

Report to	South Downs National Park Authority
Date	1 October 2019
By	Director of Planning
Title of Report Decision	Response to Highways England's Section 42 Statutory Consultation on the M3 Junction 9 Improvements Scheme

Recommendation: The Authority is recommended to:

- 1. Note the interim response issued to Highways England on 27th August 2019 as set out in Appendix 3; and**
- 2. Agree the response set out at appendix 4 and give delegated Authority to the Director of Planning, in consultation with the Authority Chair, to make any amendments he considers appropriate arising from the NPA discussion and submit the final response to Highways England.**

1. Introduction

- 1.1 This report is seeking approval of the Authority's consultation response to Highways England's proposals for improvements to M3 Junction 9.
- 1.2 This report follows on from the NPA's decision of 2 July 2019 to delegate authority to officers, in consultation with the Authority Chair, to make an initial response to the consultation provided that the submitted response and any feedback would be presented to the Authority for approval as a final submission to Highways England.

2. Background and Policy Context

- 2.1 Section 42 of the Planning Act 2008 – 'duty to consult on a proposed application' refers to the Nationally Significant Infrastructure Proposals (NSIP) planning process. This is the formal statutory consultation that Highways England are required to undertake before they submit a 'Development Consent Order' (DCO) application to the Planning Inspectorate (PINS).
- 2.2 Highways England undertook the Section 42 consultation on the M3 Junction 9 Improvements Scheme from 2 July 2019 until 27 August 2019. Consultees and other interested parties were invited to comment on the information made available on Highways England's website. This information included:
 - The Proposed Scheme Drawing (copy attached as **Appendix 1**)
 - A Preliminary Environmental Information Report which provides an initial statement of the main environmental information available, along with descriptions of likely environmental effects and mitigation measures envisaged for the Scheme (copy not attached to report however this can be viewed via web link below), and
 - The Preliminary Environmental Mitigation Design (copy attached as **Appendix 2**)

- 2.3 At its 2 July 2019 meeting, the Authority agreed that the following four key priorities (each having equal weight) should be used as the guiding framework for any consultation response:
- The landscape setting, this includes issues such as land re-profiling, lighting and trees / woodland screening (the landscape setting of this particular area featured prominently in the public inquiry into the designation of the National Park);
 - Water (particularly the quality and quantity impacts on the River Itchen SAC and SSSI and Winnall Moors Nature Reserve);
 - Chalk grassland (mitigation or compensation for areas directly impacted by the scheme), and
 - Access to the National Park from Winchester for walkers, cyclists and other users (preventing any further severance and improving access where possible).
- 2.4 The Authority's initial response to the Section 42 Consultation (copy attached at Appendix 3) was sent to Highways England, within the consultation period, on 27 August 2019.
- 2.5 Under the NSIP process, once the DCO application is submitted to PINS (on behalf of the Secretary of State) for consideration, the Authority (as a 'relevant Local Authority') will be invited to produce a 'Local Impact Report' (for PINS to consider) and take part in the examination hearing. Discussions with Highways England are expected to occur throughout the lead up to the DCO submission (for example on a Statement of Common Ground) and right up to the actual examination hearing.
- 2.6 Highways England's current timetable states that the DCO application will be submitted to PINS in early 2020.
- 3. Issues for consideration**
- 3.1 The Authority is asked to note the initial response to the consultation (as set out in **Appendix 3**) which in summary issued a holding objection to the proposed scheme due to a lack of detailed information and insufficient certainty over the proposed mitigation and compensation measures. This has resulted in the Authority being unable to make a fully informed assessment of the impacts and the required mitigation and compensation measures.
- 3.2 The initial response has been structured around the four key priority areas agreed by the Authority at their 2 July 2019 meeting (as referred to in paragraph 2.3 above).
- 3.3 The initial response was submitted to Highways England on 27 August 2019. At the time of writing this report, officers have not received any feedback to that response.
- 3.4 The Authority is asked here to consider and agree the final response (as set out in draft within **Appendix 4**), which reconfirms the holding objection and sets out by topic heading what the Authority is asking Highways England to do to address the concerns raised. For example, under 'landscape setting', the Authority is asking Highways England to undertake a bespoke landscape characterisation study in order to better inform the design development of the scheme.
- 4. Cost implications**
- 4.1 A considerable amount of officer time has already been invested in preparing an evidence base and in meetings with Highways England. Officers are finalising a Planning Performance Agreement with Highways England to mitigate these costs.
- 5. Next steps**
- 5.1 The Authority is recommended to note the interim response (set out in Appendix 3), approve the final response (set out in Appendix 4) and give delegated authority to the Director of Planning, in consultation with Authority Chair, to make any changes he considers he considers appropriate arising from the NPA discussion and submit the final response to Highways England.

6. Other Implications

Implication	Yes/No
Will further decisions be required by another committee/full authority?	Further papers will be brought before NPA as this NSIP progresses through the DCO process.
Does the proposal raise any Resource implications?	Yes – officers are finalising a Planning Performance Agreement with Highways England to mitigate these costs.
How does the proposal represent Value for Money?	N/A
Are there any Social Value implications arising from the proposal?	N/A
Have you taken regard of the South Downs National Park Authority's equality duty as contained within the Equality Act 2010?	Yes – no equalities implications arise directly from this paper.
Are there any Human Rights implications arising from the proposal?	No
Are there any Crime & Disorder implications arising from the proposal?	No
Are there any Health & Safety implications arising from the proposal?	No
Are there any Data Protection implications?	No
Are there any Sustainability implications based on the 5 principles set out in the SDNPA Sustainability Strategy?	Yes - this scheme will have impacts in terms of environmental limits and the choices people are able to make about modes of travel and how to access the National Park.

7. Risks Associated with the Proposed Decision

Risk	Likelihood	Impact	Mitigation
Reputational Risk from objecting (or not objecting) to the Scheme	Medium	Low	Risks are mitigated by acting in the best interest of the National Park's purposes, being evidence led, being clear what we are asking for and holding regular meetings with Highways England and other stakeholders.

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South Downs National Park Authority

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Appendices	<ol style="list-style-type: none">1. Improvements to M3 Junction 9 – Proposed Scheme Drawing2. Improvements to M3 Junction 9 - Preliminary Environmental Mitigation Design3. SDNPA interim response to Highways England dated 27th August 20194. SDNPA draft final response to Highways England
SDNPA Consultees	Director of Countryside Policy and Management; Director of Planning; Chief Finance Officer; Monitoring Officer; Legal Services
External Consultees	None
Background Documents	<ul style="list-style-type: none">• Highways England proposed improvements to M3 Junction 9 Section 42 Consultation - https://highwaysengland.citizenspace.com/he/m3-junction-9-improvements-statutory-consultation/• National Park Authority – 2 July 2019• National Park Authority – 22 March 2018• Policy and Resources Committee – 27 February 2018