

# M20 Junction 10a

TR010006

## Applicant Responses to Kent County Council and Ashford Borough Council DCO Comments



Volume 14.2  
May 2017



M20 Junction 10a

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# **Applicant Responses to Kent County Council and Ashford Borough Council DCO Comments**

**Planning Act 2008  
Infrastructure Planning (Applications: Prescribed Forms  
and Procedure)  
Regulations 2009**

Volume 14.2



# Issue and revision record

Revision	Date	Originator	Checker	Approver	Description
A	May 2017	Mott MacDonald Sweco Burgess Salmon	Burgess Salmon Mott MacDonald Sweco	Highways England	DCO submission (deadline 7)

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# 1. Kent County Council

## 1.1 Applicant Responses to Kent County Council DCO Articles Comments

Article No	Comments from Kent County Council January 2017	Updated Comments from Kent County Council April 2017	Response from Highways England (the Applicant)
1	None		No response required.
2	None		No response required.
3	None		No response required.
4	None		No response required.
5	There is no definition of when decision will be made. This should be in conjunction with ABC/KCC.	None	Article 5 is recording the fact that development consent has been granted. By definition, it cannot be subject to consultation.
6	None		No response required.
7	None	Please can Highways England (HE) confirm that this article offers	This Article is not relevant to the turning loop proposal. In the Applicant's view no protection is required as the turning loop works represent an entirely different and separate project outside of the DCO.

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Article No	Comments from Kent County Council January 2017	Updated Comments from Kent County Council April 2017	Response from Highways England (the Applicant)
		protection to KCC in the event the works to the turning loop for the Stour Park development are carried out after the DCO is made or after completion of the M20 J10A works.	
8	No impact in terms of land issues for KCC unless more land is required to provide a scheme without so much deviation. The levels of deviation are excessive and I would suggest not even possible given the site constraints. This has not been covered in the ES. Consultation with KCC on any proposed deviation is required. KCC are not aware of any communications from HE in this respect.		The Applicant will amend Article 8 of the DCO to add Kent County Council as a consultee and submit the updated draft DCO at Deadline 7. Otherwise, the Applicant has nothing to add to its previous submission on this point (please see paragraph 023.18 of the Applicant's "Response to Kent County Council Submissions at Deadline 3" (PINS reference REP4-019)).
9	None		No response required.



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Article No	Comments from Kent County Council January 2017	Updated Comments from Kent County Council April 2017	Response from Highways England (the Applicant)
10	None		No response required.
11	<p>If section 56(a) of the Streetworks Act 1991 does not apply then KCC have no powers to give directions to the timing of the work. This scheme will have a big impact on the local network particularly the A20. In my response to the questions KCC have stated that HE need to comply with the Kent Permit and Kent Lane Rental scheme. This is at odds with this.</p> <p>The rest of this section gives even more reason to insist on HE taking on maintenance of A20.</p>		<p>This is a standard provision in development consent orders for highway schemes. It is correct that timing will be a matter for the Applicant. The programme will be determined by the Applicant, who has committed to opening the road by March 2020. Please refer to the Applicant's previous submissions at paragraph 023.21 of the Applicant's "Response to Kent County Council Submissions at Deadline 3" (PINS reference REP4-019). The Applicant has nothing further to add to its previous submissions on maintenance of the A20 (see for example paragraph 026.02 of the Applicant's "Responses to Ashford Borough Council and Kent County Council Submissions at Deadline 4" (PINS reference REP5-019)).</p>
12	KCC require that the A20 is maintained by HE following construction of the scheme.	Discussions have taken place between KCC and HE regarding the maintenance of the footpath through the replacement	<p>The Applicant has nothing further to add to its previous submissions on maintenance of the A20 (see for example paragraph 026.02 of the Applicant's "Responses to Ashford Borough Council and Kent County Council Submissions at Deadline 4" (PINS reference REP5-019)).</p> <p>In respect of the footpath through the replacement public open space, Article 12(3) of the DCO has been amended to state that the Applicant will be</p>

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		public open space. It has been agreed that this should be maintained by HE instead of KCC however the current working of the article would require KCC to maintain this.	responsible for the maintenance of the new footpath through plots 3/1/b and 3/1/d as shown on the "Rights of Way and Access plans - Drawing No. HA514442-MMGJV-GEN-SMW-DE-Z-2404 (Rev B)" (PINS reference REP4-006).
13	None		No response required.
14	The Traffic and Transport Management Plan needs to be agreed with KCC. All temporary stopping up and restriction of use of streets will need to be agreed with KCC. Compliance with Kent Lane Rental Scheme and Kent Permit Scheme. At the hearings in February HE were unsure if they will be producing a draft transport management plan as this is a non-trivial piece of work. They need to look at this in sections and see whether it		A draft Traffic and Transport Management Plan was submitted at Deadline 6 (PINS reference REP6-033). Kent County Council will be consulted on the CEMP, of which the Traffic and Transport Management Plan forms part, under Requirement 3 of Schedule 2 to the DCO.

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Article No	Comments from Kent County Council January 2017	Updated Comments from Kent County Council April 2017	Response from Highways England (the Applicant)
	can be done in the proper time frame given the amount of time remaining to examine the DCO. If this is not provided a traffic and transport management plan needs to be agreed with KCC.		
15	The Traffic and Transport Management Plan needs to be agreed with KCC. All permanent stopping up and restriction of use of streets will need to be agreed with KCC. Compliance with Kent Lane Rental Scheme and Kent Permit Scheme required will also be required.		A draft Traffic and Transport Management Plan was submitted at Deadline 6 (PINS reference REP6-033). Kent County Council will be consulted on the CEMP, of which the Traffic and Transport Management Plan forms part, under Requirement 3 of Schedule 2 to the DCO.
16	None	All access to/from the works on the local network to be agreed with KCC. This has been covered in Article 3 – CEMP in the requirements.	No response required.
17	No comment		No response required.

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Article No	Comments from Kent County Council January 2017	Updated Comments from Kent County Council April 2017	Response from Highways England (the Applicant)
18	No comment		No response required.
19	None		No response required.
20	KCC owns some land within the scheme area. Most of this is highway land and intended to be transferred to Highways England as part of the scheme.	None	No response required.
21	The scheme mostly effects highway land. Highways have an argument to retain certain aspects of the highway, where appropriate. A meeting is needed with Highways England to go through the land they wish to acquire.	The amendment discussed at the hearings making reference to the local highway authority has been included.	No response required.
22	Not applicable.		No response required.
23	Not applicable.		No response required.
24	No Rights of Way affected In land terms, KCC is being asked to pass this land to Highways England	None	No response required.
25	Yes KCC has approved the extinguishments.		An updated "Rights of Way and Access plans - Drawing No. HA514442-MMGJV-GEN-SMW-DE-Z-2404 (Rev B)" (PINS reference REP4-006) was

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	<p>28 days is considered sufficient notice in line with statutory requirements. The map and description for PRow AE339, Sevington is incorrect. The Public Footpath extends across the A2070 to Church Road East of the A2070. The description and corresponding plan should therefore reflect the following;</p> <p>Parish – Sevington Highway to be stopped up – Public Right of Way AE339 Extent of stopping up – From the Barrey Road/Church Road junction West of the A2070 to where it meets Church Road again, East of the A2070 a distance of 184 metres, shown on sheet 3 of the rights of way and access plans.</p> <p>A copy of the made DCO at the date of making the Order and posting of the Order, must be sent to KCC's</p>		<p>submitted at Deadline 4. This shows footpath AE338 and AE339 (as well as others).</p> <p>Part 1 of Schedule 4 of the DCO has now been updated to include the correct details of footpath AE339.</p>

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Article No	Comments from Kent County Council January 2017	Updated Comments from Kent County Council April 2017	Response from Highways England (the Applicant)
	<p>PRoW &amp; Access Service to allow changes to be made to the Definitive Map and Statement of Public Rights of Way For the avoidance of doubt path AE338 should also be annotated into the rights of way and access plan 3.</p>		
26	<p>One section of the identified land appears to be a track serving adjacent properties. More information is needed about whether there are any rights granted that affect this land.</p>		<p>The Applicant has nothing further to add to its previous submissions at paragraph 023.36 of the Applicant's "Response to Kent County Council Submissions at Deadline 3" (PINS reference REP4-019).</p>
27	<p>Art 27(4) – the reference to s.3 (preliminary notices) does not appear to tie up with the relevant section of the 1981 act currently in force.</p>	No Comment	<p>Article 27(4) of the DCO has been previously deleted and so no further amendments are required.</p>
28	No Comment		No response required.
29	<p>Part of several titles only has been requested by Highways England. This should not be an issue.</p>	No Comment	No response required.

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Article No	Comments from Kent County Council January 2017	Updated Comments from Kent County Council April 2017	Response from Highways England (the Applicant)
30	No Comment		No response required.
31	No Comment		No response required.
32	No Comment		No response required.
33	No Comment		No response required.
34	No Comment		No response required.
35	No Comment		No response required.
36	No Comment		No response required.
37	No Comment		No response required.
38	Any works need to have consideration to wildlife legislation (Wildlife and Countryside Act 1981/Habitat Regulations) On-going maintenance doesn't mean that the HE can cause a breach of these legislations – they need to demonstrate that they are taking it in to consideration. They could say something like: In carrying out any	KCC's suggested addition in previous comments on this article has been incorporated	No response required.

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Article No	Comments from Kent County Council January 2017	Updated Comments from Kent County Council April 2017	Response from Highways England (the Applicant)
	activity authorised by paragraph (1), the undertaker must take steps to avoid a breach of the provisions of the Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2010 or any successor acts		
39	None		No response required.
40	None		No response required.
41	None		No response required.
42	None		No response required.
43	No comment		No response required.
44	No comment		No response required.
45	No comment		No response required.
46	No comment		No response required.
47	No comment		No response required.



1.2 Applicant Responses to Kent County Council DCO Schedule Comments

Schedule and Article No	Comments from Kent County Council January 2017	Updated Comments from Kent County Council April 2017	Response from Highways England (the Applicant)
Schedule 1 Authorised Development	<p>Work No 4 - No reference to the two bypass lanes on the new roundabout on Bad Munstereifel Road one from the south to J10(north) to accommodate local traffic and the second from J10a (East) to the south.</p> <p>Work No. 10 and Work No. 11 (a) - Should there be emergency access from J10 onto M20 eastbound from William Harvey Hospital?</p> <p>Work No. 13 Should there be emergency access from M20 J10 Westbound for access to William Harvey Hospital?</p>		The Applicant has nothing to add to its previous submissions on this point (see the Applicant's "Response to Kent County Council Submissions at Deadline 3" (PINS reference REP4-019)).
<b>Schedule 2 - Requirements Part 1</b>			No response required.
3. CEMP	CEMP to be prepared in consultation with KCC.	No comment	This comment has been addressed and Kent County Council has been added as a consultee under Requirement 3 of Schedule 2 to the DCO.

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Schedule and Article No	Comments from Kent County Council January 2017	Updated Comments from Kent County Council April 2017	Response from Highways England (the Applicant)
4. Landscaping		No comment	No response required.
5. Implementation and maintenance of Landscaping	No comment.		No response required.
6. Fencing	No comment.		No response required.
7. Contaminated land	No comment.		No response required.
8. Archaeology	Awaiting comments from Conservation.		No response required.
9. Protected Species	<p>Biodiversity: The text says this: The requirement only covers protected species during construction. I'm not sure I agree with it as if there are any works that need to be carried out post construction (e.g. habitats haven't established properly) they will need to take protected species in to account. I'm wondering why NE/LPAs need to be contacted immediately if a protected species (previously un</p>	<p>The text says this: The requirement only covers protected species during construction. I'm not sure I agree with it as if there are any works that need to be carried out post construction (e.g. habitats haven't established properly) they will need to take protected species in to account. I'm wondering why NE/LPAs need to be contacted immediately if a protected species (previously un recorded) is identified on site. They should be speaking to their ecologists and agreeing a plan before contacting NE/LPAs to alert them to the changes in the</p>	Requirement 10 of Schedule 2 to the DCO has been amended to address concerns raised by Kent County Council. The amendments have been agreed with Kent County Council.

Schedule and Article No	Comments from Kent County Council January 2017	Updated Comments from Kent County Council April 2017	Response from Highways England (the Applicant)
	<p>recorded) is identified on site. They should be speaking to their ecologists and agreeing a plan before contacting NE/LPAs to alert them to the changes in the mitigation strategies/monitoring plans. Works should stop but I'm not keen on the arbitrary 10metre buffer - if a protected species is recorded within a particular habitat it is likely that it may be present within all of that habitat not just 10metres. Their ecologist should be identifying the area that they should cease work. I'd expect an ecologist to be present on site for the majority of the works (where it will result in a loss of natural habitat) so this shouldn't cause them any delay.</p> <p>There does not appear to be any reference to the Ashford Green Corridor Local Nature Reserve (LNR) and Highfield Lane Roadside Nature Reserve (RNR). KCC does not consider that the appropriate mitigation measures are proposed and</p>	<p>mitigation strategies/monitoring plans. Works should stop but I'm not keen on the arbitrary 10metre buffer - if a protected species is recorded within a particular habitat it is likely that it may be present within all of that habitat not just 10metres. Their ecologist should be identifying the area that they should cease work. I'd expect an ecologist to be present on site for the majority of the works (where it will result in a loss of natural habitat) so this shouldn't cause them any delay.</p> <p>There does not appear to be any reference to the Ashford Green Corridor Local Nature Reserve (LNR) and Highfield Lane Roadside Nature Reserve (RNR). KCC does not consider that the appropriate mitigation measures are proposed and secured in the DCO to mitigate for the loss of these habitats. Please can the applicant confirm whether additional information has been submitted in respect of this point as KCC are unable at present to see if the above issue has been resolved. It would be preferable if protected species and nesting birds had not</p>	

Schedule and Article No	Comments from Kent County Council January 2017	Updated Comments from Kent County Council April 2017	Response from Highways England (the Applicant)
	<p>secured in the DCO to mitigate for the loss of these habitats.</p>	<p>been combined in the same paragraphs. Birds (unless schedule 1) are only protected under the Wildlife and Countryside Act when nesting.</p> <p>An amendment is required to Article 10(1-3) along the following lines. (all references to breeding birds have been removed) The additional wording is shown highlighted in yellow.</p> <p>10.—(1) In the event that any protected species found at any time when carrying out the authorised development, which were not previously identified in the environmental statement, the undertaker must cease construction works and report it immediately to the ecological clerk of works.</p> <p>(2) The undertaker must prepare a written scheme for the protection and mitigation measures for any protected species found when carrying out the authorised development, which we're not previously identified in the environmental statement.</p> <p>(3) The undertaker must implement the written scheme</p>	

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Schedule and Article No	Comments from Kent County Council January 2017	Updated Comments from Kent County Council April 2017	Response from Highways England (the Applicant)
		<p>prepared under sub-paragraph (2) immediately and construction must not recommence within the area identified within the written scheme until any necessary licences are obtained.</p> <p>Unless there is a need for a European Protected Species licence or the proposed mitigation will change mitigation agreed as part of an existing EPS licence – NE will be unlikely to want to know that additional protected species have been recorded.</p> <p>The LPA should be contacted with details of the written scheme as it may impact existing proposed mitigation areas or the long term monitoring.</p> <p>Breeding Birds –Why does the reference to breeding birds need to be included? Particularly as paragraph 5.1.1 (appendix 8.4 Protected species report Birds) states the following:</p> <p>5.1.1 Vegetation clearance to facilitate both the Main and Alternative Scheme would pose risks to nesting birds, including killing or injuring due to physical removal of</p>	

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Schedule and Article No	Comments from Kent County Council January 2017	Updated Comments from Kent County Council April 2017	Response from Highways England (the Applicant)
		<p>the trees whilst birds are present, or due to disturbance or destruction of a nest. These would constitute an offence under the Wildlife and Countryside Act (1981). 5.1.2 The best mitigation would be to avoid undertaking vegetation clearance during the bird breeding season (March – September). However, where it could not be avoided, any tree, scrub or hedgerow clearance would require an experienced ecologist to check the vegetation first for signs of nesting birds, and provide supervision throughout the operation. In the event that a nest is found, works must stop and a buffer zone established of a size appropriate to the species and context of the nest within the surrounding habitat would be required. The works would not resume until it is evident that the nest is no longer in use.</p> <p>In addition, only breeding birds have been mentioned in this article whereas the ES submitted with the DCO included mitigation measures cover all relevant</p>	

Schedule and Article No	Comments from Kent County Council January 2017	Updated Comments from Kent County Council April 2017	Response from Highways England (the Applicant)
		protected species recorded within the site. The applicants have already detailed that they are going to carry out mitigation for breeding birds so do breeding birds need to be included within the article? KCC would welcome discussions with the applicant on the wording of this article in light of the above comments.	
10. Traffic Management	Highway Operations have not seen draft plan. Does it include allowance should Operation Stack be initiated when Traffic Management is in place? KCC to agree the Traffic and Transport Management Plan.		A draft Traffic and Transport Management Plan was submitted at Deadline 6 (PINS reference REP6-033). Kent County Council will be consulted on the CEMP, of which the Traffic and Transport Management Plan forms part, under Requirement 3 of Schedule 2 to the DCO.
11. Detailed design	KCC to be consulted on the detailed design.	Reference to the local highways authority included as per comments made at the hearings in February 2017	No response required.
12. Surface and foul water drainage	KCC have previously reviewed the Flood Risk Assessments and Drainage Strategies and are generally satisfied with the principles discussed. KCC as the Lead Local Flood Authority should be added as the statutory consultee for surface water drainage in planning in	Reference to the local highways authority included as per comments made at the hearings in February 2017	No response required.

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Schedule and Article No	Comments from Kent County Council January 2017	Updated Comments from Kent County Council April 2017	Response from Highways England (the Applicant)
	order to review the detailed drainage scheme information in conjunction with the local planning authority, the Environment Agency and the IDB.		
13. Approvals and amendments to approved details	No comments.		No response required.
14. Alternative A2070 options	Highways: KCC will be consulted on planning for Stour Park site.	Reference to the local highways authority included as per comments made at the hearings in February 2017	No response required.



## 2. Ashford Borough Council

### 2.1 Applicant Responses to Ashford Borough Council DCO Articles Comments

Article Number	Ashford Borough Council comments	Response from Highways England (the Applicant)
<b>7</b> Planning permission	Does this wording protect KCC for the purposes of carrying out the turning loop works? If not it needs to be amended to cover it.	Please refer to the Applicant's response to the same point which has been raised by Kent County Council above.
<b>8</b> Limits of deviation	See ABC's previous comments (Annex 2 of written representations submitted at Deadline 3, and Annex 3 of ABC's representations submitted at Deadline 5).	Please refer to the Applicant's response to the same point which has been raised by Kent County Council above.
<b>31</b> Temporary use of land	ABC is still of the view that HE should acquire plot 3/14/a permanently See ABC's previous comments (Annex 2 of written representations submitted at Deadline 3, and Annex 3 of ABC's representations submitted at Deadline 5).	No response required.
<b>36</b> Special Category Land	See ABC's previous comments on the replacement land (Annex 2 of written representations submitted at Deadline 3, and Annex 3 of ABC's representations submitted at Deadline 5).	No response required.
<b>39</b> Tree subject to Tree Preservation Order	The current drafting is not acceptable. It needs to be amended to cover the following:	Article 39 of the DCO has been amended to address the concerns raised by Ashford Borough Council.

Article Number	Ashford Borough Council comments	Response from Highways England (the Applicant)
	The removal of any of the TPO trees should be subject to agreement with the ABC. Trees are to be replaced where possible, this will be subject to agreement with the council. (qu 20.08). The ABC TPO reference needs confirmation.	

2.2 Applicant Responses to Ashford Borough Council DCO Schedules Comments

Schedule 2 Requirement	Ashford Borough Council comments	Response from Highways England (the Applicant)
<p><b>5</b> Landscaping</p>	<p>The landscaping requirement has been amended and now refers to the environmental masterplan. The environmental masterplan needs to be approved by the SoS following consultation with the LPA first. Add a requirement for the environmental masterplan (see requirement 7 of the M4 DCO).</p>	<p>The environmental masterplan is to be certified by the Secretary of State under Article 44(1)(e) of the DCO. It is not an item which requires consultation with the Council, although the Applicant has met with the Council to discuss the environmental masterplan and consequential amendments have been made to the environmental masterplan as a result. It is not intended to add a Requirement in relation to the environmental masterplan. Under Requirement 5 of Schedule 2 to the DCO, the landscaping scheme, to be based on the environmental masterplan, must be approved by the Secretary of State in consultation with both the relevant planning authority and local highway authority. This provides adequate opportunity for the Council to be consulted on the proposed landscaping.</p>
<p><b>6(1)</b> Implementation and maintenance of landscaping</p>	<p>This should state requirement 5, not 4.</p>	<p>This has previously been corrected in the DCO.</p>
<p><b>10</b> Protected species</p>	<p>ABC defers to KCC's comments.</p>	<p>Please refer to the Applicant's response to the same point which has been raised by Kent County Council above.</p>
<p><b>11</b> Detailed Design</p>	<p>See ABC's previous comments (Annex 2 of written representations submitted at Deadline 3)</p>	<p>The Applicant has nothing further to add to its previous submissions on this matter (see paragraph 001.21w of the Applicant's "Response to Ashford Borough Council Submissions at Deadline 3" (PINS reference REP4-018)).</p>
<p><b>13</b> Surface Water and Foul Water Drainage</p>	<p>See ABC's previous comments (Annex 2 of written representations submitted at Deadline 3)</p>	<p>The Applicant has submitted a "Flood Risk Assessment modelling addendum" (PINS reference OD-022) to the Examining Authority. Discussions are on-going with the Environment Agency in relation to this document and the Applicant has also agreed to provide an updated Flood Risk</p>

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Schedule 2 Requirement	Ashford Borough Council comments	Response from Highways England (the Applicant)
		Assessment at Deadline 7. Other than that, the Applicant has nothing further to add to its previous submissions on this matter (see paragraph 001.21x of the Applicant's "Response to Ashford Borough Council Submissions at Deadline 3" (PINS reference REP4-018)).
15 (2) Alternative A2070	The wording doesn't make sense. Should it read 'The undertaker is not required to ..... unless'?	The Applicant is of the view that the wording does make sense.
	<b>Air Quality Monitoring During Operations:</b> ABC's position remains that it would like to see further monitoring of air quality in order to confirm the AQ impacts of the scheme. Consideration should be given to include this as a requirement.	The Applicant has nothing further to add to its previous submissions on this issue (see the Applicant's "Written – summary of oral submissions at Issue Specific Hearing – Environmental Issues" in response to the Inspector's Question C.6(iii) (PINS reference REP5-016)).