Gravesham Borough Council (Registration ID Number: 20035747)

Lower Thames Crossing (Scheme Ref: TR010032)

Issue Specific Hearing 2 (ISH2) on the draft Development Consent Order (22 June 2023)

Post Hearing Submissions including written summary of Gravesham Borough Council's Oral Case

Deadline 1: 18 July 2023

Issue Specific Hearing 1 (22 June 2023) - (ISH2) on the draft Development Consent Order

Post Hearing Submissions including written summary of Gravesham Borough Council's Oral Case

Note: These Post Hearing Submissions include a written summary of the Oral Case presented by Gravesham Borough Council (GBC). They also include GBC's submissions on all relevant Agenda Items, not all of which were rehearsed orally at the ISH due to the need to keep oral presentations succinct. The structure of the Submissions follows the order of the Agenda Items but within each Agenda Item, the Submissions begin by identifying the main points of concern to GBC and then turn to more detailed matters.

ISH2 was attended by Michael Bedford KC and Alastair Lewis, Partner and Parliamentary Agent, Sharpe Pritchard LLP, for Gravesham Borough Council. Also in attendance were Wendy Lane, Assistant Director (Planning) and Tony Chadwick, Principal Transport and NSIP Project Manager, of Gravesham Borough Council.

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1. Welcome, introductions, arrangements for the Hearing		
2. Purpose of the Issue Specific Hearing		
3. Applicant's Drafting Approach		
The Applicant will be asked to explain its approach to the drafting of the dDCO.	**GENERAL POINT: Gravesham Borough Council (GBC)** has yet to complete a detailed line by line review of the DCO and are likely to make detailed points on the draft at a later stage, with key topics of concern being addressed in the Local Impact Report (LIR). The points made at ISH2 and in this note are mainly general in nature but the comments in Annex A respond to the specific matters raised by the ExA in the Annex to the Agenda for ISH2. As the draft DCO evolves GBC will make further comments.	
a) The structure of the dDCO	See agenda item 4	
b) The powers sought and their relationship to the project	See agenda item 4	

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c) The relationship between the dDCO and plans securing the construction and operational performance of the proposed development **• the design principles document** **• the environmental masterplan** **• The Environmental Management Plan (EMP) and iterations** **• The Landscape and Ecology Management Plan (LEMP) (outline and full)** **• Any other relevant plans and documents**	See agenda item 4	
d) The discharging role of the Secretary of State and other local and public authorities	See agenda item 4	
e) Matters to be secured by alternative methods **• Planning obligations** **• Other forms of agreements**	GBC has submitted to the Inspectorate a Suggested Section 106 Asks document [AS-070] covering a variety of issues, namely public transport, highways mitigation measures, environmental health, economy, community impact, climate change and environment. The Applicant has also submitted draft s106 Heads of Terms [APP-505] covering skills, education and employment; community funds; officer support contributions, and pedestrian crossing improvements. There is obviously some distance between the parties but GBC are pleased that the Applicant has recognised in principle that a s106 agreement is appropriate in this case.	GBC section 106 Asks [AS-070] Applicant draft s106 Heads of Terms [APP-505]
f) Ongoing work with implications for the dDCO	GBC has responded to the minor refinement consultation. In relation to the proposal for a single tunnel boring machine option, GBC are most concerned that the DCO should secure that whichever option is adopted, all spoil and	

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• The change application **• Any other intended changes to the dDCO**	tunnel boring machine equipment and tunnel linings etc should be removed from or brought in through the northern portal. This could be achieved in the main body of the Order or as a Requirement.	
4. ExA's Questions on the dDCO		
The ExA will ask questions about the dDCO and seek observations from IPs present. Noting that this hearing is in the earliest stages of the Examination, the primary purpose of this Agenda item will be for the ExA to raise its own initial questions. Other IPs will be welcome to participate but will not be expected to frame their own detailed positions until the submission of their Written Representations, Local Impact Reports and participation in a DCO ISH in September 2023. **The Applicant will be provided with a right of reply.**		
a) The structure of the dDCO	GBC is generally content with the structure of the DCO, which reflects other precedents. The list of works in Schedule 1 is unusual in the respect that there is no indication, as is normally the case, of which local authority area each work is situated in. This is normally achieved by the use of sub-headings. Although it is possible to work out the location by reference to the Works Plan numbers, it would be better if sub-headings showing local authority areas were also included.	
b) The powers sought and their relationship to the project	Article 3 grants development consent for the "authorised development" which is defined in article 1 in standard terms as "the development described in Part 1 of Schedule 1 (authorised development) and any other development authorised by this Order, or any	

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	part of it, which is development within the meaning of section 32 (meaning of development) of the 2008 Act." Part 1 of Schedule 1 includes a long list of "Ancillary works" which is authorised by article 3. Whilst it is noted that none of this development may give rise to any materially new or materially different environmental effects to those assessed in ES, GBC will be analysing the list in detail and may have comments later. At this stage it is noted that paragraph (m) (construction compounds and working sites) includes a range of potentially significant development including "construction-related buildings". GBC also notes that Article 2(10) seeks to limit what are "materially new or materially different environmental effects" so that they cannot include any measure concerned with "the avoidance, removal or reduction of an adverse environmental effect". GBC has some concerns about this approach, as currently drafted, because it is unclear whether the limitation would apply to an avoidance/removal/reduction measure in relation to one adverse environmental effect (for example reducing an adverse noise impact by installing an acoustic barrier or increasing the height of a proposed acoustic barrier) but which gave rise to separate environmental effects (for example landscape, heritage, or visual amenity). GBC considers that a holistic approach needs to be taken and that Article 2(10) as currently worded is too broad. So far as GBC is aware, the approach in Article 2(10) is not precedented. GBC has a drafting point in the introductory words – to make it clearer that the ancillary works can only be carried out in the Order limits, the words "in the Order limits" could be better placed after "or related development" The CPO powers, highways powers and other powers in the DCO appear to be in standard format for DCOs of this nature and all bear a relationship to the project. As mentioned, GBC may have detailed points on the drafting. Powers which could be said to be indirectly rather than directly related to "the project" are the powers to take and use land for eg nitrogen deposition and replacement open space. GBC is supportive of both being included in principle as mitigation, but may have comments on the detail. **Post-ISH2 Note:** GBC welcomes Action Point 4 from ISH2 and is co-operating in the preparation of a Joint Note.	

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c) The relationship between the dDCO and plans securing the construction and operational performance of the proposed development	The DCO (article 6) contains standard provisions which require the works listed in Schedule 1 to be constructed within lateral limits shown on the works plans and allows vertical deviation upwards and downwards from the levels shown on the engineering drawings and sections, up to certain identified limits. Because of the complexity of the A122 LTC and A2 junction, the relevant volume of the Engineering Drawings and Sections (Volume D) is difficult to interpret. At the very least, cross-sections of the vertical alignment of key parts of the junction and preferably a virtual or real 3-D model of the junction and/or pictorial representations of the junction would be helpful to understand the overall height. In addition, GBC is concerned to ensure that, given that so much of the detail is not spelt out in the proposed Requirements but is left to be regulated by one of more of the control documents, the control documents that are to be secured by the Requirements need to include adequate arrangements for the monitoring of the provision/implementation of measures to deliver what is required by those control documents, and that such monitoring is not merely reported to the Secretary of State but is reported to the relevant planning authorities so they are adequately informed of progress with the implementation of the measures for the purposes of being able to undertake their enforcement functions. **Post-ISH2 Note:** GBC welcomes Action Point 2 from OFH2 and will respond further once it has seen and considered the requested vertical cross-sections of the A2/M2/LTC intersection.	Engineering Drawings and Sections (Volume D) [APP-033]. Sheet 10 (A122 LTC southbound to A2 mainline westbound profile) appears to show the highest element of the junction.
d) The discharging role of the Secretary of State and other local and public authorities	As mentioned in its Principal Areas of Disagreement Summary (PADS), GBC is of the view that the relevant local planning authority should be the discharging authority rather than the Secretary of State. The reasons for this include: (a) the local planning authority has greater local knowledge and is therefore better placed to deal with requirements which relate to local issues (b) GBC query whether it is appropriate for the Secretary of State to be the discharging authority in respect of applications made by own of its own agencies (c) there is no right of appeal against the decisions of the Secretary of State	GBC PADS: [AS-069]

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	(d) consequential on that point, where the SoS fails to give a decision on an application within the given time, it is deemed to have been granted. In DCOs where the LPA is the discharging authority there would normally be a right of appeal for the applicant (d) precedent: in most other DCOs, the discharging authority is the local planning authority, and this includes some highways DCOs where the applicant is the local highway authority (see the Silvertown Tunnel Order 2018, the Great Yarmouth Third River Crossing Development Consent Order 2020; the Lake Lothing (Lowestoft) Third Crossing Order 2020). It is also noteworthy that the local planning authorities are the discharging authorities for some of the most complex, multi-jurisdictional DCO schemes, examples being the Southampton to London Pipeline Development Consent Order 2020 and the Thames Water Utilities Limited (Thames Tideway Tunnel) Order 2014. If the ExA were to recommend that the SoS remain as the discharging authority, with GBC as a consultee, GBC must be given sufficient time to consider the relevant documents properly and all its costs should be met by the Applicant. GBC notes the justification provided by the Applicant in its Explanatory Memorandum which was summarised by the Applicant at ISH2. GBC is not persuaded by that justification and at ISH2 made the following over-arching submissions. On the question of the appropriate discharging authority, first of all, section 120(2) of the Planning Act 2008 is very broad. It doesn't seek to reserve discharging of requirements to the Secretary of State. The discharging authority can be the Secretary of State (or indeed any other person) under subsection (2)(b) on matters so far as they are not falling within subsection (2)(a), and for subsection (2)(a), effectively, it says a requirement can do that which would otherwise be dealt with by a planning condition or similar condition of other regulatory consents. The implication, albeit not spelt out explicitly in that subsection, is that discharge of such requirements should follow the same pattern as it would for a planning condition (or other regulatory consent), and, obviously, with a planning condition, the normal expectation would be it would be the local planning authority that would be the discharging body. So, with respect to some of the submissions made in the Applicant's explanatory memorandum, the statute doesn't give a clear steer that you should go in one direction or another. GBC's submission is that the answer is to do what is fit for purpose for the particular development consent order that the ExA are considering.	Silvertown Tunnel Order 2018 (SI 2018/574) https://www.legislation.gov.uk/uksi/2018/574/contents Great Yarmouth Third River Crossing Development Consent Order 2020 (SI 2020/1075) https://www.legislation.gov.uk/uksi/2020/1075/contents Lake Lothing (Lowestoft) Third Crossing Order 2020 (SI 2020/474) https://www.legislation.gov.uk/uksi/2020/474/contents Southampton to London Pipeline Development

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	So far as then moving from the legislative framework position to the arguments that are made that for some reason highways orders, or this particular highways order, needs to have the Secretary of State for reasons of consistency and efficiency, first you will note that even on the applicant's approach in this draft DCO that is not universal. In relation to traffic regulation order matters, the applicant has recognised in Articles 10(1), 12(5), and 17(2) that there are matters that should fall within the remit of the local highway authorities or local traffic authorities for them to approve certain works or restrictions, it not being claimed that these are matters that can only be elevated up to the Secretary of State's decision level. Secondly, there is a particular instance in the requirements – and this is Requirement 13. It's already been mentioned in relation to the replacement facility where Thurrock, the local planning authority, is brought to bear as the discharging authority. So there shouldn't really be any argument, in reality, about the principle that Requirements can be suitably discharged by someone other than the Secretary of State. The principle to apply should be that it should be what is fit for purpose for the particular requirements, meeting the particular order. Then the applicant also makes reference to the Secretary of State's bespoke unit, and says, 'Well, there we are. We set up a unit, or the Secretary of State set up a unit, specifically in relation to highways orders, and there would be a wasteful duplication of resources if local authorities also had the same function.' Well, with respect, GBC don't share that view. As a general point, GBC do have some concern about the question of independence. We note that it is the Secretary of State's unit and we don't, at the moment, have a sufficient confidence in the independence between the Secretary of State who regulates National Highways and has a role in this project as the approver of it and the bespoke unit, and what would give us assurance is this: if National Highways could give us some examples from other projects promoted by National Highways where it has been necessary for the bespoke unit to consider the discharge of requirements – if National Highways could give us some examples where the bespoke unit has rejected submissions that have been put forward by National Highways, with an example of what that was and why, that might give us some confidence that this isn't a process that simply involves, effectively, one part of government talking to another part of government, but does involve thorough scrutiny.	Consent Order 2020 (SI 2020/1099) https://www.legislation.gov.uk/uksi/2020/1099/contents/made Thames Water Utilities Limited (Thames Tideway Tunnel) Order 2014 (SI 2014/2384) https://www.legislation.gov.uk/uksi/2014/2384/contents/made

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	There is also the point that was made by the applicant, that because of the bespoke unit, it's wasteful of public resources for local authorities to double up by setting up their own regime for discharging requirements. That sounds superficially as though it might have something in it, but, with respect, it doesn't, because when you actually look at what is envisaged here, the local authorities have very important roles in the discharge of requirements. Firstly, they have an important role as is envisaged by Requirement 20, in terms of the consultation. So Requirement 20 is clearly viewed by everybody as important and obviously for consultation to be effective, the consultee has to adequately inform itself about the matters on which it is being consulted. So the local authorities are going to have to engage with the detail of the project in order to be able to make informed consultation responses under the applicant's proposals. The only thing that they're not being allowed to do is be the decision maker, but everything else they have to grapple with. So that's the first point. They will need to have the resources to be able to engage productively in the consultation process in any event. The second point, which is allied to that – so far as, assuming that a particular requirement has been satisfactorily discharged by gaining an approval, as far as compliance with that discharge – that's to say the enforcement responsibility – that clearly rests with the relevant planning authorities, in terms of if there is a breach of any of the requirements, it's not the Secretary of State that comes running after National Highways. It is the relevant planning authority. Now, the relevant planning authority is not going to be in a position to properly discharge its enforcing function, potentially including prosecution, under section 160 or 161 unless, again, it is all over the detail of what it is that is being the subject of the submission, what it is that is then required to be done, by whom and by when. So the local authorities are going to have to resource themselves, or be aided by the applicant to resource themselves, to deal with the discharge of requirements and to the policing of the enforcement of the discharge of requirements in any event, even under the applicant's proposals. So the resource point is a non-point, because actually the local authorities will need to get into the detail in order to discharge those functions. Then the next point is a separate point, and GBC echo absolutely the points made by Mr Edwards KC and by Mr Standing on behalf of Thurrock, that it's local authorities that do have detailed knowledge of their areas, and are aware of the interconnectivity between different issues, which may be community issues in relation to traffic or noise,	

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	may be issues in relation to cumulative effects of a number of things happening at the same time or in the same place, but that degree of local knowledge clearly doesn't rest with the bespoke unit, and so there is an efficiency in allowing the person with the most knowledge to make the decision. The fifth point is that the problems with the applicant's approach are compounded by the weaknesses of Requirement 18. GBC recognise that's a separate requirement, but you do need to see these in the round. Requirement 18 has as a general default – in Requirement 18, paragraph (2) – that if the Secretary of State doesn't make a decision within time, there is a deemed approval. There is then a caveat for that in paragraph (3) in relation to where there are to be materially different environmental effects, but the basic point is that the Secretary of State – if he doesn't make decisions promptly – there are deemed approvals, and that is irrespective of whatever was said in the consultation responses and however vehemently consultees explained why whatever was being proposed was not acceptable. We also note that the bespoke unit – is of course – as National Highways has said – responsible for a wide variety of highways projects, and there's no mechanism in what the applicant is putting forward as to project management together with other projects. So there is no way of knowing how many different highways projects will be submitting submissions for approval at the same time to the one bespoke unit, or indeed to what extent – even on an individual project – the particular promoter will be submitting a raft of submissions to the Secretary of State's bespoke unit for approval, all at the same time. So there's no mechanism in here for coordination or phasing or structuring. So again, as we see it, this is an instance where the protections given are limited because of that default approval mechanism. So we don't see that as a check. Then the sixth point. In terms of the issue about consultation and the applicant strongly emphasises to you 'we don't just have to consult; we have to give "due consideration" to the results of the consultation and we have to provide the consultation responses to the Secretary of State with effectively a consultation report'. But with respect – due consideration – first of all, clearly any lawful consultation has to give consideration to the results of the consultation, so that isn't offering us anything other than the bare legal minimum, but secondly, due consideration is a very low threshold. All it really means is that the applicant does not have to ignore – that's to say, not even read – the consultation responses. Provided the applicant reads the consultation responses, it will have given	

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	them due consideration. It is no safeguard to us that they will actually act on our representations. In the event that GBC is not to be the discharging authority, GBC wishes to see a safeguard, whereby if the applicant is minded to make an application for discharge of a Requirement that is not in accordance with GBC's consultation response, that GBC is given advance notice of that intention, so giving GBC the opportunity to make either further representations to the applicant or to make direct representations to the discharging authority. Examples of such an arrangement can be seen in the guidance on hazardous substances consent where the determining authority wishes not to follow the advice of the COMAH competent authority (see Planning Practice Guidance ID39-047-20161209), and by analogy in the terms of the Town & Country Planning (Development affecting Trunk Roads) Direction 2018 where the local planning authority does not intend to follow the advice of National Highways, and the matter is then to be referred to the Secretary of State, and by analogy in the terms of the Planning (Listed Buildings and Conservation Areas) Regulations 1990, where (under Regulation 13) if a local planning authority wishes to authorise demolition or alteration of certain listed buildings contrary to the consultation response of Historic England the matter must be referred to the Secretary of State. This safeguard could be achieved by revising Requirement 20(1) so as to (a) delete "and" at the end of paragraph (a); (b) insert a new paragraph (ba) as follows: "(ba) where it intends to make an application which is not in accordance with the representations made by that authority or statutory body, give no less than 21 days notice to that authority or statutory body before submitting the application and give due consideration to any further representations received; and" (c) insert "(including any further representations made under sub-paragraph (1)(ba))" after "the proposed application".	

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e) Tunnelling provisions	GBC refers to its response to the Minor Refinement Consultation and in particular the proposal that there may be a single tunnel boring machine (TBM). GBC remains concerned that using one TBM might have a greater impact on Gravesham than using two (it is difficult to know in the absence of any proper assessment). It is important that whichever tunneling option is taken, there is no doubt that the spoil arising should be removed from the northern end and tunnelling materials, including the tunnel sections, should also be brought in from the northern end. GBC considers that there is justification for there to be a requirement to this effect in the DCO. Such a Requirement could be worded as follows: "In carrying out Work No. 4, the undertaker shall ensure that all construction activity utilising one or more tunnel boring machines and the servicing or supplying of any such machines, including all provision of construction materials and all removal of spoil or other materials (but not including the transportation of personnel) is undertaken only via the north bank of the River Thames."	
f) Traffic regulation provisions	GBC has no comments at this stage	
g) Road charging provisions	Schedule 12 to the DCO aligns charges and other details of the charging regime with those at the Dartford Crossing, such as hours in which the charges apply, discounts and exemptions. Paragraph 5 of Schedule 12 enables the Secretary of State for Transport to apply a local resident discount for charges imposed under the DCO to residents of Gravesham and Thurrock. The current arrangements in relation to users of the existing Dartford Crossing are that, for the Dart charge, a discount is available to the residents on either side in Thurrock and in Dartford, but not to anybody else. It's proposed, in relation to the Lower Thames Crossing, that the residents' discounts are available to residents of Thurrock and Gravesham as users of the Lower Thames Crossing, but not as users of the Dartford Crossing. Obviously, so far as a Thurrock resident is concerned, they already get the benefit of a discount if they use the Dartford Crossing, but for a Gravesham resident that isn't the case. Gravesham residents are only going to be given a discount for the use of one of these two crossings, but the reality is that the network works as a whole – there will be a myriad of origins and destinations of Gravesham residents, some of whom will be users of the Dartford Crossing.	

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	There is no evidence that the traffic modelling has taken account of how Gravesham residents' decisions as to which crossing to use may be affected by the higher toll on the Dartford Crossing. We see the impacts on Gravesham as being sufficient in both magnitude and duration, both during the construction period and subsequently, that they certainly have a case for being given a discount in relation to the Dartford Crossing, in addition to the Lower Thames Crossing. Obviously that will require some revision to the legislation which regulates the Dart charge, but that would be within the gift of this DCO, because it can disapply or amend any other legislation (as it does in Article 53), and so what we are proposing is that residents of Gravesham are given a resident's discount for using either crossing, and not merely for the LTC. This could be achieved by amending the definition of "local resident" in article 2 of the A282 Trunk Road (Dartford-Thurrock Crossing Charging Scheme) Order 2013. Because the impacts will be experienced by residents of Gravesham during the construction period, as well as thereafter, we are suggesting that the discount to Gravesham residents should be available in relation to the Dart crossing from the start of construction of the Lower Thames Crossing. Obviously it can't apply to the Lower Thames Crossing until it physically exists and is open to traffic, so that will be at a later stage, but that's our essential point. GBC does not seek to comment on whether discounts should be offered to residents of other local authorities adversely affected by the LTC but it does see the unavoidable residual impacts within Gravesham as significant in their extent so as to justify a particular compensatory measure to offset those impacts.	A282 Trunk Road (Dartford-Thurrock Crossing Charging Scheme) Order 2013 (SI 2013/2249) https://www.legislation.gov.uk/uksi/2013/2249/contents/made Note: this is the Order as made and has been amended

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h) Protective provisions	GBC has no comments on the protective provisions in the DCO as none relate to it. GBC is not seeking any protective provisions for itself at this stage.	
i) The Deemed Marine Licence	GBC has no comments	
j) ExA observations on drafting (see Annex A)	See separate document with selected comments on the ExA observations in Annex A.	
k) Any other matters relating to the dDCO	GBC may have more detailed drafting points in due course but some which have arisen so far: Precedents for article 23(2) (felling or lopping of trees and removal of hedgerows) often contain a requirement to take steps to avoid a breach of the provisions of the Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2017 (for example article 42(2)(c) of the A1428 Black Cat to Caxton Gibbet Development Consent Order 2022). The Applicant should explain why it is not included in the dDCO. Article 24(2)(b) (trees subject to tree preservation orders) disapplies the duty under s.206(1) (replacement of trees) of the Town and Country Planning Act 1990 to replace TPO trees if removed. There are three areas of woodland in Gravesham listed in Schedule 7 to the dDCO which are subject to article 24. In other highways DCOs (for example article 43(3)(b) of the A1428 Black Cat to Caxton Gibbet Development Consent Order 2022 this is accompanied by the words "although where possible the undertaker must seek to replace any trees which are removed". GBC considers it would be appropriate to include similar words in this case unless the Applicant can demonstrate that the trees are to be replaced due to some other provision in the draft dDCO and/or control documents. Article 58(2) (defence to proceedings for statutory nuisance) appears to be unprecedented in highways DCOs. It says that compliance with the controls and measures described in the Code of Construction Practice or any environmental management plan approved under paragraph 4 of Schedule 2 to the DCO will be sufficient, but not necessary, to show that an alleged nuisance could not reasonably be avoided. GBC thinks that this provision represents an unwelcome and unnecessary fettering of the discretion of the courts in dealing with statutory nuisance cases. So far	A428 Black Cat to Caxton Gibbet Development Consent Order 2022 (SI 2022/934)

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	as GBC know, it is precedented in only two other (non highways) DCOs and GBC are unaware of any particular local need for it. The Applicant should be put to strict proof as to why it is needed, giving examples of other made highway DCOs where it would have been necessary (not just convenient) to have had. GBC welcomes in principle the inclusion of article 61 (stakeholder actions and commitments register) which as the Applicant says, is unprecedented. However GBC is concerned that the article says the Applicant will only "take all reasonable steps" to deliver the commitments in the register. GBC would welcome an explanation of why those words are used. It is particularly concerned to ensure that the words do not water down any commitments which appear in the register and which may, for example, impose on the Applicant a higher level of commitment than taking all reasonable steps. GBC is also concerned about article 61(1)(b) which enables the undertaker to revoke, suspend or vary the application of a commitment on the register by applying to the Secretary of State (albeit after consultation with the beneficiary of the commitment). That beneficiary may not have been aware of the possibility of this happening when entering into the commitment. At the very least there should be a requirement that beneficiaries of commitments should be alerted to this possibility by the Applicant during the process of negotiating or offering the commitment. Also, there appears to be nothing in the article which requires the Secretary of State to even consider taking into account the written views of the beneficiary other than through the Applicant's report of the consultation, and there is no appeal mechanism. Finally on article 61, paragraph (3) says that when an application has been made to vary, revoke or suspend a commitment, then the commitment is treated as being suspended until the Secretary of State has determined the application. But that could result in permanent damage being done during the period of suspension, even if the Secretary of State ultimately decides that the application should be refused. There is no provision in article 61 for compensation in those circumstances (or at all) and GBC queries whether that is fair, and potentially raises article 1 protocol 1 ECHR issues. In the ancillary works part of Schedule 1, GBC has already commented on the unusual new introductory words which enable works to take place anywhere outside the Order limits.	https://www.legislation.gov.uk/uksi/2022/934/contents

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	On the detailed design requirement (paragraph 3 of Schedule 2), GBC note the equivalent requirement in the Black Cat DCO included a requirement for a submission of a report to the Secretary of State demonstrating that there had been engagement with local stakeholders about detailed design. GBC would wish to explore the possibility of a similar provision in this case. This comment is without prejudice to GBC's point that the local planning authority should be the discharging authority for requirements and is subject to a more detailed analysis of the requirements.	
5. Next Steps		
6. Closing		