



All Interested Parties and Statutory
Parties

Your Ref:

Our Ref: TR010029

Date: 19 March 2021

**Planning Act 2008 (as amended) Section 89
The Infrastructure Planning (Examination Procedure) Rules 2010 (as amended) –
Rules 9 and 17**

**The Infrastructure Planning (Compulsory Acquisition) Regulations 2010 –
Regulations 4 to 19**

**Application by Highways England for an Order granting Development Consent for
the M25 Junction 28 Improvement Project - Request to Make Changes to the
Original Application**

We are writing to inform you of the Procedural Decision made by the Examining Authority (ExA) following the Applicant's request for the ExA to accept an amendment to the above-mentioned Development Consent Order (DCO) application.

This formal Change Request was made at Deadline 3A [REP3A-002] and comprised the following amendments to the Application:

Change Request No	Work No.	Summary of Change
1	17	Removal of surplus construction materials deposit to the west of Weald Brook
2	18	Amendment to the surplus construction materials deposit situated to the south-east of Maylands Golf Course to form an environmental bund
3	32	Refinement of Maylands golf course accommodation works
4	29	Amendment to the lateral limits of deviation for the Cadent gas pipeline diversion – southern connection and a reduction of permanent land rights sought.

In our response on 26 February 2021 [PD-012], the ExA accepted Change Requests Nos 1 and 4 into the Examination as non-material changes to the application. However, in respect to Change Requests Nos 2 and 3, the ExA sought the views of Interested Parties as to

whether it constitutes a material change to the application. The ExA noted that at Deadline 4, Wednesday 17 March 2021, no responses had been received on these matters.

The ExA has assessed the Applicant's request in line with paragraphs 109 to 115 of [DCLG Guidance 'Planning Act 2008: examination of applications for development consent'](#) and [the Planning Inspectorate's Advice Note 16 National Infrastructure Planning](#).

We have concluded, on the evidence before us, that Change Request No 2 is a material change to the application; but that it is not so substantial that it would extend beyond the scope and assessment and result in materially new or materially different environmental effects as prescribed in the Environmental Statement. This change has been accepted into the Examination.

In so doing, and in accordance with Regulation 6 the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 (the CA Regs), the ExA (on behalf of the Secretary of State) has decided to accept the proposed provision for additional land as part of the application.

However, Regulation 4 of the CA Regs states the following:

Regulations 5 to 19 prescribe the procedure for the purposes of the condition in subsection (4) of section 123 (land to which authorisation of compulsory acquisition can relate) and apply where –

- (a) It is proposed to include in an order granting development consent a provision authorising the compulsory acquisition of land; and*
- (b) A person with an interest in the additional land does not consent to the inclusion of the provision.*

Because the Affected Person(s) made no response at Deadline 4, the ExA concludes that consent cannot be said to have been given and accordingly, the CA Regs are engaged. The ExA therefore directs the Applicant to carry out its duties under Regulations 7, 8 and 9 of the CA Regs.

The ExA has concluded that Change Request No 3 is a non-material amendment to the application and is also accepted into the Examination. The ExA has also considered all Change Requests cumulatively and concludes that they do not generate any new or different likely significant environmental effects or require any additional land outside of the Order limits.

In line with the Infrastructure Planning (Examination Procedure) Rules 2010 (as amended) – Rule 17, the ExA requests that the Applicant is to update all necessary documents into the Examination by **Deadline 5, Thursday 13 April 2021** which reflects Change Requests Nos 1 to 4. The ExA requests this should also include two hard copies, at A1 size, of the Works plans.

Yours faithfully

Richard Allen

Lead Member of the Examining Authority