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Planning Inspectorate

Customer Services
Hornbeam House
Crewe Business Park
Electra Way
Crewe
Cheshire
CW1 6GJ

T 0300 060 3900

BY EMAIL ONLY

Dear Sir/Madam

NSIP Reference Name / Code: TR010030

Application by Highways England for an Order Granting Development Consent for the M25 Junction 10/A3 Wisley Interchange Improvement Scheme

Thank you for your consultation on the above dated 25 July 2019.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

Written Representation - summary

Natural England is satisfied that the applicant has properly scoped the potential risks and impacts to environmentally sensitive features, and made all reasonable efforts to avoid impacts on features of environmental and biodiversity value. Natural England is satisfied that the application includes appropriate compensatory and enhancement measures in response to unavoidable impacts arising from the Scheme. Natural England has been engaged in discussion with the applicant from an early stage in Scheme development and we are satisfied that our advice has been adopted in order to minimise the risk of impacts and to reduce residual effects wherever possible. The Scheme will result in the unavoidable permanent loss of part of the Thames Basin Heaths Special Protection Area (SPA) and part of Ockham and Wisley Commons Site of Special Scientific interest (SSSI). The applicant has proposed a range of measures to off-set these losses. Natural England is satisfied that with these measures in place there is unlikely to be adverse impacts on the overall integrity of the SPA. Subject to all proposed environmental safeguards and compensatory/enhancement measures being in place Natural England has **no outstanding objections** over this proposal. There are a number of aspects where further detail has yet to be provided and we intend to work closely with the applicant over these items, such as monitoring of the proposed enhancement measures, re-instatement of areas used for temporary land-take and the design of drainage.

1 INTRODUCTION

1.1. Purpose and structure of these representations

These Written Representations are submitted in pursuance of rule 10(1) of the Infrastructure Planning (Examination Procedure) Rules 2010 ('ExPR') in relation to an application under the Planning Act 2008 for a Development Consent Order ('DCO') for an Order Granting Development Consent for the M25 Junction 10/A3 Wisley Interchange Improvement Scheme ('the Project') submitted by Highways England ('the Applicant') to the Secretary of State.

2. CONSERVATION DESIGNATIONS, FEATURES AND INTERESTS THAT COULD BE AFFECTED BY THE PROPOSED PROJECT

2.1. Natural England is satisfied that the statutory protected sites, specially protected species and other features of biodiversity value have been properly identified by the applicant and potential impacts appropriately evaluated, as set out in the Environmental Impact Assessment Scoping Report.

3. NATURAL ENGLAND'S CONCERNS AND ADVICE

3.1 The principal issues

Natural England identified the following main issues of concern:

- a. Permanent loss of extent of a component part of the Thames Basin Heaths SPA, specifically the loss of potential supporting habitat for Annex 1 bird species.
- b. Permanent loss of extent of Ockham and Wisley Commons Site of Special Scientific Interest (SSSI).
- c. Indirect effects on habitat suitability for Annex 1 birds, such as through noise disturbance, changes in nutrient deposition on sensitive habitats, changes in visitor access patterns across Ockham and Wisley Commons SSSI, pollution of watercourses.
- d. Potential for damaging impacts on populations of specially protected species, especially sand lizard and bats.
- e. Permanent loss of registered common land and other publicly accessible land.
- f. Potential for permanent loss of Ancient Woodland and veteran trees.

3.2 A full record of our discussions with the applicant and areas where agreement has been reached is set out in a Statement of Common Ground, provided with the application documents as item 8.2.

The main issues of concern to Natural England are discussed below.

3.2.1 Permanent loss of extent of a component part of the Thames Basin Heaths SPA

- 3.2.1.1** The Scheme will result in the permanent loss of areas of land classified as a Special Protection Area. It is important to ensure that the loss of extent of land classified as SPA is unavoidable and is for imperative reasons of overriding public interest. The case for the requirement for the Scheme is clearly set out and well argued in the application. Natural England was consulted over the initial scope of the EIA and we are satisfied that our advice was adopted by the applicant. Natural England is satisfied that alternative options to avoid or reduce as far as practicable the potential for loss or damage to statutory sites of nature conservation importance were properly considered, and that the selected option was the least damaging, whilst delivering other scheme objectives. Natural England was consulted by the applicant at various stages during the option appraisal and selection process and we are satisfied that our advice was properly considered.
- 3.2.1.2** Natural England is satisfied that the extent of Compensation Land proposed to be provided is at appropriate scale in relation to that being permanently lost from the SPA.
- 3.2.1.3** It should be noted that the applicant has agreed with Natural England that the areas of Compensation Land can be considered for recommendation to be classified as SPA.
- 3.2.1.4** The areas classified as SPA which will be lost are currently occupied by mature woodland and do not include areas of habitat suitable for nesting by the Annex 1 birds for which the SPA is classified, nightjar, woodlark and Dartford warbler. The close proximity of this land to major roads means that the land is not likely to be of potential value as nesting habitat even if appropriate management were in place to create the typical supporting habitat which these species utilise. However, these areas are in close proximity to good quality lowland heathland and scrub habitats which are known to regularly support nesting nightjar, Dartford warbler and woodlark. There is the potential therefore that these areas of woodland which will be lost provide supporting habitat in contributing towards the supply of invertebrate prey. The potential loss of supporting habitat is an important concern. Natural England is satisfied that the applicant has acknowledged this and has put forward proposals which address the loss. Natural England welcomes the proposals to not only compensate for the direct permanent loss of extent of land classified as SPA but also the additional provisions for enhancement works intended to offset the potential loss of supporting habitat. Natural England has provided advice to the applicant over both of these aspects and we are satisfied that the proposals are appropriate to ensure that adverse impacts on the populations of all three Annex 1 birds can be avoided.
- 3.2.1.5** It is noted that it is stated clearly that Appendix 7.19 is a working document and that further engagement will be undertaken by the applicant with key stakeholders in developing detailed proposals. It should be noted that Natural England has been engaged with the applicant from an early stage in scheme development in providing advice on the appropriate extent and suitability of land proposed to be used to enhance the value of the site for SPA species. Natural England is keen to continue to work with the applicant to achieve the benefits set out in Appendix 7.19.

- 3.2.1.6** It is perhaps important to point out that the proposed SPA enhancement works set out in Appendix 7.19 are additional to existing plans for habitat maintenance and management and, at present, there is no legal obligation on the part of Surrey County Council or Surrey Wildlife Trust to undertake any of the proposed enhancement works, ie expansion of heathland, creation of 'wood pasture' and enhancement of retained woodland. The proposed enhancement works are not specifically funded in any way through the Countryside Stewardship agreement between Natural England and Surrey Wildlife Trust which pertains to Ockham and Wisley Commons.
- 3.2.1.7** Natural England welcomes the proposals to extend the area of open heathland through enhancement works. The potential for success at this site has been demonstrated through previous works carried out over a number of years and the techniques involved are now well understood. Natural England has discussed the proposed location and extent of these enhancements with the applicant and Surrey Wildlife Trust and we are satisfied that the proposals are appropriate and will have significant benefits for biodiversity. We will continue to engage with the applicant in order to agree in more detail how this work will be undertaken to ensure the greatest likelihood of successful habitat creation.
- 3.2.1.8** Natural England is pleased to see that Highways England clearly state that they commit to fund the proposed works set out in the draft SPA management and monitoring plan. This should be a condition of Scheme approval.
- 3.2.1.9** Natural England is satisfied with the proposed measures of success and outline monitoring programme to track the progress of habitat creation included in the SPA enhancement works.
- 3.2.1.10** It will be important to clarify the role, if any, which RHS Wisley may have in the management of 'C2 Wisley Compensation Land' and whether there may be a need for changes in the arrangement between Surrey Wildlife Trust and RHS Wisley to clarify roles and responsibilities, particularly in relation to long term maintenance liability.
- 3.2.1.11** It will be essential that monitoring of critical aspects potentially affected by the Scheme is in place both during construction and post-Scheme completion in order to provide assurance that the various safeguards and enhancement measures are having the desired effects. Natural England welcomes the proposals for monitoring set out in the application. However, there are some matters of detail over which we would welcome further discussion with the applicant. For example, as set out the proposed monitoring of the SPA enhancement works in C1 and C2 has no direct link to the desired function of these areas ie that they should have the potential to provide feeding habitat for nightjar. It is acknowledged that the proposed monitoring of tree establishment and plant diversity in the grassland will, to an extent, provide a proxy measure of the likely suitability of the areas for nightjar. However, Natural England would encourage consideration of means of measuring habitat suitability and/or usage of the areas by nightjar, such as through use of bio-acoustic technology.
- 3.2.1.12** The proposed establishment of a steering group to review the results of monitoring is welcome and Natural England will be happy to be an active partner of this group. Natural England is pleased to see the commitment by the applicant that the steering group will have the ability to make decisions in the light of monitoring to influence management or further monitoring, so as to improve the prospects for successful delivery of objectives.

3.2.1.13 On a more general note, Natural England is satisfied with the process used to identify those nature conservation ‘receptors’ potentially affected by the scheme and subjected to further assessment. Natural England is satisfied with the valuation criteria used in the assessment process.

3.2.2 Permanent loss of extent of Ockham and Wisley Commons Site of Special Scientific Interest (SSSI)

3.2.2.1 The Scheme will result in the permanent loss of parts of Ockham and Wisley Commons SSSI as a consequence of road widening and re-design of the junction. The loss of extent is greater than that which will be lost from the SPA as parts of the SSSI are outside the boundary of the SPA. The loss of extent of land designated as SSSI is an important concern. However, Natural England is satisfied that the applicant has made all reasonable effort to reduce the scale of loss whilst still delivering the objectives of the project. Natural England welcomes the proposals by the applicant to offset this loss. In particular, we have agreed mitigation and enhancement proposals in and around Boldermere with the applicant and these are included as part of the application. We are satisfied that with the agreed proposals in place there will be no long-term adverse impacts on the designated interest features of Ockham and Wisley Commons SSSI.

Natural England welcomes the proposals for re-instatement of SSSI/SPA land required for temporary land-take. The proposed creation of bare areas of sandy ground, sparsely-vegetated mounds and similar features has the potential to create valuable features for specialised invertebrates and scarce plants. The proposed establishment of dense, structurally varied woodland/scrub using native, site-appropriate species is also welcome. The retention of dense screening along the roadside is regarded as an important element by Natural England as studies have shown that utilisation of lowland heaths by feeding nightjar can be adversely impacted by artificial lighting, such as from adjacent roads. Dense growth of shrubs and trees alongside major roads has also been shown to have significant benefits for pollution-sensitive habitats such as heathland by helping to disperse emissions from traffic. To have greatest benefit in this respect these tree and shrub plantings should be subject to rotational management by coppicing on a long rotation to maintain a dense, bushy structure.

3.2.3 Indirect effects on habitat suitability for Annex 1 birds

3.2.3.1 The Scheme has the potential to adversely affect the suitability of the component part of the Thames Basin Heaths SPA to support breeding and feeding Annex 1 birds (nightjar, woodlark and Dartford warbler). We have been engaged in discussion with the applicant from an early stage in considering means of avoiding impacts or where risk of impact is unavoidable in agreeing measures to manage risk. Possible indirect effects on Annex 1 birds include increased traffic noise (as the changes in junction layout have the effect of moving traffic closer to areas of heathland utilised by these birds), changes in recreational disturbance should visitor patterns be significantly altered, effects on invertebrate food availability, and displacement of birds due to disturbance during construction. Natural England is satisfied that the applicant has properly considered these potential impacts and has proposed appropriate safeguards to manage risk. There are some matters of detail where we would welcome further discussion over the applicant, such as proposals for monitoring of Annex 1 birds during the construction phase to enable appropriate measures to be put in place if it were to become evident that birds are being displaced due to disturbance.

3.2.3.2 Natural England is satisfied that the SPA will not be rendered less suitable for Annex 1 birds despite the permanent loss of part of the classified SPA. The range of measures proposed by the applicant, which has been agreed with Natural England, is designed to provide both 'new' areas of heathland potentially suitable for nesting and enhancements to areas of retained habitat which are likely to increase habitat suitability for feeding Annex 1 birds. We welcome the proposals for woodland enhancement. There is a large body of evidence available which demonstrates the value of the proposed works for nightjar ie the creation and maintenance of an increased extent of structured woodland edge habitat. Such areas provide favoured areas for feeding by nightjar as they have the effect of increasing the availability of invertebrate prey either resting amongst foliage in the tree canopy or congregating in sheltered areas in gaps in the tree canopy. This proposed enhancement work therefore has the potential to offset the loss of feeding areas resulting from tree felling in other parts of the site. Natural England is satisfied that the proposed woodland enhancement works have the potential to increase the availability of invertebrate food for all three Annex 1 birds associated with the site and increase habitat suitability for odonata (dragonflies and damselflies).

3.2.4 Potential for damaging impacts on populations of specially protected species

3.2.4.1 Natural England has issued Letters of No Impediment to the applicant to demonstrate that we are satisfied that we have received sufficient information to enable us to consider potential impacts on bats and badgers and that we have agreed appropriate measures which will be in place with respect to activities which require a protected species licence. This pertains to bats and badgers only. The applicant proposes to proceed on the basis of Precautionary Methods of Working with regard to great crested newts and sand lizard based on the very low risk of impacts on these species. Natural England is satisfied that the applicant has made reasonable efforts to assess the potential for damaging impacts on all specially protected species.

3.2.4.2 With specific reference to bats, Natural England is satisfied that the applicant has made significant effort to gain a sound understanding of bat activity in the vicinity of the Scheme. This work makes clear that the area supports strong populations of a number of bat species. Whilst it would appear that direct impacts on bats arising from Scheme construction will be limited it will be important that indirect effects are given careful consideration. In particular, the survey work makes clear that there is a significant amount of movement across the M25 and A3 by foraging bats. The potential effects of road lighting on this activity should be given careful consideration. There is a large body of evidence which demonstrates that 'light spill' from brightly-lit highways can have significant adverse effects on bat behaviour. It will be important that this is considered in the design of the junction and the design and layout of construction compounds. Natural England would welcome further discussion with the applicant over this aspect at detailed design stage.

3.2.4.3 Natural England is satisfied that reasonable efforts have been made to determine whether hazel dormice are likely to be present in the vicinity of the Scheme. The results indicate that it is not likely that this species is present and does not need to be considered further.

3.2.4.4 Similarly, Natural England is satisfied that reasonable efforts have been made to determine whether sand lizard (a European protected species) which is present on Ockham Common was likely to be affected by the Scheme. The results indicate that the risk of impact is very low and can be managed through implementation of appropriate working practices and safeguards. Natural England has agreed with the applicant that this is an appropriate way forward.

3.2.4.5 Natural England is also satisfied that reasonable efforts have been made to determine whether great crested newts are present in the vicinity of the scheme and how the activities might affect local populations. The results indicate that the risk of impacts is very low and can be managed through implementation of appropriate working practices and safeguards. Natural England has agreed with the applicant that this is an appropriate way forward.

3.2.4.6 We are pleased to see that the applicant has considered the potential loss of three breeding territories of spotted flycatcher as being potentially significant. This species is included in the UK 'Red List' of birds of conservation concern as it is in long-term decline in England. The applicant proposes to off set this loss by undertaking specific habitat enhancement work in areas of retained woodland and installing appropriate nest boxes, which is welcomed.

3.2.5 Permanent loss of registered common land and other publicly accessible land.

3.2.5.1 A significant area of registered common land and accessible open space will be permanently lost through implementation of the Scheme. Natural England has been engaged in discussion with the applicant over the consideration of provision of Replacement Land from an early stage in Scheme development. Natural England is satisfied that our advice on this aspect has been adopted in the draft proposals. It is noted that the applicant states that further engagement with Natural England and other key stakeholders will be undertaken in developing detailed proposals for the delivery of the various Replacement Land objectives.

3.2.5.2 Natural England is satisfied that the extent of Replacement Land proposed to be provided is at appropriate scale in relation to that being permanently lost.

3.2.5.3 Natural England is satisfied with the proposals for Replacement Land. The proposed locations offer good potential for improvement to access routes around the site and have good linkage to existing access points from the surrounding PRow network. The proposed locations are likely to provide visitors with a better quality experience given the greater distance of the land from the highway network and they offer good potential for biodiversity enhancements as set out in the application.

3.2.6 Potential for permanent loss of Ancient Woodland and veteran trees.

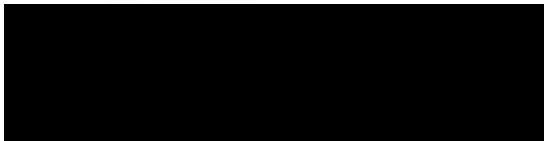
3.2.6.1 It is noted that the Scheme will result in loss of areas classified as Ancient Woodland. The Scheme will also result in the unavoidable loss of up to 9 veteran trees. Natural England is satisfied that the applicant has made all reasonable endeavours to avoid loss of Ancient Woodland and we welcome the statement made by the applicant that further efforts to avoid impacts on veteran trees will be made at the detailed design stage.

3.2.6.2 The proposal to translocate ancient woodland soils is noted. It is clear that the applicant has made strenuous efforts to avoid the loss of Ancient Woodland and that the translocation of soil from those areas where loss is unavoidable is very much a decision of last resort to seek to obtain benefits from the resource. The successful translocation of Ancient Woodland soils is a technically demanding process. It will be important that the work is properly planned and follows best practice, as set out in Habitat Translocation – a best practice guide, P Anderson 2003 CIRIA C600.

4. CONCLUSIONS

- 4.1** Natural England has no outstanding concerns over this Scheme. It is acknowledged that the proposal will result in the loss of part of Thames Basin heaths SPA and part of Ockham and Wisley Commons SSSI. However, with the range of compensatory and enhancement measures proposed by the applicant and with other environmental safeguards secured through a CEMP we are satisfied that there are unlikely to be significant adverse impacts on the designated sites. We have issued Letters of No Impediment to the applicant and we do not foresee difficulty in granting protected species licences in order to undertake works in respect to badgers and bats. It is anticipated that Natural England will remain closely engaged in an advisory capacity through the remaining planning and construction phases of the project, should permission be granted, in order to help secure good environmental outcomes.
- 4.2** There are some matters of detail where we would wish to see further engagement with the applicant but these aspects are not regarded as so significant as to warrant the raising of an objection.
- 4.3** This response has been prepared by Lead Advisor Graham Steven, the lead officer acting for Natural England on this case. He can be contacted via graham.steven@naturalengland.org.uk, direct line 0300 0600398, office address Natural England, Northgate House, 21-23 Valpy Street, Reading RG1 1AF.

Yours faithfully



Simon Thompson
Senior Adviser
Thames Team
Natural England