

M25 junction 28 improvement scheme

TR010029

9.120 Applicant's comments on Cadent Gas's Deadline 8 submission

Rule 8(1)(k)

Planning Act 2008

Infrastructure Planning (Examination Procedure) Rules 2010

Volume 9

June 2021

Infrastructure Planning

Planning Act 2008

The Infrastructure Planning (Examination Procedure) Rules 2010

M25 junction 28 scheme Development Consent Order 202[x]

9.120 Applicant's comments on Cadent Gas's Deadline 8 submission

Rule Number:	Rule 8(1)(k)
Planning Inspectorate Scheme Reference	TR010029
Application Document Reference	TR010029/APP/9.120
Author:	M25 junction 28 scheme, Project Team, Highways England

Version	Date	Status of Version
0	30 June 2021	Deadline 9

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1. Purpose and structure of this response

- 1.1.1 This document provides the comments of the applicant, Highways England, in response to Cadent Gas's Deadline 8 submission (REP8-029) submitted to the Examining Authority (ExA) on or before Deadline 8 (8 June 2021)
- 1.1.2 Highways England has sought to provide comments where it is helpful to the Examination to do so, for instance where a representation includes a request for further information or clarification from Highways England or where Highways England considers that it would be appropriate for the Examining Authority (ExA) to have Highways England's views in response to a matter raised by an Interested Party in its representations. Where issues raised within a representation have been dealt with previously by Highways England, for instance in response to a question posed by the ExA in its first round of written questions or within one of the application documents submitted to the Examination, a cross reference to that response or document is provided to avoid unnecessary duplication. The information provided in this document should, therefore, be read in conjunction with the material to which cross references are provided.
- 1.1.3 Highways England has not provided comments on every point made within the representation (for instance, Highways England has not responded to comments made about the adequacy of its pre-application consultation given that Highways England has already provided a full report of the consultation it has undertaken as part of its application for the Development Consent Order (DCO)) and the Planning Inspectorate has already confirmed the adequacy of the pre-application consultation undertaken when the application was accepted for Examination. In some cases, no comments have been provided, for instance, because the written representation was very short, or because it expressed objections in principle to the Scheme or expressions of opinion without supporting evidence.
- 1.1.4 For the avoidance of doubt, where Highways England has chosen not to comment on matters raised by Interested Parties, this is not an indication Highways England agrees with the point or comment raised or opinion expressed.

2. REP8-029 CMS Cameron McKenna Nabarro Olswang behalf of Cadent Gas Deadline 8 submission

Response reference:	Representation Issue	Highways England Response
REP8-029-01	2.1 Cadent's preferred form of protective provisions (the Cadent PPs) were appended (Appendix 1) to Cadent's Deadline 5 submission. The Cadent PPs are the form of protective provisions that Cadent requests are included in the DCO and have been the subject of detailed submissions by Cadent throughout the examination of the Project.	Highways England submitted at Deadline 6 (REP6-017) the current form of PPs it is proposing for inclusion in the DCO for Cadent's benefit, as well as a comparison showing the differences between the protective provisions proposed by Highways England and those proposed by Cadent at Deadline 5, making clear the few substantive points of principle between the parties.
REP8-029-02	2.2 Cadent has sought to engage with the Applicant to reach an agreed position on protective provisions across all schemes that it is promoting (subject to any scheme specific requirements), and negotiations are ongoing. Cadent remains committed to reaching an agreed position if possible and will continue to engage with the Applicant. It is hoped that this form of protective provisions can serve as the template between the two parties for future projects.	Highways England agrees that both parties have sought to reach an agreed position on protective provisions across all schemes that it is promoting (subject to any scheme specific requirements), and negotiations are ongoing. Highways England remains committed to reaching an agreed position if possible and will continue to engage. It is hoped that this form of protective provisions can serve as the template between the two parties for future projects.
REP8-029-03	2.3 In respect of the Cadent PPs to be included in the draft DCO, Cadent agrees with the amendments that the ExA has requested that the Applicant make within the Schedule of ExA's recommended amendments to the Applicant's draft DCO Version 6.	Following the ExA's recommendation, Highways England included the proposed form of protective provisions for Cadent's benefit in the draft DCO submitted at Deadline 8 (REP8-002), making clear the few substantive points of principle between the

Response reference:	Representation Issue	Highways England Response
		parties on which submissions have been made by both parties and its preferred drafting on those points.
REP8-029-04	2.4 Cadent's position on the three outstanding issues, and the ExA's recommendations, is set out below.	Highways England agrees these are the three substantive matters that are not yet agreed.
REP8-029-05	1. Paragraph 11 Indemnity - Cadent agrees with the ExA's recommended change and Cadent's position has been set out and justified in its submissions to the examination.	Highways England does not consider that Cadent's Deadline 8 response (REP8-029) contains any substantive point and relies on the submissions it has previously made to the ExA to justify its preferred form of protective provisions.
REP8-029-06	2. Paragraph 10 Expenses - Cadent agrees with the ExA's recommended change and Cadent's position has been set out and justified in its submissions to the examination. Cadent also requests that sub-paragraph 10(5) is deleted and that there is no offset for a deferral of renewal. The same principles that apply to sub-paragraphs 10(2) to (4) apply, and so sub-paragraph 10(5) should also be deleted.	Highways England does not consider that Cadent's Deadline 8 response (REP8-029) contains any substantive point and relies on the submissions it has previously made to the ExA to justify its preferred form of protective provisions. The draft DCO submitted at Deadline 8 (REP8-002) indicates that Cadent requests that sub-paragraph 10(5) be deleted. Highways England submits it should be retained, for the reasons previously submitted.
REP8-029-07	3. Paragraph 3 - Cadent agrees with the the ExA's recommended change and Cadent's position has been set out and justified in its submissions to the examination.	Highways England does not consider that Cadent's Deadline 8 response (REP8-029) contains any substantive point and relies on the submissions it has previously made to the ExA to justify its preferred form of protective provisions.

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Registered office Bridge House, 1 Walnut Tree Close, Guildford GU1 4LZ
Highways England Company Limited registered in England and Wales number 09346363