

M25 junction 10/A3 Wisley interchange TR010030

9.108 Applicant's comments to Deadline 9 Submissions

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1. Introduction

- 1.1.1 This document sets out Highways England's comments to Deadline 9 submission documents:
- REP9-011;
 - REP9-012;
 - REP9-013;
 - REP9-014;
 - REP9-006;
 - REP9-005; and
 - REP9-015.
- 1.1.2 Highways England has no further comments to Elmbridge Borough Council, Girl Guiding Greater London West and Painshill Park's Deadline 9 submission.
- 1.1.3 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.
- 1.1.4 In order to assist the Examining Authority, Highways England has not provided comments on every point made by the Interested Parties, 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 comments to RHS’s document *Royal Horticultural Society Deadline 9 Overview* [REP9-011]

- 2.1.1 Highways England has made it very clear that its intention is to reduce the impact of works on its verge adjacent to the trees of concern to RHS by widening the A3 towards the central reserve rather than on the verge as proposed [REP3-059].
- 2.1.2 Highways England has no further cross-sections to share with RHS at this time but will continue to liaise with them over the design at this location.

3. Highways England’s comments to RHS’s document *Appendix 1 - Request for further information by the Royal Horticultural Society from Highways England in relation to REP8-040 (south facing slips modelling)* [REP9-012]

- 3.1.1 The annual vehicle kilometres that have been requested for the local road network are below. The request mentions the figure we gave for a 1% reduction in terms of km for an average day on the area of the local network modelled being 741,000 veh km per day. This has been checked and it should have been 27,900 veh km per day. As the table shows, the percentage change remains approximately 1%.

Do-minimum (DM)	Do-something (DS)	Do-something with Ockham South Facing Slips
1,226,965,000	1,216,768,000	1,215,719,000
Change compared to do-minimum	-10,197,000	-11,246,000
Percentage change compared to do-minimum	-0.83%	-0.92%

- 3.1.2 The table below shows data for the whole road network within the study area and includes LRN and SRN. Whilst the sensitivity test with the south facing slips has slightly fewer vehicle km than the do-something scheme; there are within 99.95% of each other and are, in essence, the same at the level of the modelled hour.

Do-minimum (DM)	Do-something (DS)	Do-something with Ockham South Facing Slips
3,174,862,000	3,209,419,000	3,207,679,000
Change compared to do-minimum	34,557,000	32,817,000
Percentage change compared to do-minimum	1.09%	1.03%

4. Highways England's comments to RHS's document Appendix 2 – AQ/BIOD comments on REP8-022 [REP9-013]

4.1.1 Highways England has reviewed the deadline 9 submissions by RHS with regards to air quality impacts on the SPA ([REP9-013] and [REP9-014]). These submissions do not raise any new points of substance.

4.1.2 In the main, these points have been dealt with in Chapter 4 of Highways England's Deadline 9 comments on RHS's Deadline 8 submission [REP9-003]. However, in order to assist the ExA, Highways England would like to provide some supporting content in response to three points raised by RHS in paragraphs 12-16, paragraphs 18-19 and paragraphs 32-35 of REP9-013.

4.2 Paragraphs 12-16: operational nitrogen deposition rates will fall below the current baseline

4.2.1 In paragraphs 12-16 of RHS Appendix 2 [REP9-013], RHS assert, in effect, that Highways England cannot be confident that the nitrogen deposition rates will fall below the current baseline once the Scheme is operational, because Table 8 of REP5-024 (the revised nitrogen deposition calculations) does not properly account for ammonia and key information is not provided upon the in-combination effects of the DCO Scheme. Highways England can be and is confident upon this issue because:

4.2.2 First, as demonstrated in paragraph 4.1.3, sub-paragraph 8 of Highways England's Deadline 9 comments [REP9-003] on RHS's Deadline 8 submission, the doubling of nitrogen deposition as a precautionary measure to account for ammonia would still result in the operational nitrogen deposition rate falling below current baseline levels for every transect point within the SPA.

4.2.3 Second, as explained in sub paragraph 9 of paragraph 4.1.3, the in-combination assessment was carried out correctly and includes all other plans and projects. Therefore, the operational nitrogen deposition rates do include all other plans and projects, as required.

4.3 Paragraphs 18-19: the SPA qualifying features do not use the established woodland

4.3.1 In paragraph 18.1 of RHS Appendix 2 [REP9-013], RHS refers to the supporting and/or explanatory notes for the air quality conservation objective targets for the SPA relating to "feeding habitats". RHS also point to a reference to 'bramble and birch' in the same explanatory note (see page 2 of REP5-034) to assert that woodland is a feeding habitat for the SPA qualifying species, which it is not.

4.3.2 First, the reference to feeding habitats within the Supplementary Advice on Conserving and Restoring Site Features [REP5-034, page 4, in the column headed "Targets"] refers to "*..suitable breeding habitat which supports nightjar for all necessary stages of its breeding cycle (courtship, nesting, feeding and roosting)*". Within the Ockham and Wisley Commons SSSI component of the

Thames Basin Heaths SPA, this refers to the heathland habitats. As Highways England has explained in detail in Point 11 on pages 12-16 of its comments on RHS's Deadline 3 submission [REP4-005], none of the qualifying species utilise the established woodland buffer for feeding or any other activities. Therefore, the established woodland buffer is not a 'feeding habitat'. The Thames Basin Heaths conservation objectives describe the habitats that the SPA qualifying species require for nesting, feeding and roosting in the Supplementary Advice on Conserving and Restoring Site Features [REP5-034]. The relevant sections of text are stated below:

- 4.3.3 The vegetation characteristics target description for nightjar in Table 1 on page 5 of the Supplementary Advice on Conserving and Restoring Site Features [REP5-034] states *"Maintain or restore the mix of vegetation (optimal conditions normally with vegetation mostly of 20-60 cm with frequent bare patches of >2 m², 10-20% bare ground and <50% tree/scrub cover overall; trees <2 m in height) throughout nesting areas"*. In addition, under the "landscape" description for nightjar in Table 1 on page 6 of the Supplementary Advice on Conserving and Restoring Site Features [REP5-034] the explanatory note states that nightjars are *"known to favour large areas of open terrain, largely free of obstructions, in and around its nesting, roosting and feeding areas. Often there is a need to maintain an unobstructed line of sight within nesting, feeding or roosting habitat to detect approaching predators, increase accessibility to prey or to ensure visibility of displaying behaviour"*.
- 4.3.4 The vegetation characteristics target description for woodlark in Table 2 on page 11 of the Supplementary Advice on Conserving and Restoring Site Features [REP5-034] states *"Within nesting and feeding areas, maintain or restore ground vegetation which is predominantly short (<5 cm) or medium (10-20cm) in height, with frequent patches of bare or sparsely-vegetated ground and scattered clumps of shrubs and trees"*. In addition, the landscape description for woodlark in Table 2 on pages 10-11 of the Supplementary Advice on Conserving and Restoring Site Features [REP5-034] states in the explanatory notes that *"Woodlark favour large areas of open terrain, largely free of obstructions, in and around its nesting, roosting and feeding areas. They show a preference for areas with an unobstructed line of sight in nesting, feeding or roosting habitat to detect approaching predators and to ensure visibility of displaying behaviour"*.
- 4.3.5 The vegetation characteristics target description for Dartford warbler in Table 3 on page 15 of the Supplementary Advice on Conserving and Restoring Site Features [REP5-034] states in the "Targets" column *"Maintain or restore an optimal mix of vegetation (>50% cover of heather and/or gorse, <25 trees/ha and of 0.5-3 m height) in nesting areas with areas of structurally diverse vegetation"*. In addition, the landscape target description for Dartford warbler in Table 3 on page 16 of the Supplementary Advice on Conserving and Restoring Site Features [REP5-034] is to *"Maintain or restore the connectivity of structurally diverse heath and patches of dense gorse across the network of sites which comprise the SPA"*.
- 4.3.6 It is clear that none of these SPA conservation objectives refer to established woodland, and correctly so, as this is not a habitat utilised by any of the SPA qualifying species of the Thames Basin Heaths SPA.
- 4.3.7 The reference to "vigorous growth of bramble and birch" as quoted in paragraph 18.1 of RHS Appendix 2 [REP9-013] in an attempt to demonstrate that the

qualifying SPA species utilise woodland, is taken entirely out of context. The full sentence, as taken from the explanatory note to the air quality attribute in Table 1 on page 2 of the Supplementary Advice on Conserving and Restoring Site Features [REP5-034] is “*Some of the effects that might be attributable to aerial pollution could include accelerated and more vigorous growth of bramble, birch and coarse grasses and consequent loss of bare ground and/or heather*”. It is clear that this text is referring to the growth of bramble, birch and coarse grasses within heather habitats as symptoms of aerial pollution and is suggesting that the presence of birch may actually be disadvantageous to nightjars, not that they rely on woodland, as RHS imply.

- 4.3.8 In paragraph 19, RHS state that Highways England and Natural England accept that the established woodland buffer is “supporting habitat”. It is not supporting habitat for any of the qualifying species. As explained in Highways England’s Deadline 9 comments [REP9-003] on RHS’s Deadline 8 submission, none of the qualifying SPA species physically use the established woodland buffer, and therefore the established woodland buffer is not a supporting habitat for any of the SPA qualifying species.
- 4.3.9 Instead the SiAA has recognised that invertebrates may pass between habitat types. Therefore some of the woodland invertebrates may be found within the heathland habitats (the occasional movement of invertebrates could conceivably occur between any two adjacent habitat types) and, based on a precautionary approach, some of the invertebrates from the established woodland buffer could conceivably form part of the SPA species’ diets if they dispersed to the heathland habitats where the SPA species forage. With this in mind the SiAA determined that the complete loss of 14.6 ha of the established woodland buffer could potentially reduce the amount of invertebrates that venture into the heathland, and, as a precautionary approach, that this could conceivably lead to a reduction in invertebrate food resource. Therefore, the SiAA could not rule out an adverse effect on the SPA as a result of this land take.
- 4.3.10 In conclusion, it is clear that the air quality conservation objectives as listed in Tables 1-3 of the Supplementary Advice on Conserving and Restoring Site Features [REP5-034] refer to the supporting habitat of the SPA qualifying species i.e. the heathland habitats within which they occur. Therefore, the SiAA has correctly focused on the air quality impacts within the heathland habitats as a result of the Scheme. In addition, it is perfectly logical for the SiAA to explain that the established woodland buffer will continue to exist in its current form and provide the same function as it currently does, due to operational nitrogen deposition rates falling below the current baseline.

4.4 Paragraphs 32-35: The loss of woodland buffer in SPA enhancement area E5

- 4.4.1 RHS refer to the HRA figures [AS-012] with regards to SPA enhancement area E5, to demonstrate that the established woodland buffer will be cleared close to the A3 in this location. Highways England would refer the ExA to its response to question 3.8.2 on pages 24-27 of ExQ3 [REP7-004] and also make four points in response to the issue that RHS raise:

1. As can be seen clearly in sheet 2 of Figure 13 of AS-012, there is one point where area E5 is slightly closer to the A3 and at this single point the

woodland buffer will be approximately 50 m in width. However, this is a single point and the remainder of the clearance is further from the A3, at an approximate distance of 75m or more. Highways England maintain that a retained belt of approximately 75m of woodland is the most appropriate description for E5 as described on page 26 of the response to question 3.8.2 of Highways England's response to ExQ3 [REP7-004]. However, the key point here is that a woodland buffer to disperse vehicle emissions away from sensitive habitats alongside busy roads is retained and that the suite of compensatory measures do align with response 2.4.7d of Natural England's response to the ExA's second written questions [REP5-032];

2. The majority of E5 has recently been thinned and is already fairly open habitat with scattered trees. However, the tree stumps have not been removed nor have the needle 'leaf litter' layer and humus layer been removed in order to expose the mineral soil layer and allow heathland to regenerate (a process required in order to allow heathland to establish, as explained in section 7.4.3 of the SPA management and monitoring plan [AS-015]). This was one of the reasons for the selection of E5, and the key management for E5 will focus on the removal of the tree stumps and the pine needle layer, as well as the removal of some of the remaining scattered trees, in order to allow heathland to establish;
3. As can be seen in Table 8 of the revised nitrogen deposition calculations [REP5-024], at transect 5, where E5 occurs, the Scheme will lead to reductions in nitrogen deposition rates and therefore the Scheme will be beneficial to this location;
4. As explained on page 26 of the response to question 3.8.2 in Highways England's response to ExQ3 [REP7-004], the mechanisms within the SPA management and monitoring plan [AS-015] allow for adaptive management within the SPA enhancement and SPA compensation areas where required, including, for example, increased growth of competitive plants, such as bramble and birch.

5. Highways England's comments to RHS's document *Appendix 3 - Royal Horticultural Society AQ/BIOD comments on REP8-045* [REP9-014]

- 5.1.1 Please see the response to Appendix 2 [REP9-013] in section 4 above with regards to air quality impacts on the SPA.
- 5.1.2 In reference to points 4.5.2 and 4.5.4, Highways England wish to point out that its response has not been superseded and the points made remain valid.

6. Highways England's comments to Park Barn Farm's document *Letter to Highways England* [REP9-008]

- 6.1.1 Highways England has reviewed the deadline 9 submission from Keystone Law on behalf of the owners of Park Barn Farm, which does not raise any new points of substance. For the avoidance of doubt, Highways England should not be taken to accept any of the points made in the deadline 9 response merely because it has not provided a specific response to them.
- 6.1.2 Highways England has set out its position at length in its previous examination responses: REP8-044, REP6-014, REP5a-012, REP4-004 and REP2-014.
- 6.1.3 The interested party's deadline 9 submission takes the form of a letter to Highways England's solicitors and asks what appears to be a series of rhetorical questions. At this stage of the examination, Highways England does not consider that it would be helpful to the ExA for it to engage in protracted dialogue in respect of the issues which have been raised by the interested party.
- 6.1.4 Ultimately there is a difference of opinion between the parties as to the quantum and composition of replacement land which ought to be provided by Highways England in exchange for the special category land which is to be acquired or over which rights in land are to be acquired for the Scheme, in order that special parliamentary procedure is not engaged.
- 6.1.5 It remains Highways England's position that the acquisition of all the parcels at Park Barn Farm is proportionate, justified and compliant with sections 131 and 132 of the Planning Act 2008. The interested party's deadline 9 submission appears to imply that Highways England should assess Options 4, 4a or 4b (as referred to in REP8-044) against compliance with the statutory tests. As none of these options form part of the Scheme promoted by Highways England and for which development consent is sought, that is unnecessary and it will be for the Secretary of State to satisfy himself that the relevant tests have been met were he to remove any of the parcels at Park Barn Farm from the order limits.
- 6.1.6 Notwithstanding this, Highways England has sought to provide the Secretary of State, through the sub-division of the land parcels at Park Barn, with the means by which to reduce the land-take from that holding in the event that he does not accept Highways England's case for the acquisition of the land. Inevitably, any reduction to the proposed provision of replacement land would reduce the overall public utility of the replacement land provision and is not supported by the local authorities.

7. Highways England's comments to WPIL's document *Comments on Proposed Changes 7 to 9 and Notification of a wish to speak at a Compulsory Acquisition Hearing* [REP9-006]

- 7.1.1 Highways England is continuing to discuss the terms of an agreement with WPIL. The discussions have been constructive. The purpose of the agreement is

to put in place arrangements such that both the DCO Scheme and the airfield redevelopment can be delivered in a timely and co-operative way. Highways England will yield up the site compound on WPIL's land as soon as it can, consistent with the timely and efficient delivery of the DCO Scheme. As WPIL appreciates, Highways England is not willing to commit to a specific date to leave the compound as it cannot be certain it will be ready to leave on that date, but it has no wish to remain on the site longer than necessary. The draft agreement includes provisions consistent with this principle. Highways England will also respect the SANG envisaged by WPIL to be in the vicinity of the compound and the proposed agreement makes provision for this.

The proposed agreement also covers shared access arrangements and for Highways England to make passive provision for a new permanent access into the airfield site from the Wisley Lane diversion, including the positioning of utilities so that WPIL is not put to unnecessary expense in creating such an access at a later date pursuant to such planning permission as it may obtain.

8. Highways England's comments to Mrs Agnes Patricia Engelen's document *Comments on Proposed Changes 7 to 9* [REP9-005]

- 8.1.1 In relation to the maintenance responsibility for the new private access road (Work No. 40), the dDCO will if made confer powers for Highways England to acquire the parcels of land needed to construct the access road. Under article 15(2) of the dDCO the current access to Court Close Farm cannot be closed until the new access road is open for use. Once it has acquired the land and the substitute private means of access is open for use, in the absence of some other arrangement, Highways England anticipates that it will be the "street managers" in relation to the private access road for the purposes of article 12(3) of the dDCO and the New Roads and Street Works Act 1991 and therefore responsible for its maintenance. Highways England is willing to discuss practical arrangements in relation to the operation and maintenance of the access road with the relevant landowners as part of the detailed design process.

9. Highways England's comments to SCC's document *Notification of a wish to speak at a Compulsory Acquisition Hearing and comments on deadline 8 submissions* [REP9-015]

- 9.1.1 Highways England have provided the following comments below in response to SCC's document REP9-015.
- SCC's comment.
- 9.1.2 **A. Ockham Bites** - The entirety of the Ockham Bites car park is not within the DCO boundary, but the car park as a facility will be severely impacted by the scheme with a loss of approximately one third of capacity (plots 4/24, 4/25 and 4/27 do cover part of the car park). SCC consider that it is reasonable to expect

that suitable accommodation works to remodel the car park to create replacement parking is secured through the agreement of a side agreement with HE during the course of the examination. The option proposed by Highways England (HE) is to address this issue through the compensation process. As this would be concluded following the examination, SCC is afforded no comfort that appropriate reinstatement will be achievable. There is likely to be a lengthy delay in settling compensation and in the meantime SCC will be left with management issues relating to the car park and café. SCC consider that it would be more cost effective and expedient if the accommodation works were undertaken at the time of the construction of the scheme.

9.1.3 Highways England's comment

9.1.4 Please refer to the Applicant's comments to ExA's fourth written questions and requests for information (ExQ4) (TR010030/9.109) in particular its answer to question 4.16.2.

SCC's comment

9.1.5 **B. Permanent Rights for Access** - *There are a number of land plots for which HE are retaining permanent rights over for access purposes and are therefore linked to ongoing discussions around commuted sums. A key example for SCC is the parallel Non Motorised User Route (NMU), which the Council has stated that it does not wish to adopt, particularly in the absence of the provision of commuted sums for ongoing maintenance. In this scenario, it is SCC's view that the NMU supporting embankments including the Cockrow Bridge and Sandpit Hill Bridge supporting embankments should also be shown with permanent rights (e.g. shaded blue rather than land to be used temporarily and shaded green). So (in lieu of the provision of commuted sums) SCC's view would be that HE's permanent rights over the plots stated below would allow HE:*

- to fund and undertake future maintenance of the NMU route including surfacing works/repairs e.g. plot numbers 2/36, 3/32, 4/3c, 4/4a, 4/51a 13/10

- to fund and undertake future maintenance of the NMU supporting embankments. This affects plot numbers such as 3/33, 3/34, 4/3, 4/4c, 5/7b 5/9, 12/5 (NMU embankments) 4/24, 4/22a, 4/30a, 4/32, 4/40, 4/42, 4/45, 4/46a, 4/48 4/57, 4/58 (Cockrow Bridge) and 5/1, 5/2, 5/7b, 5/9 (Sandpit Hill bridge)

There are broader issues around the parties' responsibility in relation to Permanent Rights of Access. SCC consider that it would be helpful, if not essential, for HE to define in relation to permanent rights for maintenance access the following – a width of access, standard of surfacing, vegetation clearance and party to be responsible to maintain and make good.

Given the amount of usage is an unknown it appears to the council that preserving rights of access lie with HE.

Example plots include the following:

- 2/8, 2/9, 2/10 – clarity as to what activities are included in this maintenance access?

- 2/12, 2/13a – whether this confirms that HE will maintain the ditch in this area?

- 2/14, 2/14a, 2/14b – as this is to be used by HE as a maintenance access will HE's permanent rights mean that HE will carry out/fund any repairs of damage caused by their maintenance vehicles?

- 4/41, 4/72, 4/46, 4/74, 5/1c, 5/1d, 5/7a, 5/7c – these plots provide maintenance access to drainage ponds and/or soakaways so again will HE's permanent rights mean that HE will carry out/fund any repairs of damage caused by their maintenance vehicles?

Highways England's comment.

- 9.1.6 Item B of SCC's deadline 9 submission [REP9-015] puts forward SCC's view that the dDCO should provide for Highways England to acquire permanent rights to maintain the proposed new bridleway (Work No. 35) including its associated supporting earthworks and embankments. SCC states that it does not wish to adopt this route, particularly in the absence of an agreed commuted maintenance sum and therefore Highways England should make provision in the DCO to maintain the route itself. SCC sees the bridleway as a replacement facility for the closure of the existing shared cyclepath/footway in the verge of the A3 and given that the Scheme involves the prohibition of cycling on the A3 and the diversion of bridleway 12 at M25 junction 10.
- 9.1.7 Whilst Highways England accepts that Work No. 35 will effectively replace the existing sub-standard shared route alongside the A3 and serve as an alternative route for bridleway 12, the proposed new bridleway will represent a significant improvement for non-motorised users compared with the existing situation and will be more than a simple replacement facility. Highways England does not accept that it should be regarded as forming part of the strategic road network for which it will be responsible. The new bridleway will be a route that can be used by horse-riders as well as pedestrians and cyclists, it will improve connectivity in the rights of way network and address the severance caused by the existing M25 and A3 through the provision of two new overbridges. It will therefore have far wider benefits than a mere replacement of the existing provision. As explained in Highways England's response to written representations [REP2-014] (see comment on REP1-020-30 on page 36), the alignment of Work No. 35 has been designed to follow established tracks through Wisley and Ockham Commons wherever possible, including sections of track that are already managed on behalf of SCC as permissive routes. The proposed alignment will create a more attractive route for users, away from strategic and motorway traffic and will avoid the need to construct longer sections of retaining walls that would otherwise be necessary if the NMU route had to be built immediately alongside the A3 verge. Utilisation of existing track alignments also helps reduce impacts on the Thames Basin Heaths Special Protection Area. When completed, the new bridleway will appear as a local route through and an integral feature of the Wisley and Ockham Commons rather than as a strategic highway feature.
- 9.1.8 The classification of the proposed new route as a public bridleway has been agreed with SCC (see item 1.1.12 of the Statement of Common Ground [REP8-030]). It is therefore Highways England's position that the new bridleway should become the responsibility of SCC upon its completion, as is the case with other public rights of way and recognising Highways England's role which is to manage and maintain the strategic highway network, comprising motorways and trunk roads. The dDCO therefore provides for SCC to maintain the bridleway under article 12. All of the plots listed in the second paragraph of item B of

SCC's deadline 9 submission [REP9-015] comprise land that either forms part of the NMU route itself or includes some of its supporting earthworks. Highways England does not consider the acquisition of additional permanent rights along the route and over the adjacent land currently to subject to temporary possession under the dDCO to be necessary for the purposes of the Scheme given that the route will become part of the public rights of way network, for which SCC is responsible as the local highway authority. The issue of commuted sums remains under discussion, as set out at item 1.5.3 of the SoCG [REP8-030].

- 9.1.9 With regards to broader issues around the parties' responsibility in relation to Permanent Rights of Access, the uses for which the land is being taken are set out in Schedule 5 to the revised draft DCO [REP8-027].
- 9.1.10 Plots 2/8, 2/9 and 2/10 are identified in Schedule 5 for use as a maintenance access for the authorised development. This would include access for maintenance of attenuation ponds, drainage and gantries.
- 9.1.11 Plots 2/12 and 2/13a will be transferred to Surrey County Council along with the realigned Wisley Lane as part of the new local highway network and the drainage within these plots, which drains Wisley Lane, will be the responsibility of the local highway authority.
- 9.1.12 Plot 2/14 provides for rights to access and maintain a pre earthworks ditch. Plots 2/14a and 2/14b provides for rights to construct a footpath and use as a maintenance access, to construct, operate, access and maintain a diversion to an existing gas pipeline and associated equipment, to construct, operate, access and maintain a carrier drain and for use as a maintenance access for the authorised development. As a new or altered highway in the local highway network maintenance will fall to Surrey County Council to maintain.
- 9.1.13 Plot 4/41 provides for rights to construct a bridleway and use as a maintenance access, to access land to be used for the construction of a temporary slip road in connection with improvements to the M25 junction 10, to construct, access and maintain a soakaway and pre earthwork ditch. The width of the new rights within the plot not to exceed 3 metres. This plot also provides for rights to use the land as a maintenance access for the authorised development, which will include access for maintenance of attenuation ponds, soakaways, drainage and environmental barriers. As a new or altered highway in the local highway network maintenance will fall to Surrey County Council to maintain.
- 9.1.14 Plot 4/46 provides for rights to construct, maintain and use an access to a drainage attenuation pond and plots 5/1c and 5/1d provide for rights to construct, access and maintain a soakaway. Plot 5/7a provides for rights to use as a maintenance access for the authorised development, which will include access for maintenance of attenuation ponds, drainage, environmental barriers and plot 5/7c provides for rights to construct, access and maintain a soakaway and pre-earthwork ditch. As a new or altered highway in the local highway network maintenance will fall to Surrey County Council to maintain.
- 9.1.15 Plot 4/72 provides for rights to construct and use an access as a private means of access and maintenance access, to construct, maintain and use an access to a drainage attenuation pond, to undertake, retain, inspect, access, maintain, monitor and renew environmental compensation works, for use as a construction access route in connection with environmental compensation works and for use as a maintenance access for the authorised development. As such the plot has

been identified for access and use for log storage arising from felling operations on the Special Protection Area enhancement areas, as this process continues after the main construction works have finished. The plot will be maintained accordingly for the duration of these works.

- 9.1.16 No permanent rights are being taken by Highways England in plot 4/74.
- 9.1.17 Discussions between Highways England and Surrey County Council with regards to commuted sums associated with maintenance of elements of the scheme are ongoing.

SCC's comment

- 9.1.18 **C. Designation of land acquisition in relation to environmental mitigation and enhancement areas** – *HE has responded to SCC's query as to why these areas (such as 25/1 or 4/21) are shown as land to be used temporarily and rights to be acquired permanently, rather than land to be used temporarily given that the maintenance and monitoring period is time limited. However SCC would welcome the opportunity to have this issue explored further during a virtual hearing.*

Highways England's comment

- 9.1.19 As set out in Applicant's Response to Interested Parties Comments on the Examining Authority's Third Written Questions [REP8-047], item 3 (p23) in response to Surrey County Council's reply to question 3.16.1.
- 9.1.20 "The Special Protection Area ("SPA") works ... and other SPA enhancement areas will be regulated by a SPA management plan to be approved under requirement 8 of the dDCO. It is anticipated the maintenance and monitoring period for the SPA works in the approved scheme will be up to 20 years consistent with the SPA Management and Monitoring Plan [REP4-031]. The dDCO contains temporary possession powers in article 33 that may be exercised within the 5 year maintenance period (article 33(11)). Given the long time periods involved Highways England is seeking land rights over land in the dDCO as regards SPA land rather than temporary powers. The rights are in effect limited in time since the right itself is only for the purpose specified in the dDCO Schedule 5 and so of no use to Highways England (and in effect defunct) once that purpose has been served. In the case of Plot 25/1 (for example), the purpose is "To undertake, retain, inspect, access, maintain, monitor and renew environmental compensation works"."

SCC's comment.

- 9.1.21 **D. Maintenance access** - *Comments have been made about SCC requiring rights of access for maintenance purposes. There are similar issues in relation to maintaining visibility splays. Some of these were set out in SCC's response to the 3rd set of written questions (question 3.13.5). Example plots are 8/15, 8/37, 8/37a, 8/38, 8/39, 9/13 (potential land required for visibility splays) SCC have yet to see plans showing lands set aside/access widths maintenance access such as safe access to the Wisley Lane/Stratford Brook overbridge (plot 1/18) and whether there is sufficient width for vehicle access to the abutments with the current ditches that take up part of this land and safe maintenance access to*

*A245 retaining wall if the original unchanged scheme progresses (plot 8/38).
SCC would wish to see a drawing showing the turning head for maintenance
vehicles to the drainage pond to the west of the A245 (plot 8/39)*

Highways England's comment

- 9.1.22 Highways England has provided SCC with an updated set of plans and a schedule, indicating maintenance access arrangements, including maintenance access routes for inspections on foot and access for maintenance vehicles. The Schedule provides information on the width of the relevant access routes and the surfacing available or intended for the routes, together with assumptions on maintenance cycles and requirements. Discussions on the detail of the plans and the accompanying schedule are continuing with SCC and an update of the position reached will be provided under issue 1.4.1 of the final Statement of Common Ground (SoCG) between Highways England and SCC to be submitted at Deadline 12. Highways England has given assurances to SCC that there is space within the DCO boundary to provide a turning head for the pond access on plot 8/39 and has committed to agreeing the layout of this with SCC at the detailed design stage. This is set out in the final column for issue 2.4.1 of the SoCG submitted at Deadline 8 [REP8-030].
- 9.1.23 As to visibility splays at Painshill (including SCC's references to plots 8/15, 8/37 and 8/37a) these matters continue to be the subject of discussion with SCC, as recorded under issue 2.4.1 of the SoCG [REP8-030]. Highways England considers that there are various options available to improving forward visibility within the DCO boundary and without the need to vary provisions relating to plots 8/15, 8/37 or 8/37a. Again, the position will be updated under issue 2.4.1 of the SoCG at Deadline 12.

SCC comments

- 9.1.24 ***E. Designation of land acquisition in relation to the Council's interests at Ockham Roundabout*** - SCC query why permanent acquisition is required for land plots at the Ockham roundabout such as 1/19 or 1/20 that form part of the SCC highway network. There is also land owned by HE that forms part of SCC's highways: 1/5, 1/7, 1/10, 1/17 and parts of 1/25, 1/26 and 1/32. It is understood that it is standard practice for Highways England to include the land it already owns within the compulsory acquisition powers as a precautionary approach to ensure that no known or unknown third-party rights remain over the land which could potentially impede delivery of the Scheme. However SCC would wish to seek clarification on this at the CAH particularly as plot 1/31 is shown as temporary possession.

Highways England's comments

- 9.1.25 As set out in Statement of Reasons [APP-022], Highways England owns a number of plots which are subject to third party rights or other unknown rights which are or may be incompatible with the construction and operation of the Scheme. In order to ensure that any such rights can be removed (and the persons benefitting from them are compensated for such removal) land within the ownership of Highways England has been included within the land to which the compulsory powers sought will apply.
- 9.1.26 Plot 1/19 is a small plot currently owned by Surrey County Council which lies under the embankment supporting the existing A3 highway and associated

landscaping and thus it is considered appropriate for this to be acquired by Highways England.

- 9.1.27 Plot 1/20 is a small plot currently owned by Surrey County Council which lies within the carriageway for the roundabout at Ockham junction. The adjacent roundabout is carriageway (plot 1/16) is being acquired to clear away third party rights. The inclusion of this plot will allow Highways England to return the land parcels to SCC free of third party rights on completion of the project.
- 9.1.28 Plots 1/5 and 1/7 are currently in the ownership of Highways England, with Surrey County Council having an interest as highway authority as the land forms part of the local highway network. The inclusion of these plot will allow Highways England to return the land parcels to SCC free of third party rights on completion of the project.
- 9.1.29 Plot 1/10 is a plot currently in the ownership of Highways England which contains the embankment supporting the existing A3 highway and associated landscaping and thus it is considered appropriate for this to be acquired by Highways England to extinguish third party rights.
- 9.1.30 Plot 1/25 is a plot currently in the ownership of Highways England which contains the southbound off slip from the A3 to the roundabout and thus it is considered appropriate for this to be acquired by Highways England.
- 9.1.31 Plot 1/26 is a plot currently in the ownership of Highways England which contains the main carriageway, supporting embankment and part of the northbound on slip road to the A3 from the roundabout and thus it is considered appropriate for this to be acquired by Highways England.
- 9.1.32 Plot 1/32 is a plot currently in the ownership of Highways England which forms the junction between Mill Lane and the northbound on slip road to the A3 from the roundabout and thus it is considered appropriate for this to be acquired by Highways England in order to extinguish any third party rights which may subsist over it.
- 9.1.33 Plot 1/31 is a plot currently in the ownership of Highways England which forms part of the verge to Mill Lane. However as with adjacent plot 1/30 which forms part of Mill Lane, the plot will be unaffected by permanent physical works and thus it is not considered appropriate for this land to be permanently acquired by Highways England. It is therefore appropriate for temporary possession powers to be exercised instead.

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