

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

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

Issued on 20 March 2017

The following document comprises the Examining Authority's (ExA) second written questions and requests for information. Each question has a **unique reference number** which combines a section number and a question number. Sections 2-17 follow the chapter numbers in the Applicant's Environment Statement. **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 can be signposted within previously made submissions.

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 10 April 2017 (**Deadline 6** 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/3401396>

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**.

1 National Policy Statement for National Networks (NPSNN) and Local Plans		
Question number	Question to	Question(s)
1.01	-	No further questions at this stage.
2 Environmental Statement (ES) [APP-029 to APP-208]		
The Proposed Scheme - ES Chapter 2 [APP-030]		
Question number	Question to	Question(s)
2.01	Applicant	<p>'Table of Mitigation Measures'</p> <p>In response to my first written question 16.1 ii, the Applicant stated that "A revised Table 16.1 will be submitted" [REP3-035]. It does not appear from our records that an updated Table 16.1 has been submitted to the Examination.</p> <ul style="list-style-type: none"> i. Can the Applicant please supply a revised version of Table 16.1 which encompasses a description of all identified effects across all topic areas (not just those that are 'significant') and including an additional column citing how the relevant mitigation measures are secured in each case through the provisions of the draft Development Consent Order (dDCO) [REP5-007/008]?
2.02	Applicant; Statutory Undertakers	<p>Statutory Undertakers' diversions</p> <p>Re. the Applicant's statement at Deadline 5 [REP5-017; response A1] that "A workshop is planned for 14 March 2017 to confirm their (Statutory Undertakers') arrangements":</p> <ul style="list-style-type: none"> i. Would the Applicant and Statutory Undertakers state the position following the workshop on 14 March 2017 (assuming it took place), summarising any matters that are still outstanding (ie not agreed or under discussion)? ii. Would the Applicant state whether or not the workshop (if it took place) included telecommunications providers, in either case summarising any matters that are still outstanding (ie not agreed or under discussion)?

2.03	Ashford Borough Council (ABC); Kent County Council (KCC)	<p>Construction compounds</p> <p>Re. the Applicant's plan [REP5-012] and submission at Deadline 5 [REP5-017; response A2] regarding the presence and use of construction compounds:</p> <ul style="list-style-type: none"> i. Would the Applicant state how it responds to ABC's request [REP5-032; Annex 1, Item 2] to know the precise area of the compounds? ii. Would the Applicant state whether there are any alternative locations for the smaller compound currently proposed to be located to the south-east of the Pilgrims Hospice, towards being as sensitive as possible to this location?
2.04	Applicant; KCC	<p>Public Rights of Way (PRoW)</p> <p>Re. KCC's submission at Deadline 5 [REP5-026]:</p> <ul style="list-style-type: none"> i. Would the Applicant and KCC state whether they have reached agreement on the level difference between the PRoW and the alignment of the A2070?
Environmental Impact Assessment Methodology - ES Chapter 4 [APP-032]		
Question number	Question to	Question(s)
4.01	-	No further questions at this stage.
Air Quality - ES Chapter 5 [APP-033]		
Question number	Question to	Question(s)
5.01	Applicant; ABC	<p>Construction traffic movements</p> <p>Re. ABC's submission as a local authority at Deadline 5 [REP5-032; page 4], ABC states that it "<i>would ... like further information on likely air quality effects during construction</i>", and "<i>It is recommended that we liaise directly with Mott McDonald to reach an agreement</i>":</p> <ul style="list-style-type: none"> i. Would the Applicant and ABC state the current position on this matter?
Cultural Heritage - ES Chapter 6 [APP-034]		

Question number	Question to	Question(s)
6.01	Applicant; KCC	<p>Cultural Heritage</p> <p>Re. KCC’s submission at Deadline 5 [REP5-026; Item D] in which KCC cited a meeting to take place after the hearings to discuss KCC’s comments on cultural heritage:</p> <ul style="list-style-type: none"> i. Would the Applicant and KCC state the current position and any matters outstanding (ie under discussion or not agreed)?
6.02	Applicant; KCC	<p>Archaeological surveys - Written Scheme of Investigation (WSI)</p> <p>Re. the Applicant’s submission at Deadline 5 [REP5-016; response D2], the Applicant states that further amendments will be made to this document to address comments from KCC on 20 February 2017, and a revised version will be submitted to KCC in due course:</p> <ul style="list-style-type: none"> i. Would the Applicant state when the amended WSI will be submitted to KCC and the Examination, and when agreement is expected to be reached? ii. Other than the WSI, would KCC state which archaeological matters (if any) are still outstanding?
Landscape - ES Chapter 7 [APP-035]		
Question number	Question to	Question(s)
7.01	Applicant; ABC	<p>Trees subject to Tree Preservation Orders (TPOs)</p> <p>The Applicant has added Article 39 and Schedule 8 to the dDCO at Deadline 5 [REP5-007/008]. The Applicant’s Arboricultural Implications Assessment [REP5-014; page 13] states that “<i>The removal of these trees would also be mitigated by a specific landscape planting plan</i>”. ABC states in its submission at Deadline 5 [REP5-032; page 4] that “<i>The removal of the group (TPO group 37) although regrettable could be mitigated, subject to high-quality replacement tree planting (advanced nursery stock) to offset potential loss of visual public amenity</i>”:</p> <ul style="list-style-type: none"> i. Would the Applicant state how the landscape planting plan will be secured and delivered in the specific case of TPO trees, identifying ABC’s role in the approval?

7.02	Applicant; KCC; ABC	<p>Outstanding landscape matters</p> <p>Re. ABC’s submission as a local authority at Deadline 5 [REP5-32; page 5], ABC states that a number of landscape issues have been resolved and a number still remain. ABC proposes “to meet and work together to develop the mitigation proposals as set out in the Environmental Masterplan drawings”:</p> <ul style="list-style-type: none"> i. Has the proposed engagement between the Applicant and ABC on landscaping matters taken place? ii. In either case, would the Applicant and ABC briefly state any outstanding landscape matters? iii. Would KCC briefly state any outstanding landscape matters?
Nature Conservation - ES Chapter 8 [APP-036]		
Question number	Question to	Question(s)
8.01	-	No further questions at this stage.
Geology and Soils - ES Chapter 9 [APP-037]		
Question number	Question to	Question(s)
9.01	KCC	<p>Re. the Minerals Safeguarding Letter dated 15 February 2017 and submitted by the Applicant at Deadline 5 [REP5-022], and KCC’s response of 17 February 2017 to the Applicant, an extract of which was stated in a Deadline 5 submission by the Applicant [REP5-016; response H1]:</p> <ul style="list-style-type: none"> i. Would KCC state whether there are any issues outstanding (ie not agreed or under discussion) with regard to minerals or geology?
Materials - ES Chapter 10 [APP-038]		
Question number	Question to	Question(s)

10.01	-	No further questions at this stage.
Noise and Vibration - ES Chapter 11 [APP-039]		
Question number	Question to	Question(s)
11.01	Applicant; ABC	<p>Establishing benefits due to noise mitigation</p> <p>Re. the Applicant's and ABC's submissions at Deadline 5 [REP5-016; response I3 and REP5-032], the Applicant states that "<i>discussion with ABC will commence pre-DCO in order to allow time for a method to be agreed upon</i>", while ABC states "<i>given the relatively short time in which we would expect ... that a DCO would come out of this, post DCO but pre-construction might be the broad envelope in which to do this kind of study</i>".</p> <p>i. Would the Applicant and ABC state the position with regard to these discussions?</p>
11.02	Applicant; ABC; KCC; Public Health England (PHE)	<p>Noise and vibration limits and their significance</p> <p>Re. the Applicant's statement at Deadline 5 [REP5-016; response I4 i] that "<i>conclusions reached in the ES have been re-examined and in retrospect it is considered that the contribution of night-time traffic noise level from minor roads adjacent to these properties has been over-estimated, and should in fact have been ignored as they were below the region of validity within the procedure in Calculation of Road Traffic Noise – the calculation methodology referenced within DMRB ... Re-calculating using the method based upon the relationship between daytime and night-time noise levels results in these properties being less than 55dB in all scenarios and they should not have been included in Tables 11.11 and 11.16. A re-evaluation of the result for Tables 11.11 and 11.16 is given in Appendix A</i>":</p> <p>i. Are ABC, KCC and PHE content with the alternative method of calculation proposed by the Applicant, and the consequent reduction in noise levels to below 55 dB in all scenarios at all receptors?</p> <p>ii. How does the Applicant propose to secure, in certified documentation, the alternative method of calculation and its consequences for noise levels?</p>
11.03	Applicant; ABC	<p>Construction working hours, Pilgrims' Hospice</p> <p>Re. the Applicant's and ABC's submissions at Deadline 5 [REP5-016; response I4 iv and REP5-032], the Applicant states that "<i>The Applicant has agreed to discuss this matter further with</i></p>

		<p>ABC”, while ABC states that <i>“The council would like to use section 61 (Control of Pollution Act) on prior approval application via the CEMP that could require this to be done”</i> which the Council believes would be an appropriate means of securing controls on noisy construction activities:</p> <ul style="list-style-type: none"> i. Would the Applicant and ABC state the position with regard to their discussions? ii. Would the Applicant and ABC state how this would apply specifically to construction work near the Pilgrims’ Hospice?
Effects on all Travellers - ES Chapter 12 [APP-040]		
Question number	Question to	Question(s)
12.01	Applicant; KCC	<p>Rat running and turning circle</p> <p>Re. KCC’s submission at Deadline 5 [REP5-026], which cites agreements to be reached between the Applicant and KCC, and amendments to be made to the relevant requirements in Schedule 2 of the dDCO [REP5-007/008]:</p> <ul style="list-style-type: none"> i. Would the Applicant and KCC state the current position and any matters not yet agreed?
12.02	Applicant	<p>Barrey Road exit onto the A2070</p> <p>Re. the Applicant’s and KCC’s submissions at Deadline 5 [REP5-017; response B3 and REP5-026], the Applicant states that KCC has <i>“now agreed to deal with this issue outside the main Scheme, along with the proposed 40mph speed limit on the A2070, in collaboration with Highways England MAC Area 4”</i>, while KCC states <i>“KCC and ABC have reluctantly agreed that the location is treated outside of the scheme but it is imperative that this does not provide HE with an option to detach from discussions and being party to identifying workable, funded solutions”</i>:</p> <ul style="list-style-type: none"> i. Would the Applicant, ABC and KCC detail how they will treat this matter outside of the scheme, to give the necessary comfort to the two local authorities?
12.03	Applicant; KCC	<p>Traffic modelling and uncertainties</p> <p>Re. KCC’s submission at Deadline 5 [REP5-026], KCC raised concerns relating to traffic north of M20 not following the new route, and stated that it <i>“would want prior and post scheme traffic counts to be undertaken at a time when the scheme has bedded in. The results should then be analysed and if KCC are proved correct, HE should address the matter”</i>:</p>

		i. Would the Applicant and KCC state the current position on this matter?
12.04	Applicant	<p>Hospital access/ pollution/ Conservation Area</p> <p>Re. the submission of Mr Robin Bristow at Deadline 5 [REP5-030]:</p> <p>i. Would the Applicant summarise its position on the matters raised – access to the William Harvey Hospital, pollution and the Conservation Area?</p>
12.05	Applicant; KCC	<p>Access to the A20 from the end of Highfield Lane Bridge</p> <p>Re. KCC's submission at Deadline 5 [REP5-026], KCC cites the submission of Barbara Winham, representing the British Horse Society [REP5-003], who raised the matter relating to the end of Highfield Lane Bridge and access on to the A20. KCC states that there is currently no provision for horses, pedestrians or cyclists to enable them to cross the A20 safely, and that KCC would seek further discussion with HE on potential solutions:</p> <p>i. Would the Applicant and KCC state the current position on these discussions?</p>
12.06	Applicant	<p>North Willesborough Community Forum - Response to Written Response Replies</p> <p>Re. North Willesborough Community Forum (NWCF)'s Response to Written Response Replies [REP5-028], NWCF raises a number of points and concludes by stating that "<i>HE's replies were disappointing but not unexpected - they seem to have a fixed position which they will defend no matter the strength of the argument against, even though some of the defence is somewhat 'woolly'</i>":</p> <p>i. Would the Applicant respond to the points raised and the critique in NWCF's concluding paragraph?</p>
Community and Private Assets - ES Chapter 13 [APP-041]		
Question number	Question to	Question(s)
13.01	Applicant; ABC	<p>Church Road Public Open Space</p> <p>Re. the Applicant's and ABC's submissions at Deadline 5 [REP5-016; response K1 and REP5-032], the Applicant states that "<i>The Applicant and ABC disagree on a range of matters. Useful discussions are, however, taking place subsequent to the hearing</i>", while ABC states "<i>ABC view is replacement land is highway land/verge and it is not responsible for maintaining Highway and is</i></p>

		<p><i>not POS (public open space)“:</i></p> <p>i. Would the Applicant and ABC state the position with regard to these discussions, and by when these discussions will be concluded?</p>
Road Drainage and Water Environment - ES Chapter 14 [APP-042]		
Question number	Question to	Question(s)
14.01	Applicant; Environment Agency (EA)	<p>Flood Risk Assessment (FRA)</p> <p>i. Further to the Applicant’s and EA’s submissions at Deadline 5 [REP5-016; response L1 and REP5-004], would the Applicant provide a precise date by which the FRA will be submitted to the EA for review? Note: this needs to be as soon as possible, to give the EA time to review the FRA, and the Applicant time to make further revisions after the EA has reviewed it, before the final date for the Examination to close on 2 June 2017.</p> <p>ii. If the EA has any further comments in relation to the FRA at this stage, would it please submit these?</p>
14.02	Applicant; EA	<p>Access to the Aylesford Stream</p> <p>i. Further to the Applicant’s and EA’s submissions at Deadline 5 [REP5-016, response L2 and REP5-004], would the Applicant and EA set out progress towards agreeing suitable wording for protective provisions relating to access to the Aylesford Stream?</p>
14.03	Applicant; EA	<p>Contaminated land and groundwater</p> <p>Further to the Applicant’s and EA’s submissions at Deadline 5 [REP5-016; response L3 and REP5-004], the EA stated that Requirement 7 in dDCO Rev C [REP3-011/012] <i>“is not sufficient to address the concerns over land contamination and groundwater protection”</i>. The Applicant since amended Requirement 7, now Requirement 8 in the dDCO at Deadline 5 [REP5-007/008]:</p> <p>i. Is the EA content with this drafting? If not, could the EA provide suggested re-wording for this Requirement as currently drafted?</p> <p>ii. Would the Applicant comment on whether the current drafting covers the EA’s call for a requirement <i>“requiring the provision of various investigations and documents as follows: an Updated Site Investigation Report, a Remediation Strategy, A verification Plan and a</i></p>

		<i>Verification Report</i> " [REP5-004]?
14.04	Applicant; EA	<p>Disapplication of legislation</p> <p>Further to the Applicant's and EA's submissions at Deadline 5 [REP5-016; response L5 and REP5-004], the Applicant stated that "<i>discussions (between the Applicant and EA) are ongoing and it is expected that agreement will be reached on relevant amendments to Article 3 of the dDCO</i>":</p> <ol style="list-style-type: none"> i. Would the Applicant and EA state the position with regard to the cited discussions? ii. Would the EA state whether it is content with the proposed amendments to the dDCO at Deadline 5 [REP5-007/008]?
14.05	Applicant; EA	<p>Protective Provisions</p> <p>Further to the Applicant's and EA's submissions at Deadline 5 [REP5-016; response L5-7 and REP5-004]:</p> <ol style="list-style-type: none"> i. Would the Applicant and EA state when they expect to agree any necessary protective provisions and table them to the Examination?
Combined and Cumulative Effects - ES Chapter 15 [APP-043]		
Question number	Question to	Question(s)
15.01	Applicant	<p>Operation Stack Lorry Park</p> <p>Re. the Applicant's statement at Deadline 5 [REP5-016; response M1]:</p> <ol style="list-style-type: none"> 1) Would the Applicant confirm whether all necessary consents for construction work for the lorry park have been obtained? If not, would the Applicant state the current situation in relation to consents? 2) A Department for Transport/ Highways England news story dated July 2016¹ states that "<i>Construction work will start as soon as possible with spaces available from summer 2017</i>". Would the Applicant state whether construction works on the lorry park have started? If not, when is it envisaged that works will start? 3) Is it still envisaged that lorry spaces will be available from summer 2017? If not, would the

¹ <https://www.gov.uk/government/news/transport-secretary-announces-proposed-site-for-operation-stack-lorry-area>

		<p>Applicant confirm when spaces will be available?</p> <p>4) If the lorry park is subject to either a submitted application which has not yet been determined, a permitted application not yet implemented, or is already under construction, would the Applicant explain why the lorry park is not considered a 'Tier 1 development' as set out in the Planning Inspectorate's Advice Note 17: Cumulative effects assessment relevant to nationally significant infrastructure projects²?</p>
Conclusions and Summary - ES Chapter 16 [APP-044]		
Question number	Question to	Question(s)
16.01	-	No further questions at this stage.
Environmental Management - ES Chapter 17 [APP-045]		
Question number	Question to	Question(s)
17.01	-	No further questions at this stage.
18 Case for the Scheme [APP-209]		
Socio-economic Impacts		
Question number	Question to	Question(s)
18.01	-	No further questions at this stage.
19 Transport Assessment [APP-210]		
Question number	Question to	Question(s)

² <https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/2015/12/Advice-note-17V4.pdf>

19.01	-	No further questions at this stage.
20 Draft Development Consent Order (dDCO)		
Question number	Question to	Question(s)
20.01	ABC; KCC; EA	<p>Draft DCO Rev D</p> <p>In consideration of Revision D of the Applicant's updated dDCO [REP5-007/008]:</p> <ul style="list-style-type: none"> i. Are ABC, KCC and the EA satisfied with the Applicant's amendments to the provisions as made in the dDCO and summarised in the schedule of amendments to the dDCO provided to Deadline 5 [REP5-009]? ii. Re. KCC's submission at Deadline 5 [REP5-026], KCC states that it will consider further Articles 10 (Consent to transfer benefit of Order), 11 (Application of the 1991 Act) and 18 (Discharge of water). Does KCC have any proposed amendments to these Articles?
20.02	Applicant	<p>Article 8 – Limits of deviation</p> <p>Re. ABC's submission at Deadline 5 [REP5-032]:</p> <ul style="list-style-type: none"> i. What is the Applicant's position on ABC's statement on the potential impact of the limits of deviation on the Church Road bridge on access to the recreation ground between the childrens' play area and the footpath, and on water attenuation?
20.03	Applicant	<p>Article 12 - Construction and maintenance of new, altered or diverted streets and other structures: Public Footway/Cycleway running through the Proposed New Public Open Space Replacement Land</p> <p>Re. KCC's submission at Deadline 5 [REP5-026], KCC raises the matter of the maintenance of the public footway/ cycleway running through the proposed new public open space replacement land, which KCC states should remain the responsibility of HE, and which would require an amendment to Article 12:</p> <ul style="list-style-type: none"> i. Would the Applicant state whether it agrees with this proposal?
20.04	Applicant	<p>Article 14 - Temporary stopping up and restriction of use of streets: Traffic and Transport Management Plan</p>

		<p>At the ISH dealing with matters relating to the dDCO, in consideration of Article 14 and comments made by KCC, the ExA asked whether it was the Applicant's intention to produce a draft Traffic and Transport Management Plan (dTTMP). A response to ExA's question was not provided to Deadline 5. KCC states in its submission at Deadline 5 [REP5-026] that its "<i>Roadworks and Highway Operations Teams will require sight of any proposed plans and should be consulted accordingly</i>":</p> <p>i. Can the Applicant confirm whether it intends to produce a dTTMP for submission to the Examination? If not, why not?</p>
20.05	Applicant	<p>Articles 21 and 24 – Compulsory Acquisition of land and Compulsory Acquisition of Rights</p> <p>Re. ABC's submission at Deadline 5 [REP5-032], ABC states that "ABC considers that plot 3/14/a should be permanently acquired and be considered under article 21 with plots 3/14/b, instead of Art 24 for temporary possession":</p> <p>i. What is the Applicant's position on this matter?</p>
20.06	KCC	<p>Article 25 – Public Rights of Way</p> <p>Re. KCC's submission at Deadline 5 [REP5-026], KCC stated that it "<i>has undertaken to check the position on this matter</i>":</p> <p>i. Would KCC state whether it wishes to propose any amendments to Article 25?</p>
20.07	Applicant	<p>Article 27 - Application of the 1981 Act: Housing and Planning Act 2016</p> <p>i. Other than the amendments made to Article 27 in the dDCO Rev D [REP5-007/008], does the Applicant consider that any further amendments are needed to the draft DCO as a result of the coming into force of provisions in Part 7 of the Housing and Planning Act 2016 under the Housing and Planning Act 2016 (Commencement No. 4 and Transitional Provisions) Regulations 2017 or the Housing and Planning Act 2016 (Compulsory Purchase) (Corresponding Amendments) Regulations 2017? Note, for example, that Article 27(4)(a) appears to refer to a statutory provision that has been repealed.</p>
20.08	ABC	<p>Article 39 - Trees Subject to Tree Preservation Orders</p> <p>Re. ABC's submission at Deadline 5 [REP5-032] on the felling or lopping of trees, and the Applicant's new Article 39 and new Schedule 8 in the dDCO Rev D [REP5-007/008]:</p>

		<ul style="list-style-type: none"> i. Is ABC content with this article and schedule as drafted? ii. Is ABC content with clause 39 (2) (b) regarding replacement of trees?
20.09	KCC; Applicant	<p>Schedule 2 - Requirements</p> <ul style="list-style-type: none"> i. Re. KCC's submission at Deadline 5 [REP5-026], KCC states that "<i>It may be the case in some provisions that KCC needs to be referred to separately as the Highway Authority</i>". Would KCC state whether it wishes to propose amendments with regard to itself as the Highway Authority? ii. Re. ABC's submission at Deadline 5 [REP5-032], would the Applicant state where noise mitigation measures - acoustic barriers, bunds and walls - are secured? iii. Re. ABC's submission at Deadline 5 [REP5-032], would the Applicant state where the construction compounds are secured?
20.10	Applicant	<p>Schedule 2, Requirements 1 and 3 – Construction Environmental Management Plan (CEMP) and Handover Environmental Management Plan (HEMP)</p> <p>Re. Schedule 2 Requirements 1 and 3 in the dDCO Rev D [REP5-007/008]:</p> <ul style="list-style-type: none"> i. Can the Applicant confirm that the intention of these two requirements with regard to the CEMP and HEMP is to establish the process whereby HE as the undertaker of the works will develop (with its contractor) a CEMP before commencement of the works, update it and its subsidiary documents (the management plans) as necessary through the development of the works, and then develop the final version of the CEMP into the HEMP at the conclusion of the works, at which stage some elements of the CEMP (the construction-related ones) will no longer be relevant, while some new elements (operation-related) will need to be added? ii. If the Applicant confirms this process, can the Applicant explain how the current drafting of the dDCO [REP5-007/008] achieves this intention with certainty? iii. Would the Applicant supply the envisaged contents of the HEMP?
20.11	Applicant	<p>Schedule 2, Requirement 3 – CEMP (low noise surfacing)</p> <p>At the Issue Specific Hearing (ISH) dealing with matters relating to the draft Development Consent Order (dDCO), in response to comments made by other Interested Parties the Applicant stated that the use of low noise surfacing for new road schemes was secured through Highways England policy. In the Applicant's view, the installation of a thin surface course (TSC) in the</p>

		<p>construction of the proposed development is also secured through the Outline Construction Environmental Mitigation Plan (oCEMP) [APP-204].</p> <p>Requirement 5(1) of the made M4 Motorway (Junctions 3 to 12) (Smart Motorway Order) 2016³ ('the M4 Order') secures the use of a thin surface noise system (TSNS) in the construction of the authorised development and Requirement 5(2) secures for low noise surfacing of similar or improved noise reduction properties to TSNS to be used in any subsequent resurfacing.</p> <ul style="list-style-type: none"> i. Would the Applicant state how the use of a TSC can be secured with sufficient certainty through an outline document (ie the oCEMP)? ii. In partial consideration of the comparatively short life of a TSC (vs hot rolled asphalt), is it the Applicant's intention for the resurfacing of any carriageway within the authorised development to be with a TSC? If so, how is this secured? iii. Should a separate Requirement, reflecting the purposes of Requirement 5 in the M4 Order, be inserted into the M20 Junction 10a dDCO to secure the use of TSC in the construction of the proposed development and for a similar or improved surface to be used in any subsequent resurfacing?
20.12	Applicant; KCC; ABC	<p>Schedule 2, Requirement 9 - Archaeology</p> <p>Re. Schedule 2 Requirement 9 in the dDCO Rev D [REP5-007/008]:</p> <ul style="list-style-type: none"> i. Would the Applicant define the term 'county archaeologist' in the dDCO? ii. Are KCC and ABC content with this Requirement as drafted?
20.13	Applicant; Natural England; ABC	<p>Schedule 2, Requirement 10 - Protected species</p> <p>Re. Schedule 2 Requirement 10 in the dDCO Rev D [REP5-007/008]:</p> <ul style="list-style-type: none"> i. Would the Applicant define the term 'ecological clerk of works' in the dDCO and state by whom this role would be appointed? ii. Are Natural England and ABC content with the re-drafting of this Requirement?
20.14	Applicant	<p>Schedule 2, Reptile Mitigation</p> <p>In the Applicant's schedule of amendments to the dDCO provided to Deadline 5 [REP5-009] the</p>

³ <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010019/TR010019-003522-Development%20Consent%20Order%20as%20made%20by%20the%20Secretary%20of%20State%20for%20Transport.pdf>

		<p>Applicant states that:</p> <p><i>“There are ongoing discussions regarding an integrated approach to reptile mitigation. The undertaker will propose a suitable Grampian requirement or section 106 agreement to address the use of land owned by the undertaker outside the DCO, for Deadline 6.”</i></p> <p>Using a negative or ‘Grampian-type’ Requirement to provide for reptile mitigation may not find favour with the Secretary of State because of the risks it could pose to the delivery of infrastructure policy and public goods.</p> <p>i. What comfort can the Applicant provide to the Examination (and to the Secretary of State for Transport) that the inclusion of any Grampian-type Requirement would not pose a risk to the delivery of the proposed development?</p>
21 Compulsory Acquisition and other Land Matters		
Question number	Question to	Question(s)
21.01	Applicant	<p>Consolidated list of objections to Compulsory Acquisition (CA)</p> <p>i. Would the Applicant provide a consolidated list of objections to CA that it understands are outstanding at this juncture?</p>
21.02	Applicant	<p>Highways England and Friends Life Ltd</p> <p>Re. the Agreed Joint Statement of Highways England and Friends Life Ltd [REP5-006]:</p> <p>i. When will a “<i>comprehensive agreed position</i>” between Friends Life Ltd and the Applicant be provided to the Examination in the form of a Statement of Common Ground?</p> <p>ii. When does the Applicant expect to provide an updated dDCO and Book of Reference reflecting the removal of plots 4/16/e, f, and g from CA powers, and incorporating appropriate consequential changes?</p>
21.03	Applicant; KCC	<p>Highfield Lane turning loop</p> <p>Re. the Position Statement of Highways England on Highfield Lane Turning Loop [REP5-010]:</p> <p>i. Would the Applicant and KCC update the Examination in respect of Plot 4/16/c and the delivery of the turning circle [REP5-006]?</p>

		<ul style="list-style-type: none"> ii. Is KCC satisfied with the amendments proposed by the Applicant in Requirement 3 at Schedule 2 of the dDCO Rev D [REP5-006 and REP5-007/008]? iii. Do those amendments appropriately reassure KCC that the Applicant will not act to interfere with the delivery of the proposed turning loop in this location [REP5-006]?
21.04	Applicant; KCC	<p>Discussions between the Applicant and KCC</p> <p>Rev B of the Compulsory Acquisition Negotiations Status Report [REP5-015] states that discussions are ongoing between the Applicant and KCC in respect of all of the proposed CA powers over lands in the Council’s interest.</p> <ul style="list-style-type: none"> i. Would the Applicant and KCC update the Examination on the progress of these discussions?
21.05	Applicant; ABC	<p>Discussions between the Applicant and ABC as landowner</p> <p>ABC’s submission as landowner at Deadline 5 [REP5-002] states its position on plots 3/14/a and 3/14/b – the open space land - and the Applicant’s proposed replacement open space land, plots 3/1/b to d. The Compulsory Acquisition Negotiations Status Report [REP5-015] states that discussions are ongoing between the Applicant and ABC in respect of these plots and other plots for which ABC is landowner.</p> <ul style="list-style-type: none"> i. Would the Applicant and ABC update the Examination on the progress of the discussions?
21.06	Applicant	<p>Plot 3/16/f</p> <p>In the Applicant’s written summary of oral submissions at the Compulsory Acquisition Hearing [REP5-018], at row 3 the Applicant states that Plot 3/16/f has been removed from Part 3 of the Book of Reference (BoR) [OD-009]:</p> <ul style="list-style-type: none"> i. Would the Applicant please explain why reference to Plot 3/16/f still appears on page 59 of Revision B of the BoR?
21.07	Applicant	<p>Compulsory Acquisition Negotiations Status Report [REP5-015] – Paragraph 1.3.3</p> <p>At paragraph 1.3.3 the Applicant states: <i>"Highways England remains open to acquiring all land interests in and rights over land required for the Scheme by agreement; however, unless requested by the landowner, it is not generally pursuing the freehold transfer of land prior to the end of the examination period for the Application. This approach reflects the view of many land owners who do not wish to sell land (or contract to do so) until the consenting process for the Scheme is further advanced. In addition to purchasing land where requested, Highways England</i></p>

		<p><i>is also prepared to enter into option agreements where appropriate or where requested by the landowner”.</i></p> <ul style="list-style-type: none"> i. Has the Applicant made all landowners aware (a) of their ability to make such a request; and (b) that this is the Applicant’s approach? ii. Would the Applicant explain how paragraph 1.3.3 (or other paragraphs) covers the interests of anyone other than freehold owners (eg lessees, tenants, occupiers)? Note: (a) s57(1) PA2008; and (b) paragraph 25 of Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land⁴ must be read as applying to all interests, not just freehold ones – see footnote 2 on page 2 of that Guidance.
21.08	Applicant	<p>Compulsory Acquisition Negotiations Status Report [REP5-015] – Paragraph 1.3.6</p> <ul style="list-style-type: none"> i. Re. paragraph 1.3.6, would the Applicant clarify whether the intention was to say mortgagors (borrowers) or mortgagees (lenders)? ii. Would the Applicant explain how paragraph 1.3.6 covers the interests of anyone other than freehold owners, as for 21.07 ii above?
21.09	Applicant	<p>Compulsory Acquisition Negotiations Status Report [REP5-015] – Update</p> <ul style="list-style-type: none"> i. Would the Applicant provide an updated Compulsory Acquisition Negotiations Status Report [REP5-015] reflecting its responses to the above questions and any other updates to the lands information?
21.10	Applicant	<p>Compulsory Acquisition Hearing, Question 2 iii</p> <ul style="list-style-type: none"> i. Re. the Applicant’s written summary of the oral submissions at the Compulsory Acquisition Hearing [REP5-018], question 2 iii, would the Applicant please answer the question directly with a yes or no answer?
21.11	Executors of Marianne Clunies-Ross	<p>Executors of Marianne Clunies-Ross</p> <p>Re. the submission by Mr Boam representing the Executors of Marianne Clunies-Ross and others, Mr Boam re-stated the Executors’ request that the Alternative Scheme should be <i>“amended to add a fourth arm off the roundabout to service land owned by the Clunies-Ross Estate”</i>. In the Applicant’s submission at Deadline 5 [REP5-021], the Applicant stated that <i>“it is not intended to</i></p>

⁴ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/236454/Planning_Act_2008_-_Guidance_related_to_procedures_for_the_compulsory_acquisition_of_land.pdf

		<p><i>amend the Alternative Scheme to add a fourth arm to service the land currently owned by the Clunies-Ross Estate. The scheme which Mr Boam referred to is entirely speculative. It has no status in the Local Plan, and no planning application has been made, nor permission obtained”:</i></p> <p>i. Would the Executors of Marianne Clunies-Ross state whether they agree with this position statement from the Applicant?</p>
22 Statements of Common Ground (SoCG)		
Question number	Question to	Question(s)
22.01	Applicant; ABC	<p>Applicant and ABC</p> <p>Re. the Applicant’s and ABC’s submissions at Deadline 5 [REP5-017; response N1 and REP5-032], the Applicant states that <i>“a revised SoCG will be submitted at Deadline 6”</i>, while ABC states that <i>“most sections [...] will be subject to further discussions. There may be points e.g. FRA that ABC may need to look at”</i>. ABC stated that points of discussion were public open space, Kingsford Street/ Highfield Lane turning circle, air quality, landscaping/ trees, noise/ vibration, and flood risk:</p> <p>i. Would the Applicant and ABC provide detail within the SoCG at Deadline 6 for any areas stated as <i>“not agreed”</i> or <i>“under discussion”</i>?</p>
22.02	Applicant; EA	<p>Applicant and EA</p> <p>Further to the Applicant’s and EA’s submissions at Deadline 5 [REP5-016; response N2 and REP5-004], the Applicant states that <i>“a SoCG will be submitted at Deadline 6”</i> while the EA states that <i>“due to missing information, it was unable to ‘agree’ many aspects”</i>:</p> <p>ii. Would the Applicant and EA provide detail within the SoCG at Deadline 6 for any areas stated as <i>“not agreed”</i> or <i>“under discussion”</i>?</p>
22.03	Applicant; Friends Life	<p>Applicant and Friends Life Ltd</p> <p>Re. the Applicant’s statement at Deadline 5 [REP5-017; response N3] that the document submitted at Deadline 5 <i>“will stand in place of a SOCG and will be updated and submitted at Deadline 6”</i>:</p> <p>i. Would the Applicant and Friends Life Ltd provide detail within the SoCG (or equivalent</p>

		document) at Deadline 6 for any areas stated as “not agreed” or “under discussion”?
22.04	Applicant; Historic England	<p>Applicant and Historic England</p> <p>Re. the Applicant’s statement at Deadline 5 [REP5-017; response N4] that “<i>the SOCG may need to be updated to reflect the content of Historic England’s letter dated 20 February 2017 submitted to the Examining Authority. If necessary, an updated SOCG will be submitted at Deadline 6</i>”.</p> <p>Historic England’s letter states that “<i>There are only two matters on which full agreement has not been reached [...] the combined and cumulative effects of the proposed scheme and the Stour Park development [...] the on-going viability of the (St Mary’s Sevington) church.</i>”:</p> <ul style="list-style-type: none"> i. Would the Applicant and Historic England confirm whether or not an updated SoCG will be provided at Deadline 6, and if so, provide detail within the SoCG at Deadline 6 for any areas stated as “not agreed” or “under discussion”? ii. Can the Applicant and/ or Historic England identify any mitigation that might reasonably be applied to mitigate the decrease in viability stated by Historic England for St Mary’s Church Sevington?
22.05	Applicant; KCC	<p>Applicant and KCC</p> <p>Re. the Applicant’s statement at Deadline 5 [REP5-017; response N5] that “<i>a SoCG will be submitted at Deadline 6</i>”:</p> <ul style="list-style-type: none"> i. Would the Applicant and KCC provide detail within the SoCG at Deadline 6 for any areas stated as “not agreed” or “under discussion”?
22.06	Applicant; Southern Gas Networks (SGN)	<p>Applicant and SGN</p> <p>Re. the Applicant’s statement at Deadline 5 [REP5-017; response N9] that “<i>the SoCG is close to being agreed and will be submitted at Deadline 6</i>”:</p> <ul style="list-style-type: none"> i. Would the Applicant and SGN provide detail within the SoCG at Deadline 6 for any areas stated as “not agreed” or “under discussion”?

Acronyms and abbreviations

Abbreviation or usage	Reference
ABC	Ashford Borough Council
BoR	Book of Reference
CA	Compulsory Acquisition
CEMP	Construction Environmental Management Plan
dB	Decibels
DCO	Development Consent Order
dDCO	Draft Development Consent Order
DMRB	Design Manual for Roads and Bridges
dTTMP	Draft Traffic and Transport Management Plan
EA	Environment Agency
ES	Environmental Statement
ExA	Examining Authority
FRA	Flood Risk Assessment
HEMP	Handover Environmental Management Plan
ISH	Issue Specific Hearing
KCC	Kent County Council
NPSNN	National Policy Statement for National Networks
NWCF	North Willesborough Community Forum
oCEMP	Outline Construction Environmental Mitigation Plan
PHE	Public Health England
PRoW	Public Right of Way
SGN	Southern Gas Networks
SoCG	Statement of Common Ground
TPO	Tree Preservation Order
TSC	Thin Surface Course
TSNS	Thin Surface Noise System
WSI	Written Scheme of Investigation