

**M25 junction 10/A3 Wisley
interchange
TR010030**

**9.49 Applicant's comments on the
Environment Agency's Deadline 3
submission**

Rule 8(1)(c)(i) and (ii)

Planning Act 2008

Infrastructure Planning (Examination Procedure) Rules 2010

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The Infrastructure Planning (Examination Procedure) Rules 2010 (as amended)

M25 junction 10/A3 Wisley interchange

Development Consent Order 202[x]

9.49 APPLICANT'S RESPONSE TO THE ENVIRONMENT AGENCY'S DEADLINE 3 SUBMISSION

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Table of contents

1.	Introduction	4
2.	Comments on EA's Written Representation	5
3.	Comments on EA's Response to ExA's First Written Questions	8

1. Introduction

- 1.1.1 This document sets out Highways England's comments on the Deadline 3 submission [REP3-026] and Map [REP3-027] submitted by the Environment Agency (received on 28 January 2020).
- 1.1.2 Where issues raised within the submission have been dealt with previously by Highways England, for instance in response to a question posed by the examining authority in its first round of written questions [REP2-013], in Highways England's comments on written representations [REP2-014] or within one of the application documents, 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 In order to assist the examining authority, Highways England has not provided comments on every point made by the Environment Agency including for example statements which are matters of fact and those which it is unnecessary for Highways England to respond to. However, and for the avoidance of doubt, where Highways England has chosen not to comment on matters contained in the response, this should not be taken to be an indication that Highways England agrees with the point or comment raised or opinion expressed.
- 1.1.4 Section 2 is Highways England's response to the key outstanding issues with Environment Agency in their written representation and Section 3 is Highways England's response to Environment Agency's responses to the ExA's First Written Questions.

2. Comments on EA's Written Representation

Written Representation Issue	Highways England Response
<p>1.0 Summary of outstanding issues</p> <p>1.1 Since we sent our previous written representation on 26 November 2019 (REP1-013), we have engaged with the applicant to address the queries and issues that we raised.</p> <p>1.2 We are now satisfied that the vast majority of our issues have been adequately addressed by the applicant. This is reflected in the Statement of Common Ground (SoCG) that we have prepared with the applicant (to be submitted by the applicant at this deadline).</p> <p>1.3 We are satisfied with the applicant's justification for not updating Requirement 10 (Bolder Mere) and we have indicated to the applicant that we are happy for Requirement 10 to remain in its current form.</p> <p>1.4 We responded to the applicant's non-statutory consultation on changes to the scheme earlier this month with no comments. None of the proposed scheme changes affect any matters within our remit.</p> <p>1.5 We now consider there to be four outstanding issues for matters within our remit. Some of these are new issues identified through the examination process. We will address these issues in turn:</p>	<p>N/A</p>
<p>2.0 Updates to Flood Risk Assessment – climate change allowances</p> <p>2.1 We note that applicant's comments that we "agree with the conclusions of the Flood Risk Assessment (FRA) submitted with the application, and that they do not feel that updates to the FRA are necessary. We do not wholly agree with this.</p> <p>2.2 We maintain that the applicant should provide further information to demonstrate that their use of Flood Zone 2 as a proxy for a 1 in 100 plus climate change flood extent is appropriate for this development.</p> <p>2.3 We acknowledge that it is possible that a 1 in 100 plus 70% allowance for climate change flood extent would not extend beyond the boundary of Flood Zone 2, but this has not been demonstrated by the applicant. There remains an inherent risk that a climate change extent could be a wider extent than Flood Zone 2 and therefore has not been appropriately assessed in the FRA.</p>	<p>The Environment Agency's Written Representation [REP1-013] quoted that <i>"we overall agree with the conclusions of the Flood Risk Assessment (FRA) (reference: APP-046) for matters within our remit"</i>. They clarified that they would like to see the additional information that had been the subject of our ongoing discussions, included in the FRA, however they stated that <i>"we acknowledge that the provision of this additional information will not affect the underlying conclusions of the report."</i></p> <p>Highways England interpreted this as there not being any outstanding information that would be needed to be passed to the Environment Agency to agree the conclusions of the FRA.</p> <p>Highways England are happy to provide this further supporting information. Highways England has discussed this further with the Environment Agency on the 7 February 2020 and the parties have agreed a way forward to resolve</p>

Written Representation Issue	Highways England Response
<p>2.4 We are in the process of arranging a telephone call between our flood risk officer and the applicant's flood risk consultants to discuss this matter further and agree a way forward. We therefore hope to have an update on this matter for the next deadline.</p> <p>2.5 We consider this the only outstanding (fluvial) flood risk issue.</p>	<p>this outstanding issue. This will be reflected in the final version of the SoCG to be submitted at Deadline 8.</p>
<p>3.0 Park Farm Barn Replacement Land and Sanway Flood Alleviation Scheme</p> <p>3.1 We note that an area of land identified by the applicant for replacement common land (a portion of the Park Barn Farm Replacement Land parcel) has also been identified by us as an area for floodplain compensation for the proposed Sanway Flood Alleviation Scheme (FAS). I have attached with this response a map showing the area in question.</p> <p>3.2 On 28 January, we held a call with Natural England to discuss the requirements for this land. We understand that the principle issue for the replacement land is open access for the public. We also understand that there may be appropriate habitat creation on the land as part of the long-term management, such as tree planting.</p> <p>3.3 Our proposals are for the land to be used for floodplain compensation to compensate for floodplain lost elsewhere as part of the Sanway FAS scheme. This would involve an element of land lowering (to enable land to more readily flood) and potentially the creation of some wetland habitats (e.g. ponds).</p> <p>3.4 Following today's call with Natural England, we do not anticipate that there are any significant issues resulting from the 'dual use' of the land. Indeed, as part of our considerations for the wider Sanway FAS scheme, we are considering how we can improve public access in the area. The land would not be flooded all the time and public access could be maintained, albeit access would be restricted to some degree during flooding events.</p> <p>3.5 We believe that there may be construction and/or management synergies between us and the land owner/manager, as both the DCO scheme and our FAS scheme are likely to be constructed at similar times. The Project Managers for our flood scheme are now going to make contact with Highways England to discuss this matter further.</p> <p>3.6 We will review the applicant's intentions for the land, identified in the Statement of Reasons Appendix C: Common land and open space report (Revision 1)(AS-005) and confirm at the next deadline whether this matter is now agreed.</p>	<p>We continue to actively engage with the Environment Agency on this opportunity, most recently at an Environmental Opportunities Workshop for the Sanway Flood Alleviation Scheme on 13 January 2020. In principle, we support the Environment Agency's aspirations for this land at Park Barn to have a dual use as Replacement Land for the DCO Scheme and as floodplain compensation for the Flood Alleviation Scheme. We also support proposals to link the two schemes to improve public access in the area.</p> <p>We welcome further conversations with the Environment Agency project managers on these matters, through which we can explore the practicalities of achieving synergies between the two schemes. In particular, we are keen to clarify how the programming of design and construction of the two schemes allows the synergies to be realised. There are some issues of practicality that will need to be included in ongoing discussions, such as:</p> <ul style="list-style-type: none"> • The area of existing mature woodland within the replacement land. • The area that will remain within private ownership (that is, will not be part of the junction 10 Scheme) adjacent to the river (which is also wooded). • Highways England's intention to undertake woodland planting on much of this parcel of replacement land for the junction 10 scheme, and how much this may need to be modified by and/or delayed by its inclusion within the Sanway FAS scheme.

Written Representation Issue	Highways England Response
<p>4.0 Water Impoundment Licence</p> <p>4.1 The applicant has been in direct contact with a Water Resources Senior Permitting Officer, working in our National Permitting Serviceteam to discuss potential Water Impoundment Licence requirements for works to Boldermere and/or the culvert running under the A3 (close to Boldermere). This is a separate process to planning and we are unable to agree to disapply Water Impoundment Licences under the Water Resources Act (1991) as part of the DCO.</p> <p>4.2 Our National Permitting Service have advised that any decision on whether a Water Impoundment Licence will be required will depend on the final, detailed designs of relevant structures. Therefore, at this time we are unable to confirm whether a Licence is required, or whether a Licence would be granted if one is required. The process for determining a Licence can take 4-6 months from the date of application.</p>	<p>Highways England will update the SoCG in line with the Environment Agency's response on this matter. This will be reflected in the final version of the SoCG to be submitted at Deadline 8. Highways England will continue to work with the Environment Agency and Natural England on matters of impoundment. Through sensitive design we will address concerns about the potential impounding effect of components of the Scheme that affect watercourses, with particular regard for water features of the Ockham and Wisley Commons SSSI.</p>
<p>5.0 Draft Development Consent Order – Article 19</p> <p>5.1 We have recently requested some additional wording be added to Article 19 (Discharge of water) of the Development Consent Order (DCO). This request is reflected in our SoCG with the applicant (matter 3.7.11).</p> <p>5.2 We have requested an additional paragraph be included in Article 19 to clarify that nothing within the article overrides the requirement for an Environmental Permit under the Environmental Permitting (England and Wales) Regulations 2016.</p> <p>5.3 As part of the SoCG, the applicant has proposed some wording to be included in Article 19. We confirm that the proposed wording is acceptable to us. Therefore, assuming that the wording is included in the final version of the DCO, we are satisfied that this matter will be agreed.</p>	<p>The following proposed amendment to Article 19 of the dDCO has been agreed with the EA: "Subject to article 3 paragraph (1)(a) (disapplication of legislative provisions) nothing in this article overrides the requirement for an environmental permit under regulation 12(1)(b) (requirement for environmental permit) of the Environmental Permitting (England and Wales) Regulations 2016".</p> <p>The agreed wording will be included in Article 19 in the next version of the revised dDCO.</p>

3. Comments on EA's Response to ExA's First Written Questions

Question Number	Question	Environment Agency Response	Highways England Comment
1.4.17	Please provide an update on the progress of discussions with regards to the proposed detail of mitigation measures associated with effects on Stratford Brook and Bolder Mere	1.1.1 We agree with the mitigation measures that the applicant has proposed for effects on Stratford Brook and Bolder Mere and consider that these are adequately secured within the DCO documents, with the exception of the commuted sum payment for Stratford Brook mitigations –further details of which are provided in section 6 of Appendix A of this response.	Please see the response to question 1.4.17 in Applicant's Response to Written Questions [REP2-013].
1.6.1	Are you satisfied with the surface water mitigation measures (attenuation ponds and ditches) that are discussed ES Chapter 8 [APP-053] and do you agree with the conclusions drawn by the Applicant in regard to the residual effects on surface water and groundwater?	<p>1.2.1 Please be advised that surface water drainage matters are no longer within the remit of the EA (for flood risk), so we will leave any comments on these matters to the relevant Lead Local Flood Authority/ies. Our only concern regarding surface water drainage relates to water quality –in particular water quality impacts on Bolder Mere.</p> <p>1.2.2 The applicant has advised us that their intention is to re-route road drainage away from Bolder Mere and into an adjoining stream, but that this is subject to further detailed drainage surveys being undertaken. We fully support the approach to re-route road drainage away from direct discharge into Bolder Mere. We understand that even if the applicant is unable to re-route the road drainage, it may be possible to add additional water quality improvement measures to the existing system, thereby providing a betterment over the existing situation.</p> <p>1.2.3 Ultimately, we agree with the applicant's assertion in the WFD Assessment (APP-045) that road drainage is not a factor influencing the WFD status of the lake, so even if the road drainage could not be re-routed it would not impact the WFD status of the lake. However, we would still strongly encourage the applicant to re-route the road drainage away from Bolder Mere to improve water quality. We feel that this matter has been sufficiently addressed within the DCO documents.</p> <p>1.2.4 In relation to the second part of your question, we agree with the applicant's conclusions regarding residual effects on surface water and groundwater for those matters within our remit</p>	We will continue to consult with the Environment Agency on the design of road drainage in the vicinity of Bolder Mere through the detailed design process.
1.6.5	In relation to paragraph 2.4 of your RR [RR-011] please explain why you consider the submitted Flood Risk Assessment (FRA) [APP-046] has used 'unclear terminology in places' and includes 'a number of assumptions made without supporting evidence'.	<p>1.3.1 As noted in our Written Representation in Appendix A, the only outstanding concern that we have with the FRA relates to the use of Flood Zone 2 as a proxy for a 'with climate change' flood extent.</p> <p>1.3.2 Other matters referred to in our Relevant Reps response (RR-011) have been satisfactorily addressed by the applicant in further written communications and a meeting we held with the applicant in October 2019. We acknowledge that whilst the level of detail in the FRA is in some cases less than we would usually seek, the applicant has largely provided sufficient information based on the current level of detailed design of the scheme. We are also satisfied that we will be receiving further details via the Requirements and Protective Provisions for works on Stratford Brook.</p> <p>1.3.3 In summary for our outstanding issue, the applicant has used the extent of Flood Zone 2 (as shown on the Flood Map for Planning: https://flood-map-for-planning.service.gov.uk/) as a 'proxy' for the extent of a 1 in 100 plus 70% allowance for climate change (the highest allowance in the Thames catchment). This assumes that the flood extent for a 'with climate change' event would not extend beyond the mapped Flood Zone 2, but no evidence has been provided to support this assumption.</p> <p>1.3.4 We continue to request that the applicant provide further information to demonstrate that this approach is acceptable for this development. We are in the process of arranging a telephone call between us and the applicant's consultants to discuss this matter further.</p>	See response to the Written Representation issue 2.0 above.

Question Number	Question	Environment Agency Response	Highways England Comment
1.6.6	Further to the EA's RR [RR-011], most particularly paragraph 2.4, please explain why the FRA [APP-046] has or has not made an appropriate allowance for climate change. If an inappropriate allowance for climate change has been made does this have any implications for the assessment of effects included in section 8.10 of Chapter 8 of the ES [APP-053]?	1.4.1 Since we sent our Relevant Reps response (RR-011), the applicant has confirmed through a meeting and written communications that an appropriate assessment of climate change allowances has been made in the FRA, notwithstanding the issue with using Flood Zone 2 as a proxy (see response above). We are therefore satisfied that the applicant has used the correct climate change allowances in the FRA, but this was not made clear in the assessment.	Highways England agrees with this point.
1.15.15	In response to the RR made by EA [section 1 of RR-011] please advise as to what progress is being made to negotiate Protective Provisions that would be acceptable to the EA, given that the dDCO seeks to disapply the legislative requirement to apply to the EA for certain consents.	1.5.1 We have now agreed acceptable Protective Provisions with the applicant, and these have been included in the latest draft order submitted by the applicant.	Highways England agrees with this point.

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