

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

**9.141 Applicant's comments regarding  
Replacement Land Options**

Rule 8(1)(k)

Planning Act 2008

Infrastructure Planning (Examination Procedure) Rules 2010

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# Infrastructure Planning

## Planning Act 2008

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

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

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### 9.141 Applicant's comments regarding Replacement Land Options

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# Table of contents

<b>Chapter</b>	<b>Pages</b>
1. Introduction	4
2. General comments on possible replacement land options	4
3. Highways England's comments on the replacement land ratios proposed by the ExA	4
4. Comments on the appropriateness of replacement land being provided in relation to the acquisition of rights over special category land	6

## 1. Introduction

- 1.1 This document sets out Highways England's response to the Examining Authority's (ExA) request for comments regarding replacement land options [PD-023].

## 2. General comments on possible replacement land options

- 2.1 The ExA is referred to Highways England's deadline 11 submissions [REP11-011] which sets out Highways England's position on a number of matters of relevance to the matters raised in the ExA's rule 17 request in relation to replacement land which should be read in conjunction with this document. The ExA's attention is also drawn to Highways England's comments on the deadline 11 submissions made on behalf of Mr Ronald Alderson of Park Barn Farm (document TR010030/APP/9.148) as submitted at deadline 12.
- 2.2 Highways England notes that on page 1 of PD-023 the ExA explains that one of the questions asked during the recent compulsory acquisition hearing (CAH 1) concerned *'the appropriateness of applying the historic RL ratios when the M25 was first constructed, namely 2.5:1 for Common Land, 2.1:1 for Open Space and 1:1 for the permanent acquisition of rights over the SCL, to the Applicant's current proposals.*
- 2.3 Highways England wishes to clarify the position that, as set out at section 7 of REP11-011 that it has not simply applied the historic replacement land ratios from the original M25 scheme but in fact reduced them having regard to the current circumstances of the proposed DCO scheme.

## 3. Highways England's comments on the replacement land ratios proposed by the ExA

- 3.1 As a matter of general approach, Highways England's position is that the overall package of replacement land should not be reduced and that accordingly the replacement land ratios which it has applied should be maintained. In the event that (contrary to the Highways England case) the overall amount of replacement land provided is to be reduced, the reduction should be the smallest possible to ensure that the replacement land proposal is still considered to be 'equally advantageous' by the public and all parties with an interest in public spaces and so that the Secretary of State's decision is consistent with previous schemes as discussed at paragraphs 3.8 and 3.9 below.
- 3.2 In accordance with Highways England's previous examination submissions, the proposed replacement land at Park Barn Farm should be retained on account of its relative functional qualities and advantages compared to the other replacement land parcels at Chatley Farm and Hatchford End.

- 3.3 Highways England's position is that sections 131 and 132 Planning Act 2008 require the Secretary of State not simply to apply a particular ratio but to consider the functional qualities of the land in selecting the replacement land parcels. Those qualities also include contiguity of status between existing and proposed special category land where practicable (including common land unit) and between existing and proposed landowner . In this case, in undertaking the required analysis, Highways England respectfully submits that the ExA and Secretary of State should conclude that the land at Park Barn Farm should remain within the replacement land provision as part of the Scheme whether or not they conclude that a lower replacement land ratio is appropriate.
- 3.4 Whilst Highways England does not favour any of the three replacement land ratios put forward by the ExA (namely 1:1, 1.5:1 and 2:1 respectively), it will be clear from Highways England's general case that, if the choice is to be between those three ratios, Highways England would prefer a ratio of 2:1 but on the basis that all or as much of the land at Park Barn Farm is retained as is commensurate with such a ratio.
- 3.5 In that regard, Highways England has previously suggested a variant of the proposed land-take from Park Barn Farm, which is intended to enable the landowner to retain certain parts of the land parcels that Highways England understands are of particular value to him in their relationship to the farm buildings and therefore to the saleability of the balance of the holding (see Option 4 in REP8-044 at page 6). This option would result in approximate replacement land ratios of 2:1 in respect of common land subject to permanent acquisition, 1.7:1 in respect of open space subject to permanent acquisition and 0.8:1 in respect of special category land subject to the acquisition of rights that will burden the land. These ratios could be varied relative to each other within the footprint of the option, such that, for example, replacement common land and open space are provided at the same ratio as suggested in the ExA's three ratios.
- 3.6 Similar replacement land ratios could be achieved if the ExA were instead to recommend option 8 or 9 and remove some parcels or proposed replacement land at Chatley Farm and Hatchford End [see the Table in REP8-044].
- 3.7 In relation to the suggested 1:1 ratio, this issue was dealt with by Highways England in section 10 of its deadline 11 note on special category land [REP11-011], which discusses the Oxleas Wood scheme (which involved a replacement land ratio slightly above 1:1) and explains why that would not be an appropriate precedent for this Scheme, not least as the scheme was subsequently abandoned by the Secretary of State in part on account of its perceived unacceptable impact on Oxleas Wood and the associated exchange land proposal.

- 3.8 On behalf of Highways England, other schemes were referred to at the CAH as providing some relevant precedent for Highways England's scheme (paragraph 5.1.73 of the Written submission of Applicant's case put orally at the Compulsory Acquisition Hearings held on 16, 17 and 18 June [REP11-006]). It is understood that exchange land was provided at ratios of approximately 2:1 for the A3 Hindhead scheme, having been increased during the course of the project due to opposition from the Open Spaces Society and the National Trust to the initial proposals. This outcome should be viewed in the context of that project providing, after construction, a significant benefit for the users of the special category land in that a substantial portion of the by-passed A3 would be removed from the landscape, allowing Hindhead Common and the Devil's Punch Bowl to be re-connected with and removing the previous severance and intrusion from trunk road traffic across the special category land. This scheme is open to traffic.
- 3.9 It is also understood that exchange land was proposed at ratios of 1:1 within the initial application for A244 Walton Bridge scheme, but this was found to be inadequate by the inspector at the first public inquiry and cited as one of the reasons for rejecting this application. The deficiencies in the exchange land proposal, amongst other things, were rectified for the second application, which was successful at public inquiry and is now open to traffic.
- 3.10 Those schemes, therefore, provide relevant precedent, whereas the approach taken by the promotor of the Oxleas Wood scheme is not a model which Highways England considers appropriate for this scheme.
- 3.11 Highways England also notes that Natural England, which has responsibility for "*promoting access to the countryside and open spaces and encouraging open-air recreation*"<sup>1</sup>, states in its response at deadline 11 [REP11-023] that it "*is satisfied with the 'offer' of replacement land options as proposed by the applicant*".

## **4. Comments on the appropriateness of replacement land being provided in relation to the acquisition of rights over special category land**

- 4.1 Highways England maintains its case that it is appropriate to provide replacement land at a ratio of 1:1 in respect of the acquisition of rights over special category land which will impose a burden on the land. It should be emphasised that replacement land has not been provided in compensation for the acquisition of rights over special category land which Highways England considers will not impose a burden on the land (the land identified in table C.4 of REP8-015). Those land parcels include the SPA compensation and enhancement areas where rights have been sought in order to undertake the SPA compensation and enhancement measures. Those areas alone comprise a considerable area of special category land. The total area where such rights are to be acquired is 70.74 ha (see the total of such land identified in tables C.3 and C.4 in Common Land and Open Space report [REP8-015]).

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<sup>1</sup> <https://www.gov.uk/government/organisations/natural-england/about#responsibilities>

- 4.2 Highways England has sought to minimise the extent of replacement land provided under section 132 Planning Act 2008 by identifying, following a thorough plot-by-plot review, only those plots that it considers to be burdened by the rights to be acquired in calculating the replacement land requirements, as set out in the Common Land and Open Space report [REP8-015] at table C.4 and expanded on in sections 5 and 6 of REP11-011 which provide further information about the nature and extent of the burden which will be imposed on the land by the rights.
- 4.3 In order to put this into context, if the proposed replacement land for land subject to acquisition of rights were to be compared against the total area of special category land over which permanent rights would be acquired under the DCO (and not just the area of special category land subject to acquisition of rights which in Highways England's view would burden the land), the resultant ratio of provision would be 8.51 ha of replacement land provided to 70.74 ha of special category land subject to acquisition of rights (i.e. the total area of the land plots identified in tables C.3 and C.4 of REP8-015), or a ratio of approximately 0.1:1. This further supports Highways England's case for the provision of replacement land at a 1:1 ratio for the acquisition of rights over special category land which will impose a burden on the land.
- 4.4 Highways England notes that the ExA has asked interested parties for comments on a replacement land ratio of 1:1 "for the parts of the SCL that the Applicant proposes to acquire permanent rights over". Highways England understands the ExA to be referring to the special category land subject to the acquisition of rights which will burden the land (namely an area of 8.51 ha as stated above) and not the total area of special category land subject to the acquisition of rights which is much greater, as noted at 4.1 above. On the basis that this understanding is correct, a ratio of 1:1 would be appropriate for the reasons which have been given.
- 4.5 Although Highways England does not understand the ExA to be expressing its view in this way, were Highways England to provide replacement land at a 1:1 ratio for all special category land over which rights are to be acquired a substantial increase in the requirement for replacement land would be needed. Highways England does not consider that it would be reasonable or appropriate to provide replacement land on that basis as the area of special category land over which rights are sought which are considered to impose a burden on the land is 8.51 ha out of a total area of 70.74 ha.

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