

Smart Motorways Programme

M20 J3-5 Smart Motorway

Response to Statutory Instrument Consultation

The introduction of variable mandatory speed limits

August 2018

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Executive Summary

The M20 Junction 3 to 5 smart motorways project (the scheme) is part of Highways England's smart motorways programme (SMP). Smart motorway infrastructure helps to regulate traffic flow and improve throughput with variable speed limits, signals and signing. As part of the scheme, the hard shoulder will be converted into lane 1, adding further capacity.

The M20 J3 (West Malling) to J5 (Aylesford) provides the key links via Dover ports and Channel Tunnel to and from mainland Europe, as well as helping facilitate national, regional and local travel, regeneration and growth. The M20 also provides critical access via the M26/M25 to London, the airports of Heathrow and Gatwick and to the wider South-East, South-West and Midlands.

A consultation paper was issued to 133 consultees, and the consultation was open to public participation through the Highways England consultation website. The consultation encouraged representative organisations, businesses and the public affected by the proposed regulations, to register their views with Highways England.

The consultation period began 1 March 2018 and ended on 29 March 2018. This paper provides a summary of the consultation responses and details how they have been considered and taken forward. We received a total of 13 responses by the close of consultation period, and although a number of comments received are beyond the scope of the consultation, each one has been answered.

1. Introduction

1.1. Document structure

Section 1 provides background information about the M20 J3-5 smart motorway scheme and the proposed changes to legislation.

Section 2 details how the consultation on the proposed changes was carried out

Section 3 provides a summary of the responses to the consultation that were received, as well as Highways England's responses to the issues raised.

Section 4 summarises the outcome of the consultation and makes recommendations for next steps.

1.2. Purpose of this report

This document is intended to provide a summary of the responses received to the consultation on the introduction of variable mandatory speed limits (VMSL) on the M20 between junctions 3 and 5. The consultation, which was undertaken between 1 and 29 March 2018, provided an opportunity for the public and stakeholders, such as road user groups and other interested parties, to comment on the proposals. Highways England has considered the comments raised by consultees and this document summarises its response to those comments.

1.3. Background to the consultation

The M20 provides a key link via Dover ports and Channel Tunnel to and from mainland Europe, as well as helping facilitate national, regional and local travel, regeneration and growth. The M20 also provides critical access via the M26/M25 to London, the airports of Heathrow and Gatwick and to the wider South-East, South-West and Midlands. Traffic flows on the M20 start at approximately 55,000 vehicles per day from the M25, peaking as the route reaches Maidstone at 120,000 vehicles per day. The flows then decrease sharply to 50,000 – 60,000 vehicles per day east of Maidstone, towards Ashford and Folkestone. This indicates that the M20 around Maidstone also serves a key local access function.

The scheme is part of the Highways England programme to add capacity to the existing strategic road network to support economic growth and maintain mobility. It's expected that the smart motorways scheme will:

- Increase motorway capacity and reduce congestion
- Provide more reliable journey times for the customer
- Smooth traffic flows
- Reduce the severity of accidents
- Increase and improve the quality of information for the customer.

The use of VMSL is an essential element in achieving the objectives above. Through the introduction of technology, the aim is to make the best use of existing road space.

The proposed smart motorway will enable proactive management of the M20 carriageway, including slip roads and motorway to motorway intersections between junctions 3 and 5. It will also extend the existing VMSL to encompass the current hard shoulder between junction 4 and junction 5 including the junction realignments at junctions 4 and 5.

1.4. Legislative changes

Regulations have been proposed to be made under section 17(2) and (3) of the Road Traffic Regulation Act 1984 (“the 1984 Act”) for the implementation of VMSL for the M20 J3-5 smart motorway all-lane running scheme. The proposed Regulations will restrict drivers from driving within the area of the smart motorways scheme at a speed exceeding that displayed on the speed limit signs, or the national speed limit where no other speed limit sign is displayed.

The relevant legislative power in the 1984 Act permits the making of Regulations that regulate the manner in which, and the conditions subject to which, motorways may be used by traffic authorised to use such motorways.

Within the M20 J3-5 smart motorway all lane running scheme it will be an offence to use a motorway in contravention of Regulations applying to the scheme made under section 17(2) of the 1984 Act.

2. Conducting the consultation

2.1. What the consultation was about

The consultation provided the opportunity for interested parties to comment on the proposal to introduce a statutory instrument to implement variable mandatory speed limits on the M20 between junctions 3 and 5.

2.2. How the consultation was carried out

The Statutory Instrument Consultation Document for the Scheme was sent to the 133 consultees listed in Appendix C of the consultation document.

The consultation was also open to public participation through the Highways England consultation hub at: <https://highwaysengland.citizenspace.com/he/m20-junction-3-to-5-smart-motorway/>.

We encouraged representative organisations, businesses and the general public to register their views. The 4-week consultation period commenced on 1 March 2018 and closed on 29 March 2018.

In addition to the online survey, respondents were also able to send their responses via email or post to the Highways England project manager as follows:

Kaluba Kampandila

Project Manager

Highways England

5 St. Phillips Place

Birmingham

B3 2PW

Email: M20.J3-5Smart@highwaysengland.co.uk

2.3. Government consultation principles

The consultation was carried out in accordance with the Government's Consultation Principles, which are available at:

<https://www.gov.uk/government/publications/consultation-principles-guidance>

If you have reason to believe this consultation did not comply with these Consultation Principles, please write to our consultation co-ordinator at the address below, setting out the areas where you believe this consultation did not meet the principles:

Andy Johnson

Highways England

The Cube

199 Wharfside Street

Birmingham

B1 1RN

Email: andy.johnson@highwaysengland.co.uk

3. Responses to the consultation and Highways England's response

3.1. Summary of responses

We received a total of 13 responses to the consultation.

Eight of the responses were from members of the public, one was from a local business, one was anonymous and three were from the following local government organisations: Boxley Parish Council, Kent Downs Area of Outstanding Natural Beauty and Maidstone Borough Council.

Whilst this number of responses is small, it is similar to the number of responses received for other consultations on variable mandatory speed limits.

Support for the scheme was expressed by seven of the 13 responses, with five saying that they were opposed to it and one not expressing an opinion. This section has been structured to highlight each of the key themes that emerged from the consultee responses.

The questionnaire asked respondents to answer three questions with space provided for comments on each. The questions and an analysis of the responses are provided below.

3.2. Question 1: Improvements to travelling conditions

Q1. Do you consider that the proposal to introduce variable mandatory speed limits on the M20 between junctions 3 and 5 will lead to an improvement in travelling conditions on this section of motorway?

Those who expressed support for variable mandatory speed limits said that they hoped they would improve the flow of traffic on this section of the M20.

“There is severe congestion along this stretch of motorway in the peaks”.

However, one response, despite supporting the scheme, said that they doubted the variable speed limits would improve the situation during the morning and evening peaks:

“The caveat being that it will only help during non-rush hour. The current condition of the motorway, particularly in the morning, is appalling, so the limit will not help at this time.”

Highways England Response

Whilst it is true that speed limits are introduced while the motorway is most congested, this has been shown to have benefits on journey times rather than cause traffic to slow down.

Monitoring of the all-lane running smart motorways on the M25 (J5-7, J23-27) over their first 12 months has shown us some positive trends about how they are performing. On these smart motorways, traffic flows have increased and commuters on average are saving time on their journeys and that journey time reliability has improved. There is now far more certainty about when they will get to their destination.

3.3. Question 2: Concerns about the introduction of variable mandatory speed limits

Q2. Are there any aspects of the proposal to introduce variable mandatory speed limits on the M20 between junctions 3 and 5 which give you concerns?

Drivers' risky reactions to variable speed limits

Some responses were opposed to variable mandatory speed limits because they felt drivers either ignored them or responded to them too quickly by slamming on their brakes. In both cases, the responses felt this created a dangerous situation on the motorway:

"I've yet to see strong evidence on any other motorway which uses variable speed limits that the traffic flows better and that there are fewer accidents. Whenever I have driven on motorways with variable speed limits I've experienced other cars slamming on their breaks as soon as the speed changes on the overhead gantry causing the cars behind them to also brake. It then creates the 'traffic light effect' for hours afterwards. They do this for fear of being caught by a speed camera at the next gantry. I consider this to actually be very dangerous and possibly accounts for some of the motorway accidents!"

Another respondent said they believed the variable limits were distracting for drivers:

"In my long experience of so-called intelligent motorway systems I consider them to be at best a waste of time, money and effort and at worst dangerous diversion of drivers attention."

Highways England Response

Whilst we know that the concept of smart motorways is not fully understood yet by all drivers, concerns about erratic driving behaviour is not borne out by our review of traffic performance on all lane running (ALR) smart motorways. The M25 J5-7 Second Year Evaluation report found that traffic flows on the widened ALR section between J5 and J6 have increased 17% clockwise and 7% anticlockwise (between 3,000 and 10,000 vehicles per day). These increases in flow are above the national trends. J6 to J7, which has not had an increase in number of lanes, had an increase in flow of 5% which is in line with national trends. The results demonstrate that significant capacity improvements have been achieved, supporting efficient movement of goods and services on this key section of the SRN; in addition that there is still spare capacity to support future growth.

In addition, evidence from other ALR smart motorway schemes suggest that safety is improved, with a reduction in collisions as a result of the scheme. The M25 J5-7 scheme has seen a 27% reduction in collisions compared to the three years before opening.

The problem of no visible reason for variable speed limits

Some respondents who supported the principle of smart motorways, questioned the reasons for applying variable speed limits, saying that if there was no visible problem, compliance would be a problem.

“The current variable speed limit is often invoked for no apparent reason. Then drivers will ignore it. It needs to be realistic - and enforced with cameras.”

“Very often limits when imposed dynamically bear no relation to what is actually happening on the road at the actual time and often are dangerous.”

Highways England Response

Variable speed limits are applied for a number of reasons: because of an incident ahead on the road or because the technology that measures number and speed of cars has detected that the road is starting to become congested. In both cases, variable speed limits are applied well ahead of the cause, to manage the flow of traffic and prevent stop start conditions. For this reason, the original cause of the variable speed limit being applied may well have been resolved by the time you pass through that section of the road.

Invest in road maintenance instead of smart motorways

One respondent believed that the budget for this smart motorway could have been spent more effectively on motorway and road maintenance:

“I strongly feel that the £90+million that is being spent on the variable mandatory speed limits could have been put to better use, such as repairing the shocking states of many motorways and local roads.”

Highways England Response

The scheme will address the number one of the top 10 least reliable journey-time locations on the Route (1 April 2012 to 31 March 2013). The M20 between M20 J2 and M20 J3 has the lowest journey time reliability measurement of 65.9%. In the AM Peak the M20 suffers from substantially reduced speeds westbound between Junctions 5 and 4. In the PM peak speeds are substantially reduced eastbound between Junctions 3 and 5.

Congestion such as this is a drain on the local economy, reducing productivity, reducing the appeal of establishing and growing businesses in the area and so on. Before a scheme such as this is approved, it has to develop an economic case and provide a positive benefit cost ratio (BCR).

The economic case assesses the economic, environmental, social and public accounts impacts of the proposed scheme to fulfil Treasury’s requirements for appraisal and demonstrating value for money in the use of taxpayers’ money. An

economic assessment is undertaken in accordance with the requirements of Transport Analysis Guidance. Overall, schemes are assessed against relevant government objectives, which include:

- to provide good value for money in relation to impacts on public accounts;
- to improve transport economic efficiency for business users and transport providers;
- to improve transport economic efficiency for consumer users; and
- to improve reliability.

The current case has a BCR of 3.37 and is expected to deliver a high Value for Money. This is mainly driven by journey time savings and reliability.

Ban HGVs during rush hour

Another response suggested that during rush hour HGVs should be banned to help improve the flow of traffic:

“During the period of roadworks, a rush-hour ban on HGVs would improve traffic flow immensely.”

Highways England Response

A ban on HGVs at rush hour would have the following impacts which would make its implementation unwelcome to businesses, residents and consumers:

- land or road space would have to be found to park the HGVs if they are not permitted to travel during peak times;
- the cost of transporting goods would increase, a cost that would likely lead to an increase in the cost of goods to consumers;
- it could lead to longer periods of congestion, as the large numbers of HGVs held back during peak times would try to join the motorway network at the same time.

Views on Speed Limits

Several respondents gave views on appropriate speed limits that should be applied. One felt that the 40mph limit was too liberally applied, resulting in congestion, and another response said that in bad weather conditions, a 30mph or less limit should be applied:

“Like all schemes of this sort to be successful they must be operated sensibly - in my experience they are not and are in some circumstances positively dangerous.”

“Whenever you apply the 40mph variable speed limit on any of our motorways you CAUSE traffic jams. If you applied a 60mph limit traffic would slow down but still flow, but you are obsessed with 40mph limit. YOUR AGENCY is the biggest cause of problems on our motorways, and you are meant to be in charge.”

“Minimum variable speed of 30 mph which should be reduced when there is bad weather.”

One respondent wanted reassurance that speed limits would be applied carefully and not create unsafe acceleration and deceleration:

“As long as there is a gradual reduction in speed i.e. don’t slow traffic from 70 at one camera to 40 at the next then back to 70. Each gantry needs to reduce speeds up or down by 10mph.”

Highways England Response

Highways England wants to ensure that what drivers see also feels relevant to the traffic conditions, so we've improved the way we set message signs and signals on smart motorways and have started a comprehensive review of how variable speed limits are set, including the amount of time they are visible to drivers.

Our initial analysis of actual traffic flows and changing the algorithms has already reduced the amount of time variable speed limits are on by 200 hours per week across the network.

3.4. Question 3: Any other comments

Q3. Are there any additional comments you would like to make about the proposal to introduce variable mandatory speed limits on the M20 between junctions 3 and 5?

Managing traffic flow during construction

Two respondents raised the issue of how road works would be managed during construction. One believed that there should be a ban on HGVs during peak travel times (see section 3.3). The other feared that many people would flout the reduced speed limit through the roadworks, particularly if they couldn't see workers in the road.

“My primary concern is how the roadworks will be managed. I have used this section of motorway for numerous years. With this said, when roadworks have taken place in the past on this area the speed has been limited to 40mph to protect workers understandably. The problem is twofold. Firstly, when so few people abide by this and it becomes dangerous to actually be going 40mph. And lastly this is compounded by no workers being there at that time.”

Highways England Response

Roads are by nature long linear workplaces. To a road user travelling along coned-off stretches of road, it may appear that work is only taking place on a small section of the road, or at only one end. However, as vehicles pass, workers may be moving steadily along the coned-off lane, and some staff will be on breaks, and others working in close proximity to machinery and live traffic; it is essential that they have appropriate rest periods, for their own safety and that of road users.

Reduced speed limits are put in place for the safety of all road users, and not solely to protect road workers. Even during breaks between works, roadwork's sites can be dangerous places. The driving environment around roadworks is likely to be very

different from normal. There may be changes to the normal standard of carriageway, such as lane restrictions or contra-flow running, as well as works vehicles entering or leaving the site. Additionally, excavations, works vehicles and equipment can pose additional risks, and the safety of road users is always our primary consideration.

Safety concerns of smart motorways

Two respondents commented on the safety aspect of smart motorways, each with different points of view.

One member of the public said they were concerned about the absence of a hard shoulder and that this would mean cars that broke down would be vulnerable in a live lane.

“I am also concerned that the so called 'smart motorway' means that there will no longer be a hard shoulder for broken down vehicles. This is also very dangerous as the cars are stuck on the actual motorway. I am fearful that new 'smart' motorways are potentially more dangerous.”

In contrast, another member of the public who described himself as a disabled wheelchair accessible vehicle (WAV) driver said they approved of smart motorways because of their safety and ability to relieve congestion.

“It will allow safety first of all and also allow free flowing traffic even at different speeds.”

Highways England Response

Smart motorways with a dynamic hard shoulder have been in operation in England since 2006 and have demonstrated that the hard shoulder can safely be used as an additional traffic lane, by providing emergency areas and using traffic monitoring and signalling technology to create a controlled environment. In 2014, we used the experience gained from safely operating these sections of motorway to produce an improved design known as ‘all-lane running’, which is the current standard for new smart motorways. This involves permanent conversion of the hard shoulder to a running lane, as well as fewer gantries and greater use of verge-mounted signals to present information to drivers in a simpler way.

It is important to note that the hard shoulder does not provide a safe place to stop; 8% of fatal motorway accidents take place there. Evidence shows that most hard shoulder stops are not connected with a breakdown, and involve drivers exposing themselves to unnecessary risk; we also know that most breakdowns are not caused by faults which require an immediate stop. All-lane running eliminates non-emergency hard shoulder stops, while providing a place for drivers to stop away from the carriageway in an emergency. Emergency areas are provided at regular intervals, and we advise drivers to stop in one of these in the case of an emergency such as a critical vehicle fault, or if the situation does not require an immediate stop, to leave the motorway at the next junction or service area. We are currently trialling a range of measures to make emergency areas more visible, including orange surfacing and improved countdown signing showing the distance to the next emergency area.

The all-lane running design minimises the use of nearside barrier where it is safe to do this, allowing the verge to be used as a 'soft shoulder' if necessary. If a driver is unable to reach a place of safety, the electronic signals can be used to close lanes, display warning messages and slow down the approaching traffic, providing protection which is not available on a high-speed dual carriageway or most standard motorways. We have also recently developed a radar-based stationary vehicle detection system, which will allow signs and signals to be set more quickly in response to a breakdown.

Evidence from other ALR smart motorway schemes suggest that safety is improved, with a reduction in collisions as a result of the scheme. The M25 J5-7 scheme has seen a 27% reduction in collisions compared to the three years before opening. More information on the safety performance of this scheme can be found here: <https://www.gov.uk/government/publications/m25-junction-5-to-7-second-year-evaluation-report>

Noise and air quality impacts

One member of the public respondent said that their main concern about the scheme was their fear that it would increase noise and reduce air quality:

"The increased noise and pollution levels to residence who's (sic) gardens back on to the M20."

Two local government respondents said in their responses that they believed the scheme would improve air quality by reducing the current levels of congestion:

"The reduction in congestion resulting from the scheme will also have environmental benefits. High levels of congestion result in poor air quality. The Maidstone Urban Area has been identified as an Air Quality Management Area due to the level of congestion. Therefore Maidstone Borough Council has a commitment to addressing air quality within the Maidstone Borough Local Plan and will support measures which seek to improve air quality."

"This is a very bad stretch of motorway that experiences delays every day and any improvement with subsequent improvement in air quality for the surrounding area would be welcome."

Highways England Response

The impact of the scheme on local air quality is influenced by both the change in speed and the change in traffic flow with the relationship between speed and emissions varying depending on vehicle type. For motorway traffic, the highest emissions occur at the lowest average speeds when the road is congested. Speed restrictions can help improve air quality through a smoothing of traffic flow, with a reduction in congestion and associated acceleration and braking. The M20 scheme includes the application of variable speed limits, which react to road conditions to ease congestion, balancing some emissions from the increase in traffic flow. The air quality assessment for the Scheme found that there were no exceedances of national air quality objectives at sensitive locations and changes to local air quality with the scheme were found not to be significant. More information on this can be found in the scheme's Environmental Study Report on the scheme website:

<https://highwaysengland.co.uk/projects/m20-junctions-3-to-5-smart-motorway/>

3.5. Other issues raised

Consultation before the scheme

One respondent asked about the approach to public consultation for this scheme:

“Why were residents not given option to say no to this project?”

Why were residents not given option to have house purchased by government as quality of live (life) will be affected?”

Highways England Response

As the scheme is unlikely to have any significant environmental or air quality impacts, formal consultation was not a statutory requirement. We have however involved local people and other interested parties to understand the impacts the scheme may have on them and address any concerns that they may have. As we move into construction we will continue to listen to local concerns and adapt our work where possible. That said, all lane running smart motorways are currently approved Government policy for tackling congestion and any complaints about that policy should be directed to the Department for Transport.

Properties are only purchased when there is a proven case of blight, such as bringing a new road significantly closer to an existing property. As we are working within the highway boundary and our environmental studies so far indicate that air quality and noise impacts are not significant, we do not believe anyone will be entitled to compensation. Details on our compensation policies are available on the Highways England website: <https://www.gov.uk/government/publications/your-property-and-blight>

Contribution to local growth plans

Maidstone Borough Council (MBC) referred to the area’s growth plan for new homes and employment in its response and emphasised the contribution it believed the scheme would make to these local growth ambitions:

“Improvements to the highways network are fundamental to the delivery of growth outlined in the Maidstone Borough Local Plan (MBLP). The MBLP will provide 17,660 dwellings together with 14,394 jobs. Such development will impact on the transport network and therefore management and mitigation is required. MBLP Policy SP23 Sustainable transport outlines that, through partnership working, the Council will

- Ensure the transport system supports future growth and facilitates economic prosperity*
- Improve highway network capacity and functions at key locations and junctions*

MBC note that among the benefits of introducing variable mandatory speed limits between Junctions 3 and 5 is a reduction in congestion and increased capacity,

which in turn reduces the cost of economic delay. This reflects the requirements of Policy SP23.

The 20/20 Business Park is identified under MBLP Policy SP22 as an Economic Development Area. The site has direct access to M20 Junction 5. Economic Development Areas (EDAs) are protected and should be retained to support and improve the borough's economy. It is important therefore that these EDAs remain easily accessible. The implementation of VMSL will reduce congestion and increase capacity therefore contributing to the economic prosperity of the borough.

The Maidstone Integrated Transport Strategy (ITS) provides a detailed programme of interventions to support future growth as outlined in the MBLP. In order to meet a series of objectives and strategic priorities, the ITS provides action plans. One of those is H1 – Targeted implementation of highway improvements at key strategic locations to relieve congestion and to aid public transport. Such key locations have been identified in the Infrastructure Delivery Plan and include improvements to the roundabout at Junction 5. However, additional measures which seek to reduce congestion and contribute to economic prosperity and positively impact on air quality, such the WMSL proposal, is also welcomed.

Overall, the introduction of variable mandatory speed limits is expected to an improvement in travelling conditions and therefore align with MBLP proposals.”

Highways England Response

Highways England takes into account local growth plans when reviewing the economic case for a smart motorway. The increased capacity provided for by this all lane running scheme combined with the improved reliability of journey times are important to Kent to help it achieve its growth plans for the region.

Complying with guidance for developments around areas of outstanding natural beauty

The Kent Downs Area of Outstanding Natural Beauty (AONB) provided a comprehensive response to the consultation, highlighting its concerns that the scheme should do its utmost to comply with guidance set out for developments in and around areas of outstanding natural beauty.

“Junctions 3 and 4 of the M20 lie partially within the Kent Downs AONB and the section of motorway between these two junctions forms the southern boundary of the AONB. It is advised that the works will include, amongst other things, new gantries, NEW Advanced Motorway Indicators and new emergency refuge areas, all of which have the potential to impact on the Kent Downs AONB.

AONBs are a nationally protected landscape that are afforded the same protection in planning terms as National Parks. Public bodies and Statutory Undertakers, including Highways England, are bound by a ‘Duty of Regard’ in respect of carrying out their activities that impact on AONBs. This is set out at Section 85 of the Countryside and Rights of Way Act 2000 (CRoW Act) and states:

“In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty, a relevant authority shall have regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.”

The Countryside and Rights of Way Act 2000 also sets out a requirement for a Management Plan to be prepared and published for AONBs. The Kent Downs AONB Management Plan 2014 - 2019 sets out the aims, policies and actions for the conservation, enhancement and management of the AONB. Compliance with policies of the Management Plan assists in helping to demonstrate that public bodies have complied with their Duty of Regard. The following Management Plan policies are considered particularly relevant to proposals for the M20 where it runs through, or adjacent to the AONB:

SD1 The need to conserve and enhance the natural beauty of the Kent Downs AONB is recognised as the primary purpose of the designation and given the highest level of protection within the statutory and other appropriate planning and development strategies and development control decisions.

SD2 The local character, qualities and distinctiveness of the Kent Downs AONB will be conserved and enhanced in the design, scale, setting and materials of new development, redevelopment and infrastructure and will be pursued through the application of appropriate design guidance and position statements which are adopted as components of the AONB Management Plan.

SD7 To retain and improve tranquillity, including the experience of dark skies at night, careful design and the use of new technologies should be used. New developments and highways infrastructure which negatively impact on the local tranquillity of the Kent Downs AONB will be opposed unless they can be satisfactorily mitigated.

SD8 Proposals which negatively impact on the distinctive landform, landscape character, special characteristics and qualities, the setting and views to and from the AONB will be opposed unless they can be satisfactorily mitigated.

SD10 Positive measures to mitigate the negative impact of infrastructure and growth on the natural beauty and amenity of the AONB will be supported.

SD11 Where it is decided that development will take place that will have a negative impact on landscape character, characteristics and qualities of the Kent Downs AONB or its setting, mitigation measures appropriate to the national importance of the Kent Downs landscape will be identified, pursued, implemented and maintained. The removal or mitigation of identified landscape detractors will be pursued.

SD12 Transport and infrastructure schemes are expected to avoid the Kent Downs AONB as far as practicable. Essential developments will be expected to fit unobtrusively into the landscape, respect landscape character, be mitigated by sympathetic landscape and design measures and provide environmental compensation by benefits to natural beauty elsewhere in the AONB.

The Management Plan can be viewed on the Kent Downs AONB website at:

<http://www.kentdowns.org.uk/guidance-management-and-advice/management-plan>

Although it is acknowledged that much of the motorway between Junctions 3 and 4 lies just outside of Kent Downs AONB boundary, the proximity of it to the AONB boundary means that works to the motorway in this location have the potential to impact on the setting of the Kent Downs AONB. The importance of the setting of the AONB is recognised in the Kent Downs AONB Management Plan. The Management Plan advises that the weight to be afforded to setting issues will depend on the significance of the impact with matters such as the size of the proposals, their distance and incompatibility with their surroundings likely to affect impact.

The NPPG provides further amplification on setting. At para 003 Reference ID: 8-003-20140306 reference is made to the need to comply with the Duty of Regard under Section 85 of the CRoW Act 2000 (that relevant authorities shall have regard to the purposes of AONB designation in exercising or performing any functions in relation to, or so as to affect land in AONBs). It is confirmed that this duty is relevant in considering development proposals that are situated outside of AONB boundaries but which might have an impact on the setting of, and implementation of the statutory purposes, of these areas.

*In order to ensure compliance with the Duty of Regard, it is imperative that by using the best available technologies and careful design, the impact of the highways works on the AONB landscape and its qualities should be lessened as a result of the works, rather than worsened. In this regard, **Gantries should be located in the least intrusive location** in relation to views from the AONB. If resurfacing is proposed we would like to see the use of **Low Noise Surfacing** to ensure tranquility in this part of the AONB. Much of this section of the M20 is **unlit and** it is of fundamental importance to the Kent Downs AONB Unit that this remains the case. We would wish to ensure that any disruption or damage to existing roadside planting is limited and where it is unavoidable that the **landscaping is restored and enhanced**; we would expect new planting to be undertaken to augment and **repair any gaps/losses that have occurred** over the years and a review of the landscaping of this section of the M20 should be undertaken to ensure that it reflects the high standards expected within the AONB, a nationally protected landscape. The Kent Downs AONB Landscape Design Handbook (at page 26) provides advice regarding the use of indigenous species appropriate to the landscape character area which this section of the Motorway passes through/lies adjacent to (The Medway Landscape Character Area):
http://www.kentdowns.org.uk/uploads/documents/landscape_design_principles.pdf*

Highways England Response

The high sensitivity and national significance of the Kent Downs AONB has been acknowledged throughout the design and assessment process, and impacts on the Kent Downs AONB have been considered in the Environmental Study Report (ESR). Throughout the whole Scheme, including alongside the AONB, vegetation would only be removed where essential to construct the proposed scheme and to allow for sight lines and safety requirements. Replacement native planting would be incorporated where possible within the highway boundary alongside the AONB, to help screen the M20 from the designated landscape.

A full reassessment of the scheme is not undertaken and the ESR is not updated at the detailed design stage, however an Evaluation of Change Register (ECR) is produced to evaluate any significant changes to the previous assessment. Whilst the ECR identified many changes, as would be expected through the detailed design process, none were identified that change the conclusions of the earlier ESR. The areas of site clearance are broadly similar to those that were assessed in the ESR, with the ESR site clearance areas being slightly larger than the detailed design as this was based on a worst case scenario before the design was refined. Gantries, signs and emergency laybys are in broadly the same locations also. The majority of the widening is along the existing motorway verge with the detailed design retaining more vegetation along the boundary with the AONB than the design assessed in the ESR. Where practicable it is proposed to replant with native species and, due to the European Species Licence requirements for dormouse mitigation, some areas of enhancement planting have been added to improve connectivity through the transport corridor and to adjacent areas. Whilst not their primary purpose, these would also have landscape and visual benefits in the longer term where adjacent to the AONB.

4. Summary and recommendations

4.1. Summary

Every response that we received to the consultation on variable mandatory speed limits (VMSL) on the M20 junction 3 to 5 which provided contact details will receive a reply with the intent to address people's concerns regarding the scheme and to answer any queries, even those that were not directly related to VMSL.

Responses to the consultation showed a broad level of support for the implementation of VMSL on this scheme. Where concerns were raised, Highways England has responded to these. A number of comments made were not within the scope of the consultation, as they raised queries about the wider policy of smart motorways rather than the implementation of VMSL for this scheme. Information provided from other sections of the network VMSL is already in use demonstrate that the introduction of the technology has not caused any significant incident and VMSL is considered safe and effective.

4.2. Recommendations

The findings of the VMSL consultation lead us to conclude that progressing with the introduction of Variable Mandatory Speed Limits between junctions 3 and 5 of the M20 as a part of the smart motorway scheme is appropriate for this scheme.

We therefore recommend that the Secretary of State proceeds with the making of Regulations in order to implement VMSL for this scheme.