

Lower Thames Crossing

9.167 Draft Section 106 Agreement – Kent County Council

Infrastructure Planning (Examination
Procedure) Rules 2010

Volume 9

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Lower Thames Crossing

9.167 Draft Section 106 Agreement – Kent County Council

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1 Introduction

- 1.1.1 This document presents the draft section 106 agreement (s106) between National Highways (the Applicant) and Kent County Council.
- 1.1.2 To give the Examining Authority an indication of the status of negotiations, Table 1.1 presents a broad summary of positions on the main clauses and schedules.
- 1.1.3 The draft s106 between the Applicant and Kent County Council is presented in full in Appendix A.

Table 1.1 Summary positions on the main clauses and schedules of the draft s106 at Deadline 7

Sections	Commentary
s106 clauses	Drafts of the Section 106 agreements have been exchanged between the two parties and a number of the Council's comments have been addressed by the Applicant. The Applicant will continue to consider the Council's ongoing comments following Deadline 7 submissions.
Schedule 1 – Officer Support Contributions	The Applicant has made a financial offer for Officer Contributions, which the Council has responded to with a counter-offer. The Applicant is currently reviewing the Council's counter-offer and will respond week commencing 13 November 2023. This matter remains under negotiation.
Schedule 2 – Severance Contributions	The Applicant has made a financial offer for Severance, which the Council has responded to with a counter-offer. The Applicant is currently reviewing the Council's counter-offer and will respond week commencing 13 November 2023. This matter remains under negotiation.
Schedule 3 – Payments to the Council – Enhancement of the Kent Downs Area of Outstanding Natural Beauty (KDAONB)	The Applicant has made a final offer for a Compensatory Enhancement Fund to the Council for the Kent Downs AONB Unit to manage and administer. As set out in Schedule 3 of the draft S106 the offer is £4,240,000, which includes £600,000 to manage and administer the fund. The value of the Compensatory Enhancement Fund has not yet been agreed by the Kent Downs AONB Unit. Engagement is continuing and further meetings are being scheduled before the end of November.
Schedule 4 – Heavy Goods Vehicles (“HGV”) Restrictions	The Applicant has received and continues to address comments raised to Schedule 6. The Applicant intends to make a financial offer for the scope of work that enables said restrictions including cost of feasibility. This matter remains under negotiation.
Schedule 5 – Low Noise Surfacing Works	The Applicant has made an offer for Low Noise Surfacing works on the A228. The Council has rejected the Applicant's proposal. The Applicant is investigating further alternative methods of noise mitigation in this area. This matter remains under discussion.
Schedule 6 – Council's Obligations	No outstanding comments to resolve at Deadline 7.

Appendices

Appendix A Draft s106 agreement

DATED

2023

(1) KENT COUNTY COUNCIL

and

(2) NATIONAL HIGHWAYS LIMITED

**DEED OF DEVELOPMENT CONSENT
OBLIGATIONS**

**Pursuant to section 106 of the Town and Country Planning Act
1990 (as amended) relating to the Lower Thames Crossing**



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Appendix A – Plan showing point A and B on Valley Drive, Gravesend

Annex – Plan showing land owned by National Highways

THIS AGREEMENT is dated

2023

BETWEEN

(1) **KENT COUNTY COUNCIL** of Sessions House, County Hall, Maidstone ME14 1XQ
(**the Council**);

and

(2) **NATIONAL HIGHWAYS LIMITED** of Bridge House, 1 Walnut Tree Close, Guildford,
Surrey, GU1 4LZ (Company Registration number 09346363) (**National Highways**).

Together '**the Parties**' and '**Party**' shall be construed accordingly.

WHEREAS

(A) The Council is the local planning authority, the local highway authority, the education authority, the library authority and the authority responsible for the provision of social services in the area where the Land is situated.

(B) National Highways is the freehold owner of the Land registered at the Land Registry under title number K777301.

(C) On 31 October 2022 National Highways submitted the Application to the Secretary of State for Transport (c/o The Planning Inspectorate) for development consent to construct and operate the Development. The Application was accepted for examination by the Secretary of State on 28 November 2022.

(D) The Parties have agreed to enter into this Deed as a development consent obligation under the 1990 Act in order to secure planning obligations contained in this Deed which are necessary to mitigate the impacts of the Development and to make the Development acceptable in planning terms.

NOW IT IS HEREBY AGREED AS FOLLOWS

1 Interpretation

1.1 In this Deed the following terms and expressions have the following respective meanings unless otherwise stated:

1972 Act means the Local Government Act 1972;

1980 Act means the Highways Act 1980;

1990 Act means the Town and Country Planning Act 1990;

2008 Act means the Planning Act 2008;

Application	means the application for a development consent order submitted by National Highways to the Secretary of State on 31 October 2022, pursuant to section 37 of the 2008 Act for the Authorised Development;
Authorised Development	has the meaning ascribed to the term “authorised development” in the Development Consent Order;
Certificate of Substantial Completion	means the certificate to be issued setting out that the Development is virtually complete and listing the defects that need to be rectified before final sign off is issued;
Commencement	means beginning to carry out any material operation (as defined in section 56(4) of the 1990 Act) forming part of the Authorised Development other than the preliminary works as defined in Schedule 2 of the Development Consent Order and “Commence” shall be construed accordingly;
Commencement Date	means the date of Commencement of the Authorised Development pursuant to the Development Consent Order;
Construction Period	means the period between the Commencement Date and the date when both tunnels comprised in the Authorised Development beneath the River Thames are open for traffic
Development Consent Order	means the development consent order to be made by the Secretary of State pursuant to the Application;
Expert	means an independent person appointed in accordance with the provisions of Clause 9 to determine a dispute between the Parties to this Deed;
Index	means the "all Items" index figure of the Index of Retail Prices published by the Office for National Statistics or such other index as the Council may reasonably nominate in the event that the Index of Retail Prices shall no longer be published or its name or methodology be materially altered;
Index Linked	means []

Interest Rate	means interest at a rate of 4% (four per cent) per annum greater than the Bank of England base rate in force from time to time from the date that the payment becomes due until the date of payment;
Land	means the freehold land under title K777301 edged in red on the plan Annexed to this Deed;
Secretary of State	means the Secretary of State for Transport;
Working Day	a day other than a Saturday or Sunday or public holiday in England.

1.2 In interpreting this Deed:

- 1.2.1 words incorporating the singular shall include the plural and vice versa,
- 1.2.2 words importing the masculine gender include the feminine and vice versa;
- 1.2.3 words incorporating persons shall include firms, companies, corporations, other corporate bodies and legal entities and vice versa;
- 1.2.4 references to the Council shall include any successors to its relevant statutory and other functions;
- 1.2.5 references to National Highways shall include any successors to its relevant statutory and other functions;
- 1.2.6 references to numbered Clauses, Paragraphs or Schedules are unless otherwise stated references to the relevant Clauses of, Paragraphs of and Schedules to this Deed;
- 1.2.7 references to numbered articles are unless otherwise stated references to the numbered articles comprised within the draft Development Consent Order comprised within the Application at the time that this agreement is made but are to be interpreted as being adjusted to the extent necessary to accord with the provisions of the Development Consent Order as made;
- 1.2.8 words denoting a requirement or an obligation on a Party to do any act, matter or thing include an obligation to procure that it can be done and words placing a party under a restriction include an obligation not to cause, permit or suffer any infringement of the restriction;
- 1.2.9 in the absence of contrary provision in this Deed, any reference to a statute includes any statutory modification, amendment, extension, re-enactment or replacement of it and every statutory instrument, regulation, order, direction or specification made or issued under such statute deriving validity from it;
- 1.2.10 if any provision of this Deed shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining

provisions shall not in any way be deemed thereby to be affected, impaired or called into question;

- 1.2.11 the recitals and headings in this Deed are for ease of reference only and shall not affect its construction or otherwise have any binding legal effect;
- 1.2.12 in the event of any conflict between the provisions of this Deed and of any document annexed hereto or referred to herein, the provisions of this Deed shall prevail;
- 1.2.13 references to 'the Parties' shall mean the Parties to this Deed and reference to a 'Party' shall mean either of the Parties;
- 1.2.14 references to 'notice' shall mean notice in writing;
- 1.2.15 references to 'including' shall mean including without limitation; and
- 1.2.16 the Interpretation Act 1978 shall apply to this Deed.

2 Legal Effect

- 2.1 This Deed is made pursuant to section 106 of the 1990 Act, section 111 of the 1972 Act, section 1 of the Localism Act 2011 (as amended) and all other enabling powers.
- 2.2 The obligations, covenants and undertakings on the part of National Highways in this Deed are development consent obligations pursuant to and for the purposes of the power referred to in Clause 2.1 and so bind National Highways' interest in the Land and the said obligations, covenants and undertakings on the part of National Highways are entered into with the intent that they shall be enforceable by the Council not only against National Highways but against any successors in title to or assigns of National Highways as if that person had been an original covenanting party and insofar as any such obligations, covenants and undertakings are not capable of falling within section 106 of the 1990 Act are entered into as obligations, covenants and undertakings in pursuance of the powers referred to in clause 2.1 with the intent they shall be enforceable under contract.
- 2.3 This Deed is a local land charge and shall be registered as such by the Council in accordance with the Local Land Charges Act 1975.
- 2.4 It is hereby agreed that National Highways enters into this Deed with the effect of binding the Land.

3 Conditionality

- 3.1 Subject to clause 3.2, the Parties agree that Clauses 4 and 8 shall not have operative effect until the Development Consent Order has come into force and all other Clauses and Schedules in this Deed shall have operative effect upon the date of this Deed.

- 3.2 In the event that the Development Consent Order becomes the subject of any judicial review proceedings:
- 3.2.1 until such time as such proceedings including any appeal have been finally determined, the terms and provisions of this Deed will remain without operative effect unless the Authorised Development has been Commenced; and
- 3.2.2 if following the final determination of such proceedings the Authorised Development is capable of being Commenced, then this Deed will take effect in accordance with its terms.
- 3.3 Wherever in this Deed reference is made to the final determination of judicial review proceedings (or cognate expressions are used), the following provisions will apply:-
- 3.3.1 Proceedings by way of judicial review are finally determined:-
- (a) when permission to bring a claim for judicial review has been refused and no further application may be made;
 - (b) when the court has given judgment in the matter and the time for making an appeal expires without an appeal having been made or permission to appeal is refused; or
 - (c) when an appeal is finally determined and no further appeal may be made.

4 Development Consent Obligations

- 4.1 National Highways covenants with the Council to observe and perform the obligations, undertakings, covenants and agreements in Schedules 1, 2, 3, 4 and 5.
- 4.2 The Council covenants with National Highways to observe and perform the obligations, undertakings, covenants and agreements in Schedule 6.

5 Release

- 5.1 Subject to Clause 5.2 no party shall be liable for any breach of the development consent obligations or other provisions of this Deed after it shall have parted with its interest in the Land or the relevant part thereof but without prejudice to any rights of the Council in respect of antecedent breach.
- 5.2 In the event that National Highways no longer has an interest in the Land but is still the undertaker for the purposes of the Development Consent Order, this Deed shall remain enforceable against it by the Council.
- 5.3 National Highways shall not transfer or grant all of the benefit of the Development Consent Order pursuant to article 8 thereof (disregarding previous transfers of part of

its benefits under article 8) unless the party to which it proposes to effect the transfer or grant has first entered into a Deed with the Council on terms equivalent to this Deed.

6 Further Planning Permissions and Development Consent Orders

- 6.1 Nothing in this Deed shall be construed as prohibiting or limiting the rights of National Highways to use or develop any part of the Land in accordance with and to the extent permitted by permitted development rights, planning permission, development consent order or other statutory authority granted either before or after the date of this Deed, other than the Development Consent Order.

7 Expiry or Revocation

- 7.1 If the Development Consent Order expires or is quashed or revoked prior to the Commencement Date then this Deed shall immediately determine and cease to have effect and the Council shall cancel all entries made in its register of local land charges in respect of this Deed.

8 Certificates of Compliance

- 8.1 The Council will upon request by National Highways certify compliance or partial compliance with the provisions of this Deed.

9 Resolution of disputes

- 9.1 In the event of any dispute arising between the Parties as regards this Deed, the Parties will attempt to resolve that dispute amicably including holding a meeting attended by at least one senior representative from each Party.
- 9.2 If the Parties are unable to resolve the dispute amicably pursuant to clause 9.1, either Party can refer such dispute or difference to some independent and fit person of at least 10 years professional experience of the matter in issue holding appropriate professional qualifications to be appointed (in the absence of agreement) by the President (or equivalent person) for the time being of the professional body chiefly relevant in England to such qualifications and such person will act as an Expert and his decision will be final and binding upon the Parties to the dispute or difference and his costs will be payable by the Parties to the dispute in such proportion as he will determine and failing such determination will be borne by the Parties to the dispute or difference in equal shares.
- 9.3 In the absence of agreement between the Parties to the dispute or difference as to the professional qualifications of the person to be appointed pursuant to clause 9.2, or as to the appropriate professional body within 10 (ten) Working Days after either Party has given to the other written request to concur in the professional qualifications of the person to be appointed pursuant to clause 9.2 hereof, then the question of the appropriate qualifications or professional body will be referred to a solicitor to be appointed by the President for the time being of the Law Society of England and Wales

on the application of any Party to the dispute or difference and such solicitor will act as an Expert and his decision as to the professional qualifications of such person, or as to the appropriate professional body will be final and binding on the Parties to the dispute or difference and his costs will be payable by the Parties to the dispute and in such proportion as he will determine and failing such determination will be borne by the Parties to the dispute or difference in equal shares.

9.4 The terms of reference of any Expert appointed to determine a dispute or difference pursuant to this clause 9) shall include the following:

9.4.1 he will call for and consider any written representations made by or on behalf of the Parties to the dispute which are received by him within 15 (fifteen) Working Days of his calling for such representations and at the expiry of this period will give the Parties a further period of 10 (ten) Working Days to make counter-representations;

9.4.2 he will provide the Parties to the dispute with a written decision (including his reasons) within 20 (twenty) Working Days of the late date for receipt of counter-representations under clause 9.4.1;

9.4.3 he will be entitled to call for such independent Expert advice as he will think fit; and

9.4.4 his costs and the costs of any independent Expert advice called for by the Expert will be included in his award.

10 Notices

10.1 All notices, requests, demands or other written communication to or upon the Parties will be deemed to have been properly given or made if given in writing (in each case annotated with the reference 'Lower Thames Crossing') and despatched by registered post or recorded delivery post and addressed to the address given at Clause 10.3 of this Deed or such other address as National Highways or the Council may notify the other in writing from time to time.

10.2 Any notice or written communication to be served by one party upon the other party pursuant to the terms of this Deed shall be deemed to have been validly served if delivered in accordance with clause 10.1.

10.3 The address for service of any such notice, consent or approval as aforesaid is:

10.3.1 in the case of service upon the Council, the address provided at the front of this Deed or such other address for service as the Council may from time to time designate by written notice to the other Party and any such notice shall be marked for the attention of Director of Growth, Environment and Transport, Kent County Council, Invicta House, County Hall, Maidstone, Kent ME14 1XX;

10.3.2 in the case of service upon National Highways, the address provided at the front of this Deed or such other address for service as National Highways may from time to time designate by written notice to the Council and any such notice shall be marked for the attention of [].

11 Notice of Development

11.1 National Highways shall provide notice to the Council:

11.1.1 not later than 10 Working Days prior to the intended Commencement Date and the obligations in this Clause 11.1.1 shall re-apply in the event that Commencement does not occur on the intended date;

11.1.2 within 10 Working Days of the occurrence of each of the following:

- (a) the Commencement Date;
- (b) the date the Development Consent Order is made; and
- (c) the day on which the Construction Period ends.

11.1.3 no earlier than nine months before the anticipated Commencement Date and no later than eight months before the anticipated Commencement Date of the anticipated Commencement Date (and such notice having been given should the anticipated Commencement Date change then notice of the changed anticipated Commencement Date shall be given promptly).

12 VAT

12.1 If this Deed or anything contained in it gives rise to a taxable supply for VAT purposes by the Council to National Highways then the Council shall use all reasonable endeavours to recover VAT in the first instance.

12.2 If this Deed or anything contained in it gives rise to a taxable supply for VAT purposes by the Council to National Highways then, subject to the Council complying with Clause 12.1 National Highways shall pay to the Council or third party an amount equal to the VAT chargeable in addition to and at the same time as any payment or the provision of any other consideration for such supply upon provision of a valid VAT invoice addressed to National Highways.

13 Approvals

13.1 Where any approval, agreement, consent, confirmation or an expression of satisfaction is required under the terms of this Deed such approval, agreement, consent, confirmation or expression of satisfaction shall be given in writing and shall not be unreasonably withheld or delayed.

14 Council's Powers

- 14.1 Nothing in this Deed shall fetter the statutory rights, powers or duties of the Council as the local planning authority, the local highway authority, the education authority, the library authority and the authority responsible for the provision of social services.

15 Good Faith

- 15.1 The Parties agree with each other to act reasonably and in good faith in the discharge of the obligations contained in this Deed.

16 Rights of Third Parties

- 16.1 It is not intended that any person who is not a party to this Deed shall have any right under the Contracts (Third Parties) Act 1999 to enforce any term of this Deed.

17 Jurisdiction

- 17.1 This Deed including its construction, validity, performance and enforcement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with English law.
- 17.2 The Parties agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Deed or its subject matter or formation (including non-contractual disputes or claims).

18 Variations

- 18.1 No variation of this Deed shall be effective unless it is in writing and duly executed on behalf of the Parties.

This document has been executed as a Deed and is delivered and takes effect on the date stated at the beginning of it.

SCHEDULE 1

Officer Support Contributions

PART 1

- 1 National Highways shall make annual payments to the Council for the duration of the Construction Period according to the table in Part 2 of this Schedule (the "Table") to assist the Council in meeting their obligations arising on account of the Authorised Development on the basis that doing so imposes on them additional cost burdens over and above their general duties and responsibilities and in particular discharging the obligations mentioned in the Table and any other responsibilities within that role that arise directly from the Authorised Development.
- 2 The payments shall be made annually, the first payment being due on the date which is six months before the anticipated Commencement Date as notified by National Highways under clause 11.1.3 with the final payment being reduced pro rata if the timing of it is such that it would cover less than a full 12 month period.
- 3 The payments made under this Schedule shall be index linked as from the date of this agreement by reference to the Retail Prices Index and should that index cease to exist at any time then by reference to another index to be agreed between the Parties acting reasonably, failing which by reference to the disputes procedure in clause 9.
- 4 The payments made under this Schedule shall be applied by the Council for the purposes of the roles described in Part 2 of this Schedule and for no other purposes.
- 5 If any part of any annual payment made under this Schedule has not been applied in accordance with paragraph 1 of this part of this Schedule within one year of payment then a sum equal to that part shall be repaid to National Highways within 56 business days whether or not requested by National Highways and National Highways shall be entitled to request and promptly receive from the Council at any time after the relevant anniversary full details and supporting evidence of how sums paid by National Highways under this Schedule have been applied.
- 6 If the Council considers that the Authorised Development has caused or will cause it to incur costs over and above those mentioned in Part 2 of this Schedule that is a costs burden over and above its general duties and responsibilities then it may make a fully reasoned request to National Highways in writing for reimbursement of those costs from National Highways and National Highways will use its reasonable discretion in deciding whether or not to reimburse any such costs requested in full or in part.
- 7 If works on the Authorised Development should cease either permanently or temporarily the payments due to the Council under this Schedule shall be suspended until such time works resume (if the works resume at all) and the period of suspension shall be added to the interval at which the next payment is due.
- 8 If the Lower Thames Crossing project (being the subject of the prospective Development Consent Order) is cancelled before works upon it Commence then no

payments or further payments under this Schedule shall be payable by National Highways and any unexpended sums provided to the Council under this Schedule shall be returned forthwith to National Highways.

PART 2

Role	Purpose of Payment: (Assessment of Additional Burden to Council)	Annual Cost of Additional Burden / Capacity P/A
Network Management Officer	<p>Undertaking local highway authority New Roads and Street Works Act obligations under Part 3 of the Development Consent Order.</p> <p>Responding to applications for traffic regulation orders (TROs).</p> <p>Review and provide comments on the traffic management plans and travel plans produced by the Contractors appointed by National Highways to deliver the Lower Thames Crossing scheme.</p> <p>Attendance and participation at the Traffic Management Forum (being the forum described in paragraph 3.3.15 of the outline Traffic Management Plan for Construction that forms document REP6-048 in the examination library relating to the Application).</p> <p>Attendance and participation at the Travel Plan Liaison Group (being the forum described in paragraph E.9.1 of the outline Traffic Management Plan for Construction that forms document REP6-048 in the examination library relating to the Application).</p>	£24,000 Index Linked
Highways Development Manager	<p>Participation in the detailed design process as appropriate in relation to the Lower Thames Crossing.</p> <p>Agreeing a local operating agreement in respect of works on the local highway network.</p> <p>Works to the local highway network (including signage, barriers, safety measures and visibility).</p> <p>Site inspections (during works and prior to issuing of final Certificate), including testing of materials at National Highways' expense.</p> <p>Road safety audits (stages 3 and 4).</p> <p>Issuing of provisional certificates and final certificates in respect of works to the local highway network.</p>	£49,000 Index Linked
Total		£73,000 Index Linked

SCHEDULE 2

Severance Contributions

- 1 No later than 12 months prior to the end of the Construction Period National Highways covenants to pay [£40,150] (“the Sum”) to the Council in respect of works in Valley Drive, Gravesend between Point A on Old Road East and Point B on St Albans Close as shown on the plan at Appendix A (“the Works”).
- 2 The Council shall carry out the Works (being the local highway authority) pursuant to its powers in section 62 of the 1980 Act and shall complete the Works by the end of the Construction Period.
- 3 In the event that the Council has not carried out the Works by the end of the Construction Period then the Council will permit National Highways to carry out or complete the Works on its behalf and the Council will promptly enter into any necessary arrangements with National Highways for this purpose and with the said arrangements in place will forthwith return the Sum to National Highways or any unspent part of it at that time.
- 4 In the event that the parties agree (acting reasonably) that a variation to the locality for the works described in paragraph 1 is appropriate then that variation shall be constructed instead and in this Schedule the Works shall be construed accordingly.

SCHEDULE 3

Payments to the Council – Enhancement of the Kent Downs Area of Outstanding Natural Beauty

1. THE AONB COMPENSATORY ENHANCEMENT FUND

- 1.1. National Highways covenants on or before the Commencement Date to pay to the Council a total of £4,240,000 for an AONB Compensatory Enhancement Fund to fund measures and projects that meet the funding criteria set out in paragraph 3.2 of this Schedule (the “Fund”) which includes £600,000 to manage and administer the Fund (together being “the AONB Contribution”).
- 1.2. Forthwith upon receipt of the AONB Contribution the Council will establish the Fund with the monies from the AONB Contribution.
- 1.3. National Highways shall have no liability to make any further payment to the Council under this Schedule once it has paid the AONB Contribution.

2. THE AONB COMPENSATORY ENHANCEMENT FUND AWARDS PANEL

Establishment and Duration

- 2.1. Forthwith upon receipt of the AONB Contribution the Council shall establish the AONB Compensatory Enhancement Fund Awards Panel (“the Panel”) and the Council will ensure that the Panel conducts its business in accordance with the provisions of this Schedule.

Composition of the AONB Compensatory Enhancement Fund Awards Panel

- 2.2. The Panel shall comprise one representative from National Highways, one representative from the Council (who is not a member of the Kent Downs AONB Unit), two representatives from the Kent Downs AONB Unit and a representative from Natural England invited to be a member of the Panel in accordance with paragraph 2.3 below (if that invitation is accepted).
- 2.3. The Council will invite a representative from Natural England to be a member of the Panel.
- 2.4. The five representatives mentioned in paragraph 2.2, will form the Panel but if Natural England decline to participate in the Panel by failing to name a representative to be a member of it or by withdrawing from the Panel then the number of Panel members will reduce accordingly.
- 2.5. Each Panel member may at any time nominate a deputy from the same organisation as the nominator to attend meetings of the Panel or to otherwise take the place of the relevant member whilst that member is unavailable for any reason.

- 2.6. Each Panel member may at any time nominate a replacement member from the same organisation as the nominator to take the place of that member in their place.

Secretariat and Meeting Organisation

- 2.7. The Council (acting via the Kent Downs AONB Unit if the Council so wishes) shall act as the secretariat to the Panel and be responsible for organising its meetings.

Chair

- 2.8. The representative from National Highways will chair meetings of the Panel (the chair having a casting vote) and meetings will only be quorate if all of the Panel members (or their deputy) are present.

Meeting Frequency and Participation

- 2.9. Subject to paragraph 2.10 the Panel shall meet at least once per annum and a maximum of 4 times per annum, either virtually or in a convenient location.
- 2.10. The Panel members may agree (by majority) to different meeting frequencies as necessary.

3. FUNDING APPLICATION PROCESS

- 3.1. During the Construction Period and for three years thereafter (the entire period comprising the “Funding Period”), the Council (acting via the Kent Downs AONB Unit if it the Council so wishes) will invite applications for funding from the Fund to carry out projects or activities within and for the benefit of the Kent Downs AONB.
- 3.2. Upon receipt of applications, the Council (acting via the Kent Downs AONB Unit if the Council so wishes) will identify and make recommendations to the Panel regarding projects to be funded from the Fund, and the Panel will then consider the recommendations made by reference to the eligibility criteria in sub paragraphs 3.2.1 to 3.2.9 below as well as any other relevant considerations including the amount of funding applied for and the amount of money remaining in the Fund at the relevant time:
- 3.2.1. conserves and enhances the natural beauty and special qualities of the Kent Downs AONB and its setting;
 - 3.2.2. is consistent with the objectives of the Kent Downs AONB Management Plan 2021–2026 (or any replacement version thereof adopted), including the Kent Downs Landscape Character Assessment 2020 (or replacement version thereof);
 - 3.2.3. demonstrate consistency with the objectives outlined in the National Highways Environmental Sustainability Strategy (2023);

- 3.2.4. is consistent with local and national planning policy or plans, including new or improved transport infrastructure;
 - 3.2.5. delivers value for money;
 - 3.2.6. has clearly defined scope;
 - 3.2.7. delivers effective outcomes;
 - 3.2.8. does not contradict or duplicate agreed mitigation measures assessed in the environment statement that accompanied the Application; and
 - 3.2.9. is consistent with a not-for-profit purpose.
- 3.3. Applications for funding may be made by or on behalf of the Council (acting through the Kent Downs AONB Unit) but the Panel members representing the Kent Downs AONB Unit may not participate in the decision making process as regards any such application.

4. APPLICANT ELIGIBILITY

- 4.1. Applications submitted to the Council for funding awards by the Panel must include sufficient evidence demonstrating that the applicant for funding meets at least one of the following criteria if funding is to be awarded by the Panel:
- 4.1.1. The applicant is a registered charity.
 - 4.1.2. The applicant is a landowner or group of landowners.
 - 4.1.3. The applicant is a community group, voluntary organisation, social enterprise, or public body.
 - 4.1.4. The applicant is an individual (or individuals) and/or business (or businesses) where the project in the opinion of the Panel will provide a clear benefit to the wider community.

5. DRAWDOWN OF FUNDS

- 5.1. The Council shall pay the funds awarded by the Panel to successful applicants (subject to the availability of money in the Fund to do so).
- 5.2. The allocation of funding for the successful applicants is to be drawn down in accordance with a process to be determined by the Council.
- 5.3. The Fund shall be used for the purposes of making awards in accordance with the requirements of this Schedule and for no other purpose.

6. UNSPENT MONIES

- 6.1. Any monies in the Fund that has not been distributed in accordance with the requirements of this Schedule at the end of the Funding Period must be returned by the Council to National Highways forthwith.

7. REPORTING AND ACCOUNTING

- 7.1. The Council shall report annually in writing to each Panel member on the expenditure upon awards from the Fund and the effectiveness of such awards.
- 7.2. The Council will upon written request by National Highways provide a detailed account in writing of all sums paid from the Fund and committed to be paid therefrom.

SCHEDULE 4

Heavy Goods Vehicles (“HGV”) Restrictions

1. No later than six months prior to the end of the Construction Period National Highways covenants to pay [£] (“the Sum”) to the Council in respect of the costs involved in implementing new restrictions on HGVs on Henhurst Road as set out at paragraphs 1.1 to 1.5 of this Schedule, together “the Restrictions” and detailed on the plan at Appendix A.
 - 1.1. a ban on HGVs entering Henhurst Road from the Gravesend East junction south (Marling Cross), except for access;
 - 1.2. a restriction change from ‘Unsuitable for HGVs’ to a prohibition upon HGVs entering Green Lane from the A227;
 - 1.3. a restriction change from ‘Unsuitable for Wide Vehicles’ to a prohibition on HGVs using Nurstead Church Lane eastbound from the A227, except for access;
 - 1.4. a restriction change from ‘Unsuitable for Long Vehicles’ to a ban on HGVs entering The Street, Meopham from the A227, except for access; and
 - 1.5. a ban on HGVs entering Batt’s Road from Henley Street, except for access.
2. The Council shall implement the Restrictions (being the local highway authority) pursuant to its powers in the Road Traffic Regulation Act 1984 and shall ensure the Restrictions are implemented by the end of the Construction Period.
3. For the purposes of this Schedule an HGV means any vehicle with a gross combination mass over 7.5 tonnes including the cargo carried.

SCHEDULE 5

Low NOISE SURFACING WORKS

1. No later than [six] months prior to the end of the Construction Period National Highways covenants to pay [£] (“the Sum”) to the Council to provide Low Noise Surfacing Works (“the Works”) at two locations on the A228 as follows and as shown on the plan at Appendix [X]:
 - 1.1. the section of the A228 from the Rocfort Road junction south to the Malling Road roundabout; and
 - 1.2. the section of the A228 from the Malling Road junction south to the Rocfort Road junction.
2. The Council shall carry out the Works (being the local highway authority) pursuant to its powers in section 62 and 282 of the Highways Act 1980 and shall complete the Works by the end of the Construction Period.
3. In the event that the Council has not carried out the Works by the end of the Construction Period or if in National Highways’ opinion there is no reasonable prospect of the Council doing so then the Council will permit National Highways to carry out or complete the Works on its behalf and the Council will promptly enter into any necessary arrangements with National Highways for this purpose and with the said arrangements in place will forthwith return the Sum to National Highways or any unspent part of it at that time.
4. For the purposes of this Schedule Low Noise Surfacing Works means a noise mitigation measure on reducing the traffic noise induced by the interaction between road surface and vehicle tyres by resurfacing with a thin surface course system as defined within Design Manual for Roads and Bridges CD 236 'Surface course materials for construction'.

SCHEDULE 6

Council's Obligations

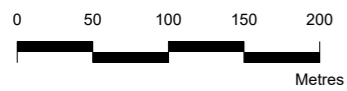
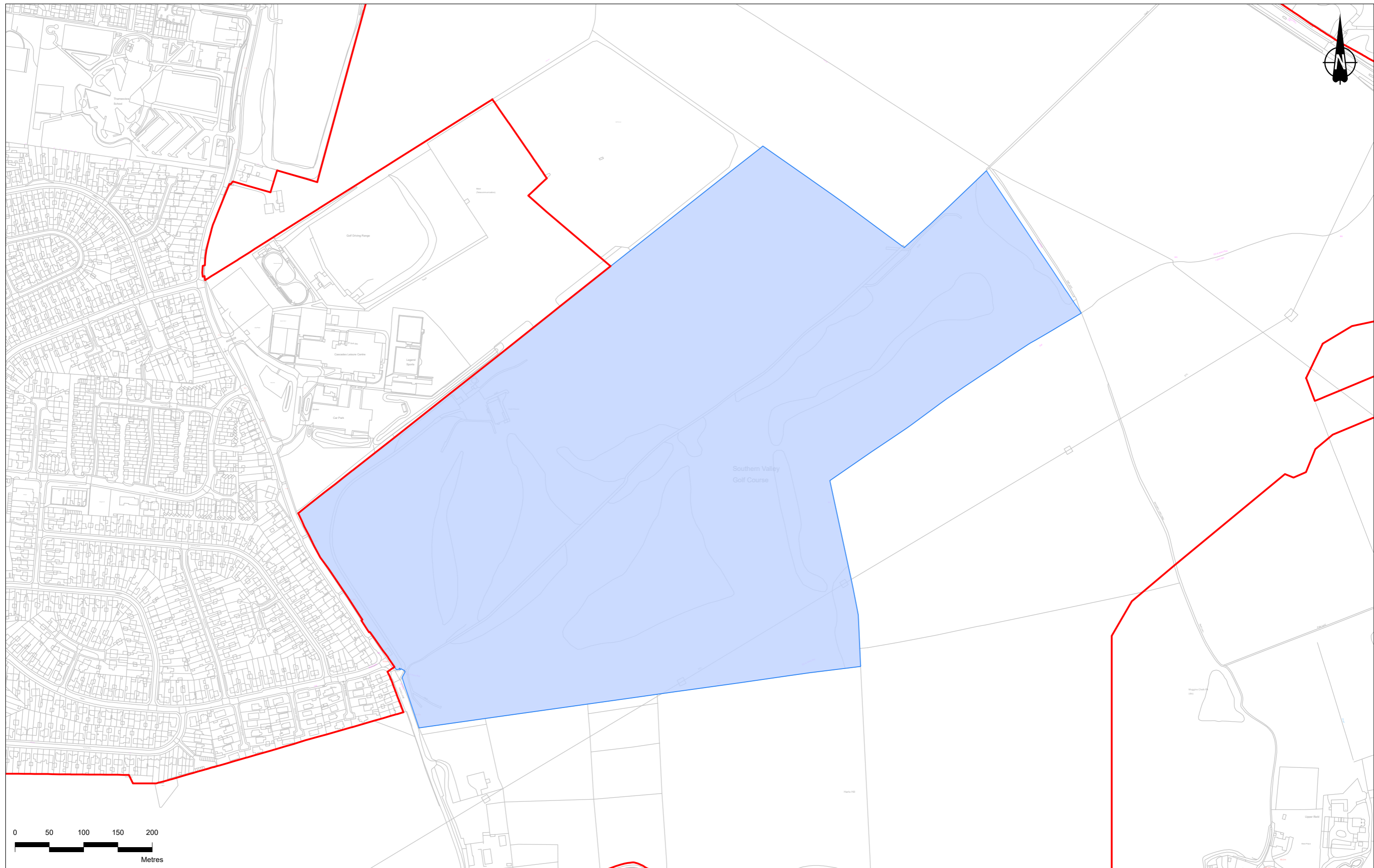
1. Registration

- 1.1. This Deed shall be registered by the Council promptly after the date of this Deed as a local land charge in the relevant local land charges registers.
- 1.2. Following the performance and satisfaction of all the obligations contained in this Deed, the Council shall forthwith effect the cancellation of all entries made in the register of local land charges in respect of this Deed.

Appendix A – Plan showing point A and B on Valley Drive, Gravesend

Not included in this submission

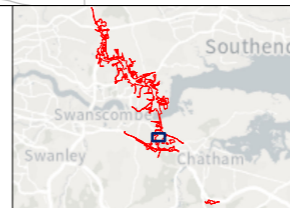
Annex – Plan showing land owned by National Highways



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- Legend**
- Order Limits
 - Outline of Land Parcels

P01	S2	28/09/2023	For information	DS	LS	ZS
Rev	Status	Rev. Date	Purpose of revision	Drawn	Chck'd	Apprv'd



Client

 Project
LOWER THAMES CROSSING

Status	For information	Original Size	A3	Revision	P01
Scale	1:5,000				
Drawing Title	Section 106 Kent County Council K777301				
Drawing Number	HE540039-CJV-VGN-GEN-DRA-LAP-08633				

Executed as a deed by affixing the)
common seal of KENT COUNTY COUNCIL)
in the presence of:) [COMMON SEAL]

.....
Authorised Signatory

Executed as a deed by affixing the)
common seal of NATIONAL HIGHWAYS)
in the presence of) [COMMON SEAL]

.....
Authorised Signatory

In the presence of a Witness:

Witness name:

Witness Address:

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

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