

**LOWER THAMES CROSSING
DEVELOPMENT CONSENT ORDER EXAMINATION**

WRITTEN SUBMISSIONS at DEADLINE 5

on behalf of

KATHRYN HOMES LTD: Unique Reference 20035583

RUNWOOD HOMES LTD: Unique Reference 20035580

RUNWOOD PROPERTIES LTD: Unique Reference 20035582

1. These Written Submissions are made on behalf of Kathryn Homes Ltd, Runwood Homes Ltd and Runwood Properties Ltd (“the Objectors”) at Deadline 5. Each of the Objectors is a registered Interested Party and has separately made Relevant Representations but they share common interests and so have combined together to make these joint Written Submissions setting out their comments (as at the present time) on the material submitted by the Applicant at Deadline 4.
2. The Objectors note that the Applicant has submitted some 282 separate documents at Deadline 4 and it remains a concern that the Applicant does not provide any meaningful guide to their contents or purpose, presenting other participants with a formidable task to discern whether the Applicant has provided new information of relevance to those participants. The Objectors have done their best to review the material in the time available but reserve the right to comment further at a subsequent deadline as necessary.

Comments on the Applicant’s Post-event submissions including written submission of oral comments for CAH2 [REP4-178]

3. The Applicant’s submissions that relate to the Objectors and to the Whitecroft Care Home are set out in section 3.2 of **REP4-178**.
4. The Applicant seeks to rely on the fact that during the evolution of the scheme for the LTC it made changes to its proposals prior to submission of the Application. However, this is nothing to the point. What matters is whether the impacts of what is now proposed are acceptable. The fact that earlier versions were even more harmful adds nothing to that assessment.
5. The Objectors note that the Applicant designed the LTC and its proposed mitigation measures without the benefit of any internal inspection of Whitecroft and it was only in June 2023 that the Applicant visited the property for the first

time, despite some six years of 'engagement'. The Objectors remain concerned that, notwithstanding the Applicant's comments (at para 3.2.4) about wishing to "*engage further... to address the concerns raised*", the Applicant has still not grasped the essential point that the juxtaposition it seeks to impose by constructing the LTC around Whitecroft is not acceptable, and cannot be made acceptable, for a community of vulnerable residents. Fundamentally, the Applicant needs to rethink its approach if it is seriously wishing to address the Objectors' concerns.

6. The Objectors also note (from para 3.2.3) that the Applicant is apparently undertaking some further noise assessment but has not seen any results from such work and necessarily reserve their position on anything further that may be produced by the Applicant.
7. The Applicant's reliance (at para 3.2.5) on Best Practical Means ("BPM") measures during the construction process, as secured by NV002, NV004, and NV007 of the REAC Table 7.1 in **REP4-139** (which has replaced the earlier version in **REP3-104** as referred to by the Applicant), will not be sufficient to avoid unacceptable adverse construction noise impacts arising. The Objectors have already set out their concerns that such BPM measures have not been shown to achieve demonstrable noise reductions (in section 6 of **REP1-367**). Moreover, it is clear from the Applicant's reliance (in NV007) on the definition of BPM in section 72 of the Control of Pollution Act 1972, that any measures that are put forward will be subject to, amongst other things, the "*financial implications*" of undertaking those measures. Section 72 COPA 1974 defines BPM for the purposes of the provisions of the COPA 1974 (including for the purposes of the section 61 notice regime espoused by NV002 and NV004), and section 72(1) and (2) COPA 1974 are explicit that:

"(1) This section shall apply for the construction of references in this Part of this Act to best practicable means.

(2) In that expression "practicable" means reasonably practicable having regard among other things to local conditions and circumstances, to the current state of technical knowledge and to the financial implications."

8. Consequently, neither the Applicant nor its contractors is required to achieve any particular noise reduction outcome, if they can successfully argue that to do so would have unreasonable financial implications. This places enormous uncertainty on what measures would or would not be implemented in practice.
9. Furthermore, it is to be noted that even where measures are required, NV015 means that whatever limits are to be achieved, any exceedance does not lead to a cessation or prohibition of the offending activity, but to an investigation (by the contractor), and then a review of BPM, and then (potentially) additional measures being introduced. In other words, the noise disturbing activity can

continue in the meantime, whether that is for days or weeks whilst the process in NV015 is undertaken.

10. The Objectors have similar concerns in relation to Applicant's reliance (in para 3.2.7) on the REAC commitments in relation to AQ/dust controls. There is no commitment in AQ006 (in **REP4-139**) to undertake either dust or particulate monitoring in the vicinity of Whitecroft. Even where monitoring is to be undertaken, baseline monitoring is only for 3 months (and not for up to 12 months as suggested by the Objectors on a without prejudice basis in **REP4-382**), and in the event of any exceedance, there is no requirement for cessation or prohibition of the offending activity, but a process of investigation and recording.
11. Put simply, residents of Whitecroft can have no confidence that they will enjoy a stable and tranquil environment, with access to (non-dusty) fresh air, whether indoors or in outside spaces, even if all of the measures in the REAC are carried out during the extended construction period.
12. In so far as the Applicant continues to rely on its HEqIA [**REP3-118**] to show that it has given "*due regard*" to the "*potential for residents to be disproportionately affected*" (para 3.2.3), nowhere has the Applicant explained how this "*regard*" has been translated into the Applicant's assessment of impacts, or identification of mitigation measures to address those impacts. Given the actual approach that the Applicant has taken in its assessment, it is hard to see that there has been any meaningful regard given to the acknowledged fact that residents of Whitecroft will be disproportionately affected by the construction activities proposed in their immediate vicinity.

Comments on the Applicant's Responses to the ExA's ExQ1 Appendix I – 13 Social, Economic & Land-Use Considerations

13. The Applicant has responded to ExQ(1)13.1.12 by simply reiterating its reliance on documentation that the Objectors have already criticised in their earlier submissions. No attempt is made to address those criticisms and they still stand.
14. The Applicant's reference to carrying out further noise monitoring has been addressed above, as have the Applicant's comments on the measures identified in the REAC [**REP4-139**].
15. With specific reference to the Applicant's reference to Low Noise Surfacing (NV013) during the operational period, there appears to be no current commitment in the REAC to replace that Surfacing treatment after its initial installation, whereas it is noted that in the Applicant's response to ExQ(1)9.4.8, a typical operational life of 11-12 years is expected. No

information is provided on the degradation of its noise reduction qualities during that typical operational life. The Objectors note that the Applicant intends to put forward a revised version of NV013 at Deadline 5 and will reserve further comment until they have seen that revision.

2 October 2023