

Report 5: Compulsory Acquisition and other land matters. Volume 10.12 January 2017			
PINS Question Number	First Written Question	Response to First Written Question from Highways England (Applicant)	ABC (Land Owner) comments
21.9	<p>In its open Space Report [SoR – Appendix B, APP – 021 the Applicant states that the replacement land proposed “is not directly accessible from the “existing open space”.</p> <p>i. In consideration of the above statement together with the meaning of “replacement land” provided by S131(12) of the PA2008, would the Applicant explain how the proposed replacement land will meet the relevant statutory tests?</p>	<p>i. There is no statutory requirement for replacement land to be directly accessible from the open space which is being lost, nor for it to be adjacent to such land. However, the proximity of the replacement land to that being lost is a relevant factor for consideration by the Secretary of State (paragraph 8 of the September 2013 guidance). In this case the replacement land is adjacent to the open space being lost and is directly accessible using the footway under the new Church Road Footbridge and new ramps/stairs. In addition, connectivity to the open space not being affected by the Scheme is provided as the replacement land is also able to be accessed from the new ramp and footbridge being constructed as part of the Scheme.</p>	<p>The drawing supplied by HE (Drawing No’s HA514469 and HA514442) do not provide sufficient detail to confirm there will be access from the existing public open space to the proposed replacement land. However, (even though the Borough Council still does not believe the proposed replacement land is suitable) if there will be a connection between the two areas of land that will be of benefit to the users. A material consideration for the Borough Council in relation to the suitability of the proposed replacement land, is ease of access to the site for its grounds maintenance team. Confirmation from HE that the access between the two sites will be suitable for the ride-on mower the Council will expect to use (2.4m wide) to cut the grass on both sites is required.</p>
21.10	<p>In its Open Space Report [SoR – Appendix B, App-021], the Applicant states that “the public [...] use the Open Space at Church Road”, but goes on to say “the open space to be lost [...] is currently inaccessible.”</p>	<p>The existing open space comprises an area of play equipment for young children within a segregated fenced play ground, with a flat open grass field beyond, with goal posts and a small covered seating shelter which is accessible to the public. There is also an area between existing</p>	<p>The Borough Council does not accept that the area between the existing ramp and the neighbouring residential properties which is planted with trees, shrubs and rough grass is not accessible to the public.</p>

	<p>i. Would the Applicant explain the relationship between these two statements?</p>	<p>ramp and the neighbouring residential properties which is overgrown with trees and shrubs so is not accessible to the public; it is this area that is required by the Scheme.</p>	<p>Although it is not a close mown area the same as the neighbouring open space/play area, it is possible for children in particular to access the area and use it for “natural play”. Furthermore, the area in question provides a significant buffer between the main open space/play area and the busy/noisy A2070 dual carriageway both in terms of noise reduction and visual screening. It should also be remembered this area is part of the Local Nature Reserve and as such provides significant habitat for wildlife in a reasonably well developed residential area.</p>
<p>Comments on Relevant Representations. Revision A. Volume 10.7 January 2017.</p>			
<p>001.02</p>	<p>Land to be Permanently Acquired from Ashford Borough Council Plot3/14/b. In part 3 of the Statement of Reasons the description of the land being acquired concentrates on the vegetation cover and little else, without acknowledging the role this land plays in the ecological, social and the visual quality of the whole space of which it forms. Clarification is required over the extent of the permanent land being acquired; it is not clear from the plans</p>	<p>There are ongoing discussions with Ashford Borough Council (ABC) to discuss maintenance access to existing open space.</p>	<p>The Borough Council welcomes the opportunity to discuss maintenance and access in greater detail at the earliest opportunity.</p>

	<p>and drawings. The acquisition of this plot and proposed profiling will obstruct the Borough Council's maintenance access to the Recreation Ground at Church Lane, Sevington. This will be due to the introduction of a steep cutting along the access route and because the access route will permanently be removed from the Ashford Borough Council's ownership. An alternative entrance will need to be constructed to enable Ashford Borough Council to access from Church Road to carry out maintenance of the retained public open space. There is no proposed clear demarcation between land being retained by Ashford Borough Council and the land being acquired by Highways England.</p>		
<p>001.03</p>	<p>Land to be Temporarily Acquired from Ashford Borough Council Plot 3/14/a This small area should be permanently acquired by Highways England as it will be completely surrounded by HE land in future and cut off from the remaining public open space with no access for the Borough Council over its own land and no</p>	<p>Highways England to discuss with ABC their proposal for plot 3/4/a.</p>	<p>The Borough Council welcomes the opportunity to discuss these issues in greater detail at the earliest opportunity.</p>

	<p>clear boundary demarcation. The steepness of proposed reprofiling of this plot will render it of little use to the public and difficult to maintain and less likely to sustain stable tree planting. It is unclear who will be responsible for maintaining the banked land.</p> <p>A substantial area of the land in question currently receives minimal maintenance in keeping with its designation as Local Nature Reserve and Green Corridor to encourage wildlife. It is unclear if the proposed changes in the profiling of the land will necessitate a higher standard of maintenance or if it will still be in keeping with Local Nature Reserve and Green Corridor status</p>		
<p>001.04</p>	<p>Proposed Replacement Land to be given to Ashford Borough Council by Highways England Plots 3/1/b, 3/1/c and 3/1/d</p> <p>Clarification is sought over the extent of the proposed replacement land. The replacement land forms part of the highway verge and is not of equal size to the land being acquired. The available maps differ as to whether the cycleway is included in the replacement land or not. The borough council is not responsible for the maintenance of highways and</p>	<p>It has been identified through the Relevant Representations that enhancement of the natural environment within and around Church Road would be of benefit in terms of biodiversity value. Whilst the existing proposals for replacement land are considered to have been cognisant of this, further design development could be undertaken to prioritise nature conservation and maximise biodiversity benefits to the Ashford Green Corridor.</p>	<p>The Borough Council welcomes the opportunity to discuss ways in which nature conservation and the bio diversity of the site can be enriched. Any appropriate enhancements within the site will be welcomed by the Borough Council. However, it should be noted that enhancements within the existing boundary of the site will mean there is still a net loss of land owned by the Borough Council as plot 3/14/b is due to be permanently acquired by HE</p>

	<p>does not adopt highways standard cycleways, highway verge or associated infrastructure because they are subject to highway rights and obligations which are normally maintained by the County Council. There is a lack of proposed demarcation (which is likely to cause maintenance and liability issues), the land is surrounded by HE land and it is not easily identifiable as public open space by the public and not easily accessible by Ashford Borough Council for maintenance purposes. The transfer of this land to the Borough Council will reduce the efficiency with which it can be maintained and increase costs to the public without bringing any additional public value. It is not appropriate for this replacement land to be subject to the same rights, trusts and incidents as the Public Open Space being permanently acquired. The replacement land is not a like for like replacement in terms of public amenity, landscape value or suitability as public open space or for inclusion in the existing Local Nature Reserve, which currently includes plots 3/14/a and 3/14/b. The replacement land will be less advantageous to persons entitled to use the land given that it is highway</p>	<p>Further enhancements could also be made within the boundary of the existing Church Road Open Space. Opportunities exist to improve the current play provision and offer greater facilities.</p> <p>Currently there is a small playground for young children and beyond that there is an open playing field with two goals and a vandalised shelter with seating. There is little diversity with regards to planting, with trees and shrubs on the perimeter of the site.</p> <p>Dog fouling was prevalent on the playing field and litter was also evident.</p> <p>Opportunities for play provision for older children, as well as making improvements to the playing field facilitates would increase the pull of the site as a recreational asset, as well as there being potential to ecologically enrich the area.</p> <p>Potential proposals could include:</p> <ul style="list-style-type: none"> - Provision of species rich grassland in appropriate locations of the site; - A greater variety of planting to provide visual and biodiversity interest; - Replacement or expansion of existing play equipment to serve a greater age range; and, - Provision of seating and or benches to provide a greater sense of destination. 	<p>The Borough Council does not fully recognise the HE description of the site. The shelter may have some graffiti on it from time to time but it is not vandalised and is useable. There is a good mix of tree species around the perimeter of the site and plots 3/14/a and 3/14/b. There is also “wild grass and wildlife habitat” areas in keeping with its designation as a Local Nature Reserve. The open space is regularly litter picked and any dog fouling is removed.</p> <p>It is agreed that enhancements of the existing play provision, public seating and even more planting would enhance the appeal of the site.</p>
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	<p>verge and it is visually and physically severed from the exiting open space. Access to the replacement land from the existing open space is via a ramp going up and then down some stairs, which are not DDA compliant and is likely to adversely affect local people with mobility issues. The replacement land is not suitable alternative land in exchange for the POS. In addition the replacement land does not meet the criteria for the inclusion in the Green Corridor due to its location and topography. It would be more appropriate for Highways England to retain this piece of land together with the rest of the highway land which surrounds it. There is reference to a new mini lighting column within the proposed land swap. It is not clear if this is to be maintained by Highways England, Ashford Borough Council or Kent County Council Highways who normally maintain public street lighting. The Council has requested that Highways England look at alternative options such as other replacement land or the procedures under s131 (4A) PA 2008. The Council wishes to reserve its right to make further</p>	<p>This item is being discussed between both parties and forms part of The Statement of Common Ground.</p>	
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	representations on these issues, given that negotiations are ongoing.		
002.03e	Part of the acquired land will be re-profiled in a way (Section AA on drawing HA514442-MMGJV-GEN-00039-rev B) that effects and prohibits access by members of the public to the public opens space area from Church Road as well as by maintenance vehicles. It is also not clear if the fenced off play area is directly affected. The main lighting scheme (figure 2.5d drawing number HA514442-MMGJV-GEN-SMV-DE-Z-602106 rev A) also indicates a mini pillar to serve the bridge lighting is within the play area. Confirmation of the overall impact on the POS/play area will be needed. A new access point is also likely to be needed and agreed and created at no cost to Ashford Borough Council.	<p>There is currently no accessibility for maintenance through this area as the council have suggested. From local knowledge 3/1/f and 3/14/a are currently fenced off and inaccessible. The fenced off play area is not affected. The lighting column is shown outside of the play area.</p> <p>However, an access/maintenance chamber (FP3) is within the play area. A mini pillar to serve the bridge lighting will be re-located outside the play area, inside the DCO boundary. The drawing HA514442-MMGJV-GEN-SMV-DE-Z-602106 will have to be amended to show this.</p> <p>Access to the park should not be hindered, if necessary a retaining solution can limit the extent of the proposed slope.</p>	<p>Parts of area 3/1/f appear to be fenced, but ABC does not need to go through plot 3/1/f to maintain plot 3/14/a. The Councils contractors are able to access the site for its ABC's own land for removal of litter and periodic maintenance visits as necessary.</p> <p>Clarification of the location, style and design of the proposed maintenance chamber needs very careful consideration if it is to be placed within the children's play area. Structures other than specifically designed play equipment (or associated seating/street furniture) with appropriate safety surfacing are not normally located within a play for safety reasons. This matter requires full clarification and design drawings.</p>
Compulsory Acquisition Negotiations Status Report. Revision A. 9.12 January 2017.			
Page 16	Mr Mark Davies, Ashford Borough Council is described as "Owner".	Please amend: Mr Len Mayatt, Cultural Projects Officer, Ashford Borough Council as "Owner".	