

# A47/A11 Thickthorn Junction

**Scheme Number: TR010037**

## **Volume 9** **9.26 Climate Change Position Statement**

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

Planning Act 2008

March 2022

Infrastructure Planning

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

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**9.26 CLIMATE CHANGE POSITION STATEMENT**

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## 1. Request for Climate Change Position Statement

1. The ExA acknowledges that the Secretary of State for Transport (SoST) is requesting additional information on other highway projects (for example A1 Morpeth to Ellingham, A38 Derby Junctions scheme which was subject to High Court challenge, M25 Junction 28, and others) to assist a decision on climate change related impacts having regard to cumulative assessment concerns.

In those circumstances and based on current submissions, the Applicant is requested to provide a Climate Change Position Statement which further addresses climate change and cumulative assessment of climate impact information issues being referred to for this scheme.

The statement should provide (or, to the extent that it has already been provided, identify) its assessment of the cumulative effects of Greenhouse Gas emissions from the scheme with other existing and/or approved projects on a local, regional and national level on a consistent geographical scale (for example an assessment of the cumulative effects of the Roads Investment Strategy RIS 1 and RIS 2 at a national level). This should take account of both construction and operational effects; identify the baseline used at each local, regional and national level; and identify any relevant local, regional or national targets/budgets where they exist and how the assessment complies with these (including the carbon budgets, the 2050 zero target under the Climate Change Act 2008, and the UK's Nationally Determined Contribution under the Paris Agreement). It should be accompanied by reasoning to explain the methodology adopted, any likely significant effects identified, any difficulties encountered in compiling the information, and how the assessment complies with the Environmental Impact Assessment Regulations. Confirmation should be given that the statement has been prepared by a competent expert.

It is requested that links be provided to any documents referenced and their relevance fully explained. The ExA also notes that Written Question CC.1.1 (i), (ii), (iii) has not been answered in full in earlier submissions and is seeking a response.

## 2. Response

National Highways has responded to this request by breaking it down into various constituent parts as follows:

- National Highways' assessment of the cumulative effects of greenhouse gas emissions from the A47 - A11 Thickthorn Junction (Proposed Development) with other existing and/or approved projects;
- For the assessment to be on a consistent geographical scale at a national, regional and local scale accounting for construction and operational contributions;
- How the assessment which identifies the baseline used at each local, regional and national level compares against any identified relevant local, regional or national carbon targets and/or budgets (including the carbon budgets, the 2050 net zero target under the Climate Change Act 2008 and the UK's Nationally Determined Contribution under the Paris Agreement);
- How an assessment was undertaken to evaluate the likely significant effects of the Proposed Development and any difficulties encountered in compiling the information;
- How the assessment presented for the Proposed Development complies with the Environmental Impact Assessment Regulations;
- A confirmation that this response has been prepared by a competent expert.

To assist the ExA, National Highways has set out its response for each of the matters raised in turn.

## 3. Assessment of Cumulative Effects of Greenhouse Gas Emissions from the Proposed Development with other Existing and/or Approved Projects

National Highways follows the advice set out in the Design Manual for Roads and Bridges (DMRB) for the design and evaluation of the impact of any of its road Proposed Developments. This ensures consistency in how any Proposed Development is progressed and how the outcomes are evaluated.

In respect of the assessment of cumulative effects, DMRB Chapter LA 104-Environmental assessment and monitoring<sup>1</sup> provides the following overarching advice on the assessment and evaluation of cumulative impacts on pages 17-18:

*“Paragraph 3.21 Environmental assessments shall assess cumulative effects which include those from:*

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<sup>1</sup> [REDACTED]

- 1) *a single project (e.g. numerous different effects impacting a single receptor); and*
- 2) *different projects (together with the project being assessed).*

*Paragraph 3.21.2 The assessment of cumulative effects should report on:*

- 1) *roads projects which have been confirmed for delivery over a similar timeframe;*
- 2) *other development projects with valid planning permissions or consent orders, and for which EIA is a requirement; and*
- 3) *proposals in adopted development plans with a clear identified programme for delivery.*

*Paragraph 3.22 The assessment of cumulative effects shall:*

- 1) *establish the zone of influence of the project together with other projects;*
- 2) *establish a list of projects which have the potential to result in cumulative impacts; and*
- 3) *obtain further information and detail on the list of identified projects to support further assessment.”*

The DMRB LA 114, Climate<sup>2</sup> describes the approach to be undertaken to assess and evaluate the climate impacts and adaptation for Proposed Developments. This is set out in Chapter 14 (REP3-006) of the environmental statement for the Proposed Development.

The assessment of carbon dioxide (CO<sub>2</sub>) undertaken has assessed the construction and operational effects of the Proposed Development as follows:

- Construction – the materials and energy required to construct the Proposed Development;
- Operational – emissions produced by vehicles using the completed Proposed Development and associated journeys from the wider road network that incorporate or have a change in their journey following opening of the Proposed Development; emissions produced by operational maintenance activities and energy use over its design life (i.e. 60 years).

The traffic modelling for the Proposed Development has been undertaken in line with Transport Appraisal Guidance published<sup>3</sup> by the Department for Transport (DfT). The Transport Assessment for the Proposed Development has been submitted to the DCO examination within the Case for the Proposed Development (APP-125)<sup>4</sup>. The traffic model used for the Proposed Development has been developed in line with DfT requirements and is **inherently cumulative**. This is because, in brief, traffic models used to support Proposed Development assessment contain data about the following:

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■ [REDACTED]  
■ [REDACTED]  
■ [REDACTED]  
■ [REDACTED]

- 1) The Proposed Development and adjoining Strategic Road Network and local road network;
- 2) Other Proposed Developments promoted by National Highways in the near vicinity of the Proposed Development with high certainty that they are to be progressed i.e. progressed beyond preferred route announcement stage;
- 3) They are based on discussions with the relevant planning authority, of foreseeable developments promoted by third parties as likely to be developed in a similar timeline to the proposed National Highways' Proposed Development. Knowing where the proposed third party development is to be sited, the extents and types of development, and the timescales of when it is to be completed are requirements to ensure that the third party developments can be reasonably described in the traffic model; and
- 4) National government regional growth rates which include a representation of likely growth rates excluding known planning developments already included in the traffic model. This is represented by DfT's NTEM/TEMPRO<sup>5</sup> growth factors for car usage, and growth in freight is derived from DfT's National Transport Model<sup>6</sup>.

In terms of operational carbon, when National Highways evaluates the changes in CO<sub>2</sub>e emissions of their Proposed Developments they do so by comparing changes in the road traffic on the Strategic Road Network and local road network between the 'without Proposed Development scenario' and the 'with Proposed Development scenario'. This takes into account the assessment of the Proposed Development and all other developments likely to have an influence on the Proposed Development and on the area the Proposed Development is likely to influence.

In essence, as both with and without Proposed Development scenarios already include all likely developments and traffic growth factors, the assessment is inherently cumulative as regards operational carbon emissions. This is a state of affairs recognised in general terms in paragraph 3.4.4 of the Planning Inspectorate's Advice Note 17 ("Cumulative effects assessment relevant to nationally significant infrastructure projects"), the first two sentences of which state that:

*"Certain assessments, such as transport and associated operational assessments of vehicular emissions (including air and noise) may inherently be cumulative assessments. This is because they may incorporate modelled traffic data growth for future traffic flows. Where these assessments are comprehensive and include a worst case within the defined assessment parameters, no additional cumulative assessment of these aspects is required (separate consideration may be required of the accumulation or inter-relationship of these effects on an individual set of receptors e.g. as part of a socio economic assessment)."*

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■ [REDACTED]

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requirement in the CCA 2008, or in Government policy, for carbon emissions for all road transport to become net zero. This was explained in the ***R(Transport Action Network) v Secretary of State for Transport*** [2021] EWHC 2095 (Admin) (“the TAN case”) in which Holgate J held that:

*“...there is no sectoral target for transport, or any other sector, and that emissions in one sector, or in part of one sector, may be balanced against better performance in others. A net increase in emissions from a particular policy or project is managed within the government's overall strategy for meeting carbon budgets and the net zero target as part of "an economy-wide transition."*

- c) A net increase in emissions from a particular policy or project is thus managed within the Government's overall strategy for meeting carbon budgets and the net zero target as part of an economy-wide transition.

There is, therefore, no legal requirement to assess the impact of an individual project against the total carbon emissions from RIS 1 and RIS 2.

To conduct an impact assessment at a local or regional scale some form of baseline would need to be identified, and that baseline would need to comprise:

- a) A forecast of carbon emissions from all cumulative sources relevant to the geographic / sectoral scale being adopted;
- b) A forecast which addresses the time frame relevant to the proposed road Proposed Development;
- c) A forecast which reflects existing government policy to attain the 6th carbon budget and net zero 2050; and
- d) A forecast which does not include carbon emissions from the proposed road Proposed Development (to avoid double counting).

The Government sets carbon budgets at a national level in accordance with the CCA 2008. Carbon budgets are not produced at a local or regional level.

National Highways is therefore unable to produce a baseline at a local or regional scale itself. Such a baseline would have to be consistent with the Government's understanding of the likely implications of its policies over time in a particular geographic area. In relation to carbon reductions, those policies are myriad and extend to matters beyond the planning system and into issues relating to the use of fiscal incentives / disincentives to manage carbon emissions across the country as a whole.

Relevant to this request for information is that an environmental statement is required to include such information as is reasonably required to assess the environmental effects of the development and which the applicant can reasonably be required to compile having regard to current knowledge (see ***R. (Khan) v London Borough of Sutton*** [2014] EWHC 3663 (Admin) and ***Preston New Road Action Group v Secretary of State for Communities and Local Government*** [2018] Env. L.R. 18).



There is no reasonable basis upon which National Highways can assess the carbon emissions impact of the Proposed Development at a local or regional level and it is not required to do so by law or by the National Policy Statement for National Networks (NPS NN)<sup>9</sup>

Accordingly, National Highways is not in a position to provide an assessment of the cumulative effects of the greenhouse gas emissions for the Proposed Development for anything other than at the national level carbon budgets.

## 5. How the Assessment Complies with Various Carbon Budgets and Wider Carbon Policies

Overall compliance with, or attainment of, ‘carbon budgets’ and ‘the 2050 zero target’ under CCA 2008, and the ‘UK’s Nationally Determined Contribution’ under the Paris Agreement are the responsibility of Government to manage as they are matters of national policy and not policies set at an individual Proposed Development level.

The NPS NN sets the national policy framework against which decision makers can evaluate the outcomes of proposed road infrastructure project. The NPS NN sets policy advice across a range of topics such as air quality, noise, biodiversity and carbon (see paragraphs 5.16 to 5.29 pages 49 and 50).

The specific advice on the evaluation of carbon impacts from a Proposed Development and decision making considerations is set out in paragraphs 5.17 and 5.18 respectively.

### “**Applicant’s assessment**”

**5.17** *Carbon impacts will be considered as part of the appraisal of scheme options (in the business case), prior to the submission of an application for DCO. Where the development is subject to EIA, any Environmental Statement will need to describe an assessment of any likely significant climate factors in accordance with the requirements in the EIA Directive. It is very unlikely that the impact of a road project will, in isolation, affect the ability of Government to meet its carbon reduction plan targets. However, **for road projects applicants should provide evidence of the carbon impact of the project and an assessment against the Government’s carbon budgets.** [our emphasis].*

### “**Decision making**”

**5.18** *The Government has an overarching national carbon reduction strategy (as set out in the Carbon Plan 2011) which is a credible plan for meeting carbon budgets. It includes a range of non-planning policies which will, subject to the occurrence of the very unlikely event described above, ensure that any carbon increases from road*

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<sup>9</sup> [REDACTED]

*development do not compromise its overall carbon reduction commitments. The Government is legally required to meet this plan. Therefore, any increase in carbon emissions is not a reason to refuse development consent, unless the increase in carbon emissions resulting from the proposed scheme are so significant that it would have a material impact on the ability of Government to meet **its carbon reduction targets.***” [our emphasis].

The NPS NN requires assessment against the Government’s climate reduction targets i.e. the carbon budgets which are set at a national geographical scale. It does not require assessment against any local or regional targets. This is because the Government has not identified or adopted any carbon reduction targets at a scale smaller than the UK as a whole i.e. National Carbon Budgets.

## **6. How an Assessment was Undertaken to Evaluate the Impacts of the Proposed Development Including Consideration of Likely Significance Effects**

National Highways’ approach to assessing and evaluating the CO<sub>2e</sub> impacts associated with proposed developments is set out in DMRB LA 114 Climate, Section 3 Methodology. Within Section 3 of LA 114, paragraphs 3.18 to 3.20 defines the reporting requirements for comparison against the relevant carbon budgets (*in existence at the time of the assessment*) and the evaluation criteria for significance, which is consistent with the decision making requirements set out in paragraphs 5.17 and 5.18 of the NPS NN.

Chapter 14 (REP3-006) of the environmental statement for the Proposed Development sets out the climate assessment completed for the Proposed Development. It concludes that the Proposed Development does not cause a significant effect for changes in CO<sub>2e</sub> emissions when compared to carbon budgets.

## **7. How the Assessment Presented for the Proposed Development Complies with the Environmental Impact Assessment Regulations**

An environmental statement is required to describe the likely significant effects of a proposed development on the environment (Regulation 14 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017<sup>10</sup>). This includes a description of the likely significant effects on the environment from, inter alia, the impact of the project on climate (for example the nature and magnitude of greenhouse gas emissions) and the vulnerability of the project to climate change. An environmental statement is also required to describe the likely significant cumulative

impacts of the development proposed together with those from other “existing and/or approved projects” (see paragraph 5 (e) of Schedule 4 to the 2017 Regulations).

To undertake this work and come to an informed judgement an environmental statement is required to include such information as is reasonably required to describe the environmental effects of the development and which the applicant can **reasonably be required to compile having regard to current knowledge**<sup>11</sup>. In the context of assessing cumulative carbon impacts, the only assessment National Highways can be reasonably required to undertake is one having regard to current knowledge.

Accordingly, the environmental statement produced for the Proposed Development complies with the 2017 Regulations.

As regards the additional material now requested by the ExA, this amounts to a request by the ExA for “any other information” within the meaning of regulation 3(1) of the 2017 Regulations.

However, there is no reasonable basis upon which National Highways can assess the carbon emissions impact of the Proposed Development at a local or regional level and it is not required to do so by law or pursuant to the NPS NN.

National Highways can only assess the change in CO<sub>2</sub>e emissions from the Proposed Development in absolute terms and against the national carbon budgets.

The procedures and evaluation criteria set out in DMRB LA 114 Climate, are appropriate and sufficient to ensure that the cumulative effects of proposed road schemes upon climate change are assessed in accordance with the 2017 Regulations and to provide sufficient evidence for the decision making requirements set out in paragraph 5.18 of the NPS NN.

## 8. The Assessment was Prepared by a Competent Expert

This response to the issues questions raised by the ExA on climate have been prepared by competent experts with relevant and appropriate experience.

The technical lead for air quality and vehicle emissions is the Principal Air Quality Advisor for National Highways with more than 25 years of relevant experience with appropriate professional qualifications. The technical lead for carbon from construction activities is the Senior Technical Advisor for Sustainable Development and Climate Change for National Highways with more than 16 years of relevant experience with appropriate professional qualifications.

The climate chapter of the environmental statement was prepared by competent experts as set out in Section 14.2 (REP3-006). This includes data drawn from the traffic model which was undertaken by Sweco UK Limited.

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<sup>11</sup> (see R. (Khan) v London Borough of Sutton [2014] EWHC 3663 (Admin) and Preston New Road Action Group v Secretary of State for Communities and Local Government [2018] Env. L.R. 18)

