

Application by Highways England for an order granting development consent for the proposed M20 Junction 10a

The Examining Authority's first written questions and requests for information

Issued on 9 December 2016

The following document comprises the Examining Authority's (ExA) first written questions and requests for information. Each question has a **unique reference number** which combines a section number and a question number. **When you are answering a question, please start your answer by quoting the unique reference number.**

Each question makes explicit **which party it is directed at**. The ExA would be grateful if all parties named could answer all questions directed at them, providing either a substantive response, or indicating that the question is not relevant to them for a reason.

It is expected that answers will be given by each party unless an agreed position on relevant matters is to be included in a Statement of Common Ground, or for local authorities the matter is covered in a Local Impact Report.

The direction of questions in this way does not prevent an answer being provided to a question by a person to whom it is not directed, should the question be relevant to their interests.

Unless otherwise stated, the Applicant and other Interested Parties should provide any new or amended documentation prepared in support of the answers to these questions for submission by **16 January (Deadline 3** in the Examination Timetable). All document references have been attributed by the Planning Inspectorate and are taken from the live Examination Library which is available on our website, here:

<http://infrastructure.planninginspectorate.gov.uk/document/TR010006-000396>

If you are answering a limited number of questions, responses in a letter format will suffice. If you are answering several questions, it will assist the ExA if you use a table which reproduces the question and incorporates the referencing conventions used in the questions.

With regard to areas of disagreement with the application, please provide evidence including any counter proposals.

Where an Examination document is referred to within a question, the Examination Library reference is provided in square brackets eg [APP-001]. A list of the acronyms and abbreviations used within this document is provided at [Annex A](#).

1A National Policy Statement for National Networks (NPSNN)

Question number	Question to	Question(s)
<p>Note: The questions included in Section 1A and Section 1B are high level. Responders may cross-refer to other responses if appropriate, and to avoid repetition.</p>		
1.1	Ashford Borough Council (ABC); Kent County Council (KCC)	Having regard to the criteria listed in para 1.2 of the NPSNN, is there any reason why the proposed development should not be determined in accordance with the NPSNN?
1.2	Applicant; ABC; KCC	To what extent would the proposed development deliver the objectives of NPSNN to increase the capacity and improve the performance of the Strategic Road Network?
1.3	Applicant; ABC; KCC	Has an adequate assessment of options been undertaken to comply with the requirement in NPSNN para 4.27?
1.4	Applicant; ABC; KCC	To what extent would the proposed development be sustainable in accordance with NPSNN paras 3.1 to 3.5?
1.5	Applicant; ABC; KCC	To what extent would the proposed development deliver appropriate environmental and social benefits as required by NPSNN para 3.3?
1.6	Applicant; ABC; KCC	Are the local authorities satisfied that the traffic forecasts and economic case for the proposed development have been adequately tested through the local transport model, and that the requirements of paras 4.5 and 4.6 of NPSNN have been met? See also Section 19 of this document.
1.7	Applicant; ABC; KCC	Are the local authorities satisfied that the Applicant has demonstrated good design as required by NPSNN paras 4.28 to 4.35?

1B Local Development Plans

Question number	Question to	Question(s)
1.8	ABC; KCC	Does the Applicant accurately identify the Development Plans and Transport Plans currently in place for each of the local authorities against which the proposed development falls to be assessed?
1.9	ABC; KCC	Do the local authorities agree with the Applicant's assessment of the proposed development against the relevant policies of each Council? If not, please identify any areas of conflict and explain the reasons why the proposed development would be in conflict.
1.10	ABC; KCC	Is the proposed development compatible with regional and local strategies to increase uptake and mode share for public transport, walking and cycling?
1.11	ABC; KCC	Are there any developments which are either proposed in, or in accordance with, Local Plans which might be affected by the proposed development? If so, please identify and explain what the effects would be.
1.12	ABC	Regarding (re) the Stour Park business park development, would ABC state the current position with regard to the application by Friends Life Ltd for planning consent under the Town and Country Planning Act (TCPA) 1990 (as amended) (ABC application reference 14/00906/AS)?

2 Environmental Statement (ES) [APP-029 to APP-208]

The Proposed Scheme - ES Chapter 2 [APP-030]

Question number	Question to	Question(s)
2.1	ABC; KCC	General points: <ul style="list-style-type: none">i. To what extent have the local authorities been involved in the engineering and design of the proposed development?ii. Are the local authorities content with the design as articulated in the application?

		<p>iii. Are the local authorities satisfied that the solution chosen for each of the new bridges is appropriate?</p>
2.2	<p>KCC; Southern Gas Networks (SGN); South East Water (SEW); Southern Water (SW); British Telecom (BT); Applicant</p>	<p>Section 2.3 provides a Description of the Main Scheme:</p> <ul style="list-style-type: none"> i. Re para 2.3.30, Footpaths and Cycleways, would KCC confirm that the proposed development, based on a strategy for the closure of a number of Public Rights of Way (PRoWs) and the construction of alternatives, has been agreed with KCC? ii. Re paras 2.3.40 to 2.3.45, Statutory Undertakers Diversions, are the Statutory Undertakers (SW, SG, SEW) and telecoms service providers (BT and Vodafone) content with the diversions proposed to the services for which they are responsible, and the Statutory Undertaker schedule cited at para 2.6.17? iii. Would the Applicant detail the assessment work that has been undertaken with regard to the diversion of the various utilities, taking into account that the location and the length of the diversion works are stated to be not known at this stage, and state how the assessment work has been reflected in the ES? iv. Re para 2.3.40, the relocation of the Southern Water Pumping Station, this work does not appear to be depicted on ES Figure 2.1 [APP-049] or on the Works Plans [OD-011]. Would the Applicant supply a new or revised figure/ plan to illustrate the location of this feature? v. Re para 2.3.41, diversion of high pressure gas main, the ES states that this diversion would be the responsibility of SGN, and the power to undertake this work is sought in Work 22 of the draft Development Consent Order (dDCO) [OD-008]. It is unclear whether the ES has assessed the impacts of this work as part of the development for which consent is sought, or whether this Work would in fact be delivered outside of the DCO process. Would the Applicant clarify this point? vi. Re paras 2.3.42 to 2.3.46, Statutory Undertaker Diversions, the ES does not provide any clarity as to whose responsibility it would be to undertake the works. Would the Applicant identify these responsibilities, and how these responsibilities would relate to the powers which would be given to Highways England through the dDCO to deliver these works? vii. Re para 2.3.43, diversion of the UK Power Networks apparatus and the required new substation, this substation does not appear to be depicted on ES Figure 2.1 [APP-049] or on the Works Plans [OD-011]. Would the Applicant supply a new or revised figure/ plan to illustrate the location of this feature?

2.3	All Interested Parties (IPs); Natural England; Applicant	<p>Section 2.5 addresses Environmental Mitigation Design Measures:</p> <ul style="list-style-type: none"> i. Further to the matters raised as part of their relevant representations, are IPs content with the proposed mitigation measures for Nature Conservation (Natural England, other IPs), Landscape Design (IPs), Noise (IPs), Replacement Open Space (IPs)? ii. Re para 2.5.10, acoustic bund to the rear of Summerhill Place, the height of this bund is not specified. Would the Applicant specify the dimensions of this bund as used for the purposes of the ES assessment? iii. Re para 2.5.11, would the Applicant state how the thin surface course will be secured in the dDCO [OD-008]?
2.4	ABC; KCC; Applicant; all IPs	<p>Section 2.6 considers the Construction of the Scheme:</p> <ul style="list-style-type: none"> i. Would IPs identify any areas in which they are not content with the Applicant's proposals for the construction strategy, access, construction compounds, and outline Construction Environmental Management Plan (oCEMP) [APP-204]? ii. Re paras 2.6.5 to 2.6.7, core working hours and need for night time works, a greater number and range of activities which could be undertaken at night are specified in dDCO Requirement 3(2)(e) [OD-008] in comparison to the works described within the ES. Would the Applicant clarify how all night time works specified in the dDCO have been assessed in the ES, including the assumptions made to inform the assessment? iii. Re para 2.6.6, night time working hours, the anticipated hours of the night time works are set out here, but these working hours are not reflected in the dDCO [OD-008]. Would the Applicant state how these night time working hours will be secured in the dDCO? Would the Applicant, ABC and KCC state whether these timings have been agreed between them? iv. Re para 2.6.10, presence and use of main construction compound, would the Applicant provide evidence to demonstrate how all assumptions made in this para have been secured in the dDCO and/ or specific sections of the oCEMP [APP-204] (and the same in respect of the other temporary construction compound)? v. Re para 2.6.16, PRoWs, would the Applicant clarify the assumptions that have been made with respect to temporary footpath diversions for the purpose of assessing effects on PRoW users on a worst case basis?

2.5	KCC; Applicant	<p>Section 2.7 considers the Maintenance and Management Measures:</p> <ul style="list-style-type: none"> i. Would KCC, as the relevant local Highway Authority, confirm its agreement with the maintenance and management responsibilities as outlined in this section? ii. Would the Applicant provide a detailed description of the maintenance and management requirements, including the assumptions that have informed the assessment and how these would be secured in the dDCO [OD-008]?
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Consideration of Alternatives - ES Chapter 3 [APP-031]

Question number	Question to	Question(s)
3.1	ABC; KCC	Would the local authorities confirm that they are content with the scheme need and objectives as articulated in sections 3.2 and 3.3, respectively? Please identify any disagreement, with counter proposals supported by evidence.
3.2	ABC; KCC	Would the local authorities confirm that they are content with the process used to identify the proposed development (the Main Scheme and the Alternative Scheme) as articulated in section 3.4? Please identify any disagreement, with counter proposals supported by evidence.

Environmental Impact Assessment Methodology - ES Chapter 4 [APP-032]

Question number	Question to	Question(s)
4.1	Applicant; ABC; KCC	<p>Section 4.7 considers Mitigation Measures and Enhancements in general, which are then addressed by individual topic:</p> <ul style="list-style-type: none"> i. Since it would appear that the level of significance of effects has not been assessed both before and after the implementation of mitigation (with reference to established EIA methodology guidance), would the Applicant explain how the nature and extent of the worst case potential effects of the proposed development will be known, if the proposed mitigation measures fail satisfactorily to mitigate the potential impacts? Local authorities are also invited to comment on the Applicant's approach in this respect. ii. Would the Applicant confirm and justify the confidence levels that the proposed mitigation measures would be successful (with particular reference to the Register of Environmental

		<p>Actions and Commitments set out in Appendix D of the oCEMP [APP-204])?</p> <p>iii. Would ABC and KCC state whether the proposed mitigation approach includes sufficient ongoing monitoring of the mitigation strategies to provide for early identification of any circumstances whereby the mitigation measures are not proving to be successful and the actions that would be taken to address this?</p>
4.2	Applicant	<p>Section 4.8 states that the baseline year for the assessment is topic specific:</p> <p>i. To assist the Examination, would the Applicant summarise the variation of the baseline year throughout the individual topic assessments in the ES?</p>

Air Quality - ES Chapter 5 [APP-033]

Question number	Question to	Question(s)
5.1	Applicant; ABC; KCC; Environment Agency; Public Health England	<p>Having regard to the judgment of the High Court on 2 November 2016¹ in which the Court found in favour of the Claimant (ClientEarth) and against the Defendant (the Secretary of State for Environment, Food and Rural Affairs (SoSEFRA)), and quashed Defra's Air Quality Plan (AQP) of December 2015²:</p> <p>i. Would the Applicant state whether the air quality modelling used in the preparation of ES Chapter 5 is in any way affected by the quashing of the AQP or the critique in the judgment of the modelling used by Defra, and explain why this is indeed the case (or not) with particular reference to assumptions made in relation to emissions from Euro 6 diesel cars and the COPERT calculation factors?</p> <p>ii. Will the judgment's conclusion in para 95(ii), that the relevant Secretary of State fell into error in relation to Article 23 of Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008, in fixing on a projected compliance date of 2020 (2025 for London) (or any other parts of the Judgment) have any implications for the air quality assessment and conclusions presented in Chapter 5 of the ES, particularly in relation to the Compliance Risk Assessment described in paras 5.8.18 to 5.8.19 of that chapter?</p> <p>iii. If so, what is the likely timescale for the preparation and submission to the Examination</p>

¹ <https://www.judiciary.gov.uk/judgments/clientearth-v-secretary-of-state-for-the-environment-food-and-rural-affairs/>

² <https://www.gov.uk/government/collections/air-quality-plan-for-nitrogen-dioxide-no2-in-uk-2015>

		<p>of any revised assessments and documents now needed?</p> <p>iv. What is the response of the local authorities and Statutory Parties (the Environment Agency, Public Health England) to this judgment in terms of the air quality assessment for the proposed development?</p> <p>The ExA is aware that a High Court Order has been made requiring the SoSEFRA to publish a draft modified Air Quality Plan by 4:00pm on 24 April 2017 and a final modified Air Quality Plan to be published and notified to the European Commission by 4:00pm on Monday 31 July 2017.</p> <p>Following such publication of a draft plan, the ExA may need to ask further questions as to the extent to which it may affect the Applicant's previous assessment(s), the application documents or any other representations made as part of the Examination. The ExA is also aware that the deadline for publication and notification to the European Commission of the final modified Air Quality Plan in July 2017 post-dates the anticipated closure of the examination in June 2017. The ExA will not have been able to take this into account if its publication is after the close of the Examination, but it will be a matter for the Secretary of State for Transport to take it into account as he sees fit before making his decision.</p>
5.2	Applicant; ABC; KCC	<p>Section 5.3 sets out the method of assessment for air quality, based on the Design Manual for Roads and Bridges (DMRB) and several of Highways England's Interim Advice Notes (IANs).</p> <p>i. Would the Applicant and the local authorities state whether the study area and the scope of the assessment of construction and operational effects have been discussed and agreed between them, with reference to any relevant evidence to support this agreement?</p> <p>ii. Would the Applicant clarify the reasons for the withdrawal of the IAN175/13 guidance and, in light of its withdrawal, comment on the relevance and reliance that can be placed on the air quality assessment?</p> <p>iii. Re para 5.3.7, would the Applicant confirm whether the stated 234 movements are two-way or one-way and what proportion of light-duty/ heavy-duty vehicles has been assumed?</p> <p>iv. As the ES reports that the haul route locations are unknown at this stage, and the estimated construction traffic route distribution may therefore be subject to change, would the Applicant provide, with reference to evidence within the Transport Assessment [APP-210], its justification for how the decision to scope out construction traffic air quality effects from further assessment has been made on the basis of a worst case scenario (particularly given that 234 movements is stated as being "<i>average</i>" flows during the</p>

		<p>construction period)? In doing so, would the Applicant respond to the comments raised by ABC at para 5.2 of its Relevant Representation [RR-002] and the potential need for further assessment under DMRB for the construction phase?</p> <p>v. Para 5.3.27 states that, whilst traffic data for the future years of 2023 and 2033 are available, an assessment of the future years has not been undertaken because the 2018 opening year assessment is judged to result in the greatest potential effects due to the expected improvements in vehicle emission standards and background pollutant concentrations. Would the Applicant provide evidence to demonstrate that this is indeed the case, and that the predicted improvement of vehicle emission standards outweigh the growth in traffic volumes, particularly in the context of the recent high court judgment as cited in Q5.1 in this document?</p> <p>vi. Re paras 5.3.62 to 5.3.65, which present the criteria for assessing the effects on human health, would the Applicant clarify whether all the receptors identified are 'properties' (ie residential receptors), or if other receptors are identified (eg public buildings such as schools, hospitals) whether the same criteria apply?</p> <p>vii. Given that the local air quality assessment is not assessing future trends and only 2018 as a worst case (see ES paras 5.3.35 to 5.3.45), would the Applicant clarify why the regional air quality assessment is subject to a long term assessment (as set out at para 5.3.71)?</p>
5.3	ABC; Applicant	<p>Re Section 5.4, Consultation:</p> <p>i. Would the Applicant and ABC confirm their views as to whether there are any Air Quality Management Areas (AQMAs) within the vicinity of the proposed development that could be affected by it?</p>
5.4	Applicant; ABC	<p>Section 5.6, Baseline Information, records the sources of information that have been used in defining the baseline conditions against which the proposed development's air quality impacts have been assessed.</p> <p>i. Would the Applicant and ABC provide an update on any further discussions between them on this issue, and explain the significance to the proposed development of the monitored exceedances of the annual mean NO₂ limit value of 40 µg/m³ in 2014 as reported in Table 5.9: Scheme Specific Monitoring Results?</p>

5.5	Applicant	<p>Section 5.7, Mitigation and Compensation Measures, refers to measures to be included in the oCEMP [APP-204], and also concludes that <i>“The results of the air quality assessment completed for this scheme (presented in Section 5.8) demonstrates that it does not have a significant air quality impact and nor does it affect reported compliance with the Air Quality Directive and therefore mitigation is not required”</i>.</p> <ul style="list-style-type: none"> i. Would the Applicant explain how it intends to verify the validity of the assessments during the operational period? ii. With the ClientEarth judgment in mind (see Q5.1 in this document), how does the Applicant intend to monitor the actual concentrations of NO₂ during long term operation of the proposed development in satisfying the tests in para 5.13 of the NPSNN, securing compliance with EU limit values and helping to safeguard against any harmful impacts on human health (para 5.7.105)?
5.6	Applicant; ABC; KCC	<p>Section 5.8, Predicted Air Quality Effects:</p> <ul style="list-style-type: none"> i. Since tables 5.13 and 5.20 identify a number of receptors that are predicted to have NO₂ values in excess of the limit value of 40 µg/m³, while tables 5.26 and 5.27 state that there are no receptors where the magnitude of change in air quality would result in a significant effect as a result of the main scheme or alternative scheme, would the Applicant explain its approach to these exceedances in the context of the IAN 174/13 criteria? ii. Would the local authorities identify any areas in which they are not content with the conclusions stated in Table 5.28: Overall Evaluation of Local Air Quality Significance, which essentially states that there are no overall significant effects in relation to any of the key criteria questions? iii. Para 5.8.16 of the ES states that annual mean PM10 concentrations are predicted to be well below the relevant objectives for both the ‘do minimum’ (DM) and ‘do something’ (DS) scenarios, and therefore no significant effects are predicted. Would the Applicant clarify which receptors were considered in respect to the assessment of PM10 vehicle emissions for both the main and the alternative schemes given that para 5.3.15 of the ES states that the assessment will only consider the worst affected receptors only? iv. Would the Applicant clarify the impact of the withdrawal of the IAN175/13 guidance on the outcomes of the compliance risk assessment process as described in paras 5.8.18 to 5.8.19 and elsewhere?

		<ul style="list-style-type: none"> v. Only a single pollution climate mapping (PCM) link is captured as part of the modelling on the basis that, where changes in NO₂ concentrations are less than 0.4µg/m³, impacts are imperceptible. Regardless of these 'imperceptible' changes, would the Applicant confirm the number of links (and present the relevant information) for any such links where the equivalent PCM (based on the Applicant's receptor results) is greater than 40µg/m³? vi. Re para 5.8.55, would local authorities identify any areas in which they are not content with the conclusions stated in Table 5.29: Regional Impacts, which shows modest reductions in NO_x and PM10 between the 2018 DM and DS scenarios, and likewise for 2033, but a 30% reduction in NO_x between 2014 and 2018 and a 62% reduction between 2014 and 2033?
5.7	Applicant	<p>Re Section 5.9, Conclusions:</p> <ul style="list-style-type: none"> i. Would the Applicant provide details of the extent to which the local authority Environmental Health Officers and/ or Air Quality Officers have been consulted on the assessment set out in ES Chapter 5?

Cultural Heritage - ES Chapter 6 [APP-034]

Question number	Question to	Question(s)
6.1	Applicant	<p>Section 6.7, Baseline Information, records the sources of information that have been used for the baseline in terms of the site conditions (geology, topography, designated heritage assets and historic landscapes), walkover survey, and historic landscape features and characterisation, while Section 6.8 considers the Archaeological and Historical Background.</p> <ul style="list-style-type: none"> i. Would the Applicant indicate where the cited Geophysical Survey Report undertaken in 2010, and Archaeological Walkover Survey, Metal Detecting Survey and Trial Trenching Report undertaken in 2012 are located within the application documents or, if not already provided, submit these documents to the Examination?
6.2	Applicant; KCC	<p>Section 6.9, Mitigation and Compensation Measures, and Section 6.10, Predicted Cultural Heritage Effects refer to Table 6.8 Predicted Temporary Construction Effects of the Main Scheme, Table 6.9 Predicted Permanent Construction Effects of the Main Scheme, and Table 6.10 Predicted Operational Effects of the Main Scheme.</p> <ul style="list-style-type: none"> i. In its Relevant Representation [RR-026], KCC made specific comments on the cultural

		heritage assessment; for example, KCC considers that the areas north of St Mary's church should be subject to further archaeological evaluation, and also that more effort should be made to determine whether the Grade II listed milestone is indeed no longer present as stated by the Applicant. Would the Applicant and KCC discuss and confirm what progress has been made towards reaching agreement on these matters?
6.3	ABC; KCC; Applicant	<p>Section 6.11, Conclusions, records the Applicant's position with regard to the Grade I Listed St Mary's Church at Sevington, the core of Sevington comprising the Grade II Listed Court Lodge and Barn, the Grade II Listed Ransley Cottage, Redbur and Redbur Barn on Kingsford Street, and some archaeological remains.</p> <ul style="list-style-type: none"> i. Would local authorities identify any areas in which they are not content with the conclusions stated in this section? ii. As set out in its Relevant Representation [RR-018], Historic England does not consider that the assessment as presented in the ES provides all of the information required to determine the precise nature or extent of the harm to the setting of the Grade I listed St Mary's Church, Sevington. This view appears to be shared by the councils in their Relevant Representations [RR-001, RR-026], with a particular focus on ensuring the delivery of suitable mitigation. Would the Applicant provide a response in addressing the concerns of Historic England and the councils in relation to St Mary's Church?
Landscape - ES Chapter 7 [APP-035]		
Question number	Question to	Question(s)
7.1	ABC; KCC; Applicant	<p>Section 7.5, Baseline Information, records the sources of information that have been used for the baseline, including relevant designations, national and local landscape character, and the visual baseline.</p> <ul style="list-style-type: none"> i. Would the local authorities identify any areas in which they disagree with the baseline information? ii. Would the Applicant confirm whether the selection of viewpoints was agreed in consultation with the local planning authorities and other relevant stakeholders?
7.2	Applicant; ABC	Section 7.7, Predicted Effects, outlines anticipated impacts on designated sites, effects on the landscape character areas, and visual effects, during both construction and operation.

		<ul style="list-style-type: none"> i. There are a number of points raised by ABC in its Relevant Representation [RR-001] which relate to landscape and visual assessment matters including: <ul style="list-style-type: none"> a. Significance of landscape effects on adjacent landscape character areas; b. Assessment of visual receptors limited by ancillary aspects of the proposals not sufficiently being taken into account; c. Sufficiency of mitigation planting proposals; d. Opportunities to improve access and connectivity between Ashford and the wider countryside; e. The extent to which existing established landscaping will be removed; f. Assurances over indicative planting schedule and clarity of final detailed planting strategy; g. Number and location of photomontages; h. Impacts on views to / from St Mary's Church at scheme opening; i. Reference to the Ashford Green and Blue Grid strategy in scheme design/ mitigation; j. Alternative scheme assessment (and its potential intensification of effects overall); k. Visual screening of acoustic barriers; and l. Clarifications on physical loss of trees, vegetation, grassland and arable land. <p>Would the Applicant respond to these specific points and, where necessary, submit any additional information or clarifications to the Examination?</p> ii. The ExA is also interested in the pathways to resolution of these matters through the course of the Examination. Would the Applicant and ABC comment in this regard?
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Nature Conservation - ES Chapter 8 [APP-036]

Question number	Question to	Question(s)
8.1	Applicant	<p>Section 8.1 Introduction:</p> <ul style="list-style-type: none"> i. Para 8.1.2 states that the assessment methodology follows the DMRB Volumes 10 and 11 and the Chartered Institute of Ecology and Environmental Management (CIEEM)

		<p>Guidelines for Ecological Impact Assessment in the UK (2006). New CIEEM guidance was published in January 2016. Would the Applicant state why the 2016 guidelines were not used, and what (if any) would have been the implications on the assessment conclusions had the 2016 guidance been used, rather than the 2006 guidance?</p> <p>ii. Would the Applicant state its definition of a worst case scenario adopted for the purposes of the ecological assessment for both the main and alternative schemes (with reference to the design as set out in the dDCO [OD-008], Works Plans [OD-011] and General Arrangement Plans [APP-010])?</p>
8.2	Natural England; ABC; KCC	<p>Section 8.5, Assumptions and Limitations, refers to five site surveys, and points to Appendices 8.1, 8.2 and 8.3, Volume 6.3 [APP-175 to APP-178] for pertinent constraints or limitations to the surveys.</p> <p>i. Would Natural England and the local authorities identify any specific areas of concern as to the content of this section, in particular the level of the survey effort?</p>
8.3	Natural England; Applicant; ABC; KCC	<p>Section 8.6, Baseline Information, lists the surveys that have been undertaken, including designated sites, habitats, and protected species, together with an assessment of value and decisions on whether to include or exclude.</p> <p>i. Would Natural England confirm agreement (or otherwise) as to whether the Applicant has screened all of the relevant European sites into its Assessment of Impacts on European Sites (AIES) report [APP-208]; and with reference to tables 5.3 to 5.10 of the AIES [APP-208], whether it has identified the correct qualifying features/ interests for each European site? If not, would Natural England identify which European sites and qualifying features/ interests are not accurately reflected in the AIES and confirm the correct European sites and their qualifying features/ interests?</p> <p>ii. Would the Applicant confirm that it will submit at Deadline 4 an updated version of the AIES or of tables 5.3 to 5.10, as appropriate, in the event that Natural England identifies, in its response to question (i), any discrepancies with the European sites and/ or qualifying features/ interests screened into the AIES?</p> <p>iii. Would Natural England confirm agreement (or otherwise) with the Applicant's conclusion as presented in its AIES [APP-208] that the proposed development would not result in any likely significant effects, either alone or in-combination with other plans or projects, on any of the following European sites: Stodmarsh Ramsar; Stodmarsh Special Protection Area (SPA); Stodmarsh Special Area of Conservation (SAC); Thanet Coast and Sandwich Bay Ramsar; Thanet Coast and Sandwich Bay SPA; Thanet Coast SAC; Sandwich Bay</p>

		<p>SAC; and Wye and Crundale Downs SAC?</p> <p>iv. Would Natural England and the Applicant confirm (or otherwise) that an Appropriate Assessment is not required?</p> <p>v. Re designated sites, Table 8.6, these sites are not annotated on the Environmental Constraints Plan, Figure 2.3 [APP-051], so it is unclear which site is which. Would the Applicant provide a revised version of Figure 2.3 which clearly labels each of the sites?</p> <p>vi. Re Table 8.9, Ashford Green Corridor Local Nature Reserve (LNR) and Highfield Lane Roadside Nature Reserve (RNR) both lie partially within the DCO boundary. The proposed development would result in the permanent loss of 0.12ha of broadleaved woodland and amenity grassland habitats within the Ashford Green Corridor LNR and the permanent loss of 0.02ha of semi-improved grassland habitat within the Highfield Lane RNR. Would the local authorities state whether they are in agreement that appropriate mitigation measures are proposed and secured in the dDCO [OD-008] to mitigate for the loss of these habitats?</p>
8.4	Applicant	<p>Section 8.7, Mitigation and Compensation Measures, outlines measures to be employed during construction and operation for designated sites, habitats and protected species.</p> <p>i. Re para 8.7.24, two receptor sites for reptiles are proposed – the M20 London bound highway verge and the M20 coast bound verge to the east. In its Relevant Representation [RR-026], KCC has raised a concern that the London bound verge is regularly cut and is therefore unsuitable for reptiles. Would the Applicant identify the precise locations of the reptile receptor sites on a plan, confirm whether these are located inside the dDCO boundary, and respond to KCC’s comments regarding the suitability of the London bound verge as a receptor site for reptiles given the current management regime?</p>
8.5	Applicant; Natural England	<p>Section 8.8, Predicted Nature Conservation Effects, discusses anticipated impacts both during construction and operation, and Table 8.14 provides a summary of the predicted impacts with residual effects.</p> <p>i. Would the Applicant confirm whether draft European Protected Species (EPS) licences for dormouse and great crested newt and a draft mitigation licence for badger have been submitted to Natural England? If draft applications have not yet been submitted to Natural England, when is it anticipated that these will be submitted?</p> <p>ii. Is Natural England satisfied that the proposed mitigation measures are sufficient to maintain the favourable conservation status of the dormouse and great crested newt</p>

		populations? iii. Does Natural England anticipate that it will be able to issue Letters of No Impediment (LoNI) for dormouse, great crested newt and badger?
8.6	Applicant	Section 8.9, Conclusions, states that mitigation would ensure that there are no significant residual effects on any key or protected ecological receptors within the Zone of Influence (ZoI), and a slight beneficial effect for nature conservation at the local level is predicted overall. Para 8.9.4 refers to long term habitat monitoring, and states that reptile and dormouse monitoring would be undertaken to monitor the populations present. i. Would the Applicant provide more detail, including when and how this monitoring would be undertaken, who would be responsible, how it would be secured, and whether the approach has been discussed and agreed with the relevant bodies (the local authorities, Natural England)?
Geology and Soils - ES Chapter 9 [APP-037]		
Question number	Question to	Question(s)
9.1	Applicant	Section 9.6, Baseline Information, identifies the spatial scope, temporal scope, data sources, topography, regional geology, regional soils, minerals, regional environmentally sensitive sites, hydrology and hydrogeology, historical and current land use, and contamination and waste. i. Would the Applicant make available the borehole and trial pit logs for exploratory hole positions as described in the Environment Agency's Relevant Representation [RR-11]?
9.2	Applicant	Section 9.7, Mitigation and Compensation Measures, outlines measures to be employed during construction and operation, referring also to the Contaminated Land Desk Study and Preliminary Interpretative Report [APP-211]. i. Would the Applicant confirm how the mitigation measures identified in section 9.7 alongside the oCEMP [APP-204], MMP and any future remediation strategy are all secured through the dDCO [OD-008]?
9.3	Environment Agency	Section 9.8, Predicted Geology and Soils Effects, discusses anticipated impacts both during construction and operation, and Table 9.7 summarises proposed mitigation measures and anticipated effects following the implementation of mitigation.

		<ul style="list-style-type: none"> i. Would the Environment Agency expand on the reference to historic landfill at Section 2.2 of its Relevant Representation [RR-011]? ii. If further ground investigation is considered necessary (and contamination risk assessments updated accordingly), are the current provisions of the dDCO [OD-008] suitable to secure the delivery of such additional works?
Materials - ES Chapter 10 [APP-038]		
Question number	Question to	Question(s)
10.1	Applicant	<p>Section 10.5, Assumptions and Limitations, lists the main assumptions and limitations to the approach to materials and waste management</p> <ul style="list-style-type: none"> i. Would the Applicant provide an outline Site Waste Management Plan (SWMP) as a framework for the SWMP to be developed by the Principal Contractor for the management and disposal of any waste generated during the site remediation/ preparation and construction phases of the Main Scheme or the Alternative Scheme?
10.2	Applicant	<p>Section 10.8, Predicted Effects on Materials, includes tables containing estimates of material use, waste arisings and carbon calculations.</p> <ul style="list-style-type: none"> i. Re earthworks, while the estimated cut and fill volumes are set out in paras 10.8.6 and 10.8.18, the ES does not include a description of the key earthworks that would be required to facilitate the development and which form the basis of the relevant assessments in the ES (eg Traffic and Transport and Materials). Would the Applicant provide a detailed description of the earthworks required to facilitate the development, including the assumptions which have formed the basis of the assessment, and the cut and fill volumes, presented in the ES? ii. Re tables 10.8, 10.9, 10.12 and 10.13, assessment of material resource and waste arisings, would the Applicant state the assumptions used for the calculation of the information within these tables, provide any update since the stated date of March 2016, and provide evidence to demonstrate that this information represents a worst case scenario where used to inform other assessments within the ES, for example the traffic and transport assessment?

Noise and Vibration - ES Chapter 11 [APP-039]

Question number	Question to	Question(s)
11.1	Applicant; ABC; KCC	<p>Section 11.3 sets out the method of assessment for noise and vibration, based on the DMRB, World Health Organisation sources and other sources.</p> <ul style="list-style-type: none"> i. Would the Applicant and local authorities confirm whether the study area for the assessment of both construction and operational effects has been agreed between them?
11.2	Applicant	<p>Section 11.5, Assumptions and Limitations, lists the main assumptions and limitations to the modelling for noise and vibration – the noise survey, best available construction information, traffic data, the definition of residential receptors, and the proposed use of low noise surfacing.</p> <ul style="list-style-type: none"> i. Would the Applicant detail its plans and timetable for the introduction of thin surface course (low-noise surfacing) on all roads within the Strategic Road Network within the proposed development, and the impact of the plans on the modelled results?
11.3	Applicant; ABC; KCC	<p>Section 11.6, Baseline Information, records the sources of information that have been used for the baseline in terms of the local environment and the baseline survey.</p> <ul style="list-style-type: none"> i. Would the Applicant clarify any DMRB references or other guidance/ criteria against which the baseline survey data has been undertaken? ii. Would the Applicant and the local authorities state whether the baseline for the assessment of noise and vibration has been agreed between them, including the scope of the noise survey and the monitoring locations, for both the construction and operational phases of the scheme? iii. Para 11.6.3 states that, in relation to baseline conditions "<i>there are absorptive acoustic barriers alongside the A2070 on its approach to junction 10 and continuing for some distance around the interchange towards Hythe Road</i>". Would the Applicant confirm the extent to which these existing barriers will be affected by the proposed development and the extent to which their assumed level of performance has been considered as part of the construction and operational assessments presented in the ES?
11.4	Applicant; ABC; all IPs	<p>Section 11.7, Mitigation and Compensation Measures, refers to measures to be introduced as part of the proposed development during both construction and operation.</p>

		<ul style="list-style-type: none"> i. Would the Applicant summarise (with reference to section 11.7 of the ES and Appendix D of the oCEMP [APP-204]) how these measures would be secured in the dDCO [OD-008]? ii. Re para 11.7.2, would ABC state why it has asked for the A20 to remain surfaced with hot rolled asphalt rather than thin surface course (low-noise surfacing)? iii. Re para 11.7.2, which states that bunds 2m high will be employed, and para 11.7.4 which states that "<i>a 3m height barrier would ensure no properties are at or above SOAEL</i>" but that this "<i>may be optimised at detailed design to include elements of 2m height at either end of the extents</i>", would the Applicant clarify what has been assessed as part of the ES and how it would be secured by the dDCO [OD-008] through the Works Plans [OD-011], particularly where specifics of dimensions and the like are to be left to the detailed design stage? iv. There appears to be no reference to any ongoing operational noise monitoring. Would the Applicant justify the omission of such monitoring, and would IPs state, with evidence, whether such provision should be made as part of the dDCO [OD-008]?
11.5	ABC; Applicant	<p>Section 11.8, Predicted Noise and Vibration Effects, summarises the predicted noise and vibration effects during construction and operation for the main and alternative schemes for the do minimum and do something scenarios.</p> <ul style="list-style-type: none"> i. Would ABC confirm its agreement to "<i>standard working hours</i>" and "<i>exception to these hours</i>" in Section 11.8.4, and securing of these working hours through the oCEMP [APP-204] and dDCO [OD-008]? ii. Would the Applicant clarify what noise and vibration limits are proposed during construction, having regard to the levels that have been assessed within the ES, and how these would be controlled through the requirements of the dDCO [OD-008]? iii. Would the Applicant identify the specific requirements relied upon in the dDCO to control noise and vibration during night-time working? iv. Re para 11.8.18 and tables 11.8 and 11.9, would the Applicant state whether the combined effect of construction noise and construction traffic noise has been taken into account, and the extent to which these combined effects could be experienced at any of the identified receptor points? v. Would the Applicant confirm that tables 11.11, 11.12, 11.16 and 11.17 have all been correctly titled, as 11.16 and 11.17 have the same title, and 11.17 and 11.12 do not appear to be consistent between the main and alternative schemes?

		vi. Would the Applicant clarify the significance of night-time effects predicted in relation to the operational main and alternative schemes as reported in tables 11.11, 11.12, 11.16 and 11.17, where there are eight dwellings for which a long term increase is predicted to be above 3dB LA10, 18h for the main scheme (Table 11.11), and the same is true of the alternative scheme for two dwellings (Table 11.16)?
11.6	Applicant; ABC; KCC	<p>Section 11.9, Conclusions, summarises the Applicant's conclusions with regard to the noise and vibration effects of the proposed development.</p> <p>i. Would the Applicant and local authorities state to what extent the local authority Environmental Health Officers been consulted on the assessment set out in ES Chapter 11?</p> <p>ii. Para 11.9.11 states that no significant adverse residual effects have been identified, but "<i>where significant adverse impacts have been predicted in the vicinity of both Schemes, these have been avoided through design and mitigation in the form of the acoustic barriers and a thin road surface course</i>". Table 11.20 summarises significant adverse effects (ie those of moderate or greater significance) as - short term: 30 (main scheme) and 8 (alternative scheme); long term: 10 (main scheme) and 1 (alternative scheme). Would the Applicant clarify the units of measurement in Table 11.20, ie are they individual properties, representative receptors or otherwise?</p> <p>iii. Would the Applicant clarify on what basis Section 11.9 concludes no significant residual effects are identified, whereas Table 11.20 identifies moderate adverse effects for the main and alternative schemes in both the short term and long term assessments with the scheme(s)?</p>
Effects on all Travellers - ES Chapter 12 [APP-040]		
Question number	Question to	Question(s)
12.1	Applicant	Would the Applicant confirm that the term " <i>travellers</i> " in the title of Chapter 12 refers to drivers, non-motorised users, and users of PRoWs, footpaths and cycle paths, and not to gypsies, Romany travellers or others with a similar itinerant lifestyle?
12.2	Applicant	Section 12.3 sets out the method of assessment for the effects on all travellers, including the study area, and significance criteria (for non-motorised users (NMUs) and driver stress), based

		<p>on the DMRB, IANs and other sources.</p> <p>i. Did the Applicant develop a safety baseline and hazard log to identify sources of potential road risk, and if so can they be made available to the Examination?</p>
12.3	Applicant; ABC; KCC	<p>Section 12.6, Baseline Information, identifies NMU amenities (including existing PRoWs, footpaths, and cycle routes), baseline NMU surveys, and vehicle travellers.</p> <p>i. Would the Applicant provide to the Examination the Road Safety Audit of May 2016 (cited in section 7.15 in the Transport Assessment [APP-210])?</p> <p>ii. What is the position of the local authorities on the Applicant's traffic safety assessment?</p>

Community and Private Assets - ES Chapter 13 [APP-041]

Question number	Question to	Question(s)
13.1	ABC; KCC	<p>Section 13.5, Assumptions and Limitations, states that information has largely been based on desk-based research; that there is no published guidance relating to the assessment of community and private assets so that the assessment draws on other DMRB topics supported by best practice and professional judgement; and that assumptions were made re farm businesses due to a low response rate to the agricultural questionnaires sent out.</p> <p>i. Would the local authorities identify any areas in which they disagree with the content of this section, and in particular, the fact that only those known access points which would be removed by the proposed development (as shown on the individual farm maps in Appendix A (Sheets 1 to 8) of Appendix 13.3, Volume 6.3) have been considered as part of the assessment?</p>

Road Drainage and Water Environment - ES Chapter 14 [APP-042]

Question number	Question to	Question(s)
14.1	Applicant; Environment Agency	<p>Section 14.3 sets out the Method of Assessment, including the study area and significance criteria (value and magnitude of impact on surface water, ground water and flood risk), based on the DMRB and other sources.</p> <p>i. With reference to the Environment Agency's Relevant Representation [RR-011], would</p>

		the Environment Agency expand on the information that it wishes to see with regard to maintaining access to the Aylesford Stream?
14.2	Environment Agency	<p>Section 14.6, Baseline Information, refers to the South East River Basin Management Plan and identifies water bodies, SACs, SPAs, licenced abstractions, consents to discharge, pollution incidents, existing drainage, ground water, flood risk and aquatic ecology. The Environment Agency has provided brief commentary in its Relevant Representation [RR-011] as to its satisfaction with the proposed development's compliance with the Water Framework Directive.</p> <ul style="list-style-type: none"> i. With specific reference to Appendix 14.1 of the ES (Water Framework Directive) [APP-196], would the Environment Agency confirm that proposals put forward by the Applicant to mitigate adverse effects on the water environment are appropriate, and state whether the dDCO [OD-008] provides the necessary provisions for their implementation?
14.3	Applicant; Environment Agency	<p>Section 14.7, Mitigation and Compensation Measures, outlines mitigation measures to be employed during construction and operation, referring to the oCEMP [APP-204] as the location where these measures will be secured.</p> <ul style="list-style-type: none"> i. Would the Applicant clarify how all of the pollution prevention and water management measures set out in and paras 14.7.3 to 14.7.6 of the ES, and para 6.2.8 of the AIES [APP-208], are secured in the dDCO [OD-008] via the oCEMP [APP-204]? ii. Would the Environment Agency expand on the comments made at Section 1 of its Relevant Representation [RR-011] as to the need for additional information being required as part of the FRA [APP-197] to demonstrate that flood risk will not be increased by the proposed development? In light of these comments, are the mitigation and flood risk attenuation measures proposed sufficient and capable of being delivered as part of the dDCO? iii. Would the Applicant confirm its intention to provide an update of the FRA [APP-197] capturing the comments of the Environment Agency? iv. Would the Applicant respond specifically to the points raised at Section 2.0 of the Environment Agency's Relevant Representation [RR-011] in respect of the risks to groundwater pollution by mobilisation of contaminants and the need for dDCO requirements to cover: <ul style="list-style-type: none"> a) Site investigations; b) Remediation strategy;

		<ul style="list-style-type: none"> c) Verification report to confirm the completion, and effectiveness of measures carried out under the remediation strategy; d) Piling risk assessment; e) Monitoring and maintenance plan; and f) Surface water drainage plan, limiting infiltration drainage to only those areas of the site where it has been demonstrated that there is no resultant pollution risk to the groundwater. <p>v. In particular, would the Applicant highlight how each of the above is secured as part of the dDCO [OD-008]?</p>
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Combined and Cumulative Effects - ES Chapter 15 [APP-043]

Question number	Question to	Question(s)
15.1	ABC; KCC; Natural England; Environment Agency	<p>Section 15.3 sets out the method of assessment for the combined and cumulative effects assessment, including the study areas ZoIs for each ES topic chapter, an assessment methodology, and significance criteria, based on the DMRB and other sources.</p> <ul style="list-style-type: none"> i. Would the local authorities, Natural England and the Environment Agency state whether they agree with the scope of the combined and cumulative effects assessment, including the 2 km study area and the planning applications included in the assessment?
15.2	Applicant; KCC; ABC; IPs	<p>Section 15.6, Predicted Effects, summarises the cumulative residual effects, for each of the other developments for each environmental topic and overall for all other developments and all environmental topics, with the Main and Alternative Schemes in tables 15.9 and 15.10, respectively.</p> <ul style="list-style-type: none"> i. The proposed lorry park adjacent to Junction 11 of the M20³ (some 8km southeast of the proposed development) does not appear on the 'long list' of 'other developments' at Table 15.8. Given its proximity to, and likely impact on, the proposed development, would the Applicant state why it has not been considered, and if necessary update Chapter 15 of the ES (and other topic chapters of the ES where cumulative effects are assessed) to

³ <https://highwaysengland.citizenspace.com/he/managing-freight-vehicles-through-kent/> and <https://www.gov.uk/government/news/transport-secretary-announces-proposed-site-for-operation-stack-lorry-area>

		<p>consider the potential cumulative effect of this scheme, particularly in respect of the traffic modelling study area?</p> <p>ii. Would other IPs (in particular the local authorities) comment as to the potential for cumulative effects between the proposed development and the lorry park?</p>
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Conclusions and Summary - ES Chapter 16 [APP-044]

Question number	Question to	Question(s)
16.1	Applicant	<p>Section 16.5, Summary of Environmental Effects, Table 16.1 summarises the likely significant effects (ie residual effects with a significance of moderate adverse or beneficial or greater). The required mitigation measures are also outlined. ES chapters 5 (Air Quality), 8 (Nature Conservation), 9 (Geology and Soils), 10 (Materials), 11 (Noise and Vibration), and 12 (Effects on All Travellers) are shown as having no significant adverse or beneficial residual effects. ES chapters 6 (Cultural Heritage), 7 (Landscape and Visual Effects), 13 (Community and Private Assets), and 14 (Road Drainage and Water Environment) are shown as having significant adverse or beneficial residual effects.</p> <p>i. In respect to each of the significant residual effects, would the Applicant justify why there are no further mitigation measures which would be practicable to reduce effects to a 'non-significant' level?</p> <p>ii. By way of a revision version of Table 16.1, would the Applicant provide a summary table encompassing a description of all identified effects across topic areas (not just those that are 'significant') and include an additional column citing how the relevant mitigation measures are secured by the provisions of the dDCO [OD-008]?</p>

Environmental Management - ES Chapter 17 [APP-045]

Question number	Question to	Question(s)
17.1	ABC; KCC; Environment Agency; Natural	Do the local authorities, the Environment Agency and Natural England have further comments, beyond those already expressed, as to the content of the Register of Environmental Actions and Commitments (REAC) contained as Appendix D within the oCEMP, Appendix 17.1, Volume 6.3 [APP-204]?

	England	
17.2	Applicant	Would the Applicant clarify at what point it intends to populate the 'DCO ref' and 'works information ref' columns of the REAC provided at Appendix D to the oCEMP [APP-204]?
18 Case for the Scheme [APP-209]		
Socio-economic Impacts		
Question number	Question to	Question(s)
18.1	ABC; KCC; Environment Agency; Natural England	Would the local authorities, the Environment Agency and Natural England state whether the proposed development complies with the need to be designed to minimise social and environmental impacts and improve quality of life in accordance with para 3.2 of the NPSNN?
18.2	ABC; KCC; Environment Agency; Natural England	Would the local authorities, the Environment Agency and Natural England state the extent to which the summaries of key economic, social and environmental impacts are agreed, with evidence to support any disagreement?
19 Transport Assessment [APP-210]		
Question number	Question to	Question(s)
19.1	Applicant	Re Section 3.3, Baseline Data Collection, would the Applicant detail the survey data that was collated and processed for the existing traffic flow for the new base year of 2014, and explain how the various data sources were merged into a single coherent view?
19.2	Applicant	Re Section 3.4, Transport Demand Modelling, would the Applicant detail the five-stage process used for constructing the demand model matrices and highway assignment model?
19.3	Applicant	Re Section 3.5, Local Development and Transport Infrastructure Scenarios, would the Applicant

		supply the uncertainty log for growth forecasts, as well as the assumptions used for the core scenario and the low/ high scenarios?
19.4	Applicant	Re Section 6, Current Network Performance, would the Applicant state the main assumptions used for the SATURN and VISSIM models, together with the extent of uncertainties in the use of these models?
19.5	Applicant	Re Section 7, Future Network Performance, would the Applicant state the main assumptions used for the SATURN and DIADEM models, together with the extent of uncertainties in the use of these models?
19.6	ABC; KCC	Re sections 3, 6 and 7 of the Transport Assessment document, would ABC and KCC state their positions on the Applicant's traffic modelling, including the statement at para 7.7.1 that " <i>the scheme will have minimal impact on mainline journey times</i> " on the M20, and the predicted impact on local road networks (para 7.8 to 7.10)?
19.7	Applicant	Would the Applicant state whether there is a Local Model Validation Report (LMVR) in support of the traffic modelling, and if so provide the LMVR to the Examination?

20 Draft Development Consent Order (dDCO) [OD-008]

Question number	Question to	Question(s)
General		
20.1	Applicant	<p>Draft Development Consent Order Revision B [OD-008]</p> <p>Each time the Applicant submits a revision of the dDCO to the Examination, both clean and track change versions should be provided.</p> <ol style="list-style-type: none"> i. Would the Applicant provide a version of dDCO Revision B (October 2016) [OD-008] showing track changes from dDCO Revision A (July 2016) [APP-018]? ii. Do any of the changes made in dDCO Revision B [OD-008] have implications for the draft Explanatory Memorandum (dEM) [APP-019]? Where there are consequential changes to the dEM, would the Applicant provide an updated version?

20.1a	Applicant	<p>General drafting</p> <p>A number of the headings in the dDCO [OD-011], particularly in Schedule 2, contain inappropriate capitalisation.</p> <ul style="list-style-type: none"> i. Would the Applicant please amend all relevant headings to ensure that they are consistent with the statutory drafting conventions for statutory instruments?
Articles		
20.2	Applicant	<p>Article 2(1) Interpretation</p> <ul style="list-style-type: none"> i. Would the Applicant provide detailed justification for the breadth of the definition of "<i>maintain</i>" as drafted? ii. In the interests of precision and certainty, can the definition for each specific plan/ drawing in Article 2(1) include the reference number for that plan? iii. Bearing in mind section 155 of the Planning Act 2008 (PA2008) would the Applicant provide a detailed explanation as to why the definition of "<i>commence</i>" is required in the dDCO [OD-008]?
20.3	Applicant	<p>Article 5 Development consent etc. granted by the Order</p> <p>Article 5(3) provides that either Work No. 2A or Work No. 2B may be constructed, but not both of them. There is no provision that Work No. 2B may only be constructed if a planning permission under the Town and Country Planning Act 1990 for the Stour Park development, which those works would serve, has first been granted.</p> <ul style="list-style-type: none"> i. Should such a provision be inserted into the dDCO [OD-008]? If not, why not? ii. If so, in the interests of precision and certainty should such a provision specify the type or use class of development that such a planning permission must be for, or the existing application number referred to in Requirement 1 (Schedule 2 Part 1)? If not, why not? iii. Should such a provision be time limited, so that if that permission is not granted by a particular date then Work No. 2B cannot be constructed? If not, why not? iv. Should any such time limit expire before the 5 year limit to exercise Compulsory Acquisition (CA) powers (Article 23), so that there is certainty over the alignment before the ability to compulsorily acquire land for Work No.2A expires? If not, why not?

20.4	Applicant	<p>Article 7 Planning permission</p> <ul style="list-style-type: none"> i. Is Article 7 intended to provide a power to circumvent the provisions of the PA2008 relating to changes to a made DCO (section 153 and Schedule 6)? ii. If so, why may this be considered appropriate and what power exists to allow this? If not, what is the intended purpose of this provision? iii. The dEM [APP-019] states that Article 7 "<i>ensures that the undertaker does not breach section 161 of the 2008 Act in carrying out certain development pursuant to grant of planning permission</i>". What type of "<i>development</i>" is Article 7 referring to? iv. How does Article 7 "<i>ensure</i>" that such a breach would not occur? v. Under what circumstances would an authority entertain an application for planning permission for matters already covered by a made DCO? vi. As currently drafted clauses (a) and (b) of Article 7 are alternatives. They would not both have to be satisfied. Is the intention to provide a power in (b) which could be used to circumvent s31 of the PA2008 by allowing a planning permission under (b) to authorise development which is or is part of a Nationally Significant Infrastructure Project (NSIP)? vii. If so, why may this be considered appropriate and what power exists to allow this? If not, what is the intended purpose of this provision? viii. Would the Applicant explain in detail the intended purpose of these provisions?
20.5	Applicant	<p>Article 8 Limits of deviation</p> <p>As currently drafted the tailpiece included in Article 8 would appear to remove an absolute limit of vertical deviation.</p> <ul style="list-style-type: none"> i. Would the Applicant explain how this provision provides appropriate precision and certainty in respect of limits of deviation?
20.6	Applicant	<p>Article 10 Consent to transfer benefit of Order</p> <p>Article 10(4) provides exceptions to the requirement for Secretary of State consent in respect of any transfer of benefit of the order.</p> <ul style="list-style-type: none"> i. Would the Applicant explain why the exclusions at Article 10(4)(a) to 10(4)(h) are appropriate and necessary?

20.7	Applicant	<p>Article 21 and Article 24 Compulsory acquisition of land/ rights</p> <p>Articles 21(3) and 24(6) provide that before exercising CA powers, the undertaker must give the relevant local planning authority written notice of whether it intends to construct Work No.2A or Work No.2B.</p> <ul style="list-style-type: none"> i. As drafted, would the DCO prohibit the undertaker from exercising CA powers relating to land on which Work No.2B would be constructed? ii. Should plot 3/16f, identified on the land plans, be expressly excluded from the definition of 'Order land' in Article 2(1) to avoid any possible confusion?
20.8	Applicant	<p>Article 23 Time limit for exercise of authority to acquire land compulsorily</p> <p>Article 23(2) provides the time limit for the exercise of temporary possession powers under Article 31 of the dDCO [OD-008].</p> <ul style="list-style-type: none"> i. Would the Applicant explain why this provision does not also cover Article 30 – Rights under or over streets?
20.9	Applicant	<p>Article 36 Special category land</p> <ul style="list-style-type: none"> i. Does Article 36(1) also need to refer to "<i>special category (rights) land</i>"?
Authorised development (Schedule 1)		
20.10	Applicant	<p>Work No. 1 Safety barrier</p> <p>This work is not referenced in the description of the development in the ES and therefore the detail of this work and how it has been assessed in the ES is unknown.</p> <ul style="list-style-type: none"> i. Would the Applicant supply a detailed description of the safety barrier works, including the assumptions which have formed the basis of the assessment presented in the ES?
20.11	Applicant	<p>Work No. 2B New A2070 dual carriageway link road with roundabout</p> <ul style="list-style-type: none"> i. Should "<i>Stour Park development</i>" read "<i>Stour Park site</i>" to be consistent with the interpretation provided in Requirement 1 of the dDCO (also applies to Schedule 3 Part 4)?
20.12	Applicant	<p>Work No. 3 New Junction 10a gyratory and two bridges</p>

		<ul style="list-style-type: none"> i. There are numerous references to Work 3d on the Works Plans [OD-011] but the other subsections of Work 3 are not labelled on the Works Plans. Would the Applicant provide Works Plans to illustrate clearly the extent of each of these works? ii. Consistent with other works, can any fixed dimensions which have formed the basis of the assessment in the ES be expressed in the description of this work?
20.13	Applicant	<p>Work No. 4 Realignment of A2070</p> <ul style="list-style-type: none"> i. Can the precise amount of replacement open space as specified in paras 2.5.12 to 2.5.17 of the ES [APP-030] be included within this work?
20.14	Applicant	<p>Work No. 6 New cycle/footbridge over the M20</p> <ul style="list-style-type: none"> i. Consistent with other works, can any fixed dimensions which have formed the basis of the assessment in the ES be expressed in the description of this work?
20.15	Applicant	<p>Work No. 7 Associated development</p> <p>Work No. 7 is described in the dDCO [OD-008] as <i>"associated development comprising alteration works to the existing road markings, traffic signs and traffic signals on the M20 Junction 10 and its approaches."</i></p> <ul style="list-style-type: none"> i. Do the works described at Work No. 7 or any other numbered works consist of <i>"improvement of a highway"</i> under s22(5) and s235(1) of the PA2008? ii. Would the Applicant signpost where within the ES [APP-029 to APP-208] it is evidenced that any works it considers to be <i>"associated development"</i> are not <i>"likely to have a significant effect on the environment"</i>? iii. If any numbered works are both <i>"improvement"</i> as defined by the PA2008 and <i>"likely to have a significant effect on the environment"</i>, why are those works not an NSIP in their own right? iv. The definition of <i>"alteration"</i> in s235(1) of the PA2008 includes <i>"improving"</i>. If any numbered works constitute <i>"improvement of a highway"</i>, but are not <i>"likely to have a significant effect on the environment"</i>, then rather than being <i>"associated development"</i> should they be part of the <i>"alteration"</i> NSIP identified in the dDCO [OD-008]? v. What is the relationship of Work 7 with item (o) under <i>"further development within the Order"</i> following Work No. 29?

20.16	Applicant	<p>Work No. 8 Church Road footbridge</p> <p>The wording of this work implies that a new footbridge would be created over the A2070 to the south of the proposed roundabout, and that the Church Road Footbridge would be demolished and replaced, ie that two new bridges would be built.</p> <ul style="list-style-type: none"> i. Would the Applicant re-word this work for clarity? ii. Can any fixed dimensions which have formed the basis of the assessment in the ES be expressed in the description of this work?
20.17	Applicant	<p>Work No. 17 Re-alignment of the A20 Hythe Road</p> <p>It is unclear what the private access referenced in this work would be to facilitate.</p> <ul style="list-style-type: none"> i. Would the Applicant clarify this point?
20.18	Applicant	<p>Work No. 21 Communication cables</p> <p>This work is not described in the description of the proposed scheme in the ES [APP-030] and therefore the nature, scale and extent of the work assessed is unclear.</p> <ul style="list-style-type: none"> i. Would the Applicant provide a detailed description of this work, including the assumptions which have formed the basis of the assessment presented in the ES?
20.19	Applicant	<p>Works Nos. 26 and 27 Diversion of telecoms</p> <ul style="list-style-type: none"> i. Would the Applicant state whether these two works are distinct works, and if so clarify the distinction, and if not remove one?
20.20	Applicant	<p>Further development within the Order limits (after Work No. 29)</p> <p>Further developments (a) to (p) as stated are non-specific.</p> <ul style="list-style-type: none"> i. In each case, where and how has it been assessed in the ES [APP-029 to APP-208], and where is it to be found on the Works Plans [OD-011]? ii. How will each of these further developments be unambiguously secured in the dDCO? iii. Would the Applicant ensure tight cross-referencing between the dDCO [OD-008], the Works Plans [OD-011] and the ES [APP-029 to APP-208]? Example: Sub-para (m), the felling of trees, the ES description of the development in Chapter 2 [APP-030] does not appear to mention any requirement to fell trees, but the Arboricultural Implications

		<p>Assessment [ES Appendix 7.3, APP-172] identifies a number of trees which would need to be felled as part of the development. Would the Applicant modify the dDCO to include a restriction, so it is only the tree felling assessed in the ES which can be undertaken?</p> <p>iv. Re sub-para (p), would the Applicant amend the wording of this sub-para to ensure that the associated development works would not go beyond what has been assessed in the ES (for example, wording along the lines of "...other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised development and which do not give rise to any materially new or different significant effects from those assessed in the environmental statement.")?</p> <p>v. The following works which are described in the ES [APP-030] do not appear to feature in the dDCO works:</p> <ul style="list-style-type: none"> a. CCTV mast, referenced in paragraph 2.3.16 of the ES; b. MS4 Gantries, referenced in paragraph 2.3.17 of the ES; c. Penstocks and bypass oil interceptors, referenced in paragraph 2.3.26 of the ES; and d. A new substation near the junction of Kingsford Street and Highfield Lane, referenced in paragraph 2.3.43 of the ES. <p>Would the Applicant demonstrate how these works are secured in the dDCO [OD-008], or amend the dDCO to ensure that they would be secured?</p>
Requirements (Schedule 2, Part 1)		
20.21	Applicant	<p>Requirement 1 Interpretation</p> <p>As currently drafted the definition of "<i>Stour Park site</i>" includes "<i>or other adjacent land</i>". This could mean that the "<i>Stour Park site</i>" is only "<i>other adjacent land</i>" and not the land subject to planning application 14/00906/AS.</p> <ul style="list-style-type: none"> i. Would the Applicant clarify whether that is the intention of this provision? ii. Would the Applicant specify the precise detail of the "<i>other adjacent land</i>"?
20.22	ABC; KCC; Natural England;	<p>Requirement 3 Construction Environmental Management Plan</p> <p>The oCEMP [APP-204] sets out a series of proposed measures and standards to be applied by</p>

	Environment Agency	Highways England and its contractors throughout the construction period. <ul style="list-style-type: none"> i. Do the local authorities or Statutory Parties, responsible for approving the oCEMP under Requirement 3 of the dDCO, have any comments on the sufficiency of the oCEMP for securing the necessary mitigation during the construction of the proposed development?
20.23	Applicant	Requirement 7 Contaminated land and groundwater Requirement 7(2) leaves the determination of whether or not remediation is necessary solely to the undertaker. <ul style="list-style-type: none"> i. Would the Applicant explain why this is appropriate, and why the need for remediation should not be agreed by the requirement consultees?
20.24	Applicant	Requirement 9 Protected species As currently drafted, Requirement 9 does not provide for construction to cease if a protected species that is identified in the ES [APP-029 to APP-208] is found. <ul style="list-style-type: none"> i. On the presumption that this is not the intended purpose of this provision, would the Applicant redraft this requirement to enforce cessation where a protected species identified in the ES is found? ii. Would the Applicant state how Requirement 9 relates to the biodiversity assessment presented in ES Chapter 8, since it does not appear to be mitigation that has been relied upon to reach the assessment conclusion? iii. As drafted, Requirement 9 does not require the Applicant to agree the content of the written scheme with the relevant planning authorities/ Natural England prior to implementation. Would the Applicant revise the requirement to reflect this need for agreement with these authorities? iv. As drafted, Requirement 9 has 3 sub-paras, but 9(3) cross references to sub para (4), which does not exist and is presumably an error. Would the Applicant re-draft accordingly?
20.25	Applicant	Requirement 11 Detailed design Requirement 11(1) states that " <i>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 and the engineering section drawings</i> ". ExA will need to be assured that the detailed design will be consistent with what has been presented in the Works Plans [OD-011] and

		<p>assessed in the ES [APP-029 to APP-208].</p> <ul style="list-style-type: none"> i. Would the Applicant explain why it will be necessary/ appropriate for the detailed design of the proposed development to be finalised after the DCO has been consented, if it is consented? ii. In respect of the provisions in Requirement 11(1), would the Applicant identify any precedents for them in made DCOs associated with other consented highways NSIPs? iii. In consideration of any such precedents, would the Applicant explain why the circumstances of the proposed development are similar? iv. Would the Applicant explain why in 11(1) "<i>materially new or materially worse environmental effects</i>" are left to the SoS's opinion, as opposed to there being an absolute restriction that they can have 'no materially different effects', which is then capable of being challenged regardless of what the SoS's opinion is? v. Would the Applicant consider adding in 11(1) "<i>and any statutory bodies responsible for enforcement</i>" after "<i>following consultation with the relevant planning authority</i>", to ensure that such bodies would have a role in the agreement of the final design of the proposed development to ensure that it is compatible with the preliminary design Works Plans and accords with the requirements of the ES? vi. Requirement 11(2) states "<i>Where amended details are approved by the Secretary of State under sub-para (1), those details are deemed to be substituted for the corresponding works plans or engineering section drawings</i>". As opposed to being "<i>deemed to be substituted</i>", should any amended details require certification by the SoS?
20.26	Applicant	<p>Requirement 12 Surface and foul water drainage</p> <p>Requirement 12(2) is a tailpiece provision.</p> <ul style="list-style-type: none"> i. Would the Applicant explain why the tailpiece provision is appropriate/ necessary? ii. Would the Applicant explain why this provision does not require consultation with the relevant local planning authority?
20.27	Applicant	<p>Requirement 13 Approvals and amendments to approved details</p> <p>Requirement 13 is a tailpiece provision.</p> <ul style="list-style-type: none"> i. Would the Applicant explain why the tailpiece provision is appropriate/ necessary in

		<p>Requirement 13?</p> <p>ii. Would the Applicant explain why this provision does not require consultation with any relevant authority involved in the approval of, or consultation on, the originally approved details?</p>
20.28	Applicant	<p>Requirement 14 Alternative A2070 options</p> <p>Requirement 14(2) provides that the undertaker must not give notice under articles 21 and 24 that it intends to construct Work No.2B <i>"unless a planning permission has first been granted for development of the Stour Park site"</i>.</p> <p>As currently drafted, this provision does not:</p> <ul style="list-style-type: none"> • limit the type of planning permission that needs to be granted; • impose a timescale within which the planning permission must be obtained; • prevent the construction of Work No. 2A if the notice is given; or • limit the land which must benefit from the planning permission to at least include the land that is immediately adjacent to the proposed Work No.2B (see Requirement 1). <p>i. Would the Applicant explain why, in the interests of precision and certainty, Requirement 14 has not been drafted to secure the above points?</p> <p>As currently drafted Requirement 14(2) could be interpreted only to apply if the undertaker intends to give those notices under both Article 21 and Article 24, and not if the undertaker only intends to give notice under one of those articles.</p> <p>ii. Would the Applicant clarify whether this is the intention of the provision?</p>
Procedure for Discharge of Requirements (Schedule 2, Part 2)		
20.29	Applicant	<p>Paragraph 4: Anticipatory steps towards compliance with any requirement</p> <p>It is unclear what the intention of this paragraph is.</p> <p>i. Would the Applicant explain what this paragraph is intending to achieve?</p> <p>ii. Would the Applicant clarify why this provision is appropriate, since if something has already been done, to what extent should it still be a requirement at all?</p>
draft Explanatory Memorandum (dEM)		

20.30	Applicant	<p>Para 2.13 of the dEM [APP-019] states that "<i>in some cases there may be some overlap between associated development and works which form part of the NSIP</i>". Either a particular work is part of an NSIP, or it is not.</p> <p>i. Would the Applicant clarify the intended meaning of the above statement?</p>
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21 Compulsory Acquisition and other land matters

Question number	Question to	Question(s)
Matters arising from the Compulsory Acquisition information accompanying the application		
21.1	Applicant	<p>Each time the Applicant submits a revised version of the Book of Reference (BoR) to the Examination, both clean and track change versions need to be provided.</p> <p>i. Is BoR Revision B (submitted 2 November 2016) [OD-009] identical to BoR Revision B (submitted in October 2016 and annexed to the Applicant's certificates of compliance) [OD-002]?</p> <p>ii. If they are not identical, would the Applicant provide a version of BoR Revision B (submitted 2 November 2016) [OD-009] showing track changes from BoR Revision B (submitted in October 2016 alongside the Applicant's certificates of compliance) [OD-002]?</p>
21.2	Applicant	<p>i. Are there any changes that need to be made to the Statement of Reasons (SoR) [APP-021] arising from the changes made in BoR Revision B [OD-009]?</p> <p>ii. If required, can the Applicant provide an updated SoR [APP-021] to reflect the changes made in BoR Revision B [OD-009]?</p>
21.3	Applicant	<p>Would the Applicant identify the statutory instrument (or other instrument) under which the title in respect of plot 3/17/a transferred from the Secretary of State for Transport to Highways England Company Ltd?</p>
21.4	Applicant	<p>In respect of plot 3/17/a, would the Applicant explain why it is seeking to acquire all (or indeed any) interests and rights over land in which it (Highways England Company Ltd) appears to hold the sole interest?</p>

21.5	Applicant	Would the Applicant confirm whether the " <i>major new development to the south east of the town [Ashford]</i> ", as described on page 46 of the Road Investment Strategy: Investment Plan provided at Appendix C of the Funding Statement [APP-022], is the Stour Park development referred to throughout the application documents?
21.6	Applicant	<p>Plot 3/16/f has been deleted from Part 1 of BoR Revision B [OD-009], but remains in Part 3.</p> <ul style="list-style-type: none"> i. Would the Applicant explain why plot 3/16/f has been deleted from Part 1 of BoR Revision B [OD-009], but remains in Part 3? ii. Would the Applicant update the ExA in respect of the progress of the private agreement with Friends Life Ltd, as referenced in the Summary Table of Responses to s51 Advice and s55 Checklist [OD-006]? When does the Applicant expect that the parties would be able to confirm to the Examination that any agreement has been reached in this regard?
21.7	Applicant	<p>Para 2.7 of the SoR [APP-021] states that "<i>Because the developer's funding contribution has not yet been secured and the Applicant therefore cannot commit at this stage to constructing A2070 Option B, the Applicant is not seeking powers of compulsory acquisition over the additional land that would be required to construct A270 Option B, identified on Sheet 3 of the Land Plans as Plot No. 3/16/f.</i>"</p> <ul style="list-style-type: none"> i. When does the Applicant expect the developer's funding contribution to be secured? ii. When does the Applicant expect to be able to commit, or otherwise, to the construction of A2070 Option B?
21.8	Applicant	<p>Para 2.5 of the SoR [APP-021] states that "<i>the decision on which of the two alternative A2070 options to construct is dependent on a number of factors, including [...] the formal grant of planning permission for the Stour Park site by Ashford Borough Council.</i>"</p> <p>The ExA understands that the planning application by the Stour Park site developer was submitted on 18 July 2014, and that a decision by planning committee is pending. An extension to the determination date to 16 October 2016 was agreed in June 2016⁴.</p> <ul style="list-style-type: none"> i. Would the Applicant provide evidence to support the following statement provided at para 2.5 of the SoR [APP-021]: "<i>[The] Stour Park development is a major scheme that is supported in planning policy terms and [...] Ashford Borough Council's Planning</i>

⁴ Para 2.4 of the SoR directs the reader to Ashford Borough Council Planning Application Ref. 14/00906/AS

		<p><i>Committee has resolved to grant planning permission for it."?</i></p> <p>ii. If the Stour Park development is granted planning permission during the course of the Examination, and concurrently commercial agreement is reached between the Applicant and Friends Life Ltd for the lands at plot 3/16/f to be acquired by the Applicant, what would be the implications for the draft Order, as submitted?</p> <p>iii. Does the Applicant envisage that the 'options approach' will be removed from the draft Order? How realistic is this scenario?</p>
21.9	Applicant	<p>In its Open Space Report [SoR – Appendix B, APP-021], the Applicant states that the replacement land proposed "<i>is not directly accessible from the existing open space</i>".</p> <p>i. In consideration of the above statement together with the meaning of "<i>replacement land</i>" provided by s131(12) of the PA2008, would the Applicant explain how the proposed replacement land will meet the relevant statutory tests?</p>
21.10	Applicant	<p>In its Open Space Report [SoR – Appendix B, APP-021], the Applicant states that "<i>the public [...] use the open space at Church Road</i>", but goes on to say "<i>the open space to be lost [...] is currently inaccessible</i>".</p> <p>i. Would the Applicant explain the relationship between these two statements?</p>
21.11	Applicant	<p>With reference to para 8 of DCLG's Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land (September 2013):</p> <p>i. How can the ExA be assured that all reasonable alternatives to CA (including modifications to the proposed development) have been explored?</p> <p>ii. Would the Applicant set out in summary form what assessment/ comparison has been made of the alternatives to the proposed acquisition of land or interests therein in each case?</p>
21.12	Applicant	<p>Para 6.61 of the SoR [APP-021] states that "<i>The exercise of compulsory acquisition powers that are sought is shown throughout (the SoR) to be necessary and proportionate to the extent that interference with private land and rights is required.</i>"</p> <p>i. How has the proportionality test been undertaken?</p> <p>ii. In relation to each plot, would the Applicant explain the proportionate approach which has been taken?</p>

21.13	Applicant	Would the Applicant provide a schedule to identify those interests in relation to which private agreements are in place, which makes explicit each party's interest(s) (including plot numbers) and the general scope of any agreement? The schedule should also make clear in relation to which lands private agreements remain outstanding, and anticipated timeframes for their achievement.
21.14	Applicant	Would the Applicant explain what assessment, if any, has been made of the effect upon individual affected persons and their private loss that would result from the exercise of compulsory acquisition or temporary possession powers in each case?
21.15	Applicant	Section 12 of the SoR [APP-021] refers to other consents that will be required in order to deliver and operate the proposed development, and para 12.3 states that " <i>The Applicant is in discussion with the relevant consenting bodies and does not regard the need for these other consents as a material risk to the delivery of the Scheme, as there is no reason why the consents will not be granted.</i> " <ul style="list-style-type: none"> i. How can the ExA be confident that the need for these other consents is not a material risk to the delivery of the proposed development? ii. Would the Applicant update the ExA on any progress that has been made with each of the relevant bodies referred to in both the SoR [APP-021] and the application document entitled Consents and Agreements Position Statement [APP-020]?
21.16	Applicant	Would the Applicant provide a position statement identifying all affected Statutory Undertakers and operators of electronic communications code networks, confirming their status for the purposes of s127 and s138 of the PA2008 in relation to each relevant plot in BoR Revision B [OD-009]?
21.17	Applicant	With reference to para 10 at Annex D of DCLG's Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land (September 2013), the book of reference should cross-refer to the relevant articles contained in the draft Order. <ul style="list-style-type: none"> i. Would the Applicant add a column to the BoR Revision B [OD-009] which makes explicit which powers in Part 5 of dDCO Revision B [OD-008] are attributed to each plot?
Matters arising from the Relevant Representations		
21.18	Applicant	Attached to these questions is a schedule of objections to CA and temporary possession

		<p>powers. The schedule arises from the ExA's reading of the Relevant Representations, and comprises what the ExA considers to be:</p> <ul style="list-style-type: none"> a. Objections to the CA of land and/ or rights (Table 1); b. Objections from those who may potentially have a Category 3 interest within the meaning of s102B of the PA2008 ie those who may be able to make a claim for compensation under section 10 of the Compulsory Purchase Act 1965 and/ or Part 1 of the Land Compensation Act 1973 and/or s152(3) PA 2008 (Table 2). <p>i. Would the Applicant provide a response to the objections listed in Table 1 and confirm whether the schedule reflects its understanding of all the objections to CA and temporary possession received to date, and if not to explain why?</p> <p>In responding to each of the objections listed, and with reference to the specific plots in question, would the Applicant please:</p> <ul style="list-style-type: none"> ii. Expand upon the information provided in the SoR [APP-021] to explain in detail why in its assembly of the proposed Order lands it has been deemed necessary for the draft Order to include provision for the associated land/ rights to be compulsorily acquired or for land/ rights to be taken possession of temporarily? iii. With reference to relevant evidence in the Environmental Statement (ES) [APP-029 to APP-208] and any draft environmental management plans, where applicable, explain how it is proposed that any interference with third party land/ rights would be mitigated or compensated for? iv. With reference to the ES, explain what consideration has been given to the socio-economic consequences of any interference with land/ rights? v. Explain what degree of importance has been attributed to the existing use of the land proposed to be compulsorily acquired or temporarily possessed, and why? vi. Where relevant, provide an update on the progress of discussions with the affected interest; in particular where any agreement has been reached, or where disagreement remains, in relation to the compatibility/ safeguarding of future development proposals in the vicinity of the proposed development? vii. In relation to Table 2, would the Applicant confirm that consideration has been given as to whether or not each party listed would have a Category 3 interest?
21.19	The Executor	The Executors of Marianne Clunies-Ross (the Executors) express support for the proposed

	of Marianne Clunies-Ross	<p>development, but seek assurance from the Applicant that the balance of the land to be returned to them on completion of the development will enjoy the benefit of direct access to and from the link road. They state that that access should be suitable to serve any future commercial development of that land rather than the limited replacement agricultural access provided for [RR-008].</p> <ul style="list-style-type: none"> i. Would the Executors update the Examination on any discussions held with the Applicant in the period following the submission of their relevant representation? What progress, if any, has been made with the Applicant in respect of the assurances sought? ii. How do the Executors envisage that any assurances provided by the Applicant would be secured by dDCO Revision B [OD-008]?
21.20	Pilgrims Hospices	<p>Pilgrims Hospices expresses concern in relation to the proposed temporary possession of a large part of the Ashford Hospice's entrance and car park. It states that the temporary possession powers would force the hospice to close for the duration of the construction period [RR-035].</p> <ul style="list-style-type: none"> i. Would Pilgrims Hospices update the Examination on any discussions held with the Applicant in the period following the submission of its relevant representation?
21.21	Friends Life Ltd and Aviva Investors	<p>Friends Life Ltd (FLL) and Aviva Investors (AI) support the proposed development in principle. But they object to the proposed Compulsory Acquisition of their land, stating that it is both unnecessary and would significantly prejudice their ability to deliver the Stour Park development [RR-016]. Aviva Investors are not however listed in the BoR Revision B [OD-009].</p> <ul style="list-style-type: none"> ii. With reference to the specific plot(s) in the BoR Revision B [OD-009], can AI confirm, or otherwise, any legal interest in the Order lands? iii. Would FLL and AI update the Examination on the current status of the outline planning application for the Stour Park development? If the application has been decided, can FLL and AI provide a copy of the decision notice to the Examination? iv. Would FLL (and where applicable, AI) update the Examination on any progress made with the Applicant in respect of the shared balancing pond referred to in its Relevant Representation [RR-016]?
21.22	Wyevale Garden Centres Ltd	<p>Wyevale Garden Centres Ltd (WGC) objects to the temporary possession powers sought over lands in its interest. It states that as it will not be possible for WGC to continue trading from the site with the proposed development in operation, all of WGC's interests should be subject to permanent Compulsory Acquisition [RR-039].</p>

		<ul style="list-style-type: none"> i. Would WGC update the Examination on any discussions held with the Applicant in the period following the submission of its Relevant Representation?
21.23	Stuart John Ramsay	<p>Stuart John Ramsay expresses concern in relation to the Compulsory Acquisition of his interests. He states that associated powers could render his business inoperable [RR-042].</p> <ul style="list-style-type: none"> i. Would Mr Ramsay update the Examination on any discussions held with the Applicant in the period following the submission of his Relevant Representation?
21.24	ABC	<p>ABC objects to the replacement land proposed to be given by the Applicant in exchange for the public open space over which the Applicant seeks to exercise Compulsory Acquisition powers. ABC has identified "<i>other possible replacement land</i>" to the Applicant [RR-001 and RR-002].</p> <ul style="list-style-type: none"> i. Would ABC provide to the Examination details of the "<i>other possible replacement land</i>" that has been identified to the Applicant? Why is the "<i>other possible replacement land</i>" more suitable than the replacement land included in the application? ii. In respect of Compulsory Acquisition, would ABC update the Examination on any discussions held with the Applicant in the period following the submission of its relevant representations?
21.25	Southern Gas Networks plc	<p>Southern Gas Networks plc (SGN) states that it is a Statutory Undertaker and seeks assurance that that the safety and integrity of its network will not be adversely affected by the proposed development [RR-041].</p> <ul style="list-style-type: none"> i. Are any changes to dDCO Revision B [OD-008] sought by SGN (in particular at Schedule 8 – Protective provisions) in order to protect the assets referred to in its relevant representation? What precise protective provisions does SGN seek, and why? ii. Would SGN update the Examination on any discussions held with the Applicant in the period following the submission of its Relevant Representation?

Table 1: List of objections to compulsory acquisition/ temporary possession powers arising from the Relevant Representations (RR)

No.	Name/ Organisation	RR reference no.	Interest	Category	Temporary/ Permanent	Plot(s)	Compulsory Acquisition?	Applicant's response
1	Ashford Borough Council	RR-001	Part 1	1	Temporary	3/14/c	No	
			Part 1	1	Permanent	3/14/a (new right), 3/14/b, 3/14/d	Yes	
2	David Lowe for the Executors of Marianne Clunies-Ross	RR-008	Part 1	1	Temporary	2/2/a	No	
			Part 1	1	Permanent	2/2/b, 3/2/a, 3/2/b	Yes	
			Part 2	3	n/a	n/a	No	
			Part 3 (rights of access)	n/a	Permanent	3/2/a	Yes	
3	Elizabeth Kerr	RR-010	Part 2	3	n/a	n/a	No	
4	Gillian Miller	RR-015	Part 2	3	n/a	n/a	No	
5	Gowling WLG LLP for Friends Life Ltd/ Aviva Investors	RR-016	Part 1	1	Permanent	3/16/a, 3/16/b, 3/16/d (new right), 3/16/e, 3/16/f (new right), 4/16/a (new right), 4/16/b (new right), 4/16/c, 4/16/d, 4/16/e (new right), 4/16/f, 4/16/g	Yes	
			Part 1	1	Temporary	3/16/c	No	
			Part 2	3	n/a	n/a	No	

6	Julia Miller	RR-024	Part 2	3	n/a	n/a	No	
7	Pilgrims Hospices	RR-035	Part 1	1	Temporary	2/5/a	No	
			Part 2	3	n/a	n/a	No	
8	Savills for Wyevale Garden Centres Ltd	RR-039	Part 1	1	Permanent	2/4/a, 2/4/b (new right), 4/9/a	Yes	
			Part 2	3	n/a	n/a	No	
9	Sharon Swandale	RR-040	Part 2	3	n/a	n/a	No	
10	Southern Gas Networks plc	RR-041	Part 1	2	Permanent	2/4/a, 2/4/b (new right), 3/2/b, 3/16/b, 3/16/e, 3/16/g (new right),	Yes	
			Part 3 (rights of access)	n/a	Permanent	2/4/a, 2/4/b, 3/2/b, 3/16/b, 3/16/e, 3/16/f	Yes	
11	Stuart John Ramsay	RR-042	Part 1	1	Permanent	4/19/a	Yes	
			Part 1	2	Permanent	4/19/a	Yes	
			Part 2	3	n/a	n/a	No	

Table 2: List of potential Category 3 claimants arising from the relevant representations (RRs)

No.	Name/ Organisation	RR reference no.	Applicant's comments
1	David Hannigan	RR-007	
2	Janet Oakley Hills	RR-020	
3	Linda Arthur	RR-029	
4	Paul Bartlett	RR-033	

Acronyms and abbreviations

Abbreviation or usage	Reference
ABC	Ashford Borough Council
AI	Aviva Investors
AIES	Assessment of Impacts on European Sites
AP	Affected Person
AQMA	Air Quality Management Area
AQP	Air Quality Plan
BoR	Book of Reference
BT	British Telecom
CA	Compulsory Acquisition
CIEEM	Chartered Institute of Ecology and Environmental Management
DCLG	Department for Communities and Local Government
dDCO	draft Development Consent Order
Defra	Department for the Environment, Food and Rural Affairs
dEM	draft Explanatory Memorandum

DM	Do minimum
DMRB	Design Manual for Roads and Bridges
DS	Do something
EA	The Environment Agency
EIA	Environmental Impact Assessment
EPS	European Protected Species
ES	Environmental Statement
ExA	Examining Authority
FLL	Friends Life Ltd
FRA	Flood Risk Assessment
HAWRAT	Highways Agency Water Risk Assessment Tool
HE	Highways England
IAN	Interim Advice Note (Highways England)
IP	Interested Party
KCC	Kent County Council
LNR	Local Nature Reserve
LoNI	Letter of No Impediment
MMP	Materials Management Plan

NE	Natural England
NMU	Non-motorised user
NO ₂	Nitrogen dioxide
NO _x	Mono-nitrogen oxides NO and NO ₂
NPSNN	National Policy Statement for National Networks
NSIP	Nationally Significant Infrastructure Project
oCEMP	Outline Construction Environmental Management Plan
PA2008	The Planning Act 2008 (as amended)
PCM	Pollution climate mapping
PM10	Particulate matter 10 micrometers or less in diameter
PRoW	Public Right of Way
REAC	Register of Environmental Actions and Commitments
RNR	Roadside Nature Reserve
RR	Relevant Representation
SAC	Special Area of Conservation
SEW	South East Water
SGN	Southern Gas Networks
SHMP	Soil Handling and Management Plan

SoR	Statement of Reasons
SPA	Special Protection Area
SW	Southern Water
SWMP	Site Waste Management Plan
TCPA	The Town and Country Planning Act 1990 (as amended)
TTP	Traffic and Transport Plan
WGC	Wyvale Garden Centres Ltd
ZoI	Zone of Influence