

**Application by National Highways for an Order granting Development Consent for
The Lower Thames Crossing**

**WRITTEN REPRESENTATION ON BEHALF OF
ST. MODWEN DEVELOPMENTS LIMITED
(PLANNING INSPECTORATE REFERENCE:
20035817)**

1. INTRODUCTION

- 1.1 This written representation is submitted by Pinsent Masons LLP on behalf of St. Modwen Developments Limited (“**SMDL**”) in respect of National Highways’ (the “**Applicant**”) application for a development consent order (“**DCO**”) for the Lower Thames Crossing (“**LTC**”) project. This follows the relevant representation submitted by SMDL and attendance by Pinsent Masons LLP on behalf of SMDL at the Preliminary Meeting and Issue Specific Hearing 1.
- 1.2 SMDL is the promoter of the Brentwood Enterprise Park (“**BEP**”), a proposed employment development immediately to the southeast of Junction 29 of the M25 (“**J29**”) and to the south of the A127. BEP is of significant strategic importance as it represents more than 50% of the new employment land allocated in the Brentwood Local Plan 2016-2033 (the “**Local Plan**”) adopted by Brentwood Borough Council (“**BBC**”) on 23 March 2022.
- 1.3 The BEP site is currently owned by Christopher Scott Padfield, S&J Padfield & Partners and S&J Padfield Estates LLP (“**Padfield**”). SMDL understands that Padfield will be submitting a separate written representation.
- 1.4 SMDL has submitted a planning application for BEP which is currently under consideration by BBC. The planning application demonstrates the very significant public and economic benefits that will be brought forward by the BEP.
- 1.5 Whilst SMDL is broadly supportive of the LTC project as a whole, the BEP site is significantly impacted by the proposals insofar as they relate to J29 and the surrounding road network. SMDL and Padfield have therefore been engaging with the Applicant over a number of years in order to seek to minimise these impacts and identify technical solutions for how BEP and LTC can both be delivered in a timely fashion.
- 1.6 SMDL has welcomed the opportunity to engage with the Applicant and acknowledges that significant progress has been made in reducing the impact of LTC on BEP. However, there remain a number of key outstanding issues which must be resolved in order to provide SMDL with comfort that LTC will not have an unacceptable impact on BEP. These can be summarised as follows:
 - 1.6.1 the impact of the LTC proposals on the proposed access to BEP from the B186;
 - 1.6.2 the impact on the proposed northern BEP vehicular access of the proposed LTC bridge for walkers, cyclists and horse riders (“**WCH**”) over the A127;
 - 1.6.3 the proposed temporary possession and acquisition of permanent rights at Codham Hall Lane; and
 - 1.6.4 the need for LTC to make a financial contribution towards strategic highway infrastructure works that will be delivered and forward-funded by SMDL and Padfield as part of the BEP development and which will obviate the need for the Applicant to deliver certain elements of the LTC scheme.
- 1.7 Unless and until a formal agreement is concluded between SMDL, Padfield and the Applicant in order to address these issues and properly manage the interface between LTC and BEP, SMDL objects to the LTC proposals. The impact of and significant uncertainty created by the draft DCO [**AS-038**]¹ as currently proposed would very likely have the effect of sterilising the BEP development, resulting in a significant loss to Brentwood Borough and the wider economy.
- 1.8 SMDL and Padfield are also aware that BBC and Essex County Council (“**ECC**”) share concerns about the interface of LTC with BEP. Indeed, BBC’s and ECC’s submissions at Procedural Deadline C ([**PDC-001**] and [**PDC-002**] respectively) specifically highlighted the BEP interface and access as

¹ Square-bracketed references within this representation are to references in the DCO Examination Library.

being an issue that was not agreed. SMDL understands that both BBC and ECC will again be raising concerns in their representations and Local Impact Reports which will be submitted at Deadline 1.

- 1.9 Furthermore, SMDL understands that whilst discussions with the Applicant have focused on the BEP proposals, there has been effectively no discussion regarding the impact of LTC on the existing land uses on the BEP site, nor has there been any meaningful consultation with existing tenants whose existing businesses will be significantly and adversely impacted by the LTC proposals in the event that the BEP development does not come forward. The LTC proposals will sever the existing, longstanding access to the BEP site which has been used by Padfield and tenants for several decades, having been provided following compulsory purchase and side road orders made by the Secretary of State in the 1970s in connection with the original construction of J29. SMDL understands that this is a point that will be further expanded upon in Padfield's written representation (including the extent to which the draft DCO seeks to address those historic orders for the purposes of section 120(5) of the Planning Act 2008) but we would note at this stage that this appears to be a significant oversight in the LTC application which must be addressed.

2. **ST MODWEN**

- 2.1 SMDL forms part of St. Modwen Group of companies, a leading logistics and housebuilding developer in England and Wales with a significant track record dating back more than 30 years. St. Modwen Properties Limited was a constituent member of the FTSE 250 until its acquisition in 2021 by Blackstone, an investment management company based in New York City.
- 2.2 The principal activities of SMDL are the development of logistics assets via the St. Modwen Logistics business and the preparation of land for future development through the Strategic Land & Regeneration business. The St. Modwen Logistics business designs, builds, owns and manages high-quality logistics assets. The developments are concentrated around areas of major infrastructure, with SMDL delivering 1.4m square feet and 1.9m square feet of new logistics floorspace in 2021 and 2022 respectively. Furthermore, the St. Modwen Logistics business has one of the UK's largest logistics development pipelines, of which the BEP forms a significant part.

3. **THE BEP SITE**

- 3.1 The BEP site is approximately 43.75 hectares and is centred at Ordnance Survey National Grid Reference TQ590881. The BEP site lies to east of the M25 and immediately to the southeast of J29. The majority of the BEP site lies to the south of the A127 with part of an access road to the site (Codham Hall Lane) located to the north of the A127. The BEP site lies to the west of the B186 Warley Street.
- 3.2 The BEP site is shown below indicatively edged red on Figure 1 with key surrounding roads labelled:

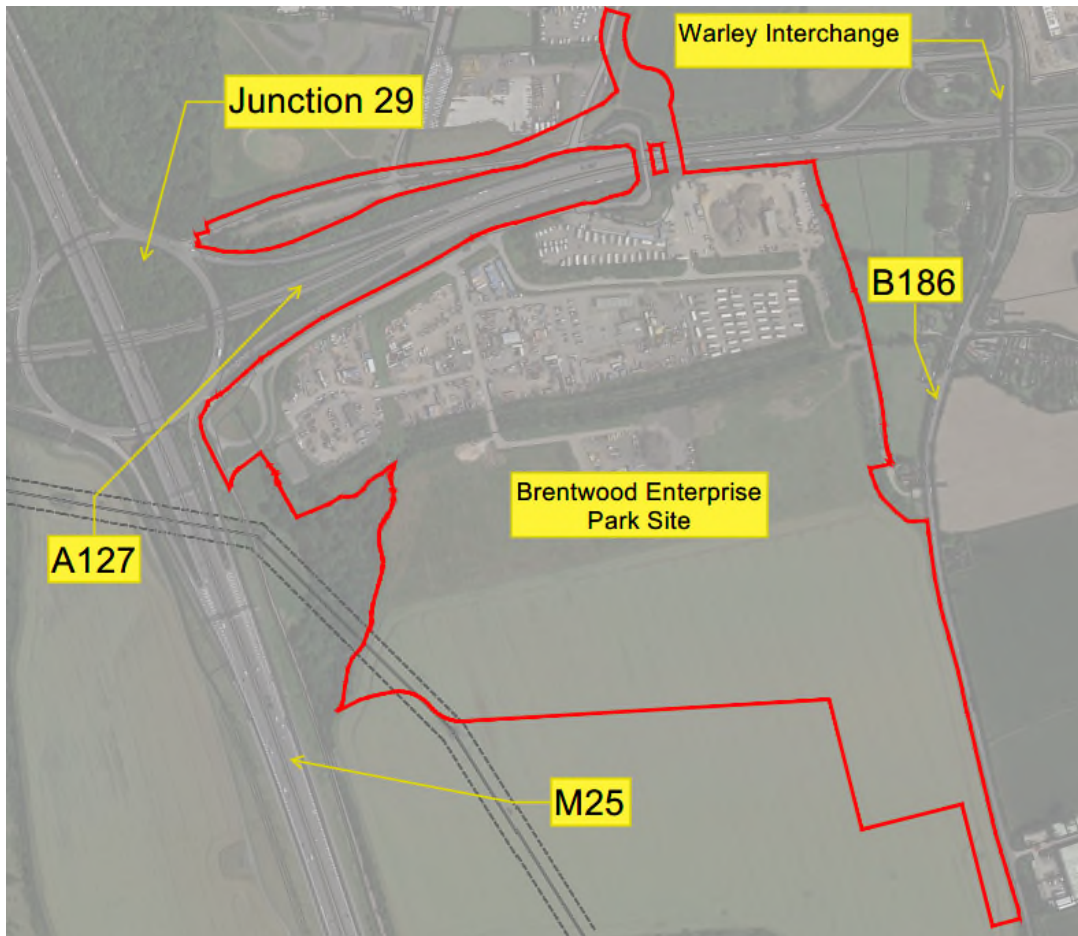


Figure 1 – BEP Site

- 3.3 The BEP site has been used for a considerable number of years by various tenants (some of whom are understood to have occupied the site for decades) and is currently used by a large number of tenants for a mixture of agricultural and industrial uses. North of the A127, the site is currently occupied by an access route to Codham Hall Estate. The land to the south of the A127 is known as Codham Hall South - the northern part of Codham Hall South hosts a range of industrial and commercial uses such as a recycling facility and traffic and highways management facilities. The southern part of Codham Hall South is in agricultural use (currently arable). We understand that Padfield's written representation will provide further details of the existing users.
- 3.4 The existing tenants of Codham Hall South can currently freely access J29 via the two following routes:
- 3.4.1 an existing two-way signal-controlled junction off the south-east quadrant of J29 (this route is indicatively shown with a blue line on Figure 2 below, with the interface with J29 shown in Figure 3 below) – this is the main vehicular access point; and
 - 3.4.2 an existing two-way Codham Hall Lane priority access off the north-east quadrant of J29 and the existing single lane accommodation bridge over the A127 (this route is indicatively shown with a green line on Figure 2 below, with the interface with J29 shown in Figure 4 below).

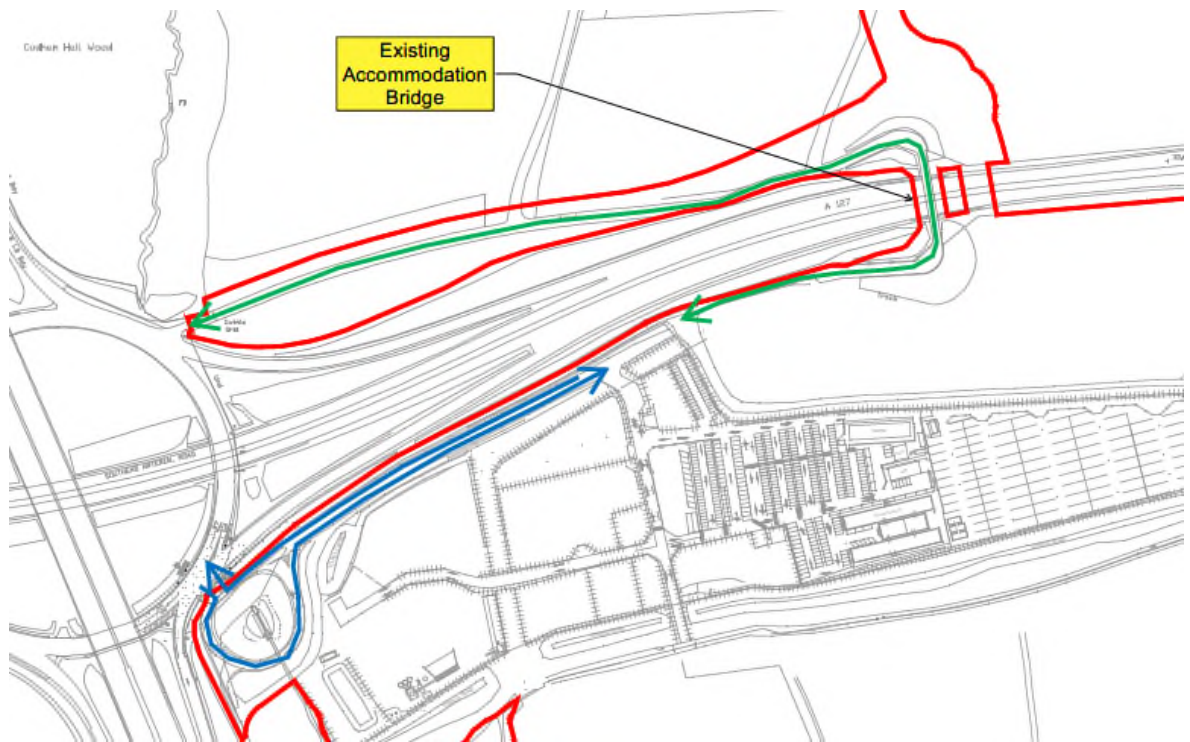


Figure 2 – Existing Accesses to BEP Site



Figure 3 – Existing Access to Codham Hall South

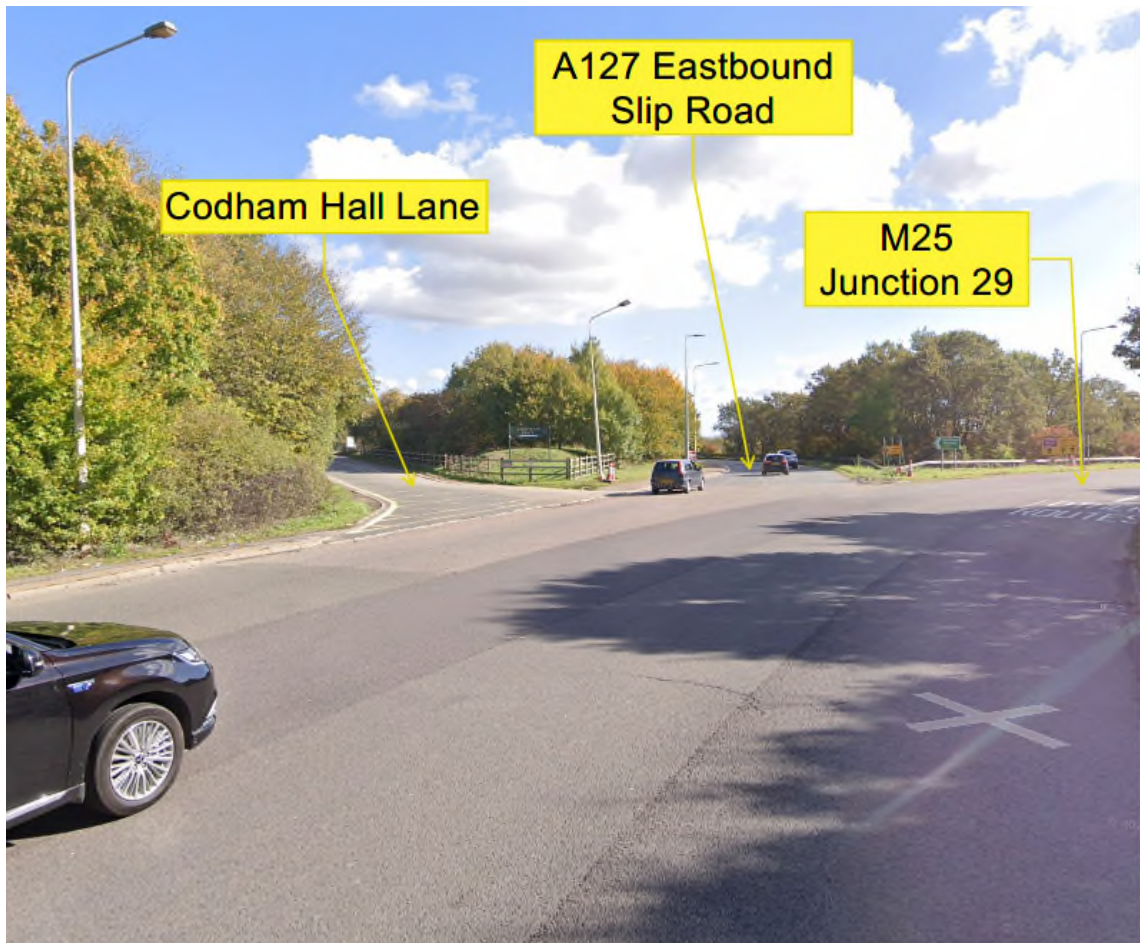


Figure 4 – Codham Hall Lane Access

- 3.5 The BEP site includes the following draft DCO plots: 45-97, 45-99, 45-100, 45-103, 45-104, 45-106, 45-110, 45-112, 45-114, 45-116, 45-124, 45-125, 45-126, 45-127, 45-128, 45-129, 45-130, 45-131, 45-133, 45-134, 45-135, 45-136, and 45-138.

4. **ST MODWEN'S INTEREST IN THE BEP SITE**

- 4.1 The freehold interests in the BEP site are currently owned by Padfield.
- 4.2 On 23 June 2015, SMDL entered into a development agreement with Padfield pursuant to which SMDL agrees to promote the BEP development. The terms of the development agreement are that SMDL is obliged to install all the necessary infrastructure required to provide a fully serviced site, subdivide this into a series of development plots and deliver a comprehensive development to suit market requirements and optimise values and returns to the benefit of both parties.

5. **BRENTWOOD LOCAL PLAN 2016-2033**

- 5.1 The Local Plan was adopted by BBC on 23 March 2022 following a period of detailed examination in public.
- 5.2 Policy E11 of the Local Plan allocates the BEP site for:

“around 25.85 ha of land for employment development (principally for offices, light industrial and research and development, B2 and B8 and other sui generis employment uses). Other ancillary supporting development within classes C1, E and F1 or other sui generis ancillary

supporting development may be permitted as a means of supporting these principal employment uses.”

5.3 Policy E11 sets out infrastructure requirements for BEP, including a requirement that the development should provide *“access via M25 Junction 29 and/or Warley Street (B186) and associated slip roads”*.

5.4 Policy E11 also sets a requirement for the development to make financial contributions towards matters including:

“off-site highway infrastructure improvements as may be reasonably required by National Highways (M25, J28 and J29) and Essex County Council (A127 and B186) in accordance with policies MG05 and BE08 (the planning obligation will determine the level and timing of payments for these purposes) unless, in the case of the Junction 29 mitigation and A127/B186 works, the applicant enters into a s.278 Agreement for its timely construction, if more appropriate”.

5.5 In order to facilitate the BEP development, the Local Plan released the majority of the BEP site from the Green Belt; the Inspectors finding that there were exceptional circumstances for doing so.

5.6 The BEP constitutes the only strategic employment site allocated in the Local Plan. Other smaller employment site allocations are made at:

5.6.1 Ingatestone (Policy E08 - 2.06 ha);

5.6.2 Codham Hall Farm (Policy E10 – 9.6 ha, the majority of which is already in existing use);

5.6.3 Childerditch Industrial Estate (Policy E12 – 20.64 ha although 11.25 ha are an existing industrial park); and

5.6.4 East Horndon Hall (Policy E13 – 5.5 ha).

5.7 The BEP allocation therefore makes up more than 50% of the new employment land allocated by the Local Plan.

5.8 The Local Plan includes various statements recognising the significant strategic importance of BEP to Brentwood borough. Paragraph 3.14 of the Local Plan states that:

“A strategic employment allocation at M25 junction 29 (Brentwood Enterprise Park) will provide for most of the new employment land needed, bringing forward a modern business park in the south-west of the borough with excellent access to the M25. This will also act as a focus for a wider M25/A127 employment cluster considering existing employment uses in the area.”

5.9 Paragraph 9.185 of the Local Plan states in respect of BEP that:

“This employment allocation will make a considerable contribution towards the overall employment needs for the Borough. It is envisaged that due to the location of the site next to one of the Borough’s key gateway, development on site should create a positive impression through high quality design and layout.”

5.10 Paragraph 9.187 of the Local Plan states that:

“The development has a number of potential access points including via the M25 Junction 29 and Warley Street (B186). It will be expected to adequately mitigate its likely impacts on the performance of the local and strategic road network.”

5.11 Importantly, the Local Plan also acknowledges the opportunities presented by LTC and specifically states that BEP is likely to be necessary to ensure Brentwood Borough can take advantage of those opportunities. Paragraphs 7.19 to 7.21 of the Local Plan state that:

“7.19 *The proposed land at Brentwood Enterprise Park and land south of East Horndon Hall will accommodate mixed office, light industrial and research and development and B-uses. The excellent access onto the strategic highway network, makes them a very desirable place for certain businesses. In addition, the size of Brentwood Enterprise Park provides benefits by way of supplying for a large amount of employment need while bringing along new infrastructure and supporting services. Brentwood Enterprise Park will provide an opportunity for high-end modern premises at a key gateway to the borough and into Essex. Appropriate accompanying uses will be considered appropriate where these meet local needs, such as hotel and associated restaurant options. Retail will not be considered appropriate, in line with the retail strategy and sequential approach. Specific site policies for the Enterprise Park are within Policy E11, in Chapter 9.*

7.20 **The Lower Thames Crossing will open up opportunities for goods and services to flow more easily between Brentwood and the area of Kent and beyond across the Thames, strengthening links to a market area that is currently less accessible from the borough.** *This could extend the borough’s FEMA to the south into Kent. However, it should be noted the crossing would be most beneficial to distributors who may use it to avoid congestion at the Dartford Crossing. **For the borough to take advantage of the distribution movements, it is likely Brentwood Enterprise Park will need to be delivered to provide premises that are of the scale required by distributors** (Economic Futures, Lichfield, 2018).*

7.21 *The potential relocation of industrial activities from London could create additional demand for offices, light industrial, research and development, and B2 and B8 premises in wider South East local authorities. Brentwood is well located to take advantage if firms do relocate outside of London. Delivery of the Brentwood Enterprise Park could provide a significant area of the floorspace that meets the needs of relocating businesses” (**emphasis added**).*

5.12 Having regard to the policy support set out in the Local Plan, it is clearly evident that the BEP development is of very significant strategic importance to Brentwood Borough. BBC is entirely reliant on the BEP development to achieve the proper planning of the area and to ensure the sustainable economic growth of the Borough. The Local Plan specifically acknowledges that BEP is necessary for Brentwood Borough to take advantage of the opportunities provided by LTC. It is plainly the case that anything that jeopardises or otherwise materially delays delivery of the BEP development will significantly undermine the Local Plan.

5.13 Through the detailed engagement that has taken place to date, the Applicant is well aware of the importance attached to bringing forward the BEP development.

5.14 In that context, it is essential that LTC should be brought forward in a manner that is consistent with the delivery of the BEP.

6. **BEP PLANNING APPLICATIONS**

The applications

6.1 Further to the Policy E11 allocation, SMDL has submitted a planning application to BBC for the BEP development (the “**BEP Application**”). The BEP Application was validated by BBC on 11 March 2022 and allocated reference number 22/00402/FUL. Amendments to the BEP Application were submitted to BBC on 2 June 2023 in order to remove the outline element (a Phase 2 Link Road)

which is not required to make the BEP acceptable in planning terms. The BEP Application is currently pending determination.

6.2 The BEP Application seeks detailed planning permission for the following description of development:

“demolition of existing buildings and structures; ground works to enable creation of development plots; highways works including construction of new A127 overbridge, access to B186, site roads and construction of M25 J29 to B186 link road (phase 1), erection of buildings for Class B8 (Storage and Distribution) and/or Class B2 (General Industrial) use within ancillary office space (within Class E); landscaping, infrastructure and enabling works including diversion of public rights of way.”

6.3 The proposed masterplan for the BEP development is shown in Figure 5 below (with a copy of the full plan appended to this representation at Appendix 1):

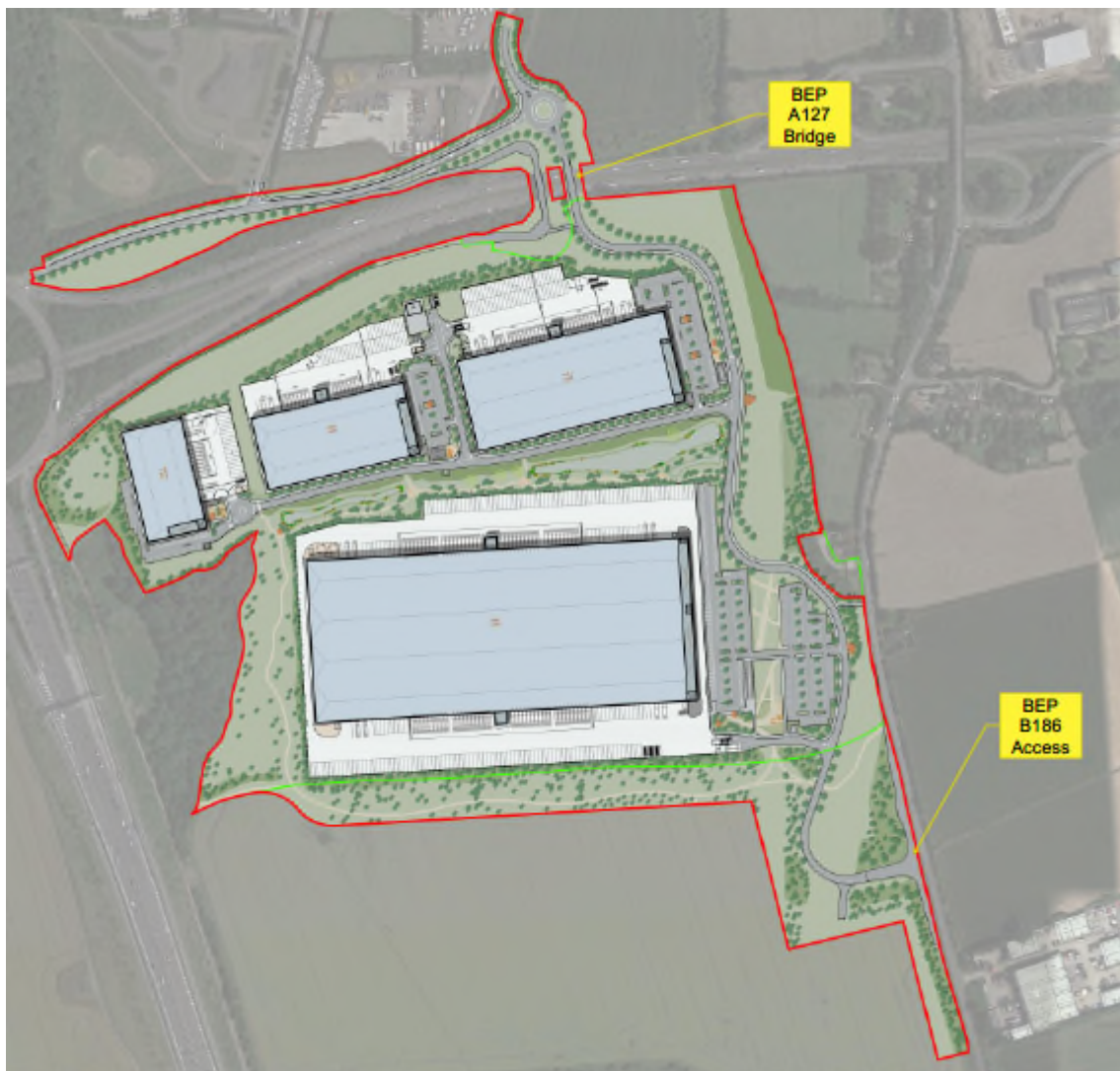


Figure 5 – Proposed BEP Masterplan

6.4 An associated planning application has also been submitted by SMDL to BBC (reference 22/00587/FUL) seeking detailed planning permission for the following development:

“engineering works on land situated to the south of Brentwood Enterprise Park, west of the B186 (Warley Street), north of the railway line and east of the M25 Motorway. Works to comprise the stripping and storage of topsoil, the movement, spreading and compacting of earthworks material from the adjacent Brentwood Enterprise Park development, and the respreading and levelling of the stored topsoil.”

- 6.5 The land covered by the earthworks applications lies immediately to the south of the main BEP site, as shown edged red on Figure 6 below:

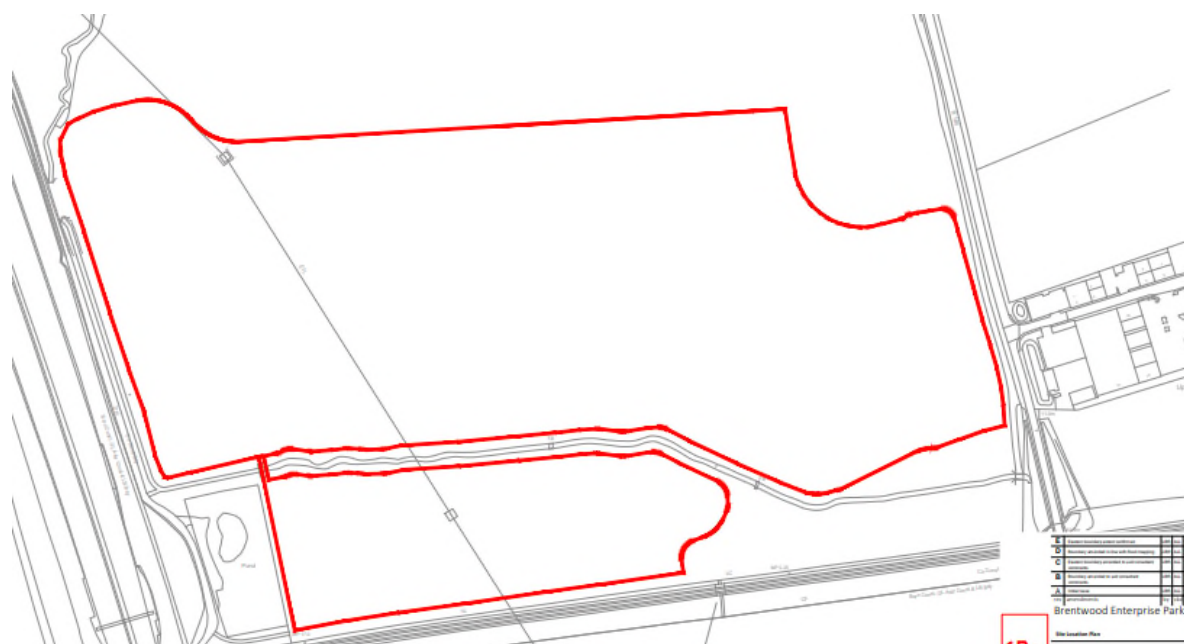


Figure 6 – Earthworks Application Redline Boundary

Public Benefits

- 6.6 As explained in the documentation supporting the BEP Application, the BEP will deliver significant public benefits including the following:
- 6.6.1 additional economic output of up to £230m per year, equivalent to over 10% of the total Gross Value Added (“**GVA**”) in the transport and storage sector in Essex and exceeding the entire agriculture and hunting sector in Essex (£208m);
 - 6.6.2 additional tax revenues of up to £92m per year;
 - 6.6.3 generation of up to £3.7m in annual business rate payments;
 - 6.6.4 delivery of a substantial amount of logistics floorspace in a strategically important location that is well-placed to take advantage of the wider LTC proposals;
 - 6.6.5 investment in local highways infrastructure;
 - 6.6.6 the creation of 1,080 construction jobs during a 21 month demolition and construction phase, with workers spending up to an estimated £2.4m in the local area;
 - 6.6.7 the direct creation of up to 2,370 gross Full Time Equivalent (“**FTE**”) jobs (2,660 jobs when accounting for part-time working patterns) – this equates to a 76% uplift in total manufacturing and transport and storage jobs in Brentwood Borough, equivalent to over 10 years’ worth of targeted employment growth;

- 6.6.8 up to 4,315 net additional FTEs would be supported after considering multiplier and displacement effects;
- 6.6.9 employees at the BEP site would spend up to £6.9m in the local area each year;
- 6.6.10 training opportunities for residents within the Borough;
- 6.6.11 health benefits through the provision of a community orchard, outdoor gym and fitness trail;
- 6.6.12 a highly sustainable workplace, achieving BREEAM Excellent; and
- 6.6.13 sustainable drainage measures.

Proposed Access Arrangements

- 6.7 The LTC scheme at J29 includes a dedicated free-flow lane from the A127 westbound to the M25 southbound that will bypass the traffic signals at the roundabout. This will result in the severing of the main existing access to Codham Hall South (as discussed in further detail in Padfield's written representation). In turn, this has meant that BEP cannot rely on utilising the main existing access, which was originally the intention before the LTC proposals became known.
- 6.8 Consequently, the BEP Application proposes two vehicular accesses to the development (both of which will be apparent from Figure 5 above and which are further discussed below at paragraphs 10 and 11):
 - 6.8.1 A new signal-controlled bellmouth junction will be formed on the B186 to the south of the main part of the BEP development.
 - 6.8.2 The existing Codham Hall Lane to the north of the A127 will be upgraded and made one-way eastbound away from J29. A new roundabout will be constructed with a southern spur that will lead to a new vehicular road bridge which will run over the A127 (to the east of the existing accommodation bridge) and into the BEP development.
- 6.9 The existing accommodation bridge over the A127 will be retained and upgraded as part of the BEP proposals for exclusive use by WCHs.
- 6.10 In connection with the BEP, SMDL and Padfield propose the delivery of a package of offsite highway works in order to mitigate the impact of BEP on the surrounding road network and which will be secured via an agreement pursuant to section 278 of the Highways Act 1980. The following works are proposed in particular:
 - 6.10.1 M25 J29:
 - (a) Widening of all the off-slip road approaches to the J29 roundabout to provide additional capacity.
 - (b) Upgrading Codham Hall Lane and making it one-way eastbound, i.e., closing the priority 'give-way' exit from Codham Hall Lane onto J29.
 - (c) Closure of the existing site access on the south-east quadrant of J29.
 - (d) Introduction of traffic signal control at all intersections on the J29 roundabout.
 - (e) Introduction of signal-controlled pedestrian and cyclists crossings around the north side of J29, along with associated shared-use paths.

- (f) Enhanced signage and road markings to improve lane discipline and better manage traffic flow.

6.10.2 Warley Interchange:

- (a) Introduction of traffic signal control at both intersections of the A127 slip roads with the B186, incorporating signal-controlled pedestrian and cyclist crossings.
- (b) Introduction of an additional adjacent road bridge over the A127 and associated highway widening to provide additional capacity.
- (c) Incorporation on a new shared-use pedestrian and cyclist path along the west side of the B186.

6.11 The proposed highway improvements at J29 and at Warley Interchange are shown on the plans appended to this representation at Appendix 2 and Appendix 3 respectively. All of these improvements are considered to be entirely consistent with the LTC proposals.

6.12 The BEP Application is accompanied by a detailed Transport Assessment (March 2022) prepared by Atkins (and supplemented by an Addendum dated February 2023) which demonstrates that these highway works will ensure that the additional traffic generated by BEP can be accommodated by the road network without detriment to its operational performance and are likely to improve road safety.

6.13 The principle of these access arrangements was agreed at a high level between SMDL, Padfield and ECC in a Statement of Common Ground agreed as part of the examination of the draft Local Plan. Further consultation has taken place with ECC as part of the determination of the BEP planning application and the current position is that the all the proposed BEP highway improvements on the ECC road network are approved in principle by ECC following completion of Stage 1 road safety audits.

6.14 Regular meetings have been held with the National Highways Spatial Planning team (which is separate to the Applicant team leading on the LTC proposals) over the last few years (pre and post submission of the BEP planning application) to discuss the impact of the BEP on the Strategic Road Network and the proposed mitigation works.

6.15 Nearly all National Highways' issues have now been resolved, which includes approval of the Transport Assessment and the traffic modelling. The only outstanding matter for resolution is National Highways' approval in principle to the design of the proposed highway improvements at J29, which is subject to the outcome of a Stage 1 road safety audit. The road safety audit is scheduled to be undertaken during July 2023, subject to National Highways' prior approval of the road safety audit brief that is currently being reviewed by National Highways.

7. DIALOGUE WITH THE APPLICANT

7.1 SMDL has submitted representations to the various public consultations carried out by the Applicant in respect of LTC, including those consultations carried out October-December 2018, August-October 2019, January-April 2020, July-August 2020, July-September 2021 and May-June 2022.²

7.2 In tandem with these formal consultation responses, SMDL and Padfield have been in dialogue for a number of years with regard to the issues raised in the consultation responses. This dialogue has resulted in a number of positive changes to the LTC proposals, including an agreement not to divert a gas pipeline (which would have sterilised much of the BEP development) and the removal of proposals to compulsorily acquire part of the site for environmental mitigation.

² In the interests of brevity we have not included copies of consultation responses with this written representation but these can be provided upon request.

- 7.3 However, there remain a number of key issues which have not yet been fully resolved, namely:
- 7.3.1 the impact of the LTC proposals on the proposed access to BEP from the B186;
 - 7.3.2 the impact on the proposed northern BEP access of LTC's proposed WCH bridge over the A127;
 - 7.3.3 the proposed temporary possession and acquisition of permanent rights at Codham Hall Lane; and
 - 7.3.4 the need for LTC to make a financial contribution towards strategic highway infrastructure works that will be delivered and forward-funded by St Modwen and Padfield as part of the BEP development and which will obviate the need for the Applicant to deliver certain elements of the LTC scheme.
- 7.4 These matters are not yet the subject of a legal agreement to properly regulate the interface between BEP and LTC. SMDL therefore objects to the LTC application because the draft DCO as currently proposed would effectively sterilise the BEP development. Further details regarding each of these matters is provided below.

8. THE NATURE OF THE LTC PROJECT

- 8.1 The draft DCO is submitted in "outline" and contains limited details regarding what might actually be built out within the Order Limits. See for example paragraph 2.2.1 of Chapter 2 of the Environmental Statement [APP-140] which states that:

"This Project description is based on the preliminary design of the Project at the time the DCO application is submitted. The final detailed design would be further finessed prior to construction. The detailed design would be in accordance with the extent of the defined limits of deviation (LOD) provided in the draft DCO, the constraints set by the Rochdale Envelope (see Section 2.2 of this chapter) set out within the ES and any approval required under the requirements set out in Schedule 2 to the draft DCO (Application Document 3.1)".

- 8.2 Paragraph 2.2.15 of Chapter 2 of the Environmental Statement states that:

"This ES chapter provides an illustrative design and envisaged construction methodology. It is recognised that parts of the Project design and construction methodology, as consented, may be subject to further refinement and optimisation prior to and during construction."

- 8.3 Paragraph 2.218 of Chapter 2 of the Environmental Statement states that:

"In line with the Rochdale Envelope approach, parameters have been established across the Project to manage uncertainty, accommodate design flexibility and ensure that reasonable worst-case scenarios are assessed. These parameters are described within the description of the Project and its construction and operation within this chapter and include the defined reasonable worst-case scenario. Any changes to the Project within such parameters will not result in any likely significant effects not previously identified and assessed in this ES."

- 8.4 However, the result of the Applicant adopting an 'outline' approach to the content of the development within the Order Limits is that it cannot rely on any detail of that content because that content remains necessarily merely illustrative and cannot bind the decision-maker. Instead, the nature of the draft DCO comprises no more than an area outlined in red, with a series of descriptions of the content in that area.

8.5 As set out in paragraphs 2.2.82-2.2.84 of Chapter 2 of the Environmental Statement, the Applicant envisages a great number of changes to its detailed content when in the hands of private contractors:

“2.2.82 Following successful grant of the DCO, the Contractors would develop the preliminary design presented in the DCO application into a detailed design for construction. The detailed design would be produced in accordance with the control plan documents presented in the DCO application, as amended during examination where relevant. The detailed design would be developed in accordance with the relevant design standards current at that time.

2.2.83 Where the Contractors propose a change to the design of the Project under article 6 or Requirements 3 or 8 of the draft DCO (Application Document 3.1), they must follow the process set out below in considering whether the proposed change would result in a 'materially new or materially different' effect as compared with the ES. The Contractors would engage a competent environmental specialist to consider the effects of the change and whether it would give rise to:

(a) effect that is 'materially new' - this is an effect that is significant in EIA terms and does not fall within the envelope of the scope of the environmental assessment contained in the ES certified by the Secretary of State. b. an effect that is 'materially different' - this is an effect that was reported in the ES but in respect of which there is an adverse material change in the significance attributed to the effect from that reported in the ES;

(b) an effect that is 'materially new' - this is an effect that is significant in EIA terms and does not fall within the envelope of the scope of the environmental assessment contained in the ES certified by the Secretary of State. b. an effect that is 'materially different' - this is an effect that was reported in the ES but in respect of which there is an adverse material change in the significance attributed to the effect from that reported in the ES.

2.2.84 If the Contractors determine the proposed change does give rise to materially new or materially different effect, the change cannot be progressed under the terms of the DCO. If the Contractors determine the proposed change does not give rise to a materially new or materially different effect, they will notify National Highways. Once National Highways is satisfied the proposed change should be the subject of an application, the Contractors would prepare an application for the proposed change. Prior to submission of an application to approve a proposed change by the Secretary of State, the Contractors would engage with the relevant bodies under article 6 or Requirement 3 of the draft DCO (Application Document 3.1). The Contractors will be expected to provide information on how any application complies with the requirements of article 6 or Requirement 3 as part of that engagement.”

8.6 The nature of LTC as an outline DCO means that it can in principle accommodate detailed changes and refinements. This is important and relevant given the importance attributed to the co-existence of BEP and LTC.

8.7 In contrast to the outline nature of LTC, the BEP proposals have been worked up in significant detail over a number of years, and as noted above, are currently the subject of detailed planning applications that are under consideration by BBC. The BEP Application is supported by a detailed Transport Assessment and Environmental Statement, as well as detailed drawings setting out the development proposals in full, including the proposed access arrangements at J29 and B186.³ Such

³ In the interests of brevity, only certain key drawings have been appended to this written representation but various other documentation is available on BBC's online planning register and can be made available upon request.

details have been worked up in full cognisance of the LTC proposals, with the intention that both schemes can be delivered. The Applicant has at all times been kept updated as to the BEP proposals (in particular the access arrangements and highways works) as they have been developed.

- 8.8 As will be explained in further detail below, the overarching position is therefore that the high-level, outline designs for LTC are in conflict with the well-advanced, detailed designs for BEP. For the reasons set out below, the Applicant's proposals in the draft DCO for addressing this conflict are wholly inadequate and do not provide SMDL/Padfield with the certainty required that BEP can actually be delivered. The Applicant should commit to ensuring that LTC is brought forward in a manner which does not prejudice delivery of BEP.

9. **THE INTERRELATIONSHIP STATEMENT**

- 9.1 The Applicant clearly recognises the significance of the BEP development given that BEP is covered by the 'Interrelationship with other Nationally Significant Infrastructure Projects and Major Development Schemes' statement submitted in support of the DCO [APP-550] (the "Interrelationship Statement").

- 9.2 The Interrelationship Statement sets out the Applicant's summary of discussions with SMDL and Padfield to date and identifies what it considers to be the inconsistencies between BEP and LTC. These specific points are explored in more detail below.

- 9.3 It should be noted that paragraph 6.8.13 of the Interrelationship Statement no longer reflects the most up-to-date position as the Phase 2 Link Road referred to therein has recently been removed from the BEP Application and is not required to be delivered as part of the BEP development. However, the delivery or non-delivery of the Phase 2 Link Road is not considered material to the matters set out in this representation and this point is therefore made for completeness only.

10. **B186 ACCESS**

- 10.1 At the time of working up the BEP proposals and assessing the likely impact of the LTC proposals on the existing access to the BEP Site, SMDL and Padfield considered that they had no option but to assess the possibility of creating a new access to the site from the B186, given that the existing access to the site from J29 would be severed by LTC.

- 10.2 As noted above, the BEP Application proposes the formation of a new signal-controlled bellmouth junction off the B186 (the "**BEP B186 Access**"). A plan showing the current proposed layout is appended to this representation at Appendix 4.

- 10.3 During the LTC consultation process it became apparent that the LTC proposals would have a material adverse impact upon the BEP B186 Access. The LTC proposals include the formation of a new bellmouth junction immediately to the south of the proposed BEP B186 Access (the "**LTC B186 Access**"), which would enable access to be gained to a new track running east-west to an LTC site compound.

- 10.4 The LTC B186 Access is shown on Sheet 45 of the Works Plans (HE540039-CJV-BOP-SZZ_GN000000_-DR-CX-20043 Rev P01) [APP-020], an extract of which is included at Figure 7 below:

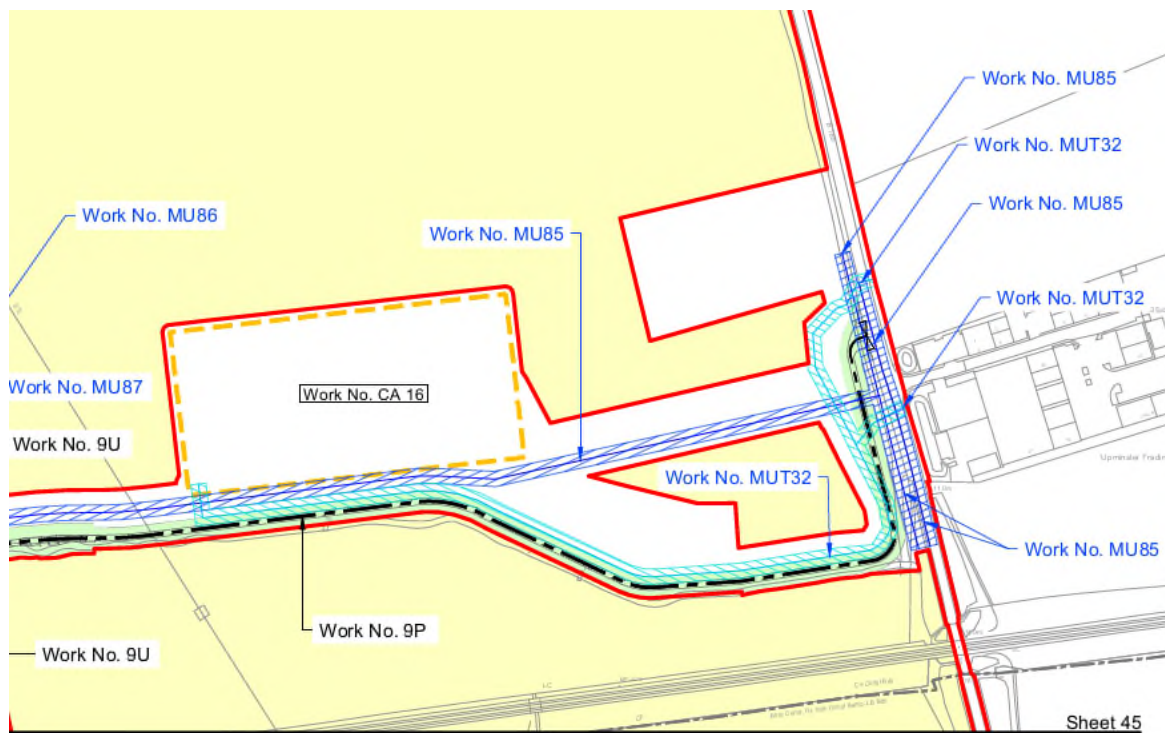


Figure 7 – LTC B186 Access proposals

- 10.5 There is a significant risk that the delivery of both the LTC B186 Access and the BEP B186 Access would be unacceptable to ECC on highway safety grounds, due to the close proximity of the two accesses.
- 10.6 Furthermore, SMDL has concerns regarding the safety of the LTC B186 Access in any event. The Applicant proposes a simple give-way junction off the B186 that will provide vehicular access for a temporary compound during construction and for infrequent use by maintenance vehicles once LTC is operational. SMDL understands that the Applicant's intention is that during the construction of LTC, access will be managed by traffic marshals/banksmen. Nonetheless, there remain road safety concerns regarding the proposed location of the LTC access on the B186 due to its proximity to the 'humpback' bridge over the railway to the south that will severely restrict visibility between northbound vehicles on the B186 and any LTC construction vehicles accessing the site, particularly as the B186 in this location is subject to the national speed limit, which is 60mph for cars and light goods vehicles.
- 10.7 Consequently, SMDL/Padfield have had extensive dialogue with the Applicant regarding how access to the LTC compound can be facilitated without the requirement for the LTC B186 Access. As part of those discussions, it has been agreed in principle that if the BEP B186 Access is delivered by SMDL, the LTC B186 Access will no longer be required. Once the BEP B186 Access is delivered, the Applicant will be able to construct a spur off the access which will then run to the south to join the line of the proposed LTC access track.
- 10.8 The BEP B186 Access has significant advantages compared to the LTC B186 Access. In addition to facilitating shared access to LTC and BEP (and therefore not sterilising the BEP development), it will be signal controlled and is located further north, thereby offering greater visibility of traffic heading northbound on the B186 coming over the brow of the hill, ultimately providing a much safer access. Furthermore, the speed limit on the B186 will be reduced from the current national speed limit to 40mph in conjunction with the new BEP B186 Access. When one considers not just the volume but the size of the HGVs accessing the BEP and LTC sites over several years, the BEP B186 Access provides for a much safer and more suitable arrangement.
- 10.9 The Applicant has confirmed through discussions that this arrangement would be acceptable and the Order Limits for the DCO were amended to include the land upon which the BEP B186 Access

would be constructed. Furthermore, and as noted in the Interrelationship Statement, provision has been included at Clause S14.19 of the Design Principles [APP-516], which states as follows:

“The proposed temporary construction and permanent maintenance access for the Project from the western side of the B186, opposite Upminster Trading Park, to the M25 structure over the railway and drainage pond shall be designed in detail and carried out so as to connect to the proposed BEP B186 Access (as defined below) to the north of the proposed Project access where:

- (a) *the planning permission 22/00402/FUL in respect of the Brentwood Enterprise Park (“BEP Permission”) has been granted*
- (b) *the BEP Permission includes an access from the B186 opposite Upminster Trading Park to the proposed site for the Brentwood Enterprise Park as specified in the BEP Permission document ‘Onsite Highway Works General Arrangement sheet 3 of 4’ (drawing number 20-081/423 rev P3) (the “BEP B186 Access”)*
- (c) *the BEP B186 Access is constructed and open for traffic*
- (d) *in the event that another planning permission is brought forward that supersedes 22/00402/FUL by providing consent for an access from the B186 of similar specification to the BEP B186 Access, then the Applicant’s access shall be designed so as to connect to it.”*

10.10 Whilst this commitment is welcomed, there are a number of issues with the approach adopted, as explained below.

10.11 Furthermore, the Land Plans submitted as part of the LTC application show that the Applicant seeks the power to permanently acquire the land that is required for the BEP B186 Access – see the area shaded pink and marked ‘45-138’ and ‘45-114’ on Figure 8 below (which is an extract from Sheet 45 of the Land Plans (reference HE450039-CJV-BOP-ZZZ_BD000000_-DR-BL-20045 Rev P01) [APP-008]:

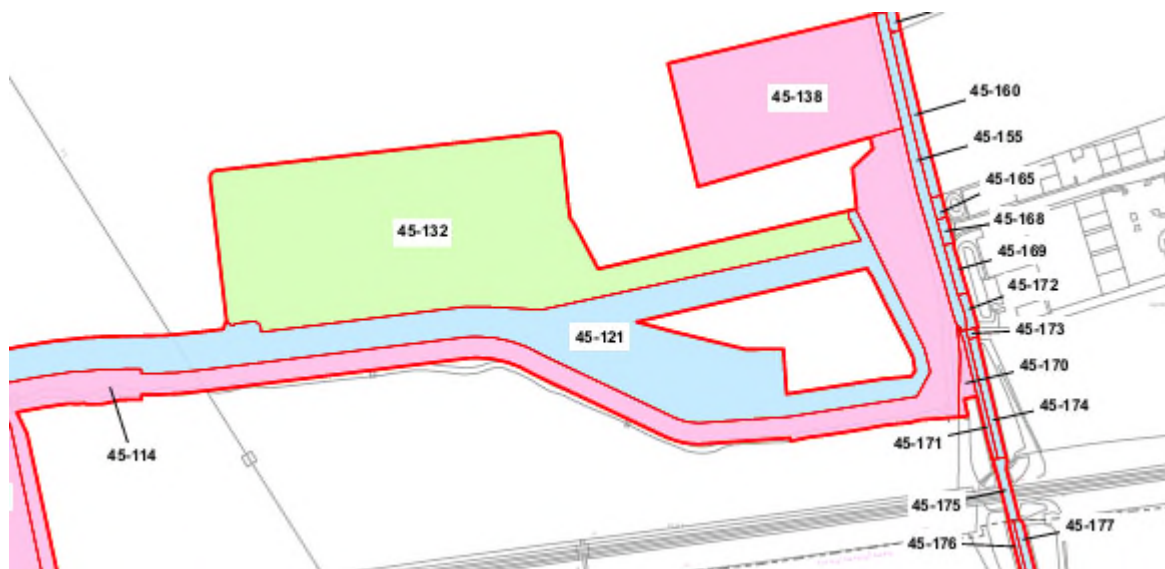


Figure 8 – LTC Compulsory Acquisition proposals

10.12 SMDL’s position is that the draft DCO as currently proposed would have a fundamentally unacceptable impact upon the BEP site and SMDL/Padfield’s interests for the following key reasons:

- 10.12.1 The DCO would provide the Applicant with the power to permanently acquire the land required for the BEP B186 Access and associated visibility splays (plots 45-138 and 45-114). This would sever an essential access to BEP and would effectively sterilise the site for any meaningful development. Even if the Applicant does not actually intend to permanently acquire the land, the mere existence of the power would cause significant uncertainty around the delivery and future operations of the BEP. In any event, it is unclear why the Applicant requires the power to compulsorily acquire this land given that the Applicant's own position, as set out in the Design Principles, is that the LTC works would only utilise this land in the event that the BEP B186 Access has been delivered – in such circumstances, it would be entirely inappropriate for the Applicant to acquire the land.
- 10.12.2 The Design Principles provide SMDL with no clear understanding of the timescales in which it will be given the opportunity to deliver the BEP B186 Access. As drafted, the Applicant can decide at an arbitrary point in the future that it wants to deliver the LTC B186 Access. At that stage, SMDL may have delivered, for example, 95% of the BEP B186 Access but as this does not satisfy Clause S14.19(c) of the Design Principles the Applicant would be entitled to disregard the progress made by SMDL up to that point and deliver the LTC B186 Access regardless. It is essential that the timings for delivery of the BEP B186 Access and/or LTC B186 Access are properly regulated.
- 10.12.3 The Design Principles provide that if BEP comes forward pursuant to planning permission 22/00402/FUL, SMDL must deliver the BEP B186 Access that is shown on the specific drawing referenced in Clause S14.19(b) of the Design Principles. The flexibility afforded by Clause S14.19(d) to deliver an alternative arrangement only applies where an alternative planning permission is being implemented. But of course even if planning permission 22/00402/FUL is being implemented it is probable that there will be refinements to the BEP B186 Access that come out of the detailed technical approval process with ECC, such that the BEP B186 Access is not identical to that shown on the referenced drawing. Indeed the plan at Appendix 4 which SMDL considers to be the most up-to-date drawing for this access is a different one to that referenced in the Design Principles. Clause S14.19 is therefore overly narrow and restrictive and, in the event that planning permission 22/00402/FUL is being implemented, would allow the Applicant to deliver the LTC B186 Access unless the BEP B186 Access is delivered in exactly the same form as shown on the referenced drawing.
- 10.12.4 Whilst Clause S14.19(d) of the Design Principles affords some flexibility to deliver an alternative form of access (subject to the point noted above), this alternative access is required to be of a *"similar specification to the BEP B186 Access"*. Whilst the general intention of this drafting is welcomed, the reference to a *"similar specification"* is extremely vague and provides no real parameters around what will and will not be acceptable. This creates significant uncertainty as SMDL is effectively reliant upon the Applicant agreeing that the alternative is similar with no effective means of challenging the Applicant's conclusions.
- 10.12.5 The DCO does not properly govern the coordination of the BEP and LTC works in this location, nor the steps that will be taken by the Applicant to liaise and cooperate with SMDL in ensuring the timely and consistent delivery of works. The Interrelationship Statement notes that the Applicant will establish a Traffic Management Forum (paragraph 6.8.20) and Communications and Engagement Plan (paragraph 6.8.21) but there is no specific detail at this stage of how these provide SMDL with certainty that the detailed interface between BEP and LTC will be properly managed. It is also assumed that such measures will simply require consultation with SMDL with no obligation on the Applicant or its contractors to actually comply with SMDL's requirements.
- 10.12.6 The Applicant's consideration of the impact of LTC on BEP is entirely reliant on the assumption that BEP will be delivered before LTC. Whilst this is likely to be the case in practice, there is of course a risk on any project that development is delayed. In the event that the LTC B186 Access is delivered before BEP (and we would reiterate the comment

above about the Design Principles setting out no timescales), the Applicant has provided no explanation of how BEP could still be delivered. In the event that the LTC B186 Access is delivered first, this would cause a significant risk that the BEP B186 Access may not be considered acceptable by the local highway authority. SMDL is aware that this is a point that is of particular concern to BBC and ECC.

- 10.13 It is therefore clear that the Applicant's proposed approach in the draft DCO to dealing with the interface between BEP and LTC is wholly inadequate and does not provide SMDL with certainty or confidence that it will actually be able to deliver BEP. This brings with it a significant risk that LTC will in effect sterilise the BEP site and the development will not come forward in a timely manner or potentially at all.
- 10.14 It must be emphasised that the impact of the DCO on BEP would not cause harm to just SMDL and Padfield. As explained above, the BEP is a critical strategic employment allocation within the Local Plan and the sterilisation of the site would have a hugely significant adverse impact to the proper planning of Brentwood Borough. Indeed, BBC's and ECC's submissions at Procedural Deadline C ([PDC-001] and [PDC-002] respectively) specifically highlighted the BEP interface and access as being an issue that was not agreed. The significant economic benefits of the BEP (summarised at paragraph 6.6 above) would not be realised and the LTC proposals would result in the non-delivery of exactly the sort of development that the LTC is seeking to support. This is particularly concerning given that the Applicant's Economic Appraisal Report [APP-526] already assesses LTC as providing low value for money (having regard to Department for Transport guidance) and the loss of the significant economic benefits of BEP is likely to reduce value for money even further.
- 10.15 Whilst it is acknowledged that the Applicant has attempted to address the interface between BEP and LTC through the Design Principles, this approach is fundamentally inadequate from SMDL's perspective and it is doubtful that sufficient detail could be incorporated into those Design Principles to provide the requisite certainty.
- 10.16 SMDL therefore considers it essential that a formal land and works agreement is concluded with the Applicant in order to address the matters outlined above. Without such an agreement, SMDL's strong position is that the LTC proposals are fundamentally unacceptable insofar as they relate to the impact on the BEP B186 Access. Indeed, the Applicant itself acknowledges in various places within the Interrelationship Statement that such an agreement is required in order to ensure the impact of LTC on BEP is acceptable.
- 10.17 Progress has previously been made on a land and works agreement and SMDL will continue to seek to enter into such an agreement with the Applicant in order to enable its objection to be withdrawn.

11. **CROSSING OVER A127 FOR WALKERS, CYCLISTS AND HORSE RIDERS**

- 11.1 As noted above, the BEP Application proposes the construction of a new vehicular bridge over the A127 which will form a key access into BEP from J29 (the "**BEP A127 Bridge**"). The proposed layout of this bridge is shown on the plan appended to this representation at Appendix 5.
- 11.2 Through the development of the LTC proposals, SMDL understands that the Applicant reached a conclusion that it was necessary to find a way to enable WCHs to cross from the south side of the A127 to the north side (and vice versa). This requirement resulted from LTC's proposed dedicated free-flow lanes from the A127 westbound to the M25 southbound and from the M25 northbound to the A127 westbound which will sever the existing WCH route along the south side of the A127. In order to address this, the Applicant has included a new WCH bridge as shown marked 'Work No. 9Z' on Figure 9 below (extracted from Sheet 45 of the Works Plans (reference HE540039-CJV-BOP-SZZ_GN000000_-DR-CX-20043 Rev P01) [APP-020] (the "**LTC A127 Bridge**")):

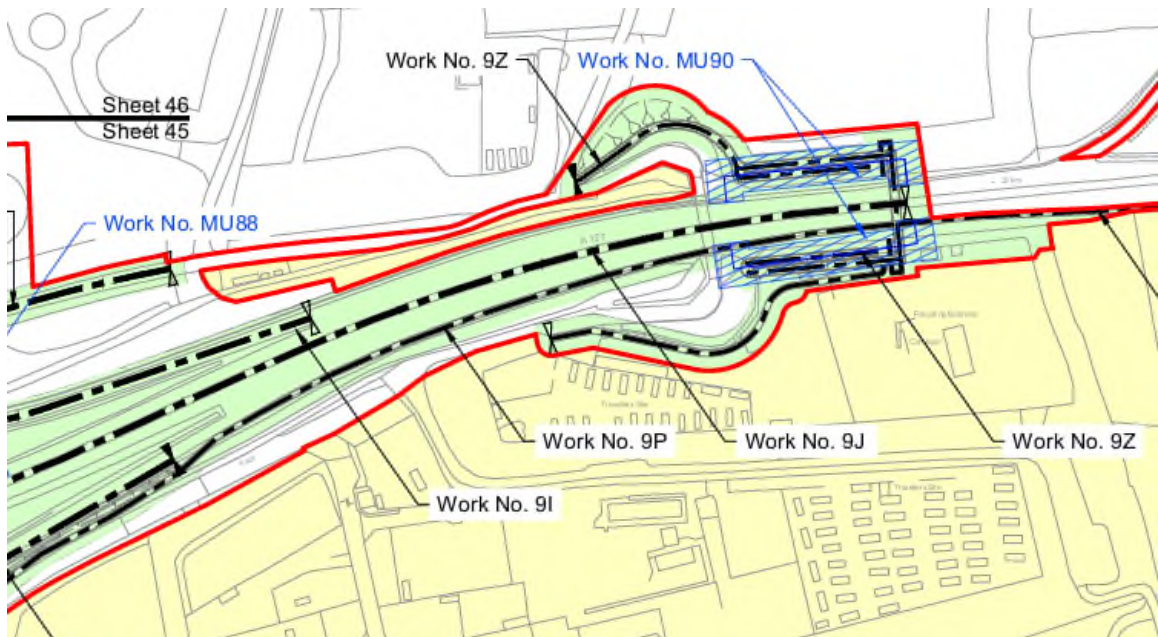


Figure 9 – LTC A127 Bridge

- 11.3 The Applicant has further proposed a significant amount of permanent land acquisition in this location, as shown shaded pink on Figure 10 below (extracted from Sheet 45 of the Land Plans (reference HE450039-CJV-BOP-ZZZ_BD000000_-DR-BL-20045 Rev P01 [APP-008]):

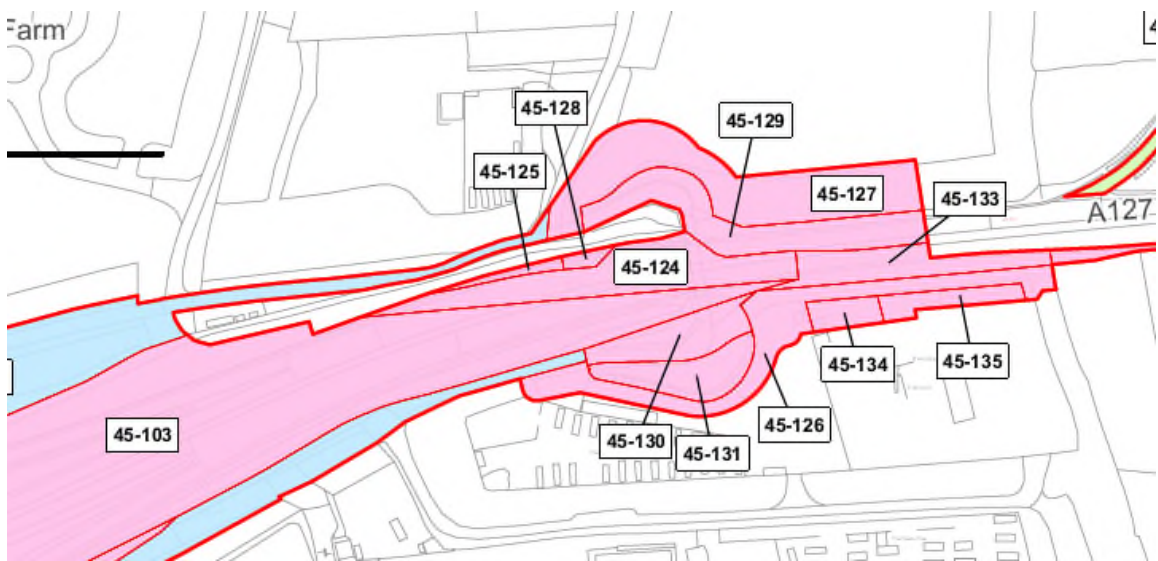


Figure 10 – Proposed Permanent Acquisition of Land at A127

- 11.4 As will be readily apparent from a comparison of the LTC plans with the BEP plans, the LTC A127 Bridge is fundamentally incompatible with the BEP A127 Bridge. This is acknowledged by the Applicant at paragraph 6.8.13 of the Interrelationship Statement [APP-550]. The LTC A127 Bridge is located in the same location as the BEP A127 Bridge and will render it impossible for the BEP A127 Bridge to be delivered for as long as the LTC A127 Bridge remains in situ. Furthermore, the proposed compulsory acquisition of land would again make it impossible for SMDL to deliver the BEP A127 Bridge, thereby severing one of the two vehicular accesses to the BEP (the BEP B186 Access being the other).
- 11.5 There has again been constructive dialogue between SMDL and the Applicant in this regard. As noted at paragraphs 6.8.14-6.8.16 of the Interrelationship Statement, it has been agreed in principle

that if SMDL delivers a WCH link from both the south and north sides of the A127 up to the existing accommodation bridge (located immediately to the west of the proposed BEP A127 Bridge and LTC A127 Bridge and which will become closed to vehicular traffic), this will obviate the requirement for the LTC A127 Bridge, as WCH will be able to cross from the south side of the A127 to the north side (and vice versa), fully segregated from vehicular traffic. This WCH link is shown indicatively on the plan at Appendix 5.

- 11.6 The Applicant has sought to address this interface through Clause S14.22 of the Design Principles which states as follows:

“Notwithstanding provisions of Design Principle S14.10 above, the authorised development shall be designed in detail and carried out excluding the specified WCH provision over the A127 where:

(a) the planning permission 22/00402/FUL in respect of the Brentwood Enterprise Park (“BEP Permission”) has been granted

(b) BEP Permission includes the new non-motorised user facilities connecting the footway running along the southern side of the A127 to the existing bridleway within the proposed site for the Brentwood Enterprise Park as shown in the BEP Permission document ‘Link Road Concept Design’ (drawing number BEP-ATK-HML-DR-CH-000004 rev C05) for the BEP Permission Amber⁴ [sic] - and then over the existing accommodation bridge that spans the A127 (“BEP WCH Solution”) connecting to Codham Hall Lane

(c) BEP WCH Solution is constructed and open for use

(d) in the event that another planning permission is brought forward that supersedes 22/00402/FUL by providing consent for an access from the B186 of similar specification to the BEP B186 Access, then Applicant’s access shall be designed so as to connect to it. [sic].”

- 11.7 However, despite the constructive dialogue to date, the draft DCO as currently proposed would have a fundamentally unacceptable impact upon the BEP and SMDL’s interests, for the following key reasons:

11.7.1 The DCO would provide the Applicant with the power to permanently acquire the land required for the BEP A127 Bridge. This would sever an essential access to BEP and would effectively sterilise the site for any meaningful development. Even if the Applicant does not actually intend to permanently acquire the land, the mere existence of the power would cause significant uncertainty around the delivery and future operations of the BEP.

11.7.2 The Design Principles provide SMDL with no clear understanding of the timescales in which it will be given the opportunity to deliver the BEP A127 Bridge. As drafted, the Applicant can decide at an arbitrary point in the future that it wants to deliver the LTC A127 Bridge. At that stage, SMDL may have delivered, for example, 95% of the BEP A127 Bridge but as this does not satisfy Clause S14.22(c) of the Design Principles the Applicant would be entitled to disregard the progress made by SMDL up to that point and deliver the LTC A127 Bridge regardless.

11.7.3 The Design Principles provide that if BEP comes forward pursuant to planning permission 22/00402/FUL, SMDL must deliver the BEP A127 Bridge that it shown on the specific drawing referenced in Clause S14.22(b) of the Design Principles. The flexibility that is purported to be afforded by Clause S14.22(d) (and please note the comments below) only applies where an alternative planning permission is being implemented. But of course even if planning permission 22/00402/FUL is being implemented it is probable that there will be refinements to the BEP A127 Bridge that come out of the detailed technical approval

⁴ It is assumed that the reference to ‘Amber’ is a typographical error as SMDL is otherwise unclear as to what this is referring to.

process with the local highways authority, such that the BEP A127 Bridge is not identical to that shown on the referenced drawing. Indeed, the latest plan showing the BEP A127 Bridge Appendix 5 is up to revision C06, not C05 as referred to in the Design Principles. Clause S14.22 is therefore overly narrow and restrictive and, if permission 22/00402/FUL is being implemented, would allow the Applicant to deliver the LTC A127 Bridge unless the BEP WCH Solution is delivered in exactly the same form as shown on the referenced drawing.

11.7.4 It is assumed that Clause S14.22(d) is intended to provide some degree of flexibility but the drafting appears to include typographical errors given the cross-references to the LTC B186 Access and the BEP B186 Access. However, even if these errors are corrected to refer to the LTC A127 Bridge and the BEP WCH Solution, SMDL has concerns regarding the proposed approach:

(a) In particular, Clause S14.22(d) would require that the alternative BEP arrangements to be of a “*similar specification*” to the BEP WCH Solution. Whilst the general intention of this drafting is welcomed, the reference to a “*similar specification*” is extremely vague and provides no real parameters around what will and will not be acceptable. This creates significant uncertainty as SMDL is effectively reliant upon the Applicant agreeing that the alternative is similar with no effective means of challenging the Applicant’s conclusions. For example, a fundamentally different design might be proposed by SMDL which cannot be said to be of a similar specification but which would still enable WCHs to cross the A127.

(b) The reference to the Applicant’s access being designed to connect to it is presumably a typographical error as the intention is that if the BEP WCH Solution is delivered then the Applicant will not need to carry out any works.

11.7.5 The Applicant’s consideration of the impact of LTC on BEP is entirely reliant on the assumption that BEP will be delivered before LTC. Whilst this is likely to be the case in practice, there is of course a risk on any project that development is delayed. In the event that the LTC A127 Bridge is delivered before BEP (and we would reiterate the comment above about the Design Principles setting out no timescales), the Applicant has provided no explanation of how BEP could still be delivered. If the LTC A127 Bridge is delivered this would prevent the delivery of the BEP A127 Bridge. SMDL would therefore be required to remove the LTC A127 Bridge in order to deliver the BEP A127 Bridge which would potentially result in significant delay, cost and uncertainty for the BEP development.

11.8 It is therefore clear that the Applicant’s proposed approach in the draft DCO to dealing with the interface between BEP and LTC is wholly inadequate and does not provide SMDL with certainty or confidence that it will actually be able to deliver BEP. This brings with it a significant risk that LTC will in effect sterilise the BEP site and the development will not come forward in a timely manner or potentially at all.

11.9 Again, it must be reiterated that the impact of the DCO on BEP would not cause harm to just SMDL and the landowner. As explained above, the BEP is a critical strategic employment allocation within the Local Plan and the sterilisation of the site would have a hugely significant adverse impact to the proper planning of Brentwood Borough. Indeed, BBC’s and ECC’s submissions at Procedural Deadline C ([PDC-001] and [PDC-002] respectively) specifically highlighted the BEP interface and access as being an issue that was not agreed. The significant economic benefits of the BEP (summarised at paragraph 6.6) would not be realised and the LTC proposals would result in the non-delivery of exactly the sort of development that the LTC is seeking to support. This is particularly concerning given that the Applicant’s Economic Appraisal Report [APP-526] already assesses LTC as providing low value for money (having regard to Department for Transport guidance) and the loss of the significant economic benefits of BEP is likely to reduce value for money even further.

- 11.10 Whilst it is acknowledged that the Applicant has attempted to address the interface between BEP and LTC through the Design Principles, this approach is fundamentally inadequate from SMDL's perspective and it is doubtful that sufficient detail could be incorporated into those Design Principles to provide the requisite certainty.
- 11.11 SMDL therefore considers it essential that a formal land and works agreement is concluded with the Applicant in order to address the matters outlined above. Without such an agreement, SMDL's strong position is that the LTC proposals are fundamentally unacceptable insofar as they relate to the impact on the BEP A127 Bridge. Indeed, the Applicant itself acknowledges in various places within the Interrelationship Statement that such an agreement is required in order to ensure the impact of LTC on BEP is acceptable.
- 11.12 Progress has previously been made on a land and works agreement and SMDL will continue to seek to enter into such an agreement with the Applicant in order to enable its objection to be withdrawn.

12. CODHAM HALL LANE

- 12.1 As explained above, the access arrangements to the BEP site will utilise the existing Codham Hall Lane to the north of the A127. However, it is noted that the Applicant proposes to take temporary possession of Codham Hall Lane and acquire permanent rights over it. This land is shaded blue and identified as plots 45-99 and 45-100 on Figure 11 below (extracted from Sheet 45 of the Land Plans (reference HE450039-CJV-BOP-ZZZ_BD000000_-DR-BL-20045 Rev P01 [APP-008]):

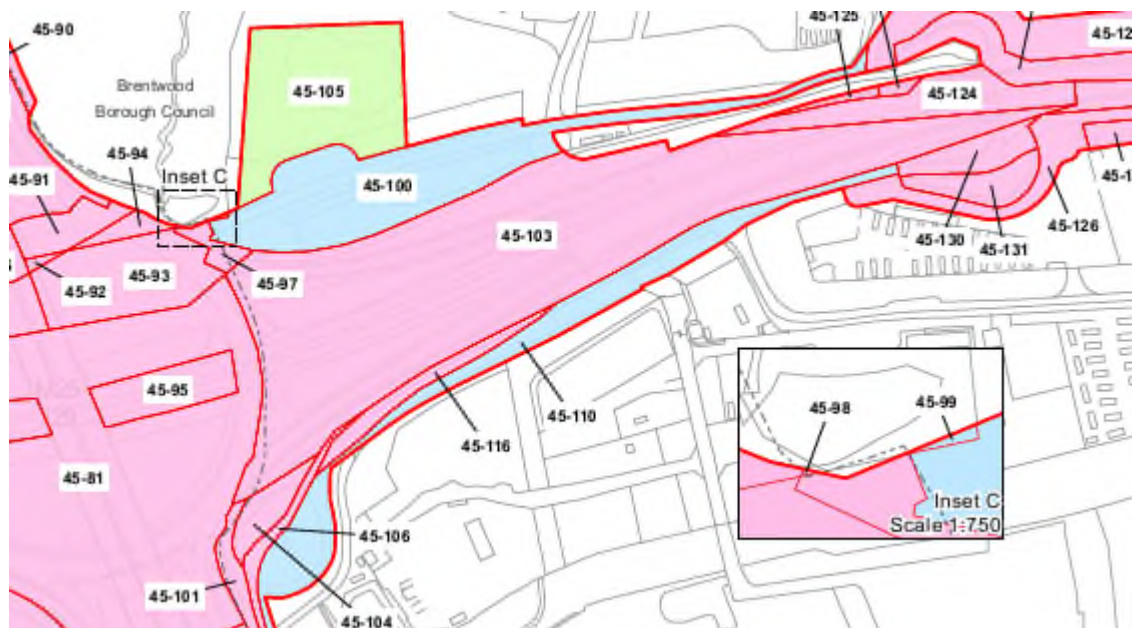


Figure 11 – Codham Hall Lane Proposed Land Acquisition

- 12.2 SMDL is concerned that no explanation has been provided by the Applicant for why temporary possession of this land is required, when it will be required, and for how long. This land is a fundamental part of the access arrangements for BEP (not to mention the existing uses at Codham Hall North and Codham Hall South) and so it is essential that it is kept open at all times.
- 12.3 Furthermore, SMDL is unclear what permanent rights are required over this land and the extent to which those rights are consistent with the BEP development (and the existing uses at Codham Hall North and Codham Hall South).
- 12.4 This land has not formed part of the previous discussions between SMDL and the Applicant and it is noted that the Interrelationship Statement does not explain the impact of this part of the LTC proposal on BEP. It is assumed that the land is included in order to provide the Applicant with flexibility around

how the LTC proposals will be delivered but given the significant sterilising impact on BEP (and the existing uses at Codham Hall North and South) the Applicant has fallen far short of demonstrating the necessary justification for temporarily possessing this land.

- 12.5 Further clarity is therefore required from the Applicant as a matter of urgency to ensure that the impact upon BEP is properly understood and to enable proper consideration of what further protections, if any, may be required in the DCO or a land and works agreement. In the meantime, SMDL strongly objects to the inclusion of this land within the DCO.

13. **FINANCIAL CONTRIBUTIONS TOWARDS STRATEGIC INFRASTRUCTURE WORKS**

- 13.1 As explained above, the BEP scheme will deliver significant strategic highways infrastructure. These infrastructure works will be delivered and forward-funded by SMDL/Padfield, at significant expense.

- 13.2 The delivery of these works will in a number of instances obviate the need for the Applicant to deliver various parts of the LTC proposals. In particular (with all estimated costs including the usual professional fee add-ons, preliminaries and profit and utilising Q1 2023 cost estimates):

13.2.1 The delivery of a WCH connection to the existing accommodation bridge over the A127 will mean the LTC A127 Bridge is not required. SMDL's estimate of the cost for its bridge works alone amounts to £7,427,000. The Applicant has been unable to confirm the cost of the LTC A127 Bridge but it is anticipated to be substantial.

13.2.2 Various BEP-related works to J29 (the "**BEP J29 Works**") will mean the scale of works that the Applicant must carry out to J29 will be substantially reduced – the BEP J29 Works are indicatively shown on the plan appended to this representation at Appendix 2. The elements of the BEP J29 works that are common to those proposed by the Applicant are:

- (a) The introduction of traffic signal control at the junctions of the M25 northbound and A127 eastbound off-slip roads with the J29 roundabout.
- (b) Closure of the existing site access on the south-east quadrant of J29.
- (c) Introduction of signal-controlled pedestrian and cyclists crossings around the north side of J29, along with associated shared-use paths.

The cost of these elements of the SMDL's works has been estimated at £10,757,000 in a non-BEP scenario and represent the potential saving to the Applicant if BEP is delivered before LTC.

13.2.3 The BEP B186 Access will provide a much safer and more suitable access than the LTC B186 Access and will avoid the need for the Applicant to construct the LTC B186 Access. The estimated cost of the LTC B186 Access is unknown but SMDL's estimated cost of delivering the BEP B186 Access is £11,552,000.

13.2.4 Warley Interchange:

- (a) BEP will deliver significant enhancements to Warley Interchange to mitigate BEP traffic. However as presented in the BEP Transport Assessment, Warley Interchange is currently operating over capacity during peak periods, with queues on the slip roads frequently extending back onto the A127 carriageway, which not only causes delays for traffic on the A127 but also presents a road safety hazard. In addition, there are clusters of accidents recorded at both A127 slip road junctions at Warley Interchange. This is recognised by ECC as it previously proposed an improvement scheme at Warley Interchange to address existing issues, consisting of the introduction of traffic signal control (see drawing

appended at Appendix 6). This scheme was not, however, implemented because the necessary funding was not secured from the Department for Transport.

- (b) If LTC is delivered in a non-BEP scenario the resultant construction traffic flows would, therefore, have a negative impact on Warley Interchange, necessitating improvements to the junction. The improvements required are like to consist of the introduction of traffic signal control as previously proposed by ECC to address the road safety issue with the junction.
- (c) SMDL estimates that the cost of the previously proposed ECC scheme for Warley Interchange to be approximately £13,230,000 of works in a non-BEP scenario. This represent the potential saving to the Applicant if BEP is delivered before LTC, since the SMDL works at Warley Interchange include the introduction traffic signal control to address the road safety issue with the junction.

13.3 BEP will therefore on the face of it generate significant cost savings for the Applicant, as various works will no longer be required to be carried out as part of the LTC proposals. However, SMDL considers it to be manifestly unreasonable that it and Padfield should be required to bear the full burden of these costs, effectively subsidising the LTC proposals. Consequently, there is a significant incentive for SMDL and Padfield to delay delivery of the BEP (assuming that agreement can be reached regarding satisfactory solutions to enable BEP to come forward after LTC, as noted above) in order to allow the Applicant to bear the cost of these strategic infrastructure works. However, SMDL considers that such a delay is clearly not in the public interest given the significant package of public benefits that will be delivered by the BEP (as summarised at paragraph 6.4 above). Each year of delay would result in the loss of £230m of GVA, £92m of tax revenue and £3.7m of business rates revenue.

13.4 SMDL and Padfield's position is therefore that a formal land and works agreement is required with the Applicant whereby the Applicant agrees to make a contribution towards the cost of these works (payable in the event that the DCO is made and the LTC scheme commences). Without this, there is a significant risk of BEP being delayed, resulting in a significant loss to the wider economy and significantly downgrading the benefit/cost ratio calculation for LTC.

14. **CONCLUSION**

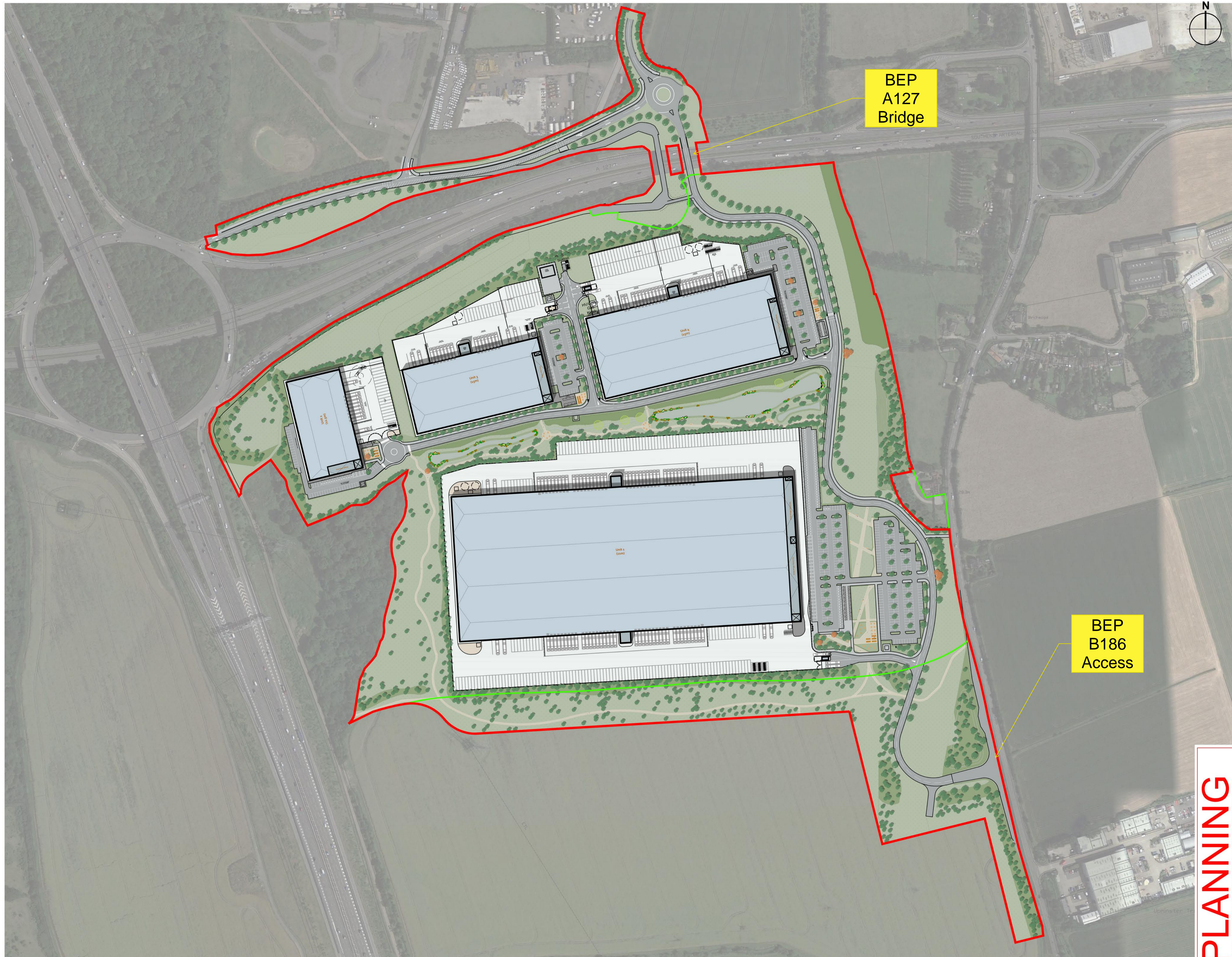
14.1 As currently proposed, the draft DCO will have a fundamentally unacceptable impact upon the BEP proposals and SMDL's interests. The Applicant has acknowledged the adverse impact that LTC will have on BEP but has failed to include within the draft DCO robust provisions to mitigate those impacts.

14.2 SMDL's position is that a formal land and works agreement must be entered into as a matter of urgency to ensure that its concerns are addressed. Until such an agreement has been concluded, SMDL maintains a strong objection to the draft DCO and considers that it will have the effect of sterilising the strategically significant BEP development site.

Pinsent Masons LLP

18 July 2023

APPENDIX 1
Proposed BEP Masterplan



- Dimensions are in millimeters, unless stated otherwise.
 - Scaling of this drawing is not recommended.
 - It is the recipient's responsibility to print this document to the correct scale.
 - All relevant drawings and specifications should be read in conjunction with this drawing.

**SCHEDULE OF ACCOMMODATION
 (Gross Internal Area)**

| | |
|--------------------------------------|--|
| Unit 1 | |
| Warehouse Area | - 684,884 sq ft (63,628m ²) |
| Office (2 storey) (Incl. GF Core) | - 36,028 sq ft (3,347m ²) |
| Plant Deck | - 17,538 sq ft (1,629m ²) |
| Transport Office | - 6,390 sq ft (592m ²) |
| Gatehouse | - 260 sq ft (24m ²) |
| Total Area | - 745,100 sq ft (69,220m²) |

| | |
|--------------------------------------|--|
| Unit 2 | |
| Warehouse Area | - 74,588 sq ft (6,929m ²) |
| Office (1 storey) (Incl. GF Core) | - 5,194 sq ft (482m ²) |
| Plant Deck | - 4,165 sq ft (387m ²) |
| Total Area | - 83,947 sq ft (7,798m²) |

| | |
|--------------------------------------|--|
| Unit 3 | |
| Warehouse Area | - 124,940 sq ft (11,607m ²) |
| Office (1 storey) (Incl. GF Core) | - 7,219 sq ft (670m ²) |
| Transport Office | - 3,195 sq ft (296m ²) |
| Plant Deck | - 6,197 sq ft (576m ²) |
| Total Area | - 141,551 sq ft (13,149m²) |

| | |
|--------------------------------------|--|
| Unit 4 | |
| Warehouse Area | - 214,805 sq ft (19,956m ²) |
| Office (2 storey) (Incl. GF Core) | - 14,784 sq ft (1,373m ²) |
| Plant Deck | - 6,995 sq ft (650m ²) |
| Transport Office | - 3,195 sq ft (296m ²) |
| Gatehouse | - 260 sq ft (24m ²) |
| Total Area | - 240,039 sq ft (22,299m²) |

Total Area - **1,210,637 sq ft (112,466m²)**

Application Red Line Boundary
 Area: 43.75 Hectares (108.12 Acres)

Extent of E11 Boundary
 Area: 35.5 Hectares (87.7 Acres)

| | | | |
|---|---|-----------|-------------|
| L | Amended to suit updated landscape masterplan | LBR / AJL | 25.05.23 |
| K | Amended to suit updated planning boundary | LBR / AJL | 15.05.23 |
| J | Drawing updated to suit latest internal road alignment Site boundary updated | LBR / AJL | 28.03.23 |
| H | Drawing reverted to planning layout | LBR / AJL | 16.02.23 |
| G | Landscaping amended to suit updated masterplan | LBR / AJL | 15.02.23 |
| F | Landscaping amended to suit updated masterplan | LBR / AJL | 24.01.23 |
| E | Unit 2 Car parking arrangement and associated landscaping amended to suit visibility splays | LBR / AJL | 05.12.22 |
| D | Unit 1 Car parking arrangement amended | LBR / AJL | 30.11.22 |
| C | Estate road amended to suit gas pipeline and Unit 1 car park updated to suit Unit 2 car park amended to suit woodland buffer | LBR / TDA | 18.08.22 |
| B | Landscaping amended to suit updated masterplan | LBR / AJL | 05.01.22 |
| A | Initial Issue | LBR / AJL | 13.12.21 |
| | rev amendments | | by ckd date |

Brentwood Enterprise Park

Proposed Masterplan



Newark Beacon Innovation Centre, Cafferata Way, Newark, Nottinghamshire NG24 2TN
 +44 (0)1636 653027 +44 (0)1636 653010 info@umcarchitects.com

| | |
|------------------|------------|
| Drawing Status: | Planning |
| Drawn / Checked: | LBR / AJL |
| Date: | 13/12/2021 |
| Scale: | 1:2000 A1 |

| | |
|-------------------------|-----------|
| St. Modwen Drawing Ref: | |
| Drawing no: | Revision: |
| 19296 | P0003 L |

Proposed Masterplan

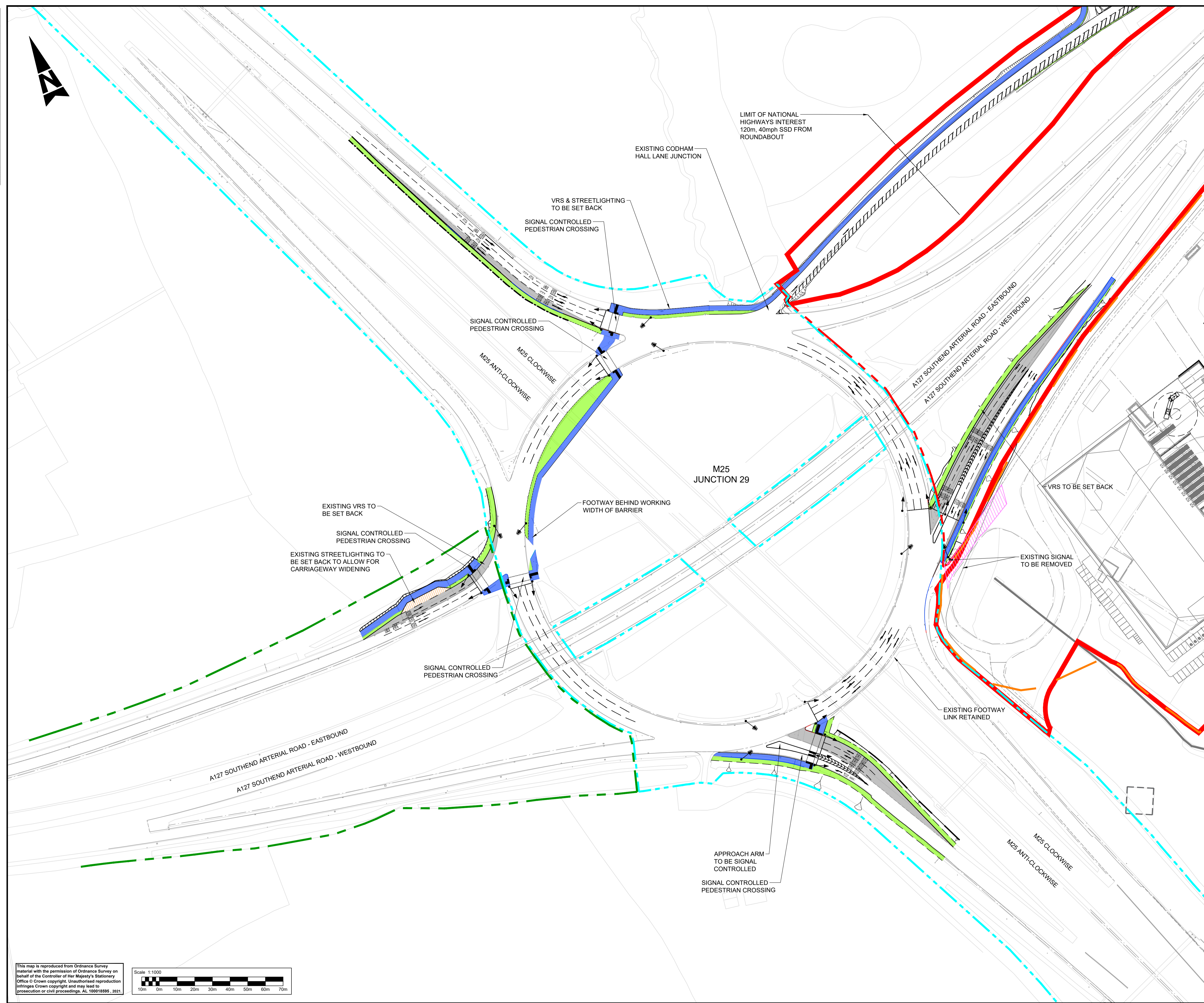
10m SCALE 1:2000

PLANNING
 THIS DRAWING IS FOR PLANNING CONSIDERATION ONLY
 AND SHOULD NOT BE USED FOR ANY OTHER PURPOSE

APPENDIX 2

Proposed BEP J29 Improvement Works

100
0 10
Millimetres



NOTES:

- ALL PROPOSED RETAINING WALLS ARE SUBJECT TO TAA APPROVAL
- DESIGN OF JUNCTION IMPROVEMENTS ARE SUBJECT TO DETAILED DESIGN.
- THIS DRAWING PROVIDES AN OVERVIEW OF GENERAL ARRANGEMENT AND OVERALL GEOMETRY. ROAD MARKINGS AND SIGNALLING ARE SUBJECT TO DETAILED DESIGN.

LEGEND:

- PROPOSED LAYOUT
- OS MAPPING
- TOPOGRAPHICAL SURVEY
- INDICATIVE CARRIAGEWAY WIDENING / AMENDMENTS TO EXISTING CARRIAGEWAY
- INDICATIVE VERGE
- PROPOSED SHARED FOOTWAY / CYCLEWAY
- EXISTING EXIT TO BE CLOSED
- PROPOSED MAINTENANCE HARDSTANDING
- INDICATIVE STRUCTURAL RETAINING SOLUTION
- BRENTWOOD ENTERPRISE PARK BOUNDARY
- HIGHWAYS ENGLAND BOUNDARY
- ESSEX COUNTY COUNCIL BOUNDARY
- HAVERING HIGHWAYS BOUNDARY (MAINTAINED BY TFL)
- PLANNING RED LINE BOUNDARY
- TACTILE PAVING
- PROPOSED PRIMARY SIGNAL HEAD
- PROPOSED SECONDARY SIGNAL HEAD

SAFETY, HEALTH AND ENVIRONMENTAL INFORMATION

In addition to the hazards/risks normally associated with the types of work detailed on this drawing, note the following significant residual risks (Reference shall also be made to the design hazard log).

| | |
|------------------------------|------|
| Construction | None |
| Maintenance / Cleaning | None |
| Use | None |
| Decommissioning / Demolition | None |

| Description | Status | Revision | Drawn | Checked | Reviewed | Authorised | Issue Date |
|--|--------|----------|-------|---------|----------|------------|------------|
| FOR REVIEW / COMMENT | | | | | | | |
| A1 | CO1 | CG | DT | EM | AM | | 03/12/21 |
| Reference to landscape masterplan added | | | | | | | |
| A1 | CO2 | RM | DT | AM | AM | | 21/01/22 |
| UPDATED FOLLOWING NH DISCUSSION | | | | | | | |
| A1 | CO3 | GO | ES | CW | AR | | 28/04/23 |
| FOR INFORMATION | | | | | | | |
| A1 | CO4 | GO | MF | MS | MS | | 31/05/23 |

APPROVED - PUBLISHED A1

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ST.MODWEN

Project Title
BRENTWOOD ENTERPRISE PARK

Drawing Title
**J29 CAPACITY ENHANCEMENT
GENERAL ARRANGEMENT**

| | | | |
|-------------------|---------|------------|--------------|
| Drawing Number | Project | Originator | Volume |
| BEP | - | ATK | - HML |
| _ZZ | - | DR | - CH - 00001 |
| Original Size: | A1 | Scale: | 1:1000 |
| Project Ref. No.: | g183535 | Sheet: | 1 of 1 |
| Rev: | C04 | | |

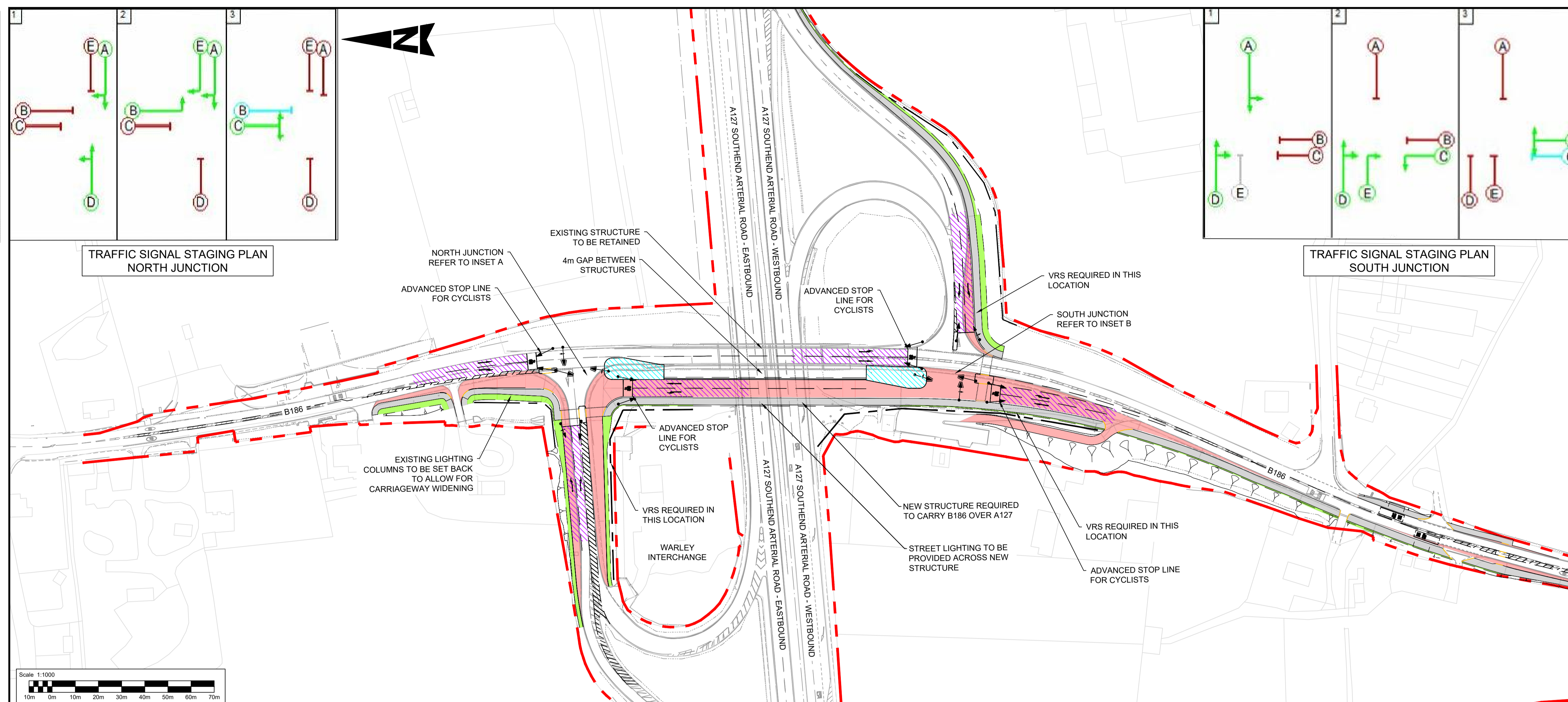
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Scale 1:1000

APPENDIX 3

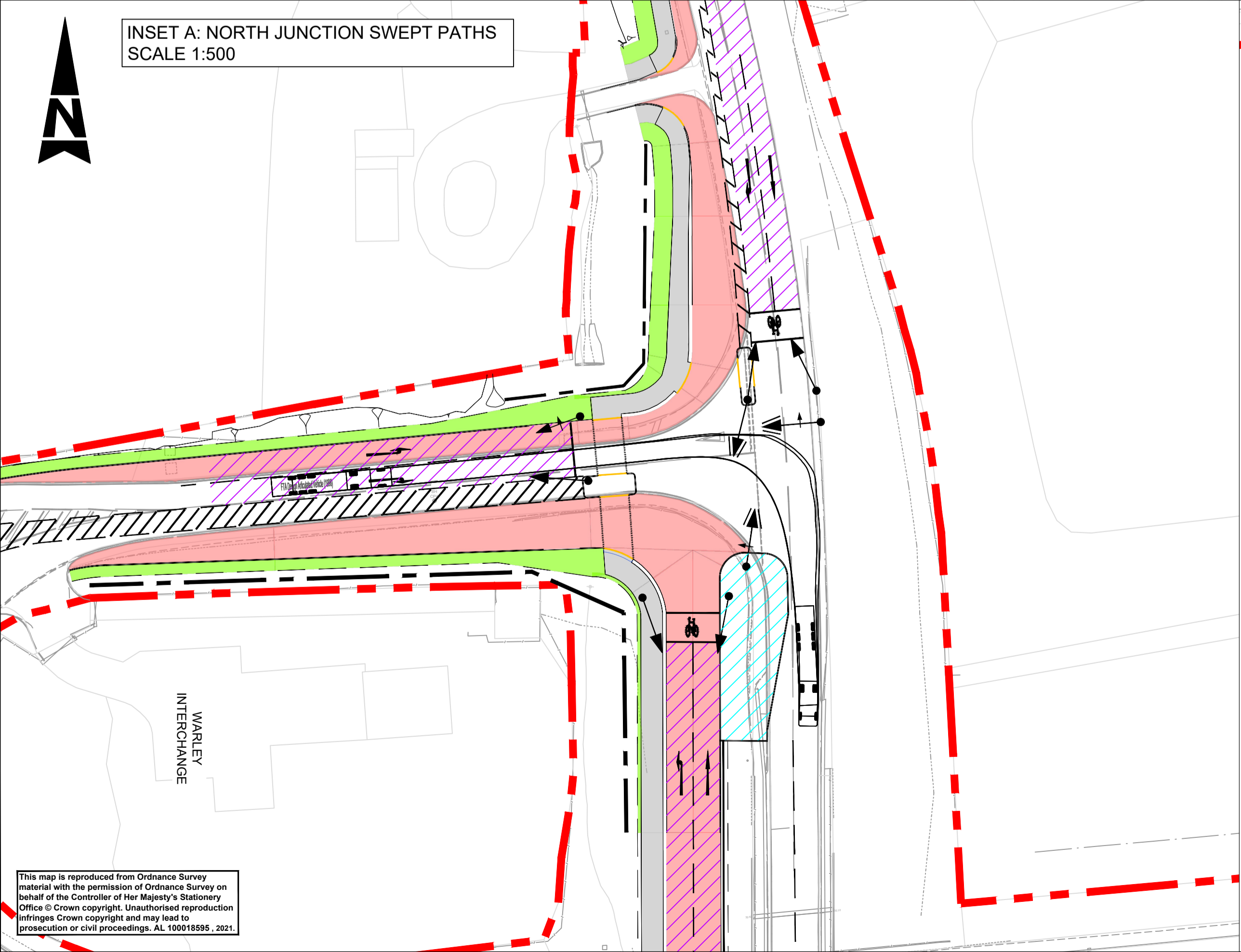
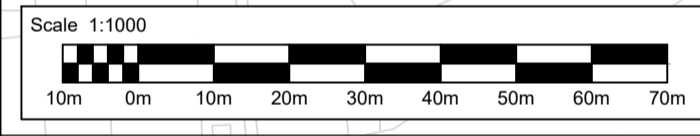
Proposed BEP Warley Interchange Works

100
10
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Millimetres

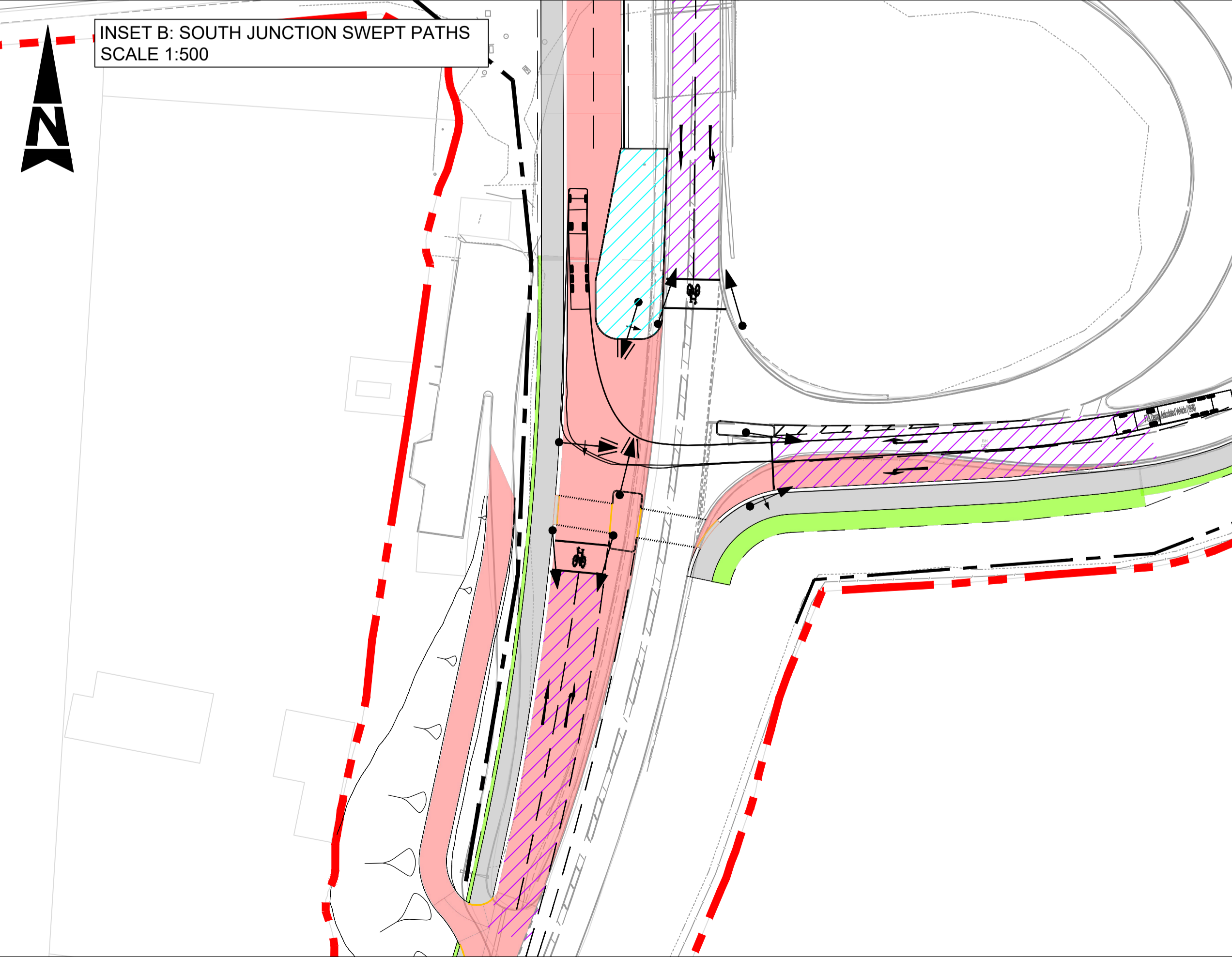


TRAFFIC SIGNAL STAGING PLAN
NORTH JUNCTION

TRAFFIC SIGNAL STAGING PLAN
SOUTH JUNCTION



INSET A: NORTH JUNCTION SWEEP PATHS
SCALE 1:500



INSET B: SOUTH JUNCTION SWEEP PATHS
SCALE 1:500

- NOTES:
1. ALL PROPOSED RETAINING WALLS ARE SUBJECT TO TECHNICAL APPROVAL
 2. DESIGN OF JUNCTION IMPROVEMENTS ARE SUBJECT TO DETAILED DESIGN.
 3. VRS LOCATIONS AND EXTENTS ARE INDICATIVE ONLY.
 4. HIGH FRICTION SURFACING TO BE PROVIDED FOR A MINIMUM OF 50m FROM PROPOSED STOP LINE.
 5. THIS DRAWING IS TO BE READ IN CONJUNCTION WITH THE LANDSCAPE CONCEPT MASTER PLAN (DRAWING REFERENCE: JSL4059-RPS-XX-EX-DR-L-9001)
- LEGEND:
- PROPOSED LAYOUT
 - OS MAPPING
 - TOPOGRAPHICAL SURVEY
 - CARRIAGEWAY WIDENING
 - VERGE
 - SHARED FOOTWAY / CYCLEWAY
 - HIGH FRICTION SURFACING
 - AREA OF HARDSTANDING
 - INDICATIVE RETAINING WALL
 - PROPOSED PRIMARY SIGNAL HEAD
 - PROPOSED SECONDARY SIGNAL HEAD
 - ESSEX COUNTY COUNCIL BOUNDARY

SAFETY, HEALTH AND ENVIRONMENTAL INFORMATION

In addition to the hazards/risks normally associated with the types of work detailed on this drawing, note the following significant residual risks (Reference shall also be made to the design hazard log).

| | |
|------------------------------|------|
| Construction | None |
| Maintenance / Cleaning | None |
| Use | None |
| Decommissioning / Demolition | None |

| Status | Revision | Drawn | Checked | Reviewed | Authorised | Issue Date |
|---|----------|-------|---------|----------|------------|------------|
| Description | | | | | | |
| FOR REVIEW / COMMENT | | | | | | |
| A1 | C01 | CG | DT | EM | AM | 03/12/21 |
| Description | | | | | | |
| Reference to landscape masterplan added | | | | | | |
| A1 | C02 | RM | DT | AM | AM | 21/01/22 |
| Description | | | | | | |
| For Review | | | | | | |
| A1 | C03 | MG | EM | EM | AM | 06/10/22 |
| Description | | | | | | |
| FOR INFORMATION | | | | | | |
| A1 | C04 | GO | MF | AR | AR | 25/05/23 |
| Drawing Suitability | | | | | | Status |
| APPROVED - PUBLISHED | | | | | | A1 |

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Client
BRENTWOOD ENTERPRISE PARK

Drawing Title
WARLEY INTERCHANGE CONCEPT DESIGN

| | | | |
|----------------|---------------|--------------------------|------------------------|
| Drawing Number | Project | Originator | Volume |
| BEP | _ZZ | ATK | HML |
| | | - DR - CH - 000002 | |
| Location | Type | Role | Number |
| A1 | Scale: 1:1000 | Project Ref. No. 5183535 | Sheet: 1 of 1 Rev: C04 |

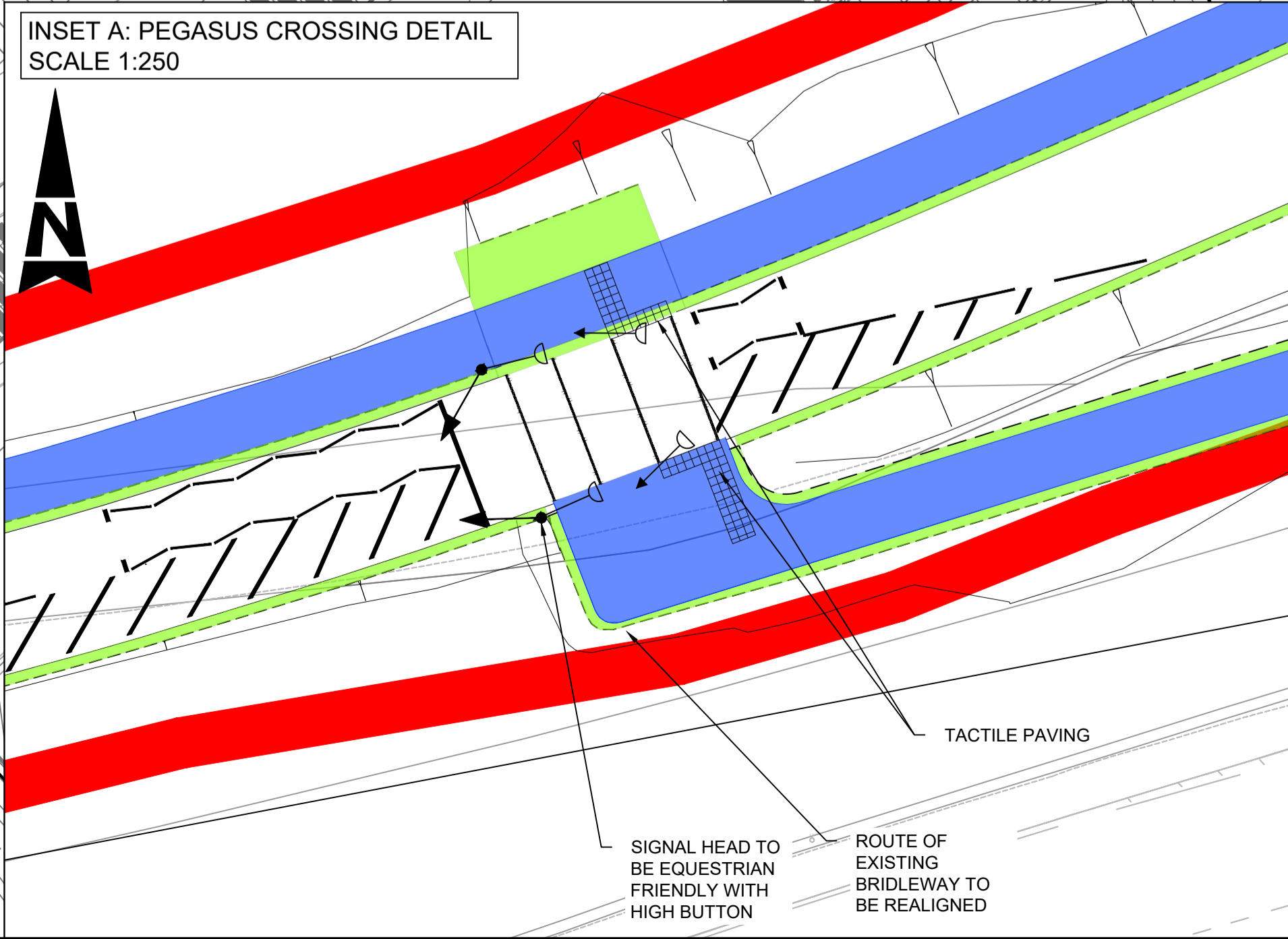
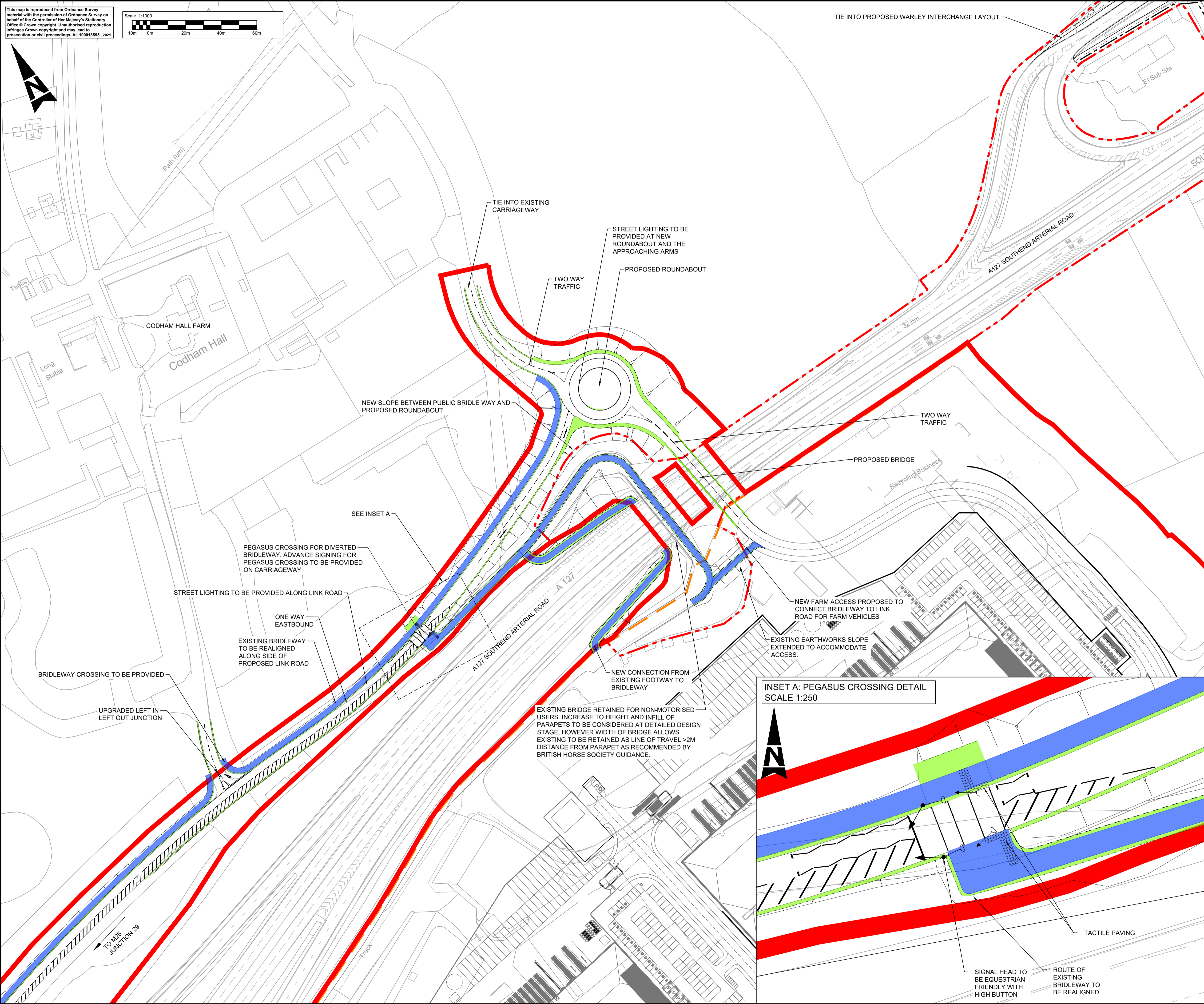
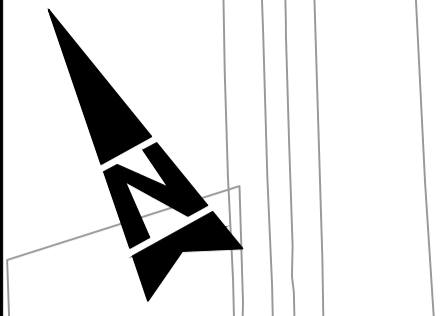
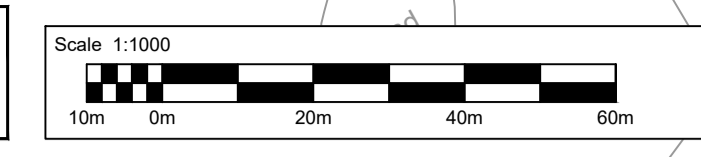
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APPENDIX 4
Proposed BEP B186 Access

APPENDIX 5
Proposed BEP A127 Bridge

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Millimetres

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- NOTES:
1. ALL MEASUREMENTS ARE IN METRES UNLESS STATED OTHERWISE
 2. ALL PROPOSED RETAINING WALLS ARE SUBJECT TO T&S APPROVAL
 3. DESIGN OF JUNCTION IMPROVEMENTS ARE SUBJECT TO DETAILED DESIGN.
 4. THIS DRAWING IS TO BE READ IN CONJUNCTION WITH THE LANDSCAPE CONCEPT MASTER PLAN (DRAWING REFERENCE: JSL4059-RPS-XX-EX-DR-L-9001)
- LEGEND:
- OS MAPPING
 - TOPOGRAPHICAL SURVEY
 - PROPOSED SHARED FOOTWAY / CYCLEWAY
 - INDICATIVE VERGE
 - NATIONAL HIGHWAYS BOUNDARY
 - ESSEX COUNTY COUNCIL BOUNDARY
 - BRENTWOOD ENTERPRISE PARK BOUNDARY
 - PLANNING RED LINE BOUNDARY
 - PROPOSED KERBLINES
 - TACTILE PAVING
 - SIGNAL HEAD
 - SIGNAL HEAD WITH PEDESTRIAN ASPECT

SAFETY, HEALTH AND ENVIRONMENTAL INFORMATION

In addition to the hazards/risks normally associated with the types of work detailed on this drawing, note the following significant residual risks (Reference shall also be made to the design hazard log).

| | |
|------------------------------|------|
| Construction | None |
| Maintenance / Cleaning | None |
| Use | None |
| Decommissioning / Demolition | None |

| | | | | | | | |
|---|----------|-------|---------|----------|------------|------------|--|
| Description | | | | | | | |
| PLANNING BOUNDARIES ADDED | | | | | | | |
| Status | Revision | Drawn | Checked | Reviewed | Authorised | Issue Date | |
| A1 | C02 | RM | EM | EM | AM | 22/12/21 | |
| Description | | | | | | | |
| Reference to landscape masterplan added | | | | | | | |
| Status | Revision | Drawn | Checked | Reviewed | Authorised | Issue Date | |
| A2 | C03 | RM | DT | AM | AM | 21/01/22 | |
| Description | | | | | | | |
| FOR REVIEW / COMMENT | | | | | | | |
| Status | Revision | Drawn | Checked | Reviewed | Authorised | Issue Date | |
| A1 | C04 | PB | DT | DT | AM | 04/02/22 | |
| Description | | | | | | | |
| FOOTWAY LINK ADDED | | | | | | | |
| Status | Revision | Drawn | Checked | Reviewed | Authorised | Issue Date | |
| A1 | C05 | MG | EM | EM | AM | 11/08/22 | |
| Description | | | | | | | |
| FOR INFORMATION | | | | | | | |
| Status | Revision | Drawn | Checked | Reviewed | Authorised | Issue Date | |
| A1 | C06 | GO | MF | AR | AR | 26/05/23 | |
| Drawing Suitability | | | | | | | |

APPROVED - PUBLISHED A1

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ST.MODWEN

Project Title
BRENTWOOD ENTERPRISE PARK

Drawing Title
LINK ROAD CONCEPT DESIGN

| | | | |
|-------------------|------------------|-----------------|--------|
| Drawing Number | Project | Originator | Volume |
| BEP | _ZZ | - ATK | - HML |
| Location | | Type | Role |
| Original Size: A1 | | Scale: AS SHOWN | Number |
| Project Ref. No. | Sheet | 1 of 1 | Rev |
| 5183535 | DR - CH - 000004 | | C06 |

APPENDIX 6

ECC Proposed Works to Warley Interchange

A127 ENHANCEMENTS WARLEY JUNCTION OVERVIEW



Notes

1. Do not scale.
2. Existing 40mph speed limit to north of this site to be extended south through junction to a point 100 metres south of Church Lane.

Key

- Proposed kerb
- Proposed carriageway widening
- Proposed carriageway resurfacing
- Proposed islands
- Proposed footway
- Proposed tactile paving
- Proposed verge
- Proposed embankment works
- Proposed vehicle restraint system
- Proposed road marking
- Proposed traffic signal
- Proposed lighting column
- Highway boundary

