



31 October 2023

The Planning Inspectorate
National Infrastructure Planning
Temple Quay House
2 The Square
Bristol
BS1 6PN

**A122 LOWER THAMES CROSSING (REF: TR010032)
DEADLINE 6 WRITTEN REPRESENTATIONS**

E AND K BENTON LIMITED (AP1717)

On behalf of our above clients, E and K Benton Limited, we write further to Compulsory Acquisition Hearing 3 ('CAH3') held on 17 October 2023 with our written submissions in support of the oral representations made at that hearing.

Please refer to the Plates as submitted to the ExA for the purposes of assisting CAH3 and to which we presented our oral representations; a further copy of which are attached to these submissions.

As a general comment, the submissions below and the oral representations at CAH3 are on matters that have been raised continually with the Applicant both through statutory consultation responses and through general negotiation with the Applicant for much of the Project's lifespan to date.

To reach a point where matters are still remaining to be resolved at this stage of the Examination is a very unsatisfactory position.

OVERVIEW	
Plate 42	E and K Benton Ltd ownership at South Ockendon is shown edged red on Plate 42 and Plan A.1 (Appendix A) of REP4-204 - Deadline 4 submission – 9.91 Draft Statement of Common Ground ('SOCG') between (1) National Highways and (2) E and K Benton Limited and amounts to approximately 504.63 acres (204.22ha).

Holland Land & Property Limited, [REDACTED]
[REDACTED]

	<p>The extent of land-take (permanent, temporary possession and temporary possession with permanent rights) by the Project is overlaid on Plate 42 and Plan A.1 (Appendix A) of the draft SOCG shown shaded yellow and amounts to approximately 171.56 acres (69.43ha).</p> <p>The extent of the permitted Medebridge Solar Ltd solar farm scheme (as referenced in the draft SOCG) is shown as hatched black on Plate 42 and Plan A.1 (Appendix A) of the draft SOCG.</p>
Plate 43	<p>Plate 43 shows the E A Strategic Land (AP1539) South Ockendon Masterplan (2018) as part of the long-term promotion of land for strategic development at South Ockendon as part of Thurrock Council's developing Local Plan (a sustainable urban extension inc. housing 2,600 residential units, community, health and employment uses on Benton and Schatzmann).</p> <p>The land has been promoted by E A Strategic Land since 2018 (together with land in the ownership of the Schatzmann Family - AP1450).</p>
Plates 44 to 48	<p>Plates 44 to 48 show extracts from the Applicant's LTC Land Plans Volume C v.6.0 REP5-008 (sheets 35, 38, 39 and 41) with our client's ownership comprised within the areas in the blue boxes.</p>
ISSUE	POINTS RAISED
Ecological Mitigation & Flood Compensation Land	<p>Plates 49 & 50 – show the areas of Open Mosaic Habitat, Flood Compensation and Grassland planting proposed by the Applicant within the blue box.</p> <p>In total, the land area proposed to be permanently acquired for these purposes (including permanent land take for the main alignment) from our client equates to 63.80 acres or thereabouts.</p> <p>Further to our Deadline 1 representations at REP1- 335, our submissions in respect of Ecological Mitigation Land proposals are as follows:</p> <ol style="list-style-type: none"> 1) In the Applicant's response under 'Compensation Land (Generally) contained in the draft SOCG REP4-204 between the Applicant and E and K Benton, the Applicant refers to its preference to engage a 'competent authority' e.g. a local authority of similar body who has an established track record of maintaining such habitats. 2) It further states that this assists with compliance risks.

- 3) E and K Benton have managed this land for the past 27 years; they have been farming in south Essex on their other holdings for over 100 years.
- 4) They have the labour and machinery and skill set to manage land for a variety of uses and also are engaged in managing land under the Countryside Stewardship Scheme across their other principal arable holding at Horndon on the Hill.
- 5) To consider a local authority or similar body as the only competent authorities to manage land for ecological purposes is short sighted and fails to recognise the value that existing landowners who understand this land bring to that arrangement.
- 6) In terms of compliance risk, I would argue that in all likelihood, local authorities will sub contract this work to others with no 'buy-in' as to how it fits with adjoining land management and the issues that arise in this area; including unauthorised access and consequent management.
- 7) Further, it is an arguable point as to whether a single local authority or similar body is able to deal with such a large land area in addition to the areas already under their control and therefore it is submitted that the current landowners can provide a suitable risk management tool for the Applicant in spreading risk across the landowners hosting mitigation land.
- 8) It is a case of the right person leading to the correct management and we consider that our client is appropriately skilled and has significant understanding of the management of this land to be considered an appropriate entity to manage species rich grassland and open mosaic habitats and flood compensation land (where that flood land is to be managed as wet grassland or arable land that simply acts as a flood compensation area).
- 9) The mechanism for ensuring the landowner is obliged to meet the mitigation objectives; where that landowner wishes to retain the freehold and is willing to enter into such arrangements, can be achieved either through a s.253 Agreement or conservation covenant or similar agreement; legally binding on all parties.
- 10) Those agreements will need to recognise the management cost of undertaking work and compensation for a change in land use and its effect on value but as a matter of principle, the proposal to acquire the freehold is objected to where landowners are willing to enter into such agreements.

<p>Medebridge Road</p>	<p>Plate 52 – shows the general location of Medebridge road (coloured blue) as it serves our client’s land (including the permitted Medebridge Solar Farm – southern parcel) and the E A Strategic Masterplan land (shaded green)</p> <p>Plates 53, 54, 55 – show the Medebridge Road coloured blue on the Applicant’s Land Plans</p> <p>Plate 56 - show the E A Strategic Masterplan with a broad entry point from Medebridge Road marked with an arrow</p> <p>Our submissions are as follows:</p> <p>We would request a commitment from the Applicant under the Stakeholder Actions and Commitments Register (‘SACR’) to</p> <ol style="list-style-type: none"> 1) include landowner representatives and c in the Traffic Management Forum from the perspective of both protection of existing users and in respect of future joint use of the Medebridge Road for construction purposes associated with development at South Ockendon; 2) form a technical working group of E A Strategic Land, other users and Applicant’s appointed design and build contractors to agree a methodology and timetable for works to enable E A Strategic Land development and existing use requirements to be satisfied; and 3) ensure that suitable mitigation is in place to address any adverse effects of the Project on future development at South Ockendon 4) agree the works that are required and how those would be implemented to the Medebridge Road during the Applicant’s use and the condition of the road post use.
<p>WCH Routes</p>	<p>Plate 57 - is an extract of the Applicant’s WCH route plans from REP2- 074 and show the existing rights of way</p> <p>Plate 58 – is an extract of the Applicant’s WCH route plans from REP2- 074 and show the existing & proposed rights of way</p> <p>Plate 59 - shows the WCH route on the east side of North Road</p> <p>Plate 60 - shows the North Road route on the Applicant’s general arrangement plan</p>

Plate 61 - shows a Google Earth image of the general location of the proposed North Road WCH in red and the existing footpath location in yellow

Plate 62 – shows a Google Earth Streetview image of the North road existing footpath heading north

Plate 63 – shows a Google Earth Streetview image of the North road existing footpath heading south

Plate 64 – shows the North road route as permanent acquisition land on the Applicant's

Plate 65 – shows the general location of the North road route in relation to the E A Strategic Masterplan.

ISSUES:

Referring to 7.4 Project Design Report Part E: Design for Walkers, Cyclists and Horse Riders [APP-512](#):

2.1.4 – *'A latent demand to walk and cycle in the Tilbury area was theorised'* – we are unclear as to how such a significant additional burden as created by the proposed rights of way can be based on a theorised baseline.

The Project Design documents refer to design anticipating future development but there has been no regular stakeholder engagement as far as we are aware with landowners or their development partners as to in the development of the Applicant's WCH routes and how those would fit with retained land use, wider issues associated with management and security and the impact of the landowner's quiet use and enjoyment of their retained property.

However this turns to a wider point of Need v Want - does the Applicant's Project need to provide these additional routes and/or upgrades to cycleways/bridleways? It appears to go beyond what the Project is and strays into wider wishes of other stakeholders where those would normally fall within either development masterplans or as separate discussions on specific routes outwith of the Project or future development.

For example, 4.1.2 references that there is a *'real drive to encourage more walking and cycling and the promotion and aspiration of such by local authorities'* but is that really a task that is required of the Project in front of us?

	<p>Of all the WCH routes proposed only one has been amended to address our comments (FP136 (proposed to be a bridleway) north of the alignment from Mardyke Way (Trail) onto our client's land) – location shown circled blue on Plate 58.</p> <p>The Project Design documents dated October 2022 also do not reference the future development of Medebridge Solar Farm - construction start Q1 2024 and permitted in May 2022 (validated in February 2022) (and Ockendon Solar Farm (permitted in January 2016 and Bulphan Fen Solar Farm validated in Jan 2021 and permitted in October 2021) and instead restricts characterisation to flat, open farmland only.</p> <p>Furthermore, 6.1.12 on page 80 of the Project Design Report Part E it states that <i>'this strategy has been developed through extensive dialogue with local user groups, local authorities and land owners...'</i></p> <p>We disagree and are not clear how such a conclusion could have been reached in the Report.</p> <p>We again refer to our Procedural Deadline C submissions setting out the issues:</p> <ul style="list-style-type: none">(i) The extent of new WCH routes proposed and the statutory basis for the additional WCH routes proposed; including the upgrading of footpaths to bridleways;(ii) The anticipated effects of new WCH routes on the quiet enjoyment of the affected landowner's property and use of the same;(iii) The additional burden created by new additional WCH routes on the cost of management and security of land and property where additional WCH are proposed and adjoining land and property;(iv) The additional burden created by increased anti-social behaviour and concern regarding safety and biosecurity. Criminal activities arise from misuse of existing public rights of way. Any suggested enhanced public benefit arising from additional routes is outweighed by the impact to food security and impact on the Landowner's freehold and farming businesses.
--	--

(v) Without prejudice to any standing objection to the proposed WCH routes, the principle of the Applicants proposed acquisition of freehold land on which additional WCH routes are proposed and the responsibility for maintenance of these post construction.

Our submissions are as follows and we also refer the ExA to our oral submissions at ISH10 Traffic and Transportation on 24 October 2023:

- 1) Without prejudice to our client's general objection to the proposed new rights of way, if the Applicant's proposed new rights of way remain part of the Project either as proposed or as amended, we would require confirmation of the oral undertaking given to the Examination at CAH3 that the Applicant adopts an alternative approach to permanent acquisition of freehold land for any new rights of way (public or permissive) and commits to an approach under a formal SACR commitment based on the dedication of new rights of way so that the freehold remains in the hands of the existing freeholder
- 2) Our client maintains their general objection to upgrading to bridleways and sees no justification for these proposals. The management issue that arises in preventing unauthorised motorised access if upgraded to bridleway as the apparatus for gating such routes has proved ineffective at preventing the former, for example motorbikes
- 3) We are unable to find any reference to an impact assessment on private landowners carried out by the Applicant.

Without prejudice to our client's general objection and maintaining our objection to any upgrades to bridleways or new bridleways, if the Applicant's proposals for new rights of way are accepted we would request the following amendments:

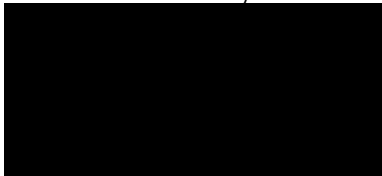
- 4) The proposed new footpath link to the south of the main alignment connecting the Mardyke Way with FP136 south of the new overbridge should be repositioned on the north side of the alignment together with the maintenance track. This would assist with mitigating potential unauthorised access risks onto our client's land and property on the south side of the alignment which includes sensitive property at South Ockendon Hall and the adjoining properties to the south west of the alignment.
- 5) The proposed North Road route in our opinion would not be required if the Applicant were to incorporate a change in the location of the 30mph/40mph zones on that section of the North Road. In our view, moving the 30mph zone to start at point 'A' as shown on plate 61 and

	<p>incorporating the existing path shown as a yellow line would negate the need for a new route on our client’s land.</p> <p>Please note that as requested by the ExA in action points arising from ISH10, we are submitting separate submissions at Deadline 6 in respect of those requests.</p>
<p>FP136 Bridge & Medebridge Solar Farm</p>	<p>Plate 66 - shows the FP136 bridge arrangement</p> <p>Plate 67 – shows FP136 bridge zone and existing Benton farm access track as permanent acquisition on the Applicant’s Land Use plans.</p> <p>Plate 68 - shows the FP136 bridge zone and existing Benton farm access track in relation to Medebridge Solar Farm areas (hatched black)</p> <p>Our submissions are as follows:</p> <p>General Access:</p> <ol style="list-style-type: none"> 1) The Applicant and our client are in discussions in respect of a deed of grant for access for our client and any authorised third party. Subject to that deed of grant being finalised and entered into under the DCO approval (if obtained by the Applicant), we request a formal undertaking as part of the DCO to secure the use by our client and authorised third party uses, agreement in respect of design and maintenance responsibility commitments. 2) In 2.1.15 of the draft SOCG referred to above, the Applicant has committed to investigating a weight capacity limit of 80t. We request a firmer commitment from the Applicant to bring this forward into the design of the bridge and suggest this should be included in the SACR. <p>Solar Farm Plant Access:</p> <ol style="list-style-type: none"> 1) As the ExA will be aware from the ASI on 13 September, there is an issue in respect of the proposed bridge capacity and the ability of Ockendon Solar/Medebridge Solar being able to accommodate delivery of any new plant to the substation site located south of the proposed bridge that serves the two solar farms. 2) The solar operators and the Applicant are in advanced discussions to provide an alternative solution whereby access under Licence would be provided off the main LTC alignment at grade after the Mardyke Viaduct to enable access for heavy cranes and loads.

	<p>3) Should that Licence not be entered into by the Applicant, we would require a SACR or other legal commitment to ensure the design and build incorporates either the proposed alternative slip road access or a redesign of the FP136 bridge to accommodate this use.</p> <p>4) The absence of any agreement from the Applicant to accommodate delivery of heavy loads for the solar farms would have very significant financial implications on the consented solar schemes and the landowners.</p>
--	--

We look forward to working with the ExA and the Applicant to address the above issues.

Yours faithfully



M R Holland MRICS
Director
HOLLAND LAND & PROPERTY LTD
(Agents for the above-named Affected Party)