

Gravesham Borough Council

PHS Issue Specific Hearing 10 (24 October 2023) – (ISH10) on Traffic & Transportation

Examining Authority's Agenda Item / Question	Response	References
3.Update on matters arising from ISH4		
a) Wider Network Impacts Update		
<p>i. Applicant to provide an update statement on Wider Network Impacts.</p>	<p>As mentioned at the hearing, GBC were surprised that rather than providing an update on wider networks as presaged in [REP5-085], the Applicant's representative repeated many of the points that were made at ISH4. GBC noted that the reference at para 2.1.3 of REP5-085 to further comment on policy (and other) matters was intended to be preceded by 'engagement' but GBC is not aware of any 'engagement' by the Applicant on policy matters prior to the Applicant's further comments on this topic. GBC observed that the Applicant simply seemed to be wanting a 'second bite of the cherry'.</p> <p>The representative for the Applicant raised a number of points about the planning policy background for highways NSIPs which GBC does not accept. GBC supports the position that was taken by Thurrock and Kent on this. Developing that further:</p> <ul style="list-style-type: none"> • It was said that highways NSIPs are different from "ordinary" development 	<p>Applicant's Deadline 5 Submission - 9.114 Wider Network Impacts Update: [REP5-085]</p>

	<p>(Sizewell and rail freight interchanges were mentioned in this regard) because “a networks proposal connects one part of the network to the other”. That is simply not the case for a significant number of highways DCOs promoted by the applicant and falling within the scope of the National Networks NPS, which sometimes involve the improvement of just one junction or a few, on an existing strategic road. Examples include (but are not limited to) the two M25 junction 20 and M25/A3 Wisley Orders, the Testo’s Order and the A38 Derby Junctions Order. Taking up the Applicant’s own argument, these cases which only make changes to single junctions, are presumably akin to “ordinary development” themselves because of their singular location. This adds weight to GBC’s argument that paragraph 5.214 of NPSNN applies to all roads NSIPs (see GBC’s note on the Applicant’s D5 submissions on the draft DCO where this is dealt with separately). GBC would also add that if the ‘SRFI’ sub-heading was intended to cover all following paragraphs until the next heading or next sub-heading, it would mean that paras 208 (travel plans), 209 (impacts on the SRN), and 210 (co-funding) would only apply to SRFIs. This</p>	<p>The M25 Junction 28 Development Consent Order 2022 The M25 Junction 28 Development Consent Order 2022 The A19/A184 Testo’s Junction Alteration Development Consent Order 2018</p> <p>National Policy Statement for National Networks</p>
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	<p>would have the consequence that the NN NPS would provide no guidance on those subjects for road and rail developments, and also that the subject of travel plans for SRFIs would be dealt with twice, in both para 208 and in para 218. GBC suggests this is an unlikely interpretation of those paragraphs. GBC suggests that a more realistic interpretation is that the 'SRFI' sub-heading governs the paragraph it immediately precedes, and that later paragraphs have a more general application. GBC maintains that is certainly the case for para 214.</p> <ul style="list-style-type: none">• Furthermore, it remains possible for local highway authorities to promote very important local non-NSIP schemes which connect one part of a network to another. Impacts on the wider local network are not disregarded in those cases. In short, the fact that this particular proposal connects one part of the network to another is no reason for wider impacts to be disregarded or given lesser weight.• The next point was that network investment is part of a funded process, and that process is an incremental process, and that the RIS investment programme exists in order to incrementally address network issues.	
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	<p>GBC simply cannot accept that is a proper reflection of NPSNN. It is in effect saying that if a highways NSIP will have significant impacts on the wider network, then those impacts can be dealt with in another RIS project or at the next RIS round, rather than as part of the project at hand. There are many reasons why that approach is unsound, but one of the more obvious ones is that not all road improvements are funded under RIS – for example the Blue Bill Hill improvements which GBC considers should be secured through a requirement.</p> <p>GBC see there as being a clear distinction between different decision-making processes within government. There are funding decisions made by the department for transport, both on RIS schemes, and on large local major schemes, and those decisions are not intended to prejudice planning merit decisions, which are decisions made through, in this instance, a development consent order process, the 2008 Act, and GBC think it is inappropriate for the applicant to suggest that because of those separate funding decisions, one somehow should not engage with what are the planning policy impacts of the proposals, and that one should leave it to a different process. GBC think that is a</p>	
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misapplication of relevant guidance and do not see any support for it in the NNNPS.

In relation to the Applicant's claim that the local authorities' requests that the LTC DCO should contain provisions addressing Blue Bell Hill was an impermissible attempt to 'force the hand' of the Secretary of State when separately making a funding decision in relation to KCC's Blue Bell Hill Improvement scheme, this is simply not the case. The Secretary of State, when making a decision on the LTC is not being asked thereby to make a decision to fund the Blue Bell Hill improvement. The two schemes remain separate and each will be the subject of its own funding decisions (Full Business Case (FBC) for LTC and Strategic Outline Business Case (SOBC), Outline Business Case (OBC), and FBC for Blue Bell Hill. The Secretary of State would be free to make those funding decisions on their own merits, and the GBC suggestion for an additional Requirement to require the LTC to address the issues at Blue Bell Hill (referred to further below) does not seek to dictate those decisions. The Requirement simply requires the issues to be addressed but leaves it to KCC and the Secretary of State to determine whether that should (or should not) be by progressing the Blue Bell Hill improvement.

The Applicant outlined the without prejudice drafting that it intends to provide at D6, based on

	<p>the Silvertown monitoring and mitigation requirement. GBC will comment on this (including any wording equivalent or similar to “unacceptable impact”) but it shares the concern raised by others that it is unlikely to require the delivery of any mitigation measures which are outside the RIS framework. Not only would that exclude Blue Bell Hill, but it would exclude any other mitigations to the local road network.</p> <p>GBC would also point out, as a matter of general principle, that there is precedent for a National Highways promoted DCO to include monitoring and mitigation measures for the local network. See for example requirement 20 of the A303 Sparkford to Ilchester Dualling Development Consent Order 2021. That provision is very much area specific, unlike the Silvertown requirement, but it does show that mitigation of wider network effects is something which the Secretary of State has seen fit to deal with previously.</p> <p>Blue Bell Hill</p> <p>In addition to the point made above that Blue Bell Hill is not a RIS scheme (and it is unclear whether it will be funded under Network North), GBC made the following points at the hearing.</p> <p>In the applicant’s joint position statement [REP5-083] it sets out its position at paragraph 1.9, and</p>	<p>The A303 Sparkford to Ilchester Dualling Development Consent Order 2021</p> <p>Applicant and KCC’s Joint Position statement: Blue Bell Hill [REP5-083]</p> <p>Transport Assessment (Clean D4 version) [REP4-148]</p>
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refers to the current version of the Transport Assessment (TA), which is at [REP4-148](#), and there refers to tables 7.12 (which is presumably meant to be 7.11 - a.m. peak) and 7.13 - p.m. peak - of the TA to contend that the impacts at Blue Bell Hill are not significant. The applicant has identified a 10% change in journey time as being relevant in terms of whether an impact scored in the tables as red, which is the worst impact that the applicant scores. What can be seen across all of the scenarios that are presented in those two tables comparing the 'do minimum' to the 'do something' is, that when you look at Blue Bell Hill, it scores significantly above that 10% deterioration in journey times on that part of the network. For the core growth scenario in the p.m. peak there is a 31.4% increase in journey time.

In other words, from a baseline journey time of nine minutes, one adds 2.8 minutes to that journey, and we see that shown as a significant adverse impact, across the board in tables 7.11 and 7.13. GBC have suggested already that that needs to be addressed by this scheme.

GBC has already put the mechanism before the examination in its list of proposed amendments to the DCO [\[REP4-302\]](#) (amendment 19). GBC has suggested a new requirement 24 which would restrict the opening of the Lower Thames Crossing until the Blue Bell issue is either resolved or it's

GBC List of Proposed DCO Amendments [\[REP4-302\]](#)

clearly stated by Kent County Council, as the local highway authority – or the Secretary of State that the currently proposed large local major scheme is not to proceed, or that KCC or the Secretary of State is satisfied that, irrespective of the problems at Blue Bell Hill, that the Lower Thames Crossing can still proceed. GBC consider that this proposal is similar in effect to the provision which the applicant has now put forward in the new Orsett Cock requirement.

Even if it is the case that Network North funding might be made available for the Blue Bell Hill scheme, this funding is far from secure at the present time, with no decisions yet having been made on that scheme's SOBC, OBC, or FBC, so GBC consider that their proposal remains necessary. What can, however, be taken from the explicit reference to the Blue Bell Hill scheme in the Network North announcements is that there is some prospect of that scheme progressing and it is not unreasonable to expect that the delivery of the LTC is made dependent on addressing the issues at Blue Bell Hill which are clearly, on the Applicant's own case, materially exacerbated by the LTC.

ii. A review of the respective positions in relation to A229 Blue Bell Hill (if not covered under item a,i)	See previous section.	
4.P Public Rights of Way (PRoWs) & Non-Motorised User (NMU) Routes		
a) Legal Status of proposed NMU routes and PRoWs		
i. Whether there is clarity and agreement between parties of the legal status of new and affected routes.	No comments: GBC defer to Kent County Council	
ii. Whether there is a need to confirm the legal status of other existing routes within the application boundary.	No comments: GBC defer to Kent County Council	
b) Design standards		
i. Whether proposed design standards are suitable and applied appropriately.	No comments: GBC defer to Kent County Council	
iii. Whether opportunities to maximise the potential benefit for NMU users and routes has been suitably considered.	No comments: GBC defer to Kent County Council	
iv. How usage surveys and assessments have been undertaken and their relevant application.	No comments: GBC defer to Kent County Council	
c) Future Maintenance		
Whether future maintenance responsibility and cost has been sufficiently considered.	<p>GBC support the concerns raised by Kent County Council in relation to funding for maintenance provision of public rights of way, which are to be created as a consequence of the scheme.</p> <p>There are a number of permissive paths which are to be created as a result of the scheme (see for example Part 6 of Schedule 4 to the DCO).</p>	Draft DCO [REP5-025]

	<p>GBC is grateful for the Applicant’s clarification that the future maintenance of permissive paths is intended to be addressed by Article 10(5) of the draft DCO which says that where a street which is not and is not intended to be a public highway is constructed, altered or diverted under this Order, the street (or part of the street as the case may be) must, when completed to the reasonable satisfaction of the street authority, and unless otherwise agreed in writing with the street authority, be maintained by and at the expense of the undertaker for a period of 12 months from its completion and at the expiry of that period by and at the expense of the street authority.</p> <p>“street” is defined in article 2(1) as a street within the meaning of section 48 (streets, street works and undertakers) of the New Roads and Street Works Act 1991 (NRSWA), together with land on the verge of a street or between two carriageways, and includes part of a street.</p> <p>In section 48, “street” includes “any land laid out as a way whether it is for the time being formed as a way or not” and subsection (3) makes clear that it includes streets which are not a maintainable highway.</p> <p>The “street authority” has the same meaning as in Part 3 of NRSWA (see section 49) and in turn that means the “street manager” which in turn means the authority, body or person liable to the public</p>	<p>Section 48 (streets, street works and undertakers) of the New Roads and Street Works Act 1991</p> <p>Section 49 (the street authority and other relevant authorities) of the New Roads and Street Works Act 1991</p>
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	<p>to maintain or repair the street or, if there is none, any authority, body or person having the management or control of the street.</p> <p>In the case of private land, the street manager will be the person in control, which effectively will be the landowner, and the Applicant clarified that this would be the Woodland Trust and Forestry England in the case of the permissive paths at Ashenbank Wood and Jeskyns Community Woodland.</p> <p>GBC notes that there appears to be no mention of this maintenance responsibility in the material submitted to the Examination by either the Woodland Trust and/or Forestry England. Nor does it feature in the draft Statement of Common Ground prepared by the Applicant for agreement by Forestry England. GBC would welcome clarification from the Applicant that those two bodies are indeed aware of the maintenance liability that the Applicant is seeking to impose on them.</p>	
d) Construction Impact		
<p>i. Whether alternative routes during construction have been fully considered and appraised.</p>	<p>The A2 issue is the impact on the Marling Cross junction of construction traffic needing to access off the A2 as this cannot be done directly. Traffic leaving the site needs to make a U turn at the Higham junction on A289, A2 (local road) at Three Crutches, or M2 J2.</p>	

	<p>Along the A226 the issue is that construction traffic will need to use the A226 through Higham, past Gads Hill, to Chalk.</p>	
<p>ii. General approach to how diversions during construction will be agreed, approved and managed.</p>	<p>At deadline 4, GBC suggested changes to Table 2.3 Stakeholder considerations in ‘Outline Traffic Management Plan for Construction via “Response to ExA Action Point 7 from ISH4 (Traffic and Transportation)” (REP4-298) including “Minimal closures/diversions that may impact on journey-time reliability to and from the facility” by the Traffic Management Plan ensuring that “Where diversion is justified, minimise the number, extent and duration of closures and use of diversion routes”</p> <p>GBC will be in the Traffic Management Forum (see E3.1 in the terms of reference (ToR)) and the ToRs say that one of its purposes (E21f) is:</p> <p><i>Review and consultation: The TMF undertakes the critical responsibility of reviewing planned traffic management arrangements, receiving feedback, and assessing their appropriateness. It offers a forum for relevant stakeholders to provide comments and insights on proposed traffic management measures.</i></p>	