

Lower Thames Crossing

**Thurrock Council's Comments on Applicant's Submissions at Deadline 4 (D4)
and Deadline 5 (D5)**

Appendices A – O

31 October 2023

Thurrock Council

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Thurrock Council's Comments on Applicant's Submissions at Deadline 4 (D4) and Deadline 5 (D5)
Appendices A – O
Lower Thames Crossing

Document Control Sheet

Project Name: Lower Thames Crossing

Report Title: Thurrock Council's Comments on Applicant's Submissions at Deadline 4 (D4)
and Deadline 5 (D5): Appendices A – O

Doc Ref: -

Date: 31 October 2023

	Name	Position	Signature	Date
Prepared by:	Various			31/10/2023
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Approved by:	Mark Bradbury	Acting Director of Place Thurrock Council	MB	31/10/2023

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Appendix A Modelling Status Flowchart and Change Log

Lower Thames Crossing

Thurrock Council Submission at Deadline 6

Appendix A: Modelling Status Flowchart and Change Log

31 October 2023

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Document Control Sheet

Project Name: Lower Thames Crossing

Report Title: Thurrock Council Submission at Deadline 6 (D6) – Appendix A: Modelling Status Flowchart and Change Log

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Date: 31 October 2023

	Name	Position	Signature	Date
Prepared by:	Various			31/10/2023
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Approved by:	Mark Bradbury	Acting Director of Place, Thurrock Council	MB	31/10/2023

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Modelling Status Flowchart

Change Log

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LTAM (Lower Thames Area Model) - Strategic Model

- Better suited to inform LTC business case, economic appraisal and strategic effects assessment
- Inadequate tool to inform and understand the operational impacts of LTC on local junctions
- Out-dated base data
- Poor local road validation
- Uses SRN peak period not LRN

Alternative LGV and HGV Growth Assumptions

- To align with LTC objectives and Wider Economic Impact Assessment

Forecast Growth scenarios

- Completed based on dated guidance and assumptions

Application of Common Analytical Scenarios Framework

- Required to confirm LTC benefits/disbenefits in the context of national uncertainties

Alternative scheme layout

- Required to test adequacy of alternatives

Incident Management scenarios

- Required to substantiate resilience objective

Key

- Completed and approved by the council
- Completed but not approved
- Not completed

Local Microsimulation or Junction Modelling

- To understand operational Impacts of LTC on local junctions and local communities
- Neither of the assessment results have been agreed between NH and Thurrock

Local Plan Growth Scenarios

- To ensure LTC does not preclude delivery of Thurrock's Local Plan

Impact arising from Thames Freeport

- To test LTC in the context of local uncertainty

Construction Impact Assessment

- To test LTC in the context of local uncertainty

Impact of Significant Events (e.g. Covid-19 pandemic)

- To confirm the assessment results are still valid

Application of the latest DfT's national travel growth forecasts using NTEM 8.0 (for car and public transport trips) and NRTP2022 (for LGV and HGV traffic)

- To confirm the assessment results are still valid

Asda Roundabout

- Base Year model has been completed and shared with the Council but not signed off
- Forecasts have been completed and shared with the Council but not signed off
- Forecast construction model has been completed and shared with the Council but not signed off
- Indicates capacity and safety concerns

Orsett Cock

- Base Year model is complete
- Forecasts have been completed and shared with Thurrock but not signed off
- Indicates significant capacity and safety concerns
- NH has provided updated model but no log of changes provided to understand updates

Daneholes and Marshfoot junctions

- Base Year East-West VISSIM is complete, shared with the Council but not signed off
- Forecasts have been completed and now shared with Thurrock but not cannot be considered until the base year model is signed off
- The impact of LTC on Daneholes or Marshfoot are not understood

The Manorway

- Base year model has been produced by the Council and shared with NH but not agreed
- Forecast model has been produced but cannot be relied upon as it was not validated using base year flows
- Further work is required to refine the model before the impacts can be understood

Five Bells junction

- No modelling has been completed to assess and mitigate impacts of the A13 westbound merge at Five Bells junction

A1012/Devonshire Road

- No modelling has been completed to assess and mitigate impacts

Tilbury Junction

- No modelling to support future connection
- Further work is required to refine the operational junction

Known construction impacts – Local microsimulation or junction modelling is required to understand need for mitigation

The Manorway roundabout, Orsett Cock roundabout, ASDA roundabout (NH has shared A1089 Asda roundabout Microsim model at Deadline 4) Daneholes roundabout, Marshfoot Road/ A1089 junction, Five Bells westbound merge with A13, A1012/Arterial Road North Stifford/Lodge Lane/ Long Lane roundabout, A1013/ Rectory Road junction, A128 Brentwood Road/ Prince Charles Avenue, A13/A1012 Gyratory in North Stifford, Grays, B149/ Chadwell Hill/ St Chads Road/ Marshfoot Road roundabout, Brentwood Road/ Heath Road, Muckingford Road/ Construction Haul Road, Southend Rd/ Lampits Hill, Station Road/ Love Lane, Stifford Road approach to B1335 Stifford Road

Change Log

This document summarises changes to the Model Status flow-chart and aims to support version control.

LTAM (Lower Thames Area Model) - Strategic Model

D4 status	D4 status
Application of Common Analytical Scenarios Framework <ul style="list-style-type: none"> Required to confirm LTC benefits/disbenefits in the context of national uncertainties 	Application of Common Analytical Scenarios Framework <ul style="list-style-type: none"> Required to confirm LTC benefits/disbenefits in the context of national uncertainties
Application of the latest DfT's national travel growth forecasts using NTEM 8.0 (for car and public transport trips) and NRTP2022 (for LGV and HGV traffic) <ul style="list-style-type: none"> To confirm the assessment results are still valid 	Application of the latest DfT's national travel growth forecasts using NTEM 8.0 (for car and public transport trips) and NRTP2022 (for LGV and HGV traffic) <ul style="list-style-type: none"> To confirm the assessment results are still valid

Local Microsimulation or Junction Modelling

D4 status	D6 status
The Manorway <ul style="list-style-type: none"> Forecast model has been produced but cannot be relied upon as it was not validated using base year flows Further work is required to refine the model before the impacts can be understood 	The Manorway <ul style="list-style-type: none"> Base year model has been produced by the Council and shared with NH but not agreed Forecast model has been produced but cannot be relied upon as it was not validated using base year flows Further work is required to refine the model before the impacts can be understood

Thurrock Council Submission at Deadline 6 – Appendix A: Modelling Status Flowchart and Change Log
Lower Thames Crossing

**Appendix B Council Response to NH Compliance
Statement to Draft NPS**

Lower Thames Crossing

Thurrock Council Submission at Deadline 6

**Appendix B: Council Response to Applicant's Compliance Statement to Draft
NPSNN**

31 October 2023

Thurrock Council

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Document Control Sheet

Project Name: Lower Thames Crossing

Report Title: Thurrock Council Submission at Deadline 6 (D6) – Appendix B: Council Response to NH Compliance Statement to Draft NPSNN

Doc Ref: -

Date: 31 October 2023

	Name	Position	Signature	Date
Prepared by:	Various			31/10/2023
Reviewed by:	David Bowers / Chris Stratford	Director / Senior Consultant	DB CS	31/10/2023
Approved by:	Mark Bradbury/Tracey Coleman	Acting Director of Place/Chief Planning Officer, Thurrock Council	MB	31/10/2023

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B.1 Introduction

B.1.1 This is the Council's response to the applicant's assessment of the Project against the draft policies in the emerging Draft National Policy Statement for National Networks (draft NPSNN) published for consultation in March 2023 ([REP4-209](#)). The Council's response is set out in full in Appendix B below.

B.2 Context

B.2.1 The Planning Policy Statement for National Networks (NPSNN) was designated in 2014. Since 2014, there has been changes to environmental legislation and therefore, the Government has sought to revise the NPSNN. Between 14 March 2023 until 6 June 2023 the Government consulted on the Draft National Policy Statement for National Networks (draft NPSNN). The draft NPSNN has been amended to meet the Governments vision and strategic objectives for the national networks in terms of supporting national and local economic activities, facilitating growth and creating jobs. New national networks should support and improve journey quality, reliability and safety. The network should also support the delivery of environmental goals and the move to a low carbon economy and ensure communities are joined up.

B.2.2 The draft NPSNN updates the extant NPSNN and the structure has been amended, the draft NPSNN now is separated into the following five chapters:

- a. Chapter 1: Introduction with eight sub sections (this is not dealt with below).
- b. Chapter 2: National Networks with five sub sections covering each main type.
- c. Chapter 3: The Need for Development of the National Networks (Statement of Need) with seven sub sections.
- d. Chapter 4: General Principles and Considerations with 14 sub sections.
- e. Chapter 5: Generic Impacts with 17 sub sections covering the various environmental topics.

B.2.3 The Council has not sought to review non-road national networks or the more general policies outlined in the draft NPSNN and has also not included areas of policy not applicable to this DCO application, such as coastal change, civil aviation, etc.

B.2.4 The key changes between the two documents are, as follows:

- a. There is more emphasis on national infrastructure networks maintaining network performance.
- b. Network schemes should ensure network resilience, adapting to climate change and technological changes is embedded within projects.
- c. There is now more emphasis on environmental objectives and meeting net zero priorities.
- d. The importance of enhancing and maintaining safety is emphasised throughout the document.

- e. There is a need for schemes to prepare a whole life carbon assessment of their project to measure emissions at every stage of the development. Carbon Management Plans will be required and need to demonstrate whether, and if so how, residual emissions will be offset or removed and the impact of any residual emissions on national and international efforts to limit climate change, alone and in combination.
- f. Biodiversity Net Gain is now included within its own section.

B.2.5 Paragraphs 1.16 and 1.17 of the draft NPSNN set out the ‘transitional provisions following review’ and confirms that:

‘Any emerging draft NPSs (or those designated but not having effect) are potentially capable of being important and relevant considerations in the decision-making process. The extent to which they are relevant is a matter for the relevant Secretary of State to consider within the framework of the Planning Act 2008 and with regard to the specific circumstances of each Development Consent Order application.’ (paragraph 1.17)

B.2.6 Therefore, the applicant has sought to set out within [REP4-209](#), how LTC meets the objectives and principles of the draft NPSNN. The applicant has presented the draft NPSNN assessment within a table in [REP4-209](#). The first two columns provided the draft NPSNN paragraph number and document text and in the last column, the applicant has set out their response and how the project accords to the draft NPSNN.

B.2.7 Although the Council has not undertaken a detailed review of this document, the Council does have a general point on the presentation of the document. There are a number of occasions within the document where the applicant has cut and pasted from another applicant’s evidence base document, rather than providing new justification or evidence. This has resulted in a lengthy document, which requires considerable cross referencing. In addition to the general point set out above, the Council has made comments on a number of topics. These topics have been set out and discussed in turn below and broadly follows the structure of the draft NPSNN, where possible.

B.3 Discussion of the Topics

National Networks in a Greener World (Draft NPSNN Sections 2.16 – 2.35), Climate Change Adaptation (Draft NPSNN Sections 4.30 – 4.41) and Greenhouse Gas Emissions (Draft NPSNN Sections 5.25 – 5.37)

- B.3.1 Regarding National Networks in a Greener World, paragraph 2.16 of the draft NPSNN requires applicants to ‘look for opportunities to take a holistic approach to avoiding, reducing or mitigating multiple impacts on the natural or built environment, on landscapes and on people by using nature based solutions.’
- B.3.2 It is considered that the applicant's response on how the proposal is in accordance with Paragraph 2.16 is not fully justified as there are outstanding issues identified by the Council, including highways mitigation, air quality, climate change and health and social impacts on local communities. The applicant appears not to have considered using design to provide mitigation or nature-based solutions to allay identified adverse social and environmental effects, as set out in the Council's overall response to Deadlines 4 and 5 ([REP4-354](#) and [REP5-112](#)).
- B.3.3 The draft NPSNN is clear at paragraph 3.17 that NSIPs should seek to improve and enhance the environment, irrespective of the reasons for developing the scheme, through delivering localised environmental improvements to cultural heritage, landscape or biodiversity.

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Lower Thames Crossing

- B.3.4 The Council has identified concerns with the proposals and the need for the applicant to resolve the negative environmental effects of the proposal and to leave a sustainable legacy across Thurrock. The applicant has stated in their response that the proposal will result in 'new and upgraded routes across the Lower Thames area for walkers, cyclists and horse riders, designed to improve accessibility to the existing network'. However, the Council consider that is not correct as the applicant has stated that existing low numbers of cyclists means that there is no need to provide cycling infrastructure. The Council consider this to be short sighted, the applicant's response is focussed on people who already cycle, not on people who may want to start cycling. Poor cycling infrastructure has been shown to limit women, disable people and people from ethnic minority groups. Therefore, having appropriate cycling infrastructure would help to remove barriers to movement and should be provided within the scheme.
- B.3.5 Carbon and climate impacts are discussed in paragraphs 2.18 to 2.29 (under 'National networks in a greener world'); and then in paragraphs 5.25 to 5.37, under 'Greenhouse Gas emissions, which replaces the chapter on Carbon Emissions in the existing NPSNN. Paragraphs 2.25 onwards are concerned with rail so are not directly relevant. There is some overlap between the paragraphs in the two chapters. Note that the structure of the document has been substantially changed; however, many paragraphs do not require further comment.
- B.3.6 New paragraph 2.19 states that *'Through a series of policies set out in the Transport Decarbonisation Plan, the Government is ensuring the fastest possible transition to a zero-emission vehicle fleet.'* It is important to note that since the draft NPSNN was issued the Government has recently put back its target for new petrol and diesel vehicles from 2030 to 2035, which many argue will delay the transition to a zero-emission vehicle fleet. The applicant has not assessed the impact of this change on the assumptions underlying the calculated carbon impacts of LTC. The applicant's response to paragraph 2.19 states *'Together with the policies which the government has set out in the Decarbonising Transport Plan, these measures ensure that the Project is aligned with a trajectory to net zero'*. This makes a clear link between the Decarbonisation of Transport Plan and the extent to which LTC's carbon impacts affect the ability to reach net-zero; therefore, the recent delay to the end of sales of petrol and diesel vehicles has a bearing on the significance of LTC's impacts and this needs to be taken into account.
- B.3.7 The applicant's response to paragraph 2.19 also refers to a number of commitments set out in Appendix E of the Carbon and Energy Management Plan ([APP-552](#)), including the use of zero emission vehicles by contractors and increased provision of electric vehicle charging infrastructure. The Council have responded within the Local Impact Report Section 10.14 page 177 to 182 ([REP1-281](#)) whether these commitments should be taken into account, as plans and designs for delivering them have not been presented within the DCO or tested within the Environmental Impact Assessment. In terms of the application these commitments are not planned for.
- B.3.8 New paragraph 2.20 summarises the requirements of the sixth carbon budget. The applicant's response to this question restates conclusions of Section 15.6 of ES Chapter 15: Climate ([APP-153](#)). The Council have reported on the issues within significance of the forecast emissions in relation to the carbon budget. The assessment does not take into account adverse impacts of LTC on the ability of local authorities such as Thurrock Council to meet their own reduction commitments. This has been reported in Local Impact Report Section 10.14 page 179 ([REP1-281](#)).
- B.3.9 The applicant's response also states *'the assessment does not account for policies that would lead to an accelerated phasing out of petrol and diesel vehicles, such as the commitments and actions set out in the government's Transport Decarbonisation Plan'*. The TDP is also cited in new paragraph 2.21 and the applicant's response to it. As previously noted, the recent delays to the target for ending the sale of petrol and diesel vehicles undermines any claim that TDP will achieve decarbonisation faster than the applicant has assumed in the LTC assessment.

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 Lower Thames Crossing

- B.3.10 New paragraph 2.22 explicitly refers to the *'2030 commitment to end the sale of new petrol and diesel cars'*, so is already out of date and any assumptions made about LTC emissions on this basis will need to be reviewed.
- B.3.11 The applicant's response to new paragraph 2.24 notes again that the projected emissions from LTC do not take account of the TDP, implying that projected GHG emissions will be better than forecast; however, this statement does not reflect the potential reduced impact of TDP, as a result of the delay to the ending of petrol and diesel vehicle sales.
- B.3.12 Regarding Climate Change Adaptation, the Council has not raised any objections concerning adaptation, so it has no further comments to make on these sections.
- B.3.13 Regarding Greenhouse Gas Emissions, new paragraph 5.28 states that *'national network infrastructure plays an important role in supporting decarbonisation'*. The applicant's response refers to a *'number of interventions/measures to reduce GHG emission'* set out within the DCO, including the commitments to EV and charging infrastructure which have not been designed into the DCO, as mentioned above in B.2.12. The applicant's response reiterates the conclusion of the ES that the GHG impacts of the project do not have a material impact on the ability of the government to meet its carbon reduction targets. As stated in B.2.8, the Council's LIR ([REP1-281](#), Section 10.14 page 179) notes that the ES does not assess the secondary impacts of LTC impeding the ability of the Council meet their obligations to national decarbonisation plans and therefore Government's ability to reach net zero.
- B.3.14 The inclusion of new paragraph 3.40 requires infrastructure improvements to facilitate a reduction in emissions, improvements to the natural and built environment or increased accessibility for non-motorised users and reduced severance.
- B.3.15 The Council do not consider that the scheme will deliver significant benefits and improvements in terms of alleviating congestion and emissions at the Dartford Crossing. As set out in the Air Quality and Emissions section below, there is no evidence to demonstrate that the efficacy and practicability of options to mitigate the air quality impacts of operational traffic have been considered through the design process. The Council through its submissions as shown that there are only limited natural and built environment improvements and the design of LTC would not encourage and support people walking and cycling in Thurrock as set out above). It is considered, that on balance, LTC does not meet the aims of new paragraph 3.40 of the draft NPSNN.
- B.3.16 New paragraphs 5.29 and 5.30 refers to the need for whole life assessment of greenhouse gas emissions. The applicant's response refers to the assessment undertaken for LTC, which includes emissions from different stages of construction and operation. However, as noted above, the Council within the LIR ([REP1-281](#)), Section 10.14 page 180, paragraph 10.14.19) disputes the scope of the assessment that has been undertaken, as it does not take into account the whole life assessment boundaries of the National budget, which the applicant's test the significance of emissions to. There is a significant inconsistency between how whole life is considered within the emission calculations of the project as defined through PAS 2080 and the whole life system on the national budget.
- B.3.17 New paragraph 5.31 refers to a new requirement for a Carbon Plan, which was not explicitly required in the extant NPSNN. The LTC DCO application includes a Carbon and Energy Management Plan ([APP-552](#)). The applicant's response describes the management procedures that will be taken to reduce carbon emissions through procurement. The physical infrastructure for enabling decarbonisation has not been designed or tested within the DCO. The applicant's response also notes a requirement for contractors to 'buy' renewable energy, which has been used to 'net off' electricity emissions within the ES Chapter 15 Climate Change ([APP-153](#)). It should be noted that this approach does not follow OFGEM's guidance on applying emission reduction benefits of 'green tariffs' and does not align to industry

standards, such as the GHG Protocol for accounting local emissions for electricity use. The applicant has not addressed the decarbonisation of electricity through the project design.

- B.3.18 New paragraphs 5.32 and 5.33 describe approaches to be taken in design and construction to minimise carbon impacts. The applicant's response summarises measures taken in construction and design to minimise emissions, but these have not been designed into the application or tested within the ES. For example, the power demand for the electrification of construction has been tested against local power supply capacity, or the impact on the host communities from removing any remaining local power capacity.
- B.3.19 New paragraphs 5.34, 5.35, 5.36 set out the Secretary of State's responsibility to be satisfied that carbon emissions are assessed at all stages of the project and the UK's responsibilities for setting and meeting carbon budgets. The applicant's response ([REP4-209](#), page 13, paragraph number 2.20) to this confirms they have not assessed the full impact of the project on all segments of the national budget. Without assessing the whole impact of LTC on the whole national budget, alongside any form of actual design interventions that have been tested within the ES it is not possible for the applicant to make the following statement in page 181, paragraph 5.35 of the compliance with the draft National Policy Statement ([REP4-209](#)) document:

'The Project is compatible with (or goes beyond) the budgeted, science-based 1.5°C trajectory of the Paris Agreement (in terms of rate of emissions reduction) and complies with up-to-date policy and 'good practice' reduction measures to achieve that.'

- B.3.20 New paragraph 5.37 states that *'greenhouse gas emissions from some types of national network infrastructure cannot be totally avoided'* and concludes that *'approval of schemes with residual carbon emissions is allowable and can be consistent with meeting carbon budgets, net zero and the UK's Nationally Determined Contribution'*. The applicant's response refers to Section 15.6 of ES Chapter 15: Climate [[APP-153](#)] to summarise how emissions have been assessed and reiterates the conclusion *'that the contribution of the Project's carbon emissions to the UK carbon budgets is small, in particular when the government's carbon reduction policies to achieve the legally binding carbon budgets are taken into account'*. The Council has previously responded within the LIR, Section 10.14, paragraph 10.14.21 ([REP1-281](#)) to the applicant's ES and has set out in previous submissions its reasons for disputing the overall conclusion that the forecast impacts are not significant.
- B.3.21 The applicant's response to paragraph 5.37 also states that *'the Project cannot control the implementation of the policies related to reducing road-user emissions'*. The Council considers that this does not excuse the applicant from responsibility for local impacts of LTC, in particular on local traffic, waste handling and energy networks (as discussed in previous submissions by the Council within the LIR Section 10.14, page 180 to 181 ([REP1-281](#)), and considers that such impacts, which affect the ability of local authorities to achieve their own carbon reduction targets, should have been included within the overall assessment of LTC's impacts.

National Networks (Statement of Need) (Draft NPSNN Sections 3.1 – 3.47 and Section 4.3)

- B.3.22 Paragraph 3.2 of the draft NPSNN sets out that: *'Continuing growth in the economy and the population will increase the demands placed upon the SRN. Without investment and infrastructure interventions, increasing demand will lead to decreasing network performance for users, for example, poorer journey time reliability, which comes with economic and social costs.'*
- B.3.23 The draft NPSNN in paragraph 3.4 states that on roads, poor network performance, in the form of congestion or unexpected delays undermining reliability, has many costs including

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causing frustration and stress for users. The applicant has stated that: *'The Scheme Objectives promote economic enhancement through addressing the lack of road capacity east of London and enabling increased accessibility between Kent, Thurrock and Essex.'*

- B.3.24 Paragraph 3.8 of the emerging draft NPSNN sets out that *'Transport infrastructure is a catalyst and key driver of growth, and it is important that the planning and development of infrastructure fully considers the role it can play in delivering sustainable growth, how it can support local and regional development plans and the growth aspirations of local authority areas.'*
- B.3.25 Paragraph 3.34 of the draft NPSNN sets out that the: *'SRN needs to adapt in order to become more resilient to a range of impacts from climate change. Road Investment Strategy 2 has outlined the long-term vision for the SRN to be resilient to climate change and incidents, such as flooding, poor weather conditions, and blockages on connecting transport networks.'*
- B.3.26 New paragraphs 3.39 and 3.40 sets out that developments on the SRN need to be sensitive to, respond to, and contribute to their environmental context and should investigate opportunities for enhancement of the natural environment. Infrastructure improvements may help to facilitate a reduction in emissions (such as air pollution or noise), improvements to the natural and built environment or increased accessibility for non-motorised users and reduced severance.
- B.3.27 There are interdependencies between the efficient operation of the SRN and its impact on the local road network and vice versa are set out in paragraph 3.42 of the draft NPSNN. The emerging policy sets out a number of measures that can be employed to make the best use of all road capacity (not just the SRN), which may impact upon demand for the SRN.
- B.3.28 New paragraph 3.44 confirms the commitment towards moving away from transport planning based on predicting future demand to provide capacity ('predict and provide') to planning that sets an outcome communities want to achieve and provides the transport solutions to deliver those outcomes (vision-led approaches including 'vision and validate,' 'decide and provide' or 'monitor and manage').
- B.3.29 Paragraph 3.46 sets out that the Government's wider policy is to bring forward improvements and enhancements to the existing SRN and, where necessary, to provide appropriate enhancement and mitigation to the existing national road network.
- B.3.30 The draft NPSNN recognises through Sections 3.1 to 3.47 a need to increase capacity within the national strategic network, but the policy basis has long moved away from a predicting for roads for car travel basis to one of a much greater visioning balance across modes with a strong emphasis on facilitating movements by active travel and public transport to assist with a net carbon positive environment and to facilitate local and regional growth. This change in balance is most strongly represented in paragraphs 3.31 and 3.42 of the draft NPSNN.
- B.3.31 The applicant's project is not leading the way in change, as would be the expected foundation of the country's greenest Pathfinder project, instead the case is one of tenuous and misleading evidence to support an outdated scheme proposal for regional connection with little or no sub-regional benefit to the local communities it passes through. Paragraph 3.42 of the emerging NPSNN clearly expresses the link between facilitating local and sub-regional movement by non-car modes alongside the strategic nature of the National Network.
- B.3.32 The applicant has stuck to the driving objective of reducing delays at the Dartford Crossing as the keystone of its case. In seeking to achieve that it has resolutely refused to innovate on the underlying challenges of improving access for cross river opportunities by public transport and active travel. Fundamentally, the applicant has provided evidence that shows that the release of capacity at the Dartford Crossing is eroded quickly after opening. The applicant has missed opportunities to include greater connectivity to the Port of Tilbury, DP World London Gateway

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and the emerging Thames Freeport, which were shown to improve access to jobs and open out public transport and active travel corridors to development growth within Thurrock. The Council has repeatedly encouraged the applicant over the last two years to consider alternative proposals for a fundamental change to the scheme or adjustments to make improvements to the scheme, without success.

- B.3.33 Paragraph 3.22 considers the prospect of integration within the 'National Network'. The prospect of resilience to the crossing of the River Thames has often been rehearsed by the applicant, but it has also acknowledged the flaw in that argument that the two corridors provide for different regions and so it has not been able to provide any evidence of the resilience it claims to provide. With the absence of sub-regional connectivity and no sustained relief to the Dartford Crossing, it is difficult to see or substantiate that LTC brings integration to the National Network.
- B.3.34 The draft NPSNN recognises the emergence of multi-modal interchanges at mobility hubs that could have been employed to offer cross-river connections in association with commercially viable bus services. The applicant has determined not to adopt that approach into its scheme, but instead clings to an assertion that the project does not preclude bus companies from utilising extensive detours from viable corridors and using the convoluted interchanges at either end of the project to connect along LTC. It is only too apparent that this is not a viable strategy.
- B.3.35 Even with the absence of viable cross-river connectivity, the applicant has not been able to introduce vision and promote opportunities to develop an innovative strategy to reallocate road space to higher density forms of transport. As has been stated on many occasions, the proposal is not a 'Pathfinder project', as it promotes an antiquated car and freight linkage that does not facilitate local growth or an increase in sustainable transport connections. The scheme is stuck in the 'predict and provide' era for strategic movements between the A2/M2 corridor and the M25 and beyond.
- B.3.36 This antiquated approach to the scheme has been surpassed by the need to deliver at best carbon neutrality through the aspirations for the scheme. The time taken to bring the project to Examination has not been able to keep pace with the changes in visioning transport infrastructure and the applicant relies on statements about building environmental credentials into the materials used in manufacture as an indication towards carbon reduction or to drainage management to react to increasing intensity in weather event. The draft NPSNN policy recognises there is some need to design in risk prevention, the overriding intention at a number of points is the need to respond to the climate crisis by positive interventions and not simply designing for a changing environment. Paragraph 3.40 of the draft NPSNN encapsulates the need for projects to grasp the need for a new legislative framework that builds on driving environmental change. That paragraph does recognise the challenges of delays and congestion, which the applicant's scheme also fails to ensure against, where it creates congested networks within the interchange from LTC to the local network around the Orsett Cock junction and other sensitive locations, such as the Five Bells interchange, which in turn create harm in other local communities.
- B.3.37 The applicant has no evidence of innovation and instead refers to the desire for its contractors to bring that creativity. If that innovation were to materialise, it will only be within the construction process and not around the operational advantages that should have been realised as a consequence of the creation of a visionary crossing rather than a standard road scheme. Despite pressure through engagement from the Council, even an EV charging strategy is not included within the DCO and instead the applicant's scheme currently would increase strategic demand on local infrastructure, due to the gaps in the strategic network of rest and service areas.
- B.3.38 The applicant makes many unsubstantiated promises about the benefits of its project, which are not evidenced through the designs or the appraisals. It delays many commitments until

the development of the project detailed design and does not provide assurance to the Council and other stakeholders that the scheme is a visionary strategic project that will deliver on its stated objectives or provide modern environmentally sound connectivity to Thurrock or the surrounding sub-region. It does not comply with the emerging NPSNN policy framework for the 'Need for the Development of National Networks'.

- B.3.39 Paragraph 4.3 provides guidance to the ExA and the Secretary of State on how proposed developments should look at potential benefits and its potential adverse impacts, including any longer-term and cumulative adverse impacts, as well as any measures to avoid, reduce, mitigate or compensate for any adverse impacts. In the Council's opinion the applicant has not dealt with this in a satisfactory manner.

Alternatives (Draft NPSNN Sections 4.17 – 4.19)

- B.3.40 The Council continues to consider that the applicant has not met the requirements of either the extant NPSNN or the draft NPSNN in terms of considering alternative scheme options. This is because the applicant has not completed a robust and rigorous assessment of its main elements alternatives to the LTC scheme as required by paragraph 4.17 of the draft NPSNN.
- B.3.41 The Council has presented this view in paragraphs 8.6.7 to 8.6.15 and Appendix B Transport Alternatives of the Council's Local Impact Report ([REP1-281](#) and [REP1-283](#)). Further commentary was provided in the Council's response to the ExQ1 questions ([REP4-353](#)) and a summary of each response is provided below:
- B.3.42 **ExQ1 Q3.1.1 EIA Regulations: Consideration of Reasonable Alternatives:** the option selection for LTC is based on an initial decision made in 2009. This was reviewed and confirmed by the applicant in 2017, but despite requests, the underpinning analysis has not been made available to the Council. Since the initial decision there have been many substantial changes to transport patterns and the wider economy which have not been considered as part of the decision-making process. Analysis by the Council shows that there are several potential public transport based options, which would meet the applicant's objectives for LTC. There are also several alternative options for elements related to LTC, which would better meet the objectives for LTC. For example, the inclusion of Tilbury Link Road as part of LTC would enable the size of the A13/A1089/Orsett Cock junction to be reduced in size from approximately 112 to 56 hectares, greatly reducing the land take impact of LTC. The Council considers that these options should be considered by the applicant and full details are provided in Appendix B: Transport Alternatives of the Council's Local Impact Report ([REP1-283](#)).
- B.3.43 **ExQ1 Q3.2.1 Consideration of Alternatives: Other Modes/Solutions:** the Council's analysis shows that insufficient and inadequate information has been provided by the applicant to justify their approach to the assessment of alternatives in 2017 and 2022. The LTC scheme provides very poor facilities for public transport services and there is a clear missed opportunity to provide a solution which helps connect communities on either side of the River Thames. The consistent approach of the applicant to withhold the LTAM model means that a consistent analysis of public transport options cannot be made, but the Council's own analysis shows the potential for public transport alternatives to reduce traffic flows across Dartford Crossing at a significantly lower cost.
- B.3.44 **ExQ1 Q3.2.2 Consideration of Alternatives: Other Routes:** the Council maintains that the assessment of route and junction alternatives provided by the applicant is insufficient and inadequate. The Council considers that the inclusion of Tilbury Link Road is necessary to enable the LTC scheme to meet its objectives and that it offers a better design solution. The applicant has not adequately explained why the removal of this essential part of the scheme was required.

Biodiversity Net Gain (Draft NPSNN Sections 4.20 - 4.23)

- B.3.45 Paragraphs 4.20-4.23 have been added to the draft NPSNN now that dates for mandatory BNG have been set out within the Environment Act, 2021. LTC has undertaken a BNG calculation using the Defra Metric 3.1.
- B.3.46 Regarding 4.21, during ISH6 Hearing it was agreed that the applicant would consider whether it would be appropriate to rerun the BNG calculation using Version 4.0. Document 9.86 Post-event submissions including written submission of oral comments for ISH6 ([REP4-182](#)) confirms that the applicant will be liaising with Natural England to consider how this can be achieved, as it will not require additional site surveys. Currently though, it is accepted that any developer would continue to use the Defra metric current at the time of their original BNG calculations due to the frequency of changes. These new paragraphs accurately reflect emerging policy and good practice.

Criteria for Good Design for National Network Infrastructure (Draft NPSNN Sections 4.24 – 4.29) and Safety (Draft NPSNN Sections 4.55 – 4.59)

- B.3.47 Paragraphs 4.24 – 4.29 of the draft NPSNN relates to good design for national network infrastructure. The new draft NPSNN text at paragraph 4.24 is clear that good design should be an integral consideration from the outset of a proposal and applying good design to national network projects should not be limited to general aesthetics. Schemes should demonstrate an understanding of local context, history, culture and proposals should enhance the local landscape character and connect communities. Furthermore, any proposal should be adaptable to be able to respond to future climate change and technologies.
- B.3.48 As set out previously, the Council does not consider that the applicant has demonstrated that design has been an integral consideration from the start and LTC does not meet the requirements of draft NPSNN paragraph 4.24.
- B.3.49 It is considered that LTC will result in a severance of Thurrock's communities, as the route would split the Borough into two separate areas. This is clearly not in accordance with the policy within the draft NPSNN.
- B.3.50 Paragraph 4.25 is clear that good design should meet the principal objectives of the scheme by applying the mitigation hierarchy to avoid, eliminate or substantially mitigate the identified problems and existing adverse impacts, by improving operational conditions, simultaneously minimising adverse impacts.
- B.3.51 The draft NPSNN paragraph 4.28 requires applicants to demonstrate how the design process was conducted with effective engagement with communities and stakeholders and how the proposed design evolved to maximise design outcomes. Additionally, applicants need to set out clearly why the favoured choice has been selected along with a clear articulation of its benefits.
- B.3.52 The Council does not agree with the applicant that there has been effective engagement with communities and stakeholders or clear articulation of how the scheme has evolved following consultation. It is considered that the evidence provided by the applicant does not give reassurance that the appropriate levels and type of consultation have been undertaken, nor has the applicant adequately responded to key concerns of the Council and residents.
- B.3.53 The Council considers that the design of LTC will impact on both capacity and safety of the local road network in Thurrock. LTC will result in significant increases of traffic on local roads,

which will impact communities, businesses and sensitive receptors, particularly educational and care facilities.

- B.3.54 The emerging policy within the draft NPSNN both through Sections 4.55 to 4.59 and embedded within the section on 'Need for the Development of National Networks' has a stronger more explicit emphasis on safety in operations and design. The applicant's approach to safety is about what is now common practise for active lane management and standard post construction testing and monitoring. However, the layout of the complex and convoluted A13 interchange in Thurrock has a number of low standard connections and a multitude of decision points and lane gains and drops. The Council has raised its concerns with the applicant and has never received satisfactory responses. It is not clear that the applicant is leading in the delivery of a vision zero approach and has not provided full evidence of its briefing for the initial overarching Road Safety Audit or its Departures log. The interface with the Orsett Cock junction has yet to be defined and the Council, as Local Highway Authority, is required to sign off on the proposed connections and any layout alterations.
- B.3.55 The draft NPSNN paragraph 4.55 sets out that highways developments can provide an opportunity to make significant safety improvements and significant incident reduction benefits when they are well designed.
- B.3.56 The draft NPSNN paragraph 4.77 sets out that applicants should demonstrate the following where relevant:
- a. All reasonable opportunities to deliver improvements in accessibility on and to the existing national road network should be taken, including improvements for non motorised users.
 - b. Severance can be a problem in some locations; where appropriate, applicants should seek to deliver improvements that reduce community severance and improve accessibility.
 - c. National Network infrastructure should incorporate good design, as expanded on in paragraphs 4.24 to 4.29, which includes improving accessibility of infrastructure for users and inclusive design.
- B.3.57 Paragraph 5.239 sets out that the Secretary of State should consider whether mitigation measures are necessary to mitigate any adverse socio-economic impacts of the development. For example, high quality design can improve the visual and environmental experience for visitors and the local community alike. The Council is particularly concerned by the forecast increase in eight fatalities and 35 seriously injured casualties in Thurrock due to increases in traffic flows following the opening of LTC (taken from Table 4 [REP2-062](#)).
- B.3.58 The Council considers that the applicant has not met the requirements of good design in the NPSNN given the severance of Thurrock by LTC, the lack of active travel measures to enable people to cross LTC, the lack of mitigation measures to respond to forecast increases in traffic queues and delays (e.g. at Orsett Cock junction) and the forecast increase in fatalities and seriously injured people in Thurrock.

Health (Draft NPSNN Sections 4.70 – 4.71) and Accessibility (Draft NPSNN Sections 4.72 – 4.77)

- B.3.59 Health is addressed in the draft NPSNN in paragraphs 4.70 and 4.71. Regarding paragraph 4.71 there are no significant changes to the wording used that are relevant to LTC. The change in paragraph 4.70 to include the potential effects on opportunities for wheeling (i.e. those who use mobility scooters and wheelchairs) of the national road and rail networks and strategic rail freight interchanges is identified as part of the consideration of good design.

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- B.3.60 Paragraph 4.72 contains substantial changes and additions. First, paragraph 4.72 suggests that where projects have an effect on human beings the applicant should assess these effects, identifying any potential adverse health impacts, and identify measures to avoid, reduce or compensate for any adverse health impacts as appropriate. This is a departure from the extant NPSNN, which required likely significant environmental impacts to be identified and provide an assessment of said significance. This potentially reduces the threshold at which to consider health impacts, allowing for qualitative consideration of health impacts. Second and additionally, paragraph 4.72 now includes additional text requiring enhancement opportunities to be identified, particularly regarding promoting opportunities for active travel and horse-riding through good design and also to consider potential impacts on vulnerable groups within society. This highlights the need to demonstrate how positive health impacts will be secured.
- B.3.61 The applicant has provided a standalone HEqIA ([REP3-118](#)), and rely on this document in order to comply with the draft NPSNN, as the key findings from it are incorporated into the ES Chapter 13: Population and Human Health ([APP-151](#)). The applicant uses the HEqIA ([REP3-118](#)) to provide the qualitative assessment on human health that is recommended within the Design Manual for Roads and Bridges LA 112 Guidance (Highways England, 2019), which outlines how to consider Population and Human Health. It was also agreed within the CIPHAG meetings to include the Equalities Impact Assessment within this document, which does outline the applicant's view of potential disproportionate or differential impacts on vulnerable groups (defined as those with Protected Characteristics under the Equalities Act, 2010). Therefore, the applicant has complied with the requirement of the draft NPSNN to provide an assessment of potential adverse health impacts and potential impacts of vulnerable groups in society of the scheme.
- B.3.62 However, there remains outstanding issues with the assessment of human health and impacts on vulnerable populations. This is related to the application of significance requirements within the HEqIA ([APP-539](#)) based on industry guidance, however, there is no transparency on how criteria to reach difference significance levels have been applied or thresholds or rationale for considering an equalities effect to be differential or disproportionate. These have been raised consistently in the Council's LIR and SoCG. Therefore, it is unclear if health has been adequately considered and mitigated against within the scheme.
- B.3.63 It is recognised that the Design Principles Report ([REP3 110](#)), the ES Chapter 13: Population and Human Health ([APP-151](#)) and the HEqIA ([APP-539](#)) (outline the approach to new and enhanced WCH opportunities. Whilst this demonstrates compliance with the draft NPSNN, it is contended by the Council that ensuring enhancement opportunities would be strengthened through further mitigations (which are being discussed with the applicant as part of the ongoing DCO process to include in the SAC-R, the CoCP and the Design Principles report).
- B.3.64 It is also disputed by the Council, that the adverse impacts that would occur that have been identified during construction within the ES Chapter regarding noise and severance, including impacts on open space should be considered as 'temporary' (and therefore less significant) and therefore can be compensated through operational enhancements only. This is because when considering health impacts changes to access to environmental impacts on health (such as noise) and access to wider determinants of health (such as physical activity) over the length of construction period that the LTC is proposing can have significant long-term health impacts on more vulnerable groups (such as children).
- B.3.65 Finally, as outlined in the draft NPSNN there is substantial overlap between compliance with health considerations with noise ([APP-150](#)) and air quality ([APP-143](#)) in particular, as highlighted in the applicant's response. Therefore, this response needs to be read in conjunction with these two technical areas of noise and air quality.

Air Quality and Emissions (Draft NPSNN Sections 5.7 - 5.24 and 5.111 – 519)

- B.3.66 Air Quality is addressed in the draft NPSNN in paragraph numbers 5.7-5.24 within Section 5 Generic Impacts. Dust, Odour, Artificial Light, Smoke, Steam are addressed in the draft NPSNN in paragraphs 5.111 – 5.119, also within Section 5 Generic Impacts
- B.3.67 Paragraphs 5.7 – 5.11 require no response. Paragraphs 5.12 and 5.13 are updated versions of paragraphs 5.7 and 5.8, respectively, of the extant NPSNN and is addressed within the responses and within Chapter 5: Air Quality ([APP-143](#)).
- B.3.68 Paragraph 5.14 expands on paragraph 5.15 of the draft NPSNN and details mitigation measures that could be included in the design of the scheme. Paragraph 5.15 of the draft NPSNN also highlights that the need to consider whether mitigation measures are needed. No evidence has been presented within the ES Chapter 5: Air Quality ([APP-143](#)) to demonstrate that the efficacy and practicability of options to mitigate the air quality impacts of operational traffic have been considered through the design process of the Scheme and the Council consider that such mitigation, such as speed limits or additional physical barriers to protect the most impacted and vulnerable receptors, need to be secured through the DCO.
- B.3.69 The applicant's response to paragraph 5.18 of the draft NPSNN does not fully acknowledge the requirements of the paragraph to give substantial weight to significant air quality impacts in relation to EIA, the applicant still relies on the framework for determining the significance of impacts set by the DMRB LA 105 guidance, which focusses solely on exceedances of the NAQOs.
- B.3.70 The response to paragraph 5.19 of the draft NPSNN relies on the framework set by the DMRB and only focusses on exceedances of the NAQOs to determine whether mitigation measures are appropriate. Given the impacts and deterioration in air quality predicted for numerous residential properties in Thurrock, the Council consider that appropriate mitigation measures should be investigated by the applicant through the design process of the scheme.
- B.3.71 The applicant's response to paragraph 5.20 of the draft NPSNN cites paragraph 5.6.138 of ES Chapter 5: Air Quality ([APP-143](#)) that work has been undertaken to determine whether there are measures that could be put in place to reduce the Projects impacts in areas where there are predicted worsening's in air quality above the AQS objectives. However, it neglects to reference paragraph 5.5.13 of ES Chapter 5: Air Quality ([APP-143](#)), which states that numerous measures have been investigated and were considered to be ineffective or undeliverable and that it is considered unlikely that there will be any viable mitigation measures that will reduce the reported impacts. As stated for paragraph 5.14 of the draft NPSNN, no evidence has been presented to demonstrate that the efficacy and practicability of options to mitigate the air quality impacts of operational traffic have been considered through the design process of the Scheme and the Council consider that such mitigation (such as speed limits or additional physical barriers to protect the most impacted and vulnerable receptors) need to be secured through the DCO.
- B.3.72 Paragraph 5.21 of the draft NPSNN directs the Secretary of State that '*Any increase at all in air pollutant emissions is not a reason in itself to refuse development consent, though any deterioration in air quality should be given appropriate weight in coming to the decision.*' NH response is that '*overall the air quality effects of the Project on human health are not considered to be significant*', as stated above (in paragraphs B.2.65 and B.2.66), this is because the applicant relies on the framework set by the DMRB guidance, which focusses on exceedances of the NAQOs. However, this response does not give consideration of the draft NPSNN to give weight to significant air quality impacts at levels below the current AQO (or limit values).

- B.3.73 Paragraphs 5.111 – 5.113 and 5.115 – 5.119 directly replicate paragraphs 5.81 – 5.83 and 5.85 – 5.88 of the extant NPSNN and require no response. Paragraph 5.114 is an updated version of paragraph 5.84 of the extant NPSNN and is addressed within the response and within Chapter 5: Air Quality ([APP-143](#)).

Biodiversity and Nature Conservation (Draft NPSNN Sections 5.38 – 5.64)

- B.3.74 The changes in wording and addition of new paragraphs, such as paragraphs 5.38 – 5.64, relate to changing legislation and government policy. These include policies irreplaceable habitats, particularly ancient woodland, Local Nature Recovery Strategies and working to ensure habitat connectivity and enhancement. It is considered that LTC has been working in accordance with these policies, although there are instances where the applicant has sought to removal of ancient woodland (at Rainbow Shaw) in preference to moving overhead pylons; or removing 'Long Established Woodland' rather than moving the LTC alignment slight to affect contaminated land.
- B.3.75 Geological Conservation is addressed in draft NPSNN paragraphs 5.38 to 5.64 within Biodiversity and nature conservation. Much of the additional wording relates to biodiversity. The response to paragraph 5.38 is that this is a general introductory paragraph, however, it is worth noting that it directs the applicant to recognise the need to protect and enhance biodiversity and geological conservation interests. ES Chapter 10: Geology and Soils ([APP-148](#)) paragraph 10.5.14 states that there are no specific enhancement measures included in the Project for Geology and Soils. There is no discussion as to whether there are opportunities for enhancement.
- B.3.76 In responding to paragraph 5.43 (requiring the applicant to demonstrate the avoidance of harm or disturbance in line with the mitigation hierarchy), the applicant's response is that there would be no significant harm to geological conservation interests. However, it should be noted that ES Chapter 10: Geology and Soils ([APP-148](#)) identifies that a Minor Adverse effect has been assigned to the partial loss of geological feature at the Low Street Pit (potential Local Geological Site) during the construction of the Tilbury Viaduct. Paragraph 10.6.5 states that '*This geological site is partially (approximately 65%) within the footprint of the Project and a portion is located under a proposed embankment and viaduct structure*'. The mitigation is to restrict construction activities within the eastern area of Low Street Pit. The response should therefore be expanded to provide the required demonstration that the mitigation hierarchy has been applied. It is noted that the applicant states that there will be a minor loss, but does not identify how 'minor' has been determined or how much of the Geological Site will be lost.

Resource and Waste Management (Draft NPSNN Sections 5.65 – 5.73)

- B.3.77 Resource and Waste Management is considered in draft NPSNN paragraphs 5.66 to 5.74. The updated drafting changes the focus of the requirements from ensuring waste is managed safely to bring a greater consideration on the circular economy principles of sustainable resource management and consumption. This requires a greater level of consideration of the sources of materials, their environmental impacts and the mitigation of these. Complying with the requirements as set out would appear to require a document of greater detail and depth than the current oSWMP and oMHP, more closely aligning to a Circular Economy Statement as required by the GLA for notifiable developments.
- B.3.78 Paragraph 5.67 requires that '*The applicant should demonstrate that they will adhere to the waste hierarchy, minimising the volume of waste and maximising reuse and recycling for waste that cannot be avoided. Where possible, applicants are encouraged to use low carbon materials, sustainable sources, and local suppliers. Consideration should be given to circular*

economy principles wherever practicable, for example by using longer lasting materials efficiently, optimising the use of secondary materials and how the development will be maintained and decommissioned. Applicants should consider and take into account emerging government policy, including the Waste Prevention Programme for England and Defra's Construction Code of Practice for the Sustainable Use of Soils on Construction Sites, which provides practical guidance on how to improve appropriate soil reuse on construction sites and reducing the volume that is sent to landfill.' This would entail a greater level of commitment to reduction, reuse and recycling targets and sustainable consumption, which the Council has been suggesting could be addressed through amendments to REAC commitments MW007 and MW013, as set out in the Council's responses to ExQ2.

- B.3.79 Paragraphs 5.70 and 5.73 indicate that applicant should give consideration to whether the Environmental Permitting regime applies to the development, which the Council have been requesting the applicant make greater commitment to within their documentation.

Flood Risk (Draft NPSNN Sections 5.120 - 5.145)

- B.3.80 Paragraph 5.123 states that the Flood Risk Assessment should identify and assess the risks of all forms of flooding and adds that coastal erosion should also be considered. However, the response to this paragraph has not acknowledged the potential impact of proposed works on coastal erosion or any proposed measures to manage potential impacts. The response should address the consideration of coastal erosion, which may occur during either construction or operational phases. This should include management of coastal erosion impacts of the proposed wetland development at coalhouse point.
- B.3.81 Paragraph 5.124 states that the vulnerability of those using the infrastructure including arrangements for safe access and escape should be considered, an assessment should be undertaken of residual risk after risk reduction measures have been taken into account and consideration should be given if there is a need to remain operational during a worst case flood event over the development's lifetime. The response does not provide evidence that emergency and contingency measures have been considered to deal with residual flood risk at the tunnel and north portal ramp. In particular, the management of flood risk to the north portal is reliant on a pump at the base of the ramp. The response should include reference to contingency plans to manage the residual risk of pump failure resulting in increased flood risk to the tunnel. Specific emergency planning for the tunnel should be included, including safe escape routes and operational closures in the event of flooding of the tunnel.

Land Contamination and Instability (Draft NPSNN Sections 5.146 – 5.151)

- B.3.82 Paragraph 5.147 in the introduction adds text regarding consideration of contamination from previous land uses. In the section 'Applicant's Assessment', the draft NPSNN directs that the applicant should ensure and demonstrate that they have considered the risk posed by land contamination and stability, through engagement in pre-application discussions (including the Local Authority) and how it is proposed to address these (risks). The draft NPSNN does not have additional text under mitigation relating to contamination, but it does cover land instability. It is considered that LTC has been working broadly in accordance with these changes, except that the Council's concerns about instability along the coastal area west of Coalhouse Fort have not been addressed adequately.

Landscape and Visual Impacts (Draft NPSNN Sections 5.152 – 5.170)

- B.3.83 Paragraphs 5.152 – 5.170 of the draft NPSNN relate to Landscape and Visual Impacts. The changes to the Landscape and Visual Impacts paragraphs have made more explicit elements

that normally form part of an LVIA, such as minimising the scale of a development, impacts during construction and operation and wider effects such as from light pollution. Changes to paragraphs relating to designated landscapes are not relevant to Thurrock.

Land Use including Open Space, Green Infrastructure and Green Belt (Draft NPSNN Sections 5.171 – 5.195)

B.3.84 Paragraph 5.173 of the draft NPSNN includes new text, which states that:

'The Examining Authority should ensure that substantial weight is given to any harm to the Green Belt when assessing a proposal. Under very special circumstances, development in the Green Belt is allowed if the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations107.'

B.3.85 The Council consider that LTC is not in accordance with the extant NSPNN or the draft NPSNN. As stated previously throughout the Examination, the applicant has not submitted a standalone and full Green Belt Assessment Study for LTC, which sets out a clear, comprehensive and robust methodology and assessment of the Green Belt, against the fundamental aim and the purposes of the Green Belt. The Council would expect to understand how the Strategic Green Belt Assessment Study informed the assessment of alternative schemes and how the applicant used the Green Belt Assessment Study to inform the preferred route and design as well as construction and displaced elements, such as compounds and haul roads. On balance, the Council consider that the applicant has not undertaken a robust Green Belt assessment to evidence the level of harm to the Green Belt and therefore do not have the information available to demonstrate 'very special circumstances' and in turn meet the draft policy requirements.

Historic Environment (Draft NPSNN Sections 5.196 – 5.219)

B.3.86 Within Section 5.203 an additional sentence has been added which states *'The applicant should undertake an assessment of any significant heritage impact of the proposed project.'* This would have been useful at the start of the project when the Council were attempting to get all aspects of the historic environment appropriately assessed. This has now largely been achieved.

B.3.87 Under Paragraph 5.204 an additional paragraph has been added with emphasises that the discovery of heritage assets has the potential to have a significant delay on scheme development and applicants should ensure that protection of the historic environment is considered early in the development process. In areas, such as trial trenching, LTC have achieved this, although in other areas such as assessment of the geo archaeological deposits they have been less successful.

B.3.88 The remainder of the changes are either minor change of words or reordering of paragraphs.

Noise and Vibration (Draft NPSNN Sections 5.219 – 5.233)

B.3.89 Noise and Vibration is addressed in draft NPSNN paragraphs 5.219 – 5.233 within Section 5 Generic Impacts.

B.3.90 Paragraph 5.222 has been updated to include weekends as a time period to be assessed as appropriate. The response to this paragraph has not considered or acknowledged the weekend time period.

- B.3.91 Paragraph 5.222 also requests ‘an assessment of the effect of predicted changes in the noise environment on any noise sensitive premises and noise sensitive areas, including identifying whether any particular groups are more likely to be affected.’ The changes to the draft NPSNN include identifying any particular groups that are more likely to be affected. The response to this paragraph has not acknowledged how the assessment has considered particular groups and if assessment criteria has acknowledged groups more likely to be affected.

Socio-Economic Impacts (Draft NPSNN Sections 5.234 – 5.242)

- B.3.92 The draft NPSNN at paragraph 5.234 sets out that:

‘The construction and operation of nationally significant infrastructure projects may have short or longer term economic and social impacts on local communities, businesses or services. The construction period for significant projects can be lengthy; however, this can generate employment through the construction period and benefit the local economy. Applicants should look to maximise local employment opportunities during construction and operational phases.’

- B.3.93 The Council consider that the applicant has not adequately demonstrated the benefits of the scheme. The Council area contains several deprived areas and the net economic impact of LTC is unclear, as set out in our evidence at ISH4.

Water Quality and Resources (Draft NPSNN Sections 5.243 – 5.259)

- B.3.94 Paragraph 2.248 is a new paragraph and states that consideration should be given to protective measures to control the risk of pollution to groundwater beyond those outlined in Environmental Management Plans. This could include, for example, the use of protective barriers. The response includes reference to the Water Framework Directive Assessment as well as the Environmental Management Plan, ES Appendix 2.2: Code of Construction Practice. The response also draws attention to the Requirement 4 of Schedule 2 to of the draft DCO and suggest that this covers a commitment to measures to protect groundwater, however, the DCO is not so specific and only includes a more general mention of ‘pollution prevention controls’. In general, the response should point more to specific measures that will control the risk of pollution to groundwater during both construction and operational phases. Currently too much reliance is diverted to the contractor responsibilities.
- B.3.95 The water management and pollution containment features required during construction will need significant land take, including management of surface water, waste storage areas, dewatering water and associated treatment facilities. The response does not provide evidence that these requirements may be reasonably be accommodated within the construction works compound or wider Order Limits. Furthermore, evidence should point to any specific requirements for impermeable barriers or containment measures for un-treated water, to prevent seepage to ground during construction.
- B.3.96 Paragraph 2.254 is a new paragraph in the draft revised NPSNN. This includes the recognition that the project should identify opportunities to help to achieve 25 Year Environment Plan objectives; to protect and improve water quality and resources through green and blue infrastructure, sustainable drainage and environmental and biodiversity net gain. The response draws attention to the Water Framework Directive (WFD) Assessment and biodiversity net gain the metric calculations that have been undertaken. This response addresses the Policy requirement, however, discussions regarding the provision of culverts are ongoing. Evidence to demonstrate net increase in open water courses will be welcomed. Additionally, the Council have requested more clarity on the design of the culverts and provision of mammal passages.

- B.3.97 Paragraph 2.255 requires consideration of impacts on the water environment that can be reduced through careful design to facilitate adherence to good pollution control practice. For example, designated areas for storage and unloading, with appropriate drainage facilities, should be marked clearly. This issue is closely related to Paragraph 2.248 and the response adds further detail related to construction worksite drainage systems and proposed pollution containment features. The response highlights measures to store fuel and chemicals and prevent contamination to ground/ water bodies. However, like the response for Paragraph 2.248, more evidence is required on specific measures proposed to contain pollution during construction. In particular, to manage un-treated water (site surface water and dewatering water).
- B.3.98 Paragraph 2.259 states that the Secretary of State should consider proposals put forward by the applicant to mitigate adverse effects on the water environment and whether appropriate requirements should be attached to any development consent and/or planning obligations, if to mitigate adverse effects on the water environment. This should involve discussions with the Environment Agency. The response highlights the early consultation undertaken by the applicant with a number of stakeholders, including the IDB and the Environment Agency. The response draws attention to the water features survey and hydrogeological monitoring, as well as the ES Chapter 14: Road Drainage and the Water Environment, Section 14.4, which describes the water environment baseline. The response may consider highlighting the baseline conditions within the water features survey report. The Council have identified that the water features survey report does not contain detailed survey or water quality monitoring of the Water courses within the West and East Tilbury Marshes or the Coalhouse Point. The response should consider commitments and methodology for ongoing monitoring of the water features north of the Thames.

Impact on Transport Networks (Draft NPSNN Sections 5.260 – 5.281)

- B.3.99 Paragraph 5.264 sets out that: *‘Applicants should seek to offer an integrated transport outcome, significantly considering opportunities to support other sustainable transport modes, as well as improving local connectivity and accessibility in developing infrastructure. The needs of pedestrian and other vulnerable road users should be considered, where appropriate, in line with the principles of the road user hierarchy.’*
- B.3.100 Paragraph 5.273 clearly sets out that that *‘where development would worsen accessibility, there is a strong expectation that such impacts should be mitigated. Where impacts cannot be mitigated, the applicant is required to provide reasoning as to why impacts cannot be mitigated.’* Additionally, at paragraph 5.274 requires the applicant to *‘provide evidence that the development improves the operation of the network and assists with capacity issues.’* Further, paragraph 5.275 states that *‘mitigation measures may relate to the design, lay-out or operation of the scheme, or any support or funding to the immediate surrounding area of the scheme.’*
- B.3.101 Also, as set out in the draft NPSNN Paragraph 5.280 there is a requirement for the Secretary of State to ensure that where *‘a development negatively impacts on surrounding transport infrastructure including connecting transport networks, the Secretary of State should ensure that the applicant has taken reasonable steps to mitigate these impacts. This could include the applicant increasing the project’s scope to avoid impacts on surrounding transport infrastructure and providing resilience on the wider network’.*
- B.3.102 Paragraphs 5.272 to 5.276 of the draft NPSNN relate to mitigation and the applicant’s comments in [REP4-209](#) state, in summary, that all relevant policy requirements have been met by the LTC scheme.

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B.3.103 Paragraphs 5.272 to 5.276 of the draft NPSNN relate to mitigation and the applicant's comments in [REP4-209](#) state, in summary, that all relevant policy requirements have been met by the LTC scheme.

B.3.104 The Council continues to disagree with this assessment, especially in respect of paragraph 5.274, for the following reasons.

- a. As described in Section 11.3 of Thurrock Council's Comments on the applicant's Submissions at Deadline 4 (D4) and Deadline 5 (D5), and as discussed at Issue Specific Hearing 4, 7 and 10 the Council continues to have significant concerns about the impact of LTC on the operation of the A13/A1089/Orsett Cock junction. The results of the LTAM and VISSIM modelling of this junction do not align and significant queuing and delays are expected according to the detailed operational VISSIM model.
- b. This forecast additional queuing and delays means that the applicant does not meet the requirements of paragraph 5.274, i.e. *'The applicant should provide evidence that the development improves the operation of the network and assists with capacity issues'*.
- c. In addition, as described in Section 11.1 of Thurrock Council's Comments on Applicant's Submissions at Deadline 4 (D4) ([REP4-354](#)) and Deadline 5 (D5) ([REP5-112](#)), the applicant's own analysis shows that the operation of Dartford Crossing is not improved in the majority of time periods from 2037 onwards (and possibly earlier).
- d. Further, the Council notes the comments made by Kent County Council at Issue Specific Hearing 10 that LTC will lead to increase queues and delays at Bluebell Hill.
- e. Paragraph 2.272 of the draft NPSNN states: *'Mitigation measures for schemes should be proportionate and reasonable, focussed on facilitating journeys by active travel, public transport, and cleaner fuels'*.

B.3.105 The Council continues to consider that the applicant does not meet these requirements. Facilities for active travel are limited and the design of LTC provides poor facilities for public transport and the use of cleaner fuels e.g. electric vehicles. This is described in Section 8 of Thurrock's Local Impact Report ([REP1-281](#)).

Appendix C Stakeholder Actions and Commitments Register (SAC-R) Proposed Mitigation and Enhancements

Lower Thames Crossing

Thurrock Council Submission at Deadline 6

**Appendix C: Stakeholder Actions and Commitments Register (SAC-R)
Proposed Mitigation**

31 October 2023

Thurrock Council

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Document Control Sheet

Project Name: Lower Thames Crossing

Report Title: Thurrock Council Submission at Deadline 6 (D6) – Stakeholder Actions and Commitments Register (SAC-R) Proposed Mitigation

Doc Ref: -

Date: 31 October 2023

	Name	Position	Signature	Date
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Reviewed by:	David Bowers / Chris Stratford	Director / Senior Consultant	DB CS	31/10/2023
Approved by:	Mark Bradbury	Acting Director of Place, Thurrock Council	MB	31/10/2023

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C.1 Introduction

- C.1.1. This Control Document (APP-554) sets out to provide a list of design, construction, and operational related commitments given to stakeholders that are secured within the DCO, but which do not naturally sit within the REAC, the outline management documents, or other Control Documents secured under Schedule 2 to the DCO and are not contained within side agreements (agreed with specific stakeholders outside of the DCO). The SAC-R commitments are legally secured through Article 61 of the Draft Order (REP5-025).
- C.1.2. This document sets out proposed mitigation regarding Walking, Cycling and Horse Riding (WCH) and Green and Open Space, as was originally set out in the Council's LIR (REP1-281) in Section 15.4.6 b and c, as set out below.

C.2 Thurrock Council Local Impact Report

- C.2.1. In reference to the Council's Local Impact Report 15.4.6, the Council has made further additional requests for commitments to be made by National Highways in the SAC-R:
- a. WCH – mitigation commitment to be developed in response to the neutral effect during construction and to support the achievement of the positive operational effect. In particular at Ockendon, Little Thurrock/Blackshots and Tilbury St. Chads. Suggested mitigation could be a programme of training and engagement with WCH routes in the Borough during construction period, to counter the construction effects and in support of achieving the operational benefits, when the new and reconnected WCH routes open.
 - b. Green and Open Space – mitigation/enhancement commitment to be developed in response to the negative effects during construction and to support achieving the positive operational effect. In particular at Ockendon, Stifford Clays, Little Thurrock/Blackshots, Chadwell St Mary, Tilbury St Chads and East Tilbury areas. Suggested mitigation could be a programme of engagement with remaining green and open spaces during construction period to counter the construction effects. This could be a green and open space engagement team, which have both Borough-wide and targeted activity in the affected areas.

C.3 Thurrock Strategic Aims and Objectives

- C.3.1. This SACR proposal ties into the remaining Statement of Common Ground Issue 2.1.209 regarding the incorporation of relevant Thurrock policy into the impact assessment and addressing how suggested mitigation acts in accordance with these goals. Below outlines the relevant Thurrock policy that would be addressed through the suggested mitigations outlined in this paper. The policies outlined below are relevant both to WCH and Green and Open Space, focusing on wider health and wellbeing determinants.
- C.3.2. Thurrock's Health and Wellbeing Strategy 2022-2026 (2022) highlights several key goals, with health inequalities fundamentally underpinning them all. Several goals are important to take into account when considering the effects of the proposed Lower Thames Crossing. Changes to WCH and green and open spaces during construction and operation could have a consequential impact on the ability to achieve some key goals in the Health and Wellbeing Strategy in some communities. These goals are:
- a. Overarching vision: Levelling the Playing Field – tackling the causes of poor health in Thurrock and reducing the variations in Life Expectancy and Healthy Life Expectancy that we see in Thurrock.
 - Domain 1 - Staying Healthier for Longer

- 1A Work with communities to reduce obesity
- The Thurrock Whole Systems Obesity Strategy, September 2023 (available on the Thurrock website) is the delivery mechanism for this goal, and specifically references the need to prioritise active travel and improvements to the physical environmental in the Borough that promote physical activity and wellbeing.
- Domain 2 - Building Strong and Cohesive Communities
 - 2C Enhance equality and inclusiveness by promoting opportunities to bring different communities together to enhance shared experience and to embed a sense of belonging.
 - 1B. Work together to promote good mental health and reduce mental ill health and substance misuse in all communities in Thurrock.
- Domain 4 - Opportunity for All
 - Goal 4D: Creating a vibrant place, that generates new businesses, increases prosperity and enables people across Thurrock to benefit from the transformational investment in major development schemes
- Domain 5 - Housing and the Environment
 - 5D Regeneration and future developments will seek to improve physical and mental health, reduce exposure to air pollution and to build community resilience and reduce antisocial behaviour
 - Local Plan policies, Health Impact Assessments (HIAs) for major new developments and the Transport Strategy will consider a full range of health and wellbeing issues including for example: Active Travel and Public Transport; access to green and open spaces; air quality; the food environment.

C.4 Response to Applicants Assessment of Human Health, Wellbeing and Equalities Impacts from the proposed Lower Thames Crossing

- C.4.1. Two reports from the application of the Proposed Lower Thames Crossing focus on health and wellbeing:
- a. Chapter 13 of the Environmental Statement – Population and Human Health
 - b. Health and Equalities Impact Assessment (HEqIA)
- C.4.2. The section below outlines the Council’s underlying concerns regarding these assessment domains and basis for additional mitigation. The overall concerns with methodology and impact assessment within these documents are discussed under issue 2.1.208 within the latest version of the Statement of Common Ground (SoCG) submitted at Deadline 3 (REP3-093).
- C.4.3. ***Walking, Cycling and Horse-riding*** : Combined, these reports highlight a neutral health and wellbeing effects on the local community as a result of impacts on walking, cycling and horse-riding (WCH) during the construction period, which is set to last up to 6 years. Despite the neutral effect across the footprint of the project, some 19 routes in Thurrock will be permanently or temporarily closed or affected by diversions during the construction period. In

addition to the direct effects, indirect effects of construction, such as amenity impacts, can also influence use by the local community.

- C.4.4. The Health and Equalities Impact Assessment identifies the following specific wards in Thurrock that are both principally affected by diversions and closures of PRoWs during construction: East Tilbury, Chadwell St Mary, Little Thurrock Blackshots and Orsett. These have all been identified as highly sensitive or medium sensitive wards within the assessment. Additionally, Ockendon and Belhus have also been identified as being highly sensitive wards within the HEQIA and are included in Table 7.19 as being affected by new active travel proposals within operation. These wards are characterised within the report as having higher levels of vulnerable populations (such as older populations), experiencing low accessibility or historical severance and high car ownership. Therefore, it is considered that additional mitigation should be considered particularly in regard to these identified affected areas in order to mitigate potential negative impacts during construction and enhance positive impacts during operation.
- C.4.5. During operation, it is highlighted that a number of WCH routes are permanently affected – some key ones highlighted as positive and significant, and this is attributed to some route upgrades for the reconnections affected to brideways. There are a number of others highlighted, the majority of which have been highlighted as a neutral impact, one with a slight positive impact and two with a slight adverse impact. It is unclear how the mitigation proposed is to lead to a significantly positive impact on health of the local population in Thurrock attributed to some reconnections of routes which would be upgraded for small unconnected sections of footpath or bridleway.
- C.4.6. It is stated that a high number of people would be impacted is high, referencing the latent demand for walking and cycling in a number of locations. This is not referenced during the construction phasing (it states the number as medium).
- C.4.7. In the Equalities Impact Assessment during operation, a beneficial impact has been noted for those in low-income households (who may not have access to a car) and beneficial impacts for people with protected characteristics including children, older people and people with disabilities. Questionably, impacts on these groups (positive or negative) would be both seen in both construction and operation.
- C.4.8. To supplement the mitigation for WCH routes, it is understood that connecting routes and new additional routes are being proposed to be supported through designated funds. It is understood that this is not considered when attributing the impact of the scheme.
- C.4.9. **Green and Open Space:** Combined, these reports (set out in Section 4.1 above), highlight the negative (but not significant) health and wellbeing effects on the local community as a result of impacts on green and open space during the construction period, which is set to last up to 6 years. While it is recognised in the report these spaces have an important role in local communities participating in physical activity, the report notes that health outcomes are primarily related to mental health and wellbeing. There are noted significant positive and negative mental health and wellbeing impacts in the HEQIA for all communities (see 4.15 below).
- C.4.10. During construction, communities that have been identified by the applicant as high sensitivity within the HEQIA (Table 3.3) that affected by changes to open space during construction (paragraph 7.4.27 within the HEQIA) are: Ockendon, Little Thurrock Blackshots and Tilbury St. Chads. Other wards identified as being of high sensitivity that the Council expect to experience impacts during construction are Chadwell St. Mary, Tilbury Riverside and Thurrock Park and Belhus. Residents within these wards by nature of their close proximity to the identified affected wards may also experience issues relating to accessing green and open spaces affected as use of these spaces cross-cut ward boundaries. There are also identified green space and outdoor recreational facilities affected by construction activities which would

affect residents in these wards and include Tilbury and Coalhouse Forts (amenity impacts), Orsett Fen and FP136, and Wickham Park in Chadwell St Mary (visual impacts). Additionally, East Tilbury is identified of medium sensitivity in the HEqIA but is affected by a number of changes to Green and Open Space including: the closure of Tilbury Green for the entire construction period (6 years); amenity impacts at Coalhouse Fort and large adverse visual impacts located at green space at Stenning Avenue.

- C.4.11. Populations identified within the HEqIA of high sensitivity to the changes to green and open space include people on low-incomes, children and young people, those without access to private transport and pedestrians and cyclists. Despite this acknowledgement, the Equality Impact Assessment does not highlight any differential or disproportionate impacts on people with protected characteristics within construction. The HEqIA considers that although there is an expected negative impact it would not be significant at a population level.
- C.4.12. This is disputed as the numbers of people to be impacted being likely to be high along the route, the project relies on other areas of open space to be travelled to as an alternative (citing them being within reasonable travel distance) and that the length of the construction period being 6 years will mean that people will adapt their behaviour. While this may be reasonable for some residents who may have access to private transport, this does disadvantage those without, and this is more likely to be those that are younger, older and those on low-incomes. It is recognised within the HEqIA that these groups may experience a greater adverse impact due to fewer alternatives being available to them within a reasonable journey time. The cost of living crisis adds a further dimension, with rises in prices on mortgages, rent, food and fuel impacting on disposable income to be spent on leisure activities.
- C.4.13. During operation, it is reported by the applicant that there will be positive health and wellbeing impact as a result of the green and open space infrastructure changes in Thurrock, which includes, replacement green and open spaces and the development of a new green and open space at the Northern Portal called Tilbury Fields. However, it is noted that positive beneficial impacts identified for operation within the HEqIA for children, older people and people with disabilities due to new connections planned (however, the HEqIA does not outline any specific rationale as to why these groups would be particularly benefited through the design of the proposals or additional mitigations secured or identify specific wards where these populations are identified).
- C.4.14. Notably, some positive impacts of accessibility to green and open space have been attributed to the change in opportunity that may arise for accessing open space *by private vehicle* at an individual ward level and in Thurrock this included the following wards – Corringham and Fobbing, Tilbury Riverside and Thurrock Park, Stanford East and Corringham Town East Tilbury, Little Thurrock Rectory, Stanford Le Hope West and Tilbury St. Chads.
- C.4.15. **Mental Health and Wellbeing:** both positive and negative significant mental health and wellbeing impacts are identified across all wards along the project route. The HEqIA identifies that this relates to four protective factors, which include: enhancing control, increasing resilience, facilitating participation and promoting social inclusion. The HEqIA recognises the value of access to green and open space and nature on mental health and wellbeing and specifically identifies its role in increasing resilience in the community. It recognises that people without access to private vehicles, children, older people and people with certain disabilities may experience an adverse impact in relation to accessing open space and nature and from the temporary diversions and closures of PRoW during the construction period.
- C.4.16. In combination, these impacts on health and wellbeing from changes to WCH, green and open spaces and impacts to mental health and wellbeing accumulate, quite often impacting on the same communities, either geographically in wards or as vulnerable populations across the Borough.

C.5 Evidence Base

- C.5.1. The following section outlines the evidence base for the suggested mitigation for both WCH and green and open space.

Relevance to the National Policy Statement for National Networks

- C.5.2. The National Policy Statement for National Networks (NPSNN) outlines the following key points discussed below regarding WCH and access to green and open space that should be taken into account as it is the guiding policy document for this DCO.
- C.5.3. The need to consider the use of cycling, walking and open space for recreation and physical activity is specifically mentioned as needed to be considered under the topic of health (Paragraphs 4.79-4.84) within the NPSNN. Additionally, determining appropriate mitigation access to high quality open spaces is also referenced under Paragraph 5.162 regarding needing to provide necessary mitigation and or compensation requirements. Furthermore, under Paragraph 5.184 it states that consideration needs to be made to what opportunities there may be to improve access to public rights of way and national trails and that the Secretary of State should consider whether the mitigation measures put forward by an applicant are acceptable.
- C.5.4. The above paragraphs from the NPSNN support not only efforts from the applicant to mitigate effects from changes to WCH and green and open space, but also improving access to this social infrastructure and ensuring the quality of said provision. This supports the case for additional mitigation above and beyond the design of the scheme.

Supporting Evidence for Additional Mitigation

- C.5.5. Walking Cycling and Horse Riding: the report by Public Health England – Working together to Promote Active Travel (2016) highlighted that overall, motorised road transport tends to better serve those who are already more advantaged. In particular, the continued promotion of the car and car dependency will only increase inequalities. The report highlighted a number of reports highlighting the impact on health inequalities:
- C.5.6. The richest 10% of the population effectively receive almost four times as much public spending on their transport needs as the poorest 10% (due to their higher overall level of travelling and their greater use of cars and train services rather than buses). This is drawn from the Sustainable Development Commission Fairness in a Car-Dependent Society Research (2011).
- C.5.7. Disadvantaged areas also tend to have a higher density of main roads, leading to poorer air quality, higher noise levels and higher collision rates. This is drawn from the Local Action to Mitigate the Health Impacts of Cars briefing statement by the Faculty of Public Health.
- C.5.8. The obesogenic environment (the sum of influences that surroundings, opportunities, or conditions of life have on promoting obesity in individuals or a population, which are associated with increased risk of CVD among the residents, National Institute of Health) impacts most on our most disadvantaged groups, which discourages walking and cycling and further exacerbates health inequalities. Furthermore, residents of deprived communities tend to travel less than the better off but feel the impact of other people's travel. In short, increasing car dependency has led to increasing unfairness. This is drawn from the Sustainable Development Commission Fairness in a Car-Dependent Society Research (2011).
- C.5.9. The Thurrock Active Travel Needs Assessment (2021) highlighted that there is no ideal singular intervention to increase cycling and walking and a mix of infrastructural

improvements/provision, community-wide communications/campaigns, targeted (usually community-level) support and some individually-specific support.

- C.5.10. A range of soft measures were shown to be important, particularly in terms of encouraging and incentivising trips. Studies suggested that local level population changes are required in attitudes and behaviour related to active travel. These should be viewed as long term projects, the most effective mix of intervention being dependent on local characteristics and local needs.
- C.5.11. The industry and academic evidence suggests that in order to encourage modal shift infrastructure and engagement activity is necessary. Whilst evidence suggests that cycle infrastructure on its own increases percentage of people cycling, this is also highly linked on the design of the infrastructure, particularly regarding perception of safety such as being segregated from traffic, as demonstrated by Transport for London's Segregated Cycling Infrastructure Evidence Pack. This is particularly important during the construction period where a number of diversions have been identified which may decrease likelihood of cycling due to need to share routes with motorised traffic.
- C.5.12. To achieve a positive modal shift towards walking and cycling for a positive health and wellbeing effect and to encourage use of the reconnected and upgraded routes and increase likelihood of actually achieving a neutral health effect during construction, in Thurrock specifically, and to support the achievement of the projected positive health outcomes in operation it is requested that additional mitigation/enhancements are put in place.
- C.5.13. Green and Open Space: Public Health England have produced a new review titled Improving Access to Green Space: A New Review for 2020. In this review it highlighted that 'facilitated access' and supported led activity can be successful in reaching underrepresented groups. It also found that regular scheduled group activities can be a strong motivator for participation and encourage continued involvement.
- C.5.14. The same review specifically cited a systematic review of by Annerstedt & Wahrborg from 2011 regarding nature-based interventions, that found participation in these programmes was associated with a significant positive effect on psychological, social, physical, and intellectual outcomes and suggest these are a valuable resource for public health.
- C.5.15. In its guiding principle to encourage engagement with greenspace, alongside infrastructure recommendations, the Public Health England 2020 review recommends working with the target populations to identify the types of interventions that would be most likely to help them start or increase their engagement with greenspace. It also recommends that consideration should be given to taking a dual approach to get people out into greenspace – making improvements to the physical environment to address barriers, along with providing interventions that promote social engagement and participation – as evidence suggests this is an effective approach.
- C.5.16. To mitigate the non-significant negative affect during construction and increase the likelihood of the positive impacts identified for operation it is requested that additional mitigation is put in place in order to engage affected communities.

Summary

- C.5.17. Overall, the above section outlines the industry, policy and academic evidence supporting the need for active engagement with local communities to encourage the take up of WCH and open and green space infrastructure. It highlights the need in particular to engage with some groups covered under the Equalities Act 2010 in order to

C.6 Proposal

- C.6.1. To achieve a positive modal shift towards walking and cycling for a positive health and wellbeing effect and to encourage use of the reconnected and upgraded routes, this would require both infrastructure and engagement activity. To support mitigating the unintended negative consequences during construction and in support of achieving the projected positive outcomes in operation on access to green and open spaces, it is requested that additional mitigation/enhancements are put in place to ensure these health and wellbeing impacts are mitigated as much as possible during construction and to help secure the positive outcome described in operation. This additional mitigation would also serve to support in increase community resilience and enhance mental health and wellbeing through increased access and engagement with green space and nature.
- C.6.2. Consequently, a Borough-wide engagement team for green and open spaces and walking and cycling to be placed within the Place Directorate of the Council is proposed to be funded. This team will:
- a. Engage with the community in interventions and activities that would most likely help them increase their engagement with existing and new greenspaces, and
 - b. Provide outreach or 'pop-up' cycle hub activity – increasing signposting, cycle repairs and providing walking and other active travel/health information and advice.
- C.6.3. The team will deliver sessions for the local community focusing delivery for all age groups, demographics and abilities. The team will utilise the local green spaces and help the community access other sites when their local areas or routes are closed off for LTC works. They will promote the use of walking and cycling to enable people to use other sites and to explore the newly created open spaces that will be delivered by the LTC. This will enable a long term connection with the new spaces and encourage residents to have confidence to visit the new sites.
- C.6.4. The pop-up cycle hub activity will provide hubs for cycle repairs, advice and information, and signposting on walking and cycling. For maximum effect, the engagement team would also support cycling lessons outside of the existing but limited funding of the bike-ability, which currently has a long waiting list (circa 80 people).
- C.6.5. Offering this additional support and engagement with the community will help the local community increase their engagement with both existing and new WCH routes. The team will support the residents to ensure their voice is represented in consultation processes including the designing of the new country parks or new spaces that LTC aims to create. This will ensure the spaces are designed with local needs and more likely to be used.
- C.6.6. The team will deliver borough wide activities, but with a particular focus on access from areas that are impacted by the Lower Thames Crossing during construction, areas which are identified as high sensitivity and/or have existing health inequalities and to secure the positive benefits described during operation.
- C.6.7. Wards of focus for the activity of this mitigation project would include Chadwell St Mary, East Tilbury, Little Thurrock Blackshots, Ockendon, Orsett, Stifford Clays, and Tilbury St Chads.
- C.6.8. It would also be anticipated that the following highly sensitive communities would also be supported – Tilbury Riverside and Thurrock Park and Belhus.
- C.6.9. The team will run activities in the daytime, evening and weekends to ensure the service is delivered in an accessible way to meet resident demand.

C.6.10. The team will build the capacity of local community groups in the focus areas to help them apply for funding (including the LTC Community Fund) and take over the delivery of sessions. They will also support the local community groups to increase their engagement with local residents and increase the number of people visiting their sites or using WCH routes. This will enable this project to be sustained beyond the life of the project.

C.6.11. As an example, the Martial Academy is a charity based within Tilbury. They only deliver activities for the martial arts and boxing from Tilbury Football clubs' site. By supporting the organisation and helping them train up volunteers and coaches, they can deliver more activities using the parks, such as Daisyfield, Koala Park in Tilbury and their gym space within the pavilion all year round. The team would initially start the delivery of these activities and over the lifespan of the project, transfer the session to the Martial Academy.

C.6.12. Built into the proposals include three years of full costs for the project, with a tapering down of funding required from year 4 onwards, with a view to working with local communities to engage with the WCH routes and green and open spaces beyond the life of the project, the construction period and into operation.

C.7 Indicative Costs

C.7.1 The following are suggested cost breakdowns per annum.

Table C1.1: Indicative Costs

Project	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Total
Green and Open Space and Cycle Hub Project Manager (Grade E)	£55,809	£58,041	£60,363	£31,389	£32,644	£33,950	£272,197
Redundancy costs	£0	£0	£0	£0	£0	£8,707	£8,707
Green and Open Space/Cycle Engagement Officers 2x0.5FTE (Grade D)	£47,111	£48,995	£50,955	£0	£0	£0	£147,062
Redundancy costs	£0	£0	£6,534	£0	£0	£0	£6,534
1.0FTE Technician (Grade C)	£39,900	£41,496	£3,112	£0	£0	£0	£124,552
Redundancy costs	£0	£0	£5,535	£0	£0	£0	£5,535
Running costs	£21,423	£22,280	£23,171	£4,708	£4,897	£5,093	£81,572
Additional Costs	£10,000	£10,000	£10,000	£0	£0	£0	£30,000
Events, equipment and materials	£3,000	£3,000	£3,000	£2,000	£1,000	£1,000	£13,000
Total project costs per annum	£177,243	£183,813	£202,714	£38,097	£38,541	£48,750	£689,158

Notes

Based on similar projects delivered by the Council the Project Manager has been calculated as a Grade E officer. The first three years will be full time and the last three years will be 0.5 FTE. During the last three years the Project Manager will support the transition to a community ownership model so that the projects can continue after the project ends. These are costed at the top of band, inclusive of on-costs, 2023-24 base year costs, plus 4% inflation year on year.

Two part time 0.5FTE Engagement Officers will support the activities for walking and cycling and green and open spaces. By interlinking the projects, it will see greater coordination between the activities. These are for three years after which the community groups and volunteers will continue activities. These roles were benchmarked against the current Park Engagement Officers who are on Grade D. These are costed at top of band, inclusive of on-costs, 2023-24 base year costs, plus 4% inflation year on year.

The Cycle Technician is a role that previously was part of the SEAT project and was benchmarked to Grade C. This role is required full time based on the previous project and the high volume of work. These are costed at top of band, inclusive of on-costs, 2023-24 base year costs, plus 4% inflation year on year.

The running costs will cover the cost of office/desk space, ICT equipment, management costs, etc., per annum.

The additional costs are for the cycle hub where the bikes will be repaired. This is for the cost of hire of the space.

The events activity and material costs are to cover the engagement teams cost to run programme, community events, hire of play equipment, etc., especially for extra activities during school holiday periods. In year 4-6 this funding will be given to community groups so that they can deliver the programmes. This will be managed by the Project Manager.

Redundancy costs are estimated based on current HR Change Management Policy.

**Appendix D Community Liaison Groups Initial
Terms of Reference**

Lower Thames Crossing

Thurrock Council Submission at Deadline 6 (D6)

Appendix D: Community Liaison Groups – Initial Terms of Reference

31 October 2023

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Thurrock Council Submission at Deadline 6 (D6) – Appendix D: Community Liaison Groups – Initial Terms of Reference
 Lower Thames Crossing

Document Control Sheet

Project Name: Lower Thames Crossing

Report Title: Thurrock Council Submission at Deadline 6 (D6) – Appendix D: Community Liaison Groups – Initial Terms of Reference

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Date: 31 October 2023

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Approved by:	Mark Bradbury	Acting Director of Place, Thurrock Council	MB	31/10/2023

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D.1 Community Liaison Groups – Initial Terms of Reference

- D.1.1 Through SoCG discussions regarding items 2.1.213 and 2.1.232 with the applicant the Council has been signposted to the CoCP for information on the CLGs. In response to these discussions the Council is providing suggested wording for inclusion at Deadline 6 for initial Terms of Reference for the Community Liaison Groups (CLGs).
- D.1.2 It is noted that at Deadline 5 the Terms of Reference for the Workers Accommodation Working Group, contained within Appendix D of the Framework Construction Travel Plan (REP5-055), the Traffic Management Group contained within Appendix E of the Outline Traffic Management Plan for Construction (REP5-057) and The Travel Plan Liaison Group, contained within Appendix C of the Framework Construction Travel Plan, ([REP5-055](#)) were all published.
- D.1.3 Therefore, whilst it is recognised that more detailed Terms of Reference will be developed as part of the future Engagement and Communications Plan, it is recommended that the following text is either inserted into the Framework Construction Travel Plan and the Outline Traffic Management Plan at Deadline 7 as an Appendix to strengthen the use of the CLGs as adequate mitigation against Health and Equalities Impacts outlined in the HEqIA and the ES Chapter 13 regarding Population and Human Health.
- D.1.4 National Highways will work closely with relevant stakeholders on the membership of the proposed CLGs, which will include representation from the local community. Attendance and membership will be published on the Project website.
- D.1.5 The Terms of Reference with the CLGs will be coproduced with local community participants in advance of construction commencing and would be reviewed annually to ensure relevance. The below outlines the key principles that will be followed:

D.2 Purpose

- D.2.1. The scope of the CLGs will be to ensure that local residents are appropriately informed and therefore prepared for forthcoming changes and construction activities, and to assist in ensuring local communities are aware of the opportunities (such as those regarding employment and training) that the LTC scheme is promoting. CLGs will also enable communities to raise concerns relating to construction in a timely way to help explore local solutions.
- D.2.2. The quantity of CLGs and topic area covered by the group will be dependent on project phase and need. However, creation of CLGs will focus on identified geographic areas of high sensitivity to construction changes and will need to ensure that they are covering a range of needs, with specific regard for groups in the Equalities Act 2010.

D.3 Membership

- D.3.1. As the exact topic areas of CLGs are as of yet undecided membership of the CLGs at this stage cannot be prescriptive. At a minimum they will likely comprise:
- a. Representative from National Highways;
 - b. Traffic Manager;
 - c. Local Councillors and relevant officers;
 - d. Relevant Stakeholder Representatives (this will be dependent on the remit of the individual CLG); and

- e. Members of the Public.

D.3.2. Membership will be reviewed annually to ensure that those members (particularly where they are members of the public) are able to commit to being an active participant in the group.

D.4 Meetings/Working Arrangements

Timing/Frequency

D.4.1. Each CLG would meet on a monthly basis (unless otherwise agreed). Whether this is a virtual or in-person meeting will be decided upon need of the particular CLG and membership. Meeting duration and frequency would vary depending on the need.

Roles and Responsibilities

D.4.2. A chair of each CLG would be appointed.

D.4.3. The Chair would be responsible for:

- a. Organising and leading CLG meetings;
- b. Developing agendas, briefing papers and minutes for the CLG meetings and circulating these to TPLG members;
- c. Seeking advice from members on any conflict of interest, including pecuniary ones and managing any conflict of interest; and
- d. Coordinating consensus on any recommendations.

D.4.4. CLG members would be responsible for:

- a. Regularly attending and actively participating in meetings, or providing a nominated delegate at each meeting in their absence;
- b. Representing their relevant organisation or group at meetings and providing expert advice, direction and endorsement to deliver the best outcomes for the Project;
- c. Ensuring the relevant control documents are adhered to;
- d. Leading or attending subgroup meetings (where required); and
- e. Consulting within their organisation or community to communicate CLG actions, outcomes and next steps including sharing endorsed minutes within a week of publication.

Nominated Delegates

D.4.5. In order to ensure consistency and continuity, the use of nominated delegates should be avoided if at all possible. If nominated delegates are to be used this should be notified and agreed in advance by the CLG. Nominated delegates should be of a broadly equivalent position/status as the relevant CLG member in terms of knowledge and experience of the group's work and should be fully briefed in advance by the nominated group member and have full authority to act on the group member's behalf.

Agenda

- D.4.6. A notice of each meeting confirming the agenda and relevant attachments would be forwarded by the Chair to each member prior to the meeting date.
- D.4.7. Meetings would cover progress with and close out of the previous meeting's actions.
- D.4.8. An invitation to suggest items for the agenda will be sent out two weeks ahead of each meeting. The agenda will then be circulated prior to the meeting

Subgroup Meetings

- D.4.9. It would be for the CLG to determine whether it is appropriate to set up subgroups to deal with particular identified issues; or identify group members to represent the CLG at other working groups and forums.

Review and Reporting

- D.4.10. Reporting would be captured through meeting minutes which will be published and circulated to the CLG members. Any actions arising from the CLG meetings would be documented in the minutes and reviewed again at the next meeting.
- D.4.11. CLG minutes will be published online (the exact location of publication will be confirmed depending on Engagement and Community Plan) in order to ensure full transparency and access to communities affected.

Outcomes

- D.4.12. The National Highways member will be responsible for taking and circulating the minutes of the meeting to the CLG. These would capture and document any decisions, advice or recommendations.
- D.4.13. Outcomes across the CLGs are likely to be varied. However, it is expected that the following types of outcomes would be monitored and reported:
 - a. Key decisions made and outcomes of decisions; and
 - b. Record of further community engagement pursued.

Code of Conduct

- D.4.14. It is expected that positive participation and a collaborative approach is taken and that the application of the Nolan Principles (HM Government, 1995) for committee meetings are adhered to.

Reimbursement of Costs/Expenses of CLG Members

- D.4.15. The CLG would reimburse reasonable travel costs or expenses (including costs incurred in booking meeting venues/facilities, etc.) for CLG members participating voluntarily. This would include relevant community stakeholders and members of the public. This reduces barriers to participation.

Decision Making

D.4.16. The Chair would lead the decision-making process with the aim of achieving consensus at the CLG meetings.

D.4.17. The decision-making process shall generally follow these steps:

- a. **Discussion:** The issue or matter requiring a decision would be presented for discussion at the CLG meetings;
- b. **Information sharing:** Relevant information, data and expertise would be shared among CLG members to facilitate informed discussions;
- c. **Options and alternatives:** Multiple options and alternatives would be considered, and their pros and cons would be evaluated;
- d. **Consensus building:** The CLG would strive to reach consensus whenever possible. Members would work together to find mutually agreeable solutions;
- e. **Vote:** After this process a majority vote of CLG members present at the relevant meeting would constitute an agreement of the CLG;
- f. **Dispute resolution:** A mechanism for dispute resolution needs to be agreed when the ECP is published in order for CLG members to be able to escalate the matter in alignment with other working groups and forums established. This will need to outline how the CLGs interact with the Joint Operations Forum and how CLG members are integrated into the dispute resolution process;
- g. **Timeliness:** Decision-making processes would be carried out promptly to avoid unwarranted delays in addressing matters; and
- h. **Documentation/reporting:** Decisions reached, along with the rationale behind them, would be documented by the Chair and communicated to all CLG members and relevant stakeholders before the subsequent CLG meeting;

Dispute Resolution

D.4.18. Parties involved in a dispute shall initiate discussions at the earliest opportunity to attempt to resolve the issue within the CLG. If the discussions do not lead to a resolution agreed to by all parties, the CLG would, following consideration, decide whether to escalate the matter to the arbitration.

Media and Public Comment

D.4.19. CLG members would not be restricted from discussing issues with or providing their own opinions to the media.

Governance/Performance Monitoring

D.4.20. A detailed Terms of Reference (ToR) will be created for the CLGs as part of the ECP. This will cover an overall approach to the CLGs under the headings above. There will also be consideration for any particular community need within each CLG established with the ToR offering flexibility to include any particular principles that apply to a specific topic area.

Interrelationship with other Working Groups/Forums

D.4.21. The interrelationship with other working groups and forums will be confirmed within the ECP. The topic area covered by the CLG will determine its interaction with other working groups and forums and may require sub-group attendance.

Funding/Securing Mechanism

D.4.22. National Highways would fund the preparation, implementation and operation of the CLGs, including the activities related to the implementation of the CLG.

Appendix E Worker Accommodation Technical Note and Council Comments

Lower Thames Crossing

Thurrock Council Submission at Deadline 6 (D6)

Appendix E: Worker Accommodation Technical Note and Council Comments

31 October 2023

Thurrock Council

 **thurrock.gov.uk**

Thurrock Council Submission at Deadline 6 (D6) – Appendix E: Worker Accommodation Technical Note and Council Comments
 Lower Thames Crossing

Document Control Sheet

Project Name: Lower Thames Crossing

Report Title: Thurrock Council Submission at Deadline 6 (D6) – Appendix E: Worker Accommodation Technical Note and Council Comments

Doc Ref: -

Date: 31 October 2023

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Reviewed by:	David Bowers / Chris Stratford	Director / Senior Consultant	DB CS	31/10/2023
Approved by:	Mark Bradbury	Acting Director of Place, Thurrock Council	MB	31/10/2023

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Part 2 – Thurrock Council Email Response

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Part 1 – Worker Accommodation Technical Note

Lower Thames Crossing

Worker Accommodation Technical Note

DATE: September 2023

VERSION: 1.0

Lower Thames Crossing

Worker Accommodation Technical Note

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1 Worker Accommodation Technical Note

1.1 Introduction

- 1.1.1 The Workers Accommodation Report (WAR) [APP-551] sets out the estimated number of workers at the peak construction phase of the Project who would require temporary accommodation. It considers what type of accommodation these workers are anticipated to seek and where, and a consideration of this demand in the context of supply and the operation of the accommodation market.
- 1.1.2 The Applicant recognises that there is uncertainty in relation to the potential impact of Project workers on the local accommodation market given variability in the market, though is confident that there is a substantial supply of accommodation that would not interfere with the ability for local people to access rented accommodation at the more affordable end of the market. This is demonstrated by the WAR. The Applicant is confident that the assessment in the WAR is based on best available data and conservative assumptions (i.e. local employment levels) and has been sensitivity checked (against cumulative impacts and degree of local employment).
- 1.1.3 The Applicant has reviewed new Census data which confirms the initial assessment in the WAR, and this has been provided to the examination in response to ExA First Written Questions. Considering Local Authority concerns in relation to the private rented sector (PRS) in particular, the Applicant doesn't anticipate a substantial impact on vulnerable households in (or seeking) the more affordable element of the PRS. The Project's construction workers will be able to afford almost all rented accommodation in the market with their nightly accommodation allowance granted under Working Rule Agreements (para 6.4.24-28 in the WAR). Therefore, the Applicant has considered the overall market at the very peak of the Project and calculated the Project's workers would take 2.3% of the overall PRS market in Thurrock (based on new Census data – this has reduced from 2.8% reported in the WAR). Most of the time however it will be much lower than that.
- 1.1.4 There are several elements of embedded mitigation that will be in place to reduce the scale of concern - key to this is local employment which is addressed via the Skills, Education and Employment Strategy (SEE) (Section 2 and Appendix B of the 7.3 Section 106 Agreements Heads of Terms [APP-505]). Various measures are proposed to ensure contractors recruit locally. The strategy proposes to bring people closer to jobs through creating new inclusive jobs and placements and includes an obligation to use best endeavours to apply the measures within the SEE Strategy to reach a target of at least 45% of employees to be from within 20 miles of the Project or associated works.
- 1.1.5 The WAR and the FCTP then summarise how monitoring, governance and interventions will be developed and implemented collaboratively to avoid adverse effects. The proposals create an agile framework to cater for the uncertainty and to work closely with Local Authorities to respond quickly if issues arise (and in fact, look ahead to potential issues and avoid them before they manifest). The approach aims to address impacts should they arise based

on evidence provided by the Projects monitoring (and look-ahead information) and Local Authority data. This enables solutions to be fit for purpose based on the specific issues that could occur.

1.2 Interventions

- 1.2.1 In summary the key features of the Applicants approach (**secured by the FCTP**) are:
- 1.2.2 Given concerns raised by Local Authorities about localised effects on some parts of the accommodation market, the Applicant is nonetheless proposing the following pro-active measures to monitor and manage the uptake of accommodation:
- 1.2.3 **Accommodation Helpdesk** – *this would be operated by National Highways and would be a tool to assist workers with finding suitable and available accommodation near the Project. The Helpdesk would support prospective providers of accommodation in understanding the Project and its workforce and managing tenancies safely and legally. Workers would not be mandated to use accommodation registered on the Accommodation Helpdesk. The Helpdesk would also oversee collation of monthly data from the contractors and produce accommodation monitoring reports which would in turn inform where workers could be directed/recommended via the Helpdesk.*
- 1.2.4 **Accommodation database** – *the contractors would be required to create and maintain a live database that monitors the accommodation being used by the workforce in terms of the type of accommodation (on-site project accommodation, private rented, spare rooms/latent, owner-occupied or tourist/visitor) and the location of this accommodation (via a postcode). The contractors would mandate that its workforce, and those of its suppliers, regularly update their information related to the database for every worker. This database would be reported on a monthly basis to members of the Workforce Accommodation Working Group (WAWG).*
- 1.2.5 **Workforce Accommodation Working Group** – *this would include representatives from National Highways, its contractors, and local authorities. The WAWG would receive monthly workforce accommodation monitoring reports from the Helpdesk, and regular updates and information from the Project including ‘look-ahead’ for potential workforce implications over a 12-month period led by National Highways and contractors. The findings of the workforce accommodation monitoring report would be considered alongside other information, such as other monitoring secured by the Project (e.g., via the FCTP and SEE Strategy (Appended to s106 Agreement, Application Document 7.3)) and information provided by authorities on market conditions and other developments in the local area.*
- 1.2.6 **[Additional intervention submitted at DL-4]** Visitor accommodation utilisation - the WAWG must be provided with details of the reasonable endeavours which the Contractors have used to ensure the use by non-local workers of visitor accommodation with the aim of reducing conflict with visitor accommodation used by Local Authorities as temporary accommodation.
- 1.2.7 **[Additional intervention submitted at DL-4]** Collaboration opportunities - the Contractors must provide the WAWG with the details of the reasonable

endeavours undertaken to coordinate, and jointly manage, construction workforce impacts with the developers of a nationally significant infrastructure project which overlaps with the Order limits, or of a project identified in the Interrelationship with other Nationally Significant Infrastructure Projects and Major Development Schemes [APP-550]

- 1.2.8 **[Intervention Amended at DL-4]** *Contractors would also be required to propose further reasonably practicable measures which encourage a higher proportion of locally employed workers (thereby reducing demand for accommodation) and incentivise workers to live in areas which have higher capacity or less sensitivity. Areas may be more sensitive to change if they are in determined by a local authority to have more potential to provide accommodation sought after by households in housing need or have a greater supply of accessible, affordable rented accommodation. The measures would also include reviewing the outcomes of the monitoring provided to the WAWG, and feedback from Local Authorities who are members of the WAWG, to encourage workers to live in areas where sustainable transport (either existing or provided by the Contractor) is available and which have higher levels of accommodation available, or are less sensitive. Measures would be presented to the WAWG, and National Highways would have due regard to comments raised at that group on the measures to be undertaken.*
- 1.2.9 The Applicant believes that the proactive monitoring of worker accommodation need including 12 month look ahead that has been proposed will allow us to anticipate and manage impacts within the context of the housing market at that time. Our precautionary measures outlined above and in particular, the WAWG provides a route for key parties to work together on reviewing the evidence and identifying appropriate action.

Part 2 – Council Comments – Email Response

From: ["Chris Stratford"](#)
To: ["Poulomee Basu"](#)
Cc: ["Kate Jefferd"](#); ["Callum Brown"](#); ["LTCAdmin"](#); ["LocalGov"](#); [Jefferies, Sharon](#); [LTC-Stantec](#); ["Wade, Christopher"](#); ["Sorbian, Ewelina"](#); ["Doherty, Peter"](#); [Mescall, Mary](#); [Wales, Prudence](#)
Subject: RE: Future SoCG workshops - Worker Accommodation Technical Note
Date: 17 October 2023 12:31:20
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image006.png](#)
[image007.png](#)
[image008.png](#)
[image009.png](#)
[image010.png](#)
[image012.png](#)
[Worker Accommodation Technical Note.pdf](#)

Hi Poulomee,

Further to your email below and our meeting on 28 September 2023, we set out our comments on this documents responding to six key paragraphs (which we have reproduced below for convenience). In addition, **we do need to understand how this Technical Note (or parts of it) or other matters within it are to be secured – so please offer your signposts to the WAR (is this a control document?), FCTP or your further suggestions, such as the SAC-R.**

RESPONSES TO TECHNICAL NOTE

1.1.2 The Applicant recognises that there is uncertainty in relation to the potential impact of Project workers on the local accommodation market given variability in the market, though is confident that there is a substantial supply of accommodation that would not interfere with the ability for local people to access rented accommodation at the more affordable end of the market. This is demonstrated by the WAR. The Applicant is confident that the assessment in the WAR is based on best available data and conservative assumptions (i.e. local employment levels) and has been sensitivity checked (against cumulative impacts and degree of local employment) – [see below](#)

1.1.3 The Applicant has reviewed new Census data, which confirms the initial assessment in the WAR, and this has been provided to the Examination in response to ExA First Written Questions. Considering Local Authority concerns in relation to the private rented sector (PRS) in particular, the Applicant does not anticipate a substantial impact on vulnerable households in (or seeking) the more affordable element of the PRS. The Project's construction workers will be able to afford almost all rented accommodation in the market with their nightly accommodation allowance granted under Working Rule Agreements (paragraph 6.4.24-28 in the WAR). Therefore, the Applicant has considered the overall market at the very peak of the Project and calculated the Project's workers would take 2.3% of the overall PRS market in Thurrock (based on new Census data – this has reduced from 2.8% reported in the WAR). Most of the time, however, it will be much lower than that.

[Whilst it is appreciated that workers will have an allowance which will allow them to utilise the higher cost end of the private rental market/hotel market within Thurrock, the impact of an increase in demand in the higher cost end is likely to be a drip-down effect on the overall private rented market. The Council has experienced like impacts on its housing](#)

market from competition for PRS and temporary accommodation from London Boroughs, who have significantly higher local housing allowance rates and more funds with which to incentivise placements. This is very similar to the higher financial capacity of workers, which is likely to drag medium and lower cost provision into the higher cost end, and move the market even further away from the local housing allowance benefit rate than it already is. This means that homeless and other low-income households will be further priced out of the rental market and local provision for local people (which is already extremely difficult) will reduce further. Therefore, this will mean the need for out of Borough placements, which lead to loss of support for households.

At present the average monthly rental cost for a one bedroom property in Thurrock is at £1,050pcm, and the LHA rate is at £698.10, which means that there is a 34% disparity already. With an influx (of up to 2.8% of the market) of new households in this section of the sector, this disparity can only increase, pricing out local people and the most vulnerable households.

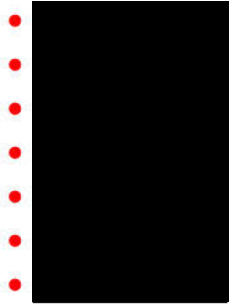
We need your proposals, also secured, as to how to prevent the above from occurring.

1.2.6 [Additional intervention submitted at DL-4] Visitor accommodation utilisation - the WAWG must be provided with details of the reasonable endeavours which the Contractors have used to ensure the use by non-local workers of visitor accommodation with the aim of reducing conflict with visitor accommodation used by Local Authorities as temporary accommodation – [see below](#)

1.2.7 [Additional intervention submitted at DL-4] Collaboration opportunities - the Contractors must provide the WAWG with the details of the reasonable Lower Thames Crossing – Worker Accommodation Technical Note DATE: September 2023 3 Uncontrolled when printed – Copyright © - 2023 National Highways Limited – all rights reserved endeavours undertaken to coordinate, and jointly manage, construction workforce impacts with the developers of a nationally significant infrastructure project which overlaps with the Order limits, or of a project identified in the Interrelationship with other Nationally Significant Infrastructure Projects and Major Development Schemes [APP-550]

We welcome the requirement to provide evidence and detail of ‘reasonable endeavours’, however, we do not consider that this wording is committed enough, nor that it reflects a true assurance that the Council’s suppliers will not be sued/negotiated with in a way which would mean less accommodation being available for vulnerable homeless and other households owed statutory duties by the Authority. We would welcome a commitment in a control document that states that they **‘will neither utilise the resources of, nor negotiate contracts or leases with, any of the providers currently working with the Authority to provide temporary or emergency accommodation’ (including the list below)**. The list of current providers, including some hotels used particularly during winter months, but also during other periods in the year, is as follows:

- [REDACTED]
- [REDACTED]



If you could respond to these points this week or early next week, that would be appreciated, so that we can include the latest information within our D6 submission.

Chris Stratford FRTPI FRSA
Consents and DCO Senior Consultant, Thurrock Council

Highbury Planning Consultants Limited



From: Poulomee Basu [redacted]
Sent: Friday, September 22, 2023 2:17 PM
To: Jefferies, Sharon [redacted]; chris [redacted]
Cc: Kate Jefferd [redacted]; Callum Brown [redacted]
[redacted]; LTCAdmin [redacted]
LocalGov [redacted]; LTC-Stantec [redacted]
Subject: Re: Future SoCG workshops - Worker Accommodation Technical Note

Hi everyone

Please find attached the worker accommodation technical note as promised. The action for NH was to produce a technical note explaining how the assumptions used in the WAR tied to those used in the SEE strategy and how it all fits together with the proposed interventions.

It related to three items related to worker accommodation (2.1.233-2.1.235) for the population and human health session on the 28th September. Please forward to your housing officers, as necessary.

Cheers
Poulomee



Thurrock Council Submission at Deadline 6 (D6) – Appendix E: Worker Accommodation Technical Note and Council Comments
Lower Thames Crossing

Appendix F HS2 Rural Support Zone

Lower Thames Crossing

Thurrock Council Submission at Deadline 6 (D6)

Appendix F: HS2 Rural Support Zone

31 October 2023

Thurrock Council

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Document Control Sheet

Project Name: Lower Thames Crossing

Report Title: Thurrock Council Submission at Deadline 6 (D6) – Appendix F: HS2 Rural Support Zone

Doc Ref: -

Date: 31 October 2023

	Name	Position	Signature	Date
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Reviewed by:	David Bowers / Chris Stratford	Director / Senior Consultant	DB CS	31/10/2023
Approved by:	Mark Bradbury	Acting Director of Place, Thurrock Council	MB	31/10/2023

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HS2 Rural Support Zone – Guidance and Application Form

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Rural support zone

Guidance and application form





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1 Introduction

- 1.1.1 This guidance provides information about the discretionary schemes available in the rural support zone (RSZ), how to find out if you are eligible, and how to apply for an RSZ scheme. If your application is successful, we will begin the valuation process. You can find details on each stage of the application process in chapter 4.

2 Glossary

Agricultural unit: Land which is occupied as a unit for agricultural purposes, including any home or other building occupied by the same person for the purpose of farming the land. Agricultural purposes are horticulture, fruit growing, seed growing, dairy farming, keeping and breeding livestock, using land as grazing land, meadow land, willow beds, market gardens or nursery grounds, and using land for woodland in a way that supports the farming of land or for other agricultural purposes.

Blight notice: The statutory notice that you can serve on the Secretary of State, through us, asking the Government to buy your property.

Deed of receipt: A legal document under which we will pay cash offers, with conditions on repayment under certain circumstances.

Express purchase: A discretionary scheme introduced by the Secretary of State which simplifies the blight notice scheme in two ways. When an owner-occupier who qualifies for statutory blight and owns a property within the safeguarded area serves a blight notice on the Secretary of State, the Government may choose to accept the notice:

- regardless of whether we would need the property to build or operate the railway, as long as the property is fully within the safeguarded area; and
- without asking you to show that you have made reasonable efforts to sell the property.

Homeowner payment (HOP) scheme: A scheme for owners of property where at least part of the main building (the home) or at least 25% of the total land area of the property is within the homeowner payment zone. This zone spans 180 metres either side of the outer boundary of the RSZ, in the same areas along the proposed HS2 route as the RSZ. Under the scheme, owner-occupiers of these properties who meet a 'no prior knowledge' condition can claim a fixed cash payment. The payment is one of three set amounts, decided by the location of the main building in relation to three payment bands within the zone.

Injurious affection: This is where the value of the land you keep reduces as a result of the proposed construction of the railway, if only part of your land is needed.

Need to sell (NTS) scheme: A scheme for property owners who believe they have a compelling (convincing) reason to sell their property. Owners must meet five conditions and there is no geographic boundary to this scheme.

Owner-occupier: An owner-occupier is anyone who owns a property (either outright or with a mortgage) as a freehold or on a lease with a certain term (which has at least three years left to run) and uses it as their main home or place of business. The full definition of owner-occupier is in Chapter 2, Part 6 of the Town and Country Planning Act 1990.

Part 1 compensation: Compensation that owner-occupiers of homes, small business premises and agricultural units may be able to claim under Part 1 of the Land Compensation Act 1973 if the value of their property reduces as a result of the physical effects of the operation of the railway (noise, vibration, smell, fumes, smoke and artificial lighting, and any solid or liquid substance being released onto the relevant land). You can only claim this compensation after the scheme has been open for public use for one year.

Safeguarding: Safeguarding is an established part of the planning system. It is designed to protect land which has been earmarked for major infrastructure projects from conflicting developments which might otherwise take place. From the date safeguarding directions are issued, local planning authorities must consult the authority which issued the directions on planning applications they receive that are within the safeguarded area. Safeguarding also triggers 'statutory blight'. This means that property owners within the safeguarded area may be able to serve a blight notice asking the Government to buy their property before any compulsory purchase.

Safeguarding directions: The directions issued by the Secretary of State that establish the land that is safeguarded. From the date safeguarding directions are issued, local planning authorities must consult the authority which issued the directions on planning applications they receive that are within the safeguarded area.

Statutory blight: The term used to describe a situation where a property is blighted in a legal sense, such as where it is in a development plan or within land safeguarded for a specific purpose, for example the railway, or included within a compulsory purchase order.

Statutory interest: The rate that interest is calculated at if you claim a cash payment under an HS2 property scheme and then later sell your property to the Government. For the HS2 property schemes, statutory interest is defined under the Acquisition of Land (Rate of Interest after Entry) Regulations 1995. It is set at 0.5% below the Bank of England base rate.

Surface safeguarding: Local planning authorities must consult on all planning applications they receive that fall within areas where surface safeguarding applies. For HS2, the land that is identified for surface safeguarding generally involves surface works and structures associated with the railway where the route is above the ground.

Subsurface safeguarding: In locations where subsurface safeguarding applies, local authorities do not usually have to consult on applications for planning permission, unless the proposed development would extend below ground level. For HS2, subsurface safeguarding is usually put in place when the proposed line of the route is in a bored tunnel.

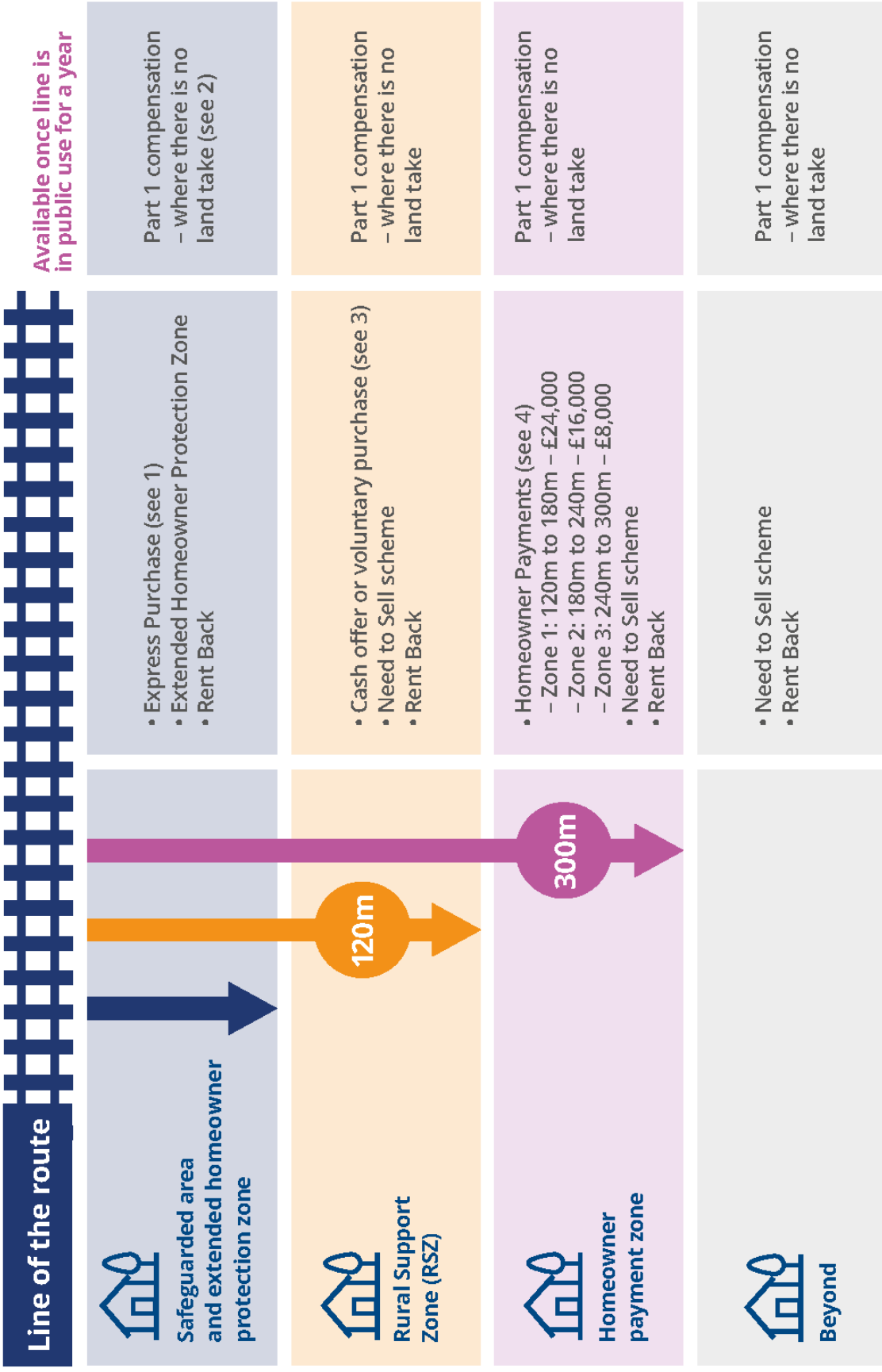
Track my Property Case: Our online tracking portal that allows you to keep updated on the progress of your application.

Unblighted open-market value: The value the property would have on the open market, as if there were no plans for HS2.

3 Rural support zone

3.1 What is the rural support zone (RSZ)?

- 3.1.1 The rural support zone is the area that starts at the outer border of safeguarding (see the glossary on page 2) and stops 120 metres from the centre line of the HS2 railway in rural areas. The discretionary schemes set out in this guidance are only available in the RSZ and you may be eligible if you live within it. You can find details of how to find out if you are in the RSZ on page 9 of this guidance.
- 3.1.2 The RSZ applies to all phases of the HS2 route. Phase One is the section of the route from London to the West Midlands, Phase 2a is the section between the West Midlands and Crewe, and Phase 2b is the section from Crewe to Manchester on the western leg and the West Midlands to Leeds on the eastern leg.
- 3.1.3 There are two discretionary schemes available in the RSZ. You can choose from:
- a cash offer; or
 - the voluntary purchase scheme.
- 3.1.4 You will be able to apply to the RSZ schemes until one year after the relevant phase of the railway is first open for public use. This means you have time to consider the options and choose what is best for you and your family. It also means you can begin the application process at a time that suits you. This guidance explains the options and how to apply.
- 3.1.5 The illustration on the next page shows the current schemes and those that will become available. You can find more information on all the schemes, as well as maps on which you can check whether you qualify, at <https://www.hs2.org.uk/in-your-area/assistance-for-property-owners/apply-for-property-assistance-schemes>.



1) Surface safeguarding only. 2) Compensation for any reduction in the value of property as a result of the physical effects of the operation of the railway. 3) Applies to rural areas only and does not extend to areas beyond deep tunnels. 4) Available now for Phase One and Phase 2a; only available for Phase 2b after Royal Assent of the Bill. Applies to rural areas only and does not extend to areas beyond deep tunnels.

3.2 What is available for property owners in the rural support zone?

3.2.1 Two schemes, set out below, are available in the RSZ. The RSZ is the zone adjoining safeguarding and up to 120 metres from the centre line of the railway. There is a single application process covering both schemes.

3.2.2 The two schemes are as follows.

- The **cash offer**. This is a lump-sum payment of 10% of the unblighted open-market value of your property. (In other words, the value of the property in current market conditions, as if there were no plans for HS2.) There is a minimum payment of £30,000 and a maximum payment of £100,000.

The cash offer provides an alternative to owner-occupiers who choose to stay within their community.

- The **voluntary purchase scheme**. Under this scheme, the Government will buy the property for 100% of the unblighted open-market value.

This non-statutory scheme will allow eligible owner-occupiers of properties within the RSZ to ask the Government to buy their property. If you are a small business with either a leasehold or a freehold interest, please see section 3.3.3.

3.2.3 Under both schemes, your property would be valued to assess its unblighted open-market value. You can find more details on the valuation procedure in step 5 of the application process.

3.2.4 Both of the RSZ schemes will be available until one year after the relevant phase of the railway is first open for public use.

3.2.5 If you accept a cash offer, you cannot apply for the voluntary purchase scheme at a later date. However, if you have a compelling (convincing) reason to sell your property, you can still apply for the Need to Sell (NTS) scheme. Also, you might choose a cash offer based on the information available about the expected impact of HS2 at the time. If we pay you a cash offer, but the expected or actual impact on your property is significantly worse than at the time you accepted the offer, you can apply for the NTS scheme. When deciding whether you are eligible for the NTS scheme, we will consider any evidence of a compelling reason to sell. This is one of five conditions for the NTS scheme, and you would need to meet them all.

3.2.6 If your application to the NTS scheme is successful and the Government agrees to buy your property, we would take our cash offer payment, plus statutory interest, from the NTS purchase price. You can find details of the NTS scheme at <https://www.hs2.org.uk/in-your-area/assistance-for-property-owners/apply-for-property-assistance-schemes>.

3.2.7 We will also reclaim the value of the cash offer, plus statutory interest, if you sell to the Government under the statutory blight or express purchase schemes or if your property is bought under compulsory purchase. If you accept the cash offer you will still be able to claim for loss of value due to the physical effects of the railway under Part 1 of the Land Compensation Act 1973 or under 'injurious affection' (see the glossary).

3.3 Am I eligible to apply?

3.3.1 To be eligible for property schemes in the RSZ, we need to see evidence that:

- you have a qualifying interest in the property (details on the next page);
- you were not aware of the proposed HS2 route in your area when you bought the property;
- and

- your property is fully or partly in the RSZ. If it is partly in the RSZ, either your house (generally the building you live in) or at least 25% of the whole area (generally the house and garden, but also other land included within the property) must be in the zone.

3.3.2 We explain these requirements in more detail below. If you apply without the proof stated in 3.3.1, or if we are not satisfied with the proof you provide, we may reject your application.

Q1. Can I apply?			
<p>Yes I am an owner-occupier of a private residential property</p>	<p>Yes I am an owner-occupier of a business</p>	<p>Yes I am an owner-occupier of an agricultural unit</p>	<p>Yes I am a mortgage provider (for example, a bank)</p>

3.3.3 To be eligible for the RSZ schemes, we need to see evidence that you have a qualifying interest in the property. The full definition of 'qualifying interest' is in Chapter 2, Part 6 of the Town and Country Planning Act 1990. You have a qualifying interest if you are:

- an owner-occupier of a private residential property;
- an owner-occupier of business premises with an annual rateable value of not more than £44,200 in Greater London or £36,000 for the rest of England (please see your local authority's business rates banding for more details of rateable values); or
- an owner-occupier of an agricultural unit. (For agricultural units to qualify for the RSZ schemes they must include a property that acts as a main home.)

3.3.4 You must have an 'owner's interest' on the date you sign your application for the RSZ scheme and, in the case of the cash offer payment, when we make the payment to you. This means you must have either the freehold of the property or the leasehold (that is, a lease which must be signed for a certain term and have at least three years left to run on the date you sign your application).

3.3.5 For the purpose of the RSZ schemes, a mortgage provider is only eligible for the voluntary purchase scheme and must have a right to sell the property and be able to give immediate vacant possession.

3.3.6 The owners of a freehold or leasehold interest are those people whose names are on the Land Registry title or, for 'unregistered land', on the deed of conveyance for the property. At least one of the owners of the property will need to show that they meet the occupancy requirements (see page 8) in order to qualify for the RSZ schemes. (The Land Registry is the government organisation that records who owns land. Each piece of land bought is called a 'title'.)

3.3.7 If you choose the cash offer, we can only make one cash offer payment per property (a property could consist of one land title, or more than one adjoining land titles).

3.3.8 Owners of more than one house or more than one agricultural or business unit within one property would not be eligible for more than one cash offer for that site, regardless of any changes to occupancy which may happen over time.

- 3.3.9 However, where one residential home and one small business unit is within one property, we may pay more than one cash offer. This recognises that a business owner sometimes lives in a private home and also owns and runs a business in a unit on the same site, paying separate rates.
- 3.3.10 The exact boundary of all relevant land titles, including the exact boundaries of any smaller titles within a larger title, will be taken as fixed at the point we receive your first application to any HS2 property scheme. This applies whether the land is registered or unregistered.
- 3.3.11 If you want to sell your property (through the voluntary purchase scheme) and have outbuildings or units that are habitable, you should speak to your case officer as soon as you have applied for the scheme. We may ask you for further evidence or documents to help us decide whether you are eligible under the RSZ schemes.

Q2. Do I meet the occupancy requirements?

Private home

You must be living in the property on the date you submitted your application and must have owned it and lived in it as your main home for at least six months before that date.

Or

If the property is empty, you must have lived there for at least six months before it became empty, as long as it has not been empty for more than 12 months and has not been occupied by anyone else since.

Business premises

You must have owned the premises (freehold or leasehold with more than three years left on the lease) for at least six months before the date you submitted your application and have run a business from there throughout this time.

Or

If the property is empty, you must have run a business from there for at least six months before it became empty, as long as it has not been empty for more than 12 months.

Agricultural unit

You must have occupied the premises for at least six months before the date you submitted your application.

Or

If the agricultural unit is not occupied, you must have a qualifying interest in it (see page 7) and must have occupied it for at least six months before it became empty, as long as it has not been empty for more than 12 months.

And

For the purpose of these schemes, your main home must be located on the agricultural unit.

Q3. Is my property fully or partly in the rural support zone? (Please check the maps and plans at www.gov.uk/hs2)

Yes – fully

You can apply for the cash offer or voluntary purchase scheme.

No

You may be eligible for the Need to Sell scheme, or the homeowner payment scheme if this is still in place.

Yes – partly

If this is the case, you can apply for the cash offer or voluntary purchase scheme.

We will assess whether any part of your home is within the RSZ according to Ordnance Survey electronic mapping.

If no part of your home is within the RSZ, we will assess the percentage of the total area of your property (generally the house and garden, but also other land included within the property), on the same basis as above. If more than 25% of your property (that is, the whole property, including the house, garden and land) is within the RSZ, you may be eligible to apply for either the cash offer or the voluntary purchase scheme. We will assess your ownership of the land and the footprint of your property (the area of land it covers) as it was on 17 July 2017 to decide whether at least 25% of your property is within the RSZ. This means that any changes to your title, including parts built, sold or bought after 17 July 2017, will not be counted when we consider whether you qualify under either scheme. We will base this on planning records and the Land Registry title (or titles) for the property or, if the property is not registered with the Land Registry, other legal documents which show the extent of the property.

The construction of your property must be in line with planning law and regulations.

Q4. Did I buy or enter into a lease for my property before the announcement of the preferred route of HS2?

<p>Yes</p> <p>If you completed on your lease or the purchase of your property on or before the date the initial preferred route in your area was announced, you will qualify.</p>	<p>No</p> <p>We will assess whether you qualify. Please see below.</p>
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3.3.12 For applications along Phase One of the route, if you bought your property at any time after we announced the Phase One initial preferred route on 11 March 2010, we will generally consider that you bought it ‘with prior knowledge’ of Phase One. (You had ‘prior knowledge’ if you were aware of the proposals for HS2 at the time you exchanged contracts when buying your property. For applications along Phase 2a and Phase 2b, if you bought your property at any time after we announced the Phase 2a or 2b initial preferred route on 28 January 2013, we will generally consider that you bought it with prior knowledge of Phase 2a or 2b. We will consider the amount of information available at the time you bought the property, and whether this information would have meant you could have reasonably known generalised blight might apply. (Generalised blight is the negative effect on the market value of land and property, or people’s future enjoyment of land and property, resulting from possible future developments.)

3.3.13 **Changes to the route**

Following changes that were made to the route on:

- 20 December 2010, 10 January 2012, 16 May 2013 and 25 November 2013 (Phase One);
- 30 November 2013 and 17 July 2017 (Phase 2a); and
- 7 July 2016, 15 November 2016 and 17 July 2017 (Phase 2b);

or changes that are made at any point in the future, people who bought their property after the initial route announcement dates may find they are now within a certain distance of the preferred route but were not at the time they bought their property. In these circumstances, you will need to provide satisfactory evidence that you had no prior knowledge of the route.

Timing your purchase

You may have completed the purchase of your property after the relevant initial route announcement date, when you were still unaware of the proposals for HS2 or did not know that the property would be within a certain distance of the route. For example, if the searches relating to the purchase of your property were completed on or before this date, but contracts were not exchanged until shortly after this date, we would take this and any other relevant information into account when assessing your application.

We will need copies of the local searches.

4 Application process

4.1 Step one – check if you qualify for the scheme and understand your options

- 4.1.1 If you have read the information above and believe your property is in the RSZ and eligible for the property schemes, you can fill in the application form provided with this guidance. This process is the same for both the cash offer and the voluntary purchase scheme. We will not ask you to decide which scheme you want to opt for at this point.
- 4.1.2 There is no need to decide immediately about applying as the schemes will be open until one year after the HS2 railway is opened to the public. This gives you time to consider your circumstances and apply to the schemes when the time is right for you.
- 4.1.3 It is essential that you read and understand the requirements for the RSZ schemes. If you have any questions about the schemes, please contact our Helpdesk. If you have applied for a scheme before but been unsuccessful, your case officer will have contacted you to explain why, and whether we need more evidence for some of the eligibility criteria. It is important that you read and understand this feedback from your case officer if you are thinking about applying again because your circumstances have changed or you are able to provide further evidence.
- 4.1.4 The RSZ schemes are aimed at supporting people who are most directly and negatively affected by the proposals for HS2. We decide if you qualify for a scheme based on the information in your application. If you resubmit an application using the same information and hoping for a different outcome, it is not likely to be successful. If you have no further useful evidence to give us, or if there has not been a significant change in your circumstances, we would advise against simply repeating an application.

4.2 Step two – fill in the application form

- 4.2.1 Once you have completed step one you can fill in the application form and send it to us, together with your supporting documents. Please give us as much evidence as you can to support your application, as this means we can process your application more quickly.
- Please see the application form for examples of the types of documents we will accept as evidence. These include proof of your identity and proof of ownership and occupancy.
- 4.2.2 You do not need to appoint professional representatives to help with your application. We have designed the application process so that you do not need anyone else to act on your behalf.
- 4.2.3 If you do need (or want to ask) someone to help with your application, you are welcome to do so. You may want to ask a friend, relative or professional. In your application you must explain the relationship between you and any representative you ask us to correspond with. For any statements made on your behalf, your representative must sign the statement (or statements) and give their name, organisation and position in the organisation (if this applies) and declare that the information is correct to the best of their knowledge. The application process may take longer if someone else is acting on your behalf.

4.3 Step three – we process your application

- 4.3.1 We will acknowledge that we have received your application form and supporting documents. Your application will be set up on the Track my Property Case portal and you will be sent login details to use the portal. Although new discretionary property scheme applications and supporting evidence cannot currently be submitted online, the portal will allow you to track the progress of your application after we receive your original application form and supporting evidence. You will be given a named Case Officer, who will be your main point of contact if you have any questions.

4.3.2 Your case officer will first check whether your property is in the RSZ. If only part of the property and no part of your home is in the RSZ, we will calculate the percentage of the total area of your land (generally the house and garden, but also other land included within the property) in that zone. We will do this using the Land Registry title (or titles) for the property or, if the property is not registered with the Land Registry, other legal documents which show the boundary of the property. If there is any dispute about the boundary, it will be up to you (the owner) to prove the boundary of your property and to provide us with a revised Land Registry title.

4.3.3 If your property is in the RSZ, the case officer will check that your application is complete. They will also check the supporting documents you have provided and contact you if they need more evidence. Once your application is ready it will go on to the next stage, where we will consider it.

4.4 Step four – decision

4.4.1 Once we have considered your application, we will tell you whether we have accepted or rejected it. If we have accepted it, we will arrange independent valuations of your property. The valuations will be based on the unblighted open-market value of your property.

4.5 Step five – valuations

4.5.1 Two valuations will be carried out by two independent valuers registered with RICS (Royal Institution of Chartered Surveyors). One of the valuers will be chosen by us, from a pool of chartered surveyors appointed by us who are familiar with your area and have appropriate experience.

- You can choose another surveyor from our pool, or any valuer registered with RICS in the UK (see the frequently asked questions section below for more information) who agrees to do the valuation (including agreeing conditions on the format of the report and a maximum fee).
- We will arrange and pay for both valuations.
- If the valuations are within 10% of each other (calculated by taking the difference between the two values as a percentage of the higher value) your offer will be the average of the two.

4.5.2 If the valuations differ by more than 10% (calculated by taking the difference between the two values as a percentage of the higher value), we will arrange and pay for another valuation. This will be carried out by a valuer from our pool, chosen by you. We will give this third valuer the two previous valuation reports, with the valuation figures removed. Your offer will be the average of the closest two. If three valuations have been done and there are no two closest figures (that is, the highest and lowest figures are of equal distance from the middle figure), we will use the middle valuation figure as the offer price.

Streamlined valuation

4.5.3 If you think your property is likely to be valued at £250,000 or less and you already know that you will choose the cash offer, you can choose to have a 'streamlined' valuation, instead of the inspected valuations set out in 4.5.1 and 4.5.2 above. A streamlined valuation is where a RICS-registered valuer, chosen by us from our pool, carries out a 'desktop' valuation (where the valuer doesn't visit the property but uses available information to value it). If they value your property at £250,000 or less, we will offer you the minimum £30,000 cash offer payment. If your property is valued at more than £250,000, we will follow the full valuation process in 4.5.1 and 4.5.2 above.

4.5.4 The full valuation process will stay available to you until you ask solicitors to prepare the deed of receipt (see the glossary) for the cash offer payment. This is in case you change your mind and ask us to buy your property through the voluntary purchase scheme.

4.5.5 To protect your interests, the £250,000 limit is intentionally lower than £300,000, which is the point at which the cash offer would rise above the minimum of £30,000 (cash offers above this property value would be 10% of the purchase price). The difference between the two figures acts as a buffer to make sure that the value of the property is below £300,000 if we are to offer the minimum payment. We believe it is important that nobody loses out from choosing this streamlined process, given that it will be based on one, rather than two, valuations.

4.5.6 We expect streamlined valuations to reduce timescales and keep any disruption to you to a minimum. If you think this option may apply to your property and you are interested in finding out more, please say on your application form that you would like to ask for a cash offer. Your case officer will then contact you with more information.

4.5.7 Streamlined valuations are an alternative to the standard valuation process for properties valued at £250,000 or less (and which is described in 4.5.1 and 4.5.2). If you use a streamlined valuation, you will still be able to use standard valuation up to the point that you ask solicitors to prepare the deed of receipt for your cash offer payment.

4.6 Step six – offers

4.6.1 We will write to you with a formal offer showing the value of the cash offer and how much we would buy your property for (unless you had a desktop valuation, in which case you would only receive a formal offer for the minimum cash offer payment). As with all property purchases in England and Wales, the final price paid depends on the result of a survey and will be finalised in a contract. You must sign a deed of receipt (see below) to receive your cash offer.

4.6.2 You will have 12 months from the date of our offer to choose the cash offer or voluntary purchase, at the price we have offered.

4.7 Step seven – choosing a scheme and appointing solicitors

4.7.1 If you choose the cash offer, we will make a payment equal to 10% of what would have been the unblighted open-market value of the property. There is a minimum payment of £30,000 and a maximum payment of £100,000. You will need to instruct a solicitor as we will need you to sign a deed of receipt to receive the payment. We will pay up to £500 (plus VAT) towards these legal costs.

If you choose voluntary purchase, we will buy your house under a normal conveyancing process. You will need to instruct a solicitor and pay their fees, as you would normally do when selling your property. The full voluntary purchase process is set out in a separate booklet called 'Discretionary property schemes; Selling your property'. You can ask our Helpdesk for a copy of this (see the last page). It is also published online at https://assets.hs2.org.uk/wp-content/uploads/2020/05/15141745/Land_and_property_booklet_v1.10_web.pdf.

4.7.2 Choose your solicitor carefully. Their performance will really affect your experience of selling your property and how efficiently your cash offer is processed. As with private-market transactions, a solicitor will represent you and act on your behalf, so it is important you find an experienced and good-quality solicitor who also has time to focus on your case.

4.7.3 If you don't want to opt for either scheme within the 12 months from the date of your offer letter, you are under no pressure to accept either offer. Although the offers will end after 12 months, you will be able to apply again after this date if you want to. However, you will need to make a contribution of £1,000 (or £500 if you have had a desktop valuation) towards the cost of new valuations.

5 Frequently asked questions

How do I keep updated on my application?

The best way to see how your application is progressing is by discussing it with your Case Officer or online using the HS2 Track my Property Case on the HS2 website.

My property is partly in the rural support zone and partly in the homeowner payment zone. Can I claim a cash offer and a homeowner payment?

No. We will only make one payment under our property schemes. Which payment applies to your property will depend on what part and how much of the property is covered by each zone. Specifically, any part of your home or 25% of the whole area of your land (generally the house and garden but also other land included within the property) would need to be covered by the RSZ. If this does not apply and your property is covered by one or more of the homeowner payment bands, you may be eligible for a homeowner payment. For more details, please see <https://www.hs2.org.uk/in-your-area/assistance-for-property-owners/apply-for-property-assistance-schemes>.

My property is partly in the RSZ and partly in the safeguarded area. Can I sell my property under the express purchase or statutory blight scheme and claim the cash offer?

No. We will only make one payment under either express purchase or statutory blight, or the cash offer scheme. If we make a cash offer payment and then your property is bought under express purchase or statutory blight, we would reclaim the cash offer payment (with statutory interest) from the express purchase or statutory blight purchase price.

Can you take the amount of my property in safeguarding into account when deciding whether I qualify for the RSZ schemes?

Yes.

My property is partly in the RSZ and partly in the safeguarded area. Can I apply for the cash offer and can the part of my property that is in the safeguarded area still be bought under compulsory purchase?

Yes. Also, it does not matter which happens first. However, you should be aware of the effect an earlier compulsory purchase might have on whether you can later claim the cash offer for the rest of the property. For example, you may no longer be eligible to claim the cash offer if the home associated with the property had previously been bought under compulsory purchase.

If some of my land has been bought under compulsory purchase and I am not eligible for express purchase or statutory blight for the whole of my property, can I apply for voluntary purchase for the rest of my property?

Yes, as long as you qualify for voluntary purchase (in line with the rules set out in section 3.3 above, including that your home or 25% or more of the whole of the property is in the RSZ). However, we will reclaim any injurious affection (see the glossary) paid, plus statutory interest, from the voluntary purchase price.

If I claim the cash offer, and the safeguarding boundaries later change and my property is compulsorily purchased, will the cash offer be taken off the compulsory purchase price?

Yes. We will reclaim the value of the cash offer, plus statutory interest, if we later buy your property under statutory blight, express purchase, or compulsory purchase.

Why is property I built, bought or sold after 17 July 2017 not taken into account when you assess the 25% needed for eligibility for the RSZ schemes?

We have adjusted the rules on entitlement to the RSZ schemes (and specifically the 25% rule) to make sure that people cannot change the boundary of the land they own in order to qualify for the RSZ schemes. On 17 July 2017 we updated the RSZ policy to include this change, and now we will take only the land you owned before this date into account for the 25% needed to qualify for the RSZ schemes.

I own more than one home or business unit within one Land Registry title or on adjoining titles, situated within both the RSZ and the homeowner payment zone. Can I claim both a cash offer and a homeowner payment, or more than one of either payment?

If more than one home or more than one agricultural or small business unit is within a property (a property could consist of one land title or more than one adjoining titles), you can only claim one cash offer or homeowner payment. Owners of more than one home or more than one agricultural or business unit would not be eligible for more than one cash offer or homeowner payment for that property, regardless of any changes to occupancy which may happen over time.

However, if one home and one small business unit is within one property, you may be able to claim one cash offer or homeowner payment for each class of use. This recognises that a business owner sometimes lives in a private home and owns and runs a business on the same land, paying separate rates.

I own several buildings that are within the same property, part or all of which fall within the RSZ. What should form a single application?

In this case, we will check whether each building is associated with a separate council tax or business rates listing (by using the council tax valuation list at <http://cti.voa.gov.uk/cti/inits.asp> or, for business rates, by checking with the local authority). Please see paragraph 3.3.7. If you choose the cash offer, we can only make one payment per type of property. For example, if there are two homes, you can only claim one cash offer. Likewise, if there are two commercial units, you can only claim one cash offer.

I own a property made up of several Land Registry titles and part or all of my property falls within the RSZ. What happens here?

For our purposes, what forms a single property will depend on the council tax or business rates listing rather than the Land Registry titles. (We use the council tax valuation list at <http://cti.voa.gov.uk/cti/inits.asp> or, for business rates, information held with the local authority.) It is possible for more than one Land Registry title to be covered by a single council tax listing. In this case, we will treat all Land Registry titles covered by a single council tax listing as a single application (where you will need to meet each of the eligibility criteria).

If there is a clause in my leasehold title, leasehold interest or freehold title which prevents me from selling the property, can I still apply and choose the cash offer?

Yes. However, voluntary purchase will not be open to you.

Can I still apply for Part 1 statutory compensation when the railway is open to the public if I have accepted the cash offer?

Yes. If you claim the cash offer you will still be able to make a claim for statutory compensation if your property loses value due to physical effects of the operation of the railway, under Part 1 of the Land Compensation Act 1973 (see the glossary).

Can I reapply to the schemes?

Yes. If you have applied before and been rejected under the RSZ schemes but you believe there has been a change in your circumstances which means you are now eligible, you can reapply.

The offers are valid for 12 months. After this time you can reapply to the schemes. However, you will need to make a fixed contribution of £1,000 (or £500 if you had a desktop valuation) towards the cost of new valuations.

I bought my property after March 2010 (for Phase One) or after January 2013 or a later date for some sections of the route (for Phase 2a and Phase 2b). Am I eligible for either the cash offer or voluntary purchase?

No, unless you can show that you were not aware of the HS2 route in your area at the time you bought your property and could not have known generalised blight might apply. For example, if the searches on the property were completed on or before the date the initial preferred route was announced, but you did not complete the purchase until after that date, we would take this into account when assessing your application.

With your application you would need to provide copies of local authority searches and a signed statement saying that you were not aware of the location of the HS2 route in relation to your property, nor were you made aware of it during the sale process. Your statement should include a full explanation of the circumstances and confirm the following.

- Your solicitor, estate agent or any other person did not make you aware of the location of the HS2 route during the sale process.
- You were not made aware of the RSZ schemes through published documents (including electronic information), letters, or national or local press during the sale process.

If your property is partly in the homeowner payment (HOP) zone, you bought it after the date the relevant initial preferred route was announced and you knew about HS2, you may be eligible for a homeowner payment under the HOP scheme. A HOP scheme is now open for Phase One and Phase 2a, and will be launched for Phase 2b following Royal Assent to relevant hybrid Bills.

You can find more information on the Phase One HOP scheme at

<https://www.hs2.org.uk/documents/homeowner-payment>

Are personal representatives of someone who has died allowed to apply to these schemes?

No. These schemes are for people who are currently living in the RSZ. If you are a personal representative of someone who has died, you can still apply to sell the property through the Need to Sell scheme.

I live in a mobile home (or park home or caravan) that is within the RSZ. Does living in a mobile home affect my eligibility for the RSZ schemes?

Whether you are eligible for the RSZ schemes is based on the conditions that apply under Chapter 2, Part 6 of the Town and Country Planning Act 1990. People who will qualify for the scheme include owner-occupiers of residential properties, owner-occupiers of small businesses and owner-occupiers of agricultural units. Generally, someone living in a mobile home, park home or caravan would not be able to apply for the RSZ schemes because they tend not to have a 'qualifying legal interest' in the land on which their home sits.

I have a second home that is in the RSZ. Can I apply for voluntary purchase or the cash offer?

No. Only owner-occupiers of property in the RSZ can apply for these schemes.

I have let out part of my property in the RSZ on a short-term basis. Do I still qualify?

You may qualify for the cash offer. However, to be eligible for voluntary purchase, you would have to be in 'substantial occupation' of the property. This means that you should occupy a significant part of the property. We will assess applications for voluntary purchase on a case-by-case basis.

I own agricultural land in the RSZ. Do I qualify for either voluntary purchase or the cash offer?

You may qualify, as long as your main home forms part of your agricultural land.

Will you pay my legal fees?

We will pay reasonable legal fees towards a deed of receipt (see the glossary) for all cash offers up to £500 (+VAT). We will not pay legal fees under voluntary purchase.

How did you appoint your pool of valuers?

We carried out competitive tendering to find valuers who have the resources to cover valuations across all phases of the HS2 route. Our valuers are independent chartered surveyors who are registered with the Royal Institution of Chartered Surveyors (RICS) and who have the competence and professional knowledge to carry out valuations in line with the 'Red Book' manual of valuation standards.

Are the valuers and valuations independent of HS2 Ltd?

Yes. We instruct the valuers to provide an open-market valuation of property in line with RICS guidance. The full definition of open-market value is: 'the estimated amount for which an asset or liability should exchange on the valuation date between a willing buyer and a willing seller in an arm's-length transaction after proper marketing, and where the parties had each acted knowledgeably, prudently and without compulsion'.

Do the valuers have local knowledge?

We have appointed the valuers because they are able to cover relevant sections of the HS2 route. It is important to recognise that many local estate agents are not RICS-registered valuers, and so are not considered to be qualified to provide open-market valuations for this scheme.

Who can I pick as my choice of valuer?

You can use any valuer who is registered with RICS, as long as that valuer does not have any conflict of interest relating to your property or your household (or anyone else connected to your application). For example, the valuer cannot be employed by or associated with the firm or person who is representing you in your application and must not be involved in any way in marketing your property.

RICS is the professional body for the valuers that you must use. You can contact RICS to confirm if a valuer or firm is registered and has the appropriate qualifications (www.rics.org).

If you like, you can choose a valuer from any of the firms in our pool of valuers. We would then pick a second firm from this list.

How long is your offer valid for?

Once we have received the valuations on your property, we will send you an offer letter. The offer is valid for 12 months from the date of the letter.

In the case of voluntary purchase, the offer depends on the result of a building condition survey and other necessary surveys. As with a normal property sale, we may change our offer if the building survey finds significant issues (such as the need for major repairs). We do not carry out surveys in the case of cash offers, unless the valuation has highlighted significant concerns that would affect the property's value.

If you offer to buy my property and I accept, what happens next?

We will handle the purchase in broadly the same way as a purchase of a private property. The process should take around three months from the date that both your and our solicitors are instructed. As with any private purchase, this may vary depending on the particular circumstances of the case.

Once you have accepted our offer, we will instruct our solicitors to start the legal process and our property acquisition agents to start the purchase process. They will appoint surveyors to carry out structural and condition surveys. The surveyors will contact you direct to make an appointment to do the surveys.

Why do I need a deed of receipt when I receive a cash offer payment?

A deed of receipt links the cash offer payment to your property. This allows the Government to keep a record of the payment made in relation to a particular property, and makes sure that we do not pay under two separate schemes. For example, if someone claims the cash offer and then makes a successful application under the Need to Sell scheme, the deed of receipt will allow us to reclaim the cash offer (plus statutory interest) from the need to sell purchase price. The deed of receipt does not place a charge on the property, and is not entered into the Land Registry details for the property.

Will I have to pay tax on my cash offer?

Most people who receive payments under the cash offer will not have to pay tax on the money they receive. Although the deed of receipt may result in you having to pay capital gains tax (or, in the case of a company, corporation tax), this does not mean that you would be able to claim private residence relief if you sold your home on the private market. There is an explanation of how private residence relief works on the HMRC website at www.gov.uk/government/publications/private-residence-relief-hs283-self-assessment-helpsheet/hs283-private-residence-relief-2019. If you are still in any doubt about how this would apply to you, you should consult a financial advisor.

Do I need to appoint professional representatives to help me with my application?

No. Please see step 2 of the application process.

How should I complain if I am unhappy with the service I receive?

If you are not happy with how we deal with your application, please use our complaints procedure at www.hs2.org.uk/how-to-complain.

If your application is not successful, you can reapply. You cannot change the outcome of an application by making a complaint.

Can I ask to rent my property from the Government if I sell it under voluntary purchase?

Yes. Once you have accepted the Government's offer to buy your property, you will be able to ask your case officer if you can rent your property back once it has been sold. We would assess the property to see if it could be made suitable for letting, in line with legal requirements and sound commercial principles. You should ask your case officer about this in good time, ideally by the time you exchange solicitors' details, so that we can look at your request and prepare letting documents.

I have been accepted under the RSZ schemes but my case is not yet completed and now my property has moved into the safeguarded area. What are my options?

As we develop an area of the HS2 route, properties that may sometimes have been accepted under the RSZ schemes will be placed within the safeguarded area. If all or part of your property moves into the safeguarded area and if you have yet to sell the property to the Government, you would be able to serve a blight notice on the Secretary of State. If your blight notice is accepted, you would be entitled to statutory compensation.

If you have already had an offer for your property based on two inspected valuations made in the 12 months following your RSZ application, our offer will still be valid. You will not need another valuation if your blight notice is accepted and you go ahead with a sale.

Where we have made a cash offer following a streamlined 'desktop' valuation (where a valuer doesn't visit your property but uses available information to value it), we will need to make you a new offer following the statutory blight valuation process, as a property must have an inspected valuation carried out before a purchase can go ahead.

If at any point we have paid you a cash offer on the property and you later become eligible to serve a blight notice, we will take the value of the cash offer (plus statutory interest) from the final settlement amount of the compensation package.



Application form

Rural support zone schemes

Please send this application form and your supporting evidence to us (HS2 Ltd) at the address below. We recommend you use Royal Mail Special Delivery.

Rural support zone schemes
HS2 Ltd, Land and Property
Two Snowhill, Snowhill Queensway,
Birmingham B4 6GA

Before posting your application, make sure you have enclosed:

- your form, signed and dated by all applicants;
- your proof of identity documents; and
- your proof of occupancy documents.

When filling in this form, please provide as much information and evidence as you can. This will help us to consider your application as quickly as possible. When sending supporting documents, please send originals or certified copies. We will return your original documents as soon as possible, and we will make sure that we keep them safe.

Please return the complete, filled-in application. Any additional supporting information you send should be on separate pages. Please fill in all sections – we need details and contact information for all applicants in order to process your claim.

Title (Mr, Mrs, Miss and so on): Title (Mr, Mrs, Miss and so on):

First names: First names:

Surname: Surname:

Phone number 1: Phone number 1:

Phone number 2: Phone number 2:

Email address: Email address:

If there are more than two applicants (owners), please provide contact details for every applicant. You can add any further details on a separate sheet of paper.

We will use email as our main way of getting in touch. If you don't check your emails regularly, or you would prefer to be contacted by post or phone, please tick below.

Phone Post

What is the address and postcode of the property you are applying for and which you believe is in the rural support zone?

.....
.....
.....
.....

Your declaration

Please make sure that each applicant reads the declaration and signs in the box below (and adds the date they sign) and provides an original or certified copy of a document that provides proof of their identity. This document must be current and valid and contain a photograph of the applicant. Examples of documents which provide proof of identity include:

- passport; and
- driving licence.

I declare that the information I have given on this form is correct and complete. I understand that HS2 Ltd and the Department for Transport will use all of the information provided on this form and all supporting evidence to decide my claim under the rural support zone schemes.

I understand that you will carry out security and anti-fraud checks on information and supporting evidence I have provided.

If I give information that I know is incorrect, or if I do not include information I know is relevant, my application and the Government's decision on it will not be valid and you may take court action taken against me.

I understand that, to receive a payment under the cash offer scheme, I will need to sign a deed of receipt. This has conditions on whether I will have to repay the money in certain circumstances, including if the Government buys my property in the future in connection with HS2.

I understand that once I have accepted a cash offer I will not later be able to sell the property to the Government under the voluntary purchase scheme.

Please sign below to confirm that, by filling in this form, you understand that we will check your eligibility for the property schemes and that you understand the process.

Each applicant must sign in the box below, and add the date they signed.

If you are signing on behalf of a limited company, please give your position in that company.
.....

How we will use your personal information

We and the Department for Transport will use the information you have provided on the application form only for the purpose of processing your application. We will not share your information with other organisations, except to prevent fraud or if we have to do so by law.

We will return all original supporting documents and keep a copy for our records.

For more details on how we use your information, how we keep it secure, and your rights to access the information we hold, go to <https://www.hs2.org.uk>.

Notes and guidance on your application

With your application, please include evidence to support your answers. The evidence you provide should be original documents or certified copies (see 'Certified copies' on page 4). However, we will not be responsible for any costs you have in providing these. Your evidence may include one or several of the following.

All applicants

- We need two documents, which must be from different organisations. You can provide one document from list A and one document from list B, or two documents from list A. (See both lists below.) All documents must include your name and the address of the property and must be original or certified copies of paper statements (that is, not printed from the internet or from an electronic copy). This may mean you need to ask organisations for paper copies.
- Proof of ownership (if the property contains more than one title, provide all titles), which might be the epitome of title document, the conveyance to the current owner (please do not send the original deed of conveyance as this cannot be replaced), a copy of the Land Registry entry, or a copy of the lease.
- If you are the owner-occupier of the property when you apply, you need to provide one piece of evidence from list A and one from either list A or list B. One piece of evidence from list A must be dated within the three months immediately before the date on your application. The second piece of evidence should then be dated at least six months before the date of the first piece of evidence and within the last 18 months.

If a property is empty, you may still be eligible to apply under one of the schemes. You will need to provide evidence that the property has been empty for no longer than 12 months from the date of your application and you occupied it for at least six months before it became empty. We would expect to see evidence of the date you left the property, together with two pieces of evidence showing that the property was occupied for six months before it became empty.

List A (You can blank out any financial figures and account numbers as we need these documents for evidence of occupation only.)

- A recent bank or building society statement that shows the date it was issued (or one showing transactions from within the last three months)
- A mortgage statement
- A recent credit card statement that shows the date it was issued (or one showing transactions from within the last three months)
- Loan statements or a student loan statement
- Documents and correspondence about the State Pension, tax credits, Universal Credit or other benefits
- Private pension statements (if you currently receive a pension)

List B

- Utility bill (for example, gas, electricity, water or landline phone)
- Local authority tax bill (for example, council tax or business rates bill)
- Home contents insurance certificate for the address for the relevant period. If you want to submit this, you will also need to provide the buildings insurance certificate for the property for the same period (if they are separate), to show that you have both buildings and contents insurance as an owner-occupier.

We may ask for further proof to confirm statements and we will check the electoral roll or other sources to check statements you have made.

Further evidence

Owner-occupiers of business premises

We will need:

- evidence as listed above relating to the occupation of the small business premises; and
- a business rates bill.

Mortgage providers (if eligible for the voluntary purchase scheme only)

We will need:

- details of any mortgage roll or reference number and contact details of the bank or mortgage provider; or
- proof that you are a mortgage provider and confirmation that you can sell the property with vacant possession.

Examples of evidence that we cannot accept

- Provisional or full driving licence
- National Insurance card
- Mobile phone bill
- Letter from a GP, dentist or similar
- TV licence and other related documents

(We cannot accept the items in this list as they do not provide reliable proof of an address.)

Certified copies

Copies of documents should be certified by a UK solicitor, accountant, a doctor listed on the General Medical Council website, or a bank manager. They should write 'I certify this document is a true copy of the original', sign it, and write their name, profession, the date, and the name and address of their employer on each page of the copied document (and not over the top of other text). Keep a note of this person's name and address so that we can contact them if necessary.

We also accept copies of documents which have been certified using the official Post Office Identity Document Checking Service. If you use this service we will need the original, filled-in checking service form and the original till receipt from the post office, showing you have paid for this service. We should receive your application no later than two months from the date on the till receipt. If you do not meet any of these requirements, we will not accept certification by the Post Office.

If you cannot provide originals or certified copies, when you make your application you should explain why the originals are unavailable.

1. Property type

Are you:

the owner-occupier of a private residential property?

the owner-occupier of business premises whose annual rateable value is not more than £44,200 in Greater London or £36,000 for the rest of England?

the owner-occupier of an agricultural unit, which must include a property that acts as your main home?

the mortgage provider (for voluntary purchase scheme only), who has a right to sell the property and can give immediate vacant possession.

Which category of ownership do you have?

Freehold

Leasehold If leasehold, how long until the lease runs out?yearsmonths

Please tell us about any occupants in the property (for example, their leases, licences or informal arrangements).

2. Location of the property

(Check the maps at <https://www.gov.uk/government/collections/hs2-property>)

Is the address you have provided within the rural support zone? Yes No

3. When did you buy or enter into a lease for your property?

On what date did you buy the property or become the owner in any other way?

Please include documents to support this. (If the property is registered with the Land Registry, we will only need the copy of the title already provided for section 1.)

If you bought your property after the 'no prior knowledge' dates set out in question 4 in this guidance, you will need to give us further evidence that you could not have known that the HS2 route might be near to your property at the time you bought it. This could include originals or certified copies of local authority search reports done as part of the conveyance process (showing that they do not mention a proposed high-speed rail line). You will also need to provide a signed statement saying that you were not aware of the HS2 route in relation to your property and were not made aware of it during the sale process, as shown by the search. There are more details on what you should include in your statement on page 15 of this guidance.

4. Valuation

I would like to apply for a cash offer and I am interested in the streamlined valuation process

Further information (including details of any other land you may own next to the property connected with this claim)

HS2

High Speed Two (HS2) Ltd

Two Snowhill, Snow Hill Queensway

Birmingham B4 6GA

Freephone: 08081 434 434

Email: HS2enquiries@hs2.org.uk

CS1252 06/2022

www.hs2.org.uk

Thurrock Council Submission at Deadline 6 (D6) – Appendix F: HS2 Rural Support Zone
Lower Thames Crossing

Appendix G HS2 Homeowner Payment Scheme

Lower Thames Crossing

Thurrock Council Submission at Deadline 6 (D6)

Appendix G: HS2 Homeowner Payment Scheme

31 October 2023

Thurrock Council

 **thurrock.gov.uk**

Document Control Sheet

Project Name: Lower Thames Crossing

Report Title: Thurrock Council Submission at Deadline 6 (D6) – Appendix G: HS2 Homeowner Payment Scheme

Doc Ref: -

Date: 31 October 2023

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HS2 Homeowner Payment Scheme – Guidance and Application Form

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Homeowner Payment scheme

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application form





Department for Transport

High Speed Two (HS2) Limited has been tasked by the Department for Transport (DfT) with managing the delivery of a new national high speed rail network. It is a non-departmental public body wholly owned by the DfT.

High Speed Two (HS2) Limited

Two Snowhill

Snow Hill Queensway

Birmingham B4 6GA

Phone: 08081 434 434

General email enquiries: HS2enquiries@hs2.org.uk

Website: www.gov.uk/hs2

High Speed Two (HS2) Limited has actively considered the needs of blind and partially sighted people in accessing this document. The text will be made available in full on the HS2 website. The text may be freely downloaded and translated by individuals or organisations for conversion into other accessible formats. If you have other needs in this regard. Please contact High Speed Two (HS2) Limited.

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1. Introduction

- 1.1.1. High Speed Two (HS2) is Britain's new high-speed railway. It is being built by High Speed Two Limited (HS2 Ltd), the company set up by the Government to design and build HS2.
- 1.1.2. This guidance provides information on the Homeowner Payment (HOP) scheme, how to find out if you are eligible, and how to apply for a payment. You can find details of each stage of the application process in section 4.
- 1.1.3. The guidance applies to eligible properties in the area of Phase One (between London and the West Midlands) and Phase 2a (between the West Midlands and Crewe) of the HS2 project.
- 1.1.4. The initial preferred route for Phase One was announced on 11 March 2010 and for Phase 2a on 28 January 2013. Proposals for the Homeowner Payment scheme were first outlined for the Phase One route as part of the public consultation on HS2 property schemes on 9 April 2014, and for Phase 2a on 30 November 2015.

2. Glossary

Agricultural unit: Land which is occupied as a unit for agricultural purposes, including any home or other building occupied by the same person for the purpose of farming the land. Agricultural purposes are horticulture, fruit growing, seed growing, dairy farming, keeping and breeding livestock, using land as grazing land, meadow land, willow beds, market gardens or nursery grounds, and using land for woodland in a way that supports the farming of land or for other agricultural purposes.

Blight notice: The statutory notice that you can serve on the Secretary of State, through us, asking the Government to buy your property.

Contract of receipt: A legal document under which we will pay cash offers, with conditions on repayment under certain circumstances.

Express purchase: A discretionary scheme introduced by the Secretary of State which simplifies the blight notice scheme in two ways. When an owner-occupier who qualifies for statutory blight and owns a property within the safeguarded area serves a blight notice on the Secretary of State, the Government may choose to accept the notice:

- regardless of whether we would need the property to build or operate the railway, as long as the property is fully within the safeguarded area; and
- without asking you to show that you have made reasonable efforts to sell the property.

Injurious affection: This is where the value of the land you keep reduces as a result of the proposed construction of the railway, if only part of your land is needed.

Need to Sell scheme (NTS): A scheme for property owners who believe they have a compelling (convincing) reason to sell their property. Owners must meet five conditions, and there is no geographic boundary to this scheme.

Owner-occupier: An owner-occupier is anyone who owns a property (either outright or with a mortgage) as a freehold or on a lease with a certain term (and which has at least three years left to run) and uses it as their main home or place of business. The full definition of owner-occupier is in chapter 2, part 6 of the Town and Country Planning Act 1990.

Part 1 compensation: Compensation that owner-occupiers of homes, small business premises and agricultural units may be able to claim under Part 1 of the Land Compensation Act 1973 if the value of their property goes down because of the physical effects of the operation of the railway (noise, vibration, smell, fumes, smoke and artificial lighting, and any solid or liquid substance being released onto the relevant land). You can only claim this compensation after the scheme has been open for public use for one year.

Rural Support Zone (RSZ): The area outside the safeguarded area and up to 120 metres from the centre line of the HS2 railway in rural areas. Two discretionary schemes are available in the RSZ – voluntary purchase and cash offer.

Safeguarding: Safeguarding is an established part of the planning system. It is designed to protect land which has been earmarked for major infrastructure projects from conflicting developments which might otherwise take place. From the date safeguarding directions are issued, local planning authorities must consult the authority which issued the directions on planning applications they receive that are within the safeguarded area. Safeguarding also triggers 'statutory blight'. This means that property owners within the safeguarded area may be able to serve a blight notice asking the Government to buy their property before any compulsory purchase.

Safeguarding directions: The directions issued by the Secretary of State that establish the land that is safeguarded. From the date safeguarding directions are issued, local planning authorities must consult the authority which issued the directions on planning applications they receive that are within the safeguarded area.

Statutory blight: The term used to describe a situation where a property is blighted in a legal sense, such as where it is in a development plan or within land safeguarded for a specific purpose, for example the railway, or included within a compulsory purchase order.

Statutory interest: The rate that interest is calculated at if you claim a cash payment under an HS2 property scheme and then later sell your property to the Government. For the HS2 property schemes, statutory interest is defined under the Acquisition of Land (Rate of Interest after Entry) Regulations 1995. It is set at 0.5% below the Bank of England base rate.

Surface safeguarding: Local planning authorities must consult on all planning applications they receive that fall within areas where surface safeguarding applies. For HS2, the land that is identified for surface safeguarding generally involves surface work and structures associated with the railway where the route is above the ground.

Subsurface safeguarding: In locations where subsurface safeguarding applies, local authorities do not usually have to consult on applications for planning permission, unless the proposed development would extend below ground level. For HS2, subsurface safeguarding is usually put in place when the proposed line of the route is in a bored tunnel.

Track my Property Case: Our online tracking portal that allows you to keep updated on the progress of your application.

3. Homeowner Payment scheme

3.1. What is the Homeowner Payment (HOP) scheme?

- 3.1.1. The HOP scheme provides a cash payment to property owners living close to the HS2 railway in rural areas where the railway is not in a tunnelled section.
- 3.1.2. The HOP scheme operates within a zone (the Homeowner Payment zone) made up of three 60-metre-wide bands. The zone typically starts 120 metres from the centre line of the railway (at the outer border of the Rural Support Zone (RSZ)) and runs to 300 metres from the centre line of the railway. However, in some instances where there are more than two tracks servicing the railway, the HOP zone boundaries may extend beyond 300 metres.
- 3.1.3. If your property is in one or more of the HOP zones, you may be eligible for a cash payment depending on whether you meet the criteria, as explained in this document. You will be able to apply for a HOP scheme payment until one year after the relevant phase of the railway is first open for public use.
- 3.1.4. The illustration on the next page shows the current schemes and those that will become available. You can find more information on all the schemes, as well as maps on which you can check whether you qualify, at:

www.hs2.org.uk/in-your-area/assistance-for-property-owners/apply-for-property-assistance-schemes/

Where can I find more information?

We are here to help you through the process and answer any questions you may have. You can contact us by calling our Helpdesk on 08081 434 434 or emailing HS2Enquiries@hs2.org.uk. Our Helpdesk can explain the scheme and help you check whether your property is in the HOP zone.

Line of the route



Available once line is in public use for a year



Part 1 compensation
– where there is no land take (see 2)

Part 1 compensation
– where there is no land take

Part 1 compensation
– where there is no land take

Part 1 compensation
– where there is no land take

1) Surface safeguarding only. 2) Compensation for any reduction in the value of property as a result of the physical effects of the operation of the railway. 3) Applies to rural areas only and does not extend to areas beyond deep tunnels. 4) Available now for Phase One and Phase 2a; only available for Phase 2a after Royal Assent of the Bill. Applies to rural areas only and does not extend to areas beyond deep tunnels.

3.2. What is available for property owners in the HOP zone?

- 3.2.1. Under the HOP scheme, owner-occupiers of a house, business or agricultural unit in the zone who meet certain requirements will be able to claim a cash payment from £8,000 to £24,000 depending on the band their home (or main building) is in, as set out below.
- Band 1 (in pink on the maps), typically between 120 metres and 180 metres from the line of the route – £24,000.
 - Band 2 (in green on the maps), typically between 180 metres and 240 metres from the line of the route – £16,000.
 - Band 3 (in yellow on the maps), typically between 240 metres and 300 metres from the line of the route – £8,000.
- 3.2.2. If any part of your land is in a HOP band closer to the line of the route than the HOP band that your home or main building touches, we will not take this closer land into account when deciding the level of payment. The location of the home or main building will be the deciding factor.
- 3.2.3. If no part of your home (or main building) is within the HOP zone, but at least 25% of your property (that is, the site of the house, garden or other land included within the property) is within the HOP zone, you may be eligible for a payment that is equivalent to band 3. We will not take any part of your property that was built, bought or sold after 23 June 2017 into account when we assess the 25% required for eligibility for the scheme. If the home itself is in more than one HOP band, you would receive the higher payment. For example, a home which is in both HOP band 1 and HOP band 2 would be eligible for a HOP band 1 payment of £24,000.
- 3.2.4. We will also reclaim the value of the HOP scheme payment, if you sell to the Government under the statutory blight, express purchase or Need to Sell schemes or if your property is bought under compulsory purchase. If you accept the HOP scheme payment, you will still be able to claim for loss of value due to the physical effects of the railway under Part 1 of the Land Compensation Act 1973 or under 'injurious affection' (see the glossary).

3.3. HOP and other HS2 property schemes

- 3.3.1. If you are accepted for the HOP scheme, this does not prevent you from applying for the Need to Sell (NTS) scheme, which allows you to sell your property to the Government in certain circumstances. However, if you are accepted under the NTS scheme, we would reclaim the HOP scheme payment, plus statutory interest, from the NTS purchase price. You can find details of the NTS scheme at: www.hs2.org.uk/documents/collections/need-to-sell
- 3.3.2. If any part of your home is in the RSZ (orange on the maps), but you bought your property between 11 March 2010 and 9 April 2014 for Phase One and 28 January 2013 and 30 November 2015 for Phase 2a, you may not meet the 'no prior knowledge of HS2' condition under the RSZ schemes. (You have 'prior knowledge' if you were aware of the proposals for HS2 at the time you exchanged contracts when buying your property.) In this case, you may be able to apply for the HOP scheme, where the relevant payment would be band 1 – £24,000. If this is the case for you, where 'HOP zone' is used in the rest of this document this applies to your property as well.

3.4. Am I eligible for the HOP scheme?

3.4.1. For you to be eligible for a HOP scheme payment, we need to see evidence that:

- you have a qualifying interest in the property (see 3.4.2);
- you must have bought your property on or before the date we first outlined the HOP scheme for these parts of the route. The dates the schemes were announced are as follows:
 - Phase One: 9 April 2014;
 - Phase 2a: 30 November 2015; and
- your property must be fully or partly in the HOP zone. If it is partly in the HOP zone, either your home (generally the building you live in for most of the time) or 25% of the whole area (generally the site of the home and garden, but also other land included within the property) must be in the zone.

We explain this in more detail below. Please note: if you apply without satisfactory documents that show proof of the above, we may refuse your application.

Q1. Can I apply?		
Yes I am an owner-occupier of a private home	Yes I am an owner-occupier of a business	Yes I am an owner-occupier of an agricultural unit

3.4.2. We also need to see evidence that you have a qualifying interest in the property. The full definition of 'qualifying interest' is in Chapter 2, Part 6 of the Town and Country Planning Act 1990. You have a qualifying interest if you are:

- an owner-occupier of a private residential property;
- an owner-occupier of business premises with an annual rateable value of not more than £44,200 in Greater London or £36,000 for the rest of England (see your local authority's business rates banding for more details of rateable values); or
- an owner-occupier of an agricultural unit. (For agricultural units to qualify for a HOP scheme payment, they must include a property that acts as a main home.)

3.4.3. You must have an 'owner's interest' on the date you sign your application and when we make the payment to you. This means you must have either the freehold of the property or the leasehold (that is, a lease which must be signed for a certain term and have at least three years left to run on the date you sign your application).

3.4.4. The owners of a freehold or leasehold interest are those people whose names are on the Land Registry title or, for unregistered land, on the deed of conveyance for the property. (The Land Registry is the government organisation that records who owns land. Each piece of land bought is called a 'title'.)

3.4.5. To qualify for the scheme, at least one of the owners of the property will need to show that they meet the occupancy requirements. There are more details on this in the diagram in question 2 below. We can only make one HOP scheme payment per property. A property could consist of one Land Registry title or more than one adjoining land titles.

3.4.6. Owners of more than one house or more than one agricultural or business unit within one property would not be eligible for more than one payment for that site, regardless of any changes to occupancy which may happen over time.

- 3.4.7. However, where one residential home and one small business unit is within one property, you may receive more than one payment. This recognises that a business owner sometimes lives in a private home and also owns and runs a business in a unit on the same site, paying separate rates.
- 3.4.8. The exact boundary of all relevant land titles, including the exact boundaries of any smaller titles within a larger title, will be taken as fixed at the point we receive your first application to any HS2 property scheme. This applies whether the land is registered or unregistered.

Q2. Do I meet the occupancy requirements?

Private home

You must be living in the property on the date you submitted your application and must have owned it and lived in it as your main home for at least six months before that date.

Or

If the property is empty, you must have lived there for at least six months before it became empty, as long as it has not been empty for more than 12 months and has not been occupied by anyone else since.

Business premises

You must have owned the premises (freehold or leasehold with more than three years left on the lease) for at least six months before the date you submitted your application and have run a business from there throughout this time.

Or

If the property is empty, you must have run a business from there for at least six months before it became empty, as long as it has not been empty for more than 12 months.

Agricultural unit

You must be occupying the unit on the date you submitted your application and you must have occupied it for at least six months before that date.

Or

If the agricultural unit is not occupied, you must have a qualifying interest in it (see 3.4.2), and must have occupied it for at least six months before it became empty, as long as it has not been unoccupied for more than 12 months.

And

For the purpose of these schemes, your main home must be located on the agricultural unit.

Q3. Is my property fully or partly in the Phase One or Phase 2a HOP zone? (Please check the maps and plans at www.gov.uk/government/collections/hs2-property)

Yes - fully

You can apply for a HOP scheme payment.

No

You would not be eligible for a HOP scheme payment unless you live in the RSZ and bought your property between 11 March 2010 and 9 April 2014 (Phase One) or between 28 January 2013 and 30 November 2015 (Phase 2a).

Yes - partly

You can apply for a HOP scheme payment.

To help us decide whether you are eligible for a payment, we will assess whether your home or at least 25% of your property (that is, the site of the home, garden or other land included within the property) is within the HOP zone, according to Ordnance Survey electronic mapping.

The construction of your property must be in line with planning law and regulations.

Q4. Did I buy or enter into a lease for my property before the announcement of the HOP zone for Phase One of HS2 on 9 April 2014 or Phase 2a on 30 November 2015?

Yes

If you completed on your lease or the purchase of your property on or before the announcement of the HOP zone, you will qualify.

No

We will assess whether you will qualify. Please see below.

- 3.4.9. If you bought your property on or after 9 April 2014 for Phase One and on or after 30 November 2015 for Phase 2a, which are the dates when we first outlined the proposals for the HOP scheme for these parts of the route, we will generally consider that you bought it 'with prior knowledge' of the proposals.
- 3.4.10. There may be exceptional cases, where you completed the purchase of your property after we announced the HOP scheme and you did not know about the proposals. For example, if the searches relating to the purchase of the property were completed on or before 9 April 2014 (for Phase One) or 30 November 2015 (for Phase 2a), but contracts weren't exchanged until shortly after this date, we would take this into account when assessing an application. We will need copies of the local searches.

4. Application process

4.1. Step one – check if you qualify for the scheme and understand your options

- 4.1.1. You should first check the published maps and read this booklet to decide whether your property is in the HOP zone for Phase One or Phase 2a of the route and that you meet the requirements set out in section 3.4 of this booklet.
- 4.1.2. It is essential that you read and understand the requirements for the scheme. If you have any questions about the scheme, please contact our Helpdesk. If you have applied for the scheme before but not been successful, your case officer will have contacted you to explain why and whether we need more evidence for some of the eligibility criteria. It is important that you read and understand this feedback if you are thinking about applying again because your circumstances have changed or you are able to provide further evidence. Your application is unlikely to be successful if you submit it again using the same information but hoping for a different outcome. If you have no further useful evidence to give us, or if there has not been a significant change in your circumstances, we would advise against simply repeating an application.

4.2. Step two – fill in the application form

- 4.2.1. Once you have completed step one and you think you are eligible for a payment under the HOP scheme, fill in the application form in this booklet and send it to us together with your supporting documents. Please include all of the evidence we ask for to support your application, as this will help us deal with your application more quickly. If you submit an application without satisfactory documents that show proof of the above, we may refuse your application. Please see the application form for examples of the types of documents we will accept as evidence. These include proof of your identity and proof of ownership and occupancy.
- 4.2.2. You do not need to appoint professional representatives to help with your application. We have designed the application process so that you do not need anyone else to act on your behalf.
- 4.2.3. If you do need (or want to ask) someone to help you with your application, you are welcome to do so. You may want to ask a friend, relative or professional. In your application, you must explain the relationship between you and any representative you ask us to correspond with. For any statements made on your behalf, your representative must sign the statement (or statements) and give their name, organisation and position in the organisation (if this applies) and declare that the information is correct to the best of their knowledge. The application process may take longer if someone else is acting on your behalf.

4.3. Step three – we process your application

- 4.3.1. We will acknowledge that we have received your application form and supporting documents.
- 4.3.2. Your application will be set up on the Track my Property Case portal and you will be sent login details to use the portal. Although new discretionary property scheme applications and supporting evidence cannot currently be submitted online, the portal will allow you to track the progress of your application after we receive your original application form and supporting evidence. You will be given a named Case Officer, who will be your main point of contact if you have any questions.

- 4.3.3. They will then assess whether you are eligible for the scheme and decide which HOP band your property is in. They will generally do this using the Land Registry title (or titles) for the property. If your property is not registered with the Land Registry, your case officer will use other legal documents which show the boundary of the property. If there is any dispute about the boundary of the property, it will be up to you (the owner of the property) to prove the boundary of your property and to provide us with a revised Land Registry title.
- 4.3.4. If your property is within the HOP zone, the case officer will check that your application is complete. They will also check the supporting documents you have provided.
- 4.3.5. The case officer will contact you if they need more evidence. Once your application is ready it will go on to the next stage, where we will consider it.

4.4. Step four – decision

- 4.4.1. Once we have considered your application, the case officer will tell you whether we have accepted or rejected it. If we have accepted it, we will let you know which HOP scheme payment you are eligible for.

4.5. Step five – contract of receipt

- 4.5.1. In order to receive the payment, you will need to instruct a solicitor to help you sign a contract of receipt (see the glossary). When it is time to do this, we will provide you with the information you need. We will pay up to £500 (plus VAT) towards the cost of your solicitor's fees. Your solicitor will need to carry out standard checks on your identity separately to the checks we carry out when assessing your application.
- 4.5.2. Choose your solicitor carefully. Their performance will really affect how efficiently your HOP scheme payment is processed. As with private-market transactions, a solicitor will represent you and act on your behalf, so it is important you instruct an experienced, good-quality solicitor who also has time to focus on your case.

5. Frequently asked questions

We are here to help you through the process and answer any questions you may have. If your question is not answered below, you can contact us direct by calling our Helpdesk on 08081 434 434 or emailing HS2Enquiries@hs2.org.uk. Our Helpdesk can explain the scheme and help you check whether your property is in the HOP zone.

How do I keep updated on the progress of my application?

The best way to see how your application is progressing is by discussing it with your Case Officer or online using the HS2 Track my Property Case on the HS2 website

How do you calculate the area of my property that is within the HOP zone?

We will identify the boundary of your property from the information on the Land Registry Title Plan. Using Ordnance Survey electronic mapping licensed to us overlaid with the RSZ and the HS2 Ltd electronic mapping (Geographical Information System – GIS) software, we measure the amount of your property that is within any of the HOP bands. When we do this, we include any part of your property that is in the RSZ or the safeguarded zone. We then calculate what percentage this is of the overall area of your property (which we also calculate using our Ordnance Survey software).

If any part of the main building on your property is in the HOP zone, we do not need to do this calculation as your property will qualify due to its location.

Why is property I built, bought or sold after 23 June 2017 not taken into account when you assess 25% required for HOP eligibility?

We have adjusted the rules on entitlement to the HOP scheme, and specifically the 25% rule (see 3.2.3), to make sure that people cannot change the boundary of the land they own to become eligible for the HOP scheme. On 23 June 2017, we updated the HOP policy to include this and, as a result, only the land you owned before this date will be taken into account for the 25% required for HOP eligibility.

What happens if my property is unregistered?

You will need to provide a copy of the deed of conveyance for the property. Your solicitor will then be asked to confirm that you own the property.

My property is partly in the RSZ and partly in the HOP zone. Can I claim a cash offer and a homeowner payment?

No, we will only make one payment under our property schemes. Which payment applies to your property will depend on what part and how much of the property is within each zone. Specifically, any part of your home or 25% of the whole area of your land (generally the site of the home and garden, but also other land included within the property) would need to be within the RSZ to be eligible for the RSZ schemes. If your property is not considered to be within the RSZ, you may be eligible for a payment under the HOP scheme.

My property is partly in the HOP zone and partly in the safeguarded area. Can I sell my whole property under the express purchase or statutory blight schemes and also claim a payment under the HOP scheme?

No. We will only make one payment under either the express purchase or statutory blight scheme, or the HOP scheme (please see www.hs2.org.uk/in-your-area/assistance-for-property-owners/apply-for-property-assistance-schemes/). If we make a payment under the HOP scheme and your property is then bought under the express purchase or statutory blight scheme, we would reclaim the HOP scheme payment (with statutory interest) from the express purchase or statutory blight purchase price.

My property is partly in the HOP zone and partly in the safeguarded area. Can I apply under the HOP scheme and can the part of my property that is in the safeguarded area still be bought under compulsory purchase?

Yes. However, compulsory purchase might affect whether you can later claim a HOP scheme payment for the rest of the property. For example, you may no longer be eligible to claim the HOP scheme payment if the home associated with the property had previously been bought under compulsory purchase.

If some of my land has been bought under compulsory purchase and I am not eligible for express purchase or statutory blight for the whole of my property, can I apply for a HOP scheme payment for the rest of my property?

Yes, as long as you qualify under the HOP scheme (in line with the rules set out in section 2 above, including that your home or 25% or more of the property is in the HOP zone).

Can you take account of the percentage area of my property that is in the safeguarded area when deciding if I am eligible for the HOP scheme?

Yes.

Can you take account of the percentage area of my property in the RSZ when deciding if I am eligible for the HOP scheme payment?

Yes. As long as your property is not eligible for the RSZ schemes, we would add the percentage of the property that is in the RSZ to the percentage that is in the HOP zone to decide whether you are eligible for a HOP scheme payment. For example, if 10% of your property falls in the RSZ and 15% in the HOP zone, this would total 25% and you could be eligible for a HOP scheme payment (as long as you meet all of the other eligibility criteria).

If some of my land has been bought under compulsory purchase and I am not eligible for express purchase or statutory blight for the whole of my property, can I apply for a HOP scheme payment for the rest of my property?

Yes, as long as you qualify for a HOP scheme payment (in line with the rules set out in section 3.4 above, including that the main building/dwelling or 25% or more of the whole of the property is in the HOP zone). However, we will reclaim any injurious affection (see the glossary) paid and the HOP scheme payment, plus statutory interest, if you sell your property to the government through the Need to Sell scheme.

If I apply for a payment under the HOP scheme, can I then apply under the Need to Sell (NTS) scheme in the future?

Yes. However, if your application for the NTS scheme is successful, we will reclaim the HOP scheme payment (plus statutory interest) from the NTS purchase price.

I own several buildings that fall within the same property, part or all of which falls within the HOP zone. What should form a single application?

In this case, we will check whether each building is associated with a separate council tax or business rates listing (by using the council tax valuation list at <http://cti.voa.gov.uk/cti/inits.asp> or, for business rates, by checking with the local authority). Please see paragraph 2.4.6. We can only make one HOP scheme payment per type of property. For example, if there are two homes, you can only claim one HOP scheme payment. Likewise, if there are two commercial units, you can only claim one HOP scheme payment.

I own a property made up of several Land Registry titles and part or all of my property falls within the HOP zone. What happens here?

For our purposes, what forms a single property will depend on the council tax or business rates listing (we use the council tax valuation list at <http://cti.voa.gov.uk/cti/inits.asp> or, for business rates, information held by the local authority) rather than the Land Registry titles. It is possible for more than one Land Registry title to be covered by a single council tax listing. In this case, we will treat all Land Registry titles covered by a single council tax listing as a single application (where you will need to meet each of the eligibility criteria).

If there is a clause in my leasehold title, leasehold interest or freehold title which prevents me from selling the property, can I still apply for a HOP scheme payment?

Yes.

Can I still apply for Part 1 statutory compensation when the railway is open to the public if I have accepted a HOP scheme payment?

Yes. Claiming a HOP scheme payment will not mean you cannot make a claim for statutory compensation if your property loses value due to physical factors under Part 1 of the Land Compensation Act 1973. (See 'Part 1 compensation' in the glossary for more about the physical effects of the railway.)

If I bought my property after 9 April 2014 for Phase One - or after 30 November 2015 for Phase 2a - can I apply for a payment under the HOP scheme?

No, unless you can provide evidence that you were not aware of the HOP scheme at the time you bought the property and could not reasonably have known generalised blight might apply. For example, if the searches relating to you buying the property were completed before or on 9 April 2014, when the HOP scheme for Phase One of the route was first announced - or before or on 30 November 2015 for Phase 2a - but you did not complete the purchase until after the announcement was made, we would take this into account when assessing your application. (Generalised blight is the negative effect on the market value of land and property, or people's future enjoyment of land and property, resulting from future possible developments.)

With your application you would need to provide copies of local authority searches and a signed statement saying that you were not aware of the HOP scheme in relation to your property, nor were you made aware of it during the sale process. Your statement should include a full explanation of the circumstances and confirm the following.

- Your solicitor, estate agent or any other person did not make you aware of the HOP scheme during the sale process.
- You were not made aware of the HOP scheme through published documents (including electronic information), letters, or national or local press during the sale process.

I am in the RSZ. I bought my property between 11 March 2010 and 9 April 2014 (for Phase One) or between 28 January 2013 and 30 November 2015 (for Phase 2a). Can I apply for a HOP scheme payment instead?

Yes, if your property is in the RSZ but you bought your property during one of these periods, you may be eligible for a payment as if your home were in HOP band 1 (£24,000).

Are personal representatives of someone who owned a property in the HOP zone and has now died allowed to apply to the HOP scheme?

No. The scheme is for owner-occupiers, so someone acting on behalf of a person who has died but who has a property within the HOP zone would not be eligible unless they meet the owner-occupancy criteria.

I have a second home that is in the HOP zone. Can I apply for a payment under the HOP scheme?

No. Only owner-occupiers of property in the HOP zone can apply.

I have let out part of my property which is in the HOP zone on a short-term basis. Do I still qualify?

You may qualify. To be eligible under the HOP scheme, you would have to be in 'substantial occupation' of the property, which means that you should occupy a significant part of the property. We will assess applications on a case-by-case basis.

If I inherited my home in the HOP zone after 9 April (Phase One) - or after 30 November 2015 (Phase 2a) - and now live in it. Can I apply?

Yes, as long as the person you inherited the home from bought it before 9 April 2014 (for Phase One) or 30 November 2015 (for Phase 2a). The date you inherited the property does not affect your eligibility for a HOP scheme payment, but please tell us when you inherited it to help us check the information held on the Land Registry.

I own a business that owns the property. How do I fill in the application form?

If the property is owned by a limited company, a director must fill in and sign the application form. If the property is owned by individuals, each person must fill in the form.

I own agricultural land in the HOP zone. Do I qualify for a payment under the HOP scheme?

You may qualify, as long as your main home forms part of your agricultural unit. See the eligibility requirements in section 3.4.

I live in a mobile home (or park home or caravan) that is within the HOP zone. Can I apply to the HOP scheme?

Whether you are eligible for the scheme is based on the conditions that apply under Part 6, Chapter 2 of the Town and Country Planning Act 1990. People who will qualify for the scheme include owner-occupiers of residential properties, owner-occupiers of small businesses and owner-occupiers of agricultural units. Generally, someone living in a mobile home, park home or caravan would not be able to apply for the HOP scheme because they tend not to have a 'qualifying legal interest' in the land on which their home sits.

How long will it take to find out if my application has been successful or not?

We will aim to acknowledge your application within two working days of receiving it. Depending on whether we need to ask you for any more information, we should be able to tell you our decision on your application within three to four weeks.

How long will it take for me to receive my payment?

It could take up to 40 working days, from the time we receive your application, for your solicitor to receive your payment. However, we expect it will be quicker in many cases.

Will you pay my legal fees?

We will pay reasonable legal fees of up to £500 (plus VAT if it applies) towards a contract of receipt (see the glossary).

What if my solicitor is asking for more than £500 plus VAT?

The work we are asking your solicitor to do is straightforward, so should not cost more than £500. You are, of course, free to pay your solicitor more than this, but we will not pay them more than £500 (plus VAT) and you will have to pay any additional cost yourself. We will give you information to send to your solicitor which will make this clear. Please make sure you send your solicitor this information as soon as you receive it.

Why do I need a contract of receipt to receive a payment under the HOP scheme?

A contract of receipt links the payment to your property. This allows us to make a record of the payment in relation to a particular property, and makes sure that we do not pay under two separate schemes. For example, if someone claims under the HOP scheme and then makes a successful application under the Need To Sell (NTS) scheme, the contract of receipt will allow us to reclaim the HOP scheme payment (plus statutory interest) from the NTS purchase price. The contract of receipt does not place a charge on the property, and is not entered into the Land Registry details for the property.

Will I have to pay tax on a payment I receive under the HOP scheme?

Most people who receive payments under the HOP scheme will not have to pay tax on the money they receive. Although the contract of receipt may result in you having to pay capital gains tax (or, in the case of a company, corporation tax), this does not mean that you would be able to claim private residence relief if you sold your home on the private market. There is an explanation of how private residence relief works on the HMRC website www.gov.uk/government/publications/private-residence-relief-hs283-self-assessment-helpsheet/hs283-private-residence-relief-2019

If you are still in any doubt about how this would apply to you, you should consult a financial adviser.

Do I need to appoint professional representatives to help me with my application?

No. Please see step 2 of the application process section.

Do I need to appoint a solicitor before applying to the HOP scheme?

No. You should only appoint a solicitor if your application is successful, and when we tell you that this is the next step. You can choose a solicitor beforehand if you want to, but please be careful not to run up any fees with them or actually instruct them to act for you, because they only need to act once we have accepted your application.

Do I need to pay my solicitor upfront, before you pay me the £500 plus VAT for their fees?

No. You should not have to pay anything to a solicitor before receiving the money to pay for their services. At the point where you need to instruct a solicitor, we will give you some instructions for them so that they understand what they will need to do.

Is there a fee for applying to the scheme? Do I need to use an agent or online service to apply?

No. There is no fee to apply. We have tried to make it as easy as possible for you to apply for a payment, so it is not necessary to use an agent or an online service offered by anyone.

If my application is unsuccessful, can I reapply?

Yes. If you still believe you are eligible please make a fresh application, enclosing all the evidence we need and any new evidence that you believe would show that our decision to reject your application was incorrect. Your application is unlikely to be successful if you resubmit it using the same basic information but hoping for a different outcome. If you have no further useful evidence to give us, or if there has not been a significant change in your circumstances, we would advise you against simply repeating an application.

How should I complain if I am unhappy with the service I receive?

If you are not happy with the service you receive from us, please use our complaints procedure at: www.hs2.org.uk/how-to-complain

If your application is not successful (rather than you having a complaint about the service), you can reapply. You cannot change the outcome of an application by making a complaint, but you can supply further or different evidence when you reapply.

Application form



Homeowner Payment scheme for Phase One and Phase 2a of HS2

Please send this form and your supporting evidence to us (HS2 Ltd) at the address below, who will assess it on our behalf. We recommend you use Royal Mail Special Delivery.

HS2 Homeowner Payments
HS2 Ltd, Land and Property
Two Snowhill,
Snow Hill Queensway,
Birmingham B4 6GA

Before posting your application, make sure you have enclosed:

- your form, signed and dated by all applicants;
- your proof of identity documents; and
- your proof of occupancy documents.

By filling in this application form, you are confirming that:

- a. you have read the attached Homeowner Payment scheme guidance;
- b. you have checked the plans showing the route of HS2 Phase One (between London and the West Midlands) and Phase 2a (between the West Midlands and Crewe); and
- c. you believe that your property is fully or partly within the Homeowner Payment Zone shown on those plans.

We will use your filled-in application form to assess whether you are eligible for a payment under the Homeowner Payment scheme and, if you qualify, what level of payment you will receive. The application form asks you for information on the property which you believe is in the Homeowner Payment Zone and evidence to support your application.

When filling in this form, please provide as much information and evidence as you can. This will help us to consider your application as quickly as possible. When sending supporting documents, please send originals or certified copies. We will return your original documents as soon as possible, and we will make sure that we keep them safe.

Please return the complete, filled-in form. Any additional supporting information you send should be on separate pages. Please fill in all sections – we need details and contact information for all applicants in order to process your claim.

Business name (if this applies): _____

Title (Mr, Mrs and so on): _____ Title (Mr, Mrs and so on): _____

First names: _____ First names: _____

Surname _____ Surname _____

Phone number 1: _____ Phone number 1: _____

Phone number 2: _____ Phone number 2: _____

Email address: _____ Email address: _____

If there are more than two applicants (owners), please provide contact details for every applicant. You can add any further details on a separate sheet of paper.

We will use email as our main way of getting in touch. If you don't check your emails regularly, or you would prefer us to contact you by post, please tick here.

What is the address and postcode of the property you believe is in the Homeowner Payment Zone?

Instructing solicitors

Once we have confirmed your claim has been accepted 'in principle', you will need to instruct a solicitor. The solicitor will be responsible for receiving your payment and will need to deal with a contract of receipt and identity checks before we can transfer the payment. We will pay up to £500 (plus VAT) for the solicitor's costs once they have submitted the contract of receipt and satisfactory confirmation of identity checks. We cannot transfer money direct to anyone other than your solicitor.

Your declaration

Please make sure that each applicant reads the declaration and signs in the box below (and adds the date they sign) and provides an original or certified copy of a document that provides proof of their identity. This document must be current and valid and contain a photograph of the applicant. Examples of documents which provide proof of identity include:

- passport; and
- driving licence.

I declare the information I have given on this form is correct and complete. I understand that you will use all the information provided on this form and all supporting evidence to decide my claim under the Homeowner Payment scheme.

I understand that you will carry out security and anti-fraud checks on information and supporting evidence I have provided.

If I give information that I know is incorrect, or if I do not include information I know is relevant, my application and the Government's decision on it will not be valid and you may take court action taken against me.

I understand that, to receive a payment under the Homeowner Payment scheme, I will need to sign a contract of receipt. This has conditions on whether I will have to repay the money in certain circumstances, including if the Government buys my property in the future in connection with HS2.

Please sign below to confirm that, by filling in this form, you understand that we will check your eligibility for the scheme and that you understand the process.

Each applicant must sign in the box below and add the date they signed.

If you are signing on behalf of a limited company, please give your position in that company

How we will use your personal information

We, the Department for Transport and HS2 Ltd, will use the personal information you have provided on the application form only for the purposes of processing your application. We will not share your information with other organisations, except to prevent fraud or if we have to do so by law.

We will return your original application form and all supporting documents to you and keep a copy for our records. For more details on how we use your information, how we keep it secure, and your rights to access the information we hold, go to: www.hs2.org.uk/privacy-notice/

Notes and guidance on your application

With your application, please include evidence to support your claim for payment. The evidence you provide should be original documents or certified copies (see 'Certified copies' on page 4).

However, we will not be responsible for any costs you have in providing these. Your evidence may include one or several of the following.

All applicants

- We need two documents, which must be from different organisations. You can provide one document from list A and one document from list B, or two documents from list A. (See both lists below.) All documents must include your name and the address of the property and must be original or certified copies of paper statements (that is, not printed from the internet or from an electronic copy). This may mean you need to ask organisations for paper copies.
- Proof of ownership (if the property contains more than one title, provide all titles), which might be the epitome of title document, the conveyance (please do not send the original deed of conveyance as this cannot be replaced), a copy of the Land Registry entry, or a copy of the lease.
- If you are the owner-occupier of the property, you need to provide one piece of evidence from list A and one from either list A or list B. One piece of evidence from list A must be dated within the three months immediately before the date on your application. The second piece of evidence should then be dated at least six months before the date of the first piece of evidence and within the last 18 months.
- If a property is empty, you may still be eligible for a payment. You will need to provide evidence that the property has been empty for no longer than 12 months from the date of your application and that you occupied it for at least six months before it became empty. We would expect to see evidence of the date you left the property, together with two pieces of evidence showing that the property was occupied for six months before it became empty.

List A (you can blank out any financial figures and account numbers as we need these documents for evidence of occupation only)

- A recent bank or building society statement that shows the date it was issued (or one showing transactions from within the last three months)
- A mortgage statement
- A recent credit card statement that shows the date it was issued (or one showing transactions from within the last three months)
- Loan statements or a student loan statement
- Documents and correspondence about the State Pension, tax credits, Universal Credit or other benefits
- Private pension statements (if you currently receive a pension)

List B

- Utility bill (for example, gas, electricity, water or landline phone)
- Local authority tax bill (for example, council tax or business rates bill)
- Home contents insurance certificate for the address for the relevant period. If you want to submit this, you will also need to provide the buildings insurance certificate for the property for the same period (if they are separate), to show that you have both buildings and contents insurance as an owner-occupier.

We may ask for further proof to confirm statements and we will check the electoral roll or other sources to check statements you have made.

Examples of evidence that we cannot accept

- Provisional or full driving licence
- National Insurance card
- Mobile phone bill
- Letter from a GP, dentist or similar
- TV licence and other related documents

(We cannot accept the items in this list as they do not provide reliable proof of an address.)

Further evidence

Owner-occupiers of business premises

We will need:

- evidence as listed above relating to the occupation of the small business premises; and
- a business rates bill.

Certified copies

Copies of documents should be certified by a UK solicitor, accountant, a doctor listed on the General Medical Council website, or a bank manager. They should write 'I certify this document is a true copy of the original', sign it, and write their name, profession, the date, and the name and address of their employer on each page of the copied document (and not over the top of other text). Keep a note of this person's name and address so that we can contact them if necessary.

We also accept copies of documents which have been certified using the official Post Office Identity Document Checking Service. If you use this service we will need the original, filled-in checking service form and the original till receipt from the post office, showing that you have paid for this service. We should receive your application no later than two months from the date on the till receipt. If you do not meet any of these requirements, we will not accept certification by the Post Office.

(If you cannot provide originals or certified copies, when you make your application you should explain why the originals are unavailable.)

1. Property type

Are you:

the owner-occupier of a private residential property?

the owner-occupier of business premises whose annual rateable value is not more than £44,200 in Greater London or £36,000 for the rest of England?

the owner-occupier of an agricultural unit, which must include a property that acts as your main home?

Which category of ownership do you have?

Freehold

Leasehold If leasehold, how long until the lease runs out? _____years _____months

2. Location of property (Check the maps at www.gov.uk/hs2)

Is any part of the property within the Homeowner Payment scheme zone?

Yes No

3. When did you buy or enter into a lease for your property?

On what date did you buy the property or become the owner in any other way?

(If you have inherited the property, or if someone has given you the property as a gift, we also would like to know when the previous owner bought it, and when you became the owner.)

Please include documents to support the information you have given in section 3 above. (If the property is registered with the Land Registry, we will only need the copy of the title already provided for section 1.)

If you bought your property after 9 April 2014 (for Phase One) or 30 November 2015 (for Phase 2a), you will need to give us further evidence that you could not have known about the Homeowner Payment scheme zone in relation to your property at the time you bought it. You will need to provide originals or certified copies of local authority search reports done on or before 9 April 2014 (for Phase One) and 30 November 2015 (for Phase 2a) as part of the conveyance process (showing that they do not mention HS2 or the Homeowner Payment scheme). You will also need to provide a signed statement saying that you were not aware of the Homeowner Payment scheme in relation to your property and were not made aware of it during the sale process. There are more details on what you should include in your statement on page 12 of this guidance.

Or, if the route changed after 9 April 2014 (for Phase One) or 30 November 2015 (for Phase 2a) in a way that means you are now in the Homeowner Payment scheme zone (but weren't before), please state this in the 'extra information' box below.

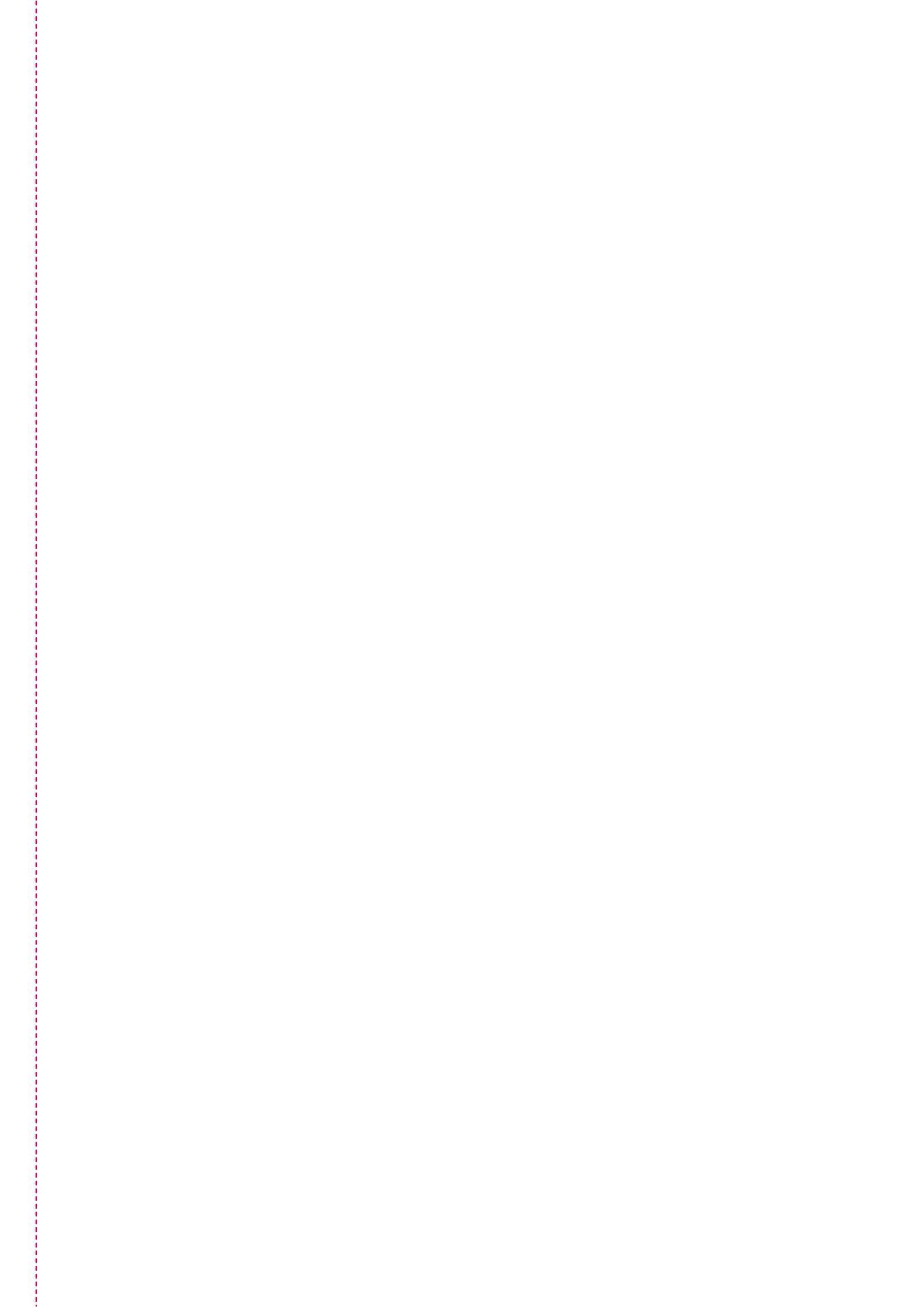
We will check your titles and plans with the Land Registry. Please tell us the Land Registry titles of all the property connected to this claim in the box below if you know this information.

Do you own any further land next to these titles?

If you know or suspect your property is not registered with the Land Registry, please provide a copy of the conveyance document to prove you own the property. In this instance, please do not send originals. If you need to share any extra information with us, please add it here.

If you have any questions before sending your application, please contact our Helpdesk on 08081 434 434 or email us at HS2Enquiries@hs2.org.uk.

Lastly, how did you hear about the Homeowner Payment scheme?



HS2

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CS1251_0622

www.hs2.org.uk

Thurrock Council Submission at Deadline 6 (D6) – Appendix G: HS2 Homeowner Payment Scheme
Lower Thames Crossing

Appendix H HS2 Need to Sell Scheme

Lower Thames Crossing

Thurrock Council Submission at Deadline 6 (D6)

Appendix H: HS2 Need to Sell Scheme

31 October 2023

Thurrock Council

 **thurrock.gov.uk**

Document Control Sheet

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Report Title: Thurrock Council Submission at Deadline 6 (D6) – Appendix H: HS2 Need to Sell Scheme

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Date: 31 October 2023

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HS2 Need to Sell Scheme – Guidance and Application Form

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Need to Sell scheme

Guidance and application form





Department for Transport

High Speed Two (HS2) Limited has been tasked by the Department for Transport (DfT) with managing the delivery of a new national high speed rail network. It is a non-departmental public body wholly owned by the DfT.

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1 Introduction

- 1.1.1 This guidance and application form for the Need to Sell (NTS) scheme is for owners of properties that may be affected by any part of the High Speed Two (HS2) route who have a compelling reason to sell their property (see Criterion 5 – compelling reason to sell on page 15).
- 1.1.2 This NTS scheme is part of the long-term measures which replaced the Exceptional Hardship Scheme (EHS) for Phases One and 2a of the railway in January 2015 and May 2016, and Phase 2b in November 2016.
- 1.1.3 The Government has set up the NTS scheme to support property owners who have a compelling reason to sell their property but due to HS2 are unable to do so other than at a substantially reduced value or, if they are unable to sell their property, would face an unreasonable burden in the next three years. Whether something is an unreasonable burden will be judged on the facts of each case and the degree of hardship caused to you or your family by not being able to sell your property.
- 1.1.4 The NTS scheme for each phase of the railway will run until 12 months after that phase opens for public use.
- 1.1.5 As confirmed in the Phase 2b Design Refinement Consultation published on 6 June 2019, we are making the NTS scheme available on a short-term basis to owners of properties affected by proposed junctions which may, in the future, link HS2 and any Northern Powerhouse Rail (NPR) network. (See 4.1.4 for more details about this.) References to 'HS2' and 'HS2 route' in this guidance include these junctions.

2 Glossary

Agricultural unit: Land which is occupied as a unit for agricultural purposes, including any home or other building occupied by the same person for the purpose of farming the land. Agricultural purposes are horticulture, fruit growing, seed growing, dairy farming, breeding and keeping livestock, using land as grazing land, meadow land, osier land, market gardens or nursery grounds, and using land for woodland in a way that supports the farming of land or for other agricultural purposes.

Cut-and-cover or green tunnel: A tunnel constructed by excavating a trench from the surface, building the railway infrastructure within the trench, and then restoring the surface.

Homeowner Payment (HOP) scheme: A discretionary scheme for owners of property where at least part of the main building (the home) or at least 25% of the total land area is within the Homeowner Payment Zone. This zone spans 180 metres either side of the outer boundary of the Rural Support Zone (RSZ), in the same areas along the proposed HS2 route as the RSZ. The HOP scheme offers a fixed cash payment to owner-occupiers of these properties who meet a 'no prior knowledge' criterion. The payment is one of three set amounts, decided by the location of the main building in relation to three payment bands, within the zone.

Owner-occupier: An owner-occupier is anyone who owns a property (either outright or with a mortgage) as a freehold or on a lease with a certain term (and which has at least three years left to run) and uses it as their main home or place of business. The full definition of 'owner-occupier' is in chapter 2, part 6 of the Town and Country Planning Act 1990.

Property acquisition agent: A specialist property firm contracted by us to provide property services. They oversee the process of buying a property once it has been accepted under the NTS scheme and an offer price has been agreed. There are a number of firms that carry out this work on our behalf. The members of staff from these firms who manage the purchase are normally chartered surveyors or similarly experienced property professionals.

Rural Support Zone (RSZ): The RSZ is the area that starts at the outer border of safeguarding and stops 120 metres from the centre line of the HS2 railway in rural areas. There are two discretionary schemes available to property owners whose property is within the RSZ – the **voluntary purchase** scheme and the **cash offer**. The voluntary purchase scheme allows you to sell your property to the Government for 100% of its unblighted open-market value. The cash offer is a lump sum payment of 10% of the unblighted open-market value of the property. There is a minimum payment of £30,000 and a maximum payment of £100,000.

Safeguarding: Safeguarding is an established part of the planning system. It is designed to protect land which has been earmarked for major infrastructure projects from conflicting developments which might otherwise take place. From the date safeguarding directions are issued, local planning authorities must consult the authority which issued the directions on planning applications they receive that are within the safeguarded area. Safeguarding also triggers '**statutory blight**'. This means that property owners within the safeguarded area may be eligible to serve a blight notice asking the Government to buy their property before any compulsory purchase.

Statutory interest: An interest rate set at the Bank of England base rate that is used to calculate money owed under compulsory purchase.

Substantially reduced value: In the context of the Need to Sell Scheme, usually means a reduction in value greater than 15% below the unblighted market value.

Surface safeguarding: Local planning authorities must consult on all planning applications they receive that fall within areas where surface safeguarding applies. For HS2, the land that is identified for surface safeguarding generally involves surface work and structures associated with the railway where the route is above the ground.

Track my Property Case: Our online tracking portal that allows you to keep updated on the progress of your application.

Unblighted open-market value: The value of the property in current market conditions, as if there were no plans for HS2.

3 The Need to Sell scheme

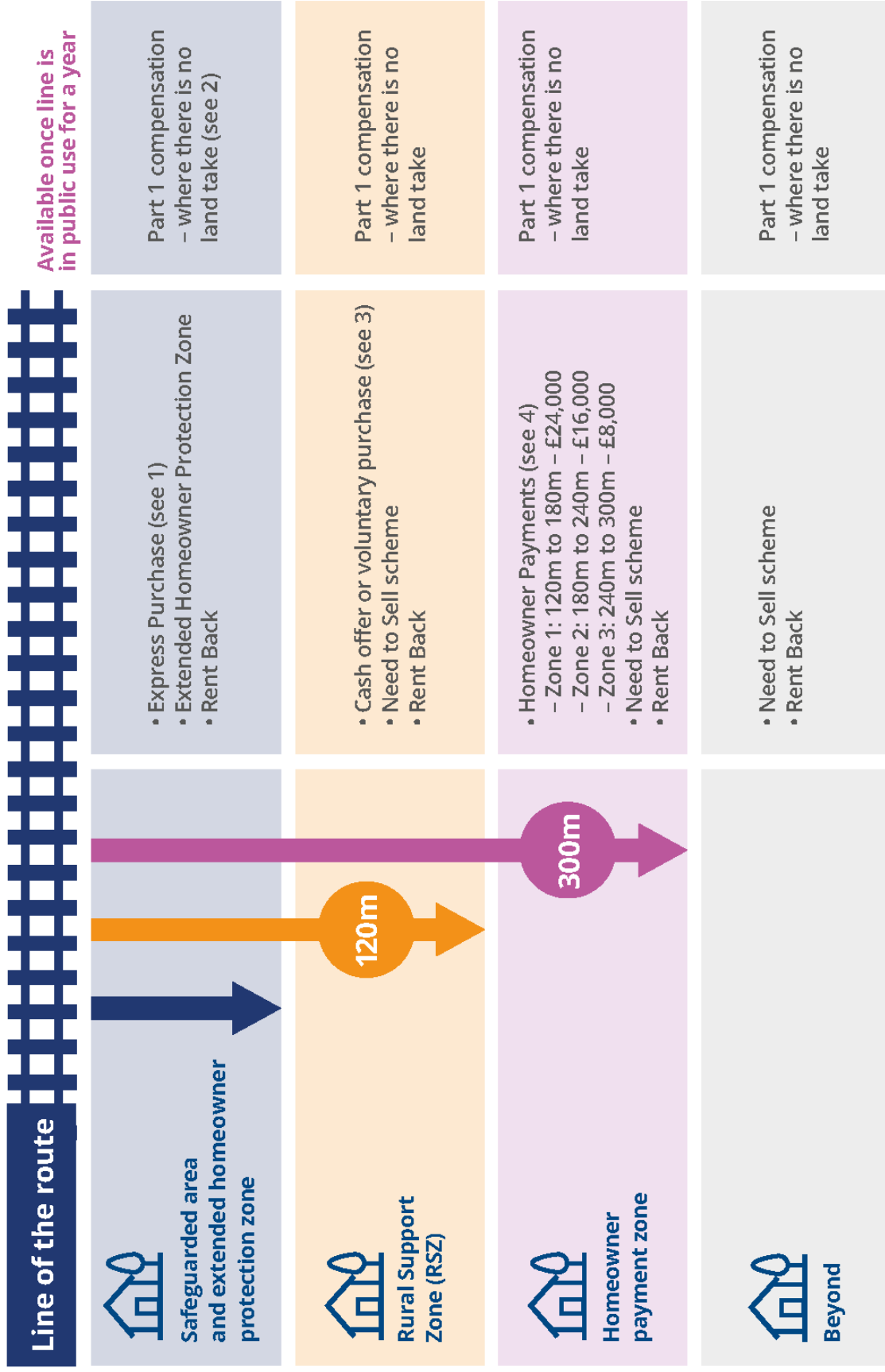
- 3.1.1 The NTS scheme is available to eligible owner-occupiers who can show that they have a compelling reason to sell their property, but have not been able to do so other than at a substantially reduced value because of the HS2 route. If your application to the scheme is successful, the Government will agree to buy your property at its unblighted open-market value (that is, the value of the property in current market conditions as if there were no plans for HS2).
- 3.1.2 The NTS scheme is a non-statutory scheme, which means the law does not make the Government offer this assistance but it has committed to do so anyway. We (HS2 Ltd) manage the scheme on behalf of the Government. A panel of three professionals who are fully independent of us and the Department for Transport will look at whether your application meets certain criteria (conditions). They will then recommend to the Secretary of State for Transport whether your application should be accepted. A senior civil servant will then review the recommendation and make a final decision. However, if the senior civil servant disagrees with the panel's recommendation, the case will be decided by the Secretary of State or a minister with authority to make the decision (referred to throughout as the 'decision-makers').

Before applying

- 3.1.3 The illustration on the next page shows the current schemes and those schemes that will become available. You can find information on all the schemes, as well as maps on which you can check whether you qualify, at www.hs2.org.uk/in-your-area/assistance-for-property-owners.
- 3.1.4 The Secretary of State has issued safeguarding directions for all phases of the HS2 route. Eligible owner-occupiers whose properties fall fully or partly within the 'safeguarded' area can serve a statutory blight notice on the Government, asking it to buy their property under the criteria that apply under the Town and Country Planning Act 1990.

Rural Support Zone cash offer and Homeowner Payment

- 3.1.5 If you have already claimed a cash offer under the Rural Support Zone (RSZ) scheme or a payment under the Homeowner Payment (HOP) scheme, you can still apply to the NTS scheme. If your application to the NTS scheme is successful, we will reclaim the cash offer or HOP payment (plus statutory interest) from the NTS purchase price.
- 3.1.6 If you have claimed a cash offer under the RSZ scheme and then applied to the NTS scheme because you believe you have a compelling reason to sell due to the effect of the construction or operation of the railway, our panel and decision-maker (see 3.1.2) will consider whether there has been a significant change in plans for the railway. They will also look at the effect they think the railway will have on your property since you claimed the cash offer, to assess whether there have been any changes since this time that you would not have been aware of when you claimed the cash offer. They will consider evidence such as environmental statements (draft and final), or revised realignments of the line of the route.
- 3.1.7 They will also consider any change in your personal circumstances since you claimed the cash offer.



1) Surface safeguarding only. 2) Compensation for any reduction in the value of property as a result of the physical effects of the operation of the railway. 3) Applies to rural areas only and does not extend to areas beyond deep tunnels. 4) Available now for Phase One and Phase 2a; only available for Phase 2b after Royal Assent of the Bill. Applies to rural areas only and does not extend to areas beyond deep tunnels.

4 Criteria

- 4.1.1 It is in your interests to provide as much supporting evidence as possible to support your application.
- 4.1.2 In exceptional circumstances, if your application does not meet all the criteria but a strong overall case can be made to buy your property, the panel may recommend the decision-maker uses their discretion when making their decision.
- 4.1.3 The application form includes a full list of information and documents that can be used as evidence to show you meet the criteria for the scheme.

Criterion 1 – type of property

Do I have an interest in the property which means I am eligible to apply?					
Yes I am an owner-occupier of a private home	Yes I am an owner-occupier of a business	Yes I am an owner-occupier of an agricultural unit	Yes I am a mortgage lender (for example, a bank)	Yes I am a personal representative of someone who has died	Yes I am a reluctant landlord

- 4.1.4 To be eligible for the NTS scheme, you need to provide evidence that you have a qualifying interest in the property. There is a full definition of ‘qualifying interest’ in Part 6, Chapter II of the Town and Country Planning Act 1990. You have a qualifying interest if you are:
 - an owner-occupier of a private residential property;
 - an owner-occupier or a leaseholder with at least three years left on a lease of business premises that have an annual rateable value of no more than £44,200 in Greater London or £36,000 for the rest of England (please see your local authority’s business-rate banding for more details of rateable values); or
 - an owner-occupier of an agricultural unit.
- 4.1.5 Owner-occupiers, or leaseholders with at least three years left on a lease of business premises that have an annual rateable value as outlined above, are eligible for the NTS scheme. Any offer we make under the scheme would only be for the unblighted open-market value of the premises. A business itself cannot be sold as a going concern to the Government under this scheme and we will not pay any compensation towards the cost of the business being wound up or relocated.
- 4.1.6 Owner-occupiers must have an ‘owner’s interest’ on the date they sign the application. This is either a freehold or leasehold interest in the property. If it is a leasehold interest, the tenancy must be signed for a certain number of years (term), and there must be at least three years left on the lease on the date you sign your application.

- 4.1.7 The following also have an interest and are able to apply to the NTS scheme:
- Mortgage lenders with a right to sell the property and who can give immediate vacant possession.
 - Personal representatives of someone who has died who had one of the above qualifying interests at the time of their death.
 - Reluctant landlords. A 'reluctant landlord' is someone who can show that they had a compelling reason to sell at the time they moved out of the property in order to avoid or escape an unreasonable burden, that letting the property would only relieve this burden temporarily, and that they do not own another home.
- 4.1.8 The owners of a freehold or leasehold interest are those people whose names are on the Land Registry title or, for 'unregistered land', on the title deeds (or conveyance) for the property.
- 4.1.9 If you only want to sell part of your property, you must clearly state this in your application and provide a clear plan of the area you want to sell. This must also match the area you have marketed for sale.
- 4.1.10 If you are an owner-occupier, you will need to show that you meet the occupancy requirements below.

Do I meet the occupancy requirements?

Private home

You must be living in the property on the date you submit your application and must have owned it and lived in it as your main home for at least six months before that date.

Or

If the property is empty, you must have lived there for at least six months before it became empty, as long as it has not been empty for more than 12 months and has not been occupied by anyone else since.

Business premises

You must have a qualifying interest in the premises on the date of your application and must have owned or leased it for at least six months before that date and have run a business from there throughout this time.

Or

If the property is empty, you must have run a business from there for at least six months before it became empty, as long as it has not been empty for more than 12 months.

Agricultural unit

You must have had a qualifying interest in the agricultural unit and have occupied it for at least six months before the date of your application.

Or

If the agricultural unit is not occupied, you must have a qualifying interest in it, and must have occupied it for at least six months before it became empty, as long as it has not been empty for more than 12 months.

And

For the purpose of these schemes, your main home must be located on the agricultural unit.

Non-residents

You must have the right to sell the property and be able to give immediate vacant possession.

If you are the representative of someone who has died, the Land Registry title for the property does not need to be updated with the names of beneficiaries under the will.

You can prove you have the right to sell the property by submitting relevant documents, such as a death certificate, will, grant of probate, or letters of administration.

If you are a reluctant landlord, you must show that the property you are applying for under the scheme is the only property that you own and that you stopped living there after the section of the route closest to your property was announced (see page 14 for a list of announcement dates). You must also show that you now live in accommodation that you do not own.

Criterion 2 – location of property

- 4.1.11 **Is your property so close to the HS2 route that it is likely to be seriously affected by either the construction or the operation of the new line?**
- 4.1.12 Distance from the route is one factor, but others include:
- the particular characteristics of the property and the nature of its local area, including its position and surroundings;
 - the character of the line once it is completed (for example, whether it will run in a cutting or on a viaduct);
 - the likely impact of the construction of the line in the area;
 - the physical features of the area (for example, whether it is a flat flood plain or hilly); and
 - the distance to any nearby points of significant change to the character of the line (for example, a cut-and-cover tunnel entrance or a viaduct).
- 4.1.13 The panel will consider each application case-by-case, taking into account the different characteristics of the route in different areas (for example, on a viaduct or in a cutting). They will use engineering and construction drawings, mapping software and aerial photographs which we will provide (if available) to look at how the construction or operation of the railway would affect your property. If you want to, you can also submit your own photographic evidence of the features of your property (for example, the view towards the railway line) and the immediate area to support your statements about the effect of the railway on your property.
- 4.1.14 If your property is near a proposed junction which may, in the future, link HS2 and any NPR network, the panel would only take into account the effects of building the junction. The Government is making plans now to allow any future NPR network to connect onto the HS2 network so that building the junction would not disrupt HS2 services in the future. The panel would not consider the impact of a junction's future use as part of any NPR network, or any effect of future NPR rail lines, as these are not covered by the HS2 project and the NTS scheme.
- 4.1.15 To help you judge how near your property is to the HS2 route, there is an overview and detailed maps at www.hs2.org.uk. Or, you can contact the HS2 Helpdesk on 08081 434 434 or email HS2enquiries@hs2.org.uk and ask them to do a property search.
- 4.1.16 There is no fixed distance from the railway that a property must be to meet this criterion. The purpose of this criterion is to decide whether a property's location means that it is likely to be seriously affected by the construction or operation of the HS2 route. This criterion is needed to link the location of your property and the area's physical features to the HS2 route, and will take into account the different characteristics of the route. It is not designed to take into account generalised blight – we assess that separately under the 'effort to sell and the effect of blight' criterion.
- 4.1.17 If we announce any changes to the route, the panel will consider applications received in the three months after the date of that announcement against both the old route and the new route. Your property would only need to meet the 'Location of property' criterion for one of these routes for your application to be accepted. After three months from the date the route change is announced, the panel will only consider applications against the new route.

Tunnels

- 4.1.18 Under this criterion, the panel will only consider surface construction and the eventual railway line, which consists of surface or cut-and-cover or green tunnelled sections of the route, vent shafts and tunnel entrances (or any other surface infrastructure). The panel will not consider bored (deep) tunnels near the property unless the tunnel is assessed by HS2 Ltd as likely to give rise to significant effects from ground-borne noise or vibration once the railway comes into operation.

Homeowner Payment scheme zone

- 4.1.19 If your property is within the existing or proposed boundaries of the Homeowner Payment (HOP) scheme zone, this does not necessarily mean it will be affected by the construction or operation of HS2. The HOP scheme provides a cash payment to property owners living close to the HS2 railway in rural areas and where the railway is not in a tunnelled section. Payments made under the HOP scheme are not compensation and are not meant to address generalised blight. The aim of the scheme is to provide an early share of the benefits of HS2 to property owners who may not otherwise directly benefit from the railway because their property is not close to an HS2 station stop. So, it is possible for a property to be within a HOP zone but not to be seriously affected by the construction or operation of HS2.

Criterion 3 – effort to sell and the effect of blight

- 4.1.20 **The purpose of this criterion is to decide whether the blight resulting from HS2, rather than any other factor, is the reason why your property has not been sold or could not be sold, other than at a substantially reduced value (blighted value).**

We will expect you to provide evidence to show the following:

- That you have asked at least three recognised estate agents (see below) for advice on marketing your property, including what its realistic unblighted asking price should be.
 - That your property has been on the market with at least one recognised estate agent for at least three months immediately before the date of your application. You should continue to market your property at least until you know the outcome of your application.
 - That you have made all reasonable efforts to sell your property, taking into account the current housing market (including testing more than one asking price).
 - That HS2 is the reason your property has not been sold or cannot be sold, other than at a substantially reduced value (blighted value), and you know this through feedback from viewings or people who have chosen not to view.
 - That you have not received an offer within 15% of the property's realistic unblighted asking price, or you can show evidence that an offer received above this level represents a blighted offer.
- 4.1.21 We use the term 'recognised estate agent' to mean an estate agent who has experience of marketing properties in the local area, advertising through a variety of media. This can include estate agents who do not have an office in the local area but who, for example, speak to possible viewers, collect feedback, provide a 'For Sale' board (or online listing) and a floor plan, and take professional photographs.

Offers received

4.1.22 The requirement that you should make all reasonable efforts to sell your property and that, despite those efforts, you have not received offers within 15% of the property's realistic unblighted asking price, helps to show any effect of HS2. We make the distinction between the asking price of the property and the final purchase price of the property. The asking price is set with the aim of achieving the best possible price. We would not expect you to accept the blighted value of the property (that is, the amount that the property is worth following the announcement of HS2). If you have evidence that an offer received within 15% of a realistic unblighted asking price is a blighted offer, you should submit this.

4.1.23 If at the time you send us your application, or before we pass your application to the panel to consider, you receive an offer for your property that is within 15% of the unblighted asking price, we will not be able to pass your application to the panel until you are able to show us you have accepted or refused the offer. If you refuse the offer because you consider it is a blighted offer, the panel will expect to see evidence to show this. We do not expect you to accept a blighted price for your property. However, if you accept any offer, whether it is within 15% of the asking price or not, we will not be able to pass your application to the panel to consider while a sale is in progress. This is because it is not appropriate for the Government to intervene in or prevent an open-market sale or to affect the property market by competing with open-market buyers to buy a property under the NTS scheme.

Inability to market a property

4.1.24 The panel will carefully consider evidence you give in your application about how you have tried to actively market your property. In particular, evidence that several local estate agents have refused to market the property due to HS2 is important information. In this situation, the panel would not expect a property to be fully marketed. Evidence that local estate agents have refused to market the property should be in the form of letters or emails from estate agents to you.

Upfront fees and paid representatives

4.1.25 The panel would not expect a recognised estate agent to charge you any upfront, non-refundable marketing fee that is due to the HS2 proposals. If an estate agent asks you for a fee before they will market your property because they do not believe it will sell due to HS2, and you want us to take this into consideration, you must provide clear written evidence of this in your application. This does not apply if the estate agent charges upfront fees for all properties, regardless of the HS2 proposals (for example, if they charge a fee to market the property instead of receiving commission).

4.1.26 If you choose to use a paid representative who is also your estate agent or if you enter into an agreement with an estate agent or other agent who would gain financially from selling your property to the Government under an HS2 scheme, our panel or decision-maker will not take into account any market appraisal, feedback or other evidence they provide. This is to protect both you and the taxpayer by only considering advice from estate agents and agents who are independent and so do not have a personal or financial interest in profiting from the sale of the property to the Government.

Other ways of marketing property

4.1.27 You may choose to market the property yourself. This would include using websites where you can upload details of your property, in the form of a listing, to publicise its availability. However, it is unlikely that this sort of self-marketing approach would be able to provide the same level and quality of evidence as using a recognised estate agent.

- 4.1.28 Under this criterion, in your application you have to include information about estate agents' marketing proposals and feedback from people who viewed – or chose not to view – the property. We would not ignore any efforts you have made to market the property yourself, but you must still market the property with at least one recognised agent.
- 4.1.29 The following are examples of evidence that, if possible, you should submit in support of this criterion 3:
- The performance of the current housing market and the efforts that sellers would normally have to make in that market, particularly if they had a compelling need to sell their property. (You can get this information from estate agents, chartered surveyors or the media.)
 - The price your property would be marketed at ignoring the effect of plans for HS2 (for example, through providing a range of suggested asking prices from estate agents).
 - Evidence that you have approached at least three estate agents for a proposed asking price and that the eventual asking price you use reflects their professional opinion of the price your property would be marketed at ignoring the effect of plans for HS2.
 - Evidence that you have tried more than one asking price (for example, through advertisements or correspondence with your estate agent).
 - The agency or sales agreement with your estate agent. If you have used more than one recognised estate agent to market the property, you should provide all agency agreements and evidence of the marketing carried out by each agent.
 - Evidence that the property has been actively marketed with at least one recognised estate agent for at least three months.
 - Feedback from possible buyers on viewings carried out while your property was being marketed. We would need evidence or confirmation of this from a recognised estate agent.
 - Any information from the estate agent showing that possible buyers did not want to view the property due to the expected effect of HS2.
 - Evidence that an offer received was a blighted offer, such as feedback from a possible buyer to estate agents, and local property market information on the difference between the asking price and the sale price.
 - Written evidence (emails or letters) that you are unable to market your property because at least three recognised estate agents refuse to take it on due to HS2.
- 4.1.30 There are certain instances where the Government has said no evidence is needed to show your efforts to sell your property. These include:
- if the estate of someone who has died makes an application that would have otherwise been accepted under the RSZ scheme; and
 - if you are a reluctant landlord who does not qualify for the RSZ or express purchase scheme, although the location of your property would normally have meant you qualified for these schemes had you met the owner-occupancy and other scheme requirements. In this case you would be asking for discretion under criterion 1 – type of property.

Criterion 4 – no prior knowledge

Did you buy your property before you could be reasonably expected to have been aware of the high-speed rail proposals?	
<p>Yes</p> <p>If you completed the purchase or lease of your property before the section of the HS2 route closest to your property was announced, you will qualify.</p>	<p>No</p> <p>We will assess your case (please see below).</p>

- 4.1.31 If you bought or leased your property after we announced details of the high-speed rail proposals closest to your property, we may consider that you had known about the HS2 route before you bought the property.
- 4.1.32 When considering this criterion, the panel and decision-maker will look at:
 - the amount of information about HS2 available at the time you bought the property; and
 - whether, from this information, you could reasonably have known generalised blight might apply.
- 4.1.33 The dates each phase of the railway were announced are as follows:
 - Phase One – 11 March 2010
 - Phase 2a – 28 January 2013
 - Phase 2b – 28 January 2013, or 7 July 2016 (proposal of M18 route through South Yorkshire only)
- 4.1.34 For NTS scheme applications relating to the route to the west of Measham, Leicestershire where the route proposed is similar to the route set out in January 2013, you will need to show that you were not aware that the route proposed at the time would affect your property at the time you bought it.
- 4.1.35 If you bought your property after the dates the railway routes were announced, you may find you are now close to the HS2 route due to changes or alternatives to the proposed route. In these circumstances, you will need to give us satisfactory evidence that you had no prior knowledge of those route changes, or could not reasonably have known generalised blight caused by HS2 might affect your property. The route changes were announced on 20 December 2010, 10 January 2012, 16 May 2013 and 25 November 2013 (for Phase One), on 30 November 2015 (for Phase 2a), and on 15 November 2016, 17 July 2017, and 6 June 2019 (for Phase 2b). More changes may be announced in the future.
- 4.1.36 You may have completed a purchase or lease after the initial route announcement, but were not aware of the proposals for the railway or didn't know that the property would be close to the route. For example, if the searches relating to the purchase or lease of the property were done before the date the route was announced, but you did not complete the purchase or lease until after that date, the panel would take this into account.

- 4.1.37 Evidence that may show you could not have known that generalised blight might affect your property could include information available to the public which showed the effect of the HS2 route on your property at the time you bought it. This may include construction or operational plans for the railway, information about changes to the route, the relevant environmental statements (draft and final), and records of parliamentary discussion on relevant proposals.
- 4.1.38 We would expect the NTS team, who manage the scheme, to provide this information, once they have received a request from you (although you can tell us where you got the information from). Any change in the likely effect of the HS2 route on your property would need to be directly linked to evidence submitted in support of criterion 5 – compelling reason to sell.
- 4.1.39 If your application relates to prolonged noise or disturbance, we would expect you to also consider and provide evidence on how the change in the impact on your property contributes to the compelling reason to sell.
- 4.1.40 This criterion is in place to avoid people abusing the NTS scheme by buying a property at its blighted value so they can sell it to the Government at an unblighted value later and profit from the difference. This protects the interests of taxpayers and people who have a compelling reason to sell their property. In cases where the Secretary of State has agreed (see 4.1.2) to buy a property where you have not met the ‘no prior knowledge’ criterion, we will consider whether it would be appropriate to adjust the price the Secretary of State is willing to pay for the property to take account of its value at the time it was originally bought.
- (See ‘How do I show that I did not know about the high-speed rail proposals?’ in the frequently asked questions for more details.)

Criterion 5 – compelling reason to sell

- 4.1.41 **Do you have evidence of a compelling reason to sell your property, or that you would be placed under an unreasonable burden if you could not sell it within the next three years?**
- 4.1.42 The aim of the NTS scheme is to allow people to sell, at the full unblighted open-market value, properties which are blighted by the HS2 route. You must have a compelling reason to sell. The scheme is intended to help people who would be put under an unreasonable burden within the next three years if they were unable to sell their property except at a substantially reduced value due to the proposals for HS2. It is not intended to either weaken or exploit the property market.
- 4.1.43 If you can show that you would be under an unreasonable burden within three years from the date of your application, we would expect you to meet this criterion. In the final three years of the NTS scheme, this time frame will only extend to the end of the scheme and so may be less than three years. This is because the market is expected to return to normal towards the end of the NTS scheme. Also, one year after the HS2 railway is first opened for public use, ‘Part 1 compensation’ will be available. This is compensation people may be able to claim under Part 1 of the Land Compensation Act 1973 to cover a drop in the value of their property arising from the physical effects of the railway.
- 4.1.44 Circumstances such as unemployment or dividing assets as part of a divorce settlement could mean you have a compelling reason to sell. On page 344 we have included anonymous examples of applications that we have accepted and rejected under criterion 5.

- 4.1.45 From time to time we publish information online on the types of compelling reasons to sell which have been successful and unsuccessful under the NTS scheme. You can find this at: www.hs2.org.uk/documents/collections/hs2-exceptional-hardship-scheme-hs2-need-sell-scheme-applications-statistics. You should not try to fit into one of these situations or a 'typical' scenario, but should instead show why you have a compelling reason to sell your property within the next three years.
- 4.1.46 Winding up the estate of someone who has died would normally be considered a compelling reason to sell.
- 4.1.47 The evidence you give us must show why you would suffer an unreasonable burden within the next three years, as a result of the circumstances set out in your application, if you cannot sell your property at the current time. We only need evidence which supports the compelling reason to sell that you have given in your application. (For example, if the reason you give is not financial but is a health-related reason, we do not need financial evidence.)
- 4.1.48 If your application is fully or partly related to health and mobility issues, the panel and the decision-maker will take the following into account when assessing it:
- You should not have to take on extra help to carry out routine maintenance of your property because your medical condition (or conditions) means you cannot do the work you used to do yourself before the start of your medical condition.
 - You should not have significant extra expense in adapting your property to meet your medical or mobility needs.
 - If your long-term health condition or disability means you need significant support from your family, you should not be expected to live where you cannot access that support.
 - If your medical condition (or conditions) means that you will need to regularly use local amenities, you should not be expected to stay living in a location where you cannot access them easily and independently.
- 4.1.49 If the panel and decision-maker believe that your medical condition is likely to get worse, they can look further ahead than three years when considering whether to accept your application. That is, they may consider that your medical condition will not become a compelling need to sell in the next three years, but that it would do over a longer period. They will decide whether to do this based on the evidence you include in your application.
- 4.1.50 If you receive the State Pension (or expect to receive a State Pension within three years of applying to the NTS scheme), we would not usually need evidence to support your plans to retire under criterion 5 – compelling reason to sell, unless your application is fully or partly related to financial circumstances resulting from your retirement.

5 Application process

- 5.1.1 The NTS team cannot advise you on evidence that may result in a successful application, as each case will depend on individual circumstances. Their role is to manage a fair and efficient decision-making process on behalf of the Secretary of State. It is your responsibility to supply all the relevant evidence to support your application.
- 5.1.2 You do not need to have property valuations carried out by a chartered surveyor at any stage before or during the application process. The people considering your application will take into account the views of the estate agents marketing your property on what the realistic unblighted asking price would be.
- 5.1.3 It is essential that you read and understand the requirements of the NTS scheme. If you have any questions about the scheme, please contact our Helpdesk. If you have applied for the NTS scheme before but been unsuccessful, your case officer will have contacted you to explain why, and your decision letter will outline whether we need more or different evidence for the eligibility criteria. It is important that you read and understand your decision letter and the feedback from your case officer if you are thinking about applying again because your circumstances have changed or you are able to provide further evidence.
- 5.1.4 The NTS scheme is aimed at supporting people who are most directly and negatively affected by the proposals for HS2. Decisions on your application are based on the information and evidence you provide. If you resubmit an application that was using the same basic information hoping for a different outcome, it is not likely to be successful. If you have no further useful evidence to give us, or if there has not been a significant change in your circumstances, you would need to seriously consider whether it is worth repeating your application.
- 5.1.5 You do not need to appoint professional representatives to help with your application. The Department for Transport have designed the application process so that you do not need anyone to act on your behalf. Once you have applied for the scheme, one of our case officers will be your main point of contact.
- 5.1.6 If you do need (or want) someone to help with your application, you are welcome to do so. You may want to ask a friend or relative or a professional. In your application you must explain the relationship between you and any representative you ask us to correspond with. For any statement made on your behalf, your representative must sign the statement (or statements) and give their name, firm and position in that firm (if this applies) and declare that the information is correct to the best of their knowledge. The application process may take longer if someone is acting on your behalf.
- 5.1.7 If you use a paid representative, or if you enter into an agreement with an estate agent or agent who would gain financially from the Government buying your property under an HS2 scheme, **the panel or decision-maker will not be able to take into account** any market appraisal, feedback or other evidence provided by this estate agent or agent.

Step one: You send us your application and supporting evidence

- Fill in the application form and send it to us with as much supporting evidence as you can provide.
- In the application form, we have included examples of the documents we need. They include:
 - proof of identity (page 3 of the form);
 - evidence of property type (page 7);
 - evidence of location of the property (page 9);
 - evidence of your efforts to sell and the effect of blight (page 10); and
 - evidence of a compelling reason to sell (page 12).

Try to provide evidence to cover at least the past six months, as it will help give the panel a full picture of your circumstances.

If you don't provide original documents or certified copies of the evidence we need, this will delay the decision on your application. We need this evidence, or an explanation of why you cannot produce it, before the panel can consider your application. If you cannot produce one or more pieces of evidence, please include the reason for this in your application.

Copies should be certified by a UK solicitor, an accountant, a doctor listed on the General Medical Council website, or a bank manager. You will need to give us this person's name and address so that we can contact them if necessary. (If you cannot provide original documents or certified copies, when you make your application you should explain why the originals are unavailable, to avoid delays.)

We also accept copies of documents which have been certified using the official Post Office Identity Document Checking Service. If you use this service we will need the original, filled-in checking service form and the original till receipt from the post office. We should receive your application no later than two months from the date on the till receipt. If you do not meet any of these requirements, we will not accept certification by the post office.

We need one document to confirm the identity of everyone who needs to sign the application form. This could be a document that you are already providing as evidence for another part of your application. Please see the declaration section of the application form for a complete list of documents that can be used to confirm your identity.

Step two: The NTS team reviews your application

The NTS team will acknowledge your application by email or letter. They will review your application to make sure that it is ready for the panel to consider and contains the information we have asked for on the application form. If information is missing, or if you have not provided evidence for any or some of the criteria, we will contact you and ask if you would like to provide it. Also, in almost all cases, we will contact the estate agents who are currently marketing the property.

Your application will be set up on the Track my Property Case portal and you will be sent login details to use the portal. Although new discretionary property scheme applications and supporting evidence cannot currently be submitted online, the portal will allow you to track the progress of your application after we receive your original application form and supporting evidence. You will be given a named Case Officer, who will be your main point of contact if you have any questions.

We will check your original documents and return them to you as soon as possible after receiving your application.

We will take copies of all documents and return the originals to you. If it is not possible to produce a clear copy of the document (due to its age or condition), we may need to keep the original until a decision on your application has been made. The NTS team will tell you if we need to do this.

The NTS team will hold paper and electronic copies of your documents in line with the Data Protection Act 2018.

For information about how we will handle your personal information, please see our Privacy Notice at: www.hs2.org.uk/privacy-notice.

Step three: A panel of professionals consider your application

We will pass your application to the NTS panel for consideration.

The three members of the panel will be fully independent of us and the Department for Transport.

The panel will make a recommendation to the Secretary of State. The decision to either accept or refuse your application will, in most cases, be taken on their behalf by a minister or a senior civil servant who has authority to do so.

Step four: The Secretary of State decides on your application

A senior civil servant who has authority from the Secretary of State will consider your application. They will either make the final decision or present their view to the Secretary of State or a minister for a final decision.

If your application is accepted, you will have three years from the date of your acceptance letter to begin the process of selling your property. You can begin the valuation process at any time within the first two and a half years, leaving six months to accept an offer and instruct your solicitors to begin the conveyancing process. If you do not instruct your solicitors within the three-year period, the acceptance will no longer be valid and you will need to reapply. Please see 'How long are valuations valid for?' in the frequently asked questions for more details.

If you accept the offer within the three-year period and have instructed solicitors but do not actively follow up the sale, we will withdraw the offer if conveyancing is not under way and actively going ahead within six months of the three-year period ending.

The offer will represent 100% of the unblighted open-market value of your property at the time of the valuation. The unblighted open-market value at that point may be different from the unblighted asking price used when marketing the property.

If you are unsuccessful, the NTS team will write to you, setting out in full the reasons for the decision in your decision letter.

You can reapply if there is a significant change in your circumstances or you have new evidence that may be relevant to the reason (or reasons) your application was turned down. If you are unable to provide new evidence, and your circumstances have not changed, it is very unlikely that reapplying on these grounds would result in a different outcome.

You need to reapply only in relation to the criterion (or criteria) under which you were unsuccessful, as long as:

- you submit your application within six months of receiving a previous decision (that is, six months from the date on the most recent, previous decision letter); and
- there has been no significant change in your circumstances in relation to the criterion (or criteria) on which you had previously been successful.

Otherwise, when you reapply you would need to cover all five criteria again.

Help from others with your application

The Department for Transport have designed the application process so that you do not need anyone else to act on your behalf. We have tried to provide as much information as possible in this document to help you. Once you have submitted your application, you are welcome to contact us with questions at any point, using the contact details in our acknowledgement letter.

If you do want someone to help you with your application, you are welcome to do so. (However, we and the Department for Transport will not refund any costs you may have in doing this.) You may want to ask a friend or relative or a professional. In your application you must explain the relationship between you and any representative you ask us to correspond with.

For any statement made on your behalf, your representative must sign the statement and declare their name, firm and position in that firm (if this applies), and that the information is correct to the best of their knowledge. The application process may take longer if someone is acting on your behalf.

As set out on page 5, if your representative is also your estate agent, **the panel will not be able to take into account** any market appraisal or other evidence provided by them. This is to protect both you and the taxpayer by only considering advice from estate agents who are independent and so do not have a personal or financial interest in profiting from the Government buying your property.

You (the person with the qualifying interest in the property) must **sign** and **date** the declaration page and read and understand every page of the **filled-in** application form and every piece of evidence submitted.

We will copy representatives into all correspondence, but we will always send correspondence direct to you for security, transparency and speed. **So please make sure you provide your contact details, such as your email address and phone number (and those for any other applicants), even if you are using a representative.** If the representative holds power of attorney for you, we do not need these details.

We will also need you to give your permission if a representative asks to see documents such as valuation reports for your property, before we are able to show that document to the representative.

Accepted applications and offers made

If the Department for Transport have accepted your application because your compelling reason to sell is urgent, we expect you to try to sell your property as quickly as possible.

If at any point between the decision letter being sent and you exchanging contracts either we or the Department for Transport become aware of any information or a significant change in circumstances that would affect the decision made on your application, we can review the decision. This could result in withdrawing our acceptance or offer. If this happens, you will be able to reapply to the NTS scheme, to reflect the change in your circumstances or extra information.

We will not withdraw the acceptance or offer if you receive an offer on the property from someone else, after your decision letter is sent.

6 Frequently asked questions

Making an application

Who can I speak to before sending you my application?

If you have any questions about the application process, please call our Helpdesk on 08081 434 434 or email us at HS2enquiries@hs2.org.uk.

Where can I find an application form for the NTS scheme?

You can get application forms and guidance at: www.hs2.org.uk/documents/collections/need-to-sell. Or, please call the Helpdesk on 08081 434 434 or email us at HS2enquiries@hs2.org.uk and we will send you a copy.

Who will I be in contact with once I have sent my application?

The NTS team will acknowledge that they have received your application and give you the contact details of the case officer responsible for your application. This case officer will then be your point of contact for any questions you might have about your application. They can support you with your application, but are not able to comment or advise you on what you should say or include in it in order to have it accepted.

How long will it take to consider my application?

As long as you have submitted all information and documents correctly, a decision on your application will normally be made within three months of receiving it, although this can depend on the number of applications we receive. We will aim to process applications more quickly if it is possible.

We will deal with cases in the order we receive them. As all applicants are applying with what they consider to be a compelling reason to sell, it would not be fair to 'fast track' some applications.

How do I keep updated on the progress of my application?

The best way to see how your application is progressing is by discussing it with your Case Officer or online using the HS2 Track my Property Case on the HS2 website.

What is your role in relation to the NTS scheme?

We manage the NTS scheme for the Secretary of State for Transport through our NTS team. However, we do not make recommendations or decisions on individual applications.

Why do I have to have a compelling reason to sell when it is clear that HS2 is the reason my property hasn't sold?

The Government has been clear that it must aim to balance the needs of individuals with the effect on public money when designing non-statutory property schemes (those that are not required by law). Asking for evidence of a compelling reason to sell means that public money can be targeted towards those most in need and also supports other Government objectives, such as community cohesion (keeping communities together).

How long will the NTS scheme run for?

The Government has made a commitment that the NTS scheme will run until one year after each individual phase of the railway is open to the public.

How many applications are successful?

You can see details on the number of applications and acceptances at: www.hs2.org.uk/documents/collections/hs2-exceptional-hardship-scheme-hs2-need-sell-scheme-applications-statistics.

Can I apply to the NTS scheme if I have previously accepted a cash offer under the Rural Support Zone (RSZ) scheme?

Yes. If you have claimed a cash offer under the RSZ scheme and then applied to the NTS scheme, when the panel and the decision-maker review your application they will consider whether there has been a significant change in construction or operational plans predicted for the railway. They will also consider the effect on your property. They will consider environmental statements (draft and final), or realignments of the line of the route.

The panel and the decision-maker will also consider any change in your personal circumstances since you claimed the cash offer.

Application criterion 1 – type of property

Can I submit an NTS application for a property if I am not the owner-occupier?

We do not expect to receive applications for properties where the applicant is not the owner-occupier, unless they are:

- a mortgage lender for the property;
- a representative of someone who has died; or
- a reluctant landlord.

There are more details about this on page 6 of the guidance notes and in the application form. If you do not own the property or have the right to sell it, we will not process your application.

Can I submit an NTS application for a business or agricultural unit or premises?

Owner-occupiers or leaseholders with at least three years left on the lease of agricultural units or business premises with an annual rateable value of not more than £44,200 in Greater London or £36,000 for the rest of England can apply to the NTS scheme. However, any offer we make under the scheme would only be for the unblighted market value of the business premises. The scheme does not allow us to buy the actual business itself or to pay costs of winding up or relocating a business.

How do I show that I have a qualifying interest in my property?

To show your interest in your property, you will need to provide proof of ownership. This will be the copy of the Land Registry Office entry if your property is registered at the Land Registry, or the epitome of title document and conveyance to the current owner if your property is unregistered.

How do I show that I am the resident of, or occupy, a property?

For owner-occupiers of a property, at the time you apply we would need one piece of evidence that contains your name and the address of the occupied property. This evidence must be dated within the three months immediately before the date on your application. The second piece of evidence must also contain your name and address and must be dated at least six months before the date of the first piece of evidence. Both documents must be from different organisations.

If a property is empty, you may still be eligible under the NTS scheme. You will need to provide evidence that the property has been empty for no longer than 12 months from the date you apply and that you were an occupier for at least six months before the property became empty. We would expect to see evidence of the date you left the property, together with two pieces of evidence showing it had been occupied for six months before it became empty.

What type of evidence do I use to show that I have occupied the property for six months?

A full explanation of evidence we will accept for this criterion is set out on page 8 of the application form and is divided into two lists, A and B. Please read the information on the form carefully and make sure you provide the correct number and type of document from each list. The lists include utility bills, council tax bills, and bank, building society, mortgage or credit card statements. The documents you provide must cover at least the six months immediately before the date of your application.

The second piece of evidence you provide should be dated at least six months before the date of the first piece of evidence, but within the 18 months immediately before the date of your application.

What if a utility bill, council tax bill or bank statement includes only the details of one of the applicants from a joint application?

We will accept evidence of only one applicant living in the property. However, please make sure all evidence you provided is addressed to that applicant.

What documents do you need to confirm my identity?

Please make sure you provide either original documents or certified copies of documents that confirm your identity. This can be your passport or driving licence.

I live in a mobile home (or park home or caravan). Can I apply to the NTS scheme?

Whether you are eligible for the NTS scheme is based on the criteria that apply under the Town and Country Planning Act 1990. Residential owner-occupiers, owner-occupiers of small businesses and owner-occupiers of agricultural units would qualify. Generally, someone living in a mobile home, park home or caravan would not be able to apply for the NTS scheme because they would not have a 'qualifying legal interest' in the land their home is on.

Application criterion 2 – location of property

Does the property that I want to sell need to be a set distance from the new HS2 route if it is to qualify for the NTS scheme?

Your property does not need to be a fixed distance from the proposed HS2 route in order to meet this criterion. However, the property would need to be close enough to the HS2 route so that it is seriously affected by either the construction or the operation of the new line. If your property is near a proposed junction which may, in the future, link HS2 and any Northern Powerhouse Rail (NPR) network, the panel would only take into account the effects of building the junction. The panel would not consider the impact of a junction's future use as part of the NPR network, as this is outside the scope of the HS2 project and the NTS scheme.

Does the property that I need to sell qualify for the NTS scheme if it is over or next to a bored (deep) tunnel?

A property will only qualify for the NTS scheme if it is affected by surface construction and the eventual infrastructure of the railway. This includes surface or cut-and-cover or green tunnelled

sections of the route, as well as vent shafts and tunnel entrances (or any other surface infrastructure). The only exception to this is if the tunnel is assessed by HS2 Ltd as likely to give rise to significant effects from ground-borne noise or vibration once the railway comes into operation.

Application criterion 3 – effort to sell and the effect of blight

When I market my property, do I have to have a 'For Sale' sign displayed outside the property?

No, you do not have to have a 'For Sale' sign displayed outside the property when you are marketing it.

What if a local estate agent refuses to market my property?

If a local estate agent refuses to market your property, or wants a fee before they will market it because they do not believe it will sell as a result of HS2, you can submit evidence showing this as part of your application. A letter or email from the estate agent should be enough.

If I provide evidence that a local estate agent refuses to market a property because they do not believe it will sell as a result of HS2, do I still need to provide evidence that I asked other estate agents to market my property?

Yes. You must get marketing advice from at least three recognised estate agents. We can accept a refusal by a local estate agent to market your property as one attempt by you to get marketing advice, although we would prefer you to include as many market appraisals as possible if other agents are willing to market the property. If three or more local estate agents refuse to market your property, we would need evidence of this refusal from each estate agent.

What if no estate agent will market my property?

If all local estate agents refuse to market your property, we would need evidence of this (a letter or email from the estate agents should be enough). We may then accept this as evidence that it has not been possible to market your property for three months.

I believe my property has been blighted by plans for Northern Powerhouse Rail (NPR). Can I apply to sell my home through your NTS scheme?

We have made the NTS scheme available on a short-term basis to owners of properties affected by **proposed junctions** which may, in the future, link HS2 and a future NPR network, while we carry out consultation with those residents who would be affected.

The panel would only take into account the effects of building the junction. The Government is making plans now to allow any future NPR network to connect onto the HS2 network so that building the junction would not disrupt HS2 services in the future.

The panel would not consider the impact of a junction as part of any NPR network, or any possible impact of future NPR rail lines, which are not covered by the HS2 project and the NTS scheme.

The Government will consider whether a different property support and compensation package is needed in the period until future NPR routes are confirmed.

Application criterion 4 – No prior knowledge

How do I show that I did not know about the high-speed rail proposals?

If you completed on the purchase or lease of your property before the HS2 route section closest to your property was announced, you are able to show that you had ‘no prior knowledge’ (that is, you did not know about the HS2 proposals because they had not been published). If you bought your property after the rail proposals closest to your property were announced, we may agree that you had done so knowing about the HS2 route. When considering this, the panel and the decision-maker will look at the amount of information that was available at the time you bought your property, for example, the environmental statements (draft and final), and information about the construction and operation of the route.

Certain property searches would normally have been carried out when you bought your property. These may have shown that the property would be close to a project such as HS2 and your solicitor may have further highlighted this to you in correspondence, searches, the title report or other information. If you bought your property after the announcement of HS2 in your area, you should send us copies of the searches and any other relevant documents to show whether this was raised during the conveyancing process.

How would the Government decide whether to pay an adjusted price if it agreed to buy a property where the ‘no prior knowledge’ criterion had not been met but there was a strong overall case to accept the application?

If it can be shown that the blight affecting the relevant property has resulted from HS2 and not something else, the Secretary of State may adjust the price they are willing to pay for a property bought under the NTS scheme by the same percentage as the difference between its unblighted and blighted value at the time it was bought.

A standard valuation will be carried out to decide the property’s current, unblighted value, as would usually be the case. However, the Valuation Office Agency will also carry out a desktop valuation to see if the property bought with prior knowledge was bought at a blighted price.

Whether or not you bought the property at a blighted price would be decided by getting and reviewing two valuations.

Valuation 1 – the current unblighted value of the property

Valuation 2 – the unblighted value at the time of it was bought

If the original purchase price was within 15% of valuation 2, the Government may agree to pay the full unblighted value of the property (valuation 1). In this case we would assume that you bought the property at an unblighted value.

However, if the price was less than 85% of valuation 2 at the time you bought the property, we would assume that you had originally paid a blighted value.

For example, if the valuation showed that you originally bought the property at a value 20% lower than its unblighted value at the point you bought it, the Secretary of State may decide to adjust the price they are willing to pay for the property. In this case, they may decide to offer 5% less than the property’s current unblighted value, which is the percentage difference between what is considered to be the property’s original unblighted and blighted value.

Application criterion 5 – compelling reason to sell

What types of circumstances are accepted under the NTS scheme as a compelling reason to sell?

The NTS scheme provides support for people who have a compelling reason to sell their property. As a result, we receive applications from people with a wide range of different circumstances, including to do with their health, employment, financial or family life. Please see pages 32 to 41 for examples of successful and unsuccessful applications under criterion 5 and the types of evidence you can put forward to support a compelling reason to sell.

Decisions on applications

Who decides if I qualify for the NTS scheme?

An independent panel of three people will review your application. They will provide a recommendation for the decision-maker, who then decides if you qualify under the NTS scheme.

How will the panel consider my application?

The NTS scheme is a paper-based scheme, which means you don't need to make any personal representations and we don't need to visit your property. Your application must be supported by full evidence that shows you meet all of the scheme's criteria. To make sure the application process is fair, in certain exceptional circumstances the panel may agree to a site visit or allow you to make personal representations.

Who is the decision-maker?

The decision-maker is a senior civil servant or minister with authority to make decisions on behalf of the Secretary of State. They review the panel's recommendation and decide if you qualify for the NTS scheme.

Who are the members of the NTS panel?

There are three independent members of the panel. They receive a panel fee and expenses from us (HS2 Ltd) but are not employed by us or the Department for Transport.

How are members of the panel selected?

Members are selected through a rigorous appointment process which is managed by us and overseen by the Department for Transport.

How do I know that the NTS panel is independent?

When applying to become a panel member, each person needs to show that they have the experience and skills needed to assess applications for the NTS scheme fairly and independently. Once they have reviewed applications to the scheme, each member of the panel has to declare at the start of each panel meeting that they have no conflict of interest. You can review a full list and short biographies for each panel member at: www.hs2.org.uk/documents/need-to-sell-nts-scheme-panel-membership.

How do the panel reach a recommendation?

A panel meeting will be scheduled and each panel member will separately review all the applications to be considered at that meeting. The three panel members will then come together to consider the applications and make a recommendation to the decision-maker.

How do the panel decide to recommend that I qualify for the NTS scheme?

The panel review the evidence that you have provided as part of your application and make a recommendation using that evidence and any additional relevant information.

What if the panel cannot agree to recommend that I qualify or don't qualify for the NTS scheme?

If all members of the panel do not agree on a recommendation, they can make a decision by a majority vote. If a panel member disagrees with this decision, they can produce a 'dissenting member' report. This report is then given to the decision-maker when they review the panel's recommendation.

How does the decision-maker decide if I qualify under the NTS scheme?

The decision-maker reviews the panel's recommendation and, if appropriate, will also look at the details of your application and supporting evidence before making a decision.

What if the panel decide that an application does not qualify for the NTS scheme?

In this case, the panel will recommend to the decision-maker that an application does not qualify for the NTS scheme. The decision-maker will review the panel's recommendation and decide on the case.

How will I be told if my application is successful or unsuccessful?

We will send you a decision letter, telling you the decision on your application.

If my application hasn't been successful, how will I know why?

If your application is not successful, the NTS team will write to you. This is your decision letter, and it will clearly outline why your application is unsuccessful.

Can I discuss my case with the panel members or the decision-maker?

No. To help make sure the application process is impartial and consistent, the decisions of both the panel and the decision-maker are based only on the information in applications and supporting evidence.

Is it normal to reapply to the NTS scheme more than once?

Some applicants are successful on their first application, while others are successful after providing more information or following a change in their circumstances. It is unlikely that resubmitting an application, on the same grounds with the same evidence, would be successful if it has previously been unsuccessful. If you are considering whether to reapply, we would encourage you to carefully review the reasons given by the decision-maker on why your previous application was unsuccessful.

It is your responsibility to explain how you meet the criteria for the NTS scheme, and provide evidence to support this. Providing appropriate, clear evidence greatly helps the panel to make their recommendation and the decision-maker to reach a decision.

Can the panel and the decision-maker use discretion in my case?

If the panel believe there are circumstances which mean your application should be accepted despite not meeting all of the criteria, it can recommend that your application should still be accepted.

Valuations and valuers

If my application to the NTS scheme is successful, what will the valuations and my payment be based on?

The valuations will be based on the unblighted open-market value of the property (that is, the value of the property in current market conditions as if there were no plans for HS2). This will not necessarily be the price you had marketed your property at. It will be an independent assessment, carried out by qualified chartered surveyors, of what the sale price (value) should be.

The payment is simply this sale price. It will not cover extra costs, such as agents' fees, legal fees or removal costs, because you would normally meet these costs yourself.

The Government will buy the property as it was marketed before it was accepted under the NTS scheme. If the property significantly changes after your application has been accepted, for example if you decide you only want to sell part of the land your property is on, or you extend your property, you must reapply to the NTS scheme with this new information.

How will my property be valued?

If the Secretary of State for Transport agrees in principle to buy your property, two valuations will be carried out by two independent valuers registered with the Royal Institution of Chartered Surveyors (RICS). We will choose one valuer from a pool of chartered surveyors who are familiar with your area and who have the appropriate expertise.

You can choose another valuer from the pool, or any RICS-registered valuer (see below) in the UK who agrees to take on the instruction (including conditions on the format of the report and a maximum fee). We will instruct and pay for both valuations. If the valuations are within 10% of each other (calculated by taking the difference between the two values as a percentage of the higher value), the Secretary of State will offer a price that is the average of the two.

If the valuations differ by more than 10% (calculated by taking the difference between the two values as a percentage of the higher value), we will get a further valuation from a valuer chosen by you from our pool. We will give the third valuer the two previous valuation reports to consider, with the valuation figures removed. The offer will be made on the average of the closest two valuations.

If three valuations have been carried out and there are no two closest figures (that is, the highest and lowest figures are of equal distance from the middle figure), we will use the middle valuation figure as the offer price. The valuation date will be the date on which the valuer inspects the property.

We may use a different method of valuing your property if we accept your application even though you had prior knowledge of HS2 but the decision-maker used their discretion for criterion 4 – no prior knowledge (see page 14).

Who can I pick as my choice of valuer?

You can use any valuer who is registered with RICS, as long as they do not have any conflict of interest relating to your property or your household (or anyone else connected to your application). For example, the valuer cannot be employed by or associated with the firm or person who is representing you in your application or has been involved in marketing your property in any way (including any estate agent who provided a market appraisal, even if you didn't use that estate agent).

RICS is the professional body for the valuers that you must use. You can contact RICS to check if a valuer or firm is registered and has the appropriate qualifications (www.rics.org/uk/)

If you want to, you can choose any firm in our pool of valuers, or a specific valuer from one of these firms. We would then choose a second firm from this list.

How did you appoint your pool of valuers?

We appointed our valuers following a competitive tender exercise to find those who have the resources and capability to cover valuations across the whole of each phase of the HS2 route. All valuers are independent chartered surveyors registered with RICS, and have the competence and professional knowledge to carry out valuations in line with the RICS 'Red Book' manual of valuation standards.

Are the pool of valuers and valuations independent of HS2 Ltd and the Department for Transport?

Yes. We instruct the valuers to provide an open-market valuation of property in line with the RICS guidance – RICS Valuation Professional Standards January 2014. The full definition of open-market value is:

"the estimated amount for which an asset or liability should exchange on the valuation date between a willing buyer and a willing seller in an arm's length transaction after proper marketing and where the parties had each acted knowledgeably, prudently and without compulsion."

Do the valuers on your list have local knowledge?

We appointed the valuers because they are able to cover valuations over different areas of the HS2 route. Many local estate agents are not registered with RICS and are not qualified to provide an open-market valuation.

How long are valuations valid for?

If your application is accepted, you will have three years from the date of your acceptance letter to begin the process of selling your property to the Secretary of State for Transport. You can ask us to begin the valuation process at any time in the first two and a half years, leaving six months to accept our offer and instruct your solicitors to begin the conveyancing process. If you do not instruct your solicitors within the three-year period, the acceptance will no longer be valid and you will need to reapply to the scheme.

It is up to you to decide at which point you instruct the valuations to take place within the first two and a half years of receiving your acceptance letter. We will then base your offer on the valuations that reflect the date on which the valuers inspected your property. Once you have received your offer your property will not be revalued at any point (either within or after the three-year period). You will not be able to pay for a revaluation. So please make sure you consider carefully when you would like the valuations to be carried out.

If you offer to buy my property and I accept, how will the purchase go ahead?

The purchase will be handled in the same way as any private property purchase. As with any private purchase, how long the process takes will vary depending on the circumstances of the case.

Once you have accepted our offer, we will instruct our solicitors and our property acquisition agents. We will also appoint surveyors to carry out structural and condition surveys. The surveyors will contact you direct to make the appointment to visit your property.

I submitted an application and was turned down, but since then my circumstances have changed. What can I do?

You can reapply on the criterion (or criteria) on which you were unsuccessful if:

- there is a significant change in your circumstances; or
- you can provide new evidence that may be relevant to the reasons your application was turned down.

However, you must:

- submit the application within six months of the date of your previous decision letter; and
- there must have been no significant change in your circumstances relating to the criterion (or criteria) on which you had previously applied successfully. If not, when you reapply you would need to cover all five criteria again.

If you reapply within six months of the date of the previous decision letter, the panel will see the details of the previous decision and the evidence relating to the successful criteria from your earlier application. This is so they have all the necessary information and evidence on the successful criteria and can fully consider your new application. They will not be able to recommend overturning the decision on the previously successful criteria, if you have declared that your circumstances have not changed.

Is this my only opportunity to receive help from the Government?

No. The Government has introduced a package of non-statutory property measures to help those who may be affected the construction or operation of the HS2 railway.

You can also claim Part 1 compensation under the Land Compensation Act 1973 one year after the railway is open to the public. (www.gov.uk/government/publications/a-guide-to-part-i-claims)

Who will manage the purchase of my property?

Once you accept the offer for your property, your case officer will assign the purchase of your property to one of our suppliers. You will be allocated a named person from that supplier, who will become your main point of contact (other than your solicitors) throughout the process.

Can I rent my property from the Government if I sell it to the Government under the NTS scheme?

If your application has been successful and you have accepted the Government's purchase price offer under the NTS scheme, you can let us know that you are interested in renting the property back from the Government after it has been sold. We would then carry out reference checks to see if you are suitable to rent the property, and assess the property to decide whether it can be let, in line with legal requirements and sound business principles. You should ask your case officer about this in good time, and before solicitors' details are exchanged, so that we can look at your request and prepare letting documents.

Will you pay any agents' fees relating to my application or any further valuations?

No.

If I am accepted under the NTS scheme and move away, will I still be eligible for the homeowner payment?

No.

How should I complain if I am unhappy with the service I receive?

If you are not happy with how we deal with your application, please use our complaints procedure, which is available at: www.hs2.org.uk/how-to-complain.

If your application has been unsuccessful, you can reapply (see above). The outcome of an application cannot be altered by complaining to us.

The guidance says it may be possible for the Government to buy my property even if I don't meet the criteria of the NTS scheme, if I have special circumstances or I own an atypical property. How can I apply for this?

There is no application form, but you can ask us to consider your case 'atypically'. This just means that we recognise there may be some cases that need support even though these cases do not meet the requirements of either the statutory or non-statutory property schemes.

How do I ask to be considered as having an atypical property or special circumstances?

Firstly, you may want to discuss your case with our Land and Property team by contacting them through our Helpdesk on 08081 434 434 or emailing them at HS2enquiries@hs2.org.uk. There is also a Freephone minicom number (08081 456 472) for callers with hearing and speech difficulties.

Is there more information on what you and the Government consider to be special circumstances or an atypical property?

The Government believes trying to define these terms would limit the types of cases that it might consider. We (and the Department for Transport) will consider cases you submit to us that are not part of our existing property schemes by looking at the particular circumstances of each case. You can find more information in our guidance on special circumstances and atypical properties at the following link www.hs2.org.uk/documents/special-circumstances-or-atypical-properties-guidance-and-frequently-asked-questions/.

Do I need to have previously applied to an HS2 property scheme before my case can be considered as atypical or special circumstances?

No. However, it is worth considering making an application through one of our property schemes first to see whether you are successful. When looking at atypical cases, we will always consider whether there is an existing scheme that could meet your needs and if so, we would expect you to apply to that scheme.

Who decides whether I own an atypical property, or have special circumstances?

Any decision to provide support over and above our property schemes is made by the Department for Transport on behalf of the Secretary of State for Transport, taking into account advice from us. In some cases, approval may also be needed from HM Treasury.

I have been unsuccessful in applying to the NTS or another property scheme. Can you consider my case as special circumstances or my property as atypical?

We only consider cases involving an atypical property or special circumstances if there are exceptional circumstances. You should not use this as a way of appealing if you have been unsuccessful under our established schemes.

What makes my circumstances special or my property atypical?

An atypical property or special circumstances are those not provided for by existing schemes. Special circumstances may include, for example, particular medical conditions or special living requirements. You can find more information in our guidance on special circumstances or atypical properties at the following link www.hs2.org.uk/documents/special-circumstances-or-atypical-properties-guidance-and-frequently-asked-questions/.

How do you consider my atypical property or special circumstances if my situation means a decision needs to be made quickly?

If you face urgent or critical circumstances that mean you are unable to apply to the appropriate property scheme, you can contact us or the Department for Transport in writing (either by post or by email), outlining the exceptional circumstances you face. We will contact you to discuss your personal circumstances and the options that may be available to you.

If I have previously received a cash offer from the RSZ scheme or a payment from the HOP scheme, can I apply to the NTS scheme?

If you have already claimed a cash offer under the RSZ scheme or a payment under the HOP scheme you can still apply to the NTS scheme. If your application to the NTS scheme is successful, we would reclaim the cash offer or HOP payment, plus statutory interest, from the NTS purchase price.

7 Compelling reasons to sell

7.1 Introduction

If you are an owner-occupier and meet the criteria of the NTS scheme, you will be able to ask the Government to buy your home for its full unblighted market value.

An independent panel will consider each application individually and recommend whether the Government should buy your property. You will be asked to provide evidence that meets the following five criteria.

Property type – we will ask you to show that you are the owner-occupier of the property or that you are acting as a ‘reluctant landlord’, needing to rent the property as a result of HS2.

Location – to make sure that the effect of HS2 on a property is considered, although there is no fixed outer boundary to the NTS scheme.

Effort to sell – you must have tried to sell your property, without success, for at least three months, unless there are circumstances that make this inappropriate or unnecessary.

No prior knowledge – you must have bought your property before the date the initial preferred route for each phase of the railway was announced. These dates are:

- Phase One – 11 March 2010
- Phase 2a – 28 January 2013
- Phase 2b – 28 January 2013 or 7 July 2016 (proposal of M18 route through South Yorkshire only)

For NTS scheme applications for properties that are close to the route to the west of Measham, Leicestershire, where the proposed route is similar to that set out in January 2013, you will need to show that you were not aware that the route proposed at the time would affect your property at the time you bought it.

If you completed the purchase of your property after the date the route was announced, but then found your property might be nearer to the route or more seriously affected following later changes or alternatives to the route, you will need to give us satisfactory evidence that you had no prior knowledge of those route changes, or could not reasonably have known generalised blight caused by HS2 would apply to your property. The route changes were announced on 20 December 2010, 10 January 2012, 16 May 2013 and 25 November 2013 (for Phase One), on 30 November 2015 (for Phase 2a), and on 15 November 2016, 17 July 2017 and 6 June 2019 (for Phase 2b). More changes may be announced at any point in the future.

Compelling reason to sell – we will consider a variety of different situations under this criterion, but you will have a strong case if you:

- become unemployed;
- need to move to take up a new job;
- are dividing assets as part of a divorce settlement;
- are in ill health; or
- need to release money for retirement.

You may also have a compelling reason to sell due to a combination of factors. In exceptional cases, prolonged disturbance and noise disruption from the construction or operation of the railway may contribute to a compelling reason to sell. However, in general we would first expect you to look at the arrangements under the prolonged disturbance compensation scheme that we have set up for this purpose.

Guide to the types of evidence that you can provide under certain circumstances

This NTS guidance aims to make clear the types of reasons and evidence that you can provide to support a compelling reason to sell your property. For this section of your application, the NTS panel need a clear summary of your reason (or reasons) for selling. Each part of your statement must be supported by suitable evidence. To help you, below we have listed examples of past cases that have been successful and unsuccessful under this scheme. Under each set of examples we tell you what evidence you could provide.

You need to be able to show why you have a compelling reason to sell your property now, or evidence that you would be put under an unreasonable burden if you were unable to sell it in the next three years.

Please send us as much evidence as possible, as the panel will need to see proof of each statement that you make.

Financial – change in circumstance

Successful example	Unsuccessful example
<p>The property owner wanted to sell their property because they lost their job and, as a result, their income significantly reduced and they could no longer meet previous commitments. They had been unable to find a new job that provided the same income.</p> <p>Evidence provided: Detailed financial information outlining their full financial circumstances, income, outgoings, investments and other commitments.</p>	<p>The property owner wanted to sell their property because they had lost their job.</p> <p>The application was not successful because they failed to provide full details of their financial circumstances, for example by sending us a summary of their income and spending.</p>

Financial – difficulty

Successful example	Unsuccessful example
<p>The property owner wanted to sell their property to meet financial commitments that were due within three years from the date of their application. The sale would relieve an unreasonable financial burden on them.</p> <p>Evidence provided: Details of a financial commitment that had to be met within three years.</p>	<p>The property owner wanted to sell their property to meet financial commitments following the failure of a business.</p> <p>The application was not successful as they failed to provide full details of the financial circumstances they faced.</p>

Applies to **Financial – change in circumstance** and **Financial – difficulty**

Evidence that you may need to provide

Official paperwork or records that give a complete picture of your finances, including full evidence of your income and outgoings, plus savings, loans, mortgages and other assets (if relevant), for an appropriate period (normally at least the last six months) before the date of your application. You should provide original documents or certified copies of account statements and other relevant financial information.

Retirement (also see [Location and needs of current accommodation](#))

Successful example	Unsuccessful example
<p>Due to a reduced retirement income, the property owner wanted to sell their property so that they could downsize and move. Selling their property would free up money and reduce their outgoings.</p> <p>Evidence provided: Detailed financial and medical evidence (although medical evidence is not always necessary to prove a need to downsize).</p>	<p>The property owner wanted to sell their property so that they could downsize and move when they retired, as they felt maintaining it would be an unreasonable burden because of their age.</p> <p>The application was not successful as they failed to provide evidence that they cannot maintain their existing property.</p>

Evidence that you may need to provide

- Written evidence to show that you retired and when, or that you plan to retire from your current job and when, for example a letter from your employer.
- Evidence that you have looked for suitable retirement property in the area you plan to retire to, such as correspondence with estate agents.
- Written or photographic evidence to show that you are unable to maintain your current property. (We would need details of the costs of maintaining and running your existing property, if the cost is the reason you want to move).
- Evidence of planning for retirement and the need to sell your existing property to provide an income in retirement – detailed evidence of your finances would be needed.

If you receive the State Pension (or expect to receive the State Pension within three years of applying under the NTS scheme), we do not expect you to provide evidence that supports your plans to retire for criterion 5 – compelling reason to sell, unless your application is fully or partly related to your financial circumstances.

Family

Successful example	Unsuccessful example
<p>The property owner was elderly and wanted to sell their property to move closer to a family member.</p> <p>Evidence provided: Medical evidence and confirmation of the address of their family member and the proposed arrangements for their care.</p>	<p>The property owner wanted to sell their property to move in with a family member, who might then provide care for them. This would not be possible without the property owner moving home, due to the family member's work commitments.</p> <p>The application was not successful as they failed to provide evidence of the circumstances they mentioned in the application.</p>
<p>Evidence that you may need to provide</p> <ul style="list-style-type: none"> Property details and photographs showing why your existing property is not suitable for you or your family's requirements. Details of the people currently living in the property (for example, birth certificates, proof they are included on the electoral register, and details of any special requirements (for example, a ground-floor bedroom and bathroom for someone who is unable to manage stairs). Evidence of those who need to be provided for in your property and those who no longer need to be provided for. 	

Education

Successful example	Unsuccessful example
<p>The property owner wanted to sell their property so that they could relocate to allow their child, who had special educational needs, to go to a school that met their needs.</p> <p>Evidence provided: Evidence of the needs of the child and evidence that this specialist education could not be provided close to where they currently lived.</p>	<p>The property owner wanted to sell their property to move into a different state-school catchment area.</p> <p>The application was not successful as they failed to provide evidence that their child required specialist education that was not available within the school catchment area of their existing property.</p>
<p>Evidence that you may need to provide</p> <ul style="list-style-type: none"> Offer letters and general details of the schools that have provided offers to your child. Evidence that local schools are not able to meet the specialist requirements your child needs. This might be a letter from an appropriate educational specialist or medical practitioner, or published details of the services a specific school provides. Evidence of issues at your child's current school which mean they need to move to a new school, or other issues causing significant concerns about the suitability of your child's current school. Details of your child's existing schooling arrangements and the location and the distances between this school and your property. Maps showing the location of the various schools and travel routes and transport options. Details of the possible financial or employment consequences resulting from the different school choices available to your child. 	

Location and needs of current accommodation

Successful example	Unsuccessful example
<p>The property owner wanted to sell because they had a long-established retirement plan to move to a different property in a less rural area.</p> <p>Evidence provided: Detailed evidence (past and current) of their plan, including details of the area and property they planned to move to.</p>	<p>The property owner bought their property before having a family and, since having children, felt that the location and layout of their property did not meet their family's needs.</p> <p>The application was not successful as they failed to provide evidence that either the location or the layout of the property was unsuitable for their family.</p>
<p>Evidence that you may need to provide</p> <ul style="list-style-type: none"> • Maps showing the location of your property and its distance from local amenities and services. • Details of the property and its surrounding area. • Details of alternative property and the location of property you have found or are looking for. • Current and past evidence showing you have a long-term plan to move to another area. This might include details of long-term financial planning or other evidence that proves you had a long-term plan. 	

Type or size of accommodation

Successful example	Unsuccessful example
<p>The property owner had recently had another child and wanted to move to a larger property as they needed more room (including bedrooms) for their growing family.</p> <p>Evidence provided: evidence of the number of children and their ages, and details of their existing property.</p>	<p>The property owner had several generations of their family living in a property that would usually only be big enough for the property owner and a guest.</p> <p>The application was not successful as they failed to provide evidence that they needed to provide permanent accommodation for other members of their family.</p>
<p>Evidence that you may need to provide</p> <ul style="list-style-type: none"> • Written evidence, including floor plans and photographs, to show that the size, layout or location of your property makes it unsuitable for your circumstances. • Written evidence that the property is inaccessible or not appropriate for you or someone you live with who has restricted mobility. • Details showing that alterations needed to make the property suitable for you are not reasonable, either because they would be too expensive or too complicated or disruptive, or because they would affect the resale value of the property. • Written evidence that shows the property or its grounds are too large for you to maintain because of the cost or due to your reduced mobility. • Written evidence showing that maintaining a large property would be a financial burden for you. • Medical evidence showing why it is no longer suitable for you to stay in the property due to your health (including evidence that the property is no longer suitable). • Evidence showing you need to move to an alternative type or size of accommodation, because your property is not suitable for the number of people living in it – for example, that you have children and what age they are. 	

Employment – relocation

Successful example	Unsuccessful example
<p>The property owner wanted to move as they had accepted an offer of employment (in an equivalent role to their existing job), and their new job was some distance from their existing property, resulting in a change to their daily commute.</p> <p>Evidence provided: Letters and contract from new employer confirming location and start date of their new job, and evidence of the distance and time of their new commute.</p>	<p>The property owner wanted to move as they had accepted an offer of employment.</p> <p>Their application was not successful as they failed to provide evidence that they received a firm offer of employment and that their existing employment skills or future employment aims were suitable for the role.</p>
<p>Evidence that you may need to provide</p> <ul style="list-style-type: none"> • An official, signed letter to you from a named person from your new employer’s organisation, confirming the relocation or job offer. This letter should be on headed paper. • If not provided in the letter, confirmation of that person’s position in the organisation and their involvement in the recruitment or relocation process. • Written evidence or correspondence giving specific details of your old job and your new job, and the timescales involved. • Written evidence or correspondence giving the reasons for the job move or the business case for the relocation, if this is possible and it applies. • Details of the location of your existing workplace and the distance between this and your existing property. • Details of the location of your new workplace and the distance between this and your existing property. 	

Winding up an estate

Successful example	Unsuccessful example
<p>The property owner was selling the property of someone who had died, so that the executor and beneficiaries could wind up the estate.</p> <p>Evidence provided: Legal documents including grant of probate.</p>	<p>No unsuccessful examples.</p>
<p>Evidence that you will need to provide</p> <ul style="list-style-type: none"> • The will of the person who has died and legal documents that give the details of the executor of the estate. We would need original documents or certified copies. 	

Divorce

Successful example	Unsuccessful example
<p>The property owners wanted to sell their property as they were getting divorced and needed to divide assets, as required by a court order.</p> <p>Evidence provided: Legal documents associated with the divorce which showed that neither party could remain in the property following the divorce.</p>	<p>The property owners wanted to sell their property as they had decided to divorce.</p> <p>The application was not successful as they failed to provide the legal documents needed to confirm the divorce or that the property would need to be sold because of this.</p>
<p>Evidence that you will need to provide</p> <ul style="list-style-type: none"> • A decree nisi or decree absolute and • a court order. <p>Or</p> <ul style="list-style-type: none"> • Other evidence of an agreed settlement and how assets from the marriage are being divided, to show the property needs to be sold for the divorce to go ahead. 	

Marriage or civil partnership

Successful example	Unsuccessful example
<p>The property owner was recently married and wanted to sell their property so that they and their partner could sell their individual homes and combine the proceeds to buy one home.</p> <p>Evidence provided: Marriage documents and information relating to the location of the property owner's partner's property, and both their places of work.</p>	<p>The property owner was recently married and wanted to sell a property so that they could move into a single property that they wanted to buy with their partner.</p> <p>The application was not successful as they had failed to provide evidence of a compelling reason to sell the property, as opposed to continuing to live in one or other of their properties.</p>
<p>Evidence that you may need to provide</p> <ul style="list-style-type: none"> • Details of your and your partner's workplace locations and the distances between these and your existing property or properties. • Details of both your and your partner's properties. • Details of any dependants who will be living with you. • Details of where you want to move to or evidence of a property you plan to buy jointly. • Financial information to support the purchase of a different property, for example, bank statements, mortgage statements and savings statements (for both you and your partner). • Evidence of why you need to buy a joint property and why your existing property or accommodation is not suitable. 	

Health – care requirements

Successful example	Unsuccessful example
<p>The property owner wanted to sell their property so that they could move into more appropriate accommodation.</p> <p>Evidence provided: Medical information and details of their existing property, together with details of the accommodation they wanted to move to.</p>	<p>The property owner wanted to sell their property to move nearer to their family.</p> <p>The application was not successful as the property owner failed to provide evidence that they needed to move to live with the relative or that the plan to live nearer their relative would work.</p>
<p>Evidence that you may need to provide</p> <ul style="list-style-type: none"> • Medical evidence of your current state of health which supports your case that your current accommodation is no longer suitable. • Evidence, including floor plans and photographs, that shows that the size, layout or location of your property make it unsuitable for your circumstances. • Details of your care needs and the care plan to be provided as a result of selling your property. • Details showing that alterations needed to make the property suitable for you are not reasonable, either because of the cost or because they would be too complicated or disruptive. • Evidence that shows your property or its grounds are too large for you to maintain due to the cost or your health. 	

Health – type of accommodation

Successful example	Unsuccessful example
<p>The property owner wanted to move to a smaller, single-storey property, as they were becoming less mobile.</p> <p>Evidence provided: medical evidence showing that they had limited mobility and were having difficulty using stairs.</p>	<p>The property owner wanted to sell as they would need to adapt their property to meet their medical needs. The application was not successful as they failed to provide evidence that this work would cause significant expense or disruption and, as a result, they would have to sell the property.</p>
<p>Evidence that you may need to provide</p> <p>See ‘Health – location of accommodation’ on the next page.</p>	

Health – location of accommodation

Successful example	Unsuccessful example
<p>The property owner wanted to move from a large and isolated property to one that was nearer to local amenities and services and which had access and a layout that would better suit them as they become less mobile.</p> <p>Evidence provided: Maps showing how isolated the property was, information about local transport links and amenities, details of the property, and evidence of the applicant's age and state of health.</p>	<p>The property owner wanted to move from a large and isolated property.</p> <p>The application was not successful as they failed to provide evidence of a medical or financial need to sell the property in order to move elsewhere.</p>
<p>Evidence that you may need to provide (for both location and type of accommodation)</p> <ul style="list-style-type: none"> • Medical evidence of your current state of health. • Medical evidence that your current accommodation is no longer suitable. • Details of the types of alternative suitable accommodation you need. • Evidence of no longer being able to maintain your current property. • Evidence of no longer being able to readily access your existing property. • Evidence that your property is not close enough to local amenities, doctors' surgeries and so on. 	

General examples of evidence we need

The following list is a guide to the types of evidence that you can provide to support your application.

- Birth certificates, benefits statements, correspondence with schools and childcare providers
- Passports
- Official divorce documents
- Court orders, including court orders to sell the property
- Utility bills (gas, electricity, water)
- Bills for council tax, telephone, fuel and other essential services
- Bank or building society statements
- Credit card statements or bills
- Payslips
- Statements issued by HMRC (HM Revenue & Customs), such as a P60 or P45
- HMRC tax documents, for example, tax assessment, statement of account or notice of coding
- Mortgage statements and other correspondence from mortgage lenders
- Letters from health authorities and trusts, hospitals, medical consultants, GPs or dentists
- Audited company accounts (or accounts yet to be audited)
- Letters from employers about redundancy, employment contracts and so on
- Receipts, invoices or other documents showing spending
- Statements of account for savings, ISAs, shares, bonds, share options and other financial products representing assets
- Death certificates, wills, grant of probate or letters of administration

- Correspondence from Government departments (that prove, for example, that you receive benefits or other entitlements)
- Letters and other documents from qualified solicitors, accountants, barristers, chartered surveyors and other professionals

If you download bank, building society or credit card account statements from an online banking account and they do not contain your name, account number, details of the bank or the logo, please provide evidence that you got this document from the bank, credit card company or building society and that it represents your account. This evidence will need to be certified or stamped by the bank or building society.

All supporting documents should be originals or certified copies.

Application form



Need to Sell scheme

Before you fill in this application form, please read the guidance in full. Please provide as much information and evidence as you can, using extra sheets if needed. This will help us to process your application as quickly as possible. When sending supporting documents, please send original documents or certified copies.

Please send your application as loose (not bound) sheets.

Address of the property you are applying for:

.....
.....
.....
.....

Postcode

Your details

Please include only your own details here. If you are using a representative, please provide their details on page 5.

Title (Mr, Mrs, Miss, Ms, Dr and so on):

First names:

Surname:

Phone number 1:

Phone number 2:

Email address:

Title (Mr, Mrs, Miss, Ms, Dr and so on):

First names:

Surname:

Phone number 1:

Phone number 2:

Email address:

Please continue over the page.

Contact address and postcode, if different from the address above:

.....
.....
.....
.....

We will use email as our main way of getting in touch. If you don't check your emails regularly, or you would prefer to be contacted by post, please tick below.

I do not want to be contacted by email. Please send all correspondence by post.

Your declaration

Please make sure that each applicant signs in the box below (and adds the date they sign) and provides an original or certified copy of a document that gives proof of their identity. This document must be current and valid and contain a photograph of the applicant. Documents which provide proof of identity are:

- passport; or
- driving licence.

I declare that the information I have given on this form is correct and complete. I understand that HS2 Ltd and the Department for Transport will use all of the information provided on this form and all supporting evidence to decide my claim under the Need to Sell scheme.

I understand that you will carry out security and anti-fraud checks on information and supporting evidence I have provided. This may include checks that use market intelligence services, contacting estate agents who are currently marketing the property and contacting my employer (or possible employer). I understand that if any issues arise from these checks, you may refer this information to your Counter Fraud team for further investigation.

I give permission for you to carry out any relevant checks and to contact estate agents and employers.

If I give information I know is incorrect, or if I do not include information I know is relevant, my application and the Government's decision on it will not be valid and the Secretary of State may take legal action against me.

Please note: If your application is successful but, at any point between your decision letter being sent and you exchanging contracts we become aware of any information or a significant change in circumstances that would affect our decision, we can review the decision. This could result in us withdrawing our acceptance or offer. If this happens, you will be able to reapply to the scheme, to reflect the change in your circumstances or extra information. We will not withdraw the acceptance or offer if you receive an offer on the property after your decision letter is sent.

Each applicant must sign below and add the date they signed

Applicant 1:

Applicant 2:

Applicant 3:

Applicant 4:

For applicants submitting another application within six months of the date on the decision letter relating to their previous application

Please confirm the date on the previous decision letter. This must be within six months of the date you send this application.

.....

(There is no need to send us a copy of the original decision letter – we will check this information in our records.)

Please confirm the criteria you are basing your application on by ticking the relevant box (or boxes) below. This should be the exact criteria on which your previous application was unsuccessful. There is no need to send us evidence to do with criteria you were successful on in your previous application, as long as there has been no change to your circumstances to do with any of those criteria. (If there has been a change to your circumstances, you must submit a new, full application covering all criteria.)

Criterion 1: Type of property

Criterion 2: Location of property

Criterion 3: Effort to sell and the effect of blight

Criterion 4: No prior knowledge

Criterion 5: Compelling reason to sell

I declare that there has been no change to my circumstances to do with the criteria under which my previous application was successful.

Each applicant must sign below and add the date they signed

Applicant 1:

Applicant 2:

Applicant 3:

Applicant 4:

For applicants who are using a representative to act on their behalf

Please provide the representative's name and contact details below.

Name:

Organisation:

Phone number and email address:

Their relationship to you:

Has the representative received, or will they receive, any financial payment from you for acting as your representative? Yes No

To be completed by the applicant

I (the applicant) confirm that I want the person named above to represent me for the purpose of submitting this application. I agree to this person acting on my behalf until I receive a decision on my application.

Each applicant must sign below and add the date they signed.

Applicant 1:

Applicant 2:

Applicant 3:

Applicant 4:

To be completed by the representative

I (the representative) confirm that I will act on behalf of the applicant for the purposes of this application.

I acknowledge that, as a paid representative or a representative who would otherwise benefit financially from the sale of the property to HS2, the panel or decision-maker will not take into account any evidence that I provide myself, such as feedback from the marketing of the property.

I declare that the information I have given on this form is correct and complete. I understand that HS2 Ltd and the Department for Transport will use all of the information provided on this form and all supporting evidence to decide the applicant's claim under the Need to Sell scheme.

I understand that you will carry out security and anti-fraud checks on information and supporting evidence provided. This may include checks that use market intelligence services, contacting estate agents who are currently marketing the property, and contacting the applicant's employer (or possible employer). I understand that if any issues arise from these checks, you may refer this information to your Counter Fraud team for further investigation.

If I give information I know is incorrect, or if I do not include information I know is relevant, the application and the Government's decision on it will not be valid and the Secretary of State may take legal action against the applicant or me (or both of us).

Please sign below and add the date you signed.

Representative's signature:

Criterion 1: Type of property

Please make sure you read the guidance before answering these questions.

Are you:

- the owner-occupier of a private residential property?
- the owner-occupier of business premises whose annual rateable value is not more than £44,200 in Greater London or £36,000 for the rest of England?
- the owner-occupier of an agricultural unit?
- the mortgage lender who has a right to sell the property and can give immediate vacant possession?
- a personal representative of someone who has died?
- a reluctant landlord?

What category of ownership do you have?

- Freehold
- Leasehold If leasehold, how long until the lease runs out? years months

What Land Registry titles are included in the sale?

Please list all title numbers and state whether these are to be sold in full or part. If you only want to sell part of your property, please provide a clear plan of the area you are applying for. This must be the same as the area of the property that has been marketed for sale.

.....

.....

.....

Please include evidence to support your answers. Evidence should be original documents or certified copies, and may include one or several of the following.

- Proof of ownership – the epitome of title document (if the property contains more than one title, all titles should be provided), the conveyance to the current owner or a copy of the Land Registry Office entry.
- For **owner-occupiers** of the property, at the time you apply we would need one piece of evidence (see the lists below), dated within the **three months** immediately before the date on your application. The second piece of evidence should then be dated at least six months before the date of the first piece of evidence, but within the **18 months** immediately before the date of your application. If a property is empty, you may still be eligible to apply. You will need to provide evidence that the property has been empty for no longer than 12 months from the date of your application and you occupied it for at least six months before it became empty. We would expect to see evidence of the date you left the property, together with two pieces of evidence showing that that property was occupied for six months before it became empty.
- We need two documents, which must be from different organisations. You can provide one document from list A and one document from list B, or two documents from list A. (See both lists below.) All documents must include all applicants' names and the address of the property, and must be originals or certified copies of paper statements (that is, not printed from the internet or from an electronic copy). This may mean you need to ask organisations for paper copies.

List A

- A recent, dated bank or building society statement displaying a date of issue, or showing transactions, from within the last three months. If you are not also using a bank or building society statement for evidence for criterion 5, you can blank out account numbers and figures.
- A mortgage statement
- A recent, dated credit card statement displaying a date of issue, or showing transactions, within the last three months
- Loan statements or a student loan statement
- Documents and correspondence about the State Pension, tax credits, Universal Credit or other benefits
- Private pension statements (if you currently receive a pension)

List B

- Utility bill (for example, gas, electricity, water or landline phone)
- Local authority tax bill (for example, council tax or business rates bill)
- Home contents insurance certificate for the address for the relevant period. If you want to submit this, you will also need to provide the buildings insurance certificate for the property for the same period (if they are separate), to show that you have both buildings and contents insurance as an owner-occupier.

We may ask for further proof to confirm statements and we may check the electoral roll or other sources to confirm statements you have made.

Examples of evidence that we cannot accept

- Provisional or full driving licence
- National Insurance card
- Mobile phone bills
- Letter from a GP, dentist or similar
- TV licence and other related documents

(We cannot accept the items in this list as they do not provide reliable proof of an address.)

Further evidence

If you are not an owner-occupier, you will also need to provide other evidence, as below.

Mortgage lenders

We will need:

- details of any mortgage roll or reference number and contact details of the bank or lender; or
- proof that you are a mortgage lender and confirmation that you can sell the property with vacant possession.

Personal representative of someone who has died

We will need:

- the death certificate, power of attorney, grant of probate, last will and testament and letters of administration; and
- if possible, evidence that the person occupied the property before their death (in line with the requirements for owner-occupiers set out above).

Reluctant landlords

- If relevant, a copy of all tenancy agreements for your new accommodation since you moved out of the property that the application relates to, including proof that the earliest tenancy agreement began after 11 March 2010 (Phase One), 28 January 2013 (Phase 2a) or 7 July 2016 (Phase 2b M18 route), or evidence of other living arrangements.
- Copies of any tenancy agreements in place for the property since you moved out
- If the property is currently vacant, evidence of marketing it for letting
- If the property is currently vacant, a council tax bill to prove it is vacant
- Proof that you are living at the property you are currently renting
- Proof that you lived at the property for at least six of the 18 months before you moved out

Criterion 2: Location of property

Briefly describe the location and characteristics of the property and its surroundings, including where it is in relation to the HS2 route. Please make sure you have read the guidance first.

Please include evidence that supports this description. For example:

- the filed plan held at the Land Registry (originals or certified copies);
- a plan of the agricultural unit (if this applies to your application);
- a map showing the exact location and outline of the boundary of the property, if it might be difficult to identify the boundary using just the address; or
- evidence that supports your statement above, such as photographs of the existing surroundings, maps, plans or drawings.

Criterion 3: Effort to sell and the effect of blight

Make sure you have read the guidance first. Please give details of the marketing advice you received for your property before you chose your estate agent. You must provide evidence of having approached **at least three** estate agents.

Estate agent's name, address and website address	Date you received the advice	Proposed price of the property

When was the property first placed on the market?

What was the initial asking price for the property?

What is the current asking price for the property? Please list all reductions that have been made to the asking price and when these took place.

.....

How has the property been marketed?

.....

.....

.....

How many viewings has the property had?

.....

Please provide details of any offers you have received for the property.

Date of offer	Estate agent the offer came from. (If it was a private offer, please write 'private offer'.)	Offer amount	Outcome and details

Give details of the estate agent currently marketing the property. (If more than one estate agent is marketing the property, please add details on a separate sheet.)

Estate agent's name:

Name of your contact there:

Branch address:

Phone number:

Email address:

I confirm the following:

I have approached at least three agents for marketing advice.

My property has been on the market for at least three months with one or more agents and I have reduced the asking price at least once.

I have received feedback from estate agents or possible buyers that HS2 is preventing the property from selling.

I have not received an offer within 15% of the unblighted asking price or, if I have, I can show that this offer was unreasonably low, specifically because of HS2.

I am not currently selling my property to anyone else and do not have any outstanding offers that I have not accepted or rejected at this time.

Please include evidence to support your answers. This evidence should be original documents (or certified copies) and should include the following items (if you have them). Please tick each item that you have provided.

Valuation and marketing proposal letters from estate agents you took advice from before putting the property on the market with the agents you chose.

Instruction letter from an estate agent (or estate agents, if you have appointed more than one).

Sole or joint agency or sales agreement (for example, your contract with your estate agent). **It is essential that you provide this.**

Proof of the date the estate agent began marketing the property (for example, correspondence from the estate agent, newspaper advert, website entry, promotions).

Sales details produced by current and previous estate agents for your property.

Evidence of marketing, such as adverts in local and national media, internet marketing using national or local websites, or evidence of a 'For Sale' board.

Feedback from viewings or from people who chose not to view the property. (This must come from the viewers themselves or from current and previous estate agents.)

Other letters and any other relevant documents your agent has sent you.

Evidence of offers you have received and the outcome of these.

If you have approached a number of recognised estate agents and they have all refused to market your property due to HS2, please provide all evidence of this. For example, this might include originals or certified copies of letters or printouts of emails in which agents say why they refuse to market the property, records of appointments with estate agents visiting your property and promotional materials addressed to you before the agent refused to market the property.

Criterion 4: No prior knowledge

On what date did you buy the property?

Please include evidence to support when you bought the property (or inherited it or received it in a settlement, for example). If the property is registered with the Land Registry, the copy of the title you have already provided for criterion 1 is enough – there is no need to provide two copies.

If you bought your property after 11 March 2010 (for Phase One), 28 January 2013 (for Phase 2a or 2b) or 7 July 2016 (Phase 2b M18 route), you will need to show further evidence that you could not have known that the HS2 route might be in the area of your property when you bought it. (For example, originals or certified copies of local authority search reports done as part of the conveyancing process, showing that they do not mention a proposed high-speed rail line.)

Criterion 5: Compelling reason to sell

Describe why you have a compelling reason to sell your property. Please read the guidance first. On pages 32 to 41 of the guidance, you will find examples of successful and unsuccessful applications under this criterion and the types of evidence you can provide for certain reasons to sell.

Please include relevant supporting evidence (either originals or certified copies). In the guidance, you will find examples of other applications we have received, which may help you understand what types of evidence the panel may expect to see in applications similar to your own.

Depending on the compelling reason you have told us about, examples of evidence can include:

- birth certificates, benefits statements and correspondence with schools or childcare providers;
- passports;
- official divorce documents;
- court orders, including orders to sell the property;
- utility bills (gas, electricity and so on);
- bills for council tax, telephone, fuel and other essential services;
- bank or building society statements;
- credit card statements or bills;
- payslips;
- statements issued by HMRC, such as a P60 or a P45;
- HMRC tax documents, for example, tax assessment, statement of account and notice of coding;
- mortgage statements and other correspondence from mortgage lenders;

- letters from health authorities and trusts, hospitals, medical consultants, GPs or dentists;
- audited company accounts (or accounts yet to be audited);
- letters from employers about redundancy, employment contracts and so on;
- receipts, invoices or other documents showing spending;
- statements of account for savings, ISAs, shares, bonds, share options and other financial products representing assets;
- death certificates, wills, grant of probate and letters of administration;
- correspondence from Government departments (that show, for example, that you receive benefits or other entitlements); and
- letters and other documents from qualified solicitors, accountants, barristers, chartered surveyors and other professionals.

If you download bank, building society or credit card account statements from an online banking facility and they do not contain your name, account number, or details of the bank or the logo, please provide evidence that you got this document from the bank, credit card company or building society and that it represents your account.

We will use the documents you provide as evidence, including those in the list above, as evidence for every statement you have made about why you consider that you have a compelling reason to sell your property to avoid an unreasonable burden (see 1.1.3 of the guidance). Three simple examples could be:

- a P45, offer letter from a new employer, and a copy of an employment contract confirming a job offer or a change in employment that involves a significant change in location;
- child benefit statements proving that there are children in the household and that they are your dependants; and
- signed and dated letters from lenders, a number of recent bank or building society (savings accounts) and mortgage statements, payslips, HMRC statements and a summary of your income and outgoings, which together provide full evidence of the financial difficulties you have described and how urgently they need to be resolved.

Financial matters

If your compelling reason to sell includes financial matters, it is very important that you provide official paperwork and records that give a complete picture of your finances. This includes full evidence of your income and outgoings, plus savings, loans, other assets and mortgages where relevant, and should cover an appropriate period before the date of your application (normally at least the last six months).

Job relocation

If you have included a change of job or job relocation in the reasons for your application, the panel and decision-maker would expect you to provide at least the following (originals or certified copies).

- An official signed letter to you confirming the job offer or relocation. This must be on headed paper and from a named person employed by whoever is offering you the job.
- Confirmation of this person's position and how they are involved in the recruitment or relocation process (if not given in the letter).
- Documents or correspondence that give details of where the job relocation is from and to, and the timescales involved.
- Documents or correspondence giving the reasons for the job move or the business case for the relocation, if possible.

Please tick the boxes for each section that you have filled in and provided evidence for.

Criterion 1: Type of property

Criterion 2: Location of property

Criterion 3: Effort to sell and the effect of blight

Criterion 4: No prior knowledge

Criterion 5: Compelling reason to sell

Please list, in order of the criteria, the supporting evidence that you are sending with this application form. Please use extra sheets if necessary.

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Please use extra sheets to provide any other information you think is relevant to your application, and enclose them with your application. Please number the extra sheets and say which criterion they relate to.

How many extra sheets have you used (not including supporting evidence such as copies of documents)?

How we will use your personal information

We and the Department for Transport will use the information you have provided on the application form only for the purpose of processing your application under the Need to Sell scheme.

We will not share your information with other organisations except to prevent fraud or if we have to do so by law.

We will return the original of this application form and all supporting documents to you and keep a copy for our records.

For more details on how we use your information, how we keep it secure, and your rights to access the information we hold, go to: www.hs2.org.uk/privacy-notice.

Where did you hear about the NTS scheme?

To help the Government understand how effective communications about the NTS scheme have been, please tell us where you first heard about the scheme.

National media

HS2 Ltd or Department for Transport staff

Local media

Word of mouth

Internet (including HS2 web pages)

Library or community venue

Public-consultation document or event

Anti-HS2 campaign group

Other

Sending your application

Please send your filled-in application form, along with all supporting evidence, in hard copy (paper format) to the address below. **This is not the same as the head office address printed on the cover of this document.** We strongly recommend you send your application using Royal Mail Special Delivery, but we do not insist on this.

High Speed Two Limited
Need to Sell Scheme team
The Podium
1 Evershot Street
London
NW1 2DN

HS2

High Speed Two (HS2) Ltd

Two Snowhill, Snow Hill Queensway

Birmingham B4 6GA

Freephone: 08081 434 434

Email: HS2enquiries@hs2.org.uk

CS1241 03/2023

www.hs2.org.uk

Thurrock Council Submission at Deadline 6 (D6) – Appendix H: HS2 Need to Sell Scheme
Lower Thames Crossing

Appendix I HAL Third Runway Interim Property Hardship Scheme

Lower Thames Crossing

Thurrock Council Submission at Deadline 6 (D6)

Appendix I: HAL Third Runway Interim Property Hardship Scheme

31 October 2023

Thurrock Council

 **thurrock.gov.uk**

Thurrock Council Submission at Deadline 6 (D6) – Appendix I: HAL Third Runway Interim Property Hardship Scheme
Lower Thames Crossing

Document Control Sheet

Project Name: Lower Thames Crossing

Report Title: Thurrock Council Submission at Deadline 6 (D6) – Appendix I: HAL Third Runway Interim Property Hardship Scheme

Doc Ref: -

Date: 31 October 2023

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Contents

HAL Third Runway Interim Property Hardship Scheme – Property & Land Acquisition and Compensation Policy (June 2019)

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**AIRPORT
EXPANSION
CONSULTATION**

***PROPERTY & LAND ACQUISITION
AND COMPENSATION POLICY***

***INTERIM PROPERTY HARDSHIP
SCHEME***

JUNE 2019

Heathrow



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1. INTRODUCTION

- 1.1.1 This document sets out the terms of the Interim Property Hardship Scheme which has been introduced by Heathrow in connection with its proposals for the development of a new north-west runway and associated infrastructure at Heathrow Airport currently being prepared for application for a Development Consent Order (“DCO”) under the Planning Act 2008 (the “Project”). It is intended that the document will inform interested parties, including applicants, regarding the principles and process of the Interim Property Hardship Scheme.
- 1.1.2 Heathrow has developed a set of discretionary property compensation schemes, including enhanced compensation, for which owners or occupiers of affected properties may be eligible. The schemes are set out in our Interim Property Policies, which we continue to consult on. We have prepared these interim property policies to explain our general approach to buying properties and land and set out the discretionary compensation offers available for eligible properties.
- 1.1.3 The Interim Property Hardship Scheme is one of our discretionary interim property policies and it aims to assist eligible property owners who have a compelling need to sell their property but have been unable to do so, except at a substantially reduced price, as a direct result of the proposals for the Project and as a consequence are facing significant hardship. Under the Interim Property Hardship Scheme, property owners who can demonstrate that they meet certain eligibility criteria will be able to have their property purchased by Heathrow.
- 1.1.4 Our discretionary interim policies are intended to supplement and operate in parallel with the existing statutory regime governing compensation for the compulsory acquisition of land. This Interim Property Hardship Scheme policy goes beyond the statutory compensation regime.
- 1.1.5 The Interim Property Hardship Scheme has been open to applications from 1 February 2017 and Heathrow has supported applications and purchases under the scheme since its opening. Following the Government’s designation of the Airports National Policy Statement on 26 June 2018 (the “Airports NPS”), Heathrow implemented an amended version of the Interim Property Hardship Policy in relation to those properties falling within the boundary of the area identified within the Airports NPS (the “ANPS Site Boundary”). The amended version of the Interim Property Hardship Policy has applied since 26 June 2018. The ANPS Site Boundary is shown on the map attached to this interim policy. A further copy of the map can be access at the following link

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/719224/annex-a-of-the-airports-nps-heathrow-north-west-runway-scheme-boundary-map.pdf.



- 1.1.6 This Interim Property Hardship Scheme policy has been developed and updated to take account of responses to our Airport Expansion Consultation One (January 2018). The interim policy as set out in this document now applies, superseding all previous versions.



2. OVERVIEW OF THE HARDSHIP SCHEME

- 2.1.1 Heathrow recognises that its proposals for the Project may create uncertainty for property owners in the local area and has introduced the Interim Property Hardship Scheme to ensure that there is assistance for eligible property owners who find themselves in a situation of significant hardship. The Interim Property Hardship Scheme is available to eligible property owners who have a compelling need to sell their property but have been unable to do so, except at a substantially reduced price, as a direct result of the proposals for the Project – and as a consequence are facing significant hardship.
- 2.1.2 To qualify under the Interim Property Hardship Scheme, a property owner will need to make an application demonstrating that they meet the eligibility criteria set out in paragraph 3 of this interim policy. An applicant who meets the eligibility criteria will be able to have their property purchased by Heathrow at its unaffected open market value (i.e. the market value ignoring any impacts from the Project on the property value and excluding any development value. For those properties falling wholly or partly within ANPS Site Boundary, further enhanced compensation will also be paid as set out in paragraph 4.7 below.
- 2.1.3 The Interim Property Hardship Scheme application process is illustrated in the flowchart in Appendix A: Interim Property Hardship Scheme Application Process Flowchart and explained in paragraph 4 of this interim policy. In broad terms, applications will be assessed by a majority independent panel (the “Panel”) to determine whether or not the eligibility criteria have been satisfied. On the basis of that assessment, the Panel will make a recommendation to Heathrow either to accept the application and offer to purchase the property or reject the application. Heathrow must follow the recommendation of the Panel, except Heathrow may (in its absolute discretion) still accept an application which the Panel decides does not meet all of the criteria, and which it therefore recommends be refused, in circumstances where Heathrow considers there is a strong overall case for doing so. If an application is accepted by Heathrow, then the property will be independently valued and Heathrow will make a formal offer to purchase it in accordance with the process set out in paragraph 4 below.
- 2.1.4 The Interim Property Hardship Scheme has been open to applications from 1 February 2017 and it will remain open until construction of the new north-west runway (described in the draft Government’s National Policy Statement for Aviation) has begun. At that point the need to continue a hardship scheme will be considered. The Interim Property Hardship Scheme and any associated agreements which have not yet been satisfied will cease in the event of the DCO application being refused, or a decision to not proceed with the Project.



2.1.5 The application form for the Interim Property Hardship Scheme is available by contacting the Heathrow Community Relations Team. The Heathrow Community Relations Team can be contacted via email on: communityrelations@heathrow.com or via phone on 0800 307 7996.

2.1.6 As noted above, the Interim Property Hardship Scheme is one of the discretionary compensation policies being put in place to supplement the statutory compensation regime. Before determining to apply to Heathrow under the Interim Property Hardship Scheme, owner-occupiers of residential properties may wish to consider whether they would be eligible for the compensation offer proposed within our discretionary interim property policies, which cover properties located within the Compulsory Purchase Zone (“CPZ”) and the Wider Property Offer Zone (“WPOZ”), please refer to our interim Property Policies for details. A map which identifies the CPZ and WPOZ boundaries is attached to this interim policy and can be also found at the following link which enables it to be reviewed in more detail:

aec.heathrowconsultation.com/topics/topic-groups/compensation/

Further information about the compensation offer for properties in the CPZ and WPOZ can be found at: aec.heathrowconsultation.com/topics/topic-groups/compensation/



3. **ELIGIBILITY CRITERIA**

3.1 **General approach**

3.1.1 To qualify to have a property purchased by Heathrow under the Interim Property Hardship Scheme, an applicant must satisfy ALL the five criteria set out in this section.

3.1.2 The five criteria fall under the following headings:

- (a) qualifying interest;
- (b) no prior knowledge;
- (c) proximity;
- (d) efforts to sell; and
- (e) hardship.

Each criterion is explained in turn below.

3.1.3 Applicants will need to provide evidence to demonstrate that they satisfy each individual criterion.

3.2 **(a) Qualifying interest**

3.2.1 An applicant must have a 'qualifying interest' in the property on the date on which the application is received by Heathrow (the "Relevant Date"). This means that the applicant must fall within one of the categories defined in paragraphs 3.2.2 to 3.2.7 below.

Owner-occupier of private residential property

3.2.2 To qualify as an owner-occupier of a private residential property, an applicant must on the Relevant Date:

- (a) be the freeholder or the long leaseholder under a tenancy for a certain term of years of which not less than three years remain unexpired; and
- (b) either:
 - (i) be living in the property and have owned and lived at the property as their main residence for at least the six months immediately before that date; or



- (ii) if the property is empty, have lived there for at least six consecutive months prior to it being empty provided that it has not been empty for more than 12 months prior to the Relevant Date.

Owner-occupier of small commercial premises

3.2.3 To qualify as an owner occupier of small commercial premises, being business premises with an annual rateable value not exceeding the amount prescribed by the Government for the service of a blight notice (which is currently £44,200 for the Greater London Area and £36,000 elsewhere), an applicant must on the Relevant Date:

- (a) own a freehold interest in the premises or a long leasehold interest under a tenancy for a certain term of years of which not less than three years remain unexpired; and
- (b) either:
 - (i) have owned the premises for at least the six months immediately before that date and operated a business from there throughout this time; or
 - (ii) if the premises are empty, have operated a business from there for at least six consecutive months prior to them being empty provided that the premises have not been empty for more than 12 months prior to the Relevant Date.

Owner-occupier of an agricultural unit

3.2.4 To qualify as an owner-occupier of an agricultural unit, an applicant must on the Relevant Date:

- (a) be a freeholder or the long leaseholder under a tenancy for a certain term of years of which not less than three years remain unexpired; and
- (b) either:
 - (i) have occupied the agricultural unit for at least the six months immediately before the Relevant Date; or
 - (ii) if the agricultural unit is not occupied, have occupied it for at least six consecutive months prior to it being empty provided that it has not been unoccupied for more than 12 months prior to the Relevant Date; and
- (c) have their main residence located on the agricultural unit.



Mortgagees

- 3.2.5 A mortgagee with a right to sell the property and who can give immediate vacant possession will have a qualifying interest.

Personal representatives

- 3.2.6 A personal representative of a deceased person who had a qualifying interest in the property at the time of death will have a qualifying interest.

Reluctant landlords

- 3.2.7 To qualify as a reluctant landlord, an applicant must on the Relevant Date:
- (a) own only one property, which they have then been forced to let in order to facilitate an essential relocation (see paragraph 3.6 below, which provides examples of potential circumstances that would give rise to a compelling need to sell; we consider these circumstances could also potentially give rise to a need for an essential relocation);
 - (b) not have become an owner-occupier of a separate property following the letting of the rented property;
 - (c) have lived in the property for at least six months before it was let; and
 - (d) not have let the property for longer than 12 months.

3.3 (b) No prior knowledge

- 3.3.1 On 17 December 2013, the scheme the subject of this interim policy (i.e. the north-west runway scheme at Heathrow Airport) was shortlisted by the Airports Commission in its Interim Report as one of three options to be investigated for increasing the UK's aviation capacity. There was considerable media coverage of the Interim Report and the short-listing of the north-west runway scheme both on and after the day of publication of the Interim Report. It is considered that from 17 December 2013 purchasers of properties in the local area could reasonably be expected to have been aware of the proposals for the Project and that a new north-west runway was a realistic prospect.
- 3.3.2 Applicants who acquired their property prior to 17 December 2013 will be deemed not to have had 'prior knowledge' of the prospect of new north-west runway when they made their purchase, and so will meet this criterion. It is considered that such applicants could not reasonably be expected to have been aware of the north-west runway proposals.



- 3.3.3 Applicants who acquired their property on or after 17 December 2013 will be presumed to have had ‘prior knowledge’ of the prospect of the new north-west runway when they made their purchase, and so will be presumed not to meet this criterion. Such applicants may provide evidence as part of their application to rebut this presumption by demonstrating that at the time of purchase they were unaware of the north-west runway proposals and could not reasonably have been expected to have known about them. Whether or not the evidence they provide demonstrates both that they were unaware and that they could not reasonably have been expected to be aware will be for the Panel to decide.

3.4 (c) Proximity

- 3.4.1 To meet this criterion, an applicant’s property must be located in such close proximity to the proposed north-west runway or associated infrastructure that it would be likely to be substantially adversely affected by the construction or operation of the runway.

- 3.4.2 Properties within the CPZ and WPOZ as shown on the map at:

aec.heathrowconsultation.com/topics/topic-groups/compensation/

and properties which fall wholly or partly within the ANPS Site Boundary (as shown on the ANPS site plan at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/719224/annex-a-of-the-airports-nps-heathrow-north-west-runway-scheme-boundary-map.pdf)

will be deemed to meet the proximity criterion.

- 3.4.3 In cases where a property is located outside the CPZ, WPOZ and ANPS boundaries, the Panel will consider whether or not the proximity criterion is met using their judgement. In exercising that judgement, the Panel must have regard to the following factors insofar as relevant to the application:

- (a) the distance of the property to the proposed north-west runway, associated infrastructure and future flight paths as currently understood;
- (b) the relationship of the property to the existing airport and other infrastructure, e.g. motorways and other major roads;
- (c) the particular characteristics of the property and the nature of the local area, including its position and surroundings;



(d) the likely impacts from the construction or operation of the north-west runway and associated infrastructure on the property and the locality in which it is situated; and

(e) any other matters that the Panel thinks are relevant.

3.4.4 An applicant whose property is outside the CPZ, WPOZ and ANPS boundaries can provide evidence concerning the proximity of their property to the proposed north-west runway or associated infrastructure and the impact from the construction or operation of these on the property, so as to inform the Panel's consideration of this criterion.

3.5 (d) Efforts to sell

3.5.1 An applicant must have made reasonable efforts to sell the property and not have received an offer within 10% of its unaffected open market value (ignoring any impacts from the Project on the property value and excluding any development value).

3.5.2 An applicant will need to provide evidence to demonstrate that reasonable efforts have been made to sell the property. This will normally mean being able to establish:

(a) that the property is on the market with a recognised local estate agent; and

(b) that prior to the application to the Interim Property Hardship Scheme, the property has been continuously marketed:

(i) for a minimum period of three months if the asking price is less than £450,000 or if the property falls wholly or partly within the ANPS Site Boundary (regardless of its value or asking price);

(ii) for a minimum period of six months if the asking price is between £450,000 and £1 million; and

(iii) for a minimum period of 12 months if the asking price is over £1 million; and

(c) that advice was sought from at least three recognised local estate agents as to a realistic current unaffected asking price and the asking price adopted in marketing the property reflected reasonable professional judgement about the sale price the property could be expected to achieve and was competitive in the market.

3.5.3 The minimum period for marketing higher value properties is longer than that which applies to lower value properties because it typically takes longer to sell a higher value property given the smaller market for them.



- 3.5.4 The purpose of the “efforts to sell” criterion is to identify whether the proposed northwest runway is the reason that a property has not sold or cannot be sold except at a substantially reduced price. An applicant should provide evidence such as feedback from viewings carried out during the marketing of the property and information received from estate agents demonstrating that potential purchasers did not want to view or consider the property due to the perceived impact of the north-west runway.
- 3.5.5 If an applicant has evidence that three local estate agents have refused to market the property due to the new north-west runway proposals, then the applicant will not be expected to demonstrate that the property has been fully marketed in the manner set out at paragraph 3.5.2 above.
- 3.5.6 It is recognised that ‘self-marketing’ - for example via a website that allows an owner to list and advertise their property themselves - might form part of an applicant’s efforts to sell. Whilst self-marketing would not be ignored in considering whether an application meets this criterion, it cannot replace the requirement that the property is being marketed by at least one recognised local estate agent. Applicants should note that self-marketing will carry less weight than evidence from a recognised estate agent.

3.6 (f) Hardship

- 3.6.1 An applicant will need to demonstrate that they have a compelling need to sell their property and that they would suffer significant hardship if they are unable to sell as quickly as might be expected were the new north-west runway not in prospect.
- 3.6.2 There is no definitive list of circumstances that would give rise to a compelling need to sell. Potentially eligible circumstances include:
- (a) Medical – where the applicant or a dependent or family member living in the property has or develops a medical condition which necessitates selling.
 - (b) Employment – where there is a need to relocate for a new or different job (evidenced by a contract of employment or equivalent) or due to the loss of a job (written evidence of the loss of a job).
 - (c) Family – where there is a need to move to accommodate a larger family,
 - (d) Financial – where there is a need to sell because of significant financial pressure, for example a requirement to divide assets as part of a divorce settlement or the dissolution of a civil partnership.



(e) Winding up of an estate – where the applicant is the personal representative of a deceased person who had a qualifying interest in the property at the time of death.

3.6.3 This is not an exhaustive list of the potential circumstances that will amount to a compelling need to sell but they are the main ones considered likely to meet the criterion. The Panel will consider each application on its merits using their judgement. Applicants should provide satisfactory evidence to demonstrate that their particular circumstances give rise to a compelling need to sell and that they would suffer significant hardship if they did not sell as quickly as might be expected were the new north-west runway not in prospect.



4. **EVALUATION, DECISION AND PURCHASE PROCESS**

This section of this document explains the process that will be employed to assess and determine applications made under the Interim Property Hardship Scheme and, where applications are successful, for the valuation and purchase of the eligible properties.

4.1 **Overview of the process**

4.1.1 The Interim Property Hardship Scheme has been designed to provide an impartial, transparent and fair process for applicants. The process consists of the following five main stages:

- (a) application submission;
- (b) Panel assessment of, and recommendation on, the application;
- (c) decision on the application by Heathrow;
- (d) pre-purchase valuation of the eligible property; and
- (e) purchase of the eligible property.

Each of these main stages is explained in further detail below and a flow diagram illustrating the process is contained in Appendix 1.

4.1.2 The Interim Property Hardship Scheme is a paper-based process and will be administered with the support of a Secretariat. The Secretariat will manage the processing of applications, support applicants in submitting complete applications, provide administrative support to the Panel, and ensure the proper functioning and operation of the Interim Property Hardship Scheme. The Secretariat will not be involved in assessing the merits of individual applications or in determining the recommendation to be made by the Panel in respect of applications. The Panel Guidance contains further information on the role of the Secretariat.

4.2 **(a) Application submission**

4.2.1 Applicants will need to submit a completed application form together with supporting evidence. A copy of the application form is available by contacting the Heathrow Community Relations Team via [email: communityrelations@heathrow.com](mailto:communityrelations@heathrow.com) or via phone on 0800 307 7996. The application must be sent either via email to communityrelations@heathrow.com or



via post to Heathrow Community Relations, The Compass Centre, Nelson Road Hounslow, TW6 2GW.

- 4.2.2 An application will need to be accompanied by satisfactory supporting evidence to demonstrate that the eligibility criteria, as set out above in paragraph 3, are met. It is the applicant's responsibility to supply sufficient supporting evidence with the application.
- 4.2.3 As soon as practicable after receiving an application, the Secretariat will provide a written acknowledgement of receipt to the applicant. The Secretariat will then check that all sections of the application have been completed and that supporting evidence has been provided to enable the Panel to assess the application. The Secretariat will not assess the merits of the application. The Secretariat may contact the applicant's estate agent(s) or other persons to independently verify information contained in the application.
- 4.2.4 If the Secretariat considers that the application is incomplete or does not contain supporting evidence, then the applicant will be contacted and asked to provide further information.
- 4.2.5 If the Secretariat considers that the application is complete, then it will notify the applicant to this effect.
- 4.2.6 Information within and accompanying an application under the Interim Property Hardship Scheme will be held in accordance with the requirements of the Data Protection Act 1998.

4.3 (b) Panel assessment of the application

- 4.3.1 As soon as practicable after notifying an applicant that their application is complete, the Secretariat will convene a meeting of the Panel to assess the application.
- 4.3.2 The Panel is a majority independent panel. For each application under the Interim Property Hardship Scheme, the Panel will be made up of five members comprising three independent members, one senior representative from Heathrow and one airline representative. The three independent members will be called upon by the Secretariat from a panel of suitably qualified and experienced members appointed to the Interim Property Hardship Scheme Panel.
- 4.3.3 The quorum for all meetings of the Panel is five members, which must include three independent members. Heathrow may (in using its absolute discretion) accept a 'positive' recommendation from an inquorate panel. One of the independent members will act as Chair of the meeting.



4.3.4 The Panel will assess each application to determine whether or not the eligibility criteria have been satisfied. On the basis of that assessment, the Panel will make a recommendation to Heathrow either to accept the application and offer to purchase the property or reject the application.

4.3.5 The Panel will determine its recommendation on a simple majority basis. This means that for each application the Panel's recommendation will be based on the views of at least three of the five Panel members. The Chair of the Panel will not have a casting vote and his or her view will carry no additional weight.

4.4 (c) Decision on the application

4.4.1 Heathrow is responsible for deciding whether to accept or refuse an application based on the recommendation of the Panel. Heathrow must follow the recommendation of the Panel, except Heathrow may (in its absolute discretion) accept an application which the Panel has concluded does not meet all of the criteria, and which it has therefore recommended be refused, where Heathrow consider there is a strong overall case for doing so.

4.4.2 Subject to the volume of applications submitted and the availability of Panel members, a decision on an application made under the Interim Property Hardship Scheme will normally be made within 12 weeks from the date on which the Secretariat has notified the applicant that their application is complete.

4.4.3 If an application is accepted by Heathrow, the applicant will be notified of this decision and that Heathrow agrees in principle to offer to purchase the property. Independent valuations of the property will then be arranged and carried out in accordance with the process set out below in paragraph 4.5.

4.4.4 If an application is refused, the applicant will be notified of this decision and given reasons why their application was not successful.

4.4.5 Applicants can re-apply under the Interim Property Hardship Scheme if there has been a material change in their circumstances or they are able to provide new or additional evidence that is relevant to the reason(s) why the original or previous application was refused. However, re-applications cannot be submitted (and will not be processed by the Secretariat) until three months have passed from the date on which the original or previous application was refused. A re-application that is submitted within six months of refusal need only address the criteria that were not met by the previous application and any that may have changed since the original application. If a re-application is submitted more than six months after refusal, the application must address all five criteria.



4.5 (d) Pre-purchase valuation

- 4.5.1 If Heathrow decides to accept an application, the Secretariat will arrange for the property to be independently valued.
- 4.5.2 Two valuations will be carried out. These valuations will be undertaken by two independent chartered surveyors, chosen from a panel of chartered surveyors who are familiar with the area and have appropriate expertise. The applicant will select one of the chartered surveyors from the panel; the other will be chosen from the panel by Heathrow. If the valuations are within 10% of each other (calculated by taking the difference between the two values as a percentage of the higher value), Heathrow will offer a price that is the average of the two. If the valuations differ by more than 10% (calculated by taking the difference between the two values as a percentage of the higher value), an additional valuation will be obtained from a third valuer, selected by Heathrow from the panel, and the offer made on the average of the closest two. If three valuations have been undertaken and there are no two closest figures (i.e. the highest and lowest figures are equidistant from the middle figure), the middle valuation figure will be used as the offer price. The costs of the valuations will be paid by Heathrow.
- 4.5.3 The panel of valuers have been appointed by Heathrow following an exercise to identify those who can demonstrate the resource, capability and local knowledge to undertake the valuations that may be required under the Interim Property Hardship Scheme. They are independent chartered surveyors registered with the Royal Institution of Chartered Surveyors (RICS) and have the competence and professional knowledge to undertake valuations. The valuations will be independent of Heathrow. The valuers will be instructed to provide an open market valuation of the property in accordance with RICS guidance.
- 4.5.4 As an alternative to using the panel, owners can choose to commission an independent valuation of their own. This must be undertaken on the same basis as Heathrow's own valuations and must take into account Heathrow's Interim Professional Fees Policy. Heathrow will take this as the owner's valuation. If an owner chooses to commission their own valuation, Heathrow will contribute a capped figure in accordance with the current panel rates towards the cost of this valuation. As before, in the event the two valuations differ by more than 10%, a third valuation from the panel will be introduced by Heathrow.
- 4.5.5 The valuation date will be the date Heathrow agrees to purchase the property. The valuation will be based on the unaffected open market value of the property (i.e. the market value ignoring any adverse effect from the north-west runway proposals) at that date.
- 4.5.6 The payment to be made by Heathrow would not include additional disturbance costs, such as the seller's agent and legal fees or removal costs unless the



property is located wholly or partly with the ANPS Site Boundary. This is because the property owner was already looking to sell their property and so would have expected to have to incur these costs in any event.

4.6 (e) Purchase

4.6.1 Following the pre-purchase valuation process described above in paragraph 4.5, Heathrow will make a formal written offer to buy the property as follows:

- (a) For properties outside the ANPS Site Boundary the offer will be to buy at the valuation price but with no additional premium on top.
- (b) Applications from persons of property which falls wholly or partly within the ANPS Site Boundary an enhanced compensation offer will apply as detailed in paragraph 4.7 below.

The offer will remain open for 6 months beginning with the date the offer is made.

4.6.2 If the offer is accepted by the property owner, the purchase process will be handled in the same way as a typical private house purchase. Following acceptance of the offer Heathrow will instruct its solicitors and property managing agents to proceed with the purchase process. Surveyors will be appointed to undertake structural and condition surveys. The surveyors will contact applicants directly to arrange inspections of the property.

4.6.3 Provided that the surveyor's report and legal report on title do not identify any serious issues, the solicitors will be instructed to complete the conveyancing process. If the survey results indicate that the valuation needs to be adjusted, the applicant will be notified of this and the independent valuers will be instructed to review the valuations in the light of the survey results. Heathrow will then revise its offer and issue a new offer letter as necessary.

4.6.4 If an offer made by Heathrow to purchase a property under the Interim Property Hardship Scheme is rejected, the property owner will be unable to reapply under the scheme. They will, however, still be able to apply under the Interim Residential Property Policy for the compensation offers that apply to properties in the CPZ or WPOZ (subject to meeting the eligibility criteria for such offers).

4.6.5 If at any time between the decision on an application and the exchange of contracts Heathrow becomes aware of any information or a material change in circumstances that would affect the decision about whether all the criteria in this interim policy are met or not, Heathrow reserves the right to review the decision and such review could result in the offer to purchase being retracted. In those circumstances, the applicant will be entitled to reapply under the Interim Property



Hardship Scheme so that their application reflects the change in circumstances or additional information.

4.7 Purchase of Property falling wholly or partly within the ANPS Site Boundary

4.7.1 The formal written offer which will be made by Heathrow to purchase a property under this interim policy which falls wholly or partly within the ANPS Site Boundary will comprise the total of the following enhanced compensation offer:

- (a) the unaffected open market value (excluding development value) of the property; plus
- (b) 25% home loss payment calculated by reference to the unaffected open market value (excluding development value); plus
- (c) Stamp Duty costs for purchase of a replacement home of equivalent value (not including the home loss payment); plus
- (d) reimbursement of reasonable legal fees and removal and other disturbance costs incurred for the sale of the existing property as well as for an associated purchase.

The calculation of the reasonable legal fees and disturbance costs will be based on the equivalent costs which would be payable to the applicant had the property been subject to a valid blight notice served as a consequence of the designation of the ANPS.

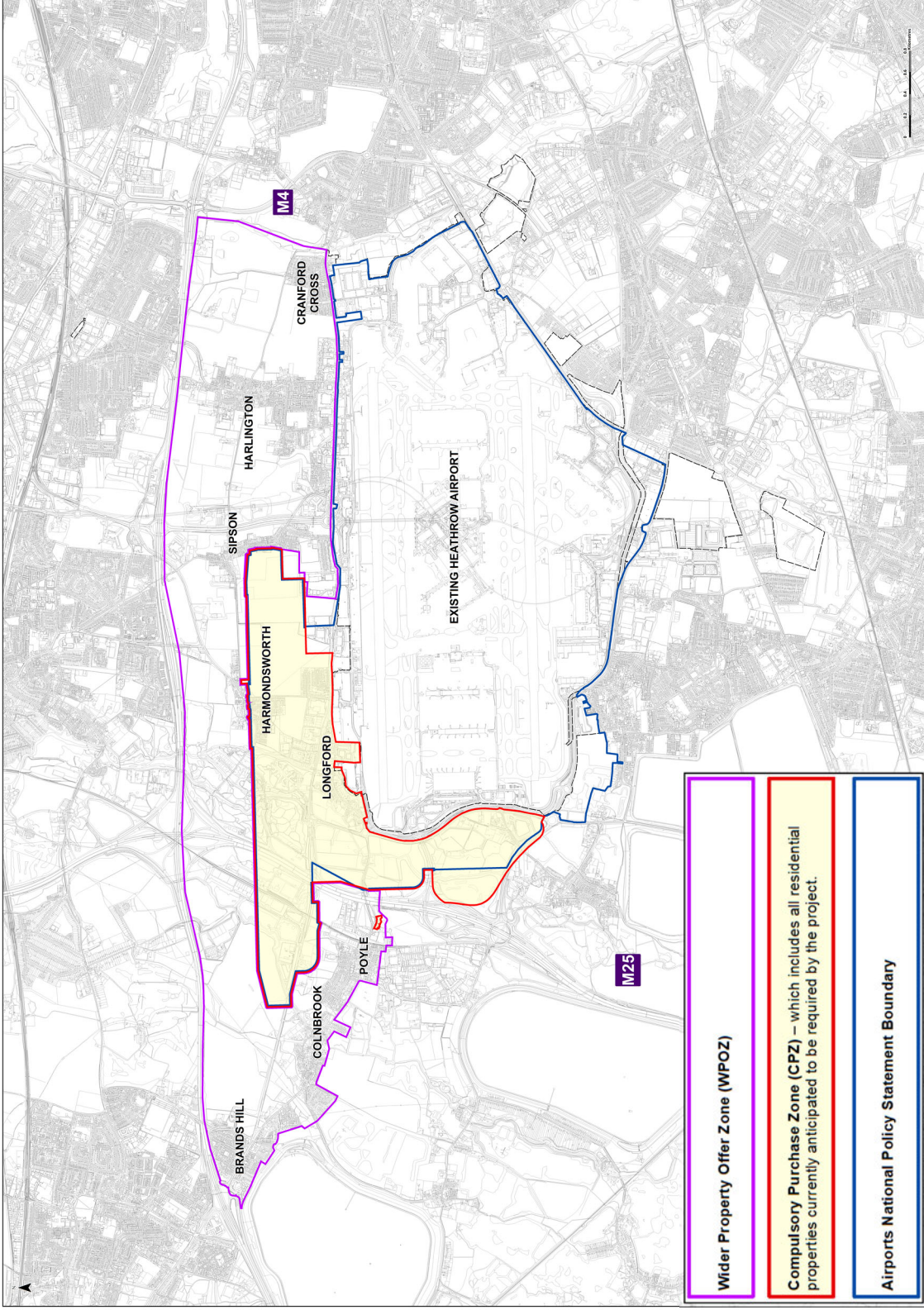


APPENDIX A: INTERIM PROPERTY HARDSHIP SCHEME APPLICATION PROCESS FLOWCHART





APPENDIX B: MAPS OF AREAS COVERED BY THIS INTERIM POLICY



There are lots of ways you can contact us or find out more



Find all the consultation information on our website
aec.heathrowconsultation.com



Email any questions about the consultation to
info@heathrowconsultation.com



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AIRPORT
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Heathrow

Thurrock Council Submission at Deadline 6 (D6) – Appendix I: HAL Third Runway Interim Property
Hardship Scheme
Lower Thames Crossing

Appendix J TT Exceptional Hardship Procedure

Lower Thames Crossing

Thurrock Council Submission at Deadline 6 (D6)

Appendix J: Thames Tideway Exceptional Hardship Procedure

31 October 2023

Thurrock Council

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Thurrock Council Submission at Deadline 6 (D6) – Appendix J: Thames Tideway Exceptional Hardship Procedure
Lower Thames Crossing

Document Control Sheet

Project Name: Lower Thames Crossing

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Date: 31 October 2023

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Contents

Thames Tideway Exceptional Hardship Procedure (March 2014)

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Thames Tideway Tunnel
Thames Water Utilities Limited



Application for Development Consent

Application Reference Number: WW010001

Exceptional Hardship Procedure

Update 11 March 2014

Doc Ref: **APP213.01**

Folder **262**
11 March 2014

DCO-DT-APP-ZZ200-130100

**Thames
Tideway Tunnel**



Creating a cleaner, healthier River Thames

Thames Tideway Tunnel

Exceptional hardship procedure

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List of abbreviations

AQL	acceptable quality level
EHP	Exceptional hardship procedure
ICP	Independent Compensation Panel
IAS	Independent Advisory Service
ICC	Independent Complaints Commissioner
LLAU	limits of land to be acquired or used

1 Introduction

- 1.1.1 This Exceptional Hardship Procedure (EHP) provides information for property owners whose property may be affected by the Thames Tideway Tunnel project (the 'project') proposals, and who have a pressing need to sell and are able to evidentially demonstrate this requirement.
- 1.1.2 This procedure was introduced as an interim scheme in August 2011 and has subsequently been amended to provide the same support for property owners throughout the lifetime of the project.
- 1.1.3 The procedure has also been amended to provide support for leasehold occupiers of business premises identified for temporary use as a construction work site in the Development Consent Order. In certain circumstances, applicants may request their lease be purchased outright, thereby removing the question of being required to return after the construction phase.

2 Purpose of document

- 2.1.1 This document is designed to outline the EHP. It explains:
- a. how the EHP will be managed
 - b. how applications can be made
 - c. the criteria on which they will be assessed
 - d. the procedure for completing purchases.
- 2.1.2 This document, and the associated application form and guidance, will be subject to review and amendment, through continual improvement, as required.
- 2.1.3 Reviews will be conducted on an annual basis, irrespective of any continual improvements, to ensure accuracy.

3 Planning and construction timeline

- | | |
|-------------------|-------------------------------|
| a. September 2010 | Phase one public consultation |
| b. November 2011 | Phase two public consultation |
| c. July 2012 | Section 48 Publicity |
| d. February 2013 | Application submission |
| e. 2015-16 | Commencement of construction |
| f. 2023 | Project due for completion |

4 Exceptional hardship procedure

4.1 Introduction

- 4.1.1 The Undertaker¹ recognises that, from the announcement of the project until it is completed, there will be uncertainty as to which properties may be substantially and adversely affected by construction or operation of the project.
- 4.1.2 This means that, in some cases, there may be a significant effect on properties in the immediate vicinity of the project construction sites in the period until the project has been completed.
- 4.1.3 Given this, the Undertaker has decided to introduce the EHP.
- 4.1.4 The EHP is available to eligible property owners who can demonstrate that they have a pressing need to sell but have been unable to do so, other than at a substantially reduced price as a direct result of the project.
- 4.1.5 The EHP is also available to eligible occupiers of premises to be used temporarily as part of a construction worksite.
- 4.1.6 Those property owners who apply to the EHP and meet the eligibility criteria can then have their property purchased by the Undertaker at its unaffected fair market value (that is, what the value of the property would have been without any adverse effect arising from the project proposals).
- 4.1.7 Those occupiers of premises to be used as a construction site who apply to the EHP and meet the eligibility criteria can have their leasehold interest purchased by the Undertaker at its unaffected fair market value and will also be entitled to claim compensation for disturbance in accordance with the Statutory Code².
- 4.1.8 The EHP is a discretionary procedure, and supplements the statutory rights of owners.
- 4.1.9 It recognises the importance of providing assistance for those property owners who are most severely affected by the project.
- 4.1.10 Every application under the provisions of this procedure will be subject to assessment by the Independent Compensation Panel (ICP). Further advice and clarification on this procedure can be obtained by contacting the Independent Advisory Service (IAS). These two services are discussed in more detail in Section 5.
- 4.1.11 The ID numbers next to the steps in the tables in Section 7 cross-refer to the procedural steps and paragraphs which follow it.

¹ For the purposes of this document, the 'Undertaker' means Thames Water Utilities Limited and any successors and statutory assignees.

² The Statutory Code refers to one or more of the following acts: Land Compensation Act 1961, Compulsory Purchase Act 1965, Land Compensation Act 1973, Acquisition of Land Act 1981, Planning Compensation Act 1991.

4 Exceptional hardship procedure

- 4.1.12 A help guide and application form can be found on the project's website, www.thamestidewaytunnel.co.uk

5 Independent advice and support

- 5.1.1 The Undertaker recognises that, in order to give confidence that the process is impartial and transparent in every respect regarding compensation, potential claimants will require independent advice and decision making regarding claims.
- 5.1.2 In order to assist individuals and ensure independent review of mitigation and compensation policies and processes, the Undertaker shall establish the following bodies:
- a. Independent Advisory Service (IAS)
 - b. Independent Compensation Panel (ICP)
 - c. Independent Complaints Commissioner (ICC)

5.2 Independent Advisory Service (IAS)

- 5.2.1 The IAS shall provide advice in respect of the EHP. It will advise individuals and other affected parties how to apply and whether they might qualify for the EHP and explain the role of the ICP. Staff at the IAS will be familiar with the *Book of Reference* and the application documents, including later submissions.
- 5.2.2 The IAS shall be independent from the Undertaker. The Undertaker will not be responsible for any advice given by the service. The full cost of setting up and operating the IAS will be met by the Undertaker.
- 5.2.3 The IAS shall be effective from February 2014 and run for the duration of construction. The Undertaker will publish details of the IAS and periodically advise local residents and small business owners about its availability through a newsletter. The IAS will be operated through a freephone helpline and email service.

5.3 Independent Compensation Panel (ICP)

- 5.3.1 The ICP shall be established by the Undertaker and consist of an independent chairperson with experience in the field of compensation and valuation and two additional members. These members will have expertise in the field of the claim and be chosen from the expert advisory panel detailed below on the basis of their specialty field.
- 5.3.2 The ICP shall receive advice from the expert advisory panel in relation to the following areas or professions:
- a. noise and vibration
 - b. transport
 - c. building surveying
 - d. quantity surveying
 - e. chartered engineering with experience of tunnelling projects in highly developed and complex urban environments

- f. chartered surveying
- g. medical advice from an appropriate qualified medical professional on the potential effects of exposure to noise and vibration on the health of individuals or groups of individuals
- h. legal advice.

5.3.3 In addition, the ICP may call on such other specialists as the chairperson may deem necessary from time to time to perform the role and functions of the ICP, which include:

- a. supervising the implementation of this procedure, the *Settlement information paper* and the *Non-statutory off-site mitigation and compensation policy*
- b. ensuring that the mitigation avoids *significant* observed adverse effects and, where provided for that purpose, then minimises adverse effects on the same receptor as far as reasonably practicable
- c. ensuring that the mitigation provided is of good design quality
- d. ensuring that all policies are effective and accessible, and recommending any necessary changes to improve the efficiency and effectiveness of the processes and procedures that they contain
- e. determining any claims or disputes arising out of all policies
- f. taking decisions with reference to the relevant policy and relevant guidance in codes of practice, British Standard BS 5228 and precedent from other equivalent projects.

5.3.4 The ICP shall be independent from the Undertaker and will run until construction of the project is completed. The Undertaker will not be responsible for any advice given or decisions made by the ICP. The full cost of setting up and operating the ICP will be met by the Undertaker.

5.3.5 The Undertaker shall publish details of the ICP and periodically advise local residents and small business owners about its availability through a newsletter.

5.3.6 Any dispute or request for a decision must be made in writing to the ICP, including full details, by either the Undertaker or the affected party. The panel will consider such requests within five working days of receipt and write to both parties, setting out the timetable for resolution. It may also request a site visit or further information.

5.3.7 EHP applications for consideration by the ICP must be submitted using the template proforma available from the IAS or the undertaker and found on the project website, www.thamestidewaytunnel.co.uk

5.4 Independent Complaints Commissioner (ICC)

5.4.1 The Undertaker shall arrange the appointment of an Independent Complaints Commissioner, whose role will be to ensure that the correct process has been followed where a claimant is not satisfied with the

response of the ICP. In such circumstances, a claimant can raise the matter formally with the commissioner, who will then evaluate the ICP's decision-making process in that case. Should the commissioner find that due process has not been followed, then the application will be returned for re-evaluation by the ICP.

6 EHP criteria

6.1 Introduction

6.1.1 To qualify to have your property purchased under the EHP, you should be able to answer yes to all of the following five questions.

6.2 Property interest

Q. 1) Do you have a qualifying interest in the property which you wish the Undertaker to buy?

6.2.1 The definition of a qualifying interest covers:

- a. owner-occupiers (to include freeholders and long leaseholders) of private residential properties
- b. owner-occupiers of business premises with an annual rateable value not exceeding £34,800
- c. occupiers of premises which are identified for temporary use as a construction worksite
- d. mortgagees (ie, banks and building societies) with a right to sell a property and who can give immediate vacant possession
- e. personal representatives of a deceased person who had a qualifying interest at the time of death.

Residential owner-occupiers

6.2.2 You must either be living in the property at the date on which the application is received and must have owned it and lived in it as your main residence for at least six months before that date; or

6.2.3 if the property is empty, you must have lived there for at least six months prior to it being empty, so long as it has not been empty for more than 12 months.

6.2.4 If you are a long leaseholder, the tenancy must be granted for a certain term of years, not less than three years of which remain unexpired on the date of an application under the EHP.

Owner-occupiers of business premises

6.2.5 You must hold a freehold or long leasehold interest in the premises at the date on which the application is received and must have owned it for at least six months before that date, and have operated a business of which you are the sole proprietor or principal shareholder from there throughout this time; or

6.2.6 if the property is empty, you must have operated a business, of which you are the sole proprietor or principal shareholder, from there for at least six months prior to it being empty, so long as it has not been empty for more than 12 months.

Occupiers of premises identified for temporary use

- 6.2.7 You must hold a leasehold interest in the premises which has at least three years to run at the date on which the application is received.
- 6.2.8 You must be in occupation of the premises or, if it is empty, be able to show that you have occupied it for at least six months prior to it being empty, so long as it has not been empty for more than 12 months.

6.3 Location of property

Q. 2) Is your property directly affected by the project proposals, or in such close proximity to the project that it would likely be substantially adversely affected by the construction or operation of the new infrastructure?

- 6.3.1 Any property must be situated within 100 metres of the limits of land to be acquired or used (LLAU) in order to satisfy this criterion within the scope of this document.
- 6.3.2 However, in considering the question above, the particular characteristics of the property, including its position and its surroundings (for example, whether there is other built development between the property and the project infrastructure), will be considered when forming a view as to the degree to which it would be affected by the project.
- 6.3.3 Occupiers of premises identified for temporary use must show that all or a significant proportion of the premises are identified within the LLAU and are not identified for permanent acquisition in the Development Consent Order.

6.4 Effort to sell

Q. 3) Have you made all reasonable efforts to sell your property and still not received an offer within 15 per cent of its unaffected open market property value (that is the price it would most likely have achieved other than for the project proposals, assuming a normal or unpressured sale period)?

- 6.4.1 The purpose of this criterion is to identify whether or not and, if so, the extent to which, the reason a property has not sold is because of the effect of the proposed project on its sale prospects rather than any other factor.
- 6.4.2 The requirement that all reasonable efforts should have been made to sell a property and that, despite those efforts, no offers have been received within 15 per cent of its unaffected open market value helps to demonstrate any such effect.
- 6.4.3 This is because if a property is appropriately priced and marketed, it should ordinarily (ie, without the effect of a proposed project) receive an offer and that offer should be within 15 per cent of its open market value. Coupled with this, there is an expectation that applicants should accept an offer within 15 per cent of their property's unaffected open market value because it is not uncommon for there to be a difference between the open

market value of a property and prices offered for it, and because the applicant has an urgent need to sell.

6.4.4 In considering this criterion in relation to applications under the EHP, the panel will take into account the performance of the current housing market and the efforts that sellers would ordinarily have to make in such circumstances, particularly if they needed to sell their property urgently.

6.4.5 With this context in mind, 'all reasonable efforts to sell' is defined as including:

- a. having made reasonable attempts to obtain the current unaffected open market value for the property (that is the price it would most likely have achieved other than for publication of the project proposals) and ensuring the asking price reflects professional advice as to that value and is competitive for the market it is in
- b. the property having been actively marketed, preferably with at least one Royal Institute of Chartered Surveyors qualified estate agent, for a minimum of three months
- c. being able to demonstrate, through positive actions, a willingness to review and, where appropriate, revise the asking price and marketing strategy for the property, particularly in the light of advice from the estate agent and/or feedback from potential buyers.

6.4.6 Occupiers of premises identified for temporary use will not be required to go through or meet the Efforts to Sell criteria.

6.5 No prior knowledge

Q. 4) Did you buy your property before you could be reasonably expected to have been aware of the project proposals?

6.5.1 Provided the property was acquired prior to 27 March 2013 (the date the application for development consent was accepted), you will meet this criterion.

6.5.2 You may also qualify if you can demonstrate that you purchased your property before it could have been reasonably possible for you to have known about the project proposals which would have the effect on your ability to sell the property.

6.6 Exceptional hardship

Q. 5) Do you have a pressing need to sell your property and would you suffer exceptional hardship if you had to wait until the project has been completed (expected to be in 2023)?

6.6.1 There is no definitive list of circumstances which might potentially give rise to such a need, but examples include as follows:

- a. Domestic – there is an urgent need to move to a larger or different house due to changed family circumstances

- b. Employment – a need to relocate to take up a new or different job, outside reasonable commuting distance
- c. Financial – there is a significant external financial pressure that necessitates a sale, for example, the need to realise assets in conjunction with a divorce, dissolution of a civil partnership or other individual personal circumstances, to release capital in connection with a business, or to avoid threatened repossession
- d. Medical condition – where the applicant, or a dependant living in the affected property, has developed a medical condition which necessitates selling. Examples would include a severe disability causing inability to negotiate stairs, loss of mobility, or a requirement to go into sheltered accommodation, to co-locate with family members, or to move to a long-term nursing home due to infirmity or ill health.

6.6.2 For occupiers of premises identified for temporary use, the hardship criteria will be met in the event that the planned temporary occupation of the premises by the Undertaker extends beyond a period of 24 months.

6.6.3 Any application from an occupier of premises identified for temporary use for a period shorter than 24 months will be considered on its merits and determined at the absolute discretion of the ICP.

7 Procedure

Table 7.1 Overall procedure

ID	Activity	Responsible person	AQL	Methods of review	Reviewing person
7	Exceptional hardship property purchase procedure	Property Manager	100% of the time	Annual inspection	Operations Manager

Table 7.2 Procedural steps

ID	Activity	Responsible person	AQL	Methods of review	Reviewing person
7.2.1	Submit application	Applicant	100% for each application	Ongoing	Compensation Coordinator
7.2.2	Application form and evidence	Applicant	100% for each application	Ongoing	Compensation Coordinator
7.3	Review application	Compensation Coordinator	100% of the time, within 3 days of receipt of application	Ongoing	ICP
7.4.1	Consider application	ICP	100% of the time, within 5 days of the receipt of a checked application	Ongoing	Property Manager
7.4.3	Notification to the project	ICP	100% of the time, within 5 days of a recommendation from the ICP	Ongoing	Property Manager
7.5.1	Notify applicant	Compensation Coordinator	100% of the time, within 3 days of the project review notification	Ongoing	Property Manager

ID	Activity	Responsible person	AQL	Methods of review	Reviewing person
7.5.3	Obtain valuations	Independent valuers	100% of the time, providing values within 10 days of tasking from Compensation Coordinator	Ongoing	Property Manager
7.5.4	Make and agree offer	EHP Applicant	90% of the time, reaching legal instructions within 21 days of valuations being offered	Ongoing	Property Manager
7.6	Take ownership and manage site	Facilities Manager	95% of time, taking ownership within 8 weeks from legal instructions being reached	Ongoing	Property Manager

1 day = 1 working day

7.1 Stage one

- 7.1.1 Complete the application form and submit it together with supporting evidence, using the Exceptional Hardship form.
- 7.1.2 Applicants are asked please to submit as much evidence as they can to support the application (eg, copies of correspondence with estate agents, employers or medical staff) as this will enable your application to be processed more quickly.

7.2 Stage two

- 7.2.1 The project appointed Compensation Coordinator will acknowledge your application and review it to ensure that it is complete and contains the required information.
- 7.2.2 If information or evidence is missing, you will be contacted and asked to provide it.
- 7.2.3 In addition, it is very likely that your estate agents will be contacted while other information regarding your application may be independently verified.

7.3 Stage three

- 7.3.1 Completed applications will be submitted to the ICP for its consideration.

- 7.3.2 The members of each panel will be independent of the Undertaker.
- 7.3.3 A recommendation to either accept or refuse the application will be made by the panel. Ultimately, a determination by the ICC will be final and binding.

7.4 Stage four

- 7.4.1 If the ICP recommends that the Undertaker should offer to buy your property, you will be notified.
- 7.4.2 You will be notified by the Compensation Coordinator if you are successful or unsuccessful, detailing the reasons why (in the case of an unsuccessful application).
- 7.4.3 If you are successful, independent valuations of your property will be arranged to establish an offer. The average of two valuations will be used to inform the offer for your property. In circumstances where the two valuations are more than 10% apart, a third valuation will be sought and the outlier discarded from the process to establish the offer price.
- 7.4.4 If you are an occupier of premises identified for temporary use as a construction worksite, you will be invited to submit a detailed claim for compensation in accordance with the Statutory Code.
- 7.4.5 The Compensation Coordinator will then write to you with a formal offer to buy your property.

7.5 Stage five

- 7.5.1 For occupiers of premises identified for temporary use as a construction site, there will then ensue a period of negotiation of the compensation claim with the Undertaker's representative, under the guidance of the ICP. If negotiations are not concluded to the satisfaction of the applicant, a complaint may be made to the ICC.
- 7.5.2 On the completion of the purchase, the Undertaker will take ownership and management of the property.

8 Timeframes

8.1.1 Timeframes provided in this document are targets.

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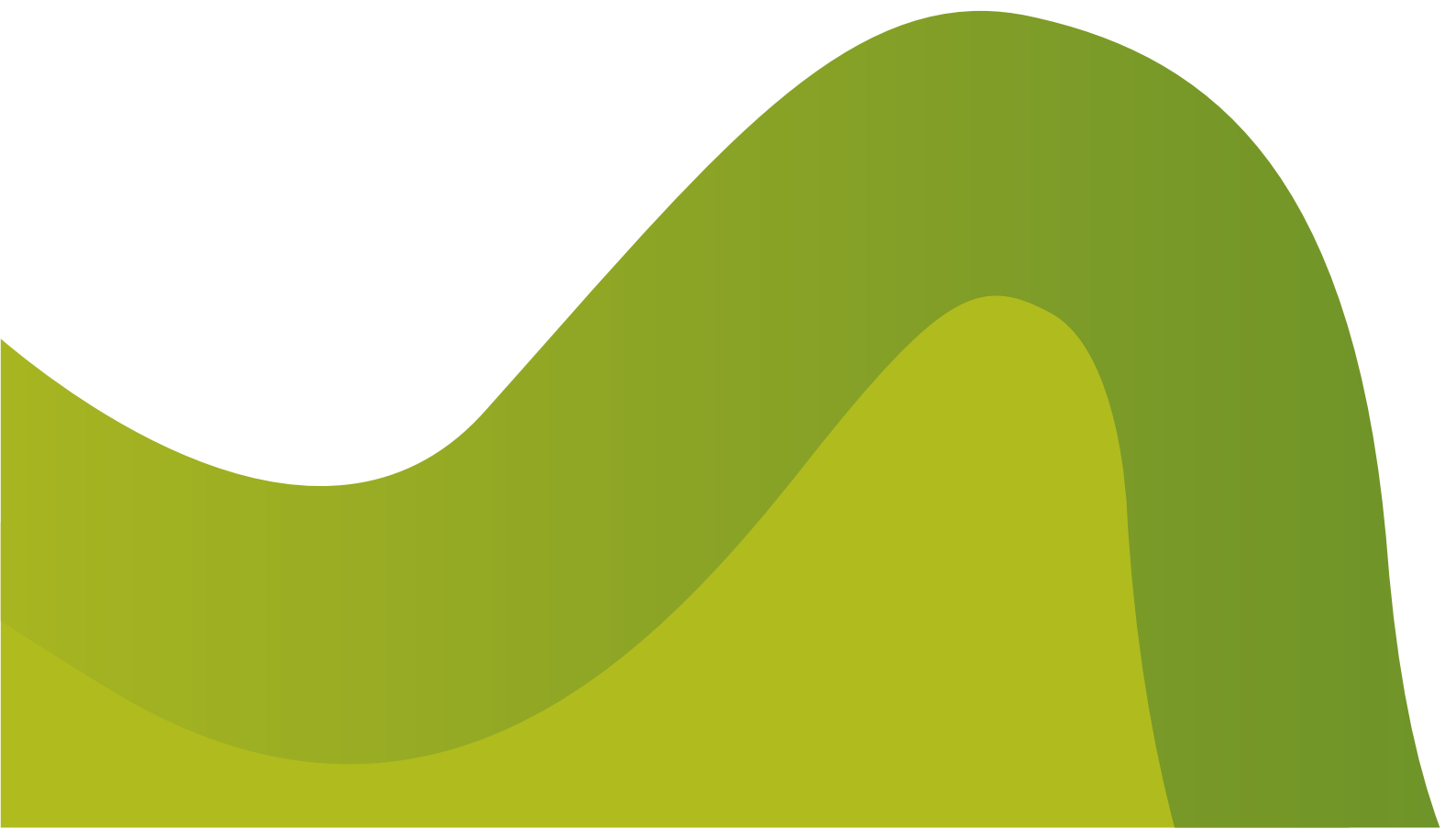
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Thames Water Utilities Limited

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Thurrock Council Submission at Deadline 6 (D6) – Appendix J: Thames Tideway Exceptional
Hardship Procedure
Lower Thames Crossing

Appendix K Non-Statutory Off-Site Mitigation and Compensation Policy

Lower Thames Crossing

Thurrock Council Submission at Deadline 6 (D6)

**Appendix K: Thames Tideway: Non-Statutory Off-Site Mitigation and
Compensation Policy**

31 October 2023

Thurrock Council

 **thurrock.gov.uk**

Thurrock Council Submission at Deadline 6 (D6) – Appendix K: Thames Tideway: Non-Statutory Off-Site Mitigation and Compensation Policy
 Lower Thames Crossing

Document Control Sheet

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Contents

Thames Tideway: Non-Statutory Off-Site Mitigation and Compensation Policy (October 2017)

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Non-statutory Off-site mitigation and compensation policy

This updated document has replaced APP 210.01

November 2015

Revised October 2017



**Thames
Tideway Tunnel**



Creating a cleaner, healthier River Thames

Thames Tideway Tunnel Non-statutory off-site mitigation and compensation policy

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1 Introduction

- 1.1.1 Thames Water recognises that those who live or work close to the Thames Tideway Tunnel project (the 'project') construction sites could be affected by the construction works. In the first instance, the Undertaker¹ will minimise the significant and adverse impacts from construction² at source as far as reasonably practicable by means of onsite mitigation as required by the project's *Code of Construction Practice (CoCP)*.
- 1.1.2 The *Non-statutory off-site mitigation and compensation policy* (the 'Policy') covers those affected by the construction of the project due to the following:
- a. dust (in terms of compensation)
 - b. light interference (in terms of compensation)
 - c. noise (in terms of mitigation and compensation)
 - d. vibration (in terms of mitigation and compensation)
 - e. in combination effects (in terms of discretionary mitigation and compensation)
 - f. other impacts of the works unique to the individual making the claim (in terms of discretionary mitigation and compensation).
- 1.1.3 Those who may qualify under the Policy include:
- a. owner occupiers
 - b. residential tenants
 - c. independent residential landlords
 - d. businesses
 - e. special case properties such as houseboats, mobile homes, sheltered housing, care homes and non-residential sensitive buildings such as schools and hospitals (discussed in more detail in Section 7)
 - f. special cases such as shift workers, vulnerable persons who are housebound and those with medical conditions that it is proven could be exacerbated by exposure to noise or vibration (discussed in more detail in Section 7).
- 1.1.4 The control of potential impacts arising from dust, noise, vibration, and light (refer to 1.1.2) to avoid significant effects are addressed in the *CoCP*. Compensation for any residual damage or loss is covered in Section 8 of the Policy.

¹ For the purposes of this document, the 'Undertaker' means Thames Water Utilities Limited and any successors and statutory assignees.

² As defined in the Environmental Statement update report, the Noise Policy Statement for England 2010 and the emerging national Planning Practice Guidance.

- 1.1.5 Controls to avoid significant observed adverse noise effects at businesses are also addressed in the *CoCP*. Compensation for any residual damage or loss is covered in Section 8 of the Policy.
- 1.1.6 In some situations, however, having exhausted mitigation on site it may not be possible to avoid significant observed adverse effects from noise³. Under the Policy the Undertaker will prepare and where accepted by the beneficiary, implement mitigation or provide compensation for such situations.
- 1.1.7 Examples of what may be offered under the Policy include:
- a. installation of secondary glazing and additional ventilation, enabling windows to be kept closed, to provide additional noise insulation during the construction works
 - b. a support package that reflects ongoing costs associated with managing a property differently during the works
 - c. cost and expense of temporary relocation or rehousing for houseboats during certain phases of the construction programme
 - d. short-term respite accommodation if unacceptable disruption were to be experienced due to, for example, short periods of exposure to combined noise and vibration
 - e. an offer of financial compensation to cover:
 - i additional property management costs such as window cleaning, cleaning, security, insurance
 - ii temporary reduction of business profits
 - iii temporary reduction in the value of property
 - iv additional travel costs and car parking charges
 - v costs of installing blackout blinds
 - vi any cost or loss which arises as a direct consequence of the construction of the project
 - vii fees and costs associated with making a successful claim.
- 1.1.8 The Undertaker has already identified the residential properties predicted to experience significant adverse effects due to the construction works. These are set out in the *Environmental Statement*⁴ (*ES*) which supports the application for development consent.
- 1.1.9 Through the *ES*, engagement with stakeholders and public consultation, the Undertaker has also identified other properties that, although not

³ As defined in Noise Policy Statement for England 2010 and emerging National Planning Practice Guidance – noise.

⁴ 'Environmental Statement' means the Environmental Statement for the Development (January 2013) together with the Errata to the Environmental Statement (September 2013), and the Environmental Statement Update Report (March 2014), all submitted by Thames Water Utilities Limited to supports its application for development consent.

predicted to experience 'significant adverse impacts', are in close proximity to sites or access routes and are considered to be special cases (special cases are covered in Section 7).

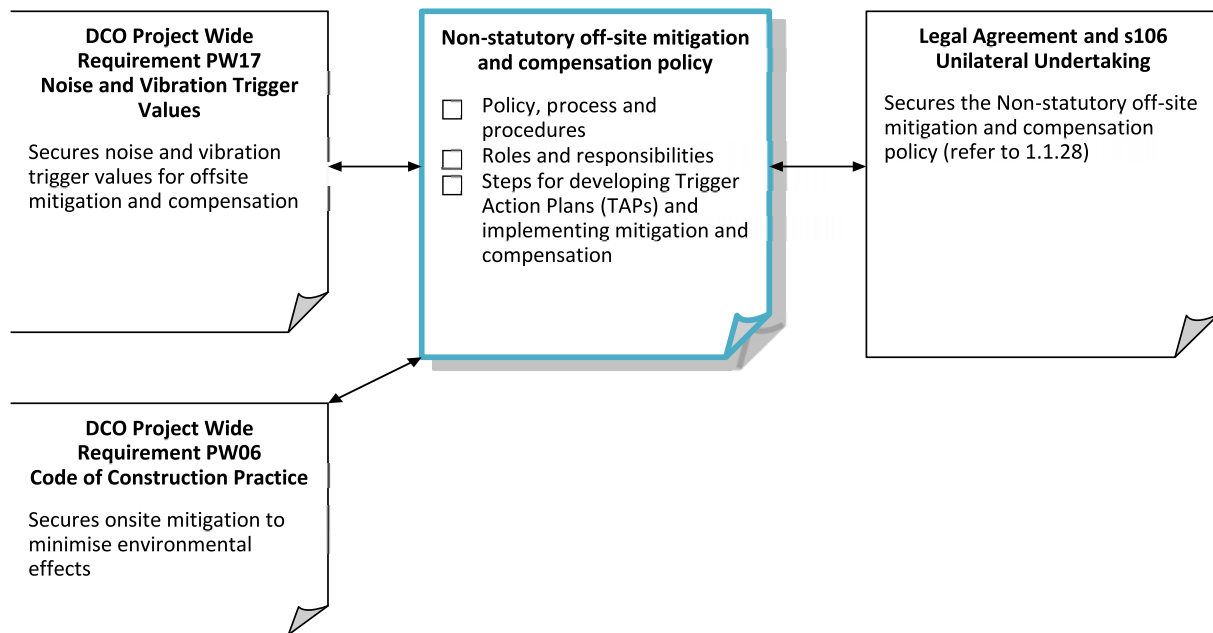
- 1.1.10 The Policy introduces Trigger Action Plans (TAPs), which are detailed in Section 3. These plans shall define both noise and/or vibration trigger values and the planned mitigation package to be implemented in the event of adverse effects being predicted to occur. The TAPs will be individually produced and capture a set of agreed actions that address the particular concerns of property owners and occupiers involved in each case.
- 1.1.11 For properties that qualify for a TAP, the Undertaker shall actively engage with each of the identified parties to discuss, explain and manage the available information and work with them to identify, offer, agree and (where accepted) implement appropriate mitigation through a TAP.
- 1.1.12 The trigger values contained within this policy may be amended in line with any alterations made to project-wide requirement PW17 in the draft development consent order by the Secretaries of State in granting development consent for the project.
- 1.1.13 The Undertaker shall use reasonable endeavours to obtain all relevant consents required to undertake the works defined in the TAPs. For example, the types of consent required may include:
 - a. planning permissions
 - b. listed building consents
 - c. consent from the landowner
 - d. consent from the landlord
 - e. building regulations.
- 1.1.14 The Undertaker shall not permit any individual work or works, forming part of the development in respect of which mitigation or compensation measures are required, to commence unless, and until, those measures have been fully implemented. This restriction will not apply where
 - a. access to property for the purpose of implementing or completing the mitigation or compensation measures is refused or unreasonably delayed by the owner or occupier
 - b. any person entitled to the measures fails to comply to timescales imposed as part of this process
 - c. the owner or occupier of the property which qualifies for mitigation or compensation measures objects or confirms in writing to the Undertaker that they do not wish those measures to be implemented
 - d. any necessary consents required to complete works are not forthcoming and as a result temporary rehousing is offered and refused
 - e. any owner or occupier of the property refuses to be temporarily rehoused where that is the mitigation or compensation measure that

they are entitled to under the terms of the Policy.

- 1.1.15 All finalised TAPs will be appended to this policy and shall be shared with the Independent Advisory Service (IAS) and act as a precedent on which further TAPs can be prepared and agreed. The IAS is described further in Section 2.
- 1.1.16 The Undertaker will actively engage property owners and occupiers who qualify for a TAP, and will actively promote the Policy in the lead up to commencement of construction of the project to ensure that all special cases (refer to Section 7) are covered by the Policy.
- 1.1.17 The Undertaker will continue to identify, and respond to requests for owners and occupiers to be treated as special cases and prepare additional TAPs as may be necessary.
- 1.1.18 Individuals who believe they have a claim may discuss this with the Undertaker directly or the IAS.
- 1.1.19 Despite all proactive engagement before construction commences, there may be circumstances in which individuals come forward once works have begun who seek to be treated as special cases under the Policy (eg shift workers). The Policy will remain valid until one year after construction or until all claims under the policy have been settled.
- 1.1.20 With or without mitigation measures in place, the Undertaker recognises that financial damage or loss could arise as a direct consequence of construction activity. A procedure for claims for damage and loss is in place to process and settle such claims expeditiously (see Section 8).
- 1.1.21 The Undertaker recognises that individuals may require some assistance working through this and other compensation policies; therefore the IAS, an independent organisation, will provide advice to the public relating to the Policy. Individuals are encouraged to contact this service to discuss their particular cases on 0800 917 8845 or info@tidewayias.co.uk.
- 1.1.22 The Undertaker shall also establish an Independent Compensation Panel (ICP) composed of compensation and technical experts. The panel members will perform a number of functions but will primarily supervise the implementation of the various policies and determine any disputes arising out of the policies. The IAS and ICP are discussed in more detail in Section 2.
- 1.1.23 Where parties are not satisfied with the response from the ICP they can ask the Independent Complaints Commissioner (also described in Section 2) to review the decision-making process for that case.
- 1.1.24 Any award in respect of a claim for financial compensation shall be subject to the claimant having a reasonable, valid and evidentially supportable claim which arises as a direct consequence of the Undertaker's activities in respect of the project and having sought to reasonably mitigate any loss or damage.

1.2 Wayfinding and signposts to other documents

- 1.2.1 The Policy brings together the following previous Thames Water policies:
- a. *Noise insulation and temporary rehousing policy*
 - b. *Non-statutory mitigation compensation procedure*
 - c. *Non-statutory disturbance compensation procedure*
- 1.2.2 The Undertaker will maintain separately the following other existing non-statutory compensation policies:
- Exceptional Hardship Procedure
 - Settlement Information Paper
- 1.2.3 The Policy is outside the statutory regime for compensation and is entered into voluntarily by the Undertaker. However, it shall initially be secured through a legal agreement with the relevant London Borough and subsequently through a Section 106 unilateral undertaking to be entered into after the grant of development consent. The following image shows the relationship between the documents.



1.3 Fees

- 1.3.1 The Undertaker recognises the potential for claimants to incur costs to pursue a claim under the Policy. Where claims are successful, the claimant shall be entitled to submit evidence of reasonable costs to the ICP and request reimbursement from the Undertaker.
- 1.3.2 The Undertaker accepts that the IAS may advise a claimant to pursue a course of action under one of the compensation policies that is eventually unsuccessful. In circumstances where a claimant receives such advice and appoints a professional adviser to help pursue a claim, that advisor should seek a fee agreement with the Undertaker.
- 1.3.3 In the event that a claim is unsuccessful, reimbursement shall be subject to a cap not exceeding £500 plus VAT. The ICP will determine the reasonableness of such costs and claimants are strongly advised to make this clear to any advisors they may appoint in connection with non-statutory compensation claims against the Undertaker.

2 Independent advice and support

- 2.1.1 The Undertaker recognises that in order to give confidence that the process is impartial and transparent in every respect regarding compensation, potential claimants will require independent advice and decision making regarding claims.
- 2.1.2 In order to assist individuals and ensure independent review of mitigation and compensation policies and processes, the Undertaker shall establish the following bodies:
- a. Independent Advisory Service (IAS)
 - b. Independent Compensation Panel (ICP)
 - c. Independent Complaints Commissioner (ICC)

2.2 Independent Advisory Service (IAS)

- 2.2.1 The IAS shall provide advice in respect of the Policy, the *Settlement information paper* and the *Exceptional hardship procedure*. It will advise individuals and other affected parties how to qualify for these policies and explain the roles of the ICP and ICC. Advice will be available to individuals and other affected parties, such as schools and communities generally, who either are entitled or believe they may be entitled to mitigation or compensation under any of the relevant policies.
- 2.2.2 The IAS shall be independent from the Undertaker. The Undertaker will not be responsible for any advice given by the service. The full cost of setting up and operating the IAS will be met by the Undertaker.
- 2.2.3 The IAS shall be effective from February 2014 and run for the duration of construction. The policy will remain valid until one year after construction or until all claims under the policy have been settled. The Undertaker will publish details of the IAS and periodically advise local residents and small business owners about its availability through a newsletter. The IAS will be operated through a freephone helpline and email service.
- 2.2.4 Individuals are encouraged to contact this service to discuss their particular cases on 08000 30 80 80 or info@tidewayias.co.uk.

2.3 Independent Compensation Panel (ICP)

- 2.3.1 The ICP shall be established by the Undertaker and consist of an independent chairperson and two additional members. The chairperson should have experience in the field of compensation and valuation, or environmental health and the management of major infrastructure projects. The two additional members will be chosen from the expert advisory panel detailed below on the basis of their specialty field.

- 2.3.2 The ICP shall receive advice from the expert advisory panel in relation to the following areas or professions:
- a. Noise and vibration
 - b. Transport
 - c. Building surveying
 - d. Quantity surveying
 - e. Chartered engineering (Mechanical, Structural, Electrical and Civil) with directly relevant experience including tunnelling projects in highly developed and complex urban environments
 - f. Chartered surveying
 - g. Medical advice from an appropriate qualified medical professional on the potential effects of exposure to noise and vibration on the health of individuals or groups of individuals
 - h. Legal advice.
 - i. Exceptional hardship specialists
- 2.3.3 In addition, the ICP may call on such other specialists as the chairperson may deem necessary from time to time to perform the role and functions of the ICP, which include:
- a. supervising the implementation of the Policy, the *Settlement information paper* and the *Exceptional hardship procedure*
 - b. ensuring that the mitigation avoids significant observed adverse effects⁵, and where provided for that purpose then minimises adverse effects on the same receptor as far as reasonably practicable⁶
 - c. ensuring that the mitigation provided is of good design quality, durable, sustainable and meets all relevant requirements (for example building regulations)
 - d. ensuring that the mitigation provided minimises as far as practicable any consequence adverse impact (eg enabling windows that can currently be opened can still be opened if the beneficiary wishes to do so even though the additional ventilation will be provided to enable windows to be kept closed to provide noise mitigation during the noisier works)

⁵ A significant effect identified using the assessment methodology defined in the *Environmental Statement* where the forecast noise levels exceeds the relevant day, evening or night assessment category 'C' in line with the Noise Policy Statement for England (Department for Environment, Food and Rural Affairs (Defra) 2010 and emerging National Planning Practice Guidance 2013)

⁶ The performance (in all respects) of noise insulation should be equal or better than the performance of the insulation package defined in the Noise Insulation (Railways and Other Guided Systems) Regulations 1996 and all mitigation shall aim to meet the design aims set out at Appendix B as far as reasonably practicable.

- e. ensuring that all policies are effective and accessible and recommending any necessary changes to improve the efficiency and effectiveness of the processes and procedures that they contain
 - f. determining any claims or disputes arising out of all policies; the decision of the ICP will be final and binding on the Undertaker, save for the ability of the Undertaker or the relevant party to refer the decision of the ICP to the ICC for its consideration
 - g. taking decisions with reference to the relevant policy and relevant guidance in codes of practice, British Standard BS 5228 and precedent from other equivalent projects
 - h. giving assurance to the local authority that the Undertaker has fulfilled its obligations under this policy
- 2.3.4 The Undertaker and its appointed contractors shall provide such information and assistance as may be requested by the ICP in order to progress cases expeditiously.
- 2.3.5 The ICP shall be independent from the Undertaker and will run throughout construction. The Policy will remain valid until one year after construction or until all claims under the policy have been settled. The Undertaker will not be responsible for any advice given or decisions made by the ICP. The full cost of setting up and operating the ICP will be met by the Undertaker.
- 2.3.6 The Undertaker shall publish details of the ICP and periodically advise local residents and small business owners about its availability through a newsletter.
- 2.3.7 If an affected party has a dispute they wish to be resolved they must first inform the Undertaker to allow for a resolution to be reached. If the parties cannot agree on a satisfactory resolution then the dispute can be referred to the ICP; this can be done by either the affected party or the Undertaker.
- 2.3.8 Any dispute or request for a decision must be made in writing to the ICP. It may be made by the Undertaker, the affected party or a key stakeholder (such as the relevant London Borough). Subject to panel member's availability, the ICP will seek to consider such requests within 10 working days of receipt and write to both parties setting out the timetable for resolution. It may also request a site visit or further information.
- 2.3.9 The ICP will seek to have the Minutes of the meetings of the ICP published on the Projects Website and circulated to the Councils, the IAS and ICC within seven days of any meeting being held. This is however subject to the availability of ICP members for review and sign-off of minutes. Minutes will be published as soon as possible after that target date if the seven day period cannot be achieved.
- 2.3.10 Throughout the project the ICP will regularly review the Policy and where changes are recommended, the ICP will consult the Undertaker and relevant London Boroughs for approval prior to implementing what must be mutually acceptable improvements.

2.4 Independent Complaints Commissioner (ICC)

- 2.4.1 The Undertaker shall arrange for the appointment of an Independent Complaints Commissioner, whose role will be to ensure that the correct process has been followed where a party is not satisfied with the response of the ICP. In such circumstances, the party can refer the decision-making process for review by the commissioner, who will then evaluate the ICP's decision-making process in that case. Should the commissioner find that due process has not been followed, then the claim will be returned for a re-evaluation by the ICP.

3 Trigger action plan (TAP)

- 3.1.1 The *CoCP* requires the contractor to implement all mitigation on-site that are the best practicable means to minimise noise and vibration. This reduces and generally avoids the need for noise insulation, temporary rehousing or other off-site mitigation.
- 3.1.2 Where on-site mitigation has been exhausted and this has been confirmed by local authority consent⁷ but significant adverse noise effects⁸ remain, then off-site mitigation and compensation measures will be developed and offered to landowners and occupiers. Off-site mitigation measures will be formalised through a TAP agreed between the Undertaker and occupier and/or owner.
- 3.1.3 Each TAP will define noise and/or vibration trigger values and the mitigation package that will be implemented in the event that the trigger values are predicted to be, or are, reached⁹. The purpose of the plan is to ensure that specific mitigation measures are identified and agreed and that all relevant consents are in place so that, if required, the mitigation can be implemented quickly before the construction activity that necessitates the measures commences.
- 3.1.4 TAPs shall be prepared for the properties that meet the following criteria:
- residential properties identified in the *ES* as being potentially significantly affected for certain periods of time
 - 'special cases' as defined in Section 7 of the Policy
 - directly adjacent properties if the affected facade of those properties (ie, facing the works) is contiguous or forms part of a series of contiguous facades.

⁷ Under Section 61 of the Control of Pollution Act 1974

⁸ A significant effect identified using the assessment methodology defined in the *Environmental Statement* where the forecast noise levels exceeds the relevant day, evening or night assessment category 'C' in line with the Noise Policy Statement for England (Department for Environment, Food and Rural Affairs (Defra) 2010 and emerging National Planning Practice Guidance (2013).

⁹ And in the event that a TAP is 'pre triggered' before construction and the relevant Section 61 consents.

3 Trigger action plan (TAP)

- 3.1.5 TAPs are not required for other receptors, except special cases (Section 7). This is because section 2.1 of the *CoCP* requires¹⁰ environmental effects from the contractor's detailed proposals and works to be no worse than those reported in the *ES*. A property not identified as being subject to a significant adverse impact in the *ES* cannot therefore later become significantly affected; therefore no TAP is required.
- 3.1.6 It is recognised that special cases may arise at any time during the construction period. For those parties who believe they may be a special case (or are aware of a potential special case) and who have not been contacted by the Undertaker they should contact the IAS in the first instance.
- 3.1.7 Each TAP shall comprise:
- a. introduction (to receptor and the project)
 - b. trigger values for noise and/or vibration, where applicable (see Section 3.2)
 - c. mitigation measures to reduce the predicted effects below the trigger values
 - d. programme for notification and implementation of the mitigation measures should they be required
 - e. programme for monitoring of performance of mitigation during works
 - f. corrective actions in the unforeseen event that measured noise or vibration were to reach the trigger values without required off-site mitigation being in place¹¹.
- 3.1.8 Mitigation shall be specific to each receptor and consider options such as:
- a. temporary or permanent noise barriers (e.g. at the property boundary or on adjacent council land, subject to relevant permissions, such as the acrylic barriers noted in the *CoCP* at Carnwath Road Riverside and Chambers Wharf)
 - b. modifications to balcony balustrades/parapets to provide local noise barriers and reduce internal noise levels in the property
 - c. noise insulation (with a bespoke package where required in response to the construction of the building design) to provide a noise reduction and ventilation performance equivalent to the standard package defined in the noise insulation regulations¹²
 - d. temporary rehousing as an option of last resort, where other mitigation is not practicable or will not be effective
- 3.1.9 The TAP shall be prepared by the Undertaker through engagement and

¹⁰ See Section 2 of the *CoCP* Part A

¹¹ If measured construction noise or vibration exceed the trigger values in a TAP, then the noise or vibration at the receptor will be kept below the relevant trigger value until the mitigation required by the TAP or temporary rehousing is implemented (subject to the caveats in para. 1.1.14).

¹² Noise Insulation (Railways and Other Guided Systems) Regulations 1996

- consultation with the beneficiary and the relevant local authority and be issued to the beneficiary for agreement. It will also be submitted to the ICP for approval or any modifications.
- 3.1.10 Any dispute between parties shall be referred to the ICP for resolution. The ICP's decision shall be final and binding on the Undertaker (save for the right for either party to seek redress through the ICC).
- 3.1.11 For residential property, the trigger values are defined in Section 4.
- 3.1.12 For special cases (Section 7), trigger values will be defined considering the following factors (among others):
- a. the nature of the affected property's use, eg, educational, place of worship, musical or theatrical performance
 - b. the specific use of affected rooms and external spaces
 - c. the vulnerability of any affected persons residing in or using the property (with particular attention to those who are housebound or suffering from a medical condition that could be exacerbated by increased noise or shift working)
 - d. the current noise level in the affected rooms or external spaces
 - e. the affected individual's circumstances
 - f. the current external noise levels¹³
 - g. the nature of the construction activities proposed and the duration of noise impacts
 - h. existing published literature on recommended internal noise levels for that particular property use or vulnerable group to avoid significant observed adverse effects (refer to Appendix B).
- 3.1.13 The TAP shall identify all necessary permissions and consents required to implement the mitigation. The Undertaker shall use its reasonable endeavours to obtain these consents required to undertake the works defined in the TAPs.
- 3.1.14 The TAP will set out the Undertaker's maintenance and repair obligations together with any agreement with a beneficiary for removal and reinstatement following completion of the construction works for the project, if that is what the beneficiary wishes.
- 3.1.15 The TAP shall be implemented by the Undertaker. The Undertaker's contractors will be aware of the plan when developing the construction programme and in any application for consent to the relevant local authority under Section 61 of the Control of Pollution Act 1974. In the event that it is not reasonably practicable to reduce predicted noise or

¹³ Where the short-term attended monitoring carried out as part of preparing a TAP demonstrates that the existing noise levels could equal or exceed the trigger values for the relevant property or its users, then longer term noise monitoring will be carried out to robustly establish the baseline and trigger values to be adopted. The method statement for the longer term noise monitoring will be agreed in writing with the local authority or, in the event of any disagreement, the ICP.

vibration below the trigger values in the TAP, as accepted by the relevant local authority under a Section 61 consent, then the contractor will implement the mitigation package set out in the TAP in full before commencing the works that would exceed the trigger values¹⁴. This is subject to the caveats listed in para. 1.1.15 and obtaining the necessary consents (para 3.1.13).

- 3.1.16 The TAP shall also set out the corrective actions that the contractor will take in the unplanned event that monitoring during the construction demonstrates that the trigger values are being or are expected to be exceeded.
- 3.1.17 Steps for developing and implementing the TAPs are further defined in Section 5 of the Policy.
- 3.1.18 A schedule of TAPs to be produced, including for special cases, can be found in the Legal Agreement undertaking which secures the Policy. For more information on those properties please contact the IAS.

3.2 Pre-triggering of TAPs

- 3.2.1 Recognising that some parties will experience in combination effects over extended durations which cannot be addressed through on-site mitigation measures, off-site mitigation packages and associated works (or alternatives as agreed by the beneficiary) will be proactively offered to some owners/occupiers based on the following criteria:
 - a. buildings or other communities with vulnerable residents
 - a. residents located directly adjacent to the site and subject to noise and other effects in combination, such as secondary limited views, reduced light or single aspect dwellings
 - b. schools or other sensitive receptors subject to combined effects
- 3.2.2 Details of the noise insulation packages that will be formalised through TAPs will not include noise or vibration thresholds which must be exceeded in order to trigger the noise insulation. Rather, the Undertaker commits to offer the noise insulation without a trigger level for the relevant owners and occupiers.
- 3.2.3 Pre-triggered TAPs are identified in the Schedule of Trigger Action Plans appended to the Legal Agreement which secures the Policy.

¹⁴ The Undertaker may, at its discretion, 'pre-trigger' a TAP; for example: for buildings occupying vulnerable residents; residents located directly adjacent to the site and subject to noise and other effects in combination, such as secondary limited views, reduced light or single aspect dwellings; or schools or other sensitive receptors subject to combined effects.

4 Qualification (residential property)

4.1.1 The trigger values contained within this policy are secured in project-wide requirement PW17. The levels recorded in Table 4.1 and the other provisions of this section will be amended in line with any alterations made to project-wide requirement PW17 in the draft development consent order, by the Secretaries of State in granting development consent for the project.

4.2 Airborne noise

4.2.1 Noise insulation (or equivalent other mitigation as described at 3.1.8) and temporary rehousing will be provided where the predicted or measured noise at a receptor exceeds the trigger values in Table 4.1.

Table 4.1 Airborne noise trigger values for noise insulation¹⁵ and temporary rehousing for residential property

Day	Time	Averaging period, T	Noise insulation trigger value dB $L_{Aeq,T}$	Temporary rehousing trigger value dB $L_{Aeq,T}$
Mondays to Fridays	7am to 8am	1 hour	70	80
	8am to 6pm	10 hours	75	85
	6pm to 7pm	1 hour	70	80
	7pm to 10pm	1 hour	65	75
Saturdays	7am to 8am	1 hour	70	80
	8am to 1pm	5 hours	75	85
	1pm to 2pm	1 hour	70	80
	2pm to 10pm	1 hour	65	75
Sundays and Public Holidays	7am to 10pm	1 hour	65	75
Any day	10pm to 7am	1 hour	55	65

¹⁵ For the avoidance of doubt, noise insulation will also be triggered where a significant effect is identified using the assessment methodology defined in the *Environmental Statement* and forecast noise level exceeds assessment category C defined in the *Environmental Statement*, even if the duration trigger values in paragraph 4.1.5 are not exceeded.

- 4.2.2 The trigger values shown in Table 4.1 do not apply where the ambient noise level is greater than the noise insulation trigger value. In such cases, where the ambient noise level (in the absence of construction noise) exceeds the relevant noise insulation trigger value shown above, then:
- a. the ambient noise level shall be used as the construction noise level required to trigger insulation, and
 - b. the ambient noise level +10dB shall be used as the temporary rehousing trigger value.
- 4.2.3 Unless otherwise agreed with the relevant local authority, noise levels will be measured or predicted in accordance with the methods set out in British Standard 5228ⁱ (as updated in 2014).
- 4.2.4 All construction noise levels will be predicted or measured at a distance of 1m from any affected eligible facade, which must have windows to bedrooms or living rooms.
- 4.2.5 Further to this, noise insulation (or the reasonable costs thereof against agreed bills) will only be offered to owners or occupiers who can demonstrate that the property can lawfully be occupied as a permanent dwelling and if the following apply:
- a. The predicted or measured noise level exceeds the noise trigger value for noise insulation at the property for at least ten days out of any period of 15 consecutive days or alternatively for 40 days in any six-month period
 - b. Noise insulation does not already exist that is of an equivalent standard to that which would be allowed for under the Noise Insulation (Railways and other Guided Systems) Regulations 1996 (the '1996 Regulations')
 - c. If grants for noise insulation works in accordance with the Land Compensation Act 1973 have not already been paid.
- 4.2.6 Temporary rehousing (or the reasonable costs thereof) will be offered to legal occupiers, if :
- a. The predicted or measured noise level exceeds the noise trigger value for temporary rehousing at that property for at least ten days out of any period of 15 consecutive days or alternatively for 40 days in any six-month period
- 4.3 Groundborne noise and vibration including combined effects (during works)**
- 4.3.1 Appreciable vibration will be generated by only a few construction activities and generally only when carried out in close proximity to a property. In the majority of cases, the significant adverse effects of

vibration can be avoided by changing the construction method or the detailed implementation of the method, as required by the *CoCP*, and ensured by a Section 61 consent from the local authority. High levels of vibration are therefore unusual and of short duration and will not necessarily constitute a significant adverse effect based on the methodology defined in the *ES*.

- 4.3.2 As a protective contingency, vibration trigger values above which occupants would be exposed to a significant observed adverse effect¹⁶ shall be defined (as required) in the relevant TAP. This is for receptors close to cofferdam construction as a contingency in the event that the local authority were to grant Section 61 consent for an alternative pile driving method as push piling was impossible (as defined in *CoCP*).
- 4.3.3 Since exposure above the trigger thresholds is unlikely and would be of short duration, exceeding the values set in each TAP will trigger temporary respite accommodation (eg, short-term accommodation in a hotel or equivalent).
- 4.3.4 The facility to provide temporary respite accommodation will be arranged in advance of works that can generate significant observed adverse effects due to vibration. The Undertaker shall increase engagement with occupiers in the lead-up to and during the activity, particularly when the activity first commences. This will be supported by continuous monitoring of noise and vibration. In the event that residents report unacceptable disruption during the activity due to vibration or combined effects of noise and vibration¹⁷, and monitoring confirms that project activities are the source, then temporary respite accommodation will be arranged on a case-by-case basis for the duration of the disruption.
- 4.3.5 Consistent with the Government's noise policy (as defined in Defra's Noise Policy Statement for England, 2010), emerging National Planning Practice Guidance and British Standard 6472-1, trigger values are defined at the threshold for significant observed adverse effect levels (SOAEL) for groundborne vibration and noise inside properties. For noise, exceeding the relevant SOAEL is used as the basis for triggering the provision of noise insulation measures (refer to Section 4.1 of the Policy). However, there are no equivalent insulation measures to reduce vibration levels entering buildings. The Undertaker will therefore avoid people being exposed to significant observed adverse vibration effects for any period longer than one day by providing temporary respite measures.

¹⁶ Noise Policy Statement for England, Defra (2010) and emerging National Planning Practice Guidance – Noise.

¹⁷ For example: Airborne noise and groundborne vibration, airborne noise and groundborne noise, or airborne noise and waterborne noise (for houseboats).

- 4.3.6 Based on information published by High Speed 2 Ltd¹⁸, the following groundborne vibration and noise levels are considered to be SOAELs.
- 4.3.7 Temporary respite will be triggered if:
- a. the predicted or measured vibration exceeds the following trigger values set at the centre of any floor inside the property (highest vibration):
 - i Daytime (7am to 11pm): a vibration dose value (VDV_b) of 0.8m/s^{1.75}
 - ii Night-time (11pm to 7am): a vibration dose value (VDV_b) of 0.4m/s^{1.75}.
 - b. the predicted or measured groundborne noise exceeds as 45 dB L_{ASmax} measured near, but not at, the centre of any room in a property
 - c. the predicted or measured groundborne noise or vibration exceeds the relevant trigger value for a period exceeding one day.

5 Noise insulation or equivalent mitigation

5.1 The process

- 5.1.1 The relevant powers granted to responsible authorities by Regulation 8 of the 1996 Regulations shall be also adopted, as far as relevant and consistent with the Policy. Where these regulations do not apply, eg, cases under Section 7 of the Policy, then specific measures will be developed under the relevant TAP to provide equivalent benefit to the measures defined in the regulations.
- 5.1.2 The Undertaker shall notify in writing the owners and/or occupiers of the identified property that a TAP is to be prepared for their property.
- 5.1.3 The Undertaker shall then make arrangements for specialists to carry out a noise and condition survey of the eligible property. The survey is required to assess the specific details of the property, taking into account any existing features such as double and secondary glazing. The Undertaker will assess existing glazing and ventilation already present in an eligible room and consider what additional insulation work may be required. The survey will include acoustic measurements.
- 5.1.4 Reasonable access must be granted to the Undertaker to complete the survey(s). The Undertaker shall make every practical effort to obtain necessary consents for such access. If access is not granted to the property and appropriate surveys cannot be carried out, then the Undertaker will not be able to put a TAP in place. In such cases, the Undertaker will not be precluded from carrying out the construction works

¹⁸ HS2 London to West Midlands. Environmental Statement 2013. Appendix SV-001-000: Sound, Noise and Vibration: Methodology, Assumptions and Routewide Assessment.

that would give rise to the need to provide appropriate mitigation or compensation.

- 5.1.5 Once the survey(s) are complete, the Undertaker shall confirm specific details of the insulation, or other mitigation, package and identify any additional mitigation measures to be installed under the Policy and any associated work. The specific insulation package shall be defined in the TAP. For example, for secondary or double glazing to be completely effective it should be provided with additional ventilation and or blinds to comply with the specifications in the 1996 Regulations, Schedule I. As described in Section 4, the requirement for insulation defined in the relevant TAP will be confirmed when the contractor secures Section 61 noise consent for its works from the local authority.
- 5.1.6 Once prepared, the TAP will be formally offered to the beneficiary¹⁹ in writing for acceptance. Any acceptance of a formal offer under the Policy must be made in writing by the beneficiary to the Undertaker. The offer letter shall include a timeframe in which to respond. This is because, should the offer be acceptable, then the Undertaker will need to make arrangements to ensure that mitigation measures are put in place prior to the commencement of the construction activity that leads to the need for that mitigation. In the event that agreement cannot be reached, then the TAP shall be submitted to the ICP for approval or any modifications.
- 5.1.7 Where (a) the offer of noise insulation is accepted and insulation is to be installed by the Undertaker (as opposed to being dealt with through the grant scheme, see below) and (b) the Undertaker is allowed appropriate access to the property but insulation is not installed before an activity which results in a qualification of noise insulation commences, then the contractor may not proceed with that activity (see paragraph 1(b) of the Section 106 unilateral undertaking).
- 5.1.8 Any TAP agreed between the Undertaker and a beneficiary shall go to the ICP for ratification.
- 5.1.9 The Undertaker shall be responsible for obtaining all necessary third-party consents for this work to be undertaken. Where required these will include, for example, planning permission, listed building consents, conservation area consents, building regulations approval and the building owner's consent. These consents will be updated as required in the event of any change in circumstances, for example, a change in tenant.
- 5.1.10 Where, due to the nature or type of building, noise insulation cannot reasonably be installed, affected owners and occupiers shall qualify under the temporary rehousing section of the Policy (Section 6).

¹⁹ Beneficiary means the occupier of the property to which the TAP relates.

- 5.1.11 The Undertaker will ensure that the individual or groups of individuals have the opportunity to discuss the implications of the TAP directly with the Undertaker and will also provide the details of the IAS should they wish to seek independent advice.
- 5.1.12 Once final construction noise levels have been determined and approved by the relevant local authority, the owners and occupiers of properties where the need for mitigation set out in a TAP is triggered shall be notified by the Undertaker in writing. In order that noise insulation, or other equivalent mitigation, is installed before the works that result in the need for noise insulation are started, and to ensure that this doesn't delay the contractor, it may be necessary for the contractor to obtain Section 61 consent for works up to six months or more in advance or for the Undertaker to 'pre-trigger' the TAP (ie commit to proving the mitigation in the TAP without waiting for the confirmation of detailed construction noise levels by a Section 61 consent). The programme for implementing the mitigation or rehousing will be set out and agreed in the TAP so that the Undertaker, contractor and local authority are clear on the 'lead time' for installing the off-site mitigation and this can be taken into account in planning submission dates for Section 61 consents or determining whether to 'pre-trigger' any TAPs.
- 5.1.13 The works shall be monitored throughout to ensure compliance with all commitments, consents and TAPs.
- 5.1.14 In the event that predicted noise levels change and the rehousing trigger value is not exceeded before those works that would previously have triggered an obligation to offer temporary rehousing commence, then the occupier may choose to proceed with rehousing or remain in their dwelling. This is in recognition of the fact that occupiers may make preparations on the basis of the initial predicted noise levels and TAP and it would be unfair to expect the occupier to change their plans following the final noise assessment.
- 5.1.15 Where a residential property is subject to combined noise and/or vibration impacts, the mitigation response is set out in Section 4.

5.2 Discretionary grants

- 5.2.1 At the request of the claimant, the Undertaker shall consider making a discretionary grant in respect of insulation work so that the claimant may carry out the insulation works themselves. A grant may only be made subject to the following conditions:
- a. Insulation work shall be carried out in accordance with the relevant TAP or the 1996 Regulations, a copy of which shall be provided to the claimant by the Undertaker on request.

- b. The claimant shall provide the Undertaker with three written competitive quotations, in accordance with the relevant specifications, for the costs of the insulation work.
- c. The Undertaker shall also provide a comparative cost estimate for review against the three written quotations.
- d. The final grant payment shall not exceed the final agreed quotation. However, in exceptional circumstances, before any additional works are carried out the cost of those works must be approved by the Undertaker and the additional sum included in the new revised grant payment. The Undertaker's cost estimate for the works will be stated in the formal offer letter; this information shall be provided to the claimant on request of a grant.
- e. The amount of grant shall not exceed the claimant's estimate of the cost of the insulation works or the actual cost on completion of the work.
- f. The Undertaker may pay in advance a maximum of 50 per cent of the estimated cost, with the balance payable to the claimant on satisfactory completion of the works.
- g. The insulation works shall be completed to the required specifications and within the reasonable timeframes prescribed by the Undertaker to ensure completion of the construction works for which insulation is required. Failure to meet this requirement will necessitate the repayment of any and all grant monies paid in accordance with the Policy and, in such a circumstance, this shall not prohibit the contractor commencing the relevant construction works on site.
- h. In the event that the claimant does not proceed with the insulation works, the Undertaker shall offer to carry out the works.

5.2.2 Any acceptance of a grant under the Policy shall be made in writing to the Undertaker providing adequate time for the insulation works to be carried out in accordance with relevant sections of the Policy and the TAP.

5.3 Additional items

- 5.3.1 Any obligation to repair, maintain or make any payments in respect of repairing or maintaining any equipment or apparatus installed under the Policy or to pay for the running costs, shall be defined in the relevant TAP.
- 5.3.2 Nothing in the Policy the Undertaker to carry out work or make a grant in respect of carrying out constitutes an agreement, undertaking or power of work required to correct an existing defect in an eligible building.
- 5.3.3 The Undertaker shall repair any damage to the structure and/or decoration of the property that may occur as part of the installation of the noise insulation.

- 5.3.4 The Undertaker shall reimburse reasonable fees and costs incurred by the claimant to obtain the three quotations in para. 5.2.1b. This will be due with payment of any discretionary grant or when the Undertaker requests the contractor to implement the work.

6 Temporary rehousing (residential general and special cases)

6.1 Temporary rehousing process

- 6.1.1 The Undertaker shall proactively engage owners or occupiers where it identifies that they could be eligible for temporary rehousing in order to:
- a. identify and arrange temporary alternative accommodation to meet the assessed requirements
 - b. provide information and guidance to assist claimants to identify and secure temporary alternative accommodation.
- 6.1.2 The Undertaker shall notify those beneficiaries potentially entitled to temporary rehousing under the terms of the Policy as part of preparing a TAP for their property. The beneficiary will be requested to advise acceptance of temporary rehousing (if the need for such is confirmed at the time of construction) in writing to the Undertaker within 28 days of receipt of notification. The confirmation should provide the following details:
- a. The name and address of the beneficiary and the number of persons to be temporarily rehoused
 - b. Confirmation of the address of the eligible building for which the request is made
 - c. A statement of the capacity in which the beneficiary makes the request, i.e:
 - i owner or occupier
 - ii freeholder or leaseholder
 - iii tenant or subtenant.
 - d. Confirmation that temporary rehousing is required
 - e. A statement confirming that one or both of the following services is required:
 - i identification and arrangement of temporary alternative accommodation on behalf of the beneficiary
 - ii provision of information and guidance to enable the beneficiary to identify and secure temporary alternative accommodation.

- 6.1.3 In order to assist the beneficiary in this regard, the Undertaker shall include a temporary rehousing proforma with the notification letter, asking the beneficiary for details of their existing property in order to understand their requirements in relation to an alternative property.
- 6.1.4 In all cases, the Undertaker shall assess the particular requirements of the beneficiary (based on the existing accommodation and location in relation to schools and work place, for example) and seek to formally agree and document these in order to assist in finding suitable temporary rehousing. Should this not be agreed between the parties, then any disputes will be referred to the ICP for resolution.
- 6.1.5 On receipt of confirmation of the requirement for temporary rehousing from a beneficiary, the Undertaker shall confirm in writing the applicants' position regarding reimbursement of reasonable expenses (see Section 6.4).
- 6.1.6 The discretionary powers in respect of temporary rehousing granted to responsible authorities by Section 28 of the Land Compensation Act 1973 (power to pay expenses of persons moving temporarily during construction works, etc.) shall be adopted.

6.2 Identifying and organising alternative temporary rehousing

- 6.2.1 Beneficiaries requesting a service to identify and arrange temporary alternative accommodation shall receive the following services (this list is not intended to be exhaustive and the service will be tailored to the individual beneficiary's requirements following an assessment thereof):
- a. Identifying and arranging temporary alternative accommodation (based on the assessment of the beneficiary's requirements) and the payment of the reasonable costs associated with temporary alternative accommodation
 - b. Arranging for removals and the payment of associated costs
 - c. Arranging for storage and insurance of personal effects and payment of associated costs
 - d. Arranging insurance for vacated properties during any period of temporary rehousing and payment of the associated costs
 - e. Identifying and arranging kennelling and/or catteries for pets and payment of associated costs
 - f. Arranging disconnection/connection of utilities and payment of associated costs
 - g. Identifying local hotels in order to arrange short-term temporary alternative accommodation for applicants and payment of associated costs.

6.3 Information and guidance for arranging temporary alternative accommodation

- 6.3.1 Beneficiaries who request information and guidance in order to identify and secure temporary alternative accommodation shall receive information on the following issues (this list is not intended to be exhaustive and information and guidance will generally be tailored to the individual claimant's requirements following an assessment thereof):
- a. Information and guidance with regard to letting agencies and other organisations able to provide temporary alternative accommodation
 - b. Information and guidance on removal companies and associated costs
 - c. Information and guidance on storage and insurance of personal effects and associated costs
 - d. Information and guidance on insuring vacated properties during any period of temporary rehousing
 - e. Guidance on kennelling or catteries for pets and associated costs
 - f. Information and guidance on the requirements for the disconnection/connection of utilities and associated costs
 - g. Information and guidance on local hotels and rates for short-term temporary alternative accommodation
 - h. Information and guidance on arrangements to ensure reimbursable costs (eg, deposits to secure temporary alternative accommodation) may be agreed and paid as soon as reasonably practicable.
- 6.3.2 Beneficiaries who arrange temporary alternative accommodation themselves must make a request to the Undertaker in writing at least 28 days prior to the need for rehousing for payment of associated costs. The beneficiary must provide the following details in the request:
- a. The name and address of the beneficiary and the address of the building subject to the noise impact
 - b. A written estimate/statement detailing:
 - i costs associated with the temporary alternative residential accommodation to which the beneficiary wishes to relocate for the duration of the works which exceed the noise trigger levels in the relevant TAP
 - ii details of any additional costs (see above and Section 6.4) reasonably or properly incurred as a direct result of temporary rehousing.
- 6.3.3 The beneficiary shall obtain written agreement from the Undertaker of the estimated costs reasonably associated with temporary rehousing before such costs are incurred, or agreed to be incurred, by the beneficiary.

- 6.3.4 The Undertaker shall only pay costs up to the amount that the expenses for the temporary alternative accommodation exceed the expenses that the applicant would have incurred if the eligible building had continued to be occupied.

6.4 Assessment of costs in respect of temporary rehousing

- 6.4.1 The ICP shall assess claims for costs in respect of temporary rehousing on receipt of confirmation of the requirement for temporary rehousing from the beneficiary. The ICP will notify the beneficiary in writing of its decision, which is final.
- 6.4.2 Reasonable expenses incurred by the beneficiary in respect of temporary alternative accommodation for the beneficiary and members of the household for the duration of the works which exceed the relevant noise trigger levels shall be agreed by the ICP and paid by the Undertaker. In assessing such expenses, it is accepted that a transition period must be agreed between parties to allow the applicant to move back to the property on completion of the works. The transition period shall be based on individual circumstances but not less than a four-week period unless agreed otherwise.

6.5 Security for eligible buildings

- 6.5.1 Where eligible buildings are unoccupied because the occupants are temporarily rehoused under the terms of the Policy, the Undertaker shall take reasonable measures to ensure the security and any additional insurance of those buildings.
- 6.5.2 The Undertaker shall inform the local police whenever eligible buildings are vacated for the purposes of temporary rehousing.

7 Special cases

7.1 Lightweight dwellings, mobile homes and houseboats

- 7.1.1 Lightweight dwellings, mobile homes and houseboats shall be treated on a case-by-case basis.
- 7.1.2 A specific compensation policy has been adopted for houseboats to address the various tiers of mitigation and compensation available (see Appendix C).
- 7.1.3 The trigger values to be applied are those at Section 4 of the Policy. These will then be adjusted to reflect the sound insulation of the lightweight dwellings, mobile homes and houseboats as measured during surveys to prepare the TAP.

7.2 Residential special cases

- 7.2.1 The Undertaker shall consider the individual circumstances of each potential beneficiary, having regard to the vulnerability of any affected persons residing or using eligible properties and beneficiaries who may have special circumstances (specifically night shift workers, vulnerable persons who are housebound and those with a medical condition that it is proven could be exacerbated by exposure to noise or vibration). Where such individuals are known to the Undertaker, then the Undertaker shall contact them directly through the relevant engagement plans. Individuals who have not raised any issues previously are encouraged to contact the Undertaker directly or contact the IAS for help and advice. On the basis of the predicted or measured noise levels, the ICP shall consider whether there is a case for noise insulation or temporary rehousing and such provision may be made accordingly. Any disputes shall be passed to the ICP for resolution.
- 7.2.2 Trigger values for special cases may be different to those for other cases addressed in the Policy and may require agreement of additional mitigation measures.
- 7.2.3 The ICP shall apply any relevant government policy to special cases and will draw upon the specific relevant standards and guidance such as that provided in Appendix B.
- 7.2.4 In the absence of specific information the following trigger values shall be applied by the Undertaker:
 - a. Night/Shift worker: The night-time trigger values in Section 4 of the Policy shall apply during the day and evening
 - b. Vulnerable persons (as defined above): For airborne and groundborne noise temporary rehousing/respite-accommodation trigger levels at Section 4 of the Policy minus 10 dB shall apply. For groundborne

vibration the trigger values at Section 4 of the Policy divided by 2 shall apply.

7.3 Non-residential sensitive buildings

- 7.3.1 The Undertaker shall consider non-residential buildings occupied by noise- or vibration-sensitive receptors such as medical facilities, educational and religious establishments or businesses with especially noise or vibration sensitive operations or equipment on a case-by-case basis.
- 7.3.2 In preparing TAPs, the Undertaker shall carry out a review of the building and, in accordance with guidance in recognised national standards, determine suitable internal noise levels to compare to predicted or measured construction noise levels. Allowing for the duration of the relevant works, the Undertaker will identify any need to improve noise insulation for such receptors, or other such mitigation, and determine the form such insulation should take. These measures will then be agreed with the beneficiaries. Where agreement cannot be reached, the ICP shall determine the outcome.
- 7.3.3 The requirement for mitigation shall be triggered where the total noise²⁰ inside or outside the building (as relevant to the building use) due to the project exceeds the relevant significant observed adverse effect level that will be determined by:
- a. either appropriate guideline value (lowest observed adverse effect level) in Appendix B plus 5 dB
 - b. or the existing ambient level plus 5 dB, whichever is the higher.
- 7.3.4 Mitigation provided under a TAP shall minimise the adverse effect of project construction noise inside or outside the building (as relevant to the building use) as far as is reasonable and practicable with the aim of the total noise, with mitigation in place, being no higher than:
- a. either the appropriate guideline value in Appendix B
 - b. or the existing ambient level plus 3 dB, whichever is the higher.

7.4 Others

- 7.4.1 Other parties who do not fall into the categories above are encouraged to approach the Undertaker directly or contact the IAS for help and advice. On the basis of predicted or measured noise levels or combined effects, the ICP shall consider whether there is a case for noise insulation or temporary rehousing and such provision may be made accordingly.
- 7.4.2 There may be circumstances in which individuals do not qualify under the above special cases but believe that they merit consideration due to the impact of the project on them. These individuals should contact the Undertaker, who shall give the matter due consideration. In such

²⁰ Project construction noise logarithmically added to the ambient noise

circumstances, any mitigation or compensation measures will be provided at the absolute discretion of the Undertaker. Any dispute or appeal against the decision of the Undertaker in such circumstances shall be directed to the ICC.

8 Damage or loss

8.1 Compensation for damage or loss

- 8.1.1 Where possible, the Undertaker shall put in place onsite or off-site mitigation measures to reduce the impact and effects of the project. All reasonably anticipated adverse effects of the worksites will be continually monitored and addressed as appropriate. However, the Undertaker recognises that disturbance may be experienced and financial loss or damages incurred for which the Undertaker needs to pay compensation. Such claims fall outside of the statutory regime for compensation.
- 8.1.2 In circumstances where the potential for a claim is recognised in advance, the applicant and the Undertaker may enter into an agreement (similar to a TAP) which captures agreed actions to be taken and mechanisms to provide support before or during any period of disruption leading to a financial loss. The agreement could include (but not be limited to) details of monitoring, timings of reviews of accounts, how any interim payments may be made, how and when fees may be paid and any particular matters.
- 8.1.3 This approach ensures that no potential claimant has to have suffered a loss before making a claim. Such conditional agreements will enable applicants to be compensated promptly should they subsequently incur any direct loss. All agreements shall be approved by the ICP.
- 8.1.4 Where no such pre-agreement is in place, then a claim may be submitted directly to the ICP.

8.2 Claims process

- 8.2.1 An applicant for compensation for damage or loss may submit a claim to the ICP where that party:
- a. has a reasonable, valid and evidentially supportable claim which arises as a direct consequence of the Undertaker's construction works and related activities
 - b. is able to set out how they are affected by the work and any personal factors which may influence the impact of those works
 - c. is able to demonstrate they have a legal interest in the property that is the subject of the claim

-
- d. is not making any other claims against the Undertaker in respect of mitigation disturbance or nuisance arising from the project for the same circumstances (statutory or non-statutory)
 - e. or where the property has not already been the subject of mitigation measures or a compensation payment under a project scheme dealing with the same impacts.

8.2.2 Any award for a claim for financial compensation shall be subject to the claimant acting reasonably and, in particular, seeking to reasonably mitigate the loss or damage.

8.2.3 In each case, such claims shall be put to the ICP for assessment, taking into account all relevant and unique factors. This may involve requests for further information or a period of monitoring to confirm the appropriate outcome. Should either party consider that the ICP has not followed the appropriate decision-making process they may refer the decision making process for review by the the ICC. The remit of the ICC in such cases is not to revisit the decision itself but to consider the decision-making process of the ICP. In most cases, the ICC will respond within 28 days from the date on which the ICC has all relevant information but may advise that further time is required when considering complex or long running cases. Should the ICC find that due process has not been followed, then the claim will be returned for a re-evaluation by the ICP, having regard to the guidance of the ICC. Ultimately a determination by the ICP will be final and binding on all parties.

8.2.4 Where an affected person is unsure whether they qualify for such compensation, they may contact the IAS for help and advice in the first instance.

Glossary

Term	Description
A-weighted	The A-weighted sound level, expressed as 'dB(A)', allows for the frequency-dependent characteristics of hearing. Corrections are applied for each octave band, and the resultant values summed, to obtain a single overall level.
beneficiary	An owner or occupier of an eligible building who makes a request, or is made an offer under the <i>Non-statutory off-site mitigation and compensation policy</i> .
construction	The construction works required for the project which fall within the remit of the project <i>Code of Construction Practice</i>
decibel (dB)	Logarithmic ratio used to relate sound pressure level to a standard reference level.
eligible buildings	Dwellings lawfully used by claimants for habitation.
eligible room	A living room or a bedroom having a qualifying door or window in any eligible building.
Equivalent continuous sound pressure level (L_{eq})	Another index for assessment of overall noise exposure is the equivalent continuous sound level (L_{eq}). This is a notional steady level which would over a given period of time, deliver the same sound energy as the actual time carrying sound over the same period. Hence fluctuating levels can be described in terms of a single figure level. The A-weighted (L_{eq}) is denoted as (L_{Aeq}).
façade	The face of a building.
insulation work	Work carried out to insulate an eligible building against noise including adequate ventilation and potentially blinds.
L_{ASmax}	The instantaneous maximum sound level measured on the A weighted scale occurring during an event, measured with the slow 'S' time response
Lowest Observed Adverse Effect	An adverse effect resulting from exposure to levels greater than a Lowest Observed Adverse Effect Level in accordance with the Policy Statement for England and emerging National Planning Practice Guidance
Noise Insulation (Railways and other Guided Systems) Regulations 1996	The inclusion of the criterion to meet the requirements of these regulations provides a recognised framework under which noise insulation would be provided. This ensures that the insulation measures are commensurate with other noise insulation policies for large construction projects within London (eg, Crossrail, East London Line, Channel Tunnel Rail Link). This ensures a minimum standard of performance for any noise insulation work carried out.

qualifying door and qualifying window	Have the meanings assigned to them in Part I of Schedule 1 of the 1996 Regulations.
Significant effect	As defined in the Environmental Statement and reported in the ES Update Report

Glossary

Term	Description
Significant Observed Adverse Effect	A Significant effect resulting from exposure to levels greater than a Significant Observed Adverse Effect Level in accordance with the Policy Statement for England and emerging NPPG. Note that only some significant effects reported in the ES and ES update are at this level
the route	The main tunnel from Acton Storm Tanks to Abbey Mills Pumping Station and the construction works at Beckton Sewage Treatment Works.
the Policy	The <i>Non-statutory off-site mitigation and compensation policy</i> .
the 1996 Regulations	the Noise Insulation (Railways and Other Guided Transport Systems) Regulations 1996
the relevant specifications	The items in Part I of Schedule 1 to the 1996 Regulations, such of the items in Part II of Schedule 1 as may be approved by the policy operator and such of the specifications set out in Part III of Schedule 1 as are applicable in the circumstances of the case or items whose performance is equivalent thereto.
the works	The construction works associated with the project and other works deemed by the policy operator to be within the scope of the Policy.

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Appendix B: Published literature on recommended internal noise levels for developing TAPs for special cases

- B.1.1 BS5228-1: 2009 + A1: 2014 Code of Practice for Control of Noise and Vibration from Construction and Open Sites
- B.1.2 Noise Policy Statement for England, 2010. Defra
- B.1.3 Beta version of National Planning Practice Guidance, 2013, DCLG
- B.1.4 BS8233 (1999) Sound Insulation and Noise Reduction for Buildings. Code of Practice. British Standards Institution.
- B.1.5 Education Funding Agency (2012). Acoustics Performance Standards for the Priority Schools Building Programme. Department for Education. The Stationery Office Limited.
- B.1.6 Stationary Office (2011) Acoustics: Technical Design Manual 4032:0.3. The Stationery Office Limited.
- B.1.7 British Council for Offices (2009). Guide to Specification. The British Council for Offices.

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Appendix C: Houseboat mitigation and compensation policy

1. Introduction

- 1.1.1 The *Houseboat mitigation and compensation policy* is an annex to the *Non-statutory off-site mitigation and compensation policy* which identifies houseboats as 'special cases' for the assessment of compensation claims resulting from noise.
- 1.1.2 Houseboat owners and tenants may be eligible for mitigation or temporary rehousing. This could include one of the following measures; noise mitigation (where practicable), rehousing on land or relocation of houseboats and/or residents. All claims for mitigation or compensation will be assessed on case-by-case basis.
- 1.1.3 Putney Pier houseboats and Nine Elms Pier houseboats have been identified as special cases and as per Section 8 of the *Non-statutory offsite mitigation and compensation policy*, trigger action plans (TAPs) will be prepared.
- 1.1.4 Although the houseboats in 1.1.3 have been identified as special cases, other houseboats may also fall within this category and these will be assessed according to the individual circumstances of each case. Parties who believe they may be eligible can discuss their concerns with the Undertaker directly or contact the IAS.
- 1.1.5 TAPs will be prepared in accordance with the *Non-statutory off-site mitigation and compensation policy* following consultation with the beneficiary and the relevant London Borough.
- 1.1.6 Where qualification for mitigation or compensation is triggered, the Undertaker is responsible for the implementation and funding of the mitigation or compensation.
- 1.1.7 The IAS will provide potential applicants with free and independent advice in respect of the *Houseboat mitigation and compensation policy*.

2 Qualification

- 2.1.1 Mitigation or compensation for houseboat owners and/or residents will be offered to qualifying parties when construction noise from the project works exceeds the trigger levels set out in the Non-statutory off-site mitigation and compensation policy. The trigger values to be applied are those at Section 4 of the Non-statutory off-site mitigation and compensation policy which will then be adjusted to reflect the sound insulation of the lightweight dwellings, mobile homes and houseboats as measured during surveys to prepare the TAP.
- 2.1.2 Other significant impacts from project works, such as dust and light interference, may also trigger compensation.

3 Houseboat mitigation and compensation

- 3.1.1 Three tiers of compensation have been established for assessing the level of mitigation or compensation a houseboat owner or occupier may receive. These tiers apply across all project sites.
- 3.1.2 Each application for mitigation or compensation from a houseboat owner or resident will be assessed on a case-by-case basis, and the level and extent of any mitigation or compensation will depend on the following factors:
- a. whether the houseboat is required to move to accommodate the project works
 - b. the extent and duration of noise, cumulative affect or other impact on the vessel
 - c. the length of licence/security of tenure the houseboat currently enjoys
 - d. the basis on which the houseboat is occupied (ie, owner occupied or tenanted).
- 3.1.3 TAPs will be prepared following consultation with the beneficiary and the relevant London Borough for individual houseboats, or groups of houseboats at Nine Elms Pier and Putney Pier.
- 3.1.4 Each TAP will define noise and vibration trigger values, and the mitigation or compensation package to be implemented in the event that those trigger values were exceeded for predefined periods.
- 3.1.5 See the *Non-statutory off-site mitigation and compensation policy* for further information on TAPs.

3.2 Tier 1 mitigation and compensation: Houseboats requiring relocation

- 3.2.1 Tier 1 will apply to houseboat owners whose vessels need to be moved to accommodate the project works.

- 3.2.2 The project team is aware of vacant moorings and houseboats for sale with mooring rights along the River Thames.
- 3.2.3 Houseboat owners requiring relocation will be offered alternative moorings as close to their present mooring as possible. As the need arises, the Undertaker will proactively purchase rights at alternative locations in order to secure locations to move affected houseboat owners or residents. These would, as a minimum, match the security of tenure they currently enjoy. For owners that rent out their houseboats, the Undertaker will offer compensation for loss of income to the owner, and arrange and pay for their vessel to be stored for the duration of works, subject to agreement with individual owners.
- 3.2.4 Alternatively, houseboat owners may request that they are compensated by prior agreement with the Undertaker and surrender their mooring rights. Compensation payable will be agreed between parties and agreed with the ICP. Recognising issues associated with community and scarcity the undertaker will use reasonable endeavours and work with parties to help achieve the solution desired in each individual case.

3.3 Tier 2 mitigation and compensation: Houseboat owners

- 3.3.1 Tier 2 compensation will apply to houseboat owners whose boats are not required to move for project works but where there may be significant adverse impacts from noise, dust or other cumulative effects caused by project construction activity.

Owner-occupier residents

- 3.3.2 Should limits set out in the *Non-statutory off-site mitigation and compensation policy* be exceeded, owner-occupied houseboats would be offered noise mitigation, where this is practical, or an alternative mooring or houseboat elsewhere. Alternative accommodation on land may also be provided where this is preferred by the owner.
- 3.3.3 The duration of any agreement will be agreed through negotiation with individual owners on a case-by-case basis. This will take into account the length of licence the owner has and the duration and level of any significant adverse noise effect. This will be documented within the TAP.

Houseboat owners with tenants

- 3.3.4 Houseboat owners with tenants that are unable to occupy due to trigger values being exceeded will not be financially disadvantaged. A compensation package will be agreed through negotiation which reflects any loss of income, detailed in Section 8 of the *Non-statutory off-site mitigation and compensation policy*.

Noise insulation

- 3.3.5 Due to the nature and construction of houseboats, they are inherently difficult structures to insulate. However, should a houseboat owner

request it, an assessment of a vessel may be carried out to establish if the installation of noise insulation measures would have mitigate noise from the project worksites.

- 3.3.6 In circumstances where noise mitigation may be practicable, measures, such as secondary glazing or standalone air-conditioning, may be fitted, subject to the constraints of individual houseboat design and agreement with the houseboat owner.

3.4 Tier 3 compensation: Houseboat tenants

- 3.4.1 Tenants of houseboats who are unable to remain in occupation may be offered a mitigation package reflecting their individual circumstances and security of tenure. This may include temporary rehousing on land for a short period. This will be documented within the relevant TAP.

3.5 Post-construction

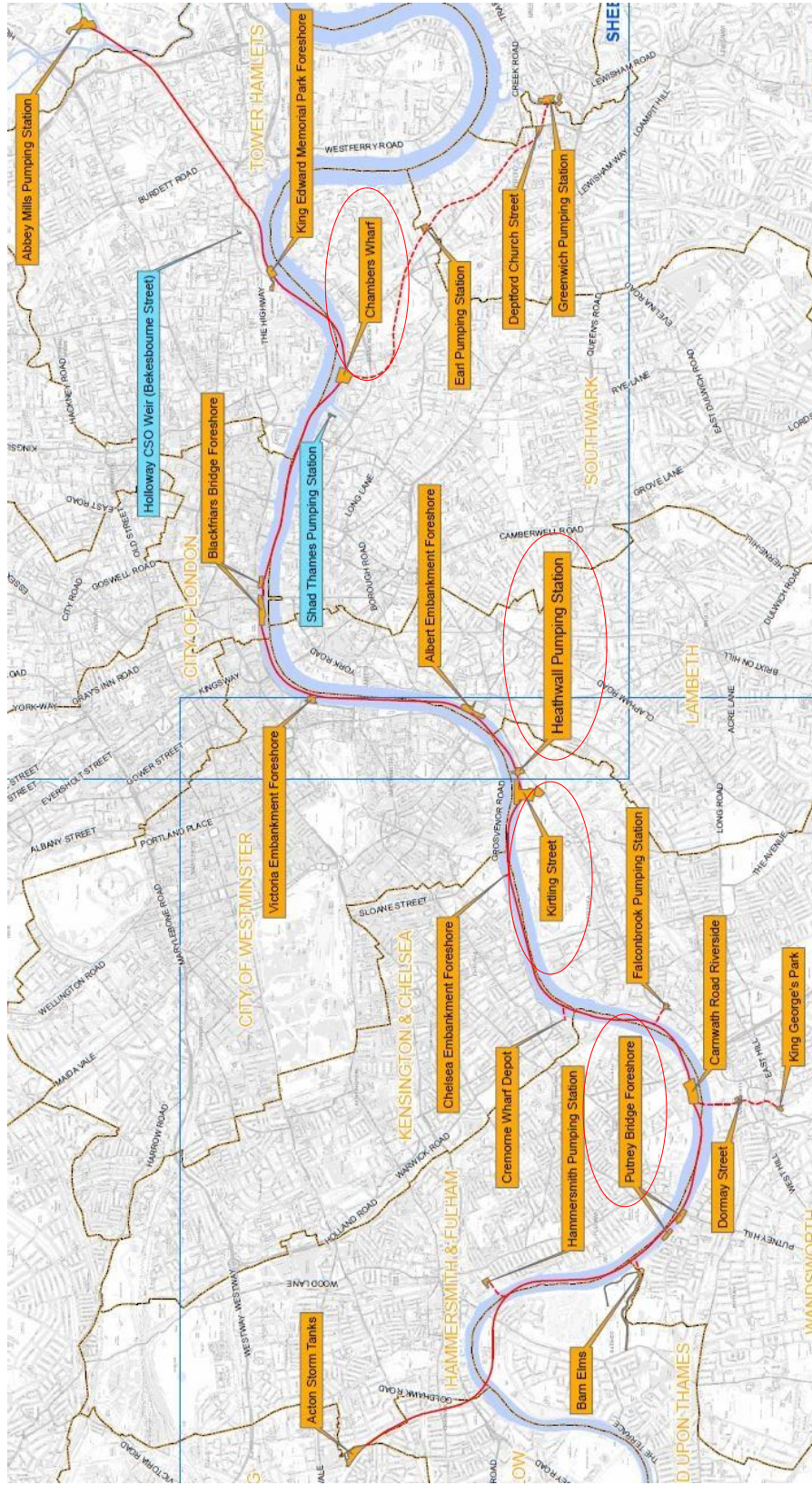
- 3.5.1 The Undertaker will seek to secure the ability of houseboats to return to moorings wherever they have been moved as part of the authorised works by endeavouring to agree with licensors that licences will not be terminated. However it should be noted that the Undertaker is unable to guarantee that houseboats will be able to return to their original mooring as the Undertaker will not have the legal right to grant licences to houseboat owners on third party moorings.
- 3.5.2 The Undertaker will endeavour to ensure that moorings are clear and physically able to be used once construction is complete. In the unlikely event that a mooring becomes physically obstructed as a result of the construction works and it is not possible to rectify this, then the Undertaker will compensate the owner and/or the licensee for losses sustained.
- 3.5.3 Compensation will be assessed on a case by case basis in accordance with the *Houseboat mitigation and compensation policy* and the houseboat owners' pre-existing rights.

4 Site-specific issues

- 4.1.1 There are three work sites where the Undertaker anticipates construction works will, or may, have a significant observed adverse effect on houseboat communities:
- a. Putney Embankment Foreshore (Section 6)
 - b. Kirtling Street (Section 7)
 - c. Heathwall Pumping Station (Section 7)
- 4.1.2 Should significant adverse effects on houseboats be identified at any other site during the project, parties should contact the IAS in the first instance.
- 4.1.3 At Putney Embankment Foreshore and Kirtling Street, there will be houseboats that need to be moved and others that remain where it has been identified that significant adverse impacts may result from the project construction works.
- 4.1.4 In addition, houseboats in the proximity of Chambers Wharf may experience impacts or cumulative impacts due to noise from the site or other impacts, and as such will be treated as special cases.
- 4.1.5 A map showing the location of the four affected sites can be found in Section 5.

5 Houseboat locations

Figure 5.1 Map of houseboat locations



6 Putney Embankment Foreshore

- 6.1.1 The project works at Putney Embankment Foreshore would be adjacent to Putney Pier and require the relocation of one houseboat.
- 6.1.2 Illustrative construction plans, submitted as part of the application for development consent, have allowed for the relocation of the affected houseboat to moor alongside the other houseboat on the pier. However, this may not be possible due to access issues. An annotated plan can be found in **Figure 6.1**.
- 6.1.3 The houseboat owner may be eligible for relocation to an alternative mooring or other compensation package, subject to individual agreement with the owner, as outlined in Section 3.

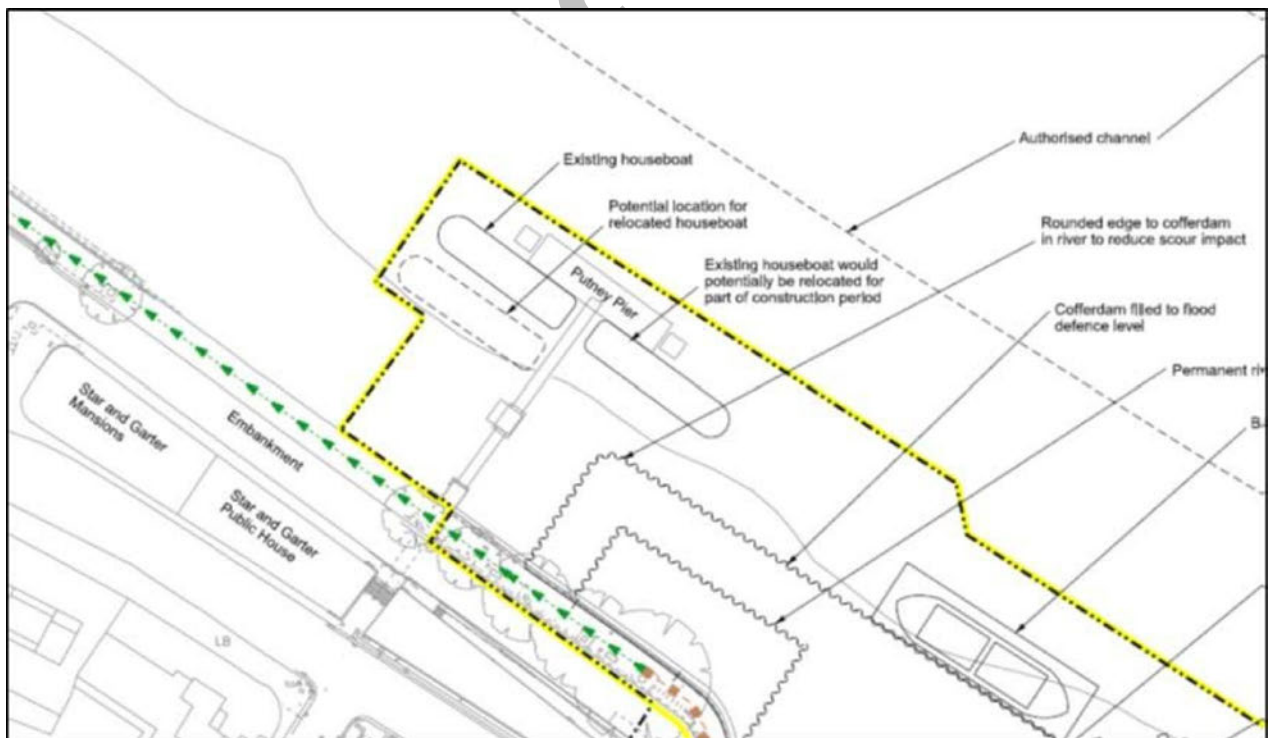


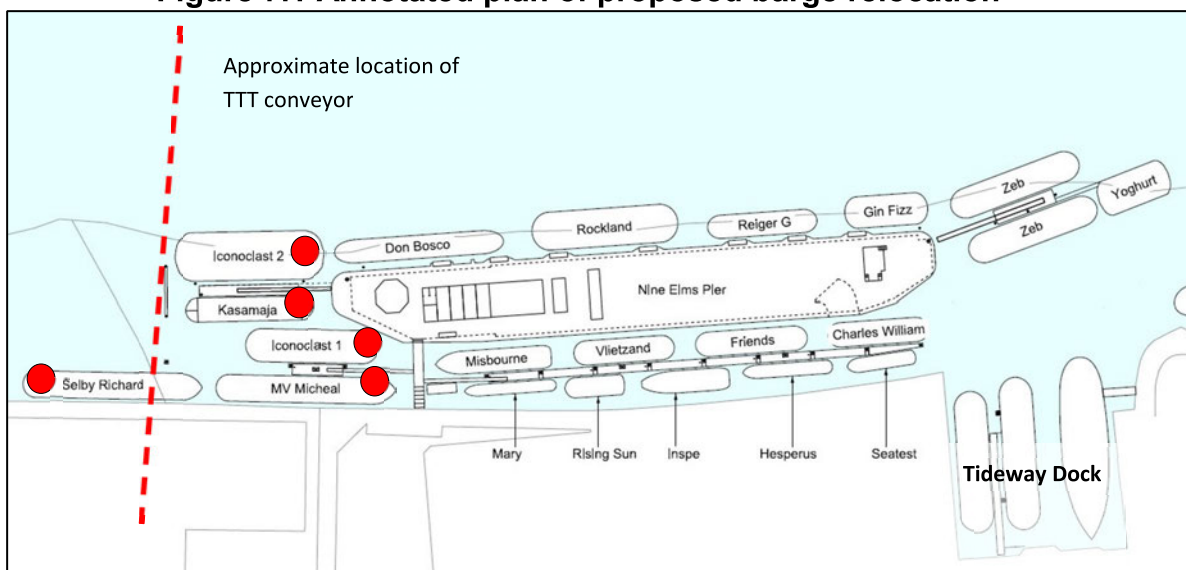
Figure 6.1 Annotated plan of proposed barge relocation

7 Kirtling Street and Heathwall Pumping Station

7.1 Nine Elms Pier

7.1.1 The project works at Kirtling Street would be adjacent to Nine Elms Pier, on which 21 houseboats are moored, five of which would require relocation for the construction of a conveyor to take spoil to the new project jetty. See Figure 7.1 below for an annotated plan of Nine Elms.

Figure 7.1 Annotated plan of proposed barge relocation



● Houseboats that need to be moved for construction of TTT conveyor

7.1.2 The pier is owned by Nine Elms Pier Ltd, which has a licence from the Port of London Authority and Crown expiring in 2051. There are six directors of Nine Elms Pier Ltd who own eight of the houseboats on the pier; their houseboats have a recognisable legal interest in the pier, expiring at the same time as the Crown/Port of London Authority licence in 2051. Other houseboats on the pier have three-month rolling licences.

7.1.3 The five houseboats that require relocation for the construction of a new project conveyor will, subject to individual agreement, be offered compensation in accordance with the tiers of compensation outlined in Section 3 above.

7.1.4 Houseboats remaining on Nine Elms Pier that do not require relocation for the project works may also be eligible for compensation should noise breach thresholds set out in the *Non-statutory off-site mitigation and compensation policy*. Other significant adverse impacts may also result in

compensation being offered to houseboat owners and/or residents, subject to individual circumstances.

7.2 Tideway Dock

- 7.2.1 Tideway Dock is located in between the project construction sites at Kirtling Street and Heathwall Pumping Station.
- 7.2.2 There are three vessels moored in the dock which, between them, house circa 100 residents.
- 7.2.3 It is anticipated that the vessels in the dock would not be significantly affected by noise from the project works at Kirtling Street. The vessels are moored in an inset in the river wall, as shown in Figure 6.1.

8 Chambers Wharf

- 8.1.1 Chambers Wharf is located on the southern bank of the River Thames, circa 750m east of Tower Bridge. There are two houseboat communities:
 - a. Hermitage Community Moorings is located approximately 200m north of Chambers Wharf on the opposite bank of the River Thames and provides berths for 20 vessels.
 - b. Downings Road Moorings is located circa 80m upstream of the Chambers Wharf site and provides berths for 43 vessels.

References

ⁱ British Standards Institution, *BS 5228 Code of Practice for Noise and Vibration Control on Open Construction Sites*, British Standards Institution (2009).

Thurrock Council Submission at Deadline 6 (D6) – Appendix K: Thames Tideway: Non-Statutory
Off-Site Mitigation and Compensation Policy
Lower Thames Crossing

**Appendix L CAH1 Hearing Action Point 1 – Joint
Statement**

Lower Thames Crossing

Thurrock Council Submission at Deadline 6

Appendix L: CAH1 Hearing Action Point 1 – Joint Statement

31 October 2023

Thurrock Council

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Thurrock Council Submission at Deadline 6 – Appendix L: CAH1 Hearing Action Point 1 – Joint Statement
 Lower Thames Crossing

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CAH1 Hearing Action Point 1 – Joint Statement

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9.128 CAH1 Action 1 - Advanced Land Acquisition Thurrock Council Programme Confirmation

1.1 Request from the Examining Authority:

'Please provide a joint site-by-site position statement on progress in CA negotiations between Thurrock Council and the Applicant. Where in-principle agreement to enter into advance negotiations has been reached, please record this separately from any positions about the timing of acquisition (which may or may not have been agreed).' [[EV-047a](#)]

1.2 Following Compulsory Acquisition Hearing 1 (CAH1), the Applicant met with the Property Advisors for Thurrock Council on 5 October 2023 to further discuss the approach to land acquisition and compensation.

Permanent Acquisition of Land, Temporary Land with Permanent Rights and Temporary Land.

1.3 The Applicant confirmed that it is in a position and has funding available to acquire any Thurrock Council owned land, rights or temporary land by agreement at such point the Council may wish to dispose of the land or alternatively enter into an option agreement to secure the drawing down of the land in the future. The Heads of Terms for the standard National Highways option agreement was shared with the Council by email on 3 October 2023.

1.4 During the meeting the Council's advisors stated they would need to seek instructions from their client. It was confirmed on 20 October 2023 that the Council may be prepared to enter into an option agreement for land required permanently, subject to contract. The Council is reviewing the option agreement and will revert with its comments on the draft in due course.

1.5 The Applicant has previously shared a spreadsheet with the Council that details on a plot-by-plot basis the land use for each Thurrock plot, a further updated spreadsheet was circulated ahead of meeting on 3 October 2023 this is being reviewed by the Council. Now a potential approach to securing land by agreement has been reached, subject to contract, both parties will work through each plot on an individual basis and agree the approach to be taken in each case.

Advance Notice of Programme

1.6 Thurrock Council had previously requested that the Applicant enter into a legally binding agreement to tie in the dates and durations of the temporary land plots. The Applicant could not enter into such an agreement and offered a draft Memorandum of Understanding (MOU) to the Council which, as it was not legally binding, the Council did not want to enter into.

- 1.7 At the recent meeting it was agreed that the Applicant would enter into a commitment with regard to the advance notice of the programme, phasing of works and sharing of information in relation to the Thurrock plots. The Applicant has suggested some initial wording to the Council in its draft Memorandum of Understanding and comments are awaited. The Council will respond to the Applicant after Deadline 6, noting that the Council is keen for the Applicant's commitments to be binding. Both parties will work together to agree appropriate wording.

Thurrock Council Submission at Deadline 6 – Appendix L: CAH1 Hearing Action Point 1 – Joint
Statement
Lower Thames Crossing

Appendix M Further Commentary on Uncertainty and Forecasting

Lower Thames Crossing

Thurrock Council Submission at Deadline 6 (D6)

Appendix M: Further Commentary on Uncertainty and Forecasting

31 October 2023

Thurrock Council

 **thurrock.gov.uk**

Document Control Sheet

Project Name: Lower Thames Crossing

Report Title: Thurrock Council Submission at Deadline 6 (D6) – Appendix M: Further Commentary on Uncertainty and Forecasting

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M.1 Overview

- M.1.1 This document provides further commentary on uncertainty and forecasting for LTC with a focus on the overall value for money of the scheme and the potential relief of traffic congestion at Dartford Crossing.
- M.1.2 The Council has recalculated the effects of LTC by taking fuller account of uncertainty on:
- a. Value for money under different conditions of traffic growth (with added calculations on the value of carbon emissions); and
 - b. On the applicant's forecasts of traffic growth at Dartford.
- M.1.3 Taken together, these show a *materially greater* vulnerability of value for money for the network as a whole, and a less lasting relief of congestion. The overall effect is that however confident the applicant may have been to assert the original (rather low) value for money and relief, both must now be reduced.

M.2 Introduction

- M.2.1 Thurrock Council considers that there are important omissions by the applicant concerning the implications of its sensitivity tests. These tests are supposed to follow DfT advice about uncertainty, but the tests have not followed the DfT advice about the questions which uncertainty analyses should address.
- M.2.2 In particular, the applicant has sought to narrow questions on value for money (which can only be answered by looking at the network as a whole) to issues of the forecast traffic flows at Dartford Crossing.
- M.2.3 In this narrowed focus, the applicant has claimed that their sensitivity tests for Dartford Crossing show no significant or material differences, in cases where our analysis shows that there are very significant effects indeed.
- M.2.4 The Council had requested specific analysis to address this, but the applicant has refused to give the information requested, or to do further modelling work which they say is unnecessary because they are satisfied with the information they have provided.
- M.2.5 Therefore, in the absence of helpful answers to these questions, the Council has carried out further analysis of the applicant's analysis, inferring estimated effects on the implications of higher and lower traffic growth on the value for money of the scheme, and on the delivery of relief from congestion at Dartford Crossing.
- M.2.6 The reasons for focussing on these areas derive directly from specific advice from the Department for Transport about the key questions that analysis of uncertainty should address:

This advice, in TAG Unit M4 (Forecasting and Uncertainty), para 4.1.1, is explicit:

'Key questions include:

- a. ***Under high demand assumptions, is the intervention still effective in reducing congestion or crowding, or are there any adverse effects, e.g. on safety or the environment?***
- b. ***Under low demand assumptions, is the intervention still economically viable?***

c. Under a wide range of possible futures, does the intervention still provide value for money?’

M.2.7 The Examining Authority has also asked these questions in similar words: ‘Under low demand assumptions, is the intervention still economically viable?’, and ‘Under a wide range of possible futures, does the intervention still provide value for money?’.

M.2.8 Thus, both TAG and ExA require that recognition of uncertainty should address the ‘key questions’ of how robust the economic and engineering appraisals are to a wide range of different conditions.

M.2.9 The applicant’s response is solely to argue that:

- a. Relief of congestion on the Dartford Crossing is the only real test of success; and
- b. That ‘relief’ is defined as better with LTC than without, even if conditions with LTC still show a deterioration over time.

M.2.10 The Council would have preferred for the required analysis of uncertainty in accordance with TAG to have been provided by the applicant, with the full back-up of the modelling capability they refuse to allow others to use. This has not been done. The calculations prepared by the Council and described in following sections have however all been derived from the applicant’s own sources.

M.3 Overall Value for Money

M.3.1 **Table E3.1** shows the Council’s revised calculations on value for money (VFM), mainly focussing on the Benefit Cost Ratio (BCR) and the associated Net Present Value (NPV) of benefits and costs. Figures in italics in the table are calculated by the Council, by inference and extrapolation, from the applicant’s sources.

Table M3.1: Results of Sensitivity Tests on the Estimated Value for Money of LTC

	Low Growth	Core Growth	High Growth
2016 NH Favoured scheme adjusted BCR		3.4 High VFM	
2020 NH estimate (withdrawn)		1.44 Low VFM	
2022 DCO with p=2.5 (as reported in the Application)	1.09 Low VFM within sight of zero NPV	1.22 Low VFM	1.36 Low VFM
2023 with p=4 as recommended by DfT and standard value of carbon	1.01 Borderline zero net present value	1.22 Low VFM	1.43 Low but within sight of VFM
2022 p=2.5 and high value of carbon	0.99 Borderline zero net present value	1.12 Lower VFM within sight of zero net	1.25 Low VFM
2023 p=4 and high value of carbon	0.90 Negative net present value, poor VFM	1.12 Lower VFM within sight of zero NPV	1.15 Low VFM

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	Low Growth	Core Growth	High Growth
Prospective DfT VAT adjustment carbon	Approximate average -0.5 adjustment on BCR figures above		
<p>Note: these calculations do not take account of an apparent anomaly with the assumed traffic growth between 2016 to 2023, with DfT analysis showing zero growth based on observed values and LTAM indicating an increase in traffic flows over the same period. This discrepancy may affect the calculation of traffic levels, therefore benefits, cost and value for money, for the period after 2023.</p>			

- M.3.2 The Council notes that none of the BCRs submitted for DCO sit even in the ‘Medium’ value for money as defined by the DfT, let alone the ‘High’ value reported at the time the scheme was included as a strategically important project.
- M.3.3 The 2022 BCRs reported by the applicant are all ‘Low’ values for money, even in the case of high traffic growth. With low traffic growth, the applicant reports the lowest BCR, still with a positive NPV but only just.
- M.3.4 The new 2023 values, calculated by the Council from the applicant’s sources, are consistently lower than those reported for the case of low traffic growth, being at the level where the benefits only just about balance the costs, without any net surplus or ‘profit’ from the scheme.
- M.3.5 The same is true of a test using the ‘high’ value of carbon.
- M.3.6 If the effect is considered both of low traffic growth and high value of carbon together, the results for the first time show some BCRs less than 1, implying the NPV is negative, i.e. the costs of the scheme are higher than the benefits.
- M.3.7 Previously, a negative NPV had only ever been reported by the applicant as a potential result of much higher costs of construction and operation than they had assumed.
- M.3.8 The vulnerability to higher costs will now be greater, because even in the ‘core’ traffic demand case, it would now need a smaller increase in cost to convert all the remaining low figures to less than zero.
- M.3.9 These findings still adopt the applicant’s rather unrealistic assumption that the less well-established calculations of the benefits of reliability and wider economic impacts are unaffected by the amount of traffic growth.
- M.3.10 In practice, unreliability benefits will be less when traffic growth is low, since they are connected with the level of congestion and calculated time savings.
- M.3.11 Wider economic benefits are not sufficiently well established to be confident how much they vary with traffic growth, but it is arguable that they will also be less if congestion is lower.
- M.3.12 Taking both together, the Council estimates that these updated calculations of value for money in the case of low traffic growth are generous, i.e. they tend to overestimate the benefit not underestimate it.
- M.3.13 Under high traffic growth, there is not a similar problem about BCR and NPV – they actually increase somewhat, because they are calculated against the significantly worse congestion levels in the ‘without LTC’ scenario which would apply with high traffic growth. (This is discussed further below). However even in that case, the BCR for high traffic growth stays in the category ‘low’ value for money, not even reaching ‘medium’ and never within sight of ‘high’.

M.3.14 The applicant states that:

'As is usual practice the [Full Business Case] FBC will be produced for the Government if the DCO is granted consent'.

M.3.15 In the Council's view this cannot be used as an acceptable reason for not carrying out further tests on the robustness of the economic and technical appraisal of the scheme, which is an inherent part of the analysis of uncertainty and must be satisfactory *before* consent can be justified.

M.4 Effects on Traffic at Dartford: Relief from Congestion in the High Traffic Growth Case

Results of Recalculation of Traffic Effects at Dartford

- M.4.1. As suggested in the TAG quote above, and the ExA questions, it is the potential effect of high traffic growth which is the larger risk factor for the relief of congestion and potential other damaging effects.
- M.4.2. The applicant has discussed this only by seeking to demonstrate that traffic at Dartford Crossing with LTC would be lower than without (or, more precisely, that the *increases* in traffic would be less), which ought generally to be true. But the risk arises because of the forecast that, at some point, traffic at Dartford Crossing would continue to grow even with LTC.
- M.4.3. Therefore, it is the absolute level of traffic at Dartford Crossing which counts for the relief of congestion, since that will determine whether there are better conditions for road users than they are currently experiencing, and the extent to which the management of traffic by engineering means will be technically feasible.
- M.4.4. **Table E4.1** re-presents the applicant's high traffic forecasts at Dartford to address this question, using the three years 2016, 2030 and 2045 (now delayed to 2032 and 2047), reported by the applicant. A more precise analysis would be possible if the Council had the forecasts for all intervening years. We compare the 2030/2032 and 2045/2047 forecasts to ask two questions:
- a. Approximately what year would the forecast traffic at Dartford grow past the level seen in the base year 2016?
 - b. For how long after 2030 or 2032 would traffic remain lower than in 2016, enabling lower levels of congestion, separately for the original core analysis reported by the applicant, and for the higher levels of traffic using the 2023 traffic calculations?

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Table M4.1: Dartford Crossing Predicted Traffic Flow (pcu) compared to base conditions in 2016

		Without LTC	With LTC, original forecast	Estimated year traffic returns to 2016 level. Years of lower traffic after 2030	With LTC, Tempro 8 high growth and P=4	Estimated year traffic returns to 2016 level. Years of lower traffic after 2032	
AM Peak Hour	2016	14430					
	2030	16020	13280	2041 11 years relief	2032	14110	2037 5 years relief
	2045	16260	14870		2047	15450	
Inter peak Hour	2016	11790					
	2030	14410	10780	2037 7 years relief	2032	11790	2032 Zero relief
	2045	15660	12770		2047	13830	
PM Peak Hour	2016	12830					
	2030	15310	12020	2036 6 years relief	2032	12820	2032 Zero relief
	2045	16280	13540		2047	14080	

- M.4.5. The yellow highlighted figures are the ones for which traffic exceeds the 2016 base. This shows that *even with the original core forecasts* for Dartford, the applicant's forecast traffic levels are less than 2016 in 2030 in all three time periods, but they all exceed the 2016 levels by 2045. Interpolating (assuming linear growth) gives an estimate of another 7 to 11 years declining relief until the traffic exceeds 2016 levels.
- M.4.6. However, the figures for the high traffic growth forecasts show a dramatically reduced period of relief following 2032, in the morning peak. And for interpeak and evening peak traffic, forecast flows for 2032 will already have reached the 2016 level, and progressively increase above that level until 2047 and beyond. The engineering challenges of traffic congestion **increase** through the whole period (as they would, correspondingly for Orsett Cock and similar key intersections).

M.5 Overall Assessment

- M.5.1. Taking the two tables together, the amount by which estimated overall benefits exceed costs, when compared with the situation without LTC, will be significantly less in the core traffic scenario, and there is now a realistic possibility that they will be negative if traffic growth is low.
- M.5.2. Congestion relief at Dartford Crossing will be temporary in the case of core growth, and of a much shorter period if traffic growth is high.
- M.5.3. After the first few years those estimated benefits will be of the form '**slowing down the pace of deterioration of congestion**' rather than '**reducing congestion**'.
- M.5.4. The two are deemed as equivalent in economic convention in calculating BCRs but are very different in engineering practice and public usage, where 'reducing congestion' means making it better. Both concepts are valid, for different purposes. But not distinguishing these two cases can only lead to misunderstanding, disappointment and resentment for broken promises.
- M.5.5. Environmental and safety impacts must be greater in the case of higher traffic growth. This means that with high demand, the specific problems of capacity at Dartford Crossing, and the

still unresolved issues of key intersections including Orsett Cock are even more intractable than has already been established for the core traffic assumptions. The proposed scale of provision of additional capacity would not be sufficient.

- M.5.6. Under low demand assumptions, the economic net benefits are virtually zero, even when including less well-established benefits of reliability and wider economic impacts. Even small further provisions for other uncertainties, notably taking account of the currently defined 'high' test for the value of carbon, push the appraisal into negative net present value: the project makes a 'loss'.
- M.5.7. In the case of low traffic growth, because the engineering problems of congestion would be less, a wider range of other, cheaper, alternatives, would be serious contenders.
- M.5.8. **Therefore, we conclude that the scheme, as currently defined, does not provide value for money under a 'wide range of possible futures'. At best it delivers substantially lower value for money than had previously been reported under the core demand conditions assumed in the appraisal. It is not reliably viable under low traffic growth or high carbon values, and it has substantial negative net value in the case where both apply, or with corresponding increases in any other costs or reductions in any other benefits. At Dartford Crossing, the relief for congestion is temporary in the base case, and with high growth there is no substantial reduction in congestion overall, swiftly reverting to the levels of congestion in the base year and continues to get worse thereafter.**
- M.5.9. The Council notes that with low traffic growth, the level of congestion is substantially less, both at Dartford and elsewhere. That is the case where less costly and disruptive alternatives to LTC – which have always been dismissed by the applicant without serious consideration – become much more viable, since even taking a small proportion of the Dartford Crossing traffic would provide the relief required.

M.6 Implications for Scheme Appraisal

- M.6.1. It is evident that these conclusions are very different from those reported by the applicant, whose repeated summary of the results of sensitivity tests have all been of the form *traffic flows at Dartford Crossing are not significantly different from the core case, and therefore the case for the scheme remains strong*.
- M.6.2. The applicant has not used any specific standard of what constitutes a 'significant difference', but it seems to be based only on intuitive assessment of their forecast cross-river traffic at Dartford Crossing, without any consideration of their own modelling of costs and benefits, and without any consideration of the effects on the duration of congestion relief at Dartford.
- M.6.3. The Council's conclusions, on the other hand – while using the applicant's own modelling results – take into account results for the whole modelled area for the whole time period and are addressed specifically to the three questions from listed above, while being based on the same results as the figures provided by the applicant.
- M.6.4. The applicant concludes in A.6.5 and A.6.6 that the changes are small and in A.6.6 *'Overall therefore, it is considered that the need for the Project (as set out in Need for the Project [APP-494]) remains valid as the Project would provide relief to the Dartford Crossing in every scenario.'*
- M.6.5. The Council does not accept this conclusion.

M.7 Detailed Information on Sources and Calculations

M.7.1 The main data sources are shown in five tables provided by the applicant: three numbered 11.2, 11.3 and 11.5 in Volume 7.7 Appendix D of the Combined Modelling and Appraisal report ([APP-526](#)), and two tables submitted by the applicant, Table 5.3 in the Combined Modelling and Appraisal report ([APP-526](#)), and the applicant's Table A.2, in response to the ExA question ([REP4-189](#)). All tables are all copied below for convenience, together with discussion of our calculations.

Extract of Table 11.3 from [APP-526](#)

Lower Thames Crossing – 7.7 Combined Modelling and Appraisal Report – Appendix D – Economic Appraisal Package: Economic Appraisal Report		Volume 7	
Table 11.2 Central case appraisal results (£m, 2010 prices and values)			
Level 1	Commuting	Journey time savings	434.5
		Vehicle operating cost savings	-39.3
		User charge impacts	-5.9
		Construction and maint. delays	-27.6
		Total	361.6
	Other users	Journey time savings	778.6
		Vehicle operating cost savings	-290.8
		User charge impacts	-28.4
		Construction and maint. delays	-32.8
		Total	426.7
	Business	Journey time savings	875.1
		Vehicle operating cost savings	280.4
		User charge impacts	-32.3
		Construction and maint. delays	-80.4
		Total	1,042.9
	Transport Economic Efficiency	Journey time savings	2,088.2
Vehicle operating cost savings		-49.6	
User charge impacts		-66.6	
Construction and maint. delays		-140.8	
Total		1,831.2	
Other Level 1	Noise	3.4	
	Local air quality	-7.8	
	Greenhouse gases	-527.8	
	Physical activity	21.2	
	Accidents	-67.8	
	Indirect tax revenues	43.5	
	Total	-535.3	
Level 1 PVB		1,295.9	
PVC	CAPEX	-3,119.6	
	OMR	-327.4	
	User charging revenues	746.8	
	PVC	-2,700.2	
Initial BCR		0.48	
Level 2	Incidents	265.4	
	Local diversions	68.8	
	Travel time variability	152.9	

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Extract of Table 11.5 from [APP-526](#)

	P10	Most Likely	P90
Level 1 PVB	1,295.9	1,295.9	1,295.9
PVC	1,846.9	2,700.2	4,140.1
Initial BCR	0.70	0.48	0.31
Journey time reliability	487.1	487.1	487.1
Wider economic impacts	1,516.6	1,516.6	1,516.6
Level 2 PVB	2,003.7	2,003.7	2,003.7
Level 1 and 2 PVB	3,299.5	3,299.5	3,299.5
PVC	1,846.9	2,700.2	4,140.1
Adjusted BCR	1.79	1.22	0.80

M.7.2 This table shows that the risk of increased cost is one of the most important risks for value for money (as is often the case for major infrastructure projects) and the adjusted BCR for a high-cost scenario was the only one in the original application to show a BCR less than 1. This means that the benefits were greater than the costs and the project would make an economic loss.

M.7.3 That remains the case, though we have not done further work on this than has already been reported: the difference is that now a significantly small degree of cost increase would put the economic viability of the project in doubt, because the pressure on the benefits side has increased and the headroom is less.

Extract of Table 11.3 from [APP-526](#)

	Low growth	Core growth	High growth
Level 1 PVB	1,080.2	1,295.9	1,554.7
PVC	-2,781.5	-2,700.2	-2,626.1
Initial BCR	0.39	0.48	0.59
Journey time reliability	487.1	487.1	487.1
Wider economic impacts	1,470.2	1,516.6	1,529.7
Level 2 PVB	1,957.3	2,003.7	2,016.8
Level 1 and 2 PVB	3,037.4	3,299.5	3,571.5
PVC	-2,781.5	-2,700.2	-2,626.1
Adjusted BCR	1.09	1.22	1.36

M.7.4 This table is the most important source for the Council's calculations, because it establishes the degree of sensitivity of BCR to traffic growth.

M.7.5 The range from 'low' to 'high' has been calculated by a short-cut formula suggested by the DfT to give a measure of the likely range around a core assumed traffic growth. This had previously used a symmetrical adjustment to be added to and subtracted from a core forecast.

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The adjustment factor, p , was 2.5% of the base figure per year, but damped by using the square root of the number of years instead of the actual number. The results shown in the table give the applicant's reported result that the high/low BCRs are approximately +/- 11% of the base BCR. The variation in traffic growth which gave rise to this variation in BCR is a sum of a series which the applicant has not published and cannot be reproduced by us without full access to the model: it does not have a single analytical solution, though it is simple to do it for any specific year.

- M.7.6 When DfT examined the range of different traffic growth rates projected in their Common Analytical Scenarios, they suggested that the use of the factor $p=2.5$ underestimated the range of different growth rates, but a factor 4% per year, damped as before, gave a reasonably good approximation¹ to the range in the scenarios.
- M.7.7 This meant that the original calculation of the +/- 11% range for LTC gave an underestimate of the range of traffic, therefore the range of the high/low BCRs.
- M.7.8 Our problem is to extrapolate the effect on BCRs of changing $p=2.5\%$ to 4%, which is not in the ratio 4:2.5, because of the square root term, and of various adjustments to allow for the difference between the DfT (national) and LTC (regional) specifications: the national calculation takes a future year, 2025 as the starting point, but LTC takes a past year, 2016, as the base year, for adding the +/- range of traffic.
- M.7.9 As an example, there are 29 years from 2016 (the base year) to 2045 (one of the key staging posts in the forecasts and appraise).
- M.7.10 The square route of 29 is 5.39 so the test of overall high and low traffic growth in 2045 is the core +/- roundly 13.5% of the base, applied in the modelled network as a whole.
- M.7.11 The year in which the ratio of the low and high traffic around the forecast is approximately the same as the ratio of the reported BCRs is about 18 years after the base year i.e. about 2034, suggesting that from the point of view of the discounted flow of benefits and costs, this year is broadly representative of a weighted average of the benefits and costs. This observation enabled an iterative process of applying adjustments to be consistent with the results reported by the applicant, and out Table 1 above shows these results.
- M.7.12 The carbon calculation in the table is based on the applicant's statement that in ExQ1_Q2.1.2 NH Response:
- 'A valuation based on a High set of carbon prices has been calculated as a disbenefit of £807.8 million (2010 prices and values).'* This does not change the Project's central case Benefit-Cost Ratio.
- M.7.13 This did not affect the reported central case BCR because that used the central value of carbon. But the change is big enough (an increase in the total carbon cost from £528m to £808m) to have a substantial effect on BCRs where applied, as shown in our Table 1. If allowance is made for VAT on carbon, this increases to nearly £1 billion, or over a third of the project costs, which is important even without taking account of views that the actual quantity of carbon is underestimated.
- M.7.14 An unresolved issue of estimation is that the range of traffic shown in the NRTP and the CAS is an **output** of the demand modelling, but when applied to the LTC it is ambiguous how this has been applied to the applicant's own modelling of core traffic growth, and the stage in the calculation at which account is taken of the differential rates of behavioural adjustment for

¹ This is true: the range of the most recent DfT CAS projections runs from a minimum of 8% growth to a maximum of 54% for the 35 years from 2025 to 2060. Setting $p=2.5$ would only give a range from 16% to 46% but setting $p=4$ gives a range from 7% to 55% which is a good fit to 8% to 54%.

more and less congested areas. As noted above, **these calculations do not take account of an apparent anomaly with the assumed traffic growth between 2016 to 2023, with DfT analysis showing zero growth based on observed values and LTAM indicating an increase in traffic flows over the same period. This discrepancy may affect the calculation of traffic levels, therefore benefits, cost and value for money, for the period after 2023., on which we are carrying out further work.**

Sources for Traffic Growth at Dartford Crossing

M.7.15 The two main sources of information are the following two tables from the applicant.

Extract of Table 5.3 from [APP-526](#)

Period	Year	Without Scheme	With Scheme				
		Dartford Crossing*	Dartford Crossing*	% change	Lower Thames Crossing	Total flows	% change
AM peak hour	2016	14,430					
	2030	16,020	13,280	-17%	8,040	21,320	+33%
	2045	16,260	14,870	-9%	8,940	23,810	+46%
Inter-peak hour	2016	11,790					
	2030	14,410	10,780	-25%	6,510	17,290	+20%
	2045	15,660	12,770	-18%	7,590	20,360	+30%
PM peak hour	2016	12,830					
	2030	15,310	12,020	-21%	7,990	20,010	+31%
	2045	16,280	13,540	-17%	8,830	22,370	+37%

The table shows the change in two-way, hourly traffic peak and inter-peak flows, expressed in terms of PCUs.

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Extract of Table A.2 from [REP4-189](#)

Table A.2 Comparison of forecast flows at the Dartford Crossing with the Project (PCUs)

Description	2032			2047		
	AM	IP	PM	AM	IP	PM
TEMPro 8 DS Core	13,230	10,660	12,040	15,040	12,840	13,690
TEMPro 8 DS High economy	13,840	11,330	12,600	15,460	13,870	14,220
TEMPro 8 DS Low economy	12,850	10,290	11,700	14,240	11,820	12,870
TEMPro 8 DS Regional	13,190	10,620	11,980	14,390	12,060	13,180
TEMPro 8 DS Behavioural Change	12,660	9,850	11,300	14,390	11,670	12,530
TEMPro 8 DS Technology	13,580	11,090	12,420	15,340	13,450	13,990
TEMPro 8 DS Vehicle-led Decarbonisation	13,560	11,080	12,400	15,350	13,460	14,010
TEMPro 8 DS Mode-balanced Decarbonisation	12,860	10,160	11,620	14,780	12,300	13,210
TEMPro 8 High p=4	14,110	11,790	12,820	15,450	13,830	14,080
TEMPro 8 Low p=4	12,240	9,430	11,120	13,920	11,300	12,650
Difference from TEMPro 8 Core						
TEMPro 8 DS High economy	607	672	566	415	1,035	529
TEMPro 8 DS Low economy	-378	-371	-334	-798	-1,022	-828
TEMPro 8 DS Regional	-42	-47	-57	-648	-782	-510
TEMPro 8 DS Behavioural Change	-576	-811	-742	-650	-1,174	-1,165
TEMPro 8 DS Technology	344	427	381	301	614	300
TEMPro 8 DS Vehicle-led Decarbonisation	332	421	364	312	616	312
TEMPro 8 DS Mode-balanced Decarbonisation	-376	-505	-416	-266	-545	-481
TEMPro 8 High p=4	880	1,127	786	412	988	384
TEMPro 8 Low p=4	-995	-1,238	-922	-1,118	-1,544	-1,039
Range	1,183	1,483	1,308	1,213	2,209	1,695

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M.7.16 The same issue of interpretation arises in relation to the range of traffic growth between low and high using p=4 for the Dartford Crossing figures in **Table E4.1** above.

M.7.17 Looking at the figures for 2047 TEMPRO 8 High p=4 and Low p=4, it can be seen that the ratio of high to low for AM peak, Interpeak and PM peak, respectively, are 1.11, 1.22 and 1.11 respectively. The ratio of the approximately equivalent² 'high economy' CAS to the 'low economy' CAS are 1.09, 1.17 and 1.10 respectively. These figures are lower, and closer together, than would be calculated from the p=4 method, given that from 2016 to 2047 is 31 years, square root 5.6, an adjustment of 22.4%.

M.7.18 It is logical that application of the model would prevent traffic growing too much in the most congested areas and times, and presumably that is what happened. But if that has been done by application of the full modelling calculations, the important question is where the traffic has been redirected to and underlines why the effect on overall value for money cannot be replaced by a consideration of the Dartford Crossing only. The range to be covered using the p-factor method is taken from the national CAS calculations **after** they have been taken through a behavioural adjustment and convergence process, and if they are then subject to an LTC modelling and convergence process subsequently, there needs to be a credibility check to ensure that the target range for testing is still acting as a control. In any case, the operation of a modelling process which responds to congestion to damp traffic changes in the most congested conditions, will inevitably result in less variation in those conditions, which therefore

² Note that there are also other routes to a low traffic CAS than low economic growth, notably the ones titled 'Mode-balanced decarbonisation' and 'Behavioural Change', both of which assume the same economic growth as the Core. A combination of elements from both, or all three, would produce a lower traffic growth without introducing new features. Similarly a combination of elements from High economy, Technology and Vehicle-led Decarbonisation would produce high traffic growth without introducing new features.

cannot be used to support statements like ‘there is not much difference, so the effects are not significant’. The significant effects are precisely those which have been displaced elsewhere.

M.7.19 A similar question is what has happened to all the traffic before the morning peak, after the afternoon peak, and overnight, which is a substantial proportion of the total traffic, of both cars and freight vehicles: The carbon emissions (which manifestly must be included for 24 hours) and the safety impacts are also quite sensitive to daylight or dark conditions.

M.8 Caveats

M.8.1 In our figures (as also for the applicant’s model output), it is necessary to ensure that the figures do what they are supposed to. The simplest way of checking this is from the headline figures for **total** volume of traffic in the selected years for modelling, over the whole network, for the core forecast traffic growth, and the +/- range, using the p factor method or the CAS directly, as control totals to check that the desired range is actually being delivered. We also need to be explicit about how the hours outside the peak and interpeak periods have been included.

M.8.2 As a commonsense check, the adjusted figures for $p=4$ shown in our **Table E2.1** are, we suggest, of a sensible order of magnitude. They are manifestly of material significance. We judge that they will be within 1 or 2 percentage points of figures which might be produced by explicit use of the model, subject to clarification of the caveats above.

M.8.3 The tables provided by the applicant show the degree of sensitivity of the BCRs overall, and the traffic volumes crossing the river, to the amount of traffic growth. These show that the estimated net present value of all measured costs and benefits, taken together, is markedly different in conditions, of ‘low’, ‘core’ and ‘high’ traffic growth scenarios – a greater difference than the reported differences in traffic flows at Dartford. This continues through into the net present value of the scheme as a whole, particularly in the Benefit Cost Ratio (BCR) which, even when some challengeable benefits are included, remains low, getting lower, and in some cases even below the key threshold of $BCR=1$ below which the costs exceed the benefits. We have also made an estimate of incorporating the results of the applicant’s report of the effects of including the ‘high’ level of carbon costs which had previously not been included. This reduces the BCR further. So would even a small degree of further cost escalation.

M.8.4 The question is raised – how are our findings (based on the applicant’s figures) compatible with the applicant’s statement that there is no significant difference in the forecast traffic conditions at Dartford, and the corresponding statement about the overall value for money (A 6.8) *“Noting the small differences highlighted above, the Applicant does not consider it proportionate to carry out a full social, environment and economic appraisal of the CAS tests (as per paragraph 4.6 of the NN NPS)”*.

M.8.5 Our suggested answer to this is:

- a. The applicant has not applied a specific definition of ‘significant difference’ but simply what seems to be an intuitive reaction to the percentage changes. The question should be: *are they different enough to make a difference to the congestion levels at Dartford, the duration of any reduction in congestion, and effects on other places, times, roads, modes, over the appraisal period?*. Judging ‘significance’ in this way, we consider that the applicant should not have dismissed the differences they report.
- b. The model operates in such a way as to redistribute a proportion of the traffic in sensitive areas to other locations, routes, times of day or modes. This inevitably means that a smaller change is predicted for those sensitive areas. This is not an indication of ‘it does not make much difference’ but rather an indication that the model has acted so as to mitigate the difference. The test of whether the effect is important cannot be made without

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Lower Thames Crossing

considering the effects on those other locations, routes, times of day or modes that are affected by the mitigation.

- M.8.6 The assumptions used to generate reliability benefits, in particular the interaction between values of time savings and values of reliability improvements, are not all easy to justify. The use of an additional value for reliability depends on the observation that as traffic flow approaches capacity, journey speeds get slower and therefore the variance of those speeds (i.e. unreliability) also gets worse. Thus, in addition to savings in average time, provision of the LTC is said to provide additional benefits in reducing the journey variance of speed and meaning that less time is wasted in leaving a margin for unpredicted delay. However, in the calculations of benefit, the Applicants attribute the **same** unreliability benefits to the 'high traffic', 'core traffic', and low traffic growth scenarios. This would surely exaggerate the potential benefits in the low growth case, and underestimate the unreliability in the high traffic case, both affecting the robustness of the costs and benefits. Similarly, the Applicant's assumptions about Wider Economic benefits will be modified by a fuller consideration of the wider economic costs, including (but not confined to) the existence of induced traffic among LGVs and HGVs, which will offset a proportion of the benefits by additional congestion.

Annex 1 Classification of Value for Money

Box 5.1 Standard Categories

(Transport cost outlays exceed revenues or cost savings)

VfM Category	Implied by...*
Very High	BCR greater than or equal to 4
High	BCR between 2 and 4
Medium	BCR between 1.5 and 2
Low	BCR between 1 and 1.5
Poor	BCR between 0 and 1
Very Poor	BCR less than or equal to 0

**Relevant indicative monetised and/or non-monetised impacts must also be considered and may result in a final value for money category different to that which is implied solely by the BCR. This chapter provides guidance on how to select the final value for money category.*

Source: Department for Transport (2015) Value for Money Framework: Moving Britain Ahead

Appendix N New Draft Requirements Relating to Key Junctions

Lower Thames Crossing

Thurrock Council Submission at Deadline 6

Appendix N: New Draft Requirements Relating to Key Junctions

31 October 2023

Thurrock Council

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Document Control Sheet

Project Name: Lower Thames Crossing

Report Title: Thurrock Council Submission at Deadline 6 (D6) – Appendix N: New Draft Requirements Relating to Key Junctions

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Date: 31 October 2023

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N.1 Orsett Cock Junction

- N.1.1 PoTLL, DPWLG and Thurrock Council have been working together in relation to a Requirement to secure the works necessary to ensure that the Orsett Cock junction operates to acceptable levels as at the date of the opening of the Lower Thames Crossing (LTC), and that this operational standard is maintained for the five years post-opening, as driver behaviour adapts to the presence of LTC.
- N.1.2 The draft Requirement was originally provided by PoTLL at Deadline 4 [\[REP4-350\]](#) and revised drafting has now been provided in PoTLL's Deadline 6 submission 'Draft DCO Requirements', which also includes a full explanation of how this Requirement is intended to operate.
- N.1.3 PoTLL, DPWLG and Thurrock Council are mindful of the Applicant's proposed Requirement, contained in paragraph 3.1.6 of National Highways' submission 9.114 Wider Networks Impacts Update [\[REP5-085\]](#). It is the view of PoTLL, DPWLG and Thurrock Council that this drafting is inadequate and would not secure the necessary works to the Orsett Cock junction, required to avoid serious adverse impacts on the transport network and access to the ports as a result of the LTC as currently designed. In particular, it does not seek to identify or secure any threshold or standard to which the Orsett Cock junction must operate to at opening and in three years post-opening.
- N.1.4 The draft Requirement is being submitted in order to provide the Examining Authority with alternative drafting for how the effective operation of the Orsett Cock junction with LTC in place can be secured within the draft Order.
- N.1.5 The draft has been agreed by PoTLL and DPWLG as suitable to address their concerns with the impacts to this junction potentially caused by LTC. Thurrock Council is satisfied in principle that the draft Requirement is more robust and effective than that proposed by National Highways, however, in light of its additional considerations as local highway authority, it is planning to confirm agreement or provide further drafting, at Deadline 6A. That submission will be informed by further discussions between the three parties post Deadline 6 to seek to maximise alignment between the parties as much as is possible.

N.2 Asda roundabout – traffic mitigation and monitoring

1.(1) No part of Work No. [construction compound related to the Asda roundabout] is to be commenced until a scheme of traffic and other movements monitoring for Work No. [] has been prepared in accordance with the provisions of this paragraph and has been submitted to and approved in writing by the Secretary of State.

(2) The scheme of traffic and other movements mitigation for Work No. [] must include—

- (a) details of the assessment based on the 2019 LTAM and the VISSIM model parameters on traffic impact, both construction and operational in connection with Work No. []; To include details on construction routes, construction traffic by vehicles type and operational traffic by vehicle type;
- (b) an assessment (including junction modelling) of the impacts on the highway network of the proposed traffic and other movements related to Work No. [];
- (c) a determination of what constitutes a material worsening of traffic and other movements safety and accessibility conditions, including specific quantifiable values
- (d) the locations on the highway network where the assessment demonstrates there is forecast to be a material worsening of traffic and other movements safety and accessibility conditions as a result of the authorised development;
- (e) a report on the consultation carried out by the undertaker under sub-paragraph (3) that includes—

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Lower Thames Crossing

- (i) the undertaker's responses to the consultation responses received by it; and
 - (ii) if any consultation responses are not reflected in the scheme for traffic and other movements mitigation for Work No. [] submitted for the Secretary of State's approval, a statement setting out the undertaker's reasons for not including them.
- (f) the measures which the undertaker proposes to mitigate the impacts of such a worsening of traffic and other movements conditions; and
- (g) a programme for the implementation of those measures set out in sub-paragraph f above.
- (3) Prior to submitting the scheme of traffic mitigation for Work No. [] the undertaker must consult the local highway authority on a draft scheme of traffic and other movements mitigation for Work No. [] and must have regard to any consultation responses received.
- (4) The undertaker must implement the scheme of traffic mitigation for Work No. [] approved by the Secretary of State prior to any construction to take place north of the River Thames.
- (5) No part of Work No. [construction compound related to the Asda roundabout] is to be commenced until a scheme of traffic other movements monitoring for Work No. [] has been prepared in accordance with the provisions of this paragraph and has been submitted to and approved in writing by the Secretary of State.
- (6) The scheme of monitoring traffic and other movements for Work No. [] must include—
- (a) a programme for the monitoring of the effectiveness of the mitigation measures implemented pursuant to the scheme prepared in accordance with sub-paragraph 1 above during construction and over a period of 5 years from first use by the public;
 - (b) the locations to be monitored;
 - (c) the methodology to be used to collect the required data;
 - (d) the method of assessment of traffic data;
 - (e) a programme for the provision of the collected data and interpretative support to the relevant local highway authorities (including, as a minimum, monthly reports to the relevant highway authority)
- (7) Prior to submitting the scheme of traffic and other movements monitoring for Work No. [] the undertaker must consult the local highway authority on a draft scheme of traffic mitigation for Work No. [] and must have regard to any consultation responses received.
- (8) The undertaker must implement the scheme of traffic and other movements monitoring for Work No. [] approved by the Secretary of State in accordance with the programme within that scheme.
- (9) Should the scheme of traffic and other movements monitoring in sub-paragraph 5 above identify that the proposed mitigation measures are not being effective at achieving avoiding a material worsening of traffic safety and accessibility conditions, as set out in the scheme of traffic mitigation, then a further mitigation scheme should be submitted to the Secretary of State [within 28 days of it being identified that a specific measure is not effectively meeting its objective].
- (10) The further mitigation scheme prepared in accordance with sub-paragraph 9 above must include:
- a) the measures which the undertaker proposes to mitigate the impacts of a worsening of traffic conditions
 - b) a programme for the implementation of those measures in subparagraph a above that ensures that any required further mitigation has been implemented within 28 days of the further mitigation scheme being approved;
- (11) Prior to submitting the further mitigation scheme in accordance with sub-paragraph 9 the undertaker must consult the local highway authority on the further mitigation scheme and must have regard to any consultation responses received, responding fully to all matters raised.
- (12) The undertaker must implement the further mitigation scheme approved by the Secretary of State in accordance with the programme within that scheme.

N.3 Tilbury link road readiness and compatibility

1.—(1) No part of the authorised development is to commence until Work No. [North Portal Junction] is designed in detail and approved by the Secretary of State, in consultation with the relevant planning authority. The design of [North Portal Junction] must:

(i) not preclude the design, construction, operation and maintenance of the proposed Tilbury link road.

(ii) be consistent with the parameters within the General Arrangement drawings HE540039-CJV-BOP-SZZ_GN000000_-DR-CX-10017 and HE540039-CJV-BOP-SZZ_GN000000_-DR-CX-10020 and Works Plans HE540039-CJV-BOP-SZZ_GN000000_-DR-CX-20017 and HE540039-CJV-BOP-SZZ_GN000000_-DR-CX-20020 and with the proposals to be developed by National Highways for the Tilbury Link Road to be set out in the Roads Investment Strategy 3 2025-2030 (or relevant subsequent Roads Investment Strategies) Such provision will allow for LTN1/20 compliant walking and cycling infrastructure (or equivalent design standard updates thereof).

(iii) include an east-west oriented route for walking, cycling and public transport which connects with Station Road to the east of Work No. [North Portal Junction]

(iv) demonstrate that the junction caters for forecast future port and future traffic growth to 2045 via the proposed Tilbury link road and access to east tilbury.

(2) Work No. [North Portal Junction], once approved by the Secretary of State pursuant to paragraph (1) above, must be constructed by the undertaker prior to the operation of [specific drawing number] of the authorised development.

N.4 Monitoring and mitigation strategy

1.—(1) If the statutory powers vested in the undertaker in relation to highways and road traffic on the strategic road network are not sufficient to enable the undertaker to implement any mitigation measure which it is obliged to implement under this requirement, the undertaker must either—

- (a) seek to agree with the relevant local highway authority that the undertaker may implement that measure on behalf of that local highway authority; or
- (b) if such an agreement cannot be reached, pay to that local highway authority a sum equivalent to—
 - (i) the estimated costs of the local highway authority implementing that measure, which the local highway authority must use for that purpose; or
 - (ii) the costs reasonably incurred by the council in implementing an alternative measure in the same location which the local highway determines will mitigate the adverse impact attributable to the authorised development,

whichever is less.

(2) [In this paragraph, “relevant air quality authority” means the local authority for an area in relation to which expert review carried out under sub-paragraph (13) concludes that the authorised development has materially worsened air quality.

Pre-opening traffic measures

(3) Before the tunnel opens for public use the undertaker must carry out an update to the undertaker’s transport assessment of the likely impacts of the authorised development on the performance of the highway network and must consult the relevant local highway authorities on a proposed scheme of mitigation which identifies—

- (a) the locations on the highway network where the assessment demonstrates there is likely to be a material worsening of traffic conditions as a result of the operation of the authorised development;

(b) the measures which the undertaker proposes to mitigate the impacts of such a worsening of traffic conditions; and

(c) the proposed programme for implementation of those measures.

(4) The undertaker must have regard to any consultation responses received from the local highway authority and before finalising the scheme of mitigation must liaise further with the relevant local highway authority on the detail of mitigation measures which it proposes to implement on roads in that local highway authority's area and following such liaison the undertaker must submit the scheme of mitigation to the Secretary of State for approval.

(5) The scheme of mitigation submitted to the Secretary of State for approval must include—

(a) details and locations of the proposed mitigation measures;

(b) responses to the consultation and further liaison carried out under sub-paragraphs (3) and (4);

(c) the estimated costs of implementing each measure; and

(d) the proposed programme for the implementation of those measures.

(6) The tunnel must not open for public use until the scheme of mitigation has been approved by the Secretary of State.

(7) If the Secretary of State proposes to approve the scheme of mitigation with material modifications, the Secretary of State must consult the relevant local highway authority on the proposed modifications and have regard to any responses received when deciding whether to approve the scheme.

(8) The undertaker must implement or secure the implementation of the measures approved by the Secretary of State in accordance with the approved programme.

(9) [carve out to avoid duplication under Asda roundabout and Orsett Cock roundabout requirements].

Post-opening monitoring and mitigation

(10) For the duration of the monitoring period, the undertaker must—

(a) implement a monitoring programme in consultation with the relevant highway authorities;

(b) prepare—

(i) quarterly monitoring reports for a period of one year from the tunnel opening for public use; and

(ii) annual monitoring reports for 5 years thereafter,

derived from that monitoring, and submit them for consideration by the local highway authority;

(c) identify in consultation with the local highway authorities appropriate thresholds for changes on the highway network which require the undertaker to investigate whether mitigation measures are necessary;

(d) develop in consultation with the relevant local highway authority any measures which are necessary to mitigate adverse impacts on the highway network which are attributable to the operation of the authorised development; and

(e) implement or secure the implementation of the necessary mitigation measures.

(11) In sub-paragraph (9) “the monitoring period” means a period commencing not less than three years before the tunnel is expected to open for public use and continuing for not less than three years after the tunnel opens for public use.

N.5 Air quality monitoring and mitigation

(1) The NO₂ monitors installed as part of the authorised development must remain in place for the monitoring period of 5 years from the date that the authorised development is open for public use.

(2) Prior to the authorised development coming into operation, submit for approval to the Secretary of State (after consulting the relevant local highway authorities) a monitoring programme, to include:

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Lower Thames Crossing

- a. The timing of monitoring
- b. a determination of what constitutes a material worsening of air quality, including specific quantifiable values
- c. the preparation of quarterly monitoring reports for a period of one year from the tunnel opening for public use; and
- d. annual monitoring reports thereafter (for a period of 5 years),

derived from that monitoring, and submit them for consideration by the local highway authorities.

(3) For the duration of the monitoring period, the undertaker must—
implement the approved monitoring programme described in subparagraph 2 above

(4) The monitoring data within each annual monitoring report referred to in the monitoring programme

must be reviewed as soon as reasonably practicable by a firm of independent air quality experts appointed by the undertaker in consultation with the local highway authority. The annual review undertaken by the firm of experts must determine whether or not there, in their professional opinion, has been a material worsening of air quality as a result of the authorised development beyond the likely impacts reported within the environmental statement at locations where there are (whether as a result of the authorised development of otherwise) exceedances of national air quality objectives.

(5) If the review demonstrates in the opinion of the appointed firm of experts that the authorised development has materially worsened air quality in the manner described in subparagraph (3), the undertaker must—

(a) within three months of the conclusion of the expert review consult any relevant air quality authority on a preliminary scheme of mitigation including a programme for its implementation; and

(g) following that consultation submit a detailed scheme of mitigation to the Secretary of State for approval.

(6) Before considering whether to approve the scheme of mitigation, the Secretary of State must consult any relevant highway authority and take into consideration any responses received.

(7) The undertaker must implement or secure the implementation of the scheme of mitigation approved by the Secretary of State in accordance with the programme contained in the approved scheme of mitigation.

Appendix O Amended Protective Provisions

Lower Thames Crossing

Thurrock Council Submission at Deadline 6

Appendix O: Amended Protective Provisions

31 October 2023

Thurrock Council

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Amended Protective Provisions

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RESPONSE TO THE PROTECTIVE PROVISIONS FOR THE BENEFIT OF LOCAL HIGHWAY AUTHORITIES PUT FORWARD BY THE APPLICANT IN THE DRAFT DCO AT D4 (REP4-094)

Introduction

1. This note and its Appendices is submitted on behalf of all five local highway authorities whose assets are affected by the proposals. These comprise Kent County Council, Essex County Council, Thurrock Council, Transport for London and the London Borough of Havering.
2. On 21 July 2023 the London Borough of Havering sent draft protective provisions (PP) for the benefit of local highway authorities to the Applicant. No response was received and LBH submitted the draft PP to the Examination at D2 (REP2-087). Subsequently the Applicant confirmed it intended to insert its preferred form of PP in the draft DCO and did so in the dDCO submitted at D4 (REP4-094).
3. This note responds to the PP that were put forward by the Applicant with suggested amendments in the form of a version showing tracked changes to the Applicant's PP (Appendix A) and a clean version which incorporates the LHA amendments for ease of reference (Appendix B).

Background

4. The role of protective provisions in a DCO is to provide safeguards to protect assets not under the control of the undertaker but which are affected by its proposed works. Normally these are assets in which there is a public interest in ensuring they are adequately protected, a common example being gas and electricity infrastructure. It also commonly applies to the guardians of the transport network, such as railways and canals. That rationale for PP applies also to the local highway network.
5. PP for highway authorities tend to be based on the type of safeguards that would be included in agreements under the Highways Act 1980 which are required to be entered into before any party can carry out works on the local or national network. That is what these PP are based on. They are similar to PP included for the benefit of National Highways and Local Highway Authorities in approved DCO.
6. Prior to inserting PP in the dDCO, the Applicant sought to provide safeguards in proposed side agreements. The side agreements proposed were, in the view of the LHA, clearly insufficient on their own and were, by definition, not susceptible to any adjudication by the ExA.
7. The paragraphs below explain the rationale behind the amendments set out in Appendix A to the extent they are not self explanatory.

Explanation of Amendments

8. The PP submitted by LBH at D2 were based upon PP included in favour of local highway authorities in previous DCO and also reflected elements of the draft Side Agreement provided to the London Borough of Havering by the Applicant. The draft PP inserted by the Applicant appear to be based upon the LBH PP but excluding some material.

9. The amendments made to the draft PP in Appendix A substantially reinstate some of the missing elements of the LBH PP but have also now had the benefit of drafting input from other LHA.
10. There is set out below an explanation for those amendments which benefit from explanation. Dealing with the amendments in turn:

Para 141 - Definitions

“as built drawings” definition added since this phrase is used in para 150 (d) both as drafted by the Applicant and amended. It was not defined in the Applicant’s draft. The list is a list commonly inserted in PP for the benefit of the local highway authorities and National Highways¹. It is the information required to be provided by highway authorities when work is done on the network they are to be responsible for after the works have been concluded.

“detailed information” – this definition has been expanded to include all the information the LHA believe is necessary in order for them to properly consider and provide input into the detailed design to be approved under Sch 2 of the DCO.

“maintenance period” – the amendment to this definition ensures that maintenance of the works would be the responsibility of the Applicant until the Final Certificate is issued – not for a fixed period of 12 months which may be insufficient if the Final Certificate is issued beyond that period.

Para 142 – amendments have been made to make the process of consultation clearer and ensure adequate opportunity for meaningful consultation and response. This includes an obligation to explain the Applicant’s consideration of the LHA response. Para 142 (2) also sets out matters to be agreed prior to the work in question being commenced. The intention being to provide an imperative upon the Applicant to agree such matters which would not exist once the works had commenced.

Para 143 – amends some of the scope of the local operating agreement to encompass all the matters that the LHA would expect such an agreement to cover. Para 143(3) as amended imposes an obligation to comply with the local operating agreement.

Para 145 (6) has been deleted since it is not accepted that, where test results reasonably indicate that works are deficient in some way but that turns out not to be the case, that is due to a failure of the LHA for which it should be liable.

Para 146 – amendments have been made to secure more involvement in the LHA in the Road Safety Audits and to ensure that the recommendations in the audits are carried out.

Para 147 – has been amended to address the making good of any defects in advance of the issue of the Final Certificate and also to provide for latent defects to be rectified.

Para 148 – tightens up the criteria for the issue of the Provisional Certificates.

Para 150 - tightens up the criteria for the issue of the Final Certificates.

¹ See The West Midlands Rail Freight Interchange Order 2020 Sch 13 Part 2 and Part 3; The Northampton Gateway Rail Freight Interchange Order 2019 Sch 13 Part 2 and Part 3; The East Midlands Gateway Rail Freight Interchange and Highway Order 2016 Sch 19 and 20

Para 153 – adds a new para providing for the payment of commuted Sums in respect of new highway assets which will become the responsibility of the LHA

Para 154 – adds a new para providing for payment of costs incurred by the LHA and an indemnity.

Para 155 – adds a new paragraph providing for the provision of warranties from the contractor and designer in favour of the LHA so that there is direct recourse in the event of issues arising.

11. The subject matter of all the new provisions is similar to that which can be found in the PP for the benefit of National Highways to be found in the DCO referred to in footnote 3 to this note and are required by National Highways in respect of any of the highways it becomes responsible for following works being carried out.

Main areas of Dispute

12. Obviously, the extent to which the amendments proposed to the PP in Appendix A are acceptable will not be known until the Applicant responds to those amendments. However, from the responses of the Applicant previously it seems to the LHA that the following are likely to be the main areas of contention:
 - a) The extent of participation of the LHA in certain aspects of the governing of the works.
 - b) Payment of commuted sums for additional maintenance liabilities.
 - c) Potentially some of the new provisions inserted.

END

APPENDIX A

**PROTECTIVE PROVISIONS SUPPLIED BY THE APPLICANT WITH LHA
AMENDMENTS SHOWN TRACKED**

PART 11

FOR THE PROTECTION OF LOCAL HIGHWAY AUTHORITIES

Application

140. The provisions of this Part of this Schedule have effect in relation to relevant works unless otherwise agreed in writing between the undertaker and the relevant local highway authority.

Definitions

141. In this Part of this Schedule—

“as built drawings” means

- (a) as constructed drawings in both PDF and AutoCAD DWG formats;
- (b) list of suppliers and materials used and CCTV surveys;
- (c) product data sheets, technical specifications for all material used;
- (d) as constructed information for any utilities discovered installed or moved during the relevant works
- (e) method statements for works carried out;
- (f) in relation to road lighting, signs and traffic signals any information required by Series 1400 of the Specification for Highway Works;
- (g) plan of temporary signage indicating new road layouts;
- (h) organisation and methods manuals for all products used in the construction of the relevant works;
- (i) as constructed programme;
- (j) Health and Safety file;

“business day” means a day other than a Saturday or Sunday, which is not Christmas Day, Good Friday or a bank holiday under section 1 (bank holidays) of the Banking and Financial Dealings Act 1971;

“commuted sum” means the sum to be paid by the undertaker to the local highway authority for the future maintenance of any highway assets not previously forming part of the local highway network which will be transferred to the local highway authority or substantively modified by the works, as calculated in accordance with paragraph 153 of this part;

“detailed design” means drawings and other information comprising the detailed design for ~~local roads comprised in the authorised development~~ the relevant works for the purposes of paragraph 3 of Schedule 2 of the Order;

“detailed information” means drawings, specifications and other information relating to the ~~local highway, as relevant to the works in question, to include but not be limited to comprise~~ the following (insofar as both parties agree (acting reasonably) are relevant and not already provided for in any document that the undertaker is required to produce under Schedule 2 to the Order) ~~and be in accordance with the detailed design—)~~—

- (a) boundary, environmental and mitigation fencing;
- (b) road restraint systems (vehicle and pedestrian);
- (c) drainage and ducting;
- ~~(d) earthworks;~~
- (d) earthworks including supporting geotechnical assessments required by HD22/08 and any required Strengthened Earthworks Appraisal Form certification (SEAF);
- (e) road pavements;
- (f) kerbs, footways and paved areas;
- (g) long and cross sectional drawings;
- (h) traffic signal equipment and associated signal phasing and timing detail
- (i) road lighting (including columns and brackets)
- (h)(j) traffic signs and road markings;
- (h)(k) electrical work for road lighting ~~traffic signals~~ and traffic signs;

(j)(l) highway structures;

(k)(m) hard and soft landscaping, planting and any boundary features which will form part of the local highway;

(h)(n) utility new utilities and diversions of existing utilities insofar as in the existing or proposed local highway;

(m)(o) a schedule of timings for the works, including dates and durations for any closures of any part of the local highway;

(n)(p) traffic management proposals including any diversionary routes;

(e)(q) a schedule of the existing local highway condition prior to commencement of construction related activities;

(p)(r) a specification of the condition in which it is proposed that the local highway will be returned once the relevant works have been completed;

(e)(s) any temporary works structures which are to be erected or retained under the Order or otherwise.

(t) pre construction health and safety information;

(u) identification of any land expected to become highway land as a consequence of the relevant works

(v) plans showing any non vehicular highway which is maintainable by the relevant local highway authority or is intended to be at the completion of the relevant works comprising footpaths footways cycleways and bridleways; and

(w) any other information, drawing, or specification that may be required by either party acting reasonably.

“DMRB” means the Design Manual for Roads and Bridges published by the undertaker. or any replacement or modification of that standard for the time being in force;

“final certificate” means the final certificate issued by the local highway authority under paragraph 149150 of this Part of this Schedule;

“local highway” means any public highway including any public right of way which is maintainable, or is intended at the completion of the works in relation thereto to be maintainable by ~~the~~ local highway authority;

“local operating agreement” means an agreement made pursuant to paragraph 143 of this Part of this Schedule;

“maintenance period” means 12 months from the period between the date of the countersigned provisional certificate being served under paragraph 147 of this Part issued and the date of the final certificate being issued unless otherwise agreed in writing between the parties;

“provisional certificate” means the counter signed certificate served under paragraph 147148 of this Part;

“relevant works” means that part of the authorised works which relate to the local highway for which the relevant highway authority is responsible

“senior representatives” means the regional director on behalf of the undertaker and persons notified to the undertaker by the local highway authority as being their senior representatives; and

“works” means any works authorised by the Order undertaken on, to or under any part of the local highway and any drainage required in connection therewith.

Design input and commencement

142.—(1) The undertaker will must allow and facilitate an appropriately qualified officer person or officers of the local highway authority that has been nominated persons duly appointed by the relevant local highway authority (each being a “nominated officer”) to participate in the design process for the detailed design for the works and will have reasonable regard to any representations of the nominated officer in finalising its detailed design proposal (and, without limitation, the undertaker is able to refuse implementation of any representation which would cause a breach of this Order, conflict with a permit issued under a permit scheme or would entail materially new or materially different environmental effects from those reported in the environmental statement) of the relevant works

~~(2) Participation under sub-paragraph (1) will be in the form of invitations (given at least 10 business days in advance and sent by email) to attend design meetings relating to relevant works and the provision to the nominated officer of such drawings, cross/long sections, design proposals and other information as is reasonably required to allow the nominated officer to provide an informed response on the detailed design proposals to the undertaker.~~

~~(3) Nominated officer will have no less than 10 business days from the date on which the undertaker supplies information pursuant to sub-paragraph (2) to provide the undertaker with any comments upon any information provided to that officer pursuant to sub-paragraph (2).~~

~~(4) No part of the works may commence until, the undertaker has provided to the local highway authority the detailed information relating to that part of the works (without prejudice to the undertaker providing parts of the detailed information insofar as it relates to the operation of the local highway at a later date provided the provision of that information is subject to this sub-paragraph and sub-paragraphs (5) to (7)).~~

~~(5) The undertaker will give the local highway authority at least 10 business days to comment and provide representations by email on the detailed information provided to it under sub-paragraph (4).~~

~~(2) The undertaker will have reasonable regard to any comments. Prior to the undertaker finalising the detailed design of any of the relevant works the undertaker must~~

- ~~(a) provide the nominated officers with drawings cross/long sections of the relevant works~~
- ~~(b) offer, and if accepted, facilitate a meeting or series of meetings, as necessary for the proper understanding of the detailed design of the relevant works and allowing for iterations of the detailed design in response to such meetings~~
- ~~(c) allow a period of not less than 21 business days from the date of the final version of the detailed information being supplied to the nominated officers for the nominated officer to make representations and recommendations made by the local highway authority under paragraph (5) (and, without limitation, the undertaker is able to refuse implementation of any representation or recommendation which would cause a breach of this Order, conflict with a permit issued under a permit scheme or would entail materially new or materially different environmental effects from on the proposed design~~
- ~~(d) have regard to any representations and recommendations of the nominated officer when finalising the detailed design and provide to the nominated officer a response to those reported in the environmental statement) and will endeavour to provide the local highway authority with representations and recommendations in writing within 10 business days of their receipt setting out reasons for non-acceptance of any representation or recommendation as soon as reasonably practicable upon receipt of representations and recommendations including confirming whether or not and how the detailed design has been changed in response to the representations and recommendations from the nominated officer~~

~~(3) Prior to the undertaker commencing any of the relevant works the undertaker must~~

- ~~(a) submit the detailed information in respect of the relevant works to the nominated officer of the relevant local highway authority~~
- ~~(b) allow a period of not less than 21 business days for the nominated officer to provide representations and recommendations in respect of the detailed design information;~~
- ~~(c) have regard to any representations of the nominated officer in respect of the detailed design and provide to the nominated officer a request from the local highway authority response to those representations in writing within 10 business days of its/their receipt setting out reasons for non-acceptance of any representations and recommendations including confirming whether or not and how the detailed design has been changed in response to the representations and recommendations from the nominated officers~~
- ~~(d) agree with the relevant local highway authority the commuted sum to be paid for the relevant works under paragraph 153~~
- ~~(e) agree with the relevant local highway authority details of adequate maintenance access and hardstandings for inspections and maintenance on foot or using vehicles (if necessary) for any elements of the relevant works for which the relevant local highway authority will become responsible~~

(f) agree the design of any temporary new access to the relevant works which is not otherwise identified in any of the plans certified in this Order

(g) provide the warranties to the relevant local highway authority pursuant to paragraph 155

(6)(4) Within 10 business days of receiving the undertaker's decision and reason for any non-acceptance, the local highway authority shall be able to challenge the decision and any disputes arising shall be determined in accordance with paragraph 156.

(7)(5) The relevant works must not be carried out except in accordance with the detailed information (but subject to the process in sub-paragraphs (4) and (5)-3) or as otherwise may be agreed between the undertaker and the relevant local highway authority.

(8)(6) This paragraph does not apply to the relevant works to the extent the undertaker and the relevant local highway authority agree (acting reasonably) that a permit issued under a permit scheme applies to the works.

143.—(1) Before commencing the construction of, or the carrying out of any relevant work authorised by this Order which involves works to a local highway the undertaker must use reasonable endeavours to agree with the relevant local highway authority a local operating agreement covering the following as relevant to the works in question—

(a) communications and customer care arrangements for communication with stakeholders and the community generally including who will be

(i) the identity of which party is responsible thereoffor each activity;

(ii) the identity of the contractor responsible for proactive stakeholder engagement and communication;

(iii) defined timescales for contractors response;

(b) definition of the extents offor the works areas, zone of influence, traffic management and diversion requirements and free recovery areas (as appropriate) For the avoidance of doubt the works areas are the areas between the highway boundary, the traffic management lead in tapers, the longitudinal coning and the end of the lead out tapers. The zone of influence is defined as everything outside of the works areas;

(c) asset handover arrangements comprising of a description of the scheme's assets and activities to be undertaken to enable commencement, completion and handover of works, asset inspection, and the identity of which party is responsible for each activity. This is to include a requirement that contractors undertake a pre-works joint handover inspection of existing assets and agreement of condition and repair of any longitudinal joints prior to commencement of works. This is also to include the contractor defining a approach to incremental hand-back of as built asset data as per the Asset Data Management Manual, and for the contractor to undertake rectification of damage or defect where applicable;

(d) arrangements for the submission to the local highway authority of digital copies of all as-built drawings for the relevant work area including adoption limitsidentification of any new limits of highway maintainable by the relevant local highway authority;

(e) routine maintenance and repair arrangements to apply during the construction period and the maintenance period. Prior to the provisional certificate being issued the contractor will be responsible for all routine maintenance and repair activities throughout the construction phase of the authorised development;

(f) winter maintenance and severe weather arrangements to apply during the construction period and the maintenance period. The contractor is to advise the local highway authority of all programmed works and also of all works that could compromise winter treatments. Contractor is also to identify and resolve conflict between a booked traffic management change and a planned treatment;

(g) occupancy management to include the contractor being required to work within the road space booking requirements of the relevant local highway authority;

(h) continuity of technology arrangements to apply during the construction period and the maintenance period. This is to include the contractor being responsible for a complete pre-construction and post-construction technology asset review (including any remedial work to be

completed), provision of temporary technology during construction scheme to replace that disconnected and rectify any faults with temporary technology;

(f)(i) arrangements for dealing with and recording incidents during the construction period and the maintenance period. This is to include identification of incidents and provision of recovery vehicles within the free recovery area, responding to incidents within the zone of influence when required by the relevant local highway authority and responding to incidents within the works area; and

(j) traffic management: during relevant information on the key activities to be undertaken with regard to the design, installation, maintenance and removal of traffic management. This is to include the contractor being responsible for the design, installation, maintenance and removal of all traffic management required for the safe construction of the authorised development, including processing all traffic regulation orders required; and

(g)(k) the method of reporting of any claims made by and against the undertaker in respect of the relevant highway works.

(2) AnyWhere agreement cannot be reached on the terms of any local operating agreement the contents will be resolved using the procedure under paragraph 156

(2)(3) The agreement completed under sub-paragraph (1) must be complied with at all times by the undertaker and its contractors and their sub-contractors and continue in force until such time as a the relevant final certificate has been issued in respect of the relevant works or the removal of the undertaker and its contractors and their sub-contractors from all local highway authority roads, whichever is the earliest.

Survey Reinstatement

144. The undertaker must reinstate to the reasonable satisfaction of the relevant local highway authority any part of the local highway which has been temporarily used for survey or investigation purposes by the undertaker to the condition and level it was in on the date on which the survey or investigation began or such other condition as may be agreed in writing by the relevant local highway authority.

Inspections and testing of materials

144,145.—(1) The undertaker must allow and facilitate ~~nominated officers~~any person duly appointed by the local highway authority to access and inspect at all reasonable times any part of the relevant works during their construction and before a final certificate has been issued in respect of the relevant works as is reasonably necessary to ensure that the works have been or are being carried out in accordance with the detailed design and to the appropriate standard.

(2) The undertaker must allow any person duly appointed by the local highway authority to enter upon and inspect any part of the works which are in, over, under, or adjacent to any local highway or may affect any highway or any property of the local highway authority, during the carrying out of the works, and the undertaker must give to such officer all facilities for such inspection.

(2)(3) Any testing reasonably requested by the relevant local highway authority of materials used in any works must be carried out at the undertaker's expense and in accordance with the latest version of the Manual of Contract Documents for Highway Works (or any other testing specification agreed by both Partiesparties acting reasonably).

(3)(4) The relevant local highway authority (or its agent) may test all or any materials used or proposed to be used in any works and the undertaker must provide such information access and materials as is reasonably necessary to facilitate such testing.

(4)(5) The undertaker must, as soon as is reasonably practicable and in any event within 7 business days of a request, provide the local highway authority with a copy of all test certificates and results relevant to the relevant works that the relevant local highway authority has requested in writing.

(5)(6) The relevant local highway authority must as soon as is reasonably practicable and in any event within 7 business days of a request provide the undertaker with a copy of all test results and certificates relevant to the relevant works that the undertaker has requested in writing.

(6) In circumstances where a work carried out by the undertaker is tested by the local highway authority pursuant to the provisions of this part of the Schedule and that test resulted in works being undone at the undertaker's expense (acting reasonably) and found to be satisfactory then that expense must forthwith be

reimbursed by the local highway authority provided that the local highway authority was given a reasonable opportunity by the undertaker to inspect the works at a time when the works could have been inspected without the need to incur the expense.

Road Safety Audits

~~145.146.~~—(1) The undertaker must procure that an appropriately qualified RSA team (as defined in DMRB standard GG 119) undertakes road safety audit in accordance with DMRB Volume 5 Section 2 Part 2 (GG 119) or any replacement or modification of that standard GG 119 and will must provide copies of the reports of such audits to the relevant local highway authority within 7 business days of their receipt by the undertaker.

~~(2) The local highway authority must be invited to participate in the road safety audit conducted under sub-paragraph (1).~~

~~(2) The undertaker must provide details of the safety auditors the undertaker proposes to appoint to carry out road safety audits in respect of the relevant works to the relevant local highway authority and provide the relevant local highway authority with a reasonable opportunity to raise any concerns in respect of such appointment prior to the appointment being made.~~

~~(3) An appropriately qualified person on behalf of the relevant local highway authority must be invited to participate in the road safety audits of the relevant works conducted under sub-paragraph (1). Participation under this sub-paragraph (2) will be in the form of invitations (given at least one calendar month in advance and sent by email) to attend the road safety audit and the provision to the appropriately qualified person on behalf of the relevant local highway authority of such reports and other information as is reasonably required to allow that person to engage in informed participation in the road safety audit. The undertaker must consult with the relevant local highway authority with respect to any additional requirements the relevant local highway authority considers should be addressed in those audits.~~

~~(3)(4) Where the report of the stage 3 and 4 road safety audit identifies any recommended measures in respect of the ~~local highway~~relevant works, the undertaker must carry out, at its own expense and to the reasonable satisfaction of the local highway authority, ~~those~~the measures or works identified as part of the stage 3 and 4 audit which the undertaker considers necessary (acting reasonably) unless otherwise agreed with the relevant local highway authority and which provided the measures or works do not give rise to any new or materially different environmental effects in comparison with those identified in the environmental statement.~~

~~(5) Any recommended measures or works which are to be carried out to a relevant local highway authority road in accordance with the report of the stage 3 or stage 4 road safety audit must be undertaken by the undertaker.~~

~~(6) The undertaker must use reasonable endeavours to agree with the relevant local highway authority a programme for works to be carried out under sub-paragraph (4), which programme must include but is not limited to timing of any closures of any part of the highway, traffic management arrangements, signage and diversion routes where appropriate.~~

~~(7) The carrying out of recommended measures or works under this paragraph 146 are to be taken to be works carried out under this Order.~~

~~(8) Where agreement cannot be reached under this paragraph, the terms of an agreement will be resolved in accordance with paragraph 156.~~

Defects in local highways constructed by the undertaker

~~146.147.~~—(1) Until such time as a final certificate has been issued in respect of any relevant works, the undertaker must make good any defects in the relevant works constructed by the undertaker or any person acting on behalf or under the instruction of the undertaker to the reasonable satisfaction of the relevant local highway authority.

~~(2) The~~Where the undertaker carries out any relevant works it must submitmake good any latent defects in those works notified to it by the local highway authority such details and information relating within the period of 12 years from the date of the issue of the final certificate to the reasonable satisfaction of the local highway authority.

~~(3) The carrying out of any making good any defects under sub-paragraph (1) and remedial works required under sub-paragraph (2) must be preceded by the submission of such details and information to the local highway authority as the ~~local highway authority and the undertaker agree~~isdeems to be reasonable in the~~

circumstances but always including a description of the works to be carried out, a schedule of timings for the works, including dates and durations for any closures of any part of the local highway and traffic management proposals.

(4) The undertaker must use reasonable endeavours to complete the works pursuant to sub-paragraph (2) on such date or dates that will be notified by the undertaker to the local highway authority in writing or as may be agreed between the parties acting reasonably.

~~(2)~~(5) Prior to the completion of the works pursuant to sub-paragraph (2) the undertaker must invite the local highway authority to participate in the inspection of such works to identify any defects or incomplete works.

Provisional Certificate

~~147.148.~~—(1) Subject to sub-paragraph (2), when the undertaker considers that the relevant works have reached completion so that they are available for use by the public it must serve a provisional certificate on the relevant local highway authority and must allow the relevant local highway authority the opportunity to inspect the works to identify any defects or incomplete works (and the undertaker must give proper consideration to any representations and recommendations made by the local highway authority and make good such any defects pursuant or incomplete works identified.

(2) The undertaker must not serve a provisional certificate on the relevant local highway authority under sub-paragraph (1) until either—

- (a) a stage 3 road safety audit has been carried out in respect of the relevant works in question in accordance with GG19GG119 of DMRB and ~~inunless otherwise agreed with the opinion of the undertaker~~relevant local highway authority any recommended measures identified in the audit and which ~~the undertaker considers to be necessary~~, have been completed; ~~agreed under paragraph 146 should be carried out and where a further stage 3 road safety audit has been carried out in accordance with this sub-paragraph (a) to confirm that recommended measures identified in the audit have been appropriately addressed to the satisfaction of the appropriately qualified RSA team (as defined in DMRB standard GG 119);~~ or
- (b) ~~the~~the relevant works were not subject to a stage 3 safety audit and the relevant local highway authority has been provided an opportunity to inspect the works and the undertaker has, ~~in its opinion~~, completed any further works or measures required to address any safety deficiencies or defects identified as a result of the inspection.;

~~The and any defects or incomplete works have been made good~~

(3) ~~Subject to sub-paragraph (2) the relevant~~ local highway authority must issue to the undertaker, on request from the undertaker a counter-signed provisional certificate in relation to any part of the relevant works, after completion of that part of the relevant works ~~once a stage 3 safety audit has been carried out in accordance with sub-paragraph (2).~~.

Maintenance

~~148.149.~~—(1) Subject to paragraph (2), the undertaker must maintain the works throughout the maintenance period to ~~at~~the standard appropriate to their use by the public ~~as specified in the DMRB including remedying any defects.~~

(2) Nothing in paragraph (1) makes the undertaker responsible for the maintenance of any street works or maintenance works undertaken by any person other than the undertaker or which does not form part of the authorised development during the maintenance period.

(3) ~~The undertaker must use reasonable endeavours to complete maintenance works pursuant to paragraph 149(1) on such date or dates notified to the relevant local highway authority in writing by the undertaker or as may be agreed by the undertaker and the relevant local highway authority acting reasonably.~~

Final Certificate

~~149.150.~~—(1) The local highway authority must ~~promptly~~as soon as reasonably practicable issue a final certificate in respect of the works where—

- (a) ~~the maintenance period has passed;~~

- (b)(a) ~~_____~~ all incomplete works, identified defects and failure to maintain requiring remediation ~~under sub-paragraph 8(1)~~ have been remedied to the relevant local highway authority's reasonable satisfaction; ~~and~~
- (e)(b) ~~_____~~ the undertaker has given the local highway authority a reasonable opportunity to inspect the relevant works in readiness for the issue of a final certificate and has given due consideration and acted accordingly in respect of any representations and recommendations made by the local highway authority in respect of the works;
- (d)(c) ~~_____~~ the undertaker has provided the local highway authority with a health and safety file in respect of the relevant works to the local highway authority's reasonable satisfaction;
- (e)(d) ~~_____~~ the undertaker has provided the relevant local highway authority with the as built drawings and such detailed details and information as relating to any such works as the local highway authority deems to be reasonable in the circumstances including, for the avoidance of doubt, such Detailed Information as the relevant local highway authority has requested (acting reasonably) in relation to the relevant works as built; ~~and~~
- (f)(c) ~~_____~~ any sewers which the local drainage authority consider should be constructed to dispose of soil and surface water drainage in connection with the relevant Workworks and in order to make them appropriate for public use have been constructed.
- (f) ~~The issue a stage 4 safety audit in accordance with GG119 of a final certificate by the DMRB has been completed and any works arising therefrom have been completed unless otherwise agreed with the relevant~~ local highway authority ~~amounts~~
- (g) ~~the relevant works are not subject to an acknowledgment by the any ongoing traffic management measures or routeing of construction traffic related to the authorised development~~
- (h) ~~the undertaker has paid to the relevant~~ local highway authority any commuted sum payable under paragraph 153 in respect of the relevant works
- (i) ~~the undertaker has paid to the relevant~~ local highway authority all costs and expenses due under paragraph 154 at that point
- (j) ~~any transfer of land requested by the relevant~~ local highway authority has been completed under paragraph 152; and
- (g)(k) ~~_____~~ the relevant local highway authority considers that the construction, alteration or diversion (as the case may be) of a highway has been completed to its reasonable satisfaction for the purposes of articles 10(1) and 10(2) of the Order.

Emergency Work

~~150.151.~~ Nothing in this Part of this Schedule prevents the local highway authority from carrying out any work or taking such action as deemed appropriate forthwith without prior notice to the undertaker in the event of an emergency or danger to the public.

Land interests

~~151.152.~~ ~~Following~~Prior to the issuing of the final certificate under paragraph ~~149~~150 in respect of any part of the ~~local highway~~relevant works, the undertaker must, if requested by the relevant local highway authority, in respect of a local highway which is to be maintainable by the relevant local highway authority following, and as a result of, the completion of those works either—

- (a) execute and complete a transfer to the relevant local highway authority at nil consideration of any land and rights which have been compulsorily acquired under this Order and which are necessary for the maintenance and operation of a local highway; or
- (b) exercise article 20 (compulsory acquisition of land) and article 28 (compulsory acquisition of rights and imposition of restrictive covenants) as applied by article 31 (application of the 1981 Act) and 32 (modification of the 2017 Regulations) of this Order to directly vest in the relevant local highway authority land or interest which are may be necessary for the maintenance and operation of a local highway,
- (c) unless otherwise agreed between the undertaker and the relevant local highway authority.

Commuted Sums

153.

(1) The undertaker must use reasonable endeavours to agree with the relevant local highway authority a schedule of new highway assets which are proposed to become the maintenance responsibility of the relevant local highway authority as a result of the authorised development under article 10 (construction and maintenance of new, altered, or diverted streets and other structures) and article 15 (classification of the roads, etc.) of the Order.

(2) Where the schedule prepared under paragraph (1) cannot be agreed, the matters of dispute shall be determined in accordance with paragraph 156.

(3) Following agreement of the schedule under sub-paragraph (1) or determination under sub-paragraph (2), the relevant local highway authority must prepare a calculation of the Commuted Sum based on maintenance the local highway authority considers to be required for the schedule of highway assets agreed under sub-paragraph (1) or determined under sub-paragraph (2) and must use reasonable endeavours to agree it with the undertaker.

(4) The undertaker must be provided with a complete breakdown of the calculation of the Commuted Sum by the local highway authority under sub-paragraph (3) including any assumptions used.

(5) Where the calculation prepared under sub-paragraph (3) cannot be agreed, the matters of dispute shall be determined in accordance with paragraph 156.

(6) The undertaker must pay the Commuted Sum to the relevant local highway authority in one instalment within 10 business days of the later of:

- (a) the date of completion of the relevant works to which the Commuted Sum applies; or
- (b) the date of agreement of the value of the Commuted Sum under sub-paragraph (3) or determination under sub-paragraph (5).

Costs and Indemnities

154. (1) The undertaker must pay to the relevant local highway authority in respect of the works a sum equal to the whole of any costs and expenses reasonably incurred by that relevant local highway authority in respect of:

- (a) participating in the design of any part of the authorised development, the examination or approval of design or construction information required for the works including for the protection of the local highway network, and reaching agreement on the schedule of highways assets pursuant to paragraphs 142 and 143
- (b) carrying out any inspections reasonably required in connection with any of the provisions of this Part of this Schedule, including the inspection of the construction and completion of the works including any remediation works pursuant to paragraph 145
- (c) carrying out any surveys and testing which are reasonably required in connection with the construction of the works pursuant to paragraph 145
- (d) including the schedule of highways assets agreed pursuant to paragraph 143 within the road maintenance contracts of the relevant highway authority;
- (e) negotiating, completing, implementing and monitoring compliance with the relevant local operating agreement pursuant to paragraph 143
- (f) participation in road safety audits relating to the works pursuant to paragraph 146
- (g) issuing any approvals/certificates pursuant to paragraphs 148 and 150
- (h) agreeing any commuted sum pursuant to paragraph 153
- (i) the transfer or vesting in the relevant local highway authority of any land and rights acquired by the undertaker pursuant to paragraph 152
- (j) providing details of and agreeing all costs payable pursuant to this paragraph

(2) The undertaker must pay the costs and expenses referred to in sub-paragraph (1) to the relevant local highway authority within 28 business days of the relevant local highway authority advising the undertaker

that they have been incurred and no final certificate will be issued under paragraph 150 if any payment due to be paid at that point has not been paid.

(3) The undertaker will indemnify and keep indemnified the relevant local highway authority against any liability, loss, costs, claim arising out of or incidental to the relevant works other than any caused by any negligent act, default or omission of the relevant local highway authority.

Warranties

155. (1) The undertaker must procure warranties in favour of the relevant local highway authority from the contractor and designer of the relevant works to the effect that all reasonable skill care and due diligence has been and will be exercised in designing and constructing the relevant works including the selection of the materials, goods, equipment and plant such warranties to be provide to the relevant local highway authority before the relevant work commences.

Disputes

152,156.—(1) In the event of any disagreement between the Parties arising out of or in connection with this agreement (~~other than in difference as to the meaning or construction of this Part of this Schedule~~) which requires the agreement of the Parties jointly or the approval of the local highway authority and which cannot be resolved within 10 business days of the disagreement arising, either party may request a review of the issue in disagreement by the parties giving notice in writing to ~~their~~the Parties' senior representatives.

(2) The senior representatives will consider any such request and use all reasonable endeavours in good faith to reach agreement to resolve any disagreement.

(3) Where agreement is not reached by the senior representatives within 10 business days of a request being made under sub-paragraph (2), the disagreement ~~may be the subject of an appeal to the Secretary of State under article 65 (appeals to the Secretary of State) of this Order.~~is to be determined by arbitration as provided for in article 64 (arbitration).

APPENDIX B

PROTECTIVE PROVISIONS INCORPORATING LHA AMENDMENTS

PART 11

FOR THE PROTECTION OF LOCAL HIGHWAY AUTHORITIES

Application

140. The provisions of this Part of this Schedule have effect in relation to relevant works unless otherwise agreed in writing between the undertaker and the relevant local highway authority.

Definitions

141. In this Part of this Schedule—

“as built drawings” means

- (a) as constructed drawings in both PDF and AutoCAD DWG formats;
- (b) list of suppliers and materials used and CCTV surveys;
- (c) product data sheets, technical specifications for all material used;
- (d) as constructed information for any utilities discovered installed or moved during the relevant works
- (e) method statements for works carried out;
- (f) in relation to road lighting, signs and traffic signals any information required by Series 1400 of the Specification for Highway Works;
- (g) plan of temporary signage indicating new road layouts;
- (h) organisation and methods manuals for all products used in the construction of the relevant works;
- (i) as constructed programme;
- (j) Health and Safety file;

“business day” means a day other than a Saturday or Sunday, which is not Christmas Day, Good Friday or a bank holiday under section 1 (bank holidays) of the Banking and Financial Dealings Act 1971;

“commuted sum” means the sum to be paid by the undertaker to the local highway authority for the future maintenance of any highway assets not previously forming part of the local highway network which will be transferred to the local highway authority or substantively modified by the works, as calculated in accordance with paragraph 153 of this part;

“detailed design” means drawings and other information comprising the detailed design for the relevant works for the purposes of paragraph 3 of Schedule 2 of the Order;

“detailed information” means drawings, specifications and other information relating to the relevant works, to include but not be limited to the following (insofar as both parties agree (acting reasonably) are relevant and not already provided for in any document that the undertaker is required to produce under Schedule 2 to the Order)—

- (k) boundary, environmental and mitigation fencing;
- (l) road restraint systems (vehicle and pedestrian);
- (m) drainage and ducting;
- (n) earthworks including supporting geotechnical assessments required by HD22/08 and any required Strengthened Earthworks Appraisal Form certification (SEAF);
- (o) road pavements;
- (p) kerbs, footways and paved areas;
- (q) long and cross sectional drawings;
- (r) traffic signal equipment and associated signal phasing and timing detail
- (s) road lighting (including columns and brackets)
- (t) traffic signs and road markings;
- (u) electrical work for road lighting traffic signals and traffic signs;
- (v) highway structures;

- (w) hard and soft landscaping, planting and any boundary features which will form part of the local highway;
- (x) new utilities and diversions of existing utilities insofar as in the existing or proposed local highway;
- (y) a schedule of timings for the works, including dates and durations for any closures of any part of the local highway;
- (z) traffic management proposals including any diversionary routes;
- (aa) a schedule of the existing local highway condition prior to commencement of construction related activities;
- (bb) a specification of the condition in which it is proposed that the local highway will be returned once the relevant works have been completed;
- (cc) any temporary works structures which are to be erected or retained under the Order or otherwise.
- (dd) pre construction health and safety information;
- (ee) identification of any land expected to become highway land as a consequence of the relevant works
- (ff) plans showing any non vehicular highway which is maintainable by the relevant local highway authority or is intended to be at the completion of the relevant works comprising footpaths footways cycleways and bridleways; and
- (gg) any other information, drawing, or specification that may be required by either party acting reasonably.

“DMRB” means the Design Manual for Roads and Bridges published by the undertaker. or any replacement or modification of that standard for the time being in force;

“final certificate” means the final certificate issued by the local highway authority under paragraph 150 of this Part of this Schedule;

“local highway” means any public highway including any public right of way which is maintainable, or is intended at the completion of the works in relation thereto to be maintainable by a local highway authority;

“local operating agreement” means an agreement made pursuant to paragraph 143 of this Part of this Schedule;

“maintenance period” means the period between the date of the countersigned provisional certificate being issued and the date of the final certificate being issued unless otherwise agreed in writing between the parties;

“provisional certificate” means the counter signed certificate served under paragraph 148 of this Part;

“relevant works” means that part of the authorised works which relate to the local highway for which the relevant highway authority is responsible

“senior representatives” means the regional director on behalf of the undertaker and persons notified to the undertaker by the local highway authority as being their senior representatives; and

“works” means any works authorised by the Order undertaken on, to or under any part of the local highway and any drainage required in connection therewith.

Design input and commencement

142.—(1) The undertaker must allow and facilitate an appropriately qualified person or persons duly appointed by the relevant local highway authority (each being a “nominated officer”) to participate in the design process for the detailed design of the relevant works

- (2) Prior to the undertaker finalising the detailed design of any of the relevant works the undertaker must
 - (a) provide the nominated officers with drawings cross/long sections of the relevant works
 - (b) offer, and if accepted, facilitate a meeting or series of meetings, as necessary for the proper understanding of the detailed design of the relevant works and allowing for iterations of the detailed design in response to such meetings
 - (c) allow a period of not less than 21 business days from the date of the final version of the detailed information being supplied to the nominated officers for the nominated officer to make representations and recommendations on the proposed design

- (d) have regard to any representations and recommendations of the nominated officer when finalising the detailed design and provide to the nominated officer a response to those representations and recommendations in writing within 10 business days of their receipt setting out reasons for non acceptance of any representations and recommendations including confirming whether or not and how the detailed design has been changed in response to the representations and recommendations from the nominated officer

(3) Prior to the undertaker commencing any of the relevant works the undertaker must

- (a) submit the detailed information in respect of the relevant works to the nominated officer of the relevant local highway authority
- (b) allow a period of not less than 21 business days for the nominated officer to provide representations and recommendations in respect of the detailed design information;
- (c) have regard to any representations of the nominated officer in respect of the detailed design and provide to the nominated officer a response to those representations in writing within 10 business days of their receipt setting out reasons for non acceptance of any representations and recommendations including confirming whether or not and how the detailed design has been changed in response to the representations and recommendations from the nominated officers
- (d) agree with the relevant local highway authority the commuted sum to be paid for the relevant works under paragraph 153
- (e) agree with the relevant local highway authority details of adequate maintenance access and hardstandings for inspections and maintenance on foot or using vehicles (if necessary) for any elements of the relevant works for which the relevant local highway authority will become responsible
- (f) agree the design of any temporary new access to the relevant works which is not otherwise identified in any of the plans certified in this Order
- (g) provide the warranties to the relevant local highway authority pursuant to paragraph 155

(4) Within 10 business days of receiving the undertaker's decision and reason for any non-acceptance, the local highway authority shall be able to challenge the decision and any disputes arising shall be determined in accordance with paragraph 156.

(5) The relevant works must not be carried out except in accordance with the detailed information (but subject to the process in sub-paragraphs (3) or as otherwise may be agreed between the undertaker and the relevant local highway authority.

(6) This paragraph does not apply to the relevant works to the extent the undertaker and the relevant local highway authority agree (acting reasonably) that a permit issued under a permit scheme applies to the works.

143.—(1) Before commencing the construction of, or the carrying out of any relevant work the undertaker must agree with the relevant local highway authority a local operating agreement covering the following—

- (a) communications and customer care arrangements for communication with stakeholders and the community generally including
 - (i) the identity of which party is responsible for each activity;
 - (ii) the identity of the contractor responsible for proactive stakeholder engagement and communication
 - (iii) defined timescales for contractors response
- (b) definition of the extents of the works areas, zone of influence, traffic management and diversion requirements and free recovery areas (as appropriate) For the avoidance of doubt the works areas are the areas between the highway boundary, the traffic management lead in tapers, the longitudinal coning and the end of the lead out tapers. The zone of influence is defined as everything outside of the works areas;
- (c) asset handover arrangements comprising of a description of the scheme's assets and activities to be undertaken to enable commencement, completion and handover of works, asset inspection, and the identity of which party is responsible for each activity. This is to include a requirement that contractors undertake a pre-works joint handover inspection of existing assets and agreement of condition and repair of any longitudinal joints prior to commencement of works. This is also to

include the contractor defining a approach to incremental hand-back of as built asset data as per the Asset Data Management Manual, and for the contractor to undertake rectification of damage or defect where applicable;

- (d) arrangements for the submission to the local highway authority of digital copies of all as-built drawings for the relevant work area including identification of any new limits of highway maintainable by the relevant local highway authority;
- (e) routine maintenance and repair arrangements to apply during the construction period and the maintenance period. Prior to the provisional certificate being issued the contractor will be responsible for all routine maintenance and repair activities throughout the construction phase of the authorised development;
- (f) winter maintenance and severe weather arrangements to apply during the construction period and the maintenance period. The contractor is to advise the local highway authority of all programmed works and also of all works that could compromise winter treatments. Contractor is also to identify and resolve conflict between a booked traffic management change and a planned treatment;
- (g) occupancy management to include the contractor being required to work within the road space booking requirements of the relevant local highway authority;
- (h) continuity of technology arrangements to apply during the construction period and the maintenance period. This is to include the contractor being responsible for a complete pre-construction and post-construction technology asset review (including any remedial work to be completed), provision of temporary technology during construction scheme to replace that disconnected and rectify any faults with temporary technology;
- (i) arrangements for dealing with and recording incidents during the construction period and the maintenance period. This is to include identification of incidents and provision of recovery vehicles within the free recovery area, responding to incidents within the zone of influence when required by the relevant local highway authority and responding to incidents within the works area;
- (j) traffic management information on the key activities to be undertaken with regard to the design, installation, maintenance and removal of traffic management. This is to include the contractor being responsible for the design, installation, maintenance and removal of all traffic management required for the safe construction of the authorised development, including processing all traffic regulation orders required; and
- (k) the method of reporting of any claims made by and against the undertaker in respect of the relevant highway works.

(2) Where agreement cannot be reached on the terms of any local operating agreement the contents will be resolved using the procedure under paragraph 156

(3) The agreement completed under sub-paragraph (1) must be complied with at all times by the undertaker and its contractors and their sub-contractors and continue in force until such time as the relevant final certificate has been issued in respect of the relevant works or the removal of the undertaker and its contractors and their sub-contractors from all local highway authority roads, whichever is the earliest.

Survey Reinstatement

144. The undertaker must reinstate to the reasonable satisfaction of the relevant local highway authority any part of the local highway which has been temporarily used for survey or investigation purposes by the undertaker to the condition and level it was in on the date on which the survey or investigation began or such other condition as may be agreed in writing by the relevant local highway authority.

Inspections and testing of materials

145.—(1) The undertaker must allow and facilitate any person duly appointed by the local highway authority to access and inspect at all reasonable times any part of the relevant works during their construction and before a final certificate has been issued in respect of the relevant works as is reasonably necessary to ensure that the works have been or are being carried out in accordance with the detailed design and to the appropriate standard.

(2) The undertaker must allow any person duly appointed by the local highway authority to enter upon and inspect any part of the works which are in, over, under, or adjacent to any local highway or may affect any

highway or any property of the local highway authority, during the carrying out of the works, and the undertaker must give to such officer all facilities for such inspection.

(3) Any testing reasonably requested by the relevant local highway authority of materials used in any works must be carried out at the undertaker's expense and in accordance with the latest version of the Manual of Contract Documents for Highway Works (or any other testing specification agreed by both parties acting reasonably).

(4) The relevant local highway authority (or its agent) may test all or any materials used or proposed to be used in any works and the undertaker must provide such information access and materials as is reasonably necessary to facilitate such testing.

(5) The undertaker must, as soon as is reasonably practicable and in any event within 7 business days of a request, provide the local highway authority with a copy of all test certificates and results relevant to the relevant works that the relevant local highway authority has requested in writing.

(6) The relevant local highway authority must as soon as is reasonably practicable and in any event within 7 business days of a request provide the undertaker with a copy of all test results and certificates relevant to the relevant works that the undertaker has requested in writing.

Road Safety Audits

146.—(1) The undertaker must procure that an appropriately qualified RSA team (as defined in DMRB standard GG 119) undertakes road safety audit in accordance with DMRB Volume 5 Section 2 Part 2 (GG 119) or any replacement or modification of that standard and must provide copies of the reports of such audits to the relevant local highway authority within 7 business days of their receipt by the undertaker.

(2) The undertaker must provide details of the safety auditors the undertaker proposes to appoint to carry out road safety audits in respect of the relevant works to the relevant local highway authority and provide the relevant local highway authority with a reasonable opportunity to raise any concerns in respect of such appointment prior to the appointment being made.

(3) An appropriately qualified person on behalf of the relevant local highway authority must be invited to participate in the road safety audits of the relevant works conducted under sub-paragraph (1). Participation under this sub-paragraph (2) will be in the form of invitations (given at least one calendar month in advance and sent by email) to attend the road safety audit and the provision to the appropriately qualified person on behalf of the relevant local highway authority of such reports and other information as is reasonably required to allow that person to engage in informed participation in the road safety audit. The undertaker must consult with the relevant local highway authority with respect to any additional requirements the relevant local highway authority considers should be addressed in those audits.

(4) Where the report of the stage 3 and 4 road safety audit identifies any recommended measures in respect of the relevant works, the undertaker must carry out, at its own expense and to the reasonable satisfaction of the local highway authority, the measures or works identified as part of the stage 3 and 4 audit unless otherwise agreed with the relevant local highway authority and provided the measures or works do not give rise to any new or materially different environmental effects in comparison with those identified in the environmental statement.

(5) Any recommended measures or works which are to be carried out to a relevant local highway authority road in accordance with the report of the stage 3 or stage 4 road safety audit must be undertaken by the undertaker.

(6) The undertaker must use reasonable endeavours to agree with the relevant local highway authority a programme for works to be carried out under sub-paragraph (4), which programme must include but is not limited to timing of any closures of any part of the highway, traffic management arrangements, signage and diversion routes where appropriate.

(7) The carrying out of recommended measures or works under this paragraph 146 are to be taken to be works carried out under this Order.

(8) Where agreement cannot be reached under this paragraph, the terms of an agreement will be resolved in accordance with paragraph 156.

Defects in local highways constructed by the undertaker

147.—(1) Until such time as a final certificate has been issued in respect of any relevant works, the undertaker must make good any defects in the relevant works constructed by the undertaker or any person

acting on behalf or under the instruction of the undertaker to the reasonable satisfaction of the relevant local highway authority.

(2) Where the undertaker carries out any relevant works it must make good any latent defects in those works notified to it by the local highway authority within the period of 12 years from the date of the issue of the final certificate to the reasonable satisfaction of the local highway authority.

(3) The carrying out of any making good defects under sub-paragraph (1) and remedial works required under sub-paragraph (2) must be preceded by the submission of such details and information to the local highway authority as the undertaker deems to be reasonable in the circumstances but always including a description of the works to be carried out, a schedule of timings for the works, including dates and durations for any closures of any part of the local highway and traffic management proposals.

(4) The undertaker must use reasonable endeavours to complete the works pursuant to sub-paragraph (2) on such date or dates that will be notified by the undertaker to the local highway authority in writing or as may be agreed between the parties acting reasonably.

(5) Prior to the completion of the works pursuant to sub-paragraph (2) the undertaker must invite the local highway authority to participate in the inspection of such works to identify any defects or incomplete works.

Provisional Certificate

148.—(1) Subject to sub-paragraph (2), when the undertaker considers that the relevant works have reached completion so that they are available for use by the public it must serve a provisional certificate on the relevant local highway authority and must allow the relevant local highway authority the opportunity to inspect the works to identify any defects or incomplete works and the undertaker must give proper consideration to any representations and recommendations made by the local highway authority and make good any defects or incomplete works identified.

(2) The undertaker must not serve a provisional certificate on the relevant local highway authority under sub-paragraph (1) until either—

- (a) a stage 3 road safety audit has been carried out in respect of the relevant works in question in accordance with GG119 of DMRB and unless otherwise agreed with the relevant local highway authority any recommended measures identified in the audit and which have been agreed under paragraph 146 should be carried out and where a further stage 3 road safety audit has been carried out in accordance with this sub-paragraph (a) to confirm that recommended measures identified in the audit have been appropriately addressed to the satisfaction of the appropriately qualified RSA team (as defined in DMRB standard GG 119); or
- (b) the relevant works were not subject to a stage 3 safety audit and the relevant local highway authority has been provided an opportunity to inspect the works and the undertaker has completed any further works or measures required to address any safety deficiencies or defects identified as a result of the inspection;

and any defects or incomplete works have been made good

(3) Subject to sub-paragraph (2) the relevant local highway authority must issue to the undertaker, on request from the undertaker a counter-signed provisional certificate in relation to any part of the relevant works, after completion of that part of the relevant works.

Maintenance

149.—(1) Subject to paragraph (2), the undertaker must maintain the works throughout the maintenance period to the standard appropriate to their use by the public as specified in the DMRB including remedying any defects.

(2) Nothing in paragraph (1) makes the undertaker responsible for the maintenance of any street works or maintenance works undertaken by any person other than the undertaker or which does not form part of the authorised development during the maintenance period.

(3) The undertaker must use reasonable endeavours to complete maintenance works pursuant to paragraph 149(1) on such date or dates notified to the relevant local highway authority in writing by the undertaker or as may be agreed by the undertaker and the relevant local highway authority acting reasonably.

Final Certificate

150.—(1) The local highway authority must as soon as reasonably practicable issue a final certificate in respect of the works where—

- (a) all incomplete works, identified defects and failure to maintain requiring remediation have been remedied to the relevant local highway authority's reasonable satisfaction
- (b) the undertaker has given the local highway authority a reasonable opportunity to inspect the relevant works in readiness for the issue of a final certificate and has given due consideration and acted accordingly in respect of any representations and recommendations made by the local highway authority in respect of the works
- (c) the undertaker has provided the local highway authority with a health and safety file in respect of the relevant works to the local highway authority's reasonable satisfaction
- (d) the undertaker has provided the relevant local highway authority with the as built drawings and such details and information relating to any such works as the local highway authority deems to be reasonable in the circumstances including, for the avoidance of doubt, such Detailed Information as the relevant local highway authority has requested (acting reasonably) in relation to the relevant works as built.
- (e) any sewers which the local drainage authority consider should be constructed to dispose of soil and surface water drainage in connection with the relevant works and in order to make them appropriate for public use have been constructed
- (f) a stage 4 safety audit in accordance with GG119 of DMRB has been completed and any works arising therefrom have been completed unless otherwise agreed with the relevant local highway authority
- (g) the relevant works are not subject to any ongoing traffic management measures or routing of construction traffic related to the authorised development
- (h) the undertaker has paid to the relevant local highway authority any commuted sum payable under paragraph 153 in respect of the relevant works
- (i) the undertaker has paid to the relevant local highway authority all costs and expenses due under paragraph 154 at that point
- (j) any transfer of land requested by the relevant local highway authority has been completed under paragraph 152; and
- (k) the relevant local highway authority considers that the construction, alteration or diversion (as the case may be) of a highway has been completed to its reasonable satisfaction for the purposes of articles 10(1) and 10(2) of the Order.

Emergency Work

151. Nothing in this Part of this Schedule prevents the local highway authority from carrying out any work or taking such action as deemed appropriate forthwith without prior notice to the undertaker in the event of an emergency or danger to the public.

Land interests

152. Prior to the issuing of the final certificate under paragraph 150 in respect of any part of the relevant works, the undertaker must, if requested by the relevant local highway authority, in respect of a local highway which is to be maintainable by the relevant local highway authority following, and as a result of, the completion of those works either—

- (a) execute and complete a transfer to the relevant local highway authority at nil consideration of any land and rights which have been compulsorily acquired under this Order and which are necessary for the maintenance and operation of a local highway; or
- (b) exercise article 20 (compulsory acquisition of land) and article 28 (compulsory acquisition of rights and imposition of restrictive covenants) as applied by article 31 (application of the 1981 Act) and 32 (modification of the 2017 Regulations) of this Order to directly vest in the relevant local highway authority land or interest which may be necessary for the maintenance and operation of a local highway,

unless otherwise agreed between the undertaker and the relevant local highway authority.

Commuted Sums

153.

(1) The undertaker must use reasonable endeavours to agree with the relevant local highway authority a schedule of new highway assets which are proposed to become the maintenance responsibility of the relevant local highway authority as a result of the authorised development under article 10 (construction and maintenance of new, altered, or diverted streets and other structures) and article 15 (classification of the roads, etc.) of the Order.

(2) Where the schedule prepared under paragraph (1) cannot be agreed, the matters of dispute shall be determined in accordance with paragraph 156.

(3) Following agreement of the schedule under sub-paragraph (1) or determination under sub-paragraph (2), the relevant local highway authority must prepare a calculation of the Commuted Sum based on maintenance the local highway authority considers to be required for the schedule of highway assets agreed under sub-paragraph (1) or determined under sub-paragraph (2) and must use reasonable endeavours to agree it with the undertaker.

(4) The undertaker must be provided with a complete breakdown of the calculation of the Commuted Sum by the local highway authority under sub-paragraph (3) including any assumptions used.

(5) Where the calculation prepared under sub-paragraph (3) cannot be agreed, the matters of dispute shall be determined in accordance with paragraph 156.

(6) The undertaker must pay the Commuted Sum to the relevant local highway authority in one instalment within 10 business days of the later of:

- (a) the date of completion of the relevant works to which the Commuted Sum applies; or
- (b) the date of agreement of the value of the Commuted Sum under sub-paragraph (3) or determination under sub-paragraph (5).

Costs and Indemnities

154. (1) The undertaker must pay to the relevant local highway authority in respect of the works a sum equal to the whole of any costs and expenses reasonably incurred by that relevant local highway authority in respect of:

- (a) participating in the design of any part of the authorised development, the examination or approval of design or construction information required for the works including for the protection of the local highway network, and reaching agreement on the schedule of highways assets pursuant to paragraphs 142 and 143
- (b) carrying out any inspections reasonably required in connection with any of the provisions of this Part of this Schedule, including the inspection of the construction and completion of the works including any remediation works pursuant to paragraph 145
- (c) carrying out any surveys and testing which are reasonably required in connection with the construction of the works pursuant to paragraph 145
- (d) including the schedule of highways assets agreed pursuant to paragraph 143 within the road maintenance contracts of the relevant highway authority;
- (e) negotiating, completing, implementing and monitoring compliance with the relevant local operating agreement pursuant to paragraph 143
- (f) participation in road safety audits relating to the works pursuant to paragraph 146
- (g) issuing any approvals/certificates pursuant to paragraphs 148 and 150
- (h) agreeing any commuted sum pursuant to paragraph 153

- (i) the transfer or vesting in the relevant local highway authority of any land and rights acquired by the undertaker pursuant to paragraph 152
- (j) providing details of and agreeing all costs payable pursuant to this paragraph

(2) The undertaker must pay the costs and expenses referred to in sub-paragraph (1) to the relevant local highway authority within 28 business days of the relevant local highway authority advising the undertaker that they have been incurred and no final certificate will be issued under paragraph 150 if any payment due to be paid at that point has not been paid.

(3) The undertaker will indemnify and keep indemnified the relevant local highway authority against any liability, loss, costs, claim arising out of or incidental to the relevant works other than any caused by any negligent act, default or omission of the relevant local highway authority.

Warranties

155. (1) The undertaker must procure warranties in favour of the relevant local highway authority from the contractor and designer of the relevant works to the effect that all reasonable skill care and due diligence has been and will be exercised in designing and constructing the relevant works including the selection of the materials, goods, equipment and plant such warranties to be provide to the relevant local highway authority before the relevant work commences.

Disputes

156.—(1) In the event of any disagreement between the Parties arising out of or in connection with this agreement (other than in difference as to the meaning or construction of this Part of this Schedule) which requires the agreement of the Parties jointly or the approval of the local highway authority and which cannot be resolved within 10 business days of the disagreement arising, either party may request a review of the issue in disagreement by the parties giving notice in writing to the Parties' senior representatives.

(2) The senior representatives will consider any such request and use all reasonable endeavours in good faith to reach agreement to resolve any disagreement.

(3) Where agreement is not reached by the senior representatives within 10 business days of a request being made under sub-paragraph (2), the disagreement is to be determined by arbitration as provided for in article 64 (arbitration).

Thurrock Council Submission at Deadline 6 – Appendix O: Amended Protective Provisions
Lower Thames Crossing
