

Lower Thames Crossing DCO

Gravesham Borough Council

Appendix to ISH 7 Post Hearing Written Representations

Amendments to the draft DCO proposed by Gravesham Borough Council

Note 1: This list of suggested amendments to the DCO generally follows the order in which the provisions to be amended appear in the DCO. They are not listed in order of importance to the Council.

Note 2: The submission of this list is without prejudice to the Council's in principle opposition to the DCO.

Note 3: This list does not include any suggested changes to the other control documents: the Council is considering those documents separately.

Note 4: The amendments shown are to the clean version of v.5.0 of the DCO [[REP3-077](#)]

Note 5: Part 1 of this Appendix contains amendments requested in relation to matters other than the identity of the discharging authority in Schedule 2. Part 2 separately contains amendments only on that subject.

1. “Different material effects”: removal of article 2(10)

Interpretation

2. [.....]

~~(10) In this Order, references to materially new or materially different environmental effects in comparison with those reported in the environmental statement must not be construed so as to include the avoidance, removal or reduction of an adverse environmental effect that was reported in the environmental statement as a result of the authorised development.~~

2. Extent of disapplication of enactments under article 3

Development consent, etc. granted by the Order

3.—(1) Subject to the provisions of this Order including the requirements in Schedule 2 (requirements), the undertaker is granted development consent for the authorised development to be carried out and operated.

(2) Without limitation to paragraph (1), the undertaker is authorised to carry out the works specified in columns (2) and (3) of Part 2 of Schedule 1 (scheduled monuments) in relation to the scheduled monuments specified in column (1) of that Schedule.

(3) Subject to paragraph (4), any enactment applying to land within the Order limits or land adjacent to, adjoining or sharing a common boundary with the Order limits (other than land comprising part of the river Thames outside of the Order limits) has effect subject to the provisions of this Order.

(4) Except as provided for in article 53 (Disapplication of legislative provisions, etc.) and article 55 (Application of local legislation, etc.), paragraph (3) does not apply to the 1968 Act, the Port of

Tilbury Transfer Scheme 1991, the Port of Tilbury Transfer Scheme 1991 Confirmation Order 1992 and the Port of Tilbury (Expansion) Order 2019 or any byelaws, general directions or specific directions having effect, made or given under those enactments.

3. Chalk Park landforms: amendments to article 6 (limits of deviation)

Limits of deviation

6.—(1) In carrying out the authorised development the undertaker may—

(a) [.....]

(2) In carrying out the authorised development the undertaker may—

(a) subject to sub-paragraphs (b) to (p), deviate vertically from the levels of the authorised development shown on the engineering drawings and sections to a maximum of 0.5 metre upwards or 1 metre downwards;

(b) in respect of Works Nos. OSC4(a) ~~and OSC5(a)~~, deviate vertically from [to be discussed]the levels shown on the engineering drawings and sections to a maximum of 2 metre upwards or 2 metre downwards;

(c) in respect of Works Nos. OSC4(b), ~~and OSC5(b)~~ deviate vertically from [to be discussed]the levels shown on the engineering drawings and sections to a maximum of 5 metre upwards or 5 metre downwards;

(d) in respect of Work No. OSC5(a), deviate vertically from the levels shown on the engineering drawings and sections to a maximum of 2 metres upwards or 2 metres downwards;

~~(e)~~(e) in respect of Work No. OSC5(b), deviate vertically from the levels shown on the engineering drawings and sections to a maximum of 5 metres upwards or 5 metres downwards;

4. Compliance with national legislation: trees: amendment to article 23(2)

Note: For precedent see article 42(2)(c) of the A428 Black Cat to Caxton Gibbet Development Consent Order 2022 Link Roads Order 2022 ([2022/1206](#))

Felling or lopping of trees and removal of hedgerows

23.—(1) The undertaker may fell or lop any tree or shrub, within or overhanging land within the Order limits, or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree or shrub—

(a) from obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development; or

(b) from constituting a danger to persons using the authorised development.

(2) In carrying out any activity authorised by paragraph (1), the undertaker must—

(a) do no unnecessary damage to any tree or shrub; ~~and must~~

(b) pay compensation to any person for any loss or damage arising from such activity; and

(c) take steps to avoid a breach of the provisions of the Wildlife and Countryside Act 1981(1) and the Conservation of Habitats and Species Regulations 2017(a).

~~(2)~~(3) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, is to be determined under Part 1 of the 1961 Act.

(a) [S.I. 2017/1012.](#)

~~(3)~~(4) The undertaker may, for the purposes of carrying out the authorised development but subject to paragraph (2), remove any hedgerow within or overhanging land within the Order limits that is required to be removed.

~~(4)~~(5) In this article “hedgerow” includes a hedgerow to which the Hedgerow Regulations 1997(b) apply and includes important hedgerows.

5. Timescale for exercise of compulsory powers: amendments to article 27

Time limit for exercise of authority to acquire land compulsorily

27.—(1) After the end of the period of ~~5~~8 years beginning on the day on which this Order is made~~the start date~~—

- (a) no notice to treat is to be served under Part 1 of the 1965 Act as modified by this Order; and
- (b) no declaration is to be executed under section 4 (execution of declaration) of the 1981 Act as applied by article 31 (application of the 1981 Act),

in relation to the Order land for the purposes of this Order.

(2) The authority conferred by article 35 (temporary use of land for carrying out the authorised development) ceases at the end of the period referred to in paragraph (1), except that nothing in this paragraph prevents the undertaker remaining in possession of land after the end of that period, if the land was entered and possession was taken before the end of that period.

~~(3) In this article “start date” means the later of the day after—~~

- ~~(a) the period for legal challenge in respect of this Order under section 118 of the 2008 Act expires; or~~
- ~~(b) the final determination of any legal challenge under that section;~~

~~whichever is later.~~

6. Special category land: amendment to article 40(1)

Note: For precedent see article 34 of the A303 (Amesbury to Berwick Down) Development Consent Order 2023 ([2023/834](#))

Special category land

40.—(1) On the exercise by the undertaker of the relevant Order powers, subject to paragraph (5) the specified special category land and any rights over that land is not to vest in the undertaker (or any specified person) until the replacement land has been acquired in the undertaker’s name or is otherwise in the name of the persons who owned the specified special category land on the date those powers are exercised and the Secretary of State (in consultation with the relevant planning authority) has certified (~~following consultation by the undertaker with the relevant planning authority~~) that a scheme for the provision of the replacement land including a timetable for the implementation of the scheme has been received from the undertaker.

7. Road user charging on the Dartford Crossing: residents’ discount: New article 47

Road user charging: tunnel area

45. From the date when the tunnels are completed and open for traffic, the Secretary of State may impose road user charges in respect of motor vehicles using the tunnel area in accordance with Schedule 12 (road user charging provisions for use of the Lower Thames Crossing).

Suspension of road user charging: tunnel area

46.—(1) The Secretary of State may suspend the operation of any road user charge imposed under article 45 (road user charging: tunnel area) if they consider that it is necessary to do so—

- (a) in the event of an emergency, to enable or facilitate any action taken in response to the emergency; or
- (b) to enable or facilitate a temporary event to take place.

(2) [...continues....]

Road user charging: Dartford-Thurrock Crossing

47. The A282 Trunk Road (Dartford-Thurrock Crossing Charging Scheme) Order 2013(a) is amended as follows—

- (a) In article 1 (interpretation) for the definition of “local resident” substitute—
““local resident” means a person who permanently resides in the borough of Dartford, Gravesham or Thurrock;”;
- (b) In article 7 (Advance payments for local residents), insert the following paragraphs after paragraph (3)—
“(4) No local resident’s agreement may take effect with a resident of the Borough of Gravesham until the authorised development has begun.
(5) In paragraph (4), “the authorised development” and “begun” have the same meanings as in article 2(1) (interpretation) of the A122 (Lower Thames Crossing) Development Consent Order 202[].”.

8. Defence to proceedings in respect of statutory nuisance: amendment to article 58

Defence to proceedings in respect of statutory nuisance

58.—(1) Where proceedings are brought under section 82(1) (summary proceedings by person aggrieved by statutory nuisance)(a) of the Environmental Protection Act 1990 in relation to a nuisance falling within paragraph ~~(d), (e), (fb), (g), and (ga)~~ of section 79(1) (statutory nuisances and inspections therefor.) of that Act no order is to be made, and no fine may be imposed, under section 82(2)(b) of that Act if—

- (a) the defendant shows that the nuisance—
 - (i) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development and that the nuisance is attributable to the construction or maintenance of the authorised development in accordance with a notice served under section 60 (control of noise on construction site), or a consent given under section 61 (prior consent for work on construction site)(c) of the Control of Pollution Act 1974; or
 - (ii) is a consequence of the construction or maintenance of the authorised development and that it cannot reasonably be avoided; or
- (b) the defendant shows that the nuisance is a consequence of the use or operation of the authorised development and that it cannot reasonably be avoided.

~~(2) For the purposes of paragraph (1), 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 this Order will be sufficient, but not necessary, to show that an alleged nuisance could not reasonably be avoided.~~

(a) S.I. 2013/2249.

~~(3)~~(2) Section 61(9) (consent for work on construction site to include statement that it does not of itself constitute a defence to proceedings under section 82 of the Environmental Protection Act 1990) of the Control of Pollution Act 1974 does not apply where the consent relates to the use of premises by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development.

9. Stakeholder actions and commitments register: amendments to article 61

Stakeholder actions and commitments register

61.—(1) The undertaker must when carrying out the authorised development ~~take all reasonable steps to~~ deliver the measures contained in the stakeholder actions and commitments register unless—

- (a) otherwise agreed in writing with the person(s) with the benefit of the measure; or
- (b) an application submitted by the undertaker for revocation, suspension or variation of the measure has been approved in writing by the Secretary of State, following consultation by the undertaker with the person(s) with the benefit of the measure and any other persons considered appropriate.

(2) The undertaker must notify the person(s) with the benefit of the measure of the effect of paragraph (1)(b) before entering the measure on the stakeholder actions and commitments register, or if that is not possible, as soon as reasonably practicable afterwards.

(3) The Secretary of State must when determining whether to approve a revocation, suspension or variation of a measure under paragraph (1)(b) consider—

(a) any representations and written accounts provided under paragraph 20(1)(d) of Schedule 2;

~~(a)~~(b) the safe and expeditious delivery of the authorised development and whether—

- (i) the measure is capable of implementation;
- (ii) the measure no longer serves a useful purpose; and
- (iii) the purpose of the measure could be served equally well with any proposed revocation, suspension or variation.

~~(2)~~(4) In relation to an application under paragraph (1)(b)—

(a) the undertaker must notify in writing the person(s) with the benefit of the measure in question that the application has been made, such notification to be given on or before the date the application is made;

~~(a)~~(b) the stakeholder actions and commitments register is deemed to be modified so as to give effect to any revocation, suspension or variation approved by the Secretary of State; and

~~(b)~~(c) the undertaker must, as soon as reasonably practicable after the Secretary of State determines an application for the revocation, suspension or variation of a measure, notify the person(s) with the benefit of the measure of that determination.

~~(3)~~(5) Paragraph 20 of Schedule 2 (requirements) applies to an application to the Secretary of State for revocation, suspension or variation under paragraph (1)(b) as though it were an consultation required under that Schedule.

~~(4)~~(6) The undertaker must, as soon as practicable following the exercise of any power under this Order, establish and maintain for a period of 3 years following the completion of the authorised development an electronic form suitable for inspection by members of the public a register which sets out in relation to each measure secured under paragraph (1)—

- (a) the status of the measure; and
- (b) whether any approval has been given under paragraph (1)(a) or (b).

10. Appeals against Control of Pollution Act notices: amendment to article 65

Appeals to the Secretary of State

65.—(1) The undertaker may appeal to the Secretary of State in the event that a local authority—

- (a) refuses an application for any approval under this Order required by—
 - (i) article 12(5) (temporary closure, alteration, diversion and restriction of use of streets);
 - (ii) article 17(2) (traffic regulation – local roads);
 - (iii) article 21(4) (authority to survey and investigate the land);
 - (iv) paragraph 9(6) of Schedule 2;
 - (v) paragraph 13(1) of Schedule 2; or
- (b) grants an approval for any approval required by an article or paragraph mentioned in subparagraph (a) subject to conditions;
- (c) refuses an application for a permit under a permit scheme, or grants such a permit subject to conditions;~~;~~ ~~or~~
- ~~(d) issues a notice further to sections 60 or 61 of the Control of Pollution Act 1974(a).~~

(2) [.....]

11. Thong Lane Car Park and access: removal of the works from Schedule 1

Work No. 1 – as shown on sheets 3, 4, 5 and 6 of the works plans and being the construction of the new A122 Lower Thames Crossing between the existing M2 junction 1 and the new A2/A122 Lower Thames Crossing junction (Work No. 2), to include—

[.....]

- (h) Work No. 1H – as shown on sheet 4 of the works plans and being the construction of a new bridge to carry the realigned Thong Lane over the improved section of the A2 mainline, to include—

(iv) [.....]

- (v) the construction of a new public right of way in the access from Thong Lane, as shown on sheet 4 of the rights of way and access plans (reference points 6/9 and 6/41); and

~~(vi) the construction of a new private means of access to the new proposed car park (Work No. 1P), as shown on sheet 4 of the rights of way and access plans; and~~

(vii) [.....]

- ~~(p) Work No. 1P – as shown on sheet 4 of the works plans and being the construction of a new car park next to the realignment Thong Lane over the improved section of the A2 mainline (Work No. 1H).~~

[.....]

12. Ancillary works to be allowed only within the Order Limits, as proposed in the DCO version as applied for; clarification that construction buildings etc are temporary: Schedule 1

Ancillary works

For the purposes of or in connection with the construction of any of the works and other development in the Order limits, ancillary or related development in the Order limits which is not likely to give rise to any materially new or materially different environmental effects to those assessed in the environmental statement consisting of—

- (a) alteration of the layout of any street permanently or temporarily, including increasing or reducing the width of the carriageway of any street by increasing or reducing the width of any kerb, footway, cycle track or verge within the street; and altering the level of any such kerb, footway, cycle track, or verge within the street;

[.....]

- (m) the establishment of construction compounds and working sites, storage areas (including storage of excavated material and other materials), temporary vehicle parking, hoarding, construction fencing, perimeter enclosure ~~and~~; security fencing, temporary construction-related buildings ~~and~~; welfare facilities, temporary worker accommodation facilities for vehicle recovery crew, vehicle recovery, construction lighting, temporary haulage roads; borrow pits and other temporary buildings, machinery, apparatus, works and conveniences;

[.....]

13. Timescale for Implementation: Amendment to requirement 2 in Schedule 2 (time limits)

Interpretation

66.—(1) In this Schedule—

[...]

“commence” means beginning to carry out any material operation (as defined in section 56(4) (time when development begun) of the 1990 Act) forming part of the authorised development other than preliminary works and “commencement” is to be construed accordingly;

...]

Time limits

2. The authorised development must ~~commence~~begin no later than the expiration of 5 years beginning with the date that this Order comes into force.

14. Detailed design: Amendment to requirement 3 in Schedule 2 (detailed design)

Note: the LEMP may need to be amended to ensure it ties in. For precedent see requirement 3(3) and (4) in A57 Link Roads Order 2022 (2022/1206)

Detailed design

3.—(1) The authorised development must be designed in detail and carried out in accordance with the design principles document and the preliminary scheme design shown on the engineering drawings and sections, and the general arrangement drawings, unless otherwise agreed in writing by the Secretary of State following consultation by the undertaker with the relevant planning authority and, in respect of the authorised development comprising highways other than a special road or a trunk road, the relevant local highway authority on matters related to their functions, provided that the Secretary of State is satisfied that any amendments to those documents showing departures from the preliminary scheme design would not give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement.

(2) Where amended details are approved by the Secretary of State under sub-paragraph (1), those details are deemed to be substituted for the corresponding engineering drawings and sections and the undertaker must make those amended details available in electronic form for inspection by members of the public.

(3) No part of the authorised development is to commence until options for the detailed design of that part of the authorised development have been submitted to the Design Council’s Design Review panel and the undertaker has received and considered the advice of the Design Council’s Design Review panel in respect of the detailed design of that part of the authorised development.

~~(3)~~(4) The undertaker must, in the course of developing the detailed design of the authorised development consult with the relevant planning authority, local highway authority and other parties identified in the Engagement and Communications Plan that forms part of the outline LEMP).

(5) No part of the authorised development is to commence until, for that part, a report has been submitted to, and, following consultation with the relevant local planning authority, approved by the Secretary of State, demonstrating that—

(a) the undertaker has engaged with the persons mentioned in paragraph (4) relevant stakeholders on the development of detailed design for that part of the authorised development;

(b) the undertaker has had regard to those persons’ comments; and

(c) any refinements to the detailed design for that part of the authorised development arising as a result of that engagement accord with the design principles document.

15. Drainage and flood risk mitigation: Amendment to requirement 8 in Schedule 2

Surface and foul water drainage

8.—(1) No part of the authorised development is to commence until for that part written details of the surface and foul water drainage system, reflecting the mitigation measures set out in the REAC including means of pollution control and for the management of flood risk, have been submitted and approved in writing by the Secretary of State following consultation by the undertaker with the lead local flood authority, the relevant planning authority and the relevant local highway authority on matters related to their functions.

(2) The surface and foul water drainage system must be constructed in accordance with the details approved under paragraph (1), unless otherwise agreed in writing by the Secretary of State following consultation by the undertaker with the Environment Agency, the lead local flood authority, the relevant planning authority, the relevant local highway authority on matters related to their respective functions, provided that the Secretary of State is satisfied that any amendments to the approved details would not give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement.

16. Fencing: Amendment to requirement 12 in Schedule 2

Fencing

12.—(1) Any permanent and temporary fencing and other means of enclosure for the highway works comprising the authorised development must be constructed and installed in accordance with Volume 1, Series 0300 of the Manual of Contract Documents for Highway Works unless—

(a) otherwise specified in the REAC; or

(b) any departures from that manual are agreed in writing by the Secretary of State in connection with the authorised development, following consultation by the undertaker with the relevant planning authority and/or, in respect of the authorised development comprising highways other than a special road or a trunk road, the relevant local highway authority on matters related to their respective functions.

(2) In this paragraph, “highway works” includes the highway works comprised in Works Nos. 1A to 4B, 4D to 5W, 6A to 7Q, 7S to 9Z and excludes Works Nos. 4C, 5X, 7R, OH1 to OH8, OHT1 to OHT8, G1a to G10, TFGP1, MU1 to MU92, MUT1 to MUT32, E1 to E52, ET1, OSC1 to OSC12, FCA1 to FCA7, CA1 to CA16 and ULH01 to ULH16.

17. Time limits for responses on consultations on requirements: amendments to paragraph 20 of Schedule 2

Note: preceded in [paragraph 24 of Schedule 2](#) to M25 Junction 28 Development Consent Order 2022 and [paragraph 1\(2\)\(b\) of Schedule 24](#) to Sizewell C (Nuclear Generating Station) Order 2022

Details of consultation

20.—(1) Where any paragraph in this Schedule requires the undertaker to consult with any person or body, the undertaker must—

- (a) notify the person or body of the effect of paragraph 18(3) of this Schedule;
- (b) subject to sub-paragraph (2), provide that person or body with not less than ~~4228~~ 5642 days from the provision of any documents being consulted upon for any response to the consultation;
- (c) give due consideration to any representations made by that person or body about the proposed application; and
- (d) include with its application to the Secretary of State copies of any representations made by that person or body about the proposed application, and a written account of how any such representations have been taken into account in the submitted application.

(2) The undertaker may consent, such consent not to be unreasonably withheld, to an extension of period in sub-paragraph (1)(a) so that a person or body has not less than ~~5642~~ 5642 days from provision of any documents being consulted upon to provide a response to the consultation following a request made by a person or body no later than 21 days from receipt of any documents being consulted upon.

(3) Where sub-paragraph (2) applies a person or body must provide a response to the consultation as soon as reasonably practicable.

18. Monitoring and mitigation of local traffic impacts: new “Silvertown” requirement, new “LTIG” article and consequential amendments

Note: proposed new requirement 9 and article 62 are based on requirement 7 and article 66 of the Silvertown Tunnel Order 2018 ([2018 No. 574](#)). The track changes shown to the proposed new requirement 9 and article 62 are changes to those precedent (though some obvious changes have not been tracked – eg where “TfL” is replaced by “the undertaker” and “the Silvertown Tunnel” by “the tunnel” and “STIG” by “LTIG”).

Silvertown: Proposed new requirement in Schedule 2

Monitoring and mitigation strategy

23.—(1) The provisions of this requirement must be carried out in accordance with the monitoring and mitigation strategy and the undertaker must otherwise comply with the obligations set out in that document.

(2) If the statutory powers vested in the undertaker ~~in relation to highways and road traffic in Greater London~~ are not sufficient to enable the undertaker to implement any mitigation measure which it is obliged to implement under this requirement, the undertaker must either—

- (a) seek to agree with the ~~relevant planning authority or the relevant local highway authority, as the case may be (“the relevant authority”), council of the relevant London borough~~ that the undertaker may implement that measure on behalf of the ~~council~~ relevant authority; or
- (b) if such an agreement cannot be reached, pay to that ~~relevant authority~~ council a sum equivalent to—

- (v) the estimated cost of the ~~relevant authority council~~ implementing that measure, which the ~~relevant authority council~~ must use for that purpose; or
- (vi) the costs reasonably incurred by the ~~relevant authority council~~ in implementing an alternative measure in the same ~~or other~~ location which the ~~relevant authority council~~ determines will mitigate the adverse impact attributable to the authorised development, whichever is less.

(3) In this paragraph, “relevant air quality authority” means the ~~relevant planning authority council of a London Borough~~ for an area in relation to which the expert review carried out under sub-paragraph (1314) concludes that the authorised development has materially worsened air quality.

Pre-opening traffic measures

(4) Before the tunnel opens for public use the undertaker must carry out an updated assessment of the likely impacts of the authorised development on the performance of the highway network and must consult the members of ~~STIGLTIG~~ on a proposed scheme of mitigation which identifies—

- (a) the locations on the highway network where the assessment demonstrates there is likely to be a material worsening of traffic conditions as a result of the operation of the authorised development;
- (b) the measures which the undertaker proposes to mitigate the impacts of such a worsening of traffic conditions; and
- (c) the proposed programme for implementation of those measures.

(5) The undertaker must have regard to any consultation responses received from ~~STIGLTIG~~ members and before finalising the scheme of mitigation must liaise further with the ~~relevant authorities for any area council of any London Borough~~ on the detail of mitigation measures which it proposes to implement on roads in that ~~area Borough~~. the undertaker must then submit the scheme of mitigation to the Secretary of State for approval.

(6) The scheme of mitigation submitted to the Secretary of State for approval must include—

- (a) details and locations of the proposed mitigation measures;
- (b) responses to the consultation and further liaison carried out under sub-paragraphs (4) and (5);
- (c) the estimated cost of implementing each measure; and
- (d) the proposed programme for the implementation of those measures.

(7) The tunnel must not open for public use until the scheme of mitigation has been approved by the Secretary of State. If the Secretary of State proposes to approve the scheme of mitigation with material modifications, the Secretary of State must consult the members of ~~STIGLTIG~~ on the proposed modifications and have regard to any responses received when deciding whether to approve the scheme.

(8) The undertaker must implement or secure the implementation of the measures approved by the Secretary of State in accordance with the approved programme.

~~(9) The Secretary of State may, with the consent of the Mayor of London, delegate their functions under this paragraph to the Mayor of London.~~

Post-opening monitoring and mitigation

~~(10)~~(9) For the duration of the monitoring period, the undertaker must—

- (a) implement a monitoring programme in consultation with the members of ~~STIGLTIG~~;
- (b) prepare—
 - (v) quarterly monitoring reports for a period of one year from the tunnel opening for public use; and
 - (vi) annual monitoring reports thereafter, derived from that monitoring, and submit them for consideration by the members of ~~STIGLTIG~~;
- (c) identify in consultation with the members of ~~STIGLTIG~~ appropriate thresholds for changes on the highway network which require the undertaker to investigate whether mitigation measures are necessary;

- (d) develop in consultation with the relevant local highway authority any measures which are necessary to mitigate adverse impacts on the highway network which are attributable to the operation of the authorised development; and
- (e) implement or secure the implementation of the necessary mitigation measures.

~~(11)~~(10) In sub-paragraph (10) “the monitoring period” means a period commencing not less than three years before the tunnel is expected to open for public use and continuing for not less than three years after the tunnel opens for public use.

Air quality monitoring and mitigation

~~(12)~~(11) Not less than three years before the tunnel is expected to open for public use the undertaker must install Nitrogen Dioxide (“NO2”) monitors at locations determined in accordance with paragraph ~~[]~~3.7.4 of the monitoring and mitigation strategy.

~~(13)~~(12) The NO2 monitors must remain in place for the period specified in paragraph ~~[]~~3.7.5 of the monitoring and mitigation strategy.

~~(14)~~(13) The monitoring data within each annual monitoring report referred to in sub-paragraph ~~(10)~~ must be reviewed as soon as reasonably practicable by a firm of independent air quality experts appointed by the undertaker in consultation with the members of STIGLTIG. The annual review undertaken by the firm of experts must determine in accordance with the criteria set out in the monitoring and mitigation strategy whether or not there has been a material worsening of air quality as a result of the authorised development beyond the likely impacts reported within the environmental statement at locations where there are (whether as a result of the authorised development of otherwise) exceedances of national air quality objectives.

~~(15)~~(14) If the review demonstrates in the opinion of the appointed firm of experts that the authorised development has materially worsened air quality in the manner described in sub-paragraph ~~(13)~~, the undertaker must—

- (a) within three months of the conclusion of the expert review consult any relevant air quality authority on a preliminary scheme of mitigation including a programme for its implementation; and
- (b) following that consultation submit a detailed scheme of mitigation to the Secretary of State~~Mayor of London~~ for approval.

~~(16)~~(15) Before considering whether to approve the scheme of mitigation, the Secretary of State~~Mayor of London~~ must consult any relevant air quality authority and take into consideration any responses received.

~~(17)~~(16) The undertaker must implement or secure the implementation of the scheme of mitigation approved by the Secretary of State~~Mayor of London~~ in accordance with the programme contained in the approved scheme of mitigation.

Silvertown: Proposed new article 62

Lower Thames ~~Tunnel~~ **Crossing** Implementation Group

62.—(1) ~~The~~ **The undertaker** must establish and fund the reasonable secretarial and administrative costs of a consultative body to be known as the **Lower Thames ~~Tunnel~~ Crossing** Implementation Group (in this Order referred to as “LTIG”).

(2) LTIG will comprise one representative of each of the following bodies-

- (a) the undertaker;
- (b) Essex County Council
- (c) Kent Conty Council;
- (d) Thurrock Council;
- (e) Gravesham Borough Council;
- (f) Brentwood Borough Council;
- (g) Transport for London;

(h) the Council of the London Borough of Havering;

(3) Each body mentioned in paragraph (2)(b) to (2)(h) above must notify the undertaker of the identity of its nominated representative.

(4) If any person nominated under paragraph (3) cannot attend a LTIG meeting, the nominating body may nominate a person (on an occasional or standing basis, as it determines) to act as the nominating body's substitute representative at the meeting.

(5) The undertaker must consult the other members of LTIG on the following matters relating to implementation of the authorised development—

(a) the extent, nature and duration of monitoring to be implemented in accordance with the monitoring and mitigation strategy;

(b) [the proposals for the initial bus services that will operate through the tunnels when the tunnel opens for public use;] and

(c) the monitoring reports produced in accordance with the monitoring and mitigation strategy;

~~(d) any proposed revisions to the charging policy under article 53 (the charging policy); and the level of charges required to be paid for use of the tunnels under article 54 (power to charge for use of the tunnels) and any exemptions and discounts.~~

(6) In taking any decision in respect of any of the matters set out in paragraph (5), the undertaker must have regard to any recommendations or representations made by a member of LTIG in response to the consultation carried out under that paragraph.

(7) Unless otherwise agreed by LTIG, the undertaker must convene a meeting of LTIG, chaired by a representative elected by the members of LTIG, at least twice a year on a date to be determined by the undertaker, including on each occasion that the undertaker publishes a monitoring report in accordance with the monitoring and mitigation strategy.

(8) The first meeting of LTIG must be held not less than three years before the date on which the tunnel is expected to open for public use.

(9) Part VA (access to meetings and documents of certain authorities, committees and sub-committees) of the Local Government Act 1972 and the Public Bodies (Admission to Meetings) Act 1960 do not apply to LTIG or to its meetings or proceedings.

(10) The undertaker must publish on its website agendas, reports, minutes and other relevant documents relating to the operation of LTIG as soon as reasonably practicable after they become available.

Silvertown: Consequential amendments

(a) The monitoring and mitigation strategy would need to be added to Schedule 16 (documents to be certified)

(b) Paragraph 2 (interpretation of Schedule 2 would need to be amended to include a definition of “LTIG”.

Interpretation

2.—(1) In this Schedule—

[...]

““LTIG” means the Lower Thames Crossing Implementation Group, the consultative body established by article [] (Lower Thames Crossing Implementation Group);

“the monitoring and mitigation strategy” means the document of that description set out in Schedule 16 certified by the Secretary of State as the monitoring and mitigation strategy for the purposes of this Order and which in particular contains commitments in respect of—

(a) traffic monitoring;

- (b) air quality monitoring;
 - (c) noise monitoring;
 - (d) socio-economic monitoring; and
 - (e) the implementation of mitigation;
- ...]

19. **Blue Bill Hill: New requirement in Schedule 2** A229 Bluebell Hill improvements

24.—(1) The tunnel is not to be opened for public use until any one of these conditions is satisfied—

- (a) the proposed A229 improvement works are open for public use;
- (b) the local highway authority responsible for undertaking the proposed improvement works or the Secretary of State (following consultation with the relevant local highway authority responsible for undertaking the proposed improvement works) has confirmed in writing to the undertaker that the proposed improvement works will not proceed;
- (c) the local highway authority responsible for undertaking the proposed improvement works or the Secretary of State (following consultation with the relevant local highway authority responsible for undertaking the proposed improvement works) has confirmed in writing to the undertaker that the tunnel may be opened for public use despite neither sub-paragraph (a) nor (b) being satisfied.

(2) In sub-paragraph (1) “the proposed A229 improvement works” means the proposed works to improve the A229 at Bluebell Hill which at the date on which this Order was made are the subject of a bid by Kent County Council to the Department for Transport’s Major Road Network funding programme for Large Local Major Schemes.

20. **Planting: new monitoring and mitigation requirement in Schedule 2**

Note: this proposed new requirement is based on requirement 12A in the A14 Cambridge to Huntingdon Improvement Scheme Development Consent (Correction) Order 2017 ([2017/333](#)).

Post-construction planting monitoring and mitigation plan

25.—(1) No part of the authorised development within the area of Gravesham Borough Council is to be opened for public use until a post-construction vegetation planting mitigation monitoring plan relating to that part complying with this requirement has been submitted to and approved in writing by the Secretary of State, following consultation with Gravesham Borough Council (“the monitoring plan”).

(2) The monitoring plan must make provision for the monitoring of tree planting establishment.

(3) The monitoring plan must provide that if following analysis by the undertaker of the monitoring data derived from the monitoring mentioned in sub-paragraph (2), in consultation with Gravesham Borough Council, it reasonably appears to the undertaker that [tree or other vegetation planting has failed to establish] the undertaker, in consultation with Gravesham Borough Council, must develop a scheme of reasonable and sustainable mitigation at each relevant location, which the undertaker must submit to the Secretary of State for approval.

(4) Post-construction vegetation planting monitoring must be carried out by the undertaker in accordance with the monitoring plan and the results of the monitoring must be submitted to Gravesham Borough Council.

(5) Before considering whether to approve any scheme of mitigation submitted by the undertaker to the Secretary of State, the Secretary of State must consult Gravesham Borough Council.

(6) Any scheme of mitigation approved by the Secretary of State must be implemented by the undertaker.

21. Tunnelling – use of southern portal and southern worksites: New requirement in Schedule 2

Note: this new requirement is based on the commitment in REAC with reference MW009. See [\[REP1-157\]](#). The track changes shown in this case are changes to that REAC commitment.

Use of northern portal of tunnel and worksites north of the Thames only for certain works

26.—(1) The tunnel boring machinery ~~must~~will be serviced from the ~~N~~north ~~P~~portal ~~of the tunnel~~. All Material excavated from the tunnel by the tunnel boring machinery will be generated as a slurry and this will be transferred by pipeline through the tunnel to the North Portal for placement. All other tunnel spoil will be transferred through the tunnel to the North Portal for placement. All ~~Similarly~~ tunnel segments and major services required to operate the tunnel boring machinery and erect the tunnel segments ~~must~~will be supplied from the North Portal.

(2) No worksites to the south of the River Thames are to be used for the storage of materials, plant or machinery to be used in the construction of the tunnel.

22. Construction phase local traffic monitoring: New requirement in Schedule 2

Note: this proposed new requirement is based on [requirement 22 in the A428 Black Cat to Caxton Gibbet Development Consent Order 2022](#)

Construction phase local traffic monitoring

27.—(1) No part of the authorised development is to commence until a construction phase local traffic monitoring scheme for the locations identified in the outline construction traffic management plan has been submitted to, and, following consultation with the relevant local highway authority, approved by the Secretary of State.

(2) The construction phase local traffic management scheme must include—

- (a) a survey to assess baseline traffic at the locations identified in the outline construction traffic management plan;
- (b) the methodology to be used to collect the required data;
- (c) the periods over which construction phase traffic is to be monitored;
- (d) proposals for the submission of the survey data collected and an interpretative report to be provided to the relevant local highway authority; and
- (e) surveys as agreed in paragraphs (b) to (d) at the location in paragraph (a).

(3) The scheme approved under sub-paragraph (1) must be implemented by the undertaker unless otherwise agreed in writing with the Secretary of State following consultation with the relevant local highway authority.