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Our Ref: 15/00001/NSIP/AS
Your Ref: TR010006
Date: 26 May 2017

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

Ashford Borough Council's responses to deadline 8.

In connection with deadline 8 Ashford Borough Council has submitted the following:

Annex 1

Written summary of oral submissions made at issue specific hearing on 17 May 2017 dealing with matters relating to the environment.

Annex 2

Written summary of oral submissions made at compulsory acquisition hearing on 18 May 2017.

Annex 3

Written summary of oral submissions made at draft Development Consent Order hearing on 18 May 2017. This includes Appendix 1.

Annex 1 TR01006: Issue Specific Hearing dealing with matters relating to the environment, 10:00am Wednesday 17 May 2017. Ashford Borough Council replies.

A.01	<p>Draft UK Air Quality Plan</p> <p>A revised Draft UK Air Quality Plan for tackling nitrogen dioxide was issued by Defra on 5 May 2017</p> <p>i. What is the response of the Applicant, ABC and KCC to the Government's revised Draft UK Air Quality Plan, with regard to any impact on the M20 J10a application?</p> <p><u>ABC reply</u></p> <p>The Applicant stated that, since there is no quantification of the effectiveness of Defra draft plan measures, it is not possible to state the implications of the draft plan. In any case, since there are no EU limit value exceedences nearby, Highways England does not expect any change in concentrations or conclusions regarding the scheme. Alaric Lester on behalf of ABC said that the AQ community has already noted the lack of ambition in Defra's plan and said that the plan, as it stands, is likely to have no discernible impact on AQ in the vicinity of the Junction 10A scheme.</p>
A.02	<p>A.02. Monitoring air quality during operations</p> <p>In a submission at Deadline 6 [REP6-001], ABC stated that: "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". In the cases of the A14 Cambridge to Huntingdon Improvement Scheme and the M4 J3-12 Smart Motorway, the ExAs recommended, and the Secretary of State for Transport (SST), a precautionary approach to air quality monitoring, with the inclusion of a Requirement for post construction air quality monitoring.</p> <p>i. What is the Applicant's latest position on this matter</p> <p><u>ABC reply</u></p> <p>The Applicant presented additional AQ monitoring, showing concentrations below 40 microgrammes per cubic metre. The applicant noted that since no EU limit value exceedences were likely, Highway England's view is that no monitoring is needed. Alaric Lester on behalf of ABC said that the purpose of monitoring would be to establish whether any significant effects</p>

	<p>have occurred, not just whether EU limit values are complied with. Alaric Lester on behalf of ABC has asked to review the new information presented. Paul Bartlett (a councilor) said that numerous other schemes would go ahead if Junction 10A does, so AQ monitoring is necessary.</p>
C.01	<p>Landscape - ES Chapter 7 [APP-035]</p> <p>ABC summarised its position on landscape matters at Deadline 6 [REP6-001] and the Applicant responded at Deadline 7 [REP7-012]. On behalf of ABC, Temple Group’s report “Environmental Masterplan Update Report Review” dated 2 May 2017 [REP7-001] states that: “Following this review ABC is content that landscape matters have largely been resolved”. According to the Temple Group report, ABC also asks for some detail to be added to the design intent statement in the Environmental Masterplan to secure mitigation planting and other landscape matters. The ExA also notes that KCC defers to ABC on landscape matters (eg [REP7-012], response to question 7.02).</p> <p>i. Would the Applicant state whether it is content to add the proposed wording to the Environmental Masterplan?</p> <p>ii. Would ABC confirm that these amendments to the Environmental Masterplan would address all of its landscape concerns?</p> <p><u>ABC Reply</u></p> <p>(i) ABC have reviewed the Masterplan Update report (revision B) and drawings and are content that our previous comments on the first draft have been incorporated. There has since been a further exchange of e-mails where we have raised additional minor issues relating to mitigation and we are awaiting a response from Highways England.</p> <p>(ii) ABC consider that the Updated Masterplan goes a long way to address our previous concerns regarding the assessment of effects in the LVIA. However, we wish to highlight the importance of developing mitigation for this scheme in association with adjoining landowners, especially Stour Park. This is because the proposed road layout comes very close to the red line boundary and as a result there is not sufficient room to ensure all elements of the scheme (such as noise attenuation barriers) are adequately mitigated. On this basis, the Design Intent Statement has highlighted the need and commitment to work jointly with other landowners in order to optimise mitigation in these locations.</p>
E.01	<p>Establishing benefits due to noise mitigation</p> <p>In its submission at Deadline 6 [REP6-001], ABC summarised its proposals for measuring noise levels at a number of locations. The Applicant responded at Deadline 7 [REP7-012] by stating that: “there is broad agreement on the proposed noise monitoring methodology”.</p> <p>i. Would the Applicant and ABC identify the current position on noise mitigation?</p> <p>ii. Is ABC content that these provisions can be agreed via secured</p>

	<p>mechanisms in the dDCO, and would the Applicant and ABC identify appropriate wording for the dDCO?</p> <p><u>ABC Reply</u></p> <p>(i) The Council is content that the noise mitigation proposed i.e. noise bunds and barriers and lower noise thin course road surfaces are appropriate.</p> <p>(ii) ABC is content that provisions can be agreed via secured mechanisms in the dDCO. Proposed appropriate wording is as follows:</p> <p>Use of the scheme hereby permitted shall not commence until the developer has agreed a scheme of monitoring of the effectiveness of the noise mitigation provided, with ABC. The noise monitoring to be carried as per the agreement with ABC. Should the final report of the monitoring indicate that the mitigation is not achieving the degree of noise reduction anticipated in the ES, excepting the uncertainties in the prediction methodology, within 3 months of the submission of the final monitoring report the developer shall investigate the causes of such a short fall and provide a report detailing what measures might be reasonably practicably be implemented to make good any such short fall in the performance of the mitigation measures; along with a schedule for completion of those measures no more than 12 months (or any other time period agreed with ABC) after the submission of final report of the monitoring.</p>
E.02	<p>Noise and vibration limits and their significance</p> <p>In its submission at Deadline 6 [REP6-001], ABC states that: “qualitatively the Applicant’s explanation [for its change in its method of calculation] is plausible”.</p> <p>Whilst noting the limits of its statutory responsibility, Public Health England (PHE)’s submission at Deadline 6 [REP6-057] states: “it may be prudent to request that Highways England evaluates the potential noise impacts from the scheme once the development is complete. If it is found that the development has led to the relevant properties being exposed to levels in excess of 55dB at night-time, a scheme of mitigation should be developed and implemented in consultation with the relevant local authorities”.</p> <p>The Applicant’s response at Deadline 7 [REP7-012] to ABC and PHE included an Appendix A that presented calculated values using both methods. The Applicant also states that: “A pre and post-opening noise survey will be undertaken”.</p> <p>i. Would ABC state whether it is content with this response?</p> <p>ii. Would the Applicant state how the noise survey will be secured in the dDCO/ Construction Environmental Management Plan (CEMP)/Handover Environmental Management Plan (HEMP), with appropriate wording?</p>

	<p>iii. Would the Applicant explain how the influence of relieving congestion on noise production has been reflected in the assessment? iii. Would the Applicant explain how the influence of relieving congestion on noise production has been reflected in the assessment</p> <p>ABC Reply</p> <ul style="list-style-type: none"> (i) Yes, we are content. (ii) See E.01 above in regard to the dDCO. The same wording could be used in the CEMP/HEMP. (iii) The applicant has explained how in line with the advice of the Highways Agency's Interim Advice noise they have used professional judgement and allowances for changes in speed to reflect relieve of congestion in the assessment.
I.01	<p>Applicant and ABC as local authority</p> <p>Re. the Applicant and ABC's joint SoCG at Deadline 7 [REP7-016], the ExA notes that the SoCG has not been signed by the two parties. The Applicant states at Deadline 7 [REP7-012] that: "it is intended that a further signed SoCG will be submitted prior to the hearings on 17 – 18 May 2017". Matters stated to be not agreed are:</p> <ul style="list-style-type: none"> 1) Policy - re. whether the scheme is in accordance with the National Policy Statement for National Networks; and 2) Landscape - re. inadequacies in the Landscape Visual Impact Assessment; mitigation measures; ABC to review Environmental Masterplan. <p>Matters stated to be under discussion are:</p> <ul style="list-style-type: none"> 1) Public open space - re. agreement on acceptable mitigation measures; 2) Barrey Road Junction - stated to be agreed subject to commitment being formally signed up to by HE; 3) dDCO - re. ABC's comments on the dDCO, and limits of deviation; 4) Air quality - re. ongoing discussions between the Applicant and Temple Group for ABC and KCC: effects during construction; modelled versus observed speeds; confirmation that all receptors were fully considered; 5) Cultural heritage – Written Scheme of Investigation still awaited by ABC; and 6) Noise and vibration – re. discussions on possible locations and timing for noise monitoring; the impact of relieving congestion on noise levels; visual impact of 3m noise barrier along Kingsford Street and A2070 (7 aspects raised). <p>-----</p> <ul style="list-style-type: none"> i. Would the Applicant and ABC state whether all matters stated as agreed are in fact agreed, since the accompanying text does not always seem to support the agreed status (eg items 3.2.21 to 3.2.25)? ii. Would the Applicant and ABC state precisely the current position on each of the matters stated to be not agreed or under discussion? iii. Would the Applicant and ABC state whether matters shown as not agreed are now closed with regard to the Examination

ABC Reply

Are all point in SOCG stated agreed are agreed as text may not support this.

Accepted there were certain statements from HE/ABC shown as agreed notably the arboriculture matters that may seem slightly different .There have been discussions with Highways England to resolve these remaining issues for an updated SOCG.

What is the status of not agreed matters.

Policy

To clarify ABC felt this was a sweeping statement. It accepted the principle and need for the scheme and this was vital for future planned growth. There are some matters of detail that needed to be addressed but ABC is not stating that these matters result in the scheme being contrary to NPS for National Networks rather it is on the basis of seeking the best environmental solution for the development and it is designed to minimise social and environmental impacts.

Landscape

These areas were discussed this morning (at hearing) and confident these matters can be dealt with in next statement.

Church Road POS

ABC accept no impact on play area and sufficient space for access to POS and this is agreed in SOCG. On Mitigation confirm the terms of an agreement agreed between HE/ABC as landowner.

Barrey Road

Agree issue of congestion around Barrey Road lies outside the NSIP process but are supportive and working with KCC in seeking HE formal commitment for further improvements to Barrey Road junction outside the scheme.

DCO

Agree to leave comments to DCO hearing tomorrow (18 May).

Air quality

Re. ongoing discussions between the Applicant and Temple Group for ABC and KCC: effects during construction; modelled versus observed speeds; confirmation that all receptors were fully considered.

	<p>Alaric Lester on behalf of ABC confirmed that technical AQ issues were resolved</p> <p><u>Cultural heritage</u></p> <p>As archaeological matter ABC defer to KCC as they provide the specialist advice to ABC but understand this work has been updated.</p> <p><u>Noise and Vibration</u></p> <p>Noise barriers – the issues raised on planting have been addressed. Two minor points on planting - end of Kingsford Street footbridge and the minor gap in hedge along Kingsford Street needed for access. These were not objections and should be resolved in next SOCG</p> <p>Temple Group advised matters moved on considerably and happy with approach on noise and vibration.</p> <p><u>SOCG</u></p> <p>ABC seek to undertake the request to clarify all positions if agreed or not in SOCG.</p>
I.02	<p><u>Applicant and ABC as Affected Person</u></p> <p>The Applicant at Deadline 7 [REP7-012] states that: “discussions are ongoing between ABC and the Applicant in relation to the open space and replacement land and most points are now agreed. As stated previously, it is intended that if full agreement is reached, the need for a SoCG dealing with these issues will fall away. If agreement cannot be reached, then this position will be re-visited”. ABC at Deadline 6 [REP6-001] makes a similar statement</p> <p>i. Would the Applicant and ABC update the Examination on this matter?</p> <p><u>ABC Reply</u></p> <p>None as applicant replied</p>

Annex 2 TR01006: Compulsory Acquisition Hearing, 10:00am Thursday 18 May 2017. ABC replies

J.05	<p>Discussions between the Applicant and Ashford Borough Council (ABC) as Affected Person</p> <p>In ABC's submission at Deadline 6 [REP6-001], ABC states: "Discussions are ongoing between ABC and HE in relation to the open space and replacement land and agreement in principle has been reached on the terms for an agreement to be entered into between the parties in this regard".</p> <p>i. Would the Applicant and ABC update the Examination on progress with the agreement between them?</p> <p><u>ABC reply</u></p> <p>Nothing to add to statement made by applicant which was an accurate statement of the current position and agree to provide an update on position by deadline 8 or 9 as requested.</p>
J.06	<p><u>Trustees of the Henderson UK Retail Warehouse Fund</u></p> <p>On 8 May 2017, Matthew Bodley Consulting submitted a representation [OD-024] on behalf of the Trustees of the Henderson UK Retail Warehouse Fund in relation to plot 3/15/A.</p> <p>i. Would the Applicant state what its position is with regard to this representation?</p> <p><u>ABC reply</u></p> <p>Happy KCC have summarised the currently position (on Barrey Road) accurately.</p>

Annex 3 TR010006: Issue Specific Hearing dealing with matters relating to the draft Development Consent Order, 14:00 Thursday 18 May 2017

K.01	<p>Applicant's Responses to Kent County Council (KCC) and Ashford Borough Council (ABC) Re. the Applicant's document Applicant Responses to Kent County Council and Ashford Borough Council DCO Comments [REP7-013]:</p> <ul style="list-style-type: none"> i. Are ABC and KCC satisfied with the Applicant's amendments to the dDCO Revision E at Deadline 7 [REP7-004/ 006] and summarised in the schedule of amendments to the dDCO [REP7-007]? <p><u>ABC reply</u></p> <p>Ashford Borough Council is satisfied with the Applicant's amendments to the draft DCO Revision E submitted at Deadline 7 [Rep7-004] and summarised in the schedule of amendments to the DCO . See ABC's comments on Rep7-007 at Appendix 1</p>
K.02	<p>Article 39: Trees subject to Tree Preservation Orders</p> <ul style="list-style-type: none"> i. Is ABC content with this Article and the accompanying Schedule 8 as now drafted at Deadline 7 [REP7-004/ 006]? <p><u>ABC reply</u></p> <p>Ashford Borough Council is content with the wording of Article 39: Trees subject to Tree Preservation Orders and Schedule 8.</p>
K.03	<p>Requirement 5: Landscaping</p> <p>In a submission at Deadline 6 [REP6-001], ABC refers to Requirement 5, and states: "Add a requirement for the environmental masterplan (see requirement 7 of the M4 DCO)".</p> <ul style="list-style-type: none"> i. What is the Applicant's position on this request? <p><u>ABC reply</u></p> <p>Confirmed it should be in DCO or landscaping article 5(3) which should state the landscape scheme should be substantially in accordance with the environmental masterplan.</p>
K.04	<p>Reptile mitigation (outside Order Limits)</p> <p>In the Applicant's response at Deadline 6 [REP6-022] to the ExA's Second Written Questions [PD-012], the Applicant states that it has: "concluded that a Grampian requirement would not adequately secure the on-going management of land outside of the Order limits. A unilateral undertaking under section 106 of the Town and Country Planning Act 1990 has therefore been prepared and was sent to Ashford Borough Council (who would be the relevant enforcing authority for the purpose of the unilateral undertaking) for review on 29 March 2017 ... Comments from ABC on the draft undertaking are awaited. The Applicant will submit the unilateral undertaking to the Examination once its terms have been finalised".</p>

	<p>i. Would the Applicant and ABC update the Examination on the status of the unilateral undertaking?</p> <p><u>ABC reply</u></p> <p>The terms of the unilateral undertaking have been agreed between HE and ABC, in consultation with KCC. HE has circulated the document for signature</p>
K.05	<p>Finalising the dDCO</p> <p>i. Do ABC or KCC or any Statutory Parties have any further proposed changes to Revision E of the dDCO at Deadline 7 [REP7-004/ 006]?</p> <p><u>ABC reply</u></p> <p>The Council requests that Noise and Vibration Strategy be added to Article 3 (2) (f).</p> <p>As discussed at the hearings on 22 February 2017 and 17 May 2017 Ashford Borough Council considers it appropriate to add requirement for air quality monitoring post construction.</p>

No.	Location	Change	Reason	ABC's comment
Article				
1	8	The local highway authority has been added as a consultee	To address concerns raised by KCC	Agree with the amendment
2	11(3)	References to sections 73A, 73B, 73C and 78A of the New Roads and Street Works Act 1991 deleted	Not in force	Defer to KCC for comment
3	12(3)	Additional wording added: "with the exception of the footpath to be provided on plots 3/1/b and 3/1/d, shown on the land plans and the rights of way and access plans, which must be maintained by the undertaker from its completion."	To reflect the agreed position in relation to maintenance of the footpath through the replacement open space	Agree with the amendment
4	27(4)	Sub-paragraph (a) deleted	Section 5(1) repealed	Agree with the amendment
5	30(5)	"of" added to "(sharing cost of necessary measures)"	Correct reference	Agree with the amendment
6	32(10)	"the" deleted from "(to the acquiring authority)"	Correct reference	Agree with the amendment
7	38(5)	"Hedgerow" changed to "Hedgerows"	Correct reference	Agree with the amendment
8	39(2)(b)	amended to add "although where possible the undertaker shall seek to replace any trees which are removed"	To address concerns raised by ABC	Agree with the amendment
9	39(2)(c)	new sub-paragraph (c) added as follows: "the	To address concerns raised	Agree with the

		undertaker shall consult the relevant planning authority prior to that activity taking place".	by ABC	amendment
10	42(1)(a)	"site" changed to "sites"	Correct references	Agree with the amendment
Schedules				
11	Part 1, Schedule 2	Definition of 'County Archaeologist' added	Term used but not defined	Agree with the amendment
12	Part 1, Schedule 2	Definition of 'Ecological Clerk of Works' added	Term used but not defined	Agree with the amendment
13	Part 1, Schedule 2	Definition of 'LEMP' added, including reference to the reptile mitigation strategy	To clarify the location of the reptile mitigation strategy	Agree with the amendment
14	Requirement 3, Schedule 2	Reference to turning loop added to 3(4)	To address KCC concerns regarding turning loop	Agree with the amendment
15	Requirement 6, Schedule 2	Reference to "Requirement 4" changed to "Requirement 5"	Typo	Agree with the amendment
16	Requirement 8, Schedule 2	Title of Requirement changed from "Contaminated land and groundwater" to "Land and groundwater contamination"	To address Environment Agency concerns	Defer to Environment Agency
17	Requirement 8(1), Schedule 2	"foundation works risk assessment," changed to "contamination risk assessment in respect of controlled waters"; and new 8(1)(c) added as follows: "appropriate remediation strategies and mitigation measures to address	To address Environment Agency concerns	Defer to Environment Agency

Appendix []

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Ashford Borough Council's (ABC's) comments on Highways England's amendments to draft DCO for Deadline 7 (REP7-007)

Juliet Gill

		any historic contamination which is shown to be having significant, unacceptable effects on the environment within the context of the proposed works”		
18	Requirement 8(3), Schedule 2	“contaminated land, including groundwater” changed to “contaminated materials, including impacted groundwater” and “contaminated land” changed to “contamination”.	To address Environment Agency concerns	Defer to Environment Agency
19	Requirement 10, Schedule 2	Wording amended so that all nesting birds are protected, whether or not they were previously identified in the ES. Works to cease within 10 metres of any nesting birds until nests have been fledged and on discovery of any protected species not previously identified in the ES works to cease within the area specified in the written scheme until any necessary licenses are obtained to enable mitigation measures to be implemented.	To address concerns raised by ABC	Defer to KCC (Reason should state to address concerns raised by KCC, not ABC)
20	Part 1, Schedule 4	“From the Barrey Road/Church Road junction to where it meets the A2070 Bad Munstereifel Road, a distance of 160 metres...” changed to “From the Barrey	Correct reference	Defer to KCC

Appendix []

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Ashford Borough Council's (ABC's) comments on Highways England's amendments to draft DCO for Deadline 7 (REP7-007)

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		Road/Church Road junction west of the A2070 Bad Munstereifel Road to where it meets Church Road again, east of the A2070 Bad Munstereifel Road, a distance of 184 metres..."		
21	Schedule 5	"New right to construct, operate and maintain eastbound off slip from the M20 and related works and mitigation measures including access with or without vehicles plant and machinery" deleted from column 2 row 4 (in relation to plot reference 2/4/b) and additional wording added as follows: "New right to construct and maintain noise bund No.1."	Correct reference	Defer to KCC
22	Paragraph 4, Schedule 6	"in case of severance" added to "measure of compensation"	Correct reference	Agree with the amendment
23	Paragraph 5, Schedule 6	"other" added to "provisions as to divided land"	Correct reference	Agree with the amendment
24	Paragraph 7, Schedule 6	"penalty for" deleted; "entry on warrant in the event of obstruction" changed to "refusal to give possession to acquiring authority"	Correct references	Agree with the amendment
25	Paragraph 8, Schedule 6	"protection for interests of" deleted	Correct reference	Agree with the amendment
26	Schedule 7	Additional plots 2/5/aa, 2/6/aa, 2/8/aa and 4/1/bb added, together with descriptions of the purpose for which	New plots have been added to correct an administrative error in relation to plot	Agree with the amendment

Appendix []

TR010006 Junction 10A M20

Ashford Borough Council's (ABC's) comments on Highways England's amendments to draft DCO for Deadline 7 (REP7-007)

Juliet Gill

		temporary possession of each plot may be taken and references to relevant Work Nos. Additional Work Nos. added to plots 2/1/g, 4/1/b and 4/1/g	boundaries. Additional works descriptions have been added to ensure the descriptions fully reflected the works proposed. See additional note at the end of this document.	
27	Schedule 8	"Group G37" deleted and replaced with "TPO No. 15 1997" and "Woodland W1" deleted and replaced with "TPO No. 22 1998".	Correct references	Agree to amendment
28	Part 3, Schedule 9	Deletion of National Grid protective provisions	It has been confirmed that National Grid does not have any apparatus within the order limits	No comment
Changes under consideration				
No.	Location	Change under consideration	Reason	
1	Part 4, Schedule 9	Amendments to Environment Agency protective provisions	At the Environment Agency's request	Defer to the Environment Agency