M25 JUNCTION 10 DEVELOPMENT CONSENT ORDER – TR010030

Application under section 138 of the Planning Act 2008 – Statutory Undertaker's Land: British Telecommunications ("BT")

1 Introduction

1.1 On 19 June 2019 Highways England (HE) submitted an application for a Development Consent Order ("DCO") to the Secretary of State for the M25 junction 10/ A3 Wisley interchange scheme (application reference TR010030). The application was accepted by the Planning Inspectorate on 17 July 2019.

1.2 The DCO includes the power for HE to extinguish the rights of, remove or reposition the apparatus belonging to statutory undertakers, and as such HE believes that section 138 is engaged by the DCO.

1.3 Section 138 applies to land if:

(a) there subsists over the land a relevant right; or

(b) there is on, under or over the land relevant apparatus.

1.4 Section 138 also provides that a DCO may include provision for the extinguishment of the relevant right, or the removal of the relevant apparatus only if the Secretary of State is satisfied that the extinguishment or removal is necessary for the purpose of carrying out the development to which the DCO relates.

1.5 HE is, therefore, making this application to the Secretary of State pursuant to section 138 of the Act.

1.6 The following documents were submitted as part of the DCO application in June 2019 and are relied upon to support this application under section 138:

1.6.1 Statement of Reasons;

1.6.2 Draft Development Consent Order;

1.6.3 Land Plans;

1.6.4 Works Plans; and

1.6.5 Book of Reference.

1.7 The Statement of Reasons sets out the justification for seeking compulsory purchase powers within the DCO.

2 Background

2.1 HE is the Strategic Highway Authority as defined in the Infrastructure Act 2015. HE is responsible for the maintenance and improvement of the trunk road and motorway network in England.

2.2 M25 junction 10 /A3 Wisley interchange is located on a busy and nationally important section of the strategic road network (SRN), in the county of Surrey, to the south-west of London. This is one of the busiest sections of road on the SRN with approximately 90,000 vehicles using the section each day. The A3 is a key radial route linking the M25 with London to the north-east and with the international Port of Portsmouth and the Surrey town of Guildford to the south-west.

2.3 The capacity of the existing junction configuration is a significant impediment to the smooth flow of traffic through the area, with significant congestion problems evident during most peak periods. Pressures on the interchange are set to increase further with significant housing and economic growth forecast over the next twenty years in this part of the south-east. If no action is taken, delays could increase by as much as 40% in peak times.

2.4 The Government's Road Investment Strategy, published in December 2014 included the need for improving the M25 junction 10/A3 Wisley interchange as a commitment for the 2020/21 period, reflecting the importance and priority the Government attaches to this scheme.

2.5 The DCO, if made, will include powers to enable:

2.5.1 alteration and upgrading of the existing M25 junction 10 roundabout, including elongation and widening of the circulatory carriageway, realignment, lengthening and widening of the junction entry and exit slip roads and demolition of redundant bridge structures;

2.5.2 provision of four new dedicated free-flow slip lanes at M25 junction 10, to enable left-turning traffic to pass through the junction unimpeded by traffic signals;

2.5.3 conversion of the existing hard shoulders on the M25 through junction 10, to provide an additional running lane for traffic in both directions, including emergency refuge areas and associated modifications to M25 gantries, signage and road markings;

2.5.4 widening of the A3 to dual four lanes between the Ockham Park junction and the Painshill junction, except where the A3 crosses over M25 junction 10, which will remain two lanes in each direction as at present;

2.5.5 widening of the westbound A245 Byfleet Road to dual three lanes between the Painshill junction and Seven Hills Road to the west;

2.5.6 a new dedicated slip lane at the Painshill junction, to enable traffic leaving the A3 northbound carriageway to join the westbound A245 Byfleet Road without having to enter the signalised roundabout;

2.5.7 improvement of the Ockham Park junction, including installation of traffic signals on and at the entries to the junction's gyratory carriageway and new and improved facilities and crossings for pedestrians, cyclists and horse-riders;

2.5.8 modification of A3 side road junctions, including improvement of the Old Lane junction, closure of the Wisley Lane junction and construction of a new road, bridging over the A3, to connect Wisley Lane with the A3 at the Ockham Park junction; and closure of the Elm Lane junction and provision of an alternative access to Elm Corner via Old Lane and an improved section of Byway Open to All Traffic;

2.5.9 closure of private accesses from the A3 mainline carriageways and the provision of substitute local access arrangements, including a substitute access for properties on the west side of the A3 connecting to Redhill Road and Seven Hills Road, a substitute access for properties on the edge of Painshill Park via the A3 southbound on-slip and a substitute access for properties at Wisley Common from Old Lane and crossing the A3 via the replacement Cockcrow overbridge;

2.5.10 provision of new and improved facilities for pedestrians, cyclists and horse riders, including a new 5.5km long route between the Ockham Park and Painshill junctions, new and replacement bridges for the benefit of non-motorised users to cross both the M25 and the A3, and new and upgraded public rights of way in the vicinity of the M25 junction 10/A3 Wisley interchange; and

2.5.11 extensive areas of habitat creation and enhancement and other environmental mitigation works, including measures to compensate for the impacts of the scheme on the Thames Basin Heaths Special Protection Area and on Bolder Mere, the provision of replacement common land and public open space and the provision of a new wildlife crossing over the A3 as part of a replacement Cockcrow overbridge.

3 Proposed Works

3.1 The works which are proposed over BT's land in connection with the Scheme include, in particular, the following:

Work No.65 — The diversion of telecommunication cables, media cables and equipment, as follows:

(a) to accommodate widening of the A3 southbound carriageway between the A3 Ockham Park junction and the A3 Painshill junction, to include the diversion of cables at M25 junction 10, in total approximately 4,825 metres in length, as shown on Sheets 1,2, 3, 4, 5, 6, 7 and 8 of the Works Plans;

(b) to accommodate widening of the A3 northbound carriageway at the junction between the A3 and Wisley Lane, in total approximately 70 metres in length, as shown on Sheets 2 and 3 of the Works Plans;

(c) to accommodate modifications to the entrance to RHS Wisley Garden at Wisley Lane, in total approximately 95 metres in length, as shown on Sheets 2 and 20 of the Works Plans;

(d) to accommodate widening of the A3 northbound carriageway in the vicinity of Footpath 17 Cockcrow overbridge, in total approximately 260 metres in length, as shown on Sheet 4 of the Works Plans;

(e) to accommodate widening of the A3 northbound carriageway between the access to Long Orchard Farm and the diverge for the A3 northbound off-slip at the A3 Painshill junction, in total approximately 800 metres in length, as shown on Sheets 6, 7 and 8 of the Works Plans;

(f) to accommodate construction of a new dedicated slip lane at the A3 Painshill junction connecting the A3 northbound off-slip directly with the A245 Byfleet Road westbound carriageway, in total approximately 120 metres in length, as shown on Sheet 8 of the Works Plans;

(g) to accommodate improvement and widening of the A245 westbound carriageway between the A3 Painshill junction and Old Byfleet Road, in total approximately 465 metres in length, as shown on Sheets 8 and 9 of the Works Plans; and

(h) to accommodate widening of the A245 eastbound carriageway, between the B365 Seven Hills Road junction and Old Byfleet Road, in total approximately 135 metres in length, as shown on Sheet 9 of the Works Plans.

4 Section 138 Application

4.1 As noted at paragraph 1.2 above, the DCO gives HE the power to extinguish the rights of, remove or reposition the apparatus belonging to statutory undertakers, including, but not limited to BT, over or within the order land. However, this is only permitted where the Secretary of State concludes that it is necessary for the purposes of carrying out the development to which the DCO relates.

4.2 The draft DCO includes provision to authorise the extinguishment of a relevant right, or the removal of relevant apparatus belonging to BT, in connection with the delivery of the scheme.

4.3 For the purposes of this application, it is HE's case that:

4.3.1 works associated with the scheme are necessary as described in Schedule 1 to the DCO and shown on the Works Plans to carry out the scheme;

4.3.2 the scheme could affect relevant rights and/or relevant apparatus vested in or belonging to BT which may be affected by the scheme;

4.3.3 standard protective provisions for Electronic Communication Code operators are included at Schedule 9, Part 2 of the DCO; and

4.3.4 the nature of the proposed works and inclusion of protective provisions in the DCO means that the Secretary of State can be satisfied that BT's rights, whilst potentially subject to interface, will not be affected to the detriment of its ability to carry out its undertaking.

4.4 The exercise of such powers will be carried out in accordance with the protective provisions at Schedule 9, Part 2 of the DCO.

4.5 Apparatus will not be removed, and rights will not be extinguished without a diversion being provided.

5 Conclusion

5.1 Given the need for the scheme (see in particular the needs case as set out in the Statement of Reasons), it is considered that there is a compelling case in the public interest for the inclusion of the compulsory purchase powers within the DCO.

5.2 For the reasons set out in this application, it is HE's position that, pursuant to section 138 of the Act, the Secretary of State can be satisfied that the power for HE to extinguish the rights of, remove or reposition the apparatus belonging to BT is necessary for the purpose of carrying out the Scheme, and that the test of section 138 has therefore been met.