

Our Ref: HE551522-ATK-GEN-J10-LN-ZM-000006

Planning Inspectorate
National Infrastructure Planning
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For the attention of: Mr Gavin Jones, Lead Member of the
Examining Authority

Highways England
Bridge House
1 Walnut Tree Close
Guildford
Surrey, GU1 4LZ

11 February 2020

By email to:

m25junction10@planninginspectorate.gov.uk

Dear Sirs,

M25 junction 10/A3 Wisley interchange scheme (the Scheme)
Planning Inspectorate reference: TR010030
Application for changes to an accepted Development Consent Order (DCO)

Introduction

Further to our letter of 18 December 2019, Highways England hereby submits a request for the following changes to the Scheme (the **Proposed Changes**) to be accepted for examination:

- Change 1 - extension of the proposed green element on Cockcrow Bridge necessitating minor adjustments to the Order limits in the draft DCO.
- Change 2 - incorporation of two toad underpasses at Old Lane and other mitigation measures).
- Change 3 - removal of part of the proposed improvements to the A245 eastbound between the Seven Hills Road and Painshill junctions.
- Change 4 - amendments to Saturday construction working hours.
- Change 5 - adjustments to the Order limits in the draft DCO to accommodate the diversion of a new gas main crossing of the M25.
- Change 6 - amendment to the proposed speed limit at Elm Lane (and including Byway 525 – Byway Open to All Traffic). This change does not change the area of land to be affected.

Highways England advised the Examining Authority of its intention to make the Proposed Changes prior to the Preliminary Meeting which was held on 12 November 2019.

Highways England has subsequently carried out a targeted, non-statutory consultation in respect of the Proposed Changes. The outcome of that consultation is explained in the accompanying Consultation Statement.

Further information regarding the Proposed Changes, together with an assessment of their likely effects, can be found in the documents accompanying this application. A full list of the accompanying documents is set out in section 9 of the accompanying Report on Proposed Scheme Changes.

Each of the six changes are relatively minor in nature and moreover, when taken together, they do not alter the substance of the Scheme as applied for in June 2019.

It is Highways England's position that there is a strong case for each of the six Proposed Changes to be accepted for examination. Although they have been promoted as a single package of proposed changes, each of the six Proposed Changes is in reality free-standing, i.e. they are not dependent upon one another. Moreover, four of the six Proposed Changes (changes 2, 3, 4 and 6) do not involve adjustments to the red line boundary which increase the scope of compulsory acquisition powers and therefore do not engage the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 (**2010 Regulations**). Accordingly it is not necessary for Highways England either to obtain any consent in respect of changes 2,3,4 and 6 and nor is the prescribed procedure under the 2010 Regulations engaged in respect of them in the absence of such consent.

Application of the 2010 Regulations in respect of two of the Proposed Changes

As noted above, of the Proposed Changes, changes 1 and 5 involve adjustments to the red line boundary which increase the scope of compulsory acquisition powers although they do not involve any newly-affected parties.

The amendments to the land affected by compulsory acquisition as a result of the Proposed Changes are:

- **Change 1 (extension of the proposed green element on Cockcrow Bridge)**

This change does not require additional land outside of the existing red line boundary of the Scheme but requires minor increases in the land acquisition powers sought over certain plots in order to implement the proposed widened green element of the Cockcrow Bridge.

This change will require 36 square metres of land subject to additional permanent acquisition, 187 square metres of land subject to additional temporary possession with rights to be acquired permanently, and a reduction by 176 square metres of land subject to temporary possession.

- **Change 5 (adjustments to the Order limits in the draft DCO to accommodate the diversion of a gas main)**

This change requires additional land to be added to the land affected by the DCO, namely extension of plots 12/25 and 12/25b by 340 square metres for temporary possession with rights to be acquired permanently, and the addition of plot 12/25d which requires 822 square metres for temporary possession, all plots being in the ownership of Surrey County Council.

In accordance with the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 (the **2010 Regulations**) Highways England sought the consent of the land interests to the inclusion of any additional land under regulation 4 of the 2010 Regulations and has obtained such consent from all the land interests affected by Change 5.

As at the date of this letter, Highways England has not yet received consent from two of the land interests affected by Change 1 (extension of the proposed green element on Cockcrow Bridge). Highways England is in active discussions with these parties and is confident that the relevant consents will be obtained imminently such that it will not be necessary to invoke the prescribed procedure under the 2010 Regulations.

Therefore, in accordance with the requirements of section 123 of the Planning Act 2008 the provisions of the 2010 Regulations apply, as at the date of this letter, to the request for Change 1 of the Proposed Changes **only**.

The Examining Authority may therefore, if it is so minded, accept changes 2, 3, 4, 5 and 6 without Highways England having to comply with the prescribed procedure under the 2010 Regulations.

Highways England accepts that, until either the two outstanding consents are obtained or the prescribed procedure under the 2010 Regulations has been invoked, the Examining Authority will be unable to accept Change 1 for examination.

Timetable

Highways England has been asked to provide an explanation of how the request for the changes which trigger the prescribed procedure provided for under the 2010 Regulations (i.e. as at the date of this application, Change 1 only) can be accommodated within the examination timetable.

As noted above, Highways England anticipates that the two outstanding consents from affected land interests will be obtained imminently such that it will not be necessary to invoke the prescribed procedure under the 2010 Regulations.

In the unlikely event that the two remaining consents are not received within the next week, Highways England considers that the following illustrative timetable will apply:

- Request made 11 February 2020.
- Acceptance decision made by 11 March 2020 (the Examining Authority has a *maximum* of 28 days to consider whether to accept this request). ***N.B. under the 2010 Regulations, the acceptance period only relates to change 1 as changes 2,3,4 and 6 do not engage the 2010 Regulations and Highways England has obtained the consent of the land interests affected by change 5.***
- Notification and publication in accordance with regulations 7 and 8 of the 2010 Regulations carried out between 21 February to 28 March 2020 (to allow for the need to publish press notices for two successive weeks and allow for a 28 day representation period in accordance with regulations 7 and 8).
- Certificates of compliance with regulations 7 and 8 of the 2010 Regulations submitted by Highways England on 30 March 2020 (regulation 9(a)).
- Notice of hearings (if any) is issued by the Planning Inspectorate on or around 7 April 2020 (Examining Authority must notify affected landowners of any proposed open floor hearings, issue specific hearings or compulsory acquisition hearings as soon as reasonably practicable after certification of compliance under regulation 9(a). The 2010 Regulations provide for a minimum of 21 days' notice of a hearing to be given, however Highways England has, for the

purposes of this timetable, provided for a slightly longer period of 28 days in order to accommodate the necessary associated administration).

- Examining Authority to determine initial issues and procedure for examining the request no later than 20 April 2020 (Under the 2010 Regulations, the Examining Authority has a maximum of 21 days to assess the issues arising after the end of the representation period).
- Hearings held (if required) late April/early May 2020.
- Examination closes 12 May 2020.

It should be noted that the illustrative timetable above assumes that the prescribed procedure under the 2010 Regulations will need to be followed in full and that representations are received from interested parties which include requests for a compulsory acquisition hearing.

Given that the need to invoke the prescribed procedure (if at all) only arises in respect of Change 1, a change for which there is general support from interested parties, it is unlikely that the Examining Authority will hold or be asked to hold separate issue specific, compulsory acquisition or open floor hearings in respect of a single, uncontroversial change although Highways England fully respects that this is a matter for the Examining Authority to consider.

Supporting documents

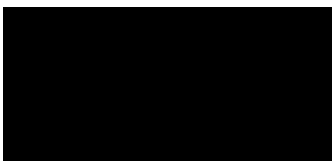
Notwithstanding that Highways England has not at the time of this application sought to invoke the prescribed procedure under the 2010 Regulations in respect of Change 1, in order to provide the Examining Authority with a clear understanding of the effect of the Proposed Changes on the application documents, it has elected voluntarily to submit the following documents which would in any event be required under regulation 5 of the 2010 Regulations if the prescribed procedure is invoked:

- Supplemental Book of Reference **(document reference TR0130030/Volume 10.5)** ;
- Land plan identifying the additional land / land affected by the provision **((document reference TR0130030/Volume 10.2).;**
- Statement of Reasons Addendum **(document reference TR0130030/Volume 10.3).;** and
- Funding Statement Addendum **(document reference TR0130030/Volume 10.4)..**

We trust that the documents submitted in support of this request for the Proposed Changes to be accepted for examination provide a clear explanation and justification for them.

We look forward to hearing from you.

Yours faithfully,



Jonathan Wade
Project Manager, Regional Investment Programme (South East)
Highways England