

M25 junction 28 improvement scheme

TR010029

9.138 Applicant's response to Secretary of State's consultation - 22 December 2021

Planning Act 2008

Infrastructure Planning (Examination Procedure) Rules 2010

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The Infrastructure Planning (Examination Procedure) Rules 2010

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9.138 Applicant's response to Secretary of State's consultation 22 December 2021

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1. Introduction

- 1.1.1 This document sets out National Highways' response to the Department for Transport's letter dated 22 December 2021 containing two requests by the Secretary of State (SoS) for additional information from National Highways.

2. Secretary of State's request 1. Update to the Environmental Information:

- 2.1.1 *The Secretary of State invites the Applicant to update its response of 22 November 2021 to the Secretary of State's consultation letter of 8 November 2021 to provide (or, to the extent that it has already been provided, identify) its assessment of the cumulative effects of Greenhouse Gas emissions from the scheme with other existing and/or approved projects on a local, regional and national level on a consistent geographical scale (for example an assessment of the cumulative effects of the Road Investment Strategy RIS 1 and RIS 2 at a national level).*
- 2.1.2 *This should: take account of both construction and operational effects; identify the baseline used at each local, regional and national level; and identify any relevant local, regional or national targets and/or budgets where they exist (including the carbon budgets, the 2050 net zero target under the Climate Change Act 2008, and the UK's Nationally Determined Contribution under the Paris Agreement). It should be accompanied by reasoning to explain the methodology adopted, any likely significant effects identified, any difficulties encountered in compiling the information, and how the assessment complies with the Environmental Impact Assessment Regulations.*
- 2.1.3 *The Secretary of State would also welcome confirmation that the response to all parts of this question has been prepared by a competent expert. Please can links be provided to any documents referenced and their relevance fully explained.*

2.2 National Highways' response

- 2.2.1 National Highways has responded to this request by breaking it down into various constituent parts as follows:
- National Highways' assessment (*or updated assessment*) of the cumulative effects of greenhouse gas emissions from the M25 junction 28 Scheme (the Scheme) with other existing and/or approved projects;
 - For the assessment (*or updated assessment*) to be on a consistent geographical scale at a national, regional and local scale accounting for construction and operational contributions;
 - How the assessment (*or updated assessment*) which identifies the baseline used at each local, regional and national level compares against any identified relevant local, regional or national carbon targets and/or budgets (including the carbon budgets, the 2050 net zero target under the Climate Change Act 2008 and the UK's Nationally Determined Contribution under the Paris Agreement);

- How an assessment was undertaken to evaluate the likely significant effects of the Scheme and any difficulties encountered in compiling the information;
- How the assessment presented for the Scheme complies with the Environmental Impact Assessment Regulations;
- A confirmation that this response has been prepared by a competent expert.

2.2.2 To assist the Secretary of State, National Highways has set out its response for each of the matters raised in turn.

Assessment of cumulative effects of greenhouse gas emissions from the Scheme with other existing and/or approved projects

- 2.2.3 National Highways follows the advice set out in the Design Manual for Roads and Bridges (DMRB) for the design and evaluation of the impact of any of its road schemes. This ensures consistency in how any scheme is progressed and how the outcomes are evaluated.
- 2.2.4 The environmental assessment work was advanced before updates to the DMRB were made (i.e. Cumulative effects covered in DMRB LA 104 and LA 114 for Climate). However, a DMRB Sensitivity Test (APP-050) was prepared following consultation with the Planning Inspectorate and it formed part of the DCO application. The sensitivity test concluded, in summary, that the assessment of effects described in Chapter 14 (APP-036) and Chapter 15 (REP9-024) of the environmental statement were largely in line with the DMRB updates.
- 2.2.5 In respect of the cumulative assessment for the Scheme, guidance provided in DMRB Volume 11, Section 2, Part 5: Assessment and Management of Environmental Effects' and the Planning Inspectorate 'Advice Note Seventeen: Cumulative Effects Assessment' (August 2019) was followed as these documents were considered to represent best practice for cumulative effects assessments at the time the Scheme assessment was undertaken. The assessment is set out in Chapter 15 (REP9-24) of the environmental statement.
- 2.2.6 For the climate assessment, construction related CO₂e emissions were quantified following PAS 2080:2016 – 'Carbon Management in Infrastructure' principles using Highways England Carbon Tool (APP-085). DMRB, Volume 11, Section 3, Part 1 Air Quality: HA 207/07 was used to quantify the CO₂e operational emissions. This approach is set out in Chapter 14 (APP-036) of the environmental statement.
- 2.2.7 Updated DMRB guidance, LA 104, Environmental assessment and monitoring¹, which was also followed in Chapter 15 (REP9-024) provides the following overarching advice on the assessment and evaluation of cumulative impacts on pages 17-18:

"Paragraph 3.21 Environmental assessments shall assess cumulative effects which include those from:

- 1) *a single project (e.g. numerous different effects impacting a single receptor); and*

2) *different projects (together with the project being assessed).*

Paragraph 3.21.2 The assessment of cumulative effects should report on:

- 1) *roads projects which have been confirmed for delivery over a similar timeframe;*
- 2) *other development projects with valid planning permissions or consent orders, and for which EIA is a requirement; and*
- 3) *proposals in adopted development plans with a clear identified programme for delivery.*

Paragraph 3.22 The assessment of cumulative effects shall:

- 1) *establish the zone of influence of the project together with other projects;*
- 2) *establish a list of projects which have the potential to result in cumulative impacts; and*
- 3) *obtain further information and detail on the list of identified projects to support further assessment.”*

2.2.8 The assessment of carbon dioxide (CO₂) undertaken to support schemes has assessed the construction and operational effects:

- Construction – the materials and energy required to construct the Scheme;
- Operational – emissions produced by vehicles using the completed Scheme and associated journeys from the wider road network that incorporate or have a change in their journey following opening of the Scheme; emissions produced by maintenance activities over its design life (i.e. 60 years).

2.2.9 The traffic modelling for the Scheme has been undertaken in line with Transport Appraisal Guidance published² by the Department for Transport (DfT). The Transport Assessment Reports for the Scheme (APP-098 and PDB-003) were submitted to the DCO examination³. The traffic model used for the Scheme has been developed in line with DfT requirements and is **inherently cumulative**. This is because, in brief, traffic models used to support scheme assessment contain data about the following:

1. The proposed scheme and adjoining Strategic Road Network and local road network;
2. Other schemes promoted by National Highways in the near vicinity of the proposed scheme with high certainty that they are to be progressed i.e. progressed beyond preferred route announcement stage;

² <https://www.gov.uk/guidance/transport-analysis-guidance-tag>

³ https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010029/TR010029-000233-TR010029_M25_j28_7.4_Transport_assessment_report.pdf <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010029/TR010029-000359-Procedural%20Deadline%20B%20submission%20-%20DCO%20-%209.5%20Transport%20Assessment%20Supplementary%20Information%20Report.pdf>

3. Foreseeable developments promoted by third parties that are likely (based on discussions with relevant local planning authorities) to be developed in a similar timeline to the proposed National Highways' scheme. Knowing where the proposed third party development is to be sited, the extents and types of development, and the timescales of when it is to be completed are requirements to ensure that the third party developments can be reasonably described in the traffic model; and
4. National government regional growth rates which include a representation of likely growth rates excluding known planning developments already included in the traffic model. This is represented by DfT's NTEM/TEMPO⁴ growth factors for car usage, and growth in freight is derived from DfT's National Transport Model⁵.

2.2.10 In terms of operational carbon, when National Highways evaluates the changes in CO_{2e} emissions of their proposed schemes they do so by comparing changes in the road traffic on the Strategic Road Network and local road network between the 'without scheme scenario' and the 'with scheme scenario'. This takes into account the assessment of the proposed scheme and all other developments likely to have an influence on the proposed road scheme and on the area the proposed road scheme is likely to influence.

2.2.11 In essence, as both with and without scheme scenarios already include all likely developments and traffic growth factors, the assessment is inherently cumulative as regards operational carbon emissions. This is a state of affairs recognised in general terms in paragraph 3.4.4 of the Planning Inspectorate's Advice Note 17 ("Cumulative effects assessment relevant to nationally significant infrastructure projects"), the first two sentences of which state that:

"Certain assessments, such as transport and associated operational assessments of vehicular emissions (including air and noise) may inherently be cumulative assessments. This is because they may incorporate modelled traffic data growth for future traffic flows. Where these assessments are comprehensive and include a worst case within the defined assessment parameters, no additional cumulative assessment of these aspects is required (separate consideration may be required of the accumulation or inter-relationship of these effects on an individual set of receptors e.g. as part of a socio economic assessment)."

The appropriate geographical scale of assessment of greenhouse gas emissions

2.2.12 In line with the requirements set out in Climate Change Act 2008⁶ (CCA 2008), Part 1, Section 4 (see below) parliament has set carbon budgets⁷ at the national scale.

⁴ <https://www.gov.uk/government/publications/tempro-downloads>

⁵ <https://www.gov.uk/government/publications/national-transport-model-ntmv2r-overview-of-model-structure-and-update>

⁶ https://www.legislation.gov.uk/ukpga/2008/27/pdfs/ukpga_20080027_en.pdf

⁷ <https://www.gov.uk/guidance/carbon-budgets>

“Carbon budgets

1) *It is the duty of the Secretary of State—*

(a) to set for each succeeding period of five years beginning with the period 2008-2012 (“budgetary periods”) an amount for the net UK carbon account (the “carbon budget”), and

*(b) to ensure that the **net UK carbon** account for a budgetary period does not exceed the carbon budget” [our emphasis].*

2.2.13 Carbon budgets cover the following 11 sectors:

1. Surface Transport
2. Buildings
3. Manufacture and Construction
4. Electricity Generation
5. Fuel Supply
6. Agriculture and land use, land use change and forestry
7. Aviation
8. Shipping
9. Waste
10. Fluorinated gases (F-gases)
11. Greenhouse gas removals

2.2.14 The national carbon budgets are themselves cumulative i.e. the sum of carbon emissions from a range of sectors between now and the end of the 6th carbon budget (2037).

2.2.15 The CCA 2008 does not impose a legal duty to set carbon budgets at a smaller scale than national i.e. regional or local. Specifically:

- a. In setting carbon budgets Parliament has not imposed any legal duty upon local authorities to attain any particular targets whether carbon budgets or for net zero 2050. i.e. there are no legal duties which require particular geographical areas within the UK to achieve particular reductions in carbon emissions by particular dates.
- b. Neither Parliament nor Government has identified any sectoral targets for carbon reductions related to transport, or any other sector. There is no requirement in the CCA 2008, or in government policy, for carbon emissions for all road transport to become net zero. This was explained in the ***R(Transport Action Network) v Secretary of State for Transport*** [2021] EWHC 2095 (Admin) (“the TAN case”) in which Holgate J held that:

“...there is no sectoral target for transport, or any other sector, and that emissions in one sector, or in part of one sector, may be balanced against better performance in others. A net increase in emissions from a particular policy or project is managed within the government's

overall strategy for meeting carbon budgets and the net zero target as part of "an economy-wide transition."

- c. A net increase in emissions from a particular policy or project is thus managed within the government's overall strategy for meeting carbon budgets and the net zero target as part of an economy-wide transition.

2.2.16 Therefore, there is no legal requirement to assess the impact of an individual against the total carbon emissions from RIS 1 and RIS 2.

2.2.17 To conduct an impact assessment at a local or regional scale some form of baseline would need to be identified, and that baseline would need to comprise:

- a. A forecast of carbon emissions from all cumulative sources relevant to the geographic / sectoral scale being adopted;
- b. A forecast which addresses the time frame relevant to the proposed road scheme;
- c. A forecast which reflects existing government policy to attain the 6th carbon budget and net zero 2050; and
- d. A forecast which does not include carbon emissions from the proposed road scheme (to avoid double counting).

2.2.18 The Government has not made public any forecasts of carbon emissions from all relevant cumulative sources at a scale less than the national level, over a time frame relevant to the assessment of a particular proposed road scheme, which reflects existing government policy to attain the 6th carbon budget and net zero 2050 and which does not include carbon emissions from the proposed road scheme.

2.2.19 National Highways is unable itself to produce a baseline at a local or regional scale. Such a baseline would have to be consistent with the Government's understanding of the likely implications of its policies over time in a particular geographic area. In relation to carbon reductions, those policies are myriad and extend to matters beyond the planning system and into issues relating to the use of fiscal incentives / disincentives to manage carbon emissions across the country as a whole.

2.2.20 Relevant to this request for information is that an environmental statement is required to include such information as is reasonably required to assess the environmental effects of the development and which the applicant can reasonably be required to compile having regard to current knowledge (see **R. (Khan) v London Borough of Sutton** [2014] EWHC 3663 (Admin) and **Preston New Road Action Group v Secretary of State for Communities and Local Government** [2018] Env. L.R. 18).

2.2.21 There is no reasonable basis upon which National Highways can assess the carbon emissions impact of the Scheme at a local or regional level and it is not required to do by law or the NPS NN.

2.2.22 Accordingly, National Highways is not in a position to provide an assessment of the cumulative effects of the greenhouse gas emissions for the scheme for anything other than at the national level carbon budgets.

How the assessment complies with various carbon budgets and wider carbon policies

- 2.2.23 Overall compliance with, or attainment of, ‘carbon budgets’, ‘the 2050 zero target’ under the Climate Change Act 2008, and the ‘UK’s Nationally Determined Contribution’ under the Paris Agreement are the responsibility of Government to manage as they are matters of national policy and not policies set at an individual scheme level.
- 2.2.24 The National Policy Statement for National Networks (NPS NN)⁸ sets the national policy framework against which decision makers can evaluate the outcomes of proposed road infrastructure project. The NPS NN sets policy advice across a range of topics such as air quality, noise, biodiversity and carbon (see paragraphs 5.16 to 5.29 pages 49 and 50).
- 2.2.25 The specific advice on the evaluation of carbon impacts from a proposed scheme and decision making considerations is set out in paragraphs 5.17 and 5.18 respectively.

“Applicant’s assessment

*5.17 Carbon impacts will be considered as part of the appraisal of scheme options (in the business case), prior to the submission of an application for DCO. Where the development is subject to EIA, any Environmental Statement will need to describe an assessment of any likely significant climate factors in accordance with the requirements in the EIA Directive. It is very unlikely that the impact of a road project will, in isolation, affect the ability of Government to meet its carbon reduction plan targets. However, **for road projects applicants should provide evidence of the carbon impact of the project and an assessment against the Government’s carbon budgets.** [our emphasis].*

“Decision making

*5.18 The Government has an overarching national carbon reduction strategy (as set out in the Carbon Plan 2011) which is a credible plan for meeting carbon budgets. It includes a range of non-planning policies which will, subject to the occurrence of the very unlikely event described above, ensure that any carbon increases from road development do not compromise its overall carbon reduction commitments. The Government is legally required to meet this plan. Therefore, any increase in carbon emissions is not a reason to refuse development consent, unless the increase in carbon emissions resulting from the proposed scheme are so significant that it would have a material impact on the ability of Government to meet **its carbon reduction targets.**” [our emphasis].*

⁸ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/387223/npsnn-web.pdf

- 2.2.26 NPS NN requires assessment against the Government's climate reduction targets i.e. the carbon budgets which are set at a national geographical scale. It does not require assessment against any local or regional targets. This is because the Government has not identified or adopted any carbon reduction targets at a scale smaller than the UK as a whole i.e. national carbon budgets.

How an assessment was undertaken to evaluate the impacts of the Scheme including consideration of likely significance effects

- 2.2.27 National Highways' approach to assessing and evaluating the CO₂e impacts associated with the Scheme is set out in Section 14.1.5 of Chapter 14 of the ES (APP-036) which notes that construction related CO₂e emissions were quantified following PAS 2080:2016 – 'Carbon Management in Infrastructure' principles using Highways England Carbon Tool (APP-085). DMRB, Volume 11, Section 3, Part 1 Air Quality: HA 207/07 was used to quantify the CO₂e operational emissions.
- 2.2.28 The environmental assessment work was advanced when updates to DMRB LA 114 Climate were made. However, a DMRB Sensitivity Test (APP-050) was prepared following consultation with the Planning Inspectorate to ensure that the assessment methodology outlined in Chapter 14 is largely in line with DMRB LA114. The sensitivity test concluded, in summary, that the climate effects described in the environmental statement would not change. The LA 114 methodology is based on the legal requirements outlined in the Climate Change Act 2008 and uses the principles of PAS 2080:2016 – 'Carbon Management in Infrastructure' and therefore, the assessment is in line with LA 114.
- 2.2.29 Section 3 (Methodology) of DMRB LA 114, paragraphs 3.18 to 3.20 defines the reporting requirements for comparison against the relevant carbon budgets (*in existence at the time of the assessment*) and the evaluation criteria for significance, which is consistent with the decision making requirements set out in paragraphs 5.17 and 5.18 of the NPS NN.
- 2.2.30 Chapter 14 (APP-036) of the environmental statement for the Scheme sets out the climate assessment completed for this Scheme. Chapter 14 presents projected emissions from the Scheme in the context of the 3rd carbon budget (as shown in paragraph 14.1.10.8). The projected emissions from the Scheme in the context of the 4th carbon budget is presented in The Carbon Budget Assessment (REP4-024). The projected emissions compared to all current and future legislated carbon budget periods including the 3rd, 4th, 5th and 6th carbon budgets is presented in National Highways' response to the Secretary of State's consultation letter of 14 October 2021. The response concluded that the Scheme does not cause a significant effect for changes in CO₂e emissions when compared to carbon budgets.
- 2.2.31 However, since the submission of the environment statement, and the DCO examination, the Department for Environment, Food and Rural Affairs (Defra) has released (on the 19th November 2021) a new version of the Emission Factor Toolkit (EFT) (version 11) (EFT v11). This update is notable because, for the first time, the EFT now includes data relating to the UK vehicle fleet and associated emissions for the period between 2031 and 2050 inclusive. EFT v11 also now includes a greater uptake rates of electric vehicles, aligned to electric

vehicle penetration rates described in worksheet labelled 'A1.3.9' of DfT's Databook⁹ for all road types (motorways, urban and rural) listed in EFT.

- 2.2.32 Previous versions of EFT, including EFT v8 which was used to calculate CO₂e emissions from road traffic for the Scheme, stopped at 2030. In the absence of CO₂e emission factors after 2030 in earlier versions of the EFT, 2030 emissions were used as the last available set of factors to represent CO₂e emissions into the future. This clearly over estimated the CO₂e emissions in future years because it did not take into account the higher uptake rates of electric vehicles post 2030 as described by the DfT Databook.
- 2.2.33 The DfT published their Transport Decarbonisation Plan (TDP)¹⁰ on the 14th July 2021, which sets out the Government's aspirations to decarbonise transport to support the wider approach to achieving Net Zero by 2050. The TDP represents a series of policy and measures Government is considering to decarbonise transport. "Figure 2: Decarbonising Transport domestic transport GHG emission projections, versus the baseline", page 45 of the TDP, illustrates the anticipated reduction in CO₂e emissions from transport, including road traffic between 2020 and 2050.
- 2.2.34 The DfT have advised National Highways that a sensitivity test based on the impact of the policy measures set out in TDP can now be undertaken for schemes. The DfT have approved a sensitivity test based on the rate of improvement shown in Figure 2.1 of the TDP which can be applied to CO₂e emissions calculated for the Scheme assessment.
- 2.2.35 Table 2.1 presents the change in CO₂e emissions between the 'with scheme scenario' (also referred to as the **Do-something** scenario) and 'without scheme scenario' (also referred to as the **Do-minimum** scenario), split by carbon budgets, for the CO₂e emissions previously reported in the environmental statement, the updated CO₂e emissions based on EFTv11 and TDP sensitivity test (upper and lower bounds).
- 2.2.36 As set out in Table 2.1, the updated CO₂e emissions calculated using the latest version of EFT (v11) and the sensitivity test based on the policies described by TDP are broadly similar for each carbon period. However, over the 60 year appraisal period operational emissions for the Scheme calculated using EFTv11 would be 10Mt lower than those calculated using EFTv8.

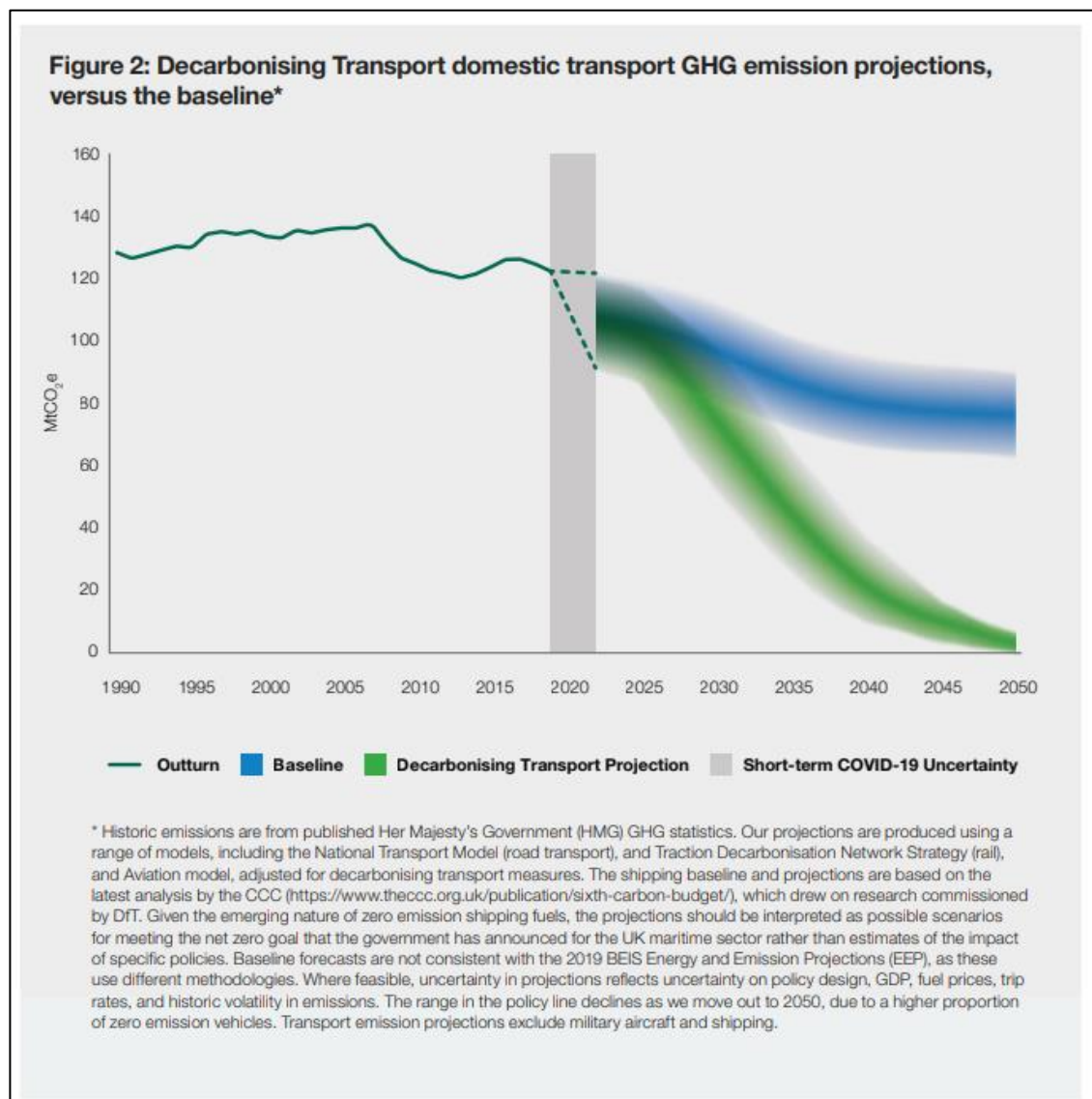
⁹ <https://www.gov.uk/government/publications/tag-data-book>

¹⁰ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1009448/decarbonising-transport-a-better-greener-britain.pdf

Table 2.1: Change in CO₂e Emissions (With Scheme Scenario – Without Scheme Scenario)

	CO ₂ e (Million tonnes)			
Carbon Budget Period	3 (2018-2022)	4 (2023-2027)	5 (2028-2032)	6 (2033-2037)
Carbon Budget	2,544	1,950	1,725	965
Previously Reported in the Response to the SoS Letter – 14 October 2021				
Construction (a)	0.0123	0.0246	-	-
Operation (b) (e)	0.0004	0.0021	0.0027	0.0032
Total	0.0127	0.0267	0.0027	0.0032
Updated Government Guidance Since the Publication of the Environmental Statement*				
Construction (c)	0.0104	0.0207	-	-
Operation (d) (e)	0.0005	0.0026	0.0031	0.0037
Total	0.0109	0.0233	0.0031	0.0037
Sensitivity Test for Operational Emissions				
TDP (upper bound)	0.0005	0.0025	0.0025	0.0020
TDP (lower bound)	0.0004	0.0020	0.0014	0.0009
Notes: a) National Highways Carbon Emissions Calculation Tool v1.03 b) Emission Factor Toolkit v8 c) National Highways Carbon Emissions Calculation Tool v2.4 (2021) d) Emission Factor Toolkit v11 e) A conservative factor of 0.29 % has been applied to account for operational maintenance and energy use *Also aligned to the reporting timeframes in the SoS Letter – 14 October 2021.				

Figure 2.1: Figure copied verbatim from Transport Decarbonisation Plan



How the assessment presented for the Scheme complies with the Environmental Impact Assessment regulations

- 2.2.37 An environmental statement is required to describe the likely significant effects of a proposed development on the environment (Regulation 14 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017¹¹. This includes a description of the likely significant effects on the environment from, inter alia, the impact of the project on climate (for example the nature and magnitude of greenhouse gas emissions) and the vulnerability of the project to climate change. An environmental statement is also required to describe the likely significant cumulative impacts of the development proposed together with those from other “existing and/or approved projects” (see paragraph 5 (e) of Schedule 4 to the 2017 Regulations).
- 2.2.38 To undertake this work and come to an informed judgement an environmental statement is required to include such information as is reasonably required to describe the environmental effects of the development and which the applicant

¹¹ <https://www.legislation.gov.uk/uksi/2017/572/contents/made>

can **reasonably be required to compile having regard to current knowledge**¹². In the context of assessing cumulative carbon impacts, the only assessment National Highways can be reasonably required to undertake is one having regard to current knowledge.

- 2.2.39 Accordingly, the environmental statement produced for the Scheme complies with the 2017 Regulations.
- 2.2.40 As regards the additional material now requested by the Secretary of State, this amounts to a request by the Secretary of State for “any other information” within the meaning of regulation 3(1) of the 2017 Regulations.
- 2.2.41 However, there is no reasonable basis upon which National Highways can assess the carbon emissions impact of the Scheme at a local or regional level and it is not required to do so by law or pursuant to the NPS NN.
- 2.2.42 National Highways can only assess the change in CO₂e emissions from the Scheme in absolute terms and against the national carbon budgets.
- 2.2.43 The procedures and evaluation criteria set out in DMRB LA 114 Climate, are appropriate and sufficient to ensure that the cumulative effects of proposed road schemes upon climate change are assessed in accordance with the 2017 Regulations and to provide sufficient evidence for the decision making requirements set out in paragraph 5.18 of the NPS NN.

The assessment was prepared by a competent expert

- 2.2.44 This response to the requests for information raised by the Secretary of State on climate have been prepared by competent experts with relevant and appropriate experience.
- 2.2.45 The technical lead for air quality and vehicle emissions is the Principal Air Quality Advisor for National Highways with more than 25 years of relevant experience with appropriate professional qualifications. The technical lead for carbon from construction activities is the Senior Technical Advisor for Sustainable Development and Climate Change for National Highways with more than 16 years of relevant experience with appropriate professional qualifications.
- 2.2.46 National Highways confirm that the assessment work set out in Table 2.1 has been carried out by suitably competent experts from Atkins. The air quality assessment was undertaken by a Chartered Scientist (BSc, CSci) who holds full professional membership with the Institution of Environmental Sciences and Institute of Air Quality Management. The relevant individual has over 25 years of knowledge and experience in air quality assessment and used that knowledge and professional judgement to undertake this assessment. The assessment in the climate effects chapter was undertaken by a qualified Environmental Consultant (BSc Geography, specialising in climate science) with over five years’ postgraduate experience in environmental and sustainability consultancy, including carrying out detailed carbon footprint calculations for major infrastructure projects. Subsequent responses to the Secretary of State have been undertaken by a qualified Sustainability Consultant (BSc Geology, MSc Climate Science) with over 3 years’ postgraduate experience in environmental

¹² (see R. (Khan) v London Borough of Sutton [2014] EWHC 3663 (Admin) and Preston New Road Action Group v Secretary of State for Communities and Local Government [2018] Env. L.R. 18)

and sustainability consultancy, including carrying out detailed carbon footprint calculations for major infrastructure projects.

3. Secretary of State's request 2. Byelaws

3.1.1 *The Secretary of State notes that Article 49 (1)(i) to (n) of the proposed DCO refers to amendments to various byelaws. The Secretary of State requests a copy of these byelaws.*

3.2 National Highways' response

3.2.1 As requested, National Highways has provided copies of the following byelaws referred to at article 49(1)(i) to (n) of the draft DCO (REP9-015). They are included in a separate document, 9.139 (Applicant's response to the Secretary of State's consultation – 22 December 2021 Appendices):

- byelaws of the Rural District Council of Romford as to the nuisances in connection with the removal of offensive noxious matters 1899;
- byelaws of the Rural District Council of Romford with respect to the Drainage of Buildings 1908;
- Essex County Council byelaws for the Good Rule and Government 1938;
- byelaws of the Urban District of Hornchurch byelaws for Nuisances 1938;
- byelaws of the Urban District Council of Hornchurch as to removal through streets of offensive or noxious matter or liquid 1938; and
- Thames Region Land Drainage Byelaws 1981.

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