

M25 junction 28 improvement scheme

TR010029

9.33 Applicant's Comments on Responses to ExAs WQ1

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M25 junction 28 scheme

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9.33 Applicant's Comments on Responses to ExAs WQ1

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1. Structure of Comments on Interested Parties' Responses to Examining Authority First Written Questions

- 1.1.1 This document sets out Highways England's comments on the responses to Interested Parties responses to the Examining Authority First Written Questions submitted at Deadline 2 (4 February 2021).
- 1.1.2 The table is structured to include columns for the Examining Authority Questions, the responses provided by the Interested Parties at Deadline 2, and Highways England's comments on these responses. Subheadings are provided within the table to separate the responses by Interested Party.
- 1.1.3 Highways England has sought to provide comments on responses where it is helpful to the Examination to do so, for example where clarification is required on a statement made by an Interested Party or where Highways England considers that it would be appropriate for the Examining Authority to have Highways England's views in response to a matter raised by an Interested Party.
- 1.1.4 Where issues raised within a question have been dealt with previously by Highways England, for instance in response to a question posed by the Examining Authority in its first round of written questions, Highways England response to written representation 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.
- 1.1.5 In order to assist the Examining Authority, Highways England has not provided comments on every point made within a response, as stated in paragraph 1.1.3 it may have been addressed already. 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.

Table 1-1 Comments on Interested Parties' Responses to Examining Authority First Written Questions

Question Number	Question to:	Question	IP Response	Highways England Response
London Borough of Havering				
GQ1.1		<p>As will be set out in more detail in the individual subject areas below, the ExA is concerned with the Applicant's overall approach to mitigation in this application. The Applicant's approach relies heavily on those identified issues and a series of statement commitments to mitigation contained the Register of Environmental Assessment Commitments (REAC) [APP-097]. The REAC itself relies on a series of documents, such as the Construction Environmental Management Plan (CEMP) to detail such mitigation.</p> <p>However, the CEMP is considered light in detail</p>	<p>LB Havering share the concerns of the ExA and have set these out in our Local Impact Report specifically paras 24.2.1, 24.2.2, 24.2.3 and 24.2.4.</p>	<p>Please refer to points 24.2.1 to 24.2.4 of Table 2 within Highways England's response to the London Borough of Havering Local Impact Report (TR010029/EXAM/9.34).</p>

Question Number	Question to:	Question	IP Response	Highways England Response
		<p>and heavily reliant on matters being resolved at the detailed stages and crucially, after consent would have been granted. There are further concerns, such as the commitment to provide an Arboricultural Method Statement (AMS): this is not listed as a document to form part of the CEMP, nor is it secured in the draft DCO [APP-015].</p> <p>The ExA is concerned that the approach fails to provide adequate details of how the Applicant intends to mitigate the impacts of the Proposed Development, and the ExA cannot be certain at this stage that mitigation measures or practices would be adequate. The Applicant is required to take note of the ExA's initial view and either provide a</p>		

Question Number	Question to:	Question	IP Response	Highways England Response
		statement response here, and/ or respond to the individual concerns in questions below and submit the additional documents required.		
GQ1.8		<p>i) Comment on the adequacy of the outline CEMP.</p> <p>ii) Comment on those plans listed in Paragraph 4.4.3 of the outline CEMP [APP096] which the Applicant has stated may or may not form part of the final CEMP to be submitted under Requirement 4 of the draft DCO [APP-015].</p> <p>[N.B – The ExA has asked specific questions elsewhere in respect to an Arboricultural Method Statement, the Archaeological Control Plan, the Dust, Noise and</p>	<p>LB Havering has raised a number of concerns regarding the outline CEMP and these can be found in paras 10.6.2 and 10.6.3 of the Local Impact Report.</p> <p>LB Havering is concerned that statement 4.4 in the outline CEMP (APP-096) states that “it is expected....” that a number of documents will be prepared “if appropriate”, as part of a final CEMP, which will be produced by the appointed contractor.</p> <p>This is concerning because Requirement 4 of the draft DCO states that the final CEMP will be prepared</p>	<p>Please refer to point 10.6.3 of Table 2 within Highways England’s response to the London Borough of Havering Local Impact Report (TR010029/EXAM/9.34).</p> <p>Highways England have updated paragraph 4.4.3 of the Outline CEMP (TR0100/APP/7.2(2)) to provide the list of the environmental control plans which the Principal Contractor will need to prepare for the detailed design and construction stages and the updated Outline CEMP has been submitted at Deadline 3a.</p> <p>In relation to the London Borough of Havering’s concern regarding the phrase “substantially in accordance with”, please refer to points 24.2.1 to 24.2.4 of Table 2 within Highways England’s response to the London Borough of Havering Local Impact Report (TR010029/EXAM/9.34).</p>

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		Nuisance Management Plan, the Surface Water Management Plan (SWMP) and the General Ecology Plan. Parties may wish to reserve responses to those questions]	substantially in accordance with the outline CEMP. LB Havering is concerned with the language used in Requirement 4 “substantially in accordance”, as this could mean that the documents set out in paragraph 4.4.3 may not be produced or may be substantially different from submitted draft DCO documents.	Highways England disagrees with the London Borough of Havering’s interpretation of Requirement 4, which makes it clear that the CEMP must be written in accordance with the relevant management plans, as set out in Requirement 4(2). Furthermore, by definition the requirement that the CEMP to be produced “substantially in accordance with” the Outline CEMP precludes the CEMP from being produced in a manner “substantially different” from the Outline CEMP. No doubt the Secretary of State would decline to approve a CEMP if of the view that it was not substantially in accordance with the outline CEMP.
BHR1.17		i) Provide a response to the HRA NSER [APP-093] having specific regard to: <ul style="list-style-type: none"> - An adequate evidence plan was used at the Pre-application stage. - Whether the correct qualifying features have been identified for the two 	The approval of the HRA No Significant Effects Report (NSER) is a matter for Natural England to ensure compliance with the Conservation of Habitats and Species Regulations 2017 (as amended). LB Havering notes that the NSER has been prepared	Please refer to point BHR 1.17 within Highways England’s response to Examining Authority’s First Written Questions (REP2-011) .Natural England agree with the findings in the NSER which is outlined in the Statement of Common Ground (SoCG) with Natural England (Table 3.1, point 1.1) (REP1-011).

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		<p>European sites considered.</p> <ul style="list-style-type: none"> - The appropriateness of the methodology and conclusions of the Applicant's HRA in-combination effects assessment. - The appropriateness of the methodology used for the HRA and whether there is agreement with the conclusions in the HRA NSER of no LSE on any European site. <p>ii) Confirm that a SoCG will be signed with the Applicant which will confirm the above.</p>	<p>with specific regard to all of the bullet points listed for i) and looks forward to seeing the feedback from Natural England.</p> <p>LB Havering also submitted comments on the HRA matrices at Deadline One (REP1 -034)</p>	<p>Natural England agree with the findings in the NSER which is outlined in the SoCG with Natural England (Table 3.1, section 1.1)</p> <p>Highways England welcomes the comments from London Borough of Havering in the written representation on the HRA matrices that were submitted at Deadline 1 (REP1-034).</p>
DCO1.3		<p>Archaeological investigations and mitigations are excluded from the definition of "commence". The ExA is concerned that such works</p>	<p>LBH supports the questions set out by the ExA to the applicant concerning Archaeological Investigations. LB Havering also support the request from the ExA that</p>	<p>At Deadline 3a (18 February 2021), Highways England is proposing to submit an Outline Archaeological Management Plan (AMP) (TR010029/EXAM/9.45), which is also referred to as Archaeological Management and Mitigation Strategy in the REAC (APP-097),</p>

Question Number	Question to:	Question	IP Response	Highways England Response
		<p>could undermine the purpose of Schedule 2, Requirement 9 if such unregulated works had a detrimental effect on any potential archaeological remains discovered which the Requirement is seeking to protect.</p> <p>i) Justify why archaeological investigations are excluded from commencement works.</p> <p>ii) Explain how archaeological investigations would be regulated in the draft DCO. Or;</p> <p>iii) Include “archaeological investigation works” within Schedule 2, Requirement 9 or control these works in another way.</p>	<p>Archaeological Investigation works are included within schedule 2 Requirement 9 of the draft DCO.</p>	<p>covering the proposal of undertaking the archaeological investigations for the Scheme. The Outline AMP acts as an overarching Written Scheme of Investigation (WSI) for the Scheme. The final AMP to be prepared by the Principal Contractor in due course will be in line with the Outline AMP ((TR010029/EXAM/9.45), submitted at Deadline 3a and will reflect the relevant mitigation measures included in the REAC (TR010029/APP/7.3(2)), submitted at Deadline 3a).</p> <p>Requirement 9 of the draft Development Consent Order (dDCO) (REP2-002)) has been amended and the updated dDCO is submitted at Deadline 3a (TR010029/APP/3.1(2)). It requires that an AMP is approved by the Secretary of State in consultation with the relevant planning authority before the authorised development may commence and for it to be substantially in accordance with the Outline AMP.</p> <p>In consequence of the amendment to Requirement 9, the updated dDCO no longer requires an AMP to be produced as part of the CEMP under Requirement 4.</p>

Question Number	Question to:	Question	IP Response	Highways England Response
DCO1.22		<p>Requirements 3 through 12 requires the SoS to be the determining authority for the discharge of the said Requirements.</p> <p>Explain why the Local Authorities would not have responsibility for the discharge of these Requirements</p>	<p>LB Havering support the questions from the ExA concerning discharge of requirements. The Council has set out its concerns in paragraphs 24.3.1 24.3.2 24.3.3 of the Local Impact Report.</p> <p>LB Havering supports the position Transport for London (TfL) have set out in its Relevant Representation to be a consultative body for the discharge of requirements and LB Havering would expect to be an approval body for matters that are within Havering's statutory responsibilities.</p>	<p>Please refer to point DCO 1.22 within Highways England's response to Examining Authority's First Written Questions (REP2-011) and points 24.3.1 to 24.3.3 of Table 2 within Highways England's response to the London Borough of Havering's Local Impact Report (TR010029/EXAM/9.34).</p>
DCO1.25		<p>Section 4.4 of the outline CEMP [APP-096] sets out those documents where "it is expected that some or all of the following [Environmental Control</p>	<p>LB Havering supports the concerns raised by the ExA that a number of critical documents will only be prepared as part of the final</p>	<p>Please refer to point DCO 1.25 within Highways England's response to Examining Authority's First Written Questions (REP2-011) and points 24.2.1 to 24.2.4 of Table 2 within Highways England's response to the London Borough of</p>

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		<p>Plans] ECPs will be prepared, as appropriate, for the Scheme as part of the final CEMP". The ExA considers this statement to be weak and non-committal and potentially allows for environmental plans to be avoided when discharging the Requirement 4. This is explored further in other questions.</p> <p>i) Explain why the HEMP does not form one of the listed documents in the outline CEMP yet is part of Requirement 4.</p> <p>ii) Explain why the SWMP is to be discharged against Requirement 4 and not Requirement 8.</p> <p>iii) Explain why the Archaeological Control Plan (ACP) is to be discharged against Requirement 4 and</p>	<p>CEMP.</p> <p>LB Havering has raised this as a significant concern within its Local Impact Report (LIR), in particular that LB Havering will only be a consultee on the final CEMP which will be produced post Consent being granted.</p> <p>LB Havering would like to draw the ExA panel's attention to paragraphs 24.2.1, 24.2.2 and 24.2.3 of the LIR.</p> <p>With regards to question iii)</p> <p>LB Havering is concerned that statement 4.4 in the CEMP states that an Archaeological Control Plan (ACP) will only be prepared as part of a final CEMP, which will be produced by the appointed contractor. This is concerning because Requirement 4 of the draft DCO states that the final</p>	<p>Havering's Local Impact Report (TR010029/EXAM/9.34).</p>

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		<p>not Requirement 9.</p> <p>iv) Explain why the LEMP is to be discharged against Requirement 4 when it forms its own Requirement (Requirement 5).</p> <p>v) Consider listing in Requirement 4 those other documents which will form part of the suite of documents in the CEMP to be approved.</p> <p>vi) Explain whether such documents should be added to the list of Certified Documents in Schedule 10.</p>	<p>CEMP will be prepared substantially in accordance with the outline CEMP.</p> <p>LB Havering is concerned with the language used in Requirement 4 “substantially in accordance” as this could mean that documents such as the ACP and Site Waste Management Plan may not be produced or may be substantially different from submitted draft DCO documents.</p> <p>The applicants’ preferred approach risks unnecessary harm to heritage assets.</p> <p>Should the ExA decide to grant the application in the absence of the results of pre-determination field survey work, it should nevertheless ensure that any consent includes much more robust and detailed archaeological</p>	

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			measures than are currently provided.	
FDW1.14		<p>Although Chapters 8 [APP-030] and 16 [APP-038] of the ES and the REAC [APP-097] identify no significant effects from the Proposed Development on flooding and water, they nonetheless rely on the outline CEMP and in particular the submission of a SWMP to mitigate any potential effects caused from the construction of the Proposed Development.</p> <p>The Outline CEMP [APP-096] contains little details on how measures set out in the REAC would be achieved and the SWMP has not been submitted into the Examination. Moreover, paragraph 4.4.3 of the CEMP lists the SWMP as a</p>	<p>LB Havering supports the concerns raised by the ExA with regards to lack of detail within the Outline CEMP concerning supporting documentation.</p> <p>LB Havering has raised this as a significant concern within its Local Impact Report (LIR), in particular that LB Havering will only be a consultee on the final CEMP which will be produced post Consent being granted.</p> <p>LB Havering would like to draw the ExA panel's attention to paragraphs 24.2.1, 24.2.2 and 24.2.3 of the LIR.</p>	<p>Please refer to point FDW 1.14 within Highways England's response to Examining Authority's First Written Questions (REP2-011) and to points 24.2.1 to 24.2.4 of Table 2 within Highways England's response to the London Borough of Havering's Local Impact Report (TR010029/EXAM/9.34).</p>

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		<p>document which may or may not be ultimately submitted as part of the CEMP and Requirement 4 of the draft DCO [APP-015].</p> <p>The ExA is concerned that water management and drainage matters are not adequately addressed at this stage having regard to the concerns raised in RRs and that precommencement works as set out in the draft DCO [APP-015] would be uncontrolled. The ExA considers the approach to surface water drainage should be known in this Examination.</p> <p>i) Comment on the approach not to submit an SWMP into the Examination.</p> <p>ii) Explain how the ExA can be satisfied that pre-</p>		

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		<p>commencement and uncontrolled works would have no significant effect on drainage matters and the discharge of Requirement 8 of the draft DCO and that mitigation would be adequate. OR</p> <p>For the Applicant:</p> <p>iii) Submit an outline SWMP into the Examination and update Requirement 8 of the draft DCO accordingly securing the final SWMP to be in accordance with the outline version.</p>		
HE1.1		<p>Although Chapter 8 [APP-030] and the Summary [APP-038] of the ES and the REAC [APP-097] identify no significant effects from the Proposed Development on the historic environment, they nonetheless rely on the outline CEMP and in</p>	<p>The applicants' identification of a "slight adverse" impact to cultural heritage in the ES is based on what the borough and the Greater London Archaeological Advisory Service (GLAAS) are advising the ExA is an unacceptably limited set of baseline data,</p>	<p>Please refer to point 10.7.2 of Table 2 within Highways England's response to the London Borough of Havering Local Impact Report (TR010029/EXAM/9.34).</p>

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		<p>particular the submission of an ACP associated with a Written Scheme of Investigation (WSI) to mitigate any potential effects from archaeological finds.</p> <p>The Outline CEMP [APP-096] contains little details on how measures set out in the REAC would be achieved and the ACP / WSI has not been submitted into the Examination. Moreover, paragraph 4.4.3 of the CEMP lists the ACP as a document which may or may not be ultimately submitted as part of the CEMP and Requirement 4 of the draft DCO [APP-015].</p> <p>The ExA is concerned that archaeological matters are not adequately addressed at this stage having regard to the concerns raised in RRs</p>	<p>i.e. a four year old desk-based assessment. There is something of an “absence of evidence” approach about encountering significant remains to the ES conclusions, instead of an “evidence of absence” position derived from fieldwork results.</p> <p>The current information is not sufficient to provide comfort on significant remains, and LB Havering/GLAAS have asked for fieldwork to inform a design and decision. This approach is supported by NSPNN 5.127 and Local Plan policy.</p> <p>The applicants seek to use a post-consent programme, as is mentioned in the CEMP, along with ancillary documents to manage all archaeological remains but have not provided thorough</p>	

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		<p>and that pre-commencement works as set out in the draft DCO [APP-015] would be uncontrolled. The ExA considers the approach to mitigation on archaeological matters should be known in this Examination.</p> <p>i) Comment on the approach not to submit an ACP and an associated WSI into the Examination.</p> <p>ii) Explain how the ExA can be satisfied that pre-commencement and uncontrolled works would have no significant effect on historic matters and the discharge of Requirement 9 of the draft DCO and that mitigation would be adequate. OR</p>	<p>detail. GLAAS (on behalf of LB Havering) has been clear in their recent meetings with the Applicant that the CEMP especially would need to detail a robust protocol for managing unexpected discoveries. This should include engineering and design changes to secure preservation of unexpected remains, where this can be achieved and agreed with GLAAS. This advice does not affect the need to carry out survey work in sensitive areas beforehand to better manage the risk of unexpected discoveries in key areas (see below).</p> <p>GLAAS have raised concerns about the submission for some time and the application was unfortunately not updated to reflect the key concerns.</p> <p>i) The absence of detailed</p>	

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		<p>For the Applicant:</p> <p>iii) Submit an outline ACP and WSI into the Examination and update Requirement 9 of the draft DCO accordingly securing the final ACP and WSI to be in accordance with the outline version.</p>	<p>archaeological documentation at this stage is unusual. GLAAS advise that an Archaeological Control Plan (ACP) and Overarching Written Scheme of Investigation, including outreach and public benefits to offset harm, would be recommended parts of any acceptable DCO submission.</p> <p>However, GLASS also advise that an ACP cannot be finalised in a policy compliant way until it is informed by field survey work at the site. This is with an aim of identifying particularly sensitive remains including for example any Roman crossing of the Weald Brook, further remains of the Saxon occupation site that was found on the south side of the Roman road at Gardens of Peace and any multi-period evidence at the</p>	

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			<p>stream confluence.</p> <p>ii) It is GLAAS' view that the ExA cannot be satisfied that pre-commencement and uncontrolled works will not cause significant harm to archaeological heritage. This is because there is both an absence of field survey information to identify sensitive areas and an absence of procedural detail on how any impacts would be managed.</p> <p>iii) Submission of an ACP and WSI in draft form, in the absence of fieldwork results, would allow for the investigation and recording of remains. However, we would remind the ExA of National Policy Statement for National Networks December 2014 (NPSNN) 5.139 which explicitly states that the ability to record evidence of heritage</p>	

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			<p>asset harmed through development scheme should not be a factor in deciding whether a consent should be given.</p> <p>Instead, an informed decision making process based on balance of harm to benefit needs to be followed. This balance must be reached drawing on sufficient assessment and evaluation of significance and harm, as well as consideration of public benefits, including public heritage benefits.</p> <p>The applicants are still some way from having that information to put before the ExA</p>	
HE1.4		Provide a response to the concerns raised by the London Borough of Havering in its RR [RR-017], which identifies designated	LB Havering would like to draw the ExA attention to the draft Statement of Common Ground between Highways England and LB Havering that	Please refer to point 13.1.12 to 13.1.13 and 13.1.17 of Table 2 within Highways England's response to the London Borough of Havering Local Impact Report (TR010029/EXAM/9.34).

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		<p>and non-designated heritage assets within the Borough.</p> <p>The ExA would be assisted in the examination of these matters by the inclusion of further evidence to support the approach taken towards these assets in the heritage assessment.</p>	<p>was submitted by the Applicant at Deadline One, specifically section 8.2.1. (REP1-004).</p>	
LV1.10		<p>The ExA is concerned by the Applicant's apparent approach to tree management and mitigation.</p> <p>Chapter 7 of the ES [APP-029] introduces arboricultural matters. The REAC [APP-097] and outline CEMP [APP-096] particularly Table 9.1 identify that the Proposed Development has the potential to directly and indirectly affect 19 ancient woodlands including two</p>	<p>We expect the timing for the Ecological Clerk of Works will be detailed in the final CEMP and include the roles & responsibilities as follows:</p> <ul style="list-style-type: none"> Advise on protecting valued biodiversity features on within the construction site, particularly providing input to the final CEMP. <p>Provide practical, site-specific and proportionate assistance</p>	<p>The preparation of the final CEMP is secured by Requirement 4 of the dDCO (REP2-002) and must reflect the mitigation contained with the REAC. As set out in the REAC, any species licences required will be granted prior to the works covered by those licences taking place. The final CEMP will include the roles and responsibilities (see section 3.2 of the updated Outline CEMP (TR010029/APP/7.2(2)) (clean version) and (TR010029/EXAM/9.40) (tracked version).</p> <p>The Principal Contractor will be responsible for appointing an Ecological Clerk of Works to support the development of the detail design and the implementation of the mitigation and</p>

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		<p>adjacent to the Order limits and 15 veteran trees. The REAC identifies a number of measures designed to mitigate and protect trees to be retained and signposts the outline CEMP as the principle document where such matters would be controlled. However, the outline CEMP makes no further mention of trees in detail and neither the outline CEMP or REAC give any meaningful indication of management of Tree Preservation Order (TPO) trees. The REAC references to the Scheme Layout Plans [APP010] and Preliminary Environmental Design Plans (which do not appear to be before this Examination) are not sufficient as tree protection documents.</p>	<p>on how the Applicant can achieve compliance with environmental legislation including co-ordination of European Protected Species mitigation and badger development licences.</p>	<p>compensation measures for impacts on biodiversity resources, as set out in section 7.9 of Chapter 7 of the Environmental Statement (APP-029) and the REAC (TR010029/APP/7.3(2) (clean version) and TR010029/EXAM/9.41 (tracked version)). These are secured through Requirement 4(2) and Requirement 5(2) of the dDCO (REP2-002).</p>

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		<p>The Arboricultural Impact Assessment (AIA) [APP-063] identifies and plots the positions of veteran trees and TPO groupings. The AIA alongside the REAC and outline CEMP rely on an AMS which is not before the ExA and no provision is made for it within the draft DCO [APP-015].</p> <p>The ExA is concerned that the Applicant's approach does not satisfactorily address tree protection measures and places a heavy reliance on an as yet unseen AMS. Unanswered questions remain, including:</p> <ul style="list-style-type: none"> - The identification of the Root Protection Areas (RPAs) for the veteran trees within or close to the Order limits that are identified to be retained and the most appropriate approaches for 		

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		<p>their protection.</p> <ul style="list-style-type: none"> - The absence of identification of and survey work of the ancient woodlands and the potential indirect impacts on them, which contrary to the REAC are not set out in the CEMP in any detail. - A precise indication of the trees to be removed. - The appointment of, the roles and responsibilities and the timing of the Ecological Clerk of Works and the Arboricultural Officer. <p>The ExA considers the Applicant's approach to tree protection and management to be scattered over several documents and is as such imprecise and unclear. It places too heavy a reliance on an AMS, which needs to</p>		

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		<p>be examined in this application. Given the quantum and importance of trees and the vagueness of the CEMP and REAC, the ExA does not consider that Requirement 4 of the draft DCO adequately secures the mitigation practices set out by the Applicant.</p> <p>The ExA requires the submission of an outline AMS, which should incorporate the AIA and build on in greater detail the headline measures set out in the CEMP and REAC, thus providing the Examination with a clear identification and mitigation approach to trees.</p> <p>i) Provide an outline AMS to contain the evidence set out above.</p> <p>ii) Insert a new Requirement</p>		

Question Number	Question to:	Question	IP Response	Highways England Response
		<p>into the draft DCO securing the mitigation and management of trees which requires, prior to the commencement of the development, the submission for approval of an AMS in accordance with the outline AMS.</p> <p>iii) Explain whether the AMS should be added to the list of Certified Documents in Schedule 10.</p>		
NV1.1		<p>Although the Chapter 6 [APP-028] and the Summary [APP-38] of the ES and the REAC [APP-097] identify no significant effects from the Proposed Development from noise and vibration, they nonetheless rely on the CEMP and in particular the submission of a Dust, Noise and Nuisance Management</p>	<p>LB Havering has raised concerns within it Local Impact Report that a number of documents may only be produced as part of the CEMP and only after Consent has been granted. This does not give the Council sufficient reassurance that these documents will be produced and therefore that appropriate mitigation will be in place to</p>	<p>Please refer to point NV1.1 within Highways England's response to Examining Authority's First Written Questions (REP2-011) and to points 24.2.1 to 24.2.4 of Table 2 within Highways England's response to London Borough of Havering Local Impact Report (TR010029/EXAM/9.34).</p>

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		<p>Plan (DNNMP) to mitigate any harmful effects caused by the construction and operation of the Proposed Development. The outline CEMP [APP096] contains little details on how measures set out in the REAC would be achieved and the DNNMP has not been submitted into the Examination. Moreover, paragraph 4.4.3 of the CEMP lists the DNNMP as a document which may or may not be ultimately submitted as part of the CEMP and Requirement 4 of the draft DCO [APP-015].</p> <p>The ExA is concerned that noise and vibration matters are not adequately addressed at this stage having regard to the concerns raised in RRs and that pre-commencement</p>	<p>address the impacts of noise from the scheme.</p> <p>Furthermore requirement 4 currently states that the CEMP only needs to be produced “substantially in accordance” with the outline CEMP. This does not give the Council sufficient reassurance that the commitments set out within the Outline CEMP will be adhered to by the appointed contractor.</p>	

Question Number	Question to:	Question	IP Response	Highways England Response
		<p>Works as set out in the draft DCO [APP-015] would be uncontrolled. The ExA considers the approach to mitigation on noise matters should be known in this Examination.</p> <p>i) Comment on the approach not to submit an DNNMP into the Examination.</p> <p>ii) Explain how the ExA can be satisfied that pre-commencement and uncontrolled works would have no significant effect on noise matters and the discharge of Requirement 4 of the draft DCO and that mitigation would be adequate.</p> <p>For the Applicant:</p> <p>iii) Submit an outline DNNMP into the Examination either update</p>		

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		Requirement 4 or insert a new Requirement into the draft DCO securing the final DNNMP to be in accordance with the outline version.		
PC1.11		<p>The ExA is concerned that the REAC [APP-097] and CEMP [APP-096] do not provide adequate and clear instructions on how the Applicant intends to liaise with the local community during construction.</p> <p>i) Comment on the Applicant's approach to community engagement during construction of the Proposed Development, should the SoS decide to make the Order, and whether this is adequately secured in the draft DCO [APP-015].</p>	<p>The Construction Environmental Management Plan sets out a communications framework for how members of the public will be engaged pre and during construction.</p> <p>However, the framework does not provide sufficient detail as to the methodology for carrying out engagement with the public. For example, what geographical area would letter drops take place over, how many days in advance of works taking place will communications be sent out?</p> <p>What does the "public" cover? Does it include for example</p>	Please refer to point PC 1.11 within Highways England's response to Examining Authority's First Written Questions (REP2-011).

Question Number	Question to:	Question	IP Response	Highways England Response
		<p>For the Applicant:</p> <p>i) Consider an additional requirement which requires, prior to the commencement of the development, the submission for approval of a Community Engagement Plan which must be in accordance with the outline document.</p>	<p>community groups in the local area who would be critical for helping get the message out?</p> <p>The Communications Framework needs to provide further detail on the methodology for getting communications out to members of the public, for example, how will social media platforms be used? The Framework also lacks information on how other groups will be engaged with, for example there is no information on how local businesses will be made aware of works which will be critical for business that rely on the road network for logistical purposes.</p> <p>Such matters could be picked up in a Community Engagement Strategy for the scheme.</p>	

Question Number	Question to:	Question	IP Response	Highways England Response
			<p>Furthermore, LB Havering is concerned that the communications plan will not be finalised until the final CEMP is produced by the appointed contracted and such matters may get overlooked.</p>	
TA1.1		<p>Although the REAC [APP-097] identifies no significant effects by the construction and operation of the Proposed Development in respect to noise and vibration and people and communities from traffic issues, it does nonetheless rely on the submission of a Traffic Management Plan (TMP) to mitigate any harmful effects. However, this document is not before the Examination and the ExA is concerned that traffic management matters are not adequately addressed at</p>	<p>LB Havering is disappointed that a Traffic Management Plan (TMP) has not yet been produced by the Applicant. This is despite LB Havering raising concerns in its Relevant Representation that critical documentation would not be made available until after Consent has been granted.</p> <p>In Havering's Local Impact Report the Council has identified in para 19.3 roads that are unsuitable for construction traffic and yet in the applicant's Transport</p>	<p>Please refer to point TA 1.1 within Highways England's response to Examining Authority's First Written Questions (REP2-011). Please also refer to points 19.3.1 to 19.3.2 of Table 2 within Highways England's response to the London Borough of Havering's Local Impact Report (TR010029/EXAM/9.34).</p>

Question Number	Question to:	Question	IP Response	Highways England Response
		<p>this stage having regard to the concerns raised in RRs. The ExA considers the approach to mitigation on traffic management matters should be known in this Examination.</p> <p>Additionally, concerns have been raised in RRs that construction traffic and construction site access requirements could lead to significant disruption to traffic on local roads and to access westwards along the A12 for residents of Woodstock Avenue.</p> <p>i) Comment on the approach not to submit an TMP into the Examination. OR</p> <p>For the Applicant:</p> <p>ii) Submit an outline TMP into the Examination update Requirement 10 of the draft</p>	<p>Assessment Supplementary Information Report (TASIR) construction traffic is seen to be distributed on some of those roads and other traffic is also seen to reassign on to these unsuitable roads as a result of construction activity.</p> <p>Therefore, it is essential that a TMP is agreed with Havering and other local authorities ahead of Consent.</p>	

Question Number	Question to:	Question	IP Response	Highways England Response
		DCO securing the final TMP to be in accordance with the outline version		
TA1.3		<p>For the London Borough of Havering:</p> <p>i) Set out the specific concerns regarding the Gallows Corner area and provide comment, where appropriate, in response to the additional information, specific to this area, provided within Chapter 9.5 Transport Assessment Supplementary Information Report, submitted at Procedural Deadline B on 21 December 2020 [PDB-003].</p> <p>For Essex County Council:</p> <p>ii) In its RR [RR-011], Essex County Council raises general concerns around the impact of traffic</p>	<p>Gallows Corner area consists of a Strategic 5-arm road network junction comprising at-grade roundabout & grade separated flyover. It connects the A12 Eastern Avenue (TLRN) /A12 Colchester Road (TLRN) A127 Southern Arterial Road (TLRN) /A118 Main Road (SRN) /Straight Road /Flyover links A12 west (Eastern Avenue) to A127 (Southend Arterial Road). In 1970 the existing flyover was installed using Braithwaite and Co. design. The Fliway' construction type was intended as a temporary structure only, with a 15 year design life envisaged. Several maintenance programmes have been carried out on the structures since 2008 to</p>	<p>Please refer to points 15.1.1, 15.1.2 to 15.1.3, 19.1 to 19.2 and 20.1.3 to 20.1.9 of Table 2 within Highways England's response to the London Borough of Havering's Local Impact Report (TR010029/EXAM/9.34).</p> <p>Highways England's response to London Borough of Havering's comments on the Transport Assessment Supplementary Information Report (TASIR) is set out within Table 3 of the response to the Local Impact Report (TR010029/EXAM/9.34).</p>

Question Number	Question to:	Question	IP Response	Highways England Response
		<p>congestion on Brentwood's emerging local plan. Set out the specific areas of concern and what mitigation measures might be appropriate to address these concerns.</p>	<p>present day. In October 2019 all day traffic surveys were carried out at Gallows Corner (A12 Roundabout and Flyover). Key feeders for this junction include the A12 and the A127 corridors towards Essex/M25/M11 along with local centres around the junction. The 2019 traffic survey turning counts revealed 86% of classed vehicles were car/LGV. In the AM peak the roundabout had a total of 12094 movements with the A12 Colchester Road & A118 feeding the greatest flows into roundabout. The A12 Colchester Road & A12 Eastern Avenue handle greatest outflows and the Flyover carried 3612 vehicles in AM. The flows trends are broadly tidal. Gallows Corner forms a strategic function for</p>	

Question Number	Question to:	Question	IP Response	Highways England Response
			<p>abnormal freight loads as well as other freight on the road network, with the A127 providing onward connections towards to the Ports of Thurrock and Tilbury and the A12 eastbound arm providing onward connections towards Harwich and Felixstowe. It is important that this function is not adversely impacted as a result of this scheme both during construction and operation, with many businesses using Gallows Corner for time sensitive logistical purposes.</p> <p>LB Havering's Local Impact Report (LIR) sets out the concerns that the Council has with regards to the air quality and noise issues around the junction (paragraphs 10.11.4, paras 15.1.11). The conditions for cyclists and pedestrians are also poor</p>	

Question Number	Question to:	Question	IP Response	Highways England Response
			<p>around the junction. In addition, there are a number of schools located in proximity to Gallows Corner off the A12 Colchester Road and Straight Road arms, further details can be found in paragraph 5.3.7 of the Local Impact Report. In addition, further information on collision data in the areas can be found in Figures 10 and 11 of the Local Impact Report.</p> <p>Havering notes the assessment that has been undertaken for Gallows Corner and the A12 by Highways England (HE). Given that the assessment has not taken into account the sub regional growth, Havering cannot agree with the reported impacts for Gallows Corner and the A12. Havering refers to its Local Impact Report with regards to the</p>	

Question Number	Question to:	Question	IP Response	Highways England Response
			<p>effects of the proposed scheme on Gallows Corner and the A12. It should be noted that section 19 of LB Havering's LIR illustrates the effect of sub regional 2041 traffic growth would have on this junction with the proposed M25 J28 scheme in place.</p> <p>LB Havering has reviewed the TASIR that was submitted at Procedure Deadline B. LB Havering submitted a response at Deadline One. Part of this response expressed concern that the growth scenarios set out within the TASIR do not appear to have taken into account sub regional growth. The impact of the scheme on Gallows Corner cannot be fully understood at this stage.</p>	

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TA1.4		<p>Section 5.8.6 of the Transport Assessment Report [APP-098] states “the Brook Street westbound mitigation is proposed to be delivered as part of the Scheme and it will be developed further in the subsequent detailed design phase. With this mitigation, the delays with the Scheme in place are expected to be less than those predicted for the Do minimum in both the AM and PM peaks”.</p> <p>Confirm whether the information contained within Procedural Deadline B submission - 9.5 Transport Assessment Supplementary Information Report [PDB-003] describes “the Brook Street westbound mitigation”</p>	<p>LB Havering seeks reassurance from the Applicant that the optimisation of signals at the Brook Street Interchange will be secured through the DCO.</p>	<p>Please refer to point TA 1.4 within Highways England’s response to Examining Authority’s First Written Questions (REP2-011).</p>

Question Number	Question to:	Question	IP Response	Highways England Response
		<p>Explain whether further development of this mitigation work is guaranteed in the draft DCO [APP-015]</p>		
TA1.12		<p>Section 3.22 of NN NPS states that new developments should “seek to deliver improvements that reduce community severance and improve accessibility”. A number of local residents in RRs - particularly those who reside in Woodstock Avenue - have raised this as a concern.</p> <p>Demonstrate the extent to which the Proposed Development has sought to address the NN NPS objectives.</p>	<p>LB Havering agrees with the concerns residents in Woodstock Avenue have raised in regard to severance and accessibility. LB Havering has raised this point in its Responses to Relevant Representations submission at Deadline One (REP1-034).</p>	<p>Please refer to point TA 1.12 within Highways England’s response to Examining Authority’s First Written Questions (REP2-011).</p>

Question Number	Question to:	Question	IP Response	Highways England Response
TA1.13		<p>Particular concern has been raised by residents of Woodstock Avenue in relation to a lack of access westbound along the A12 from their road as it is currently not possible to execute a right turn from the junction of Woodstock Avenue on to the A12.</p> <p>i) Comment on the level of support within each organisation for the provision of a right turn from Woodstock Avenue onto the A12.</p> <p>ii) Comment on the practicalities of such a provision on the current network.</p> <p>iii) Provide an opinion as to whether the Proposed Development would alleviate the current issues faced by residents of the</p>	<p>LB Havering recognises the concerns raised by residents of Woodstock Avenue concerning access westbound along the A12. LB Havering is sympathetic to these concerns and set out in its response to Relevant Representations at Deadline One. (REP1-034)</p> <p>Furthermore, LB Havering has noted the request by a local resident for a feasibility study to be undertaken by the applicant and has requested the ExA to consider this, as part of its Deadline One submission. (REP1-034)</p> <p>LB Havering does not consider it possible at this stage to provide an opinion as to whether the proposed development would alleviate the current issues faced by residents because of the lack</p>	<p>Please refer to point TA 1.13 within Highways England's response to Examining Authority's First Written Questions (REP2-011). Please also refer to point RR-017-3 within Highways England's response to Relevant Representations (REP1-002).</p> <p>Please also refer to paragraph 7.8 of the Written Representation submitted by Transport for London (REP2-036).</p>

Question Number	Question to:	Question	IP Response	Highways England Response
		properties.	of sub regional growth scenario testing in the traffic assessment.	
Brentwood Borough Council				
GQ1.8		<p>i) Comment on the adequacy of the outline CEMP.</p> <p>ii) Comment on those plans listed in Paragraph 4.4.3 of the outline CEMP [APP096] which the Applicant has stated may or may not form part of the final CEMP to be submitted under Requirement 4 of the draft DCO [APP-015].</p> <p>[N.B – The ExA has asked specific questions elsewhere in respect to an Arboricultural Method Statement, the Archaeological Control Plan, the Dust, Noise and Nuisance Management</p>	<p>i) The CEMP identifies the management roles and responsibilities under the scheme. The key environmental issues have been covered in the outline CEMP and appear to be adequate.</p> <p>It confirms the requirement for the Principal Contractor to incorporate ecological and landscape protection and mitigation measures identified within the REAC into the CEMP.</p> <p>The need for appropriate Protected species licences is identified.</p> <p>The list of biodiversity and landscape sites within Table</p>	<p>See response to Highways England's response to Examining Authority's First Written Questions (REP2-011).</p> <p>Highways England has updated paragraph 4.4.3 of the Outline CEMP (TR0100/APP/7.2(2)) to provide the list of the environmental control plans which the Principal Contractor will need to prepare for the detailed design and construction stages and the updated Outline CEMP has been submitted at Deadline 3a. In addition, Requirement 4 of the dDCO (REP2-017) has been amended accordingly.</p>

Question Number	Question to:	Question	IP Response	Highways England Response
		<p>Plan, the Surface Water Management Plan (SWMP) and the General Ecology Plan. Parties may wish to reserve responses to those questions]</p>	<p>9.1 – Sensitive Areas is considered appropriate.</p> <p>It is considered that the CEMP addresses the potential biodiversity and landscape effects that relate to Brentwood adequately.</p> <p>ii) It is agreed that the ECP for each of the topics listed should be required to form part of the CEMP and not discretionary. In some cases the plans will be short documents but it will demonstrate that all issues have been considered. The plans listed in Paragraph 4.4.3 are considered to be relevant and sufficient. It is recommended that all of the identified ECPs will be necessary and shall be prepared unless there is an adequate reason that they are</p>	

Question Number	Question to:	Question	IP Response	Highways England Response
			<p>not required or there is a proposal to combine ECPs into a composite document, e.g. comprising Pollution Prevention, Dust, Noise and Nuisance Management, Contaminated Land, Soil Handling and Site Waste into a single document may be practicable</p>	
DCO1.25		<p>Section 4.4 of the outline CEMP [APP-096] sets out those documents where “it is expected that some or all of the following [Environmental Control Plans] ECPs will be prepared, as appropriate, for the Scheme as part of the final CEMP”. The ExA considers this statement to be weak and non-committal and potentially allows for environmental plans to be avoided when discharging the Requirement 4. This is</p>	<p>The HEMP is referenced in Table 2.1 on the outline CEMP. Would expect the HEMP to be completed during the construction period however there should be a timetable for its production.</p> <p>Agree that the LEMP is a standalone document although it will draw on factors identified in the REAC and protected within the CEMP.</p>	<p>Paragraph 1.3.7 in the Outline CEMP (APP-096) outlines that on completion of the Scheme, the Principal Contractor will prepare the HEMP to outline the monitoring and maintenance regime of the environmental features, in line with the REAC. The process for preparation of the HEMP will be secured by requirement 4 of the dDCO in that it must form part of the CEMP as approved by the Secretary of State.</p> <p>The timetable for the production of the HEMP will be developed by the Principal Contractor.</p>

Question Number	Question to:	Question	IP Response	Highways England Response
		<p>explored further in other questions.</p> <p>i) Explain why the HEMP does not form one of the listed documents in the outline CEMP yet is part of Requirement 4.</p> <p>ii) Explain why the SWMP is to be discharged against Requirement 4 and not Requirement 8.</p> <p>iii) Explain why the Archaeological Control Plan (ACP) is to be discharged against Requirement 4 and not Requirement 9.</p> <p>iv) Explain why the LEMP is to be discharged against Requirement 4 when it forms its own Requirement (Requirement 5).</p> <p>v) Consider listing in Requirement 4 those other documents which will form</p>		

Question Number	Question to:	Question	IP Response	Highways England Response
		<p>part of the suite of documents in the CEMP to be approved.</p> <p>vi) Explain whether such documents should be added to the list of Certified Documents in Schedule 10.</p>		
NV1.1		<p>Although the Chapter 6 [APP-028] and the Summary [APP-38] of the ES and the REAC [APP-097] identify no significant effects from the Proposed Development from noise and vibration, they nonetheless rely on the CEMP and in particular the submission of a Dust, Noise and Nuisance Management Plan (DNNMP) to mitigate any harmful effects caused by the construction and operation of the Proposed Development. The outline CEMP [APP096] contains</p>	<p>i) It is agreed that the general approach to noise mitigation should be identified and outlined at this stage and that precommencement works may not be adequately controlled. It would be better to submit a DNNMP at this stage. It is considered that the noise and vibration impacts to receptors in the Brentwood Borough would be likely to be less than those within Havering LB however a preliminary noise and vibration assessment should be made prior to the pre-commencement works being</p>	<p>See response to Highways England's response to Examining Authority's First Written Questions NV 1.1 (REP2-011).</p> <p>Highways England has updated Requirement 4 in Schedule 2 to the dDCO (REP2-002) to include the list of environmental control/management plans that must be produced under the CEMP. The list includes a Dust Noise and Nuisance Management Plan (DNNMP).</p> <p>Highways England has also updated the Outline CEMP (TR010029/APP/7.2(2)) to include an Outline DNNMP which is submitted at Deadline 3a.</p> <p>The noise assessment presented in the ES has considered the ambient noise levels at receptors for the construction noise</p>

Question Number	Question to:	Question	IP Response	Highways England Response
		<p>little details on how measures set out in the REAC would be achieved and the DNNMP has not been submitted into the Examination. Moreover, paragraph 4.4.3 of the CEMP lists the DNNMP as a document which may or may not be ultimately submitted as part of the CEMP and Requirement 4 of the draft DCO [APP-015].</p> <p>The ExA is concerned that noise and vibration matters are not adequately addressed at this stage having regard to the concerns raised in RRs and that pre-commencement Works as set out in the draft DCO [APP-015] would be uncontrolled. The ExA considers the approach to mitigation on noise matters should be known in this</p>	<p>undertaken to establish a baseline noise climate and appropriate noise control levels. The provision of such an assessment would enable the noise impact of works to be compared to the calculated effect on ambient noise levels.</p>	<p>assessment. These are shown in Table 6.11 of Chapter 6 of the ES (APP-028) and includes data from noise measurements and from the Defra strategic noise maps. Paragraph 6.5.6 of Chapter 6 of the ES identifies that the ABC method from BS5228 has been used to assess construction noise impacts, where the threshold values for significant effects are based on the ambient noise levels at the receptors being considered.</p>

Question Number	Question to:	Question	IP Response	Highways England Response
		<p>Examination.</p> <p>i) Comment on the approach not to submit an DNNMP into the Examination.</p> <p>ii) Explain how the ExA can be satisfied that pre-commencement and uncontrolled works would have no significant effect on noise matters and the discharge of Requirement 4 of the draft DCO and that mitigation would be adequate.</p> <p>For the Applicant:</p> <p>iii) Submit an outline DNNMP into the Examination either update Requirement 4 or insert a new Requirement into the draft DCO securing the final DNNMP to be in accordance with the outline</p>		

Question Number	Question to:	Question	IP Response	Highways England Response
		version.		
PC1.11		<p>The ExA is concerned that the REAC [APP-097] and CEMP [APP-096] do not provide adequate and clear instructions on how the Applicant intends to liaise with the local community during construction.</p> <p>i) Comment on the Applicant's approach to community engagement during construction of the Proposed Development, should the SoS decide to make the Order, and whether this is adequately secured in the draft DCO [APP-015].</p> <p>For the Applicant:</p> <p>i) Consider an additional requirement which requires, prior to the commencement of the development, the</p>	<p>NV2.1 "Keep local residents and other affected parties informed of the progress of the works, including when and where the noisiest activities will be taking place and how long they are expected to last." Methods unspecified.</p> <p>A website or phone contact should be established and provided for residents to contact in case of emergency or for reporting incidents/complaints relating to noise, dust and nuisance and regular liaison continued with the two local authorities throughout pre commencement and construction activities to enable liaison to take place.</p>	<p>Please see the response to point PC 1.11 within Highways England's response to Examining Authority's First Written Questions (REP2-011).</p>

Question Number	Question to:	Question	IP Response	Highways England Response
		<p>submission for approval of a Community Engagement Plan which must be in accordance with the outline document.</p>		
Environment Agency				
CA1.2		<p>A number of Statutory Undertakers have raised concerns regarding Protective Provisions.</p> <p>i) If there are substantive concerns with the wording of Protective Provisions as set out in the draft DCO [APP-015] provide a clean and tracked changed version of the Protected Provisions required together with an explanation for the need for the change. Or;</p> <p>ii) If the changes are not substantive, set out where there are differences of opinion and what changes</p>	<p>i) The Environment Agency has a substantive concern with the proposed amendments to its standard protective provisions which relate to maintenance of the drainage works. These are contained in paragraph 22 of Schedule 9, Part 3 of the draft DCO (APP 015). The Environment Agency's standard protective provisions require the undertaker to maintain the drainage works described for the lifetime of those works. The amendments proposed limit the undertaker's obligation to maintain the drainage works</p>	<p>Highways England is currently in ongoing discussions with the Environment Agency regarding the protective provisions within the dDCO. Whilst they mirror those agreed on the M25 junction 10 scheme they also largely follow the protective provisions agreed between Highways England and the Environment Agency in recently made DCOs including the very recently made A38 Derby Junctions DCO (2021) and the A303 Stonehenge DCO (2020). Highways England is not clear why the Environment Agency would want to be seeking different protective provisions on junction 28 to those it has very recently agreed on other HE Schemes. The outcome of the discussions will inform whether any changes are needed to the protective provisions.</p>

Question Number	Question to:	Question	IP Response	Highways England Response
		would be required.	<p>to a maintenance period of 12 months. Highways England have added a sub-paragraph to specify that upon the expiry of the maintenance period, the drainage works must be maintained by the highway authority of the highway to which the specified work relates.</p> <p>The Environment Agency's first concern is with the effectiveness of including a clause introducing liability for other highway authorities in the protective provisions afforded to the Environment Agency, if indeed, that is what is intended. The second concern is that it is unclear whether all of the drainage works will in fact be maintained by those highway authorities and the mechanism by which that liability will transfer. These are</p>	

Question Number	Question to:	Question	IP Response	Highways England Response
			<p>issues which the Environment Agency requests clarity from Highways England, so that the appropriateness of these changes can be properly assessed.</p> <p>The changes are needed to reflect the Environment Agency's standard protective provisions in the absence of agreement for a substantive deviation from them. Appendix C provides a clean and tracked change version of the Protective Provisions which brings them back in line with our standard protective provisions. The Environment Agency does not accept that because these changes were agreed for Highway England's M25 J10 / A3 Wisley Interchange Scheme, the same changes should be accepted for the M25 J28 scheme without due</p>	

Question Number	Question to:	Question	IP Response	Highways England Response
			<p>consideration.</p> <p>ii) There are also non-substantive changes that are yet to be agreed between the Environment Agency and Highways England in relation to the works in default and compensation provisions. The Environment Agency is reasonably confident that it can agree the wording with Highways England on this before Deadline 5, Tuesday 13 April 2021.</p>	
FDW1.14		<p>Although Chapters 8 [APP-030] and 16 [APP-038] of the ES and the REAC [APP-097] identify no significant effects from the Proposed Development on flooding and water, they nonetheless rely on the outline CEMP and in particular the submission of a SWMP to mitigate any potential</p>	<p>As mentioned in paragraph 3.5 of RR-009 our interest in surface water drainage matters is limited to water quality concerns. We defer to the relevant Lead Local Flood Authorities for the primary view as they are the lead authority for assessing surface water flooding and drainage. However, we had</p>	<p>Requirement 4 of the dDCO (REP2-002) secures the development of the Surface Water Management Plan (SuWMP) which forms part of the Construction Environmental Management Plan prepared by the Principal Contractor.</p> <p>An Outline SuWMP is provided at Deadline 3a within Appendix F of the revised Outline Construction Environmental Management Plan (TR010029/APP/7.2(2)) (Clean) and (TR010029/EXAM/9.40) (Tracked)</p>

Question Number	Question to:	Question	IP Response	Highways England Response
		<p>effects caused from the construction of the Proposed Development.</p> <p>The Outline CEMP [APP-096] contains little details on how measures set out in the REAC would be achieved and the SWMP has not been submitted into the Examination. Moreover, paragraph 4.4.3 of the CEMP lists the SWMP as a document which may or may not be ultimately submitted as part of the CEMP and Requirement 4 of the draft DCO [APP-015].</p> <p>The ExA is concerned that water management and drainage matters are not adequately addressed at this stage having regard to the concerns raised in RRs and that pre commencement works as set out in the draft DCO</p>	<p>taken for granted on our reading of the application (in particular Parts 1 and 2 of the REAC APP-097) that a Surface Water Management Plan (SWMP) would be submitted prior to commencement of works. Although we have accepted in principle the applicant's approach on the mechanisms for designing and maintaining sustainable drainage features to protect water quality, our preference is for the provision of a SWMP as a definite and not an 'optional' submission. In view of the overall environmental sensitivity of the site, it should be demonstrated how sustainable drainage will be managed for both the short and long-term to ensure the effectiveness of the proposed drainage system.</p>	

Question Number	Question to:	Question	IP Response	Highways England Response
		<p>[APP-015] would be uncontrolled. The ExA considers the approach to surface water drainage should be known in this Examination.</p> <p>i) Comment on the approach not to submit an SWMP into the Examination.</p> <p>ii) Explain how the ExA can be satisfied that pre-commencement and uncontrolled works would have no significant effect on drainage matters and the discharge of Requirement 8 of the draft DCO and that mitigation would be adequate. OR</p> <p>For the Applicant:</p> <p>iii) Submit an outline SWMP into the Examination and update Requirement 8 of the draft DCO accordingly</p>		

Question Number	Question to:	Question	IP Response	Highways England Response
		securing the final SWMP to be in accordance with the outline version.		
Forestry Commission				
GQ1.11		<p>In its response to Procedural Deadline A [PDA-001], the Applicant provides an email dated 27 November 2020 in which it is stated that the Forestry Commission have no outstanding issues and has that there is no necessity to undertake a Statement of Common Ground (SoCG) with the Applicant.</p> <p>i) Confirm this in writing.</p> <p>ii) Set out whether Crown consent is to be given for the CA Freehold of land identified in the Land plans [APP-005].</p>	<p>I confirm that we have no outstanding issues with this application, and that there is no need for a Statement of Common Ground with the applicant.</p> <p>I have sent the details and maps to colleagues in Forestry England, who manage the Public Forest Estate. They do not believe that the DCO boundary overlaps with their land holdings, and that therefore there is no need for Crown consent for Compulsory Acquisition as there will be no loss of their land.</p>	<p>Highways England welcomes this response from the Forestry Commission confirming that there is no need for a Statement of Common Ground.</p> <p>Highways England notes the response from Forestry England that they do not believe that they hold interest in these plots, and that therefore, Crown consent is not required.</p>

Question Number	Question to:	Question	IP Response	Highways England Response
CA1.17		<p>The BoR [AS-021] indicates that the Crown, administered by the Forestry Commission, holds interests in plots 4/5, 4/6 and 4/7. The PA2008 does not authorise CA for Crown land. The SoS can only authorise the CA of these plots with the consent of the relevant Crown authorities.</p> <p>Set out whether, and if so when, Crown consent would be forthcoming.</p>	<p>As above, Forestry England do not believe that they hold interest in these plots, and that therefore, Crown consent is not required.</p> <p>Should the applicant or the Planning Inspectorate feel there may still be a requirement for CA consent, please could they send their enquiry to Forestry England, for the attention of Alex Brearley:</p>	<p>Although Highways England is content with the statement from Forestry England that Crown consent is not required, Highways England will contact Forestry England again to seek confirmation of this view and to ensure that they are able to speak on behalf of DEFRA.</p> <p>Highways England will update the ExA during the examination and will update the Statement of Common Ground with DEFRA (REP1-013).</p>
Addleshaw Goddard LLP on behalf of Network Rail Infrastructure Limited				
GQ 1.5		<p>"In its RR [RR-002], Network Rail states that it wishes to object to the Proposed Development on the ground that the proposed works might [ExA emphasis] interfere with the safe and efficient operation of the railway. The Works</p>	<p>In response to question GQ 1.5, NR is in discussions with Highways England (Promoter) in order to fully ascertain the impacts (if any) of the Proposed Development on NR's operations and NR has requested that the Promoter make contact with NR's</p>	<p>As set out in Highway England's response to RR-002-3 (REP1- 002) Network Rail's interest in plot 4/2 relates to the railway, which is excluded from the scope of Highways England's compulsory acquisition powers (see Book of Reference (AS-021) (Clean) and (AS-023) (Tracked) and the description of plot 4/2).</p> <p>Highway England has made it clear in the Book of Reference that the railway is excluded from</p>

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		<p>Plans [APP-006] show Work No.7 (M25 northbound improvement works) commencing northwards of the Network Rail bridge (i.e. not underneath it) towards the development site.</p> <p>Explain in more detail how the Proposed Development (other than Compulsory Acquisition (CA) matters which are asked in the section below) would affect the operation of the railway.</p>	<p>engineers in this regard.</p> <p>As yet, NR is not in a position to confirm whether or not the Proposed Development will have any impact on the safe and efficient operation of the railway. NR will confirm the position on this matter as soon as it has been ascertained between NR's engineers and the Promoter.</p> <p>We will update PINS as soon as possible on this matter. In the meantime, we would be grateful if you could confirm if an extension of time for an additional 7 days can be granted in order that a full response to Question GQ 1.5 can be provided by NR.</p>	<p>its powers of compulsory acquisition. The Scheme does not interfere with the operation or management of the bridge or the railway line.</p> <p>Highways England has sent the application documents and drawings to Network Rail's engineers for their consideration.</p> <p>Highways England will continue dialogue with Network Rail to confirm there are no impacts from the Scheme to Network Rail's assets and to ensure the continued safe operation of the railway. Details will be set out in the revised Statement of Common Ground with Network Rail (REP1-012) to be submitted during the examination</p>
CMS Cameron McKenna Nabarro Olswang LLP on behalf of Cadent Gas				
CA1.12	CA Freehold Powers	These plots are shown as required for the CA freehold. They are illustrated on	Cadent's preferred form of protective provisions is	As noted in the draft Statement of Common Ground (SoCG) between Highways England and Cadent Gas (REP1-009), two points are

Question Number	Question to:	Question	IP Response	Highways England Response
	<p>Plots 4/2 to 4/11</p> <p>The Applicant</p>	<p>Sheet 4 of the Land plans [APP-005]. The Applicant states at various points in the SoR [APP-019] that the plots are required to either:</p> <ul style="list-style-type: none"> - Ensure any rights inconsistent with the Proposed Development can be removed (plots 4/2, 4/3, 4/4, 4/5, 4/6, 4/7a, 4/9 and 4/11); and - To rationalise into the Applicant's ownership (plots 4/7, 4/8 and 4/10). <p>The Works plans [APP-006] show that there are no works proposed to take place on these plots and as such, they have no connection with the Proposed Development.</p> <p>The ExA does not consider the inclusion of plots 4/2 to 4/11 are related to the Proposed Development.</p>	<p>enclosed at Appendix 1 (the "Cadent PPs"). Substantially similar protective provisions have been agreed in The A585 Windy Harbour to Skippool Highway Development Consent Order 2020 (the A585 DCO), The M42 Junction 6 Development Consent Order 2020 (the M42 DCO) and The A38 Derby Junctions Development Consent Order 2021 (the A38 DCO).</p> <p>For each of the A585 DCO, M42 DCO and A38 DCO a number of issues remained in dispute between Cadent and the Applicant at the end of the examination and these issues were put to the Secretary of State for determination. On the A585 DCO, the Secretary of State determined in favour</p>	<p>subject to ongoing discussions with Cadent Gas 1): the form of particular protective provisions to be included in the dDCO for Cadent's benefit, and 2) the extent of land rights to be acquired pursuant to the dDCO for the high-pressure gas pipeline.</p> <p>With regard the first, Highways England welcomes that Cadent Gas accepts the decision of the Secretary of State regarding the M42 J6 DCO scheme and is now proposing a form of protective provisions largely on that basis, both for this scheme and to be used as a "template" for other DCO schemes. However, as Appendix 2 of Cadent's submission (REP2-034) shows, Cadent seeks to depart from the M42 J6 drafting in certain respects, notably exclusion of consequential loss from the indemnity, and disapplication of betterment and deferral of benefit discounts for works outside the highway (i.e. non-NRSWA works). These are subject to ongoing discussion between the parties.</p>

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		<p>The ExA is concerned that the Applicant may be attempting to use the powers in the Planning Act 2008 (PA2008) unlawfully to 'tidy up' its other land interests</p> <p>by removing rights and rationalising ownership. The ExA is concerned that the request for CA freehold of these plots are unjustified.</p> <p>i) Explain and justify why the inclusion of plots 4/2 to 4/11 meets the tests in the PA2008 given that no works are proposed for these plots.</p> <p>ii) Explain how the CA of plots 4/2 to 4/11 are necessary to implement the Proposed Development.</p> <p>iii) Explain why the rights of plots 4/2, 4/3, 4/4, 4/5, 4/6, 4/7a, 4/9 and 4/11 are</p>	<p>of Cadent. On the M42 DCO and the A38 DCO, the Secretary of State determined in favour of the Applicant.</p> <p>Cadent has accepted the substantive decision of the Secretary of State on the M42 DCO and the A38 DCO (save in respect of consequential loss, which is addressed below). Therefore, the Cadent PPs enclosed are based on the protective provisions included in the M42 DCO (which are substantially the same as those included in the A38 DCO).</p> <p>Since the M42 DCO was made, Cadent has sought to engage with the Applicant to reach agreement on the Cadent PPs so that there is an agreed position across all schemes (subject to any scheme specific</p>	

Question Number	Question to:	Question	IP Response	Highways England Response
		<p>inconsistent with the Proposed Development.</p> <p>iv) Explain why plots 4/7, 4/8 and 4/10 need rationalising.</p> <p>v) If the SoS were not convinced that the inclusion of these plots were justified, explain whether deleting the plots from CA would have any bearing on the delivery of the Proposed Development.</p> <p>[N.B – if the Applicant subsequently accepts that the CA freehold of plots 4/2 to 4/11 are not justified by the PA2008, the ExA requests that plots 4/2 to 4/11 are removed from the Land plans [APP-005] and the draft DCO [APP-015] at Deadline 2.</p>	<p>requirements).</p> <p>Cadent is concerned that the Applicant has not included the Cadent PPs within the draft DCO. The Applicant has previously included these protective provisions on all DCOs that have affected Cadent's apparatus (including those noted above), and the Applicant has included these protective provisions within the other DCO that it is promoting and which is currently in examination (the M54 to M6 Link Road Scheme).</p> <p>To assist the examining authority, also enclosed at Appendix 2 is a tracked change version of the Cadent PPs against: 1) the protective provisions in favour of Cadent in the M42 DCO; and 2) the</p>	
CA1.19		It is stated in the respective		

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		<p>RRs [RR-002], [RR-006], [RR-009], [RR 022] that adequate Protective Provisions are required in the draft DCO [APP-015]. To date, these have not yet been agreed with the Applicant.</p> <p>The ExA requires a regular update to this position. If, by Deadline 5, Tuesday 13 April 2021, Protective Provisions have not been agreed, the ExA requests the relevant Statutory Undertaker's preferred wording, clean and tracked changed, together with an explanation of where the difference(s) of opinion lie(s).</p>	<p>protective provisions in favour of Cadent included in the draft DCO for the M54 to M6 Link Road Scheme.</p> <p>Cadent does not accept that the indemnity within the Cadent PPs should include a carve out in respect consequential loss, and considers that the Secretary of State's decision on the A585 DCO was correct on this ground.</p> <p>This is reflected by the Secretary of State's decision of 19 January 2021 on a recent scheme (the A1 Birtley to Coal House Improvement Scheme) promoted by the Applicant where detailed consideration was given to similar wording in respect of another undertaker (Network Rail) and where it was confirmed that this wording was not appropriate for</p>	

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			<p>inclusion in that DCO.</p> <p>Cadent does not accept that the betterment and deferral of benefit discounts should apply for works outside of the highway, and these provisions are not included in its preferred form of protective provisions. Cadent derives no benefit from the scheme, and for this scheme the Cadent diversion will be through private land. Imposing a costs liability on it, which could be significant and which is not planned for or required in terms of network management, is not appropriate. This would not apply if this scheme were not consented pursuant to a DCO. These costs could cause a serious detriment to Cadent's undertaking.</p> <p>Positive progress has been made in discussions between</p>	

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			<p>Cadent and the Applicant, and this is confirmed in the Applicant's response to Deadline 5 on the current examination of the M54 to M6 Link Road Scheme where the Applicant confirmed that: "agreement on the final form of protective provisions is understood to have been reached. Highways England expects to insert the agreed form of protective provisions into the next version of the dDCO"1. Cadent expects the Applicant to take the same approach on this DCO.</p>	
DCO1.14		<p>The ExA wants to be assured that this Article would not enable the creation of undefined new rights or restrictive covenants and must ensure that either a Schedule</p>	<p>Cadent's preferred form of land rights is enclosed at Appendix 3. These represent Cadent's standard easement requirements.</p> <p>Cadent is concerned that the current purpose for which</p>	<p>Highways England and Cadent have discussed specific modifications to the dDCO (REP2-002 clean) to reassure Cadent that the powers granted by the DCO would be sufficient to enable the acquisition of rights as required for Cadent's undertaking.</p>

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		<p>detailing each of these rights or restrictions is included in the draft DCO [APP-015], or the description of each right and restriction is clearly set out in the BoR [AS-021].</p> <p>Provide this reassurance or amend accordingly.</p>	<p>rights may be required in Schedule 5 is insufficient and does not include all of the rights that it requires. For example, the rights identified do not include an ability to protect, operate or decommission the apparatus, all of which are required to ensure the integrity of Cadent's gas distribution network. Cadent expects the next draft of the DCO to include these rights.</p> <p>It is important to note that the Applicant will be required to obtain these rights for Cadent under the terms of the Cadent PPs. Therefore, the DCO needs to allow for this</p>	<p>Highways England does not accept that the dDCO rights Schedule (namely Schedule 6) needs to, or should, set out in full the particular form of rights required as suggested by Cadent in Appendix 3. This is because the acquisition of rights will take place once the detailed design of the Scheme is understood and the actual rights will be secured through the compulsory acquisition process (likely to be a General Vesting Declaration). As such, it is at that stage that the detail of the specific rights will be defined and secured. All Highways England is seeking in the dDCO is the necessary powers to acquire a set of rights – this is necessarily broad at this stage because the Scheme is in its preliminary design and not detailed design stage. It is best practice to draft the dDCO so as to avoid “for the avoidance of doubt” provisions or superfluous wording which adds nothing to the powers or rights sought under the statutory instrument. Negotiations with Cadent Gas in this regard are ongoing.</p>

Transport for London

Question Number	Question to:	Question	IP Response	Highways England Response
CA1.2		<p>A number of Statutory Undertakers have raised concerns regarding Protective Provisions.</p> <p>i) If there are substantive concerns with the wording of Protective Provisions as set out in the draft DCO [APP-015] provide a clean and tracked changed version of the Protected Provisions required together with an explanation for the need for the change. Or;</p> <p>ii) If the changes are not substantive, set out where there are differences of opinion and what changes would be required.</p>	<p>TfL is presently in discussions with the Applicant regarding the impact of the scheme on TfL's existing network and the extent of new highways and structures which are proposed to become the maintenance responsibility of TfL. TfL has indicated to HE that it believes that protective provisions in favour of TfL should be incorporated into the DCO.</p> <p>TfL is aware of the recent decision on the A303 Sparkford to Ilchester Dualling DCO which established the appropriateness of incorporating in a DCO protective provisions in favour of the local highway authority. Until discussions between TfL and HE are progressed further, it is not possible to set out what any protective provisions in favour of TfL will</p>	<p>Highways England is currently in ongoing discussions with TfL regarding the proposed responsibilities of both organisations, in particular regarding ownership and maintenance responsibilities and this will inform whether any amendments are needed to the dDCO, including any need for protective provisions.</p>

Question Number	Question to:	Question	IP Response	Highways England Response
			cover.	
DCO1.22		<p>Requirements 3 through 12 requires the SoS to be the determining authority for the discharge of the said Requirements.</p> <p>Explain why the Local Authorities would not have responsibility for the discharge of these Requirements</p>	<p>TfL is aware that it is usual for the SoS to determine the discharge of any requirements on HE DCO schemes. While TfL has no objection to this it considers that in this case it would be more appropriate for the local authorities having responsibility for discharge of Requirements 3 to 12. This would facilitate the necessary discussions between the London Borough of Havering and TfL on the requirements to ensure the impacts on the highway network as a whole are co-ordinated.</p> <p>Regardless of responsibility for discharge of requirements, TfL wishes to ensure that its role as a strategic highway authority whose network is impacted by the scheme is recognised by the inclusion in</p>	<p>See response to Highways England's response to Examining Authority's First Written Questions (REP2-011). Highways England does not consider there to be a compelling reason to exempt the Scheme from a national process with regard to the discharge of requirements.</p> <p>TfL is a consultee, as the local highway authority, on Requirement 4 (CEMP) and Requirement 10 (Traffic Management Plan) of the dDCO (REP-2-002 clean) and any additional consultation with TfL under the Schedule 2 Requirements will be informed by ongoing discussions regarding the proposed responsibilities of both organisations, in particular regarding ownership and maintenance responsibilities.</p>

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			<p>the DCO in Requirements 3 to 12 (as appropriate) provision for TfL to be consulted and/or to approve details for the design and construction of the scheme.</p>	
FDW1.14		<p>Although Chapters 8 [APP-030] and 16 [APP-038] of the ES and the REAC [APP-097] identify no significant effects from the Proposed Development on flooding and water, they nonetheless rely on the outline CEMP and in particular the submission of a SWMP to mitigate any potential effects caused from the construction of the Proposed Development.</p> <p>The Outline CEMP [APP-096] contains little details on how measures set out in the REAC would be achieved and the SWMP has not</p>	<p>While this question is not directed to TfL, TfL would support the request for an appropriate SWMP to be submitted to the Examination given that it is proposed that TfL will become responsible for the future maintenance of part of the scheme including drainage infrastructure. This will ensure that the impacts of drainage from TfL infrastructure and any necessary mitigation are understood and incorporated into the design at the earliest opportunity to maximise any benefits.</p>	<p>See Highways England's responses to ExA WQ1 FDW1.14 and DCO1.25 (REP2-011).</p> <p>Highways England has updated the Outline CEMP (APP-096) to include an Outline Surface Water Management Plan (SuWMP). The updated Outline CEMP (TR010029/APP/7.2(2) (clean version) and TR010029/EXAM/9.40 (tracked version)) have been submitted at Deadline 3a.</p>

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		<p>been submitted into the Examination. Moreover, paragraph 4.4.3 of the CEMP lists the SWMP as a document which may or may not be ultimately submitted as part of the CEMP and Requirement 4 of the draft DCO [APP-015].</p> <p>The ExA is concerned that water management and drainage matters are not adequately addressed at this stage having regard to the concerns raised in RRs and that pre commencement works as set out in the draft DCO [APP-015] would be uncontrolled. The ExA considers the approach to surface water drainage should be known in this Examination.</p> <p>i) Comment on the approach not to submit an</p>		

Question Number	Question to:	Question	IP Response	Highways England Response
		<p>SWMP into the Examination.</p> <p>ii) Explain how the ExA can be satisfied that pre-commencement and uncontrolled works would have no significant effect on drainage matters and the discharge of Requirement 8 of the draft DCO and that mitigation would be adequate. OR</p> <p>For the Applicant:</p> <p>iii) Submit an outline SWMP into the Examination and update Requirement 8 of the draft DCO accordingly securing the final SWMP to be in accordance with the outline version.</p>		
TA1.1		<p>Although the REAC [APP-097] identifies no significant effects by the construction and operation of the</p>	<p>TfL supports the request for an outline TMP to be submitted to the Examination. TfL has previously indicated in</p>	<p>A Traffic Management Plan will be produced and submitted for approval to the Secretary of State following consultation with relevant highway authorities, including TfL. Accordingly,</p>

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		<p>Proposed Development in respect to noise and vibration and people and communities from traffic issues, it does nonetheless rely on the submission of a Traffic Management Plan (TMP) to mitigate any harmful effects. However, this document is not before the Examination and the ExA is concerned that traffic management matters are not adequately addressed at this stage having regard to the concerns raised in RRs. The ExA considers the approach to mitigation on traffic management matters should be known in this Examination.</p> <p>Additionally, concerns have been raised in RRs that construction traffic and construction site access requirements could lead to</p>	<p>its representations that it should have the right to approve any traffic management arrangements which affect its network.</p> <p>Having sight of outline proposals at this stage will shorten any approvals required to be given at the discharge of requirements stage prior to construction of the scheme.</p> <p>TfL would expect any final TMP to be substantially in accordance with an outline TMP that formed part of the application documents and which had been subject to examination. In addition, given the substantial impact on traffic management around the A12 resulting from the works, consultation with TfL on the TMP is insufficient. No protective provisions are currently in the draft DCO in</p>	<p>TfL would be involved in the approval process for this document and this is secured by Requirement 10 of the dDCO (REP2-002).</p> <p>Please also refer to Highways England's response to TA1.1 within Highway England's response to the ExA's written questions (REP2-011).</p>

Question Number	Question to:	Question	IP Response	Highways England Response
		<p>significant disruption to traffic on local roads and to access westwards along the A12 for residents of Woodstock Avenue.</p> <p>i) Comment on the approach not to submit an TMP into the Examination. OR</p> <p>For the Applicant:</p> <p>ii) Submit an outline TMP into the Examination update Requirement 10 of the draft DCO securing the final TMP to be in accordance with the outline version</p>	<p>favour of TfL which would offer TfL further reassurance on traffic management.</p>	
Savills (UK) Ltd on behalf of Gardens of Peace Muslim Cemetery				
GQ1.7		<p>In its RR [RR-024], The Gardens of Peace Muslim Cemetery (Gardens of Peace) considers that it has had insufficient information to determine the likely effects of the construction</p>	<p>The DCO application identified Plot 1/8, as an area that will be subject to acquisition of permanent rights, thus, and as referred to later in this answer, it is assumed all land will be</p>	<p>Please see response by Highways England to the Written Representation from Gardens of Peace (RR-024-9 and RR-024-11) (REP2-002).</p> <p>The Proposed Change 4, if accepted by the ExA, would reduce the amount of land within Plot 1/8 that is subject to permanent acquisition</p>

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		<p>period on its operation, and it will be unable to fully operate and will be “entirely in the hands of [the Applicant’s] contractors”. At Procedural Deadline B [PDB009] the Gardens of Peace stated that limited engagement has taken place [with the Applicant].</p> <p>For the Applicant:</p> <p>i) Explain the anticipated effects of the Proposed Development on the Gardens of Peace.</p> <p>ii) Explain where such effects have been assessed and mitigated in the application documents and how this is secured in the draft Development Consent Order (draft DCO) [APP-015].</p>	<p>sterilised from its attended use, being internal road, underground services and 512 burial plots. We attach the development plan for the cemetery (see Appendix 1) and when overlaid with the Plot 1/8 boundary (Appendix 2), the severity of the gas main diversion works (Work No. 29) on Gardens of Peace development becomes evident.</p> <p>By the time the gas main installation works commence, the cemetery development would have been completed and the cemetery will be operational. In terms of what this means for Plot 1/8, and as identified within Appendix 1 and 2, Plot 1/8 will be subject to an internal road, a ‘service entrance’ directly off Colchester Road (A12), a soil storage area, further utilities,</p>	<p>of rights and as a result no burial plots will be affected. Highways England understands this change is welcomed by the Trustees of the Gardens of Peace in their response to the non-statutory consultation covered in their Written Representation (REP2-029) and email from their land agent to Highways England dated 3 February 2021 which states:</p> <p>“Our client welcomes the proposed changes as they will reduce the effect of the Scheme on Plot 1/8 and the cemetery as a whole in terms of minimising land sterilisation from its intended use, being burial plots”.</p> <p>As outlined in the draft SoCG with Cadent Gas submitted at Deadline 1 (REP1-009) and in Highways England’s response to ExA WQ1 (REP2-011), the proposed changes to the Scheme being requested at this Deadline 3a, include an amendment to plot 1/8 to reduce the extent of permanent acquisition of rights for Plot 1/8 as shown on the Land Plans addendum (TR010029/EXAM/10.2).</p> <p>Cadent Gas has been consulted throughout the development of this change and consider the change acceptable.</p>

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		<p>For the Gardens of Peace Muslim Cemetery:</p> <p>iii) Set out in more detail specifically why Work No.29 [APP-006] (diversion of high-pressure gas pipeline) and its timescale would detrimentally affect the future operation of the cemetery and its targeted opening date of 2022.</p>	<p>part of an overflow car park and land prepared for 512 burial plots. In addition, during 2020, Gardens of Peace commenced some initial ground works, which included installing underground services within the area falling within Plot 1/8.</p> <p>Furthermore, as a result of the gas main installation works, Plot 1/8 will be severed from the rest of the cemetery, meaning there will be no access for service vehicles off the A12, no access to the workshop / store, soil storage site or to the over flow car park.</p> <p>We go into greater detail on each element below and how the gas main installation works will detrimentally affect the future operations of the cemetery and whether it is a</p>	

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			<p>temporary or permanent issue;</p> <p>Service Entrance (temporary issue)</p> <p>Gardens of Peace allowed for a service entrance within its development to ensure the safety of visitors and staff by minimising overlaps between the operations and movements in each user group. Furthermore, having two entrances ensures a clear separation of all service and maintenance traffic from the sensitive occasion of congregations.</p> <p>The consequence of the closure of the service entrance is that it will cause significant disruption to daily site operations as there will be a need to ensure alternative means to maintaining this separation, including changes</p>	

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			<p>to operating hours of the cemetery, impacting on visiting opening times and staff working hours. Should a solution to this issue not be provided, there is a fear that the knock on effect will be the potential fall in demand for burials at Maylands during the period of the installation works.</p> <p>Soil Storage Area (temporary issue)</p> <p>The designated soil storage area, required for storing soil from burial plots (and which will subsequently be removed from Maylands on a regular basis), is to be located within the most easterly shaded red area in Appendix 1. As a result of the loss of internal road and service entrance, the soil storage area will need to be relocated to an alternative and accessible</p>	

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			<p>area within Maylands to allow for regular collection. However, as you will note from the Appendix 1, there is no such area available. As is evident within Appendix 2, the only solution to Gardens of Peace is to move the soil storage area to the area shaded grey to the west of the plan. However, with this comes a number of significant issues. These will be the temporary loss of burial plots, effect on biodiversity, compaction to soil prepared for burial plots and aesthetic appearance of the burial ground. Furthermore, access for heavy goods vehicles and plant machinery to and from the temporary soil storage site would impact on the roadways, which are only to be used by visitor traffic.</p>	

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			<p>Overflow Parking (temporary issue)</p> <p>The overflow carpark, which partly falls within Plot 1/8, will need to be relocated to elsewhere on the site, which brings about the same issues highlighted above in relation to the soil storage area. As at commencement of the gas main installation works, the cemetery will be operational and thus the car park fundamental to daily congregations. Thus the car park will need to be relocated which, in light of the loss of an internal road, will create significant disruption to the traffic management and aesthetics of the site.</p> <p>Not only does this bring rise to safety concerns, but the ongoing requirement to control traffic and the loss of</p>	

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			<p>additional burial plots further demonstrates potential interruption to daily operations and the business.</p> <p>Loss of Internal Road (temporary issue)</p> <p>As the internal road falls within Plot 1/8, this will also become severed, thus losing access to the workshop / store. The need for access to the workshop / store is fundamental to the daily operations of Maylands and without it, prevents any form of business operating from Maylands. Whilst there have been discussions between Gardens of Peace and Cadent in relation to the requirement of a temporary road, any temporary proposals will provide yet further disruption for the cemetery development in terms of aesthetics, damage</p>	

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			<p>to and temporary loss of land prepared for burials, requirement for traffic management and effect on biodiversity.</p> <p>Disruption to Utility and Site Infrastructure (temporary and permanent issue)</p> <p>In light of that fact that the cemetery will be operational by the time the gas main works commence, utilities within Plot 1/8 will need to be relocated (see Appendix 3 - Cadent Detailed Design). These include the existing underground electrical, water and telecoms services to the workshop / store, which were installed in 2020 and are now within the middle of the proposed gas main easement. Other services will include the drainage pipes under the internal road and associated</p>	

Question Number	Question to:	Question	IP Response	Highways England Response
			<p>manholes and chambers and underground lighting cables.</p> <p>All services will have to be lifted and relocated to outside Plot 1/8 prior to the commencement of the gas main installation works to ensure the cemetery can continue to operate. Gardens of Peace is concerned with the effect of the temporary relocation of these services, which will need to be within land identified for burial plots, and accordingly the potential sterilisation of additional land in both the short and long term.</p> <p>Furthermore, the original development proposal for Maylands was historically amended with the internal road being moved west to reflect the presence of the existing gas main on the eastern boundary of</p>	

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			<p>Maylands. However, it is now assumed that following the gas main installation works, the internal road will have to be moved further to the west again to reflect the presence of the new gas main. It is not clear how the site will be redesigned to accommodate these changes.</p> <p>Loss of Burial Plots (permanent)</p> <p>As referred to above, the DCO application seeks to permanently acquire rights over Plot 1/8. Accordingly, and without knowing details on the future land use restrictions, despite requesting this from highways England in 2020, it is assumed the land will be sterilised from its intended use, being 512 burial plots, internal road and car park. Gardens of Peace however</p>	

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			<p>have been informed it can place and store materials directly over the gas main.</p> <p>With this in mind, it is assumed the approved cemetery design cannot be reinstated post completion of the gas main installation works, thus prevent additional operation disruption post completion. Furthermore, this brings rise to significant concerns being the financial viability of the cemetery and the inability to meet the requirements of the Muslim community.</p> <p>With all the above in mind, there will be significant disruption that will detrimentally affect the daily operations to the cemetery.</p> <p>In response to the second part of the question regarding the effect of the gas main</p>	

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			<p>installation works on the targeted opening date of the cemetery - Gardens of Peace has subsequently been informed that the gas main installation works are due to commence after the anticipated opening date of the cemetery, thus it is likely the gas main works will not cause a delay to the opening of the cemetery.</p> <p>Notwithstanding this, as highlighted above, there will be significant disruption to the daily operations of the cemetery due to the gas main installation works.</p>	
GQ1.7		<p>iv) Explain why it is said that the Proposed Development must be amended and provide details of the amendment you seek.</p>	<p>The current extent of Plot 1/8 is felt to be in excess of what is required to undertake the gas main installation works (Proposed Development).</p> <p>We have referred to the effects of the current design of</p>	<p>Please see Highways England's response to the Gardens of Peace Relevant Representation (RR-021-01 to RR-024-14 (REP2-011) and Highways England response to the Written Representations (RE010029/EXAM/9.36). These provide a response to the specific issues relating to Service Entrance (temporary issue), soil storage area (temporary issue), loss internal</p>

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			<p>the Proposed Development on Gardens of Peace in the answer to question iii), being both temporary issues (i.e. whilst the gas installation works are being undertaken) and permanent. The effects demonstrate the significant impact the gas main installation works will have on the cemetery.</p> <p>Furthermore, with the permanent presence of the gas main, the cemetery development will have to be redesigned following completion of the gas main works, as it is assumed that any easement will not allow for the reinstatement of private roads, underground services and to allow the land to be used for burial plots.</p> <p>Thus, the amendments Gardens of Peace seek are a significant reduction in the</p>	<p>access road (temporary issue), loss of overflow parking (temporary issue), disruption to utility and site Infrastructure (temporary and permanent issue) and land prepared for 512 burial plots (permanent issue).</p>

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			<p>boundary of Plot 1/8 to immediately reduce the effects, both temporary and permanent, on the cemetery. Gardens of Peace also seek an amendment to the route of the gas main, to reduce the area within Plot 1/8 subject to the gas main easement, thus reducing the permanent effects on the cemetery i.e. enabling Plot 1/8 to be fully reinstated to the same order as it was prior to the gas main installation works and as proposed within the development plan (see Appendix 1).</p>	
PC1.9		<p>The SoR [APP-019] confirms that plot 1/8 as shown on the Land plans [APP-005] is required for Work No.29 (diversion of a high-pressure gas pipeline) in order to allow for the construction of the</p>		See responses below.

Question Number	Question to:	Question	IP Response	Highways England Response
		Proposed Development. In Gardens of Peace's RR [RR-024] it is stated that the works would interfere with the operation of the cemetery and would result in a redesign of the layout.		
PC1.9 i)		Explain the anticipated length of time it would take to divert the existing high pressure gas pipeline on Plot 1/8	This question would be best directed to the Applicant. What is also unclear is the anticipated date that reinstated plot 1/8 reverts back to Gardens of Peace.	The Cadent high-pressure gas-pipeline diversion is to be constructed between spring 2022 to autumn 2022 over a period of 6 months. Once Cadent's works are complete the land will be restored to the reasonable satisfaction of the landowner. Highways England anticipates that the restoration work will take around 1 month, but this depends on the prevailing situation at the time.
PC1.9 ii)		Explain why the cemetery would need to be redesigned.	Since commencement of engagement, Gardens of Peace have never been offered details, despite requesting in 2020, on the future land use restrictions over the Plot 1/8 as a whole,	Cadent have corresponded with the Gardens Peace to accommodate their permanent works requirements as well as agreeing the temporary works provisions to mitigate the temporary pipeline construction works. As regards restrictions on future land use, Cadent have asked that services do not run directly above

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			<p>or over the gas easement. The only information received to date was that Gardens of Peace can place and store materials directly over the gas main (raised in a meeting dated 25th November 2020). Accordingly, it is assumed the approved cemetery design cannot be reinstated post completion of the gas main works to allow for the internal road, underground services and original area designated for burial plots to be reinstated to the original position. Thus, the cemetery will need to be redesign to take into account the presence of the gas main and the restrictions on land use as a result of permanent rights being acquired.</p>	<p>and along the line of the pipeline, but crossings have been accommodated. Upon completion of the pipeline diversion, no part of the pipeline nor cemetery services will conflict with the locations of proposed burial plots.</p> <p>Plans showing the pipeline diversion, services and cemetery roads have been prepared by Cadent and overlaid on the cemetery layout drawings provided by the Gardens of Peace. These plans have been shared with the Gardens of Peace. The diverted pipeline will lie beneath the internal road which is acceptable to Cadent. There will be no need to amend the cemetery layout to accommodate the pipeline. It can be constructed as shown on the approved cemetery layout drawings. Upon completion of the pipeline diversion, the land will be reinstated to the reasonable satisfaction of the landowner. If any further works are proposed by the trustees within the area subject to restriction on account of the gas pipeline, Cadent will need to be consulted so that they may assess the implications on the integrity of their pipeline. This is the case as regards the existing pipeline.</p>

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PC1.9 iii)		Explain whether the diversion could be timed to minimise harm to the cemetery.	It is understood the gas main diversion works are not due to commence until March / April 2022, by which time, the cemetery development would have been completed and the cemetery operational. Therefore, unless the gas main diversion could take place immediately, the works will cause disruption to the daily operations and thus will always be a harm to the cemetery.	The Cadent high-pressure gas-pipeline diversion is to be constructed between spring 2022 to autumn 2022 over a period of 6 months. The pipeline diversion works cannot commence until such time as the DCO authorising them is granted by the Secretary of State. In addition, work on the gas pipeline can only be undertaken during the 'mid-year' window when demand for gas is at its lowest.
Hinson Parry & Company on behalf of Mr and Mrs Jones of Grove Farm				
NV1.3		Paragraph 6.7.1 of Chapter 6 of the ES [APP-028] omits Grove Farm from the list of closest businesses that are sensitive receptors to noise but includes it as a residential receptor.	We have read Chapter 6 of the ES relating to noise and concur that it omits the commercial elements of Grove Farm from the list of sensitive receptors but does include the residential elements. At present, reading	For changes in noise during the construction phase please refer to Written Representation REP2-033-37 set out in Highways England's response to Written Representations (TR010029/EXAM/9.36). For retaining the temporary noise mitigation post construction please refer to points (a) and (b) in response REP2-033-36 set out in

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		<p>For the Applicant: i) Confirm that these lists of receptors are accurate.</p> <p>For the occupiers of Grove Farm ii) Comment on the noise assessment contained within Chapter 6 of the ES</p>	<p>the noise report we are content the commercial element does not need to be added to this list of sensitive receptors for noise and vibration. However, the commercial elements will be impacted if adequate access provisions cannot be considered within our written representation.</p> <p>It is noted that there are three residential dwellings at Grove Farm comprising of the main farmhouse, Bungalow 1 and Bungalow 2 that have all being occupied for residential purposes for over twenty years.</p> <p>These dwellings will be severely impacted by the construction phase of the proposed development. We can see that when comparing the baseline noise figures with the proposed construction</p>	<p>Highways England's response to Written Representations (TR010029/EXAM/9.36).</p> <p>Changes in road traffic noise at Grove Farm do not meet the criteria for installing noise barriers, as described in point (b) in REP2-033-36 set out in the Highways England's response to Written Representations (TR010029/EXAM/9.36). The Scheme design already includes the use of lower noise surfacing as described in paragraph 6.6.12 of Chapter 6 of the ES (APP-028). An updated version of Chapter 6 of the ES (TR010029/APP/6.1(2)) is submitted at Deadline 3a.</p> <p>It is agreed that paragraph 6.10.3 in Chapter 6 of the ES (TR010029/APP/6.1(2)) identifies that there would be significant effects during construction without mitigation. However, the mitigation is a commitment for the Scheme and this mitigation reduces the effects from significant effects to adverse effects as presented in Table 6.20 of Chapter 6 of the ES (TR010029/APP/6.1(2)) See Highways' England's response to Written Representation REP2-033-36 (TR010029/EXAM/9.36) for the duration of night time construction noise effects.</p>

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			<p>noise there is a significant increase in noise during the day and night. It is understood to increase from 64db to 79db (highest) during the day and from 61db to 76db during the night, which will detrimentally impact our client's quiet enjoyment of the property over the proposed 32 months of construction, which is a significant length of time to be continually disturbed.</p> <p>We agree with the recommendation at 6.8.13 that no vibratory rolling should be undertaken within 20 metres of the property to reduce the impact of vibration on the residential elements. Additionally, it is noted at six point 9.10 that Grove Farm would be shielded by temporary noise barriers providing a minimum of 10 decibels insertion loss. This</p>	<p>For night time noise levels above 55dB, See Highways' England's response REP2-033-39 set out in the response to Highways England's Written Representations (TR010029/EXAM/9.36).</p> <p>For noise important areas, please see Highways England's response to point (a) in REP2-033-38 set out in the Applicant's response to Written Representations (TR010029/EXAM/9.36).</p> <p>The noise prediction methodology assumes that wind blows from every road to the receptor. Therefore, for Grove Farm, which would have roads on all sides, it would assume that the wind blows from each road towards Grove Farm. This gives a worst case assessment of noise levels, and for Grove Farm, that worst case situation would not occur because the wind would normally blow from one direction at a time.</p>

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			<p>will also reduce the visibility of any of the construction works for the duration of the 32 months however we request that a more substantial shielding is constructed, and this would be retained post construction to mitigate any further noise and vibration on the client's properties.</p> <p>At Chapter 6.9 we understand that mitigation measures will be undertaken by the Principal Contractor, but we ask that the mitigation measures are further strengthened to alleviate the disruption to our clients.</p> <p>This would include, additional noise barriers, tree planting where possible, low sound road surfacing and to ensure that any works are done in parallel as much as possible.</p> <p>Clearly, at 6.10.3 the noise</p>	

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			<p>report continues to state that there will be significant effects to Grove Farm which is located close the intersection of the A12 off slip and the M25 on slip and without mitigation there will be significant levels of construction noise for the period of 32 months. Additionally, there will be significant adverse effects during the night time for Grove Farm residents due to night time paving and road construction activities on the adjacent A12 off slip on the M25 on slip which we understand is proposed to be located closer to the residential dwellings.</p> <p>This is confirmed at 6.8.36 of the noise report that night time road traffic noise levels exceeding 55db were predicted within 450 metres of</p>	

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			<p>the junction 28 and 150 metres of the proposed loop road.</p> <p>Properties adjacent to the A12 and Brook Street also have been predicted noise levels above 55db depending on their proximity of which Grove Farm is in the immediate vicinity. Therefore, we assume that Grove Farm would be within this determination and would be impacted by the night time traffic noise by more that 3db overall post scheme.</p> <p>Interlinking with code NV 1.4 within the examiners questions we strongly feel that Grove Farm should be listed as a property on the NIAs (Important Areas for Noise) list as the residential elements are immediately to the northwest of Junction 28. The Poplars is another residential</p>	

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			<p>address which is 12m away from junction 28 and is listed on the NIAs list. We request that the Residential elements of Grove Farm are added to this list. It is clear from Environmental Management Plan that in Chapter 9 'Protection of Sensitive Areas' that Grove Farm is noted as a sensitive area in air quality, noise and vibration, landscape and visual, people and communities and other areas of sensitivity.</p> <p>Overall, it is strongly felt that the noise and vibration will detrimentally impact the residential elements of Grove Farm and should be noted down as a NIAs and further mitigation considered. We also request that any additional noise insulating barriers that are installed during construction and</p>	

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			<p>retained post construction. This is because the noise will be to all side and especially the loop around the rear of Grove Farm which is in the path of the south-westerly prevailing winds.</p>	
PC1.3		<p>Section 13.10 and Tables 13.24, 13.25 and 13.26 of Chapter 13 of the ES [APP-035] identifies that the Proposed Development would have a significant adverse effect on the private dwellings at Grove Farm from both construction and operation. However, to understand the actual effects, the occupiers of these properties and the ExA need to look at a range of ES Chapters as well as the REAC [APP-097]. The ExA considers it would be beneficial if an individual and cumulative assessment</p>	<p>Reading Chapter 13 in relation to People and Communities we agree that Grove Farm is noted down as being highly affected and will have significant effects on land take and high sensitivity of receptors.</p> <p>Indeed, at 13.10.2 Grove Farm is noted down as most affected by the scheme and that although the land take has been minimised the new road widening will be moving substantially closer to the residential dwellings on a permanent basis.</p> <p>It is understood at 13 point 8.2</p>	<p>Please refer to point PC 1.3 in the Highways England's response to Examining Authority's First Written Questions (REP2-011).</p>

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		<p>on the effects on the living conditions of the occupiers of Grove Farm could be provided in a concise statement or document to be submitted into the Examination, and the ExA requests such an assessment.</p> <p>i) Provide a response.</p> <p>ii) Explain how mitigation can be considered to be adequate when statements, for the DNNMP has not been submitted into the Examination.</p>	<p>that the permanent land take at Grove Farm is required to facilitate the construction of the new loop road and for the new A12 slip road and the M25 on slip. This includes associated earthworks flood attenuation works and landscaping. Overall, 120,370 square metres will be permanent land take and 42,401 square metres will be temporary land at Grove Farm.</p> <p>Chapter 9 Landscape and Visual strengthens the point that Grove Farm will be visually impacted.</p> <p>9.10.16 states that the removal of mature vegetation would increase the visibility of the road</p> <p>infrastructure. Additionally, the deposition of surplus construction materials would</p>	

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			<p>create visible elements during the construction period, further impacting the residents.</p> <p>13.10.83 states that the significant residual effects to Grove Farm are expected to remain during the operational phase given the existence of the new loop road. However, we ask that in line with our written representations and proposed design alterations that these are taken into consideration as they could reduce the significant impacts.</p> <p>All of this will have a detrimental and negative impact on the properties located at Grove Farm and includes in the long-term increased noise, dust, vibration, light, fumes, and smell and will overall impact their day-to-day quiet</p>	

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			enjoyment of the property. Additionally, the living conditions could become untenable if mitigation measures are not implemented.	

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