



**Havering**  
LONDON BOROUGH

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[www.havering.gov.uk](http://www.havering.gov.uk)

Dear Sir,

**London Borough of Havering (20035775) – Response to Examination Document Ref: TR010032/EXAM/9.53; Comments on WR Appendix C Relevant Local Authorities and Transport Bodies (REP2-048).**

Thank you for the opportunity to respond to the Applicant's Examination document reference TR010032/EXAM/9.53. London Borough of Havering (LBH) has reviewed the comments contained in this report and is disappointed that the responses by the Applicant, on the whole, fail to provide detailed technical responses to the issues raised by LBH.

Havering notes that there are still a significant number of discussions to be held with the Applicant on the development of the Section 106 agreement, mitigation and the Statement of Common Ground. The outcomes of these discussions will be reported to the Examining Authority (ExA) in due course.

The issues cited below are of significant concern to Havering and it would wish to see these issues addressed.

**1. Failure to respond to LB Havering's issues relating to NPS**

LBH in its written representations (REP1-253) set out how the National Highways (NH) approach to assessment and, crucially monitoring but not mitigating, does not comply with the NPSNN. This was referred to on page 2 of the written representations and, in detail, in Appendix 1 of REP1-253. Appendix 1 was written in response to the attempted justification of the approach provided by NH in the various submitted documents. In responding to the written representations (REP2-048) NH have simply referred to the documentation to which Appendix 1 was a response and simply re-asserted compliance with the NPSNN and have failed completely to engage with the detailed arguments in Appendix 1.

This is important because the ExA is required to arrive at a considered conclusion regarding compliance with the NPSNN. The ExA should be concerned to have a proper

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response to points (1) – (3) made on page 2 of the written representations as set out in detail in Appendix 1.

## 2. Local Government Maintenance Funding Challenges

LB Havering has previously raised concerns about the proposal to pass to the Council the maintenance liabilities for a new Public Rights of Way (PRoW) over a rail bridge (for the diverted footpath 252 – Work No. 9M- iv).

The Council's position is that commuted sums are required to support the adoption of this structure by the Council should the proposed scheme be consented. Given that the need for the new structure is entirely triggered by the proposed scheme, Havering considers that the liabilities are entirely a matter for the Applicant.

LB Havering does not have funding available to undertake such a function due to the unique funding circumstances that apply to highway maintenance funding for London local authorities.

A detailed explanation of this funding issue is set out below:

### Highway Maintenance Funding

#### **Outside of London**

Local government road maintenance funding outside of London is part of the local government formula grant paid by central government to local authorities annually. Certain parts of the allocation are formulaic and are ringfenced (e.g., “the pot hole fund”), whilst other elements are not hypothecated and in theory could be used to support other council functions.

In addition to the formula grant road maintenance funds may come from the following sources:

- Local Council Tax.
- Business rates where a local retention scheme for Uniform Business Rate (UBR) is in place
- Commuted sums under sections 278 and 38 of the Highways Act 1980.
- In limited cases funding collected through business improvement district levies.

The Department for Transport (DfT) allocations to the provincial authorities involved in the proposed Lower Thames Crossing (LTC) scheme are:

Area	Total Road Length Non-SRN (miles) <sup>1</sup>	DfT Funding <sup>2</sup>	Budget	Funding / Mile
Thurrock	357	£2,489,000	£2,489,000 <sup>3</sup>	£6,964
Essex	5,023	£30,685,000	£31,500,000 <sup>4</sup>	£6,271
Kent	5,590	£34,058,000	£43,032,500 <sup>5</sup>	£7,698

1. DfT Statistics Table RDL 0102a

2. DfT Table for Road Maintenance Spend at <https://www.gov.uk/government/publications/£0highways-maintenance-funding-allocations/highways-maintenance-and-itb-funding-formula-allocations-2022-to-2025>

3. Thurrock Council is using DfT money only.

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<https://democracy.thurrock.gov.uk/documents/s34062/Integrated%20Transport%20Block%20Capital%20Programme%20202223%20Highways%20Maintenance%20Allocation%20and%20Programme.pdf>

4. Essex

Council

Budget

<https://cmis.essex.gov.uk/essexcmis5/Document.ashx?czJKcaeAi5tUFL1DTL2UE4zNRBcoShgo=n3VX2CdAL77kPyf7rq1NnNKkWXqYl9pgNeWZ5GjTpUTRZZUGPZ45w%3d%3d&rUzwRPf%2bZ3zd4E7lkn8Lyw%3d%3d=pwRE6AGJFLDNih225F5QMaQWcTPHwdhUfCZ%2fLUQzqA2uL5jNRG4jdQ%3d%3d&mCTIbCubSFXsDGW9lXnlq%3d%3d=hFfIUdN3100%3d&kCx1AnS9%2fpWZQ40DXFvdEw%3d%3d=hFfIUdN3100%3d&uJovDxwdjMPoYv%2bAjvYtyA%3d%3d=ctNJFf55vVA%3d&FqPIIEJYlotS%2bYGoBi5oIA%3d%3d=NHdURQburHA%3d&d9Qjjoag1Pd993jsyOJqFvmyB7X0CSQK=ctNJFf55vVA%3d&WGewmoAfeNR9xqBux0r1Q8Za60lavYmz=ctNJFf55vVA%3d&WGewmoAfeNQ16B2MHuCPMRKZMwaG1PaO=ctNJFf55vVA%3d>

5. Kent Council budget [https://www.kent.gov.uk/\\_data/assets/pdf\\_file/0006/148947/Budget-Book-2023-24.pdf](https://www.kent.gov.uk/_data/assets/pdf_file/0006/148947/Budget-Book-2023-24.pdf)

## **Within London**

In contrast, as recorded by the DfT notes to their funding announcements, LB Havering as a London borough receives no formula-based road maintenance funding directly from central government. Rather, it is reliant on funding from Transport for London (TfL) and its own Council Tax payers.

The TfL funding settlement imposed by DfT in August 2022 constrains TfL funding to a fixed amount until at least March 2024. The ultimate aim is for TfL to be self-funding in the long-term through a combination of fares / road charges and property disposals.

A paper to TfL's Main Board in May 2023 <https://board.tfl.gov.uk/documents/s19973/pic-20230517-item09-part1-surface-assets-renewal-programme.pdf> indicates that the (transport) Local Implementation Plan (LIP) funding for London boroughs related to road maintenance in 2022/23 was a budget of £0.9M with £4.3M recorded as actually being spend. Havering did not receive any funding for road maintenance from TfL in 2022/23. The LIP is the principal mechanism by which the Mayor's Transport Strategy (2018) is delivered at a local level across London.

Historically, funding that TfL makes available to boroughs for maintenance is for principal roads, which are effectively the "A" roads in the borough apart from the Transport for London Road Network (TLRN). In 2023/24 Havering has not been allocated any principal road maintenance funding. The Council in recent years has received only a very small element of TfL funding for bridge strengthening work, but no maintenance funding has been received.

This, in effect, means that LIP road schemes which are funded for capital investment by TfL receive no commensurate ongoing maintenance funding, all of which must therefore be sourced locally through LB Havering Council Tax payers.

In addition, London Boroughs such as Havering were not allocated any funding from the Government's £200M highways, maintenance and pothole repair funding pot, that was allocated for the 2023/24 financial year. This was only available for local authorities outside of London.

DfT statistics show that LB Havering has 417.8 miles of road of which an estimated 401 miles are local roads, i.e., non NH or TfL operated roads. The current LB Havering budget for road maintenance set in February 2023 is £6M as shown at [https://www.havering.gov.uk/news/article/1207/council\\_passes\\_havering\\_budget\\_for\\_202324](https://www.havering.gov.uk/news/article/1207/council_passes_havering_budget_for_202324). This equates to some £14,962 per mile of road. This figure is entirely drawn from local Council Tax as noted above and reflects the high volumes of traffic using Havering's road network.

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## Comparative Assessment

An estimate of road maintenance funding on a population basis across the LTC affected local highway authorities has been made covering both central government and locally raised funds. As shown in the table below, Havering residents are providing roads maintenance funds in the 2023/2024 financial year at a rate of circa 5x times that for any other LTC affected highway authority.

	Population	Budget (2023/24)	Cost Per head	Local Funding	Cost Paid Locally Per Head
Thurrock	179,000	£2,489,000	£13.91	£0	£0
Essex	1,824,000	£31,500,000	£17.27	£815,000	£0.44
Kent	1,855,000	£43,032,500	£23.20	£8,974,500	£4.83
Havering	258,000	£6,000,000	£23.26	£6,000,000	£23.26

The disproportionate effect of the current funding arrangements places an undue and unjust burden on Havering Council Tax payers. Any increase in road maintenance liabilities therefore will not be covered by existing maintenance budgets and no alternative funding source exists. It should be noted that 70% of Council Tax payments have to go on social care provision, in line with statutory services. This leaves 30% to go on over 100 local authority services including highways.

LB Havering operates a 'developer pays' scheme in respect of Section 38 highway adoption agreements. This requires the payment of commuted sums for maintenance requirements of newly adopted infrastructure.

The LTC promotes a number of road infrastructure assets that would require maintenance if adopted by the LB Havering including Work No 9M. As shown above, this would place an unacceptable liability on LB Havering residents as the only source of funding for their upkeep if they were to be adopted by the Council.

The LB Havering position is in contrast to other non-London highway authorities that have central government formula grant to fall back on and which gets adjusted annually based on a number of indicators for each authority.

The impact, given that Council Tax rises are in effect capped by statute (Localism Act 2011) on Havering, is that the roads maintenance budget will not rise sufficiently to cover the additional liabilities imposed by the LTC scheme.

Havering is concerned that the proposed structure of Footpath 252 that will go over the railway, will be complex to maintain. General and principal inspections will be needed every 2 and 6 years respectively, and require expensive closures that Network Rail (NR) are much more able to coordinate.

For this reason, LB Havering is seeking commuted sums for the maintenance of the additional structures and assets associated with the proposed LTC should consent be granted.

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### **3. Local Resident Discount Scheme**

The Council remains of the view that the Local Resident Discount Scheme (LRDS) should apply to all host local authorities and not just residents of Thurrock and Gravesham. The comments Havering provided in the Written Representation (WR) and Local Impact Report (LIR) on this matter still apply. Providing the LRDS to Havering residents will not offset the adverse impacts of the project, however, this will go some way to demonstrate that impacts (both construction and operational) on Havering's residents have been considered, that Havering is being treated fairly alongside other local authorities, and that the wellbeing of our local communities has been – and will be – taken properly into account.

### **4. Upminster Cemetery Diversion Routes**

The Council raised serious concerns about the suitability of the proposed diversion route for Ockendon Road in its LIR. The Council has also raised concerns about the suitability of other roads being advocated for use by construction traffic in the Borough. The Applicant has responded that the diversion routes put forward in the Outline Traffic Management Plan for Construction (oTMPfC) are just indicative at this stage, with routes being “firmed up” by the Contractor and discussed with Local Authorities at Traffic Management Forums post consent.

LB Havering is of the view that this approach is simply too late in the construction process, and that the suitability of diversion routes needs to be discussed and examined before any scheme is granted consent, to ensure that all potential environmental impacts are identified and mitigated.

LB Havering remains concerned that the quality of the proposed diversion routes will not be thoroughly considered by the Contractor who will be seeking to apply the most cost effective approach to providing diversion routes without necessarily addressing issues of resilience on the proposed routes. Rather than considering the alternative routes via a desk top exercise, we invite the Applicant to visit the proposed routes to realise the issues as identified by Havering and discuss with us our proposed mitigation measures.

In order to overcome this issue, Havering has taken the opportunity in its LIR to put forward mitigation to improve the reliance and safety of the proposed diversion and construction routes. The Applicant has failed to respond to any of the mitigation proposed by Havering.

Havering looks forward to further discussions with the Applicant on these mitigation proposals. Should these discussions not prove to be fruitful, Havering would request that through the Examination process, unsuitable and unsafe construction routes be identified and explicitly excluded in an updated oTMPfC that will be submitted at a future deadline.

### **5. Mitigation**

For reasons set out in LBH's WR (REP1-253), specifically Appendix 1, the approach of NH<sub>7</sub> of not providing necessary mitigation, on the basis of an overall benefit of the project, does not accord with the NPSNN. LB Havering wishes to see a direct response on this matter from the Applicant.

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The Council notes the Applicant's responses as set out in Annex 1 of REP2-060 concerning the mitigation proposals put forward by Havering. The Council maintains its position that such mitigation measures meet the planning tests and looks forward to discussing these further with the Applicant over the coming months.

Havering welcomes the request from the ExA in its first set of Written Questions Q16.1.4 (ExQ1) for the provision of a Mitigation Route Map.

## **6. Designated funds**

Whilst LB Havering supports the use of Designated Funds in appropriate circumstances, it continues to be of the view that Designated Funds should not be used for schemes that are being delivered to mitigate the impact of the scheme.

Where mitigation is required, this should be funded as part of the overall project, not be subject to external funding regimes that may no longer be available as the project develops. It should be noted that the Designated Funds Scheme is only available until 2025 and therefore provides no surety that it will be available during the lifetime of the project, should it be consented.

The Council therefore reiterates its position made in its WR and LIR that any new connection between the A127 and Folkes Lane Woodland should be secured as part of the project mitigation.

It is noted that the Applicant is undertaking feasibility work looking at a new connection between the A127 and Folkes Lane Woodland. The Council is currently reviewing feasibility work that has been produced by the Applicant and looks forward to further discussions.

The Council has raised concerns about the safety and suitability of the M25 footbridge being used for an increasing number of pedestrians, cyclists and horse riders. The Applicant's engineers have stated that the safety of the footbridge is an issue that needs to be addressed. Havering is in the process of reviewing feasibility work undertaken by the Applicant looking at addressing these concerns, and will comment further at a future Examination deadline.

## **7. Certainty of Management Plans**

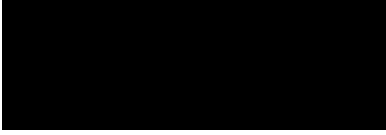
The Council continues to have concerns that final management plans will not be in accordance with the outline management plans that are currently subject to Examination scrutiny. The comments LB Havering has submitted at Deadline 1 on the language used in the draft DCO (dDCO), in particularly the need to remove the wording "substantially" from a number of requirements, still applies.

A recent example from the implementation of the M25 J28 scheme serves the purpose to illustrate why Havering is concerned about the approach of NH and highlights the need for surety in the implementation of the management plans, in particular the oTMPfC. Here the contractor and NH sought to introduce a major change to the traffic management plans within the oTMPfC without following due process of a Minor Amendment to the Consented DCO, as they believed that the oTMPfC enable them to do so. If the host boroughs and TfL had not objected to the proposals as not being in accordance with the oTMPfC, then

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the significant changes would have gone ahead. Havering believes that this highlights the need to amend the language in the dDCO to provide surety.

Yours faithfully,



Daniel Douglas

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