

Lower Thames Crossing

9.127 Applicant's Responses to IP's comments on the draft DCO at Deadline 5

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1 Introduction

1.1 Introduction

1.1.1 A number of Interested Parties (IPs) provided comments on the draft Development Consent Order (DCO) at Deadline 5. As these comments were provided across a number of submissions, National Highways (the Applicant) has reviewed all the comments and provided a response to them in this document for ease of reference.

1.1.2 Interested Parties who provided comments were:

- a. Essex County Council in [\[REP5-095\]](#)
- b. Gravesham Borough Council in [\[REP5-098\]](#)
- c. London Borough of Havering in [\[REP5-107\]](#) as well as [\[REP5-106\]](#)
- d. Kent County Council in [\[REP5-100\]](#)
- e. Natural England in [\[REP5-109\]](#)
- f. The Port of London Authority in [\[REP5-111\]](#)
- g. The Port of Tilbury London Limited in [\[REP5-123\]](#)
- h. Thurrock Council in [\[REP5-112\]](#)
- i. Transport for London in [\[REP5-114\]](#)

1.1.3 These are responded to in turn below.

2 Essex County Council

2.1 Protective Provisions

- 2.1.1 Essex County Council (ECC), in their Deadline 5 submission, note that they are '*working with all five highway authorities to agree a revised set of provisions*'. The Applicant awaits that joint submission and will provide a response at Deadline 7. Many of the other comments in ECC's submission seek to support, or endorse, the need for Protective Provisions for Local Highway Authorities. The Applicant, without prejudice to its position on other DCO projects, inserted these into the Deadline 4 version of the draft DCO [\[REP4-094\]](#) and so does not seek to comment on or respond to those matters.
- 2.1.2 The Applicant's position regarding commuted sums is provided in the Applicant's post-hearing submissions in respect of Issue Specific Hearing (ISH) 7 [\[REP4-183\]](#). The Applicant emphasises that the reliance on three precedents (one of which is a private sector, trip generating development) at the expense of all other strategic road network (SRN) DCOs is unwarranted, and does not account for the significant capital contribution the Applicant is making in delivering a nationally significant infrastructure project with substantial benefits and betterments provided.

3 Gravesham Borough Council

3.1 Article 10

3.1.1 The Applicant welcomes the confirmation from Gravesham Borough Council (GBC) that its amendments to article 10 (which confirm the maintenance liabilities for planting and vegetation for green bridges) '*seems acceptable to GBC in principle*'. GBC however state that they would find it helpful if '*there were a reference to plans which could be prepared after detailed design is completed, showing accurately the line between the areas for which KCC and NH are responsible*'. The Applicant does not consider this to be necessary, noting that the drafting is clear about the planting and vegetation and, in any event, there is already a requirement for as built drawings to be provided to local highway authorities pursuant to the Protective Provisions for Local Highway Authorities.

3.2 Article 62

3.2.1 GBC welcomes the amendment to article 62 which requires notification of an application to the Magistrates to the relevant planning authority. However, '*GBC considers that it would also be appropriate to include a requirement on the undertaker to give notice to the relevant local planning authority of the date on which the justices are to consider the application.*' The Applicant has made this amendment to the draft DCO submitted at Deadline 6 [**Document Reference 3.1 (8)**]. The Applicant considers this matter to be closed, but would welcome confirmation from GBC.

3.3 Article 65

3.3.1 The Applicant made an amendment to article 65 which sought to ensure that the appeals provision could be utilised where a consent or approval was refused by a local authority pursuant to a measure or commitment in a control document (under Schedule 2) or the Stakeholder Actions and Commitments Register (SAC-R) [[REP5-060](#)] (under Article 61).

3.3.2 GBC states, with limited explanation, that it does not consider this drafting to be clear. GBC has put forward their own suggestion but the Applicant does not consider GBC's proposal to be clear. For example, and by way of explanation, GBC's drafting suggests that '*the document, scheme or plan...*' could be '*...a measure contained in the stakeholder actions and commitments register referred to in article 61*'. This is not correct: the measures are contained within the document (i.e. the SAC-R), the measures are *not* the document itself. Such imprecise and inaccurate drafting is unhelpful. The Applicant's proposed drafting makes clear that the appeals process attaches to '*any approval, consent or agreement which the undertaker is required to obtain from a local authority under a document, scheme or plan pursuant to article 61 (stakeholder and actions commitments register) or Schedule 2 (requirements)*'.

3.3.3 GBC requests a list of the commitments and actions which are caught by this provision. The Applicant considers the measures which are caught by the appeals provisions in the Application Documents to be clear (they are explicitly cited). By way of example, SACR-008 in the Stakeholders Actions and

Commitments Register [[REP5-060](#)]. The Applicant does not consider it necessary to accede to this request.

3.3.4 GBC also, with no justification or rationale, states '*A similar right of appeal should be available to local authorities if any of the measures, documents, schemes and plans referred to contain provisions which require the approval, consent or agreement of the undertaker.*' It is not clear which documents, schemes and plans are being referred to. The undertaker prepares relevant documents, and they are submitted to the Secretary of State for approval (i.e. they are not subject to the Applicant's own approval or agreement under the DCO). In those circumstances, it is not clear when or why a local authority should have the ability to appeal a decision relating to the Secretary of State's decision. The Applicant would note that in all the precedents cited, the Applicant cannot find a single one which supports this suggestion (e.g. A14 Cambridge to Huntingdon Order 2016, Silvertown Tunnel Order 2018, Great Yarmouth Third River Crossing Development Consent Order 2020, The Lake Lothing (Lowestoft) Third Crossing Order 2020, Manston Airport Development Consent Order 2022, the M25 Junction 28 Development Consent Order 2022). Those precedents do not allow a local authority to initiate an appeals process.

3.3.5 In a similar vein, GBC also states that '*article 61 applies to measures contained in stakeholder actions and commitments which may have been given to persons other than local authorities*' and therefore '*The Applicant should explain why the right of appeal only applies to local authority measures.*' This comment is misplaced. The SAC-R measures which have the ability to appeal are those only for local authorities (e.g. SACR-008). The SAC-R commitments are shared with relevant stakeholders, and the Applicant seeks to agree them. For example, SACR-008 was negotiated with Thurrock Council, and the reference to the appeals process was agreed with them. Article 65 therefore reflects that fact. Where a measure for a landowner is sought to be modified or suspended under the terms of article 65, they are already involved in the process for a variation or suspension under article 65 (which is a process which goes to the Secretary of State).

3.4 Other comments on the draft DCO

3.4.1 The Applicant is grateful for, and agrees with, GBC's position that the respective positions of each organisation can be understood and there is no merit in either side repeating its substantive positions.

3.4.2 GBC provides a handful of comments in a short table in Section B of [[REP5-098](#)]. The Applicant sets out its responses on these matters below.

Ancillary works

3.4.3 In relation to the ancillary works contained in Schedule 1, GBC has asked for the preamble to the lettered works to be confined to the Order Limits. The Applicant does not consider an amendment is necessary (see page 23 of ISH2 Discretionary Submission Annex A Responses [[AS-089](#)]). In particular, the Applicant does not consider it necessary to limit the ancillary works to the Order Limits. The Applicant only has powers in relation to temporary possession of land, and compulsory acquisition of land, within the Order Limits. Those powers are limited (e.g. the purposes for which temporary possession can be taken are

confined to taking possession for the purposes in Schedule 11). The works powers are further limited so they cannot be utilised where they give rise to materially new or materially different environmental effects. In addition, other controls secured in the draft DCO are considered sufficient to provide appropriate protection in the use of the ancillary powers (e.g. Requirement 3 which only permits carrying out the authorised development in accordance with the preliminary Project design which is secured in the relevant plans and drawings).

- 3.4.4 The Applicant would emphasise that the ability to vary the limits of deviation does not increase, or otherwise modify, the fixed and static compulsory acquisition or temporary possession powers. The drafting adopted, including the omission of reference to the Order Limits in the drafting of the ancillary works provision, is preceded (e.g. the A303 (Amesbury to Berwick Down) Development Consent Order 2023).
- 3.4.5 It would therefore be unlawful to use land outside of the Order Limits without the permission of the landowner. In circumstances where there are no materially new or materially different effects and where the drafting is preceded, the Applicant does not consider it necessary to adopt any further limitation on the use of the powers. The Applicant considers the flexibility this provides is proportionate, preceded and necessary in light of these controls.
- 3.4.6 GBC, in their Deadline 5 submission, state '*The Applicant wrongly says that GBC did not respond to the Applicant's position that there would be no scope for a new materially different environmental effect to arise*'. For completeness, this is incorrect: in the Applicant's responses to IP's comments on the dDCO at Deadline 3 [REP4-212], the Applicant made this statement '*as regards article 2(10)*'. The Applicant would draw attention to pages five to six of that document which shows the context of GBC claiming (incorrectly in the Applicant's view) that article 2(10) would permit a situation in which a variation could give '*rise to separate [likely significant] environmental effects (for example landscape, heritage, or visual amenity)*'. The Applicant's response explained that such an effect '*would itself be a materially new adverse impact and would therefore not be permitted.*' No response from GBC has been provided to this point. The Applicant considers it important to comment on this issue because of the underlying importance to the Applicant of maintaining article 2(10) in the draft DCO recommended by the Examining Authority (ExA) and made by the Secretary of State (if development consent is granted).

Discharging authority

- 3.4.7 GBC reiterates its unprecedented position in relation to SRN DCOs regarding the appropriate discharging authority. The Applicant has outlined its detailed reasons, as well as the consistent line of precedents supporting its position, in its ISH2 Discretionary Submission Annex A Response [AS-089] and its Post-event submissions, including written submission of oral comments, for ISH2 [REP1-184] and the Applicant's previous responses to IP comments made on the draft DCO [REP2-077 and REP4-212]. No matters have been raised by GBC which alter the Applicant's position, nor which have not been considered in detail in the precedents cited by the Applicant.

- 3.4.8 GBC had previously wished to rely on two local road network DCOs, at the expense of the full suite of more numerous SRN DCOs, to support its position that local authorities should be the discharging authority under Schedule 2. The Applicant noted that if it were to adopt the approach suggested by the Council in relation to non-SRN DCOs (e.g. Great Yarmouth, Lake Lothing), the equivalent discharging authority would in fact be the Applicant itself. GBC, in their Deadline 5 submission, disagree stating that *'the discharging authority was the county planning authority and not the (promoting) local highway authority'*. The Applicant would simply note that the Applicant does in fact have such separations in its organisation in relation to schemes promoted under the Highways Act 1980. It is clear therefore that simply noting precedents which support local authorities as discharging authorities (whilst ignoring the SRN precedents) without accounting for the fact the local authorities themselves are the promoters provides no assistance to GBC in this context. In any event, the Applicant has not proposed itself as the discharging authority notwithstanding the separation of functions which exists within its organisation.
- 3.4.9 Tellingly, GBC state in relation to discharging authorities generally that *'Local authorities are familiar with such separation of functions and with the need for independent and arm's length decision making.'* That is precisely the state of affairs which exists between the Secretary of State and the Applicant: a familiar, well-used, precedented approach which incorporates processes around independent and fair decision making (and which has never been the subject of a legal challenge on its independence). GBC appears to be troubled by the decision making process built into the draft DCO yet the safeguards which exist here and across the suite of SRN DCOs are entirely comparable with those of local authorities to which GBC refers. The Applicant reiterates that it would be wholly inappropriate for anyone to assume, or postulate, with no substantiation that the Secretary of State would act improperly or unlawfully.
- 3.4.10 For completeness, the Applicant does wish to respond to the suggestion that the Applicant's response is *'revealing in that it suggests that the Applicant does not see any real distinction between its own position and that of the Secretary of State.'* This is a misreading of the Applicant's response which simply stated that the Applicant does not consider it appropriate, necessary, or proportionate to place the functions of the Applicant in relation to the SRN in the hands of local authorities. This statement is an accurate representation of the Applicant's position that the Secretary of State, representing the overseeing department in respect of the Applicant's functions, is the appropriate discharging authority. As a matter of plain and simple law (e.g. the different functions under the Infrastructure Act 2015), there is a clear legal distinction between the Applicant and the Secretary of State.
- 3.4.11 The Applicant refers to paragraphs 1.3.21 to 1.3.23 of Post-event submissions, including written submission of oral comments, for ISH2 [\[REP1-184\]](#) which specifically addresses the tried and tested processes to ensure fair, transparent and independent decision making.
- 3.4.12 The Applicant wishes to emphasise that these matters, as well as many others not raised by GBC, have been considered by Examining Authorities and the Secretary of State on all of its portfolio of DCOs. None have succeeded, and the

Applicant sees no new or different matter or considerations applying to the Project in this context.

Article 56

- 3.4.13 The Applicant considers that its previous responses [[REP1-184](#) and [REP2-077](#)] address the request made by the Council at Deadline 5. The Applicant considers proportionate information for the Council to provide its views on the provision has been provided. The Applicant notes again that other host authorities have endorsed this provision based on the information provided. The Applicant notes that this provision has been welcomed by the London Borough of Havering and Thurrock Council. If the Examining Authority would find any further information about these provisions helpful, the Applicant is happy to provide this.

Article 65

- 3.4.14 The Applicant had previously highlighted, in response to comments from local authorities on the rationale for notices and decisions under the Control of the Pollution Act 1974, that the Law Society has noted that, in the Magistrates' Court, the situation continues to deteriorate; 1,666 cases were added to the backlog in February 2023, bringing the total to 343,519. It is not considered that a nationally significant infrastructure project should be subject to such delays. The Applicant considers such delays to be representative, and therefore does not consider the reference to '*such delays*' to be '*misleading*'. Though it is sufficient to refer to those backlogs, for completeness, there are a multitude of open access sources showing environmental matters, which the Applicant acknowledges are not identical but representative, being dealt with by the local Magistrate in Gravesham taking well in excess of 6 months.¹ Such delays in the delivery of a nationally significant infrastructure project, at the public's expense, are wholly inappropriate and unnecessary particularly in light of the fact that the Applicant is taking a precedented approach (see the Explanatory Memorandum).
- 3.4.15 The Applicant notes that GBC have referred to the fact that the plan corrections process proposed under article 65 is subject to the Magistrates' jurisdiction in this context, implying that it should be used for the Control of Pollution Act 1974.
- 3.4.16 The Applicant confirms that it has been discerning and there is no inconsistency in the approach adopted: matters under the Control of Pollution Act 1974 will relate to construction activities in which the aforementioned delays are likely to be significant and unpalatable for the delivery of a nationally significant infrastructure project whereas the correction of plans is likely to be less of an immediate requirement, and is intended to provide certainty for all by removing mistakes in plans.
- 3.4.17 The Applicant would note the proposed use of the Magistrates process in the latter, but the use of an appeals process in relation to the former is precedented (see, for example, sections 20 and 52 of the Crossrail Act 2008 which does precisely this). Accordingly, the Applicant's discerning approach, which has selected the appropriate adjudicating body based on the potential delays and features of the relevant approvals in respect of the two distinct matters (i.e.,

¹ [Double court success in the fight against environmental crime – Gravesham Borough Council](#) and

amendments to plans which provides certainty for all interested parties, and time-critical construction related activities), is in fact specifically precedent.

4 London Borough of Havering

4.1 Signposting to responses on comments on the draft DCO

- 4.1.1 In respect of a number of matters, London Borough of Havering (LBH) in their Deadline 5 submissions state that they have '*no further comment*' or '*agreement to differ*'. The Applicant is grateful, and agrees with this approach given the need for information submitted into the Examination to be provided in a manner which is proportionate and accessible for Interested Parties, the Examining Authority and the Secretary of State, to allow for appropriate consideration. The Applicant provides no further comment on these matters (and would note for ease of reference, the Applicant's position is also recorded in column 4 of the table in LBH's Deadline 5 submission on the draft DCO [\[REP5-107\]](#), though it is not clear if LBH has not included the full extracts so please see the references provided in the paragraph directly below).
- 4.1.2 In respect of article 53 and 65, Requirement 2, and paragraphs 18 and 20 of Schedule 2 (now paragraphs 19 and 21), LBH has reiterated its previous position. The Applicant's position is set out in its responses to Annex A of the agenda for Issue Specific Hearing 2 [\[AS-089\]](#) and its Post-event submissions, including written submission of oral comments, for ISH2 [\[REP1-184\]](#) and the Applicant's previous responses on the draft DCO [\[REP2-077\]](#), [\[REP3-144\]](#), [\[REP4-212\]](#) and [\[REP5-089\]](#) which the Applicant considers address the issues raised.
- 4.1.3 In relation to the Silvertown Tunnel and the wider network impacts, the Applicant refers to its document **9.134 Wider Network Impact Position Statement** submitted alongside this submission at Deadline 6.
- 4.1.4 There are also a number of matters where LBH have confirmed that Protective Provisions would resolve their concerns, and that they will be providing comments on these aspects at Deadline 6. The Applicant awaits that submission and will provide a response at Deadline 7.

4.2 Requirement 6

- 4.2.1 LBH had previously raised an objection to the Applicant's drafting in Requirement 6 on the basis that it '*allows the undertaker alone to determine whether or not remediation of contaminated land not previously identified is required.*' In their Deadline 5 submission, LBH state '*under [Requirement] 6(2), the decision as to whether to remediate is entirely left to the undertaker*'.
- 4.2.2 The Applicant set out its position that LBH's position overlooks the controls which are provided for under the Order with appropriate safeguards (e.g. Requirement 6 requires risk assessments, and engagement on these matters with the Environment Agency and local authorities) and when taken as a whole provide robust and proportionate measures in respect of remediation of contaminated land. The Applicant maintains that the remediation decision should lie with the undertaker in the interests of the expeditious delivery of this nationally significant infrastructure project, and in light of the additional controls relating to contaminated land in the Register of Environmental Actions and

Commitments (REAC) [REP5-048]. The Applicant notes that a number of REAC measures relating to contamination were updated to provide further comfort and assurance at Deadline 5. The Applicant would emphasise that it is a public sector body, with obligations under its licence, legally secured under the Infrastructure Act 2015. The suggestion that it would exercise these powers improperly or in a manner inconsistent with its licence obligations (which include measures in relation to the environment) should be afforded no weight.

- 4.2.3 The Applicant's approach has also been endorsed by the Secretary of State on several DCOs, such as The A19/A184 Testo's Junction Alteration Development Consent Order 2018, The A63 (Castle Street Improvement, Hull) Development Consent Order 2020, The M42 Junction 6 Development Consent Order 2020, The A19 Downhill Lane Junction Development Consent Order 2020, The A585 Windy Harbour to Skippool Highway Development Consent Order 2020, The A1 Birtley to Coal House Development Consent Order 2021, The A428 Black Cat to Caxton Gibbet Development Consent Order 2022, The M25 Junction 28 Development Consent Order 2022, The M54 to M6 Link Road Development Consent Order 2022, and The A303 (Amesbury to Berwick Down) Development Consent Order 2023. LBH's speculative suggestion that this line of precedents is reflective of Examining Authorities and the Secretary of State purportedly missing this issue, rather than endorsing the Applicant's approach, should be given limited weight, if any.

4.3 'Substantially in accordance with'

- 4.3.1 LBH have previously raised concerns regarding the use of the phrase 'substantially in accordance with' by relying on a sole precedent at the expense of all others on this matter. The Applicant has previously explained that it considers the word 'substantially in accordance with' to be sufficiently clear, and its usage in other DCOs (including on projects of significant scale and size, see for example Schedule 2 to the A428 Black Cat to Caxton Gibbet Development Consent Order 2022) supports this conclusion. In terms of specific justification for the Project, the use of the phrase is necessary and appropriate because the relevant outline management plans for the Project will be in outline form only and will require further development following the DCO (if granted) as part of the discharge of Requirements process. The Applicant wishes to draw the Examining Authority's specific attention to the A47 Wansford to Sutton decision letter. That project was promoted by the Applicant. The Secretary of State reinstated the phrase as '*the Secretary of State considers its omission is an inappropriate fettering of his discretion*'.
- 4.3.2 The Applicant does not consider that the fact the Secretary of State's clear statement is contained in a bullet point removes any weight which should be attached to it. The Applicant reiterates that the A47 is more recent, and therefore a more accurate articulation of the Secretary of State's approach. The Applicant further notes that all transport DCOs granted since the M25 Junction 28 DCO affirm the use of the phrase 'substantially in accordance with...' (see, in particular, A47/A11 Thickthorn Junction Development Consent Order 2022, A417 Missing Link Development Consent Order 2022, A428 Black Cat to Caxton Gibbet Development Consent Order 2022, A47 Blofield to North Burlingham Development Consent Order 2022, A57 Link Roads Development Consent Order 2022, Manston Airport Development Consent Order 2022, A303

(Amesbury to Berwick Down) Development Consent Order 2023 and A38 Derby Junctions Development Consent Order 2023).

- 4.3.3 The Applicant's approach was endorsed by the Secretary of State, not just in the precedents cited above, but in the decision letter for the A1 Birtley to Coal House DCO (*'The Applicant states that 'substantially in accordance with' achieves the desired aims of both parties by providing an appropriate amount of certainty and flexibility given the potential for slight variations at detailed design, for example in relation to drainage at Bowes Railway and access to the SM (ER 9.6.27)... This approval of the final details will ensure that archaeological interests potentially affected by the Development, including the Bowes Railway SM, would be appropriately protected. The ExA are therefore satisfied with the inclusion in Requirement 9 of 'substantially in accordance with', as set out the Revised DCO (ER 9.6.28). The Secretary of State agrees'*).
- 4.3.4 In their Deadline 5 submission, LBH state *'The single precedent referred to by LBH is also the occasion when the Secretary of State gave the most specific consideration to the matter.'* This is incorrect, as the extract from the A47 and the A1 decision letters plainly show. 'Specific consideration' was plainly given because in one case it involved the Secretary of State reinstating the drafting, and in the other the Secretary of State specifically opined on a suggestion that it should be limited. LBH's reliance on a single precedent is in the Applicant's view telling when the Secretary of State has provided a specific rationale for that wording in the A47 scheme, and has then consistently followed that practice.
- 4.3.5 LBH also state that *'The particular circumstances of this project are that there is a heavy reliance placed on framework documents in order to identify a Rochdale Envelope and allow detailed design to come later.'* This is an entirely unsubstantiated submission. In the Applicant's view, it has gone further than other DCO projects in providing controls and specific measures.
- 4.3.6 The Applicant also wishes to emphasise that flexibility in implementing a scheme is necessary and will assist with the safe and expeditious delivery of the Project in an environmentally sensitive manner (e.g. references to guidance documents in the REAC [\[REP5-048\]](#) could be updated in the final plan to be approved by the Secretary of State). The process of the Secretary of State, along with the requirement for consultation, should provide comfort that appropriate safeguards are in place in relation to this flexibility.

4.4 Resolved matters

- 4.4.1 The Applicant welcomes the confirmation from LBH that the provisions relating to deemed consent processes (in articles 12,17 and 19) are now agreed.

5 Kent County Council

5.1 Article 10

- 5.1.1 Kent County Council (KCC) in their Deadline 5 submission make a number of comments and specific suggestions for amendments in relation to article 10. With the exception of article 10(8), these have all been implemented in the Deadline 6 iteration of the draft DCO [**Document Reference 3.1 (8)**]. In relation to article 10(8), KCC has suggested the insertion of '*(including, for the avoidance of doubt, the verges and any planting undertaken for the purposes of landscaping)*' into the provision which confirms, in relation to Green Bridges, the planting and vegetation either side of the highway. The Applicant considers this drafting to be unnecessary, and that it falls foul of the Office for Parliamentary Counsel's drafting guidance which requires only what is necessary. 'For the avoidance of doubt' drafting is not considered good practice, and in this case the suggestion explicitly uses that very phrase.
- 5.1.2 The Applicant's position on commuted sums is provided in the Applicant's post-hearing submissions in respect of ISH7 [[REP4-183](#)]. The Applicant emphasises that the reliance on three precedents (one of which is a private sector, trip generating development) at the expense of all other SRN DCOs is unwarranted, and does not account for the significant capital contribution the Applicant is making in delivering a nationally significant infrastructure project with substantial benefits and betterments provided.

6 Natural England

6.1 Disapplication of sections 28E and 28H of the Wildlife and Countryside Act 1981

- 6.1.1 The Applicant notes the submissions made by Natural England at Deadline 5 in relation to the proposed disapplication of sections 28E and 28H of the Wildlife and Countryside Act 1981 (the 1981 Act) regarding Sites of Special Scientific Interest (SSSIs) [[REP5-109](#)].
- 6.1.2 Natural England does not support the disapplication of these provisions. The Applicant notes that Natural England's position in this regard comprises three elements:
- For potential SSSIs, it would be inappropriate for reliance to be placed on the DCO process to replace the statutory and policy protections in place.
 - For existing SSSIs, there is no need to disapply the provisions as the reasonable defence excuse under section 28P would be available provided section 28I is complied with.
 - To follow and comply with the statutory protections under sections 28E and 28H would not hinder the delivery of this project, as the potential timeframes for delay are insignificant.
- 6.1.3 The Applicant has set out and does not propose to repeat its detailed submissions explaining the rationale for the proposed disapplication of section 28E and 28H of the 1981 Act, for which see the Explanatory Memorandum [[REP4-096](#)] and the Statement of Common Ground (SoCG) between the Applicant and Natural England [[REP5-038](#)] (see item no. 2.1.3 and Annex C.6). However, the Applicant would make the following observations in response to Natural England's comments at Deadline 5.
- 6.1.4 In relation to potential SSSIs, Natural England state that '*there are some aspects of the potential SSSI that have not been given due regard at this pre consent stage*'. This, in Natural England's view, supports its position that it would be inappropriate for reliance to be placed on the DCO process in place of the 1981 Act protections.
- 6.1.5 The Applicant does not agree that there are aspects of the potential SSSI that have not been given due regard at this stage. This criticism has not been substantiated and is not consistent with submissions made elsewhere by Natural England. For example, in its written representation [[REP1-262](#)], under the heading 'Natural England's work considering a potential SSSI notification in the Tilbury area', Natural England expressed the view that '*we have worked closely with the Applicant and shared our thinking as it has evolved and continue to work with them as both projects progress*'.
- 6.1.6 Natural England further state, in the context of potential SSSIs, that '*bypassing this statutory protection risks a failure to consider all of the environmental issues and a potential consequence would be a deterioration or loss in nationally valuable habitat*'. However, Natural England has not said which environmental

issues are at risk of not being considered. Plainly, there has and continues to be significant dialogue between the Applicant and Natural England in relation to the potential SSSI notification in the Tilbury area and a substantial body of information has been submitted to the Examination in that regard. To the extent that Natural England considers the focus to have been insufficient to this stage, it has an opportunity as part of this Examination to make further submissions.

- 6.1.7 It is not therefore correct to say, as Natural England does, that to disapply provisions of the 1981 Act would bypass the statutory protection in place if the SSSI is designated. In the Applicant's view, this amounts to saying that the DCO process, which is underpinned by several years of engagement and public consultation, and includes multiple opportunities to make submissions in writing and orally at hearings, detailed scrutiny by the Examining Authority and ultimately determination by the Secretary of State, could allow statutory protections to be bypassed. The Applicant considers this characterisation of the DCO process to be entirely misplaced.
- 6.1.8 In relation to potential SSSIs, therefore, the Applicant considers the DCO Examination provides substantial opportunity for Natural England to comment on the potential SSSI notification and to make its case for how works with the potential to impact any future SSSI designation should be undertaken. To require the Applicant to discharge secondary consenting processes in respect of matters which have already been considered in detailed in the context of the DCO Examination and are reflected in the proposals for which the Applicant is seeking development consent is therefore unnecessary and has the potential to give rise to delay and uncertainty in the delivery of this nationally significant infrastructure project. This is the very issue that the Planning Act 2008 was intended to avoid.
- 6.1.9 As regards current SSSIs, Natural England state that '*the statutory protections afforded to SSSIs should not be removed*'. To be clear, the Applicant's position is that the statutory protections afforded to SSSIs are observed in an equivalent way by the DCO process. The Applicant is therefore seeking to disapply provisions which would unnecessarily duplicate the protection already afforded by the DCO process. In that context, the disapplication proposed would not be unreasonable or irrational, as Natural England say, nor is it correct to say that the A417 – Missing Link decision indicated this to be the case.
- 6.1.10 Natural England further state that the reasonable excuse defence would be available in relation to SSSIs. In those circumstances, the Applicant does not understand the nature of Natural England's concerns in relation to the proposed disapplication of sections 28E and 28H, which substantively will achieve the same outcome but in doing so will provide greater certainty to parties than a statutory defence.
- 6.1.11 Natural England also appear to say that the disapplication of the 1981 Act provisions would not be appropriate because of a perceived lack of detail in relation to operations with potential direct or indirect impacts on existing SSSIs. It is not clear how this relates to or can be read consistently with Natural England's earlier submission that a reasonable excuse defence would be available.
- 6.1.12 In any event, the Applicant does not agree there is a lack of detail. The impacts of the Project on existing SSSIs are set out in detail in the Application, including

the Environmental Statement Chapter 8: Terrestrial Biodiversity [APP-146] and the Planning Statement Appendix A: National Policy Statement for National Networks (NPSNN) Accordance Table [APP-496] and have been discussed at length between the Applicant and Natural England, as set out in the SoCG between the Applicant and Natural England [REP5-038]. Furthermore, the Applicant does not understand Natural England's submission that disapplication could allow owners or occupiers to consent to works on SSSI land with major, inadequately mitigated impacts. All works will be subject to the controls secured by the Development Consent Order, regardless of any disapplication.

- 6.1.13 In relation to Natural England's submission that mitigation and compensation proposals must be meaningful, the Applicant agrees. In this regard, the Applicant would note that, within the SoCG, it is stated that '*Natural England recognises there is a commitment to a significant package of mitigation and compensation measures that will be required should the scheme be consented. The package of measures, which will help build resilience at a landscape scale, is welcomed, subject to further discussion about green bridges*'.
- 6.1.14 Finally, in relation to timescales, the Applicant would simply note and agree with Natural England's statement that section 28E '*contains no specific timeframe*'. Natural England explain that '*it is hard to see how radically different timescales would apply*' to those under section 28H, but it has not given any binding assurance that this would be the case nor provided any information indicating the timescales within which it would routinely give consent under that section. The Applicant therefore considers that the concerns which it has cited about the potential for delays to be incurred in discharging secondary consenting processes remain valid and that no evidence has been provided by Natural England to suggest that its concerns are misplaced or excessive.
- 6.1.15 The Applicant therefore remains firmly of the view that the disapplication of sections 28E and 28H of the 1981 Act within article 53 of the draft Development Consent Order [REP5-024] are justified and appropriate. The Applicant recognises the decision reached by the Secretary of State in the context of the A417 Missing Link application, but is asking the Secretary of State to consider the position again, informed by the further submissions made by the Applicant in this case.

7 Port of London Authority

7.1 Resolved matters

- 7.1.1 The Applicant welcomes the confirmation from the Port of London Authority (PLA) that article 3, and article 48, are now agreed. At the time of producing this note, the Applicant awaits the PLA's drafting to resolve the issues relating to article 53, which related to apparatus in the tunnel area unrelated to the Applicant's function.
- 7.1.2 The PLA states in their Deadline 5 submission that *'the PLA would be satisfied if the power [in Article 18] was restricted to land that would be affected by the authorised development, but it would need to see the Applicant's proposed drafting change to the draft DCO before it can confirm its final position.'* The Applicant's position on article 18 is contained in Section 6.4 of the Applicant's responses to IP's comments on the dDCO at Deadline 3 [\[REP4-212\]](#). Nonetheless, to reduce the areas of disagreement, the Applicant has amended the provision so that, in line with the PLA's submissions, it is limited to land within the Order Limits or affected by the authorised development. The Applicant therefore considers article 18 to be agreed, and would welcome confirmation from the PLA on this matter.

7.2 Article 37

- 7.2.1 In their Deadline 5 submission, the PLA *'accept that the power of compulsory acquisition is often included in DCOs as a 'backstop' and that 'the PLA welcomes the amendment that has been proposed by the Applicant [at Deadline 5] as a way of somewhat limiting this power'*.
- 7.2.2 For clarity, article 35(10) makes clear that *'the undertaker may not compulsorily acquire under this Order the land referred to in paragraph (1)(a)(i)'* except where specifically authorised to do under article 28 or 33. The reference to article 35(1)(a)(i) is a reference to land which is subject to temporary possession only. Article 37(1) cannot therefore be used in the manner suggested by the PLA. In order to provide further assurance, the Applicant has amended article 35(10) to make clear that the only exclusion to the ability to acquire rights, impose restrictive covenants or extinguish such rights or restrictive covenants can only be in relation to land subject to temporary possession only in accordance with article 37(3) (i.e. only in relation to removed or decommissioned assets).
- 7.2.3 Noting therefore that the scope of the article is not as wide as suggested by the PLA, and article 33(8) provides the relevant protection sought by the PLA in relation to the river, the Applicant does not consider any further amendment is necessary. In more general terms, the Applicant notes that the provision – article 37(1) (i.e. the provision which the PLA is raising a concern in relation to) – is heavily precedented (see A47 Wansford to Sutton Development Consent Order 2023, A428 Black Cat to Caxton Gibbet Development Consent Order 2022, A47/A11 Thickthorn Junction Development Consent Order 2022, M25 Junction 28 Development Consent Order 2022, A57 Link Roads Development Consent Order 2022, M42 Junction 6 Development Consent Order 2020, A63 (Castle Street Improvement, Hull) Development Consent Order 2020, A585

Windy Harbour to Skipool Highway Development Consent Order 2020,
A19/A184 Testo's Junction Alteration Development Consent Order 2018
amongst many others).

8 Port of Tilbury London Limited

8.1 Article 37

- 8.1.1 The Port of Tilbury London Limited, in their Deadline 5 submission state '*The prohibition of compulsory acquisition over land taken temporarily results in uncertainty over whether the Applicant is able to exercise the power in article 37(3) to extinguish now-redundant land rights following removal of statutory undertaker apparatus*'. The Applicant is grateful and has provided an amendment to article 35(10) to make absolutely clear that the power in article 37(1) cannot be used in respect of land which is subject to temporary possession only except in connection with article 37(1). For completeness, this does not conflict with the response provided to the Port of London Authority (see Section 7) which makes clear that the power cannot be used generally in respect of land subject to temporary possession only.

8.2 Tilbury Link Road

- 8.2.1 For completeness, the Port of Tilbury London's comments on the proposed requirement relating to the Tilbury Link Road are thought to be superseded by the Applicant's proposed amendment, inserted into the dDCO at Deadline 5, securing passive provision for the Tilbury Link Road (see paragraph 17 of Schedule 2 to the dDCO). The Applicant considers its drafting to be preferable for the reasons explained in [REP5-089]. Further commentary is available in the Applicant's responses to comments at Deadline 5, submitted at Deadline 6.

8.3 Protective Provisions and Framework Agreement

- 8.3.1 The Applicant continues to discuss the Protective Provisions with the Port of Tilbury London Limited. As agreed at Compulsory Acquisition Hearing 3 on 17 October 2023, an update on progress will be provided at Deadline 7.

9 Thurrock Council

9.1 Signposting responses on the draft DCO

- 9.1.1 In its Deadline 5 submissions [[REP5-112](#)], Thurrock Council provides a table of their 'key concerns' with the draft DCO which reiterate its previous positions with no new information or arguments presented. In respect of these identified matters, the Applicant is mindful that, given the scale and complexity of the Project, there is a need for information submitted into the Examination to be provided in a manner which is proportionate and accessible for Interested Parties, the Examining Authority and the Secretary of State, to allow for appropriate consideration.
- 9.1.2 In that spirit, the Applicant has not sought to produce further material and repeat its position, but would simply signpost to its responses to Annex A of the agenda for Issue Specific Hearing 2 [[AS-089](#)] and its Post-event submissions, including written submission of oral comments, for ISH2 [[REP1-184](#)] and the Applicant's previous responses on the draft DCO [[REP2-077](#), [REP3-144](#), [REP4-212](#) and [REP5-089](#)] which the Applicant considers address the issues raised. The Applicant is happy to address any questions which the Examining Authority may have in respect of these matters.
- 9.1.3 The Applicant has taken a precautionary approach in responding to comments raised by Thurrock Council and its previous responses had identified new matters raised and responded to these but otherwise signposted. However, on this occasion no new substantive matters have been raised with the exception of article 27, and the text which appears in Table 2.1 has largely copy and pasted the Council's previous submissions. In respect of the comments on article 27, the Applicant considers it has substantively responded to the issues raised, but to provide comfort that the arguments presented (which have been put differently in its Deadline 5 submission) have been seriously considered, the Applicant has therefore provided the table below for specific signposting, and an elaboration of the Applicant's position on article 27.

Table 9.1 Signposting for Thurrock Council

Matter in Table 2.1 of [REP5-112]	Signposting
Article 6	Please see pages 134 to 135 of the Applicant's responses to IP's comments on the dDCO at Deadline 3 [REP4-212] and Section 9.2 of the Applicant's responses to IP's comments on the dDCO at Deadline 4 [REP5-089].
Article 9	Please see pages 141 to 144 in the Applicant's responses to IP's comments made on the dDCO at Deadline 1 [REP2-077], and pages 135 to 136 of the Applicant's responses to IP's comments on the dDCO at Deadline 3 [REP4-212]. The Applicant further notes that the outline Traffic Management Plan for Construction [REP5-056] has been updated to include Terms of Reference for the Traffic Management Forum. That document will also manage potential conflicts.

Matter in Table 2.1 of [REP5-112]	Signposting
Article 10 / commuted sums	<p>Please see Section 9.2 of the Applicant's responses to IP's comments on the dDCO at Deadline 4 [REP5-089], as well as the updates to article 10 submitted at Deadline 6 (which the Applicant considers resolves most of the comments). The Applicant's position on commuted sums is provided in the Applicant's post-hearing submissions in respect of ISH7 [REP4-183]. The Applicant emphasises that the reliance on two precedents at the expense of all other SRN DCOs is unwarranted (as is the reliance on trip-generating private developments), and does not account for the significant capital contribution the Applicant is making in delivering a nationally significant infrastructure project with substantial benefits and betterments provided.</p>
Article 27	<p>Please see page 137 of the Applicant's responses to IP's comments on the dDCO at Deadline 3 [REP4-212] and pages 154 to 156 of the Applicant's responses to IP's comments made on the dDCO at Deadline 1 [REP2-077].</p> <p>The Applicant considers the eight-year time limit to be necessary and proportionate taking into account the length of the construction programme, Project complexity, and extent of works required post main construction period. This, as well as the rationale for why it is appropriate for the period to run from the end of a judicial review period, is further explained in the Statement of Reasons [REP5-028] paragraphs 5.3.16 – 5.3.20, the Post-event submissions, including written submission of oral comments, for ISH2 [REP1-184] and the updated Explanatory Memorandum [REP4-096] paragraphs 5.124 – 5.126.</p> <p>For completeness:</p> <ul style="list-style-type: none"> • The Applicant has provided a precedent for its approach, and it has adopted this based on its experience of legal challenges to its recent projects where it is prevented from commencing development, in order to ensure value for money, prior to a final determination of a legal challenge. • For the reasons explained in the aforementioned documents, the Council's highly novel approach is wholly unprecedented, and unworkable given the interaction between the works. • The Council's unsubstantiated claim that '<i>above ground, linear nature of this project means that a significant amount of land to be acquired will be acquired at commencement</i>' is wholly inconsistent with the practice of the Applicant in promoting its portfolio of DCOs and the suggestion that '<i>the need to undertake detailed design before construction commences there can be no justification for this extended period</i>' is also wholly unsubstantiated and

Matter in Table 2.1 of [REP5-112]	Signposting
	in conflict with the Applicant's unparalleled experience in delivering major projects. These suggestions would perversely lead to acquiring land at a point before the 'as built' configuration, leading to a missed opportunity in further minimising land acquisition (appropriate to that stage).
Article 35	In response to the Council's generalised claim raised, the Applicant's justification for the provisions relating to an emergency situation in which a notice is not provided are provided in the Explanatory Memorandum [REP4-096] . The Applicant notes that two changes have been made to these provisions where the Council has particularised its concern and provided a specific request (i.e. the removal of the word 'potential', as well as the change noted in the Explanatory Memorandum). For completeness, it is incorrect that the provisions are unprecedented (see, for example, article 34 of the M42 Junction 6 Development Consent Order 2020).
Requirement 4	Please see the Applicant's position on 'begin' vs. 'commence', and preliminary works in [AS-089] , [REP1-184] and [REP2-077] . The Applicant further refers to its response to Action Point 1 of ISH7 in the Applicant's responses to IP's comments on the dDCO at Deadline 4 [REP5-089] .
Requirement 6	Please see pages 175 to 177 of the Applicant's responses to IP's comments made on the dDCO at Deadline 1 [REP2-077] .
Requirement 3	Please see Section 9.2 of the Applicant's responses to IP's comments on the dDCO at Deadline 4 [REP5-089] .
Article 66 / Schedule 16	Please see page 143 of the Applicant's responses to IP's comments on the dDCO at Deadline 3 [REP4-212] .
N/A	For completeness, the Applicant considers that Thurrock Council continues to fundamentally misunderstand the Applicant's position on precedent and the Applicant would simply signpost to its comments on the 'use of precedent' in [REP4-212] . As the Applicant has made clear, the enhanced level of justification and explanation provided in respect of this dDCO is unprecedented so far as the Applicant is aware (to the extent of being concerned about the proper use of public funds and precedent being set by the extent of justification being sought). The Applicant considers the provisions justified, and has never sought to rely on precedents in isolation. By contrast, the council repeatedly raises objections to provisions which would apply to <i>any</i> project but which are broadly and consistently precedented. It is relevant in that context, having separately provided what the Applicant considers to be an enhanced and appropriate justification, to refer to precedents.

10 Transport for London

10.1 Commuted sums

- 10.1.1 The Applicant's position on commuted sums is provided in the Applicant's Post-hearing submissions in respect of ISH7 [REP4-183]. The Applicant emphasises that the reliance on three precedents (one of which is a private sector, trip generating development) at the expense of all other SRN DCOs is unwarranted, and does not account for the significant capital contribution the Applicant is making in delivering a nationally significant infrastructure project with substantial benefits and betterments specifically provided by this specific Project. The Applicant addressed the specific example of the A127 bridge in Section 10.3 of the Applicant's responses to IP's comments on the dDCO at Deadline 4 [REP5-089].
- 10.1.2 For completeness, Transport for London (TfL) suggests that the multitude of precedents the Applicant cites are not relevant, but the sole precedent which supports its position is more appropriate as it concerns a scheme in London. The Applicant recognises that Transport for London have a different funding framework to local highways authorities, due to the devolved nature of the Greater London Authority (GLA). Alongside income from fares, TfL is financed by the GLA. The GLA, unlike local authorities, is authorised to charge a precept on Council Tax and apply a retention to business rates, for the purpose of funding TfL amongst other matters. As set out in the recent Settlement Letter dated 30 August 2022, the Government clearly states its expectations of TfL, stating "HMG defines financial sustainability as TfL's ability to cover, from sources available to it (including the consideration of potential new sources of income and committed Business Rates Retention but excluding HMG's extraordinary funding grant): operating expenditure; capital renewals; servicing and repaying debt; and capital enhancements".
- 10.1.3 In recent years, TfL have had additional funding from the Department for Transport, in consideration of the reduction in fare revenue TfL experienced during the Covid pandemic. This additional funding, as set out in the August 2022 settlement letter, includes provision for renewals, demonstrating the government's intention that TfL should fund renewals using the revenue sources available to it.
- 10.1.4 The Applicant would further note that it is not correct to say that *no* funding can be obtained from the Department for Transport (DfT) or government as acknowledged by TfL² and the Greater London Authority (GLA) has its own

² It is acknowledged that funding for local roads is different in London but there are plainly instances where the GLA has sought and obtained funding from central government, see for example the acknowledgements in the following: 'This funding settlement will ensure the delivery of key capital renewals and investment in London worth £3.6bn until March 2024. This settlement will enable delivery of, amongst other things, completion of a number of major projects, new road schemes and increased bus priority' see: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1101713/tfl-long-term-funding-settlement-30-august-2022.pdf 'The exception is the one-off 'Highways Maintenance - Budget 2018' funding, which was a formula-based allocation and did include London.' see:

processes in place for the provision of funding in this context.³ In those circumstances, the Applicant does not agree that a public sector body should be responsible for commuted sums in circumstances, like the Project, where it is delivering enhancements at its own capital cost.

10.2 Signposting

- 10.2.1 In relation to TfL's comments on Silvertown Tunnel, and the monitoring and mitigation on the road network, the Applicant refers to its document **9.134 Wider Network Impact Position Statement** submitted alongside this submission at Deadline 6.
- 10.2.2 TfL states in the Deadline 5 submission that they will be providing comments on the Protective Provisions for Local Highway Authorities at Deadline 6. The Applicant awaits that joint submission and will provide a response at Deadline 7.

<https://www.london.gov.uk/who-we-are/what-london-assembly-does/questions-mayor/find-an-answer/roads-funding-1-0>; 'TfL has placed a number of bids into the Major Road Network fund in 2019 and has been shortlisted for a few schemes, but any funding is pending final approval of individual business cases.' see <https://www.london.gov.uk/who-we-are/what-london-assembly-does/questions-mayor/find-an-answer/roads-funding-2-0>

³ 'Current negotiations into future year funding are ongoing. As a minimum TfL has £1bn from retained capital business rates to spend on asset renewals and enhancements across all its operations.'

<https://www.london.gov.uk/who-we-are/what-london-assembly-does/questions-mayor/find-an-answer/londons-highway-network-infrastructure>

Glossary

Term	Abbreviation	Explanation
A122		The new A122 trunk road to be constructed as part of the Lower Thames Crossing project, including links, as defined in Part 2, Schedule 5 (Classification of Roads) in the draft DCO (Application Document 3.1)
A122 Lower Thames Crossing	Project	A proposed new crossing of the Thames Estuary linking the county of Kent with the county of Essex, at or east of the existing Dartford Crossing.
A122 Lower Thames Crossing/M25 junction		New junction with north-facing slip roads on the M25 between M25 junctions 29 and 30, near North Ockendon.
A13/A1089/A122 Lower Thames Crossing junction		Alteration of the existing junction between the A13 and the A1089, and construction of a new junction between the A122 Lower Thames Crossing and the A13 and A1089, comprising the following link roads: <ul style="list-style-type: none"> • Improved A13 westbound to A122 Lower Thames Crossing southbound • Improved A13 westbound to A122 Lower Thames Crossing northbound • Improved A13 westbound to A1089 southbound • A122 Lower Thames Crossing southbound to improved A13 eastbound and Orsett Cock roundabout • A122 Lower Thames Crossing northbound to improved A13 eastbound and Orsett Cock roundabout • Orsett Cock roundabout to the improved A13 westbound • Improved A13 eastbound to Orsett Cock roundabout • Improved A1089 northbound to A122 Lower Thames Crossing northbound • Improved A1089 northbound to A122 Lower Thames Crossing southbound
A2		A major road in south-east England, connecting London with the English Channel port of Dover in Kent.
Application Document		In the context of the Project, a document submitted to the Planning Inspectorate as part of the application for development consent.
Construction		Activity on and/or offsite required to implement the Project. The construction phase is considered to commence with the first activity on site (e.g. creation of site access), and ends with demobilisation.
Design Manual for Roads and Bridges	DMRB	A comprehensive manual containing requirements, advice and other published documents relating to works on motorway and all-purpose trunk roads for which one of the Overseeing Organisations (National Highways, Transport Scotland, the Welsh Government or the Department for Regional Development (Northern Ireland)) is highway authority. For the A122 Lower Thames Crossing the Overseeing Organisation is National Highways.
Development Consent Order	DCO	Means of obtaining permission for developments categorised as Nationally Significant Infrastructure Projects (NSIP) under the Planning Act 2008.

Term	Abbreviation	Explanation
Development Consent Order application	DCO application	The Project Application Documents, collectively known as the 'DCO application'.
Environmental Statement	ES	A document produced to support an application for development consent that is subject to Environmental Impact Assessment (EIA), which sets out the likely impacts on the environment arising from the proposed development.
Highways England		Former name of National Highways.
M2 junction 1		The M2 will be widened from three lanes to four in both directions through M2 junction 1.
M2/A2/Lower Thames Crossing junction		New junction proposed as part of the Project to the east of Gravesend between the A2 and the new A122 Lower Thames Crossing with connections to the M2.
M25 junction 29		Improvement works to M25 junction 29 and to the M25 north of junction 29. The M25 through junction 29 will be widened from three lanes to four in both directions with hard shoulders.
National Highways		A UK government-owned company with responsibility for managing the motorways and major roads in England. Formerly known as Highways England.
National Planning Policy Framework	NPPF	A framework published in March 2012 by the UK's Department of Communities and Local Government, consolidating previously issued documents called Planning Policy Statements (PPS) and Planning Practice Guidance Notes (PPG) for use in England. The NPPF was updated in February 2019 and again in July 2021 by the Ministry of Housing, Communities and Local Government.
National Policy Statement	NPS	Set out UK government policy on different types of national infrastructure development, including energy, transport, water and waste. There are 12 NPS, providing the framework within which Examining Authorities make their recommendations to the Secretary of State.
National Policy Statement for National Networks	NPSNN	Sets out the need for, and Government's policies to deliver, development of Nationally Significant Infrastructure Projects (NSIPs) on the national road and rail networks in England. It provides planning guidance for promoters of NSIPs on the road and rail networks, and the basis for the examination by the Examining Authority and decisions by the Secretary of State.
Nationally Significant Infrastructure Project	NSIP	Major infrastructure developments in England and Wales, such as proposals for power plants, large renewable energy projects, new airports and airport extensions, major road projects etc that require a development consent under the Planning Act 2008.
North Portal		The North Portal (northern tunnel entrance) would be located to the west of East Tilbury. Emergency access and vehicle turn-around facilities would be provided at the tunnel portal. The tunnel portal structures would accommodate service buildings for control operations, mechanical and electrical equipment, drainage and maintenance operations.
Operation		Describes the operational phase of a completed development and is considered to commence at the end of the construction phase, after demobilisation.

Term	Abbreviation	Explanation
Order Limits		The outermost extent of the Project, indicated on the Plans by a red line. This is the Limit of Land to be Acquired or Used (LLAU) by the Project. This is the area in which the DCO would apply.
Planning Act 2008		The primary legislation that establishes the legal framework for applying for, examining and determining Development Consent Order applications for Nationally Significant Infrastructure Projects.
Project road		The new A122 trunk road, the improved A2 trunk road, and the improved M25 and M2 special roads, as defined in Parts 1 and 2, Schedule 5 (Classification of Roads) in the draft DCO (Application Document 3.1).
Project route		The horizontal and vertical alignment taken by the Project road.
South Portal		The South Portal of the Project (southern tunnel entrance) would be located to the south-east of the village of Chalk. Emergency access and vehicle turn-around facilities would be provided at the tunnel portal. The tunnel portal structures would accommodate service buildings for control operations, mechanical and electrical equipment, drainage and maintenance operations.
The tunnel		Proposed 4.25km (2.5 miles) road tunnel beneath the River Thames, comprising two bores, one for northbound traffic and one for southbound traffic. Cross-passages connecting each bore would be provided for emergency incident response and tunnel user evacuation. Tunnel portal structures would accommodate service buildings for control operations, mechanical and electrical equipment, drainage and maintenance operations. Emergency access and vehicle turn-around facilities would also be provided at the tunnel portals.

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