

# Preliminary Meeting Note

## Summary of key points discussed and advice given

<b>Application</b>	M20 Junction 10a
<b>Applicant</b>	Highways England
<b>Reference</b>	TR010006
<b>Date</b>	2 December 2016
<b>Venue</b>	The Wye Suite, Holiday Inn Ashford Central, Canterbury Road, Ashford, TN24 8QQ

This meeting note is not a full transcript of the Preliminary Meeting. It is a summary of the key points discussed and responses given. An audio recording of the meeting is available on the Planning Inspectorate's website:

<https://infrastructure.planninginspectorate.gov.uk/projects/south-east/m20-junction-10a/?ipcsection=docs&stage=4&filter1=Meeting>

In attendance from the Planning Inspectorate:

- Dr Mike Ebert C Eng, MICE, FIC, CMC (Examining Authority)
- Richard Price (National Infrastructure Case Manager)

### 1. Welcome and introductions

**Dr Mike Ebert (ME)** opened the meeting at 10.00am, introducing himself as the Examining Authority (ExA), appointed by the Secretary of State for Communities and Local Government, to examine the application for development consent made by Highways England for the proposed M20 Junction 10a. Following the examination of the application, **ME** would report to the Secretary of State for Transport (SoST) who would take the final decision about whether or not development consent should be granted.

**ME** summarised the purpose of the Preliminary Meeting (PM): to consider procedural matters relating to the way in which the application was to be examined, and not the merits of the proposed development.

**ME** gave housekeeping instructions and set out emergency arrangements and facilities details for the venue. Attendees were reminded that the meeting would be recorded. The recording would be made available on the Planning Inspectorate's website as soon as practicable after the meeting had closed. A note of the meeting would also be taken and published in the same manner. **ME** explained the Planning Inspectorate's social media policy.

**ME** introduced **Richard Price (RP)** as the case team leader at the Planning Inspectorate. **RP** would be the main point of contact at the Planning Inspectorate for the duration of the Examination.

**ME** invited those attendees who intended to speak at the meeting to introduce themselves. **Julian Boswall** (Burgess Salmon for the Applicant) introduced himself, **Salvatore Zappala** (Project Manager, Highways England) and **Nicholas Coombes**

(DCO Manager, Highways England). **Mark Davies** introduced himself as a senior planner and case officer for the application at Ashford Borough Council (ABC). **Len Mayet** introduced himself as the Cultural Projects Manager at ABC. **Sarah Platts** introduced herself as the Strategic Planning and Infrastructure Manager and case officer for the application at Kent County Council (KCC). **Ghada Mitri** introduced herself as the Project Manager for the application at the Environment Agency (EA). The EA was the only statutory party represented at the PM.

## 2. Examining Authority's remarks about the Examination process

**ME** explained that the formal examination of the application would commence the day after the PM had closed. It was confirmed that as soon as practicable after the meeting, a letter (the 'Rule 8 letter') would be sent to all Interested Parties confirming the Examination Timetable and any other procedural decisions made. The need for any procedural decisions would be considered in the days following the meeting having considered the representations received.

**ME** explained the purpose of the Examination; to enable him, as the ExA, to make a recommendation to the SoST as to whether the proposed development should receive development consent in the form of a Development Consent Order (DCO).

The Planning Act 2008 (as amended) (PA2008) establishes a distinct regime for the consideration of applications for Nationally Significant Infrastructure Projects (NSIP). **ME** summarised the decision-making process under the PA2008 as an inquisitorial and predominantly written process in which the ExA leads in asking questions to establish the issues that are important and relevant to the decision which the SoST needs to take.

**ME** explained that a first round of written questions (FWQ) to Interested Parties would be published alongside the Rule 8 letter; on or before 9 December 2016. Those questions would be informed by the ExA's reading of the Relevant Representations received and the application documents. The draft Examination Timetable (Annex C of the 'Rule 6 letter' dated 28 October 2016) also makes provision for the issue of a second round of written questions (SWQ), if required. The ExA also has the power to request further information from any Interested Party<sup>1</sup>.

The PA2008 also provides for three types of oral hearing which may be held:

- **Open Floor Hearings** (OFH) which must be held if requested by any Interested Party. **ME** highlighted that an OFH was scheduled to take place following the PM, at 2:00pm.
- **Compulsory Acquisition Hearings** (CAH) which also must be held if requested by an Affected Person<sup>2</sup>.
- **Issue Specific Hearings** (ISH) which are only held if the ExA thinks that they are necessary to ensure the robust examination of a particular issue.

**ME** emphasised that his aim was to ensure that the Examination was open, transparent, fair and equitable to all Interested Parties.

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<sup>1</sup> Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010 (as amended)

<sup>2</sup> Special status afforded to persons with a legal interest in the order lands

### **3. Initial Assessment of Principal Issues**

**ME** drew attention to his Initial Assessment of Principal Issues (IAPI) which was included at Annex B of the Rule 6 letter. It was reemphasised that the list of principal issues was not comprehensive or exclusive and that all relevant and important matters raised by Interested Parties would be considered in the ExA's examination of the application.

In respect of air quality, **ME** drew attention to the High Court Judgment of 2 November 2016 in favour of ClientEarth and against the Secretary of State for the Environment, Food and Rural Affairs (SoSEFRA). The judgment found that the SoSEFRA's 'Air quality plan for nitrogen dioxide (NO<sub>2</sub>) in the UK (2015)' failed to comply with Article 23(1) of the Air Quality Directive<sup>3</sup> and Regulation 26(2) of the Air Quality Standards Regulations 2010. A subsequent order of 22 November 2016 directed the SoSEFRA to publish a draft modified air quality plan by 24 April 2017. This date would be almost five months into the six month period for the examination of the M20 Junction 10a. A final air quality plan would need to be provided to the European Commission by 31 July 2017; almost two months into the three month period within which the ExA would be writing his report and recommendations to the SoST. **ME** advised the Applicant to study the High Court's judgment, assess its impact on the application and report to the Examination accordingly. Questions in respect of this issue would be asked by the ExA as appropriate.

**ME** invited comments from attendees on the IAPI. No comments were provided.

### **4. Applicant's response to ExA's procedural decision dated 21 September 2016**

**ME** drew attention to the suite of documents submitted by the Applicant in response to his procedural decision. In particular, the submission included updated Works Plans and an updated Book of Reference. The suite of documents had been accepted by the ExA to be read in conjunction with the Examination and they were published to the Planning Inspectorate's website on 2 November 2016. Interested Parties would be provided with the opportunity to comment on those submissions to Deadline 3 in the draft Examination Timetable.

**ME** asked if the Applicant had any remarks to make about the submitted documents. The Applicant stated that it had nothing to add.

### **5. Update from Interested Parties on progress in relation to Statements of Common Ground (SoCG); acquisition of land and rights; and Local Impact Reports (LIR)**

**ME** invited updates from the relevant Interested Parties.

**JB** for the Applicant reported that good progress was being made regarding the progression of SoCGs with ABC, KCC, Natural England, the Environment Agency, Public Health England, Historic England and the Stour Park developer (Aviva Investors).

In respect of the Applicant's assembly of the order lands, **JB** reported that Highways England was in active contact with all affected landowners, tenants and relevant agents. For the avoidance of doubt, **JB** confirmed that in order to guarantee the deliverability of the proposed development the Applicant would seek for powers of

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<sup>3</sup> Directive 2008/50/EC

Compulsory Acquisition (and temporary possession) to be included in the DCO irrespective of whether private agreements were reached.

**Mark Davies** for ABC confirmed that a joint LIR would be produced by ABC and KCC.

**JB** for the Applicant confirmed that as requested in Annex F of the Rule 6 letter, a draft itinerary for the Accompanied Site Inspection (see Item 7 of this note) and Glossary of Terms had been provided to the Planning Inspectorate on 1 December 2016.

## 6. Draft Examination Timetable

**ME** drew attention to the draft Examination Timetable which had been set out at Annex C to the Rule 6 letter.

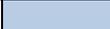
**ME** reiterated that the Examination must close by 2 June 2017, reflecting the statutory six month deadline. Not all of the events timetabled may actually be necessary, and it may therefore be possible to close the Examination before the six month deadline. Any early closure of the Examination would be wholly dependent on the ExA's satisfaction that all of the evidence required to report to the SoST had been gathered. Interested Parties would be notified when the Examination closed. Following the close of the Examination the ExA would have a maximum of three months to write his recommendation report to the SoST. The SoST would then have a maximum of three months to make his decision about whether or not development consent should be granted.

**ME** invited the Applicant, ABC and KCC to summarise their written requests for amendments to be made to the draft Examination Timetable to accommodate the Christmas/ New Year and Easter leave periods. The requests had been considered by the ExA ahead of the PM and the following changes would be made in the final Examination Timetable. The changes would be confirmed following the meeting in the Rule 8 letter.

Event	Draft Examination Timetable	Final Examination Timetable
<b>Deadline 1</b>	9 December 2016	9 December 2016
Issue of Examination Timetable and FWQs	As soon as practicable following the PM	As soon as practicable following the PM
<b>Deadline 2</b>	4 January 2017	4 January 2017
<b>Deadline 3</b>	6 January 2017	16 January 2017
Hearing/ ASI notifications (1)	13 January 2017	23 January 2017
<b>Deadline 4</b>	25 January 2017	3 February 2017
<b>ASI</b>	14 February 2017	21 February 2017
Reserve hearing dates (1)	15 to 17 February 2017	22 to 24 February 2017
<b>Deadline 5</b>	24 February 2017	3 March 2017
Issue of SWQs	10 March 2017	20 March 2017
<b>Deadline 6</b>	31 March 2017	10 April 2017
Hearing/ ASI notifications (2) etc	7 April 2017	19 April 2017
<b>Deadline 7</b>	21 April 2017	2 May 2017 <sup>4</sup>
Reserve hearing dates (2)	8 to 12 May 2017	17 to 19 May 2017
<b>Deadline 8</b>	19 May 2017	26 May 2017
<b>Deadline 9</b>	31 May 2017	31 May 2017

<sup>4</sup> The ExA stated at the PM that this date would be amended to 1 May 2017. 1 May 2017 is a Bank Holiday.

<b>Deadline 10</b>	2 June 2017	2 June 2017
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<b>Legend</b>	
Date not changed	
Date changed	

## 7. Hearings and Accompanied Site Inspection(s)

**ME** explained that he had allowed in the draft Examination Timetable for two rounds of hearings to be held. The dates reserved for any potential hearings would be amended to reflect the new dates in the table in Item 6 of this note. Importantly, the draft Examination Timetable includes a deadline by which Interested Parties must inform the ExA if they wish to be heard at any subsequent OFH(s), or for Affected Persons to inform the ExA if they wish to be heard at a CAH (Deadline 2). **ME** explained that at least one ISH, dealing with the draft DCO, would be held.

**RP** explained that 28 days was now required as the notification period for hearings. The extension from the statutory minimum period of 21 days had been driven by the Planning Inspectorate's use of postcards to notify Interested Parties who had not expressed a preference to communicate with the Planning Inspectorate electronically.

**ME** drew attention to the ASI scheduled to take place on 21 February 2017. The draft Examination Timetable includes a deadline by which Interested Parties must inform the ExA if they wish to attend the ASI (Deadline 2). ASIs are not an opportunity for those in attendance to express any views about the merits of the application to the ExA. They are an opportunity for the ExA to view the application site and the surrounding area. The ExA may ask attendees to identify relevant physical features.

A draft itinerary had been provided by the Applicant and is available to view on the Planning Inspectorate's website:

<https://infrastructure.planninginspectorate.gov.uk/projects/south-east/m20-junction-10a/?ipcsection=docs>

Interested Parties would be provided with an opportunity to comment on the Applicant's draft itinerary in the final Examination Timetable, which would be annexed to the Rule 8 letter. The final itinerary for the ASI would be published to the Planning Inspectorate's website on or before 13 January 2017.

## 8. Any other matters

**ME** invited attendees to raise any other procedural matters. No other matters were raised.

## 9. Closing remarks

**ME** thanked those in attendance for their participation and closed the meeting at 10.42am.

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