

## M25 junction 28 improvement scheme

TR010029

### 9.122 Applicant's response to Transport for London's Deadline 8 submission

Rule 8(1)(k)

Planning Act 2008

Infrastructure Planning (Examination Procedure) Rules 2010

Volume 9

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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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### 9.122 Applicant's response to Transport for London's Deadline 8 submission

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| <b>Rule Number:</b>                           | Rule 8(1)(k)  |
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## 1. Purpose and Structure of this document

- 1.1.1 This document provides the comments of the applicant, Highways England, in response to the two documents Transport for London (TfL) submitted to the Examining Authority (ExA) at Deadline 8 (9 June 2021) namely;
- Response to Examining Authority's Rule 9 and 17 letter (26 May 2021) (REP8-037)
  - Response to submissions made at Deadline 7 (REP8-038).
- 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 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. REP8-037 Transport for London's Response to the Examining Authority's (ExA's) Rule 9 and 17 letter (26 May 2021)

| Response reference: | Question   | Highways England Response   |
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| REP8-037-04         | <p><b>Housing growth</b></p> <p>Table 4.1 of the London Plan 2021 sets out ten-year targets for housing completions including 12,850 new homes in Havering. This is an increase over the housing targets in the 2016 London Plan. TfL has raised concerns during the examination for the M25 Junction 28 improvements scheme that the modelling of traffic impacts has not adequately considered the level of growth in new homes expected in London, including in its Relevant Representation (examination document reference RR-028 paragraph 7.2) and Written Representation (REP2-036 paragraph 7.11). The Applicant's methodology considers a small number of specific developments in close proximity to the DCO boundary rather than the forecast growth in the London Plan and Local Plans. While the Applicant has undertaken a high growth sensitivity test which showed that the traffic impacts of the scheme are manageable, it is not clear whether the level of growth assessed is higher, lower or</p> | <p>Highways England has set out its position regarding sub-regional growth and housing forecasts previously in paragraphs 20.1.3 to 20.1.9 of REP3A-020 and believes that the traffic forecasting and growth which has been considered is wholly appropriate. TfL's position that any further sensitivity testing is unlikely to substantially change the relative impact of the scheme on traffic flows and delays is noted.</p> |

| Response reference:       | Question   | Highways England Response  |
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|                           | <p>equivalent to the housing targets in the London Plan.</p> <p>The Applicant has resisted undertaking any further sensitivity tests that were requested. Based on the information provided by the Applicant that has been made available, TfL reached the conclusion that, on balance, the inclusion of the levels of growth included in the London Plan 2021 and adopted or emerging Local Plans is unlikely to substantially change the relative impact of the scheme on traffic flows and delays. However, it would have been more appropriate for the Applicant to have provided evidence to demonstrate this rather than some uncertainty remaining.</p> |  |
| <p><b>REP8-037-07</b></p> | <p><b>Policy T2 – Healthy Streets</b></p> <p>This policy states that: “Designs for new or enhanced streets must demonstrate how they deliver against the ten Healthy Streets Indicators”. It further requires that “Development proposals should:</p> <ol style="list-style-type: none"> <li>1) demonstrate how they will deliver improvements that support the ten Healthy Streets Indicators in line with Transport for London guidance</li> </ol>   | <p>It is Highways England’s view that the Scheme would accord with the requirements of Policy T2. The NMU improvement scheme would support the ten Healthy Streets Indicators set out on page 405 of the London Plan (March 2021) as it would contribute to reducing the dominance of vehicles on London streets by encouraging the use of walking and cycling through a significantly improved NMU route, and it would also provide enhanced connections between Harold Park and Brentwood through junction 28.</p> |

| Response reference: | Question   | Highways England Response |
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|                     | <p>2) reduce the dominance of vehicles on London's streets whether stationary or moving</p> <p>3) be permeable by foot and cycle and connect to local walking and cycling networks as well as public transport."</p> <p>The M25 Junction 28 scheme has not been assessed against the Healthy Streets Indicators. However, with the inclusion of the upgrade to the Non-Motorised Users (NMU) route now to be delivered as part of the scheme, it can now be shown that the scheme improves the local walking and cycling network. This measure is aligned with Healthy Streets principles and would contribute towards achievement of mode share targets by offering enhanced opportunities for active travel. Dave S It is Highways England's view that the Scheme would accord with the requirements of Policy T2. The proposed NMU improvement scheme would support the ten Healthy Streets Indicators set out on page 405 of the London Plan (March 2021), would reduce the dominance of vehicles on London streets by encouraging the use of walking and cycling through a significantly improved NMU route, and would provide enhanced</p> |                           |

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|                     | connections between Harold Park and Brentwood trough junction 28.   |   |
| <b>REP8-037-08</b>  | <p>Reference is also made in paragraph 10.2.8 of the London Plan 2021 to the Mayor's ambition to reach Vision Zero by 2041 - a long-term vision to reduce road danger so that no deaths or serious injuries occur on London's streets. While the Vision Zero action plan has not been specifically referenced in the Transport Assessment for the M25 Junction 28 improvements scheme, the Applicant set out in its response to Relevant Representations (REP1-002 table row RR-028-12) that the aims of the Vision Zero action plan align with the National Policy Statement for National Networks "which will be the primary basis for decision making for the Scheme. There is a strong alignment between the aims of the Mayor's Transport Strategy and the Vision Zero plan with the objectives and the expected outcomes of the Scheme relating to a reduction in incidents and improving safety."</p> <p>TfL agrees that on the basis of the above, the scheme is broadly aligned with Vision Zero and therefore the London Plan 2021 on this specific issue. However, TfL remains concerned about the lack of evidence provided</p> | Please refer to paragraph REP8-038-27 of Highways England's response to TfL's response to submissions made at Deadline 7 in section 3 (REP7-022). |



| Response reference:       | Question  | Highways England Response   |
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|                           | <p>by the Applicant about the safety of the pedestrian crossings of the A12 eastbound off slip road and A12 westbound on slip road. These concerns are outlined in more detail in section 4.2 of TfL's main Deadline 8 submission.</p>  |   |
| <p><b>REP8-037-09</b></p> | <p><b>Policy T4 – Assessing and mitigating transport impacts</b></p> <p>Policy T4 emphasises that Transport Assessments should focus on embedding the Healthy Streets Approach. It further requires that:</p> <ul style="list-style-type: none"> <li>• “Where appropriate, mitigation, either through direct provision of public transport, walking and cycling facilities and highways improvements or through financial contributions, will be required to address adverse transport impacts that are identified.”</li> <li>• “The cumulative impacts of development on public transport and the road network capacity including walking and cycling, as well as associated effects on public health, should be taken into account and mitigated.”</li> <li>• “Development proposals should not increase road danger.”</li> </ul> | <p>In regard to the to safety of the new crossings as part of the NMU scheme, please refer to paragraph REP8-038-27 of Highways England's response to TfL's response to submissions made at Deadline 7 in section 3 (REP7-022).</p> |

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|                           | <p>The pedestrian and cycle improvements that will now be delivered by the M25 Junction 28 improvements scheme as part of the Designated Funds upgrade to the NMU route improve walking and cycling, as set out in section 3.4 above. With the exception of the pedestrian crossings of the new A12 eastbound off slip road and westbound on slip road (see paragraph 3.5.4 above), sufficient evidence has also been provided that the scheme does not increase road danger.</p>   |  |
| <p><b>REP8-037-12</b></p> | <p>During the construction phase of the project, measures have been identified to provide a safe route for those walking and cycling. However, for those travelling to and from the north side of the A12, some walkers and cyclists will need to take a much longer route via the subway under the A12 at Petersfield Avenue while the pedestrian route along the north side of the A12 is closed. The Applicant will need to ensure this route is safe with appropriate signage to avoid the risk of pedestrians or cyclists attempting to cross the A12 further east at unsafe locations. Provided these measures are put in place, the scheme can be considered to be compliant with the London Plan 2021 in this regard.</p> | <p>The A12 subway at Petersfield Avenue is part of Route 136 of the London Cycle Routes and is of suitable quality for pedestrians and cyclists to use. As part of the final Traffic Management Plan (TMP), appropriate signage would be in place to direct pedestrians and cyclist to this underpass while construction works are taking place.</p> <p>It is noted that for residents in Woodstock Avenue, Kenilworth Avenue on the north side of the A12 to the east of Petersfield Avenue, the additional distance involved in using the subway under the A12 is less than 250m (approximately no more than an extra 3.5 minute walk time) compared to that via the north side of the A12 eastbound off-slip. For other users, including residents on the north side of the A12 to the west of the subway there will be no additional walking/cycling distance involved.</p> <p>Please also see the detailed response to point REP8-038-27 below.</p> |

| Response reference: | Question | Highways England Response |
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**3. REP8-038 Transport for London's Response to submissions made at Deadline 7**

| Response reference: | Question  | Highways England Response            |
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| <p>REP8-038-02</p>  | <p><b>2 HIGHWAY AUTHORITY FOR THE NEW A12 EASTBOUND OFF SLIP ROAD AND PROTECTIVE PROVISIONS</b></p> <p><u>2.1 Summary</u></p> <p>2.1.1 TfL maintains the position that:</p> <ul style="list-style-type: none"> <li>• it does not believe that it is appropriate or cost effective for TfL to be the highway authority for the new A12 eastbound off slip road; and</li> <li>• if it were to become the highway authority for the new A12 eastbound off slip then it should be fully protected from the costs and risks associated with that arising from a third party project, in this case, the improvements being</li> </ul> | <p>Please see below REP8-038-04.</p> |

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|                           | <p>made by the Applicant to Junction 28 of the M25.</p> <p>2.1.2 These issues are dealt with in turn in sections 2.2 and 2.3 of this document below.</p>   |                                      |
| <p><b>REP8-038-03</b></p> | <p><b>2.2 Highway authority for the new A12 eastbound off slip road</b></p> <p>2.2.1 TfL is currently the highway authority for the A12 eastbound off slip road. This is a standalone off slip that links into the roundabout for Junction 28 for which the Applicant is the highway authority.</p> <p>2.2.2 The existing off slip is to be replaced in its entirety by a new off slip, in a new location, which will:</p> <ul style="list-style-type: none"> <li>• be constructed by the Applicant;</li> <li>• be considerably longer and involve more complex infrastructure than the existing off slip;</li> <li>• oversail the Applicant's new loop road, with the Applicant proposed to be responsible for the Maylands Bridge on the A12 eastbound off slip that passes over the loop road; and</li> </ul> | <p>Please see below REP8-038-04.</p> |

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|                     | involve mitigation for the impacts of the Applicant's scheme on surrounding landowners.   |  |
| <b>REP8-038-04</b>  | <p>2.2.3 The highway authority for the new off slip needs to be named under the DCO. Simply because TfL was the highway authority for the existing off slip does not mean that the highway authority should be TfL following its replacement. TfL believes that all of the circumstances should be considered in determining who the appropriate highway authority should be for the new off slip. This consideration must take into account the nature of infrastructure and the cost to the public purse. TfL is clear that the public purse would be better served by the Applicant maintaining the new off slip. If the Applicant was to be responsible for the new off slip then:</p> <ul style="list-style-type: none"> <li>• A single highway authority would be responsible for the off slip rather than there being complex interfaces where disputes may arise as to responsibility. The boundary of TfL's responsibility under the current proposals remain unclear. Particular issues of concern are interconnected drainage between the loop road and the new off slip, environmental mitigation arising from</li> </ul> | <p>The existing A12 eastbound off-slip is currently part of the TfL network (TLRN), not the Strategic Road Network (SRN). Highways England is not proposing to build an additional new off-slip, but to replace an existing one in close proximity, remaining within TLRN network geographic area. It is therefore appropriate to replicate the existing established position.</p> <p>The dDCO (REP8-002) does make specific provision for TfL to be the highway authority for the new eastbound off slip in article 16(1)(b) and Part 2 of Schedule 4.</p> <p>Please see Highway's England response on this at Deadline 7 (REP7-022) and Deadline 8 (REP8-015).</p> |

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|                     | <p>construction and bridge supports for Maylands Bridge. Plans for the proposed split of responsibility between the Applicant and TfL remain unavailable.</p> <ul style="list-style-type: none"> <li>• There would be a single highway authority for the roads surrounding the neighbouring landowners allowing a single point of contact for issues arising and a single highway authority responsible for the mitigation arising from the scheme.</li> <li>• A single highway authority would be responsible for both the construction and then subsequent operation of the new off slip. This avoids the risk of disputes in relation to defects arising from construction and relates to the issue of latent defects which is covered further in Section 2.3 below.</li> </ul> <p>The Applicant is already going to be responsible for infrastructure of a very similar nature to that of the new off slip in the vicinity of M25 Junction 28, given that it will already be responsible for all the other attenuation ponds required, several bridge and retained structures, the roundabout, and the A12 eastbound on slip and westbound off slip roads at Junction 28. It would be more cost</p> |                           |

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|                           | <p>effective for the Applicant to be responsible for the new A12 eastbound off slip rather than TfL having to apply resources from elsewhere in London, and as necessary additional resources, to deal with infrastructure that is only associated with the new off slip where those resources would otherwise not be required for that area of London.</p>           |  |
| <p><b>REP8-038-05</b></p> | <p>2.2.4 As outlined further in Section 2.3 of this submission below, TfL's position is further reinforced by the Applicant not offering a commuted sum for the increased cost of maintaining the new off slip, or for any of TfL's costs in providing design input and safety assurance for the new off slip that TfL is being asked to take responsibility for.</p> | <p>Highways England does not have statutory responsibility for the local highway network and insofar as the Scheme involves TfL incurring greater expense for the management of the TLRN, this is a matter between the Department for Transport (DfT) and TfL. It would be inappropriate to hand over the entire maintenance of the local highway to Highways England, whose statutory responsibility is to maintain the SRN. It would also be not appropriate for Highways England to pay TfL to perform their statutory duties. See Highways England's response on this matter at Deadline 7 (REP7-022) para REP6- 044- 06).</p> |
| <p><b>REP8-038-06</b></p> | <p><b>2.3 Protective provisions</b><br/>         2.3.1 As indicated in paragraph 1.4 above, TfL has reviewed the protective provisions supplied by the Applicant at Deadline 7 (REP7-027) and has added its own changes. TfL's amended form of protective provisions is appended to this submission (Appendix A) with a comparison to the Applicant's proposed</p>    | <p>The parties have now reached an agreement in relation to all matters which TfL have sought to be covered in their proposed Protective Provisions with the exception of the provisions in relation to the commuted sums and costs. These outstanding issues will be a matter for the Secretary of State's determination. Highways England's position in relation to the commuted sums and costs is set out above in REP8-038-05.<br/><br/>         As a result of the parties reaching an agreement which provides suitable protections to TfL as the highway authority for the new A12</p>                                      |

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|                     | form of protective provisions submitted at Deadline 7 (Appendix B).   | eastbound off slip road, in accordance with the draft Order, no protective provisions in the Order for the benefit of TfL are therefore necessary. |
| <b>REP8-038-07</b>  | 2.3.2 The ExA will note that, where possible, TfL has accommodated changes requested by the Applicant (for example, in relation to the provisional and final certificates, road safety audit 4, and the maintenance schedule).  | Noted.   |
| <b>REP8-038-08</b>  | 2.3.3 However, as will be clear from the form of protective provisions provided by the Applicant and the comparison document in Appendix B of this submission, significant issues remain outstanding and, as they appear to be points of principle, it seems unlikely they will be resolved by the close of the examination. The particularly significant issues are set out in this section. | Please see response to REP8-38-06 above.   |
| <b>REP8-038-09</b>  | <p><b>Commuted sum and costs</b></p> <p>2.3.4 TfL is reluctantly prepared to accept responsibility for the new A12 eastbound off slip road if it were fully protected from the costs and risks associated with doing so.</p>  | Please see response to REP8-38-05 above.   |



| Response reference: | Question  | Highways England Response                |
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| REP8-038-10         | 2.3.5 However, the Applicant is not willing to pay TfL's increased costs either in respect of a commuted sum for the increased costs of maintenance for the new off slip, or in respect of TfL's costs in providing design input or safety assurance for the new off slip for which TfL is proposed to become responsible.  | Please see response to REP8-38-05 above. |
| REP8-038-11         | 2.3.6 The Applicant states in its response to TfL's Deadline 6 submissions (REP7-022 Section 2 table row REP6-044-06 that: "Highways England does not have statutory responsibility for the local highway network and insofar as the Scheme involves TfL incurring greater expense for the management of the TLRN, this is matter between Department for Transport (DfT) and TfL. It would be inappropriate to hand over the entire maintenance of the local highway to Highways England, whose statutory responsibility is to maintain the Strategic Road Network (SRN). Any additional cost that TfL may incur as a result of the relevant section of the A12 being replaced, ought to be considered in the context of, and balanced against, the benefits of the Scheme which will be experienced at | Please see response to REP8-38-05 above. |

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|                     | local level by the local community and not just on a regional/national basis.”  |  |
| <b>REP8-038-12</b>  | <p>2.3.7 There are several significant flaws to this argument</p> <ul style="list-style-type: none"> <li>It is firstly not agreed that this new piece of road infrastructure should become part of the local highway network, in this case part of the TLRN. As stated in section 2.2 above, TfL believes it could and should become part of the SRN.</li> <li>Why should a local highway authority be responsible for finding the additional funding arising from a third-party scheme whether from the DfT or otherwise? It falls to the promoter of the scheme to ensure that all costs arising from the scheme have been put in place in order to deliver and implement the scheme. As TfL made clear in its Deadline 6 submission (REP6-044 paragraph 2.8), the ExA for the A303 Sparkford to Ilchester Dualling DCO made it clear that a public authority should be recompensed for the additional work occasioned by a development.</li> <li>Payment of additional costs incurred by a local highway authority arising from the scheme is</li> </ul> | <p>Please see response to REP8-38-05 above.</p> <p>Highways England has sufficient funding for the delivery and implementation of the Scheme including the new off-slip. Highways England does not agree or consider it appropriate that the funds in respect of the delivery and implementation of the Scheme should cover TfL’s responsibility for long-term maintenance of the replacement off-slip and payment of costs for the performance of their statutory duties.</p> <p>In relation to A303 Sparkford to Ilchester Dualling DCO, Highways England’s position remains that this is an exception rather than a precedent to be followed.</p> |

| Response reference: | Question  | Highways England Response |
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|                     | <p>not handing over the entire maintenance of the local highway to Highways England. It is simply covering the additional costs to the local highway authority arising from the scheme.</p> <ul style="list-style-type: none"> <li>It is also not correct to assert that benefits at a local level need to be considered in balancing whether a local highway authority should bear responsibility for additional costs. That may have relevance where the funding package for a proposed development is being put together prior to a scheme being brought forward for consent. However, it is only recently that the Applicant has indicated that it is not willing to pay TfL additional costs arising from the scheme. This did not form part of the consultation for the DCO and consequently there is no funding in place to cover such costs. This leaves a material gap in the funding of the scheme.</li> <li>If the increased costs associated with the replacement off slip are not to be covered from the project budget that the Applicant has for this development, then the ExA can have no confidence that TfL will be in a position to apply sufficient resources to work with the Applicant to ensure a suitable detailed design and to safely assure the new off slip, and that</li> </ul> |                           |

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|                           | <p>following the development the new off slip will be effectively operated. TfL has no budget to deal with those increased costs.</p> <p>2.3.8 The protective provisions proposed by TfL include provisions to address both costs and a commuted sum and follow the precedent created by the A303 Sparkford to Ilchester Dualling DCO.</p>   |  |
| <p><b>REP8-038-13</b></p> | <p><b>Latent defects</b></p> <p>2.3.9 The defects provision under the Applicant's proposed form of protective provisions lasts for a 12-month period. This is insufficient to deal with latent defects that become apparent after the initial defects period. TfL will not have a contractual relationship with the Applicant's contractor and the works will not be constructed for TfL. As such, without protection from the Applicant for any latent defects that arise, TfL will potentially be exposed to significant remedial costs to repair or replace relevant works arising from latent defects. This represents a significant risk to TfL and is an example of why the structure proposed by the Applicant is not</p> | <p>The parties have now reached an agreement in relation to this matter as noted in the Statement of Common Ground (TR010029/EXAM/9.11).</p> |

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|                     | efficient and does not provide value for money to the public purse.  |   |
| <b>REP8-038-14</b>  | 2.3.10 TfL notes that, in the Applicant's introduction to its form of protective provisions for TfL (REP7-027 paragraph 1.1.10), the Applicant rejects the inclusion of a latent defects provision on the basis that the earlier provisions provide TfL with sufficient protection. This is incorrect as the earlier provisions only relate to defects identified within the usual 52-week maintenance period. Latent defects may and are more likely to arise several years after opening of the new road to traffic. | Please see response to REP8-038-13 above.   |
| <b>REP8-038-15</b>  | 2.3.11 The protective provisions proposed by TfL accordingly make specific reference to latent defects to ensure that the Applicant, as the organisation with the relationship with the contractor responsible for the latent defects, is accountable for them.  | Please see response to REP8-038-13 above.   |
| <b>REP8-038-16</b>  | <b>Indemnity</b><br>2.3.12 The indemnity proposed by TfL did exclude acts as a result of TfL's negligence or   | The parties have now reached an agreement in relation to this matter as noted in the Statement of Common Ground (TR010029/EXAM/9.11). |

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|                           | <p>consequential loss. TfL has accepted the wording proposed by the Applicant in relation to the conduct and mitigation of claims, except that TfL cannot agree that it cannot settle claims without the Applicant's consent. This aligns with other indemnities in the draft DCO and is considered to be fair and reasonable by TfL.</p>   |  |
| <p><b>REP8-038-17</b></p> | <p><b>Cadent works</b><br/>           2.3.13 TfL remains concerned that, pursuant to Article 9(4) of the draft DCO, the Applicant can transfer the benefit of the DCO to Cadent to undertake Work No. 29 (diversion of the gas pipeline under TfL highway) and wishes to ensure that the works are undertaken through cooperation with and approval of TfL. It is particularly important that the works are designed and carried out with a methodology and timing that does not compromise operation of the A12. Wording has been included in the draft protective provisions proposed by TfL to address this issue.</p> | <p>The parties have now reached an agreement in relation to this matter as noted in the Statement of Common Ground (TR010029/EXAM/9.11).</p> |
| <p><b>REP8-038-18</b></p> | <p>2.3.14 The Applicant states in its introduction to its form of protective provisions for TfL (REP7-027 paragraph 1.1.18) that there is no need for a</p>   | <p>The parties have now reached an agreement in relation to this matter as noted in the Statement of Common Ground (TR010029/EXAM/9.11).</p> |

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|                           | <p>separate provision for the Cadent works but TfL disagrees. The main protective provisions focus on works undertaken by the Applicant to modify existing highway or create new highway. Work No. 29 is different in that it impacts TfL's existing highway otherwise unaffected by the scheme and which will remain operational during the scheme, including the A12 westbound carriageway and westbound on slip road. It is so significant that it has the potential to adversely impact on the integrity of the existing highway and consequently operation of the existing highway, not only during the carrying out of the works but also post-construction, including future maintenance of both the existing highway and the diverted gas pipeline. As such, a higher degree of scrutiny, approval and oversight is required by TfL as highway authority for the relevant affected highway. It is important to highlight that this would be the case irrespective of whether TfL was responsible for the new A12 eastbound off slip.</p> |  |
| <p><b>REP8-038-19</b></p> | <p><b>3. TfL's proposed amendments to the draft DCO</b><br/>           3.1 If the made DCO does not include some or all protective provisions in favour of TfL as TfL has</p>  | <p>As stated above, Highways England and TfL have reached an agreement in relation to protection of TfL in respect of maintenance of the new A12 off slip road apart from the issues of costs, and commuted sums. Therefore, it is agreed between the parties that no provisions set</p> |

| Response reference: | Question  | Highways England Response  |
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|                     | <p>requested, but does require TfL to maintain the new A12 eastbound off slip road or any other features within the scheme, then there are elements of the protective provisions as proposed that should nevertheless be included in the DCO if they are not contained in protective provisions, namely:</p> <ul style="list-style-type: none"> <li>• to require the Applicant to agree a maintenance schedule setting out the clear split of maintenance responsibilities;</li> <li>• to oblige the Applicant to provide TfL with all the necessary land and rights for TfL to effectively manage and maintain the new off slip road; and</li> <li>• to ensure that TfL approves Work No. 29 involving Cadent Gas.</li> </ul> <p>3.2 In addition, TfL proposes the amendments below.</p> | <p>out in paragraph 3.1 of TfL's deadline 8 submission would need to be included in the DCO.</p> |
|                     | <p><b>Article 16(1)(b)</b></p> <p>To be deleted and replaced with a new Article 16(2):</p> <p><i>Subject to all necessary land and rights having been vested in Transportfor</i></p>  | <p>Please see response to REP8-038-19.</p>   |



| Response reference: | Question   | Highways England Response |
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|                     | <p><i>London for the future management and maintenance to the reasonable satisfaction of Transport for London, the roads described in Part 2 (Transport for London network) of Schedule 4 (classification of roads, etc.) will be-</i></p> <p>(a) <i>GLA Roads as if they had become so by virtue of an order under section 14B (order of the authority changing what are GLA roads) of the 1980 Act specifying that date as the date on</i></p> |                           |

| Response reference: | Question                      |   | Highways England Response |
|---------------------|-------------------------------|---|---------------------------|
|                     |                               | <p><i>which they were to become GLA roads; and</i></p> <p><i>(b) Transport for London will be the highway authority for those roads.</i></p> <p>Consequential amendments to be made to the numbering in the draft DCO as appropriate.</p> |                           |
|                     | <p><b>New requirement</b></p> | <p>To be inserted into Schedule 2:</p> <p><i>No part of that part of the authorised development comprising the A12 Eastbound Off Slip Road is to commence until a maintenance schedule and plan setting out the split of</i></p>          |                           |

| Response reference:       | Question   |  | Highways England Response  |
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|                           |  | <p><i>future maintenance responsibility between the undertaker and Transport for London for the A12 Eastbound Off Slip Road has been submitted to and approved in writing by Transport for London.</i></p>   |  |
|                           | <p><b>New requirement</b></p>  | <p>To be inserted into Schedule 2:<br/> <i>No part of Work No. 29 is to commence until approval has been given by Transport for London to the detailed design and specification for the works and Work No. 29 must not be constructed except in accordance with the details so approved.</i></p> |  |
| <p><b>REP8-038-21</b></p> | <p>3.3 TfL further notes that specific reference is to be included in the draft, but as yet not updated, Explanatory Memorandum to the DCO that the Applicant is the appropriate</p> |  | <p>Wording has been added at para 5.71 of the Explanatory Memorandum submitted at Deadline 9 (TR010029/APP/3.2(1))</p> |

| Response reference:       | Question  | Highways England Response   |
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|                           | <p>authority for any claims pursuant to Part 1 of the Land Compensation Act 1973, as confirmed in the written submission of the Applicant's case put orally at Issue Specific Hearing 3 (REP7-018 paragraph 5.1.19).</p>  | <p>confirming that Highways England is the appropriate authority for claims pursuant to Part 1 of the Land Compensation Act 1973.</p>       |
| <p><b>REP8-038-22</b></p> | <p><b>4 COMMENTS ON THE EXA'S PROPOSED SCHEDULE OF CHANGES TO THE DRAFT DCO</b></p> <p>4.1 TfL has reviewed the ExA's recommended amendments to the draft DCO (PD-021) and wishes to comment on two of the amendments.<br/> <u>No. 21 – Schedule 2, new requirement – Grove Farm</u></p> <p>4.2 TfL has no comments on the wording proposed by the ExA save that the site-specific plan for Grove Farm should also address the future management and maintenance of any planting, visual screening and/or acoustic fence.<br/> <u>No. 23 – Schedule 2, new requirement – Code of Construction Practice</u></p> <p>4.3 TfL is content with the proposed wording of this requirement.</p> | <p>Highways England's provided a response to the ExA's proposed amendments at Deadline 8 (REP8-010).</p>                                    |
| <p><b>REP8-038-25</b></p> | <p><b>5 COMMENTS ON OTHER DEADLINE 7 SUBMISSIONS</b></p>  | <p>Highways England can confirm that the proposed temporary closures of lane 1 on the A12 eastbound carriageway will only take place at</p> |

| Response reference: | Question  | Highways England Response   |
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|                     | <p>[...]</p> <p>5.1.3 However, a third change does cause concern. The previous version of the outline TMP included closure of Lane 1 on the eastbound A12 for tie-in works for the new slip road for up to 20 nights. The updated outline TMP states that a closure of Lane 1 will be required for a total of up to 35 days. TfL requires more information to specify whether these are all weekend days or if any lane closures are planned on weekdays at peak times. TfL previously raised concerns about whether off peak lane closures of the A12 were modelled in the Transport Assessment Supplementary Information Report (TASIR) (PDB-003), with the Applicant confirming these off peak closures have been modelled (REP6-011 section 2 table row TA 2.4 paragraphs 4.2 and 4.3). If lane closures during weekday peak periods were required, this would potentially cause significant congestion issues due to the higher traffic levels during these periods, with peak period closures presumably having not been modelled in the TASIR. Further clarification is required to provide information on the impacts of the scheme on traffic.</p> | <p>weekends and overnight and will not be in place during weekday peak or inter-peak periods.</p> |

| Response reference: | Question   | Highways England Response  |
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| REP8-038-27         | <p>5.2.2 The scope of the Designated Funds scheme does not include upgrading the pedestrian route on the north side of the A12, although a new footway will be provided alongside the new A12 eastbound off slip road. TfL accepts that the upgrade of the route on the south side of the A12 addresses the severance issue caused by the Strategic Road Network at this location. However, the route on the north side of the A12 still needs to be safe. TfL has sought confirmation several times from the Applicant that the crossing facilities for the A12 eastbound off slip and A12 westbound on slip do not raise any safety concerns. Most recently, the Applicant did not address these concerns in its response to TfL's Deadline 6 submissions, instead focusing on the Designated Funds scheme (REP7-022 section 2 table row REP6-044-21 and section 3 table row REP6-045-07).</p> | <p>The Scheme replaces the pedestrian crossing facilities on the north side of the junction on a like for like basis. Highways England have no concerns regarding the safety of the replacement provision on the basis that no accidents involving pedestrians or cyclists have been recorded at the existing crossing over the five-year period 2016 to 2020 inclusive. Therefore, the provision of a pedestrian phase for the crossing of the new A12 eastbound off slip does not form part of the NMU scheme and Highways England takes the view that such provision is not necessary for the following reasons:</p> <ol style="list-style-type: none"> <li>1. No accidents involving pedestrians or cyclists have been recorded at junction 28 over the five-year period 2016 to 2020 inclusive.</li> <li>2. The crossing is not on a significant NMU desire line. For residents in Woodstock Avenue, Kenilworth Avenue and on the north side of the A12 to the east of Petersfield Avenue, the additional distance via the Petersfield Avenue subway and the south side of the A12 is less than 250m (approximately no more than an extra 3.5 minute walk time) compared to that via the north side of the A12 eastbound off-slip.</li> <li>3. Usage of the crossing is currently very low. A survey undertaken in December 2014 covering both weekdays and a Saturday recorded no more than five NMUs using this crossing in each direction between 7am and 7pm.</li> <li>4. It is not possible to provide a controlled crossing across the A12 westbound on-slip at junction 28, so providing a controlled crossing across only the A12 off-slip would not meaningfully improve conditions for any NMUs wanting to cross north-south across the west side of the junction.</li> </ol> |

| Response reference:       | Question  | Highways England Response  |
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|                           |   | <p>Highways England therefore considers it inappropriate to further encourage pedestrians and cyclists to cross north south across the west side of junction 28 through any enhancement of the existing crossing facilities at this location and that the better and safest route for NMUs is via the Petersfield Avenue subway and the enhanced NMU route across the south side of junction 28.</p> <p>TfL has now confirmed that it is comfortable that sufficient information on this issue has been provided to satisfy its concerns as noted in email correspondence dated 23 June 2021 referenced in the final Statement of Common Ground (TR010029/EXAM/9.11(4)).</p> |
| <p><b>REP8-038-28</b></p> | <p>5.3.1 TfL welcomes the change to Schedule 2, Requirement 13 of the draft DCO to include that the new A12 eastbound off slip road cannot open to traffic until appropriate measures for the control of deer are in place. This addresses TfL's concerns over the risk of collisions between traffic and deer during the operational phase of the scheme.</p> <p>5.3.2 However, TfL's concern about the construction of the scheme resulting in changes to movements of deer which could increase the risk of collisions has not been addressed. Paragraph 6.1.2 of the written submission of the Applicant's case put orally at Issue Specific Hearing 3 (REP7-018) states that "Highways England has</p> | <p>A new commitment has been added to the Register of Environmental Actions and Commitments (REAC) (TR010029/APP/7.3)(4), commitment GN0.1 in Table 1.1 to the effect 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. This is secured under Requirement 4 as the Construction Environmental Management Plan (CEMP) 'must reflect the relevant mitigation measures set out in the REAC' and the 'construction of the authorised development must be carried out in accordance with the CEMP'.</p>  |

| Response reference:       | Question   | Highways England Response  |
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|                           | <p>considered how deer should be controlled during construction and this is set out in the response to action point 11 from Issue Specific Hearing 3". However, the response to action point 11 in this document (REP7- 019) refers to the change to Requirement 13 only, which addresses the operational phase of the scheme and not the construction phase.</p> <p>5.3.3 The Applicant therefore still needs to set out how deer movements will be managed during the construction of the scheme to avoid an increased risk of collisions between deer and traffic, whether this is in the outline Construction Environmental Management Plan or elsewhere</p> |  |
| <p><b>REP8-038-31</b></p> | <p><b>Schedule 2 Requirement 14</b></p> <p>5.4.1 TfL notes the revised wording of Requirement 14 included in the draft DCO by the Applicant, which had previously been discussed with TfL. However, there appears to be an omission of some wording, as TfL understands that the Applicant intends to commit to develop a plan for the roundabout that prevents any increase in delays for traffic on the A1023 Brook Street. The wording currently proposed commits to developing a</p>   | <p>The omission of this wording was an error and it has been included in the dDCO submitted at Deadline 9 (TR010029/APP/3.1(8)).</p> |



| Response reference:       | Question  | Highways England Response  |
|---------------------------|---|--|
|                           | <p>plan that prevents delays for traffic on the A1023 Brook Street. It would be impractical to prevent all delays.</p>  |  |
| <p><b>REP8-038-33</b></p> | <p>5.5.2 TfL requests that the Applicant provides information about the level of confidence that an engineering solution can be found without anything more than night time road closures on the A12 main carriageway and slip roads. While TfL recognises that the need to restring the power cables is presumably very infrequent, it would be a significant concern if the M25 Junction 28 improvements scheme resulted in it not being possible to undertake the maintenance to the high voltage power cables without substantial road closures. TfL also wishes to point out that while this issue may be covered in a side agreement between the Applicant and National Grid, the Applicant is not the highway authority for the A12 main carriageway and, as proposed under the Applicant's draft DCO, not the highway authority for the new A12 eastbound off slip road. TfL will need to be closely involved in any future development of engineering solutions or other measures which impact on the safe operation of the highway network.</p> | <p>National Grid has been approached for clarification on the future traffic management requirements on the A12 when the conductors need to be replaced. At this time, they have advised that it is not known whether any road closures will be needed. Replacement of the conductors is not currently programmed, and on-going development and advancement of maintenance techniques will determine the need for any such closures. They have advised that these works will be undertaken in liaison with the highway authority and any impact on the highway will be minimised as far as possible. Of particular note, National Grid has advised there is no greater need for closures with the Scheme than there is with the existing highway at this junction.</p> |

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