

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

**9.156 Other environmental information
requested by the Secretary of State in
respect of his Replacement Land
proposals to inform the Appropriate
Assessment**

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Infrastructure Planning (Examination Procedure) Rules 2010

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M25 junction 10/A3 Wisley interchange

Development Consent Order 202[x]

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1. Introduction

1.1.1 This document sets out Highways England's response to the Secretary of State's (SoS) letter dated 20 January 2021.

1.1.2 This document should be read in conjunction with the following:

- 9.154 Applicant's comments in response to the submissions of the Royal Horticultural Society on Habitats Regulations Assessment matters;
- 9.155 Other information in respect of environmental effects requested by the Secretary of State in relation to his Replacement Land proposals;
- 9.157 the legal opinion written by Michael Humphries QC and Caroline Daly, both of Francis Taylor Building; and
- 9.158 Figure showing Highway's England's interpretation of the Secretary of State's Replacement Land proposals.

2. Secretary of State's proposals for reductions in replacement land

- 2.1.1 In paragraph 3 of his consultation letter of 4 November 2020, the Secretary of State sought comments on his consideration of a reduced provision of replacement land ("RL") to be provided in exchange for Special Category Land ("SCL").
- 2.1.2 In its response of 19 November 2020, Highways England expressed disagreement with any reduction in the amount of RL in the Order, but commented on what RL should be retained in the Order should the Secretary of State be minded to reduce the provision of RL. In paragraph 4 of the same consultation letter, the Secretary of State sought comments from the Applicant and other interested parties, as regards a reduction in the RL provision, in relation to biodiversity mitigation and/or enhancement measures proposed by the Applicant as part of the Development. The Secretary of State sought further comment from the Applicant regarding the significance of effects on species for which the Applicant intends that RL would contribute to the mitigation of habitat loss. The Secretary of State also requested clarification from the Applicant as to whether the conclusions of the Applicant's HRA rely in any way on the RL.
- 2.1.3 In his letter dated 20 January 2021 the Secretary of State is consulting of a reduced amount of RL to be included in the Order and has invited Highways England to provide 'information' on that consultation proposal, to supplement the information provided in its response of 19 November 2020. The reduced RL provision being considered by the Secretary of State is the same amount of RL suggested in his letter of 4 November 2020 but with one addition.
- 2.1.4 The Secretary of State has requested that Highways England provide additional 'information' including consideration of whether any new or different significant environmental effects of any nature would be likely as a consequence of the proposed amount of RL to be provided.

3. Other environmental information requested by the Secretary of State in respect of his consideration of Replacement Land to inform the Appropriate Assessment

3.1.1 Highways England produced a Statement to inform the appropriate assessment (SiAA) [REP4-018], in order to provide the necessary information to enable the Secretary of State to undertake an appropriate assessment with regards to the impacts of the Scheme on the Thames Basin Heaths Special Protection Area (SPA).

3.1.2 This response to the Secretary of State's (SoS) letter dated 20 January 2021, written by Paul Watts BSc (hons), MSc, CEng, is intended to provide 'information' for the SiAA [REP4-018] in order to enable the Secretary of State to undertake his appropriate assessment with regards to the impacts of the Scheme on the Thames Basin Heaths SPA, in light of the proposed reduction in replacement land as set out by the Secretary of State's consultation letter on the 20 January 2021.

Likely significant effects

3.1.3 There were seven likely significant effects (LSEs) considered in the SiAA, as set out in Section 7.2 [REP4-018]:

- Habitat loss;
- Degradation of habitats by changes in air quality;
- Degradation of habitats by changes in water quality;
- Disturbance by changes in noise;
- Disturbance by changes in recreational use;
- Disturbance by changes in lighting; and,
- Spread of non-native invasive plant species.

3.1.4 The replacement land was only relevant to one of these LSEs: disturbance to SPA qualifying bird species by changes in recreational use once the Scheme is operational. All other LSEs did not take the replacement land into consideration because the replacement land has no relevance to them, and therefore the other LSEs do not require reassessment in light of the proposed reduction in replacement land.

Disturbance by changes in recreational use

3.1.5 The package of replacement land that Highways England proposed as part of the DCO application was considered as embedded mitigation and therefore it was wholly appropriate to include it within the SiAA. However, it was not the key factor in determining the conclusion, as is clearly set out in paragraphs 7.2.115 and 7.2.116 of the SiAA [REP4-018]:

“Due to access to the SPA not improving, the number of recreational visitors will not increase as a result of the Scheme and may even reduce. Therefore, due to the provision of additional NMU routes away from the sensitive heathland areas and signage, it can be concluded with confidence that recreational usage of routes within the SPA will be further diluted and recreational pressure of sensitive heathland areas will not increase as a result of the operational Scheme.

Due to there being no increase in recreational disturbance as a result of the operational Scheme, there will be no adverse effects on the integrity of the SPA as a result of increased recreational disturbance once operational.”

- 3.1.6 As explained in paragraph 7.2.105 of the SiAA [REP4-018], the Scheme will not improve access or parking options for recreational users of the SPA. Therefore, the operation of the Scheme is not expected to result in changes to the numbers of visitors to the Thames Basin Heaths SPA or the way in which visitors gain access to the SPA.
- 3.1.7 As explained in response 2.4.12 on pages 25-29 of the Applicant’s response to ExQ2 [REP5-014] the Scheme will provide additional non-motorised user (NMU) routes through the wooded fringes of the SPA, drawing users away from the sensitive heathland areas where the SPA qualifying bird species occur. Please note that habitat requirements of the SPA qualifying species has been considered in great detail during the DCO examination (e.g. point 1 on page 8 of Highways England’s comments on RHS’s deadline 8 submission [REP9-003] and again in section 4.3 of Highways England’s comments on deadline 9 submissions [REP10-003]), and it can be concluded with confidence that the SPA qualifying species (Dartford warbler, nightjar and woodlark) only occur within the open heathland areas of Ockham and Wisley Common and do not use the adjacent woodland buffer areas for nesting, foraging or roosting.
- 3.1.8 The NMU routes can be seen on the figure in document 9.157: Figure showing Highway’s England’s interpretation of the reduced areas of Replacement Land being considered by the Secretary of State. As explained in paragraph 7.2.110 of the SiAA [REP4-018], the NMU route through Wisley Common will link to Park Barn Farm replacement land (PBF1-3), potentially drawing recreational users away from the SPA.
- 3.1.9 In addition, the existing pedestrian crossing at junction 10 will be replaced by an overbridge linking the SPA to the area of Ockham and Wisley Commons SSSI to the north of the M25 (the northeast quadrant of junction 10).
- 3.1.10 As stated in paragraph 7.2.108 of the SiAA [REP4-018], this overbridge would also link to the Chatley Farm replacement land (CF1-4).
- 3.1.11 The reduction in replacement land, as set out by the Secretary of State’s consultation letter dated 20 January 2021, would remove CF1-4 from the Scheme and therefore remove the potential for this parcel of replacement land to draw recreational users away from the SPA. However, this new overbridge would still provide potential circular routes along Pointers Road, even without access to CF1-4 and may still draw recreational users away from the SPA.

- 3.1.12 CF1-4 was included in the SiAA as embedded mitigation. The SiAA considered a number of factors when determining that there will be no adverse effects on the integrity of the SPA as a result of increased recreational disturbance once operational, and the inclusion of CF1-4 was not a key factor in this assessment. As access to the SPA and/or parking options are not being improved by the Scheme, and as to the provision of additional NMU routes will draw recreational users away from the sensitive heathland areas where the SPA qualifying bird species occur (and which are unaffected by the proposal being considered by the Secretary of State), it can be concluded with certainty that the Scheme will not lead to increased operational disturbance of the SPA qualifying bird species, even after taking the proposed reduction in replacement land into account.

3.2 Suite of compensatory measures

- 3.2.1 As explained in paragraph 8.1.5 of the Applicant's note for Action points 1, 2, 4 and 5 of the CAH [REP11-011], the replacement land does not form part of the compensatory measures for the SPA. Instead, the necessary compensation for the SPA is fully provided by the suite of compensatory measures, as set out in the HRA stages 3-5 [REP4-014].
- 3.2.2 Therefore, the reduction in replacement land, as set out in the Secretary of State's consultation letter dated 20 January 2021, will have no bearing on the suite of compensatory measures for the SPA.

4. Conclusion

- 4.1.1 The reduction in replacement land, as set out by the Secretary of State's consultation letter on the 20 January 2021, will cause no changes to the findings of the SiAA [REP4-018] with regards to any of the LSEs. There will be no adverse effect on the integrity of the SPA as a result of increased recreational disturbance when taking into account the proposed reduction in replacement land.
- 4.1.2 In addition, the replacement land does not form part of the compensatory measures for the SPA. Therefore, the reduction in replacement land, as set out by the Secretary of State's consultation letter dated 20 January 2021, will have no bearing on the suite of compensatory measures for the SPA.
- 4.1.3 Therefore, the reduction in replacement land, as set out by the Secretary of State's consultation letter on the 20 January 2021, will have no impact on the findings of the HRA, nor the suite of compensatory measures that have been proposed.

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