

PLANNING ACT 2008

THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES 2010

DEADLINE 4 REPRESENTATIONS REGARDING THE APPLICATION BY SUFFOLK COUNTY COUNCIL FOR AN ORDER GRANTING DEVELOPMENT CONSENT FOR THE LAKE LOTHING THIRD CROSSING

PLANNING INSPECTORATE REFERENCE NUMBER TR010023

DEADLINE 4 REPRESENTATIONS MADE ON BEHALF OF:

**20013284 - OVERSEAS INTERESTS INC
20013285 - WAVENEY FORK TRUCKS LIMITED
20013286 - LIFT TRUCK RENTALS LIMITED,
20013287 - NEXEN LIFT TRUCKS LIMITED,
20013288 - OAKES RECRUITMENT LIMITED,
20013289 - TEAM OAKES LIMITED
20013290 - HITECH GRAND PRIX LIMITED**

DATE OF REPRESENTATIONS: 29 JANUARY 2019

Introduction and background

- 1 We act for Overseas Interests Inc, Waveney Fork Trucks Limited, Lift Truck Rentals Limited, Nexen Lift Trucks Limited, Oakes Recruitment Limited, Team Oakes Limited and Hitech Grand Prix Limited. These representations have been made on behalf of each of our clients.
- 2 Overseas Interests Inc is the registered proprietor of land registered under title number SK264748 ("**the Land**"). A significant proportion of the Land falls within the draft Order limits. Waveney Fork Trucks Limited, Lift Truck Rentals Limited, Nexen Lift Trucks Limited, Oakes Recruitment Limited, Team Oakes Limited and Hitech Grand Prix Limited carry on various business activities on the Land.
- 3 These representations respond to some of the written representations and responses to the Examining Authority's Written Questions which are relevant to the points that are made in our clients' written representations dated 8 January 2019 ("**WR**").

Comments on representations made by the Applicant and the Applicant's responses to ExA's Written Questions

- 4 Continuity of access and the Applicant's response to Written Question 3.3
 - 4.1 The Applicant's response to Written Question 3.3 refers to Paragraph 2.6.1 of the revised Interim Code of Construction Practice which sets out that the Contractor must allow access from the public highway to the Land during the construction of the scheme save for in exceptional circumstances and with advance notice.
 - 4.2 The Applicant then states that under requirement 4 of the draft DCO the authorised development must be carried out in compliance with a Code of Construction Practice developed in accordance with the Interim Code of Construction Practice so access to the Land is therefore secured.
 - 4.3 Despite the Applicant's response summarised above, footnote 9 to Paragraph 2.6.1 of the revised Interim Code of Construction Practice recognises that there is a potential for disruption to access to the Land.
 - 4.4 As set out in the WR it is simply not acceptable for there to be potential for access to the Land not to be maintained under all circumstances.
 - 4.5 The Applicant's response to Written Question 3.3 does not address the following points:
 - 4.5.1 There is not enough detail in the Interim Code of Construction Practice to give our clients comfort that suitable access to and within the Land will be maintained. The proposed project could have the effect of completely severing access from the Land to the public highway unless measures can be put in place to ensure that this is maintained. The detail of these measures are important given the location of the proposed project and the nature of the works which the Applicant anticipates carrying out in this area. These works not only include the construction of the proposed bridge but also, as set out in the Applicant's response to Written Question 1.7, diversions of statutory undertakers' equipment.

- 4.5.2 Our clients have previously expressed concern at the deemed discharge provisions which are incorporated at Part 2 of Schedule 2 of the draft DCO which would mean that any application to discharge the requirements set out in the draft DCO would be deemed to be granted if the discharging authority does not respond within 6 weeks. This does not give our clients comfort that applications to discharge requirements, including those relating to the details of the Code of Construction Practice will be suitably scrutinised by the discharging authority.
- 4.5.3 Even if a satisfactory Code of Construction Practice was approved by the discharging authority it would only be enforceable by the discharging authority and our clients would be wholly reliant on the discharging authority enforcing such a breach in a timely manner.
- 4.5.4 The Applicant's response and the current draft DCO does not provide any guarantees that our clients will be granted enforceable rights to use whatever form of access is to be provided during the construction and operational phases of the scheme. The provision of such rights is, of course, required in addition to the physical provision of such an access.
- 4.5.5 The Applicant's response to this Question 3.3 also misses the point stressed in the WR that it is not only access and egress to the Land which is crucial but also suitable access arrangements within the Land, access for staff employed by the existing businesses and access for the construction and operation of any development carried out on the part of our clients' land which is identified by the Applicant as Plot 3-56.
- 4.5.6 Our client's consultant awaits the Applicant's response to queries in relation to how the Applicant intend to enter and use Plot 3-56, the length such land will be used and any re-instatement proposals.
- 4.5.7 For the reasons set out above, the Applicant's response is not satisfactory and demonstrates the need for a positive obligation to be placed on the Applicant to provide alternative proposals (including possible temporary relocation during the construction period) or an alternative means of access which can be guaranteed to maintain suitable access to the Land during the construction period. This is in addition to the concerns our clients maintain about the ability of a suitable form of access being provided to the Land during the operational phase of the project.

4.6 On-going discussions regarding the suitability of the access arrangements

- 4.6.1 In response to Written Question 3.6 the Applicant has submitted an updated Compulsory Acquisition Negotiations and Objection Tracker ("**Tracker**").
- 4.6.2 As set out in the WR our clients' advisors are continuing to try and work with the Applicant and their consultant team to discuss suitable access arrangements to and within the Land.

- 4.6.3 However, to date our clients have not been provided with satisfactory and technically sound evidence to demonstrate that such a solution is workable in practice.
- 4.6.4 We understand from the Applicant's Cover Letter dated 8 January 2019 and the Applicant's recent correspondence with the ExA that changes to the scheme are proposed to be submitted. We await a full consultation on these proposed changes when they are submitted to the ExA and our comments below are subject to this.
- 4.6.5 To this end our clients have recently (on 24 January 2019) received revised access arrangement proposals from the Applicant (see plan at **Appendix 1**).
- 4.6.6 Our clients have instructed their highways consultant to review these proposals as a matter of urgency. At **Appendix 2** we enclose a short note from our clients' highway consultant setting out why the latest proposals from the Applicant remain unsatisfactory. To summarise, concerns remain in relation to safety and operational capacity of the proposed alternative access and that no work appears to have been done by the Applicant to demonstrate that the originally proposed access may be designed to provide suitable access arrangements for the existing businesses and the development land to the south of the Land.
- 4.6.7 In summary, whilst changes to the submitted scheme to deal with our clients' concerns are welcomed no suitable proposals have been forthcoming from the Applicant to date. For the avoidance of doubt, the revised arrangements at Appendix 1 do not deal with the concerns expressed in the WR or in particular those points at paragraph 12 of the WR in relation to the requirements and limits of deviation in the draft DCO.

Comments on Waveney District Council's response to ExA's Written Questions

- 5 Waveney District Council's letter dated 21 December 2018 sets out that "*there are no active proposals for further development*" on the south side of Lake Lothing but acknowledges that the area in the vicinity of the southern landing point of the proposed scheme is allocated in the District Council's Local Plan for employment purposes. The part of the Land which our clients wish to develop is in an Enterprise Zone.
- 6 Our clients' long held development aspirations are fully set out in paragraphs 21.1 to 21.12 of the WR and are not repeated here. It is clear that for these reasons it should be considered that there are active development proposals on the Land.

Comments on Birketts' representations on behalf of Lings

- 7 We note with interest the Applicant's apparent on-going discussions with Lings regarding a new access design which included, as of December 2018, a new two-way access to the east of the main Lings building.
- 8 The drawings illustrating this proposed new access arrangement are at Annexe 3 and 4 of the statement of Paul Barkshire submitted on 8 January 2019.

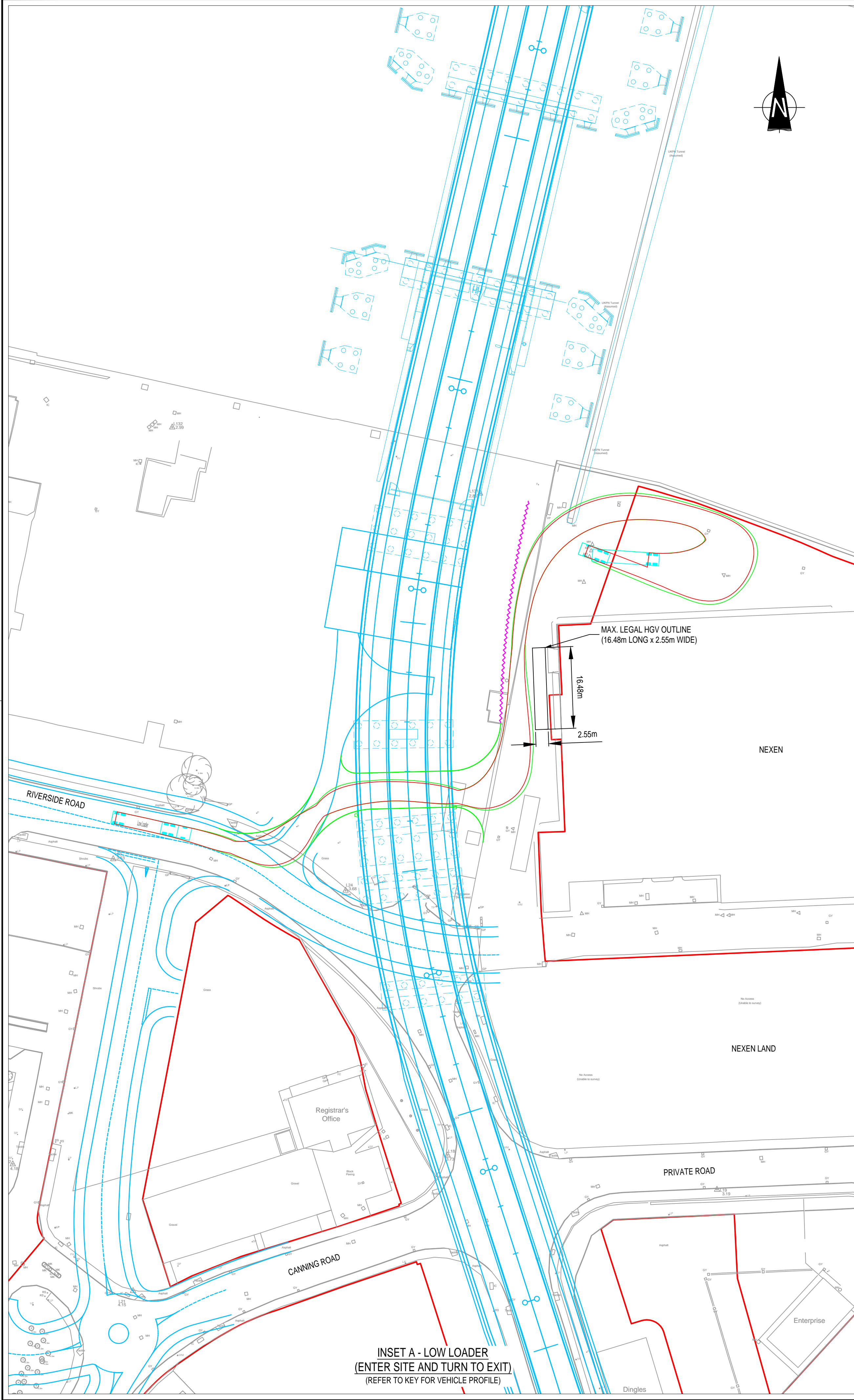
- 9 To be clear the new access arrangements that we refer to are those shown on plans 1069948-SCC-HGN-LL-DR-KK-0020 (“Motorlings Single Access / Egress”) and 1069948-SCC-HGN-LL-DR-KK-0020 (“Motorlings Single Access / Egress Swept Path Analysis”).
- 10 Whilst it appears that Lings have reservations about these new access arrangements in relation to on-site operations and customer experience, it is noted that Lings consider this option to be the “least worst option to date”.
- 11 Whilst not a party to discussions between the Applicant and Lings our clients are, frankly, staggered at the Applicant’s suggestions of an alternative access to the east of Ling’s main building and surprised that this has not been discussed with our clients as part of an access solution for the Land.
- 12 It is clear that the Applicant failed to properly consider this alternative way of accessing the Land (and the Lings site) prior to the submission of the application. This is demonstrated by the fact that the new access arrangements shown on the plans referred to above includes land outside of the Order Limits.
- 13 As set out at paragraph 11 of the WR, our clients have consistently queried the failure of the Applicant to properly consider an alternative access to the Land to the east of Lings’ site.
- 14 It remains our clients’ position that this is the only way in which the Applicant can have guarantee access to the Land during the course of the construction and operational phases of the proposed project.

Howes Percival LLP

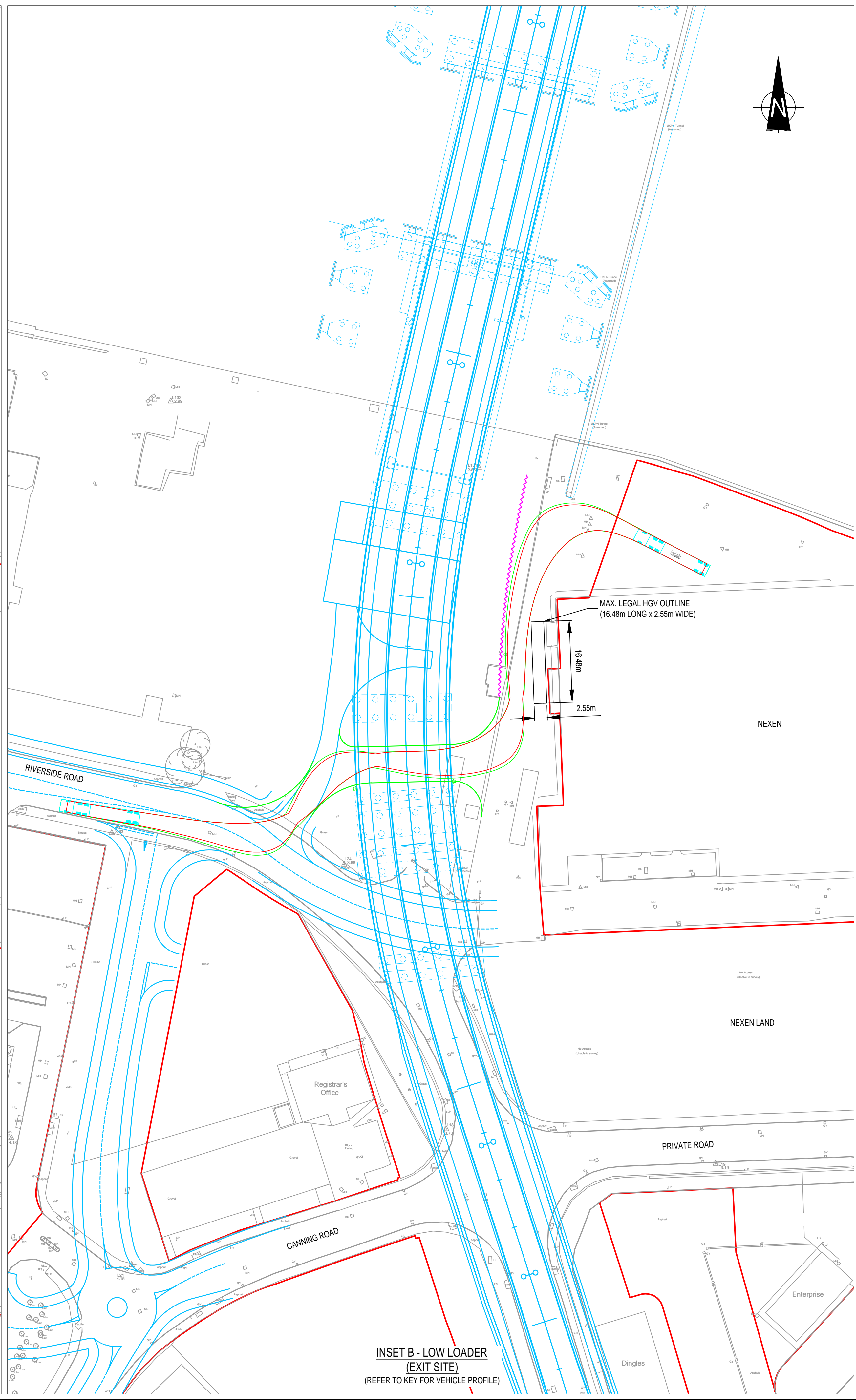
29 January 2019

Appendix 1

Appendix 2



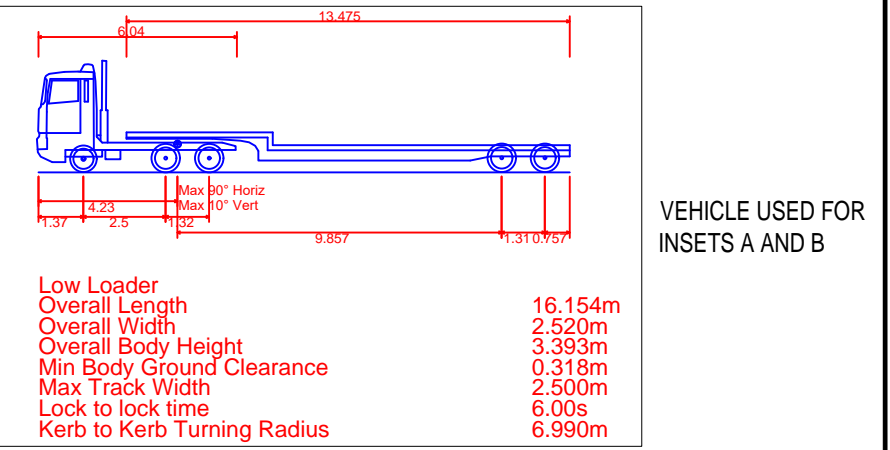
INSET A - LOW LOADER
(ENTER SITE AND TURN TO EXIT)
(REFER TO KEY FOR VEHICLE PROFILE)



INSET B - LOW LOADER
(EXIT SITE)
(REFER TO KEY FOR VEHICLE PROFILE)



- KEY**
- REFERENCE DESIGN (OPTION C19 - REV P06 ALIGNMENT)
 - ALTERNATIVE ALIGNMENT. SEE NOTE 1
 - POTENTIAL REALIGNED BOUNDARY
 - ORDER LIMITS



- NOTES**
- ALTERNATIVE ALIGNMENT OPTION SHOWN IS ILLUSTRATIVE ONLY AND IS SUBJECT TO CHANGE AS DESIGN IS PROGRESSED.

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P01	CC	SC	AP	JB	24.01.2019

REVISION	DRAWN	CHECKED	APPR'D	AUTH'D	DATE



PROJECT TITLE

Lake Lothing
THIRD CROSSING

DRAWING TITLE

NON MATERIAL CHANGE
NEXEN ACCESS
SWEEP PATH ANALYSIS

DRAWING STATUS

FOR INFORMATION

DRAWN	CHECKED	APPROVED	AUTHORISED	SUITABILITY
CC	SC	AP	JB	S2

SCALE @ A1 SIZE	DATE	REVISION
1:500	24.01.2019	P01

DRAWING NUMBER	Project	Originator	Volume
1069948-SCC-HGN-LL-DR-KK-0006			
Location	Type	Role	Number

Lake Lothing Third Crossing

Nexen Access

Commentary on Suffolk County Council proposals January 2019

Ref SCC drawing **1069948-SCC-HGBN-LL-DR-KK-0006** rev P01, dated 24-01-2019

- 1 The drawing provides an alternative access arrangement for heavy goods vehicles to enter and leave the Nexen site. This has been provided in response to report by Mayer Brown, 'Impact on Access and Operations – Report 2' dated 8th January 2019.
- 2 The new access proposal indicates a route that is to the north of the existing Nexen access. It is provided through the next clear span of the LLTC bridge structure (between Abutment 1 and Pier 2). It is noted that an earlier proposal from SCC (Oct 2018) provided an alternative heavy goods vehicle access through a span further north than this (north of Pier 2).
- 3 The proposed access arrangement continues to bring hgvs on to the Nexen site in close proximity to the principal 'goods in' door on the west frontage of the factory. The drawing illustrates the swept path tracking of a low-loader entering and leaving the site whilst a 16.5m articulated vehicle is parked at the goods in door.
- 4 The drawing illustrates that land outside of the Nexen property is required for the roadway to accommodate the vehicle manoeuvre described at 3 above.
- 5 The following observations are made in connection with the access road proposal: -
 - a] The vehicles entering and leaving the site have to negotiate a 'pinch-point' at the 'goods-in door when a vehicle is parked up for delivery / unloading. This could lead to obstruction if the delivery vehicle is not parked up precisely.
 - b] Operatives working on the ground close to a parked-up delivery vehicle are at risk from the movement of other vehicles entering or leaving the site.
 - c] The headroom afforded to heavy goods vehicles entering / leaving site is less than that afforded by the earlier SCC proposal (Oct 2018); c.6.5m c/w 7.0m.
- 6 Taking account of the above, my views on the adequacy or otherwise of the latest proposal are as follow: -
 - A] Although the current operation of the Nexen site does also require vehicles entering the site to pass a vehicle unloading at the goods inward door, the latest proposal from SCC misses an opportunity to provide for an improved access arrangement in terms of both safety and operational capacity.

- B] The latest proposal illustrates some additional land that could be made available to Nexen to accommodate a new access route. However, the extent of land shown as being made available appears to be somewhat insufficient to safely accommodate the vehicle manoeuvres. It would appear that a wider strip of land to the west of Nexen could be provided to increase the roadway width for vehicles entering and leaving the site.

The solution provided has the appearance of being the minimum possible, rather than providing a proper assessment of safety and operation.

- C] My Report 2 on access to Nexen provided a drawing of an alternative access to the property; the route passing to the west of the LLTC control tower and then turning along the south quay to enter the property on its northern boundary. This route allows the heavy vehicles to be kept away from the factory doors and thereby to reduce to a minimum the risk of obstruction or hindrance of factory operations.

This route remains the preference of Nexen, for operational and safety reasons. In addition, this route would provide an opportunity for the site weighbridge to be relocated to a position on a direct route into / out of the site.

There has been no apparent consideration given by SCC to this alternative route.

- D] The latest proposal illustrates a vehicle route passing through a span of the LLTC bridge structure with less headroom than that of an earlier proposal from SCC. It is not obvious why this route with lesser headroom has now been used. A route with increased vehicle headroom would better accommodate the movement of large and over-height vehicles that are transported from the Nexen site.

The route preferred by Nexen as described at C] above could provide a headroom in excess of 6.5m.

- 7 I record that there has been no more work undertaken to illustrate how the existing access on to the Nexen site might be set out to provide access to both the offices of the Nexen factory site and to the southern parcel / development area.