

M25 junction 10/A3 Wisley interchange TR010030 8.3 Statement of Common Ground with Environment Agency

Regulation 5(2)(q)
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Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009



Infrastructure Planning

Planning Act 2008

The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (as amended)

M25 junction 10/A3 Wisley interchange

The M25 junction 10/A3 Wisley interchange Development Consent Order 202[x]

8.3 STATEMENT OF COMMON GROUND WITH ENVIRONMENT AGENCY

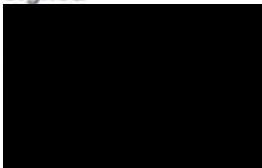
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STATEMENT OF COMMON GROUND

This Statement of Common Ground has been prepared and agreed by (1) Highways England Company Limited and (2) the Environment Agency.

Signed

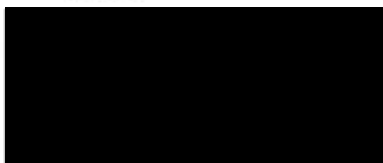


Jonathan Wade

**Project Manager
on behalf of Highways England**

Date: 27 January 2020

Signed



Clark Gordon

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on behalf of The Environment Agency**

Date: 27 January 2020

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1. Introduction

1.1. Purpose of this document

- 1.1.1 This Statement of Common Ground ("SoCG") has been prepared in respect of the proposed M25 junction 10/A3 Wisley interchange improvement scheme ("the Application") made by Highways England Company Limited ("Highways England") to the Secretary of State for Transport ("Secretary of State") for a Development Consent Order ("the Order") under section 37 of the Planning Act 2008 ("PA 2008").
- 1.1.2 The SoCG has been prepared in accordance with the guidance published by the Department of Communities and Local Government.¹
- 1.1.3 This SoCG does not seek to replicate information which is available elsewhere within the Application documents. All documents are available in the deposit locations and/or the Planning Inspectorate website.
- 1.1.4 The SoCG has been produced to confirm to the Examining Authority where agreement has been reached between the parties to it, and where agreement has not (yet) been reached.
- 1.1.5 It may be subject to further updates and revisions as a result of further discussion with the Environment Agency during the examination process. It is also acknowledged that there may be a need for further agreement between the parties during detailed design and the execution of works.

1.2. Parties to this Statement of Common Ground

- 1.2.1 This SoCG has been prepared by (1) Highways England as the Applicant and (2) Environment Agency.
- 1.2.2 Highways England became the Government-owned Strategic Highways Company on 1 April 2015. It is the highway authority in England for the strategic road network and has the necessary powers and duties to operate, manage, maintain and enhance the network. Regulatory powers remain with the Secretary of State. The legislation establishing Highways England made provision for all legal rights and obligations of the Highways Agency, including in respect of the Application, to be conferred upon or assumed by Highways England.
- 1.2.3 The Environment Agency is an executive non-departmental public body, sponsored by the Department for Environment, Food and Rural Affairs with the stated purpose 'to protect or enhance the environment, taken as a whole'. Within England it is responsible for:
- regulating major industry and waste;
 - treatment of contaminated land;

¹ Department for Communities and Local Government Planning Act 2008: Guidance for the examination of applications for development consent (2015)

- water quality and resources;
- fisheries;
- some inland river, estuary and harbour navigations;
- conservation and ecology; and
- managing the risk of flooding from main rivers, reservoirs, estuaries and the sea.

1.3. Terminology

- 1.3.1 In the tables in the Issues chapter of this SoCG, “Not Agreed” indicates a final position, and “Under discussion” where these points will be the subject of on-going discussion wherever possible to resolve, or refine, the extent of disagreement between the parties. “Agreed” indicates where the issue has been resolved.
- 1.3.2 It can be taken that any matters not specifically referred to in the Issues chapter of this SoCG are not of material interest or relevance to Environment Agency, and therefore have not been the subject of any discussions between the parties. As such, those matters can be read as agreed, only to the extent that they are either not of material interest or relevance to Environment Agency.

2. Record of Engagement

2.1.1 A summary of the meetings and correspondence that has been taken place between Highways England and Environment Agency in relation to the Application is outlined in table 2.1.

Table 2.1: Record of Engagement

Date	Form of correspondence	Key topics discussed and key outcomes (the topics should align with the Issues tables)
28.06.17	Meeting	Scheme update and discussion on the route options and environmental issues, including drainage, contamination and historical landfills, water and ecology
19.12.17	Meeting	Stage three meeting to provide an update to the scheme.
09.03.18	Meeting	Discussion regarding Water Framework Directive and impacts and mitigation on Bolder Mere and Stratford Brook.
13.04.18	Meeting	Impacts on Bolder Mere and Stratford Brook.
24.05.18	Letter	EA response to meeting minutes of 13.04.18.
02.08.18	Meeting	Discussion regarding scheme updates, soils and geology including ground investigation phasing, and temporary de-watering requirements.
15.08.18	Meeting	Discussions on water quality, with a particular focus on Phosphorus in Bolder Mere, WFD and Ecology mitigation in relation to watercourse crossings.
28.11.18	Meeting	Discussion on scheme updates, EA interests Protective Provisions, licencing and ground investigations for the DCO application.
12.12.18	Meeting	Discussion on the Statement of Common Ground, method of input and governance.
13.12.18	Targeted Consultation response	Environment Agency provided feedback on the changes made to the Scheme since the Statutory Consultation earlier in the year. This includes their confirmation that the changes to the Scheme will result in a reduced environmental impact including a more limited impact on Bolder Mere lake.
14.12.18	Letter	Receipt of EAs updated 'standard' Protective Provisions. Request for further details on scheme proposals in relation to the requirement for licences and consents.
22.01.19	Site visit.	A site visit to the Site of Special Scientific Interest and Special Protection Area to discuss proposed and possible mitigation measures. Other

Date	Form of correspondence	Key topics discussed and key outcomes (the topics should align with the Issues tables)
		stakeholders included RSPB and Surrey Wildlife Trust.
07.02.19	Email	Email from stakeholder engagement team seeking confirmation on status of agreement to disapply certain consents.
14.02.19	Email	Email from EA requesting information originally requested in letter of 14.12.18.
19.02.19	Email	Email from EA responding to other points in Atkins email of 7th February 2019, that did not require further information and reiterating the requirements for further information on certain permits.
22.02.19	Meeting	Discussion on the Water Framework Directive and proposals for mitigation measures.
27.03.19	Letter	EA feedback on meeting notes from 22.01.19 and on mitigation proposals for Stratford Brook and Bolder Mere.
29.03.19	Site visit	To review mitigation proposals for scheme impacts at Stratford Brook.
09.04.19	Letter	Response to WFD and Water Quality Assessment from EA IEP
10.04.19	Meeting	To update on project and programme and to discuss risk assessment methodology for land contamination in respect of DCO application.
18.04.19	Letter	EA response to WFD Assessment Report. EA are concerned with the lack of groundwater information and how the scheme may impact on groundwater resources and sensitive Site of Special Scientific Interest. They request further information (ES chapter 10) to alleviate their concerns and potential objection to the DCO.
26.04.19	Letter	Response to additional targeted consultation.
07.05.19	Meeting	To discuss feedback in letter of 18.04.19 from the EA on the WFD and Water Quality Assessment, specifically in relation to the approach to the risk assessment of potential impacts to ground water quantity in light of available data.
16.05.19	Email	Mitigation strategy and proposed amount for commuted sum to act as fall back if preferred mitigation options for Stratford Brook are not possible. Sent to EA for their consultation.
22.05.19	Letter	EA response to mitigation strategy for Stratford Brook. They agree commuted sum value for the purpose of application submission, but state a) the 'reasonable cost' of works will need to be justified and b) the commuted sum should not be taken as a cap on expenditure. They also provide some clarifications/corrections for the mitigation strategy.

Date	Form of correspondence	Key topics discussed and key outcomes (the topics should align with the Issues tables)
23.05.19	Letter	EA response ('fall-back position') in relation to A3 drainage discharge to Bolder Mere. They state that if re-routing is not feasible they expect some form of attenuation/pipe treatment/settlement that delivers better treatment than that currently in place.
05.06.19	Email	Updated ES chapters for Water Environment and Drainage (8) and Geology and Soils (10) sent to EA for their review and comment, in respect of approach to assessment of risk to ground water resources and that of contaminated land in absence of GI data.
05.06.19	Email	Summary of s150 consents, licences and permits required or not required for the project sent to EA for their consultation.
06.06.19	Email	Updated WFD report sent to EA for their review.
07.06.19	Email	Response sent to EA comments on the WFD/WQ assessment report.
10.06.19	Letter	EA confirm that they are content with the meeting note of the 07.05.19 and have no comments.
14.06.19	Letter	EA confirm that they are content with the meeting note of the 10.04.19 and have no comments. They provide feedback on the draft DCO requirements Bolder Mere, Stratford Brook and Contaminated Land & groundwater; the permits/licences/consents to be required or to be disapplied and confirm, subject to some amendments that they are satisfied with the SoCG.
24.09.19	Letter	Letter sent to EA providing clarification on a number of issues raised in respect of the FRA and the WFD.
08.10.19	Meeting	Meeting to review the EAs Relevant Representation and to address points raised in the EA comments log. It was agreed to update the comments log and re-issue to EA for their review.
02.10.19	Meeting	With EA Water Resources team relating to requirement for water impoundment licences at Bolder Mere and Manor Pond.
08.10.19	Email	Summary of remaining clarifications re s150 consents, licences and permits required or not required for the project sent to the EA for their confirmation.
17.10.19	Email	EA confirm that unless a highway drain notice has been served specifying that the operation of a highway drain (where that activity might lead to a discharge) is a water discharge activity, then a WDA permit is not required.

Date	Form of correspondence	Key topics discussed and key outcomes (the topics should align with the Issues tables)
31.10.19	Email	EA confirm Highways England's amendments to the protective provisions which are now agreed.
31.10.19	Email	EA confirm water impoundment licence not required for proposed works at Bolder Mere provided Highways England do not modify or alter the current outflows or entrance to the culvert. (This would also apply to proposed works for Manor Pond).
12.11.19	Email	EA confirm that they are content with the revised Protective Provisions including the consent to disapply Regulation 12 and the need for a Flood Risk Assessment Permit.
06.01.20	Email	EA confirm that they are content for no changes to be made to Requirement 10 and that they are satisfied that the requirements they requested are provided for through the dDCO.

2.1.2 It is agreed that this is an accurate account of the key meetings and consultation undertaken between (1) Highways England and (2) Environment Agency in relation to the issues addressed in this SoCG.

3. Issues

3.1. Water Framework Directive (WFD)

	Issue	Sub-section	Environment Agency Comment	Highways England Response	Status
3.1.1	WFD	Scheme impacts (Groundwater resources & SSSI)	The Environment Agency (EA) are concerned with the lack of groundwater information and how the scheme may impact on groundwater resources and sensitive Site of Special Scientific Interest (SSSI) sites in the locality of the scheme.	Site investigation and risk assessment will be provided/undertaken under Requirement 13 of the dDCO. The EA have confirmed their agreement with this approach in their letter of 17 June 2019 (A.28) and at a meeting on 08 October 2019 (A.41)	Agreed
3.1.2	WFD	Assessment and proposed mitigation	Overall, the EA are now satisfied that the WFD Assessment and proposed mitigation packages are acceptable for submission for the-Application, whilst noting that further details are to be submitted at later stages as noted throughout the submitted documents. In particular, the EA will be keen to review the Ground Investigation (GI) and Hydrogeological Risk Assessment (HRA), Construction and Environmental Management Plan (CEMP), SPA Management and Monitoring Plan and Register of Environmental Commitments and Actions for the Scheme, which should provide the outstanding details for the issues within the EA's remit	Noted	Agreed

	Issue	Sub-section	Environment Agency Comment	Highways England Response	Status
3.1.3	WFD	WFD status (Stratford Brook and Bolder Mere)	Provided that the embedded mitigation, additional specific mitigation and generic guidance on the principles of WFD compliant design are implemented, the EA are satisfied that the scheme will not result in a deterioration in WFD status or prevent the achievement of good status. The EA are satisfied that the details of the package of measures to mitigate for the impacts on the Stratford Brook and Bolder Mere Lake can be secured through Requirements of the DCO, providing they can be agreed with us at detailed design	Noted	Agreed
3.1.4	WFD	Assessment scope	Overall the EA are pleased with the scope and breadth of the submitted reports, taking into account that further site investigation works need to take place before the mitigation measures can be finalised. The reports are clear and well laid out. The EA agree that Highways England have provided a proportional evidence base for the associated risk, except for groundwater.	Noted. An approach to addressing issues raised by the EA on groundwater was agreed in meeting between EA and Highways England on 07.05.19 (A24). A summary of how these issues have been addressed is presented in points 3.3.8, 3.4.3 and 3.4.4 below.	Agreed
3.1.5	WFD Assessment/Water quality assessment	Screening & scope	The EA agree with what has been scoped in and out. We agree that this scheme poses little to no risk to Drinking Water Protected Area status and is also not likely to impact on Nitrate Vulnerable Zones.	Noted	Agreed
3.1.6	WFD Assessment Comments Log (CL): 028	Stratford Brook Crossing	Paragraph 5.4.3 of the WFD report states that “the bridge deck should run perpendicular to the watercourse (to reduce shading)”. The EA are	The planform of Stratford Brook at the New Stratford Brook Underbridge is shown on Sheet 1 of the Scheme Layout Plans	Agreed

	Issue	Sub-section	Environment Agency Comment	Highways England Response	Status
			<p>concerned that the bridge deck isn't running perpendicular to the watercourse and that this could necessitate the need for bed and bank reinforcement later down the line. Highways England should provide justification for this alignment.</p>	<p>(APP-012). Structural details for the bridge are provided on page 57 of Engineering Drawings and Section (APP-014). The bridge crosses a sinuous reach of the brook. Fitting this multi-curve meander shape into the rectangular shape of a bridge is a challenge that has principally been addressed by designing a bridge with a very wide span. The abutments of the span are broadly parallel with the most likely (downstream) progression of the meander under the bridge, lowering the risk of the river making contact with the bridge into the future. The design represents a sensible balance between accommodating the needs of the water environment with the alignment and constructability of the road. The EA were satisfied with this justification for the alignment of this bridge at a meeting on 08 October 2019 (A.43).</p>	
3.1.7	WFD Assessment CL 029	Stratford Brook Crossing	<p>Paragraph 5.4.3 states that "bed and bank protection should only be used where a real risk to life or critical infrastructure is apparent". This should be re-worded – the requirement for bed and bank protection should be avoided through good design, i.e. by aligning the</p>	<p>This is written as generic guidance. There will always be circumstances, particularly in high energy or constrained environments, in which protection cannot be avoided and will be required to protect</p>	Agreed

	Issue	Sub-section	Environment Agency Comment	Highways England Response	Status
			bridge deck so that it's perpendicular to the watercourse.	life and critical infrastructure. Highway's England will review the means by which amendments to the WFD can be made during the DCO process if considered necessary. Suggested re-wording to "bed and bank protection should only be used where an erosion hazard cannot be avoided (for instance by relocating an abutment or pier) and a real risk to life or critical infrastructure is apparent". The EA were satisfied with this justification at a meeting on 08 October 2019 (A.41).	
3.1.8	River Wey	Proposed mitigation	Opportunities for creating and/or enhancing wetland habitat should be explored at Park Barn Farm Replacement Land where in close proximity to River Wey. This area does not seem to have been included within the proposed mitigation measures	The strategy of incorporating wet mitigation features into enhancement and replacement land has always been opportunist in nature and will always be secondary to the primary functions of these areas (SPA compensation in the case of the enhancement areas and public access in the case of the replacement land). Highways England has investigated opportunities in Park Barn Farm Replacement Land. Although there may be some opportunity to create limited wet areas here this will always be limited by the need to not make areas intended for public access too	Under discussion

	Issue	Sub-section	Environment Agency Comment	Highways England Response	Status
				<p>wet. Opportunities are further limited by the location of ditches within the area. These are at the boundary with third party land, restricting opportunities to incorporate water features that don't also affect land outside the ownership of the Scheme. For these reasons there are no obvious opportunities to proposed wet mitigation in this area.</p>	

3.2. Stratford Brook Mitigation Works

	Issue	Sub-section	Environment Agency Comment	Highways England Response	Status
3.2.1	Stratford Brook (RR 3.2) Xref: CL: 017; 018; 019;020; 058	Mitigation measures (timescale for delivery)	The EA require further clarification from the applicant about the timescales for the delivery of Stratford Brook additional mitigation measures	The detail of the construction sequence is in Section 2.7 of the ES (APP- 049), and further work by Highways England suggests that this section will be built in March to September 2021. The feasibility studies will be included in the project programme to be completed in time to inform the detailed design.	Agreed
3.2.2	Stratford Brook	Proposed mitigation measures	<p>Although the EA accept the effect of the Scheme on Stratford Brook to be minor and localised, it is concerned that the proposed embedded mitigation does not adequately address the effect of the Scheme on the brook. The bullets below are a high-level summary of the Agency's concerns:</p> <ul style="list-style-type: none"> • The embedded mitigation comprising a widespan bridge and channel mitigation works do not fully mitigate or compensate for the impact of the new Stratford Brook overbridge on the brook. • The embedded mitigation does not follow advice in Volume 10, section 1, part 9 of HE's Design Manual for Roads and Bridges to 	<p>In addition to the embedded mitigation, the EA and HE have now agreed a strategy for delivering additional mitigation necessary to address the effect of the Scheme on Stratford Brook. This strategy is set out in Appendix F.3 and associated Table 3 in the WFD Assessment Report (APP-045).</p> <p>Requirement 12 (Stratford Brook Environmental Mitigation Area) of the draft DCO (APP-018) has been revised in agreement with the EA to secure mitigation for the effect of the Scheme on Stratford Brook and to address the</p>	Agreed

	Issue	Sub-section	Environment Agency Comment	Highways England Response	Status
			<p>always consider incorporating mitigation for the effects of existing roads when improvements or major maintenance works are planned adjacent to watercourses. On Stratford Brook opportunities exist for improvement to fish and mammal passage through Stratford Brook culvert (North) and Stratford Brook culvert (South) as well as reducing the backwatering effect of and Stratford Brook culvert (North).</p> <ul style="list-style-type: none"> • Agreeing a prioritised list of mitigation measures • Ensuring adequate mitigation is properly secured within the draft DCO <p>Full details of discussions can be found in minutes of meetings dated 9/3/18 (A3), 15/8/18 (A7) & 22/2/19 (A17), record of a site visit of 22/1/19 (A12) and letters of 6/3/19 (A18), 27/3/19 (A19), 29/3/19 (A20), 18/4/19 (A22) and 22/5/19 (A27).</p>	<p>concerns raised by the EA on this matter.</p>	
3.2.3	Stratford Brook Culverts CL:025	LEMP (fish and mammal passage)	<p>The EA would want to ensure the final LEMP includes measures to assess the success of the potential impoundment lowering/fish passage improvement associated with the existing Stratford Brook (South) culvert.</p>	<p>These measures will be included in the final LEMP which will be updated during detailed design stage.</p>	Agreed

	Issue	Sub-section	Environment Agency Comment	Highways England Response	Status
3.2.4	Stratford Brook Culverts CL 026	LEMP (fish and mammal passage)	The objective for 7.8 should also be to improve fish and mammal passage through the existing A3 culverts.	The objective will be updated in the final LEMP to state that Highways England will seek opportunities to implement measures that improve fish and mammal passage.	Agreed
3.2.5	Stratford Brook underbridge CL 056	Mammal ledge	EA note that the plan for the crossing do not show mammal ledges.	These are preliminary design drawings. They will be superseded by detail design drawings that will show mammal ledges. The Scheme is committed to providing the ledges in Section 7.4.38 of the Biodiversity Chapter of the ES (APP-052) and in Appendix F of the WFD assessment (AP-045) as measure SB_c). The measure is also carried through to the Register of Environmental Actions and Commitments for the Scheme, which in turn forms part of the Outline Construction and Environmental Management Plan (APP-134).	Agreed

3.3. Bolder Mere Mitigation Works

	Issue	Sub-section	Environment Agency Comment	Highways England Response	Status
3.3.1	Affected waterbodies	Scheme impacts (findings & proposed mitigation)	The WFD assessment concludes that the scheme won't cause a deterioration in any of the affected waterbodies at a waterbody scale but it does suggest	Agreed. The only minor localised adverse effect not addressed through mitigation reported in the WFD	Agreed

	Issue	Sub-section	Environment Agency Comment	Highways England Response	Status
			<p>there will be several minor localised effects, including increased shading/modification as a result of river crossings and encroachment of Bolder Mere Lake and the loss of associated marginal habitat.</p> <p>Although localised, these impacts must still be mitigated (or as a last resort compensated for). Where these mitigations (or compensations) are not reflected in the WFD assessment, we would expect them to be detailed in the Ecology (or similar) chapter of the Environmental Statement.</p>	<p>assessment is a temporary adverse effect on Bolder Mere (see matrices in Appendix C of the WFD Assessment, APP-045). Chapter 7 - Biodiversity of the ES (APP-052) reports no adverse long-term effects on Bolder Mere during operation of the Scheme. No adverse effects are reported in Chapter 8 – Road Drainage and the water environment (APP-053). In summary all water body scale and localised effects of the Scheme on the water environment are addressed through mitigation.</p>	
3.3.2	Bolder Mere	Scheme impacts (loss of bank and open water habitat – justification for scheme)	<p>The widening of the A3 is likely to impact directly on Bolder Mere, including loss of bank and open water habitat. Justification is needed as to why encroachment on Bolder Mere Lake is required and why other options with a lesser effect on the lake have been ruled out.</p>	<p>During development of the Scheme a very wide range of alternative solutions for resolving the traffic problems at junction 10 have been identified, developed and assessed. This process is set out in Chapter 3 (Assessment of Alternatives) of the Environmental Statement (APP-049) and with specific reference to minimising effect on the Thames Basin Heaths SPA in Habitat Regulations Assessment Stage 3 record (APP-044).</p>	Agreed

	Issue	Sub-section	Environment Agency Comment	Highways England Response	Status
3.3.3	Bolder Mere	Scheme impacts (SSSI designation; compensation habitat)	<p>Bolder Mere has been assigned as a WFD waterbody due to the areas SSSI designation. We are therefore open to compensation for the loss of habitat being provided elsewhere on the scheme.</p> <p>We understand that Natural England have advised that further ponds could provide better habitat for the SSSI designation. We would expect to be involved – along with Natural England – in any discussions for proposals on this matter.</p>	<p>Mitigation measures to counteract the impacts on Bolder Mere have been agreed with Natural England (NE) as detailed in M25 junction 10/A3 Wisley interchange (5.4) Water framework directive compliance assessment report. Appendix F: Brief descriptions and concept sketches for additional mitigation (specific) (APP-045). In line with the best practice of mitigating the effect of a scheme as close to source as practicable, we have been able to agree a package of measures for mitigating the effects on Bolder Mere that are immediately adjacent to the lake. Mitigation for the effects of the scheme on ephemeral headwater ditches does include pond improvements.</p> <p>Natural England agree in principle that the package of embedded and additional specific measures are a) proportionate to the risk of adverse effect of the Scheme on the Bolder Mere SSSI unit and b) have the potential to deliver additional biodiversity benefit. (A.24 - meeting with Natural England on 29.04.19)</p>	Agreed

	Issue	Sub-section	Environment Agency Comment	Highways England Response	Status
3.3.4	Bolder Mere	Scheme impacts (SSSI designation; loss of marginal habitat)	The WFD assessment acknowledges that encroachment into Bolder Mere Lake will also result in the loss of marginal habitat which is known to support a number of species for which the SSSI is designated. We support Natural England's recommendation for further macrophyte and aquatic invertebrate surveys to be carried out around the lake to better understand the distribution and abundance of key species and habitats which will help to inform an appropriate mitigation strategy.	Specialist aquatic ecological surveys have been undertaken to provide aquatic macrophyte and aquatic macro-invertebrate data from Bolder Mere. This data has been used to inform the scope for mitigating and offsetting the effects of encroachment of the A3 into the north east shore of Bolder Mere. This report Bolder Mere: Ecological Survey and Condition Assessment Summary Report (Nov 2018) has been shared with the Environment Agency and can be found in Appendix D.1 of the M25 junction 10/A3 Wisley interchange (5.4) Water Framework Directive Compliance Assessment report (APP-045)	Agreed
3.3.5	Bolder Mere	Scheme impacts (loss of marginal habitat; water quality; disturbance of lake habitat)	Compliance with the WFD status of Bolder Mere appears to be dependent on the implementation of some of the mitigation measures identified. Without these measures, the impacts are predicted to be 'adverse widespread or prolonged effect'. It is therefore critical that the proposed measures are 'firmed up' - working with the EA and Natural England - to ensure that deterioration can be avoided.	Mitigation as detailed in Appendix F of the WFD Assessment (APP-045) has been agreed with Natural England. Natural England agree in principle that the package of embedded and additional specific measures as detailed in M25 junction 10/A3 Wisley interchange (5.4) Water Framework Directive Compliance Assessment report.	Agreed

	Issue	Sub-section	Environment Agency Comment	Highways England Response	Status
				<p>Appendix F: Brief descriptions and concept sketches for additional mitigation (specific) (APP-045) are a) proportionate to the risk of adverse effect of the Scheme on the Bolder Mere SSSI unit and b) have the potential to deliver additional biodiversity benefit. (A.24 meeting with Natural England on 29.04.19)</p> <p>The preliminary design incorporates drainage improvements that redirect road runoff away from Bolder Mere. Instead (treated) runoff will be discharged to a watercourse downstream of the lake. This will reduce the volume of pollutants generated by the A3 entering the lake.</p> <p>However, the key water quality concern for Bolder Mere from the perspective of the WFD is Phosphorus. Appendix F of the WFD assessment demonstrates that a) Phosphorus is very unlikely to be sourced from the road and b) the change in volume of the lake associated with the scheme is also very unlikely to affect the WFD Phosphorus status of the lake. Although neither the existing road or scheme are considered contributors to the current Phosphorus concentrations in</p>	

	Issue	Sub-section	Environment Agency Comment	Highways England Response	Status
				Bolder Mere the mitigation package does still include some measures targeted at managing Phosphorus, to support achievement of WFD targets for the water body. These measures have been developed in consultation with Natural England and Surrey Wildlife Trust (SWT).	
3.3.6	Bolder Mere	Environmental management plan	The EA recommend that an ongoing maintenance plan and/or adaptive environment management plan is produced for Bolder Mere to set out more detailed plans for each mitigation measure and to monitor the effectiveness of the mitigation measures into the future and adapt approaches accordingly if required.	Paragraph 4.7.35 of the WFD assessment starting "Highways England are committed to implementation of additional mitigations..." states that the habitat improvements to the shores of Bolder Mere (BL_b), as described in Appendix F Table 2, will be maintained and monitored for a period of 15 years in accordance with the specification set out in the Thames Basin Heath SPA Management and Monitoring Plan (APP-105).	Agreed
3.3.7	Bolder Mere	WFD status	Opportunities for enhancements should be taken in line with the 25-year Environment Plan and emerging national planning policy. Waterbody enhancements should aim to address waterbody failures. Bolder Mere Lake is currently failing to achieve Good Ecological Potential due to its hydro morphology and phosphate levels –	Mitigation has been discussed with the EA (and agreed with Natural England) as detailed in the M25 junction 10/A3 Wisley interchange (5.4) Water framework directive compliance assessment report (APP-045). Natural England agree in principle that the package of embedded and additional	Agreed

	Issue	Sub-section	Environment Agency Comment	Highways England Response	Status
			<p>measures to address these issues should be explored.</p>	<p>specific measures are a) proportionate to the risk of adverse effect of the Scheme on the Bolder Mere SSSI unit and b) have the potential to deliver additional biodiversity benefit (A.24 meeting 29.04.19).</p> <p>These measures are being implemented with the objective of maintaining and potentially improving the conservation value of Bolder Mere, with a focus on providing for the needs of species identified within the citation for the wetland elements of Ockham and Wisley Commons SSSI, and in particular the Odonata order (dragonflies and damselflies). The measures are based on adult life stages. The measures are based on recommendations from Goldsmith Ecology (2018) and follow extensive consultation with the EA, Natural England and Surrey Wildlife Trust.</p> <p>These are also recorded in the M25 junction 10/A3 Wisley interchange, Outline Construction and Environmental Management Plan (APP-134).</p> <p>Highways England is committed to the implementation of these measures, or measures</p>	

	Issue	Sub-section	Environment Agency Comment	Highways England Response	Status
				<p>generating equivalent environmental benefit.</p> <p>The draft DCO (APP-018) includes a requirement (Requirement 10) which requires Highways England to agree the details of the mitigation measures for works adjoining Stratford Brook with the EA.</p>	
3.3.8	Bolder Mere Xref CL 016;	Scheme impacts (Groundwater flow)	Concern that the new retaining wall as part of the scheme design will impact on groundwater flows and could therefore disrupt one of the main water sources to the lake.	<p>The EA have reviewed the approach to the assessment of impacts on groundwater resources and SSSI as detailed in Chapter 8 (Water and Road Draining) and Chapter 10 (Geology and Soils) of the ES. Information on the approach was also presented at a meeting on 7 May 2019 (A24).</p> <p>An assessment of groundwater flow direction and groundwater contribution into Bolder Mere will be completed following the ground investigations to be undertaken as part of the Scheme. Design of the sheet pile element will take into account the likely requirements of Bolder Mere for groundwater inflows.</p>	Agreed
3.3.9	Bolder Mere	Surface water/road drainage (Bolder Mere)	Opportunities should be taken to improve the road drainage from the M25 and A3 as part of the redevelopment. In	Mitigation has been discussed with the EA as detailed in the <i>M25 junction 10/A3 Wisley</i>	Agreed

	Issue	Sub-section	Environment Agency Comment	Highways England Response	Status
			<p>particular, the EA are keen to see the current drainage outfalls into Bolder Mere Lake altered so that they are not having such a detrimental impact on the water quality of Bolder Mere and surrounding watercourses/ditches.</p> <p>If re-routing the A3 drainage to a watercourse downstream of Bolder Mere is not technically feasible the minimum the EA would expect is some form of attenuation/pipe treatment/settlement that is above what is currently in place to at least offset the impact from the increased traffic movement/larger volume of surface water run-off to the lake.</p>	<p><i>interchange (5.4) Water framework directive compliance assessment report. (APP-045).</i> This includes a significant upgrade to road drainage that replaces a direct untreated discharge to Bolder Mere with a treated discharge to a watercourse downstream of the lake. The design of the of the drainage solution is dependent on the outcomes of a drainage survey yet to be undertaken. The dDCO (APP-018) includes a requirement (Requirement 10) which requires Highways England to agree the details of the mitigation measures for works within the Bolder Mere mitigation and enhancement area with the EA. The dDCO also includes protective provisions for the benefit of the EA which requires the EA to consent to any works carried out under the dDCO which may affect drainage works.</p>	
3.3.10	Bolder Mere	Road drainage	<p>In section 4.7.26 of the WFD Assessment, the EA are encouraged by the plans to re-direct road runoff to downstream of the lake as this will help to ensure the salinity WFD element remains at 'High' post-construction and reduce the risk of WFD chemical failures. It is not clear that the impact on water quality at this new discharge location has</p>	<p>The impact of the new outfall (reference: PO-J10-006, catchment 35) are reported in the Environmental Statement Chapter 8 Road drainage and the water environment [APP-053], paragraphs 8.10.14 and 8.10.18 to 8.10.20. The effect of the outfall during operation of</p>	Agreed

	Issue	Sub-section	Environment Agency Comment	Highways England Response	Status
			been included in any of your drainage or water quality assessments; this will need to be assessed	the Scheme, with mitigation in place, is negligible with a neutral significance of effect. Note that this assessment will be reviewed once site specific ground investigation data become available to confirm mitigation measures are appropriate.	
3.3.11	Bolder Mere	Construction impacts	Although only a short-term activity, there is the potential for longer term impacts associated with the suspension of solids/sediments and smothering of lake habitats important to the SSSI designation. This may pose a risk to WFD Total Phosphorus and Phytoplankton status if the retaining wall and bank sediments and associated nutrients are not controlled effectively. Due to the nature of the water environment this impact could last for multiple years after the actual construction phase. A detailed method statement should be produced for this specific element of the scheme to demonstrate how this risk will be reduced and the WFD status protected.	This is addressed within the wider environmental document set, specifically the Outline Construction and Environment Management Plan (APP-134, Section 4.8). To make sure that this specific issue is picked up and detailed methods of work are developed for construction of the retaining wall at Bolder Mere, Highways England has also included this as a specific item in the Register of Environmental Commitments and Actions (REAC) for the Scheme.	Agreed
3.3.12	Bolder Mere CL: 007	REAC	A construction phase Surface Water Management Plan will be produced to help address the impact and risk of deterioration in surface water quality- it will be important that this includes measures that ensure Bolder Mere does not get impacted by construction at the North Bank of Bolder Mere.	The construction phase Surface Water Management Plan will include measures that will ensure that Bolder Mere is not adversely affected by works on the north bank of the waterbody.	Agreed

	Issue	Sub-section	Environment Agency Comment	Highways England Response	Status
3.3.13	Bolder Mere CL: 023	REAC and CEMP	Environmental actions relating to fish, biosecurity and a feasibility assessment for non-native invasive species in Bolder Mere should ideally be included in the REAC and outline CEMP, although these are covered in the ES.	This is already committed to in Appendix F.2 (APP-045) of the WFD Assessment and will be included in the CEMP.	Agreed

3.4. Groundwater and Land Contamination

	Topic	Sub-section	Environment Agency Comment	Highways England Response	Status
3.4.1	Ground water (quality) and land contamination CL: 010	GI data	To date there is little information that indicates the redevelopment provides a risk to the secondary aquifers on which it is located. It is noted in the report that additional site investigation work is required to determine groundwater quality and the nature of potentially contaminated sites such as Wisley Airfield. Provided this information is forthcoming the EA does not presently have any concerns with this site from a groundwater quality perspective. EA request the submission of GI assessments/data as soon as is practicable.	Based on the current GI programme, it is anticipated that the interpretative report / GQRA will be provided to the EA at the end of September 2020. Highways England will notify EA in the interim of any issues should they arise.	Agreed
3.4.2	Groundwater	Water Quality Assessment	The Water Quality Assessment Report concludes that the scheme provides a medium level of risk. We accept this in part because of the nature of the receiving aquifer - mainly the Bagshot Formation. The report does however indicate that mitigation measures and	Noted.	Agreed

	Topic	Sub-section	Environment Agency Comment	Highways England Response	Status
			further risk assessment will be required and we would concur with this approach.		
3.4.3	Geology and soils	Ground investigation and quantitative risk assessment	<p>The EA understands from recent discussions that the dewatering works that were proposed for the gas main realignment works are no longer taking place and that techniques that do not involve dewatering will be used, predominantly to avoid impacts on groundwater sensitive habitats in the area. The EA also understands that no borrow pits are proposed in the local area for the scheme. Given the above, the only outstanding issue is that ground investigation works have not yet commenced.</p> <p>If the data collected from the GI is not ready in time for DCO submission, then the ES will need to state that the data and relevant documents would be submitted to the EA for review prior to groundworks.</p>	<p>The EA has reviewed Chapter 10 of the ES (APP-055) (Geology & Soils) and the approach to GI and quantitative risk assessment. This information was also discussed at meetings on the 10 April 2019 (A.21) and the 7 May 2019 (A.24).</p> <p>The dDCO (APP-018) includes a requirement (Requirement 13) which prevents the commencement of intrusive ground works until Highways England has submitted a site investigation and risk assessment to the Secretary of State (in consultation with the Environment Agency) and it has been approved Information from the scheduled ground investigation, along with quantitative risk assessments undertaken in line with CRL11, will be submitted to the EA for approval at a later stage as part of the detailed design and ahead of any work commencing and will be controlled through the protective provisions for the EA's benefit within the dDCO.</p>	Agreed

	Topic	Sub-section	Environment Agency Comment	Highways England Response	Status
3.4.4	Geology and soils	Piling Risk Assessment	Piling Risk Assessment (PRA): No expected pathways to be created from piling so if a PRA is not deemed necessary then at the least a controlled waters qualitative risk assessment would be submitted.	A PRA will be undertaken at a later stage, once piling design is sufficiently detailed to determine a construction method for the protection of groundwater and that this is secured in the CEMP under Requirement 3 of the dDCO.	Agreed
3.4.5	Geology and soils	Mineral extraction	If mineral extraction is to be carried out then hydrogeological risk assessment may be required.	No mineral extraction will be carried out as part of the Scheme.	Agreed
3.4.6	Pollution & waste (contaminated land/water)	Pollution control (during construction)	All waste produced on-site should be taken to an appropriate authorised treatment or disposal facility.	The waste producer or holder will make appropriate checks that waste carriers hold a licence and facilities receiving waste from the Scheme are authorised to manage it.	Agreed
3.4.7	Pollution & waste	Pollution control (during construction)	All soils and construction, demolition and excavation (CDE) waste should be assessed for hazardous properties.	Construction, demolition and excavation waste arising during construction of the Scheme will be classified and assessed in accordance with the 'Guidance on the classification and assessment of waste (1 st Edition v1.1) – Technical Guidance WM3' and waste legislation.	Agreed
3.4.8	Pollution & waste	DoWCoP	The EA wants to see any CLAIRE Definition of Waste: Code of Practice (DoWCoP) application in advance	Where a CL:AIRE Materials Management Plan (MMP) is required for the Scheme, Highways England will consult	Agreed

	Topic	Sub-section	Environment Agency Comment	Highways England Response	Status
				with the EA as required by the CL:AIRE Definition of Waste: Development Industry Code of Practice.	
3.4.9	Pollution & waste		The re-use and recovery of wastes where appropriate is encouraged.	The reuse and recovery of waste arising from construction of the Scheme will be prioritised, where practicable. A Site Waste Management Plan (SWMP) will be produced under Schedule 2, Requirement 3 (2) (c) (vii) of the draft dDCO (APP-018). SSWMP will identify waste that can be reused and recovered.	Agreed
3.4.10	Pollution & waste	Pollution control (during construction)	All waste leaving sites should be accompanied by a relevant accurate duty of care or hazardous paperwork.	The waste producer or holder will be required to transport waste in accordance with Duty of Care requirements. This includes producing documentation for the transport of waste – either a waste transfer note or hazardous waste consignment note. These will be kept for a minimum of two and three years, respectively. This information will be recorded as part of the SWMP under Schedule 2, Requirement 3 (2) (c) (vii) of the dDCO.	Agreed

3.5. Flood Risk

	Topic	Sub-section	Environment Agency Comment	Highways England Response	Status
3.5.1	Flood risk	Flood Risk Assessment	<p>The EA, overall, agree with the conclusions of the Flood Risk Assessment (FRA) (reference: APP-046) for matters within our remit. We agree that fluvial flood risk issues have been satisfactorily addressed. This follows verbal confirmation at our meeting with the applicant's agents on 8 October 2019 (A41) and the comments provided by the applicant in the comments log (attached to the Written Representation (REP 1-013),</p> <p>However, there is one matter outstanding that remains under discussion – see item 3.5.6.</p>	Noted.	Under discussion
3.5.2	Flood risk CL: 034; 035; 037; 039; 042; 061.	Flood Risk Assessment	<p>The only outstanding concerns relates to the provision of sufficient information within the FRA as submitted to demonstrate that the conclusions of the FRA are sound. It has taken additional confirmation (whether written or verbally) to confirm some of the FRA issues that were raised in the EA comments log.</p> <p>The EA therefore recommended to the applicant that the FRA should be updated to better demonstrate that the conclusions are sound. Albeit the EA acknowledge that the provision of this additional information will not affect the underlying conclusions of the report.</p>	<p>Additional evidence has been provided to the EA through responses to their comments log (that is attached to their Written Representation (REP 1-013) and verbally at our meeting on 8 October 2019 (A.41). The verbal evidence is also recorded in the minutes of the meeting (A.41).</p> <p>If the opportunity arises to update the FRA, this additional evidence will be added to the FRA.</p> <p>Highways England welcomes the EA's confirmation that the</p>	Under discussion

	Topic	Sub-section	Environment Agency Comment	Highways England Response	Status
				provisions of the additional information will not affect the underlying conclusions of the report.	
3.5.3	Flood risk CL: 44, 46, 47, 48, 49, 50 & 54.	Flood Risk Assessment	The EA are further satisfied that some matters raised in their comments log in relation to the FRA have been addressed in the agreed form of protective provisions for the benefit of the EA.	The matters raised relate to requests for information (or confirmation of when the information will be available) that will be part of the detailed design. The EA wanted clarification that they would see the information and have an opportunity to comment on it. It has been clarified that through the proposed Protective Provisions included within the dDCO, detailed design information will be submitted to the EA for their approval. The comments in the log related to this matter are: 44, 46, 47, 48, 49, 50 & 54.	Agreed
3.5.4	Flood risk	Scheme impacts (River Mole & Wey; floodplain; compensatory habitat areas)	At the detailed design stage, the EA would expect to see confirmation that there will be no impacts on floodplain storage or flow routes for the proposed compensatory habitat areas adjacent to the River Mole and River Wey. Any works within 8 metres of a main river will require a Flood Risk Activity Permit.	Noted. This will be confirmed at detailed design phase. Approvals will be obtained for any works within 8m of a main river through the dDCO Protective Provisions. Highways England and the EA have agreed a suitable form of protective provisions for the protection of the EA and the EA has agreed to disapply the need for FRAP.	Agreed

	Topic	Sub-section	Environment Agency Comment	Highways England Response	Status
3.5.5	Flood risk CL: 033 (xref 043, 045; 055)	FRA (Stratford Brook)	There is reference to upgrading and straightening an existing culvert on the Stratford Brook under the slip road. Confirmation is requested as to whether this has been included as part of the modelling exercise to assess likely impacts.	The culvert is only to be strengthened, not straightened. The FRA para 2.4.13 incorrectly referred to straightening however as confirmed in the same paragraph, the internal dimensions of the culvert will not be affected. No modelling has therefore been carried out.	Agreed
3.5.6	Flood risk (RR) Xref CL: 037; 038; 039	FRA (Climate change)	Of particular concern to the EA following a review of the FRA was a lack of demonstration that appropriate allowances for climate change have been considered, unclear terminology in places and a number of assumptions made without supporting evidence.	The FRA (APP-046) has made appropriate allowances for climate change. Section 8.5.3 of the ES Chapter 8: Road drainage and the water environment (APP-053) incorrectly referenced out of date guidance. The FRA methodology has followed the appropriate current guidance (Flood risk assessments: climate change allowances, EA 2016) and has made an appropriate allowance for climate change. There are therefore no implications for the assessment of effects reported in section 8.10 of Chapter 8 of the Environmental Statement (APP-053). This has been discussed with the EA at the meeting on 8 October (A.41) and Highways England understands that the EA is now satisfied that the FRA has made an appropriate allowance for climate change.	Under discussion

	Topic	Sub-section	Environment Agency Comment	Highways England Response	Status
3.5.7	Flood risk (RR) Xref: CL 007;021; 022; 023; 063; 065	REAC	The EA notes that within the Register of Environmental Actions and Commitments (APP-135) that they are proposed to review information related to surface water flood risk or drainage. These matters are not within our remit, so other responsible agencies will need to agree to review these details.	The REAC (APP-135) (as part of the update to the CEMP) will be amended and submitted to the ExA. Matters relating to surface water flood risk or drainage will be reviewed by the local flood authority if the dDCO is granted.	Agreed

3.6. Ecology

	Topic	Sub-section	Environment Agency Comment	Highways England Response	Status
3.6.1	Ecology	Surveys on watercourses (Otter and water voles)	All affected watercourses - including ordinary watercourses - should be assessed for their potential to support otter and water voles and surveyed where appropriate.	Otter and water vole surveys were undertaken in the summer of 2018. No water vole evidence was recorded. The only Otter evidence recorded was a spraint on the River Wey approximately 180 m east of the DCO boundary. The results are reported in the Chapter 7 (Biodiversity) of the ES (APP-052).	Agreed
3.6.2	Ecology	Aquatic invertebrates	The PEIR makes no mention of aquatic invertebrates, in particular white-clawed crayfish, which could be impacted by any physical works to the watercourses, for example river crossings. We do not hold any records of either the invasive American Signal crayfish or the native white-clawed crayfish for the Stratford Brook or other minor watercourses affected by the scheme. However, we do hold records of Signal crayfish in the main river Wey. An assessment should be made as to whether Signal crayfish could migrate between the river Wey and the affected watercourses. If it is concluded that Signal crayfish would not be able to easily migrate upstream - most likely due to the presence of a weir - then the watercourses should be assessed for their potential to support native white-clawed crayfish.	Surveys were undertaken in the summer of 2018. No evidence of white-clawed crayfish or invasive non-native crayfish were recorded in Stratford Brook. In addition, Stratford Brook was assessed as being unsuitable for white-clawed crayfish due to a lack of suitable refuges and levels of pollution. The results are reported in the Chapter 7 (Biodiversity) of the ES (APP-052).	Agreed

3.7. Draft Order, Permits, Licensing and Protective Provisions

	Issue	Sub-section	Environment Agency Comments	Highways England Response	Status
3.7.1	Protective Provisions Xref CL: 053; 057; 059	Draft Order	The EA will need to agree that the Protective Provisions included in the DCO will be sufficient to provide assurance to the EA that they can agree to disapply the requirement for obtaining separate permits and licences that might otherwise be necessary for the construction works and once the scheme is built.	Protective provisions have now been agreed with the Environment Agency.	Agreed
3.7.2	Requirement 12 Xref CL: 017; 018; 019; 020; 060	Draft Order	The EA recommend that Requirement 12 (Schedule 2, Part 1) may need to be amended to ensure it reflects the requirements laid out in other application documents.	Requirement 12 (Stratford Brook Environmental Mitigation Area) of the draft DCO (APP-018) has been revised to address the concerns raised by the EA.	Agreed
3.7.3	Requirement 10 CL: 016	Draft Order (Bolder Mere)	EA request that Requirement 10 (Bolder Mere) include the requirement to provide details of the Ground Investigations and Risk Assessment required for understanding GW flows and the potential impact that the piling works may have on Bolder Mere lake. Although this is mentioned in the REAC (which this requirement references) EA consider that it should also be mentioned specifically in requirement 10 as there could be a risk to WFD compliance if this is not properly addressed. Details of the new	Following further discussions with the EA, the EA is now satisfied that the requested requirements are already adequately secured through the dDCO and therefore consider it unnecessary to duplicate existing provisions/requirements through an amendment to Requirement 10.	Agreed

	Issue	Sub-section	Environment Agency Comments	Highways England Response	Status
			retaining wall should also be a requirement of Requirement 10 to ensure the necessary mitigation measures have been incorporated into the design.		
3.7.4	Requirement 3 CL: 015 (xref: 001)	CEMP	EA request that Requirement 3 (CEMP) includes the requirement to consult with the EA prior to approval to ensure the appropriate mitigation measures are in place to protect receiving watercourses/waterbodies. EA would request that the mechanisms by which EA will be consulted on the CEMP and/or whether EA could be listed in requirement 3 for consultation be confirmed.	An updated CEMP will be produced by the contractor appointed to build the scheme and this will be developed and shared with EA and other parties. Any specified works as defined in Protective Provisions for the protection of the EA in Part 3, Schedule 9 of the dDCO will be subject to EA's approval.	Agreed
3.7.5	Flood Risk	Flood Risk Activity Permits	Any works within 8 metres of a main river will require a Flood Risk Activity Permit.	The EA have approved the draft Protective Provision's, including the disapplication of Regulation 12 in relation to the carrying out of the flood risk activity and the need to obtain a flood risk activity permit (A.41) email of 31.10.2019)	Agreed
3.7.6	Pollution	Water Discharge Activity Environmental Permit	On the basis of the drainage improvements to be included in the scheme, the EA's initial view was that we did not consider that a Water Discharge Environmental Permit would be required. (A8, 28.11.18 meeting) However we have requested further	The EA has confirmed that no Water Discharge Activity Permit (WDA) is required. In their email of 17.10.19 (A.42) the EA state that in line with the EA Guidance on Water	Agreed

	Issue	Sub-section	Environment Agency Comments	Highways England Response	Status
			information (A11, letter dated 14.12.18) in order to make a formal decision on whether or not we can agree to disapply the need for this permit.	Discharge Activities, that highway drainage is not a water discharge activity (assuming a notice, as referenced in section 3.10 of the same guidance has not been served, specifying that the highway drain is a water discharge activity) and that therefore no WDA permit is required.	
3.7.7	Materials & waste	Waste Activity Permit	The EA have confirmed (<i>email dated 19.02.19</i>) that any waste permit which may be required during construction for treating / reuse of any manmade materials, can be applied for at a later date.	It has been agreed with the EA that a Waste Activity Permit will not be needed for the DCO and can be dealt with by the appointed contractor at a later stage if required. (<i>A.8, 28.11.18 meeting</i>)	Agreed
3.7.8	Water environment Xref CL; 012	Water Abstraction Permit	The EA have confirmed (<i>email dated 19.02.19</i>) that any abstraction licence which may be required during construction for groundwater dewatering activities, can be applied for at a later date.	An abstraction licence is not expected to be needed for the Scheme (as discussed in the meeting on <i>28.11.18 – A.8</i>).	Agreed
3.7.9	Water environment	Water Impoundment Licence	The EA cannot agree to disapply a Water Impoundment Licence. Highways England will need to apply for a licence separately. It is current EA policy that we will not agree to the disapplication of s.25 Water Resources Act 1991. We advise that it may take up to 4 months for the application process; the licence will need to go to	Highways England notes the Environment Agency's position in this regard and has submitted a draft licence application (Bolder Mere) to the Environment Agency in order to arrange a pre-application meeting with the EA Water	Under discussion

	Issue	Sub-section	Environment Agency Comments	Highways England Response	Status
			<p>Natural England for comments (due to the Site of Special Scientific Interest (SSSI) designation) and may need to be advertised. We recommend sending an application to our National Permitting Service as soon as possible.</p>	<p>Resources National Permitting team.</p> <p>A pre-application meeting was held on 2 October 2019 (A.40) and initial comments from the EA indicate Water Impoundment Licences will not be needed at either Bolder Mere or Manor Pond. The EA Permitting Officer has since confirmed in writing that a licence is not required provided Highways England do not modify or alter the hydraulic performance of structures controlling outflows from the lake. This would also apply to the proposed works at Manor Pond.</p> <p>Highways England are currently in discussion with the EA to determine circumstances in which culvert extensions proposed by the Scheme would need a water impoundment licence.</p>	

	Issue	Sub-section	Environment Agency Comments	Highways England Response	Status
3.7.10	Ecology	Fish (removal) licence	The EA understand a licence to move fish may be required for works to Bolder Mere Lake. At present the EA are unsure whether EA's Protective Provisions will be sufficient to remove the requirement for a Permit. Permits are usually obtained by specialist contractors undertaking the specialist fish works.	Fish removal is likely to be a requirement as a result of works at Bolder Mere and as part of the proposed mitigation strategy to improve water and habitat quality in the lake and potentially at Stratford Brook if the proposed construction methodology changes (currently no in-channel working anticipated). The EA have indicated that permits will need to be obtained by the sub-contractor undertaking the works at a later date and therefore it is not necessary for the dDCO to disapply this consent.	Agreed
3.7.11	Draft Development Consent Order	Article 19 – Discharge of water	This Article provides the undertaker with the right, subject to reasonable consent, to make use of the existing watercourses, sewers and drains. Although it cannot override the requirements of the Environmental Permitting Regulations 2016 for a discharge permit, the clause does not expressly state this. Within a number of DCOs we have an additional clause appears within the Article to clarify this issue, this includes DCOs which are promoted by Highways England such as the A303 Amesbury to Berwick	Highways England in principle do not object to this additional wording to be included in the dDCO provided that it works together with Article 3(1)(a) (disapplication of FRAP). One way of addressing this would be to amend the proposed wording in Article 19 to "Subject to article 3 paragraph (1)(a) (disapplication of	Under discussion

	Issue	Sub-section	Environment Agency Comments	Highways England Response	Status
			<p>Down (Stone Henge) DCO. The old model DCO clauses (now defunct as a result of the Localism Act 2011) used to include such provision.</p> <p>We request that an additional paragraph is added: (8) "Nothing in this article overrides the requirement for an environmental permit under regulation 12(1)(b) of the Environmental Permitting (England and Wales) Regulations 2016". This makes the need for a permit, if required, abundantly clear.</p>	<p>legislative provisions) nothing in this article overrides the requirement for an environmental permit under regulation 12(1)(b) (requirement for environmental permit) of the Environmental Permitting (England and Wales) Regulations 2016".</p>	

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