

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

**9.95 Applicant's comments to British  
Horse Society's (BHS) Deadline 7  
Submission**

Rule 8(1)(c)(i)

Planning Act 2008

Infrastructure Planning (Examination Procedure) Rules 2010

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# Infrastructure Planning

## Planning Act 2008

### The Infrastructure Planning (Examination Procedure) Rules 2010

## M25 junction 10/A3 Wisley interchange Development Consent Order 202[x ]

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# 1. Introduction

- 1.1.1 This document sets out Highways England's comments on documents submitted by the British Horse Society (BHS) at Deadline 7 (23 April 2020).
- 1.1.2 Where issues raised within the submission have been dealt with previously by Highways England, 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 BHS, 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.

## 2. Applicant's comments to British Horse Society's Deadline 7 Submission

Para	BHS's submission	Highways England's comments
3	<p>The result of the stakeholder consultations and more importantly other considerations seems to have resulted in, as far as public access rights are concerned, to a revision and this application that we considered is a substantially different proposal. These different proposals were not advised to stakeholders prior to the application, nor are they being made in line with the requirements of GG142 Walking, Cycling and Horse-riding assessment and review and the published Accessibility Strategy [PR179/15].</p>	<p>Many of the changes made to the proposals for non-motorised user facilities were made known to and discussed with stakeholders at the Non-Motorised User (NMU) Forum meeting on 26 March 2018, which was during the statutory public consultation. Consultation and engagement were adequately completed at the pre-application stage and this is recorded through the Scheme consultation report [APP-026 to APP-037].</p> <p>The-BHS has been aware of the DCO examination, has registered as an interested party and has commented previously during the examination process [REP2- 048].</p> <p>The non-motorised user facilities have been provided to DMRB standards HD42/05 and HD42/17. Standard GG142 for the provision of Walking, Cycling and Horse-riding Assessment and Review (WCHAR) reports was issued in November 2019 after the scheme design was completed and the M25 junction 10 DCO application was submitted. The recommendations of WCHAR reports prepared in accordance with earlier guidance were accommodated in the scheme design where practicable. The general principles of Highways England's Accessibility Strategy (PR179/15) have been adhered to.</p>
4	<p>The changes are too great to list in detail but suffice it to say that what was to be a north south non-motorised user multi use path as part of the carriageway alongside Warren Mere has been removed and replaced by a convoluted bridleway on the opposite side of the A3 over the common without exchange land or access north south for carriage driving. This brings with it an added burden on the ratepayers of Surrey as these bridleways and footpaths will be maintainable at public expense.</p>	<p>The change made to route the bridleway along the northwest side of the A3 rather than past/through Bolder Mere was proposed to stakeholders at the NMU Forum meeting on 26 March 2018, which was attended by Mr Milton. Comments were made regarding the increased journey length for some users but no substantial objection to the idea was recorded.</p> <p>The Scheme has provided replacement land for the burden considered to be posed by the acquisition of permanent rights in relation to the new bridleway being provided parallel to the A3 through the special category land; one Interested Party considers this to be an over-provision.</p> <p>The proposed bridleway connections along the A3 corridor do provide north-south connections to and from the A3 carriageways beyond the scheme limits, as well as connections to various other bridleways and local lanes in the locality. Whether the proposal is considered convoluted or convenient will depend on where</p>

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		<p>journeys start and stop. The route for those cycling along the A3 will be less direct than using the current narrow shared footway/cycle track beside the southbound carriageway, but it will be safer and more pleasant to use, better connected to other routes and not subject to being delayed whilst waiting at the signal-controlled crossings at junction 10.</p> <p>The design of the bridleway link between Pointers Road and Red Hill bridge is being considered at detailed design to try and avoid the need for a hairpin bend.</p> <p>The NMU route is not intended to provide for horse and carriage route as there are no existing facilities that need to be replaced over the A3. The NMU route is classed as a bridleway that does not permit use by horse and carriages. The provision of a horse and carriage route would mean provision of wider access routes and bridges that would increase SPA land take and be prohibitively expensive.</p> <p>This point about maintenance does not arise from the detail of the NMU design but to the highway safety issue of prohibiting NMU access to the A3 carriageway between Painshill and Ockham Park junctions. This means that any replacement facility must be outside the boundary fence to the Strategic Road Network (SRN) and, therefore must pass through the SCC-owned special category land that borders the road. The replacement NMU route will therefore be maintainable by SCC. Whether a bridleway is maintained by Highways England or Surrey County Council does not change the fact that this will be at public expense.</p>
5	<p>The siting of the revised bridleway network into the common land grazing enclosures with the attendant conflict between grazing animals and lawful users has not been considered. This site has already seen conflict between lawful users – equestrians [including an unreported RIDDOR hospitalisation] and pedestrians with dogs - and the grazing regime imposed by Natural England and funded by the Rural Payments Agency.</p>	<p>This potential issue already exists on Wisley Common and, indeed, on all land with public access where grazing is used as a means of management.</p> <p>One possible solution to conflict between grazing animals and lawful users generally may be to locate a grazing management fence along the northwest side of the bridleway along the A3 corridor (i.e. that facing away from the A3), with gated accesses where other paths and PRow connect. This would separate users of the bridleway alongside the A3 from users of the rest of the common land and open space, but it may be difficult to get consent for such additional fencing where it crosses common land. It would also entail an additional gate or cattle grid being needed on the route to Pond Farm.</p> <p>The grazing regime was not imposed by Natural England. Surrey Wildlife Trust applied for permission to graze as it is a recommended form of management for wet heathland, which is relevant to Wisley Common west of the A3. The application was supported by Surrey County Council and other stakeholders.</p>

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6	<p>This conflict is further exacerbated by Natural England's imposed designation of wood pasture on the Royal Horticultural Society's exchange land which was given for the car park and extension of the Society's buildings [CL350]. This land has been unlawfully fenced by the Society's land manager – Surrey Wildlife Trust Ltd for some three years so that there is no free and unobstructed public access to this exchange common land. This designation is part of the mitigation that NE has imposed, and HE has accepted without consultation in line with the requirements set out in Defra's and the Planning Inspectorates guidance on Works on Common land, Highways England's GG142 WCHAR 2019 or an Access Impact Assessment. The Inspector at the fencing for grazing - wood pasture Inquiry on Odiham Common found that such a scheme did not work and acted to impede or obstruct public rights of access. The implication and stated position of NE is that this exchange land will remain enclosed, further planted with trees and grazed. This enclosure is without lawful consent and is being facilitated by Highways England's lack of consultation and understanding of the rights, liabilities and duties associated with developments with exchange land [see below para. 10 re FP7].</p>	<p>The major portion of Wisley Common is already fenced for grazing management. The use of 'wood pasture' is a loose definition to indicate a low density of woodland planting being added to the land as part of the overall balance of environmental mitigation for the Scheme. The detail of how this will be provided has not yet been determined, but the intention is to provide public access to planted enclosures and/or use individually protected trees, along with a lower intensity of grazing than currently used. Any fencing needed will be subject, where required, to a section 38 application to the Secretary of State under the Commons Act 2006.</p> <p>The wood pasture creation has not been imposed by Natural England. The creation of wood pasture within the SPA compensation land is intended to provide an invertebrate resource as part of the suite of compensatory measures required for the SPA. The suite of compensatory measures was created in consultation with Natural England, Surrey Wildlife Trust, Surrey County Council, Forestry Commission and RSPB and is considered appropriate by all these stakeholders.</p> <p>The RHS areas of common land are already grazed and the current fencing around these areas is an issue that predates this DCO scheme. Part of the boundary of the RHS land south of the M25 is formed by a substantial drainage ditch that follows the historic extent of the common land and also limits open public access.</p>
7	<p>All the common land that has been and is to be given, as a result of both the past schemes and this present one, must be considered to be accessible by the public both on foot and horse. It is all either contiguous s193 Law of Property Act 1925 [ the right to air and exercise ex parte Bilson] common land or land held for public recreation under the Open Spaces Act 1906. No detailed mapping of the specific related areas has been lodged at the point that I met the Promoter, Jonathan Wade, in January 2020 to avail myself of the scheme. That was the first time I was able to view the over 30 plans of the scheme and get some semblance of idea as to how the revised scheme worked on the ground. These have now been updated on the 13<sup>th</sup> March 2020. They are so convoluted in four different sets of documents as to be almost impossible to assimilate. The s38 application is so complex as to be unintelligible.</p>	<p>Summary mapping of the special category land is provided in the Statement of Reasons Appendix C: Common land and open space report (Revision 2) (TR010030/Volume 4.1 submitted at deadline 8) (see point 8) and detailed mapping of the special category land is provided in the Special Category Land Plans [APP-009], which is also consolidated at (TR010030/Volume 2.5 (2)) at deadline 8).</p> <p>The exchange land from the 1983 M25 scheme is open to use by the public and has been treated as special category land in this DCO Scheme. Highways England has been attempting to complete the land transfer to Surrey County Council for this land, but so far without success, as confirmed to the ExA. Nonetheless, this DCO Scheme has treated this special category land according to the status that would apply once the transfer and consequent registration has been completed, so that any related replacement land under this DCO will have</p>

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	It is unclear what status is the present and previous exchange land, where it is, and which scheme it relates to.	<p>the correct status, as explained in the Common Land and Open Space Report [AS-005].</p> <p>Surrey Wildlife Trust provide a network of waymarked horse riding and walking routes across both the common land and open space within their management estate and the intention is that this approach to managing the effects of access within these important protected habitats will be extended into the replacement land, in addition to the provision of new PRoW.</p> <p>The s38 application relates only to the provision of temporary fencing along the DCO boundary to ensure the safety of the public is maintained during the construction period, where this fencing crosses common land.</p>
8	The inter play between the existing registered commons, exchange land, all lawful users [i.e. pedestrians and equestrians] and the public open space is sorely missing in the consideration of this scheme. Even the recent submissions of special category 2.5 and reductions on replacement land are not shown in a manner that can be readily compared and related to the existing rights of way network and public recreation land.	These issues are summarised on single-sheet plans as Figures A.2 (Existing public access and right of way network), A.3 (Proposed public access and right of way network) and A.4 (Historic common land and open space exchanges for the M25 project) in Appendix A to the Statement of Reasons Appendix C: Common land and open space report (Revision 2) (TR010030/Volume 4.1 submitted at deadline 8).
9	Further examples, out of many, are set out below. They show the lack of detailed planning and overall lack of consideration in relation to public access.	See points 10-12 below.
10	The first is the continuation of no equestrian access where FP7 crosses the M25 over the RHS accommodation bridge and connects all the exchange land for this scheme, the RHS and past schemes. The special land documents TRO10030/APP/2.5(1) 13 March 2020 do not consider the interplay across the different designations forming the overall public recreation land. At the same time the scheme leaves many small and in terms of lawful public recreation and access, inaccessible areas. These should be added to the whole of the exchange land provision instead of being isolated. The latest proposals in 9.74 3 <sup>rd</sup> March 2020 need some detailed discussion in relation to public rights of access and the interplay with the rights of way network as required by GG142 WCHAR and the HE Accessibility Strategy. Any overall reduction of	<p>The Footpath 7 issue is a historic problem that the Scheme does not affect, where it crosses the M25 via Buxton Wood accommodation bridge and, therefore, provides the most direct connection between two areas of common land, including that provided by the RHS in exchange for their car park. There is a bridleway connection between the two areas of common land via Bridleway 8 and Clearmount bridge, but this is less direct. As things stand, this is an issue to be resolved between the BHS and the RHS, but Highways England are willing to discuss the implications of changes to the wider network of rights of way, such as ensuring that Buxton Wood accommodation bridge is suitable for use by equestrians.</p> <p>Once the construction is completed, temporary possession land reinstated to its former use and all temporary fencing removed, there will not be any areas of common land or open space outside the permanent highway boundary fence that are not open to public access.</p>



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	<p>public access common land and open space recreation land is considered unacceptable especially as this seems to have been done without any detailed consultation and discussion. The requirements relating to Quantity and Quality first dealt with in 1975 with the rerouting of the A3 across Esher Common seem to have been forgotten by both Highways England and SCC. My time was offered on behalf of the BHS to the promoter on January 10<sup>th</sup> 2020 to assist in the consolidation of the rights of way network and exchange land but was not taken up.</p>	<p>The Scheme will provide an increased area of public access common land and open space recreation land, rather than a reduction. One Interested Party has made representations to say that the Scheme provides too much replacement land and should not use past highway schemes as justification for this proposal.</p>
11	<p>The second is the link between BW12 and the rest of the network which at the moment goes from BW to FP on the registered common at the parish boundary via two recently constructed Pegasus crossings of the north side slip roads.</p>	<p>This is resolved in the Scheme by the not inconsiderable addition of the Red Hill bridleway bridge over the A3, connected by a new route for bridleway 12 on the east side to join Pointers Road (and the new Sandpit Hill bridleway bridge over the M25) and on the west side by upgrading existing signposted equestrian paths to bridleway status to provide a continuous standard of access between two areas of common land, between three bridges over the SRN and to Bridleways 8 and 69.</p> <p>The re-provision of Pegasus crossings over the junction 10 slip roads is not a feasible safe option with the proposed arrangement of the enlarged junction, which includes free-flow left turn slip roads.</p>
12	<p>Thirdly there is only provision for cycle <i>access on demand</i> crossing lights at some bridleway junctions with the road network and no equestrian facilities [Pegasus]. This is a serious omission by the promoter and completely against the requirements of GG142 WCHAR. Again, had there been proper consultation at any time this and other anomalies could and should have been dealt with.</p>	<p>This is assumed to be a reference to the crossing facilities being provided at Ockham Park and Painshill junctions. The NMU facilities from south to north at Ockham Park and Painshill junctions are both footway/cycleway tracks and not intended for equestrian use. The provision of equestrian facilities across these junctions is not feasible due to the narrow footways though the existing Ockham Park junction underbridge and on the existing Painshill overbridge. Toucan crossings are provided at these locations. Within the Scheme, equestrian access over the A3 is provided at Wisley Lane, Cockcrow and Red Hill overbridges and equestrian access over the M25 is provided at Clearmount and Sandpit Hill overbridges. These crossings provide connection between Wisley and Ockham Commons and the bridleways beyond, which include connections to Ockham Lane, Old Lane and Byfleet Road. Refer to proposed bridleways and footway/cycleway tracks shown on Scheme Layout Plans Scheme Layout Plans (application document TR010030/APP/2.8 (Sheets 1-10 of 31) (Revision 1) and TR010030/APP/2.8 (Sheets 11-31 of 31) (Revision 2) as submitted at Deadline 8).</p>

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