INTRODUCTION

1. This circular explains how the Highways Agency (the Agency), on behalf of the Secretary of State for Transport, will participate in all stages of the planning process with Government Offices, regional and local planning authorities, local highway/transport authorities, public transport providers and developers to ensure national and regional aims and objectives can be aligned and met. This circular:

   • sets out how the Highways Agency will take part in the development of Regional Spatial Strategies (RSSs) and Local Development Frameworks (LDFs) from the earliest stages;

   • encourages the Agency and Regional Planning Bodies (RPBs) and Local Planning Authorities (LPAs) to work together to ensure effective participation in the preparation of regional and local sustainable development policy;

   • sets out how the Agency will deal with planning applications.

2. It replaces the guidance in Circular 04/2001, Control of Development affecting Trunk Roads and Agreements with Developers under Section 278 of The Highways Act 1980 in relation to the control of development affecting strategic roads. Guidance on agreements with developers under s. 278 of the Highways Act can be found in Guidance on Agreements with the Secretary of State for Transport under the Highways Act 1980.

3. This circular is applicable to the whole strategic road network in England, including those roads managed by the Design, Build, Finance and Operate (DBFO) companies.

4. The efficient movement of people and goods on the strategic road network has a key part to play in supporting the economy. The Agency, on behalf of the Secretary of State for Transport, is responsible for managing and operating a safe and efficient strategic road network in England. Amongst its activities, the Agency is responsible for
considering the potential impact on the network of proposals for new developments. Part of this remit is to enable the network to support the economic viability and sustainable growth of regions.

5. In carrying out this role, the Agency will work co-operatively within the framework of the Government's policies for planning, growth areas, regeneration, integrated transport and sustainability. Spatial planning has a key role to play in delivering all these policies. The Agency will engage proactively with Government Offices, regional and local planning authorities, local highway/transport authorities, public transport providers and developers to help achieve Government aims and objectives.

Policy background

6. The Government's policies for growth and regeneration depend on creating employment opportunities and encouraging the development of sustainable communities, including new housing developments, through the planning system. Most of these objectives and policies are delivered by encouraging the use and sustainable development of land, through the granting of planning permission. Regional and local planning authorities are required, under the RSS and LDF, to set out realistic objectives and policies for regional, sub-regional and local sustainable development. RSSs and most LDDs, under the LDF, are subject to mandatory sustainability appraisals, covering the full range of social, environmental and economic effects.

7. The successful delivery of growth and regeneration objectives in any development plan relies on the provision of infrastructure to ensure the foundations for successful developments. This provision needs to be planned on the basis of informed knowledge of what is likely to be practicable and affordable. This means that infrastructure providers, including the Agency, need to be involved in developing the plans that their infrastructure will support. The Agency is a key delivery partner in achieving the outcomes set out in the RSS and LDF. Involving the Agency early in the RSS and LDF process will improve the prospects of delivering realistic objectives and policies. The risk in not involving the Agency in developing policy frameworks is that, further down the line, specific planning proposals may emerge which the strategic road network is unable to support and may therefore be refused planning permission.

8. It is Government transport policy, wherever possible, to look for alternatives to building new roads, by reducing the impact of road users on each other and the environment, improving road performance through better network management and making smarter journey choices easier. Any strategic road capacity constraint on sustainable economic development should be identified at the RSS stage. Where appropriate, measures to overcome such constraints should be promoted through the Regional Transport Strategy (RTS), although the presumption should be to give preference, where possible, to solutions other than the provision of new road capacity.

Regional Spatial Strategies

9. RPBs (in London, the Mayor) are responsible for the revision, implementation and monitoring of the RSS (in London a Spatial Development Strategy).\(^1\) The RSS, which includes an integrated RTS, sets out the broad development strategy for a region for a

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\(^1\) Where the term ‘Regional Spatial Strategy’ (RSS) is used throughout this document, it should be read as referring, as well, to the Spatial Development Strategy in London.
15–20-year period. It includes strategic policies and proposals, including infrastructure proposals and management policies, governing the future distribution of regionally or sub-regionally significant activities and development. The RSS is part of the broader suite of tools for the delivery of the Government’s policies for regeneration, growth and sustainable communities.

10. The process for the production of RSSs is set out in Planning Policy Statement 11: Regional Spatial Strategies (PPS11). This part of the circular sets out the role of the Agency in regional planning and describes how it will contribute to the processes for developing the RSS.

The Agency’s role in developing Regional Spatial Strategies

11. Whilst not a statutory consultee in the RSS process, the Agency will participate actively to help to produce a coherent strategy, allowing regional and local developments which are in accordance with the RSS to be taken forward with greater certainty.

12. The Agency contributes to the revision of the RSS, including the integrated RTS, by advising on the ability of the strategic road network to support proposed land-use policies and proposals. This includes evaluating the impact of strategies on roads performance and also takes into account safety and environmental considerations. In preparing the RSS, the RPB should actively engage the Agency, in order to ensure it has the Agency’s input.

13. The Agency will:

- work with the RPB to contribute to the production of a deliverable RSS. This engagement should occur at an early stage, and continue throughout the RSS revision cycle;
- help to develop options and proposals in the draft RSS and to work out the capability of the strategic road network to support broader policy aims;
- provide advice and support for technical aspects of the strategies, such as traffic forecasting on the strategic road network or demand management; and
- provide advice, in broad terms, on the possible costs of options and proposals.

14. In assessing the interaction of the RSS proposals with the strategic road network, attention should be paid to the advice set out in Chapter 5 of the Guidance on Transport Assessment (published by the Department for Transport and the Department for Communities and Local Government).²

15. The Government’s programme of investment in the strategic road network in the regions will be informed by realistic programmes and priorities proposed in the RSS (with its integrated RTS), which the Government expect to be aligned with priorities included in other regional strategies, for example the Regional Economic Strategy.

16. The Agency will advise on the balance of risk to existing and future economic activity created by traffic congestion on the strategic road network. Under certain circumstances, RSSs (as approved and issued by the Secretary of State for Communities and Local Government) may include planning proposals which might increase traffic demands on the affected network above levels that would assure the efficient flow of traffic. In such circumstances, the RSS would need to make clear that development would be subject to mitigation measures agreed by the Agency being put in place to minimise the consequences on the strategic road network. Further information on this principle can be found in paragraphs 36–37 below.

17. The Agency will continue to treat safety on the network as a paramount concern.

**LOCAL DEVELOPMENT FRAMEWORKS**

18. The LDF sets out, in a portfolio, the Local Development Documents (LDDs) that collectively deliver the spatial planning strategy for an LPA’s area. These documents should generally conform with the strategies and policies set out in the RSS and describe in greater detail the spatial options in the locality covered by the Development Plan. The LDDs give greater certainty to developers over the nature and location of opportunities. Developers can expect that proposals made in accordance with the Development Plan will, in most cases, be granted approval, unless material considerations indicate otherwise.


**The Agency’s role in the preparation of Local Development Frameworks**

20. The Agency is a named consultee in the process for producing LDFs, including Local Development Documents (LDDs). LPAs should ensure that the Agency is involved from the pre-production stage of the LDDs and throughout the preparation process. This is consistent with PPS12 guidance, which provides for LPAs to engage at an early stage with stakeholders. It would be contrary to the aim of the current planning system to involve the Agency only at the late stage of statutory consultation. Involving the Agency in the plan preparation process will help to ensure the development of sustainable and coherent proposals. Failure to involve the Agency in developing LDD proposals runs the risk that plans will not sustainable and may not be capable of being supported by the strategic road network.

21. The Agency will offer advice and technical support that will guide the scale and location of proposals in relation to the strategic road network. The Agency will also provide guidance, for incorporation in the plan, on the scale and nature of improvements to the strategic road network and demand management measures – see paragraph 33 – (where such improvements and measures are required) that will be considered in order to facilitate development. This guidance will be relevant to both public and private sector investment decisions. It will remain important for the LPA to ensure that its proposals are evidence-based and deliverable. In assessing the interaction of the LDD proposals with the strategic road network, attention should be paid to the advice set out in Chapter 5 of the Guidance on Transport Assessment.
22. Where the Agency considers that a proposal in an LDD may not be deliverable, for example because it would require improvements to the strategic network that are not practicable or which may be unaffordable, it will provide a full and reasoned case to the relevant planning authority. The Agency would then work with other stakeholders to help ensure that deliverable LDDs can be prepared. When the Agency is considering new proposals or advising on their revision, its foremost concern will be safety on the strategic road network.

23. The Agency cannot be expected to cater for unconstrained traffic generated by new development proposals. Such growth would be unsustainable and would restrict opportunities for future development where available capacity is limited. Development should be promoted at sustainable locations, and the Agency will expect to see demand management measures incorporated in development proposals (see paragraph 33). The Agency will seek to engage with LPAs and Local Highway Authorities in order to integrate demand management between the strategic and local road networks and the development site itself.

THE AGENCY AND PLANNING APPLICATIONS

24. LPAs are responsible for determining planning applications. LPAs consider each planning application on its merits and reach a decision based on whether it accords with the relevant development plan, unless material considerations indicate otherwise. Where applications do not meet these requirements, they may be refused.

25. Article 10 of the Town and Country Planning (General Development Procedure) Order 1995 (the GDPO) sets out the circumstances in which the LPAs are required to consult the Secretary of State, and Article 15 of the GDPO sets out the circumstances in which the LPAs are required to notify the Secretary of State of applications for planning permission for development affecting certain highways. Article 14 of the GDPO empowers the Secretary of State to give a direction restricting the grant of planning permission by the LPA for a particular proposed development. When notified of, or consulted on, an application for planning permission, the Agency, on behalf of the Secretary of State, may take one of the following courses of action:

- offer no objection;

- recommend that planning permission should either be refused, or granted only subject to conditions;

- direct conditions to be attached to any planning permission which may be granted (the effect of which will, most commonly, be to require the developer to deliver the mitigation measures on the strategic road network necessary to cater safely and efficiently for anticipated traffic levels and/or to phase the delivery of the development); or

- direct that planning permission not be granted (either indefinitely or for a specified period).

26. The Agency will work with developers to secure delivery of their proposals in such a way that they minimise any additional burden on other users of the strategic road network. Development should normally be in line with policies and proposals already set out in the Development Plan. Where development proposals are fully consistent with the
adopted Development Plan, the Agency would not expect to have to engage in the full assessment process, provided there had been no material changes after LDD adoption. In such circumstances, considerations would normally be limited to the agreement of detailed access arrangements (including mitigation measures) rather than the principle of the development itself.

DEALING WITH TRAFFIC GENERATION FROM DEVELOPMENT PROPOSALS

27. In general terms, Government policy is no longer to attempt to cater for unrestrained road traffic growth. In working with developers, the Agency will expect to see proposals that include ways to reduce the traffic impact of the development. Developers can no longer expect that all the traffic they might produce will be allowed without restraint. This would lead to ever-increasing congestion, which poses a threat to economic growth and the environment. While the Agency will work with relevant stakeholders and developers in order to promote development, it will need to take into account the impact that such growth will have on the ability of the strategic road network to function effectively.

28. There will be cases where new capacity and/or other improvements are required, and these will be considered on an individual basis and, where appropriate, incorporated into the Agency’s forward programme of works (which is assessed on affordability and priority). Improvements required to mitigate the impact of traffic generated by developments will also need to address any existing issues at that location, unless the Agency already has a firm commitment to do so.

29. In many locations there are constraints on what the environment and society can tolerate in terms of the infrastructure requirements to cater for traffic growth, as well as the environmental impact of that traffic. This applies to the traffic generated by developments as well as general traffic growth.

30. The ability of road links and junctions to deal with traffic flow also imposes constraints. In terms of link capacity, the circumstances in which the Government would consider providing more than dual four-lane carriageways will be extremely rare. Additional junction capacity will be constrained by the availability of land and, in particular, the scale of grade separated junctions that may be required to deal with large turning movements. Any additional capacity provided at a specific junction or on a specific link must be compatible with the overall route standard.

31. PPG13 states that, where developments will have significant transport implications, Transport Assessments should be prepared and submitted alongside the relevant applications. Guidance on this is contained in the Guidance on Transport Assessment. Where development is likely to have a material impact on the strategic road network, it will be important to engage with the Agency at an early stage. The coverage and detail of the Transport Assessment needs to be agreed with the Agency, and should reflect the scale of development and the extent of the transport implications of the proposal. Where this is not the case, the Agency will be unable to agree with development proposals.

32. In dealing with proposals for new developments, the Agency will take into account the wider impact of the associated traffic on other proposals affecting the strategic road network. This will be particularly important where proposals for development are in
areas covered by different LPAs or RPBs, and the Agency will advise on matters that impact across administrative boundaries. The Agency will seek to promote co-ordination of development proposals to secure effective outcomes in the broader context for both developments and the operation of the strategic road network.

Demand management

33. Demand management covers the range of techniques used to reduce traffic generation. Having regard to the guidance set out in PPG13, paragraph 89, developers, working in partnership with local authorities (where appropriate), must submit plans for the implementation and maintenance of measures that will minimise the traffic generated by their development. This is likely to be through travel plans. These will include, but will not be limited to, measures to manage car use, particularly by single occupants. Examples of such techniques may include tailored provision of public transport, car sharing/pooling, parking control, and the encouragement of cycling and walking.

The use of available capacity

34. The theoretical capacity of roads on the strategic network is calculated using standards set out in the Agency’s Design Manual for Roads and Bridges. Developers must consult with the Agency very early in the planning process to ascertain the effective actual operational capacity of an adjacent strategic road (including its junctions) and, where appropriate, the extent that this can be increased within environmental and affordability constraints. It should be noted that the actual operational capacity could be significantly lower than the theoretical capacity for a number of reasons.

35. This must be compared with the overall forecast demand (existing demand, plus traffic likely to be generated by existing commitments to developments, the additional traffic generated by the development and modelled background growth), normally for a period of ten years after the date of registration of a planning application for the development, supported by an acceptable Transport Assessment (TA) carried out in accordance with the Guidance on Transport Assessment or on a basis otherwise agreed with the Agency. This period is referred to in this circular as the ‘Review Period’.

36. Where the overall forecast demand throughout the Review Period does not exceed the operating capacity, developments will normally be allowed to go ahead without the need for improvements to the network, (subject to the considerations in paragraph 51 about multiple development proposals). However, developers will still be expected to manage down the traffic impact of their developments.

37. Where the provision of extra capacity is needed to provide for overall forecast demand throughout the Review Period (outside of the Agency’s forward programme of works), capacity improvements may be agreed, subject to environmental and deliverability considerations. These improvements will normally be provided, at the expense of the developer, via the provisions of a section 278 agreement, to ensure that local conditions on the strategic road network will be no worse throughout the Review Period with the development than if it had not taken place.

3 The length of the Review Period, at the discretion of the Secretary of State for Transport, can be amended for individual cases, where there is a wider political and economic imperative or, for example, where proposals will take a long time to develop fully. This would only be in exceptional circumstances.
38. Where extra capacity is needed to allow the full development to proceed, but cannot be provided under the terms of paragraph 33, the Secretary of State may direct that planning permission not be granted (subject to the principle set out at paragraph 16). However, sustainable development, delivered through access control and demand management techniques, may be allowed to proceed, provided that such measures ensure that agreed capacity levels are not breached. Agreement with the local highway authority will also be required in these circumstances. Issues relating to the delivery of such developments should be addressed at the RSS/LDF stage.

39. LPAs will need to ensure that, where appropriate, travel demand management measures such as travel plans, public transport initiatives and parking restraint are secured by planning conditions or planning obligations. LPAs are encouraged to liaise with the Agency as to the content of planning obligations.

Capacity enhancements and access to the network

40. There is a general presumption that there will be no capacity enhancements on routes of strategic national importance purely to accommodate new developments (and these would be subject to environmental and deliverability considerations). Capacity enhancements should be identified in the RSS and would not normally be considered as a fresh proposal at the planning application stage. Additional capacity may be considered in the context of the Agency’s forward programme of works. It can only be justified by balancing the needs of motorists and other road users with wider concerns regarding the impact on the environment and the local/regional community.

41. There is a general presumption that there will be no additional accesses to motorways and other routes of strategic national importance, other than the provision of service areas, facilities for the travelling public, maintenance compounds and, exceptionally, other major transport interchanges. Access from other types of development to motorways and other routes of strategic national importance will be limited to existing junctions with all-purpose roads. Modifications to existing junctions will be carried out only where traffic flows and safety will not be adversely affected. Connections to slip roads and/or connector roads will not be permitted.

42. The Agency will adopt a graduated and less restrictive approach to accesses on the remainder of the strategic road network, but there will still be a presumption in favour of using existing accesses and junctions. Any additional junctions or increased junction capacity should be identified in the LDD and/or RTS and will be considered within the context of the Agency’s forward programme of works.

43. Regardless of the status of the road, developers will be required to ensure that their proposals comply in all respects with design standards and other requirements. Where there would be physical changes to the network, schemes must be submitted to road safety and non-motorised user audit procedures. The Design Manual for Roads and Bridges sets out details of the Secretary of State’s requirements for access design and audit. If necessary, further advice is available from the Agency. The Secretary of State may direct that planning permission not be granted for any planning application which fails to meet these requirements or which, for any other reason, raises significant safety concerns.

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4 The graduated and less restrictive approach to existing and new accesses depends on the standard and status of a given route. Safety and the free flow of traffic will continue to be the Agency’s primary concern when making considerations.
44. The Agency should be consulted on any development proposals where a new access onto a local road is required, which in turn feeds a strategic road and has the potential for a material effect.

45. LPAs will need to consult the Agency over any development which may affect the users of a strategic road, even though it may not lead to an increase in traffic. Examples of such development would include earth mounds, wind farms and golf courses. The Agency should also be consulted on applications for signs or advertisements visible from the strategic road network.

PROCESS FOR SECURING AGREEMENTS

46. Where the assessed traffic flows exceed the capacity of the strategic road(s) concerned at any time within the Review Period, or where safety would be compromised or statutory environmental standards breached, the Secretary of State may direct that a condition be attached to any planning permission granted. Where it is not possible to identify reasonably practicable highway works or demand management techniques capable of safely and efficiently accommodating the assessed future traffic flows and providing an acceptable standard of service to strategic road users, the Secretary of State may issue a direction not to grant planning permission. Where a direction is issued that planning permission not be granted, the Agency will negotiate with the developer to ascertain what could be deliverable.

47. The effect of the condition will be to specify the demand management or improvement measures required, either to manage or to accommodate this traffic, ensuring the safety of all road users, including pedestrians and cyclists and safeguarding the environment. It is the responsibility of the promoter of development to identify and submit the measures required to the satisfaction of the LPA and the Agency. When taking decisions, the Secretary of State will take account of the latest Guidance on Transport Assessment.

48. The normal means for developers to redeem the condition will be through schemes negotiated with developers and secured through the use of planning obligations or highways agreements.

49. Planning obligations are agreements between local planning authorities and developers under section 106 of the Town and Country Planning Act 1990, through which the developer can provide measures to address planning issues arising from their development, including mitigating its impacts on the local community. Guidance on the use of s.106 agreements is set out in the Office of the Deputy Prime Minister Circular 05/2005, Planning Obligations. As s.106 does not extend to Government departments, the Agency cannot be party to such agreements.

50. Highways agreements between developers and highway authorities are made under section 278 of the Highways Act 1980. In the case of the Agency they provide a means through which the developer can pay for measures to mitigate the impact of the development on the strategic road network. Where improvements are required both on the strategic and the local road networks, there may be opportunities for joint

5 As substituted by s12 of the Planning and Compensation Act 1991.
agreements between the Secretary of State and the local highway authority. The process for securing these agreements is set out in Guidance on Agreements with the Secretary of State for Transport under section 278 of the Highways Act 1980.

51. Where multiple development proposals may have a significant impact on the strategic road network, proportional investment may be required in the necessary improvements to the network. In such circumstances, it may be beneficial for a ‘ringmaster’ to act as a broker for the public sector and developers to invest in improvements to the network. The ringmaster is an organisation or public body that will co-ordinate investment commitments for a particular development or series of developments. It will be responsible for ensuring that developers’ contributions allow the infrastructure to be secured in a fair and equitable way. The Agency will not act as a ringmaster, but will work with the designated ringmaster to facilitate the delivery of appropriate schemes.

52. Any works, and/or any demand management measures, carried out by the Agency as part of the developer’s mitigation measures have to be capable of dealing with the development’s forecast increase in traffic over the course of the Review Period. In addition to securing whatever highway works are needed under these arrangements, developers will normally be required to pay a commuted sum for their future maintenance.

ENVIRONMENTAL IMPACTS OF DEVELOPMENTS

53. The Agency will seek to ensure that the mitigation of the environmental impact of highway works resulting from a new development is in line with current guidance.

54. Highway construction works and development traffic may be assessed as likely to cause an impact on the environment in breach of statutory limits. When such a breach is thought likely to occur on the strategic road network, it is the Secretary of State’s responsibility to take measures to avoid the breach in statutory limits. In appropriate circumstances this may include directing that planning permission not be granted.

55. Promoters of development which would cause a predicted breach of environmental standards through the creation of additional traffic on the strategic road network must develop proposals to mitigate the environmental impact of the development. Environmental Impact Assessments (EIAs) may be required where there could be effects on the environment, under either the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 or Highways (Assessment of Environmental Effects) Regulations 1999.

56. Where the predicted breach occurs outside the highway boundary (for example noise levels at new housing located near to a trunk road), the mitigation measures are likely to be located outside the highway boundary. The Agency is under no obligation to allow developers’ mitigation measures to be constructed within the highway boundary.

57. The developer will ensure that sufficient environmental information is provided at all stages of the planning process to satisfy authorities that those environmental impacts have been comprehensively considered and that measures have been included within the proposals that mitigate these impacts as fully as possible, within the bounds of practicability.
# GLOSSARY

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<tr>
<th>Abbreviation</th>
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<tr>
<td>DBFO</td>
<td>Design, Build, Finance and Operate</td>
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<td>DCLG</td>
<td>Department for Communities and Local Government</td>
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<td>DfT</td>
<td>Department for Transport</td>
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<td>DPD</td>
<td>Development Plan Document</td>
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<td>EIA</td>
<td>Environmental Impact Assessment</td>
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<td>HA</td>
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<td>Local Development Document</td>
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<td>LDF</td>
<td>Local Development Framework</td>
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<td>LHA</td>
<td>Local Highway Authority</td>
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<td>Local Transport Authority</td>
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<td>Local Transport Plan</td>
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<td>RPB</td>
<td>Regional Planning Body</td>
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<td>Spatial Development Strategy</td>
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<td>SPD</td>
<td>Supplementary Planning Document</td>
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