



The Planning Inspectorate
Yr Arolygiaeth Gynllunio

The Planning Act 2008

M25 Junction 10/A3 Wisley Interchange

Examining Authority's Report
of Findings and Conclusions

and

Recommendation to the Secretary of State for
Transport

Examining Authority

Gavin Jones BSc MA MA MRTPI Panel Lead

Grahame Gould BA MPhil MRTPI

12 October 2020

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OVERVIEW

File Ref: TR010030

The application, dated 19 June 2019, was made under section 37 of the Planning Act 2008 and was received in full by The Planning Inspectorate on 19 June 2019.

The applicant is Highways England.

The application was accepted for Examination on 17 July 2019.

The Examination of the application began on 12 November 2019 and was completed on 12 July 2020.

The development proposed comprises the following:

- alteration and upgrading of the existing M25 junction 10 roundabout, including: elongation and widening of the circulatory carriageway to increase capacity for right-turning traffic; realignment, lengthening and widening of the junction entry and exit slip roads; and demolition of redundant bridge structures;
- provision of four new dedicated free-flow slip lanes at M25 junction 10, to enable all left-turning traffic to pass through the junction unimpeded by traffic signals;
- 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 the M25's gantries, signage and road markings;
- 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, where the overbridge will remain as two lanes in each direction;
- new sign gantries on the A3 to provide variable speed limits and lane control between the Ockham Park and Painshill junctions;
- widening of the A245 Byfleet Road to dual three lanes between the Painshill junction and the Seven Hills Road junction to the west;
- provision of two new dedicated slip lanes at the Painshill junction, to enable traffic leaving the northbound A3 to join the westbound A245 and traffic leaving the eastbound A245 to join the northbound A3 to avoid having to use the roundabout;
- improvement of the Ockham Park junction, including installation of traffic signals at the entries to the roundabout and for new crossing facilities for pedestrians and cyclists;
- modification of A3 side road junctions, including: improvement on the Old Lane junction; closure of the Wisley Lane junction and construction of a new road bridging over the A3 to connect Wisley Lane directly with the A3 at 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;
- closure of private accesses from the A3 carriageways and the provision of substitute local access arrangements, including: a substitute access for properties between Redhill Road and Seven Hills Road (South) via a new highway running alongside the A3 northbound carriageway; 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;

- provision of new and improved facilities for pedestrians, cyclists and horse riders, including: a new 6.3 kilometre (km) long route along the A3 corridor 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 area around M25 junction 10;
- provision of 39.8 hectares (ha) of replacement common land (CL) and open space (OS) in exchange for that needing to be acquired for the Scheme; and
- extensive areas of habitat creation and enhancement and other environmental mitigation work 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 a new wildlife bridge crossing over the A3 as part of a replacement Cockcrow Overbridge; and the reinstatement of landscape and habitats on land used temporarily for Scheme construction.

Summary of Recommendation:

The Examining Authority recommends that the Secretary of State should make the Order in the form attached.

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ERRATA SHEET – M25 Junction 10 / A3 Wisley Interchange - Ref. TR010030

Examining Authority's Report of Findings and Conclusions and
Recommendation to the Secretary of State for Transport, dated 12 October
2020

Corrections agreed by the Examining Authority prior to a decision being
made

Page No.	Paragraph	Error	Correction
10	1.5.2	Regulation 8 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (SI 2263)	Regulation 10 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (SI 572)
11	1.5.2	Regulation 4(2)(a)	Regulation 6(2)(a)
11	1.5.3	Regulation 6(1)(b)	Regulation 8(1)(b)
11	1.5.4	Regulation 16	Regulation 17
12	1.8.3	A CL:aire Materials Management Plan may be required	A CL:aire Materials Management Plan
24	3.9.3	...Ripley, Ockham and Ripley...	...Wisley, Ockham and Ripley...
37	5.2.50	For cyclists currently there are on carriageway, dedicated northbound and southbound, narrow cycle lanes running the length of the A3 between Painshill and OPJ.	For cyclists currently there is a legal right to ride on carriageway of the A3 northbound and southbound, between Painshill and OPJ.
37	5.2.51	Red Bill bridge	Red Hill bridge
41	5.2.72	conform	confirm
42	5.2.79	The therefore considers that...	The ExA therefore considers that...
49	5.2.101	...the basis of the uplift in visitor numbers at RHS Wisley being of the order of 1,494,000 by 2024...	...the basis of an increase in visitor numbers that would result in an estimated total of 1,494,000 visitors per year by 2024...

Page No.	Paragraph	Error	Correction
50	5.2.106	...who would encounter longer trip lengths.	...who would encounter the largest increases in trip lengths (users from the north would also have longer trips).
50	5.2.107	...would involve the making longer journeys. ...the longer signed route....the shorter signed route...	...would involve making longer journeys. ...the longer distance signed route....the shorter distance signed route...
51	5.2.108	...influenced by factors such journey reliability...	...influenced by factors such as journey reliability...
61	5.2.153	That is because that drivers ...their being...	That is because drivers ...there being...
61	5.2.155	...that has been carried...	...that has been carried out...
62	5.2.157	...the Burnt Common which...	...the Burnt Common junction which...
67	5.2.179	Elm Land	Elm Lane
70	5.2.191	Effingham railway station	Effingham Junction railway station
71	5.2.192	Old Road	Old Lane
71	subheading	...means of access A3 southbound...	...means of access to the A3 southbound...
76	5.2.214	...much safer than the on-carriageway A3 northbound cycle lane.	... much safer than riding a bicycle on the carriageway of the A3 northbound.
76	5.2.215	...bridleway way provision...	...bridleway provision...
77	5.2.217	...the Applicant has been submitted that...	...the Applicant has submitted that...
86	5.3.37	...constructions works...	...construction works...
88	5.4.3		(add bullet point on third list item)
92	5.4.20	...proposed change 7...	...proposed change 9...
92	5.4.21	...proposed change 7...	...proposed change 9...
94	5.4.33	severe	serve
94	5.4.34	LRNS	LNRS (mistake occurs twice)

Page No.	Paragraph	Error	Correction
94	5.4.35	LRNS	LNRS
95	5.4.36	LRNS	LNRS
95	5.4.37	LRNS	LNRS
97	5.4.47	LRNS	LNRS
104	5.5.34	EXQ1 and ExQ2	ExQ1 and ExQ2
109	5.5.57	...also agrees considers that...	...also considers that...
113	5.6.21	draimnage	drainage
129	5.8.15	EXQ1	ExQ1
194	7.2.8	constrion	construction
197	7.2.24	Green	Green
205	8.5.9	Nexception	exception
210	8.6.5	residents group	residents' group
212	8.6.13	Aps'	APs'
213	8.7.6	...design ad associated land take...	...design and associated land take...
215	8.8.2	..provide 8.5ha of RL.	..provide around 8.5ha of RL.
223	8.8.38	The Applicant having sought...	The Applicant has sought...
224	8.8.42	...opens spaces...	...open spaces...
225	8.8.44	...making similar...	...making it similar...
225	8.8.45	...land plot 2/26...	...land plot 2/36...
229	8.8.61	SLC	SCL
229	8.8.63	Given that the ExA considers...	The ExA considers...
230	8.8.66	Wisley Land	Wisley Lane

Page No.	Paragraph	Error	Correction
230	8.8.69	We respect to...	With respect to...
231	8.8.71	...persons, if any entitled...	...persons, if any, entitled...
233	8.8.79	..31.35 RL..	..31.35ha of RL..
235	8.8.86	...amounting...	...amount...
247	8.9.15	SSC	SCC
248	8.9.20	NMU	NMU route (mistake occurs twice)
248	8.9.21	NMU	NMU route
248	8.9.24	NMU	NMU route
250	8.9.33	SCC's	SCC
251	fn 67	[REP11-005	[REP11-005]
252	8.9.43	..primarily concern...	..primarily relates to..
262	8.9.93	Notwithstanding that the ExA...	The ExA....
272	8.9.137	...SCC), which respectively...	...SCC) respectively...
275	8.8.151	In the event of planning permission not being granted for the Inset access.	[Delete sentence]
275	8.9.151	...the Inset access...	...the Inset A access...
277	8.9.156	day time	daytime
290	9.1.3	Whilst they still provide...	Whilst Model Provisions still provide...
290	9.1.3	...the following made Orders...	...the following Orders...
290	9.1.3	A38 Derby Junctions	(Draft) A38 Derby Junctions
312	10.3.1	arsing	arising

1. INTRODUCTION

1.1. INTRODUCTION TO THE EXAMINATION

1.1.1. The Application for M25 Junction 10/A3 Wisley Interchange (the Proposed Development) TR010030 was submitted by Highways England (the Applicant) to the Planning Inspectorate on 19 June 2019 under section 31 (s31) of the Planning Act 2008 (PA 2008) and accepted for Examination under s55 of the PA 2008 on 17 July 2019 [PD-001]¹.

1.1.2. The location of the Proposed Development is shown in the Location Plan [APP-005], and this plan remained unchanged throughout the course of the Examination. A summary scheme description for the Proposed Development is set out in the Applicant's Introduction to the Application and Scheme Description [APP-002] as follows:

- alteration and upgrading of the existing M25 junction 10 roundabout, including: elongation and widening of the circulatory carriageway to increase capacity for right-turning traffic; realignment, lengthening and widening of the junction entry and exit slip roads; and demolition of redundant bridge structures;
- provision of four new dedicated free-flow slip lanes at M25 junction 10, to enable all left-turning traffic to pass through the junction unimpeded by traffic signals;
- 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 the M25's gantries, signage and road markings;
- 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, where the overbridge will remain as two lanes in each direction;
- new sign gantries on the A3 to provide variable speed limits and lane control between the Ockham Park and Painshill junctions;
- widening of the A245 Byfleet Road to dual three lanes between the Painshill junction and the Seven Hills Road junction to the west;
- provision of two new dedicated slip lanes at the Painshill junction, to enable traffic leaving the northbound A3 to join the westbound A245 and traffic leaving the eastbound A245 to join the northbound A3 to avoid having to use the roundabout;
- improvement of the Ockham Park junction, including installation of traffic signals at the entries to the roundabout and for new crossing facilities for pedestrians and cyclists;
- modification of A3 side road junctions, including: improvement on the Old Lane junction; closure of the Wisley Lane junction and construction of a new road bridging over the A3 to connect Wisley Lane directly with the A3 at Ockham Park junction; and closure of

¹ References to documents in the Examination Library are enclosed in square brackets []. The full index of the Examination Library can be found in Appendix B of this Report.

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;

- closure of private accesses from the A3 carriageways and the provision of substitute local access arrangements, including: a substitute access for properties between Redhill Road and Seven Hills Road (South) via a new highway running alongside the A3 northbound carriageway; 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;
- provision of new and improved facilities for pedestrians, cyclists and horse riders, including: a new 6.3 kilometre (km) long route along the A3 corridor 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 area around M25 junction 10;
- provision of 39.8 hectares (ha) of replacement common land (CL) and open space (OS) in exchange for that needing to be acquired for the Scheme; and
- extensive areas of habitat creation and enhancement and other environmental mitigation work including: measures to compensate for the impacts of the Scheme on the Thames Basin Heaths Special Protection Area (TBHSPA) and on Bolder Mere; the provision of a new wildlife bridge crossing over the A3 as part of a replacement Cockcrow Overbridge; and the reinstatement of landscape and habitats on land used temporarily for Scheme construction.

1.1.3. During the course of the Examination the Applicant proposed a number of changes to the Proposed Development and these are described in more detail in Chapter 2 of this Report. The only change that would have any resultant effect on the original scheme description that is provided above was proposed change 3 that would reduce the eastbound A245 from three to two lanes for most of the length between Seven Hills Road junction and the Painshill roundabout.

1.1.4. The location of the Proposed Development is shown in the Location Plan [APP-005] and Land Plans [APP-006], final updated versions of which were received at Deadline 8 [REP8-002 and REP8-003 respectively]. The site of the Proposed Development lies within the administrative County of Surrey and is also within Elmbridge Borough Council (EBC) and Guildford Borough Council (GBC), and is wholly in England.

1.1.5. The legislative tests for whether the Proposed Development is a Nationally Significant Infrastructure Project (NSIP) were considered by the Secretary of State (SoS) for the Department of Communities and Local Government (DCLG) in his decision on 17 July 2019 to accept the Application for Examination in accordance with section 55 of PA2008 [PD-001].

1.1.6. On this basis, the Planning Inspectorate agreed with the Applicant's view stated in the application form [APP-003] that the Proposed Development

comes within the scope of the NSIP regime, with the individual alterations to the M25 and the A3 each of themselves amounting to an NSIP in their own right. That is because the Proposed Development would in part involve alterations to a motorway that would exceed 15ha in extent² and would also involve alterations to a highway, other than a motorway for which the speed limit is expected to be more than 50 miles per hour (mph), ie the A3, and the works affecting that road would exceed 12.5ha in area³. The proposed works to the M25 and the A3 respectively are within s22 of PA2008. Consequently, the Proposed Development requires development consent in accordance with s31 of PA2008. The Proposed Development therefore meets the definition of an NSIP set out in s14(1)(h) and s22 of PA2008.

1.2. APPOINTMENT OF THE EXAMINING AUTHORITY

- 1.2.1. On 11 September 2019, Gavin Jones and Grahame Gould were appointed as the Examining Authority (ExA) for the application under s61 and s65 of PA2008 [PD-004], with Gavin Jones appointed as Lead Member of the Panel.

1.3. THE PERSONS INVOLVED IN THE EXAMINATION

- 1.3.1. The persons involved in the Examination were:
- Persons who were entitled to be Interested Parties (IPs) because they had made a relevant representation (RR) or were a statutory party who requested to become an IP.
 - Affected Persons (APs) who were affected by a compulsory acquisition (CA) and/or temporary possession (TP) proposal made as part of the Application and objected to it at any stage in the Examination.

1.4. THE EXAMINATION AND PROCEDURAL DECISIONS

- 1.4.1. The Examination began on 12 November 2019 and was concluded on 12 July 2020. There has been an Examination period of eight months, inclusive of a two-month extension granted by the Secretary of State for Transport (SoST), using the powers available him under section 98(4) of PA2008 to change the Examination deadline. The change to the Examination deadline was announced by the SoST in a Written Ministerial Statement made on 13 May 2020, pursuant to section 98 of the PA2008 [OD-004]. The need to change the Examination deadline arose out of the postponement of the hearings originally scheduled for 24 to 26 March 2020 in response to the Coronavirus (COVID-19) pandemic.
- 1.4.2. The principal components of and events around the Examination are summarised below. A fuller description, timescales and dates can be found in Appendix A.

² The limit for motorways set within s22(4)(a) of PA2008

³ The limit applicable to roads such as the A3 set within s22(4)(b) PA2008

The Preliminary Meeting

- 1.4.3. On 15 October 2019, the ExA wrote to all Interested Parties (IPs), Statutory Parties and Other Persons under Rule 6 of the Infrastructure Planning (Examination Procedure) Rules 2010 (EPR) (The Rule 6 Letter) inviting them to the Preliminary Meeting (PM), an Issue Specific Hearing (ISH) on the draft Development Consent Order (dDCO) and an Open Floor Hearing (OFH) [PD-004a], outlining:
- the arrangements and agenda for the PM;
 - notification of hearings to be held in the early stage of the Examination;
 - agenda(s) for any early hearings;
 - an Initial Assessment of the Principal Issues (IAPI);
 - the draft Examination Timetable;
 - availability of Relevant Representations (RRs) and application documents; and
 - the ExA's procedural decisions.
- 1.4.4. The Preliminary Meeting (PM) took place on 12 November 2019 at The Mandolay Hotel, 36-40 London Road, Guildford, Surrey GU1 2AE. An audio recording [EV-001] and a note of the meeting [EV-001a] were published on the Planning Inspectorate National Infrastructure website⁴.
- 1.4.5. The ExA's procedural decisions (PDs) and the Examination Timetable took full account of matters raised at the PM. They were provided in the Rule 8 Letter [PD-005], dated 20 November 2019.

Key Procedural Decisions

- 1.4.6. Most of the PDs set out in the Rule 8 Letter related to matters that were confined to the procedure of the Examination and did not bear on the ExA's consideration of the planning merits of the Proposed Development. Further, they were generally complied with by the Applicant and relevant IPs. The decisions are detailed in Annex B of the Rule 8 Letter [PD-005] and so there is no need to reiterate them here.
- 1.4.7. In the Rule 8 the ExA requested that documentation be submitted at D7 for the Examination demonstrating that the transfer and registration of Special Category Land between the Applicant and Surrey County Council (SCC), arising from the exercise of the compulsory purchase powers associated with the original construction of the M25, had been completed. The process of transferring and registering the affected Special Category Land was not completed by the close of the Examination and this is something the ExA has reported more fully on Section 8.8 of this Report.

⁴<https://infrastructure.planninginspectorate.gov.uk/projects/South%20East/M25-junction-10A3-Wisley-interchange-improvement/>

Site Inspections

- 1.4.8. Site Inspections are held in PA2008 Examinations to ensure that the ExA has an adequate understanding of the Proposed Development within its site and surroundings and its physical and spatial effects.
- 1.4.9. Where the matters for inspection can be viewed from the public domain and there are no other considerations such as personal safety or the need for the identification of relevant features or processes, an Unaccompanied Site Inspection (USI) is held. Where an inspection must be made on land requiring consent to access, there are safety or other technical considerations and/or there are requests made to accompany an inspection, an Accompanied Site Inspection (ASI) is held.
- 1.4.10. The ExA held the following USIs:
- USI1, 13 November 2019. The purpose of this USI was for the ExA to familiarise itself with the main junctions affected by the Proposed Development [PD-005, Annex E];
 - USI2, 17 January 2020. For the ExA to observe morning peak traffic conditions on parts of the road network including the A3, Ripley High Street and at junction 10 of the M25 [EV-007]
 - USI3, 15 May 2020. For one member of the ExA to familiarise himself with:
 - the broader character of the common land (CL) and the open space (OS) at Ockham Common and Wisley Common; and
 - the character and locations of the proposed areas of Replacement Land that the Applicant has proposed for the CL and OS affected by the Proposed Development [EV-009].
- A site note providing a procedural record of each USI can be found in the Examination Library under the above references.
- 1.4.11. The ExA held the following ASI:
- ASI1, 14 January 2020 [EV-006]. The purpose of the ASI was to allow the ExA to view key features and sites following a pre-arranged route that had been determined in consultation with the Applicant and IPs.
- 1.4.12. The itinerary for the ASI can be found in the Examination Library [EV-006]. In drawing up the itinerary for the ASI comments on the route were received by a number of IPs, for example the Royal Horticultural Society (RHS) [REP2-043] and Mr Brown on behalf of Painshill Residents Association (PRA) [REP2-054]. The ASI was attended either fully or in part by, amongst others, representatives for the Applicant, SCC, the RHS, Painshill Park Trust (PPT), PRA, Girlguiding Greater London West County (GGLW) and Ockham Parish Council (OPC).
- 1.4.13. The ExA has had regard to the information and impressions obtained during its site inspections in all relevant sections of this Report.

Hearing Processes

- 1.4.14. Hearings are held in PA2008 Examinations in two main circumstances:
- To respond to specific requests from persons who have a right to be heard - in summary terms:
 - where persons affected by compulsory acquisition (CA) and/or temporary possession (TP) proposals (Affected Persons (APs)) request to be heard at a Compulsory Acquisition Hearing (CAH); and/or
 - where IPs request to be heard at an Open Floor Hearing (OFH).
 - To address matters where the ExA considers that a hearing is necessary to inquire orally into matters under examination, typically because they are complex, there is an element of contention or disagreement, or the application of relevant law or policy is not clear.
- 1.4.15. The ExA held a number of hearings to ensure the thorough examination of the issues raised by the Application.
- 1.4.16. Issue Specific Hearings (ISHs) under s91 of PA2008 were held at The Mandolay Hotel, 36-40 London Road, Guildford, Surrey GU1 2AE a location approximately 6 miles to the south-east of the nearest part of the Proposed Development and which is one of the main centres of population in the locality.
- 1.4.17. An ISHs was held on the subject matter of the draft DCO on:
- ISH1, 12 November 2019, ISH on draft DCO [EV-003];
- 1.4.18. An ISH was held over two days examining transportation, environmental and socio-economic matters:
- ISH2, 15 and 16 January 2020 [EV-005, EV-005a, EV-005b, EV-005c and EV-005d].
- 1.4.19. As a result of the Coronavirus (COVID-19) pandemic ISH3 and ISH4, the second ISH on transportation, environmental and socio-economic matters, the second ISH on the dDCO, and OFH2 that had all been scheduled for March 2020 were initially postponed [PD-015]. These were then replaced in the extended Examination Timetable by opportunities for further written submissions [PD-018]. Consequently, the ExA issued a third and fourth round of written questions (ExQ3 and ExQ4 respectively) [PD-016 and PD-021]. Accordingly, the ExA does not consider that any IPs were disadvantaged by ISH3, ISH4 not taking place.
- 1.4.20. The Compulsory Acquisition Hearing (CAH) that had been scheduled for March 2020 also had to be postponed. Therefore a 'virtual' CAH was held under s92 of PA2008. This consisted of seven separate sessions that took place between 16 and 18 June 2020 using Microsoft Teams:
- CAH1, 16 to 18 June 2020 [EV-010 to EV-027].

- 1.4.21. All persons affected by compulsory acquisition (CA) and/or temporary possession (TP) proposals (Affected Persons or APs) were provided with an opportunity to be heard. We also used these hearing sessions to examine the Applicant's case for CA and TP in the round.
- 1.4.22. An Open Floor Hearing (OFH) was held under s93 of PA2008 at The Mandolay Hotel, 36-40 London Road, Guildford, Surrey GU1 2AE on the evening of 12 November 2019 [EV-002]. All IPs were provided with an opportunity to be heard on any important and relevant subject matter that they wished to raise.
- 1.4.23. Due to the Coronavirus pandemic OFH2, that was scheduled for March 2020 had to be cancelled. Instead, written submissions of the oral cases that would have been put at OFH2 [PD-018] were invited at D10. Therefore, the ExA does not consider that any IPs were disadvantaged by OFH2 not taking place.

Written Processes

- 1.4.24. Examination under PA2008 is primarily a written process, in which the ExA has regard to written material forming the Application and arising from the Examination. All of this material is recorded in the Examination Library (Appendix B) and published online. Individual document references to the Examination Library (EL) in this report are enclosed in square brackets []. As all EL references have been provided and the documents are available to view online, this Report does not contain extensive summaries of all documents and representations, although full regard has been had to them in the ExA's conclusions. The ExA has considered all important and relevant matters arising from them.
- 1.4.25. Key written sources are set out further below.

Relevant Representations

- 1.4.26. A total of 62 relevant representations (RRs) were received by the Planning Inspectorate [RR-001 to RR-062]. All makers of RRs received the Rule 6 Letter and were provided with an opportunity to become involved in the Examination as IPs. All RRs have been fully considered by the ExA. The issues that they raise are considered in Chapters 5 to 10 of this Report.

Written Representations and Other Examination Documents

- 1.4.27. The Applicant and IPs were provided with opportunities to:
- make written representations (WRs) (Deadline (D) 1);
 - comment on WRs made the Applicant and other IPs (D2 and D3);
 - summarise their oral submissions at hearings in writing (D1, D3 and D11);
 - make other written submissions requested or accepted by the ExA; and
 - comment on documents issued for consultation by the ExA including:

- A Report on Implications for European Sites (RIES) [PD-013] published on 9 April 2020; and
- The ExA's schedule of changes to the draft Development Consent Order (dDCO) [PD-014] published on 9 April 2020.

1.4.28. All WRs and other examination documents have been fully considered by the ExA. The issues that they raise are considered in Chapters 5 to 10 of this Report.

Local Impact Report

1.4.29. A Local Impact Report (LIR) is a report made by a relevant local authority giving details of the likely impact of the Proposed Development on the authority's area (or any part of that area) that has been invited and submitted to the ExA under s60 PA2008.

1.4.30. One joint LIR was received by the ExA from EBC, GBC and SCC [REP2-047]. The LIR is considered in more detail in Chapters 5 and 6 and has been taken fully into account by the ExA in all relevant Chapters of this Report.

Statements of Common Ground

1.4.31. A Statement of Common Ground (SoCG) is a statement agreed between the Applicant and one or more IPs, recording matters that are agreed between them.

1.4.32. By the end of the Examination, the following bodies had concluded SoCGs with the Applicant (the final, signed and dated versions are emboldened):

- The Environment Agency (EA) [APP-139, REP3-003, REP5-004 and **REP8-023**];
- EBC [REP3-010, REP5-007 and **REP8-028**];
- GBC [REP3-011, REP5-008 and **REP8-029**];
- Historic England (HistE) [APP-140, REP3-004, REP5-005 and **REP8-024**];
- Natural England (NE) [APP-138, REP3-002, REP5-003 and **REP8-022**];
- RHS [REP3-013, REP5-010 and REP8-031]. Although REP8-031 is the final SoCG it was not signed by the RHS, and therefore the ExA affords this SoCG little weight;
- SCC [REP3-012, REP5-009, REP8-030 and **REP12-008**]; and
- Wisley Property Investments Limited (WPIL) [REP3-014 and **REP8-032**].

1.4.33. As stated by the Applicant [REP12-009] by the close of the Examination SoCGs have been agreed with no matters outstanding with EBC, GBC, EN, NE and HistE. Also, SoCGs have been agreed but with matters outstanding with SCC, RHS and WPIL. The SoCGs, other than the unsigned on by the RHS that is referred to above, have been taken fully into account by the ExA in all relevant Chapters of this Report.

Written Questions

- 1.4.34. The ExA asked four rounds of written questions.
- First written questions (ExQ1) [PD-006] were issued on 20 November 2019;
 - Second written questions (ExQ2) [PD-010] were issued on 18 February 2020;
 - Third written questions (ExQ3) [PD-016] were issued on 3 April 2020; and
 - Fourth written questions (ExQ4) [PD-021] were issued on 21 May 2020.
- 1.4.35. The following request(s) for further information and comments under Rule 17 of the EPR were issued on:
- 14 February 2020 [PD-009]. This was a request for further information from the Applicant regarding the proposed changes 1, 2, 4 and 5, and it also contained changes to the Examination timetable;
 - 3 April 2020 [PD-016] contained ExQ3 that were issued as a result of the postponement of the hearings that were due to be held during the week commencing 23 March 2020;
 - 2 July 2020 [PD-023]. Arising from CAH1, this sought responses from the Applicant, APs and IPs on potential options for Replacement Land; and
 - 2 July 2020 [PD-024]. This requested from the RHS a copy of Institute of Air Quality Management (IAQM) Guidelines that it had referenced in its response to ExQ4 [REP10-025], in order to ensure that this document was submitted into the Examination.
- 1.4.36. All responses to the ExAs written questions and requests for further information have been fully considered and taken into account in all relevant Chapters of this Report.

The ExA's approach to the acceptance of information

- 1.4.37. Throughout the Examination process the ExA has tried to take an accommodating and pragmatic approach towards accepting information submitted by various IPs and APs. This has especially been in light of the Coronavirus pandemic as we have recognised that there may have been difficulties in adhering to some of the later deadlines for this Examination. The ExA has endeavoured to ensure that all parties have had ample opportunity to state their cases.
- 1.4.38. Due to Coronavirus (COVID-19) pandemic, the Hearings that had been scheduled for March 2020 were either eventually cancelled, in the case of ISH3, ISH4 and OFH2, or postponed with respect to CAH1. The ExA therefore issued third and fourth rounds of written questions and invited participants who might have attended the cancelled OFH2 to submit their oral cases in writing in lieu of having been able to attend.

- 1.4.39. Throughout the Examination some IPs, the RHS in particular, have volunteered submissions that were not specifically sought by the ExA or which did not correspond with the information to be submitted at a particular deadline. Late in the Examination at D11, the RHS submitted a number of documents, for example its Heritage Report [REP11-037]. The ExA allowed some flexibility in the acceptance of documents due to the prevailing circumstances and therefore we accepted those D11 documents as we had with other submissions throughout the Examination.
- 1.4.40. However, with there only being a week between D11 and the final Examination deadline of D12, we recognise that the Applicant and other IPs will have had very limited time to respond to any D11 submissions, while the ExA has not had the opportunity to raise any questions it might have considered appropriate relating to the D11 submissions. The SoST may therefore wish to satisfy himself that the Applicant and any other relevant IPs have had sufficient opportunity to comment on the submissions made at D11, in particular, those from the RHS. A table of matters on which the SoST may wish to seek further clarification on is provided in Chapter 10 of this Report.

Requests to Join and Leave the Examination

- 1.4.41. During the Examination there was a change of ownership of WPIL, having been acquired by Taylor Wimpey. However, WPIL continued to be treated as an AP.
- 1.4.42. During the Examination, as a consequence of discussion at hearings and/or discussions between relevant IPs/APs and the Applicant, the following persons wrote to the ExA to inform it that their issues were settled and their representations were withdrawn:
- At D12 Affinity Water Limited withdrew its RR [RR-007], stating that it was satisfied that the Proposed Development did not have a serious detriment on its ability to carry out its undertaking [REP12-045].
 - At D12 National Grid Electricity Transmission PLC wrote to withdraw the holding objection it had made in its WR [REP1-015], confirming that protective provisions had been agreed with the Applicant [REP12-046].

1.5. ENVIRONMENTAL IMPACT ASSESSMENT

- 1.5.1. The Proposed Development is development for which an Environmental Impact Assessment (EIA) is required (EIA development).
- 1.5.2. On 8 December 2017 the Applicant submitted a Scoping Report to the Secretary of State (SoS) under Regulation 8 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (SI 2263) (as amended) (the EIA Regulations) in order to request an opinion about the scope of the Environmental Statement (ES) to be prepared (a Scoping Opinion). On 22 January 2018 the Planning Inspectorate

provided a Scoping Opinion. Therefore, in accordance with Regulation 4(2)(a) of the EIA Regulations, the Proposed Development was determined to be EIA development, and the application was accompanied by an ES.

- 1.5.3. It follows that the Applicant is deemed to have notified the Secretary of State under Regulation 6(1)(b) of the EIA Regulations that it proposes to provide an ES in respect of the Project.
- 1.5.4. On 20 September 2019 the Applicant provided the Planning Inspectorate with certificates confirming that s56 and s59 of PA2008 and Regulation 16 of the EIA Regulations had been complied with.
- 1.5.5. Consideration is given to the adequacy of the ES and matters arising from it in Chapters 5 to 7 of this Report.

1.6. HABITATS REGULATIONS ASSESSMENT

- 1.6.1. The Proposed Development is development for which Habitats Assessment Regulations (HRA) Reports have been provided to accompany the application [APP-043] and [APP-044] and supporting Annexes [APP-040], [APP-041], [APP-042].
- 1.6.2. Consideration is given to the adequacy of the HRA Report, associated information and evidence and the matters arising from it in Chapters 6, 7, 9 and 10 of this Report.

1.7. UNDERTAKINGS, OBLIGATIONS AND AGREEMENTS

- 1.7.1. The ExA is aware that there were side agreements being negotiated. However, by the end of the Examination, no fully completed undertakings, obligations or agreements had been submitted into the Examination.

1.8. OTHER CONSENTS

- 1.8.1. The Application documentation, in particular APP-020, and questions during this Examination have identified the following consents that the Proposed Development has obtained or must obtain, in addition to Development Consent under PA2008. The latest position on these is recorded below.
 - A badger licence from Natural England (NE) under section 10 (s10) of the Protection of Badgers Act 1992;
 - European Protected Species (EPS) mitigation licences (in respect of bats) from NE required under regulation 55 of the Conservation of Habitats and Species Regulations 2017. The Statement of Common Ground (SoCG) with NE [REP8-022] records that draft licences for bats were provided to NE for review;
 - Water Impoundment licence under s25 of the Water Resources Act, for which the Environment Agency (EA) is the consenting body; and
 - Section 38 consent under the Commons Act 2006.

1.8.2. APP-020 was not updated by the Applicant during the Examination and at the close of Examination the ExA has not been presented with any evidence that the above licences have been approved. We understand that NE does not normally grant such licences under permission for the relevant development has been granted. In relation to the outstanding consents recorded above, the ExA has considered the available information bearing on these and, without prejudice to the exercise of discretion by future decision-makers, has concluded that there are no apparent impediments to the implementation of the Proposed Development, should the SoS grant the Application.

1.8.3. In addition, the Applicant has noted in APP-020, that it has not identified a need to obtain the following other consents that are subject to the provisions of the PA2008, but that this will not be known definitively until detailed design has been completed and a final contractor has been appointed. Therefore, the following licences/consents may be required:

- A licence from NE under s16 of the Wildlife and Countryside Act 1981;
- A Groundwater Activity Permit from the EA under the Environmental Permitting (England and Wales) Regulations 2016;
- A water discharge activity permit from the EA under the Environmental Permitting (England and Wales) Regulations 2016;
- A waste environmental permit from the EA under the Environmental Permitting (England and Wales) Regulations 2016;
- A water abstraction licence from the EA under s24 of the Water Resources Act 1991;
- Consents from the EA under the Control of Pesticides Regulations 1986;
- Any EPS licences under the Conservation of Habitats and Species Regulations 2017, should any EPS be found whilst undertaking works;
- Any permit from the EA under the Environmental Permitting (England and Wales) Regulations 2016 should any contaminated material or groundwater be encountered;
- Consents from the local authority under s61 of the Control of Pollution Act 1974 if required;
- Licences from the EA under s26, s27A or s30 of the Salmon and Freshwater Fisheries Act 1975;
- Any other waste permits required by the EA under the Environmental Permitting (England and Wales) Regulations 2016;
- Any notifications required by the EA under the Waste (England and Wales) Regulations 2011;
- Any waste carrier or transfer licences that may be required under the Control of Pollution (Amendment) Act 1989;
- Any consignment note or notification under the Hazardous Waste (England and Wales) Regulations 2005;
- Any exemptions required under the Pollution Prevention and Control Act 1999 and Environmental Permitting Regulations 2016;
- A CL:AIRE Materials Management Plan may be required;
- A water discharge activity permit under the Environmental Permitting (England and Wales) Regulations 2016;
- A trade effluent consent under s118 of the Water Industry Act 1991;

- A water abstraction licence from the EA under s24 of the Water Resources Act 1991 (as amended) and the Water Resources (Abstraction and Impounding) Regulations 2006;
- Any consents under s110A of the Water Industry Act 1991;
- A permit from the EA under Part B of the Environmental Protection Regulations 2010, Pollution Prevention and Control Act 1999, the Pollution (Prevention and Control)(England and Wales) Regulations 2000 (as amended) and the Environmental Permitting (England and Wales) Regulations 2016;
- Notification to the Health and Safety Executive about the commencement of construction in accordance with the Construction (Design and Management) Regulations 2015;
- Approvals under the Health and Safety at Work Act 1974;
- Compliance with duties under the Regulatory Reform (Fire Safety) Order 2015;
- Any temporary traffic regulation orders that may be required under the Road Traffic Regulation Act 1984;
- Any permits required under the Traffic Management Act 2004 and the New Roads and Street Works Act 1981;
- Any permissions under s177 of the Highways Act 1980; and
- Any permits required for the transportation of abnormal or indivisible loads under the Road Traffic Act 1988, The Road Vehicles (Authorised Weight) Regulations 1988, the Road Vehicles (Construction and Use) Regulations 1986 and the Road Vehicles (Authorisation of Special Types)(General) Order 2003.

1.9. STRUCTURE OF THIS REPORT

1.9.1. The structure of this report is as follows:

- **Chapter 1** introduces the reader to the Application, the processes used to carry out the Examination and make this Report.
- **Chapter 2** describes the site and its surrounds, the Proposed Development, its planning history and that of related projects.
- **Chapter 3** records the legal and policy context for the SoS' decision.
- **Chapter 4** sets out a summary of the planning issues that arose from the Application and during the Examination.
- **Chapter 5** examines the relevant planning issues in more detail and concludes on each matter in turn.
- **Chapter 6** considers effects on European Sites and Habitats Regulations Assessment (HRA).
- **Chapter 7** sets out the balance of planning considerations arising from Chapters 4, 5 and 6 in the light of the factual, legal and policy information in Chapters 1 to 4.
- **Chapter 8** sets out the ExA's examination of Compulsory Acquisition (CA) and Temporary Possession (TP) proposals.
- **Chapter 9** considers the implications of the matters arising from the preceding chapters for the Development Consent Order (DCO).
- **Chapter 10** summarises all relevant considerations and sets out the ExA's recommendation to the SoST.

1.9.2. This report is supported by the following Appendices:

- **Appendix A** – the Examination Events.
- **Appendix B** – the Examination Library.
- **Appendix C** – List of Abbreviations.
- **Appendix D** – the ExA's Recommended DCO (rDCO)

2. THE PROPOSAL AND THE SITE

2.1. THE APPLICATION AS MADE

- 2.1.1. A summary of the application has been provided in Chapter 1 of this Report. Full details of the Proposed Development are provided in Schedule 1 of the dDCO [REP12-002] and are shown in the submitted plans including the Scheme Layout Plans [REP8-009 and REP8-010] and the Engineering Drawings and Sections [REP8-011].

2.2. THE APPLICATION AS EXAMINED

- 2.2.1. On two occasions requests were received from the Applicant to make changes to the application. The first request for changes was formally made on 11 February 2020 [REP4-013] and proposed the following changes to the submitted application:
- Change 1 – extension of the green element on Cockcrow Bridge;
 - Change 2 – incorporation of two toad underpasses at Old Lane;
 - Change 3 – removal of part of the proposed improvements to the A245 eastbound between the Seven Hills Road and Painshill junctions;
 - Change 4 – amendments to Saturday construction working hours;
 - Change 5 – diversion of a new gas main crossing of the M25; and
 - Change 6 – amendments to the proposed speed limit at Elm Lane.
- 2.2.2. The ExA had regard to the nature and the scale of proposed changes 2 to 6 and noted the non-statutory targeted consultation and notification that the Applicant had undertaken in regard to proposed changes 1 to 6. Due to the nature and scale of the proposed changes 2 to 6 the ExA considered that they were, either alone or cumulatively, non-material changes [PD-012]. Furthermore, the ExA did not consider that they would engage the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 (the CA Regulations), as the relevant landowners had consented to the inclusion of additional land as defined in the CA Regulations. Taking all of this into account the ExA agreed to accept proposed changes 2 to 6 into the Examination in its letter dated 27 February 2020 [PD-012].
- 2.2.3. With respect to change 4, some of the documentation submitted at D4 referred to the proposed change covering an extension of construction working hours on Mondays to Fridays from 07:30 to 18:00 to 07:00 to 19:00, while the Applicant's covering letter [REP4-013] only referred to the proposed change concerning the construction working hours for Saturdays. We sought clarification about what change 4 entailed [PD-009] and in REP4a-001 the Applicant clarified that change 4 should be examined on the basis of it only being for an amendment to the construction working hours on Saturdays. The ExA has therefore examined change 4 as only concerning a change to the construction working hours on Saturdays from 08:00 to 13:00 to 07:00 to 19:00.

- 2.2.4. Having notified the ExA at D6, the Applicant formally submitted a second change request on 9 April 2020 and proposed the following three changes to the application [REP7-016]:
- Change 7 – optional alternative private means of access to Court Close Farm through Heyswood Campsite;
 - Change 8 - Old Lane and Elm lane visibility splays; and
 - Change 9 – Wisley airfield (the airfield) construction worksite.
- 2.2.5. Proposed change 1, the extension to the green element of Cockcrow Bridge was subsequently accepted into the Examination in the ExA's letter dated 24 April 2020 [PD-017]. Along with proposed change 1, proposed changes 7 to 9 were accepted into the Examination [PD-017]. Due to the nature and scale of the proposed changes 1 and 7 to 9 the ExA was content that they were, either alone or cumulatively, also non-material and would not engage the CA Regulations.
- 2.2.6. As set out in the SoCGs with EBC [REP8-028], GBC [REP8-029] and SCC [REP12-008] there were no substantive objections to Changes 1 to 6, or with Changes 8 and 9. Furthermore, the SoCG with NE [REP8-022] confirmed that NE agreed it was content with the non-material proposed changes.
- 2.2.7. However, it is important to note that proposed change 7 relates to an alternative option regarding the private means of access through the Heyswood Campsite to the access to Court Close Farm. The means of access that was originally proposed as part of the submitted application remains an option for the ExA to consider.

2.3. RELEVANT PLANNING HISTORY

- 2.3.1. The following recent planning applications and appeals are either within or in very close proximity to the Proposed Development:

Feltonfleet School

- 2.3.2. At Feltonfleet School planning permission has been granted by EBC for some new school buildings and related development under application reference 2017/2106 [APP-061]. Part of the development subject to this planning permission is within the boundary for the Proposed Development.

Former San Domenico Hotel

- 2.3.3. A planning appeal in relation to a planning application for the development of a Petrol Filling Station with associated retail unit⁵ was submitted by the landowner for this site. By the close of the Examination that appeal had not been determined. The whole of the former San Domenico hotel site is within the boundary for the Proposed Development.

⁵ Appeal reference: APP/K3605/W/19/3235260 [REP1-030]

Former Wisley Airfield

- 2.3.4. This planning application (15/P/00012) and the subsequent appeal (APP/Y3615/W/3159894) was for the provision of a new settlement, which amongst other things, included up to 2,068 dwellings, an employment area and an access to the Ockham Park junction. The appeal was dismissed on 13 June 2018 [REP1-048]. Parts of the former Wisley airfield are within the site for the Proposed Development.

RHS Wisley

- 2.3.5. At RHS Wisley planning permissions have been granted under references 16/P/00976 and 16/P/01080 for new buildings, extensions to buildings and alterations to the parking area to accommodate an expansion in visitor numbers and the science, education and research activities that the RHS undertakes. Parts of RHS Wisley are within the site for the Proposed Development.

2.4. OTHER DEVELOPMENTS AND MADE DCOs

- 2.4.1. Chapter 16 of the ES [APP-061] assess cumulative effects associated with the Proposed Development. As set out in Tables 16.7 to 16.10 of ES Chapter 16 the other developments assessed for cumulative effects during both the construction and operational phases of the Proposed Development are as follows:
- M25 junction 10–16 Smart Motorway Programme;
 - The former Wisley airfield;
 - Land to the east of South Cottage, White Horse Lane, Ripley;
 - RHS Wisley;
 - Land at Garlick's Arch;
 - Land for new north facing slip roads to/from A3 at Send Marsh/Burnt Common;
 - Former San Domenico Restaurant;
 - Enfin, Painshill Farm, Portsmouth Road, Cobham;
 - Feltonfleet School, Byfleet Road, Cobham;
 - Land at Chippings Farm, Portsmouth Road, Cobham;
 - Land surrounding West Hall, Parvis, Road, West Byfleet;
 - Broakoaks, Parvis Road, West Byfleet;
 - Land to the north of Old Woking Road and east of Station Approach, West Byfleet;
 - Camphill Tip, Camphill Road, West Byfleet;
 - Land to the south of Murrays Lane and Rectory Lane, Byfleet;
 - Byfleet Road, New Haw;
 - Central Veterinary Laboratory, Woodham Lane, New Haw.
- 2.4.2. ES Chapter 16 [APP-061] considers that there would be the potential for beneficial cumulative effects at the operational stage with the M25 junction 10-16 Smart Motorway Scheme, Wisley airfield and RHS Wisley developments.
- 2.4.3. The other NSIP proposals and made DCOs that the Applicant has referred to are listed in Chapter 9 of this Report.

3. LEGAL AND POLICY CONTEXT

3.1. THE PLANNING ACT 2008

- 3.1.1. The Planning Act 2008 (as amended) (PA2008) is the principal legislation governing the examination of an application for a Nationally Significant Infrastructure Project (NSIP). The Proposed Development qualifies as an NSIP as it falls within s22 of PA2008. Furthermore, s104 of PA2008 has effect as the National Policy Statement on National Networks (NPSNN) applies.
- 3.1.2. Section 104(3) of PA2008 requires the SoS to decide the application in accordance with any relevant NPSs, except to the extent that one or more of the exceptions in subsections 104(4) to (8) apply. This creates a presumption in favour of NPS compliant development. The exceptions are if the SoS is satisfied that deciding the application in accordance with any National Policy Statement (NPS) would lead to: the United Kingdom being in breach of any of its international obligations, the SoS being in breach of any duty imposed on the SoS by or under any enactment, would be unlawful by virtue of any enactment, the adverse impact of the proposed development would outweigh its benefits or if the SoS is satisfied that any condition prescribed for deciding an application otherwise than in accordance with a NPS is met.

3.2. NATIONAL POLICY STATEMENT

- 3.2.1. The relevant NPS for this application is the NPSNN which was designated on 14 January 2015. Accordingly, s104 of PA2008 applies.
- 3.2.2. The NPSNN sets out national policy for roads and other transport infrastructure. Relevant sections of the NPSNN are considered in this Report.

3.3. EUROPEAN LAW AND RELATED UK REGULATIONS

The UK's departure from the European Union

- 3.3.1. The UK left the European Union (EU) on 31 January 2020. The European Union (Withdrawal Agreement) Act of January 2020 gave effect to the transition arrangements until 31 December 2020. This provides for EU law to be retained as UK law unless excepted and also to bring into effect obligations which may come into force during the transition period.
- 3.3.2. This Report has been prepared on the basis of retained law and references in it to European terms such as 'Habitats' have also been retained for consistency with the Examination documents. It will be a matter for the SoST to satisfy themselves as to the position on retained law, obligations and equivalent terms at the point of their decision.

The Habitats Directive

- 3.3.3. Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (the Habitats Directive) is built around the twin

pillars of the Natura 2000 network of protected sites and the system of species protection.

3.3.4. In respect of the terrestrial environment and territorial waters out to twelve nautical miles the Habitats Directive is transposed into UK law through The Conservation of Habitats and Species Regulations 2017.

3.3.5. The relevance of the Habitats Directive to this application is set out in Chapter 6 of this Report, and elsewhere as required.

The Birds Directive

3.3.6. Council Directive 2009/147/EC on the conservation of wild birds (the Birds Directive) is a comprehensive scheme of protection for all wild bird species naturally occurring in the EU. Amongst other matters, it requires the classification of areas as Special Protection Areas (SPAs) comprising the most suitable territories for these species.

The Habitats Regulations

3.3.7. The Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations) transpose the Habitats Directive into UK law.

The Water Framework Directive (WFD)

3.3.8. The WFD is transposed into UK law in England and Wales by The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017. It establishes a framework for water policy, managing the quality of receiving waters. Amongst other objectives, it requires EU Member States to prevent the deterioration of surface water bodies, groundwater bodies and their ecosystems and improve the quality of surface water and groundwater bodies by progressively reducing pollution and by restoration.

The Air Quality Directive (AQD)

3.3.9. Directive 2008/50/EC of the European Parliament on ambient air quality and cleaner air for Europe (the Air Quality Directive) entered into force in June 2008. It sets limit values for compliance and establishes control actions where the limit values (LV) are exceeded for ambient air quality with respect to sulphur dioxide (SO₂), nitrogen dioxide (NO₂), mono-nitrogen oxides (NO_x), particulate matter (PM₁₀ and PM_{2.5}), lead, benzene and carbon monoxide. The Air Quality Standards Regulations 2010 give direct statutory effect to the AQD.

The UK Air Quality Strategy

3.3.10. The UK National Air Quality Strategy was published in 1997, the Air Quality Strategy for England, Scotland, Wales and Northern Ireland was published in 2000 and updated in 2007 and 2011, and the Clean Air Strategy was published in 2019. These establish the UK framework for air quality improvements, set out a long-term vision for improving air quality

in the UK and offer options to reduce the risk to health and the environment from air pollution.

3.4. OTHER RELEVANT LEGAL PROVISIONS

The Wildlife and Countryside Act 1981

- 3.4.1. The Wildlife and Countryside Act 1981 is the primary legislation which protects animals, plants and certain habitats in the UK. It provides for the notification and confirmation of Sites of Special Scientific Interest (SSSIs) and contains measures for their protection and management

Natural Environment and Rural Communities Act 2006

- 3.4.2. The Natural Environment and Rural Communities Act 2006 (NERCA2006) makes provisions for bodies concerned with the natural environment and rural communities. It includes a duty that every public body must, in exercising its functions, have regard so far as is consistent with the proper exercising of those functions, to the conservation of biodiversity. The ExA has had regard to NERCA2006 and biodiversity in all the relevant Chapters of this Report.

The Equalities Act 2010

- 3.4.3. The Equalities Act 2010 established a duty (the public sector equality duty (PSED)) to eliminate discrimination, advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not. The PSED is applicable to the ExA in the conduct of this Examination and reporting and to the SoS in decision-making.

The UK Biodiversity Action Plan

- 3.4.4. The UK Biodiversity Action Plan lists priority habitats and species.

Other relevant biodiversity legislation

- 3.4.5. The following legislation contains relevant provisions that must be met and which are considered in this Report:
- Countryside and Rights of Way Act 2000 (CRoW Act);
 - The Environment Act 1995;
 - The Hedgerow Regulations 1997;
 - Protection of Badgers Act 1992;
 - Weeds Act 1959;
 - Wild Mammals (Protection) Act 1996;
 - The Climate Change Act 2008 (CCA2008); and
 - Climate Change Act 2008 (2050 Target Amendment) Order 2019 (the 2019 Order)).

3.5. MADE DEVELOPMENT CONSENT ORDERS

- 3.5.1. A list of the made DCOs that the Applicant has taken account of, as listed in the EM [REP12-008], is provided in Chapter 9 of this Report. This list also includes Orders that are still under consideration with the relevant SoS and are yet to be determined.

3.6. TRANSBOUNDARY EFFECTS

- 3.6.1. The assessment of impacts in other European Economic Area (EEA) States is required in accordance with Regulation 32 of the 2017 EIA Regulations and advice contained within the Planning Inspectorate's Advice Note Twelve: Transboundary Impacts and Process.
- 3.6.2. Under Regulation 32 of the EIA Regulations the Planning Inspectorate on behalf of the SoS has concluded that the Proposed Development is unlikely to have a significant effect either alone or cumulatively on the environment in another EEA State [OD-001].

3.7. OTHER RELEVANT POLICY STATEMENTS

- 3.7.1. As recorded in the Applicant's Planning Statement [APP-133] and the joint LIR [REP2-047], the following other policies give rise to important and relevant considerations for the SoST include the following:

Regional policies

South East Plan 2009

- 3.7.2. The South East Plan was adopted in 2009 and was substantially revoked in 2013. However, Policy NRM6 which deals with the TBHSPA remains extant.

Enterprise M3 Local Economic Partnership

- 3.7.3. Both Guildford and Elmbridge Boroughs are within the Enterprise M3 Local Economic Partnership (LEP) area. The LEP published its Strategic Economic Plan in 2013 and this identifies Guildford as one of the area's growth towns. As reported in REP2-047 one of the three priorities for the area under the connectivity theme is to: *"create new capacity on the A3 around Guildford where congestion affects the economic performance and profile of this important growth town."*

3.8. THE NATIONAL PLANNING POLICY FRAMEWORK

- 3.8.1. The National Planning Policy Framework (NPPF) was revised in February 2019. Paragraph 5 of the NPPF states that: *"The Framework does not contain specific policies for nationally significant infrastructure projects. These are determined in accordance with the decision-making framework in the Planning Act 2008 (as amended) and relevant national policy statements for major infrastructure, as well as any other matters that are relevant (which may include the National Planning Policy Framework)."*

- 3.8.2. However, the NPPF has been taken into account in this Report as being both important and relevant where it is relevant to do so.

3.9. THE DEVELOPMENT PLAN

- 3.9.1. The Applicant's Planning Statement [APP-133] and the joint LIR [REP2-047] set out the Development Plans in force in the Local Authority areas within which the Proposed Development and contains an assessment of the relevant Development Plan policies. The following comprises the Development Plan:

Elmbridge Borough Council

Elmbridge Core Strategy 2011 (ECS)

- Policy CS13 states that new residential development that could have an impact on the Thames Basin Heaths SPA will be required to demonstrate that adequate measures are in place to mitigate any potential adverse effects;
- Policy CS14 states that the Council will protect, enhance and manage a diverse network of multi-function green infrastructure;
- Policy CS15 seeks to avoid loss, and contribute net gain, to biodiversity;
- Spatial Policy CS17 sets out the environmental characteristics of the Borough and states that particular attention should be given to the design of development that could have an effect on heritage assets;
- Policy CS25 seeks to promote improvements to sustainable travel and accessibility to services, including promoting schemes that will help deliver the objectives of the most recent Local Transport Plan;
- Policy CS26 seeks to ensure that the risk of flooding for new development is minimised and flood risk is not increased elsewhere.

Elmbridge Local Plan Development Management Plan 2015 (ELPDMP)

- Policy DM5, Part (a) relates to noise, odour and light; Part (c) relates to designated Air Quality Management Areas; Part (d) relates to water quality;
- Policy DM6 seeks to ensure that proposals include landscaping, tree protection and/or planting that amongst other matters reflects the local landscape and contributes to biodiversity;
- Policy DM12 states that planning permission will be granted for development that protects, conserves and enhances the Borough's historic environment;
- Policy DM17 states that inappropriate development in the Green Belt will be refused unless very special circumstances can be demonstrated that will clearly outweigh the harm;
- Policy DM20 promotes the protection of Local Green Space from inappropriate development; and
- Policy DM21 states that all new development will be expected to preserve, manage and where possible enhance existing habitats, protected species and biodiversity.

Guildford Borough Council

Guildford Local Plan (Saved Policies) 2003 (GBLP)

- Policy HE12 states that planning permission will not be granted for development that would detract from the character or appearance of a park or garden of special historic interest or its setting.

Guildford Borough Local Plan: Strategy and Sites 2015-2034, adopted April 2019 (GBLPSS)

- Policy S2 sets out the housing targets for the plan period, and this included Wisley airfield;
- Policy D2 sets out objectives for the prudent use of natural resources;
- Policy D3 details the Council's approach to ensuring the historic environment is conserved and enhanced;
- Policy PS5 sets out the approach to the protection of the Thames Basin Heaths SPA;
- Policy CS15 states the Council's objective of seeking to avoid the loss and contribute towards net gain of biodiversity;
- Policy ID1 identifies that infrastructure necessary to support new development will be provided and available when first needed;
- Policy ID2 specifies the commitment of GBC to working with Highways England (HE) to facilitate major, long-term improvements to the A3 and the M25;
- Policy ID4 states that the Council will maintain, conserve and enhance biodiversity and that permission will not be granted for proposal that harm the nature conservation interest of local sites unless clear justification is provided that the need would outweigh the impact on biodiversity.

Surrey County Council

Surrey Minerals Plan Core Strategy Development Plan Document 2011 (SMPCS)

- Policy MC6 is concerned with safeguarding mineral resources and development, and Policy MC7 relates to aggregate minerals supply.

Surrey Waste Plan 2008 (SWP)

- Policy WD(ii) sets out the locations where permission will be granted for development involving recycling, storage, transfer, materials recovery and processing facilities. The former Wisley airfield is one of the sites identified for such purposes.
- Policy DC1 safeguards sites and that includes part of the former Wisley airfield.

Surrey Local Transport Plan 2011 -2026 (LTP3)

- 3.9.2. The Surrey LTP3 sets out strategies to help people meet their travel needs effectively, reliably safely and sustainably. The LTP comprises a number of distinct strategies as listed in the joint LIR [REP20-047]. These are as follows:

- LTP Air Quality Strategy 2016;
- LTP Climate Change Strategy 2011;
- LTP Surrey Congestion Strategy 2014;
- LTP Surrey Cycling Strategy 2014 – 2026;
- LTP Surrey freight Strategy 2011;
- Passenger Transport Information Strategy 2014;
- Rights of Way Improvement Plan 2014; and
- Elmbridge Local Transport Strategy and Forward Programme 2018.

Local policies

Lovelace Neighbourhood Plan

- 3.9.3. Lovelace is the Borough electoral Ward covering Ripley, Ockham and Ripley [REP1-029]. A consultation draft on the Lovelace Neighbourhood Plan (LNP) was issued in September 2018. The consultation on the LNP was in November/December 2019, the Examiner's report was published in March 2020. At the Examination's close the ExA was unaware of the LNP having been made.

4. THE PLANNING ISSUES

4.1. MAIN ISSUES IN THE EXAMINATION

- 4.1.1. As required by s88 of PA2008 and Rule 5 of the Infrastructure Planning (Examination Procedure) Rules 2010, the ExA made an Initial Assessment of Principal Issues (IAPI) arising from the application within 21 days following receipt of the s58 certificate of compliance (s56 notice) under the PA2008.
- 4.1.2. The IAPI comprised the following headings:
- Air Quality and Emissions;
 - Biodiversity, Ecology and the Natural Environment;
 - Compulsory Acquisition and/or Temporary Possession;
 - Draft Development Consent Order;
 - Economic and Social Effects;
 - Historic Environment;
 - Landscape and Visual Effects;
 - Noise, Vibration and Lighting;
 - Other Strategic Projects and Proposals;
 - Planning Policy;
 - Transportation and Traffic;
 - Water Environment.
- 4.1.3. The detailed IAPI was provided at Annex B of the Rule 6 letter [PD-004a] and was discussed at the Preliminary Meeting (PM) [EV-001 and EV-001a]. No matters were raised at the PM that required any amendments to the IAPI.

4.2. ISSUES ARISING IN WRITTEN SUBMISSIONS

- 4.2.1. The issues arising in written submissions are assessed in detail in Chapters 5 to 10 of this Report.

4.3. ISSUES ARISING IN LOCAL IMPACT REPORT

- 4.3.1. A joint LIR was submitted at D2 by EBC, GBC and SCC [REP2-047].
- 4.3.2. The key areas for concern highlighted in the LIR are as follows:
- Impact on the Local Road Network (LRN);
 - Impact on Non-Motorised Users, Public Transport and Public Rights of Way;
 - Impact on road safety;
 - Impact on SCC's financial position, in particular with respect to changes to its maintenance responsibilities for the LRN;
 - Impact on landscape, environment and biodiversity;
 - Impact on Lead Local Flood Authority; and
 - Impacts during construction.
- 4.3.3. These matters are discussed in more detail in Chapters 5, 6 and 7 of this report.

4.4. CONFORMITY WITH THE NATIONAL POLICY STATEMENT

- 4.4.1. The applicable NPS is the NPSNN. Conformity with the NPSNN is considered in more detail in Chapters 5, 6, 7 and 10 of this Report.

4.5. CONFORMITY WITH THE DEVELOPMENT PLANS

- 4.5.1. Where applicable, the conformity with relevant Development Plan policies is considered in Chapters 5, 6, 7 and 10 of this Report.

4.6. APPLICATION OF OTHER POLICIES

Green Belts

- 4.6.1. The Proposed Development is located within the Green Belt. The Applicant acknowledges that the Proposed Development represents 'inappropriate development' within the Green Belt [APP-133]. However, the Applicant contends that any actual or perceived harm to the Green Belt would be outweighed by other material considerations which amount to 'very special circumstances' that would allow the Order to be made. This is considered in more detail in Chapter 5 of this Report.

4.7. ENVIRONMENTAL IMPACT ASSESSMENT

- 4.7.1. The Applicant submitted an Environmental Statement (ES) to accompany the application [APP-049 to APP-062]. Most, but not all, of the ES Chapters were updated at D4 to account for proposed changes to the application [REP4-021 to REP4-029]. The proposed changes are described in Section 2.2 of this Report.

4.8. HABITATS REGULATIONS ASSESMENT

- 4.8.1. Issues pertaining to HRA are considered in Chapter 6 of this Report.

4.9. CORONAVIRUS (COVID-19) PANDEMIC

- 4.9.1. Towards the latter part of the Examination the COVID-19 pandemic began. However, this is not a matter that the ExA has been able to examine in any detail.
- 4.9.2. The ExA considers that it is too early to ascertain with any degree of certainty what the longer-term effects of COVID-19, if any, will be on traffic, environmental or socio-economic matters. Consequently, this is not a matter that we can report on.

5. FINDINGS AND CONCLUSIONS IN RELATION TO THE PLANNING ISSUES

5.1. INTRODUCTION

- 5.1.1. This Chapter examines the main planning-related issues that were contained in the IAPI and/or have been raised during the course of the Examination.

5.2. TRAFFIC AND TRANSPORTATION

Introduction

- 5.2.1. This Section examines the traffic and transportation implications of the Proposed Development for motorised users (MUs) and non-motorised users (NMUs) of the strategic road network (SRN) and the local road network (LRN), as relevant.

Policy Considerations

- 5.2.2. The NPSNN sets out the Government's vision to deliver national networks that meet the country's long-term needs, supporting a prosperous and competitive economy and improving overall quality of life, as part of a wider transport system. The four strategic objectives which flow from the vision aim to deliver:
- networks with the capacity and connectivity and resilience to support national and local economic activity and facilitate growth and create jobs;
 - networks which support and improve journey quality, reliability and safety;
 - networks which support the delivery of environmental goals and the move to a low carbon economy; and
 - networks which join up communities and link effectively to each other.
- (Summary of need page 9 of the NPSNN)
- 5.2.3. Paragraph 2.2 of the NPSNN states that there is a *"critical need to improve national networks to address road congestion ... to provide safe, expeditious and resilient networks that better support social and economic activity and to provide a transport network that is capable of stimulating and supporting economic growth"*.
- 5.2.4. At paragraph 2.10 of the NPSNN it is stated that *"The Government has concluded that at a strategic level there is a compelling need for development of the national networks – both as individual networks and as an integrated system. The Examining Authority and the Secretary of State should therefore start their assessment of applications for infrastructure covered by this NPS on that basis"*.
- 5.2.5. At paragraph 2.13 of the NPSNN it is stated that the SRN *"... provides a vital role in people's journeys, and drives prosperity by supporting new*

and existing development ... A well-functioning Strategic Road Network is critical in enabling safe and reliable journeys and the movement of goods in support of the national and regional economies". It is further stated that "Increased traffic without sufficient capacity will result in more congestion, greater delays and more unpredictable journeys" (paragraph 2.20 of the NPSNN).

- 5.2.6. In paragraph 2.22 it is stated that *"Without improving the road network, including its performance, it will be difficult to support further economic development, employment and housing and this will impede economic growth and reduce people's quality of life. The Government has therefore concluded that at a strategic level there is a compelling need for development of the national road network"*.
- 5.2.7. The NPSNN explains in paragraph 2.23 that enhancements to the existing national road network will include junction improvements, new slip roads, and upgraded technology to address congestion and improve performance and resilience at junctions, which are a major source of congestion. To that end the Government's policy is for individual schemes to be brought forward *"... to tackle specific issues, including those of safety, rather than to meet unconstrained traffic growth"*.
- 5.2.8. With respect to sustainable transport the Government expects applicants to *"use reasonable endeavours to address the needs of cyclists and pedestrians in the design of new schemes"* (paragraph 3.17 of the NPSNN).
- 5.2.9. Paragraph 5.211 of the NPSNN requires Examining Authorities and the SoST to *"... give due consideration on impacts on local transport networks ..."*, while schemes should be developed and options considered in the light of relevant local policies and local plans (paragraph 5.212 of the NPSNN). In this regard Policy A35 of the Guildford Local Plan 2019 is of particular relevance given that this development plan policy concerns the allocation of the former Wisley airfield for redevelopment, with the allocated site being in close proximity to junction 10 of the M25.
- 5.2.10. With respect to mitigating the effects of schemes on transport networks, the mitigation to be provided should be proportionate and reasonable and *"... Where development would worsen accessibility such impacts should mitigated so far as reasonably possible. There is a very strong expectation that impacts on accessibility for non-motorised users should be mitigated* (paragraphs 5.215 and 5.216 of the NPSNN).
- 5.2.11. In terms of local policy, Chapter 5 of the LIR [REP2-047] summaries the policy position. With respect to traffic and transportation considerations the Joint LIR has not identified any in principle type conflicts with local policy. Paragraphs 5.8.1 and 5.8.2 of the Joint LIR make reference to the Proposed Development being one of three Road Investment Strategy

(RIS) schemes⁶, implementation of which will support the delivery of the new housing planned for in the Guildford Local Plan 2019, particularly in the later stages of the plan period for this local plan. The LIR draws attention to Policy ID2 of the Guildford Local Plan, under which GBC is committed to working with HE to facilitate improvements to the SRN and expects developers with sites close to the A3 and M25 to work closely with HE to ensure layout and access arrangements are consistent with the RIS schemes [REP2-047].

The Applicant's case

- 5.2.12. The Applicant has provided a broad explanation of the need and objectives for the Proposed Development in the Transport Assessment Report (TA) [APP-136]. Chapter 2 (Sections 2.1 and 2.2) of the ES [APP-049] and Section 2.1 of Chapter 2 of the Planning Statement [APP-133] also address the need and objectives for the Proposed Development. Information concerning the evolution of the design for the Proposed Development, including the range of options that have been considered can also be found in Section 3 of the Habitats Regulations Assessment Stage 3-5 [APP-044], the Scheme Assessment Report (November 2017) (SAR) [REP3-016] and the Side Roads Addendum (2017) [REP-017].
- 5.2.13. For the purposes of assessing the transportation effects and performance of the Proposed Development, the Applicant has used 2015 as the base year (ie the measure of existing conditions), while 2022 is the assumed year of opening, and 2037 is the 15th year post opening.

The need for the Proposed Development

Strategic road network (SRN)

- 5.2.14. Based on observations undertaken by the Applicant, this section of the M25 is one of the busiest sections of the SRN, with on average around 270,000 vehicles per day passing through it, ie vehicles using the mainlines of the M25 and the A3 or making turns at junction 10 [APP-136]. The 2017 observed annual average daily traffic flows (AADT) for vehicles passing through or turning at junction in 2017 were as follows [APP-136]:
- 120,000 vehicles passing through junction 10 along the M25;
 - 48,000 vehicles turning from the M25 to the A3;
 - 53,000 vehicles on the A3, travelling north or south passing over the M25 on the A3 overbridge; and
 - 48,000 vehicles turning from the A3 to the M25.
- 5.2.15. In 2017 every day close to 100,000 vehicles make a turning manoeuvre within junction 10. That volume of traffic is a little over a third of the volume of traffic that approaches this junction from either the M25 or the A3. The Applicant considers that the configuration of the existing junction

⁶ The other RIS schemes being the upgrading of the M25 between junctions 10 and 16 and improvements to the A3 between its junctions with the A320 and the A31.

is a "... *significant impediment to the smooth flow of traffic through the area, with significant congestion problems evident during most peak periods*". [APP-133].

- 5.2.16. With respect to existing journey reliability during the morning and evening peak hours the travel times for drivers making left turning movements from the A3 to M25 and M25 to A3 have been found to be taking around twice as long as could be expected under free running conditions. For vehicles using the M25 mainline clockwise the journey times in the morning and evening peak periods have been assessed respectively as taking a little over twice and three times longer compared with what would be expected under free flow conditions [APP-136].
- 5.2.17. The Applicant considers the journey time reliability for junction 10 to be "*particularly poor*" [APP-136]. Typically, in 2016 average delays on the SRN in south east England were eight to ten seconds per vehicle mile. For the M25 and A3, within the vicinity of junction 10, during the morning and evening peak periods the delay per mile exceeded the regional average, with the A3 northbound, between Ockham and junction 10, being subject to delays in excess of forty seconds per vehicle mile [APP-136].
- 5.2.18. The Applicant has identified the morning (AM) peak period as being between 07.00 and 10.00, while the evening (PM) peak period is between 16.00 and 19.00. It follows that the interpeak period is between 10.00 and 16.00. For the purposes of the traffic modelling that the Applicant has undertaken the "*AM peak*" and the "*PM peak*" respectively refer to the average peak hour in the relevant peak hour period [APP-136].
- 5.2.19. Without "*intervention*" at junction 10, which the Applicant has identified as being a Do-Minimum (DM) scenario [APP-136], junction 10 has been predicted to operate above capacity during peak times. Capacity being sufficient road space to accommodate vehicle demand. Under the DM scenario the number of vehicles travelling through junction 10 per day have been predicted to increase to 308,000 by 2022 and 359,000 by 2037 [APP-136].
- 5.2.20. In 2022 under the DM scenario during the AM peak period the M25 eastbound (anticlockwise) and westbound (clockwise) off-slips and the A3 northbound off-slip are predicted to operate over capacity, while for the PM peak the operational issues are not predicted to be of the same extent as those for the morning period, with the junction operating at or above capacity. By 2037 under the DM scenario, with new development contributing to additional traffic in the area, "*considerable delays and operational issues*" are predicted, particularly in the AM peak, when average delays possibly reaching five to six minutes in 2022 and increasing to eleven to twelve minutes in 2037 [APP-136].
- 5.2.21. By 2037 under the DM scenario the Painshill roundabout is expected to be operating with severe capacity issues, with delays of five minutes in the morning peak period and three minutes in the evening peak period

predicted, causing tail backs onto the A3 through to junction 10 [APP-136].

- 5.2.22. Junction 10 and the mainline carriageways for the M25 and A3 within 1km of this junction are subject to a comparatively high number of motorised vehicle accidents compared with other parts of the M25 and the strategic road network (SRN) in general [APP-136]. Chapter 4 of the TA [APP-136] addresses road safety, with some elaboration presented in Chapter 9 of the supplement to the TA [REP2-011]. Between 2012 and 2016 there were a total of 171 accidents (on average around 34 per year) within 1km of the centre of M25 junction 10. Of those accidents 65 have been classified as being junction related (ie occurring at or within 20 metres of the junction). The remaining 106 accidents have been further afield, albeit within 1km of the centre of the junction. Figure 9.2 in REP2-011 shows the distribution of all accidents within 1km of junction 10.
- 5.2.23. In the TA it is further explained that junction 10 has been identified as being subject to the second highest number of accidents for the whole of the M25 between 2012 and 2016, at around 27 accidents per year [APP-136]. It has been further stated in Chapter 2 of the ES that junction 10 has the highest number of casualties on the M25, with an average of 22 per year [APP-049].
- 5.2.24. The Applicant submits that with the increase in housing and economic growth that has been forecasted for the next 20 years in the area, delays in and around the junction could increase by up to 40% during peak times, while the high collision rate could be expected to continue [APP-133].

Local road network (LRN)

- 5.2.25. The A245 (Byfleet Road) between the Painshill roundabout and Seven Hills Road is subject to peak period congestion, particularly in the eastbound direction on the approach to the roundabout. At times traffic can also queue back from Seven Hills Road almost as far as the A3 northbound mainline [APP-136].

Objectives for the Proposed Development and the alternatives considered

- 5.2.26. In December 2014 the Department for Transport (DfT) published the Road Investment Strategy for 2015-2020 (RIS) and the RIS identifies a series of schemes to be delivered across England by the Applicant for this first RIS period. The RIS identifies improvements to M25 junction 10 and the A3 interchange as a key investment in the SRN within the London and South East region. The outline scheme description for the M25 junction 10 and the A3 interchange in the RIS is:

"Improvements to the Wisley interchange to allow free-flowing movement together with improvements to the neighbouring Painshill interchange on the A3 to improve safety and congestion across the two sites" [APP-136]

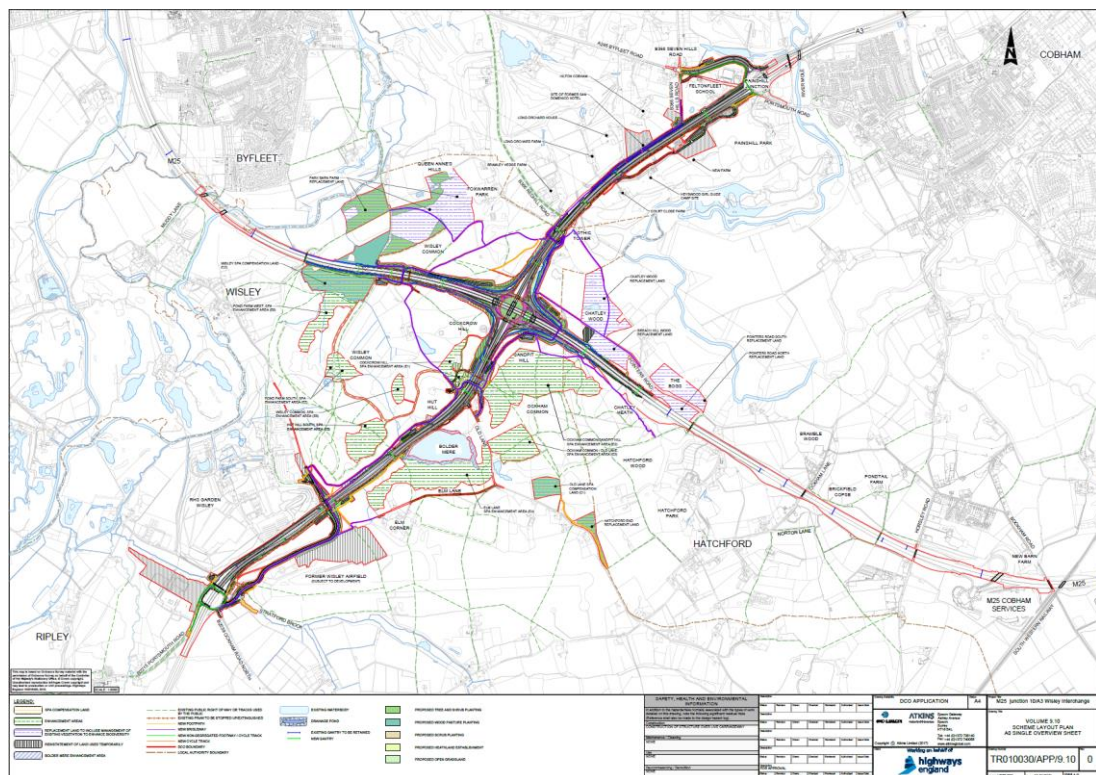
- 5.2.27. The key scheme objectives for the Proposed Development have been identified as:
- improving journey time reliability and reducing delay;
 - improving safety and reducing collision frequency and severity;
 - improving crossing facilities for pedestrians, cyclists and horse riders and incorporating safe, convenient, accessible and attractive routes;
 - minimising impacts in the surrounding local road network (LRN); and
 - supporting projected population and economic growth in the area.
- [APP-136]
- 5.2.28. High level testing of a 'long list' of 21 options has been undertaken by the Applicant against the objectives for the Proposed Development. Those options fell within three broad categories:
- 1) Keeping the existing roundabout at junction 10 and adding other road infrastructure to it;
 - 2) Modifying the existing roundabout; and
 - 3) Removing the roundabout
- 5.2.29. Summaries for each of the 21 long list options are set out in Table 3.5 in APP-044. After several rounds of initial feasibility and cost assessments, a short list of three options, options 9, 14 and 16, were identified as best meeting the scheme objectives. Options 9, 14 and 16 were subject to public consultation between December 2016 and February 2017 [APP-133].
- 5.2.30. Of the three short listed options, only option 16 would have allowed free movement in all directions through junction 10, but it would have had the greatest impact on the TBHSPA and would exceed the scheme budget. Option 9 offered a greater level of free running through junction 10 compared with option 14 as originally envisaged. However, option 9 would have required greater land take within the TBHSPA and had a greater environmental impact compared with option 14. Options 9 and 16 were ultimately rejected by the Applicant due to their performance against assessment criteria including environmental impact, ease of construction, value for money and compliance with the NPSNN.
- 5.2.31. Option 14 emerged as the Applicant's scheme preference, being considered as having the best performance against the scheme objectives, including minimising environmental impact, reducing accident rates, and supporting economic development and that option was confirmed as the one that would be taken forward when the SoST made the preferred route announcement on 27 November 2017.
- 5.2.32. The RIS as originally published envisaged that junction 10 of the M25 would be upgraded to provide free flowing movements in all directions. However, to enable option 14 to be taken forward a formal amendment to the RIS was made by the DfT, with the reference to free flowing in all directions having been deleted [APP-133].

The Proposed Development

M25 and A3

- 5.2.33. For users of the M25 and A3 the Proposed Development seeks to increase the capacity of the SRN, reduce travel times and thus improve the level of service for road users through providing greater journey reliability, while reducing the number of accidents. To do this within junction 10 the Proposed Development would involve: elongating the existing roundabout; providing additional lanes and more circulatory capacity; and allowing more traffic to pass through the junction by introducing free flowing left turns. The provision of a fourth running lane in each direction on the M25 and the widening of the A3 to four lanes in each direction between the Ockham Park Junction (OPJ) and Painshill roundabout, except where the A3 passes over the M25, would also provide additional mainline SRN capacity. The main elements for the proposed alterations to the junction 10, the M25 and the A3 are shown in Figure 5.1 below [REP1-007].

Figure 5.1: Summary plan of the Proposed Development



- 5.2.34. With the Proposed Development it is expected that for both 2022 and 2037 junction 10 would operate within capacity, with minor delays and limited queuing across all arms of the junction. The introduction of the free flowing left turning lanes for vehicles joining either the A3 from the M25 or the M25 from the A3 are considered by the Applicant to represent one of the main benefits of the Proposed Development [APP-0136]. That is because those lanes will allow some of the traffic using the junction to pass through it without being impeded by signals. With some of the traffic using junction 10 being freed from signal control it will be possible

to optimise signal performance for vehicles making right turns within this junction.

- 5.2.35. By 2037 it is predicted that under the Do-Something (DS) scenario, that is the Proposed Development, junction 10 would be capable of accommodating an average annual daily traffic flow (AADT) of 368,000, compared with 359,000 under the DM scenario. Under the DS scenario 14,000 more turning movements within the junction are predicted compared with the DM scenario, with the former being of the order of 135,000 as opposed to 121,000 under the latter [APP-136]. The Applicant has submitted in APP-136 that because journey times would be shorter and more reliable for users of junction 10, drivers would choose to use this junction and other parts of the SRN, rather than seek alternatives involving the use of the LRN in the wider local area and thus assisting with reducing congestion elsewhere.
- 5.2.36. With the Proposed Development junction 10 in both 2022 and 2037 is predicted to operate "*well within capacity*" [APP-136], with minor delays and limited queuing for all of junction 10's arms. The improved operation of the junction 10 would be despite predictions of 900 and 2,500 extra vehicles per hour, respectively in the PM and AM periods, making reassigned turning movements⁷ within junction 10 [APP-136].
- 5.2.37. Under the 2022 DM scenario junction 10 is predicted to operate under "*considerable operational stress in all time periods*". In that regard in the morning peak period the M25 west off slip, the M25 (east) off slip and the A3 (north) off slip are predicted to operate over capacity with average delays reaching five to six minutes [APP-136]. Under the DM scenario for 2037 additional traffic growth is predicted to further exacerbate congestion within junction 10, particularly in the morning peak when average delays could reach between eleven and twelve minutes.
- 5.2.38. It is predicted that in 2037 during the AM peak, for vehicles using junction 10, average delays as a result of the Proposed Development would reduce from twelve minutes to less than two minutes compared with the DM scenario. That would mean that in the AM peak the average journey time for those journeys would reduce from fifteen minutes to just over four minutes [APP-136]. In the 2037 PM peak, drivers using junction 10 are predicted to experience a reduction in average travel time from four and a half minutes to four minutes compared with the DM scenario [REP-136]. The provision of the free flow left turn slips on each of junction 10's arms would reduce the amount of traffic needing to be controlled by traffic signals, while reducing the amount of delay for vehicles making right turns that would continue to be subject to signal control [APP-136].

⁷ That is movements associated with vehicles that would have otherwise used parts of the SRN or LRN in the absence of improvements to junction 10 being made

- 5.2.39. The alterations to the OPJ and Painshill roundabout are intended to ease the flow of traffic using those junctions and in case of the latter address the tailing back of traffic onto the A3 that is seeking to join the A245. This would reduce travel times and improve journey reliability.
- 5.2.40. The combined effects of increasing more lane capacity in and around junction 10 and altering direct access to the A3 from side roads or private accesses are expected to improve the safety for motorised vehicles. In that regard it is predicted that over a 60-year period the implementation of the Proposed Development would reduce accidents in the following ways [APP-136 and APP-044]:
- 30% amongst users of junction 10;
 - 24% on the mainline of the A3 between Painshill roundabout and the OPJ; and
 - 2% on the mainline of the M25.
- 5.2.41. With respect to accidents that come within the category of 'killed or seriously injured' (KSI), the Applicant has predicted that in 2022 without the Proposed Development there would be 24 KSI. With the Proposed Development the KSI figure has been predicted to reduce by 11% to 21.3 [APP-136].
- 5.2.42. The Applicant argues that if junction 10's capacity and safety issues are not addressed that would adversely affect the performance of the local economy, access to employment opportunities and the quality of life for the local community [APP-133]. With respect to the average vehicle delay for vehicles using junction 10, the Applicant has submitted that a doubling from four minutes and 39 seconds in 2015 to nine minutes and eighteen seconds in 2037 could be expected were the Proposed Development not to proceed [REP4-005].

Local road network and private accesses

- 5.2.43. In terms of the side road junctions with the A3, improvements would be made to the Old Lane junction, which would be the only retained side road with direct access to the A3. It is proposed that the existing Wisley Lane left turns to and from the A3 would be closed and replaced by the Wisley Lane diversion, which would comprise a bridge over the A3 and a new link road connecting Wisley Lane and OPJ. The south-western end of Elm Lane would be closed, while the north-eastern section of Elm Lane would be upgraded to enable the residents of Elm Corner to get to and from their properties via Old Lane.
- 5.2.44. It is proposed that a private means of access (PMA) serving Pond Farm, Birchmere Scout Campsite and Hut Hill Cottage, accessed via the A3 northbound exit slip road at junction 10, would be stopped up. Under the Proposed Development the replacement means of accessing Pond Farm, Birchmere Scout Campsite and Hut Hill Cottage would be via the new bridleway linking Ockham Common and Wisley Common, with the A3 being crossed via the replacement Cockcrow bridge a little to the north of Old Lane.

- 5.2.45. To the north of junction 10 there are a number of private accesses with direct access onto the A3, including those serving: the former San Domenico Hotel, now in part occupied by a recently constructed roadside café; the Girl Guides Heyswood Campsite and Court Close Farm; and the western access to Painshill Park.
- 5.2.46. Under the Proposed Development the OPJ would continue only to have north facing slips. The Wisley Lane diversion would add a new arm to the OPJ and would therefore generate additional traffic for this roundabout to accommodate. Under the proposals for the redevelopment of the Wisley airfield the OPJ would become a partly signalised roundabout by 2037. However, the Applicant's modelling of the OPJ suggests that with the traffic generated by the Proposed Development (ie that subject to this NSIP application) a partially signalised junction would operate beyond its capacity, particularly during the morning peak period, with the result that drivers would encounter delays. To accommodate all of the traffic that would be using the OPJ as a consequence of the implementation of the redevelopment of the former Wisley airfield, as well as that generated by RHS Wisley, under the Proposed Development the OPJ would become fully signalised.
- 5.2.47. A consequence of the OPJ only having north facing slips would be a predicted increase in traffic passing through the village of Ripley via the B2215 (Portsmouth Road/High Street). That is because to the south of Ripley the road layout is such that it is possible for northbound A3 traffic to exit the A3 or for southbound A3 traffic to join the A3 via the B2215 (at the Send junction) and A247 (the Burnt Common junction). The Applicant considers that the B2215 would be able to accommodate the additional traffic it is predicted it would carry.

Non-motorised users (NMUs)

- 5.2.48. The existing Public Rights of Way (PRoWs) in and around junction 10 are shown on Figure 13.2 in APP-076. Currently along the A3 corridor pedestrian facilities take the form of a narrow, shared use (shared with cyclists) path alongside or close to the southbound carriageway, which passes through junction 10, with crossings of the entry/exit slips of the M25 and the A3 controlled by traffic signals. Bridleway 12 crosses the A3 at junction 10, while bridleways 14 and 17 cross the A3, south of junction 10 respectively a little to the north of Old Lane (the Cockcrow bridge) and just to the south of Wisley Lane. Bridleways 8 and 69 cross the M25, respectively via the Clearmount bridge and the Hatchford Park bridge.
- 5.2.49. It is also possible for pedestrians to cross the A3 at the Painshill roundabout, albeit the crossing points are not signal controlled and in places there are no formal footways/pavements. Pedestrians and cyclists can also pass under the A3 at the OPJ, using pavements linking the BB215/Portsmouth Road with the B2039/Ockham Road North.

- 5.2.50. For cyclists currently there are on carriageway, dedicated northbound and southbound, narrow cycle lanes running the length of the A3 between Painshill and OPJ.
- 5.2.51. As part of the Proposed Development it is proposed that the following alterations would be made to the NMU facilities:
- To accommodate the widening of the M25 and the A3 the Clearmount and Cockcrow bridges would be demolished and replaced by wider versions.
 - New NMU only bridges over the A3 at Red Hill (north of junction 10 and over the M25 at Sandpit Hill (east of junction 10) would be installed. With those bridges and the replacement Clearmount and Cockcrow bridges, grade separated crossings over the SRN would be available to the north, east, south and west of junction 10, enabling the existing NMU routes within junction 10 to be removed.
 - The Wisley Lane diversion overbridge would include a new bridleway, allowing the existing NMU bridge crossing of the A3 just to the south of Wisley Lane to be removed.
 - The provision of a new shared NMU route for use by pedestrians, cyclists and horse riders along the A3 corridor, wholly segregated from the A3's carriageway between OPJ and the Painshill roundabout. This NMU would variously be situated on either the western or eastern sides of the A3, with crossings of the SRN via the Cockcrow, Sandpit Hill and Red Hill bridges.
 - New bridleways, with connections to the A3 corridor shared NMU route, designated along existing tracks between the Cockcrow bridge, Clearmount bridge and Red Bill bridge, between Sandpit Hill bridge and Hatchford Park bridge and along Pointers Road (to the north of the M25, east of junction 10).
 - The diversion of existing footpaths to avoid them becoming dead end routes.
 - The introduction of signal-controlled crossing points within the OPJ.
- 5.2.52. The Applicant's proposals for NMU infrastructure are explained in full in Chapter 5 of the TA [APP-136].
- 5.2.53. The Applicant has submitted that its intended improvements to the NMU infrastructure would be complementary to the provision to be made in connection with proposed new development and will enhance the ability of residents in the vicinity to access the Common Land and other publicly accessible open space in the area [APP-044]. It is expected that the proposed changes to the NMU will reduce the number of accidents that have involved pedestrians and cyclists at the OPJ, junction 10 and Painshill roundabout [APP-136].
- 5.2.54. During the construction period there will variously be closures and/or diversions of NMU routes, with the result that at times during the construction some severance will be experienced by NMUs.

Public transport

- 5.2.55. There are two bus routes that use the A3 corridor at this point, service 715 which runs between Kingston and Guildford and service C1/C2 that runs between Weybridge, Oxshott and Leatherhead.
- 5.2.56. Under the Proposed Development the northbound and southbound bus stops within the vicinity of Wisley Lane would be removed and a new stop would be located at the main entrance to RHS Wisley. These changes to the locations of the bus stops would require a diversion of the route for service 715 northbound and southbound, with the buses needing to leave the A3 at the OPJ and then routing via the Wisley Lane diversion to the new stop at the entrance to RHS Wisley. Those changes to service 715 would increase its journey time for this part of the route.
- 5.2.57. At ISH2 the Applicant advised that in 2022 it is predicted that in the morning and evening peak periods the altered route for service 715 would respectively add two minutes and three and a half minutes for the return journey times for this bus service. In 2037 it is predicted that the morning peak period return journey times would be substantially reduced, with a small increase in the evening period [REP3-009]. The Applicant has submitted that the relocation of the bus stop would mean that visitors to RHS Wisley arriving or departing by bus would spend less time walking to and from the bus stops compared with the current situation [APP-136].
- 5.2.58. The journey times for C1/C2 bus service would be unaffected by the Proposed Development.

Construction phase proposals

- 5.2.59. Section 7.11 of the TA [APP-136] outlines the predicted construction effects of implementing the Proposed Development. The Applicant proposes that a Traffic Management Plan (TMP) would be prepared and this would set out the traffic management measures that would be used during the construction period. It is proposed that R4 of the dDCO [REP12-002] would require the Applicant to prepare a TMP, in consultation with SCC, EBC and GBC, for submission and approval by the SoST.
- 5.2.60. The measures covered by the TMP would include carriageway and slip road closures and traffic and NMU diversions [APP-136]. The construction works at junction 10 and for the A3 between the OPJ and Painshill roundabout would each be undertaken over five phases, explained in outline in the TA [APP-136]. Amongst other things the construction works at junction 10 would involve the provision of temporary slip roads to enable this junction to remain open while the roundabout was being altered and new free flow left lanes were being installed.
- 5.2.61. With respect to construction traffic, the Applicant has predicted that during the peak of the earthworks period (March to October) between 300 and 645 heavy goods vehicle (HGV) movements a day would be generated. During the non-earthworks period (November to February)

the Applicant predicts that there would be between 100 and 200 HGV movements per day. The predictions for daily HGV movements includes trips being made to a railhead in Woking, which is expected to be the source of bulk construction materials. Figure 7.22 in APP-136 shows the estimated HGV movements per day throughout the whole of the construction period.

- 5.2.62. The Applicant has further predicted that construction work force commuting would generate approximately 350 vehicles per day in and out of the main construction compound at Nutberry Farm, located west of the OPJ and shown on sheet 1 of the Temporary works plans [REP8-012]. The 350 vehicles per day figure assumes a vehicle occupancy of 1.5 occupants, with those movements being generated in the morning and evening peak hours [APP-136]. It is expected that the construction workforce would then be shuttled to and from the satellite compounds that would be established.
- 5.2.63. The Applicant has predicted that on all approaches to junction 10 construction traffic would *"... make up less than 6% of mainline flow and this is based on the estimated peak time of construction activity"* [APP-136].
- 5.2.64. During the construction period drivers using the M25 and the A3 are expected to experience some extended journey times because of the introduction of reduced speed limits and the use of other traffic management measures, such as changed road layouts [APP-136].
- 5.2.65. For NMUs the Applicant expects that there will be some severance of Ockham Common and Wisley Common due to closure of parts of these recreational spaces or PRowS providing access to them [APP-136]. Closures and diversions of the PRowS in the area would also at time be required, with some of those routes being subject to bridge closures.

Issues raised

- 5.2.66. Although there is general support for the principle of the Proposed Development, as voiced most particularly by SCC, EBC and GBC at paragraph 1.6 of their joint LIR [REP2-047], a number of transportation objections and/or concerns were raised and argued by IPs, during the course of the Examination. Those transportation objections and/or concerns relate to the following matters:
- The means of access to RHS Wisley, including the promotion of what the RHS has termed the *"RHS alternative"*
 - The operational effects of the Proposed Development upon the LRN, most particularly the A245 west of the Painshill roundabout, the B2215 through Ripley and Old Lane
 - Changes to the following private accesses:
 - Heyswood Campsite and Court Close Farm
 - Painshill Park
 - Former San Domenico Hotel site
 - Residents of Elm Corner

- Birchmere Scout Campsite, Pond Farm and Hut Hill Cottage
- Provision for horse riders and NMUs
- Making use of traffic management measures, particularly on the A3, to address capacity and safety

5.2.67. These objections and/or concerns are considered in the ExA Reasoning Section below.

ExA's examination of issues

The Applicant's approach to the identification of the DM scenario for the assessment of the transportation effects of the Proposed Development

- 5.2.68. A matter that has been of concern to the ExA during the Examination concerns how the Applicant established the DM scenario for the purposes of the transport assessment it has undertaken. That is because the Applicant has a proposal for a Smart Motorway scheme between junctions 10 and 16 of the M25 (the Smart Motorway scheme). In paragraph 3.5.9 of the TA [APP-136] the Applicant has commented *"Previously the widening to 4 lanes of the M25 carriage within junction 10 was part of the Smart Motorway scheme, however this has now been incorporated as part of the M25 junction 10/A3 Wisley Interchange scheme"*.
- 5.2.69. On reading the TA, it appeared to the ExA that if there was no NSIP application for the Proposed Development, then there would be potential for the Applicant to undertake some works to the mainline of the M25 through junction 10. Under such circumstances that would mean that some of the operational performance and safety benefits that the Applicant has attributed to the Proposed Development might be deliverable via a different scheme.
- 5.2.70. Given the ExA's concern about how the Applicant has established the DM scenario, in ExQ1 1.13.1 and 1.13.2 [PD-006] the Applicant was asked to clarify how it had approached the Smart Motorway scheme for the purposes of defining the DM scenario and advise on how accurate the forecasting for operational performance and accident rates under the DM scenario had been. In REP2-013 the Applicant advised that the DM scenario included the implementation of the Smart Motorway scheme, excluding works through junction 10 and that the forecasting for the junction's operational performance and accident rates was accurate under the DM scenario.
- 5.2.71. The Applicant's responses in REP2-013 did not fully address the ExA's concern and this was a matter that the ExA questioned the Applicant about during the transportation section of ISH2 [EV-005a to EV-005d]. In that regard the ExA asked the Applicant expressly if there was no NSIP scheme would any additional four lane running on the mainline of the M25 at junction 10 be undertaken and, if so, how would that affect the assessment of the DM scenario that had been undertaken. The Applicant's response was *"... that there would be some sort of works at*

junction 10 even if the current scheme was not proposed ... if the current scheme did not exist, the junction 10 to 16 scheme would still include the junction 10 smart running elements" [REP3-009]. The Applicant further advised that it would provide written submissions about its assessment of the DM scenario.

- 5.2.72. ExQ2 2.1.1 [PD-010] requested the Applicant to comment on the assessment of the DM scenario, further to the submissions it had made about it at ISH2. In that regard the Applicant stated in REP5-014 that it was not possible to conform with certainty which works at junction 10 would have been undertaken as part of the Smart Motorway scheme and that with the incorporation of the junction 10 works into the NSIP that it was not possible to explain the implications of undertaking the M25 junction works in isolation from the Proposed Development.
- 5.2.73. The ExA considered the answers to its various questions about this matter provided in REP2-013, at ISH2 and in REP3-009 and REP5-014 had not been sufficiently informative and were contradictory. Further clarification was therefore sought by the ExA through ExQ3 3.2.1 [PD-016]. In REP7-004 the Applicant advised that the answer given to the ExA's question at ISH2 *"... was incorrect and given in error"*.
- 5.2.74. In REP7-004 the Applicant has gone to advise that, in order to achieve four lane through junction running on the M25, modifications to junction 10's entry and exit slips would be required and that to avoid additional land take the slips would need to be of a non-standard design. Given that, since 2017 the Applicant has treated the widening of the M25 as being part of the NSIP and it stated *"... the elements of the M25 Smart Motorway Scheme through junction 10 incorporated into the DCO Scheme would not be delivered now as part of the M25 Junction 10 to 16 Smart Motorway Scheme nor be delivered at all in the foreseeable future, were the DCO Scheme for junction 10 not to proceed for any reason"* REP7-004. The Applicant therefore considers that there has been no overstatement of the DM scenario.
- 5.2.75. The ExA considers that the comments made by the Applicant in REP7-004 have addressed the concern it had about the way in which the DM scenario had been established. The ExA is therefore content that the DM scenario used to assess the transportation effects for the Proposed Development has been appropriately identified in the Applicant's TA [APP-136]. The ExA is also of the view that the identified DM is also an appropriate basis for the assessment of the Proposed Development's environmental effects, as reported in the various chapters of the submitted ES.

The Proposed Development and the SRN in general

- 5.2.76. The ExA considers that the Applicant has presented compelling evidence in sections 4 and 6 of its TA [APP-136] that the M25 through junction 10, junction 10 itself and the A3 between OPJ and the Painshill roundabout are operating above capacity. Consequently, the M25 at and through junction 10 and the A3 immediately to the north and south of the

junction 10 experience high levels of congestion, resulting in the users of this part of the SRN encountering delays. For instance, in the peak periods turning movements at junction 10 can take twice as long as they do when there is no congestion and the M25 and A3 are operating within capacity and under free flow conditions, as highlighted by the Applicant in paragraph 6.3.5 of APP-136.

5.2.77. The inadequacy of the SRN at and within the immediate vicinity of junction 10 to accommodate the volumes of traffic using it also results in this part of the SRN being subject to a poor accident rate. The location and severity of individual accidents can of themselves be contributory factors to the breaking down of free flow conditions and driver delay for this part of the SRN.

5.2.78. The ExA considers that the following measures that have been proposed would create capacity to accommodate the existing demand upon this part of the SRN at and within the immediate vicinity of junction 10, while providing capacity for future traffic growth through:

- the introduction of free flow left turning lanes for use by vehicles exiting or entering the M25 at junction 10;
- the elongation of the roundabout within junction 10 to create additional circulatory space;
- the provision of four lane running through junction 10 on the M25;
- the availability of four lane running on the A3 to the north and south of junction 10; and
- the alterations to the Painshill roundabout, most particularly the availability of a left turning free flow lane for A3 northbound traffic exiting the Painshill roundabout to head west on the A245.

5.2.79. The ExA considers that the measures listed above would improve journey reliability, through relieving congestion and reducing delays, and reduce the accident rate. In this regard the ExA considers that the Proposed Development would meet the objectives identified by the Applicant of supporting projected traffic growth on other parts of the SRN, reducing delays for users of the M25 and A3, reducing the frequency and severity of accidents and supporting projected population and economic growth in the area, as stated in Table 2.1 of APP-002. The therefore considers that the Proposed Development would accord with paragraph 2.23 of NPSNN because it would bring forward an enhancement to the existing SRN by improving a junction to address congestion and improve performance and resilience within and adjoining junction 10.

The Proposed Development and access to RHS Wisley, including the RHS alternative

Access to RHS Wisley under the Proposed Development

5.2.80. The RHS, using its own visitor data, has estimated [REP6-024] that for the four identified routes providing the means of getting to and from RHS Wisley the assignment of visitors to each of the routes is as follows:

- 32.5% via A3 south, ie visitors whose round trips to and from the RHS Wisley have an origin and return destination to the south of the Gardens.
- 52.7% via A3 north, ie visitors whose round trips to and from RHS Wisley have an origin and return destination to the north of the Gardens. These round trips include use of either the A3 north of junction 10 or the M25 east or west of junction 10.
- 5.8% via the B2215 (Portsmouth Road) or the B2039 (Ockham Road North/Ockham Road) and including use of the OPJ.
- 9.0% via Wisley Lane north.

- 5.2.81. The primary way to enter or exit RHS Wisley by road is via Wisley Lane, with there being a secondary access via Mill Lane. Under the Proposed Development visitors to and members of staff of RHS Wisley would no longer be able to enter or exit the southern end of Wisley Lane directly from the A3 by making simple left turns off or on to the A3 northbound. Instead visitors arriving at or leaving RHS Wisley via the A3 and OPJ would use the Wisley Lane diversion.
- 5.2.82. Around 9% of visitors arrive at and depart from RHS Wisley via the northern limb of Wisley Lane and so the entry and exit of these visitors to RHS Wisley (which to avoid undue repetition will also be referred to as 'the Gardens') under the Proposed Development would not be dependent on the use of the Wisley Lane diversion [Table A6 in the Hatch Regeneris Report appended to REP6-024 (HRR2)]. It should be noted that the northern limb to Wisley Lane has been referred to as "*Wisley Lane (east)*" in Table A6, while elsewhere (presentation of attitudinal survey results) in HRR2 this route is described as "*from the east of the Garden*", which the ExA takes to mean that section of Wisley Lane that runs to the north of the RHS Wisley. For the sake of clarity, the ExA shall refer to this route as Wisley Lane north.
- 5.2.83. For the majority of visitors or members of staff arriving at RHS Wisley, for whom their round trips would begin to the north of the Gardens, the route would be via the A3 southbound exiting at the OPJ and then northbound along the Wisley Lane diversion, crossing over the A3 and then entering the existing Wisley Lane. On leaving RHS Wisley for those with an end destination to the north of the Gardens, this return journey would be the reverse of that used to enter the Gardens.
- 5.2.84. For visitors to and members of staff at RHS Wisley with trip origins to the south of the Gardens there would be two possible arrival routes by road. The first of these arrival routes (the signed route on the SRN) would be to use the A3 northbound and then exit at junction 10 in order to make a U-turning manoeuvre before heading south along the A3, exiting at the OPJ to join the Wisley Lane diversion and head north before crossing over the A3 to enter the existing Wisley Lane. The second arrival route from the south of RHS Wisley would involve leaving the A3 northbound at the B2215 (the Send) junction and then following the B2215 through Ripley to join the Wisley Lane diversion at the OPJ.
- 5.2.85. On leaving RHS Wisley visitors or members of staff with returning destinations to the south would be able to use one of two return routes.

The first of these return routes (the signed route) would involve travelling back along the Wisley Lane diversion before entering the OPJ to join the A3 northbound and then leaving at junction 10 to make a U-turn before heading back along the A3 southbound. The second of the southbound return routes would involve joining the B2215 at the OPJ and then travelling through Ripley before joining the A3 southbound at the Burnt Common junction, which is a little to the south-west of the Send junction.

- 5.2.86. Visitors to and staff of RHS Wisley travelling from/to the south on the A3 would experience round trips that would be less direct compared with the current situation. That is because anyone making this round trip would either need to make U-turning manoeuvres at junction 10 or route via the BB215. Compared with the current situation these round trips from and to the south would to varying degrees take longer and involve travelling further and this would affect around 32.5% of the visitors to RHS Wisley [Table A3 in HHR2 in REP6-024]. The RHS has submitted that for visitors to RHS Wisley travelling from/to the south via the A3 and making U-turns at junction 10 their round trips (what would be the signed route on the A3) would be 5.2 miles/8.3km longer and would take eight minutes longer compared with the prevailing situation. If these visitors beginning and ending their round trips to the south of the Gardens were to use the alternative route via Ripley/BB215 then these journeys would be 1.8 miles/2.88km shorter and would take around three minutes less time compared with the current situation [REP6-024].
- 5.2.87. For the 52.7% of the visitors to RHS Wisley with round trips beginning and ending to the north of the Gardens, for the Proposed Development the RHS has submitted that those round journeys would be 1.4 miles/2.24km longer and take just over two minutes longer [REP6-024].

The ExA's consideration of the RHS alternative

- 5.2.88. As a consequence of the Proposed Development resulting in additional journey lengths and travel times for visitors to RHS Wisley the RHS has promoted the "*RHS alternative*". That is because it is concerned that by the time the Proposed Development becomes potentially fully operational in 2024 there would be a reduction in the estimated number of visitors attending the Gardens of 54,000 in that year as well as in subsequent years (Table A10 in HRR2). That estimate for the reduction in visitors being based on an attitudinal visitor survey that the RHS undertook after ISH2, further to the original survey it undertook on 29 October and 1 November 2019. The results from the first attitudinal survey are reported in the first Hatch Regeneris Report [REP1-039 (HRR1)] and based on those results the RHS had made a more pessimistic estimate of the number of visitors reducing by 97,000 in 2024. The RHS's first attitudinal survey was subject to criticism during ISH2 [EV005a to EV-005d] and scrutiny as a result of ExQ2 [PD-010], hence the RHS's decision to undertake a further attitudinal survey.

- 5.2.89. In Table A6 of HRR2 [REP6-024] the forecast reduction for visitors using the four possible vehicular routes for getting to and from RHS Wisley would be:
- 2.7% reduction for visitors routing via the A3 south of the OPJ
 - 1.0% reduction for visitors routing via the A3 north (via A3/M25 junction)
 - No change for visitors routing via the OPJ (B2215/Ockham Road)
 - No change for visitors routing via Wisley Lane north
- 5.2.90. In paragraph 5.4 of HRR2 [REP6-025] the RHS has submitted that based on the information contained in Table A6 that "... the analysis forecasts there will be a 3.7% reduction in person trips by car ..." as a result of the Proposed Development. The projected 3.7% decrease in persons trips has then been used in section 6 of HRR2 to calculate a reduction in the number of visitors to RHS Wisley, with it being predicted that for 2024 and subsequent years there would be an annual reduction of 54,000 visitors. From the information presented in Table A6 and 5.4 of HRR2 it appears to the ExA that the RHS in its forecasting for changes in visitor numbers has simply summed the forecasted percentage reductions for visitors routing via the A3 south (2.7%) and A3 north (1.0%) to arrive at an aggregated figure of 3.7% for all visitors to RHS Wisley who arrive and depart by motorised vehicles.
- 5.2.91. However, to the ExA the straight aggregation of 3.7% to all visitors to RHS Wisley appears to be incorrect. That is because on the RHS's own estimates (Table A6 in HRR2) for visitors using two out of the four routes to the Gardens (14.8% based on the third and fourth entries in Table A3 in HRR2) there would be no change in journey time or distance arising from the Proposed Development. Of the remaining 85.2% of visitors to RHS Wisley there would be two clearly distinguishable routes available, the route via the A3 south of the OPJ or the route via the north A3 north. Accordingly, the ExA is of the view that any forecasting for visitor reduction should be undertaken on a proportional basis, that is 2.7% being applied to the 32.5% of visitors routing via the A3 south of the OPJ and 1.0% to the 51.7% of visitors routing via the A3 north. The ExA therefore considers that the predicted reduction of visitors to RHS Wisley in 2024 and subsequent years of 54,000 is likely to be overestimate, with it not reflecting the significant differences in visitor numbers arriving at RHS Wisley via the four different routes.

Description of the RHS alternative

- 5.2.92. Under the RHS alternative a left turn from Wisley Lane directly onto the A3 would be available and south facing slips (SFS) would be installed at the OPJ. A drawn form (drawing M16114-A-026A) of the RHS alternative is included as Appendix J in the RHS's response to the Applicant's preferred route announcement consultation (March 2018), a document that forms Appendix A of REP1-044⁸. The RHS alternative only concerns

⁸ See page 155 of REP1-044

the southern end of the Proposed Development, between Wisley Lane and the OPJ.

5.2.93. It must be borne in mind that the RHS alternative does not form part of the Proposed Development and consistently through the Examination the Applicant made it clear that it would not make a change to the submitted application to accommodate the RHS alternative. In this regard it should be noted that the provision of SFS at the OPJ would involve land beyond that covered by the red line for the Proposed Development.

5.2.94. Accordingly, in transportation terms the ExA has approached the cases made by the RHS and the Applicant concerning the RHS alternative purely on the basis of whether the absence of SFS at the OPJ and a left turn from Wisley Lane onto the A3 would materially affect travel distances and journey times for visitors to RHS Wisley to the point of making the Proposed Development unacceptable. There is disagreement between the Applicant and the RHS as to whether the provision of a left turn from Wisley Lane and SFS could safely be accommodated. The ExA has therefore consider it necessary for us to comment on whether the RHS alternative could be accommodated safely.

Transportation effects of the Proposed Development for visitors to RHS Wisley and consideration of the SFS element of the RHS alternative

5.2.95. The RHS argued throughout the Examination that the Proposed Development without a left turn from Wisley Lane and SFS would worsen, rather than improve, access to RHS Wisley and would thus inadequately serve the needs of visitors to RHS Wisley. That is because trips to and from RHS Wisley by road would be longer both in terms of distance travelled and time taken.

5.2.96. The RHS has contended that without the RHS alternative those travelling to and from RHS Wisley would unnecessarily be required to make longer journeys and spend more time completing them. By extension the RHS contends that the additional travel time and distance encountered in getting to and from RHS Wisley would be a deterrent to visits being made to the Gardens and would undermine the long term viability of this visitor attraction. We consider the economic implications of the Proposed Development upon RHS Wisley in Section 5.11 of our Report.

5.2.97. In terms of getting to and from RHS Wisley, under Proposition 4.1 in the final version of SoCG between the Applicant and the RHS [REP8-031⁹], the Applicant and the RHS have agreed what the differences in travel distances there would be under the Proposed Development compared with the existing situation [Appendix C in REP5-050]. The agreed differences in travel distances being based on the parts of the trips to and from RHS Wisley that are/would be made, respectively under the current situation the and the Proposed Development, between junction 10 and the Gardens (A3 from north) and the exit/entry to the A3 at Send via either the B2215 or the B2215 and A247 (ie the Burnt

⁹ Signed by the Applicant and not signed by the RHS

Common junction) to the Gardens (A3 from south). The following table summarises the agreement that has been reached with respect to the changes in travel distances.

Table 5.1 Agreed measured distances for the Proposed Development compared with the existing situation

	Distance in metres	Difference in metres versus Existing
Round trip A3 from south		
Existing via A3	14,810	0
Existing via B2215	16,085	+1,275
Proposed Development via A3	23,175	+8,365
Proposed Development via Send and Ripley (B2215)	12,860	-1,950
Round trip A3 from north		
Existing via A3	6,675	0
Proposed Development via Wisley Lane diversion	8,870	+2,195
Round trip M25 east		
Existing via A3	7,325	0
Proposed Development via Wisley Lane diversion	9,535	+2,210
Round trip M25 west		
Existing via A3	7,120	0
Proposed Development via Wisley Lane diversion	9,415	+2,295

Source for Table 5.1 is Appendix C of REP5-050

- 5.2.98. There is no agreement between the RHS and the Applicant with respect to how much longer it would take to make the round trips to and from RHS Wisley under the Proposed Development. That said, the ExA considers that the increases in journey times identified by the RHS can be treated as worst case timings and they are shown in summary in the table within paragraph 7 of REP12-057. It is apparent from the RHS's TA of May 2016, submitted in support of its expansion proposals for RHS Wisley [REP2-040], that the vast majority of visitors arrive and depart

RHS Wisley during the interpeak period, ie the hours of 10:00 to 15:00 as defined by the Applicant [APP-136]. Given that, the ExA considers that it is the changes to the journey times during the interpeak period that are of most significance when considering the RHS's objection.

- 5.2.99. For the interpeak period, in summary the RHS's assessment of the journey times for the round trips made by visitors to RHS Wisley without and with the RHS alternative is shown in the following table¹⁰.

Table 5.2 Interpeak journey time comparison for the Proposed Development without and with the RHS alternative

	RHS assessment of journey times in seconds/minutes*	Applicant assessment of journey times in seconds/minutes*
Round trip A3 south		
Existing via A3	821/13:41	894/14:54
Proposed Development via Wisley Lane Diversion	1,304/21:44	1,326/22:06
Proposed Development via Send and Ripley (B2215)	1,218/20:18	1,200/20:00
RHS alternative	584/9:44	834/13:54
Round trip A3 north		
Existing via A3	348/5:48	324/5:24
Proposed Development via Wisley Lane Diversion	479/7:59	462/7:42
RHS alternative	311/5:11	252/4:12
Round trip M25 east		
Existing via A3	380/6:20	504/8:24
Proposed Development via Wisley Lane diversion	516/8:36	582/9:42

¹⁰ Source for Table 5.2 being the table in REP12-057, which in turn draws upon information contained in REP5-046 and REP11-036

	RHS assessment of journey times in seconds/minutes*	Applicant assessment of journey times in seconds/minutes*
RHS alternative	340/5:40	372/6:12
Round trip M25 west		
Existing via A3	373/6:13	450/7:30
Proposed Development via Wisley Lane diversion	507/8:27	516/8:36
RHS alternative	338/5:38	306/5:06

*Conversion to minutes and seconds undertaken by the ExA

- 5.2.100. The RHS's objection to the access arrangements to RHS Wisley under the Proposed Development has been made against the backdrop of it having embarked upon the implementation of a £65 million investment programme (the expansion scheme) with the aim of significantly increasing visitor attendance at the Gardens [RR-024]. The completion of the expansion scheme is expected by the RHS to coincide with the early phases of the construction phases for the Proposed Development [REP1-039].
- 5.2.101. The TA of May 2016 that accompanied the RHS's planning applications refers to the intention for the expansion scheme to increase visitor numbers from approximately 1.0 million in 2016 to 1.4 million over 10 years [REP3-032]. However, it now appears that the RHS is working on the basis of the uplift in visitor numbers at RHS Wisley being of the order of 1,494,000 by 2024 [REP1-039 and REP6-024], ie something of the order of 49.4% rather than 40% above the position in 2016. It would also appear that the growth of visitor numbers has been occurring at a faster pace than has previously been predicted by the RHS, with 1,252,000 recorded visitors at the Gardens in 2019 as detailed in Table 2 of HRR2 [REP6-024], compared with the projection of 1,141,538 referred to in Table 1 of HRR1 [REP1-039].
- 5.2.102. Central to the RHS's objection is that without a left turn from Wisley Lane onto the A3 and SFS at OPJ the predicted visitor growth at the Gardens will be compromised, threatening the operational viability of RHS Wisley.
- 5.2.103. A premise the ExA considers that clearly underpins the RHS's objection to the Proposed Development is that the additional traffic arising from the RHS Wisley expansion scheme will be of a significant level, which should be accommodated by the SRN. The ExA considers this to be reasonable, given that the expansion scheme benefits from various extant planning permissions and is being implemented, and is therefore not a

hypothetical scheme [REP3-030, REP3-031 and REP5-055]. However, it is clear from the traffic modelling that the Applicant has undertaken, as reported in the submitted TA [APP-136], that the effect of the additional RHS Wisley traffic for the operation of the SRN has been accounted for by the Applicant.

- 5.2.104. The Applicant has commented that the traffic generated by visits to and from RHS Wisley in an entire year "*... is approximately the same as the traffic associated with M25 J10 in just four days*". Currently around 270,000 vehicles pass through or turn at junction 10 on average per day [REP4-005] and so for four days the number of vehicle movements on this part of the SRN equates to around 1,080,000.
- 5.2.105. In 2019 there were 1,252,000 confirmed visitors to RHS Wisley as reported in Table A2 in HRR2 [REP6-024], with information about the mode of transport used by RHS Wisley visitors being provided in Appendix B of HRR2 and vehicular occupancy of 2.25 visitors per car and 30 visitors per coach [REP1-044]. The ExA considers that taking account of the mode of transport and vehicle occupancy rates stated in REP6-024 and REP1-044 and a visitor number of 1,252,000, then in 2019 the total number of vehicle movements generated by RHS Wisley would have been of the order equivalent to around four days' worth of the traffic using the M25 and A3 in and around junction 10. Extending this contextual analysis, a little further, the 1.08 million vehicle movements generated by RHS Wisley in 2019 was equivalent to around 1% of the 98.55 million¹¹ or so vehicles passing through or turning at junction 10 per year.
- 5.2.106. Under the Proposed Development it is the 32.5% of visitors, whose round trips would begin and end to the south of the Gardens, and who are thus reliant on making use of the A3 south for much of their round trips, who would encounter longer trip lengths. Those round trips via the A3 south route at worst would be 5.2 miles/8.3km further and take eight minutes longer in the estimation of the RHS if the signed route, involving U-turns at junction 10 were to be used. If the alternate route from the south involving routing via the B2215 was to be used that would be around 1.2 miles/1.9km shorter than the current situation, albeit it would take a little over six minutes longer than the current round trip as reported in Table A5 of HRR2 [REP6-024]. By comparison the 52.7% of visitors whose round trips would begin and end to the north of RHS Wisley, ie those reliant on the A3 north route, would have journeys that would be 1.4 miles/2.25km further and take a little over two minutes longer, as per the information stated in Table A4 in HRR2.
- 5.2.107. There is no doubt that by comparison with the existing access to RHS Wisley for the 32.5% of visitors making round trips via the A3 south, the Proposed Development would be less direct and would involve the making longer journeys. For these visitors a choice would be available between the longer signed route, which save for the use of the Wisley Lane diversion would use the SRN or the shorter route via the B2215. In

¹¹ 270,000 vehicles per day multiplied by 365 days

practice the ExA considers it likely that visitors reliant on the routes via the A3 south would be likely to use a mixture of the two available routes and may well use satnav technology to assist their route decisions [REP1-017].

- 5.2.108. For regular visitors to RHS Wisley, the choice of the route used would be made on the basis of the familiarity of one or other of the routes, influenced by factors such as journey reliability and the volume of traffic using the B2215, particularly in the area of Ripley High Street. In this regard the ExA considers it is possible that visitors of RHS Wisley leaving the Gardens would make more use of the B2215, given that on arriving at OPJ instinctively routing via the B2215 might make more sense rather than joining the A3 northbound in order to make a U-turn at junction 10.
- 5.2.109. While the round trip routing via the SRN would involve driving past RHS Wisley four times and might be felt a bit unusual for first time users of this route, we are not persuaded that it would cause driver uncertainty, confusion or stress [REP1-044]. That is because this route would clearly be marked on multiple gantries and other roadside signs, which would be installed as part of the Proposed Development, and given the scale and nature of that signage for any driver it should be readily apparent that it was being directed to follow a purposefully planned route to get to and from the Gardens.

SFS at the OPJ

- 5.2.110. SCC in making its RR [RR-004] submitted that the Applicant should have undertaken modelling to demonstrate what the effect of providing SFS at OPJ might be for the flows of traffic on the LRN. In particular whether the presence of SFS, in conjunction with the Proposed Development, would assist in mitigating the effects of the flows of traffic in and around Ripley that have been predicted by the Applicant. The RHS also submitted that the Applicant should have undertaken modelling for the provision of SFS to assess what their effect on traffic flows would be and to, in effect, justify the Applicant's decision not to include them within the Proposed Development.
- 5.2.111. To provide greater certainty about what effect the availability of SFS might have for the operation of the LRN in association with the Proposed Development, we requested the Applicant to undertake modelling for the presence of SFS on a hypothetical basis, pursuant to our ExQ3 3.13.2 [PD-016].
- 5.2.112. The results of the modelling for the hypothetical presence of SFS in 2022 and 2037 are shown in Table 4:1 in REP8-040. The model runs have been undertaken to simulate the predicted flows coinciding with RHS Wisley event days. That is to address the maximum/worst case predictions for traffic travelling to and from the Gardens. The Applicant has identified that on event days in 2022 around 95% of the traffic using SFS would be using the Wisley Lane Diversion, which includes the traffic travelling to and from RHS Wisley and Wisley village, while on a non-event day the Gardens' contribution to the use of the SFS would be of

the order of 50%. The Applicant has submitted that what the modelling for 2022 shows is that use of the SFS would be "small", between 72 and 116 vehicles in any hour using each of the northbound (exit) and the southbound (entry) slips on an hourly basis across the peak and interpeak periods [REP8-040]. The Applicant has further submitted that modelling for 2022 suggest that for non-event days at RHS Wisley, ie the majority of days throughout any given year, the use of the SFS would be half that shown in Table 4:1 in REP8-040.

- 5.2.113. The ExA agrees that the volume of traffic using the SFS in 2022, in relative terms, would be light, with at most in any hour on average no more than two vehicles using each of the slips per minute.
- 5.2.114. For 2037 the modelling predicts intensified use of the SFS, with around 70% of traffic using them being attributed by the Applicant to vehicles travelling to and from the airfield development. The airfield development being subject to an allocation included in the Guildford Local Plan 2019 for 2,000 dwellings, employment space and other associated development. With SFS available it is predicted for 2037 that all of the Wisley airfield development's traffic from the south would use the SFS, avoiding any use of the B2215 through Ripley. It is similarly predicted that in 2037 all traffic exiting the airfield development and heading south would route via the SFS, with there being no use of Old Lane to the north of the airfield to access the A3 southbound. The Applicant has identified that vehicles travelling to and from RHS Wisley and Wisley village would account for around 25% of the SFS's use in 2037, again based on event day traffic volumes, ie encompassing the worst case scenario for the use of the SFS.
- 5.2.115. For 2037 the Applicant's modelling for the presence of SFS suggests that at a maximum during AM peak period hours the southbound A3 SFS would see the most intense use at approaching seven vehicles per minute. During the interpeak peak hours, when the use of the SFS by traffic travelling to and from RHS Wisley would be at it greatest, between around three and four vehicles per minute would use either the northbound or the southbound slip.
- 5.2.116. In response to the ExQ4 4.13.3 [PD-021] SCC has commented on the results of the Applicant's hypothetical modelling for the presence of SFS in REP10-012 in the following terms:

"The results show that while reductions in vehicle flows on some local roads are forecast (eg on the B2215), increases on other local roads are anticipated (eg B367 Newark Lane and B2039 Ockham Road North). Despite the relatively modest increases forecast, SCC remains concerned by the potential impact on B class and other local roads as well as on local communities especially on the south side pf the A3, and would require full testing and analysis before taking a view prior to wider consultation occurring.

Whilst the HE modelling does forecast some trips re-routing via the Strategic Route Network as a result of the slip roads, the figures do not

seem to make enough of a significant change to allow HE to be able to justify in economic terms, the implementation of slip roads at the Ockham junction”

- 5.2.117. The ExA takes from SCC’s observations on the modelling for the presence of SFS is that the interrelationship between the operation of the SRN, in its altered form, and that of the LRN would not warrant the installation of the SFS. SCC and the Applicant are agreed that the installation of the SFS would not be cost efficient. However, both of the highway authorities also being agreed that the Proposed Development of itself would not preclude the installation of SFS at a later date [REP12-008].
- 5.2.118. The RHS has commented in REP11-035 on the Applicant’s modelling for the presence of the SFS and at paragraph 2.2 acknowledges that by 2037 the main benefit arising from the availability of SFS would be in providing a route for airfield redevelopment traffic to travel to or from the south without routing via Ripley and Send. From the content of REP11-035 the RHS appears to have raised no concerns with the estimates for the volume of traffic that would use the SFS, as set out in Table 4.1 of REP8-040.
- 5.2.119. The RHS has made some criticism of the RHS alternative having not been fully modelled by the Applicant [REP11-035]. That is because the availability of a left turn from Wisley Lane onto the A3 has been excluded from the modelling that the Applicant undertook in response to ExQ4 4.13.3. The safety implications of the RHS alternative are something we consider under the next sub-section of our Report.
- 5.2.120. The Applicant’s modelling for the presence of SFS indicates that there would be no need for those travelling to or from RHS Wisley, Wisley village and the airfield development to route via the B2215 through Ripley. However, the ExA considers what the modelling for the hypothetical presence for the SFS has done is reinforce the Applicant’s view that, as counterintuitive as it might seem, the traffic that would route via the B2215, most particularly the High Street through Ripley, and other local roads, would not place undue pressure on the operation of the various sections (links) of the LRN between those roads and their junctions with other roads that make up the LRN as a whole. In effect the ExA considers what the Applicant’s modelling for the presence of SFS has demonstrated is that for the traffic flows through Ripley without SFS there would be little difference for the traffic flowing through Ripley under the DM scenario.
- 5.2.121. The modelling results for the presence of the SFS [REP8-040] suggest the only justification that could be made for the installation of SFS at this time would appear to be associated with the redevelopment of the former Wisley airfield, a proposal while benefitting from an allocation in the Guildford Local Plan was subject to neither a planning permission nor a planning application at the close of the Examination. The ExA, however, considers on the face of the evidence available to us that the volume of traffic generated by RHS Wisley and Wisley Village and travelling to and

from south via the A3 would not justify the installation of SFS element of the RHS alternative.

5.2.122. With only north facing slips at OPJ being available under the Proposed Development there would be the potential for some visitors to RHS Wisley, by comparison with the current situation, to start using the LRN, most particularly the B2215, from the SRN to complete their inbound journeys and begin their outbound trips. That said the ExA has seen no evidence presented by the RHS, or for that matter SCC as the highway authority for the LRN, demonstrating that the visitor traffic generated by RHS Wisley routing via Ripley, as a consequence of the Proposed Development, would exceed the B2215's capacity, especially as much of the traffic generated by the Gardens is in the interpeak period when the volume of traffic carried by the B2215 is less.

5.2.123. While the use of the B2215 by some of the traffic generated by visitors to RHS Wisley would not be wholly desirable, the ExA considers that such use would not be at unacceptable levels. The option for visitors of the Gardens to make use of the A3 south via the signed SRN route would provide a realistic alternative route that would help to manage RHS Wisley visitor traffic along the B2215.

Safety considerations relating to the RHS alternative

5.2.124. As the RHS alternative comprises two quite distinct elements, the retention of a left turn facility from Wisley Lane and SFS at OPJ, below we consider the road safety implications of those elements in turn.

Left turn from Wisley Lane

5.2.125. There is disagreement between the RHS and the Applicant as to whether or not a left turn from Wisley Lane could be provided in a form that would accord with the design standards for the SRN, as stated in the Design Manual for Roads and Bridges (DMRB). The Applicant has referred to the RHS alternative as including an at-grade junction between Wisley Lane and the A3, while the RHS has promoted a grade separated junction. The design standards for grade separated and at-grade junctions are set out in CD122 and CD123 of the DMRB, which have been published as part of the Applicant's recent review of the entire DMRB. Relevant extracts from CD122 and CD123 have been submitted by the Applicant and are contained in REP5-022.

5.2.126. Under 'Proposition 2.1' in the D8 version of the SoCG between the Applicant and the RHS [REP8-031], it is stated that it has been agreed that the RHS alternative should be assessed under the standards contained in CD122 of the DMRB, the standards for grade separated junctions. However, that apparent agreement is contradicted by what is stated under 'Proposition 2.2', with the Applicant reverting to a reference to this hypothetical junction being an 'At-Grade junction' and the RHS's proposal being based on design parameters taken from both CD122 and CD123 because it would not be possible to meet the standards for an at grade junction stated in CD123. The RHS has, however, reiterated that it

has been working on the basis that this element of the RHS alternative would involve the installation of a grade separated junction [REP8-031].

- 5.2.127. From what is stated in under Propositions 2.1 and 2.2 in the SoCG it is therefore not entirely clear whether the Applicant accepts that the RHS's hypothetical design for a left turn junction from Wisley Lane is for a grade separated junction or not. Given that the RHS is the promoter of the RHS alternative and has stated categorically in REP8-031 that "*The RHS Alternative Scheme is not an At-Grade junction*", the ExA considers that is how this hypothetical proposal should be looked upon.
- 5.2.128. If a left turn from Wisley Lane is assessed against CD122, the RHS has accepted under Proposition 2.2 of the SoCG that this element of the RHS alternative would depart from the standards because it would not be possible to provide 'near straight' and 'horizontal curvature' components, albeit the necessary weaving length could be provided. The weaving distance required by CD122 being 1.0km. The RHS contends that while components of a left turn onto the A3 would not be compliant with the requirements of CD122, necessitating a departure from the standards to be approved, that would not necessarily result in the RHS alternative becoming unacceptable.
- 5.2.129. In REP8-031 the Applicant has commented that the left out radius of 58 metres, shown on drawing M16114-A-076 [REP8-031], would be less than the desirable minimum radius of 360 metres stated in CD122 and would be less than "*the absolute minimum radius (90m) for a 50kph¹² design speed*". The Applicant has argued that rectifying those shortcomings would produce a weaving length between the left turn onto the A3 and the exit slip for the M25 that would be unacceptable. The Applicant has further submitted that the provision of a left turn would require "*up to five departures to be approved*", with those being listed in Appendix A of REP5-050, a draft SoCG submitted by the RHS at D5.
- 5.2.130. The Applicant has further stated in the SoCG that HE's Safety, Engineering Standards section has indicated that "*... a departure for reduced weaving length between Wisley Lane and Junction 10 would not be agreed due to the high volume of traffic weaving in this location causing increased likelihood of accidents*" [REP8-031]. Within Appendix A of the SoCG there are two drawings that have been prepared for the RHS, M16114-A-076 and M16114-A-077, which show slightly different designs for a left turn from Wisley Lane. Drawing M16114-A-077 for example shows a slightly less tight radius of 75 metres. The Applicant has not referred to the details shown on one or other of those drawings being any more or less acceptable to its Safety, Engineering Standards section. The ExA therefore takes from that the Applicant is of the view that both designs would not be approved as a departure from CD122.
- 5.2.131. The information contained in REP5-027 about the causes for the individual accidents is limited. It appears that shunt type incidents, with

¹² 50kph being equivalent to around 31mph

at least one upstream vehicle¹³ colliding with the rear of a downstream vehicle¹⁴, and weaving (lane switching) of a vehicle have been the most frequent causes of the reported accidents. The RHS has suggested that the preponderance of shunts suggests that weaving is not a significant cause of the accidents on this part of the A3 [REP1-044].

- 5.2.132. However, as rear end shunt type accidents result from an upstream vehicle running into the rear of a downstream vehicle, which has suddenly either decelerated or come to a complete stop, the actions of a driver or drivers downstream of a shunt type accident, such as weaving, may well have precipitated an accident. In a location where Wisley Lane is merging with a three lane dual carriageway and exit slip for junction 10 is a little downstream, the ExA considers that there is too little information contained within the accident report summaries to be able to sensibly conclude that the shunt type accidents that have happened arose because one vehicle just ran into the rear of another one and discount the possibility of weaving ahead of any given accident as being a contributory factor.
- 5.2.133. The ExA therefore considers that lane weaving by some vehicles causing others to decelerate and/or come to a complete stop in response to other downstream drivers' actions appears to be a contributory factor for some of the shunt type accidents that have occurred and have been reported in REP5-027, for example incidents 25, 26 and 35.
- 5.2.134. In the ExA's view, incorporating a left turn from Wisley Lane into the design of any improvement scheme for the A3 northbound at this point, whether that be the Proposed Development or a different scheme, would be likely to perpetuate unsafe conditions for all users of this part of the SRN. In this regard a local resident in REP-053 has anecdotally commented to this stretch of the A3 northbound being "*... chaotic with cars travelling at speed, lane swapping from the outside and middle lanes to the nearside lane for the M25 slip road, regular breaking as drivers try to squeeze in further up the queue or onto the slip road at the junction itself. Joining the A3 from the Ockham roundabout during the rush hour sees the nearside and middle lane severely congested... The safest thing to do is to move into the outside lane as soon as possible to avoid the majority of the issues*". The ExA considers it relevant that there would be around a distance of 1.35km¹⁵ in which to accommodate a left turn from

¹³ "That part of the carriageway(s) where traffic is flowing towards the section in question" – Extract from DMRB CD122 [REP5-022]

¹⁴ "That part of the carriageway(s) where traffic is flowing away from the section in question" – Extract from DMRB CD122 [REP5-022]

¹⁵ Based on Wisley Lane being between chainage 1300 and 1400 and the nose at the diverge between the A3 and junction 10 being at chainage 2700, as per the chainage quoted on sheets 2 and 4 of the Scheme layout plans [REP8-009]

Wisley Lane to the nose¹⁶ of the exit slip for junction 10, while a 70mph speed limit would be applicable to four live running lanes on the A3.

- 5.2.135. The lane management intended to segregate traffic exiting the A3 at junction 10 from A3 northbound through traffic would commence just south of where the proposed Wisley Lane diversion overbridge would be, at around chainage 1,300m. That would also correspond with the three quarter mile (1,200m) marker point ahead of the exit slip for the M25, ie the southernmost gantry spanning both dual carriageways shown on sheet 2 of the Scheme Layout Plans [REP8-009]. At this point lanes one and two are intended to accommodate traffic that would be exiting (diverging from) the A3 to join the M25, while lanes three and four would primarily be for use by northbound through traffic. That lane management is depicted by the lane markings shown on sheets 2 to 4 of REP8-009 and shown on sheet 1 of 3 of the typical gantry sign details included within REP8-011.
- 5.2.136. With the lane management intended under the Proposed Development downstream of any left turn from Wisley Lane onto the A3 there would be the potential for weaving (traffic path crossing¹⁷) to occur, with vehicles still travelling at high speeds in lanes three and four cutting across the path of other vehicles to reach the nearside lanes, ie lanes one or two, in order to be able to exit the A3 at junction 10. There could also be vehicles joining/merging with the A3 from either the OPJ north facing entry slip or Wisley Lane in A3 mainline lanes one or two and needing to change lanes, in a relatively short distance, in order to be able to enter the offside lanes, ie lanes three or four, so as to remain on the A3 northbound. This would be in the context of the Applicant proposing a "lane drop"¹⁸ to two lanes on the approach to the A3's overbridge at junction 10.
- 5.2.137. The RHS in its response to ExQ3 2.13.18c [PD-010] has submitted that it considers that because most of the vehicle trips generated by RHS Wisley occur in the interpeak period and at weekends the potential for weaving to contribute to accidents would be less significant than for a side road (connection) which predominantly serves vehicular activity in the peak periods [REP5-054]. However, the accident data contained in REP5-027¹⁹ indicates that for the 36 recorded accidents for the A3 northbound between the OPJ and the southern extremity of the exit slip at junction 10, 16 (44%) occurred during the interpeak period. In the ExA's view the number of accidents that have occurred during the interpeak period, ie between 10:00 and 16:00, comprises a significant proportion of all the accidents recorded. Those interpeak accidents have occurred at

¹⁶ "A paved area, approximately triangular in shape, between a connector road and the mainline at a merge or diverge, suitably marked to discourage drivers crossing it" – Extract from DMRB CD122 included in REP5-022

¹⁷ Applicant's response to ExQ2 2.13.13a in REP5-014

¹⁸ "A layout where a lane(s) of the upstream carriageway becomes a lane(s) of the diverging connector road" – Extract from DMRB CD122 [REP5-022]

¹⁹ For the five year period between 1 December 2013 and 30 November 2018

times when the A3 might be expected to be more lightly trafficked compared with the peak periods.

- 5.2.138. It therefore appears to the ExA that in this location accidents are not strongly associated with either the peak or the interpeak periods. The ExA therefore considers that the respite in the volume of traffic that arises during the interpeak period is not sufficient, of itself, to significantly diminish the propensity for accidents to arise in this location.
- 5.2.139. The ExA is therefore not persuaded that a widened A3 northbound would be capable of safely accommodating a left turn from Wisley Lane, along the lines of what has been promoted by the RHS, ie the details shown on TTHC drawing M16114-A-077 included within the signed SoCG between the RHS and the Applicant [REP8-031]. That is because even with an additional lane being provided to accommodate more traffic exiting the A3 northbound to join the M25, there would still be the potential for drivers to make weaving type manoeuvres to get into the correct lane either to exit for the M25 or remain on the A3.
- 5.2.140. The ExA is concerned that even with two lanes being earmarked for vehicles exiting the A3 northbound at this point and the proposed advisory gantry signage that those measures would not completely address hazardous 'late swooping'. This is the practice by drivers who perform a late lane switching manoeuvre from an outer lane and in effect force their way further up a queue rather than joining the back of a queue that is either wholly contained within an exit slip or is tailing back from that slip [REP5-014]. Late swooping by some drivers can cause others to weave from inner to outer lanes to avoid a swooping vehicle that is either travelling slowly or has come to a complete stop.
- 5.2.141. While late swooping by some drivers and weaving in response to it by others cannot be eliminated as part of the design for the Proposed Development, the ExA considers it perfectly logical of the Applicant to seek to design out one potential source of weaving, by excluding a left turn from Wisley Lane.
- 5.2.142. For the A3 northbound, between the OPJ and divergence of the mainline carriageway and the exit slip for the M25, of the 36 PIAs recorded between 1 December 2013 and 30 November 2018 none involved a fatality, while six were classified as being "*serious*" and thirty were classified as being "*slight*" [REP5-027]. Based on the available accident data it appears that compared to the volume of traffic using this part of the A3, a limited number of road users have been involved in PIAs. However, it is likely that a much larger number of road users will have been affected by reduced journey reliability, given that accidents can cause delay and significantly extend travel times. Given the accident record for the A3 northbound between the OPJ and the exit for the M25, the ExA finds it difficult to comprehend how it can reasonably be argued that a left turn from Wisley Lane could safely be incorporated into any scheme for the widening of this part of the A3 to four lanes.

- 5.2.143. Given the available accident data, most particularly that available within REP5-027, the ExA considers that the RHS's submissions have not addressed adequately the significant number of accidents within the vicinity of the Wisley Lane's junction with the A3. As was highlighted by the Applicant during ISH2 [REP3-039] the ExA considers that were a left turn from Wisley Lane to be available it would be more intensely used compared with the existing left turn. That is because the RHS is predicting increased visitor numbers. Consequently, the propensity for accidents to arise would be different to the historic record. The ExA is therefore of the view that the provision of a left turn from Wisley Lane would be inconsistent with the objectives for the Proposed Development to improve journey reliability on the mainline of the A3 and reduce the potential for accidents on this part of the A3.
- 5.2.144. The Applicant, in its capacity as the relevant highway authority, is clearly opposed to the provision of a left turn from Wisley Lane onto the A3 on safety grounds. The ExA agrees that as part of the widening of the A3 northbound to four lanes at this point a left turn from Wisley Lane could not safely be accommodated.
- 5.2.145. The retention of a left turn directly onto the A3 would also fly in the face of the Applicant's safety objective for the Proposed Development, wherever possible, to extinguish side road junctions and private accesses with direct linkage to the A3. In that regard under the provision of the Proposed Development there are only two exceptions to that safety objective. The first concerns the retention of the left turns into and from Old Lane, while the other exception concerns the entry to and exit from the replacement PMA to a gas valve compound, the Heyswood Campsite, Court Close Farm and New Farm south of the Painshill roundabout.
- 5.2.146. However, the circumstances relating to the aforementioned junctions are not comparable with a left turn from Wisley Lane onto the A3 northbound. That is because in the case of Old Lane the retained side road junction would connect with a part of the A3 southbound, which would not be subject to four lane running [sheet 4 in REP8-009]. Old Lane connecting with the A3 within part of the two lane entry slip for the A3 from the M25, with those slip lanes merging with the two main southbound lanes a few hundred metres downstream of Old Lane. The new PMA for Heyswood Campsite and Court Close Farm would connect with the A3 southbound via the two lane entry slip road for traffic joining from the A245 on the southern side of the Painshill roundabout [sheet 8 in REP8-009]. However, that slip road would be the subject of a 40mph speed limit at this point.

SFS at the OPJ

- 5.2.147. With respect to the provision of the SFS at OPJ, there is disagreement between the RHS and the Applicant as to whether SFS could safely be provided. The Applicant is concerned that because of the presence of entry and exit slips for the two service stations to the south of OPJ, one on each side of the A3, SFS could not be provided in accordance with the requirements of CD122. In that regard the Applicant has submitted under

Proposition 2.3 in REP8-031 that for SFS with vertical and horizontal alignments and geometries compliant with the standards in CD122 to be provided, then it would not be possible to achieve the necessary 1,000 metre weaving distance in the space available between OPJ and the entry for the southbound service station and exit slip for the northbound service station. The provision of SFS of less than 1,000 metres would require a departure from standards which "... *may be unacceptable to HE Safety, Engineering Standards*" [REP8-031].

- 5.2.148. Compared with the categoric opposition to the provision of a left turn from Wisley Lane onto the A3, there is less clarity as to whether HE Safety, Engineering Standards would or would not be prepared to approve a departure from standards if a weaving distance of less than 1,000 metres could not be provided. Given what the Applicant has stated in REP8-031, ExA considers that there might be some potential for SFS to be provided at the OPJ.

The ExA's concluding remarks on the RHS alternative

- 5.2.149. For the reasons given above the ExA concludes that a left turn from Wisley Lane onto the A3 northbound could not be safely provided, due to the potential for the poor accident record for the A3 northbound to be perpetuated and exacerbated. That would be contrary to one of the objectives for the Proposed Development to reduce the number of accidents on this part of the SRN. While the absence of a left turn from Wisley Lane onto the A3 would require some increase in the distance travelled for visitors of RHS Wisley, the ensuing road safety benefits of the Proposed Development would also accrue for RHS Wisley visitors. The ExA considers that disbenefit of the Proposed Development would be outweighed by the Proposed Development's objective to reduce accidents in the area.
- 5.2.150. With respect to the SFS, on the basis of the modelling for their presence that has been undertaken, the ExA considers that the scale of their use, and the resultant reduction in the amount of traffic routing via the LRN, most particularly the B2215, would not be of such significance as to warrant the provision of this part of the RHS alternative. On that basis whether SFS could be provided with any departures from standards being approved by the Applicant is somewhat academic.
- 5.2.151. While the ExA recognises that under the Proposed Development there would be some negative effects for those getting to and from RHS Wisley, it is not persuaded that the absence of SFS at the OPJ and a left turn from Wisley Lane onto the A3 would create conditions for visitors to the Gardens of such significance as to render the Proposed Development as being unacceptable in traffic and transportation terms.

Operational effects of the Proposed Development on the LRN

Effects concerning the B2215 and other LRN roads within the vicinity of Ripley

- 5.2.152. Concerns have been voiced by Councillor Cross (GBC ward member for Lovelace²⁰) [REP-054], Ripley Parish Council [REP1-017], the chair of Lovelace Neighbourhood Plan steering group [REP1-29] and the Guildford Residents Association [REP1-027] about traffic routing through Ripley on the B2215 because of the absence of SFS at the OPJ. The RHS similarly considers that the Proposed Development would in the absence of the RHS alternative result in some traffic currently using the SRN routing away from it to the LRN [REP1-044].
- 5.2.153. The switching of some traffic to the LRN would appear to be counterintuitive, given an objective of the Proposed Development is to create additional SRN capacity to accommodate future traffic growth, which in part would arise from new development in the area that without extra SRN capacity would be reliant on making use of the LRN. However, the Applicant has submitted in REP10-003 that the traffic modelling for the Proposed Development suggests that the use of the LRN would be reduced by on average 27,900 vehicle km per day. That is because that drivers would divert from other parts of the LRN to the M25 and/or the A3 with their being less congestion and delay in and around junction 10. The RHS, however, contends that the traffic modelling for the Proposed Development's implications for the operation of the LRN undertaken by the Applicant has been inadequate.
- 5.2.154. The RHS's criticism of the traffic modelling is summarised in REP8-031. In essence those criticisms revolve around the robustness of the 2015 base year flows that have been used, the accuracy of the assigned traffic to individual roads and the performance of Ripley High Street's junctions with Newark Lane and Rose Lane, with it being argued that the strategic model used by the Applicant cannot accurately predict the effects for the operation of local level junctions.
- 5.2.155. Significantly SCC has agreed in its signed SoCG with the Applicant [REP12-008] the following matters:
- the methodology and scope of the traffic modelling that has been carried for the Proposed Development "*is robust and appropriate as regards: baseline modelling; demand forecasting; future year modelling*", albeit SCC's agreement in this regard has been caveated subject to mitigation being secured for Ripley High Street (paragraph 2.5.1 of the SoCG);
 - the 2015 base flows for traffic that have been reported in the TA [APP-136] for the Proposed Development are "*robust and appropriate and derived from reliable sources*" (paragraph 2.5.2 of the SoCG);

²⁰ A ward that covers Ripley, Ockham and Wisley

- the level of detail contained in the TA [APP-0136] and the Transport Assessment Supplementary Report [REP2-011] are appropriate, albeit SCC disagrees with the Applicant's views on the need for mitigation (paragraph 2.5.4 of the SoCG);
- the Proposed Development would "... *not preclude the provision of south-facing slips at the Ockham Park junction at a later date*" (paragraph 2.6.3 of the SoCG);
- the modelled DM and DS traffic flows through Ripley in 2022 and 2037 during the morning and evening peaks and the interpeak period as set out in APP-136 and REP2-011 "*are robust and provide a sound basis for assessing the effects of the Scheme as regards Ripley*", albeit SCC's agreement in this regard has been caveated subject to mitigation being secured for High Street (paragraphs 2.8.1, 2.8.1A, 2.8.1B and 2.8.1C of the SoCG); and
- the reasonably likely worst case for RHS Wisley traffic routing via Ripley has been assessed, by considering the traffic flows consistent for event days at the Gardens travelling from and to the south via the A3 travelling via Ripley rather than following the signed route including U-turning at junction 10 of the M25 (paragraph 2.8.4 of the SoCG).

- 5.2.156. Given the traffic modelling matters that have been agreed by SCC in its capacity as the local highway authority responsible for the day to day management and operation of LRN, the ExA considers that little weight should be attached to the RHS's concerns about the quality of the modelling for the Proposed Development's effects upon the operation of the LRN in and around Ripley. That said the ExA is mindful of some of SCC's acceptance of the quality of the Applicant's traffic modelling has been caveated. However, that caveating does not go to the heart of the quality of the Applicant's modelling, but rather to a disagreement about how the results from that modelling have been interpreted and whether there would be a need to provide mitigation for the effects of the traffic associated with the Proposed Development upon the operation of the B2215 through Ripley.
- 5.2.157. As the ExA has discussed in the preceding subsection much of the traffic that would use the LRN, particularly the B2215 through Ripley, could be vehicles travelling to and from RHS Wisley and the proposed redevelopment of the former Wisley airfield. However, as part of the allocation for the airfield under Policy A35 of the adopted Guildford Local Plan there is a requirement for that redevelopment scheme to provide north facing slips at the Burnt Common, which is around 2.5 miles (4.0km) to the south of the OPJ.
- 5.2.158. Given the distance between the OPJ and the Burnt Common junction it was not immediately obvious to the ExA how providing north facing slips at Burnt Common would provide relief on the B2215 for the volume of traffic travelling to and from the airfield development. At ISH2 [EV-005a to EV-005d] SCC clarified that the purpose of the proposed north facing slips at Burnt Common would be to provide an opportunity for traffic travelling to and from locations to the west of Send, particularly Woking, to join the A3 at Send rather than at the OPJ, having routed via the

B2215 via Ripley. That in turn would create capacity on the B2215, particularly through Ripley to accommodate new traffic arising from the redevelopment of the former Wisley airfield.

- 5.2.159. SCC is concerned [REP12-008] about traffic routing via the B2215 through Ripley as a consequence of the Proposed Development. SCC's concern is not so much one of the B2215 having insufficient capacity to accommodate the traffic that route via Ripley because of the Proposed Development. SCC's concern is something that became more nuanced during the course of the Examination. During the latter stages of the Examination SCC's concern was one relating to driver delay at the Newark Lane's and Rose Lane's junctions with Ripley High Street and the creation of a poorer and/or severed environment for pedestrians and cyclists within the High Street, a mixed used commercial and residential street in the centre of Ripley.
- 5.2.160. SCC's concerns focused on the junctions High Street has with Newark Lane and Rose Lane, in effect a staggered crossroads. Ripley Parish Council has also expressed concerns about additional traffic routing through Ripley [REP1-017]. There is limited carriageway space for traffic to queue in while waiting to make right turns into either Newark Lane or Rose Lane, particularly when vehicle volumes are at their highest during peak hours. The juxtaposition of buildings and roads at this point in Ripley means that physically there is no scope to undertake widening works at the junctions between High Street and the side roads to improve capacity.
- 5.2.161. Given the absence of the opportunities to widen Ripley High Street, Newark Lane and Rose Lane, SCC contended throughout the Examination that the Applicant should be required to implement traffic calming measures within the High Street. The intention of those traffic calming measures is to create an environment more conducive for pedestrians and cyclists to use, to reduce vehicles speeds and to potentially encourage visitors to RHS Wisley to use the signed route via the A3 and M25 [REP12-008].
- 5.2.162. The Applicant has taken a contrary view, arguing that the additional flows of traffic through Ripley in 2022 or 2037 in any hour would be no more than 12% above the existing base flows, while in peak hours the maximum increase above the existing AADT would be approximately 5%. The Applicant having further commented that a 12% increase is below the 30% threshold for minor severance identified by the Institute of Environmental Assessment's guidelines [REP12-008].
- 5.2.163. A requirement under Policy A35 of the Guildford Borough Local Plan is that the redevelopment of the airfield should provide traffic calming for High Street, with the undertaking of such works to be triggered at an appropriate milestone in the occupation for that development. However, when the allocation concerning the airfield's redevelopment was being considered as part of the local plan making process, and a related planning application for that development was being determined, neither GBC nor SCC envisaged that some of the traffic generated by RHS Wisley

would potentially be routing via the B2215 as a consequence of the Proposed Development. In that regard SCC undertook its modelling for future traffic generation on the basis of the Applicant providing a free flowing junction 10, as per the originally published RIS, and Wisley Lane continuing to have direct access to the A3 northbound [REP2-047].

- 5.2.164. The ExA therefore considers there would potentially be a timing mismatch between increased vehicular use of High Street arising and the need for traffic calming works to be undertaken in association with the airfield's redevelopment. This 'chicken and egg' type scenario is something that we explored at ISH2 [EV-005a to EV-005d]. That was because during the ASI we observed queuing vehicles seeking to make right turns in and out of Newark Lane and Rose Lane and this part of the ASI coincided with the tail end of the morning peak period.
- 5.2.165. On the basis of what it observed during the ASI, the ExA considers that it would not take much in the way of additional volumes of traffic passing through Ripley for pedestrians and cyclists to look upon the High Street as presenting a less conducive environment for them. In that regard the ExA considers it should be borne in mind that RHS Wisley is a local attraction for which just over a third of visits to it are made on Saturdays and Sundays²¹. That means that a significant proportion of the traffic generated by the RHS Wisley could in effect give rise to a sense of peak spreading across times of the day or days of the week when pedestrians and cyclists in High Street and its environs might expect some respite from the volume of traffic using the B2215.
- 5.2.166. The ExA is therefore of the view that the Proposed Development would be likely to increase the flows of traffic through Ripley significantly in advance of any traffic calming being delivered via any planning permission for Wisley airfield's redevelopment. As that has the potential to cause a worsening in the local environment for pedestrians and cyclists the ExA is of the view that there is a need for the Proposed Development to provide mitigation against those severance effects within Ripley High Street. The ExA considers that the provision of such mitigation would be justified, having regard to the provisions of paragraph 4.9 of the NPSNN insofar as such works would be necessary, relevant to planning, relevant to the Proposed Development and reasonable in all other regards.
- 5.2.167. In recognition that the ExA might reach a conclusion that mitigation for severance in Ripley might be necessary, on a without prejudice basis to the cases made by the Applicant and SCC, the Applicant and SCC have tabled agreed wording for a Requirement to be imposed as part of a made DCO. The wording for the suggested Requirement being set out in paragraph 2.8.7A of their SoCG [REP12-008]. In essence the suggested Requirement would preclude the opening of the Wisley Lane diversion until a scheme for traffic management along the B2215 through Ripley has been submitted to and approved by the SoST following consultations

²¹ Based on the information contained in Table 3.6 of the Motion TA of May 2016 [REP2-040]

with SCC and GBC, with such scheme to involve the installation of: two gateway features; two 'puffin crossings'; and speed tables or similar measures, with either the Applicant providing funds for SCC to undertake the works or the Applicant undertaking the works.

- 5.2.168. The ExA considers the suggested wording for the necessary Requirement would be appropriate. The ExA has therefore recommend that any DCO made by the SoST includes this Requirement, as per the wording including in the rDCO in Appendix D of this Report. The ExA's wording for the recommended Requirement in rDCO includes an implementation provision. That is because that is something that is missing from the version agreed between SCC and the Applicant and without such a provision that would mean that following details for the scheme of works being approved by the SoST there would be no mechanism requiring the implementation of the approved scheme.

Effects concerning Elm Lane and Old Lane

- 5.2.169. Elm Corner comprises sixteen dwellings that are accessed via Elm Lane. For vehicular traffic Elm Lane is a no through road, with ingress and egress from the lane being directly via the A3 southbound at the western extremity of the lane. Elm Lane extends eastwards from Elm Corner and the eastern end of the lane is a byway open to all traffic (BOAT) that connects with Old Lane. While the eastern half of Elm Lane is a BOAT, from what we saw during our USI of 17 January 2020 [EV-007], it is not suitable for use by motorised vehicles.
- 5.2.170. Under the Proposed Development Elm Lane's junction with the A3 would be stopped up (Work No.5e in the dDCO) [REP12-002]. The eastern half of Elm Lane would be widened to provide a 4.2 metre wide BOAT (dDCO Work No.50) [REP3-009] that would be capable of providing vehicular access to Elm Corner. The western half of Elm Lane, between the properties at Elm Corner and the A3 would become a new bridleway which would be closed to vehicles (dDCO Work No.34 and Work No.35) [REP12-002].
- 5.2.171. The junction between Elm Lane and Old Lane is on the outside of a pronounced bend in Old Lane, which affects forward visibility for drivers, with Old Lane at this point being subject to a 40mph speed limit. SCC [REP3-036] and residents have raised safety concerns about whether adequate visibility splays could be provided on both sides of the widened Elm Lane, given that each side of Old Lane at this point is tree lined, to enable drivers to be enter or exit Elm Lane safely.
- 5.2.172. In response to the above-mentioned safety concern, the Applicant, following discussions with SCC, has proposed change 8 to the submitted application. Proposed change 8 would involve:
- The removal and partial removal of trees and other vegetation on the north western side of the junction between Elm Lane and Old Lane to maintain forward visibility of 70 metres for vehicles travelling in both directions along Old Lane;

- The widening of Elm Lane to 5.5 metres for a distance of 20 metres back from its junction with Old Lane, in order to create some space within Elm Lane for vehicles to pass one another and reduce the likelihood of vehicles standing on Old Lane waiting to turn into Elm Lane. It is further proposed that the localised widening of Elm Lane to 5.5 metres at 100 metre intervals would be undertaken to create passing places; and
The installation of signs and use of road markings to indicate the presence of a side road junction [REP7-016].
- 5.2.173. Additionally, proposed change 6 [REP4-035] to the originally submitted application has proposed a reduction in the speed limit on Elm Lane from the originally proposed 40mph [APP-011] to 20mph [REP8-008²²].
- 5.2.174. The Applicant has submitted that ordinarily the forward visibility requirement for the junction between Old Lane and Elm Lane should be 120 metres. However, in liaison with SCC, the forward visibility to be provided has been reduced to 70 metres in order to reduce the amount of vegetation removal for land within the TBHSPA and which is also formally designated as open space [REP7-016].
- 5.2.175. In the signed SoCG between SCC and the Applicant [REP12-008], SCC has indicated that it does not object to the proposed alterations to the eastern end of Elm Lane, including its junction with Old Lane, subject to certain provisos. Those considerations being:
 - any made DCO should secure a 20mph speed limit for the BOAT; and
 - the Applicant using its "*reasonable endeavours*" to agree with SCC at the detailed designed stage the provision of the following:
 - the extent of high friction surfacing on Old Lane at its junction with Elm Lane;
 - the provision of hazard signage at the junction between Elm Lane and Old Lane;
 - details of the trees to be retained within the vegetation clearance area at the junction of Elm Lane with Old Lane; and
 - a plan for the management of the land within the vision splays at the junction between Old Lane and Elm Lane.
- 5.2.176. The ExA considers that the proposals subject to proposed change 8 would ensure that there would be an acceptable level of visibility for drivers emerging from Elm Lane and that drivers on Old Lane approaching the junction with the side road would have adequate warning of its presence. The ExA further considers that the part of Elm Lane that would comprise the proposed BOAT should be subject to a 20mph speed limit, something that is shown within the submitted speed limits and traffic regulations plans [REP8-008]. The ExA is therefore of the view that the matters comprising the Applicant's proposed changes 6 and 8 to the originally

²² A drawing that has replaced sheet 2 in Appendix F of REP4-36

submitted application should form a part of the development subject to any made DCO.

- 5.2.177. In considering the RHS alternative in an earlier subsection of this report, the ExA has referred to what is an underlying principle for the Proposed Development to secure the removal of side road junctions with the A3 wherever possible. The stopping up of Elm Lane's junction with the A3 is consistent with that principle and given that the A3 at this point under the Proposed Development would comprise four running lanes, subject to a 70mph speed limit, the ExA considers there are strong safety reasons justifying this aspect of the Proposed Development.
- 5.2.178. Residents of Elm Corner are concerned by the prospect of public access to the western end of Elm Lane being retained, arguing that would perpetuate antisocial behaviour in the area. Residents have therefore suggested that this part of Elm Lane should be removed and "*returned to nature*" [RR-010]. The Applicant is of the view that the western end of Elm Lane should be retained in order to facilitate access for maintenance purposes, with an existing gate and the installation of new fencing capable of precluding unauthorised vehicular access [REP2-014].
- 5.2.179. While the ExA is sympathetic to the concerns that have been voiced by residents, given that the land between Elm Land and the A3 forms part of the Common Land and Open Space in the area, it considers it appropriate for the western end of Elm Lane to be converted into a bridleway to assist with the facilitation of public access to the extensive areas of nearby recreational space.
- 5.2.180. The residents of Elm Corner have also variously raised a concern, for example in REP1-022 and REP7-037, about the proposed location of a turning head next to Orchard Cottage as part of dDCO Work No.34 [REP12-002 and REP11-003]. However, the ExA is of the view that the proposed turning area would be appropriately located, given that a little further to the west the Applicant is proposing to install a barrier to preclude traffic from using the western end of Elm Lane.

Alternatives to the proposed Wisley Lane diversion overbridge

- 5.2.181. Concern has been raised by OPC, the residents of Elm Corner and the Wisley Action Group (WAG), variously in their RRs and/or other written representations, that the provision of the proposed Wisley Lane diversion overbridge would be inappropriate and that other alternatives for the diversion of Wisley Lane should be considered. In RR-037 and REP2-055 it has been suggested that the removal of part of the A3's comparatively wide central reservation south of junction 10 would create sufficient space to accommodate a diversion for Wisley Lane on the western side of the A3. Adopting that design approach it is contended would remove the need to construct an overbridge as part of the diversion of Wisley Lane.
- 5.2.182. During the early stages for the design of the Proposed Development the Applicant gave consideration to an option, referred to as WIS-01, for the diversion of Wisley Lane that would involve creating a two way road

running parallel to the A3 northbound carriageway between the existing junction with the A3 and OPJ. The details for WIS-01 are provided in section 2.2.1 of REP3-017. WIS-01 would require a strip of land being taken along the southern boundary of RHS Wisley and the removal of several large specimen trees. In addition to the new section of road included in WIS-01 there would be a need to provide a bridleway bridge crossing the widened A3. The Applicant also gave consideration to a variant, WIS-01A, which was similar to WIS-01, but would have involved the construction of a five metre high retaining wall to reduce the land take from RHS Wisley, having regard to its status as a Grade II* Registered Park and Garden (RPG) [REP3-017].

5.2.183. Options WIS-01 and WIS-01A have been discounted by the Applicant because the diversion of Wisley Lane along the western side of the A3 would have the adverse heritage and landscape effects of taking between 1.5 and 2.5ha of land from the Wisley RPG, with the associated tree loss leaving the widened A3 visible to visitors to RHS Wisley.

5.2.184. The ExA considers that the implementation of options WIS-01 and WIS-01A would have an unacceptable effect on RHS Wisley as an RPG. While it has been suggested that part of the A3's central reservation could be removed to create space for the diversion of Wisley Lane to follow an alignment on the western side of the A3, no evidence has been submitted by the Applicant or any other party demonstrating that this would be technically feasible. Given that the ExA considers that there would be no other practical way of safely providing an entry and exit to Wisley Lane that would not involve the construction of an overbridge.

Matters of concern to SCC relating to the interrelationship between the Proposed Development and the LRN

5.2.185. SCC, most particularly in its RR [RR-004], the joint LIR [REP2-047] and its D1 written representation [REP1-020], has expressed concerns about:

- the effect of additional traffic routing via Ripley;
- matters of detailed technical design and safety auditing, including the adequacy of sightlines/visibility splays for nine locations listed by SCC in REP3-035;
- the technical approval process for proposed works that would affect the LRN; and
- the funding implications for the on-going maintenance liabilities that would be borne by SCC.

5.2.186. Throughout the Examination there was a continuing dialogue between SCC and the Applicant that has sought to address SCC's concerns. The signed SoCG between SCC and the Applicant [REP12-008] records that many of SCC's concerns have been addressed either through the provisions of the dDCO or the provisions of a legally binding highways side agreement being entered into by SCC and the Applicant.

5.2.187. The position with respect to the highways side agreement at the Examination's close is explained in REP12-018 and REP12-040, with SCC's counterpart of the final agreement having been sealed by it, but

the Applicant's counterpart awaiting execution as of D12, ie 10 June 2020. The Applicant has stated at paragraph 3.1.1 of REP12-018 that it expected the highways side agreement would become fully executed during the week commencing 13 July 2020, which is consistent with what is recorded in the signed SoCG with SCC [REP12-008]. Given that at the Examination's close it appears it was only an administrative matter that had meant this side agreement had not been fully executed, the ExA has treated it as though it exists. Based on the content of REP12-018 (paragraph 3.1.2) it is the ExA's understanding that the highways side agreement would include provisions relating to:

- The ability for SCC to have input into matters of detailed design directly affecting the LRN, ie the part of the highway network for which it is the highway authority;
- The formulation of a "local operating agreement" requiring SCC and the Applicant to use reasonable endeavours to agree traffic management and other arrangements during the construction period that would *"directly interfere with a local highway"*;
- A requirement for the Applicant to ensure that the LRN would be safe for use as a public highway while the construction works were being undertaken;
- A requirement for SCC's land to be reinstated if damaged following a survey;
- SCC being able to inspect and maintain the parts of the Proposed Development that it would become responsible for;
- The operation of traffic signals being coordinated with one another and arrangements for the maintenance of traffic signals;
- SCC being able to inspect construction works and to certify that any such works had been carried out to the appropriate standard;
- The Applicant being required to consult on and share road safety audits with SCC;
- The payment of commuted sums to SCC in relation to parts of the LRN;
- The transfer of freehold interests for land that would be acquired under a made DCO from the Applicant to SCC in respect of assets for which SCC would become responsible;
- The indemnity, costs and dispute resolution; and
- The potential for applications to be made by the Applicant *"for designated funds in relation to certain matters"*.

5.2.188. The preceding list of highways side agreement matters is consistent with schedules of precautionary vehicular highways and non-vehicular highways, Protective Provisions that were submitted by the Applicant at D11 [REP11-017]. The Applicant explained in section 1 of REP11-017 that draft Protective Provisions were submitted at D11 to address the possibility of a highways side agreement not being entered into by SCC and the Applicant. The ExA considers that precautionary schedules of Protective Provisions contained in REP11-017 are reasonable and for the most part relate to matters that the ExA would be minded to recommend for inclusion in any made DCO for the Proposed Development.

- 5.2.189. It should be noted that it was never the Applicant's intention to submit a copy of the highways side agreement or any other "*private agreement*" as an Examination document for the reasons stated in REP7-001. As the highways side agreement has been treated by SCC and the Applicant as a private agreement between the parties the ExA considers that means that unlike planning obligations entered under s106 of the TCPA1990 only limited weight should be attached to it for the purposes of the determination of the application for the Proposed Development. Notwithstanding the limited weight that the ExA considers should be attached to any completed side agreement, the SoST may wish to seek clarification with respect to its status from the Applicant and SCC, in order to be clear about whether the matters expected to be covered within it remain live concerns for SCC or have now become uncontentious.
- 5.2.190. The level of agreement and disagreement between SCC and the Applicant at the Examination's close is summarised in section 7.2 of the D12 version of the Applicant's Statement on Commonality [REP12-009] and in REP12-040. The outstanding areas of disagreement between SCC and the Applicant are summarised in paragraph 7.2.2 of REP12-009 and concern:
- The effects of the Proposed Development on the village of Ripley, something the ExA has reported on above and need not comment further on here;
 - Design details for the A245/Seven Hills Road junction and Seven Hills Road south, with SCC seeking additional pedestrian crossings and facilities for cyclists and variable message signs, which the Applicant considers are not necessitated by the Proposed Development. Notwithstanding the disagreement about this matter the Applicant has indicated it would support a bid for "*designated funds*" made by SCC for pedestrian crossings and variable message signs [REP12-009]; and
 - The provision of bus stops and effects on bus service operation (a matter the ExA has reported on).
- 5.2.191. Within section 2.91 of the SoCG [REP12-008], SCC has expressed some disquiet about Old Lane remaining open in both directions. That is in the context of the volume of vehicular traffic arising from the former airfield's redevelopment that would be able to use Old Lane, which in turn might act as a deterrent to Old Lane becoming an "*important*" NMU route between the airfield and Effingham railway station to the south east. In that regard as part of the previous planning application for the airfield's redevelopment it was proposed that Old Lane would provide a partially restricted vehicular access route for this redevelopment site.
- 5.2.192. In the SoCG [REP12-008] it is confirmed that there no Local Plan policy commitments requiring the closure of any part of Old Lane to southbound traffic. In the SoCG the Applicant contends that any management of the flows of traffic associated with the airfield's redevelopment would be a matter for consideration as part of determination of any planning application for that development. The ExA agrees with the Applicant because the redevelopment of the former Wisley airfield would be a

traffic generator with a partial dependency on Old Road as a route of ingress or egress, irrespective of whether the Proposed Development did or did not proceed.

- 5.2.193. Setting aside the Proposed Development's traffic flow implications for Ripley (which are covered elsewhere in this Report), the outstanding areas of disagreement between SCC and the Applicant about the interrelationship between the Proposed Development and the LRN are now quite limited. Given that the ExA considers that there would be no unacceptable interrelationship between the Proposed Development and the LRN, with potentially adverse impacts and the concerns of SCC being mitigated through the design, and operation of the Proposed Development. In this regard the ExA considers that the provisions of the rDCO, as may be supplemented by the highways side agreement entered into by SCC and the Applicant, would mean that there would be compliance with paragraphs 5.215 and 5.217 of the NPSNN.

Changes to private accesses

Private means of access A3 southbound between the Painshill roundabout and junction 10 - gas valve compound, New Farm House, Heyswood Campsite, Court Close Farm and Painshill Park

- 5.2.194. Between the Painshill roundabout and junction 10 there are five properties/premises served by three accesses that provide direct access to the A3 southbound. Those properties being: a gas valve compound; New Farm House; Heyswood Girl Guides Campsite; Court Close Farm, a dwelling in multiple occupancy²³; and Painshill Park. The southernmost of these direct accesses serves as a secondary access to the Grade I RPG at Painshill Park and is referred to by the PPT as the "western access" to the park, which can be used for maintenance purposes and in the event of an emergency. The main vehicular access to Painshill Park being via the A245, a couple of hundred metres or so to the east of the Painshill roundabout.
- 5.2.195. As part of the Proposed Development it is proposed that the three previously mentioned direct accesses to the A3 southbound would be stopped up under dDCO Work Nos 17(c), 17(d) and 17(e) [sheets 6 and 7 of REP8-004 and sheets 6 and 7 of REP8-005]. Under dDCO Work No.40 it is proposed that a new 965 metre long PMA would be constructed to provide access to the gas valve compound, New Farm House, Heyswood Campsite and Court Close Farm. The route for this PMA is shown on sheets 6, 7 and 8 of REP8-005. The PMA would vary in width and in places would be wide enough for vehicles travelling in opposing directions to pass one another. In other locations passing places would be provided to accommodate possible conflicts between vehicles travelling in opposing directions.

²³ With up to eight lodgers at anyone time [agenda item 3b for ISH2 and as referred to in section 2 of REP3-022]

- 5.2.196. Ingress and egress to the proposed PMA would be via the A3 southbound on slip at the Painshill roundabout. The point of ingress/egress for the PMA with the A3 would be located a little over 200 metres up stream of the point where lane two (the offside lane) of the altered A3 southbound on slip would merge with the A3's three mainline running lanes at that point. While lane one (the nearside lane) of the southbound on slip road would merge with the A3 (and become its fourth mainline running lane) around 600 metres downstream of the PMA's ingress/egress point. The A3 southbound on slip would continue to consist of two main lanes, albeit that upstream and downstream of the ingress/egress point for the proposed PMA there would in effect be a third lane of around 300 metres in length that would for vehicles to diverge (decelerate) or merge (accelerate) with the slip road. The southbound on slip road would be subject to a 40mph speed limit upstream and downstream of the PMA's junction with this slip [REP8-008].
- 5.2.197. GGLW has made an objection to the route of the proposed PMA through the Heyswood Campsite because this stretch of the access would be available for use by the owner and occupiers of Court Close Farm. GGLW's concern being that the shared nature of the access would create some severance within the grounds of the campsite and would also create site management safeguarding issues. In response to GGLW's objection and questions we put to GGLW, SCC and the Applicant during ISH2, the Applicant has submitted proposed change 7. Proposed change 7 has been submitted as an alternative access option for the southern half of the replacement PMA. Given the GGLW's objection to the originally proposed PMA concerns an operational matter for Heyswood Campsite, rather than an affect relating directly to the operation of the either the SRN or the LRN, the ExA's detailed consideration of this objection and proposed change 7 is set out in Section 5.11 below.
- 5.2.198. The Applicant as part of the Proposed Development has made no provision for a replacement for the western access to Painshill Park to be made available. PPT has objected to the absence of there being a replacement for the western access to Painshill Park, such as a link between the southern extremity of the proposed PMA and Painshill Park. As PPT's objection does not concern the operation of the SRN or the LRN, the ExA has considered it in detail in Sections 5.7 and 5.11 below.
- 5.2.199. While objections have been made by GGLW and PPT to the way the Applicant has addressed the making of replacement provision for the loss of direct of access to the A3, none of the parties directly affected by the stopping up of the three direct accesses with the A3 southbound have argued for the retention of those accesses. In that regard PPT, for example, made it clear during ISH2 that it accepts that in the interests of safety it would be not be appropriate to retain a direct access with the A3.
- 5.2.200. The PRA in REP1-031 has raised a concern that the ingress/egress arrangements for the proposed PMA could be unsafe, particularly if traffic seeking to enter the Heyswood Campsite was to tail back onto the A3 southbound on slip. That concern being elaborated upon by one of the

Painshill residents in RR-035 and REP1-051. The ExA was advised at ISH2 by GGLW that the Campsite generates the majority of its traffic from Fridays to Sundays, with some variations during the school holiday periods. The ExA was further advised that for a typical Friday, when the residential accommodation blocks are fully occupied, the Campsite generates around one hundred movements in and out of it, with the vehicles visiting the Campsite comprising a mixture of cars, minibuses and coaches. For special event days the Campsite can generate up to five hundred vehicle movements per day [REP3-022].

- 5.2.201. Given the length of the PMA and the volume of traffic likely to use it, the ExA shares the Applicant's view that the operation of the replacement PMA would be safer than the existing direct accesses onto the A3 southbound [REP1-009]. In that regard the ExA considers it important to have regard to the fact that the use of the existing direct accesses require the making of turning movements from and to a three lane dual carriageway that is subject to a 70mph speed limit. Under the Proposed Development acceleration and deceleration lanes would be available for vehicles turning in and out of the PMA. The ExA considers that the availability of those acceleration and deceleration lanes, designed as an integral part of the altered slip road, would be far superior to what is currently available for users of the existing direct accesses. In that regard very short and deceleration and acceleration lanes are currently available for vehicles entering or exiting the access that serves the Heyswood Campsite, with no such facilities being available to users of the two other direct accesses.
- 5.2.202. The ExA concludes that for reasons of securing the safe operation of the SRN it would be necessary for the three existing direct means of access to be stopped up. We further consider that the provision of the proposed PMA would have the capacity to accommodate the volume of traffic that would use it and that in this respect the Proposed Development would be in accord with the provisions of the NPSNN, most particularly paragraphs 4.60 to 4.66.

Former San Domenico Hotel site

- 5.2.203. The former San Domenico hotel site (the San Domenico site) is in part occupied by a national chain coffee shop, with drive through facility and an unused hotel. This site has a direct access on and off the A3 northbound and it is located between the Painshill Roundabout and junction 10 of the M25. As part of the Proposed Development the direct access to the A3 would be permanently stopped up (dDCO Work No.35(j) [REP12-002]). The replacement PMA would in part form a southerly extension to the B365/Seven Hills Road (dDCO Work No35(k) [REP12-002]) and would follow the route of a new bridleway running parallel with the northbound carriageway of the A3. This new PMA would be shared by six other properties²⁴ that would also no longer benefit from direct access to the A3. The details of the proposed access arrangement

²⁴ Long Orchard Farm, 1 and 3 Farm Cottages, Long Orchard House, The Coach House and Fir Tree Cottage

for the San Domenico site are shown on the drawing contained within REP2-026.

- 5.2.204. The owner of the San Domenico site and the Applicant agree that the replacement access would not be capable of serving a use dependent on public vehicular access, ie any commercial roadside type uses [RR-012 and REP1-009]. The Applicant has submitted that a direct access to the A3 for the San Domenico site could not be retained as part of the Proposed Development because CD123 of the DMRB states at paragraph 2.1 "*Priority junctions shall not be used on motorways or all-purpose dual three lane carriageways*". The Applicant has gone on to state "*By implication a major/minor priority junction on a dual 4-lane all-purpose (D4AP) road (which is what the A3 adjacent to the San Domenico site will become ...) would therefore be even less acceptable, even though TD42/95²⁵ and CD123 do not explicitly refer to D4AP roads with reference to major/minor priority junctions*" [REP1-009].
- 5.2.205. The Applicant has further stated that under the provisions of CD122 of the DMRB a weaving length between a grade separated junction and an at-grade junction, service area or layby of 1km would be required. In this instance the weaving length between the merge for the M25 and the A3 northbound and the San Domenico is 650 metres. The weaving distance between the A3 northbound diverge for the A245 at the Painshill roundabout and San Domenico site is 100 metres [REP1-009]. The weaving lengths between the access to the San Domenico site and junction 10 and the Painshill roundabout, which are both grade separated junctions would not comply with CD122.
- 5.2.206. The owner of the San Domenico site has submitted in the briefest terms that it is of the view that a direct access could be provided to this site [REP1-030]. The ExA visited the San Domenico site during the course of the USI that we undertook on 17 January 2020 and observed traffic tailing back from the A245 exit a little to the south of the existing access to this site. Based on our observations of the access and the evidence available to us, the ExA considers the Applicant has a legitimate safety reason for seeking to stop up the direct access to the San Domenico site. That is because the ExA considers there would be potential for vehicles seeking to enter or exit the San Domenico to come into conflict with A3 northbound traffic manoeuvring from the outer lanes in order to enter the exit slip for the A245 at the Painshill roundabout.
- 5.2.207. The ExA is therefore of the view that it would be necessary for the existing access to the San Domenico site to be stopped up as part of the Proposed Development and that this site should be served by the proposed PMA. The ExA recognises that the loss of this site for commercial use would bring with it some economic disbenefits. However, the ExA considers that the safety of all road users should take primacy over those economic considerations.

²⁵ TD42/95 having been superseded when CD122 was published.

- 5.2.208. The ExA is also of the view that the additional SRN capacity that the Proposed Development would provide wider economic support for the area outweighing the localised economic loss that would arise from the San Domenico site's continuing inability to accommodate commercial roadside uses. Accordingly, in weighing the needs of the safety of road users against the economic growth in the area, the ExA considers that there would be no conflict with the provisions of the NPSNN arising from the loss of a direct access to the San Domenico site. The ExA is therefore not persuaded that in the absence of a direct access for the San Domenico site to the A3 under the Proposed Development that there would be grounds for the DCO not to be made.
- 5.2.209. The ExA would draw the SoST's attention to site owner's planning appeal²⁶ made under s78 of the TCPA1990 for a new petrol filling station with associated shop, referred to in REP1-030. It is the ExA's understanding that this appeal had not been determined at the close of the Examination.

Provision for NMUs, including equestrian users

- 5.2.210. The British Horse Society (BHS) made its written representations [REP7-044, REP7-046, REP7-048 and REP12-065] primarily at D7 and thus at a comparatively late stage in the Examination. The BHS did not attend ISH2, notwithstanding its indication that it would wish to speak at a hearing [REP2-048]. The concerns raised by the BHS relate to:
- the Applicant has failed to have regard for the needs of the users of horse drawn carriage driving (carriage driving);
 - the proposed bridleway along the A3 corridor would result in NMU users having to follow a convoluted route; and
 - inadequate provision of lawful and safe access for NMUs, including equestrians, to the registered Common Land and other publicly accessible open space affected by the Proposed Development; and
 - the removal of Pegasus crossings for use by equestrians.
- 5.2.211. The Applicant has responded to the BHS's concerns in REP8-041. With respect to the absence of provision for carriage drivers the Applicant has submitted that there are currently no such facilities available along the A3 and accordingly there is no need to make provision for this category of equestrian user. The replacement NMU route along the A3 corridor would be classed a bridleway and would not be available to carriage drivers and the Applicant has submitted that to accommodate this category of equestrian user there would need to be greater land take, including within the SPA, because of the need to provide wider routes and bridges, which would be "*prohibitively expensive*" [REP8-041].
- 5.2.212. Although the Proposed Development would not make provision for carriage drivers, no evidence has been submitted by the BHS quantifying the demand that there might be for carriage drivers who might make use

²⁶ APP/K3605/W/19/3235260

of a route along the A3 corridor were one to be available. Nor have the SCC or Surrey Wildlife Trust (SWT), in their roles as managers of the existing NMU network and/or public open space in the area, suggested that there are any demand issues associated with carriage driving that would be adversely affected by the Proposed Development necessitating the Applicant to provide mitigation for those effects.

- 5.2.213. As there is currently no carriage driving route that would be affected, we consider that the BHS's criticism of the Proposed Development in this regard is founded on an aspiration and that there would be no loss of a facility for which mitigation should be provided. The ExA is therefore not persuaded that it has been demonstrated that the absence of carriage driving facilities would be prejudicial for equestrian users and that additional land take within the SPA to accommodate a route suitable for carriage drivers would be warranted. In this respect the ExA considers there to be no conflict with the NPSNN, most particularly paragraph 5.184.
- 5.2.214. With respect to whether the bridleway along the A3 corridor would provide a convenient route for NMU users, the Applicant recognises that for some users, most particularly cyclists, the proposed route might be looked upon as being convoluted. However, it has been submitted the proposed bridleway would provide a safer and more pleasant route compared with the existing narrow shared footway/cycleway track that runs parallel with the A3 southbound carriageway, while removing delays for NMUs making crossings of the M25's and A3's slip roads at signal controlled crossings, with bridges replacing those crossings. The ExA agrees with the Applicant [REP8-041] that while the various routes that would be available to NMUs would not necessarily be the most direct, they would be significantly more appealing compared with the existing uninviting routes through junction 10 and also much safer than the on-carriageway A3 northbound cycle lane.
- 5.2.215. The BHS has contended that there would be an inadequacy of bridleway way provision within Wisley Common and conflict between the grazing of cattle and the users of the revised bridleway network²⁷ within this common. That is because footpath 7 where it crosses the M25 would continue to be unavailable to equestrian users. It is noted that there have been incidents involving equestrian users, pedestrians and cattle coming into conflict with one another [REP7-048]. Potential conflicts between NMUs and cattle grazing the Common Land could be addressed through the installation of fencing, however, obtaining consent for such fencing may be "*difficult*" [REP8-041].
- 5.2.216. The ExA considers that many of the points raised by the BHS in REP7-048 concerning the interrelationship between the grazing of the Common Land and other publicly accessible land in the area and the routes for NMUs concern legacy type matters that are not directly related to any changes that might arise from the Proposed Development. For

²⁷ The existing and proposed routes for NMUs are shown on Figures A.2 and A.3 of REP12-004.

example, fencing that has been introduced within Wisley Common to enable cattle to be grazed as part of the land management for the SPA. With respect to the revisions to the routes for NMUs within the Common Land and other publicly accessible open space, the ExA considers that the proposed changes to the public footpaths and bridleways would provide appropriate mitigation for the effects attributable to the Proposed Development. In this regard the ExA considers that what is proposed as part of the Proposed Development would accord with the NPSNN, most particularly paragraph 5.184.

- 5.2.217. With respect to the removal of the Pegasus crossings (signal controlled crossings designed to accommodate horse riders) within junction 10, the Applicant has been submitted that there would be no need for this type of crossing to be retained. That is because of the introduction of the Redhill Road and Sandpit Hill bridleway bridges that would respectively provide crossings of the A3 north of junction 10 and the slip roads to the east of junction 10 [REP8-041]. The Applicant has also made reference to it not being possible to make safe provision for Pegasus crossings within junction 10 because in its proposed form it would include free flowing left turning lanes on all arms.
- 5.2.218. The ExA considers that for reasons of safety, no signal controlled crossings for any category of NMU could be provided within junction 10 and with the proposed bridge crossings of the SRN nor does it consider that there would be any need for any such crossings within this junction. In a similar vein the ExA considers no disadvantage for equestrians arising from the absence of crossing facilities for them at the OPJ, given the Wisley Lane diversion and Cockcrow bridges would be bridleways and would provide crossing points of the A3 for horse riders and pedestrians.
- 5.2.219. On the basis of the evidence available to the ExA, it is not persuaded that the proposals for NMUs that form part of the Proposed Development would discriminate against equestrians, as submitted by the BHS in REP12-065.

Other alternatives to the Proposed Development suggested by the local community

- 5.2.220. The need for a scheme of the scale proposed by the Applicant has been questioned by Councillor Cross (GBC ward member for Lovelace²⁸) [AS-035 and REP-054] and in other written submissions [REP1-053, REP1-057 and REP1-059]. In that regard it has been suggested that less ambitious and costly options could be pursued to reduce congestion and improve safety. The other alternatives that have been suggested by the local community could include initiatives such as:
- the lowering of the speed limit on the A3;
 - some additional lane capacity within junction 10;
 - the provision of a dedicated RHS Wisley access at junction 10 for use by traffic travelling and to the gardens in all directions;

²⁸ A ward that covers Ripley, Ockham and Wisley

- provide an underpass for traffic exiting RHS Wisley avoiding the need for traffic to switch lanes to pass over junction 10; and
- the undertaking of less extensive physical works on the A3 and/or the use of lane management reliant on signage and road markings.

- 5.2.221. The Applicant has identified a need for the Proposed Development in terms of reducing congestion within and on the approaches to junction 10 and provided an outline of the options it considered prior to the application for the Proposed Development being submitted [REP4-014]. In terms of the testing of options by the Applicant, it has been required to consider the business case for the Proposed Development in accordance with the DfT's major scheme appraisal guidance, which includes the undertaking of a cost benefit analysis [REP2-014].
- 5.2.222. The Applicant has undertaken an option testing exercise for the Proposed Development, which has included an assessment of its value for money (VfM) in terms of "all monetised economic impacts and non-monetised environmental, social and distributional impacts". The Proposed Development, using the DfT's VfM categorisation, has been classified as being high by the Applicant, with a benefit cost ratio (BCR) score of 2.22 [APP-132].
- 5.2.223. Given the option testing that the Applicant has undertaken, the ExA considers that were it possible to meet the objectives for the Proposed Development without the need for a development of the scale that has been proposed, then such a scheme would likely to have emerged and been brought forward by the Applicant with or without the need to submit an NSIP application. The ExA therefore considers that the alternative options that have been put forward by some members of the local community would be insufficient to meet the scheme objectives that have been identified by the Applicant.

Conclusion on traffic and transportation

- 5.2.224. Taking account of the application documentation, the written and oral Examination submissions that have made to us and relevant policy, on traffic and transportation matters the ExA concludes as follows:
- During the construction phase there would be negative effects, given the need for the Applicant to introduce traffic management measures, ie lowered speed limits and narrower lanes. However, these negative effects would be unavoidable given the nature of the Proposed Development and would last for so long as the construction works were being undertaken.
 - The overall transport effects of the Proposed Development during its operational phase would be positive for road users, with there being improved journey time reliability in and around junction 10 for users of the M25 and A3 through the reduction in congestion and the potential for fewer accidents to arise.
 - For NMUs the effects of the Proposed Development would be positive ones, with the available routes for pedestrians, cyclists and horse riders being safer and of a quality that would be conducive to their use.

- While some visitors to RHS Wisley in the absence of SFS at the OPJ and a left turn from Wisley Lane onto the A3 would travel further and take longer in getting to and from the Gardens, those negative aspects would not be of such a magnitude as to make the Proposed Development unacceptable in traffic and transportation terms. Accordingly, the absence of the elements of the RHS alternative, a left turn from Wisley Lane onto the A3 and/or the provision of SFS at the OPJ, would not make the Proposed Development unacceptable in traffic and transportation terms.
- That there would be compliance with the NPSNN, most particularly paragraphs 2.23, 4.60, 4.66, 5.217 and 5.184 because the Proposed Development would bring forward improvements and enhancements to the SRN that would provide additional capacity for existing and future volumes of traffic and improved safety.

5.3. AIR QUALITY AND HUMAN HEALTH

Introduction

5.3.1. This Section examines the following effects:

- construction emissions, including dust;
- air quality effects on human health during the operation of the Proposed Development, including NO₂ as a constituent of nitrogen oxides NO_x and (PM₁₀) emissions.

Air quality effects upon biodiversity, and in particular the TBHSPA, are reported in Section 5.5 and Chapter 6 of this Report.

Policy considerations

- 5.3.2. The significance of transport in meeting the Government's legally binding carbon targets and other environmental targets is highlighted in paragraph 3.6 of the NNNPS. The shift to ultra-low emission vehicles among other greener technologies and fuels is seen by the Government as having a significant role to play in reducing emissions.
- 5.3.3. Paragraphs 5.3 to 5.15 of the NPSNN contain specific policy advice with respect to air quality matters. Paragraph 5.3 states "*Increases in emissions of pollutants during the construction or operation phases of projects on the national networks can result in the worsening of local air quality (though they can also have beneficial effects on air quality, for example through reduced congestion)*". It is noted in paragraph 5.4 that current UK legislation sets out health-based ambient air quality objectives with European Union ambient concentration limit values for the main pollutants in the Air Quality Directive 2008 (AQD) which need to be met.
- 5.3.4. The SoST should consider air quality impacts over the wider area likely to be affected as well as the near vicinity of the scheme, as per the provisions of paragraph 5.10 of the NPSNN. In all cases the SoST must take account of the relevant statutory air quality thresholds set out in domestic and European legislation. Air quality impacts must be given

substantial weight where, after taking into account mitigation, a project would lead to a significant air quality impact. Consent should be refused where, after taking into account mitigation, the proposal will "... *result in a zone/ agglomeration which is currently reported as being compliant with the Air Quality Directive becoming non-compliant ...*" or affects "... the ability of a non-compliant area to achieve compliance ..." within required timescales (paragraphs 5.12 and 5.13 of the NPSNN).

- 5.3.5. Paragraphs 5.81-5.89 of the NPSNN consider the potential for the construction and operation of national networks infrastructure to create a range of emissions including dust and recognise the potential to have a detrimental impact on amenity or cause a nuisance. The NPSNN recognises that for national networks infrastructure projects some impact on amenity for local communities is likely to be unavoidable. The SoST should be satisfied that all reasonable steps have been taken to minimise any detrimental impact on amenity from a range of emissions.
- 5.3.6. At the local level, Policy CS25 (Travel and Accessibility) of the ECS seeks to mitigate detrimental environmental effects caused by transport through a variety of measures including improving air quality. In a similar vein Policy DM5 (Pollution) of the ELPDMP states that planning permission will not be granted where there would be significant adverse effects on the status of an air quality management area (AQMA). Policy ID3 (Sustainable transport for new development) of the GBLPSS requires new development to provide mitigation to address adverse effects on communities and the environment, including impacts on air pollution. The neighbouring local planning authorities of Mole Valley District Council, Reigate and Banstead Borough Council and Woking Borough Council similarly have Development Plan policies that seek to ensure that new development does not give rise to adverse air quality effects. Section 5.3 of Chapter 5 (Air quality) of the ES [APP-050] summaries the Development Plan policies of the aforementioned local planning authorities.

The Applicant's case

- 5.3.7. The effects of the Proposed Development on air quality have been assessed in Chapter 5 of the ES (APP-050). That Chapter of the ES is accompanied by Figures [APP-064 and APP-065] and Appendices [APP-080]. Figure 5.1 (five sheets) in APP-064 shows the extent of the air quality study area that the Applicant has used to assess the construction phase and operational phase air quality effects of the Proposed Development upon humans. The study area for assessing the potential effects of construction dust during the construction phase has been defined as "*the area within 200 metres of the construction site*", and any roads beyond the confines of the construction site that would be subject to construction traffic flows, as per the guidance contained within the DMRB [APP-050].
- 5.3.8. The study area for the consideration of operational effects includes the area within 200 metres of the site for the Proposed Development and the

affected road network shown which are shown on Figure 5.3 of APP-064. The wider affected road network includes:

- the M25 between junctions 8 to 13;
- the A3, between its junction with the A309 at Tolworth and the A31 west of Guildford;
- the M3 between junctions 2 and 3; and
- other local roads.

5.3.9. The air quality effects for humans have been assessed having regard to the mandatory limit values set by the EU and the objectives set out in the Air Quality Strategy for England, Scotland, Wales and Northern Ireland, which was published by DEFRA in 2007 (AQS). The EU limit values and the UK objectives' values are the same and are:

- NO₂ one hour mean concentration should not exceed 200 µm/m³ more than 18 times a year, while the annual mean concentration should not exceed 40 µm/m³.
- PM₁₀ twenty-four mean concentration should not exceed 50 µm/m³ more than 35 times per year, while the annual mean concentration should not exceed 40 µm/m³.

5.3.10. In order to assess the magnitude of the Proposed Development's effect on air quality the Applicant has used "*imperceptible*", "*small*", "*medium*" and "*large*" as descriptors of change in line with the guidance contained within the DMRB. Table 5.3 in APP-050 quantifies the air quality magnitude of change criteria that the Applicant has used in assessing the effects of the Proposed Development on air quality.

5.3.11. Within the affected road network for the air quality assessment (AQA) there are four declared AQMAs, the locations and extents for which are shown on Figure 5.1 in APP-064. Those AQMAs being:

- Esher which has been declared for exceedances of the annual mean NO₂ AQS objective.
- Along the M25 corridor in Runnymede Borough Council's area, which has been declared for exceedances of the AQS objectives for NO₂ (annual mean concentration) and PM₁₀ (annual and 24 hour mean concentrations).
- Along the M25 corridor in Reigate and Banstead Borough Council's area, which has been declared for exceedances of the annual mean NO₂ AQS objective.
- The entire of the Royal Borough of Kingston upon Thames, which has been declared for exceedances of the AQS objectives for NO₂ (annual mean) and PM₁₀ (annual and 24 hour mean concentrations).

5.3.12. The modelling for air quality effects that the Applicant has undertaken has used: 2015 as a base year, for verification purposes; an opening year of 2022 for both the DM and DS scenarios (local and regional assessments); and 2037 as the design year for both the DM and DS scenarios (regional assessment only).

Construction effects

- 5.3.13. The Applicant has submitted that during the construction phase there would be potential for elevated levels of dust deposition and soiling at properties within the 200 metres of the construction site (receptors sensitive to construction dust). The locations for approximately fifty receptors that have been identified by the Applicant as being sensitive to construction dust are shown on Figure 5.2 in APP-064. However, the Applicant has submitted that with the use of appropriate mitigation measures, such as regular water spraying and sweeping of unpaved roads, the use of wheel washes and covering of open vehicles and the imposition of works site speed limits, significant adverse effects are not predicted to arise.
- 5.3.14. With respect to emissions generated by construction traffic, the Applicant has submitted that no exceedances of the annual mean NO₂ AQS objective are expected at any receptors during the construction period. The greatest predicted increase in the concentration of NO₂ being 1.6 µm/m³ for a receptor in Woking within the vicinity of the railhead which the Applicant expects will be used for the delivery of construction materials [APP-050 and App-065]. That predicted increase in the NO₂ concentration due to construction traffic being categorised as "*small*"²⁹ by the Applicant. Three other receptors, two in Woking and the other in the vicinity of the Painshill roundabout have been predicted by the Applicant to be subject to a small change in the concentration of NO₂ because of the generation of construction traffic.
- 5.3.15. For all other receptors the change in the concentration of NO₂ due to construction traffic has been assessed by the Applicant as being "*imperceptible*", a change less than or equal to 0.4 µm/m³. The Applicant has stated that no exceedances of the one hour mean AQS objective for NO₂ are predicted during the construction period because the concentrations are all predicted by less than 60 µm/m³ [APP-050].
- 5.3.16. The Applicant within Chapter 5 of the ES [APP-050] has submitted that the construction effects of the Proposed Development, alone or cumulatively, on the air quality for humans are unlikely to be significant.

Operational effects of the Proposed Development on air quality

- 5.3.17. For the operational phase of the Proposed Development the Applicant has predicted that exceedances of the NO₂ annual mean AQS objective would occur at three locations, two in Egham³⁰ and Weston Road, Guildford, with or without the Proposed Development. One receptor Beachingham Road, Guildford, has been predicted as experiencing an exceedance of the NO₂ annual mean AQS objective with the Proposed Development. For the receptor at Weston Road, shown as R71 on sheet 3 of Figure 5.10 in APP-065, it is predicted that the concentration of NO₂ would be 43.6 µm/m³, with that concentration being a decrease of 0.3 µm/m³ with the

²⁹ In the range of 0.4 to 2 µm/m³

³⁰ North of junction 12 of the M25 at the extremity of air quality study area for the purposes of the assessment undertaken by the Applicant

Proposed Development compared to the situation without it. That change has been categorised as being imperceptible by the Applicant [APP-050].

- 5.3.18. The single largest increase in the concentration of NO₂ has been predicted at 1.8 µm/m³ and that would be at Beachingham Road, Guildford, shown as R72 on sheet 3 of Figure 5.10 of APP-065. With the Proposed Development the NO₂ concentration at Beachingham Road has been predicted to be 40.1 µm/m³ and the change in the concentration has been categorised by the Applicant as being small, arising because of increased congestion on the A3 through Guildford during the morning peak period for traffic [APP-050].
- 5.3.19. Small increases in the concentration of NO₂ of between 0.6 and 1.2 µm/m³ have been predicted at four other receptors, R26 (the bungalow at Heyswood Campsite), R29 (Leighton House, Feltonfleet School), R63 (London Road, Guildford) and R83 (Convent Lane north-east of the Painshill roundabout) [APP-050 and APP-065]. Those predicted increases in the concentration of NO₂ would be due to increased traffic flows with the Proposed Development.
- 5.3.20. Some small reductions in the concentration of NO₂ have also been predicted, with the most notable of those being in respect of receptor R30 (West Lodge, Painshill) where a decrease of 1.4 µm/m³ is expected by the Applicant [APP-050]. At receptor R40, the Ockham Bites café a small decrease in the concentration of NO₂ has been predicted and that has been explained by the Applicant as being *"... driven by the change in speeds from heavy congestion to light congestion on the A3 northbound off-slip"* [APP-050].
- 5.3.21. The Applicant has assessed the majority of the other receptors as being subject to imperceptible changes in the annual mean concentrations of NO₂ with the Proposed Development. An exception would be at the Esher AQMA, where the NO₂ concentrations for the assessed receptors have been predicted as being subject to small decreases with the Proposed Development. The Applicant has stated in paragraph 5.8.14 that the Proposed Development *"... is generally expected to have an imperceptible change at receptors near the M25 and A3, and a decrease at receptors along the A244 and in Esher. Along the A3 some receptors are expected to have small increases and others to have a small decrease depending on their location"*.
- 5.3.22. The Applicant expects that there would be no exceedances of the one hour mean AQS objective for NO₂ because the annual mean concentrations are estimated to be less than 60 µm/m³. Similarly, there are no expected exceedances of the PM₁₀ annual mean AQS objective, with all changes expected to be in the imperceptible category [APP-050].
- 5.3.23. Based on the AQA that the Applicant has undertaken, it considers that that there would be a *"... low risk of not achieving compliance with the EU Air Quality Directive"* [APP-050].

- 5.3.24. The Applicant has predicted that for both opening year (2022) and design year (2037) that at a regional level the pollutant emissions with the Proposed Development would decrease by less than 1% compared with the DM scenario. At the regional level emissions of NO_x and PM₁₀ are expected to decrease by the Applicant for both the opening and design years when compared with the base year of 2015, even though an increase in total vehicle kilometres travelled is predicted because of improvements in vehicle technology [APP-050].
- 5.3.25. The Applicant has submitted in Chapters 5 and 14 of the ES [APP-050 and APP-059] that it is expected that the Proposed Development would not have a significant effect on human health, with only the Beachingham Road receptor being predicted to be subject to a small worsening in the AQS objective for NO₂.

Issues raised

- 5.3.26. Concerns were raised by a number of IPs in regard to air quality impacts during both the construction and operational stages of the Proposed Development, for example in RR-029, RR-053, REP1-016 and REP1-022. The main objections and concerns raised by IPs regarding the Proposed Development's effects on air quality for humans relate to:
- The increased emissions as a consequence of the generation of additional traffic.
 - The adequacy of the assessment of the effects in Ripley, as a consequence of the volume of additional traffic routing via Ripley on the B2215.
 - The undertaking of the construction works, including the operation of the proposed construction site compound at the former Wisley airfield.

ExA's examination of issues

The Proposed Development's operational effects on air quality

- 5.3.27. There are no designated AQMAs falling within the order limits for the Proposed Development. There are, however, four declared AQMAs within the study area that the Applicant has used for its AQA, where the national air quality objectives for NO₂ are subject to exceedances. The Applicant's air quality modelling confirms that the Proposed Development is expected to result in imperceptible changes within the two M25 AQMAs in the study area, ie those in Runnymede Borough Council and Reigate and Banstead Borough Council, and the AQMA that applies to the whole of the Royal Borough of Kingston upon Thames [APP-050]. With respect to the Esher AQMA, which is within EBC's area the Applicant has predicted that there would be a small decrease in the annual mean concentration for NO₂.
- 5.3.28. EBC in REP2-028 and REP5-037 further to ExQ1 1.3.2 and ExQ2 2.3.10 [PD-006 and PD-010] has referred to the potential exceedance of the AQS objectives and the possibility of a new AQMA being declared by it within the vicinity of the Painshill roundabout. EBC has further advised in REP5-037 and REP8-028 that six diffusion tubes to monitor for the

presence of NO_x had been installed at the Painshill roundabout and it is anticipated that the results from that monitoring will be available in January 2021.

- 5.3.29. The Proposed Development's effect on air quality at Painshill is referred to in section 7.2 of the signed SoCG that EBC and the Applicant have entered into [REP8-028]. In this SoCG EBC and the Applicant are agreed that the air quality modelling performed by the Applicant "*is robust*" and has been "*predicated on the most up to date data at the time of carrying out the assessment*". In the SoCG the Applicant has indicated that the modelling it has performed was based on the 2016 data, which was the data that was available at the time when the ES was being compiled. The Applicant has further commented that it has subsequently been able to review EBC's 2017 and 2018 monitoring data and it considers that those two years of data have not affected the baseline conditions that have informed the AQA reported in the ES [APP-050], with the annual mean AQS objectives being met at all locations in EBC's area other than within the Esher AQMA and at the A3's junction with Copsem Lane/A244.
- 5.3.30. The air quality monitoring that EBC is undertaking during 2020 may reveal different concentrations of NO_x at the Painshill roundabout. However, at the Examination's close there is no designated AQMA affecting the Painshill roundabout and the data available, as reported in the submitted ES [APP-050], indicates that the Proposed Development would not cause an exceedance of the AQS objective for NO₂. On the evidence available to the ExA, it is content that the Proposed Development would not have an adverse effect on the air quality within the vicinity of the Painshill roundabout. The SoST may, however, wish to obtain updated data from EBC to establish whether there have been any changes to the air quality within the vicinity of the Painshill roundabout that would need to be taken account of.
- 5.3.31. The RHS raised a concern in REP1-041 and REP3-050 that the Applicant had inadequately assessed the Proposed Development's effects on the air quality within Ripley, given the predicted additional traffic flows on the B2215 through Ripley. In response to the RHS's concern the Applicant during the Examination undertook a further assessment of the air quality changes within Ripley. The results of the additional assessment are reported in REP4-005 and show that for the seven modelled locations it is predicted that for the year of the Proposed Development's opening the concentrations for NO₂ would change by between 0.7 and 1.7 µm/m³, changes with this representing the "*small*" magnitude of change criteria that the Applicant has used in its AQA [APP-050].
- 5.3.32. In REP5-052 the RHS accepted that the additional information provided by the Applicant in REP4-004 "*... provided properly verified and adjusted annual mean nitrogen dioxide concentrations for the worst-case receptors in Ripley*". The RHS further commented in REP5-052 that the Government accepts that there is no recognised safe level of exposure to NO₂ and that "*... while the new results for Ripley do not exceed the objective, there will still be health effects attributable to nitrogen dioxide, which will be worsened by the increases in Ripley with the Highways*

England Scheme ...". The SoCG between the RHS and the Applicant, which was only signed by the Applicant [REP8-031] records no disagreement about the air quality effects within Ripley.

- 5.3.33. In the SoCG signed between GBC and the Applicant [REP8-029] all matters, the agreed position between GBC and the Applicant is: *"The assessment conclusions that there would not be an overall significant adverse air quality effect including at receptors at Ripley during the operation of the Scheme or due to an increase in traffic flows on the B2215 Portsmouth Road and Ripley High Street as result of the Scheme are sound".*
- 5.3.34. OPC in REP1-016 and the Elm Corner Residents Group in REP1-022 have expressed a concern that the Proposed Development, including the use of the Wisley Lane diversion overbridge, would adversely affect the air quality in parish of Ockham and at Elm Corner. However, the air quality predictions that the Applicant has undertaken indicate that in human health terms there would be no exceedances of the AQS objectives for either NO₂ or PM₁₀ [APP-050]. For Elm Corner and the parish of Ockham the changes in the levels for NO₂ and PM₁₀ have been predicted to be imperceptible, that is less than or equal to 0.4 µm/m³ [APP-065].
- 5.3.35. The ExA considers there is no evidence before it that indicates that the traffic flows associated with the Proposed Development would give rise to a significant adverse effect on the air quality within Ripley.
- 5.3.36. The Applicant's AQA has been informed by the traffic growth forecasting it has undertaken, as reported in the submitted TA for the Proposed Development [APP-136]. As reported in the TA that traffic forecasting takes account of changes in household numbers and employment growth, with Table 3-1 in the TA containing the major Development Plan allocations for housing and employment within each of EBC's, GBC's and Woking Borough Council's areas. Accordingly, the ExA is content that for the operational phase of the Proposed Development the Applicant's AQA has taken account of the cumulative effects of traffic growth in the area, including that could be expected from known committed new development in the local area.

The Proposed Development's construction effects on air quality

- 5.3.37. The Applicant recognises in the ES [APP-050] that during the construction period there would be potential for dust to be deposited at properties adjoining the works site and/or construction compounds. However, the deposition of dust associated with the constructions works would be of a temporary nature. The generation of dust is something that can be mitigated through the use of a range of dust suppression measures such as water spraying and sweeping of unpaved roads, the use of wheel washes and covering of open vehicles and the imposition of works site speed limits, as listed in APP-050. The Applicant has proposed that the control of dust emissions would be a matter for inclusion within a management plan that would also address odour and smoke. That management plan in turn would form part of a Construction

Environmental Management Plan (CEMP), which the Applicant would be required to submit for the SoST's approval under R3 of any made DCO, as set out in the dDCO [REP12-002]. An outline CEMP (oCEMP) has been submitted by the Applicant [REP8-018] and it makes provision for dust control.

5.3.38. Under R3 of the dDCO there would be a requirement for the Applicant to submit a CEMP to the SoST for approval, having first consulted with EBC and GBC on the content of that plan. Upon any such plan being approved by the SoST under the terms of R3 of the dDCO the Applicant would be required to undertake the construction works in accordance with the approved CEMP.

5.3.39. The ExA considers that with an approved CEMP in place there would be appropriate mitigation available to ensure that the occupiers of properties adjoining the works site and construction compounds were not adversely affected by construction emissions. In this regard the ExA considers it of note that EBC and GBC, in the signed SoCG they have respectively entered into with the Applicant [REP8-028 and REP8-029], have both agreed the wording of R3 of the dDCO [REP12-002].

Conclusion on air quality and human health

5.3.40. The AQA that the Applicant has undertaken indicates that during the operation of the Proposed Development there would be exceedances of the NO₂ annual mean AQS objective at three receptor locations under the DM or DS scenarios. At one other receptor there would be an exceedance of the NO₂ annual mean AQS objective under the DS scenario alone. However, all four of those exceedances would have magnitudes classified by the Applicant as either being imperceptible or small.

5.3.41. Overall, the ExA agrees with the Applicant that the Proposed Development would not give rise to a significant adverse air quality effect for human health, with the reduction in congestion in an around junction 10 of the M25 having a beneficial effect for air quality. The ExA therefore considers that in terms of effects on the air quality for human health the Proposed Development, either alone or cumulatively, would not give rise to conflict with paragraphs 5.10 to 5.15 of the NPSNN and the extant Development Plan policies relating to air quality.

5.3.42. In terms of air quality effects during the construction phase for the Proposed Development the ExA is content that the Applicant has demonstrated that there would be no significant effects either alone or cumulatively. The oCEMP [REP8-018] makes provision for dust control through a management plan, with R3 of the dDCO [REP12-002] securing the approval of full details for a CEMP and its implementation during the construction phase. The ExA is therefore content that the air quality for humans would be capable of being managed to an acceptable level during the construction phase for the Proposed Development.

5.4. NOISE AND VIBRATION

Introduction

- 5.4.1. This Section examines the noise and vibration effects for the Proposed Development during the construction and operational phases.

Policy considerations

- 5.4.2. The NPSNN addresses noise and vibration considerations at paragraphs 5.186 to 5.200. Paragraph 5.186 makes clear that in addition to meeting the statutory requirements for noise, regard must be paid to the Government's Noise policy statement for England (DEFRA, 2010) (NPSE), which promotes "... *good health and good quality of life through effective noise management*", with similar considerations applying to vibration. Applicants are advised to use best available techniques to reduce noise impacts (paragraph 5.189 of the NPSNN).
- 5.4.3. For the purposes of decision-making, schemes "... *should demonstrate good design through optimisation of scheme layout to minimise noise emissions, and where possible, the use of landscaping, bunds or noise barriers to reduce noise transmission*" (paragraph 5.194 of the NPSNN). As set out in paragraph 5.195 of the NPSNN, the SoS "... should not grant development consent unless satisfied that the proposals will meet the following aims, within the context of Government policy on sustainable development:
- *avoid significant adverse impacts on health and quality of life from noise as a result of the new development;*
 - *mitigate and minimise other adverse impacts on health and quality of life from noise from new development; and*
contribute to improvements to health and quality of life through the effective management and control of noise, where possible."
- 5.4.4. To mitigate the effects of noise from the construction and operational phases of NSIPs the SoS "... *may wish to impose requirements to ensure delivery of all mitigation measures*" (paragraph 5.197 of the NPSNN). Mitigation measures should be proportionate and may include containment, the use of noise reducing materials, layout changes and administrative measures such as the setting of noise levels and the setting of working hours.

The Applicant's case

- 5.4.5. The noise and vibration effects of the Proposed Development have been assessed in Chapter 6 of the ES [REP4-022], which at D4 replaced the originally submitted version of this Chapter of the ES [APP-051]. The revision to Chapter 6 of the ES was made largely to provide an assessment for the noise implications of extending the proposed construction working hours on Saturdays (proposed change 4 to the originally submitted application). The Noise and Vibration Figures [APP-066 and APP-067] show in a mapped form what the existing noise

environment is and the predictions for changes in the noise climate under the Proposed Development.

- 5.4.6. The effects of noise associated with the Proposed Development have been assessed in the ES [REP4-022] having regard to the effect levels outlined in the NPSE, namely:
- No Observed Effect Level, the level below which no effect can be detected with there being no effect on health and quality of life due to noise;
 - Lowest Observed Adverse Effect Level (LOAEL), the level above which adverse effects on health and quality of life can be detected; and
 - Significant Observed Adverse Effect Level (SOAEL), the level above which significant adverse effects on health and quality of life occur
- 5.4.7. The potential noise and vibration effects for the construction and operational phases for the Proposed Development have been assessed by reference to sensitive receptors within a defined study (assessment) area that the Applicant has identified. The study area for the effects of noise and vibration during the construction phase has been defined by the Applicant as being an area of 300 metres beyond the construction footprint for the Proposed Development, in line with the guidance contained within BS5228:2009³¹ [REP4-022]. The study area for construction traffic similarly relates to a 300 metres area extending outwards from all of the roads that it is expected would be used by vehicles travelling to or from construction works sites and for the delivery of materials.
- 5.4.8. In line with the provisions of the DMRB, the study area for the operational noise and vibration effects of the Proposed Development has been defined as 600 metres from the existing carriageway edge, together with other affected routes³² within 1.0km of the Proposed Development [REP4-022].
- 5.4.9. The noise sensitive locations likely to be most affected by the Proposed Development comprise a mixture of residential and non-residential properties that are located within the vicinity of Painshill roundabout, including the Feltonfleet school, because of their proximity to the A3 and the A245. It should be noted that much of the land within 600 metres of M25 junction 10 comprises green space, ie land that forms parts of Ockham Common and Wisley Common.

Construction noise effects

- 5.4.10. Within Chapter 6 of the ES [REP4-022] the Applicant has indicated that during the construction phase without mitigation there would be potential

³¹ British Standards Institution BS 5228:2009+A1:2014 Code for Practice for noise and vibration control on construction and open sites

³² An affected route being defined as a route for which it is calculated that there is a possibility of a change of 1dB L_{A10,18h} in the short term or 3 dB L_{A10, 18h} in the long term

for a SOAEL to be experienced during the daytime period, particularly when earthworks are being undertaken, for the residents of the properties within the immediate vicinity of the Painshill roundabout and/or adjoining the A245. However, with the use of mitigation measures, ie the use of Best Practicable Means (BPM) with respect to the use of plant and equipment and the management of the works or the use of temporary fencing, daytime construction noise has been predicted at the LOAEL [REP4-022]. In assessing the construction noise impacts for the Proposed Development, the use of BPM and/or installation of temporary noise barriers have been assumed to provide a 10dB noise reduction [REP4-022].

- 5.4.11. During the daytime, in locations other than at the northern extremity of the Proposed Development, noise levels are predicted to be lower and at the LOAEL.
- 5.4.12. With respect to night-time construction works, while bridge demolition and road surfacing works have the potential to be noisy, those works are not predicted to reach the SOAEL for the occupiers and users of sensitive receptors. That is because of the existing high background night-time road traffic noise levels within the vicinity of junction 10 and the Painshill roundabout. That means that the night-time works, for example within the vicinity of the Painshill roundabout, have been predicted to equate to the LOAEL [REP4-022].
- 5.4.13. Proposed change 4 would involve construction works being undertaken on Saturdays during the afternoon and into the early evening period. The undertaking of works during that period would coincide with a more sensitive time period for residents. However, it is predicted that no new adverse or significant adverse effects would arise from the undertaking works up until 19:00 on Saturdays [REP4-022].
- 5.4.14. With respect to the generation of vibration, the undertaking of percussive piling would have the potential to have an adverse effect for the occupiers of properties within the vicinity of retaining wall works sites. However, mitigation for any such adverse effect could be provided by undertaking non-percussive piling. Resurfacing works within the vicinity of Seven Hills Road at its junction with the A245 have been predicted as being at a perceptible level, albeit being of an intensity that is not expected to cause structural damage [REP4-022].
- 5.4.15. It is intended that mitigation for potential noise and vibration impacts would be addressed through the operation of the proposed CEMP. An oCEMP has been submitted by the Applicant [REP8-018] and the submission and approval for a full CEMP is secured under R3 of the dDCO [REP12-002], with consultations to be undertaken with the relevant planning authority prior to the CEMP being submitted to the SoST for approval. Amongst the various management plans and method statements that would comprise the CEMP, under R3(2)(c)(ii) there would be a requirement for a plan or statement for the control of noise and vibration to be submitted to and approved by the SoST [REP12-002].

- 5.4.16. The use of good working practices, ie the adoption of BPM by the contractor, would be likely to minimise possible impacts for residents of the area. A range of such measures are listed in paragraph 6.9.7 of REP4-022 and include such things as: ensuring vehicles and plant have effective and well maintained exhaust silencers; plant should be shut down rather left idling when not being use; site compounds and static machines should be sited as far as possible from noise sensitive buildings; manage weekend working to minimise noise at nearby properties; and the use of temporary barriers or other noise containment measures to minimise construction noise levels. R3 of the dDCO requires the submission of various management plans including one for the control of noise and vibration.
- 5.4.17. Proposed change 9 to the submitted application concerns the use of the construction compound at the former Wisley airfield. In the originally submitted application it was intended that the airfield construction compound would be used as the location for the assembly of the structures needed to construct the proposed Wisley Lane diversion and as a site for the storage of materials and topsoil. However, further to the appointment of the main construction contractor for the Proposed Development the Applicant now intends that materials processing plant would be located at the airfield construction compound to enable stockpiled materials to be processed for reuse within the Proposed Development. It is also proposed that part of this construction compound would be used as a traffic management area and for the provision of welfare facilities for use by the contractor's staff and this area would not be used to house workers.
- 5.4.18. The layout for the activities to be undertaken at the former Wisley airfield construction compound, as subject to proposed change 9, is shown on Figure 5.1 [REP-016]. This compound lies a little to the west of the residential properties that make up Elm Corner. Along the eastern boundary of the worksite as part of proposed change 9 it is intended that a three metre high topsoil bund would be formed. The installation of the three metre high topsoil has been identified as an item in the register of environmental actions and commitments (REAC), which in turn would form part of the CEMP that is based on the oCEMP, and is secured in R3 of the dDCO [REP12-002].
- 5.4.19. In order to maximise the degree of separation between the nearby dwellings at Elm Corner and potentially noise generating activities associated with the fabrication of structures for the Wisley Lane diversion and the handling or processing of topsoil and other materials Figure 5.1 shows the welfare facilities are occupying the eastern extremity of the construction compound. It is expected that the materials processing activity would be undertaken intermittently lasting for two to three weeks every few months [REP7-016].
- 5.4.20. It is proposed that the use of the airfield construction compound would be limited to 07:30 to 18:00 Mondays to Fridays and 08:00 to 19:00 on Saturdays. The construction noise levels for the residents of Elm Corner have been reassessed by the Applicant to determine the effects of

proposed change 7. That assessment includes the undertaking of materials processing activities. At Elm Corner (1 Fellside Cottage and Reynards) the daytime ambient noise level has been assessed as being 61.0dB L_{Aeq} [REP4-022]. With materials processing plant operating at the airfield construction compound without any mitigation or the installation of the proposed topsoil bund along the eastern boundary of the worksite, the noise level at Elm Corner has been predicted to be 54.9dB L_{Aeq} and thus below threshold the LOAEL for construction noise at this location [REP7-016].

- 5.4.21. When the noise attenuation measures provided by a three metre high topsoil bund and the noise of other construction activities on the A3 are taken into consideration, the highest construction noise levels at Elm Corner with materials plant in operation are predicted to be between 0dB and 0.3dB higher than the unmitigated construction noise levels identified in the noise Chapter 6 of the ES. On that basis no new adverse or significant adverse effects arising from proposed change 7 have been predicted to occur [REP7-016].

Operational noise effects

- 5.4.22. With respect to the mitigation for operational noise, integral to the design of the Proposed Development are the use of new 2.5 metre high noise barriers along the M25 and at junction 10 and the use of new "*low noise road surfacing*" (LNRS) on the A3, including at OPJ and at the Painshill roundabout, and on the A245. The use of LNRS is expected to provide a noise reduction of the order of 3.5dB [REP4-022].
- 5.4.23. For the long term (2037) assessment for operational noise under the DM scenario (ie without the Proposed Development), detailed predictions have been carried out for 2,149 residential noise sensitive receptors and 76 non-residential noise receptors [REP4-022]. The predicted daytime and night-time operational phase road traffic noise levels for a representative selection of residential and non-residential noise sensitive receptors are set out respectively in Tables 6.2.1 and 6.2.2 in APP-084.
- 5.4.24. For 2037 during the daytime under the DM scenario the road traffic noise level is predicted, for the most part, to be subject to negligible changes, ie increases or decreases in the $L_{A10,18h}$ of between 0.1dB to 2.9dB [REP4-022]. Although by 2037 under the DM scenario there is predicted to be traffic growth in the study area, the noise received at noise sensitive locations is predicted not to be significant. That is because it is anticipated that as part of the A3's routine maintenance the existing road surface would be replaced by LNRS [REP4-022].
- 5.4.25. For the daytime with the Proposed Development for 2022, it is predicted that for nine dwellings and at three other sensitive noise receptor locations there would be a "*minor*" increase in the $L_{A10,18h}$ of 1.0dB to 2.9dB, with the occupiers of a further 130 dwellings and three other receptors experiencing a "*negligible*" increase in the noise level of 0.1dB to 0.9dB. However, for the occupiers of 1,284 dwellings and at 51 other sensitive receptors, including Painshill Park and RHS Wisley, it is predicted that there would be reductions in the level of noise by between

0.1 and 2.9dB [REP4-022]. These changes in the noise environment being attributable to the A3 being surfaced with LNRS.

- 5.4.26. During the daytime in 2037 with the Proposed Development the predicted changes to the noise climate are shown in Table 6.16 of REP4-022. It is predicted that for the majority of the noise sensitive receptors in the study area (2,054 dwellings) there would be "negligible" changes, ie increases or decreases in the $L_{A10,18h}$ noise level of between 0.1dB and 2.9dB. Within Table 6.16 the occupiers of nine and eleven dwellings have respectively been identified as experiencing increases of 3.0dB to 4.9dB and 5.0dB to 9.9dB, ie "*minor*" and "*moderate*" changes in magnitude.
- 5.4.27. Within the study area for operational noise the Applicant has identified the presence of seven Noise Important Areas (NIAs), the locations for which are shown in Table 6.7 in REP4-022 and Figure 6.2 of APP-066. NIAs are locations where the 1% of the population most affected by the highest noise levels from major roads and railways are located based on strategic noise mapping undertaken by DEFRA. Within the NIAs in the study area no long-term noise increases of more than 1dB $L_{A10, 18h}$ have been predicted [REP4-022], with negligible decreases in noise being predicted in the long term within four of the NIAs [REP4-022].
- 5.4.28. The Applicant has undertaken an in-combination assessment of the predicted changes in the noise climate attributable to the Proposed Development and the redevelopment of the former Wisley airfield. In that regard it has been found that Ockham Lane and some of the other roads in and around Ockham would be subject to increased road traffic noise levels attributable to the airfield's redevelopment rather than as a consequence of the implementation of the Proposed Development.
- 5.4.29. The predictions for the changes to the long term night-time noise environment are shown in Tables 6.18 (2037 DM) and Table 6.19 (2037 DS) of REP8-022. For the night-time it is predicted that for the occupiers of dwellings in noise sensitive locations with or without the Proposed Development, only "*negligible*" changes would be experienced, ie increases or decreases in the noise level of between 0.1dB and 2.9dB.
- 5.4.30. With respect to vibration effects for the operational phase of the Proposed Development, no adverse impacts from either airborne or ground-borne vibration are predicted due to road traffic [REP4-022].
- 5.4.31. Table 6.24 in REP4-022 summaries the significance of the predicted changes to road traffic noise during the Proposed Development's operational phase for residential and non-residential locations. The impact magnitude has assessed as being either "minor decrease" or "*negligible*", with it being concluded that the significance of the environmental effect would either be "*not significant*" or "*significant beneficial*".

Issues raised

- 5.4.32. In the RR and WR [RR-010 and REP1-022] made by the Elm Corner Residents Group (representing sixteen properties in Elm Corner) concerns were raised that the use of the proposed former Wisley airfield construction compound would result in noise disturbance. Further concern raised by these residents that traffic using the Wisley Lane diversion overbridge would cause noise disturbance. OPC [RR-002] has also raised concerns about the generation of noise during both the construction and operational phases of the Proposed Development within the wider Ockham area, including the operation of the proposed main worksite at Nutberry Farm (immediately to the east of OPJ). Concerns about increased noise levels have also been raised by a number of other IPs in the RRs, for example in RR-037, RR-0536 and RR-056.
- 5.4.33. Concern has been raised by the residents of Painshill, which comprises a group of properties immediately south and east of the Painshill roundabout, that there would be increased noise disturbance through the removal of trees along the eastern side of the A3 and in order to facilitate the creation of the new private means of access that would sever Heyswood Campsite and Court Close Farm. The Painshill Residents Association (PRA) contends that any additional road traffic noise would not be capable of being mitigated through the installation of double glazing, as the dwellings at Painshill are listed buildings.

ExA's examination of issues

Operational noise effects

- 5.4.34. Central to the Applicant's operational noise assessment is a reliance on the use of LRNS. However, from the originally submitted application documentation, most particularly the plans, it was not readily apparent to the ExA precisely what road surfacing materials would be used where within the Proposed Development. Accordingly, to assist our understanding of that our ExQ1 1.1.10 [PD-006] asked the Applicant to submit a plan showing where it was and was not intended to use LRNS. That plan (TR01030/APP/9.22 Revision 0) can be found in REP2-017.
- 5.4.35. To assist the ExA's understanding of the significance of the use of LRNS as noise mitigation and the sensitivity of its effectiveness relative to future traffic growth we asked in ExQ1 1.10.5 the Applicant to give an indication of how much traffic growth would need to arise for there to be movement between the NOEL, the LOAEL and the SOAEL assessment. In response to that question the Applicant advised in general terms that *"A noise increase of 1dB LA10, 18h would require a 25% in traffic flow (assuming the speed and fleet composition is the same). A noise increase of 3dB LA10, 18h would be achieved by doubling the traffic flow"* [REP2-013].
- 5.4.36. With respect to the consideration of noise it should be borne in mind that decibels, as an indicator of sound level, is a logarithmic unit, so for example 50dB plus 50dB equals 53dB and not 100dB. On the basis of the Applicant's response to ExQ1 1.10.5, the ExA considers it probable that

traffic growth on the M25 and the A3 in and around junction 10 would need to be significantly in excess of that predicted in the submitted TA [APP-136] for the benefits arising through the use of LRNS to be negated and for there to then be an observable increase in road traffic noise, ie a significant adverse effect, compared with the current situation.

- 5.4.37. In response to our ExQ1 1.10.3 [PD-006] the Applicant has advised that it is expected that the life expectancy of the LRNS would be in the range of ten to 15 years, with road surfacing being maintained under the Applicant's "*general responsibility to maintain the strategic road network*" [REP2-013].
- 5.4.38. The occupiers of the dwellings at Elm Corner would experience minor decreases in the level of road traffic noise during the operational phase of the Proposed Development [REP4-022]. For example, the occupiers of the properties known as Orchard Cottage and 1 Fellside Cottages would experience daytime road traffic noise levels ($L_{A10,18h}$) in 2022 and 2037 between 2.7dB and 3.2dB lower than the prevailing situation [APP-084]. For those Elm Corner properties similar reductions in the night-time road traffic noise levels are also predicted [APP-084]. That is because it is proposed that the A3's existing road surface would be replaced with LNRS. The use of LNRS is predicted to reduce the road traffic noise in the area by 3dB or more during both the daytime and at night-time periods.
- 5.4.39. The Wisley Lane diversion overbridge would be elevated relative to the dwellings at Elm Corner. However, when the background noise level (driven by the volume of traffic using the A3), distance between Elm Corner and the overbridge, and the volume of traffic using the bridge (allowing for the RHS's future year predicted increases in visitor numbers [REP6-024]) are taken into account, the ExA considers that the use of the Wisley Lane overbridge would not be a source of intrusive road traffic noise. In that regard within Chapter 6 of the ES no adverse noise effects associated with the use of the overbridge have been identified by the Applicant.
- 5.4.40. For the period beyond 2022 some increase in traffic noise within the vicinity of Ockham has been predicted. However, the ExA considers it reasonable for the Applicant to have concluded in REP4-022 that this would be attributable to the use of the LRN arising from the possible redevelopment of the former Wisley airfield rather than as a consequence of the proposed alterations to the A3.
- 5.4.41. The ExA considers it of note that GBC, as the relevant environmental health authority for the area in and around Elm Corner and the wider environs of Ockham, is content that the Applicant has appropriately assessed the noise and vibration impacts of the Proposed Development and has no objections in this regard [REP8-029³³].
- 5.4.42. In terms of the operational noise effects, the ExA concludes that the Proposed Development, of itself, would not result in the residents of Elm

³³ The signed SoCG between the Applicant and GBC.

Corner being subjected to adverse levels of road traffic noise. The ExA therefore considers that the noise effects of the Proposed Development for the occupiers of Elm Corner would not cause there to be conflict with the policy for noise and vibration stated in the NPSNN.

- 5.4.43. The residential area at Painshill comprises twelve dwellings accessed via a private road, Pains Hill, which lies immediately due south of the Painshill roundabout. A number of the Painshill residents and the PRA have made written³⁴ and oral submissions at OFH1 and ISH2 that the Proposed Development would give rise to operational noise disturbance. In that regard it has been submitted that because so many of the Painshill residential properties are listed buildings it would not be possible to install double glazing as mitigation against additional road traffic noise. The Painshill residents have also contended that the removal of trees in the area to facilitate the widening of the A3 and the provision of the proposed replacement PMA for the Heyswood Campsite, Court Close Farm and New Farm would compound the receipt of increased road traffic noise at their properties.
- 5.4.44. The change in the level of road traffic noise received by residents of Painshill is predicted to negligible, at a level of less than plus or minus 1dB, as shown on the predicted noise Figures 6.11 and 6.12 contained in APP-067. The Applicant has commented in response to RR-050 that three dwellings at Painshill are predicted to experience negligible increases at their worst affected facades, while all of the other properties in this location have been predicted as being in receipt of negligible decreases at their worst affected facades. Those predicted increases or decreases in the receipt of road traffic noise being so small as to be imperceptible [REP1-009]. The Applicant has further commented in response to RR-035 and RR-050 that the proposed tree felling would have a negligible impact on the receipt of road traffic noise by the Painshill residents because any noise attenuation by trees is usually small and varies according to planting density, species, height and season [REP1-009].
- 5.4.45. Having regard to the predicted changes in the noise environment within the vicinity of Painshill, the ExA considers that the Painshill residents would not experience adverse noise or vibration effects as a consequence of the Proposed Development. The comments that the Applicant has made about the role of trees in the attenuation of noise are consistent with the ExA's understanding. The ExA is therefore not persuaded that the tree loss associated with the Proposed Development would appreciably affect the road traffic noise levels experienced by the Painshill residents and any effect that there might be would be offset by the use of LNRS.
- 5.4.46. The use of the replacement PMA that would serve Heyswood Campsite, Court Close Farm and New Farm would be lightly trafficked compared with the volume of traffic using the A3, with the latter being the main constituent of the background noise level in the area. The ExA considers

³⁴ RR-022, RR-035, RR-040, RR-048, RR-050, RR-053, RR-056, RR-057, RR-058, RR-059, REP1-031, REP1-051, REP2-037 and REP3-066

that when regard is paid to the level of traffic use for this new PMA, its distance from dwellings at Painshill and the laying of LNRS on this access [REP2-017] that the use of this access would not generate intrusive road traffic noise for the residents of Painshill.

The ExA's views on the operational noise effects at Painshill are supported by the SoCG between the Applicant and EBC, as the relevant Environmental Health Authority, which agrees that the operational effects noise impacts of the Proposed Development have been appropriately assessed and that there would be no significant noise and vibration effects on noise sensitive receptors within Elmbridge [REP8-028³⁵]. The ExA therefore considers that there would be no adverse operational noise or vibration effects for the residents of Painshill arising from the Proposed Development.

5.4.47. With respect to the use of LRNS being secured under any made DCO, the Applicant has submitted [REP2-013] in response to ExQ1 1.10.4a) that the provision of this road surfacing material would be a matter for the SoST's approval as a detailed design matter under R5(1) of the dDCO [REP12-002]. Under R5 there would be a requirement for the authorised development to be designed in detail so that it would be compatible with the preliminary scheme design shown on the application drawings, with a set of those drawings to be submitted to the SoST following the making of a DCO for certification as the approved drawings for the Proposed Development, pursuant to Art46 and Schedule 11 of the dDCO. For the purposes of clarifying what the preliminary scheme design would be with respect to the type and location of the surfacing materials, the ExA considers that drawing TR01030/APP/9.22 Revision 0 [REP2-017] should be a plan that is listed Schedule 11 of any made DCO.

5.4.48. With respect to operational noise, the ExA considers it needs to be recognised that the predicted reduction for road traffic noise that would be experienced at some noise sensitive receptors in close proximity to the A3 corridor would arise in the longer term without the implementation of the Proposed Development. That is because as part of the future routine maintenance of the A3 this road would be resurfaced with LNRS [REP4-022]. While the implementation of the Proposed Development would provide more certainty about when this change to the noise climate for this part of the A3 corridor would occur, the ExA considers this benefit of the Proposed Development is tempered by the fact that it could arise under either the DM or DS scenarios.

Construction noise effects

5.4.49. The areas within the immediate vicinity of the parts of the M25 and A3 affected by the Proposed Development are quite sparsely populated, with Elm Corner and the area around the Painshill roundabout containing the majority of the noise sensitive receptors. In noise terms the residents of

³⁵ The signed SoCG between EBC and the Applicant

Elm Corner and the occupiers of properties within the vicinity of the Painshill roundabout would be closest to the construction works.

- 5.4.50. The residents of Elm Corner would experience some construction noise disturbance in association with the undertaking of the works on the A3 and from the operation of the former Wisley airfield construction compound. In ExQ4 4.5.1 [PD-021] the ExA asked the Applicant to justify its proposed relocation of the main materials processing activities from the Nutberry farm to the Wisley airfield construction compound. The Applicant responded in REP10-004 that this was for site safety and security reasons. The ExA considers that this noise disturbance would be capable of being reduced to acceptable levels through the adoption of mitigation measures.
- 5.4.51. The minimisation of the effects of construction noise can be mitigated through a combination of the controls that would be included within a CEMP, which would be secured by R3 of the dDCO [REP12-002], and the use of controls under section 61 of the Control of Pollution Act 1974 (CPA1974). Under R3(2)(b) of the dDCO construction working hours have been stipulated, while under R3(3)(c) there would be a requirement for a management plan and method statement for the control of noise and vibration to be approved by the SoST and then implemented during the construction phase.
- 5.4.52. The CPA1974 is a piece of legislation which the Applicant has not sought to have disapplied under the terms of the dDCO. It would therefore be open to the contractor to apply for consent under s61 of the CPA1974 from EBC and GBC. Should the Applicant's contractor not apply for a consent under s61 of the CPA1974, under s60 of the CPA1974, should either EBC or GBC find it necessary, then for their respective administrative areas either local authority could serve a notice imposing requirements upon the contractor as to the way the works were to be carried out.
- 5.4.53. With respect to the use of the airfield construction compound, including the changes promoted by the Applicant under change 9 to the submitted application, the ExA considers that the layout of activities shown on Figure 5.1 in REP7-016, coupled with the provisions in R3 of the dDCO, would provide suitable safeguards for the residents of Elm Corner. Importantly, the ExA considers that any CEMP secured under the provisions of R3(1) of the dDCO [REP12-002] should accord with the provisions of the submitted oCEMP [REP8-018] in order to ensure that appropriate mitigation would be provided for the residents of Elm Corner.
- 5.4.54. The ExA considers that there would be some adverse noise or vibration effects for the residents of Elm Corner during the construction period, associated with the undertaking of the A3 mainline works and the operation of the airfield construction compound site. However, the ExA considers those adverse effects would be capable of being managed so that unacceptable levels of construction noise would not be experienced by the occupiers of Elm Corner.

- 5.4.55. During the construction period there would be the potential for the residents of Painshill to experience some disturbance, particularly the occupiers of the properties immediately adjoining the Painshill roundabout. However, we consider those adverse effects would be capable of being managed to minimise their effect to acceptable levels. The ExA therefore considers that the noise effects of the Proposed Development for the residents of Painshill would be acceptable.

Conclusion on noise and vibration

- 5.4.56. The ExA concludes that during the construction phase for the Proposed Development there would be some adverse impacts with respect to noise and vibration. However, the ExA considers those impacts would be capable of being mitigated to an acceptable level.
- 5.4.57. With respect to noise during the operational phase of the Proposed Development, the ExA concludes that there would be beneficial effects for the occupiers and users of noise sensitive locations in the area, albeit those benefits would in the fullness of time be likely to occur in any event under the DM scenario, given the likelihood of the A3 being resurfaced with LNRS as part of the routine maintenance for this part of the SRN.
- 5.4.58. The ExA considers that the Proposed Development has been designed with mitigation to minimise noise emissions and to avoid significant adverse impacts on health and the quality of life from noise. Accordingly, with the proposed mitigation that would be secured through the provisions of the dDCO, the ExA considers that the Proposed Development, either alone or cumulatively, accords with paragraphs 5.194 to 5.198 of the NPSNN.

5.5. BIODIVERSITY AND THE NATURAL ENVIRONMENT

Introduction

- 5.5.1. This Section examines the impacts of the Proposed Development on biodiversity and the natural environment. However, matters that specifically pertain to the Habitats Regulations and the TBHSPA are assessed in Chapter 6.

Policy considerations

- 5.5.2. Paragraphs 5.20 to 5.38 of the NPSNN relate to biodiversity and ecological conservation. Paragraph 5.23 indicates that the Applicant should show how the project has taken advantage of opportunities to conserve and enhance biodiversity and geological conservation interests.
- 5.5.3. NPSNN paragraph 5.32 refers to the fact that once ancient woodland is lost it cannot be recreated. It goes on to state that: "*The Secretary of State should not grant development consent for any development that would result in the loss or deterioration of irreplaceable habitats including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the national need for and benefits of the development would clearly outweigh the loss.*"

- 5.5.4. Taken together, Policies CS15 and ID4 of the GBLPSS, Policy CS15 of the ECS and Policies DM6 and DM21 of the ELPDMP seek to protect biodiversity interests and ensure biodiversity net gain.

The Applicant's case

- 5.5.5. Chapter 7 of the ES [APP-052] assesses the impact of the Proposed Development on Biodiversity. ES Chapter 7 was updated at D4 to account for the proposed changes 1 to 6 to the application [REP4-023].
- 5.5.6. In overall terms, paragraph 7.12.1 of ES Chapter 7 [REP4-023] reports that the Proposed Development would lead to the loss of 240.6ha of land (approximately 139ha permanent land take and 101ha of temporary land take), including land from a SPA, SSSI, Local Nature Reserve (LNR) and two Sites of Nature Conservation Importance (SNCIs). The Applicant argues that the mitigation, compensation and enhancement measures proposed will allow adverse residual effects to be minimised as much as possible.

Designated sites

- 5.5.7. Most of the Ockham and Wisley Commons SSSI (OWC SSSI) falls within the TBHSPA. The Applicant reports that there would be a temporary loss of 16.0 ha of land within OWC SSSI and a permanent loss of 11.5ha of OWC SSSI land. Of this, 5.9ha of the permanent loss and 8.6 ha of the temporary loss is also part of TBH SPA. The implications of the Proposed Development for TBH SPA are considered in more detail in Chapter 6. Of the area of the OWC SSSI that lies to the north of the M25 on either side of the A3, that is not part of the TBHSPA, there would be a permanent loss of 5.6ha and temporary loss of 7.4ha
- 5.5.8. The Applicant assesses that there would be a permanent positive effect on the overall OWC SSSI due to the suite of compensatory measures proposed.
- 5.5.9. The Proposed Development would entail the loss of 1.7ha of habitat within land designated as Elm Corner Woods Site of Nature Conservation Interest (SNCI). This equates to 16.7% of the total area of this SNCI [REP4-023]. For land within Wisley airfield SNCI there would be the temporary loss of 1.6ha (5.7% of the SNCI) and the permanent loss of 2.9ha (10.3% of the SNCI). ES Chapter 7 predicts a permanent negative residual effect of slight significance on Wisley airfield SNCI and a permanent positive residual effect of neutral significance on Elm Corner Woods SNCI due to habitat creation and enhancement.
- 5.5.10. ES Chapter 7 [REP4-023] predicts a permanent positive residual effect on OWC SSSI, primarily as a result of habitat reinstatement measures. A permanent positive residual effect of moderate significance is predicted for Ockham and Wisley LNR.

Ancient woodland and veteran trees

- 5.5.11. Table 7.1.6 of APP-088 provides details of the 33 parcels of ancient woodland within 1km of the Proposed Development. As detailed in ES Chapter 7 [REP4-023] the Proposed Development would result in the loss of 0.4ha of ancient woodland from two parcels: at Elm Corner and Heyswood. The Applicant states that these losses would be from the outer edges of the woodland closest to the A3 and therefore would not lead to fragmentation of the ancient woodland [REP4-023].
- 5.5.12. Also, ES Chapter 7 records that there would be the planting of new woodland and wood pasture and the enhancement of existing areas of ancient woodland, such as the removal of rhododendron in Chatley Heath. Nevertheless, the Applicant has assessed the effect of the Proposed Development on ancient woodland as having a permanent adverse residual effect at Elm Corner and Heyswood. That adverse residual effect has been categorised by the Applicant as being of moderate significance because the lost areas of ancient woodland are considered to be of county value [REP4-023].
- 5.5.13. If pursued, then the alternative PMA around the periphery of the Heyswood Campsite, as reflected in proposed change 7, would result in a further 0.11ha of ancient woodland being permanently lost [REP7-016]. The Applicant concludes that although this would mean an increased loss of ancient woodland from 0.4ha to 0.51ha this would not change the predicted residual effect for ancient woodland as being a "*permanent negative effect of moderate significance*" should the alternative PMA be pursued [REP7-016]. This is specifically considered in Section 5.11.
- 5.5.14. The Proposed Development would entail the loss of two veteran trees and, depending on the detailed design, the potential for impacts on a further nine veteran trees.

Waterbodies

- 5.5.15. All of Bolder Mere lies within the TBHSPA and is also within the OWC SSSI. The Applicant has provided a Bolder Mere Ecological Survey and Condition Assessment [APP-094]. ES Chapter 7 predicts that the Proposed Development would give rise to a residual permanent positive effect of slight significance for Bolder Mere [REP4-023].
- 5.5.16. In terms of other waterbodies, ES Chapter 7 [REP4-023] predicts a neutral residual effect on the River Wey, River Mole and Manor Pond. Also, a permanent positive effect on Chatley Wood Pond, and a slight permanent positive effect on the Stratford Brook are predicted.

Species-specific surveys

- 5.5.17. The following species-specific survey reports were submitted by the Applicant:

Bats

- 5.5.18. Bats and Bat Trapping reports were submitted to accompany the application [APP-095 and APP-096 respectively]. The survey technique involves a records search, transect surveys, static monitoring, bat trapping and radiotracking of four bats. A total of 189 bats of eight species were trapped.
- 5.5.19. ES Chapter 7 [REP4-023] concludes that there would be a short-term negative effect on bats due to temporary disturbance, the loss of roost sites and trees with roosting potential. Proposed mitigation includes replacement roosts, habitat creation and enhancement and the sensitive use of lighting and creation of dark corridors. Overall, the Applicant predicts there would be a positive permanent positive residual effect for bats that would be of slight significance.

Great Crested Newts

- 5.5.20. A Great Crested Newt report [APP-097] was submitted which consisted of a desk study and field surveys over a period of four years of waterbodies within 250m of the Proposed Development. Great crested newts were found in four waterbodies within the study area. ES Chapter 7 [REP4-023] predicts that there would be a neutral residual effect on great crested newts, with a minor loss of habitat being offset by a predicted improvement in water quality at Bolder Mere and the improvement of marginal habitat.

Reptiles

- 5.5.21. A Reptiles survey was submitted [APP-098] to accompany the application. In addition to the presence of slow worm, grass snake, common lizard and adder, the survey found the presence of sand lizard, a European Protected Species (EPS). Due to the creation of heathland habitat suitable for sand lizards a permanent positive effect of moderate significance is predicted. In terms of other species of reptiles, a slight permanent positive residual effect is identified.

Badgers

- 5.5.22. A badger survey was submitted to accompany the application, with the published version having been redacted [APP-102]. The construction phase of the Proposed Development would result in the permanent partial loss and temporary closure of one main sett, and the permanent loss of one subsidiary sett and four outlier setts. Mitigation would include the construction of artificial setts and the reinstatement and enhancement of habitat. ES Chapter 7 [REP4-023] concludes that there would be both a temporary and permanent negative residual effect on badgers of neutral significance, which the Applicant defines as "*no significant effects on important nature conservation resources.*"

Other EPS

- 5.5.23. Surveys were carried out for otter and water vole [APP-100], hazel dormouse [APP-099] and white-clawed crayfish [APP-103]. No evidence

of white-clawed crayfish, water vole or hazel dormouse was found. Otter spraint was found but not any breeding sites or resting places.

Breeding birds

- 5.5.24. A breeding birds survey was submitted to accompany the application [APP-101]. For the breeding bird assemblage that excludes the TBHSPA qualifying features (nightjar, woodlark and Dartford warbler), a temporary negative effect during the construction period is predicted but there would be a permanent positive effect during the operational stage, both of which would be of neutral significance [REP4-023].
- 5.5.25. In terms of residual effects, ES Chapter 7 [REP4-023] predicts a significant adverse effect on spotted flycatcher during construction but that this would be a permanent neutral effect in the long term due to the creation and enhancement of habitats, including the provision of nest boxes.

Terrestrial invertebrates

- 5.5.26. ES Chapter 7 concludes that there would be a temporary adverse effect on terrestrial invertebrates due to the clearance of vegetation during the construction phase. Overall, there would be a permanent positive effect as a result of the creation and enhancement of habitats.

Issues raised

- 5.5.27. The specific issues in relation to the TBHSPA and the requirements of the Habitats Regulations are considered in Chapter 6 of this Report. In terms of other biodiversity matters, concerns were raised by Regena Coult regarding the effect of the Proposed Development on toads and potentially other amphibians [RR-036, REP1-052, REP6-026, REP7-035 and REP7-036]. Whilst the proposed toad tunnels at Old Lane were welcomed, concerns were raised about their precise location and it was contended that additional underpasses should be created.
- 5.5.28. In response to concerns about the impact on toads, the Applicant submitted proposed change 2 which amended the Proposed Development to include two toad underpasses at Old Lane. Representations have been received that these are not in as good a location as they could be and more underpasses should be provided [REP12-050]. In the final SoCG between the Applicant and SCC [REP12-008] it is agreed that provision can be made in a separate side agreement between the Applicant and SCC to secure an additional or an alternative toad underpass location or locations, but that the two underpasses that are proposed would adequately mitigate the impact of the Proposed Development on toad mortality.
- 5.5.29. Concerns about the identified effects on ancient woodland and veteran trees were raised by The Woodland Trust [RR-031]. The Applicant has acknowledged the effect on these and has endeavoured to minimise the loss. In terms of mitigation, the Applicant has proposed that ancient

woodland soils will be translocated from the proposed donor sites at Elm Corner and Heyswood to the receptor site at Park Barn Farm (PBF).

- 5.5.30. A SoCG has been concluded with NE [REP8-022]. This agrees all matters relating to non-HRA issues, including the survey methodology and measures in regard to ancient woodland.

ExA's examination of issues

Assessment, mitigation and future management

- 5.5.31. The Applicant has proposed the submission and implementation of a number of interrelated documents to safeguard biodiversity during construction and provide mitigation and enhancement for the operational stage of the Proposed Development. The REAC [REP8-020] sets out a schedule of mitigation commitments and an Environmental Action Plan. The REAC, and CEMP, that is to be "*substantially in accordance with the outline CEMP*", are secured in R3 of the dDCO [REP12-002].
- 5.5.32. In ExQ1 1.15.7 [PD-006] the ExA asked about the relationship between the CEMP, HEMP and LEMP. The Applicant responded in REP2-013 that the HEMP functions as the equivalent of the CEMP for the operational period of the Proposed Development. The HEMP addresses the environmental matters set out in the approved CEMP upon completion of the construction phase, and this is contained in R3(5) of the dDCO. The SoCGs with EBC [REP8-028] and GBC [REP8-029] agree that the CEMP would provide suitable and enforceable safeguards in regard to environmental protection measures including for the preparation of the HEMP. The ExA is satisfied that the HEMP would take proper account of future environmental management commitments and that this has been adequately secured in the dDCO [REP12-002].
- 5.5.33. In EXQ2 2.4.5 [PD-010] the ExA enquired about how long-term management and monitoring would be adequately funded. The Applicant responded, in REP5-014, that as set out in the Funding Statement [APP-024] the full funding for the scheme includes all mitigation measures required and the long-term management and monitoring of such measures.
- 5.5.34. The ExA is content with the explanations provided by the Applicant to our EXQ1 and ExQ2 relating to biodiversity mitigation and management matters. We consider that the process of ensuring biodiversity mitigation and enhancements is adequately secured in the dDCO, for example in R3, R11, R15 and R17 [REP12-002]. Also, R11 and R12 of the dDCO require respectively details of mitigation measures in regard to the Buxton Wood and Stratford Brook environmental mitigation areas. The ExA is satisfied that there would be sufficient funding to deliver the biodiversity mitigation and enhancement measures.
- 5.5.35. There are significant positive effects that would arise through the creation of the compensation land and the habitat management proposed for the enhancement areas. These are discussed in more detail in

Chapter 6 of this Report, as this Section does not report on TBHSPA matters.

- 5.5.36. There would also be positive effects on Bolder Mere. These include an upgrade to road drainage, habitat improvement around the edges of Bolder Mere and a programme of carp and bream removal. These measures are secured in R10 of the dDCO [REP12-002] and the details are to be agreed with the EA, NE, SCC and the relevant planning authority. Mitigation and enhancements for reptiles including sand lizard would be provided through the use of exclusion fencing during the construction stage and the creation of heathland habitat. In addition to the SPA Management and Monitoring Plan (SPA MMP) [AS-015], a landscaping scheme to reflect the mitigation measures set out in the REAC is secured in R6 of the dDCO [REP12-002]. Also, a scheme for the restoration and/or landscaping of land used temporarily for construction is secured in R17 of the dDCO and this [REP12-002]. Final pre-construction survey work for protected species is secured in R15 of the dDCO.
- 5.5.37. The Cockcrow Bridge would potentially provide additional mitigation by providing a wildlife corridor over the A3. However, as the green corridor element of this bridge would be subject to future funding being received, and is therefore not guaranteed, any resultant biodiversity benefits in this regard cannot be taken into consideration in the balancing exercise.
- 5.5.38. The toad tunnels on Old Lane subject to proposed change 2 were welcomed by Regena Coult, but it was considered, for example in REP7-035, that these could be better located. The ExA notes the Applicant's commitment to agree this matter with SCC, via a highways' matters side agreement if necessary, and is content that suitable locations could be agreed. A side agreement is not secured via the dDCO and has not been submitted as an Examination document. The ExA understands that a side agreement had not been fully executed by both the Applicant and SCC by the close of the Examination [REP12-040]. Consequently, the ExA affords very little, if any, weight to the draft side agreement in regard to any additional or re-positioned toad underpasses as the agreement was not fully completed by the close of the Examination.
- 5.5.39. However, the ExA considers that the proposed toad tunnels in their current location would provide adequate mitigation for the effects of the Proposed Development and would represent an improvement on the current situation. Nevertheless, it is also the case that any additional provision would be of further benefit for amphibians. Also, the proposed underpasses may benefit from being relocated once the detailed design has been formulated. The ExA would therefore encourage further consideration of this matter outside of the DCO process to inform the detailed design for the proposed toad tunnels.
- 5.5.40. The dDCO [REP12-002] contains Requirements relating to the Bolder Mere Mitigation and Enhancement Area (R10), the Buxton Wood Environmental Mitigation Area (R11) and the Stratford Brook Environmental Mitigation Area (R12). The measures contained in these

Requirements will have the potential to improve biodiversity interests, including around the margins of Bolder Mere and we consider that the biodiversity interests of waterbodies would be enhanced in the longer term.

Ancient woodland

- 5.5.41. The implications for ancient woodland arising from the potential PMA route through the Heyswood Campsite to Court Close Farm are assessed in more detail in Section 5.11 and Chapter 8 of this Report.
- 5.5.42. Disregarding the alternative PMA route through the Heyswood Campsite, the Proposed Development would entail the loss of 0.4ha of ancient woodland. Mitigation is in place through the translocation of ancient woodland soils and a long-term management strategy for other areas of ancient woodland. The Woodland Trust [RR-031] has argued that such measures can be considered as compensation but cannot make up for the loss of irreplaceable ancient woodland. The ExA concurs with the views of the Woodland Trust on this.
- 5.5.43. The NPSNN places a strong emphasis on preserving irreplaceable habitats, including ancient woodland. The SoCGs with EBC [REP8-028] and NE [REP8-022] agree that the potential impact on ancient woodland has been reduced as far as is feasible and practicable. Taking this into account, the ExA considers that the loss of 0.4ha of ancient woodland would not be sufficiently significant in its own right to recommend that the Order should not be made. Nevertheless, the loss of 0.4ha of ancient woodland would represent a detrimental impact that weighs against the Proposed Development.

Veteran trees

- 5.5.44. The impact of the Proposed Development on veteran trees is considered in more detail in Section 5.8. Veteran trees are of importance for the range of biodiversity they support. Whilst we note that the Applicant's intention to plant three trees for every veteran tree removed [REP4-023], nevertheless the loss of two veteran trees and potential impacts on a further nine veteran trees would give rise to a degree of harm to biodiversity interests.

Replacement Land

- 5.5.45. The Proposed Development would involve the loss of 13.77ha of registered common land (CL) and open space (OS) and the acquisition of permanent rights over other areas of CL and OS affecting the use of that recreational open space. CL and OS constitute Special Category Land (SCL) and under s131 and 132 PA2008 there are provisions to provide replacement land (RL), with the RL needing to be no less advantageous for persons entitled to rights of common, or other rights and to the public.
- 5.5.46. In ExQ2 2.4.11 [PD-010] the ExA asked the Applicant to provide further clarification as to the weight, if any, that had been given to the proposed RL in terms of providing biodiversity mitigation and/or enhancement. The

Applicant responded that the RL would provide a substantial part of the mitigation proposed for loss of Habitats of Principal Importance (HPIs) outside of designated sites [REP5-014]. The Applicant contends that the woodland planting and woodland enhancement areas within the RL are considered to be necessary mitigation for the loss of HPIs.

- 5.5.47. In terms of residual effects if the area of RL was to be reduced, then the Applicant considers that the significance of effects would be likely to be altered for the species for which the Applicants intends that RL would contribute to the mitigation of habitat loss. Those species are bats, reptiles, reptiles, breeding birds (but not species which are SPA qualifying features), badgers and terrestrial invertebrates [REP11-011]. In addition, woodland management measures at the Chatley Farm RL sites would not be undertaken and the proposed woodland linkage between Buxton Wood and Queen Anne's Hill may not occur.
- 5.5.48. As described in Chapter 8, the ExA is proposing a reduction in the RL that would be acquired using CA from 39.8ha to 16.4ha. This would be a reduction of more than half. It seems evident to the ExA that the Applicant has, to some extent, conflated what should be a separate issue of providing RL under the provisions of s131 and s132 PA2008, with biodiversity mitigation and enhancement objectives. However, the evidence given by the Applicant on this matter, for example in paragraphs 7.11.37 and 7.11.49 of ES Chapter 7 [REP4-023] and Section 8 in the 'Applicant's note for Action points 1, 2, 4 and 5' that reports on biodiversity mitigation and replacement land [REP11-011] is not entirely clear.
- 5.5.49. The ExA considers that there would be some impact on biodiversity arising from its recommended reduction in the amount of RL provided to be provided as part of the Proposed Development. This is because biodiversity enhancements have been referred to for some of the RL areas in Chapter 7 of the ES [REP4-023] and are further detailed in REP11-011.
- 5.5.50. However, the ExA is not in a position to be able to report on the exact nature of all of the biodiversity mitigation and enhancement proposals that would accrue from the Applicant's proposals for the provision of RL. This is because the Applicant has not specified and assessed the precise details of all the biodiversity measures that are proposed for each of the RL areas. Should the SoST be minded to accept the ExA's recommendation for the amount of RL to be reduced to 16.4ha, then this is a matter that the ExA considers the SoST should seek comment on from the Applicant and relevant IPs, especially with in relation to the effect that such a change in RL provision would have for the biodiversity compensation and enhancement measures proposed by the Applicant as part of the Proposed Development. Our consideration in regard to the amount of RL and the RL sites is described in more detail in Chapter 8.

Impacts on designated sites

- 5.5.51. The impact on the TBHPSA is considered in Chapter 6. The SoCG which has been agreed with NE [REP8-022] states that all matters have been

agreed in relation to biodiversity matters, including biodiversity net gain and the residual impacts on the OWC SSSI, LNR and the two SNCIs.

- 5.5.52. The Proposed Development would give rise to beneficial long-term effects for some of the designated sites in terms of habitat reinstatement and future management. However, such management effects need to be balanced against the loss of land at both Elm Corner SNCI and Wisley airfield SNCI. There would be a permanent negative effect on Wisley airfield SNCI due to the loss of part of this site. This is predicted to be of slight significance due to the mitigation planting to provide a buffer between the Wisley Lane access road and the Elm Corner woods.
- 5.5.53. Despite the loss of part of Elm Corner Woods SNCI a permanent positive residual impact is predicted in REP4-023. The reason for this is due to habitat management to improve habitat quality and species and structural diversity [REP4-023], including woodland thinning works for areas that fall outside the boundary of the Proposed Development, but which have been agreed with SWT. Having regard to the significant proportion of the SNCI site that would be lost, the ExA considers that assigning a permanent positive residual represents an overly optimistic assessment by the Applicant. The ExA considers that at best the residual impacts of the Proposed Development on Elm Corner Woods SNCI would be neutral and would be more likely to be minor adverse.
- 5.5.54. Overall, the ExA considers the permanent residual effects on designated sites apart from the TBHSPA to range from minor adverse to neutral, with there being minor beneficial effects for the Bolder Mere component of the OWC SSSI.

Impacts on species

- 5.5.55. Overall, there would be some impacts on a number of species, including spotted flycatcher and badgers during the construction stage of the Proposed Development. However, for its operational stage there would be positive effects for a number of species including sand lizards and other reptiles, breeding birds, bats, amphibians and terrestrial invertebrates. The only longer-term adverse effects would be on badgers due to the loss of one main sett and subsidiary/outlier setts.
- 5.5.56. In Table 7.9 of ES Chapter 7 [REP4-023] the Applicant lists a number of other plans and projects that are located within 2km of the Proposed Development. The Applicant considers that none of these other plans or projects would give rise to a potential cumulative impact. Having regard to the location and scale of these other plans and projects, and the nature of the Proposed Development, the ExA agrees that there would not be any significant cumulative impacts on biodiversity.

Conclusion on biodiversity and the natural environment

- 5.5.57. In conclusion, the SoCG between the Applicant and NE [REP8-022] agrees that the biodiversity impacts for matters outside of the scope of the Habitats Regulations have been adequately assessed by the

Applicant. The SoCG with NE also agrees considers that the proposed mitigation and longer-term management is appropriate and has been effectively secured in the dDCO. The ExA is in general agreement with this but we also note the potential for a reduced amount of RL to affect both the consideration of biodiversity matters and the proposed mitigation and long-term management for certain RL sites.

- 5.5.58. There would be some impacts on biodiversity during the construction phase of the Proposed Development. The most significant negative impacts would be due to the loss of ancient woodland and other areas of trees and vegetation, including veteran trees, the loss of land at the two SNCIs and construction stage impacts on bats, badgers and spotted flycatchers.
- 5.5.59. The Proposed Development would provide biodiversity enhancements through additional planting, and habitat creation and management. This would entail some opening up of areas of woodland and shrubs to restore lowland heathland, which is a priority habitat. There would be associated longer-term biodiversity enhancements for breeding birds, reptiles, bats, amphibians and the aquatic environment in particular. However, some of the proposed biodiversity mitigation has the potential to be reduced by decreasing the amount of RL to 16.4ha. The reasons for why the ExA considers there should be a decrease in the amount of RL provision are set out in Section 8.8 of this Report.
- 5.5.60. Consequently, for the reasons we have identified the ExA concludes that when considered as a whole the biodiversity benefits of the Proposed Development would outweigh the disbenefits, and this would weigh in favour of the Order being made, subject to the SoST receiving comments from the Applicant and IPs about the implications of less RL being available to provide biodiversity mitigation. When considered in its entirety the Proposed Development would therefore comply with the NPSNN and relevant Development Plan policies in regard to biodiversity, including Policy CS15 of the ECS, Policies DM6 and DM21 of the ELPDMP, and Policies CS15 and ID4 of the GBLPSS.

5.6. FLOOD RISK AND THE WATER ENVIRONMENT

Introduction

- 5.6.1. This Section examines the effect of the Proposed Development on flood risk and the water environment.

Policy considerations

- 5.6.2. Paragraph 5.98 of the NPSNN guides that where flood risk is a factor in determining an application then an appropriate Flood Risk Assessment (FRA) should be provided and the SoS should be satisfied that the Sequential Test has been applied and, if required, the Exception Test.
- 5.6.3. NPSNN paragraph 5.99 goes on to state that: "*When determining an application for development consent the Secretary of State should be satisfied that flood risk will not be increased elsewhere and only consider*

development appropriate in areas at risk of flooding where (informed by a flood risk assessment, following the Sequential Test and, if required, the Exception Test), it can be demonstrated that:

- *Within the site, the most vulnerable development is located in areas of lowest flood risk unless there are overriding reasons to prefer a different location; and*
- *Development is appropriately flood resilient and resistant, including safe access and escape routes where required, and that any residual risk can be safely managed, including by emergency planning; and priority is given to the use of sustainable drainage systems."*

5.6.4. Paragraph 160 of the NPPF states that for the Exception Test to be passed it should be demonstrated that:

- The development would provide wider sustainability benefits to the community that outweigh the flood risk; and
- The development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

5.6.5. Policy CS26 of the ECS seeks to ensure that the risk of flooding for new development is minimised and flood risk is not increased elsewhere.

The Applicant's case

5.6.6. Chapter 8 of the ES assesses road drainage and the water environment [APP-053]. ES Chapter 8 was updated at D4 to account for the proposed changes 1 to 6 to the application [REP4-024]. An FRA [APP-046], Drainage Strategy [APP-107] and a Summary of Groundwater Level Information [APP-108] were also submitted to accompany the application. The FRA was updated at D8 [REP8-017] to account for the proposed changes.

5.6.7. Chapter 8 of the ES [REP4-024] finds that the residual effects of the Proposed Development on surface water and groundwater during the construction stage would not be significant. During the operational stage it was noted that the surface water drainage pathway in regard to catchment 19 is not permitted as when the road runoff outfalls from the attenuation pond it discharges into the A245 Byfleet ditch which then enters a series of ponds. ES Chapter 8 [REP4-024] goes on to report that, subject to a detailed drainage survey, a departure from DMRB may therefore be required. Table 8.22 of ES Chapter 8 considered that there would be no additional significant effects in regard to drainage and the water environment when assessed cumulatively with other relevant plans or projects.

5.6.8. The FRA [REP8-017] found that the majority of the Proposed Development lies within Flood Zone 1, but that there are also areas within Flood Zones 2 and 3. In terms of the Sequential Test the Applicant contends that the Proposed Development is considered as essential infrastructure and would be acceptable for flood risk if a passed Exception Test can be demonstrated. The FRA considers that the second

element of the Exception Test is passed as the Proposed Development would remain safe from flooding without it increasing flood risk elsewhere over its lifetime, taking into account climate change.

- 5.6.9. There are no water Source Protections Zones or groundwater abstractions near to the Proposed Development [REP4-021]. Full drainage surveys would only be undertaken at the detailed design stage [APP-107]. The Applicant proposes that the existing drainage system would be upgraded and supplemented with additional drainage systems. This includes attenuation ponds that would be designed in accordance with Sustainable Drainage System (SUDS) Manual criteria. The new attenuation ponds are detailed in Work No. 52 of the dDCO [REP12-002]. The Applicant contends [APP-107] that peak outflows will be controlled to match existing highway peak runoff rates for 1 in 1, 1 in 5 and 1 in 100-year return periods.
- 5.6.10. Bolder Mere is a Water Framework Directive (WFD) waterbody [REP4-021]. A Water Framework Directive Assessment Report [APP-045] was submitted to accompany the application, and was updated at D4 to reflect the proposed changes [REP4-019]. This report found that based on the preliminary scheme design the Proposed Development would be compliant with the requirements of the WFD. It recommended that the assessment be updated as more detailed information about the scheme becomes available and regular consultation throughout the design process with regulators and specialists in the relevant technical fields.
- 5.6.11. Schedule 9 Part 3 of the dDCO [REP12-002] contains protective provisions for the protection of the EA. Schedule 9 Part 4 of the dDCO contains protective provisions for SCC in respect of ordinary watercourses.

Issues raised

- 5.6.12. Concerns were raised by OPC about the potential for increased flood risk as a result the Proposed Development and cited the localised flooding experienced during Storms Ciara and Dennis [REP5-040].
- 5.6.13. During the course of the Examination the EA requested further information regarding the FRA to demonstrate that its conclusions are sound, and also required revisions to R10 of the dDCO [REP1-013]. R10 of the dDCO [REP12-002] was amended so that it requires details of the environmental mitigation and enhancement measures for Bolder Mere to be submitted and approved by the SoST following consultation with the EA, NE, SCC and the relevant planning authority.
- 5.6.14. The joint LIR [REP2-047] referred to reaching agreement with SCC in its role as Lead Local Flood Authority (LLFA) and clarifying maintenance responsibilities and access arrangements for Manor Pond.

ExA's examination of issues

- 5.6.15. The Proposed Development would entail the construction of a new network of drainage to serve the new highway sections. This would

include the construction of attenuation ponds. The preliminary design envisaged a full depth new replacement design for the pipe carrier systems [APP-107]. However, as full drainage surveys will not be available until the detailed design stage it is recognised that the interaction with the existing drainage system will still need to be evaluated. The Applicant acknowledges that this could lead to substantial redesign of the preliminary drainage design [APP-107].

- 5.6.16. R10 of the dDCO [REP12-002] relates to the Bolder Mere mitigation and enhancement area. It requires, amongst other matters, details of surface water drainage and pollution control measures following a detailed drainage survey to be submitted to the SoS for written approval following consultation with the EA, NE, SCC and the relevant planning authority.
- 5.6.17. However, R10 would only relate to that part of the Proposed Development in close proximity to Bolder Mere. The final version of the REAC [REP8-020] states that a *"permanent drainage system will be developed and approved by relevant parties before the construction phase commences"*.
- 5.6.18. R3(2)(c) of the dDCO requires, among other things that the CEMP include a management plan and method statement for the protection of surface water and groundwater. Although reference is made in R3 of the dDCO [REP12-002] to the REAC, the ExA does not consider that the final drainage strategy, that the Applicant has acknowledged can only follow a detailed survey, has been adequately secured in the dDCO. Consequently, the ExA considers that, as there is not a specific reference in the dDCO to the submission of a detailed drainage strategy, this needs to be specifically referenced in the CEMP and thereby carried forward into the HEMP. The specific wording for this is referenced in Chapter 9 and is contained in the ExA's rDCO (Appendix D of this Report).
- 5.6.19. The earlier concerns raised by the EA regarding further information on flood risk methodology and amendments to R10 have been overcome during the Examination process. The final SoCG with the EA [REP8-023] agrees all matters in relation to flood risk and water resources. Similarly, the initial matters raised by SCC in its role as LLFA in relation to the management of water bodies have been confirmed as being agreed in the final SoCG [REP12-008].
- 5.6.20. In response to the concerns raised by OPC the Applicant stated that it is aware of flood concerns and the Proposed Development would improve highway drainage performance through new drainage collection systems and attenuation [REP6-013]. The Applicant also noted that the flooding of the A3 near to Bolder Mere is known to be influenced by the silted up condition of the culvert and this will be cleared to restore its full capacity. Also, the improved drainage systems will attenuate the road runoff which will reduce the flow through the culvert and thereby the risk of flooding on the A3. The Applicant also states that there are no proposals to change the drainage network on Old Lane [REP6-013]. This is a matter that would be secured by the revised wording of R3(2)(c) in the rDCO and which is detailed in Chapter 9 of this Report. Taking this into

account, the ExA is satisfied that the Proposed Development would not cause any detrimental effects in this regard and would give rise to an improvement in the overall drainage network.

- 5.6.21. Although parts of the Proposed Development are located within Flood Zones 2 and 3, the ExA has not been presented with any substantive evidence that there would be a significant increase in flood risk as a result of the Proposed Development or elsewhere. In terms of the two elements of the Exception Test, the ExA considers that there would be wider sustainability benefits to the community, including drainage improvements, arising from the Proposed Development that outweigh the flood risk. Furthermore, the ExA considers that the Applicant has adequately demonstrated that it would be safe from the risk of flooding for its lifetime and would not increase flood risk elsewhere, taking into account climate change. As such, it is the ExA's view that both parts of the Exception Test have been passed.
- 5.6.22. Therefore, subject to a detailed drainage survey and subsequent detailed drainage design, the ExA considers that the Proposed Development, either alone or cumulatively, would not give rise to an unacceptable impact on surface water and groundwater.

Conclusion on flood risk and water resources

- 5.6.23. For the reasons set out above, the ExA considers that the Proposed Development would not give rise to any significant impacts, either alone or cumulatively, on either flood risk or water resources. As such it would comply with the NPSNN and Policy CS26 of the ECS and would not weigh against the Order being made.

5.7. HERITAGE AND THE HISTORIC ENVIRONMENT

Introduction

- 5.7.1. This Section examines the effect of the Proposed Development on heritage and the historic environment. The focus is on potential effects on designated heritage assets, including their settings, and also archaeological considerations.

Policy considerations

NPSNN

- 5.7.2. Paragraphs 5.126 to 5.142 of the NPSNN identify the historic environment decision-making considerations to be taken into account by the SoST.
- 5.7.3. Paragraph 5.127 requires that the applicant should describe the significance of any heritage assets affected, including any contribution made by their setting. Paragraph 5.130 refers to the desirability of sustaining and, where appropriate, enhancing the significance of heritage assets. Paragraph 5.131 indicates that the Secretary of State should give

great weight to a designated heritage asset's conservation and the more important the asset, the greater the weight should be.

- 5.7.4. Paragraph 5.132 states that any harmful impact on the significance of a designated heritage asset should be weighed against the public benefit of development, recognising that the greater the harm to the significance the greater the justification that will be needed for any loss.

Development Plan Policies

- 5.7.5. Taken together, ECS Policy CS17, ELPDMP Policy DM12 and GBLPSS Policy D3 seek to conserve and enhance the historic environment.

The Applicant's case

- 5.7.6. Chapter 11 of the ES [APP-056] assesses impacts of the Proposed Development on cultural heritage. In addition, the Applicant submitted a Heritage Gazetteer [APP-121], Desk based assessment [APP-122] and a Statements of Significance report [APP-123].
- 5.7.7. The ES assessed both designated and non-designated heritage assets within a study area of 500m of the DCO boundary. As reported in ES Chapter 11 and set out in more detail in the Heritage Gazetteer [APP-121], the following designated heritage assets are located within 500m of the DCO boundary:
- 4 no. scheduled monuments;
 - 2 no. Registered Park and Gardens (Grade I and II*);
 - 1 no. Grade I listed building;
 - 5 no. Grade II* listed buildings;
 - 41 no. Grade II listed buildings;
 - 2 no. Conservation Areas (Ockham Mill and Ripley).
- 5.7.8. The Desk-Based Assessment (DBA) accompanying the application identifies that there are four designated heritage assets within the site boundary for the Proposed Development [APP-122]. These are the Grade I listed RPG of Painshill Park, the Grade II* listed RPG of RHS Gardens, Wisley (hereafter referred to as RHS Wisley), the Grade II listed building of Westwood House (East) and the West Lodge to Painshill House including the gate piers.
- 5.7.9. At ISH2 [EV-005a to EV-005d] the Applicant confirmed that the Roman bath houses at Chatley Farm are no longer within the Proposed Development due to a change in the boundary from when the DBA was produced. The DBA and ES Chapter 11 also reported that there were 80 non-designated heritage assets within the wider 500m study area, of which 21 non-designated assets were within the site boundary of the Proposed Development.
- 5.7.10. RHS Wisley is a Grade II* RPG. Additionally, within the RHS Wisley site is the Grade II listed Laboratory building. The Statements of Significance report [APP-123] considers that the aesthetic significance of RHS Wisley is derived from it representing a well-designed multi-period 19th and

20th century garden. The Applicant states that it also has a high historical significance as an example of a scientific garden, and communal significance as a visitor attraction. ES Chapter 11 [APP-056] concludes that the Proposed Development would *"only affect the very edge of the garden on the fringes of Battleston Hill and would therefore only have a negligible impact on the asset through a possible increase in noise levels from traffic. This would result in a slight adverse effect, which is not considered to be significant."*

5.7.11. As reported in [APP-123] the Grade II* listed Gothic Tower, Gothic Temple and Painshill House lie within Painshill Park. There are also the following Grade II listed buildings within or adjacent to Painshill Park: The Chinese Bridge, Grotto complex; The Water Wheel; The Mausoleum; Roundhouse; Gardeners Cottage; and walls of the Walled Garden. In addition, the Grade II listed Stables, Round House and Lodges form a group of buildings associated with Painshill House, and the Grade II listed Cobham Bridge lies partly within the RPG.

5.7.12. The Statements of Significance report [APP-123] considers that the significance of Painshill Park is derived from two main attributes. Firstly, there is the aesthetic significance of Painshill Park itself, with it being an early and well-restored example of a naturalistic planted and informally laid out landscape garden. The collection of follies adds to this significance. There is also the aesthetic significance derived from the collection of buildings comprising Painshill House and its surrounding buildings and associated landscape. Secondly, there is the historic significance as it represents a movement whereby land owners were reforming their landscapes, whilst the assets in the vicinity of Painshill House are historically associated with the changing nature from a rural hinterland to a commuter belt

5.7.13. In terms of residual effects of the project alone, as set out in Table 11.5 of Chapter 11 [APP-056] the ES concluded that there would be a 'slight adverse' effect on the following designated heritage assets:

- Bell Barrow on Cockcrow Hill (Scheduled Monument);
- Bowl Barrow west of Cockcrow Hill (Scheduled Monument);
- Redhill hengiform (Scheduled Monument);
- Painshill Park (Grade I RPG);
- RHS Gardens Wisley (Grade II* RPG);
- Gothic Tower (Grade II* Listed Building); and
- Foxwarren Cottage (Grade II Listed Building).

5.7.14. In ISH2 [EV-005d] the Applicant confirmed that its assessment in ES Chapter 11 of a 'slight adverse' residual effect would equate to less than substantial harm in terms of the NPSNN.

Other designated heritage assets

5.7.15. The Bell Barrow at Cockcrow Hill lies outside but near to the red line boundary for the Proposed Development. The Applicant notes in ES Chapter 11 [APP-056] that its setting could be affected by both the removal of some vegetation that lies between it and the SRN and also

the new exit slip lane from the A3 northbound that would bring road development closer to it.

Non-designated heritage assets

- 5.7.16. There are a number of non-designated heritage assets within 500 metres of the DCO boundary. However, the Applicant states that none of these would be lost or directly affected as a result of the Proposed Development.

Archaeological Written Scheme of Investigation

- 5.7.17. A Desk Based Assessment was submitted to accompany the application [APP-122]. However, the Applicant did not submit a draft Written Scheme of Investigation and this was a matter that had been queried in the joint LIR [REP2-047].

Cumulative effects

- 5.7.18. In terms of cumulative effects, the ES anticipated that there were no additional significant construction or operational effects from other plans or projects.

Issues raised

- 5.7.19. The main objections and concerns raised by IPs relate to the potential impact on the heritage significance of the RPGs Painshill Park and RHS Wisley and the listed buildings within.

Painshill Park

- 5.7.20. Painshill Park is a Grade I RPG. The Applicant submitted a 'Statements of significance' report document as an Appendix to the ES [APP-123]. This contained an appraisal of the history and significance of both Painshill Park and RHS Wisley.
- 5.7.21. Painshill Park Trust (PPT) is the organisation responsible for the management of Painshill Park. PPT representatives attended ISH2, CAH1 and also the ASI. PPT has made representations, post-Hearing submissions and responded to the ExA's written questions throughout the Examination, for example in RR-021, REP1-033, REP3-062 to REP3-065, REP5-042, REP6-023 and REP9-010.
- 5.7.22. The main objection raised by PPT is based on the loss of its existing western access that leads directly off/on to the A3 near to the Gothic Tower. In addition, the Gardens Trust [RR-014] and The Georgian Group [RR-015] made representations supporting PPT in relation to the loss of the western access.
- 5.7.23. Prior to submission, earlier iterations of the scheme proposed the provision of a new shared private means of access (PMA), which included a bridge over the A3 and would have included a replacement for the western access to the park, shown as options PAIN-04A and PAIN-04C in

REP3-017. However, the Proposed Development removes the western access and does not provide any replacement.

- 5.7.24. In REP3-064, PPT provides examples of the types of events that are held at Painshill Park. In REP3-065 PPT provides details of visitor numbers and future projects in the western part of the Park, and in RR-021 PPT states its target of attracting 150,000 visitors per year. PPT contends that the loss of the western access would have serious implications for the ability of the park to hold major events and, for instance, notes in [REP3-062] that for a recent Food Festival the A3 access was integral for the emergency planning for the event. Also, it is argued by PPT that the western access is needed in relation to any plans for the redevelopment of the Gothic Tower to provide residential accommodation. PPT has claimed that, in the future, it is unlikely to be able to secure insurance for either of these eventualities, or that such insurance if available would be prohibitively expensive [REP2-036 and REP5-042].
- 5.7.25. PPT stated that the Gothic Tower was gutted by fire in the past [REP1-033]. PPT has submitted that if any future fire event occurred at the Gothic Tower of the Temple of Bacchus then the lack of a western access in the vicinity of these buildings would seriously hinder the ability of emergency vehicles to attend, as in a recent trial it took fifteen minutes for a fire engine to reach to the Gothic Tower [REP1-033].
- 5.7.26. The alternative route for emergency vehicle access to the western end of the park would require traversing the internal hard surfaced track that the coach followed on the ASI. However, any substantial improvements to that route would have the potential to impact on the landscape of the park and thus its heritage significance.
- 5.7.27. As well as the loss of the western access PPT has raised concerns [REP5-042] about the loss of land in the north-western part of the park that the Applicant proposes would form part of the new PMA that would serve the gas compound, New Farm, the Heyswood Campsite and Court Close Farm. This land is part of the Grade I registered landscape and PPT had envisaged to plant trees in this area to shelter the park from the noise of traffic on the A3. PPT's trustees agreed to lose this area of land, but only on the understanding that a replacement for the western access would be provided [REP5-042].

RHS Wisley

- 5.7.28. RHS Wisley has raised a number of concerns in regard to the effects of the Proposed Development on both the RHS Wisley site and its operations. In terms of potential effects on heritage and the historic environment, at D11 the RHS submitted a Heritage Report that was undertaken by Dr Chris Miele of Montagu Evans on behalf of the RHS [REP11-047]. In terms of the effects of the Proposed Development on heritage assets, the RHS has raised concerns about the impact on the trees, in particular the redwood trees, that lie along the boundary of the site adjacent to the A3 as a result of potential tree root damage [REP1-040]. The RHS argued that the amended access to the RHS site as a result of the Wisley Lane diversion, and the resultant loss of trees and

vegetation, would harm the visitor experience of the designated heritage asset. In particular, it is argued by the RHS that the proposed overbridge for the Wisley Lane diversion and the tree loss would harm the sense of arrival into RHS Wisley [REP11-047 and REP12-057]. As such, the RHS contends that the Proposed Development would represent an adverse impact on RHS Wisley's setting and thereby cause less than substantial harm to the significance of the Grade II* RPG.

- 5.7.29. Furthermore, the Heritage Report [REP11-047] states that the economic harm to RHS Wisley arising from the Proposed Development, as calculated in HRR1 and HRR2 [REP1-039 and REP6-024] would give rise to harm to the designated heritage asset and that this harm could be severe or serious.

ExA's examination of issues

Painshill Park

Loss of western access and potential financial effects

- 5.7.30. The crux of the objection raised by PPT concerns the operational and associated financial effects that would arise from the loss of the western access and the lack of a suitable replacement. At present this western gated access is only used for maintenance vehicles and it provides an alternative emergency access to this part of the Park. If this western access was lost then the means of accessing the western and southern parts within the Park would be via the trade entrance that is located close to Painshill junction, and then traversing the single-track paths within the park.
- 5.7.31. PPT contends that the loss of the western access would be seriously detrimental to the survival of Painshill Park as it would preclude large scale events from being held in the future, which are essential to fund the management and re-development of the park.
- 5.7.32. The Applicant contends that there would remain access within Painshill Park, via the internal network of tracks [REP2-014]. In order to test the practicality of traversing these routes, at the ASI the coach entered the park via the existing vehicular access for staff and maintenance vehicles that is located close to the Painshill roundabout. Using the hard-surfaced track through the park the coach reached as far as the western edge of the lake and then the ASI party proceeded on foot to view, amongst other things, the Temple of Bacchus and the Gothic Tower.
- 5.7.33. There seems to be some disagreement over the responses provided by Surrey Fire and Rescue Service (SFRS). In ExQ1 1.2.2 [PD-006] the ExA specifically asked SFRS to comment on what the current primary access route to the Gothic Tower would be and whether the stopping up of the western access would mean that there would not be an adequate route for fire appliances attending an incident at the Gothic Tower. In response SFRS, as part of SCC's response to the ExA's ExQ1 [REP2-045], confirmed that a standard fire appliance could gain access to the Gothic Tower using the Park's internal access route. Furthermore, SFRS

responded that utilising the A3 access provides an additional hazard on the road and also that due to the topography around the Gothic Tower the deployment of aerial appliances is not possible.

- 5.7.34. At D3, PPT submitted a further response which comprised an e-mail from SFRS [REP3-063]. This noted the current use of the Gothic Tower as a cafe and concluded that due to the current use of the Gothic Tower there was not a requirement to provide or maintain a second access. It also provided the estimated response times of 5 minutes if using the western access and 15 minutes from the 'Access 2' route off the A245, and concluded that *"access points within the park will need to improve considerably to include passing points and turning circle and be maintained to ensure available (sic) for use at all time."* The response from the SFRS representative also noted that: *"It is understood that closing the A3 access will have minimal effect on future events within the Park however, this will need to be considered at the time of event planning."*
- 5.7.35. In ExQ2 [PD-010] the ExA asked PPT to comment on the likelihood of any future agreement being reached with adjoining landowners about the provision of a new western access and also to provide evidence regarding the likelihood of licences for large-scale event at the Park being refused due to the lack of a suitable emergency access. In response PPT stated that the loss of the western access would either increase insurance premiums or make insurance unobtainable [REP5-042]. In support of its arguments PPT provided details of visitor numbers and the events it runs [REP3-064 and REP3-055]. In Appendix 3 of REP2-036 PPT cited the views of one of PPT's Trustees who works in the insurance industry. However, PPT has not provided any conclusive evidence that either its insurance premium would be increased prohibitively or insurance cover would be unobtainable.
- 5.7.36. SCC is the emergency planning lead for events attracting over 5,000 people. However, in response to ExQ2 [PD-010] SCC responded that EBC would be the authority that grants licences for Painshill Park events and if the event warranted it then a Borough-led Safety Advisory Group would be called at which SCC may provide input [REP5-029]. EBC responded [REP5-037] that it is supportive of the work that PPT does and that any future licence applications would be subject to *"reasonable concerns made by responsible authorities, like the Surrey Fire and Rescue Service, concerning access to and egress from the site."*
- 5.7.37. In ExQ1 [PD-006] the ExA asked the Applicant to justify why the proposed access had not been extended. The Applicant responded in REP2-013 that: *"As the western part of Painshill Park can be accessed via the network of maintenance tracks within the park, there is no proper basis for Highways England to acquire rights across third-party land to provide the Trust with an access for emergency and or land management purposes."*
- 5.7.38. It is unfortunate that an alternative access for Painshill Park has not been provided. Nevertheless, a route would be available within the park for

emergency and maintenance purposes, even if this would be inferior to either the existing western access or a replacement PMA running across part of the land at Court Close Farm before joining the PMA through the Heyswood Campsite. This is a matter that is also considered in Chapter 8 of this Report in CA terms.

- 5.7.39. Furthermore, the ExA does not consider that the effects of losing the western access would represent a direct impact on the significance of the Grade I RPG. The NPSNN references financial viability in paragraph 5.133 but that is in relation to a proposal that would lead to either substantial harm or total loss of significance potentially being acceptable if a number of criteria are met, including that no viable use of the heritage asset can be found in the medium term. That is not the same matter as a proposal having the potential to affect the financial viability of a heritage asset.
- 5.7.40. The ExA considers that the loss of the western access would not have a direct physical impact on the park landscape or its setting. The ExA has also not been presented with any conclusive evidence that the loss of the western access would have such a significant effect so as to seriously jeopardise the future operation of Painshill Park in terms of its ability to hold large events or to carry out essential maintenance work.

Loss of land associated with the proposed private means of access through to Court Close Farm

- 5.7.41. In ExQ2 [PD-010] the ExA asked for comments on the Applicant's contention that the proposed PMA through part of Painshill Park to the gas compound, New Farm, Heyswood Campsite and Court Close Farm would not affect the significance of Painshill Park. PPT responded that the Applicant had misunderstood the significance of the land required for the proposed PMA. That land forms part of the open views that were created in the northern part of the Park and it was explained that it was PPT's intention to plant trees in this area to provide noise mitigation from the traffic on this stretch of the A3 [REP5-042].
- 5.7.42. The Applicant argues in APP-123 that setting makes a limited contribution to the significance of Painshill Park as a whole. This is because the boundaries of the RPG are thickly planted to enclose the site and there are limited views from within to the landscape beyond. The ExA has not been presented with any evidence that disagrees with the Applicant's assessment in this regard.
- 5.7.43. There is agreement in the final SoCG with HistE [REP8-024] that the loss of the area of land in the north-western part of Painshill Park in order to construct the new PMA through to Court Close Farm would " ... *not have a significant impact on the park due to the screening from the trees that will now be largely retained*". In terms of the impacts on the listed buildings within Painshill Park, we consider that the loss of this land would not have any significant impact on their settings. This is because landscaping would become established to mitigate the impact of the loss of this land.

- 5.7.44. Nevertheless, the open landscape would be replaced by the hard surfacing of a PMA. As well as the loss of this land within the park the PMA would both introduce a more urban feature into this area and would preclude the proposed landscaping that PPT had envisaged. Taking this into account the ExA considers that the Proposed Development would give rise to less than substantial harm to the significance of the RPG.

Impacts on the setting of the Gothic Tower

- 5.7.45. The Red Hill bridleway overbridge would be constructed to span the A3 to the south-west of the Gothic Tower. This would have a potential effect on certain views of the Gothic Tower from the A3, particularly in the winter months and before mitigation planting has become fully established. As reported in Tables 9.12 and 9.13 of ES Chapter 9 [REP4-025] the Applicant considers that there would be a moderate adverse effect on the Gothic Tower's setting during the construction phase and at Year one of the Proposed Development being operational, but that this would reduce to a slight adverse effect at Year 15 of being operational.
- 5.7.46. In the SoCG with HistE [REP8-024] the assessment of noise and visual impacts of the Proposed Development on the Gothic Tower are agreed matters. It is also recorded that the historic visibility to and from the Gothic Tower needs careful consideration at the detailed design stage. Having regard to our observations at the ASI and on our USIs, the ExA concurs with this.

Other listed buildings within Painshill Park

- 5.7.47. Chapter 11 of the ES [APP-056] predicts no significant residual effects resulting from the Proposed Development for any of the listed buildings within Painshill Park except for the Gothic Tower. The Applicant contends in APP-056 that this is due to the nature of the Proposed Development, the location of the other listed buildings within the Park in relation to it, the intervening landscaping and the topography of the area. The ExA has no reason to disagree with this assessment.

Overall impacts on Painshill Park

- 5.7.48. All of the matters in relation to Painshill Park have been agreed in the SoCG between the Applicant and HistE [REP8-024]. Taking this into account, the ExA considers that less than substantial harm to the significance of the Grade I RPG of Painshill Park would arise from the physical works proposed in the north-western part of the Park and the loss of the western access off the A3.
- 5.7.49. In addition, the construction of the bridge and the opening up of areas due to the removal of woodland would affect the setting of the Grade II* listed Gothic Tower. The ExA therefore considers that the Proposed Development would give rise to less than substantial harm to the significance of the Gothic Tower. The ExA considers that the impact of the Proposed Development on the other listed buildings within Painshill Park would be neutral.

RHS Wisley

Submission of information during the Examination

5.7.50. At D12 the Applicant responded in REP12-024 to the Cultural Heritage Report submitted by the RHS at D11 [REP11-047]. The Applicant stated its opinion that it was unreasonable for the Cultural Heritage Report to have been submitted so late in with only one week left before the close of the Examination. Nevertheless, the Applicant has responded at D12 [REP12-024]. The ExA concurs with the Applicant's view on this matter, with it being unclear to the ExA why this report could not have been submitted sooner.

5.7.51. Notwithstanding that, the ExA chose to accept the Cultural Heritage Report [REP11-047] into the Examination in order to have as full a picture as possible regarding the concerns raised by the RHS. However, in doing so the ExA recognises that it has not had the opportunity to examine the contents of this Report, and neither the Applicant nor HistE have had sufficient time to consider properly the Heritage Report and respond in depth. The SoST may therefore wish to satisfy himself that the Applicant, LAs and HistE have been afforded an appropriate opportunity to respond to the arguments made on behalf of the RHS in [REP11-047].

Impact on economic viability and resultant effects on a designated heritage asset

5.7.52. As regards the economic impact cited by the RHS and its consequent effect on the designated heritage asset, the Applicant notes that the Heritage Report recognises that Wisley Gardens (hereafter referred to as RHS Wisley) is in part maintained from other RHS activities as the income does not cover all the costs of activities at RHS Wisley. The Applicant contends that the inability of RHS Wisley to be financially self-sufficient has not affected its heritage significance previously [REP12-024]. The Cultural Heritage Report [REP11-047] acknowledges that RHS Wisley does not cover its cost and that the deficit is covered by other RHS activities. However, the RHS has argued that any further reduction in visitor numbers will further reduce the viability of RHS Wisley and prevent growth of its activities, and therefore its purposes.

5.7.53. The ExA is not persuaded that the wider activities of the RHS are a heritage matter. The potential impacts on the financial viability of RHS Wisley are, however, considered in more detail in Section 5.11 of this Report. The ExA notes the expansion plans for RHS Wisley in the Counterculture report [REP3-052] and which form the basis for predicted future visitor numbers in the two Hatch Regeneris reports (HHR1 and HHR2) [REP1-039 and REP6-024] submitted on behalf of the RHS. As the ExA has documented in Section 5.11, it considers that the impact on RHS Wisley in terms of visitor numbers and financial viability has been overstated in the conclusions drawn in HHR1 and HHR2. Nevertheless, there are likely to be some short-term impacts on visitor numbers to RHS Wisley during the construction stage of the Proposed Development. Whilst there could therefore be short-term economic effects these would

be further tempered by the fact that the RHS Wisley does not rely solely on visitor income to support its operation. The ExA is therefore not persuaded that of themselves the economic effects of the Proposed Development on RHS Wisley would give rise to anything other than minor, if any, impacts on the significance of the designated heritage assets of the RPG and the Grade II listed building.

Impact of physical works on the significance of RHS Wisley

- 5.7.54. The Cultural Heritage report [REP11-047] considers that the significance of RHS Wisley is derived from a number of factors, namely: its setting within the rural Surrey landscape, the architectural interest of the Grade II listed Laboratory, and its historic interest as a scientific and experimental garden containing a wide range of distinct character areas that exhibit a clear artistic interest.
- 5.7.55. In terms of the proposed changes to the approach to RHS Wisley, the Applicant does not agree that this would have any detrimental effect on the heritage value of the RPG. The Applicant contends that the changes to the car park and other new buildings made by the RHS have already significantly altered the setting of this area of the RPG. At the ASI the ExA noted the large extent of the car park and new building works. The ExA considers that the expansive area of car parking in combination with other recent built development near to the entrance to RHS Wisley forms a notable modern addition that serves to separate the main area of gardens, from which much of the significance of the RPG is derived, from the Wisley Lane entrance area.
- 5.7.56. Consequently, in the ExA's view the Wisley Lane diversion and associated loss of trees and vegetation would not have any detrimental impact on the significance of the listed Laboratory building which is located further into the site. However, the Wisley Lane diversion works and the associated loss of trees would physically alter the existing approach to the RPG for most visitors via the south-eastern part of Wisley Lane as it would introduce a more engineered access route that would include an overbridge and there would be a resultant loss of vegetation. This would alter the experience for visitors entering and leaving RHS Wisley. Taking this into account the ExA considers that the Proposed Development would give rise to less than substantial harm to the significance of the Grade II* RPG.
- 5.7.57. The RHS's Cultural Heritage report [REP11-047] seeks to apply a classification system for trees³⁶ that is referenced in the Barrell Tree Consultancy report [REP11-051]. However, this is a designation system that appears to have been developed by Barrell Tree Consultancy and is not recognised in the NPSNN or relevant Development Plan policies. The ExA therefore does not afford any weight to this classification system. However, as both REP11-047 and REP11-051 were submitted late in the Examination, the ExA did not have the opportunity to question either

³⁶ Tree Assessment for Heritage version 12, 2013

HistE or the LAs on this tree heritage classification system. This is a matter that the SoST may wish to pursue.

- 5.7.58. For the above reasons the ExA concludes that a combination of the proposed new access works to RHS Wisley, including the Wisley Lane diversion overbridge, and associated vegetation loss, and any economic impacts of the Proposed Development, particularly during the construction phase, would give rise to less than substantial harm to the significance of the RPG. We consider that the effect of the Proposed Development on the Grade II listed Laboratory building would be neutral as this is located further into the site beyond the car parking area.

Archaeology

- 5.7.59. The ExA questioned the lack of a draft Archaeological WSI in its ExQ1 [PD-006]. We are satisfied with the Applicant's response to ExQ1 [REP2-013] that undiscovered archaeological remains are likely to be of low to moderate value. The Applicant also responded that this would be a matter for determination post-approval and referenced R14 of the dDCO which would require the submission of a WSI prior to the commencement of any part of the authorised development.
- 5.7.60. The final SoCG between the Applicant and HistE [REP8-024] and also the SoCG with SCC [REP12-008] both confirm that all matters relating to archaeology have been agreed, and the SoCG agrees that R14 of the dDCO provides a suitable mechanism for a WSI to be agreed and implemented.
- 5.7.61. The ExA has no reason to disagree with this. In this instance, the ExA considers that due to the nature of the Proposed Development, which would primarily be located within or adjacent to the existing SRN, that R14 of the dDCO [REP12-002] would provide an appropriate level of safeguarding for archaeological interests.

Other designated and non-designated heritage assets

- 5.7.62. In terms of other designated heritage assets, the Proposed Development would have the effect of bringing highways development closer to the scheduled monument comprising the Bell Barrow on Cockcrow Hill than is the case with the existing road infrastructure. Mitigation would be provided in the form of additional planting. However, a landscaping scheme and noise mitigation have been proposed and SCC and HistE are content that this would provide an appropriate degree of mitigation. The ExA has no reason to disagree with the views of HistE and SCC on this matter.
- 5.7.63. The impacts of the Proposed Development on the Bowl Barrow west of Cockcrow Hill and the Redhill hengiform, would arise as a result of increased noise levels as road infrastructure would be brought closer and by any resultant reduction in intervening landscaping. As with the Bell Barrow that lies closer to the SRN, mitigation for the Bowl Barrow and Red Hill hengiform would comprise landscaping and noise mitigation. The SoCG with HistE [REP8-024] agrees that opportunities for enhancement

of the settings of the prehistoric barrows will be developed at the detailed design stage. The SoCG with HistE [REP8-024] confirms that all of the impacts on the significance of the aforementioned scheduled monuments in proximity to junction 10 have been agreed.

- 5.7.64. The impact on the setting of the Grade II listed building of Foxwarren Cottage would arise as a result of the widened A3 and the construction of the new Red Hill overbridge causing an increased level of visual intrusion within its setting.
- 5.7.65. Taking all of this into account, the ExA agrees with the Applicant's assessment in ES Chapter 11 that the Proposed Development would give rise to less than substantial harm to the significance of the following designated heritage assets: Bell Barrow on Cockcrow Hill, Bowl Barrow west of Cockcrow Hill, Redhill hengiform, and Foxwarren Cottage.
- 5.7.66. Due to the separation distances involved, the spatial relationship with the Proposed Development in terms of topography and vegetative screening and the nature of the existing SRN environment, the ExA considers that there would not be any significant impacts on the significance of either of Ockham Mill and Ripley Conservation Areas or on any non-designated heritage assets. The effects of the Proposed Development in this regard would therefore be neutral.

Balancing any harmful impact on significance of designated heritage assets against the public benefits of development

- 5.7.67. For the reasons already outlined, the ExA considers that the Proposed Development would give rise to less than substantial harm to the significance of the Grade I RPG of Painshill Park and the Grade II* RPG of RHS Wisley. Furthermore, there would be less than substantial harm to the significance of the Bowl Barrow west of at Cockcrow Hill, the Bell Barrow on Cockcrow Hill and the hengiform at Redhill, which are all Scheduled Monuments. There would also be less than substantial harm to the significance of the Grade II* listed Gothic Tower and the Grade II Foxwarren Cottage. The ExA does not consider that there would be any other impacts on heritage assets when the Proposed Development is considered cumulatively with other plans or projects.
- 5.7.68. As required by paragraph 5.132 of the NPSNN any harmful impacts on the significance of designated heritage assets should be weighed against the public benefits recognising that the greater the harm to the significance of the designated heritage asset, the greater the justification that will be needed for any loss. The ExA considers that the harms to the significance of the heritage assets that we have identified would all be less than substantial harm.
- 5.7.69. As described in the Planning Statement [APP-133] the public benefits of the Proposed Development would entail an estimated reduction in delays by 40% in the morning and evening peak hours, improved traffic flow at the Painshill roundabout and the OPJ, the additional highway capacity generated would assist with the delivery of planned growth in the area,

an estimated reduction in accidents of 30% at junction 10 of the M25 and enhanced facilities for pedestrians, cyclists and horse riders.

- 5.7.70. For the reasons set out in Sections 5.2 and 5.11 of this Report, the ExA broadly concurs with the traffic and economic benefits of the Proposed Development identified by the Applicant. Consequently, the ExA considers that the public benefits of the Proposed Development would be considerable, particularly in reducing peak hour congestion and accidents and facilitating economic growth in the area. The RPGs of Painshill Park and RHS Wisley and the listed buildings within the RPGs are of particular importance. However, the harms to the significance of all the heritage assets that we have identified would all be less than substantial. Therefore, it is the ExA's view that the benefits of the Proposed Development would outweigh the less than substantial harm to the significance of the heritage assets that the ExA has identified.

Conclusion on heritage and the historic environment

- 5.7.71. Taking all the relevant submissions, documents and policies into account the ExA considers that the impact on the historic environment of the Proposed Development alone and cumulatively has been adequately assessed by the Applicant. The Proposed Development would give rise to alterations to the existing SRN rather than bringing an entirely new road scheme into close proximity with heritage assets.
- 5.7.72. The ExA considers that the public benefits of the Proposed Development would clearly outweigh the less than substantial harm to the significance of a number of designated heritage assets that has been identified. In this regard the Proposed Development would therefore comply with the NPSNN. However, as there would be less than substantial harm to the significance of some designated heritage assets there would be conflict with ECS Policy CS17, ELPDMP Policy DM12 and GBLPSS Policy D3 that collectively seek to conserve and enhance the historic environment. Accordingly, this less than substantial harm to the significance of some designated heritage assets is carried through to the overall planning balance in Chapter 7 of this Report.

5.8. LANDSCAPE AND VISUAL IMPACT

Introduction

- 5.8.1. This Section examines the landscape and visual impact (LVIA) of the Proposed Development. This includes an analysis in regard to veteran and other trees. In doing so the ExA notes that there would also be potential biodiversity and cultural heritage implications from the loss of such trees and these are addressed in Sections 5.5 and 5.7 of this Report.

Policy considerations

- 5.8.2. Paragraph 5.144 of the NPSNN guides that the applicant's assessment should include any significant effects during both the construction and operational stages. The NPSNN goes on to state that having regard to siting, operational and other relevant constraints, the aim should be to avoid or minimise harm to the landscape, providing reasonable mitigation where possible and appropriate.
- 5.8.3. NPSNN paragraph 5.158 states that the Secretary of State will have to judge whether the visual effects on sensitive receptors, such as local residents, and other receptors, such as visitors to the local area, outweigh the benefits of the development.
- 5.8.4. In regard to veteran trees, paragraph 5.32 of the NPSNN states the following: "*The Secretary of State should not grant development consent for any development that would result in the loss or deterioration of irreplaceable habitats including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the national need for and benefits of the development, in that location, clearly outweigh the loss. Aged or veteran trees found outside ancient woodland are also particularly valuable for biodiversity and their loss should be avoided. Where such trees would be affected by development proposals, the applicant should set out proposals for their conservation or, where their loss is unavoidable, the reasons for this.*" Paragraph 5.36 advises that applicants should include appropriate mitigation measures as an integral part of their proposal.
- 5.8.5. In regard to landscape and visual impact and trees, as identified in the joint LIR [REP2-047] and Planning Statement [APP-133] Policy DM6 of the ELPDMP seeks to ensure that development proposals, among other matters, include an integral scheme of landscaping.

The Applicant's case

- 5.8.6. Chapter 9 of the ES [APP-054] assesses landscape impacts and Chapter 7 of the ES assesses impacts on biodiversity, including veteran trees. ES Chapter 9 was updated at D4 [REP4-025], as was ES Chapter 7 [REP4-023], to account for proposed changes to the application. In addition, a Landscape assessment and methodology [APP-109] and Landscape Figures [APP-072 and APP-073] were also submitted to accompany the application.
- 5.8.7. As reported in ES Chapter 9 [REP4-025] the landscape character areas³⁷ that would be most affected by the proposal are considered to be the following:
- G2 Wisley Wooded and Settled Heath (Guildford);

³⁷ As reported in ES Chapter 9 the character areas are detailed in the Surrey Landscape Character Assessment 2015 (that has been used by EBC), and Guildford Borough Landscape Character Assessment and Guidance 2007.

- SS9 Weybridge Settled and Wooded Sandy farmland (Elmbridge); and
- SW5 Wisley Sandy Woodland (Elmbridge).

- 5.8.8. Construction effects on residential receptors would arise from the removal of screening vegetation and the presence of construction plant and machinery [REP4-025]. Table 9.12 of ES Chapter 9 [REP4-025] records Moderate Adverse visual effects during construction on residential receptors at Elm Lane, Pond Farm, Bramley Hedge Farm, Long Orchard Farm, Firtree Cottage, and properties at Church End and Ockham Village and Hatch Lane. Table 9.12 notes that some of the views of the construction operations would be partially filtered by existing vegetation and may be short-term. Operational effects on residential receptors would result from the widening of stretches of the SRN and the introduction of new and replacement bridges, gantries and lighting.
- 5.8.9. The Applicant states in ES Chapter 9 that *"the Scheme is also largely surrounded by areas of mature woodland and other vegetation that does much to limit its impact on the local area and receptors"* and *"The influence of the M25 and A3 does notably detract from the area both visually and audibly and these highways now form an intrinsic part of the character of the area."*
- 5.8.10. The Applicant concludes in Table 9.13 [REP4-025] that there would be moderate adverse effects on some visual receptors at Year one of the Proposed Development's operation. The receptors that would be impacted are as follows: users of bridleway numbers 12 and 544 at certain points, users of footpath numbers 11, 12, 13 and 17 at certain points, users of Wisley Common and Ockham Common for certain views, users of Painshill Park regarding the views south and west within the Park and views from the Gothic Tower. Table 9.13 goes on to conclude that at Year 15 of the Proposed Development's operation the effects on these visual receptors would be reduced to slight adverse due to the maturing of mitigation planting [REP4-025].
- 5.8.11. Cumulative landscape and visual impacts were assessed in Table 9.14 of ES Chapter 9 [REP4-025]. The Applicant considers that there would be no anticipated cumulative landscape effects from other development, with the exception of the former Wisley airfield. As reported in Table 9.14 *"potentially significant adverse effects"* during the construction stage and *"potentially non-significant adverse effects"* during the operation stage are predicted for the Proposed Development and the Wisley airfield redevelopment cumulatively.
- 5.8.12. A Veteran Trees and Tree Survey report was submitted with the application [APP-089]. A revised version was subsequently submitted [AS-014]. This survey identified two veteran trees that would need removal and a further nine veteran trees that could either need to be removed or may be impacted, subject to detailed design and possible mitigation. The veteran trees to be removed are a sweet chestnut (T006) located at Wisley Common and an oak (T017) located south of the M25 Clearmount footbridge.

- 5.8.13. The Applicant intends that for every veteran tree lost, three trees of the same species would be planted [REP4-023]. At D12 the Applicant submitted an Updated Tree Protection Plan in relation to seven trees along the boundary with RHS Wisley [REP12-020]. None of these trees have been classified by the Applicant as being veteran trees. ES Chapter 7 [REP4-023] considers that the residual impact of the Proposed Development on veteran trees, which are of regional value, would be a permanent, irreversible adverse effect of moderate significance.
- 5.8.14. The Appendix B Tree Survey Schedule was not contained within the originally submitted Veteran Trees and Tree Survey report [APP-089], so this was subsequently provided as part of an amended version [AS-014]. Appendix B indicates that as a worst-case, a total of some 60 trees outside of woodlands (where more extensive felling would take place) would need to be removed as part of the Proposed Development, with other trees requiring either part removal or complete removal. ES Chapter 9 notes that there are both individual and groups of trees that are subject to Tree Preservation Orders (TPOs) within the boundary of the Proposed Development, with four TPO trees/groups of trees being listed in Appendix 7.3 [AS-014].

Issues raised

LVIA methodology

- 5.8.15. One of the issues that arose during the Examination was the absence of photomontages. This was raised as an issue by SCC in REP2-045 which considered that it would be reasonable and proportionate for photomontages to be provided. SCC's concerns were supported by EBC in REP2-028, GBC in REP2-032 and in the joint LIR [REP2-047]. The ExA questioned the LAs and HistE about this in its EXQ1 [PD-006]. In REP5-029 SCC reiterated its view that photomontages represent best practice, as for example set out in the Landscape Institute's GLVIA3³⁸, and should have been submitted. This was again supported by EBC in REP5-037 and GBC in REP5-038.
- 5.8.16. In addition, SCC [REP2-045] and the joint LIR [REP2-047] also raised concerns about the absence of a Zone of Theoretical Visibility (ZTV) model as this represents best practice for LVIA for EIA development. However, in REP5-029 SCC stated that it had no further comments to make in regard to ZTV.

Veteran and other trees

- 5.8.17. The Woodland Trust [RR-031] raised concerns about the impact of the Proposed Development on trees, including veteran trees. The RHS objections have included references to trees and it has submitted its own Tree Survey Report by Barrell Tree Consultancy [REP10-034] for the trees within RHS Wisley bordering the A3. Barrell Tree Consultancy, on behalf of the RHS, submitted further tree information in REP11-051 and

³⁸ Guidelines for Landscape and Visual Impact Assessment Third edition (GLVIA3), 2013, Landscape Institute

REP11-052. This indicates that there would be potentially up to 44 trees along the RHS Wisley boundary with the A3 and bordering Wisley Lane that would be at risk and could be lost as a result of the Proposed Development, and of these 17 trees would need to be removed [REP11-051 and REP11-047].

- 5.8.18. At D12 the Applicant submitted a revised Tree Protection Plan for RHS Wisley [REP12-020]. This defined root zones and also extended root protection areas (RPAs) for seven trees along the boundary of RHS Wisley adjacent to the A3.
- 5.8.19. Concerns have also been raised by GGLW regarding the impact on trees, including the sweet chestnut veteran tree (T165) that lies adjacent to the track within the Heyswood Camp Site.

Other landscape and visual impact issues raised by IPs

- 5.8.20. Concerns had been raised by some IPs about the potential lighting impacts of the Proposed Development, especially as a result of construction operations. In particular, ECRG in RR-010, REP1-022 and REP5-058 expressed concerns about the potential light impacts that would arise from operations at the Wisley construction compound combined with the loss of areas of vegetation and from the operation of a fourth carriageway on the A3. ECRG considered that an appropriate stretch of fencing should be provided along the southbound stretch of the A3. In RR-002 OPC referred to the “*preservation of Ockham Village Green*” but was not specific about its actual concerns.
- 5.8.21. Concerns raised in regard to impacts on the landscape of the RPGs of RHS Wisley and Painshill Park are considered in more detail in Section 5.7 of this Report, as these are both designated heritage assets.

ExA’s examination of issues

Landscape impacts – overall assessment

- 5.8.22. The ExA concurs with the Applicant’s analysis in ES Chapter 9 [REP4-025] that the Proposed Development lies within a distinctive landscape that is predominantly comprised of heathland, woodland and agricultural land, but with the existing M25 and A3 forming a dominant feature within the landscape. As such, the additional built development required to accommodate the additional lanes, junction improvements and associated highways infrastructure, such as new gantries and signage, would be primarily set within the landscape context of the existing SRN. In addition, the Proposed Development would entail the construction of new and replacement bridges and the Wisley Lane diversion overbridge.
- 5.8.23. ES Chapter 9 notes that the influence of the M25 and the A3 detracts from the area both visually and audibly. Based on the ExA’s observations during the ASI and our USIs, the ExA agrees with that assessment. The EXA acknowledges that there would be a detrimental visual impact on some residential receptors as the construction operations would be

visible, albeit partially filtered by existing vegetation and some construction operations would be short-term. Should construction operations in relation to the Wisley airfield re-development scheme begin to take place at the same time as those for the Proposed Development then there is potential for the adverse visual impacts of construction operations to be increased. However, we have not been presented with any evidence that any cumulative construction landscape and visual impacts would be significantly adverse and incapable of being mitigated.

- 5.8.24. The Proposed Development would entail the loss of extensive areas of woodland with some 56ha needing to be felled. This would include large areas of pine woodland that would in time be replaced with heathland and areas of woodland thinning. The effect of this would be to open up the landscape to a degree, especially until the proposed planting has matured. That would have the potential for increased views of both the existing and proposed road infrastructure, but it would also assist in restoring in places a more historical landscape pattern of lowland heathland that existed before the middle of the 20th century [REP4-025]. In ExQ1 [PD-006] the ExA asked about the potential for the felling of woodland to lead to additional views of the Proposed Development or increased visibility from views already assessed. In response [REP2-013] the Applicant stated that this is reported in the Landscape Assessment and Methodology [APP-109] and has been assessed in ES Chapter 9.
- 5.8.25. It is the case that, with the exception of the Wisley Lane diversion, the Proposed Development will largely entail alterations to the existing SRN and thus will not be a new road within the landscape. The Wisley Lane Diversion will cross over the A3 but will then run alongside the airfield that is allocated for re-development in the Guildford Local Plan. Furthermore, the landscape character of the area is generally flat and well-wooded and the ExA agrees with the Applicant's assessment that distant views of the Proposed Development are unlikely.
- 5.8.26. The SoCGs with EBC [REP8-028], GBC [REP8-029] and SCC [REP12-008] record that all matters in regard to landscape and visual impact are agreed except for the lack of photomontages. Having regard to the views of the LAs on this issue, the ExA agrees with the Applicant's assessment that by Year 15 of the operational phase for the Proposed Development there would be a slight adverse effect on certain visual receptors. This includes the important views from Painshill Park and Ockham and Wisley Commons. This would be dependent on the mitigation planting becoming fully established and properly maintained.
- 5.8.27. The Applicant has relied on the mitigation effects of proposed planting to integrate the Proposed Development into the landscape. A landscaping scheme for hard and soft landscaping works is secured in R6 of the dDCO. In response to ExQ1, EBC, GBC and SCC all confirmed that the species proposed for landscape planting were appropriate [REP2-028, REP2-032 and REP2-045 respectively].
- 5.8.28. The ExA is content with the proposed landscaping principles and we consider that a landscaping scheme is adequately secured in R6 of the

dDCO, and R7 in relation to the RL. However, we consider it to be essential that the proposed landscaping has the best possible chance of becoming established to achieve its objectives. One important aspect of this is the period for requiring replacement planting for any trees or shrubs that may die or become damaged. Consequently, the ExA considers that the five-year aftercare period for replacement planting, that is specified in R6(5) of the dDCO [REP12-002], should be extended to ten years. This is accounted for in Chapter 9 of this Report.

LVIA methodology

- 5.8.29. Concerns about some elements of LVIA methodology were raised by the LAs, for example in the joint LIR [REP2-047]. In ExQ1 [PD-006] and ExQ2 [PD-010] the ExA asked the Applicant to justify its landscape assessment methodology and sought the LAs comments on the Applicant's initial response. The Applicant maintained its view that the submission of photomontages is not a requirement under the DMRB and that its assessment has been carried out in accordance with DMRB IAN 135/10 (which further to revisions having made to the DMRB has been superseded by LA 104 and LA 107).
- 5.8.30. Furthermore, the Applicant argues that photomontages would not provide any benefits in this instance as no significant views were identified that would be likely to experience a noticeable change [REP3-007]. That is disputed by SCC in REP5-029, with SCC arguing that significant effects/noticeable changes were predicted at a number of the representative viewpoints. However, SCC agrees that the existing woodland would provide good levels of screening [REP12-008]. The Applicant states [REP3-007] that a ZTV was produced at the scoping stage and this assisted in defining the extent of the study area for the assessment.
- 5.8.31. In response to ExQ1 1.8.1, GBC [REP2-032], EBC [REP2-028] and SCC [REP2-045] confirmed agreement with the Applicant's description of baseline conditions. Also, SCC confirmed its broad agreement with the 1.5km study area adopted by the Applicant [REP2-045]. At the close of the Examination, there remained outstanding concerns regarding the methodology of assessment, due to the absence of photomontages. This was listed as a 'Not agreed' matter in the final SoCGs with EBC [REP8-028] and GBC [REP8-029]. The matter of the ZTV was not referenced in any of the final SoCGs with the LAs.
- 5.8.32. The absence of photomontages is disappointing. It is the ExA's view that the fact that the preparation of photomontages is not a specific requirement of the DMRB should not automatically preclude them from being provided where appropriate. However, the ExA agrees with the Applicant that the surrounding topography and the location within a well-wooded landscape would contain the distant views of the Proposed Development. The Proposed Development would also primarily entail alterations and improvements to the existing SRN that is already a dominant feature in the local landscape. For those reasons the ExA concludes that in this particular case the absence of photomontages and, to a lesser extent, a ZTV are not be such significant omissions, as to

undermine the LVIA conclusions that have been reached by the Applicant.

Trees at RHS Wisley

- 5.8.33. The Applicant acknowledges that an area containing trees and other vegetation would be lost as a result of the Wisley Lane diversion. This is recorded in the Veteran Trees and Arboricultural Impact Assessment [APP-089] and this was updated in AS-014.
- 5.8.34. In response the RHS has submitted at D10 a report entitled 'Tree value and root investigations for trees adjacent to the A3' [REP10-034]. That report focussed on the two, visually prominent, redwood trees along the boundary with the A3 and the root spread of the redwood tree T184 was investigated. A tree report was then submitted at D11 that increased the area of trees that was assessed [REP11-051 and REP11-052].
- 5.8.35. The Applicant has expressed concern [REP12-024] that the RHS has only at a late stage in the Examination chosen to submit comments on this matter. The ExA generally concurs with the Applicant's views on this, but it also notes that some survey work has been ongoing and that this may have been hampered by the restrictions associated with the COVID-19 pandemic.
- 5.8.36. The Cultural Heritage Report [REP11-047] has referred to thirty-nine Grade II and five Grade II* heritage trees within RHS Wisley. That classification for trees at RHS Wisley appears to be based on the classification system used by the RHS's arboricultural consultant in [REP11-051]. In response, the Applicant [REP12-024] contends that these grades are not equivalent to statutory heritage designations and that the RHS's heritage tree assessment methodology is not recognised within BS5837:2012³⁹ and is not widely used within the industry. The ExA concurs with the Applicant in this regard and it notes that neither the NPSNN nor the NPPF require the classification of trees according to this methodology. Therefore, as these are not established methodologies, the ExA attaches little weight to the approach used by the RHS's tree and heritage consultants when they seek to assign both a heritage classification and monetary value to certain trees within RHS Wisley.
- 5.8.37. Taken together, the RHS's tree reports submitted at D10 and D11 argue that the data presented by the Applicant and the RPA assumptions are flawed. In REP10-034 the RHS has stated that the tree root data acquired by the Applicant using the Aboradix technology is flawed and noted that a hand excavation of a single trench to the west of tree T184 found a number of tree roots that were not recorded using the Aboradix technology. The RHS's tree consultant has advocated the approach recommended in BS5837:2012 for determining the RPA [REP10-034].

³⁹ BS5837:2012 Trees in relation to design, demolition and construction - Recommendations

- 5.8.38. In response, the Applicant contends that its tree assessment was conducted in accordance with the guidance contained in BS5837:2012 [REP11-007]. The Applicant submitted a copy of BS5837:2012 into the Examination at D11 [REP11-014]. Furthermore, the Applicant has stated that as a result of its root mapping exercise the main works in the vicinity of RHS Wisley are no longer intended to be in the A3 verge.
- 5.8.39. There is also disagreement between the Applicant and the RHS as to the exact number of trees that would need to be removed in the vicinity of the A3/Wisley Lane junction. There is further disagreement with respect to the number of trees that would be affected on either side of the existing main entrance to the RHS Wisley by the construction of the Wisley Lane diversion. In Figure 9.8 [REP4-044] the Applicant has indicated that there would be eleven trees for removal, ten of which are 'Category B' trees with only 1 'Category A' tree, using the classification used within BS5837:2012. The RHS contends in REP11-051 that seventeen trees would need to be removed, almost all of which are hornbeams, with a further twenty-seven trees being at risk because their RPAs extend into the Applicant's land.
- 5.8.40. During the course of the Examination reference was made by the Applicant to the alignment of the A3 past the RHS Wisley boundary potentially being amended following survey work to confirm the extent of the Applicant's land ownership. There would therefore be the potential for a minor realignment of the Proposed Development, but within the overall Rochdale envelope. As illustrated on the Tree Protection Plan for the RHS [REP12-020] this realignment would allow for an increase in the RPAs for the trees within RHS Wisley that line the boundary with the A3, as the realignment avoids works in the existing verge [REP12-020].
- 5.8.41. The Applicant's Tree Protection Plan [REP12-020] covers nine trees along the boundary of the RHS Wisley site and the A3, and this includes the two redwood trees. This is cross-referenced with R18 of the dDCO [REP12-002] and precludes any intrusive works or storage of materials within the relevant structural root areas as defined in the Tree Protection Plan [REP12-020]. As this Tree Protection Plan was only submitted at D12 the RHS and any other IPs will not have had the opportunity to comment on the updated version. Therefore, the ExA recommends that the SoST consults the RHS and relevant IPs on this matter.
- 5.8.42. The loss of trees at RHS Wisley is a cross-cutting issue that is also discussed in Section 5.7 of this Report. In terms of landscape impacts, the ExA considers that the loss of up to 17 trees along Wisley Lane would not give rise to any significant general landscape impacts beyond those assessed in ES Chapter 9 [REP4-025], which are categorised as giving rise to a slight adverse residual impact. The impacts on the RPG as a designated heritage asset are, however, considered in more detail in Section 5.7 of this Report.
- 5.8.43. The ExA does share the concerns raised by the RHS about an over-reliance on the use of Aboradix technology. That is because the Applicant's root survey appears to have missed the presence of a number

of tree roots. The ExA does not have any conclusive evidence that the significant trees within RHS Wisley that border the A3, including the two redwood trees (which the Applicant has named as Giant Redwoods), would be severely damaged or would require removal as a result of they Proposed Development. However, a key element of this consideration will be for the precise wording of R18 in any made DCO to ensure the use of an effective tree root protection methodology once the detailed design for the works along this stretch of the A3 has been finalised.

5.8.44. To that end, the RHS has proposed a change to the wording of R18 that references the RPAs, as calculated using the BS5837:2012 methodology, and has a different classification for the activities that would necessitate the RHS's approval [REP10-034]. Having regard to the potential for the Aboradix technology to miss the presence of tree roots, the ExA agrees with the general tenet of the proposed changes to R18 that have been put forward by the RHS. In order to provide greater clarity, precision and enforceability, the ExA has recommended an amendment to wording of R18. This is further detailed in Chapter 9 of our Report.

5.8.45. The proposed minor realignment of this stretch of the A3, coupled with the associated tree protection measures set out in the amended R18 of the ExA's rDCO, provides the ExA with sufficient comfort that the trees within the RHS Wisley site that border this stretch of the A3 would be adequately protected, even in cases where their RPAs extend beyond the boundary of RHS Wisley. In terms of the seventeen trees bordering Wisley Lane that would be lost as a result of the Wisley Lane diversion, the ExA considers that their loss would not give rise to unacceptable impacts on the landscape.

Veteran and TPO trees

5.8.46. The Proposed Development would entail the loss of two veteran trees, with a further nine veteran trees potentially requiring removal. However, the Applicant believes that these nine veteran trees would be able to be retained through the use of careful design [REP4-025]. Veteran trees have importance as both landscape features and for their biodiversity and cultural interest. The ExA is content that the Applicant has taken adequate measures to ensure that the minimum number of veteran trees would be lost. Whilst it is axiomatic that the more veteran trees that would be lost the greater the impact there would be, the ExA considers that the loss of a minimum of two veteran trees would represent a harm arising from the Proposed Development to which the ExA attaches a moderate degree of weight.

5.8.47. Although no trees that are subject to a TPO are identified for removal, the Applicant acknowledges that in some cases their RPAs would extend into the proposed works areas. Schedule 8 of the dDCO [REP12-002] lists the potential works to three Group TPOs, and such works would entail lopping and/or some disturbance to roots. Schedule 8 is cross-referenced in Art 40 of the dDCO, which would give the undertaker the ability to fell or lop any tree subject to a TPO if it considers it reasonably necessary to prevent the tree or shrub from obstructing or interfering with the Proposed Development or if it constitutes a danger to persons using it.

- 5.8.48. The landscaping scheme that is to be provided under R6 of the rDCO requires trees to be retained to be identified and measures for the protection of these trees during construction operations to be approved by the SoST following consultation with the relevant planning authority. The Applicant has stated that all of the trees subject to TPOs are to be retained. Having regard to this, the ExA is satisfied that all TPO trees would be identified as such in the landscaping scheme, with appropriate measures for their protection to be provided.

Lighting

- 5.8.49. The construction working hours are predominantly limited to daytime hours, except for works including bridge demolition and installation that would require the full or partial closure of the M25 and A3 carriageways. The Applicant acknowledges in Table 9.12 that there would be overall Moderate Adverse impacts on some residential receptors, and this could include lighting impacts although these are not specifically identified. A management plan and method statement for construction site artificial lighting is required under R3(2)(c)(iv) of the dDCO. Furthermore, ES Chapter 9 [REP4-025] records that the Environmental Clerk of Works or Site Environmental manager would be required to monitor construction activities and, among other matters, assess the angle and direction of night-time lighting.
- 5.8.50. As reported in ES Chapter 9 [REP4-025] the Proposed Development would entail the replacement of the central reserve lighting along the A3 with verge mounted lighting and twice the number of light columns than at present. In response to questioning from the ExA at ISH2 the Applicant replied in REP3-009 that whilst the central reserve lighting columns would be replaced there would be very little change in terms of any operational impacts from lighting on nearby properties. In ExQ2 2.8.5 the ExA asked about the operational effects of lighting on residents. The Applicant replied in REP5-014 that the M25, A3 and A245 are all currently lit and that currently highway standards require a lower level of illumination than is used for the existing roads.
- 5.8.51. The Applicant commented in [REP5-014] that the Wisley Lane diversion and the improved length of BOAT 525 will not be lit. As regards specific concerns raised by the Elm Corner residents regarding the potential impact of headlights from vehicles using the Wisley Lane diversion [REP5-058], the Applicant in REP2-014 acknowledged the lack of low-level vegetation in the woodland and indicated that the SPA MMP [REP4-031] contains measures for improving vegetation at lower levels, which would improve screening. Furthermore, the landscaping scheme that is secured in R6 of the dDCO [REP12-002] would provide for additional planting in areas outside the TBHSPA and this should include the Wisley Lane diversion.
- 5.8.52. R3 of the dDCO requires a management plan for construction site artificial lighting. Taking this into account, the ExA considers that potential lighting impacts arising from the Proposed Development have been properly accounted for and would be adequately controlled through the CEMP that is secured in R3 in the dDCO.

Conclusion on landscape and visual impact

- 5.8.53. There have been some concerns raised about aspects of the approach of the Applicant to LVIA methodology. Furthermore, the Proposed Development would give rise to the loss of veteran, other trees and areas of woodland. Whilst the ExA acknowledges the landscape importance and significance to RHS Wisley of the trees that border the A3, it does not attach any weight to the heritage tree classification system or monetisation approach that has been advocated by the RHS. The ExA does, however, share the concerns raised by the RHS about the application of the Aboradix technology without an associated consideration of the use of trial excavations by hand and the RPA calculation methodology in BS5837:2012.
- 5.8.54. A landscaping scheme is secured in R6 of the dDCO [REP12-002] and this requires consultation with the relevant planning authority. As regards the issue of the protection of the roots of certain significant trees that lie close to the boundary of RHS Wisley, the updated "Tree Protection Plan for Royal Horticultural Society" [REP12-020] provides details of the locations and structural root areas for seven trees including the two redwoods (T183 and T184) that are both designated as veteran trees.
- 5.8.55. Although the plan in REP12-020 may form the basis for the definition of RPAs the late submission of this plan by the Applicant means that the ExA has not had any opportunity to examine this or seek IPs comments on it. This Tree Protection Plan, and the ExA's recommended revision to R18 that is associated with it, are therefore matters on which the SoST is recommended to seek further comments about. Specific matters concerning the wording of the dDCO, for example the maintenance period for the proposed planting and protection measures for RHS trees, are also referenced in Chapter 9 of this Report.
- 5.8.56. Overall, the ExA considers that landscape and visual impacts of the Proposed Development have been adequately assessed. The construction operations are likely to give rise to some adverse visual impacts for residential receptors and users of some footpaths and Ockham and Wisley Common. The negative visual impacts that arise from construction operations are to some degree inevitable. However, they are reasonably short-term and the CEMP that is secured in R3 of the DDCO will ensure construction impacts are capable of being mitigated to an acceptable level.
- 5.8.57. The construction operations will entail the removal of significant areas of vegetation and the installation of new and replacement overbridges, signs and gantries as well as the enlargement of junction 10 and additional lanes on the A3 and A245 westbound. Moderate adverse visual impacts on for users of a number of recreational sites as well as some viewpoints within Painshill Park and of the Gothic Tower are precited. Once established, the proposed landscaping scheme will mitigate these impacts.

- 5.8.58. When considered as a whole, with the suggested amendments to R6 and R18 in the ExA's rDCO, the ExA is of the view that the Proposed Development, either alone or cumulatively, would be acceptable in terms of its landscape and visual impacts and thus would comply in this regard with the NPSNN and the relevant Development Plan policies.
- 5.8.59. The Proposed Development would lead to the loss of at least two veteran trees with a potential nine more trees at risk. Having regard to paragraph 5.32 of the NPSNN the loss of any veteran trees would weigh against the Order being made. As detailed in NPSNN paragraph 5.32, account needs to be given as to whether or not the national need and benefits of the Proposed Development would outweigh such loss. This is therefore considered in the balancing exercise the ExA has undertaken in Chapter 7 of this Report.

5.9. GROUND CONDITIONS, CONTAMINATION AND WASTE MANAGEMENT

Introduction

- 5.9.1. This Section of the Report looks at matters pertaining to the underlying ground conditions and the potential for contamination. It also assesses waste management issues arising as a result of the Proposed Development.

Policy considerations

- 5.9.2. Paragraphs 5.40 and 5.42 of the NPSNN make reference to the waste hierarchy and state that the applicant should set out arrangements for managing any waste produced. Paragraph 5.43 guides that the SoS should be satisfied that the applicant has proposed an effective process for the management of hazardous and non-hazardous waste arisings. Paragraph 5.118 of the NPSNN guides that a preliminary assessment of land instability should be carried out at the earliest possible stage.
- 5.9.3. Policy WD2(ii) of the SWP identifies sites, including the former Wisley airfield, for various waste activities including waste storage and transfer materials recovery and processing facilities. SWP Policy DC1 seeks to safeguard such sites.

The Applicant's case

- 5.9.4. Chapter 12 of the ES examines materials and waste [APP-057]. This was updated at D4 to account for the proposed changes to the application [REP4-027]. ES Chapter 12 predicts total waste arisings for construction, demolition and excavation (CD&E) waste to be 70,250 tonnes, and it is estimated that approximately 10% of the demolition waste arising from overbridges and footbridges is hazardous. It concludes that the residual effects of the Proposed Development for materials sales and CD&E waste to be of minor magnitude and neutral or slight significance. The residual effects for hazardous waste are predicted to be of negligible magnitude and neutral significance.

- 5.9.5. ES Chapter 10 [APP-050] examines geology and soils. This was updated at D4 [REP4-026]. In addition, a Summary of Ground Investigation report [APP-111], Envirocheck report [APP-112] and unexploded ordnance (UXO) Pre-desk Study Assessment [APP-114] were submitted to accompany the application.
- 5.9.6. ES Chapter 10 [REP4-026] notes that there is a localised moderate risk of compressible ground where alluvium or made ground/infilled land is present. The Applicant states that the risk to engineering structures would be mitigated by design, which could involve the use of foundations. In addition, the Applicant records in ES Chapter 10 that *"there is a very low potential for collapsible ground under baseline conditions"* and that *"the likely degree of change to this risk rating as a result of the Scheme is considered negligible during construction and operation"*.
- 5.9.7. ES Chapter 10 [REP4-026] predicts the contaminated land residual effects in terms of potential sources of contamination to be either minor beneficial or moderate beneficial. Furthermore, ES Chapter 10 predicts minor beneficial effects of the Proposed Development in relation to compressible ground and UXO. As reported in Table 10.15 of ES Chapter 10 no significant cumulative construction or operational effects are anticipated in regard to all these matters.

Issues raised

- 5.9.8. SCC is the Minerals and Waste Planning Authority. In the joint LIR [REP2-047] SCC requested further information regarding the capacity for disposal of hazardous waste and the available capacity at facilities to deal with topsoil material.
- 5.9.9. Some IPs, including OPC, have expressed concerns about the location and scope of the activities at the construction compounds, for example in RR-010, RR-044, REP1-022, REP5-041, REP7-023. In the submitted application, an area within the construction compound at the former Wisley airfield had been identified for topsoil and materials storage. As a result of proposed change 9 [REP7-016] the Applicant also proposes the relocation of the materials processing activities from the Nutberry Farm to the former Wisley Airfield construction compound.

ExA's examination of issues

Waste management

- 5.9.10. The specific impacts on the living conditions of local residents as a result of potential noise and dust impacts of construction and waste management activities are considered in Sections 5.3 and 5.4 of this Report. In order to comply with the waste hierarchy that seeks to minimise waste by, among other matters, re-using and recycling materials, it is necessary that on-site or nearby facilities are provided. The former Wisley airfield construction compound will be used for materials storage, processing and recycling operations for CD&E waste.

The ExA considers that this facility accords with sustainable waste management principles that are detailed in the waste hierarchy.

- 5.9.11. An oCEMP has been provided [REP8-018]. R3(2)(c) of the dDCO [REP12-002] requires a number of management plans and method statements that must be included within the approved CEMP. These include ones for the management of materials, the management and storage of topsoil and the management of site waste. The REAC [REP8-020] states that the re-use of material is to be considered as the main source of fill for the Proposed Development. The ExA is satisfied that the final CEMP would provide an adequate means of addressing waste management in accordance with the principles in the waste hierarchy.
- 5.9.12. There has not been any potential for significant contamination identified. The joint LIR [REP2-047] stated that capacity should be identified for dealing with hazardous waste. The Applicant responded [REP3-007] that ground investigation is ongoing and that will provide a preliminary classification for excavation wastes. Management plans for site waste and the management of materials are to be included as part of the CEMP and this is secured in R3 of the dDCO. In addition, all waste holders involved in the Proposed Development must comply with duty of care legislation. Whilst the ExA considers that this should not be relied upon, and instead matters should be properly secured in any made DCO, the duty of care legislation would serve to add an additional degree of control to ensure that waste management matters will be properly accounted for during the construction phase.
- 5.9.13. The ExA has not been presented with any evidence that disagrees with the Applicant's assessment in regard to soil erosion, compressible ground, collapsible ground and landslides. In the final SoCG with SCC [REP12-008] all matters pertaining to minerals, waste and ground conditions are recorded as being agreed. Also, in the final SoCG with the EA [REP8-023] all matters in relation to geology and soils, pollution and waste are recorded as being agreed.
- 5.9.14. The ExA notes that R13 of the dDCO [REP12-002] requires the submission of a site investigation and risk assessment in relation to contamination. Table 1.2 of the REAC [REP8-020], which is specifically cross-referenced in R3 of the dDCO, records that there would be a need for the completion of a Ground Investigation Report to characterise ground conditions and inform the final design, and this would be submitted to the EA and LAs for approval prior to the commencement of construction. R3 also specifically references adherence to the mitigation measures that are detailed in the ES.

Conclusion on ground conditions, contamination and waste management

- 5.9.15. The ExA is satisfied that the Applicant has appropriately assessed waste management, geology and soils, ground conditions and land contamination issues, and that the submission of further assessments and management plans/method statements in relation to these matters

is adequately secured in the dDCO. Taking this into account, the ExA therefore considers that the Proposed Development would not give rise to any significant waste management issues or impacts in terms of ground conditions, geology and soils. The ExA also concurs with the Applicant's assessment that there would be a minor beneficial effect on land contamination.

- 5.9.16. Overall, the ExA concludes that the Proposed Development would not give rise to any significant adverse effects either alone or cumulatively in regard to ground conditions, geology, land contamination and waste management matters and therefore it would accord with the NPSNN and relevant SWP Policies.

5.10. CLIMATE CHANGE

Introduction

- 5.10.1. This Section looks at the climate change contributions arising from the Proposed Development and it also examines the impacts of predicted climate change on the Proposed Development.

Policy considerations

- 5.10.2. The NPSNN at paragraph 4.40 states that new national networks infrastructure will typically be long-term investments and that applicants will need to consider the impacts of climate change when planning their location, design, build and operation. NPSNN Paragraph 5.16 references the UK Government's legally binding framework to cut greenhouse gas emissions by at least 80% by 2050. Subsequent to this, The Climate Change Act 2008 (2050 Target Amendment) Order 2019 amended this and has the effect that the minimum percentage by which the net UK carbon account for the year 2050 must be lower than the 1990 baseline is increased from 80% to 100%, ie net zero greenhouse gas emissions.

The Applicant's case

- 5.10.3. Chapter 15 of the ES [APP-060] addresses climate issues and seeks to quantify likely emissions of greenhouse gases to the earth's atmosphere and the impact of climate change on the Proposed Development such as temperature range and rainfall events.
- 5.10.4. The Carbon Tool that the Applicant has used to calculate emissions is provided in Appendix 15.2 [APP-130]. Table 15.16 of ES Chapter 15 [APP-060] shows that when comparing the DS with the DM scenarios for the operational stage for the Proposed Development in 2022 and 2037, then there would be a reduction of 860 tonnes of carbon dioxide equivalent (tCO₂e) for the DS scenario in 2022 when compared against the DM scenario. In contrast, the DS scenario would mean an increase of an additional 98 tCO₂e when compared against the DM scenario in 2037.
- 5.10.5. Amongst other matters, the Applicant in ES Chapter 15 has predicted that the construction phase and opening year for the Proposed Development would together contribute less than 0.004% of the UK's

third carbon budget. The Applicant considers this level of greenhouse gas emissions would not be a significant impact. There is no consideration of the cumulative impacts of carbon emissions for the duration of the scheme or of the in combination effects of the RIS programme.

- 5.10.6. In terms of climate change impacts on the Proposed Development itself, the Applicant has predicted the impacts would not be significant. However, the Applicant notes that the assessments were based on the United Kingdom Climate Projections 2009 (UKCP09) but considers that the use of United Kingdom Climate Projections 2018 (UKCP18) would not result in different impacts.

Issues raised

- 5.10.7. In REP1-057 and REP3-067 Mr Eve made reference to climate change matters and has contended that the climate change implications of the Proposed Development had not been properly assessed. Mr Eve has argued that the Proposed Development would generate additional private car traffic and better alternatives were available such as the funding of alternative means of travel. Also, in RR-033 reference has been made to a climate emergency with the view being expressed that the government should not be looking to provide increased road capacity.
- 5.10.8. At D5, OPC questioned the viability of the Proposed Development in light of environmental considerations and cited the need to take climate commitments into account [REP5-041]. In REP6-011 the Applicant responded that its assessment had been undertaken in accordance with government guidance, including what is required by the DMRB.

ExA's examination of issues

- 5.10.9. The ExA enquired about the climate change implications of the Proposed Development in ExQ2 [PD-014]. The Applicant has assessed the contribution to climate change from the Proposed Development in its opening year would be minimal as it would equate to less than 0.004% of the third carbon budget for the UK [REP6-011].
- 5.10.10. In ExQ3 [PD-016] the ExA asked about whether the amended duty of achieving net zero greenhouse gas emissions under The Climate Change Act 2008, pursuant to The Climate Change Act 2008 (2050 Target Amendment) Order 2019, would have any implications for the assessment carried out in Chapter 15 of the ES. The change in the emissions target arose out of the UK's commitment under the Paris Climate Change Agreement 2015.
- 5.10.11. The Applicant responded that this would not change its assessment as the third carbon budget has not been amended by the government and remains the relevant comparator [REP7-004]. The third carbon budget would cover the construction phase for the Proposed Development and the opening year, which the Applicant has taken to be 2022 for the purposes of the assessment undertaken in Chapter 15 of the ES. The Applicant has also undertaken an assessment for a design year of 2037. However, 2037 is not yet covered by a carbon budget, as the fifth carbon

budget runs from 2028 to 2032 and the sixth budget is not yet available. The Applicant goes on to contend in REP7-004 that it is for the SoST to determine whether the Proposed Development would have a material impact on the government's ability to meet its climate change obligations.

- 5.10.12. In REP2-014 the Applicant responded that traffic levels are predicted to increase irrespective of the Proposed Development but that it would improve the performance of the M25 junction 10. In REP4-011 the Applicant argues that the Carbon Tool used in ES Chapter 15 [APP-060] represents best practice. The ExA has not been presented with any evidence to dispute this. The Applicant also argues that as the DCO application was submitted on 19 June 2019, before the new carbon reduction target came into effect on 27 June 2019, the assessments were undertaken prior to the revised carbon reduction targets being adopted. Furthermore, the Applicant contends that the amendment to the Climate Change Act 2008 would not affect the emissions calculations that have been provided in the ES as they are based on the most up to date datasets available at the time.
- 5.10.13. The carbon dioxide emissions have been calculated from DEFRA's emissions factors toolkit and this assumes that, from 2030, emissions factors are likely to remain the same. However, the Applicant has submitted that this is highly likely to be a conservative estimate with the trend for a move away from petrol and diesel-powered vehicles and their replacement with electric and hydrogen-powered vehicles.
- 5.10.14. The ExA concurs with the Applicant's assessment that the use of DEFRA's emissions factors toolkit is likely to produce a conservative estimate due to the likely move away from petrol and diesel towards electric vehicles. Furthermore, the ExA considers that as the Proposed Development is predicted to improve the performance of junction 10 of the M25 and Painshill roundabout this would reduce peak hour congestion and thereby would be likely to assist with reducing emissions produced by stationary and slow-moving traffic.
- 5.10.15. In relation to climate change impacts and the UKCP09 assessment, the ExA asked further questions in relation to the margin for flooding which is discussed further in Section 5.6. The applicant did not update any further assessment of impacts on the basis of UKCP18.

Conclusion on climate change

- 5.10.16. As required by paragraph 5.16 of the NSPNN the Applicant's assessment has taken into account climate change and in terms of carbon dioxide emissions is considered to represent a conservative estimate as it does not account for the move away from petrol and diesel cars and vans that is enshrined in Government policy⁴⁰.

⁴⁰ The Road to Zero: Next steps towards cleaner road transport and delivering our Industrial Strategy, HM Government, July 2018

- 5.10.17. For the assessment required by paragraph 5.17 of the NPSNN, the Applicant has not assessed the emissions at the operational year 2037 against the relevant carbon budget as that is not yet available. The amended 'net Zero Carbon' target came in after the submission of the application and the Applicant declined to update its assessment of the significance of the Proposed Development.
- 5.10.18. The individual scheme impact has been assessed at 0.004% of the third carbon budget and the ExA considers this to have been conducted in accordance with the requirement of NPSNN. However, given the change in the emissions target, it will be a matter for the SoST to satisfy themselves as to the acceptability of the Proposed Development against the revised carbon budget and the cumulative and in-combination effects of the RIS.

5.11. ECONOMIC AND SOCIAL CONSIDERATIONS

Introduction

- 5.11.1. This Section examines the economic and social effects of the Proposed Development.

Policy considerations

- 5.11.2. Paragraph 2.1 of the NPSNN refers to the important role that the national road network plays in supporting economic growth, as well as existing economic activity and productivity. It goes on to state in paragraph 2.2 that: *"There is a critical need to improve the national networks to address road congestion ... and to provide a transport network that is capable of stimulating and supporting economic growth."*
- 5.11.3. NPSNN paragraph 3.2 states that for development of the national road networks to be sustainable it should be designed to minimise social and environmental impacts and improve quality of life.
- 5.11.4. Policy ID1 of the GBLPSS identifies that infrastructure necessary to support new development will be provided and available when first needed. Policy ID1 cross-references a number of SRN schemes including the Proposed Development (SRN2). Policy ID2 of the GBLPSS states GBC is committed to working with HE to facilitate major, long-term improvements to the A3 and M25 in terms of both capacity and safety.

The Applicant's case

- 5.11.5. Chapter 13 of the ES [APP-058] assesses the impacts of the Proposed Development on people and communities. This was updated at D4 to account for the proposed changes to the submitted application made at D4 [REP4-028]. Some of the impacts assessed in ES Chapter 13, for example on vehicle travellers and NMUs, are examined in other Sections of this Report.
- 5.11.6. The Applicant's Planning Statement [APP-133] contains information on the economic case for the Proposed Development. As reported in

Table 4.1 of APP-133 the Present Value Benefits for the Proposed Development are predicted to be £388,540,000 at Level 1 and £439,885,000 at Level 2. Level 1 and Level 2 respectively being established or evolving monetised impacts. Tables 4.4 and 4.5 of APP-133 set out the initial and the adjusted Benefit Cost Ratio (BCR) for the Proposed Development. The Initial BCR is expected to be 1.96 and the Adjusted BCR is expected to be 2.22. As stated in APP-133 a scheme's Value for Money is assessed through the consideration of all monetised economic impacts and the non-monetised environmental, social and distributional impacts. The adjusted BCR of 2.22 is classified as 'high' in terms of Value for Money.

- 5.11.7. In terms of the impact on specific local business and the local economy ES Chapter 13 Table 13.45 [REP4-028] considers the residual effects. The Applicant found that during the construction phase there would be a moderate adverse impact on Nutberry Farm as a result of land take that would prevent the car boot sale from taking place there, but there would be no residual effects once the Proposed Development was operational. ES Chapter 13 Table 13.45 [REP4-028] also identified a large and significant effect on PBF due to land take. This is discussed in more detail in Chapter 8 of this Report. Minor adverse effects during the construction phase for the former Wisley airfield and Feltonfleet School were identified due to temporary land take. However, the Applicant considers that once operational the Proposed Development would benefit the strategic allocation at the airfield.
- 5.11.8. Table 13.32 of ES Chapter 13 [REP4-028] predicts significant effects on amenity for users of Feltonfleet School due to construction noise but post-mitigation effects would not be significant. Also, operational effects on Feltonfleet School would not be significant, as detailed in Table 13.36 of ES Chapter 13. Noise issues are considered in more detail in Section 5.4 of this Report.
- 5.11.9. In terms of RHS Wisley, ES Chapter 13 [REP4-028] considers that once operational the Proposed Development would have a neutral effect as increased journey times for visitors from the south would be balanced against safer and less stressful access arrangements. In terms of residual effects in ES Chapter 13 Table 13.45 the Applicant concludes that although both the Feltonfleet School and RHS Wisley sites would have alterations to their access arrangements, those alterations would not hinder or be inconsistent with development at either of these sites.
- 5.11.10. Table 13.46 of ES Chapter 13 [REP4-028] assesses cumulative effects. It predicts significant additional construction and operation effects of the Proposed Development in association with the former Wisley airfield redevelopment in terms of land take and severance of community assets but notes that the RL provision would mitigate this. The cumulative impact on local businesses and the economy of the Proposed Development and Wisley airfield redevelopment is considered to be slight adverse during construction but beneficial once operational. Table 13.46 also predicts cumulative adverse impacts on the RHS Wisley site as a result of the Proposed Development and its own development plans.

Cumulative adverse impacts as a result of the Proposed Development and the redevelopment of the 'Former San Domenico restaurant' and Enfin, Painshill Farm are also predicted.

Issues raised

RHS Wisley

- 5.11.11. The RHS has raised specific issues concerning the financial impact that would arise for RHS Wisley as a result of both the construction and operational phases of the Proposed Development. The RHS has cited its planned investment programme of £65 million and has submitted into the Examination an Economic Impact Study, dated November 2017, by Counterculture [REP3-052] that assesses the economic effects of the RHS's capital investment programme. This study predicted an increase in visitor numbers of 356,000 between 2016/17 and 2024/25. The main thrust of the RHS's argument is that the economic investment programme and the economic viability of RHS Wisley could be put at risk as a result of the Proposed Development [RR-024, REP6-024 and REP12-052]. This is taken further in REP12-055 and REP12-057 in which the RHS argues that the Proposed Development would: "*cause real and lasting damage to RHS Wisley – to the extent that its continued existence would come under threat.*" The RHS has also cited knock-on effects on the charitable objectives of the RHS and its ability to maintain RHS Wisley and to undertake activities that further overall horticultural practice and science [REP12-057].
- 5.11.12. To support its arguments the RHS has submitted two economic analyses by Hithc regeneris, with accompanying market research questionnaires, respectively HRR1 [REP1-039] and HRR2 [REP6-024]. Visitor data from 2015 to 2020 has also been provided by the RHS [REP2-041 and REP2-042].
- 5.11.13. In HRR1 [REP1-039] an initial attitudinal survey was undertaken over a couple of days in October and November 2019, and responses were obtained from 293 groups visiting RHS Wisley. The questions asked in the first attitudinal survey, are set out in Appendix A of HRR1 [REP1-039]. Question 5 of this questionnaire asked respondents to: "*Imagine a scenario where nearly an extra 10 minutes & 5 miles was permanently added to your journey to RHS Wisley garden via a route diversion*" and then asked respondents to rate the scale of frustration with the additional journey time on a scale of 1 to 10. This formed the basis for the subsequent questions 6 and 7 of the questionnaire. The answers from the attitudinal survey were then extrapolated to provide predicted economic impacts for the operation of RHS Wisley in HRR1.
- 5.11.14. Table 12 in HRR1 [REP1-039] depicts an overall estimated economic cost arising from the Proposed Development of £27.2 million, appraised over 60 years, as a result of the total transport user impact arising from increase in distances and journey times. Furthermore, in Table 12 estimates for the total wider economic impacts, appraised over ten years, were put at £42 million for the "*Central Case*" and £98.4 million for the "*RHS Anticipated case*".

- 5.11.15. As part of its D6 written representation, the RHS presented a second economic analysis (HRR2) [REP6-024]. HRR2 analyses the results from two further attitudinal visitor surveys, which were sent out to recent visitors to RHS Wisley and which dealt separately with the construction and operational phases for the Proposed Development. In terms of the predicted economic impacts of the Proposed Development on RHS Wisley, Table A13 in HRR2 estimates that the total transport user impact would be between £27,800,000 and £28,900,000 in lost economic value. Furthermore, the wider economic impact of the Proposed Development in relation to RHS Wisley is estimated at between £46,900,000 and £58,500,000 [REP6-024].

Painshill Park

- 5.11.16. The potential economic and social impacts of the Proposed Development on Painshill Park, as cited by PPT, primarily relate to the loss of the western access and any subsequent impacts on the ability for the Park to host large events or for the Gothic Tower to be used in an alternative manner, for example to provide residential accommodation. These matters are covered in more detail in Section 5.7 of this Report in relation to heritage impacts and Chapter 8 in regard to CA matters.

The former San Domenico Hotel site

- 5.11.17. The Proposed Development would give rise to the loss of the former San Domenico Hotel building. Whilst this is no longer in use, the site owner has plans for this site's re-development [RR-012]. In addition, the site contains an operational Drive Thru Starbucks cafe. The site owner and operator have objected on the grounds that the loss of a direct access from the A3 would make this site no longer economically viable for a commercial operation relying on passing trade [REP1-030]. This would affect both the existing Starbucks outlet and the site owner's proposals to replace the empty hotel building with a Petrol Filling Station with associated retail unit [REP1-030].

Effect on members of the public as users of the SCL

- 5.11.18. The construction of the Proposed Development would result in the direct loss of 13.77ha of SCL immediately adjoining the M25 and A3. The Applicant also proposes to acquire permanent rights over 8.51ha of the retained SCL to enable it, its contractors and statutory undertakers to undertake inspections and/or maintenance activities during the operational phase for the Proposed Development.
- 5.11.19. The direct loss of and acquisition of rights over SCL can be disadvantageous for members of the public as recreational users of the affected SCL. Accordingly, s131 (compulsory acquisition of SCL) and s132 (compulsory acquisition of rights over SCL) PA2008 and the guidance concerning the compulsory purchase of land under the

PA2008⁴¹ (CA Guidance) require the disadvantage for SCL users to be mitigated for through the provision of RL. Paragraphs 5.166 and 5.181 of the NPSNN set out the planning policy context for the consideration of the Proposed Development's effects on recreational land. In this instance the Applicant has assessed the RL requirement as being 39.8ha, which would be drawn from nine sites [REP12-004]. The Applicant's proposals for RL provision are explained in REP12-004, and this matter is considered in more detail in Chapter 8.

The Heyswood Campsite

- 5.11.20. Throughout the course of the Examination GGLW has made representations regarding the effect of the Proposed Development on the Heyswood Campsite [AS-028, REP1-026, REP3-061, REP12-064]. GGLW's main concerns are due to the severance of the campsite and the potential security issues that it considers would arise as a result of the loss of its existing direct and secure access off the A3. That existing access would be replaced by a PMA that would be shared with the occupants of Court Close Farm and operatives needing access to the nearby gas compound. In response to ExQ2 2.12.7 [PD-010] GGLW in REP5-056 provided details of the operational changes it would need to make if the PMA through the campsite was shared with the occupiers of Court Close Farm. Such changes would include the erection of a 2m high solid fence on either side of the PMA, relocating the existing bungalow and the games store/shop to within the south-eastern part of the campsite and the provision of an electric gate. GGLW also noted that its existing access would no longer be available to serve as an additional car parking area, if required, as this would block the access for Court Close Farm.
- 5.11.21. At ISH2 [EV-005a to EV-005d] the Applicant was asked by the ExA to assess the possibility of, and the implications for, providing an alternative access road (hereafter referred to as the alternative PMA route) running nearer to the periphery of the Heyswood Campsite adjacent to the A3 from a point close to the gas compound, and running immediately to the west of the on-site bungalow before terminating at Court Close Farm.
- 5.11.22. The alternative PMA route was submitted as proposed change 7 and is detailed in REP7-016 and REP7-017. This alternative PMA route would entail the loss of an additional 0.11ha of ancient woodland and would allow Court Close Farm to be accessed without its occupiers and visitors needing to enter Heyswood Campsite. At D9 it was confirmed by GGLW [REP9-007] and by the owner of Court Close Farm [REP9-005] that the alternative PMA route was their preferred route.

⁴¹ Planning Act 2008 Guidance related to procedures for the compulsory acquisition of land (Department for Communities and Local Government September 2013)

ExA's examination of issues

Economic impacts on RHS Wisley

Analysis of visitor questionnaires

- 5.11.23. In questions 2.12.12 and 2.12.13 of ExQ2 [PD-010] the ExA asked for comments on a number of questions that were contained in the attitudinal survey in Appendix A of HRR1 [REP1-039]. In response to those ExA questions, the Applicant replied that the wording of a number of the questions in this survey would lead to a degree of bias [REP5-014]. In addition, the Applicant has drawn attention to an absence of any views being sought amongst the survey's respondents regarding the improvements to road safety, one of the primary objectives for the Proposed Development.
- 5.11.24. The ExA is concerned that question 5 in the first attitudinal survey, which asked visitors to assess their likelihood of visiting RHS Wisley following the Proposed Development's implementation was poorly worded and subject to bias. That is because this question only used a worst-case scenario in terms of increased journey time and distance. That being despite the fact that such an increased journey time and distance would only affect visitors using the A3 south of RHS Wisley as the route for the majority of their trips to and from the Gardens (the A3 south route). According to Table 3 in HRR1 [REP1-039] it was estimated that 33.9% of all visitors' trips made to RHS Wisley involve the use of the A3 south route. It was estimated that the majority of visitor trips, 61.3% as indicated in Table 3 of HRR1, would route via the A3 north of RHS Wisley. Therefore, around two thirds of respondents to question 5 may not have appreciated that they would not be affected by this worst-case scenario.
- 5.11.25. Therefore, for the majority of the visitors to RHS Wisley the "*extra ten minutes*" of travel time referred to in question 5 would be inconsequential because they would not travel to and from the Gardens via the route affected by that additional journey time. For those visitors to RHS Wisley, the ExA considers whether a round trip to the Gardens would or would not take ten minutes longer under the Proposed Development would be unlikely to affect their propensity for making trips to RHS Wisley.
- 5.11.26. The ExA also considers that the wording of question 5 in the first attitudinal survey was misleading because it refers to an extra ten minutes and five miles being permanently added "*to your journey to RHS Wisley Garden, via a route diversion*". This would seem to imply that the same delay would apply to both the inbound and outbound trips to RHS Wisley, when in fact this was the combined predicted worst-case scenario for a visitor's round trip to and from the Gardens.
- 5.11.27. The ExA therefore considers that the wording for question 5 of the first questionnaire that was used to inform HRR1 was inherently flawed, with it having the potential to yield biased answers. Taking that into account, the ExA is of the view that the answers to question 5 should not have

been relied upon for the purposes of assessing the extent to which the Proposed Development might affect visitation rates for RHS Wisley.

- 5.11.28. In relation to the first attitudinal survey the Applicant has argued that 293 respondents would be too few to be statistically significant. The ExA concurs with that view. Furthermore, we consider there is an issue with the RHS having treated the 293 responses from this survey as being representative of the views of 645 individuals, as stated in paragraph 1.15 of REP1-039. That figure having been derived by multiplying the actual number of respondents by the average group size/car occupancy rate of 2.2 for visitors to RHS Wisley. However, it is not certain that all of the people in each group would have shared the same views as the individual who completed the survey. Consequently, the ExA is not persuaded that treating the responses from 293 respondents as though they were actually representative of 645 visitors to RHS Wisley is a reasonable basis upon which to start drawing statistically reliable conclusions.
- 5.11.29. The two-part, attitudinal visitor survey used to inform HRR2 [REP6-024] sought to provide additional attitudinal information, with a greater number of respondents than for the first survey. Part one of the second survey asked questions about the operational effects of the Proposed Development on visitors to RHS Wisley (the part one survey). The second part of the questionnaire related to the constructional phase for the Proposed Development (the part two survey). Question 8 in both parts of the later survey, sought responses for a scenario of increased distance and journey times that specifically referred to times to and from RHS Wisley.
- 5.11.30. However, question 8 still refers only to the worst-case scenario, which would only apply to visitors using the A3 south route and the results from it have then been used to calculate economic impacts. In ExQ4 4.12.2 [PD-021] the ExA questioned this approach. The RHS responded in REP10-025 that this *"is a standard market research technique where the objective is to understand the behavioral (sic) response to a specific set of criteria, regardless of whether those individuals will incur the impact in practice."*
- 5.11.31. We consider that this universal application of a worst-case scenario is a flawed approach. The ExA remains unpersuaded that the responses to question 8 for the part one survey reported in HRR2 are free of bias and can be relied upon to provide reasonable forecasts of any economic impacts for the operation of RHS Wisley.
- 5.11.32. For question 10 of the part one survey in HRR2 [REP6-024], 67.6% of respondents indicated that the additional journey time would *"probably not"* or *"definitely not"* have any impact upon how frequently they would visit RHS Wisley. Conversely, only 25% of respondents to question 11 for the part one survey indicated that they would visit RHS Wisley up to less than 20% per year, whilst almost 71% would visit the site between 20% less up to not at all. However, question 11 appears to be flawed to the ExA in that all of the available response options related to fewer visits

being made and there were no options of 'same amount of visits' or 'more frequent visits' given. Therefore, unless this question was not answered, then all of the responses to it would, as a matter of course, collectively yield a negative impact in terms of visitor numbers.

- 5.11.33. In HRR2 [REP6-024] it is stated that there were 5,025 respondents for the part one survey, with 1,234 respondents replying to question 11, which is a response rate of around 25%. The response rate for question 11 therefore suggests that around 75% of the total number of respondents for the part one survey were of the view that the frequency of their visits to RHS Wisley would be unaffected by the Proposed Development.
- 5.11.34. The ExA also considers that wording of question 11 for both parts of the second survey cited in HRR2 would potentially be challenging for respondents to reply to. That is because rather than being expressed in terms of one, two three etc fewer visits being made, respondents instead were asked to answer with percentages. To answer question 11 respondents would need to be reasonably proficient at dealing with fractions and percentages and would need to undertake a calculation before being able to answer it. As question 11 is worded in the negative and could be a more difficult question for some respondents to answer, we consider that this would undermine any conclusions that could reasonably be drawn from it.
- 5.11.35. The ExA concurs with the general view expressed by the Applicant in REP5-014 that in seeking the views of visitors to RHS Wisley, the attitudinal surveys have failed to make any reference to the potential for road safety improvements to arise from the Proposed Development. The RHS disputes that there would be any safety benefits as a result of the Proposed Development. However, for the reasons set out in Section 5.2 of this Report the ExA does not agree with the RHS's case with regard to highway safety.
- 5.11.36. The ExA therefore considers it is reasonable to consider that perceived improvements in road safety would to some degree offset increased journey times in terms of the attractiveness of RHS Wisley as a destination. The ExA considers that this would have the potential to influence the attitudes of visitors to RHS Wisley. As the ExA has highlighted in Section 5.2 of its Report, should there be a reduction in the frequency and severity of accidents that would be of benefit to journey reliability for all users of the SRN, including those making visits to RHS Wisley. This is something that both attitudinal surveys have not taken account of and the ExA considers this to be a significant omission from the attitudinal surveying that was undertaken on behalf of the RHS.

Assessment of visitor numbers and economic impacts

- 5.11.37. The RHS's argument concerning the economic impacts of the Proposed Development on its operations at RHS Wisley is largely derived from applying the current and projected numbers of annual visits, on-site employees and on-site volunteers to changes in visitor behaviour

predicted on the basis of the results yielded from the attitudinal surveys reported in HRR1 [REP1-039] and HRR2 [REP6-024].

- 5.11.38. Some of the underlying economic assumptions are based on the Economic Impact Study undertaken by Counterculture for the RHS in November 2017 [REP3-052]. For instance, Table 2 in HRR1 shows an increase in projected annual visits from 1,071,000 in 2018 to 1,494,000 in 2024 that is based on information provided in REP3-052. This would represent almost a 40% increase in visitor numbers over a six-year period. The ExA would question how realistic such growth would be, given that such a substantial increase in visitor numbers might create a sense of crowding within RHS Wisley during busier times, which of itself might deter attendance. This rapid and substantial growth in visitor numbers has been predicted alongside the possibility of the construction period for the Proposed Development taking place, in the event of a DCO being made.
- 5.11.39. A comparison of Tables 1 and 2 in HRR1 [REP1-039] that in turn are based on data in the Counterculture report [REP3-052] shows a predicted increase in annual visits between 2018 and 2024 of almost 40% and yet the predicted external visitor spend would increase by approximately 70% over the same period. We acknowledge that the Counterculture report takes into account inflation, but even so, the ExA would question the optimism of the projected visitor spend assumptions used in REP3-052 that in turn have fed into HRR1 and HRR2.
- 5.11.40. The Direct Transport User Impacts that have been cited in HRR1 and HRR2 seek to give a wider economic cost to the user and this includes both travel time and fuel and non-fuel costs. This is in line with the methodology used by the Applicant. In accordance with Department for Transport (DfT) guidelines the Applicant has calculated the present value monetised benefits of the Proposed Development and these are provided in Table 4.1 of the Planning Statement [APP-133].
- 5.11.41. Therefore, the wider economy impacts of the Proposed Development on RHS Wisley gives a higher value in respect of RHS Wisley, but this would need to be considered in the context of the wider economic impacts of the Proposed Development using the same methodological approach. To that end the Applicant has calculated the Level 1 present value monetised benefits of the Proposed Development to be worth £388,540,000, while the Applicant has calculated the Level 2 benefits to be £439,885,000 [APP-133].
- 5.11.42. Table A13 in HRR2 [REP6-024] shows an estimate for the Total Transport User Impact would be up to £2.9 million during the three years of construction and £25.9 million over a 60-year operational period for RHS Wisley. The Total Wider Economic Impacts of the Proposed Development in relation to RHS Wisley are estimated to be up to £27.7 million for the three-year construction period and £30.8 million over a ten-year operational period [REP6-024].

- 5.11.43. As set out in Table A6 of HRR2 [REP6-024] the predicted trip reduction for the route to and from the A3 south of Ockham roundabout would be 2.7% and the trip reduction from the A3 north would be 1%. That gives a combined total of 3.7% reduction in person trips by car that is cited in paragraph 5.4 of HRR2. However, as the ExA has highlighted in Section 5.2 of this Report this 3.7% reduction seems to have been applied to all visitors rather than applying a 2.7% reduction to the predicted 32.5% of visitors using the A3 south route and a 1% reduction to the larger proportion (52.7%) of visitors using the A3 north route⁴². Should the 2.7% reduction and the 1% reduction be applied separately to the predicted splits of visitor journeys by via the A3 north and A3 south routes then the ExA considers that would be likely to yield a significantly smaller figure than the 54,000 fewer visitors per year in 2024 and future years as predicted by the RHS in Table A10 in HRR2 [REP6-024]. It appears to the ExA that in HRR2 [REP6-024] the RHS has incorrectly applied the predicted route distribution traffic data to derive an estimate for the annual reduction in visitor numbers at RHS Wisley.
- 5.11.44. In paragraph 5.6 of HRR2 the forecast reduction in person trips by car during the construction stage of the Proposed Development has been calculated to be between 5.7% and 9.7%. Applying the worst-case scenario of a 9.7% reduction of all the predicted visitors to RHS Wisley, and not just those arriving by car, to the predicted visitor numbers in 2021, 2022 and 2023 that are cited in Table A2 of HRR2 [REP6-024] would give reductions of 130,853, 135,509 and 140,262 visitors for those years respectively. Therefore, even applying the worst-case scenario prediction of a 9.7% reduction for all visitors, this would be less than the figures that are cited in table A10 in HRR2 that predict a reduction during construction operations of 145,000, 150,000 and 155,000 visitors per year for those same three years respectively.
- 5.11.45. HRR1, HRR2 and other submissions from the RHS make reference to the economic benefits of the "*RHS Alternative Scheme*" (the RHS alternative). It is acknowledged in HRR1 [REP1-039] that the construction phase for the RHS alternative would entail similar levels of disruption to the Proposed Development, and by implication this would give rise to similar reductions in visitor numbers. However, it is argued by the RHS that once operational then the economic impacts would be much less and would actually be positive in terms of the Transport User Impact [REP1-039]. However, for the reasons given in Section 5.2 of our Report, we do not consider that the RHS alternative would represent a genuinely acceptable alternative. Therefore, the ExA considers that no weight should be attached to economic benefits the RHS has attached to the RHS alternative.

ExA's overall assessment of the RHS economic arguments

- 5.11.46. RHS Wisley is a nationally important attraction that attracts visitors from a wide catchment area. The reasons for visiting the site would be varied

⁴² The route proportion figures for the A3 south route and the A3 north route being taken from Table A3 in HRR2

and would include attending the special events that are held on a regular basis. As reported in paragraph 3.45 of REP2-040, 15% of the total visitors in 2014 visited on just 8 days when particular events were held. In ExQ2 [PD-010] we questioned the significance of a predicted increase in travel time of up to ten minutes when considered in the context of the average duration of stay of three to four hours that is cited in the RHS's Transport Assessment of May 2016 [REP2-040]. In response the RHS stated that there is significant deviation around the average duration of stay that is quoted and it is likely to be the visits of a shorter duration that would be affected by the Proposed Development [REP5-054].

- 5.11.47. In addition, the RHS contends that an increase in travel time of ten minutes would be contextualised in terms of the travel times rather than the duration of stay [REP5-054]. The Applicant, however, argued that this increase would account for a small proportion of the duration of the visit and would be insufficient to materially influence peoples' decisions on whether to visit [REP5-014].
- 5.11.48. The ExA concurs with the Applicant's view on this, as we consider that it is unlikely that decisions to visit RHS Wisley or not would only be influenced by small increases to travel times or distances within the vicinity of the Gardens. This would particularly be the case for attendance at events. A reduction in the shorter duration visits, which the RHS has equated to trips to the café and plant centre [REP5-014], have the potential to give rise to less of an impact in terms of visitor spend as these would not, for example, entail admission charges.
- 5.11.49. The ExA considers that for the majority of the visitors to RHS Wisley, the frequency of their visits to the Gardens would not be highly susceptible to an increased journey time of a few minutes. In that regard the ExA considers that response to question 10 of the part one survey, reported in HRR2, corroborates this view of the ExA. The ExA is of the view that it is reasonable to consider that other factors, such as the quality of the visitor experience available at RHS Wisley, marketing, events and pricing, would also be likely to influence the visitor numbers for the Gardens.
- 5.11.50. Overall, the ExA concurs with the Applicant's view that there is a significant degree of potential bias in the attitudinal surveys that the RHS has undertaken, as reported in HRR1 and HRR2 [REP1-039 and REP6-026]. The ExA is also concerned about the calculation methodologies used that seem to be over-reliant on the application of weightings based on the attitudinal survey results. Those attitudinal surveys have been used by the RHS to estimate the predicted economic impacts of the Proposed Development for the operation of RHS Wisley. The ExA therefore considers that the predicted economic impacts identified by the RHS in REP1-039 and REP6-024, which have fed into other RHS submissions, such as REP8-054 and REP12-057, are open to a significant degree of question.
- 5.11.51. For all these reasons the ExA considers that the negative economic impacts ascribed to the Proposed Development in HRR1 and HRR2, both

directly for the operation of the RHS Wisley and at a local, regional and national level, have been overstated by the RHS, That is because the economic impacts have been assessed using the output from biased attitudinal surveys, undermining the conclusions that have been drawn from the survey results. The ExA therefore considers that very little weight should be attached to the RHS's assessment of the economic effects for RHS Wisley. Consequently, the ExA is not persuaded that the Proposed Development would have a significant impact on the operation of RHS Wisley as a visitor attraction or of the RHS's ability to undertake charitable works or horticultural research, which is also in part funded by RHS membership.

- 5.11.52. Whilst the ExA does not agree with the magnitude of the predicted economic impacts on RHS Wisley arising from the Proposed Development that are cited in HRR1 and HRR2, the ExA accepts that there would be some economic impacts relating to the operation of RHS Wisley. In particular, the construction phase of the Proposed Development is likely to give rise to a degree of disruption to the immediate road network and it is possible that some potential visitors to RHS Wisley may choose to visit other competing locations instead during this time. Whilst this displacement effect may serve to keep visitor spend within the region, nevertheless there would be an economic effect on RHS Wisley.
- 5.11.53. The ExA therefore considers that there would be some adverse economic impacts for RHS Wisley, which would primarily be short-term effects associated with the construction phase for the Proposed Development. Whilst the ExA considers that such impacts would be difficult to quantify, nevertheless, this is a matter that weighs against the Proposed Development in the overall balancing exercise, albeit not to any significant degree.

Heyswood Campsite

- 5.11.54. GLLW has raised concerns throughout the Examination about the effect of the Proposed Development on its activities if the originally proposed PMA route through the campsite was provided. Late in the Examination, in REP12-064 GGLW raised concerns about the potential separation of the car park from the residential buildings and camping fields, and the likely trade-off between a smaller car park or losing the veteran sweet chestnut tree (T165). In Table 7.2 of AS-014 this sweet chestnut tree is recognised as being potentially impacted. However, T165 not one of the two veteran trees that the Applicant has categorised as definitely requiring removal.
- 5.11.55. At ISH2 the ExA asked the Applicant to consider the feasibility of an alternative route that would run on the north-western side of the bungalow at the campsite, adjacent to the fencing for the southbound carriageway of the A3. This route, the alternative PMA route, would assuage the concerns of GGLW. Accordingly, the alternative PMA route was entered into the Examination as Proposed Change 7. However, the Applicant's originally submitted and preferred means of access through Heyswood Campsite also remains an option for consideration by the ExA. Proposed Change 7 has been advocated by GGLW [REP9-007] and the

owner of Court Close Farm [REP9-005]. However, it would also entail the loss of an additional 0.11ha of ancient woodland. Consequently, the alternative PMA has been objected to by The Woodland Trust and NE in responses that are contained in Appendix A of the Applicant's Report on Proposed Scheme Changes 7 to 9 [REP7-016]. Additionally, in Appendix A of REP7-016, while the Forestry Commission did not specifically object to the alternative PMA, it did refer to ancient woodland hierarchy of 'avoid, mitigate and then compensate' and requested further details of compensation measures.

- 5.11.56. As reported by the Applicant in REP11-010 the results of the further tree survey work that was undertaken by the Applicant in June 2020 for the area of ancient woodland have not been provided into the Examination. The Applicant's reason for this is that prior to detailed design work being undertaken it is not possible to confirm whether it will be possible to retain all of the trees. Therefore, apart from the figure of a loss of 0.11ha of ancient woodland, the ExA is unsure as to how much ancient woodland and how many other trees within the campsite may be lost or have their roots damaged as a result of either the provision of the alternative PMA or the PMA as originally proposed.
- 5.11.57. There is disagreement between the Applicant and GGLW about the precise design and nature and location of the original access road through the campsite. The knock-on effects include the potential impacts on other trees and vegetation, including the veteran sweet chestnut tree (T165), and also the overall car parking provision available for the campsite. The survey information that has been provided by the Applicant has been disputed by GGLW and also a further tree survey, including the area of ancient woodland that would be affected by the alternative PMA route, has not been provided. Consequently, this is a matter that has not been agreed between the Applicant and GGLW and has not been fully resolved by the close of the Examination.
- 5.11.58. The ExA is therefore faced with the dilemma of in effect making a recommendation that either favours the taking forward of the originally proposed PMA (ie the shared route through the campsite) or the alternative PMA route (ie an access into the campsite and a segregated route for Court Close Farm), without there being before the ExA either the full tree survey information or a fully worked-up design for either of the PMA options. In the absence of such further details it is the ExA's view that the need to protect the irreplaceable asset of ancient woodland must take precedent, in accordance with the requirements of the NPSNN. We note GGLW's offer for the translocation of any ancient woodland soils to other areas of woodland within the campsite [REP5-056]. It is the ExA's view that this would not provide adequate mitigation for the loss of ancient woodland.
- 5.11.59. Therefore, the original route through the Heyswood Campsite, rather than the alternative PMA, represents the ExA's preferred option as it would avoid the loss of this additional area of ancient woodland that has been calculated to be 0.11ha. However, this is a matter on which we recommend that the SoST should require the Applicant to submit the

further tree survey information of June 2020 to him so that he can make a more informed decision about the most appropriate PMA provision for Heyswood Campsite and Court Close Farm. The CA considerations pertaining to the PMA route through the Heyswood Campsite to Court Close Farm are reported in more detail in Chapter 8.

Painshill Park

- 5.11.60. The effect of the Proposed Development on the significance of the designated RPG of Painshill Park is considered in Section 5.7 of this Report. However, the ExA recognises that in addition to the heritage impacts, any potential preclusion of larger public events at Painshill Park would give rise to a detrimental effect for the community, in terms of lost recreational and social opportunities, and the loss of income for both Painshill Park and any traders at such events. However, as reported in Section 5.7, the ExA has not been presented with any substantive evidence that such events could not take place in the future. Consequently, the ExA does not afford any significant weight to this in terms of community impacts or loss of income for traders.

Economic impacts on other businesses and land-based enterprises

- 5.11.61. The Applicant has identified a moderate adverse impact on Nutberry Farm during the construction stage due to the loss of the car boot sale. The ExA concurs that there would be an economic effect on Nutberry Farm due to the loss of the car boot sale, given that it would be a temporary effect while this site was being used as a construction site compound. The payment of compensation for the use of this part of the farm would be available to the landowner under Art 33 of the dDCO [REP12-002].
- 5.11.62. With respect to the former San Domenico Hotel site, under ExQ2 2.12.9 [PD-010] the ExA questioned what forms of development would be suitable on this site in the event of the Proposed Development being implemented. The significant impact of removing this site direct access to the A3 northbound on the existing and proposed businesses on the San Domenico site are acknowledged by the Applicant [REP1-009] and the Applicant considers that this would be a matter to be addressed the compensation process [REP2-013]. The CA implications of this are considered in Chapter 8 of this Report.
- 5.11.63. Should any other of the nearby development proposals, such as Wisley airfield redevelopment or at RHS Wisley, be under construction at the same time as the Proposed Development then there is the potential for additional adverse impacts on local businesses to arise due to cumulative construction effects. However, such impacts would be limited to the construction operations, which in the case of the Proposed Development would be in phases, and in the longer term there would be beneficial impacts for local businesses.

Economic benefits

- 5.11.64. The focus of this Section has been on the negative economic impacts that have been predicted or alleged on various local businesses and organisations. However, this needs to be set against the wider economic benefits of the Proposed Development, both in itself, for example in terms of the creation of construction jobs, and in terms of enabling economic growth. The economic case, as set out in APP-133, has been summarised earlier on in this Section. The ExA has no reason to disagree with the Applicant's analysis that the Proposed Development would have a net present value of £242,057,000 that would give rise to an expected adjusted BCR of 2.22, which would represent high value for money according to DfT value for money categories [APP-133].
- 5.11.65. As recorded in the final SoCGs with SCC [REP12-008], EBC [REP8-028] and GBC [REP8-029] it is agreed that the Proposed Development would provide additional highway capacity that is required to facilitate the delivery of new development being planned to meet housing and other community needs in the area. It is also agreed in the SoCGs with GBC and EBC that improved journey times and reduced congestion as a result of the Proposed Development would bring economic benefits for businesses and will improve access to employment opportunities, including Brooklands Business Park.

Social considerations

- 5.11.66. The Proposed Development would have implications for the availability of informal recreation space in the local area through the direct loss of 13.77ha of SCL and the acquisition of rights over parts of the retained SCL. The ExA considers that the Proposed Development would undoubtedly cause some social disadvantages to members of the public as users of the SCL. There is therefore a need for RL to be provided as part of the Proposed Development. In that regard SCC as owner of the majority of the affected SCL, and EBC and GBC in their capacity as the local planning authorities, are supportive of the Applicant's proposal to provide 39.8ha of RL spread across the nine locations that the Applicant has identified.
- 5.11.67. No objections have been made concerning the environmental or social impacts of the Applicant's RL proposals. Given that context the ExA considers that what is being proposed would be acceptable in planning terms and would accord with the paragraphs 5.166 and 5.181 of the NPSNN. That is because RL would be provided in suitable locations and the delivery of this mitigation would be secured through the powers that would be conferred by Art 39 of the dDCO.
- 5.11.68. However, a CA objection has been made by the owners and occupiers of the property known as PBF with respect to the Applicant's proposals to provide 21.85ha of RL at PBF. That objection contends that the Applicant in putting together its RL proposals has failed to have due regard to the provisions of s122, s131 and 132 of the PA2008. Those sections of the PA2008 expressly concern the CA powers sought by the Applicant. The ExA therefore considers that the appropriate place for the PBF objection

to be considered in detail, including any implications it might have for the quantum of RL, is within Chapter 8 of this Report. To that end, the SoST's attention is drawn to Section 8.8 of Chapter 8.

- 5.11.69. The Applicant acknowledges in ES Chapter 13 [REP4-028] that there would be some large adverse and moderate adverse amenity and severance effects on NMUs during construction. However, during operation the Applicant contends that the effects on NMUs would be predominantly positive and would entail a number of large beneficial effects, including the new bridleway route running adjacent to the A3. The ExA considers that the impacts on NMUs during the construction works would be an unavoidable consequence of works taking place. However, the ExA considers that the long-term beneficial effects would be considerable and would far outweigh any temporary effects or longer-term impacts caused by the loss of the footway along Old Byfleet Road and the abandonment of the Cockcrow Hill permissive equestrian route.

Conclusion on economic and social considerations

- 5.11.70. The ExA considers that the economic impacts predicted for RHS Wisley as a result of the Proposed Development in HRR1 and HRR2 have been substantially over-stated, with the ExA having significant doubts about the methodology used by the RHS to reach its findings. As such, the ExA attaches only limited weight to the economic assessment contained in HRR1 and HRR2. However, the ExA does acknowledge the potential for the Proposed Development to give rise to some economic effects on RHS Wisley, primarily during the construction phase.
- 5.11.71. Should Painshill Park be precluded from holding major events in the future, as a result of the loss of the western access, then the economic impacts for the operation of Painshill Park would be considerable. However, the ExA does not have any substantive evidence that the loss of the western access would result in an inability to hold such events at the park. The Gothic Tower is already in use and the ExA does not have any evidence that all future redevelopment projects would be entirely precluded as a result of the loss of the western. The ExA does acknowledge that this is likely to cause some operational difficulties for site maintenance activities.
- 5.11.72. The operational impacts for the Heyswood Campsite that would result from the construction and use of the PMA would represent a social disbenefit to which we attach a moderate degree of weight.
- 5.11.73. There would be some adverse impacts on NMUs during the construction stage, but the ExA considers that once operational the Proposed Development would provide overall benefits for NMUs.
- 5.11.74. These site specific social and economic considerations weigh against the Proposed Development. However, such disbenefits need to be set against the wider economic benefits of the Proposed Development in terms of reducing congestion in and around OPJ and the Painshill roundabout and junction 10 of the M25 and facilitating planned growth in the area.

- 5.11.75. Consequently, the ExA is of the view that, when considered in the round, the economic and social benefits arising from the Proposed Development that the ExA has identified in this Section would significantly outweigh the negative economic and social impacts on local businesses and organisations, either for the Proposed Development alone or cumulatively with other development. The ExA concludes that the Proposed Development would accord with the NPSNN and relevant Development Plan policies in this regard.

5.12. LAND USE, INCLUDING GREEN BELT

Introduction

- 5.12.1. This Section examines the impacts of the Proposed Development on land use matters. This includes impacts on Green Belt, agricultural land and minerals.

Policy considerations

- 5.12.2. The Proposed Development is located within the Green Belt. As indicated in paragraph 5.170 of the NPSNN there is a general presumption against inappropriate development in the Green Belt and such development should not be approved except in very special circumstances. NPSNN paragraph 5.164 indicates that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, and that the essential characteristics of Green Belts are their openness and their permanence. Paragraph 5.178 of the NPSNN states that when located in the Green Belt, national networks infrastructure projects may comprise inappropriate development for which there is presumption against except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
- 5.12.3. In relation to agricultural land, the NPSNN states that applicants should take into account the economic and other benefits of the best and most versatile (BMV) agricultural land⁴³. The NPSNN also states that applicants should safeguard any mineral resources on the proposed site as far as possible.

The Applicant's case

- 5.12.4. Chapter 13 of the ES [APP-058] looks at the impact of the Proposed Development on People and Communities, including on agricultural land. This was updated at D4 [REP4-028]. ES Chapter 13 states that of the 15.97ha of land that would be permanently lost to agriculture 15.08ha is RL and 0.89ha would be land permanently acquired for engineering use. Only 3.58h of this 15.97ha would be of best and most versatile (BMV) agricultural land quality. When the agricultural land that is to be used for

⁴³ BMV land is defined as Grades 1, 2 and 3a of the Agricultural Land Classification

SPA compensation is also included this would mean an overall permanent loss of 4.88ha of BMV land to the Proposed Development [REP4-028]. ES Chapter 13 [REP4-028] concludes that the residual effects on agricultural land would be slight adverse, but that this would not be significant as it is below NE's 20ha national significance threshold. The Applicant did not anticipate any significant cumulative effects on agricultural land.

Issues raised

- 5.12.5. There were no issues raised about the effect of the Proposed Development on agricultural land. However, the owners of Nutberry Farm did raise some concerns about the impact on their site but from the perspective of not being able to hold the car boot sale that takes place there. This is considered in more detail in Section 5.11 and Chapter 8 of this Report.
- 5.12.6. SCC did not raise any concerns in regard to mineral safeguarding but did express reservations about the impact of the Proposed Development on the supply of aggregates locally.

ExA's examination of issues

Green Belt

- 5.12.7. The Proposed Development would be within the Green Belt and would affect its openness. Therefore it would constitute inappropriate development, which by definition is harmful to the Green Belt. This is a matter to which the ExA attaches significant weight. However, in this instance the Proposed Development would mainly entail alterations and improvements to the existing road network rather than the creation of an entirely new network. The benefits of the Proposed Development are detailed in Chapter 5 of this Report, in particular Sections 5.2 and 5.11. It is the ExA's view that such benefits would be considerable and would represent very special circumstances that would outweigh the harm to the openness of the Green Belt and would justify inappropriate development in the Green Belt.

Agricultural land

- 5.12.8. There would be some loss of BMV agricultural land as a result of the Proposed Development. This would mainly be as a result of the provision of RL and would, in effect, be substituting an agricultural use for a recreational one. It is also worth noting that whilst PBF has been classified as being an agricultural holding by the Applicant in ES Chapter 13, the land owner contends that this land is in domestic use rather than agricultural use. Such a consideration would in effect reduce the amount of BMV agricultural land that would be lost as a result of the Proposed Development. This matter is considered in more detail in Chapter 8 of this Report.
- 5.12.9. The loss of BMV agricultural land cannot be mitigated. However, due to the amount of BMV land to be lost the ExA considers that the effects on

agricultural land would not give rise to any significant harm from the Proposed Development.

Minerals

- 5.12.10. SCC initially raised concerns about the availability of construction materials and about any increased demand not being disproportionately concentrated on Surrey [REP1-020]. The Applicant stated that materials would be sourced from both within and outside of Surrey as appropriate [REP2-014]. The ExA considers that the materials recycling activities that would take place on the Wisley airfield will help to reduce the demands for primary aggregates.
- 5.12.11. The ExA notes that this matter is listed as being agreed in the final SoCG [REP12-008] and also that management plans/method statements for both the management of materials and site waste are secured in R3(2)(c)(v) and (vii) respectively of the dDCO. The ExA is therefore satisfied that the impact of the Proposed Development on minerals has been adequately assessed and accounted for.

Conclusion on land use, including Green Belt

- 5.12.12. The Proposed Development would be in the Green Belt and there would be a limited loss of BMV agricultural land. For the reasons we have identified, it is our view that very special circumstances that would justify inappropriate development in the Green Belt have been demonstrated. We do not consider that there would be any other land use impacts, either alone or cumulatively, that would be significant enough to weigh against the Order being made. The Proposed Development therefore complies with the NPSNN in this regard.

5.13. CONCLUSIONS

- 5.13.1. The conclusions reached at the end of each of the Sections on individual issues are taken forward into Chapter 7 of this Report, where they are considered in the context of the overall planning balance.

6. FINDINGS AND CONCLUSIONS IN RELATION TO HABITATS REGULATIONS ASSESSMENT (HRA)

6.1. INTRODUCTION

- 6.1.1. This Chapter sets out the ExA's analysis and conclusions relevant to the HRA. This will assist the Secretary of State for Transport (SoST) as the Competent Authority, in performing their duties under the Conservation of Habitats and Species Regulations 2017.
- 6.1.2. Consent for the Proposed Development may only be granted if, having assessed the potential adverse effects the Proposed Development could have on European sites⁴⁴, the Competent Authority considers it acceptable in light of the requirements stipulated in the Habitats Regulations.
- 6.1.3. The ExA has been mindful throughout the Examination of the need to ensure that the SoST has such information as may reasonably be required to carry out his duties as the Competent Authority. We have sought evidence from the Applicant and the relevant IPs, including NE as the Statutory Nature Conservation Body (SNCB), through the ExA's written questions, ISHs and Rule 17 requests for further information under Rule 17 of The Infrastructure Planning (Examination Procedure) Rules 2010.
- 6.1.4. The ExA produced a RIES [PD-013] which compiled, documented and signposted HRA-relevant information provided in the DCO application and Examination representations up to D5a of the Examination (13 March 2020). The RIES was issued to ensure that we had correctly understood HRA-relevant information and the position of the IPs in relation to the effects of the Proposed Development on European Sites at that point in time. Consultation on the RIES took place between 9 April 2020 and 1 May 2020. Comments were received from the Applicant [REP8-038] and the RHS [REP8-054] at D8 (1 May 2020). These comments have been taken into account in the drafting of this Chapter.
- 6.1.5. The ExA's recommendation is that the RIES, and consultation on it, represents an appropriate body of information to enable the Secretary of State to fulfil their duties of consultation under regulation 63(3) of the Habitats Regulations and regulation 28(4) of the Offshore Habitats Regulations.

⁴⁴ The term European sites in this context includes Special Areas of Conservation (SACs), Sites of Community Importance (SCIs), candidate SACs (cSACs), possible SACs (pSACs), Special Protection Areas (SPAs), potential SPAs (pSPAs), Ramsar sites and proposed Ramsar sites for which the UK is responsible. For a full description of the designations to which the Habitats Regulations apply, and/or are applied as a matter of Government policy, see the Planning Inspectorate's Advice Note 10.

- 6.1.6. Policy considerations and the legal obligations under the Habitat Regulations are described in Chapter 3 of this Report.

6.2. PROJECT LOCATION and HRA IMPLICATIONS

- 6.2.1. The Proposed Development is described in Chapter 2 of this Report and comprises an enlargement of the junction at junction 10 of the M25, including new, amended and extended slip roads onto and off the M25 and the A3. As part of the proposals the A3 will be widened to dual-four lanes between Ockham Park junction and M25 junction 10 and between the Painshill junction and M25 junction 10. Four running lanes will be provided on the M25 through junction 10, and a package of local road, private access and Public Right of Way (PRoW) changes and additions are also included.
- 6.2.2. The spatial relationship between the Order Limits of the Proposed Development and European sites is shown in Figure 14 of the Applicant's HRA Figures [AS-012]. The Applicant's HRA states that the Proposed Development lies within the TBHSPA and is 6.9km from Mole Gap to Reigate Escarpment Special Area of Conservation (SAC) and 29.3 km from Ebernoe Common SAC.
- 6.2.3. The Applicant states that the Proposed Development is not directly connected with, or necessary to, the management of a European site or a European marine site [APP-040], and no evidence exists to the contrary. Therefore, the implications of the project with respect to adverse effects on potentially affected sites must be assessed by the SoST.
- 6.2.4. The Applicant provided a Statement to inform appropriate assessment (SIAA) [APP-043] with the application. The SIAA identified likely significant effects (LSE) on TBHSPA and following further assessment concluded that an adverse effect on the integrity of the SPA from habitat loss as a result of permanent land take could not be excluded. The Applicant's DCO application also contains an assessment of alternative solutions, a case for imperative reasons of overriding public interest (IROPI), and details of proposed compensation measures [APP-044].
- 6.2.5. The SIAA was provided together with supporting Annexes containing screening matrices [APP-040], integrity matrices [APP-043], a suite of figures [APP-039], consultation report [APP-041], and details of compensatory measures [APP-042]. The Applicant submitted an updated version of Figures (Revision 1) [AS-012] and an updated ES Appendix 7.19 SPA MMP, Revision 1 [AS-015] in response to advice from the Planning Inspectorate [PD-002]. The Applicant also provided updated HRA screening matrices [REP2-003 and REP2-024] in response to ExA questions. To aid the reader, this Report refers collectively to [APP-043] and its Annexes, including where these were updated, as 'the Applicant's HRA report' with specific references provided where necessary.
- 6.2.6. On 11 February 2020 the Applicant submitted a change request to the application (Changes 1-6). On 3 April 2020 a further three changes were

requested (Changes 7 to 9). The change request was accepted by the ExA on 27 February 2020 (for Changes 2 to 6) [PD-012] and on 24 April 2020 (for Changes 1 and 7 to 9) [PD-017]. The Applicant's HRA documents were updated to reflect the updated description of the Proposed Development at D4 [REP4-014, REP4-015, REP4-016, REP4-017 and REP4-018]. The Sections below consider the implications of the accepted changes where relevant.

6.3. HRA MATTERS CONSIDERED DURING THE EXAMINATION

6.3.1. The main HRA matters raised by the ExA, NE and other IPs and discussed during the Examination include:

- Air quality effects (from operational roads traffic) on TBHSPA;
- Delivery of the SPA MMP and delivery of the proposed suite of compensation measures;
- Mitigation measures taken into account in the SIAA;
- The assessment of recreational disturbance effects on TBHSPA;
- The consideration of alternative solutions;
- The justifications put forward by the Applicant within its case for IROPI.

6.3.2. These matters are discussed in the Sections below, as appropriate.

6.3.3. Matters which were undisputed by any parties were:

- The Applicant's identification of potential impacts from the Proposed Development; and
- The methodology and outcomes of the Applicant's assessment of LSE.

6.3.4. These matters are discussed in Section 6.4 below.

6.4. ASSESSMENT OF LIKELY SIGNIFICANT EFFECTS (LSE)

6.4.1. Under regulation 63 of the Habitats Regulations and regulation 28 of the Offshore Habitats Regulations, the competent authority must consider whether a development will have LSE on a European site, either alone or in-combination with other plans or projects. The purpose of this test is to identify any LSE on European sites that may result from the project and to record the ExA's conclusions on the need for an appropriate assessment and its reasons for including activities, sites or plans and projects for further consideration.

6.4.2. The Applicant excluded LSE from any sites located: beyond 2km of the Proposed Development, beyond 30km where bats are a qualifying feature, beyond 200m of the affected road network (ARN) for air quality, or where no hydrological linkage exists [APP-040]. The European Sites and qualifying features considered in the Applicant's assessment of LSE are presented in Table 2.1 of the RIES [PD-013]. These were:

- TBHSPA;

- Mole Gap to Reigate Escarpment SAC; and
- Ebernoe Common SAC.

- 6.4.3. Appendix C of Annex A [APP-040] states that NE, The Royal Society for the Protection of Birds (RSPB), and SWT did not have any comment to make on the sites included and provides evidence in this regard. The SoCG between the Applicant and NE submitted with the application [APP-138] states agreement that the assessment should be limited to these three sites and this is unchanged in the final SoCG [REP8-022]. No representations were made in dispute of the sites' qualifying features identified in the Applicant's HRA (and set out in Table 2.1 of the RIES).
- 6.4.4. The Applicant has not identified any potential impacts on European sites in other EEA States⁴⁵ in its Screening Report (5.3 Habitats Regulations Assessment Annex A) [APP-040], or within its ES (ES Chapters 1-4) [APP-049]. Only UK European sites are addressed in this report. No such impacts were raised for discussion by any parties during the Examination.
- 6.4.5. The ExA considers that the correct European sites and qualifying features have been identified for the purposes of assessment.

LSE from the Project Alone

- 6.4.6. The Applicant has described how it has determined what would constitute a 'significant effect' within its HRA report [APP-040]. The potential impacts identified are described in Paragraph 5.1.1 of APP-040 and are:
- habitat loss and fragmentation;
 - changes to water quality;
 - disturbance from recreation;
 - changes to noise;
 - changes to lighting;
 - changes to air quality; and
 - habitat degradation from the spread of invasive non-native plant species (INNS) during construction.
- 6.4.7. Decommissioning impacts were not assessed, with justification provided by the Applicant that, due to the nature of the M25 Junction 10 and the A3 as part of the SRN, it is not envisaged that the Proposed Development will be subject to decommissioning [APP-043]. The ExA is satisfied with this approach.
- 6.4.8. The SocG between the Applicant and NE submitted with the application [APP-138] sets out NE's advice on the impacts to be assessed and states agreement with NE on the potential impacts included. This position remained unchanged in the final SoCG [REP8-022]. Representations were made by the RSPB on the importance of considering effects from recreational disturbance, including any resulting from the implementation of the proposed pedestrian, cycling, and equestrian facilities [REP3-060] to which the Applicant responded in REP4-007 with an explanation as to

⁴⁵ European Economic Area (EEA) States.

how these matters had been considered within the SIAA. Representations were made by the RHS during the Examination on the methodologies applied to the assessment of air quality effects and the nature of habitat loss impacts (see Section 6.6 below). However, no party raised any additional, novel, impacts to be assessed and the ExA is satisfied that all potential impacts which could give rise to significant effects have been identified.

- 6.4.9. The Applicant's updated assessment [REP2-024] concludes no LSE from the project alone for any of the qualifying features of Mole Gap to Reigate Escarpment SAC and Ebernoe Common SAC. These conclusions were reached due to the absence of pathways for effects to SAC habitats due to distance and absence of hydrological connectivity, and absence of evidence that Bechstein's bat (a qualifying feature for both SACs) is present within the extent of the Proposed Development's potential impacts.
- 6.4.10. The ExA questioned the Applicant in order to understand some of the data used as a basis of the screening assessment in ExQ1 [PD-006], in relation to INNS and the bat surveys undertaken, to which the Applicant provided a response in REP2-013 with clarification and details of the relevant information.
- 6.4.11. The Applicant identified LSE on TBHSPA in relation to:
- habitat loss, both permanent and temporary;
 - habitat degradation by changes in air quality;
 - habitat degradation by changes in water quality;
 - habitat degradation from the spread of INNS during construction;
 - disturbance by changes in noise;
 - disturbance by changes in recreational use; and
 - disturbance by changes in lighting.
- 6.4.12. These LSE have been identified from the Proposed Development alone, although the assessment in APP-040 considers in-combination effects arising from local plan HRAs (discussed further in Paragraph 6.4.13).

LSE from the Project In-combination

- 6.4.13. The Applicant has addressed potential in-combination effects within its HRA report Annex A [APP-040]. Tables 5, 6, and 7 summarise the in-combination assessment for each European site. The report explains that following advice from NE the in-combination assessment focussed on Local Plan HRAs for local authorities within 10km of the Proposed Development, listed in paragraph 4.1.1 [APP-040]. Agreement with NE is also stated in Paragraph 2.2.5 that the in-combination assessment should focus on the OWC SSSI component of the TBHSPA. The ExA considers this to be the correct approach due to the distances between the Proposed Development and the other SSSI components of the TBHSPA, and the lack of hydrological connectivity to these components.
- 6.4.14. We consider that the in-combination assessment has included all relevant plans and projects at the time of assessment. Given the absence of

impact-effect pathways between the Proposed Development and Mole Gap to Reigate Escarpment SAC and Ebernoe Common SAC, no in-combination effects can occur. The need for appropriate assessment in regard to TBHSPA has been established as LSE have been identified from all considered impact pathways from the Proposed Development alone. Accordingly, amendment to the scope of plans and projects included in the in-combination assessment has negligible potential to give rise to any change to the outcomes of the screening assessment.

- 6.4.15. The in-combination approach is presented in APP-040 but has also been applied to the Applicant's assessment of adverse effects on integrity in APP-043.

Likely Significant Effects Assessment Outcomes

- 6.4.16. The submitted SoCG between the Applicant and NE [APP-138] records agreement on the conclusions of the screening assessment. The Applicant's conclusions of potential LSE on the European sites and their qualifying features considered were not disputed by any IPs during the Examination.
- 6.4.17. In light of the evidence provided the ExA considers that significant effects on Mole Gap to Reigate Escarpment SAC and Ebernoe Common SAC will not occur, from the Proposed Development alone or in-combination with other plans or projects due to the absence of impact pathways between these sites and the Proposed Development as set out above.
- 6.4.18. On the basis of the above, the ExA considers that the Proposed Development is likely to have a significant effect from all the impact pathways identified above on TBHSPA when considered alone, and in-combination with other plans or projects.

6.5. CONSERVATION OBJECTIVES

- 6.5.1. The conservation objectives for the sites and features identified above are set out in Tables 1-3 of Annex A of the Applicant's HRA Report [APP-040] and in Section 4.4 of APP-043 for TBHSPA, along with information from the relevant NE supplementary advice document [APP-043], and a review of the management objectives from the current managers of TBHSPA, SWT.
- 6.5.2. In response to ExQ2 2.4.6 [PD-010] NE submitted full copies of the citation [REP5-033], the conservation objectives [REP5-035], and the conservation objectives supplementary advice for TBHSPA [REP5-034] into the Examination at D5.

6.6. FINDINGS IN RELATION TO ADVERSE EFFECTS ON INTEGRITY

- 6.6.1. TBHSPA (all qualifying features: breeding Dartford warbler, European nightjar, and woodlark) was further assessed to determine if the site could be subject to adverse effects on integrity (AEoI) from the Proposed Development, either alone or in-combination. The assessment of AEoI

was made in light of the conservation objectives for TBHSPA. The impacts identified during the LSE assessment from construction and operation of the Proposed Development were considered. Paragraph 3.4.5 of the Applicant's SIAA states that decommissioning effects were scoped out of the assessment. Given the nature of the proposals and the information presented the ExA agrees with this approach.

- 6.6.2. The Applicant's approach to the in-combination assessment is set out in section 7.3 of the SIAA, and follows the approach applied to the Applicant's LSE assessment for Local Plan HRAs. However, in addition Table 11 sets out other projects considered and the outcomes of the assessment, with reference to Chapter 16 of the ES [APP-061]. The conclusion is that no additional adverse effects are anticipated as a result of in-combination effects.
- 6.6.3. The ExA asked the relevant local authorities (ExQ1 1.4.3) if any other plans or projects should be included in the assessment. Responses were received from EBC [REP2-028], GBC [REP2-032] and SCC [REP2-045] to which the Applicant responded [REP3-008] confirming the scope of the in-combination assessment in relation to the points raised. The final SoCGs between the Applicant and EBC [REP8-028] and with GBC [REP8-029] record agreement that the in-combination assessment considered all relevant plans and projects possible at the time. EBC advised consideration of implications of Option 3 in its Local Plan Options Consultation, stating that Option 3 represented the highest potential growth strategy. However, consultation on this only commenced after the Proposed Development had been submitted for examination and EBC had not decided on its preferred option. The Applicant considers that the five Options in the Local Plan Options Consultation are "*high-level strategic options for Borough-wide development*" [REP3-008]. The Applicant contends that there is insufficient certainty to justify further modelling. The ExA is satisfied that the assessment of AEoI of the Proposed Development in-combination with other plans and projects considered the correct information on these available to the Applicant at the time of its assessment.

Mitigation

- 6.6.4. The Applicant's HRA Report [APP-043 and REP4-018] includes the mitigation measures it describes as being embedded within the design of the Proposed Development, and the measures to be implemented during construction specifically to avoid or reduce impacts on TBHSPA. These specific measures are to be included and secured through the CEMP under dDCO R3 [REP12-002] and to be made in line with the oCEMP [REP8-018]. The Applicant's HRA takes all these measures into account in the assessment of AEoI. The Applicant also submitted a REAC [APP-135], updated to incorporate the changes to the Proposed Development [REP8-020]. The REAC is to be appended to the CEMP, in order to enable implementation of environmental commitments made in the ES.
- 6.6.5. The dDCO [REP12-002] requires that commencement of the authorised development is subject to the upfront approval of the CEMP. The ExA explored the definition of 'commence' and the activities to be controlled

by the CEMP, through ExQ1 1.15.1 [PD-006], addressed to the Applicant and ExQ2 2.15.5 [PD-010], addressed to the local authorities, NE, EA, RSPB and SWT. Concerns were raised by SCC, GBC, the RSPB around the activities that could fall outside the definition of commence and therefore the control of the CEMP. NE responded in REP5-032 that it is satisfied, because of the provisions of the TBHSPA designation and that of OWC SSSI, any works would be subject to its approval and to formal assent and therefore it considers sufficient protective measures to be in place. In the final SoCG with SCC [REP12-008] this remains as not agreed and the final submitted dDCO still excludes temporary means of enclosure [REP12-002]. This matter is explored in more detail in Chapter 9 of this Report.

Habitat loss, both permanent and temporary

Proposed Development alone

- 6.6.6. The Applicant's assessment is presented in section 7.2, paragraphs 7.2.1 to 7.2.24 of the SIAA [APP-044 and REP4-018]. The Proposed Development will result in the permanent loss of 5.9ha and temporary loss of 8.7ha of mixed woodland habitat within the SPA. The Applicant concludes that the permanent and temporary loss of mixed woodland habitat from within the TBHSPA could have an adverse effect on its integrity by undermining the conservation objectives to 'maintain the extent and distribution of the habitats of the qualifying features' and 'maintain or restore the distribution, abundance, and availability of key prey items'. This conclusion is reached on a precautionary basis, because of the potential contribution the mixed woodland makes to the invertebrate prey resource. The assessment concludes that there are no direct effects on heathland habitat and therefore no direct effect on TBHSPA species themselves or their nesting or roosting habitat, as these species are only found to occupy the heathland habitat.
- 6.6.7. Late into the Examination the RHS questioned evidence provided by the Applicant in the SIAA and at D10 and D11, and that provided by NE and SWT in response to ExQ4 4.4.2 and 4.4.12. The RHS response disagreed with the Applicant's conclusion that the SPA bird species primarily rely on heathland habitats [REP11-038]. This is refuted by the Applicant in REP12-024 with reference to the bird surveys carried out and reference to previous evidence provided. The assertion presented by the RHS stems from its contributions on air quality effects, this is addressed in Paragraphs 6.6.12 to 6.6.51 below.
- 6.6.8. The RHS raised the matter of its 'RHS Alternative Scheme' (as described in REP1-044 and REP3-049, and referred to in this Report as the RHS alternative, in a number of representations. However, in REP9-014 it presents calculations of SPA land-take under the RHS alternative in its response to the Applicant's response [REP8-045]. It makes a claim that while the RHS alternative would result in an increased land-take from the SPA in comparison with the Proposed Development, the land in question comprises "*site fabric*" which was stated in REP9-014 as being defined by NE as '*land and/or permanent structures present within a designated site boundary which are not and never have been part of the special interest*

of a site, nor do they contribute towards supporting a special interest feature of a site in any way'. We explored this through ExQ4 4.4.17 to NE who clarified that 'site fabric' as a term is not applicable to the area in question and this land would have an ecological value which must be compensated for [REP10-016]. We do not consider there is any evidence that the RHS alternative would result in a lesser effect in terms of habitat loss. In any case, it does not represent a valid alternative solution to the objectives of the Proposed Development (see Section 6.7 below).

- 6.6.9. The change to the application (see Section 2.2 of this Report) includes a proposed change to increase the width of the green element of the Cockcrow bridge from 10m to 25m. The ExA explored the implications of the change for the conclusions of the Applicant's HRA report in ExQ1 1.4.4. The Applicant's response [REP2-013] confirmed that this change would not affect the conclusions of the SIAA. An updated SIAA confirming this outcome was submitted at D4 [REP4-018]. Within this document, the Applicant explains that change 6, adjustments to the Order limits to accommodate a gas main diversion, would result in an increase in temporary SPA land-take of 0.1ha. The conclusion drawn by the Applicant, with reference to stakeholder engagement, is that the small scale of this activity would not affect the findings of the SIAA. The final SoCG between the Applicant and NE reflects agreement on these points [REP8-022]. The ExA is satisfied that there are no additional implications for European sites of the Proposed Development when including the accepted changes.
- 6.6.10. No IPs disagreed with the findings of the SIAA in relation to habitat loss. The ExA considers that an adverse effect on integrity for all qualifying features of TBHSPA cannot be excluded due to habitat loss during construction.

Proposed Development in-combination

- 6.6.11. The SoCGs between the Applicant and NE submitted with the application and subsequently [APP-138, REP3-002, REP5-003 and REP8-022] state agreement with the findings of the assessment, that AEoI from the Proposed Development alone due to permanent and temporary habitat loss during construction could not be excluded.

Habitat degradation by changes in air quality

Proposed Development alone

- 6.6.12. The Applicant's assessment of impacts from changes in air quality is presented in section 7.2, paragraphs 7.2.25 to 7.2.52 of the SIAA [APP-044 and REP4-018]. The SoCG with NE submitted with the application [APP-138] stated that agreement had been reached and that AEoI from changes in air quality (during both construction and operation) could be excluded.
- 6.6.13. The SIAA [APP-043] provides the Applicant's assessment of the impacts resulting from increased nitrogen deposition from the Proposed Development. The assessment focusses on whether increased nitrogen

deposition will result in adverse effects on the habitats which support the SPA bird species. The SIAA states that total nitrogen deposition rates during operation are predicted to be below the current baseline levels, this is attributed to technological improvements and a predicted future trend of reduced vehicle emissions.

- 6.6.14. The ExA asked the Applicant to explain the certainty behind these assumptions in ExQ1 1.4.5. The Applicant's response [REP2-013] explains the source information on nitrogen deposition trends applied to the assessment, including the DEFRA Emissions Factors Toolkit, and the agreement reached with NE on the methodology applied. The Applicant provided a further response to ExQ2 2.1.2 [REP5-014] regarding the Government's emerging position on the sale of vehicles which emit nitrogen oxides (NO_x), stating that the conclusions of the SIAA remain unchanged. The final SoCG with NE reflects that NE agrees with the Applicant's approach [REP8-022].
- 6.6.15. Within its relevant representation [RR-024] the RHS asserts that operational air quality effects on TBHSPA had not been properly assessed and dispute that an AEoI from air quality effects due to operational traffic emissions can be excluded. Further representations were made by the RHS in this regard throughout the Examination (see following paragraphs for details) on specific matters related to the assessment methodology and interpretation with regards to AEoI. The ExA explored these issues through written questions and at ISH2 [EV-005d and EV-005e].
- 6.6.16. Woven into the RHS submissions is its opinion that the RHS alternative would result in reduced operational traffic emissions and therefore less harm to the TBHSPA. In response to ExQ4 4.4.16 [REP10-004] the Applicant provided calculations for nitrogen deposition within the SPA up to 200 metres comparing the Proposed Development with the RHS alternative. The Applicant's calculations showed a maximum difference of 0.2 kgN/ha/yr less nitrogen deposition 5m from the A3 for the RHS alternative, which it considered would not alter the conclusions of the SIAA. The RHS responded that it would not be able to provide any equivalent calculations [REP10-025]. Section 5.2 of this Report addresses the traffic and transport assessment, Section 5.3 addresses the AQA, and Section 6.7 of this Chapter addresses the issue of the alternative solutions test. The following sections address the information supporting the assessment of air quality effects on the TBHSPA from the Proposed Development, as applied to the AEoI test of the Habitats Regulations.
- i. Examination of the methodology used to determine nitrogen deposition effects – inclusion of NO_x concentrations
- 6.6.17. In its written representations [REP1-038, REP1-041, and REP1-042], the RHS expressed concern that the SIAA did not include values for NO_x concentrations and states that future NO_x and NO₂ projections used in the AQA in the ES were incorrectly calculated. The Applicant responded to these points in [REP2-014 and REP2-022] explaining its calculations in the ES.

- 6.6.18. The ExA explored the inclusion of NO_x concentrations through ExQ2 2.3.1 and 2.3.4 addressed to the Applicant and the RHS respectively. The Applicant's response in REP5-014 refers to its previously submitted justifications that the agreed methodology with NE did not require the inclusion of NO_x concentrations, nevertheless it provides NO_x screening information from the ES relevant to the SPA receptor points. At D3 [REP3-013] the RHS states its agreement regarding the future projections of NO_x.
- 6.6.19. The Applicant's response [REP5-014] and the SoCG between the Applicant and NE submitted at D5 [REP5-003] provide evidence that the methodology had been agreed, and had been based on DMRB LA105 air quality guidance, which does not require NO_x concentration changes screening but focuses instead on nitrogen deposition. In the final SoCG between the Applicant and NE [REP8-022], NE confirms that the effects of nitrogen deposition on habitats is the pertinent issue for any assessment of AEoI.
- ii. Examination of the methodology used to determine nitrogen deposition effects: inclusion of ammonia emissions
- 6.6.20. In REP1-041 and REP1-042 the RHS asserts that the SIAA should have included assessment of the contribution of increased ammonia concentrations from operational traffic. This matter was addressed by the Applicant [REP2-014 and REP3-009] with reference to its use of DMRB guidance and the DEFRA Emissions Toolkit which do not require the inclusion of ammonia. Despite this, the Applicant also provided an estimation of the outcomes if ammonia were taken into account by doubling the calculated nitrogen deposition rates, concluding that the outcomes of the assessment would not be affected. The ExA asked the Applicant in ExQ2 2.3.3 to explain how robust this estimation is. The Applicant responded [REP5-014] explaining its rationale that the emissions of ammonia are expected to be less than equal to that of oxidised nitrogen, therefore an assumption that ammonia is as much as equal was used as a precautionary worst-case.
- 6.6.21. The matter of whether it would be necessary to include ammonia emissions in the assessment was addressed at ISH2 where the RHS restated its position [REP3-043] and was explored through ExQ2 2.3.2. The RHS responded, continuing its contention that the nitrogen deposition effects for the SPA have been inadequately assessed, and submitted a report entitled 'Ammonia Emissions from Roads for Assessing Impacts on nitrogen-sensitive Habitats' (the NH₃ report) [REP5-049].
- 6.6.22. The RHS continued to make representations on the issue of ammonia until the end of the Examination [REP6-024, REP9-003 and REP10-025] both in terms of the need to include ammonia emissions in calculations of nitrogen deposition and in terms of the estimates provided by the Applicant as being incorrect.
- 6.6.23. In response to ExQ2 2.3.2 and 2.4.7 asking for NE's position on the importance of ammonia, NE responded in REP5-032 that it does not have

specific guidance or rationale regarding the assessment of ammonia for effects from motor vehicles, the Applicant has followed relevant guidance on the pollutants to assess relevant to the Proposed Development, and that it was satisfied that this matter had been addressed by the Applicant. NE states its satisfaction that the Applicant had demonstrated adequately that even with the inclusion of ammonia deposition, there is no likely significant effect on the habitat features supporting the qualifying features of the SPA.

- 6.6.24. The NH₃ report is a generic rather than scheme specific report that has been prepared by the RHS's air quality advisor and the need to consider NH₃ to the degree promoted on the RHS's behalf is not supported by guidance published by the Government, ie DEFRA, NE in its capacity as the Government's advisor or the IAQM at the time of the Applicant's assessment [REP11-015]. The ExA investigated the context of the information in terms of industry best practice through ExQ4 4.4.7 (to NE, the Applicant, and the RHS) to which the RHS responded by submitting a guidance document from the IAQM dated May 2020 which briefly references the NH₃ report [REP10-030], and Air Pollution Information System (APIS) guidance [REP10-027 and REP10-028]. The Applicant provided a response in REP11-007 acknowledging that traffic emissions include ammonia, a fact never disputed, but rejecting that the documents constitute guidance requiring its inclusion in the assessment of effects in this context. The guidance available from the sources above does not provide any prescriptive methodology for assessment of ammonia from road traffic emissions.
- 6.6.25. The ExA considers it to be relevant that neither DEFRA, NE nor the wider air quality practitioner community have published detailed guidance relating to the assessment of ammonia in this context. The ExA also considers it of note that the need or otherwise to undertake any particular assessment for ammonia is not contained in 'LA105 Air Quality' [REP3-020]. LA105 is the relevant document within the DMRB that concerns the assessment of air quality, including within designated habitats. The ExA established during the course of ISH2 that NE had been consulted on the content of LA105 prior to this part of the updated DMRB being published in November 2019.
- 6.6.26. Given the absence of extant guidance mandating any particular need to undertake an assessment for ammonia, the ExA considers that the RHS's air quality advisor's position on this matter is a minority one and is unpersuasive. Accordingly, it is the ExA's view that very little/limited weight should be attached to the RHS's Examination submissions concerning the adequacy or otherwise of the Applicant's and NE's consideration of the effects of ammonia emissions on the integrity of the TBHSPA. Given, that finding the ExA considers it unnecessary to make any further explicit reference to ammonia.
- iii. Examination of the methodology used to determine nitrogen deposition effects - nitrogen deposition velocities
- 6.6.27. In REP1-042 the RHS highlights that the SIAA had not applied the most up to date guidance from the IAQM on nitrogen deposition velocities

provided by the Air Quality Technical Advisory Group (AQTAG) to the air quality effects assessment. The Applicant's response [REP2-022] provides updated nitrogen deposition calculations and concludes that while the revised nitrogen deposition rates are higher, they remain below the current baseline and are not expected to affect heathland habitats given the spatial extent of impacts. The final, unsigned SoCG between the Applicant and the RHS [REP8-031] states agreement on the velocities used and the final SoCG with NE [REP8-022] states agreement has been reached on the conclusions of the SIAA in light of the updated nitrogen deposition rates.

iv. Examination of the interpretation of effects to the SPA - air quality effects on mature woodland

- 6.6.28. The TBHSPA has been designated under Article 4.1 of the Birds Directive because of the presence of breeding populations of Dartford warbler, European nightjar and woodlark (the SPA's qualifying features (QFs)). The QFs are all heathland birds and are found within the OWC SSSI component of the TBHSPA. The TBHSPA at this point primarily comprises a mixture of heathland and woodland, the latter consisting of deciduous and coniferous trees.
- 6.6.29. It is important to recognise that the SPA has been designated under the provisions of the Birds Directive because of the presence of the previously mentioned QFs. Unlike for SACs, within SPAs the habitat that supports the QFs is not subject to express protection under either the Habitats or Birds Directives, as transposed into UK law by the Habitats Regulations.
- 6.6.30. The Applicant's AQA in the SIAA demonstrates that there would be some increase of nitrogen deposition within the coniferous woodland areas of the SPA that adjoin the M25 and the A3, such that the critical load of nitrogen for detailed impact assessment within the coniferous woodland of 10kg per hectare per year (10kgN/ha/yr), as identified within APIS [REP3-030] would continue to be exceeded, for at least the time as vehicle fleets continue to be dominated by petrol or diesel fuelled vehicles. For dry heaths the APIS also identifies a critical load of 10kgN/ha/yr [REP3-030].
- 6.6.31. For the QFs of the TBHSPA the maximum critical load for nitrogen within coniferous woodland is 22.26kgN/ha/yr, while the critical load for these species in dry heaths is 13.58kgN/ha/yr, as identified within the APIS [REP3-046].
- 6.6.32. However, the Applicant's AQA in the SIAA also shows that the heathland areas of the SPA, in which all three of the QFs are present, would continue to be subject to a load of less than 10kgN/ha/yr. That is because the concentration of nitrogen deposition declines with distance from its source; the M25 and A3 in this instance. This would mean that the heathland habitat favoured by the QFs would be unaffected in air quality terms and would therefore continue to be available to each of the QFs to reside in. The Applicant concludes nitrogen deposition will not cause an adverse effect on the QFs of the TBHSPA, and the final SoCG

reflects agreement with NE in this regard. The Applicant sums up its position in REP11-007, and in its response to ExQ4 4.3.3 [REP10-004 and REP10-007], reiterating that the assessment results for all transect points within the SPA demonstrated operational nitrogen deposition rates lower than the current baseline.

- 6.6.33. The RHS disputes this interpretation of the assessment of air quality effects. However, it did not provide persuasive evidence to support its assertions that the assessment of nitrogen deposition is inadequate and that the TBHSPA will be adversely affected.
- 6.6.34. At D3 [REP3-043] and D6 [REP6-024] the RHS raised the matter of air quality effects on the woodland habitats nearest to the A3 and M25, and contended that the Applicant's approach did not correctly address the requirements of the Habitats Regulations in this regard. Further representations were submitted by RHS throughout the Examination. The themes of these representations were broadly that the woodland should be considered supporting habitat for the TBHSPA QFs and should be considered to be subject to the SPA conservation objectives.
- 6.6.35. The ExA explored this matter through ExQ2 2.4.7 part (d) [PD-010], to which NE provided a response [REP5-032]. NE also responded to ExQ4 4.4.11 on the specific function of the woodland. Importantly NE's consideration of the woodland immediately adjoining the M25 and the A3, is that its function is to provide a physical barrier between the supporting habitat of the SPA's QFs, ie the heathland, and the strategic highway network at this point. NE's stance can perhaps be more simply put as it looks upon the woodland adjoining the M25 and the A3 as a 'buffer' to create a physical separation between where vehicle emissions arise and the parts of the OWC SSSI component of the TBHSPA that are primarily inhabited by Dartford warbler, European nightjar and woodlark.
- 6.6.36. The final SoCG between the Applicant and NE specifies agreement that the woodland areas to be lost do not support the qualifying bird species. The Applicant sums up its position in REP11-007, referring to its response to ExQ4 4.4.13 in its commentary that the woodland is not supporting habitat for the TBHSPA QFs.
- 6.6.37. Late into the Examination the RHS again questioned the evidence provided by the Applicant in the SIAA and at D10 and D11, and that provided by NE and SWT in response to ExQ4 4.4.2 and 4.4.12. The RHS disagreed that the SPA bird species primarily rely on heathland habitats [REP11-038] and argued that the woodland is also supporting habitat. This is refuted by the Applicant [REP12-024] with reference to the bird surveys carried out and references to the previous evidence provided by the relevant parties. The information presented by the RHS is put forward as evidence aiming to establish the woodland buffer as being of key importance to the SPA bird species, in order to add weight to its argument that any air quality effects on this woodland would result in an AEoI. The ExA is not persuaded by this information and is satisfied by the evidence in the SIAA and from NE, SWT, and the RSPB regarding the

heathland as the supporting habitat of the QFs and the buffer function of the mature woodland adjacent to the M25 and A3.

- 6.6.38. In its D12 representation [REP12-024] the Applicant summarises its position with respect to the application of the conservation objectives to the mature woodland (the 'buffer'), with reference to NE guidance, submitted as REP5-034, and to its explanation of relevance of 'the Compton Case' [REP3-009].
- 6.6.39. Accordingly, with regard to the matter of nitrogen deposition within the SPA the ExA considers that there is sufficient information available to the SoST to undertake an appropriate assessment, and in exercise of this duty under Regulation 63(5) of the Habitats Regulations, the SoST could reach a conclusion that the Proposed Development would not have an adverse effect on the SPA's integrity. The ExA considers that its views in this regard are consistent with the matter covered by issue 8 (the air quality impact of the allocation at the former Wisley airfield) in the High Court's judgement concerning Compton Parish Council and Others v Guildford Borough Council and the SoS Housing, Communities and Local Government [2019] EWHC 3242 (Admin) (the Compton judgement) [REP2-053].
- 6.6.40. The Compton judgement concerns the adoption of the Guildford Local Plan 2019 and is of direct relevance to any air quality implications for the TBHSPA that would arise from the Proposed Development because of the former Wisley airfield's immediate proximity to the OWC SSSI component of the SPA. At paragraph 207 of the judgement the judge stated:
- "It is perfectly clear, in my judgment, that Guildford BC, whose task it was to undertake the HRA, did consider whether significant adverse effects were likely from the development proposed in the Local Plan; it then undertook an appropriate assessment to see whether there would be no adverse effect on the SPA. That could not be answered, one way or the other, by simply considering whether there were exceedances of critical loads or levels, albeit rather lower than currently. What was required was an assessment of the significance of the exceedances for the SPA birds and their habitats. Guildford BC did not just treat reductions in the baseline emissions or the fact that with Plan development, emissions would still be much lower than at present, as showing that there would be no adverse effect from the Plan development. The absence of adverse effect was established by reference to where the exceedances of NOx and nitrogen deposition would occur, albeit reduced, and a survey based understanding of how significant those areas were for foraging and nesting by the SPA birds. The approach and conclusion show no error by reference to the Regulations or CJEU jurisprudence. I have set out the 2019 HRAs at some length. The judgment is one for the decision-maker, as to whether it is satisfied that the plan would not adversely affect the integrity of the site concerned; the assessment must be appropriate to the task..."* (Emphasis/underlining added by the ExA).
- 6.6.41. It is clear from the extract of the Compton judgement quoted above that what needs to be considered when undertaking an appropriate

assessment of the type concerned, is the significance of the effect on QFs and their habitats. The ExA is therefore content that the increase in nitrogen load within the woodland of the SPA would have no direct bearing on the wellbeing of either the QFs or their heathland habitat and therefore is not likely to result in AEoI to the TBHSPA.

v. Examination of interpretation of effects to the SPA – invertebrate prey resource

- 6.6.42. In addition to the matter of the woodland as supporting habitat for the QFs the RHS has sought to argue, notwithstanding the absence of an exceedance of the critical load for nitrogen within the heathland element of the SPA, that there would be an AEoI due to the elevated levels of nitrogen within the woodland of the SPA affecting the invertebrates prey resource of the QFs.
- 6.6.43. The ExA considers it is of particular note that the area of the heathland within the OWC SSSI component of the SPA has in recent years, as a consequence of active land management sanctioned by NE, been increased from 29 to 78 hectares through the clearance of woodland [REP4-018] and that has resulted in an increase in the presence of the QFs. The rise in the presence of the QFs appears to be directly linked to the expansion of the heathland area. In turn that suggests there is little or no dependence on the woodland in this area as a source of food for what are heathland bird species.
- 6.6.44. In its response to ExQ4 4.4.13 [REP10-004] and its comments [REP11-007] on the RHS response to ExQ 4.4.13 [REP10-025] the Applicant provides evidence that the invertebrate assemblage will not be significantly altered by the changes in nitrogen deposition. The feeding preferences and sensitivity to changes in the invertebrate resource of the TBHSPA QFs was explored by the ExA under ExQ4 4.4.2 to NE and the SWT, to which they responded in REP10-016 and REP10-017 respectively, with species information and evidence that overall abundance of invertebrates is likely to be of most importance. The final SoCG between the Applicant and NE specifies agreement that the woodland buffer may contribute to the invertebrate resource but that the predicted air quality changes will not lead to a substantial enough change to this resource as to affect the qualifying bird species of the TBHSPA.
- 6.6.45. On the evidence available to it, the ExA is not persuaded that the predicted increase in nitrogen deposition within the woodland component of the SPA would have an AEoI of the TBHSPA.

vi. Examination of interpretation of effects to the TBHSPA – heathland restoration

- 6.6.46. The RHS also sought to argue [REP1-043 and REP3-044] that the air quality effects of the Proposed Development would prevent future restoration of the mature woodland adjacent to the M25 and A3 to heathland, and that air quality effects on woodland restored to heathland had not been considered. The ExA explored these matters through ExQ2 2.4.7d to NE, SWT and SCC. NE was the only IP to respond, stating

that the achievement of favourable condition for the OWC SSSI component of the TBHSPA is dependent on the improvement of the conditions of the existing heathland and not the expansion of heathland through large-scale felling of woodland [REP5-032].

- 6.6.47. The ExA explored the matter further through ExQ3 3.4.1 to the RHS and 3.8.2 to the Applicant asking for their comments, and the implications for the SPA MMP. The responses received highlighted the importance of distinguishing between the areas of woodland thinning to be undertaken under the SPA MMP, and the areas of mature woodland that would be retained under the Proposed Development. In its response to ExQ4 4.4.5 [REP10-016] NE explain that in the event (currently not foreseen) of a decision made to replace the existing woodland buffer with heathland or another habitat, nutrient levels would be a consideration but would not prevent this from being achieved.
- 6.6.48. Given the evidence the ExA is satisfied that there is a distinction between the woodland 'buffer' and the areas proposed for enhancement under the SPA MMP, and that changes in air quality would not undermine the success of future heathland restoration.

Proposed Development In-combination

- 6.6.49. Evidence was presented in the submitted SoCG between the Applicant and NE [APP-138] regarding an ongoing discussion in relation to the inclusion of the proposed Heathrow Expansion in the in-combination assessment of air quality effects. The ExA explored this through ExQ1 1.4.2, to which NE provided a response [REP2-034] that agreement had been reached to exclude the proposed Heathrow Expansion from the in-combination traffic effects assessment due to the information available about the commitments made under this proposal to avoid net increase in vehicle movements, and that NE was satisfied with the in-combination assessment [REP2-034]. The SoCG submitted at Deadline 3 [REP3-002] confirms NE's satisfaction with the approach taken and this remains the case in the final SoCG [REP8-022].
- 6.6.50. The RHS made a number of representations [REP1-041, REP3-050, and REP9-013] attesting that it does not consider the in-combination assessment with respect to air quality effects to be adequate. The Applicant responded [REP2-022, REP4-005, and REP10-004] addressing the points made, which included an explanation that the traffic modelling on which the air quality effects assessment is based incorporates effects from other plans and projects, including the RHS's own expansion plans. This matter remains in dispute and is recorded as such in the final, unsigned SoCG between the parties [REP8-031].
- 6.6.51. The final SoCG between the Applicant and NE [REP8-022] states agreement on the methodology and outcomes of the in-combination assessment. The ExA is satisfied that the information presented on the in-combination assessment of air quality effects is adequate to inform an appropriate assessment.

Habitat degradation by changes in water quality

Proposed Development alone

- 6.6.52. The assessment is presented in section 7.2, paragraphs 7.2.53 to 7.2.66 of the SIAA [APP-044 and REP4-018]. The SoCG with NE submitted with the application [APP-138] stated that agreement had been reached regarding the absence of any AEoI from changes in water quality. The assessment places reliance on embedded mitigation measures to avoid risks to surface water and ground water, including measures specifically aimed at the protection of Bolder Mere SSSI which lies within the TBHSPA.
- 6.6.53. In its relevant representation [RR-011], the EA refers to the mitigation strategy and matters under discussion with the Applicant. The ExA explored this matter through ExQ1 1.4.17. In response the Applicant provided information [REP2-013] and at D3 the EA provided a response [REP3-026] stating agreement with the mitigation measures and that it considered them to be adequately secured. The SoCG with the EA submitted at Deadline 5 [REP5-004] provides a record of discussions held and sets out the position of the parties with respect to Bolder Mere in Section 3.3. The SoCG states agreement with the package of mitigation and its mechanism for delivery, subject to matters to be agreed at the detailed design stage. This remains the case in the final SoCG [REP8-023].

Proposed Development In-combination

- 6.6.54. The SoCGs between the Applicant and NE submitted with the application and subsequently state agreement with the findings of the assessment, that AEoI from the Proposed Development alone and in-combination from changes in water quality can be excluded.
- 6.6.55. The ExA is satisfied that, subject to the mitigation measures proposed, no AEoI of TBHSPA will occur from changes in water quality.

Habitat degradation from the spread of Invasive Non-Native Plant Species (INNS)

Proposed Development alone

- 6.6.56. The assessment is presented in section 7.2, paragraphs 7.2.119 to 7.2.120 of the SIAA [APP-044 and REP4-018].
- 6.6.57. In response to ExQ1 1.4.1 the Applicant stated that AEoI from the spread of INNS during construction were excluded due to the mitigation measures to be secured in the approved CEMP and final REAC which will form part of the CEMP. Specifically, the relevant mitigation measure is the proposed Precautionary Method for Working which is to be delivered through the approved CEMP as set out in dDCO R3 [REP12-002]. The SoCG with NE submitted with the application [APP-138] and the final SoCG submitted at D8 [REP8-022] state agreement that AEoI from the spread of INNS can be excluded. No concerns were raised on this matter

by other IPs and the ExA is satisfied that, subject to the implementation of the mitigation measures as secured, AEoI from the spread of INNS can be excluded.

Proposed Development In-combination

- 6.6.58. The SoCGs between the Applicant and NE submitted at application and subsequently state agreement with the findings of the assessment, that AEoI from the Proposed Development alone and in-combination from spread of INNS can be excluded.
- 6.6.59. The ExA is satisfied that, subject to the mitigation measures proposed, no AEoI of TBHSPA will occur from the spread of INNS.

Disturbance by changes in noise, recreational use and lighting.

Proposed Development alone

- 6.6.60. The Applicant's assessment is presented in section 7.2, paragraphs 7.2.67 to 7.2.118 of the SIAA [APP-044 and REP4-018]. The SoCG with NE submitted with the application [APP-138] stated that agreement had been reached and that AEoI from disturbance from noise, lighting, and recreation could be excluded.
- 6.6.61. The ExA asked the Applicant in ExQ1 1.4.15 [PD-006] to confirm the parameters applicable to the proposed lighting features and environmental barriers used in the assessment of lighting and noise disturbance effects on SPA qualifying features. The Applicant provided a response [REP2-013] which describes the parameters and design assumptions applied to these elements for the purposes of assessment. The embedded mitigation measures are stated as secured by the OCEMP [AS-016], and subsequently updated to [REP8-018].
- 6.6.62. The ExA explored the provision of the green bridge element as part of the proposed Cockcrow bridge through ExQ1 1.4.4 and 1.4.32 [PD-006] as mitigation for recreational disturbance effects. The Applicant confirmed [REP2-013] that the green element is not required to mitigate any effects of the Proposed Development on the TBHSPA, and if this element were not included the conclusions of the SIAA would be unchanged.
- 6.6.63. In REP2-014 and REP4-007 the Applicant stated that recreational activity in the heathland of the SPA was not anticipated to increase as a result of the Proposed Development. From the Applicant's assessment [REP4-018] this is based on mitigation to be adopted during construction to avoid construction works from increasing visitor pressure on the SPA, and that the operational Proposed Development will not increase provision for public accessibility within the heathland habitats and therefore is not expected to increase visitor numbers within the areas which support the QFs. The ExA invited further justification and a plan of public access points to the SPA at ExQ2, 2.4.12. The Applicant provided a response in REP5-014 detailing the public access to be provided under the Proposed

Development, stating that the overall number of access points into the SPA would be reduced while existing NMU access to areas within the woodland fringe of the SPA would be replaced and improved. In the SoCG with NE submitted at D5, and subsequently included in the final SoCG [REP8-022], NE is recorded as being in agreement with the Applicant that no AEoI would result from recreational disturbance as a result of the Proposed Development.

- 6.6.64. The matter of the implications for the SPA of a reduction in the RL provision from that proposed in the application documents was explored within CAH1 (Session 2, Part 3, held on the 17 June 2020). In its written case following CAH1 [REP11-006] the Applicant states that its choice of RL provision was not confused with the identification of mitigation for TBHSPA. In response to Action Point 4 raised at CAH1, within Section 8 of REP11-011 the Applicant provided more detail on the relationship between biodiversity mitigation and RL. The Applicant does not make reference to the SIAA [REP4-018] but does state that the RL has not been considered in the residual effects on the SPA assessed in the ES.
- 6.6.65. A further request for comment on this matter was made within the ExA's request for further information in July 2020 [PD-023]. The Applicant responded to the ExA's request [REP12-021] but did not provide any further information on the implications for the TBHSPA. In its response to REP12-021, SWT stated that visitors being attracted to the RL may lead to decreased disturbance to TBHSPA bird species and put forward a preference for the ratios proposed by the Applicant with the application. No other comments on the matter of recreational disturbance were submitted to the examination in response. The matter of the RL reduction options is explored further in Chapter 8 of this Report.
- 6.6.66. In light of the information available, the ExA is satisfied that aside from perceived benefits of the RL in attracting visitors who may otherwise place recreational pressure on the SPA, the Applicant's assessment in the SIAA [REP4-018] did not place any reliance on the RL provision proposed in order to reason that there would be no AEoI as a result of increased disturbance to QFs from increased recreational activity within TBHSPA. Therefore, we conclude that a reduction in the provision of RL would not alter this finding.

Proposed Development in-combination

- 6.6.67. The SoCGs between the Applicant and NE submitted at application and subsequently state agreement with the findings of the assessment, that AEoI from the Proposed Development alone and in-combination from noise, lighting, and recreational disturbance can be excluded.
- 6.6.68. The ExA is satisfied that, subject to the mitigation measures proposed, no AEoI of TBHSPA will occur from the disturbance due to noise, lighting, and increased recreational pressure.

Outcomes regarding AEoI

- 6.6.69. The Applicant's SIAA has concluded that AEoI on the QFs of TBHSPA (breeding Dartford Warbler, European nightjar and woodlark) cannot be excluded in relation to construction habitat loss (both permanent and temporary) from the Proposed Development alone. The SIAA concludes that AEoI will not arise from habitat degradation by changes in air quality, water quality, the spread of non-native invasive plant species, disturbance by changes in noise, recreational use and/or lighting.
- 6.6.70. NE states in its final SoCG with the Applicant that it is in agreement with the conclusions of the SIAA. The Applicant's conclusions in this respect were not disputed by any IPs during the course of the Examination, with the exception of operational air quality effects which were disputed by the RHS.
- 6.6.71. Embedded within the RHS's concerns about the adequacy of the Proposed Development's effect on the TBHSPA is a contention that the SIAA [REP4-018] is deficient because the RHS alternative has not, in its opinion, been adequately assessed. This is addressed in Section 6.7 of this Report.
- 6.6.72. The findings of the Examination are that an AEoI on all qualifying features of TBHSPA from habitat loss from the Proposed Development alone cannot be excluded. Whereas, an AEoI from the Proposed Development when considered alone or in-combination with other plans or projects can be excluded from: habitat degradation by changes in air quality, water quality, and spread of non-native invasive plant species; and disturbance from changes in noise, recreational use and lighting.
- 6.6.73. If the competent authority cannot conclude the absence of an AEoI, such that no reasonable scientific doubt remains, then under the Habitats Regulations the project can proceed only if there are no alternative solutions and there are imperative reasons of overriding public interest (IROPI) why the project must be carried out. Suitable compensation measures must also be secured to ensure the overall coherence of the Natura 2000 network.
- 6.6.74. The Applicant has submitted an assessment of alternative solutions, a case for IROPI, and proposed compensation measures, and this information is provided in APP-044. These matters are discussed in Sections 6.7, 6.8, and 6.9.

6.7. CONSIDERATION OF ALTERNATIVES

- 6.7.1. The Applicant's assessment of alternatives, including the 'Do-Nothing Scenario' and of alternative solutions to deliver the objectives of the Proposed Development is presented in APP-044 and updated in REP4-014. In its relevant representation [RR-020] NE stated that it considered the assessment of alternatives to be properly considered and this position is again reflected in the SoCG submitted at D5 [REP5-003]. The RSPB also commented in its representation at D1 [REP1-045] that it considered alternative scheme designs to be fully assessed but

highlighted the need for the absence of alternative solutions to be tested by the competent authority.

- 6.7.2. The ExA explored the assessment of alternatives and the role played by cost considerations through ExQ2 2.4.9 [PD-010] and at ISH2 [EV-005a to EV-005d], and the Applicant's response is presented in [REP5-014] stating that cost considerations were not the sole consideration of the assessment and not the primary reason for the selection of alternatives.
- 6.7.3. The RHS has made representations throughout the Examination regarding the RHS alternative which it describes in REP1-044 and REP3-049. It presents an argument that this scheme represents a less damaging alternative to the Proposed Development with respect to operational air quality effects on the SPA, due to the difference in the distribution of traffic resulting in an appreciable reduction in nitrogen deposition within the areas of woodland that form part of the SPA that immediately adjoin the M25 and the A3 (see Paragraph 6.6.16, above).
- 6.7.4. It also argues that the RHS alternative was not adequately assessed by the Applicant. In its written submission of case provided at ISH2 [REP3-009] the Applicant states in response to the RHS representations that the RHS alternative was considered as part of the option selection process. Information on this matter is also available in the Applicant's response to the ExA's ExQ2 2.13.10 and 2.13.19 [REP5-014].
- 6.7.5. Within this document and within [REP4-005] the Applicant also provides consideration of the RHS alternative as a feasible alternative solution with regard to the requirements of the Habitats Regulations. Further information on this matter is available in the Applicant's responses to ExQ2 2.13.14, 2.13.15, and 2.13.18 [REP5-014 and REP10-004] in response to the ExAQ4 4.4.1. The RHS returns to this matter in its deadline 10 submission [REP10-025] and these have been considered alongside the Applicant's responses [REP11-007]. The ongoing dispute regarding this matter is recorded in the final, unsigned SoCG between the parties [REP8-031].
- 6.7.6. Alternatives must be financially, legally, and technically feasible to constitute an alternative solution. The Applicant throughout the Examination has maintained its resistance to the inclusion of the RHS alternative, not least because it would require the use of third party land and entail costs in excess of the budget that has been allocated for this scheme as part of the RIS. As reported in Section 5.2, the Examination evidence is that the RHS alternative only amounts to a variant upon the submitted Proposed Development and is not currently a stand-alone proposal at any stage in the planning process. It would also only affect the southern part of the scheme for which consent is being sought by the Applicant.
- 6.7.7. Evidence has also been submitted by the Applicant and other parties during the Examination around the feasibility of the RHS alternative, including on the safety aspects of the access from the RHS site to the A3 and the provision of south facing slip roads at the OPJ. These matters are

discussed in Section 5.2 of this Report. In the ExA's opinion the RHS alternative would not deliver appreciable benefits in traffic and transportation terms, and in highway safety terms it would not be a viable alternative to the scheme that comprises the Proposed Development.

- 6.7.8. The ExA therefore considers that the RHS alternative has not been demonstrated to be compliant with relevant safety standards, is not a financially and legally robust alternative proposal in its own right, and therefore does not constitute an alternative solution to the objectives of the Proposed Development.
- 6.7.9. The Applicant has made it clear that it has no intention of amending the submitted application to accommodate the RHS alternative and contends that should the Secretary of State be of the view that there is a need for the RHS alternative to be included within the scheme then development consent for the submitted scheme should be withheld.

6.8. IMPERATIVE REASONS OF OVERRIDING PUBLIC INTEREST (IROPI)

- 6.8.1. The Applicant's case for IROPI under the HRA process is presented in APP-044. Paragraphs 4.4.1 to 4.4.21 set out the Applicant's reasoning that there is an imperative need for the Proposed Development, with reference to historic congestion, severance, supporting strategic economic development and safety issues at the junction and to the NPSNN and to the RIS. Paragraphs 4.4.22 to 4.4.27 of APP-044 set out the case that the reasons are overriding. The case for Development Consent is set out in Chapter 7 of this Report.
- 6.8.2. The Applicant puts forward that while AEoI of TBHSPA cannot be excluded beyond scientific doubt, no loss of nesting, roosting, or breeding territories of any of the three qualifying bird species is predicted and TBHSPA land lost will be restored. The Applicant states that the predicted benefits of the proposals override the harm to the TBHSPA. Paragraphs 4.4.28 to 4.4.30 of REP4-015 summarise the predicted benefits to traffic, severance effects, road safety, and economic growth arising from the Proposed Development, and conclude that it is in the long-term public interest. The Applicant also explains that it considers that the Proposed Development will offer beneficial consequences of primary importance to the environment.
- 6.8.3. The RSPB provided comment [REP1-045 and REP3-060] on the case presented for IROPI, including disagreement that the reported economic benefits of the Proposed Development form a significant part of the case given. The RSPB also disagrees that the Proposed Development offers beneficial consequences of primary importance to the environment and highlights the sequential nature of the derogation tests under the Habitats Regulations, notably the need to discount proposed compensation measures from the consideration of environmental benefits. The RSPB also raises the need to consider whether the reasons presented; ie improvements to journey times, safety, economic growth,

and accessibility to non-motorised users, will themselves result in impacts to the SPA. Taking this final point, the ExA considers that the potential impacts of these matters have been considered in the assessment.

- 6.8.4. The Applicant responded to the comments from the RSPB in REP2-014 and REP4-007. From these responses it is apparent that of all the matters taken into account in the case for IROPI no single matter makes the case on its own, including economic growth. The Applicant refers to the assessment in the ES and the overall benefits of the proposed RL and green bridge to biodiversity and the TBHSPA, but states that compensation measures were not taken into account in the case presented for IROPI, and that the derogation tests were considered sequentially. The matter of the RL and the reliance placed on it, and the green bridge element of the Cockcrow overbridge to reach the conclusions of the biodiversity assessment is addressed in Section 5.5, and above in Section 6.6 in relation to the assessment of effects on the TBHSPA.
- 6.8.5. With respect to the case for IROPI, the Proposed Development will not affect any priority habitats or species (as identified in Annex 1 and 2 of the Habitats Directive) [APP-040], a fact undisputed by any party, and therefore the IROPI is not restricted to reasons of human health, public safety or beneficial consequences of primary importance to the environment. Therefore, the ExA has not considered this matter further when considering the case for IROPI.
- 6.8.6. An RR was also received from Wisley Action Group [RR-029] regarding the reliance on improvement in journey times for IROPI, to which the Applicant responds in REP1-009, drawing attention to the other matters considered in the case for IROPI.
- 6.8.7. The final SoCG between the Applicant and NE submitted at D8 [REP8-022] records agreement that an assessment of IROPI was required and records agreement that NE has been consulted on the basis of evidence presented. NE is in agreement that strong grounds exist for the SoST to conclude that there are IROPI for the Proposed Development.
- 6.8.8. As identified in Chapter 5, the RIS identifies improvements to M25 junction 10 and the A3 interchange as a key investment for the South East region. The case for Development Consent is set out in Chapter 7 of this Report and concludes that the Proposed Development is in accordance with the NPSNN. Taking into account the policy context, the identification of the M25 and A3 interchange in the RIS, and the information surrounding historic issues of congestion, safety, and severance (both ecological and human), together with the economic benefits of the Proposed Development, the ExA is of the opinion that IROPI for the Proposed Development could be established.

6.9. COMPENSATORY MEASURES

6.9.1. As a result of the findings in relation to habitat loss effects resulting from the permanent land take of 5.9 ha and temporary land take of 8.7 ha from within the SPA, the Applicant presents a proposed package of compensation measures in section 5 of APP-044. These measures are to be implemented in accordance with its submitted SPA MMP [AS-015] under R8 of the dDCO [REP12-002]. The package comprises a suite of enhancement measures to be applied to 47.4 ha of land within the existing SPA boundary, and two new areas of habitat creation to be designated as part of the SPA (amounting to an approximate 1:1 ratio of replacement for the permanent loss). These areas are referred to in REP4-014 as the C1 Old Lane SPA compensation land and the C2 Wisley SPA compensation land.

6.9.2. The ExA questioned the Applicant and NE about the process under which the areas of SPA compensation land would become designated as part of the TBHSPA (ExQ1 1.4.24). The Applicant [REP2-013] and NE [REP2-034] responded on their expectations that the compensation land would be notified to the European Commission by the SoST as part of their duties as competent authority. NE added that the land would normally in practice be automatically treated as SPA regardless of formal designation, but concluding that ultimately the European Commission holds responsibility for the formal decision. The ExA anticipates that following UK exit from the EU, it will be the UK authority which assumes this function of the European Commission that makes the decision. The requirement that sites identified as compensatory measures should be afforded the same protection as designated European sites is set out in the NPPF (paragraph 176).

Additionality

6.9.3. The ExA explored the existing management plans for TBHSPA in order to establish whether the compensation and enhancement measures proposed under the dDCO could be considered in addition to normal practice ExQ1 1.4.9 [PD-006]. In response the Applicant confirmed it considers the works to be additional to normal practice [REP2-013]. NE also provided a response in REP2-034 confirming that the proposed measures are outside of existing management plans and legal agreements relevant to the OWC SSSI component, and this position is reflected in the final SoCG with NE [REP8-022]. SCC, who owns the existing TBHSPA land which is managed by SWT on its behalf, responded [REP2-045] stating that the compensation and enhancement measures proposed are at a larger scale and proposed over a shorter time period than normal planned management activities for the land. Given these responses, the ExA is satisfied that the compensation package is additional to normal practice.

6.9.4. Very late in the Examination, the RHS drew this matter into question [REP11-037 and REP11-038] with reference to supporting information produced by Baker Consultants submitted with its response [REP11-042 to REP11-046] which largely comprises a comparison of the compensation package with the SWT existing management plans. The

Applicant's response in REP12-024 highlights the development of the measures in consultation with key stakeholders and addresses the points made. SWT responded to this at D12 [REP12-043] repeating the points made and confirming that the compensation measures proposed under the dDCO are in addition to the works undertaken or planned within its management plans. The evidence before the Examination is that this late matter raised by the RHS is not supported by the evidence provided by the Applicant, NE, and SWT, and we remain satisfied that the additionality test has been met.

Project design development and changes

- 6.9.5. The Applicant clarified its position regarding flexibility of the compensation package, stating that the package would remain as described in the SPA MMP even if a reduced land-take from the SPA is possible at the detailed design stage of the Proposed Development [REP2-013].
- 6.9.6. We are satisfied that the accepted changes to the Proposed Development (Paragraph 6.2.6 above) do not affect the land identified as SPA compensation land and do not result in any changes to the Applicant's compensation package, as they do not have any implications for the conclusions of the SIAA (see Paragraph 6.6.9 above).
- 6.9.7. As noted above the matter of the implications for the SPA of a reduction in the RL provision was explored within CAH1 (Session 2, Part 3, held on the 17 June 2020). In its written case [REP11-006] and within section 8 of REP11-011 the Applicant explains that the RL does not form part of the compensatory measures for the SPA. A further request for comment on this matter was made [PD-023] which did not elicit any evidence contrary to this assertion. The ExA is satisfied that any reduction in RL reduction would not alter the compensation package for TBHSPA included within the Proposed Development. The matter of the RL reduction options is explored further in Chapter 8 of this Report.

Timing, feasibility, and appropriateness of the compensation package

- 6.9.8. In ExQ1 [PD-006] the ExA questioned the Applicant and other relevant parties on the timing, feasibility of delivery, and appropriateness of the compensation package.
- 6.9.9. The Applicant stated in its response to ExQ1 1.4.6 [REP2-013] that the TBHSPA compensation and enhancement works will have 'begun' prior to construction and will continue throughout the construction period under a phased programme of works as set out in the SPA MMP. The SoCG with NE at Deadline 3 [REP3-002] confirms that the meaning of 'begun' is agreed as set out in the dDCO [APP-018] and requires that, as a minimum, preparatory work activities for the compensation and enhancement works have commenced prior to construction. This position remains agreed in the final SoCG between NE and the Applicant and is secured under R8 of the dDCO [REP12-002].

- 6.9.10. The ExA in ExQ1 1.4.33 asked the relevant local authorities, NE, the RSPB and SWT to comment on their satisfaction with the proposals. Responses were provided at D2 with NE stating agreement with the objectives and principles in the SPA MMP [REP2-034] and was advising the Applicant regarding the details of management, and estimation of the funding required in the long-term. Discussions continued throughout Examination and the final SoCG between the Applicant and NE [REP8-022] records agreement that these aspects will be managed via a steering group and satisfaction that the secured SPA MMP will allow for adaptive long-term management.
- 6.9.11. In its D1 WR [REP1-018] SCC raised some concerns around thinning of woodland under the proposed enhancement measures leading to increased wind throw. However, in response to ExQ1 SCC indicated broad satisfaction with the compensation package. Discussions between parties continued throughout the Examination period and in the final SoCG submitted at D12 [REP12-008] SCC and the Applicant are recorded as being in agreement on the adequacy of the measures and that the SPA MMP is a suitable framework for future management and monitoring. A side agreement is proposed between the parties for the purposes of agreeing future maintenance and monitoring. However, as agreed in the final SoCG with SCC, the non-completion of this side agreement would not affect the management and monitoring measures from being carried out. Such measures are secured in the dDCO [REP12-002] and would need to be undertaken by the Applicant or its contractors if the side agreement could not be concluded.
- 6.9.12. The RSPB had stated satisfaction with the nature and scale of the measures proposed in its response to ExQ1 [REP2-050]. However, it raised matters of concern around the proposed duration of the long-term TBHSPA bird monitoring proposals and the details of management activities. Monitoring of the compensation measures is discussed below.
- 6.9.13. The RHS asserted that the likely success of the compensation package was uncertain, in the context of changes to air quality [REP11-037]. Just prior to the end of Examination, the RHS repeated this argument in REP12-057. The ExA has considered the Applicant's response [REP12-024] and to SWT comments [REP12-043] stating that it is convinced. based on its experience managing OWC SSSI, that the compensation proposed under the dDCO will realise benefits for the TBHSPA bird species. The final SoCG between the Applicant and NE records agreement that the proposed long-term provision of works and monitoring targets will allow for adaptive management to ensure the viability of the newly created heathland. The evidence suggests that the compensation package has been subject to robust consultation with NE and other key stakeholders and that the proposals under the SPA MMP have a high degree of certainty of success in achieving their aims. Furthermore, there is no persuasive evidence that the Proposed Development will result in significant changes in air quality (see Section 6.6 of this Report). The ExA is satisfied that the compensation package as proposed is feasible and appropriate.

Efficacy of the compensation measures and monitoring

- 6.9.14. In response to RRs and other representations we sought to establish relevant stakeholder views on the mechanisms for monitoring success of the compensation measures (ExQ1 1.4.25 and 1.4.27) and again at ExQ2, ExQ3, and ExQ4. In addition, we explored the plans for long-term funding of the measures described in the Applicant's HRA Report and the SPA MMP (ExQ1 1.4.26).
- 6.9.15. In light of issues raised in the RR made by NE we asked the Applicant and NE in ExQ1 1.4.11 [PD-006] to provide an update on the level of agreement reached regarding the details of monitoring and management of the compensation measures, reinstatement of temporary land-take, and drainage design. In their responses the Applicant [REP2-013] and NE [REP2-034] stated that discussions were ongoing, but that resolution was likely. We continued to explore the theme of monitoring with the relevant parties via ExQ2, specifically regarding that set out in Table 7.11.1 of the SPA MMP [AS-015, updated to REP4-031] related to monitoring of the SPA bird species and invertebrates (ExQ2 2.4.3). NE responded at D5 [REP5-032] that it was satisfied, and this is reflected in the final SoCG [REP8-022].
- 6.9.16. In response to the same question, SCC, GBC, and EBC state their satisfaction but defer to NE and the RSPB. In response, the RSPB raises outstanding concerns around the frequency of bird population monitoring, duration of habitat monitoring, the agreements post-consent, as well as the provisions of long-term funding and arrangements for the steering group [REP5-043 and REP7-028]. The ExA raised specific queries in ExQ3 (3.3.4 and 3.4.5) to the Applicant, requesting an update on progress of discussions of the detailed management and monitoring plans with SCC and the SWT and the arrangements for the steering group. The Applicant responded to the RSPB directly in REP8-013 and REP8-046 stating that the SPA MMP provides an adequate framework for agreement of the relevant details. It also refers to its responses to ExQ3 [REP7-004] which set out the anticipated agreements to be reached.
- 6.9.17. RSPB's D10 submission [REP10-020] continued to raise these concerns to which the Applicant provided a response at D11 [REP11-007], setting out its position and its response to ExQ4 4.1.3 [REP10-008]. In this response the Applicant confirms commitment to funding of the measures within the SPA MMP. It also sets out the mechanisms and the progress so far on agreements with SCC and SWT on the compensation and enhancement works, and confirms that the dDCO provides for the rights to enter land owned by the RHS in order to undertake the compensation and enhancement measures.
- 6.9.18. In light of the discussion and the responses from the RSPB, Applicant, and NE, the ExA is satisfied that the outline proposals secured by R8 of the dDCO [REP12-002] would ensure an appropriate mechanism for agreement of the details of the TBHSPA compensatory habitat creation and enhancement measures and will be subject to approval by the SoST following consultation with NE, SWT who manage the TBHSPA land, and SCC as a land owner.

6.10. HRA CONCLUSIONS

- 6.10.1. The Proposed Development is not directly connected with, or necessary to, the management of a European site, and therefore the implications of the project with respect to adverse effects on potentially affected sites must be assessed by the SoST.
- 6.10.2. Three European Sites and qualifying features were considered in the Applicant's assessment of LSE: TBHSPA; Mole Gap to Reigate Escarpment SAC; and Ebernoe Common SAC.
- 6.10.3. LSE were excluded for Mole Gap to Reigate Escarpment SAC; and Ebernoe Common SAC both from the Proposed Development alone and in-combination with other plans or projects. LSE from the Proposed Development alone on TBHSPA were identified in relation to habitat loss, habitat degradation (due to changes in air quality, water quality and the spread of INNS), and disturbance (due to noise, recreation, and lighting).
- 6.10.4. The ExA is satisfied that the correct European sites and qualifying features have been identified for the purposes of assessment, and that all potential impacts which could give rise to significant effects have been identified.
- 6.10.5. The ExA's findings are that, subject to the mitigation measures to be secured in the dDCO, AEoI on TBHSPA from the Proposed Development when considered alone or in-combination with other plans or projects can be excluded from: habitat degradation by changes in air quality, water quality, and spread of INNS; and disturbance from changes in noise, recreational use and lighting. However, AEoI on all qualifying features of TBHSPA from habitat loss from the Proposed Development alone cannot be excluded.
- 6.10.6. The Applicant has submitted an assessment of alternative solutions, a case for IROPI, and proposed compensation measures. The subjects of alternative solutions, IROPI, and compensation were given substantial consideration during Examination. The ExA is satisfied that no feasible alternative solution exists that would represent a lesser adverse effect to the Proposed Development. The findings of the Examination are that the compensation package as proposed is feasible and appropriate and is adequately secured in the dDCO. Given the evidence available, with regards to the case for IROPI the ExA is of the opinion that IROPI for the Proposed Development could be established.
- 6.10.7. The Applicant's SIAA and accompanying submissions have been considered carefully, along with the evidence and submissions discussed in Chapter 6 in order to form the ExA's assessment of the Proposed Development's implications for European sites. While the SoST is the Competent Authority under the Habitats Regulations, the ExA recommends that the SoST can reach the conclusion that an adverse effect on integrity (AEoI) from the Proposed Development when considered alone or in-combination with other plans or projects can be excluded for all qualifying features of TBHSPA from:

- habitat degradation by changes in air quality, water quality, and spread of non-native invasive plant species; and
- disturbance from changes in noise, recreational use and lighting.

6.10.8. The ExA recommends that an adverse effect on integrity on TBHSPA from the Proposed Development alone due to habitat loss cannot be excluded.

6.10.9. The ExA considers that there is sufficient information before the SoST to enable them to undertake an appropriate assessment and to apply the derogation tests of the Habitats Regulations of alternative solutions, IROPI, and compensation in order to fulfil their duty under the requirements of the Habitat Regulations.

7. CONCLUSION ON THE CASE FOR DEVELOPMENT CONSENT

7.1. INTRODUCTION

- 7.1.1. This Chapter provides an overall evaluation of the planning considerations relating to the Proposed Development. In doing so, the ExA has had regard to the legal and policy context that is set out in Chapter 3 of this Report.
- 7.1.2. The recommendations of the ExA are based on its assessment of the evidence presented throughout the Examination process, including the application documents, the joint LIR, RRs and WRs, the final SoCGs, submissions made during the Examination at Hearings and the responses received at various Deadlines.

7.2. THE PLANNING BALANCE

Conformity with the NPSNN

- 7.2.1. The relevant NPS is the NPSNN and it provides the main basis for the SoST to make decisions on development consent applications for national networks within the NSIP regime.
- 7.2.2. In relation to the NPSNN the ExA finds the following:
- The need for the Proposed Development is established through the NPSNN;
 - The Proposed Development is in general conformity with the policy in the NPSNN;
 - When considered in conjunction with the relevant caveats, for instance in regard to impacts on the significance of designated heritage assets and the loss of ancient woodland and veteran trees, there are no instances of non-compliance with the NPSNN.

Conformity with the Development Plan

- 7.2.3. The SoCGs that have been submitted between the Applicant and EBC, GBC and SCC [REP8-028, REP8-029 and REP12-008 respectively] have all agreed that the Proposed Development is in conformity with the Development Plans of EBC, GBC and SCC. The ExA broadly agrees with this assessment but note conflict with Development Plan policies over the impacts on designated heritage assess, ancient woodland and veteran trees as these policies do not contain the balancing considerations that are contained in the NPSNN.

Traffic and transportation

- 7.2.4. The transportation and traffic effects of the Proposed Development were assessed in a manner that complies with applicable NNNPS policy. The Applicant in its TA has identified existing capacity and safety issues that the Proposed Development would address. The Proposed Development

would also address modelled traffic growth arising from national trends, local and regional growth.

7.2.5. IPs are generally supportive of the Proposed Development. However, concerns have been raised about the Proposed Development's implications for the operation of the LRN, particularly the B2215 through Ripley. Concerns have also been raised by various IPs relating to the proposals to permanently alter the access arrangements for a number of premises, including the former San Domenico hotel site, Court Close Farm, Elm Corner, the Heyswood Campsite, Painshill Park and RHS Wisley.

7.2.6. The ExA is content that there would be no unacceptable effect upon the operation of the LRN. While the Proposed Development would affect the access arrangements for a number of premises, as a consequence of a number of direct accesses to the A3 being stopped up and replaced by new means of access, as reported in Section 5.2, the ExA is content that the new accesses that would be provided as part of the Proposed Development would be acceptable.

7.2.7. The operational transportation and traffic effects would be strongly positive. The transportation and traffic effects during the construction phase would be negative. However, it is considered that the Applicant has made reasonable provision to minimise the effects of the construction works on the operation of both the SRN and LRN and a traffic management plan would be secured through R4 of the dDCO.

Air Quality and human health

7.2.8. In terms of air quality and emissions there would be no significant effects caused during the constrion phase for the Proposed Development. The construction works would have the potential to generate dust, however that effect would be mitigated to an acceptable level and secured through the operation of the CEMP, to be secured through R3 of the dDCO.

7.2.9. For the operational phase of the Proposed Development three receptor exceedances of an imperceptible magnitude for the NO₂ annual mean AQS objective having been predicted with or without the Proposed Development. One new receptor excccedance for the NO₂ annual mean AQS objective has been predicted and that has been assessed as being of a small magnitude. Overall, it is considered that during the operational phase there would be no significant adverse effect for human health.

Noise and vibration

7.2.10. During the construction period the Proposed Development would have the potential to cause adverse effects for residential receptors, primarily residents of Elm Corner as a result of the operation of the construction site compound at Wisley airfield. However, those adverse effects are capable of being mitigated to an acceptable level through the operation of noise and vibration management plan for part of the CEMP secured via R3 of the dDCO and the provisions of the CPA1974.

- 7.2.11. The ExA considers that the noise and vibration impacts would primarily be during the construction phase and are capable of being mitigated to acceptable levels. As such, we do not afford significant weight to the adverse effects on human receptors arising from noise and vibration.
- 7.2.12. The resurfacing of the A3 with LNRS would mean that that the Proposed Development has been predicted not to give rise to any significant adverse noise effects at dwellings or other noise sensitive receptors. The use of LNRS is a matter that would be secured under R5 of the dDCO. R5 would require an authorised development to be " ... *designed in detail and carried out so that it is compatible with the preliminary scheme design ...*" shown on various drawings set out in Schedule 11 and which would be subject to a certification procedure under Art 46 of the dDCO [REP12-002]. In the ExA's rDCO (Appendix D to this Report) it has recommended that a road surfacing drawing [in REP2-017] be included in Schedule 11 of any made Order. The absence of any significant adverse operational noise effects weighs in favour of a DCO being made.

Biodiversity and the Habitats Regulations

- 7.2.13. As reported in Section 5.5, the negative biodiversity impacts of the Proposed Development, excluding any impacts on the TBHSPA, would mainly arise during the construction phase and are largely capable of mitigation. The loss of 0.4ha of ancient woodland would be an important negative impact as this habitat is irreplaceable. The ExA is content that the Applicant has minimised the loss of ancient woodland as far as is practicable.
- 7.2.14. Once operational there would be substantial biodiversity benefits that would accrue through additional planting, habitat creation and management. The ExA concludes that with the proposed mitigation the overall impacts on biodiversity, including on the QFs of the TBHSPA and Bolder Mere, would be positive. This would be the case even when accounting for a reduced area of RL and the loss of ancient woodland. The overall long-term benefits to biodiversity would weigh in favour of the Order being made.

Heritage and the historic environment

- 7.2.15. As detailed in Chapter 5 of this Report, there would be both direct and potential indirect impacts on the Grade I RPG of Painshill Park and the Grade II* RPG of RHS Wisley. When considered as a whole, it is the ExA's view that the Proposed Development would give rise to less than substantial harm to the significance of these designated heritage assets.
- 7.2.16. There would also be impacts on the settings of the SAMs comprising the Bell Barrow to the west of Cockcrow Hill. However, with mitigation in the form of landscaping the ExA considers that these impacts would be at the lower end of less than substantial harm.
- 7.2.17. When taken together the ExA considers that the benefits of the Proposed Development, as described in Section 5.7, are considerable and would clearly outweigh the harm to heritage assets that we have identified.

Accordingly, the less than substantial harm to the significance of heritage assets that the ExA has identified would not, of itself, be of sufficient weight for it to recommend that the Order should not be made.

Landscape and visual impact

- 7.2.18. The Proposed Development would introduce new lanes and highway infrastructure into a landscape that contains the existing SRN. There would be the introduction of increased areas of lowland heathland with a corresponding removal of some areas of existing woodland. There would be the loss of two veteran trees and potentially a further nine veteran trees might need to be removed.
- 7.2.19. The ExA considers that there would be some adverse landscape and visual impacts, particularly during the construction stage, but that these would be adequately mitigated once the proposed planting becomes fully established. Overall, the ExA concludes that any negative landscape and visual impacts of the Proposed Development either alone or cumulatively, including the loss of veteran trees, would not be significant enough to weigh against the Order being made.

Economic and social impacts

- 7.2.20. During the construction phase in particular, the Proposed Development would have some economic impacts on local businesses and sites including RHS Wisley and potentially Painshill Park. However, the ExA considers that the RHS has overstated its predicted economic effects on RHS Wisley. The proposed access route through the Heyswood Campsite would cause some operational difficulties for GGLW, but the ExA does not consider that those difficulties would be insurmountable.
- 7.2.21. The wider economic benefits of the Proposed Development, as discussed in Section 5.11 of this Report, would be considerable and would facilitate the planned housing and economic growth in the area. The Proposed Development would create a more coherent network of footpaths and bridleways and would create areas of RL on the northern side of the M25 that would be accessible on foot from Byfleet.
- 7.2.22. The ExA considers that the social and economic harms that it has identified would not be substantial and would not, of themselves, weigh against the Order being made.

Other considerations

- 7.2.23. A number of other issues, such as flood risk, drainage and water resources, land use, waste management and the impact on contaminated land and geology have been considered by the ExA. The Proposed Development would have overall positive impacts in terms of drainage and water resources. The ExA is also satisfied that the Applicant has properly considered the waste hierarchy and that measures for sustainable waste management during the construction operations would be adequately secured in the dDCO.

- 7.2.24. The Proposed Development would be within the Green Belt and would constitute inappropriate development, which by definition is harmful to the Green Belt. This is a matter to which the ExA attaches significant weight. However, in this instance the Proposed Development would mainly affect the existing road network rather than the creation of an entirely new network. It is the ExA's view that the benefits of the Proposed Development that it has identified would represent very special circumstances that would outweigh the harm to the openness of the Green Belt.
- 7.2.25. The climate change implications of the Proposed Development have been considered in terms of its effect on climate change and how resilient it is to climate change. In terms of resilience, the assessment was conducted with UKCP09 but the margin for flooding effects has been specifically reviewed. In terms of carbon equivalent emissions, the assessment has been conducted in accordance with NPSNN in so far as the data is available. There is a small increase of 0.004% against the third carbon budget. However, to complete the assessment required by the NPSNN and to meet the requirements of the Climate Change Act and the updated Net Zero target, the SoST will need to satisfy themselves against the position at the time of their decision.
- 7.2.26. Overall, none of the harms that have been identified in relation to these other considerations would be significant and would weigh against the Order being made.

7.3. FINDINGS AND CONCLUSIONS

- 7.3.1. Paragraph 4.2 of the NPSNN states that, subject to the detailed policies and protections in this NPS and the legal constraints set out in the Planning Act, there is a presumption in favour of granting development consent for national networks NSIPs that fall within the need for infrastructure established in this NPS. Paragraph 2.22 and 2.23 of the NPSNN state that as a strategic level there is a compelling case for development of the national road network and this includes junction improvements and improvements to truck roads. As such, there is strong policy support for proposals that seek to deliver improvements to the SRN. The SoST must determine the application in accordance with the NPSNN unless one or more of the subsections 104(4) to (8) of PA2008 apply.
- 7.3.2. The ExA considers that the strategic benefits of the Proposed Development in terms of addressing existing and predicted congestion around junction 10 of the M25 and the stretch of the A3 from the OPJ to Painshill roundabout, improving road safety and facilitating planned economic growth in the area would be significant. There would also be benefits in terms of improvements to NMU routes and recreational opportunities. Additionally, there would be biodiversity benefits that would occur in the longer term. As these would be associated benefits arising from the design of the Proposed Development, rather than the key traffic-related objectives of the Proposed Development, then the ExA

accords less weight to any benefits for either recreational opportunities or biodiversity.

- 7.3.3. The ExA has identified a number of harms associated with the Proposed Development. The most significant of these be the direct loss of part of the TBHSPA for which an AEoI has been acknowledged and SPA comeponensation areas and enhancement areas have been provided. There would also be the loss of 0.4ha ancient woodland and at least two veteran trees, the less than substantial harm to the significance of designated heritage assets comporising Painshill Park RPG and its Gothic Tower, RHS Wisley RPG, three scheduled monuments and Foxwarren Cottage. Thr Proposed Development would also give rise to adverse socio-economic impacts for the Heyswood Campsite, RHS Wisley and Nutberry Farm. There would also be some negative landscape and visual impacts, especially until the proposed planting has matured. Additionally, there would also be some limited adverse effects for human health as a consequence of four imperceptible and small exceedances of the NO₂ annual mean AQS objective having been predicted, with three of those exceedances arising with or without the Proposed Development and only of them being attributable to the Proposed Development.
- 7.3.4. During the construction phase there would be the potential for some noise and dust impacts to affect some local residents and recreational users, although the ExA concludes that such impacts would be capable of being adequately mitigated. During the construction phase there would also be some adverse effects for travelling members of the public, however, the ExA considers that those effects would be capable of being kept to a reasonable minimum.
- 7.3.5. The Proposed Development would involve development within the Green Belt and would be harmful to its openness. However, such development can be justified by very special circumstances when the inappropriateness and any other harm is clearly outweighed by any other considerations. In terms of the loss of ancient woodland and veteran trees, the ExA acknowledges that the Applicant has minimised as far as is practicable the loss of these irreplaceable features. The NPSNN recognises that there may be circumstances where the public benefits of the proposal may outweigh such loss.
- 7.3.6. In order to comply with the NPSNN in this regard and to minimise the loss of ancient woodland as far as possible, the ExA considers that this would tip the balance towards its preference for the originally proposed PMA through the Heyswood Campsite to Court Close Farm rather than the alternative PMA that would border the A3. This is because the alternative PMA route would avoid the loss of an additional 0.11ha ancient woodland, even though this may have an impact on a veteran sweet chestnut tree and would have an effect on the operations at the Heyswood Campsite.
- 7.3.7. Overall, it is the ExA's view that the benefits of the Proposed Development would be considerable and would clearly outweigh the harms that it has identified. Consequently, the ExA considers that when

compared against the benefits of the Proposed Development, none of the adverse effects that it has identified, either alone or cumulatively/in-combination, would be significant enough to warrant recommending that the Order should not be made. Therefore, in terms of the planning balance the ExA considers that the Order should be made. However, this conclusion is subject to the caveat in relation to carbon equivalent emissions against the latest data as required by the NPSNN and the formal assessment of the requirements arising from the Carbon Target Amendment of June 2019.

8. COMPULSORY ACQUISITION AND RELATED MATTERS

8.1. INTRODUCTION

- 8.1.1. The submitted application includes proposals for the Compulsory Acquisition (CA), in terms of the acquisition of land (outright acquisition) or the acquisition of rights over land, and the Temporary Possession (TP) of land during the construction period for the Proposed Development. This Chapter reviews how those proposals and related issues were examined and reaches conclusions and makes recommendation relating to the proposals for CA and TP.
- 8.1.2. In Chapter 7 the ExA has concluded that the SoST is recommended to make the DCO.
- 8.1.3. The making of an Order containing CA powers relies upon there being a compelling case in the public interest to acquire the land. If the SoST agrees with the ExA's conclusion on the case for development consent in Chapter 7, it follows that there is a compelling case in the public interest.

8.2. THE REQUEST FOR CA AND TP POWERS

- 8.2.1. The application includes proposals for the CA and TP of land and rights over land.
- 8.2.2. The request for CA and TP powers is made through the inclusion of Part 5 Powers of Acquisition in the Applicant's dDCO Revision 5 [REP12-002]. The following provisions are included in the dDCO:
- Article 22: Compulsory acquisition of land;
 - Article 23: Compulsory acquisition of land - incorporation of the mineral code;
 - Article 24: Time limit for the exercise of authority to acquire land compulsorily;
 - Article 25: Compulsory acquisition of rights and restrictive covenants;
 - Article 26: Extinguishment of public rights of way;
 - Article 27: Private rights over land;
 - Article 28: Modification of Part 1 of the Compulsory Purchase Act 1965;
 - Article 29: Application of the Compulsory Purchase (Vesting Declarations) Act 1981;
 - Article 30: Acquisition of subsoil and airspace only;
 - Article 31: Rights under or over streets;
 - Article 32: Temporary use of land for carrying out the authorised development;
 - Article 33: Temporary use of land for maintaining the authorised development;
 - Article 34: Crown Rights;

- Article 35: Statutory undertakers;
- Article 36: Apparatus and rights of statutory undertakers in stopped up streets;
- Article 37: Recovery of costs of new connections; and
- Article 38: Special Category Land (SCL).

8.2.3. The proposed DCO would also confer on the Applicant other rights and powers that would interfere with property rights and interests. Those additional powers are:

- Article 12: Construction and maintenance of new, altered or diverted streets and other structures;
- Article 14: Temporary closure and restriction of use of streets;
- Article 15: Permanent stopping up and restriction of use of streets and private means of access;
- Article 16: Access to works;
- Article 19: Discharge of water;
- Article 20: Protective work to buildings;
- Article 21: Authority to survey and investigate land; and
- Article 39: Felling or lopping of trees and removal of hedgerows.

8.2.4. The following documents set out the most up-to-date record of the powers sought, and the persons and land affected by the request available at the close of Examination:

- Funding Statement [APP-024];
- Change Request Drawings Rev 1 [REP4a-005]
- Addendum to the Funding Statement Rev 1 [REP4a-007]
- DCO Change Request Drawings - Changes 7-9 [REP7-017]
- Book of Reference Addendum - Changes 7-9 [REP7-018]
- Schedule of Change to Book of Reference - Changes 7-9 [REP7-019]
- the Land Plans Revision 3 [REP8-003] which show the affected land and whether it is subject to the permanent acquisition of land and/or rights or to TP and locations in which there are cable route options;
- the Special Category Land Plans Revision 2 [REP8-006];
- Crown Land Plans - Revision 3 [REP11-002];
- Statement of Reasons Revision 1 [REP11-004];
- Book of Reference Revision 3 [REP11-005]
- Draft Development Consent Order Revision 5 [REP12-002]
- Statement of Reasons Appendix C: Common Land and Open Space Report - Revision 3 [REP12-004]

8.2.5. The dDCO [REP12-002], BoR [REP11-005], Land Plans [REP8-003], SoR [REP11-004], SoR Appendix C "Common land and open space report" [REP12-004] and Funding Statement with addendum [APP-024 and REP4a-007] taken together describe the land sought by the Applicant, the reasons why the land is required and the funding available to acquire land and rights. References to the BoR and the Land Plans in this Chapter from this point onwards should be read as references to the latest revisions cited above. It should be particularly noted that all Land Plan plot references employed in this Chapter relate to the most recently submitted Land Plans [REP8-003].

8.3. CHANGES TO CA AND TP SOUGHT DURING THE COURSE OF THE EXAMINATION

- 8.3.1. The non-material amendments sought by the Applicant are set out in Chapter 2 of this report. The ExA is satisfied that only proposed changes 5 (gas main diversion) and 7 (optional alternative PMA through Heyswood Campsite) involved additional land for the purpose of the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 (CA Regulations). In relation to this request the Applicant submitted consent from all persons with an interest in the additional land. The ExA is satisfied that the condition in 123(3) was met in relation to this land and that the prescribed procedures in the CA Regulations do not apply.

8.4. THE PURPOSES FOR WHICH LAND IS REQUIRED

- 8.4.1. The purposes for which the CA and TP powers are required are set out in the BoR [REP11-005], SoR [REP11-004] and Appendix C to the SoR [REP12-004]. On the Land Plans [REP8-003] the following colouration scheme has been used:

- Pink – land to be permanently acquired
- Blue- land to be used temporarily over which permanent rights would be acquired
- Green – land to be used temporarily
- Orange – land not subject to compulsory acquisition or temporary possession

- 8.4.2. With respect to the originally submitted application, the maximum amounts of land for which CA and TP powers are sought are:

- approximately 1,386,045 square metres (sqm) (138.60ha) of land to be acquired permanently to build and operate the Proposed Development;
- approximately 735,693 sqm (73.57ha) of land subject to be used temporarily, with the acquisition of permanent rights; and
- approximately 280,063 sqm (28.00ha) to be subject to TP powers only, ie land only used during the construction period and returned to the landowner on completion of the works.

(The quoted land areas taken from paragraph 4.1.3 of the SoR [REP11-004])

- 8.4.3. At paragraph 4.1.2 of the SoR [REP11-004] the Applicant has stated that *"The extent of the land over which powers are sought is the maximum that will be necessary to carry out works within the proposed limits of deviation (as shown on the Works Plans ...), subject to completion of detailed design. During further detailed design and in devising working methodologies the land taken or used will be reviewed and minimised as far as is reasonably practicable"*.

- 8.4.4. In general terms, CA is sought for land that would be required permanently for the construction and operation of the main proposal, ie the widening of the M25 and the A3, the alterations to the roundabouts at junction 10 and the Ockham Park and Painshill junctions and the

related works to part of the A245 (Byfleet Road) and other side roads. Additionally, CA is sought for the acquisition of RL that would replace SCL affected by the Proposed Development and to accommodate and alter statutory undertakers' (Sus') infrastructure.

- 8.4.5. TP is sought on a time limited basis to provide working space to enable the Proposed Development to be constructed and to facilitate the provision of construction compounds to be used for various purposes throughout the construction period.
- 8.4.6. The Applicant has advised in paragraph 1.4.4 of the SoR [REP11-004] that it owns a number of land plots that are subject to rights of others or unknown rights which are or may be incompatible with the construction and operation of the Proposed Development. To ensure that any such rights can be removed and the persons benefitting from them could be compensated for their removal, the Applicant's own land has been included within the land to which the CA powers sought would apply.

8.5. LEGISLATIVE REQUIREMENTS AND NATIONAL GUIDANCE

Compulsory Acquisition

- 8.5.1. CA powers can only be granted if the conditions set out in sections s122 and s123 of PA2008, as elaborated upon within the relevant guidance, Guidance Related to Procedures for the Compulsory Acquisition of Land, September 2013 (CA Guidance), are met.
- 8.5.2. Section 122(2) PA2008 requires that the land subject to CA can only be required: (a) for the development to which the DCO would relate; (b) to facilitate or be incidental to the development; or (c) constitute RL which is to be given in exchange for Order land under s131 and/or s132, that is SCL. In respect of land required for the development, the land to be taken must be no more than is reasonably required and be proportionate (paragraph 11 of the CA Guidance).
- 8.5.3. Section 122(3) PA2008 requires that there must be a compelling case in the public interest for the acquisition of the affected land. That is the public benefit derived from the CA must outweigh any private loss that would be suffered by those whose land would be affected. In balancing public interest against private loss, CA must be justified in its own right.
- 8.5.4. Section 123 PA2008 requires that one of three procedural conditions in subsections (2) to (4) must be met by the application proposal, namely:
 - "2) The condition is that the application for the order included a request for compulsory acquisition of the land to be authorised.*
 - 3) The condition is that all persons with an interest in the land consent to the inclusion of the provision.*
 - 4) The condition is that the prescribed procedure has been followed in relation to the land."*

- 8.5.5. The test under s123(2) is clearly satisfied in this case because CA has been sought by the Applicant through the submission of its application, with the dDCO seeking the authorisation of CA powers.
- 8.5.6. A number of general considerations also have to be addressed, either as a result of following the CA Guidance or in accordance with legal duties on decision-makers:
- all reasonable alternatives to CA must have been explored;
 - the Applicant must have a clear idea of how it intends to use the land subject to CA powers;
 - the Applicant must be able to demonstrate that funds are available to meet the compensation liabilities that might flow from the exercise of CA powers; and
 - the decision-maker must be satisfied that the purposes stated for the CA are legitimate and sufficiently justify any interference with the human rights of those affected.
- Paragraph 25 of the CA Guidance makes clear that applicants should seek to acquire land by negotiation wherever practicable.
- 8.5.7. These matters were tested in the Examination and are reported on below.
- 8.5.8. TP powers are capable of being brought within the scope of a DCO, pursuant to Schedule 5 of the PA2008. PA2008 and the associated CA Guidance do not contain the same level of specification and tests for the use and granting of TP powers, compared with the situation for CA powers. That is because as by definition TP powers do not seek to permanently deprive or amend a person's interests in land.

Special statutory considerations

- 8.5.9. The relevant special statutory considerations are as follows:

Statutory undertakers' land, rights and apparatus

PA2008 s127 which provides that statutory undertakers' land or rights that are the subject of an unwithdrawn representation by the statutory undertaker may only be taken where the SoS is satisfied that:

- in relation to land (subsection (3)):
 - a. *" it can be purchased and not replaced without serious detriment to the carrying on of the undertaking, or*
 - b. *if purchased it can be replaced by other land belonging to, or available for acquisition by, the undertakers without serious detriment to the carrying on of the undertaking.*
- in relation to rights (subsection (6)):
 - a. *the right can be purchased without serious detriment to the carrying on of the undertaking, or*
 - b. *any detriment to the carrying on of the undertaking, in consequence of the acquisition of the right, can be made good by*

the undertakers by the use of other land belonging to or available for acquisition by them."

PA2008 s138(4) which provides that where land is subject to relevant rights or apparatus benefiting a statutory undertaker, that right may only be extinguished and or the apparatus removed if the SoST is satisfied that the extinguishment or removal is necessary for the purpose of carrying out the development to which the order relates.

Commons, open spaces: compulsory acquisition

- PA2008 s131, which provides that where land is (amongst other categories) Common Land (CL) or Open Space (OS) and is subject to CA, the making of an Order is subject to Special Parliamentary Procedure (SPP). If SPP is required, under s131(3) the SoST may not make the Order containing the relevant CA power until SPP has been carried out. The exceptions from the need to use SPP are set out in subsections (4) and (5):

4) This subsection applies if-

- a. replacement land has been or will be given for the order land, and*
- b. the replacement land has been or will be vested in the prospective seller and subject to the same rights, trusts and incidents as attach to the order land.*

5) This subsection applies if-

- a. the order land does not exceed 200 square metres in extent or is required for the widening or drainage of an existing highway or partly for the widening and partly for the drainage of such a highway, and*
- b. the giving in exchange of other land is unnecessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public.*

PA2008 s131(12) provides four definitions for s131 and states *"replacement land means land which is not less in area than the order land and which is no less advantageous to the persons, if any, entitled to rights of common or other rights, and to the public"*.

- PA2008 s132, which provides that where land is (amongst other categories) CL or OS and is subject to CA of rights, SPP applies unless the SoST would be satisfied that the relevant exceptions (set out in subsections (3) to (5), while excluding subsections (4A) and (4B)) also apply and that Nexception is described on the face of the Order. The exceptions are:

3) This subsection applies if the order land, when burdened with the order right, will be no less advantageous than it was before to the following persons-

- a. the persons in whom it is vested,*
- b. other persons, if any, entitled to rights of common or other rights, and*

c. the public.

4) *This subsection applies if-*

- a. replacement land has been or will be given in exchange for the order right, and*
- b. the replacement land has been or will be vested in the persons in whom the order land is vested and subject to the same rights, trusts and incidents as attach to the order land (ignoring the order granting development consent).*

5) *This subsection applies if-*

- a. the order land does not exceed 200 square metres in extent or the order right is required in connection with the widening or drainage of an existing highway or in connection partly with the widening and partly with the drainage of such a highway, and*
- b. the giving of other land in exchange for the order right is unnecessary, whether in the interests of the persons, if any, entitled to rights or common or other rights or in the interests of the public.*

PA2008 s132(12) provides four definitions for s132 and the fourth definition states:

12) replacement land means land which will be adequate to compensate the following persons for the disadvantages which result from the compulsory acquisition of the order right-

- a. the persons in whom the order land is vested*
- b. the persons, if any, entitled to rights of common or other rights over the order land, and*
- c. the public.*

8.5.10. The Applicant proposes to undertake the outright acquisition of around 13.77ha of SCL and to acquire permanent rights over around 8.5ha of SCL [REP12-004], with a mixture of CL and OS being affected by the Proposed Development. To address any disadvantage to SCL users arising from the Proposed Development the Applicant is proposing to use CA powers to acquire around 39.8ha of RL⁴⁶ so that the SPP under either s131 or s132 would not be invoked. To that end the Applicant proposes to acquire around 21.85ha⁴⁷ of RL at PBF. The proposed acquisition of RL at PBF (just over half of the total amount of RL proposed by the Applicant) has given rise to a strongly made objection from the owner and occupiers of PBF (the PBF objector).

Crown land

8.5.11. With respect to Crown Land PA2008 s135(1) and (2) state:

⁴⁶ Item 12 in the description for the Proposed Development set out in paragraph 3.6.1 of the Applicant's Planning Statement [APP-133]

⁴⁷ The figure quoted for the owner of PBF in the final paragraph on page 2 of REP5a-013

- 1) *An order granting development consent may include provision authorising the compulsory acquisition of an interest in Crown land only if –*
 - a. *it is an interest which is for the time being held otherwise than by or on behalf of the Crown, and*
 - b. *the appropriate Crown authority consents to the acquisition.*
- 2) *An order granting development consent may include any other provision applying in relation to Crown land, or rights benefiting the Crown, only if the appropriate Crown authority consents to the inclusion of the provision.*

- 8.5.12. At the time of the application's original submission 10 Crown land plots, 1/13, 1/14, 1/15, 1/18, 1/18a, 1/21, 1/22, 8/28, 8/29 and 8/34, were identified in the BoR [APP-025] as being affected by the Proposed Development. The land interests in those land plots belonging to either the SoS DEFRA or the SoST.
- 8.5.13. During session 1 of CAH1 the Applicant advised that further land plot, 2/27b, had incorrectly been identified as being a Crown land plot in one of the updated versions of the BoR [REP5a-005]. That error has been corrected through the submission of an amended set of Crown land plans [REP11-002], as explained in paragraph 2.1.58 of REP11-006.
- 8.5.14. On 9 July 2020 DEFRA wrote to the Applicant [REP12-013] confirming under s135 that the SoS DEFRA consented to the CA powers sought in Art35⁴⁸ of the dDCO [REP12-002] being included in any made DCO⁴⁹.
- 8.5.15. With respect to the Crown land the SoST has an interest in, the Applicant has advised that further to its formation⁵⁰ there has been an ongoing programme of transferring land from the DfT to the Applicant. In that connection the Applicant has advised that by D8 of the Examination the four land plots⁵¹ that the SoST had an interest in when the application was originally submitted had been transferred to the ownership of the Applicant. Accordingly Plots 1/13, 8/28, 8/29 and 8/34 at the close of the Examination no longer had the status of Crown land, as recorded in REP12-002 and shown the Crown land plans [REP8-007].
- 8.5.16. Accordingly, by the close of the Examination there were six Crown land plots affected by the Proposed Development, as identified on the Crown Land Plans [REP11-002] and in Part 4 of the BoR [REP11-005]. All of those plots now benefit from a consent, issued by the SoS DEFRA [REP12-013], for their use in connection with the construction and/or operation of the Proposed Development.

⁴⁸ In the versions of the dDCO that preceded the fifth revision [REP12-002] Art35 was numbered Art34

⁴⁹ The affected Crown land Plots being: 1/14, 1/15, 1/18, 1/18a, 1/21 and 1/22

⁵⁰ A company established by the Government on the disbanding of the Highways Agency

⁵¹ Plots 1/13, 8/28, 8/29 and 8/34

Temporary Possession

- 8.5.17. In some instances, TP has been sought as an alternative to CA. Under the provisions of Part 1 of Schedule 5 to PA2008 TP powers can be brought within the scope of a DCO. The dDCO contains powers for TP and the land plots subject to the proposals for TP are shown in the final versions of the Land Plans [REP8-003] and BoR [REP11-005]. These are not CA powers and so the tests under s122 and s123 PA2008 are not applicable. However, the request for the TP powers in order to enable the Proposed Development to be implemented and maintained must be justified. The inevitable interference with human rights must be justified, and there must be adequate compensation provisions in place for those whose land is affected.
- 8.5.18. The ExA has also taken all relevant objections into account in reaching conclusions on the application for TP powers in the same way as for permanent acquisition.
- 8.5.19. The Neighbourhood Planning Act 2017 (NPA2017) Part 2, Chapter 1 includes provisions in relation to TP. Those provisions in general terms provide for enhancements to the rights of APs subject to TP, with a view to ensuring that they have equivalent or proportionate rights to notice and compensation, bringing TP powers more in line with CA provisions. Although the NPA2017 has been enacted, the provisions in relation to TP have not come into force to date.

Human Rights Act 1998 Considerations

- 8.5.20. The Human Rights Act 1998 (HRA1998) places the European Convention on Human Rights (ECHR) into UK statute. The ECHR is subscribed to by member states of the Council of Europe. ECHR rights are enforceable in the domestic courts but with final recourse to the European Court of Human Rights. The ECHR, the Council of Europe and the European Court of Human Rights are not European Union institutions and are unaffected by the decision to leave the European Union.
- 8.5.21. The relevant provisions of the ECHR that are normally engaged by CA and/or TP proposals are:
- Article 1 of the First Protocol – the right to the peaceful enjoyment of property and not to be deprived of this other than in the public interest;
 - Article 6 – the right to due process in civil proceedings, including a public hearing before an independent and impartial tribunal;
 - Article 8 – the right to respect for private and family life and the home is relevant where property that is a home is affected. Article 8 states:

"There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the

prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others”.

- 8.5.22. As the Applicant’s proposals for obtaining CA and TP powers affect some dwellings and commercial premises Article 8 and Article 1 of the First Protocol are respectively engaged in this instance. The implications of the Applicant’s proposals for CA and TP under Article 8 and Article 1 of the First Protocol are considered in more detail in relation to each site specific objection and/or concern.
- 8.5.23. The ExA’s holding of CAH1 and OFH1, which in the case of the latter some CA issues were raised, has enabled any AP to have their case heard in public. In addition, opportunities have been provided for APs to make written submissions and to respond to the ExA’s written questions. The ExA therefore considers that the provisions of Article 6 have been observed by the ExA during its examination of the submitted application. However, there are some matters which have a bearing on the ExA’s recommendation to the SoST, which the ExA could not to seek the Applicant’s and APs’ views about within the extended period for the application’s Examination. Those matters relate to the CA objections made by GGLW and the PBF objector. Having regard to the provisions of Article 6 those are matters that the ExA considers the SoST should seek the views of the Applicant and APs about, prior to the SoST making their decision about this application and these are detailed below.

8.6. EXAMINATION OF THE CA AND TP CASE

- 8.6.1. The Examination of the application included consideration of all submitted material relevant to CA and TP.

Painshill House and the PRA

- 8.6.2. Further to the eight individual RRs from the owners of the properties at Painshill House that have been submitted and the written objection made by the PRA [REP1-031] to the Applicant’s CA proposals, the Applicant has submitted an explanatory note [REP11-008]⁵². In that note the Applicant has explained that the Painshill House residents have been identified in the BoR [REP12-002] as having the benefit of various covenants, restrictive covenants and rights over neighbouring land, which are category 2 and category 3 interests in the affected land [REP11-008].
- 8.6.3. On reviewing the objections made by the individual residents of Painshill House and the PRA, the Applicant has submitted that it is not possible for it to acquire the benefit of the rights and covenants listed in paragraph 2.3.1 of REP11-008 because the benefit of them runs with the ownership of Painshill House. Accordingly, the Applicant has submitted that as it *“... does not own any of the relevant land it cannot meaningfully negotiate to acquire, modify or extinguish these rights and covenants”* [REP11-008]. The Applicant has further commented that it appears that *“none of the objections of the Painshill Residents has a direct correlation*

⁵² This note being submitted further to the fourth action point [EV-027] arising from session 1 of CAH1

with the interests in land that may be extinguished or suspended under the DCO although it is acknowledged by Highways England that some of the objections raised may relate to plots that the Painshill House Residents have an interest in.” [REP11-008].

- 8.6.4. The Applicant has therefore submitted that it considers the objections made by the Painshill House residents should not be “... *regarded as live compulsory acquisition or temporary possession objections*” [REP11-008]. No representations have been made from the owners and/or occupiers of Painshill House disputing the Applicant’s assessment of this, having regard to the provisions of PA2008. The ExA has therefore treated none of the written or oral representations that have made by the residents of Painshill House or the PRA as amounting to either CA or TP objections. However, the ExA has considered the representations that have been made by the residents of Painshill House and the PRA in Chapter 5.

Written process

- 8.6.5. RRs or written representation have been received from fifteen APs and one residents group representing eighteen property owners (Elm Corner Residents Group which represents sixteen Elm Corner properties plus Wilderness Cottage and land at The Wilderness) objecting to or commenting on the Applicant’s CA or TP proposals. Those objections were from:

- EBC [RR-001 and REP1-012]
- Affinity Water [RR-007]
- The Elm Corner Residents Group [RR-010]
- Euro Garages/Monte Blackburn Limited [RR-012 and REP1-030]
- Extra MSA Cobham Limited [RR-013 and REP1-024]
- National Grid Electricity Transmission PLC [RR-019 and REP1-015]
- Mrs Amy Denise Barklam [RR-034 and REP7-037]
- Mrs Helen Cowell [RR-037]
- Emily Tasmin Inge [RR-044]
- Mrs Arran Rosemary and Mr Peter Ian Young [RR-061 and REP7-037]
- Zinc Cobham Hotels Limited/Adda Hotels/Hilton Group PLC [REP1-028]
- Mrs Agnes Patricia Engelen [REP1-055 and REP1-56]
- Mr Emmanuel Coccolios [AS-034]
- Miss Bridget Ruth Kendrick [REP7-037 and REP12-048]
- Feltonfleet School [REP11-029]
- The owner/occupier of Long Orchard [REP11-030]

- 8.6.6. Section 16 in the ExA’s ExQ1, ExQ2, ExQ3 and ExQ4 [PD-006, PD-010, PD-016 and PD-021] included CA and TP questions covering the following matters:

- how the allowance for CA costs and blight compensation had been derived;
- how the proposed extinguishment of private rights under Art 26 of the dDCO would accord with the CA Guidance;

- clarification that the land proposed for TP would be no more than reasonably necessary;
- clarification from the Applicant that all reasonable alternatives to CA had been explored;
- the progress with obtaining Crown consent with respect to the ten Crown land plots affected by the Proposed Development; and
- the progress being made to conclude the transfer of exchange land for the SCL affected by the original construction of the M25 within the vicinity of junction 10 under the Compulsory Purchase Orders (CPO) of 1979 and 1982.

8.6.7. ExQ1 1.16.1 [PD-006] asked the Applicant to keep available throughout the Examination a CA objections schedule, with the purpose of recording the status of APs' objections as the Examination progressed. The final version of the CA schedule was submitted at D10 [REP10-010], albeit REP12-014 provides further information concerning the former San Domenico site (subject to RR-012 and REP1-030) further to the third action point arising from the CAH [EV-027].

8.6.8. Additionally, the Applicant was requested pursuant to ExQ1 1.16.5 and 1.16.6 [PD-006] to provide updates throughout the Examination concerning any representations made by statutory undertakers (SU(s)) with land/or rights within the Order land to which s127 and s138 of PA2008 would apply. The final versions of the requested s127 and s138 updates were submitted as Examination documents REP12-005 and REP12-006.

Hearing

8.6.9. Requests for objections and concerns to be heard about the Applicant's CA and TP proposals were received from the following APs:

- SCC, as owner or occupier of the LRN affected by the Proposed Development and the owner of much of the affected SCL;
- GGLW on behalf of the Guide Association Trust Corporation (GATC), the GATC being the proprietor of the Heyswood camp.
- PPT as the tenant running Painshill Park;
- Mr Alderson as one of the owners and occupiers of PBF, and referred to by the ExA as the PBF objector or the PBF objection;
- The RHS as owner of RHS Wisley; and
- WPIL and Taylor Wimpey UK Limited as owners of the former Wisley airfield.

In response to the requests to be heard a 'virtual' CAH (CAH1) comprising seven separate sessions was held between 16 and 18 June 2020. The agenda and the recordings for CAH1 comprise EV-010 to EV-016 and EV-019 to EV-026. The CAH was attended by the Applicant and the above listed APs.

8.6.10. CAH1 was used to orally examine the Applicant's underlying case for CA, to test whether relevant legislative and policy requirements that arise irrespective of any objections to CA and TP had been met.

- 8.6.11. Post-CAH1 submissions were made by the Applicant at D11, which included the submission of an updated version of the Crown Land Plans [REP11-002], a consolidated final version of the SoR [REP11-004] and a final and a consolidated BoR [REP11-005].

Site Inspections

- 8.6.12. The ASI [EV-006] and the three USIs [Annex E of PD-005, EV-007 and EV-009] enabled the ExA to view most of the land subject to the Applicant's CA and TP proposals. Collectively the ASI and the three USIs have provided the ExA with an appreciation of the location and condition of the land subject to the CA and TP powers sought.

The ExA's approach to the reporting of the Applicant's and APs cases with respect to the CA and TP powers sought

- 8.6.13. In the remainder of Chapter 8 the ExA has reported on the Applicant's and APs' cases with respect to the CA and TP powers sought by the Applicant in the following way:
- A summary of the Applicant's case for CA and TP.
 - The consideration of SCL matters on a topic basis, incorporating the objection from the owners of PBF and SCC's position concerning SCL.
 - The objections or issues raised by APs concerning the non-SCL aspects of the Applicant's proposals for CA and TP powers.
 - The consideration of technical matters relevant to CA and TP, most particularly relating to SUs, Crown land and human rights considerations.

8.7. THE APPLICANT'S CASE FOR CA AND TP

- 8.7.1. The Applicant's case for CA and TP is set out in the SoR [REP11-004], supplemented by the Applicant's Statement of Reasons Appendix C: Common Land and Open Space Report [REP12-004]. The relevant background and history are set out in Section 2.4. The need and objectives for the Proposed Development are variously referred to in: Part 2 (Chapter 2) of Chapters 1 to 4 of the ES [APP-049]; the Planning Statement [APP-133]; and the Transport Assessment Report [APP-136].
- 8.7.2. In the SoR [REP11-004] the Applicant has submitted that the CA and TP powers sought in the dDCO would be necessary, proportionate and justified. The Applicant has also expressed the view that the powers sought would be in accordance with the statutory requirements contained in PA2008 and the CA Guidance. With respect to the CA powers sought the Applicant has explained in the SoR that for the purposes of s122(2) PA2008 the land would be: required for the Proposed Development; needed to facilitate the Proposed Development; or to replace SCL affected by the Proposed Development.
- 8.7.3. The reason for the inclusion of CA and TP powers within the dDCO would enable the Applicant to acquire new rights and TP of land required for the construction of the Proposed Development that is not already in its possession. The CA and TP powers would enable the Applicant to construct the Proposed Development. During CAH1 the Applicant made

oral submissions about compliance with the statutory tests and the provisions of the CA Guidance [EV-019 and REP11-006].

- 8.7.4. A summary explanation as to why CA and TP powers are being sought by the Applicant, on a land plot by land plot basis, is provided in Table A.1 of Appendix A of the SoR [REP11-004].
- 8.7.5. The Applicant has submitted in writing, for example in the SoR [REP11-004], and while making its oral submissions at CAH1 [REP11-006] that its proposed CA of land constitutes the maximum required to construct, operate, maintain and mitigate the Proposed Development. The limits of the land have been drawn as tightly as possible to avoid unnecessary land take. In the event that less land proves to be required in a particular area at a later stage, the Applicant would only seek to acquire the parts of the land that would be required, thus minimising effects of any land take for the landowners of the affected land.
- 8.7.6. The Applicant has submitted that in designing the Proposed Development and determining the amount of land for which CA and TP powers are sought, consideration has been given to alternatives and modifications so as to minimise the potential land take [REP11-004]. It is further explained in the SoR that *"To meet the Client Scheme Requirements and respond to the constrained nature of the surrounding land, options explored by the Applicant have focused on improvements to the existing junction 10 and M25 and A3 carriageways, rather than wholesale route changes. The resulting Scheme is largely a linear alteration and improvement project, and as such the design and associated land take is limited to the adjacent land"* [REP11-004].
- 8.7.7. Option testing was undertaken, as described in the Planning Statement [APP-133], with a preferred option being selected that took account of factors including *"... Client Scheme Requirements, environmental effects, affordability, value for money, safety, construction and operational considerations. None of the alternatives or modifications considered would have obviated the need for the compulsory acquisition and temporary possession of land"* [REP11-004].
- 8.7.8. The Applicant recognises that the authority to acquire land using CA powers should only be sought if attempts to acquire by agreement fail. However, the CA Guidance recognises that it may not always be practicable to acquire each plot of land by agreement. Where that is the case, the CA Guidance confirms that it is reasonable to include provisions within a DCO that would authorise the use of CA powers covering all of the land required by the Proposed Development from the outset. The CA Guidance also recognises that in some cases it may be preferable, or necessary, to acquire land compulsorily rather than by agreement. The Applicant has continued discussions with landowners and occupiers to acquire the land by agreement. The CA and TP powers are required so that the Proposed Development can be delivered in a reasonable timescale and in the event that it does not prove possible to acquire all of the land by agreement.

- 8.7.9. The Applicant's case with respect to HRA1998 considerations is set out on section 6 of the SoR [REP11-004] and in summary is that:
- While the Proposed Development would have an impact on individuals, "... *significant public benefits will arise from the Scheme ...*" and "*The DCO seeks a fair balance between the public interest, in seeing the Scheme proceed (which is unlikely to happen in the absence of the DCO) and private rights, which will be affected by compulsory acquisition*".
 - In relation to Articles 1 and 8, the compelling case in the public interest for the CA powers sought is set out in Chapter 5 of the SoR. The limits of the land over which CA powers are sought "... *have been drawn as tightly as possible so as to avoid unnecessary land take*" [REP11-004].
 - The Proposed Development "*has been designed as far as reasonably practicable to minimise harm whilst achieving its publicly stated objectives*" so that the "*interference with human rights is both proportionate and justified*".
- 8.7.10. APs affected by the exercise of the CA and TP powers sought "*may be entitled compensation*", under the compensation code, as amended by the provisions of the dDCO [REP12-002]. The Applicant has the resources to pay any such compensation as demonstrated in the Funding Statement and [APP-024 and REP4a-007].
- 8.7.11. The Applicant is a government owned company, responsible for operating, maintaining and improving the SRN in England. These responsibilities include the acquisition, management and disposal of land and property in relation to SRN improvement projects, together with the payment of compensation related to these activities. The Applicant is responsible for delivering the major projects set out in the RIS [APP-024].
- 8.7.12. The Funding Statement [APP-024] and the addendum to it [REP4a-007], advise that funding would be no impediment to the delivery of the Proposed Development, including payment of compensation to persons affected by CA, TP or blight claims. That is because funding to cover "*the most likely estimate of £272.6 million*" [APP-024] has been allocated for the Proposed Development's implementation by the DfT as part of RIS1. The allocated funding for the Proposed Development includes an estimate of £23.5 million to meet land acquisition costs.
- 8.7.13. It should, however, be noted that the proposed "*green bridge*" element of the replacement Cockcrow bridge, either as originally proposed or as proposed under Change 1 to the submitted application, would not be covered by the funding estimate for the Proposed Development referred to in the preceding paragraph. The Applicant proposes that the green bridge element for the replacement Cockcrow bridge, which has been estimated by the Applicant to be of the order of £1.9 million, would be funded via "*Designated funds*", should the Applicant's bid for such funding be successful [APP-024].

- 8.7.14. The Applicant has explained in the Funding Statement [APP-024] that while the period for RIS1 was originally intended to expire by the end of March 2020, funding for the Proposed Development will continue to be committed to it through to the end of March 2021. During CAH1 the Applicant, in response to an ExA's question, confirmed that the funding for the Proposed Development continues to be committed to this scheme, through to the end of March 2021 and beyond. The Applicant has reconfirmed the current funding position for the Proposed Development in its post CAH1 note, REP11-006, and remains of the view that the Proposed Development would be fully funded.

8.8. SPECIAL CATEGORY LAND (SCL)

The Proposed Development's effects on SCL and the approach to the provision of RL, including the PBF objection

The Applicant's Case

- 8.8.1. The affected SCL, namely CL and OS, concerns multiple land plots and those plots are shown within the SCL plans [REP8-006]. To accord with the provisions of s131 PA2008 the Applicant is proposing to provide RL for the CL and OS affected by the Proposed Development. The Proposed Development would involve the acquisition of the order of 13.77ha of SCL, as was stated during the course of CAH1 and has been fully explained in writing in section 3 of REP11-011. It should be noted that within the figure of 13.77ha of SCL for outright acquisition there are two land plots, 2/13 and 28/2 (shown on sheets 2 and 28 of both the Land Plans [REP8-003] and the SCL Plans [REP8-006]) which, despite being depicted as being for TP only, will in practice be acquired. Land plot 2/13 has an area of 7,811 sqm, while plot 28/2 has an area of 495 sqm⁵³. The explanation for land plot 28/2 being subject to outright acquisition is to avoid this sliver of land being left in severed ownership. With respect to land plot 2/13 the reason given for its outright acquisition is that it would be deleted from the CL register to enable the Wisley Lane diversion to be constructed using TP powers (Work No.33 of the dDCO [REP12-002]) and then returned to SCC as part of the LRN.
- 8.8.2. With respect to all of the SCL that the Applicant proposes to acquire permanent rights over, it has identified around 8.5ha of SCL that would be "*burdened*" by Order rights. Having regard to the provisions of s132 PA2008, to avoid the public, as users of the SCL, being disadvantaged by the exercising of the rights to be acquired, the Applicant is proposing to provide 8.5ha of RL.
- 8.8.3. Additionally, in the region of 62.29ha of SCL would be subject to the permanent acquisition of rights for which the Applicant does not propose to provide RL [REP12-004]. The Applicant has submitted that the exercising of rights in respect of that SCL would not be disadvantageous for the users of this SCL [REP12-021]. That is because the Applicant has

⁵³ Respectively quoted in Tables C.2 and C.4 in REP12-004

submitted that the bulk of this land would be required for undertaking works within the proposed SPA enhancement areas and that the provision of those enhancement areas would be compatible with this land's continued use as publicly accessible recreational space.

- 8.8.4. To avoid Special Parliamentary Procedure (SPP) being invoked under either s131(3) (SCL subject compulsory acquisition) or s132(2) (SCL subject to the acquisition of rights), and having regard to s131(4), (5) and (12) and s132(3), (4), (5) and (12) PA2008, the Applicant's approach to the provision of RL in exchange for the SCL affected by the Proposed Development has been to ensure that the *"... replacement land for the acquisition of Special Category Land must be not less in area and of equal advantage to commoners and the public, whereas the replacement land for the acquisition of rights over Special Category Land needs to be adequate to compensate for the disadvantage caused by those rights to the owners, commoners and the public"* [REP12-004].
- 8.8.5. The Applicant has submitted that if RL can be found that is similar in character and utility to the SCL affected by the Proposed Development then *"... an 'equally advantageous' outcome can be achieved by providing an area that is not much larger than that taken"* [REP12-004]. The Applicant has further contended that if RL cannot be provided that would be of a comparable character to that affected by the Proposed Development then equality of advantage can be achieved by increasing the amount of the RL and/or by providing some other public benefit, such as new linkages between areas of the established SCL.
- 8.8.6. The Applicant has referred to there being no definition within either the PA2008 or the CA Guidance⁵⁴ concerning the equality of advantage or disadvantage/burden for SCL users that might arise [REP12-004]. Accordingly, in terms of establishing what an appropriate amount of RL might be, it has been submitted that historic precedent should be considered. The Applicant considers that the ratios for the provision of RL relative to the affected SCL that were applied when junction 10 of the M25 was first constructed in the 1980s (the historic RL ratios) can be used to inform the RL requirement for the Proposed Development.
- 8.8.7. In connection with junction 10's original construction 14.56ha of SCL was affected and the Compulsory Purchase Orders (CPOs) of the time secured the provision of 33.18ha of RL, giving an average ratio of RL provision relative to the SCL subject to outright acquisition of 2.28:1, with the ratio for the replacement of CL ranging between 2.86:1 and 2.99:1, while the ratio for OS was in the order of 1.67:1 [REP12-004].
- 8.8.8. Informed by the historic RL ratios, the Applicant has identified target ratios. Those target ratios for the provision of RL are stated in REP12-004 as follows:
- 2.5:1 for the CL to be permanently acquired;

⁵⁴ Planning Act 2008 Guidance related to procedures for the compulsory acquisition of land, Department for Communities and Local Government 2013

- 2:1 for the OS to be permanently acquired;
- 1:1 for rights permanently to be acquired over CL or OS along bridleways and associated routes where those are separate from the M25 and A3 and associated overbridges; and
- No RL provision for rights permanently acquired for the undertaking of works to, and the initial management of, the SPA compensation land and enhancement areas.

8.8.9. The Applicant argues that the ratio applicable to the OS is now closer to the one for the CL than was the case when the M25 was first built. That being to take account of the fact that the OS within Ockham Common is used and managed in the same way as the adjoining CL [REP11-011].

8.8.10. Applying the ratios listed above, the Applicant has identified a need to provide around 39.8ha of RL, spread across nine sites/locations. The proposed RL locations are shown on Figure B.1 on page 90 of REP12-004. The land areas for the proposed RL locations, as stated in REP12-004, are as follows:

- PBF1: 5.10ha of land between Buxton Wood and the River Wey;
- PBF2: 8.35ha of land comprising a field that forms the south eastern part of the landholding at PBF;
- PBF3: 8.40ha of fields and woodland to the east of PBF2;
- Chatley Farm (CF) 1: 6.98ha of land forming the eastern part of Chatley Wood;
- CF2: 3.12ha of woodland to the south of Pointers Road and west of Chatley Cottage;
- CF3: 4.23ha of woodland north of Pointers Road;
- CF4: 1.89ha of woodland south of Pointers Road, near Hatchford Park bridge;
- Hatchford End (HF) 1: a 1.18ha field near Hatchford End; and
- HF2: 0.55ha of land forming part of a field near Hatchford End.

8.8.11. These nine RL sites are not accessible to the public and have been selected by the Applicant because they "*... are contiguous with existing areas of common land or open space; separate potential locations further afield have not been considered*" [REP12-004]. The locations for RL sites relative to junction 10 of the M25 would be within: the north-western quadrant (PBF1 to PBF3); the north-eastern quadrant (Chatley Farm 1 to Chatley Farm 4 (CF1 to CF4)); and the south-eastern quadrant (Hatchford End 1 and 2 (HF1 and HF2)). A possible site at Pond Farm in the south-western quadrant has been discounted by the Applicant because during the pre-application stage objections were made to its inclusion by the SWT. That is because while the land at Pond Farm is encircled by CL and OS that forms part of Wisley Common, it is actively used by SWT for the grazing of livestock. That grazing activity is part of SWT's herd management responsibilities throughout Surrey, including other SCC owned components of the TBHSPA [REP12-004].

8.8.12. At paragraph 6.3.4 of REP12-004 the Applicant has made clear that in applying the provisions of s131 PA2008 its consideration of the provision of RL has been done across the whole of the Proposed Development,

rather than on a plot by plot basis for the affected SCL. Hence the reason why Proposed Development-wide target RL ratios have been adopted.

- 8.8.13. The Applicant has submitted given the amount of RL it intends to provide in exchange for the outright acquisition of SCL or the acquisition permanent rights over the SCL, that there would be no impediment to the SoST reaching the view under S131(3)(b) and S132(2)(b) that a DCO could be made without recourse to using the SPP [REP12-004].
- 8.8.14. The Applicant is of the view that the amount of the RL that it intends to provide in exchange for the SCL affected by the Proposed Development would be proportionate and is justified having regard to s122, s131 and s132 PA2008. Notwithstanding that in response to the objection to the acquisition of all of the land that comprises PBF1, PBF2 and PBF3, the Applicant has submitted a note, REP5a-012, with the purpose of identifying the implications of possibly omitting one or more of the nine the RL sites and/or changing the extent of the RL sites.
- 8.8.15. Table 1 within REP5a-012 sets out ten possible options for omitting or reducing the size of the RL sites and what the resultant RL ratios would be for each of the ten options. Amongst the ten options, options 1 to 4 concern PBF and would variously involve the omission of: PBF1 (option 1); PBF2 and PBF3 (option 2); PBF1 to PBF3 (option 3); and some of the land forming PBF2 and PBF3 (option 4).

Surrey County Council's representations

- 8.8.16. SCC during CAH1 and in REP11-024 has confirmed that it considers the Applicant's proposals for the CA and TP of SCL are appropriate and that the dDCO would make suitable provision for RL. In that regard SCC has advised that there have been discussions with the Applicant relating to the provision of RL in terms of its suitability for public access and biodiversity. SCC has submitted in REP11-004 that the Applicant's proposals for the provision of RL would protect and enhance its natural and accessible green spaces in line with the County Council's 2030 Vision for Surrey.
- 8.8.17. SCC has argued that the provision of RL at PBF would be in a favourable location because it would be within walking distance of Byfleet's residential area [REP11-024].

The Park Barn Farm objection

- 8.8.18. The objection to the acquisition of PBF1, PBF2 and PBF3 as RL for the Proposed Development's effects on SCL is set out in Examination documents: REP1-035 and REP1-036; REP3-068 to REP3-071; REP5a-013; REP6-025; REP7-033 and REP7-034; REP9-008; REP11-031 and REP12-063⁵⁵. The objection to the CA of land at PBF concerns land

⁵⁵ NB In the Examination Library these written representations variously refer to Park Barn, Mr Alderson or Keystone Law on behalf of Mr Alderson and all relate to the same objection

plots: 11/7; 11/12; 11/17; 11/17a; 11/8; 11/8a; 12/3; and 28/2 [REP7-033].

- 8.8.19. There are three threads that underpin the grounds of objection to the proposed CA of land at PBF. Firstly, that the proposed provision of RL would amount to an over-compensation for the loss of the affected SCL. Secondly, that there is not a compelling case in the public interest for the proposed CA of the land at PBF. Thirdly, that there are alternatives for the provision of RL that would not affect PBF [REP1-035]. PBF contends that the proposed acquisition of RL at PBF would be unnecessary and would result in significant harm to the human rights of the owners and occupiers of PBF. It is submitted that *"The proposals therefore fail to satisfy the relevant statutory test (PA2008), and conflict with the key principles set down in the associated CA Guidance. The overall package of RL, which includes PBF, is therefore both ill-conceived and legally unsafe"* [REP7-033].
- 8.8.20. The PBF objector contends that in order to meet the basic threshold definitions for the provision of RL, in the case of the outright acquisition of SCL the RL to be provided in exchange must be *"not less in area ... and which is no less disadvantageous ... to the public"* (s131(12)), while in the case of the acquisition of permanent rights over land are being sought the RL would need to be *"... adequate to compensate ... for the disadvantages that would arise from the compulsory acquisition ..."* (s132(12)) [REP5a-013]. Accordingly, the primary argument is that none of the land at PBF is required for there to be compliance with S122 PA2008, and that under S122(3) there is no compelling case in the public interest for the land at PBF to be acquired.
- 8.8.21. The PBF objector has argued that the use of the historic RL ratios is inappropriate for the consideration of the RL requirement needed for currently Proposed Development, for example in REP1-035. That is because the original construction of junction 10 of the M25 is viewed as having caused the significant severance of the CL and OS, while diminishing the area's tranquillity, through the introduction of elevated levels of road traffic noise. Those effects when taken together are looked upon as having historically been responsible for a substantial level of disadvantage for SCL users. It is therefore submitted that the effect of the Proposed Development upon the users of the SCL would not be comparable with the more significant level of disadvantage that arose back in the 1980s when junction 10 of the M25 was first built and then became part of the SRN.
- 8.8.22. The PBF objector contends that if it is correct to apply the historic RL ratios now then *"... it must be concluded that the current scheme proposals will wreak broadly the same level of destruction to the common land and open space that was encountered when the M25 and A3 roads were first built"* [REP5a-013].
- 8.8.23. In terms of the SCL that would either be compulsorily acquired or become the subject of the permanent acquisition of rights, the PBF objector has argued that the existing affected land is of limited utility for

SCL users. That is because much of the affected SCL comprises long linear stretches of roadside verge running parallel with the A3 and the M25, with the users of this land being "... *dominated by the sight and sound of vehicular traffic, and the sight of ugly road infrastructure*" [REP5a-013]. The PBF objector has further contended that the functional quality of the RL would be superior to the affected SCL because the former would comprise larger consolidated blocks which would be contiguous with much of the SCL unaffected by the Proposed Development and would be accessible through the provision of new PRoW linkages.

- 8.8.24. Consequently, the PBF objector has argued that on the "... *size, usefulness, attractiveness, quality and accessibility there is an overall balance of significant advantage provided by the RL which has been identified. Providing for RL at a level which exceeds the minimum ratio of 1:1 is wholly unnecessary*" [REP5a-013].
- 8.8.25. With respect to the acquisition of permanent rights that affect SCL, the PBF objector has submitted that there is no mandatory requirement for RL to be provided at a ratio of 1:1 and that acquisition of rights in this instance would not warrant the provision of any RL. That is because it is argued that the acquisition of the rights "... *would not cause a substantial burden*" for SCL users [REP5a-013], with the PRoWs within the SCL over which rights would be acquired being used infrequently by maintenance vehicles and/or themselves being affected by direct maintenance works. The PBF objector has further submitted that the Applicant has not recognised that the proposed provision of substantial amounts of RL, pursuant to s131 PA2008, would also be capable of addressing any disadvantage arising from the acquisition of rights over parts of the SCL.
- 8.8.26. In the objector's opinion the proposed provision of RL would be excessive and cannot therefore be justified under s122(3) PA2008, ie that there would not be a compelling case in the public interest for the land to be compulsorily acquired. That is because the scale of the RL provision would be in excess of what would be required and therefore the CA of this land could not be said to be in the public interest. As an extension to that proposition, it is further argued that the Applicant has "... *failed to carry out the correct human rights balance when targeting the land at PBF to provide a major part (over 50%) of its target amount*" [REP5a-013].
- 8.8.27. At paragraph 2 of the Statutory Declaration appended to REP1-035, the total landholding at PBF is identified as being "... *approximately 100 acres ...*" (around 40.5ha). The full extent of the landholding at PBF is shown on the plan that comprises REP3-071, with the parts of PBF that lie outside the red line area for the submitted application being coloured green. The land at PBF can also be seen on Figure B.3 (an aerial photograph) on page 92 of REP12-004.
- 8.8.28. With respect to the human rights implications of the proposed CA of the land at PBF, it is argued that the affected land at PBF should not be viewed upon as being agricultural, with PBF2 and PBF3, in particular,

having been used for several years as a "*private residential amenity resource*", comprising an extensive mown lawn bounded by pockets of mature woodland. Within PBF3 there is a summerhouse with an outlook towards two ornamental ponds, with the objector stating that building has been used to host outside events for family and friends. Within PBF2 there is a pole barn which is similarly stated to be used for the hosting of events for family and friends. Fuller explanations of how the owner and occupiers of PBF use PBF1, PBF2 and PBF3 are set out in the Statutory Declarations exhibited as the Appendix to REP1-035 and Appendix 2 of REP5a-013.

- 8.8.29. The objector is firmly of the view that no land at PBF should be acquired as RL. However, if it is concluded that any land at PBF should be to be acquired, having to the provisions of s122, s131 and s132 PA2008 and the human rights legislation, as an alternative to the Applicant's proposals then any such acquisition, as a first preference, should be limited to PBF1, ie Plots 11/17, 11/17a, 11/17b, 11/17c and 27/1 [REP8-006]. That is because, as far as the objector is concerned, the acquisition of that piece of land would cause the least interference with the human rights of PBF's occupiers.
- 8.8.30. The objector further contends that as the owners of CF1 to CF4 and HF1 and HF2 have not raised an objection the CA of that land, then there would be no interference with the human rights of those landowners and that is a factor that should be taken into consideration as part of the overall human rights' balance [REP11-031].
- 8.8.31. Should it be considered that CF1 to CF4 and HF1 and HF2 and PBF1 would fail to allow for an adequate amount of RL to be provided, then in combination with the inclusion of PBF1 the extent of PBF2⁵⁶ and PBF3⁵⁷ could be reduced, based upon the fourth option identified by the Applicant in Table 1 and shown on Figure 2, both included within REP5a-012, and supplemented by "options 4A and 4B" identified by the objector at paragraph 22 of REP6-025. The objector's options 4A and 4B are explained in its response to ExQ3 3.9.3⁵⁸ [REP7-033]. Options 4A and 4B, amongst other things, would allow for the summerhouse to be retained in its location and would leave the ornamental ponds within PBF3 to remain within the ownership of the occupiers of PBF.
- 8.8.32. The objector also considers that around 13.0ha⁵⁹ of land at Pond Farm has been unreasonably discounted as an alternative location for the provision of RL. That is because this land is immediately contiguous with existing area of CL and OS that jointly make up Wisley Common. It is argued that Pond Farm is deserving of further consideration, notwithstanding the objection that SWT has raised to its use because of

⁵⁶ Plots 11/16, 11/17d, 11/17e, 11/17f and 11/17g [REP8-006]

⁵⁷ Plots 11/17h, 11/17i and 11/17j

⁵⁸ Preference ranking of the ten alternative RL options identified by the Applicant in Table 1 of REP5a-012

⁵⁹ A land area estimate provided by the objector on page 9 of REP5a-013

its concerns about how its loss would affect its cattle operation [REP5a-013].

ExA Reasoning

- 8.8.33. The PBF objection as stated in the submissions made at D1 and D3 contended that as the Proposed Development concerned the widening of a highway that for the purposes of s131(5) and s132(5) the provision of RL would be unnecessary. However, in later written Examination submissions made by the objector and the oral submissions made during CAH1 the contention that no RL need be provided has not been pursued and the ExA considers that contention is without merit. That is because while the Proposed Development would involve the widening of both the M25 and the A3, it would also include incidental works, such as the installation of new bridges, the Wisley Lane diversion, the PMA for New Farm, Heyswood Campsite and Court Close Farm and the provision of a mitigation package for the Proposed Development's effects on the SPA, which we consider means that for the purposes of s131 and s132 there would be a need for the Applicant to provide RL. We therefore consider that there is no need to make any further reference to this part of the objector's initial case.
- 8.8.34. As part of CAH1, the ExA heard the summary cases of the Applicant, SCC and PBF with respect to the Proposed Development's implications for the SCL and the approach to the provision of RL. Having heard those cases the ExA asked a series of questions revolving around the first three of four steps that it had identified for discussion under agenda item 5 for that CAH1 session [EV-013]. Those steps being:
- Step 1 - consideration of the SCL affected by the Proposed Development, including its extent and its functional/recreational quality;
 - Step 2 - the factors to be taken account of in calculating the amount of RL to be provided, including:
 - the appropriateness of making any distinctions between the character of the CL and OS on the ground;
 - a comparison of the degree of disadvantage that SCL users would have encountered when junction 10 of the M25 was first built; and
 - the burden for SCL users arising from the acquisition of rights
 - Step 3 - establishing the amount of RL to be provided in association with the Proposed Development, including the appropriateness of applying the historic RL ratios or any other RL ratios.
- 8.8.35. The fourth step, the consideration of the locations for RL having regard to its function, did not take place during the course of CAH1. However, the Applicant's and IPs' and APs' cases on this matter were the subject of written submissions made prior the holding of CAH1, including the identification by the Applicant of the ten possible options for reducing the quantum of RL provision contained in REP5a-012, the responses to ExQ3

3.9.3 [PD-016] and the comments on the responses to our written question. Accordingly, below we comment on step 4 and make some recommendations concerning it.

Step 1

- 8.8.36. There is general agreement that the area of SCL that would be lost to the Proposed Development would be of the order of 13.77ha, based on the figures quoted in the BoR [REP11-005] and as summarised in the Tables within Appendix C of REP12-004 and the oral explanation provided during CAH1 [REP-022 and EV-023]. During the course of CAH1 the Applicant advised that in its opinion the SCL that would be burdened through the acquisition of rights would be 8.51ha [REP11-006]. That land area being based on the information contained within what is now Table C.3 of REP12-004 (previously erroneously labelled Table C.1 in REP8-015).
- 8.8.37. There is disagreement as to the degree of any disadvantage that users of the SCL might experience through the outright loss of some of the SCL and the exercising of the rights to be permanently acquired over other parts of the SCL. In terms of considering the degree of disadvantage/burden for the users of the CL, under either s131 or s132 PA2008, it should be noted that in respect of the CL likely to be affected by the Proposed Development there are no commoners rights included within the Common Land Register [REP12-004]. Accordingly, under the provisions of s131 and s132 it is only any disadvantage/burden for the landowners and "the public" that needs to be considered.
- 8.8.38. The degree of disadvantage that the public as users of the SCL might encounter is of significance because it is that factor that has driven the Applicant's approach to determining how much RL it considers should be provided, through the application of the RL target ratios that have been identified by the Applicant, outlined in paragraph 8.8.8 above. The Applicant having sought to ensure that the level of RL provision would be sufficient to ensure that the SPP would not be invoked under either s131(3) or 132(2) of PA2008, in relation to the SCL respectively subject to outright acquisition or the permanent acquisition of rights.
- 8.8.39. With respect to the SCL that would be subject to outright acquisition, much of this land is close to the running lanes of the existing M25 and A3. As a result, it is subject to high levels of daytime road traffic noise, as shown on, for example, Figure 6.4 of the ES Noise and Vibration Figures [APP-066]. Those representing the Applicant, SCC and PBF at CAH1 were generally agreed that the affected land does not possess the highest recreational/functional quality, when compared with other parts of the SCL [EV-022]. For example in the case of the land plots that encircle junction 10 of the M25, ie land plots 4/39, 4/87, 5/5 and 5/20 (the example plots), the Applicant accepted during CAH1 that these plots are not strictly those "most used" by SCL users nor are they 'particularly desirable', albeit that parts of them are subject to greater use than others because there are PRoW crossing them that facilitate access to other parts of the SCL.

- 8.8.40. It was also argued by the Applicant that the example plots also form part of a woodland buffer creating a sense of physical separation between the M25 and the A3 and quieter parts of either Wisley Common or Ockham Common. Consequently, it was put to the ExA by both the Applicant and SCC that the reduction in the extent of this buffer would be disadvantageous to users of the SCL because some quieter parts of the SCL would "... *become less buffered from the noise of the road and more visually impacted by the road*", with there also being the loss of attractive woodland [EV-022, REP11-006 and REP11-024].
- 8.8.41. The ExA recognises that the woodland that immediately adjoins junction 10 fulfils a physical buffering function. However, it considers this buffering effect has been somewhat overstated. That is because the Applicant's noise assessment, in Chapter 6 and accompanying Figures of the ES [REP4-022, APP-066 and APP-067] indicate that the SCL that adjoins junction 10 of the M25 is currently subject to an elevated road traffic noise level. With respect to the effect on the physical extent of the woodland buffer, its reduction would arise near the M25 and the A3 and thus at the margins of the wooded areas. Given that the ExA considers that the users of the SCL would experience only a limited change in the extent of the woodland buffer.
- 8.8.42. The ExA considers it likely that the areas of the SCL intended for outright acquisition are not heavily used by visitors to either Ockham Common or Wisley Common. That is because these areas of the SCL are situated on the periphery of the main bodies of the CL and OS that are more likely to be used for the purposes of getting to or from the CL or the OS rather than as part of the main purpose for visiting either of the commons. The ExA finds evidential support for that proposition in the results from the user survey and questionnaire that the Applicant undertook on Sunday 24 and Wednesday 27 September 2017. The results from the survey and questionnaire set out in section 4.7 of REP12-004 and APP-125. The general trends from user questionnaire were:
- most users of the SCL came by car, with some arriving on foot, bicycle or horseback;
 - a large proportion of users were relatively local and regular visitors;
 - users often valued the quietness and wildness, the attractive trees and opens spaces, the convenient access, the lack of other users, being dry under foot and the ability to allow dogs to roam;
 - users came from a wide range of locations, but mostly from the larger residential areas to the north and west – Woking, West Byfleet, Byfleet, Weybridge and Cobham.
- 8.8.43. The ExA considers it particularly significant that most users of the SCL travel to it by car and value the "*quietness and wildness*", the trees, the open spaces and the ability to allow dogs to roam. This suggests that the example plots are not representative of much of either Ockham Common or Wisley Common and do not contribute significantly to the recreational quality of the SCL.
- 8.8.44. In terms of the SCL that would be affected by the acquisition of permanent rights and for which it is proposed to provide RL as

compensation for any disadvantage that SCL users would experience through the exercising of the rights, land plot 2/36 [REP8-006] was used during CAH1 as a proxy example. Land plot 2/36 having an area of 6,908 sqm and being essentially linear in form and in close proximity to the A3. Plot 2/36 was used as an example land plot at CAH1 as it would become part of a new bridleway (Work No.35 in Schedule 1 of the dDCO [REP12-002]) and because of Plot 2/36's proximity to the A3 and linear nature, making similar in character with a number of other SCL land plots that the Applicant is seeking powers to use temporarily and acquire permanent rights over.

8.8.45. With respect to the recreational/functional quality of land plot 2/36 during CAH1 [EV-022] the Applicant submitted that this part of the SCL *"... is noisy but well used because it is well connected..."*, but acknowledged that due to the noise it is subjected to *"... it is not one of the highest performing pieces of the SCL"*. The Applicant went on to categorise land plot 2/36 as *"... a middling piece of SCL in terms of pleasantness and interest"* [REP11-006]. SCC also accepted that land plot 2/26 is subject to road traffic noise, but in that regard compares favourably with the example plots in and around junction 10 and is of "middling functional quality".

8.8.46. The ExA considers that the recreational quality of land plot 2/36, as an area of outdoor space accessible to the public and which forms part of Wisley Common, may have been overstated by the Applicant and SCC during the course of CAH1 as "middling". That is because while there is no doubt that plot 2/36 is subject to high levels of daytime road traffic noise, this plot of land is not currently part of a PRow route and it would become part of a newly created bridleway as per proposed Work No.35. The ExA considers that generally the SCL land plots close to either the M25 or A3 that would be subject to rights acquisition and which have been identified by the Applicant as requiring RL provision do not perform as publicly accessible outdoor space in the same way as the other more extensive parts of Ockham Common and Wisley Common that are more distant from either the M25 or the A3. That is because the SCL subject to the proposed rights acquisition is at the margins of the Ockham Common and Wisley Common and is not as well suited to undertaking dog walking or other recreational activities when compared with the main bodies of the CL and OS.

Step 2

Appropriateness of making any distinctions between the character of the CL and OS

8.8.47. There was general agreement amongst the Applicant, SCC and PBF that for members of the public there is little on the ground to distinguish the recreational character of the CL from the OS. That is consistent with the

ExA's impression of what it has observed when undertaking its various site inspections.

- 8.8.48. SWT submitted during the course of CAH1 [EV-022] that it has observed some weather related variations with respect to how the SCL is used, with the open areas of both the CL and the OS being favoured on drier days, while visitors are drawn to the wooded areas to benefit from some shelter on wetter days. However, as there are open and wooded areas within both the CL and the OS, the ExA considers that the influence of different weather conditions of itself does not affect whether SCL users can or cannot draw a distinction between the CL and the OS.
- 8.8.49. There is agreement that nothing in user experience terms significantly differentiates the CL from the OS. The ExA therefore considers that when assessing how much RL would be required to mitigate any loss of advantage for SCL users arising from the Proposed Development, the same ratio/multiplier should be applied to the affected CL and the OS. In that regard the ExA considers it of note that the Applicant has itself acknowledged that there is little to differentiate the CL from the OS in stating "... *the ratio for the replacement land for open space which has been applied is closer to that for common land on the basis that the open space land to be acquired falls within Ockham Common which is used and managed in the same manner as adjoining common land (despite itself not being registered common)*" [REP11-011].
- 8.8.50. Accordingly, the ExA sees no need for CL being replaced at a rate of around one fifth more than OS, something that is imbedded within the target ratios that the Applicant has identified in paragraph 2.7.18 of REP12-004. In this instance the ExA therefore considers that for the purposes of s122(3) there is no compelling case in the public interest for compensating for the loss of CL at a higher rate than would be the case for OS.
- Degree of disadvantage that SCL users would have encountered when junction 10 of the M25 was first built*
- 8.8.51. In terms of the disadvantage for SCL users that arose in and around junction 10 when the M25 was first built, compared with what might arise were the Proposed Development to be consented, the Applicant, SCC and PBF were all agreed during CAH1 [EV-022] that the construction of the M25 had caused considerable physical severance of the SCL in the past.
- 8.8.52. The effect of the M25's construction on the SCL can readily be seen by reference to the map that shows the extent of the CL that predated the M25's existence [REP11-024]. On that map it is clear that the construction of junction 10 of the M25 caused significant fragmentation of the SCL in the area. The M25 introduced a substantial barrier between the vast majority of the CL and OS that lies to the south of the motorway on the eastern and western sides of the A3 and the less extensive areas of the SCL that lie to the north of the M25.

- 8.8.53. The ExA considers that the severance of the SCL that arose when the M25 was first constructed would in part be alleviated through the construction of two new NMU overbridges. Those new bridges being: the Red Hill bridleway overbridge that would span the A3 to the north of junction 10 (proposed work No.35(f)); and the Sandpit Hill bridleway overbridge that would span the M25 to the east of junction 10 (proposed work No.35(e)) [REP8-004]. With those overbridges in place pedestrians, cyclists and horse riders will be able to avoid the existing routes that are currently available within the midst of junction 10 that require the use of multiple signalised crossing points. The Proposed Development would therefore make the main bodies of Ockham Common and Wisley Common more accessible and appealing to non-car borne users.
- 8.8.54. While the A3 pre-dated the M25's construction, and will have been a source of road traffic noise, the ExA considers that the introduction of the M25 at this point will have had a significant adverse effect on the noise climate for users of the SCL at the northern extremities of Ockham Common and Wisley Common. Given the likely notable increase in road traffic noise following junction 10's construction, the ExA considers that effect will have been significantly disadvantageous for users of the SCL.
- 8.8.55. The Applicant's noise assessment shows that the daytime noise level within and immediately adjoining junction 10 would not be greatly altered by the implementation of the Proposed Development. The ExA considers that reinforces our impression that the M25's introduction affected the local noise climate and was a factor that caused significant disadvantage for SCL users and would not be matched by the changes in the local noise environment arising from the Proposed Development.

Consideration of the burden for SCL users arising from the acquisition of rights

- 8.8.56. With respect to the provision of RL for SCL that would be subject to acquisition of permanent rights s132 PA2008 contains the relevant legislative requirements. S132(2) states that an Order granting development consent will be subject to SPP, unless amongst other things, "... if the order land, when burdened with the order right, will be no less advantageous than it was before to the following persons – (a) the persons in whom it is vested, other persons, if any entitled to rights of common or other rights, and (c) the public". S131(12) states that "... replacement land means land which will be adequate to compensate the following persons for the disadvantages which will result from the acquisition of the order right ...". The persons referred to in s132(12) being those referred to in s132(3).
- 8.8.57. In section 5 of REP11-011 the Applicant has provided information on a plot by plot basis about the types of activities (rights categories) that would be undertaken in association with the exercising of the rights that are proposed for acquisition. In section 6 of REP11-011 estimates are provided for the frequency and duration for the exercising of the rights. The seven rights categories that the exercising of the rights would cover

and the total land areas they would affect have been quoted in paragraph 5.1.3 of REP11-011 as:

- a. Access tracks, 4.42ha;
- b. Earthworks to access tracks, 0.93ha
- c. Drainage ditches and infiltration ditches, 1.56ha
- d. Access tracks serving related ditches, 0.58ha;
- e. Filter drains and associated access spaces, 0.77ha;
- f. Soakaways and associated access space, 0.11ha; and
- g. Earthworks to access tracks on the highways side of environmental barrier fencing, 0.26ha.

(The ExA has labelled the rights categories a to g for ease of reference)

8.8.58. When the land areas in rights categories a to g are summed that gives a total of 8.63ha. However, with respect to the entries for rights categories b and g within Table C.3 in REP11-011 it appears to the ExA that there has been double counting with respect to Plots 12/4a, 12/6 and 12/7. That is because for those land plots identical areas have been attributed to the exercising of rights categories b and g, with the result that the exercising of those rights would exceed the areas for Plots 12/4a, 12/6 and 12/7 quoted in the BoR [REP11-005] and in the left hand side of Table C.3.

8.8.59. The apparent double counting equates to 1,183 sqm (0.1183ha). For no other land plots listed in Table C.3, where there would be multiple rights category usage, do the land area entries within the righthand side of this table exceed the land plot areas quoted on the left side of Table C.3. The consequence of the apparent double counting is that the sum of the land areas quoted in paragraph 5.1.3 of REP11-011, ie 8.63ha, is 0.12ha more than the figure of 8.51ha of SCL that would be subject to burdensome rights acquisition identified by the Applicant referred to it at CAH1 [EV-022 and REP11-006]. The ExA considers Plots 12/4a, 12/6 and 12/7 have been treated inconsistently by the Applicant in Table C.3 and that it is 8.51ha of SCL that the Applicant has identified as being subject to burdensome rights acquisition.

8.8.60. Of the seven rights categories listed above, categories b, c and g, have been identified by the Applicant as causing impediment to the movement of users of the SCL or preventing public access by the Applicant in REP11-011. Rights categories b, c and g would affect 2.75ha of the SCL, based on what is stated in paragraph 5.1.3 of REP11-011. However, as the ExA has explained above rights categories b and g appear to have been subject to double counting of 0.1183ha (or 0.12ha when rounded up for ease of calculation). The ExA is therefore of the view that there should be a deduction of 0.12ha to the figure of 2.75ha to address the double counting that appears to have occurred, giving a figure of 2.63ha in rights categories b, c and g. The ExA considers that as the exercising of rights categories b, c and g would impede movement and/or prevent public access over 2.63ha of the SCL that it is the exercising of those rights that would be burdensome for SCL users and that the resulting disadvantage that should be compensated for through the provision of RL.

- 8.8.61. With respect to the four rights categories (a, d, e and f) that would be affected *"to varying degrees by access"* or which would be *"affected from time to time"* [REP11-011] for the purposes of inspection and maintenance of we consider any burden for SCL users would be likely to be limited. That is because while SCL users may on some occasions encounter a vehicle or vehicles using a PRoW or other track as they travel to or from an inspection or maintenance location, such occurrences would potentially affect an individual SCL user sporadically. Table 2 in REP11-011 provides the Applicant's estimates for the frequency and duration of the inspection and maintenance activities that would be undertaken with the benefit of the rights to be acquired. Those activities would involve inspections and the maintenance of drainage infrastructure, gantries, environmental barriers (fencing) and statutory undertakers' infrastructure and also regular activities such as litter picking and grass cutting. The duration of individual inspection/maintenance visits would range between one and eight hours, while the frequency for undertaking these activities could be anything between once a month (litter picking and grass cutting), through to once in one to five years (structural repairs and sediment removal).
- 8.8.62. Based on the estimates contained in Table 2, Table 3 in REP11-011 goes onto to provide estimates for the total number of days that rights affecting the five main access routes within the SCL might be used. The estimated total number of days when the rights might be exercised in respect of each of the five main access routes to undertake maintenance, based on what is set out in Table 3, would range between 36 and 70 days per year. So, for example for the route between Wisley Lane and Hut Hill and Cockcrow Hill, the Applicant has submitted that for up to 70 days per year maintenance access could be required. However, the Applicant's use of the previously mentioned route might involve only parts of a day rather than whole days, given the nature of some of the maintenance activities that it is expected would be undertaken. The ExA considers that in terms of possible burden for SCL users, the use of an access route for part of a day would have a different effect compared to the use of route for an entire day.
- 8.8.63. The Applicant has explained that the information it has provided *"... is based on current estimates and maintenance guidance and not on specific maintenance and inspection schedules for the completed scheme"* [REP11-011]. Given that the ExA considers that the information provided in Table 3 is likely to represent a worst case, given that it is not based on site specific maintenance and inspection schedules.
- 8.8.64. For example, it might be possible for litter picking and maintenance activities for balancing ponds, ditches and soakaways to be combined when these would be in proximity of each other. That might be the case, for example, for the two balancing ponds (Work No.52(i)), the soakaway and ditch to the north-east of junction 10 and the section of the new bridleway (subject to proposed Work No.35) and forming part of the main access route between Sandpit Hill bridge to Pointers Road and Red Hill bridge referred to in Table 3 of REP11-011.

- 8.8.65. The greater the level of linkage between inspection and maintenance activities being undertaken in proximity with one another and in effect simultaneously, then the greater the potential for there to be reduced burden for SCL users. The ExA therefore considers there is potential for the rights to be acquired to be exercised to a greater degree on an individual day, but across fewer days cumulatively than Tables 2 and 3 within REP11-011 might suggest. The ExA considers this finding is consistent with what the Applicant has stated in paragraph 6.1.3 of REP11-011.
- 8.8.66. Taking the access route between Wisley Land and Hut Hill/Cockcrow Hill (REP11-011⁶⁰), as an example, it would affect 33 land plots and encompass around 1.92ha. The inspection and maintenance of two balancing ponds has been identified as requiring the use of the new bridleway on 38 days per year. However, both of those ponds [REP8-009] would have vehicle laydown areas/internal access tracks for use by vehicles involved with their inspection and/or maintenance. Although vehicles would need to use the bridleway to access the balancing ponds they need not stand on the bridleway and impede pedestrians and cyclists using the bridleway. As such these vehicles would have limited effect on SCL users of the adjoining CL or OS.
- 8.8.67. For the Wisley Lane and Hut Hill/Cockcrow Hill access route, the inspection or maintenance visits to this pair of balancing ponds might be spread over 38 days per year. However, the ExA considers that the actual disadvantage for SCL users associated with those visits would be limited to a few hours within those 38 days, while vehicles were actually travelling to or from the ponds.
- 8.8.68. Having regard to the frequencies and durations for inspection and/or maintenance activities that the Applicant has referred to in section 6 of REP11-011, the ExA considers that SCL users in reality would be no less advantaged, by the exercising of the rights affecting each of the main access routes identified in Table 3 of REP11-011.
- 8.8.69. We respect to the new bridleway running along the A3 corridor (subject to proposed Work No.35), only part of it would be located within the SCL. That would mean that some users of this bridleway would be merely passing through peripheral parts of the SCL and as such would not purposefully be making use of either the CL or OS. The ExA therefore considers that some of this new bridleway's users should not genuinely be classed as being disadvantaged SCL users at times when the Applicant, its contractors or statutory undertakers happened to be exercising the rights proposed for acquisition in respect of the sections of the bridleway that coincidentally correspond with parts of the SCL.

⁶⁰ Encompassing land plots 2/36, 3/3a, 3/3b, 3/3d, 3/25, 3/26a, 3/27, 3/32, 3/37, 4/3c, 4/3d, 4/4, 4/4a, 4/4b, 4/43, 4/43b, 4/43c, 4/43d, 4/46, 4/47, 4/47a, 4/47b, 4/47d, 4/51, 4/51a, 4/61, 4/63, 4/72, 4/73, 4/75, 4/79a, 4/82 and 4/86a

- 8.8.70. For the reasons given above, the ExA considers that of the seven rights categories that the Applicant has identified as being burdensome for SCL users, only the exercising of the rights falling within categories b, c and g, as listed in above, would be disadvantageous for SCL users. Accordingly, the ExA considers that it would only be the acquisition of rights coming within the scope of right categories b, c and g that for the purposes of s132 PA2008 would necessitate the provision of RL, which would affect 2.63 ha of the SCL. The ExA is not persuaded that the exercising of rights falling within rights categories a, d, e and f would yield a level of disadvantage needing to be compensated for through the provision of RL.

Step 3

RL in exchange for SCL subject to outright acquisition

- 8.8.71. With respect to the provision of RL for SCL that would be subject to outright acquisition, s131 PA2008 contains the relevant legislative requirements. Under s131(3) an Order granting development consent will be subject to SPP, unless amongst other things, RL has or will be given (s131(4)). S131(12) states that "replacement land means land which is not less in area than the order land and is no less advantageous to the persons, if any entitled to rights of common or other rights, and to the public".
- 8.8.72. With respect to the provision of RL that would replace the SCL subject to outright acquisition, neither the PA2008 nor the CA Guidance state that the RL should not offer more advantage than SCL that it would be exchanged for. In that regard s131(12) simply states that "... 'replacement land' means land ... which is no less advantageous ... to the public". Significantly the use of the phrase "no less advantageous" in the PA2008 the ExA considers places no bar on RL potentially being of a better quality than the SCL proposed for outright acquisition.
- 8.8.73. The NPSNN at paragraph 5.166 advises applicants that "*Existing open space ... should not be developed unless ... the loss would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location*". While paragraph 5.174 of the NPSNN states that the SoST "*... should not grant consent for development on existing open space ... unless an assessment has been undertaken either by the local authority or independently, which has shown the open space ... to be surplus to requirements or the Secretary of State determines that the benefits of the project (including need) outweigh the potential loss of such facilities, taking into account any positive proposals made by the applicant to provide new, improved or compensatory land or facilities*". In this instance no submissions have been made to the ExA contending that there is a surplus of SCL in the area.

The ExA considers that paragraph 5.166 of the NPSNN seeks to ensure that applicants provide RL, which at a minimum is equivalent in quality to the land it would be exchanged for, while under paragraph 5.174 any positive proposals for RL provision are to be looked upon favourably in

decision making. The ExA is therefore of the view that the NPSNN allows for RL provision to be of better quality than the SCL it would replace, especially under circumstances when no surplus for SCL has been identified. Importantly paragraph 5.181 of the NPSNN goes on to state that *"Alternatively where Sections 131 and 132 of the Planning Act 2008 apply, any replacement land provided under those sections will need to conform to the requirements of those sections"*. Therefore paragraph 5.181 of the NPSNN makes it clear that the wording in the legislation, namely of s131 should be applied.

- 8.8.74. Paragraph 8 of Annex A (Special categories of land) of the CA Guidance in referring to the provision of RL states *"Where either section 131(4) or 132(4) of the Planning Act applies, the Secretary of State will have regard to such matters as relative size and proximity of the replacement land when compared with the land it is proposed to compulsorily acquire ..."*. The ExA considers that the guidance set out in paragraph 8 of Annex A, when regard is also paid to the statutory definition of RL in s131(12) and paragraphs 5.166, 5.174 and 5.181 of the NPSNN, of itself does no more than seek to ensure that the relevant SoS takes account of the amount and proximity of any RL relative to any SCL to be permanently acquired, because if some RL, for example, was to be located at distance from the affected SCL then it would be unlikely to fulfil the test of being *"no less advantageous"* for the purposes of s131(12).
- 8.8.75. All of the proposed RL at PBF would be of a higher recreational quality than the majority of the SCL that it is proposed would be for outright acquisition. The proposed RL at PBF would be of a more consolidated character than the fragmented plots of SCL it would be exchanged for and thus would be capable of providing more recreationally useful areas. We also consider that because PBF1, PBF2 and PBF3 would all also be physically well-related to the existing CL and OS to the north of the M25 and west of the A3 that form part of Wisley Common, such proximity would make the RL at PBF better placed to provide publicly accessible outdoor space when compared with the other RL locations at Chatley Farm (CF1 to CF4) and Hatchford End (HF1 and HF2).
- 8.8.76. With respect to the SCL subject to outright acquisition, given the wording of s131(12), the amount of RL should be *"... not less in area than the order land"*. That is the extent of the RL should, at a minimum, have an extent comparable to the area of the SCL for which outright acquisition is proposed. That would mean that in the case of the Proposed Development a minimum 13.77ha of RL should be provided, something equivalent to an RL ratio of 1:1, otherwise there would be potential for SPP to become engaged under s131(3).
- 8.8.77. Having established what the minimum RL requirement should be with respect to SCL subject to outright acquisition, there is then a need to consider whether the recreational quality of the 13.77ha of SCL would warrant RL being provided at a rate in excess of a ratio of 1:1 so that the RL would be no less advantageous for SCL users. In simple terms, in this instance, the ExA considers that the answer to that question is no. That

is because the SCL subject to outright acquisition is of a much lower recreational quality and is subject to high levels of daytime road traffic noise, being peripherally located relative to the main bodies of the Ockham Common and Wisley Common. In that regard as the Applicant's and WPIL's user surveys have found most users of SCL travel to it by car [REP12-004], and are unlikely to be making any significant use of the parts of the CL or OS within or immediately adjoining Junction 10 as these are some distance away from the nearest public car parks. The SCL visitors who arrive by car can readily walk into the main bodies of either Ockham Common or Wisley Common without using the SCL that is proposed for outright acquisition.

- 8.8.78. The ExA is of the view that the 13.77ha of SCL subject to outright acquisition is of a relatively poor recreational quality. For the reasons the ExA has already given, it is not persuaded that the scale of disadvantage for SCL users arising from the Proposed Development would be anything like as significant as that which arose, when the M25 was first built and exchange ratios in excess of 1:1 were applied.
- 8.8.79. As far as the replacement of SCL subject to outright acquisition is concerned, the ExA therefore considers that the Applicant's use of the target RL ratios of 2.5:1 for CL and 2.1:1 for OS, which have been informed by the exchange land ratios that were used when junction 10 of the M25 was first built, are misguided and represent an over-inflated allowance for loss of advantage that needs to be addressed in the context of the Proposed Development. The ExA is therefore firmly of the view that the acquisition of 31.35 RL, to compensate for the outright acquisition of 13.77ha of SCL, cannot be justified under the particular circumstances of this case.
- 8.8.80. The RL ratios dating from Junction 10's original construction is but one example of 'precedent' that has been drawn to the ExA's attention. In criticising the Applicant's reliance on the previously mentioned historic M25 junction 10 ratios to inform the setting of the target RL ratios, the PBF objector has argued [EV-023 and REP11-031] that consideration could be given to the case of Oxleas Wood, Greenwich (the Greenwich case). The Greenwich case⁶¹ concerned the adequacy of the provision of exchange land (comparable with RL) to mitigate the effect of the loss of part of Oxleas Wood to facilitate the construction of the then proposed East London River Crossing (ELRC)⁶². Details of the High Court judgement concerning the Greenwich case is appended to REP11-031.
- 8.8.81. However, the ExA considers the Greenwich case is not directly comparable with the circumstances appertaining to the Proposed Development for two reasons. Firstly, part of the High Court challenge to the confirmed ELRC CPO centred around a contention that the amount of

⁶¹ London Borough of Greenwich and others versus The Secretary of State for the Environment and the Secretary of State for Transport [1993] Env. L.R. 344

⁶² A new route between the A406 (North Circular) at South Woodford north of the Thames and the Falconwood interchange of the A2 Rochester Way south of the Thames

exchange land to be provided was inadequate, not excessive as in the current case. Secondly, the legislative and policy context for consideration of the ELRC's CPO were not directly comparable with what is now applicable to proposals for CA under the NSIP regime. Under s19(1)(a) of the Acquisition of Land Act 1981 (ALA1981) when a CPO would authorise the purchase of CL or OS, an exemption to the SPP will apply if "... *there has been or will be given in exchange for such land, other land, not being less in area and being equally advantageous to the persons, if any, entitled to rights of common or other rights, and to the public*" [REP11-031].

- 8.8.82. Significantly the qualitative test under s19(1)(a) of ALA1981 is that the exchange land should be "*equally advantageous*" for the public. However, for the purposes of s131(12) PA2008 the qualitative test is "no less advantageous". As the ExA has indicated above, it therefore considers that for the purposes of s131 PA2008 there is no reason why whatever amount of RL to be provided in association with the Proposed Development should in effect be qualitatively capped as only being no less advantageous. The ExA therefore considers there is no reason why RL cannot be better in qualitative terms when compared with the SCL it would replace.
- 8.8.83. We therefore consider that in qualitative terms very limited weight should be attached to the Greenwich case for the purposes of considering whether the Applicant's proposals for the provision of RL would or would not be appropriate. Furthermore, each case should be considered on its individual merits, having regard to the relevant legislation and guidance, with there being subtle differences in the wording of s131 PA2008 compared with s19(1)(a) of ALA1981.
- 8.8.84. In support of the RL ratios that have been applied to the proposed outright acquisition of SCL, the Applicant during CAH1 [EV-023] and in paragraph 5.1.73 of REP11-006 and paragraphs 3.8 and 3.9 of REP12-021 has referred to the exchange land ratios for the A3 Hindhead Tunnel and the A244 Walton Bridge schemes. For the Hindhead Tunnel the RL ratio was 2:1, while the ratio for the Walton Bridge was apparently in excess of 1:1. However, on the basis of the available information, we consider that the circumstances of the Proposed Development, an upgrading of the SRN in the vicinity of junction 10 of the M25, further to the significant disadvantage for SCL users that arose from junction's original construction, are different to those relating to the construction of the Hindhead Tunnel and the Walton Bridge. The ExA is therefore of the view that as "precedents" little weight should be attached to the exchange land ratios for either the Hindhead Tunnel or the Walton Bridge, again because individual cases should be considered on the basis of their particular circumstances.

RL and biodiversity mitigation

- 8.8.85. With respect to the provision of RL in exchange for the SCL that would be permanently acquired, a further concern we have had is whether its quantum has been driven to any appreciable degree for the purposes of

providing mitigation for any adverse biodiversity effects arising from the Proposed Development.

- 8.8.86. The CA of land for the purpose of mitigating the biodiversity effects of any proposed development would be likely to come within s122(2)(b) PA2008 and would not be within the scope of s122(2)(c). That is because the purpose of the acquisition of land under s122(2)(c) is solely to address any recreational disadvantage that SCL users would experience. Our concern in this regard clearly manifested itself when the Applicant presented its ten possible options for reducing the quantum of RL [Table 1 in REP5a-012]. In that regard the final column in Table 1 (implications of reducing or omitting RL sites) makes various references to less woodland planting, reductions in the scope for undertaking ancient woodland soil translocation and the loss of opportunities for the management or enhancement of ancient woodland. Those matters amounting to biodiversity mitigation and of themselves would not be directly connected with the recreational function of the RL.
- 8.8.87. There is also some suggestion in the representations made by the PBF objector [REP5a-013] that during the pre-application stage for the submitted application the Applicant was being encouraged to provide as much RL as possible. That being to maximise the biodiversity mitigation delivered in association with the Proposed Development, as per the meeting note on page 61 of APP-040 and meeting notes of 16 March 2018 and 28 June 2018 [REP5a-013].
- 8.8.88. The ExA therefore sought clarification about the purposes the RL would perform at CAH1 and the Applicant undertook to make a post hearing written submission on this matter [EV-022 and EV-023]. To that end section 8 of REP11-011 addresses the relationship between the proposed RL and the provision of biodiversity mitigation across the Proposed Development. It is clear some biodiversity benefits would be associated with the provision of up to 39.8ha of RL. However, on the basis of the Applicant's post hearing comments [REP11-011] and having regard to the content of biodiversity chapter of the ES [REP4-023], the ExA is content that for any of the biodiversity mitigation measures that it is proposed to undertake within any of the RL sites would only be incidental to the primary recreational role for those areas.
- 8.8.89. On the basis of the information available at the close of the Examination, the ExA is content that the Applicant's proposals for the provision of RL have not of themselves been inflated by any particular need to mitigate the Proposed Development's effects upon the biodiversity of the area. Having regard to what the Applicant has stated in section 8 of REP11-011, the ExA is also content that if the proposed amount of RL was to be significantly reduced as part of the making of a DCO, while there would be some implications for the Proposed Development's embedded ecological design, that, of itself, would not result in there being any inadequacy in the mitigation for the Proposed Development's effects upon biodiversity, most particularly the SPA, the SSSI or amongst the protected species directly or indirectly affected by the Proposed Development.

Potential alternative ratios for RL

- 8.8.90. Given our concerns about the amount of RL that the Applicant has proposed to acquire in exchange for the SCL that would be subject to outright acquisition, we have sought⁶³ comments from the Applicant and all APs and IPs with respect to the possible use of RL ratios of 1:1, 1.5:1 and 2:1 as alternatives to the target ratios favoured by the Applicant [PD-023]. Comments were received at D12 (10 July 2020) and while there has been no opportunity for the Applicant and APs and IPs to make comments about one another's responses to our request for information, because of the Examination's closure on 12 July, we have nevertheless taken account of the comments that were submitted by D12.
- 8.8.91. Unsurprisingly in terms of the possible use of alternative RL ratios in respect of the outright acquisition of SCL, the PBF objector has submitted that the use of a ratio greater than 1:1 would be inappropriate because a ratio of 1:1 would satisfy the minimum required by s131(12) of the PA2008 [REP12-059].
- 8.8.92. With respect to the use of target ratios other than those favoured by the Applicant, SCC has submitted that the starting point should be to assess the function, quality and location of any possible sites and that the resultant ratio for any such site or sites should then be checked against the ratios applied to historic schemes [REP12-040]. SCC considers that any RL provided in association with the Proposed Development that is further away from the M25 and the A3 is likely to have an equality of advantage because it would be subject to less noise disturbance. SCC in REP12-040 reiterates its opinion that RL at PBF would offer significant value, as it would be within close walking distance to Byfleet's residential area.
- 8.8.93. Of the three alternative ratios tabled by the ExA in PD-023, SCC has stated a preference for an RL ratio of 2:1 with respect to the SCL that would be subject to outright acquisition, while a ratio of 1:1 should be applied to SCL that would be burdened through the acquisition of permanent rights [REP12-040]. SWT has also expressed the view that if the Applicant's submitted RL proposals are considered to be inappropriate, then an RL ratio of 2:1 would be its preference [REP12-044].
- 8.8.94. The Applicant has submitted that there should be no reduction to the amount of RL that it proposes to provide. Should there be any reduction in the extent of the RL to be provided, then the Applicant considers that this should be as small as possible, so that the RL would still be considered to be equally advantageous [REP12-021]. The Applicant has further submitted that the proposed RL at PBF should be retained because of the functional qualities and advantages it would offer compared with CF1 to CF4 and HF1 and HF2 [REP12-021].

⁶³ On 2 July 2020 under Examination Rule 17

8.8.95. It has been argued by the Applicant that the provision of RL does not simply revolve around the straight application of ratios, with the functional qualities of the potential RL needing to be considered. In that regard the proposed RL at PBF would be contiguous with parts of the existing SCL. The Applicant, like SCC and SWT, has expressed the view that if an alternative RL ratio was to be applied, then of the three alternatives set out by the ExA in PD-023, the Applicant's preference would be for a ratio of 2:1 to be used [REP12-021]. If a ratio of 2:1 was to be adopted then in the Applicant's opinion the fourth, eighth and ninth options identified by it in Table 1 of REP5a-012 could be pursued [REP12-021]. Adopting a ratio of 1:1, using the Greenwich case as a precedent, the Applicant contends would be an inappropriate approach [REP11-011 and REP12-021].

8.8.96. The ExA has considered all of the representations put to it with respect to the target RL ratios favoured by the Applicant and the possible alternative ratios referred to by the ExA in PD-024. Having regard to the recreational quality of the SCL for which outright acquisitions powers have been sought by the Applicant, the ExA considers that for the purposes of s131 PA2008 the provision of 13.77ha of RL would be no less advantageous to the users of the SCL.

RL as compensation for SCL subject to the permanent acquisition of rights

8.8.97. The PBF objector has argued in REP12-059 that the RL to be provided for the SCL that would be permanently acquired by the Applicant would provide "very significant added advantages" for SCL users and there would be no need to provide any RL in association with the acquisition of permanent rights over the SCL. To that end the PBF objector has submitted that "The minor disadvantage arising from the acquisition of permanent rights over some parts of the SCL ... warrants nothing more to be provided" [REP12-059].

8.8.98. The ExA is, however, not persuaded by the objector's proposition. That is because s131 (compulsory acquisition of SCL) and s132 (compulsory acquisition of rights over SCL) are quite distinct from one another and it is not possible to apply these sections of PA2008 on a mix and match basis. So, if there is a need to provide RL as the means of providing adequate compensation for the acquisition of rights then we do not see how it would be permissible to achieve that through in effect offsetting that requirement against RL to be secured through the operation of s131. The ExA considers that what the PBF objector is suggesting could undermine the legitimacy of the delivery of RL pursuant to s131. The ExA therefore considers that if the provisions of s131 are correctly being applied then any RL arising from the application of this part of the legislation would simply be addressing disadvantage associated with the outright acquisition of SCL and there would be no headroom to compensate for the acquisition of rights over land. If that was not to be the situation, then that would cause conflict with s122(3) because the test that there be a compelling case in the public interest for the acquisition of land would not have been passed.

- 8.8.99. However, the ExA considers that the Applicant's proposals for the provision of 8.51ha of RL in respect of the SCL burdened by the acquisition of permanent rights would be excessive. Accordingly, for the purposes of s122(3) and s132 PA2008 the ExA concludes there would not be a compelling case in the public interest justifying the CA for 8.51ha of RL.

ExA's conclusions with respect to Step 3

- 8.8.100. As the ExA has explained above, it considers that the Proposed Development should provide 13.77ha of RL to address the disadvantage arising from the Applicant's proposal for the outright acquisition of SCL. In relation to the SCL burdened by the acquisition of permanent rights, to ensure that there would be no less advantage for SCL users the ExA considers that 2.63ha of RL should be provided. That would result in the Proposed Development providing a total of 16.40ha of RL.
- 8.8.101. With the provision of 13.77ha of RL in exchange for the SCL proposed for outright acquisition, the ExA considers that the SoST could be satisfied that the SPP would not be needed because the provisions of s131(3) of PA2008 would be met. That is because for the purposes of s131(12) the provision of 13.77ha would be not less in area than the order land (ie the SCL proposed for outright acquisition) and would be no less advantageous to the public. With respect to the acquisition of permanent rights over SCL, the ExA considers that the SoST could be satisfied that the SPP would not be required having regard to the requirements of subsections (3) to (5) of s132 of PA2008 and that this can be recorded in any made DCO.
- 8.8.102. While the provision of 16.40ha of RL would be significantly less than that proposed by the Applicant under the terms of the submitted application, it is open to the SoST to reduce the RL intended for CA in any made DCO. Support for such an approach can be found in paragraph 16 of the CA Guidance. In reaching this recommendation, we consider there would be no conflict with DEFRA's 'Common Land consents policy' (November 2015) insofar as it is applicable to development subject to the NSIP regime.
- 8.8.103. If the SoST accepts our recommendation that the amount of RL be reduced, there is a need to consider the locations from where the RL should be drawn. We consider that matter and make recommendations concerning it under what we have identified as Step 4.

Step 4

- 8.8.104. The provision of 16.40ha RL, rather than the 39.8ha of RL as proposed by the Applicant, means much of the RL identified by the Applicant would be surplus to requirements.
- 8.8.105. Although the ExA considers that the amount of RL to be provided should be much less than that identified by the Applicant, we consider that wherever that reduced amount might be located it would be qualitatively superior to the SCL that would be affected by the Proposed Development.

That is firstly because the affected SCL of itself has such limited recreational value compared with the bulk of the CL and OS that make up Ockham Common and Wisley Common and secondly much of the land with a reasonable degree of proximity to the affected SCL and capable of being used as RL would outperform in recreational terms the land that it would be exchanged for.

- 8.8.106. Having regard to the two above mentioned considerations the ExA is of the view that the proposed RL made up of PBF1, PBF2 and PBF3 would be the most suitable to address the disadvantage for SCL users arising from the outright acquisition of 13.77ha of SCL and the acquisition and exercising of rights over 2.63ha of the SCL. That is because the land at PBF scores well in terms of: it being contiguous with the SCL that lies to the north-east of junction 10; the potential for this to RL provide consolidated and recreationally attractive areas of outdoor recreational space; and its proximity to the built up area of Byfleet increasing the chances of the SCL being used by people walking to and from it, thereby reducing reliance upon the use of private motor vehicles. The ExA considers PBF should be preferred to CF1 to CF4, HF1 and HF2 as the location for RL provision. That is because those other locations would either be subject to higher levels of noise and/or would not be as well related to the existing SCL.
- 8.8.107. If PBF was to be the sole location for the delivery of the 16.40ha of RL that would require some apportionment from the 21.85ha that PBF1 to PBF3 collectively could provide. To that end we consider that it would be appropriate for all of PBF1 (5.1ha) and PBF2 (8.35ha) to be acquired, with remaining 2.95ha needed to reach a total of 16.40ha being drawn from the southern part of PBF3. By limiting the land take from PBF3 to its southern part that would leave the ponds and the area where a summer house has been sited available for use by the residential occupiers of PBF.
- 8.8.108. We are mindful that the EA has identified part of PBF1 as a flood water storage area forming an element of its proposed Sanway Flood Alleviation Scheme (FAS) [REP3-026 and REP3-027]. However, the EA has confirmed in the signed SoCG that it has entered into with the Applicant that it believes "*... that there may be construction and/or management synergies between us and the landowner/manager, as both the DCO scheme and the FAS are likely to be constructed at similar times ... the EA consider that the proposed uses for the Sanway FAS (floodplain compensation, creation of wetland habitat, promotion of public access) and the Scheme, do not conflict*" [REP8-023]. The Applicant has commented that in principle it is supportive of the EA's aspirations for PBF1 to have a dual use as RL and as a FAS and for the two proposals to be linked to improve public access in the area [paragraph 3.1.8 of REP8-023]. Given the EA's and the Applicant's comments concerning the dual use of PBF1 as an element of the FAS as well as serving as RL, we are content that the FAS's implementation would not frustrate the provision of RL at PBF1 and *vice versa*.

- 8.8.109. It must be acknowledged that the provision of 16.40ha of RL at PBF would cause interference with the human rights of the owners and occupiers of this property. Nevertheless, we consider that interference would not be of the severity that has been voiced as part of the PBF objections. That is because the total landholding at PBF is of the order of 40.5ha (100 acres) [REP1-035]. So, even if with a reduction in the extent of the landholding at PBF of around 41%, the occupiers of three properties here would still have a substantial amount of outdoor/garden space available to them. There has not been an argument put forward by the PBF objector that the proposed CA of RL at PBF would interfere with any commercial enterprise there.
- 8.8.110. We are therefore not persuaded that the retained 59% of outdoor space at PBF would be of an extent that would leave the occupiers of the three dwellings with severely compromised and unreasonable living conditions. We consider this is not an instance where the acquisition of 16.40ha of land would deprive the occupiers of the three properties with a retained amount of external space that would be of limited or no practical utility for the purposes of undertaking outdoor activities such as those referred to in the witness statement appended to REP5a-013.
- 8.8.111. The ExA recognises that the owners of the proposed RL sites at CF1 to CF4, HF1 and HF2 have raised no objection to the CA of their land and that no human rights concerns have been raised by those landowners. However, the absence of CA objections and/or human rights concerns from the owners of the six other proposed RL sites does not persuade the ExA that those sites should in effect automatically be considered as being preferable RL locations ahead of the land at PBF. That is because the ExA is of the view that CF1 to CF4, HF1 and HF2 would not address the purpose of providing RL, ie the provision of replacement publicly accessible recreational space, as well as PBF1 to PBF3, with those six plots in the ExA's view being of lesser utility for SCL users given their locations and/or the levels of road traffic that they are subject to. The ExA also considers that use of CF1 to CF4, HF1 and HF2 would not amount to as favourable a proposal for compensating for the loss of SCL, when regard is paid to paragraph 5.174 of the NPSNN.
- 8.8.112. As part of the PBF objection it has been contended that as an alternative RL could be provided at Pond Farm, given its immediate proximity to CL and OS that together form part of Wisley Common. The land at Pond Farm is actively farmed by the SWT in connection with its management of this part and the wider TBHSPA. On the evidence available to us we consider that the loss of Pond Farm as a working farm would be prejudicial to SWT's farming operations, including the role that activity plays in the management of the TBHSPA.
- 8.8.113. If Pond Farm was to become RL for SCL affected by the Proposed Development that would have the potential to intensify the use Wisley Common as a recreational space. For SCL users that would undoubtedly be beneficial. However, because of the proximity of Pond Farm to the TBHSPA that would have the potential for adverse impacts on the QFs of the TBHSPA.

- 8.8.114. The ExA therefore considers that Pond Farm does not represent an appropriate alternative to the RL sites, including PBF, which have been identified by the Applicant.

ExA's conclusions and recommendations concerning SCL and the provision of RL

- 8.8.115. For the reasons set out above the ExA concludes that the acquisition of 39.8ha of RL to address the Proposed Development's implications upon SCL users in the area would not be necessary to meet the condition under s122(3) of PA2008 of there being a compelling case in the public interest for that amount of land to be compulsorily acquired. That is because the ExA considers that the acquisition of 16.40ha would be justifiable and reasonable when regard is paid to the provisions of s131 and s132 PA2008 and paragraphs 11 of the CA Guidance.
- 8.8.116. If it SoST accepts our finding that the provision of 16.40ha of RL would be a proportionate response to addressing the effects of the Proposed Development on the affected SCL, then we consider that when the purpose for providing RL is taken into account, it would be reasonable for all of that RL to be drawn from all of PBF1 and PBF2, which together add up to 13.45ha based on the areas quoted in REP12-004, with the remaining 2.95ha of the necessary RL being drawn from the southern part of PBF3. That is because, unlike for the Applicant's submitted RL proposals, there would be a legitimate purpose for 16.40ha of RL being acquired and the provision of 16.40ha RL at PBF would be the most appropriate means for addressing the disadvantage arising from the outright acquisition of 13.77ha of SCL and the burden upon SCL users arising from the acquisition of permanent rights over 2.63ha of SCL.
- 8.8.117. The acquisition of 16.40ha of RL at PBF would cause some interference to the human rights of the owner and occupiers of this property. However, for the reasons given above the ExA considers that the CA of 16.40ha of land at PBF would pursue a legitimate aim in that it would replace SCL affected by the Proposed Development and would be in accordance with the law, namely s122, s131 and s132 of PA2008. The ExA is therefore not persuaded that the taking of 16.40ha of land at PBF would be disproportionate and that the interference with the human rights of the owner and occupiers of PBF would be unacceptable, when regard is paid to the provisions of Article 1 of the First Protocol and Article 8 of HRA1998.
- 8.8.118. **The ExA therefore recommends that:**
- 1) With respect to the amount of SCL proposed for outright acquisition, the area of RL to be provided should at a minimum be 13.77ha and should not appreciably exceed that land area in order to be compliant with the provisions of s122(2)(c), s122(3) and s131 PA2008.
 - 2) With respect to the provision of RL to compensate for the permanent acquisition of rights that would be burdensome for SCL

users, to meet the condition under s122(3) PA2008 that there is a compelling case in the public interest for the land to be acquired compulsorily and to accord with the provisions of s132 PA2008, the amount of RL to be provided should be a minimum of 2.63ha.

- 3) The RL to be provided in connection with the Proposed Development should comprise the whole of the sites identified by the Applicant as PBF1 and PBF2 on Figure B.1 in REP12-004 and 2.95ha drawn from the southern part of PBF3, namely all of land plots 11/17i and 11/17j and part of the southern end of land plot 11/17h [REP8-006].
- 4) RL sites CF1 to CF4, HF1 and HF2, ie land plots 13/9, 13/9b, 13/12, 13/12a, 14/1, 14/1a, 14/3, 26/4, 26/4a, 26/5, 26/5a and 26/6 [REP8-006] should be excluded from the CA powers sought in the dDCO [REP12-002].

8.8.119. If the SoST was minded to accept the ExA's recommendations with respect to the provision of RL, then the ExA considers he should seek comments on our recommendations from IPs and APs. That is because much of the evidence that has informed the ExA's recommendations only became available at D11 and D12. As a result the ExA was unable to offer IPs and APs, most particularly the Applicant, SCC and the PBF objector the opportunity to comment in detail on what would be quite significant changes to the provision of RL compared with the proposals outlined by the Applicant prior to the close of the Examination. The ExA considers that a consultation by the SoST on the ExA's recommended changes to the provision of RL would be in accordance with Article 6 of the HRA1998.

The position with respect to the SCL subject to the incomplete 'historic exchange' of land subject to the Compulsory Purchase Orders (CPOs) of 1979 and 1982

8.8.120. In considering how much and where RL should be provided in exchange for the SCL affected by the Proposed Development, above we have already touched on the fact that parts of Ockham Common and Wisley Common were affected by the original construction of Junction 10. In that regard the affected SCL was authorised for acquisition under two CPOs, made in 1979 and 1982 respectively (the historic CPOs) by the then Minister for Transport and the SoST. Some of the land covered by the historic CPOs was CL and these CPOs were authorised on the basis that exchange land would be provided in exchange for the loss of the affected CL [REP11-004]. The extent of the CL, OS and exchange land subject to the historic CPOs is shown on the map that forms Appendix A of AS-017 and SCC has submitted that there are around 20 plots of land affected by this matter, some of those being unregistered [REP7-025]. By the close of the Examination SCC was still conducting a title search and neither SCC nor the Applicant have been able to confirm that no party other than SCC has a landowning interest in the land that should have been acquired pursuant to the historic CPOs.

8.8.121. Notwithstanding the age of the historic CPOs and the fact that the M25 has been fully operational for in excess of 30 years, some registered CL, now occupied by the M25 and the A3's slip roads, had not at the date of the submission of the application for the Proposed Development been acquired by either the DfT or the Applicant. A consequence of the failure of the provisions of the historic CPOs to have been fully exercised back in the 1980s is that there are parts of both the M25 and the A3 which continue to be registered as CL, while the Applicant continues to be the owner of some exchange land which should have been vested in SCC [REP11-004]. In the case of the exchange land still owned by the Applicant members of the public can access it for recreational purposes.

8.8.122. While the DCO, if made, would authorise works concerning land still registered as CL and owned by SCC, as part of the submitted application the Applicant has not sought CA powers over this land. In the SoR [REP11-004] the Applicant has explained the position as it sees it as being:

"... it is implausible to consider that the land can still be enjoyed as common land. For the purposes of the of the DCO application, the Applicant has made a prudent assumption that the transfers will be completed and the revisions to the commons register made. Accordingly, land within the carriageways of the M25 and A3, although technically registered common land, is not shown as such on the Special Category Land Plans (Rev 2 [REP8-006]).

In any event, the Applicant has elected not to seek compulsory purchase powers over these parcels of land in order to fall outside the scope of sections 131 and 132 of Planning Act 2008 which would otherwise apply to these parcels of land. The Applicant considers this is a prudent approach which recognises the intention of the 1979 and 1982 Orders and avoids a potentially perverse outcome in terms of the application of special parliamentary procedure in circumstances where the M25 and A3 was constructed on the relevant land parcels several decades ago and there is no question of public recreation or amenity.

... for the reasons set out above, the Applicant does not seek compulsory acquisition powers over the affected land parcels".

8.8.123. The ExA considers there are potentially procedural difficulties with the way the Applicant has approached this matter. Firstly, there is no doubt that some of the extant M25 and A3 is still registered CL and accordingly that land should be recorded as such on the SCL Plans. Secondly, the dDCO seeks to authorise works over land owned by a party or parties other than the Applicant, and the PA2008 and related secondary legislation set out a statutory code that should be followed and for reasons best described as 'convenience' the Applicant has sought to circumvent, so as to avoid a potentially "perverse" [REP11-004] outcome of the SPP being engaged. We therefore have reservations as to whether it is within the Applicant's gift selectively to elect not to seek CA in respect of some land required to enable the Proposed Development to

proceed, when that development is being promoted as an NSIP under the provisions of the PA2008, as opposed to any other consenting regime.

- 8.8.124. This historic “*anomaly*” [REP11-004] is something that the Applicant and SCC have clearly been aware of since at least 31 August 2017, with it being stated in a meeting note of that date that “... *all outstanding replacement land issues relating to the M25 would be completed*” [REP5a-013]. So, while this conveyancing matter had been a live one for at least three years, we consider it somewhat unsatisfactory that it still had not been fully concluded by the close of the Examination on 12 July 2020.
- 8.8.125. Our concerns regarding this matter have led us to raise several written questions 1.16.15 and 1.16.16 [PD-006], 2.16.4 [PD-010], 3.16.6 [PD16-016] and 4.16.4 [PD-021]. However, we take little comfort from the answers we have received to those questions. We consider it of note that SCC, in replying to ExQ1 1.16.16, stated that should the historic exchange of the CL not have been concluded by the close of the Examination then this land should be treated as being SCL [REP2-045]. The Applicant’s response to ExQ1 1.16.16 only referred to the exchange land that should have been vested in SCC pursuant to the historic CPOs as being tantamount to SCL, with no reference being made to the CL still owned by SCC [REP2-013].
- 8.8.126. The ExA considers that should the SoST be minded to make the DCO, that prior to making any such order, and in the event of the exchange of land envisaged under the terms of the historic CPOs having not been completed and the CL in question not having been de-registered, then the SoST should satisfy themselves that it would be lawful for the DCO to be made under those particular circumstances. While the ExA recognises that the failure to complete the historic exchange of the CL and de-registration of the affected land before now, may well prove encumbrance for all of the parties concerned, that in the ExA’s view does not obviate the need to ensure that due process has been correctly followed for the purposes of PA2008.

8.9. OBJECTIONS AND REPRESENTATIONS MADE BY AFFECTED PERSONS EXCLUDING SPECIAL CATEGORY LAND CONSIDERATIONS

- 8.9.1. Below the ExA gives consideration to the remaining CA and TP objections and/or concerns that have been submitted, addressing those of SCC first followed by those of the other APs in alphabetical order for individuals and organisations.

SCC

- 8.9.2. There are a very large number of land plots identified in the BoR [REP1-005] and shown on the Land Plans [REP8-003] for which SCC has been identified as the landowner and over which the Applicant is seeking CA powers (both outright acquisition and permanent acquisition of rights) or TP powers over. SCC has, however, confirmed in its signed SoCG with

the Applicant [REP12-008] that *"The SCC land that is intended to be the subject of compulsory acquisition of title, rights or subject to temporary possession is no more than reasonably required for the purposes of constructing, operating and maintaining the Scheme or providing for long-term mitigation/compensation of its environmental effects"*, subject to *"provision being made within the highway side agreement for SCC's involvement in the detailed design of structures"*.

- 8.9.3. Some of the CA and TP powers relate to SCL and the ExA has considered SCL matters on a topic basis in Section 8.8 of its Report above. Accordingly, this Section of the ExA's reports considers the CA and TP case made by SCC in respect of land other than SCL.
- 8.9.4. SCC's CA and TP objections were discussed at the CAH1 [EV-024] and fell within five topic areas. SCC has provided a written summary of the CA and TP case that it gave in respect of non-SCL matters in REP11-024 and its objections and concerns with respect to the Applicant's CA and TP proposals as they stood at 17 June 2020⁶⁴. Below each of those topic areas are reported on in turn.

Ockham Bites car park and café

SCC's case

- 8.9.5. SCC is concerned about the implications upon the operation of the Ockham Bites car park and café of providing the proposed bridleway subject to dDCO Work No.35(d) [REP12-002 and REP8-004]. The works subject to Work No.35(d) concern various plots shown on sheet 4 of REP8-003, which form part of the café's car park and would be subject to temporary use with permanent rights acquisition or TP. In this regard SCC considers that the provision of the proposed bridleway would require the reconfiguration of parts of the car park to maintain its capacity, otherwise there would a loss of one third of the car park's spaces⁶⁵. However, any reconfiguring of the car park would concern land beyond the Order limits for the Proposed Development and accordingly works of this nature could not be secured as part of any made DCO.
- 8.9.6. To address its concern SCC considers the reconfiguration of the car park should be undertaken at the Applicant's expense rather than SCC's expense. To that end SCC is supportive of a legal agreement being entered into with the Applicant, under which the Applicant would undertake a scheme of works along the lines of an outline schedule that SCC has made available to the Applicant. The outline for the scheme of works being provided by SCC in its response to ExQ4.16.1 [REP10-012].
- 8.9.7. Following CAH1 and further discussions between SCC and the Applicant, SCC has advised in REP12-040 that it is intended that the Highways side agreement to be entered into by SCC and the Applicant would make provision for a further agreement specific to the Ockham Bites car park

⁶⁴ The date of Session 2, Part 4 of CAH1

⁶⁵ As explained in REP12-040

would be entered into between the parties. The intention being that an Ockham Bites car park agreement would be entered into before any made DCO took effect and would specify the works to be undertaken by the Applicant for the car park's reconfiguration [REP12-040 and REP12-008].

The Applicant's response to SCC's case

- 8.9.8. At Session 2, Part 4 of CAH1 [EV-024] and in REP11-006 the Applicant has confirmed that the implementation of dDCO Work No.35 would reduce the capacity of the Ockham Bites car park by around a third. In REP11-006 the Applicant has further advised that discussions were in hand for the accommodation works for the car park to be included as a matter addressed in the side agreement that the Applicant intends to enter into with SCC. The Applicant would be responsible for undertaking the works to the car park subject to any necessary consents having been obtained [REP11-006]. A more detailed explanation of how the car park reconfiguration works would be delivered has been set out by the Applicant in REP12-015.
- 8.9.9. The Applicant has stated *"In the unlikely event of the parties failing to conclude the Agreement SCC's entitlement to compensation for the acquisition of its land interests in the existing car park (and injurious affection to land not taken) will endure. SCC has previously recognised that (see para 8.3 of the Joint Council Local Impact Report [REP2-047] that a 'suitable level of funding would be an acceptable alternative to the remodelling works"* [REP12-015].

The ExA's reasoning

- 8.9.10. The Applicant is seeking to temporarily use and acquire permanent rights in respect of Plot 4/23 in order in the first place to construct the bridleway subject to Work No.35(d) [REP12-002, REP8-003 and REP8-004]. Thereafter the acquired rights would be used for the maintenance of the Cockcrow overbridge and the maintenance of other parts of the Proposed Development (Schedule 5 of the dDCO [REP12-002]).
- 8.9.11. The maintenance activities for which it proposed to acquire permanent rights are required to facilitate vehicular access to the Cockcrow overbridge and other parts of the Proposed Development. The ExA considers that the extent of land over which those rights are being sought is necessary for the intended purposes for the rights sought. The ExA therefore considers that the area covered by the rights sought would be proportionate and that there is a compelling case in the public interest for the acquisition of permanent rights over Plot 4/23, giving rise to compliance with s122 PA2008 and the CA Guidance.
- 8.9.12. With respect to the land identified within the Ockham Bites car park for TP [REP8-003], the ExA considers that there would be a requirement for that land to be used temporarily to facilitate the construction of the bridleway subject to Work No.35(d).

- 8.9.13. The ExA considers that SCC has raised a reasonable concern with respect to the consequences of exercising the proposed CA and TP powers as they would affect the operation of the Ockham Bites car park. In that regard SCC does not object to the CA and TP powers sought under the terms of the dDCO [REP12-002], provided a mechanism can be put in place to secure the car park's reconfiguration so that the capacity of the car park would be maintained.
- 8.9.14. Importantly SCC and the Applicant have negotiated a way of securing the delivery of the works that would maintain the car park's capacity, subject to any necessary consents being obtained. However, SCC has advised in REP12-040, as at D12, that the Highways side agreement within which the commitment for SCC and the Applicant to enter a further agreement relating to the Ockham Bites car park had not been fully executed. SCC had sealed its counterpart of the agreement. However, the Applicant has explained in REP12-018 that at the close of the Examination it had not been able to execute the Highways side agreement although it is intended that would occur during the week commencing 13 July 2020.
- 8.9.15. It appears to the ExA that it is only for administrative reasons that the Highway side agreement had not been concluded by the Examination's close. There ExA therefore considers it reasonable to assume that SCC's concern with respect to the implications of the Applicant's CA and TP proposals as they relate to the Ockham Bites car park have been resolved. The ExA recommends that the SoST seeks clarification from the SCC and the Applicant as to the position with respect to the execution of the Highways side agreement as it relates to the Ockham Bites car park. That said whether there is or is not an executed side agreement in place, there would be an entitlement for SCC to be compensated for the acquisition of its land interests in the existing car park, as per the submission made by the Applicant in REP12-018.

Maintenance arrangements for the A3 corridor MNU route

SCC's case

- 8.9.16. Throughout the Examination SCC has been concerned that it would be responsible for the maintenance of the new NMU route that would follow the A3 corridor. It has been the Applicant's intention that SCC should be wholly responsible for its maintenance, see for example RR-004. SCC has argued that either the Applicant should acquire permanent rights enabling it to maintain the NMU route or the Applicant should pay a commuted sum to SCC for the future maintenance of the NMU so that SCC would not be financially burdened.
- 8.9.17. SCC made submissions during the course of CAH1 [EV-024] and explained that this was a concern relating to various land plots which it has listed in REP11-024. In that regard SCC advised the ExA that the Applicant's payment of commuted sums should cover the maintenance of the NMU's surface and supporting structures and was something that it expected would be addressed within the Highways side agreement.

- 8.9.18. In REP12-040 SCC has advised that it has withdrawn its objections to the CA and/or TP powers sought by the Applicant in connection with the proposed NMU route. That is because SCC is content that the provisions of the Highways side agreement would address its concerns.

The Applicant's response to SCC's case

- 8.9.19. At CAH1 the Applicant explained that its general position is that it should not acquire rights over parts of the local highway network for which SCC receives funding to maintain [EV-024 and REP11-006]. However, the ExA was advised that there had been discussions with SCC and that it was expected that the Highways side agreement would make provision for the Applicant to make a commuted payment to address SCC's concerns.

The ExA's reasoning

- 8.9.20. At no time during the Examination did SCC raise a concern about the amount of land that the Applicant was seeking to temporarily use and acquire permanent rights over in connection with the proposed NMU. SCC's concern was limited to how the maintenance of the NMU would be funded.
- 8.9.21. The Applicant is seeking to temporarily use and acquire permanent rights in respect of various land plots in order in the first place to construct the bridleway subject to Work No.35 [REP12-002, REP8-003 and REP8-004]. Thereafter the acquired rights would be used in the maintenance of various parts of the Proposed Development (such as retaining structures and fences) and an existing gas pipeline adjoining the NMU (Schedule 5 of the dDCO [REP12-002]).
- 8.9.22. The maintenance activities for which it proposed to acquire permanent rights would be required to maintain parts of the Proposed Development. The ExA considers that the extent of land over which those rights are being sought would be necessary for the intended purposes for the rights sought. The ExA therefore considers that the area covered by the rights sought would be proportionate and that there is a compelling case in the public interest for the acquisition of permanent rights over Plot 4/23, giving rise to compliance with s122 PA2008 and the CA Guidance.
- 8.9.23. With respect to the land identified for TP shown on the Land Plans [REP8-003] on or adjoining the NMU route, the ExA considers that there would be a requirement for that land to be used temporarily to facilitate the construction of the NMU subject to Work No.35.
- 8.9.24. The execution of the Highways side agreement would address SCC's maintenance concerns for the NMU along the A3. However, the ExA considers that very little weight should be attached to the existence of any such agreement for the purposes of the consideration of the CA and TP sought by the Applicant. That is because the ExA considers that the proposed NMU could not be constructed without the CA and TP proposed within the dDCO [REP12-002].

Designation of land acquisition in relation to environmental mitigation and enhancement

SCC's case

- 8.9.25. This concern of SCC relates to the Applicant's proposed acquisition of permanent rights over land that would temporarily be used to provide environmental mitigation and enhancements and would then be maintained by the Applicant on a time limited basis. SCC has identified Plots such as 25/1 and 4/21 [REP8-003], which would be used for TBHSPA enhancement works, as falling in this category of its concern. SCC's concern is that if permanent rights are acquired the affected land would be subject to those rights after the expiry of the maintenance obligations upon the Applicant stipulated in any made DCO. SCC has therefore submitted that the rights sought should be extinguished when they are no longer required by the Applicant, something that could be addressed by SCC and the Applicant entering into an environmental side agreement.
- 8.9.26. In REP12-040 SCC has advised that at the time of the Examination's close discussions relating to the conclusion of an environmental side agreement between the Applicant, SWT and SCC were ongoing.

The Applicant's response to SCC's case

- 8.9.27. The land plots subject to this concern of SCC would be needed to fulfil the long-term obligations of the proposed LEMP [REP4-032]. The Applicant considers that it would be inappropriate to seek TP powers for such a long time period to maintain environmental enhancement and mitigation areas. The Applicant is therefore seeking to take rights over the land required to provide environmental enhancement and mitigation. However, the Applicant recognises that the rights to be acquired would eventually become "spent" and at that point the Applicant would take steps to ensure that these rights would no longer burden SCC's title [REP11-006].
- 8.9.28. The Applicant in its position statement concerning side agreements with SCC [REP12-018] has advised that the intention is for its principal contractor to undertake the initial works for the environmental mitigation and enhancement areas, subject to dDCO Work No.57 and No.58 [REP12-002] and their subsequent maintenance for the first five years. Thereafter under an agreement to be entered with SCC and SWT, SWT would undertake the management and monitoring for the works for a further twenty years⁶⁶ for the TBHSPA land owned by SCC.
- 8.9.29. In the signed SoCG between SCC and the Applicant [REP12-008] the Applicant has commented that it is continuing to engage in discussions with SCC and SWT to conclude an Environmental side agreement, but that the making of a DCO "... need not be contingent upon this agreement being concluded because suitable provision for the

⁶⁶ Assumed to be 2046 in REP12-018

management of the proposed environmental mitigation, compensation and reinstatement measures is already provided for in the dDCO”.

The ExA’s reasoning

- 8.9.30. The proposed acquisition of rights relating to the environmental mitigation and enhancement areas would be required to maintain those parts of the Proposed Development. SCC has raised no objection to the physical area over which those rights would apply. The ExA considers that the area of land over which these rights are being sought would be necessary to enable the environmental mitigation and enhancement areas to be maintained. The ExA therefore considers that the area covered by the rights sought would be proportionate and that there is a compelling case in the public interest for the acquisition of those permanent rights, giving rise to compliance with s122 PA2008 and the CA Guidance.
- 8.9.31. From the oral representations made at CAH1 [EV-024] and the subsequent written submissions contained in REP11-006, REP11-024, REP12-008 and REP12-040, it appears to the ExA that SCC and the Applicant are proposing that when the rights to be acquired by the Applicant need not be exercised any further, then they would be extinguished through provisions to be included in the environmental side agreement that the Applicant intends to conclude with SCC. The ExA agrees with the Applicant that the making of the DCO need not be contingent on the execution of an environmental side agreement. That is because there would be Requirements within the dDCO [REP12-002] that would secure the provision of the necessary environmental mitigation and enhancement.
- 8.9.32. However, the ExA considers that whatever provisions might be included in an environmental side agreement could not of themselves extinguish permanent rights conferred under powers contained within any made DCO. The ExA therefore considers that it would be necessary for any made DCO to be formally amended at the time when the Applicant no longer needed to exercise the rights to be permanently acquired that are of concern to SCC.

Land acquisition and the OPJ

SCC’s case

- 8.9.33. SCC has sought clarification about the CA powers (permanent title acquisition) that the Applicant is seeking for land plots around OPJ [EV-024 and REP11-024]. This concern relates, for example, to Plots 1/19 and 1/20, which SCC’s owns, Plots 1/5, 1/7, 1/10 and 1/17, which the Applicant and SCC jointly own and SCC occupies as highway authority and Plot 1/25, for which the Applicant is the “owner or reputed owner ... (in respect of unregistered highway land)” and is partly occupied by SCC with respect to footpath provision, which the Applicant owns but form

part of the LRN⁶⁷. SCC having submitted that SCC's rights cannot be acquired because of their legal status, because "... *whether Highways England acquire the freehold of the land, the surface will remain vested in the County Council as Highway authority until such time as the highway rights are stopped up or the highway ceases to be maintainable at public expense ... neither of which are proposed for the plots in question*" [REP11-024].

The Applicant's response to SCC's case

- 8.9.34. With respect to the acquisition of land around OPJ the Applicant has explained at CAH1 and in REP11-006 that it is the Applicant's "... *usual practice to include land within the DCO to 'clean the title', ie acquire or extinguish any rights that may arise*".

The ExA's reasoning

- 8.9.35. With respect to Plots 1/5, 1/7, 1/10, 1/17, 1/19, 1/20 and Plot 1/25, the ExA considers that the Applicant's explanation of its intentions for these plots and the way they have been identified in the BoR [REP12-002] and sheet 1 of the Land Plans [REP8-003] reveals no intention by the Applicant to deprive SCC of its ability to perform its duties as the local highway authority. Instead the Applicant is seeking powers within any made DCO that would ensure that no unknown third-party rights remained that could impede the delivery of the Proposed Development.

SCC title acquisition for future maintenance

SCC's case

- 8.9.36. To facilitate future maintenance for assets to be provided as part of the works of the Proposed Development, such as accesses, visibility splays and the Wisley Lane diversion, SCC has submitted that it requires the titles acquired by the Applicant to be transferred to it [REP11-024].
- 8.9.37. In relation to this concern in REP12-040 SCC has drawn attention to Plot 9/13 as a plot subject to an objection on its part. Plot 9/13 having been identified in the BoR [REP12-002] and the Land Plans [REP8-003] as being subject to temporary use and the acquisition of permanent rights in association with the provision of some drainage works. Plot 9/13 is not owned by SCC, however, it considers that it should be acquired by the Applicant, with its title subsequently passing to SCC.

The Applicant's response to SCC's case

- 8.9.38. In response to this matter the Applicant has submitted that it considers that to address this concern a "solution" can be found, with these being matters of detail that are subject of negotiations with SCC [REP11-006].

⁶⁷ As per the entries in the BoR [REP11-005]

The ExA's reasoning

- 8.9.39. This concern of SCC does not relate to the principle of the CA or TP powers sought by the Applicant in respect of land owned by SCC. With this concern instead relating to how land or rights might need to be transferred to and/or conferred upon SCC to enable it to maintain new or altered parts of the LRN. As such SCC's concern does not relate to land in its ownership that the Applicant is seeking to acquire, but rather to the mechanics for transferring title from the Applicant to SCC so that the latter can maintain parts of the LRN once the Proposed Development become operational. The ExA therefore considers that this matter does not raise an issue that needs to be considered in the context of the conditions stated in s122 PA2008 or the CA Guidance, being a conveyancing matter between SCC and the Applicant.

Mr Emmanuel Coccolios

- 8.9.40. This objection concerns Plot 1/6 [REP8-00] at Nutberry Farm, which lies immediately to the west of OPJ. Plot 1/6 has an area of 56,342 sqm [REP11-005]. The Applicant proposes that this land would be subject to TP and would be used as the main construction compound for the Proposed Development [REP8-012]. The objection is set out in AS-034 and states:
- the Applicant has made no attempt to negotiate terms;
 - the use of the land for three years will remove the only viable access to the owners' caravan; and
 - the use of the land as a construction compound would prevent the holding of car boot sales, which have been held for over 18 years, "*... essentially shutting down the business*".
- 8.9.41. The ExA asked the Applicant to provide an update on the status of this objection during Session 1 of the CAH1. A written summary of that update is contained in REP11-006. Further to action point 5 arising from CAH1, the Applicant has provided a note outlining the discussions and overall position regarding the TP objection concerning Nutberry Farm [REP11-009]. The Applicant has submitted that there have been "*substantial negotiations*" between September 2019 and June 2020, superseding what is stated in AS-034 [REP11-009], involving the objector's and the Applicant's agents.
- 8.9.42. The Applicant has advised that matters that are subject to discussion with the objector include the frequency of tractor access that would be required to the parts of Nutberry Farm that would not be subjected to the proposed TP of Plot 1/6, and compensation considerations in relation to the impact of the construction compound on the car boot sales business [REP11-009].
- 8.9.43. From what was stated by the Applicant during CAH1 and the contents of REP11-009, it appears to the ExA that the objector's concern primarily concern the matter of compensation while Plot 1/6 was being used as the construction compound. That is a matter which is not for consideration as part of the submitted application. The ExA considers there would be a

need for a construction compound to be available throughout the construction period for the Proposed Development. Given that much of the land adjoining the M25 and the A3 within the vicinity of junction 10 is subject to nature conservation designations (SPA and/or SSSI) or is publicly accessible open space (CL or OS), the ExA considers that the opportunities to provide a construction compound are limited and that Nutberry Farm would be a suitable location, with ready access to the A3 being possible in this location.

- 8.9.44. The ExA therefore finds that the proposed TP at Nutberry Farm would be appropriate.

**Elm Corner Residents Group, including
Mrs Barklam, Mrs Cowell, Mrs Emily Inge and
Miss Kendrick and the Young Family**

- 8.9.45. RR-010, and a written submission [REP1-022] have been submitted by the Elm Corner Residents Group, which represents the owners and occupiers of eighteen properties at Elm Corner and Hatch Lane, raising concerns about the Applicant's CA and TP proposals as they relate to Elm Corner. In addition four individual RRs from residents of Elm Corner have been received from the occupiers of: Orchard Cottage (Mrs Barklam) [RR-034]; Rose Cottage (Mrs Cowell) [RR-037]; 1 Fellside Cottages (Mrs Inge) [RR-044]; and Reynards (the Young Family) [RR-061]. Two letters, REP7-037 and REP12-048, have been submitted on behalf of the occupiers of Reynards, Orchard Cottage and Twenty Twelve (Miss B Kendrick).
- 8.9.46. In the context of the CA and TP powers sought by the Applicant in the dDCO [REP12-002], the above-mentioned RRs and other written submissions for the most part concern Work No.34 and No.50 [REP8-004]. Those works relate to the proposals for Elm Lane to become a new bridleway at its southern/western end and the alterations to the BOAT at the other end of Elm Lane, as a consequence of the proposed stopping up of the junction of Elm Lane with the A3 southbound under Work No.5(e) [REP8-004 and REP8-005].
- 8.9.47. To undertake Work No.34 and No.50 the Applicant has sought TP powers in respect of various plots of land in Elm Lane, which are shown on sheets 23 and 24 of REP8-003. Of the land plots in Elm Lane subject to the proposed TP in Elm Lane, Plots 23/1, 23/7 and 24/2 are variously owned by the residents of Elm Corner. It should be noted that the extent of the ownership in Plots 23/1, 23/7 and 24/2 is in respect of the subsoil of each property fronting Elm Lane, as recorded in column three of the BoR [REP11-005].
- 8.9.48. The area of land subject to the proposed TP of Plots 23/1, 23/7 and 24/2 coincides with the extent of proposed Works No.34 and No.50. The ExA therefore considers that the TP powers sought in respect with Plots 23/1, 23/7 and 24/2 would be necessary and thus reasonable in order to facilitate the provision of the proposed bridleway and altered BOAT. This is because if Work No.34 and No.50 were not undertaken then a suitable

vehicle access for the occupiers of the dwellings at Elm Corner would otherwise be unavailable under the Proposed Development.

- 8.9.49. In relation to Plot 23/2, which concerns the access to Orchard Cottage, the Applicant is seeking TP powers in respect of 184 sqm to enable modifications to the entrance to that property to be made under Work No.34 [REP12-002, REP8-004 and REP8-005]. The ExA considers that as the Applicant has identified a need to modify the entrance of Orchard Cottage, as a consequence of its proposals to alter Elm Lane that it would be appropriate for any made DCO to include TP powers relating to Plot 23/2.

Mrs Engelen

- 8.9.50. Mrs Engelen is the owner of Court Close Farm, a residential property that is in multiple occupancy. To facilitate the provision of a gas main diversion (Work No.63(c) of the dDCO and sheet 6 of the Works Plans [REP12-002 and REP8-004]) it is proposed that Plot 6/23a would be subject to TP with the acquisition of permanent rights [REP8-003]. In REP1-055 a concern is raised about what the surface treatment would be for the diverted gas main as it passes through Court Close Farm and what the future maintenance requirements would be for the land subject to the rights to be acquired in respect of Plot 6/23a.
- 8.9.51. Plot 6/23a has an area of 703 sqm [REP11-005] and occupies part of a grassed area within the grounds of Court Close Farm. The TP of Plot 6/23a and the acquisition of permanent rights to enable the SU to maintain the diverted gas main would affect a comparatively small area within the grounds of the affected property. The ExA considers that the use of Plot 6/23a would be proportionate, relative to the nature of the works that it would facilitate, constituting a narrow corridor within which a gas main could be laid.
- 8.9.52. The owner and occupiers of Court Close Farm have rights of access relating to Plots 7/1 and 7/2 (owned by GATC) enabling this property to be accessed via the A3 southbound direct access that it is proposed would be stopped up under Work No.17(d) [REP12-002]. To address the stopping up of that access a PMA has been proposed under proposed Work No.40. The owner and occupiers of Court Close Farm would share access over that PMA as it passed through the Heyswood Campsite.
- 8.9.53. The proposed shared use of the PMA through the Heyswood Campsite is subject to an objection from GGLW and the practicalities of using a gated shared access is a concern that Mrs Engelen shares with GGLW [REP1-055 and REP1-056], with it being stated on Mrs Engelen's behalf *"The utter inconvenience together with the depreciation in the value of her property as a result needing to engage 3 barriers/gates to access the property"* [REP1-056]. The ExA has reported on the transportation implications of the PMA in section 5.2 above and GGLW's CA objection in below. Mrs Engelen is generally supportive of the alternative PMA route that is subject to proposed alternative change 7, albeit there is a concern

about what the maintenance liabilities might be for the PMA [REP5-059 and REP9-005].

- 8.9.54. As part of the Proposed Development there would be a need for the gas main to be diverted and the ExA considers that the TP and acquisition of rights over Plot 6/23a would be required to facilitate the provision of part of the Proposed Development. The ExA therefore considers that with respect to Plot 6/23a there would be a need for the permanent acquisition of rights sought by the Applicant and that this acquisition of rights would be proportionate and their exercising would be in the public interest to facilitate the proposed works. The ExA considers that the proposed CA with respect to Plot 6/23a would accord with the requirements of s122 PA2008 and the provisions of the CA Guidance.

Euro Garages/Monte Blackburn Limited

- 8.9.55. This objection [RR-012 and REP1-030] is from the owners of Plots 7/4 and 7/6, which are respectively subject to proposals for CA and TP. The BoR [REP11-005] records the site areas for Plots 7/4 and 7/6 as respectively being 4,612 sqm and 19,294 sqm and they are currently occupied by a vacant hotel and an operational roadside café operated by a national chain. Currently the vacant building and the café have a direct access to the A3 northbound, but it is proposed that the direct access would be stopped up and be replaced by a PMA. The new PMA would form part of a new bridleway linking with the southern extremity of Seven Hills Road.
- 8.9.56. During the construction period for the Proposed Development it is intended that land plot 7/6 would be occupied as a construction compound, with the vacant former hotel building being proposed for demolition by the Applicant. Once the construction works for the Proposed Development had been completed the TP of land plot 7/6 would cease and this plot would be returned to the owner.
- 8.9.57. The landowner has objected to the loss of direct access to the A3 because without that it would no longer be a viable location for the provision of roadside facilities for use by passing travellers. The proposed PMA route to Plot 7/6 is considered an unsuitable means of access. In that regard the objector has drawn attention to its proposal to replace the vacant building with a petrol filling station, for which planning permission has been refused by EBC and an appeal against that decision was pending determination at the close of the Examination⁶⁸. In REP1-030 the landowner has therefore submitted that should the Proposed Development not be amended to facilitate access from the A3 then it contends that the application for the DCO should be refused.
- 8.9.58. The Applicant in REP1-009 has acknowledged that the implementation of the Proposed Development would mean that: "... *the site could no longer*

⁶⁸ APP/K3606/W/19/3235260

be used for any use that is dependent upon public vehicular access and this would be a matter for the compensation process”.

- 8.9.59. During Session 1 of CAH1 the Applicant was requested by the ExA to explain its understanding of the status of the landowner's objection and the reply the Applicant gave is set out in REP11-006. In the note that the Applicant has prepared in response to the third action point arising out of the first session of CAH1 a summary of the status of this objection has been provided [REP12-014]. In this status summary the Applicant has advised that on 31 January 2020 the landowner's agent advised the Applicant it had been unable to progress this matter with its clients. The Applicant's invitation for further engagement on 5 February 2020 yielded no response.
- 8.9.60. In Section 5.2 of this Report we have provided a fuller explanation of what the proposed access arrangements for Plot 7/4 would be under the Proposed Development and the ExA's views on the feasibility of retaining a direct access to Plot 7/4 from the A3.
- 8.9.61. The objector has objected to the consequences of the CA of Plot 7/4, ie the extinguishment of the direct access to Plot 7/6 from the A3. Plot 7/4 would be subject to works integral to the proposed widening of the A3 northbound (Work Nos 35, 62 and 63 [REP12-002]), with there being no alternative for accommodating a four lane carriageway at this point. The ExA therefore considers that the statutory tests for the CA of Plot 7/4 have been met. The ExA also considers that in terms of the CA of Plot 7/4 that there would be no conflict with CA Guidance, with the public benefits of the Proposed Development outweighing the private loss and the amount of land to be acquired being no more than would reasonably be required.
- 8.9.62. The ExA is therefore of the view that there would be no grounds for Plot 7/4 being excluded from the CA powers sought by the Applicant under Part 5 of the dDCO [REP12-002].
- 8.9.63. With respect to the TP of Plot 7/6 the objector has not expressly raised an objection to the use of this land as a construction site compound. Rather, the landowner's objection is based on the inability for this plot of land to be reused for commercial roadside uses once the Proposed Development became operational. However, as the Applicant has highlighted, the objector's concern is one which would be addressed through the compensation process were the DCO to be made. The ExA is therefore of the view that there would be no grounds for Plot 7/6 to be excluded from the TP powers sought by the Applicant under Part 5 of the dDCO.

Extra MSA Cobham Limited

- 8.9.64. Extra MSA Cobham Limited (Extra) operates the Cobham motor services area which is located between junction 9 and 10 of the M25 just beyond the eastern extremity of the Order Land. Extra's concerns are set out in RR-013 and REP1-024 and relate to the effects of the construction phase

of the Proposed Development on the operation of the motor services area and an advanced direction sign one and a half miles from the service area, which is located in the verge of the eastbound (anti clockwise) carriageway of the M25.

- 8.9.65. The Applicant has commented in REP1-009 that it expects that the construction works would not have a direct effect on the operation of the motor services area. The Applicant has further stated in REP1-009 and REP2-014 that ingress and egress to the motor services area would be maintained throughout the construction period and that Extra would be a consultee when the Applicant is preparing its traffic management plan for the construction phase. With respect to the advanced direction sign, the Applicant has advised [REP1-009] that this sign would be relocated as part of proposed Work No.26 [REP12-002].
- 8.9.66. It should be noted that the Applicant in its final CA schedule [REP-010] has identified Extra's interests in Plots 17/2 and 18/1 as being category 2 and 3 interests which cannot be acquired by the Applicant and that it is in discussion with Extra. Accordingly, the ExA is of the view that there are no CA considerations arising from the representations that have been made by Extra.

Feltonfleet School

- 8.9.67. The Examination representations made by Feltonfleet School are set out in REP11-029. Feltonfleet School is located to the south of the A245/Byfleet Road, west of the Painshill junction and to the east of Seven Hills Road (south). The school currently is directly accessed via a no through road spur of Byfleet Road which is not part of the A245.
- 8.9.68. Under the Proposed Development the Byfleet Road spur in its entirety would be stopped up of under proposed Work No.44(d) [REP12-002 and REP8-005]. To facilitate access to the school from the public highway it is proposed under Work No.46 that a new 150 metre long PMA would be provided which would provide a link between Seven Hills Road and the stopped up section of the Byfleet Road spur which would still be available to serve Feltonfleet School.
- 8.9.69. The representations made in REP11-029 mainly raise matters of detail relating to: the design of the PMA, including its relationship with an adjoining playing field; traffic management during the construction period; effects on trees; proposals for new fencing; and the Proposed Development's implications for the undertaking of landscaping in association with the implementation of a planning permission that the school has obtained for a new classroom. However, the school's representation does not expressly state that this AP raises an objection to the CA or TP powers sought by the Applicant in respect of any specific land plots identified in the BoR [REP11-005] and on the Land Plans [REP8-003].
- 8.9.70. The Applicant in REP12-026 has responded to the representations made in REP11-029 and has stated in essence that it will engage with

Feltonfleet School as its detailed proposals for the construction and operational phases of the Proposed Development are progressed.

- 8.9.71. The ExA considers that the CA powers, both the outright acquisition of land and the permanent acquisition of rights, sought by the Applicant that affect Feltonfleet School would be proportionate and that the exercising of those rights would be in the public interest to facilitate the proposed works in and around the junction between the A245 and Seven Hills Road. Accordingly, in that regard the ExA considers that the proposed CA would accord with the requirements of s122 PA2008 and the provisions of the CA Guidance.
- 8.9.72. With respect to the TP powers sought by the Applicant that would affect Feltonfleet School, while the exercising of those powers may have some implications for the school's operation during the construction period, the extent of the land affected would be reasonable and the use of that land would be necessary to facilitate the construction of the Proposed Development.

GGLW

GGLW's status and background

- 8.9.73. GGLW's objection concerns the Heyswood Campsite and relates to the proposed CA of Plot 7/1 [REP8-003] and was confirmed during Session 2, Part 1 of CAH1 [EV-020] and has subsequently been confirmed in REP11-027. The GATC is the owner of Plot 7/1, while GGLW is the occupier [REP11-005], having day to day responsibility for the running of the campsite. GATC in its letter of 22 June 2020 [REP11-026] has explained that because of the legislation that is applicable to charities the GATC holds the property that forms Heyswood Campsite "on trust" for GGLW. In REP11-026 it has further been explained that GGLW is responsible for the decision-making that concerns the Heyswood Campsite.
- 8.9.74. The ExA is therefore of the view that the written and oral representations made by GGLW should be considered as being representative of both the landowner and occupier of Plot 7/1 for the purposes of the consideration of the objection relating to the Heyswood Campsite. GGLW's objection to the Proposed Development is explained in REP1-026 and has been elaborated upon most particularly in AS-027, REP2-030, REP11-027 and REP12-064.
- 8.9.75. Plot 7/1 forms part of the grounds of the Heyswood Campsite and provides the means for vehicles to enter and exit the Campsite and the Applicant is seeking to acquire this plot in order to provide a replacement PMA and accommodate a gas main diversion.
- 8.9.76. As part of the Proposed Development the direct access⁶⁹ to the A3 southbound that the Heyswood Campsite shares with the neighbouring

⁶⁹ Plot 7/2 which is owned by the GATC

residential property to the south, Court Close Farm, would be stopped up [REP5-008]. The stopping up of that access and that in the vicinity serving the gas valve compound and New Farm House necessitates the provision of a replacement/new PMA. That new PMA would be subject to proposed Work No.40 [REP12-002].

- 8.9.77. The implementation of the Proposed Development would also require a gas main diversion and in this location that would be subject to proposed Work No.63(c) [REP12-002 and REP8-004].

GGLW's objection

- 8.9.78. Based on the written and oral submissions made by GGLW, it is not opposed to the principle of the stopping up of the existing direct access to the A3. However, as the ExA has explained in Section 5.2 above, GGLW objects to the section of the PMA that passes through the Heyswood Campsite being used on a shared basis with the owner and occupiers of Court Close Farm. To control general access to the PMA it is proposed that there would be a lockable barrier, situated towards the northern end of the Campsite, which the owner and occupiers of Court Close Farm, as well as GGLW representatives would need to be able to open and close as required.
- 8.9.79. GGLW is concerned that the sharing of the PMA with the owner and occupiers of the PMA as it passed through the Campsite, would create safeguarding issues for the operation of the Campsite. GGLW is further concerned that the potential need to erect fencing along both sides of the PMA would result in some severance of a wooded strip of land within the Campsite, within which a warden's bungalow is located, from the rest of the Campsite. The location of the warden's bungalow can be seen in REP3-061. GGLW estimates that 20% of the Campsite would become *"inaccessible to our young people in the future"* [REP11-027].
- 8.9.80. GGLW considers a more suitable alternative access arrangement for Court Close Farm would be for the PMA to skirt round the south-western boundary of the gas valve compound and then follow an alignment immediately parallel with the A3. That would enable vehicles travelling to and from Court Close Farm to by-pass the Heyswood Campsite. This was a matter that was discussed during the course of ISH2 [EV-005a]. Arising out of that discussion an optional 'alternative PMA route' through Heyswood Campsite has been submitted as proposed change 7 to the originally submitted application. The alternative PMA route is shown in REP7-016 and REP7-017.
- 8.9.81. The alternative PMA route would be subject to additional land take within the Campsite and would affect Plots 7/2 and 7/7 which are owned and occupied respectively by GATC and GGLW [REP11-005]. GGLW has confirmed in REP9-007 that the incorporation of change 7 into a made DCO would address its objection to the shared use of the PMA.
- 8.9.82. With respect to the alignment for the diversion of the gas main during CAH1 [EV-020] GGLW reiterated its concern that the Applicant's proposal could require the removal of a veteran sweet chestnut tree, identified as

T165 by the Applicant in AS-014. It was contended by GGLW that there has been a lack of clarity about where T165 is located relative to the Order land boundary in this location. In order to retain as many of the trees as possible that lie to the south/south-east of the existing Campsite access GGLW has submitted that the gas main diversion should as a "*minimum*" be re-routed as far as possible to align with the existing track, to allow for the fact that the existing track does not follow a straight line [REP11-027].

- 8.9.83. Further to a site meeting between GGLW and the Applicant on 2 July 2020, GGLW has indicated that it is its understanding that to avoid tree T165 the gas pipeline would have to be located outside Order land. That alignment would in turn affect the Campsite's car park and requiring planning permission under the TCPA1990 which might not be granted because it would affect the Painshill Park RPG, the car park being "*crucial for the running of our Campsite*" [REP11-027]. GGLW has therefore submitted that as an alternative the gas pipeline could be realigned to follow a route through a nearby camping field, recognising that this would be outside the red line boundary for the DCO and would cause more construction disruption for the Campsite compared with what would be associated with the proposals that form part of the submitted application. In that regard GGLW has stated "*We have learnt that HE did consider this option earlier but it is extremely disappointing that it has not been shared with us until now, particularly as the gas pipe re-routing is so crucial to the project*" [REP11-027].

The Applicant's case with respect to GGLW's objection

- 8.9.84. The Applicant's position at the Examination's close with respect to this objection is stated in REP11-006, REP11-010 and REP12-025. Irrespective of the route for the PMA, ie as originally proposed or the alternative subject to proposed change 7 there would be a requirement for Plot 7/1 to be acquired to facilitate the gas main diversion subject to proposed Work No.63(c) [REP12-002], because change 7 only concerns making provision for the proposed PMA to by-pass Heyswood Campsite.
- 8.9.85. The Applicant has explained in REP12-025 that the routing of the gas pipeline has been dependent on the route for the PMA through to Court Close, taking account of the location of the ancient woodland between the existing Campsite access and the A3, and "*... maintaining the functionality of the Heyswood Campsite*" being constraints upon the location for both the pipeline and the PMA.
- 8.9.86. The Applicant has advised that under the circumstances of a made DCO requiring the PMA to be as per proposed Work No.40 in REP12-002, then in line with advice that SCC provided during ISH2, there could be some reduction in the width from 4.8 metres to 3.0 metres beyond the Campsite's car park on route to Court Close Farm [REP11-010]. SCC commented during ISH2 that "*... the access through the Girl Guide property to Court Close Farm is an over provision in terms of design standards and that a 3m wide access would be sufficient*" [REP3-036]. In this regard the Applicant has confirmed that because less traffic would use the section of the PMA between the Campsite's car park and Court

Close Farm "... *it is content that to construct a 3 metre wide access road with passing places ...*" [REP12-025]. Should there be some reduction in the PMA's width that would provide the Applicant with "... greater flexibility in reducing the land-take within this land parcel ..." [REP11-010], that is Plot 7/1.

- 8.9.87. During Session 2, Part 1 of CAH1 the Applicant explained that the "*corridor*" for the gas main diversion through the Heyswood Campsite, ie Plot 7/1 [REP-003], is between ten and fourteen metres in width. However, the Applicant further explained that the finished diverted gas main and the rights to protect and maintain it would in practice require a narrower corridor, something of the order of six metres in width, with the actual land take within Plot 7/1 being determined once the design for the gas main diversion has been finalised, having amongst other things taken account of minimising effects on the nearby trees [REP11-006]. With respect to the laying of the diverted gas main, the Applicant has advised that to accommodate the necessary excavations and a haul road would "... *encompass the majority of the area within the DCO boundary of plot 7/1*" [REP11-010]. Further elaboration on the land take that would be associated with providing the gas main diversion can be found in REP11-025.
- 8.9.88. The Applicant has indicated a willingness to work with GGLW and Southern Gas Networks "... *to identify an optimum route ...*" for the gas main's diversion, it has advised that an alignment that followed the route of the existing access track would still require a working area to be created amongst the trees to the south/south east of the existing track [REP12-025].
- 8.9.89. In paragraph 2.1.1 of REP11-010 the Applicant has confirmed that following CAH1 "... *further tree surveys were undertaken on 23 June 2020 and the DCO boundary was pegged out on 30 June 2020.*" However, by the close of the Examination this further tree survey work had not been submitted.

ExA reasoning and conclusions

- 8.9.90. The Applicant has approached the extent of Plot 7/1 on the basis of it being intended to establish a corridor within which to fit a new PMA and part of gas main diversion, respectively subject to dDCO Work Nos 40 and 63(c). In that regard the Applicant has explained in its written submissions, most particularly REP12-025, that during the construction period a corridor of twelve metres would be required and that thereafter there would be a six metre easement corridor, the latter requiring outright acquisition and thus the exercising of CP powers.
- 8.9.91. The actual amount of land that would be acquired from Plot 7/1 would only be established once the detailed design for the gas main diversion and the new PMA had been completed. The ExA considers that the Applicant's approach to Plot 7/1 of identifying a corridor of maximum of extent from which the actual land take would be derived is a reasonable one and that ultimately the land take would be proportionate.

- 8.9.92. The ExA's recognises that the shared use of the PMA would create some operational issues for GGLW. That in turn would result in some interference with use of Heyswood Campsite as a property. However, the ExA considers that this interference of itself would be proportionate and would not be of such significance as to outweigh the compelling case in the public interest for land within Plot 7/1 to be acquired compulsorily to facilitate the provision of a PMA providing access to both the Campsite and Court Close Farm. However, there is also a need to consider whether there is a compelling case in the public interest for the CA of part of Plot 7/1 to facilitate the proposed gas main diversion.
- 8.9.93. It is evident from the written and oral submissions of both GGLW and the Applicant throughout the Examination that there has been dialogue between GGLW and the Applicant, during both the pre-application period and while the submitted application was being examined. Notwithstanding that the ExA considers that the Applicant may not have been as forthcoming as it might have been about what the effect of routing the gas pipeline diversion through the Heyswood Campsite would be. In that regard it appears from the written and oral submissions made by GGLW that it was not aware prior to the holding of CAH1 that the provision of a six metre easement for the diverted gas pipeline would be likely to entail tree removal to the south and south east of the Campsite's existing access that would not be replaced. The resurveying of the trees within the Campsite in June 2020 suggests that the Applicant may have had concerns about the accuracy of the earlier surveys that had informed the design of its proposals for the PMA and the gas main diversion.
- 8.9.94. GGLW's contention in REP11-027 that the Applicant had considered an alternative route for the diverted gas pipeline, utilising a nearby camping field, without informing GGLW has not been refuted by the Applicant. The Applicant had the opportunity to refute GGLW's contention when it responded to the comments made by GGLW in REP11-027 on a point by point basis in REP12-025. Neither the Applicant nor GGLW have provided an explanation as to why the diversion of the gas main through the Campsite field was discounted by the Applicant. This is a matter the ExA has been unable to examine, by requesting the Applicant to respond to what GGLW has stated, given that it appears that GGLW only became aware of it on 2 July 2020 and while it was raised in GGLW's D11 submissions the Applicant did not comment on it at D12).
- 8.9.95. On the evidence available at the close of the Examination, the ExA in this instance, is not persuaded that the Applicant has demonstrated "... *that all reasonable alternatives to compulsory acquisition (including modifications to the scheme) have been explored*" (paragraph 8 of the CA Guidance). That is because from what GGLW has stated in REP11-027 had it been aware of the possibility of gas pipeline being routed via the nearby Campsite field that is an alternative that GGLW's "... *would then be very likely to be in agreement*".
- 8.9.96. In conclusion with respect to GGLW's objection to the CA of Plot 7/1, the ExA is content that the quantum of this land take for the Proposed Development would be proportionate, with it being possible for it to be

kept to the necessary minimum once the design for the gas main diversion had been finalised. However, the ExA considers that in line with the guidance set out in paragraph 8 of the CA Guidance it has not been demonstrated by the Applicant that this proposed interference with the landowner's/occupier's interest in the land would be for a legitimate purpose. Accordingly, on the basis of the information available at the Examination's close, the ExA considers that having regard to the provisions of s122(3) PA2008 it has not been demonstrated that there is *"... a compelling case in the public interest for the land to be acquired compulsorily"*.

8.9.97. The ExA considers that for the SoST to be satisfied that the acquisition of Plot 7/1 would be for a legitimate purpose, it would need to be demonstrated to him that there were no other alternatives relating to the routing of the diversion of the gas main through the Heyswood Campsite. In that regard the ExA recommends that the SoST should:

- Obtain from the Applicant full details for all of the routes that have been considered for the diversion of the gas main between Court Close Farm and the gas valve compound subject to dDCO Work No.63(c) [REP12-002].
- Obtain from the Applicant an explanation as to why any other routes have been discounted.
- Reconsult with GGLW and seek its comments on the additional information provided by the Applicant with respect to the other gas main diversion alternatives that have been considered by the Applicant.
- Encourage the Applicant to liaise with GGLW with a view to exploring whether an agreed alternative for the diversion of the gas main through the Heyswood Campsite could be accommodated.
- Having sought additional information from the Applicant and comments from GGLW review the position with respect to the proposed CA of Plot 7/1.

8.9.98. With respect to the land take that would be associated with the alternative PMA route were that to be provided as part of the Proposed Development, ie proposed change 7, GGLW has raised no objection to the CA of Plots 7/2 and 7/7 [REP9-007]. Although proposed change 7 would increase the land take within the Heyswood Campsite, the ExA is content that that land take would be the minimum that would be required to provide a segregated access to serve Court Close Farm. That is because the section of the segregated section of the PMA has been designed to accommodate the volume of traffic generated by Court Close Farm, having regard to the guidance on this matter that SCC provided as an action point arising from the ExA's holding of ISH2.

8.9.99. The ExA therefore considers that the land take associated with implementing proposed change 7 would be proportionate. However, the ExA considers that if the SoST shares the ExA's view that the provision of a shared PMA route through the Heyswood Campsite would not result in unacceptable private losses, then for the purposes of s122 the acquisition of the land for the alternative route would not be required and there

would not be a compelling case in the public interest for the land to be acquired compulsorily.

Owner/occupier of Long Orchard

- 8.9.100. The Examination representations made by the owners/occupiers of Long Orchard are set out in REP11-030. However, that representation does not identify any specific objection to the CA or TP powers sought by the Applicant by reference to land plots identified in the BoR [REP11-005] or on the Land Plans [REP8-003]. The concerns/comments made in this written submission relate more to the stopping up of a direct point of access with the A3, which links with a PMA. The stopping up of that direct access point of access is subject to proposed Work No.15(c) [REP12-002] and is identified as letter "G" on sheet 7 of REP8-005. The access that is subject to dDCO Work No.15(c) serves Long Orchard, 1 Farm Cottage, 3 Farm Cottage, Fir Tree Cottage and The Coach House (the Long Orchard properties) and lies within Plot 6/22, a plot of land owned by the Applicant.
- 8.9.101. Under the Proposed Development the replacement means of access to the Long Orchard properties and Long Orchard Farm would be via the new bridleway subject to dDCO Work No.35, with proposed PMA links to the new bridleway being via either Work No.35(h) or No.35(i), as shown on sheets 6 and 7 respectively of REP8-004 and REP8-005. The proposed bridleway would connect with Seven Hills Road to the north and Redhill Road to the south, with gates to be installed in both of those roads to control vehicular use of the bridleway. The provision of the bridleway and the PMA links with being within Plots 6/24 and 6/25, which the Applicant is seeking to permanently acquire, as identified in the BoR [REP12-002] and sheet 6 of the Land Plans [REP8-003].
- 8.9.102. The representations made in REP11-030 do not state that the owners of Plots 6/24 and 6/25 object to their acquisition. Instead in REP11-030 comments are made relating to matters of detailed design such as: the installation and use of gates and access to Seven Hills Road; the need for the bridleway to be at least 4.8 metres wide to serve the commercial operations at Long Orchard Farm; the need to address lorry parking in Redhill Road; the future funding arrangements for the bridleway; tree removal and replacement planting; and the proposals for installing fencing.
- 8.9.103. In REP12-023 the Applicant has responded to the Long Orchard comments made in REP11-030. The Applicant has advised that many of the matters remarked upon in REP11-030 concern matters of detail which the Applicant will be prepared to discuss with the owners and occupiers of the Long Orchard properties when the design for the Proposed Development is being finalised.
- 8.9.104. With respect to gaining access to Seven Hills Road, the Applicant has explained that this is a matter that would need to be negotiated between the owners and occupiers of the Long Orchard properties and the owner of the San Domenico site, with this being something outside the

Applicant's control [REP12-023]. With respect to the width of the bridleway the Applicant has drawn attention [REP12-023] to its proposal under dDCO Work No.35 for the bridleway to be 4.8 metres wide and hard-surfaced between Redhill Road and Seven Hills Road.

- 8.9.105. The ExA considers that the CA powers sought by the Applicant with respect to Plots 6/24 and 6/25 would be required to facilitate the Proposed Development and would be proportionate, and that it would be in the public interest to facilitate the proposed works affecting the A3 northbound between junction 10 and the Painshill roundabout. The ExA concurs with this assessment. Accordingly, in that regard the ExA considers that the proposed CA would accord with the requirements of s122 PA2008 and the provisions of the CA Guidance.

PPT, including EBC

- 8.9.106. PPT is the long leasehold tenant for Painshill Park and is responsible for the day to day running of this Grade I RPG. EBC is the landowner for Painshill Park. Under the Proposed Development a secondary vehicular access (the western access) for Painshill Park would be stopped up under Work No.17(e) of the dDCO [REP12-002]. The western access being a direct access with the A3 southbound between the Painshill roundabout and junction 10.
- 8.9.107. The location of the western access is notated as letter E on sheet 6 of the Streets, Rights of Way and Access Plans [REP8-005]. The proposal to stop up the western access concerns Plot 6/18a, shown on sheet 6 of the Land Plans [REP8-003] and in the BoR this plot is identified as having an area of 28 sqm [REP11-005].

The objection of PPT

- 8.9.108. PPT in its RR, RR-021, and subsequent written and oral submissions REP1-033, REP2-036, REP3-062, REP5-042, REP6-026, REP7-029, REP9-010 and REP11-032 has raised an objection to there being no replacement for the western access as part of the Proposed Development.
- 8.9.109. PPT's objection [REP11-032 and EV-021] concerns the following land plots:
- Plots 6/18a, 6/21 and 7/29 identified in the BoR [REP12-002] and on the Land Plans [REP8-003] as being land for permanent title acquisition;
 - Plot 8/5c identified in the BoR and on the Land Plans as being land for temporary use with rights to be permanently acquired; and
 - Plots 6/18, 6/21a and 6/21b identified in the BoR and on the Land Plans as being required for TP.
- 8.9.110. PPT has submitted, for example in REP1-033, that without a replacement for the western access it will be unable to restore and maintain part of Painshill Park and some of the buildings within it, including the Grade II* Gothic Tower. However, during the course of CAH1 PPT stated that with

respect to the restoration western end of the park there are alternative tracks which "*it would be difficult, but not impossible*" to use the existing tracks, and while being a restraint upon the restoration of the park the use of those tracks "*would not be a complete bar*"⁷⁰.

- 8.9.111. PPT contends that without a replacement for the western access there would not be a suitable emergency access for the whole of the southern part of the park and not just the Gothic Tower. That is because of the additional time it would take fire appliances, in particular, to reach the parts of the park currently accessible via the western access, and the physical limitations of the tracks/paths, which would need to be widened to accommodate multiple fire appliances attending an incident. There would also be issues about how sufficient water for firefighting purposes could be made available, with the views of the Surrey Fire and Rescue Service (SFRS) being set out in the minutes of a meeting of 23 January 2020, which was attended by SFRS, the Applicant, SCC and PPT [included in the meeting notes appended to REP11-032].
- 8.9.112. PPT considers that the other vehicular access to Painshill Park would be insufficient because it commences with a "*trade entrance*", that PPT only has rights over to use⁷¹, linking into a single track path mainly used by visitors on foot, a route that is winding and has steep climbs and descents [REP1-033]. PPT has contended in REP2-036 that the absence of a replacement access would have implications for PPT's ability to obtain insurance cover, given the additional time it would take the emergency services to attend parts of the park, including the Gothic Tower. Undertaking alterations to the track that runs through the Painshill Park "*... would damage the historic landscape*" [REP5-042].
- 8.9.113. Throughout pre-application discussions held with the Applicant in 2018 PPT has stated that it was given to understand that the western access would be retained for use solely as an emergency and service access or as part of the Proposed Development a replacement access would be made available. On that basis PPT "*... agreed to sacrifice a small portion of land in the north eastern part of the landscape ...*" [page 1 of REP6-023]. PPT has further stated that at a meeting with the Applicant on 29 July 2019 it was "*... confirmed that although there was no technical reason why the access route could not be extended, this had not been included within the DCO submission because due to pressure on Highways England time had run out*" [REP1-033]. This point was reiterated in REP6-023.
- 8.9.114. In outlining its case during Part 2, Session 2 of CAH1 [EV-021 and REP11-022] PPT submitted that an extension to the alternative access option, subject to proposed application change 7 would address its concerns and result in the removal of its objection. That extension would

⁷⁰ One hour thirteen minutes into recording EV-021

⁷¹ Explained by PPT at one and one minute into the recording for Session 2, Part 2 of CAH1 [EV-021]

entail using some land within the grounds of Court Close Farm running alongside the A3.

The position of EBC

- 8.9.115. EBC in RR-001 has expressed concern about the stopping up of the western access and the absence of a replacement for it and to the potential for it and PPT to be subject to be ransomed in seeking to rectify the loss of this access should recourse to private treaty be needed to acquire replacement rights. In response to the ExQ3 3.16.1 [PD-016] EBC has stated *"Elmbridge Borough Council owns land which is subject to Compulsory Acquisition. Some of this land is held under lease. Whilst we are not objectionable to this acquisition, we would seek that our rights and obligations as public body, landowner and landlord are protected. We will therefore be relying on the statutory process regarding compulsory acquisition to be adhered to. Furthermore, we expect the representative of the acquiring authority to engage in reasonable conversations with ourselves and our tenants"* [REP7-020].
- 8.9.116. In the signed SoCG between EBC and the Applicant [REP8-028], removal of the western access has been identified as being a matter that is not agreed, with EBC stating it is *"... concerned about the loss of the existing access because it considers that EBC may have to enter into a private treaty to acquire replacement rights and could put the Council in a vulnerable position in such negotiations ..."*.
- 8.9.117. Having regard to what EBC has stated in RR-001, REP7-020 and REP8-028, the ExA considers it appropriate to treat EBC as being supportive of PPT's objection to the CA for Plot 6/18a.

The Applicant's response to PPT's objection

- 8.9.118. The Applicant's written response to PPT's objection is set out in REP11-006, the Applicant's note of the oral case it made during Session 2, Part 2 of CAH1 [EV-021].
- 8.9.119. In summary the Applicant's response to PPT's objection is set out in REP11-006. The Applicant's note of the oral case it made during CAH1 [EV-021] is as follows:
- There is a *"... compelling case in the public interest to exercise compulsory acquisition powers to widen the A3 which necessitates the closure of the existing direct access to Painshill Park from the A3 ..."* [REP11-006].
 - There is a compelling case in the public interest to acquire the land relating to the existing access.
 - There *"...is no compelling case in the public interest to exercise CA over third party land to re-provide PPT with an alternative access. To provide a replacement access to the western end of the park would entail providing a new route across third-party land, effectively through their lawn, to connect to the private means of access (PMA) at Court Close Farm. The Applicant considers that the need for such an alternative access does not outweigh the rights of Court Close*

Farm ..." under Article 1 of the First Protocol of the ECHR and Article 8 of the HRA1998 [REP11-006].

- It is not accepted that there is a need to extend the PMA beyond Court Close Farm to allow access for emergency vehicles, having regard to the views that have been expressed by the Surrey Fire and Rescue Service in REP3-063.
- It is not accepted that loss of the existing secondary access would prejudice the restoration and buildings within Painshill Park "... *as there are access tracks within the park ...*", with HistE having raised no objection to the Proposed Development in that context [REP11-006].
- It is not agreed that "... *it would be impossible or prohibitively expensive to obtain insurance ... the Applicant could not comment on the precise terms of the insurance policy however it had not seen anything that suggested that appropriate insurance could not be obtained*" [REP11-006].
- While assurances had been given to PPT about retaining a western access, those assurances "... *were given at a certain date however they related to earlier versions of the entire scheme that included elements from which a vehicular access to the western part of the park could have been provided. The change was made primarily as a result of representations made by Girlguiding Greater London West (GGLW) to address concerns over safeguarding for children who visit the Girl Guides Campsite. Therefore ... the Applicant changed the NMU so that it went across the Redhill bridge which subsequently meant that the possibility of routing the access into the park would involve acquiring the land from Court Close Farm. Since the change in the NMU role, it was not possible for the Applicant to provide secondary access as it was once thought*" [REP11-006].

8.9.120. Further to a question put by the ExA at CAH1 the Applicant advised⁷² that the consequences of excluding the plots subject to PPT's objection would be:

- Plots 6/18a and 6/21 are required to widen the A3 and remove a direct access, and retaining a direct access onto a four lane A3 which would not be acceptable in safety terms.
- Plot 7/29 is required to provide the PMA that would serve the Heyswood Campsite and without the PMA the Campsite would be cut off.
- Plot 8/5c is a TP plot and is required to construct the PMA that would serve various properties, with rights being acquired (those rights being for the access and maintenance of utility apparatus and equipment [REP12-002].
- The exclusion of some of these plots would leave certain landowners without access to their land.

8.9.121. The ExA asked the Applicant at CAH1 what its practice was in relation to the re-provision of accommodation accesses affected by its scheme. The Applicant responded that it is its normal practice to provide replacement

⁷² 53 minutes and 40 seconds into recording EV-021

accommodation accesses. However, the Applicant stated that in this instance following the stopping up of the western access Painshill Park would not be without a vehicular access and that the issue is whether a secondary access is required. The provision of a replacement secondary would entail the acquisition of third party land. In that context the Applicant stated "*... the difficulty here is that four properties affected in this area are inextricably linked and it is difficult to balance each of their interests*" [REP11-006]. Those four properties being Painshill Park, Court Close Farm, Heyswood Campsite and New Farm, and can be seen on sheets 6 and 7 of the Land Plans [REP8-003] or the Works Plans [REP8-004].

- 8.9.122. At CAH1 the Applicant confirmed that PPT's reference in RE6-023 to there being no "*technical reason*" why the proposed PMA could not be extended through the grounds of Court Close Farm to access Painshill Park was correct⁷³. The Applicant explained that technically such a route was possible because it had been included in a previously considered NMU route that would have extended on from the Heyswood Campsite, passed through Court Close Farm to connect with a bridge spanning the A3; a route that could have been modified so that it could be used by vehicles. The switching of the NMU route to north of the A3 meant that the opportunity of an extension onto Painshill Park was lost. The Applicant also advised that it had been under some time pressure prior to the application's submission and it had concerns about "*the feasibility of bringing two or three parties together and the likelihood of a successful outcome ...*"⁷⁴ and the powers available to it to secure such a route.

The ExA's reasoning and conclusions

- 8.9.123. The stopping up of Painshill Park's western access under dDCO Work No.17(e) [REP12-002] would require the acquisition of Plot 6/18a, a plot of 28sqm [REP11-005]. During ISH2, when transportation matters were being considered, PPT made clear that for reasons of safety the existing access should not be retained, but that a replacement for this access should be provided as part of the Proposed Development⁷⁵.
- 8.9.124. With respect to the proposed CA of Plot 6/18a no representations have been made by PPT or EBC, respectively as tenant or freehold landowner, contending that this plot of land would not be required as part of the Proposed Development, nor has it been submitted that there is no compelling case in the public interest for Plot 6/18a of itself to be acquired compulsorily. Given the size of Plot 6/18a and the purpose for its acquisition, ie the widening of the A3 southbound necessitating the stopping up of western access under Work No.17/No.17(e), the ExA is content that for the purposes of paragraph 11 of the CA Guidance that the taking of Plot 6/18a would be no more than is reasonably required for the purposes of the Proposed Development. Accordingly, the ExA

⁷³ One hour and five minutes into recording EV-021

⁷⁴ one hour and seven minutes into recording EV-021

⁷⁵ Two hours and sixteen minutes into recording EV-005a

considers that the proposed CA of Plot 6/18a would meet the conditions stated in s122(2)(a) and (3) of PA2008.

- 8.9.125. PPT's objection to the CA and TP powers sought by the Applicant concerns the consequences of the acquisition of Plot 6/18a, namely how parts of Painshill Park would operate with the trade entrance as the sole vehicular access, with the main entrance to the park being pedestrian only. PPT has stated that its objection to the Applicant's CA and TP proposals collectively for Plots 6/18, 6/18a, 6/21, 6/21a, 6/21b, 7/29 and 8/5c is one of a matter of "*principle*", as stated during the concluding remarks it provided at CAH1 [EV-021⁷⁶]. That being because no replacement for the western access has been included within the Proposed Development.
- 8.9.126. With respect to PPT's in principle objection to the CA of Plots 6/21 and 7/29 (outright acquisition) and 8/5c (permanent acquisition of rights following TP), again like the position with Plot 6/18a, there is no suggestion from PPT, or EBC, that as part of the Proposed Development there would be no need for those plots to be acquired or that the land take would be more than would reasonably be required. So, in those regards the ExA considers that the CA proposals affecting Plots 6/21, 7/29 and 8/5c would accord with paragraph 11 of the CA Guidance, and there would be compliance with s122(2)(a) PA2008.
- 8.9.127. During the ASI the ExA viewed the entirety of the primary vehicular route, commencing with the gated tradesmen entrance leading to and from the A245 at the northern end of the park and then following the tracks and paths through the park to its southern end. That route is sinuous, with it having a number of quite tight turns and level changes and was only negotiable part of the way by the coach that was used for the ASI. The ExA considers it likely that some alterations to parts of that route would be required to facilitate access for larger vehicles to the parts of the park that could otherwise enter and exit the park via the western access. In that regard it should be noted that SFRS has indicated that for its purposes a route needs to be 3.7 metres wide and have turning and passing places [REP11-032].
- 8.9.128. The ExA considers that it is clear that the loss of the western access would have some effects on the operation of Painshill Park. In that regard PPT has accepted that when it comes to the restoration of the currently unrestored parts of the park it would be "*difficult, but not impossible*" to undertake those works [EV-021]. Given that comment from PPT the ExA considers that the absence of a replacement for the western access under the Proposed Development would not preclude the restoration of the unrestored parts of Painshill Park.
- 8.9.129. It is evident from the notes of the meeting that involved PPT, SFRS and the Applicant [REP11-032] that reliance on the trade entrance and the tracks within Painshill Park would have some operational implications for SFRS were it required to attend incidents at the Park. However, SFRS has

⁷⁶ Twenty seven minutes into recording

not indicated that the absence of a replacement for the western access would present insurmountable operational effects for it to contend with. Within the aforementioned meeting note reference is made to the trade entrance becoming congested when events are being held at Painshill Park, which could affect the ability of the emergency services to access the park. In that regard the meeting note at paragraphs 4.20 and 4.21 records that SFRS observed that managing visitor traffic was something that should be addressed as part of PPT's event planning. Given those views of SFRS, the ExA considers that the availability of a single vehicular access of itself would not preclude the holding of events at Painshill Park, albeit that the staging of such events may become less convenient for PPT and visitors to Painshill Park. That would result in some interference with the rights of those with an interest in the affected land, most particularly Plot 6/18a.

- 8.9.130. PPT has referred to an implication of the Proposed Development being it becoming more difficult for it to obtain insurance cover, based on some advice provided by one of PPT's trustees [Appendix 3 of REP2-036]. However, no documentation in that regard has been submitted to the ExA, for example correspondence from insurance companies or brokers. Given that the ExA considers limited weight can be attached to this aspect of PPT's case.

- 8.9.131. The Applicant accepts that there is no technical reason why the proposed PMA that would serve New Farm, Heyswood Campsite and Court Close Farm could not be extended so as to provide a replacement for the western access. In that regard the Applicant confirmed at CAH1 that it was under some time pressure prior to the application's submission and it had doubts whether it could successfully negotiate with three parties to secure an PMA route extending as far as Painshill Park [EV-021].

- 8.9.132. From what the Applicant stated at CAH1 it appears that it did not attempt any negotiations between the three parties and simply arrived at a conclusion that attempting such a negotiation would not be feasible. Given that the ExA considers that the Applicant has not conclusively demonstrated "*... that all reasonable alternatives to compulsory acquisition (including modifications to the scheme) have been explored*" (paragraph 8 of the CA Guidance). That said for the reasons the ExA has given above, the absence of a replacement for the western access would not leave Painshill Park without a vehicular access, nor has it been demonstrated that the full restoration of the park would be possible and that the access that would be available would be unsuitable for use by the emergency services.

- 8.9.133. On balance the ExA therefore finds that the acquisition of Plot 6/18a and the interference with the human rights of those with an interest in this piece of land would be proportionate, when regard is paid to the First Protocol of the ECHR and Article 8 of HRA1998. On that basis the ExA considers that the CA of Plot 6/18a would accord with s122(3) PA2008 because there is a compelling case in the public interest for the land to be acquired compulsorily.

- 8.9.134. With respect to Plots 6/21 and 7/29, the ExA considers that their CA would accord with s122(3). That is because the acquisition of Plot 6/21 would be necessitated by the widening of the A3, while the acquisition of Plot 7/29 would be required to provide part of a PMA for properties that would otherwise be left without any access under the Proposed Development. In relation to the permanent acquisition of rights for Plot 8/5c, the ExA considers that the acquisition of those rights to enable the maintenance of utility apparatus and equipment would be necessary and would accord with the provisions of s122 PA2008.
- 8.9.135. In relation to the proposed TP of Plots 6/18, 6/21a and 6/21b and PPT's in principle objection to their use, PPT has not argued that an excessive amount of land would be involved. All three of these TP plots are modestly scaled, as recorded in the BoR [REP11-005] and shown on sheet 7 of the Land Plans [REP8-003]. The ExA therefore considers that the TP proposals for Plots 6/18, 6/21a and 6/21b would be proportionate.

The RHS

The RHS's CA and TP objection

- 8.9.136. The RHS stated in RR-024 that it objected to all twenty three Plots of land that the Applicant has identified for CA, with it being said that "*The RHS position has consistently been that land take of the Gardens is a non-negotiable matter if the RHS suggestions for the improvements to the DCO are not adopted*" [RR-024]. Thereafter in REP1-038 the RHS identified its CA objections as concerning Plots 2/27, a 7,871 sqm plot of land immediately adjoining Wisley Lane, and Plot 11/2, a 56, 210 sqm plot of land immediately to the south of the M25 [REP11-005 and REP8-003].
- 8.9.137. However, in REP5-054⁷⁷ and REP6-024 the RHS has stated a revised position with respect to its CA and TP objections, indicating that it wished to maintain its objections to the proposed CA of Plot 2/27 and the Applicant's TP proposals relating to Plots 2/27a and 2/30. Plots 2/27a (being wholly owned by the RHS) and 2/30 (being jointly owned by the RHS and SCC), which respectively have areas of 558 sqm and 834 sqm [REP11-005]. The RHS maintained its objections relating to Plots 2/27, 2/27a and 2/30 at CAH1 [EV-025], as explained in REP11-048 and REP11-050, these plots being located at or in close proximity to the main entrance to RHS Wisley: "*the RHS's front door*" [REP11-048].
- 8.9.138. The CA of Plot 2/27 is proposed to facilitate the construction of the north-western end of the overbridge for the Wisley Lane diversion [REP12-002, REP8-004 and REP8-009]. The RHS argues that "*The DCO scheme promised to 'improve access to RHS Wisley'. It does not do so generally (case made to the ExA throughout the Examination period) and it does not specifically in relation to the main entrance to the RHS*" [REP11-048]. It is was further argued by the RHS at CAH1, and is recorded in REP11-048, that the physical land take associated with the CA and TP of Plots

⁷⁷ Response to the ExQ2 2.16.5

2/27, 2/27a and 2/30 would impact on the Grade II* RPG and that impact has not been justified by the Applicant. In that regard the RHS has argued that as the overbridge for the Wisley Lane diversion has not been designed in detail, it is unknown what effect this structure will have upon the appearance of the designated heritage asset. Given that *"... the RHS does not agree to the compulsory acquisition of its land. At one stage HE indicated that the Overbridge was to be a 'green bridge'. He seems to have backed away from this position ... It is not yet certain that the Overbridge is deliverable within the DCO red line without impacting on the garden operation significantly. For example, the RHS considers that it is necessary for improvements to be made to the existing garden exit in order to control the Society's usual levels of traffic, on land that lies outside the DCO."* [REP11-048].

- 8.9.139. The RHS has further submitted that while the overbridge has been added to the Applicant's proposals for the diversion of Wisley Lane so that redwood trees within RHS Wisley can be retained, those trees remain under threat and *"The RHS is unclear why the Overbridge is to be provided while these trees are still at risk. The loss of the trees, which have a material value for the RHS estate, is something that is likely to fall outside of the statutory compensation provisions"* [REP11-048]. The overbridge has been designed with a skewed alignment relative to the A3, which would allow for a left turn from Wisley Lane to be retained, however, *"... the unfortunate consequence of this is that land take outside the RHS front door is increased rather than if the Overbridge had been designed as running perpendicular to the A3"* [REP11-048].
- 8.9.140. With respect to TP Plot 2/27a, it was put to the ExA by the RHS that this piece of land would become landlocked once the Proposed Development had been implemented.
- 8.9.141. The RHS during CAH1 raised a concern about a compound it has in close proximity to Wisley Lane, in the extreme eastern corner of the Gardens, notated as 'RHS Compound' on REP11-049, becoming inaccessible during the construction period for the overbridge.
- 8.9.142. During CAH1 the RHS submitted that it was concerned that RHS Wisley would be unable to remain open throughout the 12 to 18 month construction period for the Wisley Lane diversion overbridge [REP11-048]. In order to address some of the RHS's concerns about the construction phase impacts the RHS considers that the Applicant should enter into a Land and Works Agreement (LWA) with the RHS [page 14 of REP5-054].
- 8.9.143. The RHS has therefore argued that *"... public benefits of the DCO Scheme do not outweigh the private loss to the RHS"* [REP11-048].

The Applicant's response to the RHS's CA and TP objection

- 8.9.144. The Applicant's response to the RHS's case was provided during CAH1 and is set out in REP11-006. The Applicant has submitted that:

"... the Applicant's taking of the land is legitimate, necessary and proportionate ..." and needed "... to widen the A3 in order to deliver the scheme. The widening of the A3 necessitates the closure of the 'existing left in, left out' access and egress to Wisley Lane. There is therefore a need for a replacement access to Wisley Lane to be provided. The replacement access arrangements cannot be a 'left in, left out' configuration on safety grounds ... the Applicant originally looked at a link road alignment on the north/northwest side of the A3 and RHS objected very strongly to that which caused the alternative access road to go to the other side (ie the south/southeast of the existing A3)" [REP11-006].

8.9.145. The Applicant contends that if the Applicant's proposals for the Wisley Lane diversion are accepted, including the skewed alignment for the overbridge, then the CA of Plot 2/27 and the TP of Plots 2/27a and 2/30 will have been demonstrated. Without that acceptance *"... the Applicant's position is simply that it would be very difficult to see how the scheme could proceed if access to Wisley Lane and RHS Wisley was not re-provided. If the Applicant cannot acquire these plots, and in particular plot 2/27, then there cannot be a southern access to Wisley Lane. The Applicant therefore has a very compelling case in relation to the acquisition of these plots"* [REP11-006].

8.9.146. With respect to Plot 2/27 the Applicant has submitted that the land take would be no more than necessary, with the preliminary design work for the overbridge indicating that it can be accommodated within the area that has been identified for CA. Should the detailed design show that full extent of the proposed CA was unnecessary then land that was not required would not be permanently acquired [REP11-006].

8.9.147. In relation to Plot 2/27a, the Applicant does not accept that it would become landlocked, given its proximity to part of the NMU network, most particularly a spur that would be subject to proposed Work No.33(h) [REP12-002 and REP8-004], with the potential ultimately for the RHS to install a directional sign [REP11-006]. With respect to access to the RHS Compound, the Applicant has advised that it would be willing to enter into discussions with the RHS [REP11-006].

The ExA's reasoning and conclusions with respect to the RHS's CA and TP objection

8.9.148. At CAH1 the ExA requested the Applicant to explain how continued access to RHS Wisley would be maintained during the construction period. In that regard the Applicant advised that its intended land take, either permanent or temporary, inclusive of the TP proposed for Plot 2/28, would be sufficient to enable the RHS to remain open while the works were ongoing. As an action point arising from CAH1 the Applicant has submitted phasing details for the construction works within the vicinity of the entrance to RHS Wisley [REP11-013].

8.9.149. The Applicant proposes that there would be four phases for these construction works. Based on the Applicant's oral and written submissions [REP11-006 and REP11-013], the ExA considers that it should be possible for the construction works to be undertaken in a

manner that would not require the closure of RHS Wisley, albeit that there may be some occasions when for unforeseen reasons maintaining access to the Gardens may not be possible. The finer points of detail about how the construction works could be implemented so as to minimise effects on the operation of RHS Wisley would require liaison between the RHS, the Applicant and the Applicant's contractor. In that regard the mechanism to facilitate such liaison would be the conclusion of a LWA. To that end, pursuant to the third action point arising out of CAH1, agreed signed Heads of Terms for a LWA have been submitted as an Examination document [REP12-016]. Those Heads of Terms set out how the RHS and the Applicant (including its contractor) should be able to work together collaboratively to avoid where possible and minimise any impacts of the Proposed Development on the operation of RHS Wisley [REP12-016].

- 8.9.150. With respect to the construction of the overbridge for the Wisley Lane diversion, the Heads of Terms for the LWA state:

"HE will ensure that the construction of the Wisley Lane overbridge and associated works are carried out to minimise disruption to staff and visitors to the Garden, so far as reasonably practicable and consistent with the timely and effective implementation of the Scheme. HE will endeavour to ensure throughout the DCO Construction that any road closures that may affect access to the RHS gardens will be at night. HE does not propose or intend to close effective access to the Gardens according to its usual day, night and evening/morning activities" [REP12-016].

- 8.9.151. With respect to maintaining temporary access to RHS Wisley, the Applicant has promoted the arrangement shown in Inset C of REP11-049. That temporary access is not favoured by the RHS because of the tree removal that would be associated with it. Instead, the RHS favours the arrangement shown in Inset A of REP11-049. However, the Inset A access would be outside the Order limits for the dDCO and would require planning permission under the TCPA1990 for its permanent retention. During CAH1 the Applicant explained that the Inset A access could be provided for the duration of the construction works and that if express planning permission for its permanent retention was not to be forthcoming then the Applicant would remove at the completion of the works affecting Wisley Lane [REP11-006]. It is recorded in REP12-016 that it has been agreed between the RHS and the Applicant that the RHS would apply for planning permission for the Inset A access and if granted planning permission the Applicant would install that access as a permanent one. In the event of planning permission not being granted for the Inset access.

- 8.9.152. With respect to the proposed acquisition of Plot 2/27, the ExA considers that the land take from RHS Wisley that it would entail would be proportionate and would be likely to result in less land take from the Gardens compared with the non-overbridge alternatives for diverting Wisley Lane. The non-overbridge alternatives considered by the Applicant during the pre-application phase were options WIS-01 (northern two-way

link road) and option WIS-01A (northern two-way link road alternative to WIS-01) [REP3-017]. Option WIS-01 was assessed by the Applicant as requiring a 2.5ha land take from RHS Wisley. Option WIS-01A would have a similar alignment to WIS-01 and would require a land take within the Gardens of 1.5ha and would entail a five metre high retaining wall being included within its design [REP3-016].

- 8.9.153. Option WIS-01 was discounted by the Applicant because it would give rise to "... *significant environmental effects* ..." including "... *its impact on the Grade II* registered garden at Wisley*" [REP3-017]. Option WIS-01A, while having been assessed as having a lesser effect on the RPG compared with WIS-01, was still found by the Applicant as giving rise to a "... *significant adverse effect on the registered Wisley Garden*", [REP3-017] as compared with providing an overbridge as part of the diversion of Wisley Lane. The ExA considers the Applicant's reasons for discounting WIS-01 and WIS-01A were reasonable, given the adverse effects there would be on the significance of the Grade II* RPG. The ExA therefore concludes that there is no realistic alternative to the diversion of Wisley Lane including the provision of an overbridge. That is at least without there being a need for a greater land take from RHS Wisley and a more significant impact on the significance of the RPG, given that would be likely to require options WIS-01 or WIS-01A being pursued.
- 8.9.154. The ExA therefore finds that if Plot 2/27 was not to be the subject of the CA powers sought by the Applicant, then there could not be a southern access to Wisley Lane. Were there to be no southern access to Wisley Lane then that would have a considerably adverse effect on the ability of visitors and staff to access RHS Wisley and the rest of Wisley.
- 8.9.155. As the ExA has explained in Chapter 5 of this Report, the RHS has promoted the RHS alternative (SFS at OPJ and a left turn onto the A3 from Wisley Lane). The ExA considers it should be borne in mind that if the RHS alternative formed part of the Proposed Development for which consent is being sought by the Applicant that scheme would entail a comparable amount of land take from Plot 2/27. While the RHS is ill-disposed to the Proposed Development, because it would not include the RHS alternative, the ExA is persuaded that the public benefits of the Proposed Development would outweigh any private loss for the RHS arising from Plot 2/27 being incorporated into the Proposed Development. Accordingly, with respect to Plot 2/27 the ExA is of the view that for the purposes of s122 of PA2008 that firstly this plot of land is required for the Proposed Development and secondly there is a compelling case in the public interest for it to be acquired compulsorily. That being against the context of the Applicant having explored all reasonable alternatives for the routing of the proposed Wisley Lane diversion, in line with the provisions of paragraph 8 of the CA Guidance.
- 8.9.156. Given the extent and proximity of Plots 2/27a and 2/30 to the works covered by Work No.33 of the dDCO [REP12-002], including the stopping up of Wisley Lane's ingress and egress points under Work 33(e), the ExA considers that the TP of those plots would be unavoidable and thus justified. There is potential for the undertaking of road works in such

close proximity to the 'front door' of RHS Wisley to have some effect on the operation of the Gardens. However, as the ExA has mentioned above, it considers that with active dialogue between the RHS and the Applicant, as envisaged by the Heads of Terms for the proposed LWA [REP12-016], that other than for unforeseen circumstances access to RHS Wisley would be maintained. In that regard the ExA considers it of note that the Applicant has not planned for any day time closures of Wisley Lane, with works such as "... *white lining or stitching* ..." and beam placement taking place over night [REP11-006].

- 8.9.157. The ExA therefore finds the proposed TP of Plots 2/27a and 2/30 to be reasonable.

WPIL and Taylor Wimpey UK Limited

WPIL's and Taylor Wimpey UK Limited's CA and TP objection

- 8.9.158. The objections of WPIL and Taylor Wimpey UK Limited (TW) concern the Applicant's proposals for CA and TP that affect the former Wisley airfield. For clarity where in this Section of its Report the ExA refers to the 'Proposed Development' that relates to the development subject to the NSIP application, while references to the 'redevelopment scheme' concern the proposals for the redevelopment of the former Wisley airfield.
- 8.9.159. At time of the submission of the application for the Proposed Development WPIL was the owner of the airfield and WPIL made an RR, [RR-030], and further written representations⁷⁸. The ExA became aware of WPIL's acquisition by TW in March 2020 in REP6-009. It should be noted that the final version of the BoR [REP11-005] does not record the change in ownership of the Plots at the former Wisley airfield over which the following CA and TP powers are sought by the Applicant:
- Outright CA - 1/18/1/18a, 1/22 and 2/5b
 - Acquisition of permanent rights – 1/40
 - TP – 2/1, 2/1a, 2/1b, 2/3, 2/5a and 2/5c
- 8.9.160. TW as the new owner of WPIL, and thus, the former Wisley airfield has made a written submission [REP12-049] and was represented at the CAH1 Session which exclusively heard the CA and TP representations of WPIL and TW [EV-026]. The ExA is therefore content that TW as a new AP⁷⁹ has had the opportunity to make its views known to the ExA, with it exercising its right to be heard prior to the Examination's close. The ExA has not been advised by TW of any departure of views it has with any submissions made by WPIL, which was the pre-existing IP/AP prior to the change of its ownership. The ExA has therefore treated the written representations of WPIL that predate the change of that company's ownership as though they had been made by TW and hereafter the ExA

⁷⁸ REP1-048, REP1-049, REP2-052, REP2-053, REP5-057, REP7-030, REP9-006 and REP11-025

⁷⁹ An AP that post-dates the original application's submission

has referred to written and oral submissions made by WPIL and TW as ones made by WPIL/TW.

8.9.161. In RR-030 WPIL explained that in principle there was support for the Proposed Development, but that there were concerns that the proposed works "... *have the potential to compromise and/or delay the development site ... As such, WPIL requires that a legal agreement is entered into to ensure that the interface between the DCO works and the site are appropriately managed. The legal agreement should also provide for provision of compulsory acquisition powers sought by Highways England (HE) in the draft DCO, over WPIL land*". As per government guidance, compulsory acquisition powers should only be granted as a last resort, and WPIL is encouraged that HE has confirmed their willingness to enter into an early agreement to secure the rights included in the draft DCO ... However, until such an agreement is entered into, WPIL objects to compulsory acquisition of its land ..." (the reference to development site in this quote relating to the airfield).

8.9.162. During CAH1 [EV-026 and REP11-025] WPIL/TW outlined its CA and TP case with reference to the following matters:

- There is an intention for WPIL/TW and the Applicant to enter into a side agreement or LWA to address WPIL/TW's concerns, enabling the objection to the CA powers that are being sought to be withdrawn. However, progress on finalising this agreement "... *has slowed to a stall, and at this stage of the Examination this works to WPIL's significant disadvantage...*" [REP11-025].
- WPIL/TW is willing to agree to the implementation of the CA powers for the land permanently required by the Applicant and has agreed that the land can be vested. However, there is concern relating to the use and occupation of the DCO land on a temporary basis during the construction phase. The Applicant's occupation of the land prior to any vesting should be controlled under a "*licence*". Such an approach would ensure that the Applicant only acquired land permanently that it needs once the Proposed Development is in place, "... *thus demonstrating proportionality ...*", while providing comfort for WPIL/TW about how the construction phases for the Proposed Development and redevelopment scheme would interface with one another [REP11-025].
- The design for the Wisley Lane diversion should accommodate an access for the construction and occupational phases for the redevelopment scheme. Allied to the design for the Wisley Lane diversion, provision should be made for it to accommodate:
 - utilities in a manner that will not require WPIL/TW to divert them at a later date; and
 - "*environmental permeability*" to mitigate effects on land that will be severed by the Proposed Development [REP11-025]. The design of the Wisley Lane diversion should be agreed with WPIL/TW now rather than at a later date.
- With respect to the TP of Plots 2/1, 2/1a, 2/1b, 2/3, 2/5a and 2/5c in connection with the establishment of the construction site

compound at the airfield [REP8-012], WPIL/TW does not have an objection in principle to the use of its land. However, under proposed change 9 to the submitted application this compound would become "... a key strategic site for the entire construction programme". To ensure that the operation of this construction site compound does not cause delay to the implementation of the redevelopment scheme WPIL/TW considers:

- the construction compound should be demobilised by the Applicant no later than two months after the Proposed Development being open to traffic, with there being potential for a phased handing back of parts of the compound to the landowner as they are vacated by the Applicant.
- that to allow concurrent working between the Proposed Development and the redevelopment scheme, agreement should be reached about the use of either a shared construction access or the provision of separate construction accesses that can be used so as to avoid delays to the implementation of the redevelopment scheme.
- the extended use of the construction compound should be avoided because that could generate noise and dust that would adversely affect users of the Suitable Alternative Natural Greenspace (SANG), with the SANG needing to be provided as part of the mitigation for the effects of the redevelopment scheme on the SPA [REP11-025].

- In relation to the reinstatement of the construction site compound WPIL/TW has proposed that a "*Methods of Working Schedule*" should be appended to the side agreement with the applicant. This would set out how the compound would be used and its use controlled. However, WPIL/TW has submitted that the Applicant has resisted the inclusion of such a Schedule, suggesting that the DCO would provide the necessary controls. The absence of a Methods of Working Schedule "... represents too great a risk to WPIL and all that has been sought is contractual certainty on commitments made in the DCO, and ensure that matters are addresses now, rather than left for interpretation and dispute during construction". The absence of a management agreement for maintaining Stratford Brook (which concerns Plots 1/18a and 1/40) is also of concern to WPIL/TW. [REP11-025].

8.9.163. WPIL/TW therefore contends that in the absence of an extant side agreement/LWA with the Applicant, then the CA and TP powers sought by the Applicant should be excluded from any made DCO and "... only in the absence of compulsory acquisition will Highways England engage meaningfully to reach a private treaty agreement" [REP11-025], a view reiterated by WPIL/TW in paragraph 5 of REP12-049.

8.9.164. WPIL/TW has confirmed that as of 10 July 2020 (D12) that a LWA had not been concluded with the Applicant [REP12-049]. WPIL/TW has drawn attention to paragraph 25 of the CA Guidance under which the Applicant "... is required to seek agreement and only use the compulsory purchase powers as a last resort" [REP12-049].

The Applicant's response to WPIL/TW's objection

8.9.165. The Applicant's response to the WPIL/TW objections is stated in REP11-006, the note of the oral case it made at CAH1. In summary the Applicant's response to the WPIL/TW objection is as follows:

- There is a compelling case in the public interest to acquire Plots 1/18, 1/22 and 2/5b because without those plots "*... it will not be possible for the Applicant to construct the Wisley Lane diversion and the scheme would not be able to go ahead because there would be no access to Wisley Lane*" [REP11-006].
- A construction compound at the former Wisley airfield is required to undertake the proposed construction works.
- The Applicant's CA and TP proposals are "*legitimate, necessary and proportionate*", with some Plots being identified for acquisition, with other plots being for TP. Article 33 of the dDCO sets out the way in which TP powers would be used. The "*... Applicant does not agree with WPIL that the powers are inappropriate ... it could be the case that the Applicant does not require all of the land marked for permanent acquisition as it will be able to decide upon entering onto the land whether or not it is needed*" [REP11-006].
- Planning permission has not been granted for the redevelopment scheme [REP11-006].
- The Applicant is trying to ensure that WPIL's concerns are addressed in the proposed side agreement.
- The Applicant is constructing the Wisley Lane diversion for its own purposes and in accordance with its own design, "*... however it is keen not to compromise other developments and the Applicant is willing to enter into negotiations and agreements to ensure a collaborative approach. Having said that, the Applicant is not willing to have the design of this piece of infrastructure, which is paid for by the public, decided by a private sector development which may or may not obtain planning permission*" [REP11-006].
- The Applicant has no desire to use the construction site compound for longer than necessary and the proposed TP of the plots at the airfield would be no more than its needs and the reinstatement of the affected land would be undertaken so as not to burden another development.

The ExA's reasoning and conclusions with respect to WPIL/TW's CA and TP objection

8.9.166. WPIL/TW's objection to the CA and TP powers sought by the Applicant is driven by a desire that the Proposed Development should not interfere with the implementation of its redevelopment scheme. In that respect the ExA sought clarification at CAH1 [EV-026] about the anticipated programme for the airfield's redevelopment. WPIL/TW has advised that it expects to submit the main application for outline planning permission, together with a full application for four hundred homes in March 2021,

with the construction of homes predicted to begin in January 2022⁸⁰. Thereafter the first occupation of the redevelopment scheme is expected to be during the first quarter of 2023 [REP11-025]. WPIL/TW has further explained that works on the SANG that it will need to provide will need to be commenced in March 2021 so that the SANG is available when the first homes are occupied.

- 8.9.167. Based on WPIL/TW's predicted works and occupation programme, the Applicant stated at CAH1 that enabling works required to facilitate the implementation of the redevelopment scheme could be accommodated while the Proposed Development is also being constructed. The Applicant also advised that it expects that it would need to use the airfield construction compound until the completion of the construction works in the second quarter of 2023 [REP11-006].
- 8.9.168. Presuming⁸¹ the implementation of the redevelopment scheme follows the programme envisaged by WPIL/TW, there would be some overlap between the implementation of its scheme and the Proposed Development, as shown the combined works programme included in REP12-019. However, the ExA is of the view that the case made by WPIL/TW has not demonstrated that the construction of the Proposed Development would frustrate the delivery of the redevelopment scheme. In that regard the ExA takes comfort from the view expressed by the Applicant during CAH1 [EV-026] that access to the works site for the redevelopment scheme would be possible while the implementation of the Proposed Development was ongoing, with there being scope for a construction access to be shared or separate construction accesses being made available for each project.
- 8.9.169. WPIL/TW's objections to the Applicant's CA proposals, have not been couched in terms of the land take being excessive or unnecessary. Nor has this objector sought to argue that the proposed acquisition of land or permanent rights would not be in the public interest. Instead the contention is that the absence of a concluded side agreement/LWA renders the Applicant's CA proposals unacceptable, with it being argued that the Applicant should be following the advice in paragraph 25 of the CA Guidance by seeking "*... to acquire land by negotiation wherever practicable*".
- 8.9.170. However, paragraph 25 of the CA Guidance goes on to state "*Where proposals would entail the compulsory acquisition of many separate plots of land (such as for long, linear schemes) it may not always be practicable to acquire by agreement each plot of land. Where this is the case it is reasonable to include provision authorising compulsory acquisition covering all land required at the outset*". The ExA considers

⁸⁰ The reference to the building of homes commencing in quarter 4 of 2022/quarter 1 of 2023 in REP11-025 appearing to be a typographic error given what was stated during CAH1

⁸¹ With planning applications for the SANG enabling works, an access off the Wisley Lane diversion and the main development to be submitted from September 2020 onwards [REP12-019]

that the Proposed Development would entail the acquisition of many separate plots of land, with WPIL/TW being one of a significant number of APs. The ExA therefore considers it a reasonable precaution for the dDCO to make provision for land owned by WPIL/TW (and required for the Proposed Development) to be acquired compulsorily. Of itself that would not preclude the acquisition of the land owned by WPIL/TW via a negotiated route. In that regard the Applicant has advised that while an agreement had not been concluded by D12 *"The negotiations are still ongoing and Highways England believes that an agreement can be reached shortly"* [REP12-017]. The ExA is of the view that Applicant's position would be consistent with WPIL/TW's remarks in REP12-049, namely that it remains *"...committed to reaching an agreement with the Applicant ..."*

- 8.9.171. The ExA agrees with the Applicant that without the acquisition of land owned by WPIL/TW, most particularly Plot 1/18 [REP8-003], the diversion of Wisley Lane under Work No.33 of the dDCO [REP12-002] would not be possible and the Proposed Development could not proceed. The ExA therefore finds that the Applicant's proposals for the outright acquisition of land and the permanent acquisition of rights in respect of the land owned by WPIL/TW, as identified in the BoR [REP11-005] is required and that there is a compelling case in the public interest for the land to be acquired compulsorily. In that regard the Applicant's CA proposals would accord with s122 PA2008.
- 8.9.172. It is evident from the written and oral submissions made by WPIL/TW that it seeks certainty about when and how the Applicant would use and then reinstate the land plots that would be subject to the TP powers sought by the Applicant. It appears to the ExA that the existence of an extant side agreement/LWA would allay WPIL/TW's concerns. However, the ExA considers that Art 33 of the dDCO, notwithstanding the absence of an agreement at the Examination's close, provides a mechanism that would address the objector's concerns. The ExA therefore considers that Plots 2/1, 2/1a, 2/1b, 2/3, 2/5a and 2/5c should be included within the TP powers sought by the Applicant.

Zinc Cobham Hotels Limited/Adda Hotels/Hilton Group PLC

- 8.9.173. The concerns of the landowner and occupiers are stated in REP1-028, and relate to Plots 7/19 (subject to CA), 7/22 (subject to TP), 7/23 (subject to TP and permanent rights acquisition) and 9/4 (subject to TP), which form part of the grounds of a hotel. The landowner and occupiers are concerned that the Proposed Development would result in the loss of natural foliage and screening between the hotel and the A3, while the temporary taking of land during the construction period could be disturbing for guests and affect the hotel's patronage. Under concern 3e listed in REP1-028 reference has been made to it appearing *"... that there is more land being acquired than necessarily required for the scheme"*. The landowner and occupiers have also referred in its written representation [REP1-028] to the potential for a claim for compensation

being made in response to the operation of the hotel being affected by the Proposed Development.

- 8.9.174. As part of the Applicant's diligent enquiries relating to landownership throughout the Examination, it should be noted that in relation to Plots 7/19 and 7/22 an additional AP, Hilton International Hotels (UK), has been identified and notified of the application's submission, as explained in the final version of the SoR [REP11-004]. The final version of the BoR [REP11-005] has been updated. By the close of the Examination no additional representations from Hilton International Hotels (UK) had been received by the ExA.
- 8.9.175. In REP2-014 the Applicant has responded to the concerns raised by the landowners and occupiers of Plots 7/19, 7/22, 7/23 and 9/4. In response to concerns about the extent of land take the Applicant has commented "*The extent of land required is considered appropriate in the context of the works proposed on and around that land*". In this regard the Applicant has also drawn attention to its reply to the ExQ1 1.16.13 [PD-006] and stated:
- "... Paragraph 6.2.2 of the Statement of Reasons further confirms that the land proposed to be acquired is the minimum land-take required to construct, operate, maintain and mitigate the Scheme and is therefore necessary to achieve the objectives of the Scheme. ... Highways England has to achieve a balance between minimising land take and securing sufficient land to ensure delivery of the Scheme, noting that the detailed design of the Scheme has yet to be developed. In that context, the limits of the land to be acquired or used has been drawn as tightly as possible so as to avoid unnecessary land take. In that way, the proposed land take is proportionate, justified and necessary"* [REP2-013].
- 8.9.176. With respect to the construction effects of the Proposed Development the Applicant has commented in REP2-014 that it has assessed the effects for the hotel as being "slight adverse to insignificant" as reported in Chapter 13 of the ES [APP-058], with mitigation being capable of being secured through the operation of the proposed CEMP. With respect to operational effects daytime and night time noise levels are predicted to decrease, resulting in "negligible to minor beneficial" effects for the hotel. "In any event, compensation arising from the compulsory acquisition of land, including disturbance, may be payable in accordance with the compensation code" [REP2-014].
- 8.9.177. The landowner and occupiers of the hotel have not made submissions in response to the comments made by the Applicant in REP2-014. Plot 7/19 has an area of 6,390 sqm [REP11-005] and would be permanently acquired because it would be required primarily to assist with the provision of a new bridleway under Work No.35 and a drainage attenuation pond under Work No52(j) [REP12-002, REP8-004 and REP8-009]. The owners and occupiers have not elaborated on why they consider the acquisition of Plot 7/19 would be more than would be reasonably required for the purposes of the Proposed Development. Given the Applicant's response to the concerns that have been voiced by

the hotel's owner and operator and the nature of the works that would be accommodate within Plot 7/19, the ExA considers that the proposed acquisition of this plot would be reasonably required and that the tests for CA under s122(2)(a) and (3) of the PA2008 would be met, and would also be in accordance with the CA Guidance.

- 8.9.178. It is proposed that Plot 7/22 would be used as a materials and topsoil storage area [REP8-012], while Plots 7/23 and 9/4 would provide access to the storage area and some or all of the works to be undertaken within Plot 7/19. The Applicant has acknowledged that the use of the plots 7/22, 7/23 and 9/4 would have the potential to cause some disturbance for hotel guests. That said mitigation would be provided through the operation of the CEMP which would be subject to R3 of the dDCO [REP12-002]. The ExA is therefore of the view that it is likely that unreasonable levels of disturbance to hotel users would be capable of being avoided. Given the site and extent of Plots 7/22, 7/23 and 9/4 relative to what would be construction area for the Proposed Development, the ExA finds that the use of these plots would be justified.

8.10. Statutory Undertakers - Special Land and rights protections

- 8.10.1. The Proposed Development affects a number of land plots with relevant land or rights protections provided under s127 and s138 of PA2008 for SUs. Accordingly, Art 36 and Art 37 of the dDCO [REP12-002] seek powers relating to SUs' land and apparatus affected by the Proposed Development, with Schedule 9 of the dDCO setting out protective provisions relating to SU's land and apparatus. The land and/or apparatus of SUs affected by the Proposed Development is listed in the BoR [REP11-005] and is shown on the Land Plans [REP8-003].
- 8.10.2. ExQ1.16.5 (matters relating to s127) and ExQ1.16.6 (matters relating to s138) put in place a mechanism for the Applicant to provide regular updates for the ExA on how any objections from or concerns raised by SUs were being addressed. The final Examination updates with respect to s127 and s138 matters are contained in REP12-005 and REP12-006.
- 8.10.3. Of the SUs with land and/or equipment that would be affected RRs were made by Affinity Water Limited (AWL) [RR-007] and National Grid Electricity Transmission PLC (NGET) [RR-019]. No other SUs made representations during the Examination.
- 8.10.4. AWL in RR-007 drew attention to its infrastructure falling within the Order limits and the need for the Proposed Development to be designed and constructed so as to safeguard and allow for maintenance of AWL's infrastructure.
- 8.10.5. NGET in RR-019 drew attention to the need to retain its infrastructure *in situ* and allow it at all times to inspect, maintain, renew and repair its apparatus within or close to the Order limits. NGET therefore drew attention for the potential need for any made DCO to contain protective provisions for its infrastructure and apparatus. In REP1-015 NGET

advised that it would make an objection to the Proposed Development "... *being carried out in close proximity to its apparatus in the area unless and until suitable protective provisions and related agreements have been secured to its satisfaction ...*". Within REP1-015 NGET provided details of the protective provisions that it would require.

- 8.10.6. During CAH1 [EV-019] the ExA asked the Applicant to provide an update with respect to the position in relation to SUs' land, rights and apparatus. At CAH1 and in REP11-006 the Applicant explained that it was anticipated that prior to the Examination's close it would reach an agreement with AWL in relation to the protective provisions that AWL was seeking. The Applicant advised that it had reached an agreement with NGET about protective provisions and that a side agreement was being concluded. REP12-005 and REP12-006 record that the Applicant reached agreement with NGET and AWL.
- 8.10.7. In REP12-045 AWL has stated that its "*representation*" was withdrawn as of on 9 July 2020. In REP12-046 NGET has stated that it has agreed protective provisions with the Applicant and that its "*holding objection*" to the Proposed Development and its "*written representation ... can be withdrawn*".
- 8.10.8. Accordingly, in relation to SUs' land, rights and apparatus collectively, the ExA considers that the SoST can be satisfied that relevant matters have been resolved to a point where, subject to the inclusion of the protective provisions set out in Schedule 9 of the dDCO [REP12-002], there are no further considerations to be taken into account.

8.11. Crown Land

- 8.11.1. The ExA has discussed previously in this Chapter how the Proposed Development would affect Crown Land. By the close of the Examination there were six affected Crown Land Plots, Plots 1/14, 1/15, 1/18, 1/18a, 1/21 and 1/22 [REP8-003], for which DEFRA holds the Crown interest. In REP12-013 DEFRA has given its written consent to:
- "*the acquisition of the Crown land acquisition rights*" under s135 of PA2008;
 - the inclusion of Art35 in a made DCO; and
 - the legal transfer of Plots 1/15 and 1/21 to the Applicant
- 8.11.2. Accordingly, the ExA considers there is no impediment to Crown Land Plots: 1/14, 1/15, 1/18, 1/18a, 1/21 and 1/22 being made the subject of CA and TP powers sought by the Applicant should the DCO be made.

8.12. HRA1998 considerations

- 8.12.1. The Applicant has had regard to the DCLG CA Guidance in developing its case for CA and TP [APP-015], including the general consideration that the proposed interference with the rights of those with an interest in the land is for a legitimate purpose and is necessary and proportionate. The Applicant has stated that there is a compelling case in the public interest

for the CA powers included in the DCO which is sufficient to justify the interference with rights.

- 8.12.2. In considering the individual CA objections and concerns, other than the objection relating to PBF, the ExA, for the reasons given in Section 8.9 above, agrees with the Applicant that the CA powers sought in the DCO:
- would be the minimum necessary to construct, operate, maintain and mitigate the Proposed Development;
 - strike a balance between minimising land take and securing sufficient land to ensure delivery of the Proposed Development, noting that the detailed design has yet to be developed;
 - would minimise the private loss suffered by individual landowners and occupiers by seeking to acquire land through agreement where possible.
- 8.12.3. With respect to the TP powers sought in the dDCO, the ExA considers that the land covered by them would be no more than would be reasonably necessary to undertake the Proposed Development.
- 8.12.4. Accordingly, the ExA concludes that in relation to all the land affected by the CA and TP powers sought, other than the CA proposal concerning PBF, that the Proposed Development could be delivered so as to be in accordance with the relevant human rights considerations.
- 8.12.5. However, in relation to the Applicant's CA proposals to provide RL for the SCL affected by the Proposed Development, the ExA has concluded in Section 8.8 above that the acquisition of 39.8ha would be more than is reasonably necessary, resulting in conflict with the CA Guidance and non-compliance with s122 of PA2008. That is because included amongst the land plots for CA there would be some for which there would not be a compelling case in the public interest for that land to be compulsorily acquired. The ExA considers that the RL provision should be limited to 16.40ha. That finding means that there should be a reduction in RL provision of the order of 23.40ha, otherwise it could not be demonstrated that the public benefits that would be derived from the CA would outweigh the private loss.
- 8.12.6. The ExA has therefore proposed an amendment to the rDCO to ensure that the CA powers sought in any made DCO would be for the acquisition of 16.40ha of RL. The ExA considers that with that amendment the CA powers contained within a made DCO would accord with all relevant human rights considerations.
- 8.12.7. With respect to the provision of RL, the SoST might, after undertaking his own assessment, having regard to s122, s131, and s132 PA2008 and the CA Guidance, reach a contrary conclusion to the ExA about the amount of RL that could be compulsorily acquired. If the SoST was to reach a contrary conclusion on this matter, then it is possible that the proposed interference with the rights conferred under Article 1 of the First Protocol and Article 8 could be lawful, necessary, proportionate and justified in the public interest.

8.13. CONCLUSIONS

- 8.13.1. S122 and s123 of PA2008 sets out the purposes for which CA may be authorised. The ExA is satisfied, with the exception of Plot 7/1 (Heyswood Campsite) and some of the land plots⁸² relating to the provision of RL for the SCL that would be affected by the Proposed Development, that the legal interests in all the plots of land included in the BoR [REP11-005] and shown on the Land Plans [REP8-003] would be required for the Proposed Development with respect to both CA and TP powers.
- 8.13.2. In respect of land subject to CA for the Proposed Development, with the exception of the proposals for RL, as referred to in the BoR [REP11-005] and shown on the Special Category Land Plans [REP8-006] the ExA is content that the land to be taken is no more than would reasonably be required and the proposed land-take would be proportionate. Accordingly, with respect to the CA proposals, other than those relating to RL, the ExA considers that the public benefit associated with the Proposed Development would outweigh the private loss.
- 8.13.3. With respect to RL provision, the ExA has found that the CA of 39.8ha would be unreasonable and thus disproportionate. The ExA is of the view that the CA of 16.4ha of RL would be reasonably required and proportionate. For the reasons given in Section 8.8 above the ExA considers that RL required for the Proposed Development should only comprise all of the land plots that have been identified by the Applicant as forming PBF1 (11/17, 11/17a, 11/17b and 11/17c) and PBF2 (11/16, 11/17d, 11/17e, 11/17f and 11/17g), which on the figures provided by the Applicant in REP12-004 totals 13.45ha. The ExA considers that the remaining 2.95ha of required RL should be acquired from part of PBF3 (ie some of Plots 11/17h, 11/17i and 11/17j) that make up PBF3. The extent of PBF1, PBF2 and PBF3 is shown on Figure B.1 in REP12-004. For the avoidance of doubt the ExA has found that none of the land comprising proposed RL areas CF1 to CF4, HF1 and HF2 should be subject to CA powers for the purposes of providing RL.
- 8.13.4. With respect to the proposed CA of Plot 7/1 at the Heyswood Campsite, GGLW in REP11-027 has raised attention to the Applicant having given some consideration to an alternative alignment for the proposed gas pipeline diversion. That is a matter that GGLW has stated it was unaware of prior to a meeting with the Applicant held on 2 July 2020. GGLW in REP11-027 has stated that it would be more supportive of that possible route than the proposal that forms part of the submitted application. The Applicant in its D12 written submission REP12-025 made no comment on the potential for there being an alternative alignment for the gas pipeline diversion. This is a matter that arose very late on in the Examination and is something that the ExA has been unable to fully examine. On that basis the ExA has found that the Applicant has not demonstrated that all

⁸² Plots 11/16, 11/17, 11/17a to 11/17g, 13/9, 13/9b, 13/12, 13/12a, 14/1, 14/1a, 14/3, 26/4, 26/4a, 26/5, 26/5a, 26/6 and 27/1

reasonable alternatives to CA, including modifications to the Proposed Development, have been explored.

8.13.5. Accordingly, the ExA considers that the SoST should obtain comments from the Applicant about what alternatives for the gas pipeline diversion through Heyswood Campsite have been considered and why any alternatives might have been discounted. The ExA considers that until that is done it is not possible to reach a view as to whether the proposed CA for Plot 7/1 would be reasonable or not.

8.13.6. Subject to the RL provision being reduced to 16.4ha and it being determined that the all reasonable alternatives for the diversion of the gas main through Heyswood Campsite have been considered, with respect to s122(3) PA2008, the ExA is satisfied and recommends to the SoST that a compelling case in the public interest exists for the following reasons:

- The Proposed Development for which the land would be compulsorily acquired would be in accordance with the national policy stated in the NPSNN and development consent should be granted.
- There is support for the Proposed Development from the majority of IPs and/or APs, including EBC, GBC and SCC.
- The NPSNN identifies a critical need for enhancing SRN capacity and the Proposed Development seeks to achieve that.
- There is a need to secure the land and rights subject to the CA powers sought and to construct the Proposed Development within a reasonable timeframe and the Proposed Development would represent significant public benefits that weigh in the balance in favour of the affected land being acquired compulsorily.
- The private loss of APs has been mitigated as far as possible through the selection of the land and the minimisation of the extent of the rights and interests proposed to be acquired.
- The Applicant has explored reasonable alternatives to the CA of the rights and interests sought and it is reasonable that the Applicant should retain CA and TP powers as a guarantee against the possible failure of voluntary agreements being secured.
- There are no alternatives which ought to be preferred.
- Funding is available to meet any compensation liabilities for CA and/or TP and for any blight claims and the standing of the Applicant in relation to public funds is such that there is no need for any special or additional guarantees for this funding.

8.13.7. With respect to considerations under s127 and 138 of PA2008, by the close of the Examination there were no outstanding issues relating to SU land and apparatus, with the concerns/objections raised by AWL and NGET having been withdrawn.

8.13.8. With respect to SCL, there is CL and OS that would be affected by the Proposed Development and s131 and s132 of PA2008 are engaged. The ExA has explained that it considers that the Applicant's proposals for the provision of RL would be excessive. The ExA has therefore recommended that be a significant reduction in the area of RL provision secured through any made order. Should the SoST be minded to accept the ExA's

recommendation relating to RL or determine that additional RL should be provided, the ExA considers that the SPP procedure, under either s131 or s132 would not be invoked.

- 8.13.9. With respect to Crown Land by the close of the Examination the only land subject to s135 of PA2008 was six land plots for which DEFRA has an interest in. DEFRA has written to the Applicant [REP12-013] confirming its agreement any made DCO including powers that relate to the land that it has an interest.
- 8.13.10. The case for CA powers being granted is dependent upon there being a case for the Proposed Development. In Chapter 7 the ExA has reached the view that development consent should be granted. As the ExA has explained above, it is satisfied that with some amendment the CA powers sought by the Applicant would be justified and should be granted. That is because the ExA has concluded that there would be a compelling case in the public interest for the land and interests to be acquired compulsorily and that there would be compliance with the CA Guidance and the requirements of PA2008, most particularly s122, s131 and s132.
- 8.13.11. In respect of TP, the ExA considers that the powers sought in the dDCO are necessary for the delivery of the Proposed Development.
- 8.13.12. As far as human rights are concerned, the ExA is satisfied that the Examination has ensured a fair and public hearing, and that any interference with human rights arising from implementation of the Proposed Development would be proportionate and would strike a fair balance between the rights of the individual and the public interest. Furthermore, the ExA is satisfied that compensation would be available in respect of any quantifiable loss. Subject to there being a reduction in the amount of RL to be secured through the powers conferred within any made DCO, there would, in the ExA's view, be no disproportionate or unjustified interference with human rights so as to conflict with the provisions of the HRA1998.

9. DRAFT DEVELOPMENT CONSENT ORDER AND RELATED MATTERS

9.1. INTRODUCTION

- 9.1.1. This Chapter provides an overview of the dDCO that was submitted to accompany the application and the changes that have been made during the course of the Examination, resulting in the Applicant's final dDCO [REP12-002]. It then considers changes made to the Applicant's final dDCO in order to arrive at the ExA's recommended DCO (rDCO) in Appendix D to this Report
- 9.1.2. Although the Infrastructure Planning (Model Provisions)(England and Wales) Order 2009 (the Model Provisions Order) has been repealed, the Applicant states that the submitted version of the dDCO drew on the model provisions and also precedent set by made Orders for highways development under PA2008. Since the Localism Act 2011 there had been a change of approach regarding the use of Model Provisions.
- 9.1.3. Whilst they still provide a starting point for the consideration of the dDCO, precedent cases are now considered to be more appropriate. In the EM [APP-019] the Applicant states that the draft Order draws on the Model Provisions as well as precedent set by DCOs that have been made. At various points within the EM [REP12-003], the Applicant has made reference to the following made Orders in relation to specific issues in the dDCO:
- National Grid (Hinkley Point C Connection Project) Order 2016;
 - A14 Cambridge to Huntingdon Improvement Order 2016;
 - Testo's Junction Alteration Order 2018;
 - M4 Motorway (Junctions 3 to 12)(Smart Motorway) Order 2016;
 - A30 Chiverton to Carland Cross Order 2020;
 - A585 Windy Harbour to Skippool Highway Order 2020;
 - M42 Junction 6 Order 2020;
 - Lake Lothing (Lowestoft) Third Crossing Order 2020;
 - A19/A1058 Coast Road (Junction Improvement) Order 2016;
 - Thames Water Utilities Limited (Thames Tideway Tunnel) Order 2014;
 - A38 Derby Junctions;
 - A303 Sparkford to Ilchester Dualling Scheme;
 - (Draft) A303 to Amesbury to Berwick Down Order; and
 - (Draft) M25 junction 28 Order
- 9.1.4. It is important to note that at the time of writing this Report, not all of the schemes cited above have made Orders. Consequently, we do not attach any weight to the precedent set by any Orders that have not yet been made. It is also the case that there are parts of any DCO that will contain wording that is specifically designed to address issues pertaining to that particular application, and which therefore may not be applicable for other DCOs.

9.2. THE DCO AS APPLIED FOR

9.2.1. A dDCO (Revision 0) [APP-018] and an EM (Revision 0) [APP-019] were submitted to accompany the application. The first version of the dDCO [APP-018] is set out as follows:

- Part 1, Article (Art) 1 to Art 3 inclusive, sets out respectively how the Order may be cited, when it comes into force, the meaning of various terms used in the dDCO and the disapplication of certain legislative provisions.
- Part 2, Art 4 to Art 9 inclusive, contains the principal powers in relation to the dDCO and allows for it to be carried out and maintained.
- Part 3, Art 10 to Art 17 inclusive, "Streets" refers to matters relating to the application of the New Roads and Street Works Act 1991.
- Part 4, Art 18 to Art 20 inclusive, sets out supplemental powers relating to the discharge of water, protective work to buildings and the authority to survey and investigate land;
- Part 5, Art 21 to Art 37 inclusive, details powers of acquisition and temporary possession of land, including for maintenance purposes.
- Part 6, Art 38 and Art 39, relate to operation rights concerning trees and hedgerows, including trees subject to a Tree Preservation Order (TPO).
- Part 7, Art 40 to Art 47 inclusive, sets out miscellaneous and general provisions including a statutory nuisance defence, the exclusion of a number of local enactments and local byelaws, and an arrangement for arbitration is detailed.

9.2.2. The dDCO [APP-018] also contained 10 Schedules as follows:

- Schedule 1 describes the Works that comprise the Proposed Development;
- Schedule 2 Part 1 contains the Requirements and Part 2 details the procedure for the discharge of the Requirements;
- Schedule 3 provide details of the classification of roads;
- Schedule 4 lists the permanent stopping up of highways and private means of access, and the provision of new highways and private means of access;
- Schedule 5 lists land on which new rights may be acquired;
- Schedule 6 lists the modification of compensation and compulsory purchase enactments for the creation of new rights;
- Schedule 7 lists the land of which TP may be taken;
- Schedule 8 list the trees that are subject to TPs;
- Schedule 9 sets out the following protective provisions:
 - Part 1 for the protection of electricity, gas water and sewage undertakers;
 - Part 2 for the protection of operators of electronic communications code networks;
 - Part 3 for the protection of the EA;
 - Part 4 for the protection of SCC in respect of ordinary watercourse;

- Part 5 for the protection of Southern Gas Networks Plc as gas undertaker;
- Part 6 for the protection of National grid as electricity undertaker;
- Schedule 10 lists the documents to be certified.

9.3. CHANGES DURING THE EXAMINATION

- 9.3.1. The ExA reviewed the dDCO prior to the commencement of the Examination and ISH1 on the dDCO was held at a very early during the Examination, on 12 November 2019. The audio recording for ISH1 is EV-003. Immediately following ISH1 a list of action points was produced [EV-004]. A Written Submission of the Applicant's Case put orally at ISH1 was submitted at D1 [REP1-005]
- 9.3.2. Our ExQ1, ExQ2, ExQ3 and ExQ4 [PD-006, PD-010, PD-016 and PD-021] all contained questions pertaining to the respective latest version of the dDCO. The ExA also set out its Recommended Schedule of Changes to the dDCO [PD-014]. At D7 responses to this were received by the Applicant [REP7-012] and SCC [REP7-024]. In drafting the ExA's rDCO we have had regard to these responses.
- 9.3.3. By the close of the Examination the Applicant had submitted five revisions to the dDCO. The versions of the dDCO submitted by the Applicant were as follows:
- Revision 1 issued at D2 [REP2-002] (clean copy) and [REP2-023] (tracked changes version);
 - Revision 2 issued at D5 [REP5-002] (clean copy) and [REP5-006] (tracked changes version);
 - Revision 3 issued at D6 [REP6-003] (clean copy) and [REP6-008] (tracked changes version);
 - Revision 4 issued at D8 [REP8-013] (clean copy) and [REP8-027] (tracked changes version); and
 - Revision 5 issued at D12 [REP12-002] (clean copy) and [REP12-007] (tracked changes version).
- 9.3.4. At D12 the Applicant also submitted a Development Consent Order Validation Report [REP12-012] and an updated EM [REP12-003] (clean copy) and [REP12-011] (tracked changes version).
- 9.3.5. These various iterations of the dDCO made a series of changes. Some of these were not significant and, for example, were to correct typographical errors or errors in numbering. Changes were made as a result of the Applicant's consideration in REP7-012 of the ExA's Schedule of Changes to the dDCO [PD-014] and were contained in the subsequent iteration of the dDCO provide by the Applicant at D8 [REP8-013].
- 9.3.6. Revisions were also made to the EM, with the submission of revised versions at D6 [REP6-004], D8 [REP8-014] and D12 [REP12-003]. However, even after the ExA had indicated that the version that was originally submitted [APP-019] ceased its assessment at Schedule 2, the revised versions of the EM still did not contain any explanation beyond Schedule 2 of the dDCO.

- 9.3.7. The more substantive changes that have been made to the dDCO throughout the Examination process are set out below. Overall, the ExA finds the structure of the dDCO [REP12-002] is acceptable and fit for purpose, and no changes to the structure as outlined above are recommended.

Article 2

New definitions

- 9.3.8. Following ISH1 the Applicant submitted a first revision of the dDCO [REP2-002]. The Part 1 Article 2 Interpretation section was amended to include definitions for "*Crown land plans*", "*restricted byway*", "*temporary works plans*" and "*the Upper Tribunal*". Furthermore, in Schedule 2 Part 1 of the dDCO [REP2-002] which relates to the Requirements, a definition of "*pre-construction ecological mitigation*" was added. The ExA is content that these new definitions that have been added during the Examination, and which are all contained in the Applicant's final dDCO [REP12-002], provide a satisfactory degree of clarity and precision.

Definition of maintain

- 9.3.9. In Q1.12.4 of ExQ1 [PD-006] we asked the local authorities if they were content with the definition of "*maintain*" in the Part 1(2) Interpretation section of the dDCO.
- 9.3.10. We have had regard to comments that had been received by various IPs during the course of the Examination. In the ExA's Schedule of Changes to the dDCO [PD-014] we expressed concerns about the wide-ranging nature of activities that could be undertaken under the definition of "*maintain*" in Article 2(1), in regard to the terms "*alter*" and "*improve*".

Changes to reflect proposed changes 1 to 9

- 9.3.11. Details of these changes are discussed in more detail in Chapter 2 of this Report. All of these proposed changes have been accepted by the ExA for examination and therefore form the basis for the examination of the Proposed Development. However, it is important to note that proposed change 7 which relates to the access through the Heyswood Campsite has been submitted as an "optional alternative" [REP7-013] for the PMA route through the camp site to Court Close Farm and the originally proposed PMA route through the Campsite remains a live option.
- 9.3.12. The third revision of the dDCO [REP6-003] primarily reflected the amendments to the dDCO that were necessitated by the acceptance of the proposed changes 2 to 6.
- 9.3.13. In a similar vein, the fourth version of the dDCO [REP8-013] included where relevant the proposed changes 1 and 7 to 9.

Article 7 - Limits of deviation

- 9.3.14. In Q1.15.3. of ExQ1 [PD-006] the ExA questioned the Applicant regarding the relationship between the maximum height of each element

of the Proposed Development and the limits of deviation. Subsequent to this, in the ExA's schedule of changes to the dDCO [PD-014] it proposed the deletion of the tailpiece after Art 7(b) which reads as follows:

- 9.3.15. *" except that these maximum limits of vertical deviation do not apply where it is demonstrated by the undertaker to the Secretary of State's satisfaction, and the Secretary of State, following consultation with the relevant planning authority and the local highway authority, certifies accordingly that a deviation in excess of these limits would not give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statements"*
- 9.3.16. The Applicant responded [REP2-013, REP7-004 and REP7-012] that this flexibility would be needed, and this wording respects the approach specified in paragraphs 19 and 20 of Advice Note 15⁸³. The EXA has had regard to the consultation process that would be required should the Applicant wish to disapply these maximum vertical limits of deviation, and the stipulation that any deviation could not give rise to any materially new or different environmental effects.
- 9.3.17. The ExA had concerns that this would have the potential to allow for maximum limits of deviation that had not been adequately consulted upon as part of the DCO application process. However, the ExA also recognises the need to balance certainty on environmental effects with a degree of flexibility during the construction process. The ExA acknowledges that a limit of vertical deviation of 0.5m is quite a tight margin. As it stands, the tailpiece to Art 7 would require the Applicant to receive confirmation from the SoST to any vertical limits of deviation above 0.5m and for this to be consulted upon with both the relevant planning authority and the highways authority. On balance, the ExA is content that the wording of Art 7 is appropriate and would provide for appropriate consultation and adequate environmental safeguarding.

Article 49

- 9.3.18. At D8 a new Article was inserted regarding an appeal process should the local authority issue a notice under s60 of the Control of Pollution Act 1974 (CoPA 1974) which relates to the control of noise on construction sites [REP8-013]. This is Art 49 of the final dDCO [REP12-002]. The Applicant contends that this provides a clear procedure whereby the SoS would administer any such appeal and this would avoid unnecessary construction delays. The Applicant has cited precedent for this in a number of other made Orders including the A14 Cambridge to Huntingdon Improvement Scheme DCO 2014 [REP12-003].
- 9.3.19. As this Article was added by the Applicant in Revision 4 of the dDCO [REP8-013] it was not considered in the ExA's Schedule of Changes to the dDCO which was issued between D6 and D7.

⁸³ The Planning Inspectorate Advice Note Fifteen: Drafting Development Consent Orders, July 2018

- 9.3.20. The ExA did, however, include a question about this new Article in our ExQ4 [PD-021]. SCC [REP10-012] and EBC [REP10-015] responded that they did not have any specific comments to make about this matter. Whilst GBC had no comments to make about the specific wording of the Applicant's proposed Article it did question whether it is required given the right to appeal is contained in other legislation responded that [REP10-013]. The purpose of this Article is to introduce a separate appeals process, administered by the SoS, in relation to any notice under s60 of CoPA1974. However, the ExA has not been presented with any evidence that the existing appeals process is unduly slow or unwieldy. Consequently, the ExA is not persuaded of the need for this new Article and it recommends that it be deleted in its entirety.

Insertion of other new Articles

- 9.3.21. At D2 a new Article was inserted into the dDCO [REP2-002] which relates to planning permission issued pursuant to the TCPA1990 for development within the limits of the DCO. This is Article 10 of in the Applicant's final dDCO [REP12-002].
- 9.3.22. At D12 a new Article was inserted that relates to modification of the Compulsory Purchase of Land (Vesting Declarations) (England) Regulations 2017. This is Art 30 in the final dDCO [REP12-002]. As reported by the Applicant in REP12-003 the purpose of this is to ensure that the interests and rights in land which are intended to benefit a third party, such as a SA, will vest in that third party.

Schedule 2 Parts 1 and 2 - Requirements

Part 1(1) Interpretation – definition of “commence”

- 9.3.23. In Q1.15.1 of our ExQ1 [PD-006] we asked the Applicant to justify the definition of “commence” and the activities that would fall within that definition. In response [REP2-013] the Applicant emphasised that it was seeking to strike a balance between the certainty of the mitigation measures but also a proportionate degree of flexibility. Notwithstanding this, during the course of the Examination the Applicant deleted certain activities from the definition of commence.
- 9.3.24. At D2 the Applicant updated the dDCO [REP2-002] to remove reference to the creation of RL and the diversion and laying of underground apparatus. The third revision of the dDCO [REP6-003] removed “*receipt and erection of construction plant and equipment*” and “*site clearance*” from the operations that were not contained within the definition of commence.
- 9.3.25. In the ExA's schedule of changes to the dDCO [REP7-012] it recommended the removal of “*erection of any temporary means of enclosure, receipt and erection of construction plant and equipment, site clearance*” from the operations that would not fall within a definition of commence. The Applicant subsequently omitted “*receipt and erection of construction plant and equipment*” and “*site clearance*” from the next revision of the dDCO [REP6-013].

- 9.3.26. However, “erection of any temporary means of enclosure” remains as an activity that would not fall within the definition of commence in the preferred dDCO [REP12-002]. The ExA considers that this should also be omitted. This is because the erection of a temporary means of enclosure would have the potential to give rise to biodiversity impacts through, for example, the removal of vegetation, and also potential archaeological impacts should any groundworks extending into the archaeological horizon be required as a result.

New and amended Requirements

- 9.3.27. The first revision of the dDCO [REP2-002] contained a number of revisions to amendments. Some of these were as a result of questioning by the ExA at the RHS on the dDCO (ISH1) [EV-003] and also matters raised in ExQ1 [PD-006].

R5(1)

- 9.3.28. The tailpiece contained in R5(1) states: “... *unless otherwise agreed in writing by the Secretary of State, following consultation with the relevant planning authority and the local highway authority on matters related to their functions and provided that the Secretary of State is satisfied that any amendments would not give rise to any materially new or materially different significant environmental effects in comparison with those described in the environmental statement.*”
- 9.3.29. In ExQ1 [PD-006] the ExA asked the Applicant to justify the use of this tailpiece and also for the LAs and NE to comment on its use. In response NE [REP2-034] stated that it was satisfied with this as: “... *any amendments made to the scheme would be subject to the same tests, as set out in the Conservation of Species and Habitats Regulations 2017 and the Wildlife and Countryside Act 1981 (as amended).*” However, SCC in REP2-045 raised concerns about what it considered to be a wide-reaching tailpiece that the wide that could provide a route to approval of a fundamental change to the detailed design of the scheme applied for. GBC in REP2-032 shared SCC’s concerns and considered further justification was required from the Applicant. EBC in REP2-028 also agreed with the concerns raised by SCC. The ExA has also had regard to the response made by the Applicant [REP7-004 and REP7-012] to its Recommended Schedule of Changes to the dDCO [PD-014] and the comments made in the responses of the LAs [REP7-021 and REP7-024].
- 9.3.30. In REP2-013 the Applicant contends that the proposed tailpiece does not offend against the provisions of Advice Note 15⁸⁴ as it does not permit a person other than the SoS to approve changes to the details approved under R5. The Applicant goes on to cite other made Orders in which such a provision has been included, including the A19/A184 Testo’s Junction Alteration Development Consent Order 2018 [REP2-023].

⁸⁴ Planning Inspectorate Advice Note 15: Drafting Development Consent Orders, July 2018

- 9.3.31. The ExA notes the precedent in made Orders that the Applicant has cited and the fact that any amendments to the preliminary scheme design would require the approval of the SoST rather than any other party. In addition, the consultation process that is set out would entail consultation with the relevant planning authority and highway authority on matters relating to their functions and also the stipulation that any amendments would not give rise to any new or materially different significant environmental effects in comparison with those described in the ES. Taking all of this into account, on reflection the ExA considers that the tailpiece would allow for an acceptable balance between certainty over the design of the Proposed Development and flexibility for the final design, with an appropriate consultation process in place and that any amendments being restricted to those that would not give rise to any materially new or materially different significant environmental effects. Therefore, the ExA is content for the tailpiece in R5(1) to remain.

R6

- 9.3.32. The ExA in its Recommended Schedule of Changes to the dDCO [PD-014] proposed in R6(1) the insertion of a reference to the erection of permanent and temporary fencing that is not part of the SRN and therefore not covered by R16 which references the Manual of Contract Documents for Highways Work [REP7-004]. However, having regard to the fact that R(7)(1)(g) would require fencing details for the RL to be provided and agreed, the ExA considers that fencing and other means of enclosure are adequately secured in the dDCO through R7(1)(g) and R16.
- 9.3.33. As detailed in R6(5) of the dDCO [REP12-002] the time period for replacement planting in association with the landscaping scheme is a period of five years. The ExA has questioned the Applicant regarding this matter and whether a longer time period should be afforded for replacement planting should elements of the tree or shrub planting fail. Subsequent to this, a ten-year period was set out in the ExA's Schedule of Changes to the dDCO [PD-014]. The Applicant considers that a ten-year period would be unnecessary [REP7-012]. However, this change from five years to ten years was supported by EBC [REP7-020] and GBC [REP7-022], and also agreed with by SCC [REP7-025] who considered that ten years would allow better landscape establishment.
- 9.3.34. The ExA concurs with the views of the LAs on this matter and it remains concerned about the associated impacts on landscaping and potentially biodiversity should significant elements of the proposed tree and shrub planting die or become damaged. Therefore, the ExA considers a ten-year period to be more appropriate to ensure the successful establishment of the proposed landscaping.

R18

- 9.3.35. The second revision of the dDCO [REP5-002] contained a new Requirement, R18, for the protection of certain tree roots at RHS Garden Wisley. This is referenced the RHS Tree Protection Plan and arose as a

result of concerns raised by the RHS. This is R18 in the Applicant's final dDCO [REP12-002].

- 9.3.36. This potential impact on the tree roots of certain significant trees within the RHS site is considered in more detail in Chapter 5 of this Report. Having had regard to the matters raised by Barrell Tree Consultancy on behalf of the RHS, the ExA is minded to agree that R18 needs to be amended to broadly reflect the wording proposed in REP10-034. This is necessary in order to provide additional protection during construction operations for the important trees within RHS Wisley that lie close to the boundary with the A3. However, in order to ensure R18 is reasonable, precise and enforceable the ExA has amended as appropriate the wording that was proposed in REP10-034. This includes an amendment to ensure that the SoS would be responsible for the authorisation of the tree protection measures, although the RHS would need to be consulted.

New R19

- 9.3.37. In the final SoCG between the Applicant and SCC [REP12-008] contained a Requirement in regard to the provision of traffic mitigation works in Ripley. Whilst the Applicant did not consider that such works are necessary, it did agree with the wording of the potential Requirement [REP12-008].
- 9.3.38. As discussed in Section 5.2 of this Report, the additional traffic through Ripley that would arise as a result of the Proposed Development would give rise to an increased degree of severance. The ExA considers that it would be of a degree that would require mitigation in the form of the works proposed in the draft Requirement that is set out in REP12-008. However, as this proposed Requirement does not contain any implementation clause, the ExA has amended it accordingly in the rDCO so that it reads as follows:

" Works in the village of Ripley

1. No part of the authorised development comprising Work No. 33 ('the Wisley Lane diversion') is to open for traffic until a scheme for the management of traffic flows along the B2215 through the village of Ripley has been submitted to and approved in writing by the Secretary of State following consultation with the local highway authority and the local planning authority:

2. Unless proposed by the undertaker and agreed in writing by the local highway authority, the scheme to be submitted to the Secretary of State must:

(a) Comprise two traffic gateway features, two puffin crossings, speed cushions and speed tables, or similar measures, all to be provided along an approximately 1km stretch of the B2215 that lies between the existing village entrance signs.

(b) Contain a cost estimate for the design and construction of the proposed works and specify arrangements by which either

(i) The undertaker will provide funds to the local highway authority to cover the approved cost (being either the cost estimate as referred to above or if the Secretary of State considers that another figure is appropriate then that other figure) of the local highway authority designing and constructing the approved works; or

(ii) The undertaker will undertake the design and construction of the approved works at its own expense up to the value of the approved cost pursuant to an appropriate agreement with the local highway authority.

3. The scheme to be submitted to the Secretary of State must include a timetable for implementation and completion of the approved scheme for the management of traffic along the B2215 through the village of Ripley and the works must be implemented and completed in accordance with the approved scheme."

Part 2 Procedure for the discharge of Requirements

- 9.3.39. The first revision of the dDCO [REP2-002] amended the deemed approval clause in relation to Requirements, in Schedule 2 Part 2, to in effect remove the TBHSPA compensatory habitat creation and enhancement measures that are set out in R8 from the deemed approval process if the SoST had not issued a decision with respect to an application for the approval of details. This ensures that such measures would need to be agreed rather than deemed approval applying, and the ExA is satisfied with this change.
- 9.3.40. The second revision of the dDCO [REP5-002] also deleted in its entirety what had previously been R20(3) which related to a deemed refusal after 28 day period for an application not determined by the SoST if the application was accompanied by a report indicating that it would have a materially new or different environmental effect.

Schedule 9 – Protective Provisions

- 9.3.41. During the course of the Examination the following new Protective Provisions had been incorporated into Schedule 9 of the dDCO [REP12-002]: Schedule 9 Part 5, for the protection of Southern Gas Networks Plc as gas undertaker and Schedule 9 Part 6 for the protection of National grid as electricity undertaker.

Schedule 10 – Special Category Land

- 9.3.42. The first revision of the dDCO [REP2-002] contained a new Schedule (Schedule 10) relating to Special Category Land. While the ExA considers there is a need for Schedule 10 to be incorporated into the dDCO, the ExA considers that for various reasons there is a need to make amendments to Schedule 10. Those revisions are included in the rDCO and relate to:
- The correction of an error concerning the inclusion of Plot 28/2 in both Part 1 and Part 4 of Schedule 10, when it should only appear in the

former, being SCL for which are RL would be provided and not RL of itself, as is shown in the BoR [REP11-005] and sheet 28 of the SCL plans [REP8-008].

- Addressing multiple omissions of affected SCL plots in Parts 2 or 3 of Schedule 10 in the dDCO [REP12-002].
- The ExA's view that a lesser amount of RL should be provided. To assist with changing the entries in Parts 2 and 3 of Schedule 10, the ExA has used the information presented in Table C.3 in REP11-011 and Table C.3 in REP12-006.

- 9.3.43. The ExA is recommending that a total of 16.4ha of RL is to be taken from all of PBF1 and PBF2, and 2.95ha taken from part of PBF3. Should the SoST accept the ExA's recommendation in this regard then the other areas of RL that have been proposed by the Applicant for RL at Chatley Farm (CF1 to CF4) and Hatchford End (HF1 and HF2) would no longer required and therefore Article 39(5), Work No. 59 and Schedule 10 Part 4 of the dDCO [REP12-002] have been amended accordingly in the rDCO to reflect the reduced provision of RL that the ExA is recommending. In view of the extent of the redrafting of Schedule 10 the ExA has undertaken in the rDCO, some of which relates to land plot omissions in the final version of the dDCO, the SoST should satisfy themselves with respect to the implications arising from the changes that the ExA has made to the wording of Schedule 10 in its rDCO (Appendix D).

Schedule 11

- 9.3.44. We recommend the following additional documents to the list of documents to be certified:

- Proposed carriageway surface course options Regulation 5(2)(o) Sheet 1 of 1 TR010030/APP/9.22; and
- Report of Proposed Scheme Changes 7 to 9, Figure 5 in TR010030/APP/10.12 (Vol 10).

- 9.3.45. In addition, the reference for the following document should be amended to reflect its correct title:

- Applicant's Submission of Tree Protection Plan for Royal Horticultural Society, TR010030/9.140.

9.4. POSITIONS OF THE LAs BY THE CLOSE OF THE EXAMINATION

- 9.4.1. As set out in the respective SoCGs by the close of the Examination EBC stated that it agreed that the Articles, Requirements and procedures for discharging Requirements in the dDCO were appropriate [REP8-028]. The exception to this was that EBC was concerned about the tailpiece to R5(1). This is discussed in Section 9.3 above. It was also noted that need for any consents under s61 of the Control of Pollution Act 1974 for works that fall outside the definition of commence in the dDCO would be agreed with EBC.

- 9.4.2. In the SoCG with GBC [REP8-029] it is also agreed that the Articles, Requirements and procedures for discharging Requirements in the dDCO were appropriate. However, there were exceptions to this agreement and which relate to the definition of maintain in Art 2, the use of the tailpiece in R5(1), the time period for replacement planting in R6(5) and in R18 including the use and storage of plant and material to the works that would require the consent of the RHS. The ExA's rDCO has included changes to R6(5) and R18 that would incorporate GBC's concerns on these matters.
- 9.4.3. In the SoCG with SCC [REP12-008] all matters are agreed in regard to the dDCO with the exception of Art 49. Whilst the SoCG specifically refers to Art 49 and arbitration, the ExA notes that it is in fact Art 50 of the final dDCO [REP12-002] that covers arbitration. SCC's concerns appear to be primarily due a perceived lack of clarity in terms of which party would be responsible for meeting the costs of the arbitration process. The Applicant contends that this Article is well precedented and that during the examination it has made changes to this to address SCC's concerns.
- 9.4.4. The ExA concurs with the Applicant that any award of costs would be a matter to be determined through the arbitration process. The ExA also notes that this wording is broadly similar to that contained in a number of recently made Orders, including the A19/A184 Testo's Junction Alteration DCO. The ExA therefore does not propose to amend the wording of Art 50. In its SoCG [REP12-008] with the Applicant, SCC also indicates that its agreement to a number of matters is dependent on a side agreement being completed. This is considered in more detail in Section 9.6.

9.5. SUMMARY OF RECOMMENDED CHANGES AND MATTERS NOT RECOMMENDED FOR CHANGE

- 9.5.1. This Section of the Report addresses all outstanding matters in respect of potential changes to the Applicant's final, preferred dDCO [REP12-002], in a tabulated format.
- **Table 9.1** sets out the recommend amendments that were contained in the ExA's Schedule of changes to the dDCO [PD-014], and in respect of which the ExA has accepted the Applicant's detailed submissions in REP7-012 and REP8-013, and/or which are cross-referenced elsewhere, and for which the ExA has decided that no changes are required.
 - **Table 9.2** sets out the provisions in respect of which the ExA has recommended changes to the Applicant's preferred dDCO (Revision 5) [REP12-002] in the ExA's rDCO (Appendix D).

Table 9.1: DCO Provisions Not Recommended to be Changed

Provision	Examination Issue	ExA Reasoning
Article 2(1) Interpretation Definition of "maintain"	ExA recommended in [PD-014] the insertion of " <i>in perpetuity</i> "	ExA agrees with the Applicant that this wording is not required as it is adequately covered by the use of " <i>at any time</i> " in the wording of Article 5.
Article 4(2)	ExA did not consider there to be any specific need for its inclusion.	Applicant contends that this is a precedent provision. On balance the ExA agrees to its inclusion, and therefore Article 4(2) should remain unaltered.
Article 7 Limits of deviation	ExA recommended deletion of tailpiece	The ExA considers that this tailpiece should be kept as it strikes an appropriate balance between certainty regarding the nature of the Proposed Development and operational flexibility for the Applicant/appointed contractor.
Article 9(1) and (4) Consent to transfer benefit of Order	ExA recommended deletion of all the named statutory undertakers with the result that written consent of the SoS would be required for any transfer of benefit.	Having regard to the precedent in other made Orders, the ExA is content that the named parties are appropriate to be subject to a transfer of benefit without requiring SoS approval.
Article 24(2) Time limit for exercise of authority	ExA recommended deletion of tailpiece in Article 24(2)	The ExA considers that the cross-reference to Article

Provision	Examination Issue	ExA Reasoning
to acquire land compulsorily		33(3) that the Applicant has inserted in Article 24(2) provides sufficient certainty and also flexibility or the Applicant regarding the time period for TP
Article 40(4) and (5) Felling or lopping of trees and removal of hedgerows	ExA recommended deletion as we considered this would be covered by the Hedgerow Regulations 1997.	ExA accepts the Applicant's argument [REP7-012] that, as a made DCO would not constitute a planning permission under Rule 6 of the Hedgerow Regulations, the removal of hedgerows would not be a permitted activity.
Article 50 Arbitration	ExA recommended replacement of " <i>the President of the Institute of Civil Engineers</i> " with " <i>the Secretary of State</i> ".	Having regard to the recent made Orders cited by the Applicant [REP7-012] the ExA is content for the Applicant's proposed wording to remain.
R5(1) Detailed design	ExA recommended removal of the tailpiece.	The ExA has had regard to the response made by the Applicant [REP7-004] and considers that the tailpiece would allow for an acceptable balance between certainty over the design of the Proposed Development and flexibility. Therefore, the ExA is content for this tailpiece to remain.
R6(1)	ExA recommended insertion of reference to fencing or other	The ExA now considers that this is adequately covered

Provision	Examination Issue	ExA Reasoning
	means of enclosure that are not adjacent to parts of the SRN.	by a combination of R7(1)(g) and R16.
R7(1) and (2)	ExA recommended trying to link the timing of the provision of the RL with the loss of the existing SCL.	Having regard to the Applicant's comments in [REP7-004] the ExA is persuaded that the inclusion of this wording is not necessary.

Table 9.2: DCO Provisions Recommended to be Changed

Provision	Examination Issue	Recommendations
Article 2(1) Interpretation Definition of "maintain"	The EXA considers that the words "alter" and "improve" have the potential to allow for too wide a range of activities that could be undertaken. As such these terms go beyond a reasonable definition of maintain.	Delete the words "alter" and "improve"
Article 39(5)	This refers to a number of land plots for RL that the ExA does not consider should be provided, due to an over-provision of RL by the Applicant.	Delete references to the following land plots: 13/9, 13/9b, 13/12, 13/12a, 14/1, 14/1a, 14/3, 26/4, 26/4a, 26/5, 26/6 and 30/1. Also delete reference to land plot 28/2 as the ExA considers this to be an error.
Article 49	Appeals relating to the Control of Pollution Act 1974.	As considered in Section 9.3 of this Report, the ExA recommends the deletion of all of Article 49.

Provision	Examination Issue	Recommendations
Schedule 1 Work No. 59	Amount of RL to be provided.	Delete references to the following Work Nos.: 59(b) Chatley Wood RL; 59(c) Breach Hill Wood RL; 59(d) Pointers Road North RL 59(e) Pointers Road South RL; 59(f) Hatchford End RL Amend the wording, to reflect the proposed changes to the amount of RL to be provided at PBF3, to the following: on land at Park Barn Farm ('Park Barn Farm replacement land'), as shown on Sheets 11, 12, 27, 28 and 29 of Works Plans, to include the provision of 395 metres of bridleway as shown between point 27/1 on Sheet 27 and point 28/3 on Sheet 28 of the Streets, Rights of Way and Access Plans.
Schedule 2 Part 1(1) Interpretation	The potential impacts of certain activities that would be allowed outside of the definition of " <i>commence</i> ".	Delete reference to " <i>erection of any temporary means of enclosure</i> " from the definition of " <i>commence</i> ".
R3(c)((viii) Construction and handover	The need to secure a drainage strategy that would result from and take account of the full drainage survey	Amend R3(c)(viii) as follows: " <i>The protection and drainage of surface water and the</i>

Provision	Examination Issue	Recommendations
environmental management plans	to be undertaken at the detailed design stage.	<i>protection of groundwater;"</i>
R6(5)	Duration of the period within which replacement tree or shrub planting will be required.	Replace "...a period of 5 years..." with "...a period of 10 years..."
R18	Need to ensure adequate protection of certain important trees and their roots at RHS Wisley.	Replace the Applicant's version of R18 with the following: <i>"No soil level changes (excavation or filling), other works or access of any sort within the BS5837 root protection areas of the trees that are defined in the 'Tree Protection Plan for Royal Horticultural Society', plan reference AL_LI_ML-DR-ZM-000001 Rev C03 dated 10 July 2020, shall be undertaken unless an arboricultural method statement describing the works or access and showing their location on a plan has been approved in writing by the Secretary of State following consultation with the owner of RHS Garden Wisley. The works shall be undertaken in accordance with the approved arboricultural method statement."</i>

Provision	Examination Issue	Recommendations
New R19	The provision of traffic mitigation works in Ripley.	Insert new R19, the specific wording for which is provided in Section 9.3 of this Report.
Numbering of Requirements	Insertion of new R19.	Amend numbering to the current R19, R20, R21, R22, R23 and R24 in Applicant's final dDCO [REP12-002] to account for insertion of new R19.
Schedule 10 Parts 2, 3 and 4 Replacement Land	Over-provision of RL by the Applicant and to correct errors and omissions made by the Applicant regarding land plots.	Parts 2 and 3 Delete and/or insert various land plot numbers. See ExA's rDCO (Appendix D of this Report) for full details. Part 4 Remove references to the following land plots to reduce the area of RL to be provided: 13/9, 13/9b, 13/12, 13/12a, 14/1, 14/1a, 14/3, 26/4, 26/4a, 26/5, 26/5a and 26/6. Also, remove reference to land plot 28/2, which was included in error.
Schedule 11	Additional documents to be certified	Insert references to the following documents/plans: Proposed carriageway surface course options Regulation 5(2)(o) Sheet 1 of 1 TR010030/APP/9.22

Provision	Examination Issue	Recommendations
		Report of Proposed Scheme Changes 7 to 9, Figure 5 in TR010030/APP/10.12 (Vol 10) Amend reference to the following documents/plans: Applicant's Submission of Tree Protection Plan for Royal Horticultural Society, TR010030/9.140

9.6. LEGAL AGREEMENTS AND OTHER CONSENTS

- 9.6.1. The Applicant confirmed at OSH1 that it did not intend to enter in to any 's106 agreements' [REP1-005]. Consequently, there are no development consent obligations pursuant to the TCPA1990 or equivalent undertakings or agreements which the SoST needs to be aware of or to take into account in his decision.
- 9.6.2. Throughout the Examination reference has been made to a side agreement or side agreements between the Applicant and SCC, and the Applicant and SCC/SWT for example in REP1-005, REP1-020, REP12-008, REP12-018 and REP12-040. These are agreements that would be outwith the DCO process and would cover matters pertaining to highways and environmental mitigation works and future maintenance arrangements. Also, the RHS submitted a Land and Works Agreement Heads of Terms [REP12-054].
- 9.6.3. By the close of the Examination not all matters to be covered by side agreements had been finalised and/or these agreements had not been completed and signed by both parties. Therefore, at D12 the Applicant submitted a Position Statement with SCC on the Environmental and Highways Side Agreements and this includes details of the matters that are intended to be covered in these agreements [REP12-018]. However, as these agreements have not been completed and the ExA has not had sight of them, the ExA considers that it cannot afford any significant weight to them.

9.7. CONCLUSIONS

- 9.7.1. The ExA has carefully considered the matters raised during the course of the Examination including at the DCO ISH [EV-003], as a result of the ExA's written questions [PD-006, PD-010, PD-016 and PD-021] and the ExA's Schedule of Changes to the dDCO [PD-014]. The ExA has

considered the extent to which the Applicant's final dDCO [REP12-002] has addressed all the outstanding matters.

- 9.7.2. A number of matters are the subject of recommendations in this Chapter, and these in turn may arise out of other matters explored in more detail in other Chapters of the ExA's Report. Overall, the ExA is satisfied that the rDCO at Appendix D of this Report takes fair account of the responses that have been received throughout the Examination.
- 9.7.3. Taking all of this into account, if the SoST is minded to make the DCO, it is recommended in the form as set out in Appendix D of this Report.

10. SUMMARY OF FINDINGS AND CONCLUSIONS

10.1. INTRODUCTION

10.1.1. This Chapter summarises the ExA's conclusions arising from the Report as a whole and sets out our recommendation to the SoST.

10.1.2. The Proposed Development is a highways improvement, alteration and construction project on the SRN and meets the thresholds as set out in s22 of PA2008. As such, the NPSNN and s104 of PA2008 applies to the decision along with the Infrastructure Planning (Decision) Regulations 2010.

10.2. CONSIDERATION OF FINDINGS AND CONCLUSIONS

Matters on which the SoST may wish to seek further information

10.2.1. By the close of the Examination there were a number of matters that were either still outstanding or on which late submissions had been received. In the latter case it was not possible for either the ExA to examine these matters or for the Applicant and all IPs to provide responses. Accordingly, matters on which the ExA recommends that the SoST should seek further information are set out in the following Table:

Table 10.1 Matters on which the ExA recommends that the SoST should seek further information

Issue	Raised by
The SoST may wish to consult relevant IPs regarding the submissions received at D12 that were submitted by the Applicant and some IPs, primarily the RHS, and on which there was no time remaining within the extended Examination timetable for the ExA to receive responses. In addition, there were submissions made at D11 for which there was limited time available within the extended Examination timetable for responses to be received. Such submissions include, but are not limited to, the Further assessment of tress adjacent to the A3 boundary by Barrell Tree Consultancy [REP11-051 and REP11-052], Expert Report – Cultural Heritage [REP11-047], and the Applicant's Tree Protection Plan for Royal Horticultural Society [REP12-020].	ExA and Applicant

Issue	Raised by
The SoST may wish to obtain details regarding the status of the proposed side agreements between the Applicant and SCC, including confirmation of the matters that have been agreed in any completed side agreement(s).	ExA
The SoST may wish to obtain any updated air quality monitoring results that EBC has obtained during 2020 in respect of its monitoring at the Painshill roundabout and comments from EBC about what implications the results from its monitoring might have for the air quality assessment that the Applicant has undertaken, as reported in ES Chapter 5 [APP-050].	ExA and EBC
The SoST may wish to seek responses from the Applicant and relevant IPs and APs regarding the ExA's recommended amount of RL and the sites proposed by the ExA for the provision of RL.	ExA
The SoST may wish seek responses from the Applicant and relevant IPs regarding biodiversity and any other implications of the reductions in RL as recommended by the ExA or any alternative that the SoST may consider to be appropriate.	ExA
The SoST may wish to satisfy themselves of the implications of the amendments that have been made to the wording in Schedule 10 Parts 2, 3 and 4 of the ExA's rDCO.	ExA
The SoST may wish to consult the Applicant and the RHS in regard to any significant implications for the Proposed Development's construction operations that would arise from the ExA's recommended change to the wording of R18 in the rDCO (Appendix D of this Report).	ExA and RHS
The SoST may wish to require the Applicant to submit the further tree survey information that it has undertaken but which had not been submitted into the Examination. Upon receipt of such information, the SoST should reconsult the Applicant and the relevant IPs regarding the impact on ancient woodland, veteran trees and other vegetation of the alternative private means of access through the Heyswood Campsite to Court Close Farm, as represented by proposed	ExA and GGLW

Issue	Raised by
change 7 [REP7-016], versus the originally proposed private means of access.	
The SoST may wish to: ▪ Obtain from the Applicant full details for all of the routes that have been considered for the diversion of the gas main between Court Close Farm and the gas valve compound and an explanation as to why any other routes have been discounted. ▪ Reconsult with GGLW and seek its comments on the additional information provided by the Applicant with respect to the other gas main diversion alternatives that have been considered by the Applicant. ▪ Encourage the Applicant to liaise with GGLW with a view to exploring whether an agreed alternative for the diversion of the gas main through the Heyswood Campsite could be accommodated. ▪ Review the position with respect to the proposed CA of Plot 7/1, having sought additional information from the Applicant and comments from GGLW.	ExA and GGLW

10.3. FINDINGS AND CONCLUSIONS

10.3.1. In relation to the subsections of s104(1) to (8) of PA2008 the ExA concludes in summary:

- Making the rDCO would be in accordance with the NPSNN and the Proposed Development would be in broad accordance with the Development Plan, albeit there would be some conflict with the policies of the Development Plan in relation to impacts on designated heritage assets, ancient woodland and veteran trees because those policies do not contain the balancing considerations that are contained in the NPSNN.
- Matters arising from the joint LIR from EBC, GBC and SCC have been taken into account.
- While the SoST is the competent authority under the Habitats Regulations and will make the definitive assessment, the Proposed Development would have an AEoI on the TBHSPA. However, the ExA considers that there is sufficient information before the SoST to enable themselves to undertake an appropriate assessment and to apply the derogation tests of the Habitats Regulations of alternative solutions, IROPI, and compensation in order to fulfil the duty under the requirements of the Habitat Regulations.

- In regard to all other matters and representations received, there are no important and relevant matters that would individually or collectively lead to a different recommendation to that below.
- With the mitigation proposed through the rDCO there are no adverse impacts arising from the Proposed Development that would outweigh its benefits.
- There is no reason to indicate that the application should be decided other than in accordance with the NPSNN.

- 10.3.2. In relation to s104(4) to (6) given the change in the emissions target due to the introduction of the 'net Zero Carbon' target of the 2019 Order, it will be a matter for the SoST to satisfy themselves as to the acceptability of the Proposed Development against the revised carbon budget and the cumulative and in-combination effects of the RIS against the relevant carbon budgets.
- 10.3.3. The ExA has considered the case for the CA of land and rights and TP of land required in order to implement the Proposed Development. Subject to the changes the ExA has recommended in regard to the quantum of RL to be provided and the need to consult on a potential amendment to part of the gas main diversion route through the Heyswood Campsite, the ExA considers that there is a compelling case in the public interest for the CA powers sought by the Applicant. Furthermore, it has been adequately demonstrated by the Applicant that sufficient funds are available for that to be achieved. Taking this into account, the ExA is content that the Proposed Development would comply with PA2008 in this regard and that the CA and TP powers sought by the Applicant are justified and should be granted.
- 10.3.4. The ExA has also had regard to the provisions of the Human Rights Act 1998. In some cases, there would be interference with private and family life in contravention of Article 8, and interference in the peaceful enjoyment of property and possessions in contravention of Article 1 of the First Protocol of the Human Rights Act 1998. Such interferences would largely be as a result of the proposed CA and TP and also the impacts on certain local residents, primarily as a result of the construction operations. Having regard to Article 6, the Examination has ensured a fair and public hearing.
- 10.3.5. With the weight of national policy in favour of the Proposed Development, the ExA considers that the wider public interest justifies any interference with the human rights of any owners and residential occupiers. Consequently, any interference with human rights that may arise from the implementation of the Proposed Development would be proportionate and would strike a fair balance between the rights of the individual and the public interest.
- 10.3.6. Throughout the Examination and in drafting its Report, the ExA has had regard to the Public Sector Equality Duty (PSED). Due to the characteristics of the Proposed Development and the mitigation that has been proposed by the Applicant, the ExA considers that there would be no harm to the interests of persons who share a protected

characteristic⁸⁵ or have any adverse effect on the relationships between such person and any person who do not have a protected characteristic. The ExA therefore considers that there is no breach of PSED.

10.4. RECOMMENDATION

- 10.4.1. For all of the above reasons, and in accordance with the findings and conclusions on important and relevant matters set out in this Report, the ExA recommends that the SoST makes the M25 junction/A3 Wisley Interchange Development Consent Order in the form recommended at Appendix D to this Report.

⁸⁵ PSED relevant protected characteristics are: age, disability, sex, gender reassignment, pregnancy and maternity, race, religion, or belief and sexual orientation.

APPENDICES

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APPENDIX A: THE EXAMINATION

APPENDIX A: THE EXAMINATION

The table below lists the main events that occurred during the Examination and the procedural decisions taken by the Examining Authority (ExA)

Date	Event
15 October 2019	Procedural Decision: 'Rule 6 Letter' Issue [PD-004a] by the ExA of: • Draft Examination Timetable • Procedural Decisions • Notification of Hearings
12 November 2019	Preliminary Meeting
12 November 2019	Issue Specific Hearing (ISH) on the draft Development Consent Order (dDCO) (ISH1)
12 November 2019	Open Floor Hearing 1 (OFH1)
13 November 2019	Unaccompanied Site Inspection (USI1)
20 November 2019	Procedural Decision: 'Rule 8 Letter' Issue [PD-005] by the ExA of: • Examination Timetable • Procedural Decisions • The ExA's Written Questions (ExQ1) [PD-006]
26 November 2019	Deadline 1 (D1) Deadline for receipt by the ExA of: • Comments on any updates to application documents submitted by the Applicant before the PM • Comments on Relevant Representations (RR) • Summaries of any RRs exceeding 1500 words • Written Representations (WRs) • Summaries of any WRs exceeding 1500 words • Post PM, dDCO ISH and OFH submissions, including written summaries of oral case • Notification by Statutory Parties of wish to be considered as an Interested Person (IP) by the ExA • Provision of suggested locations and/or journey routes and justifications for site inspections for consideration by the ExA • Notification of wish to attend any Accompanied Site Inspection (ASI) • Draft itinerary to be provided by the Applicant for an ASI

Date	Event
	• Notification from any Affected Person of wish to speak at a Compulsory Acquisition Hearing (CAH) • Notification from any IP of a wish to speak at subsequent ISHs • Notification from any IP of a wish to speak at a subsequent OFH • Notification of wish to have future correspondence electronically • Any further information requested by the ExA
5 December 2019	Issue [PD-007] by the ExA of: • Variation of the timetable • Notification of Hearings • Notification of Accompanied Site Inspection (ASI)
5 December 2019	Issue [PD-008] by the ExA of: • Response to the Applicant of an intention to submit a request to make changes to the application
18 December 2019	Deadline 2 (D2) Deadline for receipt by the ExA of: • Comments on WRs and responses to comments on RRs • Responses to ExQ1 • Comments on Applicant's draft ASI itinerary • Local Impact Reports (LIR) from any Local Authorities • Schedule of Changes to the Book of Reference and Negotiations Tracker from the Applicant • Comments on Statements of Common Ground (SoCGs) submitted with application documents • Applicant's first revised dDCO • Any further information requested by the ExA • Comments on any further information requested by the ExA received by D1
14 January 2020	Accompanied Site Inspection (ASI) • Proposed application site and locations prospectively within the setting of the proposed development
15 and 16 January 2020	Issue Specific Hearing 2 (ISH2)

Date	Event
	concerning transportation, environmental and socio-economic matters
17 January 2020	Unaccompanied Site Inspection
28 January 2020	Deadline 3 (D3) Deadline for receipt by the ExA of: - Post-hearing submissions including written summaries of oral case - Comments on LIRs - Comments on responses to the ExQ1 - Comments on the Applicant's first revised dDCO - Revised/updated SoCGs (if any) and any additional SoCGs requested by the ExA - Statement of Commonality of SoCGs - Any further information requested by the ExA - Comments on any further information requested by the ExA received by D2
11 February 2020	Deadline 4 (D4) Deadline for receipt by the ExA of: - Applicant's revised dDCO (if required) - Comments on revised and additional SoCG (if submitted) - Notification from any Affected Person of wish to speak at a CAH - Notification from any IP of a wish to speak at subsequent ISHs - Notification from any IP of a wish to speak at a subsequent OFH - Any further information requested by the ExA - Comments on any further information requested by the ExA received by D3
11 February 2020	Applicant submits formal notification of proposed changes to the Application.
14 February 2020	Issue [PD-009] by the ExA of: - Request for further information from Applicant - Variation of the timetable
18 February 2020	Publication [PD-010] by ExA of: The ExA's Further Written Questions (ExQ2)
18 February 2020	Deadline 4a (D4a)

Date	Event
	Deadline for receipt by the ExA of: Documents and information requested by the ExA from the Applicant in the Procedural Decision dated 14 February 2020 following the Applicant's submission of proposed changes at D4.
20 February 2020	Issue [PD-011] by the ExA of: - Notification of Hearings - Variation of the timetable
27 February 2020	Issue [PD-012] by the ExA of: Response in respect of the change applications put forward by the Applicant at Deadline 4
3 March 2020	Deadline 5 (D5) Deadline for receipt by the ExA of: - Responses to ExQ2 (if issued) - Comments on applicant's revised dDCO (if relevant) - Submission of updated SoCGs (if required) - Any further information requested by the ExA - Comments on any further information requested by the ExA received by D4
13 March 2020	Deadline 5a (D5a) Deadline for receipt by the ExA of: Updated Schedule of Changes to the Book of Reference and Negotiations Tracker from the Applicant
18 March 2020	Issue [PD-015] by the ExA of: Procedural Decision to postpone the hearings scheduled for March following Government advice on Coronavirus.
24 to 26 March 2020	Hearings scheduled but postponed due to COVID-19: - Compulsorily Acquisition Hearing (CAH1) - Issue Specific Hearing (ISH3) on Traffic, Environmental and Socio-economic matters - Open Floor Hearing (OFH2)

Date	Event
	Issues Specific Hearings (ISH4) on the draft Development Consent Order
3 April 2020	Deadline 6 (D6) Deadline for receipt by the ExA of: - Post hearing submissions including written submissions of oral case - Comments on updated SoCG - Applicant's revised dDCO (if required) - Any further information requested by the ExA - Comments on any further information requested by the ExA received by D5 and D5a
3 April 2020	Publication [PD-016] by ExA of: The ExA's Further Written Questions (ExQ3)
9 April 2020	Publication by the ExA of: - Report on the Implications for European Sites (RIES) [PD-013] - The Examining Authority's schedule of changes to the draft Development Consent Order (dDCO) [PD-014]
9 April 2020	Applicant submitted formal notification of proposed changes to the Application.
20 April 2020	Deadline 7 (D7) Deadline for receipt by the ExA of: - Comments on updated schedule of Changes to BoR and Negotiations Tracker - Documentation demonstrating that the transfer and registration of Special Category Land between the Applicant and Surrey County Council, arising from the exercise of the compulsory purchase powers associated with the original construction of the M25, have been completed - Certified copies of any agreement(s) under: Section 106 of the Town and Country Planning Act 1990 or any other legislation; or of a commercial nature that the Applicant intends to enter into with any other party or parties - Comments on the ExA's draft DCO schedule of changes (if required) - Any further information requested by the ExA

Date	Event
	• Comments on any further information requested by the ExA received by D6
24 April 2020	Issue [PD-017] by the ExA of: • Notification of Procedural Decisions in relation to the Applicant's change application.
1 May 2020	Deadline 8 Deadline for the receipt by the ExA of: • Final draft DCO to be submitted by the Applicant in the SI template with the SI template validation report • Applicant's final updated Guide to the Application • Responses to request(s) under Rule 17 (if relevant) • Responses to comments on the ExA's draft DCO schedule of changes (if required) • Final signed SoCGs • Final Statement of Commonality of SoCGs • Final updated version of the Book of Reference • Any comments on RIES • Any further information requested by the ExA • Comments on any further information requested by the ExA received by D7
5 May 2020	Issue [PD-018] by the ExA of: • New deadline for completion of the Examination • Variation of the timetable
13 May 2020	Written Statement made by the Secretary of State for Transport to Parliament confirming the new Examination deadline of 12 July 2020.
14 May 2020	Deadline 9 (D9) Deadline for the receipt of: • Any comments on Proposed Changes 7 to 9 • Notification of a wish to speak at a CAH • Responses from Affected Persons (APs) with respect to their individual preference for the use of video conferencing or teleconferencing technologies during the course of a virtual Compulsory Acquisition Hearing (CAH) (not for publication). See Annex B.

Date	Event
	• Taking into account the limitations of virtual hearings and the Open Floor Hearing (OFH) that has already taken place in the examination, please submit comments on whether a further OFH, which would need to be a virtual hearing, is required or whether written submissions would suffice. • Any further information requested by the ExA under Rule 17
14 May 2020	Issue [PD-020] by the ExA of: • Notification of Hearings
15 May 2020	Unaccompanied Site Inspection
21 May 2020	Publication [PD-021] by the ExA of: • The ExA's further written questions (ExQ4)
2 June 2020	Deadline 10 (D10) Deadline for the receipt of: • Responses to further written questions published by the ExA on 21 May 2020 (if issued) • Comments on the ExA's second draft DCO schedule of changes (if issued) • For the Interested Parties (IPs) and any other Examination participants who had notified the Planning Inspectorate of their wish to heard at Open Floor Hearing 2 (OFH2) originally timetabled for 25 March 2020, the provision in writing of the oral cases that they would otherwise have been made at the postponed OFH2. • Any further information requested by the ExA under Rule 17 • Comments on any further information responses under Rule 17 received by the ExA at D9 (if required)
16 to 18 June 2020	Compulsory Acquisition Hearing (CAH1)
2 July 2020	Issue by the ExA of: • Request for comments regarding possible Replacement Land options [PD-023] • Request for information from the Royal Horticultural Society [PD-024]

Date	Event
3 July 2020	Deadline 11 (D11) Deadline for receipt by the ExA of: • Written summaries of oral contributions at the CAH • Post-Hearing submissions requested by the ExA (if required) • Applicant's updated Book of Reference and Statement of Reasons, and the documents certified under Schedule 10 of the dDCO (if required) • Responses to comments on the ExA's second draft DCO schedule of changes (if required). • Any further information requested by the ExA under Rule 17 • Comments on any further information responses under Rule 17 received by the ExA at D10 (if required)
10 July 2020	Deadline 12 (D12) Deadline for receipt by the ExA of: • Final draft DCO to be submitted by the Applicant in the SI template with the SI template validation report (if required) • Applicant's final updated Guide to the Application (if required) • Final signed SoCGs (if required) • Final Statement of Commonality of SoCGs (if required) • Final updated version of the Book of Reference (if required) • Any further information requested by the ExA under Rule 17 • Comments on submissions made at D11 • Comments on any further information responses under Rule 17 received by the ExA at D11 (if required)
12 July 2020	Close of Examination [PD-025]

APPENDIX B: EXAMINATION LIBRARY

M25 junction 10/A3 Wisley interchange improvement Examination Library

Updated – 06 August 2020

This Examination Library relates to the M25 junction 10/A3 Wisley interchange improvement application. The library lists each document that has been submitted to the examination by any party and documents that have been issued by the Planning Inspectorate. All documents listed have been published to the National Infrastructure's Planning website and a hyperlink is provided for each document. A unique reference is given to each document; these references will be used within the Report on the Implications for European Sites and will be used in the Examining Authority's Recommendation Report. The documents within the library are categorised either by document type or by the deadline to which they are submitted.

Please note the following:

- This is a working document and will be updated periodically as the examination progresses.
- Advice under Section 51 of the Planning Act 2008 that has been issued by the Inspectorate, is published to the National Infrastructure Website but is not included within the Examination Library as such advice is not an examination document.
- This document contains references to documents from the point the application was submitted.
- The order of documents within each sub-section is either chronological, numerical, or alphabetical and confers no priority or higher status on those that have been listed first.

TR010030 – M25 junction 10/A3 Wisley interchange improvement**Examination Library - Index**

Category	Reference
Application Documents As submitted and amended version received before the PM. Any amended version received during the Examination stage to be saved under the Deadline received	APP-xxx
Adequacy of Consultation responses	AoC-xxx
Relevant Representations	RR-xxx
Procedural Decisions and Notifications from the Examining Authority Includes Examining Authority's questions, s55, and post acceptance s51	PD-xxx
Additional Submissions Includes anything accepted at the Preliminary Meeting and correspondence that is either relevant to a procedural decision or contains factual information pertaining to the examination	AS-xxx
Events and Hearings Includes agendas for hearings and site inspections, audio recordings, responses to notifications, applicant's hearing notices, and responses to Rule 6 and Rule 8 letters	EV-xxx
Representations – by Deadline	
Deadline 1: Deadline for receipt by the ExA of: • Comments on any updates to application documents submitted by the Applicant before the PM • Comments on Relevant Representations (RR) • Summaries of any RRs exceeding 1500 words • Written Representations (WRs) • Summaries of any WRs exceeding 1500 words • Post PM, dDCO ISH and OFH submissions, including written summaries of oral case	REP1-xxx

• Notification by Statutory Parties of wish to be considered as an Interested Person (IP) by the ExA • Provision of suggested locations and/or journey routes and justifications for site inspections for consideration by the ExA • Notification of wish to attend any Accompanied Site Inspection (ASI) • Draft itinerary to be provided by the Applicant for an ASI • Notification from any Affected Person of wish to speak at a Compulsory Acquisition Hearing (CAH) • Notification from any IP of a wish to speak at subsequent ISHs • Notification from any IP of a wish to speak at a subsequent OFH • Notification of wish to have future correspondence electronically Any further information requested by the ExA	
<u>Deadline 2:</u> Deadline for receipt by the ExA of: • Comments on WRs and responses to comments on RRs • Responses to ExQ1 • Comments on Applicant's draft ASI itinerary • Local Impact Reports (LIR) from any Local Authorities • Schedule of Changes to the Book of Reference and Negotiations Tracker from the Applicant • Comments on Statements of Common Ground (SoCGs) submitted with application documents • Applicant's first revised dDCO • Any further information requested by the ExA • Comments on any further information requested by the ExA received by D1	REP2-xxx
<u>Deadline 3:</u> Deadline for receipt by the ExA of: • Post-hearing submissions including written summaries of oral case • Comments on LIRs • Comments on responses to the ExQ1 • Comments on the Applicant's first revised dDCO • Revised/updated SoCGs (if any) and any additional SoCGs requested by the ExA • Statement of Commonality of SoCGs • Any further information requested by the ExA • Comments on any further information requested by the ExA received by D2	REP3-xxx
<u>Deadline 4:</u> Deadline for receipt by the ExA of: • Applicant's revised dDCO (if required) • Comments on revised and additional SoCG (if submitted) • Notification from any Affected Person of wish to speak at a CAH • Notification from any IP of a wish to speak at subsequent ISHs • Notification from any IP of a wish to speak at a subsequent OFH • Any further information requested by the ExA • Comments on any further information requested by the ExA received by D3	REP4-xxx

Deadline 4a: Deadline for receipt by the ExA of: • Documents and information requested by the ExA from the Applicant in the Procedural Decision dated 14 February 2020 following the Applicant's submission of proposed changes at D4.	REP4a-xxx
Deadline 5: Deadline for receipt by the ExA of: • Responses to ExQ2 (if issued) • Comment's on applicant's revised dDCO (if relevant) • Submission of updated SoCGs (if required) • Any further information requested by the ExA • Comments on any further information requested by the ExA received by D4	REP5-xxx
Deadline 5a: Deadline for receipt by the ExA of: • Updated Schedule of Changes to the Book of Reference and Negotiations Tracker from the Applicant	REP5a-xxx
Deadline 6: Deadline for receipt by the ExA of: • Post hearing submissions including written submissions of oral case • Comments on updated SoCG • Applicant's revised dDCO (if required) • Any further information requested by the ExA • Comments on any further information requested by the ExA received by D5 and D5a	REP6-xxx
Deadline 7: Deadline for receipt by the ExA of: • Comments on updated schedule of Changes to BoR and Negotiations Tracker • Documentation demonstrating that the transfer and registration of Special Category Land between the Applicant and Surrey County Council, arising from the exercise of the compulsory purchase powers associated with the original construction of the M25, have been completed • Certified copies of any agreement(s) under: Section 106 of the Town and Country Planning Act 1990 or any other legislation; or of a commercial nature that the Applicant intends to enter into with any other party or parties • Comments on the ExA's draft DCO schedule of changes (if required) • Any further information requested by the ExA • Comments on any further information requested by the ExA received by D6	REP7-xxx

<u>Deadline 8:</u> Deadline for receipt by ExA of: • Final draft DCO to be submitted by the Applicant in the SI template with the SI template validation report • Applicant's final updated Guide to the Application • Responses to request(s) under Rule 17 (if relevant) • Responses to comments on the ExA's draft DCO schedule of changes (if required) • Final signed SoCGs • Final Statement of Commonality of SoCGs • Final updated version of the Book of Reference • Any comments on RIES • Any further information requested by the ExA • Comments on any further information requested by the ExA received by D7	REP8-xxx
<u>Deadline 9:</u> Deadline for receipt by the ExA of: • Any comments on Proposed Changes 7 to 9 • Notification of a wish to speak at a CAH • Responses from Affected Persons (APs) with respect to their individual preference for the use of video conferencing or teleconferencing technologies during the course of a virtual Compulsory Acquisition Hearing (CAH) (not for publication). • Taking into account the limitations of virtual hearings and the Open Floor Hearing (OFH) that has already taken place in the examination, please submit comments on whether a further OFH, which would need to be a virtual hearing, is required or whether written submissions would suffice. • Any further information requested by the ExA under Rule 17	REP9-xxx
<u>Deadline 10:</u> Deadline for receipt by the ExA of: • Responses to further written questions published by the ExA on 21 May 2020 (if issued) • Comments on the ExA's second draft DCO schedule of changes (if issued) • For the Interested Parties (IPs) and any other Examination participants who had notified the Planning Inspectorate of their wish to heard at Open Floor Hearing 2 (OFH2) originally timetabled for 25 March 2020, the provision in writing of the oral cases that they would otherwise have been made at the postponed OFH2. • Any further information requested by the ExA under Rule 17 • Comments on any further information responses under Rule 17 received by the ExA at D9 (if required)	REP10-xxx
<u>Deadline 11:</u> Deadline for receipt by the ExA of: • Written summaries of oral contributions at the CAH • Post-Hearing submissions requested by the ExA (if required) • Applicant's updated Book of Reference and	REP11-xxx

Statement of Reasons, and the documents certified under Schedule 10 of the draft DCO (if required) • Responses to comments on the ExA's second draft DCO schedule of changes (if required). • Any further information requested by the ExA under Rule 17 • Comments on any further information responses under Rule 17 received by the ExA at D10 (if required)	
Deadline 12: Deadline for receipt by the ExA of: • Final draft DCO to be submitted by the Applicant in the SI template with the SI template validation report (if required) • Applicant's final updated Guide to the Application (if required) • Final signed SoCGs (if required) • Final Statement of Commonality of SoCGs (if required) • Final updated version of the Book of Reference (if required) • Any further information requested by the ExA under Rule 17 • Comments on submissions made at D11 • Comments on any further information responses under Rule 17 received by the ExA at D11 (if required)	REP12-xxx
Other Documents Includes s127/131/138 information, s56, s58 and s59 certificates, and transboundary documents	OD-xxx

**TR010030 – M25 junction 10/A3 Wisley interchange improvement
Examination Library**

Application Documents

APP-001	Highways England 1.1 Index of Development Consent Order Application Documents
APP-002	Highways England 1.2 Introduction to the Application and Scheme Description
APP-003	Highways England 1.3 Application Form and Covering Letter
APP-004	Highways England 1.4 Schedule of Compliance with Section 55 of the Planning Act 2008
APP-005	Highways England 2.1 Location Plan
APP-006	Highways England 2.2 Land Plans
APP-007	Highways England 2.3 Works Plans
APP-008	Highways England 2.4 Streets, Rights of Way and Access Plans
APP-009	Highways England 2.5 Special Category Land Plans
APP-010	Highways England 2.6 Crown Land Plans
APP-011	Highways England 2.7 Speed Limits and Traffic Regulations Plans
APP-012	Highways England 2.8 Scheme Layout Plans (Sheets 1-10 of 31)
APP-013	Highways England 2.8 Scheme Layout Plans (Sheets 11-31 of 31)
APP-014	Highways England 2.9 Engineering Drawings and Sections
APP-015	Highways England 2.10 Temporary Works Plans
APP-016	Highways England 2.11 Nature Conservation Sites and Features Plans
APP-017	Highways England 2.12 Historic Environment Sites and Features Plans
APP-018	Highways England 3.1 Draft Development Consent Order
APP-019	Highways England 3.2 Explanatory Memorandum
APP-020	Highways England 3.3 Consents and Agreements Position Statement
APP-021	Highways England 3.4 Development Consent Order Validation Report
APP-022	Highways England 4.1 Statement of Reasons

APP-023	Highways England 4.1 Statement of Reasons Appendix C
APP-024	Highways England 4.2 Funding Statement
APP-025	Highways England 4.3 Book of Reference
APP-026	Highways England 5.1 Consultation Report Main Report
APP-027	Highways England 5.1 Consultation Report: Annex A - Non-statutory consultation materials
APP-028	Highways England 5.1 Consultation Report: Annex B - The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017: Regulation 8 Notification
APP-029	Highways England 5.1 Consultation Report: Annex C - Statement of Community Consultation
APP-030	Highways England 5.1 Consultation Report: Annex D - Statutory Pre-Application Consultation List of Consultees
APP-031	Highways England 5.1 Consultation Report: Annex E - Section 42 and 46 letters
APP-032	Highways England 5.1 Consultation Report: Annex F - Section 47 statutory consultation letters and Section 48 Notice
APP-033	Highways England 5.1 Consultation Report: Annex G - Section 47 consultation materials
APP-034	Highways England 5.1 Consultation Report: Annex H - Section 42 and Section 44 Regards Tables
APP-035	Highways England 5.1 Consultation Report: Annex I - Section 47 Regards tables
APP-036	Highways England 5.1 Consultation Report: Annex J - Targeted Consultation Materials
APP-037	Highways England 5.1 Consultation Report: Annex K - Additional Targeted Consultation Materials
APP-038	Highways England 5.2 Statutory Nuisance Statement
APP-039	Highways England 5.3 Habitats Regulations Assessment Figures
APP-040	Highways England 5.3 Habitats Regulations Assessment Annex A
APP-041	Highways England 5.3 Habitats Regulations Assessment Annex B

APP-042	Highways England 5.3 Habitats Regulations Assessment Annex C
APP-043	Highways England 5.3 Habitats Regulations Assessment: Stage 2
APP-044	Highways England 5.3 Habitats Regulations Assessment Stage 3-5
APP-045	Highways England 5.4 Water Framework Directive Assessment Report
APP-046	Highways England 5.5 Flood Risk Assessment
APP-047	Highways England 6.1 Environmental Statement Index
APP-048	Highways England 6.2 Environmental Statement Non-Technical Summary
APP-049	Highways England 6.3 Environmental Statement (Chapters 1-4)
APP-050	Highways England 6.3 Environmental Statement Chapter 5: Air Quality
APP-051	Highways England 6.3 Environmental Statement Chapter 6: Noise and Vibration
APP-052	Highways England 6.3 Environmental Statement Chapter 7: Biodiversity
APP-053	Highways England 6.3 Environmental Statement Chapter 8: Road drainage and the water environment
APP-054	Highways England 6.3 Environmental Statement Chapter 9: Landscape
APP-055	Highways England 6.3 Environmental Statement Chapter 10: Geology and soils
APP-056	Highways England 6.3 Environmental Statement Chapter 11: Cultural heritage
APP-057	Highways England 6.3 Environmental Statement Chapter 12: Materials and waste
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APP-061	Highways England 6.3 Environmental Statement Chapter 16: Assessment of cumulative effects
APP-062	Highways England 6.3 Environmental Statement Chapter 17: Summary
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APP-064	Highways England 6.4 Environmental Statement: Chapter 5 Air Quality Figures 1 of 2
APP-065	Highways England 6.4 Environmental Statement: Chapter 5 Air Quality Figures 2 of 2
APP-066	Highways England 6.4 Environmental Statement: Chapter 6 Noise and Vibration Figures 1 of 2
APP-067	Highways England 6.4 Environmental Statement: Chapter 6 Noise and Vibration Figures 2 of 2
APP-068	Highways England 6.4 Environmental Statement: Chapter 7 Biodiversity Figures 1 of 3
APP-069	Highways England 6.4 Environmental Statement: Chapter 7 Biodiversity Figures 2 of 3
APP-070	Highways England 6.4 Environmental Statement: Chapter 7 Biodiversity Figures 3 of 3
APP-071	Highways England 6.4 Environmental Statement: Chapter 8 Road drainage and the water environment Figures
APP-072	Highways England 6.4 Environmental Statement: Chapter 9 Landscape Figures 1 of 2
APP-073	Highways England 6.4 Environmental Statement: Chapter 9 Landscape Figures 2 of 2
APP-074	Highways England 6.4 Environmental Statement: Chapter 10 Geology and soils Figures
APP-075	Highways England 6.4 Environmental Statement: Chapter 11 Cultural heritage Figures
APP-076	Highways England 6.4 Environmental Statement: Chapter 13 People and communities Figures
APP-077	Highways England 6.4 Environmental Statement: Chapter 16: Assessment of Cumulative effects Figures
APP-078	Highways England 6.5 Environmental Statement Appendix 1.1 Scoping Opinion Reponses
APP-079	Highways England 6.5 Environmental Statement Appendix 4.1 Major Accidents and Disasters Long List

APP-080	Highways England 6.5 Environmental Statement Appendix 5.1 Air Quality
APP-081	Highways England 6.5 Environmental Statement Appendix 6.1 Calibration Certificates
APP-082	Highways England 6.5 Environmental Statement Appendix 6.2 Baseline Noise Monitoring
APP-083	Highways England 6.5 Environmental Statement Appendix 6.3 Construction Noise Plant List
APP-084	Highways England 6.5 Environmental Statement Appendix 6.4 Predicted Road Traffic Noise Levels at Selected Locations
APP-085	Highways England 6.5 Environmental Statement Appendix 6.5 Noise Nuisance
APP-086	Highways England 6.5 Environmental Statement Appendix 6.6 Additional Operational Phase Results
APP-087	Highways England 6.5 Environmental Statement Appendix 7.1 Summary of relevant policy and legislation
APP-088	Highways England 6.5 Environmental Statement Appendix 7.2 Designated Sites Baseline
APP-089	Highways England 6.5 Environmental Statement Appendix 7.3 Veteran Trees and Tree Survey
APP-090	Highways England 6.5 Environmental Statement Appendix 7.4 Desk Study
APP-091	Highways England 6.5 Environmental Statement Appendix 7.5 National Vegetation Classification
APP-092	Highways England 6.5 Environmental Statement Appendix 7.6 Aquatic Ecology
APP-093	Highways England 6.5 Environmental Statement Appendix 7.7 Electric Fishing and Macro-Invertebrate Surveys
APP-094	Highways England 6.5 Environmental Statement Appendix 7.8 Bolder Mere Ecological Survey and Condition Assessment
APP-095	Highways England 6.5 Environmental Statement Appendix 7.9 Bats
APP-096	Highways England 6.5 Environmental Statement Appendix 7.10 Bat Trapping
APP-097	Highways England 6. 5 Environmental Statement Appendix 7.11 Great Crested Newt

APP-098	Highways England 6.5 Environmental Statement Appendix 7.12 Reptiles
APP-099	Highways England 6.5 Environmental Statement Appendix 7.13 Dormice
APP-100	Highways England 6.5 Environmental Statement Appendix 7.14 Otter and Water Voles
APP-101	Highways England 6.5 Environmental Statement Appendix 7.15 Breeding Birds
APP-102	Highways England Environmental Statement Appendix 7.16 Badgers (CONFIDENTIAL REPORT)
APP-103	Highways England 6.5 Environmental Statement Appendix 7.17 White-Clawed Crayfish
APP-104	Highways England 6.5 Environmental Statement Appendix 7.18 Terrestrial Invertebrates
APP-105	Highways England 6.5 Environmental Statement Appendix 7.19 SPA management and monitoring plan
APP-106	Highways England 6.5 Environmental Statement Appendix 7.20 Landscape and ecology management and monitoring plan
APP-107	Highways England 6.5 Environmental Statement Appendix 8.1 Drainage Strategy
APP-108	Highways England 6.5 Environmental Statement Appendix 8.2 Summary of Groundwater Level Information
APP-109	Highways England 6.5 Environmental Statement Appendix 9.1 Landscape Assessment and Methodology
APP-110	Highways England 6.5 Environmental Statement Appendix 10.1 Classification of Risk
APP-111	Highways England 6.5 Environmental Statement Appendix 10.2 Summary of Ground Investigation
APP-112	Highways England 6.5 Environmental Statement Appendix 10.3 Envirocheck
APP-113	Highways England 6.5 Environmental Statement Appendix 10.4 Historical Maps Summary
APP-114	Highways England 6.5 Environmental Statement Appendix 10.5 UXO Pre-desk Study Assessment
APP-115	Highways England 6.5 Environmental Statement Appendix 10.6 Summary of Historical Ground Investigation

APP-116	Highways England 6.5 Environmental Statement Appendix 10.7 Summary of Historical Contaminated Land Data
APP-117	Highways England 6.5 Environmental Statement Appendix 10.8 Freedom of Information Requests
APP-118	Highways England 6.5 Environmental Statement Appendix 10.9 Trade Directories
APP-119	Highways England 6.5 Environmental Statement Appendix 10.10 Pollution Incidents
APP-120	Highways England 6.5 Environmental Statement Appendix 10.11 Risk and Impact Assessment
APP-121	Highways England 6.5 Environmental Statement Appendix 11.1 Heritage Gazetteer
APP-122	Highways England 6.5 Environmental Statement Appendix 11.2 Desk Based Assessment
APP-123	Highways England 6.5 Environmental Statement Appendix 11.3 Statements of Significance
APP-124	Highways England 6.5 Environmental Statement Appendix 13.1 Private Residential Community Assets and Local Business Baseline
APP-125	Highways England 6.5 Environmental Statement Appendix 13.2 Common Land Surveys
APP-126	Highways England 6.5 Environmental Statement Appendix 13.3 Soil Resources and ALC - Park Barn Farm
APP-127	Highways England 6.5 Environmental Statement Appendix 13.4 Soil Resources and ALC - Nutberry Farm
APP-128	Highways England 6.5 Environmental Statement Appendix 13.5 Driver Stress
APP-129	Highways England 6.5 Environmental Statement Appendix 15.1 Construction Plant List
APP-130	Highways England 6.5 Environmental Statement Appendix 15.2 Highways England Carbon Tool
APP-131	Highways England 6.5 Environmental Statement Appendix 16.1 Stage 1 Long List
APP-132	Highways England 6.6 EIA Scoping Report and Opinion
APP-133	Highways England 7.1 Planning Statement

APP-134	Highways England 7.2 Outline Construction Environmental Management Plan
APP-135	Highways England 7.3 Register of Environmental Actions and Commitments
APP-136	Highways England 7.4 Transport Assessment Report
APP-137	Highways England 8.1 Statements of Common Ground Index
APP-138	Highways England 8.2 Statement of Common Ground with Natural England
APP-139	Highways England 8.3 Statement of Common Ground with Environment Agency
APP-140	Highways England 8.4 Statement of Common Ground with Historic England
Adequacy of Consultation Responses	
AoC-001	Bracknell Forest Council
AoC-002	East Sussex County Council
AoC-003	Elmbridge Borough Council
AoC-004	Guildford Borough Council
AoC-005	Hampshire County Council
AoC-006	London Borough of Hounslow
AoC-007	Mole Valley District Council
AoC-008	Royal Borough of Windsor & Maidenhead
AoC-009	Rushmoor Borough Council
AoC-010	South Downs National Park Authority
AoC-011	Spelthorne Borough Council
AoC-012	Surrey County Council
AoC-013	Sutton Council
Relevant Representations	
RR-001	Elmbridge Borough Council
RR-002	Ockham Parish Council
RR-003	Royal Borough of Kingston upon Thames
RR-004	Surrey County Council
RR-005	Surrey Heath Borough Council
RR-006	Waverley Borough Council
RR-007	Affinity Water Limited
RR-008	Chasemore Farm
RR-009	Cobham Conservation & Heritage Trust
RR-010	Elm Corner Residents Group
RR-011	Environment Agency
RR-012	Tim Hancock Associates on behalf of Euro Garages

RR-013	Ove Arup and Partners Limited on behalf of Extra MSA Cobham Limited
RR-014	The Gardens Trust
RR-015	The Georgian Group
RR-016	Guildford Residents Associations
RR-017	Historic England
RR-018	Iceni Projects on behalf of London Strategic Land
RR-019	National Grid
RR-020	Natural England
RR-021	Painshill Park Trust
RR-022	Painshill Residents Association
RR-023	Public Health England
RR-024	Richard Max & Co LLP on behalf of Royal Horticultural Society
RR-025	BNP Paribas Real Estate on behalf of Royal Mail Group Ltd
RR-026	The Royal Society for the Protection of Birds
RR-027	Surrey Wildlife Trust
RR-028	West Surrey Badger Group
RR-029	Helen Jefferies on behalf of Wisley Action Group
RR-030	Savills on behalf of Wisley Property Investments Limited
RR-031	Woodland Trust
RR-032	John Andrews
RR-033	Neil Aust
RR-034	Mrs Amy Barklam
RR-035	Robert J. Brown
RR-036	Regena Coult
RR-037	Mrs Helen Cowell
RR-038	Harry Eve
RR-039	Peter Gelardi
RR-040	Mrs Deborah Gillan
RR-041	Laurence Greaves
RR-042	Christopher Haley
RR-043	Tim Harrold
RR-044	Emily Inge
RR-045	Molly James
RR-046	Helen Jefferies
RR-047	Karuna Lawrence
RR-048	Lesley Lloyd-Eley
RR-049	Duncan MacBryde
RR-050	Diana Varbanescu on behalf of Gustav Mauer
RR-051	Lord Michael Murphy
RR-052	Guisseppina O'Brien
RR-053	Lawrence David Simmons
RR-054	Paul Tiller
RR-055	Sue Towner
RR-056	Fiona Towson
RR-057	Mark Towson
RR-058	Peter J E Trew
RR-059	Diana Varbanescu
RR-060	Alan Watts
RR-061	Young Family

RR-062	Guildford Borough Council
Procedural Decisions and Notifications from the Examining Authority	
PD-001	Notification of Decision to Accept Application
PD-002	Section 51 advice to the Applicant
PD-003	Section 55 Checklist
PD-004	Appointment of the Examining Authority Notice of appointment of the Examining Authority
PD-004a	Rule 6 Letter Notice of appointment of the Examining Authority and date, time and place of the Preliminary Meeting
PD-005	Rule 8 – notification of timetable for the examination
PD-006	Written Questions
PD-007	Procedural Decision to vary the Examination Timetable under Rule 8(3) and Notice of Accompanied Site Inspection and Hearings
PD-008	Response to Applicant's letters dated 4 November and 3 December 2019 Examining Authority's response to Applicant's letters comprising notice of intention to request changes to the application
PD-009	Rule 17 - Request for Further Information and Rule 8(3) Variation to Timetable
PD-010	Further Written Questions
PD-011	Notification of hearings and change to the timetable - Rule 8(3) and 13
PD-012	Notification of Procedural Decision - Rule 9
PD-013	Report on the Implications for European Sites (RIES) Issued by the Examining Authority - 9 April 2020
PD-014	Examining Authority's schedule of changes to the draft Development Consent Order (dDCO)
PD-015	Notification of Procedural Decision Procedural Decision to Postpone Compulsory Acquisition Hearing 1, Issue Specific Hearing 3, Open Floor Hearing 2 and Issue Specific Hearing 4 scheduled for 24 to 26 March 2020
PD-016	Request for Further Information - Rule 17
PD-017	Procedural Decision in relation to the Applicant's change applications
PD-018	Rule 8(3) - Notification of new deadline for completion of Examination and variation to the Examination Timetable
PD-019	Annex B - Questionnaire of the Rule 8(3) letter (Word version)
PD-020	Rules 9 and 13 - Notification of Virtual Hearings
PD-021	Further Written Questions (ExQ4)
PD-022	Letter to all Affected Persons registered to attend the CAH
PD-023	Request for comments regarding possible Replacement Land options - Rule 17
PD-024	Request for Information from the Royal Horticultural Society - Rule 17
PD-025	Notification of completion of the Examining Authority's Examination
Additional Submissions	

AS-001	Highways England Additional Submission - Applicant's response to s51 advice - s51 Acceptance Letter - Accepted at the discretion of the Examining Authority
AS-002	Highways England Additional Submission - Applicant's response to s51 advice - 2.2 Land Plans (Revision 1) - Accepted at the discretion of the Examining Authority
AS-003	Highways England Additional Submission - Applicant's response to s51 advice - 2.3 Works Plans (Revision 1) - Accepted at the discretion of the Examining Authority
AS-004	Highways England Additional Submission - Applicant's response to s51 advice - 2.8 Scheme Layout Plans (Sheets 11-31 of 31) (Revision 1) - Accepted at the discretion of the Examining Authority
AS-005	Highways England Additional Submission - Applicant's response to s51 advice - 4.1 Statement of Reasons Appendix C: Common land and open space report (Revision 1) - Accepted at the discretion of the Examining Authority
AS-006	Highways England Additional Submission - Applicant's response to s51 advice - 5.3 Habitats Regulations Assessment Figures (Revision 1) - Accepted at the discretion of the Examining Authority
AS-007	Highways England Additional Submission - Applicant's response to s51 advice - 6.4 Environmental Statement: Chapter 7 Biodiversity Figures 1 of 3 (Revision 1) - Accepted at the discretion of the Examining Authority
AS-008	Highways England Additional Submission - Applicant's response to s51 advice - 6.4 Environmental Statement: Chapter 7 Biodiversity Figures 2 of 3 (Revision 1) - Accepted at the discretion of the Examining Authority
AS-009	Highways England Additional Submission - Applicant's response to s51 advice - 6.4 Environmental Statement: Chapter 7 Biodiversity Figures 3 of 3 (Revision 1) - Accepted at the discretion of the Examining Authority
AS-010	Highways England Additional Submission - Applicant's response to s51 advice - 6.4 Environmental Statement: Chapter 13 People and Communities Figures (Revision 1) - Accepted at the discretion of the Examining Authority
AS-011	Highways England Additional Submission - Applicant's response to Rule 6 Letter - Cover Letter - Accepted at the discretion of the Examining Authority
AS-012	Highways England Additional Submission - Applicant's Response to Rule 6 - 5.3 Habitats Regulations Assessment Figures (Revision 2) - Accepted at the discretion of the Examining Authority

AS-013	Highways England Additional Submissions - Applicant's Response to Rule 6 - 6.4 Environmental Statement: Chapter 7 Biodiversity Figures 1 of 3 (Revision 2) - Accepted at the discretion of the Examining Authority
AS-014	Highways England Additional Submission - Applicant's Response to Rule 6 - 6.5 Environmental Statement: Appendix 7.3 Veteran trees and Arboricultural Impact Assessment (Revision 1) -Accepted at the discretion of the Examining Authority
AS-015	Highways England Additional Submission - Response to Rule 6 - 6.5 Environmental Statement: Appendix 7.19 SPA Management and monitoring plan (Revision 1) - Accepted at the discretion of the Examining Authority
AS-016	Highways England Additional Submission – Applicant's response to Rule 6 - 7.2 Outline Construction Environmental Management Plan (Revision 1) - Accepted at the discretion of the Examining Authority
AS-017	Highways England Additional Submission - Applicant's Response to Rule 6 - 9.1 Transferring Historic Common Land and Exchange Land - Accepted at the discretion of the Examining Authority
AS-018	Highways England Additional Submission - Applicant's Response to Rule 6 - 9.2 A0 Plans - Accepted at the discretion of the Examining Authority
AS-019	Highways England Additional Submission - Applicant's Response to Rule 6 - 9.3 Orange Land Plans - Accepted at the discretion of the Examining Authority
AS-020	Highways England Additional Submission - Applicant's Response to Rule 6 - 9.4 Procedure for Using Common Land Temporarily During the Construction Period for the Scheme - Accepted at the discretion of the Examining Authority
AS-021	Highways England Additional Submission - Applicant's Response to Rule 6 - 9.5 DCO Application Errata Schedule - Accepted at the discretion of the Examining Authority
AS-022	Highways England Additional Submission - Applicant's Response to Rule 6 - 9.6 Guide to the Application - Accepted at the discretion of the Examining Authority
AS-023	Highways England Additional Submission - Applicant's notification to make a request for changes to the DCO - Accepted at the discretion of the Examining Authority
AS-024	Guildford Borough Council Additional Submission - Response to Rule 6 dated - Accepted at the discretion of the Examining Authority
AS-025	Surrey County Council Additional Submission - Response to Rule 6 - Accepted at the discretion of the Examining Authority

AS-026	ESP Utilities Group Ltd Additional Submission - Response to Rule 6 - Accepted at the discretion of the Examining Authority
AS-027	Burton Knowles on behalf of Guide Association Additional Submission - Response to Rule 6 - Accepted at the discretion of the Examining Authority
AS-028	County Commissioner on behalf of Guide Association Additional Submission - Response to Rule 6 - Accepted at the discretion of the Examining Authority
AS-029	Kilinside Farm Additional Submission - Response to Rule 6 - Accepted at the discretion of the Examining Authority
AS-030	Richard Max & Co Additional Submission - Response to Rule 6 - Accepted at the discretion of the Examining Authority
AS-031	Highways England Additional Submission - Applicant's letter regarding request for changes to the DOC - Accepted at the discretion of the Examining Authority
AS-032	Surrey County Council Additional Submission –Additional Commons Register - Accepted at the discretion of the Examining Authority
AS-033	Highways England Additional Submission accepted at the discretion of the Examining Authority
AS-034	Emmanuel Coccolios Additional Submission - Accepted at the discretion of the Examining Authority
AS-035	Colin Cross Additional Submission – Accepted at the discretion of the Examining Authority
AS-036	Diane Cooper Additional Submission – Accepted at the discretion of the Examining Authority
Events and Hearings	
Preliminary Meeting – 12 November 2019	
EV-001	Recording of Preliminary Meeting
EV-001a	Preliminary Meeting Note
Open Floor Hearing – 12 November 2019	
EV-002	Recording of Open Floor Hearing - 12 November 2019
EV-002a	Agenda for Open Floor Hearing 1 (OFH1) - 12 November 2019
Issue Specific Hearing 1 – 12 November 2019	
EV-003	Recording of Issue Specific Hearing on draft Development Consent Order - 12 November 2019
EV-003a	Agenda for Issue Specific Hearing 1 (ISH1) on the draft DCO - 12 November 2019
EV-004	Action Points From Issue Specific Hearing 1 (ISH1) on the draft DCO - 12 November 2019
Issue Specific Hearing 2 – 15 January 2020	

EV-005	Agenda for Issue Specific Hearing on transportation, environmental and socio-economic matters
EV-005a	Recording of Issue Specific Hearing 2 (ISH2) on transportation, environmental and socio-economic matters - 15 January 2020 - Part 1
EV-005b	Recording of Issue Specific Hearing 2 (ISH2) on transportation, environmental and socio-economic matters - 15 January 2020 - Part 2
EV-005c	Recording of Issue Specific Hearing 2 (ISH2) on transportation, environmental and socio-economic matters - 16th January 2020 - Part 3
EV-005d	Recording of Issue Specific Hearing 2 (ISH2) on transportation, environmental and socio-economic matters - 16th January 2020 - Part 4
EV-005e	Action Points from Issue Specific Hearing 2 (ISH2)
Accompanied Site Visits	
EV-006	Accompanied Site Inspection Itinerary (ASI) - 14 January 2020
Unaccompanied Site Inspection	
EV-007	Note of Unaccompanied Site Inspection - 17 January 2020
Hearings - 23 – 26 March 2020	
EV-008	Highways England Applicant's Hearing Notice for March 2020 Hearings
Unaccompanied Site Inspection	
EV-009	Note of Unaccompanied Site Inspection – 15 May 2020
Compulsory Acquisition Hearing 1 - 16 – 18 June 2020	
EV-010	Agenda for CAH1 Session 1: Non-site specific CA and TP matters – Tues 16 June 2020
EV-011	Agenda for CAH1 Session 2, part 1: Heyswood Girl Guides Camp Site – Tues 16 June 2020
EV-012	Agenda for CAH1 Session 2, part 2: Painhill Park - Tues 16 June 2020
EV-013	Agenda for CAH1 Session 2, part 3: Special Category Land and Replacement Land matters – Wed 17 June 2020
EV-014	Agenda for CAH1 Session 2, part 4: Surrey County Council non-Special Category Land matters – Wed 17 June 2020
EV-015	Agenda for CAH1 Session 2, part 5: RHS Wisley – Thurs 18 June 2020
EV-016	Agenda for CAH1 Session 2, part 6: Wisley Airfield – Thurs 18 June 2020
EV-017	Highways England Notice of Virtual Compulsory Acquisition Hearing in June 2020 published on 22 May 2020 in Surrey Advertiser (Guildford Edition)
EV-018	Highways England Notice of Virtual Compulsory Acquisition Hearing in June 2020 published on 29 May 2020 in Surrey Advertiser (Guildford Edition)
EV-019	Recording of Compulsory Acquisition Hearing 1 Session 1 - Non-site specific CA and TP matters - 16 June 2020

EV-020	Recording of Compulsory Acquisition Hearing 1 Session 2 Part 1 - Heyswood Girl Guides Camp site - 16 June 2020
EV-021	Recording of Compulsory Acquisition Hearing 1 Session 2 Part 2 - Painshill Park - 16 June 2020
EV-022	Recording of Compulsory Acquisition Hearing 1 Session 2 Part 3 Recording 1 of 2 - Special Category Land and Replacement Land matters - 17 June 2020
EV-023	Recording of Compulsory Acquisition Hearing Session 2 Part 3 Recording 2 of 2 - Special Category Land and Replacement Land matters - 17 June 2020
EV-024	Recording of Compulsory Acquisition Hearing 1 Session 2 Part 4 - Surrey County Council non-Special Category Land matters - 17 June 2020
EV-025	Recording of Compulsory Acquisition Hearing 1 Session 2 Part 5 - RHS Wisley - 18 June 2020
EV-026	Recording of Compulsory Acquisition Hearing 1 Session 2 Part 6 - Wisley Airfield - 18 June 2020
EV-027	Action Points of Compulsory Acquisition Hearing 1
Representations	
Deadline 1 – 26 November 2019	
• Comments on any updates to application documents submitted by the Applicant before the PM • Comments on Relevant Representations (RR) • Summaries of any RRs exceeding 1500 words • Written Representations (WRs) • Summaries of any WRs exceeding 1500 words • Post PM, dDCO ISH and OFH submissions, including written summaries of oral case • Notification by Statutory Parties of wish to be considered as an Interested Person (IP) by the ExA • Provision of suggested locations and/or journey routes and justifications for site inspections for consideration by the ExA • Notification of wish to attend any Accompanied Site Inspection (ASI) • Draft itinerary to be provided by the Applicant for an ASI • Notification from any Affected Person of wish to speak at a Compulsory Acquisition Hearing (CAH) • Notification from any IP of a wish to speak at subsequent ISHs • Notification from any IP of a wish to speak at a subsequent OFH • Notification of wish to have future correspondence electronically Any further information requested by the ExA	
REP1-001	Highways England Deadline 1 Submission - Cover Letter
REP1-002	Highways England Deadline 1 Submission - Notification Letter
REP1-003	Highways England Deadline 1 Submission - 9.5 Application Errata Schedule (Revision 1)
REP1-004	Highways England Deadline 1 Submission - 9.6 Guide to the Application (Revision 1)
REP1-005	Highways England Deadline 1 Submission - 9.8 Written Submission of Applicant's Case put orally at the Issue Specific Hearing on the draft Development Consent Order (dDCO) held on 12 November 2019
REP1-006	Highways England Deadline 1 Submission - 9.9 Written Submission of the Applicant's Case put orally at the Open Floor Hearing held on 12 November 2019

REP1-007	Highways England Deadline 1 Submission - 9.10 Summary Plan of the Proposed Development
REP1-008	Highways England Deadline 1 Submission - 9.11 Draft Itinerary for the Accompanied Site Inspection
REP1-009	Highways England Deadline 1 Submission - 9.12 Applicant's Comments on Relevant Representations
REP1-010	Highways England Deadline 1 Submission - 9.13 Traffic Forecasting Report
REP1-011	Elmbridge Borough Council Deadline 1 Submission - Response to Rule 8 Letter
REP1-012	Elmbridge Borough Council Deadline 1 Submission - Written Representation
REP1-013	Environment Agency Deadline 1 Submission - Written Representation
REP1-014	London Borough of Bromley Deadline 1 Submission - Written Representation
REP1-015	National Grid Deadline 1 Submission - Written Representation
REP1-016	Ockham Parish Council Deadline 1 Submission - Written Representation
REP1-017	Ripley Parish Council Deadline 1 Submission - Written Representation
REP1-018	Surrey County Council Deadline 1 Submission - Cover Email
REP1-019	Surrey County Council Deadline 1 Submission - Response to Rule 8 Letter
REP1-020	Surrey County Council Deadline 1 Submission - Written Representation
REP1-021	Chasemore Farm Deadline 1 Submission - Written Representation
REP1-022	Elm Corner Residents Group Deadline 1 Submission - Written Representation
REP1-023	Elm Corner Residents Group Deadline 1 Submission - Summaries of any WRs exceeding 1500 words
REP1-024	Extra MSA Cobham Ltd Deadline 1 Submission - Written Representation
REP1-025	Gardens Trust and Surrey Gardens Trust Deadline 1 Submission - Written Representation
REP1-026	Girlguiding Greater London West Deadline 1 Submission - Written Representation
REP1-027	Guildford Residents Associations Deadline 1 Submission - Written Representation
REP1-028	LGH Hotels Management UK Limited Deadline 1 Submission - Written Representation
REP1-029	Lovelace Neighbourhood Plan Deadline 1 Submission - Written Representation
REP1-030	Monte Blackburn Limited Deadline 1 Submission - Written Representation
REP1-031	Pains Hill Residents Group Deadline 1 Submission - Written Representation

REP1-032	Painshill Park Trust Ltd Deadline 1 Submission – Covering Email
REP1-033	Painshill Park Trust Ltd Deadline 1 Submission - Written Representation
REP1-034	Park Barn Farm Deadline 1 Submission - Response to Rule 8 Letter
REP1-035	Park Barn Farm Deadline 1 Submission - Written Representation
REP1-036	Park Barn Farm Deadline 1 Submission - Summaries of any WRs exceeding 1500 words
REP1-037	Royal Horticultural Society Deadline 1 Submission - Cover Email
REP1-038	Royal Horticultural Society Deadline 1 Submission - Written Representation
REP1-039	Hatch Regeneris on behalf of Royal Horticultural Society Deadline 1 Submission
REP1-040	Royal Horticultural Society Deadline 1 Submission
REP1-041	Royal Horticultural Society Deadline 1 Submission - Air Quality Representation
REP1-042	Royal Horticultural Society Deadline 1 Submission - Summary of Air Quality Representation
REP1-043	Royal Horticultural Society Deadline 1 Submission - Ecology and Habitats Regulations Assessment Representation
REP1-044	Royal Horticultural Society Deadline 1 Submission - Highways and Traffic Representation with Appendices
REP1-045	The Royal Society for the Protection of Birds Deadline 1 Submission - Written Representation
REP1-046	Wisley Action Group Deadline 1 Submission - Written Representation
REP1-047	Wisley Property Investment Limited Deadline 1 Submission - Cover Letter
REP1-048	Wisley Property Investment Limited Deadline 1 Submission - Written Representation
REP1-049	Wisley Property Investment Limited Deadline 1 Submission - Summaries of any WRs exceeding 1500 words
REP1-050	Wisley Property Investment Limited Deadline 1 Submission - Provision of suggested locations and/or journey routes and justifications for site inspections for consideration by the ExA
REP1-051	Robert J Brown Deadline 1 Submission - Written Representation
REP1-052	Regena Coult Deadline 1 Submission - Written Representation
REP1-053	Annie Cross Deadline 1 Submission - Written Representation
REP1-054	Colin Cross Deadline 1 Submission - Written Representation

REP1-055	Burton Knowles on behalf of Agnes Engelen Deadline 1 Submission - Response to Rule 6 Letter
REP1-056	Burton Knowles on behalf of Agnes Engelen Deadline 1 Submission - Written Representation
REP1-057	Harry Eve Deadline 1 Submission - Written Representation
REP1-058	Harry Eve Deadline 1 Submission - Summaries of any WRs exceeding 1500 words
REP1-059	Jan Jewers Deadline 1 Submission - Written Representation
Deadline 2 – 18 December 2019 • Comments on WRs and responses to comments on RRs • Responses to ExQ1 • Comments on Applicant's draft ASI itinerary • Local Impact Reports (LIR) from any Local Authorities • Schedule of Changes to the Book of Reference and Negotiations Tracker from the Applicant • Comments on Statements of Common Ground (SoCGs) submitted with application documents • Applicant's first revised dDCO • Any further information requested by the ExA • Comments on any further information requested by the ExA received by D1	
REP2-001	Highways England Deadline 2 Submission - Changes to the DCO
REP2-001a	Highways England Deadline 2 Submission - Cover letter
REP2-002	Highways England Deadline 2 Submission - 3.1 Draft Development Consent Order (Revision 1)
REP2-003	Highways England Deadline 2 Submission - 5.3 Habitats Regulations Assessment Annex A Stage 1 Screening (Revision 1)
REP2-004	Highways England Deadline 2 Submission - 6.4 Environmental Statement Chapter 13 People & Communities Figure (Revision 2)
REP2-005	Highways England Deadline 2 Submission - 7.3 Register of Environmental Actions and Commitments (Revision 1)
REP2-006	Highways England Deadline 2 Submission - 9.5 Schedule of Errata (Revision 2)
REP2-007	Highways England Deadline 2 Submission - 9.6 Guide to the Application (Revision 2)
REP2-008	Highways England Deadline 2 Submission - 9.11 Draft Itinerary for the Accompanied Site Inspection (Revision 1)
REP2-009	Highways England

	Deadline 2 Submission - 9.14 Compulsory Acquisition Objections Schedule
REP2-010	Highways England Deadline 2 Submission - 9.15 Road Map
REP2-011	Highways England Deadline 2 Submission - 9.16 Transport Assessment Supplementary Information Report
REP2-012	Highways England Deadline 2 Submission - 9.17 Negotiations Tracker
REP2-013	Highways England Deadline 2 Submission - 9.18 Applicant's Response to Written Questions
REP2-014	Highways England Deadline 2 Submission - 9.19 Applicant's Comments on Written Representations
REP2-015	Highways England Deadline 2 Submission - 9.20 Schedule of Change to the Book of Reference
REP2-016	Highways England Deadline 2 Submission - 9.21 Scheme Layout Plans with Works Nos
REP2-017	Highways England Deadline 2 Submission - 9.22 Plans Detailing Road Surfacing
REP2-018	Highways England Deadline 2 Submission - 9.23 Highways England's Air Quality Strategy
REP2-019	Highways England Deadline 2 Submission - 9.24 - Drawings in Reference to Fence Heights
REP2-020	Highways England Deadline 2 Submission - 9.25 Statutory Undertaker Representations with regard to S127
REP2-021	Highways England Deadline 2 Submission - 9.26 Statutory Undertaker Representations with regard to S138
REP2-022	Highways England Deadline 2 Submission - 9.27 Response to RHS Comments on Air Quality
REP2-023	Highways England Deadline 2 Submission - 9.28 Revised draft Development Consent Order Deadline 2 (Tracked Changes)
REP2-024	Highways England Deadline 2 Submission - 9.29 Update Screening Matrices 2 and 3 Habitat Regulations Assessment Appendix A
REP2-025	Highways England Deadline 2 Submission - 9.30 Key Legend for all Engineering Drawings
REP2-026	Highways England Deadline 2 Submission - 9.31 Former San Domenico Site Access Arrangements
REP2-027	Elmbridge Borough Council

	Deadline 2 Submission - Response to Examining Authority's First Written Questions
REP2-028	Elmbridge Borough Council Deadline 2 Submission - Annex A
REP2-029	Environment Agency Deadline 2 Submission
REP2-030	Girlguiding Greater London West Deadline 2 Submission - Response to ExQ1 and Comments on Written Representation
REP2-031	Guildford Borough Council Deadline 2 Submission - Cover Letter
REP2-032	Guildford Borough Council Deadline 2 Submission - Response to Examining Authority's First Written Questions
REP2-033	Historic England Deadline 2 Submission - Response to Examining Authority's First Written Questions and request for information
REP2-034	Natural England Deadline 2 Submission - Response to Examining Authority's First Written Questions and request for information
REP2-035	Ockham Parish Council Deadline 2 Submission - Response to Examining Authority's First Written Questions
REP2-036	Painshill Park Trust Ltd Deadline 2 Submission - Response to Examining Authority's First Written Questions and request for information
REP2-037	Robert J Brown on behalf of Painshill Resident Association Deadline 2 Submission - Comments on Written Representation
REP2-038	Royal Horticultural Society Deadline 2 Submission - Response to Examining Authority's First Written Questions
REP2-039	Royal Horticultural Society Deadline 2 Submission - Response to further information requested by the Applicant
REP2-040	Royal Horticultural Society Deadline 2 Submission - Attachment 1 - Motion Transport Assessment
REP2-041	Royal Horticultural Society Deadline 2 Submission - Royal Horticultural Society Visitor Data - Attachment 2 (Part 1)
REP2-042	Royal Horticultural Society Deadline 2 Submission - Royal Horticultural Society Visitor Data - Attachment 2 (Part 2)
REP2-043	Royal Horticultural Society Deadline 2 Submission - Comments on Applicant's Draft Accompanied Site Inspection Itinerary
REP2-044	Surrey County Council Deadline 2 Submission - Cover Letter
REP2-045	Surrey County Council Deadline 2 Submission - Response to Examining Authority's First Written Questions

REP2-046	Surrey County Council Deadline 2 Submission - WQ 1-Annex B Commons Register
REP2-046a	Number no longer in use, please see AS-032
REP2-047	Surrey County Council, Elmbridge Borough Council and Guildford Borough Council Deadline 2 Submission - Joint Council Local Impact Report
REP2-048	The British Horse Society Deadline 2 Submission – Accepted at the discretion of the Examining Authority
REP2-049	The Royal Society for the Protection of Birds Deadline 2 Submission - Summary of Written Submission
REP2-050	The Royal Society for the Protection of Birds Deadline 2 Submission - Response to Examining Authority's First Written Questions
REP2-051	Wisley Property Investment Limited Deadline 2 Submission - Cover letter
REP2-052	Wisley Property Investment Limited Deadline 2 Submission - Response to Examining Authority's First Written Questions
REP2-053	Wisley Property Investment Limited Deadline 2 Submission - Comments on Written Representation
REP2-054	Robert J Brown Deadline 2 Submission - Comments on the Applicant's draft ASI itinerary
REP2-055	Mrs H Cowell and Mr R J Cowell Deadline 2 Submission - Comments on Written Representation
Deadline 3 – 28 January 2020 • Post-hearing submissions including written summaries of oral case • Comments on LIRs • Comments on responses to the ExQ1 • Comments on the Applicant's first revised dDCO • Revised/updated SoCGs (if any) and any additional SoCGs requested by the ExA • Statement of Commonality of SoCGs • Any further information requested by the ExA • Comments on any further information requested by the ExA received by D2	
REP3-001	Highways England Deadline 3 Submission - Cover letter with a schedule of information
REP3-002	Highways England Deadline 3 Submission - 8.2 Statement of Common Ground with Natural England (Rev 1)
REP3-003	Highways England Deadline 3 Submission - 8.3 Statement of Common Ground with Environment Agency (Rev 1)
REP3-004	Highways England Deadline 3 Submission - 8.4 Statement of Common Ground with Historic England (Rev 1)
REP3-005	Highways England Deadline 3 Submission - 9.25 Statutory Undertaker Representations with regard to S127 (Rev 1)

REP3-006	Highways England Deadline 3 Submission - 9.26 Statutory Undertaker Representations with regard to S138 (Rev 1)
REP3-007	Highways England Deadline 3 Submission - 9.32 Applicant's comments on Joint Local Impact Report (Rev 0)
REP3-008	Highways England Deadline 3 Submission - 9.33 Applicant's comments on IP responses to Examining Authority's First Written Questions (Rev 0)
REP3-009	Highways England Deadline 3 Submission - 9.34 Post-Hearing submissions including written summaries of oral case for Issue Specific Hearing 2 (ISH2) (Rev 0)
REP3-010	Highways England Deadline 3 Submission - 9.35 Statement of Common Ground with Elmbridge Borough Council (Rev 0)
REP3-011	Highways England Deadline 3 Submission - 9.36 Statement of Common Ground with Guildford Borough Council (Rev 0)
REP3-012	Highways England Deadline 3 Submission - 9.37 Statement of Common Ground with Surrey County Council (Rev 0)
REP3-013	Highways England Deadline 3 Submission - 9.38 Draft Statement of Common Ground with Royal Horticultural Society (Rev 0)
REP3-014	Highways England Deadline 3 Submission - 9.39 Draft Statement of Common Ground with Wisley Property Investments Limited (Rev 0)
REP3-015	Highways England Deadline 3 Submission - 9.40 Statement of Commonality (Rev 0)
REP3-016	Highways England Deadline 3 Submission - 9.41 Scheme Assessment Report (2017) (Rev 0)
REP3-017	Highways England Deadline 3 Submission - 9.42 Side Roads Addendum (2017) (Rev 0)
REP3-018	Highways England Deadline 3 Submission - 9.43 Ministerial statements regarding Ockham South Facing Slips (Rev 0)
REP3-019	Highways England Deadline 3 Submission - 9.44 Traffic volumes from Issue Specific Hearing 2 (ISH2) agenda item 3(i) (Rev 0)
REP3-020	Highways England Deadline 3 Submission - 9.45 LA 105 Standards (Rev 0)
REP3-021	Highways England Deadline 3 Submission - 9.46 Natural England NEA001 on Screening assessment
REP3-022	Highways England Deadline 3 Submission - 9.47 List of references to traffic movements in alternatives from Issue Specific Hearing 2 (ISH2) (Rev 0)
REP3-023	Highways England Deadline 3 Submission - 9.48 Applicant's Response to Guildford Borough Council's Relevant Representation RR-062 (Rev 0)

REP3-024	Highways England Deadline 3 Submission - 9.5 Schedule of Errata (Rev 3)
REP3-025	Highways England Deadline 3 Submission - 9.6 Guide to the Application (Rev 3)
REP3-026	Environment Agency Deadline 3 Submission - Representations and responses to ExQ1
REP3-027	Environment Agency Deadline 3 Submission - Map showing interaction between Park Farm Barn Replacement Land and Sanway Flood Alleviation Scheme
REP3-028	Extra MSA Cobham Ltd Deadline 3 Submission - Comments on any further information requested by the Examining Authority received by Deadline 22
REP3-029	Elmbridge Borough Council Deadline 3 Submission - Deadline 3 Submission
REP3-030	Guildford Borough Council Deadline 3 Submission - Officer Report in respect of the consent major developments at RHS Wisley (00976)
REP3-031	Guildford Borough Council Deadline 3 Submission - Officer Report in respect of the consent major developments at RHS Wisley (01080)
REP3-032	Guildford Borough Council Deadline 3 Submission - Transport Assessment for RHS Wisley May 2016
REP3-033	Guildford Borough Council Deadline 3 Submission - Swept Path Analysis
REP3-034	Guildford Borough Council Deadline 3 Submission - Travel Plan for RHS Wisley May 2016
REP3-035	Surrey County Council Deadline 3 Submission - Cover Letter
REP3-036	Surrey County Council Deadline 3 Submission - Annex A - Key points from Surrey County Council's oral statements made at the Issue Specific Hearing 2 (ISH2)
REP3-037	Surrey County Council Deadline 3 Submission - Annex B - Manuel for street design criteria extract
REP3-038	Surrey County Council Deadline 3 Submission - Annex C - Strategic Highway Assessment Report for Guildford Local Plan
REP3-039	Surrey County Council Deadline 3 Submission - Annex D - Strategic Highway Assessment for Guildford Local Plan : Burnt Common/Ripley
REP3-040	Surrey County Council Deadline 3 Submission - Annex E - M25 Junction 11 "Gating" Report
REP3-041	Ockham Parish Council Deadline 3 Submission - Comments on any further information requested by the Examining Authority received by Deadline 2
REP3-042	Royal Horticultural Society Deadline 3 Submission - Overview of material submitted on behalf of the Royal Horticultural Society at Deadline 3
REP3-043	Royal Horticultural Society Deadline 3 Submission - Summary of oral case - Appendix 1

REP3-044	Royal Horticultural Society Deadline 3 Submission - Appendix 2 - RHS Response to REP2-014
REP3-045	Royal Horticultural Society Deadline 3 Submission - Appendix 2 - App. X
REP3-046	Royal Horticultural Society Deadline 3 Submission - Appendix 2 - App. Y
REP3-047	Royal Horticultural Society Deadline 3 Submission - Appendix 2 - Managing Natura 2000 Provisions
REP3-048	Royal Horticultural Society Deadline 3 Submission - Appendix 2 - Ockham Roundabout South Facing Slips (including Ripley Services) - Option 1
REP3-049	Royal Horticultural Society Deadline 3 Submission - Appendix 2 - Ockham Roundabout - Comparison between Royal Horticultural Society Alternative and DCO Scheme
REP3-050	Royal Horticultural Society Deadline 3 Submission - Appendix 3 - RSH response to REP2-022
REP3-051	Royal Horticultural Society Deadline 3 Submission - Appendix 4 - Letter from BDB Pitmans to Richard Max
REP3-052	Royal Horticultural Society Deadline 3 Submission - Appendix 5 - Economic Impact Study dated November 2017
REP3-053	Royal Horticultural Society Deadline 3 Submission - Appendix 6 - Wisley Site Plan Pre Strategic Investment Programme
REP3-054	Royal Horticultural Society Deadline 3 Submission - Appendix 6 - Wisley Site Plan Post Strategic Investment Programme
REP3-055	Royal Horticultural Society Deadline 3 Submission - Appendix 7 - Completed s106 Agreement between the Council of the Borough of Guildford and the Royal Horticultural Society
REP3-056	Royal Horticultural Society Deadline 3 Submission - Appendix 7 - Travel Plan for RHS Wisley May 2016
REP3-057	Royal Horticultural Society Deadline 3 Submission - Appendix 7 - Travel Plan Addendum
REP3-058	Royal Horticultural Society Deadline 3 Submission - Appendix 8 - Redwood Trees
REP3-059	Royal Horticultural Society Deadline 3 Submission - Appendix 8 - A3 Ockham Alignment Options Assessment
REP3-060	Royal Society for the Protection of Birds Deadline 3 Submission - Response to Applicant's comments on Written Representations
REP3-061	Guide Association Trust Corporation and Girlguiding Greater London West Deadline 3 Submission - Post-hearing submissions including written summaries of oral case and comments on D2 submissions.

REP3-062	Painshill Park Trust Ltd Deadline 3 Submission - Post-hearing submissions including written summaries of oral case
REP3-063	Painshill Park Trust Ltd Deadline 3 Submission - Response from Central Command, Community Safety and Risk Reduction, Surrey Fire and Rescue Service
REP3-064	Painshill Park Trust Ltd Deadline 3 Submission - Events at Painshill
REP3-065	Painshill Park Trust Ltd Deadline 3 Submission - Visitor numbers and projects
REP3-066	Painshill Residents Association Deadline 3 Submission - Action Point 15 Response
REP3-067	Harry Eve Deadline 3 Submission - Comments on any further information requested by the Examining Authority received by Deadline 2
REP3-068	Keystone Law on behalf of Ronald Alderson Deadline 3 Submission - Deadline 3 Submission
REP3-069	Keystone Law on behalf of Ronald Alderson Deadline 3 Submission - Appendix A - Land use character types and use as described by Highways England
REP3-070	Keystone Law on behalf of Ronald Alderson Deadline 3 Submission - Appendix B - Questions for Highways England for Deadline 3
REP3-071	Keystone Law on behalf of Ronald Alderson Deadline 3 Submission - Appendix B - Plan of Buxton Wood
Deadline 4 – 11 February 2020 • Applicant's revised dDCO (if required) • Comments on revised and additional SoCG (if submitted) • Notification from any Affected Person of wish to speak at a CAH • Notification from any IP of a wish to speak at subsequent ISHs • Notification from any IP of a wish to speak at a subsequent OFH • Any further information requested by the ExA • Comments on any further information requested by the ExA received by D3	
REP4-001	Highways England Deadline 4 Submission - Cover Letter
REP4-002	Highways England Deadline 4 Submission - 9.26 (2) - Statutory Undertaker Representations with regard to S138
REP4-003	Highways England Deadline 4 Submission - 9.49 - Applicant's comments on Environment Agency's Deadline 3 submission
REP4-004	Highways England Deadline 4 Submission - 9.50 - Applicant's comments on Ronald Alderson's Deadline 3 submission
REP4-005	Highways England Deadline 4 Submission - 9.51 - Applicant's comments on RHS's Deadline 3 submission
REP4-006	Highways England Deadline 4 Submission - 9.52 - Applicant's comments on Surrey County Council's Deadline 3 submission

REP4-007	Highways England Deadline 4 Submission - 9.53 - Applicant's comments on RSPB's Deadline 3 submission
REP4-008	Highways England Deadline 4 Submission - 9.54 - Applicant's comments on Painshill Park Trust's Deadline 3 submission
REP4-009	Highways England Deadline 4 Submission - 9.55 - Applicant's comments on Extra MSA Cobham's Deadline 3 submission
REP4-010	Highways England Deadline 4 Submission - 9.56 - Applicant's comments on Girlguiding Greater London West's Deadline 3 submission
REP4-011	Highways England Deadline 4 Submission - 9.57 - Applicant's comments on Harry Eve's Deadline 3 submission
REP4-012	Highways England Deadline 4 Submission - 9.6 (4) - Guide to the Application
REP4-013	Highways England Deadline 4 Submission - Cover letter regarding changes to an accepted Development Consent Order (DCO)
REP4-014	Highways England Deadline 4 Submission - 5.3 HRA Stage 3-5: Assessment of alternatives, consideration of imperative reasons of overriding public interest (IROPI) and compensatory measures Report Rev 1 - changes to application
REP4-015	Highways England Deadline 4 Submission - 5.3 HRA Annex A - Screening Rev 2 - changes to application
REP4-016	Highways England Deadline 4 Submission - 5.3 HRA Annex B - Consultation Report Rev 1 - changes to application
REP4-017	Highways England Deadline 4 Submission - 5.3 HRA Annex C - Compensatory Measures Rev 1 - changes to application
REP4-018	Highways England Deadline 4 Submission - 5.3 HRA Statement to inform appropriate assessment Rev 1 - changes to application
REP4-019	Highways England Deadline 4 Submission - 5.4 Water Framework Directive Compliance Assessment Report Rev 1- changes to application
REP4-020	Highways England Deadline 4 Submission - 6.2 Environmental Statement - Non - Technical Summary Rev 1 - changes to application
REP4-021	Highways England Deadline 4 Submission - 6.3 Environmental Statement Chapters 1-4 Rev 1 - changes to application
REP4-022	Highways England Deadline 4 Submission - 6.3 - Environmental Statement Chapter 6 - Noise and Vibration Rev 1 - changes to application
REP4-023	Highways England Deadline 4 Submission - 6.3 Environmental Statement Chapter 7 - Biodiversity Rev 1 - changes to application

REP4-024	Highways England Deadline 4 Submission - 6.3 Environmental Statement Chapter 8 - Road Drainage and Water Environment Rev 1 - changes to application
REP4-025	Highways England Deadline 4 Submission - 6.3 Environmental Statement Chapter 9 - Landscape Rev 1 - changes to application
REP4-026	Highways England Deadline 4 Submission - 6.3 Environmental Statement Chapter 10 - Geology and Soils Rev 1 - changes to application
REP4-027	Highways England Deadline 4 Submission - 6.3 Environmental Statement Chapter 12 - Materials and Waste Rev 1 - changes to application
REP4-028	Highways England Deadline 4 Submission - 6.3 Environmental Statement Chapter 13 - People and Communities Rev 1 - changes to application
REP4-029	Highways England Deadline 4 Submission - 6.3 Environmental Statement Chapter 17 - Summary Rev 1 - changes to application
REP4-030	Highways England Deadline 4 Submission - 6.3 Environmental Statement Appendix 7.6 - Aquatic Ecology Rev 1 - changes to application
REP4-031	Highways England Deadline 4 Submission - 6.3 Environmental Statement Appendix 7.19 SPA Management and monitoring plan Rev 2 - changes to application
REP4-032	Highways England Deadline 4 Submission - 6.3 Environmental Statement Appendix 7.20 - Landscape and ecology management and monitoring plan - changes to application
REP4-033	Highways England Deadline 4 Submission - 7.2 Outline Construction Environmental Management Plan Rev 2 - changes to application
REP4-034	Highways England Deadline 4 Submission - 7.3 Register of environmental actions and commitments Rev 2 - changes to application
REP4-035	Highways England Deadline 4 Submission - 10.1 Report on proposed scheme changes
REP4-036	Highways England Deadline 4 Submission - 10.2 Change Request Drawings - changes to application
REP4-037	Highways England Deadline 4 Submission - 10.3 Addendum to the Statement of Reasons - changes to application
REP4-038	Highways England Deadline 4 Submission - 10.4 Addendum to the Funding Statement - changes to application
REP4-039	Highways England Deadline 4 Submission - 10.5 Addendum to the Book of Reference - Changes to application
REP4-040	Highways England Deadline 4 Submission - 10.6 Consultation Report Addendum - Changes to application

REP4-041	Highways England Deadline 4 Submission - 10.7 Transport Assessment Addendum - Changes to application
REP4-042	Highways England Deadline 4 Submission - 10.8 Schedule of Change to the Book of Reference - Changes to application
REP4-043	Highways England Deadline 4 Submission - 10.9 HRA Figures request for Change - Changes to application
REP4-044	Highways England Deadline 4 Submission - 10.10 Landscape Figures request for Change - Changes to application
REP4-045	Highways England Deadline 4 Submission - 10.11 Schedule of Proposed Amendments to draft DCO - Changes to application
REP4-046	Elmbridge Borough Council Deadline 4 Submission - Notification of wish to speak at Issue Specific Hearing
REP4-047	Environment Agency Deadline 4 Submission - Written Representation - Summary of outstanding issues
REP4-048	Surrey County Council Deadline 4 Submission - Responses to Highway England's comments on the Joint Council's Local Impact Report
REP4-049	Royal Horticultural Society Deadline 4 Submission - Comments on any further information requested by the ExA for Deadline 3
REP4-050	Royal Horticultural Society Deadline 4 Submission - Appendix 1 Draft Highways section of Statement of Common Ground sent to HE
REP4-051	Royal Horticultural Society Deadline 4 Submission - Appendix 2 Draft AQ and Biodiversity section of Statement of Common Ground sent to HE
Deadline 4a – 18 February 2020 Documents and information requested by the ExA from the Applicant in them Procedural Decision dated 14 February 2020 following the Applicant's submission of proposed changes at D4.	
REP4a-001	Highways England Deadline 4a Submission - Cover Letter
REP4a-002	Highways England Deadline 4a Submission - 6.2 Environmental Statement Non - Technical Summary Rev 2
REP4a-003	Highways England Deadline 4a Submission - 7.2 Outline Construction Environmental Management Plan Rev 3
REP4a-004	Highways England Deadline 4a Submission - 10.1 Report on Proposed Scheme Changes Rev 1
REP4a-005	Highways England Deadline 4a Submission - 10.2 Change Request Drawings Rev 1

REP4a-006	Highways England Deadline 4a Submission - 10.3 Addendum to the Statement of Reasons Rev 1
REP4a-007	Highways England Deadline 4a Submission - 10.4 Addendum to the Funding Statement Rev 1
REP4a-008	Highways England Deadline 4a Submission - 10.5 Addendum to the Book of Reference Rev 1
REP4a-009	Highways England Deadline 4a Submission - 10.8 Schedule of Change to the Book of Reference Rev 1
REP4a-010	Highways England Deadline 4a Submission - 10.11 Schedule of Proposed Amendments to draft DCO Rev 1
Deadline 5 – 03 March 2020 • Responses to ExQ2 (if issued) • Comment's on applicant's revised dDCO (if relevant) • Submission of updated SoCGs (if required) • Any further information requested by the ExA • Comments on any further information requested by the ExA received by D4	
REP5-001	Highways England Deadline 5 Submission - Cover letter
REP5-002	Highways England Deadline 5 Submission - 3.1 (2) - Revised draft Development Consent Order (Clean Version)
REP5-003	Highways England Deadline 5 Submission - 8.2 (2) - Statement of Common Ground with Natural England
REP5-004	Highways England Deadline 5 Submission - 8.3 (2) - Statement of Common Ground with Environment Agency
REP5-005	Highways England Deadline 5 Submission - 8.4 (2) - Statement of Common Ground with Historic England
REP5-006	Highways England Deadline 5 Submission - 9.28 (1) - Revised draft Development Consent Order (Tracked Version)
REP5-007	Highways England Deadline 5 Submission - 9.35 (1) - Statement of Common Ground with Elmbridge Borough Council
REP5-008	Highways England Deadline 5 Submission - 9.36 (1) - Statement of Common Ground with Guildford Borough Council
REP5-009	Highways England Deadline 5 Submission - 9.37 (1) - Statement of Common Ground with Surrey County Council
REP5-010	Highways England Deadline 5 Submission - 9.38 (1) - Statement of Common Ground with Royal Horticultural Society
REP5-011	Highways England Deadline 5 Submission - 9.40 (1) - Statement of Commonality

REP5-012	Highways England Deadline 5 Submission - 9.5 (4) - Schedule of Errata
REP5-013	Highways England Deadline 5 Submission - 9.6 (5) - Guide to the Application
REP5-014	Highways England Deadline 5 Submission - 9.58 - Applicant's Response to Examining Authority's Second Written Questions
REP5-015	Highways England Deadline 5 Submission - 9.59 - Response to Royal Horticultural Society's Deadline 4 submission
REP5-016	Highways England Deadline 5 Submission - 9.60 - Response to Surrey County Council's Deadline 4 submission
REP5-017	Highways England Deadline 5 Submission - 9.61 - Existing and Proposed Access Points for the SPA (Response ExQ 2.4.12)
REP5-018	Highways England Deadline 5 Submission - 9.62 - Targeted Consultation Brochure (ExQ2.8.2)
REP5-019	Highways England Deadline 5 Submission - 9.63 - Design Manual for Roads and Bridges (DMRB) Volume 11 Section 3 Part 5 Landscape Effects (Response to ExQ 2.8.4)
REP5-020	Highways England Deadline 5 Submission - 9.64 - Update on Discussions around the Girlguiding Greater London West Alternative Access (Response to ExA Question 2.12.8)
REP5-021	Highways England Deadline 5 Submission - 9.66 - Royal Horticultural Society Tree Protection Plan (Response to ExQ2.8.1)
REP5-022	Highways England Deadline 5 Submission - 9.67 - Design Manual for Roads and Bridges (DMRB) Guidance extracts CD122, CD123 and CD127 (Response to ExQ 2.2.1 and 2.13.13)
REP5-023	Highways England Deadline 5 Submission - 9.68 - Structures with potential to impound water (Response to ExQ 2.6.1)
REP5-024	Highways England Deadline 5 Submission - 9.69 - Revised Nitrogen deposition rates within the Thames Basin Heath SPA
REP5-025	Highways England Deadline 5 Submission - 9.70 - Errata Update for Plans at Deadline 4a
REP5-026	Highways England Deadline 5 Submission - 9.71 - Summary of amendments to draft development consent order (dDCO) as revised for Deadline 5
REP5-027	Highways England Deadline 5 Submission - 9.72 - Supporting data in response to Examining Authority's Second Written Questions on Traffic, Transport & Road Safety
REP5-028	Surrey County Council Deadline 5 Submission - Cover letter in response to Examining Authority's Second Written Questions

REP5-029	Surrey County Council Deadline 5 Submission - Annex A - Response to ExA's Written Questions (EXQ2)
REP5-030	Surrey County Council Deadline 5 Submission - Annex B - Collisions resulting in injury recorded by the police Ripley 2015-2019
REP5-031	Surrey County Council Deadline 5 Submission - Annex C - Response to additional Consultation Feb 2020
REP5-032	Natural England Deadline 5 Submission - Response to Examining Authority's Second Written Question
REP5-033	Natural England Deadline 5 Submission - Special Protection Area SPA2 Citation
REP5-034	Natural England Deadline 5 Submission - European Site Conservation Objectives: Supplementary Advice on Conserving and Restoring Site Features
REP5-035	Natural England Deadline 5 Submission - European Site Conservation Objectives for Thames Basin Heaths Special Protection Area
REP5-036	Environment Agency Deadline 5 Submission - Written Representations, Responses to Examining Authority's second written questions (ExQ2) and Flood Zone 2 Technical Note
REP5-037	Elmbridge Borough Council Deadline 5 Submission - Response to Examining Authority's Second Written Questions
REP5-038	Guildford Borough Council Deadline 5 Submission - Response to Examining Authority's Second Written Questions
REP5-039	Historic England Deadline 5 Submission - Response to Examining Authority's Second Written Questions
REP5-040	Ockham Parish Council Deadline 5 Submission - Flood Risk (Regarding localised flooding following Storms Ciara and Dennis)
REP5-041	Ockham Parish Council Deadline 5 Submission - Response to Examining Authority's Second Written Questions
REP5-042	Painshill Park Trust Deadline 5 Submission - Response to Examining Authority's Second Written Questions
REP5-043	Royal Society for the Protection of Birds (RSPB) Deadline 5 Submission - Response to Examining Authority's Second Written Questions
REP5-044	Surrey Wildlife Trust Deadline 5 Submission - Response to Examining Authority's Second Written Questions
REP5-045	Royal Horticultural Society Deadline 5 Submission - Comments on any further Information requested by Examining Authority received by Deadline 4

REP5-046	Royal Horticultural Society Deadline 5 Submission - Appendix A - Distance Table Route Comparison
REP5-047	Royal Horticultural Society Deadline 5 Submission - Appendix B - Copy of RHS AADT Flows from REP2-011 with analysis
REP5-048	Royal Horticultural Society Deadline 5 Submission - Appendix C - Accident Data Summary (using data supplied by HE on 190220)
REP5-049	Royal Horticultural Society Deadline 5 Submission - Appendix D Ammonia from Roads for Habitats Assessments
REP5-050	Royal Horticultural Society Deadline 5 Submission - Draft Statement of Common Ground with Royal Horticultural Society - Highways and Traffic
REP5-051	Royal Horticultural Society Deadline 5 Submission - Drawing M16114 A-074
REP5-052	Royal Horticultural Society Deadline 5 Submission - Response to Highway England's Deadline 4 responses
REP5-053	Royal Horticultural Society Deadline 5 Submission - Response to REP4-005
REP5-054	Royal Horticultural Society Deadline 5 Submission - Response to Examining Authority's Second Written Questions
REP5-055	Royal Horticultural Society Deadline 5 Submission - Draft Statement of Common Ground with Royal Horticultural Society – Air Quality and Biodiversity
REP5-056	Document Girlguiding Greater London West Deadline 5 Submission - Response to Examining Authority's Second Written Questions
REP5-057	Wisley Property Investments Limited Deadline 5 Submission - Response to Examining Authority's Second Written Questions
REP5-058	Elm Corner Residents Group Deadline 5 Submission - Response to Examining Authority's Second Written Questions
REP5-059	Bruton Knowles on behalf of Mrs Agnes Patricia Engelen Deadline 5 Submission - Response to Examining Authority's Second Written Questions
Deadline 5a – 13 March 2020	
• Updated Schedule of Changes to the Book of Reference and Negotiations Tracker from the Applicant	
REP5a-001	Highways England Deadline 5a Submission - Cover Letter
REP5a-002	Highways England Deadline 5a Submission - 2.2 Land Plans (Revision 2)
REP5a-003	Highways England Deadline 5a Submission - 2.5 Special Category Land Plans (Revision 1)

REP5a-004	Highways England Deadline 5a Submission - 2.6 Crown Land Plans (Revision 1)
REP5a-005	Highways England Deadline 5a Submission - 4.3 Book of Reference (Revision 1)
REP5a-006	Highways England Deadline 5a Submission - 9.3 Orange Land Plans (Revision 1)
REP5a-007	Highways England Deadline 5a Submission - 9.6 Guide to the Application (Revision 6)
REP5a-008	Highways England Deadline 5a Submission - 9.17 Negotiations Tracker (Revision 1)
REP5a-009	Highways England Deadline 5a Submission - 9.25 Statutory Undertaker Representations with regard to S127 (reference 1.16.5 ExQ1) (Revision 2)
REP5a-010	Highways England Deadline 5a Submission - 9.26 Statutory Undertaker Representations with regard to S138 (reference 1.16.6 ExQ1) (Revision 3)
REP5a-011	Highways England Deadline 5a Submission - 9.73 Schedule of Change to the Book of Reference (Deadline 5a)
REP5a-012	Highways England Deadline 5a Submission - 9.74 Note on Implications of Potential Reduction in Replacement Land
REP5a-013	Keystone Law on behalf of Park Barn Farm Deadline 5a Submission - Submission Intended for Deadline 5
Deadline 6 – 03 April 2020 • Post hearing submissions including written submissions of oral case • Comments on updated SoCG • Applicant's revised dDCO (if required) • Any further information requested by the ExA • Comments on any further information requested by the ExA received by D5 and D5a	
REP6-001	Highways England Deadline 6 Submission - Cover Letter
REP6-002	Highways England Deadline 6 Submission - Proposed amendments (Change 7 to 9)
REP6-003	Highways England Deadline 6 Submission - 3.1 Revised draft Development Consent Order (Clean) (Revision 3)
REP6-004	Highways England Deadline 6 Submission - 3.2 Explanatory Memorandum (Clean) (Revision 1)
REP6-005	Highways England Deadline 6 Submission - 9.6 Guide to the Application (Revision 7)
REP6-006	Highways England Deadline 6 Submission - 9.25 Statutory Undertaker Representations with regard to S127 (reference 1.16.5 ExQ1) (Revision 3)
REP6-007	Highways England Deadline 6 Submission - 9.26 Statutory Undertaker Representations with regard to S138 (reference 1.16.6 ExQ1) (Revision 4)

REP6-008	Highways England Deadline 6 Submission - 9.28 Revised draft Development Consent Order (Tracked) (Revision 2)
REP6-009	Highways England Deadline 6 Submission - 9.39 Statement of Common Ground with Wisley Property Investments Limited (Revision 1)
REP6-010	Highways England Deadline 6 Submission - 9.75 Comments on Royal Horticultural Society's Deadline 5 Submission
REP6-011	Highways England Deadline 6 Submission - 9.76 Response to Ockham Parish Council's Comments on Climate Change at Deadline 5
REP6-012	Highways England Deadline 6 Submission - 9.77 Response to the Environment Agency's Deadline 5 Submission
REP6-013	Highways England Deadline 6 Submission - 9.78 Comments on Interested Party Responses to ExQ2
REP6-014	Highways England Deadline 6 Submission - 9.79 Comments on Ronald Alderson's Deadline 5 Submission
REP6-015	Highways England Deadline 6 Submission - 9.80 Summary of amendments to the draft Development Consent Order at Deadline 6
REP6-016	Highways England Deadline 6 Submission - 9.81 Explanatory Memorandum (Tracked)
REP6-017	Elmbridge Borough Council Deadline 6 Submission - Comments on any further information requested by the ExA received by D5 and D5a
REP6-018	Ockham Parish Council Deadline 6 Submission
REP6-019	Surrey County Council Deadline 6 Submission - Comments on any further information requested by the ExA received by D5 and D5a
REP6-020	Elm Corner Residents Group Deadline 6 Submission - Comments on any further information requested by the ExA received by D5 and D5a
REP6-021	Environment Agency Deadline 6 Submission
REP6-022	Girlguiding Greater London West Deadline 6 Submission - Comments on any further information requested by the ExA received by D5 and D5a
REP6-023	Painshill Park Trust Ltd Deadline 6 Submission - Written summaries of intended oral statements
REP6-024	Royal Horticultural Society Deadline 6 Submission - Comments on any further information requested by the ExA received by D5 and D5a
REP6-025	Mr Ronald Alderson, Park Barn Farm Deadline 6 Submission - Comments on any further information requested by the ExA received by D5 and D5a

REP6-026	Regena Coult Deadline 6 Submission - Written summaries of intended oral statements
Deadline 7 – 20 April 2020 • Deadline for receipt by the ExA of: • Comments on updated schedule of Changes to BoR and Negotiations Tracker • Documentation demonstrating that the transfer and registration of Special Category Land between the Applicant and Surrey County Council, arising from the exercise of the compulsory purchase powers associated with the original construction of the M25, have been completed • Certified copies of any agreement(s) under: Section 106 of the Town and Country Planning Act 1990 or any other legislation; or of a commercial nature that the Applicant intends to enter into with any other party or parties • Comments on the ExA's draft DCO schedule of changes (if required) • Any further information requested by the ExA • Comments on any further information requested by the ExA received by D6	
REP7-001	Highways England Deadline 7 Submission - Cover Letter
REP7-002	Highways England Deadline 7 Submission - Further information relating to land interests affected by change request 1
REP7-003	Highways England Deadline 7 Submission - 9.6 (8) Guide to the Application
REP7-004	Highways England Deadline 7 Submission - 9.82 Applicants Response to Examining Authority Third Written Questions
REP7-005	Highways England Deadline 7 Submission - 9.83 Applicants Comments on Park Barn Farms Deadline 6 submission
REP7-006	Highways England Deadline 7 Submission - 9.84 Applicants Comments on Regina Coult's Deadline 6 submission
REP7-007	Highways England Deadline 7 Submission - 9.85 Applicants Comments on Ockham Parish Councils Deadline 6 submission
REP7-008	Highways England Deadline 7 Submission - 9.86 Applicants Comments on Royal Horticultural Society's Deadline 6
REP7-009	Highways England Deadline 7 Submission - 9.87 Applicant's Comments on Painshill Park Trusts Deadline 6 submission
REP7-010	Highways England Deadline 7 Submission - 9.88 Applicants Comments on Elm Corner Resident Group Deadline 6 submission
REP7-011	Highways England Deadline 7 Submission - 9.89 Response to Examining Authority's Third Written Question 2.9.1
REP7-012	Highways England Deadline 7 Submission - 9.90 Applicants comments on Examining Authority's schedules of changes to the draft DCO
REP7-013	Highways England Deadline 7 Submission - Cover Letter Request for Changes 7-9

REP7-014	Highways England Deadline 7 Submission - Volume 7.2 (4) - Outline Construction Environment Management Plan (Changes 7-9)
REP7-015	Highways England Deadline 7 Submission - Volume 7.3 (3) - Register of Environmental Actions and Commitments (Changes 7-9)
REP7-016	Highways England Deadline 7 Submission - Volume 10.12 - Report on Proposed Scheme Changes 7-9
REP7-017	Highways England Deadline 7 Submission - Volume 10.13 - DCO Change Request Drawings - Changes 7-9
REP7-018	Highways England Deadline 7 Submission - Volume 10.14 - Book of Reference Addendum (Changes 7-9)
REP7-019	Highways England Deadline 7 Submission - Volume 10.15 - Schedule of Change to Book of Reference (Changes 7-9)
REP7-020	Elmbridge Borough Council Deadline 7 Submission - Response to Examining Authority's Third Written Questions
REP7-021	Guildford Borough Council Deadline 7 Submission
REP7-022	Guildford Borough Council Deadline 7 Submission - Response to Examining Authority's Third Written Questions
REP7-023	Ockham Parish Council Deadline 7 Submission - Response to Examining Authority's Third Written Questions and requests for Information
REP7-024	Surrey County Council Deadline 7 Submission - Comments on the Examining Authority's draft DCO schedule of changes
REP7-025	Surrey County Council Deadline 7 Submission - Response to Examining Authority's Third Written Questions (Annex A)
REP7-026	Natural England Deadline 7 Submission - Response to Examining Authority's Third Written Questions and requests for Information
REP7-027	Historic England Deadline 7 Submission - Response to Examining Authority's Third Written Questions
REP7-028	The Royal Society for the Protection of Birds Deadline 7 Submission
REP7-029	Painshill Park Trust Deadline 7 Submission
REP7-030	Wisley Property Investment Limited Deadline 7 Submission - Summary of Evidence for in absence of Compulsory Acquisition Hearing 1 and Response to Examining Authority's Third Written Questions
REP7-031	Elm Corner Residents Group Deadline 7 Submission - Response to Examining Authority's Third Written Questions and request for information

REP7-032	Girlguiding Greater London West Deadline 7 Submission - Comments on additional information/ Submissions received by Deadline 6
REP7-033	Keystone Law on behalf of Ronald Anderson Deadline 7 Submission - Response to Examining Authority's Third Written Questions
REP7-034	Keystone Law on behalf of Ronald Anderson Deadline 7 Submission - Response to Highways England's submissions at deadline 6 (REP6-014)
REP7-035	Regena Coult Deadline 7 Submission - Consultation response regarding proposed changes
REP7-036	Regena Coult Deadline 7 Submission - Response to request for further information
REP7-037	Whiteandsons on behalf of Mr & Mrs P Young, Mrs A Barklam, Ms B Kendrick Deadline 7 Submission - Response to Examining Authority's Third Written Questions – Redaction amended on 11/05/2020
REP7-038	Royal Horticultural Society Deadline 7 Submission - Response to request for further information
REP7-039	Royal Horticultural Society Deadline 7 Submission - Response to Examining Authority's Third Written Questions
REP7-040	Royal Horticultural Society Deadline 7 Submission - Appendix 1 - Response to Highways England's Deadline 6 Submissions and Figure 1
REP7-041	Royal Horticultural Society Deadline 7 Submission - Appendix 2 - Email from Royal Horticultural Society to Natural England
REP7-042	Royal Horticultural Society Deadline 7 Submission - Appendix 3 - Letter from Barrell Tree Consultancy to Royal Horticultural Society
REP7-043	Royal Horticultural Society Deadline 7 Submission - Appendix 4 - Alignment Options Assessment
REP7-044	British Horse Society Deadline 7 Submission - Representation and objections in relation to the rights of way and common land provisions of the application accepted at the discretion of the Examining Authority
REP7-045	British Horse Society Deadline 7 Submission - GG 142 Walking, cycling and horse-riding assessment and review accepted at the discretion of the Examining Authority
REP7-046	British Horse Society Deadline 7 Submission - Comments on GG:142 Walking, cycling and horse-riding assessment and review accepted at the discretion of the Examining Authority
REP7-047	British Horse Society Deadline 7 Submission - Accessibility Strategy – Our approach accepted at the discretion of the Examining Authority

REP7-048	British Horse Society Deadline 7 Submission - Equestrian Objections to J10 development accepted at the discretion of the Examining Authority
REP7-049	British Horse Society Deadline 7 Submission - Response to Highways England concerning proposed scheme accepted at the discretion of Examining Authority
Deadline 8 – 01 May 2020	
• Final draft DCO to be submitted by the Applicant in the SI template with the SI template validation report • Applicant's final updated Guide to the Application • Responses to request(s) under Rule 17 (if relevant) • Responses to comments on the ExA's draft DCO schedule of changes (if required) • Final signed SoCGs • Final Statement of Commonality of SoCGs • Final updated version of the Book of Reference • Any comments on RIES • Any further information requested by the ExA • Comments on any further information requested by the ExA received by D7	
REP8-001	Highways England Deadline 8 Submission - Cover Letter
REP8-002	Highways England Deadline 8 Submission - 2.1 Location Plan - Rev 1
REP8-003	Highways England Deadline 8 Submission - 2.2 Land Plans - Rev 3
REP8-004	Highways England Deadline 8 Submission - 2.3 Works Plans - Rev 2
REP8-005	Highways England Deadline 8 Submission - 2.4 Streets, rights of way and access plans - Rev 1
REP8-006	Highways England Deadline 8 Submission - 2.5 Special Category Land Plans - Rev 2
REP8-007	Highways England Deadline 8 Submission - 2.6 Crown Land Plans - Rev 2
REP8-008	Highways England Deadline 8 Submission - 2.7 Speed Limits and Traffic Regulations Plans - Rev 1
REP8-009	Highways England Deadline 8 Submission - 2.8 Scheme Layout Plans (Sheets 1-10 of 31) - Rev 1
REP8-010	Highways England Deadline 8 Submission - 2.8 Scheme Layout Plans (Sheets 11-31 of 31) - Rev 2
REP8-011	Highways England Deadline 8 Submission - 2.9 Engineering Drawings and Sections - Rev 1
REP8-012	Highways England Deadline 8 Submission - 2.10 Temporary Works Plans - Rev 1
REP8-013	Highways England Deadline 8 Submission - 3.1 Draft Development Consent Order - Rev 4

REP8-014	Highways England Deadline 8 Submission - 3.2 Explanatory Memorandum - Rev 2
REP8-015	Highways England Deadline 8 Submission - 4.1 Statement of Reasons Appendix C: Common Land and Open Space Report - Rev 2
REP8-016	Highways England Deadline 8 Submission - 4.3 Book of Reference - Rev 2
REP8-017	Highways England Deadline 8 Submission - 5.5 Flood Risk Assessment - Rev 1
REP8-018	Highways England Deadline 8 Submission - 7.2 Outline Construction Environmental Management Plan - Rev 5
REP8-019	Highways England Deadline 8 Submission - 7.2 Outline Construction Environmental Management Plan (tracked) - Rev 5
REP8-020	Highways England Deadline 8 Submission - 7.3 Register of Environmental Actions and Commitments - Rev 4
REP8-021	Highways England Deadline 8 Submission - 7.3 Register of environmental actions and commitments (Tracked) - Rev 4
REP8-022	Highways England Deadline 8 Submission - 8.2 Statement of Common Ground with Natural England - Rev 3
REP8-023	Highways England Deadline 8 Submission - 8.3 Statement of Common Ground with Environment Agency - Rev 3
REP8-024	Highways England Deadline 8 Submission - 8.4 Statement of Common Ground with Historic England - Rev 3
REP8-025	Highways England Deadline 8 Submission - 9.25 Schedule of Statutory Undertaker Representations with regard to S127 (reference 1.16.5 ExQ1) - Rev 4
REP8-026	Highways England Deadline 8 Submission - 9.26 Schedule of Statutory Undertaker Representations with regard to S138 (reference 1.16.6 ExQ1) - Rev 5
REP8-027	Highways England Deadline 8 Submission - 9.28 Revised draft Development Consent Order (Tracked Version) - Rev 3
REP8-028	Highways England Deadline 8 Submission - 9.35 Statement of Common Ground with Elmbridge Borough Council - Rev 2
REP8-029	Highways England Deadline 8 Submission - 9.36 Statement of Common Ground with Guildford Borough Council - Rev 2
REP8-030	Highways England Deadline 8 Submission - 9.37 Statement of Common Ground with Surrey County Council - Rev 2
REP8-031	Highways England Deadline 8 Submission - 9.38 Statement of Common Ground with The Royal Horticultural Society - Rev 1

REP8-032	Highways England Deadline 8 Submission - 9.39 Statement of Common Ground with Wisley Property Investments Limited - Rev 1
REP8-033	Highways England Deadline 8 Submission - 9.40 Statement of Commonality for Statements of Common Ground - Rev 2
REP8-034	Highways England Deadline 8 Submission - 9.5 DCO Application Errata Schedule - Rev 5
REP8-035	Highways England Deadline 8 Submission - 9.6 Guide to the Application - Rev 9
REP8-036	Highways England Deadline 8 Submission - 9.81 Explanatory Memorandum as updated for Deadline 8 (Tracked) - Rev 1
REP8-037	Highways England Deadline 8 Submission - 9.91 Summary of amendments to dDCO as revised for Deadline 8 - Rev 0
REP8-038	Highways England Deadline 8 Submission - 9.92 Applicant's comment to the Examining Authority's Report on the Implications for European Sites (RIES) Deadline 8 submission - Rev 0
REP8-039	Highways England Deadline 8 Submission - 9.93 Schedule of Change to the Book of Reference - Rev 0
REP8-040	Highways England Deadline 8 Submission - 9.94 South-facing Slip Traffic Modelling Report - Rev 0
REP8-041	Highways England Deadline 8 Submission - 9.95 Applicant's comments to British Horse Society's (BHS) Deadline 7 Submission - Rev 0
REP8-042	Highways England Deadline 8 Submission - 9.97 Applicant's comments to Wisley Property Investment Limited's (WPIL) Deadline 7 Submission - Rev 0
REP8-043	Highways England Deadline 8 Submission - 9.98 Applicant's Comments to Regena Coult's Deadline 7 Submission - Rev 0
REP8-044	Highways England Deadline 8 Submission - 9.99 Applicant's Response to Ronald Alderson's Deadline 7 Submissions - Rev 0
REP8-045	Highways England Deadline 8 Submission - 9.100 Applicant's Response to Royal Horticultural Society's Deadline 7 Submission - Rev 0
REP8-046	Highways England Deadline 8 Submission - 9.101 Applicant's Comments on The Royal Society for the Protection of Birds' (RSPB) Deadline 7 Submission - Rev 0
REP8-047	Highways England Deadline 8 Submission - 9.102 Applicant's Response to Interested Parties Comments on the Examining Authority's Third Written Questions - Rev 0

REP8-048	Highways England Deadline 8 Submission - 9.105 Development Consent Order Validation Report - Rev 0
REP8-049	Elmbridge Borough Council Deadline 8 Submission - Update on the Statement of Common Ground
REP8-050	Surrey County Council Deadline 8 Submission - Update on Statement of Common Ground and comments on Deadline 7 submissions
REP8-051	Environment Agency Deadline 8 Submission
REP8-052	Royal Horticultural Society Deadline 8 Submission - Overview and Comments on any further information requested by the ExA received by Deadline 7
REP8-053	Royal Horticultural Society Deadline 8 Submission - Royal Horticultural Society's Response to Highways England REP7-004
REP8-054	Royal Horticultural Society Deadline 8 Submission - Royal Horticultural Society's Response to Highways England REP7-008
REP8-055	Royal Horticultural Society Deadline 8 Submission - Response to the Planning Inspectorate's Report on the Implications for European Sites dated 9 April 2020 (RIES)
Deadline 9 – 14 May 2020 - Any comments on Proposed Changes 7 to 9 - Notification of a wish to speak at a CAH - Responses from Affected Persons (APs) with respect to their individual preference for the use of video conferencing or teleconferencing technologies during the course of a virtual Compulsory Acquisition Hearing (CAH) (not for publication). - Taking into account the limitations of virtual hearings and the Open Floor Hearing (OFH) that has already taken place in the examination, please submit comments on whether a further OFH, which would need to be a virtual hearing, is required or whether written submissions would suffice. - Any further information requested by the ExA under Rule 17	
REP9-001	Highways England Deadline 9 Submission - Cover Letter
REP9-002	Highways England Deadline 9 Submission - 9.6 Guide to the Application - Rev 10
REP9-003	Highways England Deadline 9 Submission - 9.107 Applicants' comments to Royal Horticultural Society's Deadline 8 Submissions - Rev 0
REP9-004	Elmbridge Borough Council Deadline 9 Submission - Comments on Proposed Changes 7 to 9, Compulsory Acquisition Hearing, Further Open Floor Hearings and updates previously requested by the Examining Authority
REP9-005	Bruton Knowles on behalf of Mrs Agnes Patricia Engelen Deadline 9 Submission - Comments on Proposed Changes 7 to 9
REP9-006	Gateley Hamer on behalf of WPIL (Taylor Wimpey) Deadline 9 Submission - Comments on Proposed Changes 7 to 9 and Notification of a wish to speak at a Compulsory Acquisition Hearing

REP9-007	Girlguiding Greater London West Deadline 9 Submission - Comments on Proposed Changes 7 to 9 , Notification of a wish to speak at a Compulsory Acquisition Hearing and Comments on further Open Floor Hearing
REP9-008	Keystone Law on behalf of Park Barn Farm Deadline 9 Submission - Letter to Highways England
REP9-009	Keystone Law on behalf of Park Barn Farm Deadline 9 Submission - Notification of a wish to speak at a Compulsory Acquisition Hearing
REP9-010	Painshill Park Trust Ltd Deadline 9 Submission - Comments on Proposed Changes 7 and Notification of a wish to speak at a Compulsory Acquisition Hearing
REP9-011	Royal Horticultural Society Deadline 9 Submission - Royal Horticultural Society Deadline 9 Overview
REP9-012	Royal Horticultural Society Deadline 9 Submission - Appendix 1 - Request for further information by the Royal Horticultural Society from Highways England in relation to REP8-040 (south facing slips modelling)
REP9-013	Royal Horticultural Society Deadline 9 Submission - Appendix 2 – AQ/BIOD comments on REP8-022
REP9-014	Royal Horticultural Society Deadline 9 Submission - Appendix 3 - Royal Horticultural Society AQ/BIOD comments on REP8-045
REP9-015	Surrey County Council Deadline 9 Submission - Notification of a wish to speak at a Compulsory Acquisition Hearing and comments on deadline 8 submissions
Deadline 10 – 03 June 2020 • Responses to further written questions published by the ExA on 21 May 2020 (if issued) • Comments on the ExA's second draft DCO schedule of changes (if issued) • For the Interested Parties (IPs) and any other Examination participants who had notified the Planning Inspectorate of their wish to heard at Open Floor Hearing 2 (OFH2) originally timetabled for 25 March 2020, the provision in writing of the oral cases that they would otherwise have been made at the postponed OFH2. • Any further information requested by the ExA under Rule 17 • Comments on any further information responses under Rule 17 received by the ExA at D9 (if required)	
REP10-001	Highways England Deadline 10 Submission - Cover Letter
REP10-002	Highways England Deadline 10 Submission - 9.6 Guide to the Application - Rev 11
REP10-003	Highways England Deadline 10 Submission - 9.108 - Applicant's comments to Deadline 9 Submissions - Rev 0
REP10-004	Highways England Deadline 10 Submission - 9.109 - Applicant's comments to Examining Authority's fourth written questions and requests for information - Rev 0

REP10-005	Highways England Deadline 10 Submission - 9.110 - Applicant's comments to Examining Authority's fourth written question 4.15.4 - Rev 0
REP10-006	Highways England Deadline 10 Submission - 9.111 - Applicant's comments to Examining Authority's fourth written question 4.5.2 - Rev 0
REP10-007	Highways England Deadline 10 Submission - 9.112 - Applicant's comments to Examining Authority's fourth written question 4.3.3 - Rev 0
REP10-008	Highways England Deadline 10 Submission - 9.113 - Applicant's comments to Examining Authority's fourth written question 4.1.3 - Rev 0
REP10-009	Highways England Deadline 10 Submission - 9.114 - Applicant's comments to Examining Authority's fourth written question 4.4.1 - Rev 0
REP10-010	Highways England Deadline 10 Submission - 9.115 - Compulsory Acquisition Schedule - Rev 0
REP10-011	Surrey County Council Deadline 10 Submission - Cover letter
REP10-012	Surrey County Council Deadline 10 Submission - Annex A - Examining Authority's fourth written questions and requests for information
REP10-013	Guildford Borough Council Deadline 10 Submission - Examining Authority's fourth written questions
REP10-014	Elmbridge Borough Council Deadline 10 Submission - Cover Letter
REP10-015	Elmbridge Borough Council Deadline 10 Submission - Annex A - Examining Authority's fourth written questions
REP10-016	Natural England Deadline 10 Submission - Examining Authority's fourth written questions and requests for information
REP10-017	Surrey Wildlife Trust Deadline 10 Submission - Responses to Draft Development Consent Order
REP10-018	Surrey Wildlife Trust Deadline 10 Submission - SPA Bird Recording Wisley & Ockham
REP10-019	Surrey Wildlife Trust Deadline 10 Submission - Wisley and Ockham Management Plan
REP10-020	The Royal Society for the Protection of Birds Deadline 10 Submission
REP10-021	Regena Coult Deadline 10 Submission - Representation in lieu of Open Floor Hearing 2
REP10-022	Royal Horticultural Society Deadline 10 Submission - Overview
REP10-023	Royal Horticultural Society Deadline 10 Submission - Appendix 1 - Highways England's email chain with Traffic, Transport & Highway Consultancy 28 May 2020 – 1 June 2020

REP10-024	Royal Horticultural Society Deadline 10 Submission - Appendix 2 - Response to socio-economic matters arising out of Highway England's D9 submissions [REP9-003]
REP10-025	Royal Horticultural Society Deadline 10 Submission - Appendix 3 - Response to Examining Authority's Fourth written questions and requests for information
REP10-026	Royal Horticultural Society Deadline 10 Submission - Appendix A to Appendix 3 - Extracts from Habitat Regulation Assessments for Epping Forest DC and Havant BC [ExQ4.4.9]
REP10-027	Royal Horticultural Society Deadline 10 Submission - Response to Written Question Q4.4.7 - APIS Ammonia
REP10-028	Royal Horticultural Society Deadline 10 Submission - Response to Written Question Q4.4.7 - APIS Starter's Guide
REP10-029	Royal Horticultural Society Deadline 10 Submission - Response to Written Question Q4.4.7 - Natural England's guidance on assessment of road traffic emissions under the Habitats Regulation June 2018
REP10-030	Royal Horticultural Society Deadline 10 Submission - Response to Written Question Q4.4.7 - Institute of Air Quality Management guidance - Air Quality impacts on nature conservation sites 2020
REP10-031	Royal Horticultural Society Deadline 10 Submission - Response to Written Question Q4.4.18 - Alexander and Cresswell 1990
REP10-032	Royal Horticultural Society Deadline 10 Submission - Appendix B to Appendix 3 - Table of average speeds and journey times [ExQ4.13.1]
REP10-033	Royal Horticultural Society Deadline 10 Submission - Appendix 4 - Responses to Highways England's response [Section 3 and Appendix 3 of REP8-045] to Royal Horticultural Society's submission [REP7-042]
REP10-034	Royal Horticultural Society Deadline 10 Submission - Appendix 5 - Report prepared by Barrell Tree Consultancy Tree value and root investigations for trees adjacent to the A3 - 2 June 2020
REP10-035	Keystone Law on behalf of Ronald Anderson Deadline 10 Submission - Request to attend Compulsory Acquisition Hearing
REP10-036	Keystone Law on behalf of Ronald Anderson Deadline 10 Submission - Document list for Compulsory Acquisition Hearing on 16 -18 June 2020
REP10-037	Environment Agency Deadline 10 Submission - Response to Written Question 4.15.1
Deadline 11 – 03 July 2020	
• Written summaries of oral contributions at the CAH • Post-Hearing submissions requested by the ExA (if required) • Applicant's updated Book of Reference and Statement of Reasons, and the documents certified under Schedule 10 of the draft DCO (if required)	

- Responses to comments on the ExA's second draft DCO schedule of changes (if required).
- Any further information requested by the ExA under Rule 17
- Comments on any further information responses under Rule 17 received by the ExA at D10 (if required)

REP11-001	Highways England Deadline 11 Submission - Cover Letter
REP11-002	Highways England Deadline 11 Submission - 2.6 Crown land plans - Rev 3
REP11-003	Highways England Deadline 11 Submission - 2.8 Scheme layout plans - Rev 3
REP11-004	Highways England Deadline 11 Submission - 4.1 Statement of Reasons - Rev 1
REP11-005	Highways England Deadline 11 Submission - 4.3 Book of Reference - Rev 3
REP11-006	Highways England Deadline 11 Submission - 9.116 Written submission of Applicant's case put orally at the Compulsory Acquisition Hearings held on 16, 17 and 18 June - Rev 0
REP11-007	Highways England Deadline 11 Submission - 9.117 Applicant's comments to Deadline 10 Submissions - Rev 0
REP11-008	Highways England Deadline 11 Submission - 9.118 Applicant's note for Action Point 4 (Session 1 Non-site specific CA and TP matters) - Rev 0
REP11-009	Highways England Deadline 11 Submission - 9.119 Applicant's note for Action Point 5 (Session 1 Non-site specific CA and TP matters) - Rev 0
REP11-010	Highways England Deadline 11 Submission - 9.120 Applicant's note for Action Point 2 (Session 2 Part 1 Heyswood Camp Site) - Rev 0
REP11-011	Highways England Deadline 11 Submission - 9.121 Applicant's note for Action points 1, 2, 4 and 5 (CAH Session 2 Part 3 Special Category Land and Replacement Land) - Rev 0
REP11-012	Highways England Deadline 11 Submission - 9.122 Applicant's note for Action Point 9 (Session 2 Part 3 Special Category Land and Replacement Land) - Rev 0
REP11-013	Highways England Deadline 11 Submission - 9.123 Applicant's note for Action point 2 (Session 2 Part 5 RHS Wisley) - Rev 0
REP11-014	Highways England Deadline 11 Submission - 9.125 Applicant's submission British Standards BS5837:2012 (document accompanying Volume 9.117) - Rev 0
REP11-015	Highways England Deadline 11 Submission - 9.126 Applicant's submission IAQM guidance (document accompanying Volume 9.117) - Rev 0
REP11-016	Highways England Deadline 11 Submission - 9.127 Applicant's Submission of Extracts Modern Arboriculture, Up by Roots & Applied Tree Biology,

	(document accompanying volume TR010030/9.117) - Rev 0
REP11-017	Highways England Deadline 11 Submission - 9.128 Applicant's Submission of Surrey County Council's Protective Provisions - Rev 0
REP11-018	Highways England Deadline 11 Submission - 9.130 Schedule of Change to the Book of Reference (Deadline 11) - Rev 0
REP11-019	Highways England Deadline 11 Submission - 9.25 Schedule of Statutory Undertaker Representations with regard to S127 (reference 1.16.5 ExQ1) - Rev 5
REP11-020	Highways England Deadline 11 Submission - 9.26 Schedule of Statutory Undertaker Representations with regard to S138 (reference 1.16.6 ExQ1) - Rev 6
REP11-021	Highways England Deadline 11 submission - 9.6 Guide to the Application - Rev 12
REP11-022	Elmbridge Borough Council Deadline 11 Submission - Update regarding recovery of cost or fees
REP11-023	Natural England Deadline 11 Submission - Any further information requested by the ExA under Rule 17
REP11-024	Surrey County Council Deadline 11 Submission - Post Hearing submissions requested by the ExA and Written summaries of oral contributions at the CAH
REP11-025	Gateley Hamer on behalf of WPIL (Taylor Wimpey) Deadline 11 Submission - Written summaries of oral contributions at the CAH
REP11-026	Girlguiding Greater London West Deadline 11 Submission - A copy of the official copy of register of title: SY807040
REP11-027	Girlguiding Greater London West Deadline 11 Submission - Correspondence re ownership of Heyswood Camp including copy of the 1938 Trust Deed
REP11-028	Girlguiding Greater London West Deadline 11 Submission - Written summaries of oral contributions at the CAH and Post Hearing submission requested by the ExA
REP11-029	Savills on behalf of Feltonfleet School Deadline 11 Submission - Post Hearing Submission
REP11-030	Savills on behalf of Long Orchard Deadline 11 Submission - Post Hearing Submission
REP11-031	Keystone Law on behalf of Park Barn Farm Deadline 11 Submission - Written summaries of oral contributions at the CAH
REP11-032	Painshill Park Trust Ltd 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
REP11-033	Royal Horticultural Society Deadline 11 Submission - Overview
REP11-034	Royal Horticultural Society Deadline 11 Submission - Response to REP10-004 (Journey Times)

REP11-035	Royal Horticultural Society Deadline 11 Submission - Response to REP8-040 and REP10-003 (South Facing Slips)
REP11-036	Royal Horticultural Society Deadline 11 Submission - Table showing comparisons of REP10-032 with REP10-004
REP11-037	Royal Horticultural Society Deadline 11 Submission - RHS Response to REP10-003
REP11-038	Royal Horticultural Society Deadline 11 Submission - RHS Response to HE-NE-SWT responses to ExQ4
REP11-039	Royal Horticultural Society Deadline 11 Submission - Appendix 1 – DMRB guidance LA115 (Habitat Regulations Assessment) dated January 2020 (referenced at 4.3.2)
REP11-040	Royal Horticultural Society Deadline 11 Submission - Appendix 2 – Table A – In combination Impacts - HE REP10-007 corrected by RHS (referenced at 4.3.3)
REP11-041	Royal Horticultural Society Deadline 11 Submission - Appendix 3 – AQC note (references at 4.3.3)
REP11-042	Royal Horticultural Society Deadline 11 Submission - Appendix 4 – Baker Consultants Ltd's Figure 1 (referenced at 4.4.3, 4.4.5)
REP11-043	Royal Horticultural Society Deadline 11 Submission - Appendix 5 – Baker Consultants Ltd's Figure 2 (referenced at 4.4.2, 4.4.3, 4.4.5)
REP11-044	Royal Horticultural Society Deadline 11 Submission - Appendix 6 – Baker Consultants Ltd's Figure 3 (referenced at 4.4.3, 4.4.5)
REP11-045	Royal Horticultural Society Deadline 11 Submission - Appendix 7 – Baker Consultants Ltd's Figure 4 (referenced at 4.4.3, 4.4.5)
REP11-046	Royal Horticultural Society Deadline 11 Submission - Appendix 8 – Baker Consultants Ltd's Table 1 (referenced at 4.4.3, 4.4.5)
REP11-047	Royal Horticultural Society Deadline 11 Submission - Heritage Report of Chris Miele of Montagu Evans
REP11-048	Royal Horticultural Society Deadline 11 Submission - CAH Opening Submissions
REP11-049	Royal Horticultural Society Deadline 11 Submission - CAH Plan M20022-A-003B
REP11-050	Royal Horticultural Society Deadline 11 Submission - CAH Closing Submissions
REP11-051	Royal Horticultural Society Deadline 11 Submission - Further report of Jeremy Barrell concerning trees
REP11-052	Royal Horticultural Society Deadline 11 Submission - Plan referred to in further tree assessment
Deadline 12 – 10 July 2020	
• Final draft DCO to be submitted by the Applicant in the SI template with the SI template	

validation report (if required) • Applicant's final updated Guide to the Application (if required) • Final signed SoCGs (if required) • Final Statement of Commonality of SoCGs (if required) • Final updated version of the Book of Reference (if required) • Any further information requested by the ExA under Rule 17 • Comments on submissions made at D11 • Comments on any further information responses under Rule 17 received by the ExA at D11 (if required)	
REP12-001	Highways England Deadline 12 Submission - Cover Letter
REP12-002	Highways England Deadline 12 Submission - 3.1 Draft Development Consent Order (Clean) (Revision 5)
REP12-003	Highways England Deadline 12 Submission - 3.2 Explanatory Memorandum (Revision 3)
REP12-004	Highways England Deadline 12 Submission - 4.1 Statement of Reasons - Appendix C: Common Land and Open Space Report (Revision 3)
REP12-005	Highways England Deadline 12 Submission - 9.25 Schedule of Statutory Undertaker Representations with regard to S127 (reference 1.16.5 ExQ1) (Revision 6)
REP12-006	Highways England Deadline 12 Submission - 9.26 Schedule of Statutory Undertaker Representations with regard to S138 (reference 1.16.6 ExQ1) (Revision 7)
REP12-007	Highways England Deadline 12 Submission - 9.28 Revised draft Development Consent (Tracked) (Revision 4)
REP12-008	Highways England Deadline 12 Submission - 9.37 Statement of Common Ground with Surrey County Council (Revision 3)
REP12-009	Highways England Deadline 12 Submission - 9.40 Statement of Commonality for Statement of Common Ground (Revision 3)
REP12-010	Highways England Deadline 12 Submission - 9.6 Guide to the Application (Revision 13)
REP12-011	Highways England Deadline 12 Submission - 9.81 Explanatory Memorandum as Updated for Deadline 12 (Tracked) (Revision 2)
REP12-012	Highways England Deadline 12 Submission - 9.131 Development Consent Order Validation Report
REP12-013	Highways England Deadline 12 Submission - 9.133 Applicant's Note for Action Point 2 (Session 1 Non-Site Specific CA and TP Matters)
REP12-014	Highways England Deadline 12 Submission - 9.134 Applicant's Note for Action Point 3 (Session 1 Non-Site Specific CA and TP Matters)

REP12-015	Highways England Deadline 12 Submission - 9.135 Applicant's Note for Action Point 2 (Session 2 Part 4 SCCs Non-SCL Matters)
REP12-016	Highways England Deadline 12 Submission - 9.136 Applicant's Note for Action Point 3 (Session 2 Part 5 RHS Wisley)
REP12-017	Highways England Deadline 12 Submission - 9.137 Applicant's Note for Action Point 1 (Session 2 Part 6 Former Wisley Airfield)
REP12-018	Highways England Deadline 12 Submission - 9.138 Position statement with SCC on the Environmental and Highways Side Agreements
REP12-019	Highways England Deadline 12 Submission - 9.139 Applicant's Note for Action Point 2 (Session 2 Part 6 Former Wisley Airfield)
REP12-020	Highways England Deadline 12 Submission - 9.140 Applicant's Submission of Tree Protection Plan for Royal Horticultural Society
REP12-021	Highways England Deadline 12 Submission - 9.141 Applicant's Comments Regarding Replacement Land Options
REP12-022	Highways England Deadline 12 Submission - 9.142 Applicant's Comments to Painshill Park Trust's Deadline 11 Submission
REP12-023	Highways England Deadline 12 Submission - 9.143 Applicant's Comments to Long Orchard Farm's Deadline 11 Submission
REP12-024	Highways England Deadline 12 Submission - 9.144 Applicant's Comments to RHS's Deadline 11 Submission
REP12-025	Highways England Deadline 12 Submission - 9.145 Applicant's Comments to Girlguiding Greater London West's Deadline 11 Submission
REP12-026	Highways England Deadline 12 Submission - 9.146 Applicant's Comments to Feltonfleet School's Deadline 11 Submission
REP12-027	Highways England Deadline 12 Submission - 9.147 Applicant's Comments to Surrey County Council's Deadline 11 Submission
REP12-028	Highways England Deadline 12 Submission - 9.148 Applicant's Comments to Park Barn Farm's Deadline 11 Submission
REP12-029	Highways England Deadline 12 Submission - 9.149 Schedule of Change to the Book of Reference
REP12-030	Highways England Deadline 12 submission - s138 application Cover Letter
REP12-031	Highways England Deadline 12 Submission - Application under section 138 of the Planning Act 2008 – Statutory Undertaker’s Land: Arqiva
REP12-032	Highways England Deadline 12 Submission - Application under section 138 of the Planning Act 2008 – Statutory Undertaker’s Land: British

	Telecommunications ("BT")
REP12-033	Highways England Deadline 12 Submission - Application under section 138 of the Planning Act 2008 – Statutory Undertaker's Land: Cornerstone Telecommunications Infrastructure Limited ("Cornerstone")
REP12-034	Highways England Deadline 12 Submission - Application under section 138 of the Planning Act 2008 – Statutory Undertaker's Land: Mobile Broadband Network Limited ("MBNL")
REP12-035	Highways England Deadline 12 Submission - Application under section 138 of the Planning Act 2008 – Statutory Undertaker's Land: Sky Telecommunications Services Limited ("Sky")
REP12-036	Highways England Deadline 12 Submission - Application under section 138 of the Planning Act 2008 – Statutory Undertaker's Land: Sutton and East Surrey Water plc ("SESW")
REP12-037	Highways England Deadline 12 Submission - Application under section 138 of the Planning Act 2008 – Statutory Undertaker's Land: Thames Water Utilities Limited ("Thames Water")
REP12-038	Highways England Deadline 12 Submission - Application under section 138 of the Planning Act 2008 – Statutory Undertaker's Land: ("Virgin Media")
REP12-039	Highways England Deadline 12 Submission - Application under section 138 of the Planning Act 2008 – Statutory Undertaker's Land: Vodafone Limited ("Vodafone")
REP12-040	Surrey County Council Deadline 12 Submission - Submission made pursuant to Deadline 12
REP12-041	Elmbridge Borough Council Deadline 12 Submission - Update on information previously requested during the examination by the Examining Authority
REP12-042	Elmbridge Borough Council Deadline 12 Submission - Annual air quality status report
REP12-043	Surrey Wildlife Trust Deadline 12 Submission - Final Comments
REP12-044	Surrey Wildlife Trust Deadline 12 Submission - Response to Examining Authority's request for comments regarding possible Replacement Land options
REP12-045	Affinity Water Limited Deadline 12 Submission - Withdrawal of Representation
REP12-046	National Grid Electricity Transmission plc (NGET) Deadline 12 Submission - Withdrawal of Representation
REP12-047	Richard Max Deadline 12 Submission - Any further information requested by the ExA under Rule 17
REP12-048	Mr and Mrs P Young, Mrs A Barklam and Miss B Kendrick Deadline 12 Submission

REP12-049	Taylor Wimpey UK Limited (As Owner of Wisley Property Investment Limited (WPIL)) Deadline 12 Submission - Response to Action Point 1 from Session 2 of Compulsory Acquisition Hearing 1
REP12-050	Regena Coult Deadline 12 Submission
REP12-051	Royal Horticultural Society Deadline 12 Submission - Overview
REP12-052	Royal Horticultural Society Deadline 12 Submission - Response to Highways England's REP11-007
REP12-053	Royal Horticultural Society Deadline 12 Submission - Appendix A to RHS responses to REP11-007 – ACQ Report April 2008 [para 6.1.55]
REP12-054	Royal Horticultural Society Deadline 12 Submission - Land and Works Agreement Heads of Terms
REP12-055	Royal Horticultural Society Deadline 12 Submission - Letter from the Director General of the Royal Horticultural Society
REP12-056	Royal Horticultural Society Deadline 12 Submission - Submissions on the DCO Scheme in relation to Regulations 63, 64 and 68 of the Conservation of Habitats and Species Regulations 2017
REP12-057	Royal Horticultural Society Deadline 12 Submission - Closing Submission
REP12-058	Park Barn Farm Deadline 12 Submission - Cover Letter
REP12-059	Park Barn Farm Deadline 12 Submission - Reply to PINS Rule 17 letter dated 2 July 2020: Request for comments on possible Replacement Land option
REP12-060	Park Barn Farm Deadline 12 Submission - Comments in response to REP11-011: 9.121 Applicant's note for Action points 1, 2, 4 and 5 (CAH Session 2 Part 3 Special Category Land and Replacement Land)
REP12-061	Park Barn Farm Deadline 12 Submission - Comments in response to REP11-023: Any further information requested by the ExA under Rule 17 (Natural England)
REP12-062	Park Barn Farm Deadline 12 Submission - Comments in response to REP11-024: Post Hearing submissions requested by the ExA and Written summaries of oral contributions at the CAH (Surrey County Council)
REP12-063	Park Barn Farm Deadline 12 Submission - Comments in response to REP11-006: 9.116 Written submission of Applicant's case put orally at the Compulsory Acquisition Hearings held on 16, 17 and 18 June
REP12-064	Girlguiding Greater London West Deadline 12 Submission - Comments on Deadline 11 Submissions
REP12-065	British Horse Society Deadline 12 Submission - Accepted at the discretion of the Examining Authority

Other Documents	
OD-001	2510 Regulation 32 Transboundary screening
OD-002	Highways England Section 56 Notice
OD-003	Highways England Section 56, Section 59 and Reg 16 Compliance Certificates
OD-004	Secretary of State for Transport Written Statement from the Secretary of State extending the Examination to 12 July 2020
OD-005	Frequently Asked Questions

APPENDIX C: LIST OF ABBREVIATIONS

APPENDIX C: ABBREVIATIONS

The table below lists the abbreviations referred to in the Report by the Examining Authority (ExA)

AA	Appropriate Assessment for the purposes of the Habitats Regulations
AADT	Average annual daily traffic flow
AEoI	Adverse Effects on Integrity
ALA1981	Acquisition of Land Act 1981
ALC	Agricultural Land Classification
AP(s)	Affected Person(s)
AQA	Air Quality Assessment
AQD	European Union Air Quality Directive 2008
AQMA	Air Quality Management Area
AQS	Air Quality Strategy for England, Scotland, Wales and Northern Ireland 2007
AQTAG	Air Quality Technical Advisory Group
Art	Article
ASI	Accompanied Site Inspection
AWL	Affinity Water Limited
BCR	Benefit cost ratio
BHS	British Horse Society
BMV	Best and most versatile (agricultural land)
BOAT	Byway open to all traffic
BoR	Book of Reference
BPM	Best Practicable Means
BS 5228:2009	Code for Practice for noise and vibration control on construction and open sites
CA	Compulsory Acquisition
CA Guidance	Planning Act 2008 Guidance related to procedures for the compulsory acquisition of land (Department for Communities and Local Government, September 2013)
CAH	Compulsory Acquisition Hearing
CAH1-S1P3	Session 1, Part 3 of CAH1
CAH1-S2P3	Session 2, Part 3 of CAH1
CA Regs	Infrastructure Planning (Compulsory Acquisition) Regulations 2010 the CA Regs
CCA2008	Climate Change Act 2008
CD&E	Construction, demolition and excavation (waste)
CEMP	Construction Environmental Management Plan
CF	Chatley Farm
CL	Common Land
CO ₂	Carbon Dioxide
CoCP	Code of Construction Practice
CPO	Compulsory Purchase Order
CPRE	Campaign to Protect Rural England
CRoW	Countryside and Rights of Way
CS	Core Strategy

D	Deadline
dB	Decibel
DBA	Desk-Based Assessment
DCO	Development Consent Order
dDCO	Draft Development Consent Order
DEFRA	Department for Environment, Food and Rural Affairs
DfT	Department for Transport
DM	Do-Minimum
DMRB	Design Manual for Roads and Bridges
DPD	Development Plan Document
DS	Do-Something
EA	Environment Agency
EBC	Elmbridge Borough Council
ECHR	European Convention on Human Rights
ECRG	Elm Corner Residents Group
ECS	Elmbridge Core Strategy 2011
ELPDMP	Elmbridge Local Plan Development Management Plan 2015
ELRC	East London River Crossing
EM	Explanatory Memorandum
EPS	European Protected Species
ES	Environmental Statement
EU	European Union
ExA	Examining Authority
ExQ1, ExQ2, ExQ3 and ExQ4	The ExA's first, second, third and fourth rounds of written questions, respectively
FAS	Flood Alleviation Scheme
FRA	Flood Risk Assessment
GATC	Guide Association Trust Corporation
GBC	Guildford Borough Council
GBLPSS	Guildford Borough Local Plan: Strategy and Sites 2015-2034
GGLW	Girlguiding Greater London West County
GLP	Guildford Local Plan (Saved Policies) 2003
ha	Hectare(s)
HE	Highways England
HEMP	Handover Environmental Management Plan
HF	Hatchford End
HGV	Heavy goods vehicle
HistE	Historic England
HPI(s)	Habitat(s) of Principal Importance
HRA	Habitats Regulations Assessment
HRA1998	Human Rights Act 1998
HRR1	Hatch Regeneris first report [REP1-039]
HRR2	Hatch Regeneris second report [REP6-024]
IPs	Interested Parties
IROPI	Imperative Reasons of Overriding Public Interest
ISH	Issue Specific Hearing
km	Kilometre
KSI	Killed or seriously injured

LAs	Local Authorities in whose areas the Proposed Development is located, ie Elmbridge Borough Council, Guildford Borough Council and Surrey County Council
LEMP	Landscape and Ecology Management and Monitoring Plan
LIR	Local Impact Report
LLFA	Lead Local Flood Authority
LNR	Local Nature Reserve
LNRS	Low noise road surfacing
LOAEL	Lowest observed adverse effect level
LRN	Local Road Network
LWA	Land and Works Agreement
$\mu\text{m}/\text{m}^3$	Micrograms per cubic metre
mph	Miles per hour
MU(s)	Motorised User(s)
NE	Natural England
NGET	National Grid Electricity Transmission PLC
NIA(s)	Noise Important Area(s)
NMU(s)	Non-Motorised User(s)
No_2	Nitrogen dioxide
NO_x	Nitrogen oxide
NPA2017	The Neighbourhood Planning Act 2017
NPPF	National Planning Policy Framework
NPS	National Policy Statement
NPSE	Noise Policy Statement for England (DEFRA 2010)
NPSNN	National Policy Statement for National Networks
NSIP	Nationally Significant Infrastructure Project
oCEMP	Outline Construction Environmental Management Plan
OLEMS	Outline Landscape and Ecological Management Strategy
OS	Open Space
OPC	Ockham Parish Council
OPJ	Ockham Park Junction
OTMP	Outline Traffic Management Plan
OWC SSSI	Ockham and Wisley Commons Site of Special Scientific Interest
PA2008	Planning Act 2008
PBF	Park Barn Farm
PIA	Personal injury accident
PM	Preliminary Meeting
PM_{10}	Particulates
PMA	Private means of access
PPT	Painshill Park Trust
PRA	Painshill Residents Association
PRoW	Public Right of Way
PSED	Public Sector Equality Duty
PTI	Planning Time Index
PVMB	Present Value Monetised Benefits
Proposed Development	The NSIPs comprising the M25 junction 10/A3 Wisley interchange Scheme (TR010030)
R	Requirement
rDCO	The ExA's recommended Development Consent Order

REAC	Register of Environmental Actions and Commitments
RHS	The Royal Horticultural Society
RIS	Road Investment Strategy
RL	Replacement Land
RPA	Root protection area
RPG	Registered Park and Garden
RR(s)	Relevant Representation(s)
RSPB	Royal Society for the Protection of Birds
s106	Section 106 agreement under the Town and Country Planning Act 1990 (as amended)
SAC	Special Area of Conservation
SANG	Suitable Alternative Natural Greenspace
SCC	Surrey County Council
SCL	Special Category Land
SFRS	Surrey Fire and Rescue Service
SFS	South facing slips at Ockham Park junction/roundabout
SIAA	Statement to Inform an Appropriate Assessment
SMPCS	Surrey Minerals Plan Core Strategy Development Plan Document 2011
SNCI(s)	Site(s) of Nature Conservation Interest
SoCG(s)	Statement(s) of Common Ground
SOAEL	Significant observed adverse effect level
SoS	Secretary of State
SoST	Secretary of State for Transport
SPA	Special Protection Area
SPA MMP	Special Protection Area Management and Monitoring Plan
SPP	Special Parliamentary Procedure
sqm	Square metre(s)
SRN	Strategic Road Network
SSSI	Site of Special Scientific Interest
SU(s)	Statutory Undertakers
SUDS	Sustainable Drainage Systems
SWP	Surrey Waste Plan 2008
TA	Transport Assessment
TBHSPA	Thames Basin Heaths Special Protection Area
TCPA1990	The Town and Country Planning Act 1990 (as amended)
the airfield	The former Wisley Airfield
the 2019 Order	Climate Change Act 2008 (2050 Target Amendment) Order 2019
TMP	Transport Management Plan
TP	Temporary Possession
TPO	Tree Preservation Order
TW	Taylor Wimpey UK Limited
UKCP09	United Kingdom Climate Projections 2018
UKCP18	United Kingdom Climate Projections 2018
USI	Unaccompanied Site Inspection
UXO	Unexploded Ordnance
VfM	Value for money
WAG	Wisley Action Group
WebTAG	Web-based Transport Analysis Guidance

WFD	Water Framework Directive
WPIL	Wisley Property Investments Limited
WR(s)	Written Representation(s)
ZTV	Zone of Theoretical Visibility

APPENDIX D: THE RECOMMENDED DCO

202[] No. 0000

INFRASTRUCTURE PLANNING

**The M25 Junction 10/A3 Wisley Interchange Development
Consent Order 202[]**

Made - - - - 202[]

Coming into force - - 202[]

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An application has been made to the Secretary of State, under section 37 of the Planning Act 2008(a) (“the 2008 Act”) in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009(b) for an Order granting development consent.

The application was examined by a panel of two appointed persons (“the Panel”) (appointed by the Secretary of State) in accordance with Chapter 4 of Part 6 of the 2008 Act, and the Infrastructure Planning (Examination Procedure) Rules 2010(c).

The Panel, having considered the representations made and not withdrawn and the application together with the accompanying documents, in accordance with section 83 of the 2008 Act, has submitted a report and recommendation to the Secretary of State.

The Secretary of State, having considered the representations made and not withdrawn, and the report of the Panel, has decided to make an Order granting development consent for the development described in the application with modifications which in the opinion of the Secretary of State do not make any substantial changes to the proposals comprised in the application.

The Secretary of State is satisfied that replacement land (as that term is defined in section 131(12) of the 2008 Act) has been or will be given in exchange for the special category land (identified in Part 1 of Schedule 10 to this Order), and replacement land has been or will be vested in the person or persons in whom the special category land is vested and subject to the same rights, trusts and incidents as attach to the special category land, and that, accordingly, section 131(4) of the 2008 Act applies.

The Secretary of State is satisfied that replacement land (as that term is defined in section 132(12) of the 2008 Act) has been or will be given in exchange for the special category (rights) land (identified in Part 2 of Schedule 10 to this Order), and replacement land has been or will be vested in the person or persons in whom the special category (rights) land is vested and subject to the same rights, trusts and incidents as attach to that land, and that, accordingly, section 132(4) of the 2008 Act applies.

The Secretary of State is satisfied that the special category (rights) land (as identified in Part 3 of Schedule 10 to this Order), when burdened with any new rights authorised to be compulsorily acquired under this Order, will be no less advantageous than it was before to the persons in whom it is vested, other persons, if any, entitled to rights of common or other rights, and the public, and that, accordingly, section 132(3) of the 2008 Act applies.

The Secretary of State, in exercise of the powers conferred by sections 114, 115, 117, 120 and 122 of, and paragraphs 1 to 3, 10 to 15, 17, 19 to 23, 26, 33, 36 and 37 of Part 1 of Schedule 5 to, the 2008 Act, makes the following Order—

(a) 2008 c. 29. Parts 1 to 7 were amended by Chapter 6 of Part 6 of the Localism Act 2011 (c. 20).

(b) S.I. 2009/2264, amended by S.I. 2010/439, S.I. 2010/602, S.I. 2012/635, S.I. 2012/2654, S.I. 2012/2732, S.I. 2013/522, S.I. 2013/755, S.I. 2014/469, S.I. 2014/2381, S.I. 2015/377, S.I. 2015/1682, S.I. 2017/524 and S.I. 2017/572.

(c) S.I. 2010/103, amended by S.I. 2012/635.

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as the M25 Junction 10/A3 Wisley Interchange Development Consent Order 202[] and comes into force on [].

Interpretation

2.—(1) In this Order—

“the 1961 Act” means the Land Compensation Act 1961(a);

“the 1965 Act” means the Compulsory Purchase Act 1965(b);

“the 1980 Act” means the Highways Act 1980(c);

“the 1981 Act” means the Compulsory Purchase (Vesting Declarations) Act 1981(d);

“the 1984 Act” means the Road Traffic Regulation Act 1984(e);

“the 1990 Act” means the Town and Country Planning Act 1990(f);

“the 1991 Act” means the New Roads and Street Works Act 1991(g);

“the 2008 Act” means the Planning Act 2008(h);

“the 2017 Regulations” means the Compulsory Purchase of Land (Vesting Declarations) (England) Regulations 2017(i);

“address” includes any number or address for the purposes of electronic transmission;

“apparatus” has the same meaning as in Part 3 of the 1991 Act;

“authorised development” means the development described in Schedule 1 (authorised development) and any other development authorised by this Order, which is development within the meaning of section 32 (meaning of development) of the 2008 Act;

“the book of reference” means the book of reference listed in Schedule 11 (documents to be certified) and certified by the Secretary of State under article 46 (certification of documents, etc.) as the book of reference for the purposes of this Order;

“bridleway” has the same meaning as in section 329 (further provision as to interpretation) of the 1980 Act;

“building” includes any structure or erection or any part of a building, structure or erection;

“carriageway” has the same meaning as in section 329 (further provision as to interpretation) of the 1980 Act;

“Crown land plans” means the plans of that description listed in Schedule 11 (documents to be certified) and certified by the Secretary of State under article 46 (certification of documents, etc.) as the Crown land plans for the purposes of this Order;

“cycle track” has the same meaning as in section 329 (further provision as to interpretation) of the 1980 Act(j);

(a) 1961 c. 33.

(b) 1965 c. 56.

(c) 1980 c. 66.

(d) 1981 c. 66.

(e) 1984 c. 27.

(f) 1990 c. 8.

(g) 1991 c. 22.

(h) 2008 c. 29.

(i) S.I. 2017/3.

(j) The definition of “cycle track” (in section 329(1) of the 1980 Act) was amended by section 1 of the Cycle Tracks Act 1984 (c. 38) and paragraph 21(2) of Schedule 3 to the Road Traffic (Consequential Provisions) Act 1988 (c. 54).

“cycleway” means a way constituting or comprised in a highway, being a way over which the public have the following, but no other rights of way, that is to say a right of way on pedal cycles (other than pedal cycles that are motor vehicles within the meaning of the Road Traffic Act 1988(a)) with a right of way on foot and a right of way on horseback or leading a horse;

“electronic transmission” means a communication transmitted—

(a) by means of an electronic communications network; or

(b) by other means but while in electronic form;

“the engineering drawings and sections” means the drawings and sections listed in Schedule 11 (documents to be certified) and certified as the engineering drawings and sections by the Secretary of State under article 46 (certification of documents, etc.) for the purposes of this Order;

“environmental statement” means the document of that description listed in Schedule 11 (documents to be certified) and certified as the environmental statement by the Secretary of State under article 46 (certification of documents, etc.) for the purposes of this Order;

“footway” and “footpath” have the same meaning as in section 329 (further provision as to interpretation) of the 1980 Act;

“highway”, “highway authority” and “local highway authority” have the same meaning as in the 1980 Act;

“the land plans” means the plans of that description listed in Schedule 11 (documents to be certified) and certified as the land plans by the Secretary of State under article 46 (certification of documents, etc.) for the purposes of this Order;

“limits of deviation” means the limits of deviation referred to in article 7 (limits of deviation);

“maintain” in relation to any part of the authorised development includes to inspect, repair, adjust, landscape, preserve, remove, reconstruct, refurbish or replace, provided such works do not give rise to any materially new or materially different environmental effects to those identified in the environmental statement, and any derivative of “maintain” is to be construed accordingly;

“Order land” means the land shown on the land plans which is within the limits of land to be acquired or used permanently or temporarily and described in the book of reference;

“the Order limits” means the limits of lands to be acquired or used permanently or temporarily shown on the land plans and works plans within which the authorised development may be carried out;

“the outline CEMP” means the document of that description listed in Schedule 11 (documents to be certified) and certified as the outline CEMP by the Secretary of State under article 46 (certification of documents, etc.) for the purposes of this Order;

“owner”, in relation to land, has the same meaning as in section 7 (interpretation) of the Acquisition of Land Act 1981(b);

“the permit scheme” means the Traffic Management (Surrey County Council) Permit Scheme Order 2015 (as varied) made under Part 3 of the Traffic Management Act 2004(c) as in force at the date on which this Order is made;

“relevant planning authority” means, in relation to any provision of this Order, either Guildford Borough Council or Elmbridge Borough Council in their capacity as local planning authorities insofar as the matter in question falls within their respective administrative areas, or both;

“restricted byway” means a highway which is a restricted byway in accordance with sections 47 to 50 of the Countryside and Rights of Way Act 2000(d);

(a) 1988 c. 52.

(b) 1981 c. 67. The definition of “owner” was amended by paragraph 9 of Schedule 15 to the Planning and Compensation Act 1991 (c.34). There are other amendments to section 7 which are not relevant to the Order.

(c) 2004 c. 18.

(d) 2000 c. 37.

“Secretary of State” means the Secretary of State for Transport;

“the special category land plans” means the plans of that description listed in Schedule 11 (documents to be certified) and certified by the Secretary of State under article 46 (certification of documents, etc.) as the special category land plans for the purposes of this Order;

“special road” means a highway which is a special road in accordance with section 16 (general provisions as to special roads) of the 1980 Act or by virtue of an order granting development consent;

“statutory undertaker” means any statutory undertaker for the purposes of section 127(8) (statutory undertakers’ land) of the 2008 Act;

“street” means a street within the meaning of section 48 (streets, street works and undertakers) of the 1991 Act, together with land on the verge of a street or between two carriageways, and includes part of a street;

“street authority”, in relation to a street, has the same meaning as in Part 3 of the 1991 Act;

“streets, rights of way and access plans” means the plans of that description listed in Schedule 11 (documents to be certified) and certified as the streets, rights of way and access plans by the Secretary of State under article 46 (certification of documents, etc.) for the purposes of this Order;

“temporary works plans” means the plans of that description listed in Schedule 11 (documents to be certified) and certified as the temporary works plans by the Secretary of State under article 46 (certification of documents, etc.) for the purposes of this Order;

“traffic authority” has the same meaning as in section 121A(a) (traffic authorities) of the 1984 Act;

“trunk road” means a highway which is a trunk road by virtue of—

- (a) section 10(b) (general provision as to trunk roads) or 19(1)(c) (certain special roads and other highways to become trunk roads) of the 1980 Act;
- (b) an order or direction under section 10 of that Act;
- (c) an order granting development consent; or
- (d) any other enactment;

“undertaker” means Highways England Company Limited, company number 09346363, whose registered office is at Bridge House, 1 Walnut Tree Close, Guildford, Surrey, GU1 4LZ;

“the Upper Tribunal” means the Lands Chamber of the Upper Tribunal;

“watercourse” includes all rivers, streams, ditches, drains, canals, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer or drain; and

“the works plans” means the plans listed in Schedule 11 (documents to be certified) and certified as the works plans by the Secretary of State under article 46 (Certification of documents, etc.) for the purposes of this Order.

(2) References in this Order to rights over land include references to rights to do, or to place and maintain, anything in, on or under land or in the airspace above its surface and references in this Order to the imposition of restrictive covenants are references to the creation of rights over land which interfere with the interests or rights of another and are for the benefit of land which is acquired under this Order or is otherwise comprised in the Order land.

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- (a) Section 121A was inserted by section 168(1) of, and paragraph 70 of Part 2 of Schedule 8, to the New Roads and Street Works Act 1991 (c. 22).
 - (b) Section 10 was amended by section 22(2) of the New Roads and Street Works Act 1991; paragraph 22 of Schedule 2 to the Planning Act 2008; and by section 1 of, and Schedule 1 to, the Infrastructure Act 2015 (c. 7).
 - (c) As amended by section 1 of, and Schedule 1 to, the Infrastructure Act 2015 (c. 7).

(3) All distances, directions and lengths referred to in this Order are approximate and distances between points on a work comprised in the authorised development are taken to be measured along that work.

(4) For the purposes of this Order, all areas described in square metres in the book of reference are approximate.

(5) References in this Order to points identified by letters or numbers are to be construed as references to points so lettered or numbered on the streets, rights of way and access plans.

(6) References in this Order to numbered works are references to works as numbered in Schedule 1 (authorised development).

Disapplication of legislative provisions

3.—(1) The following provisions do not apply in relation to the construction of any work or the carrying out of any operation required for the purpose of, or in connection with, the construction of the authorised development—

- (a) regulation 12 (requirement for environmental permit) of the Environmental Permitting (England and Wales) Regulations 2016^(a) in relation to the carrying on of a flood risk activity;
- (b) the provisions of any byelaws made under, or having effect as if made under, paragraph 5, 6 or 6A of Schedule 25 (bye-law making powers of the appropriate agency) to the Water Resources Act 1991;
- (c) section 23 (prohibition on obstructions etc. in watercourses) of the Land Drainage Act 1991^(b);
- (d) section 32 (variation of awards) of the Land Drainage Act 1991;
- (e) the provisions of any byelaws made under section 66 (powers to make byelaws) of the Land Drainage Act 1991; and
- (f) section 28E (duties in relation to sites of special scientific interest) of the Wildlife and Countryside Act 1981^(c).

(2) In paragraph (1)(a) “flood risk activity”^(d) has the meaning given in the Environmental Permitting (England and Wales) Regulations 2016.

(3) The provisions of the Neighbourhood Planning Act 2017^(e), insofar as they relate to temporary possession of land under articles 32 (temporary use of land for carrying out the authorised development) and 33 (temporary use of land for maintaining the authorised development) of this Order, do not apply in relation to the construction of any work or the carrying out of any operation required for the purpose of, or in connection with, the construction of the authorised development and, within the maintenance period defined in article 34(11), any maintenance of any part of the authorised development.

^(a) S.I. 2016/1154.

^(b) 1991 c. 59.

^(c) 1981 c. 69.

^(d) This term is defined in paragraph 3 of Part 1 of Schedule 25 to the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154).

^(e) 2017 c. 20.

PART 2

PRINCIPAL POWERS

Development consent etc. granted by the Order

4.—(1) Subject to the provisions of this Order including the requirements in Schedule 2 (requirements), the undertaker is granted development consent for the authorised development to be carried out within the Order limits.

(2) Any enactment applying to land within or adjacent to the Order limits has effect subject to the provisions of this Order.

Maintenance of authorised development

5. The undertaker may at any time maintain the authorised development, except to the extent that this Order, or an agreement made under this Order, provides otherwise.

Maintenance of drainage works

6.—(1) Nothing in this Order, or the construction, maintenance or operation of the authorised development under it, affects any responsibility for the maintenance of any works connected with the drainage of land, whether that responsibility is imposed or allocated by or under any enactment, or otherwise, unless otherwise agreed in writing between the undertaker and the person responsible.

(2) In this article “drainage” has the same meaning as in section 72 (interpretation) of the Land Drainage Act 1991(a).

Limits of deviation

7. In carrying out the authorised development the undertaker may—

- (a) deviate laterally from the lines or situations of the authorised development shown on the works plans to the extent of the limits of deviation shown on those plans; and
- (b) deviate vertically from the levels of the authorised development shown on the engineering drawings and sections to a maximum of 0.50 metres upwards or 0.50 metres downwards,

except that these maximum limits of vertical deviation do not apply where it is demonstrated by the undertaker to the Secretary of State’s satisfaction, and the Secretary of State, following consultation with the relevant planning authority and the local highway authority, certifies accordingly that a deviation in excess of these limits would not give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement.

Benefit of Order

8.—(1) Subject to paragraph (2) and article 9 (consent to transfer benefit of Order), the provisions of this Order conferring powers on the undertaker have effect solely for the benefit of the undertaker.

(2) Paragraph (1) does not apply to the works for which consent is granted by this Order for the express benefit of owners and occupiers of land, statutory undertakers and other persons affected by the authorised development.

(a) 1991 c. 59. The definition of “drainage” was substituted by paragraphs 191 and 194 of Schedule 22 to the Environment Act 1995 (c. 25).

Consent to transfer benefit of Order

9.—(1) Subject to paragraph (4), the undertaker may—

- (a) transfer to another person (“the transferee”) any or all of the benefit of the provisions of this Order and such related statutory rights as may be agreed between the undertaker and the transferee; or
- (b) grant to another person (“the lessee”) for a period agreed between the undertaker and the lessee any or all of the benefit of the provisions of this Order and such related statutory rights as may be so agreed.

(2) Where an agreement has been made in accordance with paragraph (1) references in this Order to the undertaker, except in paragraph (3), includes references to the transferee or the lessee.

(3) The exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (1) is subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by the undertaker.

(4) The consent of the Secretary of State is required for a transfer or grant under this article, except where the transfer or grant is made to—

- (a) Southern Gas Networks PLC (company number 5167021, whose registered office is at St Lawrence House, Station Approach, Horley, Surrey, RH6 9HJ);
- (b) UK Power Networks (Operations) Limited (company number 3870728, whose registered office is at Newington House, 237 Southwark Bridge Road, London, SE1 6NP);
- (c) Affinity Water Limited (company number 2546950, whose registered office is at Tamblin Way, Hatfield, Hertfordshire, AL10 9EZ);
- (d) British Telecommunications PLC (company number 1800000, whose registered office is at 81 Newgate Street, London, EC1A 7AJ);
- (e) Sky Telecommunications Services Limited (company number 2883980, whose registered office is at Grant Way, Isleworth, Middlesex, TW7 5QD);
- (f) Virgin Media Limited (company number 2591237, whose registered office is at Media House, Bartley Wood Business Park, Hook, Hampshire, RG27 9UP); and
- (g) National Grid Electricity Transmission PLC (company number 2366977, whose registered office is at 1-3 Strand, London, WC2N 5EH),

for the purposes of undertaking works to their apparatus or replacement apparatus.

Planning permission

10. If planning permission is issued pursuant to the 1990 Act for development any part of which is within the Order limits following the publication of this Order that is—

- (a) not itself a nationally significant infrastructure project under the 2008 Act or part of such a project; and
- (b) required to complete or enable the construction, use or operation of any part of the development authorised by this Order,

then the carrying out, use or operation of such development pursuant to the terms of the planning permission is not to constitute a breach of the terms of this Order.

PART 3

STREETS

Application of the 1991 Act

11.—(1) Works executed under this Order in relation to a highway which consists of or includes a carriageway are to be treated for the purposes of Part 3 (street works in England and Wales) of the 1991 Act as major highway works if—

- (a) they are of a description mentioned in any of paragraphs (a), (c) to (e), (g) and (h) of section 86(3) (which defines what highway authority works are major highway works) of that Act; or
- (b) they are works which, had they been executed by the highway authority, might have been carried out in exercise of the powers conferred by section 64(a) (dual carriageways and roundabouts) of the 1980 Act or section 184(b) (vehicle crossings over footways and verges) of that Act.

(2) In Part 3 of the 1991 Act, in relation to works which are major highway works by virtue of paragraph (1), references to the highway authority concerned are to be construed as references to the undertaker.

(3) The following provisions of the 1991 Act (whether modified or not by the permit scheme) do not apply in relation to any works executed under the powers of this Order—

- section 56(c) (power to give directions as to timing);
- section 56A(d) (power to give directions as to placing of apparatus);
- section 58(e) (restrictions on works following substantial road works);
- section 58A(f) (restriction on works following substantial street works);
- section 73A(g) (power to require undertaker to re-surface street);
- section 73B(h) (power to specify timing etc. of re-surfacing);
- section 73C(i) (materials, workmanship and standard of re-surfacing);
- section 78A(j) (contributions to costs of re-surfacing by undertaker); and
- Schedule 3A(k) (restriction on works following substantial street works).

(4) The provisions of the 1991 Act mentioned in paragraph (5) (which, together with other provisions of that Act, apply in relation to the execution of street works) and any regulations made, or code of practice issued or approved under, those provisions apply (with the necessary modifications) in relation to any stopping up, alteration or diversion of a street of a temporary nature by the undertaker under the powers conferred by article 14 (temporary closure and restriction of use of streets), whether or not the stopping up, alteration or diversion constitutes street works within the meaning of that Act.

(5) The provisions of the 1991 Act(l) referred to in paragraph (4) are—

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- (a) Section 64 was amended by section 102 of, and Schedule 17 to, the Local Government Act 1985 (c. 51) and section 168(2) of, and Schedule 9 to, the New Roads and Street Works Act 1991 (c. 22).
 - (b) Section 184 was amended by sections 35, 37, 38 and 46 of the Criminal Justice Act 1982 (c. 48); section 4 of, and paragraph 45(11) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11); and section 168 of, and paragraph 9 of Schedule 8 and Schedule 9 to, the New Roads and Street Works Act 1991.
 - (c) Section 56 was amended by section 43 of, and Schedule 1 to, the Traffic Management Act 2004 (c.18).
 - (d) Section 56A was inserted by section 44 of the Traffic Management Act 2004.
 - (e) Section 58 was amended by section 51 of, and Schedule 1 to, the Traffic Management Act 2004.
 - (f) Section 58A was inserted by section 52 of the Traffic Management Act 2004.
 - (g) Section 73A was inserted by section 55 of the Traffic Management Act 2004.
 - (h) Section 73B was inserted by section 55 of the Traffic Management Act 2004.
 - (i) Section 73C was inserted by section 55 of the Traffic Management Act 2004.
 - (j) Section 78A was inserted by section 57 of the Traffic Management Act 2004.
 - (k) Schedule 3A was inserted by section 52(2) of, and Schedule 4 to, the Traffic Management Act 2004.
 - (l) Sections 54, 55, 57, 60, 68 and 69 were amended by sections 40(1) and (2) of, and Schedule 1 to, the Traffic Management Act 2004.

section 54(a) (advance notice of certain works), subject to paragraph (6);
 section 55(b) (notice of starting date of works), subject to paragraph (6);
 section 57(c) (notice of emergency works);
 section 59(d) (general duty of street authority to co-ordinate works);
 section 60 (general duty of undertakers to co-operate);
 section 68 (facilities to be afforded to street authority);
 section 69 (works likely to affect other apparatus in the street);
 section 75 (inspection fees);
 section 76 (liability for cost of temporary traffic regulation); and
 section 77 (liability for cost of use of alternative route),

and all such other provisions as apply for the purposes of the provisions mentioned above.

(6) Sections 54 and 55 of the 1991 Act as applied by paragraph (4) have effect as if references in section 57 of that Act to emergency works were a reference to a stopping up, alteration or diversion (as the case may be) required in a case of emergency.

(7) Nothing in article 12 (construction and maintenance of new, altered or diverted streets and other structures)—

- (a) affects the operation of section 87 (prospectively maintainable highways) of the 1991 Act, and the undertaker is not by reason of any duty under that article to maintain a street, to be taken to be the street authority in relation to that street for the purposes of Part 3 of that Act; or
- (b) has effect in relation to maintenance works which are street works within the meaning of the 1991 Act, as respects which the provisions of Part 3 of the 1991 Act apply.

(8) Subject to paragraph (3), the permit scheme applies to the construction and maintenance of the authorised development and will be used by the undertaker in connection with the exercise of any powers conferred by this Part.

(9) For the purposes of this Order a permit may not be granted subject to conditions where compliance with those conditions would constitute a breach of this Order or where the undertaker would be unable to comply with those conditions pursuant to the powers conferred by this Order.

(10) Any difference arising between the undertaker and Surrey County Council under the permit scheme will be referred to the appeals procedure under section 7.2 of the permit scheme.

(11) Where agreement cannot be reached under sub-paragraph (10) the undertaker and Surrey County Council may refer the dispute to independent adjudication under section 7.3 of the permit scheme or where this is not agreed, the dispute will be resolved by arbitration under article 50 (arbitration) of this Order.

(12) Any order which may be made by the Secretary of State under section 74A(2) of the 1991 Act designating Surrey County Council as an approved authority for the purposes of the Street Works (Charges for Occupation of the Highway) (England) Regulations 2012(e) will not have effect in relation to works carried out by the undertaker as part of the construction or maintenance of the authorised development.

Construction and maintenance of new, altered or diverted streets and other structures

12.—(1) Any highway (other than a trunk road or special road) to be constructed under this Order must be completed to the reasonable satisfaction of the local highway authority in whose

(a) As also amended by section 49(1) of the Traffic Management Act 2004.
 (b) As also amended by section 49(2) and 51(9) of the Traffic Management Act 2004.
 (c) As also amended by section 52(3) of the Traffic Management Act 2004.
 (d) As amended by section 42 of the Traffic Management Act 2004.
 (e) S.I. 2012/425. As amended by the Street Works (Charges for Occupation of the Highway) (England) (Amendment) Regulations 2018 (S.I. 2018/215).

area the highway lies and, unless otherwise agreed in writing between the undertaker and the local highway authority, the highway including any structures or culverts laid under it must be maintained by and at the expense of the local highway authority from its completion.

(2) Where a highway (other than a trunk road or special road) is altered or diverted under this Order, the altered or diverted part of the highway must, when completed to the reasonable satisfaction of the local highway authority in whose area the highway lies and, unless otherwise agreed in writing between the undertaker and the local highway authority, be maintained by and at the expense of the local highway authority from its completion.

(3) Where a street which is not, and is not intended to be, a highway is constructed, altered or diverted under this Order, the street (or part of the street as the case may be) must, when completed to the reasonable satisfaction of the street authority, unless otherwise agreed in writing, be maintained by and at the expense of the undertaker for a period of 12 months from its completion and at the expiry of that period by and at the expense of the street authority.

(4) In the case of a bridge constructed under this Order to carry a highway (other than a trunk road or special road) over a trunk road or special road, the highway surface (being those elements over the waterproofing membrane and indicator layer) must be maintained by and at the expense of the local highway authority unless otherwise agreed in writing between the undertaker and the local highway authority, and the remainder of the bridge, including the waterproofing membrane, indicator layer and structure below, must be maintained by and at the expense of the undertaker.

(5) In any action against the undertaker in respect of loss or damage resulting from any failure by it to maintain a street under this article, it is a defence (without prejudice to any other defence or the application of the law relating to contributory negligence) to prove that the undertaker had taken such care as in all the circumstances was reasonably required to secure that the part of the street to which the action relates was not dangerous to traffic.

(6) For the purposes of a defence under paragraph (5), the court must in particular have regard to the following matters—

- (a) the character of the street and the traffic which was reasonably to be expected to use it;
- (b) the standard of maintenance appropriate for a street of that character and used by such traffic;
- (c) the state of repair in which a reasonable person would have expected to find the street;
- (d) whether the undertaker knew, or could reasonably have been expected to know, that the condition of the part of the street to which the action relates was likely to cause dangers to users of the street; and
- (e) where the undertaker could not reasonably have been expected to repair that part of the street before the cause of action arose, what warning notices of its condition had been displayed,

but for the purposes of such a defence it is not relevant to prove that the undertaker had arranged for a competent person to carry out or supervise the maintenance of the part of the street to which the action relates unless it is also proved that the undertaker had given the competent person proper instructions with regard to the maintenance of the street and that the competent person had carried out those instructions.

Classification of roads, etc.

13.—(1) On the date on which the relevant part of the authorised development is completed and open for traffic—

- (a) the roads described in Part 1 (special roads) of Schedule 3 (classification of roads, etc.) will be—
 - (i) special roads for the purpose of any enactment or instrument which refers to highways classified as special roads;
 - (ii) trunk roads for the purpose of any enactment or instrument which refers to highways classified as trunk roads; and

- (iii) provided for the use of traffic of Classes I and II of the classes of traffic set out in Schedule 4 to the 1980 Act;
- (iv) and the undertaker will be the highway authority for those roads;
- (b) the roads described in Part 2 (trunk roads) of Schedule 3 (classification of roads, etc.) will be trunk roads as if they had become so by virtue of an order under section 10(2) of the 1980 Act specifying that date as the date on which they were to become trunk roads;
- (c) the roads described in Part 3 (classified roads) of Schedule 3 will be—
 - (i) principal roads for the purpose of any enactment or instrument which refers to highways classified as principal roads; and
 - (ii) classified roads for the purpose of any enactment or instrument which refers to highways classified as classified roads,
 as if such classification had been made under section 12(3) (general provision as to principal and classified roads) of the 1980 Act;
- (d) the roads described in Part 4 (unclassified roads) of Schedule 3 will be unclassified roads for the purpose of any enactment or instrument which refers to unclassified roads; and
- (e) the public rights of way described in Part 8 (other public rights of way) of Schedule 3 will be of the types described in column (1) to the extent described in column (2).

(2) From the date on which the roads specified in Part 5 (speed limits) of Schedule 3 are open for traffic, no person is to drive any motor vehicle at a speed exceeding the limit in miles per hour specified in column (3) of Part 5 of Schedule 3 along the lengths of road identified in the corresponding row of column (2) of that Part.

(3) Subject to paragraph (4) and article 17 (clearways), from the date on which the roads specified in Part 6 (traffic regulation measures (clearways and prohibitions) of Schedule 3 are open for traffic, the restrictions specified in column (3) of that Part are to apply to the lengths of the road identified in the corresponding row of column (2) of that Part.

(4) The restrictions provided for in paragraph (3) do not apply to an authorised vehicle where the vehicle is excepted from the restrictions in column (3) of Part 6 of Schedule 3.

(5) On such day as the undertaker may determine, the order specified in column (2) of Part 7 (revocations and variations of existing traffic regulation orders) of Schedule 3 is to be varied or revoked as specified in the corresponding row of column (3) of that Part in respect of the lengths of roads specified in the corresponding row of column (1) of that Part.

(6) The application of paragraphs (1) to (5) may be varied or revoked by any instrument made under any enactment which provides for the variation or revocation of such matters.

Temporary closure and restriction of use of streets

14.—(1) The undertaker, during and for the purposes of carrying out the authorised development, may temporarily close, alter, divert or restrict the use of any street and may for any reasonable time—

- (a) divert the traffic from the street; and
- (b) subject to paragraph (3), prevent all persons from passing along the street.

(2) Without limitation on the scope of paragraph (1), the undertaker may use any street temporarily closed or restricted under the powers conferred by this article, and which is within the Order limits, as a temporary working site.

(3) The undertaker must provide reasonable access for pedestrians going to or from premises abutting a street affected by the temporary closure, alteration or diversion of a street under this article if there would otherwise be no such access.

(4) The undertaker must not temporarily close, alter or divert any street for which it is not the street authority without the consent of the street authority, which may attach reasonable conditions to any consent but such consent must not be unreasonably withheld or delayed.

(5) Any person who suffers loss by the suspension of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(6) If a street authority which receives an application for consent under paragraph (4) fails to notify the undertaker of its decision before the end of the period of 28 days beginning with the date on which the application was made, it is deemed to have granted consent.

Permanent stopping up and restriction of use of streets and private means of access

15.—(1) Subject to the provisions of this article, the undertaker may, in connection with the carrying out of the authorised development, stop up each of the streets and private means of access specified in column (1) of Parts 1, 2, 3, and 4 of Schedule 4 (permanent stopping up of highways and private means of access and provision of new highways and private means of access) to the extent specified and described in column (2) of that Schedule.

(2) No street or private means of access specified in column (1) of Parts 2 and 3 of Schedule 4 is to be wholly or partly stopped up under this article unless—

- (a) the new street or private means of access to be constructed and substituted for it, which is specified in column (3) of those Parts of that Schedule, has been completed to the reasonable satisfaction of the street authority and is open for use; or
- (b) a temporary alternative route for the passage of such traffic as could have used the street or private means of access to be stopped up is first provided and subsequently maintained by the undertaker, to the reasonable satisfaction of the street authority, between the commencement and termination points for the stopping up of the street or private means of access until the completion and opening of the new street or private means of access in accordance with sub-paragraph (a).

(3) No street or private means of access specified in column (1) of Part 4 of Schedule 4 is to be wholly or partly stopped up under this article unless the condition specified in paragraph (4) is satisfied in relation to all the land which abuts on either side of the street or private means of access to be stopped up.

(4) The condition referred to in paragraph (3) is that—

- (a) the undertaker is in possession of the land; or
- (b) there is no right of access to the land from the street or private means of access concerned; or
- (c) there is reasonably convenient access to the land otherwise than from the street or private means of access concerned; or
- (d) the owners and occupiers of the land have agreed to the stopping up.

(5) The private means of access specified in column (1) of Part 5 of Schedule 4 is to be altered to the extent specified in the corresponding row of column (2) of that Part.

(6) Where a street or private means of access has been stopped up under this article—

- (a) all rights of way over or along the street or private means of access so stopped up are extinguished; and
- (b) the undertaker may appropriate and use for the purposes of the authorised development so much of the site of the street or private means of access as is bounded on both sides by land owned by the undertaker.

(7) Any person who suffers loss by the suspension or extinguishment of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(8) This article is subject to article 37 (apparatus and rights of statutory undertakers in stopped up streets).

Access to works

16. The undertaker may, for the purposes of the authorised development, form and layout means of access, or improve existing means of access, at such locations within the Order limits as the undertaker reasonably requires for the purposes of the authorised development.

Clearways

17.—(1) From the date on which the roads described in column (2) of Part 6 (traffic regulation measures (clearways and prohibitions)) of Schedule 3 (classification of roads, etc.) and identified in the corresponding row of column (3) of that Part as to become a clearway, are open to traffic, no person is to cause or permit any vehicle to wait on any part of the lengths of road, except upon the direction of, or with the permission of, a uniformed constable or uniformed traffic officer, except as provided in paragraph (2).

(2) Nothing in paragraph (1) applies—

- (a) to render it unlawful to cause or permit a vehicle to wait on any part of a road, for so long as may be necessary to enable that vehicle to be used in connection with—
 - (i) the removal of any obstruction to traffic;
 - (ii) the maintenance, improvement, reconstruction or operation of the road;
 - (iii) the laying, erection, maintenance or renewal in or near the road of any sewer, main pipe, conduit, wire, cable or other apparatus for the supply of gas, water, electricity or any electronic communications apparatus as defined in Schedule 3A (the electronic communications code) to the Communications Act 2003(a); or
 - (iv) any building operation or demolition;
- (b) in relation to a vehicle being used—
 - (i) for police, ambulance, fire and rescue authority or traffic officer purposes;
 - (ii) in the service of a local authority, safety camera partnership or Driver and Vehicle Standards Agency in pursuance of statutory powers or duties;
 - (iii) in the service of a water or sewerage undertaker within the meaning of the Water Industry Act 1991(b); or
 - (iv) by a universal service provider for the purposes of providing a universal postal service as defined by the Postal Service Act 2000(c); or
- (c) in relation to a vehicle waiting when the person in control of it is—
 - (i) required by law to stop;
 - (ii) obliged to stop in order to avoid an accident; or
 - (iii) prevented from proceeding by circumstances outside the persons control.

(3) No person is to cause or permit any vehicle to wait on any part of the roads described in paragraph (1) for the purposes of selling, or dispensing of, goods from that vehicle, unless the goods are immediately delivered at, or taken into, premises adjacent to the land on which the vehicle stood when the goods were sold or dispensed.

(4) Paragraphs (1), (2) and (3) have effect as if made by order under the 1984 Act, and their application may be varied or revoked by an order made under that Act or any other enactment which provides for the variation or revocation of such orders.

(5) In this article, “traffic officer” means an individual designated under section 2 (designation of traffic officers) of the Traffic Management Act 2004(d).

(a) 2003 c. 21. Schedule 3A was inserted by section 4(2) of, and Schedule 1 to, the Digital Economy Act 2017 (c. 30).

(b) 1991 c. 56.

(c) 2000 c. 26.

(d) 2004 c. 18.

Traffic regulation

18.—(1) This article applies to roads in respect of which the undertaker is not the traffic authority.

(2) Subject to the provisions of this article, and the consent of the traffic authority in whose area the road concerned is situated, which consent must not be unreasonably withheld, the undertaker may, for the purposes of the authorised development—

- (a) revoke, amend or suspend in whole or in part any order made, or having effect as if made, under the 1984 Act;
- (b) permit, prohibit or restrict the stopping, waiting, loading or unloading of vehicles on any road;
- (c) authorise the use as a parking place of any road;
- (d) make provision as to the direction or priority of vehicular traffic on any road; and
- (e) permit or prohibit vehicular access to any road,

either at all times or at times, on days or during such periods as may be specified by the undertaker.

(3) The power conferred by paragraph (2) may be exercised at any time prior to the expiry of 12 months from the opening of the authorised development for public use but subject to paragraph (7) any prohibition, restriction or other provision made under paragraph (2) may have effect both before and after the expiry of that period.

(4) The undertaker must consult the chief officer of police and the traffic authority in whose area the road is situated before complying with the provisions of paragraph (5).

(5) The undertaker must not exercise the powers conferred by paragraph (2) unless it has—

- (a) given not less than—
 - (i) 12 weeks' notice in writing of its intention so to do in the case of a prohibition, restriction or other provision intended to have effect permanently; or
 - (ii) 4 weeks' notice in writing of its intention so to do in the case of a prohibition, restriction or other provision intended to have effect temporarily,to the chief officer of police and to the traffic authority in whose area the road is situated; and
- (b) advertised its intention in such manner as the traffic authority may specify in writing within 28 days of the receipt of notice of the undertaker's intention in the case of sub-paragraph (a)(i), or within 7 days of the receipt of notice of the undertaker's intention in the case of sub-paragraph (a)(ii).

(6) Any prohibition, restriction or other provision made by the undertaker under paragraph (2)—

- (a) has effect as if duly made by, as the case may be—
 - (i) the traffic authority in whose area the road is situated, as a traffic regulation order under the 1984 Act; or
 - (ii) the local authority in whose area the road is situated, as an order under section 32(a) (power of local authorities to provide parking spaces) of the 1984 Act,and the instrument by which it is effected may specify savings and exemptions to which the prohibition, restriction or other provision is subject; and
- (b) is deemed to be a traffic order for the purposes of Schedule 7 (road traffic contraventions subject to civil enforcement) to the Traffic Management Act 2004(a).

(7) Any prohibition, restriction or other provision made under this article may be suspended, varied or revoked by the undertaker from time to time by subsequent exercise of the powers of paragraph (2) within a period of 24 months from the opening of the authorised development.

(a) 2004 c. 18.

(8) Before exercising the powers conferred by paragraph (2), the undertaker must consult such persons as it considers necessary and appropriate and must take into consideration any representations made to it by any such person.

(9) Expressions used in this article and in the 1984 Act shall have the same meaning in this article as in that Act.

(10) The powers conferred on the undertaker by this article with respect to any road have effect subject to any agreement entered into by the undertaker with any person with an interest in (or who undertakes activities in relation to) premises served by the road.

(11) If the traffic authority fails to notify the undertaker of its decision within 28 days of receiving an application for consent under paragraph (2) the traffic authority is deemed to have granted consent.

PART 4

SUPPLEMENTAL POWERS

Discharge of water

19.—(1) Subject to paragraphs (3) and (4), the undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the carrying out or maintenance of the authorised development and for that purpose may lay down, take up and alter pipes and may, on any land within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain.

(2) Any dispute arising from the making of connections to or the use of a public sewer or drain by the undertaker under paragraph (1) is to be determined as if it were a dispute under section 106 (right to communicate with public sewers) of the Water Industry Act 1991^(a).

(3) The undertaker must not discharge any water into any watercourse, public sewer or drain except with the consent of the person to whom it belongs; and such consent may be given subject to such terms and conditions as that person may reasonably impose, but must not be unreasonably withheld.

(4) The undertaker must not make any opening into any public sewer or drain except—

- (a) in accordance with plans approved by the person to whom the sewer or drain belongs, but such approval must not be unreasonably withheld; and
- (b) where that person has been given the opportunity to supervise the making of the opening.

(5) The undertaker must take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain pursuant to this article is as free as may be practicable from gravel, soil or other solid substance, oil or matter in suspension.

(6) Subject to paragraph 1(a) of article 3 (disapplication of legislative provisions) nothing in this article overrides the requirement for an environmental permit under regulation 12(1)(b) (requirement for environmental permit) of the Environmental Permitting (England and Wales) Regulations 2016^(b).

(7) In this article—

- (a) “public sewer or drain” means a sewer or drain which belongs to the Homes and Communities Agency (known as Homes England), the Environment Agency, an internal drainage board, a joint planning board, a local authority, a sewerage undertaker or an urban development corporation; and

(a) 1991 c. 56. Section 106 was amended by section 35(1) and (8) of, and Schedule 2 to, the Competition and Service (Utilities) Act 1992 (c. 43), sections 36(2) and 99 of the Water Act 2003 (c. 37) and paragraph 16(1) of Schedule 3 to the Flood and Water Management Act 2010 (c. 29).

(b) S.I. 2006/1154.

- (b) other expressions, excluding watercourse, used both in this article and in the Water Resources Act 1991(a) have the same meaning as in that Act.

(8) If a person who receives an application for consent under paragraph (3) or approval under paragraph (4)(a) fails to notify the undertaker of a decision within 28 days of receiving an application that person will be deemed to have granted consent or given approval, as the case may be.

Protective work to buildings

20.—(1) Subject to the following provisions of this article, the undertaker may at its own expense carry out such protective works to any building which may be affected by the authorised development as the undertaker considers necessary or expedient.

(2) Protective works may be carried out—

- (a) at any time before or during the carrying out in the vicinity of the building of any part of the authorised development; or
- (b) after the completion of that part of the authorised development in the vicinity of the building at any time up to the end of the period of 5 years beginning with the day on which that part of the authorised development is first opened for use.

(3) For the purpose of determining how the functions under this article are to be exercised the undertaker may enter and survey any building falling within paragraph (1) and any land within its curtilage.

(4) For the purpose of carrying out protective works under this article to a building the undertaker may (subject to paragraphs (5) and (6))—

- (a) enter the building and any land within its curtilage; and
- (b) where the works cannot be carried out reasonably conveniently without entering land which is adjacent to the building but outside its curtilage, enter the adjacent land (but not any building erected on it).

(5) Before exercising—

- (a) a right under paragraph (1) to carry out protective works to a building;
- (b) a right under paragraph (3) to enter a building and land within its curtilage;
- (c) a right under paragraph (4)(a) to enter a building and land within its curtilage; or
- (d) a right under paragraph (4)(b) to enter land,

the undertaker must, except in the case of emergency, serve on the owners and occupiers of the building or land not less than 14 days' notice of its intention to exercise that right and, in a case falling within sub-paragraph (a) or (c), specifying the protective works proposed to be carried out.

(6) Where a notice is served under paragraph (5)(a), (c) or (d), the owner or occupier of the building or land concerned may, by serving a counter-notice within the period of 10 days beginning with the day on which the notice was served, require the question whether it is necessary or expedient to carry out the protective works or to enter the building or land to be referred to arbitration under article 50 (arbitration).

(7) The undertaker must compensate the owners and occupiers of any building or land in relation to which rights under this article have been exercised for any loss or damage arising to them by reason of the exercise of those rights.

(8) Where—

- (a) protective works are carried out under this article to a building; and
- (b) within the period of 5 years beginning with the day on which the part of the authorised development carried out in the vicinity of the building is first opened for use it appears

(a) 1991 c. 57.

that the protective works are inadequate to protect the building against damage caused by the carrying out or use of that part of the authorised development,
the undertaker must compensate the owners and occupiers of the building for any loss or damage sustained by them.

(9) Nothing in this article relieves the undertaker from any liability to pay compensation under section 152(a) (compensation in case where no right to claim in nuisance) of the 2008 Act.

(10) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the entry onto land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (compulsory acquisition provisions) of the 2008 Act.

(11) Any compensation payable under paragraph (7) or (8) is to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(12) In this article “protective works” in relation to a building means—

- (a) underpinning, strengthening and any other works the purpose of which is to prevent damage which may be caused to the building by the carrying out, maintenance or use of the authorised development; and
- (b) any works the purpose of which is to remedy any damage which has been caused to the building by the carrying out, maintenance or use of the authorised development.

Authority to survey and investigate the land

21.—(1) The undertaker may for the purposes of this Order enter on any land shown within the Order limits or which may be affected by the authorised development and—

- (a) survey or investigate the land;
- (b) without limitation on the scope of sub-paragraph (a), make trial holes in such positions on the land as the undertaker thinks fit to investigate the nature of the surface layer and subsoil and remove soil samples;
- (c) without limitation on the scope of sub-paragraph (a), carry out ecological or archaeological investigations on such land; and
- (d) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and making of trial holes.

(2) No land may be entered or equipment placed or left on or removed from the land under paragraph (1) unless at least 14 days’ notice has been served on every owner and occupier of the land.

(3) Any person entering land under this article on behalf of the undertaker—

- (a) must, if so required, before or after entering the land, produce written evidence of their authority to do so; and
- (b) may take onto the land such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes.

(4) No trial holes are to be made under this article—

- (a) in land located within a highway boundary without the consent of the highway authority;
or
- (b) in a private street without the consent of the street authority,

but such consent must not be unreasonably withheld.

(5) The undertaker must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the powers conferred by this article, such compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(a) Section 152 was amended by S.I. 2009/1307.

(6) If either a highway authority or street authority which receives an application for consent fails to notify the undertaker of its decision within 28 days of receiving the application for consent—

- (a) under paragraph (4)(a) in the case of a highway authority; or
- (b) under paragraph (4)(b) in the case of a street authority,

that authority will be deemed to have granted consent.

PART 5

POWERS OF ACQUISITION AND POSSESSION OF LAND

Compulsory acquisition of land

22.—(1) The undertaker may acquire compulsorily so much of the Order land as is required for the authorised development, or to facilitate it, or is incidental to it.

(2) This article is subject to paragraph (2) of article 25 (compulsory acquisition of rights and restrictive covenants) and paragraph (1)(a)(i) of article 33 (temporary use of land for carrying out the authorised development).

Compulsory acquisition of land – incorporation of the mineral code

23. Part 2 of Schedule 2 (minerals) to the Acquisition of Land Act 1981^(a) is incorporated in this Order subject to the modification that for “the acquiring authority” substitute “the undertaker”.

Time limit for exercise of authority to acquire land compulsorily

24.—(1) After the end of the period of 5 years beginning on the day on which this Order is made—

- (a) no notice to treat is to be served under Part 1 of the 1965 Act as modified by article 28 (modification of Part 1 of the 1965 Act); and
- (b) no declaration is to be executed under section 4 (execution of declaration) of the 1981 Act as applied by article 29 (application of the 1981 Act).

(2) The authority conferred by article 33 (temporary use of land for carrying out the authorised development) to take temporary possession of land ceases at the end of the period referred to in paragraph (1), except that nothing in this paragraph prevents the undertaker remaining in possession of land after the end of that period (subject to article 33(3)), if the land was entered and possession was taken before the end of that period.

Compulsory acquisition of rights and restrictive covenants

25.—(1) Subject to paragraphs (2) to (5), the undertaker may acquire such rights over the Order land, or impose restrictive covenants affecting the Order land, including rights and restrictive covenants for the benefit of a statutory undertaker or any other person, as may be required for any purpose for which that land may be acquired under article 22 (compulsory acquisition of land) by creating them as well as acquiring rights already in existence.

(2) In the case of the Order land specified in column (1) of Schedule 5 (land in which only new rights etc. may be acquired) the undertaker’s powers of compulsory acquisition are limited to the acquisition of such wayleaves, easements, new rights in the land or the imposition of restrictive covenants, as may be required for the purpose specified in relation to that land in column (2) of that Schedule and relating to that part of the authorised development specified in column (3) of

(a) 1981 c. 67.

that Schedule to the extent that the said purpose relates specifically to such part as is specified in column (3).

(3) The power to impose restrictive covenants under paragraph (1) is exercisable only in respect of plots specified in column (1) of Schedule 5.

(4) The power conferred by paragraph (1) to acquire the rights and to impose the restrictive covenants described in Schedule 5 for the benefit of statutory undertakers or for the benefit of any other person—

- (a) does not preclude the acquisition of such other rights and the imposition of such other restrictive covenants in respect of the same land in accordance with Schedule 5 as may be required for the benefit of any other statutory undertaker or any other person; and
- (b) must not be exercised by the undertaker in a way that precludes the acquisition of such other rights and the imposition of such other restrictive covenants in respect of the same land in accordance with Schedule 5 as are required for the benefit of any other statutory undertaker or any other person.

(5) Subject to Schedule 2A (counter-notice requiring purchase of land not in notice to treat) of the 1965 Act, as substituted by paragraph 5(8) of Schedule 6 (modification of compensation and compulsory purchase enactments for creation of new rights), where the undertaker acquires a right over land or the benefit of a restrictive covenant affecting land under paragraph (1) or (2), the undertaker is not required to acquire a greater interest in that land.

(6) Schedule 6 has effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application in relation to the compulsory acquisition under this article of a right over land by the creation of a new right or the imposition of a restrictive covenant.

Extinguishment of public rights of way

26.—(1) The public rights of way identified in column 1 of Parts 1 and 2 of Schedule 4 (permanent stopping up of highways and private means of access and provision of new highways and private means of access) and shown on the streets, rights of way and access plans are to be extinguished on the date of the expiry of the notice given under paragraph (2).

(2) Prior to the extinguishment of each of the public rights of way identified in column 1 of Parts 1 and 2 of Schedule 4 and shown on the streets, rights of way and access plans, the undertaker must erect a site notice at each end of the rights of way to be extinguished no less than 28 days prior to the extinguishment of that right of way.

Private rights over land

27.—(1) Subject to the provisions of this article, all private rights over land subject to compulsory acquisition under this Order are extinguished—

- (a) from the date of acquisition of the land by the undertaker, whether compulsorily or by agreement; or
- (b) on the date of entry on the land by the undertaker under section 11(1)(a) (power of entry) of the 1965 Act,

whichever is the earlier.

(2) Subject to the provisions of this article, all private rights over land subject to the compulsory acquisition of the rights or the imposition of restrictive covenants under this Order are extinguished in so far as their continuance would be inconsistent with the exercise of the right or the burden of the restrictive covenant—

(a) Section 11(1) was amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981, section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (2006 No. 1), and sections 186 (1) and (2), 187 and 188 of the Housing and Planning Act 2016 (c. 22).

- (a) as from the date of the acquisition of the right or the benefit of the restrictive covenant by the undertaker, whether compulsorily or by agreement; or
- (b) on the date of entry on the land by the undertaker under section 11(1) of the 1965 Act (power of entry),

whichever is the earlier.

(3) Subject to the provisions of this article, all private rights over land owned by the undertaker that are within the Order limits are extinguished on commencement of any activity authorised by this Order which interferes with or breaches those rights.

(4) Subject to the provisions of this article, all private rights over land of which the undertaker takes temporary possession under this Order are suspended and unenforceable for as long as the undertaker remains in lawful possession of the land.

(5) Any person who suffers loss by the extinguishment or suspension of any private right under this article is entitled to compensation in accordance with the terms of section 152 of the 2008 Act to be determined, in case of dispute, under Part 1 of the 1961 Act.

(6) This article does not apply in relation to any right to which section 138(a) (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) of the 2008 Act or article 36 (statutory undertakers) applies.

(7) Paragraphs (1) to (4) have effect subject to—

- (a) any notice given by the undertaker before—
 - (i) the completion of the acquisition of the land or the acquisition of the right or the imposition of the restrictive covenant over or affecting the land;
 - (ii) the undertaker's appropriation of it;
 - (iii) the undertaker's entry onto it; or
 - (iv) the undertaker's taking temporary possession of it,
 that any or all of those paragraphs do not apply to any right specified in the notice; and
- (b) any agreement made at any time between the undertaker and the person in or to whom the right in question is vested or belongs.

(8) If any such agreement as is referred to in paragraph (7)(b)—

- (a) is made with a person in or to whom the right is vested or belongs; and
- (b) is expressed to have effect also for the benefit of those deriving title from or under that person,

it is effective in respect of the persons so deriving title, whether the title was derived before or after the making of the agreement.

(9) References in this article to private rights over land include any trust, incident, easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support and include restrictions as to the user of land arising by virtue of a contract, agreement or undertaking having that effect.

Modification of Part 1 of the 1965 Act

28.—(1) Part 1 of the 1965 Act, as applied to this Order by section 125(b) (application of compulsory acquisition provisions) of the 2008 Act is modified as follows.

(2) In section 4A(1)(c) (extension of time limit during challenge) for “section 23 of the Acquisition of Land Act 1981 (application to the High Court in respect of compulsory purchase

(a) Section 138 was amended by section 23(1) and (4) of the Growth and Infrastructure Act 2013 (c. 27) and S.I. 2017/1285.
 (b) Section 125 was amended by section 190 of, and paragraph 17 of Schedule 16 to, the Housing and Planning Act 2016 (c. 22).
 (c) Section 4A(1) was inserted by section 202(1) of the Housing and Planning Act 2016.

order), the three year period mentioned in section 4” substitute “section 118(a) (legal challenges relating to applications for orders granting development consent) of the Planning Act 2008, the five year period mentioned in article 24 (time limit for exercise of authority to acquire land compulsorily) of the M25 Junction 10/A3 Wisley Interchange Development Consent Order 202[](b)”.

(3) In section 11A(c) (powers of entry: further notice of entry)—

(a) in subsection (1)(a), after “land” insert “under that provision”;

(b) in subsection (2), after “land” insert “under that provision”.

(4) In section 22(2) (expiry of time limit for exercise of compulsory purchase power not to affect acquisition of interests omitted from purchase), for “section 4 of this Act” substitute “article 24 (time limit for exercise of authority to acquire land compulsorily) of the M25 Junction 10/A3 Wisley Interchange Development Consent Order 202[]”.

(5) In Schedule 2A (counter-notice requiring purchase of land not in notice to treat)—

(a) for paragraphs 1(2) and 14(2) substitute—

“(2) But see article 31(3) (acquisition of subsoil or airspace only) of the M25 Junction 10/A3 Wisley Interchange Development Consent Order 202[], which excludes the acquisition of subsoil or airspace only from this Schedule.”; and

(b) after paragraph 29, insert—

“PART 4

INTERPRETATION

30. In this Schedule, references to entering on and taking possession of land do not include doing so under articles 20 (protective work to buildings), 32 (temporary use of land for carrying out the authorised development) or 33 (temporary use of land for maintaining the authorised development) of the M25 Junction 10/A3 Wisley Interchange Development Consent Order 202[].”.

Application of the 1981 Act

29.—(1) The 1981 Act applies as if this Order were a compulsory purchase order.

(2) The 1981 Act, as so applied by paragraph (1), has effect with the following modifications.

(3) In section 1 (application of act), for subsection 2 substitute—

“(2) This section applies to any Minister, any local or other public authority or any other body or person authorised to acquire land by means of a compulsory purchase order.”.

(4) In section 4 (execution of declaration), for subsection (1) substitute—

“(1) The acquiring authority may execute in respect of any of the land which they are authorised to acquire by the compulsory purchase order a declaration in the prescribed form vesting the land in themselves, or in the case of land or a right that they are expressly authorised to acquire for the benefit of a third party, in the third party in question, from the end of such period as may be specified in the declaration (not being less than 3 months from the date on which the service of notices required by section 6 below is complete.”.

(5) In section 5(d) (earliest date for execution of declaration), in subsection (2), omit the words from “, and this subsection” to the end.

(6) Omit section 5A(a) (time limit for general vesting declaration).

(a) Section 118 was amended by paragraphs 1 and 59 of Schedule 13, and Part 20 of Schedule 25, to the Localism Act 2011 (c. 20) and section 92(4) of the Criminal Justice and Courts Act 2015 (c. 2).

(b) S.I. 202[]/[].

(c) Section 11A was inserted by section 186(3) of the Housing and Planning Act 2016.

(d) Section 5 was amended by Schedule 15 to the Housing and Planning Act 2016.

(7) In section 5B(1)(b) (extension of time limit during challenge) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order), the three year period mentioned in section 5A” substitute “section 118 (legal challenges relating to applications for orders granting development consent) of the Planning Act 2008 the five year period mentioned in article 24 (time limit for exercise of authority to acquire land compulsorily) of the M25 Junction 10/A3 Wisley Interchange Development Consent Order 202[](c)”.

(8) In section 6(d) (notices after execution of declaration) in subsection (1)(b) for “section 15 of, or paragraph 6 of Schedule 1 to, the Acquisition of Land Act 1981” substitute “section 134(e) (notice of authorisation of compulsory acquisition) of the Planning Act 2008”.

(9) In section 7(f) (constructive notice to treat) in subsection (1)(a), omit “(as modified by section 4 of the Acquisition of Land Act 1981)”.

(10) In section 8 (vesting, and right to enter and take possession), after subsection (3), insert—

“(4) In this section references to the acquiring authority include any third party referred to in section 4(1).”.

(11) In section 10 (acquiring authority’s liability arising on vesting of the land), in subsection (1), after “vested in an acquiring authority” insert “or a third party”.

(12) In section 11 (recovery of compensation overpaid), for subsection (1) substitute—

“(1) This section applies where after the execution of a general vesting declaration a person (“the claimant”) claims compensation in respect of the acquisition of an interest in land by virtue of the declaration, and the acquiring authority pay compensation in respect of that interest.”.

(13) In Schedule A1(g) (counter-notice requiring purchase of land not in general vesting declaration), omit paragraph 1(2).

(14) References to the 1965 Act in the 1981 Act are to be construed as references to the 1965 Act as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act (and as modified by article 28 (modification of Part 1 of the 1965 Act)) to the compulsory acquisition of land under this Order.

Modification of the 2017 Regulations

30.—(1) Schedule 1 to the 2017 Regulations is modified as follows.

(2) In paragraph (3) of Form 1, after “from the date on which the service of notices required by section 6 of the Act is completed” insert—

“(1A) The [insert land or rights or both] described in Part [] of the Schedule hereto as being for the benefit of third parties and more particularly delineated on the plan annexed hereto vests in the third parties in question as from the end of the period of [insert period of 3 months or longer] from the date on which the service of notices required by section 6 of the Act is completed.”.

(3) References in Form 2 to “in themselves” is substituted with “in themselves and any identified third parties”.

(4) In paragraph (b) of the notes on use of Form 2—

(a) after “Insert the name of the authority” insert “and, where the context so requires, a reference to third parties”; and

(a) Section 5A was inserted by section 182(2) of the Housing and Planning Act 2016 (c. 22).

(b) Section 5B(1) was inserted by section 202(2) of the Housing and Planning Act 2016.

(c) S.I. 202[]/[].

(d) Section 6 was amended by section 4 of, and paragraph 52(2) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11) and paragraph 7 of Schedule 15 to the Housing and Planning Act 2016.

(e) Section 134 was amended by section 142 of, and Part 21 of Schedule 25 to, the Localism Act 2011 and S.I. 2012/16.

(f) Section 7(1) was substituted by paragraphs 1 and 3 of Schedule 18 to the Housing and Planning Act 2016.

(g) Schedule A1 was inserted by paragraph 6 of Part 1 of Schedule 18 to the Housing and Planning Act 2016.

- (b) omit “Thereafter rely on that definition wherever “(b)” appears in the text.”.

Acquisition of subsoil or airspace only

31.—(1) The undertaker may acquire compulsorily so much of, or such rights in, the subsoil of or of the airspace over the land referred to in paragraph (1) of article 22 (compulsory acquisition of land) as may be required for any purpose for which that land may be acquired under that provision instead of acquiring the whole of the land.

(2) Where the undertaker acquires any part of, or rights in, the subsoil of or the airspace over land referred to in paragraph (1), the undertaker is not required to acquire an interest in any other part of the land.

(3) The following do not apply in connection with the exercise of the power under paragraph (1) in relation to subsoil or airspace only—

- (a) Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act (as modified by article 28 (modification of Part 1 of the 1965 Act));
- (b) Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration) to the 1981 Act; and
- (c) section 153(4A)(a) (blighted land: proposed acquisition of part interest; material detriment test) of the 1990 Act.

(4) Paragraphs (2) and (3) are to be disregarded where the undertaker acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory.

Rights under or over streets

32.—(1) The undertaker may enter on and appropriate so much of the subsoil of, or airspace over, any street within the Order limits as may be required for the purposes of the authorised development and may use the subsoil or airspace for those purposes or any other purpose ancillary to the authorised development.

(2) Subject to paragraph (3), the undertaker may exercise any power conferred by paragraph (1) in relation to a street without being required to acquire any part of the street or any easement or right in the street.

(3) Paragraph (2) does not apply in relation to—

- (a) any subway or underground building; or
- (b) any cellar, vault, arch or other construction in, on or under a street which forms part of a building fronting onto the street.

(4) Subject to paragraph (5), any person who is an owner or occupier of land in respect of which the power of appropriation conferred by paragraph (1) is exercised without the undertaker acquiring any part of that person’s interest in the land, and who suffers loss as a result, will be entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(5) Compensation is not payable under paragraph (4) to any person who is an undertaker to whom section 85 (sharing cost of necessary measures) of the 1991 Act applies in respect of measures of which the allowable costs are to be borne in accordance with that section.

Temporary use of land for carrying out the authorised development

33.—(1) The undertaker may, in connection with the carrying out of the authorised development, but subject to article 24 (time limit for the exercise of authority to acquire land compulsorily)—

- (a) enter on and take temporary possession of—

(a) Subsection (4A) of section 153 was inserted by section 200(1) and (2) of the Housing and Planning Act 2016.

- (i) the land specified in column (1) of Schedule 7 (land of which temporary possession may be taken) for the purpose specified in relation to that land in column (2) of that Schedule relating to the part of the authorised development specified in column (3) of that Schedule; and
- (ii) any other Order land in respect of which no notice of entry has been served under section 11 (powers of entry) of the 1965 Act (other than in connection with the acquisition of rights only) and no declaration has been made under section 4 (execution of declaration) of the 1981 Act;
- (b) remove any buildings and vegetation from that land;
- (c) construct temporary works (including the provision of means of access) and buildings on that land; and
- (d) construct any works on that land as are mentioned in Schedule 1 (authorised development).

(2) Not less than 14 days before entering on and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land and explain the purpose for which entry is taken in respect of land specified under paragraph (1)(a)(ii).

(3) Notwithstanding article 24(2), the undertaker may not, without the agreement of the owners of the land, remain in possession of any land under this article—

- (a) in the case of land specified in paragraph (1)(a)(i), after the end of the period of two years beginning with the date of completion of the part of the authorised development specified in relation to that land in column (3) of Schedule 7; or
- (b) in the case of any land referred to in paragraph (1)(a)(ii), after the end of the period of two years beginning with the date of completion of the work for which temporary possession of the land was taken unless the undertaker has, by the end of that period, served a notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act in relation to that land.

(4) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but the undertaker is not required to—

- (a) replace a building removed under this article;
- (b) restore the land on which any permanent works have been constructed under paragraph (1)(d);
- (c) remove any ground strengthening works which have been placed on the land to facilitate construction of the authorised development; or
- (d) remove any measures installed over or around statutory undertakers' apparatus to protect that apparatus from the authorised development.

(5) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the provisions of this article.

(6) Any dispute as to a person's entitlement to compensation under paragraph (5), or as to the amount of the compensation, is to be determined under Part 1 of the 1961 Act.

(7) Any dispute as to the satisfactory removal of temporary works and restoration of land under paragraph (4) does not prevent the undertaker giving up possession of the land.

(8) Nothing in this article affects any liability to pay compensation under section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act or under any other enactment in respect of loss or damage arising from the carrying out of the authorised development, other than loss or damage for which compensation is payable under paragraph (5).

(9) Where the undertaker takes possession of land under this article, the undertaker is not required to acquire the land or any interest in it.

(10) Section 13(a) (refusal to give possession to acquiring authority) of the 1965 Act applies to the temporary use of land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

Temporary use of land for maintaining the authorised development

34.—(1) Subject to paragraph (2), at any time or times during the maintenance period relating to any part of the authorised development, the undertaker may—

- (a) enter upon and take temporary possession of any land within the Order limits if such possession is reasonably required for the purpose of maintaining the authorised development; and
- (b) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose.

(2) Paragraph (1) does not authorise the undertaker to take temporary possession of—

- (a) any house or garden belonging to a house; or
- (b) any building (other than a house) if it is for the time being occupied.

(3) Not less than 28 days before entering upon and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land and explain the purpose for which entry is taken.

(4) The undertaker may only remain in possession of land under this article for so long as may be reasonably necessary to carry out the maintenance of the part of the authorised development for which possession of the land was taken.

(5) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.

(6) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the powers conferred by this article.

(7) Any dispute as to a person's entitlement to compensation under paragraph (6), or as to the amount of the compensation, is to be determined under Part 1 of the 1961 Act.

(8) Nothing in this article affects any liability to pay compensation under section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act or under any other enactment in respect of loss or damage arising from the execution of any works, other than loss or damage for which compensation is payable under paragraph (6).

(9) Where the undertaker takes possession of land under this article, the undertaker is not required to acquire the land or any interest in it.

(10) Section 13 (refusal to give possession to the acquiring authority) of the 1965 Act applies to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

(11) In this article “the maintenance period”, in relation to any part of the authorised development means the period of 5 years beginning with the date on which that part of the authorised development is first opened for use, save that in relation to the replacement land identified in Part 4 of Schedule 10 (replacement land) to this Order, “the maintenance period” means such period for the maintenance and management of that land as may be specified in a scheme approved by the Secretary of State under requirement 7 of Schedule 2 (design, layout and implementation of Replacement Land).

(a) Section 13 was amended by sections 62(3) and 139 of, and paragraphs 27 and 28 of Schedule 13, and Part 3 of Schedule 23 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).

Crown Rights

35.—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and, in particular, nothing in this Order authorises the undertaker or any licensee—

- (a) to take, use, enter on or in any manner interfere with any land or rights of any description including any part of any river, channel or creek)—
 - (i) belonging to Her Majesty in right of the Crown and forming part of the Crown Estate without the consent in writing of the Crown Estate Commissioners;
 - (ii) belonging to Her Majesty in right of the Crown and not forming part of the Crown Estate without the consent in writing of the government department having the management of that land; or
 - (iii) belonging to a government department or held in trust for Her Majesty for the purposes of a government department without the consent in writing of that government department; or
- (b) to exercise any right under this Order compulsorily to acquire an interest in any land which is Crown land (as defined in section 227 of the 2008 Act) that is for the time being held otherwise than by or on behalf of the Crown without the consent in writing of the appropriate Crown authority (as defined that section).

(2) Consent under paragraph (1) may be given unconditionally or subject to terms and conditions, and is deemed to have been given in writing where it is sent electronically.

Statutory undertakers

36.—(1) Subject to the provisions of Schedule 9 (protective provisions), article 25 (compulsory acquisition of rights and restrictive covenants) and paragraph (2), the undertaker may—

- (a) acquire compulsorily, or acquire new rights or impose restrictive covenants over, any Order land belonging to statutory undertakers; and
- (b) extinguish the rights of, and remove or reposition apparatus belonging to, statutory undertakers over or within the Order land.

(2) Paragraph (1)(b) has no effect in relation to apparatus in respect of which the following provisions apply—

- (a) Part 3 (street works in England and Wales) of the 1991 Act; and
- (b) article 37 (apparatus and rights of statutory undertakers in stopped up streets) of this Order.

Apparatus and rights of statutory undertakers in stopped up streets

37.—(1) Where a street is stopped up under article 15 (permanent stopping up and restriction of use of streets and private means of access), any statutory utility whose apparatus is under, in, on, along or across the street has the same powers and rights in respect of that apparatus, subject to the provisions of this article, as if this Order had not been made.

(2) Where a street is stopped up under article 15 any statutory utility whose apparatus is under, in, on, over, along or across the street may, and if reasonably requested to do so by the undertaker must—

- (a) remove the apparatus and place it or other apparatus provided in substitution for it in such other position as the utility may reasonably determine and have power to place it; or
- (b) provide other apparatus in substitution for the existing apparatus and place it in such position as described in sub-paragraph (a).

(3) Subject to the following provisions of this article, the undertaker must pay to any statutory utility an amount equal to the cost reasonably incurred by the utility in or in connection with—

- (a) the execution of the relocation works required in consequence of the stopping up of the street; and
- (b) the doing of any other work or thing rendered necessary by the execution of the relocation works.

(4) If in the course of the execution of relocation works under paragraph (2)—

- (a) apparatus of a better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker, or, in default of agreement, is not determined by arbitration to be necessary, then, if it involves cost in the execution of the relocation works exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which, apart from this paragraph, would be payable to the statutory utility by virtue of paragraph (3) is to be reduced by the amount of that excess.

(5) For the purposes of paragraph (4)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

(6) An amount which, apart from this paragraph, would be payable to a statutory utility in respect of works by virtue of paragraph (3) (and having regard, where relevant, to paragraph (4)) must, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the utility any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

(7) Paragraphs (3) to (6) do not apply where the authorised development constitutes major highway works, major bridge works or major transport works for the purposes of Part 3 of the 1991 Act, but instead—

- (a) the allowable costs of the relocation works are to be determined in accordance with section 85 (sharing of cost of necessary measures) of that Act and any regulations for the time being having effect under that section; and
- (b) the allowable costs are to be borne by the undertaker and the statutory utility in such proportions as may be prescribed by any such regulations.

(8) In this article—

“apparatus” has the same meaning as in Part 3 of the 1991 Act;

“relocation works” means work executed, or apparatus provided, under paragraph (2); and

“statutory utility” means a statutory undertaker for the purposes of the 1980 Act or a public communications provider as defined in section 151(1) of the Communications Act 2003(a).

Recovery of costs of new connections

38.—(1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 36 (statutory undertakers) any person who is the owner or occupier of premises to which a supply was given from that apparatus is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in

(a) 2003 c. 21. There are amendments to section 151 which are not relevant to this Order.

consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

(2) Paragraph (1) does not apply in the case of the removal of a public sewer but where such a sewer is removed under article 36, any person who is—

- (a) the owner or occupier of premises the drains of which communicated with that sewer; or
- (b) the owner of a private sewer which communicated with that sewer,

is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of making the drain or sewer belonging to that person communicate with any other public sewer or with a private sewerage disposal plant.

(3) This article does not have effect in relation to apparatus to which article 37 (apparatus and rights of statutory undertakers in stopped up streets) or Part 3 of the 1991 Act applies.

(4) In this paragraph—

“public communications provider” has the same meaning as in section 151(1) of the Communications Act 2003; and

“public utility undertaker” means a gas, water, electricity or sewerage undertaker.

Special category land

39.—(1) On the exercise by the undertaker of the relevant Order powers, the special category land identified in Part 1 of Schedule 10 to this Order is not to vest in the undertaker, and the undertaker may not acquire any rights over the special category (rights) land identified in Part 2 of Schedule 10 to this Order, until the undertaker has acquired the replacement land identified in Part 4 of Schedule 10 to this Order and the Secretary of State has approved the details required by requirement 7 (design, layout and implementation of Replacement Land) of Schedule 2 (requirements) to this Order.

(2) On the requirements of paragraph (1) being satisfied, the special category land identified in Part 1 of Schedule 10 to this Order is to vest in the undertaker and be discharged from all rights, trusts and incidents to which it was previously subject.

(3) On the requirements of paragraph (1) being satisfied, the undertaker may acquire the rights over the special category (rights) land identified in Part 2 of Schedule 10 to this Order and the said land is to be discharged from all rights, trusts and incidents to which it was previously subject so far as their continuance would be inconsistent with the said rights to be acquired.

(4) On the requirements of paragraph (1) being satisfied, the land numbered 2/13 (being common land of which temporary possession may be taken under this Order) in the book of reference and on the land plans will be discharged from all rights, trusts and incidents to which it was previously subject.

(5) On the date on which the land comprising plots numbered in the book of reference and on the land plans 11/16, 11/17b, 11/17c (in so far as not required for the purpose of paragraph (7)) 11/17d, 11/17e, 11/17f, 11/17g, 11/17h, 11/17i and 11/17j is laid out and provided in accordance with the requirements at paragraph (1), the said land is to vest in the persons in whom the special category land identified in Part 1 and Part 2 of Schedule 10 to this Order (save for the land comprised in plots numbered 11/3a, 11/4a, 11/8 and 11/8a in the book of reference and on the land plans) was vested immediately before it was vested in the undertaker and is to be subject to the same rights, trusts and incidents as attached to that land.

(6) On the date on which the land comprising plot numbered 27/1 and 11/17a in the book of reference and on the land plans is laid out and provided in accordance with the scheme requirements at paragraph (1), the said land is to vest in the persons in whom the land comprised in plots numbered 11/3a and 11/4a in the book of reference and on the land plans was vested immediately before it was vested in the undertaker and is to be subject to the same rights, trusts and incidents as attached to that land.

(7) On the date on which the land comprising so much of plot numbered 11/17c in the book of reference as is required for the purpose of providing replacement land to the persons in whom

those parts of the special category land comprised in plots numbered 11/8, 11/8a and 28/2 in the book of reference and on the land plans was vested immediately before it was vested in the undertaker is laid out and provided in accordance with the scheme requirements at paragraph (1), the said land is to vest in the persons described in this paragraph and is to be subject to the same rights, trusts and incidents as attached to that land.

(8) In this article—

“the relevant Order powers” means the powers exercisable over the special category land or the special category (rights) land by the undertaker under article 22 (compulsory acquisition of land) or article 25 (compulsory acquisition of rights and restrictive covenants);

PART 6

OPERATIONS

Felling or lopping of trees and removal of hedgerows

40.—(1) The undertaker may fell or lop any tree or shrub within or overhanging land within the Order limits, or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree or shrub—

- (a) from obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development; or
- (b) from constituting a danger to persons using the authorised development.

(2) In carrying out any activity authorised by paragraph (1), the undertaker must do no unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from such activity.

(3) Any dispute as to a person’s entitlement to compensation under paragraph (2), or as to the amount of compensation, is to be determined under Part 1 of the 1961 Act.

(4) The undertaker may, for the purposes of carrying out the authorised development but subject to paragraph (2), remove any hedgerow within the Order limits that is required to be removed.

(5) In this article “hedgerow” has the same meaning as in the Hedgerow Regulations 1997^(a) and includes important hedgerows.

Trees subject to tree preservation orders

41.—(1) The undertaker may fell or lop any tree described in Schedule 8 (trees subject to tree preservation orders) or cut back its roots or undertake such other works described in column (2) of that Schedule relating to the relevant part of the authorised development described in column (3) of that Schedule, if it reasonably believes it to be necessary in order to do so to prevent the tree or shrub—

- (a) from obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development; or
- (b) from constituting a danger to persons using the authorised development.

(2) In carrying out any activity authorised by paragraph (1)—

- (a) the undertaker shall do no unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from such activity; and
- (b) the duty contained in section 206(1) (replacement of trees) of the 1990 Act shall not apply.

(a) S.I. 1997/1160.

(3) The authority given by paragraph (1) shall constitute a deemed consent under the relevant tree preservation order.

(4) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, shall be determined under Part 1 of the 1961 Act.

PART 7

MISCELLANEOUS AND GENERAL

Application of landlord and tenant law

42.—(1) This article applies to—

- (a) any agreement for leasing to any person the whole or any part of the authorised development or the right to operate the same; and
- (b) any agreement entered into by the undertaker with any person for the construction, maintenance, use or operation of the authorised development, or any part of it,

so far as any such agreement relates to the terms on which any land which is the subject of a lease granted by or under that agreement is to be provided for that person's use.

(2) No enactment or rule of law regulating the rights and obligations of landlords and tenants prejudices the operation of any agreement to which this article applies.

(3) No such enactment or rule of law applies in relation to the rights and obligations of the parties to any lease granted by or under any such agreement so as to—

- (a) exclude or in any respect modify any of the rights and obligations of those parties under the terms of the lease, whether with respect to the termination of the tenancy or any other matter;
- (b) confer or impose on any such party any right or obligation arising out of or connected with anything done or omitted on or in relation to land which is the subject of the lease, in addition to any such right or obligation provided for by the terms of the lease; or
- (c) restrict the enforcement (whether by action for damages or otherwise) by any party to the lease of any obligation of any other party under the lease.

Operational land for purposes of the Town and Country Planning Act 1990

43. Development consent granted by this Order is to be treated as specific planning permission for the purposes of section 264(3) (cases in which land is to be treated as operational land for the purposes of that Act) of the 1990 Act.

Defence to proceedings in respect of statutory nuisance

44.—(1) Where proceedings are brought under section 82(1) (summary proceedings by person aggrieved by statutory nuisance) of the Environmental Protection Act 1990^(a) in relation to a nuisance falling within paragraph (g) of section 79(1) (noise emitted from premises so as to be prejudicial to health or a nuisance) of that Act no order is to be made, and no fine may be imposed, under section 82(2)^(b) of that Act if—

- (a) the defendant shows that the nuisance—
 - (i) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development and that the nuisance is attributable to the carrying out of the authorised development in accordance with a

^(a) 1990 c. 43. There are amendments to this subsection which are not relevant to this Order.

^(b) Subsection (2) was amended by section 5(2) of the Noise and Statutory Nuisance Act 1993 (c. 40); there are other amendments to this subsection which are not relevant to this Order.

notice served under section 60 (control of noise on construction site), or a consent given under section 61 (prior consent for work on construction site) of the Control of Pollution Act 1974(a); or

(ii) is a consequence of the construction or maintenance of the authorised development and that it cannot reasonably be avoided; or

(b) the defendant shows that the nuisance is a consequence of the use of the authorised development and that it cannot reasonably be avoided.

(2) Section 61(9) (consent for work on construction site to include statement that it does not of itself constitute a defence to proceedings under section 82 of the Environmental Protection Act 1990) of the Control of Pollution Act 1974 does not apply where the consent relates to the use of premises by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development.

Protection of interests

45. Schedule 9 (protective provisions) to the Order has effect.

Certification of documents, etc.

46.—(1) As soon as practicable after the making of this Order, the undertaker must submit copies of each of the plans and documents set out in Schedule 11 (documents to be certified) to the Secretary of State for certification that they are true copies of those plans and documents.

(2) Where any plan or document set out in Schedule 11 requires to be amended to reflect the terms of the Secretary of State's decision to make the Order, that plan or document in the form amended to the Secretary of State's satisfaction is the version of the plan or document required to be certified under paragraph (1).

(3) A plan or document so certified will be admissible in any proceedings as evidence of the contents of the document of which it is a copy.

Service of notices

47.—(1) A notice or other document required or authorised to be served for the purposes of this Order may be served—

(a) by post;

(b) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied; or

(c) with the consent of the recipient and subject to paragraphs (5) to (8) by electronic transmission.

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of section 7 (references to service by post) of the Interpretation Act 1978(a) as it applies for the purposes of this article, the proper address of any person in relation to the service on that person of a notice or document under paragraph (1) is, if that person has given an address for service, that address, and otherwise—

(a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body; and

(b) in any other case, the last known address of that person at the time of service.

(a) 1974 c. 40. Section 61(9) was amended by section 162 of, and paragraph 15(1) and (3) of Schedule 3 to, the Environmental Protection Act 1990 c. 43. There are other amendments to this subsection which are not relevant to this Order.

(4) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person as having any interest in, or as the occupier of, land and the name or address of that person cannot be ascertained after reasonable enquiry, the notice may be served by—

- (a) addressing it to that person by name or by the description of “owner”, or as the case may be “occupier”, of the land (describing it); and
- (b) either leaving it in the hands of a person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

(5) Where a notice or other document required to be served or sent for the purposes of this Order is served or sent by electronic transmission the requirement will be taken to be fulfilled only where—

- (a) the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission in writing or by electronic transmission;
- (b) the notice or document is capable of being accessed by the recipient;
- (c) the notice or document is legible in all material respects; and
- (d) the notice or document is in a form sufficiently permanent to be used for subsequent reference.

(6) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within 7 days of receipt that the recipient requires a paper copy of all or part of that notice or other document the sender will provide such a copy as soon as reasonably practicable.

(7) Any consent to the use of electronic communication given by a person may be revoked by that person in accordance with paragraph (8).

(8) Where a person is no longer willing to accept the use of electronic transmission for any of the purposes of this Order—

- (a) that person must give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and
- (b) such revocation will be final and will take effect on a date specified by the person in the notice but that date must not be less than 7 days after the date on which the notice is given.

(9) This article will not be taken to exclude the employment of any method of service not expressly provided for by it.

(10) In this article “legible in all material respects” means that the information contained in the notice or document is available to that person to no lesser extent than it would be if served, given or supplied by means of a notice or document in printed form.

Amendment of local legislation

48.—(1) The following local enactments and local byelaws, and any byelaws or other provisions made under any of those enactments or byelaws, are hereby excluded and do not apply insofar as inconsistent with a provision, of or a power conferred by, this Order—

- (a) Cobham, Leatherhead and Godalming Bridges Act 1782^(a) sections 1 and 6;
- (b) Cobham Gas Act 1899^(b) section 29;
- (c) Electric Lighting Orders Confirmation (No.1) Act 1908^(c) sections 4 and 5;
- (d) Borough of Guildford Byelaws with respect to Loading of Vehicles and Deposit of Mud on Highways 1968, byelaws 2 and 3; and
- (e) Surrey Act 1985^(d) sections 5(1) and 5(2).

(a) 1782 c. 17.
(b) 1899 c. lxxxvi.
(c) 1908 c. cxv.
(d) 1985 c. iii.

(2) For the purpose of paragraph (1) a provision is inconsistent with the exercise of a power conferred by this Order if and insofar as (in particular)—

- (a) it would make it an offence to take action, or not to take action, in pursuance of a power conferred by this Order;
- (b) action taken in pursuance of a power conferred by this Order would cause the provision to apply so as to enable a person to require the taking of remedial or other action or so as to enable remedial or other action to be taken; or
- (c) action taken in pursuance of a power or duty under the provisions would or might interfere with the exercise of any work authorised by this Order.

(3) Where any person notifies the undertaker in writing that anything done or proposed to be done by the undertaker or by virtue of this Order would amount to a contravention of a statutory provision of local application, the undertaker must as soon as reasonably practicable, and at any rate within 14 days of receipt of the notice, respond in writing setting out—

- (a) whether the undertaker agrees that the action taken or proposed does or would contravene the provision of local application;
- (b) if the undertaker does agree, the grounds (if any) on which the undertaker believes that the provision is excluded by this article; and
- (c) the extent of that exclusion.

Arbitration

49.—(1) Subject to paragraph (2), any dispute arising under any provision of this Order may not be referred to the courts of England and Wales and shall instead be referred to and settled by a single arbitrator to be agreed between the parties, or failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) by the President of the Institution of Civil Engineers.

(2) Paragraph (1) does not apply to any dispute which falls to be determined by the Upper Tribunal or where the parties to the dispute otherwise agree in writing.

Date

Signed
Title
Department

SCHEDULES

SCHEDULE 1

Article 2

AUTHORISED DEVELOPMENT

In the administrative areas of Surrey County Council, Elmbridge Borough Council and Guildford Borough Council.

The Works are situated as follows—

- (a) in respect of the whole of each and every Work No. in the administrative area of Surrey County Council;
- (b) in respect of the whole of Work Nos. 1, 1(a), 1(b), 1(c), 1(d), 1(e), 2, 3, 4, 5, 5(a), 5(b), 5(c), 5(d), 5(e), 6, 6(a), 6(b), 6(c), 7, 7(a), 7(b), 7(c), 8, 9, 10, 11, 12, 13, 14, 19, 20, 21, 22, 23(a), 23(b), 23(c), 23(d), 23(e), 23(f), 23(g), 24(c), 25, 25(a), 27(b), 27(d), 29, 30(a), 30(b), 30(c), 30(d), 31, 31(a), 31(b), 31(c), 31(d), 31(e), 31(f), 31(g), 31(h), 32, 33, 33(a), 33(b), 33(c), 33(d), 33(e), 33(f), 33(g), 33(h), 33(i), 34, 35(a), 35(b), 35(c), 35(d), 36, 38, 49, 50(a), 50(b), 51(a), 52(a), 52(b), 52(c), 52(d), 52(e), 52(f), 52(g), 52(h), 52(i), 52(m), 53(a), 53(b), 53(c), 53(d), 53(e), 53(f), 54, 55, 56, 57(a), 57(b), 58(a), 58(b), 58(c), 58(e), 58(f), 58(g), 58(h), 59(a), 59(b), 59(c), 59(d), 59(e), 60, 61(a), 61(b), 62(a), 62(b), 62(c), 62(d), 62(e), 62(f), 62(g), 63(a), 63(e), 63(f), 64(a), 64(b), 64(c), 65(b), 65(c), 65(d) and part of Work Nos. 15, 15(a), 15(b), 17, 17(a), 17(b), 24, 24(a), 24(b), 26, 27, 27(a), 27(c), 28, 28(a), 35, 35(e), 35(f), 37, 39, 51, 53(g), 58(d), 59(f), 61(c), 61(d), 62(h), 63(b), 64(d), 65 and 65(a) in the administrative area of Guildford Borough Council; and
- (c) in respect of the whole of Work Nos. 15(c), 15(d), 16, 17(c), 17(d), 17(e), 18, 18(a), 18(b), 23(h), 23(i), 23(j), 30(e), 30(f), 35(g), 35(h), 35(i), 35(j), 35(k), 40, 41, 42(a), 42(b), 42(c), 42(d), 42(e), 43, 44(a), 44(b), 44(c), 44(d), 44(e), 44(f), 45, 46, 47(a), 47(b), 47(c), 47(d), 47(e), 47(f), 52(j), 52(k), 52(l), 62(i), 62(j), 62(k), 62(l), 62(m), 62(n), 62(o), 62(p), 62(q), 63(c), 63(d), 64(e), 64(f), 64(g), 64(h), 64(i), 64(j), 64(k), 65(e), 65(f), 65(g), 65(h) and part of Work Nos. 15, 15(a), 15(b), 17, 17(a), 17(b), 24, 24(a), 24(b), 26, 27, 27(a), 27(c), 28, 28(a), 35, 35(e), 35(f), 37, 39, 51, 53(g), 58(d), 59(f), 61(c), 61(d), 62(h), 63(b), 64(d), 65 and 65(a) in the administrative area of Elmbridge Borough Council.

The authorised development comprises two nationally significant infrastructure projects as defined in sections 14 and 22 of the 2008 Act; one relating to the alteration of the M25 and the other to the alteration of the A3; and associated development as defined in section 115(2) of the 2008 Act in relation to both, comprising as follows—

Highway works - A3 (Ockham Park junction - M25 Junction 10)

Work No.1 — Improvement of the A3 northbound carriageway commencing 350 metres to the south of the A3 Ockham Park junction and continuing northwards to the diverge for the A3 northbound off-slip at M25 junction 10, in total approximately 2,755 metres in length, as shown on Sheets 1, 2, 3, 4 and 5 of the Works Plans. To include—

- (a) carriageway resurfacing and modifications to road markings, lighting, signage, existing gantries and associated cabling and ducting works, as shown on Sheets 1, 2, 3, 4 and 5 of the Works Plans;
- (b) a new cycle track commencing in the verge of the A3 northbound carriageway to the south of the A3 Ockham Park junction and connecting with the B2215 Portsmouth Road, approximately 65 metres in length, as shown on Sheet 1 of the Works Plans;
- (c) widening of the A3 northbound carriageway to four lanes between the A3 Ockham Park junction and M25 junction 10, approximately 1,810 metres in length, as shown on Sheets 2, 3 and 4 of the Works Plans;

- (d) works associated with the stopping up of the junction between the A3 northbound carriageway and Wisley Lane, as shown on Sheet 2 of the Works Plans and on Sheet 2 of the Streets, Rights of Way and Access Plans; and
- (e) works to extend an existing culvert beneath the A3 northbound carriageway, as shown on Sheet 3 of the Works Plans.

Work No.2 — Improvement and widening of the A3 northbound on-slip at the A3 Ockham Park junction, in total approximately 650 metres in length, as shown on Sheets 1 and 2 of the Works Plans. To include modifications to signage, carriageway surfacing, road markings and lighting.

Work No.3 — Improvement, realignment and widening of the A3 northbound off-slip at M25 junction 10, in total approximately 315 metres in length, as shown on Sheets 4 and 5 of the Works Plans. To include modifications to signage, carriageway surfacing, road markings and lighting; and works associated with the stopping up of the existing private access to Pond Farm, Hut Hill Cottage and the Birchmere Scout Camp, as shown at point D on Sheet 5 of the Streets, Rights of Way and Access Plans.

Work No.4 — Alteration and widening of the A3 southbound on-slip at M25 junction 10, in total approximately 870 metres in length, as shown on Sheets 4 and 5 of the Works Plans. To include the improvement of the junction with Old Lane and modifications to signage, carriageway surfacing, road markings and lighting.

Work No.5 — Improvement of the A3 southbound carriageway commencing 250 metres south of M25 junction 10 and continuing to a point 350 metres south of the A3 Ockham Park junction, in total approximately 2,755 metres in length, as shown on Sheets 1, 2, 3, 4 and 5 of the Works Plans. To include—

- (a) carriageway resurfacing and modifications to road markings, lighting, signage and associated cabling and ducting works, as shown on Sheets 1, 2, 3, 4 and 5 of the Works Plans;
- (b) widening of the A3 southbound carriageway to four lanes between M25 junction 10 and the A3 Ockham Park junction, approximately 1,310 metres in length, as shown on Sheets 2, 3 and 4 of the Works Plans;
- (c) a new retaining wall structure along the edge of Bolder Mere and associated marginal planting measures, approximately 230 metres in length, as shown on Sheets 3 and 4 of the Works Plans;
- (d) works to extend an existing culvert beneath the A3 southbound carriageway, as shown on Sheet 3 of the Works Plans; and
- (e) works associated with the stopping up of Elm Lane, as shown on Sheet 2 of the Works Plans and on Sheet 2 of the Streets, Rights of Way and Access Plans.

Work No.6 — Improvement and widening of the A3 southbound off-slip at the A3 Ockham Park junction, in total approximately 380 metres in length, as shown on Sheets 1 and 2 of the Works Plans. To include modifications to signage, carriageway surfacing, road markings and lighting; and—

- (a) works to strengthen the existing culvert at Stratford Brook, as shown on Sheet 1 of the Works Plans;
- (b) a new signal controlled non-motorised user crossing (toucan crossing), as shown at point 1/c on Sheet 1 of the Streets, Rights of Way and Access Plans; and
- (c) a new footway in the verge of the A3 southbound off-slip, in total approximately 75 metres in length and the repositioning of an existing bus stop, as shown on Sheet 1 of the Works Plans.

Highway works at M25 Junction 10

Work No.7 — Alteration of the M25 junction 10 roundabout, as shown on Sheet 5 of the Works Plans. To include—

- (a) alteration and widening of the M25 junction 10 circulatory carriageway and modifications to traffic signals, carriageway surfacing, road markings, lighting, signage, cabling and ducting and associated equipment, in total approximately 725 metres in length;
- (b) two new single span M25 overbridges approximately 44 metres in length, one on each side of the existing M25 junction 10 roundabout; and
- (c) demolition of two existing M25 overbridges and remediation of redundant carriageway, footways/cycleways and works associated with the stopping-up of Bridleway 12, including the removal of an existing Pegasus crossing at the merge between the M25 junction 10 circulatory carriageway and the A3 southbound off-slip.

Work No.8 — A new dedicated free-flow slip lane to connect the A3 northbound off-slip directly with the M25 westbound on-slip at M25 junction 10, in total approximately 205 metres in length, to include new lighting and signage, as shown on Sheets 5 and 12 of the Works Plans.

Work No.9 — A new dedicated free-flow slip lane to connect the M25 eastbound off-slip directly with the A3 northbound on-slip at M25 junction 10, in total approximately 225 metres in length, to include new lighting and signage, as shown on Sheets 5 and 12 of the Works Plans.

Work No.10 — A new dedicated free-flow slip lane to connect the A3 southbound off-slip directly with the M25 eastbound on-slip at M25 junction 10, in total approximately 210 metres in length, to include new lighting and signage, as shown on Sheets 5 and 13 of the Works Plans.

Work No.11 — A new dedicated free-flow slip lane to connect the M25 westbound off-slip directly with the A3 southbound on-slip at M25 junction 10, in total approximately 250 metres in length, to include new lighting and signage, as shown on Sheets 5 and 13 of the Works Plans.

Work No.12 — Resurfacing of the A3 northbound carriageway where it crosses over M25 junction 10, in total approximately 690 metres in length, as shown on Sheets 5 and 6 of the Works Plans.

Work No.13 — Resurfacing of the A3 southbound carriageway where it crosses over M25 junction 10, in total approximately 690 metres in length, as shown on Sheets 5 and 6 of the Works Plans.

Highway works – A3 (M25 junction 10 – A3 Painshill junction)

Work No.14 — Improvement, realignment and widening of the A3 northbound on-slip at M25 junction 10, in total approximately 465 metres in length, as shown on Sheets 5 and 6 of the Works Plans. To include modifications to signage, carriageway surfacing, road markings and lighting and the removal of an existing Pegasus crossing associated with the stopping up of Bridleway 12 as shown between points 5/16 and 5/17 on Sheet 5 of the Streets, Rights of Way and Access Plans.

Work No.15 — Improvement of the A3 northbound carriageway between M25 junction 10 and the A3 Painshill junction, in total approximately 1,880 metres in length, as shown on Sheets 6, 7 and 8 of the Works Plans. To include—

- (a) carriageway resurfacing and modifications to road markings, lighting, signage and associated cabling and ducting works, as shown on Sheets 6, 7 and 8 of the Works Plans;
- (b) widening of the A3 northbound carriageway to four lanes between M25 junction 10 and the A3 Painshill junction, approximately 880 metres in length, as shown on Sheets 6 and 7 of the Works Plans;
- (c) works associated with the stopping up of the access to Long Orchard, No. 1 Farm Cottage, No. 3 Farm Cottage, Fir Tree Cottage and The Coach House, as shown on Sheet 7 of the Works Plans and as shown at point G on Sheet 7 of the Streets, Rights of Way and Access Plans; and

- (d) works associated with the stopping up of the existing access to the Starbucks Drive Thru Café, as shown on Sheet 7 of the Works Plans and as shown at point H on Sheet 7 of the Streets, Rights of Way and Access Plans.

Work No.16 — Improvement and widening of the A3 northbound off-slip at the A3 Painshill junction, in total approximately 685 metres in length, as shown on Sheets 7 and 8 of the Works Plans. To include modifications to signage, carriageway surfacing, road markings and lighting; and a new signal controlled non-motorised user crossing (toucan crossing), as shown at point 8/a on Sheet 8 of the Streets, Rights of Way and Access Plans.

Work No.17 — Improvement of the A3 southbound carriageway, commencing 225 metres north of the A3 Painshill junction and continuing southwards to the diverge for the A3 southbound off-slip at M25 junction 10, in total approximately 2,085 metres in length, as shown on Sheets 6, 7 and 8 of the Works Plans. To include—

- (a) carriageway resurfacing and modifications to road markings, lighting, signage, existing gantries and associated cabling and ducting works, as shown on Sheets 6, 7 and 8 of the Works Plans;
- (b) widening of the A3 southbound carriageway to four lanes between the A3 Painshill junction and M25 junction 10, approximately 1,240 metres in length, as shown on Sheets 6 and 7 of the Works Plans;
- (c) modifications to the access to the Gas Valve Compound, including erection of a barrier gate, in total approximately 20 metres in length, as shown on Sheet 7 of the Works Plans;
- (d) works associated with the stopping up of the private access to the Heyswood Girl Guide Camp Site and Court Close Farm, as shown on Sheet 7 of the Works Plans and as shown at point F on Sheet 7 of the Streets, Rights of Way and Access Plans; and
- (e) works associated with the stopping up of the private access to Painshill Park, as shown on Sheet 6 of the Works Plans and as shown at point E on Sheet 6 of the Streets, Rights of Way and Access Plans.

Work No.18 — Improvement and widening of the A3 southbound on-slip at the A3 Painshill junction, in total approximately 785 metres in length, as shown on Sheets 7 and 8 of the Works Plans. To include modifications to signage, carriageway surfacing, road markings and lighting; and—

- (a) a new signalised non-motorised user crossing (toucan crossing), approximately 18 metres to the south of the diverge from the Painshill junction circulatory carriageway, as shown at point 8/b on Sheet 8 of the Streets, Rights of Way and Access Plans; and
- (b) relocation of a bus stop facility, as shown on Sheet 8 of the Works Plans.

Work No.19 — Alteration and widening of the A3 southbound off-slip at M25 junction 10, in total approximately 305 metres in length, as shown on Sheets 5 and 6 of the Works Plans. To include modifications to signage, carriageway surfacing, road markings and lighting.

A3 Gantries and signage

Work No.20 — A new variable message sign cantilever gantry or similar signage over the A3 southbound carriageway, approximately 120 metres to the north of the A3 Ockham Park junction, as shown on Sheet 1 of the Works Plans.

Work No.21 — A new advanced directional sign cantilever gantry or similar signage over the A3 southbound off-slip at the diverge from the A3 southbound carriageway to the A3 Ockham Park junction, as shown on Sheet 2 of the Works Plans.

Work No.22 — A new single span portal gantry or similar signage over the A3 southbound carriageway, approximately 150 metres to the north of the diverge for the A3 southbound off-slip to the A3 Ockham Park junction, as shown on Sheet 2 of the Works Plans.

Work No.23 — A new super span portal gantry or similar signage over the A3 at each of the following locations—

- (a) approximately 90 metres to the south of the existing junction between the A3 and Wisley Lane, as shown on Sheet 2 of the Works Plans;
- (b) at the existing junctions between the A3, Wisley Lane and Elm Lane, as shown on Sheet 2 of the Works Plans;
- (c) approximately 470 metres to the north of the existing junction between the A3 and Wisley Lane, as shown on Sheet 3 of the Works Plans;
- (d) approximately 50 metres to the north of the junction between the A3 and Old Lane, including over the A3 southbound on-slip at M25 junction 10, as shown on Sheet 4 of the Works Plans;
- (e) at the proposed diverge for the A3 northbound off-slip at M25 junction 10, including over the full width of both A3 carriageways and associated slip roads, as shown on Sheet 4 of the Works Plans;
- (f) at the proposed diverge for the A3 southbound off-slip at M25 junction 10, including over the A3 southbound off-slip and the A3 northbound on-slip, as shown on Sheet 5 of the Works Plans;
- (g) approximately 200 metres to the north of the proposed diverge for the A3 southbound off-slip at M25 junction 10, as shown on Sheet 6 of the Works Plans;
- (h) approximately 300 metres to the south of the existing private access to Court Close Farm and the Heyswood Girl Guide Camp Site from the A3 southbound carriageway, as shown on Sheet 6 of the Works Plans;
- (i) approximately 30 metres to the south of the existing private access to Court Close Farm and the Heyswood Girl Guide Camp Site from the A3 southbound carriageway, as shown on Sheet 7 of the Works Plans; and
- (j) at the proposed diverge for the A3 northbound off-slip at the A3 Painshill junction, including over the A3 northbound off-slip and the A3 southbound on-slip, as shown on Sheet 8 of the Works Plans.

Highway works – M25

Work No.24 — Improvement of the M25 eastbound carriageway, in total approximately 5,580 metres in length, as shown on Sheet 5 and Sheets 10 to 18 of the Works Plans. To include—

- (a) modifications to road markings, signage and existing gantries and associated cabling and ducting works as shown on Sheet 5 and Sheets 10 to 18 of the Works Plans;
- (b) conversion of the existing M25 hard shoulder to a running lane for traffic between the eastbound off-slip diverge and the eastbound on-slip merge, approximately 985 metres in length, as shown on Sheets 5, 12 and 13 of the Works Plans; and
- (c) construction of an emergency refuge area approximately 100 metres in length, as shown on Sheets 5 and 13 of the Works Plans.

Work No.25 — Improvement, realignment and widening of the M25 eastbound off-slip at M25 junction 10, in total approximately 900 metres in length, as shown on Sheets 5, 11 and 12 of the Works Plans. To include—

- (a) modifications to signage, carriageway surfacing, road markings and lighting; and
- (b) a new short section of hard shoulder approximately 145 metres in length,

shown as Work No.25(a) and Work No. 25(b) respectively on Sheets 5, 11 and 12 of the Works Plans.

Work No.26 — Alteration and widening of the M25 eastbound on-slip at M25 junction 10, in total approximately 955 metres in length, as shown on Sheets 5, 13 and 14 of the Works Plans. To include modifications to signage, carriageway surfacing, road markings and lighting.

Work No.27 — Improvement of the M25 westbound carriageway, in total approximately 6,050 metres in length, as shown on Sheet 5 and Sheets 10 to 18 of the Works Plans. To include—

- (a) modifications to road markings, signage and existing gantries and associated cabling and ducting works, as shown on Sheet 5 and Sheets 10 to 18 of the Works Plans;
- (b) cabling and ducting works to connect signage on the M25 westbound carriageway with an existing power supply unit, as shown on Sheet 10 of the Works Plans;
- (c) conversion of the existing M25 hard shoulder to a running lane for traffic between the westbound off-slip diverge and the westbound on-slip merge, approximately 1,110 metres in length, as shown on Sheets 5, 12 and 13 of the Works Plans; and
- (d) construction of an emergency refuge area approximately 100 metres in length, as shown on Sheet 12 of the Works Plans.

Work No.28 — Alteration and widening of the M25 westbound off-slip at M25 junction 10, in total approximately 800 metres in length, as shown on Sheets 5, 13 and 14 of the Works Plans. To include—

- (a) modifications to signage, carriageway surfacing, road markings and lighting; and
- (b) a new short section of hard shoulder approximately 145 metres in length,

shown as Work No.28(a) and Work No.28(b) respectively on Sheets 5, 13 and 14 of the Works Plans.

Work No.29 — Improvement and widening of the M25 westbound on-slip at M25 junction 10, in total approximately 1,225 metres in length, as shown on Sheets 5, 11 and 12 of the Works Plans. To include modifications to signage, carriageway surfacing, road markings and lighting.

M25 gantries and signage

Work No.30 — A new super span portal gantry or similar signage over both carriageways of the M25 at each of the following locations—

- (a) approximately 340 metres to the east of the Footpath 7 Buxton Wood accommodation overbridge, as shown on Sheet 11 of the Works Plans;
- (b) approximately 110 metres to the west of the existing Bridleway 8 Clearmount overbridge, as shown on Sheet 12 of the Works Plans;
- (c) at the proposed diverge for the M25 eastbound off-slip at M25 junction 10, including over the eastbound off-slip and the westbound on-slip, as shown on Sheet 12 of the Works Plans;
- (d) approximately 25 metres to the west of the proposed new M25 junction 10 east bridge, as shown on Sheet 5 of the Works Plans;
- (e) at the proposed diverge for the M25 westbound off-slip at M25 junction 10, including over the westbound off-slip and the eastbound on-slip, as shown on Sheet 13 of the Works Plans; and
- (f) approximately 365 metres east of the proposed diverge for the M25 junction 10 westbound off-slip, as shown on Sheet 14 of the Works Plans.

Works to other highways, public rights of way and the provision of substitute private means of access

Work No.31 — Improvement of the A3 Ockham Park junction, as shown on Sheet 1 of the Works Plans. To include—

- (a) improvement of the A3 Ockham Park junction circulatory carriageway, approximately 420 metres in length, to include new traffic signals and associated cabling and ducting works, modifications to road markings and signage and carriageway surfacing works;
- (b) improvement of the B2215 Portsmouth Road at the tie-in with the A3 Ockham Park junction, approximately 235 metres in length, to include modifications to road markings and signage, footway improvements and a new signal controlled non-motorised user crossing (toucan crossing) as shown at point 1/a on Sheet 1 of the Streets, Rights of Way and Access Plans;

- (c) improvement of the B2039 Ockham Road North at the tie-in with the A3 Ockham Park junction, approximately 60 metres in length, to include widening of the B2039, modifications to road markings and signage and a new signal controlled non-motorised user crossing (toucan crossing) as shown at point 1/e on Sheet 1 of the Streets, Rights of Way and Access Plans;
- (d) improvement of the highway comprising both the A3 northbound on-slip and the B2039 between the Ockham Park junction circulatory carriageway and Mill Lane, approximately 90 metres in length, to include modifications to road markings and signage and a new section of footway in the verge;
- (e) improvement of Mill Lane at the tie-in with the A3 northbound on-slip, approximately 55 metres in length, to include modifications to signage and carriageway surfacing works;
- (f) a new non-segregated footway/cycle track (to replace existing on road cycle lanes) approximately 295 metres in length, commencing in the verge of the B2215 Portsmouth Road and continuing around the southern side of the A3 Ockham Park junction circulatory carriageway and terminating at the tie-in with the B2039 Ockham Road North;
- (g) a new non-segregated footway/cycle track approximately 370 metres in length, commencing in the verge of the B2215 Portsmouth Road northbound carriageway, continuing northwards around the western and northern sides of the A3 Ockham Park junction, crossing over the A3 northbound on-slip and A3 southbound off-slip and terminating on the east side of the junction at its connection with Work No.33, to include a new signal controlled non-motorised user crossing (toucan crossing) as shown at point 1/b on Sheet 1 of the Streets, Rights of Way and Access Plans; and
- (h) a new bridleway, approximately 50 metres in length, commencing in the verge of the B2039 Ockham Road North and continuing around the south-east side of the A3 Ockham Park junction to connect with Work No.33.

Work No.32 — Diversion of footpaths 13a and 13, in total approximately 105 metres in length, as shown on Sheet 1 of the Works Plans.

Work No.33 — A new single carriageway highway ('the Wisley Lane diversion') incorporating a 3 metre wide bridleway within the verge, commencing at the A3 Ockham Park junction (at a point between the A3 southbound off-slip and the B2039 Ockham Road North), running generally northwards on the east side of the A3, bridging over the A3 and then tying back in to Wisley Lane on the west side of the A3, in total approximately 1,390 metres in length, as shown on Sheets 1, 2 and 20 of the Works Plans. To include—

- (a) a new signal controlled non-motorised user crossing (toucan crossing), as shown at point 1/d on Sheet 1 of the Streets, Rights of Way and Access Plans;
- (b) a new single span bridge ('the new Stratford Brook underbridge') approximately 29 metres in length, to carry the road over Stratford Brook, as shown on Sheet 1 of the Works Plans;
- (c) a new footpath in the embankment earthworks to connect Elm Lane with the Wisley Lane overbridge (Work No.33(d)), approximately 30 metres in length, as shown on Sheet 2 of the Works Plans;
- (d) a new two-span bridge ('the new Wisley Lane overbridge') approximately 69 metres in length, to carry the diverted Wisley Lane over the A3 and to include demolition of the existing Wisley Footbridge, as shown on Sheet 2 of the Works Plans;
- (e) realignment of Wisley Lane on the west side of the A3, in total approximately 250 metres in length, as shown on Sheets 2 and 20 of the Works Plans. To include works associated with the stopping-up of Wisley Lane, as shown between point 2/8 on Sheet 2 and point 20/4 on Inset B of Sheet 4 of the Streets, Rights of Way and Access Plans;
- (f) realignment of the access to the Royal Horticultural Society's Wisley Gardens, to include provision of a new bus stop facility, as shown on Sheets 2 and 20 of the Works Plans and

works associated with the stopping-up of the existing access to RHS Wisley Gardens as shown at point A on Sheet 2 of the Streets, Rights of Way and Access Plans;

- (g) works to divert Footpath 7 on the west side of the A3 approximately 135 metres in length, as shown on Sheet 20 of the Works Plans;
- (h) a new footpath linking the Wisley Lane overbridge with Work No.35, approximately 105 metres in length, as shown on Sheets 2 and 3 of the Works Plans; and
- (i) modifications to road signage and markings on Wisley Lane, as shown on Inset A on Sheet 20 of the Works Plans.

Work No.34 — A new bridleway to connect the proposed Wisley Lane Diversion (Work No.33) with Elm Lane and Byway 544, to include construction of a turning head on Elm Lane and modifications to the entrance to Orchard Cottage, in total approximately 375 metres in length, as shown on Sheets 2, 3 and 23 of the Works Plans.

Work No.35 — A new bridleway commencing at Wisley Lane on the west side of the A3, then running generally northwards, crossing the A3 near Cockcrow Hill, the M25 near Sandpit Hill and crossing back to the west side of the A3 near Redhill Road and continuing northwards on the west side of the A3 and terminating at Seven Hills Road adjacent to Wood Court Lodge, typically comprising a 3 metres wide tarmac surface with soft surface verges 1 metre and 2 metres in width either side between Wisley Lane and the point at which it connects with Work No.38, then widening to a 4.8 metres hard surfaced route with 2 metre wide verges either side between Redhill Road and Seven Hills Road, in total approximately 4,265 metres in length, as shown on Sheets 2 to 7 and Sheets 13 and 20 of the Works Plans. To include—

- (a) a new barrier gate to the north of Wisley Lane, as shown on Sheet 20 of the Streets, Rights of Way and Access Plans;
- (b) demolition of Footpath 17 Cockcrow overbridge, diversion of Footpath 17 and construction of a replacement bridge approximately 50 metres to the south ('the replacement Cockcrow bridleway overbridge'), comprising a two-span structure approximately 68 metres in length and incorporating a 25 metres wide soft verge wildlife crossing, as shown on Sheet 4 of the Works Plans;
- (c) realignment of private access tracks serving Hut Hill Cottage, Pond Farm and the Birchmere Scout Camp, as shown on Sheet 4 of the Works Plans, to include construction of a section of connecting bridleway approximately 20 metres in length, as shown between points 4/4 and 4/6 on Sheet 4 of the Streets, Rights of Way and Access Plans;
- (d) 205 metres of new bridleway to connect the replacement Cockcrow overbridge with Old Lane, including realignment of the access points to Ockham Bites Café and Ockham Common Car Park, as shown on Sheet 4 of the Works Plans. To include works associated with the stopping up of the existing accesses to the Ockham Common Car Park as shown at points B and C on Sheet 4 of the Streets, Rights of Way and Access Plans;
- (e) a new three-span bridleway overbridge approximately 95 metres in length (the new 'Sandpit Hill Bridleway Overbridge'), to cross the M25 to the east of M25 junction 10, as shown on Sheet 13 of the Works Plans;
- (f) a new single-span bridleway bridge over the A3 (the new Red Hill Bridleway 12 Overbridge), approximately 60 metres in length, as shown on Sheet 6 of the Works Plans and Sheet 6 of the Scheme Layout Plans;
- (g) modifications to road markings and signage at Redhill Road and new barrier gates, as shown on Sheet 6 of the Works Plans and on Sheet 6 of the Scheme Layout Plans;
- (h) diversion of the private access to Long Orchard Farm and Nos. 1 and 3 Farm Cottages, as shown on Sheet 6 of the Works Plans;
- (i) diversion of the private access to Long Orchard House, The Coach House and Fir Tree Cottage, as shown on Sheet 7 of the Works Plans;
- (j) diversion of the access to the Starbucks Drive Thru Café, as shown on Sheet 7 of the Works Plans; and

- (k) modifications to carriageway surfacing, road markings and signage on the B365 Seven Hills Road, between the A3 and Wood Court Lodge, to include a new barrier gate on Seven Hills Road adjacent to Wood Court Lodge, as shown on Sheet 7 of the Works Plans and Sheet 7 of the Scheme Layout Plans.

Work No.36 — The diversion of Footpath 14, in total approximately 595 metres in length, as shown on Sheets 2 and 3 of the Works Plans.

Work No.37 — Improvement of Pointers Road as a bridleway, in total approximately 815 metres in length, as shown on Sheets 5 and 13 of the Works Plans. To include a new bridleway connection to Work No.35 as shown on Sheet 5 of the Works Plans and construction of a replacement barrier gate in the vicinity of The Cottage, as shown on Sheet 13 of the Streets, Rights of Way and Access Plans.

Work No.38 — A new bridleway, in total approximately 125 metres in length, to connect the new ‘Redhill Bridleway Overbridge’ (Work No.35(f)) with Wisley Common, as shown on Sheet 6 of the Works Plans.

Work No.39 — A new bridleway commencing at the proposed new ‘Red Hill Bridleway Overbridge’ (Work No.35(f)) and terminating at Pointers Road, in total approximately 860 metres in length, as shown on Sheets 6, 13 and 30 of the Works Plans.

Work No.40 — A new private access road to serve New Farm, the Gas Valve Compound, the Heyswood Girl Guide Camp Site and Court Close Farm, commencing at the A3 southbound on-slip at the A3 Painshill junction and terminating with a new turning head at Court Close Farm, in total approximately 965 metres in length, as shown on Sheets 6, 7 and 8 of the Works Plans.

Work No.41 — A new footpath commencing at the A3 Painshill junction and terminating at the A3 southbound on-slip at the Painshill junction, at a point approximately 155 metres south of the A3 Painshill junction, in total approximately 175 metres in length, as shown on Sheet 8 of the Works Plans.

Work No.42 — Improvement of the A3 Painshill junction, as shown on Sheet 8 of the Works Plans. To include—

- (a) modifications to road markings, traffic signals, lighting, signage and associated cabling and ducting and carriageway surfacing works on the A3 Painshill junction circulatory carriageway, in total approximately 430 metres in length;
- (b) improvement of the A245 Portsmouth Road at the tie-in with the A3 Painshill junction, in total approximately 170 metres in length. To include modifications to road markings and signage and a new CCTV mast in the verge and associated cabling and ducting works;
- (c) upgrading of an existing footway in the verge of the circulatory carriageway on the southern side of the roundabout to a non-segregated footway/cycle track, in total approximately 140 metres in length
- (d) modifications to road signs and markings on the A3 northbound on-slip at the A3 Painshill junction where the slip road diverges from the circulatory carriageway, in total approximately 120 metres in length; and
- (e) modifications to roads signs and markings on the A3 southbound off-slip at the A3 Painshill junction, in total approximately 245 metres in length.

Work No.43 — A new dedicated slip lane to connect the A3 northbound off-slip at the A3 Painshill junction directly with the A245 westbound carriageway and associated lighting and signage, in total approximately 180 metres in length, as shown on Sheet 8 of the Works Plans. To include a signal controlled non-motorised user crossing (toucan crossing), as shown at point 8/c on Sheet 8 of the Streets, Rights of Way and Access Plans.

Work No.44 — Improvement of the A245 Byfleet Road westbound carriageway between the A3 Painshill junction and the entrance to Old Trees, approximately 35 metres west of the junction between the A245 and Seven Hills Road, in total approximately 550 metres in length, as shown on Sheets 8 and 9 of the Works Plans. To include—

- (a) modifications to road markings, traffic signals, lighting, signage and carriageway surfacing, in total approximately 540 metres in length as shown on Sheets 8 and 9 of the Works Plans;
- (b) widening of the A245 westbound carriageway to three lanes between the A3 Painshill junction and the Seven Hills Road junction, in total approximately 425 metres in length as shown on Sheets 8 and 9 of the Works Plans;
- (c) a new non-segregated footway/cycle track in the verge, in total approximately 550 metres in length, as shown between point 8/24 on Sheet 8 and point 9/11 on Sheet 9 of the Streets, Rights of Way and Access Plans;
- (d) works associated with the stopping-up of the junction between the A245 Byfleet Road and Old Byfleet Road, as shown on Sheet 9 of the Works Plans;
- (e) a new dedicated slip road to connect the A245 Byfleet Road westbound carriageway directly with Seven Hills Road (South), in total approximately 40 metres in length, to include lighting and signage, as shown on Sheet 9 of the Works Plans; and
- (f) diversion of a footway in the verge of the A245 Byfleet Road westbound carriageway, between the diverge for Work No.44(e) and the junction with Seven Hills Road, in total approximately 12 metres in length, as shown on Sheet 9 of the Works Plans.

Work No.45 — Improvement of the B365 Seven Hills Road, to include modifications to traffic signals, road markings and signage and associated cabling and ducting works, in total approximately 205 metres in length, as shown on Sheet 9 of the Works Plans.

Work No.46 — A new private access to Feltonfleet School from Seven Hills Road, in total approximately 150 metres in length, as shown on Sheet 9 of the Works Plans. To include associated lighting.

Work No.47 — Improvement of the A245 Byfleet Road eastbound carriageway between the entrance to Lingwood, approximately 85 metres west of the junction with Seven Hills Road, and the A3 Painshill junction, in total approximately 600 metres in length, as shown on Sheets 8 and 9 of the Works Plans. To include—

- (a) modifications to road markings, traffic signals, lighting, signage and carriageway surfacing, approximately 600 metres in length, as shown on Sheets 8 and 9 of the Works Plans;
- (b) widening of the exit from the Seven Hills Road junction to three lanes before narrowing to the existing two lanes approximately 115 metres from the junction as shown on Sheet 9 of the Works Plans;
- (c) a new retaining wall structure approximately 90 metres in length as shown on Sheet 8 of the Works Plans;
- (d) works to the central reserve, to include closure of the gap allowing access to Feltonfleet School/Old Byfleet Road from the A245 Byfleet Road eastbound carriageway, as shown on Sheet 9 of the Works Plans and as shown at point J on Sheet 9 of the Streets, Rights of Way and Access Plans;
- (e) replacement of the footway in the verge of the A245 eastbound carriageway, to the east of the junction with the B365 Seven Hills Road, approximately 155 metres in length, as shown on Sheet 9 of the Works Plans; and
- (f) widening of the A245 eastbound carriageway to three lanes approximately 105 metres in advance of the A3 Painshill junction as shown on Sheet 8 of the Works Plans.

Work No.48 — Not used

Work No.49 — Demolition of Bridleway 8 Clearmount overbridge and construction of a replacement single span bridleway overbridge, 63 metres in length, approximately 40 metres to the west. To include works to divert Bridleway 8, Footpath 10 and Footpath 11 to the new bridge alignment and works to tie-in to an existing permissive signposted route, in total approximately 730 metres in length, as shown on Sheets 11 and 12 of the Works Plans.

Work No.50 — Improvement of Old Lane and Byway 525 (Byway Open to All Traffic), between Elm Corner and Old Lane, to include—

- (a) tarmacadam resurfacing of the Byway and works to tie-in to Hatch Lane and Old Lane, in total approximately 710 metres in length, as shown on Sheet 24 of the Works Plans and clearance of trees and other vegetation to provide a visibility splay, including associated road traffic mitigation measures; and
- (b) two number toad crossings and associated reptilian fencing approximately 150 metres in length at the back of each verge of Old Lane as shown on Sheet 24 of the Works Plans.

Work No.51 — A new footpath to the north of Old Lane, to connect Footpath 71 with Bridleway 18, in total approximately 570 metres in length, as shown on Sheet 26 of the Works Plans. To include 12 metres of footpath as shown between points 26/3 and 26/4 on Sheet 26 of the Streets, Rights of Way and Access Plans, marked as Work No.51(a) on Sheet 26 of the Works Plans.

Proposed drainage attenuation ponds

Work No.52 — A new drainage attenuation pond at each of the following locations—

- (a) on land to the south of Mill Lane, to include a new access track from Mill Lane, as shown on Sheet 1 of the Works Plans;
- (b) on land to the east of the A3 and south of Elm Lane, as shown on Sheet 2 of the Works Plans;
- (c) on land to the east of the A3 and north of Elm Lane, as shown on Sheet 2 of the Works Plans;
- (d) on land to the west of the A3 between Wisley Lane and Footpath 17 Cockcrow overbridge, with access from Work No.35, as shown on Sheet 3 of the Works Plans;
- (e) on land to the west of the A3 and north of Footpath 17 Cockcrow overbridge, to include a new access track, as shown on Sheet 4 of the Works Plans;
- (f) on land to the east of the A3 and north of Footpath 17 Cockcrow overbridge, as shown on Sheet 4 of the Works Plans;
- (g) on land to the south-east of M25 junction 10, to include an access from Work No.35 as shown on Sheets 5 and 13 of the Works Plans;
- (h) on land to the north of the M25 eastbound off-slip at M25 junction 10, to include an access track from the upgraded Footpath 11 and Bridleway 8 Clearmount Overbridge, as shown on Sheets 5 and 12 of the Works Plans;
- (i) on land to the north of the M25 eastbound on-slip near Pointers Road (two ponds), to include a maintenance accessway from Work. No.35, as shown on Sheets 5 and 13 of the Works Plans;
- (j) on land to the west of the A3 and south of Seven Hills Road, to include an access from Seven Hills Road as shown on Sheet 7 of the Works Plans;
- (k) on land to the east of the A3 and north of the Gas Valve Compound, to include an access from Work No.40, as shown on Sheet 7 of the Works Plans;
- (l) on land to the north of the A245 Byfleet Road eastbound carriageway and west of Manor Pond, to include a new maintenance access track from the A245 Byfleet Road, as shown on Sheet 9 of the Works Plans; and
- (m) on land to the south of the M25 and west of Bridleway 8 Clearmount overbridge, to include an access from Work No.49 (bridleway 8 realignment), as shown on Sheets 11 and 12 of the Works Plans.

Ordinary watercourse diversions

Work No.53 — The diversion and/or realignment of an unnamed ordinary watercourse from each of the following locations—

- (a) in the verge of the A3 southbound carriageway to the south of Elm Lane, in total approximately 275 metres in length, as shown on Sheet 2 of the Works Plans;
- (b) in the verge of the A3 southbound carriageway to the south of Bolder Mere, in total approximately 570metres in length, as shown on Sheets 2 and 3 of the Works Plans;
- (c) between the edge of Ockham Common and the verge of the existing M25 westbound off-slip at M25 junction 10, in total 95 metres in length, as shown on Sheet 5 of the Works plans;
- (d) in the verge of the M25 westbound on-slip at M25 junction 10, in total 160 metres in length, as shown on Sheets 5 and 12 of the Works Plans;
- (e) between the A3 southbound off-slip at M25 junction 10 and Pointers Road, in total approximately 60 metres in length, as shown on Sheet 5 of the Works Plans;
- (f) in the verge of the M25 eastbound on-slip, in total approximately 230 metres in length, as shown on Sheets 5 and 13 of the Works Plans; and
- (g) in the verge of the M25 westbound off-slip at M25 junction 10, in total 345 metres in length, as shown on Sheet 13 of the Works Plans.

Proposed environmental mitigation and compensation works

Work No.54 — Environmental mitigation works to improve Stratford Brook and adjoining riparian habitat, to include selective tree-felling, coppicing and clearance of scrub vegetation, creation of backwater habitats and other works to locally improve the hydromorphological condition of the watercourse channel, as shown on Sheet 1 of the Works Plans.

Work No.55 — Environmental mitigation and enhancement works to improve Bolder Mere and adjoining marginal habitat, to include reedbed planting and translocation, selective tree felling, coppicing and scrub clearance and other associated measures, as shown on Sheets 3, 4 and 24 of the Works Plans.

Work No.56 — Environmental mitigation works on land at Hut Hill, as shown on Sheet 4 of the Works Plans.

Work No.57 — Environmental compensation works comprising the creation of replacement habitat for the Thames Basin Heaths Special Protection Area (SPA) at each of the following locations—

- (a) on land near Wisley Common ('Wisley SPA compensation land'), as shown on Sheet 11 of the Works Plans; and
- (b) on land north of Old Lane ('Old Lane SPA compensation land'), as shown on Sheet 26 of the Works Plans.

Work No.58 — Environmental compensation works comprising the enhancement of existing habitat within the Thames Basin Heaths Special Protection Area (SPA), at each of the following locations—

- (a) on land north of Elm Lane ('Elm Lane SPA enhancement area'), as shown on Sheets 3, 4, 24 and 25 of the Works Plans;
- (b) on land south of Hut Hill ('Hut Hill South SPA enhancement area'), as shown on Sheets 3 and 20 of the Works Plans;
- (c) on land at Cockcrow Hill ('Cockcrow Hill SPA enhancement area'), as shown on Sheets 4, 5 and 21 of the Works Plans;
- (d) on land at Ockham Common and Sandpit Hill ('Ockham Common/Sandpit Hill SPA enhancement area'), as shown on Sheets 4, 5, 13, and 25 of the Works Plans;

- (e) on land north-west of Pond Farm ('Pond Farm West SPA enhancement area'), as shown on Sheets 11 and 22 of the Works Plans;
- (f) on two plots of land south-west of Pond Farm ('Pond Farm south SPA enhancement area'), as shown on Sheets 20 and 22 of the Works Plans;
- (g) on land at Wisley Common (Wisley Common SPA enhancement area'), as shown on Sheet 21 of the Works Plans; and
- (h) on land east of Old Lane ('Ockham Common/Old Lane SPA enhancement area'), as shown on Sheet 25 of the Works Plans.

Work No.59 — Environmental works in connection with the provision of replacement common land and open space at land at Park Barn Farm ('Park Barn Farm replacement land'), as shown on Sheets 11, 12, 27, 28 and 29 of the Works Plans, to include the provision of 395 metres of bridleway as shown between point 27/1 on Sheet 27 and point 28/3 on Sheet 28 of the Streets, Rights of Way and Access Plans.

Work No.60 — Environmental mitigation works on land to the north of the M25 and adjacent to Buxton Wood, to include the creation of new woodland and wood pasture habitat, as shown on Sheets 11 and 27 of the Works Plans.

Work No.61 — A new or replacement environmental barrier (close boarded fence) at each of the following locations—

- (a) in the verge of the A3 northbound carriageway, commencing at Work No.35(b) (the replacement Cockcrow overbridge) and continuing generally northwards alongside the A3 northbound off-slip and then westwards along the verge of the M25 westbound on-slip at M25 junction 10 including along the edge of Wisley Common, terminating at Footpath 7 Buxton Wood accommodation overbridge, in total approximately 1,750 metres in length, as shown on Sheets 4, 5, 11 and 12 of the Works Plans;
- (b) in the verge of the M25 eastbound carriageway, commencing approximately 115 metres west of Footpath 7 Buxton Wood accommodation overbridge and continuing generally eastwards alongside the M25 eastbound off-slip at junction 10 and along the edge of Wisley Common and then northwards along the verge of the A3 northbound on-slip, terminating at Work No.35(f) (the new Red Hill Bridleway 12 overbridge), in total approximately 1,860 metres in length as shown on Sheets 5, 6, 11 and 12 of the Works Plans;
- (c) in the verge of the A3 southbound carriageway, commencing at Work No.35(f) (the new Red Hill Bridleway 12 overbridge) and continuing generally southwards alongside the A3 southbound off-slip and then eastwards along the verge of the M25 eastbound on-slip and along the edge of Chatley Heath Common, terminating approximately 105 metres east of Work No.30(e) (a proposed new superspan portal gantry), in total approximately 970 metres in length, as shown on Sheets 5, 6 and 13 of the Works Plans;
- (d) in the verge of the M25 westbound carriageway, commencing approximately 120 metres east of Work No.30(e) (a proposed new super span portal gantry) and continuing generally westwards alongside the M25 westbound off-slip at junction 10 and along the edge of Chatley Heath Common and then southwards along the verge of the A3 southbound on-slip, terminating approximately 25 metres south of Work No.35(b) (the replacement Cockcrow overbridge), in total approximately 1,070 metres in length as shown on Sheets 4, 5 and 13 of the Works Plans.

Utility Diversions

Work No.62 — The diversion of electric cables and associated apparatus and equipment, as follows—

- (a) to accommodate widening of the A3 southbound carriageway, between Elm Lane and Bolder Mere, in total approximately 335 metres in length, as shown on Sheets 2 and 3 of the Works Plans. To include construction of a new lighting sub-station as shown on Sheet 3 of the Scheme Layout Plans;

- (b) to accommodate widening of the A3 northbound carriageway immediately to the north of the junction between the A3 and Wisley Lane, in total approximately 40 metres in length, as shown on Sheets 2 and 3 of the Works Plans;
- (c) to accommodate modifications to the access to RHS Wisley Garden at Wisley Lane, in total approximately 70 metres in length, as shown on Sheets 2 and 20 of the Works Plans;
- (d) to accommodate widening of the A3 northbound carriageway between Wisley Lane and Footpath 17 Cockcrow overbridge, in total approximately 220 metres in length, as shown on Sheets 3 and 4 of the Works Plans. To include repositioning of a pole mounted transformer to accommodate construction of Work No.35;
- (e) to accommodate widening of the A3 northbound carriageway and the construction of the replacement Cockcrow overbridge, in total approximately 225 metres in length, as shown on Sheet 4 of the Works Plans;
- (f) to accommodate alteration and widening of the A3 southbound on-slip at M25 junction 10, in total approximately 595 metres in length, as shown on Sheets 4 and 5 of the Works Plans;
- (g) to accommodate construction of a dedicated free-flow slip lane between the A3 northbound off-slip and the M25 westbound on-slip at M25 junction 10, in total approximately 105 metres in length, as shown on Sheet 5 of the Works Plans;
- (h) to accommodate widening and improvement of the A3 northbound carriageway in the vicinity of Redhill Road, in total approximately 235 metres in length, as shown on Sheet 6 of the Works Plans;
- (i) to accommodate widening of the A3 (both carriageways) in the vicinity of Long Orchard Farm and Court Close Farm, in total approximately 40 metres in length, as shown on Sheets 6 and 7 of the Works Plans;
- (j) to accommodate widening of the A3 northbound carriageway between the access to Long Orchard House and Seven Hills Road, to include the relocation of an existing substation in the vicinity of the Starbucks Drive Thru Café, in total approximately 440 metres in length, as shown on Sheet 7 of the Works Plans;
- (k) to accommodate improvement of the A3 northbound off-slip at the A3 Painshill junction, in total approximately 445 metres in length, as shown on Sheets 7 and 8 of the Works Plans;
- (l) to accommodate widening of the A3 southbound on-slip at the A3 Painshill junction and footpath works, in total approximately 210 metres in length, to include relocation of an existing sub-station, as shown on Sheet 8 of the Works Plans;
- (m) 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 85 metres in length, as shown on Sheet 8 of the Works Plans;
- (n) to accommodate the construction of a new dedicated free-flow slip lane at the A3 Painshill junction connecting the A245 Byfleet Road eastbound carriageway directly with the A3 northbound on-slip, in total approximately 25 metres in length, as shown on Sheet 8 of the Works Plans;
- (o) to accommodate the construction of a substitute private means of access to the Feltonfleet School, in total approximately 15 metres in length, as shown on Sheet 9 of the Works Plans;
- (p) to accommodate the construction of a new slip lane between the A245 Byfleet Road westbound carriageway and Seven Hills Road, in total approximately 15 metres in length, to include relocation of an existing switching station, as shown on Sheet 9 of the Works Plans; and
- (q) to accommodate widening and improvement of the A245 Byfleet Road eastbound carriageway, in total approximately 65 metres in length, as shown on Sheet 9 of the Works Plans.

Work No.63 — The diversion of gas pipelines, as follows—

- (a) to accommodate widening and improvement of the A3 between the A3 Ockham Park junction and M25 junction 10, in total approximately 2,375 metres in length, as shown on Sheets 1,2,3 and 4 of the Works Plans;
- (b) to accommodate widening of the A3 northbound carriageway and construction of the new Red Hill Bridleway overbridge, in total approximately 210 metres in length, as shown on Sheet 6 of the Works Plans;
- (c) to accommodate widening and improvement of the A3 southbound carriageway between Court Close Farm and the A3 Painshill junction, in total approximately 1,235 metres in length, to include the diversion of gas pipeline connections at the Gas Valve Compound, as shown on Sheets 6, 7 and 8 of the Works Plans;
- (d) to accommodate widening of the A3 northbound carriageway between the access to Long Orchard House and Seven Hills Road, in total approximately 425 metres in length, as shown on Sheet 7 of the Works Plans; and
- (e) to accommodate widening of the M25 eastbound off-slip and westbound on-slip at M25 junction 10, in total approximately 200 metres in length, as shown on Sheet 12 of the Works Plans.

Work No.64 — The diversion of water pipelines, as follows—

- (a) to accommodate widening of the A3 northbound on-slip and A3 northbound carriageway between the A3 Ockham Park junction and Hut Hill, to include the relocation of existing water hydrants, in total approximately 1,570 metres in length, as shown on Sheets 1, 2 and 3 of the Works Plans;
- (b) to accommodate widening of the A3 northbound carriageway in the vicinity of the Cockcrow Overbridge, in total approximately 305 metres in length, as shown on Sheet 4 of the Works Plans;
- (c) to accommodate the alteration of M25 junction 10 and improvement of the A3 northbound off-slip and A3 northbound on-slip at M25 junction 10, in total approximately 805 metres in length, as shown on Sheets 4 and 5 of the Works Plans;
- (d) to accommodate construction of Work No.35(f) (the new ‘Red Hill Bridleway overbridge’), in total approximately 100 metres in length, as shown on Sheet 6 of the Works Plans;
- (e) to accommodate widening of the A3 southbound carriageway to the south of Court Close Farm, in total approximately 15 metres in length, as shown on Sheet 6 of the Works Plans;
- (f) to accommodate widening of the A3 northbound carriageway between the access to Long Orchard Farm and Seven Hills Road, to include the relocation of existing water hydrants, in total approximately 590 metres in length, as shown on Sheets 6 and 7 of the Works Plans;
- (g) to accommodate widening of the A3 southbound carriageway to the north of Court Close Farm, in total approximately 25 metres in length, as shown on Sheet 7 of the Works Plans;
- (h) to accommodate widening of the A3 southbound carriageway to the south of the Gas Valve Compound, in total approximately 15 metres in length, as shown on Sheet 7 of the Works Plans;
- (i) to accommodate improvement of the A3 northbound off-slip at the A3 Painshill junction and construction of a new dedicated slip lane, in total approximately 20 metres in length, as shown on Sheet 8 of the Works Plans;
- (j) to accommodate improvement of the A3 southbound on-slip at the A3 Painshill junction and works to construct a new footpath (Work No.41) in the vicinity of West Lodge at Painshill Park, in total approximately 55 metres in length, as shown on Sheet 8 of the Works Plans; and

- (k) to accommodate widening and improvement of the A245 Byfleet Road eastbound carriageway, to the east of the B365 Seven Hills Road junction, in total approximately 50 metres in length, as shown on Sheet 9 of the Works Plans.

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.

Other relevant works

In connection with the construction of any of those works, further development within the Order limits consisting of—

- (a) alteration of the layout of any street permanently or temporarily, including but not limited to increasing or reducing the width of the carriageway of the street by reducing or increasing the width of any kerb, footpath, footway, cycle track or verge within the street; and altering the level of any such kerb, footpath, footway, cycle track or verge;
- (b) works required for the strengthening, improvement, maintenance or reconstruction of any street;
- (c) works required for the strengthening, alteration, refurbishment or demolition of any existing bridge, building or structure;
- (d) the remediation of any carriageway made redundant by the stopping up of any public highway or means of access;
- (e) ramps, means of access (including private means of access), non-motorised links, footpaths, footways, bridleways, cycle tracks and crossing facilities;
- (f) embankments, cuttings, aprons, abutments, shafts, foundations, retaining walls, parapets, wingwalls, barriers (including road restraint/safety barriers), new and replacement highway lighting, fencing and drainage works (including carrier drains, filter drains, outfalls, culverts, headwalls, ditches, attenuation earthwork ditches, soakaways, catchpits and pollution control measures);

- (g) the erection of highway boundary fencing, anti-dazzle fencing and the realignment of existing highway fencing along the edge of Wisley Common and other common land at Chatley Heath;
- (h) street works, including breaking up or opening a street, or any sewer, drain or tunnel under it; tunnelling or boring under a street;
- (i) works to place, alter, divert, relocate, remove, protect or maintain street furniture, apparatus, services, plant and other equipment in a street, or in other land, including mains, sewers, drains, pipes, hydrants, cables and ducts and associated cabinets, lights, CCTV, radar and traffic detection equipment;
- (j) works to alter the course of, or otherwise interfere with a watercourse, including private water supplies;
- (k) landscaping, environmental barriers, works associated with the provision of ecological mitigation and other works to mitigate any adverse effects of the construction, maintenance or operation of the authorised development;
- (l) works for the benefit or protection of land affected by the authorised development;
- (m) site preparation works, site clearance (including fencing, vegetation removal, demolition of existing structures and the creation of alternative footpaths); earthworks (including soil stripping and storage, site levelling); and remediation of contamination;
- (n) the felling of trees;
- (o) the establishment of construction compounds and working sites, storage areas, temporary vehicle parking, temporary site hoarding, fencing and perimeter enclosure, security fencing, construction-related buildings, welfare facilities, temporary worker accommodation facilities for vehicle recovery crew, vehicle recovery and customer care facilities, construction lighting, haulage roads and other machinery, apparatus, works and conveniences;
- (p) the provision of other works including pavement works, carriageway surfacing, kerbing and paved areas works, signing, signals, the modification or demolition of existing gantries, new and replacement highway safety barriers, road markings, traffic management measures including temporary roads, temporary earthworks and construction site accesses and such other works as are associated with the construction of the authorised development; and
- (q) such other works, working sites storage areas, works of demolition or works of whatever nature, as may be necessary or expedient for the purposes of, or for purposes associated with or ancillary to, the construction, operation or maintenance of the authorised development which do not give rise to any materially new or materially different environmental effects to those assessed in the environmental statement.

SCHEDULE 2

REQUIREMENTS

Article 4

PART 1

REQUIREMENTS

Interpretation

1. In this Schedule—

“Bolder Mere mitigation and enhancement area” means the area within which environmental mitigation and enhancement measures will be undertaken, to prevent any deterioration in the classification status of Bolder Mere as a surface water body and to ensure compliance with relevant environmental objectives in accordance with the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017(a), (as provided for by Work No.55 in Schedule 1 (authorised development) of this Order);

“CEMP” means any construction environmental management plan prepared and approved under requirement 3;

“commence” means beginning to carry out any material operation (as defined in section 56(4) of the 1990 Act) forming part of the authorised development other than operations consisting of non-intrusive investigations and surveys, ecological surveys and pre-construction ecological mitigation, investigations for the purpose of assessing and monitoring ground conditions and levels, and the temporary display of site notices or advertisements, and “commencement” is to be construed accordingly;

“common land and open space” have the same meanings as in sections 131 and 132 of the Planning Act 2008(b) and in section 19 of the Acquisition of Land Act 1981(c);

“completion or completed” means the relevant parts of the authorised development are completed and fully open for traffic;

“County Archaeologist” means the individual appointed as such by Surrey County Council;

“Ecological Clerk of Works” means the individual appointed as such by the undertaker;

“engineering drawings and sections” means the drawings and sections certified under article 46 (certification of documents, etc.) of this Order;

“environmental statement” means the environmental statement submitted under regulation 5(2)(a) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009(d) (as amended) and the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017(e) and certified under article 46 (certification of documents, etc.) of this Order;

“European protected species” has the same meaning as in regulations 42 and 46 of the Conservation of Habitats and Species Regulations 2017(f);

“Habitats Regulations Assessment” means the report certified under article 46 (certification of documents, etc.) of this Order;

“HEMP” means the Handover Environmental Management Plan prepared by the undertaker;

(a) S.I. 2017/407.

(b) 2008 c. 29.

(c) 1981 c. 67.

(d) S.I. 2009/2264 as amended by the Infrastructure Planning (Applications: Prescribed Forms and Procedure) (Amendment) Regulations 2014 (S.I. 2014/2381).

(e) S.I. 2017/572.

(f) S.I. 2017/1012.

“Landscape and Ecology Management and Monitoring Plan” means the plan contained in Appendix 7.20 of the Environmental Statement certified under article 46 (certification of documents, etc.) of this Order;

“Outline CEMP” means the outline construction environmental management plan certified under article 46 (certification of documents, etc.) of this Order;

“pre-construction ecological mitigation” means any non-intrusive preparatory works of an environmental character;

“protected species” means species which are subject to protection under the laws of England or which are European Protected species;

“REAC” means the Register of Environmental Actions and Commitments certified under article 46 (certification of documents, etc.) of this Order;

“replacement land” has the same meaning as in sections 131 and 132 of the Planning Act 2008(a);

“requirement consultee” means a body that is specified in any requirement within this Schedule, as a body to be consulted prior to the undertaker making an application to discharge the relevant requirement;

“RHS Tree Protection Plan” means the plan of that description certified under article 46 (certification of documents, etc.) of this Order;

“Scheme Layout Plans” means the plans of that description certified under article 46 (certification of documents, etc.) of this Order;

“SPA Management and Monitoring Plan” means the document of that name which forms part of the environmental statement;

“suitably qualified and experienced ecologist” means an ecologist who is a full member of the Chartered Institute of Ecology and Environmental Management and having at least 10 years of relevant experience;

“Thames Basin Heaths Special Protection Area (SPA) compensation land” means the land outside of the existing SPA boundary and which is to be acquired or used for the purposes of creating compensatory habitat to offset the loss of existing SPA habitat (as provided for by Work No.57 in Schedule 1 (authorised development) of this Order);

“Thames Basin Heaths Special Protection Area (SPA) enhancement area” means the area within the existing SPA boundary and within which compensatory ecological enhancement measures will be implemented to offset other potential adverse effects on the SPA (as provided for by Work No.58 in Schedule 1 (authorised development) of this Order);

“Water Framework Directive Assessment Report” means the report of that description certified under article 46 (certification of documents, etc.) of this Order.

Time limits

2. The authorised development must not commence later than the expiration of 5 years beginning with the date on which this Order comes into force.

Construction and handover environmental management plans

3.—(1) No part of the authorised development is to commence until a CEMP, substantially in accordance with the outline CEMP, for that part has been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority and the local highway authority.

(2) The CEMP must be written in accordance with the principles of ISO14001 and reflect the commitments made in the REAC and mitigation measures detailed in the Environmental

(a) 2008 c. 29.

Statement, to avoid, reduce or mitigate environmental effects or risks during construction. The CEMP must—

- (a) contain a record of all sensitive environmental features that have the potential to be affected by the construction of the authorised development, including an environmental constraints map;
- (b) require adherence to the workings hours of 07:30 to 18:00 on Mondays to Fridays and 08:00 to 19:00 on Saturdays, except for—
 - (i) night-time closures for bridge demolition and installation or other works requiring the full or partial closure of, or otherwise adversely affecting the operation of the M25 and A3 carriageways;
 - (ii) any oversize deliveries or deliveries where daytime working would be excessively disruptive to normal traffic operation;
 - (iii) the provision of services at compounds, including CCTV and vehicle recovery;
 - (iv) works associated with the diversion of existing utilities;
 - (v) junction tie-in works;
 - (vi) works associated with traffic management and signal changes;
 - (vii) cases of emergency; and
 - (viii) as otherwise agreed by the relevant planning authority or local highway authority in advance.
- (c) include the following management plans and method statements for undertaking the authorised development—
 - (i) an arboricultural method statement setting out details of the trees to be retained and measures for their protection during construction;
 - (ii) the control of noise and vibration;
 - (iii) the control of dust, odour and smoke;
 - (iv) construction site artificial lighting;
 - (v) the management of materials;
 - (vi) the management and storage of topsoil;
 - (vii) the management of site waste;
 - (viii) the protection and drainage of surface water and groundwater;
 - (ix) the protection of ecological habitats and species;
 - (x) the control of invasive species; and
 - (xi) pollution prevention plan and procedures for dealing with any unexpected environmental emergencies;
- (d) set out the arrangements for monitoring and recording compliance with environmental commitments during construction; and
- (e) contain a community relations strategy.

(3) The authorised development must be constructed in accordance with the approved CEMP.

(4) The undertaker must prepare a HEMP by the end of the construction, commissioning and handover stage of the authorised development, in accordance with the process set out in the approved CEMP.

(5) The HEMP must address the matters set out in the approved CEMP that are relevant to the operation and maintenance of the authorised development, and must contain—

- (a) the environmental information needed for the future maintenance and operation of the authorised development;
- (b) the long-term commitments to aftercare, monitoring and maintenance activities relating to the environmental features and mitigation measures that will be required to ensure the continued long-term effectiveness of the environmental design and mitigation measures

and the prevention of unexpected environmental impacts during the operation of the authorised development; and

- (c) a record of the consents, commitments and permissions resulting from liaison with statutory bodies.

(6) The authorised development must be operated and maintained in accordance with the HEMP.

Traffic management during construction

4.—(1) No part of the authorised development comprising the alteration or improvement of the M25 or A3 is to commence until a traffic management plan relevant to that part of the authorised development has been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority and the local highway authority.

(2) The authorised development must be constructed in accordance with the traffic management plan approved under sub-paragraph (1).

Detailed design

5.—(1) The authorised development must be designed in detail and carried out so that it is compatible with the preliminary scheme design shown on the works plans, the Scheme Layout Plans and the engineering drawings and sections, certified under article 46 (certification of documents, etc.) of this Order, unless otherwise agreed in writing by the Secretary of State, following consultation with the relevant planning authority and the local highway authority on matters related to their functions and provided that the Secretary of State is satisfied that any amendments would not give rise to any materially new or materially different significant environmental effects in comparison with those described in the environmental statement.

(2) Where amended details are approved by the Secretary of State under sub-paragraph (1), those details are deemed to supersede the corresponding drawings and plans certified under article 46 of this order and the undertaker must make those amended details available in electronic form for inspection by members of the public and undertake the works in accordance with the approved amended details.

Landscaping

6.—(1) The authorised development must be landscaped in accordance with a landscaping scheme which sets out details of all proposed hard and soft landscaping works and which has been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority.

(2) The landscaping scheme must reflect the mitigation measures set out in the REAC and must be substantially in accordance with the Scheme Layout Plans and the Landscape and Ecology Management and Monitoring Plan. It must reflect the results of any arboricultural walkover surveys undertaken in accordance with British Standard 5837:2012 and requirement 3 of this Order.

(3) The landscaping scheme prepared under sub-paragraph (1) must include details of—

- (a) location, number, species mix, size and planting density of any proposed planting;
- (b) cultivation, importing of materials and other operations to ensure plant establishment;
- (c) existing trees to be retained, with measures for their protection during the construction period;
- (d) proposed finished ground levels;
- (e) hard landscaping and materials, minor structures and street furniture associated with any new public right of way or upgraded public right of way proposed to support sustainable travel movement along the A3 corridor or for the purposes of providing improved access to proposed areas of replacement land; and

(f) a timetable for the implementation of the landscaping works.

(4) All landscaping works must be carried out in accordance with the relevant recommendations of appropriate British Standards or other recognised codes of good practice.

(5) Any tree or shrub planted as part of the authorised development that, within a period of 10 years after planting, is removed, dies or becomes in the opinion of the relevant planning authority, seriously damaged or diseased, must be replaced in the first available planting season with a specimen of the same species and size as that originally planted, unless the Secretary of State, following consultation with the relevant planning authority on matters related to its function, gives consent to a variation.

Design, layout and implementation of Replacement Land

7.—(1) No part of the authorised development comprising the creation of an area of replacement land (Work No.59) is to commence until for that part details of the layout and design of the land have been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority and with the prospective owner of the replacement land identified in Part 4 of Schedule 10. The details must include—

- (a) a landscaping scheme for the replacement land in accordance with requirement 6 of this Order;
- (b) the extent, methods and timing of any tree felling or other vegetation clearance required within the boundary of the replacement land to render the land suitable for public recreational access;
- (c) measures for the management and protection of any ancient woodland, veteran trees or trees which are the subject of a tree preservation order, if present within the boundary of the relevant part of the replacement land;
- (d) the location and extent of any translocation of ancient woodland soils if proposed within the relevant part of the replacement land;
- (e) the detailed alignment and surface treatment of any proposed new paths or public rights of way to be created through the replacement land;
- (f) any measures, including street furniture and signage to be provided for the purposes of supporting, promoting and managing non-motorised public access to the land;
- (g) boundary treatment measures, including details of any new fencing, gates and barriers necessary to manage public access both within the replacement land and to restrict access to other adjoining land;
- (h) timetable for the implementation, completion and opening of the replacement land for public access; and
- (i) a scheme for the maintenance and management of the replacement land, including details of any environmental monitoring measures.

(2) The authorised development must be carried out, maintained, managed and monitored in accordance with the details approved under sub-paragraph (1).

Thames Basin Heaths Special Protection Area (SPA) Compensatory Habitat Creation and Enhancement Measures

8.—(1) Details of the compensatory habitat creation and enhancement measures to be undertaken in respect of the Thames Basin Heaths SPA (on the compensation land (Work No.57) and in the enhancement areas (Work No.58)) must be submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority, Surrey County Council and Natural England. The details must be substantially in accordance with the preliminary Scheme design shown on the Scheme Layout Plans and must reflect the measures set out in the Environmental Statement, the REAC and in the Habitats Regulations Assessment certified under article 46 (certification of documents, etc.) of this Order. The details must include—

- (a) existing vegetation to be retained and any new planting species proposed within the Thames Basin Heaths SPA compensation land, including details of establishment methods;
- (b) the extent, methods and timing of any tree felling and stump removal required within the SPA enhancement areas;
- (c) the extent and depth of any topsoil removal necessary for the purposes of re-establishing heathland habitat;
- (d) measures for the protection of habitats and species within the SPA to be adopted during the enhancement works;
- (e) measures to support and manage public recreational access within the compensation land and enhancement areas which comprise common land or open space, including any new signage, gates, styles where proposed and consistent with ecological conservation management objectives;
- (f) a timetable for the completion of the environmental mitigation and enhancement works (Work Nos. 57 and 58); and
- (g) a scheme for the maintenance, management and monitoring of the compensatory habitat creation and enhancement measures in respect of the Thames Basin Heaths SPA that reflects the measures set out in the SPA Management and Monitoring Plan.

(2) The compensatory habitat creation and enhancement measures must be carried out and maintained, managed and monitored in accordance with the details approved under sub-paragraph (1).

(3) Unless otherwise approved by the Secretary of State in writing, following consultation with Natural England, the compensatory habitat creation measures on the proposed Thames Basin Heaths SPA compensation land must be begun before any part of the authorised development within the boundary of the SPA may commence.

(4) No trees may be felled or other preparatory works undertaken within the SPA enhancement areas (Work No.58) until the methods and timing for such works have been approved in writing by the Secretary of State under sub-paragraph (1).

Cockcrow Green Bridge

9.—(1) No part of the authorised development comprising the construction of the replacement Footpath 17 Cockcrow Bridge (Work No.35(b)) is to commence until details of the bridge design features, substantially in accordance with the preliminary design shown on the Engineering Drawings and Sections certified under article 46 (certification of documents, etc.) of this Order have been approved in writing by the Secretary of State, following consultation with the relevant planning authority, Natural England and the local highway authority.

(2) Work No.35(b) must be constructed in accordance with the details approved under sub-paragraph (1) unless otherwise agreed by the Secretary of State.

(3) Notwithstanding sub-paragraph (1) and (2), the Secretary of State may approve under this requirement a bridge design excluding any soft verge wildlife crossing.

Bolder Mere Mitigation and Enhancement Area

10.—(1) No part of Work No.5(c) is to commence until details of the environmental mitigation and enhancement measures to be undertaken in the Bolder Mere mitigation and enhancement area (Work No.55) have been submitted to and approved in writing by the Secretary of State, following consultation with the Environment Agency, Natural England, Surrey County Council and the relevant planning authority. The details must substantially accord with the measures described in the Environmental Statement and in the Water Framework Directive Assessment Report certified under article 46 (certification of documents, etc.) of this Order and must include—

- (a) details of any vegetation to be removed to improve the hydrosere of the shore of Bolder Mere;

- (b) the extent, shape and species composition of the replicate marginal vegetation to be provided alongside the proposed retaining wall, including the method of implementation;
- (c) a timetable for the completion of the environmental mitigation and enhancement works (Work No.55); and
- (d) a scheme for the maintenance, management and environmental monitoring of the mitigation and enhancement measures at Bolder Mere.

(2) The environmental mitigation and enhancement works must be carried out, maintained, managed and monitored in accordance with the details approved under sub-paragraph (1) and must be begun before any part of Work No.5(c) may commence.

(3) No part of Work No.5(c) is to commence until details of the surface water drainage and pollution control measures for that part of the A3 southbound carriageway adjoining the proposed Bolder Mere retaining wall, reflecting the results of a detailed drainage survey, have been submitted to and approved in writing by the Secretary of State, following consultation with the Environment Agency, Natural England, Surrey County Council and the relevant planning authority.

(4) The authorised development must be constructed in accordance with the detailed drainage scheme approved under sub-paragraph (3).

Buxton Wood Environmental Mitigation Area

11.—(1) No part of the authorised development comprising Work No.25 (improvement, realignment and widening of the M25 eastbound off-slip at M25 junction 10) is to open to traffic until details of the mitigation measures to be undertaken as part of Work No.60 have been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority.

(2) Details to be approved under sub-paragraph (1) must be substantially in accordance with the measures described in the Environmental Statement and the REAC certified under article 46 (certification of documents, etc.) of this Order. The details must include—

- (a) a landscaping scheme in accordance with requirement 6 of this Order;
- (b) a timetable for the completion of the mitigation works; and
- (c) a scheme for the maintenance, management and monitoring of the mitigation measures.

(3) The authorised development must be carried out, maintained, managed and monitored in accordance with the details approved under sub-paragraph (1) unless otherwise agreed by the Secretary of State following consultation with the relevant planning authority.

Stratford Brook Environmental Mitigation Area

12.—(1) No part of the authorised development comprising Work No.33(b) (the new Stratford Brook underbridge) or Work No.54 (environmental mitigation works on land adjoining Stratford Brook) is to commence until details of the mitigation measures to be undertaken have been submitted to and approved in writing by the Secretary of State, following consultation with the Environment Agency and the relevant planning authority.

(2) Details to be approved under sub-paragraph (1) must be substantially in accordance with the measures described in the Environmental Statement, the REAC and the Water Framework Directive Assessment certified under article 46 (certification of documents, etc.) of this Order. The details must include—

- (a) a timetable for the completion of the mitigation works; and
- (b) a scheme for the maintenance, management and monitoring of the mitigation measures.

(3) The authorised development must be carried out, maintained, managed and monitored in accordance with the details approved under sub-paragraph (1) unless otherwise agreed by the Secretary of State following consultation with the Environment Agency, and under any necessary licences.

Contaminated land and groundwater

13.—(1) No part of the authorised development involving intrusive ground works is to commence until for that part a site investigation and risk assessment have been submitted to and approved in writing by the Secretary of State, following consultation with the Environment Agency and the relevant planning authority.

(2) An investigation and assessment under sub-paragraph (1) must include:

- (a) details of any existing sources of contamination within the Order limits that may be affected by the carrying out of the authorised development;
- (b) any reasonably required protective measures to ensure that the carrying out of the authorised development does not make worse any adverse conditions or risks associated with such existing sources of contamination;
- (c) appropriate remediation strategies and mitigation measures to address any historic contamination within the Order limits which is shown to be having significant unacceptable effects on the environment within the context of the proposed works; and
- (d) must be carried out in accordance with the Department for Environment, Food and Rural Affairs' and the Environment Agency's 'Model Procedures for the Management of Land Contamination' Contaminated Land Report 11 document.

(3) The steps and measures identified as necessary for the purposes of carrying out the authorised development must be implemented in accordance with details approved under sub-paragraph (1).

(4) In the event that contaminated material, including groundwater, is found at any time when carrying out the authorised development, which was not previously assessed in the environmental statement or a risk assessment approved under sub-paragraph (1), the undertaker must cease construction in the vicinity of that contamination and undertake a risk assessment of the contamination in consultation with the Environment Agency and relevant planning authority.

(5) Where the undertaker determines that remediation is necessary, a written scheme and programme for the remedial measures to be undertaken must be submitted to and approved in writing by the Secretary of State, following consultation with the Environment Agency and the relevant planning authority.

(6) Remedial measures must be carried out in accordance with the scheme approved under sub-paragraph (5).

Archaeology

14.—(1) No part of the authorised development is to commence until for that part a written scheme for the investigation and mitigation of areas of archaeological interest, reflecting the mitigation measures set out in the environmental statement and REAC, has been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority and the County Archaeologist.

(2) A written scheme prepared under sub-paragraph (1) may include provision for further sub-written schemes of investigation if required (evaluation or detailed excavation or watching brief) for any area and any phase of the works, for which approval must be sought separately in accordance with sub-paragraph (1).

(3) A written scheme prepared under sub-paragraph (1) must contain details of the arrangements and timescales within which the undertaker and County Archaeologist will agree the manner in which any further investigation and recording is to be carried out in the event of any archaeological remains, not previously identified, being revealed during construction.

(4) The authorised development must be carried out in accordance with the written scheme of investigation approved under sub-paragraph (1).

(5) In the event of any archaeological remains, not previously identified, being revealed when carrying out the authorised development, the said remains must be retained in situ and reported to the County Archaeologist as soon as is reasonably practicable from the date they are identified. No

construction operations are to take place within 10 metres of the remains for a period of 14 days from the date on which the County Archaeologist is notified, unless otherwise agreed in writing by the County Archaeologist. Any revealed remains must be subject to appropriate mitigation to be determined in consultation with the County Archaeologist, in accordance with the written scheme approved under sub-paragraphs (1) and within the timescales agreed under sub-paragraph (3).

(6) If having been notified under sub-paragraph (5) the County Archaeologist determines in writing that the archaeological remains require further investigation, no construction operations may resume within 10 metres of the remains until provision has been made for the further investigation and recording of the remains, in accordance with details to be approved in writing by the County Archaeologist within the timescales agreed under sub-paragraph (3).

(7) Where the undertaker or the County Archaeologist is of the view that the revealed remains referred to in sub-paragraph (5) may be of national significance the findings must be reported to Historic England. No construction operations may resume within 10 metres of the remains until the significance of the remains has been determined in consultation with Historic England and suitable provision is made for their analysis and recording in accordance with a scheme to be agreed in writing by Historic England.

(8) On completion of the authorised development suitable resources and provisions for the long-term storage of the archaeological archive will be agreed with the County Archaeologist.

(9) A copy of any analysis, reporting or publication required as part of the written scheme of investigation approved under sub-paragraph (1) must be deposited with the Historic Environment Record of the relevant planning authority within three years of the date of completion of the authorised development or such other period as may be agreed in writing by the County Archaeologist.

Protected species

15.—(1) No part of the authorised development is to commence until for that part, final pre-construction survey work has been carried out to establish whether European or nationally protected species are present on any of the land affected or likely to be affected by any part of the authorised development.

(2) In the event that a European or other protected species or nesting bird not previously identified in the environmental statement is found at any time when carrying out the authorised development, the undertaker must cease construction of the relevant part of the works near their location, or any works within 10m of nesting birds, and report it as soon as practicable to the Ecological Clerk of Works.

(3) Construction of the relevant part of the works must not resume until either—

- (a) the nesting birds, if relevant, have fledged and the nest is no longer in use; or
- (b) a suitably qualified and experienced ecologist, holding the relevant and appropriate licence for the species in question, determines that the relevant works do not require a protected species licence, or
- (c) any necessary licences for the protection and mitigation of the species have been obtained from Natural England.

Fencing

16. Any permanent and temporary fencing and other means of enclosure for the authorised development must be constructed and installed in accordance with the Manual of Contract Documents for Highway Works maintained by or on behalf of the undertaker except where any departures from that manual are agreed in writing by the Secretary of State.

Restoration and/or landscaping of land used temporarily for construction

17.—(1) Within three months of the authorised development being completed, a scheme for the restoration and/or landscaping of any Order land used temporarily for construction purposes,

substantially in accordance with the Scheme Layout Plans and to include a programme for the said restoration and/or landscaping work, must be submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority.

(2) The restoration of the land subject to sub-paragraph (1) must be carried out, maintained, managed and where relevant monitored in accordance with the approved restoration scheme.

(3) In so far as the land used temporarily is land within the boundary of the Thames Basin Heaths Special Protection Area and/or within the boundary of the Ockham and Wisley Commons Site of Special Scientific Interest, the restoration scheme under sub-paragraph (1) must be submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority, Surrey County Council and Natural England and must—

- (a) make suitable provision for habitat restoration measures to support the sites' qualifying species and features;
- (b) incorporate the measures described in the Environmental Statement and the Habitats Regulations Assessment where relevant;
- (c) demonstrate how opportunities have been taken to achieve biodiversity gains and support enhancement of the sites' nature conservation value within the restoration proposals; and
- (d) include a scheme for the maintenance, management and monitoring of the said land.

(4) In so far as the land used temporarily is common land or open space, the restoration scheme under sub-paragraph (1) must make suitable provision for landscape and access measures to support use of the land as common land or open space and must include a scheme for the maintenance and management of the said land. The relevant details must be submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority and Surrey County Council.

Protection of certain tree roots at RHS Garden Wisley

18. No soil level changes (excavation or filling), other works or access of any sort within the BS5837 root protection areas of the trees that are defined in the 'Tree Protection Plan for Royal Horticultural Society', plan reference AL_LI_ML-DR-ZM-000001 Rev C03 dated 10 July 2020, shall be undertaken unless an arboricultural method statement describing the works or access and showing their location on a plan has been approved in writing by the Secretary of State following consultation with the owner of RHS Garden Wisley. The works shall be undertaken in accordance with the approved arboricultural method statement.

Works in the village of Ripley

19.—(1) No part of the development comprising Work No.33 ('the Wisley Lane Diversion') is to open for traffic until a scheme for the management of traffic flows along the B2215 through the village of Ripley has been submitted to and approved in writing by the Secretary of State following consultation with the local highway authority and the local planning authority:

(2) Unless proposed by the undertaker and agreed in writing by the local highway authority, the scheme to be submitted to the Secretary of State must -

- (a) comprise two gateway features, two puffin crossings, speed cushions and speed tables, or similar measures, all to be provided along an approximately 1km stretch of the B2215 that lies between the existing village entrance signs.
- (b) contain a cost estimate for the design and construction of the proposed works and specify arrangements by which either
 - (i) the undertaker will provide funds to the local highway authority to cover the approved cost (being either the cost estimate as referred to above or if the Secretary of State considers that another figure is appropriate then that other figure) of the local highway authority designing and constructing the approved works; or

- (ii) the undertaker will undertake the design and construction of the approved works at its own expense up to the value of the approved cost pursuant to an appropriate agreement with the local highway authority.

(3) The scheme to be submitted to the Secretary of State must include a timetable for implementation and completion of the approved scheme for the management of traffic flows along the B2215 through the village of Ripley and the works must be implemented and completed in accordance with the approved scheme.

Approvals and amendments to approved details

20. With respect to any requirement that stipulates the authorised development must be carried out in accordance with the details approved under this Schedule, the approved details are taken to include any amendments that may subsequently be approved in accordance with the provisions of the relevant requirement.

PART 2

PROCEDURE FOR DISCHARGE OF REQUIREMENTS

Applications made under requirements

21.—(1) Where an application has been made to the Secretary of State for any consent, agreement or approval required by a requirement (including consent, agreement or approval in respect of part of a requirement) included in this Order, the Secretary of State must give notice to the undertaker of the decision on the application within a period of 8 weeks beginning with—

- (a) the day immediately following that on which the application is received by the Secretary of State;
- (b) the day immediately following that on which further information has been supplied by the undertaker under paragraph 17; or
- (c) such longer period as may be agreed by the Secretary of State.

(2) Subject to sub-paragraph (3), in the event that the Secretary of State does not determine an application within the period set out in sub-paragraph (1), the Secretary of State is taken to have granted all parts of the application (without any condition or qualification) at the end of that period.

(3) Sub-paragraph (2) does not apply to an application made to the Secretary of State under requirement 8 (Thames Basin Heaths Special Protection Area (SPA) Compensatory Habitat Creation and Enhancement Measures) and 17(3) (Restoration and/or landscaping of land used temporarily for construction).

(4) Where approval or agreement must be obtained under any of the Requirements in this Schedule, the matter which requires approval must be submitted in writing and approval or agreement must be given in writing.

Pre-application consultation

22.—(1) With respect to any requirement which requires details to be submitted to the Secretary of State for approval under this Schedule, the details submitted must be accompanied by a summary report setting out the consultation undertaken by the undertaker to inform the details submitted and an account as to how the undertaker has had regard to the responses received.

(2) Where the consultation responses have not been reflected in the submitted details, the undertaker must state the reasons why it has not been appropriate, reasonable or feasible to do so, taking into account considerations including, but not limited to, cost and engineering practicality.

(3) At the time of submitting an application to the Secretary of State, the undertaker must provide a copy of the summary report to the requirement consultees referred to in the requirement under which approval is being sought.

(4) Where the undertaker is required to consult with a requirement consultee prior to submitting an application to discharge a requirement in this schedule, the undertaker must allow the requirement consultee a period in which to respond not less than 28 calendar days that begins with the day after the day on which the requirement consultee receives the information, unless otherwise agreed in writing. Where no response is provided within that period, it may be deemed that the requirement consultee has no objection to the details provided.

Further information

23.—(1) In relation to any application to which this Schedule applies, or part of any application, the Secretary of State has the right to request such further information from the undertaker as is necessary to enable the Secretary of State to consider the application.

(2) In the event that the Secretary of State considers such further information to be necessary the Secretary of State must, within 21 business days of receipt of the application, notify the undertaker in writing specifying the further information required and (if applicable) to which part of the application it relates. In the event that the Secretary of State does not give such notification within this 21 day period the Secretary of State is deemed to have sufficient information to consider the application and is not subsequently entitled to request further information without the prior agreement of the undertaker.

(3) Where further information is requested under this paragraph in relation to part only of an application, that part is treated as separate from the remainder of the application for the purposes of calculating the time periods referred to in paragraph 19 (applications made under requirements) and in this paragraph.

(4) In this paragraph, “business day” means a day other than Saturday or Sunday, which is not a bank holiday under section 1 (bank holidays) of the Banking and Financial Dealings Act 1971.

Register of requirements

24.—(1) The undertaker must, as soon as practicable following the making of this Order, establish and maintain in an electronic form suitable for inspection by members of the public a register of those requirements contained in Part 1 of this Schedule that provide for further approvals to be given by the Secretary of State.

(2) The register must set out in relation to each such requirement the status of the requirement, in terms of whether any approval to be given by the Secretary of State has been applied for or given, providing an electronic link to any document containing any approved details.

(3) The register must be maintained by the undertaker for a period of 3 years following completion of the authorised development.

Anticipatory steps towards compliance with any requirement

25. If before this Order came into force the undertaker or any other person has taken any steps that were intended to be steps towards compliance with any provisions of Part 1 of this Schedule, those steps may be taken into account for the purpose of determining compliance with that provision if they would have been valid steps for that purpose had they been taken after this Order came into force.

SCHEDULE 3
CLASSIFICATION OF ROADS, ETC.

Articles 13 and 17

PART 1
SPECIAL ROADS

<i>(1)</i> <i>Highway</i>	<i>(2)</i> <i>Extent</i>
M25 eastbound	Improved M25 eastbound carriageway, as shown between points 10/1 and 10/2 on Sheet 10 of the Streets, Rights of Way and Access Plans, comprising 40 metres and between point 10/3 on Sheet 10 and point 18/2 on Sheet 18 of the Streets, Rights of Way and Access Plans, comprising 5,580 metres.
M25 eastbound on-slip at M25 junction 10	Altered slip road, as shown between point 5/20 on Sheet 5 and point 14/2 on Sheet 14 of the Streets, Rights of Way and Access Plans, comprising 955 metres.
M25 eastbound off-slip at M25 junction 10	Improved slip road, as shown between point 11/2 on Sheet 11 and point 5/12 on Sheet 5 of the Streets, Rights of Way and Access Plans, comprising 900 metres.
M25 westbound	Improved M25 westbound carriageway, as shown between point 18/1 on Sheet 18 and point 10/4 on Sheet 10 of the Streets, Rights of Way and Access Plans, comprising 6,050 metres.
M25 westbound on-slip at M25 junction 10	Improved slip road, as shown between point 5/9 on Sheet 5 and point 11/1 on Sheet 11 of the Streets, Rights of Way and Access Plans, comprising 1,225 metres.
M25 westbound off-slip at M25 junction 10	Altered slip road, as shown between point 14/1 on Sheet 14 and point 5/21 on Sheet 5 of the Streets, Rights of Way and Access Plans, comprising 800 metres.
A3 northbound to M25 westbound dedicated free-flow slip lane at M25 junction 10	New slip lane, as shown between point 5/3 on Sheet 5 and point 12/5 on Sheet 12 of the Streets, Rights of Way and Access Plans, comprising 205 metres.
M25 eastbound to A3 northbound dedicated free-flow slip lane at M25 junction 10	New slip lane, as shown between point 12/4 on Sheet 12 and point 5/15 on Sheet 5 of the Streets, Rights of Way and Access Plans, comprising 225 metres.
A3 southbound to M25 eastbound dedicated free-flow slip lane at M25 junction 10	New slip lane, as shown between point 5/18 on Sheet 5 and point 13/1 on Sheet 13 of the Streets, Rights of Way and Access Plans, comprising 210 metres.
M25 westbound to A3 southbound dedicated free-flow slip lane at M25 junction 10	New slip lane, as shown between point 13/2 on Sheet 13 and point 5/4 on Sheet 5 of the Streets, Rights of Way and Access Plans, comprising 250 metres.

PART 2

TRUNK ROADS

<i>(1)</i> <i>Highway</i>	<i>(2)</i> <i>Extent</i>
M25 junction 10, circulatory carriageway	For the entire extent of the altered M25 junction 10 circulatory carriageway, as shown between points 5/6 and 5/7 on Sheet 5 of the Streets, Rights of Way and Access Plans, comprising 725 metres.
A3 northbound	Improved A3 northbound carriageway, as shown between point 1/1 on Sheet 1 and point 8/12 on Sheet 8 of the Streets, Rights of Way and Access Plans, comprising 5,325 metres.
A3 northbound on-slip at the A3 Ockham Park junction	Improved slip road, as shown between points 1/15 and 1/16 on Sheet 1 of the Streets, Rights of Way and Access Plans, comprising 90 metres and between point 1/16 on Sheet 1 and point 2/2 on Sheet 2 of the Streets, Rights of Way and Access Plans, comprising 650 metres.
A3 northbound off-slip at M25 junction 10	Improved slip road, as shown between point 4/11 on Sheet 4 and point 5/8 on Sheet 5 of the Streets, Rights of Way and Access Plans, comprising 315 metres.
A3 northbound on-slip at M25 junction 10	Improved slip road, as shown between point 5/14 on Sheet 5 and point 6/2 on Sheet 6 of the Streets, Rights of Way and Access Plans, comprising 465 metres.
A3 northbound off-slip at the A3 Painshill junction	Improved slip road, as shown between point 7/3 on Sheet 7 and point 8/5 on Sheet 8 of the Streets, Rights of Way and Access Plans, comprising 685 metres.
A3 northbound on-slip at the A3 Painshill junction	Improved slip road, as shown between points 8/10 and 8/11 on Sheet 8 of the Streets, Rights of Way and Access Plans, comprising 120 metres.
A3 southbound	Improved A3 southbound carriageway, as shown between point 8/13 on Sheet 8 and point 1/2 on Sheet 1 of the Streets, Rights of Way and Access Plans, comprising 5,530 metres.
A3 southbound off-slip at the A3 Painshill junction	Improved slip road, as shown between points 8/14 and 8/15 on Sheet 8 of the Streets, Rights of Way and Access Plans, comprising 245 metres.
A3 southbound on-slip at the A3 Painshill junction	Improved slip road, as shown between point 8/19 on Sheet 8 and point 7/2 on Sheet 7 of the Streets, Rights of Way and Access Plans, comprising 785 metres.
A3 southbound off-slip at M25 junction 10	Altered slip road, as shown between point 6/1 on Sheet 6 and point 5/19 on Sheet 5 of the Streets, Rights of Way and Access Plans, comprising 305 metres.
A3 southbound on-slip at M25 junction 10	Altered slip road, as shown between point 5/5 on Sheet 5 and point 4/1 on Sheet 4 of the Streets, Rights of Way and Access Plans, comprising 870 metres.

<i>(1)</i> <i>Highway</i>	<i>(2)</i> <i>Extent</i>
A3 southbound off-slip at the A3 Ockham Park junction	Improved slip road, as shown between point 2/1 on Sheet 2 and point 1/22 on Sheet 1 of the Streets, Rights of Way and Access Plans, comprising 380 metres.

PART 3

CLASSIFIED ROADS

<i>(1)</i> <i>Highway</i>	<i>(2)</i> <i>Extent</i>
A Roads	
A3 Painshill junction (A245)	For the entire extent of the improved Painshill junction, as shown between points 8/3 and 8/4 on Sheet 8 of the Streets, Rights of Way and Access Plans, comprising 430 metres.
A3 northbound to A245 westbound dedicated slip road at the A3 Painshill junction	New slip road, as shown between points 8/1 and 8/2 on Sheet 8 of the Streets, Rights of Way and Access Plans, comprising 180 metres.
A245 Byfleet Road westbound	Improved A245 westbound carriageway, as shown between point 8/6 on Sheet 8 and point 9/1 on Sheet 9 of the Streets, Rights of Way and Access Plans, comprising 540 metres.
A245 Byfleet Road eastbound	Improved A245 eastbound carriageway, as shown between point 9/2 and 9/4 on Sheet 9 and between point 8/27 and 8/9 on Sheet 8 of the Streets, Rights of Way and Access Plans, comprising 190 metres.
A245 Portsmouth Road (eastbound)	A245 eastbound carriageway at the tie-in with the improved Painshill junction, as shown between points 8/16 and 8/17 on Sheet 8 of the Streets, Rights of Way and Access Plans, comprising 170 metres.
A245 Portsmouth Road (westbound)	A245 westbound carriageway at the tie-in with the improved Painshill junction, as shown between points 8/17 and 8/18 on Sheet 8 of the Streets, Rights of Way and Access plans, comprising 170 metres.
B Roads	
A3 Ockham Park junction (B2039)	For the entire extent of the improved A3 Ockham Park junction circulatory carriageway forming part of the B2039, as shown between points 1/20 and 1/21 on Sheet 1 of the Streets, Rights of Way and Access Plans, comprising 420 metres.
B2115 Portsmouth Road	At the tie-in with the A3 Ockham Park junction, as shown between points 1/6 and 1/7 on Sheet 1 of the Streets, Rights of Way and Access Plans, comprising 235 metres
B2039 Ockham Road North	At the tie-in with the A3 Ockham Park junction, as shown between points 1/27 and 1/28 on Sheet 1 of the Streets, Rights of Way and Access Plans, comprising 60 metres.

<i>(1)</i> <i>Highway</i>	<i>(2)</i> <i>Extent</i>
B2039	At the tie-in between the A3 Ockham Park junction circulatory carriageway and the Mill Lane junction, as shown between points 1/16 and 1/17 on Sheet 1 of the Streets, Rights of Way and Access Plans, comprising 75 metres.
B365 Seven Hills Road (north of the A245 Byfleet Road junction)	Improved B365 Seven Hills Road at the tie-in with the A245 Byfleet Road junction, as shown between points 9/9 and 9/10 on Sheet 9 of the Streets, Rights of Way and Access Plans, comprising 110 metres.
Classified unnumbered roads	
Old Lane	At the tie-in, as shown between points 4/2 and 4/3 on Sheet 4 of the Streets, Rights of Way and Access Plans, comprising 145 metres and as shown between points 24/3 and 24/4 on Sheet 24 of the Streets, Rights of Way and Access Plans, comprising 145 metres.

PART 4

UNCLASSIFIED ROADS

<i>(1)</i> <i>Highway</i>	<i>(2)</i> <i>Extent</i>
Mill Lane	At the tie-in with the improved B2039 Ockham Park junction, as shown between points 1/18 and 1/19 as shown on Sheet 1 of the Streets, Rights of Way and Access Plans, comprising 55 metres.
Wisley Lane	New and improved road, as shown between point 1/25 on Sheet 1 and point 20/3 on Inset A of Sheet 20 of the Streets, Rights of Way and Access Plans, comprising 1,905 metres.
Seven Hills Road (south of the A245 Byfleet Road junction and currently classified as B365)	Improved road and road to be declassified, as shown between point 7/1 on Sheet 7 and point 9/8 on Sheet 9 of the Streets, Rights of Way and Access Plans, comprising 190 metres.
A245 Byfleet Road westbound to Seven Hills Road dedicated slip-road	New road, as shown between points 9/6 and 9/7 on Sheet 9 of the Streets, Rights of Way and Access Plans, comprising 40 metres.
Elm Lane	Improved unclassified road, as shown between point 23/1 on Sheet 23 and point 24/1 on Sheet 24 of the Streets, Rights of Way and Access Plans, comprising 240 metres.
Byway Open to All Traffic – Byway 525 (Elm Lane)	Improved Byway Open to All Traffic, as shown between points 24/1 and 24/2 on Sheet 24 of the Streets, Rights of Way and Access Plans, comprising 565 metres.

PART 5

SPEED LIMITS

(1) <i>Road name and number</i>	(2) <i>Extent</i>	(3) <i>Speed Limit</i>
Motorways and Trunk Roads		
M25 junction 10 circulatory carriageway	The whole length of the altered circulatory carriageway at M25 junction 10, for a total distance of 725 metres, as shown on Sheet 3 of the Speed Limits and Traffic Regulations Plans.	National speed limit (70 miles per hour, as existing limit)
M25		
M25 eastbound	Along the length of the improved M25 eastbound carriageway, for a total distance of 5,580 metres, as shown on Sheets 3, 5, 7 and 9 of the Speed Limits and Traffic Regulations Plans.	National speed limit (70 miles per hour, as existing limit)
M25 eastbound on-slip at M25 junction 10	Along the length of the altered slip road, from its diverge from the M25 junction 10 circulatory carriageway to its merge with the M25 eastbound carriageway, for a total distance of 955 metres, as shown on Sheets 3 and 7 of the Speed Limits and Traffic Regulations Plans.	National speed limit (70 miles per hour, as existing limit)
M25 eastbound off-slip at M25 junction 10	Along the length of the improved slip road, from its diverge from the M25 eastbound carriageway to its merge with the M25 junction 10 circulatory carriageway, for a total distance of 900 metres, as shown on Sheets 3 and 5 of the Speed Limits and Traffic Regulations Plans.	National speed limit (70 miles per hour, as existing limit)
M25 westbound	Along the length of the improved M25 westbound carriageway, for a total distance of 6,050 metres, as shown on Sheets 3, 5, 7 and 9 of the Speed Limits and Traffic Regulations Plans.	National speed limit (70 miles per hour, as existing limit)
M25 westbound on-slip at M25 junction 10	Along the length of the improved slip road, from its diverge from the M25 junction 10 circulatory carriageway to its merge with the M25 westbound carriageway, for a total distance of 1,225 metres, as shown on Sheets 3 and 5 of the Speed Limits and Traffic Regulations Plans.	National speed limit (70 miles per hour, as existing limit)
M25 westbound off-slip at M25 junction 10	Along the length of the improved slip road, from its diverge from the M25 westbound carriageway to its merge with the M25 junction 10 circulatory carriageway, for a total distance of 800 metres, as shown on Sheets 3 and 7 of the Speed Limits and Traffic Regulations Plans.	National speed limit (70 miles per hour, as existing limit)

(1) <i>Road name and number</i>	(2) <i>Extent</i>	(3) <i>Speed Limit</i>
New dedicated free-flow slip lanes at M25 junction 10		
A3 northbound to M25 westbound dedicated free-flow slip lane at M25 junction 10	Along the length of the new slip road, from its diverge from the A3 northbound off-slip to its merge with the M25 westbound on-slip, for a total distance of 205 metres, as shown on Sheet 3 of the Speed Limits and Traffic Regulations Plans.	National speed limit (70 miles per hour)
M25 eastbound to A3 northbound dedicated free-flow slip lane at M25 junction 10	Along the length of the new slip road, from its diverge from the M25 eastbound off-slip to its merge with the A3 northbound on-slip, for a total distance of 225 metres as shown on Sheet 3 of the Speed Limits and Traffic Regulations Plans.	National speed limit (70 miles per hour)
A3 southbound to M25 eastbound dedicated free-flow slip lane at M25 junction 10	Along the length of the new slip road, from its diverge from the A3 southbound off-slip to its merge with the M25 eastbound on-slip, for a total distance of 210 metres as shown on Sheet 3 of the Speed Limits and Traffic Regulations Plans.	National speed limit (70 miles per hour)
M25 westbound to A3 southbound dedicated free-flow slip lane at M25 junction 10	Along the length of the new slip road, from its diverge from the M25 westbound off-slip to its merge with the A3 southbound on-slip, for a total distance of 250 metres, as shown on Sheet 3 of the Speed Limits and Traffic Regulations Plans.	National speed limit (70 miles per hour)
A3		
A3 northbound	Along the length of the improved A3 northbound carriageway for a total distance of 5,325 metres, as shown on Sheets 1, 2, 3 and 4 of the Speed Limits and Traffic Regulations Plans.	National speed limit (70 miles per hour, as existing limit)
A3 northbound on-slip at A3 Ockham Park junction (south of Mill Lane junction)	Along the length of the improved slip road from its diverge from the Ockham Park junction circulatory carriageway to the Mill Lane junction, for a total distance of 90 metres, as shown on Sheet 1 of the Speed Limits and Traffic Regulations Plans.	40 miles per hour
A3 northbound on-slip at A3 Ockham Park junction (north of Mill Lane junction)	Along the length of the improved slip road, north of the Mill Lane junction to its merge with the A3 northbound carriageway, for a total distance of 650 metres, as shown on Sheets 1 and 2 of the Speed Limits and Traffic Regulations Plans.	National speed limit (70 miles per hour, as existing limit)
A3 northbound off-slip at M25 junction 10	Along the length of the improved slip road, from its diverge from the A3 northbound carriageway to its merge with the M25 junction 10 circulatory carriageway, for a total distance of 315	National speed limit (70 miles per hour, as existing limit)

<i>(1)</i> <i>Road name and number</i>	<i>(2)</i> <i>Extent</i>	<i>(3)</i> <i>Speed Limit</i>
	metres, as shown on Sheet 3 of the Speed Limits and Traffic Regulations Plans.	
A3 northbound on-slip at M25 junction 10	Along the length of the improved slip road, from its diverge from the M25 junction 10 circulatory carriageway to its merge with the A3 northbound carriageway, for a total distance of 465 metres as shown on Sheet 3 of the Speed Limits and Traffic Regulations Plans.	National speed limit (70 miles per hour, as existing limit)
A3 northbound off-slip at A3 Painshill junction	Along the length of the improved slip road from its diverge from the A3 northbound carriageway to point E, for a total distance of 500 metres, as shown on Sheet 4 of the Speed Limits and Traffic Regulations Plans.	National speed limit (70 miles per hour, as existing limit)
A3 northbound off-slip at A3 Painshill junction	Along the length of the improved slip road, from point E to its merge with the Painshill junction circulatory carriageway, for a total distance of 185 metres, as shown on Sheet 4 of the Speed Limits and Traffic Regulations Plans.	40 miles per hour
A3 northbound on-slip at A3 Painshill junction	Along the length of the improved slip road, from its diverge from the A3 Painshill junction circulatory carriageway to point F, for a total distance of 60 metres, as shown on Sheet 4 of the Speed Limits and Traffic Regulations Plans.	40 miles per hour
A3 northbound on-slip at A3 Painshill junction	Along the length of the improved slip road, from point F to the DCO boundary, for a total distance of 60 metres, as shown on Sheet 4 of the Speed Limits and Traffic Regulations Plans.	National speed limit (70 miles per hour, as existing limit)
A3 southbound	Along the length of the improved A3 southbound carriageway for a total distance of 5,530 metres, as shown on Sheets 1, 2, 3 and 4 of the Speed Limits and Traffic Regulations Plans.	National speed limit (70 miles per hour, as existing limit)
A3 southbound off-slip at A3 Painshill junction	Along the length of the improved slip road from its diverge from the A3 southbound carriageway to point G, for a total distance of 115 metres, as shown on Sheet 4 of the Speed Limits and Traffic Regulations Plans.	National speed limit (70 miles per hour, as existing limit)
A3 southbound off-slip at A3 Painshill junction	Along the length of the improved slip road, from point G to its merge with the A3 Painshill junction circulatory carriageway, for a total distance of 130 metres, as shown on Sheet 4 of the Speed Limits and Traffic Regulations Plans.	40 miles per hour
A3 southbound on-slip at A3 Painshill junction	Along the length of the improved slip road from its diverge from the A3 Painshill junction circulatory carriageway to point H, for a total distance of 350 metres, as shown on Sheet 4 of the Speed Limits and	40 miles per hour

<i>(1)</i> <i>Road name and number</i>	<i>(2)</i> <i>Extent</i>	<i>(3)</i> <i>Speed Limit</i>
	Traffic Regulations Plans.	
A3 southbound on-slip at A3 Painshill junction	Along the length of the improved slip road, from point H to its merge with the A3 southbound carriageway, for a total distance of 435 metres, as shown on Sheet 4 of the Speed Limits and Traffic Regulations Plans.	National speed limit (70 miles per hour, as existing limit)
A3 southbound off-slip at M25 junction 10	Along the length of the altered slip road, from its diverge from the A3 southbound carriageway to its merge with the M25 junction 10 circulatory carriageway, for a total distance of 305 metres, as shown on Sheet 3 of the Speed Limits and Traffic Regulations Plans.	National speed limit (70 miles per hour, as existing limit)
A3 southbound on-slip at M25 Junction 10	Along the length of the altered slip road, from its diverge from the M25 junction 10 circulatory carriageway to its merge with the A3 southbound carriageway, for a total distance of 870 metres, as shown on Sheet 3 of the Speed Limits and Traffic Regulations Plans.	National speed limit (70 miles per hour, as existing limit)
A3 southbound off-slip at A3 Ockham Park junction	Along the length of the improved slip road, from its diverge from the A3 southbound carriageway to point A, for a total distance of 270 metres, as shown on Sheets 1 and 2 of the Speed Limits and Traffic Regulations Plans.	National speed limit (70 miles per hour, as existing limit)
A3 southbound off-slip at A3 Ockham Park junction	Along the length of the improved slip road, from point A to its merge with the Ockham Park junction circulatory carriageway, for a total distance of 110 metres, as shown on Sheet 1 of the Speed Limits and Traffic Regulations Plans.	40 miles per hour
A Roads		
A3 Painshill junction	The whole length of the improved circulatory carriageway at the Painshill junction, for a total distance of 430 metres, as shown on Sheet 4 of the Speed Limits and Traffic Regulations Plans.	40 miles per hour
A3 northbound to A245 westbound dedicated slip lane at the A3 Painshill junction	Along the length of the new slip road, from its diverge from the A3 northbound off-slip to its merge with the A245 westbound carriageway, for a total distance of 180 metres, as shown on Sheet 4 of the Speed Limits and Traffic Regulations Plans.	40 miles per hour
A245 Byfleet Road westbound	Along the length of the improved A245 Byfleet Road westbound carriageway from its diverge from the A3 Painshill junction circulatory carriageway to point J, for a total distance of 540 metres, as shown on Sheet 4 of the Speed Limits and Traffic Regulations Plans.	40 miles per hour

<i>(1)</i> <i>Road name and number</i>	<i>(2)</i> <i>Extent</i>	<i>(3)</i> <i>Speed Limit</i>
A245 Byfleet Road eastbound	Along the length of the improved A245 Byfleet Road eastbound carriageway, from point J to its merge with the Painshill junction circulatory carriageway, for a total distance of 545 metres, as shown on Sheet 4 of the Speed Limits and Traffic Regulations Plans.	40 miles per hour
A245 Portsmouth Road eastbound	The A245 Portsmouth Road eastbound carriageway at the tie-in with the improved Painshill junction, for a total distance of 170 metres, as shown on Sheet 4 of the Speed Limits and Traffic Regulations Plans.	40 miles per hour
A245 Portsmouth Road westbound	A245 Portsmouth Road westbound carriageway at the tie-in with the improved Painshill junction, for a total distance of 170 metres, as shown on Sheet 4 of the Speed Limits and Traffic Regulations Plans.	40 miles per hour
B Roads		
Ockham Park junction (B2039)	The whole length of the improved circulatory carriageway at the Ockham Park junction, for a total distance of 420 metres, as shown on Sheet 1 of the Speed Limits and Traffic Regulations Plans.	40 miles per hour (as existing limit)
B2115 Portsmouth Road	Along the length of the improved B2115 at its tie-in with the A3 Ockham Park junction, for a total distance of 235 metres, as shown on Sheet 1 of the Speed Limits and Traffic Regulations Plans.	40 miles per hour (as existing limit)
B2039 Ockham Road North	Along the length of the improved B2039 Ockham Road North at its tie-in with the A3 Ockham Park junction, for a total distance of 60 metres, as shown on Sheet 1 of the Speed Limits and Traffic Regulations Plans.	40 miles per hour (as existing limit)
B2039 (A3 Ockham Park junction to Mill Lane junction)	Along the length of the improved B2039 between its junction with Mill Lane and the A3 Ockham Park junction circulatory carriageway, for a total distance of 90 metres, as shown on Sheet 1 of the Speed Limits and Traffic Regulations Plans.	40 miles per hour
B365 Seven Hills Road (north of the A245 Byfleet Road junction) See also entry for Seven Hills Road below.	At the tie-in with the A245 Byfleet Road junction, for a total distance of 40 metres, as shown on Sheet 4 of the Speed Limits and Traffic Regulations Plans.	40 miles per hour (as existing limit)
Classified unnumbered roads		
Old Lane	At the tie-in with the A3 southbound on-slip at M25 junction 10, for a total distance of 130 metres, as shown on Sheet 3 of the Speed Limits and Traffic	40 miles per hour (as existing limit)

(1) <i>Road name and number</i>	(2) <i>Extent</i>	(3) <i>Speed Limit</i>
	Regulations Plans; and at the tie-in with improved Byway Open to All Traffic 525 (Elm Lane), for a total distance of 80 metres, as shown on Sheet 24 of the Speed Limits and Traffic Regulations Plans.	
Unclassified roads		
Mill Lane	At the tie-in with the improved B2039 Ockham Park junction and the A3 northbound on-slip, for a total distance of 55 metres, as shown on Sheet 1 of the Speed Limits and Traffic Regulations Plans.	National Speed Limit (60 miles per hour, as existing limit)
Wisley Lane diversion	Along the length of the new Wisley Lane diversion, from its diverge from the A3 Ockham Park junction circulatory carriageway to point B, for a total distance of 770 metres, as shown on Sheets 1 and 2 of the Speed Limits and Traffic Regulations Plans.	40 miles per hour
Wisley Lane Diversion/realignment	Along the length of the diverted, realigned and improved Wisley Lane from point B to point C, for a total distance of 1,140 metres, as shown on Sheet 2 of the Speed Limits and Traffic Regulations Plans.	30 miles per hour
Elm Lane (and including Byway 525 – Byway Open to All Traffic)	Along the length of Elm Lane from point D to point E, to include that part of Elm Lane which is classified as a Byway Open to All Traffic (Byway 525), for a total distance of 785 metres, as shown on Sheets 2 and 8 of the Speed Limits and Traffic Regulations Plans.	20 miles per hour
A245 Byfleet Road westbound to Seven Hills Road (south) dedicated slip road	Along the length of the new slip road from its diverge from the A245 westbound carriageway to its merge with Seven Hills Road, for a total distance of 40 metres, as shown on Sheet 4 of the Speed Limits and Traffic Regulations Plans.	20 miles per hour
Seven Hills Road (south of the A245 Byfleet Road junction and currently classified as B365)	Along the length of Seven Hills Road from its junction with the A245 Byfleet Road southwards to point I, for a total distance of 170 metres, as shown on Sheet 4 of the Speed Limits and Traffic Regulations Plans.	20 miles per hour

PART 6

TRAFFIC REGULATION MEASURES (CLEARWAYS AND PROHIBITIONS)

(1) <i>Road name and number</i>	(2) <i>Extent of Regulation</i>	(3) <i>Measures</i>
Trunk Roads		
A3 northbound carriageway	From a point 220m south of the Ockham Park South Underbridge, as shown by point 1/1 on Sheet 1 of the Speed Limits and Traffic Regulations Plans, north for a distance of 5200 metres, to the junction with the onslip from the A245 (Painshill Junction), as shown by point 4/5 on Sheet 4 of the Speed Limits and Traffic Regulations Plans.	Prohibition of pedestrians. Prohibition of cyclists. Prohibition of ridden or accompanied horses.
A3 northbound on-slip at the A3 Ockham Park junction	From the junction with Mill Lane, as shown by point 1/2 on Sheet 1 of the Speed Limits and Traffic Regulations Plans, north for a distance of 645 metres, to the junction with the A3 northbound mainline, as shown by point 2/1 on Sheet 2 of the Speed Limits and Traffic Regulations Plans.	Prohibition of pedestrians. Prohibition of cyclists. Prohibition of ridden or accompanied horses.
A3 southbound carriageway	From the junction with the offslip to the A245 (Painshill Junction), as shown by point 4/6 on Sheet 4 of the Speed Limits and Traffic Regulations Plans, south for a distance of 5405 metres, to a point 220m south of the Ockham Park South Underbridge, as shown by point 1/3 on Sheet 1 of the Speed Limits and Traffic Regulations Plans.	Prohibition of pedestrians. Prohibition of cyclists. Prohibition of ridden or accompanied horses.
A3 southbound on-slip at the A3 Painshill junction	From the junction with Heyswood Camp Site access road, as shown by point 4/7 on Sheet 4 of the Speed Limits and Traffic Regulations Plans, south for a distance of 605 metres, to the junction with the A3 southbound mainline, as shown by point 4/8 on Sheet 4 of the Speed Limits and Traffic Regulations Plans.	Prohibition of pedestrians. Prohibition of cyclists. Prohibition of ridden or accompanied horses.
A Roads		
A245 Byfleet Road	From its junction with the A3 roundabout circulatory, as shown by point 4/1 on Sheet 4 of the Speed Limits and Traffic Regulations Plans, northwest for a distance of 495m, to its junction with B365 Seven Hills Road, as shown by point 4/2 on Sheet 4 of the Speed Limits and Traffic Regulations Plans.	Clearway (to include verge and hard strips)

<i>(1)</i> <i>Road name and number</i>	<i>(2)</i> <i>Extent of Regulation</i>	<i>(3)</i> <i>Measures</i>
B Roads		
B365 Seven Hills Road	At the junction with the A245 Byfleet Road Only left turns are permitted for southbound traffic from B365 Seven Hills Road, as shown by point 4/4 on Sheet 4 of the Speed Limits and Traffic Regulations Plans.	Prohibition of Entry (Left turn only)
Unclassified Road		
Wisley Lane	The whole length of both kerb lines from Ockham Park junction (B2039) to a point 125m north of the access to RHS Garden Wisley, as shown between points 1/4 and 2/4 on Sheets 1 and 2 of the Traffic Regulation, Speed Limit, Prohibition, and Clearway Plans.	Prohibition of waiting (at any time)
Elm Lane (Byway open to all traffic)	Improved section of the byway open to all traffic from its junction with Old Lane, west for a distance of 555m, as shown between points 2/10 on Sheet 2 and 8/1 on Sheet 8 of the Traffic Regulation, Speed Limit, Prohibition, and Clearway Plans.	Prohibition of waiting (at any time)

PART 7

REVOCATIONS AND VARIATIONS OF EXISTING TRAFFIC REGULATION MEASURES (CLEARWAYS AND PROHIBITIONS)

<i>(1)</i> <i>Road name and number</i>	<i>(2)</i> <i>Title of order</i>	<i>(3)</i> <i>Revocations or Variations</i>
A3 layby north of Wisley Lane	S.I 2003 No.3187, Road Traffic, The A3 Trunk Road (Wisley) (Prohibition of Waiting) Order 2003	Order to be revoked in its entirety. For location, refer to point 2/8 on Sheet 2 of the Speed Limits and Traffic Regulations Plans.
A3 Ockham Common Lay-by	S.I 2004 No.1674, Road Traffic, The A3 Trunk Road (Ockham Common Lay-By) (Waiting Restrictions) Order 2004	Order to be revoked in its entirety. For location, refer to point 2/9 on Sheet 2 of the Speed Limits and Traffic Regulations Plans
A245 Byfleet Road eastbound and westbound	The Borough of Elmbridge (Portsmouth Road/Byfleet Road) (Speed Limit) Order 1993	Order to be varied from National Speed Limit to 40mph between the junction of A245 Byfleet Road with Seven Hills Road, and a point approximately 95 metres west of Convent Lane, including the Painshill junction circulatory carriageway, as

<i>(1)</i> <i>Road name and number</i>	<i>(2)</i> <i>Title of order</i>	<i>(3)</i> <i>Revocations or Variations</i>
		shown between points 4/3 and 4/9 on Sheet 4 of the Speed Limit and Traffic Regulations Plans.
Wisley Road	The Surrey County Council, Various Roads in the Parished Areas Within The Borough of Guildford (Consolidation of Waiting Restrictions and Street Parking Places) Order 2004	Order to be revoked between the junction of Wisley Lane and the Northbound A3, and the tie-in with the Wisley Lane diversion, as shown between points 2/2 and 2/3 on Sheet 2 of the Speed Limit and Traffic Regulations Plans.
Elm Lane	The Surrey County Council, Various Roads in the Parished Areas Within The Borough of Guildford (Consolidation of Waiting Restrictions and Street Parking Places) Order 2004	Order to be revoked between the junction of Elm Lane and the Southbound A3, and the point just west of Orchard Cottage access, between points 2/5 and 2/6 and inclusive of point 2/7 on Sheet 2 of the Speed Limit and Traffic Regulations Plans

PART 8

OTHER PUBLIC RIGHTS OF WAY

<i>(1)</i> <i>Public right of way</i>	<i>(2)</i> <i>Extent</i>
Cycle track	65 metres of cycle track connecting the A3 northbound with the B2115 Portsmouth Road, as shown between points 1/3 and 1/4 on Sheet 1 of the Streets, Rights of Way and Access Plans.
Footway	15 metres of footway in verge of the B2115 Portsmouth Road, as shown between points 1/5 and 1/33 on Sheet 1 of the Streets, Rights of Way and Access Plans.
Non-segregated footway/cycle track	310 metres of non-segregated footway/cycle track in verge of the B2115 Portsmouth Road and B2039 Ockham Park junction, as shown between points 1/5 and 1/8 on Sheet 1 of the Streets, Rights of Way and Access Plans, with a signal controlled toucan crossing facility at point 1/e as shown on Sheet 1.
Non-segregated footway/cycle track	25 metres of non-segregated footway/cycle track at the tie-in between the B2115 Portsmouth Road and the A3 Ockham Park junction circulatory carriageway, as shown between points 1/9 and 1/10 on Sheet 1 of the Streets, Rights of Way and Access Plans, with a signal controlled toucan crossing facility located at point 1/a as shown on Sheet 1.

(1) <i>Public right of way</i>	(2) <i>Extent</i>
Non-segregated footway/cycle track	370 metres of non-segregated footway/cycle track in verge of the B2215 Portsmouth Road and B2039 Ockham Park junction, as shown between points 1/11 and 1/12 on Sheet 1 of the Streets, Rights of Way and Access Plans, with signal controlled toucan crossing facilities located at points 1/b, 1/c and 1/d as shown on Sheet 1.
Footway	70 metres of footway in the verge of the A3 Ockham Park junction and the A3 northbound on-slip, as shown between points 1/13 and 1/14 on Sheet 1 of the Streets, Rights of Way and Access Plans.
Bridleway	50 metres of bridleway in verge of the A3 Ockham Park junction and the B2039 Ockham Road North, as shown between points 1/12 and 1/26 on Sheet 1 of the Streets, Rights of Way and Access Plans.
Footway	75 metres of footway in verge of the A3 southbound off-slip at the Ockham Park junction, as shown between points 1/23 and 1/24 on Sheet 1 of the Streets, Rights of Way and Access Plans.
Bridleway	1,340 metres of bridleway in verge, as shown between point 1/12 on Sheet 1 and point 20/5 on Sheet 20 of the Streets, Rights of Way and Access Plans.
Footpath	105 metres of footpath, as shown between points 1/29 and 1/31 on Sheet 1 of the Streets, Rights of Way and Access Plans.
Bridleway	320 metres of bridleway, as shown between point 2/3 on Sheet 2 and point 23/1 on Sheet 23 of the Streets, Rights of Way and Access Plans, to include reclassification of 175 metres of unclassified road (Elm Lane) to bridleway, as shown between point 2/11 on Sheet 2 and point 23/1 on Sheet 23 of the Streets, Rights of Way and Access Plans.
Footpath	130 metres of footpath, as shown between points 2/4 and 2/7 on Sheet 2 of the Streets, Rights of Way and Access Plans, comprising the reclassification of 130 metres of an existing unclassified road (Elm Lane) as footpath.
Footpath	30 metres of footpath, as shown between points 2/5 and 2/7 on Sheet 2 of the Streets, Rights of Way and Access Plans.
Footpath	5,855 metres of footpath, as shown between point 2/7 on Sheet 2 and point 3/2 on Sheet 3 of the Streets, Rights of Way and Access Plans.
Footpath	105 metres of footpath, as shown between point 2/10 on Sheet 2 and point 3/1 on Sheet 3 of the Streets, Rights of Way and Access Plans.
Bridleway	845 metres of bridleway, as shown between point 4/4 on Sheet 4 and point 12/6 on Sheet 12 of the Streets, Rights of Way and Access Plans.
Bridleway	20 metres of bridleway, as shown between points 4/4 and 4/6, as shown on Sheet 4 of the Streets, Rights of Way and Access Plans.
Bridleway	180 metres of bridleway, as shown between points 4/7 and 4/8 on Sheet 4 of the Streets, Rights of Way and Access Plans.

(1) <i>Public right of way</i>	(2) <i>Extent</i>
Footpath	75 metres of footpath, as shown between points 4/8 and 4/9 on Sheet 4 of the Streets, Rights of Way and Access Plans.
Bridleway	1,100 metres of bridleway, as shown between point 5/22 on Sheet 5 and point 14/3 on Sheet 14 of the Streets, Rights of Way and Access Plans.
Bridleway	815 metres of bridleway, as shown between point 5/35 on Sheet 5 and point 13/6 on Sheet 13 of the Streets, Rights of Way and Access Plans, comprising the reclassification of 775 metres of unclassified road (Pointers Road) to bridleway.
Footpath	370 metres of footpath, as shown between point 6/3 on Sheet 6 and point 28/1 on Sheet 28 of the Streets, Rights of Way and Access Plans.
Bridleway	1,300 metres of bridleway, as shown between point 6/5 on Sheet 6 and point 12/1 on Sheet 12 of the Streets, Rights of Way and Access Plans.
Bridleway	860 metres of bridleway, as shown between point 6/6 on Sheet 6 and point 13/5 on Sheet 13 of the Streets, Rights of Way and Access Plans.
Bridleway	4,265 metres of bridleway, as shown between point 7/1 on Sheet 7 and point 20/5 on Sheet 20 of the Streets, Rights of Way and Access Plans, to include the reclassification of 140 metres of Seven Hills Road from B365 to bridleway.
Non-segregated footway/cycle track	140 metres of non-segregated footway/cycle track in the verge of the A3 Painshill junction roundabout, as shown between points 8/24 and 8/26 on Sheet 8 of the Streets, Rights of Way and Access Plans.
Non-segregated footway/cycle track	550 metres of non-segregated footway/cycle track in the verge of the A245 Byfleet Road westbound carriageway westbound carriageway, as shown between point 8/24 on Sheet 8 and point 9/11 on Sheet 9 of the Streets, Rights of Way and Access Plans.
Footpath	175 metres of footpath adjacent to the A3 southbound on-slip at the A3 Painshill junction, as shown between points 8/20 and 8/23 on Sheet 8 of the Streets, Rights of Way and Access Plans.
Footway	12 metres of footway between the new dedicated slip road connecting the A245 Byfleet Road (westbound) with Seven Hills Road (south) and the A245 Byfleet Road/Seven Hills Road junction, as shown between points 9/12 and 9/13 on Sheet 9 of the Streets, Rights of Way and Access Plans.
Footway	130 metres of footway in verge of A245 Byfleet Road (eastbound), as shown between points 9/3 and 9/4 on Sheet 9 of the Streets, Rights of Way and Access Plans.
Bridleway	445 metres of bridleway, as shown between points 11/3 and 11/4 on Sheet 11 of the Streets, Rights of Way and Access Plans.
Footpath	135 metres of footpath, as shown between points 20/1 and 20/2 on Sheet 20 of the Streets, Rights of Way and Access Plans.

(1) <i>Public right of way</i>	(2) <i>Extent</i>
Byway 525 (Byway open to all traffic) improvement	565 metres of Byway open to all traffic, as shown between points 24/1 and 24/2 on Sheet 24 of the Streets, Rights of Way and Access Plans.
Footpath	558 metres of footpath, as shown between points 26/1 and 26/2 on Sheet 26 of the Streets, Rights of Way and Access Plans.
Footpath	12 metres of footpath, as shown between points 26/3 and 26/4 on Sheet 26 of the Streets, Rights of Way and Access Plans.
Bridleway	855 metres of bridleway, as shown between point 27/1 on Sheet 27 and point 28/2 on Sheet 28 of the Streets, Rights of Way and Access Plans.

SCHEDULE 4

Articles 15 and 26

PERMANENT STOPPING UP OF HIGHWAYS AND PRIVATE MEANS OF ACCESS AND PROVISION OF NEW HIGHWAYS AND PRIVATE MEANS OF ACCESS

PART 1

HIGHWAYS AND PUBLIC RIGHTS OF WAY TO BE STOPPED UP OR EXTINGUISHED AND FOR WHICH A SUBSTITUTE IS TO BE PROVIDED AND NEW HIGHWAYS WHICH ARE OTHERWISE TO BE PROVIDED

(1) <i>Highway/public right of way to be stopped up</i>	(2) <i>Extent of stopping up</i>	(3) <i>New highway/public right of way to be provided</i>
Non-segregated footway/cycle track in the verge of the A3 Ockham Park junction (to be extinguished)	For a distance of 90 metres, as shown between points 1/23 and 1/32 on Sheet 1 of the Streets, Rights of Way and Access Plans.	Work Nos. 31(g) and 31(h)
Non-segregated footway/cycle track in the verge of the A3 southbound carriageway, to include four crossings at M25 junction 10 (to be extinguished)	For a distance of 4,550 metres, as shown between point 1/24 on Sheet 1 and point 8/22 on Sheet 8 of the Streets, Rights of Way and Access Plans and for a distance of 65 metres as shown between points 8/20 and 8/21 Sheet 8 of the Streets, Rights of Way and Access Plans.	Work Nos. 33, 35, 42(c) and 44(c)
Footpath 13A	For a distance of 130 metres, as shown between points 1/29 and 1/34 on Sheet 1 of the Streets, Rights of Way and Access Plans.	Work Nos. 32 and 33
Footpath 13	For a distance of 165 metres, as shown between points 1/30 and 1/34 on Sheet 1 of the Streets, Rights of Way and Access Plans.	Work Nos. 32 and 33
Elm Lane (unclassified public road)	For a distance of 330 metres, as shown between point 2/6 on Sheet 2 and point 23/1 on Sheet 23 of the Streets, Rights of Way and Access Plans and for a distance of 25 metres as shown between points 2/4 and 2/11 on Sheet 2 of the Streets, Rights of Way and Access Plans.	Work No.50 Note: Existing highway to be reclassified in part as footpath and in part as bridleway.
Wisley Lane (classified unnumbered road)	For a distance of 240 metres, as shown between point 2/8 on Sheet 2 and point 20/4 on Sheet 20 of the Streets, Rights of Way and Access Plans.	Work No.33
Footway over Wisley Footbridge (to be extinguished)	For a distance of 140 metres, as shown between points 2/9 and 2/12 on Sheet 2 of the Streets, Rights of	Work No.33

<i>(1) Highway/public right of way to be stopped up</i>	<i>(2) Extent of stopping up</i>	<i>(3) New highway/public right of way to be provided</i>
	Way and Access Plans.	
Footpath 7	For a distance of 195 metres, as shown between point 2/9 on Sheet 2 and point 20/1 on Sheet 20 of the Streets, Rights of Way and Access Plans and including 10 metres of footpath between points 2/13 and 2/14 as shown on Sheet 2 of the Streets, Rights of Way and Access Plans.	Work No.33(g)
Footpath 14	For a distance of 95 metres, as shown between points 3/2 and 3/3 on Sheet 3 of the Streets, Rights of Way and Access Plans.	Work Nos. 36 and 34
Footpath 17 (to include Footpath 17 Cockcrow Overbridge)	For a distance of 160 metres, as shown between points 4/9 and 4/10 on Sheet 4 of the Streets, Rights of Way and Access Plans.	Work No.35(b)
Non-segregated footway/cycle track in the verge of the A3 northbound off-slip at M25 junction 10 including crossing over slip road (to be extinguished)	For a distance of 245 metres, as shown between points 5/1 and 5/2 on Sheet 5 of the Streets, Rights of Way and Access Plans.	Work No.35
A3 northbound off-slip at M25 junction 10	For a distance of 45 metres, as shown between points 5/10 and 5/11 on Sheet 5 of the Streets, Rights of Way and Access Plans.	Work No.14
M25 circulatory carriageway and associated footways/cycle tracks on west side of junction 10 roundabout, to include tie-ins to M25 westbound on-slip and M25 eastbound off-slip and three crossings	For a distance of 225 metres, as shown between points 5/23 and 5/24 on Sheet 5 of the Streets, Rights of Way and Access Plans.	Work Nos. 7 and 35
M25 circulatory carriageway and associated footways/cycle tracks on east side of junction 10 roundabout	For a distance of 225 metres, as shown between points 5/25 and 5/26 on Sheet 5 of the Streets, Rights of Way and Access Plans.	Work Nos. 7 and 35
Non-segregated footway/cycle track in the verge of the A3 northbound on-slip at M25 junction 10 (to be extinguished)	For a distance of 560 metres, as shown between point 5/13 on Sheet 5 and point 6/5 on Sheet 6 of the Streets, Rights of Way and Access Plans.	Work No.35
A3 northbound on-slip at M25 junction 10	For a distance of 50 metres, as shown between points 5/27 and 5/28 on Sheet 5 of the Streets, Rights of Way and Access Plans.	Work No.14
A3 southbound off-slip at	For a distance of 115 metres, as	Work No.19

<i>(1) Highway/public right of way to be stopped up</i>	<i>(2) Extent of stopping up</i>	<i>(3) New highway/public right of way to be provided</i>
M25 junction 10	shown between points 5/29 and 5/30 on Sheet 5 of the Streets, Rights of Way and Access Plans.	
M25 eastbound on-slip at M25 junction 10	For a distance of 280 metres, as shown between point 5/31 on Sheet 5 and point 13/3 on Sheet 13 on the Streets, Rights of Way and Access Plans.	Work No.26
M25 westbound off-slip at M25 junction 10	For a distance of 325 metres, as shown between point 5/32 on Sheet 5 and point 13/4 on Sheet 13 on the Streets, Rights of Way and Access Plans.	Work No.28
A3 southbound on-slip at M25 junction 10	For a distance of 90 metres, as shown between points 5/33 and 5/34 on Sheet 5 of the Streets, Rights of Way and Access Plans.	Work No.4
Bridleway 12	For a distance of 360 metres, as shown between points 5/16 and 5/17 on Sheet 5 of the Streets, Rights of Way and Access Plans.	Work Nos. 35, 38 and 39
Footpath 12	For a distance of 130 metres, as shown between point 5/16 on Sheet 5 and point 28/1 on Sheet 28 of the Streets, Rights of Way and Access Plans.	Work Nos. 35 and 38 and the upgrade of an existing permissive path as shown between point 6/3 on Sheet 6 and point 28/1 on Sheet 28 of the Streets, Rights of Way and Access Plans.
Footway A245 Byfleet Road (westbound) (to be extinguished)	For a distance of 30 metres, as shown between points 9/6 and 9/13 on Sheet 9 of the Streets, Rights of Way and Access Plans.	Work Nos. 42(c) and 42(f)
Bridleway 8 at Clearmount Bridge	For a distance of 300 metres, as shown between point 11/4 on Sheet 11 and point 12/2 on Sheet 12 of the Streets, Rights of Way and Access Plans and for a distance of 175 metres as shown between point 11/5 on Sheet 11 and point 12/1 on Sheet 12 on the Streets, Rights of Way and Access Plans.	Work No.49
Footpath 10 (at Clearmount Bridge)	For a distance of 15 metres, as shown between points 12/7 and 12/8 on Sheet 12 of the Streets, Rights of Way and Access Plans.	Work No.49
Footpath 11 at Clearmount Bridge	For a distance of 125 metres, as shown between points 12/2 and 12/3 on Sheet 12 of the Streets, Rights of Way and Access Plans.	Work No.49
Bridleway 8 at Wisley Lane	For a distance of 55 metres, as shown between points 20/6 and 20/7 on Sheet 20 of the Streets, Rights of Way and Access Plans.	Work No.35

PART 2

HIGHWAYS AND PUBLIC RIGHTS OF WAY TO BE STOPPED UP OR EXTINGUISHED AND FOR WHICH NO SUBSTITUTE IS TO BE PROVIDED

(1) <i>Highway/public right of way to be stopped up</i>	(2) <i>Extent of stopping up</i>	(3) <i>Notes</i>
Footway (to be extinguished)	For a distance of 20 metres, as shown between points 2/15 and 2/16 on Sheet 2 of the Streets, Rights of Way and Access Plans.	This footway currently provides access to a bus stop on the A3 – this bus stop is to be relocated under Work No.33(f) and no substitute is therefore required.
Footpath 9	For a distance of 30 metres, as shown between points 3/4 and 3/5 on Sheet 3 of the Streets, Rights of Way and Access Plans.	This section of Footpath 9 terminates at the A3 boundary, as shown at point 3/5 on Sheet 3 of the Streets, Rights of Way and Access Plans and currently has no connection with any other right of way at this point. Footpath 9 will now terminate at Work No.35, which will provide a connection to the Cockcrow Overbridge.
Footpath 10 (near Cockcrow Bridge) Also see entry for Footpath 10 at Clearmount Bridge in Part 1 above	For a distance of 70 metres, as shown between points 4/4 and 4/5 on Sheet 4 of the Streets, Rights of Way and Access Plans.	This section of Footpath 10 terminates at the A3 boundary, as shown at point 4/5 on Sheet 4 of the Streets, Rights of Way and Access Plans and currently has no connection with any other right of way at this point. Footpath 10 will now terminate at Work No.35 which will provide a connection to the Cockcrow Overbridge.
Pointers Road	For a distance of 815 metres, as shown between point 5/35 on Sheet 5 and point 13/6 on Sheet 13 of the Streets, Rights of Way and Access Plans.	This section of unclassified public road is not currently accessible to vehicles. This section is to be reclassified as public bridleway – Work No.37.
Old Byfleet Road (unclassified highway)	For a distance of 300 metres, as shown between point 8/25 on Sheet 8 and point 9/5 on Sheet 9 of the Streets, Rights of Way and Access Plans.	Old Byfleet Road is a cul de sac and provides access to Feltonfleet School only. Work No.44(c) will provide a substitute route for non-motorised users.

PART 3

PRIVATE MEANS OF ACCESS TO BE STOPPED UP AND FOR WHICH A SUBSTITUTE IS TO BE PROVIDED

(1) <i>Private means of access to be stopped up</i>	(2) <i>Extent of stopping up</i>	(3) <i>New private means of access to be substituted</i>
Access to RHS Garden Wisley, Wisley Lane	At point A, as shown on Sheet 2 of the Streets, Rights of Way and Access Plans.	Work No.33(f)
Access to Ockham Bites Café and Car Park, Old Lane, Cobham	At points B and C, as shown on Sheet 4 of the Streets, Rights of Way and Access Plans.	Work No.35(d)
Access to Hut Hill Cottage, Pond Farm and the Birchmere Scout Camp, Wisley	At point D as shown on Sheet 4 of the Streets, Rights of Way and Access Plans.	Work No.35(b), 35(c) and 35(d)
Access to Court Close Farm	At point F as shown on Sheet 7 of the Streets, Rights of Way and Access Plans.	Work No.40
Access to the Heyswood Girl Guide Camp	At point F as shown on Sheet 7 of the Streets, Rights of Way and Access Plans.	Work No.40
Access to Long Orchard Farm, No. 1 Farm Cottage, No. 3 Farm Cottage, Long Orchard House, Fir Tree Cottage and The Coach House	At point G, as shown on Sheet 7 of the Streets, Rights of Way and Access Plans.	Work Nos. 35, 35(h) and 35(i)
Access to the Starbucks Drive Thru Cafe	At point H, as shown on Sheet 7 of the Streets, Rights of Way and Access Plans.	Work Nos. 35 and 35(j)
Access to New Farm	At point I, as shown on Sheet 7 of the Streets, Rights of Way and Access Plans.	Work Nos. 40

PART 4

PRIVATE MEANS OF ACCESS TO BE STOPPED UP FOR WHICH NO SUBSTITUTE IS TO BE PROVIDED

(1) <i>Private means of access to be stopped up</i>	(2) <i>Extent of stopping up</i>	(3) <i>Notes</i>
Painshill Park emergency access from A3 southbound carriageway	At point E, as shown on Sheet 6 of the Streets, Rights of Way and Access Plans.	There is reasonably convenient access to the land otherwise than from the street or private means of access concerned.

PART 5
ALTERATIONS TO PRIVATE MEANS OF ACCESS

(1) <i>Private means of access to be altered</i>	(2) <i>Extent of alteration</i>
Private maintenance access to an electricity pylon from the A3 Painshill junction	As shown at point 8/i on Sheet 8 of the Streets, Rights of Way and Access Plans – (see Work No.48).
Private means of access from Elm Lane to residential property, ‘Orchard Cottage’.	As shown at point 23/i on Sheet 23 of the Streets, Rights of Way and Access Plans – (see Work No.34).

SCHEDULE 5

Article 25(2)

LAND IN WHICH ONLY NEW RIGHTS ETC. MAY BE ACQUIRED

(1) <i>Plot Reference Number shown on Land Plans</i>	(2) <i>Purpose for which rights over land may be acquired</i>	(3) <i>Relevant part of the authorised development</i>
Land Plans – Sheet 1		
1/18a	To provide, construct, inspect, retain, access, maintain, renew and repair environmental mitigation works on land adjoining Stratford Brook.	Work No.54
1/40	To construct, retain, inspect, operate, access maintain and repair a diverted gas pipeline and associated equipment.	Work No.63(a)
Land Plans – Sheet 2		
2/8	For use as a construction access route. To construct a bridleway and use as a maintenance access. For use as a maintenance access for the authorised development.	Work No.34
2/9, 2/10, 2/14	For use as a construction access route. For use as a maintenance access for the authorised development.	
2/12	To construct, operate, access and maintain a diversion to an existing gas pipeline and associated equipment and a filter drain.	Work No.63(a)
2/12a	To construct, operate, access and maintain a carrier drain.	Work No.52(b)
2/13a	To construct, access and maintain a pre earthworks ditch.	Work No.33
2/14a	For use as a construction access route. To construct a footpath and use as a maintenance access. To construct, operate, access and maintain a diversion to an existing gas pipeline and associated equipment. To construct, operate, access and maintain a carrier drain. For use as a maintenance access for the authorised development.	Work No.33(c) Work No.52(b) Work No.63(a)
2/14b	For use as a construction access route. To construct a footpath and use as a maintenance access. To construct, operate, access and maintain a diversion to an existing gas pipeline and associated equipment. To construct, operate, access and maintain a carrier drain. For use as a maintenance access for the authorised development.	Work No.33(c) Work No.52(b) Work No.63(a)

(1) <i>Plot Reference Number shown on Land Plans</i>	(2) <i>Purpose for which rights over land may be acquired</i>	(3) <i>Relevant part of the authorised development</i>
2/28a	To construct the realignment of the access to RHS Garden Wisley, to include provision of a new bus stop facility. To construct, operate, access, and maintain the diversion of electric cables and associated apparatus and equipment.	Work No.33(f) Work No.62(c)
2/28c	To construct the realignment of the access to RHS Garden Wisley, to include provision of a new bus stop facility. To construct, operate, access, and maintain the diversion of electric cables and associated apparatus and equipment. To construct, operate, access, and maintain the diversion of telecommunication cables, media cables and equipment.	Work No.33(f) Work No.62(c) Work No.65(c)
2/36	To construct a bridleway and use as a maintenance access. To construct, operate, access and maintain a diversion to a gas pipeline and associated equipment, the width of the new right within the plot not to exceed 6 metres. For use as a maintenance access for the authorised development.	Work No.35 Work No.63(a)
Land Plans – Sheet 3		
3/3a	To construct and use as a maintenance access for the authorised development.	Work No.1(a) Work No.1(c) Work No.64(a)
3/3b	To construct, operate, access and maintain a diversion to a gas pipeline and associated equipment, the width of the new right not to exceed 6 metres.	Work No.63(a)
3/3d	To construct and use as a maintenance access in relation to a gantry and utility diversion.	Work No.64(a) Work No.23(c)
3/9	To undertake, retain, inspect, access, maintain, monitor and renew environmental compensation works.	Work No.58(b)
3/13	To undertake, retain, inspect, access, maintain, monitor and renew environmental compensation works.	Work No.58(a)
3/16	To construct a footpath and use as a maintenance access. For use as a maintenance access for the authorised development.	Work No.36
3/19	To construct, inspect, access and maintain a retaining wall and associated planting.	Work No.5(c)
3/19a	To undertake, retain, inspect, access, maintain, monitor and renew environmental mitigation and	Work No.55

(1) <i>Plot Reference Number shown on Land Plans</i>	(2) <i>Purpose for which rights over land may be acquired</i>	(3) <i>Relevant part of the authorised development</i>
	enhancement works.	
3/25	To construct a bridleway and use as a maintenance access. To construct, operate, access and maintain a diversion to an existing gas pipeline and associated equipment, the width of the new right not to exceed 6 metres. To construct, operate, access and maintain an extension of an existing culvert. For use as a maintenance access for the authorised development.	Work No.1(e) Work No.35 Work No.63(a)
3/26a	To construct a bridleway and use as a maintenance access. To construct, operate, access and maintain a diversion to an existing gas pipeline and associated equipment. To construct, operate, access and maintain an extension of an existing culvert. To construct, operate, access and maintain a carrier drain. For use as a maintenance access for the authorised development.	Work No.1(e) Work No.35 Work No.52(d) Work No.63(a)
3/27	To construct, operate, access and maintain an extension of an existing culvert.	Work No.1(e)
3/31	Right of access for the purposes of environmental compensation works.	Work No.57 Work No.58
3/32	To construct a bridleway and use as a maintenance access. To construct, operate, access and maintain a diversion to an existing gas pipeline and associated equipment, the width of the new right not to exceed 6 metres. For use as a maintenance access for the authorised development.	Work No.35 Work No.63(a)
3/37	To construct, operate, access and maintain an extension of an existing culvert. To construct, operate, access and maintain a carrier drain. To undertake, retain, inspect, access, maintain, a highway fence.	Work No.1(e) Work No.52(d)
Land Plans – Sheet 4		
4/1	Right of access for the purposes of environmental compensation works.	Work No.57 Work No.58
4/3c	To construct a bridleway and use as a maintenance access. To construct, operate, access and maintain a diversion to an existing gas pipeline and associated equipment, the width of the new right within the plot not to exceed 6 metres. To construct, inspect, access and maintain a retaining wall and highway fence.	Work No.1(a) Work No.1(c) Work No.35 Work No.63(a)

(1) <i>Plot Reference Number shown on Land Plans</i>	(2) <i>Purpose for which rights over land may be acquired</i>	(3) <i>Relevant part of the authorised development</i>
	For use as a maintenance access for the authorised development.	
4/3d	To construct a bridleway and use as a maintenance access. To construct, operate, access and maintain a diversion to an existing gas pipeline and associated equipment. To construct, operate, access and maintain a diversion to existing electric lines, cables, equipment and apparatus. The width of the new right within the plot not to exceed 6 metres. For use as a maintenance access for the authorised development.	Work No.35 Work No.62(d) Work No.63(a)
4/4, 4/4a, 4/10	To construct a bridleway and use as a maintenance access. To construct, operate, access and maintain a diversion to an existing gas pipeline and associated equipment, the width of the new right within the plot not to exceed 6 metres. To construct, inspect, access and maintain a retaining wall and highway fence. For use as a maintenance access for the authorised development.	Work No.35 Work No.63(a)
4/4b	To construct a bridleway and use as a maintenance access. To construct, operate, access and maintain a diversion to existing electric lines, cables, equipment and apparatus, the width of the new right within the plot not to exceed 6 metres. For use as a maintenance access for the authorised development.	Work No.35 Work No.62(d) Work No.63(a)
4/15a	To undertake, retain, inspect, access, maintain, monitor and renew environmental mitigation and enhancement works.	Work No.55
4/20	To construct a bridleway and use as a substitute private means of access, and maintenance access. For use as a maintenance access for the authorised development.	Work No.35 Work No.35(b) Work No.35(d)
4/21	To undertake, retain, inspect, access, maintain, monitor and renew environmental compensation works.	Work No.58(d)
4/22b	To construct and use an access to environmental compensation works.	Work No.58(d)
4/23	To construct a bridleway and associated drainage and for use as a substitute private means of access, maintenance access, and for the maintenance of Cockcrow	Work No.35 Work No.35(b) Work No.35(d)

(1) <i>Plot Reference Number shown on Land Plans</i>	(2) <i>Purpose for which rights over land may be acquired</i>	(3) <i>Relevant part of the authorised development</i>
	overbridge. For use as a maintenance access for the authorised development.	
4/30	To construct an access and associated drainage and for use as a substitute private means of access. The width of the new rights within the plot not to exceed 3.5 metres.	Work No.35(c)
4/31, 4/34	To construct a bridleway and use as a maintenance access. The width of the new rights within the plot not to exceed 3 metres. For use as a maintenance access for the authorised development.	Work No.35
4/37, 4/38	To construct, access and maintain a soakaway.	Work No.52(f)
4/41	To construct a bridleway and use as a maintenance access. To access land to be used for the construction of a temporary slip road in connection with improvements to the M25 junction 10. To construct, access and maintain a soakaway and pre earthwork ditch. The width of the new rights within the plot not to exceed 3 metres. For use as a maintenance access for the authorised development.	Work No.35 Work No.7
4/43, 4/45a	To construct a bridleway and associated drainage, for use as a substitute private means of access, maintenance access and for the maintenance of Cockcrow overbridge. The width of the new rights within the plot not to exceed 4.1 metres. For use as a maintenance access for the authorised development.	Work No.35 Work No.35(b)
4/43a	To construct, access and maintain a soakaway.	Work No.35
4/43b	To construct, operate, access and maintain a diversion to an existing gas pipeline and associated equipment, the width of the new rights within the plot not to exceed 6 metres. To construct, inspect, access and maintain a highway fence.	Work No.63(a)
4/43c	To construct a bridleway and use as a maintenance access. The width of the new rights within the plot not to exceed 3 metres. For use as a maintenance access for the authorised development.	Work No.35

(1) <i>Plot Reference Number shown on Land Plans</i>	(2) <i>Purpose for which rights over land may be acquired</i>	(3) <i>Relevant part of the authorised development</i>
4/43d	To construct a bridleway and use as a maintenance access. To construct, operate, access and maintain a diversion to an existing gas pipeline and associated equipment, the width of the new right within the plot not to exceed 6 metres. To construct, inspect, access and maintain a highway fence. For use as a maintenance access for the authorised development.	Work No.35 Work No.63(a)
4/46	To construct, maintain and use an access to a drainage attenuation pond.	Work No.52(e)
4/47	To construct, operate, access and maintain a diversion to an existing gas pipeline and associated equipment. To construct, operate, access and maintain a filter drain. The width of the new rights within the plot not to exceed 6 metres.	Work No.63(a)
4/47a, 4/47b	To construct a bridleway and associated drainage and for use as a substitute private means of access and maintenance access. To construct, operate, access and maintain a diversion to an existing gas pipeline and associated equipment, the width of the new right within the plot not to exceed 6 metres. For use as a maintenance access for the authorised development.	Work No.35 Work No.63(a)
4/47d	To construct, operate, access and maintain a diversion to an existing gas pipeline and associated equipment and filter drain.	Work No.63(a)
4/48a, 4/49a	To construct an access and associated drainage and for use as a substitute private means of access. The width of the new right within the plot not to exceed 3.5 metres.	Work No.35(c)
4/51	To construct a bridleway and associated drainage and for use as a substitute private means of access and maintenance access. For use as a maintenance access for the authorised development.	Work No.35(c)
4/51a	To construct a bridleway and use as a maintenance access. The width of the new right within the plot not to exceed 3 metres. For use as a maintenance access for the authorised development.	Work No.35
4/52, 4/54, 4/67	To undertake, retain, inspect, access, maintain, monitor and renew environmental compensation works.	Work No.58(c)

(1) <i>Plot Reference Number shown on Land Plans</i>	(2) <i>Purpose for which rights over land may be acquired</i>	(3) <i>Relevant part of the authorised development</i>
4/61	To construct, operate, access and maintain a diversion to an existing gas pipeline and associated equipment. To construct, operate, access and maintain a filter drain. The width of the new right within the plot not to exceed 6 metres.	Work No.63(a)
4/63	To construct, operate, access and maintain a diversion to an existing gas pipeline and associated equipment. The width of the new right within the plot not to exceed 6 metres.	Work No.63(a)
4/72	To construct and use an access as a private means of access and maintenance access. To construct, maintain and use an access to a drainage attenuation pond. To undertake, retain, inspect, access, maintain, monitor and renew environmental compensation works. For use as a construction access route in connection with environmental compensation works. For use as a maintenance access for the authorised development.	Work No.52(e) Work No.58(c)
4/73, 4/75, 4/79a, 4/86a	To construct, maintain and use an access to a drainage attenuation pond.	Work No.52(e)
4/82	To construct, operate, access and maintain a diversion to an existing gas pipeline and associated equipment. The width of the new right within the plot not to exceed 6 metres.	Work No.63(a)
Land Plans – Sheet 5		
5/1c	To construct, access and maintain a soakaway.	Work No.52(g)
5/1d	To construct a bridleway. To operate, access and maintain a pre-earthwork ditch, environmental barrier.	Work No.35 Work No.52(g) Work No.61(d)
5/7	To construct a bridleway and use as a maintenance access. To construct, operate, access and maintain a diversion to an existing watercourse. For use as a maintenance access for the authorised development.	Work No.35 Work No.53(e)
5/7a	To construct a bridleway and use as a maintenance access. To access land to be used for the construction of a temporary slip road in connection with improvements to the M25 junction 10. For use as a maintenance access for the authorised development.	Work No.35 Work No.52(i) Work No.7

(1) <i>Plot Reference Number shown on Land Plans</i>	(2) <i>Purpose for which rights over land may be acquired</i>	(3) <i>Relevant part of the authorised development</i>
5/7c	To construct, access and maintain a soakaway and pre-earthwork ditch.	Work No.35
5/7d, 5/7e	To construct a bridleway and use as a maintenance access. To construct, operate, access and maintain a carrier drain. To construct, operate, access and maintain a diversion to an existing watercourse. For use as a maintenance access for the authorised development.	Work No.35 Work No.37 Work No.52(i) Work No.53(e)
5/8	To construct a bridleway and use as a maintenance access. For use as a maintenance access for the authorised development.	Work No.37
5/8a	To construct, operate, access and maintain a diversion to an existing watercourse. To construct, access and maintain a soakaway.	Work No.53(e)
5/8b	To construct a bridleway and use as a maintenance access. To construct, operate, access and maintain a diversion to an existing watercourse. To construct, access and maintain a soakaway.	Work No.53(e)
5/12a, 5/12b	To construct, operate, access and maintain a diversion to existing electric cables and associated apparatus and equipment. To access land to be used for the construction of a temporary slip road in connection with improvements to the M25 junction 10.	Work No.62(g) Work No.7
5/12c	To construct, operate, inspect, access and maintain an environmental barrier and soakaway. To access land to be used for the construction of a temporary slip road in connection with improvements to the M25 junction 10.	Work No.61(a) Work No.7
5/13a, 5/13c	To construct, operate, inspect, access and maintain an environmental barrier. To access land to be used for the construction of a temporary slip road in connection with improvements to the M25 junction 10.	Work No.61(a) Work No.7
5/13b	To construct, operate, access and maintain a diversion to existing electric cables and associated apparatus and equipment. To construct, operate, inspect, access and maintain an environmental barrier. To access land to be used for the construction of a temporary slip road in connection with improvements to the M25	Work No.61(a) Work No.62(g) Work No.7

(1) <i>Plot Reference Number shown on Land Plans</i>	(2) <i>Purpose for which rights over land may be acquired</i>	(3) <i>Relevant part of the authorised development</i>
	junction 10.	
5/21	To access land to be used for the construction of a temporary slip road in connection with improvements to the M25 junction 10. To construct, access and maintain a pre-earthwork ditch. To construct, maintain and use an access to a drainage attenuation pond.	Work No.7 Work No.52(h)
5/21a	To access land to be used for the construction of a temporary slip road in connection with improvements to the M25 junction 10. To construct, access and maintain a pre-earthwork ditch.	Work No.7
5/24, 5/24a	To access land to be used for the construction of a temporary slip road in connection with improvements to the M25 junction 10. To construct, access and maintain a pre-earthwork ditch. To construct, operate, inspect, access and maintain an environmental barrier.	Work No.7 Work No.61(b)
5/30	To construct a bridleway and use as a maintenance access. For use as a maintenance access for the authorised development.	Work No.35
Land Plans – Sheet 6		
6/1b, 6/3a	To construct, access and maintain a pre-earthwork ditch.	Work No.35
6/2	To construct a bridleway and use as a maintenance access. To construct, operate, inspect, access and maintain an environmental barrier and filter drain. For use as a maintenance access for the authorised development.	Work No.35 Work No.35(f) Work No.61(c)
6/2b	To construct a bridleway and use as a maintenance access. To construct, operate, inspect, access and maintain an environmental barrier and filter drain. For use as a maintenance access for the authorised development.	Work No.35 Work No.61(c)
6/4	To construct, operate, inspect, access and maintain an environmental barrier and filter drain. To construct, operate, access and maintain the diversion of telecommunication cables, media cables and equipment	Work No.61(c) Work No.65(a)
6/4a, 6/4b	To construct, operate, inspect, access and maintain an environmental barrier and	Work No.61(c)

(1) <i>Plot Reference Number shown on Land Plans</i>	(2) <i>Purpose for which rights over land may be acquired</i>	(3) <i>Relevant part of the authorised development</i>
	filter drain.	
6/9, 6/10	To construct a bridleway and use as a maintenance access. To construct, operate, inspect, access and maintain a retaining wall and filter drain. For use as a maintenance access for the authorised development.	Work No.35 Work No.39
6/23a	To construct, operate, access and maintain a diversion to an existing gas pipeline and associated equipment.	Work No.63(c)
Land Plans – Sheet 7		
7/9, 7/10	To construct, operate, access and maintain modifications to access to gas valve compound.	Work No.17(c) Work No.40
7/15, 7/15a, 7/16	To construct, operate, access and maintain a diversion to an existing gas pipeline and associated equipment.	Work No.63(c)
7/17	To construct, operate, access and maintain a diversion to an existing gas pipeline and associated equipment. To undertake, access and maintain tree and shrub planting.	Work No.63(a)
7/23	To construct a bridleway and for use as a private means of access and for use as a maintenance access. To construct, operate, access and maintain diversions to existing utility connections and associated apparatus and equipment. For use as a construction access route. For use as a maintenance access for the authorised development.	Work No.35 Work No.35(k)
Land Plans – Sheet 8		
8/5b, 8/5c	To construct, access and maintain the authorised development. To construct, operate, access and maintain a diversion to electric cables and associated apparatus and equipment. To access and maintain utility apparatus and equipment.	Work No.18 Work No.18(b) Work No.40 Work No.65(a)
8/7	To construct, operate, access and maintain a diversion to an existing gas pipeline and associated equipment. To construct, inspect, access and maintain a highway fence.	Work No.63(c)
8/11	To access, inspect and maintain a retaining wall.	Work. No.16
8/12	To construct an access and use as a private means of access. To construct, operate, access and maintain a diversion to electric cables and associated apparatus and equipment.	Work No.46 Work No.16 Work No.62(o)

(1) <i>Plot Reference Number shown on Land Plans</i>	(2) <i>Purpose for which rights over land may be acquired</i>	(3) <i>Relevant part of the authorised development</i>
	To access, inspect and maintain a retaining wall.	
8/12a	To access, inspect and maintain a retaining wall.	Work. No.16
Land Plans – Sheet 9		
9/3	To construct an access and use as a private means of access. To access, inspect and maintain a retaining wall.	Work No.46 Work No.16
9/13	To construct, operate, inspect, access and maintain a carrier drain.	Work No.52(l)
Land Plans – Sheet 11		
11/2	To undertake, retain, inspect, access, maintain, monitor and renew environmental compensation works.	Work No.57(a)
11/3	To undertake, access and maintain tree and shrub planting.	Work No.29
11/4	To undertake, retain, inspect, access, maintain, monitor and renew environmental mitigation works.	Work No 60
11/6	To construct, a bridleway, and filter drain.	Work No.49
11/14	To construct a bridleway and use as a maintenance access. For use as a maintenance access for the authorised development. To construct, operate, access and maintain a soakaway and environmental barrier.	Work No.49 Work No.61(b)
11/14a	To construct a bridleway and use as a maintenance access. To construct, operate, access and maintain an environmental barrier. For use as a maintenance access for the authorised development.	Work No.49 Work No.61(b)
11/18, 11/18b	To construct a bridleway and use as a maintenance access. To construct, operate, access and maintain an environmental barrier. To construct, inspect, access and maintain a retaining wall. For use as a maintenance access for the authorised development.	Work No.49 Work No.61(b)
11/19	To construct a bridleway and use as a maintenance access. To construct, operate, access and maintain a soakaway, pre-earthwork ditch and environmental barrier. The width of the new rights within the plot not to exceed 3.5 metres. For use as a maintenance access for the authorised development.	Work No.49 Work No.61(b)

(1) <i>Plot Reference Number shown on Land Plans</i>	(2) <i>Purpose for which rights over land may be acquired</i>	(3) <i>Relevant part of the authorised development</i>
11/19a	To construct a bridleway and use as a maintenance access. To construct, operate, access and maintain an environmental barrier. To construct, inspect, access and maintain a retaining wall. For use as a maintenance access for the authorised development.	Work No.49 Work No.61(b)
11/20	To construct, operate, access and maintain a soakaway.	Work No.49
11/21	To construct a bridleway and use as a maintenance access. To construct, operate, access and maintain a pre-earthwork ditch. For use as a maintenance access for the authorised development.	Work No.49
11/22, 11/22a	To construct, operate, access and maintain a soakaway and environmental barrier.	Work No.49 Work No.61(a)
11/23, 11/24a	To construct a bridleway and use as a maintenance access. To construct, operate, access and maintain a soakaway and an environmental barrier. For use as a maintenance access for the authorised development.	Work No.49 Work No.61(a)
11/24	To construct a bridleway and use as a maintenance access. To construct, operate, access and maintain a soakaway and an environmental barrier. For use as a maintenance access for the authorised development.	Work No.49 Work No.61(a)
11/25	To construct a bridleway and use as a maintenance access. The width of the new right within the plot not to exceed 3.5 metres. For use as a maintenance access for the authorised development.	Work No.49
11/25a	To construct a bridleway and use as a maintenance access.	Work No.49
11/29	To undertake, retain, inspect, access, maintain, monitor and renew environmental compensation works.	Work No.58(e)
Land Plans – Sheet 12		
12/1c	To construct, operate, access and maintain an environmental barrier.	Work No.49
12/4	To construct a bridleway and use as a maintenance access. To construct, operate, access and maintain an environmental barrier. The width of the new right within the plot not to exceed 3.5 metres. For use as a maintenance access for the	Work No.49 Work No.61(a) Work No.52(m)

(1) <i>Plot Reference Number shown on Land Plans</i>	(2) <i>Purpose for which rights over land may be acquired</i>	(3) <i>Relevant part of the authorised development</i>
	authorised development.	
12/4a, 12/5a, 12/5c, 12/5d, 12/5e, 12/7, 12/12, 12/17	To construct a bridleway and use as a maintenance access. To construct, operate, access and maintain an environmental barrier. For use as a maintenance access for the authorised development.	Work No.49 Work No.61(a) Work No.52(m)
12/5b	To construct a bridleway and use as a maintenance access. To construct, operate, access and maintain an environmental barrier. The width of the new right within the plot not to exceed 3.5 metres. For use as a maintenance access for the authorised development.	Work No.49 Work No.61(a) Work No.52(m)
12/6	To construct, operate, access and maintain an environmental barrier.	Work No.49 Work No.61(a) Work No.52(m)
12/11	To construct a bridleway and use as a maintenance access and for the maintenance of Clearmount overbridge. To construct, operate, access and maintain an environmental barrier. For use as a maintenance access for the authorised development.	Work No.49 Work No.61(a) Work No.52(m)
12/18	To construct a bridleway and use as a maintenance access. To construct, operate, access and maintain an environmental barrier. The width of the new right within the plot not to exceed 3.5 metres. For use as a maintenance access for the authorised development.	Work No.49 Work No.61(a) Work No.52(m)
12/23	To construct a bridleway and use as a maintenance access. For use as a maintenance access for the authorised development.	Work No.49 Work No.52(m)
12/25	To construct a bridleway and use as a maintenance access. To construct, operate, access and maintain an environmental barrier. To undertake, access and maintain shrub planting. For use as a maintenance access for the authorised development. To construct, operate, access and maintain a diverted gas pipeline and associated equipment.	Work No.49 Work No.61(a) Work No.52(m) Work No.63(e)
12/25b	To construct, operate, access and maintain an environmental barrier. To undertake, access and maintain shrub planting.	Work No.61(a) Work No.63(e)

(1) <i>Plot Reference Number shown on Land Plans</i>	(2) <i>Purpose for which rights over land may be acquired</i>	(3) <i>Relevant part of the authorised development</i>
	To construct, operate, access and maintain a diverted gas pipeline and associated equipment.	
12/25c	To construct, operate, access and maintain a soakaway and an environmental barrier.	Work No.61(a)
12/27	To construct a bridleway and use as a maintenance access. To construct, inspect, access and maintain a retaining wall. For use as a maintenance access for the authorised development.	Work No.49
12/28	To construct a bridleway and use as a maintenance access. To construct, operate, access and maintain an environmental barrier. The width of the new rights within the plot not to exceed 3.5 metres. For use as a maintenance access for the authorised development.	Work No.49 Work No.61(b)
12/30	To construct a bridleway and use as a maintenance access. The width of the new rights within the plot not to exceed 3.5 metres. For use as a maintenance access for the authorised development.	Work No.49
12/31	To construct a bridleway and use as a maintenance access. To construct, operate, access and maintain an environmental barrier. The width of the new rights within the plot not to exceed 3.5 metres. For use as a maintenance access for the authorised development.	Work No.49 Work No.61(b)
12/34	To construct a bridleway and use as a maintenance access. To construct, maintain and use an access to a drainage attenuation pond. To construct, operate, access and maintain an environmental barrier. The width of the new rights within the plot not to exceed 3.5 metres. For use as a maintenance access for the authorised development.	Work No.49 Work No.61(b) Work No.52(h)
12/34a	To construct, maintain and use an access to a drainage attenuation pond. To construct, operate, access and maintain an environmental barrier. To construct, operate, access and maintain a diversion to an existing gas pipeline and associated equipment.	Work No.52(h) Work No.61(b) Work No.63(e)
12/34b	To construct, maintain and use an access to a drainage attenuation pond.	Work No.52(h) Work No.61(b)

(1) <i>Plot Reference Number shown on Land Plans</i>	(2) <i>Purpose for which rights over land may be acquired</i>	(3) <i>Relevant part of the authorised development</i>
	To construct, operate, access and maintain an environmental barrier. The width of the new rights within the plot not to exceed 3.5 metres.	
12/34c	To construct a bridleway and use as a maintenance access. To construct, maintain and use an access to a drainage attenuation pond. To construct, operate, access and maintain an environmental barrier. The width of the new rights within the plot not to exceed 3.5 metres. For use as a maintenance access for the authorised development.	Work No.49 Work No.61(b) Work No.52(h)
Land Plans – Sheet 13		
13/2, 13/2d	To construct, access and maintain a pre earthworks ditch.	Work No.26 Work No.35(e)
13/2e	To construct, access and maintain a pre earthworks ditch and environmental barrier.	Work No.26 Work No.35(e) Work No.61(c)
13/4c, 13/4d	To construct, access and maintain a pre earthworks ditch and environmental barrier.	Work No.28 Work No.61(d)
13/4e, 13/4f, 13/4g	To construct, access and maintain a pre earthworks ditch.	Work No.28
13/10, 13/11, 13/11a	To construct a bridleway and use as a maintenance access. For use as a maintenance access for the authorised development.	Work No.37 Work No.51(i)
13/14, 13/15	To undertake, retain, inspect, access, maintain, monitor and renew environmental compensation works.	Work No.58(d)
Land Plans – Sheet 20		
20/2, 20/3, 20/4	To undertake, retain, inspect, access, maintain, monitor and renew environmental compensation works.	Work No.58(f)
Land Plans – Sheet 21		
21/1	Right of access for the purposes of environmental compensation works.	Work No.58(g)
21/1a	Right of access for the purposes of environmental compensation works.	Work No.57 Work No.58
21/2	To undertake, retain, inspect, access, maintain, monitor and renew environmental compensation works.	Work No.58(g)
Land Plans – Sheet 23		
23/1	To construct a bridleway and use as a maintenance access. For use as a maintenance access for the authorised development.	Work No.34

(1) <i>Plot Reference Number shown on Land Plans</i>	(2) <i>Purpose for which rights over land may be acquired</i>	(3) <i>Relevant part of the authorised development</i>
Land Plans – Sheet 25		
25/1	To undertake, retain, inspect, access, maintain, monitor and renew environmental compensation works.	Work No.58(h)
Land Plans – Sheet 26		
26/1	To undertake, retain, inspect, access, maintain, monitor and renew environmental compensation works.	Work No.57(b)
26/2	Right of access for the purposes of environmental compensation works. The width of the new rights within the plot not to exceed 3.5 metres.	Work No.57(b)

SCHEDULE 6

Article 25(4) and (5)

MODIFICATION OF COMPENSATION AND COMPULSORY PURCHASE ENACTMENTS FOR CREATION OF NEW RIGHTS

Compensation enactments

1. The enactments for the time being in force with respect to compensation for the compulsory purchase of land apply, with the necessary modifications as respects compensation, in the case of a compulsory acquisition under this Order of a right by the creation of a new right or the imposition of a restrictive covenant as they apply in respect of compensation on the compulsory purchase of land and interests in land.

2.—(1) Without limitation on the scope of paragraph 1, the 1961 Act has effect subject to the modification set out in sub-paragraph (2).

(2) For section 5A(5A) (relevant valuation date) of the 1961 Act substitute—

“(5A) If—

- (a) the acquiring authority enters on land for the purposes of exercising a right in pursuance of a notice of entry under section 11(1) of the 1965 Act (as modified by paragraph 5(5) of Schedule 6 (modification of compensation and compulsory purchase enactments for creation of new rights) to the M25 Junction 10/A3 Wisley Interchange Development Consent Order 202[] (“the 202[] Order”));
- (b) the acquiring authority is subsequently required by a determination under paragraph 12 of Schedule 2A to the 1965 Act (as substituted by paragraph 5(8) of Schedule 6 to the 202[] Order) to acquire an interest in the land; and
- (c) the acquiring authority enters on and takes possession of that land,

the authority is deemed for the purposes of subsection (3)(a) to have entered on that land when it entered on that land for the purpose of exercising that right.”.

3.—(1) Without limitation on the scope of paragraph 1, the Land Compensation Act 1973(a) has effect subject to the modifications set out in sub-paragraph (2).

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 (measure of compensation in case of severance) of the 1965 Act as substituted by paragraph 5(3)—

- (a) for “land is acquired or taken from” substitute “a right or restrictive covenant over land is purchased from or imposed on”; and
- (b) for “acquired or taken from him” substitute “over which the right is exercisable or the restrictive covenant enforceable”.

Application of the 1965 Act

4. Part 1 (compulsory purchase under Acquisition of Land Act 1946) of the 1965 Act as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act (and modified by article 28 (modification of Part 1 of the 1965 Act)) to the acquisition of land under article 22 (compulsory acquisition of land), applies to the compulsory acquisition of a right by the creation of a new right, or to the imposition of a restrictive covenant under article 25 (compulsory acquisition of rights and restrictive covenants)—

- (a) with the modifications specified in paragraph 5; and

(a) 1973 c. 26.

(b) with such other modifications as may be necessary.

5.—(1) The modification referred to in paragraph 4(a) are as follows.

(2) References in the 1965 Act to land are, in the appropriate contexts, to be read (according to the requirements of the context) as referring to, or as including references to—

- (a) the right acquired or to be acquired, or the restrictive covenant imposed to be imposed; or
- (b) the land over which the right is or is to be exercisable, or the restrictive covenant is or is to be enforceable.

(3) For section 7 (measure of compensation) of the 1965 Act substitute—

“7. In assessing the compensation to be paid by the acquiring authority under this Act, regard must be had not only to the extent (if any) to which the value of the land over which the right is to be acquired or the restrictive covenant is to be imposed is depreciated by the acquisition of the right or the imposition of the restrictive covenant but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of the owner, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.”.

(4) The following provisions of the 1965 Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), that is to say—

- (a) section 9(4) (failure by owners to convey);
- (b) paragraph 10(3) of Schedule 1 (owners under incapacity);
- (c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and
- (d) paragraphs 2(3) and 7(2) of Schedule 4 (common land),

are modified so as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired or the restrictive covenant which is to be imposed is vested absolutely in the acquiring authority.

(5) Section 11(a) (powers of entry) of the 1965 Act is modified so as to secure that, where the acquiring authority has served notice to treat in respect of any right or restrictive covenant, as well as the notice of entry required by subsection (1) of that section (as it applies to compulsory acquisition under article 22), it has power, exercisable in equivalent circumstances and subject to equivalent conditions, to enter for the purpose of exercising that right or enforcing that restrictive covenant; and sections 11A(b) (powers of entry; further notices of entry), 11B(c) (counter-notice requiring possession to be taken on specified date), 12(d) (penalty for unauthorised entry) and 13(e) (entry on warrant in the event of obstruction) of the 1965 Act are modified correspondingly.

(6) Section 20(f) (tenants at will, etc.) of the 1965 Act applies with the modifications necessary to secure that persons with such interests in land as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition under this Order of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right or the enforcement of the restrictive covenant in question.

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- (a) Section 11 was amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67), section 3 of, and Part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c. 71), section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (No.1), section 186(2), 187(2) and 188 of, and paragraph 6 of Schedule 14 and paragraph 3 of Schedule 16 to, the Housing and Planning act 2016 (c. 22) and S.I. 2009/1307.
 - (b) Section 11A was inserted by section 186(3) of the Housing and Planning Act 2016 (c. 22).
 - (c) Section 11B was inserted by section 187(2) of the Housing and Planning act 2016 (c. 22).
 - (d) Section 12 was amended by section 56(2) of, and Part 1 of Schedule 9 to, the Courts Act 1971 (c. 23).
 - (e) Section 13 was amended by sections 62(3), 139(4) to (9) and 146 of, and paragraphs 27 and 28 of Schedule 13 and Part 3 of Schedule 23 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).
 - (f) Section 20 was amended by paragraph 4 of Schedule 15 to the Planning and Compensation Act 1991 (c. 34) and S.I. 2009/1307.

(7) Section 22 (interests omitted from purchase) of the 1965 Act as modified by article 28(4) is also modified so as to enable the acquiring authority in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired or enforce the restrictive covenant imposed, subject to compliance with that section as respects compensation.

(8) For Schedule 2A of the 1965 Act substitute—

“SCHEDULE 2A COUNTER-NOTICE REQUIRING PURCHASE OF LAND

Introduction

1.—(1) This Schedule applies where an acquiring authority serves a notice to treat in respect of a right over, or restrictive covenant affecting, the whole or part of a house, building or factory and has not executed a general vesting declaration under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981 as applied by article 29 (application of the 1981 Act) of the M25 Junction 10/A3 Wisley Interchange Development Consent Order 202[](a) in respect of the land to which the notice to treat relates.

(2) But see article 31(3) (acquisition of subsoil and airspace only) of the M25 Junction 10/A3 Wisley Interchange Development Consent Order 202[] which excludes the acquisition of subsoil or airspace only from this Schedule.

2. In this Schedule, “house” includes any park or garden belonging to a house.

Counter-notice requiring purchase of land

3. A person who is able to sell the house, building or factory (“the owner”) may serve a counter-notice requiring the acquiring authority to purchase the owner’s interest in the house, building or factory.

4. A counter-notice under paragraph 3 must be served within the period of 28 days beginning with the day on which the notice to treat was served.

Response to counter-notice

5. On receiving a counter-notice, the acquiring authority must decide whether to—

- (a) withdraw the notice to treat,
- (b) accept the counter-notice, or
- (c) refer the counter-notice to the Upper Tribunal.

6. The acquiring authority must serve notice of their decision on the owner within the period of 3 months beginning with the day on which the counter-notice is served (“the decision period”).

7. If the acquiring authority decides to refer the counter-notice to the Upper Tribunal it must do so within the decision period.

8. If the acquiring authority does not serve notice of a decision within the decision period it is to be treated as if it had served notice of a decision to withdraw the notice to treat at the end of that period.

9. If the acquiring authority serves notice of a decision to accept the counter-notice, the compulsory purchase order and the notice to treat are to have effect as if they included the owner’s interest in the house, building or factory.

(a) S.I. 20[]/[].

Determination by Upper Tribunal

10. On a referral under paragraph 7, the Upper Tribunal must determine whether the acquisition of the right or the imposition of the restrictive covenant would—

- (a) in the case of a house, building or factory, cause material detriment to the house, building or factory, or
- (b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.

11. In making its determination, the Upper Tribunal must take into account—

- (a) the effect of the acquisition of the right or the imposition of the covenant,
- (b) the proposed use of the right or the imposition of the covenant, and
- (c) if the right or covenant is proposed to be acquired or imposed for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.

12. If the Upper Tribunal determines that the acquisition of the right or the imposition of the covenant would have either of the consequences described in paragraph 10, it must determine how much of the house, building or factory the acquiring authority ought to be required to take.

13. If the Upper Tribunal determines that the acquiring authority ought to be required to take some or all of the house, building or factory, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in that land.

14.—(1) If the Upper Tribunal determines that the acquiring authority ought to be required to take some or all of the house, building or factory, the acquiring authority may at any time within the period of 6 weeks beginning with the day on which the Upper Tribunal makes its determination withdraw the notice to treat in relation to that land.

(2) If the acquiring authority withdraws the notice to treat under this paragraph it must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawal of the notice.

(3) Any dispute as to the compensation is to be determined by the Upper Tribunal.”.

Application of the 2017 Regulations

6. References in Schedule 1 to the 2017 Regulations to land are, in the appropriate contexts, to be read (according to the requirements of the context) as referring to, or as including references to—

- (a) the right acquired or to be acquired or the restrictive covenant imposed or to be imposed; or
- (b) the land over which the right is to be exercisable, or the restrictive covenant is to be enforceable.

SCHEDULE 7

Article 33

LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

(1) <i>Plot Reference Number shown on Land Plans</i>	(2) <i>Purpose for which temporary possession may be taken</i>	(3) <i>Relevant part of the authorised development</i>
Land Plans – Sheet 1		
1/6	The main site compound to include, but not limited to, site offices, welfare facilities, parking provisions, storage of plant and materials.	All works
1/14	Required for works to tie in the B2039 Ockham Road North to the improved A3 Ockham Park junction.	Work No.31(c), Work No.31(h)
1/30, 1/31	For works relating to the improvement of Mill Lane at the tie-in with the A3 northbound on-slip and construction of a drainage attenuation pond.	Work No.31(e), Work No.31(d), Work No.52(a)
Land Plans – Sheet 2		
2/1	For the provision of a topsoil and materials storage and processing area, structures worksite, traffic management area, welfare facilities and for the construction of a bridleway.	All Works Work No.34
2/1a	To provide working space for the construction of a highway, a bridleway and a highway fence.	Work No.33, Work No.63(a)
2/1b	To provide working space for the construction of a highway, a bridleway and highway fence.	Work No.33
2/2, 2/4	For the provision of a topsoil and materials storage area, structures worksite, traffic management area and welfare facilities.	All Works
2/3	For the provision of a topsoil and materials storage and a structures worksite, traffic management area, welfare facilities and for the construction of a bridleway.	All Works Work No.34
2/5a	To provide working space for the construction of a highway and bridleway.	Work No.33
2/5c	For the construction of a bridleway.	Work No.34
2/6	For the provision of a topsoil and materials storage area, structures worksite, traffic management area, welfare facilities and for the construction of a bridleway.	Work No.34 All Works
2/11	To provide working space for a utility diversion.	Work No.33, Work No.63(a)
2/13	For the construction of a highway and utilities diversion.	Work No.33, Work No.63(a)
2/21, 2/21a	For the improvement and widening of the A3 northbound and to provide working space for the construction of a retaining wall and utility diversion.	Work No.2, Work No.64(a)
2/26	To provide working space and access for the realignment of Wisley Lane and diversion of a footpath.	Work No.33(e), Work No.33(h)

<i>(1) Plot Reference Number shown on Land Plans</i>	<i>(2) Purpose for which temporary possession may be taken</i>	<i>(3) Relevant part of the authorised development</i>
2/27a	To provide working space and access for the realignment of Wisley Lane.	Work No.33(e)
2/28	To provide working space and access and to allow the construction of a temporary road.	Work No.33(e), Work No.33(f), Work No.33(g), Work No.65(c)
2/28b	To provide working space and access during modifications to the entrance to RHS Garden Wisley and utility diversions.	Work No.33(e), Work No.33(f), Work No.33(g), Work No.62(c), Work No.65(c)
2/30	To provide working space and access and remediation of redundant carriageway.	Work No.33(e)
2/31, 2/32	To provide sufficient working space and access for the realignment of Wisley Lane and diversion of a footpath.	Work No.33(e), Work No.33(h)
2/33	To provide working space and access for diversion of a footpath.	Work No.33(h)
Land Plans – Sheet 3		
3/3, 3/3c	To provide working space to construct a bridleway and utility diversion.	Work No.35, Work No.63(a)
3/7	To provide working space to construct a bridleway, utility diversions, gantry, highways fence and for the improvement and widening of the A3 northbound.	Work No.1(c), Work No.23(c), Work No.35, Work No.63(a), Work No.64(a)
3/13a	To provide working space for utility diversion.	Work No.63(a)
3/19b	To provide working space for the improvement of A3 southbound, works to a watercourse and access for environmental mitigation and enhancement works.	Work No.5(c), Work No.5(d), Work No.36, Work No.53(b), Work No.55
3/24	To provide working space to construct a bridleway, utility diversions, gantry, highways fence and for the improvement and widening of the A3 northbound.	Work No.1(c), Work No.23(c), Work No.35, Work No.63(a), Work No.64(a)
3/33	To provide working space to construct a bridleway, a utility diversion, and for environmental mitigation works.	Work No.35, Work No.63(a), Work No.56
3/34	To provide working space to construct a bridleway, utility diversion and highway fence.	Work No.35, Work No.63(a)
3/37a	To provide working space to extend a culvert, construct a utility diversion and a highway fence.	Work No.1(e), Work No.63(a)
Land Plans – Sheet 4		
4/3, 4/3b	To provide working space to construct a bridleway, a utilities diversion and for environmental mitigation works.	Work No.35, Work No.56, Work No.63(a)
4/3a	To provide sufficient working space and access to construct a new maintenance access and bridleway, to divert a gas pipeline and associated	Work No.35, Work No.63(a)

(1) <i>Plot Reference Number shown on Land Plans</i>	(2) <i>Purpose for which temporary possession may be taken</i>	(3) <i>Relevant part of the authorised development</i>
	equipment, to build a highway fence and to construct a filter drain.	
4/4c	To provide working space to construct a bridleway, a utility diversion, a highways fence and for the improvement and widening of the A3 northbound.	Work No.1(c), Work No.35, Work No.63(a)
4/15b	To provide working space for the alteration of the A3 southbound on-slip, improvement of junction of Old Lane, a utility diversion and construction of a highways fence.	Work No.4, Work No.65(a)
4/19	To provide working space for the construction of a bridleway, stopping up of existing accesses and improvement of junction of Old Lane.	Work No.4, Work No.35(d)
4/22	To provide working space to construct a bridleway and footpath.	Work No.35, Work No.35(b), Work No.35(d)
4/22a	To provide working space for the realignment of the access points to Ockham Common Car Park and to construct a bridleway and soakaway.	Work No.35(d)
4/24	To provide working space for the realignment of the access points to Ockham Bites Café and Ockham Common Car Park, the construction of a bridleway, the alteration and widening of the A3 southbound on-slip, the construction of an environmental barrier and highways fence and a utility diversion.	Work No.4, Work No.35(d), Work No.65(a), Work No.61(d)
4/25	To provide working space for the alteration and widening of the A3 southbound on-slip, improvement of junction of Old Lane and utility diversions	Work No.4, Work No.62(f), Work No.65(a)
4/27	To provide working space to construct a bridleway.	Work No.35(d)
4/30a	To provide working space for the alteration and widening of the A3 southbound on-slip, demolition of the Cockcrow overbridge, the construction of bridleway, environmental barrier and utilities diversion.	Work No.4, Work No.35(b), Work No.35, Work No.61(d), Work No.65(a)
4/32, 4/33	To provide working space to construct a bridleway and footpath.	Work No.35, Work No.35(b)
4/35	To provide working space for the alteration and widening of the A3 southbound on-slip, demolition of the Cockcrow overbridge, the construction of bridleway, environmental barrier and utility diversion.	Work No.4, Work No.35, Work No.61(d), Work No.65(a)
4/40, 4/40a	To provide working space to construct a bridleway, a utility diversion, and to construct an access to a drainage attenuation pond.	Work No.35(b), Work No.35(c), Work No.63(a), Work No.52(e)
4/42	To provide working space to construct a bridleway, a drainage attenuation pond and a soakaway.	Work No.35, Work No.52(f)

(1) <i>Plot Reference Number shown on Land Plans</i>	(2) <i>Purpose for which temporary possession may be taken</i>	(3) <i>Relevant part of the authorised development</i>
4/45, 4/45a	To provide working space for the widening of the A3 northbound, construction of a gantry, bridleway, utility diversions and a highways fence.	Work No.1(c), Work No.23(d), Work No.35, Work No.62(e), Work No.63(a), Work No.64(b), Work No.65(d)
4/46a, 4/46b	To provide working space to construct a bridleway and utility diversion.	Work No.35, Work No.63(a)
4/48, 4/49, 4/49b	To provide working space to construct a bridleway and realignment to a private means of access.	Work No.35(c)
4/48b	To provide working space to construct a bridleway, realignment to a private means of access and soakaway.	Work No.35(c)
4/52a	For use as a construction access route.	All Works
4/57	To provide working space to construct a bridleway and utilities diversion.	Work No.35(c), Work No.63(a)
4/58	To provide working space and access to construct a bridleway, utilities diversion, environmental barrier and improvement of the A3 northbound carriageway.	Work No.1(c), Work No.35(c), Work No.63(a), Work No.61(a)
4/62	To provide working space to construct utilities diversion, environmental barrier and improvement of the A3 northbound carriageway.	Work No.1(c), Work No.63(a), Work No.61(a)
4/64, 4/65, 4/66, 4/66a	To provide working space to construct a utility diversion and to construct an access to a drainage attenuation pond.	Work No.63(a), Work No.52(e)
4/69	For the provision of a structures worksite.	Work No.35(b)
4/74, 4/76, 4/78, 4/78a, 4/79, 4/80	To provide working space to construct an access to a drainage attenuation pond.	Work No.52(e)
4/81, 4/81a	To provide working space to construct a utility diversion and to construct an access to a drainage attenuation pond.	Work No.63(a), Work No.52(e)
4/84	To provide working space to for the demolition of the Cockcrow overbridge, construction of a drainage attenuation pond, utilities diversions, environmental barrier and improvement of the A3 northbound carriageway.	Work No.1(c), Work No.63(a), Work No.61(a), Work No.35(b), Work No.52(e), Work No.61(a)
4/88	For the provision of a site compound and working space for the improvement of the A3 northbound off-slip and construction of a drainage attenuation pond.	All Works
Land Plans – Sheet 5		
5/1	For the provision of topsoil storage and to provide working space for the construction of a free-flow slip lane, alteration and widening of the M25 westbound off-slip, a bridleway, utilities diversions and environmental barrier.	Work No.11, Work No.28, Work No.35, Work No.62(f), Work No.61(d), Work No.65(a)

<i>(1) Plot Reference Number shown on Land Plans</i>	<i>(2) Purpose for which temporary possession may be taken</i>	<i>(3) Relevant part of the authorised development</i>
5/2	To provide working space to construct a bridleway and a drainage attenuation pond and fencing.	Work No.35, Work No.52(g)
5/2a	To provide working space to construct a drainage attenuation pond and fencing.	Work No.52(g)
5/7b	To provide working space for the construction of a free-flow slip lane, for the alteration and widening of the M25 eastbound on-slip and the construction of a bridleway, environmental barrier and the diversion or realignment of a watercourse.	Work No.10, Work No.26, Work No.35, Work No.53(f), Work No.61(c)
5/9	To provide working space to construct a bridleway, a diversion or realignment of a watercourse and to construct a drainage attenuation pond and fencing.	Work No.35, Work No.53(f), Work No.52(i)
5/11	For use as a construction access route.	All Works
5/12	To provide working space for the construction of a temporary slip road, free-flow slip lane, environmental barrier, for a utility diversion, improvement of the M25 westbound on-slip and for the diversion and/or realignment of a watercourse.	Work No.29, Work No.8, Work No.53(d), Work No.62(g), Work No.61(a)
5/13	To provide working space for the construction of a temporary slip road, free-flow slip lane, environmental barrier, for a utility diversion and improvement of A3 northbound off-slip.	Work No.3, Work No.8, Work No.62(g), Work No.61(a)
5/22, 5/23	To provide working space for the construction of a temporary slip road, free-flow slip lane, the improvement, realignment and widening of the M25 eastbound off-slip, the improvement, realignment and widening of the A3 northbound on-slip and the construction of an environmental barrier.	Work No.9, Work No.14, Work No.25, Work No.61(b)
5/31	To provide working space to construct a gantry.	Work No.23(f)
Land Plans – Sheet 6		
6/2a, 6/12, 6/12a,	To provide working space to construct a bridleway.	Work No.35
6/5, 6/5a	For use as a structures worksite.	Work No.35(f)
6/13, 6/13a, 6/13b, 6/14	To provide working space to construct a bridleway.	Work No.39
6/18	To provide working space for the improvement of the A3 southbound carriageway, works associated with stopping up an access to Painshill Park, to construct a retaining wall, a utility diversion and a highway fence.	Work No.17(a), Work No.17(b), Work No.17(e), Work No.65(a)
6/21a, 6/21b	To provide working space for the improvement of the A3 southbound carriageway, to construct a retaining wall, a utility diversion and a highway fence.	Work No.17(a), Work No.17(b), Work No.23(h), Work No.65(a)
6/22b	To provide working space for the improvement of the A3 southbound carriageway, to construct a	Work No.17(a), Work No.17(b),

(1) <i>Plot Reference Number shown on Land Plans</i>	(2) <i>Purpose for which temporary possession may be taken</i>	(3) <i>Relevant part of the authorised development</i>
	retaining wall, a utility diversion and a highway fence.	Work No.65(a)
Land Plans – Sheet 7		
7/6	For the provision of a construction site compound.	All works
7/12, 7/22	For the provision of topsoil and materials storage.	All works
7/13, 7/13a, 7/14	To provide access and working space for a utility diversion.	Work No.63(c)
7/23a, 7/28	To provide working space for the improvement and widening of the A3 northbound off-slip, utility diversion and highway fence.	Work No.16, Work No.62(k)
Land Plans – Sheet 8		
8/7a, 8/7b	To provide working space to construct a footpath, utilities diversions and highways fence.	Work No.41, Work No.62(l), Work No.63(c), Work No.65(a)
8/27, 8/28, 8/29, 8/30	To provide working space to improve the A245 Portsmouth Road at the tie-in with the A3 Painshill junction.	Work No.42(a), Work No.42(b)
8/34	To provide working space to improve the A3 southbound carriageway, the A3 Painshill junction and the A245 Portsmouth Road at the tie-in with the A3 Painshill junction.	Work No.17(a), Work No.42(a), Work No.42(b)
Land Plans – Sheet 9		
9/4	To provide working space to construct improvements to the A245 Byfleet Road westbound and eastbound carriageways and B365 Seven Hills Road, a dedicated slip road, a utility diversion and a highway fence.	Work No.44(a), Work No.44(e) , Work No.44(f), Work No.45, Work No.47(a), Work No.62(p)
9/4a	To provide working space to construct new private access to Feltonfleet School from B365 Seven Hills Road.	Work No.45, Work No.46
9/7	To provide working space to construct improvements and widening to the A245 Byfleet Road westbound and eastbound carriageways, a dedicated slip road, stopping up of an access, utilities diversions and a highway fence.	Work No.44(a), Work No.44(b), Work No.44(c), Work No.44(d), Work No.44(e), Work No.44(f), Work No.47(a), Work No.47(b), Work No.62(p), Work No.62(o)
9/8, 9/9, 9/10	To provide working space and construct improvements to the A245 Byfleet Road eastbound carriageway.	Work No.47(a)
9/12	To provide working space for the improvement and widening of the A245 Byfleet Road eastbound carriageway and for the construction of a footway, utilities diversions and a highway	Work No.47(a), Work No.47(b), Work No.47(e), Work No.62(q),

<i>(1) Plot Reference Number shown on Land Plans</i>	<i>(2) Purpose for which temporary possession may be taken</i>	<i>(3) Relevant part of the authorised development</i>
	fence.	Work No.64(k), Work No.65(h)
Land Plans – Sheet 11		
11/1	To provide working space for the improvement of the M25 westbound carriageway, the improvement and widening of the M25 westbound on-slip and the construction of an environmental barrier.	Work No.27(a), Work No.29, Work No.61(a)
11/9, 11/9a	For the provision of topsoil and materials storage and working space for the improvement of the M25 westbound carriageway, the improvement and widening of the M25 westbound on-slip, the construction of a soakaway and an environmental barrier.	All Works
11/10, 11/10a, 11/11	For the provision of topsoil and materials storage and working space for the improvement of the M25 westbound carriageway, the improvement and widening of the M25 westbound on-slip, the construction of a soakaway and an environmental barrier.	All Works
11/26	To provide working space for the construction of a bridleway and drainage attenuation pond and fencing.	Work No.49, Work No.52(m)
Land Plans – Sheet 12		
12/1d	To provide working space for the construction of a bridleway and drainage attenuation pond and fencing.	Work No.49, Work No.52(m)
12/5	To provide working space for the construction of a bridleway and demolition and replacement of existing Clearmount overbridge.	Work No.49
12/25a	To provide working space for the construction of a bridleway tie-in to an existing permissive signposted route.	Work No.49
12/25d	To provide working space for the construction of a new gas main diversion under the M25.	Work No.63(e)
Land Plans – Sheet 13		
13/1	To provide working space to construct a bridleway, a diversion or realignment of a watercourse and drainage ditch.	Work No.35(e), Work No.53(f)
13/1a	To provide working space to construct a bridleway.	Work No.35(e)
Land Plans – Sheet 20		
20/1a, 20/5	For modifications to road signage.	Work No.33(i)
Land Plans – Sheet 23		
23/2	For modifications to the entrance to Orchard Cottage.	Work No.34
23/3	To provide working space for the construction of a turning head on Elm Lane.	Work No.34
23/5, 23/6	To provide access to construction of Work No.34.	Work No.34

(1) <i>Plot Reference Number shown on Land Plans</i>	(2) <i>Purpose for which temporary possession may be taken</i>	(3) <i>Relevant part of the authorised development</i>
23/7	For modifications to the entrance to Orchard Cottage and to provide working space for the construction of a turning head on Elm Lane. To provide access to construction of Work No.34.	Work No.34
Land Plans – Sheet 24		
24/1	To provide working space to tie-in Elm Lane to Elm Corner.	Work No.50(a)
24/2	For the improvement of Byway 525 (Byway Open to All Traffic), between Elm Corner and Old Lane.	Work No.50(a)
24/3	For the improvement of Byway 525 (Byway Open to All Traffic), between Elm Corner and Old Lane. To provide working space to tie-in Elm Lane to Hatch Lane.	Work No.50(a)
24/4, 24/4a, 24/4b	To provide working space to tie-in Elm Lane to Old Lane and to install two toad underpasses and associated reptilian fencing along Old Lane. To provide working space to clear trees and other vegetation to create a visibility splay including road traffic mitigation measures	Work No.50(a) Work No.50(b)
Land Plans – Sheet 26		
26/2a	To provide working space for the construction of a footpath.	Work No.51

SCHEDULE 8

Article 41

TREES SUBJECT TO TREE PRESERVATION ORDERS

<i>(1)</i> <i>Type of tree</i>	<i>(2)</i> <i>Work to be carried out</i>	<i>(3)</i> <i>Relevant part of the authorised development</i>	<i>(4)</i> <i>TPO reference</i>
Group TPO Multiple species woodland	Potential disturbance to roots or lopping of branches to enable construction of a new bridleway and to ensure that any overhanging branches will not constitute a danger to the public or obstruct access once the bridleway is open for use.	Work No.39	Part of Tower Hill, Painshill Park Estate TPO ref: P1/201/151 dated 15.06.1948 Guildford Borough Council
Group TPO Mixed coniferous and deciduous woodland	Potential requirement for some lopping of trees to ensure that none of the trees will constitute a danger to the public once the replacement land and proposed new bridleway are open for use and for some localised felling within the dense stand of birch to improve accessibility for use of the land as replacement common land/public open space.	Work No.59(a)	Foxwarren Park Estate TPO ref: P1/201/105 dated 25.10.1956 Guildford Borough Council
Group TPO comprising 2 Turkey Oaks and 2 Sweet Chestnut	Potential disturbance to the roots and a requirement for the lopping of one Turkey Oak within the G2 group TPO and for disturbance to the root protection area of a second Turkey Oak within the same TPO group, to enable construction of a new footpath and associated earthworks and the diversion of utilities.	Work Nos. 41, 62(l), 63(c), 64(j) and 65(a)	Land at Painshill House and adjacent properties on the north side of Painshill Park, Cobham TPO ref: EL:11/47 dated 08.06.2012 Group 2 Elmbridge Borough Council

SCHEDULE 9

PROTECTIVE PROVISIONS

Articles 35 and 44

PART 1

FOR THE PROTECTION OF ELECTRICITY, GAS, WATER AND SEWAGE UNDERTAKERS

Application

1. For the protection of the utility undertakers referred to in this Part of this Schedule the following provisions have effect, unless otherwise agreed in writing between the undertaker and the utility undertaker concerned.

Interpretation

2. In this Part of this Schedule—

“1991 Act” means the New Roads and Street Works Act 1991(a);

“alternative apparatus” means alternative apparatus adequate to enable the utility undertaker in question to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means—

- (a) in the case of an electricity undertaker, electric lines or electrical plant (as defined in the Electricity Act 1989(b)), belonging to or maintained by that undertaker;
- (b) in the case of a gas undertaker, any mains, pipes or other apparatus belonging to or maintained by a gas transporter within the meaning of Part 1 of the Gas Act 1986(c) for the purposes of gas supply;
- (c) in the case of a water undertaker, mains, pipes or other apparatus belonging to or maintained by that undertaker for the purposes of water supply; and
- (d) in the case of a sewerage undertaker—
 - (i) any drain or works vested in the undertaker under the Water Industry Act 1991(d); and
 - (ii) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) of that Act or an agreement to adopt made under section 104 of that Act,

and includes a sludge main, disposal main (within the meaning of section 219 of that Act) or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works, and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

“functions” includes powers and duties;

“in”, in a context referring to apparatus or alternative apparatus in land, includes a reference to apparatus or alternative apparatus under, over or upon land;

“plan” includes all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe the works to be executed;

(a) 1991 c. 22.

(b) 1989 c. 29.

(c) 1986 c. 44. A new section 7 was substituted by section 5 of the Gas Act 1995 (c. 45), and was further amended by section 76 of the Utilities Act 2000 (c. 27).

(d) 1991 c. 56.

“utility undertaker” means—

- (a) any licence holder within the meaning of Part 1 of the Electricity Act 1989;
 - (b) a gas transporter within the meaning of Part 1 of the Gas Act 1986;
 - (c) a water undertaker within the meaning of the Water Industry Act 1991; and
 - (d) a sewerage undertaker within the meaning of Part 1 of the Water Industry Act 1991,
- for the area of the authorised development, and in relation to any apparatus, means the undertaker to whom it belongs or by whom it is maintained.

On street apparatus

3. This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and the utility undertaker are regulated by the provisions of Part 3 of the 1991 Act.

Apparatus in stopped up streets

4.—(1) Where any street is stopped up under article 15 (permanent stopping up and restriction of use of streets and private means of access), any utility undertaker has the same powers and rights in respect of any apparatus in the street as it enjoyed immediately before the stopping up and the undertaker must grant to the utility undertaker legal easements reasonably satisfactory to the utility undertaker in respect of such apparatus and access to it, but nothing in this paragraph affects any right of the undertaker or of the utility undertaker to require the removal of that apparatus under paragraph 7 or the power of the undertaker to carry out works under paragraph 9.

(2) Regardless of the temporary closure or diversion of any highway under the powers conferred by article 14 (temporary closure and restriction of use of streets), a utility undertaker is at liberty at all times to take all necessary access across any such stopped up highway and to execute and do all such works and things in, upon or under any such highway as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the stopping up or diversion was in that highway.

Protective works to buildings

5. The undertaker, in the case of the powers conferred by article 20 (protective work to buildings), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus.

Acquisition of land

6. Regardless of any provision in this Order or anything shown on the land plans, the undertaker must not acquire any apparatus otherwise than by agreement.

Removal of apparatus

7.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or requires that the utility undertaker’s apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule, and any right of a utility undertaker to maintain that apparatus in that land must not be extinguished, until alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the utility undertaker in accordance with sub-paragraphs (2) to (6).

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, the undertaker must give to the utility undertaker 28 days’ written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order a utility undertaker reasonably needs to

remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to the utility undertaker the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed the utility undertaker must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use its best endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between the utility undertaker and the undertaker or in default of agreement settled by arbitration in accordance with article 50 (arbitration).

(5) The utility undertaker must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 50, and after the grant to the utility undertaker of any such facilities and rights as are referred to in sub-paragraphs (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

(6) Regardless of anything in sub-paragraph (5), if the undertaker gives notice in writing to the utility undertaker that the undertaker desires itself to execute any work, or part of any work in connection with the construction or removal of apparatus in any land of the undertaker, that work, instead of being executed by the utility undertaker, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of the utility undertaker.

(7) If the utility undertaker fails either reasonably to approve, or to provide reasons for its failure to approve along with an indication of what would be required to make acceptable, any proposed details relating to required removal works under sub-paragraph (2) within 28 days of receiving a notice of the required works from the undertaker, then such details are deemed to have been approved.

(8) For the avoidance of doubt, any such “deemed consent” does not extend to the actual undertaking of the removal works, which shall remain the sole responsibility of the utility undertaker or its contractors.

Facilities and rights for alternative apparatus

8.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to a utility undertaker facilities and rights for the construction, maintenance of the utility undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights are to be granted upon such terms and conditions as may be agreed between the undertaker and the utility undertaker or in default of agreement settled by arbitration in accordance with article 50 (arbitration).

(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to the utility undertaker than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation by the undertaker to that utility undertaker as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus

9.—(1) Not less than 28 days before starting the execution of any works in, on or under any land purchased, held, appropriated or used under this Order that are near to, or will or may affect, any

apparatus the removal of which has not been required by the undertaker under paragraph 7(2), the undertaker must submit to the utility undertaker a plan of the works to be executed.

(2) Those works must be executed only in accordance with the plan submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by the utility undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the utility undertaker is entitled to watch and inspect the execution of those works.

(3) Any requirements made by a utility undertaker under sub-paragraph (2) must be made within a period of 21 days beginning with the date on which a plan under sub-paragraph (1) is submitted to it.

(4) If a utility undertaker in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 1 to 3 and 6 to 8 apply as if the removal of the apparatus had been required by the undertaker under paragraph 7(2).

(5) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a new plan instead of the plan previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan.

(6) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case must give the utility undertaker notice as soon as is reasonably practicable and a plan of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (3) in so far as is reasonably practicable in the circumstances.

Expenses and costs

10.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to a utility undertaker all expenses reasonably incurred by that utility undertaker in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in paragraph 7(2).

(2) There must be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule, that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 50 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the utility undertaker by virtue of sub-paragraph (1) must be reduced by the amount of that excess

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and

- (b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to a utility undertaker in respect of works by virtue of sub-paragraph (1), if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the utility undertaker any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, is to be reduced by the amount which represents that benefit.

11.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works referred to in paragraphs 5 or 7(2), or by reason of any subsidence resulting from such development or works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of a utility undertaker, or there is any interruption in any service provided, or in the supply of any goods, by any utility undertaker, the undertaker must—

- (a) bear and pay the cost reasonably incurred by that utility undertaker in making good such damage or restoring the supply; and
- (b) make reasonable compensation for any other expenses, loss, damages, penalty or costs incurred by the utility undertaker.

(2) The fact that any act or thing may have been done by a utility undertaker on behalf of the undertaker or in accordance with a plan approved by a utility undertaker or in accordance with any requirement of a utility undertaker or under its supervision does not, subject to sub-paragraph (3), excuse the undertaker from liability under the provisions of sub-paragraph (1) unless a utility undertaker fails to carry out and execute the works properly with due care and attention and in a skilful and professional like manner or in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of a utility undertaker, its officers, servants, contractors or agents.

(4) A utility undertaker must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made, without the consent of the undertaker who, if withholding such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

Co-operation

12. Where in consequence of the proposed construction of any of the authorised development, the undertaker or a utility undertaker requires the removal of apparatus under paragraph 7(2) or a utility undertaker makes requirements for the protection or alteration of apparatus under paragraph 9, the undertaker must use best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of the utility undertaker's undertaking and each utility undertaker must use its best endeavours to co-operate with the undertaker for that purpose.

13. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and a utility undertaker in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

PART 2

FOR THE PROTECTION OF OPERATORS OF ELECTRONIC COMMUNICATIONS CODE NETWORKS

14. For the protection of any operator, the following provisions have effect, unless otherwise agreed in writing between the undertaker and the operator.

15. In this Part of this Schedule—

“the 2003 Act” means the Communications Act 2003**(a)**;

“electronic communications apparatus” has the same meaning as in the electronic communications code;

“the electronic communications code” has the same meaning as in Chapter 1 of Part 2 of the 2003 Act**(b)**;

“electronic communications code network” means—

(a) so much of an electronic communications network or infrastructure system provided by an electronic communications code operator as is not excluded from the application of the electronic communications code by a direction under section 106 (application of the electronic communications code) of the 2003 Act; and

(b) an electronic communications network which the undertaker is providing or proposing to provide;

“electronic communications code operator” means a person in whose case the electronic communications code is applied by a direction under section 106 of the 2003 Act;

“infrastructure system” has the same meaning as in the electronic communications code and references to providing an infrastructure system are to be construed in accordance with paragraph 7(2) of that code; and

“operator” means the operator of an electronic communications code network.

16. The exercise of the powers conferred by article 36 (statutory undertakers) is subject to Part 10 (undertaker’s works affecting electronic communications apparatus) of the electronic communications code.

17.—(1) Subject to sub-paragraphs (2) to (4), if as the result of the authorised development or its construction, or of any subsidence resulting from any of those works—

(a) any damage is caused to any electronic communications apparatus belonging to an operator (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works), or other property of an operator; or

(b) there is any interruption in the supply of the service provided by an operator,

the undertaker must bear and pay the cost reasonably incurred by the operator in making good such damage or restoring the supply and make reasonable compensation to that operator for any other expenses, loss, damages, penalty or costs incurred by it, by reason, or in consequence of, any such damage or interruption.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of an operator, its officers, servants, contractors or agents.

(3) The operator must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise of the claim or demand is to be made without the consent of the undertaker who, if withholding such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(a) 2003 c. 21.

(b) See section 106. Section 106 was amended by section 4(3) to (9) of the Digital Economy Act 2017 (c. 30).

(4) Any difference arising between the undertaker and the operator under this Part of this Schedule must be referred to and settled by arbitration under article 50 (arbitration).

(5) This Part of this Schedule does not apply to—

- (a) any apparatus in respect of which the relations between the undertaker and an operator are regulated by the provisions of Part 3 of the 1991 Act; or
- (b) any damages, or any interruptions, caused by electro-magnetic interference arising from the construction or use of the authorised development.

(6) Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and an operator in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

PART 3

FOR THE PROTECTION OF THE ENVIRONMENT AGENCY

18.—(1) The following provisions shall apply for the protection of the Agency unless otherwise agreed in writing between the undertaker and the Agency.

(2) In this part of this Schedule—

“the Agency” means the Environment Agency;

“construction” includes execution, placing, altering, replacing, relaying and removal and excavation and “construct” and “constructed” shall be construed accordingly;

“drainage work” means any main river and includes any land which provides or is expected to provide flood storage capacity for any main river and any bank, wall, embankment or other structure, or any appliance, constructed or used for land drainage, flood defence or tidal monitoring;

“the fishery” means any waters containing fish and fish in, or migrating to or from, such waters and the spawn, spawning ground, habitat or food of such fish;

“main river” means all watercourses shown as such on the statutory main river maps held by the Agency and the Department for Environment Food and Rural Affairs including any structure or appliance for controlling or regulating the flow of water in or out of the channel;

“plans” includes sections, drawings, specifications, calculations and method statements;

“specified work” means so much of any work or operation authorised by this Order as is in, on, under, over or within 8 metres of a drainage work or is otherwise likely to—

- (a) affect any drainage work or the volumetric rate of flow of water in or flowing to or from any drainage work;
- (b) affect the flow, purity or quality of water in any watercourse or other surface waters or ground water;
- (c) cause obstruction to the free passage of fish or damage to any fishery;
- (d) affect the conservation, distribution or use of water resources; or
- (e) affect the conservation value of the main river and habitats in its immediate vicinity;

“watercourse” includes all rivers, streams, ditches, drains, cuts, culverts, dykes, sluices, basins, sewers and passages through which water flows except a public sewer.

19.—(1) Before beginning to construct any specified work, the undertaker must submit to the Agency plans of the specified work and such further particulars available to it as the Agency may within 28 days of the receipt of the plans reasonably request.

(2) Any such specified work must not be constructed except in accordance with such plans as may be approved in writing by the Agency, or determined under paragraph 28.

(3) Any approval of the Agency required under this paragraph—

- (a) must not be unreasonably withheld or delayed;

- (b) in the case of a refusal must be accompanied by a statement of grounds of refusal;
- (c) is deemed to have been refused if it is neither given nor refused within 2 months of the submission of the plans or receipt of further particulars if such particulars have been requested by the Agency for approval and
- (d) may be given subject to such reasonable requirements as the Agency may have for the protection of any drainage work or the fishery or for the protection of water resources, or for the prevention of flooding or pollution or in the discharge of its environmental duties.

(4) The Agency must use its reasonable endeavours to respond to the submission of any plans before the expiration of the period mentioned in sub-paragraph (3)(b).

20. Without limiting paragraph 19, the requirements which the Agency may have under that paragraph include conditions requiring the undertaker, at its own expense, to construct such protective works, whether temporary or permanent, before or during the construction of the specified works (including the provision of flood banks, walls or embankments or other new works and the strengthening, repair or renewal of existing banks, walls or embankments) as are reasonably necessary—

- (a) to safeguard any drainage work against damage; or
- (b) to secure that its efficiency for flood defence purposes is not impaired and that the risk of flooding is not otherwise increased,

by reason of any specified work.

21.—(1) Subject to sub-paragraph (2), any specified work, and all protective works required by the Agency under paragraph 20, must be constructed—

- (a) without unreasonable delay in accordance with the plans approved under this Part of this Schedule; and
- (b) to the reasonable satisfaction of the Agency,

and the Agency shall be entitled by its officer to watch and inspect the construction of such works.

(2) The undertaker must give to the Agency not less than 14 days' notice in writing of its intention to commence construction of any specified work and notice in writing of its completion not later than 7 days after the date on which it is completed.

(3) If the Agency reasonably requires, the undertaker must construct all or part of the protective works so that they are in place prior to the construction of the specified work to which the protective works relate.

(4) If any part of a specified work or any protective work required by the Agency is constructed otherwise than in accordance with the requirements of this Schedule, the Agency may by notice in writing require the undertaker at the undertaker's own expense to comply with the requirements of this part of this Schedule or (if the undertaker so elects and the Agency in writing consents, such consent not to be unreasonably withheld or delayed) to remove, alter or pull down the work and, where removal is required, to restore the site to its former condition to such extent and within such limits as the Agency reasonably requires.

(5) Subject to sub-paragraph (6), if, within a reasonable period, being not less than 28 days beginning with the date when a notice under sub-paragraph (4) is served upon the undertaker, the undertaker has failed to begin taking steps to comply with the requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, the Agency may execute the works specified in the notice and any reasonable expenditure incurred by the Agency in so doing shall be recoverable from the undertaker.

(6) In the event of any dispute as to whether sub-paragraph (4) is properly applicable to any work in respect of which notice has been served under that sub-paragraph, or as to the reasonableness of any requirement of such a notice, the Agency shall not, except in the case of an emergency, exercise the powers conferred by sub-paragraph (5) until the dispute has been finally determined in accordance with paragraph 28.

22.—(1) Subject to sub-paragraph (7) the undertaker must from the commencement of the construction of the specified works until the date falling 12 months from the date of completion

(“the maintenance period”), maintain in good repair and condition and free from obstruction any drainage work which is situated within the limits of deviation and on land held by the undertaker for the purposes of or in connection with the specified works, whether or not the drainage work is constructed under the powers conferred by this Order or is already in existence.

(2) Upon the expiry of the maintenance period, the drainage work must be maintained by the highway authority of the highway to which the specified work relates.

(3) If any such drainage work which the undertaker is liable to maintain is not maintained to the reasonable satisfaction of the Agency, the Agency may by notice in writing require the person liable for maintenance to repair and restore the work, or any part of such work, or (if the person liable for maintenance so elects and the Agency in writing consents, such consent not to be unreasonably withheld or delayed), to remove the specified work and restore the site to its former condition, to such extent and within such limits as the Agency reasonably requires.

(4) Subject to sub-paragraph (6), if, within a reasonable period, being not less than 28 days beginning with the date on which a notice in respect of any drainage work is served under sub-paragraph (3) on the person liable for maintenance, the person has failed to begin taking steps to comply with the reasonable requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, the Agency may do what is necessary for such compliance and any reasonable expenditure incurred by the Agency in so doing shall be recoverable from that person.

(5) If there is any failure by the undertaker to obtain consent or comply with conditions imposed by the Agency in accordance with these Protective Provisions the Agency may serve written notice requiring the undertaker to cease all or part of the specified works and the undertaker must cease the specified works or part thereof until it has obtained the consent or complied with the condition unless the cessation of the specified works or part thereof would cause greater damage than compliance with the written notice.

(6) In the event of any dispute as to the reasonableness of any requirement of a notice served under sub-paragraph (3), the Agency shall not, except in the case of an emergency, exercise the powers conferred by sub-paragraph (4) until the dispute has been finally determined in accordance with paragraph 28.

(7) This paragraph does not apply to—

- (a) drainage works which are vested in the Agency, or which the Agency or another person is liable to maintain and is not proscribed by the powers of the Order from doing so; or
- (b) any obstruction of a drainage work for the purpose of a work or operation authorised by this Order and carried out in accordance with the provisions of this Part of this Schedule.

23. If by reason of the construction of any specified work or of the failure of any such work, the efficiency of any drainage work for flood defence purposes is impaired, or that drainage work is otherwise damaged, such impairment or damage must be made good by the undertaker to the reasonable satisfaction of the Agency and if the undertaker fails to do so, the Agency may make good the impairment or damage and recover any expenditure reasonably incurred by the Agency in so doing from the undertaker.

24. If by reason of construction of the specified work the Agency’s access to flood defences or equipment maintained for flood defence purposes is materially obstructed, the undertaker must provide such alternative means of access that will allow the Agency to maintain the flood defence or use the equipment no less effectively than was possible before the obstruction within 24 hours of the undertaker becoming aware of such obstruction.

25.—(1) The undertaker must take all such measures as may be reasonably practicable to prevent any interruption of the free passage of fish in the fishery during the construction of any specified work.

(2) If by reason of—

- (a) the construction of any specified work; or
- (b) the failure of any such work,

damage to the fishery is caused, or the Agency has reason to expect that such damage may be caused, the Agency may serve notice on the undertaker requiring it to take such steps as may be reasonably practicable to make good the damage, or, as the case may be, to protect the fishery against such damage.

(3) If within such time as may be reasonably practicable for that purpose after the receipt of written notice from the Agency of any damage or expected damage to a fishery, the undertaker fails to take such steps as are described in sub-paragraph (2), the Agency may take those steps and any expenditure incurred by the Agency in so doing shall be recoverable from the undertaker.

(4) In any case where immediate action by the Agency is reasonably required in order to secure that the risk of damage to the fishery is avoided or reduced, the Agency may take such steps as are reasonable for the purpose, and may recover from the undertaker any reasonable expenditure reasonably incurred in so doing provided that notice specifying those steps is served on the undertaker as soon as reasonably practicable after the Agency has taken, or commenced to take, the steps specified in the notice.

26. The undertaker must repay to the Agency all reasonable costs, charges and expenses which the Agency may reasonably incur—

- (a) in the examination or approval of plans under this Part of this Schedule;
- (b) in the inspection of the construction of the specified works or any protective works required by the Agency under this Part of this Schedule; and
- (c) in the carrying out of any surveys or tests by the Agency which are reasonably required in connection with the construction of the specified works.

27.—(1) The undertaker must make reasonable compensation for costs and losses which may be reasonably incurred or suffered by the Agency by reason of—

- (a) the construction of any specified works comprised within the authorised works; or
- (b) any act or omission of the undertaker, its employees, contractors or agents or others whilst engaged upon the construction of the authorised works.

(2) For the avoidance of doubt, in sub-paragraph (1)—

“costs” includes—

- (a) expenses and charges;
- (b) staff costs and overheads;
- (c) legal costs;

“losses” includes physical damage.

(3) The undertaker must make reasonable compensation for liabilities, claims and demands arising out of or in connection with the authorised works or otherwise out of the matters referred to in sub-paragraph (1)(a) and (b).

(4) For the avoidance of doubt, in sub-paragraph (3)—

“claims” and “demands” include as applicable—

- (a) costs (within the meaning of sub-paragraph (2)) incurred in connection with any claim or demand;
- (b) any interest element of sums claimed or demanded;

“liabilities” includes—

- (a) contractual liabilities;
- (b) tortious liabilities (including liabilities for negligence or nuisance);
- (c) liabilities to pay statutory compensation or for breach of statutory duty; and
- (d) liabilities to pay statutory penalties imposed on the basis of strict liability (but does not include liabilities to pay other statutory penalties).

(5) The Agency must give to the undertaker reasonable notice of any such claim or demand.

(6) The undertaker may at its own expense conduct all negotiations for the settlement of the same and any litigation that may arise therefrom.

(7) The Agency must not compromise or settle any such claim or make any admission which might be prejudicial to the claim without the agreement of the undertaker which agreement must not be unreasonably withheld or delayed.

(8) The Agency must, at all times take reasonable steps to prevent and mitigate any such claims, demands, proceedings, costs, damages, expenses or loss.

(9) The Agency must, at the request of the undertaker, afford all reasonable assistance for the purpose of contesting any such claim or action, and is entitled to be repaid its reasonable expenses reasonably incurred in so doing.

(10) The fact that any work or thing has been executed or done by the undertaker in accordance with a plan approved by the Agency, or to its satisfaction, or in accordance with any directions or award of an arbitrator, shall not relieve the undertaker from any liability under the provisions of this Part of this Schedule.

28. Any dispute arising between the undertaker and the Agency under this part of this Schedule will, if the parties agree, be determined by arbitration under article 50 (arbitration), but will otherwise be determined by the Secretary of State for Environment, Food and Rural Affairs or its successor and the Secretary of State for Transport or its successor acting jointly on a reference to them by the undertaker or the Agency, after notice in writing by one to the other.

PART 4

FOR THE PROTECTION OF SURREY COUNTY COUNCIL IN RESPECT OF ORDINARY WATERCOURSES

29. The following provisions of this Part of this Schedule apply for the protection of Surrey County Council unless otherwise agreed between the undertaker and Surrey County Council.

30. In this Part of this Schedule—

“construction” includes execution, placing, altering, replacing, relaying and removal and “construct” and “constructed” are to be construed accordingly;

“drainage work” means an ordinary watercourse and includes any land which is expected to provide flood storage capacity for an ordinary watercourse and any bank, wall, embankment or other structure, or any appliance, constructed or used for land drainage or flood defence in connection with an ordinary watercourse;

“ordinary watercourse” has the same meaning as given in section 72 (interpretation) of the Land Drainage Act 1991(a);

“plans” includes any information reasonably required by Surrey County Council including location details, grid references, sections, drawings, specifications, assessments and method statements; and

“specified work” means any of the following works carried out in relation to any ordinary watercourse—

- (a) erecting any mill dam, weir or other similar obstruction to the flow of the watercourse, or raising or otherwise altering any such obstruction;
- (b) erecting a culvert in the watercourse; or
- (c) altering a culvert in a manner that would be likely to affect the flow of the watercourse.

(a) 1991 c. 59.

Ordinary watercourses

31.—(1) Before beginning to construct any specified work, the undertaker must submit to Surrey County Council plans of the specified work, and such further particulars available to the undertaker as Surrey County Council may within 28 days of the first submission of the plans reasonably require or as otherwise agreed between the parties.

(2) The undertaker must not commence construction of the specified work until approval, unconditionally or conditionally, has been given as provided in sub-paragraph (4) of this paragraph.

(3) Any such specified work must not be constructed except in accordance with such plans as may be approved in writing by Surrey County Council, or determined under paragraph 38.

(4) Any approval of Surrey County Council required under this paragraph—

- (a) must not be unreasonably withheld or delayed;
- (b) is to be deemed to have been given if it is neither given nor refused within 2 months of the submission of the plans for approval or where further particulars are submitted under sub-paragraph (1), within 2 months of the submission of those particulars whichever is the later; and
- (c) may be given subject to such reasonable requirements or conditions as Surrey County Council may make for the protection of any drainage work.

(5) Any refusal under this paragraph must be accompanied by a statement of the reasons for refusal.

32. Without limiting paragraph 31, the requirements or conditions which Surrey County Council may make under paragraph 31 include conditions requiring the undertaker at its own expense to construct such protective works (including any new works as well as alterations to existing works) as are reasonably necessary—

- (a) to safeguard any drainage work against damage by reason of any specified work, or
- (b) to secure that the efficiency of any drainage work for flood defence and land drainage purposes is not impaired and that the risk of flooding is not otherwise increased,

by reason of any specified work.

33.—(1) Subject to sub-paragraph (2) any specified work, and all protective works required by Surrey County Council under paragraph 32, must be constructed—

- (a) without unreasonable delay in accordance with the plans approved or deemed to have been approved or settled under this Part; and
- (b) to the reasonable satisfaction of Surrey County Council and an officer of Surrey County Council is entitled on giving such notice as may be reasonable in the circumstances, to inspect and watch the construction of such works.

(2) The undertaker must give to Surrey County Council not less than 14 days' notice of its intention to commence construction of any specified work and the undertaker must give to Surrey County Council notice of completion of a specified work not later than 7 days after the date of completion.

(3) If Surrey County Council reasonably requires, the undertaker must construct all or part of the protective works so that they are in place before the construction of the specified work.

(4) If any part of a specified work or any protective work required is constructed otherwise than in accordance with the requirements of this Part of this Schedule, Surrey County Council may by notice require the undertaker at the undertaker's own expense to comply with the requirements of this Part of this Schedule or (if the undertaker so elects and Surrey County Council in writing consents, such consent not to be unreasonably withheld) to remove, alter or pull down the work and, where removal is required, to restore the site to its former condition to such extent and within such limits as Surrey County Council reasonably requires.

(5) Subject to sub-paragraph (6), if within a reasonable period, being not less than 28 days from the date when a notice under sub-paragraph (4) is served upon the undertaker, the undertaker has

failed to begin taking steps to comply with the requirements of the notice and subsequently to make reasonably expeditious progress towards their implementation, Surrey County Council may execute the works specified in the notice and any expenditure reasonably incurred by it in so doing is to be recoverable from the undertaker.

(6) In the event of any dispute as to whether sub-paragraph (4) is properly applicable to any work in respect of which notice has been served under that sub-paragraph, or as to the reasonableness of any requirement of such a notice, Surrey County Council must not, except in an emergency, exercise the powers conferred by sub-paragraph (5) until the dispute has been finally determined.

General

34.—(1) Subject to sub-paragraph (5), from the commencement of the construction of any specified work, the undertaker must maintain in good repair and condition and free from obstruction any drainage work which is situated within the limits of deviation and on land held by the undertaker for the purposes of or in connection with the specified work, whether the drainage work is constructed under this Order or is already in existence.

(2) If any drainage work is not maintained to the reasonable satisfaction of Surrey County Council, it may by notice require the undertaker to repair and restore the drainage work, or any part of it, or (if the undertaker so elects and Surrey County Council in writing consents, such consent not to be unreasonably withheld or delayed) to remove the specified work and restore the site to its former condition to such extent and with such limits as Surrey County Council reasonably requires.

(3) If, within a reasonable period being not less than 28 days beginning with the date on which a notice in respect of any drainage work is served under sub-paragraph (2) on the undertaker, that person has failed to begin taking steps to comply with the reasonable requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, Surrey County Council may do what is necessary for such compliance and may recover any expenditure reasonably incurred by it in so doing from the person liable for maintenance.

(4) In the event of any dispute as to the reasonableness of any requirement of a notice served under sub-paragraph (2), Surrey County Council must not except in a case of emergency exercise the powers of sub-paragraph (3) until the dispute has been finally determined.

(5) This paragraph does not apply to—

- (a) drainage works which are vested in Surrey County Council, or which Surrey County Council or another person is liable to maintain and is not prevented by this Order from so doing; and
- (b) any obstruction of a drainage work for the purpose of a work or operation authorised by this Order and carried out in accordance with the provisions of this Part provided that any obstruction is removed as soon as reasonably practicable.

35. If by reason of the construction of any specified work or of the failure of any such work the efficiency of any drainage work for flood defence purposes or land drainage is impaired, or that drainage work is otherwise damaged, so as to require remedial action, such impairment or damage must be made good as soon as is reasonably practicable by the undertaker to the reasonable satisfaction of Surrey County Council and if the undertaker fails to do so, Surrey County Council may make good the same and recover from the undertaker the expense reasonably incurred by it in doing so.

36.—(1) The undertaker must repay to Surrey County Council all costs, charges and expenses which it may reasonably incur or which it may sustain—

- (a) in the examination or approval of plans under this Part of this Schedule;
- (b) in the inspection of the construction of a specified work or any protective works required by Surrey County Council under this Part of this Schedule; and
- (c) in carrying out any reasonable surveys or tests by Surrey County Council which are reasonably required in connection with the construction of the specified work.

(2) The maximum amount payable to Surrey County Council under sub-paragraph (1)(a) to (c) is to be the same as would have been payable to Surrey County Council in accordance with the scale of charges for pre-application advice and land drainage consent applications published on Surrey County Council's website from time to time.

37.—(1) Without limiting the other provisions of this Part, the undertaker must make reasonable compensation for the costs reasonably incurred by Surrey County Council from all claims, demands, proceedings, costs, damages, expenses or loss, which may be made or taken against, recovered from, or incurred by Surrey County Council by reason of—

- (a) any damage to any ordinary watercourse so as to impair its efficiency for drainage work;
- (b) any raising or lowering of the water table in land adjoining the authorised project or any sewers, drains and watercourses; or
- (c) any flooding or increased flooding of any such lands,

caused by the construction of any specified work or any act or omission of the undertaker, its contractors, agents or employees whilst engaged on the work.

(2) Surrey County Council must give to the undertaker reasonable notice of any such claim or demand, and no settlement or compromise may be made without the agreement of the undertaker which agreement must not be unreasonably withheld or delayed.

38. Any dispute arising between the undertaker and Surrey County Council under this Part of this Schedule is to be determined in accordance with article 50 (arbitration).

PART 5

FOR THE PROTECTION OF SOUTHERN GAS NETWORKS PLC AS GAS UNDERTAKER

Application

39. For the protection of SGN the following provisions will, unless otherwise agreed in writing between the undertaker and SGN, have effect.

Interpretation

40. In this Part of this Schedule—

“1991 Act” means the New Roads and Street Works Act 1991(a);

“alternative apparatus” means appropriate alternative apparatus to the reasonable satisfaction of SGN to enable SGN to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means any gas mains, pipes, pressure governors, ventilators, cathodic protections, cables or other apparatus belonging to or maintained by SGN for the purposes of gas distribution together with any replacement apparatus and such other apparatus constructed pursuant to the Order that becomes operational apparatus of SGN for the purposes of transmission, distribution and/or supply and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

“commence” has the same meaning as in Schedule 2, Part 1 of the Order and commencement is construed to have the same meaning save that for the purposes of this Part of the Schedule the terms “commence” and “commencement” include operations consisting of non-intrusive investigations and surveys, ecological surveys and pre-construction ecological mitigation, investigations for the purpose of assessing and monitoring ground conditions and levels,

(a) 1991 c. 22.

erection of any temporary means of enclosure, receipt and erection of construction plant and equipment and site clearance;

“deed of consent” means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary or replace existing easements, agreements, enactments and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;

“facilities and rights” for construction and for maintenance include any appropriate working areas required to reasonably and safely undertake that construction or maintenance, and any necessary rights of access;

“functions” includes powers and duties;

“ground mitigation scheme” means a scheme approved by SGN (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

“ground monitoring scheme” means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities and the extent of ground subsidence which, if exceeded, requires the undertaker to submit for SGN’s approval a ground mitigation scheme;

“ground subsidence event” means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground monitoring scheme as requiring a ground mitigation scheme;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

“maintain” and “maintenance” includes the ability and right to do any of the following in relation to any apparatus or alternative apparatus of SGN including retain, lay, construct, inspect, maintain, protect, use, access, enlarge, replace, renew, remove, decommission or render unusable or remove the apparatus;

“plan” or “plans” include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe and assess the works to be executed;

“rights” includes restrictive covenants, and in relation to decommissioned apparatus the surrender of rights, release of liabilities and transfer of decommissioned apparatus;

“SGN” means Southern Gas Networks plc or its successors in title or successor bodies and/or any successor as a gas transporter within the meaning of Part 1 of the Gas Act 1986(a);

“specified works” means any of the authorised development or activities (including maintenance) undertaken in association with the authorised development which—

- (a) will or may be situated over, or within 15 metres measured in any direction of any apparatus the removal of which has not been required by the undertaker under sub-paragraph 45(2) or otherwise;
- (b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under sub-paragraph 45(2) or otherwise;

“undertaker” means the undertaker as defined in article 2 of this Order.

On Street Apparatus

41.—(1) This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and SGN are regulated by the provisions of Part 3 of the 1991 Act, except for—

(a) 1986 c. 44.

- (a) paragraphs 42, 47, 48 and 49; and
- (b) where sub-paragraph (2) applies, paragraphs 45 and 46.

(2) This sub-paragraph applies where any apparatus is diverted from an alignment within the existing adopted public highway but not wholly replaced within the existing public highway, notwithstanding that any diversion may be carried out under the provisions of Part 3 of the 1991 Act.

Apparatus of SGN in stopped up streets

42.—(1) Without prejudice to the generality of any other protection afforded to SGN elsewhere in the Order, where any street is stopped up under article 15 (permanent stopping up and restriction of use of streets and private means of access), if SGN has any apparatus in the street or accessed via that street SGN will be entitled to the same rights in respect of such apparatus as it enjoyed immediately before the stopping up and the undertaker must grant to SGN, or procure the granting to SGN of, legal easements reasonably satisfactory to SGN in respect of such apparatus and access to it prior to the stopping up of any such street or highway but nothing in this paragraph shall affect any right of the Undertaker or of SGN to require the removal of that apparatus under paragraph 45.

(2) Notwithstanding the temporary stopping up or diversion of any highway under the powers of article 14 (temporary closure and restriction of use of streets), SGN will be at liberty at all times to take all necessary access across any such stopped up highway or to execute and do all such works and things in, upon or under any such highway as it would have been entitled to do immediately before such temporary stopping up or diversion in respect of any apparatus which at the time of the stopping up or diversion was in that highway.

Protective works to buildings

43. The undertaker must exercise the powers conferred by article 20 (protective work to buildings) so as not to obstruct or render less convenient the access to any apparatus without the written consent of SGN (such consent not to be unreasonably withheld).

Acquisition of land

44.—(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker may not appropriate or acquire any land interest or appropriate, acquire, extinguish or override any easement or other interest or right or apparatus of SGN otherwise than by agreement.

(2) As a condition of agreement between the parties in sub-paragraph (1), prior to the carrying out of any part of the authorised development (or in such other timeframe as may be agreed between SGN and the undertaker) that is subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement or other legal or land interest of SGN or affects the provisions of any enactment or agreement regulating the relations between SGN and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as SGN reasonably requires enter into such deeds of consent and variations upon such terms and conditions as may be agreed between SGN and the undertaker acting reasonably and which must be no less favourable on the whole to SGN unless otherwise agreed by SGN, and it will be the responsibility of the undertaker to procure or secure the consent to and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised development or maintenance thereof.

(3) The undertaker and SGN agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation or removal of apparatus, including but not limited to the payment of costs and expenses relating to such relocation or removal of apparatus and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by SGN or other enactments relied upon by SGN

as of right or other use in relation to the apparatus, then the provisions in this Schedule must prevail.

(4) Any agreement or consent granted by SGN under paragraph 47 or any other paragraph of this Part of this Schedule, will not be taken to constitute agreement under sub-paragraph (1).

(5) As a condition of an agreement between the parties in sub-paragraph (1) that involves de-commissioned apparatus being left in situ the undertaker must accept a surrender of any existing easement or other interest of SGN in such de-commissioned apparatus and release SGN from all liabilities in respect of such de-commissioned apparatus from the date of such surrender.

(6) Where the undertaker acquires land which is subject to any SGN right or interest (including, without limitation, easements and agreements relating to rights or other interests) and the provisions of paragraph 45 do not apply, the undertaker must, unless SGN agrees otherwise—

- (a) retain any notice of SGN's easement, right or other interest on the title to the relevant land when registering the undertaker's title to such acquired land; and
- (b) (where no such notice of SGN's easement, right or other interest exists in relation to such acquired land or any such notice is registered only on the Land Charges Register) include (with its application to register title to the undertaker's interest in such acquired land at the Land Registry) a notice of SGN's easement, right or other interest in relation to such acquired land.

Removal of apparatus

45.—(1) If, in the exercise of the powers conferred by this Order including pursuant to any agreement reached in accordance with paragraph 44, the undertaker acquires any interest in any land in which any apparatus is placed, that apparatus must not be de-commissioned or removed under this Part of this Schedule and any right of SGN to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, is in operation, and the rights and facilities referred to in sub-paragraph (2) have been provided, to the reasonable satisfaction of SGN and in accordance with sub-paragraphs (2) to (5) inclusive.

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to SGN advance written notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order SGN reasonably needs to move or remove any of its apparatus) the undertaker must afford to SGN to its satisfaction (taking into account sub-paragraph 46(1)) the necessary facilities and rights—

- (a) for the construction of alternative apparatus;
- (b) subsequently for the maintenance of that apparatus; and
- (c) to allow access to that apparatus.

(3) If the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, SGN must, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances in an endeavour to assist the undertaker in obtaining the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation must not extend to the requirement for SGN to use its compulsory purchase powers to this end unless it (in its absolute discretion) elects to so do.

(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between SGN and the undertaker.

(5) SGN must, after the alternative apparatus to be provided or constructed has been agreed, and subject to the prior grant to SGN of such facilities and rights as are referred to in sub-paragraph (2) or (3), then proceed without unnecessary delay to construct and bring into operation the

alternative apparatus and subsequently to decommission or remove any apparatus required by the undertaker to be decommissioned or removed under the provisions of this Part of this Schedule.

Facilities and rights for alternative apparatus

46.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for SGN facilities and rights in land for the construction and maintenance of alternative apparatus in substitution for apparatus to be decommissioned or removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and SGN and must be no less favourable on the whole to SGN than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed unless otherwise agreed by SGN.

(2) If the facilities and rights to be afforded by the undertaker and agreed with SGN under sub-paragraph (1) in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to SGN than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed then the terms and conditions to which those facilities and rights are subject in the matter will be referred to arbitration in accordance with paragraph 53 of this Part of this Schedule and the arbitrator must make such provision for the payment of compensation by the undertaker to SGN as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus: protection of SGN

47.—(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to SGN a plan and, if reasonably required by SGN, a ground monitoring scheme in respect of those works.

(2) The plan to be submitted to SGN under sub-paragraph (1) must include a method statement and describe—

- (a) the exact position of the works;
- (b) the level at which these are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal including details of excavation, positioning of plant etc.;
- (d) the position of all apparatus;
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus; and
- (f) any intended maintenance regimes.

(3) The undertaker must not commence any specified works until SGN has given written approval of the plan so submitted.

(4) Any approval of SGN required under sub-paragraph (3)—

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraph (5); and
- (b) must not be unreasonably withheld or delayed and SGN must meaningfully engage with the undertaker within 28 days of the date of submission of the plan under sub-paragraph (1).

(5) SGN may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(6) Specified works must only be executed in accordance with—

- (a) the plan submitted under sub-paragraph (1), as approved or as amended from time to time by agreement between the undertaker and SGN; and

- (b) all conditions imposed under sub-paragraph (4)(a), and SGN will be entitled to watch and inspect the execution of those works.

(7) Where SGN requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to SGN's satisfaction prior to the commencement of any specified works (or any relevant part thereof) for which protective works are required prior to commencement.

(8) If SGN, in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 39 to 41 and 44 to 46 apply as if the removal of the apparatus had been required by the undertaker under sub-paragraph 45(2).

(9) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of the specified works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph will apply to and in respect of the new plan.

(10) The undertaker is not be required to comply with sub-paragraph (1) where it needs to carry out emergency works but in that case it must give to SGN notice as soon as is reasonably practicable and a plan of those works and must comply with—

- (a) the conditions imposed under sub-paragraph (4)(a) insofar as is reasonably practicable in the circumstances; and
- (b) sub-paragraph (11) at all times.

(11) As soon as reasonably practicable after any ground subsidence event attributable to the authorised development the undertaker must implement an appropriate ground mitigation scheme save that SGN retains the right to carry out any further necessary protective works for the safeguarding of its apparatus and can recover any such costs in line with paragraph 48.

(12) In this paragraph, “emergency works” means works whose execution at the time when they are executed is required in order to put an end to, or to prevent the occurrence of, circumstances then existing or imminent (or which the person responsible for the works believes on reasonable grounds to be existing or imminent) which are likely to cause danger to persons or property.

Expenses

48.—(1) Subject to the following provisions of this paragraph, the undertaker must pay to SGN on demand all charges, costs and expenses reasonably anticipated or incurred by SGN in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus which may be required in consequence of the execution of any authorised development as are referred to in this Part of this Schedule including without limitation—

- (a) any costs reasonably incurred by or compensation properly paid by SGN in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs (including professional fees) incurred by SGN as a consequence of SGN—
 - (i) using its own compulsory purchase powers to acquire any necessary rights under sub-paragraph 45(3) if it elects to do so; or
 - (ii) exercising any compulsory purchase powers in the Order transferred to or benefitting SGN;
- (b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans;

- (e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works;
- (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule; and
- (g) any watching brief pursuant to sub-paragraph 47(6).

(2) There will be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with paragraph 53 to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to SGN by virtue of sub-paragraph (1) will be reduced by the amount of that excess save where it is not possible in the circumstances (or it would be unlawful due to a statutory or regulatory change) to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs will be borne by the undertaker.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus will not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole will be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to SGN in respect of works by virtue of sub-paragraph (1) will, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on SGN any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

Indemnity

49.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works authorised by this Part of this Schedule (including without limitation relocation, diversion, decommissioning, construction, and maintenance of apparatus or alternative apparatus) or in consequence of the construction, use, maintenance or failure of any of the authorised development by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by him) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Part of this Schedule or any subsidence resulting from any of these works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised development) or property of SGN, or there is any interruption in any service provided, or in the supply of any goods, by SGN, or SGN becomes liable to pay any amount to any third party, the undertaker will—

- (a) bear and pay on demand accompanied by an invoice or claim from SGN the cost reasonably incurred by SGN in making good such damage or restoring the supply; and
- (b) indemnify SGN for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from SGN, by reason or in consequence of any such damage or interruption or SGN becoming liable to any third party as aforesaid other than arising from any default of SGN.

(2) The fact that any act or thing may have been done by SGN on behalf of the undertaker or in accordance with a plan approved by SGN or in accordance with any requirement of SGN or under its supervision including under any watching brief will not (unless sub-paragraph (3) applies) excuse the undertaker from liability under the provisions of this sub-paragraph (1) unless SGN fails to carry out and execute the works properly with due care and attention and in a skilful and workman like manner or in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker in respect of—

- (a) any damage or interruption to the extent that it is attributable to the neglect or default of SGN, its officers, servants, contractors or agents; and
- (b) any part of the authorised development carried out by SGN in the exercise of any functions conferred by this Order pursuant to a grant or transfer under article 9 (consent to transfer benefit of Order).

(4) SGN must give the undertaker reasonable notice of any such third party claim or demand and no settlement, admission of liability or compromise must, unless payment is required in connection with a statutory compensation scheme, be made without first consulting the undertaker and considering their representations.

(5) In the event that the undertaker fails to comply with paragraphs 49(5) of this Part of this Schedule, nothing in this Part of this Schedule prevents SGN from seeking injunctive relief (or any other equitable remedy) in any court of competent jurisdiction.

Enactments and agreements

50. Except where this Part of this Schedule provides otherwise, nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and SGN in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

Co-operation

51.—(1) Where in consequence of the proposed construction of any of the authorised development, the undertaker or SGN requires the removal of apparatus under sub-paragraph 45(2) or SGN makes requirements for the protection or alteration of apparatus under paragraph 47, the undertaker must use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of SGN's undertaking and SGN must use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever SGN's consent, agreement or approval is required in relation to plans, documents or other information submitted by SGN or the taking of action by SGN, it must not be unreasonably withheld or delayed.

Access

52. If in consequence of the agreement reached in accordance with sub-paragraph 44(1) or the powers conferred under this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative rights and means of access to such apparatus as will enable SGN to maintain or use the apparatus no less effectively than was possible before such obstruction.

Arbitration

53. Save for differences or disputes arising under sub-paragraphs 45(2), 45(4) and 46(1) any difference or dispute arising between the undertaker and SGN under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and SGN, be determined by arbitration in accordance with article 50 (arbitration)

PART 6

FOR THE PROTECTION OF NATIONAL GRID AS ELECTRICITY UNDERTAKER

Application

54.—(1) For the protection of National Grid the following provisions have effect, unless otherwise agreed in writing between the undertaker and National Grid.

(2) Subject to sub-paragraph (3) or to the extent otherwise agreed in writing between the undertaker and National Grid, where the benefit of this Order is transferred or granted to another person under article 9 (consent to transfer benefit of Order)—

- (a) any agreement of the type mentioned in sub-paragraph (1) has effect as if it had been made between National Grid and the transferee or grantee (as the case may be); and
- (b) written notice of the transfer or grant must be given to National Grid on or before the date of that transfer or grant.

(3) Sub-paragraph (2) does not apply where the benefit of the Order is transferred or granted to National Grid (but see paragraph 64(3)(b)).

Interpretation

55. In this Part of this Schedule—

“alternative apparatus” means appropriate alternative apparatus to the reasonable satisfaction of National Grid to enable National Grid to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means any electric lines or electrical plant as defined in the Electricity Act 1989(a), belonging to or maintained by National Grid together with any replacement apparatus and such other apparatus constructed pursuant to the Order that becomes operational apparatus of National Grid for the purposes of transmission, distribution or supply and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

“authorised works” has the same meaning as is given to the term “authorised development” in article 2(1) (interpretation) of this Order and includes any associated development authorised by the Order and for the purposes of this Part of this Schedule includes the use and maintenance of the authorised works and construction of any works authorised by this Schedule;

“commence” and “commencement” in paragraph 62 and 65 of this Part of this Schedule includes any below ground surveys, monitoring, ground work operations or the receipt and erection of construction plant and equipment;

“deed of consent” means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary or replace existing easements, agreements, and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;

(a) 1989 c. 29.

“functions” includes powers and duties;

“ground mitigation scheme” means a scheme approved by National Grid (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

“ground monitoring scheme” means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities and the extent of ground subsidence which, if exceeded, will require the undertaker to submit for National Grid’s approval a ground mitigation scheme;

“ground subsidence event” means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground monitoring scheme as requiring a ground mitigation scheme;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

“maintain” and “maintenance” includes the ability and right to do any of the following in relation to any apparatus or alternative apparatus of National Grid including construct, use, repair, alter, inspect, renew or remove the apparatus;

“National Grid” means National Grid Electricity Transmission Plc or any successor as a licence holder within the meaning of Part 1 of the Electricity Act 1989;

“plan” or “plans” include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe and assess the works to be executed;

“specified works” means any of the authorised works or activities undertaken in association with the authorised works which—

- (a) will or may be situated over, or within 15 metres measured in any direction of any apparatus the removal of which has not been required by the undertaker under paragraph 60(2) or otherwise; and/or
- (b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under paragraph 60(2) or otherwise.

56. Except for paragraphs 57 (apparatus of National Grid in stopped up streets), 62 (retained apparatus: protection of electricity undertaker) 63 (expenses) and 64 (indemnity) of this Schedule which will apply in respect of the exercise of all or any powers under the Order affecting the rights and apparatus of National Grid, the other provisions of this Schedule do not apply to apparatus in respect of which the relations between the undertaker and National Grid are regulated by the provisions of Part 3 of the 1991 Act.

Apparatus of National Grid in stopped up streets

57.—(1) Where any street is stopped up under article 15 (permanent stopping up and restriction of use of streets and private means of access), if National Grid has any apparatus in the street or accessed via that street National Grid has the same rights in respect of that apparatus as it enjoyed immediately before the stopping up and the undertaker must grant to National Grid, or procure the granting to National Grid of, legal easements reasonably satisfactory to National Grid in respect of such apparatus and access to it prior to the stopping up of any such street but nothing in this paragraph affects any right of the undertaker or National Grid to require the removal of that apparatus under paragraph 60 (removal of apparatus) or the power of the undertaker, subject to compliance with this sub-paragraph, to carry out works under paragraph 62 (retained apparatus: protection of electricity undertaker).

(2) Notwithstanding the temporary stopping up or diversion of any highway under the powers of article 14 (temporary closure and restriction of use of streets), National Grid is at liberty at all times to take all necessary access across any such stopped up highway and to execute and do all such works and things in, upon or under any such highway as may be reasonably necessary or

desirable to enable it to maintain any apparatus which at the time of the stopping up or diversion was in that highway.

Protective works to buildings

58. The undertaker must exercise the powers conferred by article 20 (protective work to buildings) so as not to obstruct or render less convenient the access to any apparatus without the written consent of National Grid (such consent not to be unreasonably withheld).

Acquisition of land

59.—(1) Regardless of any provision in this Order or anything shown on the land plans, the undertaker may not acquire any interest in land or apparatus or override any easement or other interest of National Grid otherwise than by agreement.

(2) As a condition of an agreement between the parties in sub-paragraph (1), prior to the carrying out of any part of the authorised works (or in such other timeframe as may be agreed between National Grid and the undertaker) that is subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement or other legal or land interest of National Grid or affect the provisions of any enactment or agreement regulating the relations between National Grid and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as National Grid reasonably requires enter into such deeds of consent upon such terms and conditions as may be agreed between National Grid and the undertaker acting reasonably and which must be no less favourable on the whole to National Grid unless otherwise agreed by National Grid, and it will be the responsibility of the undertaker to procure and/or secure the consent and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised works.

(3) The undertaker and National Grid agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation and/or removal of apparatus (including but not limited to the payment of costs and expenses relating to such relocation and/or removal of apparatus) and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by National Grid and/or other enactments relied upon by National Grid as of right or other use in relation to the apparatus, then the provisions in this Schedule will prevail.

(4) Any agreement or consent granted by National Grid under paragraph 62 (retained apparatus: protection of electricity undertaker) or any other paragraph of this Part of this Schedule, is not to be taken to constitute agreement under sub-paragraph (1).

Removal of apparatus

60.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in or possesses temporarily any land in which any apparatus is placed, that apparatus must not be removed under this Part of this Schedule and any right of National Grid to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, and is in operation to the reasonable satisfaction of National Grid in accordance with sub-paragraphs (2) to (5).

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to National Grid advance written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order National Grid reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to National Grid to its reasonable satisfaction (taking into account paragraph 61(1) (facilities and rights for alternative apparatus)) the necessary facilities and rights—

- (a) for the construction of alternative apparatus in other land of or secured by, the undertaker;
and
- (b) subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of or land secured by the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed, National Grid must, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances in an endeavour to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation will not extend to the requirement for National Grid to use its compulsory purchase powers to this end unless it elects to so do.

(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between National Grid and the undertaker.

(5) National Grid must, after the alternative apparatus to be provided or constructed has been agreed, and subject to the grant to National Grid of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

Facilities and rights for alternative apparatus

61.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for National Grid facilities and rights in land for the construction, use, maintenance and protection of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and National Grid and must be no less favourable on the whole to National Grid than the facilities and rights enjoyed by it in respect of the apparatus to be removed unless otherwise agreed by National Grid.

(2) If the facilities and rights to be afforded by the undertaker under sub-paragraph (1) in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to National Grid than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the matter may be referred to arbitration in accordance with paragraph 68 (arbitration) of this Part of this Schedule and the arbitrator must make such provision for the payment of compensation by the undertaker to National Grid as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus: protection of electricity undertaker

62.—(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to National Grid a plan of the works to be executed and seek from National Grid details of the underground extent of their electricity tower foundations.

(2) In relation to works which will or may be situated on, over, under or within 15 metres measured in any direction of any apparatus or involve embankment works within 15 metres of any apparatus, the plan to be submitted to the statutory undertaker under sub-paragraph (1) must include a method statement and describe—

- (a) the exact position of the works;
- (b) the level at which these are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal including details of excavation, positioning of plant;
- (d) the position of all apparatus;

- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus;
- (f) any intended maintenance regimes; and
- (g) an assessment of risks of rise of earth issues.

(3) In relation to any works which will or may be situated on, over, under or within 10 metres of any part of the foundations of an electricity tower or between any two or more electricity towers, the plan to be submitted under sub-paragraph (1) must, in addition to the matters set out in sub-paragraph (2), include a method statement including—

- (a) details of any cable trench design including route, dimensions, clearance to pylon foundations;
- (b) demonstration that pylon foundations will not be affected prior to, during and post construction;
- (c) details of load bearing capacities of trenches;
- (d) details of any cable installation methodology including access arrangements, jointing bays and backfill methodology;
- (e) a written management plan for high voltage hazard during construction and ongoing maintenance of any cable route;
- (f) written details of the operations and maintenance regime for any cable, including frequency and method of access;
- (g) an assessment of earth rise potential if reasonably required by National Grid's engineers; and
- (h) evidence that trench bearing capacity is to be designed to support overhead line construction traffic of up to 26 tonnes in weight.

(4) The undertaker must not commence any works to which sub-paragraphs (2) or (3) apply until National Grid has given written approval of the plan so submitted.

(5) Any approval of National Grid required under sub-paragraphs (4)—

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (6) or (8); and
- (b) must not be unreasonably withheld.

(6) In relation to any work to which sub-paragraphs (2) or (3) apply, National Grid may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage, for the provision of protective works or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(7) Works executed under sub-paragraphs (2) or (3) must be executed in accordance with the plan, submitted under sub-paragraph (1) or as relevant sub-paragraph (6), as approved or as amended from time to time by agreement between the undertaker and National Grid and in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs (6) or (8) by National Grid for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and National Grid will be entitled to watch and inspect the execution of those works.

(8) Where under sub-paragraph (6) National Grid requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to National Grid's satisfaction prior to the commencement of any specified works for which protective works are required and National Grid must give notice of its requirement for such works within 42 days of the date of submission of a plan pursuant to this paragraph (except in an emergency).

(9) If National Grid in accordance with sub-paragraphs (6) or (8) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives

written notice to the undertaker of that requirement, paragraphs 54 to 56 and 59 to 61 apply as if the removal of the apparatus had been required by the undertaker under paragraph 60(2).

(10) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of the specified works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph will apply to and in respect of the new plan.

(11) The undertaker will not be required to comply with sub-paragraph (1) where it needs to carry out emergency works but in that case it must give to National Grid notice as soon as is reasonably practicable and a plan of those works and must comply with sub-paragraphs (6), (7) and (8) insofar as is reasonably practicable in the circumstances.

(12) In sub-paragraph (11) “emergency works” means works whose execution at the time when they are executed is required in order to put an end to or to prevent the occurrence of circumstances then existing or imminent (or which the person responsible for the works believes on reasonable grounds to be existing or imminent) which are likely to cause danger to persons or property.

Expenses

63.—(1) Subject to the following provisions of this paragraph, the undertaker must pay to National Grid within 30 days of receipt of an itemised invoice or claim from National Grid all charges, costs and expenses reasonably anticipated within the following three months or reasonably and properly incurred by National Grid in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus which may be required in consequence of the execution of any authorised works including without limitation—

- (a) any costs reasonably incurred by or compensation properly paid by National Grid in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs incurred by National Grid as a consequence of National Grid—
 - (i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 60(3); or
 - (ii) exercising any compulsory purchase powers in the Order transferred to or benefitting National Grid;
- (b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus, where no written diversion agreement is otherwise in place;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans;
- (e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works; and
- (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule.

(2) There will be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with paragraph 68 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to National Grid by virtue of sub-paragraph (1) will be reduced by the amount of that excess save to the extent that it is not possible in the circumstances to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs will be borne by the undertaker.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus will not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole will be treated as if it also had been agreed or had been so determined.

(5) Any amount which apart from this sub-paragraph would be payable to National Grid in respect of works by virtue of sub-paragraph (1) will, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on National Grid any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

Indemnity

64.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any works authorised by this Part of this Schedule or in consequence of the construction, use maintenance or failure of any of the authorised works by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by him) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Part of this Schedule or any subsidence resulting from any of these works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised works) or property of National Grid, or there is any interruption in any service provided, or in the supply of any goods, by National Grid, or National Grid becomes liable to pay any amount to any third party, the undertaker will—

- (a) bear and pay on demand accompanied by an invoice or claim from National Grid the cost reasonably and properly incurred by National Grid in making good such damage or restoring the supply; and
- (b) indemnify National Grid for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from National Grid, by reason or in consequence of any such damage or interruption or National Grid becoming liable to any third party as aforesaid other than arising from any default of National Grid.

(2) The fact that any act or thing may have been done by National Grid on behalf of the undertaker or in accordance with a plan approved by National Grid or in accordance with any requirement of National Grid or under its supervision will not (unless sub-paragraph (3) applies), excuse the undertaker from liability under the provisions of sub-paragraph (1) unless National Grid fails to carry out and execute the works properly with due care and attention and in a skilful and workman like manner or in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph (1) will impose any liability on the undertaker in respect of—

- (a) any damage or interruption to the extent that it is attributable to the neglect or default of National Grid, its officers, servants, contractors or agents;

- (b) any part of the authorised works carried out by National Grid in the exercise of any functions conferred by this Order pursuant to a grant or transfer under article 9 (consent to transfer benefit of Order).

(4) National Grid must give the undertaker reasonable notice of any such third party claim or demand and no settlement, admission of liability or compromise must, unless payment is required in connection with a statutory compensation scheme, be made without first consulting the undertaker and considering their representations.

(5) National Grid must, in respect of any matter covered by the indemnity given by the undertaker in this paragraph, at all times act reasonably and in the same manner as it would as if settling third party claims on its own behalf from its own funds.

(6) National Grid must use its reasonable endeavours to mitigate and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph applies where it is within National Grid's reasonable ability and control to do so and which expressly excludes any obligation to mitigate liability arising from third parties which is outside of National Grid's control and if reasonably requested to do so by the undertaker National Grid must provide an explanation of how the claim has been minimised, where relevant.

Enactments and agreements

65. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and National Grid in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

Co-operation

66.—(1) Where in consequence of the proposed construction of any part of the authorised works, the undertaker or National Grid requires the removal of apparatus under paragraph 60(2) or National Grid makes requirements for the protection or alteration of apparatus under paragraph 62 (retained apparatus: protection of electricity undertaker), the undertaker must use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised works and taking into account the need to ensure the safe and efficient operation of National Grid's undertaking and National Grid shall use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever the undertaker's or National Grid's consent, agreement or approval is required in relation to plans, documents or other information submitted under this Schedule, or agreement is required to be reached between the parties under this Schedule, it must not be unreasonably withheld or delayed.

Access

67. If in consequence of the agreement reached in accordance with paragraph 59(1) or the powers granted under this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative means of access to such apparatus as will enable National Grid to maintain or use the apparatus no less effectively than was possible before such obstruction.

Arbitration

68. Save for differences or disputes arising under paragraphs 60(2), 60(4) and 61(1), any difference or dispute arising between the undertaker and National Grid under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and National Grid, be determined by arbitration in accordance with article 50 (arbitration).

Notices

69. Notwithstanding article 47 (service of notices), any plans submitted to National Grid by the undertaker pursuant to paragraph 62 must be sent to National Grid Plant Protection at plantprotection@nationalgrid.com or such other address as National Grid may from time to time appoint instead for that purpose and notify to the undertaker in writing.

SCHEDULE 10

SPECIAL CATEGORY LAND

Article 39

PART 1

SPECIAL CATEGORY LAND FOR WHICH REPLACEMENT LAND IS PROVIDED

<i>Plot reference number shown on Special Category Land Plans and in the book of reference</i>	
Sheet 2	2/17, 2/17a, 2/17b, 2/20, 2/29
Sheet 3	3/8, 3/11, 3/12, 3/17, 3/21, 3/22, 3/23
Sheet 4	4/5, 4/5a, 4/6, 4/8, 4/9, 4/15, 4/17, 4/18, 4/26, 4/39, 4/59, 4/85, 4/87
Sheet 5	5/1a, 5/5, 5/10, 5/14, 5/19, 5/20
Sheet 6	6/3, 6/7, 6/8
Sheet 11	11/3a, 11/4a, 11/8, 11/8a, 11/27/ 11/28
Sheet 12	12/1, 12/1a, 12/1b, 12/3, 12/14, 12/16, 12/32, 12/33, 12/33a
Sheet 13	13/1b, 13/2a, 13/2b, 13/2c, 13/4, 13/4a
Sheet 28	28/2

PART 2

SPECIAL CATEGORY (RIGHTS) LAND FOR WHICH REPLACEMENT LAND IS PROVIDED

<i>Plot reference number shown on Special Category Land Plans and in the book of reference</i>	
Sheet 2	2/36 ^(*)
Sheet 3	3/32 ^(*)
Sheet 4	4/3c ^(*) , 4/3d ^(*) , 4/4 ^(*) , 4/4a ^(*) , 4/23 ^(*) , 4/31 ^(*) , 4/34 ^(*) , 4/41 ^(*) , 4/43 ^(*) , 4/51a ^(*) , 4/72 ^(*)
Sheet 5	5/1c, 5/1d, 5/7a ^(*) , 5/7c, 5/8a, 5/21, 5/24a, 5/30 ^(*)
Sheet 6	6/1b, 6/9 ^(*) , 6/10 ^(*)
Sheet 11	11/19 ^(*) , 11/19a, 11/21,
Sheet 12	12/1c, 12/4a, 12/5a, 12/5c, 12/5e, 12/6, 12/7, 12/25c, 12/31, 12/34 ^(*) , 12/34b ^(*) , 12/34c ^(*)
Sheet 13	13/2, 13/2e, 13/4c, 13/4d

^(*) In part

PART 3

SPECIAL CATEGORY (RIGHTS) LAND FOR WHICH REPLACEMENT LAND IS NOT PROVIDED

<i>Plot reference number shown on Special Category Land Plans and in the book of reference</i>	
Sheet 2	2/12, 2/12a, 2/13a, 2/36 ^(*)
Sheet 3	3/3a, 3/3b, 3/3d, 3/9, 3/13, 3/16, 3/19, 3/19a, 3/25, 3/26a, 3/27, 3/31, 3/32 ^(*) , 3/37
Sheet 4	4/1, 4/3c ^(*) , 4/3d ^(*) , 4/4 ^(*) , 4/4a ^(*) , 4/4b, 4/10, 4/15a, 4/21, 4/22b, 4/23 ^(*) , 4/30, 4/31 ^(*) , 4/34 ^(*) , 4/37, 4/38, 4/41 ^(*) , 4/43 ^(*) , 4/43a, 4/43b, 4/43c, 4/43d, 4/45a, 4/46, 4/47, 4/47a, 4/47b, 4/47d, 4/48a, 4/49a, 4/51, 4/51a ^(*) , 4/52, 4/54, 4/61, 4/63, 4/67, 4/72 ^(*) , 4/73, 4/75, 4/79a, 4/82, 4/86a
Sheet 5	5/7, 5/7a ^(*) , 5/7d, 5/7e, 5/8, 5/8b, 5/12a, 5/12b, 5/12c, 5/13a, 5/13b, 5/13c, 5/21a, 5/24, 5/30 ^(*)
Sheet 6	6/2, 6/2b, 6/3a, 6/4, 6/4a, 6/4b, 6/9 ^(*) , 6/10 ^(*)
Sheet 11	11/2, 11/3, 11/4, 11/6, 11/19 ^(*) , 11/20, 11/22, 11/22a, 11/23, 11/24, 11/24a, 11/25, 11/25a, 11/29
Sheet 12	12/4, 12/5b, 12/5d, 12/11, 12/12, 12/17, 12/18, 12/23, 12/25, 12/25b, 12/34 ^(*) , 12/34a, 12/34b ^(*) , 12/34c ^(*)
Sheet 13	13/2d, 13/4e, 13/4f, 13/4g, 13/11, 13/14, 13/15
Sheet 20	20/2, 20/3, 20/4
Sheet 21	21/1, 21/1a, 21/2
Sheet 25	25/1
Sheet 26	26/1, 26/2

^(*) In part

PART 4

REPLACEMENT LAND

<i>Plot reference number shown on Special Category Land Plans and in the book of reference</i>	
Sheet 11	11/16, 11/17g
Sheet 12	11/17g
Sheet 27	11/16, 11/17, 11/17a, 11/17b, 11/17c, 11/17d, 11/17e, 11/17f, 11/17g, 27/1
Sheet 28	11/17d, 11/17e, 11/17f, 11/17h, 11/17i, 11/17j,
Sheet 29	11/17h

SCHEDULE 11

Article 46

DOCUMENTS TO BE CERTIFIED

The reference to a document in the table with a numbered regulation is a reference to the regulation as numbered in the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009.

(1) <i>Document</i>	(2) <i>Document Reference</i>	(3) <i>Revision</i>
Applicant's Submission of Tree Protection Plan for Royal Horticultural Society	TR010030/9.140	0
Book of Reference – Regulation 5(2)(d)	TR010030/APP/4.3	3
Crown Land Plans – Regulation 5(2)(n)	TR010030/APP/2.6	3
Engineering Drawings and Sections – Regulation 5(2)(o), 5(4) and 6(2)	TR010030/APP/2.9	1
Environmental Statement – Main Report – Regulation 5(2)(a)	TR010030/APP/6.3	1
Environmental Statement – Figures – Regulation 5(2)(a)	TR010030/APP/6.4	1
Environmental Statement – Appendices– Regulation 5(2)(a)	TR010030/APP/6.5	1
Habitats Regulation Assessment – Regulation 5(2)(g)	TR010030/APP/5.3	2
Land Plans – Regulation 5(2)(i)	TR010030/APP/2.2	3
Location Plan – Regulation 5(2)(o)	TR010030/APP/2.1	1
Outline Construction Environmental Management Plan – Regulation 5(2)(q)	TR010030/APP/7.2	5
Proposed carriageway surface course options Regulation 5(2)(o) Sheet 1 of 1	TR010030/APP/9.22	0
Register of Environmental Actions and Commitments – Regulation 5(2)(q)	TR010030/APP/7.3	4
Report of Proposed Scheme Changes 7 to 9	Figure 5.1 in TR010030/APP/10.12 (Vol 10)	0
Scheme Layout Plans – Regulation 5(2)(o)	TR010030/APP/2.8	3
Special Category Land Plans – Regulation 5(2)(i)(iv)	TR010030/APP/2.5	2
Speed Limits and Traffic Regulations Plans – Regulation 5(2)(o)	TR010030/APP/2.7	1
Statutory Nuisance Statement – Regulation 5(2)(f)	TR010030/APP/5.2	0
Streets, Rights of Way and Access Plans – Regulation 5(2)(k)	TR010030/APP/2.4	1
Temporary Works Plans – Regulation 5(2)(o)	TR010030/APP/2.10	1
Water Framework Directive Assessment Report – Regulation 5(2)(q)	TR010030/APP/5.4	1
Works Plans – Regulation 5(2)(j)	TR010030/APP/2.3	2

EXPLANATORY NOTE

(This note is not part of the Order)

This Order authorises Highways England to undertake works to alter junction 10 of the M25/A3 Wisley interchange, the M25 and the A3 near Wisley in Surrey and carry out all associated works.

The Order permits Highways England to acquire, compulsorily or by agreement, land and rights in land and to use land for this purpose.

The Order also includes provisions in connection with the maintenance of the authorised development.

A copy of the plans, engineering drawings and sections, the book of reference, the environmental statement, the habitats regulations assessment, the Water Framework Directive assessment report, the statutory nuisance statement, the register of environmental actions and commitments and the outline CEMP mentioned in this Order and certified in accordance with article 46 (certification of documents, etc.) of this Order may be inspected free of charge during normal working hours at Highways England, Bridge House, 1 Walnut Tree Close, Guildford, Surrey GU1 4LZ.