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To all Interested Parties

Your Ref:

Our Ref: TR010030

Date: 3 April 2020

Dear Sir/Madam,

The Infrastructure Planning (Examination Procedure) Rules 2010 (as amended) – Rule 17

Application by Highways England for an Order Granting Development Consent for the M25 Junction 10/A3 Wisley Interchange

Request for further information

We are writing under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010 (as amended).

In light of the postponement of the hearings due to be held during the week commencing 23 March 2020, formally notified on 18 March 2020, the Examining Authority (ExA) is issuing, at Annex A below, a third set of Written Questions (ExQ3).

These questions are being distributed to all Interested Parties as some questions are directed to all, most particularly those relating to the Proposed Changes subject to the Applicant's submissions at Deadlines 4 and 4a.

You are asked to pay particular attention to 'Additional guidance for the Applicant and all Interested Parties (IPs) and Affected Persons (APs)' contained within Annex A to this letter. That additional guidance can be found immediately before the list of abbreviations that precedes the list of questions.

Responses to this round of questions should be submitted by Deadline 7 (20 April 2020). However, we are continuing to review how the Examination will proceed beyond Deadline 7 and will provide an update on that at the earliest opportunity.

Yours sincerely

Gavin Jones

Lead member of the Panel



Application by Highways England

M25 Junction 10 / A3 Wisley Interchange Improvement project

The Examining Authority's third written questions and requests for information (ExQ3)

Issued on 3 April 2020

The following table sets out the Examining Authority's (ExA's) third written questions and requests for information – ExQ3. Although not originally specifically included in the Examination timetable, a third round of written questions has become necessary due to the postponement of the Hearings that had been scheduled to take place from 24 to 26 March 2020 as a result of the COVID-19 pandemic.

Questions are set out using an issues-based framework derived from the Initial Assessment of Principal Issues provided as Annex B to the Rule 6 letter of 15 October 2019. Questions have been added to the framework of issues set out there as they have arisen from representations and to address the assessment of the application as the Examination has progressed.

Column 2 of the table indicates which Interested Parties (IPs) and other persons each question is directed to. The ExA would be grateful if all persons named could answer all questions directed to them, providing a substantive response, or indicating that the question is not relevant to them for a reason. This does not prevent an answer being provided to a question by a person to whom it is not directed, should the question be relevant to their interests.

Each question has a unique reference number which starts with a 3 (indicating that it is from ExQ3) and then has an issue number and a question number. For example, the first question on air quality and human health is identified as Q3.3.1. When you are answering a question, please start your answer by quoting the unique reference number.

If you are responding to a small number of questions, answers in a letter will suffice. If you are answering a larger number of questions, it will assist the ExA if you use a table based on this one to set out your responses. An editable version of this table in Microsoft Word is available on request from the case team, please contact: M25junction10@planninginspectorate.gov.uk and include 'M25Junction/ExQ3' in the subject line of your email.

Responses are due by Deadline 7: 20 April 2020

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Additional guidance for the Applicant and all Interested Parties (IPs) and Affected Persons (APs)

Questions and Points of Clarification

All IPs and APs are reminded that it is the ExA's role to consider the cases made by them and the Applicant and for the ExA to decide what questions it considers should be asked of any of the examination participants. IPs and APs within their written examination submissions should therefore clearly state what their own cases are and avoid asking direct questions of the Applicant. In that regard the ExA notes it has been the Applicant's commendable general practice to respond to issues raised by IPs and APs at the next appropriate examination deadline, a practice that has been helpful to the ExA in formulating its subsequent written or hearing questions, an approach that the Applicant will no doubt continue with until the conclusion of the examination of this application.

The ExA would also stress that when IPs and APs wish to make examination submissions at an examination deadline they must ensure that they submit those written submissions to the ExA, either by emailing them to M25junction10@planninginspectorate.gov.uk or by posting them to National Infrastructure Planning, Temple Quay House, 2 The Square Bristol, BS1 6PN. With respect to the use of any postal services please note that Temple Quay House is currently closed and will remain closed until The Government Property Agency directs otherwise. Accordingly, the Planning Inspectorate's staff currently have no access to Temple Quay House and are therefore unable to receive and process any postal submissions. You are therefore **strongly urged** not to rely solely on the use postal services when submitting any documentation at Deadline 7 and to make electronic submissions instead. While there is nothing that precludes IPs and APs from copying their submissions to the Applicant, they should not expect the Applicant, in the first instance, to forward those submissions to the Planning Inspectorate at any time, particularly in time to meet any examination deadline.

It should be noted that the questions being asked and/or the points of clarification being sought by the ExA in this third round of written questions are intended to assist the ExA's understanding of parts of the Applicant's and IPs' and/or APs' cases that have been made up until deadline D5a. In that regard many of the questions or points of clarification listed below relate to matters that the ExA expects it would have raised during the postponed hearings scheduled for 24 to 26 March 2020 and do not take account of any of the deadline 6 submissions that have been made by the Applicant and any IPs or APs. If any of your deadline 6 submissions already address, in whole or part, any of the questions or points of clarification listed below, then in responding to them you are requested to make cross references to where they are addressed in your deadline 6 submissions.

For many of the Principal Issues (topic areas) outlined in Annex B of the ExA's Rule 6 letter of 15 October 2019 [PD-004a] the positions of the Applicant and IPs and/or APs at this point in the Examination are known to and therefore well understood by the ExA. Accordingly, the asking of a few or no questions in respect of some of the topic areas should not be taken by the Applicant, IPs and APs as an indication that these topic areas are being looked upon by the ExA as being unimportant. Rather the position

with respect to those topic areas is that the ExA considers that its understanding of the Applicant's, IPs' and APs' cases would not be enhanced through the asking of additional questions or inviting further comment.

The ExA also wishes to stress that neither the Applicant nor any IP or AP should take the ExA's selection of questions or points of clarification as any sort of indication that the ExA has already reached any decision about what recommendation it will ultimately be making in its report to the Secretary of State for Transport.

Document Management

The ExA would request that if the Applicant or any IP and AP, either in response to any question or point of clarification listed below or at subsequent stages of this Examination, finds it necessary to cross refer to and include a new document with its response, in effect as an appendix, then if any such document is over 10 pages long and only parts of it are directly relevant to a point being made, then either only the relevant extracts from the document should be submitted or the parts cross referred to must be clearly be notated within the document so that any other Examination participant and/or the ExA can quickly locate the relevant text, tables and figures etc to minimise the amount of time required to locate what is being referred to.

The ExA would remind the Applicant and all IPs and APs that in submitting any written submissions you must ensure that when crossing referring to documents submitted at any preceding Examination deadline and which have been published and an allocated an Examination Library reference number then that reference number **must** be quoted. This practice is not being followed by all IPs and APs and following it will assist all Examination participants as well as the ExA. The list of accepted Examination documents throughout this Examination has been updated very shortly after each submission deadline and can be accessed by using the banner with a blue background entitled 'View the Examination Library with reference numbers' which appears towards the top and on the right hand side of the documents page of the webpage for this NSIP application <https://infrastructure.planninginspectorate.gov.uk/projects/south-east/m25-junction-10a3-wisley-interchange-improvement/?ipcsection=docs>

Abbreviations Used

AEOI	Adverse Effects on Integrity
APs	Affected Persons
Art	Article
BoR	Book of Reference
CA	Compulsory Acquisition
CEMP	Construction Environmental Management Plan
dDCO	Draft Development Consent Order
DMRB	Design Manual for Roads and Bridges
EA	Environment Agency
EBC	Elmbridge Borough Council
EM	Explanatory Memorandum
ES	Environmental Statement
FRA	Flood Risk Assessment
ExA	Examining Authority
GBC	Guildford Borough Council
HE	Highways England
HistE	Historic England
HRA	Habitats Regulations Assessment
IPs	Interested Parties
IROPI	Imperative Reasons of Overriding Public Interest
LAs	Local Authorities in whose areas the Proposed Development is located, ie Elmbridge Borough Council, Guildford Borough Council and Surrey County Council
LEMP	Landscape and Ecology Management and Monitoring Plan
LIR(s)	Local Impact Report(s)
NE	Natural England
NMU	Non-Motorised Users
NPS	National Policy Statement
NSIP	Nationally Significant Infrastructure Project
OTMP	Outline Traffic Management Plan
PA2008	Planning Act 2008
Proposed Development	The NSIPs comprising the M25 junction 10/A3 Wisley interchange Scheme (TR010030)
PRoW	Public Right of Way
R	Requirement
RHS	Royal Horticultural Society
RR(s)	Relevant Representation(s)

RSPB	Royal Society for the Protection of Birds
SAC	Special Area of Conservation
SCC	Surrey County Council
SoCG(s)	Statement(s) of Common Ground
SCL	Special Category Land
SPA	Special Protection Area
SPA MMP	Special Protection Area Management and Monitoring Plan
TA	The Applicant's submitted Transport Assessment [APP-136, as amended by REP4-041]
TP	Temporary Possession
WPIL	Wisley Property Investments Limited

Question to:		Question:
1.	General	
3.1.1	Applicant	<p>Whilst some details of the proposed bridges and other structures have been provided, notably in the Engineering Drawings [PD-014, as amended in part by REP4a-005], please explain how the detailed design for these structures is going to be developed in terms of consultation with relevant Interested Parties (IPs)? What would be the proposed authorisation process for the final scheme designs and what, if any, formal consultation process with IPs would this entail, including a means of arbitration should agreement not be reached?</p>
3.1.2	Applicant and Surrey County Council (SCC)	<p>In your Statement of Common Ground (SoCG) [REP5-009] the Applicant refers to a schedule of works that are expected to become the responsibility of SCC in the future should the DCO be made. When is this schedule going to be provided to SCC? In addition, is SCC content with the two plans that the Applicant has provided and which are described in section 1.4.1 of [REP5-009]?</p>
3.1.3	All Interested Parties (IPs)	<p>With respect to the Applicant's Proposed Changes 2 to 6, the documentation for which was variously submitted at Deadlines 4 and 4a, which were accepted for Examination by the ExA on 27 February 2020 [PD-012], please provide any comments that you may have that specifically relate to Proposed Changes 2 to 6, which comprise the following:</p> <ul style="list-style-type: none"> • Change 2 - incorporation of two toad underpasses at Old Lane • 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 - diversion of a new gas main crossing of the M25

Question to:		Question:
		<ul style="list-style-type: none"> Change 6 - amendments to the proposed speed limit at Elm Lane
3.1.4	All IPs	Included within the Applicant's request at Deadlines 4 and 4a to make Proposed Changes to the originally submitted application is Change 1 (extension of the proposed green element on Cockcrow Bridge). Proposed Change 1 to date has not been accepted for Examination by the ExA. There remains the potential for Change 1 to be accepted by the ExA for Examination prior to the close of the Examination and accordingly the ExA considers it appropriate that all IPs be provided with the opportunity to comment on Proposed Change 1 if they wish on a without prejudice basis.
2.	Principle and nature of the development, including need and alternatives	
3.2.1	Applicant	<p>With respect to the comparisons that have been made between the Do-minimum and Do-something scenarios the ExA has outstanding concerns regarding the information that has been made available to it to date, with the Applicant's written answers to questions 1.13.1 [REP2-013] and 2.1.1 [REP5-014] not being sufficiently informative and contradicting the answer provided during the course of ISH2 (as summarised in paragraphs 3.1.8 and 3.1.9 of REP3-009).</p> <p>Accordingly, please answer the following questions and provide a full justification for your reasoning:</p> <ol style="list-style-type: none"> For the purposes of the published Road Improvement Strategy 2015-2020 how is the M25 Junction 10 to 16 smart motorway scheme defined? Prior to some of the M25 Junction 10 to 16 scheme works being hived off to become part of the Proposed Development, as referred to in paragraph 3.5.9 of the TA [APP-136], what alterations to the main running lanes of the M25 through Junction 10 and for the entry and exit slips at Junction 10 were envisaged as part of the M25 Junction 10 to 16 scheme?

Question to:		Question:
		<p>c) Has there been any understatement of what the Do-minimum scenario might entail in the application documentation submitted to date?</p> <p>d) Has there been any overstatement of the claimed benefits for the Proposed Development compared with the Do-minimum scenario in the application document submitted to date, most particularly any reductions in the accident rate and improvements to capacity/driver delay? Having answered either yes or no, then please provide the reasoning for that answer.</p> <p>If the answers to parts c) and d) of this question are 'yes', is there a need to amend the submitted TA and any parts of the ES that are affected by the comparisons made between the Do-minimum and Do-Something scenarios to date? If applicable, please explain why you consider the application documentation does or does not need to be amended.</p>
3.2.2	Applicant, Guildford Borough Council (GBC), Elmbridge Borough Council (EBC), Royal Horticultural Society (RHS) and any other Interested Parties (IPs)	For the purposes of the determination of the submitted application for the Proposed Development does the amended duty under The Climate Change Act 2008, namely achieving net zero greenhouse gas emissions by 2050 pursuant to The Climate Change Act 2008 (2050 Target Amendment) Order 2019, which took effect on 27 June 2019, have any implications for the assessment of the effect on climate change that has been undertaken (ie the conclusions contained within chapter 15 of the ES [APP-060]), particularly with regard to: the provisions of the National Policy Statement for National Networks (NPSNN); any other national policy relating to climate change (including any commitments as part of the Paris Climate Agreement of December 2015; and any in-principle type considerations raised in the recent Court of Appeal judgement concerning the Airports NPS?
3.	Air quality and human health	
3.3.1	Applicant	In light of the ExA's requirement under question 3.13.2 for the hypothetical

Question to:		Question:
		modelling of the availability of south facing slips at the Ockham Park junction to be undertaken, the Applicant is requested to model the air quality effects for traffic flowing through Ripley using the traffic flow predictions generated through the modelling for the installation of south facing slips at the Ockham Park junction.
4.	Biodiversity and Habitats Regulations Assessment	
3.4.1	RHS	In regard to any potential effects on the Thames Basin Heaths SPA (TBH SPA) due to air quality considerations, please comment on the response made by Natural England at Deadline 5 [REP5-032] in regard to the ExA's Second Written Questions.
3.4.2	RHS	Given the results presented in Figures 1, 2 and 3 of [REP5-049] what implications in regard to ammonia concentrations do you consider there would be as a result of the Proposed Development for the TBH SPA, taking into account the specific characteristics of this part of the SPA, its spatial relationship with the strategic road network, and the nature of the qualifying species of the TBH SPA.
3.4.3	Applicant and Natural England (NE)	Do you have any further comments to make in regard to the issue of ammonia and nitrogen deposition having regard to the recent RHS submission 'Ammonia Emissions from roads for Assessing Impacts on Nitrogen-sensitive Habitats' [REP5-059]?
3.4.4	Applicant	Please provide an update on the progress in drawing up the agreement between yourself, SCC and SWT regarding ensuring the necessary environmental and ecological works are undertaken [REP2-014, p56 RSPB response]. In answering this please state the date by which the agreement will be executed and be available for submission as an Examination document.
3.4.5	Applicant	When will the terms of reference for the proposed Steering Group be made

Question to:		Question:
		available, and how will these be consulted upon?
5.	Construction	
3.5.1	Applicant	In response to the ExA's second written question 2.5.2 you state in [REP5-014] that details of how the construction compounds will be used is a matter for detailed design. Please set out how the approval process for the detailed design of the construction compounds would proceed, and how local residents, such as those at Elm Corner, would be involved in consultations regarding the detailed design process.
6.	Flood risk, drainage and water management	
3.6.1	Applicant	In response to the Environment Agency's Deadline 5 submission [REP5-036] the EA has requested the provision of higher resolution maps of the works areas, details of any changes made to the model and confirmation that the conclusions of the Flood Risk Assessment (FRA) have not been affected by the results of the additional assessment. Consequently, please confirm when the EA will be provided with this information in the form of an updated FRA.
7.	Historic environment	
3.7.1	Applicant and Historic England	In your most recent Statement of Common Ground [REP5-005] there are a number of matters listed as being 'Under discussion'. However, it would appear that most of these matters would rely on details being submitted at a later stage should the DCO be made, for example through detailed design. Therefore please review the use of the phrase 'under discussion' in the final SoCG so that wherever possible all matters are either listed as being 'agreed' or not agreed', even if any such agreement would be subject to further consultations and final agreement at the detailed design stage.

Question to:		Question:
8.	Landscape and Visual Impact	
3.8.1	Applicant	In relation to the visual impact of the Proposed Development, what allowance has been made for the extent of tree removal that would be associated with the Proposed Development?
3.8.2	Applicant	In NE's Response to the ExA's Second Written Questions [REP5-032] NE has stated their previous advice that the woodland buffer adjacent to the road should be retained rather than new areas of heathland be created. How does this fit in with the objectives of the SPA MMP?
3.8.3	Applicant	On the basis that this is yet to be accepted into the examination (having regard to Q3.1,4), please confirm how the proposed changes to the width of the green element of the Cockcrow Bridge (Change 1 of [REP4a-004]) have been assessed in the updated ES ([REP4-025] for revised Chapter 9: Landscape), and any other relevant assessments?
3.8.4	GBC	With respect to the replacement Cockcrow bridge, paragraph 3.2.13 of the updated Report on Proposed Scheme Changes [REP4a-004] states that: " <i>The widened bridge would provide greater visual connectivity between the land on either side of the A3 and as such provide a positive contribution to the landscape character of the area.</i> " On the basis that this is yet to be accepted into the examination (having regard to Q3.1.4), do you concur with this analysis, and if not, why?
3.8.5	Applicant	Please confirm how final details of all permanent fencing are to be approved and what consultation process with relevant stakeholders, such as the Local Authorities and adjacent landowners, will take place. How will any consultation responses received feed into the final choice and design of fencing to be installed?
9.	Land use, recreation and non-motorised users	

Question to:		Question:
3.9.1	SCC or the Applicant	Please provide a copy of a plan clearly showing the extent of the registered areas for Wisley Common and Ockham Common prior to the construction of the M25. It is only necessary for either SCC or the Applicant to submit the requested plan and the ExA would therefore ask you to agree amongst yourselves which organisation will be best placed to submit it and then proceed on that basis.
3.9.2	SCC, EBC and GBC	Can you please advise on what input you have had in derivation of the 'target ratios' for the provision of replacement land in exchange for Special Category Land (SCL), ie Common Land and Open Space, namely: 2.5:1 for Common Land, 2:1 for Open Space and 1:1 for the permanent acquisition of rights over Common Land and Open Space, identified by the Applicant in [AS-005].
3.9.3	SCC, EBC and GBC	<p>With respect to the proposed provision of replacement land in exchange for SCL and the range of possible options outlined in Table 1 of the 'Note on Implications of Potential Reduction in Replacement Land' [REP5a-012], please:</p> <p>a) identify the three SCL options in Table 1 that you most and least favour, ranked in order of most/least preferred; and</p> <p>b) explain the reasons for those choices.</p> <p>Without prejudice to any representations you have made at earlier deadlines for this Examination concerning the provision of SCL replacement land, in answering this question each local authority is requested to disregard any 'in-principle' type objections they might have to a reduction in the target ratios stated by the Applicant in AS-005. Additionally, in answering this question each local authority is requested to take account of the following factors:</p> <p>i. the underlying purposes for having the Common Land and Open Space;</p> <p>ii. any user benefits and/or disbenefits in terms of the proximity of any</p>

Question to:		Question:
		<p>replacement SCL to what would be the retained SCL;</p> <p>iii. the patterns of use for the existing SCL; and</p> <p>iv. the future patterns of use for the existing and new SCL.</p>
10.	Noise, Vibration, Dust and Lighting	
		<i>The ExA has no questions on Noise, Vibration, Dust and Lighting at this stage.</i>
11.	Pollution, Contaminated land, Geology and Ground conditions	
		<i>The ExA has no questions on Pollution, Contaminated land, Geology and Ground conditions at this stage.</i>
12.	Socio-Economic impacts	
		<i>The ExA has no questions on Socio-Economic impacts at this stage.</i>
13.	Traffic, transport and road safety	
3.13.1	Applicant	Please explain who is responsible for calibrating, running and validating the models that you have run to generate the various traffic predictions for 2022 and 2037 set out in all of your application documentation submitted to date. That is, does the Applicant take responsibility for calibrating, running and validating some or all of the models and then you provide your consultants with the results of the model runs for interpretation or do your consultants run the models and you then take on the role of auditing the output for the model runs to check the reliability of the output of the various models?
3.13.2	Applicant and SCC	While the ExA is aware that the Proposed Development does not and will not

Question to:		Question:
		<p>include south facing slips at the Ockham Park Junction, the ExA considers that in order for it to understand what the hypothetical effect the availability of south facing slips would have on the predicted distribution of traffic on the strategic and local road networks within the vicinity of Ripley, that the Applicant and/or SCC should extend the traffic modelling that has already been undertaken to date to include model runs that incorporate south facing slips at the Ockham Park junction.</p> <p>In this regard the ExA considers a collaborative approach is necessary and that it is for the Applicant and SCC to decide between themselves which organisation is best placed to undertake the modelling that the ExA is requiring to be undertaken. Should the Applicant and SCC be unable to agree which organisation should take the lead on which one undertakes this modelling then it will be for both the Applicant and SCC to undertake this modelling.</p>
3.13.3	Applicant and SCC	<p>Following on from question 3.13.2 the ExA requires that the Applicant and SCC work collaboratively to present at Deadline 7 for the base year of 2015 (or such other base year that the Applicant and SCC agree amongst themselves to be appropriate, having regard to the concern that SCC has about the 2015 base flows as recorded in paragraph 2.5.2 of REP5-009), and the years of 2022 and 2037 in respect of:</p> <ul style="list-style-type: none"> • the B2215 between the Ockham Park junction and its southern extremity; • Newark Lane; • Rose Lane; • Old Lane; • Ockham Lane; and • Ockham Road North

Question to:**Question:**

- a) either a consolidated agreed set of predicted AM peak hour, interpeak and PM peak hour traffic flows; or
- b) if a consolidated set of predicted traffic flows are not agreed at this deadline, the presentation of the flows of traffic that are and are not agreed, together with an explanation as to why the traffic flows cannot be agreed.

In answering this question, the ExA recognises that any disagreement that there might be about the effects of any additional predicted flows of traffic on the operation of the local highway network within Ripley and its immediate environs may be subject to a range anywhere between minor to significant. However, the ExA considers it very important for it to be able to report in an informed way to the SoS about any traffic implications that the Proposed Development might have for the operation of the local highway network within and immediately around Ripley, explicit and concise explanations of what the reasons for any disagreements are must be provided. That is, does any disagreement concern:

- 1) the quality and representativeness of the input data that is being used, and if so why?
- 2) the choice of model that is being used, and if so why?
- 3) the way the model is being run, and if so why?
- 4) the interpretation of the results arising from the modelling, and if so why; or
- 5) any combination of the above listed factors, and if so why?

The ExA wishes to stress that in replying to this question that simply stating that there is a disagreement about a matter or delaying giving an answer to this

Question to:		Question:
		question to a later deadline, unless there is a very good explanation, will not be a satisfactory response.
3.13.4	Applicant and SCC	<p>Following on from the answer or answers to question 3.13.3, which should in effect set out your final positions with respect to the predicted traffic flow for: the B2215 between the Ockham Park junction and its southern extremity; Newark Lane; Rose Lane; Old Lane; Ockham Lane; and Ockham Road North, please comment on:</p> <p>a) the ability of the abovementioned roads to accommodate the traffic that would use those roads were the Proposed Development to receive consent and be implemented; and</p> <p>b) any need to mitigate the effects of any additional traffic using any of the abovementioned roads arising from the Proposed Development and the means for securing any necessary mitigation.</p>
3.13.5	Applicant and SCC	<p>With respect to forward visibility at:</p> <ul style="list-style-type: none"> the A3 northbound off slip to the A245 westbound, as shown on drawing XX-SK-CH-000037 Revision C01; the new drainage pond access junction with the A245 eastbound , as shown on drawing XX-SK-CH-000039 Revision C01, A245 eastbound to the A3 northbound on-slip, as shown on drawing XX-SK-CH-000040 Revision C01, these drawings all being within [REP4-006]: <p>who is the relevant highway authority with responsibility for determining compliance with appropriate design standards, having regard to the owners and rights shown and declared on the Land Plans and within the BoR [REP5a-005], most particularly in respect of land plots 6/22, 8/31 and 8/36, which suggest that those junctions form or would form part of the strategic highway network</p>

Question to:		Question:
		rather than the local highway network?
3.13.6	Applicant	Should they be required, how would any potential detailed design modifications, as referred to in section 2.4.1 of the updated SoCG [REP5-009], be incorporated into the Examination process, having regard to the time remaining?
3.13.7	Applicant and RHS	<p>In response to the ExA's SWQ 2.13.14 you have provided conflicting answers as to whether the 'RHS Alternative' access arrangement would include an at grade or grade separated junction between Wisley Lane and the A3. It appears to the ExA that unless fundamentally different design assumptions are being made about what form a 'left out' junction from Wisley Lane might take that such a junction could only be either at grade or grade separated.</p> <p>The Applicant and the RHS are therefore requested to:</p> <ol style="list-style-type: none"> a) agree between one another hypothetically what form of junction or junctions could physically be accommodated; and b) then advise the ExA which of DMRB CD122 or CD123 would any such junction design or designs need to be assessed against. Should any junction design or designs require a relaxation from the relevant design standards to be applied, the Applicant and the RHS are requested to explain the nature of any relaxation that would be required. <p>The response to this question is one which the ExA expects the Applicant and the RHS should include in their SoCG, with clear explanations for matters that are or are not agreed.</p>
3.13.8	Applicant and RHS	<p>Having regard to the Applicant's response to ExA SWQ 2.13.9 [REP5-014]:</p> <ol style="list-style-type: none"> a) For the Applicant - what safety mitigation measures would the Applicant have sought?

Question to:		Question:
		b) For RHS – had you been requested to provide mitigation, what measures might you have suggested?
3.13.9	Applicant and RHS	With respect to the consideration of the RHS alternative (WIS12 etc), is the ExA to treat the disagreement between the Applicant and the RHS as either: a) that the RHS alternative has not been considered; or b) that it has been considered but that the RHS does not agree with the Applicant’s decision not to incorporate the RHS’s preference into the design for the Proposed Development?
14.	Waste management	
		<i>The ExA has no questions on Waste management at this stage.</i>
15.	Content of the draft Development Consent Order (dDCO)	
3.15.1	Applicant	In response to the ExA’s first written question 1.15.4 [PD-006] regarding the definition of ‘maintain’ in Part 1(2) ‘Interpretation’ of the dDCO, GBC [REP2-032] has raised concerns about its vagueness, enforceability and how this would be adjudged, and SCC [REP2-045] has raised concerns about the broad nature of this definition and how ‘materially different environmental effects’ would be determined. Therefore, please justify the wide-ranging nature of the activities that fall within the definition of ‘maintain’ in the dDCO [REP5-002].
3.15.2	Applicant	Further to your response in [REP5-009], should the definition of ‘maintain’ in the Part 1(2) Interpretation section of the dDCO contain additional wording such as ‘in perpetuity’ to indicate that the obligation for maintenance to be undertaken is not time limited?
3.15.3	Applicant	Article 7 of the dDCO [REP5-002] refers to a certification process that could allow

Question to:		Question:
		for the maximum limits of vertical deviation not to apply if “ ... <i>deviation in excess of these limits would not give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement.</i> ” Please explain the compatibility of this approach with the guidance contained within paragraphs 19 and 20 of Advice Note 15 on the Drafting of DCO?
3.15.4	Applicant	What is the definition for ‘acquire’/‘acquired’, as for example used in Article 38 (Special Category Land) of REP5-002 as neither acquire nor acquired have been defined under Article 2 (Interpretation)?
3.15.5	Applicant	With respect to the process of obtaining approvals for details pursuant to Requirements, please explain what is involved in that process, ie how the Secretary of State goes about seeking the views of the named consultees (local authorities and statutory bodies) in terms of timescales and addressing any disagreements. How are any disagreements to be addressed and/or resolved?
3.15.6	Applicant	Concerns have been maintained about some of the potential works that could fall outside the definition of ‘commence’ in Schedule 2 Part 1(1) of the dDCO [REP5-002]. In particular, SCC [REP5-029] has maintained its concerns about the site clearance and the erection of any temporary means of enclosure falling outside this definition, GBC [REP5-038] has raised concerns about site clearance and the erection of construction plant and equipment and EBC [REP5-037] in regard to the use of Section 61 consents to cover any activities that could give rise to noise complaints. Please justify your position on this matter and explain what practical difficulties this could cause for the construction of the Proposed Development if these matters were not contained within the definition of commence.
3.15.7	Applicant	With respect to Requirement 3 (the CEMP) in REP5-002 if there was no requirement for the Secretary of State to have approved the CEMP in its totality before any construction works can be commenced is there a need under

Question to:		Question:
		<p>Requirement 3 to include a mechanism to define the parts of the authorised development so that it is clear what works can be undertaken where and with what elements of the CEMP having been approved, ie rather than referring to 'part' should there be a reference to the construction programme stages/phases identified in section 5 of the outline CEMP [REP4a-003], namely 'Mobilisation and Enabling Works', 'Phase 1 – A3 Ockham Area', 'Phase 1 – A3 Painshill area', 'Phase 1 – M25 Junction 10', 'Phase 2 – A3 Ockham area', 'Phase 2 - A3 Painshill area', 'Phase 2 - M25 Junction 10', 'Phase 3 - A3 Ockham area', etc [REP4a-003]?</p> <p>OR</p> <p>Should Requirement 3 of the dDCO be worded so that some types of works could be undertaken with some elements, but not necessarily all elements of the CEMP having been approved? If this approach is considered to be appropriate then please provide your suggested wording for incorporation in to the dDCO.</p>
3.15.8	Applicant	<p>With respect to Requirement 3 (the CEMP) in the dDCO [REP5-002] and the consultations with respect to management plans and method statements listed in sub-section (c), should the SoS's consultees include the likes of the Environment Agency, SCC as the Lead Local Flood Authority and SCC as the Minerals and Waste Planning Authority, as relevant, for items such as:</p> <p>(v) management of materials;</p> <p>(vii) management of site waste;</p> <p>(viii) protection of surface water and groundwater;</p> <p>(x) control of evasive species; and</p> <p>(xi) pollution prevention plan and procedures for unexpected environmental emergencies?</p>

Question to:		Question:
		<p>OR</p> <p>Do the above matters involve any duplication of consenting procedures that would be addressed through obtaining permissions/consents available under other legislation?</p>
3.15.9	Applicant	In terms of Requirement 3(4) to 3(6) please clarify the consultation and approval process for the HEMP, and how the " <i>long-term commitments to aftercare, monitoring and maintenance activities</i> " that are referenced in R3(5)(b) would be undertaken in practice.
3.15.10	Applicant	GBC [REP2-032] has raised concerns about the wide ranging tailpiece in R5(1). Further to your response to the ExA's first written questions [REP2-013], please justify the suggested use of this.
3.15.11	Applicant	Requirement 6(1) provides for the submission of a scheme for the approval by the Secretary of State following consultation with the relevant planning authority. However, Requirement 16 requires the construction of any permanent or temporary means of enclosure to be constructed in accordance with the Manual of Contract for Documents for Highways Works except where any departures from that manual are agreed by the Secretary of State. Why is fencing being treated differently from other hard landscaping works in terms of not being subject to a scheme to be submitted for approval on which the relevant planning authority would be consulted. Furthermore, is it the intention of Requirement 16 that there would be no agreement process at all with the Secretary of State if the fencing proposed did not depart from the aforementioned Manual? Please justify your approach to this matter.
3.15.12	Applicant	Is the phrase 'reasonable standard' that is used in Requirement 6(4) necessary and is it sufficiently precise?
3.15.13	Applicant and LAs	Is a 5 year period in relation to replacement tree and shrub planting, that is

Question to:		Question:
		referred to in R6(5), of sufficient length to ensure that all the proposed soft landscaping becomes properly established?
3.15.14	Applicant	<p>In R8(3) it states that: "<i>the compensatory habitat creation measures on the Thames Basin Heaths SPA compensation land must be begun before any part of the authorised development within the boundary of the SPA may commence.</i>"</p> <p>However, the trigger point in R8(3) would appear only to relate to the compensation land, despite R8(1) and (2) referencing both 'compensatory habitat creation and enhancement measures'. Therefore, please explain why the 'enhancement measures' element is not also referenced in R8(3)?</p>
3.15.15	Applicant	Further to your response to the ExA's second written question 2.15.4 [REP5-014] please explain why you are unwilling to make specific reference to the Outline SPA Management and Monitoring Plan in the dDCO, for example this could be included Requirement 8(1)(g).
3.15.16	Applicant	In the amended R9 that is in the most recent version of the dDCO [REP5-002] does the word "excluding" relate to both "any soft verge wildlife crossing" and also "a wider soft verge", or does this only relate to the 'soft verge wildlife crossing' element? If it is the latter of these, and the intention of this requirement is to allow for the Secretary of State to approve a wider soft verge, then should that not be limited in scope to a width that has been assessed in the ES, ie no more than 10m width currently (or a 25m width soft verge should the Proposed Change 1 be accepted into the Examination at some stage)?
3.15.17	GBC and RHS	Please set out any concerns or comment you may have on the new Requirement 18 (Protection of certain tree roots at RHS Garden Wisley) in the dDCO [REP5-002].
16.	Compulsory Acquisition (CA)	

Question to:		Question:
3.16.1	All CA and/or TP objectors who had registered a request to be heard at the Compulsory Acquisition Hearing originally scheduled for 24 March 2020 (CAH1)	<p>Please provide in writing the oral case concerning the Applicant's CA and/or TP proposals that you intended to make at the postponed CAH1, in effect the written post hearing submissions that you would otherwise have submitted at Deadline 6. Should these written submissions exceed 1,500 then also provide a standalone written summary of the main submissions.</p> <p>In submitting your written versions of the oral case that you would have otherwise have made at CAH1, would you please ensure that as an Affected Person (AP) you identify each plot of land that you have an objection to the proposed CA and/or TP for. The identification of plots should be made by reference to the plot numbers given on the Land Plans [AS-002, as amended by any subsequent Land Plans submissions by the Applicant] and set out in the current version of the BoR [REP5a-005]. If your objection concerns multiple plots of land, but there are common themes spanning across the plots then it will be perfectly in order to identify any such groups of plots, by reference to the plot numbers shown on the Land Plans and used in the BoR and make common comments applicable to any such groupings.</p> <p>In the event that an AP's written submissions to be submitted in response to this question provides an answer to a question below which they are being requested to answer, then the ExA would prefer that the APs simply include a cross referring note explaining that the answer to any such question can be found in the response to question 3.16.1.</p>
3.16.2	Applicant	In respect of the proposal to provide two amphibian crossings on Old Lane, ie Proposed Change 2 explained in section 4 of REP4a-004, has the land required temporarily to construct these tunnels beneath the road surface been correctly identified on Sheet 24 of the amended Land Plans [REP4-036] as land falling within the category of 'Land to be used temporarily' and shaded green or should the land affected by this aspect of the Proposed Development be treated as being within the category of 'Land to be used temporarily and rights to be acquired permanently', given the potential for the toad tunnels needing to be

Question to:		Question:
		maintained once they have been installed. If there has been mis-categorisation of the category of land concerning the provision of the toad tunnels, then the Applicant should submit a revised version of Sheet 24 of the Land Plans and ensure that all other application documentation affected by that re-categorisation is revised and submitted in an amended form.
3.16.3	Applicant and SCC	With respect to plot 2/13 [Land Plan Sheet 2 of AS-002], has this plot of land been correctly categorised as being 'used temporarily', given that following the construction of the proposed Wisley Lane diversion this piece of land would become part of a newly created public highway and would thus be returned to SCC as a maintainable road; something that would be of an entirely different functional use compared to its current status as registered Common Land? If plot 2/13 has been mis-categorised then the Applicant should submit a revised version of Sheet 2 of the Land Plans and ensure that all other application documentation affected by that re-categorisation is revised and submitted in an amended form.
3.16.4	Applicant	In view of the issue that the ExA has raised with respect to the categorisation of plot 2/13 in the preceding question, the Applicant is requested to review all of the land that it has identified as being subject to Temporary Possession within the Land Plans [AS-002, as amended by the Land Plans contained within [REP4-036] (Change Request Drawings)]. Following that review the Applicant must correct any mis-categorisation that it might identify and it should then submit a revised version of the Land Plans and ensure that all other application documentation affected by any re-categorisation is revised and submitted in an amended form.
3.16.5	Applicant	With respect to Crown Land, please provide an update with respect to Land Plots 1/14, 1/15, 1/18, 1/18a, 1/21 and 1/22 (Department for Environment, Food and Rural Affairs) and 1/13, 8/28, 8/29 and 8/34 (Department for Transport), further to the answer you provided to the ExA's second written question 2.16.3 [page 96 of REP5-014].

Question to:		Question:
3.16.6	Applicant and SCC	With respect to the status of the SCL subject to the exchange arising from the original construction of the M25 in and around Junction 10 and your answer to FWQ 1.16.16 [REP2-013 page 161], please explain the current ownership status of this land. With Compulsory Purchase powers having been exercised but which have not completed, is SCC still technically the landowner? If SCC is still technically the owner then should the land plans be amended to reflect that categorisation, ie be coloured as salmon pink and not mauve.
3.16.7	Park Barn Farm	Please provide copies of any Lawful Development Certificates, including any accompanying plan or plans certifying the extent of the land covered by any such certificates, specifically relating to the land and any buildings within it that is subject to the CA proposed by the Applicant, ie the plots of land that have been identified as PBF1, PBF2 and PBF3.
3.16.8	Applicant and SCC	<p>With respect to the Park Barn Farm CA objections made in REP5a-013, if you have not made any comments at D6 with respect to REP-5a-013, then please do so, having particular regard to the submissions concerning:</p> <ul style="list-style-type: none"> a) the legitimacy of calculating the provision of SCL based on the ratio 'precedents' that were applied in the 1970s and 1980s in association with the construction of the M25 and the dualling of the A3; b) the effect of the M25's original construction on the integrity and functional quality of SCL within the area compared with the effect that the Proposed Development would have on the integrity and functional quality of the existing SCL; c) the function and qualities of the existing SCL subject to the CA proposals and how the function and quality of the proposed replacement land at Park Barn Farm would compare with the existing SCL that would be replaced;

Question to:		Question:
		<p>d) whether the scale of the proposed at CA at Park Barn Farm has been influenced by the proposals to undertake biodiversity enhancements;</p> <p>e) whether the land at Park Barn Farm proposed for CA has been correctly characterised as being farm rather than land with a residential use and whether adequate weight has been attributed to the ways in which the land is currently being used; and</p> <p>f) whether the proposed scale of CA at Park Barn Farm would be no more than what would reasonably be necessary to meet the requirements of the PA2008.</p>
3.16.9	Applicant and SCC	With respect to the SCL that it is proposed would be lost to the Proposed Development what proportion of that land can be characterised as performing a function that is central to its use for recreational purposes as opposed to any ancillary purpose associated with getting to or from the parts of the SCL that perform a central function?