

1 MR YOUNG: Good morning, everybody. It's 10.00, so it's time to open this traffic and  
2 transport issue-specific hearing 13. I'm Dominic Young and will chair the  
3 hearing today. Can I just check with the case team that I can be heard and the  
4 recordings have started? Thank you. Before we proceed, I'll quickly ask my  
5 panel colleagues here in the room to introduce themselves. Can I just start with  
6 Mr Taylor?

7 MR TAYLOR: Good morning, everybody. My name's Ken Taylor, panel member.

8 MS LAVER: Good morning, everybody. Janine Laver, panel member.

9 MR PRATT: Good morning, everybody. Ken Pratt, panel member.

10 M SMITH: And good morning. Rynd Smith, panel lead, and I will hand over to Dom to  
11 resume.

12 MR YOUNG: It's Dominic Young speaking again. Can I also introduce our planning  
13 inspectorate colleagues? Today, we have Ryan Sedgman, Jake Stevens – who's  
14 controlling the virtual room – and Spencer Barrowman, who are helping us  
15 deliver the hearings this week. We also have, at the back of the room, two  
16 inspector colleagues of ours, and that's Mr Guy Rigby and Mr Alex Oyebade,  
17 as you may see us talking to them today. Turning to today's hearing you should  
18 all have seen the agenda which was circulated last week, or perhaps the week  
19 before last, now. Before we make a start on the agenda, can I remind people, as  
20 with all the hearings, today's event is being livestreamed and recorded. Unless  
21 anybody tells me otherwise now, I will assume that all those present are familiar  
22 with the terms of our – on which our digital recordings are made. Thank you.

23 Good, in that case, can I go round the room and ask people to introduce  
24 themselves? What I'll simply do today – I'll deal with the physical room first,  
25 and I'll just go round the table, and then I will deal with the people who are  
26 joining online, so if I could start with Thurrock Council first.

27 MR MACKENZIE: Good morning, sir. I'm George Mackenzie of Counsel for Thurrock  
28 Council. To my right is Kirsty McMullen, director of transport planning, and  
29 then Chris Stratford, consents and DCO senior consultant, and sitting  
30 immediately behind us three, Colin Black, also director of director of transport  
31 planning. Online I can see that we have Tracey Coleman, interim chief planning  
32 officer, and Mat Kiely, transportation services strategic lead for Thurrock.

33 MR YOUNG: Thank you, and moving on to Kent.

1 MR FRASER-URQUHART: Good morning, sir. Andrew Fraser-Urquhart, King's  
2 Counsel, for Kent County Council. I will be assisted today principally by Mr  
3 Joseph Ratcliffe who sits to my left. He is the transport strategy manager. We  
4 have other colleagues as well, but we'll introduce them on an ad hoc basis if we  
5 need to. Thank you.

6 MR YOUNG: Thank you, and London Gateway.

7 MR SHADAREVIAN: Sir, good morning. Paul Shadarevian, KC, for London Gateway  
8 DP World, and to my right is Simon Tucker, DTA

9 MR TUCKER: Good morning.

10 MR YOUNG: Mr Bedford.

11 MR BEDFORD: Morning, sir. My name's Michael Bedford, King's Counsel, on behalf  
12 of Gravesham Borough Council, and next to me on my right is Mr Tony  
13 Chadwick who is the NSIP project manager for the borough council.

14 MR YOUNG: Thank you. Right, I'll go to the virtual room now, and then I'll come to  
15 the applicant, so Mr – let me just start with the first name I can see there. Mr  
16 MacDonnell.

17 GARY MACDONNELL: Good morning, sir. Gary MacDonnell, programme manager  
18 at Essex County Council, representing the authority.

19 MR YOUNG: Just yourself today for Essex?

20 GARY MACDONNELL: Just myself today, yes.

21 MR YOUNG: Thank you. Right, do we have anybody for the London Borough of  
22 Havering? No, okay. In that case – who else? Do we have Port of Tilbury?

23 MR FOX: Yes, Matt Fox, senior associate at Pinsent Masons, on behalf of the Port of  
24 Tilbury.

25 MR YOUNG: Thank you, and do we have Mr Rees?

26 MR REES: Yeah.

27 MR YOUNG: Morning.

28 MR REES: Morning, Dafydd Rees. I'm an associate director at SLR. I'm here acting  
29 on behalf of Thames Enterprise Park Ltd and Molesey Ltd.

30 MR YOUNG: Thank you. Right, is there anybody else joining virtually who wants to  
31 speak, who I've missed? Just turn your camera on. Introduce yourself. Right,  
32 in that case I'll hand over to Mr Tait, and if you can introduce the applicant's  
33 team.

1 MR TAIT: Thank you, sir. Andrew Tait, KC, for the applicant. To my right, Mr Mustafa  
2 Latif-Aramesh, BDB Pitmans, to my left, Dr Tim Wright, head of consents, to  
3 his left, Professor Helen Bowkett, transport modelling and economic appraisal  
4 lead for the project, and to her left, Graham Stevenson, who is the transport  
5 planning lead for the project.

6 MR YOUNG: Thank you. Do you want to say something now about tomorrow?

7 MR SMITH: Yeah. No, that's probably quite good timing.

8 MR YOUNG: Yeah. Okay, let me just – before we just jump into the agenda, pass over  
9 very briefly to Mr Smith.

10 MR SMITH: Thank you very much, Mr Young. I just thought before we got too deeply  
11 embedded in the agenda items for today that it would be important to remind  
12 everybody that we did end up part heard and adjourned on the final items around  
13 control documents in issue-specific hearing 12 last week. Just as a reminder,  
14 those items which do relate, essentially, closely to the operation of the draft  
15 development consent order will still be heard, and it's our intention to make  
16 space for them to be heard tomorrow at the end of issue-specific hearing 14,  
17 when we will proceed through the agenda items for the DCO.

18 Almost without apology, I'm afraid I will flag that that means that  
19 tomorrow is likely to be a reasonably long day. I mean, I think we'd be looking  
20 at wrapping by 6.00, 6.30, I trust, but it is important that those matters are  
21 properly ventilated around the table, and I did think that it was worth placing  
22 that marker on the table today so that everybody knew where they stood. I'm  
23 sure, because of the very close congruence between the parties involved in the  
24 two hearings, that that won't inconvenience attendees too substantially.

25 One of the reasons I thought it was worth surfacing that today is because  
26 – I will jinx things here, but if we end up finishing reasonably early – for us –  
27 today, I did think it was worth flagging that we wouldn't be moving into that  
28 business, even though we have apparently saved a little time, because we are  
29 conscious that the two sets of interested parties are not a completely overlapping  
30 set. There are people, essentially, not here today who would want to be involved  
31 in that conversation, and equally, there are people here today of a rather  
32 specialist traffic and transportation modelling ilk who are here, who we don't  
33 need for that conversation. So it didn't seem appropriate or fair to try and do  
34 any of that business today, but I just thought I'd flag that up. Does anybody

1 want to make any observations or remarks on timing and that issue? Thurrock,  
2 yes.

3 MR MACKENZIE: George Mackenzie for Thurrock Council. Thank you for that  
4 indication, sir. The only point is, really, a point of order, which is whether it  
5 would be the Examining Authority's intention to introduce the topics which we  
6 didn't cover at the end of the last ISH into – or tag them on to the back of ISH 14,  
7 or whether it would be the intention to close ISH 14 and then reopen ISH 11,  
8 which on the last occasion was technically adjourned. The only reason – and it  
9 may be a distinction without a difference, but just from the point of our  
10 producing the post-hearing submission, it would be helpful for us to know.

11 MR SMITH: No, that is very usefully asked, and so I will make clear that we will deal  
12 with agenda items and business for 14, and that will be 14. We will then close  
13 it. We will then return to the adjourned matters, and action lists, etc., will all be  
14 marked up as from the adjourned business, and so again, when people are putting  
15 in their written submissions about the two events, hopefully that means we get  
16 one package that is the adjourned hearing in its totality and one package that is  
17 the DCO hearing in its totality.

18 MR SMITH: Okay, unless anybody has anything else to raise, I will hand – Mr Tait.

19 MR TAIT: Sir, one brief matter. If progress is swifter today and there is time available,  
20 one matter that might be worth contemplating is whether consideration of the  
21 specific transport-related requirements could be given later this afternoon. I  
22 appreciate R11, 17, 18 –

23 MR SMITH: And 18.

24 MR TAIT: – is already on the programme today, but there might be scope to consider –  
25 [Crosstalk]

26 MR SMITH: – a matter that Mr Young would have raised very briefly in a second or  
27 two, had you not raised it. Yes, it does make sense that where this discussion  
28 goes directly into draft requirements we talk about them, which then means that  
29 hopefully we can save ourselves a little time tomorrow, because the parties who  
30 are principally interested in those requirements will already have spoken. We'll  
31 need to potentially just go back to make sure that people who weren't here today  
32 have an opportunity to submit, but that should make it quicker. Okay, so unless  
33 I see anybody else wanting to intervene on process and what we do when, I will  
34 hand back to Mr Young.

1 MR YOUNG: Thank you. Yes, we had reserved some space in the agenda to speak  
2 about requirement 18. We had a – did have a discussion this morning about if  
3 we did make good progress that we would bring in somebody of a  
4 transport-related requirements and get those dealt with, so just turning back to  
5 today’s agenda, that sets out the topics that we will discuss. The applicant will  
6 generally speak first, although that may not be strictly the case in – under all the  
7 items, and the panel will then ask questions. Please remember to introduce  
8 yourselves every time you speak. If you’re not with us live today, watching this  
9 on a recording, you can make your comments in writing on anything you hear  
10 by deadline 8, which I think is 5 December.

11 Just a couple of other housekeeping matters before I finish, there will be a  
12 testing of the fire alarm by the hotel today at approximately 2.00 p.m. I’m told  
13 the test will last for approximately 30 seconds, and then that – I’ll move – lead  
14 me on to the timings for this hearing. We’ll aim to break for a mid-morning  
15 break at the usual time, around 11.30, and again further around lunch at  
16 1.00 p.m. with the intention being that we’ll be having lunch when that fire alarm  
17 is tested, and then as Mr Smith mentioned, we’re looking to finish earlier today,  
18 slightly earlier time of around about 4.00 p.m.

19 Right, so that is my opening concluded, so let me move on to agenda  
20 item 2. The purpose of this issue-specific hearing is to enquire into progress,  
21 and on the actions arising from issue-specific hearings 4 and 10, and seek final  
22 positions on localised traffic modelling carried out by the applicant and  
23 Thurrock since issue-specific hearing 10 and submitted by the applicant at  
24 deadline 6A. We also want to hear opinions on the local modelling carried out  
25 by Thurrock, and how mitigation of Orsett Cock might best be secured through  
26 DCO requirement 18. We’ll also have – we’ll want to hear final positions in  
27 relation to Blue Bell Hill in Kent this afternoon.

28 Right, unless anybody’s got any comments on that, let’s move on to  
29 agenda item 3. So the first issue I want to discuss is with reference to REP5-084.  
30 To what extent were the inputs into the latest VISSIM modelling – which I’m  
31 going to refer to throughout the day as version 3.6. Modelling that Thurrock  
32 Council carried out, I’m going to refer to modelling 3.6T. I think everybody  
33 knew that. Yeah, so what I want to do today is to take this, as much as we can,  
34 in a chronological order, so I want to explore what the applicant has done, what

1 was agreed before the version 3.6 modelling was done in terms of the workshop  
2 that was held.

3 Then we'll move on to discuss what the applicant modelling showed, and  
4 how that was different to previous runs of the model, and then we'll move  
5 through to discuss – yeah, the traffic effects at Orsett Cock, journey times to and  
6 from the port, and how the latest modelling does or does not affect some of the  
7 early work that was done by the applicant in that regard, what other implications  
8 there might be of the latest round of modelling for any of the other assessments  
9 that the applicant has carried out. We'll have a discussion about the LTAM  
10 outputs in relation to rerouting of traffic through Orsett village. Then we'll come  
11 on to discuss Thurrock Council; at that stage, I'll probably ask them to introduce  
12 that section, tell us what they've done in terms of their model 3.6T. I think at  
13 that stage there's going to be a video. We're going to probably present a video  
14 for us to watch, and then finishing off with requirement 18, and if we get time,  
15 some of the others, and then Blue Bell Hill.

16 Okay, so let's just start with what has happened since we were all last here  
17 in this issue-specific hearing 10, and as I've said, I want to take it in  
18 chronological order. This is my – or the ExA's – understanding: the workshop  
19 that we sent the parties away was held, and various changes were made to the  
20 version 3.6 model to reflect Thurrock Council's previous comments which were  
21 recorded in their model issue log, but my reading of the submissions that have  
22 come in at deadline 6A and 7 – that two of the changes that were requested by  
23 Thurrock Council were incorporated into version 3.6. So the two issues that are  
24 – that were outstanding, as I understand it, before the 3.6 modelling was done  
25 was one issue around driver behaviour, and the other issue in that model issue  
26 log was in regard to the weave length, so it's those two issues that I just briefly  
27 want to start with.

28 First of all, let me go to the applicant and just ask them is what – everything  
29 I've said consistent with the applicant's understanding? And then if it is, can I  
30 then ask the applicant to set out what their position is and – on the two issues  
31 that I've highlighted, the driver behaviour and the weave length? And were all  
32 other matters agreed before the modelling was carried out? Mr Tait.

33 MR TAIT: Thank you, sir. I'll bring in Dr Tim Wright straightaway.

1 DR WRIGHT: Tim Wright for the applicant, so yes, your characterisation is correct.  
2 There were actually three matters, I think, that were in the joint position  
3 statement that we set out, REP5-084. There was the driver behaviour matter,  
4 where Thurrock Council requested it be characterised as urban (motorised), and  
5 we maintained that urban (merge) was appropriate. I think that's going to be  
6 quite a lot of discussion this morning about that. The design of the merge  
7 coming off the A13, Thurrock Council represented that that should be, as per the  
8 general arrangement drawing, of about 90 metres. We'd identified in the  
9 localised traffic modelling that it should be about 200 metres. However, my  
10 understanding – albeit we have only recently received the VISSIM model – is  
11 that that longer merge is adopted into the 3.6T model, so whilst I think that's a  
12 matter in principle disagreed, perhaps we'll hear from Thurrock Council on that  
13 one. And then the final one, I don't think we got an absolute conclusion on the  
14 use of vehicle activated signal timings versus fixed timing signals, which was  
15 an amber and a clarification in that position statement, but –  
16 MR YOUNG: Because you used fixed time in 60 second cycles.  
17 DR WRIGHT: We used fixed timing, yeah. That's correct, and so again, I don't think  
18 that was a firm agreement on that matter, but the primary one I think for  
19 [inaudible] is the driver behaviours, so I do have comments on the 6A  
20 submission, but would you like me to pause there so that you can go around  
21 before we get to 6A?  
22 MR YOUNG: Yeah, just pause there. Let me go to Thurrock, and just – again, with my  
23 opening gambit there – was that consistent with Thurrock's understanding?  
24 We'll come back and we'll talk about those three issues.  
25 MR MACKENZIE: Yes, George Mackenzie for Thurrock Council. Sir, I'm being told  
26 by Kirsty McMullen to my right that that is correct. Can I just flag at this point,  
27 I appreciate that the points – the agenda items are points of detail. Can I just  
28 flag that there is a final position submission, really, that I would like to make at  
29 some point in relation to this issue, broadly? I appreciate, clearly, it's not the  
30 time to make it right now, but just a signal that I'm entirely in your hands and I  
31 would like to make it at some point, whether it's now or after one of the breaks  
32 or after lunch, or at any time, or...  
33 MR YOUNG: Yes, thank you.  
34 MR MACKENZIE: Yeah.

1 MR YOUNG: Yeah, that's fine. Okay. I mean, I'm not purposefully trying to exclude  
2 any of the other parties, but the two protagonists in this situation are mainly the  
3 applicant and Thurrock, so again, grab my attention if at any point you want to  
4 come in. Right, let's just go back to a couple of those issues, then. I think the –  
5 let's just deal with the weave length, because this one – I'm a little bit confused  
6 as to what the issue is here. It seemed to me, having read Thurrock's comments,  
7 it was not an objection to the weave length being extended to 200 metres per se,  
8 but it was just more of an issue that that hadn't been reflected in the scheme  
9 drawings. Is that a fair characterisation of where Thurrock is? There isn't any  
10 objection to it extending the weave length, is it? It's...

11 MS MCMULLEN: Sorry, Kirsty McMullen on behalf of Thurrock Council. The issue  
12 is that it's been extended in the model but not within the general arrangement  
13 drawings, so the design doesn't then match the modelling, so there's not an issue  
14 about extending the length of – the weave length. It's that it's not incorporated  
15 in the design.

16 MR YOUNG: So in modelling terms, it isn't inappropriate.

17 MS MCMULLEN: The other element is that the VISSIM and the LTAM, their  
18 modelling, that passes that in a different way so they're not aligned, but from a  
19 – if we're just talking about VISSIM, which I think your questions related to –  
20 is that they don't align with the design.

21 MR YOUNG: Yes. Mr Smith.

22 MR SMITH: In relation to not aligning with the design – we don't have to solve it now,  
23 but I'm just going to put a crumb on the table, which is and does any of this at  
24 any point need any land that is not within the existing red line boundary? You  
25 need say no more, but if it does, or if there's a possibility that it does, we do need  
26 to surface that before the end.

27 MR YOUNG: Does the applicant want to address us on that point before we move away  
28 from it?

29 DR WRIGHT: Tim Wright for the applicant. Sir, I can confirm we have checked that  
30 merge and that merge is fully deliverable within our limits of deviation, so it's  
31 within the order limits. It's also within the permanent land take and the defined  
32 limits of deviation, so the answer is no.

33 MR SMITH: Thank you very much.

1 MS MCMULLEN: Kirsty McMullen on behalf of Thurrock. We haven't actually seen  
2 that evidence, so it would be helpful if the applicant could submit that evidence  
3 so that we can review that.

4 MR YOUNG: We'll put that as an action point. Okay, fine, let's – just on – I mean, the  
5 driver behaviour is the main one I want to come to, perhaps. Let's just deal with  
6 the signal timing issue. Where are we with that, Ms McMullen?

7 MS MCMULLEN: Kirsty McMullen on behalf of the applicant. What we would like to  
8 point out, so the – we did have a meeting at the workshop, and we documented  
9 what was going to be changed out of the various comments that we'd made. We  
10 were expecting those changes to be made. What actually happened was that  
11 there were further changes made, so I don't think it's a case of going through  
12 the ones that weren't necessarily agreed. I think we set out our position within  
13 the joint position statement, particularly with regards to signal timings. There  
14 were lots of – we've documented that in terms of green, amber and red, so all  
15 of the various aspects, to help you. What we were expecting – so in terms of  
16 version 2, which was – at the point that we had that workshop, we were on  
17 version 2 of the model, and so what we were expecting, based on the comments  
18 that the applicant had agreed to make – I think all, bar two or three, they agreed  
19 to make. We weren't expecting the results to change considerably. We were  
20 expecting –

21 MR YOUNG: Yeah, let's –

22 MS MCMULLEN: I know you don't want to talk about –

23 MR YOUNG: Yeah, let's –

24 MS MCMULLEN: The point, more, is to do with there were additional changes made  
25 which we weren't expecting, as opposed to –

26 MR YOUNG: And this was one of them, the signal timings.

27 MS MCMULLEN: No, I think the signal timings weren't changed –

28 MR YOUNG: No, is it a big issue?

29 MS MCMULLEN: No, so I wouldn't want to dwell on the signal timings.

30 MR YOUNG: Right. Okay, I think that's probably –

31 MS MCMULLEN: Yeah. That's fine.

32 MR YOUNG: – all I need to know. Okay, driver behaviour then, let me just see... Yeah,  
33 I need a bit of clarification on this driver behaviour issue. I mean, on the one  
34 hand Thurrock say – a couple of things that Thurrock say on it. One is that it is

1 – the different parameter that had been set in the ‘do minimum’ and ‘do  
2 something’ scenarios. Now, when I then read the applicant’s forecasting report  
3 – and I pulled out a quote here that says: ‘Given the whole circulatory is to be  
4 widened to three lanes in the DM and DS models, all circulatory links in these  
5 models have been adjusted to use the urban (merge).’ That suggests to me that  
6 urban (merge) has been used in the DM and DS scenario. Thurrock seem to  
7 suggest otherwise, so I want to get to the bottom of was there a different  
8 behaviour type used in the ‘do minimum’ compared to the ‘do something’?  
9 Because if there was, that would not seem to me to be an appropriate way to deal  
10 with it changing the driver behaviour between the two scenarios, so let me go to  
11 the applicant first, then I’ll come to Thurrock. Mr Wright.

12 DR WRIGHT: Tim Wright for the applicant. To specifically say, we have used the same  
13 merge behaviour between the ‘do minimum’ and the ‘do something’. I have a  
14 further submission I can provide on the driver behaviour, if you would like, at  
15 this point.

16 MR YOUNG: Yes.

17 DR WRIGHT: So the driver behaviour characterises how the driver interacts with other  
18 drivers on the highway, and urban (motorised) behaviour characterises a driver  
19 that would seek larger gaps in the traffic prior to changing lanes and pulling out  
20 into traffic. The urban (merge) behaviour reflects behaviour of a driver more  
21 used to movement in a high traffic situation, so as I’ve said, for clarity, the  
22 V3.6 model uses consistent behaviour, urban (merge), in both the ‘do minimum’  
23 and ‘do something’. This is different to the baseline model, where urban  
24 (motorised) behaviour was used, but the introduction of the lane and the  
25 improvement works mean that we think that the more cooperative lane change  
26 behaviour associated with urban merge parameters is appropriate . That leads  
27 to higher deceleration parameters and shorter safety distances, which is common  
28 and appropriate for coding links with traffic signals, and people will accept a  
29 smaller gap for a lane change as they’re approaching a stop line when there’s a  
30 signal in place.

31 So we consider that given the nature of the highway network in this area,  
32 drivers are likely to take full advantage of the gaps in the traffic, so urban  
33 (merge) certainly characterises the local driver behaviours, and it’s important  
34 that when you’re developing a model like this, you should align the driver

1 behaviour with the behaviour that you would expect to see at that site. And just  
2 to give some further context, we've reached out to the teams who've done the  
3 localised traffic modelling for the Silvertown Tunnel and the M25 junction 30  
4 reviews to check how they've characterised drivers in their models, and they  
5 confirmed that for selected junctions around the Silvertown Tunnel and for  
6 junction 30 of the M25, they've also applied the urban (merge) behaviour as  
7 being appropriate, so I think there's, by reflection, a connection between driver  
8 behaviour in the region and the driver behaviour we're proposing.

9 MR YOUNG: Well, that's helpful. I was going to ask about precedents and whether you  
10 could provide an example, but you beat me to it. I trust you'll put those in your  
11 post-event submissions. Yeah. Right, let me go to Thurrock, then, on the driver  
12 behaviour issue.

13 MS MCMULLEN: Sir, Kirsty McMullen on behalf of the applicant, so we set out our  
14 view on driver behaviour within the joint paper, and so that was flagged as not  
15 agreed, and the reasons for it, but what I would – I think it's useful to have a  
16 common sense approach to this, because we could go backwards and forwards  
17 about different parameters here, and I don't think it's particularly helpful. What  
18 we're trying to do is to understand and isolate what the effect, what the impacts  
19 are of LTC, and to make sure that drivers are behaving in a reasonable way.  
20 They're not overly aggressive; that would be an unsafe design, or constitute an  
21 unsafe design, and so there should be like for like parameters and reasonable  
22 parameters put in for driver behaviour, which is what we've looked at to do in  
23 3.6T, and by doing so, all it's doing is isolating and allowing the understanding  
24 of LTC impacts, without there being pursuing of what that might be to do with,  
25 and drivers behaving in a different way.

26 So I think it's – we have set out within the submissions the more technical  
27 stuff. I think it's just raising that to be the reasons why we're doing that is not  
28 to do tit for tat on technical modelling parameters. It's literally just to say there  
29 should be reasonable behaviour of drivers, and like for like, and the other thing  
30 I just – I suppose it's useful to comment, is that in the applicant's model, there  
31 is significant queuing, so it's not that we've got a situation whereby everything  
32 was fine and now it's suddenly not within the council version. There was  
33 significant queuing and delay within the applicant's version. What it does show  
34 in terms of the driver parameters is that this part of the network is very sensitive

1 to congestion, so that's really, probably, the conclusion that should be reached  
2 about very tiny little changes to driver behaviour and how people react to  
3 congestion – which probably happens in reality – does create different changes,  
4 to the model, and so I suppose it's just making sure that we're using the model  
5 to create common sense conclusions, and what we were trying to do in 3.6T is  
6 just to make sure that there was a consistency across behaviour, so that you could  
7 understand the actual effects of the additional traffic for LTC.

8 MR YOUNG: But it was consistent, wasn't it? They used the same driver behaviour in  
9 their – so that part of your submission was inaccurate because you said that they  
10 changed the behaviour.

11 MS MCMULLEN: There was some –

12 MR YOUNG: They've said that they haven't.

13 MS MCMULLEN: Yeah, so my understanding – and I need to check with the modellers,  
14 which I can do – is that there were a few parameters that were made more  
15 conservative. There were some that were made more aggressive in terms of the  
16 'do minimum' and 'do something', but I think there were some that were made  
17 more conservative. But ultimately, what we're –

18 MR YOUNG: Well, will you check that?

19 MS MCMULLEN: I can check that. Of course I can, sir.

20 MR YOUNG: Because this should be a black and white issue. It shouldn't be a grey  
21 area. It's either been –

22 MS MCMULLEN: I will check that for you and confirm. Thanks, sir.

23 MR YOUNG: Yeah, thanks. Does the applicant want to come back on any of that?

24 DR WRIGHT: Tim Wright for the applicant. I think some of that conversation leads  
25 into some of the discussion around the 6A submission where we go into more  
26 detail, so perhaps as you want to follow through we'll discuss that further as we  
27 get into the 6A submission.

28 MR YOUNG: Fine, okay.

29 DR WRIGHT: Sorry, deadline 6A submission from Thurrock Council, for clarity.

30 MR YOUNG: Yeah. Okay, right, shall we, then, move on? We've had that brief  
31 discussion there, but shall we move on then to the second part of this topic?  
32 Now, what I want to understand here is the outputs from the version 3.6  
33 modelling. Where does it take us compared to what we had before? I've gone  
34 through, spent quite a bit of time looking at the tables in the applicant's 6A

1 submission, and it's quite clear that there is some delays through the junction.  
2 Let me just start with this. I mean, what Thurrock have said is that the applicant  
3 now accepts that – this is from Thurrock's deadline 7 submission – the applicant  
4 now accepts that there's an unacceptable adverse impact on congestion at Orsett  
5 Cock junction, and has inserted a new requirement to mitigate the impact. We'll  
6 come on to talk about the requirement, but is that the applicant's position now,  
7 that the 3.6 modelling shows unacceptable adverse impacts on congestion?

8 DR WRIGHT: Tim Wright for the applicant. No, we don't accept that position. We do  
9 not accept that there are unacceptable adverse impacts. We acknowledge that  
10 there are queues and delays, and we have said since the earlier days of this  
11 examination that there would need to be modifications made at Orsett Cock, and  
12 that is why it was included into the works plans and schedule 1 of the draft  
13 development consent order. The requirement secures that, but we don't accept  
14 that they are unacceptable, and we'd say that there are a series of requirements  
15 that deal with all sorts of matters that are not considered to be unacceptable but  
16 appropriately handled through requirement, so it doesn't follow that by  
17 conclusion of us putting in a requirement we accept that there are unacceptable  
18 impacts.

19 MR YOUNG: Yeah, Ms McMullen touched on it a few minutes ago, where she said that  
20 there had been an expectation beforehand that there would be – the result would  
21 be different, and that the 3.6 modelling that you carried out showed a similar, or  
22 slight increase, in queueing compared to the previous round of modelling. I  
23 mean, was the outputs of the 3.6 modelling consistent with what you were  
24 expecting? And does it – and is it a game – does – is that right that it doesn't  
25 really move the earth a great deal in terms of what had previously been done? I  
26 mean, the results – the amount of queueing and delay at the junction – was that  
27 significantly different to the previous VISSIM modelling that had been done?

28 DR WRIGHT: Tim Wright for the applicant, so we see that the 3.6 model was what we  
29 expected to see. It was similar to version 1 and version 2 of the model.  
30 Version 1 and version 2, we've set out our position previously. We didn't see  
31 anything we didn't expect to see in 3.6, and it hasn't really changed our position.

32 MR YOUNG: Okay. Right, let me go to –

33 MS MCMULLEN: Sir, can I just –

34 MR YOUNG: – Thurrock, yes.

1 MS MCMULLEN: Yeah, sorry. I was going to say I had something to say on that, but  
2 that's fine, sorry. Jumping the gun.

3 MR YOUNG: I could see you. I knew you were chomping at the bit. Yeah.

4 MS MCMULLEN: Thank you, sorry. Kirsty McMullen on behalf of Thurrock Council,  
5 so we were surprised with the results. Obviously we'd been tracking version 1  
6 and commenting on that version 2, and with the model log that we had of  
7 changes to be made as part of the joint paper that we'd produced, suddenly quite  
8 a difference, and just to provide a couple of examples, so in the a.m. for 2030 –  
9 and we always talk about 2030 at the moment, because we're not even going to  
10 2045, so they would be worse still – but for 2030, 8 a.m. until 9 a.m., the total  
11 delays – so if you look at all of the delays in vehicle hours in version 2, and we  
12 look at the model network as a whole, so Orsett Cock roundabout as well as –  
13 we then looked at the Rectory Road, Stanford Road junction, so take the delays  
14 at that part of the network. In version 2, the total delays increased by 27% in  
15 terms of the 'do something' and the 'do minimum scenario', whereas we then  
16 received version 3.6 and suddenly they reduced by 30%, so all of a sudden we  
17 had a betterment of 30% in the a.m. period, which was confusing.

18 In the p.m., for example, the version 2 delays – when we compared with  
19 and without LTC in version 2 – they increased, the total delays, by 362%, and  
20 then we received version 3.6 and the increase had dropped, so it was only 82%,  
21 so there was obviously lots of changes that were happening, that had been made,  
22 and they were more than what we were envisaging, because suddenly there was  
23 betterment where there hadn't been reported before, and then considerably less  
24 delays.

25 MR SMITH: This is twitching the ears of a one time old mathematical modeller. I mean,  
26 essentially here, it feels as though we have reached a margin point, or a number  
27 of margin points, in modelling, where potentially quite small changes are  
28 demonstrating that the model is distinctly tentative to those changes, and  
29 therefore understanding the specific parameters that are driving that order of  
30 change is probably the first step. Have you dug into this? Can you actually tell  
31 us, 'Yes, we tentatively tested this factor; it didn't change, but we did this and it  
32 appeared to replicate the scale of change that we saw'? And if so, have we got  
33 as far as a list of the specific parameters that you floated back to the applicant  
34 and said, 'We think this drives it. Do you agree? Can we explain?'

1 MS MCMULLEN: That's fine, so in our D6 – sorry, Kirsty McMullen on behalf of the  
2 applicant – in our D6A submission, so REP6A-013, we've identified three  
3 elements of the V3.6 that we think are key to this, and it's not just about the with  
4 LTC scenario. It's also about the 'do minimum' scenario, and so the 'do  
5 minimum' scenario has suddenly got worse, and then the 'do something'  
6 scenario suddenly got a bit better, so taking them in turn, one of them is the lane  
7 allocation, so in the 'do minimum', as you're coming from A128 Brentwood  
8 Road south, your approach – you're on the Orsett Cock gyratory, circulatory  
9 carriage, and in the 'do minimum', only one lane can go straight ahead to the  
10 Brentwood Road south arm. In the do – and that caused quite significant  
11 queueing on the A128 Brentwood Road, and that was a change that was made  
12 and that is actually in the model log, so just to point out, so that was something  
13 that had been discussed.

14 In the 'do something' scenario, though, what had happened is that all three  
15 lanes had been allowed to go from three lanes circulating, and all three could  
16 come off onto Brentwood Road south, so you're suddenly creating fake capacity  
17 on the circulatory. The drivers wouldn't behave like that; you wouldn't be  
18 veering across three lanes to – well, some drivers might, but we wouldn't expect  
19 that to be modelled, and nor would it be –

20 MR YOUNG: And you're sure it was all three.

21 MS MCMULLEN: All three, but in the forecasts report, only two, so the middle and the  
22 offside, so there is a diagram within the forecast report that shows two lanes, but  
23 what was modelled is three, and so that was quite key for the differences between  
24 the models of one having a lot of congestion and one not, and what we – so the  
25 next change is the driver behaviour, which we've discussed, and then the last  
26 thing was actually Pegasus crossing, which is included within the applicant's  
27 works plans but had not ever been modelled, and we then discussed this and said  
28 'You are proposing a Pegasus crossing on Stanford Road – at Rectory Road that  
29 hasn't been modelled', which was then included, so again, that was an agreed  
30 change. What it did was it did – so your next question might be back to us to  
31 say, 'Well, two of the three things you've identified were things that had been  
32 discussed. It's only the driver behaviour changes that hadn't been discussed',  
33 and obviously the lane –

34 MR YOUNG: That's what I was going to say.

1 MS MCMULLEN: Yeah, so the lane change was modelled differently to how it was  
2 intended, so the lane allocation – because three rather than two were in the  
3 model, so I think that was just a modelling error, but it actually created a lot  
4 more capacity. What we would say is that in the – so what’s actually happened  
5 with these changes is that we’ve ended up with a ‘do minimum’ scenario that’s  
6 actually got queuing and delay in it. We’ve got over 600 seconds queuing on  
7 Rectory Road. We’ve got hundreds of seconds queueing on Brentwood Road,  
8 and so inadvertently, the – what’s happened is in the ‘do minimum’, the growth  
9 has been added, so we add the growth in ‘do minimum’ but then any mitigation  
10 that might come forward with that development traffic, even before LTC – so as  
11 a local highway authority, there would be this growth that’s delivered, and  
12 Thurrock Council would look at that and consider those applications, and then  
13 say, ‘There needs to be some mitigation’, and indeed the applicant has said the  
14 same thing as part of the free ports. They can’t add the free port traffic in without  
15 mitigation, so this is a reasonable –

16 MR YOUNG: Yes, this is the crux of the issue, isn’t it?

17 MS MCMULLEN: Yes.

18 MR YOUNG: Now, if I was – just to play devil’s advocate, what one could say is, ‘Well,  
19 what Thurrock are doing is’ – you’re appropriating the applicant’s ‘do  
20 something’ scenario, and using it as your ‘do minimum’. You’re taking his  
21 improvements – their improvements, and putting it into your ‘do minimum’, so  
22 it’s not a ‘do minimum’ because you’re proposing to do something. Now, have  
23 Thurrock actually got schemes for these improvements that you’re talking  
24 about?

25 MS MCMULLEN: Kirsty McMullen on behalf of the applicant, so the lane allocation is  
26 three lanes, and it should be two, okay? So that needs to change anyway within  
27 the applicant’s model, so what that involves is one arrow being marked on the  
28 road, and so – and a Pegasus crossing is effectively one signalised crossing  
29 across; they’re very low-cost interventions. All we’re saying is that the purpose  
30 of this exercise is to identify – is to create a ‘do minimum’ situation that isn’t  
31 chaotic, that isn’t full of lots of delay, because with growth comes mitigation,  
32 and so you cannot have – and that’s exactly what the applicant have said about  
33 free port. With the growth of free port – they’ve resisted putting it in, because  
34 they don’t know what that mitigation would be, but it is general good modelling

1 practice that you wouldn't – what we're trying to do is isolate. There is an  
2 increase in traffic associated with LTC by a few hundred vehicles. We need to  
3 have a 'do minimum' scenario, whereby yes, you've added on the growth, but  
4 you've added potentially – you've made sure that you haven't created a 'do  
5 minimum' that is really bad to disguise the effects of LTC, by saying, 'Well,  
6 that's chaotic. Ours is less chaotic, so we don't need to do anything about it.'

7 MR YOUNG: But isn't a 'do minimum' exactly what it says on the tin?

8 MS MCMULLEN: No, so –

9 MR YOUNG: You don't do anything. It's not a 'do minimum' if you're saying –

10 MS MCMULLEN: No. It's probably called that in the wrong way. It should be called  
11 a reference case, sir, so a reference case is what your reference case is, that it is  
12 a reasonable reference case from which to understand the impact of scheme, so  
13 it shouldn't be because a highway authority and developers – so that road that's  
14 been added is development traffic. It's background traffic in growth, so be it a  
15 local highway authority or developers coming forward, would not allow  
16 10 minutes of queue on Rectory Road, if the solution to that would be one  
17 pedestrian crossing. They wouldn't allow an exponential queue –

18 MR YOUNG: I understand –

19 MS MCMULLEN: – if the answer is –

20 MR YOUNG: I understand the point that you're making. It's just fairness to the  
21 applicant. Before they carried out their modelling, did you raise this issue with  
22 them?

23 MS MCMULLEN: No, we didn't, because –

24 MR YOUNG: No, right.

25 MS MCMULLEN: Yeah, so I understand –

26 MR YOUNG: So this is an issue that's come up. You've looked at the results. They're  
27 not what you had expected, so you've had a look and these issues have now  
28 arisen, so is that fair to the applicant?

29 MS MCMULLEN: Is it fair? Well, we've pointed this out.

30 MR YOUNG: If you hadn't pointed out before they did their modelling.

31 MS MCMULLEN: We've pointed it out when we reviewed it to say, 'These are the areas  
32 of' –

33 MR YOUNG: 'These are the schemes that we would implement.'

1 MS MCMULLEN: No, so what we're saying is that that level of delay – I think it's going  
2 back to what the applicant has said. The applicant, effectively has said that, 'All  
3 of a sudden, we've got a 'do minimum' that's suddenly got a lot worse than in  
4 version 1 or 2', okay? So version 3.6, it's a lot worse than in version 1 or 2 in  
5 terms of level and delay, and so by then them looking at with LTC, their  
6 conclusion is, 'We've got queueing and delay, but there's queueing and delay  
7 here, so we've got a lot of queueing and delay; we're not making things any  
8 worse', and so what we're saying is that that hasn't actually identified – neither  
9 – both of them have got unacceptable queueing and delay, so what you need to  
10 do is then say, 'Would that level of queueing and delay happen in the 'do  
11 minimum? No, because of these low-cost things that would happen', and then  
12 isolate what the actual impact is of LTC.

13 So you could do it in a different way, sir. You could say, 'Do no  
14 intervention whatsoever', so sometimes you have it so that you do it in step  
15 changes so you do 'do minimum' – or the reference case – and that all you then  
16 do is keep adding traffic on that you could just isolate saying, 'What would  
17 happen in 2030 without LTC if we just loaded all this traffic on but we didn't do  
18 anything about it? And then what would happen if LTC traffic is loaded on to  
19 that?' but that's not what we're – we haven't got that test, and so we're trying  
20 to provide like for like. We could do a like for like in a different way, so we're  
21 not comparing apples and pears, so that's really all we're trying to do is to really  
22 just isolate the impact of LTC, so that we can see what effect it actually has.

23 MR YOUNG: Sure, yeah. Mr Wright?

24 DR WRIGHT: Tim Wright for the applicant. I think first of all, it might be helpful if I  
25 talk about this lane change situation. Actually, the first thing I'd like to say is  
26 in terms of the characterisation of which elements are fundamental to the  
27 behaviour of the model, I think we agree that the merges on the lane, the driver  
28 behaviour and the Pegasus crossing are the factors that are important here. I  
29 think that's Thurrock Council's representation, and we'd agree that those are the  
30 three that really influence the performance of the roundabout, just I think that  
31 might help. So in terms of the lane change behaviour, we don't agree with the  
32 characterisation that Thurrock have put forward for our lane change behaviour,  
33 but I'm going to go back first and just explain the position over time.

1                   So in our ‘do minimum’ version 1 and version 2 models, we allowed  
2 traffic from both the – and I have some notes here, which – it’s a question about  
3 whether we’re talking about the offside, outside, nearside or inside lane, which  
4 we could get confused about so let’s just try and be specific and use one  
5 language. If it is on the outside of the roundabout, I’ll refer to the nearside or  
6 the inside lane, because that is next to the hard shoulder, as it were, on the  
7 roundabout. If it is on the interior of the roundabout, next to the roundabout  
8 itself, it is the offside or the outside lane because that would be the fast lane if  
9 you were on a three-lane carriageway, and hopefully I’ll get that consistently  
10 right, and maybe we won’t get too lost.

11 MR SMITH: And we have to write a report on this.

12 DR WRIGHT: We will provide this in our deadline 8 submission.

13 MR SMITH: Actually, I think what would really assist in terms of the linguistics of this  
14 – and I may be over-simplifying here – but if you were literally to provide a  
15 circular diagram and label up each lane with your preferred term, whether or not  
16 Thurrock agree with the terminology. I think at this instance it would be good  
17 to have just one set of terminology, given that we’re looking at a complex  
18 roundabout with multiple passage of lanes and options to enter and exit. Can  
19 that be done?

20 DR WRIGHT: It certainly can, sir.

21 MR SMITH: Thank you.

22 DR WRIGHT: Okay, so Tim Wright for the applicant. In our version 1 and version 2  
23 model, we allow traffic – and this is on the southbound carriage of the  
24 roundabout – we allow traffic in the nearside and the central lane to leave via  
25 that A128 exit to the south – Brentwood Road exit to the south. In the discussion  
26 at the meeting, Thurrock advised us that in the ‘do minimum’, they would like  
27 us to limit it to only traffic on the nearside lane, and therefore although our view  
28 was that it was better to be the nearside lane and the central lane, in terms of  
29 seeking agreement, trying to remove the areas of disagreement, we did make  
30 that change to our ‘do minimum’ model to limit it to just the nearside lane, but  
31 version 1 and version 2 reflected what we thought was best was nearside and  
32 central lane, and as I understand it, 3.62 reflects the nearside and central lane as  
33 well, and would agree this is all managed through road markings, and relatively  
34 straightforward.

1           If I then turn to our ‘do something’ model, we disagree with the  
2 characterisation of three carriageways trying to make their way off at Brentwood  
3 Road to the south. We agree that that wouldn’t be appropriate, and that’s not  
4 what we consider our model to do. What it does allow you to do is move from  
5 the third lane into one of the two lanes that are allowed to move onto Brentwood  
6 Road as you move across the south carriageway across the A13, so as you move  
7 around the roundabout, you can move from one lane to another to get into the  
8 right location to leave that Brentwood Road south connection, and the reason I  
9 think that’s quite important goes beyond just the performance of traffic trying to  
10 get out there. What that does is it restricts movements for other people right the  
11 way across the roundabout trying to come through there, so if you’re actually  
12 going from the A128 down to Brentwood Road south, you would hope that you  
13 are in the right lane and that you follow that carriageway through.

14           But if you’re coming off the A13 eastbound coming up onto the  
15 roundabout and you want to make your way round to that south link off the  
16 roundabout, there you are quite likely to be in a different lane and need to move  
17 across between carriageways as you move around the roundabout to get into the  
18 right lane, and we would say that that is normal driver behaviour and so we think  
19 our model does represent safe, normal driver behaviour, and don’t agree with  
20 the characterisation put forward by Thurrock Council.

21 MR YOUNG: Do you think we could have a plan of the roundabout put up? I know  
22 there are various – Thurrock’s had one and I think the applicant has a plan. There  
23 was one in a recent submission that I think actually highlighted in blue the lane  
24 markings.

25 [Sotto voce discussion]

26 MR YOUNG: Can you zoom it in on the – that Brentwood south exit? That’s it.

27 MR TAIT: That’s REP6A-007[?] on page 14.

28 MR YOUNG: Yes, it’s not ideal, is it? That text could – needs to be rotated 180 degrees,  
29 but I think that gives a flavour. You can zoom in a little more on it. That’s it.

30 Do you want to – are you okay to continue?

31 DR WRIGHT: Yeah. Tim Wright for the applicant.

32 MR YOUNG: Yeah, just talk us through that again.

33 DR WRIGHT: So –

34 MR YOUNG: So it wouldn’t be the three lanes –

1 [Crosstalk]

2 MR YOUNG: What you're saying is on the inside lane, you would be able to move over  
3 into the middle lane and then exit that way. It's not three lanes all coming off  
4 for Brentwood south. Tim Wright, from the applicant.

5 DR WRIGHT: Tim Wright, from the applicant. So the position put forward by Thurrock  
6 Council is that, as you move south, all of those three lanes can come off and exit  
7 onto Brentwood Road, to the south. That's how they say our model performs.  
8 Now, we would say, what our model allows is when you're travelling down,  
9 across, approaching towards the east-facing connection there, our model allows  
10 you to move from the outside lane into the central lane to be able to pull off onto  
11 that southbound link, which is Brentwood Road; and that that is an appropriate  
12 move that you would make at that point in the roundabout circulatory. You  
13 wouldn't be able to come directly from the outside lane or the central lane onto  
14 that Brentwood directly, taking a sharp left, as it were, and crossing three lanes  
15 of traffic.

16 MR YOUNG: Because that would never get through a safety audit, in any event, would  
17 it. That would not be appropriate. Do you think you could give us a better plan  
18 that zoomed in on that particular area of the roundabout and put that in your  
19 post-event submissions, just making that a little bit clearer?

20 DR WRIGHT: Absolutely, sir.

21 MS LAVER: Could we possibly also – could you show us that with your cursor? I'm  
22 trying to visualise it because I'm hearing lots of going east and coming south.  
23 So it would be helpful if you put your cursor on and you identify, on that plan,  
24 those movements.

25 DR WRIGHT: Sir, I do have plans – I'm aware they're not in the examination library  
26 yet – which I think would be a helpful comparator to look at. They are versions  
27 of that plan with red lines on. If you would like us to pick them up, we can, in  
28 possibly just a few minutes, because there is text on them that we'd have to  
29 remove as well. They're my briefing notes, and they would form part of the  
30 deadline 8 submission on this. But would you like us to take a moment's pause  
31 to do that?

32 MR SMITH: It seems useful. I think one of the issues that we are, essentially, potentially  
33 struggling with is the arrangement of the intersection as proposed. I think it's

1 critically important that we use the hearing time today to achieve the best  
2 common understandings that we can. So let's have that done. Take a 15.

3 MR YOUNG: Five minutes, or 10.

4 MR SMITH: How long do you need to get it done?

5 MR YOUNG: 10, should we say 10 minutes?

6 DR WRIGHT: Yes, let's take 10 minutes.

7 MR YOUNG: Okay, alright. Let's adjourn then, and we'll come back at, just, 11.10.

8 Thank you.

9

10 **(Meeting adjourned)**

11

12 MR YOUNG: Okay, it's 11.15, the hearing is resumed. Let me hand back over to Dr  
13 Wright.

14 DR WRIGHT: Tim Wright, for the applicant. Thank you, sir, for the brief intermission.  
15 If I can ask my colleague to share his screen; I see he's having to re-log in, so  
16 he will do it, but two-factor authentication slows us all down at times. Okay, so,  
17 Tim Wright, for the applicant. I see we are now there. This first image – and  
18 we will submit these at deadline 8, just so that we can see – but this is so that  
19 people can see, this is my briefing note to myself about which lane we are talking  
20 about on the roundabout. So as I've said, the offside lane is the central lane near  
21 the centre of the roundabout, also the outside lane; and the nearside lane, or  
22 inside lane, sits on the outside of the roundabout.

23 MR YOUNG: Can you just use the cursor, just so my panel members are just clear which  
24 exit is Brentwood Road south? Because it's not massively clear on that. I know  
25 which one it is, but –

26 DR WRIGHT: Okay. So Brentwood Road south is the south-facing exit you see there.  
27 The other ones I'll refer to are the A1013 east – thank you – and the A128, which  
28 is the north one; and then I'm also going to refer to the on slip from both the  
29 A13 eastbound, and the LTC, which is that one there. Okay. So if we can move  
30 to the next slide, please. Next screen. So this is the position set out by Thurrock  
31 Council in their representation; this is a direct capture from their submission to  
32 deadline 6A. It shows their proposition that we are taking traffic down three  
33 lanes and trying to push it off the Brentwood Road south. We agree that is not  
34 an appropriate manoeuvre to make. So if we can move forward to the next slide,

1 and you'll see what our model actually does is it actually only allows for two  
2 lanes.

3 So traffic coming down the nearside lane can only actually exit out onto  
4 the A1013 east, at that point. The traffic coming off at Brentwood is travelling  
5 either down the offside lane or travelling down the central lane. But you can  
6 also make a movement from the offside lane into the central lane. And actually  
7 – it's only a single lane coming off – that movement from the offside lane into  
8 the central lane is the one that allows the traffic to make that movement. Now,  
9 if we can move forward to the next slide, please. This is what we originally had  
10 in our due minimum, and is represented in the Thurrock 3.6T, and that shows  
11 traffic coming down the nearside lane and the central lane to come off  
12 Brentwood Road.

13 But what's particularly important here is that you cannot get from the  
14 offside lane out at Brentwood Road. And there's another diagram – if we can  
15 just move on, please – and I think this is quite important to understand the overall  
16 performance of the roundabout. So if you were coming from the A13 eastbound,  
17 wanting to leave by Brentwood Road to the south, your natural movement would  
18 be to take the offside lane, to travel around the middle of the roundabout, and  
19 then move towards the outside of the roundabout as you go around it, to make  
20 that natural movement off on Brentwood Road. And that movement is  
21 prohibited by the coding in the model in Thurrock's 3.6T model. And I think  
22 that leads to further consequences to the overall performance of the roundabout.  
23 It's a realistic manoeuvre, but it actually quite substantially restricts how traffic  
24 can use it, in a way that we don't consider to be representative. I hope the  
25 diagrams have made that a little bit clearer for you. Thank you.

26 MR YOUNG: And then, in terms of the other issues that were raised by Thurrock, in  
27 terms of the Pegasus crossing and some of the – basically, their argument, 'Well,  
28 the due minimum wasn't realistic because we would come along as a responsible  
29 highway authority; we would do some tweaks here and there and put a Pegasus  
30 crossing in.' Anything you want to say on that particular line of argument?

31 DR WRIGHT: Tim Wright, for the applicant. So we would agree the position put  
32 forward by yourself, that the due minimum should represent the condition that  
33 it is currently to be. That got confused. There are, as we understand it, no firm  
34 plans in place to deliver a crossing at Rectory Road and, therefore, we don't

1 consider it appropriate to be in the due minimum model. We included it in the  
2 do something because it is in our design. It is proposed to be delivered by us  
3 under the – it's part of the walkers, cyclists and horse riders programme of  
4 works. But as we understand it, there is no proposal in the due minimum to  
5 provide for that.

6 I would also like to say, at this point, that we disagree that there were other  
7 changes between the version 2 model and the version 3.6 model. A number of  
8 changes were identified in the REP-6A submission, by Thurrock Council.  
9 However, we consider that a number of those relating to the driver behaviours,  
10 the priorities, the merges, they were all actually the same in our version 1 and  
11 version 2 model submission. We did not change them between version 2,  
12 version 3 or version 3.6 and, therefore, the representation we consider to be on  
13 matters that essentially were agreed by the fact of them having been in the  
14 reports and the models that were issued to them going back to summer 2022.  
15 We don't agree that we made further changes to that. The only changes that we  
16 did make were the Rectory Road signal, which we've talked about, and the  
17 merge.

18 As I said previously, we did emend that merge behaviour in the due  
19 minimum model because that was what Thurrock Council asked us to do and,  
20 therefore, we were doing it to reduce the areas of disagreement between us in  
21 the model. However, in terms of the performance of the due minimum, perhaps  
22 going back to version 2, that would reflect the original merge behaviour that, I  
23 think, both sides are concluding is closer to the reality for the due minimum.

24 Thank you, sir.

25 MR MACKENZIE: George Mackenzie, for Thurrock Council. Sir, I'm going to ask Ms  
26 McMullen to address the points of detail. But can I just make what is,  
27 essentially, a procedural point, which is that my understanding was that the  
28 examining authority didn't want any more modelling and technical information  
29 submitted after D7. My understanding, from the exchange that you had with Dr  
30 Wright a moment ago, is that there's a further package of diagrams, including  
31 the ones we've just had a look at, which are going to be submitted at D8. That  
32 may be problematic, from the point of view of natural justice. And I would like  
33 to understand what exactly is proposed to be submitted at D8, and whether it

1 runs against the indication that was given, in fairly strong terms, by the  
2 examining authority previously on this topic.

3 MR SMITH: What I'm going to do is I'm going to set out our stall, as we see it, and  
4 hopefully then provide some indicative guidance both to the applicant and  
5 yourselves as to what might appear at deadline 8 and what the consequences of  
6 that might be. I think we can then look briefly at the question of whether that  
7 trespasses against our in-principle view that, in principle, modelling exercises  
8 needed to have been done by now, in fairness, which was I think a sound view  
9 and remains as such. Now, if it does feel like it trespasses, then we need to think  
10 about how we adjust what we ask for. But let's start by saying what we think  
11 we're going to get. And I think what we think we're going to get, having been  
12 working on the wordings of the actions concerned, is essentially no more than  
13 an explanation of the modelling work that has already been done and submitted.

14 And it is simply there to provide clarifying diagrams that identify, in the  
15 Orsett Cock roundabout, the numbers of available lanes; gives each of those  
16 lanes a consistent name that all parties interested in this conversation can then  
17 adopt in final submissions; that, in turn, clarifies the entrance and exit points and  
18 the routes between them; and then goes on, in stages, using the same  
19 diagrammatic base, as essentially Dr Wright has just done, but using some  
20 scratch diagrams that do need some additional work, to illustrate the key  
21 modelling points that remain at issue between yourselves. So in other words,  
22 the question of whether there is an availability of three lanes to move to the  
23 Brentwood Road south. In their view, they say not; in your view, you say yes.  
24 But then we have a diagrammatic representation of that, so that when we are  
25 reporting, quite frankly, we will probably extract that and include it in the report  
26 if it becomes a matter on which the relevant part of the report turns.

27 So we're trying to arm ourselves with the clearest diagrammatic  
28 representations of what has been done. But this is the rub, as I see it; I don't  
29 think we have asked – and I really trust and hope we have not been interpreted  
30 by anybody as asking for anything new. On that basis, my proposition to  
31 Thurrock Council is, there's nothing that should arrive at deadline 8 that  
32 surprises you. But you will, nevertheless, have an opportunity at deadline 9 to  
33 put to us your concern, if you believe that there is anything in any of this  
34 explanation that is inherently new. I trust, however, there won't be. But you

1 will have that opportunity. So, no loss of your, clearly necessary, ability to  
2 respond in natural justice terms is implied, unless the applicant, frankly, does  
3 something contrary to our expressed desire. Does that help?

4 MR MACKENZIE: George Mackenzie, for Thurrock Council. Thank you, sir. That is  
5 clear. Can I ask Ms McMullen to take up the mantle, as it were, and deal with  
6 the technical points.

7 MR SMITH: Just before she does, given that that was a procedural intervention, I will  
8 go back to Mr Tait and ask if he's content. One word will suffice if he is.

9 MR TAIT: Yes, sir.

10 MR SMITH: Thank you. Back to Ms McMullen, then.

11 MS MCMULLEN: Kirsty McMullen, on behalf of the council – sorry, Thurrock Council.  
12 We will put that in writing, and we can explain in diagrams. There's just one  
13 diagram that would be helpful, if we could just put on the screen now, just seeing  
14 as we've been talking about it, and that was included in appendix B of our REP-  
15 6A, our deadline 6A submission, which is REP6A-013. If we zoom in a little.  
16 So this is, as your coming south on the Orsett Cock, this is a screenshot from the  
17 applicant's 3.6 VISSIM model. And as you're coming south along Orsett Cock  
18 carriageway, you can see that you've got three lanes in a 50-metre stretch of  
19 road, between the A1013 as they're coming off, all three carriageways, at that  
20 point, then are able to turn off onto Brentwood Road south. So hopefully that  
21 makes things clear from a modelling perspective.

22 We'll explain it in writing, just because – no, that's fine. We can put the  
23 modelling and then a diagram showing what that means, next to the carriageway  
24 layout. But that's the issue that we've been discussing.

25 MR YOUNG: Are you, for the time being –

26 MS MCMULLEN: I think it's probably best, at this stage, that we put – there's quite a  
27 lot of detail that we'll put in writing. That's fine, but we understand the brief.

28 MR YOUNG: That's fine. Let me then go to Mr Fox, on behalf of Port of Tilbury.

29 MR FOX: Thank you, sir. I'm just going to make two quick points. The first was just  
30 to say that I think this whole discussion – and we'll come onto it with the  
31 requirement later – but I think this whole discussion indicates why we need a  
32 detailed requirement to deal with this issue. As your colleague said, there is the  
33 issue that the model is sensitive to lots of different inputs, which just  
34 demonstrates that when we get to however many years' time before the scheme

1 is built, that there is an issue there. But we'll come back to that later. And the  
2 second point I just wanted to briefly mention, which is just this, I suppose, the  
3 question of what actually defines what is due minimum.

4 Because the suggestion from Dr Wright, there, was that, essentially, they  
5 can't make any assumptions about what is brought forward. But they, in  
6 themselves, in bringing forward the scheme, have acknowledged that  
7 improvements would need to be made. And given they're at a localised level, I  
8 don't quite understand why you wouldn't be able to assume that interventions  
9 such as the one Ms McMullen was talking about would be able to be brought  
10 forward.

11 MR YOUNG: Thank you, Mr Fox. Does the applicant want to come back on that?

12 DR WRIGHT: Tim Wright. I think we've already set out our position there.

13 MR YOUNG: Right, okay. The next thing I just want to just ask, if we're just sticking  
14 with what the applicant's done – the applicant's version 3.6 modelling – then  
15 was to go to Thurrock and ask if they could be very specific and point the  
16 examining authority to any, what they deem to be, unacceptable adverse impacts  
17 shown in that modelling at the Orsett Cock junction. There are generic  
18 comments that Thurrock have made, that I read in your submission, but I didn't  
19 see anything specific. You didn't point me to a particular scenario or a particular  
20 approach. That's what I'm just trying to explore a little bit now. If you could  
21 be specific about what unacceptable impacts are shown in the version 3.6  
22 modelling.

23 MS MCMULLEN: That's fine, sir. Kirsty McMullen, on behalf of Thurrock Council. I  
24 just wanted to check I'm on the right part of the agenda; this is point 2 of the  
25 agenda, yes.

26 MR YOUNG: Yes.

27 MS MCMULLEN: Yes, that's fine, in terms of severe impact. So there isn't a definition  
28 of severe impact; it's a matter of judgment. So rather than us going backwards  
29 and forwards on different definitions of severe impact, we note that the applicant  
30 has pointed to an appeal decision in their wider impacts position paper, which is  
31 REP6-092. And they consider a definition of severe, and I can quote: 'the term  
32 severe sets a high bar for intervention by the planning system in traffic effects  
33 arising from development. Mere congestion and inconvenience are insufficient  
34 in themselves, but rather, it is a question of the consequence of such congestion.'

1 So taking that on board, rather than debating the definition, we consider that we  
2 have pointed to a number of consequences of the congestion that are set out  
3 within the modelling provided by the applicant, and indeed by Thurrock  
4 Council.

5 So a number of those are for, one, being an unacceptable impact on the  
6 delivery of growth within Thurrock as a result of the queuing and delay caused  
7 by LTC, highlighted in the VISSIM modelling. And it's not just, sir, within the  
8 3.6T; there is significant queuing and delay, particularly in the p.m. peak, within  
9 the applicant's own VISSIM modelling. Impact on road safety, which we've  
10 pointed out a number of road safety concerns about the design of the junction,  
11 in terms of Orsett Cock and the junction off – when we talk about Orsett Cock,  
12 it's also the junction of the LTC and the A1089, A13 junction itself. They were  
13 set out within our local impact report. The community harm due to inappropriate  
14 re-routing of traffic through local communities, as a result of queuing and delay  
15 on the highway network – if we're talking just about Orsett Cock, then the  
16 impact that we've highlighted here has been that the VISSIM modelling and the  
17 increased delays within the VISSIM modelling, and when that's put, which we  
18 can come onto later, when those parameters have been put into Orsett model,  
19 show re-routing to Orsett Village.

20 The severance effect, with reduced ability of pedestrians and cyclists to  
21 safely cross the roads, as a result of increased traffic on the network, and the  
22 impact of bus journey times, bus service reliability, and viability of those bus  
23 services.

24 MR YOUNG: Yeah, I read that, and I think you are just rehearsing what you've already  
25 put in your statement. What I'm – we'll put it as an action point, but I  
26 specifically want you, as part of your post-event submissions, to point the  
27 examining authority to where, in the applicant's 3.6 modelling, there is an  
28 unacceptable impact at that junction, between the due minimum and do  
29 something scenarios, on journey times.

30 MS MCMULLEN: That's fine. I think it would have to be caveated that we don't accept  
31 that version of the model. But we can look at that as an action. That's fine, sir.

32 MR YOUNG: Thank you. Let me go to the applicant and just ask, or explain the position,  
33 in terms of the journey times from the A13 east, around the carriageway of Orsett  
34 Cock, to the A1089, because that's something that has come up in previous issue

1 specific hearings. And I would just like to understand what the version 3.6 tells  
2 us about the difference in journey time between the due minimum and do  
3 something scenarios for that movement. I know that will be of particular interest  
4 to the ports.

5 DR WRIGHT: Tim Wright, for the applicant. Sir, I don't have the specific journey times  
6 that you ask for to hand. I will ask my team to have a quick look and pull that  
7 together. But what I would like to do is to talk about the 2030 position and the  
8 relative delays, if we could bring that plot up. So what I've asked my colleague  
9 to do is bring up a plot that we have set out in our local traffic modelling  
10 appendix C forecasting report, in relation to Orsett Cock. And if we could make  
11 that slightly bigger; it's a little detailed, I appreciate that. However, what we're  
12 looking at here, on the left, is the due minimum scenario.

13 MR YOUNG: Just zoom in a little more, if you can.

14 DR WRIGHT: And on the right, we have the do something scenario for the a.m. peak.  
15 So these are plates 4.3 and 4.8 of that report. They show the relative delays to  
16 traffic on the approaches to Orsett Cock in 2030. And I think it's important to  
17 understand the relative delay. I mean, it's a detailed assessment of the delay that  
18 you experience on that journey, relative to the total time spent travelling. But  
19 one way of looking at it – and it correlates quite well with queuing, so it can be  
20 used as a proxy for queues. It's an output of VISSIM software that is a helpful  
21 way of looking at the information. So these show the relative delays on the  
22 approaches to Orsett Cock roundabout. It shows that there are relative delays in  
23 both due minimum and do something scenarios. The extent of the road on which  
24 these delays occur is relatively limited and, as shown in table 4.2 and 4.3 of the  
25 report, so are the associated queues.

26 It should be remembered that these queues are only present to this extent  
27 during the peak hours. So they're limited; we don't consider that they present a  
28 safety concern. There is increased traffic on the roundabout, which we  
29 acknowledge, and so there could be a concern about severance due to the fact  
30 that there are currently uncontrolled crossings across the roundabout. But we  
31 consider that the proposed traffic lights that we've set out in the localised traffic  
32 modelling report – which would fit at the existing uncontrolled crossings and  
33 provide signalisation, and therefore, an ability for pedestrians to move across  
34 that junction – they're secured by our proposed requirement 18, and should also

1 be seen alongside the provision on Rectory Road, which, actually, we're  
2 enhancing to provide better connectivity. The Pegasus crossing, but also the  
3 provision on that bridge, and the connectivity in that area is enhanced. So that  
4 provides for the non-motorised users.

5 MR YOUNG: You can see the betterment on that on the Rectory Road, can't you,  
6 between the two scenarios?

7 DR WRIGHT: So you can see the betterment in terms of traffic. There's also a  
8 betterment in terms of the physical provision that we're providing, at Rectory  
9 Road, for walkers, cyclists and horse riders as well, which wouldn't be seen in  
10 the traffic modeller but experienced by users.

11 MR YOUNG: And one of the other highlights from that is a reduction on Brentwood  
12 Road south, so a betterment there, but an increase on Brentwood Road north  
13 approach. So you've got a two-way thing going.

14 DR WRIGHT: That's right. It is a very complex roundabout, and it does move around  
15 the adverse impacts and the beneficial impacts. If we move forward to the 22.30  
16 p.m., you can see there, again, there's betterment on Rectory Road. We do create  
17 an increased queue on the A12 – sorry, betterment on the A128. We create an  
18 increased queue on the slips from the A13 and LTC, leading to the roundabout.  
19 But the traffic is contained within those slip roads. So again, we don't see a  
20 safety concern at this location.

21 MR YOUNG: So nothing there to indicate any main line – anything queuing back onto  
22 main lines. And indeed, in terms of the A13, the throughflow along the A13,  
23 nothing there to indicate any delays on the A13 itself.

24 DR WRIGHT: So there is no queuing back onto the main line on the A13, albeit, we  
25 have put forward in previous representation, that's not necessarily an  
26 unacceptable safety risk. But there is no evidence from the modelling that there  
27 would be queuing back. There is a reduction in flow times along the A13 itself,  
28 which is more seen in the strategic model than the VISSIM model. But that's  
29 set out elsewhere and is part of the wider adverse impacts and beneficial impacts  
30 across the project. But in terms of the VISSIM modelling, very clearly, you can  
31 see the increase in delay that we are reporting. So we consider that, in 2030,  
32 very clearly, the effects on the roundabout are not severe.

33 If we then move forward to 2045. So by 2045, there's more substantial  
34 relative delays on the approaches to the roundabout. And these occur – between

1 the due minimum and the do something, there is some changes. We do lead to  
2 betterment on the Brentwood Road, approaching from the north, and Rectory  
3 Road. But we start to increase those queues on the A128 south, in the a.m. And  
4 if we move across to the p.m., here again, we see that there are some changes  
5 around – I won't go through them in detail – but there is queuing, and we've  
6 always acknowledged this, on the approach from the A13 and the LTC.  
7 However, again, this is contained within the slip roads that lead through. They  
8 are only present during the peak; they reduce in the inter-peak periods. So this  
9 is reflective of a particular period, a particular time of today, and is  
10 representative of relatively conservative model assumptions as well.

11 However, it's our view – just to say, again, sorry, that there is no queuing  
12 back onto either the A13 or the LTC main line in our models. Albeit, again, as  
13 I've said previously, that's not necessarily unacceptable, but it doesn't exist  
14 anyway. So again, we consider that the impacts are not severe. Now, it's  
15 important, I think, to consider our position overall, which is that whilst there are  
16 delays and queues at this junction – albeit, at 2030, we actually see quite a  
17 substantial amount of betterment between the due minimum and do something  
18 – but they need to be seen in the context of the overall flows across the area.  
19 And therefore, that takes you towards the use of the strategic model in  
20 understanding the overall impacts on journey times and the overall impacts on  
21 flows.

22 Now, the purpose of transport modelling is to consider how travel across  
23 the area would change as a result of an intervention and determine the  
24 performance of the highway network. Whilst there's been discussion about the  
25 different assessments arising from the Orsett Cock modelling exercise, I think  
26 it's important for us to say, there's a number of elements that remain consistent  
27 here. So disbenefits have been identified across the network as use of LTAM.  
28 We're talking about Orsett Cock here, but we have previously talked about  
29 Pitsea, Five Bells, Manorway, all identifying similar impacts. These are shown  
30 in LTAM, as well as in the localised junction modelling; albeit there are  
31 differences in how the models reflect these. They are represented in our strategic  
32 transport model.

33 Specifically in relation to Orsett Cock, to help the flow of the examination,  
34 we provided information where we took those delays from the VISSIM model

1 3.6 and inserted those into the LTAM model. Now, we've set out previously,  
2 we consider this to be far from normal practice. But we do consider that there's  
3 some helpful thought experiments that this leads to. This demonstrates that the  
4 divergence between VISSIM and the LTAM runs, at this location, did not lead  
5 to a significant change in the wider movements of traffic across the area. While  
6 there are differences between the core model and the model that we submitted  
7 as appendix N of the localised traffic modelling report, they are relatively limited  
8 in scale, and localised, which indicates that whilst you would expect to see a  
9 variation at Orsett Cock because of the inclusion of those delays into the model,  
10 it doesn't lead to a fundamental change in the way traffic flows, including onto  
11 the next locations on the network, with relatively small changes at Manorway  
12 roundabout and the M25 junction 30.

13 So, in other words, the VISSIM model doesn't really lead us to make a  
14 different conclusion. This demonstrates a decision made using LTAM for its  
15 purpose, which is a tool to inform the decision-making process, is robust, and  
16 that the 3.6 VISSIM model output does not lead to a different conclusion but,  
17 actually, the same conclusion being made. And I'd also like to point out that  
18 nobody's asked, within the examination, for localised traffic modelling of the  
19 beneficial impacts, which, I think, is a huge relief to all of us. And it wouldn't  
20 be a proportionate thing, but it's important that we recognise that our focus is  
21 very much on the adverse impacts here, but that shouldn't lose sight of our  
22 understanding, across the project, that actually we need to balance the  
23 considerations and that there are substantial beneficial impacts across the  
24 network that are also being represented in our assessments.

25 Now, I can say a little bit more about the port traffic, but not that specific  
26 movement, which leads onto the next agenda item.

27 MR YOUNG: Maybe if we just take a pause there and just, I don't want to deny Thurrock  
28 the opportunity if they want to come in and respond. And then we'll come back  
29 to the specific point about the ports.

30 DR WRIGHT: Thank you, sir.

31 MR YOUNG: Thurrock, do you want to come back on anything that's been said there,  
32 or do you want to deal with that in writing?

33 MS MCMULLEN: Kirsty McMullen, on behalf of Thurrock Council. I think this goes  
34 to the crux of it, that we're quite confused as to how LTC, which the applicant

1 accepts does induce quite a considerable amount of traffic to the Orsett Cock,  
2 how that can then lead to such a betterment that's shown through the  
3 presentation that Mr Wright's just given? And we just – it just doesn't seem  
4 plausible. If something doesn't feel right, you have to delve into why. And  
5 that's what we've been trying to seek to do. We're literally trying to identify  
6 and isolate the true impact of LTC, that LTC is acknowledged by the applicant  
7 to induce traffic to this part of the network, and with one arrow marking and a  
8 pedestrian crossing, there suddenly is a huge betterment, which doesn't seem  
9 quite right.

10 So we've tried to set that out within our D6. I think what we will need to  
11 do is to go away in writing and to set out to you the impacts of their 3.6 and our  
12 3.6T, so that you can see where we consider, in 2030 and 2045, there to be severe  
13 impacts in both models, so that you've got that as a clear set. But we do not  
14 contend that LTC would provide a betterment to this part of the network, and  
15 that there are severe –

16 MR YOUNG: Anywhere?

17 MS MCMULLEN: This part of the network, in terms of Orsett Cock. So I think the  
18 other element to set out is about LTAM. What we haven't discussed – I mean,  
19 there's been an interesting discussion about the detailed parameters of VISSIM  
20 this morning, but it shies away from, actually, the crux of this is that the applicant  
21 are seeking for you to make your decision only on LTAM. And within our D6A  
22 submission, we set out that comparison in terms of delays, and there's quite  
23 considerable differences. I won't repeat them, but they're set out within our  
24 section 2, within tables 2.1 and 2.2 of REP6A-013 of the – and this is 3.6, so the  
25 applicant's 3.6 and a comparison to LTAM. And there's huge differences; so  
26 we're talking here of 900% difference on some arms; 1245% difference on other  
27 arms.

28 So on the one hand, LTAM is being used for the whole appraisal, which  
29 we've set out before, the whole appraisal and the BCR and the benefits and  
30 disbenefits on the wider network, which the applicant is seeking for you to make  
31 judgments on. And on the other hand, the evidence is showing that there's  
32 significant delays and mismatch between the two. So we don't consider that the  
33 evidence is before you to be able to say that the benefits outweigh the  
34 disbenefits, given the evidence that's there, that's been sent by the applicant.

1 MR YOUNG: Okay, just one particular question I'll just put back on what Ms McMullen  
2 said there, and it was about the applicant wants us to base our decision solely on  
3 the strategic model. Is that fair? Would the applicant put it in those terms?

4 DR WRIGHT: Tim Wright, for the applicant. Sir, no, we wouldn't consider that fair.  
5 LTAM is the primary basis, and in order to understand the variety of factors –  
6 so the overall benefits and the overall impacts and the environmental  
7 consequences, and all of those matters – that does require the use of a strategic  
8 transport model. Those can't be informed by a localised transport model of this  
9 nature. But we're not saying that the VISSIM model is irrelevant. We are saying  
10 it is informative about flows; it has informed our discussions around the need  
11 for requirement 18 and localised traffic modelling will continue to be a part of  
12 the scheme as we go through the detailed design. So I wouldn't say it is solely  
13 on LTAM, but I would say that the majority of matters will require the use of  
14 the strategic model in their consideration.

15 MR YOUNG: Right. Anything else on that? I'm just going to move onto – you want to  
16 come back.

17 MS MCMULLEN: Sir, Kirsty McMullen, on behalf of Thurrock Council. The applicant  
18 only submitted LTAM information with their DCO application. There was no  
19 other modelling submitted. So their intention, when they submitted the  
20 application, was for you to make your judgment solely on the basis of LTAM.  
21 It was only because the examination authority required them to submit –

22 MR YOUNG: Yeah, but that's not where we are now, is it?

23 MS MCMULLEN: That's the intention, that they solely were wanting you to make  
24 judgments. And it has been repeated throughout the examination that that should  
25 be your focus.

26 MR YOUNG: Yeah.

27 MR SMITH: I think I will make a brief observation on that point, framing it in terms of  
28 what the examining authority ought to do. And then, again, given that there  
29 seems to be some measure of concern between parties about what we will do,  
30 let's make sure that we get it onto the table and see it and name it before we  
31 move on. I think my immediate observation – any of my colleagues who  
32 disagree with me are very welcome to come in on this as well – would be that  
33 we have moved on from an LTAM only position; that to inform our  
34 deliberations, we have asked questions and we have orally examined this issue

1 on several occasions, and we have asked for local modelling information. Now,  
2 that may not have been the applicant's initial preferred approach.

3 But sensibly, they could have either said, 'No, we are not doing that for  
4 reasons,' and advanced those reasons and sought to persuade us of the disbenefit  
5 of pursuing that local modelling information. Or they could have done what it  
6 appears to us they did, which was acceded to that request and place that  
7 information into the public domain and, in fact, open a conversation around this  
8 table about the content of that material and whether it was or was not, in  
9 principle, relevant, and if it was, what weight out be accorded to it. Now, it feels  
10 to me that that is, essentially, now where we are. Therefore, it appears open to  
11 this examining authority, then, to deliberate on the outcomes of those processes  
12 and to include consideration and, where appropriate, weight to be placed on the  
13 outcomes of local modelling.

14 Again, taking into account the fact there will no doubt be remaining points  
15 of dispute between yourselves, where you say, in relation to your version of the  
16 local modelling, there are factors that the applicant hasn't taken into account,  
17 and the applicant also have said that they think there are aspects of their  
18 modelling that you haven't, essentially, fully taken into account. So what we  
19 are, then, I think, needing to try to get to after this hearing is the clearest possible  
20 statements of each of your cases at deadline 8, so that each of you can then reply  
21 to those at deadline 9, so that, by the end of the examination, we then have clarity  
22 about, again, those matters unagreed between you. Because it strikes me that  
23 we are going to have to go into deliberative mode on this.

24 Now, is there anything that I've just said, in terms of explaining what we  
25 think will be before us by the end of deadline 9, that anybody thinks, as a matter  
26 of principle, oughtn't be before us or oughtn't be treated in the way that I've  
27 indicated that it might be?

28 MR MACKENZIE: George Mackenzie, for Thurrock Council. Thank you, sir. That is  
29 well understood. I think, can I just offer some observations on what appears to  
30 be a change of position on the other side of the room. The change of position is  
31 that the local micro-simulation is relevant, is an important and relevant  
32 consideration. And that's something that we agree with now and have always  
33 advanced as a submission. But in terms of where we are now, the applicant still,  
34 in our submission, has not submitted a reliable forecast micro-simulation model

1 for the Orsett Cock roundabout; albeit, that we've provided version 3.6T, which  
2 we say is reliable, but it throws up its own set of problems.

3 But the problem with saying, on the other side of the room, that the local  
4 micro-simulation is relevant is this, that they haven't provided any reliable  
5 micro-simulation, let alone agreed, validated micro-simulation, for six of the  
6 other key junctions in the area that we're the statutory local highway authority  
7 for. And that is Manorway, Daneholes, Asda, the A216, Marsh Brook Road,  
8 Five Bells, and the A1012 Devonshire Road. So we're certainly not in a position  
9 where the change of stance by the applicant is to have moved from exclusively  
10 relying on LTAM to saying, 'Well, here's micro-simulation too.' We're  
11 nowhere near that position. So it's just subject to that topspin; that's where we  
12 are, as opposed to, 'Well, we've moved on from a SATURN-exclusive approach  
13 to a SATURN plus VISSIM.' We're nowhere near that position.

14 MR SMITH: Okay, observations noted. Now, I do note that Mr Shadarevian probably  
15 wants to come on this point. And we should return it to Mr Tait before it closes  
16 out, before we actually get back to the substantive item. So Mr Shadarevian.

17 MR SHADAREVIAN: Yes, Paul Shadarevian KC, for DP World London Gateway. I'm  
18 not sure which question I'm responding to, now. It's been moving on, and  
19 around and around and around so much, and I've had so many interventions to  
20 make, I'm not quite sure in which order I should make them. But can I start with  
21 this premiss, first of all, were it not for our initial objection and the approach we  
22 took to modelling, and the work done by Mr Tucker here, and the work  
23 subsequently done by Thurrock Council, we would not be in the position, now,  
24 of considering this more detailed modelling in the context of LTAM. And it's  
25 very important, therefore, in my submission, to ensure that this exercise is, so  
26 far as possible, perfected.

27 Now, I'm a realist and I perfectly understand that it's not going to be  
28 perfected prior to the close of this examination. And to that extent, we need to  
29 be aware of the need, therefore, to exercise caution in the way in which the  
30 decision-making processes will engage if the order is subsequently made. I  
31 make that point now because we're going to come back later on today or  
32 tomorrow about the effectiveness of the proposed provisions. Now, having said  
33 that, it is our understanding that the VISSIM modelling, which has been

1 introduced into LTAM by the applicant, that's 3.6, does not predicate any  
2 regulation of traffic through Orsett village.

3 MR YOUNG: We're going to come onto that. I don't want to stop you, but –

4 MR SHADAREVIAN: That's absolutely fine. I'll just address it in broad terms at this  
5 stage. It is not appropriate for the applicant to suggest that the impacts of the  
6 scheme, having regard to Orsett Cock and its design, will only result in impacts  
7 which are not unacceptable having regard to the impacts on that village in terms  
8 of its role in supporting strategic traffic. That being so, it would have been  
9 appropriate for the applicant to run model 3.11, which does predicate such  
10 control, through the strategic model in order to understand what the broader  
11 impacts would be on the network.

12 Again, because they haven't done that, they're not in a position to say that  
13 the impacts are 'not unacceptable', whatever that means, and whatever 'severe'  
14 means in that context. This is something we're going to have to grapple with,  
15 because I'm not entirely sure what 'severe' means. This is not a mixed-use  
16 development being proposed which has highways implications. This is,  
17 essentially, a highways scheme which is meant to work and produce the benefits  
18 it does. But it doesn't do – and what the applicants haven't done thus far, is  
19 adequately assess the impacts on matters of acknowledged importance,  
20 including matters of national significance and importance, like the ports, in order  
21 to assess what those impacts might be.

22 We've had nothing from them to say, 'Well, we think it's not going to  
23 have an impact because of this or that it can be moderated because of that.'  
24 There's nothing. We have a bald statement today which says, 'We don't think  
25 it will be unacceptable.' But in the absence of that modelling, it's a conclusion  
26 which cannot be derived yet and probably will not be able to be derived before  
27 the end of this examination. So I'm setting up, as it were, a discussion, and it  
28 may be helpful for Mr Tucker, here to my right, to address the issue of the  
29 modelling and the LTAM at an appropriate stage, whether that's not or later on.  
30 I don't know, but I don't want to put words in his mouth –

31 MR YOUNG: Well, we don't need to hear from Mr Tucker if he's going to rehearse  
32 what he's already said at previous issue-specific hearings because those points  
33 have been made –

34 MR SHADAREVIAN: No, we don't want to do that.

1 MR YOUNG: – and they were made well, and we’ve heard them.

2 MR SHADAREVIAN: No, we don’t want to do that, but I think there are a few technical  
3 matters which might have arisen since through this discussion which might need  
4 addressing. But it’s been difficult for me to monitor the discussion and also have  
5 those conversations.

6 MR YOUNG: Well, that’s fine. If Mr Tucker wants to speak now on what’s been  
7 discussed, he’s more than welcome to put his hand up and participate.

8 MR SMITH: Can I just – in the interests of focusing this, though – be clear that what  
9 we’re trying to resolve is this broad question that Thurrock placed onto the table  
10 in front of us about what sensibly this ExA ought to be having regard to so that  
11 we can be clear on that particular point before we then move back into the  
12 specifics of the evidence that support individual positions. And I do know that  
13 Mr Young is going to go on to the ports’ position and allow Mr Shadarevian,  
14 you, and Mr Tucker to unstack your position in relation to all of the matters that  
15 have transpired since we were last in this room talking about travel and transport  
16 impact, so that opportunity’s coming to you.

17 But I do want to focus this on the high-level point that I put to Thurrock  
18 following their request to, essentially, know the case before them and know what  
19 the Examining Authority considered the case before it was. And I think that’s a  
20 reasonable question and one that it’s very helpful to try and bed down. Are there  
21 any other observations that you’ve got on that particular point?

22 MR SHADAREVIAN: No, sir. Thank you.

23 MR SMITH: Thank you. Right, in which case, I think we do have to go to Mr Tait in  
24 fairness. Sorry, apologies.

25 MR BEDFORD: Sir, Michael Bedford, Gravesham Borough Council. Sir, absolutely  
26 only dealing with matters at that high level, which I think was where you were,  
27 and obviously, you appreciate that we’re not a local highway authority – we  
28 recognise that. But we’ve been following the discussion, and you will know that  
29 we set out some overarching comments in our deadline 6A submission about the  
30 implications of, as it were, deficiencies in the modelling and what that might  
31 mean more widely.

32 But on the particular point about the role of LTAM as opposed to the role  
33 of VISSIM microsimulation – and I note what the applicant has now said in  
34 those oral remarks through Dr Wright about recognising the role of the VISSIM

1 – it would just be helpful to have some clarification on is that in REP6A-004,  
2 which is the localised traffic modelling report – and I think 004 is the clean  
3 version – at section 3.2, the applicant sets out their approach to undertaking  
4 traffic modelling, and in particular, at paragraph 3.2.2, they refer to the strategic  
5 traffic modelling undertaken for the project. They say they consider that’s  
6 appropriate and proportionate to the scale of the scheme.

7 They then say, ‘Whilst proportionate localised traffic modelling may be  
8 helpful for the purpose of considering the sensitivity of individual junctions in  
9 addition to the work already completed using the LTAM and reported in the  
10 transport assessment, further traffic analysis must not be taken as bringing into  
11 question the use of the national methodology, i.e. TAG, in respect of the  
12 modelling provided in the transport assessment.’

13 Now, that could be read in a number of ways. And it could be read as the  
14 applicant telling you that if there is a tension between what LTAM is telling you  
15 and what the localised modelling is telling you, you should not allow the tension  
16 to be resolved in favour of the localised modelling; you must prefer the LTAM.  
17 Now, I may have misread that, and that may not be what the applicant is  
18 intending, but that – I welcome some clarification as to how that paragraph is  
19 intended to be read in the light of what the applicant is now telling you about  
20 recognising the value of the VISSIM modelling.

21 MR SMITH: Indeed, and I think that is a very clear and well-made submission, and I’ll  
22 return that to Mr Tait very shortly and ask him to address us on that point. What,  
23 however, I will do just before we bring this item to an end, noting that it has  
24 extended more broadly than the conversation that was just taking place between  
25 Thurrock and the applicant on the agenda item, because the procedural point is  
26 of general interest.

27 I do note that we also have Mr Fox in the room for Port of Tilbury, who  
28 wishes to speak on this item, but just before I introduce him, I’m going to  
29 essentially call last orders. Is there anybody else who wishes to intervene on  
30 this broadly process-driven point before we return to the substance of the agenda  
31 – because I’d like to see hands in either the room or the virtual room to make  
32 sure that we’re not continually moving on with additional after each submission  
33 from an intervening party is concluded. And I’m seeing no more hands, so, as

1           soon as we've heard from Mr Fox, Mr Tait, this item will be yours to respond  
2           to. Mr Fox.

3 MR FOX: Mr Fox on behalf of the applicant. Mr Bedford has actually made much of  
4           the point I was going to make, but I'll just add to it, which was just to say, in  
5           answering that question, we've already heard today about the difference in  
6           impacts between VISSIM and LTAM.

7                     And if the impacts are going to be focused – sorry, if your consideration  
8           of impacts are going to be based on VISSIM then that leads to greater  
9           consequences for the network and the [inaudible] drafting compared to LTAM,  
10          so we need to understand, are you being directed by the applicant – or suggested  
11          by the applicant, I should say, to follow what Mr Bedford was suggesting or not?  
12          But I think, if your point is around impacts – because they are clearly differential  
13          in their impacts, and I think we would say the VISSIM modelling is what needs  
14          to be listened to.

15 MR YOUNG: Thank you, Mr Fox. Let me go to Dr Wright. I mean, I would just make  
16          the point that I thought the applicant had made it quite clear what their approach  
17          was. It's not surprising that approach might evolve during a six-month  
18          examination. And ultimately, Mr Bedford, it would be a matter for this  
19          Examining Authority what weight we put on the VISSIM modelling and what  
20          weight we put on a SATURN modelling. It doesn't really need to go any further  
21          than that, but if Dr Wright wants to respond.

22 DR WRIGHT: Tim Wright for the applicant. I will be brief, but just stepping back a  
23          moment, because we've talked a lot about Orsett Cock, but reference has been  
24          made to the other models that we have submitted into the examination, so I think  
25          all of these models are helpful in understanding the behaviour of localised  
26          junctions around the network.

27                     I think that the way I see it is that this exercise that we've undertaken in  
28          relation to Orsett Cock provides a bit of a crucible for the examination of the  
29          issue. What I believe that we have shown through that and through the test we  
30          did with LTAM, taken in the delays from Orsett Cock, is that whilst there is  
31          useful information, LTAM remains a reliable source of information for the  
32          broader decision.

33                     So these localised models have a role. They provide information. They're  
34          important for consideration. But at the end of the day, the broader consideration

1 of this project needs to consider the benefits. They're reflected both in the  
2 economic analysis in the journey travel times, and it also needs to consider the  
3 environmental assessment. An environmental assessment is fundamentally  
4 reliant on the strategic model LTAM.

5 I think our view is that nothing we've discussed in the localised traffic  
6 modelling has cast shadow on the LTAM that we put forward, and that's why  
7 our position – that it remains reliable. And that, when we have tested it by  
8 including the delays, it hasn't shown that LTAM is overly – has a very high level  
9 of sensitivity to these delays, essentially, and that it, therefore, remains robust.

10 MR SMITH: And essentially, to draw that point together – and this Examining Authority  
11 has to go away and deliberate on the points that have been put to us, and I think,  
12 if we labour too much more around this table on that, then we're in danger of  
13 chasing our own tails somewhat. But at risk of one final round of tail chasing, I  
14 am conscious that a number of the submissions made to us before we went to  
15 Dr Wright did come through Counsel. Mr Tait, is there anything that you feel  
16 you need to put to us before we close this and go back to the substance?

17 MR TAIT: No, sir, other than in REP6-005, which is the LTAM at 6A, it goes back  
18 through the history of provision of material about VISSIM – and that is A.5.3  
19 and 5.4 – and the provision of that material to Thurrock in particular proceeded  
20 the submission of the application.

21 MR SMITH: Okay.

22 MR YOUNG: And just before we move onto the – just one thing I want to say, and I  
23 think this has come up before, and the Examining Authority has made this clear,  
24 that we have always drawn a distinction between Orsett Cock roundabout and  
25 pretty much everything else because, as the applicant has accepted part way  
26 through this examination, Orsett Cock is integral to how this scheme operates  
27 and that isn't true of wider network impacts. So Orsett Cock is an issue that's  
28 wrapped up with port access.

29 Other impacts, including Blue Bell Hill, comes under the umbrella of  
30 wider network impacts. And the Examining Authority have been quite clear to  
31 draw a distinction between those issues, and that's why disproportionately much  
32 more time of this examination has been spent on Orsett Cock. Right, ports. Let's  
33 move onto the next bit.

1           Just as the background to this, earlier on in examination, the applicant did  
2 usefully provide some travel times to and from – that was at London Gateway –  
3 I think at maybe deadline 4. That was something that we had requested at one  
4 of the earlier issue-specific hearings, so it's just to touch base on that again and  
5 see if anything that has happened in terms of the additional modelling changes  
6 – any of those conclusion.

7           As we set out in one of those earlier issue-specific hearings – and I think  
8 all the advocates and people around the table when I explained that when we're  
9 going to look at the issue of port access and report to the Secretary of State, have  
10 to take a holistic view of journey times. It's simply not going to be an  
11 appropriate approach to take one particular journey time without looking at all  
12 the others. That's the background of where the ExA are coming from. That's  
13 why we want to understand has anything changed in terms of those journey time  
14 benefits that were set out early on in the examination.

15 DR WRIGHT: Tim Wright for the applicant. Sir, in order to understand the journey time  
16 benefits, we need to move away from the VISSIM model and back to the LTAM  
17 model, but what I'm going to talk about is the LTAM model where we included  
18 those delays.

19 MR YOUNG: That's exactly what I'm after, yeah.

20 DR WRIGHT: Yeah, so we're calling that the manipulated LTAM model because – just  
21 to recap without repeating, we don't consider this to be a proportionate  
22 assessment. It's almost a thought experiment to test what would happen. We  
23 consider it to be an unbalanced model for representations that we set out  
24 previously. However, so let's actually look at that results, and there remain  
25 substantial journey time benefits both to and from the ports, which are set out in  
26 appendix N of the local modelling model forecasting report.

27           If I focus on 2030, and I only look – so I want to focus only on the adverse  
28 impacts, so discounting where there may be increases in benefit or there are  
29 decreases in benefit but a benefit remains in place, let's only look at adverse  
30 impacts, and they are relatively limited. So, on journeys specifically between  
31 Port of Tilbury and London Gateway, so that's specifically between the two  
32 ports.

33           In the core scenario, there's an increase in duration of between one and  
34 four minutes, so that's in our core scenario LTAM model that forms the basis of

1 the application. These increase by two minutes to between three- and  
2 six-minutes additional time overall on these journeys, and that's on a baseline  
3 journey time of approximately 13 to 14 minutes – sorry, let me say that a  
4 different way. On a baseline journey in the 'do minimum' scenario of 13 to  
5 14 minutes, our core scenario would increase that by one and four minutes. In  
6 the manipulated LTAM model, those increase by three and six minutes.

7 The second point to raise is a very specific journey from Port of Tilbury  
8 to Basildon, so, in that – you'll see in our appendix N, in the core scenario – that  
9 increases by one minute in the p.m. peak. That journey time does forecast by a  
10 little less than 20 seconds in our manipulated LTAM model. So, referring back,  
11 we consider the manipulated LTAM model to be unbalanced. It's not a  
12 reasonable or worst-case forecast because it takes all of the delays at Orsett Cock  
13 and implements them without considering the re-balancing of flows on the  
14 network. But even once you account for that, the actual effect is relatively  
15 limited on the overall travel times that we see, and we still deliver substantial  
16 benefits to the ports.

17 MR YOUNG: Can I just set an action for you to update and provide – I'm sure you  
18 would do this anyway as part of your post-event submission, but can you update  
19 that earlier appendix with the journey times. And can we have the journey times  
20 Port of Tilbury – I think the previous one concentrated on London Gateway. I  
21 know it did look at the journey time between the two ports, but can we have Port  
22 of Tilbury as well in terms of various – south of the River Thames, the M25?

23 DR WRIGHT: Okay.

24 MR SMITH: To ensure this is captured accurately, can we just have the document  
25 reference for – and the appendix number, please, again? I apologise. I didn't  
26 quite get it when –

27 MR YOUNG: REP2-050. It was annexe 2 to that document.

28 MR SMITH: Annexe 2.

29 MR YOUNG: Deadline 2 submission. So just an update to that, but can we ensure that  
30 the same journey times to and from both ports, and then the journey time savings  
31 or increases as aggregated, so we can see an overall result in terms of journey  
32 times to and from the ports?

33 DR WRIGHT: Tim Wright for the applicant. So I think all of those are in the application.  
34 I believe that the core scenario is at appendices B and C of the transport

1 assessment, which were updated at REP4 following an action to include the port  
2 times, so that's REP4-154 and REP4-156. And then parallel tables, which  
3 include the manipulated LTAM outcomes, are included at appendix N of the  
4 localised traffic modelling report REP6A-004. We'll happily signpost that, but  
5 we will also do a review and identify whether there is an imbalance in the  
6 information provided and whether there is anything else we can usefully submit.

7 MR SMITH: For action purposes – I've just taken a note – we'll look at that over lunch.

8 We'll come back to you if we think that needs to be a formal action.

9 DR WRIGHT: Thank you.

10 MR YOUNG: Thurrock.

11 MS MCMULLEN: Sir, just one observation, so Kirsty McMullen on behalf of Thurrock  
12 Council. The comparison that you've been provided with – so now I'm calling  
13 it manipulated LTAM – that's a manipulated LTAM with LTC, but you're then  
14 comparing it to an unmanipulated LTAM without LTC. You're comparing  
15 apples and pears again, which we keep falling into the trap of, so we just need  
16 to be very careful about these broad comparisons of LTAM and the updates, that  
17 the updates are actually a consistent update across 'do minimum' and 'do  
18 something', which I don't think I've seen.

19 MR YOUNG: No.

20 DR WRIGHT: Tim Wright for the applicant. I agree that there is a trap we can fall into  
21 with exactly that. That is a point that we were going to make later on, but  
22 fundamentally, comparing the manipulated LTAM to the 'do minimum' is  
23 losing the fact that actually, if you were to take the 'do minimum' delays and  
24 introduce them into the LTAM 'do minimum', you would end up with a further  
25 set of data together, and that would be a more appropriate comparison. That will  
26 come up in some of the later discussion with regard to the BCR.

27 However, we don't propose to submit a manipulated 'do minimum'  
28 scenario into the examination because our fundamental view is that the  
29 manipulated LTAM model doesn't provide an alternative; it provides a useful  
30 sense check to see how sensitive the modelling is to these variables. But  
31 actually, it's not intended to be an alternative model. And, recalling back, it was  
32 produced for a very specific purpose, which was actually to consider what the  
33 impacts on Manorway might be in this scenario. And we have to be a little bit

1 cautious about trying to use it to do too much else. It was produced for a specific  
2 purpose, so I would say that we have to be cautious about any comparisons.

3 MR YOUNG: Just putting – going back over Thurrock – a wider concerns, but you’ve  
4 seen the tables that were provided before, and we’ve just heard from the  
5 applicant when you aggregate those journey times savings, substantial benefits  
6 to the port, so that’s something that Thurrock would clearly support.

7 MS MCMULLEN: I think the issue is that we can’t rely on that evidence because it’s  
8 not comparing – it’s not a meaningful comparison, which Dr Wright has just  
9 accepted.

10 MR YOUNG: Yeah, but you’re not suggesting there wouldn’t be benefits, though.

11 MS MCMULLEN: Well, this is the issue, isn’t it, so – well, less with what evidence have  
12 we got before the examination that we could look at in order to make that  
13 judgment, and so I think we both accepted the caution that needs to be placed on  
14 the submission at – I’m trying to think. I’m losing track of the submissions now.  
15 It was the latest submission, so REP6A-004, where there was the manipulated  
16 LTAM compared to the unmanipulated ‘do minimum’, so we both just accepted  
17 the caution that’s been placed at that, so, therefore, you’re left with two bits of  
18 evidence to look to give you an indication of the impact that there might be to  
19 and from the ports.

20 Looking at the individualised junction, so you’ve got, say, Asda. We  
21 haven’t got Manorway before us, so, really, the two junctions that form a key  
22 part of the network to and from the ports would be your Orsett Cock VISSIM  
23 model and the Asda modelling that’s been presented. You could look at the  
24 within/without LTC and what the impacts might be to form a judgment on what  
25 that might do as a wider journey time, or you can then go back to LTAM  
26 presentation in the TA, which is REP4-154 and REP4-156, which Dr Wright has  
27 just alluded to.

28 But the issue with that is that it doesn’t include any of the delays that are  
29 presented within the localised modelling, so it’s very tricky. I have to say, I  
30 don’t think the evidence is before us – any of us, to be able to make a judgment  
31 on –

32 MR YOUNG: But if the port traffic doesn’t have to go through Dartford Crossing and  
33 all the delays and that’s widely accepted, and the journey time improvements.

1 Now, I take your point that you're saying that the evidence isn't there, but if the  
2 ExA is satisfied the evidence is there, that's a big win for Thurrock, isn't it?

3 MS MCMULLEN: Sorry, you'll have to repeat the question. Sorry, sir.

4 MR YOUNG: If the journey time improvements associated with port traffic not having  
5 to go through the Dartford Crossing, this is an overall improvement to journey  
6 times because of that, even taking into account the worst-case delays that you're  
7 putting forward at Orsett Cock and other locations, that must be a big win for  
8 the ports.

9 MS MCMULLEN: I don't quite follow, sir. Sorry.

10 MR YOUNG: Right, okay, well, I've asked you twice.

11 MS MCMULLEN: Sorry.

12 MR YOUNG: I won't ask it again. Mr Shadarevian.

13 MR SHADAREVIAN: Yes, sir. Paul Shadarevian KC. I'm going to ask Mr Tucker to  
14 address this issue for you.

15 MR TUCKER: Thank you. Simon Tucker on behalf of DP World London Gateway.  
16 There's a couple of things there that – just to respond to. Firstly, in terms of port  
17 traffic and the benefits of it, from London Gateway's perspective, less than 20%  
18 of their vehicles travel south across the river. So, in terms of HGV movements  
19 from the port, most of them – because of its function as a deep-sea container  
20 terminal, most of movements from the port are actually heading upcountry,  
21 effectively, so for the Midlands or into London, so the demand south of the river  
22 is, as I said, it's about 18 or 20% depending on numbers, so that just gives some  
23 context as to – the importance is, actually, for us, is movement through  
24 Manorway interchange and then north, effectively, or along the A13 into  
25 London.

26 In terms of the discussion that you were just having about the journey time  
27 savings as set out in LTAM, those numbers are still unevidenced on the basis  
28 that we've got, I think, still a convergence problem with the modelling. So  
29 we've got modelling in terms of the new VISSIM 3.6. As Thurrock have set out  
30 quite clearly, there are still convergence issues in terms of overall delay and  
31 movement through Orsett Cock junction, so although we've rerun LTAM, we've  
32 still got a convergence issue with Orsett Cock.

33 What that means then is that LTAM is sharing too much traffic going  
34 through Orsett Cock, which was the debate we had at Orsett Hotel. That, having

1 been run back through the LTAM at REP6A-004 shows that – proves the point,  
2 effectively, that LTAM can't get that traffic through Orsett Cock and shows that  
3 that traffic then basically diverts through Orsett village and/or back to the  
4 junction 30 of the M25.

5 Dr Wright said earlier that they've proven that there was no change at  
6 Manorway. And on the basis that it would be acceptable that those traffic  
7 movements that can't get through Orsett Cock can go through Orsett village, that  
8 would be correct. I think the second sensitivity test for VISSIM 3.10 and 3.11  
9 assess the implications of, effectively, accepting that putting something like 600  
10 cars through Orsett village wouldn't be an acceptable impact – that's per hour.

11 The problem we've got is that that hasn't been put back into LTAM, so if  
12 you prevent that diversion effect of traffic from Orsett Cock to Orsett village,  
13 you're further constraining it and that traffic has to go somewhere else. It's  
14 either going to go to Manorway or its going to go to junction 30 of the M25  
15 because there's no other corridor for it to take.

16 In the absence of knowing what that means, you've got two problems.  
17 One is, does the journey times out of London Gateway DP World that have been  
18 provided bear any relation to what's going to happen in practice? As you know  
19 from our original evidence, that junction is extremely sensitive to changes in  
20 flows, and it only needs 100 or 200 PCU difference in an hour to basically  
21 gridlock that junction. That hasn't been tested. It's not in front of you.

22 And the other point is, of course, if it goes to junction 30, then one of the  
23 benefits of the scheme is to remove that through traffic from junction 30. If it's  
24 only going to go back to junction 30 because it can't get through Orsett Cock,  
25 then, again, you've got increased journey times and delay elsewhere on the  
26 network.

27 So, in summary, we don't accept that the applicant has proven that LTAM  
28 is consistent with the VISSIM modelling. We don't accept that they've taken  
29 that far enough in terms of the LTAM modelling to demonstrate that the journey  
30 times that they're proposing in terms of the port are robust or evidence-based.  
31 And therefore, we maintain our objection on the basis that unless there is a robust  
32 requirement in the DCO to ensure that Orsett Cock is fixed in its design in a  
33 manner that appropriately accommodates forecast flows, then there will be an  
34 adverse impact on the operation of the port. And we consider, in terms of your

1 original question on the agenda, in terms of severity, that would have a severe  
2 impact on the ability of DP World London Gateway to operate in a manner in  
3 which it's consented to do. Thank you.

4 MR YOUNG: You didn't really address me on the journey times at all, Mr Tucker. So  
5 what is your position – that they'd be no betterment at all to the port's overall  
6 journey times?

7 MR TUCKER: Thank you. Simon Tucker.

8 MR YOUNG: You don't accept any of the applicant's evidence on that.

9 MR TUCKER: I think the applicant's evidence based on LTAM is at present unproven  
10 and unevidenced. If you took it at face value – and this is where we've always  
11 been as a position, those savings as set out there, are welcomed by the port.  
12 We've expressed our support already for the scheme.

13 But that only occurs – those journey times – if Orsett Cock is operating  
14 properly and that doesn't create offset impacts, if you like, in terms of Manorway  
15 because Manorway is the front door to the port. If Manorway's not working,  
16 and you've got a two-minute journey time saving from the port to somewhere  
17 else on the network, it only takes some disruption at Manorway, i.e. a change in  
18 flows that increases that back to two minutes, that you've completely wiped out  
19 any strategic saving, and that's the bit that hasn't been proven to you or to us.

20 MR YOUNG: They have gone away and hardcoded those delays, haven't they, and rerun  
21 the LTAM, which is exactly what you and Thurrock were asking them to do, so  
22 what more now can the applicant do?

23 MR TUCKER: Well, until we've run – our proposition always was that LTAM isn't  
24 going to be able to accommodate the flows that it has assumed it can at Orsett  
25 Cock, and therefore, that's going to have an effect of spreading traffic around.  
26 At deadline 6A we got that rerun of LTAM, as you've just described, and it  
27 wasn't until we had that that it proved the point that it doesn't accommodate  
28 LTAM – sorry, Orsett Cock in LTAM, in its application form, is accommodating  
29 more traffic than it can physically deal with. That's proven by the VISSIM  
30 model.

31 You put the VISSIM model hardcoded as you put it back into LTAM, that  
32 shows that necessarily, traffic flows through Orsett Cock, as assumed in an  
33 LTAM world, have to reduce, and they go elsewhere. And where they go  
34 elsewhere, at the moment, in terms of the evidence in front of you – which is,

1 just for an example, plate M12[?] of REP6A-004 – shows all of that traffic is  
2 running through Orsett village. So it can't get into Orsett Cock, so it basically  
3 comes through the village. That can't be acceptable in terms of an impact of a  
4 scheme, to have that traffic, which is supposed to be running through a strategic  
5 highway corridor, running through the centre of a village and so, necessarily,  
6 there would have to be some intervention to that.

7 That intervention has been tested in VISSIM – that's test – well, in two  
8 different ways, but test 3.10 and 3.11, which is set out in REP6A-006. What we  
9 don't know is what happens if you put that back into – if you stopped those –  
10 well, what is it, 600 vehicles going through Orsett Cock, where would they go  
11 instead? And we just don't know that, but the likelihood is it's going to come  
12 down to Manorway, or it's going to come back to junction 30 because there's  
13 nowhere else for it to go. They can't get through Orsett Cock. And that hasn't  
14 been modelled, and we didn't know it needed to be modelled 'til we'd seen the  
15 answers, which we've got here.

16 And I'm not suggesting it's going to be modelled before the end. I  
17 suppose my point of the examination is that that just reinforces the need for  
18 making sure that any requirement for Orsett Cock is robust enough to make sure  
19 that what's been identified doesn't happen.

20 MR SMITH: We're well aware of that. We are, absolutely, going to come onto that.

21 MR YOUNG: Dr Wright, do you want to close this off? Then we'll move on.

22 DR WRIGHT: Tim Wright for the applicant. A lot has been said about Orsett village,  
23 which is item 5 on the agenda, so I suspect you would like me to hold that back.

24 MR YOUNG: Yes, I would.

25 DR WRIGHT: In that case, no, I don't think I have anything else to add, sir.

26 MR YOUNG: Right, fine. Thank you. Alright, let's move onto the next issue that we  
27 have, which isn't actually Orsett Cock, is it. It's the issue around the version 3.6  
28 modelling and what, if any, impact does that have on the scheme's benefit-cost  
29 ratio and environmental assessment. I think it's already been – you've touched  
30 upon it. Is there anything else that you need to say on this? Yes, okay.  
31 Dr Wright.

32 DR WRIGHT: Tim Wright for the applicant. So you're right. I have said a number of  
33 pieces before. The BCR and environmental assessment need to rely on LTAM,  
34 and so – let me just check. Yeah, so, fundamentally, our position on this is that

1 we don't consider it appropriate to use the manipulated LTAM to support  
2 assessment of a BCR or an environmental assessment. But what we do want to  
3 add to that just here is that noting that there have been some fairly extensive  
4 submissions on the BCR from Thurrock Council in their submission, so,  
5 therefore, we have undertaken a high-level review of how these delays would  
6 affect the BCR, not excepting the validity of the exercise.

7 We've identified a number of arithmetical errors and other issues in the  
8 presented calculations, so, at a high level, we will provide more in our deadline 8  
9 submission. In two locations, Thurrock Council effectively double counted the  
10 dis-benefits, firstly by multiplying peak hour figures by two before applying  
11 combined expansion and annualisation factor that already included multiplying  
12 by two to go from the peak hour to the peak period, and then, secondly, by adding  
13 together the values for 2030 and 2045 but not dividing by two when calculating  
14 an annual average value, so that has an overall effect of quadrupling the value  
15 of dis-benefits that they put in.

16 The second goes to this point that I think the representative from Thurrock  
17 Council and myself agreed on, that there is a challenge to the comparison of the  
18 manipulated 'do something' scenario with a non-manipulated 'do minimum'  
19 scenario. And actually, it should be a comparison of a manipulated 'do  
20 something' with a scenario that actually adopted already the delays from the 'do  
21 minimum'.

22 It's highly – sorry, I'm jumping across there. So they've compared the –  
23 sorry, stepping back. They've compared the difference in times between a  
24 VISSIM 'do minimum' and 'do something' model against the difference in  
25 times between a SATURN 'do minimum' 'do something', so they've got a direct  
26 comparison of VISSIM and SATURN, and that can place a difference in the  
27 modelling software – slightly different point. Apologies.

28 So, in summary, we don't agree with the 100 million dis-benefit assessed  
29 by Thurrock Council. We consider it'll actually be 15.8 million against a net  
30 journey time savings benefit of over 2 billion, as reported in table 11.2, appendix  
31 D of the combined modelling appraisal report APP-526. So, if you then take  
32 that 15.8 million, that would lead to no discernible change in the BCR, which  
33 would remain at 1.22. So just a specific point around BCR there, but that doesn't

1 change our fundamental principle that, actually, we don't agree with the validity  
2 of the exercise, regardless. Thank you.

3 MR YOUNG: Thurrock want to respond on that?

4 MR MACKENZIE: Sir, yes, it will be David Bowers who will respond on the technical  
5 point, but just in relation to the environmental assessment, which is part of this  
6 agenda item, version 3.6 included test 1, test 2 and test 3 in terms of inputting  
7 VISSIM parameters into LTAM and also two sensitivity tests. And in  
8 Thurrock's submission, all of those tests, in terms of parameter iteration and  
9 sensitivity testing, show essentially that strategic traffic, which ought to be  
10 accommodated on LTC, is displaced and rerouted through Orsett village. That's  
11 a topic that Mr Shadarevian – and you heard submissions on that point.

12 And that gives rise to a very serious issue in the context of the  
13 environmental assessment because all of the environmental reporting carried out  
14 by the applicant, as Mr Wright has submitted already twice today, is based on  
15 the SATURN model, LTAM, and not the VISSIM model, so our submission is  
16 that the environmental statement and, in fact, all of the environmental  
17 information, doesn't pick up the likely significant environmental effects of what  
18 version 3.6 is showing in terms of tests 1,2 and 3 and sensitivity tests 1 and 2. It  
19 will now be David Bowers.

20 MR BOWERS: Yeah, hi, David Bowers representing Thurrock. So the fundamental  
21 issue here is that the LTAM models and the VISSIM models, there is a lack of  
22 convergence. I note the queries around the mathematics of it. We can go away  
23 and check that. But I think it's clear that the applicant is submitting that, if you  
24 use the VISSIM model, they'll be further dis-benefits that would be added into  
25 the calculation of cost and benefits.

26 And this is a fundamental point that, if people can cast their minds back  
27 to the diagram that was shown on the screen of the VISSIM model – it showed  
28 all the red on one of the approaches – it's those delays in that VISSIM model  
29 which are not apparent in the LTAM model. And what we tried to do in a very  
30 short time period available in this quite fast-moving examination is to do a  
31 high-level estimate of that. And it's not just at the Orsett Cock junction. Our  
32 view will be that the other junctions where modelling has been undertaken are  
33 also underestimating the delays and dis-benefits of those junctions.

1           And whilst each individual junction has possibly a relatively small change  
2 or impact on the benefit-cost ratio, it's when you aggregate all those changes  
3 together with the other issues that have been identified through the examination  
4 around the assessment of light goods vehicles and heavy goods vehicles, the  
5 assessment of carbon and the assessment of accidents – when all those are  
6 incorporated, you start to have a fundamental impact on the benefit-cost ratio in  
7 this scheme, which, if you remember in the DCO submission was just 0.48 to 1  
8 for the well-established level 1 benefits. And even with the less well-established  
9 level 2 benefits, it was 1.22.

10           So our view is that by including and looking at the VISSIM model, which  
11 we consider is the appropriate way to assess the impact of a scheme like this on  
12 the operation of a junction that has this impact on the benefit-cost ratio, which  
13 inextricably brings it down lower and lower towards a position where the costs  
14 outweigh the benefits.

15 MR YOUNG: Anybody else want to speak on this before I go back to the applicant? No,  
16 okay. Dr Wright, do you want to respond to any of those points?

17 DR WRIGHT: Tim Wright for the applicant. If I can just pick up on the environmental  
18 assessment, so the application of – going back to this exercise of the VISSIM  
19 and the LTAM, we consider that the application of delays at a single junction  
20 would lead to an unbalanced model, as we've set out. Environmental impact in  
21 assessment legislation requires consideration of likely significant effects; that's  
22 how it's set out in law. And an unbalanced model of this kind would not present  
23 likely effects; rather, it would locally present an unreasonable worst-case  
24 because it would focus particularly on certain local movements without  
25 accounting for the effect of the overall highways network.

26           So, if we wanted to address this, and I think we've talked about this before,  
27 I won't go on, but it would be necessary to incorporate the delays at other  
28 junctions to create a more balanced model, and then, once you had done that,  
29 you would then want to reiterate those delays back through localised – that  
30 would be the way to achieve conversions. We've set out our position on that  
31 report, so I won't go on.

32 MR YOUNG: I think those points were well made in the previous issue-specific hearings  
33 we've had, and we're alive to those comments. Okay, if there's nothing else on  
34 that, we should carry on. And now we do get to Orsett village. Can I just ask

1 the applicant then just to explain the sensitivity test that was done and then what  
2 that showed in terms of – I’ve heard generic comments about increases in traffic.  
3 I don’t know if that is quantifiable, or give us a little bit more flesh on the bones.

4 DR WRIGHT: Sir, Tim Wright for the applicant. I’m going to pick up a couple of the  
5 other points that were in relation to the effects at Orsett village that have been  
6 raised by others. First is a point of clarity. It isn’t actually the LTC traffic that  
7 is displaced and going through the Orsett village. The traffic going through the  
8 Orsett village is actually doing the north-south, south-north route, so the whole  
9 thing is Brentwood Road. It’s Brentwood Road in the south and then becomes  
10 the A128 in the north, and it is that traffic that is displaced across to Rectory  
11 Road in the various models. That’s a point of clarity.

12 So we haven’t done a full review of the transport assessment findings in  
13 relation to the manipulated model. And again, we go back, I think, to this point  
14 that I mistakenly made earlier that the manipulated LTAM assessments, you  
15 have to be cautious about comparing a manipulated ‘do something’ to a standard  
16 ‘do minimum’. And actually, the appropriate thing to do would be to compare  
17 a standard ‘do minimum’ – a manipulated ‘do minimum’ – I’m confusing myself  
18 now – to a manipulated ‘do something’. Now, obviously, that information isn’t  
19 in front of the examination. So we can look at the way flows happen and draw  
20 some conclusions, again, in a port exercise about that.

21 But fundamentally, what we see in the ‘do minimum’ VISSIM model is  
22 that there are delays and queues leading into – affecting traffic flows through the  
23 village. So those queues on the approaches would also lead to flow changes  
24 within the village itself.

25 Going back to the core scenario, what we see on the majority of links is  
26 that there is actually a benefit to Orsett village; there is a reduction in the traffic  
27 flows in Orsett village, so when we then consider that you might want to add in  
28 a manipulated ‘do minimum’ queues, you would also expect to see a substantial  
29 increase in the traffic flows through Orsett village in a manipulated ‘do  
30 minimum’ LTAM scenario.

31 And so, at that point, you then would compare your manipulated ‘do  
32 something’ scenario, and it was likely that you would actually see similar effects,  
33 so you would see similar benefits on some of the links and adverse impacts on  
34 other of the links but that the information – doing the comparison that is set out

1 in appendix N of our submission – isn't actually a fair comparison for the  
2 transport assessment terms.

3 What you actually need to do is compare a 'do something' to a 'do  
4 minimum' – manipulated 'do something' to a manipulated 'do minimum'. Were  
5 you to do that, you would likely see substantial benefits in certain links.  
6 Obviously, that isn't in front of the examination right now.

7 So, in summary, we don't accept that we cause increased adverse impacts  
8 in Orsett village in the manipulated 'do something', that there is particularly a  
9 concern there, and we revert back to our core scenario anyway, which shows  
10 that, on many of the links, there are substantial benefits and where there are  
11 adverse impacts on links in Orsett village, they are limited to less than  
12 100 PCUs.

13 MR YOUNG: Thank you.

14 DR WRIGHT: Apologies, though, you did also ask me about the sensitivity analysis as  
15 well. So we did then submit sensitivity analysis on Rectory Road in  
16 REP6A-006. Now, that doesn't look at the manipulated 'do something' model.  
17 That purely looks at 3.6, and it did two things, so one restricted the amount of  
18 traffic flow on Rectory Road, and one prohibited traffic on Rectory Road. And  
19 what that shows is clearly there is an impact – there is a balancing effect of traffic  
20 between the A128 and Rectory Road.

21 And if all the flows on Rectory Road were reduced to the 2016 flows,  
22 which is the restriction but not the prohibition, what our modelling showed, that  
23 there was a relatively small impact on Orsett Cock junction. And if all the traffic  
24 is removed from Rectory Road, then, as you would expect, there is a larger  
25 impact on the junction, especially on the length of queues on Brentwood Road.

26 But what we would say is it's not – this goes back to the question of the  
27 'do minimum' scenario – it's not for us to design a junction that accommodates  
28 a scheme for the closure of Rectory Road to all traffic that is far from certain to  
29 be implemented and that any proposed changes to Rectory Road are not  
30 sufficiently certain to be included in the network according to the TAG criteria.

31 Thank you, sir.

32 MR YOUNG: Thank you. Thurrock.

33 MS MCMULLEN: Kirsty McMullen on behalf of Thurrock Council. So I think what  
34 Dr Wright is trying to say is that current levels in Orsett village – there would

1 be a betterment with the introduction of Lower Thames Crossing and the induced  
2 traffic that that brings about, and people's lives in Orsett village would be better.  
3 I think that's the gist of the interpretations of the modelling. We don't believe  
4 that to be true from a commonsense perspective and also from an experience  
5 perspective because the council has recently undertaken quite extensive  
6 roadworks at Orsett Cock which did, unfortunately, lead to delays as a result of  
7 the traffic management.

8 And one of the adverse impacts of that construction were that there was  
9 rerouting of traffic through Orsett village, and it is a very sensitive village to  
10 rerouting traffic. You only have to look at a map to come to that conclusion.  
11 You don't need to be a transport planner. And that's the kind of concern that  
12 the council has raised numerous times, both as a result of their experience and  
13 recent experience but also because of the disconnect between the modelling and  
14 between LTAM and VISSIM.

15 And it's unfortunate that we have been provided with a sensitivity test, or  
16 half a sensitivity test, whereby one side of the story's been manipulated, and the  
17 other half hasn't been. But that's still an evidence base that the applicant has  
18 put forward, and so we're having to make some judgments from that, and that's  
19 what we do as a profession.

20 And what that does show is that if there is a VISSIM-levels of delay  
21 included within LTAM at Orsett Cock, that there is rerouting of traffic. The  
22 level of that rerouting compared to – I suppose it's we haven't got something to  
23 compare it against because we haven't got a manipulated 'do minimum', but it  
24 does show that there is 550 additional vehicles routing through the village. And  
25 then, by preventing that traffic from rerouting to the village, and from that going  
26 back to where it should be on Brentwood Road, that then further causes delays  
27 to Orsett Cock.

28 So all we're trying to do – I suppose I'm just a bit flabbergasted that  
29 there's a betterment to Orsett village or the evidence before the examination  
30 leads to the conclusion that the people living in Orsett village – and that's really  
31 why Thurrock Council are here representing those communities and those  
32 people – that their life will be better as a result of LTC. And we just don't concur  
33 that from the evidence.

1 MR YOUNG: Just picking up on one question there, you said it was obvious, if you're a  
2 transport planner, that – I'm not sure the words you used, whether you said it  
3 was a sensitive village, but just explain that a bit more to me because I've looked  
4 at it. It's quite a modern road layout. There's no schools there. There's no  
5 traffic signals. There's no one-way system through the village. Why do you say  
6 it's 'obviously sensitive' in that regard?

7 MS MCMULLEN: Sorry, sir. Kirsty McMullen on behalf of Thurrock Council. I should  
8 have probably been more specific with my terminology. When there are delays  
9 on a strategic network, it is an attractive alternative route is what I meant. And  
10 that traffic is intended to route – it hasn't got destination within the village. It's  
11 intended to be on a more strategic local route, and increase in delays on the  
12 strategic roads result in that traffic inappropriately rerouting through the village.  
13 And that traffic doesn't have a destination within that village.

14 MR YOUNG: Okay, but that's quite commonplace, isn't it, for traffic to route through a  
15 village.

16 MS MCMULLEN: It doesn't necessarily make it right, sir, that the consequence of a  
17 strategic project such as this is that the – and it hasn't also been assessed within  
18 the ES – and we're focusing on Orsett village. There's other locations; there's  
19 other communities where LTAM is showing rerouting through other villages as  
20 well, which we've set out in our local impact report. But it hasn't been assessed,  
21 so this rerouting of traffic through Orsett village hasn't been assessed in an  
22 environmental assessment, so –

23 MR YOUNG: No, that's a fair point. Thank you. Anything else before I go back to the  
24 applicant? Mr Tucker – sorry. I do apologise.

25 MR MACKENZIE: George Mackenzie for Thurrock Council. Forgive me, sir, for  
26 adding this topspin to what Ms McMullen said in relation to the failure to have  
27 captured these – well, likely significant environmental effects in terms of Orsett  
28 village. The submission is that on the evidence that we currently have, we can't  
29 exclude the possibility that there are likely significant environmental effects in  
30 and around Orsett village that haven't been picked up in the EIA process, so  
31 that's one defect.

32 The other defect, which is essentially of the same character, is a policy  
33 defect, and that's because paragraph 4.6 of the National Networks NPS exhorts  
34 the promoters of NSIPs to provide sufficiently accurate detail of the impact of a

1 project and it's clear that that needs to be both at the strategic and the local levels.  
2 So that's the top spin.

3 MR YOUNG: Thank you. Mr Tucker, I know you've already touched upon it. Is there  
4 anything else you need to say on Orsett village?

5 MR TUCKER: Simon Tucker for DP World. Briefly, sir, just to clarify, I wasn't  
6 suggesting that all of that traffic would be strategic traffic that was routing  
7 through the – as Dr Wright suggested – routing through Orsett. It's the impact  
8 of what's basically, as set out in their own assessment, a minute's worth of  
9 change in journey time through that junction if table 4.9 of REP6A-006 has got  
10 movements increasing by 300, 400 seconds in terms of journey times through  
11 the junction, and it's that impact on Orsett Cock which forces people to take  
12 different routes, rather than this being strategic traffic in itself, basically.

13 MR YOUNG: Understood. Right. Let me just go back to the applicant and close this  
14 off. No, nothing further to add? No. Right. Okay. We're going to look to  
15 break for lunch shortly, and then we're going to come back and have quite a  
16 detailed discussion, I imagine, take a bit of time to discuss the requirements as  
17 we've got them before us. Does anybody – this is an opportunity now, I guess,  
18 for anybody that's participating, to raise anything that I haven't covered this  
19 morning specifically. Okay. Well, in that case, it's just gone 1.00. Shall we  
20 make it 1.05?

21 MS MCMULLEN: Sorry sir, there's an agenda item still to go, isn't there, before the  
22 requirements, which is the 3.6T?

23 MR SMITH: Yes, there is, yeah. I think – but let's be practical – I don't think we would  
24 manage to bring that in and do it justice before a lunch break.

25 [Crosstalk]

26 MR SMITH: There is another consideration here as well in terms of setting lunch, is that  
27 the venue have informed us that there will be a fire alarm test at or around 2.00,  
28 and we really don't want to be coming back in the middle of that, so a break  
29 until at least 2.10 would be my suggestion.

30 MS MCMULLEN: That's fine. I just didn't want you to forget about it. I'd love to show  
31 you the video.

32

33

**(Meeting adjourned)**

34

1 MR YOUNG: Welcome back, everybody. The hearing is now resumed. Let's just turn  
2 to item 6 on the agenda and this is where I would like – I'm not too precious,  
3 actually, where we start here. I was thinking perhaps if we go to Thurrock first,  
4 they can open this. Then we'll go to the applicant, anybody else who wants to  
5 speak, and then come back to Thurrock. That okay with you, Mr Mackenzie?

6 MR MACKENZIE: George Mackenzie for Thurrock Council. Thank you, yes. That  
7 would be welcome, but before we deal with that agenda item, I know that Mr  
8 Stratford just wanted to say some brief words in relation to the previous agenda  
9 item. Would that be in order, in relation to Orsett village?

10 MR YOUNG: If it's succinct.

11 MR STRATFORD: One minute. Time me. You mentioned about the sensitivity –  
12 questioned sensitivity, I think, of the village, and my team has pointed out a  
13 number of things there. First of all, the village is a rural village. It originated  
14 back in the 14<sup>th</sup> century. It has been a conservation area since 1973. The  
15 character appraisal was done in 2007. It has a hospital, a school, and a limited  
16 number of residential properties, and a very active couple of groups of  
17 communities. Originally, prior to the M25, it was part of the north-south link  
18 and it is very, very important to the council that it doesn't become another side  
19 north-south link. I think that's a minute.

20 MR YOUNG: Very good. Right. I'll hand back to Thurrock. Do you want to just  
21 introduce what you've done? We touched upon elements of it, but do you want  
22 to set out what you've done?

23 MS MCMULLEN: Kirsty McMullen on behalf of Thurrock Council. So this morning  
24 we touched on 3.6 and then a revised version of 3.6T, which we've called it in  
25 our submission 6(a). The only changes that we've made to the model were three  
26 changes: one, to align driver behaviour so it's consistent between do minimum  
27 and do something, so it didn't skew results; two was about the lane allocation  
28 and we can put that in writing with some diagrams to explain the issues that we  
29 had with 3.6 and then how we've rectified that in 3.6T, and the other element  
30 was pegasus crossing, and that was largely to do with introducing growth and  
31 without any intervention and that the – it is highly likely or highly unlikely that  
32 the council as the local highway authority, given Orsett Cock roundabout is part  
33 of Thurrock's network, and Rectory Road – Stanford Road is as well – that the  
34 level of queueing in the do minimum would be allowed.

1 I think what's – I suppose part of the – or one step has probably been  
2 missed out by the applicant that you would normally do. So normally you would  
3 have a future case – and this is probably where the confusion comes in terms of  
4 mitigation and how we deal with this – is that normally, as part of an ES, you  
5 would do a future base scenario, and that would include your background traffic  
6 road and consented developments and any interventions, and that gives you a  
7 reference base to compare back to in the future. You would then add on the  
8 scheme, so in this situation add on the LTC, and then obviously the traffic  
9 associated with LTC which has been forecast from LTAM, and that would allow  
10 you to look at and compare a base and the effect of that traffic, that induced  
11 traffic.

12 So in terms of LTAM, by 2045 it's forecasting 14% increase at Orsett  
13 Cock in the a.m. and 19% increase of traffic in the p.m., and that's just the traffic.  
14 That doesn't account for displaced traffic. That's just the traffic that's going  
15 through, and we set that out in detail with the numbers in REP4-352 and that's  
16 in annex B. So it's probably useful just to look at the numbers and where we set  
17 that analysis out. That's in our written representation of ISH 4. So that would  
18 have allowed you to look at a like-for-like comparison of with and without the  
19 scheme in the future, in 2030, 2045, and then as part of an ES you'd then say,  
20 'Is the effect of that significant? Yes, or no?' It gives you that yes/no test.

21 If those residual effects are significant, you can then move onto, what do  
22 we do about that and what would the mitigation be? I suppose part of that's  
23 been missed out. So we've ended up with jumping forward to – we've got a  
24 scenario with no mitigation in. Is that realistic for a local authority to not do any  
25 intervention, but to have a lot of growth added onto it and that development  
26 traffic and their liaising as part of planning applications coming forward – what  
27 impact are you having without essential interventions which you need to do? So  
28 we've got a scenario where we've got nothing would happen and the local  
29 highway authority in this area would do nothing about it, and that would be  
30 acceptable to them, and then we've got a scenario whereby some minor changes  
31 are made or some mitigations added in, but we haven't been able to isolate what  
32 the effect of the LTC traffic is before any mitigation.

33 So it would have been a helpful scenario, probably, for you to have, but  
34 you haven't got that. So what we've tried to do with 3.6T is to try and create –

1 and I keep saying – isolate the impact, but that’s really what we’ve been trying  
2 to do, so that you’ve got a comparison that’s a more genuine comparison,  
3 like-for-like, between a do minimum and do something, that looks at what a  
4 reasonable local authority would – how they would react to a do minimum  
5 situation with that growth, but then also look at making sure that the behaviour  
6 of the drivers is similar in both models, and they are the only changes that we’ve  
7 made to version 3.6.

8 So we’ve then created a model – sorry, a video – of that which we can play  
9 now. We may just stop it in a few locations. Hopefully my assistant will put it  
10 on the screen.

11 MR YOUNG: Just before we get that, let me ask you just one question. Three issues  
12 there: the driver behaviour, the lane markings, and pegasus crossing. Now  
13 clearly there are different ways of doing modelling. Now, the fact that  
14 something could be done differently to the way you’ve done it doesn’t  
15 necessarily make it unreasonable, does it? Is there anything about the  
16 applicant’s approach which is inherently unreasonable?

17 MS MCMULLEN: Thank you, sir. Kirsty McMullen on behalf of Thurrock Council.

18 Yes, I think we’ve been quite clear in our D6 submission that we think that the  
19 driver behaviour that has been modelled is overly aggressive, and it is very clear  
20 in the NPS in paragraph –

21 [Crosstalk]

22 MR YOUNG: On the driver behaviour.

23 MS MCMULLEN: Yes, so the driver behaviour we don’t accept so that’s the one we  
24 think is overly aggressive and it’s not standard practice, and in paragraph 3.10  
25 of NPS it’s that the applicant needs to take opportunities to improve safety and  
26 so relying on aggressive driver behaviour we don’t think is in accordance with  
27 policy as well as best practice in modelling. We also don’t concur with the lane  
28 allocation and how that’s been modelled, so we have agreed to set that out in  
29 writing as to why it’s not just about – we can spend a lot of time going, ‘Oh, but  
30 this is a different way of doing it and there’s lots of different ways of doing it’.  
31 We considered some of the ways that – or 3.6 has been modelled is incorrect as  
32 opposed to a nuanced way of modelling and we agree to disagree.

33 MR YOUNG: I know it’s very difficult to get into precedent and ‘This scheme did this  
34 and that scheme did that’. It’s not always that helpful, but the fact they’ve

1 pointed to two big schemes' recently made DCOs where they use that driver  
2 behaviour...

3 MS MCMULLEN: Well, we haven't seen any of that, so that's new evidence from today,  
4 so we'll have to go back and have a look at that and that's fine, sir. But the other  
5 thing to point out is that 3.6 has significant queues in it as well, so it's – and it's  
6 completely different to LTAM, so it doesn't shy away from that. We don't  
7 necessarily agree with 3.6, but even if we were to look at that, we will set out  
8 where we consider there to be severe impacts which is one of our actions for 3.6  
9 in our submission hearings.

10 MR YOUNG: Shall we have a look at the...?

11 MS MCMULLEN: Thanks. I'm going to have to put my glasses on. I'm getting old.  
12 So this is the p.m. peak, sir, in the [2032 something?], in the 3.6T. So zooming  
13 in on Orsett Cock junction you can see queueing on the circulatory and on the  
14 approaches, particularly the A13 off-slip – so westbound off-slip – and then now  
15 it's going to be moving; it will now move to the west, and now orientating so  
16 you're now looking west towards the A13/LTC/A1089 junction – so pause,  
17 sorry – so you can see here this is Rectory Road. Sorry, you'll have to go back.  
18 Sorry. Can't get the staff.

19 PARTICIPANT: You're relying on my IT skills. Apologies.

20 MS MCMULLEN: So if you pause here, sorry, you can see this point is where the A13  
21 eastbound off-slip is merging – or is joining – the LTC off-slip, and you've got  
22 queueing back on in both of those arms and lane starvation as they're merging  
23 and joining each other, and then you can see just at the top of the screen, that's  
24 the junction of Rectory Road and Stanford Road. So whilst the pegasus crossing  
25 is still queueing within that at that junction. So if we press play again, and then  
26 we're moving further west. So this is then the – press pause, sorry – so this, as  
27 you can see, the A13 mainline and there's some queueing back in 3.6T from the  
28 A13 eastbound off-slip onto the mainline and then you've also got on the  
29 right-hand side is the LTC off-slip. So this is the queueing back on the LTC  
30 off-slip. You can keep going, please.

31 Okay. If we pause again here please, so then here you can see this is the  
32 LTC off-slip from the northbound still queueing and off into the distance would  
33 be LTC, and you can also see – it's difficult to describe it now – you can see  
34 north-south traffic and that's the LTC, and the queue – so this bit here is the LTC

1 going northbound and it's queueing with traffic queueing to get off on that  
2 northbound off-slip. So you can see it loops around. So just north of the trees  
3 you've got that new loop which we've raised safety concerns about because it  
4 copies the existing loop which is a tight U-turn for traffic to make and it copies  
5 the existing one you can see within the trees, this is the A1089 loop. So that's  
6 the LTC northbound off-slip and traffic queueing back onto LTC and then  
7 queueing back around. I think that's the end of the – should be the end of the  
8 video, sir. Yeah, that was our submission for 3.6T. Thank you.

9 MR YOUNG: Mr Tait.

10 MR TAIT: Dr Wright again, sir. Thank you.

11 DR WRIGHT: Tim Wright for the applicant. So we've undertaken a review of the C6T  
12 model results that were provided, both the report REP6A-013 and the video  
13 REP6A-014 that we've just seen. I'd like to note we have requested a copy of  
14 the model file so that we can do a little bit further investigation. That was  
15 provided after hours on Friday, so our team are looking at it hard, but we haven't  
16 had a chance to go through that in detail yet.

17 So referring specifically to the report, first of all I just want to pick up that  
18 there are some possibly erroneous entries in the results tables. We're not sure,  
19 but for example in table 3.4 of the report, the average delay in seconds and the  
20 mean max queue in metres are identical for both the A13 west Rectory Road and  
21 Stanford Road east which is possible but might be something to check.

22 Going onto the video itself, it raises a number of questions. First of all,  
23 we note there isn't a do minimum version of the video, and notwithstanding the  
24 discussion about Rectory Road, it is likely that a do minimum model with similar  
25 behaviours would show significant queues. Again, referring to table 3.3 of the  
26 report, mean max queues were 1.3 to 1.4km on Brentwood Road, Rectory Road  
27 and Stanford Road in the do minimum 3.6T model. And that is likely to be a  
28 consequence of the driver behaviour and the lane allocation settings that have  
29 been chosen within the model.

30 From our view, it's quite important, when you're doing modelling like  
31 this, that it does actually need to be a realistic representation of the behaviours  
32 that you would actually see on the road. To illustrate a couple of the concerns,  
33 we aren't going to play the video but what we have taken is a couple of screen  
34 grabs, so I'll ask if the first screengrab can be put up on screen. This is

1 timestamp 19 seconds and is a grab from the image. Now just to place you,  
2 we're looking at the western side of the roundabout here, the approach of the  
3 combined A13/LTC road. Now just to avoid distraction – and I'll be honest it  
4 distracted me at first – what you can see is a VISSIM model superimposed over  
5 an aerial image. The lane – it looks like a V shape, the dark lane – thank you  
6 very much, Graham – that is not in our scheme, nor is it in their model. That is  
7 an artifact of the image behind the model. We wouldn't have been able to – I'm  
8 not suggesting this is wrong – we wouldn't have been able to produce something  
9 different ourselves. It's just to help you ground yourself in what you're looking  
10 at, so there will be no traffic on that road, nor should there be.

11 But what I actually want to draw your attention to is what is happening  
12 along that line. So you can see there that there is quite a substantial queue of  
13 traffic coming down from the top of the screen to that point where the red arrow  
14 is. Now what that's showing is that the traffic coming down there is all trying  
15 to get into the left-hand lane, partly due to the lane allocation and partly because  
16 of other reasons for why they want to move around that roundabout, and they're  
17 being extremely cautious about moving into that lane. They haven't found a  
18 suitable merge in order to get in. So you can see how the drivers in the  
19 right-hand lane are all queueing cautiously. You'll see that they are stationary  
20 in the video, waiting for a gap to move into the left lane. This results in them  
21 holding back the traffic on the three lanes for a period of time. It's not possible  
22 from the video to determine exactly how long, but it is likely linked to signal  
23 change timings, could be up to a minute because of that. We don't think that's  
24 a reasonable representation of what would actually happen with the traffic  
25 holding back at that location.

26 If we can move onto the next timestamp which is timestamp 47, we've  
27 already seen something close to this in the still from Thurrock Council, and what  
28 we're looking at here in particular is the LTC northbound – if I can draw your  
29 attention – so that's on the right-hand side of the screen, LTC north and  
30 southbound there, and in particular if you look in the red circle you have a lorry  
31 and you have a blue car. Now what's happening with that blue car is it is clearly  
32 trying to merge into the left-hand lane, and you do see in the video the point at  
33 which it finds the space and it starts to move across. In fact, it stays stationary  
34 for about 10 seconds in the video. Now we don't consider that to be a realistic

1 representation of what would happen. The vehicles would – if it was coming  
2 off, it would have moved into that left lane earlier. It would have found a gap.

3 The urban merge is designed to show collaborative behaviours and it  
4 would have signalled, it would have moved into that gap in the normal practice,  
5 so it's because of timid behaviour that that driver has effectively got to that point  
6 on the road network where, to be clear, it has stopped in the right-hand lane and  
7 is waiting for a clear spot to merge to the left. Now I call that timid. Perhaps  
8 that's not timid, to stay stationary in the fast lane of the road, but we go back to  
9 our point that is not a realistic representation. So we think this model shows that  
10 the driver behaviour that has been selected by Thurrock Council as being  
11 representative is not actually appropriate for the highway at this location. Thank  
12 you.

13 MR YOUNG: Thank you.

14 MS MCMULLEN: Would I be able to just come back on one point, please? Sorry.  
15 Kirsty McMullen on behalf of Thurrock Council. We haven't made any changes  
16 to this part of the model, so when you're looking at those points, the driver – all  
17 of that is the existing model. We've just focussed on the Orsett Cock  
18 roundabout, nothing to do with LTC/A13/A1089 junction. So that is an issue  
19 that's within the National Highways model as well.

20 MR YOUNG: Anything else on this item?

21 DR WRIGHT: Clearly, we haven't seen their model with enough time to pick through  
22 it, so I think we'll come back further at our deadline 8 submission, but I do think  
23 that our point stands about whether the model reflects realistic driver behaviour.

24 MR YOUNG: Yes, I think we can be quite clear that the determinative issue will be  
25 whose version the ExA prefers on driver behaviour. Right. Shall we move on  
26 to the next item on the agenda? Requirement 18. There's quite a bit we want to  
27 cover under this. Maybe we should start with the applicant drafting and then  
28 we'll move onto what's been put forward by Thurrock and others. I think the  
29 first point I would make about the drafting that the applicant put forward is that  
30 it would require the scheme to be implemented before the works are carried out  
31 in that particular location, and therefore would it be prejudging – if you're doing  
32 that, you wouldn't have the benefit of the monitoring? You would be making a  
33 decision – before you've seen any monitoring – making a decision on what form  
34 of mitigation to put in there. So my first question is whether that would be

1 appropriate or whether it would not be better to wait until the scheme is  
2 operational and you have the benefit then of being able to see what queues, if  
3 any, have materialised at the junction?

4 MR TAIT: Dr Wright, initially.

5 DR WRIGHT: Tim Wright for the applicant. So we introduced this requirement because  
6 our localised traffic modelling report identified that it would be beneficial to  
7 make some changes during the – ready for the opening of the scheme, and that’s  
8 why we introduced the requirement, because we think it is appropriate for it to  
9 be done at the pre-construction stage to be delivered for 2030.

10 MR YOUNG: Okay then. I’m just thinking that through. You – I’ll come back to you,  
11 Mr Tait. One second. Just on, then, the issue of monitoring, just if you’ve  
12 already put in a scheme, then you have the monitoring that indicates that there  
13 are additional issues that need to be addressed there. How does that fit into the  
14 drafting that we’ve currently got?

15 MR TAIT: Could I turn to Mr Latif-Aramesh in this response?

16 MR YOUNG: By all means.

17 MR LATIF-ARAMESH: Thank you, sir. Mustafa Latif-Aramesh for the applicant. I  
18 just wanted to clarify two things. So at deadline 7 we amended requirement 18  
19 and importantly the scheme that is submitted under subparagraph 2  
20 subparagraph A must be based on and informed by appropriate pre-construction  
21 monitoring, and so I was going to get onto this and explain some of the changes  
22 we made, but that was one of the key changes. So the scheme itself would be  
23 based on monitoring. The other amendment to requirement 18 that was made  
24 was securing monitoring for operation beyond the delivery of the scheme.

25 I think the other key point to recognise – and again, this relates to one of  
26 the changes that we made in response to the Port of Tilbury submissions – is that  
27 the measures which the scheme must include are those which are reasonably  
28 necessary not just to minimise the traffic flows on the roundabout but to optimise  
29 the performance of the roundabout beyond reducing the impacts from the Lower  
30 Thames Crossing. And so we think, given what Dr Wright has just said, the  
31 scheme is appropriate. It secures monitoring before it’s prepared. It then  
32 requires a scheme which not just minimises our traffic impacts but optimises the  
33 roundabout, and then after that there is further operational monitoring secured  
34 by one of the further amendments we made to requirement 18.

1 In case it's helpful, sir, table 7.1 of REP7-190 goes through the key  
2 differences – not key differences that we've highlighted, but key differences that  
3 the Port of Tilbury highlighted – between our requirement and their proposed  
4 requirement, and we have responded to each one of those differences either by  
5 way of an amendment to requirement 18 or by way of an explanation as to why  
6 the requirement achieves what they're seeking it to do. So that table, I think,  
7 has brought us slightly closer on the terms of requirement 18, but I just wanted  
8 to highlight that those changes mean monitoring is in place.

9 MR YOUNG: Mr Latif-Aramesh, can you just give me that reference again? Table 7.1...

10 MR LATIF-ARAMESH: Of REP7-190.

11 MR YOUNG: Thank you. And then just in terms of what the work that Thurrock's done  
12 – and actually Thurrock didn't mention – but they have, as well as 3.6T  
13 modelling, they actually then went and looked – took a further step and looked  
14 at a more wider ranging mitigation scheme for Orsett Cock, and I think the ExA  
15 were interested to hear the applicant's thoughts on whether that kind of scheme  
16 would be – whether that would be precluded from the wording that we've  
17 currently got, the drafting of requirement 18 at the moment, would something  
18 on a grander scale be deliverable under the existing wording?

19 DR WRIGHT: Tim Wright for the applicant. So with caution, because the scheme  
20 proposed by Thurrock Council is contained in some limited drawings, it would  
21 be quite difficult for us to actually say whether that scheme would be deliverable  
22 or not. However, what I would say is the wording isn't that restrictive. So if the  
23 engineering design of that demonstrated that it sat within the environmental and  
24 the land use controls, the wording wouldn't restrict something like that being  
25 brought forward if that were to be the appropriate solution to the situation. So I  
26 would say it's a helpful contribution to the discussion. I wouldn't be able to say  
27 whether we would bring forward a scheme such as that or whether it could  
28 without a lot of further work on it.

29 MR YOUNG: Yes. Okay. Does Thurrock want to come in on any of that? Do you see  
30 any barrier in the wording, the drafting that the applicant provided, that would  
31 preclude something on a grander scale?

32 MR MACKENZIE: George Mackenzie for Thurrock Council. We do have something  
33 to say on that. Let me just check. Ms McMullen.

1 MS MCMULLEN: Sir, Kirsty McMullen on behalf of Thurrock Council. I think one of  
2 the main concerns is that the drafting prepared by the applicant doesn't set out  
3 any threshold for what this scheme is going to be, but it does say – allude to –  
4 that it's – and this is effectively what the applicant is proposing – is optimisation  
5 of signals and some kind of tweaks to line marking. We don't consider that is  
6 sufficient, and the drafting that we've set out jointly with the Port of Tilbury and  
7 DP World and TEP is that there would be thresholds that would need to be  
8 agreed so that there's no material worsening of the highway.

9 MR YOUNG: Can you just point me specifically to what parts of the applicant's  
10 requirement 18 would preclude something along the lines that Thurrock are  
11 envisaging?

12 MR STANDING: Ben Standing for Thurrock Council. There's a number of comments  
13 to make, but just to respond to your questions there. There's nothing in the  
14 wording which precludes something more than signalling to be done. It's about  
15 minimising delays and optimising performance, which in my opinion is still  
16 quite vague and we will – and I'll speak later about it – there's some more detail  
17 to go into, but there's nothing which precludes it. There is an argument about  
18 what would be included within that.

19 MR YOUNG: Yeah. I guess it's a problem with any requirement, isn't it, that it is going  
20 to be vague? Even if I look at Thurrock's, we've got the phrase 'material  
21 worsening'. Well, that's as vague as anything, isn't it?

22 MR STANDING: Ben Standing for Thurrock. We've had this internal debate we're  
23 having now and you've having, which is why we haven't sought to set out what  
24 the material worsening is and what measurable thresholds are at this stage, but  
25 there needs to be something measurable, otherwise we're going to spend a lot of  
26 time with disagreement between the parties which is why, when this has to be  
27 approved by the Secretary of State, both sides submit what they think should be  
28 the measurable thresholds and what a material worsening is, and then that can  
29 be agreed and everyone can get on with complying with it rather than arguing  
30 with what should or shouldn't be there. So we were trying not to be too  
31 prescriptive but trying to get something that in practice would actually work.

32 MR YOUNG: This is the great dilemma, isn't it, that as soon as one wants to move away  
33 from any forms of words, which invariably you can level an accusation of vague,  
34 you try and then think on what specifically you could put in words and it

1 becomes – I mean, I thought about this long and hard but I couldn't think of – I  
2 couldn't find anything. I mean, you could say for argument's sake, 'Well, if  
3 there's a doubling of queues on a particular arm, that could be a trigger point.'  
4 But then what if you get a doubling of queues or delays on one arm and  
5 betterment – which is actually the situation that the modelling shows, that you  
6 get improvements on some arms, you get disbenefits on other arms of this  
7 junction. I just don't see how one moves this forward from that. I don't know  
8 if you had any specific ideas on specific benchmarks that you could put into the  
9 requirement.

10 MR STANDING: If I may, sir. Ben Standing for Thurrock Council. One of the  
11 characteristics of the requirement that we put in is to understand what we expect  
12 – to agree the modelling to what we expect the junction to operate like, and then  
13 to set the measurable thresholds in relation to that. And whilst it is welcomed,  
14 the addition to the requirement 19 at the moment, that the baseline will be based  
15 upon and informed by appropriate preconstruction monitoring, an important  
16 aspect of what we had suggested was an assessment, including microsimulation  
17 of what it's going to look like, the likely impacts. And then if you know what  
18 you think it's going to look like and you've made your decision in relation to  
19 whether to proceed with a project based on a junction working in a particular  
20 way, if it doesn't work in that way, obviously it's important that mitigation is  
21 put in place.

22 And I think it's useful very quickly if I may have just one minute to draw  
23 it back about what we're trying to achieve. So without prejudice to where we  
24 are generally in terms of views on Lower Thames Crossing, it is important that  
25 the junction at the project works as described. We have genuine concerns that  
26 it won't work. We've just had an interesting video and commentary on the video  
27 about disagreement in modelling and a serious disagreement about how effective  
28 it's going to be. If it doesn't work in the way that we're doing it, we're going to  
29 be leaving a legacy for Thurrock residents of a scheme which we thought would  
30 do X but actually does Y. So what we're actually using this for is to say, 'Okay,  
31 you've made a decision based on what the scheme is meant to do. If it  
32 measurably doesn't achieve that, you've got a requirement to put in place  
33 mitigation measures so that it does achieve that'. And what we hope we've  
34 achieved with all the work that we've done is to show it should be possible to

1 make Orsett Cock work, but we need a requirement like this which is quite  
2 strong.

3 Basically, we want to agree how it works now, how it's meant to work  
4 with the modelling, to then, for the Secretary of State and for us to agree what  
5 the measurable thresholds are, to then agree monitoring. Now we do have  
6 monitoring, but monitoring is only as effective as – if you know what you're  
7 trying to measure. So by having the modelling, we understand what we're trying  
8 to measure, then we're going to have the monitoring so we know whether that  
9 is going to be effective. And if it's not effective, then there needs to be a scheme  
10 of mitigation where that's implemented.

11 And it's not enough that that's just implemented during construction,  
12 although that's obviously something which is in the outline traffic management  
13 plan for construction, but it's also important that it's during the operation. It's  
14 all about the legacy. It's not just about the construction of it; it's about the legacy  
15 of the scheme and if it works. If the scheme works entirely as the applicant  
16 suggests, there will be very little mitigation required.

17 But of course – and we haven't said this as a blanket thing across the whole  
18 project because I don't think that would be a reasonable approach to take – but  
19 where we've identified some genuine professional concerns – we've got  
20 consultants; you've heard the detail about how it's going to work – one of the  
21 ways of settling that disagreement is to have a really effective requirement, and  
22 that's what we've tried to put forward. And we don't believe that the current  
23 wording of requirement 18 quite gets there. We acknowledge that it's trying to  
24 get there. I think broadly we're saying similar things as to where we want to get  
25 to, I just don't think it quite gets there on the current wording. I hope that's  
26 helpful, sir.

27 MR YOUNG: Can you give me an example of Thurrock would see as material worsening  
28 and we'll see if that is something that I would disagree with or not.

29 MR STANDING: If I may, sir, just hand over to my colleague Kirsty McMullen.

30 MS MCMULLEN: Sir, I think some of this boils down to the discrepancies that there  
31 are within the modelling –

32 MR YOUNG: The modelling is not going to be agreed, is it?

33 MS MCMULLEN: No, I understand that sir. But if you're talking about what we're  
34 trying to achieve, which is what we've just been talking about – so what the

1 applicant is actually trying to achieve or say will be achieved is LTAM. The  
2 world is going to be in accordance with LTAM. And so that's – those low levels  
3 of delay to vehicles is what the whole assessment is based on, and the BCR is  
4 based on, and the environmental assessment is based on. And so that's really  
5 what – if that happens in reality, then that's fine; there's no, then, need for further  
6 mitigation as part of this requirement. And so that would be one example, sir,  
7 to if you – if that's not achieved, then we're –

8 MR YOUNG: That's not very specific. I'm asking what – give me an example of what  
9 you would see as material worsening, and you've just not answered that.

10 MS MCMULLEN: I think I just did. What we're trying to say is that the – we're setting  
11 out what the junction should achieve in terms of its operation, which is  
12 effectively what the applicant has put forward. If that doesn't happen, and if  
13 there's significant diversions from the levels of queuing and delay that are  
14 forecast within LTAM, and actually the reality is different, then there would  
15 need to be some intervention.

16 MR YOUNG: Would there? So you're saying that if the applicant's strategic modelling  
17 is slightly out, and that these queues are slightly above what the applicant's  
18 strategic model predicted, that would be – that would need intervention?

19 MS MCMULLEN: All of this, sir, is a judgment, and so that's where we're saying that  
20 – and this is effectively what monitor and manage is about. So this is the  
21 direction that the applicant and the guidance is requiring, that you look at some  
22 – you look at the – what's forecast to happen, what actually happens, and you  
23 monitor that over time, and you say 'What's the consequence of this?' So the  
24 LTAM, or the low levels of delay within the assessment, if they don't  
25 materialise, then there would be further consequences in terms of the levels of  
26 impact that have been assessed within the ES, for example, so –

27 MR YOUNG: And that's through to 2045 or is there any end date that you have in mind?

28 MS MCMULLEN: Well, I have to say, we're not proposing it to 2045 in terms of  
29 monitoring. I think it's five years. Five years post construction.

30 MR YOUNG: So I mean what we've effectively got, isn't it – we've got two bookends.  
31 Because the modelling – there's no agreement. You're as far apart now as  
32 probably at any point of the examination, so as the ExA what we have is two  
33 bookends and a range of impacts, okay. At one end, we have the applicants, and  
34 at the other end of that scale, we have Thurrock's 3.6T, modelling that perhaps

1 represents the other far end of the bookend. What we have to have is flexibility  
2 within any requirement that can deliver a range of mitigation between those two  
3 bookends. And that – isn't that what we should be working towards?

4 MR STANDING: Ben Standing for Thurrock Council. You've described that correctly,  
5 sir, that there is a bookend. I like that as an analogy that you've got two different  
6 views. I think the idea that any worsening, any confusion about what would  
7 need to be mitigated is the essence of the conversation we had a moment ago,  
8 but we have tried to address that. Obviously, we've also set it out that the  
9 Secretary of State will help with measurable thresholds, but we've also set out  
10 what those measurable thresholds should broadly be based on.

11 So this is a material worsening, which is, in planning terms, is something  
12 which is understood, and then a substantial detriment to the efficient operation  
13 of the ports. So it's – oh, there's a 15-second delay. I don't know if a 15-second  
14 delay is material or not, but it's a short delay. We wouldn't be trying to change  
15 everything. It is just, broadly speaking, as my colleague Kirsty said, that the  
16 world is as predicted by the applicant. It doesn't have to be exact, but materially,  
17 it is the same outcome.

18 And it's only when it's materially not that we're saying that there are  
19 things to be undertaken to ensure that that world happens, and that seems to be  
20 in the wider public interest. It seems to be delivering what the scheme promised  
21 to deliver. And that's what we're trying to achieve, because if it doesn't – if the  
22 world doesn't turn out in accordance with LTAM and as the applicant predicts,  
23 actually the benefits of this scheme are significantly less.

24 And also, it's not just the impact on Lower Thames Crossing, but the  
25 impact on the wider road network. We've already seen there's a lot of the wider  
26 network that converges at this point, so this is all we're trying to do. We're just  
27 trying to make sure that LTAM is achieved, and if it's not, then it is – then  
28 measures are taken so that it is.

29 MR YOUNG: Thank you. That's helpful. Yes, Mr Mackenzie, and then I'll come to  
30 you, Mr Fox.

31 MR MACKENZIE: Thank you. George Mackenzie for Thurrock Council. Just a short  
32 reflection on the bookend point, which is certainly a useful analogy here. I mean  
33 the critical difference between the requirement that Thurrock is proposing and  
34 is agreed by other highway authorities and stakeholders is a requirement to

1 essentially deal with and mitigate any material worsening of traffic conditions.  
2 That's in our requirement or the port requirement but isn't promoted as a  
3 requirement by the applicant.

4 The short point, I think, is this – that in between those two bookends, there  
5 is certainly a possibility that relative to what LTAM is telling us at this point in  
6 time, there may well be a material worsening of traffic conditions in reality on  
7 delivery of the scheme. So our requirement is simply trying to say that if that  
8 happens – and I appreciate that it's a judgment call as to what constitutes a  
9 material worsening, but if that happens – and that possibility can't be excluded  
10 at this stage – then something should be done about it. That's the critical  
11 difference between the requirement on this side of the room and the applicant's  
12 requirements, so that's why we say that ours should be preferred.

13 MR YOUNG: Thank you. Mr Fox.

14 MR FOX: Thank you, sir. Mr Fox on behalf of Port of Tilbury. I think one of the things  
15 that I wanted to emphasise in relation to different strategy of the requirements is  
16 bringing it back to the tests that you would need to be thinking about in terms of  
17 – or the Secretary of State would need to be thinking about in terms of imposing  
18 the requirement: in terms of what's reasonably necessary in planning terms,  
19 what's precise, and what's enforceable. And I think that is key in considering  
20 the two requirements.

21 So if you look at the applicant's requirement which talks about being  
22 based on preconstruction monitoring, what does that mean? Based on what –  
23 we have the monitoring information; what are you doing with it to decide  
24 whether or not you do anything or what is appropriate to be done? And the –  
25 and in terms of what is reasonably necessary to mitigate and what does optimise  
26 mean? What are those terms? Whereas the approach that we've sought to take  
27 with the council and ourselves and London Gateway is to create a process by  
28 which that preciseness and that enforceability can be created. So I know you've  
29 been asking the questions, 'What does material worsening mean? What's the  
30 measurable thresholds?' but the point is in producing something the Secretary  
31 of State then approves, he or she then makes that decision based on the views of  
32 the various parties, and on that decision you determine what the mitigation is  
33 that's brought forward so it's specific to the impacts that are caused rather than

1 the more vague wording, I would suggest, that's in the applicant's version of the  
2 requirement.

3 And I think that principle has underlined the whole of our drafting – is that  
4 allowing for a proper process to be followed for a reasonable, objective, and  
5 proportionate response to the impacts of the actual scheme. And I know you  
6 haven't touched on it yet, but the other point I wanted to mention was around  
7 the post opening monitoring, where the applicant's approach has been to  
8 essentially just point to the wider networks process, which – when they've  
9 already admitted today in the course of hearing that the issues at Orsett Cock are  
10 a scheme issue, not a wider networks issue, which is why our requirement deals  
11 with ongoing monitoring within the context of that requirement instead of  
12 pointing elsewhere. But I'll leave it there for now.

13 MR YOUNG: Thank you. Mr Tait. Mr Aramesh. Oh, sorry, Mr Shadarevian.

14 MR SHADAREVIAN: Paul Shadarevian KC for DP World London Gateway. So you  
15 will recall that it was – Mr Fox's firm first promoted the apart[?] provisions,  
16 which we are considering now, along with the applicant's proposed wording.  
17 And the differences between the approaches is one of the baseline and the  
18 objectives and the reference points, so if I can just deal with those first of all.  
19 What are the objectives to be achieved? And one might identify them as  
20 maintaining a relative free flow of traffic, so far as possible – I'll come back to  
21 that – during peak hours. To avoid an unacceptable impact on Orsett village.  
22 That must be an objective, however you settle it; the threshold you use. The  
23 other must be to avoid an unacceptable impact on the operational efficiency of  
24 the ports.

25 So let's take those as broad objectives, so far as Orsett Cock is concerned.  
26 What this clause starts, the one being promoted by the applicant – what it does  
27 is provide a basis for further consideration. Its main faults, I would suggest, are  
28 that it doesn't provide for the setting of a baseline against which to judge the  
29 severity of potential impacts and therefore to make an appropriate judgment  
30 about their acceptability or otherwise. And insofar as it exhorts the use of  
31 measures reasonably necessary to minimise delays for traffic arising as a result  
32 of the operation of the authorised development and talks about that without  
33 reference to what objective is to be met: minimised by reference to what?

1           Similarly, optimise the performance of the Orsett Cock roundabout:  
2           optimised by reference to what parameters? In other words, what are the  
3           limitations you are assuming before you can make the judgment that something  
4           is optimised? Now these are difficult things to address in a clause like this, but  
5           it's necessary to address them by reference to the objectives to be achieved.  
6           What the apart proposals did, as amended now, provide the ability to estimate,  
7           by reference to the survey work, what an appropriate baseline condition is. And  
8           then it's a matter of judgment beyond that in regard to whatever objectives are  
9           set for those words to provide a level of mitigation – and I call it mitigation,  
10          effectively, it's not really mitigation; it's about scheme design, detailed design  
11          – which allows the applicant to implement a scheme, a solution approved by the  
12          Secretary of State, which, so far as reasonably possible, avoids any unacceptable  
13          impacts and meets the operational requirements of the port so far as reasonably  
14          it can do so, and also avoid that environmental harm to Orsett village.

15                 So that's what we need to try and achieve. And I don't disagree that it is  
16                 a very difficult thing to achieve in terms of drafting, but we have to rely upon  
17                 the doctrine, as it were, of regularity; provide the Secretary of State with the  
18                 means to exercise reasonable judgment about what is needed in any given  
19                 circumstances.

20                 So I can talk about it from the port's point of view. Our objective, without  
21                 in any way wishing to undermine the viability of the scheme itself, is to maintain  
22                 operational efficiency. You will be aware of the need to do so by the way in  
23                 which the port operates. That is what we're trying to achieve. We don't disagree  
24                 that there could be some worsening, but the effect of that worsening must not be  
25                 to interfere with the operational efficiency of the port, because that is a matter  
26                 of public interest, not at just local and regional level, but also at national level,  
27                 as we've already established.

28                 And if one has regard to the NPPF, although it says you should only refuse  
29                 development proposals where the effects are severe, it also proposes that the  
30                 effects on the highway network should, so far as possible, be mitigated. So it is  
31                 not just a one way analysis. There is a reciprocity there which needs to be  
32                 respected, and that reciprocity is something which needs to be respected here as  
33                 well in my submission.

1 MR YOUNG: That is useful. One of the issues this Examining Authority is going to  
2 have to grapple with is the use of terms and language, and whether optimise is  
3 better or worse than material worsening or any other formal words that come  
4 before us before the closing examination, but just let me put a quick question to  
5 DP World. And that's – we've heard from the applicant that they feel that their  
6 requirement, as drafted, does provide flexibility and that it would be possible to  
7 deliver something similar to what Thurrock have suggested at that location. If  
8 this Examining Authority were minded to go with the drafting that's been  
9 provided by the applicant, how would that change DP World's stated position in  
10 your written rep at the outset of this examination, that you support the scheme  
11 in principle?

12 MR SHADAREVIAN: That's an interesting question. I think at the moment, as it stands,  
13 the clause isn't robust enough because there aren't sufficient parameters to  
14 enable the Secretary of State to make an informed decision about what the design  
15 ought to achieve. So I need to take instructions on that because I'm talking now,  
16 as it were, without instructions, but that would be one of the principal concerns.  
17 I can certainly take instructions on that, but I'm not prepared to give you an  
18 answer straight away. I'm being prompted. In the absence of a degree of  
19 confidence in what is going to be proposed, we would object to the scheme.

20 MR YOUNG: Right. And you don't consider that there's a flexibility?

21 MR SHADAREVIAN: No –

22 MR YOUNG: You disagree with the applicant that there's a flexibility in their  
23 requirement –

24 MR SHADAREVIAN: For the reasons I've already set out, the clause doesn't go far  
25 enough in setting the objectives and providing the reference points according to  
26 which the Secretary of State is going to be able to exercise his judgment  
27 appropriately – his or her judgment appropriately as to what design is required  
28 with respect to those objectives.

29 MR SMITH: Noting, Mr Shadarevian, your initial concern there about a) the significance  
30 of that question, and b) the nature of the instruction that you have received. An  
31 observation that I would make is that I think it is a very significant question, and  
32 it would seem sensible that we set it as an action and that we actually ask for  
33 responses to it in writing at deadline 8, simply because then everybody will have

1 had due time to mull it and its various push and pull consequences. With respect  
2 to the clients, would that assist?

3 MR SHADAREVIAN: It would assist, because that would enable us then to go back  
4 after hearing the arguments and hearing your observations and put those  
5 observations – that we can go back and consider whether or not there might be  
6 some kind of compromise between the two positions, the two bookends – which  
7 actually do meet in the middle – and provide the necessary degree of confidence  
8 in the outcome.

9 MR SMITH: Indeed. And at this point, I am actually going to draw in the representative  
10 for the Port of Tilbury, London, because I think, in fairness, if we're going to  
11 afford that opportunity to yourselves, we should afford that opportunity to them,  
12 given that they also originated some of the alternative drafting on this. So  
13 Mr Fox, you're in principal position there.

14 MR FOX: Mr Fox on behalf of the applicant – on behalf of the Port of Tilbury. I don't  
15 think – I don't have instruction to be able to give a definitive answer on that  
16 point, but I did want to make one observation, which was that I think there is a  
17 difference between this – the applicant's drafting allowing for flexibility in what  
18 is provided, which I agree their version of the drafting does, versus how you  
19 decide what is provided – whether that's – and how. And at the moment, I think  
20 that would be our concern, shared with London Gateway in terms of there's no  
21 certainty of what will be delivered rather than if it can. But in terms of whether  
22 that means that we would revert to having an against – in principle objection,  
23 I'll have to take instructions on that.

24 MR SMITH: Okay. So getting then to my suggestion that we might deal with this as a  
25 written action by deadline 8, with the applicant's obvious opportunity to respond  
26 to deadline 9, does that seem – because again, it seems as though just as  
27 Mr Shadarevian is feeling stretched at the edge of his of his instructions and  
28 you've said that you would have to seek instructions, but nevertheless, it does  
29 seem to be a very important point so feels though we need a way of getting to a  
30 response on it.

31 MR FOX: Sir, it does. I wonder if it would help if one of the actions – you may not feel  
32 like you have to put it in writing – is for ourselves and the gateway and TEP and  
33 the council to have a discussion with the applicant about whether we can find

1 that compromise drafting, and whatever we can do in said discussions can then  
2 be reflected in each other's deadline 8 submissions as well.

3 MR SMITH: Certainly, that's a proposition. Yes, I mean the timeframe would be the  
4 concern there. I mean, I guess my proposition which was that something  
5 emerges from each of the ports with absolutely no bar against cooperation in a  
6 shared position, if a shared position could be achieved at deadline 8, with the  
7 applicant's ability to respond at deadline 9, at least there are some givens in  
8 timescale terms, and we're not going to bump into the end of the examination.

9 But there's a way of potentially framing that time imperative and perhaps  
10 even recovering a little bit of time if there was space between now and deadline 8  
11 for an offline conversation between Port of Tilbury London Limited, London  
12 Gateway, and the applicant directly, so that if an agreed position was able to  
13 emerge at deadline 8, it could. But that requires a certain amount of – shall we  
14 say – pressure in the pipes. Is that something that that would commend itself to  
15 you? And then I will go to Mr Shadarevian and I will go to the applicant on that  
16 point.

17 MR FOX: Yes sir, it does to me. Yes, sir.

18 MR SMITH: Yes. Okay. Mr Shadarevian.

19 MR SHADAREVIAN: We will do our best. Inevitably, the applicant is under a lot of  
20 pressure to get a lot of stuff turned around but will do our best to cooperate and  
21 find, if we can, a drafting solution that satisfies everyone. It's probably unlikely,  
22 although we can try, but at least we can provide you with an updated position  
23 which attempts to resolve some of the issues that have been identified.

24 MR SMITH: A sort of closest indication, for want of a better – I mean, if there was  
25 agreement on two thirds of the draft with reservations on the remaining third, or  
26 something of that nature. Yeah. I'll go to the applicant then. We've got two  
27 models to do. One is a standard they write by deadline 8, you write by  
28 deadline 9, but one is a slightly more pressured model that seeks some sort of  
29 collaborative engagement for a joint position at deadline 8.

30 MR TAIT: I think the collaborative approach, the second approach you've indicated, is  
31 the most appropriate in the circumstances, so notwithstanding the pressures Mr  
32 Shadarevian's referred to, we'll seek to do that, and then –

33 MR SMITH: Okay.

34 MR TAIT: See where we get to at deadline 8.

1 MR SMITH: We will bring an action.

2 MR YOUNG: Does the applicant feel that there is potential for narrowing the gap or  
3 even getting agreement on the drafting on this? I certainly feel that there's – I'm  
4 more optimistic that that could happen than anything to do with the modelling,  
5 because we we're not going to narrow the gap there, but potentially in terms of  
6 getting the flexibility and the wording that everybody can live with –

7 MR TAIT: Could I ask Mr Latif-Aramesh to deal with the substance of the differences,  
8 and then we'll come back to that having heard that, if that's acceptable, sir.

9 MR LATIF-ARAMESH: Thank you, sir. Mr Latif-Aramesh for the applicant. I think  
10 just in the spirit of what Mr Tait has said about collaborative working, it's worth  
11 summarising where I think all parties agree. I don't hear any party saying that  
12 the wording is too restrictive to deliver solutions. Mr Shadarevian has said, and  
13 Mr Fox has agreed, that there is flexibility in the objectives, and that's what calls  
14 for a process, and I think that's the nub of the outstanding area of disagreement,  
15 and that's about measurable thresholds.

16 Our issue with the drafting that was previously put forward on a joint basis  
17 was we're not sure that the language of material worsening gets us that much  
18 further. I certainly haven't heard a definable or certain definition of what that  
19 means. What we have done is because of the potential for the impacts is we've  
20 tried to define the outcome. The outcome we're trying to achieve is a  
21 minimisation of traffic on the roundabout, and in order to provide something  
22 over and above that, an optimisation. And so we think our drafting helps achieve  
23 the outcome. We also agree – I think Mr Mackenzie said it; Mr Fox said it – it's  
24 a question of judgment. And what the requirement secures is preconstruction  
25 monitoring, it secures consultation with DP World, the Port of Tilbury, Thurrock  
26 Council, so they can see what's being proposed and they can make  
27 representations on it. That's then submitted to the Secretary of State to enable  
28 them to make a judgment on whether what is proposed does minimise the delays  
29 and separately does contain what is reasonably necessary to optimise the  
30 roundabout.

31 Now, Mr Fox, I think, said it, that what is seeking to be secured here is a  
32 process. Because the draft requirement is in schedule 2, all of the other  
33 paragraphs of part 2 of schedule 2 apply. Now, there are two important  
34 paragraphs in part 2. One is paragraph 22, which sets out how consultation is

1 carried out, how regard is had to representations, and how that's then presented  
2 to the Secretary of State, along with everyone's representations. So that, for  
3 example, if a stakeholder said, 'We think it should include X or this measurable  
4 threshold', that would be before the Secretary of State.

5 The second thing part 2 secures – and it's not one that we've talked about  
6 in a lot of detail to date – is paragraph 21. And Mr Shadarevian made the point  
7 that what DP World wants is to ensure that the Secretary of State has sufficient  
8 information to make the judgment on whether appropriate measures have been  
9 secured. Paragraph 21 allows the Secretary of State to request further  
10 information, so if – and let's run a hypothetical. If the Secretary of State  
11 considered they needed more information and DP World said in their  
12 representations as part of the consultation secured on the paragraph 18, 'We  
13 don't think there's sufficient information', the Secretary of State has a  
14 mechanism not only for seeing that representation, but then responding, through  
15 the use of paragraph 21, to ensure that further information is required from the  
16 undertaker.

17 So, as Mr Tait said, we prefer the collaborative approach, we're happy to  
18 have discussions about it, but we have spent quite a while thinking about the  
19 definitions that are used and the overall process that is secured as part of  
20 schedule 2. And that's why we've iteratively updated it, but we think it's  
21 appropriate at this juncture.

22 MR YOUNG: Thank you. I certainly don't have any magical wording that I can suggest,  
23 but what I will say is that I think wherever you start from, to have an outcome  
24 which is to optimise traffic flows through the roundabout, I think it's difficult to  
25 argue with that. I think that is that is a good outcome to work towards. In fact,  
26 I can't see of anything that – at least it is tangible. And our optimisation of the  
27 roundabout has to be paramount. I'll also add to that that I've always been  
28 uncomfortable with wording such as material worsening, not least because it has  
29 no basis in policy. Now I don't know whether that assists or not in trying to  
30 bring the party together and to get the wording agreed. Thurrock?

31 MR MACKENZIE: George Mackenzie for Thurrock Council. Sir, we'll obviously  
32 reflect on those observations, and it may be that we have to take them on the  
33 chin, as it were, and notwithstanding them, present you with a form of wording

1 which you've already indicated you may not be minded to agree with, but I think  
2 there are two points that I ought to make.

3 The first is that the notion of optimisation is itself also not a creature of  
4 policy, so that applies with equal force. Material worsening isn't grounded in  
5 policy, nor is optimisation. But really, again, the difference between the two  
6 requirements is not just a matter of language. We've been talking about  
7 language for the last half an hour or so but it, I think, boils down to a debate  
8 about what the parties think might need to be delivered to secure the proper  
9 functionality of the Orsett Cock. And if it's just a question of tinkering with  
10 signalisation and lane markers and things like that, then clearly, I don't think  
11 there'd be any doubt that the word optimisation would be sound to achieve that.  
12 But the problem is that we think that the scale and magnitude of interventions  
13 that may be required to make the Orsett Cock work – and it's got to work, both  
14 for LTC and to deliver our own growth agenda – might be significantly more –  
15 a significantly greater scale of intervention than would be needed to get it to  
16 work than would be implied by simply using the word optimise. So I think we'll  
17 have to get back to you on that if we may, but –

18 MR YOUNG: No, I understand the point that you're making. I think it's crucial that  
19 there is that flexibility, whatever the wording is, that gives Thurrock the comfort  
20 that that range – those bookends, the interventions to cover that can be  
21 accommodated. So I do understand totally what you're what you're saying.  
22 Mr Fox.

23 MR FOX: Yes, sir. Just three quick points. Firstly, just on that point about optimisation,  
24 I think we do need to reflect on the fact that there are a lot of different parties  
25 who are interested in this roundabout, and what optimisation might mean for one  
26 party might not necessarily be the same as for another. And that is why we've  
27 sought to define by reference to both the performance of the highway network  
28 and the reference to no substantial detriment to the operation of the ports, and  
29 it's for the Secretary of State then to be able to make that decision.

30 The second point is you referenced there about concerns about material  
31 worsening. I would just make the point that, of course, there are many, many  
32 DCOs that have been made with the no materially new or materially different  
33 effects, which I know are related to environmental effects, but that in itself is not  
34 something in policy or even in the words of the EIA regulations.

1                   And the third point I wanted to make was just actually, if I may, the  
2 question directed through you to the applicant, which was I absolutely want to  
3 work collaboratively but I just wanted to hear their response to the point I made  
4 earlier about the post opening monitoring and whether they would accept that  
5 that would be able to be in this requirement rather than just the reference to the  
6 wider impact requirement.

7 MR YOUNG: Thank you.

8 MR SHADAREVIAN: Paul Shadarevian. So it will only work if we set the objectives  
9 as I've already identified, so we need to agree what those are, and once we've  
10 done that, we can work to a drafting solution. And that should embrace also the  
11 potential effect on the Manorway interchange. It might well be actually that the  
12 combination of this clause and other protected provisions etc will give the  
13 opportunity to carry out, if necessary, change to that particular junction if that,  
14 in combination with works to Orsett Cock, would satisfy the objective to  
15 maintain the efficient operation of London Gateway. But I say that as another  
16 way of looking at this to say, 'Look, there are ways of dealing with it, but we  
17 need to identify the objectives first, agree what they are, and then provide the  
18 Secretary of State with appropriate parameters within which to make a  
19 judgment'.

20 MR YOUNG: Right. Does the applicant want to have the final –

21 MR TAIT: Very briefly, Mr Latif-Aramesh.

22 MR LATIF-ARAMESH: Thank you, sir. Mr Latif-Aramesh for the applicant. Just a  
23 few points very briefly. So on Mr Mackenzie's point, I just wanted to  
24 emphasise, I think Mr Standing acknowledged earlier there's nothing in the  
25 requirement that restricts what would be delivered to signalisation, so it does go  
26 beyond that and we explicitly amended it to ensure that it provides for a number  
27 of different appropriate measures that could be delivered under that scheme.

28                   On the point about optimisation is different for different parties, I think  
29 you would be able to make the same argument about material worsening. And  
30 so, one of the things that we've done is we've tried to look for wording that is  
31 helpful in giving the Secretary of State enough information to make a judgment  
32 as well as the wider processes, as I explained. The drafting of the requirement  
33 we have is in part and substantially based on requirement 14 of the M25 junction  
34 28 order. On that scheme, the M25 roundabout had a similar – not identical, but

1 a similar issue – and the wording that was proposed and endorsed by the  
2 Secretary of State on that scheme was – I’ll read it out.

3 ‘Its measures, as may be reasonably practicable to prevent delays for  
4 traffic on the A1203 Brook Street entering the M25 junction 28 roundabout’ –  
5 that’s why we started with as soon as reasonably practicable measures. We’ve  
6 moved to provide more assurance by using reasonably necessary, but if we’re  
7 looking for recent examples of where the Secretary of State has had to consider  
8 this issue, we think our wording does achieve the security of measures which –  
9 along with the process, which allows the Secretary of State to reach a decision.

10 And then just very finally on Mr Fox’s two points, so he makes reference  
11 to materially new and materially different. As I’m sure we’ll explore tomorrow,  
12 that phrase has become widely used and widely understood in the EIA context,  
13 whereas material worsening, I’m not sure it’s the same in the context of traffic  
14 impacts. And on the specific question, which is whether the monitoring could  
15 be secured. As I mentioned, we amended requirement 18 to secure operational  
16 monitoring as well as preconstruction monitoring, and we don’t think we need  
17 to go any further which might run the risk of duplicating what is already secured  
18 through requirement 14. Thank you, sir.

19 MR YOUNG: Thank you. Yeah. An action point. Yeah, I agree. I think that’s probably  
20 –

21 MR SMITH: It’s fairness, isn’t it. The Examining Authority – I’m very conscious, Mr  
22 Fox, of your hand still being up. Did you wish to come in on that particular  
23 point?

24 MR FOX: Yeah. I just wanted to ask one question really, which was that I think a lot of  
25 the discussion we’ve had in the last 15, 20 minutes has been around the  
26 definition of the objective starting point of what you do, and that that is one  
27 question that we need to discuss with the applicant.

28 The other question is the process that’s created by the requirement, in that  
29 the applicant has been saying that they consider that the process can just be like  
30 any other requirement and the consultation and the Secretary of State being able  
31 to take account of responses received, whereas of course our drafting is trying  
32 to create a process by which the things that are presented to the Secretary of  
33 State are clear and the views of parties are given in the context of that

1 information, rather than a quite generic process that applies to the requirements  
2 generally.

3 So I think that – I suppose the question I would have is, is there an issue  
4 with having a more specific process rather than the more generic process that we  
5 have in the requirements? Because if there is, and the reason I'm asking that is  
6 because if there is, then the chances of – obviously, we'll try and work  
7 collaboratively, but they are the two key aspects of our requirement drafting, and  
8 if that can't be accepted, then there needs to be a specific process with specific  
9 information shared. Then I think it would be difficult to reach agreement. So I  
10 would just like to understand if there is any scope for movement on that.

11 MR SMITH: Which rests in the applicant's gift to a degree. Brief response on that,  
12 please, through Mr Tait.

13 MR TAIT: Sir, we'll reflect on that. I don't think I want to give an answer immediately,  
14 if that's acceptable. We will have this collaborative process. We think our  
15 approach – we've explained it and we think it is robust, but obviously we'll listen  
16 and that can be discussed.

17 MR SMITH: Yeah, yeah, now before we leave the land of potential collaborative  
18 processes, I think the ExA have been quietly crunching through our grey matter.  
19 The implications of the conversation that we've just had about the collaborative  
20 process between the ports and the applicant – and sensibly, I wanted to then look  
21 at Thurrock. Now, I think Thurrock's interests are in principle partially aligned  
22 but somewhat separate from those ports, so I guess a sort of initial observation  
23 between us as an Examining Authority was that it wouldn't necessarily be a good  
24 idea to essentially mandate direct collaborative engagement in the same process  
25 as the ports and the applicant, because you may want different things. And  
26 frankly sometimes when parties want different things and you force them into a  
27 collaborative engagement, what comes out is mud or no agreement, and we're  
28 seeking neither mud nor an absence of agreement.

29 We are seeking the best possible clarification and articulation of positions  
30 that are agreed. However, what it does flag is that there might be some virtue in  
31 setting up a roughly equivalent process to the one that we've just suggested in  
32 relation to the ports between Thurrock and the applicant on the same point, on  
33 requirement 18. Mr Mackenzie.

1 MR STRATFORD: Chris Stratford for Thurrock. I'm nervous about a number of things  
2 here. We have already submitted –

3 MR SMITH: Yes, you have.

4 MR STRATFORD: – a joint position between the four parties that are going to be  
5 seriously affected if the National Highways position is wrong, and we have  
6 given you ample evidence, and we have tried for three years to persuade the  
7 applicant to get to a certain point that they're beginning to get to. I'm nervous  
8 about splitting the responsibilities of Thurrock from the ports. I appreciate that  
9 we have different interests. I'm also nervous about the sheer time involved in  
10 trying to get a meeting in the next four or five working days, when we've already  
11 got to respond to ExQ3, these submissions, and all of the 93 documents that  
12 we've got to review from the applicant, and trying to fit a meeting in in the midst  
13 of all of that at the same time as statements of common ground. I think we've  
14 been talking for a long, long time now. I don't want to shut the door or anything,  
15 but just nervous about splitting us.

16 We have submitted our joint position. They've come a little way towards  
17 us, perhaps. Perhaps the question should be back to them? Can we not, since  
18 it's our junction, as the local highway authority – can we not ask for a little bit  
19 more understanding and accommodation on behalf of the applicant? I mean, it  
20 seems to be pushing towards us. Why do we have to change when we have set  
21 out our position – all four of us – and we seem to know what we're doing, I  
22 think? It's just a little puzzling as to why the applicant's not coming – because  
23 if they get it wrong, everybody suffers, and unintended consequences can be  
24 awful. Sir, I'm not sure that's a clear answer, but it's just a set of worries.

25 MR SMITH: It's a set of worries. I guess in terms of the thrust of a decision that we  
26 need to make about specifics of actions, the question about whether this is a  
27 process that engages the ports, it essentially continues to mirror the engagement  
28 that you've already had, or whether we get a ports position plus a Thurrock  
29 position, or whether you rest on what you have already put. I mean, those are  
30 still the three broad options, I guess. Before I kind of bring the gavel down on  
31 this metaphorically, why don't we ask the applicant?

32 We are trying to frame a process flowing out of this hearing that enables  
33 us to have the clearest possible understanding of the greatest extent to which  
34 there are views on harmonised objectives, views on clarity of definitions, views

1 on the outcomes sought that are agreed, and then the reservations, the drawback  
2 positions, from a general approach. But, yes, I mean this is not necessarily going  
3 to be a quick and easy win, but it has just struck us that it would be very remiss  
4 of all of us I think to leave this room with a view that we weren't going to have  
5 one more try at this at least. So yeah, from the applicant – you've heard some  
6 reservations there. Your observations about a joint process including Thurrock,  
7 as against a separate process with Thurrock, as against a process where  
8 essentially Thurrock makes its own representation at deadline 8.

9 MR TAIT: Sir, looking at the target, which is to seek to have this discussion over the  
10 course of the next few days essentially, it's pretty evident I would have thought  
11 that if one has it in the form of a quadrilateral summit, that is going to be less  
12 likely to lead to efficient disposal of the matter. Mr Stratford talked about the  
13 diary issues that they've got this week. Well, that's from Thurrock's position.  
14 It's even more acute if one's trying to funnel that through a quadrilateral  
15 approach. So I would have thought a flexible approach is correct. That might  
16 be quadrilateral. It might be individual. There are not necessarily identical  
17 positions that have been articulated today –

18 MR SMITH: Frankly, we could craft a pair of actions – this essentially would pick up  
19 the ports' position and Thurrock's position – and absolutely not preclude a  
20 quadrilateral if that's achievable, but equally provide a path out that wasn't a  
21 quadrilateral if that couldn't be achieved.

22 MR TAIT: So what we don't want to have is, if there is one ship that is at the back of  
23 the convoy and therefore we never get any discussion, and therefore ensuring  
24 that whatever approach is taken, there is the opportunity for bilateral discussion  
25 on this matter is not precluded.

26 MR SMITH: Okay, I'm going to return to Mr Stratford. Observations.

27 MR STRATFORD: Well, it is the local highway authority's junction –

28 MR SMITH: We know.

29 MR STRATFORD: And so to have conversations about the council's junction without  
30 the council there seems a bit odd, especially as there might be ramifications and  
31 implications for the council, which is why I didn't shut the door. But we have  
32 actually put forward a joint position –

33 MR SMITH: I know.

1 MR STRATFORD: – but there seems to be a plan afoot to try and split us up or change  
2 our position or something when we’ve got a joint position already, and I’m  
3 nervous about that.

4 MR SMITH: No, it’s not a plan – not on our part – afoot to split you up or in any way  
5 bear down on a joint position, other than we’ve all now sat in a hearing for the  
6 best part of a day. We’ve ventilated further issues around that joint position.  
7 There is a sense of maybe some movement in the room which is not just on your  
8 side of the room, and frankly a desire in the Examining Authority not just to rest  
9 on the basis of the joint position that was put forward if some further movement  
10 is capable of being achieved, but equally a desire to actually understand best  
11 positions as clearly as we can. So in other words, if it were to be true that  
12 Thurrock’s concerns about certain issues were capable of being met by the  
13 applicant, but those were not matters of particularly great concern to the ports,  
14 that we nevertheless capture that.

15 But equally, that if there were elements of the ports’ position that they  
16 view as of significance, but Thurrock doesn’t view as being as important, that  
17 those are captured too, so that we can see essentially the best balance of positions  
18 between the parties as individual parties in the round, but also within a process  
19 that has involved collaboration and discussion between the parties. Now,  
20 essentially there we can write an action that asks for an engagement between  
21 four, but makes it clear that if an engagement between four is unable to be  
22 delivered within a very tight timescale, that an engagement between three and  
23 an engagement between two is also an option, so it doesn’t leave you with  
24 nowhere to go.

25 It doesn’t leave you out of the room, but it does make sure that we don’t  
26 end up with everything from diary malfunctions through to the difficulties  
27 around trying to coordinate four parties in a very short period of time, meaning  
28 we just don’t have a conversation, and that would be a tragedy in my view.

29 MR STRATFORD: Certainly. Can I make two points – one a suggestion and one a  
30 point? So I will make the point first. Thames Freeport includes Thurrock  
31 Council, the two ports, Ford Motor Company and others, so we’re already a  
32 joined-up group. The second point, and the suggestion, is perhaps D8 might be  
33 a step too far, too much. Would D9 be a possibility? I know it’s only six days  
34 later, but six days is six days.

1 MR SMITH: Yeah.

2 MS LAVER: Mr Smith, can I just say Mr Fox is waiting for Port of Tilbury, and I think  
3 he might have something on this matter as well.

4 MR SMITH: I'm sure, and I know the applicant's waiting as well. Heard. Let's go to  
5 Mr Fox, then go to the applicant, but then we do need to try and land this.

6 MR FOX: Thank you, sir. Mr Fox on behalf of the Port of Tilbury. Yeah, I was actually  
7 going to make the same suggestion as Mr Stratford there, because if we are able  
8 to collaborate or have the meetings to attempt to collaborate, and we know  
9 coming out of those meetings what each party's position is going to be coming  
10 out of that meeting, then at deadline 9 you will have essentially both parties'  
11 final position, having had the discussions to understand where we think we're  
12 both going to be able to get to.

13 And then the second point I was going to make was just that I think a lot  
14 of this comes down to – I don't want to repeat the point, but most of that drafting  
15 is about the process, and the thing that's the key debate is about those four lines  
16 about what does 'measurable thresholds' mean. And we don't necessarily need  
17 a meeting to be able to knock around what that little section of our drafting might  
18 look like, and then each party to have their own position on what the process  
19 looks like. Also, just to say, it doesn't necessarily need to be a big meeting if it  
20 can be focused on those four lines, subject to the applicant's view on being  
21 happy with the process or not. If they're not, then we obviously want to  
22 understand that, but yes, I would just make the point that I think deadline 9 is  
23 probably more achievable if everyone understands that's the basis of what our  
24 final positions are, having had meetings beforehand or email traffic.

25 MR SMITH: And of course if it is collaborative and it engages the applicant as an equal  
26 party, then the need for a bounce-down is somewhat obviated because you were  
27 all in the room, you all had an opportunity to put your position in what is at the  
28 end of the day a jointly-subscribed statement with reservations, and if that's  
29 done, yeah, happy with that. The fact that it comes a deadline later and therefore  
30 there are difficulties in making what amount to closing submissions on it isn't  
31 the sort of substantial problem it might otherwise be. Okay. I'm going to go to  
32 the applicant.

33 MR TAIT: We don't feel particularly strongly about the timing of this, other than to  
34 ensure that it's the most efficient process. One shouldn't, I would suggest,

1 preclude the option of seeking to see whether there is some additional wording  
2 during the course of the next few days, in advance of deadline 8. So I think  
3 that's all I would say at this stage.

4 MR SMITH: Okay. I think we've probably heard enough to enable us to frame what  
5 will be an important action that will draw in, on a collective but separable basis  
6 should there be insufficient grounds for collaboration, both the ports and  
7 Thurrock, and the applicant. I'll probably leave it at that. We'll deliberate.  
8 You'll see what emerges. We will lay an egg.

9 MR YOUNG: Right, we'll take a 15-minute break and then we'll come back and we're  
10 going to hear from Kent. I'm well aware you've been sitting patiently for a long  
11 time, but we'll come to you, yeah. Just have a short 15-minute break. We'll  
12 come back. Yeah. Thank you, everybody.

13

14

**(Meeting adjourned.)**

15

16 MR YOUNG: Good afternoon, everybody. It's 4.00. This hearing is resumed. Right,  
17 just to update you with quick deliberation there. Given where we are and the  
18 time of day, we'll park any remaining discussions about requirements until  
19 tomorrow. I think it's only fair to Kent that we give them a fair crack of the  
20 whip. Sat and listened through a lot, and it did occur to me, Mr Ratcliffe, if you  
21 ever did apply for a job at Thurrock, you would be in a very, very good position,  
22 wouldn't you?

23 MR FRASER-URQUHART: Do you know something we don't?

24 MR YOUNG: Right, the Bluebell Hill. Let me just ask then, one of the discussions that  
25 we'd had as an ExA was around the problem – we've heard a lot about the local  
26 large major scheme that's still awaiting a decision from the DfT, and what we  
27 wanted to explore was whether there was any other form of mitigation there, or  
28 improvement, that would be a smaller scheme obviously, but would be focused  
29 on mitigating the impact of just LTC traffic, as opposed to LTC traffic and local  
30 growth, which I think is what the LMM scheme is all about. So can I just put  
31 that to Kent, and is that something that's been considered?

32 MR FRASER-URQUHART: Yes, thank you, sir. Andrew Fraser-Urquhart for Kent.  
33 I've got Mr Ratcliffe with me, who I'm going to turn to in just a moment. I've  
34 also got, if we get into levels of granular detail, Victoria Soames, who is the

1 project manager for the Bluebell Hill improvement scheme. So we note the  
2 question that you've asked on the agenda and reiterated there. Obviously, it's  
3 something which has been thought about for many years in reality, but perhaps  
4 if I might just make one or two introductory remarks, and then I'll turn to  
5 Mr Ratcliffe and we'll see where the discussion then takes us, as the Examining  
6 Authority wants.

7 As you know, sir, our underlying approach to all this is that whilst the  
8 junction at Bluebell Hill is already somewhat problematic, given the significant  
9 impact that the LTC has on traffic at Bluebell Hill, then it is appropriate that  
10 National Highways should mitigate the impacts and provide, in default of  
11 provision from central government, the overarching scheme to deal with all of  
12 the issues which arise at the junction, because they are inextricably linked and  
13 it's difficult in reality to strip out one effect from the other in terms of what can  
14 be provided by way of mitigation.

15 Now, you will recall, sir – and I'm not going to spend much time on this  
16 at all, particularly in the light of what you've said about requirements – that in  
17 our representation at deadline 7, which is now referenced as 7-198, we put in a  
18 draft requirement, providing effectively a default mechanism in the event that  
19 the large local major scheme doesn't progress or isn't fully funded by central  
20 government. We also note, by way of reminder as much as anything else, that  
21 back at deadline 4, Gravesham in their representation 4-302 put in an alternative  
22 form of requirement. So there are things for the Examining Authority to  
23 consider. That's our overall position, as you know.

24 I'm going to ask Mr Ratcliffe to comment in a little bit of detail on the  
25 recent developments so that you're updated, but in essence we're moving  
26 towards, we hope, the outline business case which will lead eventually to the  
27 large local major's funding, in full we believe at this stage. I express those words  
28 with a great deal of caution. However, we're in something of a catch-22  
29 situation in that whilst we might get the funding when we put forward our outline  
30 business case, we can't actually afford to fund the preparation of the outline  
31 business case, so there may be a need for mitigation to come from National  
32 Highways on that relatively limited issue in any event. So we'll hear from Mr  
33 Ratcliffe on that in just a moment, and I hope that will be helpful.

1           And then coming on to the smaller scheme options, obviously they have  
2 to be considered within the context of three major sources of increased pressure  
3 on that junction. The first is from existing committed development and  
4 underlying growth. The second is from those schemes which are emerging in  
5 emerging local plans. The Maidstone local plan review has some major  
6 developments emerging, for example, which simply can't proceed unless the  
7 Bluebell Hill junction is improved so as to unlock that junction, that potential,  
8 and then finally the Lower Thames Crossing growth.

9           So there are those three independent sources of traffic growth, but of  
10 course they all have impact. They're all cars on the network, on that junction,  
11 and the one thing that we do say when looking at multiple smaller schemes,  
12 contemplating these different sources of growth, is the one thing that we simply  
13 must avoid is repeated tinkering with that junction over a number of years. That  
14 would be an epic fail frankly, and we're very anxious that no such scenario  
15 comes forward. So that is our overall approach, and I hope with that context I  
16 can now turn to Mr Ratcliffe just to put a little bit of flesh on the bones, in  
17 particular on the recent developments and on the work we've previously done  
18 looking at these smaller schemes, because obviously you're not the first to have  
19 had the same idea.

20 MR RATCLIFFE: Thank you. Joseph Ratcliffe for Kent County Council. Before I come  
21 on to answering the specific questions set by the Examining Authority, I thought  
22 I'd just give a very brief update on what's happened since we last met at the  
23 previous issue specific hearing on this topic. So the Department for Transport  
24 have confirmed the uplift of 85% to 100% funding at the end of the outline  
25 business case stage, should the scheme be given approval, which of course if it's  
26 not, developer contributions are still expected to be made for large local majors,  
27 but the DfT no longer expect contribution from the local highway authority, so  
28 obviously that is really good news. So it would appear that if Bluebell Hill does  
29 proceed through the approval process, there should no longer be a funding gap  
30 for scheme delivery.

31           Government of course also announced as part of the Network North  
32 proposals for the rest of the country, that having waited three years Bluebell Hill  
33 scheme is to proceed to the outline business case stage, so it would appear double  
34 good news for us. However, we have been informed that at most the DfT would

1 fund two-thirds of the development cost of the outline business case, which for  
2 a scheme of this size leaves us with a funding gap of around £3 million. It's not  
3 that we haven't already put money into this scheme. We have. We've already  
4 spent about £1.6 million developing the scheme to this point, so it's not that  
5 we're expecting others to pay for addressing our highway issues. We are not.  
6 But as Mr Fraser-Urquhart said, there are three elements to this – local growth,  
7 emerging local plans, plus Lower Thames Crossing growth.

8 So therefore just before I come on to answering your question, as it  
9 currently stands – and as I said at the previous issue specific hearing – as it stands  
10 today, we have to assume that the scheme will not come forward because we  
11 don't have the money to develop the scheme and there's no guarantee, even if  
12 we do develop the scheme, that the decision will be to proceed with construction.  
13 So therefore whatever Lower Thames Crossing, when it opens in whatever the  
14 year is now, Bluebell Hill as it is today will remain as it is. So National  
15 Highways need to be comfortable accepting the impact on their junction at M20  
16 junction 6 and M2 junction 3, the resulting queues, and the safety implications  
17 that brings, as I mentioned at the last hearing.

18 So just moving on onto your specific question about a smaller scheme that  
19 could come forward in the event of the large local major scheme failing, which  
20 is a really good question to ask because that's the situation we find ourselves in  
21 as we sit here today. So the simple answer is yes, of course, a smaller scale  
22 scheme could be delivered, but the question becomes to what benefit that is. We  
23 were asked the other way round, and I'm sure I've said this before at previous  
24 hearings. The DfT asked us to develop a scheme that assumed that there was no  
25 Lower Thames Crossing, which we did, and you can do that quite easily. If the  
26 scheme doesn't come forward, local growth is still going to happen, so you can  
27 accommodate for that, and we do need to build a scheme for that. The problem  
28 is you can't really do it the other way around because local growth's going to  
29 happen anyway.

30 Even if local plans are not approved, the development will come forward,  
31 population growth, increased traffic etc. Unless something dramatically changes  
32 in terms of policy on people driving cars, that growth will happen, and therefore  
33 anything that you do that just caters for Lower Thames Crossing is going to be  
34 used up by the background growth. So a scheme that only concerns – and I

1 know in planning terms that's what you're looking to do, to offset the impact –  
2 but in reality the scheme would be used up by local growth, and what you'd then  
3 end up doing, like Mr Fraser-Urquhart said, is you end up digging up the road  
4 again and again, and these discussions have come up with the other local  
5 planning authorities, with Maidstone Borough Council, similar issue for  
6 Medway Council, and Tonbridge and Malling as well.

7 So we have looked at the smaller proposals. There were 73 different  
8 variations, different interventions, that were tested to make up the scheme. 26  
9 different proposals at junction 6 of the M20, 43 at junction 3 of the M2, four on  
10 the A229 main line itself, plus 17 broader package/strategy interventions looking  
11 at the picture holistically. All of those did not address the problem, so we have  
12 done this, and it doesn't work. I didn't know, Victoria, if you had anything to  
13 add on any of those specifics. No. So therefore, yes, you could deliver a smaller  
14 scheme, but the benefit/cost ratio of such scheme would not meet the DfT's test,  
15 and certainly not our test. I mean, we could do minor interventions at that  
16 junction. We've looked at it over the years – left turn lane, segregated turns etc,  
17 bit of extra lane here and there – and it just does not work.

18 When you add in everybody's local plans, Lower Thames Crossing etc,  
19 you need a bigger picture scheme, hence why as local highway authority we  
20 were developing the large local major. I'll stop there, but happy to take any  
21 specific questions on what we've looked at and, like I say, we've got Victoria  
22 Soames here as well. Thank you.

23 MR FRASER-URQUHART: Yes, it's not a very cheery picture, but that's the work that  
24 we've done and the conclusions that we've come up with, I'm afraid.

25 MR YOUNG: Anyone else want to ask anything?

26 MS LAVER: I would like to ask a question of KCC, and that is – and it's probably  
27 National Highways on this side of the table can't really give any indications for  
28 but KCC can – and that is, in local plan allocations – you mentioned Maidstone  
29 are on the point of producing a new local plan, and there will be other councils  
30 – Medway, who came the other day – we didn't get to hear from – whether  
31 National Highways – their other arm, not their own planning application arm but  
32 the consultee arm – whether they are objecting to schemes in the KCC area on  
33 the back of the fact that Bluebell Hill is as constrained as it is.

1 MR RATCLIFFE: Thank you. Joseph Ratcliffe, Kent County Council. I mean, I  
2 obviously can't speak for National Highways themselves, but I believe that is  
3 the case, where development comes forward and it puts pressure on their  
4 junctions, certainly the latest circular from the DfT makes the case for no new  
5 motorway junctions or link roads, and development should be accommodated  
6 through local highway improvements or modal shift away from car-dependent  
7 developments, which is obviously easier said than done, but I think that's one  
8 more for National Highways to answer, but I believe that is the case. Thank you.

9 MR FRASER-URQUHART: We can probably check the position with those authorities  
10 and include that information in our written summary at this stage.

11 MS LAVER: Yeah, I think that would be helpful. As I say, it's certainly a different arm  
12 to the applicant's side so I'm not expecting them to know the answer to that, but  
13 I was trying to understand that – you suggest Bluebell Hill is severely  
14 constrained, which means ordinarily when planning applications are made for  
15 major growth, even if that's 200 houses up to thousands of houses, there's  
16 ordinarily a position of National Highways with a holding objection until some  
17 scheme can come forward to solve the issue on their strategic network, and I'm  
18 just trying to sort of understand how the impact of LTC can be treated differently  
19 to that. But obviously there's a national need against what would be a local  
20 need, so it would be helpful if you could find out some information and respond.  
21 That would be good.

22 MR FRASER-URQUHART: We're pretty sure the answer to your question is yes, but  
23 we'll find out for sure.

24 MS LAVER: Thank you.

25 MR YOUNG: Mr Tait.

26 MR TAIT: I'm going to turn to Dr Wright in relation to this specific question, first of  
27 all.

28 DR WRIGHT: Tim Wright for the applicant. To the specific question about whether  
29 smaller scale mitigation could be delivered, it's our view – I think we would  
30 agree with Kent County Council that the Bluebell Hill is an integrated scheme  
31 and that it wouldn't be sensible to bring forward smaller elements because as  
32 they have said of the local growth, local plan, and the current issues there as  
33 well. So that's all from me. I'll pass back to my colleague.

1 MR YOUNG: Anything on the funding – the £3 million funding gap to develop the  
2 outline business case?

3 DR WRIGHT: Tim Wright for the applicant. Point out that the scheme is proposed to  
4 develop for the local plan and existing issues as well, there is already two-thirds  
5 coming from the Department for Transport, we heard. I don't have any more to  
6 add than that.

7 MR YOUNG: Okay. Do you want to come back on any...?

8 MR FRASER-URQUHART: No, we were just contemplating whether we could sneak  
9 in some submissions about our other concerns about the wider network impacts,  
10 but, yeah, even with the moral high ground of having sat here all day, we  
11 probably won't go that far –

12 MR YOUNG: Those positions are well understood. I'm grateful that you haven't  
13 rehearsed them again, but that's not to say that we haven't heard them before,  
14 and we've taken those into account –

15 [Crosstalk]

16 MR FRASER-URQUHART: – got the point, so I appreciate that.

17 MR YOUNG: Okay, do we want to do the action points now or send those out? How  
18 many are there, do you think? Okay. Alright, before I close, Mr Smith will just  
19 run through the action points, which we will get out as soon as we possibly can.

20 MR SMITH: Yes, and I will verbalise these to the best of my ability, noting that one or  
21 two of them are still in a fairly advanced state of torque wrench and hammer.  
22 Things are going on. The first group of actions unsurprisingly do relate to the  
23 Orsett Cock, and the first is an action to the applicant and Thurrock Council on  
24 the specific point around additional weave length and the general arrangement  
25 plans. The first obvious point was the submission of a drawing demonstrating  
26 the proposition relevant additional weave length can be provided without the  
27 necessity for additional land within the limits of the order land and limits of  
28 deviation. And then there was the related matter of providing an amendment to  
29 the general arrangement plans volume C, REP7-028/029, that showed that  
30 change in-situ.

31 Now, if your view is that it's within the parameters of the general  
32 arrangement plans as currently provided, and that therefore the additional length  
33 isn't a matter that would not be generally in accordance with those plans, say it.  
34 But that was where we were seeking the applicant's position. Now, that's for

1 deadline 8 from the applicant, with Thurrock Council's opportunity to respond  
2 at deadline 9. And so again, looking at the specifics of that, if it was your view  
3 that you were still unsatisfied, for example, that the general arrangements plan  
4 showed something sufficiently clear or specific, say so.

5 Moving then on to the second action, Orsett Cock modelling parameters  
6 and driver behaviour, and this was one where the burden really rests on Thurrock  
7 Council as we saw it, seeking you to confirm the extent to which Thurrock  
8 Council and the applicant are in agreement or not in agreement and why in  
9 relation to driver behaviour assumptions employed in the modelling, and to the  
10 extent not done so in the hearing, please explain any differences between the  
11 approaches that Thurrock are proposing as being necessary to take, and that the  
12 applicant has already taken. And this is particularly about essentially the sort of  
13 shall we say aggressive driving style points, for want of a better description.

14 Right, if we then move on to action number three, this is firmly on the  
15 applicant's desk, and this is about drawing the various diagrams that we have  
16 seen, some of which are a little scrappy, into a single schematic representation  
17 of the Orsett Cock roundabout route, and with a lane name convention. Gosh,  
18 it's getting late and I'm struggling to say 'lane name convention'. What we  
19 would seek is an intersection route and lane diagram or diagrams, with the  
20 individual lanes, and the entrance and exit routes, and paths, shown and named  
21 consistently.

22 And what we would then ask is that if that's provided at deadline 8, any  
23 final submissions referring to lanes, routes and paths through the Orsett Cock  
24 strictly use that – and frankly, as I said in our discussion of it in hearing, if it  
25 could be prepared graphically with a viewpoint that it might end up as a figure  
26 on a page in our report, because it will save a thousand words, and possibly a  
27 considerable amount of misunderstanding. Yes, Mr Stratford.

28 MR STRATFORD: I just wonder whether you could include pedestrian and cycle  
29 facilities in those diagrams, because they are expected. Active Travel England  
30 certainly expect it. I know it's a major junction, but it will have a bearing on  
31 both safety and traffic flow to accommodate pedestrians and cyclists. Thank  
32 you.

33 MR SMITH: Okay. Any objection to that from the applicant?

34 MR TAIT: None whatsoever.

1 MR SMITH: It is done. Then we move on to an action on the applicant, action number  
2 four, at the Orsett Cock again. Roundabout route modelling assumptions, and  
3 what we're then asking the applicant to do is with reference to that schematic  
4 diagram or set of diagrams, to illustrate the differences, to the extent not already  
5 accomplished, between the applicant's version 3.6 and Thurrock Council's  
6 version 3.6T modelling assumptions.

7 Now, some of this – when we wrote this, we hadn't seen Thurrock's video  
8 representation, and actually when we tighten up this one, we may directly refer  
9 to that material that was put in front of us because that kind of did some of the  
10 job, but what we are seeking will be to the degree that there are matters  
11 outstanding and agreed between the applicant and Thurrock Council. For  
12 example, as to whether three lanes of traffic would be able to exit the southbound  
13 route out of the Orsett Cock junction, or alternatively where lanes of traffic along  
14 slips would essentially attempt to merge and stop, and whether over conservative  
15 or cautious assumptions have been taken into account. Those matters of dispute  
16 we – to the extent that they were not drawn out in oral submissions, need to be  
17 drawn out. Now, it may well be that that gets picked up by both parties in just  
18 simple post-event written submissions.

19 Whether it's done that way or done specifically as a freestanding document  
20 it needs to be done, and if it's to be done, again with reference to the standardised  
21 junction diagram that we're aiming to have produced. Then there's a fifth action  
22 on Thurrock Council, and this is the identification of deemed unacceptable  
23 impacts. And again, just to be clear, [inaudible] we have a final list identifying  
24 instances of what Thurrock Council deems to be unacceptable impacts at Orsett  
25 Cock emerging from the applicant's version 3.6 modelling, noting of course that  
26 that modelling itself is not agreed between Thurrock Council and the applicant,  
27 but to know where you stand on the applicant's position would be very, very  
28 helpful.

29 Okay. We have a living discussion in the Examining Authority about the  
30 virtue or otherwise of an action engaging the applicant and the ports in relation  
31 to affects on port journey times. Now, we are further reviewing REP2-050,  
32 Annexe 2, and REP4-154, REP4-156, and REP6A-004, with a view to forming  
33 a clear view in our mind about whether or not we do need to set any further  
34 action in relation to that matter or not. I will say that that deliberation is going

1 to carry on overnight. You know we're thinking about it. It may be an action,  
2 but it may not be. We're clearly not going to ask for information we've already  
3 got. We then have an action on the applicant in relation to Thurrock Council's  
4 version 3.6T modelling at the Orsett Cock. Just as we've asked for Thurrock's  
5 view based on 3.6, knowing that it's not agreed, we're doing exactly the same  
6 in reverse, asking for the applicant's view on 3.6T, knowing that it's not agreed.

7 We then have a pair of related actions bearing on the ports and the  
8 applicant, and indeed Thurrock and the applicant. Now, the first of these, which  
9 engages potentially all of the above, is what we are referring to as a collaborative  
10 development draft requirement 18, and this is – depending on the way we  
11 deliberate after closure this evening – either for deadline 8 or for deadline 9, an  
12 engagement to seek a further revised draft of requirement 18, in which objectives  
13 to be met and definitions of terms and clarity around outcomes sought to secure  
14 the proper functionality of the Orsett Cock are as far as possible agreed, although  
15 with statements of reservation by individual or groups of parties entirely possible  
16 to be appended to the document – and essentially that in a nutshell is what we're  
17 seeking.

18 Now, we are aiming to draft that in a way that says that if it is possible to  
19 produce that around a table that engages the ports, the Freeport – therefore with  
20 Thurrock Council engaged – that that would be our preferred approach, but that  
21 equally if, time being very pressing, that does not prove possible, what we don't  
22 want to end up with is nothing. And what in those circumstances we would urge  
23 is that progress might then continue in circumstances where an agreed and  
24 reserved position between the applicant and Thurrock emerges, but then an  
25 agreed and reserved position between the applicant and the ports emerges, if  
26 those are different things, and we would much, much rather have that than  
27 nothing. Hopefully, that's reasonably clear.

28 We have then directed a consequential action on the Port of Tilbury and  
29 DP World London Gateway, which is essentially the matters on which you were  
30 both saying that you wished to seek instructions and deliberate. The question  
31 about in-principle support for the proposed development in circumstances where  
32 requirement 18 remained as proposed to be drafted by the applicant. In your  
33 view, was that 'a showstopper'? And obviously, the instructions haven't been

1 sought. It would be very useful to have the view of both of the ports on that  
2 point.

3 We are then finally looking at an action in the direction of Kent County  
4 Council in relation to Blue Bell Hill local plan allocations and major planning  
5 applications in Kent, which I trust, as only literally, just having discussed it, is  
6 reasonably clear and straightforward, and we're seeking the details of responses  
7 from National Highways in its function of providing consultation responses for  
8 local plan allocations and major planning applications where matters relating to  
9 the capacity of and required improvements to the Blue Bell Hill junction have  
10 been raised. Is there anything else? Mr Fox? Okay, now I do see a hand from  
11 Mr Fox for the Port of Tilbury.

12 MR FOX: Yes, sir. Thank you. Just to check on the action about trying to reach an  
13 agreed – well, some kind of position on the requirements. I wondered – and I  
14 know you were going to take this away, but at deadline 5 there was a joint  
15 statement, not all of which was agreed, but there was a joint statement on  
16 people's positions in Orsett Cock, and I was wondering if that's perhaps what  
17 we should ultimately aim for, where it feeds into that.

18 MR SMITH: Absolutely, that's very much the kind of philosophy and feel of the  
19 document that we're seeing.

20 MR FOX: Yeah, okay, and just on that, I wonder if that last action, in terms of the in-  
21 principle point, is whether that can come along with wherever we get to with  
22 that joint statement.

23 MR SMITH: Yes.

24 MR FOX: Because I think it's better if that reflects whatever position each party is taking  
25 on, whatever National Highways' position is at that point, rather than now. I  
26 think would be more helpful to you.

27 MR SMITH: Absolutely, and one of the things that we need to think about in timing  
28 terms is the relationship between those two because it would be very perverse to  
29 seek from you a position on client instructions on the second point, on in-  
30 principle support, that had to come too early, whilst discussions were still  
31 ongoing about a collaborative approach on requirement 18, because, frankly, the  
32 closer a collaborative approach on requirement 18 gets to a consensual position,  
33 the less needs to be said in response to the second question.

34 MR FOX: Yes, absolutely. Thank you, sir.

1 MR SMITH: Okay, thank you very much. Mr Mackenzie for Thurrock.  
2 MR MACKENZIE: Thank you, sir. I hope I'll be brief. George Mackenzie for Thurrock  
3 Council. It's just in relation to the action point for us to identify deemed  
4 unacceptable impacts in V3.6, and there are two questions. One is would you  
5 like us to do that exercise also in relation to V3.6T and set them out together?  
6 MR SMITH: Yes, that would probably help.  
7 MR MACKENZIE: Yeah, thank you. That's what I had – when we discussed this at the  
8 time, and then the second question also on that action point is, sir, you referred  
9 to deemed unacceptable impacts –  
10 MR SMITH: Meaning, deemed by yourselves.  
11 MR MACKENZIE: Yes, just to check, that will include significant impacts,  
12 unacceptable impacts, and severe impacts. Those are the three terms perhaps  
13 unhelpfully used in –  
14 MR SMITH: And furthermore, to the extent that we need definitions of terms, it would  
15 be helpful.  
16 MR MACKENZIE: Thank you.  
17 MR SMITH: Yeah. Just reversing orders on a couple of things. I'll just pick up that last  
18 point. Okay, are there any other points that anybody wishes to raise in relation  
19 to those actions? We will try to publish them as soon as we possibly can, but  
20 obviously, having discussed them, work can commence on certain of the more  
21 certain ones at least, in any case. Mr Young.  
22 MR YOUNG: Okay, well, thank you, everybody, for your contributions today. I'm now  
23 going to close this. I will just apologise in advance. I will be here tomorrow,  
24 but not in person. So I do apologise to that, but it can't be helped. So I'll be  
25 joining virtually tomorrow and participating. Safe travels home, everybody.  
26 Thank you very much. This hearing is now closed.

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**(Meeting concluded)**