

M20 Junction 10a

TR010006

Applicant's written summary of oral submissions at Compulsory Acquisition Hearing



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		Burges Salmon	Burges Salmon		

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1. Submissions on Compulsory Acquisition Issues

J. Compulsory Acquisition and other land matters		
	PINS Question	Summary of oral submissions
J.01	<p>Consolidated list of objections to Compulsory Acquisition</p> <p>i. Both at the hearings and at Deadline 8, would the Applicant provide an updated list of objections to Compulsory Acquisition that it understands to remain outstanding at those dates?</p>	<p>Discussions are on-going with all outstanding objectors. However, even though discussions are well advanced, it is not expected that all objections will be removed prior to the close of the Examination. From the following list, the Applicant expects Ashford Borough Council, Friends Life Limited and Southern Water to remove their objections prior to the close of the Examination.</p> <ol style="list-style-type: none"> 1. The Executors of Marianne Clunies-Ross (dec'd) 2. Wyevale Garden Centre Holdings Limited – 3. Pilgrims Hospice 4. Ashford Borough Council 5. The Trustees of the Henderson Retail Warehouse Fund 6. Friends Life Limited 7. Mr Stuart John Ramsey 8. Southern Water
J.02	<p>The Executors of Marianne Clunies-Ross</p> <p>The submission at Deadline 6 by the Executors of Marianne Clunies-Ross [REP6-002] raised the issue of a culvert that is being provided under the proposed Link Road approximately where the existing Footpath AE337A crosses the route of the proposed road.</p>	<p>The Applicant explained at Deadline 7 the position relating to the pipe (culvert), ditches and outfall to the Aylesford Stream in relation to the 'first' drainage pipe, which the Applicant thought Mr Lowe was referring to (HE's response</p>

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<p>The Executors suggested <i>“that the transfer of land should be subject to a restriction whereby the land acquired should only be used for the core scheme promoted by Highways England and not for any works or services required in connection with the Stour Park Development or any other commercial development project”</i>. Mr Lowe for the Executors further stated that, if this suggestion was not adopted <i>“then I wish to reserve my client's right to object to the Compulsory Purchase Order”</i>.</p> <p>The Applicant responded at Deadline 7 [REP7-014] by stating that: <i>“The pipe (culvert), ditches and outfall to the Aylesford Stream will therefore be used by Highways England either in the absence or presence of the Stour Park development. As such, there will be no justification for the transfer of land to be subject to a restriction as suggested by Mr Lowe”</i>.</p> <p style="margin-left: 40px;">i. What is the response of the Executors to this response from the Applicant?</p>	<p>related to the eastern drainage ditch between FP AE337A and AE338).</p> <p>In relation to the second drainage pipe (to the west of FP AE337A), it is correct that, in order to secure removal of Friends Life's objection, the Applicant has agreed to grant to Friends Life an easement for a drainage pipe from the Stour Park development to the Aylesford Stream. This would cross plot 3/16/b (being permanently acquired from Friends Life) and plot 3/2/b (being permanently acquired from the executors of the Clunies-Ross estate). A plan showing the two pipes was provided to the Examination at the hearing and is being submitted at Deadline 8.</p> <p>In response to the specific points raised by Mr Lowe at the hearing, it is correct that the easement referred to above may have a value but that is a matter of compensation which should not be debated in this forum. The Applicant has not manipulated its scheme boundary to assist Friends Life Limited. The Applicant's plans have been continuously and thoroughly reviewed and the use of each plot of land proposed to be used or acquired under the DCO has been justified. It is entirely normal when a scheme is disturbing the existing 'status quo' for negotiations to take place with affected landowners and for the Applicant to try and minimise impact on affected landowners. The Applicant has not formulated the scheme to achieve a collateral purpose. All the land involved is being acquired outright.</p> <p>As a more general point it is never the case that land which has been compulsorily acquired is restricted from being</p>

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<p>In their request to speak at the hearing [OD-023], the Executors expressed that they seek the exclusion of Plot 2/2/a from the Compulsory Acquisition powers to enable a more equitable basis to be used for assessing the rent to be paid during the period of occupation. The Executors state that this has become an issue as the Valuation Officer is maintaining that as matters stand the rent has to be assessed in a "no scheme world"; namely agricultural values.</p> <p style="padding-left: 40px;">ii. What is the response of the Applicant to this request from the Executors?</p>	<p>used for other purposes in addition. Otherwise crossing railway lines, for example, all of which were built using CPO, would not be possible.</p> <p>Plot 2/2/a is required temporarily for use as a site compound area and will therefore not be removed from Schedule 7 of the DCO. There is no alternative to the use of this plot. Mr Lowe's request relates to compensation, which will be assessed under the compensation code, and is not a matter for this forum. Mr Lowe's argument does not go to whether the temporary use of the land is justified and is not a matter for the Examination.</p>
<p>J.03 Friends Life</p> <p>The Agreed Joint Statement dated 10 April 2017 between the Applicant and Friends Life [REP6-030] states: <i>"Without prejudice discussions between the parties are progressing in a positive manner and a draft agreement between the parties is being negotiated. The intention is that the agreement, once completed, will enable the Interested Party (Friends Life) to remove its objection to the compulsory acquisition of its land pursuant to the DCO. While without prejudice discussions are on-going between the parties, it is not considered appropriate to refer to the detailed content of those discussions until a comprehensive agreed position has been reached and documented"</i>.</p> <p>A plot-by-plot summary is included within the document.</p>	<p>An updated joint position statement was read out at the hearing and is being submitted at Deadline 8. An agreement between the parties is very nearly agreed and it is expected that this will be completed prior to the close of the examination. The Applicant will update the ExA when this agreement has been completed.</p>

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<p>i. Would the Applicant and Friends Life provide an updated position statement, with precise detail of matters agreed, not agreed and under discussion?</p>		
<p>J.04 Discussions Between the Applicant and Kent County Council (KCC)</p> <p>Rev D of the Compulsory Acquisition Negotiations Status Report [REP7-011] states that <i>“update on land to be transferred by agreement due by 12th May”</i>.</p> <p>i. Would the Applicant and KCC update the Examination on the land to be transferred by agreement?</p>	<p>Highways England and KCC are in agreement that all the identified plots of land required by M20J10a are owned by KCC and they are happy to transfer this land to Highways England. KCC have instructed Bruton Knowles to provide an assessment of land value prior to putting a Heads of Agreement to Nicholas Coote of the VOA (acting for the Applicant).</p>	
<p>J.05 Discussions between the Applicant and Ashford Borough Council (ABC) as Affected Person</p> <p>In ABC's submission at Deadline 6 [REP6-001], ABC states: <i>“Discussions are ongoing between ABC and HE in relation to the open space and replacement land and agreement in principle has been reached on the terms for an agreement to be entered into between the parties in this regard”</i>.</p> <p>i. Would the Applicant and ABC update the Examination on progress with the agreement between them?</p>	<p>Agreement in relation to the open space and replacement land has now been reached by the Applicant and ABC. The agreement was completed on 25 May 2017 and ABC is now required to withdraw its objection in this regard.</p>	
<p>J.06 Trustees of the Henderson UK Retail Warehouse Fund</p> <p>On 8 May 2017, Matthew Bodley Consulting submitted a representation [REP3-033] on behalf of the Trustees of the Henderson UK Retail Warehouse Fund in relation to plot 3/15/A.</p>	<p>Heads of agreement between the parties are very close to agreement and it has been agreed that there will be no formal amendment to the DCO, rather that land take will be dealt with in a private agreement between the parties.</p>	

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	<p>i. Would the Applicant state what its position is with regard to this representation?</p>	<p>Mr Bodley also raised the issue of Barrey Road at the hearing. This issue has been considered extensively at design stage and a judgement call was required in terms of whether or not to include it in the scheme. It is not factually correct to say that this issue has not been considered. There are discussions on-going in relation to Barrey Road between the Applicant, ABC and KCC but it has been accepted that this matter falls outside of this DCO.</p>
J.07	<p>Compulsory Acquisition Negotiations Status Report - update</p> <p>i. Would the Applicant provide for Deadline 8 an update to the Compulsory Acquisition Negotiations Status Report [REP7-011] reflecting the current position on all entries?</p>	<p>A revised Compulsory Acquisition Negotiation Status report will be provided for Deadline 9 (rather than Deadline 8, as requested by the Inspector at the hearing) reflecting the most up to date position on all entries. The Applicant is in varying levels of negotiation with all parties and it is not thought that any impediments exist to reaching agreement where items remain under discussion.</p>