

M3 Junction 9 Improvement

Scheme Number: TR010055

7.12.4 Statement of Common Ground with the Environment Agency (Rev 1)

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7.12.4 STATEMENT OF COMMON GROUND WITH THE ENVIRONMENT AGENCY

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STATEMENT OF COMMON GROUND

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

Signed.....
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1 Introduction

1.1 Purpose of this document

- 1.1.1 This Statement of Common Ground (SoCG) has been prepared in respect of the proposed M3 Junction 9 scheme (the Scheme) made by National Highways Company Limited (National Highways) to the Secretary of State for Transport (Secretary of State) for a Development Consent Order (DCO) under section 37 of the Planning Act 2008 (as amended).
- 1.1.2 This SoCG does not seek to replicate information which is available elsewhere within the DCO application documents. All DCO application documents are available on the Planning Inspectorate's website.
- 1.1.3 The SoCG has been produced to confirm to the Examining Authority where agreement has been reached between the parties to it, and where agreement has not (yet) been reached. 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.

1.2 Parties to this Statement of Common Ground

- 1.2.1 This SoCG has been prepared by (1) National Highways as the applicant and (2) the Environment Agency.
- 1.2.2 National Highways 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 National Highways made provision for all legal rights and obligations, including in respect of the Scheme, to be conferred upon or assumed by National Highways.
- 1.2.3 The Environment Agency has a responsibility for protecting and improving the environment, as well as contributing to sustainable development. The Environment Agency has three main roles:
- Environmental regulator – take a risk-based approach and target efforts to maintain and improve environmental standards and to minimise unnecessary burdens on business. The Environment Agency issue a range of permits and consents
 - Environmental operator – are a national organisation that operates locally. The Environment Agency work with people and communities across England to protect and improve the environment in an integrated way. They provide a vital incident response capability
 - Environmental advisor – compile and assess the best available evidence and use this to report on the state of the environment. The Environment Agency use their own monitoring information and that of others to inform this activity. They also

provide technical information and advice to national and local governments to support their roles in policy and decision-making.

1.2.4 One of the specific functions of the Environment Agency is also as a Flood Risk Management Authority. The Environment Agency has a general supervisory duty relating to specific flood risk management matters in respect of flood risk arising from rivers classified as 'Main Rivers' or from the sea.

1.3 Terminology

1.3.1 In the **Table 3.1** in **Section 3** of this SoCG:

- "*Agreed*" indicates area(s) of agreement
- "*Under discussion*" indicates area(s) of current disagreement where resolution remains possible, and where parties continue discussing the issue to determine whether they can reach agreement by the end of the examination
- "*Not agreed*" indicates a final position for area(s) of disagreement where the resolution of divergent positions will not be possible, and parties agree on this point

1.3.2 It can be assumed that any matters not specifically referred to in **Table 3.1** in **Section 3** of this SoCG are not of material interest or relevance to the Environment Agency, and therefore have not been the subject of any discussions between the parties. As such, those matters can be read as agreed, only to the extent that they are either not of material interest or relevance to the Environment Agency.

2 Record of Engagement

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

Table 2.1: Record of Engagement

Date	Form of correspondence	Key topics discussed and key outcomes
18 February 2021	Email from National Highways to the Environment Agency	s47 Project update on delay of consultation.
24 February 2021	Meeting with the Environment Agency – Scoping response	Key topics included: <ul style="list-style-type: none"> ▪ Scheme overview ▪ Drainage overview <ul style="list-style-type: none"> – High level overview of drainage strategy principles – Discharge rates – HEWRAT assessment – Runoff treatment ▪ Biodiversity <ul style="list-style-type: none"> – Species – Habitats Regulations Assessment (HRA) – Timing restrictions ▪ Road Drainage and Water Environment <ul style="list-style-type: none"> – Flood Modelling progress – Environment Agency’s latest modelling work
20 May 2021	Email from National Highways to the Environment Agency	s47 Project Update on Consultation date of 27 May 2021-08 July 2021.
25 May 2021	Email from National Highways to the Environment Agency	s42 covering letter, s48 Notice and link to consultation documents.
8 July 2021	Email / letter from the Environment Agency	Formal s42 response.
28 July 2021	Telephone call and Email from National Highways to the Environment Agency	Discussing pre-application permit advice and link to drawings to show overall location of the works and central deposition area.
05 August 2021	Phone call and email note from National Highways to the Environment Agency	Environmental Mitigation Design and the Biodiversity Net Gain (BNG) metric work undertaken and how it would progress up to

Date	Form of correspondence	Key topics discussed and key outcomes
		submission and other actions noted during the call.
18 August 2021	Email / letter from the Environment Agency	Comments received on the draft Flood Risk Assessment (FRA), model files and draft Water Framework Directive (WFD) Assessment.
4 October 2021	Meeting with the Environment Agency	Key topics included: <ul style="list-style-type: none"> ▪ Drainage strategy ▪ Flood risk matters and temporary works ▪ Geology, soils and hydrology ▪ SoCG approach
17 December 2021	Email from the Environment Agency to National Highways	Comments received on the draft Drainage Strategy Report from the Environment Agency.
17 December 2021	Email from the Environment Agency to National Highways	Comments received on the draft Habitats Regulations Assessment (HRA) from the Environment Agency.
5 January 2022	Meeting with the Environment Agency	Discussed protective provisions / permits and consents and the draft Drainage Strategy Report.
1 February 2022	Meeting with the Environment Agency	Discussed protective provisions / permits and consents, the draft Drainage Strategy Report and the HRA.
4 February 2022	Phone call between National Highways and the Environment Agency	Query on draft Drainage Strategy Report about existing culvert.
1 March 2022	Meeting with the Environment Agency	Project update meeting: <ul style="list-style-type: none"> ▪ Project update ▪ SoCG development
9 May 2022	Email from National Highways to the Environment Agency	Project update – DCO submission delay
7 June 2022	Meeting with the Environment Agency	Project update meeting: <ul style="list-style-type: none"> ▪ Project update ▪ Changes to the Scheme without All Lane Running project ▪ Environmental Statement update ▪ Biodiversity comments ▪ fiEMP, Outline Landscape and Ecological Management Plan (OLEMP) and Stage 3 Temporary (Construction) Drainage Strategy comments.

Date	Form of correspondence	Key topics discussed and key outcomes
1 August 2022	Meeting with the Environment Agency	Chalk Stabilisation meeting.
2 August 2022	Meeting with the Environment Agency	Project update meeting: <ul style="list-style-type: none"> ▪ Project update ▪ River restoration opportunities ▪ SoCG development.
6 September 2022	Meeting with the Environment Agency	Project update meeting: <ul style="list-style-type: none"> ▪ Project update ▪ Biodiversity comments ▪ Principle areas of disagreement summary statement
21 September 2022	Email from National Highways to the Environment Agency	Project update with attached Members Briefing and letter to be sent to landowners.
26 September 2022	Email from National Highways to the Environment Agency	Project update with revised Members Briefing.
12 October 2022	Meeting with the Environment Agency	Monthly project update meeting: <ul style="list-style-type: none"> ▪ Project update ▪ Public Information Events review ▪ Environment Agency's <i>Protective Provisions</i> ▪ SoCG
25 November 2022	Email from National Highways to the Environment Agency	Notification that the DCO application had been submitted, and advising on the DCO process and expected timeline.
6 December 2022	Meeting with the Environment Agency	Project update meeting: <ul style="list-style-type: none"> ▪ Project update ▪ SoCG – Biodiversity review
19 December 2022	Email from National Highways to the Environment Agency	Email thread providing an update on the DCO application submission and acceptance, and confirming receipt of information.
15 February 2023	Meeting with the Environment Agency	Meeting to discuss: <ul style="list-style-type: none"> ▪ Consents and Agreements Position Statement comments ▪ Draft DCO comments ▪ ES comments ▪ SoCG review

- 2.1.2 It is agreed that this is an accurate record of the key meetings and other forms of consultation and engagement undertaken between (1) National Highways and (2) Environment Agency in relation to the issues addressed in this SoCG.

3 Issues

Table 3.1: Issues Table

Reference	Issue	Document References (if relevant)	Environment Agency's Position	National Highways' Position	Status	Date
1. Draft Development Consent Order						
1.1	<p>Part 1</p> <p>Disapplication of legislative provision</p> <p>The following permits / consents / licences are considered for disapplication:</p> <ul style="list-style-type: none"> Water Discharge Activities – Permit to discharge to surface water and/or groundwater under Regulation 12 of the Environmental Permitting (England and Wales) Regulations 2016. Flood Risk Activity Permit – the Environmental Permitting Regulations (England and Wales) Regulations 2016 Flood Defence Byelaws – Consent or approval for the carrying out of works required under any relevant bylaws made under the Water Resources Act 1991 or the Land Drainage Act 1991, including, but not limited to, Southern Water Authority Land Drainage and Sea Defence Byelaws Water Abstraction Licence – Abstraction of water under sections 24 and 25 of the Water Resources Act 1991 	<p>draft Development Consent Order (3.1, Rev 2), Consents and Agreements Position Statement (3.3, Rev 2)</p>	<p>The Environment Agency agree to the disapplication of a requirement for a Flood Risk Activity Permit and for Flood Defence Byelaws making provisions under the Water Resources Act 1991 and where we are the Internal Drainage Board, under the Land Drainage Act 1991.</p> <p>Abstraction and impounding licences, drought orders and permits under the Water Resources Act 1991 and all environmental permits, except flood risk activity permits, the Environment Agency would not typically allow to be disapplied in the DCO.</p>	<p>At Deadline 2, National Highways amended the draft Development Consent Order (3.1, Rev 2) to only seek disapplication for Flood Risk Activity Permits. This aligns with the Environment Agency's position.</p>	Agreed	17 July 2023
1.2	<p>Part 2</p> <p>Limits of deviation</p>	<p>draft Development Consent Order (3.1, Rev 2)</p>	<p>The Environment Agency queried whether they, as a statutory consultee, should be included as a named consultee to the Secretary of State. However, this matter was agreed on 13 April 2023 given that widening of the limits of deviation will be restricted.</p>	<p>The widening of the limits of deviation would be subject to the restriction that it would not give rise to any materially new or worse adverse environmental effect, in comparison to those addressed in the Environmental Statement.</p>	Agreed	13 April 2023
1.3	<p>Schedule 2, Part 1, Requirement 3</p> <p>Environmental Management Plan</p>	<p>draft Development Consent Order (3.1, Rev 2) and first iteration Environmental Management Plan (7.3, Rev 2)</p>	<p>The Environment Agency queried whether they, as a statutory consultee, should be included as a named consultee to the Secretary of State. However, this matter was agreed on 13 April 2023 as National Highways commitment to consult the Environment</p>	<p>The Environment Agency are included as a consultee on key matters in the Environmental Management Plan. Therefore, National Highways is responsible for consulting with the Environment Agency on some</p>	Agreed	13 April 2023

Reference	Issue	Document References (if relevant)	Environment Agency's Position	National Highways' Position	Status	Date
			Agency on environmental commitments where listed in Section 3 (Register of Environmental Actions and Commitments (REAC)) of the fiEMP (7.3, Rev 2).	environmental matters in Section 3 (REAC) of the fiEMP (7.3, Rev 2).		
1.4	Schedule 10 Protective Provisions	draft Development Consent Order (3.1, Rev 2)	The Environment Agency Protective Provisions must be included if there is to be a disapplication of any permits / licences / consents.	National Highways agree with the principle that Protective Provisions for the Environment Agency will be included. National Highways are engaging with the Environment Agency on this matter to ensure Protective Provisions are included and agreed with the Environment Agency.	Under discussion	18 August 2023

Environmental Statement (ES)

2. Chapter 8 Biodiversity

2.1	Scope of the assessment Chapter 8 (Biodiversity) of the Environmental Statement (ES) (6.1, APP-049) , paragraph 8.4.1 outlines the scope of the assessment. The assessment covers the potential for the Scheme to affect biodiversity receptors (including statutory and non-statutory designated sites, habitats and species) during both construction and operation.	Chapter 8 (Biodiversity) of the ES (6.1, APP-049)	The Environment Agency agrees with the scope of the assessment.	The scope has been agreed with the Environment Agency.	Agreed	6 December 2022
2.2	Assessment methodology Chapter 8 (Biodiversity) of the ES (6.1, APP-049) , Section 8.4 provides the methodology used to undertake the assessment on biodiversity. The methodology used is DMRB LA 108 Biodiversity (National Highways, 2020) and Guidelines for Ecological Impact Assessment in the UK and Ireland (CIEEM, 2018).	Chapter 8 (Biodiversity) of the ES (6.1, APP-049)	The Environment Agency agrees with the assessment methodology.	The assessment methodology has been agreed with the Environment Agency.	Agreed	6 December 2022
2.3	Chapter 8 (Biodiversity) of the ES (6.1, APP-049) , Section 8.5 summarises the extent of the study areas used to undertake the assessments.	Chapter 8 (Biodiversity) of the ES (6.1, APP-049)	The Environment Agency agrees with the study areas used in the assessment.	The study areas have been agreed with the Environment Agency.	Agreed	6 December 2022
2.4	Baseline information A data gathering exercise has been undertaken to establish the existing baseline conditions including for:	Chapter 8 (Biodiversity) of the ES (6.1, APP-049)	The Environment Agency agrees with the scope of the field surveys and methodologies adopted to undertake the data gathering together with the	The baseline information has been agreed with the Environment Agency.	Agreed	6 December 2022

Reference	Issue	Document References (if relevant)	Environment Agency's Position	National Highways' Position	Status	Date
	<ul style="list-style-type: none"> ▪ Designated site (SACs, SSSIs, etc) ▪ Habitats, notable plants and invasive plants ▪ Amphibians (including great crested newts) ▪ Aquatic invertebrates ▪ Badgers ▪ Bats (foraging and commuting) ▪ Bats (roosting) ▪ Breeding birds ▪ Hazel dormouse ▪ Otter <p>The methodologies adopted to undertake the data gathering and the results are outlined within Appendices 8.1a – 8.1z2 of the ES (6.3, APP-104 - 130).</p> <p>Chapter 8 (Biodiversity) of the ES (6.1, APP-049), Section 8.6 outlines the existing baseline and future baseline scenario and describes European designations, other statutory designations, non-statutory designations, habitats and species.</p>		baseline outlined in Section 8.6 of Chapter 8 (Biodiversity) of the ES (6.1, APP-049) .			
2.5	<p>Mitigation</p> <p>Chapter 8 (Biodiversity) of the ES (6.1, APP-049), Section 8.8 outlines embedded and essential mitigation proposed to be implemented to reduce environmental effects. Mitigation includes:</p> <p>Embedded mitigation during construction</p> <p>The route of the western walking route is located wholly outside the River Itchen SAC (Special Area of Conservation) and Site of Special Scientific Interest (SSSI), other than the proposed new foot/cycle bridge which spans these designated areas.</p> <p>The proposed new foot/cycle bridge over the River Itchen SAC/SSSI would be a clear span structure, with no piers within the river channel. In addition, the abutments would be set back from the riverbank, outside of the SAC and SSSI.</p>	Chapter 8 (Biodiversity) of the ES (6.1, APP-049)	The Environment Agency agrees with the proposed embedded mitigation during construction.	The proposed embedded mitigation during construction has been agreed with the Environment Agency.	Agreed	6 December 2022
2.6	<p>Mitigation</p> <p>Embedded mitigation during operation</p>	Chapter 8 (Biodiversity) of the ES (6.1, APP-049) and	The Environment Agency agrees with the proposed embedded mitigation during operation.	The proposed embedded mitigation during operation has been agreed with the Environment Agency.	Agreed	6 December 2022

Reference	Issue	Document References (if relevant)	Environment Agency's Position	National Highways' Position	Status	Date
	<p>The operational drainage system has been designed to modern highway standards and is likely to provide an improvement of water treatment compared to the existing situation. The drainage design includes a range of features to treat highway runoff including wetlands, attenuation basins, and swales. The drainage strategy is set out Appendix 13.1 (6.3, APP-142 - 143).</p> <p>To avoid or minimise risk of badgers and otters colliding with vehicle during operation, wildlife fencing would be provided in key locations as part of the Scheme.</p>	Appendix 13.1 (Drainage Strategy Report) of the ES (6.3, APP-142 - 143)				
2.7	<p>Mitigation</p> <p>Essential mitigation during construction</p> <p>Essential mitigation measures are outlined in the fiEMP (7.3, Rev 2). This document includes commitments to when working near watercourses they would be carried out in accordance with CIRIA guidance, in particular <i>C532 Control of water pollution from construction sites</i>, <i>C650 Environmental Good Practice on Site</i>, and <i>CIRIA C648 Control of water pollution from linear construction projects</i>. This includes selecting appropriate probability rainfall events (10-year return period) and overspill contingencies. Due to the sensitivity of the receptors, Factors of Safety would be incorporated, to be agreed with the regulatory bodies (Lead Local Flood Authority and the Environment Agency).</p>	Chapter 8 (Biodiversity) of the ES (6.1, APP-049) and fiEMP (7.3, Rev 2)	The Environment Agency agrees with the proposed mitigation.	The mitigation has been agreed with the Environment Agency.	Agreed	6 December 2022
2.8	<p>Mitigation</p> <p>Mitigation also includes a commitment to ensuring the construction of the Scheme would adhere to guidance issued by the Environment Agency on working methods and timing restrictions in relation to avoiding impacts to fish within the River Itchen, including the qualifying species of the River Itchen SAC/SSSI. In-river working required for installation of drainage outflows would avoid sensitive periods (1 October to 31 May inclusive for salmonid fish, and 15 March to 15 June inclusive for cyprinid fish). Where dewatering of sections of the river is required to facilitate construction, fish would be removed from these areas using electrofishing, in agreement with the Environment Agency and under any necessary permits. Piling works required for the construction of the new foot/cycle bridge</p>	Chapter 8 (Biodiversity) of the ES (6.1, APP-049) and fiEMP (7.3, Rev 2)	The Environment Agency agrees with the proposed mitigation.	The mitigation has been agreed with the Environment Agency.	Agreed	6 December 2022

Reference	Issue	Document References (if relevant)	Environment Agency's Position	National Highways' Position	Status	Date
	would be carried out using low vibration methods or would adhere to the timing restrictions.					
2.9	<p>Mitigation</p> <p>Where practicable, construction phase lighting would be designed to reduce light spill and duration of artificial light use on important light-sensitive important biodiversity features, in particular the River Itchen corridor which is known to support bats and otters. Measures would also include reference to measures in Section 10.4 (Temporary Floodlighting) of <i>Dark Skies Technical Advice Note 2</i>, (South Downs National Park, May 2021).</p>	<p>Chapter 8 (Biodiversity) of the ES (6.1, APP-049) and fiEMP (7.3, Rev 2)</p>	The Environment Agency agrees with the proposed mitigation.	The mitigation has been agreed with the Environment Agency.	Agreed	6 December 2022
2.10	<p>Mitigation</p> <p>Essential mitigation during operation</p> <p>During operation of the Scheme, essential mitigation in relation to important biodiversity receptors would include the management and monitoring of habitat creation and enhancement measures. Further details are provided within Appendix 7.6 (Outline Landscape and Ecological Management Plan) of the ES (6.3, APP-102), with a full LEMP secured through a DCO Requirement in agreement with statutory consultees.</p>	<p>Chapter 8 (Biodiversity) of the ES (6.1, APP-049) and Appendix 7.6 (Outline Landscape and Ecological Management Plan) of the ES (6.3, APP-102)</p>	The Environment Agency agrees with the proposed mitigation during operation.	The mitigation has been agreed with the Environment Agency.	Agreed	6 December 2022
2.11	<p>Residual effects and conclusions</p> <p>Section 8.9 of Chapter 8 (Biodiversity) of the ES (6.1, APP-049) outlines the residual effects of the Scheme following the implementation of mitigation.</p> <p>Potential impacts from construction, operation, and maintenance of the Scheme that could relate to important biodiversity receptors include: habitat loss and gain, fragmentation of populations or habitats, disturbance, habitat degradation, and species mortality.</p> <p>The mitigation hierarchy has been embedded within the assessment process, whereby the design has sought to avoid adverse impacts in the first instance through an iterative approach to design, e.g. informing alignment to avoid sensitive receptors where possible. In areas where avoidance is not possible, measures have been included to prevent or reduce potentially significant negative effects. As a last resort, measures to compensate negative effects have also been included, e.g. habitat creation to offset impacts associated with habitat loss and fragmentation</p>	<p>Chapter 8 (Biodiversity) of the ES (6.1, APP-049)</p>	The Environment Agency agrees with the residual effects and conclusions.	The residual effects and conclusions are agreed with the Environment Agency	Agreed	14 June 2023

Reference	Issue	Document References (if relevant)	Environment Agency's Position	National Highways' Position	Status	Date
	<p>where these cannot be avoided. A package of mitigation measures have been provided, including provision of substantial areas of habitats of ecological value which are appropriate to the local area (including chalk grassland, native broadleaved woodland and scrub).</p> <p>The assessment identifies a number of adverse and beneficial impacts to biodiversity receptors, however in all cases the residual effects are not significant.</p>					
3. Chapter 9 Geology and Soils						
3.1	<p>Scope of the assessment Chapter 9 (Geology and Soils) of the ES (6.1, APP-050), paragraph 9.4.1 outlines the scope of the assessment. The assessment covers impacts on geology, soils, contamination (human health, surface water, groundwater) and the built environment during construction and operation. As confirmed in the scoping opinion received from the Planning Inspectorate in 2021 this assessment does not cover effects on geology as a valuable resource i.e. sterilisation on mineral resources – this is covered within Chapter 10 (Material Assets and Waste) of the ES (6.1, APP-050) or effects on geology and designated geological sites.</p>	Chapter 9 (Geology and Soils) of the ES (6.1, APP-050)	The Environment Agency agrees with the scope of the assessment.	The scope of the assessment has been agreed with the Environment Agency.	Agreed	6 December 2022
3.2	<p>Assessment methodology Chapter 9 (Geology and Soils) of the ES (6.1, APP-050), Section 9.4 provides the methodology used to undertake the assessment on geology and soils. The methodology used is DMRB LA 109 Geology and Soils (Highways England, 2019).</p>	Chapter 9 (Geology and Soils) of the ES (6.1, APP-050)	The Environment Agency agrees with the assessment methodology.	The assessment methodology has been agreed with the Environment Agency.	Agreed	6 December 2022
3.3	<p>Study area Chapter 9 (Geology and Soils) of the ES (6.1, APP-050), Section 9.5 summarises the extent of the study areas used to undertake the assessments.</p>	Chapter 9 (Geology and Soils) of the ES (6.1, APP-050)	The Environment Agency agrees with the study area used in the assessment.	The study area has been agreed with the Environment Agency.	Agreed	6 December 2022
3.4	<p>Baseline information A data gathering exercise has been undertaken to establish the existing baseline conditions relevant to the assessment. Chapter 9 (Geology and Soils) of the ES (6.1, APP-050), Section 9.6 outlines the existing baseline and future baseline scenario.</p>	Chapter 9 (Geology and Soils) of the ES (6.1, APP-050)	In relation to historical land use, the Environment Agency note that former petrol stations are not considered in the assessment. One of the petrol stations is only 7m from the boundary of the application area. Given this small	National Highways notes the comment on historic land use including petrol stations. Reference GS8 in Section 3 (REAC) of the fiEMP (7.3, Rev 2) commits to the implementation of a watching brief during excavation work,	Agreed	14 June 2023

Reference	Issue	Document References (if relevant)	Environment Agency's Position	National Highways' Position	Status	Date
			<p>distance, the Environment Agency do not think this can be completely discounted as a source, and some legacy contamination may possibly exist (particularly in groundwater). However, the Environment Agency would agree that it is likely to be a relatively small risk and do not require any specific change to the risk assessment models, but simply advise a careful watching brief for any signs of contamination if work is undertaken in the close vicinity to the filling stations.</p>	<p>with remedial action to be taken as required. This item was agreed with the Environment Agency on 14 June 2023.</p>		
3.5	<p>Baseline information Appendix 9.1 (Phase 1 Ground Conditions Assessment) (Part 1 of 2) and Appendix 9.1 (Phase 1 Ground Conditions Assessment) (Part 2 of 2) of the ES (6.3, APP-133 and APP-134) review published and readily available information to identify the likely ground conditions at the site and immediate surrounding land and to assess whether there are significant land contamination risks, and ground and slope stability risks associated with the ground conditions that may require management (remediation or mitigation).</p>	<p>Chapter 9 (Geology and Soils) of the ES (6.1, APP-050), Appendix 9.1 (Phase 1 Ground Conditions Assessment) (Part 1 of 2) and Appendix 9.1 (Phase 1 Ground Conditions Assessment) (Part 2 of 2) of the ES (6.3, APP-133 and APP-134) and fiEMP (7.3, Rev 2)</p>	<p>'Spitfire Link, Easton Lane, Winchester' landfill has never been located and may not even have been there. The Environment Agency would agree that the likelihood of highly contaminated material is not large if landfill is from spoil of road construction, but this should be determined by further investigation/sampling. Also, as acknowledged, there is the potential for other contaminated material to be present associated with landfill operations.</p> <p>Table 4.4 of Appendix 9.1 (Phase 1 Ground Conditions Assessment) of the ES (6.3, APP-133) gives the "worst case" risk element to the aquifer from the landfill as "Moderate". The Environment Agency would accept that if the only historic landfill comprises largely inert waste from road construction, this is a fair assumption of the probable risk. However, as more investigation needs to be done to fully characterise these landfills (and to confirm if one is present), there is some uncertainty still on this risk. As such currently the Environment Agency would be of the opinion that "worst case" risk status would probably be</p>	<p>Additional Ground Investigation work has been undertaken and the findings do not change the conclusions of the assessment because Spitfire Link landfill has not been identified. Six boreholes that have investigated the area of the historical landfill did not encounter waste or made ground.</p> <p>Reference GS2 in Section 3 (REAC) of the fiEMP (7.3, Rev 2) includes a commitment to carry out additional phased site-specific intrusive ground investigation as required.</p> <p>Reference GS8 in Section 3 (REAC) of the fiEMP (7.3, Rev 2) commits to the implementation of a watching brief during excavation work, with remedial action to be taken as required.</p>	Agreed	14 June 2023

Reference	Issue	Document References (if relevant)	Environment Agency's Position	National Highways' Position	Status	Date
			high, but could easily drop to moderate (or low), after further assessment of the nature of the historic landfills.			
3.6	Mitigation Chapter 9 (Geology and Soils) of the ES (6.1, APP-050), Section 9.8 outlines embedded and essential mitigation proposed to be implemented to reduce environmental effects.	Chapter 9 (Geology and Soils) of the ES (6.1, APP-050) and fiEMP (7.3, Rev 2)	The Environment Agency have no significant issue with the reuse of soil, however, this should be carried out under the Definition of Waste: Development Industry Code of Practice (DoW CoP) to ensure that this does not constitute waste activities.	Reference GS7 in Section 3 (REAC) of the fiEMP (7.3, Rev 2) includes a commitment to producing a Materials Management Plan (MMP) in accordance with DoW CoP.	Agreed	14 June 2023
3.7	Residual effects and conclusions Section 9.9 of Chapter 9 (Geology and Soils) of the ES (6.1, APP-050) outlines the residual effects of the Scheme following the implementation of mitigation. Following assessment of the baseline conditions it was identified that controlled waters (groundwater and surface water) and environmentally sensitive sites have a very high sensitivity and the built environment and human health (construction workers and neighbours) have a high sensitivity. The Tier 1 and Tier 2 risk assessment identified that the potential for significant contamination to be present within the Application Boundary was considered to be low. A Controlled Waters Risk Assessment also identified a low risk to controlled water receptors from existing contamination. Therefore, whilst there are very high sensitivity receptors (groundwaters and surface waters), as mentioned above, the impact assessment has not identified any significant effects. It is also considered that through ongoing appropriate design and construction methods these would provide mitigation against many of the potential issues and reduce any residual impacts further.	Chapter 9 (Geology and Soils) of the ES (6.1, APP-050)	The Environment Agency agrees with the impact assessment undertaken and its conclusions outlined in Chapter 9 (Geology and Soils) of the ES (6.1, APP-050) .	The residual effects and conclusions have been agreed with the Environment Agency.	Agreed	6 December 2022
4. Chapter 13 Road Drainage and the Water Environment						
4.1	Scope of the assessment Chapter 13 (Road Drainage and the Water Environment) of the ES (6.1, APP-054) paragraph 13.4.1	Chapter 13 (Road Drainage and the	The Environment Agency agrees with the scope of the assessment.	The scope of the assessment has been agreed with the Environment Agency.	Agreed	6 December 2022

Reference	Issue	Document References (if relevant)	Environment Agency's Position	National Highways' Position	Status	Date
	outlines the scope of the assessment. The assessment covers the potential for the Scheme to affect flood risk, geomorphology, water quality and groundwater during both construction and operation.	Water Environment) of the ES (6.1, APP-054)				
4.2	Assessment methodology Chapter 13 (Road Drainage and the Water Environment) of the ES (6.1, APP-054), Section 13.4 provides the methodology used to undertake the assessment on road drainage and the water environment. The methodology used is Design Manual for Roads and Bridges (DMRB) LA 113 Road drainage and the water environment (National Highways, 2020) and DMRB LA 104 Environmental assessment and monitoring (National Highways, 2020).	Chapter 13 (Road Drainage and the Water Environment) of the ES (6.1, APP-054)	Table 13.3 of Chapter 13 (Road Drainage and the Water Environment) of the ES (6.1, APP-054) classes the impact on 'degradation of regionally important public water supply' as <i>moderate adverse</i> . Any significant degradation of a public water supply is likely to be regarded as a highly adverse impact. The assessment methodology is agreed.	For a road scheme, the UK-wide industry standard methodologies to apply are those set out within the Design Manual for Roads and Bridges (DMRB). National Highways follow these standards to ensure consistency and thoroughness in how all road schemes are progressed and the outcomes evaluated. In accordance with the Table 3.71 in DMRB LA 113: Road drainage and the water environment, the following definitions have been used: <ul style="list-style-type: none"> Major adverse – loss of regionally important public water supply Moderate adverse – degradation of regionally important public water supply or loss of major commercial / industrial / agricultural supplies. 	Agreed	14 June 2023
4.3	Chapter 13 (Road Drainage and the Water Environment) of the ES (6.1, APP-054), Section 13.5 summarises the extent of the study area used to undertake the assessments.	Chapter 13 (Road Drainage and the Water Environment) of the ES (6.1, APP-054)	The Environment Agency agrees with the study area used in the assessment.	The study area has been agreed with the Environment Agency.	Agreed	6 December 2022
4.4	Baseline information Chapter 13 (Road Drainage and the Water Environment) of the ES (6.1, APP-054), Section 13.6 outlines the existing baseline and future baseline scenario and describes surface water features including rainfall and recharge, surface water environment designations, WFD classifications and existing surface water drainage, pollution risk, geology groundwater features, hydrogeology ground water features, water quality groundwater features, WFD groundwater features, groundwater abstractions,	Chapter 13 (Road Drainage and the Water Environment) of the ES (6.1, APP-054)	The Environment Agency agrees the baseline within Section 13.6 of Chapter 13 (Road Drainage and the Water Environment) of the ES (6.1, APP-054) to be suitable to base the assessment upon.	The baseline information has been agreed with the Environment Agency.	Agreed	13 April 2022

Reference	Issue	Document References (if relevant)	Environment Agency's Position	National Highways' Position	Status	Date
	fluvial flood risk, tidal flood risk, surface water flood risk, groundwater flood risk, reservoir flood risk, historic flood events and flooding from other sources.					
4.5	<p>Mitigation</p> <p>Chapter 13 (Road Drainage and the Water Environment) of the ES (6.1, APP-054), Section 13.8 outlines embedded and essential mitigation proposed to be implemented to reduce environmental effects. Mitigation includes:</p> <p>Embedded mitigation during construction</p> <p>The new bridge (footway and cycleway) over the River Itchen has been designed to be a clear span structure with abutments set back from the river channel and has been designed to ensure no construction works are required within the river channel.</p> <p>No intrusive temporary construction measures are proposed within the River Itchen to facilitate cleaning of an existing headwall and installation of two new headwalls to serve the operational drainage strategy or works proposed to Kings Worthy Bridge and the new bridge over the River Itchen.</p> <p>It is envisaged that piled foundations would be pre-cast to seek to avoid the use of wet concrete reaching the river system through ground fissures. Timber and steel are being considered for the proposed structure, which would be lifted into place as a pre-constructed item with the crane situated on the adjacent highway.</p>	<p>Chapter 13 (Road Drainage and the Water Environment) of the ES (6.1, APP-054) and fiEMP (7.3, Rev 2)</p>	<p>The Environment Agency We have no in principal objection to the use of pre-cast piles, however a Foundation Works Risk Assessment (FWRA) should be undertaken once proposed foundation solutions are known. We confirm we would want to see this in due course.</p> <p>The Environment Agency agrees to the embedded mitigation during construction.</p>	<p>A FWRA focusing on the potential hazards of piling/excavation activities on local groundwater, and the methods that might mitigate the risk of those hazards having a detrimental impact, will be prepared by the Principal Contractor during the detailed design stage and included within the siEMP. Reference WE20 in Section 3 (REAC) of the fiEMP (7.3, Rev 2) includes a commitment to prepare a FWRA once the proposed foundation solutions are known.</p>	Agreed	14 June 2023
4.6	<p>Mitigation</p> <p>Embedded mitigation during operation</p> <p>The operational drainage system has been designed to modern highway standards. The drainage design includes a range of features to treat highway runoff including wetlands, attenuation basins, and swales. The drainage strategy is set out in Appendix 13.1 (Drainage Strategy Report) of the ES (6.3, APP-142 - APP-143). No specific mitigation measures are required once operational in relation to flood risk.</p>	<p>Appendix 13.1 (Drainage Strategy Report) of the ES (6.3, APP-142 - APP-143) and Chapter 13 (Road Drainage and the Water Environment) of the ES (6.1, APP-054)</p>	<p>The Environment Agency agrees with Appendix 13.1 (Drainage Strategy Report) of the ES (6.3, APP-142 - APP-143)</p>	<p>Appendix 13.1 (Drainage Strategy Report) of the ES (6.3, APP-142 - APP-143) has been agreed with the Environment Agency.</p>	Agreed	14 March 2022

Reference	Issue	Document References (if relevant)	Environment Agency's Position	National Highways' Position	Status	Date
4.7	All new drainage conveys run-off to soakaways or extended detention basins (EDBs), which infiltrate to ground where the detailed quantitative risk assessment of risk to groundwater confirms it is acceptable and outlined in Appendix 13.2 (Hydrogeological Risk Assessment) of the ES (6.3, APP-144) .	Appendix 13.2 (Hydrogeological Risk Assessment) of the ES (6.3, APP-144) and Chapter 13 (Road Drainage and the Water Environment) of the ES (6.1, APP-054)	The Environment Agency agrees with the Appendix 13.2 (Hydrogeological Risk Assessment) of the ES (6.3, APP-144) .	Appendix 13.2 (Hydrogeological Risk Assessment) of the ES (6.3, APP-144) has been agreed with the Environment Agency.	Agreed	12 October 2022
4.8	<p>Mitigation</p> <p>Essential mitigation during construction</p> <p>Essential mitigation measures which would be implemented during the construction phase are outlined in the first iteration Environmental Management Plan (fiEMP) (7.3, Rev 2), in accordance with LD 120 Environmental management plans (Standards for Highways, 2020) and secured by the Requirements in the DCO.</p> <p>The fiEMP (7.3, Rev 2) includes measures considered as standard good practice that would be implemented by the construction contractor to reduce the likelihood of effects or their magnitude if they were to occur. The standard control measures are based on the <i>Environment Agency's Pollution Prevention Guidelines (withdrawn in 2015)</i>, subsequent guidance provided in <i>Pollution Prevention for Businesses (DEFRA, 2019)</i>, the relevant CIRIA publications and best practice measures. Any hazardous materials would be appropriately and suitably stored and managed.</p>	fiEMP (7.3, Rev 2)	The Environment Agency have concerns about noise and vibration as a result of concrete grinding and dust collection using a vacuum on Kings Worthy Bridge. The Environment Agency may need to request further mitigation for these activities but require details of this activity. Also need further information on design and construction / fixings of any proposed dust protection frame (likely to need FRAP too) to assess any risk and request mitigation if needed.	<p>Reference NV1 in Section 3 (REAC) of the fiEMP (7.3, Rev 2) commits the principal contractor, prior to construction, to undertake an updated noise assessment to ensure there will be no additional or increase in negative effects on nearby receptors. The REAC also requires a Noise and Vibration Management Plan (NVMP) outlining how construction noise and vibration will be managed (and monitored) throughout the construction of the Scheme.</p> <p>A Risk Assessment and Method Statement will be prepared for specific activities such as work on the Kings Worthy Bridge, prior to the works commencing, including environmental protection and mitigation measures and emergency preparedness appropriate to the activity covered (Method statements will be included at Appendix N of the siEMP).</p> <p>National Highways have addressed the Environment Agency's comments on this matter.</p>	Agreed	14 June 2023
4.9	<p>Mitigation</p> <p>Essential mitigation during construction</p> <p>Temporary works are required for the installation of the new footway and cycleway bridge over the River Itchen.</p>	fiEMP (7.3, Rev 2)	With reference to WE18 in Section 3 (REAC) of the fiEMP (7.3, Rev 2) , the Environment Agency request further of any proposed pontoon arrangement. For example, how the pontoon fixed, the size and how long it will be in place for. Biosecurity measures will be needed. This would likely be needed to	The requirement for the pontoon will be confirmed during Stage 5 Detailed Design. If required, a detailed method statement would be developed and works undertaken in line with Environment Agency Protective Provisions.	Agreed	17 July 2023

Reference	Issue	Document References (if relevant)	Environment Agency's Position	National Highways' Position	Status	Date
			be included as temporary works on the Flood Risk Activity Permit. Depending on the arrangements the Environment Agency may require timing restrictions or to limit the extent of the pontoon.			
4.10	<p>Mitigation</p> <p>Essential mitigation during operation</p> <p>Basins, ponds, lagoons or other such features for operational pollution control (settlement) would be designed in accordance with CIRIA C648 recommendations including selecting appropriate probability rainfall events (10-year return period) and overspill contingencies. Due to the sensitivity of the receptors (River Itchen and Chalk Aquifers) Factors of Safety would be incorporated, to be agreed with the regulatory bodies (Lead Local Flood Authority and the Environment Agency).</p> <p>The permanent drainage strategy Appendix 13.1 (Drainage Strategy Report) of the ES (6.3, APP-142 - 143) would utilise one existing Priority A outfall (which would require to be cleaned) and would require two new outfalls into the River Itchen, consisting of both permanent and temporary works.</p>	Chapter 13 (Road Drainage and the Water Environment) of the ES (6.1, APP-054)	The Environment Agency agrees with the operational essential mitigation during operation.	The essential mitigation included in Chapter 13 (Road Drainage and the Water Environment) of the ES (6.1, APP-054) has been agreed with the Environment Agency.	Agreed	12 October 2022
4.11	<p>Residual effects and conclusions</p> <p>Section 13.9 of Chapter 13 (Road Drainage and the Water Environment) of the ES (6.1, APP-054) identifies impacts on identified receptors from construction and operation of the Scheme that could relate to important water environment. These impacts include: loss of floodplain storage and impact on flow conveyance, mobilisation of contaminants, pollution incidents and changes to surface and groundwater flows.</p> <p>The design of the Scheme has sought to avoid adverse impacts in the first instance through an iterative approach to design, e.g., informing bridge design to minimise flood risk impacts where possible, pollution control measures as part of temporary and permanent drainage strategy. In areas where avoidance is not possible, measures have been included to prevent or reduce potentially significant negative effects. A package of embedded and essential mitigation measures is provided within Chapter 13 (Road</p>	Chapter 13 (Road Drainage and the Water Environment) of the ES (6.1, APP-054)	The Environment Agency agrees with the assessment and conclusions of Chapter 13 (Road Drainage and the Water Environment) of the ES (6.1, APP-054) .	The residual effects and conclusions have been agreed with the Environment Agency.	Agreed	12 October 2022

Reference	Issue	Document References (if relevant)	Environment Agency's Position	National Highways' Position	Status	Date
	<p>Drainage and the Water Environment) of the ES (6.1, APP-054).</p> <p>The assessment identifies a number of adverse and beneficial impacts to water environment receptors, however in all cases the residual effects are not significant.</p>					
5. Chapter 14 Climate						
5.1	<p>Chapter 14 (Climate) of the ES (6.1, Rev 2) considers the impact of the Scheme on climate change and the vulnerability of the Scheme to climate change.</p> <p>The assessment has been informed by the Environment Agency climate change allowances for increases in peak river flow and rainfall intensity.</p>	Chapter 14 (Climate) of the ES (6.1, Rev 2)	The Environment Agency confirm that they have no comments on Chapter 14 (Climate) of the ES (6.1, Rev 2) and associated appendices.	The consideration of the impact of the Scheme on climate is agreed with the Environment Agency.	Agreed	30 March 2023
6. Chapter 15 Cumulative Effects						
6.1	<p>Chapter 15 (Cumulative Effects) of the ES (6.1, APP-056) considers two types of cumulative effects of the Scheme. These are:</p> <ul style="list-style-type: none"> Cumulative effects - effects that occur as a result of changes caused by other developments acting cumulatively with the effects of the Scheme. Combined effects – effects from the combined effect of several different impacts acting together on a single receptor, such that the combined effect would be more significant than the individual effects. 	Chapter 15 (Cumulative Effects) of the ES (6.1, APP-056)	The Environment Agency confirm that they have no comments on Chapter 15 (Cumulative Effects) of the ES (6.1, APP-056).	The consideration of cumulative effects is agreed with the Environment Agency.	Agreed	30 March 2023
7. Flood Risk Assessment						
7.1	<p>The Flood Risk Assessment (FRA) (7.4, APP-157) has been prepared in accordance with the relevant national, regional and local planning policy and statutory authority guidance.</p>	FRA (7.4, APP-157)	The Environment Agency has reviewed the FRA (7.4, APP-157) and is content with the scope, methodology and the conclusions of the report.	The proposed works and their mitigation measures will not result in increased flood risk to the nearby residents, and therefore there will be no detrimental impacts on third parties. The Scheme complies with the NPS NN, NPPF and local planning policy with respects to flood risk and is an appropriate development for this location.	Agreed	5 April 2023

Reference	Issue	Document References (if relevant)	Environment Agency's Position	National Highways' Position	Status	Date
8. Water Framework Directive Assessment						
8.1	<p>The Water Framework Directive (WFD) Assessment (7.7, APP-160) details the potential impact that the Scheme and associated works could have on the watercourses' ability to meet WFD requirements, and any mitigation measures that will be implemented.</p> <p>The Scheme does not result in a significant change away from baseline conditions for the overall WFD water bodies, and as demonstrated, will not result in deterioration of the current WFD potential of the River Itchen, Nun's Walk Stream and Itchen Navigation Canal surface water bodies. The works will not affect the ability for the key actions identified in the RBMP to be implemented for the catchment. As such, the works are compliant with the WFD and will not prevent the water bodies from achieving 'Good' status in the future.</p>	Water Framework Directive Assessment (7.7, APP-160)	<p>The Environment Agency note that the WFD Assessment (7.7, APP-160) references to an outdated River Basin Management Plan (RBMP) from 2015, which has been superseded in 2021. The Environment Agency is content with National Highways response to this comment and the matter is agreed.</p>	<p>National Highways confirm that although the classification and objectives have been updated in the 2021 RBMP, the overall outcome of the WFD Assessment (7.7, APP-160) will not change in relation to the updated RBMP. National Highways is still not proposing any in-channel works apart from the temporary de-watering for the outfalls, and the new RBMP has not changed these impacts. The proposed mitigation measures for construction / temporary works are still appropriate to ensure that the works will not affect the ability for key actions identified in the RBMP to be implemented for the catchment and will not prevent the water bodies from achieving 'Good' status in the future.</p>	Agreed	14 June 2023
9. Habitats Regulations Assessment						
9.1	<p>The Habitats Regulation Assessment (HRA) (7.5, APP-158) considers both Stage 1 of the HRA process (Screening) and Stage 2 (Appropriate Assessment) and concludes no significant effects (alone or in-combination) on the integrity of European Sites including the River Itchen Special Area of Conservation (SAC).</p>	Habitat Regulations Assessment (7.5, APP-158)	<p>The Environment Agency agrees with the scope, method and conclusions (including mitigation) of the HRA screening and appropriate assessment undertaken for the Scheme.</p>	<p>The HRA (7.5, APP-158) is agreed with the Environment Agency.</p>	Agreed	6 December 2022