

**M3 Junction 9 Improvement Project**  
**(Dr) Christopher Gillham**  
**Winchester Friends of the Earth**  
**Unique Reference: 20034384**

**Response to TR010055-001077-Second SoS consultation letter - M3J9**

Your letter of the 24<sup>th</sup> March addresses, inter alia, *Interested Parties*. Winchester Friends of the Earth participated in last year's Examination in Public of this scheme. We maintain our position in respect of all our submissions made at that Examination, that this scheme is economically unsound, contrary to the UK's climate commitments under the Paris Agreement, significantly damaging to the natural environment and damaging to the health of the local population.

**What has changed since the Examination.**

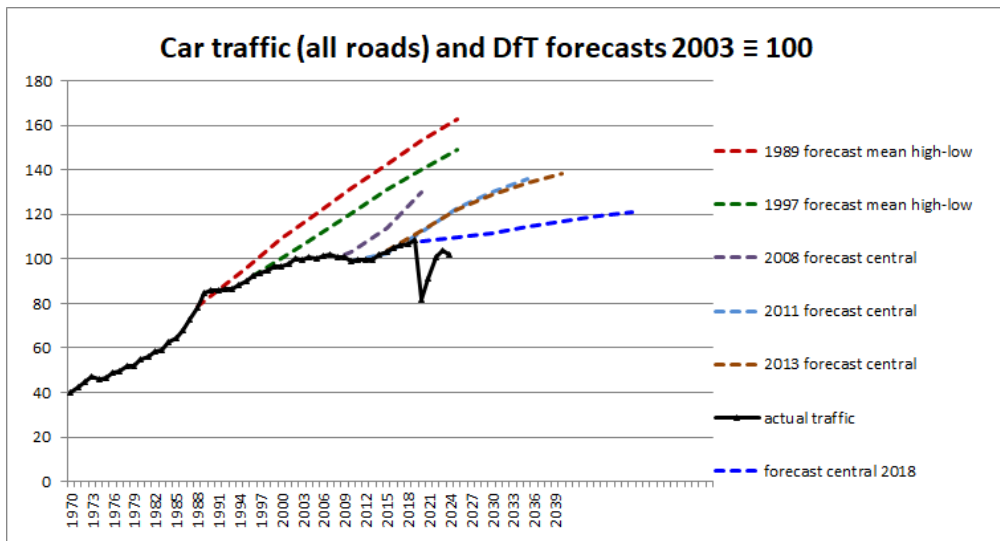
Since the close of the Examination, all the arguments against the scheme have only increased in their relevance, especially as the UK is now clearly in a position that it will not meet the 6<sup>th</sup> Carbon Budget trajectory for reduction of transport emissions, on the basis of current direction of travel. The Transport Select Committee<sup>1</sup> is clear:

*There is concern that the Statement of Need which underpins the draft revised NNNPS does not consider a wide enough range of traffic demand scenarios and that congestion forecasts cannot be thoroughly scrutinised. There is also a lack of faith in the options appraisal process for major schemes and concern that the major infrastructure regime perpetuates a "predict and provide" approach to planning. Greater transparency is needed to promote confidence in the robustness of the regime. The Department for Transport should publish the National Transport Model so that it can be independently tested and verified, or report on a wider range of future demand scenarios and publish its own estimated congestion forecasts for the Strategic Road Network. The Department must also be more transparent when considering the potential alternatives to schemes. The Department should also provide examples of how the draft revised NNNPS supports a move away from a 'predict and provide' approach.*

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<sup>1</sup> Draft revised National Policy Statement for National Networks Ninth Report of Session 2022–23

Since the close of the Examination it is apparent that the traffic forecasts on which the economic assessment is made are clearly overestimating the likely traffic even more, as shown in the “porcupine” graphs of car traffic<sup>2</sup>:



A similar porcupine graph of GDP actual and Treasury/OBR forecasts would show that even the low growth forecasts that feed the traffic forecasts will be optimistic.

The Applicant’s BCR calculation for this scheme was already poor, but all its value comes from the relentless rise in traffic it predicts (including the bizarre positive air pollution benefit assumed from growing traffic in Do-Minimum scenario beyond the carrying capacity of the already congested streets of central Winchester). Realistic traffic growth figures would give a negative return on investment. Given that the Climate Change Committee considered that a 9% **reduction** in traffic was necessary for the Transport Decarbonisation Strategy to work, even if all its fanciful assumptions about technology change were accurate and considering that that Strategy is already out of date with the Government’s decision (since the Examination) to put back the date for stopping the sale of ICE vehicles, it is clear that a greater than 9% **reduction** is absolutely necessary.

The real-terms construction and maintenance cost side of the Applicant’s cost-benefit analysis will also have increased very considerably both since the calculations were made (and the Applicant never really answered that question) and since the end of the Examination<sup>3</sup>. Considering also that the Applicant completely ignored the requirement to add an ‘*optimism bias*’ to the cost calculation, asserting a ‘*maximum likelihood*’ estimation, but ignoring the statistical requirement of an error assessment for such an estimate, it is manifest that the costs side are severely underestimated and becoming increasingly so.

<sup>2</sup> Figures to 2022 from Transport Statistics. Figures for 2023 and 2024 scaled from ONS camera statistics averaging London and Manchester

<sup>3</sup> ONS construction cost indices.

An economic case, already at the lowest possible level of acceptability even by the magical thinking of the TAG process, relying completely on traffic increases that are not occurring and that cannot occur if the Government is serious about its Decarbonisation Trajectory and relying on old and dubious cost estimates at a time when these are rising in real terms, clearly falls well into the range of bad use of public money, where investment never gets a return. The fiction that there are *'wider economic benefits'* to be had beyond the TAG process was never substantiated with a plausible economic narrative at the Examination (see below).

It is now beyond doubting that this scheme is misconceived in transport, environmental and economic grounds. As such it cannot logically be possible for a Secretary of State to find that there are ***'exceptional circumstances, where the benefits outweigh the harm and where it can be demonstrated that it is in the public interest'*** to impose a scheme of this nature on a National Park. Since the Examination, the new National Networks National Policy Statement (NNNPS) has come into being. This underwhelming document, that appears not to recognise any of the real environmental problems facing us today or acknowledge that transport thinking of the late twentieth century is hopelessly out of date for the modern age, nevertheless keeps the caveats of the previous document in relation to the imperative of examining alternatives to damaging infrastructure schemes. We examine the issue of Alternatives further below.

### **Side Agreement with Hampshire County Council**

That a partial agreement with the County Council has been achieved is not in the least bit surprising, since the Council did not participate evidentially in the Examination in any serious way (unlike the District Council and the SDNPA).

Since the Examination, the County Council has adopted its new Local Transport Plan, LTP4<sup>4</sup>, which entirely dispenses with the *'predict and provide'* methodology that underlies road construction appraisal. Its first principle:

*This LTP4 therefore proposes a major shift in approach and emphasis, with an increased focus on policies which support modal shift and manage demand for road space, rather than just supplying the extra capacity to meet this demand. It is based on an approach to transport provision that delivers the interventions needed to achieve the agreed transport outcomes (sometimes referred to as a 'decide and provide' or 'vision and validate' approach). This differs from the*

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<sup>4</sup> <https://documents.hants.gov.uk/transport/hampshire-local-transport-plan-4-2024.pdf>

*‘predict and provide’ approach of the past, which involved creating additional highway capacity to cater for predicted traffic growth. Inevitably this generates additional demand and erodes the expected reduction in congestion, whilst also fostering a high dependency on car use.*

cannot now be further away from the thinking that underlies the Applicant’s case. The only explanation for the County Council’s position in its Side Agreement being so at variance with its own Local Transport policy, is cognitive dissonance, or rather different voices within the Council.

### **The Levelling-up and Regeneration Act 2023**

As we understand it the question relates to this part of the 2023 Act:

*In exercising or performing any functions in relation to, or so as to affect, land in any National Park in England, a relevant authority other than a devolved Welsh authority must seek to further the purposes specified in section 5(1) and if it appears that there is a conflict between those purposes, must attach greater weight to the purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage of the area comprised in the National Park.*

The paragraph in the 1949 National Parks Act being:

*The provisions of this Part of this Act shall have effect for the purpose of preserving and enhancing the natural beauty of the areas specified in the next following subsection, and for the purpose of promoting their enjoyment by the public.*

The **‘must seek to further the purposes’** is a clear enough statement, as is the **‘much greater weight’** requirement. The Applicant, in its response, appears to adopt the extraordinary position that the **seek to further the purposes** has no importance until the Secretary of State specifies in regulation what that means. Specifically:

*The words “seek to” must be given some meaning.*

Really? Are we wandering into legalistic gobbledygook, metaphysical or epistemological manipulation of words? Is this really going to persuade the SoS of the Applicant’s seriousness in addressing its obligations under the revised 1949 Act? Either the Applicant is incapable of understanding the meaning of the sentence or that it believes it has no meaning until the Secretary of State spells it out.

This scheme clearly impacts negatively on the *‘natural beauty, wildlife and cultural heritage of the area comprised in the National Park’*. That the great western salient of the National Park (one of the greatest viewpoints in the whole park) is already compromised

badly by the disastrous Twyford Down scheme is no reason to compromise it further. This scheme does not tackle congestion in any meaningful sense, it merely permits the further expansion of traffic in this highly sensitive area over and above what would have occurred without the scheme. This is what happened with Twyford Down (which after all was supposedly providing the capacity necessary for the scheme lifetime, now only half way through) with corridor traffic growth way beyond general national or regional growth. The Applicant did not answer the question at Inquiry as to the likelihood of it coming back with further proposals to cater for this induced traffic by a scheme to widen the cutting of Twyford Down (as it had a secret plan to do in the 1990s).

There is no seeking to further the purposes of the National Park, here, but a very deliberate adding of pressure to compromise its most important characteristics. The scheme especially worsens the loss of tranquillity that this end of the National Park has had to endure from the mistaken transport policies of the past.

In raising of the *Levelling Up* agenda, the Secretary of State should have regard to the economic fudge used by the Applicant to offset the very poor (almost certainly negative) economic performance of the scheme – the fiction of '*Wider Economic Benefits*' (WEB). The dodgy logic of WEB is, in this instance, compounded by asserting an '*agglomeration*' benefit which is indistinguishable from diverted benefit. What it amounts to is saying that this rich, even overheated, South of England region can agglomerate business location, essentially by diverting that business from elsewhere – the very opposite of Levelling Up.

### **Natural England Questions.**

We are not sure exactly what has been agreed between Natural England and the Applicant. One hopes that it is not the usual rolling over of the protection agency before developers. It is not clear to us that Natural England can have been satisfied that the scheme is consistent with looking after the chalk grassland habitat it affects. The scheme adds nitrogen to what is acknowledged to be an already highly overloaded habitat, where species diversity is already being compromised. We have seen no indication that the Applicant has any plans to counter the effects of the overburden, even though it was asked to do so (e.g. through soil stripping management) at the Examination, so if Natural England had a problem with this, it cannot have ceased to be a problem.

### **Alternatives.**

The NNNPS §5.171

*The Secretary of State should refuse development consent in England's National Parks, ... unless there are exceptional circumstances, where the benefits outweigh the harm and where it can be demonstrated that it is in the public interest.*

*Consideration of such applications should include an assessment of:*

- *the need for the development, including any national consideration, and the impact of consenting, or not consenting it, upon the local economy*
- *the cost of, and scope for, developing elsewhere, outside the designated area, or **meeting the need for it in some other way**, taking account of the policy on alternatives set out in paragraphs 4.20 to 4.22*
- *any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that would be moderated.*

The case for exceptional circumstances was certainly not made at the Examination and neither the body responsible for managing the National Park, nor Winchester City Council with its Climate Emergency Action Plan, could see any benefits that could outweigh the harm. The Applicant considered there was no other way the scheme could be located elsewhere, so that meeting the supposed 'need' for the scheme would have to be through something other than a road scheme. Since the primary supposed need was the reduction of congestion (something that road building across the nation has never yet achieved) then non-road alternatives that might address the problem should have been considered. There are parallel rail corridors to both the M3 and the A34, so that rail alternatives should have been considered as a means of reducing congestion on the road corridor. As pointed out by the Winchester Action on Climate Change at the Examination, a joint National Highways/Network Rail study document identified significant possibilities for modal transfer of freight from the road corridor to the rail corridor. None of this figured in the appraisal of the NH scheme.

§4.20 of the NNNPS states

*Applicants should comply with all legal requirements, and any policy requirements set out in this NPS, on the assessment of alternatives. For example, current requirements include:*

- *Where applicable, the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 require projects with significant environmental effects to include a description of the main alternatives studied by the applicant and an indication of the main reasons for the applicant's choice, taking into account the environmental effects.*

The Applicant did not describe alternatives other than to state that no other road alignments were possible.

The NNNPS has a curious get-out clause at §4.21, which is essentially based on a demonstrable untruth:

*National road or rail schemes that have been identified in relevant Road or Rail Investment Strategies **will have been subject to an options appraisal process** where relevant in line with existing Transport Analysis Guidance, and **proportionate consideration of alternatives will have been undertaken as part of the investment decision making process**. The options appraisal may include other viable options for achieving the objectives of the project, **including (where appropriate) other modes of travel**, regulation, or other ways of influencing behaviour in line with Department for Transport guidance. The Examining Authority and the Secretary of State should satisfy themselves that the options appraisal process has been undertaken.*

We do not know the content of the ExA report to the SoS, but we hope it details the complete failure of the Applicant to find any documentary evidence to support the contention that *consideration of alternatives had been undertaken as part of the investment decision making process*, despite it being asked to provide such evidence by ExA. The Applicant's response to the question was:

*The Applicant has been unable to source documentary evidence that would report on the assessment of modal alternatives undertaken by the Department for Transport prior to the inclusion of the Scheme within RIS. The Applicant understands from its dealings with the Department for Transport that this assessment would have been made as a matter of course.*

What the Applicant is asking us to believe is that the DfT, *as a matter of course*, makes an assessment of modal alternatives for its road schemes without having any documentary evidence of the process, the methodology, the actuality, or the data. What are we to conclude from this? That the Applicant did not bother to look far enough for this evidence? That the DfT does not document its assessments? That the assertion in §4.21 that such assessments are made, *as a matter of course*, is simply untrue?

How will the Secretary of State 'satisfy [himself] that the options appraisal process has been undertaken' without seeing any documentary evidence of such a process?