

M54 to M6 Link Road

TR010054

Volume 8

**8.8 P(B) Draft Statement of Common
Ground with Natural England**

Regulation 5(2)(q)

Planning Act 2008

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

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

**M54 to M6 Link Road
Development Consent Order 202[]**

**8.8 P(B) Draft Statement of Common Ground with
Natural England**

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STATEMENT OF COMMON GROUND

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

Signed.....
Andrew Kelly
Project Manager
on behalf of Highways England
Date: [DATE]

Signed.....
[NAME]
[POSITION]
on behalf of Natural England
Date: [DATE]

DRAFT

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1 Introduction

1.1 Purpose of this document

- 1.1.1 This draft Statement of Common Ground ('SoCG') has been prepared in respect of an application for a Development Consent Order (DCO) ('the application') under section 37 of the Planning Act 2008 ('PA 2008') for the proposed M54 to M6 Link Road ('the Scheme') made by Highways England Company Limited ('Highways England') to the Secretary of State for Transport ('Secretary of State').
- 1.1.2 This SoCG does not seek to replicate information which is available elsewhere within the application documents. All documents are available on the Planning Inspectorate website.
- 1.1.3 This SoCG has been produced to confirm to the Examining Authority where agreement has been reached between the parties to it, and where agreement has not (yet) been reached. SoCGs are an established means in the planning process of allowing all parties to identify and so focus on specific issues that may need to be addressed during the examination.
- 1.1.4 **This SoCG has been drafted by Highways England based on correspondence with Natural England during the development of the Scheme and records the matters agreed and not agreed.**
- 1.1.5 **Initial drafts of the SoCG were provided to Natural England on 3 June 2019 and 10 January 2020. Comments were received from Natural England on 23 March 2020. A revised SoCG was sent to Natural England on 15 October 2020. Comments were received on 27 October 2020, with minor revisions agreed between Highways England and Natural England on 02 November 2020. Highways England will continue to work to finalise the contents of this SoCG at the earliest opportunity as the Application proceeds through the Examination process.**

1.2 Parties to this Statement of Common Ground

- 1.2.1 This SoCG has been prepared by (1) Highways England as the Applicant and (2) Natural England (NE).
- 1.2.2 Highways England became the Government-owned Strategic Highways Company on 1 April 2015. It is the highway authority in England for the strategic road network and has the necessary powers and duties to operate, manage, maintain and enhance the network. Regulatory powers remain with the Secretary of State. The legislation establishing Highways England made provision for all legal rights and obligations of the Highways Agency, including in respect of the application, to be conferred upon or assumed by Highways England.
- 1.2.3 NE is an executive non-departmental public body sponsored by the Department for Environment, Food and Rural Affairs (Defra). NE is the government's advisor to protect England's nature and landscape for people to enjoy and for the services they provide.

- 1.2.4 NE's role in relation to the Development Consent Order (DCO) process derives from the PA 2008 and secondary legislation made under PA 2008. The roles and responsibilities of NE under the PA 2008 fall into the following categories:
- As one of the prescribed consultees under section 42 of the PA 2008 that applicants are required to consult before submitting a Nationally Significant Infrastructure Projects (NSIP) application.
 - As one of the consultation bodies that the Planning Inspectorate must consult before a scoping opinion is adopted in relation to any Environmental Impact Assessment (EIA) and as a prescribed consultee for the environmental information submitted pursuant to the Infrastructure Planning (EIA) Regulations 2009.
 - As a statutory party in the examination of DCO applications.
 - As a statutory nature conservation body under the Conservation of Habitats and Species and Planning (Various amendments) (England & Wales) Regulations 2018 (Habitats Regulations) in respect of the Habitats Regulations Assessment (HRA).
 - As a consenting and licensing body/authority in respect of protected species and operations likely to damage the protected features of Sites of Special Scientific Interest (SSSIs) pursuant to the Wildlife and Countryside Act 1981 (as amended) (WCA 1981) and in relation to European protected species under the Habitats Regulations.

1.3 Terminology

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

2 Record of Engagement

2.1.1 A summary of the meetings and correspondence that has taken place between Highways England and Natural England in relation to the application is outlined in Table 2.1 of this Statement. A list of the initials, names, role and organisation of the people mentioned in Table 2.1 is included at Appendix A. A list of abbreviations is included in Chapter 12 of the Introduction to the Application [APP-001/1.1].

Table 2.1: Record of Engagement

Date	Form of correspondence	Key topics discussed and key outcomes
30/08/2017	Meeting with TP, RR, DL, AS (Aecom), TB (Amey) & GM (NE)	Introduction to the Scheme and route options, DCO process, project timescales and engagement methodology. Discussion of potential effects of route options on ancient woodland. Natural England confirmed route Option C (east) would have direct impacts upon ancient woodland at Burns Wood, Spring Coppice and Keeper's Wood and they would object to the Scheme at DCO if this option were taken forward as other options are available.
24/01/2019	Letter from AK (HE) to ES (NE)	Advising of Scheme progress and requesting a meeting to discuss NE views on proposed Dark Lane alignment.
24/01/2019	Email from TP (Aecom) to GD (NE)	Referring to previous discussions and requesting discretionary advice.
14/02/2019	Email from JR (NE) to TP (Aecom)	Including a quotation for advice based on information provided on request form.
15/02/2019	Email from TP (Aecom) to JR (NE)	Approving proposed fee for advice.
07/03/2019	Email from TP (Aecom) to JR, GD (NE)	Returning signed contract for advice and seeking date for first meeting.
27/03/2019	Meeting with GD (NE), RR, TP (Aecom) & TB, SG, DT (Amey)	Overview of survey effort to date and further surveys planned. Future engagement and EIA process. Provided NE with an understanding of the overall programme and requirement for on-going engagement. Discussion of main issues – HRA, possible ancient woodland fragments, Badgers, Bats. Discussed options for Dark Lane alignment.
24/04/2019	Email from TP (Aecom) to GD (NE)	Attaching purchase order to accompany contract for service advice.
30/04/2019	Email from TP (Aecom) to GD (NE)	Requesting advice on extent of Great Crested Newt (GCN) survey season and requesting extension of survey period until May 2019.

Date	Form of correspondence	Key topics discussed and key outcomes
03/05/2019	Email from TP (Aecom) to GD (NE)	Attaching minutes from meeting on 27/03/2019 and first draft of SoCG.
23/05/2019	Email from TP (Aecom) to GD (NE)	Advising of S42 consultation period and requesting comment from NE on Preliminary Environmental Information Report (PEIR) chapter and appendix reports by 04/07/2019. Arrangements for next meeting.
24/05/2019 & 04/06/2019	Emails from TP (Aecom) to GD (NE)	Checking receipt of S42 brochure and arrangements for meeting on 16/07/2019.
03/07/2019	Online statutory consultation questionnaire response from NE to HE	NE comments on the PEIR as published for statutory consultation.
10/07/2019	Email from TP (Aecom) to GD (NE)	Attaching agenda for meeting.
16/07/2019	Meeting with GD, EG (NE), TC, GL (HE), HM (Tyler Grange), MO, AL, TP, AS (Aecom)	Overview of the Scheme and its current status. Update on the assessment of European Protected Sites. Information provided to NE on species scoped out of further assessment. Update on ecology survey progress and preliminary results. Discussion on the identification of ancient woodland within the Scheme boundary in response to NE comments in the PEIR.
17/07/2019	Email from HM (Tyler Grange) to GD (NE)	Queries discussed at meeting: outlined the reasoning for scoping out dormouse surveys to NE and requested NE's agreement. Provided information on the approach being used for bat surveys across the Scheme requesting NE's agreement. Requested clarification regarding the two years of bat survey data requested in the NE response to the PEIR. Outlined assumptions with regards to potential GCN waterbodies that could not be accessed or were dry. Provided further information in relation to the justification for scoping out the Cannock Chase Special Area of Conservation (SAC) and the Cannock Extension Canal SAC.
24/07/2019	Email from GD (NE) to TP (Aecom)	Response to the justification for scoping dormouse out of further survey/assessment.
30/07/2019	Email from TP (Aecom) to GD, EG (NE)	Issue of minutes from the meeting on the 16/07/2019 and provision of potential dates for a further meeting.
31/07/2019	Email from GD (NE) to TP (Aecom)	Further response to the justification for scoping dormouse out of further survey/assessment and response on meeting dates.

Date	Form of correspondence	Key topics discussed and key outcomes
09/08/2019	Email from GD (NE) to HM (Tyler Grange & TP (Aecom)	Response on queries regarding bat survey data, assumptions in relation to GCN, the assessment of European Sites and net gain.
04/09/2019	Meeting with GD, HW, LB (NE), HM (Tyler Grange), TP, AS, RR (Aecom)	Overview of the Scheme and its current status. Update on the assessment of European Protected Sites. Information provided on species scoped out of further assessment. Update on ecology survey progress and preliminary results. Discussion on programme for draft GCN, bat and badger licences and provision of letters of no impediment.
16/09/2019	Meeting with GD, EG (NE), AK, TC (HE), HM (Tyler Grange), TP, AS (Aecom)	Advised that Option 2 is progressing at Dark Lane and the related tree loss. Discussion about extent of ancient woodland and mitigation/compensation ratios, also habitat losses and gains.
16/09/2019	Email from HM (Tyler Grange) to (NE)	Email outlining bat surveys conducted in 2018 and 2019 and information on bat roosts likely to require a bat licence to inform letter of no impediment. Response received 01/11/19 (see below).
16/09/2019	Email from CG-S (Tyler Grange) to LB (NE)	Confirming the scope of the survey work to date in 2018 and 2019 with plan. Providing information on the location of bat roosts and potential tree loss to inform a future letter of no impediment regarding a licence for the site.
17/09/2019	Email from HM (Tyler Grange) to GD (NE)	Queries regarding noise and vibration including receptors to be assessed in relation to noise and vibration impacts during construction and requesting agreement that operational vibration is not an issue in relation to potential ecological receptors.
04/10/2019	Email from KB (Tyler Grange) to HW (NE)	Email seeking agreement of assumed medium populations, definition of metapopulation boundaries and evaluation to inform draft license application and letter of no impediment.
07/10/2019	Document issue from (Tyler Grange) to GD (NE)	Issue of the Habitats Regulations Assessment: No Likely Significant Effects report [TR010054/APP/6.9] for review.
08/10/2019	Email from GD (NE) to TP (Aecom) & HM (Tyler Grange)	Acknowledging receipt of Habitats Regulations Assessment report. Stating that her response to noise and vibration email is imminent.
10/10/2019	Email from GD (NE) to HM (Tyler Grange)	Response to HM email of 17/09/2019 providing advice on noise and vibration assessment and querying whether an assessment of air quality on veteran trees and ancient woodland is being undertaken.
28/10/2019	Email from KB (Tyler Grange) to GD (NE)	Seeking agreement of items in email of 04/10/19 regarding GCN surveys and interpretation of results to inform draft license application and letter of no impediment.

Date	Form of correspondence	Key topics discussed and key outcomes
28/10/2019	Email from CG-S (Tyler Grange) to LB (NE)	Email seeking agreement of items in email of 16/09/2019 regarding bat surveys and bat roosts requiring license to inform draft bat licence and letter of no impediment.
01/11/2019	Email from LB (NE) to CG-S (Tyler Grange)	Response to Tyler Grange email of 16/09/2019 regarding bat data – requesting further survey data in 2020 and asking for additional information on completed surveys, impacts, assessment and mitigation/compensation to inform letter of no impediment.
01/11/2019	Email from HW (NE) to KB (Tyler Grange)	Response to Aecom email of 04/10/19 – assumption of medium population would require on application of New Licensing Policy 4. Accepted approach to assumption of metapopulation size, definition of metapopulation boundaries and evaluation. Given county level importance may need to prepare a Habitat Management and Maintenance Plan as part of the application submission.
01/11/2019	Email from GD (NE) to TP (Aecom) & HM (Tyler Grange)	Comments on the draft Habitats Regulations Assessment: No Likely Significant Effects.
12/11/2019	Email from HM (Tyler Grange) to GD (NE)	Email seeking agreement of the critical load for veteran trees and ancient woodland in the air quality assessment.
12/11/2019	Email from GD (NE) to HM (Tyler Grange)	Agreement to the proposed critical loads to use for ancient woodland and veteran tree assessment.
14/11/2019	Email from HM (Tyler Grange) to GD (NE)	Response to comments on the Habitats Regulations Assessment stating that NE's comments are unlikely to alter the outcome of the assessment.
15/11/2019	Email from HM (Tyler Grange) to NE	Attaching a draft badger licence application sent to obtain a letter of no impediment.
22/11/2019	Email from GD (NE) to HM (Tyler Grange)	Confirmation of agreement to the conclusions of the Habitats Regulations Assessment: No Likely Significant Effects report [TR010054/APP/6.9].
05/01/2020	Email from CG-S (Tyler Grange) to NE	Attaching a draft bat mitigation licence application for a letter of no impediment.
06/12/2019	Email from MW-H (Aecom) to HW (NE)	Attaching draft GCN mitigation licence application for a letter of no impediment.
13/12/2019	Email from HW (NE) to AK (HE)	Attaching the formal response to the draft species (Badger) management licence application (letter of no impediment).
10/01/2020	Email from TP (Aecom) to GD (NE)	Attaching a second draft of the SoCG for review and comment.

Date	Form of correspondence	Key topics discussed and key outcomes
10/01/2020	Email from TP (Aecom) to GD (NE)	Attaching Environmental Statement (ES) Chapter 9. Geology & Soils and appendices
10/01/2020	Email from HW (NE) to AK (HE)	Attaching letter of no impediment for GCN.
14/01/2020	Email from GD (NE) to AK (HE)	Enclosing a letter of no impediment with caveats for the Bat licence application
24/01/2020	Email from GD (NE) to TP (Aecom)	Detailed comments on the ALC assessment and soils (ES Vol. 6.1 Chapter 9 Geology and Soils [APP-048/6.1] and ES Vol 6.3 Appendix 9.2 [APP-192/6.3]).
06/03/20	Email from TP (Aecom) to GD (NE)	Inform NE of the Planning Inspectorate's acceptance of the application. Responses provided to the detailed comments on ALC with a request for comments to be provided on these responses. Request comments on the draft SoCG submitted to NE 10 January 2020.
23/03/20	Email from GD (NE) to TP (Aecom)	Confirmation NE have read through the SoCG and agree with the notes. It is understood that following further comments since January 2020 updates are required to the SoCG to reflect recent advice.
27/03/20	Email from TP (Aecom) to GD (NE)	Summarise phone call on 26/03/20. Query as to how the creation of species-rich grassland would affect the BMV status of agricultural soils.
31/03/20	Email from GD (NE) to TP (Aecom)	Comments on ALC responses provided. Advising the Lead Advisor for NE has had to significantly reduce their working hours in response to Covid-19. Contact details provided for alternative NE employees in GDs absence.
09/04/20	Email from GD (NE) to TP (Aecom)	Requesting detail regarding the area and average width of the Scheme and where these details can be found in the DCO application.
17/04/20	Email from GD (NE) to TP (Aecom)	Response to query on species-rich grassland.
23/04/20	Email from TP (Aecom) to GD (NE)	Response to query around area and average width, with reference to Chapter 2: The Scheme of the ES [APP-041/6.1] and the text around average cross sections. Inform of the extension to the relevant representations period to the 18 May 2020 and request early site of Nes relevant representations if possible.

Date	Form of correspondence	Key topics discussed and key outcomes
24/04/20	Email from GD (NE) to TP (Aecom)	Confirmation that NE were aware of the extension to the relevant representations period and that relevant representations would be sent to the project time when they are sent to the Planning Inspectorate, likely to be towards the end of the period due to resourcing issues.
31/07/20	Email from TP (Aecom) to GD (NE)	<p>Notify Natural England of additional work undertaken to consider how the changes in the Design Manual for Roads and Bridges (DMRB) guidance for the Noise and Air Quality assessment would affect the assessment as reported in the ES. Application document AS-059/8.2 was attached to the email for information and comment.</p> <p>Inform Natural England of proposed design changes including the review of environmental mitigation following the results of the 2020 great crested newt surveys.</p>
03/08/20	Tel TP (Aecom) to GD (NE)	TP outlined contents of Email of 31/07/20 and requested early opinion from NE of approach to woodland mitigation in relation to AQ.
11/08/20	Email from GD (NE) to TP (Aecom)	Regarding a ratio of 1:1 for nitrogen deposition on ancient woodland, Natural England is not aware of any set mitigation in these circumstances. We would advise that compensatory planting along with management improvements would be appropriate compensation in the circumstances. What ratio should be used should be considered in relation to the potential impact both alone and cumulatively, whether the site is currently exceeding nitrogen deposition levels and evidence of whether the woodland is already being impacted by nitrogen deposition.
18/08/20	Letter from Highways England to GD (NE)	Supplementary consultation letter sent.
18/08/20	Email from GD (NE) to TP (Aecom)	<p>Request deadline for the review of document AS-059/8.2 'DMRB Updates and the Impact on the DCO Application'.</p> <p>Request update on the BMV technical note.</p>
09/09/20	Email from MO (Aecom) to GD (NE)	<p>Provide a summary of GCN survey results for 2020, absence of GCN in those ponds lost to the Scheme.</p> <p>Outlined the changes to mitigation measures proposed as a result of the change to the baseline data. Providing pond replacement on a 1:1 ratio as no ponds have been found to support GCN.</p> <p>Enquire whether the updates survey results and change to the mitigation would require a resubmission of the GCN method statement to obtain an updated Letter of No Impediment.</p>

Date	Form of correspondence	Key topics discussed and key outcomes
09/09/20	Email from TP (Aecom) to GD (NE)	<p>Inform NE that we are currently preparing an ES Addendum to assess the number of design changes and incorporate the results of GCN survey results. As this would change the loss of BMV we are updating this information in the BMV technical note before submission to NE.</p> <p>Request comments on document AS-059/8.2 'DMRB Updates and the Impact on the DCO Application' in the next two weeks.</p>
10/09/20	Email from GD (NE) to MO (Aecom)	Confirmed that based on the information you have provided, there is not a requirement for the LONI to be re-issued.
11/09/20	Email from GD (NE) to TP (Aecom)	Are there any particular themes around the air quality assessment reported in AS-059/8.2 'DMRB Updates and the Impact on the DCO Application' which you wish to discuss?
12/10/20	Email from TP (Aecom) to GD (NE)	Advising all matters under discussion and Relevant Representations are now incorporated into an updated SoCG which will be issued to NE shortly.
15/10/20	Email from TP (Aecom) to GD (NE)	<p>Sent draft SoCG and BMV land technical note to NE for review.</p> <p>NE to indicate with reference to the SoCG any items that NE consider to be agreed, complete the likelihood of agreement column and provide further comments for items which remain under discussion.</p>
26/10/20	Email from GD (NE) to TP (Aecom)	<p>Comments on the BMV land technical note provided.</p> <p>Comments on the SoCG will be provided tomorrow.</p>
27/10/20	Email from GD (NE) to TP (Aecom)	Comments on the SoCG provided.
29/10/20	Telephone conversation between GD (NE) and TP (Aecom)	Call to discuss comments on SoCG.
29/10/20	Email from TP (Aecom) to GD (NE)	Amendments to SoCG as discussed, sent for approval.
02/10/20	Email from GD (NE) to TP (Aecom)	Changes to SoCG agreed.

- 2.1.2 It is agreed that this is an accurate record of the key meetings and consultation undertaken between (1) Applicant and (2) Natural England in relation to the issues addressed in this SoCG.
- 2.1.3 The Applicant and NE have worked collaboratively throughout the DCO application stage using the Discretionary Advice Service (DAS) to engage with relevant experts within NE.

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3 Issues

3.1 Introduction and General Matters

- 3.1.1 This chapter sets out the 'issues' which are agreed, not agreed, or are under discussion between NE and Highways England.
- 3.1.2 The progress note submitted by The Planning Inspectorate on the 20 July 2020 under Section 88 of the Planning Act 2008 (as amended) and The Infrastructure Planning (Examination Procedure) Rules 2010, sets out in Annex B the Examining Authority's 'Initial Assessment of Principle Issues'. In Annex C the Planning Inspectorate sets out a list of SoCG that the Examining Authority request the Applicant to enter into with a number of parties including Natural England.
- 3.1.3 The Examining Authority request the SoCG between Natural England and the Applicant include the following issues:
- Habitats, Ecology and Nature Conservation, including assessment of cumulative effects (Issue ref: NE-01).
 - The loss of the Best and Most Versatile Agricultural Land (Issue ref: NE-02).
 - Adequacy and means of securing mitigation (Issue ref: NE-03).
 - Effects on protected species and sites (Issue ref: NE-04).
 - Effects on Whitgreaves Wood, Brooklands Farm SBI and other areas of ancient woodland (Issue ref: NE-05).
 - The need for and means of securing mitigation actions (Issue ref: NE-06).
 - Need for Habitat Regulations Assessment/Appropriate Assessment (Issue ref: NE-07).
 - Appropriateness of Biodiversity Net Gain approach (Issue ref: NE-08).

3.2 Issues related to the Environmental Statement (ES)

Table 3.1: Issues related to the ES

Issue ¹	ES sub-section	Natural England comment	Highways England response	Status	Agreement likely (app) ² ?	Agreement likely (IP)?
Chapter 8: Biodiversity [AS-025/6.1]						
Legislation and policy'	Section 8.2	Natural England is content that the ES includes details of applicable legislation and policy.	Details of applicable legislation and policy are provided in Section 8.2 of the ES.	Agreed	Agreed	Agreed
Ecological impact assessment methodology	Section 8.3	Natural England is content that the ecological impact assessment methodology, including desk studies and timing of the 2015/2018 surveys, is appropriate for assessing the ecological effects of the Scheme.	The ecological impact assessment methodology used was reported in the EIA Scoping Report and ES and has taken account of NE comments. Details of methodologies used to undertake the environmental impact assessment are provided in Section 8.3 of the ES.	Agreed	Agreed	Agreed
Scope of ecological surveys	Section 8.3 Appendix 8.4 to 8.14 [APP-178 to 186/6.3]	Natural England is content that the survey coverage and methodologies used are appropriate for the ecological impact assessment. Natural England note that further surveys will be on-going, and these surveys will inform the mitigation measures proposed.	The surveys required to appropriately define ecological baseline conditions are sufficient to enable the ecological impact assessment. The surveys have been subject to ongoing discussions between Highways England and NE during the preparation of the DCO application and were outlined in the PEIR as reviewed by NE.	Agreed	Agreed	Agreed

¹ RR= Relevant representation reference, IR = Issue Reference, as set out on Page 9 of this SoCG.

² Indication on likelihood that the matter will be agreed by the close of the Examination period as rated by the applicant (app) and the Interested Party (IP). Dark green = agreed, light green = high likelihood of agreement, orange = medium likelihood of agreement, red = low likelihood of agreement.

Issue ¹	ES sub-section	Natural England comment	Highways England response	Status	Agreement likely (app) ² ?	Agreement likely (IP)?
GCN population size	Appendix 8.11 [APP-183/6.3]	<p>Natural England considers assuming a medium GCN population size due to lack of survey access or where surveys were incomplete is reliant upon New Licensing Policy 4. As part of the licence application, explanation will need to be provided as to why update surveys are not considered appropriate.</p> <p>The compensation needs to be appropriate for the size class that has been assumed.</p> <p>Draft licenses were submitted to Natural England for comments and approval prior to submission of the DCO application with an explanation as to why medium populations were assumed.</p> <p>A letter of no impediment was issued by Natural England for GCN on 10 January 2020, refer to Appendix B (B2) of the Consents and Agreements Position Statement (CAPS) [TR010054/APP/3.3] and Appendix 8.3 of the ES [TR010054/APP/6.3]. No further submission is required to update the letter of no impediment following the updated 2020 survey results and the subsequent</p>	<p>Further surveys have been undertaken in spring/summer 2020 to determine the presence/ absence of GCN where populations were assumed.</p> <p>No GCN populations were identified in those ponds directly impacted by the Scheme. The number of ecology mitigation ponds has therefore been reduced from 12 to eight to mitigate for the loss of seven ponds and the partial loss of two ponds (1:1 ratio). No ponds are now required at a 2:1 ratio.</p> <p>Further ecology surveys will be undertaken prior to construction of the Scheme to inform the detail of the mitigation proposed in the licence applications. This information is not required to inform the Environmental Impact Assessment or the quantum of land required to be acquired for environmental mitigation purposes (i.e. it would not result in a requirement for mitigation that cannot be delivered on land identified for acquisition or result in a reduction in mitigation required such that areas of mitigation can be removed from the Scheme).</p>	Agreed	Agreed	Agreed

Issue ¹	ES sub-section	Natural England comment	Highways England response	Status	Agreement likely (app) ² ?	Agreement likely (IP)?
		amendments to the GCN mitigation proposed (refer to email 10/09/20).				
Study area	Section 8.5	Natural England is content that the study areas considered in the ES are appropriate.	Details of study area for each aspect of the biodiversity assessment is reported in Section 8.5 of the ES.	Agreed	Agreed	Agreed
Baseline conditions	Section 8.6	Natural England is content that the ES appropriately defines baseline conditions.	Details of the baseline conditions are reported in Section 8.6 of the ES as well as the results of ecological surveys reported in Appendix 8.4 to 8.14 [APP-178 to 186/6.3]. Baseline data will be updated based on the results of ongoing surveys. Any amendments will be discussed with Natural England.	Agreed	Agreed	Agreed
GCN, defining meta-populations	Section 8.6 and Appendix 8.11 [APP-183/6.3]	NE are content that the methodology to determine GCN metapopulation is appropriate, with agreement that dispersal barriers (whether natural or man-made) need to be considered as potential constraints to dispersal. NE are content with the evaluation that the ten metapopulations of GCN with potential to be affected by the Scheme are each of up to County ecological importance.	Details of the methodology for determining GCN populations and receptor importance is provided in Section 8.3 of the ES and Appendix 8.11 [APP-183/6.3] whilst receptor sensitivity for GCN is provided in Section 4.4 of Appendix 8.11 [APP-183/6.3].	Agreed	Agreed	Agreed
Biodiversity net gains		NE are content that Highways England utilised appropriate	A biodiversity metric calculation has been undertaken based on the method	Under discussion	Medium	Medium

<p>IR: NE-08</p> <p>RR-037ad</p>		<p>methodology for the calculation of the biodiversity metric, Appendix 8.2 [APP-176/6.3] based on the guidance available at the time of writing. Biodiversity Net Gain – Natural England acknowledges Highways England’s approach to the scheme whereby ‘no net loss to biodiversity’ is proposed. Natural England will continue in dialogue with Highways England to flesh out mitigation and/or compensation proposals and thereby to establish the potential scope for biodiversity net gains.</p>	<p>published by Defra in Biodiversity Offsetting Pilots Technical Paper: the metric for the biodiversity offsetting pilot in England (Defra, 2012), to determine effects of the Scheme.</p> <p>In July 2019 DEFRA published Net Gain: Summary of responses and government response to consultation on the objectives of net gain policy. The document was clear that consultation proposals for a mandatory requirement for net gain did not include nationally significant infrastructure projects because they have ‘fundamentally different characteristics to other development types’. Further, whilst Highways England agree that delivering biodiversity net gain is desirable, it is not at this time required by the Planning Act 2008 consenting regime.</p> <p>In addition, it should be noted that Highways England is seeking to acquire land for the Scheme through compulsory acquisition. In order to secure those powers, Highways England must demonstrate that the land subject to compulsory acquisition is required for the Scheme or is required to facilitate or is incidental to the Scheme (section 122 of the Planning Act 2008). This means that, whilst land required to mitigate the impact of the Scheme can be secured through compulsory acquisition, such powers do not extend to the acquisition of land for enhancement or gain.</p>			
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Issue ¹	ES sub-section	Natural England comment	Highways England response	Status	Agreement likely (app) ² ?	Agreement likely (IP)?
			<p>Highways England is nonetheless seeking to fully mitigate the impact of the Scheme on biodiversity so far as possible and seeks to deliver a scheme that results in no net loss in biodiversity.</p> <p>Proposed changes to the Scheme formally submitted in October 2020 reduce the impact of the Scheme on existing habitats and allow for retention and restoration of selected areas. As part of this submission the biodiversity metric has been re-calculated using Defra Metric 2.0 and submitted to the inspectorate as a revision of Appendix 8.2: Biodiversity Metric Calculations [TR010054/APP/6.3].</p> <p>The Biodiversity Metric Calculations Version 3 (Appendix 8.2 [AS-103]) show that following completion of the Scheme, total biodiversity units would be marginally higher, with an area based gain of 2.21% of units (17.32 units), a linear based gain of 26.27% (8.2 units) and a 2.23% (0.33 units) gain of river habitats. The Scheme is within the range -5 % to +5 % for river and area based habitats (woodland, grassland etc.) which can be classed as no net loss in accordance with Table 11.9 of CIRIA C776a Good practice principles for development (Ref 8), and can be classed as achieving a net gain in linear (hedgerow) habitats.</p>			

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			<p>Highways England has accepted a designated fund application for an initial feasibility study to identify opportunities and appropriate sites which could be improved to provide biodiversity net gains to be delivered on land outside of the Scheme boundary in partnership with key stakeholders and landowners.</p> <p>For avoidance of doubt, the proposals associated Designated Funds applications are not part of the DCO application and are not material to decision making on this application.</p>			
<p>Biodiversity net gains IR: NE-08 RR-037ad</p>		<p>Natural England and Highways England agree that the project should achieve no net loss in biodiversity to mitigate the impact of the Scheme. The two parties agree that this is the minimum the project should achieve. Natural England generally expects to see at least a 10% net gain achieved and Highways England has sought to achieve this for certain habitats where possible (e.g. the project will achieve a net gain of over 10% for linear habitats but not for the Scheme overall on an area basis).</p> <p>However, Highways England and Natural England agree that whilst biodiversity net gain is desirable and may become mandatory for NSIPs in the future, the lack of a policy imperative to deliver net gains make it challenging to justify the compulsory acquisition of land to do so. In the context of a Scheme where all or most of the land will be acquired through compulsory acquisition Highways England and Natural England agree that it may not be possible to deliver net gains in biodiversity through the DCO process for this particular Scheme. Natural England will continue dialogue with Highways England to establish the potential scope for biodiversity net gains outside the DCO process.</p>		Under discussion	Medium	Medium

Issue ¹	ES sub-section	Natural England comment	Highways England response	Status	Agreement likely (app) ² ?	Agreement likely (IP)?
<p>Protected species licences</p> <p>IR: NE-04 IR: NE-03</p>	<p>Section 8.8 Para 8.8.5</p>	<p>Natural England considers that licences would be required for the following protected species:</p> <p>GCN roosting bats; badgers.</p>	<p>Draft licences were submitted to Natural England for comment and approval prior to submission of the DCO application.</p> <p>Based on current survey results, there is no requirement for water vole and otter licences.</p> <p>Letters of no impediment have been received from NE for all three species and are contained in Appendix B of the Consents and Agreements Position Statement (CAPS) [APP-020/ 3.3] and Appendix 8.3 of the ES [APP-177/ 6.3].</p> <p>The requirement to secure European Protected Species Licences is set out in the OEMP, Table 3.2, PW-BIO3 to 7 and Table 3.3, MW-BIO1. Delivery of the OEMP [APP-218/6.11] is a Requirement in the draft DCO [APP-017/3.1].</p> <p>Baseline data and mitigation measures will be updated based on the results of ongoing surveys. Any amendments will be discussed and agreed with Natural England.</p>	<p>Agreed</p>	<p>Agreed</p>	<p>Agreed</p>
<p>Ancient woodland and compensation measures</p> <p>IR: NE-03</p>	<p>Section 8.8 Para 8.8.3</p>	<p>Approach regarding possible fragments of ancient woodland should always be to avoid loss in the first instance.</p> <p>Any unavoidable loss of ancient woodland must be compensated</p>	<p>The locations of ancient woodland within or adjacent to the Scheme boundary have been discussed and agreed with NE as outlined in meeting minutes of 16/07/19.</p> <p>A 7:1 ratio of woodland planting to compensate for the loss of ancient woodland at Whitgreaves Wood and</p>	<p>Agreed</p>	<p>Agreed</p>	<p>Agreed</p>

M54 to M6 Link Road
Statement of Common Ground with Natural England

Issue ¹	ES sub-section	Natural England comment	Highways England response	Status	Agreement likely (app) ² ?	Agreement likely (IP)?
		for with appropriate planting at a ratio agreed with Natural England. Following the meeting on 16/09/19 Natural England are in agreement that the ratio of 7:1 is appropriate.	Brookfield Farm SBI was agreed with Natural England as outlined in meeting minutes of 16/09/19. This ratio is set out in the OEMP, Table 3.4, D-BIO11. Delivery of the OEMP [APP-218/6.11] is a Requirement in the draft DCO [APP-017/3.1].			
Ancient woodland and compensation measures RR-37ak IR: NE-03	Section 8.8	Improvement works to Whitgreaves Wood have been discussed as part of the mitigation strategy for ancient woodland. Currently the Applicant is in discussions with National Trust who own the woodland and further dialogue may be required. Discussions on the details of compensation measures, including the interplay with best and most versatile and/soils resources, will also be required. Noting Highways England responses Natural England are content that this compensation measure is appropriately secured.	The Order limits were altered prior to the submission of the DCO application to include Whitgreaves Wood for the purpose of improvements to ancient woodland. The OEMP [AS-112/6.11] Table 3.4 MW - G7 lists the detailed Management Plans that are to be produced and appended to the CEMP. Enhancement measures and management plans for this woodland will be determined at the detailed design stage in consultation with Natural England and the National Trust. The works to this site and ongoing maintenance are secured through a legal agreement between the Applicant and the National Trust.	Agreed	Agreed	Agreed
Ancient woodland and compensation measures IR: NE-03	Section 8.8	Natural England is not aware of any set mitigation for nitrogen deposition impacts on ancient woodlands. We would advise that compensatory planting along with management improvements would be appropriate compensation in	A 1:1 ratio of woodland planting to compensate for the impacts of nitrogen deposition on ancient woodland is proposed. This is set out in 'DMRB updates and the Implications on the DCO Application' [AS-059/8.2] submitted to the Planning Inspectorate on 30 July 2020 and	Under discussion	Medium	Medium

Issue ¹	ES sub-section	Natural England comment	Highways England response	Status	Agreement likely (app) ² ?	Agreement likely (IP)?
		the circumstances. What ratio should be used should be considered in relation to the potential impact both alone and cumulatively, whether the site is currently exceeding nitrogen deposition levels and evidence of whether the woodland is already being impacted by nitrogen deposition.	submitted to Natural England for information on 31 July 2020.			
Mitigation measures IR: NE-03 IR: NE-06	Section 8.8	Natural England is content that the mitigation measures defined in the ES are appropriate and are required to minimise the impacts of the Scheme as reported in Chapter 8: Biodiversity of the ES. It is agreed that these mitigation measures are appropriately secured through the Outline Environmental Management Plan (OEMP) Further discussion is required around detail of mitigation and compensation measures (including Ancient Woodland) and securing through the draft DCO.	Details of mitigation measures are reported in Section 8.8 of the ES and the OEMP. Delivery of the OEMP [APP-218/6.11] is a Requirement in the draft DCO [APP-017/3.1].	Under discussion	High	High
Effects on ancient woodland IR: NE-05	Section 8.9 8.9.26 to 8.9.31 and 8.9.129 [AS-025/6.3]	Natural England is content that potential impacts and effects on ancient woodland have been appropriately assessed within the ES. With exception of a previously unidentified site, see below.	The effects on ancient woodland are reported in Section 8.9 'Assessment of likely significant effects' of the ES [AS-025/6.1]. A new application document 'DMRB Updates and the Impact on the DCO	Agreed	Agreed	Agreed

M54 to M6 Link Road
Statement of Common Ground with Natural England

Issue ¹	ES sub-section	Natural England comment	Highways England response	Status	Agreement likely (app) ² ?	Agreement likely (IP)?
			Application ¹ [AS-059/8.2] was submitted to the Inspectorate on 30 July 2020 documenting a revision to the Air Quality and Biodiversity assessments as a result of changes to the Design Manual for Roads and Bridges assessment guidance. This change in guidance requires the assessment of impacts on ancient woodland from nitrogen deposition that are within 200 m of the affected road network (ARN) and altered the methodology for the assessment of air quality impacts on biodiversity receptors. This document was sent to Natural England on 31 July 2020.			
Effects on ancient woodland Supp. Consultation Response September 2020	Section 8.9	We are aware that the Staffordshire Wildlife Trust in their Relevant Representation raised a concern that remnant of Oxden Leasow/ Whitgreaves Wood on the north side of the M54 could be potential ancient woodland. We note that the proposed change 1 will result in a reduction in the amount of woodland being removed. If the woodland is found to be ancient woodland we would welcome discussion on the likely impacts of the scheme on the woodland.	This woodland fragment was omitted from our reported investigation on potential ancient woodland sites. We will undertake historic map regression and assessment as appropriate and continue discussions with Natural England.	Under discussion	High	High
Effects on ancient	Section 8.9	Natural England have agreed to the use of a critical load of 10-20 kg N ha ⁻¹ year ⁻¹ in relation to	The critical load of 10-20 kg N ha ⁻¹ year ⁻¹ has been used in the air quality assessment for ancient woodland and	Agreed	Agreed	Agreed

Issue ¹	ES sub-section	Natural England comment	Highways England response	Status	Agreement likely (app) ² ?	Agreement likely (IP)?
woodland and veteran trees Method IR:NE-05		ancient woodland and veteran trees for the assessment of impacts of air quality.	veteran trees reported In Chapter 8: Biodiversity of the ES [AS-025/6.1].			
Effects on protected species IR: NE-04	Section 8.9 Para. 8.9.50 to 8.9.120 and Para 8.9.149 to 8.9.182	Natural England is content that the Environmental Statement appropriately assesses the effects of the Scheme on protected species and that impacts would be managed through adherence to mitigation measures detailed in the OEMP.	The effects on protected species are reported in Section 8.9 'Assessment of likely significant effects' of the ES [AS-025/6.1]. Delivery of the OEMP [APP-218/6.11] is a Requirement in the draft DCO [APP-017/3.1].	Agreed	Agreed	Agreed
Effects on SSSI RR-037ai/aq IR: NE-01 IR: NE-04	Section 8.9 Para 8.9.4 to 8.9.5 (construction) Para 8.9.1.27 (operation)	Natural England is content that the Environmental Statement appropriately assesses the construction effects of the Scheme on SSSI. Natural England notes that the air quality assessment (operational assessment) found that there would be an increase in NOx and nitrogen deposition at Stowe Pool and Walk Mill Clay Pit SSSI and Chasewater and the Southern Staffordshire Coalfield Heaths SSSI. Further discussions are required over the assessment and the ES conclusions with regard to the potential impacts of these increases and mitigation.	Please see our response to RR-037am on the relevance of quoted case law to SSSIs. The Air Pollution Information System (APIS) website states that for the white-clawed crayfish interest features of Stowe Pool & Walk Mill Claypit SSSI no critical load has been assigned. This is because the majority of lowland open freshwater bodies are phosphorus limited (i.e. phosphorus is the principal nutrient limiting eutrophication) rather than nitrogen-limited. Phosphorus does not come from vehicle exhaust emissions. Moreover, in the absence of any appropriate nitrogen critical load, no modelling assessment can be undertaken. As detailed in paragraph 8.9.127 of the ES [AS-025/6.1], an increase in NOx or nitrogen deposition	Under discussion	Medium	Medium

Issue ¹	ES sub-section	Natural England comment	Highways England response	Status	Agreement likely (app) ² ?	Agreement likely (IP)?
		<p>Consistent with our comments (RR-037am) regarding recent guidance and case law we would welcome further dialogue with the applicant regarding the assessment of Stowe Pool & Walk Mill Claypit SSSI and the Chasewater and the Southern Staffordshire Coalfield Heaths SSSI.</p>	<p>does not necessarily equate to a significant effect that requires mitigating. Nitrogen deposition would only increase in one of the Chasewater and the Southern Staffordshire Coalfield Heaths SSSI units (unit 8), and this increase is less than 1% of the critical load for dwarf shrub heath and therefore, as stated in DMRB LA 105 this is not considered to result in a significant effect on the SSSI and therefore no mitigation measures are proposed.</p> <p>Following a change to DMRB air quality methodology a sensitivity test was undertaken to determine whether these changes would alter the assessment of air quality impacts on biodiversity receptors as reported in the ES [AS-025/6.1]. This is reported in 'DMRB updates and the Implications on the DCO Application' [AS-059/8.2] submitted to the Planning Inspectorate on 30 July 2020 and submitted to Natural England for information on 31 July 2020. The document reported no change to the conclusions of the assessment of impacts on non-statutory designated sites.</p>			
<p>Effects on non-statutory designated sites IR: NE-04</p>	<p>Section 8.9 Para 8.9.8 to 8.9.25 (construction)</p>	<p>Natural England wishes to confirm that the Environmental Statement appropriately assesses the construction and operational effects of the Scheme on non-statutory designated sites</p>	<p>The effects on non-statutory designated sites are reported in Section 8.9 'Assessment of likely significant effects' of the ES [AS-025/6.1].</p> <p>Following a change to DMRB air quality methodology a sensitivity test was</p>	<p>Agreed</p>	<p>Agreed</p>	<p>Agreed</p>

Issue ¹	ES sub-section	Natural England comment	Highways England response	Status	Agreement likely (app) ² ?	Agreement likely (IP)?
	Para 8.9.129 to 8.9.134 (operation)	specifically in respect to air quality, and the related impacts would be managed through adherence to mitigation measures.	undertaken to determine whether these changes would alter the assessment of air quality impacts on biodiversity receptors as reported in the ES [AS-025/6.1]. This is reported in 'DMRB updates and the Implications on the DCO Application' [AS-059/8.2] submitted to the Planning Inspectorate on 30 July 2020 and submitted to Natural England for information on 31 July 2020. The document reported no change to the conclusions of the assessment of impacts on non-statutory designated sites. Delivery of the OEMP [APP-218/6.11] is a Requirement in the draft DCO [APP-017/3.1].			
Effects on priority habitats RR-037ar IR: NE-01 IR: NE-04 IR: NE-05	Section 8.9 Para 8.9.32 to 8.9.49 (construction) Para 8.9.135 to 8.9.148 (operation)	In a similar vein to the European Sites and SSSI commentary above (RR-037i), further discussions will be required on potential air quality impacts (operational assessment) and their mitigation in relation to priority habitats (ancient woodland, deciduous woodland, veteran trees and hedgerows) Consistent with our comments (RR-037r) regarding recent guidance and case law we would welcome further dialogue with the applicant regarding the	The legal requirement for 'in combination' assessment (including the Wealden judgment and the Dutch Nitrogen case) is explicitly for European sites and the HRA process. There is no comparable legal driver requiring this approach to be taken for Priority Habitats, nor is there any such requirement in DMRB or in government policy (e.g. NPSNN or the NPPF). To extend the same provisions to Priority Habitats would effectively elevate all areas of Priority Habitat to the status of European sites. This comment therefore concerns an overall process issue regarding DMRB, which should be discussed at a strategic level between	Under discussion	Medium	Medium

Issue ¹	ES sub-section	Natural England comment	Highways England response	Status	Agreement likely (app) ² ?	Agreement likely (IP)?
		assessment of these priority habitats.	Natural England and Highways England rather than being a matter for this particular scheme.			
Chapter 9: Geology and Soils [APP-048/6.1]						
Legislation and policy	Section 8.2	Natural England is content that the ES includes details of applicable legislation and policy.	Details of applicable legislation and policy are provided in Section 9.2 of the ES.	Agreed	Agreed	Agreed
Assessment methodology	Section 9.3	Natural England is content that the assessment methodologies applied to undertake the environmental impact assessment as reported within the ES are appropriate, with the exception of the assessment of impacts on agricultural soils.	Details of methodologies used to undertake the environmental impact assessment are provided in Section 9.3 of the ES.	Agreed	Agreed	Agreed
Assessment methodology RR 037a1 IR: NE-02	Section 9.3	Cumulative losses of BMV agricultural land need to be discussed. Impact on soils in the context of the NCA (table 9.13) is not particularly relevant. Cumulative approach means of the scheme in combination with other developments. The LA109 approach seems flawed if individual grades are being reported separately? Noting Highways England's response Natural England still has	Dialogue between Highways England and Natural England around the impacts on best and most versatile agricultural soils is ongoing, correspondence and those aspects agreed and still under discussion are set out here. A technical note on agricultural soils has been produced and submitted to Natural England and minor amendments to the OEMP [AS-042/6.11] PW-GEO4, PW-GEO5 and MW-GEO5, have been updated to address concerns raised by Natural England around soil storage practises and the restoration and maintenance of BMV in	Under discussion	Medium	Medium

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		some concerns about how this is reported. Discussions are ongoing.	<p>areas of habitat creation. These are provided in Version 3 of the OEMP submitted to the Planning Inspectorate on 9 October 2020.</p> <p>Agricultural soils are present across the Country in varying grades as classified under the agricultural land classification Grades 1 to 5.</p> <p>The Magnitude of impact criteria for soils as set out in DMRB LA109 takes into consideration the area of soil loss; with more than 20 ha of agricultural soils resulting in a Major impact on soil resources and the loss of 1 to 20 ha of agricultural soils resulting in a Moderate impact. Based on the significance of effect matrix set out in DMRB LA104, these impacts combined with the Value (sensitivity) of the receptors (Grades 1 and 2 Very high importance, Grade 3a high importance) set out that the loss of >1 ha of best and most versatile (BMV) agricultural soils would result in a Moderate to Very Large adverse effect which is considered to be a significant effect.</p> <p>In itself the loss of 1 ha of BMV against the total area of BMV soils across England is a small proportion. However, in combination with other developments this impact would likely be considered significant, as is confirmed using the criteria in DMRB. It is</p>			

Issue ¹	ES sub-section	Natural England comment	Highways England response	Status	Agreement likely (app) ² ?	Agreement likely (IP)?
			therefore considered that the Value (sensitivity), Magnitude and Significance criteria set out with DMRB LA109 for the assessment of agricultural soils takes into consideration cumulative effects.			
Assumptions and limitations	Section 9.4	Natural England is content that the assumptions and limitations reported in the ES in relation the agricultural soils are reasonable and do not impact upon the validity of the assessment findings.	Details of the assumptions and limitations which informed the ES are reported in Section 9.4 of the ES.	Agreed	Agreed	Agreed
Study area	Section 9.5	Natural England is content that the study area for agricultural soils reported in the ES is appropriate.	Details of the study area is reported in Section 9.5 of the ES.	Agreed	Agreed	Agreed
Mitigation measures Soil resources	Section 9.8	It should be noted that BS3882:2015 British Standard for Topsoil is not applicable to topsoil that is to remain in-situ or be used to preclude the use of topsoil that is already on-site and is suitable for its intended use. It is primarily designed for traded topsoils. This should be made clearer in the ES. Noting Highways England's response further discussion needed; could be handled as a footnote to clarify. Concerned that some in-situ soils are regarded as not meeting BS standard.	The DMRB refers to this standard and so it was decided to retain the reference in this location. 9.8.11 also make reference to the Defra Construction Code of Practice to control the use of topsoil in site. No change was made to the submitted Chapter. An update has been made to the OEMP (Version 3), Table 3.2, PW-GEO5: <i>"Excavated materials management: To form part of the Soil Management Strategy, the preliminary works contractor (all) shall develop a:</i> <ul style="list-style-type: none"> <i>Soils handling strategy with reference to BS3882: 2015 Specification for Topsoil (Ref 3.6)</i> 	Agreed	Agreed	Agreed

Issue ¹	ES sub-section	Natural England comment	Highways England response	Status	Agreement likely (app) ² ?	Agreement likely (IP)?
		<p>Natural England are content that this issue has been addressed in the updated Outline Environmental Management Plan (Version 3) [AS-112/6.11].</p>	<p><i>and the Defra Construction Code of Practice for the Sustainable Use of Soils on Construction Site (Ref 3.5), BS3882: 2015 Specification for Topsoil1 (Ref 3.6) and MAFF, Good practice guide for handling soils (Ref 3.29).</i></p> <ul style="list-style-type: none"> • <i>Soil Resource Plan which would confirm the soil types, the most appropriate re-use for the different types of soils and proposed methods for handling, storing and replacing soils on-site."</i> <p>And a footnote added to the OEMP: ¹ It is noted that BS3882:2015 is only applicable to the classification and composition of natural or manufactured topsoils that are moved or traded for creating soil profiles intended to support plant growth.</p> <p>It is Highways England's opinion that this update would address this query if accepted by the Planning Inspectorate.</p>			
<p>Mitigation measures Soil resources RR-037a1 IR: NE-02</p>	<p>Section 9.8</p>	<p>Natural England welcome the intention to return agricultural land to its former condition. This should include a commitment to return it to the same agricultural land classification grade where land is temporarily taken for the construction of the Scheme.</p>	<p>Text is provided in the OEMP [APP-218/6.11] MW- GEO9, PW- GEO4 and MW- GEO7 for the reinstatement and restoration of agricultural soils to their existing condition where agricultural land is temporarily taken for the Scheme.</p> <p>Delivery of the OEMP is a Requirement in the draft DCO.</p>	<p>Agreed.</p>	<p>Agreed</p>	<p>Agreed</p>

Issue ¹	ES sub-section	Natural England comment	Highways England response	Status	Agreement likely (app) ² ?	Agreement likely (IP)?
<p>Mitigation measures Best and Most Versatile (BMV) agricultural land</p> <p>RR-037al RR-037au IR: NE-02</p>	<p>Section 9.8</p>	<p>Where BMV land would be returned to other uses, this soil should also be returned to a BMV standard in order to minimise loss of BMV potential e.g in areas of woodland planting.</p> <p>Landscaping – Requirement 5 ‘Landscaping’ – Due to the interrelationship between ecological resources, soils and landscaping on the proposal site proposed requirement 4 (CEMP & HEMP) will be essential to inform the effective implementation of proposed requirement 5.</p> <p>Noting Highways England’s response, Natural England maintain that topsoil should not be stripped for the creation of species-rich grassland. Discussions remain ongoing.</p>	<p>Chapter 9: Geology and Soils [APP-048/6.1] of the ES assumes that all areas of agricultural land taken permanently by the Scheme as shown on the Land Plans [APP-007/2.2] would be lost and therefore presents a worst case.</p> <p>A technical note has been produced to show the areas of each agricultural land classification (ALC) within the Scheme boundary and its end use (e.g. hardstanding, species-rich grassland, woodland planting). The end use of the land has then been used to determine whether or not it is likely the soils could be maintained or restored to their current agricultural land classification post construction. The technical note considers the Scheme design submitted to the Planning Inspectorate in January 2020 as well as the amended Scheme design.</p> <p>Table 3.1, PW-GEO4 of the OEMP (Version 3) has been amended to reflect this:</p> <p>“Soil Management Strategy:</p> <p>The preliminary works contractor (all) shall produce a detailed Soil Management Strategy in line with (PW-GEO5). The management strategy would identify the nature and types of soil that would be affected, including the methods that would be employed for stripping soil and the restoration of agricultural land to its</p>	<p>Under discussion</p>	<p>Medium</p>	<p>Medium</p>

Issue ¹	ES sub-section	Natural England comment	Highways England response	Status	Agreement likely (app) ² ?	Agreement likely (IP)?
			<p>existing agricultural land classification where <u>the end use of the land allows (e.g. returned to agricultural use or used for woodland planting) it is being returned to agricultural use.</u></p> <p>It is Highways England's opinion that this update would address this query if accepted by the Planning Inspectorate.</p>			
<p>Mitigation measures</p> <p>Soil storage</p>	Section 9.8	<p>Soil storage areas need to be large enough to store soils separately. To reduce mixing, soil bunds should be of a single soil type including different topsoils, subsoils and other soil forming material.</p> <p>The words 'soils of different quality' is ambiguous.</p> <p>Noting Highways England's response and updated to the OEMP. Natural England are content that mitigation measures relating to soil storage are appropriate.</p>	<p>The OEMP [TR010054/APP/6.11] PW-GEO5 and MW-GEO5 includes text which states. "Soil mounds should be of a single soil type and soils of different quality should not be mixed."</p> <p>This has been amended in Version 3 of the OEMP as follows:</p> <p><i>"Soil mounds should be of a single soil type and soils of different <u>quality type</u> should not be mixed e.g. topsoil will be removed to store subsoil and topsoil will be stored on similar topsoil".</i></p> <p>It is Highways England's opinion that this update would address this query if accepted by the Planning Inspectorate.</p>	Agreed	Agreed	Agreed
<p>Effects on BMV agricultural land</p> <p>RR-037a1 IR: NE-02</p>	Section 9.9	<p>Can you confirm that the amount of land permanently taken by the footprint of the new road is only 8.5 ha? This seems rather low given the total area of the scheme boundary (80.5ha)?</p>	<p>The area of land permanently sealed under hard standing is 8.5 ha (7.7 ha of which would be best and most versatile (BMV) agricultural land. The section of new road is 2.5 km in length and utilises two existing motorway junctions. The Scheme boundary is much larger than this to allow for ancillary development such as</p>	Under discussion	Medium	Medium

Issue ¹	ES sub-section	Natural England comment	Highways England response	Status	Agreement likely (app) ² ?	Agreement likely (IP)?
		<p>The permanent loss of BMV is greater than this if the areas of permanent mitigation (principally woodland planting) are not returned to a BMV standard.</p> <p>Noting Highways England's response, Natural England maintain that topsoil should not be stripped for the creation of species-rich grassland in order to minimise the loss of BMV. Discussions remain ongoing.</p>	<p>drainage, utility diversions, footpath diversions and permanent mitigation measures (including but not limited to woodland, hedgerow and grassland planting and pond creation) and temporary land take required to construct the Scheme.</p> <p>Chapter 9: Geology and Soils [APP-048/6.1] of the ES assumes that all areas of agricultural land taken permanently by the Scheme as shown on the Land Plans [APP-007/2.2] would be lost and therefore the impacts and effects reported in the ES are not based on the area of ALC sealed under hardstanding, this area is provided for information only.</p> <p>A number of amendments to the Scheme design are being proposed, which broadly align with those set out in the supplementary consultation documents published on 24 August 2020. These changes have been considered in an ES Addendum which was submitted to the Planning Inspectorate on 9 October 2020. These changes reduce the total loss of best and most versatile agricultural land.</p> <p>A technical note has been produced to show the areas of each agricultural land classification (ALC) within the Scheme boundary and its end use (e.g. hardstanding, species-rich grassland, woodland planting). The end use of the land has then been used to determine</p>			

Issue ¹	ES sub-section	Natural England comment	Highways England response	Status	Agreement likely (app) ² ?	Agreement likely (IP)?
			<p>whether or not it is likely the soils could be maintained or restored to their current agricultural land classification post construction. The technical note considers the Scheme design submitted to the Planning Inspectorate in January 2020 as well as the amended Scheme design as presented in documentation submitted to the Planning Inspectorate on 9 October 2020.</p>			
<p>Effects on BMV agricultural land RR-037a1 IR: NE-02</p>	<p>Section 9.9</p>	<p>The significance of the impacts should take account of the pattern of ALC grades affected by the scheme so that the highest value with respect to the impacts is used to characterise the scheme as a whole. Please confirm that a very large adverse effect is anticipated, given that the amount of BMV land said to be permanently taken the footprint of the new road is only 8.5ha. Does this imply that the c 27 ha of proposed species rich grassland (or areas for woodland planting) would not be restored to the physical characteristics commensurate with BMV quality? Are these soils intended to be treated less favourably than those being returned to a (potentially) more intensive agricultural use? Natural England would welcome further discussion about the</p>	<p>The assessment of the loss of agricultural soils has followed the assessment methodology set out in the Design Manual for Roads and Bridges LA 109 Geology and Sols. A very large adverse effect is reported in relation to the loss of Grade 2 BMV land. It has been assumed that although the soils would not be permanently sealed due to the permanent acquisition of this land by Highways England, the soils would no longer be available for agricultural use and would instead in most cases be utilised to support habitat creation. Text has been added to para 9.9.6 to make this clearer. "This demonstrates that less than 8 ha of BMV would be sealed permanently by the Scheme, with the remaining area required to deliver environmental mitigation which would therefore no longer be available for agricultural use.".</p> <p>The assessment reported in Chapter 9: Geology and Soils of the ES [APP-</p>	<p>Under discussion</p>	<p>Medium</p>	<p>Medium</p>

Issue ¹	ES sub-section	Natural England comment	Highways England response	Status	Agreement likely (app) ² ?	Agreement likely (IP)?
		<p>standards of soil restoration proposed in these areas.</p> <p>The permanent loss of BMV is greater than c 8ha if the areas of permanent mitigation (principally woodland planting) are not returned to a BMV standard. The area which is sealed is only one element of the potential loss of BMV.</p> <p>Noting Highways England's response, Natural England maintain that topsoil should not be stripped for the creation of species-rich grassland in order to minimise the loss of BMV. Discussions remain ongoing.</p>	<p>048/6.1] presents a worst case. A technical note has been produced which takes into consideration the end use of the land (e.g. hardstanding, species-rich grassland, woodland planting) and whether it's likely based on this land use that the soils functions could be maintained or restored post construction. The mitigation measures set out in the OEMP have been amended to make it clear that soils would be maintained or restored to their current agricultural land classification post construction. It is not intended that those soils taken permanently by the Scheme would be treated less favourably than those taken temporarily and returned to agricultural use.</p> <p>As reported in the ALC technical note using this methodology the overall conclusions of the assessment as reported in Chapter 9: Geology and Soils remain unchanged.</p> <p>Highways England are open to further discussion on soil restoration to inform the production of the Soil Management Strategy. The requirement for Highways England to consult Natural England during the production of the Soil Management Strategy has been included in Version 3 of the OEMP submitted to the Planning Inspectorate on 9 October 2020, Table</p>			

Issue ¹	ES sub-section	Natural England comment	Highways England response	Status	Agreement likely (app) ² ?	Agreement likely (IP)?
			3.1, PW-GEO4 and is secured under Requirement 4 of the draft DCO. It is Highways England's opinion that this update would address this query if accepted by the Planning Inspectorate.			
Monitoring Soil resources RR-037a1 IR: NE-02	Section 9.10	Monitoring of soil condition in the proposed areas of species rich grassland and woodland creation would also be beneficial so that remedial actions can be undertaken if necessary to secure the success of the after use proposed. Further discussion needed about timing of monitoring and how this fit with ecological monitoring. Noting Highways England's response and updates to the OEMP. Natural England are content that the monitoring of soil condition is appropriately secured.	Paragraph 9.10.1 of the Environmental Statement was amended prior to submission of the ES in January 2020 to state: "The Scheme would have significant adverse residual effects upon agricultural land within the Scheme boundary, primarily due to the proportion of temporary and permanent land take required to construct the Scheme. Where agricultural land taken on a temporary basis is restored and returned to the landowner for continued agricultural use, post-construction monitoring would be required to determine whether pre-existing agricultural soil capability had been reinstated. Soil conditions would also be monitored in the proposed areas of species rich grassland and woodland creation to ensure the soil is of an appropriate condition to support the establishment of proposed habitats. Monitoring will be undertaken in Year 1 and Year 5. Such monitoring requirements would be detailed in a Soil Management Strategy, the requirement for which is detailed in the OEMP [TR010054/APP/6.11]."	Agreed	Agreed	Agreed

M54 to M6 Link Road
Statement of Common Ground with Natural England

Issue ¹	ES sub-section	Natural England comment	Highways England response	Status	Agreement likely (app) ² ?	Agreement likely (IP)?
			<p>Further discussions on the timing of monitoring is welcome, this will be undertaken during the detailed design of the Scheme. Version 3 of the OEMP has been amended, Table 3.2, PW-GEO4 to ensure that Natural England are consulted during the production of the Soil Management Strategy.</p> <p>It is Highways England's opinion that this update would address this query if accepted by the Planning Inspectorate.</p>			

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3.3 Issues relating to other documents

Table 3.2: Issues relating to other documents

Issue ³	Document	Natural England comment	Highways England response	Status	Agreement likely ⁴ (app)?	Agreement likely (IP)?
HRA RR-037o IR: NE-07	HRA [APP-216/6.9] Para. 3.1.12	NE are content satisfactory information has been submitted with regards to Cannock Chase SAC in relation to the HRA and confirms the scheme will have no likely significant effect upon this European Site.	Noted. The screening assessment is reported in Section 3 of the HRA [TR010054/APP/6.9].	Agreed	Agreed	Agreed
HRA Screening Assessment RR-037ah IR: NE-07	HRA [APP-216/6.9] Para 3.1.9 to 3.1.12	In discussions with the Applicant's consultant Natural England agreed that based on the information presented in the Habitats Regulations Assessment ('No Significant Effects Report'), we would agree no likely significant effects. With regard to indirect impacts upon air quality, having reviewed the ES documents we would now advise that we cannot yet agree no likely significant effects for Cannock Extension Canal SAC and that further discussions are required.	Please refer to Highways England response to relevant representations, RR-037am to RR-037ap below, on the basis of the information provided we consider the conclusions of the HRA No significant Effects Report [APP-216/6.9] to be correct.	Under discussion	Medium	Medium

³ RR= Relevant representation reference, IR = Issue Reference, as set out on Page 9 of this SoCG.

⁴ Indication on likelihood that the matter will be agreed by the close of the Examination period as rated by the applicant and the Interested Party.

Dark green = agreed, Light green = high likelihood of agreement, yellow = medium likelihood of agreement, red = low likelihood of agreement.

Issue ³	Document	Natural England comment	Highways England response	Status	Agreement likely ⁴ (app)?	Agreement likely (IP)?
HRA RR-037am IR: NE-07	HRA [APP-216/6.9] Para. 3.1.9 to 3.1.12	In 2018 Natural England published NEA001 'Natural England's approach to advising competent authorities on the assessment of road traffic emissions under the Habitats Regulations' partly in response to case law known as the Wealden Judgement (Wealden –v- SSCLG 2017). A key element of this case law focuses upon the need for careful assessment of the in combination or cumulative effects of projects on European Sites. Although governed by different legislation the principles set out in NEA001 are likely to apply similarly to nationally designated sites (SSSI) ³ . Separate case law, known as the Dutch nitrogen case ('Co-operatie Mobilisation' – joined cases C293 & 294/17) raises questions regarding the approval of projects that would add further to pollution levels where the relevant European Site is already regarded as 'ecologically failing' due to existing ('background') levels of nitrogen related pollution. Natural England's National Air quality specialists are currently in discussions with Highways England	This comment concerns the overall DMRB process, which should be discussed at a strategic level between NE and HE rather than being a matter for this particular scheme. As set out below (RR-037an) only receptors up to 200 m from the ARN are considered within the local operational air quality assessment. This is because the effect of the concentration of pollutants from road traffic reduces with distance from the point of release, and beyond 200 m these are likely to have reduced to a concentration equivalent to background concentrations, as set out in paragraph 5.3.5 of the ES [APP-044/6.1]. The local operational air quality assessment is inherently cumulative, considering forecasted future traffic flows as described in ES Chapter 15: Assessment of Cumulative Effects [APP-054/6.1]. As reported in the Habitats Regulation Assessment [AS-035/6.9] there are no European sites within 200 m of the ARN and therefore no further assessment of impacts on European sites is required.	Under discussion	Medium	Medium

Issue ³	Document	Natural England comment	Highways England response	Status	Agreement likely ⁴ (app)?	Agreement likely (IP)?
		regarding the updated DMRB Manual- LA 105 Air quality.				
HRA Screening Assessment RR-037an IR: NE-07	HRA [APP-216/6.9] Para. 3.1.9 to 3.1.12	From the ES information provided we are not clear how the ARN was identified or the rationale for other roads being included in the model and associated air quality assessment (reference – ES Chapter 5 - Figure 5.1 Air Quality Study Area).	<p>The local operational air quality assessment considers the impact on individual sensitive receptors at distances of up to 200 m from the ARN based on guidance presented in DMRB HA207/07. In this approach the receptors with the highest predicted concentration and biggest predicted change in pollutant concentration are considered. This is because the effect of pollutants from road traffic reduces with distance from the point of release. Beyond 200 m these pollutants are likely to have reduced to a concentration equivalent to background concentrations. This is set out in Paragraph 5.3.5 of the ES [APP-044/ 6.1].</p> <p>The methodology for defining the ARN is set out in Section 5.5 'Study Area' of the ES [APP-044/6.1]. Paragraph 5.5.2 of the ES states "<i>Affected road links (individually modelled sections of road) have been identified by comparing traffic data with the Scheme (Do-Something) and without the Scheme (Do-Minimum) against the local air quality screening criteria presented in DMRB, which are as follows:</i></p> <ol style="list-style-type: none"> 1) road alignment would change by 5 m or more; or 2) annual average daily traffic (AADT) flows would change by 1,000 or more; or 	Agreed	Agreed	Agreed

Issue ³	Document	Natural England comment	Highways England response	Status	Agreement likely ⁴ (app)?	Agreement likely (IP)?
			<p>3) heavy duty vehicles (HDV) (vehicles greater than 3.5 tonnes, including buses and coaches) flows would change by 200 AADT or more; or</p> <p>4) daily average speeds would change by 10 km/hr or more; or</p> <p>5) peak hour speed would change by 20 km/hr or more."</p> <p>The 'Other Roads Modelled' illustrated on Figure 5.1: Air Quality Study Area [APP-068/6.2] are those major roads that lie outside the ARN but within 200 m of air quality receptors. This ensures that that all roads which have the potential to contribute to the total pollution concentrations predicted at receptors within 200 m of the ARN are considered. Not all receptors that are within 200m of the 'Other Roads' are considered to be receptors in the local operational air quality assessment as they may be more than 200 m from the ARN.</p> <p>A new DMRB methodology for air quality assessment was published on the 28 November 2019. Due to the complexity of these assessments and the timing of the published changes, it was not possible to update the air quality assessment to take into consideration the latest updated methodology prior to submission of the DCO application, without incurring a substantial delay to the Scheme.</p>			

Issue ³	Document	Natural England comment	Highways England response	Status	Agreement likely ⁴ (app)?	Agreement likely (IP)?
			<p>In order to test whether the results of the air quality assessment (as reported in the ES) would alter when assessed using the new DMRB methodology LA 105: Air quality, sensitivity testing has been undertaken. A new application document, "DMRB updates and the impact on the DCO application" [AS-059/8.2] has been produced to summarise the results of the air quality sensitivity testing work and report where changes to the assessment would result in alterations to other aspects of the ES and DCO application.</p> <p>Taking into consideration the screening criteria set out in LA 105, the sensitivity test of the operational study area demonstrated that the operational air quality study area would have been slightly larger, with two extra road links included in the ARN. This enlargement of the study area is not expected to result in any significant effects as emission concentrations at receptors modelled in the vicinity of these links suggest concentrations of NO₂ will be below the air quality objective, 40 µg/m³.</p>			
<p>HRA Screening Assessment RR-037ao IR: NE-07</p>	<p>HRA [APP-216/6.9] Para. 3.1.9 to 3.1.12</p>	<p>We would welcome further dialogue to clarify the approach taken to assessment and the results informing 'screening out' of the Cannock Extension Canal SAC. Examples of those locations subject</p>	<p>As set out above (RR-037an) only receptors up to 200 m from the ARN are considered within the local operational air quality assessment. This is because the effect of pollutants from road traffic reduces with distance from the point of release, and beyond 200 m these are likely to have</p>	<p>Under discussion</p>	<p>High</p>	<p>High</p>

Issue ³	Document	Natural England comment	Highways England response	Status	Agreement likely ⁴ (app)?	Agreement likely (IP)?
		<p>to air quality assessment, which need further discussion, include:</p> <ul style="list-style-type: none"> • Norton Canes Motorway service area westbound slip roads. • A5 immediately north of the SAC • B4154 adjacent to and bisecting the SAC 	<p>reduced to a concentration equivalent to background concentrations, as set out in paragraph 5.3.5 of the ES [APP-044/ 6.1]. At its closest point the Cannock Extension Canal SAC is approximately 280m from the ARN (the M6 Toll) and is therefore not considered to be potentially affected by changes in air quality. The A5 and B4154 are identified as 'Other Roads Modelled' on Figure 5.1: Air Quality Study Area [APP-068/ 6.2] these have only been included within the air quality modelling to ensure total concentrations predicted at receptors within 200m of the ARN include contributions from all relevant sources.</p> <p>The APIS website fits the Cannock Extension Canal SAC into the 'oligotrophic waterbodies' EUNIS classification and thus the critical load range for nitrogen is given as 3 to 10 kgN/ha/yr. This is because (in lieu of providing no critical load range at all) the EUNIS ecosystem class C1.1 is considered the least worst fit, because this is the standard EUNIS ecosystem class used in APIS for sites containing <i>Luronium natans</i>, the most sensitive of which are nutrient starved upland lakes. However, APIS does not tailor its assignment of critical loads to site-specific circumstances and thus caveats the use of these critical loads to account for other types of sites supporting <i>Luronium natans</i>, commenting that 'This critical load only applies if the interest feature is</p>			

Issue ³	Document	Natural England comment	Highways England response	Status	Agreement likely ⁴ (app)?	Agreement likely (IP)?
			associated with softwater oligotrophic or dystrophic lakes at the site. If the feature is not depending on these lake types, there is no comparable critical load available'. While the water quality in Cannock Extension Canal SAC is good, it cannot be described as an oligotrophic or dystrophic water body (Natural England's Supplementary Advice on the Conservation Objectives describes it as mesotrophic). In these circumstances, according to APIS, 'there is no comparable critical load available'. This reinforces the basis for screening out air quality impacts on the site and would match the position of many other freshwater SSSIs and SACs and is the reason why nitrogen deposition is generally not calculated in risk assessments for lowland open freshwater sites.			
HRA RR-037ap IR: NE-07	HRA [APP-216/6.9] Para 3.1.11	We have noticed typographical errors in paragraph 3.1.11 of Volume 6.9 Habitats Regulations Assessment - No Significant Effects Report [APP-216/6.9]. The current average nitrogen load for Cannock Chase SAC is 21.2kg/N/Ha/Year (Source) while that for Cannock Extension Canal is 17.1Kg/N/Ha/Year. These current average loads are above and therefore exceeding the upper nitrogen critical load thresholds for the SAC habitats. These averages	This is not a typographical error, the APIS where the data for baseline deposition rates and critical loads was sourced from updated the baseline background deposition and concentration data sets on the 18th March 2020 after the submission of our DCO application and so was not included in the HRA submitted with the application. Since the submission of the application further work has been completed to consider the updates to DMRB air quality guidance to LA105. The air quality assessment reported in the ES [APP-044/6.1] was undertaken in line with now superseded air quality	Under discussion	Medium	Medium

Issue ³	Document	Natural England comment	Highways England response	Status	Agreement likely ⁴ (app)?	Agreement likely (IP)?
		are higher than those reported in the ES.	<p>guidance. The updated APIS data has been utilised in the sensitivity testing undertaken to consider whether the changes to methodology could alter the conclusions of Chapter 5: Air Quality and Chapter 8: Biodiversity, refer to [AS-59, 'DMRB updates and impacts on the DCO application'. This document was submitted to the Inspectorate on 30 July 2020.</p> <p>See our response to the RR-037ao above which clarifies that according to APIS the critical load range of 3-10 kgN/ha/yr is not appropriate for this site as it is not an oligotrophic or dystrophic waterbody and thus 'there is no comparable critical load available'.</p> <p>Cannock Chase and Cannock Extension Canal SACs are not within 200m of the Affected Road Network and therefore the Scheme is not anticipated to result in a significant adverse effect on these sites.</p>			
Articles and Requirements of the draft DCO	Draft DCO [AS-075/3.1]	[Natural England to provide comments on the Articles and Requirements of the draft DCO or confirm that Natural England have no comments.]	The Applicant has not received any comments on the Articles or Requirements of the draft DCO.	Under discussion	High	High

Appendix A Initials and details of individuals involved

Initials	Name	Role or Discipline	Organisation
AK	Andrew Kelly	Project Manager	Highways England
AL	Alison Leeder	DCO Lead	Aecom
AS	Amy Spencer	Environmental	Aecom
CG-S	Carly Goodman-Smith	Director	Tyler Grange
DL	David Last	Deputy Project Manager	Aecom
DT	Dyfan Thomas	Highways	Amey
EG	Emma Goldberg	Senior Forestry & Woodland	NE
ES	Eric.Steer		NE
FL	Fiona Lee	Archaeology	Aecom
GD	Gillian Driver	Case Officer	NE
GL	Graham Littlechild	Project Manager	Highways England
GM	Grady McLean		NE
HM	Hazel Murrells	Associate Ecologist	Tyler Grange
HW	Helen Woolley	Newts & Badgers	NE
JR	Joanna Redgwell	West Mids Team Manager	NE
KB	Katherine Bubb	Senior Ecologist	Tyler Grange
LB	Lesley Barton	Bats	NE
MW-H	Marcus Wainwright-Hicks	Ecologist	Aecom
MO	Matt Oakley	Ecology	Aecom
RR	Rob Ramshaw	Project Manager	Aecom
SG	Stuart Graham	Ecology	Amey
TB	Tom Bennett	Former Stakeholder Lead	Amey
TC	Tom Clancy	Environmental Advisor	Highways England
TP	Tamara Percy	Environmental Lead	Aecom