

## **M25 junction 28 improvement scheme**

**TR010029**

### **9.46 Applicant's comments on responses to London Borough of Havering D3a Response**

Rule 8(1)(c)(ii)

Planning Act 2008

Infrastructure Planning (Examination Procedure) Rules 2010

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# Infrastructure Planning

## Planning Act 2008

### The Infrastructure Planning (Examination Procedure) Rules 2010

### M25 junction 28 scheme

### Development Consent Order 202[x ]

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# 1. Purpose and structure of responses to written representations

- 1.1.1 This document provides the comments of the applicant, Highways England, in response to the three examination documents submitted by the London Borough of Havering (LBH) to the Planning Inspectorate (PINS) at Deadline 3a (18 February 2021) namely:
- Comments on responses to the Examining Authority's written questions (REP3A-042)
  - Responses to written representations (REP3A-041)
  - Responses to schedule of Changes to the draft Development Consent Order. (REP3A-040).
- 1.1.2 Highways England has sought to provide comments where it is helpful to the Examination to do so, for instance where a representation includes a request for further information or clarification from Highways England or where Highways England considers that it would be appropriate for the Examining Authority (ExA) to have Highways England's views in response to a matter raised by an Interested Party in its representations. Where issues raised within a representation have been dealt with previously by Highways England, for instance in response to a question posed by the ExA in its first round of written questions or within one of the application documents submitted to the Examination, a cross reference to that response or document is provided to avoid unnecessary duplication. The information provided in this document should, therefore, be read in conjunction with the material to which cross references are provided.
- 1.1.3 Highways England has not provided comments on every point made within the representation (for instance, Highways England has not responded to comments made about the adequacy of its pre-application consultation given that Highways England has already provided a full report of the consultation it has undertaken as part of its application for the Development Consent Order (DCO)) and the Planning Inspectorate has already confirmed the adequacy of the pre-application consultation undertaken when the application was accepted for Examination. In some cases no comments have been provided, for instance, because the written representation was very short, or because it expressed objections in principle to the Scheme or expressions of opinion without supporting evidence.
- 1.1.4 For the avoidance of doubt, where Highways England has chosen not to comment on matters raised by Interested Parties this is not an indication Highways England agrees with the point or comment raised or opinion expressed.

## 2. London Borough of Havering deadline 3a submissions

### 2.1 REP3A-042 Comments on responses to the ExA's Written Questions

Reference	Representation Issue	Highways England Response
REP3A-042-1	<p>LBH welcomes the fact that the Applicant is preparing outline plans for air quality, noise and vibration, archaeology and tree protection that will form Appendix F of the outline CEMP to be submitted at Deadline 3a. LBH has recently received an Archaeological Management Plan and looks forward to discussing this further with the Applicant.</p> <p>LBH would wish to be in a position to agree these outline plans and indeed the final version of these plans.</p> <p>It is noted that additional plans are included in the updated Requirement 4 of the draft DCO but these are not cited in the Applicant's responses to WQ1. LBH seeks clarity as to whether the list of plans cited in the draft DCO will be prepared during the Examination timetable.</p> <p>The key concern that LBH has regarding the REAC and the CEMP remains that the Principal Contractor will prepare these final documents outside of the Examination Process post consent of the DCO and the Council will only be a consultee in this process.</p>	<p>Highways England submitted four outline management plans at Deadline 3a to give the Examining Authority and other stakeholders reassurance that the key environmental issues are being addressed in accordance with the mitigation measures identified in the Register of Environmental Actions and Commitments (REAC) (REP3A-011). The outline plans cover noise and vibration, air quality, water environment, tree protection and archaeology matters. Appendix F in the Outline Construction Environmental Management Plan (CEMP) (REP3A-010) contains the three outline plans covering the noise and vibration, air quality, water environment and tree protection.</p> <p>The Outline Archaeological Management Plan is a standalone document (REP3A-029) and it will support the development of the final version of the Archaeological Management Plan to be approved by the Secretary of State under Requirement 9 of the dDCO submitted at Deadline 3a (REP3A-004).</p> <p>The Principal Contractor will be responsible for developing the final CEMP and its associated topic specific management plans as listed in Requirement 4 of the dDCO (REP3A-004) and these will be subject to consultation with LBH as part of the consultation process under the Requirement.</p> <p>The rest of the plans which have not been provided in the form of an outline version at this stage can only be developed in a more substantial form by the Principal Contractor once the detailed design and the construction methodologies and sequencing are fully developed. These include:</p> <ul style="list-style-type: none"> <li>• Pollution Prevention Plan</li> <li>• Ecological Habitats and Species Plan</li> <li>• Invasive Species Management Plan</li> <li>• Contaminated Land Management Plan</li> <li>• Soil Handling Management Plan</li> <li>• Material Management Plan</li> <li>• Site Waste Management Plan</li> <li>• Material, Waste Storage and Refuelling Plan</li> <li>• Energy and Resource Use Management Plan</li> <li>• Emergency Response Plan (including Environmental Incident Control Plan)</li> <li>• Community Engagement Plan</li> </ul> <p>LBH and other key stakeholders will be consulted on the content of the other environmental management plans listed above when the final CEMP is being developed.</p> <p>Please refer to the response to paragraph 22.1.7 within Table 2-1 of Highways England's response to the Local Impact Report from the LBH (REP3A-020) in regard to the point about LBH only being a consultee.</p>

Reference	Representation Issue	Highways England Response
REP3A-042-2	<p>LBH is deeply concerned that the Applicant is not prepared to make provision for a Code of Construction Practice (CoCP) or a Traffic Management Plan (TMP). We note that the design guidelines for Highways England Design Manual for Roads and Bridges (DMRB) Volume 11 doesn't preclude a CoCP. A CoCP would allow for detailed consideration of the application and for clarity in any eventual DCO. We consider this is to be an essential document that should be produced. In addition, LBH maintains the view it expressed in response to WQ1 TA 1.1 (REP2-020) that it is not satisfactory for a TMP to be produced by the appointed contractor post scheme consent being granted.</p> <p>It is of note that Highways England has regularly requested other Development Consent Order(DCO) schemes to provide a CoCP and TMPs namely Hinkley Point C New Nuclear Power Station, Hinkley Connection Project, West Midlands Rail Freight Interchange. We also note that as part of the Pre Application process for the proposed Lower Thames Crossing that Highways England has commenced development of a CoCP and a TMP which has already involved engagement with LBH on the content of both documents. LBH invites the ExA to consider this matter further in the Issue Specific Hearings (ISH).</p>	<p>Highways England's position regarding the production of a CoCP is set out in Highways England's response to ExA WQ GQ1.6 (REP2-011).</p> <p>An Outline Construction Environmental Management Plan (CEMP) and the REAC perform substantially the same function as a CoCP and so for the purposes of this Scheme there is no need to have both.</p> <p>In the development of the Environmental Statement and the preparation of the Outline CEMP, the construction environmental management arrangements for the Scheme and how they would be dealt with in the DCO application were discussed with the Local Authorities and other relevant stakeholders. During these discussions no concerns were raised with the proposed approach of having a CEMP for the Scheme and none mentioned a need for a CoCP in addition to a CEMP.</p> <p>Highways England is preparing an Outline Traffic Management Plan based on the preliminary design of the Scheme and the currently envisaged temporary traffic management arrangements to enable its construction. This will be submitted into the Examination at Deadline 4.</p>
REP3A-042-3	<p>LBH notes that the Applicant states that the Department for Transport (DfT) will discharge the Requirements. LBH believes that resources should not be the determining factor regarding the discharge of Requirements and that it should be the authority that is responsible for the matters that are required for discharge that should undertake this activity. LBH would wish to be fully involved in this process.</p>	<p>Highways England's position is not based upon the availability of resources but on the appropriateness of the Secretary of State's discharging requirements in respect of Highways England DCO schemes.</p>
REP3A-042-4	<p>The language that is used in the Applicant's responses to the questions DCO 1.26 and DCO 1.28 does not give LBH the reassurance that it needs. We are concerned that there is an inferred need for flexibility in construction practices. This provides no certainty concerning the implementation of the documents that are examined.</p>	<p>The currently anticipated approach to construction is based on a preliminary design of the Scheme. Subsequent detailed design of the Scheme and potential unforeseeable circumstances during construction, such as discovery of unexpected subterranean structures or abandoned utilities, may necessitate amendments to currently anticipated construction practices. Consequently, it is essential that the Highways England's appointed Principal Contractor has some flexibility in construction practices to ensure that the Scheme can be constructed efficiently, taking account of additional information that will become available with the detailed design and unexpected circumstances encountered during construction.</p> <p>LBH can take reassurance from the fact that under these two requirements (4 and 5) it is for the Secretary of State to give his approval, taking into account the consultation process and no doubt the Secretary of State would not give approval unless they are satisfied that the relevant documents are in an appropriate form.</p>
REP3A-042-5	<p>The collision data that is referred to in the Applicant's response to the question TA 1.5 is dated (2013 -2017) more up to date data on this matter can be found in the LBH Local Impact Report (LIR) Figure 10 Overview of all the Collisions 2015 – 2019 (page 22).</p>	<p>The 2013 to 2017 collision data used by Highways England for the assessment of the Scheme was the most recent data available when the assessment was undertaken.</p> <p>Figure 10 of the LBH's LIR (REP1-031) shows more up to date collision data covering the road network to the west of junction 28 managed by TfL and LBH. Highways England notes that the data in Figure 10 does not cover junction 28 itself. It is also noted that this data indicates relatively few collisions have been recorded on the A12 over the most recent five years on the A12 between junction 28 and Gallows Corner, and that most of these collisions have resulted in slight injuries, with only one serious injury. Highways England has no reason to believe that this data affects the conclusions reached in the Transport Assessment Report (APP-098) or the Transport Assessment Supplementary Information Report (PDB-003).</p>



## 2.2 REP3A-041 Responses to Written Representations

Reference	Representation Issue	Highways England Response
REP3A-041-1	<p>It remains the view of LB Havering that full night time closures of the A12 eastbound off-slip are unacceptable and the Applicant must explore how such closures can be avoided. This matter cannot wait until the CEMP and associated Traffic Management Plan is produced by the appointed contractor and should be resolved as part of the Examination.</p> <p>With regards to the reference to a proposed right turn when exiting Woodstock Avenue, LB Havering would again encourage the ExA to consider that this matter be explored further through feasibility work by the Applicant.</p>	Occasional full night-time closures of the A12 eastbound off-slip are required for full depth construction of the northern tie into the roundabout where there is an overlap with the existing carriageway, as well as resurfacing and the painting of road markings, and are likely to be unavoidable for the safe execution of these activities.
REP3A-041-2	<p><b><u>Transport for London (TfL) Written Representation (REP2-036)</u></b></p> <p>LB Havering agrees with Transport for London's assertion (Paragraph 2.2 approvals and consultation) that the outline Traffic Management Plan should form part of the application document and it should be considered as part the Examination.</p> <p>As LB Havering has previously stated in its own Relevant Representation (REP1-031), Requirement 10 of the DCO sets out that the Traffic Management Plan will be approved by the Secretary of State following consultation with relevant highway authorities. This does not give the assurance the Council requires that Havering's concerns will be taken into account by the appointed contractor.</p>	Highways England is preparing an Outline Traffic Management Plan based on the preliminary design of the Scheme and the currently envisaged temporary traffic management arrangements to enable its construction. This will be submitted into the Examination at Deadline 4.
REP3A-041-3	LB Havering shares TfL's view that Requirement 3 of the draft DCO should be amended to include "highways authorities". This will ensure that Transport for London and Essex County Council as well as the Local Planning Authorities (LB Havering and Brentwood BC) are included in any consultation.	Please refer to Highways England's response to REP2 -036-7 in Highways England's Responses to Written Representations (REP3A-022).
REP3A-041-4	LB Havering notes the comments raised by TfL in paragraphs 5.10 and 5.11 concerning construction timescales. A potential overlap of construction between the M25/J28 and Lower Thames Crossing schemes remains a concern for LB Havering, and the associated cumulative impacts of this on the network. It further emphasises the need for all relevant Highways Authorities to be involved in the development of the Traffic Management Plan as it is developed by the appointed contractors, and the need to discuss with the appointed contractor schemes that are to be delivered within the area.	Please refer to Highways England's response to REP2-036-35 in Highways England's Responses to Written Representations (REP3A-022).
REP3A-041-5	LBH supports TfL's position that safe crossings are required of the A12 and M25 Slip roads at the Brook Street roundabout for safe passage of pedestrians and cyclists from the A12 east bound off-slip to Brook Street. LB Havering has commented on this matter in section 17.5 of the Local Impact Report (REP1-022) and agrees that there is a need to provide suitable crossing facilities for pedestrians and cyclists when navigating this junction.	Please refer to Highways England's response to paragraphs 17.1.4 to 17.1.5 in its response to the LBH's LIR (REP3A-020).
REP3A-041-6	LB Havering shares the concerns set out by TfL in paragraph 7.6 with regards to the ability of large construction vehicles being able to "u-turn" at the A12 junction with Petersfield Avenue to travel eastbound along the A12 towards the construction site. LB Havering raised similar concerns in its response to the Transport Assessment Supplementary Information Report (TASIR) submitted at Deadline One (REP1-033) and again requests	Please refer to Highways England's response to paragraphs 21 to 22 (Table 3) in its response to the LBH's LIR (REP3A-020).

Reference	Representation Issue	Highways England Response
	<p>that the Applicant provide tracking data to provide the necessary assurances to stakeholders.</p>	
<p>REP3A-041-7</p>	<p>LB Havering notes the comments provided by TfL in paragraphs 7.7 to 7.10 concerning Woodstock Avenue. The representation by Transport for London refers to the journey time savings set out in tables 5-4 and 5-7 of the Transport Assessment Supplementary Information Report (PDB-003) and describes this being of benefit to residents of Woodstock Avenue post scheme completion.</p> <p>Whilst these journey time savings appear very favourable, Havering stated in its own response to that report (REP1-034) that the Council has concerns with regards to the forecast growth information that the Applicant has used which would impact on the output model data shown in those tables.</p>	<p>Please refer to Highways England's response to paragraphs 20.1.3 to 20.1.9 in its response to the LBH's LIR (REP3A-020).</p>
<p>REP3A-041-8</p>	<p>To that end, LB Havering welcomes TfL's comment in paragraph 7.11 that further detail from the Applicant is required to better understand how local planning policy has been included within the "High Growth" scenario set out in the Transport Assessment Supplementary Information Report.</p>	<p>Please refer to Highways England response REP2-036-51 to TfL in Highway England's responses to Written Representations (REP3A-022).</p>



## 2.3 REP3A-040 Responses to schedule of Changes to the draft Development Consent Order

Reference	Representation Issue	Highways England Response
REP3A-040-1	Following comments from the ExA contained within PD-008, the Applicant has amended the Requirement to include a series of management plans that will now be included as part of the CEMP. LB Havering is concerned that by including such documents as part of the CEMP, this will exclude them from the necessary scrutiny of the Examination.	<p>As the detailed design and construction methodologies are not developed yet, the Outline CEMP has been developed as far as practicable. The Principal Contractor will prepare the final CEMP, including all the environmental control plans, in line with the Requirements set out in the dDCO</p> <p>See Highways England response to REP3A-042-1.</p> <p>As regards those outline management plans that have been or will be submitted to the Examining Authority to form part of the Outline CEMP, they will be subject to scrutiny as part of the examination process. Highways England has explained why not all of the management plans to be comprised in the final version of the CEMP will be produced in outline form in its response to REP3A-042-1.</p>
REP3A-040-2	Furthermore, including such documents only as part of the CEMP that will be produced post any decision by the Secretary of State to grant consent to the scheme, will mean that local planning and highways authorities will merely get consulted on the content of such documents and will not have any influence on agreeing them with the Applicant.	<p>Highways England has consulted LBH on the content of the Outline CEMP through various engagement meetings (as outlined in the SoCG (REP1-004)) and will continue to consult with LBH to develop the final CEMP as per Requirement 4 of the dDCO (REP3A-004).</p> <p>See Highways England response to REP3A-042-1.</p> <p>See Highways England's response to REP3A- explaining why some of the management plans to form part of the final CEMP will not be produced in outline form.</p> <p>Highways England has explained why it does not consider it appropriate for the local authorities to have the right of approval over these documents in Highways England's response to paragraph 22.1.7 of Table 2.1 of LBH's Report (REP3A-020). The local authorities will have considerable influence as consultees in respect of these documents.</p>
REP3A-040-3	<p>LB Havering considers this position very unsatisfactory and would invite the ExA to consider suggesting to the Applicant that such documents should be produced and made available as part of the Examination process.</p> <p>LB Havering would further invite the ExA to consider this issue from a matter of consistency. The Applicant has made available to LB Havering a draft Archaeological Management Plan (ACP), which is welcome and we look forward to discussing this further with the Applicant.</p>	<p>See the response at REP3A-040-2 in this document. Highways England will continue to engage with Greater London Archaeological Advisory Services (GLAAS) and LBH on archaeological matters.</p>
REP3A-040-4	Furthermore, the Applicant has stated in response to Written Question GQ1.1 that an updated Outline CEMP will be submitted at Deadline 3a and that Appendix F will include outline plans for Air Quality, Noise and Vibration, Ecology and Trees Protection. Whilst details of these outcome plans will be welcome, there appears to be no indication as yet from the Applicant as to when further details of the other management plans set out in the applicant's suggested amendment to Schedule 2 Requirement 4 (2), will become available.	<p>See the response at REP3A-042-1 in this document.</p>
REP3A-040-5	LB Havering has provided comments on the dDCO in Section 24 of Havering's Local Impact Report (REP1-031). A number of matters have been raised concerning Articles and Requirements set out in the originally submitted Draft DCO (APP-015) and Havering looks forward to seeing these addressed in the next iteration of the dDCO to be submitted by the Applicant at Deadline 3B.	<p>When necessary, Highways England will produce an updated draft DCO in accordance with the examination timetable. The next iteration, if necessary to update, will be for Deadline 4.</p>

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