

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

Issue Specific Hearing 1:	The draft Development Consent Order
Date:	Tuesday, 12 November 2019
Time:	2:00pm, seating available from 1:30pm
Venue:	The Mandolay Hotel, 36-40 London Road, Guildford, Surrey GU1 2AE

Purpose of the Hearing

This early Hearing on the draft Development Consent Order (dDCO) is being held to provide an initial assessment of the drafting of the dDCO. The Examining Authority (ExA) considers that it would be expedient to examine some matters orally at the start of the Examination in order to ensure that technical and legal matters arising from the dDCO are identified and considered as early as possible.

Requested Attendees

The ExA would find it helpful if the following parties could attend this Hearing.

- Highways England (the Applicant)
- Surrey County Council (SCC)
- Elmbridge Borough Council (EBC)
- Guildford Borough Council (GBC)
- Any other Interested Parties (IPs) with an interest in the drafting of the dDCO, the implementation or discharge of proposed articles, requirements or other provisions.

However, this does not indicate that other parties will not be able to contribute. All Interested Parties (IPs) are invited to attend and make oral representations on the matters set out in the agenda, subject to the ExA's discretion. Annex D of the Rule 6 letter, dated 15 October 2019, gave a deadline of 5 November to register an interest to attend and/or speak. If you've not yet notified the case team (M25junction10@planninginspectorate.gov.uk) that you wish to participate and now wish to, then please do so by no later than Friday 8 November 2019. Participants may be legally represented if they wish, but the Hearing will be conducted to ensure that legal representation is not required.

Each IP is entitled to make oral representations at Hearings. However, this is subject to the Examining Authority's (ExA's) power to control Hearings.

The venue will be open 30 minutes prior to the start of each Hearing to enable a prompt start. Hearings will finish as soon as the ExA deems that all those present have had their say and all matters have been covered.

This agenda is for guidance only. It is not designed to be exclusive or exhaustive. The ExA may add other issues for consideration, may alter the order in which issues are considered and will seek to allocate sufficient time to each issue to allow proper consideration of them. Any lack of discussion of a particular issue at a Hearing does not preclude further examination of this issue.

Should the consideration of the issues take less time than anticipated, the ExA may conclude the Hearing as soon as all relevant contributions have been made and all questions asked and responded to. If there are additional matters to be dealt with or there are submissions that take a considerable amount of time at any Hearing there may be a need to continue the session for longer on the day. Alternatively, it may be necessary to prioritise matters and defer others to written questions.

Please note that the Hearing will be examining the contents of the draft Development Consent Order Rev 0, dated June 2019, which has the Examination library reference of [APP-018].

Agenda

1. Welcome, introductions, arrangements for the Hearing

2. Purpose of the Issue Specific Hearing (ISH)

3. The structure of the dDCO [APP-018]

The ExA will ask the Applicant to explain, and seek the views of other IPs as relevant, about:

- i. The authorised development as set out in the Works described in Schedule 1 and any proposed minor amendments to these;
- ii. Any significant deviations from the 'standard' DCO drafting and the reasoning for such deviations;
- iii. The reasoning as to why the Applicant has chosen not to distinguish between the NSIPs and associated development and how the concurrent implementation of the NSIPs would be secured under a single DCO;
- iv. The proposed Articles;
- v. The proposed Requirements (as set out in Schedule 2);

- vi. The Protective Provisions as set out in Schedule 9, including progress on any others that may be required (having regard to the comments made by Surrey County Council in paragraph 2.8.2 of [RR-004]);
- vii. The need for and progress on any planning obligations and/or commercial side agreements (also having regard to SCC's [RR-004]); and
- viii. The documents to be certified in Schedule 10.

4. Issues and questions in regard to the dDCO raised by the ExA.

This will include (but not necessarily be limited to) the following matters:

- i. Article 2 'Interpretation' and Schedule 2 Part 1 'Interpretation'— certain definitions that are either given or missing, including 'commence', 'maintain', 'construction works', and why in some instances are definitions contained in individual Articles (eg 18(6), 19(12) and 32(11)) rather than being set out in Article 2;
- ii. The need for the second part of Article 7, given that S153 of the Planning Act 2008 (PA2008) provides a statutory procedure for making amendments to a DCO;
- iii. The need for the disapplication of other legislative provisions and the progress that is being made to obtain the relevant regulators' consent to the disapplication of the legislation;
- iv. Whether it is appropriate for the dDCO to include temporary possession provisions relating to Common Land, having regard to the provisions of S139(3) (Common land and rights of common) of the PA2008;
- v. In regard to the following Requirements: R8, R9, R10, R11 and R12, the need for wording specifying when the required details would be submitted that relate to the authorised development, not just to that specific element; and
- vi. Minor omissions and typographical errors.

5. Discharge of Requirements and amended details

The ExA will ask IPs, and in particular SCC, EBC and GBC, whether they have any concerns in regard to the discharge of Requirements. This includes the arbitration mechanism that is set out in Article 47 of the dDCO. In addition, the ExA will ask questions regarding the mechanisms for discharging the various schemes and plans that are to be submitted before the authorised development could commence. These questions will include:

- i. Clarification as to what is meant by 'relevant planning authority';

- ii. Mechanisms for determining the preparation, discharging and monitoring of future plans, for example the Environmental Control Plans that are listed in section 4.4 of the Outline CEMP [APP-134];
- iii. Having regard to the Planning Inspectorate's Advice Note 15, and given the provisions of S153 and Schedule 6 of the PA2008, the Applicant is asked to justify the use of the tailpiece in R5(1). Clarification is also sought from the Applicant regarding the wording of R18; and
- iv. The wording of R19(3) and whether it would be appropriate for R19(2) to apply to the matters subject to R8 and R17(3).

6. Review and actions arising

The ExA will discuss how any actions placed on the Applicant are to be met and the need for any changes to the dDCO, having regard to the Examination timetable that was discussed at the Preliminary Meeting.

7. Any other business

8. Next steps

9. Close of Hearing