



Our Ref:  
Your Ref:  
Date: 18th April 2016

Dear Sir/Madam,

## **HIGHWAYS ACT 1980**

### **M4 BRYNGLAS TUNNELS REFURBISHMENT**

### **ENVIRONMENTAL IMPACT ASSESSMENT DECISION UNDER PART VA OF THE HIGHWAYS ACT 1980**

### **CONSERVATION OF HABITATS AND SPECIAL SPECIES REGULATIONS 2010 – REGULATION 61: ASSESSMENT OF IMPLICATIONS FOR EUROPEAN SITES**

### **DELEGATION ARRANGEMENTS**

1. The functions of deciding whether or not to undertake the refurbishment and undertake improvement works identified above have been transferred to the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006. The decision falls under the responsibility of Edwina Hart, Minister for Economy, Science and Transport (“the Minister”), one of the Welsh Ministers.

### **INTRODUCTION**

2. The Welsh Ministers are proposing to refurbish the M4 Brynglas Tunnels and adjacent structures.

### **THE SCHEME**

3. The Scheme briefly comprises the following:



The complete reconstruction of the existing carriageway through both Tunnel bores, including the sub-carriageway, upgrade of existing drainage and new Tunnel lining; The provision of new and replacement Life Safety Engineering Systems, including : replacement of the existing life expired and fire damaged lighting, lane control signs, emergency evacuation signage, Closed Circuit Television (CCTV) and Incident Detection. Major repairs to River Usk Bridge and the Malpas Viaduct, located either side of Brynglas Tunnels in order to provide further route resilience utilising the tunnel traffic management philosophy.

The project would deliver a number of benefits, both in terms of strategic improvements to the trunk road:

- Guaranteed resilience of the Tunnels, and therefore resilience of the M4 strategic route, for a minimum of 10 years until such time as the proposed new section of motorway to the south of Newport (currently the subject of statutory procedures) is constructed and operational;
- Reduced risk associated with the M4 Brynglas Tunnels and River Usk Bridge to the Welsh Government; in terms of safety of users, route resilience and compliance with latest design standards.

## **THE ENVIRONMENTAL STATEMENT**

### **Consultation**

4. The Environmental Statement (ES) is a non-statutory ES as the determination process under the Environmental Impact Assessment (EIA) Directive concluded that a statutory ES would not be required. This decision was subject to formal consultation between 23rd October 2015 and 11th December 2016. No objections to that decision were received.

5. As a non-statutory ES is involved we are not obliged to consult with the public, or the Statutory Environmental Bodies (Natural Resources Wales, CADW and Newport City Council). However as a matter of good practice comments were invited from the Statutory Environmental Bodies.

6. We are also required to prepare a Statement to Inform an Appropriate Assessment in accordance with Regulations 61 of the Conservation of Habitats and Species Regulations 2010. The Welsh Ministers must take the opinion of the general public 'if they consider it appropriate'. Consultation with Natural Resources Wales is a statutory requirement.

7. The proposals including the ES was submitted to Statutory Bodies on the 9<sup>th</sup> March 2016 in accordance with EC Directive 2011/92/EU (as amended). A Statement to Inform an Appropriate Assessment (SIAA) of the potential effects of the Scheme on the River Usk and sites related to the Severn Estuary was also issued in accordance with the Conservation of Habitats and Species Regulations 2010 to the Statutory Environmental Bodies. Comments were requested by the 7<sup>th</sup> April 2016.

### **Deposit Location**

8. A copy of the ES, and SIAA are available for inspection at the following locations:

- i. Welsh Government, Transport, Orders Branch, Cathays Park, Cardiff CF10 3NQ;

## **ISSUES RAISED TO THE PROPOSALS, ES AND SIAA**

9. The issues raised in comment on the proposals, ES and SIAA including the Welsh Government's responses (shown in italics) to them, are summarised below.

### **9.1 Natural Resources Wales**

NRW noted that the proposed works are unlikely to have a significant effect on the River Usk Special Area of Conservation (SAC) provided the mitigation stated in the documents is carried out.

### **9.2 Glamorgan Gwent Archaeological Trust (GGAT)**

GGAT noted that in their opinion that the proposed scheme and its associated works will not have an impact on the historic environment.

### **9.3 Welsh Government Department of Environment Land Nature and Forestry**

The Department of Environment Land Nature and Forestry stated that the SIAA and ER reports seem to be thorough yet proportionate, with a realistic consideration of N2K sites. The Construction Environmental Management Plan (CEMP) should include robust mechanisms to ensure compliance.

*The CEMP will be formally submitted for approval by the Contractor to the Welsh Government.*

## **MINISTER'S CONSIDERATION**

10. The Minister has carefully considered the case for the Scheme, the ES and all the opinions expressed on the ES by consultation bodies.

11. The Minister accepts that this Scheme is needed for the reasons outlined in paragraph 3 of this letter, but that this need must be balanced against the environmental impact of the Scheme and any opinions expressed by consultation bodies.

12. The Minister is satisfied that issues referred to in paragraphs 9.1 to 9.3 have been adequately addressed. She is further satisfied that the Environmental Impact Assessment, reported in the Environmental Statement, meets the requirements of EC Directive 2011/92/EU (as amended); that the Assessment of Implications on European Sites reported in the SIAA of the potential effects of the scheme on the Special Area of Conservation (SACs); Special Protection Area (SPA) and Ramsar site is in accordance with the Conservation of Habitats and Species Regulations 2010, implementing Council Directive 92/43/EEC; and that the requirements of the Highways (Environmental Impact Assessment) Regulations 2007 have been met. The Minister notes that the Minister for Environment and Sustainable Development has approved the SIAA.

13. The Minister notes the issues raised by consultees. However, she is satisfied that the EIA/ Assessment of Implications on European Sites (AIES) processes have considered the relevant information relating to the impacts and that the published scheme is the optimum to meet the scheme objectives and enable compliance with the relevant legislation.

14. Consequently, the Minister is satisfied that the responses given adequately address the issues raised and has decided that the proposals may proceed.

## **CONVEYANCE OF DECISION**

15. This letter has been sent to all those who were consulted and can be viewed at <http://wales.gov.uk> (select 'Topics', 'Transport', 'Roads', 'Road Projects', 'Decision Letters and Inspectors Reports'). Copies of this letter, together with the non statutory ES and SIAA are also available for inspection at the locations listed in paragraph 8 above until the 14<sup>th</sup> June 2016.

Yours faithfully

**A Falleyn**  
Deputy Director Infrastructure Delivery