

Summary of Written Submission
for
The Royal Society for the Protection of Birds

Submitted for Deadline 2
18 December 2019

Planning Act 2008 (as amended)

In the matter of:

**Application by Highways England for an Order Granting Development
Consent for the**

M25 junction 10/A3 Wisley Interchange Scheme

Planning Inspectorate Ref: TR010030
Registration Identification Ref: 20023015



1. The RSPB is actively involved in conserving lowland heathland and its associated wildlife. We co-supervised and contributed to much of the research into human disturbance to heathland birds. We worked with Natural England, central and local Government and others in developing the Thames Basin Heaths Special Protection Area Delivery Framework. This established a consistent, cross-boundary approach to mitigate the pressures of residential development. We are a formal advisory body on the Joint Strategic Partnership Board and the Strategic Access Management and Monitoring Project Board established to progress this work.
2. The RSPB's primary concern with the present scheme is its potential impacts on the SPA and its species.
3. The RSPB is grateful for detailed discussions with Highways England and its consultants to ensure the impacts of the scheme upon the SPA and its species are minimised, and on the package of compensation measures proposed.

Alternative solutions and imperative reasons of overriding public interest

4. The RSPB welcomes the rejection of several more damaging options and the efforts to minimise the land take. However, the legal requirement of an absence of alternative solutions is more wide-ranging than scheme design and includes alternative means to achieve the purpose the scheme is intended to deliver. The Examining Authority and the Secretary of State must be satisfied with the case advanced by Highways England.
5. Although the RSPB does not have the technical expertise to comment on the traffic safety figures, we have considered the Transport Assessment Report and its arguments on need, focusing on the five key objectives. The RSPB recognises the very important issue of highway safety, but are concerned by the arguments under the other headings, in particular supporting projected population and economic growth in the area.

Objective	RSPB view
Improve journey time reliability and reduce delay	We do not consider compounding of small time savings for journey times justifies (on its own or with other considerations) damage to a protected European site.
Improve safety and reduce both collision frequency and severity	We recognise this need and consider this the strongest argument advanced. The Examining Authority and the Secretary of State must consider whether there are <i>imperative</i> reasons of <i>overriding</i> public interest. This can only be undertaken once they have concluded that there are no less damaging alternative solutions available to reduce the frequency and severity of collisions to an acceptable level.
Improve crossing facilities for pedestrians, cyclists and horse riders and incorporate safe, convenient, accessible and attractive routes	There is considerable merit in encouraging people away from less safe alternatives. However we are not sure they demonstrate IROPI in their own right, particularly if there are potential risks in encouraging increased recreational access to the SPA.
Minimise impacts on the surrounding local road network	This should be constrained to impacts upon safety.

Support projected population and economic growth in the area	We do not consider that housing development, works facilitating it, or anything that may lead to an increased risk to the SPA and its species are ever likely to constitute IROPI.
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For each objective it is important for the Examining Authority and the Secretary of State to consider whether taking these issues into consideration risks increasing impacts (such as facilitating further development) upon the SPA.

6. The RSPB disagrees that the scheme offers beneficial consequences of primary importance to the environment¹ as the environmental measures provided by this scheme are required as a result of the scheme rather than being the reason for its promotion.

The compensation measures

7. For the compensation measures to be effective there must be confidence in their:
- (i) ecological effectiveness in addressing the loss to the SPA caused by the scheme;
 - (ii) legal and financial security; and
 - (iii) long-term maintenance plan to ensure that they continue to function in perpetuity.
8. The RSPB considers the two areas of habitat that will be enhanced to form wood pasture with a 20% tree cover are likely to be effective.
9. The RSPB welcomes the DCO requirement that the compensatory habitat creation measures must begin before any part of the authorised development within the boundaries of the SPA may commence unless otherwise agreed by the Secretary of State after consultation with Natural England.
10. The RSPB is not aware that legal agreements have been secured for the compensation land. Until agreements have been secured it is not possible to conclude that the compensation will be implemented. The RSPB urges the Examining Authority and the Secretary of State to adopt one of the two following approaches if the compensation land has not been secured by the end of the examination:
- (i) To refuse consent as the necessary legal agreements are not secured; or
 - (ii) To condition the scheme via the DCO such that no works can begin until the necessary legal agreements are secured to the satisfaction of the Secretary of State and Natural England.
- Option (i) is consistent with Action Point 5 agreed at Issue Specific Hearing 1, "To ensure that, as far as is in their power, any and all other consents outside the DCO required for the scheme are progressed with and concluded by the close the Examination."
11. The RSPB considers it very important when evaluating the likely effectiveness of habitat creation, restoration and/or enhancement, to consider the duration of management and monitoring. Without management lowland will develop into woodland which no longer supports the birds for which the SPA is designated. Since the compensation and enhancement habitat must be in an appropriate condition for the lifetime of the operation of the scheme the suggested 20 years for habitat management and monitoring is not sufficient. The RSPB would expect a clear statement of how the long-term management will be secured in perpetuity,

¹ 5.3 Habitats Regulations Assessment Stage 3-5: Assessment of Alternatives, Consideration of the IROPI and Compensatory Measures, paragraphs 4.3.20 to 4.3.22.

clearly setting out how the works will be contracted for and who will be responsible for paying for them. Without such a statement serious concerns remain about the long-term security of these measures and therefore whether they can be relied upon.

12. The RSPB is concerned that the Objectives set out in the SPA Management and Monitoring Plan do not refer to either SPA birds or the invertebrates they forage upon: we strongly recommend that both are included. The proposed frequency of monitoring of SPA birds may make it difficult to identify the extent to which one or more harsh winters have caused the population to decline: we recommend revising the frequency.
13. We have similar concerns for the restoration of the temporary land take areas within the SPA/SSSI: these measures are intended to benefit invertebrates but there is no such objective and it is not a monitoring requirement. This absence and the limited 5-year monitoring period raise concerns about the confidence that can be attributed to the likely effectiveness of the restoration measures and the degree to which the effects will be temporary.
14. The RSPB welcomes its proposed inclusion on the Steering Group to inform decision-making throughout the duration of the SPA Management and Monitoring Plan. However, as the terms of reference are not yet available our ability to assess the group's likely effectiveness (in particular setting an appropriate frequency of meetings and establishing an appropriate means of resolving any conflicts) is limited.

The enhancement measures

15. Throughout our discussions with the Applicant we have been clear that to be classified as "enhancement" the measures proposed must be over and above what are required for the SPA to be in favourable condition.
16. The RSPB is confident that if the enhancement areas are implemented as proposed, and with appropriate follow-up management, they will benefit the SPA bird species as well as a wider suite of heathland species of birds and other wildlife.

Conclusions

17. The RSPB has concerns with the monitoring approach to the compensatory habitat and the woodland and heathland restoration presented as part of the enhancement package. We recommend the objectives and monitoring requirements are amended to reflect the heathland birds the measures are intended to benefit.
18. The RSPB has highlighted concerns with the security of delivery of the proposed compensatory measures, along with their effective future monitoring and management. We consider it vital that before the end of the examination the Examining Authority be provided with information that provides the necessary confidence in their effectiveness, namely:
 - the legal agreement of the landowners for the use of their land as compensatory measures has been secured and is compatible with the land's use as compensation, or that the necessary compulsory purchase measures are being put in place; and
 - adequate funding will be made available to enable monitoring and management of the compensatory measures in perpetuity.
19. The RSPB considers that whilst the ecological measures proposed for compensation, restoration and enhancement are appropriate, the current state of the documents associated with the Development Consent Order mean it is not currently possible to have the necessary confidence that the package will be delivered.