

M25 junction 28 improvement scheme TR010029

4.1 Statement of reasons

APFP Regulation 5(2)(h)
Planning Act 2008

Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009



Infrastructure Planning

Planning Act 2008

The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009

M25 junction 28 scheme Development Consent Order 202[x]

4.1 Statement of reasons

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Glossary

Term	Meaning
The Applicant	Highways England (formerly known as the Highways Agency)
Book of reference	Described in Regulation 7 of the APPF Regulations and contains the names and addresses of the land affected by the works and those who may be able to make a claim. The names of those whose easements or private rights will be extinguished, the owner of any Crown interest in land for the Scheme and details of any land the acquisition of which is subject to special parliamentary procedure unless the Secretary of State is satisfied otherwise, which is special category land or which is replacement land.
Development Consent Order	The consent for the construction, operation and maintenance of Nationally Significant Infrastructure Projects (NSIP) given by the relevant Secretary of State on the recommendation of the Planning Inspectorate under the Act.
Environment Statement	A process of evaluating the likely environmental impacts of a proposed development, including inter-related socio-economic, cultural and human health impacts, both beneficial and adverse.
Land interest questionnaires (LIQs)	A questionnaire sent to obtain confirm of an occupier/owner's interest in the property/land and ask about other legal ownership or interests in the property/land.
Nationally Significant Infrastructure Project (NSIP)	A project of a type and scale defined under the Act and by Order of the Secretary of State relating to energy, transport, water, waste water and waste generally. These projects require a single development consent, which includes consents under different regimes, such as planning permission, listed building consent and scheduled monument consent.
Persons with the interest in land	Persons with an interest in land which is subject to the DCO (within Category 1, 2 or 3 of Section 44 of the Act) – generally owners, occupiers or people with an interest in or right in the land.
Preferred route announcement	Designation of a proposed option as a 'preferred route' by the Department of Transport that provides a form of planning protection from development of land in the vicinity of the M25 junction 28 improvement scheme.
Strategic road network	The network of approximately 4,300 miles of motorways and major 'trunk' A roads across England managed by Highways England.
Statutory undertakers	Persons with regulatory powers and duties, such as gas, electricity, water and transport providers or transmitters.

List of abbreviations

Term	Abbreviation
APFP Regulations	Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (as amended)
BoR	Book of reference
BBC	Brentwood Borough Council
CA guidance	Planning Act 2008: Guidance related to procedures for the compulsory land (September 2013)
DCLG	(former) Department for Communities and Local Government
DCO	Development Consent Order
DfT	Department for Transport
Essex CC	Essex County Council
ECHR	European Convention on Humans Rights
EA	Environment Agency
ES	Environmental Statement
GLA	Greater London Authority
The Inspectorate	Planning Inspectorate
LBH	London Borough of Havering
LCA 1973	Land Compensation Act 1973
LIQ	Land interest questionnaire
NIDP	National Infrastructure Delivery Plan
NSIP	Nationally Significant Infrastructure Project
NPS NN	National Policy Statement on National Networks
PA 2008	Planning Act 2008
PiLs	Persons with an interest in land
This Statement	M25 junction 28 improvement scheme Statement of Reasons
RIS	Road Investment Strategy published by DfT in 2014

Term	Abbreviation
The Scheme	M25 junction 28 improvement scheme
SPP	Special parliamentary procedures
SRN	Strategic road network

1. Introduction

1.1 Summary

- 1.1.1 This Statement of reasons (the “Statement”) relates to an application (the “Application”) made by Highways England (the “Applicant”) to the Planning Inspectorate, acting on behalf of the Secretary of State for Transport, under Section 37 of the Planning Act 2008 (as amended) (“PA 2008”).
- 1.1.2 The Application is for the M25 junction 28 improvement scheme (the “Scheme”) and seeks a Development Consent Order (“DCO”) to construct, operate and maintain the Scheme. The Scheme crosses the administrative boundaries of the London Borough of Havering (“LBH”) and Brentwood Borough Council. The land to the east of the junction is situated in BBC (“BCC”) while the land to the west is in LBH. The Scheme also falls within the regional jurisdiction of Essex County Council (“Essex CC”) and the Greater London Authority (“GLA”).
- 1.1.3 The Scheme is located between Brentwood and Romford in Essex. Junction 28 provides the intersection between the M25 motorway, the key trunk route of the A12 and A1023, providing connectivity between London and Chelmsford, Ipswich and Brentwood and other key destinations across the South East of England. The junction caters for several dominant movements particularly between the M24 motorway and the A12 towards Essex. The Government announced its commitment to improving the junction in its first Road Investment Strategy (RIS) published in 2014 for the investment period 2015 to 2020 and then again in its second Road Investment Strategy published in March 2020 (RIS2). The Scheme is described in RIS2 as an ‘*upgrade of the junction between the M25 and A12 in Essex, providing a free-flowing link from the northbound M25 to the eastbound A12*’.
- 1.1.4 The purpose of this Statement is to demonstrate that the powers of compulsory acquisition and temporary possession sought in the DCO are necessary, proportionate, justified and that the relevant legislative and policy tests are met. Detail is provided concerning the extent and nature of the powers being sought and how this is set out in the application documents.
- 1.1.5 This statement should be read in conjunction with the Land Plans (TR010029/APP/2.2 (3)), the Final Book of Reference (TR010029/APP/4.3(4)) submitted at Deadline 9 and the Draft DCO (TR010029/APP/3.1(8)).

1.2 The Scheme

- 1.2.1 The Scheme is a Nationally Significant Infrastructure Project (NSIP) as it meets the three criteria in sub-section 22(3) of the Planning Act 2008 as follows:
- the highway is in England
 - a strategic highways company (namely Highways England) is the highway authority
 - the area of development exceeds 15 hectares.

For further information regarding how the Scheme qualifies as an NSIP, refer to the Explanatory memorandum (application document TR010029/APP/3.2(1)).

- 1.2.2 The National Policy Statement for National Networks (the “NPS NN”) was designated by the Secretary of State for Transport on 14 January 2015. The NPS NN states that the Government’s strategic policy objective is to deliver improvements in capacity, connectivity and resilience on the national road network to support a prosperous and competitive economy and to improve overall quality of life. This is reflected in the objectives of the Scheme which are to smooth the flow of traffic to improve journey times, make journeys more reliable and to deliver environmental improvements and mitigation where appropriate and required.
- 1.2.3 The Scheme involves comprises an alteration of junction 28, which connects the M25 and A12 in Essex. It includes the provision of a new dedicated loop road for traffic travelling on the M25 northbound carriageway. The new loop will reduce the number of traffic movements through the junction and the majority of existing movements through the junction will see an improvement in travel times.
- 1.2.4 A detailed description of the Scheme can be found in **Chapter 2** of this Statement and Chapter 2 of the **Environmental Statement** (ES) (application document TR010029/APP/6.1(3)).

1.3 Compulsory acquisition

- 1.3.1 In its DCO application, the Applicant seeks compulsory acquisition of land, acquisition or the creation of rights, and temporary possession powers in respect of certain land interests. These are required to carry out and maintain the Scheme. A detailed description of the extent and nature of the powers sought is set out by reference to the DCO application documents in **Chapter 3** of this Statement.

1.4 Land interests

- 1.4.1 The extent of the land interests affected by the compulsory acquisition and temporary possession powers sought by the Application are described in **Chapter 4** of this Statement.
- 1.4.2 The Applicant has carried out diligent inquiry to identify all Persons with an interest in the ‘Land’ (the land shown on the **Land plans** (application document TR010029/APP/2.2(3)) within the Order limits) and persons with a potential claim for compensation as a result of the Scheme. These persons have been consulted pursuant to Section 42 of the Act. The categories of persons identified, and the methods used to identify them, are described in **Chapter 4** of this Statement by reference to the categories in the **Book of reference** (application document TR010029/APP/4.3(4)).
- 1.4.3 The Applicant has sought to enter into negotiations to acquire other parties’ interests and rights over land voluntarily and is progressing those discussions. Appendix B has been superseded by the Compulsory Acquisition Schedule which is submitted as a final Schedule at Deadline 9 - clean (TR010029/EXAM/9.19(7)) and TR010029/EXAM/9.31(6)) tracked. Negotiations are not yet complete and given their complexity, agreement may not be reached with all parties. It is therefore necessary to acquire the land interests by compulsory acquisition in order to enable the Scheme to be delivered. The

Applicant is satisfied that the acquisition of all the land interests is necessary to enable the Scheme to proceed.

- 1.4.4 The Applicant owns a number of plots that are subject to the rights of others or unknown rights which are, or may be, incompatible with the construction, operation and maintenance of the Scheme. In order to ensure that any such rights can be removed (and the persons benefitting from them are compensated for such removal) the Applicant's own land has been included within the Land to which the compulsory powers sought will apply (for further details see paragraph 4.1.3). The Applicant has taken the approach (followed on other Highways England schemes and other schemes consented under the PA 2008) of seeking powers of compulsory purchase or (rights of use) in respect of all plots of land required for the Scheme even where it already holds an interest or presumes it holds an interest in the Land. This approach has been taken to ensure that it has the right to acquire the interests it needs in all the Land and ensures that if an unknown or unregistered owner later asserts an interest in the land which the Applicant believes it owns, taking further steps to clear the title would not be necessary.

1.5 The case for compulsory acquisition

- 1.5.1 The Applicant is satisfied that the powers of compulsory acquisition and temporary possession sought in the draft DCO are necessary, proportionate and justified and that the powers sought are in accordance with all relevant statutory and policy guidance.
- 1.5.2 This Statement sets out the reasons for the inclusion of compulsory powers within the draft DCO. It explains that it is necessary to include compulsory powers within the draft DCO so that the Applicant can acquire the Land, and interests in land, required for the construction, operation and maintenance of the Scheme. It also explains why compulsory powers are necessary to enable the Applicant to use land temporarily and to acquire or extinguish existing rights over land.
- 1.5.3 The conclusion of this Statement is that the granting of the compulsory powers requested would be lawful. The Applicant is firmly of the view that there is a compelling case in the public interest for the compulsory acquisition and temporary possession powers sought as set out in **Chapter 5** of this Statement.

1.6 Human rights

- 1.6.1 In preparing the DCO Application, the Applicant has had regard to the European Convention for Human Rights and the Human Rights Act 1998. **Chapter 6** of this Statement explains how the Scheme complies with the legislation notwithstanding any infringement of the private rights of those whose interests in the land may be affected by the exercise of powers of compulsory acquisition and temporary possession.

1.7 Special considerations

- 1.7.1 In **Chapter 7** of this Statement, the Applicant has identified all special category land (s 131 and 132), Crown land (s135) and statutory undertaker land/apparatus that may be affected by the Scheme. The Applicant has further

considered what other consents are required in order to enable the Scheme to proceed and sets out how these will be secured - for further information see the **Consents and agreements position statement** (application document TR010029/APP/3.3(2)).

1.8 Compliance with statutory requirements and policy guidance

- 1.8.1 This Statement has been prepared in accordance with the requirements of Regulation 5(2)(h) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (as amended) (the APFP Regulations) and the Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land (DCLG, September 2013) (the “CA guidance”).
- 1.8.2 This Statement is required because the DCO, if made, would confer upon the Applicant compulsory purchase powers as described in this Statement, including the power to extinguish rights over land, and the power to occupy land temporarily for construction and maintenance purposes.
- 1.8.3 This Statement should be read alongside other documents that relate to the compulsory acquisition powers sought as part of this Application, including:
- Draft DCO (application document TR010029/APP/3.1 (8))
 - Explanatory memorandum (application document TR010029/APP/3.2(1))
 - Book of reference (application document TR010029/APP/4.3(4)) which contains details of the land subject to compulsory acquisition powers and powers of temporary possession, including the names and addresses of all know parties who may have an interest in the land and be affected by the proposed acquisition
 - Land plans (application document TR010029/APP/2.2(3)) which show the extent of land over which it is proposed to exercise compulsory powers and powers of temporary possession
 - Works plans (application document TR010029/APP/2.3(3)) which show works to be constructed for the Scheme
 - Streets, access and rights of ways plans (application document TR010029/APP/2.3(2))
 - Special category land plans (application document TR010029/APP/2.11(2))
 - Introduction to the application (APP-001)
 - Consents and agreements position statement (application document TR010029/APP/3.3(2))
 - Funding statement (APP-020) which explains how the Scheme will be funded
 - Consultation report (APP-022 - APP-025)
 - Case for the Scheme and schedule of accordance with National Policy Statement (APP-095).
- 1.8.4 The land to which this Statement relates is the land which is proposed to be subject to the compulsory acquisition and temporary land use powers that are sought in the draft DCO (the “Land”). The Land is shown on the **Land plans** (application document TR010029/APP/2.2(3)) and the works for which the Land is required are shown on the **Works plans** (application document

TR010029/APP/2.3(3)). In addition to the information provided in this Statement, short textual descriptions of each numbered plot shown on the Land plans (document reference TR010029/APP/2.2(3)) together with details of ownership, are set out in the **Book of reference** (application document TR010029/APP/4.3 (4)).

1.9 Flexibility

- 1.9.1 Due to the nature of the design process, and the timing of the consenting process, the Applicant requires a degree of flexibility as to where certain elements of the Scheme can be constructed. Defined limits of deviation are provided for in the **draft DCO** (application document TR010029/APP/3.1(8)) and shown on the **Works plans** (application document TR010029/APP/2.3(3)). At this stage, all the land included in the Order limits is considered to be necessary to enable the delivery of the Scheme. However, should it transpire that any part of the land within the Order Limits is not required, for instance as a result of the detailed design process in due course or because a parcel of land has been acquired by agreement as a result of successful negotiation, in those circumstances powers of compulsory acquisition (or temporary possession) would not be exercised in respect of such land because such exercise would not be necessary or justified.

2 The Scheme

2.1 Description of the Scheme

2.1.1 The Scheme was announced as the preferred route (PRA) in August 2017 (refer to 1.2.3 above for the outline of the Scheme). Since then it has been developed further based on more detailed assessments of traffic, engineering, buildability and environmental factors, as well as consultation with stakeholders and members of the public. The Scheme has been developed to a level of detail sufficient to determine size and location of key elements of the Scheme, including the land requirements and orders to construct, maintain and operate it. The Scheme will be subject to further detailed design and assessment therefore the boundary of the works has been drawn with reference to the 'Rochdale Envelope' to allow for any further design development during the detailed design stage of the Scheme.

2.1.2 The Scheme comprises of the following key works elements:

- Highways works:
 - The creation of a new two lane loop road (Work No.6) with hard shoulder, for traffic travelling from the M25 northbound carriageway onto the A12 eastbound carriageway, including the provision of three new bridges (Alder Wood bridge, Duck Wood bridge and Grove bridge) and an underpass (Grove Farm underpass) to carry the new loop road over a proposed access track (Work No. 14).
 - Realignment of the existing A12 eastbound exit (off-slip) road (Work No. 2) to accommodate the new loop road including the provision of a new bridge (Maylands bridge) and the extension of the existing Grove culvert.
 - Improvements to the existing A12 eastbound and westbound carriageways and A12 eastbound entry (on-slip) road (Work Nos. 1, 3 and 4).
 - Realignment of the existing M25 northbound on-slip (Work No. 8).
 - Improvements to the existing junction 28 roundabout, the existing M25 northbound carriageway and the M25 northbound off-slip (Work Nos. 5, 7 and 12).
 - New gantries, or similar signage, over the M25 carriageway (Work Nos. 9, 10 and 11).
 - Alterations of existing private access and egresses and the provision of new private means of access to accommodate the new loop road (Work Nos. 13, 14, 15 and 16).
- Earthworks and drainage works:
 - Earthworks including an environmental bund (Work No. 18).
 - Three new attenuation ponds and associated drainage and access roads (Works Nos. 19A, 19B, 20A, 20B, 21A and 21B) and a new drainage outfall pipe (Work No. 22).
- Realignment of watercourses:

- Realignment of the Weald Brook and the Ingrebourne River (Work Nos. 23A, 23B, 23C and 23D).
- Environmental mitigation:
 - Two new flood compensation areas (Work Nos. 24A and 24B) and the provision of new ecological compensation and mitigation areas (Work Nos. 25 and 26) and two new environmental ponds (Work Nos. 27 and 28).
- Utilities:
 - Diversion of an already underground high pressure gas pipeline and diversion underground of an existing overhead electric line (Work Nos. 29 and 30).
- Accommodation works:
 - Accommodation works to provide replacement facilities for Maylands Golf Course (Work No. 32).

2.1.3 The above should be read in conjunction with the **Works plans** (application document TR010029/APP/2.3(3)) and Schedule 1 of the **draft DCO** (application document TR010029/APP/3.1(8)). A detailed description of the Scheme can be found in Chapter 2 of the **Environmental Statement** (application document TR010029/APP/6.1(3)).

2.2 The need for and the benefits of the Scheme

2.2.1 The need for and the benefits of the Scheme by reference to the NPS NN and other national and local policy are set out in the **Case for the Scheme and schedule of accordance with National Policy Statement** (APP-095). The following paragraphs provide a summary of the need case for the Scheme.

2.2.2 Junction 28 plays a key role connecting the M25 with the A12 trunk road, as well as providing local access to Brentwood via the A1023 (Brook Street). Traffic analysis of the existing movements through the junction has been set out within the **Transport Assessment report** (TA) (APP-098) and **Transport Assessment Supplementary Information Report** (TASIR) (PDB-003). This analysis indicates that there are four dominant movements through junction 28, namely between the M25 northbound and southbound carriageways and the A12 east (facing Essex) in both directions.

2.2.3 Currently junction 28 is a heavily-used junction which features a roundabout controlled by traffic lights and it is used by up to 7,500 vehicles in an hour during peak times. The junction is already operating at capacity, with motorists regularly experiencing congestion and delays. By 2037, traffic levels in the area are expected to increase by up to around 22% by 2037, with more than 9,000 vehicles travelling through the roundabout every hour at peak times. Average delay due to congestion during peak travel times is predicted to increase by at least three times from over a minute per vehicle at present, to four minutes per vehicle in 2037 under Do Minimum conditions (that is without the Scheme).

2.2.4 Traffic modelling has been undertaken to replicate current traffic demand and conditions at the junction, and to predict how these might change in the future. The traffic modelling, reported in the **TA** (APP-098) and the **TASIR** (PDB-003),

shows that without intervention, there will be further deterioration in traffic conditions at junction 28:

- Delays will be over three times greater than currently experienced
- Average speeds will be reduced by 25%.

- 2.2.5 As stated above, the junction 28 roundabout also caters for traffic accessing Brentwood via the A1023 (Brook Street). While the roundabout is signalised, the Brook Street approach to the roundabout is the only approach not currently controlled by traffic lights. Brook Street is not part of the Applicant's SRN and it is owned and maintained by Essex Highways.
- 2.2.6 In recent years, there have also been several traffic incidents at junction 28, which create delays and congestion along the M25, A12 and local roads. Without the Scheme, traffic conditions will deteriorate with queues from the M25 south off-slip forecast to block back to the mainline of the M25. This will create significant safety and operational issues with queues on the mainline M25.
- 2.2.7 Current accident records show that 27 injury accidents were reported (on the roundabout and the adjoining slip roads over the five year period to December 2017). This figure does not include damage only collisions which are often unreported. The 27 accidents have resulted in 36 casualties of which 33 were slight injuries (90%) and three serious. The level of killed and serious injury (KSIs) incidents is low with less than one KSI each year. As well as harm and injury, a key concern of the occurrence of these incidents on junction 28, together with the unreported damage only events, relates to the traffic disruption these cause across the wider highway.
- 2.2.8 The objectives of the Scheme are to reduce congestion and delays, as well as improve journey time reliability through the junction during peak and off-peak periods. The Scheme would address safety issues, reducing the high occurrence of accidents. One of the objectives of the Scheme is to '*cater for future traffic demands to enable development and economic growth*'. Further details on how the Scheme has been developed to take account of development and economic growth can be found in the **TA** (APP-098).
- 2.2.9 The NPS NN¹ sets out the need and Government policies for nationally significant infrastructure rail and road projects for England. It is used by the Secretary of State as the primary basis for making decisions on development consent applications relevant to such projects. Section 104 of the Act states that where there is a relevant national policy statement in place, as with the Scheme, then the Secretary of State must decide the application in accordance with the NPS NN unless one of the exceptions listed in section 104 applies. None of the exceptions apply to the Scheme and the exceptions are as follows:
- lead to the UK being in breach of its international obligations
 - be unlawful
 - lead to the Secretary of State being in breach of any duty imposed by or under any legislation
 - result in adverse impacts of the development outweighing its benefits
 - be contrary to legislation about how the decisions are to be taken.

¹ National Policy Statement for National Networks, Department for Transport, December 2014

- 2.2.10 Paragraph 2.2 of the NPS NN states that ‘*There is a critical need to improve the national networks to address road congestion and crowding on the railways to provide safe, expeditious and resilient networks that better support social and economic activity; and to provide a transport network that is capable of stimulating and supporting economic growth. Improvements may also be required to address the impact of the national networks on quality of life and environmental factors*’. Paragraph 2.16 sets out the impacts of traffic congestion on the quality of life, including ‘*constraining existing economic activity as well as economic growth, by increasing costs to businesses, damaging their competitiveness and making it harder for them to access export markets*’ which is pertinent to the M25 junction 28 that provides access to the A12 and international ports of Harwich and Felixstowe.
- 2.2.11 The Government’s first Road Investment Strategy (RIS)², published in December 2014 highlighted the need for major investment in the SRN to support the national economy. The need for improving the M25 junction 28 was included as one of its commitments for the first 5 year investment period to 2020, reflecting the importance and priority that the Government attaches to this project. The Government published its second Road Investment Strategy (RIS2)³ on 11 March 2020 that sets out the long-term strategic vision for the network, including performance standards, planning enhancement schemes. RIS2 confirms the investment programme for the road plan period covering the financial years 2020/21 to 2024/25. The Scheme is included in Part 3 as one of the schemes in the ‘East’ of England to improve the strategic road network.
- 2.2.12 An explanation of the Scheme objectives and a detailed description of the Scheme proposals can be found in Chapter 2 of the **Environmental Statement** (application document TR010029/APP/6.1(3)).
- 2.2.13 In summary, the Scheme is needed to reduce congestion, improve safety, support development and economic growth.

2.3 The authorised development

- 2.3.1 A full description of the works and associated development, referred to in the draft DCO as “the authorised development” is set out in Schedule 1 of the **draft DCO** (application document TR010029/APP/3.1(8)) and **Works plans** (application document TR010029/APP/2.3(3)). In order to facilitate the carrying out of the authorised development the DCO would further authorise the Applicant to carry out associated development and works within the DCO boundary (e.g. landscaping, mitigation proposals and alterations to watercourses etc).
- 2.3.2 The works described above would be subject to various requirements, for example, landscaping and traffic management. These requirements are set out in Schedule 2 of the **draft DCO** (application document TR010029/APP/3.1(8)).

2.4 Alternatives

- 2.4.1 A staged approach was undertaken in developing options for the Scheme, and ultimately identifying a preferred option.

² Road Investment Strategy:2015 to 2020, Department for Transport and the former Highways Agency, December 2014

³ Road Investment Strategy 2020 to 2025, Department for Transport and Highways England, March 2020

- 2.4.2 Having identified that there was a transport issue at junction 28, the Applicant had to identify how best to address this problem. To achieve this a number of strategic options were initially identified, providing high-level consideration to a range of alternative strategies that might address the identified problems. These comprised:
- Do minimum
 - Alternative modes of transport including – bus
 - Alternative modes of transport including – rail
 - Demand management
 - Highway improvements
 - Reclassification of the wider strategic road network
- 2.4.3 Based on an assessment of these strategic options, the highways improvements based strategy was confirmed to be most strongly aligned with addressing the local problems identified, meeting the Scheme objectives, and delivery within the RIS programme. The key factors at the time for selecting the highways based strategy are summarised below:
- The do-minimum only addresses safety concerns and will do little to improve the operational capacity of the junction. Safety issues would be expected to deteriorate in the future with this option.
 - The bus and rail based strategies would be focused on attracting radial London bound passenger trips, whereas the majority of trips travelling through the junction 28 gyratory are orbital in nature travelling between A12 Essex bound and the M25 to the north and south. Hence, it would be difficult to encourage a significant mode shift through public transport for these journeys travelling through junction 28.
 - The demand management strategy on its own would only slightly reduce traffic flows travelling through junction 28. Hence, this strategy would not have a significant impact on reducing congestion in the future on the gyratory.
 - The highway strategy can be focused to reduce the impacts of the dominant movements between the M25 and the A12 to Essex movements through the gyratory. Hence it was considered to be strongly aligned to addressing the local problems at junction 28, and hence the scheme objectives.
- 2.4.4 Subsequently, based on the preferred highways focused strategy and scope, a long-list of highway options were developed to give effect to the Scheme objectives. In total nine alternative highway based options were identified:
- Option 1 – A hamburger through-about (a type of road junction that connects several roads but one road passing above or below the junction)
 - Option 2 – A northern loop
 - Option 3 – A satellite roundabout
 - Option 4 – A compact northern loop
 - Option 5A, 5B, 5C and 5F single cloverleaf (loops used to link roads)
 - Options 5D and 5E – Northern loops
 - Option 6 – A southern link
 - Option 7 – A do-maximum (for example a double cloverleaf).

- 2.4.5 These options were assessed based on the expected impacts of achieving the Scheme objectives, indicative cost ranges, and key issues and risks relating to Scheme delivery. Based on this assessment the hamburger through-about and satellite roundabout options were discounted as they were assessed a low rating in terms of achieving the scheme objectives. The double cloverleaf option was also discounted as it offered low value for money.
- 2.4.6 The northern loop, compact northern loop, single cloverleaf (three variants) and the southern link were taken forward and assessed in more details in terms of environmental impacts, traffic performance, economic assessments, and value for money against the Scheme objectives. Consideration was also given to identified constraints, risks, affordability and deliverability. Following the detailed assessment, three options were short-listed for further development and non-statutory consultation. The three short-listed options comprised Options 5B, 5C and 5F.
- 2.4.7 Further information on the option selection process can be found in Chapter 3 (assessment of alternatives) in the **Environmental Statement** (application document TR010029/APP/6.1(3)).
- 2.4.8 Each of the three short-listed options (Options 5B, 5C and 5F) set out to divert traffic away from the roundabout via a cloverleaf type link road between the M25 anti-clockwise and the A12 eastbound. These options are summarised overleaf.
- 2.4.9 **Option 5B:** Single lane loop road, widening the existing M25 bridge over junction 28 (**Figure 2.4.1**):
- Create new single lane loop road, with hard shoulder, for traffic travelling from the M25 anti-clockwise to the A12 eastbound.
 - Provide an overbridge with the realigned A12 eastbound exit slip road to allow the proposed loop road to pass under to join the A12 carriageway.
 - Works on A12 eastbound to maintain existing access to Maylands Golf Club.
 - Reconfigure the A12 road markings to allow the new loop road to join the A12 and accommodate two-lanes through the junction.
 - Widen M25 motorway overbridge to accommodate a new exit road.

Figure 2.4.1: Option 5B, single lane loop road, with widening of the M25 bridge



2.4.10 Option 5C: Single lane loop road (Figure 2.4.2):

- Provide a bridge over the M25 anti-clockwise entry slip road to facilitate new loop road.
- Create new single lane loop road with hard shoulder, for traffic travelling from the M25 to the A12.
- Provide an overbridge with the realigned A12 eastbound exit slip road to allow the proposed loop road to pass under to join the A12 eastbound carriageway.
- Works on A12 eastbound to maintain existing access to Maylands Golf Club.
- Reconfigure the A12 road markings, including the eastbound entry slip road, to allow the new loop road to join the A12 and accommodate two-lanes through the junction.
- Use existing hard shoulder on the M25 anti-clockwise carriageway to provide proposed exit road.

Figure 2.4.2: Option 5C, single lane loop road



2.4.11 Option 5F: Two-lane loop road (Figure 2.4.3):

- Create new two-lane loop road with hard shoulder, for traffic travelling from the M25 to the A12.
- Works on A12 eastbound to maintain existing access to Maylands Golf Club.
- Provide an overbridge with the realigned A12 eastbound exit slip road to allow the proposed loop road to pass under to join the A12 eastbound carriageway.
- Reconfigure A12 to accommodate two-lanes joining the A12 eastbound from the proposed loop road.
- Widen the M25 anti-clockwise carriageway to provide proposed exit road.
- Provide a bridge over the M25 anti-clockwise entry slip road to facilitate the new loop road which passes under it.

Figure 2.4.3: Option 5F, two-lane loop road



2.4.12 Option selection stage (non statutory) consultation (held between 14 November 2016 - 6 January 2017) was undertaken to seek views on the different short listed options. Following this works was undertaken to select the most appropriate option, based on assessments undertaken on the routes and feedback received from members of the public and key stakeholders. All the options would have involved land take: options 5C and 5F involved similar amounts of land whilst option 5B would have involved less land take but would have been in closer proximity to Grove Farm. See section 5.5 of this statement for more information on the consideration of alternatives and reasons for selecting the Scheme, which is also provided in Chapter 3 of the **Environmental Statement** (application document TR010029/APP/6.1(3)).

2.4.13 A Preferred Route Announcement (PRA) was made on 22 August 2017 by the Secretary of State.

- 2.4.14 Following the Preferred Route Announcement, the preliminary design of the Scheme begun and following statutory consultation (3 December 2018 to 28 January 2019 with an extension to 28 February 2019), it was identified that an existing high-pressure gas main would need to be diverted. This existing strategic main runs through the application site and is owned and operated by Cadent Gas and its diversion is unavoidable.
- 2.4.15 Discussions were undertaken with Cadent Gas to consider identify possible options for diverting the gas main (see chapter 8 of the **Consultation report** (APP-022 for further details). This led to a corridor being identified for the proposed diversion. Views on this corridor were sought as part of the supplementary consultation that took place from 4 November until 2 December 2019 (APP-022) for further details). Further work was then undertaken to inform a preferred route and the preferred route (including limits of deviation) is included in this application. The diverted gas main would require temporary land take to facilitate its construction and then permanent rights over land to allow for future maintenance and repair. As is usual for underground assets, the limits of deviation for the gas main are required to provide flexibility through the detailed design stage. However, they have been drawn to minimise land take and impacting on land uses, principally the burial ground and Maylands Golf Club.

3 Compulsory acquisition

3.1 Scope of compulsory acquisition powers sought

- 3.1.1 The scope of the compulsory acquisition powers sought by the Applicant is set out in full in Part 5 of the **draft DCO** (application document TR010029/APP/3.1(8)).
- 3.1.2 Section 122 of the Act provides that an order granting development consent may include provisions authorising compulsory acquisition of land. To the extent that this is sought, the decision maker (i.e. the Secretary of State for Transport) in respect of the Application must be satisfied that the land is:
- required for the development
 - required to facilitate or is incidental to the development or
 - the land is replacement land which is to be given in exchange for the order under Section 131 or Section 132.
- 3.1.3 In addition, section 122(3) of the Act requires the decision maker to be satisfied that there is a compelling case in the public interest for the inclusion of powers of compulsory acquisition in a DCO. The way in which the Scheme meets these conditions is considered in **Chapter 5** of this Statement.
- 3.1.4 In addition to powers of compulsory acquisition, Section 120 of the Act provides that a DCO may make provision relating to, or to matters ancillary to, the development in respect of which a DCO is sought. The matters in respect of which provision may be made includes (but is not expressly limited to) the matters listed in Schedule 5 to the Act, including:
- the acquisition of land, compulsorily or by agreement (paragraph 1)
 - the creation, suspension or extinguishment of, or interference with interests in or rights over land, compulsorily or by agreement (paragraph 2)
 - the abrogation or modifications of agreements relating to land (paragraph 3)
 - the payment of compensation (paragraph 36).

3.2 Main compulsory acquisition powers

- 3.2.1 The main powers authorising the compulsory acquisition of land, or interests in, or rights in, or rights over land are contained in Articles 25 (compulsory acquisition of land) and 28 (compulsory acquisitions of rights and imposition of restrictive covenants) of the **draft DCO** (application document TR010029/APP/3.1(8)). **Table A.1.1** in **Appendix A** sets out the permanent acquisition of land sought by plot number.
- 3.2.2 Other compulsory acquisition powers are sought in the draft DCO (identified in section 3.3 below) and these similarly relate to land and will, or may, interfere with property, rights and interests.
- 3.2.3 In addition, powers are sought in the draft DCO to enable the temporary possession and use of land. **Table A.1.3** in **Appendix A** sets out the temporary acquisition of land sought by plot number.

3.2.4 In each case, the owner of the land, or the interest or right in the land, may be entitled to compensation.

3.3 Other compulsory acquisition powers

3.3.1 The other compulsory acquisition powers sought by the Applicant in the draft DCO include:

Article 29: Private rights over land

3.3.2 Article 29 provides for the extinguishment of all existing private rights over land from the earlier of the date of acquisition of the land or the date on which the Applicant enters the land.

3.3.3 The article further provides that, where new rights are being compulsorily acquired or restrictive covenants are being imposed on land then any existing private rights or restrictive covenants which that land is subject to, shall be extinguished to the extent that continuing those private rights or restrictive covenants would be inconsistent with the new right acquired or restrictive covenant imposed.

3.3.4 With regard to land that the Applicant may take temporary possession of under the draft DCO, Article 29(4) provides that all private rights over that land will be suspended and unenforceable for as long as the Application is in lawful possession of the land.

3.3.5 Article 29(5) provides that any persons who suffers loss caused by the extinguishment or suspension of rights (pursuant to the exercise of the power in article 29) is entitled to compensation. **Table A.1.2** in **Appendix A** sets out the acquisition of rights sought by plot number.

Article 33: Acquisition of subsoil or airspace only

3.3.6 Article 33 provides that where the Applicant has, in respect of any land, powers of compulsory acquisition then it may, for the same purposes for which it is authorised to acquire the whole of the land, choose instead to acquire only the subsoil underneath or the airspace over the land.

Article 34: Rights under or over streets

3.3.7 Article 34 would authorise the Applicant to:

- enter on and appropriate so much of the subsoil underneath or airspace over any street within the limits of the DCO as may be required to provide the Scheme
- use that subsoil or airspace for the purposes of carrying out the Scheme or any purpose ancillary to it and
- save in the case of subways or underground buildings, or to cellars or similar structures forming part of a building fronting the street, the Applicant may exercise its powers under this Article without having to acquire any part of the street or any easement or right in the street.

3.4 Temporary possession powers

3.4.1 The Applicant further seeks in the draft DCO powers to take temporary possession of land to carry out and thereafter maintain, for a specified period, the Scheme as follows

Article 35: Temporary use of land for carrying out the authorised development

3.4.2 Article 35 would authorise the Applicant to take temporary possession of:

- the land specified in Schedule 8 of the draft DCO or
- any other land within the limits of the DCO, so long as the Applicant has not served a notice of entry or executed a general vesting declaration in respect of that land.

3.4.3 In addition to taking possession of land, the Article would authorise the Applicant to:

- remove any buildings and vegetation from the land
- construct temporary works (including accesses) and buildings on the land and
- construct any works on the land as specified in Schedule 1 of the draft DCO.

3.4.4 The power to take temporary possession of land would be subject to the time limits set out in Article 27. This means that the temporary possession must start within five years of the date on which the DCO is made.

3.4.5 There is no defined period for how long the Applicant can remain in temporary possession. However, unless the owner of the land agrees, the Applicant cannot remain in possession:

- as regards to any land specified in columns 1 of Schedule 8 of the draft DCO, for more than two years after completing that part of the Scheme specified in relation to that land in the Schedule
- as regards to any other land included in the draft DCO, for more than two years after completing the work for which temporary possession was taken (unless before the end of that period the Applicant has made a vesting declaration or served notice of entry in relation to that land).

3.4.6 Article 35(5) provides that before giving up possession of any land the Applicant is obliged (subject to certain exceptions) to remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land. The Applicant would not be required to:

- Replace a building it had removed
- Restore the land on which any permanent works have been constructed
- Remove any ground strengthening works
- Remove any measures installed to protect statutory undertakers' apparatus
- Remove or reposition any statutory undertakers' apparatus or mitigation works

3.4.7 **Table A.1.3** in **Appendix A** sets out the temporary possession of land sought by plot number.

Article 36: Temporary use of land for maintaining the authorised development

3.4.8 Article 36(1)(a) would empower the Applicant to take temporary possession of any land within the limits of the DCO, if reasonably required for the purpose of maintaining the Scheme, at any time during the maintenance period (i.e. five years from the date on which that part of the Scheme is first opened for use).

3.4.9 Article 36(1)(c) allows the Applicant to construct temporary works and buildings on the land, so far as reasonably necessary for the purpose of carrying out maintenance. The Applicant would not be able to take temporary possession of a house, or a garden belonging to a house, or any other occupied building under this Article.

3.4.10 The Applicant would only be able to remain in possession of land under this Article for so long as may be reasonably necessary to carry out the maintenance of the part of the Scheme for which possession was taken. Before giving up possession of the land, the Applicant would be required to remove all temporary works and restore the land to the owner's reasonable satisfaction.

3.4.11 Article 36(8) provides for compensation to be paid to owners and occupiers of land of which temporary possession is taken under this Article.

Other rights and powers

3.4.12 If made, the DCO would also confer on the Applicant other rights and powers that may interfere with property rights and private interests. These additional powers are:

- Article 13: Temporary closure alteration, diversion and restriction of use of streets
- Article 14: Use of private roads
- Article 15: Permanent stopping up of streets
- Article 19: Discharge of water
- Article 21: Protective works to buildings
- Article 22: Authority to survey and investigate the land
- Article 23: Felling or lopping of trees and removal of hedgerows
- Article 38: Statutory undertakers
- Article 39: Apparatus and rights of statutory undertakers in stopped up streets

3.4.13 Schedule 3 to the draft DCO, by reference to the **Streets, rights of way and access plans** (application document TR010029/APP/2.4(2)) identifies the streets to be permanently stopped up. A detailed description of these rights and other rights mentioned in this chapter is contained in **the Explanatory memorandum** (application document TR010029/APP/3.2(1)).

3.5 Conclusion

3.5.1 The Applicant considers that the powers sought in the **draft DCO** (application document TR010029/APP/3.1(8)) as set out in this chapter are reasonable, proportionate and necessary to deliver and thereafter maintain the Scheme.

4 Land interests

4.1 The extent of the Land subject to compulsory acquisition powers

- 4.1.1 This section describes the Land (as defined above in paragraph 1.8.3) subject to powers of compulsory acquisition and required in order to enable the Applicant to construct, operate and maintain the Scheme. The Land is shown on the **Land plans** (application document: TR010029/APP/2.2(3)) depicts a colour-coded representation of the proposed usage and nature of the compulsory acquisition powers being sought i.e. permanent land acquisition, temporary land acquisition, or temporary land acquisition with permanent rights to be created. In addition to this Statement, short textual descriptions, together with details of ownership, for each of the numbered plots are provided in the **Book of reference** (application document TR010029/APP/4.3(4)).
- 4.1.2 The Land comprises approximately 84 hectares. Of this, the Scheme requires and the DCO provides for approximately 63 hectares of Land to be acquired permanently (freehold to be acquired where not already held by the Applicant). **Table A.1.1 in Appendix A** sets out the permanent acquisition of land by plot number. The temporary possession of approximately 15 hectares and the temporary possession of approximately 5 hectares of Land over which permanent rights would also be acquired. **Table A.1.2 in Appendix A** sets out the acquisition of rights by plot number and **table A.1.3 in Appendix A** set outs the temporary possession by plot number. It should be noted that 34.7 hectares of the Land to be acquired or used permanently is Land contained within the existing highway boundary.
- 4.1.3 The Applicant has taken the approach (followed on other Highways' England schemes) of seeking powers of compulsory purchase acquisition (or rights of use) in respect of all plots of Land required for the Scheme even where it already holds an interest or presumes it holds an interest in the Land. This approach has been taken to ensure that the Applicant has the right to acquire the interests it needs in all of the Land even where there are unknown or unregistered owners that could later assert an interest in the Land which the Applicant believes it owns and clearing the title would be necessary. Also the Applicant is seeking to rationalise its title.
- 4.1.4 The area identified for temporary possession and permanent rights has been drawn up to ensure the deliverability of service utility diversion works where required (see paragraph 4.12.1 for further details on services affected by the Scheme).
- 4.1.5 A description of the Land together with key features and characteristics of the surrounding landscape can be found in **Chapter 2** of the Environmental Statement (application document TR010029/APP/6.1(3)).

4.2 Location

- 4.2.1 The location of the Land in its wider geographical context is shown on the **Location plan** (application document TR010029/APP/2.1(1)). The Land crosses the administrative boundaries of the LBH and BBC. The land to the east of the

junction is situated in BBC while the land to the west is in LBH. The Scheme also falls within the jurisdiction of ECC and the GLA.

- 4.2.2 The junction provides the intersection between the M25 motorway, the key trunk route of the A12 and the A1023, providing connectivity between London and Chelmsford, Ipswich and Brentwood and other key destinations across the south east of England, the junction caters for several highly trafficked movements, particularly between the M25 motorways and the A12 towards Essex.

4.3 Existing Land Use

- 4.3.1 This section of the Statement details how the Land is currently used. For further details of the site description see **Chapter 2** of the Environmental Statement (application document TR010029/APP/6.1(3)).
- 4.3.2 M25 junction 28 sits amongst predominantly agricultural farmland. There are also several areas of woodland close to the junction, as well as countryside and land used for recreational purposes, such as Maylands Golf Course to the west of the junction. The junction also sits entirely within designated Green Belt.
- 4.3.3 The Scheme would encircle, by way of the proposed loop road, Grove Farm. From site visits, it is noted that there are activities and structures on the land occupied by Grove Farm that do not appear to benefit from planning permission. Accordingly, for the purposes of the application the authorised use is taken to be agricultural land.
- 4.3.4 Part of Maylands Golf course falls within the DCO boundary and this facility is located to the west of the proposed loop road.
- 4.3.5 A gypsy and traveller site has been allocated in the London Borough of Havering's Local Plan (including the provision for one further pitch) at the Caravan Park, Putwell Bridge, Colchester Road to the southwest of the junction. Adjacent to this, a new "Gardens of Peace" cemetery has been approved at 'Land at Oak Farm' and work is currently underway in implementing that permission.
- 4.3.6 A proportion of the land required to construct the Scheme is arable farmland forming part of the Glebelands Estate, though the works would also require land occupied by woodland at Alder Wood and part of Maylands Golf Course to the northwest of the junction. The area surrounding the junction falls within Grade 3 and 4 of the Agricultural Land Classification (ALC2) and there is a former landfill site immediately to the northwest of the junction within Grove Farm.

4.4 Surrounding area

- 4.4.1 The Scheme is surrounded by Green Belt in agricultural use. Of the buildings in proximity to the junction, the majority are low-rise residential houses with private gardens. These are concentrated in the areas of Harold Hill/Harold Park to the west, and Brentwood to the east. There are a number of private businesses, including a hotel and garden centre, lining the A1023 Brook Street close to the junction, as well as smaller shops along the A12 Colchester Road to the west. The buildings are noted on Figure 13.1 of the **Environmental Statement** (application document TR010029/APP/6.1(3)).

4.5 Utility Services

- 4.5.1 There are a number of existing utility services within the Land, including those running along the current A12. Cadent Gas owns and operates a high-pressure gas pipeline that runs north to south through the site along with a British Pipeline Association pipeline, UKPN overhead lines and National Grid 275kV electricity lines.
- 4.5.2 A number of the existing utility services within the DCO boundary are required to be moved. Two utility diversions are proposed outside of the highway boundary and have been defined as specific works within the development listed within Schedule 1 of the **draft DCO** (application document TR010029/APP/3.1(8)) and shown on the **Works plans** (application document TR010029/APP/2.3(3)):
- a) Cadent gas – diversion of high pressure gas main
 - b) UKPN – undergrounding of overhead cables
- 4.4.4 In the draft DCO the Applicant also seeks a power to acquire rights for the diversion of statutory undertakers' apparatus in connection with the Scheme, which are owned by the undertakers. The majority of these diversions are of apparatus within the highway and so require diversion into the new road layout, apart from the works listed in paragraph 4.5.2 above.

4.6 Identifying persons with an interest in the Land

- 4.6.1 In preparing the DCO application, the Applicant's land referencing supplier has carried out diligent inquiry in order to identify all PiLs as defined by section 44 of the Act. Such persons are listed in the **Book of reference** (application document TR010029/APP/4.3(4)) and have been consulted on the Scheme in accordance with section 42 of the Act. The categories of persons identified, and the methods used to identify them are described below. Land referencing has been undertaken throughout the pre-application period to ensure that any changes in ownership or new interests have been identified, consulted and subject to engagement. Further details can be found in Chapter 5 of the **Consultation report** (APP-022). This activity has continued throughout the examination process to ensure that any changes in ownership have been identified and to ensure that any new owners have been consulted. Any changes in ownership that are identified during the DCO process have been recorded and updated in the **Book of reference** (application document TR010029/APP/4.3(4)).
- 4.6.2 The categories of persons that are required to be identified for the purposes of consultation and notification under Section 42 and Section 56 of the Act are prescribed in Section 44 and Section 57 as 'Categories 1, 2 and 3' as outlined below. Under the Act, diligent inquiry must be undertaken to identify persons who, by virtue of the nature of the interest they have in land, and the location of that land in relation to the land to which the application relates, fall within Categories 1, 2 and 3.

4.7 Category 1 and 2 persons

- 4.7.2 Category 1 persons are the owners, lessees, tenants or occupiers of land. Category 2 persons are those who have an interest in the land or who have the power to sell, convey the land or release the land. The latest land title search

was submitted to the Land Registry and results were received on 1 April 2020. Ongoing Land Registry searches are being undertaken and to be used to ensure that any changes in title are identified. To date, the official copies of the registered titles and plans have been examined to identify all registered land interests. For areas of unregistered land either an owner has been identified through contact referencing, or when ownership cannot be determined, an unknown party has been created and a site notice placed in the relevant area.

4.7.3 Upon completion of an initial desk-based exercise, the extent of unregistered land interests became known. In order to establish ownership of unregistered land that falls within the proposed land requirements, public sources of information were used, including the Companies House web site, the relevant highways authority, records held by statutory undertakers, electoral registers and other online resources.

4.8 Category 3 persons

4.8.1 Category 3 includes parties who Highways England considers would or might, if the DCO were made and fully implemented, be entitled to make a relevant claim for compensation under Section 10 of the Compulsory Purchase Act 1965 and/or Part 1 of the Land Compensation Act (LCA) 1973 and/or Section 152(3) of the Act.

4.8.2 Identification of Category 3 persons (as defined by Section 44 of the Act) was undertaken at the early stages and informed the statutory consultation as well as the supplementary consultation. A desk-based assessment was carried out to identify those properties with a potential claim.

4.8.3 This assessment considered the potential impact of the Scheme and identified those closest to the Scheme within the DCO boundary and those outside the boundary but close to the Scheme. In assessing the potential claimants under Part 1 of the LCA 1973, physical factors and the impact of the Scheme were considered including:

- properties within the Order limits and
- properties identified as a receptor as a consequence of the property being located outside the Order limits but close to the highway.

4.8.4 Based on the above information, professional judgement was used by the District Valuer to ascertain whether a person may be able to make a potential claim as defined by Section 44(6) of the Act.

4.9 Contact referencing

4.9.1 Following the initial non-contact methods above, contact referencing procedures were carried out including: the posting of land interest questionnaires (LIQs) to PiLs (which were followed up by telephone and letter contact and the offer of a face-to-face meeting), site visits and the erection of site notices on areas of unregistered land. A land charges search was also carried out. The Book of Reference has been subject to two data refreshes during the examination.

4.10 Consultation with persons with interest in land

- 4.10.1 The PiLs identified in the process outlined above and in section 5.6 of the **Consultation report** (APP-022) comprised the section 42(1)(d) consultees who were sent a letter on 30 November 2018 to inform them that the statutory consultation for the Scheme would commence on 3 December 2018. Two different types of letters were issued depending on the recipient's category of interest: one to Category 1 and 2 persons and another to all Category 3 parties. Both letters included a consultation response form and consultation brochure. Copies of the letters can be found in Annex C3 of the **Consultation report** (APP-024).
- 4.10.2 The letter provided an overview of the Scheme, explained that the Scheme would be a NSIP and that the party was being formally consulted under the requirements of section 42(1)(d) of the PA 2008, as they had an interest in land that might be affected by the application. The letters asked the recipients to comment on the proposed Scheme and gave a deadline of 28 January 2019.
- 4.10.3 An additional 11 section 42 letters were sent on 6 December 2018 due to updated information from recently returned LIQs. No extension date to the consultation was provided as consultation had only started at the beginning of that week and it was considered they had sufficient time to respond i.e. more than the minimum of 28 days outlined in the DCLG guidance.
- 4.10.4 Two specific 'drop in sessions' for PiLs were arranged and details of these events were included in their notification letters. These were held on 10 December 2018 and 10 January 2019. The same letter also included an offer of a one-to-one sessions if the 'drop in sessions' were not convenient. This offer was made to ensure that PiLs could engage with the Project Team at a time to suit them if they wished to do so.
- 4.10.5 In addition to the 11 PiLs identified in paragraph 4.10.3, a further 84 newly identified PiLs from later returned LIQs (i.e. which were received a week after statutory consultation had started and from then onwards until the start of the extension to consultation) were all sent a letter by post on 30 January 2019 notifying them of an extension to the statutory consultation until 28 February 2019. This letter (see Annex C10 of the **Consultation report** (APP-024) enclosed a hard copy brochure and response form.
- 4.10.6 Following statutory consultation, the Applicant undertook engagement with directly affected PiLs as detailed in chapter 8 of the **Consultation report** (APP-022). Then the Applicant undertook a **supplementary consultation** from 4 November to 2 December 2019 which focused on proposed changes to the Scheme following statutory consultation and also reported newly identified environmental impacts. One of the aims of the consultation was to consult landowners who had been identified since statutory consultation as a result of ongoing due diligence. Further details of this consultation can be found in chapter 9 of the **Consultation report** (APP-022).
- 4.10.7 The Applicant undertook a **targeted consultation** from 31 January to 26 February 2020 to focus on proposed changes to the Scheme red line boundary following supplementary consultation. The aim of the consultation was to seek views of those with an interest in the land proposed to be included within the

redline boundary as well as the local authority. Further details of this consultation can be found in chapter 10 of the **Consultation report** (APP-022).

- 4.10.8 Following the submission of the DCO application on 27 May 2020 and the subsequent acceptance for examination on 24 June 2020, the Applicant undertook further targeted non-statutory consultation exercise in relation to changes 1 - 4 between 4 January to 4 February 2021 (Report: REP3A-030 and Drawings: REP3A-031) These changes involved the following:
- Change 1 – removal of surplus construction materials deposit to the west of Weald Brook (Work No. 17).
 - Change 2 - Amendment to the surplus construction materials deposit (Work No. 18) situated to the south-east of Maylands golf course to form an environmental bund.
 - Change 3 - Refinement of golf course accommodation works (Work No. 32).
 - Change 4 – Amendment to the lateral limits of deviation for the Cadent gas pipeline diversion – southern connection (Work No. 29) and a reduction of permanent land rights sought.
- 4.10.9 These changes were accepted into the examination as confirmed in writing by the Examining Authority on 26 February and 19 March 2021.
- 4.10.10 A further targeted non-statutory consultation in relation to changes 5 – 7 (AS-037) commenced on 26 March 2021 for a period of 28 days to 23 April 2021. These changes involved in this consultation included:
- Change 5 – Reduction to the realignment of the Weald Brook (Work No. 23C)
 - Change 6 – Realignment of UK Power Networks (UKPN) diversion (Work No. 30)
 - Change 7 – Refinement of Maylands golf course accommodation works (Work No. 32)
- 4.10.11 The ExA formally accepted Changes 5, 6 and 7 into the examination on 5 May 2021 (PD-020).
- 4.10.12 Following the acceptance of Change 7, Highways England informed the ExA that Change 3 has been withdrawn.
- 4.10.13 Highways England submitted a further change (Change 8) which comprised the re-positioning of the proposed egress from Grove Farm onto the A12 eastbound offslip (Work No. 15). A further non-statutory consultation in relation to Change 8 commenced on 18 May 2021 and ran for a period of 6 weeks. The ExA formally accepted Change 8 into the examination on 15 June 2021 (PD-020).

4.11 Negotiations to acquire by agreement

- 4.11.1 As well as consulting all identified PiLs about the Scheme in accordance with Section 42 of the Act, the Applicant is mindful of the guidance (paragraph 25 of the CA guidance⁴) to the effect that land should be acquired by negotiation rather than compulsorily wherever practicable. The power to acquire land compulsorily should only be sought if attempts to acquire by agreement fail. Category 1

⁴ Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land, former Department for Communities and Local Government, March 2015

landowners and utilities have been contacted and endeavours will be made throughout the DCO process to acquire land by agreement. However, the Applicant is mindful that it is under a duty to acquire land at best value and that it is required to deliver the Scheme within a specified timetable. The Applicant has therefore included compulsory powers in the **draft DCO** (application document TR010029/APP/3.1(8)) from the outset in the event that it does not prove possible to acquire the Land by agreement. This is in line with the CA guidance, which at paragraph 25 acknowledges that it may be appropriate where attempts have failed and many separate plots of land are involved. The status of such discussions is set out in the Compulsory Acquisition Schedule which has been submitted at each deadline and therefore supersedes Appendix B. The latest Compulsory Acquisition Schedule was submitted at Deadline 9 (TR010029/EXAM/9.19(7)) - clean and (TR010029/EXAM/9.31 (6)) - tracked.

- 4.11.2 Compulsory acquisition powers serve the important function of ensuring that the compensation paid to the land interests affected represents a fair, open market value. This benefits both the Applicant as the acquiring authority and all those to whom compensation may be payable. The rules governing compulsory acquisition require that compensation for acquisition of land or an interest in land must represent the market value as unaffected by the Scheme, together with further amounts such as occupier's loss payments in some cases. As a result, the Applicant will be required to pay a fair, open market price for the land and rights it acquires, without taking advantage of any reduction caused by the existence of the Scheme.
- 4.11.3 Land already owned by the Applicant is included in the DCO to ensure that no known or unknown third-party rights, which might impede delivery of the Scheme remain over the land. There are parcels of 'unknown land' within the DCO boundary and attempts have been made to identify the owners as outlined in paragraph 4.9.1 above.

4.12 Maylands Golf Club

- 4.12.1 The Applicant has taken into account the impact that the Scheme would have on Maylands Golf Club. Discussions have taken place throughout the pre-application process to understand the impact on this facility and inform the design development of the Scheme. Further details can be found in the **Consultation report** (APP-022). Work has been undertaken to identify the land take requirements to facilitate the reconfiguration of the second hole of the golf course and this has been shared with owners of the club as part of a targeted consultation (31 January – 26 February 2020).
- 4.12.2 Further details of this consultation and the response from Maylands Golf Club can be found in Chapter 10 of the **Consultation report** (APP-022).
- 4.12.3 An amendment to the proposed accommodation works for the golf course was put forward as Change 3 (Report: REP3A-030 and Drawings: REP3A-031) following the targeted non-statutory consultation which took place between 4 January and 4 February 2021. Subsequent conversations have been held with the Golf Club regarding the most appropriate solution to the re-provision of a golf hole as a result of the impacts of the Scheme. Targeted non-statutory consultation took place between 26 March and 23 April 2021 regarding proposals

to further amend the proposed accommodation works to the golf course (Change 7). This was accepted into the examination by the ExA on 5 May 2021.

- 4.12.4 The Applicant has entered into discussions regarding a tri-party agreement with Glebelands Estates Ltd and Luddington Golf Limited.

4.13 Grove Farm

- 4.13.1 Discussions have also taken place throughout the pre-application process to update the owners of Grove Farm on the design development of the Scheme and seek their views. Further details can be found in the **Consultation Report** (APP-022). Where possible revisions have been made, taking into account their feedback, such as reducing the size of an attenuation pond.

- 4.13.2 There have been a number of meetings with Grove Farm and their agents since the submission of the DCO application to discuss the Scheme design as submitted, and in response to relevant representations and written representations. Discussions have been focused on a proposed new access from the M25 northbound onslip road to Grove Farm, a revised location of the egress from Grove Farm onto to the A12, noise and environmental mitigation. Proposed Change 8 comprising of the re-positioning of the egress from Grove Farm was accepted into the examination on 15 June 2021 and includes a visual screening fence and additional landscape planting.

4.14 Burial Ground development

- 4.14.1 After statutory consultation, it was identified that land would be required south of the A12 to facilitate the gas main diversion. The Applicant contacted the owners of the proposed Burial Ground and held a joint meeting (including representatives from Cadent gas) to discuss possible site constraints to inform the selection of the preferred option. The corridor within which the gas main diversion would take place was subject to a supplementary consultation undertaken 4 November to 2 December 2019 (see chapter 9 of the **Consultation report** (APP-022 for further details). Following the selection of the preferred route, another meeting was held with the owners of the burial ground to update them on the design and associated easement requirements.
- 4.14.2 There have been a number of meetings with the Trustees of the Gardens of Peace Muslim Cemetery (the Trustees) and their land agent since the submission of the DCO application to discuss the design submitted and in response to representations and written representations from the Trustees as part of ExA deadline submissions to address comments raised on the Scheme
- 4.14.3 As a result of further detailed design work and comments from the Trustees, Change request 4 was proposed by the Applicant and subsequently accepted into the examination on 26 February 2021. This change reduced the extent of rights permanently sought over Plot 1/8 with the remainder of Plot 1/8 (now Plot 1/8a) subject to temporary possession. This was welcomed by the Trustees as it reduced the impact of the Scheme on Plot 1/8 and the cemetery.
- 4.14.4 The Applicant has entered into discussions regarding a tri-party agreement with Cadent Gas Ltd and the Gardens of Peace.

5 The case for compulsory acquisition

5.1.1 In seeking compulsory acquisition and temporary possession powers in the draft DCO, the Applicant has had regard to the conditions in Section 122 of the PA 2008 and to the tests set out in the CA guidance.

5.2 The statutory conditions and CA guidance

5.2.1 Section 122 of the PA 2008 states that:

“An order granting development consent may include provision authorising the compulsory acquisition of land only if the Secretary of State is satisfied that the conditions in subsections (2) and (3) are met”.

5.2.2 The conditions in subsection (2) are that the land is:

- required for the development to which the development consent relates
- required to facilitate or is incidental to that development or
- replacement land which is to be given in exchange for the order land under Sections 131 or 132 of the Act.

5.2.3 The condition in subsection (3) is that there is a compelling case in the public interest for the land to be acquired compulsorily.

5.2.4 The CA guidance (paragraph 11) sets out the considerations which the Secretary of State will take into account in deciding whether the condition in subsection (2) has been met.

5.2.5 As relevant to the Scheme, the CA guidance makes it clear (at paragraph 11 and following) that the decision maker must be in no doubt as to the purposes for which any land is to be compulsorily acquired. In relation to whether the land is required for the development, the Applicant should be able to demonstrate to the satisfaction of the Secretary of State that the land in question is needed for the development. The Secretary of State will need to be satisfied that the land to be acquired is no more than is reasonably required for the purposes of the development. In relation to whether the land is required to facilitate or is incidental to the proposed development, the Secretary of State will need to be satisfied that the development could only be carried out to a satisfactory standard if the land in question were to be compulsorily acquired and that the land to be taken is no more than is reasonably necessary for the purpose and that it is proportionate.

5.2.6 In respect of the condition in subsection (3), the CA guidance states at paragraphs 12 and 13, that the Secretary of State will need to be persuaded that there is there is compelling evidence that the public benefits that would be derived from the compulsory acquisition will outweigh the private loss that would be suffered by those whose land is to be acquired.

5.2.7 Paragraphs 8 to 10 of the CA guidance are also relevant, setting out a number of general considerations to be taken into account by an Applicant in seeking compulsory acquisition powers:

- that all reasonable alternatives to compulsory acquisition (including modifications to the scheme) have been explored

- that the proposed interference with the rights of those with an interest in the land is for a legitimate purpose, and that it is necessary and proportionate
- that the applicant has a clear idea of how they intend to use the land which is to be acquired
- that there is a reasonable prospect of the necessary funds for acquisition becoming available
- that the purpose for which the compulsory acquisition powers are included in the application are legitimate and sufficiently justify interfering with the human rights of those with an interest in the affected land.

5.2.8 Finally, paragraph 25 of the CA guidance states that applicants should seek to acquire land by negotiation wherever practicable.

5.3 Need for the Land and the purpose for which the compulsory acquisition powers are sought

- 5.3.1 The Applicant is satisfied that the condition in Section 122(2) of the PA 2008 is met. The Land subject to compulsory acquisition powers is either needed for the development, to facilitate the development or is incidental to the development.
- 5.3.2 At **Appendix A** of this Statement, the Applicant sets out why compulsory powers are necessary in relation to each individual parcel of Land with reference to the relevant DCO Works Numbers and the nature of the works set out in Schedule 1 of the **draft DCO** (application document TR010029/APP/3.1(8)). The proposed use of the Land is set out in Chapter 2 and Appendix A of this Statement. The Application is supported by **Land plans** (application document TR010029/APP/2.2(3)) and **Works plans** (application document TR010029/APP/2.3(3)). The location of the Works on the Works plans demonstrates and justifies that the Land as shown on the Land plans is required in order for the Scheme to be constructed; without the Land the Scheme cannot be delivered.
- 5.3.3 In general, the intention has been, wherever practicable, not to seek to acquire title if it is possible to achieve the same objective using temporary possession or acquisition of new rights wherever practicable. Permanent rights will be acquired where needed within these temporary possession areas, for Highways England and third party access for inspection and maintenance.
- 5.3.4 The Scheme will require the acquisition or possession of Land outside the existing Highways England land ownership boundary to enable it to be built and operated. This Land is split into the following categories:
- Permanent acquisition where the Land taken will be retained in the ownership of Highways England after the works are complete. Approximately 63 hectares of Land will be taken permanently to build and operate the Scheme. The power to extinguish existing rights over the Land ensures that such rights that would interfere with the construction and operation of the Scheme can be extinguished.
 - Temporary possession where the Land will be used to build the Scheme but returned to its original owners after construction is complete. Approximately 15 hectares of Land will be taken temporarily. The powers to use Land temporarily for carrying out the authorised development ensures that

appropriate work sites, working space and means of access will be available for use during the construction period and provides space for mitigation and any other permanent works. The intention is that the Land taken temporarily will be returned to its original landowners after construction has been completed in a condition that is to their reasonable satisfaction.

- Acquisition of permanent rights where the Land will be used to build the Scheme and returned to its original owners after construction is complete but where Highways England or utility providers will retain the right of access over it for future maintenance operations. Approximately 5 hectares of Land will fall into this category.
- Powers to acquire or use subsoil or airspace only have also been included within the draft DCO to ensure flexibility. These would allow the Applicant to minimise its costs and/or impact on landowners by acquiring subsoil or airspace only where it is possible to do so and still deliver the Scheme, leaving landowners in possession of the valuable part of their land.

5.3.5 The limits of the Land have been drawn as tightly as possible so as to avoid unnecessary land take. In the event that less Land proves to be required in a particular area at a later stage, the Applicant would only seek to acquire so much of that part of the Land as is required and in all events will seek to minimise effects on landowners.

5.3.6 Land required for the Scheme is to ensure compliance with design safety standards, to ensure environmental mitigation measures can be implemented, to deliver land and accommodate highway drainage infrastructure.

5.3.7 The draft DCO provides that all land identified for permanent acquisition can be occupied temporarily. If it is identified that less land can be acquired permanently, and only occupied temporarily, the Application will only acquire land permanently needed for the Scheme.

5.3.8 Temporary construction compounds and works areas have been identified to ensure the delivery of the Scheme with minimum disruption to stakeholders and users of the existing Highway and supporting road network, whilst ensuring the temporary land acquisition is proportionate and only comprises that needed to undertake the works. Any areas of land that are temporarily occupied will be restored to its original condition once the work has been completed in that area unless otherwise agreed with the owner.

5.3.9 Provision has been made in the draft DCO for the creation and acquisition of new rights to accommodate the diversion of statutory undertakers' apparatus over a number of plots (as identified in Schedule 6 to the **draft DCO** (application document TR010029/APP/3.1(8)). Whilst these rights are shown as applying to wide areas, following the completion of the detailed design by the contractor and through engagement with the statutory undertakers the final areas for these works will be refined.

5.3.10 The Applicant has been working closely with statutory bodies and stakeholders, such as the Environment Agency, to agree the amount of environmental mitigation required for the Scheme is reasonable and proportionate.

5.3.11 The Applicant has taken the cautious approach of seeking powers of compulsory acquisition (or rights of use) in respect of all plots of land required for the

Scheme even where it already holds an interest in the land. This approach has been taken to ensure that it has the right to acquire the interests it needs in the whole of the DCO land, even where an unidentified owner later asserts an interest in land which the Applicant believes it owns to ensure there are no impediments to delivery.

5.4 Compelling case in the public interest

- 5.4.1 The Applicant is satisfied that the condition in Section 122(3) of the PA 2008 is met and that there is a compelling case in the public interest for compulsory acquisition.
- 5.4.2 The need for and the benefits of the Scheme are set out in Chapter 2 of this Statement and in the other application documents, including the **Case for the Scheme and schedule of accordance with National Policy Statement (APP-095)** which demonstrates the very strong and compelling case in the public interest for the Scheme to be delivered.
- 5.4.3 In particular, as set out in Chapter 6 of the **Case for the Scheme and schedule of accordance with National Policy Statement**, paragraph 2.2 of the NPS NN identifies a “critical need” to improve the national networks to address road congestion and crowding on the railways to provide safe, expeditious and resilient networks that better support social and economic activity; and to provide a transport network that is capable of stimulating and supporting economic growth. It goes on to state that improvements may also be required to address the imp of the national networks in quality of life and environmental factors.
- 5.4.4 General compliance with the NPS NN is explained in the **Case for the Scheme and schedule of accordance with National Policy Statement (APP-095)**. This clearly demonstrates that there would be substantial public benefits arising from the implementation of the Scheme, providing more reliable journey times and reduced congestion.
- 5.4.5 The National Infrastructure Delivery Plan⁵ (NIDP) outlines £483 billion of investment in over 600 infrastructure projects and programmes in different sectors and spread across the UK to 2020-21 and beyond. This plan includes sections on how infrastructure will support large-scale housing and regeneration projects, alongside key social infrastructure.
- 5.4.6 The NIDP sets out what will be built and where, focusing specifically on nearly £300 billion of infrastructure that will be delivered to 2020-21. Chapter 3 of the NIDP sets out how the Government is investing over £15 billion with Highways England in transforming the SRN with over 100 major schemes completed or in construction by the end of 2020-21. Ministers have established a clear regulatory framework for Highways England, setting up investment periods with legally guaranteed funding levels.
- 5.4.7 The first of these investment periods was Road Period 1 that runs from 2015 to 2020. The goals and objectives of Road Period 1 were detailed within the RIS. The strategic vision of RIS recognised that the SRN plays a vital role in delivering the Government’s goals for national networks as outlined in the four strategic goals of the NPS NN:

⁵ National Infrastructure Delivery Plan 2016-2021, Infrastructure and Projects Authority, 2016

- providing capacity and connectivity to support national and local economic activity
- supporting and improving journey quality, reliability and safety
- joining our communities and linking effectively to each other and
- supporting delivery of environmental goals and the move to a low carbon economy.

- 5.4.8 The Scheme was recognised in the RIS as being a key investment on the SRN that the Government had committed the full anticipated funding for, provided the necessary statutory approvals are granted and the Scheme continues to demonstrate value for public money.
- 5.4.9 On 11 March 2020, the Department for Transport published its 'Road Investment Strategy 2: 2020-2025' (RIS2). In its updated RIS2⁶, the Government sets out its investment plans for the long term investment in the road network, and particularly the SRN, including the M25 junction 28 improvement scheme.
- 5.4.10 The strategic vision sets out that traffic growth on the SRN is forecast to be strong and positive in all scenarios ranging between growth of 29% and 59% by 2050, driven by forecast increases in the number of car trips and trip distances as well as increasing Light Goods Vehicle traffic. As well as responding to current traffic demand, the strategic vision also seeks to shape the future use of the network to support the Government's wider policy aims: promoting the importance of place; achieving net gains for the environment and contributing to a wider climate change strategy; and being at the forefront of technological change.
- 5.4.11 The strategic vision sets out that to fulfil its purpose in 2050 it envisages:
- A network that supports the economy
 - A greener network (including high standards of design responding to place-specific issues)
 - A safer and more reliable network
 - A more integrated network
 - A smarter network
- 5.4.12 RIS2 confirms the Government's commitment to deliver the improvements identified in RIS. Part 3: Investment Plan of the RIS2 identifies the Scheme as a committed project for RP2 in the east of England.
- 5.4.13 The Scheme has the support of the Government in both policy and funding terms, being a key element RIS and RIS2 for England and is in accordance with the strategic policy objectives of the NPS NN.
- 5.4.14 General compliance with the NPS NN is explained in the **Case for the Scheme and schedule of accordance with National Policy Statement (APP-095)**. The Case for the Scheme and schedule of accordance with National Policy Statement has been prepared to demonstrate that there is a clear Case for the Scheme and Schedule of Accordance with National Policy Statement grounded in national and local planning policy.

⁶ Road Investment Strategy 2020 to 2025, Department for Transport and Highways England, March 2020

- 5.4.15 The above clearly demonstrates that there would be substantial public benefits arising from the implementation of the Scheme, providing more reliable journey times, improvements in safety and reduced congestion.

5.5 Consideration of alternatives

- 5.5.1 In designing the Scheme and determining the land to be subject to compulsory acquisition and temporary possession powers, the Applicant has considered alternatives and modifications to the Scheme to minimise the potential land take. These alternatives and modifications were consulted on and the preferred route has been chosen based on a thorough consideration of relevant issues. This process is outlined in section 2.4 of this Statement. Option 5F received the most support from those responding to the consultation and based on the assessment of the options, 5F was selected as the preferred route for the Scheme. This selection took account of various factors, including amongst others, views of consultees, including persons with a land interest. Other factors included environmental impacts, meeting the objectives of the Scheme, affordability, value for money, safety, construction and operational circumstances.
- 5.5.2 Further details on the options selection process can be found in Chapter 3 of the **Environmental Statement** (application document TR010029/APP/6.1(3)).

5.6 Reasonable prospect of funding

- 5.6.1 Compulsory acquisition powers require that the compensation paid to the owners of the interests in the Land represents a fair, open market value. The rules governing compulsory acquisition require that compensation for acquisition of land or an interest in land must represent the market value as unaffected by the proposed development, together with further amounts such as occupier's loss payments in some cases. As a result, the Applicant will be required to pay a fair, open market price for the Land and rights it acquires, without taking advantages of any reduction caused by the existence of the Scheme.
- 5.6.2 In the event of compensation not being agreed, a judicial process applies. Compensation disputes would be decided by the Upper Tribunal (Lands Chamber), with a right of appeal to the Court of Appeal. The same applies to compensation for loss or damage, payable in respect of the additional compulsory acquisition powers described in Chapter 3 of the Statement.
- 5.6.3 The compulsory acquisition procedure accordingly provides certainty of outcome (the land or rights required for the Scheme to be delivered will be acquired), certainty of liability to compensation or price to be received, and fairness of outcome via the recourse to the judicial process in the absence of agreement. This benefits all parties.
- 5.6.4 As detailed in the **Funding statement** (APP-020) provided under Regulation 5(2)(h) of the Regulations, the Scheme will be funded entirely by the Department of Transport.
- 5.6.5 Accordingly, the Applicant considers that the secure funding for the Scheme and that the requisite funds for payment of any compensation will be available at the appropriate time. Public money must be spent on a prudent basis, achieving value for money. This will only be possible if the acquisition of the land interests required for the Scheme is backed by compulsory acquisition powers.

5.7 Acquisition by agreement

- 5.7.1 The Applicant recognises that as a matter of general approach the authority to acquire land compulsorily should only be sought if attempts to acquire by agreement fail. However, the Applicant notes that the CA guidance recognises that, in some cases, it may not always be practicable to acquire each plot of land by agreement. Where this is the case, the CA guidance confirms that it is reasonable to include provision authorising compulsory acquisition covering all the land required at the outset. It also recognises that in some cases it may be preferable, or necessary, to acquire land compulsorily rather than by agreement.
- 5.7.2 The Applicant sets out in **Chapter 4** and the Compulsory Acquisition Schedule (TR010029/EXAM/9.19(7)) the discussions it has had with landowners and occupiers to acquire the Land by agreement. The compulsory acquisition of land and new rights over land, and temporary possession powers are required to ensure that the Scheme can be delivered in a reasonable timescale and in the event that it does not prove possible to acquire all of the Land by agreement.

5.8 Conclusions

- 5.8.1 The Applicant is satisfied that the conditions in Section 122 of the PA 2008 are met and that the tests in the CA guidance are satisfied.
- 5.8.2 All of the Land subject to compulsory acquisition and temporary possession powers is necessary to construct, operate, maintain and mitigate the Scheme and are necessary to achieve the objectives of the Scheme. The extent of the Land sought is reasonable and proportionate.
- 5.8.3 Furthermore, there is a compelling case in the public interest to include the compulsory acquisition powers sought by the Applicant in the draft DCO. The exercise of the compulsory acquisition powers that are sought is shown throughout this Statement to be necessary and proportionate to the extent that interference with private land and rights is required. In the absence of compulsory powers, the Applicant considers that it would not be possible to proceed with the Scheme, therefore the public benefits of the Scheme would not be realised.

6 Human rights

6.1 The protected rights

6.1.1 The Human Rights Act 1998 incorporated into domestic law the provision of the European Convention on Human Rights (ECHR). The ECHR includes provisions in the form of Articles, which aim to protect the rights of the individual. The relevant Articles can be summarised as follows:

- a) Article 1 of the First Protocol – protects the rights to peaceful enjoyment of possessions. No one can be deprived of their possessions except in the public interest.
- b) Article 6 – entitles those affected by the powers sought in a DCO to a fair and public hearing.
- c) Article 8 – protects the right of the individual to respect for his private and family life, his home and his correspondence. Interference with this right can be justified if it is in accordance with law and is necessary in the interests of, among other things, national security, public safety or the economic wellbeing of the country.

6.1.2 Section 6 of the Human Rights Act 1998 prohibits public authorities from acting in a way which is incompatible with rights protected by the ECHR.

6.1.3 Paragraph 10 of the CA guidance sets out how applicants should take into account Human Rights:

“The Secretary of State must ultimately be persuaded that the purposes for which an order authorises the compulsory acquisition of land are legitimate and are sufficient to justify interfering with the human rights of those with an interest in the land affected. In particular, regard must be given to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights and, in the case of acquisition of a dwelling, Article 8 of the Convention.”

6.1.4 The DCO, if made, may infringe the human rights of persons with an interest in land. This infringement is authorised by law provided that:

- a) There is a compelling case in the public interest for the compulsory acquisition powers included within the DCO, and that proper procedures are followed.
- b) Any interference with a human right is proportionate and otherwise justified.

6.2 Compliance with the convention

6.2.1 The Applicant recognises that the Scheme may have an impact on individuals but considers that the significant public benefits that will arise from the Scheme as set out in the **Case for the Scheme and schedule of accordance with National Policy Statement** (APP-095) outweigh any harm to those individuals. The DCO strikes a fair balance between the public interest in seeing the Scheme proceed (which can only be realised if the development consent is accompanied by the grant of powers of compulsory acquisition) and the private rights which will be affected by the compulsory acquisition.

- 6.2.2 In relation to both Article 1 and 8, the compelling case in the public interest for the compulsory acquisition powers included within the draft DCO has been demonstrated in **Chapter 5** and in the **Case for the Scheme and schedule of accordance with National Policy Statement (APP-095)**. The land over which compulsory acquisition powers are sought as set out in the DCO is the minimum necessary to ensure the delivery of the Scheme. The Scheme has been designed to minimise harm whilst achieving its publicly stated objectives. In this respect the interference with human rights is both proportionate and justified.
- 6.2.3 In relation to Article 6, the Applicant is content that the proper procedures have been followed for both the consultation on the Scheme and in determining the compulsory acquisition powers included within the draft DCO. Throughout the development of the Scheme, the Applicant has given persons with an interest in the land a full opportunity to comment on the Scheme, both in a statutory and non-statutory capacity, and the Applicant has endeavoured to engage with landowners. The Applicant has had regard to landowner feedback in both the initial design of the Scheme and in iterative design changes throughout the life of the Scheme. Examples of design changes as a result of landowner feedback are provided within the **Consultation report (APP-022)** and the Proposed Changes Report (REP3A-030)
- 6.2.4 Furthermore, any individuals affected by the DCO may submit representations to the Application in response to any notice given under Section 56 of the PA 2008, the examination of the Application by the examining authority, any written representations procedure which the examining authority decides to hold and in particular, any compulsory acquisition hearing held under Section 92 of the PA 2008, at which each affected person is entitled to make oral representations about the compulsory acquisition request.
- 6.2.5 If the DCO is made, a person aggrieved may challenge the DCO by judicial review in the High Court if they consider that the grounds for doing so are made out pursuant to Section 118 of the PA 2008.

6.3 Consideration of duties under the Equality Act 2010

- 6.3.1 The Applicant has complied with its duties under Section 149 of the Equality Act 2010 and has had due regard to the need to (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by or under the Equality Act 2010; (ii) advance equality of opportunity between persons who share a protected characteristic and persons who do not share it; and (iii) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. The Applicant has carried out an Equalities Impact Assessment to ensure that the Scheme does not discriminate against any disadvantaged or vulnerable people and this includes recommendations for ongoing monitoring.

6.4 Fair compensation

- 6.4.1 Any person affected by the exercise of compulsory acquisition powers or by the exercise of temporary possession, may be entitled to compensation. This entitlement to compensation is provided for by the existing compensation code furthermore, Article 28 of and Schedule 7 to the DCO provide a mechanism by which an entitlement to compensation may arise in the context of the compulsory

acquisition of new rights. The Applicant has the resources to pay such compensation as demonstrated in the **Funding statement** (APP-020).

6.4.2 Any dispute in respect of the compensation payable may be referred to the Upper Tribunal (Lands Chamber), an independent tribunal, for determination.

6.5 Conclusion

6.5.1 For the reasons set out above, the Applicant considers that any infringement of the ECHR rights of those whose interests in the land might be affected by the exercise of powers of compulsory acquisition would be proportionate and legitimate, would be in the public interest and would be in accordance with national and European law. The Applicant therefore considers that it would be appropriate and proportionate for the Secretary of State to make the DCO including the grant of compulsory acquisition powers.

7 Special considerations

7.1 Crown land

7.1.1 Section 135 of the PA 2008 provides that a DCO may authorise, with the consent of the Crown, the compulsory acquisition of an interest held in Crown land which, for the time being, is held otherwise than by or on behalf of the Crown, and the appropriate Crown authority consents to the acquisition.

7.1.2 There is no Crown Land affected by the Scheme. This has been confirmed following discussions with Forestry Commission on behalf of the Department for Environment, Food and Rural Affairs (DEFRA) submitted to the examination (REP2-027 and REP2-28) and in response to Compulsory Acquisition Hearing (CAH) Action Points (REP4-018). A letter has been submitted at Deadline 5 from Forestry Commission to confirm that there is no Crown Land affected by the Scheme (REP5-054).

7.2 Special category land comprising land forming part of open space

7.2.1 When rights are proposed to be acquired compulsorily in relation to land which constitutes open space under section 132 of the Planning Act then it would be necessary to either:

- demonstrate that the open space land, when burdened with the order right, would be no less advantageous than it was before
- give replacement land is given in exchange for the order right sought
- persuade the Secretary of State that there is no suitable replacement land or it would be prohibitively expensive to acquire and the project is too urgent to undergo
- the right is shown to be acquired temporarily only or
- demonstrate that the open space land over which the right is being sought does not exceed 200 square metres or is required (or partly required) for the widening or drainage of an existing highway and the giving of exchange land is unnecessary in the interests of the public.

7.2.2 If none of the above scenarios apply then the Order seeking powers to acquire rights compulsorily in relation to the open space land would be subject to special parliamentary procedure.

7.2.3 The land considered to potentially constitute open space land within the meaning of the Planning Act 2008 lies to the south of the A12 and west of the M25, is situated at land known as Oak Farm and owned by Gardens of Peace Muslim Cemetery. The site is currently under construction as a Muslim burial ground. It lies within plot number 1/8.

7.2.4 This area of land is not designated as open space under the adopted or emerging local plans. Access to the land at present is restricted as the site is being developed into a Muslim burial ground. The site is currently bound by hoarding, gates and fencing which prevent public use or access during construction works.

- 7.2.5 It is the Applicant's view, however, that once construction of the burial ground is complete and the site is made open to the public, it may become open space within the meaning of the Planning Act. It may also be open space for the purposes of the NPS NN. The Applicant has reached this conclusion following consideration of the proposed arrangements for public access to the new burial ground. This information has been obtained from the planning application submitted to the London Borough of Havering and the decision to grant planning permission for the proposals.
- 7.2.6 Although the land is owned by a private landowner and access will be limited to the facility's opening hours, such characteristics are consistent with other forms of open space land. It is the Applicant's understanding that the burial ground will be open for a large part of the day throughout the year, providing the general public with access for recreational purposes, for example, walking. On this basis, the Applicant considers that land forming part of plot 1/8 may be considered to include public open space once the consented development is completed and the burial ground opens to the general public. The proposed burial ground is slightly under 10ha in area.
- 7.2.7 The land over which rights are sought consists of 1 plot amounting to approximately 1,570 square metres and the rights sought are to construct, protect, access, operate, maintain and thereafter renew a section of underground gas pipeline, approximately 75 metres in length through plot 1/8.
- 7.2.8 Temporary possession over approximately 5,755 square metres is required through plot 1/8a in order to facilities to construction of the pipeline as shown on the Special Category Land Plan (TR010029/APP/2.11(2))
- 7.2.9 The underground pipe is proposed to be installed 1200mm below the surface of the ground and the proposed alignment is shown on sheet 1 of the **Work plans** (see Work no. 29- application document TR010029/APP/2.3(3)).
- 7.2.10 Once the pipeline is installed, it will be subject to routine inspection in order to assess the condition of the corridor and to determine whether any changes have occurred that may require action.
- 7.2.11 The Applicant makes the following submissions:
- The open space land, when burdened with the order right, would be no less advantageous to the persons in who it is vested than the current situation because:
- a) The existing gas pipeline (subject to the diversion) already runs beneath plot 1/8 with an associated easement. Its presence and associated ongoing maintenance by Cadent Gas has not, to Highways England's knowledge, been raised by the owners of the burial ground as a concern for their development. The proposed diversion will not give rise to any new or different effects to the existing gas pipeline which runs through plot 1/8 and will therefore have no greater impacts on the proposed burial ground.
 - b) The proposed diversion would run as close to the existing gas pipeline as possible and run beneath a service access road to minimise the impact on those in whom the land is vested. The diversion would be set away from the main permissive paths and more attractive landscaped areas of the burial ground that will be open to the public. The access road under which the pipeline is proposed to be installed is understood to be designed for service

vehicles. It would not be the access route to which members of the general public would be directed when accessing the site.

- c) A 40 metre wide strip of land will be required temporarily in order to carry out the necessary works to install the diverted section of underground gas pipeline. Once the construction works in connection with the diversion have finished the land would be restored to the reasonable satisfaction of the landowner and the open character of the site would not be affected.
- d) The permanent easement that is proposed to be acquired over the site will be approximately 12 metres wide and run to a distance of approximately 75 metres, with rights being sought for access for inspection, repair, maintenance and renewal works. Such works will be infrequent and temporary in nature and the land would be restored to the reasonable satisfaction of the owner once those works were finished. In general inspections will be undertaken within the mains and not require any interference with the land.
- e) Accordingly, the overall impact of the proposed acquisition of a permanent right in this area of open space land will make it no less advantageous for those in whom it is vested.

The land will be no less advantageous to the persons having rights of common or other rights when burdened by the rights sought pursuant to the development consent order as:

- a) Highways England is not aware of any parties claiming rights of common or other rights over this land.

The land will be no less advantageous to the public when burdened by the rights sought pursuant to the DCO.

- a) The land is currently privately owned agricultural land and the public currently enjoys no access to this land for recreational use, as far as the Applicant is aware.
- b) However, as stated above, once the proposed burial ground development has been completed, members of the public will, it is understood be able to access parts of that development for recreational purposes during most hours of the day, and most days of the year. Although the land is owned by a private landowner and access will be limited to the facility's opening hours, such characteristics are consistent with other forms of open space land. The burial ground will be open for a large part of the day throughout the year and it is anticipated that it will be used by the public for recreation, such as dog walking.
- c) The ongoing operation, inspection, repair, maintenance and renewal of the proposed new section of diverted underground gas pipeline is not anticipated to have any impact on the ability of members of the public to enjoy the land as open space. The area of land over which the Order right is being sought is not within those parts of the site proposed to be formally laid out as paths or landscaped gardens for recreational use by members of the public but instead is largely located under the proposed service access road.
- d) Accordingly, there is no reason to believe that the potential open space land lying within the proposed burial ground development will be any less

advantageous to the public following the completion of the authorised development.

- 7.2.12 As a result, the Applicant considers that this open space land, following completion of the proposed works, will be no less advantageous to those persons in whom the land is vested, any other persons or members of the public who will be entitled to use the land once the burial ground is opened to the public.
- 7.2.13 It is therefore submitted that s.132(3) of the Planning Act applies and the Applicant respectfully requests that the Secretary of State confirms that SPP is not required in this instance.

7.3 National Trust land

- 7.3.1 No National Trust land is present within the DCO boundary.

7.4 Statutory undertaker land

- 7.4.1 The DCO, if made, would authorise the compulsory acquisition of statutory undertaker's land comprising of the following plots as described in the **Book of reference** (application document TR010029/APP/4.3(4)) and shown on the **Land plans** (application document TR010029/APP/2.2(3)). The land is held by the statutory undertakers set out below, for the purposes of carrying out their statutory undertaking.

Table 7.1: Statutory undertaker land/ apparatus subject to compulsory acquisition

Statutory undertaker	Type of acquisition	Plot number
British Pipeline Agency Limited	Permanent	1/4, 1/5, 1/18, 1/28, 1/29, 3/5, 3/11, 4/3
	Rights to be acquired permanently	1/1a, 1/17 1/21, 3/17, 3/19
	Temporary	1/1d, 3/16, 3/18
British Telecommunications plc	Permanent	1/4, 1/5, , 1/27a, 1/28, 1/29, 1/30, 1/31, 1/32, 1/33, 1/34, 1/36, 1/37, 1/38, 4/4, 4/9
	Temporary	1/1, 1/7, 1/26, 1/28a
	Rights to be acquired	1/6, 1/8, 1/25, 1/25a, 1/27
Cadent Gas Limited	Permanent	1/5, 1/10, 1/13, 1/35, 1/36, 1/38, 3/8, 3/20, 3/22,4/4, 1/12, 1/13, 1/14, 1/11a, 3/8, 3/22
	Rights to be acquired	1/1a,1/6, 1/8, 1/3
	Temporary	1/11, 1/12, 1/14, 3/2, 3/6, 3/21, 4/4, 1/8a, 1/1, 1/7

Essex and Suffolk Water Limited	Permanent	1/4, 1/5, 1/28, 1/29, 1/33, 1/34, 1/35, 1/36, 1/37, 4/3, 4/4, 4/9
	Temporary	1/1, 1/2, 1/7
	Rights to be acquired	1/1a, 1/6, 1/3
EU Networks	Temporary	1/1, 1/2
	Rights to be acquired permanently	1/1a
	Permanent	1/4, 1/10, 1/29, 1/32, 1/38, 2/1
Instalcom	Temporary	1/1, 1/2
	Rights to be acquired permanently	1/1a, 1/3
	Permanent	1/4, 1/10, 1/29, 1/32, 1/38, 2/1
National Grid Electricity Transmission PLC	Permanent	1/4, 1/5, 1/18, 1/28, 1/29, 3/5, 3/11, 3/12, 3/13, 3/14,
	Rights to be acquired permanently	1/6, 1/17, 1/22, 1/25, 3/17
	Temporary	1/1, 3/16
Openreach Limited	Permanent	1/4, 1/5, 1/26, 1/27a, 1/28, 1/29, 1/30, 1/31, 1/32, 1/33, 1/34, 1/36, 1/37, 1/38, 4/4, 4/9
	Temporary	1/1, 1/7
	Rights to be acquired permanently	1/1a, 1/6, 1/8, 1/25, 1/27
Telia Carrier UK Ltd	Temporary	1/1, 1/2
	Rights to be acquired permanently	1/1a, 1/3
	Permanent	1/4, 1/10, 1/29, 1/32, 1/38, 2/1, 1/24, 1/27a, 1/28, 1/30, 1/32c, 1/32e, 1/33, 1/34, 1/35, 3/1, 3/4, 3/5, 3/8, 3/10, 3/12, 4/3, 4/5, 4/7, 4/7a, 4/10
Telia Company AB	Temporary	1/1, 1/2
	Rights to be acquired permanently	1/1a, 1/3

	Permanent	1/ 4, 1/10, 1/29, 1/32, 1/38, 2/1
Telent Technology Limited	Permanent	1/ 4, 1/10, 1/29, 1/32, 1/38, 2/1, 1/24, 1/27a, 1/28, 1/30, 1/32c, 1/32e, 1/33, 1/34, 1/35, 3/1, 3/4, 3/5, 3/8, 3/10, 3/12, 4/3, 4/5, 4/7, 4/7a, 4/10
	Temporary	1/1, 1/2
	Rights to be acquired permanently	1/1a, 1/3
Thames Water Utilities Limited	Permanent	1/10, 4/3, 4/5
	Rights to be acquired permanently	1/1a, 1/7, 1/8, 1/3
	Temporary	1/1,
UK Power Networks Holdings Limited	Permanent	1/ 4, 1/5, 1/10, 1/18, 1/28, 1/29, 1/30, 1/31, 1/32, 1/33, 1/34, 1/35, 1/36, 1/37, 1/38, 2/1, 3/5, 3/11, 4/1, 4/2, 4/3, 4/4, 4/5, 4/9
	Rights to be acquired permanently	1/1, 1/3, 1/6, 1/17, 1/21, 1/25, 1/27, 3/17,
	Temporary	1/2, 1/16, 3/16, 3/18, 3/19, 1/7
United Kingdom Oil Pipelines	Permanent	3/5
	Rights to be acquired permanently	, , , 1, , , 3/15, 3/17, 3/19
	Temporary	, 3/16, 3/18
Zayo Group UK Limited	Permanent	1/4, 1/29, 1/32, 1/38, 2/1,
	Temporary	1/1, 1/2
	Rights to be acquired permanently	1/1a, 1/3

7.4.2 In the draft DCO the Applicant also seeks a power to acquire rights for the diversion of statutory undertakers' apparatus in connection with the Scheme, which are owned by the undertakers. The majority of these diversion are of apparatus within the highway and so require diversion into within the new road layout. The following diversions are listed as scheduled works and are outside of the highway:

- Diversion of an existing underground Cadent Gas high pressure (33bar) gas pipeline – work 29
- Diversion underground of an existing UKPN 11kV overhead electric line – work 30.

7.4.3 Section 127(3) of the PA 2008 provides that a DCO may only authorise the compulsory acquisition of statutory undertaker's land where a representation has been made by the statutory undertaker objecting to the acquisition if the Secretary of State is satisfied that:

- a) the land can be purchased and not replaced without serious detriment to the carrying on of the undertaking or
- b) if purchased, the land can be replaced by other land belonging to, or available for acquisition by, the undertaker without serious detriment to the carrying on of the undertaking.

7.4.4 Section 127(6) of the PA 2008 provides that a DCO may only authorise the compulsory acquisition of rights over statutory undertaker land where a representation has been made by the statutory undertaker objecting to the acquisition if the Secretary of State is satisfied that:

- a) the rights can be acquired without any serious detriment to the carrying on of the undertaking or
- b) any consequential detriment to the carrying on of the undertaking can be made good by the undertaker by using of other land belonging to or available for acquisition by the undertaker.

7.4.5 Adequate protection for statutory undertakers' assets has been included within the protective provisions in Schedule 9 to the draft DCO and/or in asset protection agreements between the parties. Accordingly, the statutory undertakers will not suffer serious detriment to the carrying on of their undertaking as a result of the compulsory acquisition of the land (in the case of plots listed in Table 1) or as a result of the acquisition of rights over land (in the case of the plots listed in Table 1). The tests set out in sections 127(3) and 127(6) of the PA 2008 are therefore satisfied.

7.4.6 Various statutory undertakers' and owners of apparatus have a right to keep equipment (in connection with their undertaking) on, in or over the Land. Statutory undertakers' and other apparatus owners that are known to have equipment on, in or over the Land are included in the Book of reference.

7.4.7 Section 138 of the PA 2008 applies if a DCO authorises the acquisition of land (compulsorily or by agreement) and there subsists over the land a 'relevant right', or there is 'relevant apparatus' on, under or over the land.

7.4.8 For the purposes of section 138:

- a) 'relevant right' means a right of way, or a right of laying down, erecting, continuing or maintaining apparatus on, under or over the land which is vested in or belongs to statutory undertakers for the purpose of carrying on their undertaking, or which is conferred on a telecommunications code operator and
- b) 'relevant apparatus' means apparatus vested in or belonging to statutory undertakers for the purpose of carrying on of their undertaking, or electronic

communications apparatus kept installed for the purposes of an electronic communications code network.

- 7.4.9 A DCO may only include provision for the extinguishment of the relevant right, or the removal of the relevant apparatus, if the Secretary of State is satisfied that the extinguishment or removal is necessary for the purpose of carrying out the development to which the DCO relates (subsection 138(4)).
- 7.4.10 The DCO includes provision to authorise the extinguishment of a relevant right, or the removal of relevant apparatus belonging to statutory undertakers, in connection with the delivery of the Scheme. The exercise of such powers will be carried out in accordance with the protective provision contained in Schedule 9 of the DCO.
- 7.4.11 The protective provisions (as set out in Schedule 9 of the **draft DCO** (application document TR010029/APP/3.1(8)) contain constraints on the exercise of the powers in the DCO, with a view to safeguarding the statutory undertakers' and electronic communications apparatus owners' interests, whilst enabling the Scheme (i.e. the development authorised by the DCO) to proceed. The Applicant therefore considers that the test set out in Section 138 of the Act is satisfied.
- 7.4.12 A number of existing utility services are located within the DCO boundary and would be affected by the Scheme. In this case it is proposed to either protect or divert statutory undertakers' apparatus to accommodate the Scheme. Provision for the carrying out of such diversions outside of the highway boundary have been included within the Works comprising the authorised development (as set out in Schedule 1 of the **draft DCO** (application document TR010029/APP/3.1(8)) – authorised development (Utility Diversions) and on the **Works plans** (application document TR010029/APP/2.3(3)). Utility works within the highway boundary are also proposed to be authorised by means of their inclusion within the definition of ancillary development (see item (I) in particular) also set out in Schedule 1..It is not proposed to remove any apparatus and extinguish any rights without a diversion firstly being provided.
- 7.4.13 The Applicant has been in discussions with the statutory undertakers, affected by the Scheme throughout the scheme process and throughout the DCO examination. Details of the current status of these discussions, which are ongoing, are included in the Compulsory Acquisition Schedule (TR010029/EXAM/9.19(7)).

7.5 Other consents

- 7.5.1 The **Consents and agreements position statement** (application document TR010029/APP/3.3(2)) sets out the other consents that will be required and the current position as to the status of securing those consents. The Consents and agreements position statement will continue to be updated as necessary during the Examination. The Applicant is satisfied that all necessary consents to enable the Scheme to proceed have been identified and that there is no reason why such consents should not be secured or granted pursuant to the DCO.

8 Conclusions

8.1 Overview

- 8.1.1 This Statement sets out why compulsory acquisition and temporary powers have been sought in the DCO application and explains why the Applicant considers such powers to be necessary, proportionate, and justified.
- 8.1.2 In determining the extent of the compulsory acquisition and temporary possession powers proposed in the draft DCO, the Applicant has had regard to the legislative tests set out in the PA 2008 and to the advice in the CA guidance. The Applicant is content that the scope of the powers sought and the extent of the interests in the Land to be acquired by compulsory acquisition are required for the Scheme and are the minimum necessary that will allow the Applicant to construct, operate and maintain the Scheme. The purpose for which each part of the Land is required is set out in **Appendix A** to this Statement.
- 8.1.3 The Applicant has consulted all persons affected by the compulsory acquisition and temporary possession powers and persons who may have a claim for compensation arising from the Scheme. It has consulted such persons during preparation of the DCO application and in the design of the Scheme to address their concerns and to ensure that any impacts are reduced or removed. The Applicant is seeking to acquire any interests in the Land by agreement wherever practicable. The status of discussions with affected landowners for the acquisition of their land interest is set out the Compulsory Acquisition Schedule (TR010029/EXAM/9.19(7)).
- 8.1.4 The Applicant has considered the human rights of the individuals affected by the compulsory acquisition and temporary possession powers. It is satisfied that there is a compelling public interest case for compulsory acquisition and that the significant public benefits arising from the Scheme will outweigh the harm to those individuals.
- 8.1.5 Without the grant of compulsory acquisition and temporary possession powers, the Applicant considers that it will not be possible to construct the Scheme, or realise the public benefits arising from it.

Appendices

Appendix A. Details of the purpose for which compulsory acquisition and temporary possession powers are sought

- A.1.1 The specific purposes for which each plot of Land subject to compulsory acquisition powers is required are set out in the tables in this Appendix. The first column of each table identifies the plot number (as shown on the Land plans and used in the Book of reference). Plots may be grouped in each row to the extent that they relate to the same work. The second column of each table sets out the corresponding Works numbers as shown on the Works plans (and described in Schedule 1 to the draft DCO) and the broad uses for which the plot in question is required.
- A.1.2 The tables have been updated to reflect the changes to the Scheme which were accepted by the ExA into the examination as well as to reflect discussions with stakeholders with regard to land ownership and rights.
- A.1.3 The tables in this Appendix should be read in conjunction with and by reference to the:
- Land plans (application document TR010029/APP/2.2(3))
 - Works plans (application document TR010029/APP/2.3(3))
 - Book of reference (application document TR010029/APP/4.3(4))
 - draft DCO (application document TR010029/APP/3.1(8)).

Table A.1.1 Permanent acquisition of land by plot number

Table 1 – Permanent acquisition of Land – by plot number		
Plot Number/Land Plan sheet:	DCO Work No.	Purpose for which the land is required:
1/4	1	Improvements to a stretch of the existing A12 eastbound carriageway
	6	Provision of a new loop road
1/5	-	Required to ensure any rights inconsistent with the Scheme can be removed
1/10	2	Realignment of the existing A12 eastbound off-slip
	6	Provision of a new loop road
	13	New private means of access
	16	Alterations to the existing access and egress serving land situated to the immediate north of the A12
	19A	New private means of access
	19B	New attenuation pond, associated private means of access and drainage facilities
	20A	New private means of access
	20B	New attenuation pond, together with associated drainage facilities
	23A	Realignment of a stretch of the Weald Brook
	23B	Realignment of a stretch of the Weald Brook

Table 1 – Permanent acquisition of Land – by plot number

Plot Number/Land Plan sheet:	DCO Work No.	Purpose for which the land is required:
	23C	Realignment of a stretch of the Weald Brook
	24A	New flood compensation area
	24B	New flood compensation area
	25	Environmental works, including construction of ecological compensation areas
	29	Diversion of an existing underground Cadent high pressure (33 bar) gas pipeline
	32	Accommodation works to provide replacement facilities for Maylands Golf Course
1/11a	18	Environmental bund
1/12	6	Provision of a new loop road
	13	New private means of access
	25	Environmental works, including construction of ecological compensation areas
	29	Diversion of an existing underground Cadent high pressure (33 bar) gas pipeline
1/13	25	Environmental works, including the construction of ecological compensation areas
1/18	6	Provision of a new loop road

Table 1 – Permanent acquisition of Land – by plot number

Plot Number/Land Plan sheet:	DCO Work No.	Purpose for which the land is required:
	8	Re-alignment of a stretch of the existing M25 northbound on-slip
	9	New gantry or similar signage
	14	New private means of access
	21A	New private means of access
	21B	New attenuation pond together with associated private means of access and drainage facilities
	22	New drainage outfall pipe
	30	Diversion of an existing UKPN 11kV overhead electric line
1/24	8	Re-alignment of a stretch of the existing M25 northbound on-slip
	14	New private means of access
	30	Diversion of an existing UKPN 11kV overhead electric line
1/27a	8	Realignment of a stretch of the existing M25 northbound on-slip
1/28	2	Realignment of the existing A12 eastbound off-slip

Table 1 – Permanent acquisition of Land – by plot number

Plot Number/Land Plan sheet:	DCO Work No.	Purpose for which the land is required:
	6	Provision of new loop road
	23B	Realignment of a stretch of the Weald Brook
	23D	Realignment of a stretch of the Ingrebourne River
	26	New ecological mitigation area
1/29	2	Realignment of the existing A12 eastbound off-slip
	15	Alterations to the existing egress from Grove Farm
1/30	8	Realignment of a stretch of the existing M25 northbound on-slip
	30	Diversion of an existing UKPN 11kV overhead electric line
1/31	6	Provision of a new loop road
	7	Improvements to a stretch of the existing M25 northbound carriageway
	9	New gantry or similar signage
	11	New gantry or similar signage
	30	Diversion of an existing UKPN 11kV overhead electric line

Table 1 – Permanent acquisition of Land – by plot number

Plot Number/Land Plan sheet:	DCO Work No.	Purpose for which the land is required:
1/32	1	Improvements to a stretch of the existing A12 eastbound carriageway
	5	Improvements to the existing circulatory carriageway of the M25 junction 28 roundabout
	7	Improvements to a stretch of the existing M25 northbound carriageway
1/32a	1, 5	Improvements to a stretch of the existing A12 eastbound carriageway Improvements to the existing circulatory carriageway of the M25 junction 28 roundabout
1/32b	1, 5	Improvements to a stretch of the existing A12 eastbound carriageway Improvements to the existing circulatory carriageway of the M25 junction 28 roundabout
1/32c	1, 5, 7	Improvements to a stretch of the existing A12 eastbound carriageway Improvements to the existing circulatory carriageway of the M25 junction 28 roundabout Improvements to a stretch of the existing M25 northbound carriageway
1/32d	1, 5, 7	Improvements to a stretch of the existing A12 eastbound carriageway Improvements to the existing circulatory carriageway of the M25 junction 28 roundabout Improvements to a stretch of the existing M25 northbound carriageway

Table 1 – Permanent acquisition of Land – by plot number

Plot Number/Land Plan sheet:	DCO Work No.	Purpose for which the land is required:
1/32e	1, 5, 7	Improvements to a stretch of the existing A12 eastbound carriageway Improvements to the existing circulatory carriageway of the M25 junction 28 roundabout Improvements to a stretch of the existing M25 northbound carriageway
1/32f	1, 5	Improvements to a stretch of the existing A12 eastbound carriageway Improvements to the existing circulatory carriageway of the M25 junction 28 roundabout
1/33	5	Improvements to the existing circulatory carriageway of the M25 junction 28 roundabout
	7	Improvements to a stretch of the existing M25 northbound carriageway
1/33a	5	Improvements to the existing circulatory carriageway of the M25 junction 28 roundabout
1/34	5	Improvements to the existing circulatory carriageway of the M25 junction 28 roundabout
	12	Improvements to the existing M25 motorway northbound off-slip
1/34a	5	Improvements to the existing circulatory carriageway of the M25 junction 28 roundabout

Table 1 – Permanent acquisition of Land – by plot number

Plot Number/Land Plan sheet:	DCO Work No.	Purpose for which the land is required:
1/35	12	Improvements to the existing M25 motorway northbound off-slip
1/35a	5	Improvements to the existing circulatory carriageway of the M25 junction 28 roundabout
1/36	5	Improvements to the existing circulatory carriageway of the M25 junction 28 roundabout
1/37	5	Improvements to the existing circulatory carriageway of the M25 junction 28 roundabout
1/38	1	Improvements to a stretch of the existing A12 eastbound carriageway
	3	Improvements to a stretch of the existing A12 eastbound on-slip
2/1	1	Improvement to a stretch of the existing A12 eastbound carriageway
	3	Improvements to a stretch of the existing A12 eastbound on-slip
2/2	-	Required to ensure any rights inconsistent with the Scheme can be removed
3/1	31	Works associated with the provision of ducting and cabling between the proposed new gantry (Work No. 10) and the existing motorway communications cabinet
3 /4	7	Improvements to a stretch of the existing M25 northbound carriageway
	8	Realignment of a stretch of the existing M25 northbound on-slip

Table 1 – Permanent acquisition of Land – by plot number

Plot Number/Land Plan sheet:	DCO Work No.	Purpose for which the land is required:
	10	New gantry or similar signage
3/5	7	Improvements to a stretch of the existing M25 northbound carriageway
	8	Realignment of a stretch of the existing M25 northbound on-slip
	10	New gantry or similar signage
	30	Diversion of an existing UKPN 11kV overhead electric line
3/8	7	Improvements to a stretch of the existing M25 northbound carriageway
	8	Realignment of a stretch of the existing M25 northbound on-slip
	10	New gantry or similar signage
3/9	7	Improvements to a stretch of the existing M25 northbound carriageway
	8	Realignment of a stretch of the existing M25 northbound on-slip
3/10	7	Improvements to a stretch of the existing M25 northbound carriageway
	8	Realignment of a stretch of the existing M25 northbound on-slip
3/11	8	Realignment of a stretch of the existing M25 northbound on-slip
	30	Diversion of an existing UKPN 11kV overhead electric line
3/12	7	Improvements to a stretch of the existing M25 northbound carriageway

Table 1 – Permanent acquisition of Land – by plot number

Plot Number/Land Plan sheet:	DCO Work No.	Purpose for which the land is required:
	8	Realignment of a stretch of the existing M25 northbound on-slip
3/13	8	Realignment of a stretch of the existing M25 northbound on-slip
	30	Diversion of an existing UKPN 11kV overhead electric line
3/14	8	Realignment of a stretch of the existing M25 northbound on-slip
	14	New private means of access
	30	Diversion of an existing UKPN 11kV overhead electric line
3/20	24A	New flood compensation area
	25	Environmental works, including construction of ecological compensation areas
	27	New pond for environmental mitigation purposes
	28	New pond for environmental mitigation purposes
	29	Diversion of an existing underground Cadent high pressure (33 bar) gas pipeline
	32	Accommodation works to provide replacement facilities for Maylands Golf Course
3/22	25	Environmental works, including construction of ecological compensation area

Table 1 – Permanent acquisition of Land – by plot number

Plot Number/Land Plan sheet:	DCO Work No.	Purpose for which the land is required:
4/1		Required to ensure any rights inconsistent with the Scheme can be removed
4/2		Required to ensure any rights inconsistent with the Scheme can be removed
4/3		Required to ensure any rights inconsistent with the Scheme can be removed
4/4		Required to ensure any rights inconsistent with the Scheme can be removed
4/5		Required to ensure any rights inconsistent with the Scheme can be removed
4/6		Required to ensure any rights inconsistent with the Scheme can be removed
4/7		To rationalise into Applicant's ownership
4/7a		Required to ensure any rights inconsistent with the Scheme can be removed
4/8		To rationalise into Applicant's ownership
4/9		Required to ensure any rights inconsistent with the Scheme can be removed
4/10		To rationalise into Applicant's ownership
4/11		Required to ensure any rights inconsistent with the Scheme can be removed

Table A.1.2 Acquisition of Permanent Rights – by Plot Number

Acquisition of Rights – by Plot Number		
Plot Number/Land Plan sheet:	DCO Work No.	Purpose for which the land is required:
1/1a	6, 29	Provision of a new loop road Diversion of an existing underground Cadent high pressure (33 bar) gas pipeline
1/3	19A	New private means of access
1/3a	2	Realignment of the existing A12 eastbound off-slip
1/6	6	Provision of new loop road and drainage
1/8	29	Diversion of an existing underground Cadent high pressure (33 bar) gas pipeline
1/20	22	New drainage outfall
1/21	22	New drainage outfall
1/22	22	New drainage outfall pipe that will need access rights for its long term maintenance
1/25	Other ancillary development	As part of the Scheme’s mitigation package, bird boxes are proposed to be placed within the woodland and rights would be needed for their installation and long term maintenance/monitoring purposes
1/25a	2	Realignment of the existing A12 eastbound off-slip

Acquisition of Rights – by Plot Number		
	6	Provision of new loop road and drainage
	23B	Realignment of a stretch of the Weald Brook
	23D	Realignment of a stretch of the Weald Brook
	26	New ecological mitigation area
	Other ancillary development	Other ancillary development (bird boxes and utilities access)
1/27	2, 6, 23B, 24D and 26a	To install, access, monitor and maintain bird boxes. To construct, access and maintain: (a) improvements to the A12 eastbound off-slip (including Maylands Bridge and Grove culvert); (b) Grove Bridge; and (c) realigned stretches of Weald Brook and Ingrebourne River. To construct, operate, access and maintain diversions to existing utilities apparatus.
3/17	N/A	As part of the Scheme's mitigation package, bird boxes are proposed to be placed within the woodland and rights would be needed for their installation and long term maintenance/monitoring purposes and to facilitate construction of the Scheme

Table A.1.3 Temporary Possession – by Plot Number

Temporary Possession of Land – by Work Number		
Plot Number/Land Plan sheet:	DCO Work No.	Purpose for which the land is required:
1/1	1	Construction works relating to improvements to the A12 eastbound carriageway
1/1b	4	Construction works relating to improvements to the A12 westbound carriageway
1/1c	4, 29	Construction works relating to improvements to the A12 westbound carriageway To facilitate construction of diversion of an existing underground Cadent high pressure (33 bar) gas pipeline
1/1d	4, 29	Construction works relating to improvements to the A12 westbound carriageway To facilitate construction of diversion of an existing underground Cadent high pressure (33 bar) gas pipeline
1/8a	29	To facilitate construction of diversion of an existing underground Cadent high pressure (33 bar) gas pipeline
1/2	1	Construction works relating to improvements to the A12 eastbound carriageway
1/7	4	Construction works relating to improvements to the A12 westbound carriageway
1/11	All works	Construction compound and associated works
	18	An environmental bund
1/14	32	Accommodation works to provide replacement facilities for Maylands Golf Course
1/15	21B	New attenuation pond together with associated private means of access and drainage facilities
	23C	Realignment of a stretch of the Weald Brook

Temporary Possession of Land – by Work Number		
	22	New drainage outfall
1/16	23A	Realignment of a stretch of the Weald Brook
	23B	Realignment of a stretch of the Weald Brook
	30	
1/17	-	To facilitate construction of the works
1/21a	23A	Realignment of a stretch of the Weald Brook
	23V	Realignment of a stretch of the Weald Brook
1/26	15	Alterations to the existing egress from Grove Farm
1/28a	15	Alterations to the existing egress from Grove Farm
3/2	7	Improvements to a stretch of the existing M25 northbound carriageway
	8	Realignment of a stretch of the existing M25 northbound on-slip
	10	New gantry or similar signage
3/3	7	Improvements to a stretch of the existing M25 northbound carriageway
	8	Realignment of a stretch of the existing M25 northbound on-slip
	10	New gantry or similar signage
3/6	10	New gantry or similar signage
3/7	10	New gantry or similar signage
3/15	-	To install, access, monitor and maintain bird boxes.
3/16	8	Realignment of a stretch of the existing M25 northbound on-slip

Temporary Possession of Land – by Work Number

	14	New private means of access
3/18	25	To facilitate the provision of environmental works, including the construction of ecological compensation areas
3/19	-	To install, access, monitor and maintain bird boxes.
3/21		
	32	Accommodation works to provide replacement facilities for Maylands Golf Course
	-	To facilitate the provision of environmental works, including the construction of ecological compensation areas
3/23	32	Accommodation works to provide replacement facilities for Maylands Golf Course

Appendix B. Schedule of progress of negotiations with parties affected by compulsory purchase

- B.1.1. This table has been superseded by the Compulsory Acquisition Schedule submitted as a Core Document as each deadline. The final Schedule is submitted at Deadline 9 (TR010029/EXAM/9.19(7)).

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