

M25 JUNCTION 10/A3 WISLEY INTERCHANGE IMPROVEMENT SCHEME

**APPLICATION BY HIGHWAYS ENGLAND FOR AN ORDER GRANTING DEVELOPMENT
CONSENT**

**WRITTEN SUMMARY OF ORAL EVIDENCE PRESENTED AT COMPULSORY ACQUISITION
HEARING 1 SESSION 2
18TH JUNE 2020**

**DEADLINE 11 (3RD JULY 2020) SUBMISSION ON BEHALF OF TAYLOR WIMPEY UK LIMITED
(AS OWNER OF WISLEY PROPERTY INVESTMENT LIMITED (WPIL))**

AFFECTED PERSONS NUMBER M25J10-AP002

1. In attendance for Taylor Wimpey WPIL:

**Lee Davis – Project Director for Major Projects - Taylor Wimpey
Antonis Pazourou – Project Manager – Taylor Wimpey
Mike Murray – Causeway Land Advisors Ltd. - advisor to Taylor Wimpey
Rafe Courage – Gateley Legal – solicitor for Taylor Wimpey
Ian Cunliffe – Gateley Hamer - Chartered Surveyor for Taylor Wimpey**

2. Introduction

2.1. Wisley Property Investments Limited ('WPIL') is an Affected Party and has multiple plots affected by the Scheme, primarily comprising land formally used as an airfield now being the largest part of a prospective residential-led development site of approximately 2,100 new homes (C3/C2) and allocated as such in the Guildford Local Plan (2015-34).

2.2. WPIL was acquired by Taylor Wimpey UK Limited in March 2020.

3. Land affected/Plots

3.1. The plots affected by the scheme (together, 'the Land' or 'the Airfield') and included in the Book of Reference are:

Powers sought	Plots
<i>Title Acquisition (pink)</i>	1/18, 1/22, 2/5b
<i>Temporary Possession (green)</i>	2/1, 2/1a, 2/1b, 2/3, 2/5a, 2/5c
<i>Permanent Rights with Temporary Possession (blue)</i>	1/40, 1/18a

AGENDA ITEM 1

'THE EXA WILL ASK WPIL TO SUMMARISE ITS OBJECTION TO THE PROPOSED CA AND/OR TP POWERS SOUGHT BY THE APPLICANT, HAVING REGARD TO THE LEGISLATIVE AND POLICY TESTS FOR CA.'

WPIL Response

4. Update on negotiations (all plots)

- 4.1. A summary of engagement to date was included in the Statement of Common Ground submitted at Deadline 6 [REP6-009] and WPIL's Deadline 7 submission, [REP7-030].
- 4.2. It has been the stated intention of both parties to enter into a Side Agreement (or Land and Works Agreement), to ensure that key concerns that WPIL have regarding the Airfield are resolved to allow WPIL to withdraw its objection to the compulsory acquisition powers. However, the exchange of the draft document has not resulted in any substantial progress, and key outstanding concerns remain which means that the WPIL objection cannot at this stage be removed.
- 4.3. Paragraph 25 of the Guidance 1 sets out that:

'Applicants should seek to acquire land by negotiation wherever practicable. As a general rule, authority to acquire land compulsorily should only be sought as part of an order granting development consent if attempts to acquire by agreement fail.'
- 4.4. Highways England has stated its intention to seek to agree the land and rights sought in the draft DCO by private treaty (in the Statement of Reasons [APP-022]). However, progress of late has slowed to a stall, and at this stage of the Examination this works to WPIL's significant disadvantage. It is WPIL's experience that there have not been genuine intentions to attempt to secure the rights needed by private agreement, and thus resolve the concerns and issues of WPIL, in accordance with Guidance.

The key outstanding issues for WPIL are as follows:

5 Specific Issue 1: Use of powers

- 5.1 WPIL is willing to agree to the implementation of compulsory acquisition powers for the land required permanently by the Applicant and has agreed that land can be vested.

5.2 However, WPIL is concerned over the use and occupation of all land included in the Order, on a temporary basis, particularly during construction.

5.3 WPIL has requested that all land in the DCO is occupied temporarily prior to vesting, and controls are put in place (by way of a licence) over the occupation of the Order land.

5.4 This approach would ensure that the Applicant only acquires permanently land it needs once the infrastructure is in place, (thus demonstrating proportionality), and provides WPIL with the comfort on how the parties will interface during the construction phase of the scheme, whilst ensuring the reinstatement provisions are identified from the outset.

6 Specific Issue 2: Wisley Lane access (plots 1/18, 1/22, 2/5b)

6.1 The site currently benefits from an existing (periodically used) access off Elm Lane, and a consented, implemented (but not yet constructed) access off the Ockham Roundabout. Both of these accesses would be removed as a result of the DCO, and WPIL is relying on one or both of them to deliver its scheme. The site's other access off Ockham Lane is not considered suitable by Surrey County Council for construction of the residential development at Wisley Airfield.

6.2 The Diverted Wisley Lane access is critical for WPIL to access the Airfield site, both during construction and once the Scheme is operational.

6.3 In recent negotiations the Applicant has not been able to agree that access will not be severed to the Airfield during construction, and that access could be severed for an undefined period of time. This is unacceptable to WPIL who will have a significant construction programme that will be required to run in parallel with the Applicants in order to deliver housing in accordance with the Adopted GBCLP housing delivery trajectory. Wisley Airfield is an important component in the Councils plan to deliver housing to meet their need in this period.

6.4 WPIL has requested that the realigned Wisley Lane accommodates any realigned utilities (such as the gas main and the fibre optic cable) to ensure that they take in to account the potential long term access requirements and use of the developed Airfield. This remains outstanding despite WPIL's attempts to address the concerns in the Side Agreement.

6.5 WPIL has also sought to agree the environmental permeability of the new Wisley Lane, to mitigate the impact on land that will be severed by the Scheme, but the Applicant has failed to engage meaningfully on this matter.

6.6 WPIL's position remains that key aspects of the design of the Wisley Lane realignment should be agreed now, to ensure that it is appropriate for the construction and operation of the Airfield site. Given that a contractor is now on board, this should be achievable and WPIL does not accept that these

matters are ones that should be postponed to be unilaterally determined by Highways England outside of the Examination.

7 Specific Issue 3: use of compound area (plots 2/1, 2/1a, 2/1b, 2/3, 2/5a, 2/5c)

- 7.1 Proposed Change 9 submitted by the Applicant at Deadline 6 detailed the anticipated use of the compound area. WPIL has no in principle objection to the use of the Land as a compound, but the introduction of a materials processing, a traffic management area and welfare facilities on to the site means that the site has become a key strategic site for the entire construction programme. It has been WPIL's position that the site should be yielded up at the earliest opportunity and in any event, no later than two months following Open for Traffic to allow for the timely demobilisation of the compound to prevent stymying and/or delaying the proposed development of the Airfield, with the potential to phase the hand back of the compound as areas become vacant.
- 7.2 However, given the proposed changes, it is now critical to ensure that there is agreement on a shared access, or separate access provision, for use by WPIL's contractors to obtain access to the Airfield site for the proposed residential development during the period of the DCO works and following grant of planning consent for the Airfield development. Agreement on this is essential for WPIL to be confident that Highways England will not prejudice the timely development of the Airfield, along with an agreement on appropriate junction arrangements to the site.
- 7.3 Further, the long term uses that are now suggested for the compound risk adversely affecting use of critical land for the development of the Airfield, in particular adjoining land that has been identified for phased use as Suitable Alternative Natural Greenspace ('SANG'). This will likely form a condition of any planning consent for the Airfield, and users enjoyment of it will need to be free from impacts (such as noise and dust etc from material processing) that would detract from the use and enjoyment of the SANG and other land uses.
- 7.4 It is therefore absolutely essential that the practical arrangements, alongside the commercial terms, for use of the compound site are confirmed in an agreement for WPIL to be confident that development of the Airfield will not be prejudiced.
- 7.5 In the latest mark-up of the agreement issued by the Applicant, the Applicant's surveyors had not provided any input to the terms for the licence, and there was no certainty over timescales for the yielding up of the compound area. This is unacceptable to WPIL given the proposals for the Airfield, and prejudices bringing forward this key strategic development.

8 Key Issue 4: Reinstatement provisions and Methods of Working

- 8.1 WPIL had included a Methods of Working Schedule to be appended to the Side Agreement, which would ensure that there were controls over how land

would be used (not least to ensure appropriate and acceptable health and safety and construction practicality matters are addressed) and reinstated (in accordance with Article 32 of the DCO (*'to the reasonable satisfaction of the landowner'*), and to ensure the responsible occupation of land during construction.

- 8.2 The majority of the Schedule has been challenged by the Applicant in the latest mark-up of the documents, with the suggestion that there are sufficient safeguards in the DCO and that WPIL should rely on the compensation provisions.
- 8.3 This represents too great a risk to WPIL and all has been sought is contractual certainty on commitments made in the DCO, and ensure that matters are addressed now, rather than less for interpretation and dispute during construction.
- 8.4 Of particular concern are the works to **Stratford Brook – plots 1/40 and 1/18a** - It has been agreed in principle that the arrangements for the on-going maintenance of Stratford Brook can be adopted by WPIL, as the land will also be a critical element of the environmental and amenity infrastructure for the Airfield development, and that the land would be returned to WPIL no later than Open for Traffic to enable it to be included in the residential scheme's first phase SANG land.
- 8.5 However, at this stage key terms remain outstanding for the management agreement for this land.

9 Closing Remarks

- 9.1 WPIL has no in principle objection to the Scheme; indeed, delivered collaboratively, the DCO can deliver benefits to the Airfield site. However, at present, the agreement that has been exchanged fails to provide the comfort required that the Applicant's proposals wouldn't stymie the development of the Airfield.
- 9.2 It remains WPIL's intention to secure an agreement with the Applicant to ensure that there is confidence that the removal of the objection to compulsory acquisition powers over the Land will not prejudice the development proposals for the Airfield. However, at this stage of the Examination, and despite WPIL's recent efforts, the opportunity to secure an agreement seem to be fading.
- 9.3 As such, WPIL maintains the objection to powers over its land, and requests that it is recommended that powers are not granted. WPIL is intent on reaching an agreement with Highways England to ensure Highways England can deliver their scheme whilst also ensuring the development of the Airfield is not prejudiced. However, Highways England appear reluctant to provide the certainty required and are resolved to implement compulsory acquisition powers without any restraint, regardless of the potential impact on the Airfield proposals. It is WPIL's position that only in the absence of compulsory

acquisition will Highways England engage meaningfully to reach a private treaty agreement.

AGENDA ITEM 3

'THE EXA'S QUESTIONS WITH RESPECT TO THE PROPOSED CA AND TP OF THE LAND AT WISLEY AIRFIELD

Issues/questions will include the following:

- ***Further update on progress with the proposed side agreement;***

WPIL Response:

- 'A draft side agreement was issued by the Applicant on 20 April 2020. WPIL returned a marked-up document on 15 May 2020, with a further partial mark-up returned by the Applicant on 9 June 2020. This was returned with replies to comments for urgent discussion by WPIL on 12 June 2020. A meeting was held for one hour at 1830hrs Weds 17th June. Limited progress has been made since Deadline 6.

- ***The timescales for the commencement of the proposed Wisley Airfield development, including the establishment of the SANG land, and potential implications thereof;***

WPIL Response:

- It is anticipated that a planning application will be submitted Quarter 4 2020, with an expectation development will start on site in Quarter 4 2022/Quarter 1 2023 and occupation of homes in line with Guildford's adopted local plan housing trajectory in Quarter 1 2023 at the same time as the DCO works are open for traffic.

Possible access arrangements and TP implications if a second access or shared access for Wisley Airfield redevelopment construction traffic is required.

WPIL Response:

- WPIL requests that an access way is identified to join the Diverted Wisley Lane access and/or Elm Lane access through the worksite (as may be appropriate during the DCO works build programme) to the Airfield. At present, as per Change 9, there is no access identified through the Worksite to link up Wisley Lane with the Airfield, and therefore the Airfield is severed.
- As discussed, the draft side agreement in its current form does not provide the certainty that is required that access to the Airfield can be maintained. WPIL accepts, notwithstanding that it owns the land required by Highways England for the construction of the scheme, that it will adopt a subordinate role in respect of the use of construction access routes. However, the Applicant's position is they

can stop or fail to maintain access to the Airfield if they deem it appropriate to do so, and this is unacceptable to WPIL.

Actions agreed as requested by the ExA during and after CAH:

- 1) To submit a programme setting out the interface between the development of the Airfield and the DCO Works;
- 2) To submit a paper detailing where parties are not in agreement, if there are outstanding points at the close of Examination.