

M25 junction 28 improvement scheme

TR010029

9.134 Applicant's comments on the Garden of Peace's Deadline 9 submission

Rule 8(1)(k)

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M25 junction 28 scheme

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1. Purpose and structure of this response

- 1.1.1 This document provides the comments of the applicant, Highways England, in response Savills' Deadline 9 submission on behalf of the Trustees of the Gardens of Peace (REP9-080) submitted to the Examining Authority (ExA) on or before Deadline 9 (30 June 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. REP9-080 Gardens of Peace comments on the Proposed Development and update on the Tri-party Agreement between Gardens of Peace, Cadent Gas and Highways England

Response reference:	Representation Issue	Highways England Response
REP9-080-01	<p>Drainage - There is a need for a temporary drainage scheme in order to prevent any run-off and potential pollution from the construction site of Plot 1/8 on to Gardens of Peace land, which is not within the DCO boundary. The Applicant has asked Gardens of Peace to accommodate the temporary drainage scheme on Gardens of Peace retained land, which does not fall within the Order limits. To date no proposal which meets the operational requirements of the cemetery, and is acceptable from a risk perspective to the Trustees, has been identified. The only proposal discussed between the relevant parties involved the discharge of water from Plot 1/8 into the wooded area in the middle of the cemetery. However, given the cemetery will be operational during the Scheme construction works, with this area designed for infant burials, this proposal was deemed unacceptable by Gardens of Peace and its professional advisors.</p> <p>Gardens of Peace continue to work with the Applicant to find a suitable acceptable solution and as at the date of this submission, various options are still being considered.</p>	<p>Highways England continues to work with the Gardens of Peace, its advisors and Cadent Gas to find a suitable and acceptable solution for the temporary drainage.</p> <p>It was only in recent weeks that, as outlined in their Deadline 9 submission (REP9-080), the Trustees mentioned their intention to use the woodland area of the burial ground that was previously agreed for as a location to facilitate temporary drainage as a site for infant burials.</p> <p>It is still possible to undertake the gas diversion works within the DCO Order limits if a temporary drainage solution cannot be agreed with the Gardens of Peace. This would require some of the previously agreed solutions, or other alternative solutions, to be implemented. For example, the temporary soil storage area currently proposed to be within the Cadent Gas construction site could be relocated elsewhere within the cemetery.</p>

Response reference:	Representation Issue	Highways England Response
REP9-080-02	<p>Planning Application - As referred to in the submission at Deadline 8 (REP8-032), there is a need for the Applicant to apply for planning approval for the temporary car park on land within the cemetery which falls outside the order limits. The Applicant acknowledges this and is shortly to be submitting an application to the Local Planning Authority.</p> <p>However, should approval not be granted for the car park, or should approval not be provided prior to the Applicant taking occupation of Plot 1/8, the cemetery will be without its main parking facility for cemetery visitors meaning the cemetery will not be able to operate once the Applicant takes occupation of Plot 1/8. This will cause substantial business disruption and an inability to meet the burial demands of the local Muslim community which the cemetery serves. It is therefore fundamental that temporary planning permission for the car park is granted prior to any occupation being taken of Plot 1/8. Furthermore, and in case of the construction period of the Scheme extending beyond the 6 month time frame provided by the Applicant, any planning reapplication (if required) must be made in good time by the Applicant to avoid any period of time where Gardens of Peace use of the temporary car park would be deemed unlawful.</p>	<p>Highways England has been in ongoing discussions with the representatives of the Gardens of Peace regarding the temporary overflow car park. Gardens of Peace have now advised a smaller temporary overflow car park for 17 car parking spaces is needed (previously 31 spaces were indicated as being required). The main car park for the burial site has provision for 120 cars as shown on the consented Gardens of Peace landscape masterplan (Drawing Number 005). Highways England does not accept that the loss of 17 car parking spaces, being the spaces furthest away from the main cemetery buildings, if planning permission is not granted, would cause substantial business disruption and an inability to meet the burial demands of the local Muslim community which the cemetery serves.</p> <p>It is further understood from the Gardens of Peace that the phasing of burials would not be impacted because although the temporary car park will be located on land allocated as burial space, the cemetery will be in its early stages of use and there will be burial plots available elsewhere than in the immediate vicinity of the Cadent gas main works site where the temporary car park would be located.</p> <p>In the unlikely event that it is necessary to reapply for planning permission for the temporary car park, Highways England will ensure that any application is made in good time.</p>

Response reference:	Representation Issue	Highways England Response
<p>REP9-080-03</p>	<p>Tree Belt - The existing tree belt between the cemetery and the A12 acts as a visual and sound screen from the A12 and will provide screening from the Scheme construction works outside of the Gardens of Peace site. Up to the date of Deadline 7, the applicant had reassured Gardens of Peace that the tree belt will not be touched and thus no visual and sound effects over and above those of Plot 1/8, will be caused to the cemetery. However, as referred to at Deadline 8 (REP8-032), Gardens of Peace have subsequently been informed that tree felling would be required for the NMU Scheme. Gardens of Peace has requested clarification on which trees would be affected, and this has now been provided.</p> <p>Gardens of Peace take this opportunity to reiterate that any tree felling will not only remove valuable screening from the effects of the Scheme construction works, but given the proximity of some of these trees to the burial areas which will be in use during the Cadent works, could additionally cause distress to mourners during burials taking place at the same time as the felling works.</p> <p>Whilst acknowledging the commitment which the Applicant has now undertaken to the NMU Scheme, Gardens of Peace simply requests that the Applicant uses its best efforts to ensure that the proposed tree felling is undertaken at as late a date as is practicable with proposed felling time and date to be provided to Gardens of Peace in advance of the works. The Applicant should also make good its indication that TfL</p>	<p>Highways England's position in relation to trees along the A12 remains as previously set out at REP8-032-04 of (REP9-066).</p>

Response reference:	Representation Issue	Highways England Response
	will be asked to commit to not pollarding those trees in the intervening period.	
REP9-080-04	<p>Timings - Gardens of Peace have reviewed the Applicant's and Cadent Gas' recent proposal of taking entry on 1st March 2022 to carry out the proposed mitigation measures, ahead of gas main diversion works commencing 1st April 2022. This is acceptable to Gardens of Peace, provided that the mitigation measures, which are currently being discussed between the relevant parties, are agreed and in place prior to 1st April 2022.</p>	<p>Highways England welcomes the Gardens of Peace's acceptance of the 1 March 2022 to gain entry to carry out the proposed mitigation measures, ahead of gas main diversion works.</p>
REP9-080-05	<p>Tri-party Agreement Gardens of Peace's, the Applicant's and Cadent Gas' legal representatives are all working on agreeing the wording of the Tri-party Agreement that incorporates the mitigating measures to alleviate or eliminate concerns of Gardens of Peace that have been raised in previous submissions. Whilst many elements have been informally agreed, the above concerns remain unagreed and until they are agreed, the parties will not be in a position to complete the agreement. Furthermore, and whilst temporary drainage solutions are still being considered between parties, without any drainage provisions in place, it is not clear how the DCO will be deemed deliverable without an agreed drainage scheme in place.</p>	<p>Highways England is awaiting comments back from the legal representatives of the Gardens of Peace to the draft tri-party agreement.</p> <p>Highways England does not agree that the outstanding issues (temporary drainage, tree belt and temporary car park) puts the Gardens of Peace in a precarious position in terms of the daily effects upon the cemetery. Of the three issues the most significant is drainage, the situation in respect of which is explained in response REP9-080-01 above and in Highways England's response REP8-032-08 of its Deadline 9 submission (REP9-066).</p>

Response reference:	Representation Issue	Highways England Response
	<p>As per the submission at Deadline 8, at this late stage of the examination process, we find it concerning that the above issues are still outstanding. Without these matters mitigated, or otherwise, it puts Gardens of Peace in a very precarious position in terms of the daily impacts of the Scheme on the cemetery and the potential substantial business interruption.</p>	

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