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Mr Richard Allen  
Lead Member of the Examining Authority

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20<sup>th</sup> May 2021

[www.havering.gov.uk](http://www.havering.gov.uk)

Dear Sir,

**London Borough of Havering (20025659) – Written Summary of Issue Specific Hearing 3 Oral Submissions**

Thank you for the opportunity for LB Havering to attend and give evidence at the Examination Hearings for the M25/J28 Improvement Scheme Development Consent Order (DCO).

I have set out below a summary of the submissions presented by LB Havering at the Hearing.

**Issue Specific Hearing Three**

**2. Traffic and Access – Provision for Non- Motorised Users**

Questions 2-1 to 2.5

LB Havering welcomes confirmation from the Applicant in its additional submission to the ExA (AS-041) that Designated Funds have been secured for the proposed Non-Motorised User (NMU) route between Harold Hill and Brentwood.

The ExA will be aware that there was a joint submission between LB Havering and Essex County Council (REP6-038) raising concerns with how the route in its entirety would be delivered, and the position around potential financial risk for the local authorities at either end of the route remains a concern from Havering's perspective. LB Havering has held discussions with the Applicant over whether local authorities could be involved in delivering the route. From Havering's perspective we have no resources that can be allocated to the scheme or the financial stability to make any future commitments. We have raised these issues with the Applicant.

LB Havering notes that the route is subject to final design, but that does pose the question of how accurate the £3.5million cost estimate is for the scheme.

**Cleaner, Safer, Prouder Together**

LB Havering also has concerns with the practicalities of securing the central section of the route (through the Brook Street junction itself) through a Planning Obligation with LB Havering. This section of the route covers infrastructure that Highways England is the Highways Authority and landowner for and there are cross boundary issues between LB Havering and the Essex / Brentwood local authorities. Whilst it is recognised that Highways England cannot enter into an Obligation with itself, LB Havering does have concerns with how such an Obligation with Havering could be administered and enforced by Havering on a cross boundary basis.

LB Havering would further make the point that if the priority of the Applicant is to deliver the central section of the route alongside the wider DCO scheme as it suggests in AS-041, we see no reason why this section cannot simply be secured through the DCO itself as the central section is within the DCO Order Limits.

Post Hearing Note: It is understood that the Applicant will be providing further clarity on how the route will be delivered and costs at Deadline 7, and this is welcome.

## 2.6 The adequacy of the outline Traffic Management Plan (TMP)

When responding to the Panels Written Questions, LB Havering stated that there is no reference within the Outline TMP on the temporary closure of the A12 Eastbound off-slip. This is a concern because if this matter is not included as part of the Examination it will be left up to the Principal Contractor to determine and full closures could take place more frequently or for a longer duration without any control.

LB Havering would further state that there appears to be a discrepancy between the Applicant's response to Written Question TA 2.4 at Deadline 5 (REP5-041) and its response to LB Havering's response to Written Question TA 2.4 submitted at Deadline 6 (REP6 – 013) and whether the closure of the A12 Eastbound off-slip would be included in a second iteration of Outline TMP or the final TMP.

### *Applicant's response to WQ TA 2.4 at Deadline 5 (REP5-041)*

*Temporary occasional overnight closures of the A12 eastbound off-slip at junction 28 are unavoidable to enable construction of the Scheme. The diversion route for occasional overnight closures of the A12 eastbound off-slip will be via the Mountnessing junction on the A12 to the east, which will add approximately 10 minutes to journeys that would otherwise U-turn at junction 28 to head west on the A12.*

*Emergency services will be allowed through the temporary traffic management arrangements if necessary. As any temporary overnight road closures are by definition of a very short duration they are not covered in the Outline TMP. They would be covered in the final version of the Traffic Management Plan to be submitted to the Secretary of State for Approval under Requirement 10.*

### *Applicant's response to LBH response to WQ TA 2.4 (REP6-013)*

*Please refer to Highways England's response to the Examining Authority's Further Written Question TA 2.4 (REP5-041). The Outline Traffic Management Plan (TMP) will be updated to include temporary overnight road closures and will be submitted at Deadline 7. The Outline TMP is supported by the dDCO in that requirement 10 requires the final version of the plan to substantially accord with the outline version and no doubt the Secretary of State would only be prepared to approve the final version if he is satisfied that this is the case*

For LB Havering there appears to be a discrepancy as to whether or not the Outline TMP is going to include the temporary closure of the A12 Eastbound off-slip and we would invite the Panel to request clarification from the Applicant as to whether it will be included in the revised Outline TMP to be submitted at Deadline 7.

LB Havering notes that the Applicant has acknowledged in paragraph 2.3.5 that the existing junction at A12 / Petersfield Avenue is not wide enough to enable construction vehicles to make a U-turn.

The TMP further acknowledges that construction traffic accessing the main compound will instead have to use the Gallows Corner roundabout. LB Havering would reiterate the concerns it expressed at Issue Specific Hearing One about the potential impact of construction traffic on the Gallows Corner junction. As no detailed analysis of the junction's performance in a 'with construction traffic' scenario is available, LB Havering would also suggest that HGV movements should be restricted to outside the morning and afternoon peak period when the impacts on the network will be greatest.

Post Hearing note 1 – It is welcome that the Applicant has agreed to update the Outline TMP including commentary on the A12 eastbound closure in its Deadline 7 submission.

Post Hearing note 2 – It is noted in paragraph 2.3.10 of the outline TMP that a number of restrictions have been identified and that key specific restrictions will be agreed with stakeholders once the detailed traffic management proposals are further developed. Bullet point 2 identifies a traffic management embargo that Essex County Council has for a period leading up to Christmas every year. LB Havering has a similar works embargo for its roads in the lead up to Christmas and would suggest that this would need to be given the same consideration by the Applicant once detailed traffic management proposals have been developed.

2.7 Following the submission by the Applicant at Deadline 5 of a signposting document: comment on the requirement or otherwise for a Code of Construction Practise (CoCP) to be submitted to the Examination.

LB Havering remains of the view that a Code of Construction Practise (CoCP) is required and should be scrutinised through the Examination process.

Whilst LB Havering acknowledges that the Signposting document demonstrates interdependencies between management plans, LB Havering considers that not all the independences have been identified. For example, as set out in Havering's Deadline 6 submission (REP6-034) there is no reference in the transport interdependences section to waste and material improvements which is something LB Havering would suggest would be dealt with in a CoCP.

We welcome that a Workforce Travel Plan (WTP) will be included as part of the final TMP but consider this should be scrutinised at the examination. A WTP is normally an important part of a CoCP.

LB Havering would suggest that one of the key benefits of a CoCP is that it brings together the following processes:

- general site management,
- neighbour engagement,

- transport (deliveries and collections, management of the areas around the work compounds for non-motorised users, parking management, contractor low emission vehicle use requirements),
- permitted hours of working (with permits),
- noise and vibration notices, dust and air quality

We note that a number of these matters are included in various documents that the Applicant has submitted at various stages of the Examination but we feel that it would be a simpler approach to include all those relevant topics in one succinct document.

LB Havering would further add that Community Engagement is a fundamental element of the CoCP. The scope of the community engagement, the methods and techniques to be employed, the duration of the works and the cumulative impacts of any construction sites operating in the vicinity need to be included in the CoCP.

It should be pointed out that the Applicant has already prepared a draft CoCP as part of the Pre-Application work on Lower Thames Crossing. There is further precedent for such a Requirement with regards to the M1 Junction 10A Improvement Scheme where in a similar scale scheme, the final DCO had a requirement for the production and approval of a CoCP prior to works commencing. The specific Requirement set out within the final DCO for that scheme was as follows:

*Code of construction practise*

*16.-(1) No authorised development is to commence until a code of construction practice has been submitted to and approved in writing by the relevant planning authority.*

*(2) The code of construction practice must reflect the mitigation measures included in the environmental statement and the requirements relating to construction of the authorised development set out in this Schedule.*

Post Hearing note: It is welcome that the Applicant have committed to submitting a Community Engagement Plan to scrutiny of the Examination at a future submission date.

LB Havering recommends that as part of the community engagement and the Code of Construction Practice that active travel and road safety education measures are developed and implemented for sensitive receptors along local routes that experience an increase in traffic during construction.

LB Havering documented this issue of disruption during construction on local routes in its response to the Transport Assessment Supplementary Information Report. (REP1-034). These local routes are seen to experience increases in traffic flows due to traffic diverting to avoid either construction traffic or traffic management measures (lane narrowings).

To support approach, upon commencement of construction, LB Havering seeks a contribution of £200k per annum over a three year period. This contribution will support the delivery of interventions and the work that is done on sustainable and active travel and road safety education.

In addition to this contribution, and as part of the Code of Construction Practice LB Havering recommends that a financial contribution to support the continued delivery of free cycle training for the boroughs school children and wider residents in the vicinity of the

construction routes. Upon the commencement of construction, LB Havering seeks £100k per annum over a three year period.

These contributions will further strengthen the case that the DCO Scheme is compliant with the NPS NN.

### **3. Noise and Vibration**

3.1 Whether the Outline Dust Noise and Nuisance Management Plan (DNNMP), submitted as Appendix F of the Construction Environmental Management Plan (CEMP) [REP5-027] is sufficient to deal with construction noise.

LB Havering is satisfied with the DNNMP in relation to construction noise. LB Havering has no further comments to make on the DNNMP for a noise perspective.

LB Havering remains concerned that mitigation measures set out in table 3.2 are only considered “likely” measures and do not appear to be linked to the Risk Assessment.

LB Havering would make the broader point around clarity and consistency of language across the DNNMP, REAC and Environment Statement Chapter 6 in terms of securing section 61 agreements with the relevant Local Planning Authority.

Havering would also suggest that the Applicant define “noisy works” within the documentation. LB Havering would suggest that “noisy works” should be defined as follows: *“as any construction activity that causes an adverse or significant adverse impact (post mitigation) during day or night.*

Post Hearing Note – The ExA requested that LB Havering provide further clarity at Deadline 7 as to the specific issues it has with the DNNMP and what the Council would like to see done that would address these issues.

The determination of the dust mitigation measures (table 3.2) is left to the discretion of the principal contractor. Havering considers that the following amendments to the DNNMP should be made to address this concern:

- The word ‘likely’ should be removed from table 3.2
- To include the additional sentence *“The measures that are set out in table 3. 2 are considered appropriate for a high risk site as identified in the Dust Risk Assessment”.*

The additional sentence has been suggested to give Havering reassurance that the Control Measures set out in table 3.2 have been influenced by the outcome of the Dust Risk Assessment.

3.2 The impact of peak noise levels on the occupants of Grove Farm and the contribution of these levels to the cumulative impact on the occupants and whether justification exists for a noise barrier as opposed to a visual barrier.

LB Havering offered no comments during the Issue Specific Hearing concerning this matter. Following a review of the evidence presented during the ISH3, LB Havering continues to support the provision of a permanent noise barrier and would invite the ExA to consider the suggested noise mitigation as set out in its Deadline 6 submission (REP6-036).

3.3 Whether control of noise should form a separate Requirement in the draft DCO [REP6-005].

LBH Havering remains of the view that despite the welcome assurances from the Applicant that Section 61 consents will be entered into with the relevant LPA, in order to get surety that this will happen a Requirement must be inserted into the DCO. LB Havering would suggest the following:

*'The Principal Contractor shall, prior to commencement of construction works, apply to the relevant local authority for consent under Section 61 of Control of Pollution Act 1974 where construction works are:*

- (a) noisy or*
- (b) undertaken at weekend; or*
- (c) undertaken out of hours; or*
- (d) undertaken at night-time and outside the approved times set out in the CEMP [section 5.3 of outline Construction Environmental Management Plan]*

*Thereafter the construction works shall be undertaken by the Principal Contractor in accordance with any approved Section 61 consent'*

LB Havering does not consider Requirement 4 of the draft DCO as sufficient to cover this matter as whilst the reference to Section 61s are contained within the outline Management Plans, with the way that Requirement 4 is drafted, the final Management Plans only have to be substantially in accordance with the outline Plans. This does not provide LBH with the surety that securing section 61s will be set out within the final management plans which is why a separate requirement has been requested.

Should Requirement 4 be redrafted to remove the word "substantially", this would satisfy LB Havering's concerns on this particular matter and an additional requirement for noise control would not be necessary.

#### **4. Draft Development Consent Order**

4.1 Schedule 2 and how the proposed measures for Grove Farm including additional planting and the appropriate screening as indicated in the REAC Commitment LV 0.6 and Commitment LV 1.11 [REP5-028] and as the planting is shown on the Engineering Drawings submitted at Deadline 5 [REP5-007] would be secured in the draft DCO [REP6-005].

LB Havering had no comments to make on this matter at ISH3. Having reviewed the evidence presented at the Hearing, LB Havering has no further comments to make.

4.2 In respect to Part 5, Articles 31 and 32, Transport for London to explain further its concerns as outline in paragraph 2.10 in its Written Representations at Deadline 6 [REP6-044].

LB Havering had no comments to make on this matter at ISH3. Having reviewed the evidence presented at the Hearing, LB Havering has no further comments to make.

4.3 Schedule 2, Requirement 3 and whether wording should be added to ensure that the final designs of structures be subjected to an independent design review (as was the case for the A14 2016 Order).

LB Havering had no comments to make on this matter at ISH3. Having reviewed the evidence presented at the Hearing, LB Havering has no further comments to make.

#### 4.4 Schedule 2, Requirement 13(2) and whether Work No 2 should be added.

LB Havering had no comments to make on this matter at ISH3. Having reviewed the evidence presented at the Hearing, LB Havering welcomes the Applicant's intention to include Work No 2 into Schedule 2, Requirement 13 (2).

#### 4.5 Transport for London [REP4-038, App A], [REP6-044] and London Borough of Havering [REP4-029], [REP5-061], and [REP6-035] to update the ExA from their respective written submissions and on outstanding concerns with the draft DCO not discussed above.

A number of matters that LB Havering have previously raised at Deadline 4, 5 and 6 relating to the draft Development Consent Order are currently being considered by the ExA.

In addition, LB Havering would request that Part 2 Procedure for Discharge of Requirements be amended. At the moment, the draft DCO says that the SoS will approve the discharge of Requirements. Where those requirements relate to LB Havering as a local planning authority we would want to discharge those particular requirements.

LB Havering is satisfied with the Archaeological Management Plan and the programme for Trial Trenching that the Applicant has set out. LB Havering is no longer seeking additional wording to Requirement 9. In addition, LB Havering confirms that it is no longer requesting an additional requirement in relation to Archaeological trenching.

#### 4.6 Updates on the Schedule 9 Protected Provisions for Cadent Gas, Transport for London and (the removal of) Network Rail with updates to be actioned by Deadline 7, Thursday 20 May 2021.

LB Havering had no comments to make on this matter at ISH3. Having reviewed the evidence presented at the Hearing, LB Havering has no further comments to make.

### **5. Matters for Clarification**

#### 5.1 Biodiversity: Comments from the parties as to the adequacy of the Outline Ecological Habitats and Species Plan (EHSP) and Outline Invasive Species Management Plan (ISMP) submitted at Deadline 6 [REP6-019], having specific regard to Chapter 2 of the EHSP. Confirmation that both documents will be added to the next iteration of the CEMP.

LB Havering supports the matter raised by Transport for London (TfL) concerning deer fencing during construction of the scheme, particularly with the risk of deer roaming onto LB Havering roads such as Woodstock Avenue and other roads that the Council is responsible for in the vicinity of the scheme.

In terms of the two Management Plans, LB Havering welcomes the publication of these two documents into the Examination and have met with the Applicant to discuss these documents. LB Havering has reviewed both documents and is satisfied that these documents are adequate in managing the risks to important biodiversity resources during construction and operation phases of the proposed scheme as well as dealing with any invasive species, particularly animals which may be found during construction works.

#### 5.2 Geology and Soils: In response to the updated Register of Environmental Actions and Commitments (REAC) submitted at Deadline 5 [REP5-028] where it is stated that

excavations in certain areas (near exploratory location ATK-092) would not be permitted below a certain depth, and recommends mitigation is risk identified. The Applicant to clarify the estimated extent of gas generating material, identify what material this is likely to be and what would happen if this material is breached by the Proposed Development during any works, and to state when this material is likely to be identified and submitted in a future revised REAC.

LB Havering had no comments to make on this matter at ISH3 but agreed to provide an update at Deadline 7. Having reviewed the evidence presented at the Hearing, LB Havering is satisfied with the amendments made to the REAC in relation to Geology and Soils and has no further comments to make.

5.3 Landscape and Visual: The Applicant to confirm its response at Deadline 6 [REP6-013] that it will incorporate the suggested changes advanced by the London Borough of Havering in its response to WQ2 LV 2.4 [REP5-057] to the outline Landscape and Ecological Management Plan (LEMP) [APP-072]. Applicant to confirm the tree loss and replacement numbers as specified in paragraphs 5.2.6 and 6.1.2 of the Arboricultural Method Statement submitted at Deadline 5 [REP5-040].

LB Havering had concerns in relation to paragraphs 5.1 point 10 of the LEMP concerning the initial thinning of new woodland. Havering has advised that thinning is undertaken in the third year following woodland planting and further thinning would need to be undertaken after that depending on the rate of tree development. LB Havering also had concerns in relation to plant species mix for hedgerow planting which has been provided in table 5.7 of the outline LEMP. LB Havering has suggested amending table 5.7 with a species mix as set out in its response to WQ2 LV2.4.

Since the submission of REP5-067, LB Havering has had further discussions with the Applicant and we are now satisfied with the changes that the Applicant is making to the outline LEMP which is understood will be submitted at Deadline 7. Once the updated outline LEMP has been submitted at Deadline 7, LB Havering will be able to formally confirm that it is satisfied with the changes made, at Deadline 8.

5.4 People and Communities: Either Luddington Gold Ltd, Glebelands Estates Ltd (or the Applicant on their behalf) to confirm whether Maylands Golf Course will be responding to our Procedural Decision letter [PD-018] response to the Applicants Change Request 7 [REP6-002].

LB Havering had no comments to make on this matter at ISH3. Having reviewed the evidence presented at the Hearing, LB Havering has no further comments to make.

5.4 Applicant to confirm whether the tri-party agreement with the Gardens of Peace Muslim Cemetery will be submitted into the Examination

It was noted in the Applicant's Deadline 6 submission (REP6-14) that they suggested that LB Havering would look on an application for a temporary Car Park favourably.

LB Havering is not in a position to give any indication of whether planning permission for such a facility would be granted when no application has been submitted to the Local Authority for scrutiny either from Gardens of Peace themselves or any third party.

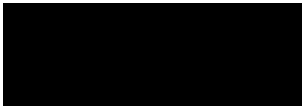


In any case, such a decision would have to be based on a full consideration of the proposal and applicable planning policies, any comments from statutory consultees and other interested parties and may be called in for decision by the Planning Committee rather than determination by officers under delegated powers.

Furthermore, the ExA should be aware that even if the Planning Application was to be submitted this week, an 8 week determination period would mean that no decision could be made whether or not to grant planning permission during the DCO Examination itself which ends on 7<sup>th</sup> July

Thank you for the opportunity to submit a written summary of the oral submissions delivered at the Issue Specific Hearing held in relation to the M25/J28 Improvement Scheme.

Yours faithfully,

A solid black rectangular box used to redact the signature of Daniel Douglas.

Daniel Douglas  
**Team Leader Transport Planning**