

Your ref: TR010029
Our ref: M25 J28/PINS/05

By email only

Mr. Richard Allen
Lead Member of the Examining Authority

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House
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4 December 2020

Dear Sir,

M25 junction 28 improvement scheme
Development Consent Order application reference: TR010029

Notification of intention to make a request for changes to the Scheme

In advance of the preliminary meeting on Friday 11 December 2020, I am writing to inform you that Highways England intends to submit a request for a number of changes to its application for development consent for the Scheme.

Since submission of the application in May 2020, Highways England has continued to engage with stakeholders and to undertake further design work to develop plans for the implementation and construction of the Scheme. As a result of this work Highways England has identified four changes that it wishes to make to the application (the **Proposed Changes**). The Proposed Changes are summarised below.

Proposed Changes

Change 1 – Removal of surplus construction materials deposit to the west of Weald Brook (Work No. 17)

This change is proposed in response to submissions made by the Environment Agency (the **EA**) in its Relevant Representation (RR-009) raising concerns in relation to the placement of surplus material on site. Highways England has engaged further with the EA regarding this matter and as a result proposes to remove Work No. 17 from the application. Site won material generated by the Scheme will be reused within the permanent works and in the creation of an environmental bund at Work No. 18 (see Change 2 below).

The permanent acquisition of plot 3/20 (Sheet 3 of the Land plans (APP-005)) is still required for the construction and maintenance of the ecological compensation areas

(Work No. 25) and so the removal of Work No. 17 does not affect the land powers sought.

Change 2 – Amendment to the surplus construction materials deposit (Work No. 18) situated to the north of Work No. 19B to form an environmental bund

This change is also proposed in response to submissions made by the EA in its Relevant Representation (RR-009) raising concerns in relation to the reuse of site won material on site. Following further engagement with the EA, and acknowledging representations made by others (including the operators and lessees of Maylands Golf Course (Luddington Golf Course Limited) and the residents of Woodstock Avenue), it is proposed to remodel Work No.18. Work No.18 would be remodelled into an environmental bund which follows the outline of the environmental works (part of Work No. 25) alongside the new loop road and to the north of Work No. 19B. The beneficial reuse of site won material within the environmental bund will provide visual and noise screening to residents at Maylands Cottages and Woodstock Avenue, as well as to Maylands Golf Course.

The engineering drawings and sections for Work. No.18 will be updated to demonstrate the new height of the environmental bund which is proposed to be 2.5 metres high.

Were this change to be accepted, the permanent acquisition of part of plot 1/11 (Sheet 1 of the Land Plans (APP-005)) will be required. Currently the application seeks temporary possession of plot 1/11 to facilitate and enable the construction of the Scheme. However permanent acquisition of land will be required to enable the long term maintenance of the environmental bund which is to form Work No. 18. As this change would require additional compulsory acquisition powers for plot 1/11 the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 (the **2010 Regulations**) are engaged. Accordingly, Highways England will be seeking to obtain consent from persons with an interest in plot 1/11 to the inclusion of such powers within the application under Regulation 4 of the 2010 Regulations or will follow the prescribed procedure contained in Regulation 5 to 19 of the 2010 Regulations if the consent of the land interests is not obtained.

Change 3 – Refinement of golf course accommodation works (Work No. 32)

The golf course accommodation works have been considered further and it is proposed to increase the lateral LoD for the golf course accommodation works (Work No.32) to the north in order to provide a boardwalk. This boardwalk would provide a safe route for players to walk back from the green of the realigned second hole to the third tee and avoid the hitting zone of the second hole. This change will not involve any changes to the Scheme's red line boundary. The proposed illustrative design for the golf course accommodation works will be included in the consultation materials being prepared in relation to these changes.

Change 4 – Amendment to the lateral limits of deviation for the Cadent gas pipeline diversion – southern connection (Work No. 29)

Since acceptance of the application Highways England, alongside Cadent Gas Limited (“Cadent”), has undertaken further detailed design work and taken on board comments raised by the Trustees of Gardens of Peace Muslim Cemetery. To facilitate the physical connection of the diversion with the existing Cadent pipeline that runs beneath plot 1/8 an amendment of the limits of deviation is needed. In addition, Highways England is currently seeking the acquisition of a permanent easement over the entirety of plot 1/8, with rights being sought for access for inspection, repair, maintenance and renewal works and it is now proposed to reduce the extent of permanent rights sought in plot 1/8. Temporary possession of the remainder of plot 1/8 will be needed in order to undertake the required diversion works.

Proposed timetable for requesting the changes

In assessing the Proposed Changes, Highways England has had regard to the advice contained in the Planning Inspectorate’s Advice Note 16 (How to request a change which may be material). Having regard to the guidance, Highways England considers that the Proposed Changes do not alter the substance of the Scheme as applied for.

Highways England recognises that the decision as to whether any of the Proposed Changes individually or cumulatively constitute material changes is a matter for the ExA to determine. Of the Proposed Changes, Highways England considers that Change 2 may constitute a material change. Highways England considers that Changes 1, 3 and 4 are non-material changes.

In any event, Highways England considers that it would be appropriate to carry out a non-statutory targeted consultation exercise on the Proposed Changes with potentially affected parties, including the local authorities, other statutory consultees, those with an interest in land affected by the Proposed Changes and those registered as Interested Parties to the Scheme with the Planning Inspectorate. It is intended that this non-statutory targeted consultation will be carried out between January 2021 and February 2021. It is proposed that, as part of the targeted consultation, consultees will be provided with a summary document explaining the Proposed Changes. Highways England does not intend to publish newspaper notices or erect site notices advertising the consultation due to the targeted nature of the changes, though Highways England would welcome the ExA’s view on this.

Highways England intends to make a formal request to the ExA to accept the Proposed Changes in February 2021 and by Deadline 3 (18 February 2021).

Highways England would welcome the opportunity at the preliminary meeting to discuss any procedural matters which may arise from this notification.

I understand that a copy of this letter will be placed on the National Infrastructure Planning website and available for interested parties to view.

Yours faithfully,

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Anita Waterton

Project Manager