

Lower Thames Crossing

9.129 Post-event submissions, including written submission of oral comments, for CAH3

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1 Introduction

Please note: this document contains National Highways' (the Applicant's) oral summary of evidence and post-hearing comments on submissions made by others at Compulsory Acquisition Hearing 3 (CAH3) held on 16 October 2023.

Where the comment is a post-hearing comment submitted by the Applicant, this is indicated. This document uses the headings for each item in the agenda published for CAH3 [[EV-050](#)] by the Examining Authority.

1.1 Welcome, introductions, arrangements for the Hearing

- 1.1.1 National Highways (the Applicant), which is promoting the A122 Lower Thames Crossing (the Project), was represented at Compulsory Acquisition Hearing 3 (CAH3) by Mr Andrew Tait KC (AT).
- 1.1.2 The following persons were also introduced to the Examining Authority (ExA):
 - a. Isabelle Tafur, Counsel (IT)
 - b. Mustafa Latif-Aramesh, BDB Pitmans, Partner (MLA)
 - c. Suki Coe, DCO and Planning Manager (SJC)
 - d. Tim Wright, Head of Consents (TW)
 - e. Sarah Collins, Head of Land Property and Compensation (SC)

2 Purpose of Compulsory Acquisition Hearing

2.1.1 The Applicant did not make any submissions under this Agenda item.

3 ExA Questions on Individual Site-Specific Representations

3.1 Item 3(a) Gravesham Borough Council

- 3.1.1 Gravesham Borough Council (GBC) raised a number of issues with regards to the proposed permanent acquisition of plot 13-09, which is land that comprises of a disused nine-hole golf course, adjacent to the Cascades Leisure Centre.
- 3.1.2 In response to the submissions made by GBC, AT clarified on behalf of the Applicant that the land proposed as a replacement facility for the compulsory acquisition of plot 13-09 is greater in size than that which is being compulsorily acquired; being 6.3ha for plot 13-09 and 7.76ha for the replacement facility.
- 3.1.3 AT on behalf of the Applicant explained that, in the Applicant's view, the replacement land was suitable in size and proximity for replacement facilities.
- 3.1.4 AT called on Suki Coe (SJC) to make submissions as to the current configuration envisaged for the replacement land and its suitability as replacement land. SJC noted that the Applicant had looked very carefully at how the land proposed for the replacement facility could be used for a replacement nine-hole course. SJC noted that in conversations with GBC and Swing Rite (the current operator of the driving range located next to Cascades Leisure Centre) a variety of different configurations had been discussed and that desire for flexibility has largely led GBC to the proposed design principle which secures flexibility in its provision. SJC explained that the latest discussions had taken place on 12 October 2023 and that the Applicant was awaiting a response to the proposals put forward as part of those discussions from GBC.
- 3.1.5 AT explained that, through the Applicant's discussions with both GBC and Swing Rite, it sought to understand their ambitions for the site. AT noted that the Applicant had factored those ambitions into the controls it had put forward with the Application. Specifically, while Section 5.13 of the outline Landscape and Ecology Management Plan [REP4-140] and also clause S3.17 of the Design Principles [REP4-146] expressly allow a replacement recreational facility to be provided, this is to be developed in consultation and coordination with GBC. This would allow either the Applicant's proposals or the proposed ambitions of GBC and Swing Rite to be given effect. AT noted that these controls had been crafted specifically with flexibility in mind.
- 3.1.6 AT further explained that the Applicant considered that, in light of the detailed discussions that had been taking place (as is readily apparent from Annex B: Schedule of Negotiations of the Statement of Reasons [REP5-028]), and agreement was capable of being reached before the end of the examination. AT explained that the Applicant had paid for a study to be carried out to look at GBC's preferred configurations for the land around Cascades Leisure Centre and the replacement land. AT also noted that financial and other discussions were underway between the Applicant and GBC.
- 3.1.7 AT made it clear that the Applicant is committed to continuing its discussions with GBC and will reflect on the submissions of GBC with regards to spatial layout for the site. AT noted that the Applicant would regard Deadline 7 as a

target date for progressing the discussions and would provide an update to the ExA at that deadline.

- 3.1.8 **Post-hearing written submissions:** These are contained within and include:
- a. Section A.2 Hearing Action Point 1 – Cascades Leisure Centre Playing Fields and Golf Facilities
 - b. Section A.3 Land to the rear of Gravesend Golf Centre

3.2 Item 3(b) Port of London Authority

- 3.2.1 In response to the Port of London Authority's (PLA's) submission that the land subject to compulsory acquisition under the draft Development Consent Order (dDCO) [REP5-024] is statutory undertaker land engaged under section 127 of the Planning Act 2008, IT responded to confirm that this was also the view of the Applicant. However, IT went on to explain that it is the Applicant's view that there is no serious detriment to the PLA as a statutory undertaker in light of the Protective Provisions contained in Schedule 14, Part 8 of the dDCO, which have been negotiated and are in a near-agreed position with the PLA, and the fact that the permanent acquisition was proposed under the navigable channel and, otherwise, the Project is limited in the extent of its interference in the River Thames.
- 3.2.2 IT disputed the assertion by the PLA that the Applicant has not engaged in negotiations with regards to the compulsory acquisition of land owned by the PLA. IT explained that the Applicant has sought to acquire the land by way of agreement. IT acknowledged that there is a dispute between the parties with regards to the value of the subsoil land over which compulsory acquisition is sought. IT explained that the Applicant had engaged the Valuation Office Agency (VOA) which advises the Applicant (and other public bodies) on the land value. The VOA made an offer to the PLA on behalf of the Applicant. IT noted that this offer was made in March 2022 and only responded to by the PLA in July 2023. IT explained that the Applicant's position over the land value is informed by the advice it has received from the VOA.
- 3.2.3 The Applicant's efforts to reach agreement have been genuine, but the position over market value was an impediment to reaching agreement. However, that issue was not a matter for the Examination and could, if no agreement was found, be resolved by a referral to the Lands Tribunal. IT agreed with the ExA that there is a body of precedent on valuations (e.g. Silvertown Tunnel, Thames Tideway) and confirmed that the Applicant's view was that the valuation presented to the PLA by the VOA is in line with precedent. IT agreed that, to move the issue forward, the Applicant would be content to 'build a fence around quantum' as proposed by the ExA.

[Post-hearing note: please see response to Action Point 4 of CAH4 for an update on this matter]. In relation to the temporary possession of land owned by the PLA and the concerns relating to "paused" or discontinued works, the Applicant agreed with the submission from the PLA that a satisfactory position had been reached and this would be reflected in the next iteration of the dDCO. In response to the ExA's question as to whether the proposed amendments related to temporary possession in general and therefore had wider application

than the PLA in application, IT explained that the drafting proposed was to be included in the Protective Provisions for the PLA, given the specific nature of the PLA's functions and acknowledging the unique function and nature of the River Thames.

[Post-hearing note: on a temporary possession provision of more general application, the Applicant would note that it is required under the terms of the dDCO to pay compensation in respect of land temporarily possessed. In the event of 'paused' or 'discontinued' works, the Applicant would need to – in line with its licence obligations – ensure value for money. In circumstances where works are discontinued and there is no chance of works continuing, as a reasonable public body, the Applicant would appropriately give up temporary possession.]

3.3 Item 3(c) Port of Tilbury London Ltd

3.3.1 AT responded on behalf of the Applicant and agreed with the position set out by the Port of Tilbury London Limited (PoTLL) that there was agreement on a number of points of principle between the parties and that good progress had been made to date with regards to the compulsory acquisition of land and temporary possession of land owned by the PoTLL. In particular, AT noted that there are four leases for temporary land use agreed over 28 plots, an option agreement to permanently acquire seven plots and an agreement to remove two parcels of hardstanding from plot 21-10. In addition, AT noted that it is anticipated that a framework agreement would be entered into to sit alongside the land agreements, which the Applicant is optimistic will be agreed before the end of the Examination.

3.3.2 AT explained that further to these agreements there are also Protective Provisions being offered under the dDCO to the PoTLL which are the subject of ongoing discussion. AT explained that the Applicant envisages that agreement will be reached on these by Deadline 7, with the possible exception of two matters that are currently in dispute and which it was likely would need to form part of the ExA's considerations in preparing its Recommendation Report to the Secretary of State. AT described the two matters being as follows:

- a. PoTLL's request that their consent needs to be given for any temporary or permanent land take. AT explained that it is the Applicant's position that an approval function for PoTLL is already proposed in relation to all works within the operational port and that encompasses works on the land designated as part of the Thames Freeport (in the Tilbury area). In the Applicant's view, this was a strong protection that was sufficient in all circumstances. AT explained that going beyond approval for works, to approval over compulsory acquisition or land would potentially increase the risk to the Project.
- b. The second point of dispute is whether there should be any indemnity for the PoTLL for consequential losses. On this, AT explained the Applicant's position is that it does not consider this to be necessary and would go beyond what is appropriate in the circumstances.

**[Post-hearing note: for the Applicant’s position on these matters,
please see Annex B.2]**

- 3.3.3 AT confirmed that the Applicant was having regard to precedents in its negotiations, and also agreed with the suggestion of providing an update on the Framework Agreement by Deadline 8.
- 3.3.4 AT called on Dr Tim Wright (TW) to respond on the three main issues raised by PoTLL. The first issue TW explained was the relationship between leases entered into and the retention of the power to acquire the land compulsorily under the dDCO. TW explained this was to ensure that, were the lease to fail or in some way be terminated or non-enforceable, then the Applicant would still have the powers to deliver the Project. TW explained that the Applicant’s preference – as has been demonstrated in the work undertaken to date with the PoTLL – is to enter into leases or agreements rather than having to rely on the powers in the dDCO and will continue to seek to do so.
- 3.3.5 Secondly, TW responded to the comments made by the PoTLL with regards to the proposed conveyor from the Construction Materials and Aggregates Terminal (CMAT) to the northern tunnel entrance compound. TW explained that this was a complex engineering work for the Applicant’s designers to bring forward, acknowledging the constraints in the area. Nonetheless, the conveyor may be brought forward and TW explained that the Protective Provisions as drafted provide approval functions for PoTLL which are extensive and extend not only to the port land itself but over the wider Freeport area.
- 3.3.6 The ExA asked the Applicant to confirm whether the CMAT tenants were engaged by the Project and whether some form of tripartite agreement was needed to include their position. TW explained that, giving a commercial answer, then ‘yes’ the tenant is engaged. However, if the question related to whether the entity was an Interested Party in the Examination, TW advised that it was his understanding from colleagues that the Applicant does not consider the tenants to be an Interested Party. **[Post-hearing note: the Applicant can confirm Tarmac Trading Limited which operates the CMAT site, is not an Interested Party which has submitted a Relevant Representation. For the avoidance of doubt, this is distinct from the two Tarmac entities which are Interested Parties.]**
- 3.3.7 The third matter TW responded to related to ecology. The Applicant understands PoTLL’s position that no environmental mitigation or compensation should be placed on port land and their concerns over unintended cross-boundary movement of relevant species. TW explained that, with the exception of Work No. E14 (Tilbury Fields), the Applicant is not proposing to translocate species nor is proposing to otherwise use PoTLL’s land for environmental mitigation and that this position is being actively discussed with PoTLL with a view to reaching an agreement. TW noted that the framework agreement currently under negotiation was being explored as a means of providing comfort on this issue. TW also confirmed in response to a query raised by the ExA that the Applicant would look at boundary management principles and that these would form part of the discussions between the Applicant and PoTLL.

- 3.3.8 Lastly, TW confirmed that the Applicant would be happy to work with PoTLL to bring forward the document requested by the ExA which would explain what matters the framework agreement covers.
- 3.3.9 **Post-hearing written submissions:** These are contained within Annex B and include:
- a. Section B.2 Hearing Action Point 6 – PoTLL Protective Provisions

3.4 Item 3(d) Orsett Golf Club

- 3.4.1 The Applicant noted that Orsett Golf Club (OGC) has no in-principle objection to the Project.
- 3.4.2 OGC made submissions on three items of mitigation it was seeking in relation to the compulsory acquisition and temporary possession of land owned by OGC. The Applicant responded on all three items raised.
- 3.4.3 Firstly, with regards to the provision of screening of the road to the golf course, AT confirmed that the Applicant had been in discussions with OGC with regards to their request for the planting of screening. Further, AT advised that a specialist had been employed on behalf of the Applicant to undertake a site visit to ascertain whether the proposed location and mix of planting put forward by the OGC would have the desired benefits.
- 3.4.4 AT also confirmed that the Applicant has agreed in principle with OGC that planting can be undertaken prior to the main works being undertaken. However, the detail needed to be set out in an agreement. The Applicant would update the ExA on the progress of that agreement by Deadline 7.
- 3.4.5 Secondly, OGC requested that rabbit fencing be installed along part of the site boundary. In response, AT explained that the Applicant has agreed with OGC that rabbit fencing will be installed along the boundary as requested.
- 3.4.6 Lastly, OGC requested that an agreement be entered into with regards to the installation and maintenance of the proposed bat boxes on OGC land. AT explained that the installation and maintenance of bat boxes would take effect through a S253 agreement.
- 3.4.7 **Post-hearing written submissions:** These are contained within Annex C and include:
- a. Section C.2 Orsett Golf Club Progress Update

3.5 Item 3(e) The Mott Family

- 3.5.1 The Applicant responded on seven points following the submissions of Mr Holland on behalf of the Mott family.
- 3.5.2 The first response related to the proposed 'land swap' presented on Plate 13 of [\[AS-101\]](#), where it was suggested by the Mott family that instead of the land in Plot 22-40 being used for ecological mitigation that the land highlighted on Plate 13 [\[AS-101\]](#) be used. AT called on Mr Nick Clark (NC), the ecology lead for the Project, to respond on behalf for the Applicant. NC explained with reference to Environmental Statement Figure 8.1: Designated Sites [\[APP-390\]](#) in setting out that the Applicant had put forward was the most suitable proposal for ecological mitigation. NC explained that Low Street Pit is a key area of impact for the

Project and that the Project's alignment cuts straight through Low Street Pit which results in the total loss of Low Street Pit as a Local Wildlife Site. NC explained that this Local Wildlife Site supports a population of European Protected Species in the form of great crested newts (GCNs), holds a nationally important assemblage of terrestrial invertebrates and is a key area for reptiles.

- 3.5.3 NC explained that, in this context, the guidance published by the Chartered Institute of Ecology and Environmental Management (2018) has been followed by the Applicant. This guidance states that mitigation/compensation should be as close to the location of impact as possible. This is key in relation to the proposed mitigation site, and why the alternative proposed was not appropriate. NC explained that with regards to the GCNs, the Applicant has been working with Natural England for the last two to three years to develop a mitigation strategy. Further, a draft European Protected Species Mitigation Licence application [[APP-409](#) to [APP-413](#)] has been submitted for the GCNs to Natural England, for which a letter of no impediment to that application has been received.
- 3.5.4 NC explained that one of the key proposals agreed with Natural England was that each GCN population would be mitigated or compensated for within 250 metres of the impact. NC noted that the GCN population at Low Street Pit Local Wildlife Site (LWS) was the only location for the Project where the agreed 250m has not been able to be accommodated due to the alignment of the new road. It has therefore been agreed with Natural England that the Mott's land in question is used to link up two existing meta-populations: one at Low Street Pit that will be impacted by the Project and the population that sits on Plot 19-01 already. NC explained that the Applicant is seeking to use plot 19-01 to link the two meta-populations and therefore it is important that the mitigation is in that location.
- 3.5.5 NC went on to explain that, while the alternative proposals presented by the Mott family were on a like-for-like basis in terms of land, the concern is that this land is further away from the point of impact by about 100m with the additional provision of mitigation land to offset the loss being between 200m and 800m away from that loss. Agreement to this would be needed from Natural England which would be difficult in light of the existing letter of no impediment that has been secured as set out in item 2.1.74 of the Statement of Common Ground with Natural England [[REP5-038](#)].
- 3.5.6 NC also drew the ExA's attention to item 2.1.50 of the Statement of Common Ground with Natural England which reflects Natural England's overall support for the Applicant's mitigation strategy for terrestrial invertebrates.
- 3.5.7 In summary, for this first issue, NC advised that the change proposed by the Mott family would move the required mitigation land further away from the point of impact, which would involve further consultation with Natural England and would be a move away from the guidance that has been followed by the Applicant.
- 3.5.8 The second response given by the Applicant was in relation to the North Portal access track (Work No. 5E) and the concern raised by the Mott family that the land being permanently acquired for the Project could in time form part of the Tilbury Link Road. Were that to happen, then the Mott family are concerned that they would lose out on the value of the land at that time as it will have been compulsorily acquired from them for the Project. AT explained that the land in

question was required for the Project to construct a permanent road as a private means of access. Any future use of the land for the potential Tilbury Link Road would therefore be subject to its own processes and governed by those processes and were not a consideration for this Examination. Moreover, the question of appropriate compensation for the access road was not a matter for this Examination, and as with the position set out above in relation the subsoil, any disputes would be determined by the Lands Tribunal.

- 3.5.9 The third point that the Applicant responded to was in relation to the rendezvous point in near the North Portal access track which the Mott family consider should be in an alternative location. AT explained that the Emergency Services Group were meeting with the Applicant and others (this took place on the day of CAH4 being 17 October 2023) to discuss the rendezvous point in question. AT noted that the discussions of that meeting would be relevant to informing this point but noted that the Applicant’s understanding was that the Emergency Services Group was not in favour of the alternative being proposed by the Mott family. **[Post Hearing Note: Action Point 20 - see Annex D.4]**
- 3.5.10 The fourth point made by the Mott family relates to the permanent acquisition of land for Linford borehole and water pipeline. AT explained that article 37(5) of the draft DCO [\[REP5-024\]](#) includes the obligation to surrender rights. In that provision, this pipeline is identified as MUT6 and is essentially the provision which governs “ABC” diversions which the Applicant has previously explained (see pages 26 and 27 of the Schedule of Changes to the dDCO during Examination [\[REP5-070\]](#)).
- 3.5.11 The Mott family also raised concern over access to the Thames jetties and wharf.
- 3.5.12 In response to the issue of accessing the wharf, AT advised that the jetties were not in fact in the ownership of the Mott family, and while the wharf is, it has not been in use since at least 1960. [Post-hearing note: by way of background, the Applicant would note Prior to the Port of Tilbury (PoT) freeport announcement, the Applicant’s design was looking at ways to include access to the wharf for Motts through Tilbury Fields. After the freeport announcement and the (reported) sale by Mott of an option agreement to PoT of the land including the wharf, the Tilbury Fields area had to be fundamentally redesigned to its current location. The wharf / jetties accessed from Motts land at present are expected to be extinguished by the Thames Freeport development and therefore no access is required to be provided.]
- 3.5.13 AT explained that, to address the concerns on access more generally raised by the Mott family, there is a commitment (SACR-006) in the Stakeholder Actions and Commitments Register [\[REP5-060\]](#) which explains that access to Mott family land to the south will be retained both before and after construction. AT noted that the Applicant would continue to discuss this, and whether the commitment can be amended to address outstanding concerns, with the Mott family to understand why they may consider this does not go far enough for them.
- 3.5.14 AT then went on to address the concerns raised by the Mott family for access to their land south of Station Road to enable development. AT responded to explain the Applicant would consider a commitment in advance of the design

and build process taking place in order to try to give them a larger degree of comfort. **[Please see Annex D.5]**

- 3.5.15 The Mott family made submissions on the compulsory acquisition of Plot 23-17 and Plot 20-70 for replacement open space land and raised concerns that this would not remain in their ownership. AT explained on behalf of the Applicant that the provisions of section 131 of the Planning Act 2008 dictate that replacement open space land must vest with the owner of the land that is being compulsory acquired. Therefore, there was no option available to the Applicant to allow it to remain with the Mott family.
- 3.5.16 Lastly, AT responded to concerns raised by the Mott family in relation to walking, cycling and horse-riding (WCH) routes. AT noted that the Applicant had already responded on this wider issue when responding to issues raised by E&K Benton (see Section 3.6). However, AT wanted to clarify for the ExA the position with regard to the tripartite agreement proposed. The Applicant envisages that this would be a straightforward agreement that would simply state that were the landowner to dedicate the land as a Public Right of Way then the Applicant would not exercise its compulsory purchase powers to acquire the land for the Public Right of Way. The powers for outright acquisition would be retained in the dDCO in case the tripartite agreement were to fail in some way or not be executed, to ensure the land could be laid out.
- 3.5.17 **Post-hearing written submissions:** These are contained within Annex D and include:
- a. Section D.2 Further Information on Ecological mitigation land
 - b. Section D.3 Coalhouse Point HRA Mitigation
 - c. Section D.4 Hearing Action Point 20 Mott Family Land and RVP Location
 - d. Section D.5 Access to land south of Station Road
 - e. Section D.6 Hearing Action Point 17 WCH Routes
 - f. Section D.7 Hearing Action Point 18 Dedication Proposal for WCH Alignments

3.6 Item 3(f) E&K Benton Ltd

- 3.6.1 The Applicant responded on seven points following the submissions of Mr Holland on behalf of E&K Benton Ltd (Benton).
- 3.6.2 AT responded to the suggestion made by Benton that ecological areas and flood mitigation areas should be dealt with under s253 agreements with the landowner for their management rather than be subject to compulsory acquisition. AT explained that this was addressed in detail by the Applicant at CAH1 (see Post-event submissions, including written submission of oral comments, for CAH1 [\[REP4-177\]](#)). AT stressed the importance of the need to have high quality management of these areas and was mindful of the failures that the Applicant has seen in the past. AT noted that there are exceptions where this would not apply and gave an example of Shorne Woods which will be managed by Kent County Council which has a high degree of experience.

Another exception to this general principle was the management of bat boxes where the degree of management is necessarily less onerous and capable of being delegated.

- 3.6.3 The second point that AT responded to on behalf of the Applicant was with regards to Medebridge Road and the request from Benton that they as the landowner (and EA Strategic Land LLP) be represented on the Traffic Management Forum. AT explained that it is the Applicant's view that access and traffic management will be appropriately governed by the outline Traffic Management Plan for Construction [REP5-056], which secures inviting relevant stakeholders to the Traffic Management Forum. It is therefore anticipated that Benton as a landowner will be invited to the Traffic Management Forum where relevant. AT concluded on this point noting that the Applicant would give consideration as to whether there is any further commitment that can be given from the Applicant at this stage to give comfort to Benton on this issue.
- 3.6.4 AT explained that the third issue raised by Benton was in relation to WCH routes, specifically the proposed bridleway over land owned by Benton. AT suggested that this topic be deferred to ISH10 on 24 October 2023. AT advised that the Applicant had explained its position previously on the application of the National Policy Statement for National Networks (NPSNN) (Department for Transport, 2014) in this context. In short, the Applicant is responding to the NPSNN policies which encourage enhanced and improved non-motorised user routes (see, for example, paragraphs 3.17 and 5.205 of the NPSNN).
- 3.6.5 AT also responded to the alternative WCH route presented by Benton on Plates 62 and 63 of [AS-101] for North Road (South Ockendon). AT explained that these plates show a narrow footway which is not considered by the Applicant to be an appropriate alternative option, of which further explanation would be given in writing. **[Post-hearing note: This matter was discussed in further detail at Issue Specific Hearing 10. Post-event submissions, including written submission of oral comments, for ISH10 [Document reference 9.133 (1)] at Deadline 6].**
- 3.6.6 AT went on to respond to the fourth point raised by Benton with regards to the solar farms proposed in the area. AT explained that there is already an agreement between the Applicant and Ockendon Solar Farm (located on land owned by Veolia) which manages the construction and design interfaces between the two projects. **[Post-hearing note: please see the Applicant's position as set out in its response to Action Point 16 in Annex E.1 of this document.]**
- 3.6.7 AT explained that in relation to the proposed Medebridge Solar Farm, located on land owned by Benton, there is currently an agreement being progressed with Medebridge Solar Limited, as well as with the owners of the joint substation, who are Fen Lane GridCo Limited. The draft agreement covers the construction interface, installation of electric wiring, and the permanent access rights. The agreement with Fen Lane GridCo Limited covers the provision for access in from the LTC mainline, but only in exceptional circumstances, if the transformer needs to be removed or replaced. AT explained that it is anticipated both those agreements are to be signed prior to the end of the Examination and would address the concerns raised during CAH3 by Benton. AT further

explained that both solar farms had been included in the cumulative assessments for the Project.

- 3.6.8 The fifth point AT responded on was the suggestion that there had been an absence of consultation by the Applicant on WCH matters. AT explained that this was incorrect and that WCH routes had been expressly consulted on in the 2020 Supplementary Consultation and again in the 2022 Design Refinement Consultation. **[Post-hearing note: the Applicant would also note that it hosted WCH information events in February 2022 to specifically explain the WCH strategy, answer questions and take comments.]**
- 3.6.9 Sixthly, AT addressed the question of enforcement in relation to the unauthorised uses of bridleways. AT explained that clause PEO.06 of the Design Principles [\[REP4-146\]](#) requires robust measures to, among other things, deter anti-social and unauthorised use. AT however, expressed the Applicant's understanding that Benton would like further detail on what those would be.
- 3.6.10 The final point that AT responded to on behalf of the Applicant related to the need to compulsorily acquire land to deliver new Public Rights of Way, a position which is objected to by Benton. AT explained that the Applicant has sent a copy of a draft agreement with another landowner to Mr Holland, which sets out the format and terms of a tripartite agreement between landowner, the Applicant and the highway authority. The intention of this agreement is that it would allow for routes to be dedicated as highway by the landowner, and where that process is followed the Applicant would not need to permanently acquire the land in question. AT explained that this form of agreement would be open to Benton and other landowners and hoped that this would address the concern being raised. AT explained that there would still need to be a power to compulsorily acquire the land.
- 3.6.11 ***[Post-hearing note: In relation to the land acquisition for Public Rights of Way, the Applicant has proposed to take compulsory acquisition where a new Public Right of Way is laid out for the following reasons:***
- a. The Secretary of State, in making a decision on the A303 Sparkford to Ilchester Dualling DCO project, had previously commented that an approach which did not entail the full acquisition of land associated with highways “does not represent best practice nor is it consistent with Government guidance” and was “unprecedented” (paragraph 62 of the decision letter (Department for Transport, 2021)). These statements make clear that either temporary possession, or temporary possession with the acquisition of rights, would not accord with the Secretary of State’s clear view that outright acquisition should be obtained for new highways and Public Rights of Way.***
 - b. The government guidance (“Circular 02/97: Notes on the Preparation, Drafting and Submission of Compulsory Purchase Orders for Highway Schemes”) – on this, the ExA, in its Recommendation Report for the A303 Sparkford to Ilchester Dualling DCO project (Planning Inspectorate, 2019), with whom the Secretary of State agreed, noted paragraph 71 of the Circular explains that the kind of rights for which***

the compulsory acquisition of rights over land by the creation of new rights are designed are in the nature of easements ancillary or appurtenant to the highway, proposed highway or other facility. It is clear that the Circular does not envisage that these powers can be used by highway authorities in cases where the land will form part of the highway or proposed highway or where the Works they wish to carry out will, to all intents and purposes, deprive the landowner permanently of beneficial use of the land.]

3.6.12 **Post-hearing written submissions:** These are contained within Annex E and include:

- a. Section E.2 FP136 Bridge and Medebridge Solar Farm (Action Point 16)

3.7 Item 3(g) The Linford Land Group

3.7.1 AT, on behalf of the Applicant, noted that there were two responses with regards to the submissions put forward by both the Linford Land Group (LLG) and Mulberry Strategic Land Ltd.

3.7.2 The first related to the suggestion also made by the Mott Family that alternative ecological mitigation land be used. AT confirmed that this point had been dealt with by NC (see Section 3.5) and that there was nothing further to add on that point for the LLG.

3.7.3 The second point raised by LLG was also raised in relation to the Mott Family submission relating to the Linford borehole water pipeline point. AT advised that the Applicant had previously responded on this point in relation to article 37(5) of the dDCO [REP5-024] (see Section 3.5 above). AT also explained that the Applicant has already sought to accommodate requests from the landowners in this location having already moved the pipeline and utility hub to allow for further development to come forward, reductions approximating to around 17 hectares. AT did however explain to the ExA that this land is in the green belt and subject to a number of constraints and as to whether development does come forward or not is not a matter that has a high degree of certainty at this stage.

3.7.4 **Post-hearing written submissions:** These are contained within Annex F and include:

- a. Section F.3 Linford Development Potential
- b. Section F.4 Further Information on Ecological Mitigation Land

3.8 Item 3(h) Mulberry Strategic Land Ltd

3.8.1 Submissions with regards to Mulberry Strategic Land LLP were given in the context of the Mott family and LLG. AT noted that the response of the Applicant was the same as those given to the LLG as set out in Section 3.7.

3.8.2 **Post-hearing written submissions:** These are contained within Annex D.

3.9 Item 3(i) EA Strategic Land LLP

- 3.9.1 Submissions with regards to EA Strategic Land LLP (ESL) were given in the context of Benton. EA Strategic Land LLP is the development partner for Benton for the South Ockendon Sustainable Urban extension. The Applicant responded to the suggestion that EA Strategic Land LLP sit on the Traffic Management Forum when responding to Benton in Section 3.6.

3.10 Item 3(j) Mrs A Schatzmann/Trust

- 3.10.1 This Affected Party was not directly discussed at CAH3.

3.11 Item 3(k) The Ockendon Family and E W Ballard Holdings Ltd

- 3.11.1 Submissions were not made at the hearing and instead were to be submitted in writing for Deadline 6. The Applicant will respond to those submissions if necessary at Deadline 7.

3.12 Item 3(l) Cheale Group Ltd

- 3.12.1 In submissions, the Cheale Group sought an agreement from the Applicant to move the access route to utility apparatus, the route being identified as plot 44-112. AT on behalf of the Applicant explained that the current location of the route was appropriate but that the Applicant was content to enter into an agreement which would allow for flexibility in circumstances where a development does come forward.

3.13 Item 3(m) Tarmac Cement and Lime Ltd

- 3.13.1 IT on behalf of the Applicant addressed the comments in the same order as raised by Tarmac Cement and Lime Ltd (Tarmac).
- 3.13.2 Firstly, IT responded to the suggestion that there was no justification for the acquisition of new rights for the proposed utility works. It was noted that Tarmac suggested that as there are negotiations ongoing with the Applicant then the compulsory acquisition of rights was not justified. IT explained that this is not the correct test to be applied. IT explained that the Applicant will continue to seek voluntary agreements, even if the DCO is made, and noted the considerable discussions that have taken place between the Applicant and Tarmac to date. IT explained that through these discussions the Applicant has also engaged closely with UK Power Networks (UKPN) and National Grid to reduce the land requirements sought through the dDCO [\[REP5-024\]](#) and to seek to minimise impacts on Tarmac's operations. IT noted that as a result of these discussions there had been a reduction in around 12 hectares of land subject to compulsory acquisition and temporary possession on the Tarmac site.
- 3.13.3 IT then went on to respond to the suggestion that the compulsory acquisition of rights was not necessary in light of the existing wayleaves for the apparatus. IT explained that, as set out in the Applicants detailed email response to Tarmac's Relevant Representation provided directly to them, the Applicant has no power to divert utilities and therefore needs these powers to deliver this part of the

Project. IT explained that the inclusion of these powers in the dDCO means that the environmental impact of carrying out those utility works has been properly assessed and taken account of as part of the Project.

- 3.13.4 IT went on to explain that the existing wayleaves which date from around 1958/1960 do not, in the Applicant's view, provide sufficient rights to carry out the utility works needed. For example, the works to OH4 and OH5 required the installation of conductors, insulators and fittings between certain pylons. The existing agreement (the wayleave) in both cases defines the electric line to which powers relate and in both cases the powers include the power to retain, use, maintain, repair, renew, inspect and remove but not replace or alter the electric line as defined. As such, the Applicant does not consider the wayleaves would cover the powers that are required. **[Post Hearing Note: See Annex G]**
- 3.13.5 IT explained that, in the Statements of Common Ground with both UKPN [\[REP1-082\]](#) and National Grid [\[REP1-201\]](#), the utility providers had confirmed their position that, in order to carry out the works, the land and rights must be secured in DCO. Therefore, their position is aligned with that which is being developed through the dDCO.
- 3.13.6 IT explained that the maintenance or inspection regime to be undertaken by UKPN and NGET is a matter for those statutory undertakers, but it was the Applicant's understanding that for pylons and overhead lines there was usually one inspection per year.
- 3.13.7 IT also addressed the suggestion that the access routes through the site be revised. IT explained that there had been numerous conversations between the Applicant and Tarmac over the access arrangements and the Heads of Terms were on their third iteration and the Applicant was hopeful their latest responses would be acceptable to Tarmac.
- 3.13.8 The ExA sought to understand whether the access routes (being subject to temporary possession) could be simplified to improve the operability of Tarmac's undertaking. IT explained that the access arrangements as presented sought to use the existing roads within the Tarmac site rather than creating new routes, as new routes would likely lead to vegetation clearance and additional environmental impacts. As such, the 'spaghetti arrangement' was a result of seeking to utilise existing arrangements to reduce the impacts and minimise disruption during construction. **[Post Hearing Note: See Annex G]**
- 3.13.9 IT reiterated that an access agreement was under discussion between the Applicant and Tarmac and so hoped the issue would be narrowed, if not resolved. However, IT explained that, even if an agreement was entered into, it would be the Applicant's position that the powers to take the land under the dDCO would be retained in the event of any breach or dispute to ensure that the works can be constructed and thereafter maintained, so as not to put the Project at risk.
- 3.13.10 The ExA queried whether for maintenance vegetation clearance would need to be undertaken. The Applicant agreed to respond in writing for Deadline 6 as to whether this vegetation clearance has been addressed in the Environmental Impact Assessment (EIA) in the Environmental Statement. **[Post-hearing note: See Annex G]**

- 3.13.11 IT also responded on behalf of the Applicant to the question raised by the ExA as to whether the existing wayleaves were to be extinguished. IT explained that, at present while there was no positive proposal to extinguish them, the power to do so existed under article 37 of the dDCO [REP5-024]. However, IT explained the real issue is that the rights within the wayleaves are not wide enough for the works needed, and therefore the Applicant is proposing to change that and seek new rights to allow the maintenance and repair etc. for the works being undertaken for the Project.
- 3.13.12 IT then responded to the query raised over how the Environment Agency permit licence for landfill on the Tarmac site would interact with the DCO. IT explained that any impacts caused by the Project have been assessed. Further, IT explained that, again, the Applicant had responded in full to Tarmac's Relevant Representation directly in March 2023.
- 3.13.13 IT explained the Applicant has offered to include a commitment in the Stakeholder Actions and Commitments Register [REP5-060] which would ensure that the relevant borehole (used for monitoring) is protected and remains in operation and accessible by Tarmac at all times. Further, that the Applicant would engage with Tarmac prior to commencing works to inform measures to ensure continued utilisation.
- 3.13.14 IT explained that article 68 of the dDCO [REP5-024] also covers the permitting issue. The dDCO was updated at Deadline 4 [REP4-095] (though IT noted a form of the provisions already existed in the dDCO but as a Protective Provision for the Environment Agency). IT explained that the wording of article 68 provides that, in the event of any inconsistency between the exercise of powers in the dDCO and any existing permit requirements, then the inconsistency or conflict is to be disregarded. Further, that under article 68(2) any breach of the permit is to be disregarded if it is caused by the execution of works authorised under the dDCO. This is then followed by a list of permits to which this applies and includes reference to Tarmac's permit.
- 3.13.15 IT explained that, as such, it is the Applicant's view that any concern that Tarmac has over being in breach of its licence as a result of activities carried out by the Applicant is resolved by article 68 of the dDCO and the Stakeholder Actions and Commitments Register commitment referenced above. IT then noted that if Tarmac were not content with the wording in the Stakeholder Actions and Commitments Register then the Applicant would be willing to discuss different or additional wording, or a side agreement, to provide additional comfort. IT explained that the Applicant has also offered to cover Tarmac's fees to enable them to consider the drafting that has been put forward.
- 3.13.16 Tarmac also raised concerns over their existing planning permission and fulfilling the conditions attached to that permission. IT explained that, while she was unable to advise of anything the Applicant was proposing to do on the site that would prevent Tarmac from complying with its planning conditions, it is the Applicant's position that this concern is addressed by way of article 56 of the dDCO [REP5-024]. Article 56 states that were the DCO to lead to a breach of a planning permission then no enforcement action is to be taken in so far as that breach is caused by the execution of the works permitted by the dDCO.

- 3.13.17 IT explained that Thurrock Council were content with the drafting of article 56 in relation to its effect on planning permissions and discussions are ongoing with the Environment Agency with regards to article 68. In response to a follow up question by the ExA, IT confirmed that article 68 operates so as to extend to land outside of the Order Limits as well. This was nonetheless an appropriate power based on section 120 of the Planning Act 2008.
- 3.13.18 **Post-hearing written submissions:** These are contained within Annex G and include:
- a. Section G.2 Existing utilities at Tarmac
 - b. Section G.3 Access arrangements – considerations regarding temporary and permanent provisions
 - c. Section G.3.8 Hearing Action Point 14 - Confirm whether there is loss of vegetation to gain access for future maintenance
 - d. Section G.4 Why powers to carry out the works for OH4 and OH5 are needed to be sought through the DCO.
 - e. Section G.5 Hearing Action Point 13 - Please provide written comments on any realistic possibility of the proposed works having a negative effect on the restoration works related to planning conditions and/or Environment Agency licence conditions at the Tarmac Building Products Ltd (TBPL) landfill site

Annex A Post-hearing submissions on Agenda Item 3(a) Gravesham Borough Council

A.1 Introduction

A.1.1 This section provides the post-hearing submissions for agenda item 3(a), from Compulsory Acquisition Hearing 3 (CAH3) on 17 October 2023 for the A122 Lower Thames Crossing (the Project).

A.2 Hearing Action 1: Cascades Leisure Centre Playing Fields and Golf Facilities

A.2.1 Hearing Action Point 1 [\[EV-056\]](#) requests “Please provide an update on progress in discussions re replacement land for the driving range, 9- hole golf course and sports pitches at the Cascades Leisure Centre at Thong Lane.” The Applicant’s response is below.

A.2.2 Gravesham Borough Council (GBC) and Swing Rite identified a preferred configuration for the relocation of the par 3 9 hole golf course on 5 July 2021.

A.2.3 Following a period of engagement, the Applicant offered to reimburse a feasibility study on 31 August 2022 for the Affected Parties (GBC and Swing Rite) to consider how they could deliver their preferred configuration independent of and without prejudice to the Applicant’s DCO.

A.2.4 First draft of the feasibility was issued by GBC on 24 May 2023, and after a period of review, the final draft was issued by GBC on 29 September 2023

A.2.5 The Applicant made a financial offer to the Affected Parties on 12 October 2023 in lieu of compensation as a contribution towards delivering reconfigured facilities and has offered to transfer the land identified for a replacement recreational provision (part of plots 11-14 and 13-08).

A.2.6 GBC responded to the Applicant’s offer on 19 October 2023 stating it is unsatisfactory and expressed their intention to arrange a meeting with the Applicant.

A.2.7 The Applicant will continue these discussions in an attempt to reach a voluntary agreement.

A.2.8 Factually, Gravesend Golf Centre is located off Thong Lane in Gravesend. It is a private business located immediately north-east of the Cascade Leisure Centre that consists of a nine-hole par 3 golf course, 32 bay driving range and shop. The nine-hole course has been closed to the public since 2021 and only the driving range is currently operating.

- A.2.9 The Project seeks to permanently acquire land formerly comprising the nine-hole par 3 golf course (plot 13-09 on Land Plan Sheet 13 of Land Plans Volume B (Sheets 1 to 20) [REP5-006]) for the working area for the South Portal, and landscaping associated with the southern tunnel entrance and the creation of Chalk Park, among other things (refer page 242 of Statement of Reasons [REP5-028] for further information).
- A.2.10 The Applicant considers the land, formerly comprising the golf course, plot 13-09 on Land Plan Sheet 13 of Land Plans Volume B (Sheets 1 to 20) [REP5-006], is not open space for the purposes of sections 131 and 132 of the Planning Act 2008.
- A.2.11 It forms part of Gravesend Golf Centre, leased to Swing Rite, which is a private business, and is not identified as open space in the Gravesham Open Space Assessment (2016).
- A.2.12 The landowner, GBC, and operator, Swing Rite, have not suggested to the Applicant it is open space and have expressed their wish to respectively own and operate a replacement recreational facility (available to paying customers, rather than the public per se).
- A.2.13 Before closing, payment in the form of green fees was required for visitors wishing to use the golf course (refer to photographs at Plates A.1 and A.2 below). Access onto the land is also controlled. There is signage at the site stating “*any unauthorised person found on these premises will be prosecuted*” (refer to photograph at Plate A.3) and it benefits from boundary treatment (fencing and landscape screening) along all sides.

Plate A.1 Photograph showing signs relating to Payment of Green Fees



Plate A.2 Photograph showing signs relating to Payment of Green Fees



Plate A.3 Photograph of Signage inside the boundary of 9 hole golf course



- A.2.14 The Project’s effects on Gravesend Golf Centre (GGC) during the construction and operational phases has been assessed at Tables 13.57 and 13.69 of Environmental Statement (ES) Chapter 13: Population and Human Health [[APP-151](#)].
- A.2.15 It concludes, at paragraph 13.6.38, that for the construction phase *“the potential effect on the Gravesend Golf Centre is considered to be negligible, resulting in a slight adverse significance of effect”*. For the operational phase, it concludes at table 13.69, that *“an alternative site would be provided to the south-east of Cascades Leisure Centre, currently part of the SVGC site, enabling the business to continue. The site would have public access to Chalk Park and from Thong Lane, with a proposed mixed-species hedgerow forming the site boundary. The alternative site would be greater in area and would be developed to be equal or better in terms of quality and accessibility to the community”*. This results in no change, with a neutral significance of effect.
- A.2.16 The Applicant proposes to provide an equivalent or better replacement recreational facility in a suitable location, on land adjacent to Gravesend Golf Centre, within the Order Limits in accordance with paragraph 5.166 of the National Policy Statement for National Networks (NPSNN).
- A.2.17 Moreover, the benefits of the Project (including the need for the Project) outweigh the temporary loss of the golf course, which is currently closed to the public in any event, taking into account the positive proposal made by the Project to provide a replacement facility, in accordance with paragraph 5.174 of the NPSNN.
- A.2.18 A full assessment of the replacement provision against relevant national policy is provided at paragraphs G.4.21 to G.4.23 of Planning Statement Appendix G Private Recreational Facilities [[APP-502](#)].
- A.2.19 GBC stated at CAH3 that GGC is operated *“as a combined facility”* (CAH3 transcript page 11, line 6) and that *“...because of... the spatial relationship between the driving range and nine-hole course, it was possible for Swing Rite to manage, supervise and operate both facilities... effectively from one fixed point... associated with the driving range, but with the other areas... within view or... a very short distance”* (CAH3 transcript page 11, lines 10-14).
- A.2.20 GBC contend that the replacement provision is located *“in a remote location which cannot be readily supervised and overseen from the Swing Rite centre of operations... [which] means... the replacement facilities is not equivalent or better to what is lost”* (CAH3 transcript page 11, lines 21-22).
- A.2.21 However, GBC themselves acknowledge the existing golf facilities at GGC are not contiguous, with the *“intervening... land between the driving range and golf*

course... currently laid out as football pitches” (CAH3 transcript page 10, lines 30-31).

- A.2.22 The replacement provision is like for like in this respect, with the proposed recreational facility located on land adjacent to Gravesend Golf Centre beyond the football pitches to the east of the driving range. The land formerly comprising the nine-hole golf course is located approximately 325m from the Swing Rite operations building at its closest point. The proposed replacement facility would in fact be closer, approximately 250m at its closest point, supporting its effective management and supervision from the existing centre of operations.
- A.2.23 In addition, sight of the golf course from the operational building south of the driving range is currently obstructed by the netting for the driving range as well as the line of trees and shrubbery that screen the course. The replacement provision would not change this.
- A.2.24 The replacement provision is set out at Section 5.13 of the outline Landscape and Ecology Management Plan (oLEMP) [REP4-140] and Design Principle S3.17 ‘Replacement recreation ground for Gravesham Borough Council’ [REP4-146], which are secured by Schedule 2 (requirements) Requirement 3 (detailed design) and Requirement 5 (landscape and ecology) respectively. Design Principle S3.17 requires the replacement provision “*shall be developed in coordination with Gravesham Borough Council*”. The oLEMP [REP4-140] recognises the “...broader proposals for the redevelopment of Cascades Leisure Centre...” (planning application reference 20221293) and provides for an appropriate level of flexibility to support GBC’s emerging aspirations for the site accordingly.

A.3 Land to the rear of Gravesend Golf Centre

- A.3.1 Plot 13-03 shown on Sheet 13 of Land Plans Volume B (Sheets 1 to 20) [REP5-006]) comprises a vegetated margin around the northern, eastern and western edges of the former nine-hole golf course (plot 13-09 on Sheet 13 of Land Plans Volume B [REP5-006]) at GGC.
- A.3.2 The Project would permanently acquire the land for the working area for the South Portal, landscaping associated with the southern tunnel entrance and the creation of Chalk Park, among other things (refer to page 241 of Statement of Reasons [REP5-028] for further information).
- A.3.3 Plot 13-03 (Sheet 13 of Land Plans Volume B [REP5-006]) is not identified as open space in the Gravesham Open Space Assessment (2016).
- A.3.4 It does not follow the alignment of any public right of way (PRoW) and as acknowledged by GBC “...doesn’t directly connect with a public right of way”

(CAH3 transcript page 10, lines 12). As GBC explained at CAH3, it is “...accessed from within the... Cascades Leisure Centre” (CAH3 transcript page 10, lines 11-12). Public access to the leisure centre off Thong Lane is controlled by palisade fencing and gates, which are locked outside of opening hours.

- A.3.5 Plot 13-03 has been identified for permanent acquisition for the Project since Supplementary Consultation in January 2020. Neither GBC nor Swing Rite in their representations to the Supplementary Consultation or subsequent consultations on the Project suggested Plot 13-03 was open space for the purposes of sections 131 and 132 of the Planning Act 2008.
- A.3.6 However, in light of GBC’s response to Q13.1.4 of the Examining Authority’s written questions and requests for information (ExQ1) in their Deadline 4 Submission - Response to ExQ1 [\[REP4-287\]](#) and subsequent oral submissions at CAH3, the Applicant proposes to provide an area of replacement land for Plot 13-03 within the Order Limits for Project in accordance with section 131(4) of the Planning Act 2008 on a precautionary basis in the event the Secretary of State considers the land to be open space.
- A.3.7 Plot 13-03 (Sheet 13 of Land Plans Volume B [\[REP5-006\]](#)) is 5,277.78 sqm in area.
- A.3.8 The Project is providing a new landscaped recreational area of approximately 45 hectares, known as Chalk Park (Work number OSC4), on land formerly comprising Southern Valley Golf Club adjacent to GGC.
- A.3.9 Land at Chalk Park, to be designated as replacement land for Plot 13-03 on a precautionary basis, would be equal or greater in size than Plot 13-03, at least as useful, providing a recreational walking route as part of a wider network of walking, cycling and horse riding (WCH) routes, as attractive and of as good quality, providing a high-quality landscaped setting (in accordance with the Environmental Masterplan for the Project and oLEMP [\[REP4-140\]](#)) with open views, and as accessible, being located adjacent to Gravesend with unimpeded public access.
- A.3.10 For these reasons, the Applicant argues the replacement land would be “*at least as good in terms of size, usefulness, attractiveness, quality and accessibility*” in accordance with paragraph 5.181 of the NPSNN and no less advantageous to the “*to the persons, if any, entitled to rights of common or other rights, and to the public*” for the purpose of section 131(4) of the Planning Act 2008.
- A.3.11 The Applicant intends to update the DCO application to incorporate the replacement land for plot 13-03, proposed on a precautionary basis, for Deadline 8.

- A.3.12 This update would not require any change to the Order Limits or proposed land use for the Project. It would not constitute a change to the proposed land use at Chalk Park or its intensity which has informed the environmental assessment of the Project.

Annex B Post-hearing submissions on Agenda Item 3(c): Port of Tilbury Ltd

B.1 Introduction

B.1.1 This section provides the post-hearing submissions for agenda item 3(c), from Compulsory Acquisition Hearing 3 (CAH3) on 17 October 2023 for the A122 Lower Thames Crossing (the Project).

B.2 Hearing Action Point 6: PoTLL Protective Provisions

B.2.1 Hearing Action Point 6 [\[EV-056\]](#) requests *“Please set out a record of matters arising from Protective Provisions (and any other matters) where adjudication by the ExA is likely to be required. Parties are requested to consider the drafting approaches to Protective Provisions in other made Orders that affect port land...”* The Applicant’s response is below.

B.2.2 As submitted at CAH3, the Applicant considers that there are two key outstanding matters with regard to the Protective Provisions for PoTLL where adjudication by the ExA may be required. Firstly, in relation to the inclusion of a ‘consent’ or ‘veto’ provision with respect to the exercise of compulsory acquisition and temporary possession powers and secondly, in relation to the scope of the indemnity being offered by the Applicant.

‘Consent’ provision

B.2.3 In relation to the exercise of compulsory acquisition and temporary possession powers (hereinafter, ‘Lands Powers’), the Applicant does not agree PoTLL’s request that it must reserve an ability to exercise a right of consent, or veto over the exercise of compulsory acquisition or temporary possession powers in respect of its land interests. The Applicant does not agree as it considers that such a provision (i) is unnecessary and (ii) would risk compromising the efficient and effective exercise of those powers.

B.2.4 The inclusion of the ‘consent provision’ is unnecessary because the Protective Provisions included at Schedule 14 to the draft DCO [\[REP5-024\]](#) for PoTLL’s benefit already provide PoTLL and its undertaking with ample protection. The Applicant is required to secure PoTLL’s approval before carrying out any ‘specified work’ on port land – this means that PoTLL already have an effective means of controlling those aspects of the authorised development that will interact with its undertaking. Further, the protections being afforded to PoTLL go beyond what is typically offered, with PoTLL’s consent also being required in respect of any ‘specified function’, being the exercise of a number of DCO powers (as set out in that definition in the protective provisions) where exercised in relation to port land. Through these controls, PoTLL therefore

already enjoys adequate control over the construction of the authorised development and it is not clear why an right of consent over Land Powers is considered to be necessary to achieve this – not least given that the Applicant will only be acquiring interests in land that reflect the detailed design of the authorised development as constructed, which in turn PoTLL can already exercise a right of consent over under the provisions of Schedule 14 as proposed.

- B.2.5 Secondly, the Applicant is concerned to ensure it retains unfettered Land Powers – having to secure consent to the exercise of those powers could prove protracted if the Applicant and PoTLL are unable to agree commercial matters relating to their exercise. The compulsory acquisition process already allows for any disagreements on commercial matters to be resolved in a tried and tested way, through the referral of compensation disputes to the Upper Tribunal to be determined in accordance with the compensation code. It would not necessarily be unreasonable for PoTLL to take a different view to the Applicant in respect of commercial matters as both parties interests are not necessarily going to be aligned, however the Applicant is concerned that any dispute on commercial matters could delay or preclude the exercise of the Land Powers to the detriment of the timely and efficient delivery of the authorised development. Thus, reference to the consent provision being exercised ‘reasonably’ would not address this concern. The Applicant is cognisant that there are many DCOs which include a consent provision in respect of land powers. However, what is not clear from examining these precedents alone is the private arrangements that are likely to have been reached privately – to effectively document the giving of consent in advance such that the risk of commercial matters delaying the development in question has already been resolved.
- B.2.6 The Applicant’s approach to land acquisition is clear having secured early voluntarily acquisition in respect of the four leases entered into with PoTLL. However, the Applicant must retain compulsory acquisition powers in respect of land where voluntary agreement has not yet been obtained or in the circumstance where voluntary agreement may later prove to have granted insufficient rights. Moreover, compulsory powers are more readily enforceable so reducing additional risk, cost and delay. The Applicant may consistently and uniformly enforce compulsory powers to deliver the Project in a comprehensive manner in relation to all persons with an interest in land.
- B.2.7 Furthermore, there are also DCOs which affect port authority land and which do not include this form of wording, such as The Great Yarmouth Third River Crossing DCO 2020 and The National Grid (Hinkley Point C Connection Project) Order 2016. Providing PoTLL with a veto right in respect of compulsory acquisition and temporary possession would put the delivery of the Project at unnecessary risk.

Indemnity

- B.2.8 On the second outstanding matter, the Applicant has already proposed an appropriate form of indemnity. The indemnity ensures the Applicant will be liable for remedying any damage caused to PoTLL's property as a result of a 'specified work'. The Applicant cannot agree to offer PoTLL an indemnity for consequential losses in the manner proposed by PoTLL. To the extent such loss was attributable to the authorised development and recoverable in law it would be open to PoTLL to pursue it in the usual way. As such the absence of a reference to consequential losses does not diminish or reduce PoTLL's rights in law but rather protects the Applicant against a presumption that such losses were recoverable.

Annex C Post-hearing submissions on Agenda Item 3(d): Orsett Golf Club

C.1 Introduction

C.1.1 This section provides the post-hearing submissions for agenda item 3(d), from Compulsory Acquisition Hearing 3 (CAH3) on 17 October 2023 for the A122 Lower Thames Crossing (the Project).

C.2 Orsett Golf Club progress update

C.2.1 The Applicant is progressing discussions with Orsett Golf Club (OGC) and has instructed specialist golf club advisors regarding the request for early tree planting to mitigate visual impacts of the Project. The principle of providing this mitigation is agreed however the detail of the type and extent of the planting requires further discussion to ensure that it would deliver the mitigation the club desires.

C.2.2 The 9th hole championship tee is within the Order Limits to facilitate Work No G5, which is the diversion of a Cadent high pressure gas pipeline. The Applicant shall liaise with Cadent during the detailed design of the diversion route and the temporary works area and use reasonable endeavours to remove or mitigate the impact on the tee.

C.2.3 An area of planting is proposed to the south of the golf course to compensate for the impacts of nitrogen deposition. The Applicant has agreed to the installation of rabbit fencing to mitigate the potential impact of rabbits accessing the golf club site from the compensation area.

C.2.4 The Applicant and OGC have agreed to enter into legal agreements for the installation of bat boxes in two wooded areas on the golf course.

C.2.5 The Applicant and OGC shall provide a joint statement on progress with the above matters at Deadline 7.

Annex D Post-hearing submissions on Agenda Item 3(e): The Mott Family

D.1 Introduction

- D.1.1 This section provides the post-hearing submissions for agenda item 3(e), from Compulsory Acquisition Hearing 3 (CAH3) on 17 October 2023 for the A122 Lower Thames Crossing (the Project).
- D.1.2 In advance of CAH3 Holland Land and Property submitted supportive evidence for the points that would be raised during CAH3. This is contained within:
- a. Additional Submissions - Plans to aid running of CAH3 - Accepted at the discretion of the Examining Authority [[AS-101](#)]
 - b. Additional Submissions - Plans to aid running of CAH3 - Annex - Accepted at the discretion of the Examining Authority [[AS-102](#)]
- D.1.3 The Applicant has reviewed the submissions and responds to the points made:

Justification for land requirements

- D.2.4 The land the Applicant has included within the Order Limits that includes Plots 19-01 and 22-40 is required as essential mitigation for a number of adverse impacts on biodiversity, some of which result in a significant adverse effect. These include the total loss of Low Street Pit local wildlife site and the loss of habitat supporting nationally important terrestrial invertebrate assemblages, a key focus on Natural England’s ongoing scoping study for SSSI notification. The land also provides essential mitigation required to maintain the favourable conservation status of great crested newts, a European Protected Species. The impacts on these ecological receptors are reported in ES Chapter 8: Terrestrial Biodiversity [[APP-146](#)], and conclude significant residual effects on two of them: terrestrial invertebrates where assemblages are nationally important, and Low Street Pit local wildlife site which is of county value.
- D.2.5 The land within the two plots proposed for permanent acquisition is required for essential ecological mitigation. This area provides compensation habitat for the loss of extant habitats supporting reptiles, great crested newts, terrestrial invertebrates, and important bird assemblages. It also provides compensation for the loss of Low Street Pit Local Wildlife site.
- D.2.6 Guidance on Ecological Impact Assessment published by the Chartered Institute of Ecology & Environmental Management provides advice on how compensation measures should be considered in relation to the adverse effect: Paragraph 6.6 states “*Compensation should be provided as close as possible to the location where the effects have occurred and benefit the same habitats and species as those affected.*”
- D.2.7 Discussions with Natural England regarding the approach to great crested newt mitigation focused on providing adequate mitigation and compensation for each metapopulation affected. This approach is reported in detail in ES Appendix 8.17: Draft EPS Mitigation Licence Application – Great Crested Newts [[APP-409](#), [APP-410](#), [APP-411](#), [APP-412](#), [APP-413](#)]. Metapopulation N02, located in and around Low Street Pit LWS is impacted through the significant loss of both terrestrial and aquatic habitat, as reported in ES Chapter 8: Terrestrial Biodiversity [[APP-146](#)] (paragraphs 8.6.318 – 8.6.325 and Table 8.36).
- D.2.8 Given the road alignment, no options are available for mitigation within 250m of that metapopulation. As an alternative approach, it is proposed to create new terrestrial and aquatic habitat that would link metapopulation N02 into the adjacent metapopulation N01, centred on the southern edge of Plot 19-01. Open mosaic habitat across Plots 19-01 and 22-40 would create 21.65ha of high quality great crested newt habitat, with Plot 19-05 providing existing retained habitat. This approach has been agreed with Natural England as recorded in Item no 2.1.74 in the Statement of Common Ground between National Highways and Natural England [[REP5-038](#)]. In addition to great

crested newts, a number of key reptiles areas were recorded on areas in and around Low Street Pit as well as land further south. These are reported in ES Figure 8.9: Reptile Survey Results [[APP-270](#)].

- D.2.9 Key areas supporting nationally important assemblages of terrestrial invertebrates occur around the location of the north portal compound, and within Low Street Pit and adjacent land. These areas are significantly affected by the Project.
- D.2.10 Plots 19-01 and 22-40 and 19-05 provide for the creation of an area of high-quality open mosaic habitat which offsets the loss of Low Street Pit LWS and other semi-natural habitats occurring north of the Thames Estuary and Marshes which support important ecological receptors. Their location, in close proximity to Low Street Pit and between great crested newt metapopulations N01 and N02, aligns with guidance from CIEEM and Natural England and facilitate the strengthening of ecological networks between retained open mosaic habitat supporting important assemblages of terrestrial invertebrates and birds immediately south of this area.
- D.2.11 The Applicant has adopted a landscape-scale strategy for ecological mitigation and compensation which aligns with the provisions of the Environment Act 2021, the associated Environmental Improvement Plan promoting nature recovery networks and aiming to create wildlife rich habitats outside protected sites connecting up areas and allowing species populations to move and thrive.
- D.2.12 The National Networks National Policy Statement, at paragraph 5.20, also promotes landscape-scale mitigation through habitat connectivity, which looks to provide biodiversity gain through establishing coherent ecological networks that are more resilient to future pressures.
- D.2.13 The landscape design proposed by the Applicant, reported in the Environmental Masterplan [[REP4-127](#)], shows how further open mosaic habitat creation proposed at Tilbury Fields, Coalhouse Point and land east of Princess Margaret Road work with these plots in creating links east to Mucking Flats and Marshes SSSI, the Thames Estuary and Marshes Ramsar and SPA. It also presents future opportunity to link into the Thameside Nature Reserve and the work that Essex Wildlife Trust is undertaking at that site.
- D.2.14 The Applicant considers the extent of the habitat creation proposed as proportionate to the significance of effect on key ecological receptors in close proximity to these land plots, including residual significant effects on a local wildlife site and nationally important assemblages of terrestrial invertebrates. Natural England has expressed its support for the overall mitigation and compensation design proposed for terrestrial invertebrates in the Statement of Common Ground between National Highways and Natural England [[REP5-038](#)] at Item No. 2.1.50.

- D.2.15 No other plots of land within this vicinity provide the proximity of habitat creation to the areas impacted by the Project or create such a strong and resilient network of sites in this North Thames Estuary and Marshes area.
- D.2.16 Regarding Tilbury Fields, from an ecological perspective, Tilbury Fields provides essential compensation for impacts to Goshems Farm Local Wildlife Site, the nationally important assemblages of terrestrial invertebrates and a number of key reptile sites in that locality. Forty-six hectares of open mosaic habitat would be created to offset the loss of these areas and would be orientated to link existing retained high quality invertebrate habitats along the Thames Estuary and the proposed areas of new habitat creation which would come from the Project.
- D.2.17 Along the eastern boundary of terrestrial invertebrate survey Area 3, ES Figure 8.7: Invertebrate Survey Locations [[APP-268](#)], there is a ditch and associated riparian habitat measuring around 650m in length. The whole of survey Area 3 was identified as supporting nationally important assemblages of invertebrates. This ditch would be lost as a result of the Project. The ditch is identified in both the freshwater ecology technical appendix [[APP-393](#)] (ditch W029) and the terrestrial invertebrates technical appendix [[APP-392](#)] (area JN1).
- D.2.18 The loss of this ditch is compensated through the creation of an additional 900m of ditch habitat within Coalhouse Point (Plot 19-09 – 35ha).
- D.2.19 The water chemistry of ditch W029 indicates that there is some saline intrusion so the design of the compensation is proposed to replicate that water chemistry. The location of the proposed habitat creation in Plot 19-09 provides for that as the water supply for the wetland habitats proposed at Coalhouse Point will come from the Thames estuary and create a saline gradient along the ditch habitat. This design has been discussed with Natural England and is reported in the Statement of Common Ground between National Highways and Natural England [[REP5-038](#)] at Item No. 2.1.56. The location for this habitat creation is in close proximity to the area of impact and provides the link into the Thames Estuary to create similar water chemistry to the ditch lost. The new ditch habitat also links back into the wider catchment in this area. There are no other sites within the vicinity which offer these opportunities to create such robust compensation.

Ecological mitigation land – proposed land swap

- D.2.20 The current position is that the Mott Family / Mulberry Strategic Land is looking to free up land in Plot 22-40 for their Phase 2 development purposes. The Applicant has had ‘without prejudice’ discussions on ‘swapping’ part of this land for land outside the Order Limits within the Mott ownership either to the south or east of Plot 22-40. To date, the landowner’s suggestion has been to offer less

land than would be relinquished by the Project (approx. 20 acres foregone with 7 acres as alternative replacement).

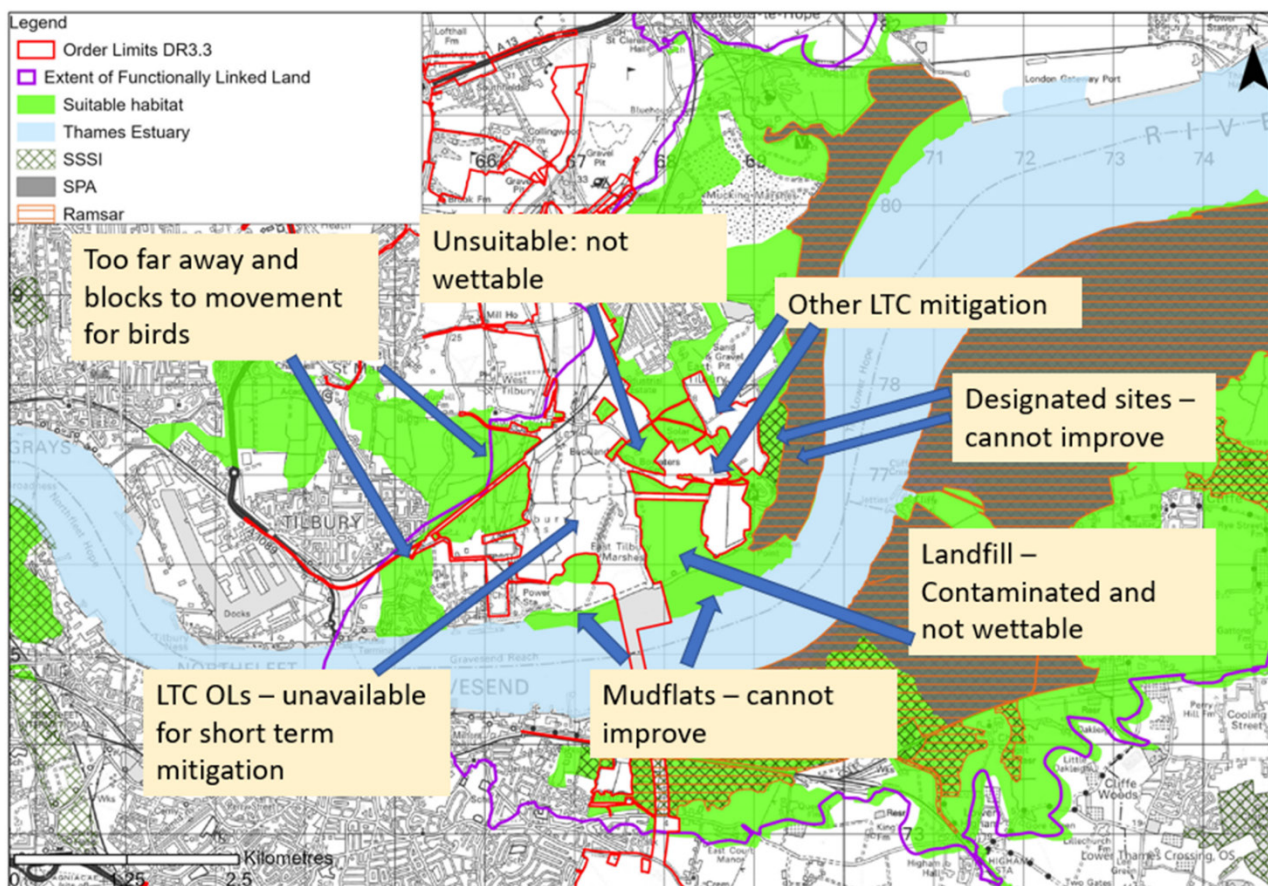
- D.2.21 Key principles of current design are to provide mitigation as close to the main point of impact as possible which is Low Street Pit and the species assemblages it supports. It is also critical to develop strong links between N01 and N02 GCN metapopulations given the large-scale impacts on N02 and the lack of opportunity to provide bespoke mitigation within 250m of that metapopulation. The location and scale of this essential mitigation also develops landscape-scale links between areas of essential mitigation such as Tilbury Fields and Coalhouse Point, and designated sites such as Mucking Flats and Marshes SSSI, and the Thames Estuary and Marshes Ramsar and SPA.
- D.2.22 The Applicant's position is that this land is essential mitigation for the Project and there is a clear and robust case for its inclusion in the Order Limits. Whilst the Applicant is willing to continue discussions on alternatives (on a 'like for like' basis) as a 'stakeholder led initiative' it is extremely unlikely that such alternatives would provide the same level of ecological mitigation; consequently, at this stage the Applicant is not proposing any changes.
- D.2.23 The Applicant's view is that the alternative proposal suggested would weaken the link between GCN metapopulations N01 and N02, increasing the distance between the area of impact and the provision of new habitat. The orientation of the proposed removal of mitigation land would add approximately 100m to this distance, with the replacement areas being between 200m and 800m from the area proposed for removal. The alternatives would also disrupt long-established discussions with Natural England as it would be a change to the existing draft protected species mitigation licence application for great crested newts for which Natural England has provided a letter of no impediment (see Statement of Common Ground between National Highways and Natural England [[REP5-038](#)] at Item No. 2.1.74).

D.3 Coalhouse Point HRA mitigation

- D.3.1 **Plot 19-09 (see plan above)** is proposed as approx. 35ha of habitat enhancement to maintain baseline functionality of functionally linked land associated with the Thames Estuary and Marshes SPA/Ramsar site. This is essential mitigation of impacts of habitat loss and disturbance of the functionally linked land identified in the Habitats Regulations Assessment (HRA) – Screening Report and Statement to Inform an Appropriate Assessment [[APP-487](#)]. Without mitigation, there would be an adverse effect in the integrity of the SPA / Ramsar.

- D.3.2 The impacts being mitigated are during both the construction and operational phases and so must be available during construction and operation. To be effective, they must be:
- Within the area of functionally linked land (as identified on Figure 2 of the HRA and agreed with Natural England)
 - Able to be enhanced as habitat to increase its functionality as functionally linked land (supporting the birds of the SPA / Ramsar outside the designated boundary)
 - Wettable (the birds of the SPA / Ramsar are primarily wetland birds and so enhancement of functionally linked land needs to include improved wetland habitat, which requires additional water)
 - Adjacent to affected habitat for birds to access effectively
- D.3.3 The Coalhouse point site is the only site that fulfils all these requirements. Other locations are unsuitable as they are too far away, not wettable, not improvable (e.g. designated sites), or not available during the construction period.

Plate D.2 Assessment of potential alternative sites for HRA mitigation (for information only and not submitted previously as a DCO Application Document)



Overall mitigation strategy

- D.3.4 In line with good practice guidance (CIEEM 2018, para 6.6 and 6.7) the Applicant has looked to locate mitigation/compensation as close as possible to the location where effects have occurred, and to benefit the same habitats and species as those affected. The Applicant has also looked to adopt the more, bigger, better and joined up approach advocated by Prof. Sir John Lawton in the Government’s 2010 Making Space For Nature report the principles of which are to develop stronger, more resilience and coherent ecological networks. This approach is included in the Environment Act 2021 and the NNNPS 2014.
- D.3.5 Section 8 of the Act requires the SoS to prepare an Environmental Improvement Plan which was published earlier this year. This document promotes Nature Recovery Networks to support its apex goal of creating thriving plants and wildlife. This aims to create wildlife-rich habitats outside protected sites which expand the buffers on those sites and connect up these areas allowing populations to move and thrive.
- D.3.6 The National Networks National Policy Statement also promotes landscape-scale mitigation through habitat connectivity:
- a. NNNPS 2014 (para 5.20): looks to provide BNG through establishing more coherent ecological networks which are more resilient to future pressures.
- D.3.7 The timing of habitat creation has also been a key consideration as the Applicant has looked to use sites which link to the Project and help develop a wildlife corridor to link areas around the Thames Estuary, A13, Mardyke and M25. The Applicant has therefore looked, wherever possible, to use land which, in the construction programme, is not significantly constrained by construction activities meaning habitat creation could only occur some years after main works had started. These overarching principles have informed site selection for the landscape and ecology mitigation design.

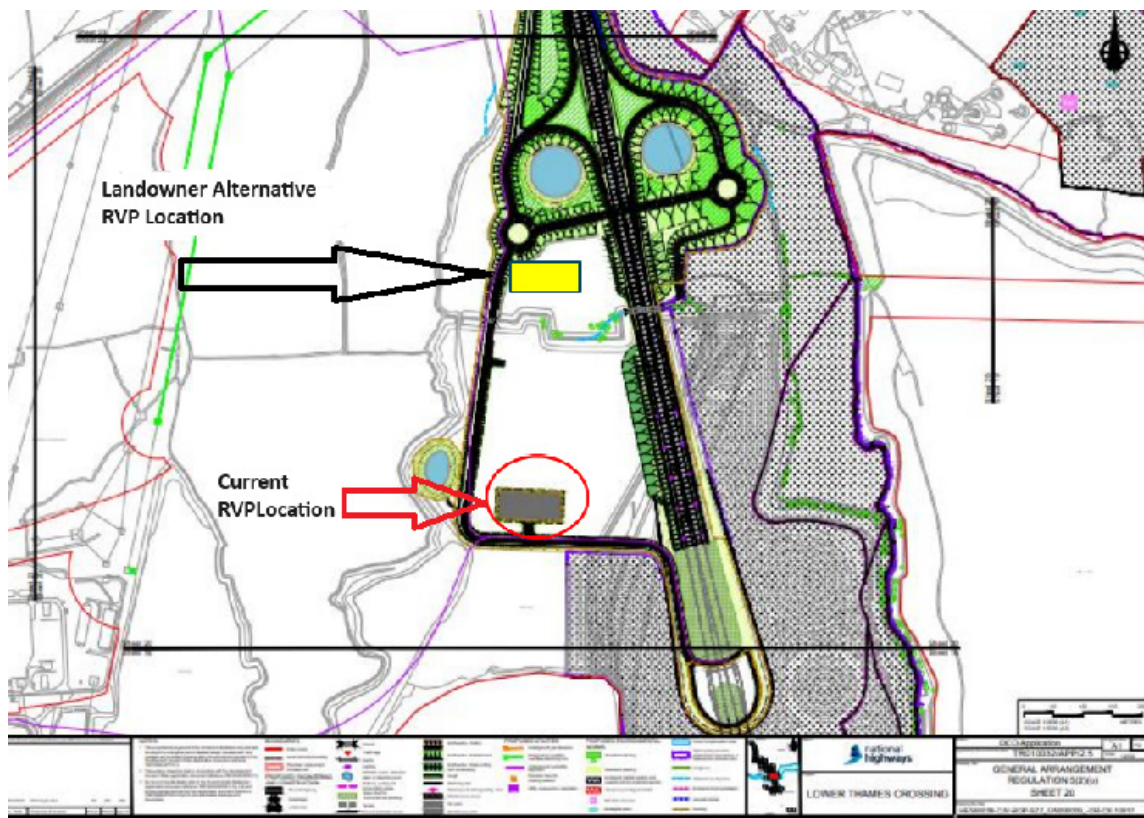
D.4 Hearing Action Point 20 – Mott Family Land and RVP Location

- D.4.1 Hearing Action Point 20 requests “*Please provide an update on discussions with Emergency Services and Safety Partners Steering Group (ESSP SG) in respect of an alternative location for the RVP at the northern portal site. Is the alternative proposed for Mr Mott (or are any other reasonable alternative locations) appropriate?*”. The Applicant’s response is below.
- D.4.2 The Applicant’s position is that the north tunnel portal RVP location presented within its DCO submission remains the best location for the RVP and accords with relevant standards including DMRB CD 352 and in particular paragraph 3.31 of this document. The RVP was originally selected in this location as it has

good access to all directions of the Lower Thames Crossing (via the Tilbury operational and emergency access), as well as local access via Station Road and is in close proximity to the tunnel service building which would provide access to control and welfare facilities for the responding emergency services (known as the emergency hub).

- D.4.3 As set out in Post-event submissions of oral comments, for CAH3 [Document Reference 9.129], the Applicant understands that the Emergency Services and Safety Partners Steering Group (ESSP SG) do not currently favour the alternative RVP location put forward to Mr Mott (see Plate E4 below), although this site was promoted by the ESSP SG in their Written Representation Annex B [REP1-339]. More recently the ESSP SG has concluded that, in their view, the site would be too close to the North Portal.
- D.4.4 The Applicant continues to work closely with the ESSP SG to seek agreement on the location of the north portal RVP, and will continue to provide regular updates to the ExA.

Plate D.3 Current and landowner proposed alternative RVP locations

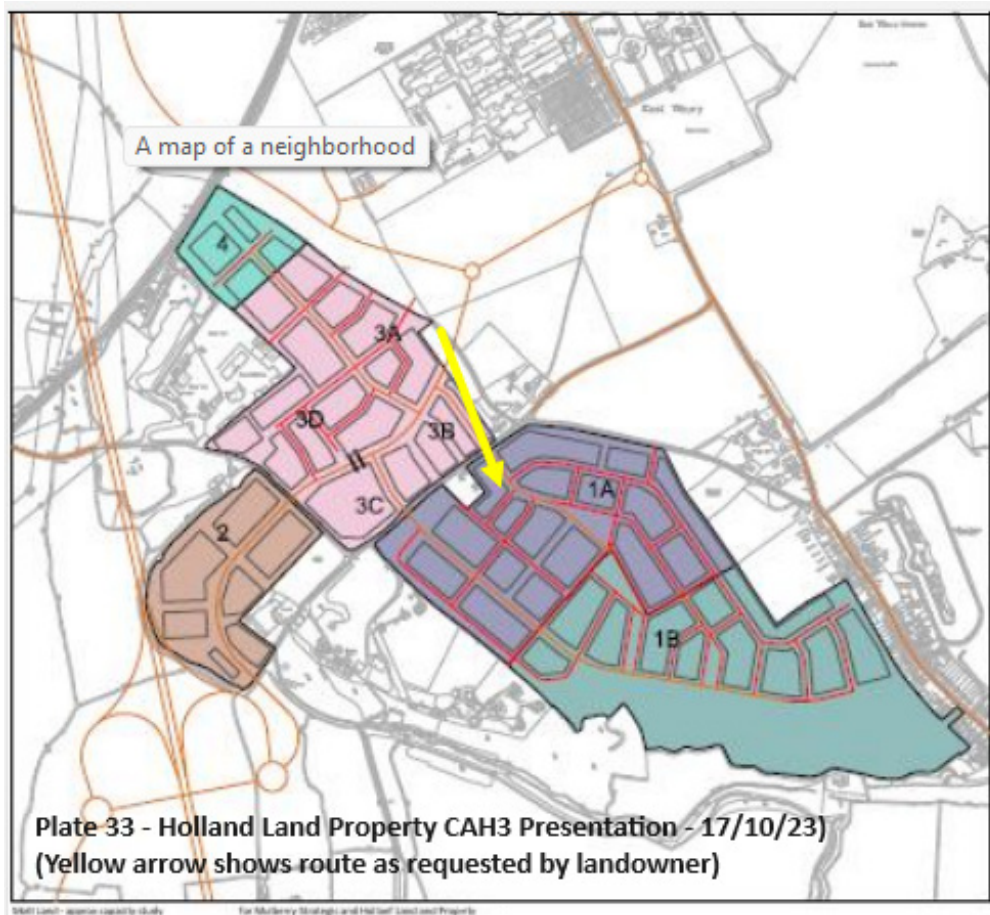


D.5 Access to land south of Station Road

- D.5.1 A commitment has been made to the landowner and included in the draft SoCG as follows: “At the detailed design stage, the Contractor will use all reasonable endeavours to provide the landowner with controlled access through the north-

east corner of compound CA5 to the land south of Station Road. However, access cannot be guaranteed at this stage.” The route is indicated by a yellow arrow in HL&P’s plan below and formal recognition in the SAC-R is as yet still subject to formal Project Approval:

Plate D.4 Landowner requested route for access through Compound CA5 (not shown) for future development purposes (as shown)



D.5.2 Special category land and its replacement is regulated under s131 and s132 of the Planning Act 2008. As such, the Applicant is restricted in agreeing anything other than that already set out in the draft DCO.

D.6 WCH Routes – Hearing Action Point 17: Limitation of Motorised Vehicle Use of Bridleways

D.6.1 The Applicant has discussed this matter with senior representatives of its Safety, Engineering and Standards directorate (sitting within National Highways) as well as external parties to enquire whether there is any guidance or standard relating to designing out the misuse of Public Rights of Way. However, despite these best endeavours, in the short time available it has not been able to establish whether any guidance is available which could assist. As the Applicant has noted, this is a national issue (reflecting that accessibility for some non-motorised users would potentially allow for misuse). The approach of

the Applicant has been to respond to policy encouraging enhancements for walkers, cyclists and horse-riders, whilst seeking to provide as much assurance as is reasonably possible to landowners in these circumstances.

D.7 WCH Routes – Hearing Action Point 18: Dedication Proposal for WCH alignments

D.7.1 As stated in the Post-event submission, the Applicant has proposed a tripartite agreement with Benton to enable the dedication of proposed new WCH routes while avoiding the permanent acquisition of land. Discussions between the parties are at an early stage. The Applicant is awaiting to hear from the landowner.

Annex E Post-hearing submissions on Agenda Item 3(f): E & K Benton Ltd

E.1 Hearing Action Point 16: Operational Solar Farms, Consents and Applications

E.1.1 Action Point 16 sets out:

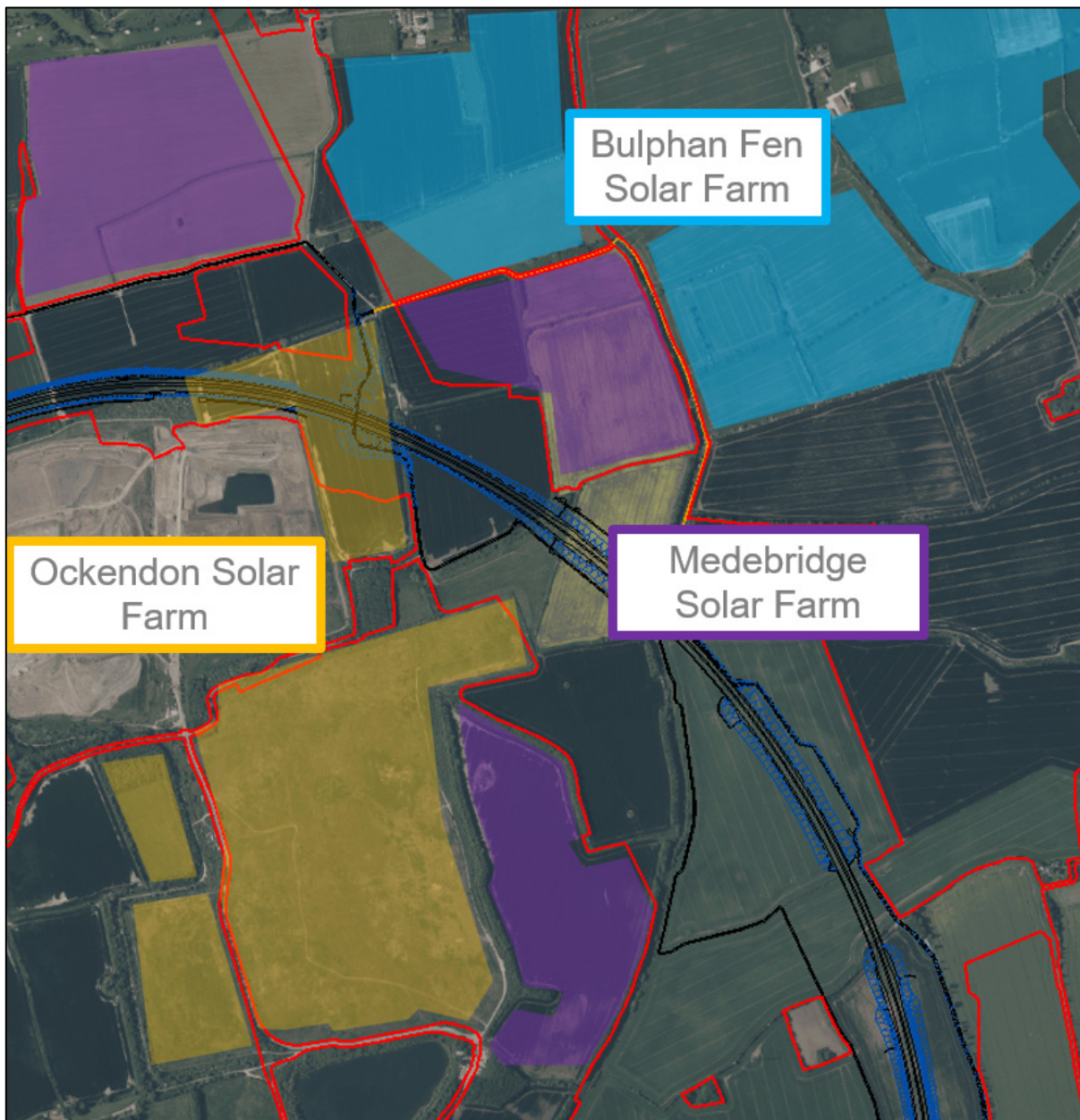
“Operational Solar Farms, Consents and Applications - Please provide an update on the status of and responses to development and operation of solar farms affected by the LTC alignment in the broad Mardyke Valley area. What agreements with solar farms have been finalised, and where is work on agreements ongoing. What in summary terms have agreements provided for? Whilst this action arose in respect of submissions on behalf of the Benton family, please relate your answer to all solar uses and proposals known to you in the land between the A13 at Sifford and North Ockendon.”

E.1.2 There are three solar farms in the Mardyke valley area:

- a. Ockendon Solar Farm – construction completed, due to be energised in autumn 2023
- b. Medebridge Solar Farm – consented, due to start construction in spring 2024
- c. Bulphan Fen Solar Farm – construction started summer 2023, due to be energised spring 2024

E.1.3 Plate E.1 below shows the approximate location of each of the solar farms’ arrays in relation to the Project and Order Limits.

Plate E.1 Solar farm proposals in the Mardyke Valley area



Ockendon Solar Farm

- E.1.4 The Applicant entered into an agreement with REG Power Ltd (now Ockendon Solar Limited (OSL)) in November 2020 regarding the design interfaces between the solar farm and Lower Thames Crossing. The agreement provided for the construction and operational interfaces between the two projects and for the relocation of the consented (but as of then unbuilt) substation for the solar farm away from the main alignment of the new road and outside of the Order Limits. This required a variation to the planning consent for the solar farm which OSL secured.
- E.1.5 The agreement provided for the enhanced specification of the substation cable route. This involved the installation of the OSL electrical cable via a horizontal

directional drill (HDD) underneath the proposed Lower Thames Crossing main alignment and the route of gas pipeline diversions (Work No. MU64). These works have been undertaken to ensure that Lower Thames Crossing construction works would not have any impact on the solar farm's connection to the power grid. The construction of Ockendon Solar Farm has been completed and it is due to be energised in the autumn of 2023.

Medebridge Solar Farm

- E.1.6 Medebridge Solar Farm is a proposed solar farm which received planning consent in May 2022. Prior to the planning application being submitted, the Applicant engaged with the promoters, then REG Power Limited now Medebridge Solar Limited (MSL), to ensure that the design of the solar panel array was situated outside of the proposed Order Limits. The land is owned by E&K Benton and the Applicant understands that MSL has an option to lease the land prior to construction of the solar farm.
- E.1.7 The Applicant and MSL are in active discussions to agree terms for an agreement in relation to the design interfaces between the two projects, mainly the installation of an electrical cable underneath the area where the main road alignment is proposed. The agreement will also provide for operational access for MSL over the FP136 bridge (Work No. 8C) and permanent access for E&K Benton as Freeholder via a Deed of Grant. It is hoped that terms will be agreed prior to the end of the DCO examination.
- E.1.8 While the agreement between the parties will also cover potential construction interfaces, it is likely that Medebridge Solar Farm will be constructed and operational prior to the start of Project works.

Ockendon & Medebridge Solar Farms – substation

- E.1.9 The substation, which has been constructed by OSL under the terms of the agreement between OSL and the Applicant, as outlined above, serves both Ockendon and Medebridge Solar Farms. The substation is owned by Fen Lane GridCo Limited, a company which will be owned jointly by OSL and MSL.
- E.1.10 The transformer for the substation was transported to site from the north via Fen Lane. Should the Project be constructed, access to remove or replace the transformer via this route would not be feasible due to the specification of the FP136 bridge (Work No. 8C) not being sufficient to support the exceptional weight of the transformer.
- E.1.11 The Applicant has therefore agreed to allow for access from the mainline of the new road in exceptional circumstances should the substation transformer need to be removed or replaced. This will be secured via a legal agreement between the Applicant and Fen Lane GridCo Limited.

Bulphan Fen Solar Farm

- E.1.12 Bulphan Fen Solar Farm is a consented scheme promoted by Warley Green Limited (WGL) that commenced construction in summer 2023. There is one minor design interface between the two projects where a Bulphan Fen Solar cable crosses the Mardyke river which is in the Order Limits for proposed environmental works (Work No. E36) which does not present an issue for either project. For further details see Comments on WRs Appendix F: Landowners [\[REP2-051\]](#).
- E.1.13 Works to construct Bulphan Fen Solar Farm will be completed in spring 2024, there will be no construction interfaces between the two projects. Operational access to the site would be maintained at all times with the use of traffic management on Fen Lane if required.

Annex F Post-hearing submissions on Agenda Item 3(g): The Linford Land Consortium

F.1 Introduction

- F.1.1 This section provides the post-hearing submissions for agenda item 3(g), from Compulsory Acquisition Hearing 3 (CAH3) on 17 October 2023 for the A122 Lower Thames Crossing (the Project).
- F.1.2 In advance of CAH3 Holland Land and Property submitted supportive evidence for the points that would be raised during CAH3. This is contained within:
- a. Additional Submissions - Plans to aid running of CAH3 - Accepted at the discretion of the Examining Authority [[AS-101](#)]
 - b. Additional Submissions - Plans to aid running of CAH3 - Annex - Accepted at the discretion of the Examining Authority [[AS-102](#)]
- F.1.3 The Applicant has reviewed the submissions and responds to the points made:

F.2 Background

- F.2.1 The Linford Land Consortium consists of 16 separate landowners who are cited as the 'Owners' in an option agreement dated 4 January 2005. The Applicant understands that the current agreement is the second Deed of Variation dated 17 May 2019 between The Linford Land Consortium and Cogent Land LLP as developer. Cogent Land LLP transferred the option to Mulberry Strategic Land (the current 'Developer') in February 2022 so a further Deed of Variation may exist which has not been seen by the Applicant.
- F.2.2 The original planning application for the Linford Land 'Phase 1' development was first published on Thurrock Council website in September 2016. It was resubmitted by Mulberry Strategic Land in March 2023¹.
- F.2.3 Detailed plans of this development are included in Holland Land & Property's CAH3 submissions.

F.3 Linford development potential

- F.3.1 Planning application 16/01232/OUT was resubmitted by Mulberry Strategic Land in March 2023. The application description is for outline planning permission with some matters reserved (appearance, landscaping, layout and scale), for up to 830 dwellings if the Project is constructed and 1000 dwellings

¹ The planning application on Thurrock Planning Portal can be found at 2023 Phase 1 Planning Application (Mulberry) (NB – this is not a DCO submission document): <https://regs.thurrock.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=OD52TXQGH2J00>

without the Project, also including a new local road with a pedestrian/vehicular railway crossing, a primary school, local centre and new open spaces including formal recreation space. The application is supported by an ES (submitted April 2023). The latest advertisement relating to the application expired on 10 May 2023.

- F.3.2 The application site is in designated greenbelt land and is not an allocated site in any adopted local plan document. It has been in the planning system for seven years without significant progress towards a decision but the Applicant is informed this is due to go before the Thurrock Planning Committee in January 2024.
- F.3.3 The site was identified in the New Local Plan call for sites which was subject to consultation in December 2018, there has been no further publication of progress with the new Local Plan since.
- F.3.4 The Applicant understands there is a high level of local objection, including concerns as to the loss of Green Belt land, lack of capacity in local infrastructure, valuable green space used by the local community, over-development of the area and congestion on the local road network.
- F.3.5 While the Applicant acknowledges the submitted application, there remains considerable uncertainty about its likely outcome. The Applicant has refined the Order Limits, which consequentially reduces the potential conflict with the proposed development. These changes includes the variation in the Applicant's Change Application 1 change MRC03 to reduce the Order Limits to the west of East Tilbury, the relocation of Linford borehole pipeline and Utility Logistics Hubs and a redesignation of Plot 23-96 as well as a DCO commitment to extinguish permanent rights once the utility asset is no longer required. The change application justification stated:

'Background and justification of the change

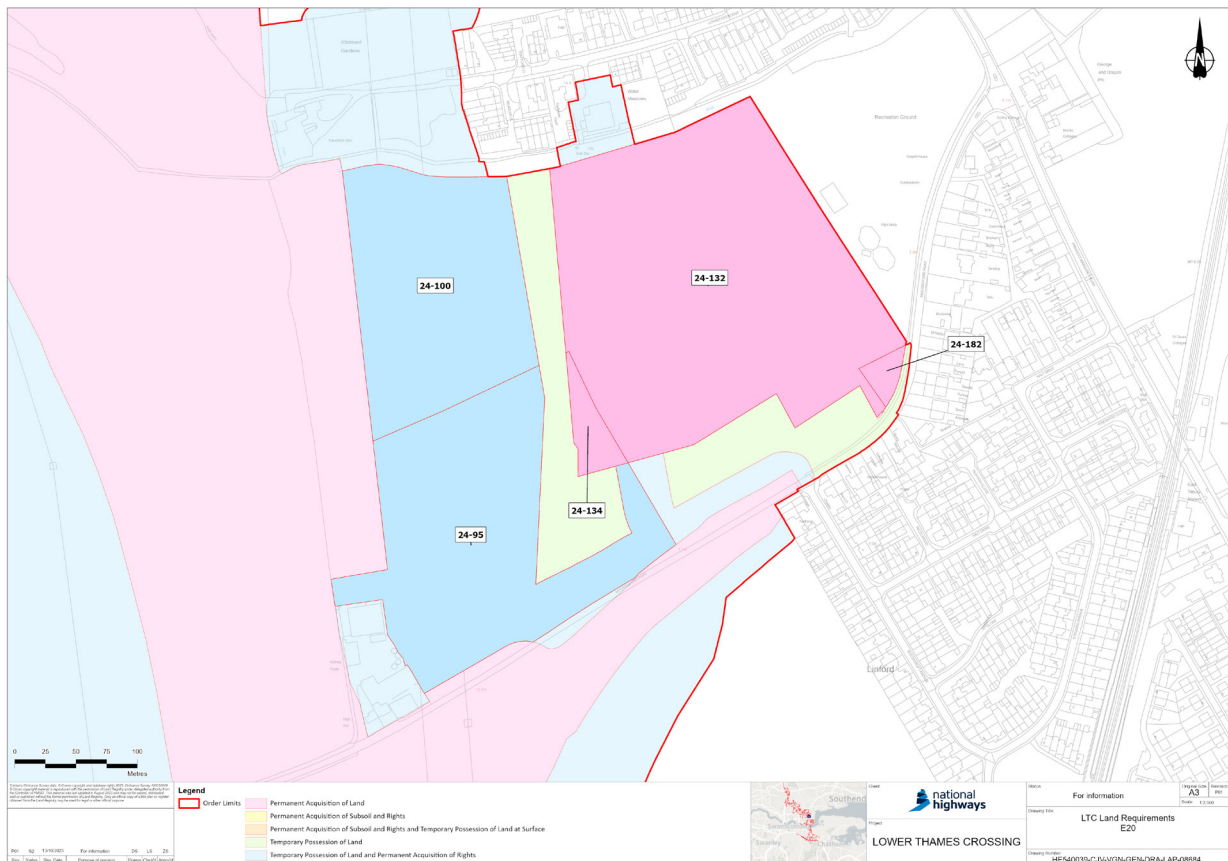
6.1.1 During ongoing landowner engagement, the Applicant identified that there was an opportunity to make modifications to the proposed temporary works in the Tilbury area. By changing the location of the two Utility Logistics Hubs and modifying the alignment of the temporary Linford bore pipeline, it would be possible to reduce the temporary land requirements in the area, reducing the Order Limits and impacts on land as a result. This change would also move construction works further away from residential properties in East Tilbury, reducing the potential environmental impacts associated with those works.'

F.4 Further Information on Ecological Mitigation Land

- F.4.1 Plot 24-132 as shown in the Land Plan excerpt below is included by the Applicant in its Order Limits to provide essential mitigation for adverse effects

on biodiversity, including the loss of habitat supporting reptiles and terrestrial invertebrates and the loss of habitat from designated sites including Mucking Heath Local Wildlife Site and Linford Pit Local Wildlife Site:

Plate F.1 Land Plan (extract Sheet 24) – Ecological Mitigation Area (Plot 24-132)



- F.4.2 The area west of Plot 24-132 includes approximately 50ha of high quality semi-natural habitat, including areas of woodland, rough grassland and scrub habitats, together with a number of waterbodies. This area was included as part of the terrestrial invertebrates surveys undertaken to support the ecological impact assessment and is shown clearly as Area 13 in ES Figure 8.7: Invertebrate Survey Locations [APP-268], and includes part of Linford Pit Local Wildlife Site, shown in ES Figure 8.1: Designated Sites [APP-262]. The findings of this survey work reported that Area 13 supported terrestrial invertebrate assemblages of national value. This is reported in ES Chapter 8: Terrestrial Biodiversity [APP-146], Table 8.22.
- F.4.3 This area is also identified as a key reptile area in ES Figure 8.9: Reptile Survey Results [APP-270] and, as a relatively large area of semi-natural habitat in a predominantly arable landscape, is valuable for the bird assemblage north of the River Thames.
- F.4.4 Approximately 8ha of this area would be lost as a result of the construction and operation of the Project.

- F.4.5 A further terrestrial invertebrate survey area (Area 8) lies west of Area 13 and includes part of Mucking Heath Local Wildlife Site. The assemblage of terrestrial invertebrates recorded in Area 8 was valued as of regional importance. Approximately 2.3ha of this local wildlife site would be permanently lost as a result of the Project, impacting the site and the associated regionally important invertebrate assemblage.
- F.4.6 Residual effects from the Project on the two local wildlife sites and the reptile and bird assemblages are considered to be slight adverse and not significant once mitigation, including habitat creation at Plot 24-132 are taken into account. Residual effects on terrestrial invertebrates are considered to be moderate adverse and significant.
- F.4.7 Plot 24-132 provides for the creation of 5.5ha of open mosaic habitat, including scrub, grassland and aquatic habitats, to help compensate for loss of similar habitats immediately west of this plot. Proximity of compensation to the area of impact is important and follows guidance on Ecological Impact Assessment published by the Chartered Institute of Ecology & Environmental Management which states at paragraph 6.6 that “*Compensation should be provided as close as possible to the location where the effects have occurred and benefit the same habitats and species as those affected.*”
- F.4.8 The location of Plot 24-132 also helps compensate for the loss of habitat from two local wildlife sites and creates stepping stones of high quality habitat along the route of the new road to facilitate species movement through existing and proposed habitat creation, as reported in the Environmental Masterplan Section 10 [REP4-129]. Its location is also in close proximity to Linford Wood Local Nature Reserve and Local Wildlife Site, and Gobions Lake Local Wildlife Site, shown in ES Figure 8.1: Designated Sites [APP-262], further strengthening ecological networks in the area.
- F.4.9 Natural England has expressed its support for the overall mitigation and compensation design proposed for terrestrial invertebrates in the Statement of Common Ground between National Highways and Natural England [REP5-038] at Item No. 2.1.50.
- F.4.10 The Works Plans [REP5-018], sheet 24, show how the construction phase of the Project affects land immediately west of Plot 24-132. In providing compensation for the loss of semi-natural habitats supporting reptile and bird assemblages and nationally important terrestrial invertebrate assemblages, it is important to create this habitat as early as possible in the construction programme. To this effect, there are provisions in both the Design Principles document (Design Principles [REP4-146] Clause No. LSP.23) and the Code of Construction Practice (ES Appendix 2.2: Code of Construction Practice [REP-5-048] REAC Ref. LV029). Utilities works on land west of Plot 24-132 would occur for the first two years of construction which would result in a significant delay in

creating and allowing the establishment of this compensation area should the two areas overlap. The location of Plot 24-132 avoids this conflict with construction work, is in close proximity to the areas of biodiversity value adversely affected by the Project, including an area supporting terrestrial invertebrate assemblages of national value, and acts as a stepping-stone along the Project facilitating the movement of species within the wider landscape.

- F.4.11 HL&P as agent to Linford Land Consortium and Mulberry Land has requested to move or remove this site to facilitate housing development proposals. To date, this has been resisted as the only available site and cannot be located under the adjacent overhead powerlines as it has to be delivered to facilitate such works (i.e. a reception area to allow ground works to start). It is also considered bad practice to double-handle animals.
- F.4.12 Please also refer to the following DCO documents:
- a. Works Plans Volume C Composite [[REP5-020](#)]: Sheet 24
 - b. ES Figure 8.7: Invertebrate Survey Locations [[APP-268](#)]
 - c. ES Figure 8.1: Designated Sites [[APP-262](#)]
 - d. ES Chapter 8: Terrestrial Biodiversity [[APP-146](#)]
 - e. ES Figure 8.9: Reptile Survey Results [[APP-270](#)]
- F.4.13 Please also refer to the following document: CIEEM Guidelines for ecological impact (CIEEM, 2018).

Annex G Post-hearing submissions on Agenda Item 3(m): Tarmac Cement and Lime Ltd

G.1 Introduction

- G.1.1 This section provides the post-hearing submissions for agenda item 3(m), from Compulsory Acquisition Hearing 3 (CAH3) on 17 October 2023 for the A122 Lower Thames Crossing (the Project).
- G.1.2 References should be made to Additional Submissions - Plans to aid running of CAH3 - Accepted at the discretion of the Examining Authority [[AS-103](#)].

G.2 Existing utilities at Tarmac

- G.2.1 As shown within Plans to aid running of CAH3 [[AS-103](#)], two existing overhead powerline networks are located within the Tarmac site boundary:
- a. National Grid Electricity Transmission's 400kV ZJ Route, **of which pylon ZJ016 is located within the south eastern corner of the site, and is connected by overhead powerlines from the south and north east of the pylon.**
 - b. UK Power Networks' 132kV PAB Route, of which pylon PAB18 is located west of the Trupack Site, and east of the landfill, and pylon PAB19 which is located north west of Linford 2 building, and are connected to each other by overhead powerlines that continue south in a south westerly direction and north in a north easterly direction.
- G.2.2 The Applicant requires modifications to the alignments of both of these networks south of the Tarmac site (Work No OH4 and Work No OH5) that require works to be undertaken to these pylons, as stated within Schedule 1 of the draft Development Consent Order [[REP5-024](#)]:
- “Work No. OH4 – as shown on sheets 20, 23, 24 and 27 of the works plans and being the overhead lines diversion works (ZJ Route), to include—*
- (a) the permanent diversion of the overhead line between existing pylon ZJ010 and proposed new pylons ZJ011A, ZJ011B, ZJ011C, ZJ012R (approximately 890 metres);*
 - (b) the installation of a new pylon ZJ014R on the existing alignment;*
 - (c) the dismantling of existing pylons ZJ011, ZJ012 and ZJ014;*
 - (d) earthing works on existing pylons ZJ007 and ZJ019; and*

(e) to facilitate the above: **the installation of conductors, insulators and fittings between pylons ZJ008, ZJ009, ZJ013, ZJ015, ZJ016, ZJ017 and ZJ018 (approximately 3,580 metres).**

Work No. OH5 – as shown on sheets 23, 24 and 27 of the works plans and being the overhead lines diversion works (PAB route), to include—

(a) the permanent diversion of the overhead line between existing pylons PAB12 and PAB17 and proposed new pylons PAB13R, PAB14R, PAB15R, PAB16R and PAB17R (approximately 1,455 metres);

(b) the dismantling of existing pylons PAB13, PAB14, PAB15 and PAB16;

(c) **earthing works on existing pylons PAB11, PAB18 and PAB19;** and

(d) to facilitate the above: **the installation of conductors, insulators and fittings between pylons PAB12, PAB17 and PAB18 (approximately 1,650 metres).**”

- G.2.3 The Applicant wishes to highlight that pylons PAB18 and PAB19 are located within heavily vegetated, naturally regenerated parts of the site, with this vegetation, coupled with undulating ground extending south westerly beneath the overhead powerlines between pylons PAB18 and PAB17, as shown at Plate G.1 below.

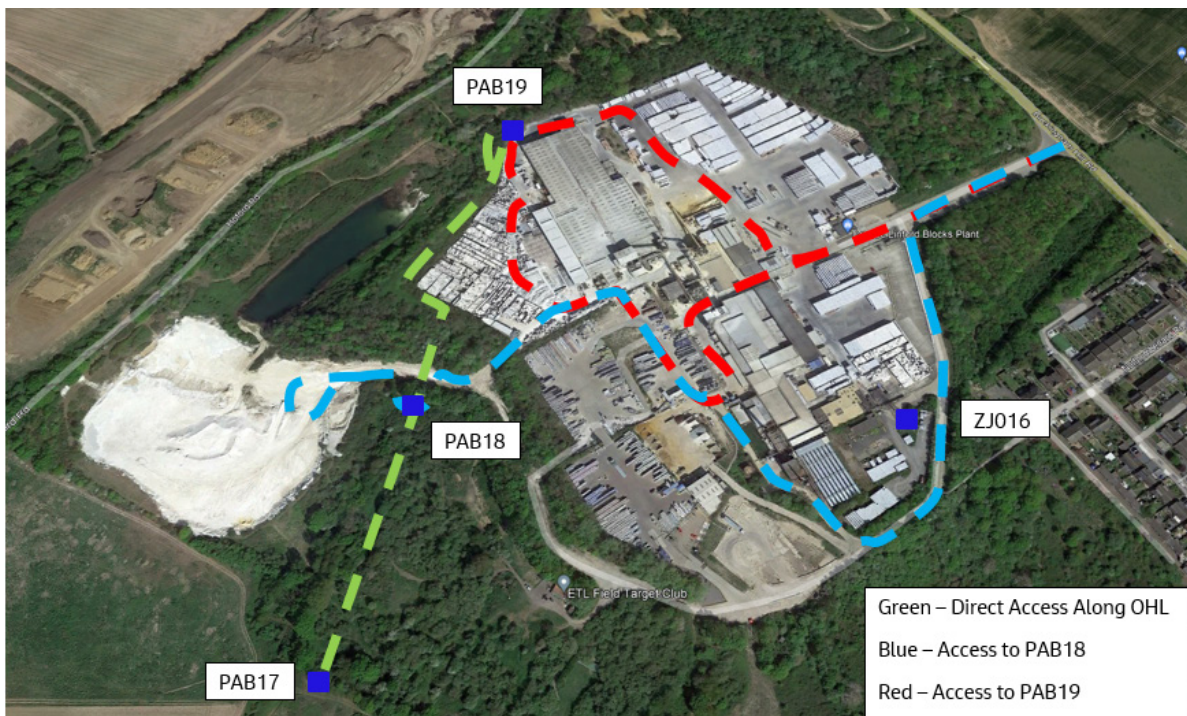
Plate G.1 Looking west to Pylon PAB18, from south-east of the pylon



G.3 Access arrangements – considerations regarding temporary and permanent provisions

- G.3.1 The Applicant believes that access to pylon ZJ019 for the undertaking of Work No OH4 is not contested by Tarmac owing to it utilising a direct route from Buckingham Hill Road to the pylon via the site perimeter road, in accordance with the existing provisions for works to that network, shall be the provisions during the works and are proposed as the access provision for the ongoing operation and maintenance of the network.
- G.3.2 Owing to the presence of dense vegetation and the undulating ground as shown at Plate G.1, in agreement with UK Power Networks (who may undertake the works (Work No OH5) on the Applicant's behalf) the Applicant has proposed a route through the Tarmac site to attend pylons PAB18 and PAB19 from the existing vehicle routes utilised by Tarmac's HGVs. This is to mitigate the amount of the vegetation that may be impacted if undertaking a direct route adjacent to the overhead powerlines directly from PAB17 heading north north-east.
- G.3.3 The temporary access route can be viewed within Plans to aid running of CAH3 [[AS-103](#)] and at Plate G.2 below, and is secured via the DCO, notably over those plots shown on Sheet 27 of the Land Plans [[REP5-008](#)].
- G.3.4 The temporary access proposes a series of routes entering and exiting the site from Buckingham Hill Road and then utilising the existing one way circuits that Tarmac's vehicles utilise through the site around the manufacturing plants and storage yards to attend the pylons on the western side of the site.

Plate G.2 Access routes associated with the PAB Route, within Tarmac's site (Work No OH5)



G.3.5 In Plate G.3 below, pylon PAB18 can be seen in proximity to the landfill access road, and in Plate G.4, pylon PAB19 can be seen in proximity to the Linford 2 perimeter road.

Plate G.3 Looking south-west at pylon PAB18 from the landfill access road



Plate G.4 Looking south-west at pylon PAB19 from the Linford 2 perimeter road



G.3.6 The Applicant understands that UK Power Networks, who own and operate the PAB Route (Work No OH5) have rights of access to attend the existing pylons and the overhead powerlines along the corridor of the overhead powerlines, as per the Applicant's CA powers associated with Work No OH5 and not via

Tarmac's site; however, as is typical of attending for annual inspections or the undertaking of minor works, UK Power Networks may indeed approach Tarmac to agree an alternative route if they foresee it as beneficial for the mitigation of harm to the environment. Permanent rights are required to ensure that maintenance activities can be carried out, given that the Applicant proposes to install new infrastructure not covered by existing wayleaves, and to address the possibility that agreement for alternative access could not be reached, between Tarmac and UKPN.

- G.3.7 The Applicant's temporary access proposals differ to the permanent arrangements owing to the limited nature of the works that the Applicant envisages may be required to complete Work No OH5, insofar that it may be limited to the installation of earthing equipment only and is therefore seeking to obtain a route that would cause less harm to the environment.

Action Point 14

- G.3.8 Action Point 14 sets out: "*Confirm how access for future maintenance of the electricity transmission infrastructure would be achieved, and whether any necessary vegetation removal has been assessed.*"
- G.3.9 In response to CAH3 Action Point 14, the Applicant provides the following:
- G.3.10 The application includes assessment of the loss of all vegetation within the easement corridor to facilitate the construction of the utility works (for both Work No OH4 and Work No OH5) as they correspond with land owned or adjacent to Tarmac land holdings. Owing to the planting restrictions associated with the overhead powerlines, it is not anticipated that vegetation loss would be required to facilitate future management during the operation of the networks, but maintenance of existing and replanted vegetation may be necessary. This would be completed by the utility networks maintenance contractor through their standard operating procedures. The assessment therefore is considered to be a worse-case scenario. This does not obviate the need for the 'spaghetti' configuration during construction as the impacts would be greater on existing vegetation.

G.4 Set out in writing why the power to carry out the works for OH4 & OH5 needed to be sought through the DCO

- G.4.1 The position of National Grid Electricity Transmission (NGET) and UK Power Networks (UKPN) in respect of rights for modified apparatus, as represented to the Applicant (see NGET's SoCG [\[REP1-201\]](#) item 2.1.2 and UKPN's SoCG [\[REP-1-082\]](#) items 2.1.1 and 2.1.2), is that the DCO must contain the powers to enable the Applicant to obtain the necessary rights etc for NGET and UKPN as regards new apparatus, and that the Applicant must acquire those rights for

NGET and UKPN (rather than relying on NGET's and UKPN's existing rights or their own statutory powers to acquire new rights).

- G.4.2 The Applicant agrees and accepts that approach: the DCO needs to contain the works powers so that the works are both authorised and have been assessed as part of the Project (irrespective of whether the Applicant's, NGET's or UKPN's contractor does the work in practice), and so that, for example, the DCO Requirements, CoCP, etc. apply consistently across the Project, and so the apparatus (as then modified) has been authorised (and assessed as part of the application) to be in place. The DCO therefore contains the full suite of necessary powers:
- a. To acquire the necessary rights, so that the Applicant is granted all powers necessary to implement the Project without having to rely on third parties' exercising their own rights or CPO powers
 - b. To extinguish the rights or the benefit of a restrictive covenant of, or remove or reposition apparatus belonging to, statutory undertakers over or within the Order land (e.g. art. 37(1)(b)), allowing the Applicant to extinguish NGET or UKPN rights under the existing deeds
 - c. To acquire new rights for NGET or UKPN in respect of diverted apparatus. In that regard:
 - i. Schedule 14 (PPs), para. 87 (Facilities and rights for alternative apparatus) provides specifically re NGET that the new rights are to be as good as the old rights, or (if NGET agrees to lesser rights) compensation is payable. The Applicant's understanding is that NGET's clear preference is for new modern rights (e.g. consistent with NGET's current form) to be put in place. Equivalent provisions are in place for UKPN.
- G.4.3 The Applicant understand Tarmac argue they do not want new modern rights to burden the property and would prefer (at most) to re-negotiate the existing deeds with NGET and UKPN to allow for the DCO works to be undertaken, and for the retention and maintenance etc of the apparatus, which appear (in Tarmac's words) to work well on the ground.
- G.4.4 The Applicant has undertaken a review of the existing deeds, to see whether it would provide an adequate basis on which to carry out the works proposed. The Applicant does not consider the existing rights would be sufficient.
- G.4.5 The relevant works in this case are OH4 and OH5 but these are linear works and only part of them falls within the deeds' areas. The Applicant cannot rely on the deeds in isolation for the whole of Works OH4 and OH5 as they obviously extend beyond the land covered by the deeds. In addition, the works proposed are described as follows in Schedule 1 of the draft DCO [[REP5-024](#)]:

“Work No. OH4 – as shown on sheets 20, 23, 24 and 27 of the works plans and being the overhead lines diversion works (ZJ Route), to include—

(a) the permanent diversion of the overhead line between existing pylon ZJ010 and proposed new pylons ZJ011A, ZJ011B, ZJ011C, ZJ012R (approximately 890 metres);

(b) the installation of a new pylon ZJ014R on the existing alignment;

(c) the dismantling of existing pylons ZJ011, ZJ012 and ZJ014;

(d) earthing works on existing pylons ZJ007 and ZJ019; and

*(e) to facilitate the above: **the installation of conductors, insulators and fittings between pylons ZJ008, ZJ009, ZJ013, ZJ015, ZJ016, ZJ017 and ZJ018 (approximately 3,580 metres).***

...

Work No. OH5 – as shown on sheets 23, 24 and 27 of the works plans and being the overhead lines diversion works (PAB route), to include—

(a) the permanent diversion of the overhead line between existing pylons PAB12 and PAB17 and proposed new pylons PAB13R, PAB14R, PAB15R, PAB16R and PAB17R (approximately 1,455 metres);

(b) the dismantling of existing pylons PAB13, PAB14, PAB15 and PAB16;

*(c) earthing works on existing pylons PAB11, **PAB18 and PAB19**; and*

*(d) to facilitate the above: **the installation of conductors, insulators and fittings between pylons PAB12, PAB17 and PAB18 (approximately 1,650 metres).**”*

- G.4.6 The Applicant considers it is doubtful whether the italicised and emboldened elements above would be authorised under the existing deeds.
- G.4.7 In each deed, there is particular description of the nature of the equipment (UKPN “the electric line” defined in the First Schedule, NGET “the electric lines” defined in the Schedule) to be installed. In both cases the electric line includes the “retention user maintenance repair renewal inspection and removal” of that line. But it doesn’t include, in terms, the “replacement” or “alteration” of that electric line or the installation of new/additional earthing works or the installation of conductors etc. to a replaced/altered line. Given that, there is some considerable doubt about whether the highlighted works could be done under the deeds.
- G.4.8 The Applicant and NGET and UKPN wish to avoid any argument in future about whether the line as replaced was actually authorised if the works powers were modified

G.4.9 The Applicant has offered its standard voluntary agreement which outlines the utility requirements (here for UKPN and NGET) and facilitates direct agreement although it is noted Tarmac have not expressed any interest.

Plate G.5 UKPN Deed Plan and Applicant Works Plans [REP5-018]

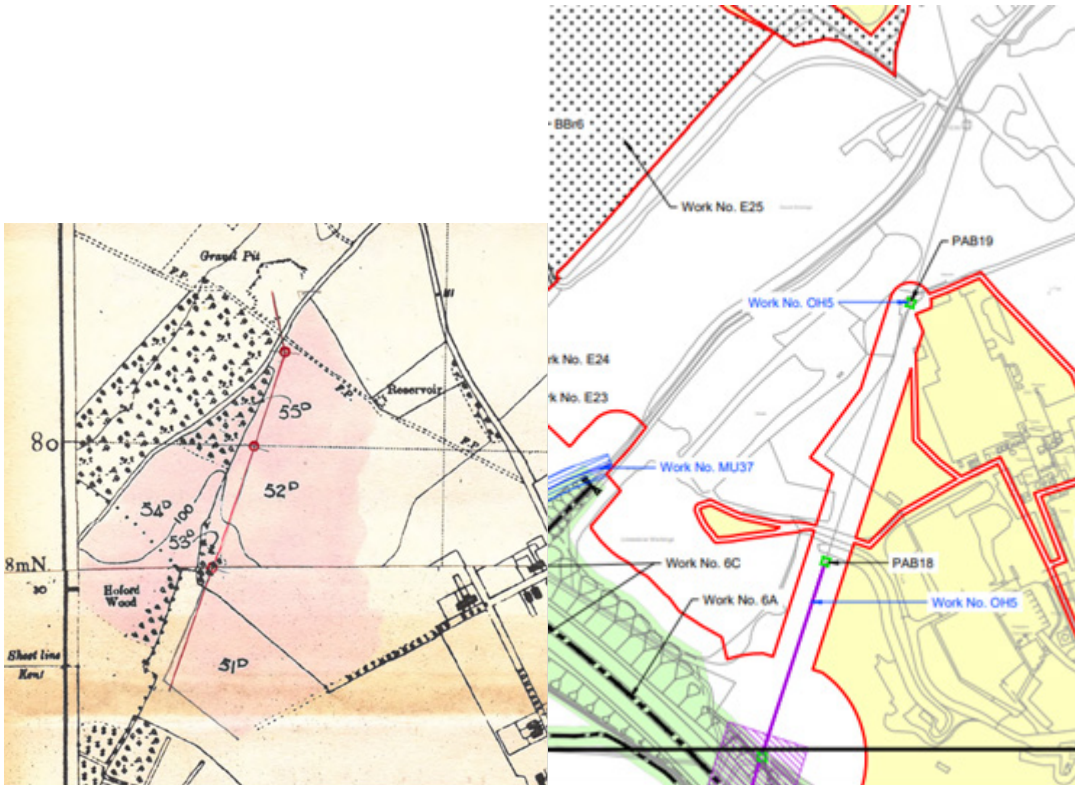
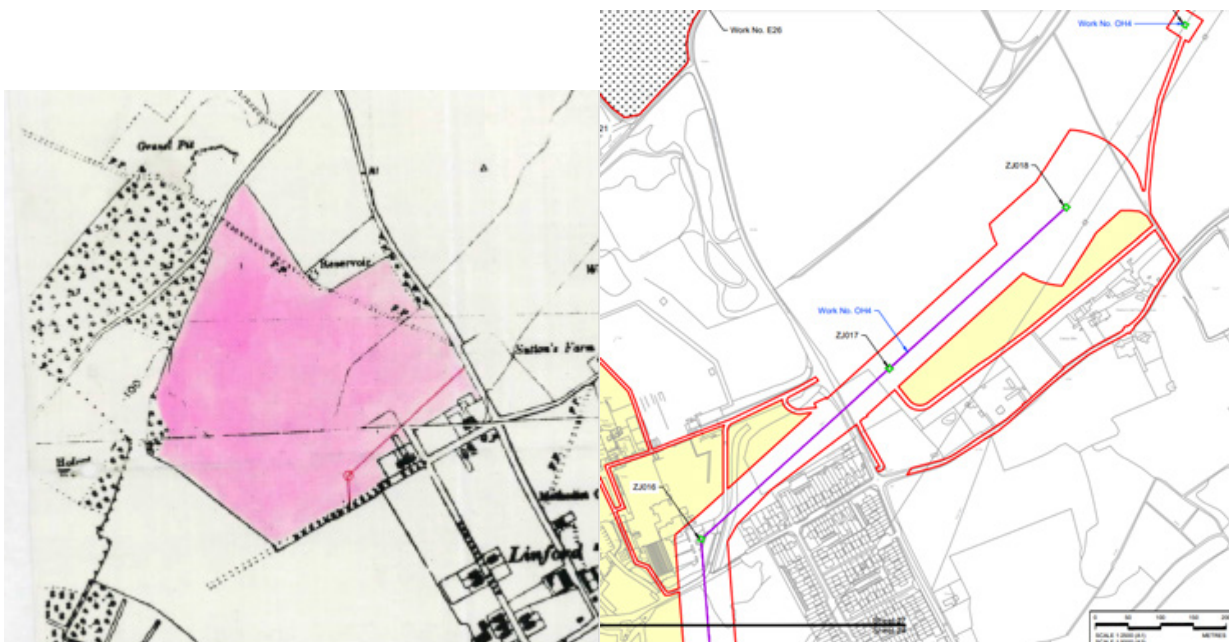


Plate G.6 NGET Deed Plan and Applicant Works Plans [REP5-018]



G.5 Please provide written comments on any realistic possibility of the proposed works having a negative effect on the restoration works related to planning conditions and/ or Environment Agency licence conditions at the Tarmac Building Products Ltd (TBPL) landfill site (CAH3 Action Point 13)

- G.5.1 Plate G.7 below shows the overlapping boundaries of the Project Order Limits, the permanent (pink) and temporary land (green) acquisition and the Applicant's understanding of the Tarmac permit boundary (pink line).

Plate G.7 Plan showing Project land requirements overlaid with Tarmac permit area and boreholes



- G.5.2 Tarmac's current planning permission (14/00323/FUL) requires that all filling and restoration works at their inert landfill facility are complete by 1 April 2024 and hence an application to surrender the environmental permit (permit No. DB3832RD) can be made. Under these circumstances the Project is unlikely to have any negative impacts on the environmental permit conditions, albeit some ongoing aftercare monitoring may be required, to which the Applicant offered a commitment in its detailed response to Tarmac's Relevant Representation, which read "*National Highways will ensure that the borehole ([defined as BH2 in Tarmac's existing environmental permit with the reference []]) is protected, remains in operation, and remains accessible by Tarmac at all times. National Highways will engage with Tarmac prior to commencement of the work over Plot(s) 27-32 to discuss and inform them of the measures to ensure the continued utilisation, and accessibility, of BH2*". The Applicant has not received a response to the proposed commitment.

- G.5.3 Following detailed engagement with Tarmac the Applicant understands their intention is to extend their planning permission for the site and there is likely to be conflict between the proposed DCO works and Tarmac's permit conditions and future restoration requirements.
- G.5.4 The conflicts are likely to arise from the proposed earthworks with the Project's permanent land acquisition area (cutting) within or closely adjacent to the edge of the inert landfill and the potential for restricted access to borehole no.2 which Tarmac require for ongoing monitoring under their permit conditions. Furthermore, there may be construction activities within the temporary land acquisition which could conflict with permit conditions, although these are likely temporary in nature.
- G.5.5 Tarmac would also be unable to restore the land which is part of the permanent acquisition, and this is proposed to be permanently modified by the construction of the cutting.
- G.5.6 On this basis, the Applicant has drafted robust mitigation measures in the form of article 68 of the draft DCO [\[REP5-024\]](#). This article would in effect disapply the Environmental Permitting Regulations (EPR, 2016) where a conflict between the Project and land plots with extant environment permit conditions are realised. In the case of Tarmac, any inconsistencies between their permit and the proposed DCO works would be disregarded and the permit ceases to have effect. The permit conditions would be substituted with a written scheme which must be produced in consultation with Tarmac and the Environment Agency to ensure safe operation, continued access for monitoring and no impacts on the environment, and this will effectively become a condition under the existing permit but regulated under the DCO. In respect of any conflicts with their planning permission, the Applicant would highlight that article 56(3) provides appropriate protection by ensuring no enforcement action arises as a result of the works authorised under the DCO.
- G.5.7 The Applicant has shared the text of Article 68 with Tarmac along with a cost reimbursement commitment for Tarmac to seek independent legal advice. The Applicant understands Tarmac are currently liaising with their legal team and it awaits a response. The Applicant has offered to amend the wording in article 68 if suitable wording is proposed by Tarmac to accommodate any concerns in relation to permitting or restoration activities, or otherwise.
- G.5.8 As noted above, Tarmac have also been offered additional commitments in the SACR in relation to ongoing access to Borehole 2 and the Applicant looks forward to discussing further with them.
- G.5.9 The Applicant spoke with the agents of Tarmac regarding outstanding actions following their representations made at CAH3. Tarmac's agent expressed an interest in considering the Applicant's standard voluntary agreement in

connection with the Project land requirements upon the permitted area (plots 27-32 and 27-35 on sheet 27 of the Land Plans Volume C [[REP5-008](#)]). The Applicant circulated Heads of Terms on 24 October 2024 and awaits Tarmac's response.

References

Chartered Institute of Ecology and Environmental Management (2018). Guidelines for Ecological Impact Assessment in the UK and Ireland: Terrestrial, Freshwater and Coastal. 2nd edition. Winchester: CIEEM.

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Department for Transport (2021). Secretary of State Decision Letter. Accessed October 2023. <https://infrastructure.planninginspectorate.gov.uk/projects/south-west/a303-sparkford-to-ilchester-dualling/>.

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<https://infrastructure.planninginspectorate.gov.uk/projects/south-west/a303-sparkford-to-ilchester-dualling/>.

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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