

M25 junction 28 improvement scheme

TR010029

9.47 Applicant's comments on responses to Transport for London D3a Response

Rule 8(1)(c)(ii)

Planning Act 2008

Infrastructure Planning (Examination Procedure) Rules 2010

Volume 9

February 2021

Infrastructure Planning

Planning Act 2008

The Infrastructure Planning (Examination Procedure) Rules 2010

M25 junction 28 scheme

Development Consent Order 202[x]

9.47 Applicant's comments on responses to Transport for London D3a Response

Rule Number:	Rule 8(1)(c) (ii)
Planning Inspectorate Scheme Reference	TR010029
Application Document Reference	TR010029/APP/9.47
Author:	M25 junction scheme, Project Team, Highways England

Version	Date	Status of Version
0	25 February 2021	Deadline 3b

Table of contents

Chapter	Pages
1. Purpose and structure of responses to TfL responses to Examining Authority's written questions	4
2. Transport for London deadline 3a submissions	5

1. Purpose and structure of responses to TfL responses to Examining Authority's written questions

- 1.1.1 This document provides the comments of the applicant, Highways England, in response to Transport for London's (TfL) comments on responses to the Examining Authority's (ExA) written questions and responses to written representations submitted to the Planning Inspectorate (PINS) on or before deadline 3a (18 February 2021).
- 1.1.2 Highways England has sought to provide comments where it is helpful to the Examination to do so, for instance where a representation includes a request for further information or clarification from Highways England or where Highways England considers that it would be appropriate for the ExA to have Highways England's views in response to a matter raised by an Interested Party in its representations. Where issues raised within a representation have been dealt with previously by Highways England, for instance in response to a question posed by the ExA in its first round of written questions, in Highways England's response to written representations or within one of the application documents submitted to the Examination, a cross reference to that response or document is provided to avoid unnecessary duplication. The information provided in this document should, therefore, be read in conjunction with the material to which cross references are provided.
- 1.1.3 Highways England has not provided comments on every point made within the representation (for instance, Highways England has not responded to comments made about the adequacy of its pre-application consultation given that Highways England has already provided a full report of the consultation it has undertaken as part of its application for the Development Consent Order (DCO)) and the Planning Inspectorate has already confirmed the adequacy of the pre-application consultation undertaken when the application was accepted for Examination. In some cases no comments have been provided, for instance, because the written representation was very short, or because it expressed objections in principle to the Scheme or expressions of opinion without supporting evidence.
- 1.1.4 For the avoidance of doubt, where Highways England has chosen not to comment on matters raised by Interested Parties, this is not an indication Highways England agrees with the point or comment raised or opinion expressed.

2. Transport for London deadline 3a submissions

2.1.1 REP3A-046 Comments on responses to the ExA's written questions and responses to written representations

Reference	Representation Issue	Highways England Response
REP3A-046-1	<p><u>GQ 1.2 – Scope and assessment in the Environmental Statement (ES)</u></p> <p>2.2 This question concerned the lack of reference in the ES to environmental policy within London, particularly the London Environment Strategy and Mayor's Transport Strategy.</p> <p>2.3 TfL welcomes the Applicant's acknowledgement that reference to the London Environment Strategy was omitted from the introductory chapters of the ES (Chapters 1 to 4), and that the Applicant intends to update these chapters of the ES to address the omission. TfL also acknowledges that relevant local, regional and national policy was considered in the assessment of each environmental topic so this would not change the findings presented in the ES assessment. TfL's concerns on this matter have therefore been addressed.</p>	Highways England welcomes TfL's response that it's concerns on these matters have been addressed. However, Highways England would like to confirm that at a future deadline, only Table 1.1 in the ES Chapters 1 to 4 (Introductory Chapters) (APP-026) will be updated to include the relevant regional and local policies (see Highways England response to WQ GQ1.2 (REP2-011)).
REP3A-046-2	<p><u>AQ 1.16 – Cumulative impacts and TA 1.3 – Extent of traffic modelling</u></p> <p>2.6 Question AQ 1.16 required the Applicant to provide details of the other developments that have been used in the traffic model and the local operational air quality cumulative assessment. These details were provided as an appendix to the Applicant's responses to the Examining Authority's Written Questions 1. TA 1.3 was addressed to the London Borough (LB) of Havering and Essex County Council and sought further details on concerns about the scope of the traffic modelling. The response by LB Havering highlights concerns over sub-regional growth not being adequately considered in the traffic modelling.</p>	In addition to Highways England's response to AQ1.16 of the ExA WQs (REP2-011), Highways England responded on this matter in responses 20.1.3 to 20.1.9 to London Borough of Havering's (LBH) Local Impact Report (REP3A-020).
REP3A-046-3	<p>2.7 TfL has reviewed the list of development sites that were included in the uncertainty log in Appendix A to the Applicant's responses to the Examining Authority's Written Questions 1 (TR010029/EXAM/9.27). Only 13 developments in Havering and three in Brentwood are included, of which only three are residential developments. TfL also notes that the developments in Havering all fall into the 'near certain' category, with no developments in the borough identified as 'more than likely'. Furthermore, no developments in neighbouring boroughs are included, such as major developments in LB Barking & Dagenham and LB Redbridge which could impact on traffic flows on the A12. TfL understands this is due to any developments further than 3 km from the DCO boundary being excluded, with only the most significant developments being considered between 1.5 and 3 km from the boundary.</p> <p>2.8 Given the small number of developments considered in the uncertainty log, TfL questions the robustness of the assessment. For example, Gallows Corner is almost exactly 3 km from the DCO boundary and therefore any developments are small distance west of Gallows Corner would not have been considered.</p>	Highways England has responded on this matter. Please refer to Highways England's response 20.1.3 to 20.1.9 to LBH's Local Impact Report (REP3A-020).
REP3A-046-4	<p>2.9 TfL recognises that the traffic model also includes background growth derived from the National Trip End Model (NTEM), which takes account of forecast changes in population and employment in the UK. However, TfL's experience is that this model is not necessarily suitable for forecasting growth for trips within London.</p>	Highways England considers that the use of NTEM in conjunction with the developments identified in the uncertainty log (REP2-012 Appendix A) as 'near certain' or 'more than likely' represents the most appropriate method of deriving forecast traffic growth for assessment of the Scheme. This is because junction 28 of the M25 forms part of the national Strategic Road Network (SRN), it is located on the outer boundary of London and, consequently, needs to account for forecast growth over the whole of South East England and beyond, not only

Reference	Representation Issue	Highways England Response
		London. The method of forecasting traffic growth adopted by Highways England is also fully compliant with the Department for Transport's (DfT) Transport Analysis Guidance (TAG).
REP3A-046-5	<p><u>DCO 1.19 – Articles 18, 19, 22, 35 and Schedule 2 Requirement 17</u></p> <p>2.12 TfL's concerns over timescales for consultation being too short are covered by this question.</p> <p>2.13 The Applicant has lengthened the timescale in the draft DCO for consultation on discharge of any requirements where details need to be submitted to the Secretary of State for approval from ten business days to 21 days (Schedule 2 Requirement 17) – effectively from two weeks to three weeks. TfL welcomes this lengthening of the timescales but remains concerned that 21 days is insufficient. While the Applicant in its response to this question states that the short timescale is justified by discharge of these requirements being a final formality, there is nothing to secure in the draft DCO that TfL will have been previously consulted on some of these matters or that TfL's costs would be paid for either consultation during design development or during the discharge of any requirements. TfL has considered the timescales further and proposes that 30 business days is a more appropriate timescale. This would be in line with the protective provisions for the Port of London Authority in the Silvertown Tunnel DCO, where 30 business days are provided for approval of the detailed design.</p>	<p>Highways England does not agree with TfL that the timescales should be increased to 30 business days. This would essentially increase the time frame to 6 weeks which, as a minimum time frame, is too long and could impose unnecessary delay to the discharge of the Development Consent Order (DCO) Requirements and the construction of this nationally significant infrastructure project.</p> <p>As set out previously, Highways England considers any request for consultation in accordance with the DCO Requirements would be a final formality on issues about which TfL would already be aware. Further, these are minimum timeframes and were TfL to demonstrate at the time of consultation that longer was necessary this could be discussed with Highways England and a longer time frame could be agreed if appropriate in that instance.</p> <p>The amendment proposed by Highways England to Requirement 17 submitted at Deadline 3a was made to seek to address TfL's concerns. Notwithstanding Highways England's position that the current proposals are suitable Highways England proposes to further update the wording of Requirement 17 to 28 days which equates to 4 weeks and has been approved in the recently granted Highways England DCO for A38 Derby Junctions. This will be incorporated into a revised draft DCO for Deadline 4.</p>
REP3A-046-6	<p>2.14 The Applicant has not proposed any lengthening of timescales for Articles 18, 19, 22 and 35, citing precedents for the timescales in various other DCOs. Regardless of precedents, for this scheme longer timescales are required to enable TfL to robustly assess the proposals, with appropriate internal consultation and, where necessary, consulting with external parties too. This will ensure that the construction and operation of the Proposed Development does not result in unnecessary adverse impacts on road users and residents with insufficient notice. TfL also remains of the view that deemed consent in the absence of a response fetters TfL's ability to manage its assets and is punitive.</p>	<p>Deemed consent is necessary to ensure parties, such as TfL, cannot impose delay. Deemed consent provisions have become standard within DCOs and recognised by the Secretary of State as necessary to prevent unnecessary delay and uncertainty to nationally significant infrastructure projects.</p>
REP3A-046-7	<p><u>DCO 1.23 – Schedule 2, Requirements 3, 4, 5, 6 and 8</u></p> <p>2.15 This question covered TfL's position that highway authorities as well as planning authorities should be consultative bodies in discharging requirements, thereby allowing TfL to perform this role.</p> <p>2.16 TfL welcomes the Applicant's amendment to the DCO to include the relevant highway authority as a consultative body on the Construction Environmental Management Plan (CEMP) (Requirement 4). TfL continues to seek to be consulted on Requirements 3 (detailed design), 5 (landscaping), 6 (contaminated land and groundwater) and 8 (surface and foul water drainage), given that the draft DCO requires TfL to take ownership and maintenance responsibility for some of the assets delivered by the Proposed Development.</p>	<p>Highways England proposes to add TfL as a consultee to Requirement 3, 5 and 8 and this will be set out in the updated draft DCO for Deadline 4. It is not clear to Highways England why TfL should need to be consulted on Requirement 6 as this does not appear to relate to its functions. Further discussions will be held between Highways England and TfL.</p>
REP3A-046-8	<p>2.18 TfL understands that the Applicant is proposing to split some of the land plots to allow the permanent and temporary rights it is seeking to more accurately reflect the rights it needs to construct, access and maintain the Proposed Development. TfL expects that on the existing A12 carriageway the Applicant should only require permanent rights associated with the diverted high-pressure gas pipeline under the A12. TfL is not aware of any reason why rights over a larger area of the existing carriageway would be required.</p>	<p>Following representations made by TfL in respect of the A12, Highways England submitted revised Land Plans and a Book of Reference indicating those revisions to the Examining Authority at Deadline 3A on 18 February 2021 (REP3A-003 and REP3A-005). These revisions reflect the position that Highways England requires rights for the Cadent high pressure gas pipeline diversion under the A12 and for other utility diversions in the A12 eastbound carriageway and verge (plot 1/1a).</p>

Reference	Representation Issue	Highways England Response
REP3A-046-9	<p><u>TA 1.1 – Traffic Management Plan (TMP)</u></p> <p>2.21 Concerns over traffic management matters being inadequately addressed and the absence of a TMP were the subject of this question.</p> <p>2.22 TfL disagrees with the Applicant's response that Interested Parties including TfL have sufficient surety because a TMP will be submitted for approval by the Secretary of State following consultation with highway authorities prior to works commencing. TfL maintains that an outline TMP should be subject to examination, with the final TMP submitted to the Secretary of State being in accordance with the outline plan and therefore shortening the review and approval period for the final version. TfL cannot be reassured on traffic management matters in the absence of a TMP without protective provisions in the draft DCO in favour of TfL.</p>	<p>Highways England is preparing an Outline Traffic Management Plan based on the preliminary design of the Scheme and the currently envisaged temporary traffic management arrangements to enable its construction. This will be submitted into the Examination at Deadline 4 on 17 March 2021.</p>
REP3A-046-10	<p><u>TA 1.4 – Brook Street</u></p> <p>2.23 This question covers the proposed amendments to signal timings at the top of the A12 westbound off slip to reduce delays on the A1023 Brook Street approach to the M25 Junction 28 roundabout. TfL has previously welcomed this amendment to the scheme to help address concerns over bus journey times through the junction.</p> <p>2.24 It is TfL's view that this amendment to signal timings must be secured in the DCO as part of the Proposed Development secured by the DCO as otherwise, despite it being the Applicant's current intention to change the timings, it cannot be guaranteed. Without this change, Sections 5.6 and 5.8 of the Transport Assessment (TR010029/APP/7.4) demonstrated that both journey times and queue lengths would increase as a result of the Proposed Development on the A1023 Brook Street approach to the roundabout in both the AM and PM peak periods for both the 2022 and 2037 forecast years. TfL considers that this would be an unacceptable impact of the Proposed Development on bus journey times and a way should therefore be found to secure the amendment to signal timings and/or minimisation of delays on the A1023 approach to the roundabout through the DCO. This could be achieved by adding the changes to signal timings into Schedule 1 of the draft DCO as one of the DCO works.</p>	<p>Highways England is a government company and has said as part of the application and this examination what its proposals are with regards the inter green and signal timings on the A1023 approach to the M25/Junction 28 roundabout. Highways England has a duty to manage the SRN and placing a statutory requirement on Highways England on how to do this with regards to signal timings is not appropriate or necessary and could fetter Highways England's ability to undertake its functions appropriately.</p>
REP3A-046-11	<p><u>3. Responses on Written Representations</u></p> <p><u>Grove Farm</u></p> <p>3.2 Work No. 15 of the draft DCO involves the re-provision of the egress route from Grove Farm onto the new A12 eastbound off slip road. The draft DCO requires that TfL will be responsible for the ownership and maintenance of the new slip road.</p> <p>3.3 The Written Representation from Grove Farm includes proposals for access to the farm to be provided from the new A12 eastbound off slip road as well as from the M25 northbound on slip road, with a new auxiliary lane on the left of the A12 eastbound off slip road providing this access. TfL wishes to understand the Applicant's views on this proposal and TfL reserves its position until it has a fuller understanding of the implications including any road safety impacts. TfL does not seek to take on further maintenance liabilities beyond those already imposed by the draft DCO</p>	<p>Highways England's response to Grove Farm's proposal is set out in pages 51 to 67 of Highways England's response to Written Representations (REP3A-022). In short, Highways England does not consider that it would be appropriate for an access to be provided to Grove Farm from the A12 eastbound off slip.</p>

© Crown copyright (2021).

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence:

visit www.nationalarchives.gov.uk/doc/open-government-licence/

write to the Information Policy Team, **The National Archives, Kew, London TW9 4DU**,
or email psi@nationalarchives.gsi.gov.uk.

Printed on paper from well-managed forests and other controlled sources.

Registered office Bridge House, 1 Walnut Tree Close, Guildford GU1 4LZ
Highways England Company Limited registered in England and Wales number 09346363

