

REP 1-034: PARK BARN FARM (“PBF”) – RONALD ALDERSON

COMMENTS IN REPLY FOR DEADLINE 3

Highways England has now responded to the objector’s written representations for deadline 1 (See **Planning Inspectorate Scheme Reference TR0100300 / Application Document Reference TR0100300/EXAM/9.19**). The objector’s comments in reply for deadline 3 are contained in this document, which should be read alongside our original written representations. The reply also includes two appendices:-

Appendix A - Land use and character types of special category land affected by the scheme (as described by Highways England)

Appendix B - Questions for Highways England (in respect of issues where additional information and/or clarification is now sought)

Abbreviations used

HE	Highways England (the Applicant)
CA	Compulsory Acquisition
CL	Common Land
DCO	Development Consent Order
NSIP	Nationally Significant Infrastructure Project
OS	Open Space
PA 2008	Planning Act 2008
PBF	Park Barn Farm
PRoW	Public rights of way
RL	Replacement Land
SCL	Special Category Land (that would be acquired or burdened by rights)
SoR	Statement of Reasons
SPP	Special Parliamentary Procedure

ISSUE / OBJECTION	HE COMMENT	OBJECTOR'S RESPONSE
<p><u>(a) Overcompensation for the loss of SCL</u></p> <p>Acquisition of the land at Park Barn Farm ("PBF") may be desirable, but it is not actually required as replacement land ("RL") to compensate for the Special Category Land ("SCL") which is needed for construction of the Scheme.</p> <p>Highways England ("HE") is seeking to 'overcompensate' for the loss of SCL in the following ways:-</p>	<p><i>"In the development of the RL proposals for the Scheme, due regard [1] has been had to the statutory requirements of the PA 2008. The development of the proposals has also benefited from detailed consultation and engagement with relevant statutory bodies. [2] Appropriate regard has been had to precedent from other highway schemes involving the acquisition of land from the CL and OS at Wisley and Ockham Commons and Chatley Heath. [3]</i></p> <p><i>The details of the approach taken by HE to the identification of suitable RL are set out in section 2.7 of the Statement of Reasons Appendix C document [AS-005], pages 26-30.</i></p> <p><i>Accordingly, there is no basis for the assertion that the provision of replacement land as part of the Scheme is 'grossly excessive'. We respond to each detailed point in turn below."</i></p>	<p>To recap on a key point, the RL ratios which have been used in this scheme are:-</p> <ul style="list-style-type: none"> • 2:1 (Open Space); • 2.5:1 (for Common Land); • 1:1 (acquisition of permanent rights over SCL where HE says the right would be a burden on the land) <p>These ratios are similar to those which were deemed as appropriate in the 1970's and 1980's when the M25 & A3 roads were constructed.</p> <p>[1] "Due regard" to the statutory provisions is not enough. Strict legal compliance is required.</p> <p>[2] It is safe to assume that the consultees would not object to receiving more land (as RL) than is necessary if that opportunity was to present itself. These statutory bodies are not charged with the responsibility of ensuring that strict legal compliance is achieved.</p> <p>[3] This is a fundamentally flawed approach. Past 'precedent' is not an appropriate guide to how much RL is necessary and proportionate given that the impacts arising from the 1970's and 1980's</p>

		<p>road schemes were far more severe. Chief among these impacts were:-</p> <ul style="list-style-type: none"> a) Full severance of a central part of the Commons, with very few opportunities for maintaining access from the motorway to the severed edges of the Commons; b) The introduction of a significant new noise source (road traffic) to hitherto quiet areas of Commons.
<p><i>(i) It has overstated the current ‘advantage’ provided by the SCL that would be lost due to the Scheme construction;</i></p>	<p><i>“The SCL (being CL or OS) that would be acquired for or burdened by rights acquired for the Scheme is all contiguous with larger areas of SCL, but it varies in character and use.</i></p> <p>.....</p> <p>[text reproduced as appendix A]</p> <p><i>These areas, therefore, contribute to the ‘advantage’ provided by the existing SCL, from their visual character and habitat types, the scope for public use and their connection with larger areas. [5]</i></p>	<p>[5] Noted, but not even HE has attempted to argue that the SCL affected by the scheme provides a significant ‘advantage’ to the public. By its own admission:-</p> <p><i>“the design and associated land take is limited to the adjacent land” [SoR, para. 5.5.2].</i></p> <p><i>“It could be argued that much of the SCL required for the Scheme is close to existing busy roads and, therefore, not the best parts of such land in terms of advantage to the public.” [SoR, para. 2.7.11].</i></p> <p>In any event, the key question is <i>relative</i> advantage, whereas HE has not made a full comparative assessment of the relevant matters. It is even doubtful whether the SCL affected by</p>

		<p>the scheme confers any 'advantage' at all, but on any comparative basis certainly, it can only be reasonably concluded that the RL confers significant 'advantages' over the SCL that would be affected.</p> <p>Or to put this another way, the high RL ratios now being applied could only possibly be regarded as being 'reasonably necessary' and 'proportionate' (see CA Guidance, paras 11-13) if the present scheme occasioned a serious loss of advantage on a par with when the M25 & A3 roads were first built. For obvious reasons, this is plainly not the case. The chief disadvantages suffered as a result of the original road schemes are set out at [3] above. By comparison HE's assessment of the value of the SCL that would now be affected focuses on its current lack of amenity or 'disadvantage' [see references at p.6 and p.7 of our written representations]:-</p> <ul style="list-style-type: none">- <i>"... the current road layout is poor if you wish to walk, cycle or horse ride either around the junction or the land that surrounds it."</i>- <i>"Noise is an important issue with the M25 and A3 both generating high levels of noise which disturbs local people and affects enjoyment of the common land."</i>
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	<p><i>The package of RL parcels within the Scheme aims to provide, so far as is practicable, the range of landscape types and quality found in the SCL that will be acquired, or burdened by rights acquired, for the Scheme. [6]</i></p> <p><i>The parcels of replacement land to be acquired at PBF will provide broadleaved and mixed woodland and meadow areas, with connectivity principally to existing CL and OS, which is in keeping with the nature and status of much of the SCL that will be affected to the west of the A3.</i></p> <p><i>The parcels of RL to be acquired at Chatley Farm and Hatchford End will provide mainly mixed woodland and coniferous plantation woodland, with connectivity to existing CL and OS, which is in keeping with the nature and</i></p>	<ul style="list-style-type: none"> - <i>“the A3 and M25 are barriers to movement between the different areas of accessible land in each quadrant.”</i> - <i>“The Scheme will provide considerably enhanced connectivity for pedestrians, cyclists and equestrians [sic] resulting in significant benefits for these users.”</i> <p>[6] This aim is reasonably achieved, “so far as is practicable”, even without inclusion of the land at PBF.</p> <p>[7] We note HE’s view that the RL parcels are “... in keeping with the nature and status of much of the SCL that will be affected...” As a general observation this may be defensible, however, it should also be recognised that in terms of its overall landscape & visual character, quality, and scope for use, the RL is largely superior to the SCL that would be affected.</p>
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	<p><i>status of much of the SCL that will be affected to the east of the A3. [7]</i></p> <p><i>As explained in the CL and OS report appended to the Statement of Reasons [AS-005], Chapter 5, the nature of the opportunities available for RL that is contiguous with the existing SCL mean that, apart from the two plots included between the M25 and Pointers Road, most of RL areas will be less affected by noise from trunk road traffic than will the land to be acquired. [8]</i></p> <p><i>For the above reasons, HE has properly assessed the existing ‘advantage’ provided by the SCL which is required for the Scheme. [9A] Consequently, there is no ‘over-inflation’ of RL.” [9B]</i></p>	<p>[8] In particular, the relative tranquillity of the land at PBF comes from being slightly further away from the carriageway, and also shielded by a steep embankment on the north side of Clearmount overbridge. This is compared to the existing SCL most of which is significantly closer to the noise source and unprotected by any natural buffer (See quotes at [5] above).</p> <p>The specific noise environment is relevant to the proper assessment of landscape character, and hence the overall quality of the experience for users of PRow in the vicinity of the scheme.</p> <p>[9A] HE does not argue that the SCL affected by the scheme actually provides any significant advantage – See quotes at [5] above.</p> <p>[9B] This claim is totally without merit. Even according to HE’s own broad view equivalence would be achieved because the RL is “<i>in keeping with the nature and status of much of the SCL that will be affected</i>”. However, HE has not accounted for the significant overall benefit or ‘advantage’ of the RL compared to the SCL that would be acquired or burdened given that:-</p>
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		<p>(i) a single block of RL would be generally more useful and usable compared to the aggregate loss of the existing SCL which suffers from being too close to the existing carriageway and road junctions; and</p> <p>(ii) the noise environment for PRoW users would be significantly better. HE has referred to the low quality of the current user experience at locations close to the existing road network from where the RL would be acquired; and</p> <p>(iii) PRoW links to existing SCL would be substantially enhanced even without additional RL provision.</p> <p>These factors ought to have been reflected in a significant reduction of the overall RL requirement.</p>
<p><i>(ii) It has ignored the significant benefits to the existing PRoW network that would result from a re-modelling of the existing road junctions;</i></p>	<p><i>“Without specific additional NMU provision or mitigation, the ‘remodelling’ of the road layouts of the three junctions along the A3 will make movements across Ockham Park and Painshill junctions more difficult for NMUs and will prevent all movement of NMUs around or across junction 10.</i></p>	<p>[10] Agreed. But it goes without saying that specific NMU provision should have been made as part of the construction of the new junction arrangements since any well-designed scheme will seek to minimise harm, and to mitigate any resulting effects wherever it is reasonably possible to do so.</p>

	<p><i>Accordingly, the Scheme also includes additional crossings and signal controls at Ockham Park and Painshill junctions and a new parallel route for NMUs alongside the A3, with new crossings over the M25 and A3. These PRow works are necessary for suitable provision for NMUs [10] and do not influence the extent of RL provided, [11] although existing and potential PRow and NMU access do influence the location of RL.”</i></p>	<p>[11] HE’s response is totally illogical because, absent this new NMU provision, the existing routes (for NMUs) would either become significantly worse, or they would be lost entirely as a result of the implementation of the scheme. The direct corollary would be an even greater requirement for RL to compensate for the seriousness of that loss to the accessibility of the remaining areas of SCL.</p> <p>In this case HE has issued a series of claims (as highlighted in our previous written submissions) about how the road scheme will deliver a series of substantial benefits for PRow users. This enhanced NMU provision completely eliminates any ‘loss of advantage’ in respect of how the remaining areas of SCL would be capable of being used, for which additional RL provision would otherwise be needed. Neither are these significant PRow enhancements dependent on the acquisition of additional land at PBF.</p> <p>All this must be judged in the context of what is currently a severely constrained and disturbed user experience – see [5] above / references at p.6 and p.7 of our written representations.</p> <p>This is in direct contrast to the original impacts of the original M25 and A3 road construction which caused a total separation of the Commons,</p>
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		<p>through a central part, and total destruction of access across vast swathes of the CL and OS. Plainly, these considerations do not give rise to any similar concerns now.</p> <p>It is also notable that HE takes a completely different approach (i.e. it recognises the benefit) where it is seeking to acquire rights for the purpose of carrying out environmental works benefiting the biodiversity of the SPA – see comments at [17] below.</p>
<p><i>(iii) It is seeking to provide RL in a 1:1 ratio for the acquisition of permanent rights over the order land even where those rights do not cause any disadvantage to the public interest;</i></p>	<p><i>“As explained at section 6.3 of the CL & OS report appended to the Statement of Reasons [AS-005], pages 76-79, where the acquisition of rights over SCL will impose a burden on the land, RL has been provided for within the order limits of the dDCO [APP-018] in accordance with section 132(4) to compensate for the loss of advantage to the SCL that will result from the acquisition of the right in question. [12]</i></p> <p><i>If the exception under section 132(4) Planning Act 2008 to avoid SPP being engaged is to be satisfied, RL must be ‘adequate to compensate... for the disadvantages which result from the compulsory acquisition of the order right.’ The RL provision meets this requirement. [13]</i></p>	<p>The key issue here is that is that HE has chosen to compensate for rights to be acquired at a RL ratio of 1:1 even where there would be no <u>significant</u> disadvantage caused to the public interest. HE has described that loss (for which it has compensated at a 1:1 ratio) as a “<i>limited loss of advantage</i>” [SoR, para. 2.7.16]. This is excessive.</p> <p>[12] Noted, however the relevant legal test is less onerous than for SCL which is to be acquired. For SCL burdened by rights the RL provision must simply represent “adequate” compensation for the disadvantages.</p> <p>[13] Fundamentally, this test does not require an equivalent area of RL to be provided. The RL provision must simply be necessary and proportionate (See CA Guidance, paras. 11-13)</p>

	<p><i>As explained in the Statement of Reasons [APP-022] and the Habitats Regulations Assessment Stage 3-5 [APP-044], there is a compelling case in the public interest for the Scheme to proceed. Accordingly, were the dDCO to be subject to SPP (in the event that it is made), this would threaten the delivery of the Scheme within the period set in the Road Investment Strategy and undermine the delivery of two nationally significant infrastructure projects, contrary to the National Policy Statement for National Networks. [14]</i></p> <p><i>As explained in Statement of Reasons Appendix C: Common land and open space Report [AS-005], HE has sought to provide RL at a 1:1 ratio in respect of the acquisition of permanent rights where permanent rights being sought under the dDCO would disadvantage the owner and/or the public in their use of the SCL. [15]</i></p>	<p>having regard to the significance of the burden suffered.</p> <p>[14] HE's stated need for the road Scheme to progress within the period set by the RIS might be relevant to the overall balance of planning considerations which must be weighed up before the draft DCO is confirmed. But there is no compelling case in the public interest for a scheme which does not also satisfy the statutory provisions. In particular, the proposed land-take of approximately 50 acres at PBF is wholly unnecessary for the scheme to proceed. This is a blight on the land which is causing significant adverse consequences for the landowner at a time of serious ill-health. These considerations indicate that the applicant has failed to demonstrate a compelling case in the public interest.</p> <p>[15] A 1:1 RL ratio represents a significant degree of over-compensation where the overall burden likely to be suffered by the acquisition of such rights is only very slight and/or negligible, as it is here (See further at [16] below).</p>
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<p>(iv) Section 31(5) Planning Act 2008: The order land is needed for road widening and drainage and the giving over other land in exchange is unnecessary;</p>	<p><i>HE has properly applied the legal tests in sections 131(5) and sections 132(5) Planning Act 2008. [18]</i></p> <p><i>As regards section 131(5), this section applies in respect of the compulsory acquisition of SCL. Under this provision, a draft DCO is not subject to SPP where:</i></p> <p><i>(a) the order land does not exceed 200 square metres in extent or is required for the widening or drainage of an existing highway or partly for the widening and partly for the drainage of such a highway, and</i></p> <p><i>(b) the giving in exchange of other land is unnecessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public.</i></p> <p><i>This means that the exception in subsection (5) only applies if the land required is very small or is for drainage and/or widening of an existing highway alone.</i></p> <p><i>As the CL and OS report [AS-005] correctly identifies, the order land (i.e. the SCL subject to permanent acquisition) is required for other</i></p>	<p>[18] This is not accepted.</p> <p>[19] The exception in s.131(5) is engaged:-</p> <ol style="list-style-type: none"> 1. Firstly, the order land is required for the purposes of the widening of an existing highway, with associated drainage works. The Examination Panel must consider what other label can legitimately describe the scheme given that is how HE describes it too: “<i>widening and enlargement of existing highway infrastructure</i>” (see Planning Statement, para. 5.3.14). <p>That is also a perfectly reasonable description to give seeing that the whole <i>raison d’etre</i> is to add capacity to the existing Trunk road network by adding new lanes to the existing carriageway, along with upgraded and lengthened slip roads, free-flow slip roads, and re-modelled junctions etc. which are designed to accommodate the additional traffic flows. These core elements, along with other ancillary features such as overbridges, roundabout, diversion and gantry are all part and parcel of the same road widening project: they do not fulfil any separate purpose which is distinct from that primary purpose.</p>
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	<p><i>purposes, including new overbridges, an enlarged roundabout at junction 10, upgraded and lengthened slip roads on the M25 and A3, free-flow slip roads, the new Wisley Lane diversion and new gantries. It is not properly arguable that the acquisition of SCL for the purposes of undertaking these works can be said to be for the ‘widening’ or ‘drainage’ of a highway within section 131(5).</i></p> <p><i>Accordingly, the order land cannot be said to be required ‘for’ either the widening or drainage of a highway, or partly for either of those activities. Section 131(5) is therefore not engaged. [19]</i></p> <p><i>As regards section 132(5) Planning Act 2008, this section applies in respect of the compulsory acquisition of rights SCL. Under this provision, a draft DCO is not subject to SPP where:</i></p> <p><i>(a) the order land does not exceed 200 square metres in extent or the order right is required in <u>connection with</u> the widening or drainage of an existing highway or in connection partly with the widening and partly with the drainage of such a highway,</i></p> <p><u>and</u></p>	<p>2. Secondly, regardless of the overall description one chooses to give to the scheme, it clearly <i>does</i> include significant discrete elements for which the order land is <u>only</u> required in relation to the ‘widening’ or ‘drainage’ of an existing highway: see for example, paragraph 2.2 of the “Scheme Description” - Application Document Reference TR010030/APP/1.2. HE has imbued the test in limb (a) of section 131(5) PA 2008 with an implied meaning, namely that the purposes of road widening or drainage of an existing highway (or a combination of those purposes) must be the <i>sole</i> requirement in order for this legal provision to be engaged. This is not accepted. If HE’s interpretation was correct then the subsection would be otiose since it is highly unlikely that any nationally significant infrastructure project would ever cause it to be engaged.</p> <p>It is a significant pity that HE has apparently misunderstood the true meaning of these legal powers because we consider that, for a scheme such as this one where, on any rationale view there would be, at most, a “<i>limited loss of advantage</i>” (see SoR, para. 2.7.16] it would be perfectly justifiable to conclude that the provision of exchange land is wholly unnecessary.</p>
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	<p><i>(b) the giving of other land in exchange for the order right is unnecessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public.</i></p> <p><i>As regards the application of section 132(5) in this case, as noted at section 6.3.17 of AS-005, reliance is made in the alternative on section 132(5) (to the extent that the Secretary of State is not satisfied that the exception in section 132(3) is made out).</i></p> <p><i>The extent of section 132(5) is broader than the equivalent provision in section 131(5). The use of ‘in connection with’ in section 132(5), in comparison to ‘for’ in section 131(5) indicates that the parliamentary draftsmen intended that the provision of section 132(5) should have a wider meaning.</i></p> <p><i>In this case, the rights to be acquired over SCL for which RL is not to be provided (i.e. for those purposes set out in section 6.3.13 (c) to (f) of AS-005), are manifestly required in connection with the widening of a highway. As noted at 6.3.13 of AS-005, the relevant rights are required for the following purposes:</i></p>	<p>One must also consider what other possible legislative purpose this provision was designed to serve if it was not to relieve promoters of major road projects (i.e. those projects which meet the description of an “NSIP”) from the obligation to provide RL where the scheme is primarily intended to increase capacity on a trunk road corridor. The underlying rationale is that it will often be the case that the loss of advantage caused to SCL will be inconsequential, which indeed appears to be HE’s underlying view here.</p> <p>The fatal flaw in HE’s putative legal justification for this scheme is that it instead of concluding that exchange land is unnecessary, it has chosen to activate its powers of CA on a grand scale, which is presumably to ward off any scintilla of doubt or criticism that the RL might not be sufficient. This is not the sort of response which Parliament could reasonably have wanted when enacting these protective provisions. The unfortunate result in this case it that it has led HE to hope that it can justify providing RL on a vastly inflated scale, where it is manifestly both unnecessary and wholly disproportionate to do so, and would also be harmful to the landowner’s Convention rights. It has therefore very clearly failed to demonstrate a compelling case in the public interest.</p>
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	<ul style="list-style-type: none"> • <i>works to maintain enhanced NMU routes across SCL</i> • <i>access to RL for maintenance</i> • <i>works to carry out enhancements to existing and proposed parts of the SPA</i> • <i>general environmental mitigation works.</i> <p><i>Each of these categories of works are necessary in connection with the widening of the A3. The widening of the A3 will give rise to environmental effects, including the acquisition of land from the SPA and SSSI, and will affect existing NMU routes. Accordingly, the relevant rights sought over the affected SCL are necessary in consequence of the widening of the A3 to mitigate for its environmental effects. Thus, the acquisition of the relevant rights is plainly within the scope of section 132(5). [20]</i></p>	<p>[20] HE’s argument betrays an inconsistency in how it has chosen to label different constituent elements of the road scheme. The distinction between “for” and “in connection with” merely represents the difference between order land which is physically required for road widening and/or drainage, and order land which is to be burdened by rights relating to that same that purpose (e.g. the right of access for maintenance and inspection). In either case the underlying <i>requirement</i> for the order land is ‘widening’ and/or ‘drainage’ of an existing highway. In other words, if section 132(5) is engaged, then section 131(5) must also be engaged.</p>
<p>(v) The high environmental quality of the land at PBF</p>	<p><i>HE does not accept that the environmental quality of the land at PBF is ‘just as good’ as the SCL required for the Scheme. [21]</i></p>	<p>[21] This comment appears to diverge from HE’s conclusion above (see text at [7]) that the land at PBF “<i>is in keeping with the nature and status of much of the SCL that will be affected to the west of the A3.</i>” HE does not seek to contend that the land at PBF is not itself of a high environmental quality, and it unlikely that it would have been considered desirable to incorporate these land parcels within the scheme were that not so.</p>

	<p><i>It is acknowledged that one part of the land at PBF is included within a tree preservation order and a small part is classed as ancient woodland. [22]</i></p> <p><i>However, it must be borne in mind that much of the SCL required for the Scheme is designated as SSSI, of which a large part is also SPA, and it includes several veteran trees. Therefore, in terms of acknowledged environmental quality, the SCL required for the Scheme is unquestionably better than that at PBF given these high-level environmental designations. [23]</i></p> <p><i>Moreover, the Scheme includes some works which are necessary to improve the environmental quality of parts of the PBF parcels as an integral part of providing, in due course, appropriate public amenity. [24]</i></p> <p><i>The reference to paragraph 5.181 of the National Policy Statement for National Networks at page 10 of [REP1-</i></p>	<p>[22] Noted. These are features which underline the high environmental quality of the woodlands at PBF.</p> <p>[23] It is acknowledged that the land at PBF is not currently designated as SCA or SSSI. It is still high quality though, and has the potential to attain that formal status in future, which might be an aim for when it is transferred into public hands.</p> <p>To clarify, however, the objection chiefly refers to the environmental quality of the land measured in terms of its visual amenity and landscape character. These are the primary factors which determine its value by reference to the related user experience (users of the PRoW), and hence the overall balance of advantage and disadvantage of RL compared to the SCL that would be affected by the scheme.</p> <p>[24] The value of the land at PBF is reflected in not just its current quality and status, but also its future potential. HE's comment does not suggest that the existing environmental quality of the land is average or poor; nor is there anything to indicate that the planned environmental improvements occasioned by these works would be slow or difficult to achieve.</p>
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	<i>035] is misconceived. This paragraph provides that where sections 131 and 132 Planning Act 2008, replacement land provided under those sections 'will need to conform to the requirements of those sections.' As has been explained, the provisions of those sections are clearly satisfied in respect of the Scheme.</i>	
<i>(vi) It has applied historically high land replacement ratios which have no direct bearing on the current situation.</i>	<i>Sections 131 and 132 of the PA 2008 (and sections of the Acquisition of Land Act from which they are derived) do not make provision as to what should be considered as 'no less advantageous' (for section 131) or 'adequate to compensate' (for section 132) and, therefore, precedent has been sought from other similar or related projects involving the same commons in calculating the ratios or provision. This is set out in section 2.7 of the Statement of Reasons Appendix C document [AS-005], pages 26-30, with the results being set out in sections 6.1 (pages 73-75) and 6.4 (pages 80-82). The ratios used as a guide for this Scheme are lower than those used on the M25 scheme, with the influence of traffic noise on the order land being one of the factors taken into consideration. [25]</i>	[25] It is obvious that HE's approach as explained at section 2.7 of the Statement of Reasons Appendix C document [AS-005], pages 26-30, is heavily flawed. See comments at issue (iii) above - [12] to [17].
<u>(b) Whether a compelling case in the public interest exists: prejudice suffered by the landowner</u>	<i>There is a compelling case in the public interest for the acquisition of land at PBF to provide RL for SCL that is to be acquired for the Scheme. The compelling case is set out in section 5.4 of</i>	[26] None of these claims are accepted due to the provision of RL being grossly excessive, and also harmful to the landowner's health and welfare, and property interests.

<p>Compulsory acquisition of the land at PBF is also seriously disadvantageous to Mr Alderson's property interests, his private and family life:-</p> <p>It has the effect of severing the residential curtilage in a way which would be highly detrimental to the amenity and enjoyment of the remaining property. This prospect is already impacting RA's prospects of selling PBF, which affects his future plans, at a time of serious ill-health.</p> <p>Given that sufficient RL has already been identified elsewhere in the Scheme, HE has plainly failed to demonstrate the existence of a 'compelling need in the public interest' ("CNIPI") for compulsory acquisition of the land at PBF.</p>	<p><i>the Statement of Reasons [APP-022], pages 21-23, and sections 2.2 and 2.3 of the Common land and open space report [AS-005] pages 13-19. Under section 122(2)(c) Planning Act 2008, land can be compulsorily acquired for a nationally significant infrastructure project where its purpose is to provide RL.</i></p> <p><i>As has been explained, it is not accepted that there is 'sufficient replacement land elsewhere' such that the land at PBF may be excluded from the order limits of the dDCO [APP-018].</i></p> <p><i>The interference with the landowner's right to private life is proportionate, as explained in chapter 6 of the Statement of Reasons, pages 26-27. [26]</i></p> <p><i>Also of relevance is that when HE first considered PBF as RL, the property had been recently placed on the market. Therefore, this appeared as a more appropriate location for purchase than would a property that an owner did not wish to sell and [27], in initial discussions, Mr Alderson did not object to the principle of HE acquiring part of the holding.[28] It has never been HE's intention to frustrate the landowner in his intentions to sell the house and a substantial area of associated land (about half the total holding), including</i></p>	<p>[27] This is also not accepted because the landowner has been trying to sell his entire interest, whereas the scheme has caused a blight on the part which will remain. It has frustrated the landowner's reasonable attempts to sell the remainder. This is especially because, HE had not, until recently, confirm the exact area of the land that it wanted to acquire.</p> <p>[28] This is a misconception. Mr Alderson did not indicate that that he would be freely willing to sell part of the property to HE. At the initial meeting</p>
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	<p><i>the land close to the houses and all the riverside frontage. The arrangement of land included within the dDCO was also amended in accordance with a request made by the landowner at a meeting in January 2018 with HE's consultants. [29] HE has, with the agreement of the landowner, recently pegged out the boundary of the land that would remain within the landowner's ownership, to help with prospective sale of the property.</i></p> <p><i>Discussions have taken place regarding acquisition of this land by agreement, including some held on a 'without prejudice' basis. The landowner has served a blight notice on HE. HE has served a counter-notice and the matter is now subject to the relevant statutory procedure"</i></p>	<p>HE set out its intentions to acquire part of the land, which it said it had the ability to do so using its compulsory purchase powers. It appeared to the landowner that this was a 'fair accompli', but what the landowner did suggested instead is that he would be willing for HE to buy the whole property, which is everything he was endeavouring to sell.</p> <p>[29] It is true that the landowner wanted to establish a boundary line which was more to his preference, and HE agreed to this. However, these discussions were ultimately dictated by HE's overall scheme requirements whilst the landowner was, and still remains, an unwilling seller of only part of the property.</p>
<p><u>c) Other alternatives for RL</u></p> <p>HE has also failed to pursue other potentially better opportunities for acquiring RL, e.g. the option of securing the current use of the land at Pond Farm as a direct benefit to the scheme.</p>	<p><i>As explained in section 5.5 of the Common Land and Open Space report [AS-005], HE has explored other opportunities for RL in the vicinity of the Scheme, but these locations were either not well connected to the existing area of SCL (if at all) and/or were considered unlikely to be successful.</i></p> <p><i>Pond Farm was one of the opportunities explored, due to its position as an enclosure within the extent of CL and OS in the western portion of Wisley Common.</i></p>	

	<p><i>Identification of the land at Pond Farm land as RL for the Scheme would not “provide a valuable guarantee that such uses would be able to continue for the benefit of future generations” as asserted in REP2-018 (page 12), as the land is already owned by Surrey County Council. [30] The opposite would be the case, as public access would be incompatible with the safe continuation of the herd management business. [31]</i></p> <p><i>The situation for Pond Farm is described in section 5.5 of the Statement of Reasons Appendix C document [AS-005], page 71. In summary, acquisition of land at Pond Farm would have meant finding a new location for the Surrey Wildlife Trust herd management business, by which they maintain a network of Surrey County Council wildlife sites from this relatively central location, including several heathland SPA locations. This, in turn, would have jeopardised the ability of Surrey County Council to provide appropriate, grazing-based maintenance of the SPA habitat at the Wisley and Ockham Commons site. [32]</i></p>	<p>[30] This is a non-sequitur. As a private landowner Surrey County Council is generally able to deal with the land as it pleases, subject to the current licence in favour of SWT. Compulsory acquisition of the land (as RL) would enable permanent future rights and management obligations to be imposed on the land via the DCO process. This would represent a significant public benefit.</p> <p>[31] HE should be required to provide additional information, since on the basis of current information it is not possible to conclude that this option has been adequately explored. Certainly, its rejection has not been properly explained.</p> <p>In particular, whilst there is no existing public right of access it appears that such rights could in theory be provided without undue interference being caused to SWT’s cattle herd management business, even if this public use needed to be restricted at certain times of year to accommodate this. Most importantly, we note that the land at Pond Farm is only required for winter grazing of cattle which would allow unencumbered public use in the Summer months.</p> <p>[32] It is not accepted that these consequences are inevitable, or even likely. PRow and cattle</p>
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		farming will often co-exist without serious problems arising.
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