

M20 Junction 10a

TR010006

3.3 Consents and Agreements Position Statement

APFP Regulation 5(2)(q)

Revision A

Planning Act 2008

Infrastructure Planning (Applications: Prescribed Forms and
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M20 Junction 10a

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1. Introduction

1.1 Purpose and Objective

- 1.1.1 This paper sets out Highways England's intended strategy for obtaining the consents and associated agreements needed to implement the proposed M20 Junction 10a scheme ("the Scheme").
- 1.1.2 The purpose and objective of this position statement is to identify at a high level what consents are expected to be needed for the Scheme, together with how those consents will be obtained.

1.2 The Scheme

- 1.2.1 The proposed scheme comprises the alteration to the M20 motorway by the creation of a new Junction 10a, which will form part of the motorway, the closure of the eastern slip roads on the nearby existing Junction 10 and the related highway works necessary to allow the new motorway junction to be integrated into the surrounding trunk and classified road network.
- 1.2.2 The new Junction 10a will incorporate a new 2-lane dual carriageway link road to the existing A2070 Southern Orbital Road (Bad Munstereifel Road).
- 1.2.3 An 'Alternative Scheme' includes the provision of new access in the form of a roundabout from the proposed A2070 link road to the proposed Stour Park Development site, located immediately south of the proposed A2070 link road.
- 1.2.4 The Scheme will provide a new pedestrian / cycle bridge over the M20 to the east of the new Junction 10a, providing a link between Kingsford Street on the south side of the motorway to the A20 on the north side.
- 1.2.5 The Scheme also includes a new footbridge to replace the existing non-compliant footbridge over the A2070 at Church Road, and a new retaining wall at Kingsford Street.

2. Strategy

2.1 Consents strategy

2.1.1 The basis of the consents strategy is that:

- A Development Consent Order ("DCO") must be sought as the principal consent for the works (under the Planning Act 2008 ("the Act")) and to provide the necessary land acquisition and temporary possession powers;
- Where possible and practicable, additional consents should be included within the DCO; and
- The proposed scheme has and will be developed on the basis of strong collaboration between the key stakeholders, and agreements will be secured at key stages of project development as necessary.

2.2 Highways England approach

2.2.1 The intent of the Planning Act 2008 and Government policy is to include as many development and construction-related consents as practicable within the DCO. Highways England's approach to consents for the Scheme is therefore to fit within that legislative and policy intent and to include as many consents as practicable within the DCO.

2.2.2 The Scheme benefits from the intent of the Act and Government policy as the majority of the consents required for the construction of the Scheme are in place at the point of the making of the DCO. This minimises the need for any further approvals before the works covered by the DCO can commence.

3. Consents & Agreements

3.1 Consents

- 3.1.1 The principal consent for the proposed scheme will be a DCO. The DCO process enables land acquisition along with many consents and powers to be dealt with at the same time. The DCO application may, however, need to be supplemented by other applications because: (a) a specific consent cannot be contained in the DCO; (b) a consenting authority declines to allow a consent to be contained in the DCO; or (c) it is not desirable or it is inappropriate to include a consent within the DCO due to the stage of design development and thus the detail available.
- 3.1.2 At this point (i.e. the submission of the DCO application) the majority of consents, and all of the powers, required have been included, or addressed, within the DCO as permitted by various provisions of the Planning Act 2008. These fall into the following categories:
- Authorisation of all permanent and temporary works (equivalent of planning permission). None of the following consents need to be addressed on this scheme: scheduled monument consent, listed building consent, conservation area consent, common land consents, SSSI consents, tree preservation orders, hedgerows regulations consent;
 - Compulsory acquisition of land and of rights over land such as easements, and the temporary possession of land;
 - Powers to compulsorily acquire open space and replacement land;
 - Powers to carry out street works and to stop up highways permanently or temporarily;
 - Highway matters (such as designating highway as trunk road);
 - Traffic regulation matters (such as speed limits, clearways and restrictions on use);
 - Powers to stop up and divert public and private rights of way;
 - Consent to erect structures in, over or under a 'main river' (the Aylesford Stream) under the Environment Permitting (England and Wales) Regulations 2010 (as amended);
 - Consent to discharge into an available watercourse under the Environmental Permitting (England and Wales) Regulations 2010 as amended;
 - Consent or approval for the carrying out of the works required under any relevant byelaws made under the Water Resources Act 1991 or the Land Drainage Act 1991;

- Consent to abstract water under the Water Resources Act 1991;
- Consent to remove hedgerows (including any 'important hedgerows');
- Disapplication of any relevant local legislation or byelaws under paragraphs 5, 6 and 6a of schedule 25 of the Water Resources Act 1991; and
- Powers to carry out utility diversions (subject to protective provisions).

3.1.3 A number of the above consents are prescribed in the Infrastructure Planning (Miscellaneous Prescribed Provisions) Regulations 2010. As a result, under section 150 of the Planning Act 2008 the relevant consenting body must agree to the inclusion (i.e. disapplication) of these consents within the DCO. Discussions between Highways England and the Environment Agency will take place in relation to the Environmental Permit and Water Resources Act relate matters mentioned above with a view to the necessary agreements being obtained before or during the examination of its application, in exchange for Highways England proposing to include in the DCO appropriate Protective Provisions, which have been included in Schedule 8 of the draft DCO.

3.1.4 It is likely, however, that certain consents will need to be pursued separately from the DCO, for instance:

- Protected Species Licences – the presence/ likely absence of protected and notable species has been determined by surveys undertaken as part of the Environmental Impact Assessment work.
- The Highways Act 1980 in respect of construction works (e.g. crane oversail licences, hoarding licences, etc) (to be sought by appointed contractor).

3.2 Agreements

3.2.1 Agreements with third parties may be required in parallel to the DCO process. These may emerge from the discussions on Statements of Common Ground (SoCG) referred to below. These will also deal with potential bespoke Protective Provisions to be included within the DCO.

3.2.2 A fundamental part of the DCO process is the preparation and agreement of SoCGs with third parties to identify the matters on which parties are in agreement, in order to narrow the focus for examining the application concerned and to make the examination process more efficient.

3.2.3 Other possible forms of agreement alongside SoCGs are legal agreements regulating land and works powers, undertakings, memoranda of understanding and letters of comfort.

3.2.4 Initial discussions in relation to SoCGs have commenced with the following interested persons and bodies in particular, involving ongoing engagement:

- Natural England;
- Environment Agency;
- Historic England;
- Ashford Borough Council;
- Kent County Council;
- Friends Life, the developers of the Stour Park Development; and
- Southern Gas Networks PLC.