

# **Lower Thames Crossing**

9.140 Planning Statement Appendix D – Open Space Addendum

Infrastructure Planning (Examination Procedure) Rules 2010

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# 1 Introduction

- 1.1.1 Planning Statement Appendix D: Open Space [REP3-108] states the approximate length of time that existing Special Category Land would not be accessible to the public, to the extent it is affected by the A122 Lower Thames Crossing (Project), before the replacement land for it is publicly accessible. The timings in Appendix D are based on the preliminary construction programme presented in Section 2.6 of Environmental Statement (ES) Chapter 2: Project Description [APP-140].
- 1.1.2 Some of the land to be designated as replacement land for the Project is needed for construction. The process for the acquisition of existing open space and common land, and the provision of that replacement land, is proposed to be achieved via a scheme required under article 40 of the draft Development Consent Order (dDCO) [REP5-024]. The scheme will include a timetable for its implementation, and would be submitted, following consultation with the relevant planning authority, to the Secretary of State for approval.
- 1.1.3 The Applicant would emphasise that there is nothing novel, or in principle objectionable, with its approach. This approach makes efficient use of land needed for the Project: if additional land was utilised for the purposes of replacement land, the overall level of interference and need for compulsory acquisition would increase, cutting across the guidance on compulsory acquisition (Planning Act 2008 Guidance related to procedures for the compulsory acquisition of land, Sept 2013) which requires the Applicant to minimise acquisition of land as well as consider reasonable alternatives. The fact that replacement land can be provided subsequent to the relevant acquisition of the existing open space or common land is appropriate for the following reasons:
  - a. Section 131 of the Planning Act 2008 explicitly refers to replacement land which "has been or will be" provided. The statute therefore explicitly contemplates replacement land coming forward at a later stage.
  - b. The approach to laying out replacement land in accordance with a scheme, and that land only vesting on completion of that scheme (i.e., not simultaneously with the acquisition of the Special Category Land and after the acquisition of the relevant Special Category Land), is heavily precedented (see, for example, article 30 of the Cornwall Council (A30 Temple to Higher Carblake Improvement) Order 2015, article 38(3) of the A30 Chiverton to Carland Cross Development Consent Order 2020, article 36 of the M20 Junction 10a Development Consent Order 2017 and article 39 of the A417 Missing Link Development Consent Order 2022).1

<sup>&</sup>lt;sup>1</sup> This was recently explicitly endorsed by the Secretary of State and the Examining Authority in National Highways' A417 Missing Link DCO project (see paragraphs 8.8.19 to 8.8.21 of the Recommendation Report (Planning Inspectorate, 2022)). While each scheme will have its own features, the Applicant considers this example to be a clear endorsement of the principle of providing replacement land after the passage of time during construction

- 1.1.4 This Addendum to Planning Statement Appendix D lists the six Special Category Land sites (from south to north) for which replacement land is proposed. It describes how the Applicant has reached the proposals to lay out and make publicly accessible some of that land in advance of the timescales in Appendix D, based on site-specific opportunities and constraints. Where it is not considered feasible to make replacement land publicly accessible earlier than anticipated, the reasons for this are also explained. The Applicant remains of the view that the replacement land is no less advantageous, and that the additional measures secured below provide additional assurances and enhancements in that context.
- 1.1.5 The Applicant proposes new securing mechanisms to lay out and make publicly accessible parts of the proposed replacement land for Ron Evans Memorial Field, Thames Chase and Folkes Lane Woodland, in advance of the timescales in Appendix D. This is reflected in new commitments SACR-014, SACR-015 and SACR-016 in the Stakeholder Actions and Commitments Register (SACR) [Document Reference 7.21 (4)] submitted at Deadline 6. These are secured under article 61 of the dDCO.
- 1.1.6 The new SACR commitments combine existing commitments in the Code of Construction Practice (CoCP) [REP5-048], to control construction impacts, and the outline Traffic Management Plan for Construction (oTMPfC) [REP5-056], either to maintain access to Special Category Land specifically or manage interfaces between walker, cyclist and horse rider (WCH) routes and construction activities generally, with new commitments upon the Contractor(s) to make some replacement land publicly accessible either before public access to the existing Special Category Land is restricted or by a point in the construction programme, whichever is more appropriate.

# 1.2 Landowner engagement

- 1.2.1 The Applicant has sought to positively respond to comments from Thurrock Council at Compulsory Acquisition Hearing 2 (CAH2) 15 September 2023 regarding the timing of replacement land for Ron Evans Memorial Field, in respect of which Thurrock Council are the landowner.
- 1.2.2 Thurrock Council stated at CAH2 that "there has been discussion and agreement in principle about replacement land. Thurrock does not have any concerns about the quantum of the replacement or the potential quality of the replacement. It does have a concern about the timing of replacement, and absent those matters being resolved, Thurrock Council's position is that is not appropriate replacement land 2 within the meaning given in section 131, subsection 12."
- 1.2.3 The proposal to lay out and make some replacement land for Ron Evans Memorial Field publicly accessible earlier than anticipated in Appendix D, set out herein, has been shared with Thurrock Council ahead of Deadline 6. The Applicant understands that the Council support the new measures.
- 1.2.4 No other landowners and/or stakeholders have raised the timing of replacement land as an issue during the course of the Applicant's extensive engagement nor in the Examination. Several landowners of Special Category Land affected by the Project have confirmed the proposed replacement land, where required,

meets the relevant statutory tests under sections 131 (s131) and/or 132 (s132) of the Planning Act 2008, as follows:

- Kent County Council, land owner of open space at Shorne Woods Country Park (SWCP), at Item 2.1.54 of Statement of Common Ground between National Highways and Kent County Council [REP1-103].
- b. Cole Family, landowners of common land at Tilbury Green, at Item 2.1.15 of Statement of Common Ground between National Highways and Cole Family (submitted at Deadline 6) [Document Reference 9.46 (2)]. Engagement with the Orsett Fen Rights Holders (of which the Cole Family are the primary beneficiaries), owners of the Orsett Fen common land, remains ongoing but the Applicant would note that the body responsible for common land regulation, Natural England, have confirmed (Item 2.1.14 of the Statement of Common Ground between National Highways and Natural England [REP5-038]) the proposed replacement land for Orsett Fen "would be no less advantageous to the public and those with rights of common than the existing Common Land provision".
- c. Forestry England, landowner of open space at Thames Chase (Broadfields Farm) and Folkes Lane Woodland, at Items 2.1.4 and 2.1.7 of the Statement of Common Ground between National Highways and Forestry England (to be submitted at Deadline 7).
- d. Essex County Council, landowner of open space at Thames Chase Forest Centre (part of Thames Chase (Broadfields), at Item 2.1.34 of the Statement of Common Ground between National Highways and Essex County Council (to be submitted at Deadline 7).

# 1.3 Replacement land design

- 1.3.1 The design of replacement land has benefited from extensive stakeholder engagement and has been refined in response to comments submitted to multiple public consultations.
- 1.3.2 The quantitative (i.e. the area, in square metres (sqm)) and qualitative design of replacement land has taken into account the period of time that Special Category Land (to the extent its affected by the Project) would not be accessible to the public. In all cases, the replacement land would be larger in quantity, equally or more accessible, useful and attractive, and its overall quality would be comparable or better, in accordance with paragraph 5.181 of the National Policy Statement for National Networks (NPSNN) (Department for Transport, 2014) (refer to Section D.4 of Appendix D [REP3-108] for more information on the assessment methodology). For those reasons, it would be no less advantageous to the persons in whom it is vested, the persons, if any, entitled to rights, and to the public. Moreover, in the context of paragraphs 5.174 and 5.181 of the NPSNN, the benefits of the Project (including need) outweigh the temporary loss of existing Special Category Land, taking into

- account the proposed replacement land (as well as the wider benefits, including the provision of two large parks at Tilbury Fields and Chalk Park, of the Project).
- 1.3.3 The Planning Act 2008 does not require replacement land to be provided at the time of loss, and there are examples in other Development Consent Orders (DCOs) of replacement land being provided after the date of the loss/vesting. Section 131 explicitly refers to replacement land which "has been or will be" (emphasis added) provided. The statute therefore explicitly contemplates replacement land coming forward at a later stage. The Applicant considers any view to the contrary to be legally flawed and incompatible with a multitude of precedents on this issue (cited in paragraph 1.1.3 above).
- 1.3.4 The measures proposed in this Addendum are without prejudice to the findings of the assessments in Appendix D. For the reasons set out in Appendix D, the Applicant maintains the replacement land complies with the relevant statutory and planning policy tests. Notwithstanding this, the Applicant has sought to positively respond, and provide assurance, to Thurrock Council's comments on the timing of replacement land where feasible.
- 1.3.5 The Project is currently at the preliminary design stage, and neither a detailed construction programme nor methodology have been finalised. Once Contractors are appointed and the detailed design for the Project is developed, a scheme for the provision of the replacement land, including a more detailed timetable for the implementation of the scheme, would be developed in consultation with the relevant planning authority for approval by the Secretary of State in accordance with article 40 (Special category land) of the dDCO [REP5-024]. The measures set out in this Addendum do not preclude other areas of replacement land (not subject to the commitments set out herein) being made publicly accessible ahead of the indicative timeframes in Appendix D.

# 1.4 Methodology

1.4.1 The Applicant has undertaken a multi-disciplinary assessment of the timing of replacement land to identify opportunities to make it, or parts thereof, publicly accessible in advance of the timescales in Appendix D, subject to construction requirements and safety considerations. The Applicant has consulted the Contractors responsible for constructing the Project in developing the measures set out in this Addendum.

# **2** Shorne Woods Country Park

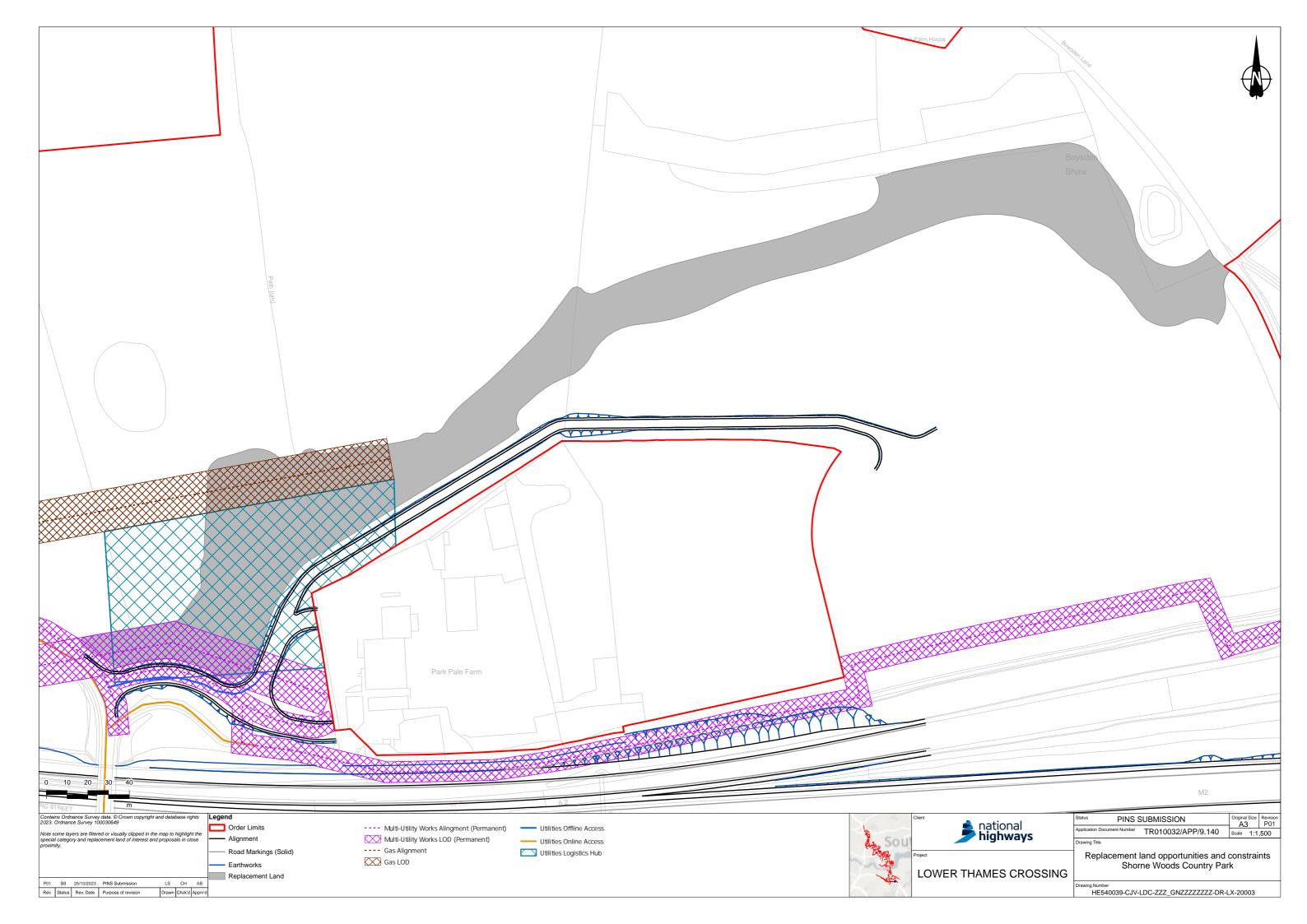
#### 2.1 Context

- 2.1.1 Paragraph D.5.13(a) of Appendix D [REP3-108] states, based on the preliminary construction programme for DCO "...the replacement land [for SWCP] is anticipated to become available for public use four years after the existing parts of Shorne Woods Country Park are impacted by the Project".
- 2.1.2 Kent County Council, landowner of SWCP, "agree that the replacement land as included in the DCO application is no less advantageous and no less in area, in accordance with s.131 & s.132 of the Planning Act 2008" (Item 2.1.54 of the Statement of Common Ground between National Highways and Kent County Council [Document Reference 5.4.4.7 (3)], to be submitted at Deadline 6).
- 2.1.3 The Project Order Limits include approximately 2.8 hectares of open space at SWCP, which amounts to approximately 0.02% of the total existing open space site. Land forming part of the Country Park outside of the Order Limits for the Project would remain accessible to the public for the duration of works.
- 2.1.4 The main access to the Country Park off Brewers Road would not be impacted by the Project. Direct access to the site from the central car park within the Country Park would be retained. The Project would provide and maintain suitable alternatives routes for NS167, NS169 and NS174 (which provide connections to SWCP) during construction in accordance with the measures in Table B.1 of the oTMPfC [REP5-056]. This is secured under Schedule 2 Requirement 10 (Traffic management) of the dDCO [REP5-024].
- 2.1.5 Construction works to land forming part of SWCP, or in proximity to it, would be undertaken in accordance with the controls in the Code of Construction Practice (CoCP) [REP5-048] to avoid adversely affecting the amenity of people using the Country Park, or ensuring impacts are not significant. These are secured under Schedule 2 Requirement 4 (Construction and handover environmental management plans) of the dDCO [REP5-024].

# 2.2 Opportunities and constraints

- 2.2.1 The western section of the proposed replacement land (Work No. OSC1) is constrained during the construction period. The land is needed by the Project for utility works including the installation of a medium-pressure gas pipeline (Work No. G1a), the installation or diversion of underground utilities (Works Nos. MU1 and MU2), the establishment of a temporary Utility Logistics Hub (ULH) located north of Park Pale (Work No. ULH16) and the construction of a new public right of way (Work No. 1O) refer to Sheet 3 of the Works Plans (Volume B) Composite [REP4-038]. It would not be safe to make this area of replacement land publicly accessible before the completion of works.
- 2.2.2 Figure 2.1 shows the works that the replacement land is needed for during construction. It should be read in conjunction with Plates D.1 and D.2 of Appendix D [REP3-108], the Special Category Land Plans [REP4-022] to REP4-026] and the Works Plans [REP4-034] to REP5-018 and REP5-020].

# Figure 2.1 Shorne Woods Country Park – replacement land opportunities and constraints



- 2.2.3 The design rationale for the SWCP replacement land for is, among other things, to provide a functional connection between Brewers Wood and Great Crabbles Wood, improving access between open spaces in the region. This 'landscape-scale' approach is supported by Kent County Council, as landowner, as well as Natural England (Item 2.1.19 of Statement of Common Ground between Natural England [REP5-038]).
- 2.2.4 By landscaping and making publicly accessible the eastern unconstrained section of replacement land only, before works over the western section of replacement land are complete, any interim solution would fail to provide a connection between Brewers Wood and Great Crabbles Wood and instead create a dead-end.
- 2.2.5 A nearby landowner has raised anti-social behaviour (ASB) concerns in relation to the proposed replacement land for SWCP (Item 2.1.5 of the Statement of Common Ground between National Highways and John and Elizabeth Gressier [REP3-142]). The Applicant has positively responded to feedback from the landowner by refining the replacement land design and introducing defensive planting to deter public access from the replacement land and provide security to neighbouring land and properties (paragraph 5.3.4(i) of the oLEMP [REP4-140] and clause S1.08 of the Design Principles [REP4-146]). By providing only some of the replacement land and creating a dead-end, the interim solution risks contributing to the landowners ASB concerns.
- 2.2.6 Given Kent County Council, as landowner, accepts the replacement land as proposed, as well as the fact that SWCP would remain operational and open to the public during construction (with only a very small area affected by the Project), any feasible interim replacement land solution would not deliver the outcomes intended and would likely be negatively received by stakeholders. The Applicant does not propose to lay out and make publicly accessible replacement land for SWCP earlier than anticipated in Appendix D at this point in time.

# 3 Tilbury Green

#### 3.1 Context

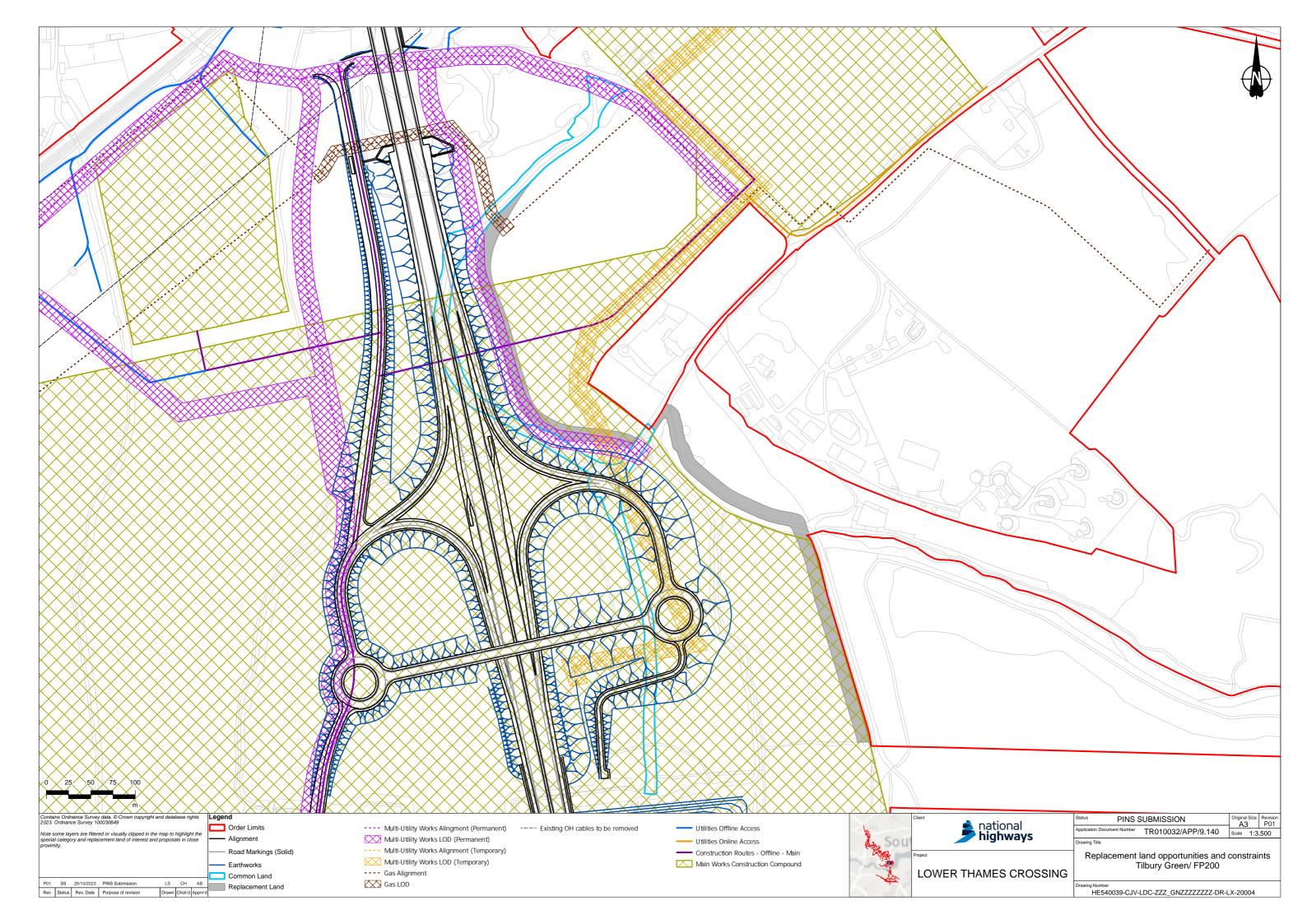
- 3.1.1 Paragraph D.5.31(a) of Appendix D [REP3-108] states, based on the preliminary construction programme for DCO "...the replacement land [for Tilbury Green] is anticipated to become available for public use six years after the existing Tilbury Green is impacted by the Project".
- 3.1.2 The Cole Family, landowner of Tilbury Green (Drovers Road), "...confirm the replacement land (measuring approximately 3,431m² as shown on Special Category Land Plans... Sheet 20 and... Sheet 23) is no less advantageous and no less in area, in accordance with S131 of the Planning Act 2008" (Item 2.1.15 of the Statement of Common Ground between National Highways and Cole Family [Document Reference 9.46 (2)], submitted at Deadline 6).
- 3.1.3 Tilbury Green is currently inaccessible to the public. The northern section of Tilbury Green follows the alignment of public Footpath 200 (FP200) and is currently overgrown. The southern section of Tilbury Green is located within the active Ingrebourne Valley Sites (IVL) landfill, which does not permit public access. The Applicant considers this to be highly relevant to the application of the "no less advantageous" test, including the consideration of the timing of the provision of the proposed replacement land.
- 3.1.4 To the extent that the common land could be used by the public along FP200 (subject to the cutting back of vegetation), the Project is permanently closing and diverting FP200 (Work No. 5Q) between points 13/13 to 14/6 and 13/11 to 13/12 (as shown on Sheets 22 and 23 of the Rights of Way and Access Plans (Volume C) [REP4-050]) before the section of FP200 that extends between points 14/6 and A9 is closed, in accordance with the measures in Table B.1 of the oTMPfC [REP5-056].

# 3.2 Opportunities and constraints

- 3.2.1 The proposed replacement land (Work No. OSC5) is constrained during the construction period. The land is needed by the Project for the installation of a high-pressure gas pipeline (Work No. TFGP1), installation and diversion of underground multi-utilities (Work No. MU27), construction of a new public rights of way (Work No. 5U), the establishment of the northern tunnel entrance compound (Work No. CA5) and temporary installation or diversion of underground utilities (Work No. MUT6) and main works construction access for that compound refer to Sheets 20 and 23 of the Works Plans (Volume B) Composite [REP4-038] and (Volume C) Composite [REP5-020] and Sheets 20 and 23 the Temporary Works Plans (Volume B) [REP4-084] and (Volume C) [REP5-022]. It would not be safe to make this area of replacement land publicly accessible before the completion of works.
- Figure 3.1 shows the works that the replacement land is needed for during construction. It should be read in conjunction with Plates D.3 and D.4 of Appendix D [REP3-108], the Special Category Land Plans [REP4-022] to REP4-026], the Works Plans [REP4-034] to REP4-040, REP5-018 and REP5-020] and the Temporary Works Plans [REP4-082, REP4-084, REP5-022].

3.2.3 Given the Cole Family, as landowner, accept the replacement land as proposed, as well as the fact that there is limited public use of the existing common land as currently laid out, and the Applicant's enhancements in the replacement land, the Applicant does not propose to lay out and make publicly accessible replacement land for Tilbury Green earlier than anticipated in Appendix D at this point in time.

Figure 3.1 Tilbury Green – replacement land opportunities and constraints



### 4 Ron Evans Memorial Field

#### 4.1 Context

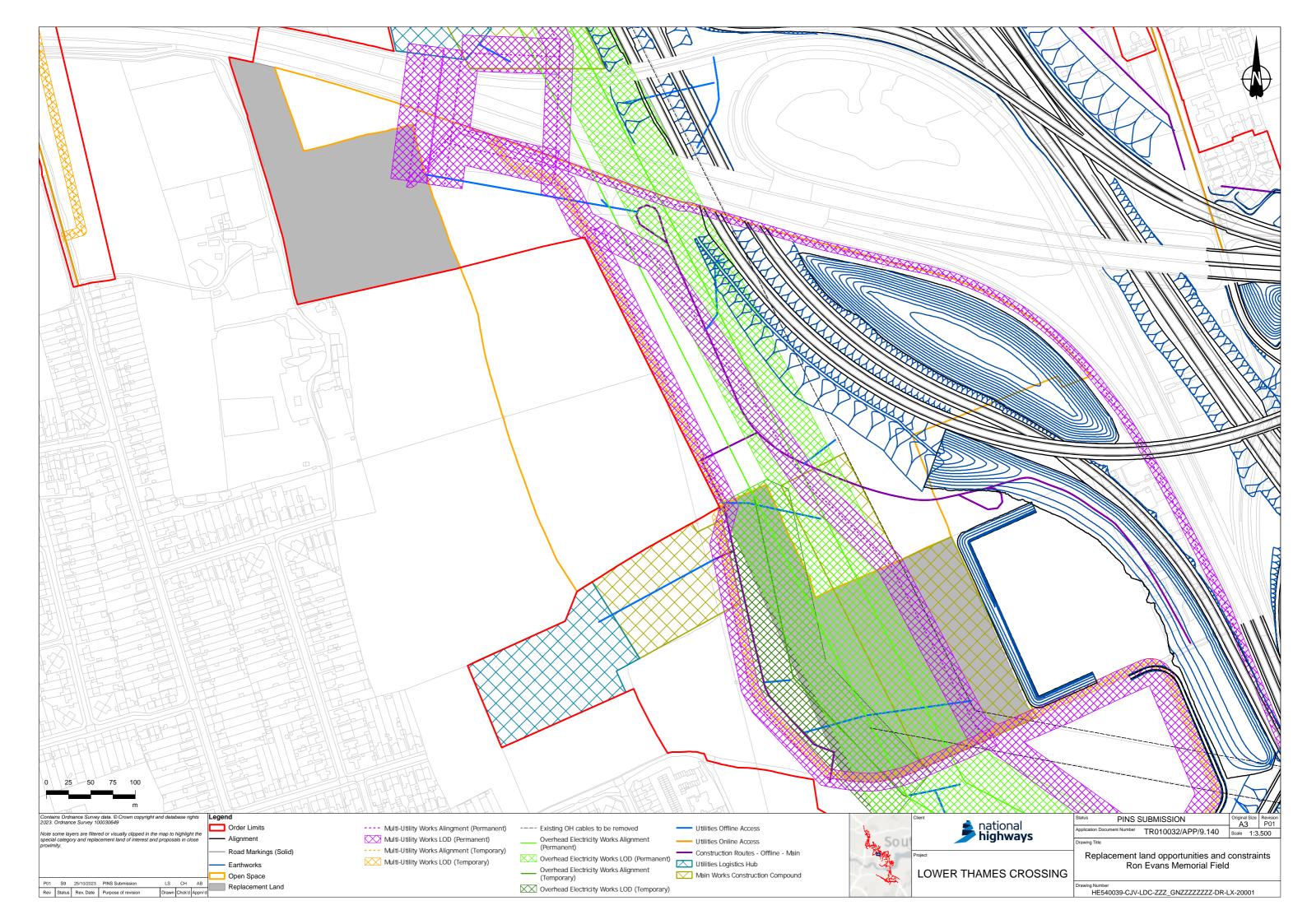
- 4.1.1 Paragraph D.5.46(a) of Appendix D [REP3-108] states, based on the preliminary construction programme for DCO "...the replacement land [for Ron Evans Memorial Field] is anticipated to become available for public use five years after the existing Ron Evans Memorial Field is impacted by the Project".
- 4.1.2 Thurrock Council stated at CAH2 that "there has been discussion and agreement in principle about replacement land. Thurrock does not have any concerns about the quantum of the replacement or the potential quality of the replacement. It does have a concern about the timing of replacement, and absent those matters being resolved, Thurrock Council's position is that is not appropriate replacement land 2 within the meaning given in section 131, subsection 12."
- 4.1.3 The Applicant intends to reflect these comments along with measures developed subsequently in an update to the Statement of Common Ground between National Highways and Thurrock Council [Document Reference 5.4.4.12 (3)], to be submitted for Deadline 6. The proposal set out herein seeks to address Thurrock Council's concerns about the timing of replacement land where feasible.
- 4.1.4 Ron Evans Memorial Field is located south-west of the A13/A1089 junction in the Orsett ward, Thurrock. There are other publicly accessible green spaces located nearby Ron Evans Memorial Field. For example, King George's Field (Daisy Field) is located off Blackshots Lane approximately 500m (at the closest point) south of Ron Evans Memorial Field and comprises approximately 22.6 hectares of parkland including play areas.
- 4.1.5 The Applicant has already provided £100,000 of funding to Thurrock Council through the Designated Funds Programme for the development of masterplans to enhance key sites close to the Project, including King George's Field (Daisy Field) (Item 2.1.280 of the Statement of Common Ground between National Highways and Thurrock Council [REP3-092]). This is not mitigation required for the Project but has been agreed by the Applicant to enhance the legacy of the Project in Thurrock.
- 4.1.6 Approximately 6.24 hectares of Ron Evans Memorial Field is outside of the Order Limits for the Project and would remain accessible to the public for the duration of works. There is already a commitment in Table B.1 of the oTMPfC [REP5-056] to maintain footpath access between Long Lane and Ron Evans Memorial Field via existing route (of Footpath 97) or by temporary diversion around the working area, except where short-term closures are required for safety reasons. This is secured under Schedule 2 Requirement 10 (Traffic management) of the dDCO [REP5-024].

# 4.2 Opportunities and constraints

4.2.1 The southern area of replacement land (Work No. OSC6) for Ron Evans Memorial Field is constrained during the construction period. The land is needed by the Project for temporary overhead line diversion (Work No. OHT6),

- overhead line diversion works (Work Nos. OH6 and OH7), installation or diversion of underground utilities (Work No. MU56), the establishment of a construction compound for main works (Work No. CA8A) and the temporary installation or diversion of underground multi-utilities connections for the construction area Work No. CA8 (Work No. MUT20) and temporary access to Long Lane ULH (Work No. ULH8) refer to Sheet 29 of the Works Plans (Volume C) Composite [REP5-020] and Sheet 29 of the Temporary Works Plans (Volume C) [REP5-022]. It would not be safe to make this area of replacement land publicly accessible before the completion of works.
- 4.2.2 The northern area of replacement land (Work No. OSC7) is less constrained during the construction period. Approximately 0.21 hectares of this land (Work No. OSC7) is needed for the installation or diversion of underground utilities (Works Nos. MU54 and MU57) (refer to Sheets 29 and 33 of the Works Plans (Volume C) Composite [REP5-020]) and thereafter would be landscaped and made publicly accessible as replacement land for Ron Evans Memorial Field. These works are low impact in nature (trenchless installation of multi-utility corridors beneath the A13) and the control measures in the CoCP [REP5-048] are sufficient to manage any potential for construction impacts on people using the rest of the replacement land (Work No. OSC7), should the two occur at the same time.
- Figure 4.1 shows the works that the replacement land is needed for during construction. It should be read in conjunction with Plates D.5 and D.6 of Appendix D [REP3-108], the Special Category Land Plans [REP4-022] to REP4-026], the Works Plans [REP4-034] to REP4-040, REP5-018 and REP5-020] and the Temporary Works Plans [REP4-082, REP4-084, REP5-022].

Figure 4.1 Ron Evans Memorial Field – replacement land opportunities and constraints



- 4.2.4 This leaves approximately 3.3 hectares of replacement land in the north (Work No. OSC7) that could be laid out and made publicly accessible in advance of the timescales anticipated in Appendix D. Footpath access to this land is already secured under the oTMPfC [REP5-056], as described in paragraph 4.1.6 above.
- 4.2.5 Therefore, the Applicant has introduced a new commitment (SACR-014) in the SACR [**Document Reference 7.21 (4)**] submitted at Deadline 6 to address Thurrock Council's concerns about the timing of replacement land for Ron Evans Memorial Field, as follows:

"The Contractor shall landscape and make available for public access no less than 33,000 sqm of the replacement open space (Work No. OSC7) for Ron Evans Memorial Field (shown on Sheets 29 and 33 of the Special Category Land Plans (Volume C)) in accordance with the Environmental Masterplan, outline Landscape and Ecology Management Plan and Design Principles, before public access to the existing open space within the Order Limits (plots 29-09, 29-03, 29-02, 29-04, 29-283, 29-282, 33-35 and 33-19 on Sheets 29 and 33 of the Special Category Land Plans (Volume C)) is restricted. Works Nos. MU57 and MU54 shall be fenced/hoarded off in accordance with the Code of Construction Practice to assist public access over the surrounding 33,000 sqm of replacement open space, in the event the two occur at the same time. Footpath access between Long Lane and the retained area of open space (located outside the Order Limits) and replacement open space to its north located within the Order Limits (Work No. OSC7) shall be retained via the existing route of FP97 or by temporary diversion around the working area for Long Lane Utility Logistics Hub (Work No. ULH8), except where short-term closures are required for safety reasons, in accordance with the outline Traffic Management Plan for Construction."

- 4.2.6 The existing Ron Evans Memorial Field (including land within and outside of the Project Order Limits) comprises approximately 22 hectares of open space. The new SACR commitment would result in an area almost half of this (approximately 9.5 hectares, made up of the open space outside of the Order Limits plus the 33,000 sqm subject to the new SACR commitment) remaining publicly accessible at all times during the construction period. After which, the replacement land, which Thurrock Council accepts is greater in area and of acceptable quality, would be laid out in full and made publicly accessible. The new commitment does not preclude more replacement land being made publicly accessible before the timescales anticipated in Appendix D once a detailed design and construction programme are available for the Project, should it be appropriate.
- 4.2.7 The Applicant has provided for a new route for walkers, cyclists and horse riders (Work No. 7F, shown on Sheets 29 and 33 of the Works Plans (Volume C) Composite [REP5-020]) through Ron Evans Memorial Field, as proposed, to improve connectivity between it and King Georges Field (Daisy Field) at the request of Thurrock Council. The northern replacement land (Work No. OSC7), including land subject to the new SACR commitment, may be accessed from Blackshots Lane subject to Thurrock Council bringing forward the onward connection necessary, outside of the

Order Limits. However, the commitment to lay out and make publicly accessible some of the northern replacement land does not require access from Blackshots Road because access during construction from Long Lane via the retained open space outside of the Order Limits is already secured.

# 5 Orsett Fen

#### 5.1 Context

- 5.1.1 Paragraph D.5.61(a) of Appendix D [REP3-108] states, based on the preliminary construction programme for DCO "...the replacement land [for Orsett Fen] is anticipated to become available for use five years after the existing Orsett Fen is impacted by the Project".
- 5.1.2 The existing common land is owned by the Orsett Fen Rights Holders. The 303 rights in common are split between the Orsett Fen Rights Holders as follows: CH Cole (273), John Wordley (12.5), E & K Benton (10) and Thurrock Council (7.5). None of the rights holders have raised the timing of replacement land for Orsett Fen with the Applicant.
- Orsett Fen replacement common land (Item 2.1.14 of the Statement of Common Ground between National Highways and Cole Family [Document Reference 9.46 (2)], submitted at Deadline 6) is a matter under discussion with the Cole Family, who are majority rights holder and tenant farmer of the common.
- 5.1.4 Furthermore, Natural England, have confirmed (Item 2.1.14 of the Statement of Common Ground between National Highways and Natural England [REP5-038]) the proposed replacement land for Orsett Fen "would be no less advantageous to the public and those with rights of common than the existing Common Land provision".
- 5.1.5 Orsett Fen common land is currently cultivated for agricultural use and is subject to public access rights under section 193 of the Law of Property Act 1925. Given the land is farmed, public access over it is generally limited to Bridleway 219 along the Mardyke and Footpath 90, which runs through the centre of the common land.
- 5.1.6 There is already an existing commitment (SACR-001) in the SACR [REP5-060] that requires the Applicant "during the construction phase, and where it has temporary possession of the land identified as Fen land A and Fen land B in the DCO or has otherwise acquired that land, not [to] prevent public access to that land unless the prevention of public access is reasonably required for (i) construction purposes; or (ii) health and safety purposes; or (iii) to allow for the protection of any environmental mitigation".

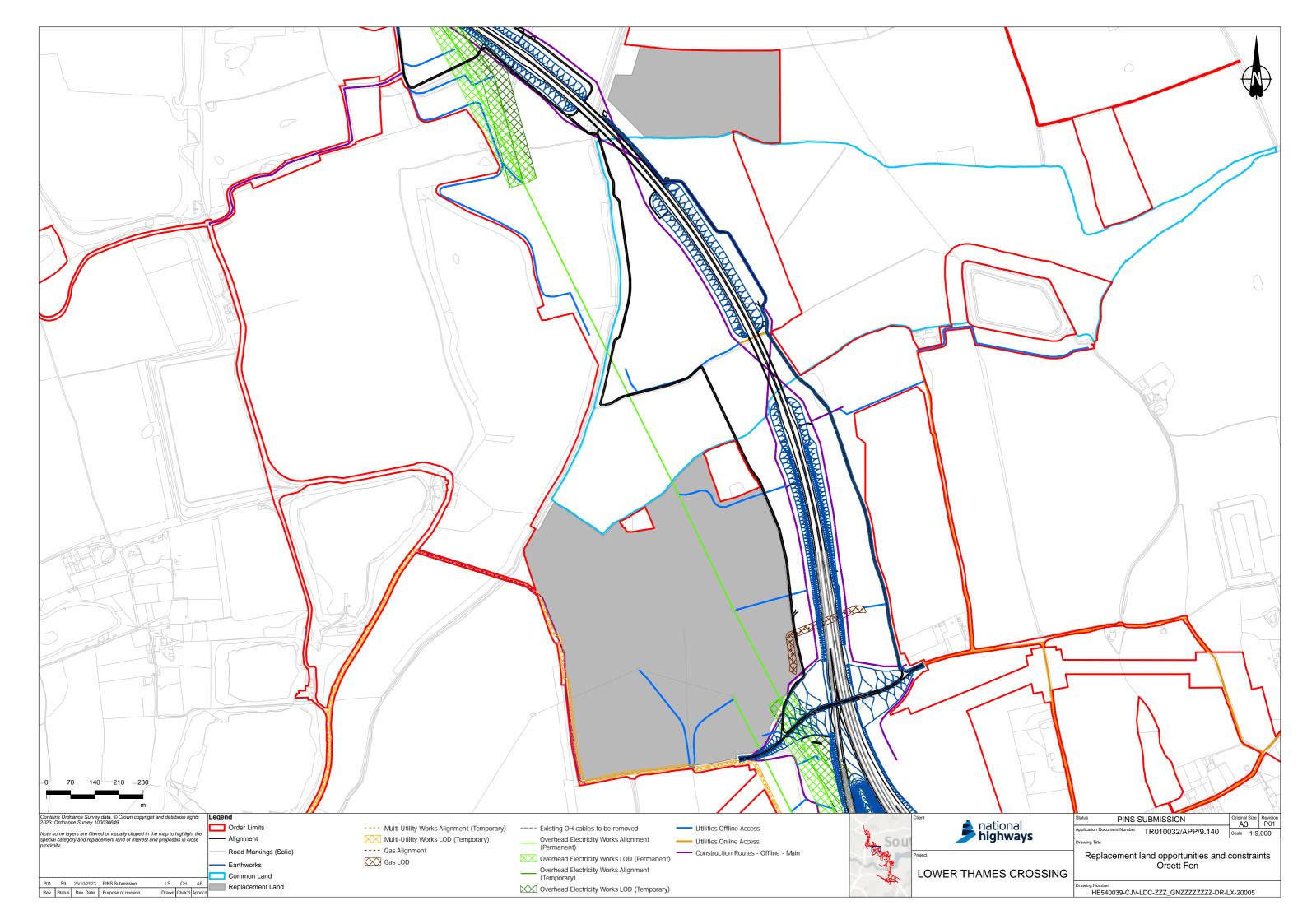
# **5.2** Opportunities and constraints

5.2.1 The southern replacement land (Work No. OSC8) for Orsett Fen is constrained during the construction period. The land is needed by the Project for the installation of a high-pressure gas pipeline (Work No. G7), the diversion of overhead lines (Work Nos. OH6 and OH7) including the installation of conductors, insulators and fittings between pylons (Sheets 33, 34 and 35 of Works Plans (Volume C) Composite [REP5-020]), utilities access routes to facilitate these works and the temporary installation or diversion of underground utilities connections (Work No. MUT24) for the main works construction compound south of Stifford Clays Road (Work No. CA9) (Sheets 33, 34 and 35 of Temporary Works Plans (Volume C)

[REP5-022]). In addition, the western boundary of the replacement land adjoins an offline main works construction access (Sheets 34 and 35 of Temporary Works Plans (Volume C) [REP5-022]). It would not be safe to make this area of replacement land (Work No. OSC8) publicly accessible before the completion of works.

Figure 5.1 shows the works that the replacement land is needed for during construction. It should be read in conjunction with Plates D.7 and D.8 of Appendix D [REP3-108], the Special Category Land Plans [REP4-022] to REP4-026], the Works Plans [REP4-034] to REP4-040, REP5-018 and REP5-020] and the Temporary Works Plans [REP4-082, REP4-084, REP5-022].

Figure 5.1 Orsett Fen – replacement land opportunities and constraints



The northern replacement land (Works No. OSC9) is unconstrained by works. However, given the timing of replacement land has not been raised with the Applicant to date, the existing common land is currently farmed with limited public access beyond the Public Rights of Way and public access over the vast majority of the existing common land will be maintained in accordance with SACR-001 in so far as it is safe, the Applicant does not propose to make publicly accessible any replacement land for Orsett Fen in advance of the timescales in Appendix D.

# 6 Thames Chase (Broadfields) and Thames Chase Forest Centre

#### 6.1 Context

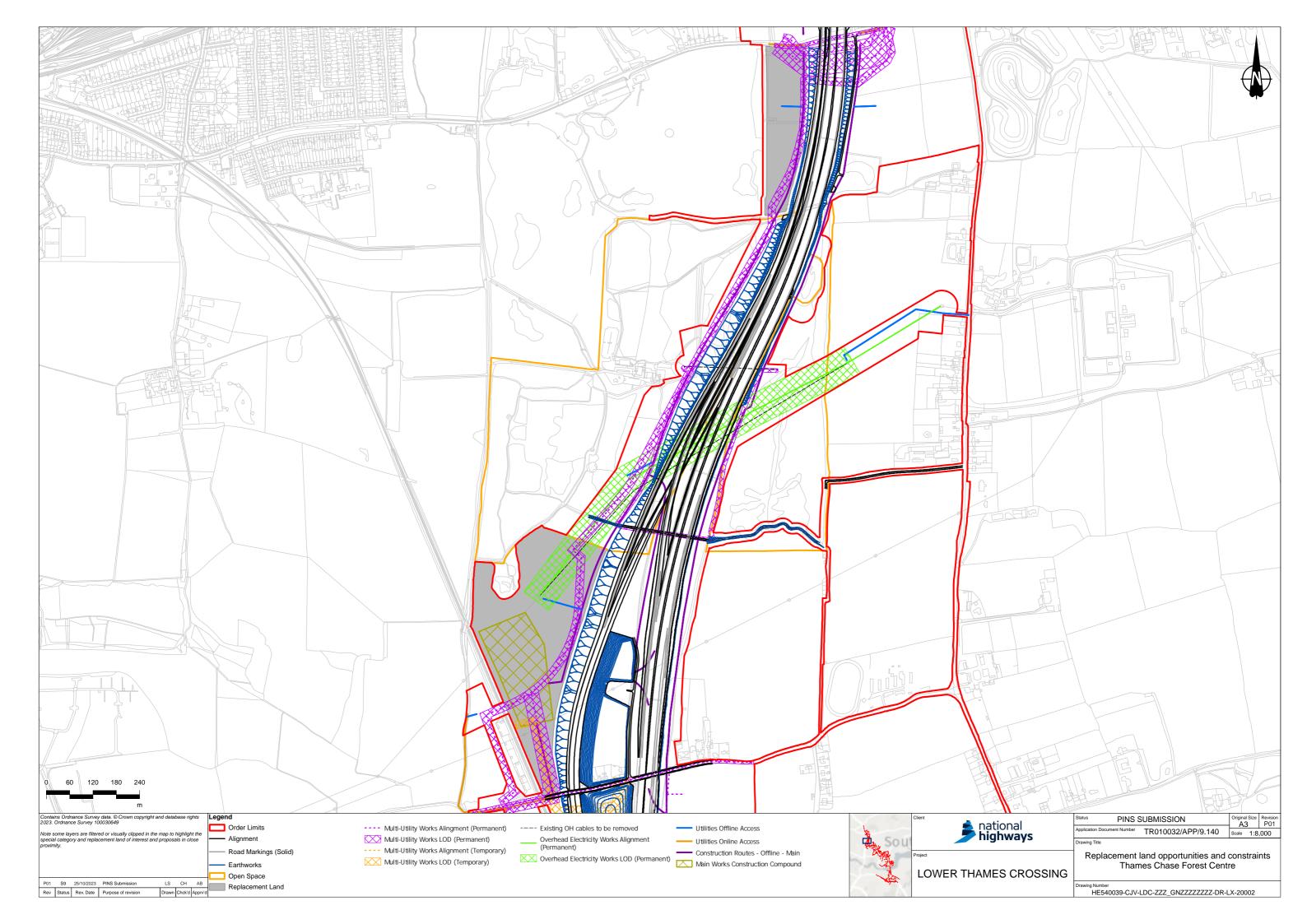
- 6.1.1 Paragraph D.5.76(a) of Appendix D [REP3-108] states, based on the preliminary construction programme for DCO "...the replacement land [for Thames Chase (including Thames Chase Forest Centre)] is anticipated to become available for public use five years after the existing [open space] is impacted by the Project".
- 6.1.2 Forestry England, landowner and operator of the open space at Thames Chase (Broadfields), "...agrees that the replacement land as included in the DCO application, measuring approximately 156,093 sqm (as shown on Special Category Land Plan Sheets 42, 43 and 44) is no less advantageous and no less in area, in accordance with s.131 & s.132 of the Planning Act 2008". This will be reflected in an update to the Statement of Common Ground between National Highways and Forestry England to be submitted at Deadline 7.
- 6.1.3 Essex County Council, landowner of Thames Chase Forest Centre which sits at the centre of the Thames Chase (comprising buildings and a car park) and is leased to Thames Chase Trust, have also agreed that the replacement land meets the relevant statutory tests. Item 2.1.34 of the Statement of Common Ground between National Highways and Essex County Council will be updated for Deadline 7 to reflect this.
- 6.1.4 Thames Chase is recognised as an open space of high quality and value and one of the most popular recreational sites in the area in the London Borough of Havering Open Space Assessment Report (Knight, Kavanagh & Page, 2016).
- The Project Order Limits include approximately 18.89 hectares of open space at Thames Chase, which amounts to approximately 33.9% of the total existing open space site. Open space at Thames Chase outside of the Order Limits for the Project would remain accessible to the public during construction. There is already a commitment in Table B.1 of the oTMPfC [REP5-056] to maintain access between Thames Chase Forest land either side of the M25 via the undesignated recreational route (Thames Chase Culvert) or a suitable alternative prior to closure of the existing route during construction.

# 6.2 Opportunities and constraints

6.2.1 The southern replacement land (Work No. OSC10) for Thames Chase is constrained during the construction period. The land is needed by the Project for the installation or diversion of underground utilities (Works Nos. MU72 and MU77), overhead line diversion works (Work No. OH8), the establishment of the Ockendon Road main works construction compound (Work No. CA15A), temporary installation or diversion of underground utilities connections for that compound (Work No. MUT31) as well as main works construction access routes to it – refer to Sheets 42 and 43 of the Works Plans (Volume C) Composite [REP5-020] and Sheets 42 and 43 of the Temporary Works Plans (Volume C) [REP5-022]. It would not be safe to make this area of replacement land publicly accessible before the completion of works.

- 6.2.2 The northern replacement land (Work No. OSC11) is also constrained during construction but to a lesser extent. The land is needed by the Project for the construction of a new flood compensation area (Work No. FCA6), installation or diversion of underground utilities (Work Nos. MU72 and MU79), a utilities access route, a working area for the construction (earthworks) of the new road (Works Nos. 9D and 9E) and a main works construction access route refer to Sheet 44 of the Works Plans (Volume C) Composite [REP5-020], Sheet 44 of the Temporary Works Plans (Volume C) [REP5-022] and page 10 of ES Figure 2.5: Construction Information [REP4-130]. The wording of the new SACR commitment accounts for this.
- Figure 6.1 shows the works that the replacement land is needed for during construction. It should be read in conjunction with Plates D.9 and D.10 of Appendix D [REP3-108], the Special Category Land Plans [REP4-022] to REP4-026], the Works Plans [REP4-034] to REP4-040, REP5-018 and REP5-020] and the Temporary Works Plans [REP4-082, REP4-084, REP5-022].

Figure 6.1 Thames Chase Forest Centre (Broadfields) – replacement land opportunities and constraints



- As a result of a further assessment of the timing of replacement land for Thames Chase, the Applicant has identified an opportunity to lay out and make publicly available some of the northern replacement land (Work No. OSC11) earlier than anticipated in Appendix D. The Applicant has introduced a new commitment (SACR-015) in the SACR [Document Reference 7.21 (4)] submitted at Deadline 6 to this effect, as follows:
  - "The Contractor shall landscape and make available for public access no less than 16,000 sqm of the replacement open space (Work No. OSC11) for Thames Chase (shown on Sheet 44 of the Special Category Land Plans (Volume C)) in accordance with the Environmental Masterplan, outline Landscape and Ecology Management Plan and Design Principles by the end of the third year of construction, following completion of the earthworks for the new road (Works Nos. 9D and 9E) and new flood compensation area (Work No. FCA6). Works Nos. MU72 and MU79 shall be fenced/hoarded off in accordance with the Code of Construction Practice to assist public access over the surrounding replacement open space, in the event the two occur at the same time."
- 6.2.5 The 16,000 sqm of replacement land that is the subject of the new SACR commitment could be accessed from St Mary's Lane. It would provide a connection through to the existing open space at Thames Chase via Bridleway 289 within the Order Limits for the Project, which is not affected during construction.
- 6.2.6 Thames Chase (including land within and outside of the Project Order Limits) comprises approximately 55.74 hectares of open space. The new SACR commitment would result in approximately 69% of the open space site (made up of the open space outside of the Order Limits plus the 16,000 sqm subject to the new SACR commitment) remaining publicly accessible at all times during the construction period.

# 7 Folkes Lane Woodland

#### 7.1 Context

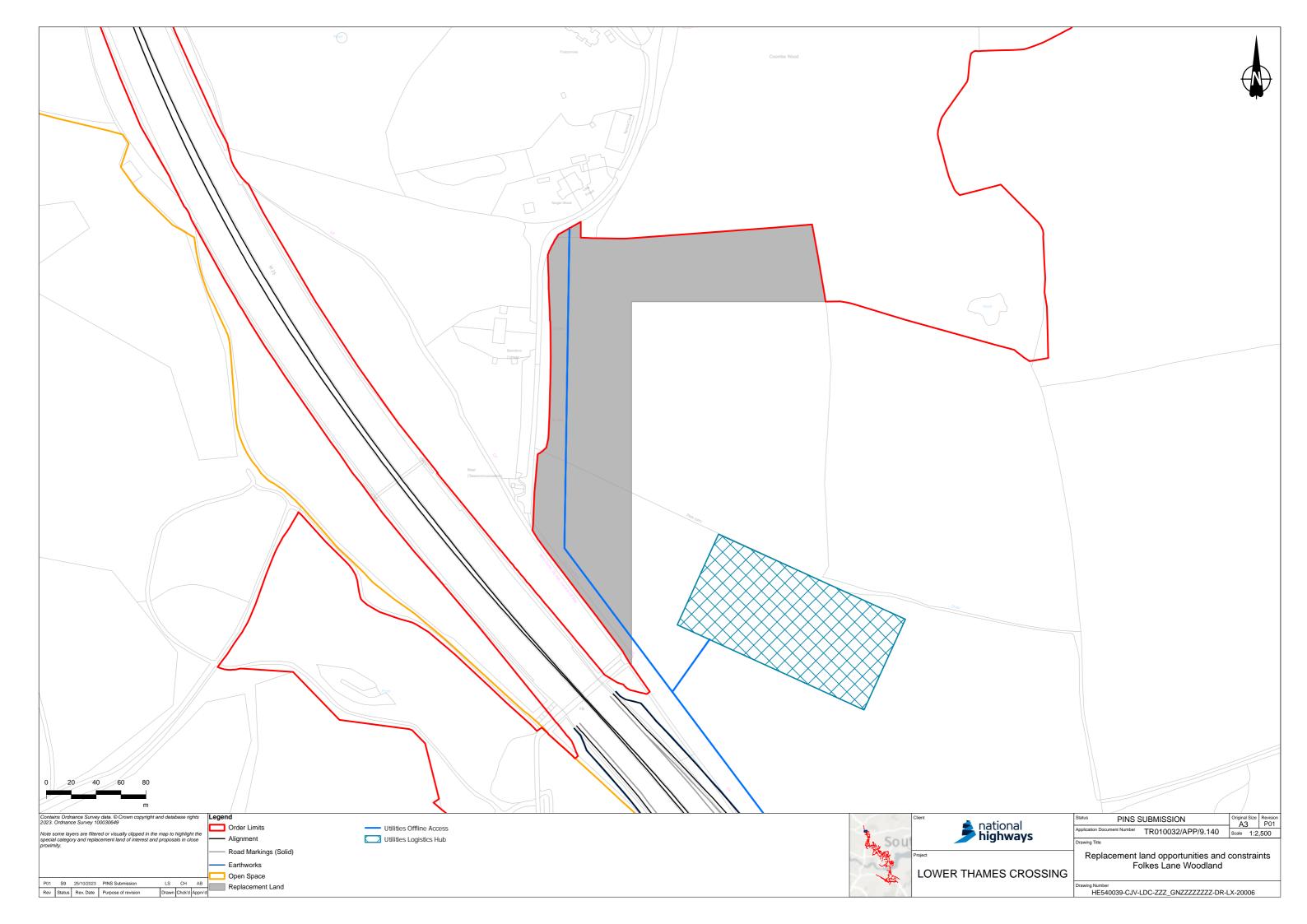
- 7.1.1 Paragraph D.5.94(a) of Appendix D [REP3-108] states, based on the preliminary construction programme for DCO "...the replacement land [for Folkes Lane Woodland] is anticipated to become available for public use four years after the existing Folkes Lane Woodland is impacted by the Project".
- 7.1.2 Forestry England, landowner and operator of Folkes Lane Woodland, "...agrees that the replacement land as included in the DCO application, measuring approximately 29,179 sqm (as shown on Special Category Land Plan Sheet 47) is no less advantageous and no less in area, in accordance with s.131 & s.132 of the Planning Act 2008". This will be reflected in an update to the Statement of Common Ground between National Highways and Forestry England to be submitted at Deadline 7.
- 7.1.3 Folkes Lane Woodland is recognised as an open space of high quality and value in the London Borough of Havering Open Space Assessment Report (Knight, Kavanagh & Page, 2016).
- 7.1.4 The Project Order Limits include approximately 4.29 hectares of open space at Folkes Lane Woodland. This includes approximately 0.37 hectares of open space (Area C on Plate D.11 of Appendix D [REP3-108]) fenced off for maintenance of UK Power Networks' existing asset in this location, and so not currently used by the public for recreational purposes. Approximately 45.5 hectares of the open space at Folkes Lane Woodland is located outside of the Order Limits, which amounts to approximately 90.6% of the total existing open space. This would remain accessible to the public during construction.
- 7.1.5 The Applicant owns the land proposed for replacement land (Work No. OSC12) west of the M25 at Hole Farm, which is not currently publicly accessible beyond Footpath 110/272. It would, subject to the necessary planning permissions being granted by Brentwood Borough Council as local planning authority, form part of the wider community woodland at Hole Farm that is proposed by Forestry England in partnership with National Highways.

# 7.2 Opportunities and constraints

- 7.2.1 The replacement land (Work No. OSC12) is constrained during the construction period only in so much as it may be needed to access Beredens Lane ULH (Work No. ULH01) for emergency vehicle access and by use of motorway-prohibited traffic including pedestrians, holders of provisional motorcycle or car licences, riders of motorcycles under 50cc, cyclists and horse riders. This is set out at paragraph 4.2.5 of the oTMPfC [REP5-056] and shown on Sheet 47 of the Temporary Works Plans [REP5-022].
- 7.2.2 Table 2.11 of Environmental Statement Chapter 2: Project Description [APP-140] confirms Beredens Lane ULH is anticipated to be in place for 13 months. The access would be required for the same period.

7.2.3 Figure 7.1 shows the temporary work that the replacement land is needed for during construction. It should be read in conjunction with Plates D.11 and D.12 of Appendix D [REP3-108], the Special Category Land Plans [REP4-022] to REP4-026] and the Temporary Works Plans [REP4-082, REP4-084, REP5-022].

Figure 7.1 Folkes Lane Woodland – replacement land opportunities and constraints



- 7.2.4 The replacement land (Work No. OSC12) could be accessed from the open space at Folkes Lane Woodland outside of the Order Limits during construction via the existing footbridge over the M25 along the route of Bridleway 119 / Footpath 110/272. Measures for managing the interface between public access to the replacement land and motorway-prohibited traffic accessing Beredens Lane ULH, in the event that the two are in place at the same time, would be developed in consultation with stakeholders (prescribed at Table 2.1 of the oTMPfC [REP5-056]) as part of the Traffic Management Plan secured under Schedule 2 Requirement 10 (Traffic management) of the dDCO [REP5-024] substantially in accordance with the oTMPfC.
- 7.2.5 The replacement land (Work No. OSC12) is needed by the Project for ancient woodland planting (Work No. E50). Public access over the replacement land is compatible with its environmental objectives. Tree guards would be used to protect seedlings and whips as necessary in accordance with commitment LV004 in the Register of Environmental Actions and Commitments within the CoCP [REP5-048].
- As a result of a further assessment of the timing of replacement land for Folkes Lane Woodland, the Applicant has identified an opportunity to lay out and make publicly accessible the replacement land (Work No. OSC12) earlier than anticipated in Appendix D. The Applicant has introduced a new commitment (SACR-016) in the SACR [Document Reference 7.21 (4)] submitted at Deadline 6 to this effect, as follows:
  - "The Contractor shall landscape and make available for public access the replacement open space (Work No. OSC12) for Folkes Lane Woodland (shown on Sheets 46 and 47 of the Special Category Land Plans (Volume C)) in accordance with the Environmental Masterplan, outline Landscape and Ecology Management Plan and Design Principles, before public access to the existing open space at Folkes Lane Woodland within the Order Limits (plots 46-04, 46-06, 46-55, 46-08, 46-11, 46-12, 46-09, 46-13, 46-26 and 47-26 on Sheets 46 and 47 of the Special Category Land Plans (Volume C)) is restricted. The replacement land (Work No. OSC12) is accessible from the retained open space at Folkes Lane Woodland (located outside of the Order Limits) via the M25 overbridge. Any temporary crossing of the Utilities Offline Access for Beredens Lane ULH (for emergency vehicles and motorway-prohibited traffic including pedestrians, holders of provisional motorcycle or car licences, riders of motorcycles under 50cc, cyclists and horse riders) to access the replacement land shall be developed in accordance with the outline Traffic Management Plan for Construction."

# 8 Conclusion

- 8.1.1 The Applicant has sought to positively respond to comments from Thurrock Council regarding the timing of replacement land for Ron Evans Memorial Field, for which they are landowner.
- 8.1.2 The Applicant has undertaken a further assessment of the timing of replacement land for Ron Evans Memorial Field, as well as other Special Category Land where replacement land is proposed, to identify opportunities to make it, or parts thereof, publicly accessible in advance of the timescales in Appendix D [REP3-108], subject to construction requirements and safety considerations.
- 8.1.3 This has resulted in the introduction of three new SACR [Document Reference 7.21 (4)] commitments upon the Contractor(s) to lay out and make publicly available some replacement land for Ron Evans Memorial Field (SACR-014), Thames Chase (SACR-015) and Folkes Lane Woodland (SACR-016) either before public access to the existing Special Category Land is restricted or by a point in the construction programme, where constraints necessitate it.
- 8.1.4 Where it is not feasible or appropriate to commit now to laying out and making publicly accessible replacement land earlier than anticipated, the reasons for this have been set out. This, however, does not preclude replacement land being made publicly accessible ahead of the timescales in Appendix D once a detailed design and construction programme are available for the Project, in accordance with the provisions set out under article 40 of the dDCO [REP5-024].
- 8.1.5 The Applicant maintains that in all cases the replacement land would be larger in quantity, equally or more accessible, useful and attractive, and its overall quality would be comparable or better in accordance with paragraph 5.181 of the NPSNN (Department for Transport, 2014), even excluding consideration of these additional measures. For those reasons, it would be no less advantageous to the persons in whom it is vested, the persons, if any, entitled to rights, and to the public. Moreover, the benefits of the Project (including need) outweigh the loss of existing Special Category Land, taking into account the proposed replacement land.
- 8.1.6 The quantitative (sqm) and qualitative design of replacement land has taken into account the period of time that Special Category Land (to the extent it's affected by the Project) would not be accessible to the public. The measures proposed in this Addendum are therefore without prejudice to the findings of the assessments in Appendix D.
- 8.1.7 The Project would generate a positive legacy of green infrastructure and open space in the region, both by providing replacement land that is larger in area and of an equal or better quality than the existing Special Category Land affected by the Project, to the extent it needs replacing, as well as by providing two new outdoor recreational sites, at Tilbury Fields (OSC5) in Thurrock and Chalk Park (Work No. OSC4) in Gravesham, that total approximately 90 hectares.

# References

Department for Communities and Local Government (2013). Planning Act 2008 - Guidance related to procedures for the compulsory acquisition of land.

Department for Transport (2014). National Policy Statement for National Networks.

Knight, Kavanagh & Page (2016). London Borough of Havering Open Space Assessment Report.

Planning Inspectorate (2022). A417 Missing Link – Examining Authority's Report of Findings and Conclusions and Recommendation to the Secretary of State for Transport. Accessed October 2023. https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010056/TR010056-001892-20221116\_TR010056\_A417\_Missing\_Link\_Recommendation\_Report.pdf.

# Glossary

Torm	Abbroviation	Evaluation
Term	Abbreviation	Explanation
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.
Ancient woodland	AW	Designated land that has been continuously wooded since at least 1600AD. Ancient woodland is regarded as irreplaceable habitat and is protected by the National Planning Policy Framework.
Code of Construction Practice	СоСР	Contains control measures and standards to be implemented by the Project, including those to avoid or reduce environmental effects.
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.
Development Consent Order	DCO	Means of obtaining permission for developments categorised as Nationally Significant Infrastructure Projects (NSIP) under the Planning Act 2008.
Development Consent Order application	DCO application	The Project Application Documents, collectively known as the 'DCO application'.
Draft Development Consent Order	dDCO	The Project's draft Development Consent Order [REP3-077].
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.
National Highways		A UK government-owned company with responsibility for managing the motorways and major roads in England. Formerly known as Highways England.
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.
Operation		Describes the operational phase of a completed development and is considered to commence at the end of the construction phase, after demobilisation.
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.

Term	Abbreviation	Explanation
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.
Special Category Land		Valuable high-quality landscapes designated by a local authority, which are the result of a combination of natural features such as vegetation cover, relief and the presence of water.
Thames Chase Forest Centre		The Forest Centre is at the heart of the Community Forest and includes a visitor centre, café and the surrounding woodlands. The Forest Centre lies south of M25 junction 29, in Upminster.
Thames Chase Trust		The Thames Chase Trust is an environmental charity managing and promoting the Thames Chase Community Forest.
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.
Utility Logistics Hub	ULH	Temporary compounds required for specific utility works. They would receive, store and distribute the plant machinery and materials for specific utility works. They may include offices, welfare facilities, refuelling stations, security hubs, vehicle/wheel washing sites and parking areas similar in size to the main works satellite compounds.
Walkers, cyclists and horse riders	WCH	Walkers, cyclists and horse riders.

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