

Our Ref: R9/LBHi/Consult1

FAO Richard Phillips
London Borough of Hillingdon
Civic Centre
High Street
Uxbridge UB8 1UW

Lynne Stinson
Senior Project Manager
Highways England
5 St Philip's Place
Birmingham B3 2PW

23 March 2018

Dear Mr Phillips

**M4 Junctions 3 to 12 Smart Motorway Scheme, 2016 SI 863
Consultation for DCO Requirement 9: Implementation and Maintenance of
Landscaping**

The Secretary of State for Transport granted the M4 junctions 3 to 12 smart motorway Development Consent Order (DCO) on 2 September 2016. [Schedule 2](#) of the made Order contains Requirements for Highways England to discharge and [Schedule 11](#) outlines the consultation process to be followed.

Requirement 9: Implementation and Maintenance of Landscaping identifies that the 'relevant planning authority' should be consulted prior to making a discharge application to the Secretary of State. Your authority is identified as a consultee for this Requirement. Accordingly, please find attached a Consultation Report which includes:

- The text of the Requirement being discharged
- Background information pertinent to the Requirement

In accordance with the timescales outlined in Schedule 11, I would be grateful if you could provide me with your response within 5 weeks (01/05/18) from the day after the application is received by your authority. If you require further information in order to consider this Requirement please notify me in writing within 7 business days (05/04/18) of receipt of this letter.

If you have any questions about the documents provided please do not hesitate to contact the project team directly M4J3to12SmartMotorways@highwaysengland.co.uk.

Yours sincerely



Lynne Stinson
Senior Project Manager M4 Junctions 3 to 12 Smart Motorway
M4J3to12SmartMotorways@highwaysengland.co.uk

The M4 Motorway (Junctions 3 to 12) (Smart Motorway) Development Consent Order 2016

Consultation Report for Discharge of Requirement 9

PART 1 – Application	
1-1 Consultation Details	
Consenting Granting Body	DfT National Transport Casework Team on behalf of SoS
Undertaker	Highways England (HE)
Consultees	Relevant Planning Authorities (See Part 3)
Requirement Reference	Schedule 2, Part 1, Requirement 9: Implementation and Maintenance of Landscaping
Schedule 2 Requirement Text	<i>9 (1) No part of the authorised development is to commence until a landscaping scheme and programme has been submitted to and approved by the Secretary of State following consultation with the relevant planning authority.</i> <i>9 (2) The landscaping scheme must reflect the mitigation measures included in the environmental masterplan annexed to the engineering and design report (Application Document Reference No.7.3) and set out details of all proposed hard and soft landscaping works, including—</i> <i>(a) location, number, species (which must be native species), size and planting density of any proposed planting;</i> <i>(b) cultivation, importing of materials and other operations to ensure plant establishment;</i> <i>(c) details of existing trees to be retained, with measures for their protection during the construction period; and</i> <i>(d) a programme, which may relate to any part of the authorised development, or the whole, for the implementation of the landscaping scheme.</i> <i>9 (3) All landscaping works must be carried out to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards or other recognised codes of good practice.</i> <i>9 (4) The authorised development must be landscaped in accordance with the scheme and programme approved under sub-paragraph (1).</i> <i>9 (5) Any tree or shrub planted as part of the landscaping scheme that, within a period of 5 years after planting, dies or becomes, in the opinion of the Secretary of State, seriously diseased, must be replaced in the first available planting season with a specimen of the same species and size as that originally planted, unless the Secretary of State gives consent to any variation.</i>
Purpose of Application	Highways England is formally consulting on this Requirement prior to making a submission to the DfT National Transport Casework Team for discharge of the Requirement. Consultation responses received will form part of the formal discharge application made to the DfT.
Correspondence Publication	Please note that, in accordance with the made Order, Highways England maintains a Register of Requirements. This is published on the webpage for the scheme and contains links to the following: • This Consultation Report and letter

	- Any responses received from consultees and subsequent Highways England replies - The discharge application made to the DfT National Transport Casework Team on behalf of SoS - Any responses received from the DfT National Transport Casework Team on behalf of SoS Signatures and personal contact details will be redacted on published documents.
Assessment	Please note that the discharge of Requirements for the scheme is covered by the Planning Act 2008 rather than the Town and Country Planning Act 1990 used for conventional planning applications and condition discharge.

PART 2 – Background Information

Context	Highways England (then the Highways Agency) submitted a Development Consent Order (DCO) application for the M4 Junctions 3 to 12 Smart Motorway to the Planning Inspectorate on 30 March 2015. The DCO application was based upon a preliminary design for the scheme and using the ‘Rochdale Envelope’ approach for producing the Environmental Statement (ES) where details of a project were not fully resolved at the time when the application was submitted. During the DCO Examination period it was established that the design of Side Roads, Main Line, Gantries, Under Bridges and extent of Vegetation Clearance would be developed as the following information became available: - Topographical surveys to provide accurate positions and heights of existing highway features and boundaries. This information would not only firm up locations for the proposed structures but also the alignment of the side roads over them - Geotechnical surveys to provide information to finalise foundation, piling and slope designs and provide the necessary factors of safety required by design standards. - Ecological surveys to provide updates on the location and presence of various flora and fauna species. The design has also been developed to take account of the addition of further environmental/acoustic barriers during the DCO Examination as a result of the Enhanced Noise Mitigation Study. The addition of the acoustic barriers has required the motorway verges to be widened to provide room for them to be installed. This in turn has resulted in needing to steepen existing embankments or install retaining walls to keep the scheme within the Order limits. The preliminary design solutions for the Environmental Master Plan and Vegetation Clearance were described within the Engineering and Design Report (EDR) and its associated appendices as detailed in the table below. The supporting information can be accessed from the Planning Inspectorate’s Examination Library and the appropriate document references are given.
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Document	Description	Examination Library Reference & Location	Covered in this consultation?
EDR Annex A1	Environmental Master Plan	App 097-101 (Library page 9 & 10 of 85)	Yes
EDR Annex A2	Vegetation Clearance	App 102 – 106 (Library page 9 & 10 of 85)	No. Covered in Req 6 Consultation

Highways England prepared an environmental impact assessment (EIA) of the Scheme, the results of which were published in the Environmental Statement (ES) which accompanied the Application for development consent. The Landscape chapter (Chapter 8) assessed the effects of the Scheme on landscape and visual receptors, and proposed mitigation and enhancement measures where considered necessary/feasible. Appendix 8.3 to the ES comprised a detailed assessment of the visual effects of the Scheme, and Appendix 8.4 to the ES comprised an inventory of locations of retained existing vegetation. The Ecology and Nature Conservation chapter (Chapter 9) assessed the effects of the Scheme on ecological receptors, and also proposed mitigation and enhancement measures where considered necessary/feasible. The Cultural Heritage chapter (Chapter 7) assessed the effects of the Scheme on heritage assets (from both a physical and setting perspective), and also proposed mitigation and enhancement measures where considered necessary/feasible.

The Application for development consent was also supported by a set of Vegetation Clearance drawings, which illustrated the temporary and permanent vegetation clearance required to facilitate the construction of the Scheme (Annex A2 of the Engineering and Design Report). The Application for development consent was further supported by an Environmental Masterplan (Annex A1 of the Engineering and Design Report), which provided an indication of how the land cleared of vegetation for temporary construction works would be replanted following construction, and incorporated mitigation measures identified as part of the EIA process. Environmental enhancement measures were also incorporated in appropriate circumstances.

During the DCO Examination, the Vegetation Clearance drawings, Environmental Masterplan and Appendix 8.4 of the ES were updated and submitted to the Examining Authority in support of the Application for development consent at Deadline VII. Furthermore, a 'Vegetation Clearance Environmental Impact Schedule' was also submitted to the Examining Authority in support of the Application for development consent at Deadline VII. This schedule documented any changes to the visual, ecological and cultural heritage assessments presented in the ES as a result of the updates made to the Vegetation Clearance drawings and the Environmental Masterplan.

Since the DCO was made, the detailed design of the Scheme has been progressed. This process has culminated in additional vegetation clearance being required to facilitate the construction of the Scheme, therefore requiring amendments to both the Vegetation Clearance drawings and Environmental Masterplan. The amended Vegetation Clearance drawings and Environmental Masterplan will be submitted in support of discharging Schedule 2, Part 1, Requirements 6 and 9 of the DCO respectively.

The additional vegetation clearance required to facilitate the construction of the Scheme potentially influences the visual, ecological and cultural heritage impact assessments presented in the ES and/or in the 'Vegetation Clearance

	Environmental Impact Schedule' submitted to the Examining Authority in support of the Application for development consent at Deadline VII. As a result, Highways England is required to consult on any influence the additional vegetation clearance required to facilitate the construction of the Scheme may have had on the visual, ecological and cultural heritage impact assessments presented in the ES and/or in the 'Vegetation Clearance Environmental Impact Schedule' submitted to the Examining Authority in support of the Application for development consent at Deadline VII. The revised details are discussed further in the following sections and are provided within Part 3 of this consultation pack.
Elements covered by Requirement 9	Requirement 9 covers providing revised details for the Environmental master Plan as additional vegetation clearance in some areas is required as the detailed design progression and further topographical surveys have given the true extents of the design and the DCO envelope to be worked within, this has lead in some areas, the need to adopt different design solutions to enable the scheme to remain within the DCO envelope, and this in turn has led to additional vegetation clearance in some areas. This consultation provides an assessment of the potential visual, ecological and cultural heritage impacts as a result of the additional vegetation clearance required to facilitate the construction of the Scheme, and provides comparison with the visual, ecological and cultural heritage impact assessments presented in the Environmental Statement (ES) and in the 'Vegetation Clearance Environmental Impact Schedule' submitted to the Examining Authority in support of the Application for development consent at Deadline VII.
Relevant extracts from the Secretary of State for Transport's decision letter and statement of reasons	The Secretary of State for Transport granted the DCO on 2 September 2016. The Secretary of State for Transport's decision letter and statement of reasons contains the following sections in which reference to Requirement 9 is made: <i>Biodiversity and ecological conservation</i> <i>30. The Secretary of State has considered the Panel's assessment of the effects of the proposed development on biodiversity and ecological conservation at PR 5.9.1-82. With regard to designated sites, he agrees with the Panel that any impacts can be mitigated by the measures described and secured in the Order (PR 5.9.8-16). He is satisfied also that the protection of habitats has been sufficiently addressed in the Order (PR 5.9.17-31).</i> <i>31. The Secretary of State notes that the applicant has proposed various mitigation measures to protect fauna as detailed in the Table of Mitigation and that they would be secured through the Environmental Management Plan under requirement 7 and the CEMP under requirement 8. He agrees with the Panel that, taking into account the views of NE, those measures are satisfactory (PR 5.9.32-72). With regard to the need for European Protected Species ("EPS") licences for bats and badgers referred to at PR 5.9.71, the applicant advised the Secretary of State on 15 July 2016 that an EPS licence was no longer required in relation to bats as it would be seeking to avoid works that could result in disturbance to bat roosts. The applicant advised also (and NE confirmed) that on 11 March 2016 NE had issued a Letter of No Impediment in relation to the draft badger mitigation licence application.</i> <i>32. The Secretary of State agrees with the Panel's overall conclusion that biodiversity and ecological conservation issues have been sufficiently considered by the applicant; that appropriate mitigation is secured through</i>

	<i>the Order; and that the applicant has taken the opportunity to provide some enhancement to biodiversity within the proposed development. He is therefore satisfied that the tests in paragraphs 5.3-4, 5.23-26, 5.36 and 5.187 of the NPSNN are met (PR 5.9.80-81).</i> Landscape and visual impacts <i>37. The Secretary of State has noted the Panel's summary of the impacts of the proposed development at PR 5.13.15-29 and their assessment of the issues arising at PR 5.13.30-56. He agrees with the Panel that during construction the impact of the proposed development on the surrounding landscape would be likely to range from slight adverse to large adverse, with the main changes resulting from construction compounds and construction activities outside the Motorway boundary and the consequent loss of trees and other vegetation (PR 5.13.57). He agrees also with the Panel that, in operation, the proposed development would increase the dominance of the M4 within the surrounding landscape with effects ranging from neutral to moderate adverse (PR 5.13.58). However, like the Panel the Secretary of State considers that, taking into account the strong influence which the M4 currently has on its immediate surroundings and the quality of proposed landscaping and planting, the impact on the landscape is not so significant as to weigh against the proposed development (PR 5.13.59). He agrees further with the Panel that the effects of the proposed development on the North Wessex Downs Area of Outstanding Natural Beauty would be neutral and that the tests in paragraph 5.150 of the NPSNN are met (PR 5.13.60-61).</i> <i>38. With regard to visual impacts during construction, the Secretary of State notes that there would be some moderate to large adverse impacts for some residential occupiers located close to construction compounds and sites. However, he agrees with the Panel that taking into account the CEMP the extent of visual impacts would be reasonable and proportionate (PR 5.13.62). As for operational impacts, the Secretary of State notes that there would be some moderate adverse visual impacts as a result of the siting of new gantries and the permanent use of the hard shoulder, but that over time some of these impacts would reduce as new vegetation matures. He agrees with the Panel that the moderate adverse impacts that may remain would be reasonable and proportionate to the proposed development and that the applicant's assessment of visual impacts meets the requirements of the paragraph 5.144 of the NPSNN (PR 5.13.63-64).</i>
Relevant extracts from the Examining Authority's Report and Recommendations to the Secretary of State	Comments specific to surface water drainage are made in the Examining Authority's Report and Recommendations to the Secretary of State. The most relevant paragraphs to Requirement 9 are included below: <i>5.6.14 The impact of the proposed development with regard to landscape and visual impacts is considered in Section 5.13 of this report. The Panel is satisfied that the proposed design meets NPSNN paragraphs 4.29 et seq, to produce sustainable infrastructure sensitive to place, efficient in the use of natural resources and energy used in their construction, matched by an appearance that demonstrates good aesthetics as far as possible. The proposed development would contribute to aesthetics through improved operational efficiency, less congestion, the visual and noise mitigation of new and improved noise barriers, and the noise mitigation of low noise surfacing.</i> <i>5.6.15 The NPSNN at paragraph 4.30 acknowledges that, given the nature of much national network infrastructure development, there may be a limit on the extent to which it can contribute to the enhancement of the quality of the</i>

	area. With this caveat in mind, we find that the proposed development is consistent with NPSNN paragraphs 4.28 to 4.35.									
Commentary and Scope of Consultation	The scope of the Requirement 9 consultation covers Consultees providing comments on the revised Environmental Master Plan referenced in the requirement text									
	The following table summarises how this consultation addresses the elements within Requirement 9:									
	<table border="1"> <thead> <tr> <th>6</th><th>Requires</th><th>Addressed by</th></tr> </thead> <tbody> <tr> <td>(1)</td><td>No part of the authorised development is to commence until a landscaping scheme and programme has been submitted to and approved by the Secretary of State following consultation with the relevant planning authority.</td><td>Refer to Environmental Master Plan drawings which detail proposed replacement planting.</td></tr> <tr> <td>(2)</td><td> The landscaping scheme must reflect the mitigation measures included in the environmental masterplan annexed to the engineering and design report (Application Document Reference No.7.3) and set out details of all proposed hard and soft landscaping works, including— (a) location, number, species (which must be native species), size and planting density of any proposed planting; (b) cultivation, importing of materials and other operations to ensure plant establishment; (c) details of existing trees to be retained, with measures for their protection during the construction period; and (d) a programme, which may relate to any part of the authorised development, or the whole, for the implementation of the landscaping scheme </td><td> The updated Environmental Masterplan defines all areas of proposed replacement planting to mitigate for the loss of vegetation cleared to facilitate the construction of the Scheme, identifying the type of planting to take place. The Environmental Masterplan should be read in conjunction with the schedules and specification notes provided on drawing 514451-MUH-ML-ZZ-DR-EM-300734, which states the species to be used within each planting mix type, their age and size and the planting densities to be used; a. The species to be planted are identified on specification drawing 514451-MUH-ML-ZZ-DR-EM-300734, detailing planted sizes and densities required as part of each mix. All species to be planted are native species. b. The preparation of the ground ahead of planting will be carried out in line with the Manual of Contract Documents for Highway Works, Volume 1 – </td></tr> </tbody> </table>		6	Requires	Addressed by	(1)	No part of the authorised development is to commence until a landscaping scheme and programme has been submitted to and approved by the Secretary of State following consultation with the relevant planning authority.	Refer to Environmental Master Plan drawings which detail proposed replacement planting.	(2)	The landscaping scheme must reflect the mitigation measures included in the environmental masterplan annexed to the engineering and design report (Application Document Reference No.7.3) and set out details of all proposed hard and soft landscaping works, including— (a) location, number, species (which must be native species), size and planting density of any proposed planting; (b) cultivation, importing of materials and other operations to ensure plant establishment; (c) details of existing trees to be retained, with measures for their protection during the construction period; and (d) a programme, which may relate to any part of the authorised development, or the whole, for the implementation of the landscaping scheme
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			Specification for Highway Works, Series 3000. c. All existing vegetation to be retained and protected for the duration of the works is identified on drawings d. The programme for replacement planting is incorporated into the contractors programme of works.
	(3)	All landscaping works must be carried out to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards or other recognised codes of good practice.	All planting activities will be carried out in line with the Manual of Contract Documents for Highway Works, Volume 1 – Specification for Highway Works, Series 3000 which directly refers to the current British standards for planting and landscape preparation and establishment works.
	(4)	The authorised development must be landscaped in accordance with the scheme and programme approved under sub-paragraph (1).	The landscape activities will take place in line with the contractors programme of works as (2)(d) above.
	(5)	Any tree or shrub planted as part of the landscaping scheme that, within a period of 5 years after planting, dies or becomes, in the opinion of the Secretary of State, seriously diseased, must be replaced in the first available planting season with a specimen of the same species and size as that originally planted, unless the Secretary of State gives consent to any variation.	All planting undertaken as part of the works will be maintained for 60 months following completion with any failed species, i.e. dead or diseased in this period to be replaced like-for-like, as detailed in the Establishment Maintenance Notes provided on drawing 514451-MUH-ML-ZZ-DR-EM-300734.
	The scope of the Requirement 9 consultation does not cover the following: • Earthwork Standard Details as this is secured by Requirement 3 • Vegetation Clearance drawings as this is secured by Requirement 6 • Overbridge General Arrangement as this is secured by Requirement 3 • Drainage Strategy Report as this is secured by Requirement 14 • Amendments to approved details as this is covered by Requirement 20 • Detailed flood compensation area proposals as these are secured by Requirement 23		

PART 3 – Consultation

3-1 Overview of Consultation Material Issued

The following material forms part of this Consultation Report:

Environmental Master Plan: A set of 31 drawings providing the current proposals. Individual packs of drawings have been provided for all the Consultees.

3-2 Extent of Consultation and Materials Provided

The drawings have been saved in Consultee-specific packs containing just the drawings covering that Consultee's area. Links to the full drawing sets have also been provided for completeness.

Bodies Consulted	Material Specific to Consultee	Material Relevant to all Consultees
Bracknell Forest Council (BFC)	BFC Environmental Master Plan	This covering letter and consultation report For completeness a full set of the • Environmental Master Plan drawings are available here
Buckinghamshire CC (BCC) / South Buckinghamshire District Council (SBDC)	BCC / SBDC Environmental Master Plan	
London Borough of Hillingdon (LBHi)	LBHi Environmental Master Plan	
London Borough of Hounslow (LBHo)	LBHo Environmental Master Plan	
Reading Borough Council (RBC)	RBC Environmental Master Plan	
Royal Borough of Windsor and Maidenhead (RBWM)	RBWM Environmental Master Plan	
Slough Borough Council (SBC)	SBC Environmental Master Plan	
West Berkshire Council (WBC)	WBC Environmental Master Plan	
Wokingham Borough Council (WoBC)	WoBC Environmental Master Plan	

The following bodies have not been consulted for the reasons given below.

Bodies Not Consulted	Reason for Exclusion from Consultation
Environment Agency	The EA is not a planning authority.
Transport for London	Neither body is a lead planning authority and responsibility for this matter falls within the remit of the London Boroughs of Hillingdon and Hounslow.
Greater London Authority	