

## Responses to ORR's consultation on Holding Highways England to account

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## Response from David Metz

Highways England (HE) is responsible for a substantial programme of investment in new and improved road infrastructure, each element of which is supported by cost-benefit analysis consistent with the Department for Transport's Transport Analysis Guidance. The main economic benefit is assumed to be the value of the time saved as a result of investments which increase capacity and are intended to reduce road traffic congestion.

However, there are questions about the estimation of prospective travel time savings derived from the standard models used for traffic forecasts. For example, monitoring of the outcome of widening of the M25 between junctions 23 and 27 concluded that 'increases in capacity have been achieved, moving more goods, people and services, while maintaining journey times at pre-scheme levels and slightly improving reliability.' No travel time savings were observed beyond the first year after opening, in part at least due to increased traffic, notably an increase of 23% at weekends. These outturns were inconsistent with the forecasts of traffic volumes that were significantly less than observed, and with speeds that were projected to be higher with the road widening than without. The higher speeds were the basis for estimates of travel time savings, leading to the DfT's estimate of the Benefit-to-Cost ratio of 2.3, which justified the investment.

This example shows that there may be a substantial discrepancy between forecast and outturn traffic flows and speeds. That this is a general problem is indicated by the observed invariance of average travel time over the past 45 years, as found in the National Travel Survey. This implies that the benefits of road investment have been taken, not as time savings, but as increased access to desired destinations, which results in more traffic. This additional traffic is known as 'induced traffic', the consequence of increasing capacity, which results in increased externalities related to vehicle-miles travelled, including congestion, carbon emissions, air pollutants, and death and injuries. While HE routinely monitors outcomes of schemes 5 years after opening, this may not be sufficiently long to observe the full extent of induced traffic.

There is therefore reason to suppose that in general the outcome of road investment as experienced by users does not correspond to the rationale for the investment, which is principally to increase welfare and economic growth by reducing congestion and improving connectivity. This discrepancy should be of concern to the ORR.

21 January 2020

## Response from Balfour Beatty

Please see below our response to the consultation:

### Combining our monitoring framework and enforcement policy

1. Do you agree with our approach in setting out a single document covering our monitoring framework and enforcement policy? Yes

### Focusing on early resolution

2. Do you agree that we should focus on early resolution to resolve issues wherever possible? Yes

3. Do you agree with our proposal to include hearings as a tool in our policy? No, this seems unlikely to be necessary rather than investigating directly or possibly the engagement of external advisers as described.

### Our approach to fines

4. Do you agree that a fine should always be a last resort? No, fines are inappropriate and meaningless as monies are just being returned to Government.

5. Do you agree that we should seek to avoid taking money out of the business that would otherwise be spent on operating and maintaining the network and, where appropriate, consider setting fines at a level that enables Highways England to fund them from management remuneration? N/A. Presumably performance bonuses would be impacted through failure to meet targets

Regards

[Redacted signature]

Balfour Beatty

## Response from SURVIVE

Dear Colleague

I am writing to you in my capacity of Chair of SURVIVE. Details of the work of SURVIVE which brings together the roadside recovery industry can be found at:

<http://www.survivegroup.org/pages/home>

We welcome the opportunity to comment on the proposed monitoring framework and enforcement policy. In broad terms, we agree with the direction of travel set out in the consultation document. Our answers to the questions are as follows:

1. Yes since it seems sensible to combine the two in order to avoid any conflicts between them.
2. Yes, as it is better to intervene early to avoid a major problem developing.
3. Yes, as this will allow additional transparency.
- 4 and 5. Yes.

We would urge you to consider the position of roadside breakdown/recovery workers when you are reviewing the safety performance of HE. These people are exposed to considerable risk while at work and are entitled to adequate and appropriate protection under health and safety legislation. They are also ensuring the safety of the travelling public. SURVIVE has developed a very positive working relationship with HE and welcomes the work that HE has undertaken to ensure the safety of roadside workers. This should be maintained and enhanced in the new framework and we believe that ORR has a role here to monitor this aspect of safety on HE roads.

Given the recent press interest in the issue, we would also urge the ORR to monitor the effectiveness from a safety perspective of smart motorways in all their formats. We would welcome the opportunity to discuss this further with you

Finally, we note that within the documents there is a reference to defined operational monitoring criteria and KPIs against which the ORR measures the effectiveness of HE. Would it be possible to be supplied with further information about these, about the monitoring that ORR undertakes in this area and an indication of how HE is performing?

I look forward to hearing from you in due course.

Best wishes


The SURVIVE Group

## Response from Norfolk County Council

Please find below Norfolk County Council's response to the recent consultation on Holding Highways England to Account:

### Norfolk County Council response to consultation

Norfolk County Council welcomes the opportunity to respond to this consultation. This matter was considered by the County Council's Infrastructure and Development Select Committee on 29 January and at the Cabinet meeting on 3 February 2020. The Select Committee recognised that Norfolk County Council Members and officers have made a significant effort to work with Highways England to help them to understand Norfolk's issues and priorities and support them to bring much needed improvements to the county. It is unfortunate that these efforts have not resulted in the appropriate improvements being secured for Norfolk.

### Cabinet resolved:

- To invite Office of Rail and Road (ORR) to hold a public hearing to review Highways England's performance on the A47, and consider transferring responsibility for delivery (including budget) from Highways England to Norfolk County Council.
- That we do not consider Highways England to be fit for purpose.
- That we are extremely concerned that Highways England appear to be unable to bring projects to delivery in a timely fashion, meaning much needed funding promised for local communities remains unspent.
- That we do not believe that such significant levels of public funding should be managed by an unelected and undemocratic organisation.

I turn now to the county council's response to the specific questions in the consultation.

Question 1: Do you agree with our approach in setting out a single document covering our monitoring framework and enforcement policy?

### Norfolk County Council response

Norfolk County Council agrees that setting out the monitoring framework and enforcement in a single document is a straightforward way of setting out the issues and makes the information easier to access with it all being in one place.

However, Norfolk County Council is concerned that the policy does not give ORR the ability to effectively hold Highways England to account.

The schemes of most importance to Norfolk in RIS1 are improvements on the A47 comprising dualling schemes from Blofield to Burlingham and Easton to Tuddenham, and junction improvement schemes at the A11/A47 Thickthorn, Norwich, and in Great Yarmouth. We are now almost at the end of the RIS1 period and none of these schemes have been delivered. The dates published on Highways England's website show a programmed start on Thickthorn

Junction in 2020/21, and the two dualling schemes starting in 2021/22 and 2022. However, for the Great Yarmouth Junction schemes no dates at all are published.

The County Council has worked closely with Highways England and has regularly offered advice and assistance in an effort to accelerate delivery. As the local transport authority, we are well aware of the issues with regard to the strategic nature of the road as well as local issues including traffic and highways, environmental concerns and connections important for local communities and non-motorised road users. We have seen however a constant churn in representation from Highways England and their consultants coupled with a lack of knowledge about the county due to the geographical remoteness of Highways England's operations from Norfolk.

Progress in development and delivery of the schemes has been agonisingly slow. Norfolk County Council is extremely concerned about the ability of Highways England to deliver such projects. Despite repeated assurances from Highways England senior managers (that the schemes will be delivered as per the commitments) we cannot see how construction will start to the published dates. As well as the delay, we have concerns that the funding for the projects – because they are now being delivered in RIS2 – will come out of the budgets for RIS 2 and hence reduce the funding available to deliver the next round of the programme.

Too often the challenge to support measures to create economic growth and housing/jobs delivery is not met with a commitment from Highways England.

Norfolk County Council considers that the ORR should be able to meaningfully intervene on projects such as this (either at an individual scheme level, or clusters of schemes such as those on the A47), rather than only on “systemic and significant issues” as is set out in the document. And that this intervention should be at the earliest stage.

In addition to ORR focussing on geographical clusters of schemes, we believe that there needs to be better mechanisms to ensure that the performance of Highways England is improved so that, for example, where issues are identified such as slippage in delivery, remedial action can be taken to ensure effective delivery and work can be accelerated to achieve original programme dates.

Norfolk County Council supports the range of measures set out in the document including the staged approach of routine monitoring and assessment, investigation and early resolution and ultimately enforcement. However, the council is not aware of the effectiveness of the mechanisms available to ORR and whether in practice they will be effective in holding Highways England to account.

We support the sanction of fines especially where this is funded from management or contractor remuneration. We do not consider that fines should be sanctioned where they will only in effect reduce the amount of funding available to Highways England for scheme delivery.

The County Council also considers that, as well as focussing on Highways England's delivery of the RIS (paragraph 2.3 of the consultation), the holding to account should also be rigorously applied to delivery of Highways England's plans as set out in its strategic business plan and delivery plan, as referred to in paragraph 2.6 of the consultation. By doing this, it will ensure that issues that cause continued concern at a more local level, such as maintenance, road closures and generally poor liaison, can be adequately addressed.

Question 2. Do you agree that we should focus on early resolution to resolve issues wherever possible?

Norfolk County Council response

Norfolk County Council agrees that ORR should focus on early resolution wherever possible. Early resolution could help to resolve and overcome, at an early stage, some of the issues described in our response to Question 1.

Question 3. Do you agree with our proposal to include hearings as a tool in our policy?

Norfolk County Council response

Norfolk County Council strongly supports this. The County Council believes that this should be able to take into account the views of localities, especially those of the local transport authority and other representative groups such as local councils. These hearings should not be to decide the details of the schemes, but to examine the performance of Highways England in reaching the decisions.

Question 4. Do you agree that a fine should always be a last resort?

Norfolk County Council response

Norfolk County Council supports the sanction of fines where this is funded from management or contractor remuneration. We do not consider that fines should be sanctioned where they will only in effect reduce the amount of funding available to Highways England for scheme delivery as this would unfairly penalise areas where performance is unacceptable.

Question 5. Do you agree that we should seek to avoid taking money out of the business that would otherwise be spent on operating and maintaining the network and, where appropriate, consider setting fines at a level that enables Highways England to fund them from management remuneration?

Norfolk County Council response

Norfolk County Council supports this approach; see answer to Question four.

  
  
**Infrastructure Development**  
**Norfolk County Council**

# **Response of the Road Haulage Association to Office of Road and Rail.**

## **“Holding Highways England to account”.**

**11<sup>th</sup> February 2020.**

### **Summary of the Consultation**

1. The Office of Road and Rail ensure that Highways England are accountable for their delivery and maintenance of the Strategic Road Network. Highways England are accountable to ORR, who are consulting about the consequences in the event that Highways England fail to perform to a satisfactory standard.

### **Background about the RHA**

2. The RHA is the leading trade association representing road haulage and distribution companies, which operate HGVs as profit centres. Our 7,200 members, operating near to 250,000 HGVs out of 10,000 Operating Centres, these range from single-truck firms to those with thousands of vehicles. These companies provide essential services on which the people and businesses of the UK depend.
3. We proactively encourage a spirit of entrepreneurship, compliance, profitability, safety and social responsibility. We do so through a range of advice, representation and services, including training.
4. We would like to thank Office of Road and Rail for the consultation and the opportunity to comment on the issues raised.

### **General Comments**

5. The Strategic Road Network and Major Road Network are the workplace of the Road Freight and logistics sector, which is the 5<sup>th</sup> largest industry sector in the UK.
6. Our members need free flowing roads with consistent and reliable journey times. We are seeing poor decision making where road works schemes are changed at short notice coupled with diversion routes that have not been properly thought out, at the design stage.

7. Heavy Goods Vehicle drivers need parking and facilities at Motorway Service Areas (MSA) to take mandatory rest and breaks. The 2017 Department for Transport – National Survey of Lorry Parking identified a 3000 space a night shortage of HGV parking spaces on the Strategic Road Network. Members report that MSA are full at night, so night trunking drivers have nowhere to take their 45 minute breaks during the night. We consider that there is an 11000 space a night shortage nationally. Highways England have done little to increase space numbers.
8. The Department for Transport in 2017 conducted a National Survey of Lorry Parking, published 2018. This document identified a deficit of 3000 lorry parking spaces each night. In 2017 the South East was assessed at one percent below “Critical”. Little has been done to improve the situation and Highways England need to take ownership of this problem on the Strategic Road Network.
9. Lorry parking provision is detailed in RIS2, with funding through Designated Funds. We consider this is a metric for which Highways England should be measured.
10. RIS2 schemes need to incorporate mandatory lorry parking and driver facilities from the outset.
11. The solution to Operation Stack has not been created and yet this goes back to 2015. Once again responsibility needs to be taken to provide solutions to problems, not ignore them.
12. Last December Operation Brock infrastructure was made redundant after the election. It was almost two months until this has been removed. It could have been removed over the Christmas period, saving Highways England customers weeks of inconvenience and benefit to the economy.
13. We are also seeing resilience routes being compromised, with uncoordinated roadworks. Total road closures on the Strategic Road Network, being sanctioned on both the main and resilience route. With better coordination these clashes could be eliminated. An example of this is simultaneous total closures on the M2 and M20.
14. Diversion routes with poor signage result in HGV traffic using narrow roads that are not capable or designed for this type of traffic. The A14 scheme is an example of where this has occurred.
15. The consequences of the aspects mentioned severely and adversely impact operators’ costs. Contractors working for Highways England have little understanding of driver’s hours, mandatory breaks and rest, not to mention increased fuel costs of a 56 mile diversions during recent the M27 J3 closures. The contractors need to fully understand the impact of diversions and road closures on

Road Freight. Especially where 56 mile diversions are implemented for HGV's, as was the case with recent M27 J3 full closures over a number of weekends.

## **Responses to the Questions**

**Question 1. Do you agree with our approach in setting out a single document covering our monitoring framework and enforcement policy?**

Yes, we consider that a simple approach needs to be taken, which is effective.

**Question 2. Do you agree that we should focus on early resolution to resolve issues wherever possible?**

Yes, however road building schemes are long term and complex, with planning being a key issue. One planning consent has been obtained and land procured it is extremely complex to change planning consent. We consider that poor roadworks planning, where simultaneous roadworks affect resilience routes could easily be avoided, but this has not yet been achieved.

**Question 3. Do you agree with our proposal to include hearings as a tool in our policy?.**

Yes, Highways England is a public body and must be accountable.

**Question 4. Do you agree that a fine should always be a last resort?**

Yes. We would prefer remedial measures, which ensure past mistakes are not repeated and that lessons are learned.

**Question 5. Do you agree that we should seek to avoid taking money out of the business that would otherwise be spent on operating and maintaining the network and, where appropriate, consider setting fines at a level that enables Highways England to fund them from management remuneration?**

Yes.

## Final Comments

16. The Strategic Road Network is National Critical Infrastructure.
17. The entire population rely on it either to travel, or to receive goods. The economy and all business are equally reliant on the SRN. Those responsible for the management and operation of the SRN at senior level must be accountable and in cases of severe failure suffer penalty.
18. We consider that ORR now have an opportunity to improve Highways England customer's experience.

11<sup>th</sup> February 2020

[REDACTED]

[REDACTED]

Road Haulage Association

[REDACTED]

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12 February 2020

Dear Graham

**Holding Highways England to account: ORR's monitoring framework and enforcement policy for Highways England – consultation draft**

Transport Focus, the independent watchdog representing the interests of users of Highways England's network, is pleased to respond to this consultation.

Transport Focus recognises that ORR's monitoring framework and enforcement policy for Highways England is shaped by what is set out in the Infrastructure Act 2015 and the Licence. However, we feel that the draft document misses the opportunity to put the interests of those using Highways England's roads at the heart of ORR's approach to its highways work. Roads exist for people and businesses to travel and move goods. The framework and policy should therefore be geared to the consumer, including the impact on road users of Highways England failing to deliver a particular requirement of the RIS or of its Licence.

In this vein, Transport Focus notes that the strategic objective (page 7) leads on performance and value for money, with the expectation that road users will then benefit. We think it should be the other way round: start with the road user interest as the core objective of the monitoring and enforcement regime. For example, paragraph 3.15 talks about non-compliance with the RIS and/or Licence rather than the road user detriment arising from that non-compliance. While recognising that the Act requires ORR to balance various duties, at points in the document it feels as if a key purpose – holding Highways England to account on behalf of its customers – is subservient to the others.

In addition to the overarching points above, Transport Focus makes the following specific observations:

**Paragraph 3.4** – this section would benefit from being explicit about the distinct customer groups, for example mentioning commuters, business users and those making leisure journeys; it should spell out what is meant by vulnerable users (e.g. motorcyclists, cyclists,



pedestrians, equestrians); and it should refer to bus and coach operators and their passengers as well as freight users.

Paragraph 3.7 – the final paragraph could usefully be explicit that your advice about future RIS will take account of Transport Focus’s assessment of road user priorities.

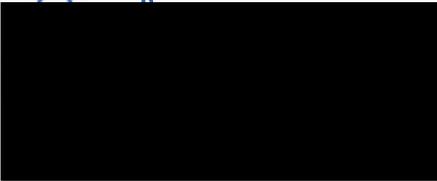
Paragraph 4.1 – to underline the link to Highways England’s purpose in delivering for road users, we strongly recommend that there is explicit reference to the Strategic Roads User Survey (SRUS) at this point. It is more than just one of the KPIs – it is Highways England’s customers own assessment of their journey; it is also the only KPI generated independently and not by Highways England itself.

Paragraphs 4.7-4.10 – this section would benefit from reference to the information you require from Transport Focus about users’ experiences, as well as that you need from Highways England.

In terms of the five questions posed in your letter of 6 January 2020, Transport Focus answers “yes” in respect of them all.

In summary, Transport Focus encourages ORR to place greater emphasis in its monitoring and enforcement on Highways England’s purpose of meeting its customers’ need for safe, reliable and smooth journeys.

Yours sincerely



## FTA's response to 'Holding Highways England to account' ORR's consultation on its Monitoring and Enforcement of Highways England

The Freight Transport Association (FTA) is one of Britain's largest trade associations, and uniquely provides a voice for the entirety of the UK's logistics sector. Its role, on behalf of over 17,000 members, is to enhance the safety, efficiency and sustainability of freight movement across the supply chain, regardless of transport mode. FTA members operate over 200,000 goods vehicles - almost half the UK fleet - and some 1,000,000 liveried vans. In addition, they consign over 90 per cent of the freight moved by rail and over 70 per cent of sea and air freight.

### **Overview**

FTA members are a significant user of the Strategic Road Network (SRN), the 'customers' of Highways England (HE), so we welcome the opportunity to input into regulator's proposed new approach for monitoring and enforcement of HE's activities on the SRN.

The Association especially welcomes the explicit commitment to its members in ORR's strategic objective, para 3.5, that its role will be focussed on achieving benefits for all road users, "including the freight industry".

FTA also supports ORR's approach of targeting its resources to concentrate on outputs rather than using valuable resource to routinely monitor every detailed aspect of HE's daily work.

### **Questions**

#### **1. Do you agree with our approach in setting out a single document covering our monitoring framework and enforcement policy?**

The two activities of monitoring of HE's activities and the need for enforcement should an issue be identified are closely intertwined so combining both activities in one overarching policy framework document would seem a logical approach that FTA could support.

Freight operators, through their Transport Managers, sign up to a series of 'Undertakings' when they apply for their Operator Licence, which is overseen by the Traffic Commissioners (TCs) through periodic review. If issues arise that mean a licence holder might not be able to uphold their Undertaking commitments, it is the right of the TC to take action that is outlined in their Statutory Guidance and Directions. ORR's approach to its own activity would suggest it mirrors closely a legal framework that freight operators would already recognise and understand.

#### **2. Do you agree that we should focus on early resolution to resolve issues wherever possible?**

FTA would support a system of early resolution of identified issues, where possible, as this would ensure that limited resource is targeted to reduce the possibility that issues with the SRN become an issue for freight users of the network. FTA has estimated that any additional delays on the road network add £1 every minute to the cost of operating the HGV and this is a significant extra cost in a low margin industry.

FTA does not disagree that it might be necessary to submit HE to staged escalation in the investigation of issues, but in the first instance would support the proposed system.

**3. Do you agree with our proposal to include hearings as a tool in our policy?**

Yes, FTA supports the inclusion of hearings as a tool in ORR’s policy. This once again mirrors the regulatory framework under which the freight industry operates whereby a TC can call an operator into a Public Inquiry (PI), should it appear they are unable to maintain their Undertakings.

During a PI, the TC can ask for evidence of compliance from the operator and/or ask the operator to explain what has happened for them to be called to Inquiry. This is a public meeting and is considered ‘on the record’. The TC will then decide the course of action they will take, if any, following this PI. This could result in the matter being closed or escalated further with the operator’s licence being curtailed, suspended or revoked.

**4. Do you agree that a fine should always be a last resort?**

FTA welcomes ORR’s recognition that freight operators pay for HE’s funding through vehicle excise duty and that, as such, any fine levied against HE should be the last resort.

The consultation document lists the exhaustive steps that ORR will undertake to monitor HE’s activities and then the differing enforcement channels open to it, either non-statutory or statutory. As a result of all potential actions that could be taken before, FTA would expect HE to have amended its activities sufficiently enough to avoid a fine being levied. FTA would urge ORR to use a fine as a last resort.

**5. Do you agree that we should seek to avoid taking money out of the business that would otherwise be spent on operating and maintaining the network and, where appropriate, consider setting fines at a level that enables Highways England to fund them from management remuneration?**

As its members finance the activities of HE through vehicle excise duty FTA would support ORR avoiding any actions that take money out of the business that would otherwise be spent on operating and maintaining the network.

████████████████████  
██  
13 February 2020

## **Consultation on Holding Highways England to account – ORR’s monitoring framework and enforcement policy for Highways England**

### **Response from Transport for the North**

Thank you for giving Transport for the North the opportunity to respond to this consultation.

As you are aware, TfN is the voice of the North of England for transport – a statutory body of elected leaders and a partnership of business leaders from across the whole of the North of England who collectively represent all the region’s 15 million citizens. Highways England are a key partner of TfN and sit on our Board.

<https://transportfornorth.com/>

TfN’s vision is of “a thriving North of England, where world class transport supports sustainable economic growth, excellent quality of life and improved opportunities for all”.

As England’s first sub-national transport body (STB), TfN was established to transform the transport system across the North of England, and has a clear remit to identify, make decisions on, and plan the transport infrastructure required to support transformational economic growth in the North.

TfN’s current statutory powers are derived from the Local Transport Act 2008, amended by the Cities and Local Government Devolution Act 2016. These powers allow us to:

- Act as ‘one voice’ for the North, clearly providing statutory advice on the pan-Northern priorities to the Secretary of State for Transport
- Co-ordinate and deliver smart ticketing systems across the North
- Become a statutory partner in rail investment decisions through the Rail North Partnership
- Oversee (jointly with the Department for Transport) franchised rail services covering Northern and TransPennine Express franchises
- Promote highways improvements of Northern significance, with the agreement of Government and relevant local transport and highway authorities
- Prioritise investment on the transport network.

The TfN Board has never seen these powers as a steady state situation, but rather as something to be reviewed and updated as circumstances dictate. This also includes considering the role of TfN itself, improving accountability, openness and effectiveness, helping to ensure that TfN is at the heart of rebalancing the UK economy towards a fairer and economically inclusive North.

### **Proposed Northern Transport Charter**

TfN is developing a Northern Transport Charter and has commissioned a review of the powers and responsibilities of existing sub-national or devolved transport bodies. This research will consider elements such as the scale (population, spatial scale, economy, size of transport +

Op=network, number of transport users) of the area of responsibility; the relationship between the transport body and national and regional government, as well as network and/or service operators; the length and scale of any funding envelope; and the decision making powers that the transport body holds.

The proposed Northern Transport Charter identifies a greater role for TfN Board in holding HE to account in future.

<https://transportforthenorth.com/wp-content/uploads/Item-5.1-Corporate-Planning-Appendix-1-Northern-Transport-Charter-Summary.pdf>

## **Funding**

The current processes for the funding of transport infrastructure operate on a 'project-by-project' and are heavily siloed, both by the fact that HMT divides funding up between Government departments, then by mode (for example, road and rail schemes are funded separately by DfT), and then even by certain types of mode (for example, Highways England and local road funding is separate). Such ringfencing means that policy decisions are often led primarily by the process rather than the outcomes, and prevents effective integration of the investment that does occur.

In 2018 Transport for the North adopted a Funding Framework that included an aspiration for a devolved budget that would cover road and rail. This was in response to what is seen to be decades of underinvestment in the North as well as a recognition that currently the North has little influence over the delivery of its strategic transport priorities. This approach would allow the North to implement ambitious policy measures and interventions to enable an exciting, prosperous and sustainable legacy for current and future generations living in the North.

TfN has undertaken work on a number of Strategic Development Corridors (SDCs) with the objective of identifying those interventions, on road and rail, that when viewed collectively, contribute to Transport for the North's stated objective of promoting sustainable and inclusive transformational economic growth in the North. Only a small proportion of the schemes within the SDCs (and the TfN Investment Programme) have a committed funding stream – the remainder will require funding approvals at some point in the future. A 'project-by-project' approach means that there is a continued level of uncertainty over the delivery of each scheme, with knock-on consequences for the improvements that can be achieved within the SDCs. This approach also requires local scheme promoters to develop them at risk, despite them being identified as strategically important by Transport for the North and its Constituent Members.

The competitive one-off funding rounds that are a feature of the funding of transport infrastructure also put TfN's constituent authorities in competition with each other for funding, which belies the co-operative approach taken in our Strategic Transport Plan and undermines the entire basis for the SDC approach, which recognises transport as a system, rather than a collection of individual infrastructure assets.

In many cases, such funding rounds are also for predominantly capital spending without recognising the value of revenue support, particularly for sustainable transport modes. This can actively drive funding away from schemes that would be entirely beneficial to TfN's objectives.

The aim is to work towards a situation where the North has a single allocation/budget for strategic transport schemes that it manages. In essence, the North agrees a 'deal' with Government for a five year plus funding settlement against a clear set of outcomes. Government agrees a package of interventions with the North, based on a programme-level appraisal of value for money, driven from TfN's Analytical Framework to support transformational economic growth, and gives the North the ability to manage the delivery of the programme.

## **Roads**

With respect to road traffic, whilst total traffic volumes are greatest the Strategic Road Network, managed by Highways England, this network only accounts for 2% of the road network in the North. Almost all road journeys start and finish on local roads, including those first and last miles of a journey that can determine whether goods or people make it in time and as efficiently as possible. Hence a focus on the existing Strategic Road Network alone will not support transformational economic growth.

TfN and Partners have identified a Major Road Network for the North – a network consisting of the North's economically important roads. This network, which includes both strategic and important local roads, represents about 7% of the roads in the North, and links the North's important centres of economic activity. The ambition is for the Major Road Network in the North to act as a seamless network of roads, enabling safe, reliable and resilient multimodal journeys. Further details are given in our Strategic Transport Plan on our website.

<https://transportforthenorth.com/wp-content/uploads/TfN-final-strategic-transport-plan-2019.pdf>

**As one of ORR duties is to serve the interests of users of highways, we believe this is best served by considering the SRN and MRN as one network.**

Journeys do not usually begin and end on the SRN, and often make use of other modes. In day to day operations, as well as in deciding on SRN investment, Highways England should consider how they can better integrate with the wider road networks, rail and other modes to give passengers and freight better end to end journeys. More joined up thinking is needed in highway investment decision making.

In developing their investment programmes, HE should consider the impacts of their proposals on the wider transport networks and the environmental impacts. They should consider the SRN and MRN as an overall network, making sure to consider the impacts of one on the other. This will better serve the interests of highway users.

There needs to be frequent reporting of accurate/up-to-date information on scheme progress direct to TfN from delivery partners, and TfN should be an "intelligent client" with

representation on decision-making bodies of the delivery partners – this will allow TfN to understand the implications and/or reasoning behind decisions being proposed around individual schemes and programmes and enable TfN’s constituent authorities to take affirmative action.

This will allow TfN to develop and own a Northern transport infrastructure pipeline with a clear set of objectives – this will provide a baseline against which delivery partners can be held accountable and provide a greater level of confidence for industry and investors.

### **Regional Evidence Base**

TfN, as well as the other regional Sub National Transport Bodies, has a lot to offer in adding value to highway investment decisions. TfN, as the voice for transport across the north, has a regional evidence base of data, research and study evidence that underpins our Strategic Transport Plan and Investment Programme.

<https://transportfornorth.com/wp-content/uploads/TfN-final-strategic-transport-plan-2019.pdf>

This evidence is constantly being updated with inputs from partners and additional research. Our Major Roads Report is currently being updated to take on board the latest thinking by Summer 2020.

With such a comprehensive data base of transport intelligence across the north, Highways England should make best use of TfN’s regional evidence base to help inform their network management and delivery and ensure consistency with TfN’s strategic vision. It may be the case that the best investment for the SRN is improving the MRN to provide alternative routes and greater reliability and connectivity.

### **Measurement of outcomes**

Highways England should measure the outcomes, as well as the outputs, generated by their investments, for travellers, the economy and greater opportunities for the wider community. More emphasis should be given on how the predicted benefits of their proposals are measured and outcomes recorded. The impact of an SRN highway scheme may be felt across other routes, modes, and a wider geography than the location of the intervention. There is little communication for road users during construction on why they are carrying out the works and how it will benefit the wider community.

Currently, no communication is given when a scheme opens leaving the road user disenfranchised feeling worthless. The public have no interest in POPE’s being carried out several years after project completion. Greater use of measuring social value using other metrics would be a better indicator of changing benefits to society.

### **In summary**

TfN would wish to see:

- **A greater role for STBs in developing and signing off future programmes and priorities**
- **More collaboration with STBs, including use of their evidence bases**

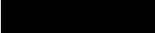
- **Measurement of outcomes as well as outputs**
- **A greater role for TfN Board in holding HE to account on performance in our area**

We believe that all of the above meet your objectives (set out in 3.3 of your draft consultation document) of:

*“Secure improved performance and value for money from the strategic road network:*

*Secure improved performance, including efficiency, safety and sustainability, from the strategic road network, for the benefit of road users and the public, through proportionate, risk-based monitoring, increased transparency, enforcement and robust advice on future performance requirements”*

For the attention of John Larkinson  
Chief Executive  
Office of Rail and Road

  
Non-Executive Director  
Chair of Highways England  
Remuneration Committee  
Bridge House  
1 Walnut Tree Close  
Guildford  
GU1 4LZ

13 February 2020

Dear John,

### **Holding Highways England to Account**

Thank you for the opportunity to provide feedback on your consultation, 'Holding Highways England to Account - ORR's monitoring framework and enforcement policy for Highways England (consultation version)'.

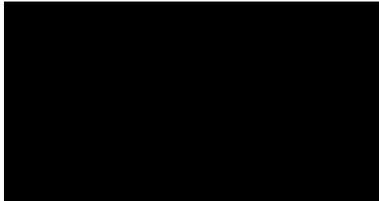
At Highways England we recognise the essential role we undertake in delivering a safer and more efficient Strategic Road Network that provides road users with the service they need. As such we are committed to driving up performance and transparently demonstrating to road users and stakeholders how we are delivering for them.

We welcome the majority of the proposals as set out in the consultation and see them as a consistent progression from the current framework. Our responses to the specific consultation questions are attached in annex A.

However, there is one matter of substance within the consultation where we believe further reflection is needed. This relates to the matter of fines; the process of determining the maximum value, the mechanics of applying and funding any fine and the risk of creating perverse incentives with unintended consequences. We consider that ORR has stepped beyond its duties as Monitor within its proposals, and is impinging on the duties of our Board and Remuneration Committee. It is important that proposals enable the Executive to remain focussed on delivering for road users in the round without incentive to apply disproportionate focus to any one aspect of the business. We set out the specifics of our thinking and concerns within our response to the consultation questions, and would be happy to discuss the matter further if it would provide additional clarity. I, or the Remuneration Committee, would be happy to meet with you to take you through our approach to performance related pay and how carefully we manage it.

We look forward to continued constructive discussions as together we strive to demonstrably deliver a better strategic road network for road users.

Yours sincerely



Non-Executive Director, Chair of Highways England Remuneration Committee

## **ANNEX A – CONSULTATION QUESTIONS AND HIGHWAYS ENGLAND RESPONSE**

### **Combining our monitoring framework and enforcement policy**

#### **1. Do you agree with our approach in setting out a single document covering our monitoring framework and enforcement policy?**

We agree that it is appropriate to combine the monitoring framework and enforcement policy, as this reflects the continuum of activity which occurs in practice.

### **Focusing on early resolution**

#### **2. Do you agree that we should focus on early resolution to resolve issues wherever possible?**

We agree that we should focus on early resolution to resolve issues and welcome ORR's explicit consideration of our response to issues in the context of escalation.

#### **3. Do you agree with our proposal to include hearings as a tool in our policy?**

We accept that hearings can be a useful addition for ORR's consideration. We will be happy to work with ORR to further develop the concept to enable clarity about what could be expected, who may be involved and when a hearing may be used. We would also be keen to understand ORR's approach to transparency in this regard, to ensure there is an agreed, accurate, record of process.

### **Our approach to fines**

#### **4. Do you agree that a fine should always be a last resort?**

We are fully in agreement that a fine should be a last resort. Our budget is set to enable us to deliver the Roads Investment Strategy; any additional financial demand would reduce our ability to deliver service and outputs which benefit customers and the economy.

#### **5. Do you agree that we should seek to avoid taking money out of the business that would otherwise be spent on operating and maintaining the network and, where appropriate, consider setting fines at a level that enables Highways England to fund them from management remuneration?**

We agree that ORR should seek to avoid taking money out of the business that would otherwise be spent on operating and maintaining the network and recognise the conundrum this delivers.

Highways England takes its responsibility to deliver for customers very seriously, and is committed to delivering the Roads Investment Strategy. As a company, we have systems and processes in place to both manage poor delivery and incentivise efficient

delivery, and in this regard, have taken demonstrable action and exercised this effectively during delivery of RIS1. This is evidenced by the Remuneration Committee taking the decision to make a 20% reduction in performance related pay (PRP) in 2016/17, in reflection of a specific outcome. Over the first Roads Period the full PRP/variable pay has not been paid in any year, reflecting that this is carefully targeted to focus on what the business has to deliver, and what it has achieved.

As such, we disagree with ORR's explicit link to management remuneration, which impinges on the remit of the Highways England Board. The Board, through the Remuneration Committee, establishes our remuneration arrangements, exercising serious consideration of a range of inputs, including past and predicted performance, when determining remuneration policy and its application, as evidenced to date. Highways England's Remuneration Policy is implemented with the written consent of the Secretary of State; remuneration and reward arrangements for all Board members, and Executive Directors who are not on the Board (including any performance related remuneration) and changes to those arrangements must be approved by the Secretary of State.

We acknowledge the thinking that ORR applies, however we believe it is not aligned to the duties of the Monitor to define operational process and predicate consideration of how we should fund payment of a fine, should the undesirable event arise. We consider the proposals, whilst not mandating a specific course of action, would create a public pressure for ORR to fine, and then for the Remuneration Committee to reduce PRP / variable pay, (the wording "remuneration" indicates there would be no legal basis for the Remuneration Committee to treat with anything other than PRP or variable pay).

Further to this principle, we are conscious of practical considerations which ORR has not fully reflected, such as timing and the impact on positive incentives to deliver; which we consider to be fundamental in ensuring continued optimum delivery and implementation of any rectification necessary. For example, a perverse incentive could develop which leads to a focus solely on the area of underperformance to the detriment of other areas, or removal of remuneration incentives could lead to disenfranchised people and a deterioration in performance elsewhere. These are operating challenges that the Remuneration Committee seeks to balance in its activities.

In conclusion, we propose that ORR should seek to set the level of fines by alternative means, which is then tested by consideration of whether ORR's objective of avoiding or minimising the impact of taking money out of the business could be achieved. This enables a wider consideration of factors and would not implicitly pre-define Highways England's response.

13 February 2020

Graham Richards  
Director, Planning and Performance  
Office of Road and Rail

Sent by email to:  
[highways.monitor@orr.gov.uk](mailto:highways.monitor@orr.gov.uk).

### **Office of Road and Rail - Consultation on Holding Highways England to account**

Transport for the South East welcomes the opportunity to respond to the Office of Road and Rail's (ORR) consultation on holding Highways England to account.

Transport for the South East (TfSE) is a Sub-national Transport Body (STB). We aim to speak with a single voice about the transport interventions needed to support sustainable economic growth across our geography and have recently completed public consultation on our draft Transport Strategy which sets out our Vision for 2050 and puts the user at the heart of the transport system. .

TfSE recognises the important role that the ORR performs in holding both Highways England and Network Rail to account and welcomes the opportunity to comment on ORRs updated and combined monitoring framework and enforcement policy for Highways England ahead of the start of the second road investment strategy (RIS2).

Highways England are one of our key partners. They are represented on our Shadow Partnership Board and the work they do will have a key in helping us to deliver the Vision set out in our draft Transport Strategy. In view of this, it is vital that Highways England consider impacts of their proposals on the wider network to ensure and improved outcomes and experience for the user.

There have been significant changes to the national environment in which Highways England operates, since ORR last consulted on its monitoring framework and enforcement policy in 2015. There is now an increased focus on the need to decarbonise the transport sector. In addition, we have also had the arrival of STBs and their role developing regional transport strategies to support the delivery of sustainable economic growth. It is our view that both these developments need to be incorporated into the updated performance monitoring regime with a clearer focus on monitoring Highways England's performance in relation to economic and environmental outcomes.

Moving forward, the STBs are seeking a more collaborative approach to scheme development and design on the Strategic Road Network to ensure they further the

objectives of their regional transport strategies. A collaborative approach to the development of RIS3 is also being sought. Although the draft monitoring and enforcement policy makes reference at paragraph 3.7 to the role of stakeholder engagement, we believe this needs to state more explicitly how key local and regional bodies, such as local highways authorities and STBs, will be involved in the monitoring process.

Our responses to the specific consultation questions set out in the consultation covering letter are set out below:

### **Combining ORR's monitoring framework and enforcement policy**

1. Do you agree with our approach in setting out a single document covering our monitoring framework and enforcement policy?

Answer – Yes.

### **Focusing on early resolution**

2. Do you agree that we should focus on early resolution to resolve issues wherever possible?

Answer – Yes. Given the interdependencies between the Strategic Road Network, Major Road Network and local road network it may be the case that the solution to an issue that Highways England has identified can be found off the Strategic road Network. In view of this, it is our view that Highways England should consult with appropriate external stakeholders as part of its attempt to try and resolve issues.

3. Do you agree with our proposal to include hearings as a tool in our policy?

Answer – Yes. This will bring added transparency to the monitoring and enforcement process in appropriate circumstances.

### **Our approach to fines**

4. Do you agree that a fine should always be a last resort?

Answer – Yes. Any fines should be reinvested in transport projects.

5. Do you agree that we should seek to avoid taking money out of the business that would otherwise be spent on operating and maintaining the network and, where appropriate, consider setting fines at a level that enables Highways England to fund them from management remuneration?

Answer - No. There may be instances where it would be appropriate to invest the fines in transport schemes off the Strategic road Network.

This is an officer response. The TfSE Shadow Partnership Board will meet on 23 April 2020 to consider the draft response and a further iteration of the response may follow.

Please do not hesitate to contact me if you would like to discuss any element of this response.

[Redacted]  
[Redacted]  
|

[Redacted]

On behalf of Transport for the South East

## ORR's Consultation on Holding Highways England to account

<https://orr.gov.uk/highways-monitor/road-consultations/consultation-on-holding-highways-england-to-account>

DEADLINE: 14 February 2020

### Background:

Midlands Connect is the Sub-National Transport Body for the Midlands. We are solely funded by Government and constitute a partnership of national and local bodies, including local authorities, local enterprise partnerships, chambers of commerce and our two international airports. You can find out more why we think the Midlands needs a fundamental shift in how major infrastructure investment is planned and delivered in 'Our Routes to Growth'<sup>1</sup>.

Our partnership's role is not only to research, develop and recommend new routes to growth, it is also to hold national bodies to account to ensure the benefits we all want for businesses, residents and visitors are brought to fruition.

Midlands Connect responded to ORR's consultations on holding NR to account and assessing the quality of stakeholder engagement – in short we concluded that there remains too much emphasis on NR being expected to solve their own problems which stifles opportunities for innovation. We called for:

- A 'default' the minimum of local input to each Route Supervisory Board and firm commitment to wider stakeholder engagement;
- A 'default' list of 'stakeholders' it expects to be included but not restricted to, including "sub-national and statutory transport bodies;
- The early resolution principle should include asking whether any solutions exist outside of the organisation;
- A requirement to consult STBs during the annual business planning and by ORR in comparing performance across routes or teams;

It is worth noting that the role of ORR is different to NR (as regulator) and HE (as monitor) – however ORR still has a prime role in the Licence for each which are generally reviewed ahead of the 5 year funding periods (CP and RIS respectively). MC has also offered ideas to update the Licences to adapt to a national environment with more expertise and collaboration fed in across the country.

<sup>1</sup> <https://www.midlandsconnect.uk/publications/our-routes-to-growth-july-2018/>

## Headlines:

Similar to our response to ORR on holding NR to account, the below response calls for:

- a. Clearer accounting of how HE contribute to economic and environmental outcomes – namely through support STB strategies;
- b. ORR should explicitly engage with STBs in monitoring performance, including delivering our priorities and collaborating on scheme and RIS programmes;
- c. ORR should seek external suggestions to resolve issues and not assume HE can solve all its own problems – not least engaging LHAs in case any local interventions could support similar outcomes on the SRN.
- d. ORR should explicitly state in its stakeholder engagement how local/regional bodies, like Midlands Connect, will be involved in assurance of delivery programmes to ensure outcomes are fully considered throughout all stages of the project life cycle
- e. ORR should monitor HE team performance to incentivise improvements at a route/regional level;
- f. Any ORR fines should be rerouted to transport projects only, but necessarily to Highways England, for instance to other public transport funds.

## Midlands Connect Response:

0. In general, we agree with ORR's monitoring role to consider delivering Highways England's investment programme, operational performance and compliance with its Licence. The approach offered remains insufficient to achieving the objectives set out in para 3.2, so we offer some constructive recommendations to deliver better outcomes including for users, the economy and the environment.
  - a. The economy and environment are both explicit factors ORR should have reference too, but neither get any other mention in holding HE to account nor any obvious mechanism to consider them. **ORR should set out how and who it will engage to monitor and enforce HE performance in relation to economic and environmental outcomes.**
  - b. STBs, like Midlands Connect, are expected to publish transport strategies for their area supporting outcomes like economic and sustainable growth across road, rail and other strategic transport assets. The regular review of regional evidence bases grants ORR a new resource and opportunity to compare performance analysis for its explicit duties which it can and should reflect in annual monitoring of HE's plans. **ORR should monitor and review with STBs how HE's performance is contributing to its objectives in relation to each STB strategy.**
  - c. National infrastructure planning has moved to a more collaborative model since RIS1 was agreed, with STBs collaborating with HE on future RIS development and specific scheme options. ORR's approach to RIS2 needs to evolve to consider how more devolved functions within Highways England perform and how they interact with organisations driving investment into the wider transport network. **ORR should explicitly state in its stakeholder engagement how local/regional bodies, like Midlands Connect, will be involved through the annual business plan and monitoring cycles.**
  - d. Midlands Connect recognises that outcomes will be achieved through the translation of strategic objectives into programmes and individual projects. **ORR should explicitly state in its stakeholder engagement how local/regional bodies, like Midlands Connect, will be involved in assurance of delivery programmes to ensure outcomes are fully considered throughout all stages of the project life cycle.**
  - e. We support ORR's update to its equivalent Network Rail policy to incentivise improved performance between teams – we believe **not having consistency between approaches for NR and HE is a missed opportunity**, which could showcase how a pioneering approach to the regulatory environment.
  - f. It is not clear therefore how this policy will have effect where HE is working in collaboration with another body, for instance in scheme development for a multi-modal corridor – is the partner body also liable?

## Specific answers:

### Combining our monitoring framework and enforcement policy:

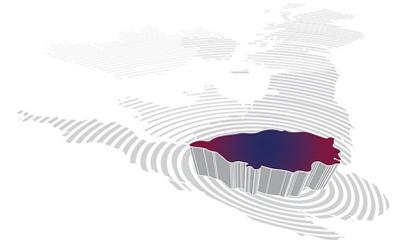
1. Do you agree with our approach in setting out a single document covering our monitoring framework and enforcement policy?
  - a. Yes.

### Focusing on early resolution:

2. Do you agree that we should focus on early resolution to resolve issues wherever possible?
  - a. Similar to our representation to ORR's consultation on holding Network Rail to account (2019), we believe the early resolution principle is helpful but lacks a vital component – Highways England should not be expected to solve all its own issues. To enhance the collaboration and co-operation that ORR expect (para 4.22), there should be a clear and regular check that Highways England have sought external and expert views on if/how their schemes can be delivered more effectively and/or efficiently.
  - b. As ORR note, the monitor role only features the SRN, but with an evolving national view about the interdependence of the transport networks (for instance the new Major Roads fund), it is vital the ORR recognises and utilises local highways authority perspectives and evidence in any monitoring work. This adds a further opportunity that solutions may result in other parts of the transport network, to support HE's and the SRN's performance – this can only be achieved through proper involvement and recognition (including by ORR) of other road asset owners (namely local highways authorities). STBs (like Midlands Connect) can offer a conduit role for this evidence gathering.
  - c. We recommend ORR includes a regular check on stakeholder engagement and alternative solutions both in its annual monitoring and in specific investigations.**
3. Do you agree with our proposal to include hearings as a tool in our policy?
  - a. No comment.

### Our approach to fines:

4. Do you agree that a fine should always be a last resort?
  - a. Yes, a last resort – any fine would just be one national public sector body redirecting funds to another. If a fine is to be used it should have a specific purpose, for instance rejuvenating 'designated funds' or other public transport activities. Any fine should be used on transport investment not routed back to HM Treasury funds.
5. Do you agree that we should seek to avoid taking money out of the business that would otherwise be spent on operating and maintaining the network and, where appropriate, consider setting fines at a level that enables Highways England to fund them from management remuneration?
  - a. No – there may be instances where a Highways England fine occurs and should not be reallocated to similar schemes, which could equally be at risk. Fines should be used for transport purposes only but could be invested outside of Highways England, for instance a separate public transport fund. This assurance should be made by DfT.



Office of Road and Rail  
Via email

EEH Business Unit  
c/o Buckinghamshire County Council  
County Hall  
Walton Street  
Aylesbury  
HP20 1UA

Email: [highways.monitor@orr.gov.uk](mailto:highways.monitor@orr.gov.uk)

Date: 14/2/2020

Dear Sir/ Madam,

### **Consultation Response: Holding Highways England to Account**

England's Economic Heartland (EEH) is the Sub-national Transport Body (STB) for the region stretching from Swindon across to Cambridgeshire, and Northamptonshire down to Hertfordshire, incorporating the area defined as the Oxford to Cambridge Arc. We provide a single strategic voice on the region's infrastructure and connectivity priorities.

As the Sub National Transport Body for the Heartland area we welcome the opportunity to comment on the ORR's consultation 'Holding Highways England to Account'. EEH's focus is on delivering a user-centred transport system in our region, bringing better outcomes for all users. This is a focus that is shared with ORR in its role as Monitor.

The EEH Strategic Transport Forum is the STB and allows partners to work together with one voice when formulating policy and setting strategic transport priorities for the Heartland region. Highways England is a member of the Forum and EEH enjoys a strong and effective working relationship with the company. EEH welcomes ongoing (and increased) engagement with Highways England in: setting regional priorities, building on existing relationships, utilising local knowledge, and building decisions based on evidence held at a regional level.

In July 2019, EEH published its Outline Transport Strategy. The document provided a framework for engagement from which EEH has gathered a significant amount of evidence. Following analysis of the responses, EEH will publish its draft Transport Strategy (to 2050) in July 2020. The proposed vision for the Transport Strategy is "*to harness the Heartland's globally renowned centres of innovation to unlock a world class transport system that connects people and places within and beyond our region whilst de-carbonising our transport system*".

It is in the context of this vision that EEH sets out its response to the ORR's consultation.

The Strategic Road Network (SRN) plays an important role in the transport system in the Heartland region, supporting economic growth and connecting people and places. It provides

key links between our region and the rest of the UK and provides a vital role in supporting the freight and logistics sector.

From a strategic perspective, in order for the SRN to meet user expectations in the context of the legal targets for the reduction of greenhouse gases adopted by the Government in summer 2019, it is essential that it is developed and managed in a different way. The banning of new petrol and diesel cars from 2035 adds further impetus to the need for change and injects the need for added pace in making that change happen.

The role of the ORR as Monitor of Highways England must hold Highways England to account in ensuring that its approach to investment and maintenance is consistent with the commitment by Government that the UK will meet the net zero greenhouse gas emissions requirement no later than 2050. EEH argues that Sub-national Transport Bodies – with their remit to ensure the future role of the SRN is placed within the wider transport agenda – is to key in helping ORR in this regard.

### Role of Sub National Transport Bodies

Since their establishment in the Cities and Local Government Devolution Act 2016, Sub-national Transport Bodies have developed their capacity and capability to have an evidence-led, outcome-focused approach to the development of regional Transport Strategies. EEH is committed to place its STB on a statutory basis, further emphasising the significance of STBs in supporting ORR in its role as Monitor of Highways England.

Successive Secretaries of State (Transport) have reinforced their commitment to Sub-national Transport Bodies. In November 2019, Government stated that where STBs have a strong rationale, broad regional scope and can speak with one voice for the region, the Department for Transport will take account of STB views in developing national transport policy and investment decisions, regardless of statutory status. Given this context STBs should be named as a key stakeholder in the Monitoring process for Highways England.

The ORR should ensure that, in its role as Monitor, it captures and has built in to it the right mechanisms for ensuring that Highways England is required to respond to and deliver the priorities of STBs. To that end, paragraph 3.7 in the ORR consultation document: Holding Highways England to Account should be amended so as to list Sub-national Transport Bodies as strategic stakeholders. The document should be further amended to include a clear mechanism for seeking feedback and reporting on how effective Highways England has been in meeting the priorities identified by STBs.

### Supporting the Major Road Network

STBs are established bodies that develop evidence-led strategic guidance on regional policy and infrastructure programming. This has been demonstrated through the role that STBs have in the development of the Major Road Network. Indeed EEH – as all STBs – continue to support the original conclusion of the Rees Jeffrey Road Fund that the Major Road Network should be a combination of Highways England's SRN and the more significant local authority owned roads. This would help achieve the strategic objective of the ORR to *'improve performance and value for money from the strategic road network; securing improved performance, including efficiency, safety and sustainability, from the SRN, for the benefit of road users and the public.'*

EEH worked with Local Authority partners, and used our Regional Evidence Base to develop an agreed MRN 5-year programme for the Heartland region. Work to develop the investment pipeline for 2025 – 2030 has started, and is being developed in alongside the region's Transport Strategy. Moving forward it is important to ensure that the role of the Monitor includes the need

to include consideration of the interaction between Highways England's network and that of the Local Authorities. EEH recommends that this is included within the document 'Holding Highways England to Account'.

### Future Proofing the Strategic Road Network

EEH is supportive of ORR's commitment to ensure that Highways England meets all the draft objectives set out for the RIS 2 period, namely; representing all users, supporting housing growth and productivity, safety and maintenance, network strategy and multi modal approach, environmental and air quality and new technology.

The Heartland region is renowned for forward thinking, technology led innovation. Meeting the de-carbonisation target adopted by Government will require significant change at an accelerated pace. This creates an enormous opportunity for the highways sector to demonstrate leadership on what is a key strategic issue for the UK, one where innovation will be an important component.

Future proofing the transport network through rapid and widespread adoption of new and emerging technologies, together with investment in digital infrastructure that is available to users beyond the highway network, need to be critical components of future investment programme. ORR, in its role as Monitor, must ensure that Highways England actively invest in new technologies and facilitate innovation.

Across the sector the level of ambition and expectation amongst users and wider communities when it comes to the de-carbonisation agenda is growing. In response there is a need to harness the opportunities created by innovation, deregulation and new policy directions. STBs collectively are collaborating on their work to develop pathways to de-carbonisation. This will enable them to respond positively to the Department for Transport's De-carbonisation Plan. ORR must be given the responsibility to ensure that Highways England responds positively to the STBs work on de-carbonisation. The de-carbonisation agenda cannot wait for future RIS periods. ORR needs to ensure that Highways England actively responds to changing policy directions and priorities during individual RIS periods.

In addition Highways England has a key role to play in ensuring the wider quality of life for communities is improved. In developing their investment programmes, Highways England need to work with STBs to consider the impacts of their proposals on the wider transport networks and their environmental impacts.

For example, EEH would like to explore further with ORR the role that Highways England has in helping to respond to localised issues around the objective for air quality and environment. The SRN (A5) passes through the market town of Towcester in Northamptonshire. The town is in an Air Quality Management Area (AQMA), designated due to air quality concerns arising from the SRN route. Local Authorities set AQMAs, and have the responsibility for developing and Air Quality Management Plan, however are not responsible for the Strategic Road Network. There is a lack of ownership and accountability within Highways England for the impact that is resulting from their network. ORR's involvement in monitoring HE's performance should be able to address the impact of the SRN on the local environment.

Monitoring and evaluating by the ORR of Highways England's compliance against the objective to support all road users (including active travel, public transport and freight) is essential as we move towards a more tailored people-centred approach to transport planning in the future.

### Funding and programme delivery

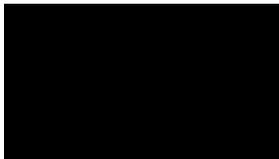
EEH is keen to ensure certainty of delivery of the RIS programme and therefore support a forward looking approach to identifying and resolving issues, as outlined in the consultation documentation. Targeted investment in roads in the EEH region is critical to ensuring economic growth and ensuring early resolution to issues with the RIS programme will provide confidence to communities and investors.

Equally, certainty around funding for the delivery of the investment plan, in order to provide much needed transport infrastructure, is critical. To this end, EEH is supportive of option 2 (ORR's approach to fining during the RIS2 period) for fines to be paid from management remuneration rather than diverting funding which would otherwise be used to help from operate and maintain the SRN.

England's Economic Heartland would welcome a strategic role which enables us, as a Strategic Stakeholder and in the context of the EEH Regional Transport Strategy to hold Highways England to account, reporting formally to the ORR on how effective the organisation has been in delivering programme delivery and managing the performance of the network across the Heartland region.

England's Economic Heartland welcomes the opportunity to respond to this consultation. The importance of joint working between partners, and ensuring ongoing collaboration with Highways England in setting priorities and ensuring the delivery of future road investment strategies will be key to ultimately delivery an efficient and effective transport system. We welcome ORR's monitoring, evaluation and holding Highways England to account ensure the programme is delivered against the RIS objectives in a timely and cost effective manner.

Yours sincerely

A large black rectangular redaction box covering the signature area.

  
**Programme Director**



**Chartered Institution of Highways & Transportation the Office of Rail and Road consultation  
Holding Highways England to account (February 2020)**

**██████████, Policy Officer, Chartered Institution of Highways and Transportation (CIHT),  
Email: T██████████**

*CIHT is a charity, learned society and membership body with over 14,000 members spread across 12 UK regions and four international groups. We represent and qualify professionals who plan, design, build, manage and operate transport and infrastructure networks. Our vision is for world-class transportation infrastructure and services. Our values are to be Professional, Inclusive, Collaborative and Progressive.*

### Introductory statement

CIHT welcomes the opportunity to respond to the ORR's consultation on Holding Highways England to account. CIHT welcomed the creation of Highways England as part of the Department for Transport's approach to providing certainty and continuity of investment for the strategic road network, given the importance of the issue to our membership and the wider public.

### Combining our monitoring framework and enforcement policy

1. Do you agree with our approach in setting out a single document covering our monitoring framework and enforcement policy?

CIHT agrees with the approach in combining ORR's monitoring framework and enforcement policy into a single document. The intent to create a simpler and streamlined document which is more accessible to Highways England and stakeholders is good.

### Focusing on early resolution

2. Do you agree that we should focus on early resolution to resolve issues wherever possible?

CIHT agrees that ORR should focus on early resolution to resolve issues.

3. Do you agree with our proposal to include hearings as a tool in our policy?

CIHT agrees with the proposal to include hearings. Allowing affected parties or representative groups to be included is important, as well as having hearings 'on-the-record' to allow for public scrutiny. Cooperation with a wide range of stakeholders is important for the Strategic Road Network to deliver the best outcomes for its customers, and this principle should also apply when resolving issues.

CIHT agrees with Option 2.

### Our approach to fines

4. Do you agree that a fine should always be a last resort?

CIHT agrees that fines should be a last resort after all measures have been taken to address the contravention.

5. Do you agree that we should seek to avoid taking money out of the business that would otherwise be spent on operating and maintaining the network and, where appropriate, consider setting fines at a level that enables Highways England to fund them from management remuneration?

CIHT agrees with Option 2 and that ORR's approach to fining Highways England should attempt not be to the detriment of the users of the highway network.

CIHT agrees that there should not be a link between the amount of funding Highways England receives and the size of the fines it gives.

xx February 2020

Office of Rail and Road  
25 Cabot Square,  
London E14 4QZ  
By email: [highways.monitor@orr.gov.uk](mailto:highways.monitor@orr.gov.uk)

### **Consultation on *Holding Highways England to account* - ORR's monitoring framework and enforcement policy for Highways England - MPA Response**

The Mineral Products Association (MPA) is the trade association for the aggregates, asphalt, cement, concrete, dimension stone, lime, mortar and silica sand industries. With the affiliation of British Precast, the British Association of Reinforcement (BAR), Eurobitume, MPA Northern Ireland, MPA Scotland and the British Calcium Carbonate Federation, it has a growing membership of 520 companies and is the sectoral voice for mineral products. MPA membership is made up of the vast majority of independent SME quarrying companies throughout the UK, as well as the 9 major international and global companies. It covers 100% of UK cement production, 90% of GB aggregates production, 95% of asphalt and over 70% of ready-mixed concrete and precast concrete production. In 2016, the industry supplied £18 billion worth of materials and services to the Economy and was the largest supplier to the construction industry, which had annual output valued at £152 billion. Industry production represents the largest materials flow in the UK economy and is also one of the largest manufacturing sectors.

MPA welcomes the invitation and opportunity to respond to this Consultation on ***Holding Highways England to account***. Please see below our *responses in italics* to the Consultation questions:

#### **Combining our monitoring framework and enforcement policy**

1. Do you agree with our approach in setting out a single document covering our monitoring framework and enforcement policy?

*Streamlining and rationalising policy documents would appear to make logical sense, particularly if they are intrinsically connected and interlinked to enable simpler reference and provide transparency in one place.*

#### **Focusing on early resolution**

2. Do you agree that we should focus on early resolution to resolve issues wherever possible?

*Early and long-term resolution on issues is a laudable aim to minimise distractions and move forward on improvement and prevention of potentially systemic issues.*

3. Do you agree with our proposal to include hearings as a tool in our policy?

*A transparent and traceable yet flexible process or tool such as Hearings may have a role to play, especially at stages 2 or 3. We would have some concern that they may risk being more about blame than evidence, and are no substitute for interventions to achieve early resolution and prevent recurrence and the need for enforcement.*

## Our approach to fines

4. Do you agree that a fine should always be a last resort?

*The imposition of specific fines runs the risk of e.g. depleting the OpEx budget such that further infringements of the RIS and/or Licence could be consequential (albeit unintended) impacts. As such, other punitive measures should probably be sought first which do not risk affecting parts of the organisation not explicitly associated with the contravention. Public declaration of Notices may be a useful tool in delivering behavioural change to prevent reputational damage, thereby demonstrating that ORR is (successfully) "Holding Highways England to account".*

5. Do you agree that we should seek to avoid taking money out of the business that would otherwise be spent on operating and maintaining the network and, where appropriate, consider setting fines at a level that enables Highways England to fund them from management remuneration?

*See response 4. The 'level' of fines may potentially be read as a twofold definition, applicable firstly to the tier of responsibility, and secondly to the quantum ?*

*Any fines should be commensurate with the seriousness and culpability of the contravention. The responsibility for identifying failings by individuals, departments or systemically, resulting in contravention, needs careful consideration. It might seem feasible to apply fines in terms of 'loss of bonus' or redirection or reduction of planned inflation on remuneration (where policies supporting such expectations exist) for those verified as responsible. Making a 'provision for fines' seems counter-intuitive, except where this would be released back into operational budgets in line with (any) fines levied, rather than remuneration. A balance of risk and reward seems ideal but the mechanism will be more complex.*

*Remuneration fines imposed at a (quantum) level that could risk Operations budgets (£millions ?) could itself risk further reputational damage for Highways England e.g. failing to meet a RIS performance requirement on maintenance / condition which reduces the maintenance budget and the scope to improve could result in a downward spiral of customer satisfaction.*

*If fines are payable to DfT, then it might seem reasonable to have those ring-fenced for direction to other areas of highways need, such as Local Highway Authority (and MRN) maintenance funding, and/or invested in the private sector through e.g. highways innovation grants and contractor bonus.*

Again, we thank you for the opportunity to respond to this Consultation.

Yours sincerely,



Director, MPA Asphalt

<b>Date</b>	14 <sup>th</sup> FEBRUARY 2020				
<b>Subject</b>	<b>CONSULTATION RESPONSE ORR HOLDING HIGHWAYS ENGLAND TO ACCOUNT 2020</b>				
<b>Author</b>	[REDACTED]				
<b>Version</b>	1.0	<b>Circulation:</b>	ORR	<b>Current Status:</b>	For Submission

## BACKGROUND

In response to the Office for Road and Rail (ORR) Consultation on ‘Holding Highways England to account’, issued in January 2020, the comments below represent the views of the Highways Term Maintenance Association (HTMA), in respect to the questions raised by the ORR within the consultation document

### Combining our monitoring framework and enforcement policy

1. Do you agree with our approach in setting out a single document covering our monitoring framework and enforcement policy?

HTMA feels that this is an appropriate change to the current process as it both simplifies and makes it more accessible and understandable for all stakeholders.

### Focusing on early resolution

2. Do you agree that we should focus on early resolution to resolve issues wherever possible?

HTMA supports this change in approach; the uncertainty generated by long term or drawn out investigations and reviews of particular circumstances are unhelpful for both Highways England and in specific circumstances for its supply chain too. As a consequence early resolution to issues should always be the preferred approach albeit that any accelerated approach should not compromise the integrity or accuracy of any investigation or review.

3. Do you agree with our proposal to include hearings as a tool in our policy?

As a mechanism for efficiently gathering the range of views pertinent to any investigation or review of policy, process or particular actions hearings offer an open and effective approach, prompting a clearer understanding of the perspectives of all stakeholders or parties impacted.

Notwithstanding our support for the inclusion of hearings as a tool, it is important that ORR retains the capacity to hear views and ‘evidence’ in private, where required to protect the integrity of information and/or the position of individuals or organisations contributing such information.

### Our approach to fines

4. Do you agree that a fine should always be a last resort?

Regardless of where such fines are drawn from (see Question 5.) it is our view that a fine should represent the action of last resort by ORR. Please also see our comments in respect to Question 5.

5. Do you agree that we should seek to avoid taking money out of the business that would otherwise be spent on operating and maintaining the network and, where appropriate, consider setting fines at a level that enables Highways England to fund them from management remuneration?

It is important that the level of investment allocated by Government to Highways England for improvement of their network is optimised and, consequently, we are sympathetic to the approach of funding fines from resources allocated to management remuneration, however, we are concerned that this approach may promote unintended consequences.

There is a danger, however remote, that this approach (as it potentially impacts upon individuals) could discourage openness and clarity of accountability or even, in the extreme, promote a blame culture. As a consequence, we would seek further clarity, from ORR, on how such a system would operate, ensure fairness and minimise the risk of these potential negative impacts.

No Expressway Group (Woburn Sands)

1 March 2020

To: Office of Rail and Road (ORR)

Dear Sir / Madam,

**RE: Consultation on holding Highways England (HE) to account**

Thank you for the opportunity to input into a new ORR Checklist for Highways England. **No Expressway Group (Woburn Sands)** is a non-political community group which was formed to fight the proposed Oxford to Cambridge Expressway, a new motorway poised to exert significant community severance upon Woburn Sands and surrounding communities in South Milton Keynes. In investigating HE's processes and researching into the multi-faceted impacts of community severance, we have uncovered a number of systemic failures in the processes of HE (see appendix) which we propose remedies for as follows:

1. The economic and strategic case for a new road must scan for, recognise, and rigorously evaluate the multidimensional impacts of community severance (including physical access and mobility, psychological health and well-being, social connectivity, and community cohesion).
2. Where a community severance constraint is identified this needs to be explicitly accounted for in the economic and strategic case. Furthermore, the costs of severance must be addressed via contingency and mitigation planning.
3. It is not acceptable to identify an impact as "neutral" if it has been flagged in a separate HE analysis as significant or a Tier 1 constraint. Where no mitigation readily exists, HE is not excused of its responsibilities and is not permitted to drop the issue out of the economic and strategic case. Instead further investigation is required, open consultation with impacted communities must be conducted, and innovations and related costs must be built into the case.
4. Each section of road will vary in its potential for severance and so should be subjected to separate analyses; it is not acceptable to generalise impacts along a road. Where multiple route options impact the same or similar section of community (such as, in the case of a pinch-point), the analysis for each route option should be consistent and rigorous.
5. HE requires an updated, standardised definition and set of sensitivity tests for community severance, as the definition in *Design Manual for Roads and Bridges* (1993) is one-dimensional and outdated. This must include the impact of severance on physical access and mobility (including cycle journeys), psychological health and well-being, social connectivity, and community cohesion of people in the surrounding areas and those who need to make trips along or across infrastructure and traffic.
6. HE's analysis must resolve how to encompass the broad-ranging impacts of severance in its planning guidance. We have identified inconsistent categorisation of this issue into a range of intervention objectives including: planning for the future; environment; connectivity; and, skills & accessibility. This is not surprising given the

complexity of the severance impact, however, HE needs to settle on and communicate a consistent set of measures and tests for assessment.

7. The DfT's new generic decision support tool, Early Assessment and Sifting Tool (EAST) Guidance (2019) identifies severance as a significant metric of social and distributional impacts. Where impacts are considered significant, the guidance recommends a full Social and Distributional Impact (SDI) appraisal to be undertaken as part of the case. Where HE's analysis specifies "significant adverse effects" an area, a full SDI appraisal should be carried out in order to re-evaluate the business and strategic case.

For illustration and references to reports, please refer to our attached detailed analysis of HE's treatment of community severance specifically relating to the Ox-Cam Expressway. (

Best regards,

No Expressway Group (Woburn Sands)

Attachments:

1. NEG\_Response\_to\_Community\_Severance.PDF

## **‘Holding Highways England to account’ Response to Highways England’s DfT Licence and ORR’s approach**

We understand that ORR is responsible for holding Highways England to account for the terms of their licence. We have copied extracts from **Highways England: Licence** that are relevant to our experience around the Oxford Cambridge Expressway and used comments in italics to highlight where the terms of the licence are not being met and to suggest improvements.

### **1. Beginning with the Foreword for the Licence from Minister of State for Transport Rt Hon John Hayes**

*“The Licence emphasises that the role of Highways England is about more than just complying with the letter of the law. We expect the company to go the extra mile in the way it engages with road users and collaborates with other organisations to develop shared solutions. And they must take a lead in promoting and improving the role and performance of roads in respect of broader communal responsibilities, such as the aesthetics of design, safety and the environment, as well as driving forward wider progress on technology and innovation.”*

We do not believe that Highways England is complying with even the letter of the law. It is certainly not “going the extra mile in the way it engages ... and collaborates with other organisations to develop shared solutions”. It has not taken the lead in broader communal responsibilities, particularly the environment. It has taken the narrowest possible view of its environmental and communal responsibilities, not even completing adequately the most basic of assessments and omitting vast quantities of data, and the data that is provided is of very low quality.

### **2. Highways England Licence Part 3 – General Conditions**

*3.2 It is not intended that these conditions should be incompatible with other legal duties or statutory guidance, though they may affect the manner in which certain functions (including statutory functions) are discharged.*

#### **2.1. Climate Change and environmental considerations not considered**

It is clear from the strategic aims, objectives and delivery of Highways England with reference to its briefing documents for Oxford to Cambridge Expressway that it does not consider environmental legislation is relevant. It does not appear in any of Highways England documents or website, and nor does it appear in ORR’s monitoring or regulation approach. This is an oversight of huge proportions given the biggest proportion of UK CO2 emissions was from domestic transport of 126 Megatonnes in 2017, the vast majority of which was road transport and rising.

#### **2.2. Climate Change and environmental considerations can no longer be ignored**

It is clear from the recent successful appeal by Friends of the Earth that this approach contradicts **3.2** of the General Conditions of Highways England’s Licence. We believe that the ruling below for aviation is also relevant for Highways England [Section 5 (8) of the Planning Act].

“The legal issues are of the highest importance. The infrastructure project under consideration is one of the largest. Both the development itself and its effects will last well into the second half of this century. The issue of climate change is a matter of profound national and international importance of great concern to the public – and, indeed, to the Government of the United Kingdom and many other national governments, as is demonstrated by their commitment to the Paris Agreement.” (Court of Appeal judgment, paragraph 276)

The Highways England Licence is granted by the Secretary of State for Transport. Friends of the Earth argued the Secretary of State’s failure to consider:

- the Paris Agreement on climate change,
- the non-CO2warming impacts of aviation, and
- the climate impacts of the operation of the airport long into the future beyond 2050

### **2.3. Highways England approach to road planning perpetuates greenhouse gas emissions**

Current road traffic planning favours an expansion of roads to enable more traffic, which is the primary principle Highways England use in a ‘Predict and Provide’ approach - that is, project the problem (increasing traffic) and so provide - build more roads. The logical sequence of that is gridlock or worse. The absurdity of the approach was highlighted by showing that according to Govt projections in 2025, there would be a HGV for every man, woman and child in the UK (an average annual income of £1m). Climate change commitments require us to have a more holistic approach such as, ‘Values-Vision-Validate’. Manchester has taken this approach in its transport strategy, New Zealand did a national plan on that basis too, and several UK local authorities have been looking at adopting the approach.

Highways England is badly out of step with forward looking policy and appears to be run by road planners for road planners, with no effort made to integrate with wider government policy, best practice or up-to-date thinking. This is very much a 20th Century agency in its format, approach and also in the way ORR is monitoring it. The ORR monitoring framework has no apparent basis on which to challenge Highways England approach, it apparently can only monitor if it is ‘efficient and performs well’ against its own framework – despite that framework not being fit for purpose! Please see government paper on Future of Mobility commissioned by DfT.

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/780868/future\\_of\\_mobility\\_final.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/780868/future_of_mobility_final.pdf)

### **2.4. Highways England and ORR should already be alert to this issue**

**3.3.** mandates Highways England should already have notified the Secretary of State and ORR. We assume you are in the process of re-writing the ORR monitoring guidance.

*3.3 If the Licence holder becomes aware of any incompatibility between the Licence and its other legal duties, it must notify the Secretary of State and the Highways Monitor immediately.*

Again in **5.6** Highways England must comply with new climate change situation including the impact on the environment and community severance for which it is still using 1993 guidance despite DfT publishing new mandatory guidance in 2019.

5.6 In complying with 4.2(c), and Part 6 of the Licence, the Licence holder must:

- c. *Provide for sufficient flexibility and future-proofing in planning the long-term development and improvement of the network, taking account of long-term trends, uncertainties and risks - including new and emerging technologies and long-term trends in climate and weather conditions.*

### 3. Highways England Licence Part 4 – Aims & Objectives

Point 4.1 is not being upheld in the Highways England planning approach and it does not appear in ORR's monitoring at all. Highways England "**must operate and manage in the public interest**" and 4.2 in particular:

- d. *Minimise the environmental impacts of operating, maintaining and improving its network and seek to protect and enhance the quality of the surrounding environment;*
- e. *Conform to the principles of sustainable development.*

4.3 *For the purposes of this section, "sustainable development" means encouraging economic growth while protecting the environment and improving safety and quality of life for current and future generations.*

This has patently not been the case in the work done so far on Oxford to Cambridge Expressway with the number and magnitude of errors covering the environmental and community impact for just 6 kms of the route corridors options was vast. The impact of these errors: omissions, incorrect information, incorrect conclusions, inconsistent information about the same location (6 km x 4 km) and therefore wildly inaccurate conclusions and recommendations for route corridor selection. For example, 'community severance' has been identified for the villages of Aspley Guise, Wavendon, Woburn Sands, Bow Brickhill in one of the three route corridor analyses, whilst only identified for Woburn Sands in another two route corridors despite referencing exactly the same piece of geography (6km x 4km) common to all of the options.

The **Appendix E: Supplementary Environmental Information**, published in September 2018, acknowledges this is a Tier 1 constraint while another, while the **Strategic Outline Business Case**, published in the same month, confidently asserts "*It is not envisaged that the new links proposed by this scheme will cause any severance issues*" (please see our Community Severance report and briefing letter for detail).

Ignoring the community and environmental severance created by the route corridors published contravenes 4.2 and 4.3. Not only have we found a catalogue of errors, but this pattern of errors is clear in other road plans which are being campaigned against such as Arundel Bypass and Stonehenge Tunnel. Such is the extent of errors that the original strategic business cases for the roads are invalid, and Highways England appear to be just creating analysis that 'back-fills' the strategic case. They are only able to do this by creating the magnitude of errors and outright whitewashing of real issues such as community severance, which threatens four villages and nearby communities with destruction, for the purposes of justifying a concept for a road justified by a few minutes of potential journey time gained as the main benefit. In the face of a relentless planning process that does not genuinely engage with communities or care about the environment, campaigners are forced to organise to constantly challenge Highways England who perpetuate their vision of 'expressways' as the answer to every issue.

**How can Highways England be genuinely “improving quality of life for current and future generations” by bulldozing their homes based on flimsy information and lack of transparency?**

**How is it possible that ORR has not stopped the Highways England relentless pursuit of big roads for no community benefit with the cost of the impact not even included in the cost/ benefit analysis?**

**Why is there no monitoring of the appropriateness of Highways England plans and a real assessment of their viability against point 4.2 (g) and (h)?**

Currently it appears that ORR only monitor whether Highways England is ‘performing’ well. According to the current monitoring framework, an efficient destruction of communities with a really fast bulldozer delivering community severance in record time could be evaluated as ‘performing well’. There **must** be a **qualitative assessment** of the quality of analysis, plans, proposals and approach to working with local communities and the environment. It is clear that there are many highly focused, large local campaigns against Highways England plans. This is not because we do not want better transport, but because the plans are so badly put together and Highways England will not take on board feedback, but try to continuously push through their original plans, justifying them with fabricated evidence and omission of real costs and benefits to do so.

This lack of real analysis has a real impact on the efficiency and value for money. Highways England is being apparently monitored against its own targets, without the analysis behind those targets being monitored. We believe there is no effective holding of account to **5.12 (a) Adopt a Whole-life cost approach to managing its assets**, particularly when plans are to cause community severance which has significant mental and physical health impacts, social cohesion and economic impacts on those communities, none of which have been considered or costed into the cost/benefit analysis and therefore the whole cost of assets. In the case of Oxford to Cambridge Expressway, despite talking extensively about East West Rail which is a major factor in determining route corridor selection, there appears to be no joint study undertaken with East West Rail 5.14 (f) and no engagement with local communities and stakeholder groups 5.14 (g).

#### **4. Co-operation**

There appears to be no monitoring of the qualitative process required in Highways England Licence by ORR. There seems to be no framework for qualitative monitoring, nor is there any assessment of the quality of analysis in any of the monitoring reports that we can see. Alongside this lack of accuracy is a complete lack of transparency and cooperation. 5.17 (c, d), 5.18 (e,f), 5.19 in particular where Highways England is required to be Open and transparent, Positive and responsive, Collaborative.

Speaking from the perspective of a community of 20,000 people threatened with “community severance”, we only found out after a meeting lead by a campaigning organisation (No Expressway Group) about the Oxford to Cambridge Expressway at all. I personally read through the 1000 pages of Appendices from Highways England before finding out that our villages and communities were threatened with “community severance”, of which there was very little analysis and no explanation. The planning process had been going on for two years, including Highways England forcing a Non-Disclosure Agreement on Milton Keynes Council which meant that our own local councillor could not get information from our unitary council regarding plans to demolish our houses. This is not transparency, cooperation or responsiveness. Highways England have created a process that excludes communities, even ones threatened with Tier 1 constraint.

This is a totally unacceptable situation, and it has been created on a tissue of analysis so feeble and inaccurate it should not have even been published. How is it possible that a multi-million pound major project has got five years into planning and no scrutiny of the basis of the case has been done at all. Where is the ORR monitoring of the transparency of Highways England? The idea that stakeholders are represented in a stakeholder group dominated by big business and they are only allowed to see the details if they sign an NDA is a major contravention of their Licence. Other local authorities, who disagree with the planned Expressway but are having it forced upon them, refused to sign NDAs (Bucks CC, Oxfordshire CC, Vale of White Horse DC, Aylesbury Vale DC) and they have been refused access to detail of the plans by Highways England.

Whatever stakeholder 'boxes' Highways England claims to have ticked, it is totally unacceptable to keep local authorities from speaking to their voters with NDAs, and to have not engaged in any way with communities threatened with community severance. We can see no evidence of 5.22 despite asking Grant Shapps MP (Minister of Transport) to be included as Stakeholders and included in a Review of Oxford to Cambridge Expressway.

## 5. Environment

Highways England is failing completely in all aspects of 5.23 as regards Oxford to Cambridge Expressway. The framework set out in the Licence 5.23 (a, b, c) attempts to achieve this by spurious and indefensible methods such as offsetting impacts in one part of a route corridor with adding something in another area to achieve a "net zero" rating. This pits the destruction of a SSSI with statutory protection against trying to 'add' to a different habitat to 'counterbalance'. This methodology is patently nonsense and has led to the environmental destruction that has led to the climate crisis. Highways England must not be allowed to get away with this low quality analysis and arguments which break its Licence.

- a. *Ensure that protecting and enhancing the environment is embedded into its business decision-making processes and is considered at all levels of operations;*
- b. *Ensure the best practicable environmental outcomes across its activities, while working in the context of sustainable development and delivering value for money;*
- c. *Consider the cumulative environmental impact of its activities across its network and identify holistic approaches to mitigate such impacts and improve environmental performance;*

Oxford to Cambridge Expressway **Appendix E: Supplementary Environmental Information** mentions an assessment that concluded that biodiversity offsetting is viable for all corridors in the Oxford-Cambridge corridors (pg11). Yet no information about this assessment is given, despite it leading to all corridors being given the same neutral rating for the objective of "no net ecology loss" and a contradiction in its assessment of at least one section (B1-1) of nature conservation loss being "unmitigable".

Climate change mitigation and adaptation. Impacts of climate change are considered on water levels in the corridor assessment. No mention is made on the impact of climate change impacts on nature and the need for nature recovery networks. No mention is made of the impact of the expressway on the UK's climate change target. Highways England's environmental assessment recognises that the Expressway will adversely impact designated wildlife sites in many of the corridors assessed - including Special Areas of Conservation (SACs) and Special Sites of Scientific Interest (SSSIs) that carry statutory protection.

Despite this, each corridors is rated as neutral against HE's objective for 'No net ecology loss' since it seeks to avoid impacts on ecology through the mitigation hierarchy and then providing compensatory habitat, and that it has undertaken a high level assessment of all corridors that concluded that offsetting was viable for all corridors (see page 11 of **Appendix E: Supplementary Environmental Information**).

With regard to sustaining biodiversity, the 'State of Nature 2019' report laid stress not only on the importance of protecting suitable habitats, but also on ensuring connections ('corridors') between them in order to maintain viable populations of wildlife. For example, it noted (p.44) that 'Declines are most pronounced in woodland [bird] specialists such as ... and suggested causes include ... loss of landscape connectivity'. Yet the approach taken to assessing the impact on biodiversity in the CAR considers only the protection of designated sites, per se, and does not address the issue of habitat connectivity. Thus, with respect to 'Nature conservation' the constraint tiers shown in Table 2.2 (p. 5) refer only to 'Special Areas of Conservation; Special Protection Areas; Ramsar sites; Sites of Special Scientific Interest; National Nature Reserves; Ancient Semi-Natural Woodland; and Aged or veteran trees' (Tier I), and 'Non-statutory designated sites (including Local Nature Reserves, Local Wildlife Sites and RSPB reserves); and Priority habitat' (Tier III). This rigidly atomistic approach of the assessment is a particularly egregious failure in view of the major east-west barrier that the Expressway would create for the dispersal of many forms of wildlife, with the potential to limit not only seasonal migrations, but also, in the longer term, climate change-related range shifts. In this respect, then, the assessment systematically underestimates the likely impact on biodiversity.

**5.32 (e, f, g, h)** all require Highways England to develop an approach that reduces carbon impact, takes account of climate change, uses low carbon materials and supports modal shift from greenhouse gases. None of this has been done for Oxford to Cambridge Expressway. No analysis has been done of the carbon impact of the plans and nor has that impact been taken into account in the cost/ benefit analysis.

- e. Calculate and consider the carbon impact of road projects and factor carbon into design decisions, and seek to minimise carbon emissions and other greenhouse gases from its operations;*
- f. Adapt its network to operate in a changing climate, including assessing, managing and mitigating the potential risks posed by climate change to the operation, maintenance and improvement of the network;*
- g. Develop approaches to the construction, maintenance and operation of the Licence holder's network that are consistent with the government's plans for a low carbon future;*
- h. Take opportunities to influence road users to reduce the greenhouse gas emissions from their journey choices.*

## **6. Sustainable development and design**

In **5.25** Highways England are to balance range of factors including environmental impact, well being of communities affected by the network as well as economic growth. This has not been done effectively for Oxford to Cambridge Expressway as the environmental and community impact have been systematically excluded, minimised, omitted from key documents and smoothed over through 'net zero impact' in order to make an already agreed strategic case viable. Highways England has not been held to account for this of sustainable decision-making. No weighing up of these factors has been done qualitatively.

## **7. Standards, specifications and guidance**

It is clear that Highways England are not meeting the standard in **5.31**

*5.31 In carrying out its activities, the Licence holder must have due regard to any guidance, standards or specifications relevant to its statutory or other functions. This includes being mindful of where new standards or specifications are developing and seeking to ensure that new projects are brought into line.*

nor complying with **5.32** (which requires Highways England to justify why they haven't used the appropriate standards).

There are a number of mandatory and best practice tools, such as Early Assessment and Sifting Tool. Whilst this the new standards in EAST are highly imperfect, it is better than the current approaches that continue to be used by Highways England for Oxford to Cambridge Expressway. No Social and Distributional Impact appraisal has been done, which is mandatory since 2019 for all community severance situations and has been done for other schemes such as the A27 Arundel <http://assets.highwaysengland.co.uk/roads/road-projects/A27+Arundel+Improvement/SAR/SAR+Chapter+11+%E2%80%93+Summary+of+Social+and+Distributional+Impact+Apraisal.pdf> which is at least better than no appraisal.

## **8. Setting and varying the Road Investment Strategy**

Step 1: the Strategic Road Network (SRN) Initial Report (6.6 – 6.9)

The Licence is flawed in its approach because it does not hold Highways England to account sufficiently. It enables Highways England to prepare SRN reports and RIS reports based on its own analysis, and yet there is no qualitative assessment of Highways England analysis and significant flaws have been demonstrated by our group and many other community groups with no apparent action taken. Therefore the step of **6.8 Take account of the evidence developed through the preparation of route strategies, as required at 5.13**, bakes bias into the RIS and SRN by not holding Highways England into account to genuinely take account of climate change, the environment or community groups.

## **9. Evaluation – marking their own homework**

Highways England are not only responsible for establishing the strategic business case but they are also in control of the evaluation process, known as Post-opening project evaluation (POPE).

<https://www.gov.uk/government/publications/post-opening-project-evaluation-pope-of-major-schemes-evaluation-insight-paper>

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/782823/POPE\\_Meta\\_Insight\\_Paper\\_2019.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/782823/POPE_Meta_Insight_Paper_2019.pdf)

This means the road builder can frame the business case for building a road, gets roads built, then evaluates how well they've done it, claiming it is 'efficient'. Highways England trumpets the partial achievement of flawed assessments, as argued in

<http://www.transportforgualityoflife.com/u/files/170320%20The%20Impact%20of%20Road%20Projects%20in%20England%20FINAL1.pdf> which dissects POPE well.

Reviewing the process Highways England adopt, it consistently has industry insiders to support/ justify the case/progress the project. There's a general point here about the common use of consultants (with the Expressway, at least four: Atkins, WSP Parsons Brinckerhoff Limited, ch2m, Steer Davies Gleave) versus the lack of input from current academic research, a point made by UCL on p4 here <https://www.ucl.ac.uk/transport/sites/transport/files/landscape-transport-research.pdf>. It appears that Highways England are either intentionally ignoring best practice from academia on

community severance, or are unaware of it. However, their Licence requires them to be more rigorous than their current practice, as they are currently not complying with their Licence terms.

Engaging with some specialised cross-disciplinary academic research would add rigour and reduce commercial expediency (such as at Oxford <https://www.tsu.ox.ac.uk/>, Birmingham <https://www.birmingham.ac.uk/research/impact/original/sustainable-transport-lightbox.aspx> UCL <https://www.ucl.ac.uk/transport/> - across 11 faculties, and Herts <https://www.herts.ac.uk/about-us/news/2019/sustainable-transport-for-counties-initiative-launched-to-tackle-transport-issues-in-englands-economic-heartland> )

Academics such as Stephen Joseph have worked with campaign groups (Campaign for Better Transport) but are on the outside of the planning process. It seems the motivations of consultants will mean nothing will change the road-building mentality we see here - all the 'Copenhagen-style' thinking of integrated and sustainable planning is in universities and campaign groups, well away from decision-making.

Given there is so little external influence, no members of the Design Panel (5.27 (a)) with environmental or climate change expertise, nor community severance or community collaboration, it is not surprising Highways England has avoided attempting these skills.

- a. The membership of the Design Panel includes representation from credible experts and relevant stakeholders, as appropriate;*

The ORR capability holding to account for Programme and Project Management does not include diversity of team members with different skills or bringing in experts with environmental, social and health knowledge that can develop understanding on a project team. Without this critical expertise how can Highways England assess their own ability to weigh up factors in planning? On the Oxford to Cambridge Expressway plans they appear to make no attempt to do so other than to 'whitewash' the evaluation process with spurious methodologies that are not published to cover up major flaws in the quality of the original business case.

This is unacceptable in an agency that should be accountable to the public and should not have the ability to use public money to hide plans behind NDAs, bully and bulldoze their own plans through, whilst not meeting their Licence terms.

The concept behind a Highways England agency that focuses on building plans to build more roads does not meet the climate change need for modal shift and integrated planning. The ORR current framework does not even address the most critical and failing aspects of the Licence. The ORR current consultation does not go far enough and does not attempt to focus on the quality of Highways England's analysis, which has been at the root of all the failures to date. Given the high profile campaigns against unworkable proposals e.g. Stonehenge which UNESCO has asked to prevent happening to protect the World Heritage Site, it is difficult to understand why this has not been addressed.

Highways England should have its Licence revoked and the company integrated into a broader road/rail transport provider that engages with best practice research to design 21<sup>st</sup> Century solutions with climate change carbon neutral targets as the core objective.

## Holding Highways England to account ORR's monitoring framework and enforcement policy for Highways

England (consultation version)

06 January 2020

*We have copied extracts from this document that are relevant to our experience around the Oxford Cambridge Expressway and used comments in italics and track changes to suggest improvements.*

4.19 We monitor Highways England's major schemes portfolio in two ways. First, through high-level metrics to assess delivery at a programme level. Second, we look at high level indicators for individual major schemes to understand their status, risks, cost position and schedule performance.

4.20 Whilst we monitor some data for individual major schemes, we do not primarily hold Highways England to account for delivery on a scheme-by-scheme basis. A proportionate approach is to focus on systemic and significant issues by monitoring trends in the delivery of the major scheme programme of work. However, we recognise that individual major schemes have the potential to have a material impact on road users and stakeholders and that there should be scrutiny of their delivery performance, e.g. significant cost or schedule changes.

4.21 We set out in detail how we monitor Highways England's network investment performance in our Monitoring Highways England's network investment, ORR's approach document. 13 publishing data and information in an open and transparent way. This includes making publicly available the information required in the Licence, to facilitate sharing of data with relevant parties and to improve information to road users. 11.

Our monitoring of the major schemes programme consists of:

- ☑ ensuring that a clear baseline of schedule, scope and cost information is set out, and monitoring delivery against it - with any changes to the baseline controlled;
- ☑ reviewing delivery of the programme through programme-level metrics; and
- ☑ carrying out in-depth reviews of programme and project management on a sample basis.

we do not:

review all post-opening project evaluations (but we will monitor their findings in- the-round).

*We believe that this approach is not specific enough for major schemes and that the ORR should check that POPE for relevant similar major schemes has been used to influence the assumptions for the new scheme. Thus the POPE for Bedford Expressway A421 showed that no safety benefit had been achieved but one is still assumed for the balance of the Oxford Cambridge Expressway, and also a reduced achieved benefit in speed of travel. This would significantly improve the quality of the Business Cost Ratio.*

10.

# Monitoring Highways England's network investment ORR's approach

December 2016

## Monitoring the programme of major schemes

5.5 Our approach to monitoring the major schemes programme consists of:

- ☒ monitoring delivery against a clear baseline of schedule, scope and cost information, with any changes to the baseline controlled;
- ☒ reviewing delivery of the programme in-the-round;
- ☒ carrying out in-depth reviews of programme and project management on a sample basis.

*The above list lack a critically important reference to checking benefits and therefore viability of the project.*

5.6 Highways England sets out how it will meet its Investment Plan major scheme commitments in its Delivery Plan and its updates to the plan. We have worked with the company to make sure that it improves the transparency and detail of its baseline information for major schemes. This baseline information includes:

- ☒ dates for the key delivery milestones, to include, as a minimum, when schemes will start works and when schemes will open for traffic within the road period;
- ☒ the high level profile of expenditure for delivering the key capital investment programmes; and
- ☒ the scope of the schemes specified in the Investment Plan, and as agreed through the change control process.

5.7 Highways England has published updated information about its major scheme baseline in its Delivery Plan update for 2016-17.

5.8 We complement this baseline by monitoring against more disaggregated cost and schedule assumptions, to understand performance and future risk. These include:

- ☒ estimated outturn costs for each major scheme, both over the lifetime of the scheme and split by year for the road period; and
- ☒ three pre-construction milestones: start of pre-options, start of options and start of development.

*The above five bullet points in sections 5.6 and 5.8 do not provide the Highways Monitor with sufficient information to properly monitor Nationally Significant Infrastructure Project roads that are outside the normal consultation process and planning system. They are focussed on costs and timelines with a single reference to scope. There is no reference to benefits or to the wider PESTLE analysis of the context in which the new road is proposed. This lack of scrutiny has led to major shortcomings in the quality of the analysis supporting proposals, such as the Oxford Cambridge Expressway. This would appear to be partly due to the lack of scrutiny during the pre-options and options phases where Highways England has been permitted to employ NDAs to heavily restrict the*

*information available for scrutiny. As the local authorities who choose to sign NDAs may well be conflicted in their approach given their responsibility for economic development it is vital the little independent scrutiny that remains within the NDA envelope, particularly Highway Monitor, fully exercise their role. There have been around 15 road NSIPs in the last 5 years or so this additional focus on an average of 3 projects per year does not seem onerous but should yield dividends where the Oxford Cambridge Expressway is cancelled so far into its planning due to the shortcomings that should have been identified earlier.*

5.9 Monitoring Highways England against its baseline plan and disaggregated cost and schedule assumptions allows us to identify where costs and schedule are outturning differently to Highways England's plans. Where there are large deviations from plan we will carry out more detailed reviews (see below) to understand the causes, Highways England's actions, and potential lessons. We are also able to identify potential future issues by understanding pre-construction progress and monitoring Highways England's latest forecasts for milestone delivery and cost. The level of acceptable variation from plan will be established based on a combination of factors such as the actual variation to baseline costs, stages of development of the schemes and nature of risks to delivery.

5.10 In addition to progress against the milestones committed in the Delivery Plan and capital expenditure profile, we also monitor the scope of schemes, including some high level volumes of new infrastructure delivered by the major schemes, for example, number of lane kilometres delivered. This will provide transparency of what Highways England is delivering.

5.11 Any updates to the Delivery Plan or milestones are separately agreed between DfT and Highways England, with advice from ORR, through the formal change control process

## 17. Monitoring major scheme delivery in-the-round

5.12 Whilst we monitor some metrics for individual major schemes we do not primarily hold Highways England to account for delivery on a scheme-by-scheme basis. This is because in any large portfolio of capital investment it should be expected that:

- ☐ some schemes will cost more than originally estimated and some will cost less; and
- ☐ some schemes will be delivered earlier than planned and some will be delivered later.

5.13 A proportionate approach is therefore to focus on systemic issues by monitoring trends in the delivery of the major scheme programme of work. However, we recognise that the major schemes have the potential to have a material impact on road user experience and that there should be scrutiny of significant cost or schedule changes.

5.14 We therefore propose to review with Highways England and report publicly on:

- ☐ reasons for major scheme programme costs outturning differently to the baseline and any systemic issues – including monitoring the Cost Performance Indicator, which is the relationship between target and actual cost for work completed;
- ☐ the trends in milestone delivery for the major scheme programme and any systemic issues – including monitoring the Schedule Performance Indicator, which is the relationship between work planned and actually completed;
- ☐ the reasons for costs for an individual scheme outturning significantly more than published estimates;

- ☐ the reasons for an individual scheme missing its published start of works or open for traffic milestone;

- ☐ material impacts of major scheme delivery on road users and how Highways England is managing these; and

- ☐ post-opening project evaluation findings in-the-round.

17 Under the terms of Highways England's licence the Secretary of State can formally request the company to consider changes to the RIS. Likewise where Highways England wishes to make changes, the proposal can be considered under the formal change control process and determined by the Secretary of State.

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5.15 For all of the above we will review with Highways England the lessons learned and management actions taken. In-depth reviews of major schemes

5.16 To complement our monitoring of the major scheme programme we carry out in-depth reviews on a sample basis, or where specific issues are identified, for example through Highways England's exception reporting. These reviews will assess Highways England's own process for monitoring and reporting risks to delivery, and identify any potential concerns. The selection of schemes will consider an appropriate mix of scheme types and stages of delivery.

5.17 For completed schemes in the sample, our in-depth reviews cover post-opening project evaluation findings, understanding how the schemes have impacted on network performance and delivered better outcomes for road users - such as safety, user satisfaction or environmental outcomes. We review how lessons from completed schemes feed into the appraisal, development and delivery of future schemes. The major scheme data we collect

5.18 Highways England submits high level summaries of capital expenditure and baseline milestones on a monthly basis. We use this to identify any significant emerging risks.

5.19 The company submits summaries of its internal reporting of major scheme progress to us on a quarterly basis. This includes reporting on:

- ☐ the latest understanding of value-for-money for each scheme (measured by the Benefit Cost Ratio);

- ☐ the latest actual and / or forecast milestone delivery dates;

- ☐ the latest actual and / or forecast scheme costs; and

- ☐ the reasons for variances from baselines.

5.20 We have separately agreed the more formal annual data submissions that Highways England will provide. This is set out in our Monitoring Reporting Templates and Guidelines 18. This reporting includes:

- ☐ actual progress against baseline milestones;

- ☐ actual major scheme expenditure by scheme;

- ☐ explanations of variances to baselines;

☐ Cost Performance Indicator and Schedule Performance Indicator;  
and

18 Monitoring reporting guidelines and templates:

<http://orr.gov.uk/publications/guidance/monitoring-reporting-guidelines-for-highways-england>

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☐ reporting of major scheme efficiencies.

5.21 We have regular engagement with Highways England to understand the data that we receive, including formally meeting to discuss capital delivery reporting on a quarterly basis.

What are the ring-fenced investment funds?

7.2 The ring-fenced funds as set out in the Investment Plan will allow Highways England to carry out improvement works beyond their business-as-usual activities. These will include retrofitting measures to improve the existing road network as well as maximising the opportunities offered by new road schemes to deliver additional improvements at the same time. Table 7.1 provides further details of the ring-fenced investment funds.

Table 7.1: Summary description of ring-fenced investment funds

Fund Budget (RP1)

Description

Environment

£225m

Improve environmental performance across carbon, noise, water, biodiversity, landscape and cultural heritage. The funding aims to deliver additional environmental benefits for new schemes, and will also allow for measures to retrofit the existing network to tackle current problems.

Air quality £75m

Target improvements in air quality, making real reductions in air pollution. Highways England will be developing in a range of projects to reduce pollution and ensure the air around the network is clean and healthy for our customers and neighbours.

Cycling, safety, and integration

£175m

Improve safety, increase provision for cyclists on and near the strategic road network, and enhance access for a variety of users, including pedestrians, horse riders and the disabled. This will involve both bespoke interventions and enhancements to new and existing schemes.

Innovation £120m

Fund created to allow the company to place a greater emphasis on the future technologies that will positively impact users and the network. It will involve a range of research, development, demonstration, and deployment activities.

Growth and housing £80m

Fund established to ensure that the company is sufficiently equipped and flexible to respond to future development opportunities, including those relating to housing and enterprise zones. This fund will be used to match-fund infrastructure to enable new developments.

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What should our monitoring achieve?

7.3 Our monitoring should provide stakeholders with transparency about how Highways England is prioritising use of these funds and the benefits being delivered. It should assess whether the company is delivering value for money from the funds.

Monitoring the ring-fenced funds

7.4 We propose to monitor Highways England's ring-fenced investment fund delivery using three approaches:  reviewing the governance of the funds;  reviewing delivery of the programme in-the-round, for example reviewing delivery against committed plans; and  carrying out in-depth reviews of a sample of schemes. Reviewing the governance of the funds

7.5 Highways England has been given ring-fenced investment funding to deliver targeted improvements and has discretion about what improvements are delivered and how they are prioritised. It is therefore important that the company has robust processes in place to develop programmes of work which deliver stakeholder priorities. It should be implementing a robust process for selecting, developing and delivering projects that meet the strategic objectives of each designated fund. Our monitoring will assess:

- the governance structure and processes in place;
- the robustness of the scheme selection and prioritisation process, for example how value for money is assessed;
- the robustness of programme management and investment controls in place, including the processes for risk identification and mitigation; and
- the processes for engaging stakeholders.

Reviewing delivery of the ring-fenced funds in-the-round

7.6 Highways England sets out its high-level expenditure plans for each ring-fenced fund in its Delivery Plan and its updates. It also, to varying degrees, sets out plans for specific deliverables (for

example named schemes being progressed) through these plans. We monitor the programme and high-level indicators of its delivery, including:

- ☐ expenditure against plans;

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- ☐ delivery against commitments in the company's strategies and plans (such as named schemes);

- ☐ number of schemes in development, delivered and reviewed; and

- ☐ quality and effectiveness of Highways England's stakeholder engagement.

Carrying out in-depth reviews of ring-fenced funds

7.7 We propose to carry out in-depth reviews of the management of the ring-fenced investment funds on a sample basis. This will include reviewing specific funds in greater detail where the review of governance and processes highlights concerns.

7.8 It will also include reviewing sample schemes within programmes to understand:

- ☐ the process for taking the schemes from inception to completion;

- ☐ how they have been identified and prioritised;

- ☐ how stakeholder contributions have been considered, including coordination with local and regional stakeholders;

- ☐ scheme costs and benefits;

- ☐ how they have been project managed;

- ☐ whether the output is aligned with the company's strategies, fund objectives and the initial scope, for example seeking evidence that the funds have delivered genuine additional work; and

- ☐ how fund schemes have been aligned with other capital programmes.

What are the strategic studies?

8.2 The strategic studies are required to investigate options on six key sections of the network:

Oxford to Cambridge Expressway;

What should our monitoring achieve?

8.3 Our monitoring should provide transparency about how the strategic studies are being progressed, how their outcomes are influencing the second road investment strategy and whether alternative options, including other transport modes, are being adequately considered.

8.5 Because DfT has significant oversight of these studies, we focus on high level monitoring and reporting of study progress, as informed by engagement with both DfT and Highways England

#### Reporting delivery of the strategic studies

8.6 Our reporting of the delivery of the strategic studies will include:

- ▣ reporting on governance and management of the studies;
- ▣ reporting on high-level progress and milestone delivery;
- ▣ reporting on whether there has been appropriate consideration of other modes and cross-modal options; and
- ▣ reporting on emerging findings and outcomes.

# Monitoring Highways England's network investment ORR's approach

December 2016

## Monitoring the programme of major schemes

*We have copied extracts from this document that are relevant to our experience around the Oxford Cambridge Expressway and used comments in italics to suggest improvements.*

*We assume that this document will be updated once RIS 2 is confirmed and we would welcome the opportunity to comment on the new version. However we have offered a number of suggestions below that we suggest could be incorporated in the new version at the drafting stage.*

5.5 Our approach to monitoring the major schemes programme consists of:

- ☐ monitoring delivery against a clear baseline of schedule, scope and cost information, with any changes to the baseline controlled;
- ☐ reviewing delivery of the programme in-the-round;
- ☐ carrying out in-depth reviews of programme and project management on a sample basis.

*The above list lacks a critically important reference to checking benefits and therefore viability of the project.*

5.6 Highways England sets out how it will meet its Investment Plan major scheme commitments in its Delivery Plan and its updates to the plan. We have worked with the company to make sure that it improves the transparency and detail of its baseline information for major schemes. This baseline information includes:

- ☐ dates for the key delivery milestones, to include, as a minimum, when schemes will start works and when schemes will open for traffic within the road period;
- ☐ the high level profile of expenditure for delivering the key capital investment programmes; and
- ☐ the scope of the schemes specified in the Investment Plan, and as agreed through the change control process.

5.7 Highways England has published updated information about its major scheme baseline in its Delivery Plan update for 2016-17.

5.8 We complement this baseline by monitoring against more disaggregated cost and schedule assumptions, to understand performance and future risk. These include:

- ☐ estimated outturn costs for each major scheme, both over the lifetime of the scheme and split by year for the road period; and
- ☐ three pre-construction milestones: start of pre-options, start of options and start of development.

*The above five bullet points in sections 5.6 and 5.8 do not provide the Highways Monitor with sufficient information to properly monitor Nationally Significant Infrastructure Project roads that are outside the normal consultation process and planning system. They are focussed on costs and timelines with a single reference to scope. There is no reference to benefits or to the wider PESTLE*

*analysis of the context in which the new road is proposed. This lack of scrutiny has led to major shortcomings in the quality of the analysis supporting proposals, such as the Oxford Cambridge Expressway. This would appear to be partly due to the lack of scrutiny during the pre-options and options phases where Highways England has been permitted to employ NDAs to heavily restrict the information available for scrutiny. As the local authorities who choose to sign NDAs may well be conflicted in their approach given their responsibility for economic development it is vital the little independent scrutiny that remains within the NDA envelope, particularly Highway Monitor, fully exercise their role. There have been around 15 road NSIPs in the last 5 years or so this additional focus on an average of 3 projects per year does not seem onerous but should yield dividends where the Oxford Cambridge Expressway is cancelled so far into its planning due to the shortcomings that should have been identified earlier.*

## In-depth reviews of major schemes

5.16 To complement our monitoring of the major scheme programme we carry out in- depth reviews on a sample basis, or where specific issues are identified, for example through Highways England's exception reporting. These reviews will assess Highways England's own process for monitoring and reporting risks to delivery, and identify any potential concerns. The selection of schemes will consider an appropriate mix of scheme types and stages of delivery.

*We believe that the Highways Monitor sample should include all Nationally Significant Infrastructure Project roads as they are outside the normal consultation process and planning system. It is important not just to focus on costs, scope and timelines. There also needs to be a full understanding of the benefits and to the wider PESTLE analysis of the context in which the new road is proposed. This lack of scrutiny has led to major shortcomings in the quality of the analysis supporting proposals, such as the Oxford Cambridge Expressway. This would appear to be partly due to the lack of scrutiny during the pre-options and options phases where Highways England has been permitted to employ NDAs to heavily restrict the information available for scrutiny. As the local authorities who choose to sign NDAs may well be conflicted in their approach given their responsibility for economic development it is vital the little independent scrutiny that remains within the NDA envelope, particularly Highway Monitor, fully exercise their role. There have been around 15 road NSIPs in the last 5 years or so this additional focus on an average of 3 projects per year does not seem onerous but should yield dividends where the Oxford Cambridge Expressway is cancelled so far into its planning due to the shortcomings that should have been identified earlier.*

*We also believe that Highways Monitor should conduct a review of the POPE process as Highways England tends to overstate the partial achievement of flawed assessments, as argued in*

*<http://www.transportforqualityoflife.com/u/files/170320%20The%20Impact%20of%20Road%20Projects%20in%20England%20FINAL1.pdf> which provides a systematic analysis of POPE's deficiencies.*

## What are the ring-fenced investment funds?

7.2 The ring-fenced funds as set out in the Investment Plan will allow Highways England to carry out improvement works beyond their business-as-usual activities. These will include retrofitting measures to improve the existing road network as well as maximising the opportunities offered by new road schemes to deliver additional improvements at the same time. Table 7.1 provides further details of the ring-fenced investment funds.

**Table 7.1: Summary description of ring-fenced investment funds**

Fund Name	Fund Budget (RP1)	Description
<b>Environment</b>	£225m	Improve environmental performance across carbon, noise, water, biodiversity, landscape and cultural heritage. The funding aims to deliver additional environmental benefits for new schemes, and will also allow for measures to retrofit the existing network to tackle current problems.
<b>Air quality</b>	£75m	Target improvements in air quality, making real reductions in air pollution. Highways England will be developing in a range of projects to reduce pollution and ensure the air around the network is clean and healthy for our customers and neighbours.
<b>Cycling, safety, and integration</b>	£175m	Improve safety, increase provision for cyclists on and near the strategic road network, and enhance access for a variety of users, including pedestrians, horse riders and the disabled. This will involve both bespoke interventions and enhancements to new and existing schemes.
<b>Innovation</b>	£120m	Fund created to allow the company to place a greater emphasis on the future technologies that will positively impact users and the network. It will involve a range of research, development, demonstration, and deployment activities.
<b>Growth and housing</b>	£80m	Fund established to ensure that the company is sufficiently equipped and flexible to respond to future development opportunities, including those relating to new housing and enterprise zones. This fund will be used to match-fund infrastructure to enable new developments.

*The above list will obviously be updated once RIS 2 is issued, however we believe that it particularly important that funding is included in one of the above categories or a new category to address the issue of Community Severance as more new road schemes are inserted into a crowded landscape. The lack of mature up-to-date, standardised definition and set of sensitivity tests for community severance is a critical gap, as the definition in Design Manual for Roads and Bridges (1993) is one-dimensional and outdated. This must include the impact of severance on physical access and mobility (including cycle journeys), psychological health and well-being, social connectivity, and community cohesion of people in the surrounding areas and those who need to make trips along or across infrastructure and traffic. Funding should therefore be earmarked within these ring-fenced investment funds or elsewhere to update this 27 year old work.*

*It is also important that funds are identified to evaluate the DfT's new generic decision support tool, Early Assessment and Sifting Tool (EAST) Guidance (2019) as it is used in practice. Both of these areas should be considered for a academic research input rather than the usual selection of construction consultancies who will be conflicted by their large paymasters elsewhere. This wider about the lack of input from current academic research is on p4 of this UCL study: <https://www.ucl.ac.uk/transport/sites/transport/files/landscape-transport-research.pdf>.*

## What are the strategic studies?

8.2 The strategic studies are required to investigate options on six key sections of the network:

Oxford to Cambridge Expressway;

What should our monitoring achieve?

8.3 Our monitoring should provide transparency about how the strategic studies are being progressed, how their outcomes are influencing the second road investment strategy and whether alternative options, including other transport modes, are being adequately considered.

8.5 Because DfT has significant oversight of these studies, we focus on high level monitoring and reporting of study progress, as informed by engagement with both DfT and Highways England

Reporting delivery of the strategic studies

8.6 Our reporting of the delivery of the strategic studies will include:

- ☐ reporting on governance and management of the studies;
- ☐ reporting on high-level progress and milestone delivery;
- ☐ reporting on whether there has been appropriate consideration of other modes and cross-modal options; and
- ☐ reporting on emerging findings and outcomes.

*We believe that there should be separate bullet added to this list to cover stakeholder engagement which has been systematically woeful. For the same reasons of constraining local authorities with NDAs highlighted above independent scrutiny of this process is critical.*

*Please see the other attached documents for our views on where they have been significant shortfalls in the execution of the studies.*

## Response from RAC

Thanks for your email. On balance we thought it a little broad in focus for us to comment on but are keen to be involved in some of the key performance measurements output (such as road surface, response to incidents etc.) that will be forthcoming. In general, however, we agree with the proposals in the consultation document.

Best wishes,

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