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Your Reference:

21 December 2009

Dear Sir

**KENT INTERNATIONAL GATEWAY - UPDATE ON HIGHWAYS AGENCY POSITION**

The Highways Agency (HA) has indicated to the Inquiry that its outstanding objections to the proposed development are withdrawn on the basis that, should the Secretary of State be minded to grant planning permission, a combination of planning conditions and planning obligations are required to safeguard the various interests within the remit of the Highways Agency, on behalf of the Secretary of State for Transport.

In the hope that it is of assistance to the Inspectors and the Secretary of State, we now wish to take this opportunity to clarify the Highways Agency's position and the reasons for withdrawing the HA's objections to the proposed development. In recent weeks, we have taken the opportunity to review and consider numerous draft versions of the proposed Unilateral Undertaking, the incorporated draft Travel Management Plan, and the proposed planning conditions.

We set out below the elements of these documents which we consider are fundamental to our position and, in doing so, we also refer to the previous outstanding issues as contained in Section 5.3 of the HA's Statement of Case and our brief observation on each of those issues. Unless otherwise stated, references to proposed conditions are to the version of the proposed conditions contained within the schedule dated 9 December 2009.

1. *The Appellant to provide clarification on how the reduction in HGV movements in Table 9.1 of the MDS Transmodal Report have been calculated.*

This issue is no longer being pursued by the Appellant.

2. *The Appellant and HA to agree on RDC/NDC splits for sensitivity testing purposes. The HA requirement is that one of the splits should assume the site operating as 100% RDC.*

This issue was addressed and agreed in the Strategic Highways Bilateral Statement of Common Ground (CD 8.7).

3. *The Appellant and HA to agree on sensitivity test traffic flows at M20 Junction 8 (including slips) and the M20/A20 link junction. This will need to include the following scenarios:*

- *RDC/NDC*
- *10, 20% rail transfer levels*
- *LDF development (the South East Urban Extension)*
- *Operation Stack in effect*

This issue was addressed and agreed in the Strategic Highways Bilateral Statement of Common Ground.

4. *The Appellant and HA to agree on specific junction scenario tests taking into account assessment years and Maidstone LDF development. Our requirements are as follows:*

- *2007 base year*
- *2017 future year*
- *Inclusion of LDF traffic for 2017 test*
- *Inclusion of South East Maidstone Strategic Link*

This issue was addressed and agreed in the Strategic Highways Bilateral Statement of Common Ground.

5. *The Appellant and HA to agree on traffic growth rates to be used in the future year junction impact assessments. We expect the use of:*

- *National Trip End Model for M20 mainline;*
- *Tempro (with Urban Extension dwellings added) for slips;*

This issue was addressed and agreed in the Strategic Highways Bilateral Statement of Common Ground.

6. *The Appellant and HA to agree on the modelling output results of junction assessments on M20 Junction 8 and the A20/M20 Link junction.*

This issue was addressed and agreed in the Strategic Highways Bilateral Statement of Common Ground.

7. *HA agreement and full understanding of the Kent VISUM model.*

This issue is dealt with in Section 5.2 of the Strategic Highways Bilateral Statement of Common Ground. Subsequent VISUM results set out in the Jacobs' Report dated 7 September 2009 (prepared on behalf of Kent County Council) demonstrate that the junction capacity assessment results generated using the model do not significantly contradict those contained in the Bilateral Statement of Common Ground.

8. *The Appellant and HA agreement on the form(s) of mitigation required at M20 Junction 8 (will be dependant on junction modelling results). It is considered that the*

*issue of an improvement scheme on the SRN is something which will require extensive discussions between all stakeholders.*

This issue is dealt with by proposed condition 18.

9. *Agreement between the Appellant and all parties on the form(s) of mitigation required at the A20/M20 link junction (dependant on junction modelling results).*

This issue was addressed and agreed in the Strategic Highways Bilateral Statement of Common Ground and the results confirmed that no improvement was required at this junction.

10. *The Appellant to produce a Construction Management Plan.*

This issue is dealt with by proposed condition 31.

11. *The Appellant to produce a robust Workplace Travel Plan to include measures, targets, monitoring and sanctions/enforcement mechanisms.*

This issue is dealt by the proposed Unilateral Undertaking, within the seventh draft of the incorporated Travel Management Plan, and by proposed conditions 16 and 19 on parking provisions.

12. *Stage 1 Road Safety Audit undertaken for any necessary improvement schemes (noting that the Audit Brief and Team must be approved in advance by the HA).*

A Stage 1 Road Safety Audit was undertaken in December 2009 in relation to the approved departures from DMRB standard for the M20 Junction 8 westbound merge type and merge length.

13. *Agreement on the wording of any necessary conditions.*

This has been achieved subject to the matters raised herein.

In addition to the foregoing matters, a number of issues have arisen since the submission of our Statement of Case and the submission of my Proof of Evidence, as follows:

14. *Lighting (proposed conditions 6 and 7)*

We consider that a detailed lighting framework is required to protect the safety of users of the M20 motorway, particularly to prevent glare from dazzling drivers in the dark. We are satisfied that conditions 6 and 7 in combination address this issue.

15. *Vehicle Parking (proposed conditions 9 and 16)*

We believe that the amount of parking will have a direct impact on the propensity for employees to travel to the site by private car and we are therefore seeking a sustainable level of parking spaces to be provided. The HA considers that proposed conditions 9 and 16 in combination are suitable in this respect.

16. *Landscaping (proposed condition 23)*

The HA requires fencing to be provided on the site boundary to prevent people and/or animals from straying onto the M20 mainline carriageway. We are content that proposed condition 23 and its reasoning satisfies this requirement.

17. *Construction Environment Management Plan (proposed condition 31)*

Prior to the commencement of site construction works we require a Management Plan to be produced so that we can understand in greater detail what construction works are involved in addition to the operational and timing requirements with doing so. The HA considers that proposed condition 31 is suitable in this respect.

18. *Ground Conditions (proposed condition 39)*

Condition 39 satisfies our requirement for more detailed Geotechnical Investigation work to be undertaken at the detailed design stage in order to ensure that the site will be constructed in such a manner as to not impact on the stability of the slopes adjacent to the M20 motorway.

19. *Operation Stack (Annex 2 to the draft Travel Management Plan)*

We required an Operation Stack protocol to be produced and implemented at such times as Phases 2 and/or 3 are implemented. We are content that the Annex 2 to the draft Travel Management Plan, incorporated within the draft Unilateral Undertaking satisfactorily addresses this issue.

**Planning Obligation – draft Unilateral Undertaking dated 11 December 2009**

Even though the Secretary of State for Transport, or the Highways Agency, cannot be a party to a section 106 agreement and the proposed planning obligation in the present case is in the form of a unilateral undertaking ("the Unilateral Undertaking"), we do have a fundamental interest in the proposed Unilateral Undertaking and, specifically, the Travel Management Plan which is incorporated within the Undertaking.

The latest draft of the Unilateral Undertaking, dated 11 December 2009, currently refers to the seventh draft of the proposed Travel Management Plan, dated 27 November 2009. The HA confirms that we are satisfied with this latest version of the Undertaking and the Plan.

However, the HA wishes to make clear, for the avoidance of doubt, that the following elements of the Unilateral Undertaking are critical to the withdrawal of our objection to the grant of planning permission for the proposed development:

- *HGV Peak Hour Cap* – no more than 78 HGV movements in each peak hour in the peak direction, being the inbound AM peak and the outbound PM peak;
- *Non-HGV Peak Hour Cap* – no more than 303 non-HGV movements in the peak hours in the peak direction, being the inbound AM peak and the outbound PM peak;

- *Paragraph 1.6 of Schedule 1 to the Undertaking* – No beneficial occupation of any traffic generating unit until a Travel Management Plan generally in accordance with Schedule 2 has been submitted to and approved by the Borough Council, Kent County Council and the Highways Agency.:
- *Paragraph 1.8 of Schedule 1 to the Undertaking* – the site occupiers are to make every endeavour to encourage the use of sustainable travel modes and to meet (or indeed better) the initial targets of 70% and 65% Single Occupancy Vehicles in the first year of occupation and in year 5 respectively.

We have also received a copy of Maidstone Borough Council's letter dated 9 December 2009 from Mr Mulholland to Ms Thompson of Marrons, on behalf of the Appellant, which addresses the obligations within the Unilateral Undertaking. We recognise that MBC have expressed fundamental concerns with the Travel Management Plan and the associated vehicle caps, and we have therefore sought clarification from MBC as to whether the current seventh draft of the Travel Management Plan can be agreed, finalised and incorporated within Schedule 2 to the Undertaking. We believe that MBC are considering amending paragraph 1.6 of Schedule 1 to the Undertaking to require any changes to the Travel Plan to require consent of the local planning authority. However, if MBC were to pursue more onerous requirements for the Travel Management Plan, we would wish to have the opportunity to see and comment on any alternative wording that might be proposed.

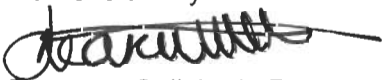
As a final point, we refer to the ongoing discussions between Mr Rosevear at KCC and the Appellant with regards to the capacity of the HGV site access. Having considered the information contained within Core Document 2.18, we request that the draft Unilateral Undertaking is revised to include an additional planning obligation addressing this issue.

In the event of any HGVs queuing back from the site entrance onto the A20, we request that the operators temporarily move its security checkpoint further into the site to allow HGVs to wait within the boundary. We consider this to be necessary to prevent detrimental impact to the SRN.

If it is not possible to amend the Unilateral Undertaking at this late stage and, if the potential problem of queuing into the A20 can be avoided in such circumstances by way of the imposition of a suitable planning condition, the HA would not object to such a course of action.

We would wish to be provided with the opportunity to review and comment upon any further circulated versions of the Undertaking or the proposed planning Conditions.

Yours faithfully



Treasury Solicitor's Department  
For and on behalf of the Highways Agency

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