

M25 junction 10/A3 Wisley interchange TR010030

9.142 Applicant's Comments to Painshill Park Trust D11 Submission

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1. Introduction

- 1.1 This document sets out Highways England's comments on Painshill Park Trust's (PPT) Deadline 11 submission Written summaries of oral contributions at the CAH and Minutes of the meeting between Painshill Park Trust and Surrey Fire and Rescue [REP11-021].
- 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.
- 1.3 In order to assist the Examining Authority, Highways England has not provided comments on every point made by PPT, 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 comments on PPT's document *Written summaries of oral contributions at the CAH and Minutes of the meeting between Painshill Park Trust and Surrey Fire and Rescue Deadline 11 Submission*

- 2.1 At the Compulsory acquisition Hearing 1, Session 2 Part 2 on 16 June 2020 (CAH 1), the Examining Authority (the ExA) had asked PPT to confirm which land plots PPT has CA and/or TP objections to.
- 2.2 PPT's Deadline 11 submission includes a list of plots to which PPT referred to as the plots "Highways England is seeking to acquire by compulsory purchase". The list included in PPT's submission appears to only include Category 1 interests and as Highways England understands are the only plots that PPT has CA and/or TP objections to. For completeness the full list of plots in respect of which Highways England is seeking to exercise CA and/or TP powers is set out below:
- 2.3 Permanent Rights with Temporary Possession: Category 1: 8/5c; Category 2/3, 8/5b, 8/5c, 8/7.
- 2.4 Temporary Possession: Category 1: 6/18, 6/21a, 6/21b; Category 2/3: 6/18, 6.21a, 6/21b, 8/7a, 8/7b.
- 2.5 Title Acquisition: Category 1: 6/18a, 6/21, 7/29; Category 2/3: 6/18a, 6/21, 7/2, 7/3, 7/29, 8/8, 8/5, 8/5a, 8/7, 8/8.

3. Painshill Park Trust's Opening Statement

- 3.1 In their Deadline 11 submission [REP11-032] PPT stated that at the CAH 1 Michael Humphries QC's response on behalf of Highways England to PPT's opening statement was untrue and misleading. Highways England rejects this unfounded accusation. Michael Humphries QC's response on behalf of Highways England, explained Highways England's position on the matters raised by PPT at the CAH 1, which, to a large extent, is different to the position of PPT but was neither untrue nor misleading. Please see Highways England's Summary of Oral Case of CAH 1 [REP11-006] for further details of Highway's England's submissions at the CAH1.

- 3.2 In particular, Highways England takes a different view to PPT about the extent of the impact of the closure of the western access on the park in terms of access for emergency services and the effect on restoration of the park. At the CAH 1, Michael Humphries QC drew ExA's attention to Surrey Fire and Rescue Service email of 20 January 2020 at [REP3-063] and noted that there have been multiple exchanges between Highways England and PPT on this point and that Highways England disagrees with PPT's interpretation of SFRS' position on this. On restoration of the park, Highways England's position is that restoration of the park will still be possible using existing tracks in the park. This was accepted by PPT at the CAH 1, although noting that in their view it *"would take longer and would be significantly more difficult and expensive"* (REP11-032, paragraph 2 on page 5).
- 3.3 In their Deadline 11 Submissions, PPT stated (Point 3) that Highways England's statement that consultations with Historic England support the assessment that there is not substantial harm to the Grade 1 listed Garden or the Gothic Tower, is *"deliberately misleading"* as *"Historic England were not asked to comment on the financial impact of closing the western entrance..."*.
- 3.4 The assessment of impact of the Scheme was carried out in accordance with the relevant legislation and guidance. The scope of the assessment was consulted on as part of the scoping stage for the assessment and agreed with Historic England by reference to the Registered Park and Garden and designated heritage assets.
- 3.5 In relation to the following statement, *"In the course of his presentation Mr. Humphreys said that the extension of the route over Close Court Farm's land, which was needed to reach Painshill land, would run "across its lawn, grassed area next to the house"*. When plan 6 was looked at, the Inspectors were able to see that the route would run alongside the A3, well away from the house and that it could be screened by trees, Highways England comments as follows:
- 3.6 At an early stage in the development of the Scheme, it was proposed that the NMU route between the M25 and Painshill Interchange would be entirely on the south eastern side of the A3, passing across land owned by Court Close Farm, the Girl Guides New Farm. The proposed NMU route across Court Close Farm was going to be adjacent to the A3 but to achieve this, in conjunction with widening the A3 would have resulted in most of the trees between Court Close Farm and the A3 being lost. There was also a considerable difference in relative elevations of the NMU and A3, which would have required the construction of a substantial retaining wall in that area.

- 3.7 Following statutory and non-statutory consultation in 2018, the NMU route was moved away from the edge of A3 to the south eastern edge of the tree line, largely along the alignment of the gas main. This solution avoided the loss of the trees along the boundary of Court Close Farm but brought the NMU within direct sight of Close Court Farm, which the landowner regarded as an unacceptable security risk given its remote location. In following either of the above formations, whilst it would have been technically possible for the NMU route to have been modified to accommodate the very limited volume of traffic that the Trustees envisaged needing to access the western end of Painshill Park, the impact on Court Close Farm was unjustified.
- 3.8 In response to further consultation at the beginning of 2019, the Girl Guides also expressed considerable concern about the NMU passing through the Heyswood Campsite and at that point, the NMU was diverted across the new Redhill bridge reaching the Painshill Interchange via the north western side of the A3. In doing so, there became no justifiable reason to acquire any of the Close Court Farm land on a permanent basis in order to provide a secondary access to Painshill Park,
- 3.9 As the Trust notes, the new proposals were identified to the Painshill Park Trustees at the earliest opportunity on 29 March 2019. The Trust is also correct to state that there is no technical reason why a private access route to Painshill Park could not be created but that there would be no compelling case in the public interest to acquire land compulsorily from the owner of Court Close Farm to provide it. Given, the considerable damage to Close Court Farm trees and surrounding land that would result from the construction of the route, it was unlikely that the owner of Court Close Farm would consent to the proposals which led to Highways England's decision not to pursue the matter further as part of the Scheme, whilst explaining to the Trust that it was open to them to discuss a voluntary land agreement with the owners of Court Close Farm and Heyswood Campsite should they be willing to do so.

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