

A47/A11 Thickthorn Junction

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9.16 Request for a Non-Material Change to the Application

The Infrastructure Planning (Examination Procedure) Rules 2010
Rule 8(1)(c)

Planning Act 2008

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Infrastructure Planning

Planning Act 2008

**The Infrastructure Planning
(Examination Procedure) Rules 2010**

A47/A11 Thickthorn Junction
Development Consent Order 202[x]

REQUEST FOR A NON-MATERIAL CHANGE TO THE APPLICATION

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EXECUTIVE SUMMARY

This is a request for the Examining Authority to allow a non-material change to the A47/A11 Thickthorn Improvement Scheme application.

The proposed non-material changes incorporate the following:

- The reduction of the Order Limits to remove the property at Intwood Road
More detailed flood modelling carried out post submission around the property on Intwood Road has identified that flood mitigation around this property is no longer required. The Applicant proposes to remove this land from the Order Limits.
- Changes to the field access locations on Cantley Lane Link Road.
Following engagement with the landowner of the fields on either side of the proposed Cantley Lane Link Road a request has been made that the locations of the two field accesses are moved to better accommodate their future needs. The Applicant proposes to make these changes.
- Change to the alignment of the A11/A47 Connector Road
The Applicant proposes a slight amendment to the alignment of the A11/A47 Connector Road to reduce the cross section of the Cantley Lane Underpass, which will reduce requirements for construction materials and excavation of in situ material.

These proposed changes, when considered individually or cumulatively, are non-material. They are minor in nature, produce no new or different environmental effects, and do not require any additional compulsory acquisition powers.

1. INTRODUCTION

- 1.1.1 The Applicant, (National Highways Limited, formerly Highways England Company Limited), requests that the Examining Authority (ExA) allows changes to the draft Development Consent Order (dDCO) and associated application documentation for the A47/A11 Thickthorn Junction Development Consent Order application.

2. FULL DETAILS OF THE PROPOSED CHANGES

- 2.1.1 This document is accompanied by the following revised application documents:

- dDCO (previously REP3-002)
- Statement of Reasons (previously APP-020)
- Location Plan (previously APP-004)
- General Arrangement Plans (previously APP-005)
- Land Plans (previously AS-001)
- Works Plans (previously APP-007)
- Rights of Way and Access Plans (previously APP-008)
- Traffic Regulations Plans (previously APP-009)
- Engineering Drawings and Sections (previously APP-010)
- Drainage and Surface Water Plans (previously APP-011)
- Crown Land Plans (previously AS-002)
- Special Category Land Plans (previously APP-013)
- Classification of Roads Plans (previously APP-014)
- Environmental Statement (addendum)
- Environmental Masterplan (previously APP-123)

The following documents have been updated to reflect the changes, but also take account of other updates which were submitted at Deadline 4:

- Hedgerow Plans (previously APP-015)

- 2.1.2 The Applicant has amended the above documentation to detail the proposed changes relating to:

- Reduction of order limits at Intwood Road;
- Changes to the field access locations on Cantley Lane Link Road; and
- Change to the alignment of the A11/A47 Connector Road

2.2 REDUCTION OF ORDER LIMITS AT INTWOOD ROAD

- 2.2.1 More detailed flood modelling relating to the property on Intwood Road was carried out post submission in July 2021. The modelling confirmed that there would not be any impact on the property in terms of increased flood risk. The revised Flood Risk Assessment - Environmental Statement Appendix 13.1 was submitted at Deadline 3 (**REP3-008**).

- 2.2.2 The detailed modelling was shared with the Environment Agency. It has been agreed between the Applicant and the Environment Agency that no mitigation is required at this location.
- 2.2.3 On that basis, the Applicant has no need to carry out any works to the property on Intwood Road or acquire any rights over the Property. Therefore, the Applicant wishes to remove this parcel of land from the Order Limits.
- 2.2.4 The Environmental Statement (ES) addendum addresses this change. No updates are required to any chapters within the ES.
- 2.2.5 The dDCO has been updated to remove Work No.45 from Schedule 1 and plot 7/12a from Schedule 7. This plot has also been removed from Annex A of the Statement of Reasons. Plot 7/12a should also have been removed from the Book of Reference (AS-003), however the Applicant has noticed that this plot had been mistakenly omitted from this document and therefore no change is necessary. Despite this omission, the Applicant can confirm that all those with an interest in Plot 7/12a were consulted in accordance with statutory requirements and will be notified that this plot has now been removed from the Order Limits.
- 2.2.6 As this change reduces the Order Limits red line, the following plans submitted with the application need to be updated. Table 2.1 details the documents which have been updated, and a description of the proposed amendments:

Table 2.1 – Documents following reduction of Order Limits

Document Name	Reference	Sheet Number	Description of amendments
Location Plan	APP-004	N/A	The property on Intwood Road, east of the A47, south of Cringleford village has been removed from the red line
General Arrangement Plans	APP-005	7 of 7	The property on Intwood Road, east of the A47, south of Cringleford village, shown on Inset A and labelled as 'Property Flood Alleviation Works' has been removed
Land Plans	AS-001	7 of 7	Plot 7/12a indicating land to used temporarily, shown in Inset C has been removed.
Works Plans	APP-007	7 of 7	Work No. 45 shown in Inset A has been removed
Rights of Way and Access Plans	APP-008	7 of 7	The property on Intwood Road, east of the A47, south of Cringleford village has been removed and Inset A has been deleted
Traffic Regulations Plans	APP-009	7 of 7	The property on Intwood Road, east of the A47, south of Cringleford village has been removed and Inset A has been deleted
Drainage and Surface Water Plans	APP-011	7 of 7	The property on Intwood Road, east of the A47, south of Cringleford village has been removed and Inset A has been deleted
Crown Land Plans	AS-002	7 of 7	The property on Intwood Road, east of the A47, south of Cringleford village has been

			removed and Inset A has been deleted
Special Category Land Plans	APP-013	7 of 7	The property on Intwood Road, east of the A47, south of Cringleford village has been removed and Inset A has been deleted
Classification of Roads Plans	APP-014	7 of 7	The property on Intwood Road, east of the A47, south of Cringleford village has been removed and Inset A has been deleted
Hedgerow Plans	APP-015	7 of 7	The property on Intwood Road, east of the A47, south of Cringleford village has been removed and Inset A has been deleted
Environmental Masterplan	APP-123	5 of 5	The property on Intwood Road, east of the A47, south of Cringleford village has been removed and Inset A has been deleted
Draft Development Consent Order	REP3-002	N/A	Work No. 45 has been removed from Schedule 1 and plot 7/12a has been removed from Schedule 7
Statement of Reasons	APP-020	N/A	Plot number 7/12a has been removed from Annex A

2.3 CHANGES TO THE FIELD ACCESS LOCATIONS ON CANTLEY LANE LINK ROAD

- 2.3.1 There are two new accesses being created on either side of the proposed Cantley Lane Link Road. These will provide access to the temporary construction compounds. The land will be returned to the landowner following completion of construction. The landowner has confirmed that it wishes to retain and use these access points. However, the landowner has requested that the locations of these access points are moved.
- 2.3.2 The proposed access points were labelled on the Rights of Way and Access Plans (**APP-008**) as C1 to C2 (on the east side of the Cantley Lane Link Road) and C3 to C4 (on the west side of the Cantley Lane Link Road).
- 2.3.3 C1 to C2 has been moved 50 metres south and C3 to C4 has been moved 85 metres south. This is reflected in the revised Rights of Way and Access Plans. The descriptions of the accesses have also been updated in Schedule 4 of the revised dDCO.
- 2.3.4 The ES addendum addresses this change. No updates are required to any chapters within the ES.
- 2.3.5 Table 2.2 details the documents which have been updated in relation to this proposed change, and a description of the proposed amendments:

Table 2.2 – Documents amended following changes to Cantley Lane Link field accesses

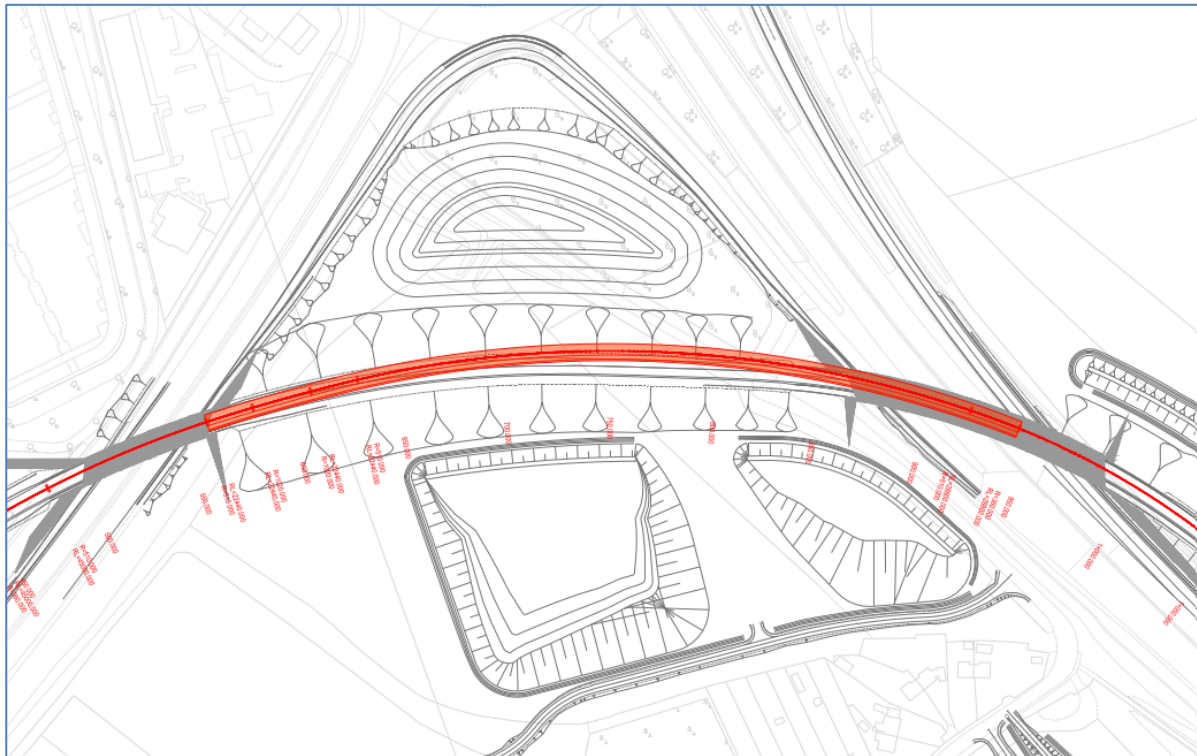
Document Name	Reference	Sheet Number	Description of amendments
Location Plan	APP-004	N/A	Location of field accesses on the proposed Cantley Lane Link Road have

			been amended.
General Arrangement Plans	APP-005	5 of 7	Location of field accesses on the proposed Cantley Lane Link Road have been amended.
Works Plans	APP-007	5 of 7	Location of field accesses on the proposed Cantley Lane Link Road (Work No. 2) have been amended.
Rights of Way and Access Plans	APP-008	5 of 7	Location of field accesses on the proposed Cantley Lane Link Road, reference C1 to C2 and C3 to C4 have been amended.
Traffic Regulations Plans	APP-009	5 of 7	Location of field accesses on the proposed Cantley Lane Link Road have been amended.
Drainage and Surface Water Plans	APP-011	5 of 7	Location of field accesses on the proposed Cantley Lane Link Road have been amended. Pre-earthworks drainage ditch on the east side of Cantley Lane Link has been amended to shown headwalls and piped crossing of field access on the east side of the link road.
Classification of Roads Plans	APP-014	5 of 7	Location of field accesses on the proposed Cantley Lane Link Road have been amended.
Environmental Masterplan	APP-123	3 of 5	Location of field accesses on the proposed Cantley Lane Link Road have been amended. Location of proposed tree planting has been amended.
Draft Development Consent Order	REP3-002	N/A	The descriptions of the accesses have been updated in Schedule 4.

2.4 CHANGE TO THE ALIGNMENT OF THE A11/A47 CONNECTOR ROAD

- 2.4.1 The alignment of the A11/A47 Connector Road has been amended to reduce the cross section of the Cantley Lane Underpass. This will reduce the requirements for construction materials and excavation of in situ material.
- 2.4.2 The horizontal curvature of the road has been amended so that at the apex of the curve the centreline of the road is approximately 7 metres to the north of the current centreline. This difference reduces to zero at the entrance to the Cantley Wood Underpass to the east, and at the exit from the Wards Wood underpass to the west as the proposed alignment ties back in with the current alignment.
- 2.4.3 Figure 2.1 shows a comparison between the existing alignment shown in grey and amended alignment shown in red. Amendments to the earthworks and bunding have been omitted from the figure for clarity.

Figure 2.1 – Change to the alignment of the A11-A47 Connector Road



2.4.4 The cross section of the road is unchanged, which means that there will be a corresponding shift in the position of cutting extents required for the connector road. The bunding north and south of the connector road has also been amended to reflect the change in the extents of the cutting. These changes are minor and hard to detect on the revised plans.

2.4.5 Table 2.3 details the documents which have been updated related to this proposed change, and a description of the proposed amendments:

Table 2.3 – Documents amended following changes to Cantley Lane Link field accesses

Document Name	Reference	Sheet Number	Description of amendments
Location Plan	APP-004	N/A	Alignment of the A11-A47 Connector road between Wards Wood Underpass and Cantley Lane Underpass and earthworks has been amended, shape of bunding north and south of the connector road has been amended.
General Arrangement Plans	APP-005	6 of 7	Alignment of the A11-A47 Connector road between Wards Wood Underpass and Cantley Lane Underpass and earthworks has been amended, shape of bunding north and south of the connector road has been amended.

Works Plans	APP-007	6 of 7	Alignment of the A11-A47 Connector road between Wards Wood Underpass and Cantley Lane Underpass and earthworks has been amended (Work No. 24), shape of bunding north (Work No. 25) and south of the connector road (Work No. 23) has been amended.
Rights of Way and Access Plans	APP-008	6 of 7	Alignment of the A11-A47 Connector road between Wards Wood Underpass and Cantley Lane Underpass, shown as New Highways Trunk Road, and earthworks have been amended, shape of bunding north and south of the connector road has been amended.
Traffic Regulations Plans	APP-009	6 of 7	Alignment of the A11-A47 Connector road between Wards Wood Underpass and Cantley Lane Underpass, shown with proposed 50mph speed limit, and earthworks have been amended, shape of bunding north and south of the connector road has been amended..
Drainage and Surface Water Plans	APP-011	6 of 7	Filter drain location has been amended to suit the amended alignment of the A11-A47 Connector road between Wards Wood Underpass and Cantley Lane Underpass.
Classification of Roads Plans	APP-014	6 of 7	Alignment of the A11-A47 Connector road between Wards Wood Underpass and Cantley Lane Underpass, shown as Trunk Road, and earthworks have been amended, shape of bunding north and south of the connector road has been amended.
Environmental Masterplan	APP-123	3 of 5	Planting proposals have been amended to take into account revised extents of the A11/A47 Connector Road cutting and bunding north and south of the connector road.

2.4.6 The ES addendum addresses this change. Minor updates have been made to Chapter 7, Noise and Vibration and Chapter 14, Climate. The noise assessment has been carried out again based on the proposed new alignment.

2.4.7 The updated noise assessment confirms that there is no new or different significant environmental effect. The conclusion remains the same: that mitigation is not necessary to avoid significant adverse traffic noise effects due to the operation of the amended Proposed Scheme. No significant adverse or significant beneficial noise effects have been identified as a result of the changes in road traffic noise that would occur due to the realignment of the A47/A11 Connector Road. This applies at all receptors within the study area and the noise important area to the east of the Scheme.

- 2.4.8 The updated Climate assessment shows potential carbon savings due to the reduction in cross section of the Cantley Lane Underpass that can be achieved if this change is implemented. Although these potential carbon savings are tangible, the conclusion is that they are not significant in EIA terms.
- 2.4.9 This change does not require any changes to land acquisition, so there are no changes proposed to the Land Plans or the Book of Reference and no amendments are required to the Works as described in Schedule 1 of the dDCO as a result of this change.

3. EXPLANATION AND RATIONALE FOR THE CHANGES REQUESTED

3.1 INTWOOD ROAD

- 3.1.1 A property on Intwood Road adjacent to the Cantley Stream was included in the Order Limits as initial flood modelling indicated a potential increased detriment in flood levels at the property, which would require local mitigation measures. This is shown as Plot 7/12a on the Land Plans (**AS-001**).
- 3.1.2 Additional survey information obtained around the property was used to update the flood model, which shows no increased detriment to flood levels at the property. The updated Flood Risk Assessment was submitted to the Examination at Deadline 3 (**REP3-008**). The Environment Agency agrees that no mitigation is required at the property.

3.2 CANTLEY LANE LINK ROAD ACCESSES

- 3.2.1 Land Plots 5/2b and 5/2c as shown in the Land Plans (**AS-001**) have been identified for temporary use. They will be returned to the landowner on completion of the Scheme. As part of the Scheme, field accesses will be constructed to serve the plots to the east and west of the Cantley Lane Link Road and these will be used during construction. The landowner, and specifically the tenant farmer who will require access to the two plots once the construction works are complete, have explained to the Applicant that although they wish to retain the access points, they would prefer alternative locations for them. On that basis, the Applicant seeks to move the location of the new field access to better serve these land parcels.
- 3.2.2 The field access to the west of the Cantley Lane Link Road will be moved approximately 85m north of the position currently shown on the Rights of Way and Access Plans (**APP-008**), and the field access to the east of the Cantley Lane Link Road will be moved approximately 50m south of the position shown within the Rights of Way and Access Plans (**APP-008**).
- 3.2.3 Minor adjustments are required to the fencing design along Cantley Lane Link road to accommodate this change, but do not affect any of the conclusions made in the ES (**APP-038 to APP-124**).

3.3 A11/A47 CONNECTOR ROAD

- 3.3.1 The Applicant has been developing the construction methodology for the Cantley Lane Underpass (S04) that takes the A11/A47 Connector Road underneath the existing A47. As part of this exercise, the Applicant has been examining ways of

reducing the cross section of the structure, which will reduce requirements for construction materials and excavation of in situ material.

- 3.3.2 A reduction in the cross section of the Cantley Lane Underpass can be achieved by adjusting the horizontal alignment of the A11/A47 connector road between the Wards Wood Underpass (S02) and the Cantley Lane Underpass (S04) as shown on the General Arrangement Plans (**APP-005**). This will reduce the width of the offside verge required through the Cantley Lane Underpass to accommodate forward visibility widening. The maximum deviation from the current alignment is 7m horizontally to the north.
- 3.3.3 The proposed amendment to the horizontal alignment will require a corresponding adjustment to the earthwork cut slopes required for the A11/A47 connector road, and the bunding provided north and south of the A11/A47 connector road.
- 3.3.4 As a result of the design change, the noise and carbon assessments were reviewed. This review shows that there is no change to the conclusions made in the ES. The results of the assessment review are detailed in the ES Addendum.

4. ARE THE PROPOSED CHANGES A MATERIAL CHANGE TO THE DRAFT ORDER?

- 4.1.1 The approach to changes to the draft order is set out in the detailed examination Guidance (Guidance for Examination of Applications for Development Consent, DCLG, March 2015) and AN16. The decision on materiality rests with the ExA.
- 4.1.2 There is no legal definition of the term “material” but the guidance differentiates between material changes and changes that amount to an entirely different project. Paragraph 2.1 of AN16 states:
- “There is no legal definition of ‘material’ but the tests to apply are whether the change is substantial or whether the development now being proposed is not in substance that which was originally applied for. The former constitutes a material change which provided there is sufficient time remaining in the Examination stage can be accommodated as part of the Planning Act 2008 process. The latter constitutes a different project for which a new application would be required”*
- 4.1.3 The changes which are proposed do not constitute a different project. It follows that the issue which falls to be considered is whether the changes, considered collectively, are sufficiently substantial to result in a material change. The question of whether the change is "material" is a question of planning judgment for the ExA (see paragraphs 2.1 and 2.3 of AN16).
- 4.1.4 The Applicant submits the combined impact of the proposed changes is not material, and this section of this document sets out why it has reached this conclusion in order to assist the ExA in exercising its planning judgment.
- 4.1.5 The following factors are relevant:
- (i) All of the land required in respect of the three changes falls within the existing Order limits. AN16 states that the extension of the Order land and the addition of new plots of land or interests for compulsory acquisition may be factors suggesting a material change. This test of materiality is not met,

as none of the three changes require an extension to the Order land, and do not add new plots of land or interests for compulsory acquisition which were not previously within the Order Land.

- (ii) Moreover, the procedure under the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 is not engaged as the proposed changes do not provide for the acquisition of additional land.
- (iii) The wording of the dDCO (**REP3-002**) (submitted at Deadline 3), requires minimal alterations to accommodate the proposed changes.
- (iv) Furthermore, the effect of the proposed changes on the evaluation contained in the Environmental Impact Assessment (EIA) has been considered. The Applicant has assessed all three proposed changes and concluded there are no new or different likely significant environmental effects as a result of the changes and subsequently no deviation from the initial assessment provided with the Application. This is further indication that the proposed amendments are not material.

4.1.6 For the reasons set out, the Applicant submits that the changes requested, when considered cumulatively, do not amount to a material change, nor an entirely different project, as there is no change to the fundamentals of the underlying project or its objectives.

4.1.7 Having regard to sections 2 and 3 of this document and the guidance of December 2015 "guidance changes to development consent orders", paragraphs 9-17, the Applicant submits that:

- (i) the environmental impacts are not so significant as to suggest that this change is a material change (paragraphs 12-13 of the 2015 Guidance);
- (ii) no change to the Regulations assessment or European protective species licence is relevant to the DCO scheme are such that new or additional considerations are invoked (paragraph 14 of the 2015 Guidance).

4.1.8 In all the circumstances therefore, the ExA is asked to accept these amendments as non-material changes to the Scheme.

5. CONSULTATION WITH, AND CONSENT FROM, PERSONS WITH INTERESTS IN THE LAND AFFECTED BY THE PROPOSED CHANGE

5.1.1 The only parties affected by the change, are those with an interest in plot 7/12a, as this plot is being removed from the Order Limits. These parties have been notified of the change. Nevertheless, the Applicant has chosen to take a cautious approach and is also writing to the parties with interests in land in the vicinity of the realigned A47/A11 Connector Road and also the land on either side of the Cantley Lane Link Road to inform them of the proposed changes and provide them with the opportunity to comment on these changes. Parties have been asked to provide comments by **21 January 2021**. All comments will be provided to the Examination by way of a short report by the Applicant.

6. IS FURTHER CONSULTATION NECESSARY?

6.1.1 No additional consultation is required on the basis the changes are non-material.

However, the Applicant has chosen to carry out some targeted consultation with the following statutory bodies regarding the proposed changes and ES addendum:

- Environment Agency
- Norfolk County Council
- South Norfolk District Council
- Mackintosh of Halifax Trust
- Great Hospital Trust
- Intwood Road Property Owner

- 6.1.2 Again these parties have been given until **21 January 2022** to provide comments on the proposed changes and ES addendum.
- 6.1.3 The Applicant does not anticipate any issues being raised in response to this consultation and updated the Examination of any comments in the report outlined above.
- 6.1.4 This request for a non-material amendment and all accompanying documents will be published on the National Infrastructure Planning website. It will still be open for any interested parties who may wish to make representations to do so before the close of the Examination.

7. CONCLUSIONS AND FORMAL REQUEST FOR PROPOSED CHANGE TO BE MADE

- 7.1.1 The Applicant submits that its application can be accepted by the ExA as a non-material change and without additional consultation being required. The ExA is asked to accept the amendments. This is because the proposed changes:
- (i) are minor in nature;
 - (ii) are all within the Order land;
 - (iii) do not require any additional powers of compulsory acquisition and therefore no further steps are necessary under the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 since, as demonstrated above, those regulations are not engaged;
 - (iv) do not require an amendment to any of the descriptions of the works in Schedule 1 of the dDCO (**REP3-002**), aside from the removal of Work No 45; and
 - (v) do not generate new or different likely significant environmental effects.