

# M25 junction 28 improvement scheme

**TR010029**

## **9.50 Applicant's response to the Transport for London deadline 3b submission**

Rule 8(1)(b)

Planning Act 2008

Infrastructure Planning (Examination Procedure) Rules 2010

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# Infrastructure Planning

## Planning Act 2008

### The Infrastructure Planning (Examination Procedure) Rules 2010

### M25 junction 28 scheme Development Consent Order 202[x ]

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<b>Rule Number:</b>	Rule 8(1)(b)
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<b>Author:</b>	M25 junction 28 scheme, Project Team, Highways England

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# Table of contents

<b>Chapter</b>	<b>Pages</b>
1. <b>Purpose and structure of responses to written representations</b>	<b>4</b>
2. <b>REP3B-008 Transport for London comments on responses to the ExA's written questions</b>	<b>5</b>

# 1. Purpose and structure of responses to written representations

- 1.1.1 This document provides the comments of the applicant, Highways England, in response to the Transport for London comments in response to the Examining Authority's Written Questions submitted to the Planning Inspectorate (PINS) on or before deadline 3b (25 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 Examining Authority (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 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. REP3B-008 Transport for London comments on responses to the ExA's written questions

### Suggested agenda items for Compulsory Acquisition Hearing 1

Response reference:	Representation issue	Highways England response
<p><b>REP3B-008-1</b></p>	<p>TfL notes the proposed agenda for Compulsory Acquisition Hearing 1 for the M25 Junction 28 improvement scheme examination and that matters concerning TfL's land interests are not proposed for discussion at the hearing.</p> <p>TfL wishes to make clear to the Examining Authority (ExA) that there are matters regarding the acquisition of rights over TfL's land where TfL and the Applicant are not in agreement. TfL is concerned that the decision of the ExA to not consider matters concerning TfL's land at the hearing may have been influenced by the Applicant's response to Written Representations (TR010029/EXAM/9.36), which stated for the issues with references REP2- 036-9 and REP2-036-39 that "TfL has confirmed their acceptance to the changes to the rights put forward by Highways England with the exception of Plot 1/6." TfL wishes to make clear that while it welcomes the subdivision of plots included in the revised Land Plans and Book of Reference submitted by the Applicant at Deadline 3a, there are issues remaining where TfL is not in agreement with the rights sought, not just for Plot 1/6.</p> <p>The specific issues remaining which are of concern to TfL are:</p>	<p>The issues raised by TfL in its representation at Deadline 3B are noted by Highways England. Following this representation, the issues raised were discussed at Compulsory Acquisition Hearing 1 on 1 March 2021. Highways England agreed with the Examining Authority to review the land powers sought in relation to plots 1/1a, 1/3 and 1/6 in liaison with TfL.</p> <p>At a progress meeting between TfL and Highways England on 8 March 2021, the following was explained by Highways England:</p> <ul style="list-style-type: none"> <li>Plot 1/1a – Highways England will need to make minor changes to the boundaries between plots 1/1a and 1/1d in order to take account of existing cross carriageway drainage and proposed linear drainage in this location. The result is a slight increase to the size of plot 1/1a to secure permanent rights for Highways England to maintain the existing cross carriageway and proposed linear drainage which serves not only the A12, but also the proposed new loop road. Highways England has explained to TfL that the rights required for plot 1/1a relate to utility diversionary works and drainage.</li> <li>Plot 1/3 – Following a further review of the powers sought, Highways England has reduced the scope of powers affecting plot 1/3 from permanent acquisition to acquisition of permanent rights. Rights need to be acquired permanently in order to secure the appropriate powers to relocate utility works (including GTT and Telent Technology Services Ltd) in this location as a result of the construction of the A12 off slip. Rights are also required for the proposed private means of access at the western end of this plot i.e. the start of Work No.19A (insofar as the land needed</li> </ul>

Response reference:	Representation issue	Highways England response
		<p>for the private means of access in not within the TLRN highway boundary).</p> <ul style="list-style-type: none"> <li>Plot 1/6 – Highways England has explained to TfL that permanent rights are required for plot 1/6 in this location in order for Highways England to secure access to an existing drainage channel and outfall associated with the A12 but which will also serve the new loop road, for ongoing maintenance.</li> </ul> <p>Please refer to the document ‘Addendum to the Book of Reference, Land Plans and Schedule of change in response to action points from the Compulsory Acquisition Hearing 01/03/21’ (TR010029/EXAM/9.58) submitted to the Examining Authority at Deadline 4 which shows the above changes to land powers for plots 1/1a, 1/3 and 1/6.</p> <p>Discussions continue with TfL in respect of the above. Highways England acknowledges that TfL has raised the possibility of utilities in the highway being authorised under New Roads and Streets Works Act 1991. However, Highways England does not wish to rely on other legislation but instead to bring all the necessary powers within the scope of the DCO where it may do so.</p>
<b>REP3B-008-2</b>	<p>Plot 1/1a – acquisition of permanent rights and temporary possession is sought by the Applicant. TfL remains unclear of the reasons why permanent rights are sought over the majority of this plot rather than just temporary possession and no need or justification has been provided to TfL by the Applicant. TfL considers that the only part of this plot where permanent rights may be required is a small part of the plot affected by the diversion of the gas pipeline. The Applicant shared the draft Land Plans with TfL on 11 February and TfL responded on 12 February welcoming the sub-division of plots but raising this concern about rights sought over Plot 1/1a. TfL is therefore not in agreement with the Applicant on this matter.</p>	<p>Refer to response REP3B-008-1.</p>
<b>REP3B-008-3</b>	<p>Plot 1/3 – acquisition of all interests and rights is sought by the Applicant. This land is wholly in TfL ownership and is required to deliver the new A12 eastbound off slip road which the draft DCO specifies will be TfL’s</p>	<p>Refer to response REP3B-008-1.</p>

Response reference:	Representation issue	Highways England response
	responsibility. TfL is therefore unclear why acquisition of all interests and rights in this plot of land is required to deliver the Proposed Scheme, since it is currently in TfL's ownership and will need to be in TfL's ownership following completion of the Proposed Scheme.	
<b>REP3B-008-4</b>	Plot 1/6 – acquisition of permanent rights and temporary possession is sought by the Applicant. TfL welcomes its addition as an occupier (as highway authority) in the updated Book of Reference. However, TfL is unclear of the reasons why permanent rights are sought over this plot rather than just temporary possession as TfL will remain the highway authority over this plot following the development.	Refer to response REP3B-008-1.
<b>REP3B-008-5</b>	TfL requests that the ExA considers further whether these issues should be considered at Compulsory Acquisition Hearing 1 on Monday 1 March, at which TfL is able to speak on these matters if required, or whether the ExA would prefer these matters to continue to be dealt with through written submissions. TfL would welcome the advice of the ExA on this matter.	Refer to response REP3B-008-1.

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