

M3 Junction 9 Improvement

Scheme Number: TR010055

8.31 Cover Letter ahead of the close of Examination

Planning Act 2008

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

Volume 8

16 November 2023

Ref: TR010055

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16 November 2023

Dear Ms McKay and Mr Sims,

Application Ref: TR010055
Application by National Highways for an Order Granting Development Consent
for the M3 Junction 9 Improvement.

Applicant's submissions ahead of close of Examination

This letter has been prepared by the Applicant to accompany the Applicant's submissions to the Examining Authority (ExA) ahead of the close of Examination on 16 November 2023 for the M3 Junction 9 Improvement Scheme.

A full list of the documents submitted are listed in Section 1 of this letter.

Yours sincerely,

Tom Beasley
National Highways

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1 Submissions ahead of the close of Examination

1.1 Documents submitted

- 1.1.1 The table below sets out documents submitted ahead of the close of Examination.

Table 1.1: Documents submitted ahead of the close of Examination

Reference	Document	Revision
1.3	Introduction to the Application (Appendix A Document Tracker)	REP8-001 Rev 9
6.3	Appendix 8.3 - Assessment of Operational Air Quality Impacts on Biodiversity	REP4-020 Rev 2
7.5	Habitats Regulations Assessment	REP5-021 Rev 3
7.12.3	Statement of Common Ground with South Downs National Park Authority	REP6-019 Rev 1
8.31	Cover Letter ahead of the close of Examination	N/A

1.2 Natural England

- 1.2.1 On the 14 November 2023 the Applicant issued to Natural England a revised version of both the **Habitats Regulations Assessment (HRA) (7.5, Rev 3)** and **Appendix 8.3 (Assessment of Operational Air Quality Impacts on Biodiversity)** of the **ES (6.3, Rev 2)**.
- 1.2.2 The Applicant received comments on these versions on the 16 November 2023 which are included below for the Examining Authority. Natural England conclude that they are broadly satisfied with the updates made on the 14 November 2023 but request further minor updates to the documents and the inclusion of an updated technical Air Quality Memo dated 10 November 2023 as an Annex of the **Habitats Regulations Assessment (HRA) (7.5, Rev 3)**.
- 1.2.3 The Applicant has updated for submission alongside this letter the **Appendix 8.3 (6.3, Rev 2)**, the **HRA (7.5, Rev 3)** and included the updated Air Quality Memo as **Appendix M** to the **HRA (7.5, Rev 3)**.
- 1.2.4 For completeness Natural England's comments and the Applicant's response and actions are set out in full below.

Table 1.2: Natural England's comments received 16 November 2023 and the Applicant's response

Natural England comments 16 November 2023	Applicant's response / actions
<p><u>AQ Memo dated 10th November 2023:</u></p> <p><i>We are satisfied that the information about the critical loads and levels is now correctly addressed. This memo explains the approach clearly, addressing our concerns on the need for the in-combination assessment to be precautionary.</i></p>	<p>The Applicant has included the Air Quality Memo as Appendix M to the HRA (7.5, Rev 3).</p>
<p><u>Comments on tracked changes to AQ Appendix 8.3 and HRA documents:</u></p> <p><i>We are broadly satisfied with the updates to these documents, however please could I raise the following points:</i></p> <p>1. HRA: Please could this document make reference to the AQ memo, to be included as an Annex (the memo clearly explains the rationale in terms of the in-combination assessment modelling). Including this in the main HRA document would be helpful for the record and future reference. Has the memo also been submitted as an examination document?</p>	<p>The Applicant has included the Air Quality Memo as Appendix M to the HRA (7.5, Rev 3).</p>
<p>1. AD plant: The documents state that NE agreed the exclusion of the AD plant from the in-combination assessment. Please could the three documents (AQ Appendix 8.3, HRA and AQ memo) be updated to state that the reason for excluding the AD plant was because the M3J9 had been considered in the in combination assessment for the AD plant, due to the timing of the two projects coming forward. Thank you.</p>	<p>The following documents have been updated to state the reasons for excluding the AD plant from the assessment:</p> <p>Appendix 8.3 (Assessment of Operational Air Quality Impacts on Biodiversity) of the ES (6.3, Rev 2)</p> <p>Habitats Regulations Assessment (HRA) (7.5, Rev 3)</p> <p>Air Quality Memo included as Appendix M to the HRA (7.5, Rev 3)</p>

1.3 Schedule 11 of the draft Development Consent Order (3.1, Rev 6)

- 1.3.1 The Applicant would like the ExA to note that in preparing its recommendation report that the revision number of **Appendix 8.3 (Assessment of Operational Air Quality Impacts on Biodiversity)** in **Schedule 11** of the **draft Development Consent Order (3.1, Rev 6)** will need to be updated following agreement of the issues with Natural England. At present the document is Revision number 2.
- 1.3.2 The Applicant will not be submitting an updated **draft Development Consent Order (3.1, Rev 6)** to address this point now until the matter is finally confirmed with Natural England and the final revision number can be added.

1.4 Statement of Common Ground with South Downs National Park Authority (7.12.2, Rev 1)

- 1.4.1 A final **Statement of Common Ground with South Downs National Park Authority (7.12.2, Rev 1)** has been submitted ahead of the close of Examination.

1.5 Hampshire County Council

- 1.5.1 The Applicant and Hampshire County Council have worked together to resolve HCC's outstanding concerns. A side agreement is now in a substantially agreed form and both Hampshire County Council and the Applicant can confirm they have agreement in principle and anticipate completion over the next few days. Hampshire County Council has asked the Applicant to update the ExA in these terms, however, the Applicant expects that Hampshire County Council will be writing to the ExA to confirm the same.

1.6 Southern Water

- 1.6.1 Agreement has almost been reached, aside from a single item, however, both the Applicant and Southern Water are confident that full agreement (and subsequent completion) will be forthcoming. Southern Water has confirmed to the Applicant that, once agreement has been reached, they will withdraw their objection and confirm that the Protective Provisions included in the **draft Development Consent Order (3.1, Rev 6)** as submitted at Deadline 8 are agreed and has asked the Applicant to confirm the same to the ExA.

2 Comments on Deadline 8 Submissions

2.1.1 The Applicant provides below a short response to two submissions made at Deadline 8.

2.2 Deadline 8 submission in respect of impact at Cart and Horses Junction (REP8-031)

2.2.1 The Applicant notes Hampshire County Council undertook local consultation in July 2023 on two design options for the Cart and Horses junction and that in their Deadline 8 submission have asserted that greater northbound movements through the junction would have unacceptable impacts on safety. However, Hampshire County Council have not submitted any evidence to the Examination to demonstrate that the Scheme would have an unacceptable impact on the safety of the Cart and Horses junction.

2.2.2 The Applicant's position remains as stated in **Appendix A (Cart and Horses junction position statement) of Applicant Responses to Examining Authority's First Written Questions (ExQ1) (8.5, REP2-051)** submitted at Deadline 2 of the Examination.

2.2.3 The Applicant maintains that including changes to the design of the Cart and Horses junction are not necessary to make the development acceptable in planning terms and therefore no Requirement should be imposed on the Development Consent Order.

2.3 Climate Emergency Policy and Planning (CEPP) Deadline 8 Submission - Comments on responses to ExQ3 (if issued) (REP8-030)

2.3.1 The Applicant notes that CEPP have restated a number of points which have already been addressed during the Examination process and therefore the Applicant is not responding further to these.

2.3.2 The Applicant has undertaken the traffic assessments in accordance with the Department for Transport's Transport Assessment Guidance and has reported all information required of it.

2.3.3 However, CEPP have asserted that the Applicant has not complied with the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (EIA Regulations). This is not the case. Design Manual for Roads and Bridges sets out how environmental impact assessments should be carried out for road schemes.

2.3.4 The Applicant has complied with the EIA Regulations and produced a compliant environmental statement.