

# A47/A11 Thickthorn Junction

**Scheme Number: TR010037**

**Volume 9**

## **9.17 Applicant's Response to the Examining Authority's Further Written Questions (ExQ2s)**

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

Planning Act 2008

December 2021

Infrastructure Planning

Planning Act 2008

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

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

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**APPLICANT'S RESPONSE TO THE EXAMINING AUTHORITY'S FURTHER  
WRITTEN QUESTIONS (ExAQ2s)**

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## **1. INTRODUCTION**

- 1.1.1 The Development Consent Order (DCO) application for the A47/A11 Thickthorn Junction was submitted on 31 March 2021 and accepted for examination on 28 April 2021.
- 1.1.2 The purpose of this document is to set out Highways England's (the Applicant) response to the Examining Authority's Further Written Questions 2 (ExQ2) issued 30 November 2021.

## **2. KEY ABBREVIATIONS**

2.1.1 The following abbreviations have been used in the Applicant's responses to the First Written Questions:

- dDCO = draft Development Consent Order
- DMRB = Design Manual for Roads and Bridges
- EMP = Environmental Management Plan
- ES = Environmental Statement
- ExA = Examining Authority
- NPSNN = National Policy Statement for National Networks 2014
- NWL = Norwich Western Link
- the Scheme = the A47/A11 Thickthorn Junction
- LOAEL – Lowest Observed Adverse Effect Level
- SOAEL – Significant Observed Adverse Effect Level

### 3. GENERAL AND CROSS-TOPIC QUESTIONS

Ref	Question to:	ExQ1 Question	Applicant's Comment
GC.2.1	Update on development <b>SNDC All Relevant Planning Authorities</b>	Following responses to the ExA's WQ1 at Deadline 2 which are acknowledged. For the avoidance of any doubt: i) Detail any further planning applications that have been submitted, or consents that have been granted, since the Application was submitted that could either effect the proposed route or that would be affected by the Proposed Development and whether this would affect the conclusions reached in ES Chapter 15 [APP-052] or associated Appendices 15.1 and 15.2 [APP-117] and [APP118]. ii) Also confirm if any planning applications are either likely or are expected to be submitted between now and the close of the Examination where possible.	
GC.2.2	Update on development <b>NCC SNDC Relevant Planning Authorities Interested Parties</b>	As context to inform the Examination the following further information is requested: i) Advise if there is a CILCS in place for the administrative area the application scheme falls within, as well as any neighbouring administrative boundaries with a CILCS. ii) Are there any planned or known improvements to the local area which are separate to the scheme under consideration but potentially complimentary to it arising from the CILCS? iii) Notwithstanding any CILCS mechanism in place, advise if there are any other planned or known separate local capital investments, projects, or other planned initiatives in the vicinity of the area proposed for improvement or nearby could potentially compliment the scheme. For the avoidance of any doubt the planned improvements queried/referred to may cover any aspect of the local environment and could be wide ranging in their purpose. iv) Explain how any existing separate local capital investments, projects or other initiatives would complement the scheme if there are any which are known or are being advanced.	
GC.2.3	Other consents and permits <b>The Applicant</b>	The ExA notes the Consents and Agreements Position Statement [APP-019], the information relayed orally at the Issue Specific Hearing on Environmental Matters and that received at Deadline 3. Provide an update on progress with obtaining these consents/ licences or any known impediment preventing authorisation.	Given that detailed design has not yet been finalised the Applicant is not able to apply for the majority of the consents listed in the Consents and Agreements position statement ( <b>APP-019</b> ) therefore the Applicant has no further updates
		For the avoidance of any doubt an update section on these consents/ licences should be included in any emerging SoCG that are being drafted with the relevant consenting authorities listed.	The Consents and Agreements Position Statement ( <b>APP-019</b> ) sets out the current status. The Applicant will provide a final version at Deadline 9.
GC.2.4	Road Signage <b>The Applicant NCC SNDC Interested Parties</b>	Local representations (including an additional submission [AS-014] from Hethersett Parish Council) have been received in relation to the volume of traffic potentially using the proposed new Cantley Lane link road to the B1172 as a 'through route'. i) Irrespective of any road designation issues being referred to by NCC which are acknowledged. Clarify/ advise how any road signage deemed crucial to the efficient and safe operation of the new link, road as part of the public road network, when considering local representation on this issue would be controlled. ii) Detail if road signage provision as a defined mechanism in the DCO itself would be a suitable or necessary mechanism assuming excessive traffic is anticipated on the new link road. iii) If there is a case for a specific requirement to deal with signage owing to any likely traffic implications using the 'T' junction indicate that alongside any suggested wording. Also indicate how any monitoring process which could be employed to ensure the junction	i)The signage strategy will be developed in accordance with the Traffic Signs Manual and in consultation with Norfolk County Council (NCC). The Applicant will continue to engage with NCC during the detailed design regarding the design and placement of new signage required for the Scheme. Article 12(1) and (2) require any highways, that are non-trunk roads, to be constructed, altered or diverted under the Order to be completed to the reasonable satisfaction of the local highway authority in whose area the highway lies. To be of a satisfactory standard, the necessary signage must be in place. Therefore the Applicant will have to provide all signage deemed necessary by NCC pursuant to Articles 12(1) and (2). ii) in light of the response above, the Applicant does not consider any further mechanisms to be necessary. iii) Please see the response to i) and ii). Traffic modelling undertaken for the Scheme indicates that the proposed junction is operating satisfactorily without significant queues or delay in the 2040 design scenario.  Therefore the Applicant is not proposing any monitoring processes.

		would operate satisfactorily in the event traffic using the route did become excessive and how such measures could be secured. <b>Interested Parties</b> iv) Provide any comments you wish to make.	
GC.2.5	Plot 7/7c <b>The Applicant</b> <b>Big Sky</b> <b>Developments</b> <b>Interested Parties</b>	The ExA notes the representations received under REP3-024 in relation to Plot 7/7c and that the applicant's preferred approach to use of the land for construction welfare facilities is not agreed upon by parties. <b>The Applicant</b> For the avoidance of any doubt can the applicant clarify: i) Whether there are any other suitable alternatives available where the construction compound welfare facilities can be accommodated which can be explored?  If there are none, please provide the reasons. Please state if all options have been exhausted.  ii) What provisions/commitments would be undertaken to ensure the risks of unintended consequences arising from occupation of the plot are minimised. For example, such as dealing with contamination, noise and potential minimisation of disruption to other landowners.  iii) Indicate how any relevant provisions/commitments identified in the answer to (ii) could be formally secured alongside any day-to-day management processes which would be triggered. <b>Big Sky Developments/ Interested Parties</b> iv) Provide any further comments you deem appropriate.	i) A number of alternative solutions were considered for the location of the site compound in this area, none were identified as suitable, please refer to the Applicants response to Submissions at Deadline 3 ( <b>REP4-026</b> )  ii) The following items contained in Table 3-1 REAC of the EMP ( <b>REP4-020</b> ) show the Applicant's commitment to dealing with issues that may arise as a result of occupation of the land parcels where the construction compounds will be sited during construction: <ul style="list-style-type: none"> <li>• G1 – hours of working</li> <li>• G2 – reduction of light disturbance to sensitive receptors</li> <li>• G3 – timing of deliveries to avoid double handling</li> <li>• G4 – traffic management on existing trunk and local roads</li> <li>• G5 – reduction of visual impacts of construction works</li> <li>• G7 – ensuring positive community relations</li> <li>• G10 protection of the local network from site debris</li> <li>• AQ1 – development of a construction dust management plan</li> <li>• LV2 – to limit the impact of construction on existing trees and vegetation to be retained</li> <li>• B3 – to prevent or minimise the impact of nuisance or pollution impact during construction activities</li> <li>• GS3 – to manage the impacts on soils from temporary and permanent land take</li> <li>• GS6 – Minimising impact to agricultural land. Reinstatement of the area to the same quality as the pre-construction phase</li> <li>• N1 - reduction of construction noise</li> <li>• N2 – to limit and control vibration during construction activities</li> <li>• N3 – to ensure significant effects due to construction noise at sensitive receptors are avoided.</li> <li>• N4 - to limit and control construction traffic noise and vibration</li> <li>• PH2 – to minimise disruption to access for local residents during construction and to keep them informed.</li> <li>• RD1 - To minimise the potential to impact of accidental spillages and leakages on sediment sensitive surface water features and protect the aquatic environment during construction</li> <li>• RD2 To prevent increased flood risk to people and property and to manage pollution risks most commonly associated with increased sediment loading</li> <li>• RD11 - To minimise the potential impact of routine runoff and accidental spillages on the waterbodies, watercourses, potable water supplies and aquatic environment during operation.</li> </ul> iii) The responses provided in ii) are located in Table 3-1 of the EMP (REP4-020) and the implementation of these commitments is secured via Requirement 4 of the dDCO ( <b>AS-028</b> )
GC.2.6	Thickthorn Park and Ride planned expansion <b>SNDC</b> <b>NCC</b> <b>Interested Parties</b> <b>The Applicant</b>	With respect to the Applicant's response to Deadline 3 Submission - 9.10 Comments on Responses to the Examining Authority's First Written Questions (ExQ1s) [REP3-018]. It is acknowledged that the scheme has been designed to accommodate future extension/increased capacity of the Thickthorn Park and Ride which is suggested as allowed for in the NATS traffic model, in the Case for the Scheme Chapter 4 [APP-023]. In addition, the ExA notes that the Scheme design incorporates an access to the boundary of the Park and Ride facility for pedestrians and cyclists from the Cantley Lane Link Road shared Cycleway/footway which would be delivered as part of the Scheme. Nonetheless, the Section 106 Agreement for the Hethersett Development (South Norfolk Council Planning Permission Ref: 2011/1804/O) is also being referred to by parties and provides that the developer should do various things including completion of the Lease for the Park and Ride Site and either the dedication or securing of the dedication of the Slip Road to enable full access to the Park and Ride Site.  The ExA notes the Applicant is considering the inclusion of wording in the dDCO that would disapply Part 9, Paragraph 2 in the Schedule to the Section 106 Agreement, on the basis the slip road is no longer necessary to make the Park and Ride development acceptable in planning terms and it will not be possible to comply following implementation	The Applicant is not able to comment on point i) as it is not the enforcing authority, nor point ii) as it would not be a party to the deed of variation.

		<p>of the Thickthorn Scheme. The aim of that is to ensure the landowner and developer are not liable for any breach of that specific planning obligation. The compensation code is also referred to by the Applicant and that discussions are ongoing between the District Valuer and the landowner. SNDC and NCC In addition to the applicant's submission on this matter to provide a safeguard mechanism in the dDCO, the authorities as signatories of the agreement appear to have expediency powers to either enforce the agreements terms or not. Such an expediency decision may fall outside the formal requirement to amend the existing agreements wording.</p> <p>Can you confirm:-</p> <p>i) If expediency advice on the terms of the agreement should the DCO be granted can be given for the benefit of all relevant parties? If expediency advice can be given and issued this should be submitted to the examination by Deadline 6.</p> <p>ii) If the variation of the agreement would be a necessary step to be undertaken by relevant parties please indicate that. Alongside when such variation expected and can be confirmed to the examination?</p> <p><b>Applicant/NCC/ SNDC/ Interested Parties</b></p> <p>iii) Provide any comments you deem appropriate.</p>	
GC.2.7	<p>Contaminated Land/Waste/ Groundwater</p> <p><b>Big Sky Developments Interested Parties</b></p>	<p>The ExA acknowledges the response of the Environment Agency under REP3-023 with respect to the risk assessment under part (1) of requirement 6.</p> <p><b>Big Sky Developments/ Interested Parties:</b> If you have any comments on land contamination or waste matters not already accounted for please provide those if you have not already done so.</p>	
GC.2.8	<p>Materials</p> <p><b>The Applicant</b></p>	<p>Assuming the DCO would be granted permission by the Secretary of State. Further explain/clarify what provisions/commitments can be secured or relied upon at this stage to allow any positive changes which would be beneficial to climate change impacts in terms of material use post consent of the DCO or any other aspects of the scheme design.</p> <p>Explain/ clarify any expected principal contractor impetus on this issue outside of standard design/ DCO mechanisms.</p>	<p>The commitments secured at this stage in the design process relating to climate change are set out at C1, C2 and C3 of the REAC (Table 3.1 in the Environmental Management Plan (<b>REP4-020</b>)), secured via Requirement 4 of the dDCO. Section 14.9.6 of ES Chapter 14, Climate (<b>REP3-006</b>) details future (detailed) design phases and subsequent construction of the scheme aims to further reduce and minimise carbon emissions associated with construction, as far as possible.</p> <p>The Principal Contractor (PC) and Lead Designer are currently fully immersed in an Innovation Working Group where participants from across several companies actively engage to discuss several aspects of innovation including carbon reducing materials and environmental impact improvements.</p> <p>Currently there are trials ongoing with another contractor on Low Carbon concrete and if proven to provide the same strength and reliability as existing concrete, could be used within the Scheme.</p> <p>The PC will also look to assess any improvements on carbon reduction and carry out any trials required where feasible and implement if possible.</p>

#### 4. AIR QUALITY AND EMISSIONS

Ref	Question to:	ExQ1 Question	Applicant's Comment
AQ.2.1	<p>Monitoring</p> <p><b>Interested Parties Big Sky Developments</b></p>	<p>The ExA acknowledges that the EMP, [APP-128] is to be updated prior to construction to include Appendix B.4 Construction noise and dust management plan which will set out how noise, air quality and lighting will be managed during construction.</p> <p><b>Interested Parties/ Big Sky Developments</b></p> <p>Provide any comments you wish to make in relation to this approach or any suggested inclusions.</p>	

## 5. BIODIVERSITY, ECOLOGY AND NATURAL ENVIRONMENT (INCLUDING HABITATS REGULATIONS ASSESSMENT (HRA))

Ref	Question to:	ExQ1 Question	Applicant's Comment
BIO.2.1	Permits and Licences <b>The Applicant</b> <b>Interested Parties</b>	The ExA again acknowledges that the Environment Agency highlights that works to realign Cantley Stream may require a transfer licence. An impoundment licence may also be necessary if a structure is required that restricts flow. An Environmental Permit is advised to be required for the importation and treatment of waste material falling outside the scope or limits detailed in either a Regulatory Position Statement or a waste exemption. With respect to 'Waste Materials', the consenting authority for certain mobile plant permits such as concrete crushers is the relevant local authority, and therefore they should be listed along with the Environment Agency within the dDCO.	Table 4-1 (Consents and Permissions that may be required to deliver the EMP) contained in the EMP ( <b>REP4-020</b> ) has been updated to include the relevant local authority as well as the Environment Agency.
		Do interested parties have any further comments?	
BIO.2.2	Trees <b>NCC</b> <b>SNDC</b> <b>The Applicant</b>	Do NCC or SNDC have any further comments on the Applicant's intention to stick to the 5-year landscape planting maintenance period (SNDC requested 10 years) [REP3-018]?  If there are specific local reasons/requirements for seeking 10 years such as known soil/weather considerations detail those in full.	With regards managing and rectifying failed planting, Requirement 5(f) of the dDCO ( <b>AS-028</b> ) requires: "measures for the replacement, in the first available planting season, of any tree or shrub planted as part of the landscaping scheme that, within a period of 5 years after the completion of the part of the authorised development to which the relevant landscaping scheme relates, dies, becomes seriously diseased or is seriously damaged."  The 5 year period referred to in Requirement 5 of the dDCO is the period during which the Applicant must take measures to replace any trees or shrubs which have died, or become diseased or damaged. This requirement has been included in the last five highway DCOs which have been granted.  However, the Applicant acknowledges the duration of 'management' may extend beyond the five year after care period (see Objectives of the LEMP in Table B.1 of the Environmental Management Plan ( <b>REP4-020</b> )). It will keep this under review as the landscape and ecology mitigation design is developed during the detailed design stage. For example, monitoring periods remain to be confirmed in consultation with Natural England for habitat developed as mitigation to be managed under conditions of the European Protected Species Licenses.
BIO.2.3	Biodiversity Net Gain <b>The Applicant</b> <b>Interested Parties</b>	The ExA notes the Applicant's position on this matter is identified in detail at Deadline 3 [REP3-019]. <b>If interested parties have any further comments please provide those.</b>	
BIO.2.4	Trees identified as to be felled <b>The Applicant</b> <b>Interested Parties</b>	The ExA notes the applicant's reference to Item B10 in Table 3-1 REAC contained in the Environmental Management Plan (APP-128) which details the proposals for felled trees.  <b>Interested Parties Provide any comments you wish to make.</b>	
BIO.2.5	Compensation strategy <b>NCC</b> <b>Interested Parties</b> <b>The Applicant</b>	With respect to NCC expectation for the minimum of a 30-year compensation strategy under RR010 submitted at Deadline 1 - the ExA notes the applicant's response, at REP2-008.  <b>NCC/Interested Parties</b>  Provide any comments you wish to make giving full reasons for any areas of disagreement.  <b>The Applicant</b>  If you have any further comments provide those.	The Applicant has no further comments



BIO.2.6	Wildlife Corridors <b>NCC</b>	At the ExA's Unaccompanied Site Inspection [EV-001 & EV-019] the probable existence of informal wildlife corridors within nearby surrounding areas was observed which could be potentially used by a wide variety of species.	
BIO.2.7	Information <b>The Applicant</b> <b>Interested Parties</b>	i) The copy of the LoNI received from NE in July 2021 in respect of the water vole licence application [REP3-018 and REP3-020] should be submitted to the examination. ii) An update on the LoNI for the bat licence referred to is required.	i) The Letter of No Impediment dated July 2021 was received by the Applicant from Natural England regarding the draft water vole license. This letter has been submitted to the Examining Authority at Deadline 5.  ii) No update has been received from Natural England regarding the Letter of No Impediment for the draft bat license
BIO.2.8	Information <b>NCC</b> <b>SNDC</b> <b>Interested Parties</b>	The ExA notes that Deadline 4 is a key deadline.  If interested parties have any further comments please submit those.	
BIO.2.9	Bats <b>NCC</b> <b>SNDC</b> <b>Interested Parties</b>	Further to ExQ1 BIO 3.6 concerning effects to barbastelle bats. NCC raised the issue in their LIR (page 21-22) in addition to other IPs in their RRs. The Applicant provided a full response at Deadline 2 which stated that the survey data for this species showed limited presence of them in the study area [REP2-006]. Do NCC or SNDC have any further comments on the Applicant's response?  If interested parties have any further comments please submit those.	
BIO.2.10	Information <b>NCC</b> <b>SNDC</b> <b>Interested Parties</b>	The ExA notes that Deadline 4 is a key deadline.  If interested parties have any further comments please submit those.	
BIO.2.11	Biodiversity Mitigation <b>The Applicant</b> <b>NCC</b> <b>SNDC</b> <b>Interested Parties</b>	NCC, in their LIR, make a number of comments about the lack of information in the ES on mitigation in relation to biodiversity matters. In response, the Applicant points to measures set out in the EMP and REAC, and particularly to measures that would be contained within the LEMP, which would only be produced post-consent. Clarify if this is sufficient provision?	
CC.2.1	<b>Interested Parties</b>	Chapter 14 Climate of the ES [APP-051] discusses how the proposed Scheme considered manages its effects on the climate (i.e., carbon emissions) and potential vulnerability to climate change (i.e., resilience to projected climate changes).  Do interested parties have any further comments on the information presently being considered with respect to climate change matters? If so, clarify if you have not done so already.	
CC.2.2	<b>The Applicant</b> <b>NCC</b> <b>Interested Parties</b>	NCC state they are seeking to work with Highways England to identify measures to reduce carbon emissions on the trunk road network e.g., by installation of electric vehicle charging points to encourage electric vehicles.  Can the Applicant give further details and clarification on this proposal in relation to the application applied for and also any relevant nearby locations which would be beneficial to achieving national climate objectives?	The Applicant confirms it is in discussions with NCC regarding possible measures, but no further information can be provided to the Examination at this time. These discussions relate to matters outside of this DCO application.
CI.2.1	Update <b>Royal Mail, Vatten Fall</b> <b>Wind Power Ltd, Orsted</b> <b>Hornsea Project Three</b> <b>(UK) Interested Parties</b>	In your relevant representation(s) you indicate a range of concerns where it is possible ongoing discussions with the Applicant regarding the formulation of Traffic Management Plans.  Provide an update on any discussions and set out any outstanding concerns in this respect or highlight how the Applicant could address your concerns if you have not already done so.	
CA.2.1	Update table <b>The Applicant</b> <b>Interested Parties</b>	The ExA has requested to be regularly provided on the progress of negotiations for CA of the Freehold of land, of new rights over existing land and of TP of land. For the avoidance of any doubt all interested parties should be aware of that.	An updated CA Schedule has been submitted at Deadline 5.
CA.2.2	2 Statutory Undertakers <b>The Applicant</b>	It is important to note. Where a representation is made by a statutory undertaker under section 127 of the Planning Act 2008 (PA2008) and has not been withdrawn, the Secretary of State would be unable to authorise powers relating to the statutory undertaker land unless satisfied of specified matters set out in section 127. If the representation	The Applicant is progressing discussions with all statutory undertakers and is hopeful the remaining objections will be withdrawn before the end of the Examination. Nevertheless, all works relating to statutory undertaker's apparatus listed within Schedule 1 of the dDCO (AS-028) are deemed essential to ensure the delivery of the Scheme.

		<p>is not withdrawn by the end of the examination confirmation would be needed that the "expedience" test is met.</p> <p>The Secretary of State would also be unable to authorise removal or repositioning of apparatus unless satisfied that the extinguishment or removal would be necessary for the purpose of carrying out the development to which the Order relates in accordance with section 138 of the PA2008. Justification would be needed to show that extinguishment or removal would be necessary.</p> <p>Indicate when, if the objections from Statutory Undertakers are not withdrawn, this information would be submitted into the Examination.</p>	<p>In the unlikely event that objections are not withdrawn, the Applicant will provide further information by Deadline 9 of the Examination.</p>
CA.2.3	<p>Availability of Funding <b>The Applicant</b></p>	<p>The Applicant is reminded that the Department for Communities and Local Government (as it then was) Guidance related to procedures for CA (September 2013) states that; "Applicants should be able to demonstrate that adequate funding is likely to be available to enable compulsory acquisition within the statutory period following the Order being made, and that the resource implications of a possible acquisition resulting from blight notice has been taken account of".</p> <p>The Funding Statement [APP-021] identifies that the estimated scheme cost is £91.2m. Paragraph 3.1.5 also states that the funding commitment was reiterated in the Highways England Delivery plan 2020–2025 which was published in August 2021.</p> <p>Are there any updates? Including those with respect to any claims or potential claims for blight or other matters?</p>	<p>4.1.3 of the Applicants Funding statement (<b>APP-021</b>) discusses Blight and states</p> <p>"Should any future claims for blight arise as a consequence of the proposed compulsory acquisition of land, or rights in land, affected by the Scheme, the costs of meeting any valid claim will be met by the Applicant."</p> <p>To date no blight notices have been served in respect of the Scheme nor is the Applicant aware of any potential claims for blight.</p>
CA.2.4	<p>Public Interest vs Private Loss <b>The Applicant</b></p>	<p>The SoR [APP-020] states that there is a compelling case in the public interest for the CA. Should there be any changes in the balancing exercise between public benefit and private loss an update would be required.</p>	<p>There has been no change to this position.</p>
CA.2.5	<p>5 Human Rights <b>The Applicant</b></p>	<p>The SoR [APP-020] includes a section on human rights. With respect to that confirm if there are any changes to the applicant's submissions on these matters.</p>	<p>There has been no change to this position.</p>
CA.2.6	<p>Special Category Land <b>The Applicant</b></p>	<p>The DCO as drafted means that special parliamentary procedure should not apply in relation to the proposed CA of special category land. Is any change of circumstance probable or potentially probable that will prevent the relevant subsections in Section 131 or 132 of the PA2008 from being adhered to.</p>	<p>There has been no change to this position.</p>
CA.2.7	<p>Crown Land <b>The Applicant</b></p>	<p>Consent is required for any other provision in the DCO which relates to Crown land or rights benefiting the Crown in accordance with s135(2) PA2008. Among other things this includes consent for any Temporary Possession sought over Crown land. The PA2008 does not authorise CA for Crown land.</p> <p>The SoS can only authorise the CA of these plots with the consent of the relevant Crown authorities.</p> <p>Indicate whether consent for any provisions affecting Crown land or rights is forthcoming and when this is to be obtained before the close of the Examination.</p>	<p>The Applicant is still in discussions with the Government Legal Department about securing consent pursuant to section 135 for the relevant Crown Land plots.</p> <p>The solicitors are still reviewing the papers, but have been advised that the Thickthorn junction Examination closes on 23 March 2022, so that is the last date for obtaining the consents and submitting these as part of the Examination.</p>
CA.2.8	<p>Protective Provisions <b>Network Rail</b> <b>Cadent Gas</b> <b>Environment Agency</b> <b>National Grid</b></p>	<p>The ExA reiterates, if by Deadline 5, Monday 20 December, Protective Provisions have not been agreed, the ExA requests the relevant Statutory Undertaker's preferred wording, clean and tracked changed, together with an explanation of where the difference(s) of opinion lie(s).</p>	
DE.2.1	<p>New Footbridge/underpasses/overbridge/bridge extension/hardstanding's /landscaping <b>The Applicant</b></p>	<p>National Policy Statement for National Networks (NN NPS) pursuant to Section 9(8) and Section 5(4) of the Planning Act 2008 sets out the need for, and the Government's policies to deliver, development of nationally significant infrastructure projects (NSIPs) and is referred to in the applicants submitted Environmental Statement. The ExA acknowledges the design process confirmed as undertaken by the applicant thus far and the general design principles worked to. This</p>	<p>i) Paragraph 126 of the NPPF states that "Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities." Good design is embedded into the Scheme design process, as highlighted in the Scheme Design Report (<b>APP-127</b>) through the application of the 'road to good design' principles. The Applicant has consulted with local communities, user groups and planning authorities through the Consultation Process outlined in the Consultation Report (<b>APP-023</b>) and the detailed design of the final Scheme</p>

		<p>includes Chapter 3 of the Scheme Design Report (APP127) which describes how the Scheme considers each of the requisite principles and additional considerations on how the Scheme sought to reduce carbon emissions. The ten principles of good design said to be applied found in the Highways England publication 'the road to good design'. Nonetheless, the National Planning Policy Framework (NPPF) is also recognised by the applicant as an important planning consideration in response to Biodiversity Net Gain responses. With that in mind it is noted that the Government changed policy to encourage beautiful places July 2021. The changes to the NPPF post-dated the submission of the scheme. Paragraph 126 of the revised NPPF specifically states the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this. So too is effective engagement between applicants, communities, local planning authorities and other interests throughout the process. With respect to the proposed scheme improvement works including the replacement bridge (Cantley Lane footbridge, Cringleford) (Work No. 35) across the A47. Can the applicant:</p> <p>i) Explain how efforts to specifically secure and facilitate 'beauty' alongside functional design matters can be factored by the scheme bearing in mind the existing design assessment approach did not encompass this.</p> <p>ii) Provide confirmation of any steps which can be taken to respond to the advice of the NPPF as an important planning consideration acknowledging the iterative design process thus far and associated requirements within the dDCO.</p> <p>iii) Include in your response references to the architecture of the scheme improvements which would be experienced by users of overbridges (for example when stood on those) and also the associated observable architecture to structures from any public vantage point available including directly from the A47 carriageway itself.</p>	<p>will be developed in consultation with the relevant planning authority prior to approval by the Secretary of State under Requirement 3 of the dDCO (<b>AS-028</b>).</p> <p>The design of the footbridge has been led by the need to accommodate the requirements of the user groups that will be using the footbridge as detailed in response to Examiners Questions 1 DE1.1 to DE1.3 (<b>REP2-006</b>). Further to this, the design of the structure must follow a robust technical approval process, as outlined in CG300. Highways England's Safety, Engineering and Standards (SES) team provides independent assurance to the Highways England (now National Highways) board that the required standards are being followed, and that they produce the expected outcome. Elements of the bridge have been designed so that they can be prefabricated off site, which reduces the health and safety risks and minimises the impact on road users by reducing the temporary traffic management requirements during construction.</p> <p>The Environmental Masterplan has been developed to enhance the surrounding area as far as possible, through the use of planting and landscaping sympathetic to the rural nature of the surrounding area. It is through this aspect of the scheme that beauty will be maximized. Response to Examiners Questions 1 DE1.1 to DE1.3 (<b>REP2-006</b>) outlines how the landscaping design has been developed to mitigate the visual impact of the footbridge on the local area. The final landscaping design will also be developed in consultation with the relevant planning authority prior to approval by the Secretary of State under dDCO Requirement 5 'Landscaping' (<b>AS-028</b>). This will also be supported by a detailed Landscape and Ecology Management Plan (LEMP) that will describe the proposed management and monitoring of the landscape and ecological mitigation and compensation features of the Scheme. The LEMP forms Appendix B.5 of the Environmental Management Plan (<b>REP4-002</b>) and will be approved by the Secretary of State through dDCO Requirement 4 (<b>AS-028</b>), following consultation by the Applicant with the relevant planning authority, local highway authority, lead local flood authority and the Environment Agency</p> <p>ii)The Secretary of State should use the NPS as the primary basis for making decisions on development consent application for national networks. The NPPF is also be a material consideration in decision making, but whether, and to what extent, the NPPF is a material consideration, should be judged on a case by case basis.</p> <p>Paragraph 4.30 of the NNNPS states "it is acknowledged that given the nature of much national network infrastructure development. there may be a limit on the extent to which it can contribute to the enhancement of the quality of the area.</p> <p>Paragraph 4.35 goes on to state that "The Examining Authority and the Secretary of State should take into account the ultimate purpose of the infrastructure and bear in mind the operational safety and security requirements which the design has to satisfy."</p> <p>These paragraphs of the NNNPS need to be read in conjunction with paragraph 126 of the NPPF. As such, the Applicant is of the view that Paragraph 126 of the NPPF has less weight for national network infrastructure schemes. That said, the Applicant has taken into account as far as possible both functionality and aesthetics (see paragraph 4.33 of the NNNPS), bearing in mind the limited choices for the physical appearance of the infrastructure. Therefore, the Applicant is confident that the Scheme complies with the necessary policy requirements.</p> <p>Nevertheless, as stated above, the Applicant has endeavoured to enhance the beauty of the surrounding areas as far as possible through the Environmental Masterplan (<b>AS-032</b>).</p> <p>iii) Environmental Statement Chapter 7 'Landscape and Visual' (<b>APP-044</b>) assesses the visual impact of the scheme, including representative viewpoint locations which were selected and agreed with South Norfolk Council to assist in understanding the appearance and visual effects of the Proposed Scheme from publicly accessible areas. The proposed footbridge, and the two underpasses (Wards Woods Underpass and Cantley Lane Underpass) are not visible from any of the agreed viewpoints. The footbridge will be visible from the A47 carriage,</p> <p>As shown in Figure 7.6.1a to &amp;.6.1d (<b>APP-059</b>) The Cantley</p>
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			<p>Lane Link Road, and the two associated overbridges (Cantley Wood Overbridge and Cantley Wood Link Overbridge) will be visible from Viewpoint 1 taken at the railside footpath (Hethersett FP6 Public Right of Way). As stated in Appendix 7.5 Representative Viewpoints (<b>APP-084</b>) in the design year of 2040, although the new bridges would be visible in summer, this would be in the same direction as a large sign visible in the baseline view. It is therefore concluded that new planting would be sufficient to broadly replicate baseline conditions and that this would be sufficiently similar to baseline conditions to render the visual effect on this footpath to be neutral rather than slight adverse in summer.</p> <p>The footbridge will be visible from the A47 carriageway, however this should be viewed in a similar context to the existing footbridge that it is replacing. As stated in the Environmental Statement Chapter 7 'Landscape and Visual' (<b>APP-044</b>) "The value of views from road receptors would typically be limited where the focus of the view would not be fixed on a particular outlook or visual relationship. As the receptor outlook is inherently that of a road, the susceptibility of views to change of a similar type is generally low."</p>
DE.2.2.	Applicants Design Panel <b>The Applicant</b>	<p>The applicant is asked to refer the scheme details to its own internal strategic design panel for a further assessment of how the new pedestrian bridge structure engineering drawing proposed, and the other engineering drawing elements of the scheme [APP-10] could be potentially enhanced in light of the changes to the NPPF set out in DE.2.1. Provide a full account of the advice obtained and the actions to be undertaken</p>	<p>Highways England's Strategic Design Panel was set up in 2017 and is intended to focus on strategic input rather than scheme specific details targeting where its expertise, insight and guidance will have most positive impact and wider benefit, such as standards, procurement and evaluation.</p> <p>The Applicant notes the latest Strategic Design Panel (SDP) progress report was published in March 2021 and covered the previous 18 months of work, from June 2019 to the end of 2020.</p> <p>Page 13 of the progress report provides the summary of the "Work" the panel undertakes in the context of the Government's Road Investment Strategies (RIS).</p> <p>"Over the past year and a half (June 2019 to end of 2020), the Panel has applied its advisory powers by:</p> <ul style="list-style-type: none"> <li>• providing advice on embedding Highways England's design vision and principles via guidance and training.</li> <li>• reviewing and giving advice on Highways England standards and processes.</li> <li>• considering and making recommendations on the importance of corridor design, climate resilience, low carbon design and biodiversity.</li> <li>• reviewing and commenting on strategic and recurrent themes and issues associated with the design and procurement of road schemes.</li> <li>• overseeing the Design Review Panels (DRP) review of complex and sensitive schemes.</li> </ul> <p>The criteria for making a request for a design Panel Review is set out within the Applicant's License (Appendix A) paragraph 5.27 (c) states:</p> <p>The License holder seeks advice from the Design Panel:</p> <ol style="list-style-type: none"> <li>on the design of road improvement schemes, where these are in sensitive locations or expected to have a substantial impact on the surrounding landscape;</li> </ol> <p>Sensitive locations are those in close proximity to national park, AONB, national nature reserve, SSSI, ancient woodland, listed buildings. Urban locations are also considered to be sensitive.</p> <p>The potential for 'substantial impact' can be confirmed with the visual assessment in the Environmental Statement.</p> <p>The scheme is not considered to be in a sensitive location nor expected to have a substantial impact on the surrounding landscape. Therefore, it is not appropriate for advice (i.e. a design review) to be sought as the Licence criteria were not met.</p>
DE.2.3	Built Environment <b>NCC</b> <b>SNDC</b> <b>Interested parties</b>	<p>For the avoidance of any doubt. Have there been any further changes to the built environment in the vicinity of the land subject to scheme improvement currently submitted? If so, please identify where, and consider if the plans and statements would need to be updated/ amended.</p>	
DCO.2.1	General Advice <b>The Applicant</b>	<p>The ExA reiterates that the dDCO should be: In the Statutory Instrument (SI) template; follow guidance and best practice for SI drafting (for example avoiding "shall/ should") in accordance</p>	<p>These points are noted.</p>

		with the latest version of guidance from the Office of the Parliamentary Counsel; follow best practice drafting guidance from the Planning Inspectorate and the Departments contained in Advice Note 15 – drafting development consent orders (and see specific references to Advice Note 15 below); fully audited to ensure that there are no inconsistencies within the dDCO and its constituent parts such as definitions or expressions in the articles, requirements, protective provisions, other schedules and any book or reference, that all legislative references in the dDCO are to extant provisions and all schedules refer to the correct articles.	
DCO.2.2	Precedents <b>The Applicant</b>	<p>Notwithstanding that drafting precedent has been set by previous DCOs or similar orders full justification should be provided for each power/provision taking into account the facts of this particular DCO application.</p> <p>Where drafting precedents in previous made DCOs have been relied on, these should be checked to identify whether they have been subsequently refined or developed by more recent DCOs so that the DCO provisions reflect the Secretary of State's current policy preferences. If any general provisions (other than works descriptions and other drafting bespoke to the facts of this particular application and dDCO) actually differ in any way from corresponding provisions in the Secretary of State's most recent made DCOs, an explanation should be provided as to how and why they differ (including but not limited to changes to statutory provisions made by or related to the Housing and Planning Act 2016).</p> <p>Where necessary, provide a list any additional previous DCOs which have been used as a precedent for the drafting of this dDCO to expand on a particular point should it be warranted.</p>	As set out in the Applicant's response to ExAQ DCO 1.2 ( <b>REP2-006</b> ), the need for each provision is set out in the Explanatory Memorandum ( <b>REP3-004</b> ). The Applicant has made reference to additional previous DCO precedents throughout the Explanatory Memorandum where relevant.
DCO.2.3	Novel Drafting <b>The Applicant</b>	<p>The ExA wishes to reaffirm that the purpose of and necessity for any provision which uses novel drafting, and which does not have precedent in a made DCO or similar statutory order should be explained. The drafting should:</p> <ul style="list-style-type: none"> <li>• be unambiguous;</li> <li>• achieve what the Applicant wants it to achieve; • be consistent with any definitions or expressions in the provisions of the dDCO; and</li> <li>• identify the PA2008 power on which the provision is based.</li> </ul>	The Applicant has not included any novel drafting in the dDCO ( <b>AS-028</b> ).
DCO2.4	General Advice <b>The Applicant</b>	<p>For the avoidance of any doubt. The extent of any flexibility provided by the dDCO should be fully explained, such as the scope of maintenance works and ancillary works, limits of deviation and the ability (through tailpieces in requirements) of discharging authorities to authorise subsequent amendments. The preferred approach to limiting this flexibility is to limit the works (or amendments) to those that would not give rise to any materially new or materially different environmental effects to those identified in the ES. The drafting which gives rise to an element of flexibility (or alternatives) should provide for unforeseen circumstances and define the scope of what is being authorised with sufficient precision. For example, the Secretary of State had to amend article 6 (Benefit of Order) of the National Grid (Richborough Connection project) Development Consent Order 2017 at decision stage to remove ambiguity (as later corrected by Richborough connection correction order). In relation to the flexibility to carry out advance works, any "carve out" from the definition of "commencement" should be fully justified and it should be demonstrated that such works would be de minimis and would not have environmental impacts which would need to be controlled by a requirement (see section 21 of Advice Note 15). The drafting of requirements should reflect sections 17 and 19 of Advice Note 15.</p>	The Applicant confirms it has had full regard to all of the relevant advice on flexibility and in particular Advice Notice 15 and the need for any flexibility required for the Scheme as drafted in the dDCO is fully explained in the Explanatory Memorandum.

DCO.2.5	<p>Article 3</p> <p><b>The Applicant</b></p>	<p>The guidance in section 25 of Advice Note 15 should be followed and, if not already provided, additional information sought such as</p> <ul style="list-style-type: none"> <li>• the purpose of the legislation/statutory provision</li> <li>• the persons/body having the power being disapplied</li> <li>• an explanation as to the effect of disapplication and whether any protective provisions or requirements are required to prevent any adverse impact arising as a result of disapplying the legislative controls</li> <li>• (by reference to section 120 of and Schedule 5 to the Planning Act 2008) how each disapplying provision constitutes a matter for which provision may be made in the DCO.</li> </ul> <p>Where the consent falls within a schedule to the Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015 evidence will be required that the regulator has consented to removing the need for the consent in accordance with s.150 Planning Act 2008.</p>	<p>The Explanatory Memorandum has been updated to address the provision set out at Article 3(3).</p> <p>As stated in the Applicant's response to ExQ1s DCO.2.3 (<b>REP2-006</b>), none of the consents contained in Article 3 fall within Schedule 2 of the Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015.</p>
DCO.2.6	<p>Article 5 and 8</p> <p><b>The Applicant</b></p> <p><b>Interested Parties</b></p>	<p>The applicant's justification for the Article's given in REP3-020 is acknowledged.</p> <p><b>Interested Parties</b> Provide any comments you deem necessary.</p>	
DCO.2.7	<p>Article 10</p> <p><b>The Applicant</b></p> <p><b>Interested Parties</b></p>	<p>The ExA acknowledges this provision is broadly modelled on that contained in other orders such as the A30 Chiverton to Carland Cross Development Consent Order 2020 (A30 Chiverton Order); the A63 (Castle Street Improvement, Hull) Development Consent Order 2020; the A585 Windy Harbour to Skippool Highway Development Consent Order 2020 (A585 Windy Harbour Order); the M42 Junction 6 Order; and the A19/A184 Testo's Junction Alteration Development Consent Order 2018 (A19/A184 Order).</p> <p>It is also noted that Applicant is proposing an update to Article 10 to reflect the drafting that was included in the A303 Stonehenge DCO (now quashed) and is being proposed in Article 11 of the draft Black Cat to Caxton Gibbet Improvements Development Consent Order. An amendment to Article 10(3) shown below has been included to ensure the person benefitting from any such transfer of grant would be subject to the same obligations as the Applicant, but an exception is made in relation to liability for the payment of compensation due in connection with the compulsory acquisition of land. This drafting specifically clarifies that the liability for the payment of compensation will remain with the Applicant. (3) The exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (1). is subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by the undertaker, save where those benefits or rights are exercised by a statutory undertaker or by an owner or occupier of land pursuant to paragraph (2) of article 27 (compulsory acquisition of rights and imposition of restrictive covenants) of this Order, in which case liability for the payment of compensation remains with the undertaker.</p> <p>Justification should be clear as to why a transfer to such person is appropriate. Where the purpose of the provision is to enable such person(s) to undertake specific works authorised by the DCO the transfer of benefit should be restricted to those works. If the provision seeks to permit transfer of compulsory acquisition powers the applicant should provide evidence to satisfy the Secretary of State that such person has sufficient funds to meet the compensation costs of the acquisition.</p> <p><b>Interested Parties</b> Provide any comments you deem necessary.</p>	<p>The Applicant updated the dDCO (<b>AS-021</b>) and the Explanatory Memorandum (<b>REP3-004</b>) to include this wording at Deadline 3.</p>
DCO.2.8	<p>8 Article's 13 and 18</p> <p><b>The Applicant</b></p> <p><b>NCC</b></p> <p><b>Interested Parties</b></p>	<p>It is acknowledged that the Applicant as per REP3-020 stated it would be led by NCC in any discussion relating to classification of nontrunk roads.</p> <p>Regard has also been given to other Orders such as the A1 Birtley to Coal House Development Consent Order 2021 and the A303 Sparkford to Ilchester Dualling Development Consent Order</p>	<p>Article 13 deals with the classification of roads, imposition of speed limits and creation of public rights of way all of which are matters usually dealt with by the relevant highway authority. These are matters ancillary to the Scheme and the power to include such provisions is set out in Section 120(3) and Part 1 of Schedule 5 of the Planning Act 2008.</p> <p>The intention of Articles 12(5) and 19(4) is not to circumvent section 153 of the Planning Act 2008. Although the</p>

		<p>2021.</p> <p>It remains the case that variation of the application of provisions in these articles is possible under any enactment and arguably this has the effect of disappling section 153 which provides a procedure for changing a DCO. There may be precedent in other made DCOs for the same drafting, but it should be clear under which section 120 power these articles are made and if necessary, justification provided as to why the provisions are necessary or expedient to give full effect to any other provision of the DCO.</p> <p><b>NCC/Interested Parties</b> Provide any comments you deem necessary.</p>	<p>classifications, speed limits and public rights of way set out in Schedule 3 of the dDCO are those deemed appropriate at the time of submitting this Application for a DCO, it would be unreasonable to prohibit the relevant highway authority from using its powers under the various enactments including the Town and Country Planning Act 1990, the Highways Act 1980 and Traffic Regulation Act 1981 in relation to these roads in the future. It would also be unreasonable and an unnecessary use of public funds to make a local highway authority use the process set out in section 153. This would have the unintended effect of disappling its various powers as local highway authority in relation to those highways listed in Schedules 3 and 4 of the DCO.</p> <p>For example, Government Guidance issued by the Department for Transport (Setting local speed limits, January 2013) asks traffic authorities to keep their speed limits under review with changing circumstances, therefore this drafting ensures the necessary powers granted to the relevant highway authority, which enable it to make future changes to speed limits on its own local network where necessary are not unduly restricted by a DCO.</p> <p>To give a further example, if future development was proposed over the route of a public right of way listed in Schedule 3 Part 4 of the dDCO, it would be inappropriate to prevent the local highway authority from exercising its power pursuant to section 257 of the Town and Country Planning Act 1990 to grant an order stopping up or diverting the public right of way to enable development to be carried out.</p>
DCO.2.9	<p>Article 21</p> <p><b>The Applicant</b></p>	<p>The applicant should be aware of and mindful of section 146 of the Planning Act 2008.</p>	<p>The Applicant has had regard to section 146 of the Planning Act 2008.</p>
DCO.2.10	<p>Article 39</p> <p><b>The Applicant</b></p> <p><b>SNDC</b></p> <p><b>Interested Parties</b></p>	<p>The ExA notes the changes to the wording in Article 39(2), which ensures the works are carried out in accordance with British Standards and the error in Article 39(7) has been corrected in the dDCO submitted at Deadline 3.</p> <p><b>SNDC/Interested Parties</b> Do you have any further comments?</p>	
DCO.2.11	<p>1 Article's 21, 22, 27 and 52</p> <p><b>The Applicant</b></p>	<p>Compulsory acquisition of an interest in land held by or on behalf of the Crown cannot not be authorised through the DCO. Consent under section 135 (1) and (2) should also be obtained from the Crown authority.</p>	<p>Please see the response to CA2.7 above.</p>
DCO.2.12	<p>Removal of Human remains</p> <p><b>The Applicant</b></p> <p><b>NCC</b></p> <p><b>Historic England</b></p> <p><b>Interested Parties</b></p>	<p>The extent of Two Tumuli in Big Wood as a known historic burial ground lies outside the application scheme improvement boundary [referred to in APP-043]. The overall ES for the scheme highlights scheme improvement works have been designed to not to directly involve land encompassing the scheduled monument.</p> <p>Nonetheless, the dDCO may still need to include an article to deal with the removal of human remains (see article 17 of the model provisions) on a precautionary basis. Ancient burial remains unknown in the wider vicinity may be a reason to include that. If the applicant cannot categorically rule risk of that it may be optimal to amend the next draft to include an appropriately worded article. Indicate if archeogonial advice has been obtained in your response if such provision is not accepted as to be included on a precautionary basis.</p> <p>Also indicate the mechanism of how unexpected human remains would be dealt with if they were discovered during construction activity.</p>	<p>The Applicant refers to Item CH4 in Table 3-1 of the EMP (<b>REP4-020</b>) which details the protocol to be developed as part of the written scheme of investigation (WSI) mitigation strategy which provides the mechanism for dealing with unexpected archaeological discoveries during construction. The mitigation strategy will include wording on the requirements of the Burial Act 1857. The production of and compliance with the WSI is secured via Requirement 9 of the dDCO (<b>AS-028</b>).</p>
DCO.2.13	<p>Schedule 2 and Article 13</p> <p><b>The Applicant</b></p>	<p>Advice Note 15 provides standard drafting for articles dealing with discharge of requirements. If this guidance hasn't been followed justification should be provided as to why this is the case. See 13 (2 –(3)) relating to deemed discharge.,</p>	<p>This comment is noted.</p>
Requirements			
DCO.2.1	<p>Requirement 4</p> <p><b>The Applicant</b></p>	<p>i) dDCO R4(2) includes a Soil Management Plan (c), which shall include a soil resource plan and a soil handling strategy, in the list of Management Plans to be included in the EMP Second Iteration.</p>	<p>i) Reference to Annex B.2 in the EMP First Iteration (REP4-020) has been updated to be referred to as 'Soil Management Plan'</p>

	<b>SNDC</b>	<p>This is reflected in the REAC in the application EMP, but EMP Annex B 9 (plans to be incorporated in to the EMP Second Iteration) refers to a Soil Handling Management Plan (B.2). Can the applicant clarify and provide any necessary amendment?</p> <p>ii) EMP Annex B lists both a Biosecurity Management Plan (Annex B.6) and an INNS Management Plan (Annex B.10), consistent with other references in the EMP to them as separate plans. However, dDCO R4(2)(h) refers to a Biosecurity management plan which includes an INNS management plan. Can the applicant clarify and provide any necessary amendment?</p> <p>iii) EMP Annex B lists Annex B.8: Detailed Heritage Written Scheme of Investigation (DHWSI) (Mitigation Strategy); dDCO R4 does not include this. A reference is made to it in dDCO R9(1) (Archaeological remains): "No part of the authorised development is to commence until for that part a written scheme of investigation of areas of archaeological interest, reflecting the relevant mitigation measures set out in the REAC, has been submitted to and approved in writing by the SoS. Can the applicant clarify and provide any necessary amendment?"</p> <p>iv) EMP Annex B refers to Annex B.11: Operational UXO Emergency Response Plan. This is not listed in dDCO R4 or referenced elsewhere in the dDCO. Can the applicant clarify and provide any necessary amendment?</p>	<p>ii) The dDCO has been updated to mirror the latest version of the EMP (<b>REP4-020</b>)</p> <p>iii) The dDCO has been updated to mirror the latest version of the EMP (<b>REP4-020</b>)</p> <p>iv) The dDCO has been updated to mirror the latest version of the EMP (<b>REP4-020</b>)</p>
DCO.2.1	Requirement 5 <b>The Applicant</b> <b>SNDC</b>	<p>The wording of the requirement should make clear that lower standards to those specified within the British Standard (or any new or revised British Standard taking its place) would not be acceptable, whilst allowing for higher standards advocated by any other best practice applicable and conducive to local established practice.</p> <p>Provide further amendment to ensure there is no ambiguity in the wording of Requirement 5.</p>	Requirement 5 of the dDCO has been further amended.
DCO.2.2	Requirement 8 <b>The Applicant</b>	<p>Requirement 8 part (2) concerning surface water drainage.</p> <p>Work on the detailed drainage design is specified as ongoing. The Environment Agency as highlighted in REP3-023 should therefore be a named consultee in respect of Requirement 8 part (2) for the approval of any surface water drainage system. Provide necessary amendment if you have not already done so.</p>	Requirement 8 of the dDCO has been updated accordingly.
DCO.2.3	Discharge of Requirements <b>The Applicant</b> <b>NCC</b> <b>SNDC</b> <b>Interested Parties</b>	<p>It is noted by the ExA that there are ongoing discussions between the applicant NCC and SNDC in relation to the best way to undertake the discharge of requirements. One suggested option being floated is that there might be a single "lead" Authority discharging the requirements. An alternative option would be that each local authority discharge those.</p> <p>The ExA is seeking clarification from NCC and SNDC of the intended approach on this matter along with the applicants preferred option.</p>	The Applicant is happy to consult with each relevant consultee separately pursuant to Article 17, before submitting details to the Secretary of State for approval.

## 6. FLOOD RISK AND DRAINAGE

Ref	Question to:	ExQ1 Question	Applicant's Comment
FRD.2.1	Updated Flood Information Update <b>The Applicant</b> <b>NCC</b> <b>Interested Parties</b>	<p>In respect of fluvial flood risk and Chapter 13 of the ES [APP-50] provide any necessary updates to the examination documents presently being considered since the completion of Deadline 3.</p> <p><b>Interested parties if you have any further comments submit those.</b></p>	There are no further updates to the Flood Risk Assessment ( <b>REP3-008</b> ) since Deadline 3. There are no changes to ES Chapter 13 ( <b>APP-050</b> ).

## 7. HISTORIC ENVIRONMENT

Ref	Question to:	ExQ1 Question	Applicant's Comment
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HE.2.1	Heritage Assets/ Information <b>The Applicant NCC Interested Parties</b>	Provide any necessary updates in relation to cultural heritage or archaeological interests which may have occurred since the completion of Deadline 3.	The supplementary archaeological trenching was completed on 3 December 2021.  The associated report is currently being drafted and it is proposed to issue the results to the Examining Authority in February 2022 at Deadline 7.
HE.2.2	Heritage Assets/ Information <b>The Applicant NCC Interested Parties</b>	Taking into account APP-043 Environmental Statement Chapter 6 – Cultural Heritage which identifies Two Tumuli in Big Wood as a scheduled monument.  Has the potential risk for the unexpected discovery human remains been adequately accounted for by application and the present inclusions within the dDCO?	Please refer to the Applicant's response to question DCO 2.12

## 8. NOISE VIBRATION AND LIGHT

Ref	Question to:	ExQ1 Question	Applicant's Comment
NV.2.1	Noise and vibration from traffic <b>The Applicant Big Sky Development Interested Parties</b>	Whilst it is acknowledged that studies have been undertaken to assess the impact of the scheme on the site, the local representations received have indicated concerns that the impact is likely to be greater, with increased noise interference from south of the A47 than is suggested.  Can the applicant provide an update of any further dialogue with relevant landowners and safeguards to ensure noise assessments are accurate and not subject to unanticipated changes in external noise levels?	Noise assessments undertaken as part of the environmental impact assessment for the Scheme have been completed in accordance with DMRB LA 111, revision 2 (2020) in addition to the legislative and policy documents listed in Section 11.3 of ES Chapter 11 ( <b>APP- 048</b> ). The Applicant has not seen any data which contradicts these findings.  The Scheme design includes low noise surfacing on the new A11-A47 link Road, and the Cantley Lane Link Road (with the exception of the bridge decks carrying the new Cantley Lane Link Road across the A11) as embedded noise mitigation that will minimise noise impacts on sensitive receptors.  The operational noise assessment demonstrates that there are no significant adverse or significant beneficial noise effects expected due to changes in road traffic noise. This applies at all receptors within the study area and noise important areas (NIAs). Further mitigation is not necessary to avoid significant adverse operational traffic noise effects.  During construction, a Construction noise and dust management plan will be developed as part of the EMP (Second Iteration) and secured via Requirement 4 of the dDCO to demonstrate how the Contractor will limit and control noise and vibration during construction as also summarised in Items N1 to N4 of Table 3-1 (REAC) of the EMP ( <b>REP4-020</b> ).  Also item G7 of Table 3-1 (REAC) in the EMP ( <b>REP4-020</b> ), secured via Requirement 4 of the dDCO, includes provision of a Customer Contact Centre to deal with queries and complaints from the public. A Community Relations Officer will be appointed to prepare a community relations strategy to disseminate information to consultees.
NV.2.2	Noise and vibration from traffic <b>Trustees of the CM Watt Residual Trust Interested Parties</b>	In response to REP2-012. The identified buildings 'The Old Stables' and 'Wychwood House' were not considered specifically in the ES Chapter 11. The applicant's assessment of construction noise and vibration is based on representative receptors –on the basis it is not proportionate to assess the impacts at every dwelling [REP3-018].  Considering the focus of the applicant's noise assessment is on the locations at which construction noise and vibration levels are expected to be the greatest are interested parties satisfied with the reasoning now obtained? If not state your reasons	
NV.2.2	Lighting <b>NCC SNDC Interested Parties</b>	The content of APP-086, Appendix 7.7 Lighting Assessment is noted by the ExA alongside the responses given at Deadline 3 as to the extent of lighting.  <b>NCC/SNDC</b> Have any local accessibility groups or horse-riding groups been included in your responses to date, if not why? Interested Parties Provide any comments you wish to make.	

## 9. SOCIAL ECONOMIC

Ref	Question to:	ExQ1 Question	Applicant's Comment
SE.2.1	Suggested Benefits <b>Applicant</b> <b>Interested Parties</b>	<p>The applicant has set out in their Case for the Scheme [APP-125] the socio-economic benefits of allowing the improvement works. Those benefits set out broadly include journey time savings and reliability, benefitting strategic housing growth and the economy.</p> <p>Alongside those stated benefits it is acknowledged NCC by way of representation welcomes opportunities for inclusive growth and social mobility to be included in the socio-economic opportunities for Norfolk.</p> <p>In that regard NNC is stated as seeking to work proactively with Highways England to encourage apprenticeships, work experience and internships being included at an appropriate stage in the project.</p> <p>Can the applicant provide further information about scope to formally secure apprenticeships and other employment opportunities for local people and the delivery mechanism?</p> <p>Interested parties are invited to comment if they deem it appropriate</p>	<p>The Applicant is willing to work with NCC to offer apprenticeships, work experience and other employment opportunities for local people. Work opportunities including apprenticeships for the local population are secured through the existing contractual obligations between the Applicant and its supply chain.</p> <p>However, this is not essential mitigation required to make the application acceptable in planning terms and therefore is not specifically secured within the dDCO.</p>

## 10. TRAFFIC AND TRANSPORT

Ref	Question to:	ExQ1 Question	Applicant's Comment
TT.2.1	Traffic Management <b>NCC</b> <b>SNDC</b> <b>The Applicant</b> <b>Interested Parties</b>	<p>i) Explain/clarify what formal provisions are available, in your view, for allowing the monitoring and/or regulation of operational traffic to ensure it would not lead to overly excessive volumes of vehicles using the new link road between Cantley Lane South and the B1172 (Norwich Road) rather than routes via the Thickthorn Junction, B1172, A11 or A47.</p> <p>ii) If the integration of roadside signage or markings on the road network would support cyclists also indicate that in your response or any other mechanism potentially available to support cycling activity.</p> <p>Interested parties are invited to comment if they deem it appropriate.</p>	<p>i) As detailed in the Case for the Scheme Section 4.8.16 (<b>APP-125</b>), the results of the NATs model indicate that the Scheme has a relatively minor impact on traffic flows on Cantley Lane South and the junction with the B1172 operates satisfactorily. As such, the Applicant does view that additional regulation measures are required.</p> <p>ii) The intention is to incorporate roadside signage and road markings for the proposed pedestrian and cycling facilities, which form part of the Scheme. The designs for the signage and markings will be developed at the detailed design stage of the Scheme, in accordance with Traffic Signs Manual and in consultation with Norfolk County Council. The detailed design of the final Scheme will be developed in consultation with the relevant planning authority prior to approval by the Secretary of State under Requirement 3 of the dDCO (<b>REP3-002</b>).</p>
TT.2.2	Public Rights of Way <b>The Applicant</b> <b>NCC</b> <b>SNDC</b> <b>Interested Parties</b>	<p>With respect to any other known planned initiatives which have not been submitted to the examination to further increase walking and cycling or public transportation improvements being considered locally and potentially complimentary to the scheme improvement within the application.</p> <p>Indicate those and any reasoning of how they provide complimentary benefits (if there are any).</p>	<p>The Applicant is aware of NCC's developing Local Cycling and Walking Infrastructure Plan for Norwich and have retained (and in some cases enhanced) public rights of way so that the scheme does not compromise the delivery of this draft plan.</p> <p>Alongside the scheme the Applicant is working with NCC to secure other potential opportunities to further enhance non-motorised travel in the area.</p>
TT.2.3	Public Rights of Way <b>The Applicant</b> <b>NCC</b> <b>SNDC</b> <b>Interested Parties</b>	<p>With regard to existing cycling and pedestrian routes in use by people in the local area.</p> <p>The Applicant/ NCC The ExA notes the cycle path signs/route along the B1172 (Norwich Road) and observed cyclists using the route heading from and to Wymondham/Hethersett areas via the B1172, over the Thickthorn Junction using pedestrian crossings at the junction and via Newmarket Road [EV-019]. The route eventually allows access to Norwich.</p> <p>i) Further explain/clarify how existing used cycle crossings/pedestrian facilities and routes would be supported by the improvement scheme. Confirm if the existing cycle route referred to</p>	<p>i) The existing cycle route which runs along the B1172 (Norwich Road) and through the Thickthorn Junction is not materially affected by the Scheme. However, the Scheme would improve the cycling experience for trips between Wymondham/Hethersett and Norwich by providing an alternative route across the A47 which follows the Cantley Lane Link Road, Cantley Lane South, the new WCH footbridge and Cantley Lane, thereby avoiding the need for cyclists to pass through Thickthorn Junction. Cyclists currently travelling between Cantley Lane South and Cantley Lane use the existing footbridge unlawfully to cross the A47. The new WCH footbridge to be provided by the Scheme would formalise the use of this route for cyclists.</p> <p>The existing cycle route along the B1172 will be maintained throughout the construction period and will remain available for use post construction.</p>

		<p>would still be possible both during construction and post construction.</p> <p>ii) Have local cycling groups or other relevant associations been adequately included for input about any implications for the use of the route, and in any ongoing discussions or consultation either by the applicant, or through informal channels available to NCC and SNDC in discussion with the applicant?</p> <p>iii) If not, what are the reasons?</p> <p><b>Interested Parties</b></p> <p>iv) Provide any comments you deem necessary.</p>	<p>ii) Local cycling groups and other relevant associations were invited to a Scheme update meeting on 10 September 2020, at which the emerging WCH strategy was presented/reviewed. Those in attendance included representatives from the Ramblers and Norwich Cycling Campaign.</p> <p>iii) N/A</p>
TT.2.4	<p>Public Rights of Way <b>The Applicant</b> <b>NCC</b> <b>SNDC</b> <b>Interested Parties</b></p>	<p>Again, with regard to existing cycling and walking routes in use by people and available in the local area.</p> <p>The Applicant/NCC/SNDC</p> <p>i) Can any further enhancements be identified to enable betterment to the existing cycling/pedestrian crossing facilities at the Thickthorn Junction itself giving passage to and from the B1172 and Newmarket Road?</p> <p>ii) Above DMRB standards and the applicants general design principles already being referred to have other national and local best practice standards been given full regard to, if not why?</p> <p>Responses to (i) should include not only function and safety considerations but also pleasantness/attractiveness levels with the aim of improving the desirability of the environment for cyclists and pedestrians using any infrastructure facilities being provided or enhanced through embedded design features by the scheme (having the NPPF also in mind).</p> <p>iv) set out how any provisions identified at (i) would be captured by the DCO.</p> <p><b>Interested Parties</b></p> <p>v) Provide any comments you deem necessary.</p>	<p>i) The Applicant was previously asked by Norfolk County Council (NCC) to consider an overbridge over the north facing slip roads to carry the Blue Pedalways route, thereby removing the need for pedestrians and cyclists to pass through the Thickthorn Junction.</p> <p>This opportunity was not progressed on the basis that the Scheme does not materially affect traffic conditions at the junctions of the slip roads with the existing Thickthorn roundabout and signal controlled Toucan crossing facilities are already provided.</p> <p>The Applicant notes that Cantley Lane South between the Cantley Lane Link Road and the new WCH overbridge will become a cul-de-sac. Future traffic flows will reduce as a result and the speed limit on this section of Cantley Lane South will be reduced to 20mph to promote road safety and improve conditions for WCH users as detailed in Section 4.13 for the Case for the Scheme (<b>APP- 125</b>).</p> <p>No additional enhancements on top of those set out in the Application documents are proposed by the Applicant.</p> <p>(ii) The Applicant has agreed the widths and standards for the side roads and the proposed WCH facilities within the Scheme with the local highway authority (Norfolk County Council) and we assume that in doing so NCC will have taken into account any local best practice standards</p> <p>iv) Please see the response to i)</p>
TT.2.5	<p>Public Rights of Way <b>Interested Parties</b> <b>Hethersett Parish Council</b></p>	<p>The ExA notes NCC maintains its position insofar as it does not support classification of the new link road as a B class road [REP1-008 and REP3-022]. It is acknowledged that NCC also welcomes the applicant's statement (in the Hearings) that it will be led by the county council in respect of the classification of the new link road. This will be reflected in the Statement of Common Ground as confirmed by parties.</p> <p>Applicant/NCC</p> <p>i) Should there be any change of position during the course of the examination this must be made clear at the earliest opportunity (no later than deadline 5).</p> <p><b>Interested Parties/Hethersett Parish Council</b></p> <p>ii) Provide any comments you deem necessary.</p>	N/A
TT.2.6	<p>Work No.29 <b>The Applicant</b> <b>NCC</b> <b>SNDC</b> <b>Interested Parties</b></p>	<p>Taking into account the additional submission AS-015 referring to Work 29. The ExA has viewed the junction at Station Lane and the A11.</p> <p><b>Applicant/NCC/SNDC</b></p> <p>i) Do you have any response/comments on the safety implications being raised in relation to the use of the junction during construction stages and also assuming the DCO is granted, the operation of the road network which would</p>	<p>i)The primary impact the A47/A11 Thickthorn Junction scheme will have on the operation of the existing exit from the A11 onto Station Lane is the removal of peak hour traffic queuing on approach to the A47/A11 Thickthorn Gyratory. Accident data from the last 10 years does not demonstrate that vehicles exiting the A11 onto Station Lane have been involved in reported injury road traffic collisions. There have been four recorded collisions in the vicinity of the junction in the 10 year period from 2010 to 2019 inclusive, two serious and two slight. None of these accidents are deemed to be related to vehicles exiting the A11 onto Station Lane. As such, additional works to</p>

		<p>be apparent post such consent?</p> <p>ii) If further safety risk improvements can be identified please specify those.</p> <p><b>Interested Parties</b></p> <p>iii) Provide any further comments you deem necessary.</p>	<p>the existing layout of the exit from the A11 onto Station Lane North are not deemed to be within the scope of the current A47/A11 Thickthorn Junction Improvement scheme.</p> <p>A merge taper for vehicles entering the A11 dual carriageway from Station Lane has been included in the scheme proposals as a GG104 safety risk assessment of the junction highlighted the potential minor risk of side swipes and rear end shunts related to vehicle joining the A11, due to the relative proximity of the proposed A11/A47 connector road, and a further GG104 safety risk assessment identified that the merge taper included in the Scheme design provides the greatest risk benefit.</p> <p>A traffic survey was undertaken in July 2020 to collect data on the volumes of traffic using the Station Lane North junction, which was used to inform the traffic modelling and performance of the proposed Station Lane North/A11 entry taper that is included in the current proposals</p> <p>During the development of the Scheme proposals, several additional options at the Station Lane North junction were investigated and discounted by the Applicant.</p> <ul style="list-style-type: none"> <li>• Stopping up the access entirely and reopening the access onto the B1172 is not deemed to be viable due to existing Station Lane north of the current cul-de-sac not being suitable for HGV vehicles, and the impact of increased traffic on the residential properties north of the stoppage.</li> <li>• Maintaining the access from the A11 and opening up access from the B1172 was also discounted for the same reasons, and also the likelihood of road users using the route as a 'rat run' between Hethersett and the A11.</li> </ul> <p>To improve driver awareness, junction warning signs 305m in advance of the junction in the verge and central reserve will be provided in conjunction with 'SLOW' warning road marking at the location of the signs. Advanced direction signage for the A11/A47 connector road will be placed 270m downstream of the Station Lane junction exit, to avoid confusion and road users misinterpreting the Station lane exit for the A47 link road diverge.</p> <p>During construction, temporary traffic management will be employed as necessary to maintain the safe operation of the network. Access and egress from Station Lane North will be maintained.</p> <p>ii) The Applicant does not deem that any additional improvements beyond those currently included in the Scheme are required.</p>
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## APPENDIX A



Department  
for Transport

# Highways England: Licence

*Secretary of State for Transport statutory directions  
and guidance to the strategic highways company*

April 2015

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# Foreword

In setting up Highways England as an arms-length, government-owned company, delivering a long term plan framed by Government's clear vision, and sustained by stable investment, an independent monitor and a user watchdog, we have fundamentally transformed the way our strategic roads are run.

This change means better long-term planning, more efficient delivery, greater transparency, clearer accountability and ultimately a better service for the people and businesses that use and rely on the network on a daily basis.

Government remains responsible for strategic roads and Ministers will continue to be accountable for making sure that the network is managed responsibly, in a way that safeguards value for public investment, meeting the needs of road users, securing individual well-being and supporting economic purpose, both today and for future generations. We have put in place a robust system of governance that ensures we can effectively oversee management and delivery, and intervene to prevent or tackle any failures.

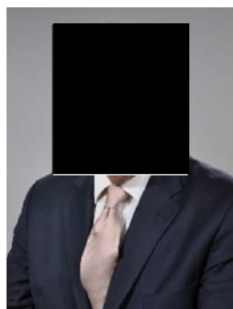
This document represents a crucial part of that system, by setting out the Secretary of State's statutory directions and guidance to Highways England. It makes clear, to both Highways England and the wider community of road users and stakeholders, what we expect Highways England to achieve and how they must behave in discharging their duties and in delivering our vision and plans for the network, set out in the Road Investment Strategy.

The Licence emphasises that the role of Highways England is about more than just complying with the letter of the law. We expect the company to go the extra mile in the way it engages with road users and collaborates with other organisations to develop shared solutions. And they must take a lead in promoting and improving the role and performance of roads in respect of broader communal responsibilities, such as the aesthetics of design, safety and the environment, as well as driving forward wider progress on technology and innovation.

Our reforms are more than a technical change, they are an opportunity to catalyse and drive forward a genuine transformation of the network over the long term. The Licence has a vital role to play in shaping the culture of Highways England and so shift the way we think about how our strategic roads are managed and developed.



**The Rt Hon John Hayes MP**  
Minister of State for Transport



# Part 1 - Scope

- 1.1** The Secretary of State has appointed Highways England Company Limited (the "Licence holder") as a strategic highways company by way of an Order in accordance with section 1 of the Infrastructure Act 2015. The effect of this appointment is to confer upon the Licence holder the legislative functions of a strategic highways company as regards the areas and highways in respect of which it is appointed. As a result, the Licence holder will be the highway authority, traffic authority and street authority for the strategic road network.
- 1.2** This Licence shall come into force on 1 April 2015 and shall continue in force unless and until revoked in accordance with the conditions of this Licence.

## Part 2 - Interpretation

**2.1** This document includes both statutory directions and statutory guidance issued by the Secretary of State to the Licence holder, as provided for in section 6 of the Infrastructure Act 2015. Directions must be complied with by the Licence holder. In the interests of clarity, in this document the statutory directions are indicated by use of the word “**must**” (where marked in bold). All other parts of the document should be considered statutory guidance.

**2.2** In this Licence:

"Activities"	means the functions carried out by the Licence holder in meeting its obligations and exercising its role as a strategic highways company appointed by the Secretary of State under section 1 of the Infrastructure Act 2015;
"Appointment Order" or "the appointment"	means the Appointment of a Strategic Highways Company Order 2015 (S.I.2015/376);
"Conditions" or "Licence conditions"	means the directions and guidance issued by the Secretary of State to the Licence holder under section 6 of the Infrastructure Act 2015 set out in this Licence;
"Consultation"	means consultation or engagement proportionate to the circumstances in accordance with government guidance on consultation principles <sup>1</sup> ;
"Enforcement Policy"	means the Highways Monitor's policies that secure the Licence holder's compliance with the requirements of the Road Investment Strategy and the Licence.
"Highways Monitor"	means the organisation established under section 15 of the Railways and Transport Safety Act 2003, as amended, which will be responsible for monitoring the costs, efficiency and performance of the company.
"Licence holder's network" or "the network"	means the highways for which the Licence holder is appointed, as set out in the Appointment Order;
"Relevant assets"	means the Licence holder's network and other assets held by the Licence holder for the purposes of operating, managing and improving the highways for which the Licence holder is responsible;

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<sup>1</sup> [REDACTED]

"Road Investment Strategy"	means any Road Investment Strategy set by the Secretary of State under section 3 of the Infrastructure Act 2015;
"Route"	A route is a strategic corridor through which strategic road network traffic flows between economically and socially associated centres of population and industry, and/or between strategic points of entry to and from overseas markets, such as ports and airports, and destinations;
"Transport Focus"	means the organisation established under section 19 of the Railways Act 2005, as amended, which will be responsible for representing and promoting the interests of users of the strategic road network;
"Secretary of State"	means the Secretary of State for Transport, or those acting on his behalf;
"Strategic highways company"	means a company appointed by the Secretary of State by way of an Order in accordance with section 1 of the Infrastructure Act 2015;
"Whole-life cost"	means the total cost of ownership over the life of an asset.

- 2.3** Any reference in this Licence to a numbered paragraph is a reference to the paragraph bearing that number in the condition in which the reference occurs.
- 2.4** In interpreting this Licence, headings shall be disregarded.
- 2.5** Where in this Licence the Licence holder is required to comply with any obligation within a specified time limit, the Licence holder **must** comply with the obligation notwithstanding that the time limit has passed, and must do so as soon as practicable.

## Part 3 - General conditions

- 3.1** The Licence holder **must**, without prejudice to the Licence holder's legal duties or other obligations, comply with or have due regard to (as appropriate) the conditions set out in this document, which constitute statutory directions and guidance issued by the Secretary of State to the Licence holder as provided for in section 6 of the Infrastructure Act 2015.
- 3.2** It is not intended that these conditions should be incompatible with other legal duties or statutory guidance, though they may affect the manner in which certain functions (including statutory functions) are discharged.
- 3.3** If the Licence holder becomes aware of any incompatibility between the Licence and its other legal duties, it **must** notify the Secretary of State and the Highways Monitor immediately.
- 3.4** Where in this Licence there is a provision for the Secretary of State to give his consent, the Secretary of State may give such consent subject to conditions<sup>2</sup>.
- 3.5** The Secretary of State may make changes to this Licence at any time, but does not intend to do so without first consulting the Licence holder and the Highways Monitor, taking into consideration any advice or representations duly made.
- 3.6** Where in this Licence there is a provision for the Secretary of State to give a notice or to issue further directions or guidance to the Licence holder, the Secretary of State may first consult the Licence holder and take into consideration any representations duly made. The Secretary of State will notify the Highways Monitor of any such directions or guidance.
- 3.7** The Secretary of State may also issue additional directions and guidance to the Licence holder at any time, ensuring that such directions and guidance are made known to the Highways Monitor and published in accordance with section 6 of the Infrastructure Act 2015. The Licence holder **must** report on its progress in carrying out such directions and advice, as required by the Secretary of State.
- 3.8** Where any amendments to or the issuing of additional directions and guidance to the Licence holder by the Secretary of State under 3.6 or 7 would result in a significant impact on the ability of the Licence holder to fund or deliver its activities, the Secretary of State will consider making a proportionate change in the requirements on the Licence holder or the funding made available by the government.
- 3.9** Any significant alteration in the size of the network for which the Licence holder is the highway authority will be accompanied by consideration of a proportionate change in the requirements on the Licence holder or the funding made available by the government.

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<sup>2</sup> This includes where Secretary of State consent may be conditional on any necessary approvals from other parts of government.

**3.10** Any consideration of a significant change in the requirements on the Licence holder or the funding made available by the government, including under the circumstances described in 3.5 - 3.9, will be subject to the formal processes for considering changes to the Road Investment Strategy, as set out in Part 6.

## Part 4 - Aims and objectives

- 4.1** The network for which the Licence holder is responsible is a critical national asset, which the Licence holder **must** operate and manage in the public interest, in respect of both current activities and needs and in providing effective stewardship of its long-term operation and integrity.
- 4.2** Without prejudice to the general duties on the Licence holder under section 5 of the Infrastructure Act 2015, the Licence holder **must**, in exercising its functions and complying with its legal duties and other obligations, act in a manner which it considers best calculated to:
- a. Ensure the effective operation of the network;
  - b. Ensure the maintenance, resilience, renewal, and replacement of the network;
  - c. Ensure the improvement, enhancement and long-term development of the network;
  - d. Ensure efficiency and value for money;
  - e. Protect and improve the safety of the network;
  - f. Cooperate with other persons or organisations for the purposes of coordinating day-to-day operations and long-term planning;
  - g. Minimise the environmental impacts of operating, maintaining and improving its network and seek to protect and enhance the quality of the surrounding environment;
  - h. Conform to the principles of sustainable development.
- 4.3** For the purposes of this section, "sustainable development" means encouraging economic growth while protecting the environment and improving safety and quality of life for current and future generations.

# Part 5 - Exercising the role of a strategic highways company

## Effective operation

- 5.1** In complying with 4.2(a) and relevant statutory duties, including the general duties relating to network management under the Traffic Management Act 2004, the Licence holder should:
- a. Seek to minimise disruption to road users that might reasonably be expected to occur as a result of:
    - i. Planned disruption to the network (including from road works);
    - ii. Unplanned disruption to the network (including from incidents on the network and the short-term effects of extreme weather conditions)
  - b. Proactively and reactively provide relevant, accurate and timely information about traffic and conditions on the network to road users, including when there is disruption.
- 5.2** When seeking prior authorisation from the Secretary of State of any non-prescribed traffic sign before it is erected on the network, in accordance with sections 64 and 65 of the Road Traffic Regulation Act 1984, the Licence holder should:
- a. Do so in line with any relevant procedures or guidance that the Secretary of State may specify by notice or in guidelines to the Licence holder;
  - b. Consider any non-prescribed traffic sign previously authorised by the Secretary of State for use on the strategic road network as already authorised;
  - c. Consider initial authorisation of a new non-prescribed traffic sign by the Secretary of State for use on the network to also cover any subsequent uses of the same sign on the network, without the need for further authorisation unless otherwise indicated by the Secretary of State.
- 5.3** The Licence holder **must not** display messages on the road network that do not relate to the Licence holder's statutory responsibilities or the wider management of the road network.

## Maintenance, resilience, renewal, and replacement

- 5.4** In complying with 4.2(b), the Licence holder should take all reasonable steps to ensure the continued availability and resilience of the network as a strategic artery for national traffic, and as an effective part of the wider road and transport system.



- 5.5** The Licence holder **must** demonstrate in the Delivery Plan how it aims to comply with the general duty to maintain highways in section 41 of the Highways Act.

## Improvement, enhancement and long-term development

- 5.6** In complying with 4.2(c), and Part 6 of the Licence, the Licence holder **must**:
- a. Cooperate with the Secretary of State in developing Road Investment Strategies, including taking the necessary steps to deliver any elements or information required for the development of future strategies;
  - b. Establish and maintain a clear understanding of the pressures upon and impacts of its network at both a national and route level (including in the preparation of route strategies, as required at 5.13), and be aware of the actions needed to improve conditions for users, and manage or mitigate existing problems, to inform the future development and improvement of the network and its performance;
  - c. Provide for sufficient flexibility and future-proofing in planning the long-term development and improvement of the network, taking account of long-term trends, uncertainties and risks - including new and emerging technologies and long-term trends in climate and weather conditions.
- 5.7** The Licence holder may carry out relevant research, development, demonstration and deployment of innovative technologies and applications in line with, and as a function of, the Licence holder's role as a strategic highways company, and is authorised to conduct experiments or trials under section 283 of the Highways Act 1980.
- 5.8** In carrying out any activities referred to in 5.7, including under section 283 of the Highways Act 1980, the Licence holder **must**:
- a. Agree its strategic plans for research, development, demonstration and deployment of innovative technologies and applications, including any experiments or trials which may have significant implications for user safety or government policy, with the Secretary of State;
  - b. Publish its plans for research, development, demonstration and deployment of innovative technologies and applications, as well as any final results from such activities; and
  - c. Where relevant, assist and co-operate with the Government on wider research, development and demonstration activities.

## Asset management

- 5.9** The Licence holder **must** develop and maintain high quality and readily accessible information about the assets held, operated and managed by the Licence holder in line with, and as a function of, the Licence holder's

legal duties as a highway authority, including their condition, capability, and capacity, as well as their performance, including against any expectations set out in a Road Investment Strategy.

- 5.10** The Licence holder **must** develop, maintain and implement an asset management policy and strategy, taking into account the requirements of 5.12 - to be initially published to timescales specified in the Licence holder's Delivery Plan - setting out how it will apply a best practice approach to managing the lifecycle of its assets, including maintaining a registry of its asset inventory and condition.
- 5.11** In complying with 5.9 and 5.10, the Licence holder should adopt a long-term approach to asset management consistent with ISO 55000 standards.

## Efficiency and value for money

- 5.12** In complying with 4.2(d), the Licence holder **must**:
- a. Adopt a Whole-life cost approach to managing its assets;
  - b. When presented with a significant choice between bearing short-term costs and increasing long-term costs, appraise the different options in line with relevant government policy and guidance to determine which represents the best overall value for money;
  - c. Ensure that it has in place robust internal arrangements to achieve, and to demonstrate how it has achieved, value for money;
  - d. Have due regard to circumstances in which it may be appropriate to carry out additional work as part of proposals where these can reduce or eliminate long-term costs or disruption to the network.

## Route strategies

- 5.13** In accordance with section 4 of the Infrastructure Act 2015, the Licence holder **must** periodically prepare and publish route strategies covering the whole of the network, to develop and maintain an appropriate evidence base on the state and performance of the network, and issues affecting these, to inform the setting of Road Investment Strategies (as set out in Part 6) and the Licence holder's ongoing management and development of the network when planning and carrying out its activities.
- 5.14** In preparing route strategies under 5.13 the Licence holder **must**:
- a. Agree the process and timescales for preparing route strategies with the Secretary of State, including the definition of routes on the network;
  - b. Publish the process for preparing route strategies;
  - c. Identify current performance issues and future challenges for all routes on the network;
  - d. Establish outline operational and investment priorities for all routes on the network;

- e. Take account of relevant local plans and priorities concerning local road and other transport networks, wider socio-economic developments, and government policy;
- f. Consider the need for effective integration between the Licence holder's network and the rest of the transport system, including carrying out joint studies with other organisations where appropriate;
- g. Engage with and take account of the views of relevant national and local stakeholders, including those organisations or groups identified at 5.18;
- h. Engage with and take account of the views of Transport Focus and the Highways Monitor;
- i. Identify indicative options for intervention, covering operational, maintenance and, if appropriate, road improvement needs;
- j. Consider opportunities for collaborative solutions, including potential interventions off the Licence holder's network, that can improve the performance of the network and provide increased integration benefits over those that the Licence holder can achieve alone, where this delivers value for money;
- k. Include sufficient evidence to allow the Secretary of State to take informed decisions on the development of a future Road Investment Strategy – including preliminary assessments of deliverability and value for money of any proposed road improvement schemes.

## Safety

- 5.15** In complying with 4.2(e) and its general duty under section 5(2) of the Infrastructure Act 2015 to have regard to safety, the Licence holder should, when exercising functions related to safety, have due regard to the need to protect and improve the safety of the network as a whole for all road users, including:
- a. Ensuring that protecting and improving safety is embedded into its business decision-making processes and is considered at all levels of operations;
  - b. Seeking to achieve the best possible safety outcomes across its activities, while working in the context of sustainable development and delivering value for money; and
  - c. Taking opportunities to engage with and support wider efforts to improve safety for road users.
- 5.16** The Licence holder **must** develop and implement strategic plans that demonstrate how it will meet its legal duties and other obligations with regard to safety, including the requirements of 5.15, to be published to timescales specified in the Licence holder's Delivery Plan.

## Cooperation

- 5.17** In complying with 4.2(f) and its general duty to cooperate under section 5(1) of the Infrastructure Act 2015, the Licence holder should co-operate with other persons or organisations in order to:
- a. Facilitate the movement of traffic and manage its impacts;
  - b. Respond to and manage planned and unplanned disruption to the network;
  - c. Take account of local needs, priorities and plans in planning for the operation, maintenance and long-term development of the network (including in the preparation of route strategies, as required at 5.13);
  - d. Provide reasonable support to local authorities in their planning and the management of their own networks.
- 5.18** In complying with 5.17, the Licence holder should cooperate with, consult and take reasonable account of the views of:
- a. Local authorities and devolved administrations;
  - b. Other transport network operators (including local highway authorities, Network Rail, port and airport operators);
  - c. Operational partners (including, but not limited to, the emergency services);
  - d. Road users;
  - e. Local communities;
  - f. Other relevant stakeholders with a significant stake in the long-term development of the network.
- 5.19** In complying with 5.17 and 5.18, the Licence holder should co-operate with other persons or organisations in a way which is demonstrably:
- a. Open and transparent – involving relevant stakeholders, ensuring that essential information is available to affected and interested parties, and that the processes for engagement and communication are clear;
  - b. Positive and responsive – seek to build trusting and effective working relationships with key partners and stakeholders, engaging with due efficiency and economy and in a timely manner;
  - c. Collaborative – working with others to align national and local plans and investments, balance national and local needs and support better end-to-end journeys for road users.
- 5.20** The Licence holder **must** cooperate with and assist Transport Focus and the Highways Monitor to support the fulfilment of their statutory functions and must formally agree working practices with the respective organisations to facilitate this.
- 5.21** The Licence holder **must** develop and implement a stakeholder engagement plan that demonstrates how it aims to communicate, engage and cooperate with others in exercising its functions and complying with the requirements set out in 5.17 - 5.19, to be published to timescales specified in the Licence holder's Delivery Plan.

- 5.22** The Licence holder **must** establish a stakeholder advisory panel to provide advice to the Licence holder's Board on issues directly affecting local authorities and communities, and ensure that:
- a. The membership of the panel includes representation from a credible range of local government and other stakeholders, including environmental and safety groups, as appropriate;
  - b. The Licence holder seeks advice from the panel on a regular basis.

## Environment

- 5.23** In complying with 4.2(g) and its general duty under section 5(2) of the Infrastructure Act 2015 to have regard to the environment, the Licence holder should:
- a. Ensure that protecting and enhancing the environment is embedded into its business decision-making processes and is considered at all levels of operations;
  - b. Ensure the best practicable environmental outcomes across its activities, while working in the context of sustainable development and delivering value for money;
  - c. Consider the cumulative environmental impact of its activities across its network and identify holistic approaches to mitigate such impacts and improve environmental performance;
  - d. Where appropriate, work with others to develop solutions that can provide increased environmental benefits over those that the Licence holder can achieve alone, where this delivers value for money;
  - e. Calculate and consider the carbon impact of road projects and factor carbon into design decisions, and seek to minimise carbon emissions and other greenhouse gases from its operations;
  - f. Adapt its network to operate in a changing climate, including assessing, managing and mitigating the potential risks posed by climate change to the operation, maintenance and improvement of the network;
  - g. Develop approaches to the construction, maintenance and operation of the Licence holder's network that are consistent with the government's plans for a low carbon future;
  - h. Take opportunities to influence road users to reduce the greenhouse gas emissions from their journey choices.
- 5.24** The Licence holder **must** develop and implement strategic plans that demonstrate how it aims to meet its legal duties and other obligations with regard to the environment, including the requirements of 5.23, to be published to timescales specified in the Licence holder's Delivery Plan.

## Sustainable development and design

- 5.25** In complying with 4.2(h), the Licence holder should balance a range of factors in meeting the short and long-term needs of the network, in particular with regard to:
- a. Supporting national and local economic growth and regeneration;
  - b. Protecting and improving the safety of road users and road workers;
  - c. Protecting, managing and enhancing the environment;
  - d. Seeking to improve the well-being of road users and communities affected by the network;
  - e. Ensuring efficiency and value for money.
- 5.26** In exercising its functions, the Licence holder **must** have due regard to relevant principles and guidance on good design, to ensure that the development of the network takes account of geographical, environmental and socio-economic context.
- 5.27** The Licence holder **must** establish a Design Panel to provide advice to the Licence holder on design issues, and in doing so ensure that:
- a. The membership of the Design Panel includes representation from credible experts and relevant stakeholders, as appropriate;
  - b. The Licence holder seeks, and has due regard to, the views of the Secretary of State concerning the purpose, remit and membership of the Design Panel;
  - c. The Licence holder seeks advice from the Design Panel:
    - i. on the design of road improvement schemes, where these are in sensitive locations or expected to have a substantial impact on the surrounding landscape;
    - ii. on the development of relevant design standards concerning the visual impact of schemes; and
    - iii. at any other time where required by the Secretary of State.
  - d. The Licence holder has due regard to the advice and general recommendations of the Design Panel, and the particular observations of the Panel on specific schemes.
- 5.28** The Licence holder **must** develop and implement strategic plans that demonstrate how, in meeting its legal duties and other obligations, it aims to support and promote sustainable development, with particular regard to those factors specified in 5.25, and principles of good design, to be published to timescales specified in the Licence holder's Delivery Plan.

## Government policy

- 5.29** In exercising its role as a strategic highways company and complying with the requirements in Part 4, the Licence holder **must** comply with or have due regard to relevant Government policy, as advised by the

Secretary of State, with full regard to any implications for the Licence holder's ability to deliver the Road Investment Strategy.

- 5.30** For the purposes of this section, "relevant Government policy" means all current policies which:
- a. Relate to the activities of the Licence holder, and
  - b. Have been:
    - i. Published in England by or on behalf of Her Majesty's Government, or
    - ii. Indicated to the Licence holder by the Secretary of State.

## Standards, specifications and guidance

- 5.31** In carrying out its activities, the Licence holder **must** have due regard to any guidance, standards or specifications relevant to its statutory or other functions. This includes being mindful of where new standards or specifications are developing and seeking to ensure that new projects are brought into line.
- 5.32** In the event that the Licence holder departs from relevant statutory guidance, standards or specifications, the Licence holder **must** clearly record the justification for the departure, explaining why the provisions were not appropriate and (where applicable) how the alternative approach seeks to achieve the same outcomes through different means.

## Planning

- 5.33** In addition to any requirements imposed by planning legislation, the Licence holder **must** take reasonable steps to assist those seeking to make planning applications for which the Licence holder is likely to be a statutory consultee under the Town & Country Planning (development management procedure) (England) Order 2010.
- 5.34** Where the Licence holder is consulted by a local planning authority in light of its responsibilities as a statutory consultee under the Town & Country Planning (development management procedure) (England) Order 2010, and where the Licence holder chooses to comment on an application, it **must** make clear which of its comments are:
- a. Information: intended to provide a general context the decision of the local planning authority; or
  - b. Formal recommendations: where, should the local planning authority be minded to disagree with a recommendation of the Licence holder, the Licence holder will put its recommendation to the Secretary of State to take a view.
- 5.35** In the event that the Licence holder makes a formal recommendation as described in 5.34(b), it **must** inform the Secretary of State at the earliest opportunity, ahead of any decision by the local planning authority, unless the Secretary of State waives this right. This information is in addition to any requirements made through the development management regime.
- 5.36** The Licence holder **must**, in making decisions under section 175B of the Highways Act about permission for any new connections to its network:

- a. Unless otherwise directed by the Secretary of State, consider granting permission in light of the nature of the road in question and the consequences of the new connection, having particular regard to:
  - i. In the case of sections of the network designed for high-speed traffic, with partially or comprehensively limited access, there should be a presumption against connection, except where it can be provided safely and where there is a demonstrable benefit to the economy;
  - ii. On all other sections of the network there should be a presumption in favour of connection, except where a clear case can be made to prohibit connection on the basis of safety or economic impacts.
- b. Include its section 175B decision in its consultation response to the local planning authority whenever it is consulted about a development which requires consent under that section.

## Land and property

- 5.37** The Licence holder **must** hold and manage land and property in line with, and as a function of, the Licence holder's legal duties as a highway authority, and solely for the purposes of operating, managing and improving the highway, unless otherwise approved by the Secretary of State.
- 5.38** The Licence holder **must** establish, maintain and ensure ready access to all appropriate records relating to the purchase, sale, maintenance and condition of all land and property owned, held, used or occupied by the Licence holder and show how these are being or will be managed. This includes where compulsory purchase proceedings have (or are proposed to be) commenced.

## Commercial activity and charging for services

- 5.39** The Licence holder may charge for ancillary services where the law allows, on a non-discriminatory and cost-recovery basis, providing either:
- a. Secretary of State, in his previous role as highway authority for the network, charged for or carried out the activity on a cost recovery basis; or
  - b. The Secretary of State has agreed to the introduction of new charges.
- 5.40** The Licence holder **must not** introduce any other new charges, expand the application or scope of any existing charges, undertake commercial services for profit, or form any subsidiary companies or joint ventures that generate profit, without approval from the Secretary of State.
- 5.41** Any introduction of new charges or new commercial services by the Licence holder, where the necessary government approvals - including those required by 5.39(b) or 5.40 - have been granted, **must** be in line with relevant government guidance.



**5.42** The Licence holder **must not** receive commercial sponsorship or paid advertising without approval from the Secretary of State.

# Part 6 - Setting and varying the Road Investment Strategy

## Introduction

- 6.1 The Secretary of State may at any time set a Road Investment Strategy (RIS) for a strategic highways company, or vary a RIS that has already been set.
- 6.2 A RIS is to relate to such period ('Road Period') as the Secretary of State considers appropriate. For each RIS, the Secretary of State will determine the Road Period and set the timetable for developing and agreeing the RIS.
- 6.3 A RIS must specify the requirements to be delivered by the Licence holder during the Road Period to which it relates and the funding to be provided by the Secretary of State in order to deliver those requirements. Such requirements may include activities to be performed, results to be achieved and standards to be met.
- 6.4 The Licence holder **must** co-operate with the Secretary of State to reach an agreed position on a RIS and comply with the processes for setting and varying a RIS.
- 6.5 In the event that, for any reason, there is no current RIS in effect (for example, due to a delay between one RIS expiring and the commencement of a subsequent agreed RIS), the Licence holder **must** continue to comply with its legal obligations and the requirements set out in this Licence, as well as any further directions issued by the Secretary of State, until a new RIS has been agreed and comes into effect.

## Setting the Road Investment Strategy

### Step 1: The Strategic Road Network (SRN) Initial Report

- 6.6 Once informed of the Road Period by the Secretary of State, the Licence holder **must** prepare and provide to the Secretary of State a SRN Initial Report to inform the preparation of a draft Road Investment Strategy by the Secretary of State.
- 6.7 In producing a SRN Initial Report, the Licence holder **must** include:
  - a. An assessment of the current state of the network and user needs from it;
  - b. Potential maintenance and enhancement priorities; and
  - c. Future developmental needs and prospects.
- 6.8 In producing a SRN Initial Report, the Licence holder **must**:
  - a. Comply with the timetable set by the Secretary of State;
  - b. Take account of the evidence developed through the preparation of route strategies, as required at 5.13;

- c. Consider the need for effective integration between the Licence holder's network and the rest of the transport system;
- d. Engage with and take account of the views of relevant local and national stakeholders, including those organisations or groups identified at 5.18;
- e. Engage with and take account of the views of Transport Focus and the Highways Monitor;
- f. Take into account any directions and guidance that the Secretary of State may specify in relation to producing a SRN Initial Report by notice or in guidelines to the Licence holder; and
- g. Publish the SRN Initial Report.

**6.9** As soon as possible following publication of the SRN Initial Report by the Licence holder, the Secretary of State will conduct a consultation on the SRN Initial Report.

### **Step 2: The Secretary of State's proposals and Draft RIS**

- 6.10** The Secretary of State's response to the consultation referred to at 6.9 will include proposals for a Road Investment Strategy (the 'Draft RIS').
- 6.11** The Draft RIS will include details of the requirements to be delivered by the Licence holder along with the financial resources to be provided by the Secretary of State for the purpose of delivering those requirements, and the intended Road Period to which the proposals relate.
- 6.12** The Highways Monitor will assess the Draft RIS and provide advice to the Secretary of State, in accordance with the timetable set by the Secretary of State, on whether the Secretary of State's proposed requirements are challenging and deliverable with the proposed financial resources.
- 6.13** The Licence holder **must** assist the Highways Monitor in their assessment of the Draft RIS, including providing any additional information as necessary.
- 6.14** The Secretary of State, having taken account of advice from the Highways Monitor, will submit to the Licence holder:
- a. A Draft RIS;
  - b. As part of the Draft RIS, a statement of his or her general strategy in respect of highways for which the Licence holder is the highway authority;
  - c. Any other information in support of the Draft RIS as the Secretary of State considers appropriate;
  - d. A clear timescale within which the Licence holder is required to respond with a Draft Strategic Business Plan.

### **Step 3: The Company's Draft Strategic Business Plan (SBP)**

**6.15** The Licence holder **must** respond to the Draft RIS issued by the Secretary of State in the form of a draft Strategic Business Plan (the 'Draft SBP'), detailing its plans for delivering the requirements set out in the Road Investment Strategy, for the whole period of that RIS.

- 6.16** In providing a Draft SBP to the Secretary of State, the Licence holder **must**:
- a. Clearly indicate whether the Licence holder agrees to the proposals in the Draft RIS, or make counter-proposals;
  - b. Take into account any directions and guidance that the Secretary of State may specify in relation to producing a SBP by notice or in guidelines to the Licence holder;
  - c. Engage with and take account of the views of the Highways Monitor;
  - d. Submit the Draft SBP to the Secretary of State within the specified timescales.

#### **Step 4: The Efficiency Review**

- 6.17** The Highways Monitor will assess the Draft SBP and provide advice to the Secretary of State, in accordance with the timetable set by the Secretary of State, on whether the Licence holder's proposed requirements are deliverable with the proposed financial resources, and the extent to which the Draft SBP is challenging and deliverable, including with regard to the levels of efficiency the Licence holder proposes to achieve.
- 6.18** The Licence holder **must** assist the Highways Monitor in their assessment of the Draft SBP, including providing any additional information as necessary.

#### **Step 5: Finalising the RIS and the SBP**

- 6.19** Following the Efficiency Review the Secretary of State, taking account of the advice of the Highways Monitor, will do one of the following:
- a. Approve the Draft SBP and finalise the RIS;
  - b. Direct the Licence holder to make revisions to the Draft SBP before granting approval; or
  - c. Produce a revised Draft RIS, at which point the Secretary of State and the Licence holder will follow the process as specified above between 6.14 and 6.16 in order to reach a mutually agreed position on a final RIS and a final SBP.
- 6.20** If necessary, the Secretary of State will request additional advice from the Highways Monitor on revised versions of the Draft RIS and/or the Draft SBP to facilitate their finalisation.
- 6.21** Once both the Draft RIS and Draft SBP have been finalised, they **must** be published by the Secretary of State and the Licence holder respectively.
- 6.22** In the event that the Secretary of State and the Licence holder fail to reach a mutually agreed position on the Draft RIS and/or the Draft SBP within the timetable set by the Secretary of State, the Secretary of State retains the right to determine the content of a final RIS and/or SBP.

## Step 6: Mobilisation

- 6.23 Once the RIS has been finalised and the SBP finalised or determined, the Licence holder **must** take appropriate steps in advance of the next Road Period commencing to ensure that it is ready to undertake delivery of the RIS from the start of that period, including preparing a Draft Delivery Plan setting out the details of how the Licence holder aims to deliver the final SBP and submitting it to the Secretary of State for approval.
- 6.24 In preparing a draft Delivery Plan, the Licence holder **must** engage with and take account of the views of the Highways Monitor on the format and level of detail of the Delivery Plan to facilitate reporting arrangements.

## Step 7: Delivery

- 6.25 Following approval of a Draft SBP and Draft Delivery Plan by the Secretary of State, and his issuing of a final RIS, the Licence holder **must** publish and deliver the final SBP and the associated Delivery Plan.
- 6.26 The Licence holder **must** report to the Highways Monitor on progress in delivering requirements set out in the final SBP and Delivery Plan on an annual basis, submitting a draft report to the Highways Monitor for approval (providing a copy to the Secretary of State), following which the Licence holder **must** publish the final report.
- 6.27 The Licence holder **must** update its Delivery Plan on an annual basis, submitting a draft update of the Delivery Plan to the Secretary of State for approval. Subject to the Secretary of State being satisfied that the update is consistent with, and contains no material revisions to, the original Delivery Plan, the Licence holder **must** publish the updated Delivery Plan.

## Varying the Road Investment Strategy

- 6.28 The Secretary of State is able to vary a RIS once it has been agreed, and the Licence holder may also request a change to the RIS.
- 6.29 Small-scale changes to the RIS, beyond minor refinements that are within the Licence holder's discretion, will be handled through a formal change control process. Major variations, which would affect the Licence holder's overall funding, have a material effect on the integrity of the RIS or otherwise compromise the Licence holder's ability to comply with the RIS, would require the RIS to be re-opened.
- 6.30 In considering or proposing any variation of a RIS, the Secretary of State and the Licence holder **must** have due regard to the desirability of maintaining certainty and stability in respect of the existing RIS.

## Change control

- 6.31 Small-scale changes to the RIS, which do not have a bearing on the overall funding envelope and do not materially affect the integrity of the RIS (including small-scale additions to the RIS, as at 6.32), will be subject to a formal change control process, as described at 6.32 – 6.36.
- 6.32 In the event that the Secretary of State considers that a small-scale change to the detail of an objective set out in the RIS may be necessary

(for example, a change to the way in which a particular objective is measured, or a change to the nature of a project identified in the RIS Investment Plan), he will notify the Licence holder, the Highways Monitor and Transport Focus. Where the Secretary of State is seeking additions beyond the current RIS, such as additional schemes or further metrics or indicators, the Secretary of State will consider making a proportionate increase in the funding made available by government to the Licence holder to deliver these, along with the existing RIS requirements.

- 6.33** In the event that the Licence holder requests a small-scale change to the RIS, or identifies that a specific project in the RIS Investment Plan may need to be replaced (due to a deterioration in the business case or difficulties in obtaining relevant consents) the Licence holder **must** provide sufficiently detailed proposals and supporting evidence to allow the Secretary of State to make an informed decision.
- 6.34** The Secretary of State will consider the viability and desirability of any request by the Licence holder under 6.33, seeking advice from the Highways Monitor, where appropriate, and will respond to the Licence holder within three months with a decision about whether or not to proceed with a change.
- 6.35** Following a notification under 6.32, or a response to the Licence holder by the Secretary of State under 6.34, the Secretary of State will begin discussions with the Licence holder and the Highways Monitor to agree the change, including any proportionate increase in the funding as described at 6.32. Once agreed, the Secretary of State will publish details of the change.
- 6.36** In the event that, under the circumstances described at 6.35, the Secretary of State and the Licence holder fail to reach a mutually agreed position, having sought advice from the Highways Monitor, the Secretary of State retains the right to make a final determination.

### **Re-opening the RIS**

- 6.37** Where, in exceptional circumstances, a major variation is considered necessary, which would affect the Licence holder's overall funding, have a material effect on the integrity of the RIS, or otherwise compromise the Licence holder's ability to comply with the RIS, the Secretary of State will formally initiate the process for re-opening the RIS by publishing proposals for variation to the existing RIS and setting a timetable for the process.
- 6.38** In the event that the Licence holder requests that the Secretary of State initiate the process for re-opening the RIS, as described at 6.37, the Licence holder **must** provide sufficiently detailed proposals and supporting evidence to support its request. Following such a request, the Secretary of State will seek advice from the Highways Monitor on the deliverability of the RIS and the validity of the Licence holder's request.
- 6.39** Once the process for re-opening the RIS has been initiated, the Secretary of State will conduct a consultation on the proposals, or alternatively direct the Licence holder to conduct a consultation, depending on the nature of the proposed variation. In either case, the Licence holder **must** provide notification of the launch of the consultation process to those persons it considers appropriate.

- 6.40** Following the consultation process, the Secretary of State will formally respond to the consultation, setting out his or her decision on whether to proceed with the RIS variation process in light of consultation responses.
- 6.41** Should the Secretary of State decide to proceed with a revised RIS, the response to the consultation will include publication of revised proposals, equivalent to those produced in Step 2 of the process for setting the RIS, and set a timetable for finalising a revised RIS, SBP and Delivery Plan.
- 6.42** Following the publication of revised proposals, the Secretary of State, the Licence holder and the Highways Monitor will follow the standard process for determining and agreeing a final RIS, SBP and Delivery Plan, as set out at 6.14 to 6.24, above, in accordance with the timetable set by the Secretary of State under 6.41.

# Part 7 - Data and information

## Collection and provision of data and information

- 7.1** The Licence holder **must** provide data or information on its performance in complying with and/or delivering the requirements of the Road Investment Strategy, Strategic Business Plan, Delivery Plan and Licence, as required by the Highways Monitor for the purpose of fulfilling its statutory functions.
- 7.2** In complying with 7.1, the Licence holder **must** provide data or information in such form and manner and at such times as the Highways Monitor may reasonably specify in guidelines to the Licence holder.
- 7.3** The Licence holder **must** also collect, record and provide the following data or information as required:
- a. Data or information on performance of the Licence holder's network, assets or the movements and characteristics of traffic on the network not covered by 7.1, that is necessary or relevant to comply with its legal duties or other obligations in exercising its role as a strategic highways company, for example for the purposes of meeting environmental reporting requirements;
  - b. Information to the Secretary of State, annually and on request, on the numbers of planning applications received under the Development Management Order 2010, and how these have been dealt with, including cases involving permissions under section 175B of the Highways Act;
  - c. Information to the Secretary of State, annually and on request, on what actions the Licence holder has taken and is planning to take to encourage the development of an appropriate construction and design skills base to support delivery of the Road Investment Strategy, including:
    - i. the availability and take-up of apprenticeship and graduate programmes and training of existing staff within its own business; and
    - ii. its assessment of the capability and skills of its supply chain.
  - d. Any other data or information that the Secretary of State may reasonably require, including that required to fulfil statutory responsibilities or for official government statistics;
  - e. Any other data or information that Transport Focus or the Highways Monitor may reasonably require, where relevant to the fulfilment of their statutory functions.
- 7.4** The Licence holder **must** provide data or information in respect of 7.3(d) and 7.3(e) in such form and manner and at such times as the Secretary of State, Transport Focus and the Highways Monitor (as appropriate) may reasonably specify in guidelines to the Licence holder, and help with



the processing of data where it facilitates this goal. Where provision of such information under 7.3(d) and (e) would result in a significant impact on the ability of the Licence holder to fund or deliver its activities, the Secretary of State will consider making a proportionate change in the requirements on the Licence holder or the funding made available by the government.

- 7.5** The Licence holder **must** allow access to the network to persons authorised by the Secretary of State for the purposes of collecting traffic data or maintaining equipment used for this purpose, where arrangements for doing so have been agreed in advance with the Licence holder.

## Publication of data and information

- 7.6** The Licence holder should have due regard to government policy on data and transparency.
- 7.7** In particular, the Licence holder **must** make publicly available all data and information required by 7.1, as well as any other data or information where publication is specifically required by the Secretary of State.
- 7.8** In complying with 7.7, the Licence holder should have due regard to the need to ensure interoperability with other systems and comply with recognised standards in order to enable the sharing of data for operational or other purposes and maximise the utility of data for third parties.
- 7.9** The Licence holder **must**, taking into account any relevant directions and guidance that the Secretary of State may specify, formulate and publish - to timescales specified in the Licence holder's Delivery Plan - policies as to how it will:
- a. Manage and provide data and information relating to its activities;
  - b. Provide and improve information services to road users.

## Provision of expert and technical advice

- 7.10** The Licence holder **must**, where required, provide expert advice to the Secretary of State or other parts of government on relevant policy or technical matters. This includes advice to the Secretary of State in his role as 'competent authority' for the UK in relation to relevant EU activities.
- 7.11** Where appropriate, the Secretary of State may designate the Licence holder as the 'competent authority' for the UK, or require the company to represent the UK in other international activities, where such an arrangement complies with the law.
- 7.12** Where the Secretary of State makes any requirements or issues directions to the Licence holder under 7.10 - 7.11, the Secretary of State will seek to provide advance notice wherever possible, and these will be subject to the general conditions at 3.8 and 3.10 to ensure that the Licence holder is properly resourced to carry out this function.

# Part 8 - Enforcement and revocation

## Application

- 8.1** The Licence holder **must** act within the conditions of this Licence at all times.
- 8.2** Where the Licence holder fails to comply with the conditions of the Licence, the Highways Monitor may act to enforce these conditions, including through the issue of improvement notices or the levying of fines under section 11 of the Infrastructure Act 2015, in accordance with the Highways Monitor's published Enforcement Policy and any relevant agreement with, or with due regard to guidance from, the Secretary of State.
- 8.3** These conditions do not limit the ability of the Highways Monitor to apply sanctions to other situations that do not involve breaches of the Licence.
- 8.4** None of the conditions laid out in this part affect the Secretary of State's powers under other legislation or role as shareholder of the strategic highways company, or apply conditions to their use. However, where the Secretary of State intends to exercise these powers, for reasons that may relate indirectly to potential breaches of the Licence, the Secretary of State will consult with the Highways Monitor before taking action.
- 8.5** The Licence holder **must** ensure the Highways Monitor is aware, at the earliest opportunity, of:
- a. Any past or current breach of the Licence and of any action being taken to address the breach; and
  - b. Any issues likely to lead to a potential breach of the Licence, and of any action being taken to address the possibility.

## Emergencies

- 8.6** Where an emergency situation is agreed to have taken place, as set out in 8.7(a), the application of enforcement activity by the Highways Monitor in relation to the Licence holder's performance or compliance with the obligations set out in this Licence may be suspended.
- 8.7** The nature and extent of any suspension of enforcement activity under 8.6 would be at the discretion of the Highways Monitor, provided that:
- a. The Secretary of State declares that an emergency is in progress or has recently taken place that may have implications for the Licence holder to comply with or deliver its obligations. This includes where this is the result of advice from the Highways Monitor or an application by the Licence holder to the Secretary of State for recognition that an emergency is in progress or has recently taken place;

- b. The Highways Monitor acts in accordance with any relevant agreement with, or has due regard to guidance from, the Secretary of State.

## Revocation

- 8.8 If a failure to deliver or a breach of statutory duty or other obligation by the Licence holder is so great that it constitutes a loss of confidence in the ability of the Licence holder to fulfil its legal duties or other obligations, this may result in directions from the Secretary of State or revocation of the appointment by the Secretary of State.
- 8.9 The Secretary of State will not take such a course of action without evidence from the Highways Monitor that the Licence holder has failed to discharge its legal duties or other obligations.
- 8.10 In the event of revocation of the appointment, the Secretary of State will:
  - a. Notify the Licence holder of his intention to revoke the appointment;
  - b. Advise the Licence holder in writing of the date on which it is intended that the order which terminates the Licence holder's appointment as a strategic highways company will take effect;
  - c. Make a transfer scheme under section 15 of the Infrastructure Act 2015, to coincide with revocation of the appointment, ensuring that all property and contracts of the Licence holder, and rights and responsibilities therein, will revert to the Secretary of State.

## Ordered handover

- 8.11 Following notification by the Secretary of State under 8.10(a) of a decision to revoke the Licence holder's appointment, the Licence holder **must** co-operate in any transitional arrangements, including:
  - a. The provision of information;
  - b. The transfer of lands, assets, contracts or staff associated with its activities under the Licence;
  - c. The delivery of the Road Investment Strategy and any protocol agreements.
- 8.12 The Licence holder's continued responsibilities during this period of transition, as described in 8.11, are ended only at the point at which the revocation comes into effect.