

M25 junction 28 improvement scheme

TR010029

9.112 Applicant's comments on the London Borough of Havering's Deadline 7 submissions

Rule 8(1)(k)

Planning Act 2008

Infrastructure Planning (Examination Procedure) Rules 2010

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The Infrastructure Planning (Examination Procedure) Rules 2010

M25 junction 28 scheme

Development Consent Order 202[x]

9.112 Applicant's comments on the London Borough of Havering's Deadline 7 submissions

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1. Purpose and structure of this response

- 1.1.1 This document provides the comments of the applicant, Highways England, in response to the London Borough of Havering's written summary of Issue Specific Hearing 3 (ISH3) (REP7-033) and response to the updated draft DCO (REP7-034) submitted to the Examining Authority (ExA) on or before Deadline 7 (20 May 2021).
- 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. REP7-033 London Borough of Havering written summary of Issue Specific Hearing 3

| Response reference: | Question | Highways England Response |
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| REP7-033-02 | <p>Traffic and Access – Provision for Non-Motorised Users</p> <p>Questions 2-1 to 2.5</p> <p>[...]</p> <p>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</p> | <p>Highways England submitted at Deadline 7 further information on the Non-Motorised User (NMU) improvement scheme including delivery and cost of both the central section within the Order limits and the wider NMU scheme (REP7-021). This explained that Highways England will not be seeking financial contributions for the NMU scheme from others and that Highways England will be delivering not only the central section but in due course the entire NMU scheme.</p> |

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| | future commitments. We have raised these issues with the Applicant. | |
| REP7-033-03 | 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. | See REP7-033-02 above. |
| REP7-033-04 | 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. | By entering into a planning obligation for the works the central section of the integrated NMU scheme can be secured thereby addressing the concerns raised by the ExA that this section should be delivered alongside the DCO scheme. The obligation would be given to the London Borough of Havering as the relevant local planning authority for the majority of the central section and the entirety of the M25 proposed loop road and, in short, would require the central section to be delivered before the M25 loop road opens. |
| REP7-033-05 | LB Havering would further make the point that if the priority of the Applicant is to deliver the central section of the route | To include any changes to the DCO Scheme at this stage would require a change application to be submitted and accepted by the ExA. Highways England does not consider the central section to form part of |

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| | <p>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.</p> | <p>the DCO scheme and therefore should not form part of the DCO (see REP7-033-04 above). In addition Highways England does not consider this to be practicable or necessary when the central section can be secured by way of a planning obligation.</p> |
| REP7-033-06 | <p>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.</p> | <p>See Deadline 7 submission (REP7-021).</p> |
| REP7-033-07 | <p><u>2.6 The adequacy of the outline Traffic Management Plan (TMP)</u></p> <p>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.</p> | <p>The amended Outline TMP (REP7-017) submitted at Deadline 7 includes reference to the proposed temporary overnight closures of the A12 eastbound off-slip at junction 28 and their anticipated frequency in Tables 2-3, 2-4 & 2-5 and paragraph 2.3.13.</p> |
| REP7-033-08 | <p>LB Havering would further state that there appears to be a discrepancy between the</p> | <p>See response REP7-033-07 above. Highways England's response to London Borough of Havering response to written question TA 2.4</p> |

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| | <p>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.</p> <p><i>Applicant's response to WQ TA 2.4 at Deadline 5 (REP5-041)</i></p> <p><i>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 Mounnessing 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.</i></p> <p><i>Emergency services will be allowed through the temporary traffic management arrangements if necessary. As any temporary overnight road closures are by</i></p> | <p>(REP6-013) supersedes Highways England's response to written question TA 2.4 at Deadline 5 (REP5-041) regarding amending the Outline TMP to include reference to the temporary overnight closures of the A12 eastbound off-slip.</p> |

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| | <p><i>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.</i></p> <p><i>Applicant's response to LBH response to WQ TA 2.4 (REP6-013)</i></p> <p><i>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.</i></p> <p><i>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</i></p> <p><i>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</i></p> | |

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| | <p>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.</p> | |
| REP7-033-10 | <p>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.</p> | <p>Please refer to paragraph 3.1.47 of Highway England's written summary of Issue Specific Hearing 3 (ISH3) (REP7-018) regarding the insignificant impact that construction traffic U-turning at Gallows Corner will have on the operational performance of the junction.</p> <p>Restricting construction traffic movements to outside of the peak periods is unnecessary as the amount of construction traffic forecast to be generated by the Scheme during the peak periods is estimated to be around 12 vehicles per hour or up to one vehicle every 5 minutes each way. This volume of additional traffic is minimal in comparison to current traffic volumes and will, therefore, have a negligible impact on the operational performance of the road network, including Gallows Corner.</p> <p>Furthermore, the sizes of the work sites for construction of the Scheme have been kept to a minimum to reduce temporary land take and the associated impacts that they have on the surrounding area. Consequently, the space available within the work sites to stockpile materials and equipment needed for construction of the Scheme has also been kept to a minimum and is based on a strategy of just in time deliveries. Therefore, restricting deliveries of construction materials and equipment to outside of peak periods is likely to have an adverse impact on the efficiency of construction, since as a result materials and equipment may not be available when they are required for</p> |

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| | | construction activities. This could potentially result in the overall construction programme having to be extended. |
| REP7-033-12 | <p>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.</p> | <p>Highways England recognises that the London Borough of Havering has a similar works embargo for its roads to the Essex County Council embargo in the lead up to Christmas, even though the London Borough of Havering embargo is not specifically referred to in the Outline TMP (REP7-017). Highways England's appointed Principal Contractor will respect the London Borough of Havering embargo when preparing the Final TMP for submission to and approval by the Secretary of State in the same way it will respect the Essex County Council embargo.</p> |
| REP7-033-13 | <p><u>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.</u></p> | <p>Highways England made oral submissions at ISH3 as to why it did not consider it necessary to produce a CoCP for the Scheme. See paras 3.1.52 to 3.1.60 of REP7-018. It further noted in its response to the London Borough of Havering that the desire for a CoCP was not raised in pre application consultations (REP6-034-01 in (REP7-020). It is unnecessary to have a CoCP requirement as the Outline CEMP and REAC will suffice, as for nearly all other Highways England DCOs.</p> |

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| | <p>LB Havering remains of the view that a Code of Construction Practise (CoCP) is required and should be scrutinised through the Examination process.</p> <p>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.</p> | |
| REP7-033-14 | <p>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.</p> | <p>Section 2.3.47 of the Outline TMP (REP7-017) describes the type of measures that are likely to be included in the Workforce Travel Plan. Please also refer to Highways England's response REP6-034-03 (REP7-020).</p> |
| REP7-033-15 | <p>LB Havering would suggest that one of the key benefits of a CoCP is that it brings together the following processes:</p> | <p>The Principal Contractor will produce a Construction Phase Plan prior to the commencement of construction in accordance with the CDM regulations 2015 which would cover general site management, management of areas around the work compounds for NMU's and</p> |

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| | <ul style="list-style-type: none"> • 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 <p>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.</p> <p>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</p> | <p>parking management. The contractor's commitments to low emission vehicle is covered under point AQ2.1 of the REAC (REP5-028).</p> <p>Details of deliveries and collections would be included in the TMP as indicated in section 2.3 of the outline TMP (REP7-017).</p> <p>Regarding neighbour engagement, the Outline CEMP includes the production of a Community Engagement Plan (CEP). Moreover, an outline CEP has now been produced and is submitted at Deadline 8 (TR010029/EXAM/9.110).</p> <p>Finally, permitted hours of working and the requirement for the submission of notices are contained within the REAC (REP5-028).</p> <p>All of the information would therefore be provided within the documents noted above and the requirement for a CoCP to repeat this information would be unnecessary.</p> |

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| | any construction sites operating in the vicinity need to be included in the CoCP. | |
| REP7-033-18 | <p>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:</p> <p><i>Code of construction practise</i></p> <p><i>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.</i></p> <p><i>(2) The code of construction practice must reflect the mitigation measures included in the environmental statement and the</i></p> | <p>Highways England confirmed at ISH3 that Highways England does not intend to produce a CoCP for the Lower Thames Crossing scheme together with a CEMP as they are in essence the same thing (see para 3.1.59 of REP7-018). Highway England acknowledges that for the M1 Junction 10A DCO scheme there was both a CEMP and a CoCP requirement, however as has been explained previously this is not standard practice for Highways England schemes.</p> |

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| | <p><i>requirements relating to construction of the authorised development set out in this Schedule.</i></p> | |
| REP7-033-19 | <p>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.</p> <p>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.</p> <p>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</p> | <p>An Outline Community Engagement Plan (CEP) is submitted at Deadline 8 (TR010029/EXAM/9.110) which outlines the measures which would be undertaken by the Principal Contractor in engaging with the local community during the construction process.</p> <p>In regard to the request for a financial contribution of £200k per annum over a three year period, and a further £100k per annum over the course of a three year period, this is a new request over and above the Council's request for various payments under section 106 TCPA 1990 planning obligations which Highways England responded to in response REP3B-006-15 of document REP4-010.</p> <p>Highways England maintains the position set out in the abovementioned response in that it is not necessary for any further financial contributions to be made to mitigate any impacts of the Scheme. Moreover, paragraph 56 of the NPPF notes that a planning obligation should only be sought where it meets the following three tests:</p> <ol style="list-style-type: none"> a) necessary to make the development acceptable in planning terms; b) directly related to the development; and c) fairly and reasonably related in scale and kind to the development. |

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| | <p>construction traffic or traffic management measures (lane narrowings).</p> <p>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.</p> <p>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.</p> <p>These contributions will further strengthen the case that the DCO Scheme is compliant with the NPS NN.</p> | <p>In regard to test a) no planning policy justification has been provided to support the request for the obligation. The Case for the Scheme (APP-095) provides a review of the Scheme against current and emerging planning policy and it is concluded that with the proposed mitigation measures included, the Scheme is compliant with those policies. Further financial obligations are not necessary to provide mitigation for the Scheme.</p> <p>In regard to test b) the proposed obligations are not directly related to the Scheme itself in that they would be directed towards Borough wide projects, the need for which are not driven by the Scheme.</p> <p>In regard to test c) the requested obligations, totalling £900k over a three year period, have not been justified or quantified. The request is therefore not fair and reasonable related in scale and kind to the Scheme.</p> <p>In light of the above, the request for the financial obligations is not appropriate.</p> |

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| REP7-033-20 | <p><u>3.Noise and Vibration</u></p> <p>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.</p> <p>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.</p> <p>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.</p> | See response REP7-033-23 below. |
| REP7-033-21 | 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. | Please see Highways England’s response to REP6-032-02 (REP7-020). Highways England will revise Chapter 6 of the Environmental Statement (ES), the noise sections of the Outline CEMP, REAC and the Outline DNNMP in respect of the recommendations made on vibration mitigation measures to ensure greater clarity and consistency in the language used. The documents will be updated no later than |

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| | | Deadline 9 and the proposed changes have been provided to the London Borough of Havering for review. |
| REP7-033-22 | <p>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."</p> | <p>The construction noise and vibration mitigation has been designed to avoid significant adverse effects, such that all "significant adverse effects" are mitigated down to be "adverse effects". Defining "noisy works" to include works that are adverse but not significant adverse would require applying under Section 61 for the majority of daytime works near receptors.</p> <p>Highways England maintains that for daytime activities those that are "noisy" are those sufficient to generate a significant adverse effect and would not include those that generate adverse effects which are not significant.</p> <p>Highways England will apply under Section 61 for all night-time works.</p> |
| REP7-033-23 | <p>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.</p> <p>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</p> | <p>Highways England confirms that the two concerns from the London Borough of Havering will be implemented in the next iteration of the Outline DNNMP that will be included in Appendix F of the Outline CEMP.</p> |

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| | <p>the DNNMP should be made to address this concern:</p> <ul style="list-style-type: none"> • 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". <p>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.</p> | |
| REP7-033-24 | <p><u>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.</u></p> <p>LB Havering offered no comments during the Issue Specific Hearing concerning this matter. Following a review of the evidence</p> | Please see Highways England's response to REP6-036-05 (REP7-020). |

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| | <p>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).</p> | |
| REP7-033-25 | <p><u>3.3 Whether control of noise should form a separate Requirement in the draft DCO [REP6- 005].</u></p> <p><i>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:</i></p> <p><i>(a) noisy or</i></p> <p><i>(b) undertaken at weekend; or</i></p> <p><i>(c) undertaken out of hours: or</i></p> | <p>Highways England remains of the view put forward at ISH3 (paras 4.1.16/ 4.1.17 of REP7-018) that a separate requirement on Section 61 consents is not necessary. Highways England has set out in the Outline CEMP and in the REAC that Section 61 consents need to be applied for in certain situations. The Secretary of State must approve the final CEMP following consultation with the local planning authority. If the final CEMP did not include reference to Section 61 consents (which is not proposed) then the London Borough of Havering would be able to raise this concern with the Secretary of State and raise the commitments made during this examination both in writing and orally by Highways England.</p> |

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| | <p><i>(d) undertaken at night-time and outside the approved times set out in the CEMP [section 5.3 of outline Construction Environmental Management Plan]</i></p> <p><i>Thereafter the construction works shall be undertaken by the Principal Contractor in accordance with any approved Section 61 consent'</i></p> | |
| REP7-033-26 | <p>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.</p> | See response REP7-033-25 above |
| REP7-033-27 | <p>Should Requirement 4 be redrafted to remove the word “substantially”, this would satisfy LB Havering’s concerns on this particular matter and an additional</p> | <p>See response REP7-033-25 above. Furthermore, removing the term ‘substantially’ risks the contractor being unable to develop the CEMP in the most appropriate way following detailed design. The term is not intended to allow Highways England to avoid undertaking certain works</p> |

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| | <p>requirement for noise control would not be necessary.</p> | <p>or mitigations (and any suggestion that it was doing so could be raised in consultation response for consideration by the Secretary of State before giving final approval to the CEMP), but simply to ensure the requirement is proportionate to reflect the current stage of the design. As has been highlighted previously the SoS's decision letter on the A1 Birtley to Coalhouse Scheme agreed that <i>"substantially in accordance with... achieves the desired aims of both parties by providing an appropriate amount of certainty and flexibility given the potential for slight variations at detailed design"</i>.</p> |
| REP7-033-32 | <p><u>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.</u></p> <p>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.</p> | <p>As previously submitted during the examination (see DCO 1.20 of REP2-011) in response to the ExA's first Written Questions, for Highways England Schemes it is the Secretary of State who is best placed to be discharging the requirements. This reflects the processes and procedures usually employed on Highways England Schemes. This approach has recently been supported on the A303 Sparkford DCO where Highways England successfully had a proposed requirement with local authority approval reversed so that the Secretary of State became the discharging authority in line with all of the other requirements in that Order.</p> |

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| | <p>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.</p> <p>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.</p> | |
| REP7-033-34 | <p>5. Matters for Clarification</p> <p>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</p> | <p>Highways England's amended Schedule 2, Requirement 13(2) in the dDCO submitted at Deadline 7 (REP7-003) to ensure Work No. 2 (the new A12 eastbound off slip) is not opened for traffic until any appropriate measures for the control of deer including deer fencing, identified following consultation with the relevant Planning authority and relevant Highways authority on matters relating to its function has</p> |

| Response reference: | Question | Highways England Response |
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| | <p>regard to Chapter 2 of the EHSP. Confirmation that both documents will be added to the next iteration of the CEMP.</p> <p>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.</p> <p>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.</p> | <p>been installed.</p> <p>Furthermore, a new commitment will be added to the next iteration of the REAC, commitment GN0.1 in Table 1.1 outlining that appropriate fencing and/or other measures will be installed during construction to reduce the risk of deer collisions with traffic along the A12 and other roads.</p> |

| Response reference: | Question | Highways England Response |
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| REP7-033-36 | <p>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].</p> <p>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.</p> | <p>Highways England outlined at ISH 3 that in order to not overburden interested parties with too many versions of the Outline LEMP, Highways England proposes to wait for the acceptances of the changes before submitting an updated Outline LEMP (see para 6.1.10 in the written submission of Highways England's case put orally at ISH 3 on Environmental matters held on 12 May 2021) (REP7-018)).</p> <p>The Outline LEMP will be submitted by Deadline 9 to include the updates following discussions with the London Borough of Havering and the accepted changes to the Scheme.</p> |

| Response reference: | Question | Highways England Response |
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| | <p>LB Havering has suggested amending table 5.7 with a species mix as set out in its response to WQ2 LV2.4.</p> <p>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.</p> | |
| REP7-033-38 | <p>5.4 Applicant to confirm whether the tri-party agreement with the Gardens of Peace Muslim Cemetery will be submitted into the Examination</p> <p>It was noted in the Applicant's Deadline 6 submission (REP6-014) that they suggested that LB Havering would look on an application for a temporary Car Park favourably.</p> <p>LB Havering is not in a position to give any indication of whether planning permission</p> | <p>Highways England intends to submit a planning application for the temporary car park in discussion with representatives from the Gardens of Peace. Given the scale of the development, that it is only needed for a period of 6 months and the need for it in connection with the continued operation of the burial ground during construction, Highways England anticipates that the permission will readily be forthcoming. Highways England has been in contact with the London Borough of Havering regarding the requirements for this planning application and intends to submit the application by the end of the examination.</p> |

| Response reference: | Question | Highways England Response |
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| | <p>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.</p> <p>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.</p> <p>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 7th July</p> | |

3. REP7-034 Applicant's comments on London Borough of Havering's response to updated draft DCO (REP6-010)

| Response reference: | Question | Highways England Response |
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| REP7-034-03 | <p>Following on from the discussions at ISH3 concerning the application for S61 consent for noisy works, LB Havering wishes to put forward the following wording for an additional Requirement which it believes would address its concerns regarding the certainty of the Principal Contractor making the application for S61 consent outside of the noisy hours referenced in the current outline CEMP.</p> <p>'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:</p> <ul style="list-style-type: none"> (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) | <p>Highways England remains of the view put forward at ISH3 (paras 4.1.16 and 4.1.17 of REP7-018) that a separate requirement in respect of Section 61 consents is not necessary. Highways England has set out in the Outline CEMP and in the REAC that Section 61 consents will be applied for in certain situations. The Secretary of State must approve the final CEMP following consultation with the relevant planning authority and others. If the final CEMP did not include reference to Section 61 consents (which is not proposed) then the London Borough of Havering would be able to raise this concern with the Secretary of State and raise the commitments made during this examination both in writing and orally by Highways England on this matter.</p> |

| Response reference: | Question | Highways England Response |
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| | Thereafter the construction works shall be undertaken by the Principal Contractor in accordance with any approved Section 61 consent' | |
| REP7-034-04 | As LB Havering set out at Issue Specific Hearing 3, Havering would define 'noisy' works as any construction activity that causes an adverse or significant adverse impact (post mitigation) during day or night | Please see Highways England's response to REP7-033-22 in response to London Borough of Havering's written summary of ISH3 in Section 2 of this document. |
| REP7-034-05 | If the Applicant is unwilling to undertake a separate Requirement of this nature, LB Havering would support the removal of the word "substantially" contained in Requirement 4 to give the Council certainty that the content of the outline CEMP including S61 consents will be delivered through the final CEMP | Please see Highways England's response to REP7-033-27 in response to London Borough of Havering's written summary of ISH3 in Section 2 of this document. |

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