

Report to: Overview and Scrutiny Committee

Date: June 11th 2014

Report Title: M20 Junction 10A – Call-in of cabinet decision of 10 April 2014

Report Author: Richard Alderton

Summary: This report sets out the relevant background and provides responses to points raised by Members in advance of the Overview and Scrutiny meeting to aid the debate at that meeting.

Background

There has been considerable debate around the design of the proposed SELEP junction 10A scheme and the impact it would have on the existing highway network. Some of this has involved important points of detail that will be addressed in the coming months as KCC, as the scheme promoter, carry out a more detailed assessment of the project and prepare a business case.

The O&S Committee has the opportunity now to flag up any issues it feels need tackling during this process.

To set the context the following points are relevant:

- The Council has long recognised the limited capacity at the existing junction 10 and the need to do something about it both to cater for the growing congestion problems that will occur in any event and the need to provide for the town's future growth.
- The SELEP scheme has been designed to be able to be upgraded to the full junction 10a with minimum wasted expenditure – the Highways Agency and KCC are working together to make sure this is the case.
- In the June 2013 Command Paper 'Investing In Britain's Future' the Government committed to funding the full scheme at M20 Junction 10a subject to finalisation of options and agreement being reached on developer contributions. The 2013 National Infrastructure Plan announced that the full scheme would go ahead subject to finalisation of options and developer agreement. The Highways Agency is continuing to develop its forward programme of major projects with a view to accelerated delivery of the full

scheme. The government has so far not confirmed what private sector contributions will be needed to top up Government funding towards the estimated cost of between £70 – 90m.

- The position agreed by Cabinet is to support the SELEP funded scheme in principle at this stage and it is intended that a detailed assessment should now take place and a business case prepared by KCC as scheme promoter. Other bodies that will need to be satisfied by this assessment are the Highways Agency as the national government agency responsible and the South East Local Enterprise Partnership, that will potentially be providing around £20m in funding.
- Whilst the SELEP scheme only provides Folkestone facing slips and thus only caters for a proportion of the existing movements at junction 10, it does nevertheless provide that relief and the Highways Agency believe that this will release substantial capacity at the existing junction 10 and enable planned development (including the local plan review) to be accommodated well into the 2020's. This will need to be tested in more detail in the coming months as part of the scheme assessment.

Specific questions raised by Cllr Bartlett

Cllr Bartlett has helpfully provided notice of his questions as set out below together with responses from Council officers with input from the Highways Agency and Kent County Council.

1. *In a meeting at International House on 23 March 2011 the Council were told that the link road from the A2070 to the J10A at Highfield Bridge “may not be attractive to road users and will not remove trips using J10.” Because of this we can expect as much traffic using J10 once 10A is built. The thinking here is that traffic heading towards Folkestone from South Ashford will avoid the new single carriageway as there will be traffic lights at the entrance to the distribution park and a right hand turn on to the Folkestone slip road also probably with traffic lights. For these reasons the Highways Agency said that drivers will continue to use J10 to access the M20. What modelling has there been to disprove this?*

Comment: This meeting was between the Highways Agency, AXA/DMI and their consultants and representatives of Ashford's Future but no Council officer was present. This is a misquote from the meeting notes. The meeting note in fact says: *‘It is unclear at this stage whether the link road would operate satisfactorily as a single carriageway or dual carriageway. However, the road will need to be attractive*

to road users if it is to remove trips from Junction 10'. In short whether it was single or dual carriageway still had to be resolved.

The Highways Agency comment as follows:

The context of the meeting on 23 March 2011 was to explore whether there was a scheme that could be funded entirely by the private sector which would deliver enough capacity to release the local plan development at Sevington. The comments about a single/dual carriageway were made prior to any traffic modelling of what is now the SELEP scheme. Subsequently traffic modelling has shown that the link can provide an attractive option as a single carriageway and will provide more than sufficient capacity to release Sevington West (site U19). However the costs of the scheme have proved to be too great to be funded entirely by the private sector.

2. *An early version of the Interim scheme envisaged the A20 slip roads to and from Folkestone would be blocked off forcing all Folkestone bound traffic from North Willesborough to use the A20 and then the J10A slip road. It is understood that the reason this is now not the case is the new housing development at Highfield House will require traffic lights on the A20 near to the Pilgrims Hospice and pushing all the Folkestone bound traffic along the A20 would cause too much congestion on the A20 at the Highfield development. The result of all this is two slip roads heading towards Folkestone with 500 metres of each other. Slip roads are not normally permitted by the Highways Agency to be so close to each other for safety reasons, why is ABC comfortable that there are no safety implications in this case?*

The Highways Agency comment that the minimum distance between successive merges and diverges is 450 metres at 70mph.

Were the slip roads facing each other, then 500 metres would be too close. With regards to the U14 development area which includes the Highfield House site, it has always been the case that a signal-controlled junction would be required to release the whole of that site which is also intended to provide an alternative vehicular link to the William Harvey Hospital. This is the position reflected in policy U14 of the Urban Sites & Infrastructure DPD.

For information, neither the HA nor KCC recollect any previous version of the SELEP scheme that is as described in the question above.

3. *At a meeting at the Civic Centre on 30 May 2012 the Council were told that "modelling accuracy would be lower for this privately funded scheme than one that involves public money". Because this scheme is privately funded we now know that the modelling accuracy is less accurate than is normally acceptable by the Highways Agency. Why is it now believed that traffic modelling used*

for this scheme is reliable? What assurances have been received that the modelling is accurate?

Of course, the proposed SELEP junction is one that would be principally publically funded via the SELEP grant of nearly £20m. However, to clarify, the Highways Agency comment as follows:-

For a scheme that is fully privately funded the accuracy of traffic modelling expected by the Highways Agency is that which applies to any Local Plan or planning application. However where public funding is involved a higher standard of modelling is required by HM Treasury in order to demonstrate the proper use of public funds.

- 4. At the Highways Agency meeting on 20 January 2014 it was said that the Highways Agency will not and indeed cannot change the way traffic joins the M20 at J10 other than altering the timing of the traffic lights on Hythe Road which feeds the M20 entry. With the additional building in Willesborough, Sevington and Mersham that is intended to follow the construction of J10A it means that traffic leaving Willesborough seeking to join the M20, reach Tescos or the William Harvey will have no choice but to be held at the traffic lights for much longer. How much longer will the traffic from Willesborough be held at these lights? How long do the Highways Agency predict that the traffic queues will be and how far down Hythe Road will these extend – will they reach as far as the Norton Knatchbull School as many expect?*

Comment: The Highways Agency is currently looking at this issue in more detail and hopes to respond before the meeting.

- 5. It was said at the meeting on 20 January 2014 that the interim scheme is designed to ensure that traffic did not queue on the M20 and it was not a concern to them that there would be queues on the J10 roundabout accessing the M20, we learnt that the new design would fail every rush-hour. What evidence is now to hand to prove the Highways Agency were wrong on 20 January and why do ABC now believe that J10 will not fail daily in the way the Highways Agency said it would? How are the traffic reductions that are required in Ashford to assume that J10 does not fail going to be achieved?*

Comment: There has been a basic misunderstanding of the Highway Agency presentation on 20th January 2014. Paul Harwood explained that the capacity of the existing and SELEP junctions would indeed come under pressure at peak hours – but crucially that was an assessment modelled for the year 2030. The implication, therefore, is that by 2030 without further improvement to the full junction 10a, the junctions would be back in roughly the situation that existed in 2000, prior to the introduction of the current junction layout.

6. *It was said on 20 January that Highfield Lane traffic would now be directed through the village centre of Mersham and Kingsford Street. Is it agreed that it is unacceptable for Mersham to become a rat run for traffic from Bilsington, Kingsnorth and Aldington heading towards the A20? Will he give assurances that this will not be permitted to happen? How many additional traffic movements will this “rat running” create? Current estimates are 30-40 additional traffic movements per hour during the day in Kingsford Street.*

Comment: Detailed proposals for existing local roads – specifically Kingsford Street, Church Road and Highfield Lane – will be investigated in the coming months and the County Council will take into account views received. Neither the County Council nor the Borough Council would wish to see a situation arising where an unacceptable level of increase in traffic in Mersham is caused by ‘rat-running’.

KCC will carry out a local consultation on the proposed scheme during the planning stages of this project.

7. *It was said at Cabinet that J10A would assist the Borough to deliver its future housing targets of 700 houses per year. Why does Ashford need to build 700 houses per year – how many are other towns in Kent building? If it is true that Ashford is required to build so many houses why cannot they be spread around the Borough?*

Comment: This issue has been discussed by the Planning Task Group. Whilst a final housing target for the borough has not yet been agreed, there is a clear methodology set by Government to establish an ‘objectively assessed housing need’. Work for the Council has demonstrated this to be in the order of 780 homes per annum from 2014 to 2030. Although this is not binding, the Inspectorate will look very closely at whether the Council has met its objectively assessed need when the local plan is examined and a failure to do so may well result in the plan being found ‘unsound’. The further complication is the statutory ‘duty to co-operate’ with neighbouring authorities and others so that wider housing needs are met. New homes are, of course, planned elsewhere in the Borough but there are a range of reasons relating to the environment, infrastructure and the economy, why the bulk of new development tends to be planned for in and around the Ashford town area. The adopted Core Strategy and the adopted plans beneath it explain this rationale.

As a comparison, the objectively assessed housing need for Maidstone Borough over the period from 2011-31 equates to 980 dwellings per annum.

8. *Can it be confirmed that there are air pollution monitors in place at J10 and what are these levels currently? Recent research has shown that levels around A20/M20/A28 are above accepted EU guidelines, and that diesel exhaust is known to cause cancer in humans, how do ABC propose to protect the existing residents in the area?*

Comment: The Borough Council does monitor close to Junction 10 (at one of the closest sensitive facades, just short of the junction). Our latest Annual Progress Report (submitted to DEFRA last week) is on our AQ page at: <http://www.ashford.gov.uk/air-quality>

This report concluded no exceedances of Air Quality Objectives and no requirement for further action until the Updating and Screening Assessment in 2015. A few years ago the Environmental health team had a query around this junction and carried out a further assessment (active rather than passive monitoring) which concluded no exceedances and no further action required.

9. *When the M20 was built there was considerable blasting required through the Greenstone Ridge (which is Kentish Ragstone) in Sevington and Willesborough. How much blasting will be required for J10A and has there been an Environmental Impact Assessment of this activity and what assurances has he seen to ensure there is no impact on nearby properties in particularly the Church?*

Comment: The topography at the location of the SELEP scheme is rather different. The motorway will remain at its current elevation and the bridge over it will be close to the level of the existing Highfield Lane bridge. There is no blasting anticipated for the construction of the SELEP scheme. An Environmental Impact assessment that looks at all potential impacts will be carried out as it is required to support the planning application for the works.

10. *Has the impact of the Highfield House housing development on traffic flows around J10A been assessed? What views has the developers of that new estate told the Council that there will be from this development?*

Comment: On the first point, the assessment carried out for the Highways Agency has included planned development such as site U14 (which includes Highfield House). The second point is unclear.

11. *What assurances have been given that the full motorway junction will be available quickly – can it be confirmed that Ashford will not be in the same position as Sevenoaks with permanent traffic problems because their interim scheme never matures into a full scheme?*

Comment: The Highways Agency advise that the M25 junction 5 was never intended as an interim scheme so the comparison is not a valid one.

12. Have assurances been received that the road from the A2070 to J10A will be level? The problem of an uphill run of the A2070 to J10 is that lorries travel very slowly and the resulting engine noise is extremely damaging to the Highfield residents quiet enjoyment of their properties. Can we know there will be no repeat of this design fault with J10A?

Comment : Potential noise impacts will be assessed as part of the Environmental Impact Assessment needed to support the planning application for the scheme.

Clearly the new link road cannot be level as there is a level difference between the existing A2070 and the new bridge over the M20. However, the distance between these two points is greater than between the A2070 and J10 and therefore the gradient will be shallower .

13. The Highways Agency promised to send ABC members and Parish Council their traffic forecasts and modelling and hold a second briefing to members at the 20 January briefing. Members welcomed this as it would enable them to assess the benefit of the scheme before concluding. Why did this not happen? Why has support been expressed to KALC and publicly in the press of the scheme without seeing this modelling and without the Council having expressed their support?

Comment: Unfortunately this work has taken some considerable time for the Highways Agency consultants to produce in a form that is relatively easily interpreted and responds to the questions asked – it has been recently circulated to members and is re-circulated with these papers. This work demonstrates the modelled situation in 2030. Support for the SELEP scheme has always been ‘in principle’ – i.e. subject to the scheme proving to be deliverable in terms of its planning and environmental impact and the effects it has on the highway network.

14. The field through which the link road from the A2070 to the M20 is a unique countryside habitat populated by farmland birds, hares and badgers. Has a report be commissioned on the impact of this development on these species to assess if it will be detrimental to the ecology of the surrounding area?

Comment: Potential impacts on habitats, flora and fauna will be assessed as part of the Environmental Impact Assessment needed to support the planning application for the scheme. It should be remembered that previous work to support the delivery of the full Junction 10 scheme would have assessed a similar, if not greater ecological impact, although this work would need to be updated for any future scheme.

15. High Speed 1 adjoins the link road and J10A. How does the noise generated by HS1 exacerbate the noise generated by the traffic using J10A? The uphill nature of the ground will cause the noise of both to be directed towards the residential area of North Willesborough and Highfield. Has a study been commissioned and reported on to assess the noise impact of creating an additional motorway junction near to HS1 which assesses the impact on residents?

Comment: High Speed 1 runs some way away from the link road and is approximately 1km from junction 10a. Potential noise impacts will be considered as part of the Environmental Impact Assessment needed to support the planning application for the scheme. However, as Junction 10a lies further way from both the Highfield estate and North Willesborough than the existing Junction 10, it would be reasonable to assume that any reduction in traffic using Junction 10 would result in potentially less noise disturbance to local residents as a result.

16. The established Core Strategy for Ashford requires a full motorway junction to be build and does not contemplate any interim scheme. It says "The delivery of the main bulk of the strategic employment site at Sevington that is identified in the adopted core strategy is reliant on Junction 10a." This policy was developed for good and valid reasons linked to the experience of nearby Authorities who have found that full schemes never materialise. It has been proved a mistake by others to opt for an interim scheme. This approach to the Core Strategy was specifically supported in the Inspector's report. A policy change has never been supported by Full Council. Changes to the Core Strategy which might bring forward the employment site at Sevington ahead of J10a (such as through an interim scheme) should await a Borough-wide review of the Core Strategy and will need to be supported by the Council. At which Council meeting was the embargo of allowing the employment site at Sevington to be brought forward before 10a agreed? Absent such agreement any interim scheme could not bring forward the employment use of the Sevington Site.

Comment: To be clear, the 'quote' referred to in the question does not appear in the Core Strategy. Although not accurately quoted, there is a similar passage in the Urban Sites & Infrastructure DPD which was adopted by the Council in October 2012. It is true that the Core Strategy did not envisage the SELEP junction 10a – because there was no such proposal at the time. However, the Urban Sites & Infrastructure DPD clearly envisaged the potential for an alternative version of junction 10a which is most clearly articulated in paras. 9.27 – 29 of the DPD. Para. 29 states:

"A private sector-led lower cost scheme that would part implement the Preferred Route scheme is being designed in collaboration with the Highways Agency with the aim of enabling the early delivery of additional development around the Junction 10 area".

Policy U19 of the Urban Sites & Infrastructure DPD also provides for a minor release of development at the Sevington employment site prior to a Junction 10a being place.

The Council remains committed to achieving the full scheme at junction 10a as soon as possible and continues to work to achieve this. In the meantime, the SELEP scheme presents an opportunity to remove the uncertainty around when extra capacity can be delivered to relieve the growing problems at the existing junction and release new development. There is potential developer funding from the development of the Sevington site (U19) and from forthcoming developer contributions that will be triggered as existing schemes progress whilst the South East LEP has identified nearly £20m funding for the project. The SELEP scheme is, therefore, a deliverable prospect and is designed so it can be upgraded when the need arises to the full junction 10a.

17. It is said that the scheme fits within the "Growth Without Gridlock" but this is at odds with the traffic data that was distributed to members last week which shows the new off slip from Folkestone failing in the PM peak hours. This data is based on 2012 traffic data. Before this project is taken further new traffic data should be taken in 2014 which can be expected to show greater numbers than 2012. It is reasonable to assume that with two years traffic growth the result will be traffic numbers exceeding capacity. What is the increase in traffic generally in the area 2012 - 2014. Empirical studies suggest 4.5% increase, is this right?

Comment: The basis of the modelling is being misunderstood. The modelling is examining the position in 2030. There is no disagreement that the junction would be under pressure again by then as the diagrams show, but in the meantime there will be capacity for many years released by the SELEP scheme.

18. No traffic census has been taken at the traffic lights on Hythe Road where traffic joins the M20 London Bound meets traffic from Willesborough. I understand the reason no census has been taken at that point is that there are no proposals to change the arrangements at that point. Nevertheless this point is key to the success or failure of interim J10A and traffic census is required. What are the current numbers at this junction, how much additional traffic will be created by the development and how near are these to capacity?

Comment: This point has been referred to the Highways Agency for comment.

19. The papers from the SDB say the junction will allow 7,000 houses to be built - where are these going to be please? I note you consider "Local Objections to the Scheme" to be a high level of risk to the Scheme and I agree with this. Unless the Council are absolutely clear where these 7,000 houses will be built the uncertainty and distrust over the scheme will grow and will represent a further risk to the scheme. I assume the plans are to build these

houses in Mersham, Wye, Willesborough or Kingsnorth - or are you planning further afield in Aldington? What are your proposals please?

Comment: A proportion of the indicative number of 7,000 dwellings that could be released by the scheme already have planning permission. Significant parts of the consented sites at Cheeseman's Green and Newtown Works are currently restricted by the lack of available capacity at Junction 10.

The response to question 7 above sets out the context for the future planning of housing development in the borough through the new Local Plan to 2030. The preparation of the plan will be the process by which the Council will determine where any new residential allocations should be made but no decisions have yet been taken in this regard. The capacity of the junction will enable the Council to choose to site new residential development in and around the south-east of Ashford should it wish to.

20. The papers refer to AXA/DMI parcels of land which will need to be compulsorily purchased. Can O&S Members have a copy. I understand these may be confidential.

Comment: The Council does not have the detailed information on the parcels of land that would need to be acquired or, if not, compulsorily purchased. This information is, in any event, likely to be highly commercially sensitive.

21. The papers refer to "studies carried out by DMI". Can I see these please? Are these papers the source of officers including Amazon in the pipeline for future business rate income in ABC's projections? If this is not the source what was the source please?

Comment: The Strategic Delivery Board papers for April 2014 refers to AXA/DMI providing copies of their studies to KCC so that KCC can establish whether more work is required to support their planning application for the Junction. These are principally environmental studies carried out on AXA/DMI's behalf when they were previously leading on the delivery of the scheme and have now been transferred to KCC. None of the studies relate to potential occupier demand or interest.

As far as Amazon are concerned, the Chief Executive and head of Planning and Development were informed by AXA only of their potential interest in Sevington and on the basis this was not confirmed and was no more than an outside possibility. We were given that information on the express basis it would be treated in the strictest confidence as AXA were concerned it was commercially sensitive – my recollection is that AXA had themselves had no direct contact with Amazon and had only picked up the potential interest through an intermediary. As far as I can recall, we shared the information only with the Leader and Planning Portfolio holder on that confidential basis.

Subsequently we sought clarification on a number of occasions whether the potential interest had actually developed into a real one. We received no confirmation that this had happened.

22. I see from the minutes of the Strategic Delivery Board that ABC and KCC have "agreed that KCC will act as lead partner and will prepare and submit planning application for the junction and the link road". I am of the view that the correct governance is that KCC should not prepare and submit their own planning application and that ABC should be the authority.

Comment: Construction of the highway is development and therefore needs planning permission. Although the County Council and the Borough Council are both local planning authorities, most types of applications for planning permission are determined by the Borough Council. However, when the County Council intends to carry out development, it has to make that application to itself. That is the case here, which is why under the Town and Country Planning General Regulations 1992 the application cannot be determined by the Borough Council. There is no right of appeal against the County Council determining the application.

The Regulations come into play on a regular basis, such as construction of Repton Manor Primary School or the extra care facility on Ashford Road in St Michaels. As was the case with those applications, the Borough Council will be consulted on the application and Planning Committee will provide the response.

The application will be determined by the County Council's Planning Applications Committee. Just like members of the Borough Council's Planning Committee, the County members have to follow the Kent Code of Conduct as well as keep an open mind and not predetermine applications. There is no evidence that County members would not act appropriately when determining this application.

Under the same Regulations the Borough Council is able to determine its own applications, for example for the construction of new council houses. There has never been any evidence of Borough Council members failing to conscientiously consider such applications.

It has been suggested that the County Council would have a conflict of interest and shouldn't determine the application, as it will "receive a fee for project management". Whether this is correct or not any project management fee would not be paid to the members of the Planning Applications Committee but to the County Council itself. Individual County members would have no conflict unless a personal interest outside the County Council itself was involved. Even if the County Council might stand to benefit financially (eg. to the extent any "fee" exceeded costs it had incurred) provided the planning decision-making committee addressed its mind only to relevant planning considerations there is no inherent conflict such that a lawful decision could not be made. The receipt of any fee would not be a planning matter which could lawfully be taken into account.

It is not always the case that the County Council wishes to carry out development itself. For example, when the former Hopewell County Primary School became

surplus to requirements the County Council applied to the Borough Council for permission to re-develop the land for housing. The County Council had no intention of constructing the dwellings and therefore was not able to apply to itself. Another example is the junction on the A2070 to serve Cheeseman's Green, where the applicant was Crest Nicholson and not the County Council. Again the County Council did not wish to carry out the development itself.

In this case the County Council has decided it wishes to carry out the scheme and to be the applicant for the development for several reasons, including the strategic nature of the proposal and their in-house expertise and resources as highway authority. As a key player in the three county South East Local Enterprise Partnership, Kent County Council which successfully bid for approaching £20m LEP funding towards the SELEP junction proposal, is accountable for the delivery of the scheme to the LEP and the obvious delivery lead. The additional highway capacity that would be created is of strategic importance for the area as a whole as it helps to tackle a growing problem of congestion at the junction and provides for substantial growth in the future to meet likely local plan needs. This is in contrast to the A2070 junction, which is primarily intended to serve the Finberry development. The County Council is the highway authority and as such has significant expertise in assessing, managing and delivering such large road schemes.

This is a strategic major highway scheme that will be promoted and delivered by Kent County Council, using government funding, for which KCC is the accountable body. The planning application will be determined by the County Council's Planning Committee in the same way that many previous major strategic highway infrastructure projects of this nature and significance have been determined across the County.

There is no external procedure to follow when a local planning authority is considering applying to itself for permission. In particular, it is not for the Borough Council to approve the County Council's decision to be the applicant and as a consequence no formal approval has been given. There is no right of appeal either.

Accordingly if the County Council wish to both carry out the development and make the application it will have to be made to and determined by the County Council itself.

23. Draft forward funding proposals have been submitted to ABC, please may I have a copy.

Comment: Cllr Bartlett's Freedom of Information request to release this information is currently being considered and will be resolved in advance of the O&S meeting. Members will be updated accordingly.