, Highways England has prepared a series of advice notes on assessing impacts and risk of non-compliance with limit values."</i></p> <p>and re-iterated in paragraph 6.3:</p> <p><i>"As set out in the introduction in Chapter 1 , this guidance document is not intended to replace guidance that exists for certain types of development, notably:</i></p> <ul style="list-style-type: none"> <li><i>• industrial developments that require a Permit;</i></li> <li><i>• highways schemes promoted by Highways England;"</i></li> </ul> <p>A sensitivity analysis based on the EPUK/IAQM guidance is therefore not considered to be appropriate, or a reasonable use of public funds.</p>

<p>4.6.4</p>	<p>Various references are made in this section to the use of the LTT<sub>E6</sub> results providing a more conservative assessment than the Defra projections. The basis of the LTT<sub>E6</sub> results is illustrated in the graph presented by HE to the ExA at the November Hearings (Appendix E – Derivation of LTT<sub>E6</sub> Used in the Environmental Statement). No further details have been provided by HE on the derivation of the curves in this Figure, despite requests. It is understood that the LTT<sub>E6</sub> results have been arbitrarily chosen to lie half way between those of the original LTT approach (the trend from monitoring data) and the E6Only approach, which assumes that Euro 6/IV vehicles deliver as expected. In practice, it would be expected that the E6Only approach would equate to the use of Defra’s EFT which assumes Euro 6/IV vehicles deliver as expected. This expectation is not however borne out in the results presented by HE in the ES. To take an example based on the results for receptor X9 (all values presented are base values, without scheme, as presented in the ES, i.e. not calibrated against the AURN alone, which would give higher values): the nitrogen dioxide concentration in 2013 is 46.8 g/m<sup>3</sup>, in 2022 the concentration using the EFT becomes 34.4 g/m<sup>3</sup> and 36.2 g/m<sup>3</sup> with the LTT<sub>E6</sub>. Using the LTT approach the 2022 value would have been 43.8 g/m<sup>3</sup>. If the logic of the LTT<sub>E6</sub> worst-case approach were to apply the value should fall halfway between 43.8 g/m<sup>3</sup> and 34.4 g/m<sup>3</sup>, i.e. 39.1 g/m<sup>3</sup>, not 36.2 g/m<sup>3</sup>. HE does not seem to be applying the logic underlying its recommendation to use LTT<sub>E6</sub> as a worst case approach. It therefore appears to be underestimating the ‘worst-case’ concentrations, further emphasising the risk that future concentrations may be higher than assessed.</p>	<p>The E6Only curve and the Defra EFT curve are not the same, as shown on Figure 1 'Rates of NO<sub>2</sub> Change Informing IAN 170/12v3' included in Highways England's response to the London Borough of Hillingdon's written representation at Deadline V (REP5-005).</p> <p>The approximate calculations undertaken here by the London Borough of Hillingdon overly simplify the LTT calculation and are based on total concentrations predicted at receptors following the LTT and EFT methodologies.</p> <p>As previously explained, the LTT curve does not include the anticipated benefits of Euro 6/VI technology which, in the opening year of the Scheme, is projected to be a significant component of the vehicle fleet with the associated reductions in emissions. Therefore, it would be inappropriate and inaccurate to use a LTT curve which is not capable of reflecting reductions in emissions and associated pollutant concentrations.</p> <p>As such, it is considered that the LTT projection is overly pessimistic, and would not represent a realistic worst case scenario as is required by law and as described in Advice Note Nine: Rochdale Envelope, page 8 “<i>The EIA should assess the likely worst case in terms of the potential variations within a project but the detailed design of the project and the variations should not vary beyond these limits so that the</i></p>
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		<p><i>proposals as built would not have been assessed, thereby rendering the ES inadequate.”</i></p> <p>LTT<sub>E6</sub> is therefore expected to give the most likely, realistic and accurate worst case scenario.</p>
4.6.6	<p>Para 3: This paragraph relates to HE’s concerns about the AURN and the suggestion by HE that the site is affected by school traffic on Cherry Lane. Professor Laxen made clear in his submission to the November Hearings (and subsequent written submissions) that the school traffic would have an inconsequential impact on the concentrations at the AURN site. It would appear that HE does not accept this. LBH stands by the evidence submitted by Professor Laxen. There are no grounds to question the data for Defra’s AURN site.</p>	<p>Although the London Borough of Hillingdon and Highways England have not reached agreement over the measurement data collected at the AURN site, Highways England has carried out two sensitivity tests on the receptors closest to the AURN site; one using the AURN within the wider verification zone and one using the AURN as a standalone measurement site for verification purposes.</p> <p>The results of both of these sensitivity tests were presented in Highways England's response to the London Borough of Hillingdon at Deadline V (REP5-005).</p> <p>Both of the sensitivity tests showed that the overall evaluation of significance would not be changed with the inclusion of the AURN in the verification process, following either methodology.</p>

	<p>Paras 6 and 7: HE cite the Defra's Technical Guidance TG(09). Professor Laxen was closely involved with the preparation of this guidance. The guidance is aimed at typical situations. This is clear where it says: <i>"The use of one continuous monitor alone to derive the adjustment factor for a model is not recommended as the monitoring site may not be representative of other locations modelled"</i>. This would be appropriate if the result for the AURN site were being applied to a section of road well away from the AURN site (as often happens in air quality assessments). However, this is not the case here. The AURN site is fully representative of the location to the north of the M4 between junction 4 and 4b. The recommendation in TG(09) clearly does not apply in these circumstances.</p>	<p>Highways England disagrees with the dismissal of the TG(09) national air quality guidance as it does not consider that other good quality measurement data in that area should be discarded. The approach of using multiple measurement locations where available is in line with the TG(09) guidance. Nevertheless, a sensitivity test was carried out as described above, which concluded that the inclusion of the AURN site in the verification process as a standalone site would not affect the overall evaluation of significance for the Scheme and air quality effects due to the Scheme would not be significant.</p>
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	<p>Para 11: In this section, HE set out that the PCM model does not include the section of the M4 between Junction 4 and 4b. HE appears to be arguing that the results along this section of the M4 can be ignored when considering compliance. This is wrong, as Defra reports compliance to the Commission based firstly on the results of its national network of monitoring sites (the AURN) and then on the PCM results. There is an AURN monitoring site alongside the M4 between Junction 4 and 4b and the results of this monitor are used by Defra to determine compliance. It is therefore entirely appropriate to assess future compliance by modelling future concentrations at the AURN monitoring site, i.e. determining what the concentration will be at this site in 2022. When doing this it is clear that the concentration at this compliance monitoring site will be above the limit value in 2022, and will be made worse by the scheme. It is LBHs view that this exceedence is sufficient to justify mitigation, regardless of whether the Greater London Zone is not compliant at other locations.</p>	<p>As set out in Highway England's response to the London Borough of Hillingdon at Deadline V in paragraph 1.33.3, Highways England confirms that the PCM model does not include the section of the M4 between junctions 4 and 4b.</p> <p>Interim Advice Note ("IAN") 175/13 sets out Highways England's approach to responding to the requirement of the National Networks National Policy Statement ("NN NPS") to consider if the Scheme would <i>"affect the UKs ability to comply with the Air Quality Directive."</i></p> <p>The IAN specifies the methodology, which has been agreed with Defra, for combining the detailed modelling produced for the ES with the modelling produced by Defra.</p> <p>The results of the IAN175/13 assessment are set out in Section 6.15.7 of the ES. This concludes that the Scheme would not affect Defra's reported position of the UK's compliance with the Air Quality Directive.</p>
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		<p>Further, predicted concentrations at sensitive receptors around the AURN site, and located closer to the M4 than the AURN site, are below the air quality objective value with the Scheme in place in 2022. The maximum annual mean concentration of NO<sub>2</sub> predicted at a sensitive receptor located between junctions 4 and 4B is 36.7 µg/m<sup>3</sup> with the Scheme in operation. This receptor is approximately 23m from the M4, compared to the AURN, which is approximately 35m from the M4. Therefore, even if the approach identified here, whereby annual mean concentrations are considered at individual AURN sites was followed, the Scheme would still be compliant. On this basis, Highways England maintains that mitigation is not justified.</p>
E4.6.8	<p>In its question (i) the ExA invites HE to prepare in consultation with the relevant local planning authorities a monitoring strategy for nitrogen dioxide. Instead of following this invitation, HE has openly disregarded this invitation from the ExA, and has chosen not to prepare a monitoring strategy, arguing instead that one is not necessary. LBH is clearly concerned at HE's disregard of the invitation from the ExA. The monitoring strategy is required because there is a risk that the impacts will be more significant than set out in the ES, and monitoring is the best way to be establish whether or not this is the case.</p>	<p>Highways England provided a full response to question E4.6.8 at Deadline V. Highways England expressly stated that it does not believe that such a monitoring strategy is required.</p> <p>As a first principle, it is important to note that the policy for the inclusion of air quality mitigation is not triggered under the NN NPS in respect of the Scheme. As seen in the A556 scheme, the Examining Authority there accepted that an air quality 'trigger' was appropriate on that scheme, as the scheme triggered a significant air quality impact and required mitigation. In the case of the M4 Scheme, the air quality assessment concludes that the impact of the Scheme is not significant and does not affect compliance with</p>

		<p>the Air Quality Directive ("AQD").</p> <p>Consequently, the policies set out in the NN NPS around mitigation are not triggered, and there is no requirement to include mitigation as part of the Scheme or to require additional air quality monitoring. To require Highways England to provide costly monitoring would be disproportionate in circumstances where no significant effect on air quality is anticipated as a result of the Scheme and where the Scheme does not affect the UK's reported ability to comply with the AQD.</p> <p>The Environment Impact Assessment ("EIA") concerns the assessment of likely impacts. For the Scheme, the assessment was based on assumptions at the time of the preparation of the EIA with respect to guidance and assumptions assumed in the traffic modelling (the basis of the air quality assessment) assembled in accordance with published standards. As the assessment has been completed in accordance with the current guidance in relation to air quality and traffic modelling, it can properly be concluded that the outcomes of the assessment are based on the most reasonable, reliable and robust information available at the time of assessment.</p>
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		<p>The Examining Authority and others have sought the use of trigger levels for the application of mitigation. This is not appropriate because:</p> <ol style="list-style-type: none"> <li>1. the basis for applying mitigation is not clear. No significant effects are predicted (unlike for the A556), and the assessment of compliance with the AQD is assessed on a level higher than locally;</li> <li>2. the A556 approach is not applicable since that scheme was assessed to result in a significant impact in air quality, thereby resulting in a need for mitigation. No significant impact has been assessed for the M4 Scheme;</li> <li>3. there are no mechanisms by which a mitigation measure can be applied from time-to-time as opposed to consistently, i.e. the mechanism to link speed changes to air quality monitoring data in real time is not yet available. Further, no effect to be mitigated is identified and no policy requirement applies; and</li> <li>4. there is no mechanism to identify non scheme-related effects so that any duty of mitigation falls legitimately on those causing effects.</li> </ol>
<b>Noise and Vibration</b>	Outstanding matters relating to noise are set out in response to 4.2.1-4.2.6 above	

<p><b>Effects on travellers</b></p>	<p>LBH maintain their previous concerns that the impacts of the M4 on the local road network are not fully understood, due to the omission of information, including</p> <p>1) Impact of high traffic growth factors, considering the policies are gearing towards economic growth (TfL initial view is that the assessment will be not be significantly different. However its view is not supported by any assessment).</p>	<p>Highways England has provided all of the information requested by the London Borough of Hillingdon.</p> <p>Most recently, at a meeting on the 21 December 2015, Highways England demonstrated an interactive map of the traffic flow plots, which Highways England has prepared to enable the London Borough of Hillingdon to interrogate and view the changes in forecast flows for Scheme opening and design years for every link in the traffic model network within the borough.</p> <p>The electronic copy of this interactive map was provided to the London Borough of Hillingdon and it supplements the detailed traffic information previously issued to the London Borough of Hillingdon in the form of traffic turning movements at junctions 3 and 4, as requested by the Council.</p> <p>1) Highways England does not agree that there is a requirement to undertake an assessment based on high traffic growth figures. A detailed response on the approach to assessment, as prescribed in TAG, was provided in response to the London Borough of Hillingdon in Highways England's submission to Deadline V.</p>
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	<p>2) Traffic impact due to additional development and induced traffic (this was not part of TfL's assessment).</p> <p>3) Sensitivity testing without traffic re-routing.</p> <p>4) Sensitivity testing of a different mix of traffic distribution.</p>	<p>2) Highways England provided a detailed review of the development proposals planned for the London Borough of Hillingdon in its response to Deadline V. The review concluded that the M4 smart motorway model makes adequate allowance for the planned level of growth across Hillingdon, going even further than the Council's own predictions for growth.</p> <p>3) Highways England does not understand the basis for this test, the requirement for which has not yet been identified. In line with standard practice, Highways England uses a traffic model of the 'assignment' type, in which traffic moves between routes in response to changes in the highway network.</p> <p>4) Similarly, Highways England does not understand the basis for this test, the requirement for which has not yet been identified. The 'distribution' of traffic (between origins and destinations) is determined as part of the model development process and is not subject arbitrary change thereafter.</p>
<p><b><u>Compulsory Acquisition/CEMP; Impact on Sipson Road Subway</u></b></p>	<p>We welcome the inclusion of specific details on the Sipson Road subway in the CEMP.</p> <p>The council would request that the following paragraph is added below 5.3.1 of the CEMP to ensure adequate protection is available to users of the subway:</p>	<p>Highways England has included the suggested paragraph in the revised version of the CEMP submitted at Deadline VII.</p>

	<p>'Highways England/the Contractor to provide at all times, adequate advance notice of any closure(s) of the Sipson Road subway, roads and footpaths/Non-Motorised User paths, including prominent signage advising the Public (including Cherry Lane Primary School/Cherry Lane Children's Centre) of ongoing dates and times of proposed closures with details of re-routing directions and arrangements, as necessary. All notification and signage to clearly display 24 hour/7 day a week contact details of key personnel at HE/Contractor for benefit of the Public in case of enquiries or emergencies'.</p>	
<p><b><u>dDCO</u></b></p>	<p>It is of note that the applicant has amended their dDCO substantially. In principle the Council is agreeable to the process detailed in the Discharge of DCO requirements - Explanatory Submission for the ExA dated 05 November 2015 ("Discharge Procedure") although shall set out the Council's remaining concerns that have not been addressed via the Discharge of DCO Requirements - Update Explanatory Note dated 08 January 2016.</p> <p><b>Consultation:</b></p> <ol style="list-style-type: none"> <li>1. The Council is pleased that a number of the Requirements include the Council as a consultee although the Council would request that they are also included as a consultee in the following Requirements: <ol style="list-style-type: none"> <li>a. <b>Requirement 4: Gantry Design</b> - Given the close proximity of the M4 to sensitive receptors and the potential for visual impact the Council require, at the very least, to be a consultee to the Discharge Procedure.</li> </ol> </li> </ol>	<p>Highways England has amended the draft DCO to specify consultation with the relevant planning authority under the requirements listed in the London Borough of Hillingdon's representation. These amendments were reflected in the DCO submitted to the Examining Authority on 15 February 2016.</p>
	<ol style="list-style-type: none"> <li value="2">b. <b>Requirement 6: Engineering drawings,</b></li> </ol>	

	<p><b>sections and other information</b> - Given the close proximity of the M4 to sensitive receptors and the potential for visual impact the Council require, at the very least, to be a consultee to the Discharge Procedure.</p> <p>c. <b>Requirement 11: Ecological Mitigation</b> - The Local Planning Authorities ('LPA') have a full understanding of the local ecological networks and would therefore be best placed to advise in relation to the ecological mitigation. Furthermore, Requirement 11 is connected to the Construction Environmental Management Plan. For these reasons the LPAs should therefore, at the very least, be a consultee to the process.</p> <p>d. <b>Requirement 12: Contaminated land and ground water</b> - The scheme is located in close proximity to former landfill sites and whilst the scheme does not at present encroach into this area, the power to deviate (Article 6a of the DCO) has the potential to change the current position. The Council require, at the very least, to be a consultee to the Discharge Procedure.</p>	
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	<p>e. <b>Requirement 24: Biodiversity Management Strategy</b> - The Council must be a consultee in relation to the matters that affect its borough. Natural England has devolved the decision making on these types of planning application level strategies to LPAs. Furthermore, the Council is best placed to consider local networks and the interaction with other areas of biodiversity improvement.</p> <p>2. The Council is not convinced by the Applicant's reasons for not providing a prescriptive form of the consultation process within the DCO. A reflection of the process within the DCO shall provide clarity, consistency and is further likely to prevent unnecessary delay. If the consultation process is not confirmed in the DCO the Council would query where the Applicant intends to confirm the relevant process in order that all parties are informed as to the consultation process and can positively participate in such a process. Such an approach does not provide for a stable consultation process as the process can be amended at any time without recourse.</p>	<p>2. Highways England explained its view as to why the details being sought by the London Borough of Hillingdon are not appropriate in its Explanatory Note on the Discharge of DCO Requirements, submitted at Deadline V (REP5-002).</p> <p>Highways England is a Government-owned company with responsibility for the SRN. It is a creature of statute and policy. It is responsible for, and responds to, consultation.</p> <p>Moreover, the draft DCO outlines where, who with and when consultation is necessary. Time is addressed in order to avoid delays, and the dDCO includes deemed approval provisions.</p> <p>On that basis, and as set out in response to questions and orally at the Issue Specific Hearings, Highways England does not agree that the consultation process should form part of the DCO.</p>
	<p>3. The Discharge Procedure does require the Applicant</p>	<p>3.1 The process must allow for the Applicant to</p>

	<p>to provide a summary report setting out the consultation undertaken by the Applicant and the Applicant's response to the consultation. The Applicant is not required to provide all the consultation responses where it is appropriate, reasonable and feasible taking into account the cost and engineering practicality (although not limited to these implications). The caveat is very wide and the Council would suggest that an amendment is made to paragraph 4 (2) of Schedule 2 (Part 2) that requires the Applicant to set out the reasons for not providing a consultation response. There should be a further addition that enables the Secretary of State to request such consultation responses should they deem the reasons provided by the Applicant to be inadequate.</p>	<p>screen some consultation responses if the costs and delays that might follow such responses are wholly inappropriate and unreasonable.</p> <p>3.2 The existing wording of Schedule 2, Part 2 already makes clear that a summary of consultation undertaken must be supplied to the Secretary of State and that responses to consultation will be reflected and implemented in the Scheme as it goes forward unless it is not reasonable, feasible or appropriate to do so.</p> <p>3.3 Following the submissions made by parties at the DCO ISH, Highways England has amended the draft DCO to make clear that, if the consultation responses are not reflected in the scheme submitted to the Secretary of State for approval, then the consultation report provided to the Secretary of State must provide reasons as to why they were not.</p>
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	<p>4. It is noted that the second round of consultation has now been removed in order to prevent undermining the autonomy and decision making of the Secretary of State. The Council does not agree with this finding. The second round of consultation would provide assistance to the decision making process as the consultation responses would provide specialist knowledge that the Applicant may not possess. The Inspectors were rightly concerned that the <i>'man on the street'</i> would not be involved in the consultation process and this has been further diminished by the removal of the second round of consultation as it is not formalised by the DCO. Furthermore, the Applicant has found that the 8 week determination period is sufficient making it much more difficult for the Secretary of State to adequately consult the <i>'man on the street'</i> and given that the second round of consultation is not to be formalised via the DCO makes it much easier for the Secretary of State to find it is not possible to consult the <i>'man on the street'</i> due to time constraints.</p>	<p>4. As Highways England explained in its Explanatory Note on the Discharge of DCO Requirements, submitted at Deadline V (REP5-002) it is of the view that it is not appropriate to dictate to the Secretary of State whether he should undertake a second round of consultation. Consultation will be undertaken by Highways England prior to the submission of a scheme for approval to the Secretary of State. The requirements provide that such consultation will include the relevant planning authorities, which will reflect the views of their local residents as they see fit.</p> <p>As previously explained, Highways England deems the 8 week period provided for under Part 2 of Schedule 2 to be reasonable and reflective of time frames used for public consultation in many other circumstances. Further, as previously noted, this time period is capable of extension by the Secretary of State both by agreement between the parties (Paragraph (1)(c)) and following a request for further information (Paragraph (1)(b)).</p>
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	<p><b>Application Fee:</b></p> <p>5. The Council is disappointed to note that the Applicant is not willing to contribute to the costs that shall be incurred by the Council in participating in the consultation process given the limited resources of local authorities. Such refusal is therefore a burden upon the public purse. The Council's position on this point remains unchanged and given the specialist knowledge the Council possesses in relation to the borough it is of vital importance that the Council is able to positively participate in the consultation process, which may not be possible if the Council is not reimbursed the costs of such participation.</p>	<p>5.1 Highways England notes that the London Borough of Hillingdon has not made it clear to the Examining Authority the basis upon which it asserts that Highways England has the power to pay for the London Borough of Hillingdon to undertake non-statutory consultation. Further, it has not been made clear under which legal power the London Borough of Hillingdon is entitled to receive such payment, were it to take place.</p> <p>5.2 Further, as explained in its Explanatory Note on the Discharge of DCO Requirements, submitted at Deadline V (REP5-002), Highways England maintains that the level of work required to be undertaken by a local authority in providing a consultation response to the discharge of a requirement is not commensurate with that required when the local planning authority is itself the decision maker.</p> <p>5.3 It must also be remembered that Highways England is itself a publicly funded body and that caution must therefore be exercised in relation to validating the expenditure of public funding.</p>
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	<p><b>Other issues relating to the Discharge Procedure:</b></p> <p>6. The Council has other concerns with the Discharge Procedure, once such concern relates to the accelerated process contained within schedule 12 of the DCO. The accelerated process places a more onerous burden under this process than that contained within Schedule 2 (Part 2). The Applicant has failed to provide adequate reasons as to why the two processes under Schedules 2 (Part 2) and 12 are distinguished in this manner.</p> <p>7. The accelerated process requires a decision for the discharge applications within five weeks rather than the standard eight week period provided under the planning regime. The Council understands the Applicant's concern in relation to the potential for delay however such an onerous burden is not reasonable. The Secretary of State is provided with eight weeks to determine a discharge application as per the planning regime and the Council request that the same timescales as granted under the Discharge Procedure contained within Schedule 2 (Part 2).</p>	<p>6. Schedule 2 (Part 2) relates specifically to an application to the <b>Secretary of State</b> for any consent, agreement or approval required by a <b>requirement</b>, whereas Schedule 12 relates to an application to a <b>discharging authority</b> for any consent, agreement or approval required or contemplated by any of the <b>provisions</b> of the Order.</p> <p>7. The consents subject to the procedure under Schedule 12 are very different to those subject to Schedule 2, and relate, for example, to the consent to discharge water into a watercourse. This is very different to the discharge of, for example, a detailed landscaping scheme. Consequently, Highways England is of the view that the procedure proposed in Schedule 2 is appropriate to the nature of the consents to which it relates. Further, it is an approach that has been adopted in other DCOs, such as the Hinkley Point C Connection Project and Thames Tideway Tunnel.</p>
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	<p>8. Paragraph 1 (3) (c) refers to an application being accompanied by a report that shall consider whether it is likely that the subject matter of the discharge application is to give rise to any '<i>materially new</i>' or '<i>materially worse</i>' environmental effects in comparison with the authorised development. It is not clear what is meant by '<i>materially new</i>' or '<i>materially worse</i>' and the Council seeks clarification on this point. For clarity a definition should be provided.</p> <p>9. Paragraph 4 of Schedule 12 sets out the appeal process however does not provide a time limit in which an appeal must be submitted. The Council requests that a reasonable time limit is inserted.</p>	<p>8. As Highways England explained at the Issue Specific Hearing into the draft DCO, "materiality" is a question of subjective planning judgment and therefore there is no need to include a definition of it in the DCO. To provide such a definition would be to usurp the discretion of the decision makers. The judgement will still remain with the Secretary of State.</p> <p>9. Highways England confirmed at the Issue Specific Hearing into the DCO that it agreed that it would be appropriate to specify a 6 week appeal period under paragraph 4 of the Schedule 12. This amendment was reflected in the draft DCO submitted to the Examining Authority on 15 February 2016.</p>
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	<p><b>Service Level Agreement:</b></p> <p>10. The Applicant is concerned that there would be a lack of consistency of design and standards across the Strategic Road Network unless there is sign-off by one body. The alternative approach suggested by the Inspectors would provide for that i.e. a joint planning body that would work together to ensure there was consistency. It is correct that the Department for Transport is the policy leader for national highway policy but the local authorities are more than competent to correctly interpret and apply such policy.</p>	<p>10.1 Highways England has provided detailed submissions in its Explanatory Note on the Discharge of DCO Requirements (REP5-002) as to why it does not believe that requirements should be discharged by a joint planning board pursuant to a service level agreement.</p> <p>10.2 Further, Highways England notes that no local planning authorities have indicated a positive desire to be part of a joint body under a service level agreement for joint discharge. Further, there is currently no procedure set out under government guidance for setting up or running a joint planning body. It is unclear how such an approach would work in practice and where the resource and financial burden would lie.</p>
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	<p>11. The Applicant's concern that the Council may be reluctant or unable to undertake a rigorous analysis required to discharge the requirements is without merit. The Council has component resources to discharge the requirements although those resources would be limited by the Applicant's reluctance to provide adequate lack of funding. Should adequate funding be provided by the Applicant in a similar manner to that provided for in the Thames Tideway Tunnel scheme the Council can dedicate officers who hold in-depth knowledge and expertise to determine such discharge applications ensuring consistency of design and standards across the network. The Council is best placed to inform the discharge of requirements given the Council's invaluable local knowledge. The Council believes therefore that the Inspectors alterative approach is a viable alternative to the Discharge Procedure and that the reasons provided in the Discharge of DCO requirements - Update Explanatory Note do not prevent the alternative approach suggested by the Inspectors.</p>	
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## Appendix A; AURN Verification Results

Results provided by HE						Application of EPUK/IAQM Descriptors by LBHil		
Receptor n X(m)	Y(m)	DM	LTTE6		Change	Summary		
			DS					
B715	506464	178564	35.7	36.7	1.04	Slight Adverse	Negligible	15
B716	506459	178564	35.7	36.7	1.03	Slight Adverse	Slight Adverse	60
B717	506472	178565	35.7	36.7	1.05	Slight Adverse	Moderate Advers	2
B718	506476	178565	35.7	36.8	1.05	Slight Adverse	Substantial Adver	1
B719	506482	178566	35.7	36.8	1.05	Slight Adverse		
B720	506490	178568	35.6	36.6	1.04	Slight Adverse		
B721	506495	178568	35.6	36.6	1.04	Slight Adverse		
B722	506500	178569	35.6	36.7	1.04	Slight Adverse		
B723	506508	178569	35.7	36.7	1.04	Slight Adverse		
B724	506512	178570	35.7	36.7	1.03	Slight Adverse		
B746	506554	178579	35.3	36.2	0.92	Slight Adverse		
B747	506553	178584	34.5	35.4	0.87	Slight Adverse		
B780	506667	178589	36.6	37.3	0.69	Slight Adverse		
B781	506666	178594	35.8	36.4	0.65	Slight Adverse		
B794	506575	178581	35.5	36.4	0.89	Slight Adverse		
B795	506580	178581	35.5	36.4	0.87	Slight Adverse		
B796	506587	178582	35.6	36.5	0.86	Slight Adverse		
B797	506592	178582	35.7	36.5	0.85	Slight Adverse		
B798	506596	178583	35.7	36.6	0.84	Slight Adverse		
B799	506601	178583	35.8	36.6	0.83	Slight Adverse		
B800	506608	178585	35.7	36.5	0.81	Slight Adverse		
B801	506614	178585	35.8	36.6	0.80	Slight Adverse		
B802	506619	178586	35.8	36.6	0.78	Slight Adverse		
B803	506624	178586	35.9	36.7	0.77	Slight Adverse		
B804	506631	178587	36.0	36.7	0.76	Slight Adverse		
B805	506637	178587	36.1	36.8	0.75	Slight Adverse		
B843	506704	178592	37.3	37.9	0.63	Moderate Adverse		
B844	506704	178596	36.4	37.0	0.59	Negligible		
B865	506749	178602	36.6	37.1	0.49	Negligible		
B866	506750	178594	38.3	38.9	0.53	Slight Adverse		

B867	506751	178585	40.6	41.2	0.59	Moderate Adverse
B868	506794	178593	40.1	40.5	0.44	Slight Adverse
B869	506801	178594	40.1	40.5	0.42	Slight Adverse
B870	506810	178595	40.2	40.6	0.38	Slight Adverse
B871	506817	178596	40.2	40.5	0.34	Slight Adverse
B872	506832	178601	39.5	39.8	0.28	Slight Adverse
B873	506824	178600	39.4	39.8	0.32	Slight Adverse
B874	506841	178602	39.5	39.7	0.25	Slight Adverse
B875	506847	178603	39.5	39.7	0.23	Slight Adverse
B876	506857	178604	39.6	39.7	0.18	Negligible
B877	506863	178601	40.7	40.8	0.14	Negligible
B878	506871	178603	40.4	40.5	0.12	Negligible
B879	506878	178603	40.6	40.7	0.09	Negligible
B880	506887	178605	40.4	40.5	0.06	Negligible
B881	506893	178608	39.6	39.7	0.06	Negligible
B882	506901	178611	39.2	39.3	0.05	Negligible
B883	506908	178611	39.2	39.2	0.04	Negligible
B884	506916	178613	39.0	39.0	0.04	Negligible
B885	506925	178614	38.9	38.9	0.04	Negligible
B915	507207	178632	39.5	39.8	0.32	Slight Adverse
B916	507192	178631	39.0	39.4	0.33	Slight Adverse
B917	507186	178631	38.7	39.0	0.34	Slight Adverse
B918	507171	178628	38.8	39.2	0.36	Slight Adverse
B919	507162	178627	38.8	39.1	0.36	Slight Adverse
B920	507156	178628	38.6	39.0	0.36	Slight Adverse
B921	507147	178627	38.6	39.0	0.37	Slight Adverse
B922	507141	178627	38.4	38.8	0.36	Slight Adverse
B923	507132	178627	38.4	38.7	0.36	Slight Adverse
B924	507126	178627	38.2	38.6	0.36	Slight Adverse
B925	507118	178627	38.2	38.6	0.36	Slight Adverse
B926	507089	178626	38.0	38.4	0.35	Slight Adverse
B927	507080	178625	38.0	38.4	0.34	Slight Adverse
B928	507074	178626	37.8	38.2	0.33	Slight Adverse

B929	507065	178625	38.0	38.3	0.33	Slight Adverse
B930	507059	178626	37.8	38.1	0.33	Slight Adverse
B931	507050	178625	37.8	38.2	0.32	Slight Adverse
B932	507044	178625	37.7	38.0	0.31	Slight Adverse
B933	507035	178624	37.9	38.2	0.30	Slight Adverse
B934	507029	178624	37.7	38.0	0.29	Slight Adverse
B935	507020	178624	37.8	38.1	0.26	Slight Adverse
B936	507014	178624	37.7	37.9	0.24	Slight Adverse
B937	507004	178623	37.8	38.0	0.22	Slight Adverse
B938	506998	178624	37.7	37.9	0.21	Slight Adverse
B939	506989	178637	35.6	35.8	0.16	Negligible
B940	506979	178625	37.3	37.4	0.15	Negligible
B941	506966	178622	37.7	37.9	0.13	Negligible
X8	507177	178628	39.0	39.4	0.36	Slight Adverse
X9	506751	178577	43.6	44.3	0.70	Substantial Adverse

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