

**Response to The Examining Authority's Second  
Written Questions  
for  
The Royal Society for the Protection of Birds**

**Submitted for Deadline 5  
3 March 2020**

**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**



The RSPB has focused solely on answering the questions directed to it by the Examining Authority. We reserve the right to comment on the answers to other questions.

**Q2.4.3 - Are you content with the Species Monitoring Programme that is set out in Table 7.11.1 of the SPA Management and Monitoring Plan [AS-015]?**

The RSPB is **not** content with the Species Monitoring Programme in Table 7.11.1. The RSPB notes that no changes have been made to the Species Monitoring Programme set out in Table 7.11.1 of the SPA Management and Monitoring Plan [AS-015] since the original document was created [Revision 0] in June 2019. The RSPB also notes Highways England's response to REP1-045-8 regarding consideration to the proposed frequency of monitoring SPA qualifying species and the refinement of the SPA Management and Monitoring Plan during the DCO process in consultation with Natural England. Consequently, as no changes have been made since the original document [Revision 0], we retain our concerns regarding the Species Monitoring Programme set out in Table 7.11.1, originally identified in the RSPB's Written Submission, paragraph 54 [REP1-045]. Our concerns are summarised below.

The RSPB considers that the effectiveness of the compensatory measures through monitoring SPA bird and invertebrate prey populations can be assessed by setting an expected number of birds of each species that should be supported by the compensatory habitat save where one or more severe winters has caused the population numbers to decline significantly. However, the current frequency outlined in Table 7.11.1 for species monitoring to occur in years 3, 7, 10, and 15 is insufficient to be able to identify the extent to which one or more severe winters have caused the population to decline. Having reviewed the proposed monitoring frequency, the RSPB recommends that species monitoring for SPA birds and invertebrates should occur every 3 years to enable the impact of severe winters to be detected sooner and better inform any responses under the SPA Management and Monitoring Plan. We recommend that a definition of what constitutes severe weather is agreed and incorporated into the SPA Management and Monitoring Plan. Decisions on monitoring beyond this period should form part of the responsibilities of the Steering Group for the SPA Management and Monitoring Plan.

**Q2.15.5 - Further to the Applicant's response to the ExA's first written question 1.15.1 [REP2-013], the revised dDCO [REP2-002] has removed some activities from those not encompassed within the definition of commence. Nevertheless, a number of activities such as site clearance and the receipt and erection of construction plant and equipment remain outside the definition of commence. As such, these activities could take place outside the controls of the approved CEMP and the various management plans and method statements required by the CEMP. Please comment on this and indicate which, if any, activities that are currently excluded from the definition of 'commence' you consider should be included.**

The RSPB notes that the Thames Basin Heaths Special Protection Area (SPA) Compensatory Habitat Creation and Enhancement Measures (section 8 (3) of Schedule 2) within the dDCO [Revision 1] states that *'Unless otherwise approved by the Secretary of State in writing, following consultation with Natural England, the compensatory habitat creation measures on the proposed Thames Basin Heaths SPA compensation land must be begun before any part of the authorised development within the boundary of the SPA may commence.'* Commencement of work in areas where temporary and permanent loss of SPA is identified prior to compensatory habitat creation measures commencing

would result in an undefined period of time in which SPA land could be exposed to unmitigated or compensated negative impacts from works in the Scheme.

In Schedule 2 of the dDCO [Revision 1], the following activities fall outside the definition of “commence”:

- non-intrusive investigations and surveys;
- ecological surveys and pre-construction ecological mitigation;
- investigations for the purpose of assessing and monitoring ground conditions and levels;
- erection of any temporary means of enclosure;
- receipt and erection of construction plant and equipment;
- site clearance; and
- the temporary display of site notices or advertisements.

From the above list of activities, the RSPB would like to highlight its concerns regarding the erection of any temporary means of enclosure, receipt and erection of construction plant and equipment, and site clearance. For clarity, site clearance is defined within the dDCO [Revision 1], Schedule 1 under *Other relevant works (m)* as including fencing, vegetation removal, demolition of existing structures and the creation of alternative footpaths. The RSPB is however unsure of the extent of works that fall within the definition of ‘temporary means of enclosure’ and ‘construction plant and equipment’ as these are not defined in detail within the dDCO nor the Outline Construction Environmental Management Plan (CEMP). As the Examining Authority has stated in its question to the RSPB, these activities, if excluded from the definition of “commence”, could take place outside the controls of the approved CEMP.

The timing of works within the Scheme is not clear in relation to site clearance, erection of temporary means of enclosure, and receipt and erection of construction plant and equipment. These all have the potential to have impacts on breeding SPA birds if carried out at the wrong time of year or with inadequate working methods. Without clarity on timing and location of works for the above operations, the RSPB cannot be certain that these operations will not have significant impacts upon the SPA and therefore these operations should be **included** in the definition of ‘commence’ and be controlled under the approved CEMP and management plans required by the CEMP.