

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

**9.118 Applicant's note for Action Point  
4 (Session 1 Non-site specific CA and  
TP matters)**

Rule 8(1)(k)

Planning Act 2008

Infrastructure Planning (Examination Procedure) Rules 2010

Volume 9

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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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**9.118 Applicant's note for Action Point 4 (Session 1 Non-site specific CA and TP matters)**

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# 1. Introduction

1.1.1 This document sets out Highways England's response to the Examining Authorities request from Session 1 Non-site specific CA and TP matters

- **Action Point 4** - *Note to be provided regarding discussions with the Painshill Residents Group, clearly setting out the land plots for which there are active CA and/or TP objections.*

## 2. Note on Painshill Residents Group

2.1.1 This note relates to the representations made by the owners of properties at Pains Hill House on the Pains Hill Estate and summarises Highways England's discussions and negotiations with those parties.

### 2.2 Affected persons

2.2.1 The owners of properties at Pains Hill House noted in the Book of Reference (referred to collectively in this statement as the Pains Hill House Residents) are as follows:

- 1 Pains Hill House- Peter John Edward Trew;
- 2 Pains Hill House – Andrew James Lloyd-Eley and Lesley Lloyd-Eley;
- 3 Pains Hill House –Gustav Sameul Mauer and Diana Andreea Varbanescu;
- 4 Pains Hill House –Brigitte Agnes Tiller and Paul John Tiller;
- 5 Pains Hill House - Karuna Frances Lawrence and Roger Andrew Lawrence; and
- 6 Pains Hill House - Pearl Edith Brown and Robert James Brown.

2.2.2 The other residents of the Pains Hill Estate in the Book of Reference are Susan Price of Clock House and Mrs Barraclough of Round House who have made no express representations in respect of the Scheme during the examination.

2.2.3 Representations have also been made by the Painshill Residents Association and the Pains Hill Residents Group which overlap to a greater or lesser extent with the representations made by individual affected persons.

### 2.3 Land Interests

2.3.1 Each of the Pains Hill House Residents has been identified in the Book of Reference as having the benefit of the following covenants, restrictive covenants and rights over neighbouring land. These are category 2 and category 3 interests. The plots to which these covenants and rights relate are noted in the table contained in Part 2 of the Annex to this note:

1. a covenant to maintain a boundary fence contained in a conveyance dated 15 October 1951;
2. Restrictive covenants to not erect any buildings without prior consent as contained in a conveyance dated 1 January 1951 for the benefit of Pains Hill House;
3. Right to the free passage of service media as contained in a conveyance dated 1 January 1951 for the benefit of Pains Hill House; and
4. Rights relating to a service media and access to a septic tank as contained in a conveyance dated 15 October 1951 for the benefit of Pains Hill House.

## 2.4 Representations made

2.4.1 Representations have been made individually and as part of two separate groups (Painshill Residents Association (which may represent the Pains Hill House Residents) and Pains Hill Residents Group (which states its response was agreed by 10 households within the Pains Hill Estate)) as follows:-

### Relevant representations

- Painshill Residents Association –[RR-022]
- Robert J Brown – [RR-035]
- Karuna Lawrence – [RR-047]
- Lesley Lloyd-Eley – [RR-048]
- Diana Varbanescu on behalf of Gustav Mauer – [RR-050]
- Paul Tiller – [RR-054]
- Peter Trew – [RR-058]
- Diana Varbanescu – [RR-059]

### Written representations

- Pains Hill Residents Group - [REP1-031]
- Robert J Brown (and on behalf of Edith Brown) [REP1-051]

### **The representations can be summarised as objections relating to:**

1. increased traffic and safety risks on the A245 Painshill roundabout including difficulties accessing the Estate;
2. additional congestion at junctions 9 and 11 during construction;
3. security concerns during construction and as a result of the new access road;
4. increased air and noise and pollution from constructions and including increased traffic noise from Christmas tree wood felling, the widening of the A3 and the new access road;
5. destruction of ancient woodland;
6. damage to the architecture and wildlife in Painshill Park and estate;
7. overall cost and benefit of the scheme compared to other alternatives;
8. the potential violation of the human right to family/private life considerations; and;
9. the potential for blight on Pains Hill House that will result in significant compensation claims.

2.4.2 Further information concerning representations made by Pains Hill House Residents is set out in Part 1 of the Annex to this note.

## 2.5 Negotiations

2.5.1 Highways England met with the Painshill Resident's Association at their request during the examination on 23 January 2020 to discuss the general objections that have been raised to the scheme that are summarised in paragraph 4.

2.5.2 It is not possible for Highways England to acquire the benefit of the rights and covenants noted at paragraph 3 as the benefit of them runs with the ownership of the benefitting land, i.e. the properties at Pains Hill House. Consequently the benefit passes to subsequent owners of the benefitting properties.

2.5.3 These rights and covenants could also be modified or extinguished by agreement between the relevant landowners. The relevant landowners are the owners of the lands burdened by the rights and/or covenants and the owners of the benefitting land, being the owners of Pains Hill House in this case. The owners of the burdened lands are noted in the table below against each land parcel listed.

2.5.4 As Highways England does not own any of the relevant land it cannot meaningfully negotiate to acquire, modify or extinguish these rights and covenants.

## 2.6 Compulsory Acquisition and Temporary Possession objections

2.6.1 It appears to Highways England that none of the objections raised by the Pains Hill Residents has a direct correlation with the interests in land that may be extinguished or suspended under the DCO although it is acknowledged by Highways England that some of the objections raised may relate to plots that the Pains Hill House Residents have interests in.

2.6.2 In summary, Highways England does not consider the objections raised by the Pains Hill House Residents should be regarded as live compulsory acquisition or temporary possession objections.

## 3. Annex – Information concerning representations made by Pains Hill House Residents (Part 1) and plot information (Part 2)

### Part 1

<p><b>Pains Hill House Residents Land parcel(s)</b></p>	<p><b>Pains Hill House Residents (each resident having identical interests listed below):</b></p> <ul style="list-style-type: none"> <li>• <b>Category 2 and 3 interests in plots subject to Title Acquisition:</b></li> <li>• <b>6/18a, 6/21 and 7/29</b></li> </ul> <p>Freeholder: Elmbridge Borough Council and leaseholder: Painshill Park Trust</p>
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	<p>Interest: a covenant to maintain a boundary fence contained in a conveyance dated 15 October 1951</p> <ul style="list-style-type: none"> <li>• <b>7/30</b></li> </ul> <p>Freeholder: Elmbridge Borough Council and Highways England as Highway Authority Interest: Rights relating to a service media and access to a septic tank as contained in a conveyance dated 15 October 1951 for the benefit of Pains Hill House</p> <ul style="list-style-type: none"> <li>• <b>8/5</b></li> </ul> <p>Freeholder: David Henderson Barraclough (deceased) and Jane Barraclough of the Round house Interest: restrictive covenants relating to not erect any buildings without prior consent as contained in a Conveyance dated 1 January 1951 for the benefit of Pains Hill House; and a right to the free passage of service media as contained in a Conveyance dated 1 January 1951 for the benefit of Pains Hill House</p> <ul style="list-style-type: none"> <li>• <b>8/5a</b></li> </ul> <p>Freeholder: David Henderson Barraclough (deceased) and Jane Barraclough of the Round house and leaseholder Arqiva No 3 Limited Interest: restrictive covenants relating to not erect any buildings without prior consent as contained in a Conveyance dated 1 January 1951 for the benefit of Pains Hill House; and a right to the free passage of service media as contained in a Conveyance dated 1 January 1951 for the benefit of Pains Hill House</p> <ul style="list-style-type: none"> <li>• <b>8/8</b></li> </ul> <p>Freeholder: South Eastern Power Networks Interest: restrictive covenants relating to not erect any buildings without prior consent as contained in a Conveyance dated 1 January 1951 for the benefit of Pains Hill House; and a right to the free passage of service media as contained in a Conveyance dated 1 January 1951 for the benefit of Pains Hill House</p> <ul style="list-style-type: none"> <li>• <b>Category 2 and 3 interests in plots subject to Permanent rights with Temporary Possession:</b></li> <li>• <b>8/5b</b></li> </ul> <p>Freeholder: David Henderson Barraclough (deceased) and Jane Barraclough of the Round house and leaseholder Arqiva No 3 Limited</p>
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	<p>Interest: restrictive covenants relating to not erect any buildings without prior consent as contained in a Conveyance dated 1 January 1951 for the benefit of Pains Hill House; and a right to the free passage of service media as contained in a Conveyance dated 1 January 1951 for the benefit of Pains Hill House</p> <ul style="list-style-type: none"> <li>• <b>8/7</b></li> </ul> <p>Freeholder: David Henderson Barraclough (deceased) and Jane Barraclough of the Round house</p> <p>Interest: restrictive covenants relating to not erect any buildings without prior consent as contained in a Conveyance dated 1 January 1951 for the benefit of Pains Hill House; and a right to the free passage of service media as contained in a Conveyance dated 1 January 1951 for the benefit of Pains Hill House</p> <ul style="list-style-type: none"> <li>• <b>8/5c</b></li> </ul> <p>Freeholder: Elmbridge Borough Council and leaseholder: Painshill Park Trust</p> <p>Interest: a covenant to maintain a boundary fence contained in a conveyance dated 15 October 1951</p> <ul style="list-style-type: none"> <li>• <b>Category 2 and 3 interests in plots subject to Temporary Possession:</b></li> <li>• <b>6/18, 6/21a and 6/21b</b></li> </ul> <p>Freeholder: Elmbridge Borough Council and leaseholder: Painshill Park Trust</p> <p>Interest: a covenant to maintain a boundary fence contained in a conveyance dated 15 October 1951,</p> <ul style="list-style-type: none"> <li>• <b>8/7a and 8/7b</b></li> </ul> <p>Freeholder: David Henderson Barraclough (deceased) and Jane Barraclough of the Round House</p> <p>Interest: restrictive covenants relating to not erect any buildings without prior consent as contained in a Conveyance dated 1 January 1951 for the benefit of Pains Hill House; and a right to the free passage of service media as contained in a Conveyance dated 1 January 1951 for the benefit of Pains Hill House</p>
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<p><b>Works listed in the Statement of Reasons for the affected plots</b></p>	<p><b>6/18</b> Work No.17(a), Work No.17(b), Work No.17(e), Work No.65(a)</p> <p>To provide working space for the improvement of the A3 southbound carriageway, works associated with stopping up an access to Painshill Park, to construct a retaining wall, a utility diversion and a highway fence.</p> <p><b>6/21a and 6/21b</b> Work No.17(a), Work No.17(b), Work No.23(h), Work No.65(a)</p> <p>To provide working space for the improvement of the A3 southbound carriageway, to construct a retaining wall, a utility diversion and a highway fence.</p> <p><b>8/7a and 8/7b</b> Work No.41, Work No.62(l), Work No.63(c), Work No.65(a)</p> <p>To provide working space to construct a footpath, utilities diversions and highways fence.</p> <p><b>8/5b and 8/5c</b> Work No.18 Work No.18(b) Work No.40 Work No.65(a)</p> <p>To construct, access and maintain the authorised development. To construct, operate, access and maintain a diversion to electric cables and associated apparatus and equipment. To access and maintain utility apparatus and equipment.</p> <p><b>8/7</b> Work No.63(c)</p> <p>To construct, operate, access and maintain a diversion to an existing gas pipeline and associated equipment. To construct, inspect, access and maintain a highway fence.</p> <p><b>6/18a</b></p> <p>For the construction of earthworks, planting and fencing</p> <p><b>6/21</b> Work No. 23(h)</p> <p>For the construction of super span portal gantry or similar signage</p> <p><b>7/29</b></p> <p>Work 18 For the improvement and widening of the A3 southbound on-slip at the A3 Painshill junction.</p>
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	<p>For the construction of super span portal gantry or similar signage</p> <p>Work No. 40 -For the construction of a new private access</p> <p>Work No. 63(c) To divert, use and maintain utility connections and equipment including gas pipelines, equipment and apparatus including access with or without vehicles</p> <p>Work No. 65(a) To divert, use and maintain utility connections and equipment including telecommunication cables, equipment and apparatus including access with or without vehicles</p> <p><b>7/30</b></p> <p>Work No. 17(a) For the improvement of the A3 southbound carriageway including carriageway resurfacing and modifications to existing infrastructure</p> <p>Work No. 18 For the improvement and widening of the A3 southbound on-slip at the A3 Painshill junction</p> <p>Work No. 23(i) For the construction of super span portal gantry or similar signage</p> <p>Work No. 65(a) To divert, use and maintain utility connections and equipment including telecommunication cables, equipment and apparatus including access with or without vehicles</p> <p><b>8/5</b></p> <p>Work No. 40 For the construction of an access</p> <p>Work No. 41 For the construction of a footpath</p> <p>Work No. 62(i) To divert, use and maintain utility connections and equipment including high or low voltage electricity cables, equipment and apparatus including access with or without vehicles</p> <p>Work No. 63(c) To divert, use and maintain utility connections and equipment including gas pipelines, equipment and apparatus including access with or without vehicles</p> <p>Work No. 65(a) To divert, use and maintain utility connections and equipment including telecommunication cables, equipment and apparatus including access with or without vehicles</p> <p><b>8/5a and 8/8</b></p>
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	For the construction of earthworks, planting and fencing
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## Part 2

<p><b>Relevant representations made by or on behalf of Pains Hill House Residents and summary of issues</b></p>	<p><b><u>RR-058</u> Peter J E Trew</b></p> <p>Concern about increased traffic on Painshill roundabout and new access road including decelerations, security during construction on the estate, increased noise and pollution and the cost benefit justification for the roadworks.</p> <p><b><u>RR-048</u> Lesley Lloyd-Eley</b></p> <p>Against changes to Painshill roundabout for safety reasons, as a result of the new access road, further concerns regarding risks to health, noise, security, economics and safety, security concerns for the park and the estate.</p> <p><b><u>RR-050</u> Diana Varbanescu on behalf of Gustav Mauer</b></p> <p>Impact on the park, destruction of ancient woodland by the new access road, safety, traffic and congestion concerns on Painshill roundabout, security of the park and estate, air and noise pollution for the park and estate from the new access road, violation of the human right to family/private life on the estate, potential blight on</p>
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	<p>Pains Hill that will result in significant compensation claims</p> <p><b><u>RR-059 Diana Varbanescu</u></b></p> <p>Impact on the park, destruction of ancient woodland by the new access road, safety, traffic and congestion concerns on Painshill roundabout, security of the park and estate, air and noise pollution for the park and estate from the new access road, violation of the human right to family/private life on the estate, potential blight on Pains Hill that will result in significant compensation claims</p> <p><b><u>RR-054 Paul Tiller</u></b></p> <p>Unsure of implications on his property</p> <p><b><u>RR-047 Karuna Lawrence</u></b></p> <p>Concerns regarding widening of slip road from Painshill Roundabout making it more difficult to access property and security issues from new access road</p> <p><b><u>RR-035 Robert J. Brown</u></b></p> <p>Opposed to scheme due to safety concerns on Painshill roundabout regarding location of new access road, increased noise from felling trees (ie increased road noise), security issues from new access road, changes to roundabout dangerous, potential blight on estate due to traffic disruption during construction, feels a number of alternatives were more suitable.</p> <p><b><u>RR-022 Painshill Residents Association</u></b></p> <p>Increased noise and pollution from increased traffic on A3. Risk to safety when accessing property and from new slip road, security concerns from new access road.</p>
<p><b>Written representation made by or on behalf of Pains Hill House Residents and summary of issues raised</b></p>	<p><b><u>REP1-051 Robert J Brown (and on behalf of Pearl Edith Brown)</u></b></p> <p>Deadline 1 Submission - Written Representation</p> <p>Concern regarding effectiveness in relation to scheme design and cost</p> <p>Worsening traffic congestion and safety concerns regarding backing up of traffic on Painshill roundabout</p> <p>Additional congestion at junctions 9 and 11 during construction.</p> <p>Lack of fencing or acoustic control from new access road - Security concerns for the park and estate.</p>

	<p>Air and noise pollution from A3 widening and new access road</p> <p>Potential damage to the park and estate (including its wildlife) which is of historical, architectural and environmental importance.</p> <p>Potential violation of human right to private life to the residents of the estate.</p> <p>Better scheme options are available including signage and a smart motorway system.</p> <p><b><u>REP2-054 Robert J Brown</u></b></p> <p>Deadline 2 Submission - Comments on the Applicant's draft ASI itinerary (request relating to delayed joining of site visit)</p> <p><b><u>REP1-031 Pains Hill Residents Group</u></b></p> <p>Deadline 1 Submission - Written Representation</p> <p>Registering as a group in order to attend the open floor hearings. No objections raised.</p> <p><b><u>REP2-037 Robert J Brown on behalf of Painshill Resident Association</u></b></p> <p>Deadline 2 Submission - Comments on Written Representation</p> <p><b><u>REP3-066 Painshill Residents Association (including all residents of the Pains Hill Estate)</u></b></p> <p>Deadline 3 Submission - Action Point 15 Response</p> <p>Re-iteration of all individual concerns raised and feels the following objections have not been considered:</p> <p>Cost of scheme and consideration of alternatives;</p> <p>Traffic back up to Painshill roundabout;</p> <p>Increased noise and pollution for the estate;</p> <p>Security concerns for Painshill residents;</p> <p>Environmental considerations; and</p> <p>Painshill resident's Rights.</p> <p>Concurs with comments made by the Guides Association, Close Court Farm and PPT in relation to the access road.</p>
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<p><b>Other submissions made by the Applicant (HE)</b></p>	<p><b><u>REP1-009</u> Highways England's response to Relevant Representations</b></p> <ul style="list-style-type: none"><li>• Page 77 – Robert J Brown</li><li>• Page 106 – Karuna Lawrence</li><li>• Page 107 – Lesley Lloyd-Eley</li><li>• Page 111 – Gustav Mauer</li><li>• Page 125 – Paul Tiller</li><li>• Page 139 – Peter EJ Trew</li><li>• Page 142 – Diana Varbanescu</li></ul> <p><b><u>REP2-014</u> Highways England's comments on Written Representations</b></p> <ul style="list-style-type: none"><li>• Responses to Pains Hill Residents Group (p105)</li><li>• Page 119 for response to James F Brown</li></ul>
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