

# Lower Thames Crossing

## **9.130 Post-event submissions, including written submission of oral comments, for CAH4**

Infrastructure Planning (Examination  
Procedure) Rules 2010

Volume 9

**DATE: October 2023**  
**DEADLINE: 6**

Planning Inspectorate Scheme Ref: TR010032  
Examination Document Ref: TR010032/EXAM/9.130

**VERSION: 1.0**

## Lower Thames Crossing

### 9.130 Post-event submissions, including written submission of oral comments, for CAH4

#### List of contents

	Page number
<b>1 Introduction .....</b>	<b>1</b>
1.1 Welcome, introductions, arrangements for the Hearing .....	1
<b>2 Purpose of the Compulsory Acquisition Hearing.....</b>	<b>2</b>
<b>3 ExA Questions on: Individual Site-Specific Representations .....</b>	<b>3</b>
3.1 Item 3(a) Rochester Bridge Trust.....	3
3.2 Item 3(b) Mr Dean Bradbrook .....	7
3.3 Item 3(c) Mr Francis Wilson .....	7
3.4 Item 3(d) Northumbrian Water Ltd operating at Essex & Suffolk Water (ESW)	8
3.5 Item 3(e) Jackie Thacker .....	11
3.6 Item 3(f) John White (represented by Peter Trevor Foster) .....	12
<b>Annexes.....</b>	<b>13</b>
<b>Annex A Post-hearing submissions on Agenda Item 3(a): Rochester Bridge Trust .</b>	<b>14</b>
<b>Annex B Post-hearing submissions on Agenda Item 3(d): Northumbrian Water Ltd aka Essex and Suffolk Water .....</b>	<b>16</b>
<b>Annex C Post-hearing submissions on Agenda Item 3(f): John White (represented by Peter Trevor Foster) .....</b>	<b>20</b>

## List of plates

### Page number

Plate A.1 Assessment of potential alternative sites for HRA mitigation (for information only and not submitted previously as a DCO Application Document).....	15
Plate C.1 Heath Road terrace properties acquired by National Highways .....	21

# 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 4 (CAH4) held on 18 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 CAH4 [EV-057] by the Examining Authority, although it should be noted that the order of speakers was amended at the hearing, compared to the published agenda.

## 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 4 (CAH4) by Isabella Tafur, of Counsel (IT).
- 1.1.2 The following persons were also introduced to the Examining Authority (ExA):
- a. Tom Henderson, BDB Pitmans, Partner (TH)
  - b. Keith Howell, Lower Thames Crossing, Utilities Lead (KH)
  - c. Andrew Tait, King's Counsel (AT)
  - d. Russell Cryer, Lower Thames Crossing, Habitats Regulations Assessment (HRA) Lead (RC)
  - e. Andrew Kay, Lower Thames Crossing, Landscape Lead (AK)
  - f. Richard Saville, Lower Thames Crossing, Land and Property Team (RS)

## 2 Purpose of the 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) Rochester Bridge Trust

- 3.1.1 Rochester Bridge Trust (RBT) presented its case [[RR-1078](#)] in relation to two sites in the Order Limits which are in its freehold ownership and shown on Sheets 13 and 14 of the Land Plans (Volume B) [[REP5-006](#)]:
- Land on the north side of Lower Higham Road, Shorne, Gravesend (“Site 1”); and
  - Land forming part of Great Clayne Farm, Chalk, Gravesend, also known as Land at ‘Chalk Park’ south of A226 Rochester Road (“Site 2”).

#### Site 1

- 3.1.2 RBT outlined its case that grounds for temporary possession and permanent acquisition of rights to subsoil, in relation Site 1, have not been justified.
- 3.1.3 AT, on behalf of the Applicant, noted that there were three relevant factors in relation to Site 1:
- First, the Habitats Regulations Assessment (HRA) mitigation land is only required to be winter stubble between October and March during the construction period, and so is a temporary effect only
  - Second, Site 1 was the only suitable location for this mitigation
  - Third, AT clarified an apparent misconception from RBT regarding the status of the land as “functionally linked land”; AT noted the land is functionally linked land already
- 3.1.4 RC for the Applicant further elaborated on the general points made by AT on Site 1. RC noted the evidence for the need for this mitigation is provided in the Applicant’s HRA documents [[APP-487](#) and [APP-488](#)]. Paragraphs 7.2.2, 7.2.6 to 7.2.14, 7.2.22 to 7.2.36 and 7.2.40 to 7.2.56 report the assessment of effects of land-take and disturbance on the Thames Estuary and Marshes Special Protection Area/Ramsar. Mitigation is required to avoid temporary adverse construction effects on the integrity of the site and therefore needs to be available during the construction period on a temporary basis. RC noted that the Ramsar mitigation land was required to be functionally linked land which is capable of enhancement, and could not be a designated habitat itself. The land is required to be near the affected area as birds need to be able to move from the affected land to the enhanced land. Site 1 was the only site which fits the above criteria; the alternative sites were not sufficiently proximate, or were already high quality functionally linked land incapable of enhancement.
- 3.1.5 RC noted that the definition of functional linkage and the extent of functionally linked land (see Figure 2 in the HRA [[APP-487](#)]) was identified following extensive consultation and agreement with Natural England (see Statement of

Common Ground between National Highways and Natural England [[REP5-038](#)]).

- 3.1.6 The ExA queried whether the temporary enhancement of an ecosystem on an undesignated site could lead to an inadvertent enduring enhancement of biodiversity value, which could invoke new characteristics and obligations on the landowner once Site 1 is returned, rather than a temporary enhancement as proposed. RC in response noted that there would be no lasting change to the existing situation on the site with respect to functionality, and so the proposals would have no effect on the potential for the site to be designated. The proposed temporary measures would exchange one agricultural practice for another (from arable production to either grassland, spring-sown crops or winter stubbles); RBT as the landowner would be able to return the land to the existing agricultural practice. RC concluded his response by noting that within the wider surrounds of functionally linked land there are more attractive options for designation.
- 3.1.7 AT then turned his submissions on Site 1 to the cut and cover land, intended for a six inch pipe to be temporarily placed to allow drainage across to plot 14-03. This work is governed by article 35 of the draft Development Consent Order (dDCO) and the requirements to restore land to the reasonable satisfaction of the landowner. AT noted that the route chosen for discharge is the most direct available; if the alignment moved further north it would not drain into the land south of, and outside of, the Ramsar as required.
- 3.1.8 RC supplemented the above statement, noting that the outfall from the drainage system was positioned to be outside of the Ramsar designation. The site for the outfall was selected following extensive consultation with Natural England and the Environment Agency. RC noted that because the outfall would require a concrete structure as part of its construction, it would therefore need to be located outside of the Ramsar site to avoid an unacceptable adverse effect on the Ramsar site. The alignment of the pipe is therefore the most efficient way to get water to the outfall.
- 3.1.9 In response to the risk of flooding raised by RBT, AT noted that the Environment Agency has agreed to the discharge proposals as noted in the Statement of Common Ground between National Highways and the Environment Agency [[REP5-034](#)] at item 2.1.15. Additionally, for the benefit of Natural England, the Applicant has proposed commitment RDWE-033 in the Register of Environmental Actions and Commitments (REAC), within the Code of Construction Practice [[REP5-048](#)], which prescribes water quality standards to be specified by the Environment Agency in relation for the discharge arising from construction of the South Portal and released at greenfield runoff rates. AT noted that the commitment would require runoff collection measurement systems to be operated until full reinstatement of the compound is complete. Natural England's agreement with this provision is recorded in [[REP2-009](#)] at item 2.1.53. AT confirmed that it was the Applicant's submission that concerns around volume and quality of water discharge have therefore been addressed.
- 3.1.10 AT then addressed the third concern RBT made in relation to Site 1, relating to the permanent subsoil rights in relation to plots 14-04 and 14-05. AT stated that given the pipe will cross the Ramsar site, its permanent retention in the ground

was necessary in that location to avoid an adverse effect on the Ramsar site which would arise if it was required to be dug up once temporary use of the drain was discontinued. Permanent rights of acquisition were therefore necessary in order to authorise the permanent retention of the pipe, but AT noted that there has been ongoing discussion between the Applicant and RBT on a legal agreement which would enable the permanent retention of the drain without the need to acquire permanent rights.

- 3.1.11 Richard Saville (RS) from the Applicant's Land and Property Team responded to a query from the ExA around the continued viability of the land for agricultural use during the construction of the Lower Thames Crossing. RS noted that the cut and cover section will involve the installation of a temporary drainage pipe, six inches wide. RS confirmed that the disruption would be limited to the instalment of the pipe, its removal and intermittent inspection/maintenance. During the intervening period, the ability for RBT / its tenant to farm the land would not be disrupted.

## Site 2

- 3.1.12 AT summarised the two key issues raised by RBT in relation to Site 2:
- a. First, the justification of the location of land required temporarily for the southern portal compound and for soil storage
  - b. Second, the case for the permanent acquisition of land to create Chalk Park
- 3.1.13 AT introduced Andrew Kay (AK) the Applicant's lead landscape designer to address these matters. AK noted that the intention for the location of the compound and soil storage was to avoid the double handling of material. Locating the compound to the west of the portal location and proximate to Chalk Park would provide the best chance to ensure that the material is handled once. AK noted that avoiding double handling would reduce lorry movements and movements of material in general.
- 3.1.14 AK then proceeded to give an overview of the need and rationale for Chalk Park. Chalk Park provides embedded mitigation for the Project to mitigate impacts of the Project, as well as to integrate the portal and route alignment into the surrounding landscape. Chalk Park provides multifunctional benefits utilising the surrounding landscape character and available material from the cutting to provide landscape and visual mitigation, habitat creation and connectivity, recreational opportunities and an element of placemaking for the Project and for the nearby communities.
- 3.1.15 AK outlined two of the key drivers for the inclusion of Chalk Park within the Project and design rationale, which are as follows:
- a. Following discussion with statutory environmental bodies ("the Defra family") it was evident that the Project should be consistent with their objectives requiring woodland creation, habitat buffering and creation of multifunctional accessible spaces to the east of Gravesend.
  - b. Paragraph 4.31 of the National Policy Statement for National Networks (Department for Transport, 2014) requires 'good design'. In light of that



requirement, the Project has been developed to be landscape-led, to support the recovery of nature and to avoid or minimise significant effects on the environment, which include creating new areas of ecological habitat such as Chalk Park.

- 3.1.16 AK then outlined the primary benefits of Chalk Park characterised by four themes:
- a. The creation of the earthworks provides landscape and visual mitigation for the Project. The new earthworks have been designed to integrate the portal and reflect the character of the surrounding context, which is informed by developments on the lower slopes of wooded hilltops. This is achieved by the use of excavated materials and locating the new portal structure on these lower slopes so as to resemble a new wooded hilltop.
  - b. Providing habitat creation to reflect the Defra family objectives outlined previously, and create a green buffer between the edge of Gravesend and a habitat corridor that connects from the woodland compensation already provided to the south, and the creation of a wildlife corridor from north to south. The use of excavated chalk from the cuttings lends itself to the creation of wildflower chalk grassland habitat; Steeper soil profiles would lead to thinner soils and preferable conditions for wildflower chalk grassland a key habitat in the Kent Downs landscape.
  - c. Chalk Park forms a regional landscape strategy for the Project south of the River. Recreational routes within Chalk Park have been designed that build upon the routes of existing public rights of way and respond to the proposed topography. See page 12 of the Project Design Report, Part D: General Design South of the River [[APP-509](#)].
  - d. Chalk Park would secure the provision a new recreational landscape which would provide 35ha of public open space, and create a desirable separation between the South Portal and Gravesend.
- 3.1.17 AK also recognised that Chalk Park would also provide a range of secondary benefits. AK emphasised that the reuse of non-waste excavated material would result in 300,000 fewer vehicle movements, reducing carbon emissions by approximately 10,000 tonnes. AK noted this approach is supported by the Environment Agency and Kent County Council.
- 3.1.18 AK then proceeded to respond to issues raised regarding the “artistic boundary” approach of Chalk Park. Chalk Park was designed to reflect the character of the area. AK noted the undulating nature of the area, characterised by dry valleys, or dry chalkland valleys and ridges, running from north to south, which the design of Chalk Park replicates.
- 3.1.19 Overall, AK noted that the Applicant has sought to achieve the balance of only taking the land necessary for mitigation, and has therefore only taken land that

the Applicant would need to steepen to such a degree that it would be unsuitable for return to agricultural use. AK concluded by confirming that Chalk Park provides multi-functional benefits far beyond the creation of open space.

- 3.1.20 **Post-hearing written submissions:** These are contained within Annex A at Section A.2: HRA References.

## 3.2 Item 3(b) Mr Dean Bradbrook

- 3.2.1 Dean Bradbrook's (DB's) objections concern the proximity of the M25 Compound to his property with access to the compound running adjacent to the four Grove Farm Cottages and related construction traffic impacts.
- 3.2.2 IT stated that the Applicant proposed to acquire a half-width interest of an unregistered road outside of DB's property, required to deliver utility works. IT noted that the Applicant's Construction Lead had met with DB and explained the rationale for the compound and Heavy Goods Vehicle (HGV) routes.
- 3.2.3 DB outlined a potential alternative, and noted that in the original application submission for the Project there was no compound proximate to DB's property. In response, IT noted that the original submission did include an M25 compound which was intended to be located in the fields identified by DB (as an alternative compound location) but had to be moved further away due to the site's designation for wildlife protection.
- 3.2.4 With respect to DB's construction traffic concerns, IT noted that there will be HGVs routing along the road outside of DB's property until a haul road is built. The Applicant has amended the outline Traffic Management Plan for Construction (oTMPfC) [REP5-056] to reflect the bringing forward of the construction of the haul road, which would ensure that the length of use of the temporary access proximate to DB's property will be reduced from 12-24 months to between 6-12 months. This commitment is detailed in the oTMPfC (at table 4.1) which was communicated to DB on 12 October 2023. Furthermore, IT noted in general the various REAC commitments to minimise the impacts from construction compounds. The Applicant understands that DB may not be satisfied; however, steps have been made to reduce the impacts on DB's property.

## 3.3 Item 3(c) Mr Francis Wilson

- 3.3.1 IT noted the concern raised by Francis Wilson (FW) in relation to a high-pressure gas main to be placed under his property. The Applicant has provided a written response to FW's concerns, which were raised at Open Floor Hearing 2 (OFH2), as set out at pages 16-18 of the Applicant's Post-event submissions, including written submission of oral comments, for OFH2 [REP1-185]. IT noted that the gas pipeline has been designed to minimise sterilisation of the land, and that four designs were originally proposed but three were disqualified for the reasons details within ES Chapter 3: Assessment of Reasonable Alternatives [APP-141], paragraphs 3.28.25 to 3.28.31. IT noted that FW has had his blight claim accepted by National Highways and is in negotiations with the Valuation Office Agency (VOA).

3.3.2 The Applicant will provide the ExA a final documented position between FW and the Applicant at Deadline 7.

### 3.4 Item 3(d) Northumbrian Water Ltd operating at Essex & Suffolk Water (ESW)

3.4.1 The Applicant understands that ESW's primary contention remains as set out in [\[REP1-265\]](#). ESW seeks the removal of plot 24-133, the Linford Well site, from the Order limits so as not to interfere with ESW's statutory undertaking, including abstraction licence obligations and commitments relating to future water supply.

3.4.2 IT noted that the Applicant has been in ongoing discussion with ESW and has provided the following responses to the representations ESW has made:

- a. Comments on WRs Appendix B: Statutory Undertakers [\[REP2-047\]](#)
- b. Response to comments regarding water at Issue Specific Hearing 5, summarised in the Applicant's post-event submissions at [\[REP4-181\]](#)
- c. Response to the ExA's written questions, in respect of sections 127 and 138 of the Planning Act 2008 at [\[REP4-173\]](#) and [\[REP4-174\]](#), which both address ESW specifically

3.4.3 The Applicant has been engaged in discussions with ESW with a view to reaching a legal agreement. Iterations of the agreement have been exchanged on 10 October 2023 and 17 October 2023, and another meeting is scheduled for 2 November 2023. The Applicant considers the legal agreement is capable of resolving all of ESW's remaining concerns.

3.4.4 The Applicant requires the installation of a water pipeline connecting the Linford Well within plot 24-133 to Compound CA5 (the northern tunnel entrance compound), for the purpose of providing raw water to the tunnel boring machines (TBMs) for the construction of the highways tunnel bores. The relevant work is Work No MUT6.

3.4.5 IT confirmed that the Applicant considers it necessary for the dDCO to provide the requisite powers to create a connection for water abstraction at the Linford Well site. Whilst, at the hearing, ESW indicated that it had the necessary powers to construct the pipe works on plot 24-133, IT highlighted that in the Statement of Common Ground between National Highways and Essex and Suffolk Water [\[APP-107\]](#) at items 2.1.1 and 2.1.2, ESW has stated the following:

*'Essex & Suffolk Water Limited wish all their works to be within the Order Limits (OL) boundary going forwards'.*

*'The Linford borehole site is meant to provide raw but chemically clean water (therefore not potable water under the Water Industry [WI] Act as it is untreated) for the Tunnel Boring Machine (TBM) use. As this is raw water and not potable, Essex & Suffolk Water Limited cannot lay the pipe(s) for that TBM use under the provisions of the WI Act'.*

- 3.4.6 At the hearing, ESW suggested that the Statement of Common Ground [APP-107] had been agreed prior to confirmation of the Order Limits, and that their comments should be read in that context. In fact, the Order Limits had been provided to ESW prior to submission of the Application, as demonstrated at Appendix C: List of engagement activities, within that SoCG, with the Linford Site, being added as part of the 2020 design refinement consultation.
- 3.4.7 IT submitted that this apparent uncertainty over the viability of ESW being able to lay the pipeline, is an example of why it is necessary to secure the ability to lay the pipeline using powers contained in the DCO.
- 3.4.8 In response to the ExA's question about alternative options for the provision of water supply for the TBM, IT emphasised that there is an alternative available, but it is not preferential. The Applicant's preference is to secure a water supply from Linford Well.
- 3.4.9 KH for the Applicant explained that the alternative supply would be through MU29, which has a permanent purpose for the North Portal Tunnel Service Building, providing water for the operation of the tunnel and fire suppression means. Work No MU29 requires a smaller bore pipe for that purpose.
- 3.4.10 If the Applicant was unsuccessful in obtaining water supply for the Linford Well, the Applicant would install a larger pipe through Work No MU29 or install a second pipe within the same trench. KH explained that the difference between work numbers MUT6 and MU29, is that work number MU29 connects to a potable water supply to the west of compound CA5. In response to a query by the ExA on how the upscaled water demand would be obtained via MU29 and who the supplier would be, KH noted the Applicant would be required to apply as a customer for additional water supply.
- 3.4.11 IT noted that sensitivity tests had been undertaken during the pre-application stage regarding the capability of providing the TBM supply via the potable water supply and ESW considered that it would be compatible with the Project's needs.
- 3.4.12 Returning to the proposed use of Linford Well, IT stated that the intention is to secure the rights to lay the pipeline and powers to take temporary possession. These rights will be extinguished and the works removed, as per the provisions of article 37.
- 3.4.13 In rebuttal to the position of ESW that the need for an agreement from ESW means the justification for compulsory acquisition cannot be sufficiently made out, IT noted that whilst the Applicant requires consent for works on their apparatus, this is consistent with the approach adopted in respect of other similar statutory undertakers and does not obviate the justification for compulsory acquisition. IT submitted that if this was the case, there would never be a case for including with the Order Limits compulsory acquisition powers in respect of statutory undertakers' land, where consent was required for works to their apparatus. The Applicant's position remains unchanged that it is necessary to retain the powers to lay the pipeline over plot 24-133.
- 3.4.14 In relation to water quality, IT noted that there have been various discussions between ESW and the Applicant. The Applicant understands ESW's primary concern is pond S10-001, which lies in source protection zone 1. The

Applicant's position is that will not be any adverse impact on water quality at Linford Well. The impact on Linford Well's water quality has been assessed and is reported in ES Appendix 14.3: Operational Service Water Drainage Pollution Risk Assessment [[APP-456](#)], and as explained in Comments on WRs Appendix B: Statutory Undertaker [[REP2-047](#)], a number of controls are provided for the benefit of ESW as outlined below:

- a. In the current iteration of the side agreement, a protective provision is provided which ensures ESW will retain access to its sites that is no less effective than prior to the exercise of temporary possession powers.
- b. The Protective Provisions in the dDCO already ensure that the Applicant cannot acquire any apparatus belonging to ESW without their prior consent.
- c. REAC commitment RDWE002, that ensures that drainage systems will be maintained in accordance with DMRB specification, to ensure they continue to operate to their designs standard to safeguard surface and ground water quality.
- d. REAC commitment RDWE025 that secures survey and sampling of the flow regime and water quality of receiving water courses.
- e. REAC commitment RDWE032 ensures that ponds at Chadwell St Mary will include permeable lining in order to prevent seepage or drainage discharges into the ground to safeguard potable groundwater quality.

3.4.15 IT submitted that these controls were sufficient to ensure that pollution risk control is adequate to environmental quality standards, and as a result no further controls are needed.

3.4.16 With respect to monitoring, IT noted that it is the Applicant's expectation that ESW would remain as the licence holder and therefore continue monitoring as required under their licence obligations; however, that is subject to further discussions on the side agreement. Regarding any cost recovery for monitoring, that is also subject to the side agreement discussions. As to the prospect of an indemnity, the principle of an indemnity in ESW's favour is accepted, and the specific scope and nature of that indemnity is a matter of ongoing discussion.

3.4.17 The ExA made a query regarding ESW's submission that the powers sought by the Applicant would not, in of themselves, give the Applicant a specific right to extract water. In response, IT noted that the DCO does not secure the right to extract water, rather it is anticipated and all indications lead to the conclusion that water abstraction would be agreed to between the Applicant and ESW, whether through the primary option or via the proposed alternative.

3.4.18 KH responded to the issue raised by the ExA on the potential for the Linford Well to be reinstated to the public water supply and returned no later than by 31 December 2031. KH noted that the Applicant made submissions in response to that Examining Authority's first written questions (ExQ1\_Q10.4.1, responded to in [[REP4-193](#)]). KH confirmed that the Applicant considers that the use of raw water for the TBM would be concluded by 31 December 2031, regardless of



whether one or two TBMs are used. The Applicant's response to ExQ2\_Q10.3.1, submitted at Deadline 6 [**Document Reference 9.152 Appendix F**], provides more information on this matter.

- 3.4.19 The ExA further queried how this would impact upon the compulsory acquisition requirements for the land. IT responded that the Applicant did not consider that the potential reinstatement of a public water supply in 2031 would justify a specific time limit in the DCO on its compulsory powers at Linford Well, nor its use of the water supply. The Applicant has not seen any evidence that the use of Linford Well public water supply would be incompatible with the Applicant's needs, in the unlikely event that construction is not completed before 2031. This was a matter that could be addressed in further discussions with ESW.
- 3.4.20 **Post-hearing written submissions:** These are contained within Annex B and include:
- a. Section B.2: Hearing Action Point 3 – ESW: Sourcing Water for TBM(s)
  - a. Section B.3: Hearing Action Point 4 – ESW: CA of Linford Borehole

### 3.5 Item 3(e) Jackie Thacker

- 3.5.1 **Post-hearing note:** The Applicant acknowledges that both Ms Jackie Thacker (JT) and Mr Trevor Foster (TF) made submissions on behalf of the Thacker family.
- 3.5.2 As outlined at OFH1 and OFH2, the Thacker family is concerned about the construction compound at Stifford Clays Road East, the use of Stifford Clays Road for Work number MUT-22 and whether the foul water pumping station proximate to their property will be used by the Project.
- 3.5.3 IT noted that the Applicant has responded to these concerns in Comments on WRs Appendix H: Local Residents [[REP2-053](#)], as well as in numerous discussions with the Thacker family.
- 3.5.4 In summary, the Thackers' compulsory acquisition concerns the unregistered half-width of public highway along Stifford Clays Road and Fen Lane, which is required for multi-utility works. IT noted that at Stifford Clays East, the compound – approximately 6.7 ha in size – would have car parking, offices, welfare facilities and storage. Fencing for noise and visual screening will be put in place. IT noted that access is only required for the first 6–12 months via Stifford Clays Road while an additional route is constructed. IT referred to Table 4.1 of the oTMPfC [[REP5-056](#)], which details these arrangements for HGV movements to the compound, of which the first 6-12 months would be via the A13 and Stifford Clays Road, and the remaining period would be via Medebridge Road. Neither of these routes involves HGV traffic entering from the east past the frontage of the Thacker's property.
- 3.5.5 In response to JT's request for further detail on utilities works in this area, Keith Howell (KH) for the Applicant cited Work No MUT22 in Schedule 1 to the dDCO [[REP5-024](#)], as shown on Sheets 33 and 35 of the Temporary Works Plans [[REP5-022](#)], which involves the temporary installation of multi-utilities to include the installation or diversion of underground utilities connections for the construction compound (Work No. CA11) along Fen Lane for approximately

1,860 metres. KH confirmed that it would involve connecting to existing telecommunications and potable water networks, work typically undertaken on local roads.

- 3.5.6 **Post-hearing note:** In response to the JT’s query on the use of the water pumping station, the Applicant can confirm that it is making a connection to the foul sewer at a different point, which it believes would not engage the pumping station at issue. This is outlined in response to ExQ1\_Q10.3.1 in the Responses to the Examining Authority's ExQ1 Appendix F: 10. Road Drainage, Water Environment & Flooding [[REP4-193](#)].

### 3.6 Item 3(f) John White (represented by Peter Trevor Foster)

- 3.6.1 Mr Peter Trevor Foster (PTF) made submissions on behalf of John White (Whitakers Nurseries Limited) (JW). JW’s compulsory acquisition objections concern the effect that Works will have on his property (Works No. MU41 and No. 7S) and development aspirations for other land (Works No. OH6 and OH7), as well as the impact that the works would have on the availability of housing supply in the area.
- 3.6.2 In response to the submissions made by PTF on behalf of JW, IT noted that the Applicant’s rationale for the overhead electricity line alignment in this area is given in the ES Chapter 3: Assessment of Reasonable Alternatives [[APP-141](#)], at Section 3.28. This explains the design considerations and discussions held with National Grid and Thurrock Council. The diversion route that is proposed was first included in the 2020 supplementary consultation and has remained unchanged since then. IT explained how the impact of electric lines on residential properties had informed the rationale for the proposed alignment.
- 3.6.3 IT noted that JW has purchased the affected property in 2021, and therefore the land was acquired in knowledge of the impacts of the Project.
- 3.6.4 In response to the ExA’s query on the medium-term intentions for the properties acquired on Heath Road by the Applicant, IT noted that there are 12 residential properties on the Heath Road Terrace, five of which have been acquired by the Applicant and one that is in conveyancing. It is the Applicant’s intention for these properties to be sold on once the works have been carried and therefore they would not be taken out for residential use. This means that their existence could not be discounted for the purposes of identifying constraints which influenced the alignment of the overhead lines.
- 3.6.5 **Post-hearing note:** The plan denoting the properties on Heath Road Terrace which have been acquired, or are in the process of acquisition, is appended to this summary with an accompanying note in Section C.2 of Annex C.

# Annexes



## Annex A Post-hearing submissions on Agenda Item 3(a): Rochester Bridge Trust

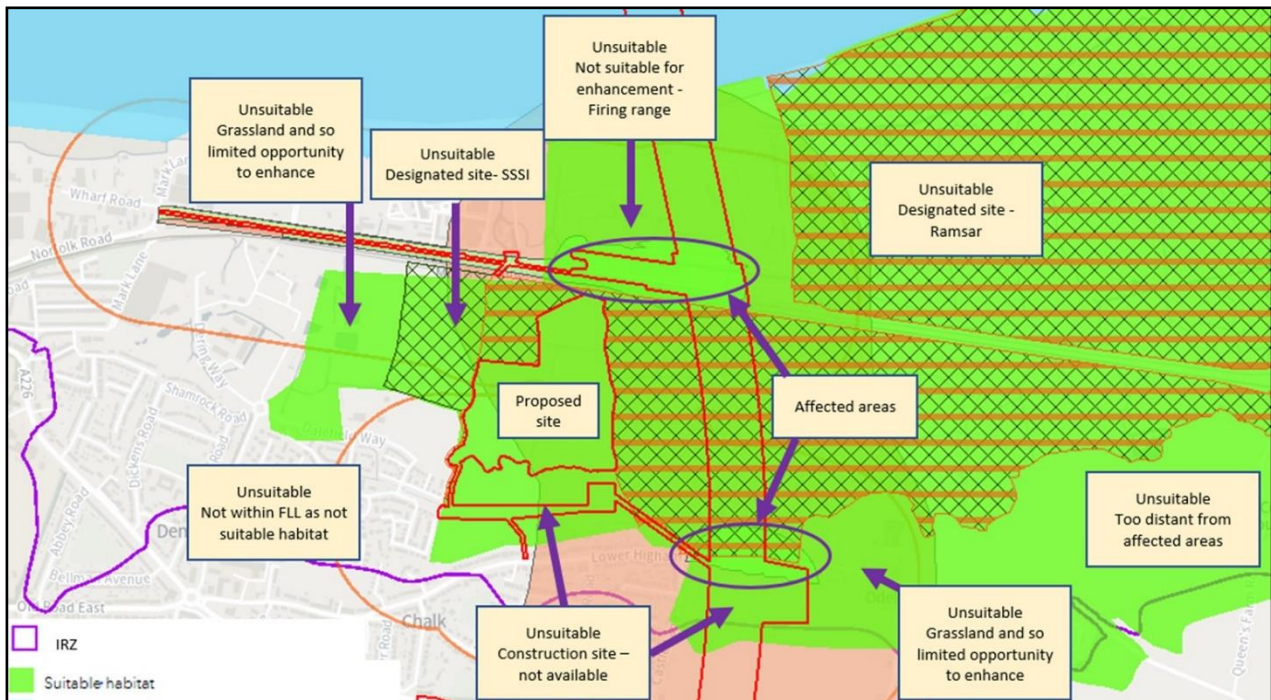
### A.1 Introduction

- A.1.1 This section provides the post-hearing submissions for agenda item 3(a), from Compulsory Acquisition Hearing 4 (CAH4) on 14 October 2023 for the A122 Lower Thames Crossing (the Project).

### A.2 HRA references

- A.2.1 The evidence for the need for the mitigation located on Rochester Bridge Trust land is provided in the Habitats Regulations Assessment - Screening Report and Statement to Inform an Appropriate Assessment (HRA) [[APP-487](#)]. Paragraphs 7.2.2, 7.2.6 to 7.2.14, 7.2.22 to 7.2.36 and 7.2.40 to 7.2.56 report the assessment of effects of land take and disturbance on the Thames Estuary and Marshes Special Protection Area/Ramsar. Mitigation is required to avoid adverse effects on integrity of these sites. The evidence for the proportionality of the mitigation is provided in the same paragraphs of the HRA in the calculation of functionality of affected functionally linked land and proposed mitigation. The proposed site is the only alternative that fulfils the necessary criteria to be suitable for the mitigation, that it is available during construction, within the functionally linked land (and not existing designated habitat), is in close proximity to the affected areas and is capable of being enhanced for functionality (as shown in Plate A.1 below).

### Plate A.1 Assessment of potential alternative sites for HRA mitigation (for information only and not submitted previously as a DCO Application Document)



## Annex B Post-hearing submissions on Agenda Item 3(d): Northumbrian Water Ltd aka Essex and Suffolk Water

### B.1 Introduction

B.1.1 This section provides the post-hearing submissions for agenda item 3(d), from Compulsory Acquisition Hearing 4 (CAH4) on 18 October 2023 for the A122 Lower Thames Crossing (the Project).

### B.2 Hearing Action Point 3 – ESW: Sourcing Water for TBM(s)

B.2.1 Hearing Action Point 3 [\[EV-061\]](#) requests “*Please confirm security for an alternative supply of potable water for tunnel boring machine(s) (TBM(s)) under Work No MU29. Can the Applicant call for and be guaranteed to receive the necessary volume of potable water at the right time, through what amounts to a new consumer connection*”. The Applicant’s response is below.

B.2.2 The Applicant’s position is that it would be able to secure the provision of potable water via Work No MU29 as an alternative supply of water for the TBM(s) via the application as a non-domestic customer to Essex and Suffolk Water pursuant to section 55 of the Water Industry Act 1991.

B.2.3 The Applicant would refer the ExA to paragraph 2.4 of ESW’s Written Representation [\[REP1-265\]](#) which states:

*“ESW is also required to provide supplies for non-domestic services so long as that supply would not affect its ability to meet its existing or future obligations, or unreasonable expenditure would be incurred in meeting those obligations (sections 55-59).”*

B.2.4 Via engagement with ESW during the pre-application phase, the peak demand for the TBMs was discussed with ESW and the Applicant was assured that (subject to the relevant application and commercial agreements at the time that that supply was required) there would be sufficient capacity within the network to meet the demand requirements of the Project.

B.2.5 The Applicant acknowledges that as a non-domestic customer, its supply provided by ESW would be subject to ESW’s domestic supply duties being carried out as a priority, including the provision of water at a sufficient pressure. This is confirmed by ESW at paragraph 4.3 of its Written Representation [\[REP1-265\]](#):

*“ESW is under the domestic supply duty contained in section 52 of the WIA [Water Industry Act] 1991 which means that domestic supply customers will always be given priority over non-domestic users. Therefore, where water for the LTC project is to be taken from a potable water supply, in the event of any reduction in supply (such as a burst) the supply to the project could be restricted or ceased for a period.”*

- B.2.6 The Applicant will continue to engage with ESW to secure a sufficient supply of water via the well-established ESW application processes. The Applicant’s preferred option is to secure this via the Linford Well (Work No MUT6). Work No MU29 provides a secondary alternative option, given the caveats noted above associated with reliance on a potable water supply.
- B.2.7 Dialogue has been held with ESW over an extensive period of time and the peak supply demands of the Applicant have been shared with ESW. ESW has assessed the request in accordance with its duties and confirmed that, subject to financial agreements, and the obtaining of necessary consents for the installation of the water pipelines, that those demands could be met.

### **B.3 Hearing Action Point 4 – ESW: CA of Linford Borehole**

- B.3.1 Hearing Action Point 4 [\[EV-061\]](#) requests *“Please provide the results of your consideration of the Compulsory Acquisition (CA) position in respect of the Linford Borehole, having regard to: (a) Submissions on behalf of ESW that control of the land on which the borehole is located does not equate to a right to abstract water/ benefit of and abstraction licence. Do you need to provide a separate power to abstract in the dDCO and would such an approach be intra vires a DCO? (b) ESW’s proposed resumption of potable water supply using the Linford borehole from 31/12/2031. Does this provide a sufficient period of available process water for the TBM(s)?”*. The Applicant’s response is below.

#### **(a) Applicant’s CA case having regard to the consent to abstract water**

- B.3.2 The applicant addressed matter (a) in its Comments on WRs Appendix B: Statutory Undertakers [\[REP2-047\]](#). For clarity, and expanding on that submission, the Applicant would like to separate and expand on two issues, namely: (i) the acquisition of rights to install the pipeline promoted as Work No MUT6; and, separately, (ii) the right to abstract water.
- B.3.3 On point (i), in the absence of an agreement with ESW, the Applicant is seeking compulsory powers, as a back-stop, to install the pipeline.
- B.3.4 The Applicant would refer to the SoCG between the parties [\[APP-107\]](#), items 2.1.1 and 2.1.2 where ESW requested all works over their land to be within the Order Limits and ESW stated that ESW *“cannot lay the pipe(s) for that TBM”*.

- B.3.5 Although in recent submissions ESW has stated that it does indeed have sufficient powers to lay those pipes within plot 24-133, the Applicant does not consider that this changes the case for inclusion of compulsory powers. Such powers exist as a fallback to avoid any doubt over whether a connection can be created. It is commonplace for such powers to be included in DCOs, even where the statutory undertaker may have equivalent powers. It is of note that there is currently no commercial arrangement *in situ* that determines that ESW will exercise its powers to install the pipeline within plot 24-133 or any other plot as part of Work No MUT6. Lastly, it should be noted that ESW are protected by the Protective Provisions contained in the dDCO at Schedule 14, Part 1, and by article 37 which provides that the rights will be removed once the Project is completed.
- B.3.6 Therefore the Applicant's position is that compulsory powers are justified, but wishes to reiterate, as per item 2.1.9 of the SoCG [APP-107] and as stated in its Comments on WRs Appendix B: Statutory Undertakers [REP2-047], that the Applicant is willing to pursue an agreement to secure the delivery of these works that obviates the need to exercise compulsory acquisition powers.
- B.3.7 With regard to point (ii) (the right to extract water from Linford Well), the Applicant emphasises that it is *not* the Applicant's case that rights over plot 24-133 to create a pipeline secure the right to abstract water. The Applicant intends to obtain that water via a commercial arrangement with ESW utilising those provisions of ESW's existing abstraction licence.
- B.3.8 The Applicant notes an abstraction licence under the Water Resources Act 1991 is a "prescribed consent" under section 150 of the Planning Act 2008, which is capable of being disapplied by a DCO, provided the consenting body (in this case the Environment Agency) consents to it. Importantly, it is not a *requirement* under section 150 of the Planning Act 2008 for the Applicant to include such a provision in its DCO. It is equally legitimate to seek abstraction rights outside of the DCO process, either by agreement or by obtaining a separate abstraction licence, should that prove to be necessary. Indeed, the Applicant has recognised this in its Consents and Agreements Position Statement [REP5-026] at Appendix A.
- B.3.9 To date, the Applicant has taken the view that agreement with ESW for the provision of water is the preferred option. As such, at this stage the Applicant has not progressed, nor developed an alternative provision to be secured via the granting of a separate abstraction licence, either as part of the dDCO or in parallel with it.
- B.3.10 The Applicant is confident, with regard to the consenting and installation of the pipeline within plot 24-133 and the supply of water, that these matters can be

resolved via a legal agreement (referred to as the Works Funding Agreement within [REP1-265]) being agreed between the parties.

**(b) Applicant’s CA case having regard to the resumption of potable water supply at Linford borehole from 31/12/2031**

- B.3.11 The Applicant’s position is that the period to 31 December 2031 would provide a sufficient period of availability for the supply of water from Linford borehole. The Applicant refers to its response to ExQ1\_Q10.4.1 in its Responses to the Examining Authority’s ExQ1 Appendix F [REP1-265], where the Applicant stated that “*The Applicant believes the construction of the tunnels, which uses water supplied from the Linford Well, will be completed in advance of 31 December 2031.*”



## Annex C Post-hearing submissions on Agenda Item 3(f): John White (represented by Peter Trevor Foster)

### C.1 Introduction

C.1.1 This section provides the post-hearing submissions for agenda item 3(f), from Compulsory Acquisition Hearing 4 (CAH4) on 18 October 2023 for the A122 Lower Thames Crossing (the Project).

### C.2 Hearing Action Point 6 – Heath Road: Blight Notices

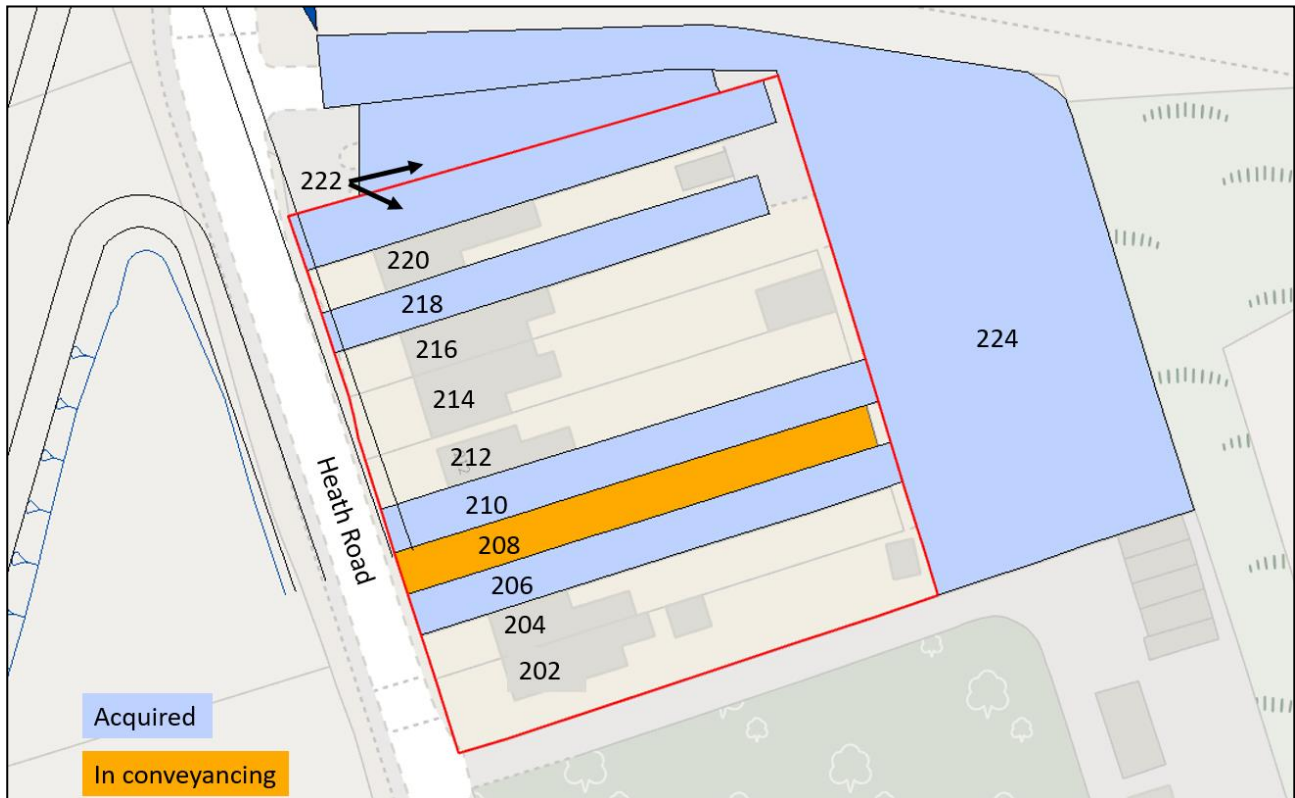
C.2.1 Hearing Action Point 6 [\[EV-061\]](#) requests “*With reference to submissions by Mr Peter Trevor Foster on behalf of Mr John White, please provide a plan recording residential properties between 202 and 224 Heath Road, Orsett that are currently owned by the Applicant or are in the process of conveyance to the Applicant pursuant to accepted Blight Notices*”. The Applicant’s response is set out below.

C.2.2 Plate C.1 below illustrates the properties on Heath Road terrace that National Highways has acquired (shaded blue) or is in the process of acquiring (shaded orange).

C.2.3 Numbers 206, 210 218, 222 and 224 have been acquired by National Highways; number 208 is in conveyancing and will be acquired in due course.

C.2.4 The property comprising 222 Heath Road is split between two Land Registry titles and is partially within the Order Limits.

### Plate C.1 Heath Road terrace properties acquired by National Highways



- C.2.5 Land to south of the terrace of houses on Heath Road is known as 'Land on the east side of Heath Road, Orsett' (Title No. EX944832) and is required for Work Nos. MU47 and OHT5. The site has been within the Order Limits for these works since Supplementary Consultation in January 2020.
- C.2.6 The site was acquired by Whitakers Nurseries Limited in November 2021 when details of the Applicant's proposed works on the site had been available for 22 months. The company Directors are John White and Thomas White.



## References

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

## Glossary

Term	Abbreviation	Explanation
<b>A122</b>		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)
<b>A122 Lower Thames Crossing</b>	<b>Project</b>	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.
<b>A122 Lower Thames Crossing/M25 junction</b>		New junction with north-facing slip roads on the M25 between M25 junctions 29 and 30, near North Ockendon.
<b>A13/A1089/A122 Lower Thames Crossing junction</b>		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"> <li>Improved A13 westbound to A122 Lower Thames Crossing southbound</li> <li>Improved A13 westbound to A122 Lower Thames Crossing northbound</li> <li>Improved A13 westbound to A1089 southbound</li> <li>A122 Lower Thames Crossing southbound to improved A13 eastbound and Orsett Cock roundabout</li> <li>A122 Lower Thames Crossing northbound to improved A13 eastbound and Orsett Cock roundabout</li> <li>Orsett Cock roundabout to the improved A13 westbound</li> <li>Improved A13 eastbound to Orsett Cock roundabout</li> <li>Improved A1089 northbound to A122 Lower Thames Crossing northbound</li> <li>Improved A1089 northbound to A122 Lower Thames Crossing southbound</li> </ul>
<b>A2</b>		A major road in south-east England, connecting London with the English Channel port of Dover in Kent.
<b>Application Document</b>		In the context of the Project, a document submitted to the Planning Inspectorate as part of the application for development consent.
<b>Construction</b>		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.

Term	Abbreviation	Explanation
<b>Design Manual for Roads and Bridges</b>	<b>DMRB</b>	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.
<b>Development Consent Order</b>	<b>DCO</b>	Means of obtaining permission for developments categorised as Nationally Significant Infrastructure Projects (NSIP) under the Planning Act 2008.
<b>Development Consent Order application</b>	<b>DCO application</b>	The Project Application Documents, collectively known as the 'DCO application'.
<b>Environmental Statement</b>	<b>ES</b>	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.
<b>M2 junction 1</b>		The M2 will be widened from three lanes to four in both directions through M2 junction 1.
<b>M2/A2/Lower Thames Crossing junction</b>		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.
<b>M25 junction 29</b>		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.
<b>National Highways</b>		A UK government-owned company with responsibility for managing the motorways and major roads in England. Formerly known as Highways England.
<b>National Policy Statement</b>	<b>NPS</b>	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.
<b>National Policy Statement for National Networks</b>	<b>NPSNN</b>	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.
<b>Nationally Significant Infrastructure Project</b>	<b>NSIP</b>	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.

Term	Abbreviation	Explanation
<b>North Portal</b>		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.
<b>Operation</b>		Describes the operational phase of a completed development and is considered to commence at the end of the construction phase, after demobilisation.
<b>Order Limits</b>		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.
<b>Planning Act 2008</b>		The primary legislation that establishes the legal framework for applying for, examining and determining Development Consent Order applications for Nationally Significant Infrastructure Projects.
<b>Project road</b>		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).
<b>Project route</b>		The horizontal and vertical alignment taken by the Project road.
<b>South Portal</b>		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.
<b>The tunnel</b>		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.

If you need help accessing this or any other National Highways information, please call **0300 123 5000** and we will help you.

© Crown copyright 2023.

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence:

visit [www.nationalarchives.gov.uk/doc/open-government-licence/](http://www.nationalarchives.gov.uk/doc/open-government-licence/)

write to the **Information Policy Team, The National Archives, Kew, London TW9 4DU**, or email [psi@nationalarchives.gsi.gov.uk](mailto:psi@nationalarchives.gsi.gov.uk).

Mapping (where present): © Crown copyright and database rights 2023 OS 100030649. You are permitted to use this data solely to enable you to respond to, or interact with, the organisation that provided you with the data. You are not permitted to copy, sub-licence, distribute or sell any of this data to third parties in any form.

If you have any enquiries about this publication email [info@nationalhighways.co.uk](mailto:info@nationalhighways.co.uk) or call **0300 123 5000\***.

\*Calls to 03 numbers cost no more than a national rate call to an 01 or 02 number and must count towards any inclusive minutes in the same way as 01 and 02 calls.

These rules apply to calls from any type of line including mobile, BT, other fixed line or payphone. Calls may be recorded or monitored.

Printed on paper from well-managed forests and other controlled sources when issued directly by National Highways.

Registered office Bridge House, 1 Walnut Tree Close, Guildford GU1 4LZ

National Highways Limited registered in England and Wales number 09346363