

M25 junction 10/A3 Wisley interchange TR010030

9.107 Applicants' comments to RHS's Deadline 8 Submissions

Rule 8(1)(c)(i)

Planning Act 2008

Infrastructure Planning (Examination Procedure) Rules 2010

Volume 9

May 2020

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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Rule Number:	Rule 8(1)(c)(i)
Planning Inspectorate Scheme Reference	TR010030
Application Document Reference	TR010030/9.107
Author:	M25 junction 10/A3 Wisley interchange project team, Highways England and Atkins

Version	Date	Status of Version
Rev 0	14 May 2020	Deadline 9

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1. Introduction

- 1.1.1 This document sets out Highways England's comments on RHS's documents REP8-053, REP8-054 and REP8-055, which were submitted at Deadline 8.
- 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 RHS, 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. Highways England's response to RHS document *RHS Responses to REP7-004 [REP8-053]*

- 2.1.1 (3.3.1) The traffic modelling that has been carried out that includes the south facing slips at Ockham Park junction shows a small reduction in overall daily flow on the B2215 through Ripley such that traffic volumes are very close to the levels forecast in the do-minimum scenario. It follows from this that pollutant concentrations at receptors in Ripley would still not exceed the relevant air quality criteria. It is not necessary to carry out extensive air quality modelling exercise to confirm this.
- 2.1.2 (3.4.3) In its response Highways England was seeking an understanding of whether the report had been independently reviewed by other professionals working in the air quality field. This is not disingenuous nor has Highways England stated that the authors of the report should be ignored.
- 2.1.3 Highways England's position is that a degree of caution is appropriate in the interpretation of a study of a single road. Highways England maintains that the monitored results have uncertainty associated with them as AQC state at paragraph 7.1 of the Wealden Local Plan HRA. Without the monitored data at points on the transects over 100 metres from the road it cannot be ascertained whether concentrations decrease further or not.
- 2.1.4 The measured data (summarised in Figures 2 and 3 of the AQC report) show that concentrations at 100 metres are similar to those at 22 metres from the road edge, and on one of the transects a higher concentration is shown at 100 metres than at 22 metres. This illustrates the uncertainty associated with the data and that without additional measurements it is not possible to say with confidence that concentrations beyond 100 metres from a road would decrease further.
- 2.1.5 The observations made by Highways England are backed up by work undertaken by AECOM (led by ecologist Dr James Riley, CEnv, CIEEM) in the South Downs Local Plan and Lewes Joint Core Strategy: Habitat Regulations Assessment Addendum 2018 (available at <https://www.southdowns.gov.uk/wp-content/uploads/2018/04/SDLP-05.4-HRA-Ashdown-Forest-Air-Quality-Addendum-2018.pdf>). This report notes at paragraph 3.3.2 that "The research undertaken in Ashdown Forest indicates that beyond 20m from the roadside ammonia contributions are expected to tend towards background and so the contribution of road sources would be limited beyond this point."
- 2.1.6 This supports the point that in terms of assessing the key supporting habitats of the qualifying features of the SPA, because they are located well beyond 22 metres from the road, that the contribution from road vehicles would not be of material concern, as has already been demonstrated in REP5-024.
- 2.1.7 (3.13.2) Traffic modelling of the south-facing slips at Ockham Park junction has been undertaken by Highways England using the strategic traffic model, as mentioned in the Highways England Response. It is not a spreadsheet exercise.
- 2.1.8 The key conclusions presented in 3.13.2 [REP7-004] are based on the results of this traffic modelling. Also see response 3.13.2 [REP8-047]. The results of this traffic modelling are provided in the South-facing Slips Traffic Modelling Report [REP8-040].

2.1.9 (3.13.7) The Statement of Common Ground was concluded and submitted as REP8-031.

3. Highways England's response to RHS document *RHS's Response to Highways England REP7-008.* [REP8-054]

3.1.1 Points 6-8:

- Whilst the Statement of Common Ground [REP8-031 point 4.4] shows agreement that the RHS Alternative could achieve a weaving length of approximately 1km, it does so only by excluding a near straight element and including a bend which is too tight to comply with standards.
- Even with a 1km weaving length, Highways England is not aware of any other examples of such a side road junction being retained on a D4AP road and where there is a 2-lane drop within 1 km of the next junction [REP2-014 reference REP1-038-3].
- Highways England has demonstrated that the accident rate along this section of the A3 is high and above typical levels for this type of road [REP8-045 response 2.3.1-4] indicating that a merge at this location is unsafe and a new one would also be unsafe.

3.1.2 Point 11:

- Highways England has not conceded its position on this matter. The reference to 20-30% of RHS traffic is simply an acknowledgment that there is a difference between the Highways England and the RHS as to the appropriate percentage.
- RHS's comparison is between the 2037 Do-something and the 2015 Base. This is the wrong comparison, which should be between the Do-something and Do-minimum scenarios that show a 21% switch of traffic from the LRN to the SRN in 2037.

3.1.3 Point 12:

- Highways England remains of the view that a left-out at this location would be unsafe. Whilst the RHS Alternative shows that a weaving length of approximately 1km could be achieved between M25 j10 and their left-out, it does so only by requiring significant departures to achieve that weaving length. RHS's position does not take in to account the impacts of such a junction being retained on a D4AP road and where there is a 2-lane drop within 1 km of the next junction.

4. RHS's letter to NE (Dated 3rd April) and Freeths LLP Annex (including Baker Consultants Appendix), plus Appendix – Further evidence relating to the effects of nitrogen on invertebrates.

4.1.1 The Deadline 8 submission by RHS [REP8-054] repeats points that RHS has raised repeatedly in its submissions to the examination with regards to air quality and the SiAA. Highways England has already responded to them in detail in the following documents:

- Applicant's comments on written representations [REP2-014] (responses REP1-038-4, REP1-038-5, REP1-038-6 on pages 80-83);
- Response to RHS comments on air quality [REP2-022];
- Written summary of oral case for ISH2 [REP3-009] (agenda items 4 and 5 on pages 21-28);
- Applicant's comments on RHS's Deadline 3 submission [REP4-005] (points 8-13 on pages 7-21 and REP1-038-4, REP1-038-5, REP1-038-6 on pages 33-39, and section 5 on pages 43 to 57);
- Applicant's response to ExQ2 [REP5-014] (section 3 on pages 9-14);
- Applicant's response to RHS's Deadline 4 submission [REP5-015] (points 6-9 on pages 6-8);
- Revised nitrogen deposition rates within the Thames Basin Heaths SPA [REP5-024];
- Applicant's comments on RHS's Deadline 5 submission [REP6-010] (sections 3 and 4 on pages 8-15)
- Applicant's comments on IP responses to ExQ2 [REP6-013] (2.3.2 and 2.3.4 on page 5);
- Applicant's response to ExQ3 [REP7-004] (3.4.3 on pages 14-17);
- Applicant's comments on RHS's Deadline 6 submission [REP7-008] (section 2.2 on pages 5-13 and Appendix A on pages 19-21);
- Applicant's comments on RHS's Deadline 7 submission [REP8-045] (3.1.2 on pages 6-7 and 4.1.2, 4.2.1, 4.3.1, 4.4.3, 4.4.4, 4.5.1, 4.5.2, 4.5.4, 4.5.3 and 4.5.4 on pages 8-16);
- Applicant's comments on IP responses to ExQ3 [REP8-047] (3.4.2 on pages 28-29 and Appendix C on pages 62-66);
- SOCG between Highways England and Natural England [REP8-022], and;
- SOCG between Highways England and RHS [REP8-031].

4.1.2 RHS document [REP8-054] quotes selectively from documents submitted by Highways England on a number of occasions. As a result, Highways England's points are not fairly represented. However, to avoid repetition, Highways England will not be responding to RHS's Deadline 8 submission on a point by point basis.

Instead, Highways England has summarised below the key points with regards RHS's criticisms of the approach to, and findings of, the SiAA with regards to air quality.

- 4.1.3 Where Highways England has responded to representations raised by RHS, it has done so in order to assist the ExA in its consideration of the relevant issues. The fact that Highways England has done so is not an admission that RHS has raised a valid point, as implied in RHS's Deadline 8 submission.
1. The air quality conservation objective for the Thames Basin Heaths SPA (as described in Tables 1, 2 and 3 of the Supplementary Advice on Conserving and Restoring Site Features [REP5-034]) as regards all three qualifying species is to *"Restore as necessary the concentrations and deposition of air pollutants to at or below the site-relevant Critical Load or Level values given for this feature of the site on the Air Pollution Information System"*. This objective (described as targets in the tables) relates to the feeding, nesting and roosting habitat of the SPA qualifying species (as explained in the supporting and/or explanatory notes for this target in the tables) i.e. the heathland habitats used by these species. It does not relate to the established woodland buffer which is not used by any of the SPA qualifying species (as demonstrated by the study undertaken by Highways England (section 4.7 of the SiAA [REP4-018]) and also the vegetation characteristics described in Tables 1, 2 and 3 of the Supplementary Advice on Conserving and Restoring Site Features [REP5-034]);
 2. The bird surveys for the site were thorough and appropriate, using methodologies agreed with Natural England. The surveys were repeated over four years to provide an extremely high level of understanding of the site, and were combined with existing research with regards to the habitat requirements of Dartford warbler, nightjar¹ and woodlark, in order to fully understand the distribution and habitat requirements of all three qualifying species. The SPA qualifying species only occur within the heathland habitats and do not use the established woodland buffer;
 3. As stated in paragraph 4.21 in Natural England's approach to advising competent authorities on the assessment of road traffic emissions under the Habitats Regulations (NEA001) [REP3-021], *"If none of the site's sensitive qualifying features known to be present within 200 m are considered to be at risk due to their distance from the road, there is no credible risk of a significant effect which might undermine a site's conservation objectives"*;
 4. Paragraph 4.19 of the same document states: *"Where the applicant has provided reliable and precise information that models the likely deposition of*

¹ RHS have attempted to dispute the assessment of habitat requirements of nightjar in their Deadline 8 submission. Highways England are fully aware of the paper that RHS refer to in REP8-054 (Alexander and Cresswell (1990) Foraging by Nightjars *Caprimulgus europaeus* away from their nesting areas. IBIS: Volume 132, Issue 4). The claim by RHS that 'Nightjar preferred broadleaved or mixed woodland for foraging' actually refers to an assessment category titled 'deciduous woodland', which includes mixed woodland, rural gardens and orchards. This study did not assess the structural character of these foraging areas, and it is highly likely that nightjars will have selected open foraging areas within the mixed woodland and avoided dense established woodland areas, as they are known to do. Rural gardens and orchards also typically consist of open foraging habitats. Therefore, it is incorrect to suggest that this study evidences the use of established woodland by nightjars when that is not the case., when in reality it is likely that they selected open areas and woodland edges for foraging, as they are known to do.

road based pollutants in relation to the distribution of a site's features and any sensitive features are not present within the area to be affected by emissions (and Natural England's advice is that there is no conservation objective to restore the features to that area), it will be relatively straightforward to ascertain that the project poses no credible air quality risk to it";

5. As Highways England has explained, there will not be a discernible effect on nitrogen deposition rates at a distance of 150 m or more from the A3 and M25 as a result of the Scheme (i.e. where the SPA qualifying species and their habitats occur);
6. Increases in nitrogen deposition of greater than 1% of the lower range of the critical load (as given by APIS for the habitat types of the Ockham and Wisley Commons SSSI component of the SPA) when comparing the operational Scheme against no Scheme, are confined to within 50m of the road (A3 and M25). This falls well within the woodland buffer, which extends over 150 m from the road at the closest point along any of the transects within the SPA;
7. The revised nitrogen deposition rates do not account for ammonia as this would not have a discernible change at the location of the key supporting habitats of the qualifying features;
8. For every transect point assessed within the SPA, the operational nitrogen deposition rate will fall below current baseline levels. This would still be the case even if the change in nitrogen deposition rate were to be doubled as a precautionary measure to account for ammonia from road vehicles. Any small change in nitrogen deposition rates with the Scheme would not affect the future downward trend nor would there be any delay to the achievement of the conservation objectives on air quality mentioned above;
9. The in-combination assessment was carried out correctly, and the nitrogen deposition rates do take account of other plans and projects. There is no requirement to provide calculations for transect points not located at the key supporting habitats of the qualifying features as there is no credible risk of a significant air quality effect at those locations;
10. The established woodland is a buffer between the A3 and M25 and the heathland. As explained in their response to ExQ2 2.4.7d [REP5-032], Natural England do not require the conversion of this woodland to heathland in order to achieve favourable condition for this component part of the Thames Basin Heaths SPA. Furthermore, Natural England explain in this response that the role of this established woodland is to provide a buffer between the road and the heathland habitats, dispersing vehicle emissions away from the heathland;
11. The heathland is the supporting habitat for the SPA qualifying species. Highways England has demonstrated that none of the SPA qualifying species use the established woodland buffer. The SiAA identified an adverse effect as a result of physical loss of established woodland, based on the precautionary approach that this could reduce the overall invertebrate resource of the SPA. This is based on the assumption that the complete clearance of 14.6 ha of woodland (5.9 ha permanent and 8.7 ha temporary) would result in the complete loss of invertebrates from this area. It does not follow that any change whatsoever in invertebrate assemblage as a result of air quality changes within the remaining woodland would, likewise, represent a threat to site integrity. However, air quality changes within the established woodland

- buffer will not occur anyway (see bullet point 13 below) as explained in response to RHS' submissions at Deadline 6 (paragraphs 2.2.4 - 2.2.29 [REP7-008]);
12. A suite of compensatory measures has been designed and agreed with Natural England, RSPB, Surrey Wildlife Trust, Surrey County Council and Forestry Commission in respect of the physical loss of parts of the SPA. All these parties are satisfied with, and supportive of, the proposed measures;
 13. RHS has claimed that the Scheme may lead to a reduction in the existing invertebrate resource, due to changes in air quality. It will not. There will be no changes in the invertebrate resource (assemblage or biomass) within the woodland buffer as a result of air quality changes from the Scheme, because the nitrogen deposition rates for all transect points within the established woodland buffer (and heathland) fall below the current baseline, and therefore the established woodland buffer will continue to function in the same way as it currently does and provide the same invertebrate resource it currently does. There will be no effect whatsoever on the integrity of the SPA as a result of air quality impacts from the Scheme;
 14. The SiAA ruled out an adverse effect as a result of air quality changes because:
 - a. There are no perceptible changes in air quality as a result of the Scheme within the heathland habitats within which the SPA qualifying species occur, and;
 - b. The nitrogen deposition rates within the established woodland buffer will be below the current baseline, and therefore the established woodland buffer will continue to function in the same way as it currently does and provide the same invertebrate resource it currently does.
 15. The assessment and findings align with the Compton case, which also considered changes in air quality that were confined to the woodland buffer and determined that the air quality assessment should focus on the SPA qualifying species and their habitats. On the legal issues raised by Freeths solicitors on behalf of RHS at deadline 6 [REP6-025], see Highways England's comments at Appendix A of REP7-008 which contains counsel's opinion (Michael Humphries QC) on the issues raised;
 16. The RHS alternative requires more land take from the SPA than the Scheme and therefore is not a better alternative to the Scheme with regards to an adverse effect on the integrity of the SPA. Moreover, it does not meet the relevant design standards. In summary, the only adverse effect on the integrity of the SPA that cannot be ruled out as a result of the Scheme is due to physical land take. Appropriate compensation in that regard has been identified and agreed with relevant stakeholders.

5. Further representations of Jon Bunney of Hatch Regeneris on Economic Impact

Section 2.3 of REP7-008

- 5.1.1 (2.3.6/7) Whilst the journey times presented do reflect journey time details to/from the south, it relates only to the signposted route and not journeys through Ripley, which is a route that visitors make now, and more may do so in the future. Furthermore, the question does not state that the extra journey time and distance would only apply to those visitors to the south. As such, the information provided in this question stresses a worst-case scenario that does not apply to the majority of visitors.
- 5.1.2 (2.3.9) Highways England's statement that changes in journey times during construction of the Scheme are expected to be minimal is justified and evidenced by strategic traffic modelling undertaken by Highways England, the results of which are presented in Section 11 of the Transport Assessment supplementary Information Report [REP2-011].

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Printed on paper from well-managed forests and other controlled sources.

Registered office Bridge House, 1 Walnut Tree Close, Guildford GU1 4LZ
Highways England Company Limited registered in England and Wales number 09346363

