

**Lower Thames Crossing
9.186 Post-event submissions,
including written submission
of oral comments, for CAH5**

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1 Introduction

Please note: this document contains National Highways' (the Applicant's) oral summary of evidence and post-hearing comments on submissions made by others at Compulsory Acquisition Hearing 5 (CAH5) held on 21 November 2023.

Where the comment is a post-hearing comment submitted by the Applicant, this is indicated. This document uses the headings for each item in the agenda published for CAH5 [[EV-050](#)] by the Examining Authority.

1.1 Welcome, introductions, arrangements for the Hearing

- 1.1.1 National Highways (the Applicant), which is promoting the A122 Lower Thames Crossing (the Project), was represented at Compulsory Acquisition Hearing 5 (CAH5) by Mr Andrew Tait KC (AT).
- 1.1.2 The following persons were also introduced to the Examining Authority (ExA):
 - a. Tim Gloster, Deputy Land and Property Manager (TG)
 - b. Russell Cryer, Habitats Regulations Assessment (HRA) Lead (RC)
 - c. Richard Saville, Senior Surveyor, Land and Property (RS)
 - a. Barney Forest, Environment Lead (BF)
 - b. Keith Howell, Utilities Lead (KH)
 - c. Suki Coe, DCO and Planning Manager (SC)

2 Purpose of Compulsory Acquisition Hearing

2.1.1 The Applicant did not make any submissions under this Agenda item.

3 ExA Questions on Individual Site-Specific Representations

3.1 Item 3(a) Veolia ES Landfill Ltd

- 3.1.1 This party no longer intended to speak at the hearing.
- 3.1.2 AT noted that Veolia ES Landfill Ltd's objection had not been formally withdrawn but agreement between the parties was at an advanced stage.
- 3.1.3 The ExA requested Veolia ES Landfill Ltd to set out in writing at Deadline 8 all matters which are agreed and those which are not agreed.
- 3.1.4 **Post-hearing written submissions:** These are contained within Annex A and include:
- a. Section A.2 Hearing Action Point 1: Final Positions

3.2 Item 3(b) Bellway Homes Ltd

- 3.2.1 Derek Stebbing (DS) of Strutt & Parker was representing Bellway Homes Ltd (BH). DS set out BH's position in relation to the following issues: (i) noise; (ii) objection to compulsory acquisition powers; (iii) drainage impacts; (iv) matters regarding an existing gas pipeline; and (v) access to northern part of the site.
- 3.2.2 BH has an option over land to the north of South Ockendon, known as 'Land at South Ockendon'. The land is owned mainly by Mr Mee, Mr Padfield and the Chelmsford Diocesan Board of Finance (CDBF). Part of the northern section of the option area is required for permanent acquisition for the main alignment, temporary possession during construction and for the permanent acquisition of rights for utility works.
- 3.2.3 In relation to noise, DS asserted that the proposed noise mitigation measures were not adequate to safeguard the potential residential development on the site.
- 3.2.4 AT explained that the proposed earthwork bund introduced at Local Refinement Consultation in 2022 would provide additional screening to the surrounding area, reducing the predicted increase in noise compared to the previous proposals, and noted that low-noise road surfacing was also proposed.
- 3.2.5 AT explained that the opening year noise change contour (see Environmental Statement (ES) Figure 12.7: Opening Year Noise Change Contour (DSOY minus DMOY) [[APP-315](#)]) shows the predicted change in noise levels. ES Figure 12.6: Operational Road Traffic Noise Mitigation [[APP-314](#)] (sheet 4) presents the embedded earthworks noise mitigation considered in the noise model and the low noise road surfacing proposed.
- 3.2.6 There are no acoustic barriers proposed in this section of the new road; several barrier options were considered in ES Appendix 12.10: Road Traffic Noise Mitigation and Cost Benefit Analysis [[APP-450](#)] (see options 16, 17, 18 and 19) but were not appropriate due to landscape, visual, and cultural heritage constraints. Therefore, the concept of further noise mitigation was expressly considered but not proceeded with.

- 3.2.7 AT confirmed that the Bellway option land is not explicitly considered in the ES Chapter 12: Noise and Vibration [[APP-150](#)] but assessments have been made to the nearest existing receptors. In respect of these receptors, Barrier Option 19 was scoped out of ES Appendix 12.10: Road Traffic Noise Mitigation and Cost Benefit Analysis [[APP-450](#)]. The development was considered in ES Appendix 16.2: Short List of Developments [[APP-484](#)], pages 123–125, however no detailed information was available on the proposed development at the time of the Development Consent Order (DCO) application submission and the development had no planning status, therefore it was not possible to draw any firm conclusions. The Bellway option land currently has no planning application or formal allocation in the Thurrock Local Plan. However, the Applicant is proposing all feasible steps to mitigate the noise impacts of the new road in this section. The proposed mitigation would help reduce noise impacts for any future development.
- 3.2.8 BH objects to the proposed permanent acquisition of land to deliver a Public Right of Way (PRoW), on the basis that it does not believe the PRoW is necessary and that it would prejudice the construction of a new roundabout which is proposed to be constructed on North Road, to serve the potential residential development on the site.
- 3.2.9 The ExA noted that Mr Holland had made similar submissions on the principle of acquiring land for a PRoW on behalf of others.
- 3.2.10 AT noted that this was the same matter raised in other cases regarding the compulsory acquisition of walking, cycling and horse-riding (WCH) routes. AT explained that it has offered tripartite arrangements with landowners where they have raised concerns that there might be prejudice to development prospects. The nature of the concerns was that there would be a ransom strip or otherwise. In this case, BH has an option over the land so are not in position to enter into a tripartite agreement, but insofar as the landowners took up the option to do so, then BH would benefit from those arrangements.
- 3.2.11 The ExA asked the Applicant to set out the position between the parties in a written submission at Deadline 8. This is covered in Annex B.2 of this document.
- 3.2.12 In relation to drainage, TG for the Applicant noted that the road would be just below grade at North Road and then go into a cutting as it goes west towards the M25.
- 3.2.13 AT noted that the Drainage Plans (Volume C) [[REP7-076](#)] (Sheet 42) outlines the drainage proposed in this area where a new culvert is proposed, Work No. 9W (see the draft DCO [[REP7-090](#)]), to provide appropriate drainage for the existing use of the land. Further engagement with the landowner in relation to this element of the works is ongoing and detailed issues would be considered by the Contractors in due course.
- 3.2.14 AT continued by explaining that there is no foul water pipeline along this section of North Road; it would be for a future development to undertake works to connect to a foul water network. Whilst there are no provisions for foul water diversions, the Applicant's view is that its proposals would not preclude the installation of a suitable network to be developed and installed as part of any future development. Accordingly if BH notifies the Applicant in advance of

designing and implementing any drainage works, the projects could collaboratively work together around the interfacing of respective works. The Applicant confirmed that it would record this in the document which is to be submitted at Deadline 8.

- 3.2.15 In response to points raised by BH in relation to the existing gas pipeline, AT explained that Work No.G9 involves the capping and removal of a section of an existing Barking Power Limited (BPL) pipeline where it overlaps with Project works. Where the existing pipeline does not interface with Project permanent works, the pipeline would remain in situ so far as the Project is concerned.
- 3.2.16 AT noted that the SoCG between (1) National Highways and (2) the Health and Safety Executive to [\[REP1-070\]](#) item 2.1.3 explains that it is the Applicant's understanding that BPL intends to decommission and grout fill the pipeline themselves. The SoCG between (1) National Highways and (2) BPL [\[APP-104\]](#) item 2.1.4 explains why the Applicant is seeking permanent rights over the pipeline (to cap and decommission it) (also note item 2.1.2). The Applicant understands that works have been carried out this summer by BPL but the pipeline has not yet been formally decommissioned so the position is that the Applicant needs to retain that power until that process is concluded.
- 3.2.17 In relation to the progress with Thurrock Council's new Local Plan, the ExA noted that documentation relating to Regulation 18 should be available on the Council's website by 28 November 2023, and that there would be a full council meeting on 6 December 2023 where the initial proposals document could potentially be approved, with consultation potentially then taking place until February 2024. This would appear likely to put beyond doubt the question of whether this is a site which is being consulted upon. The Applicant will confirm whether this site is being consulted on in its written submission at Deadline 8. This is provided in Annex B.3 of this document.
- 3.2.18 KH for the Applicant responded to points raised by BH in relation to the extent to which multi-utility corridors would have an effect on access to the northern parcel of land.
- 3.2.19 KH noted, as shown on the Works Plans Volume C – Composite [\[REP5-020\]](#) Sheet 39, there are multiple multi-utility (MU) works proposed in the area (Work Nos MU67 – MU71). Paragraph 2.3.172(d) of Environmental Statement Chapter 2: Project Description [\[APP-140\]](#) describes the works proposed in the area as the 'Installation of multi-utility corridors of assets including UK Power Networks electricity networks, Essex and Suffolk Water mains, Cadent gas pipelines, Openreach and other utility companies' strategic telecommunication cable routes (Work numbers MU61 to MU71)'.
- 3.2.20 KH clarified that Work No MU71 is the diversion of multiple gas pipelines of medium and intermediate pressure classification which are not subject to HSE consultation zones in the same manner that a high pressure classified pipeline would be, such as Work No G9. The impediment to BH's proposed development associated with all the multi-utility works within the region can largely be mitigated via collaborative planning, ensuring the proposed diversions are aligned such that are they compliant with the requirements of the relevant industry and asset owner and are located so that the associated easements and protective covenants reduce the impact on, or are sympathetic to, the proposed BH development.

- 3.2.21 In response to a point regarding prejudice to a new roundabout on North Road, AT noted that there are no specific obstacles that would preclude future junction works. With regards to the ‘passive provision’ made for a possible future junction with the Project, any connection at this location would be brought forward through the Local Plan, currently being developed by Thurrock Council and subject to the appropriate consultation and examination process.
- 3.2.22 AT confirmed that it would prepare a document to be submitted at Deadline 8 which would set out its position in relation to the points which had been raised by BH.
- 3.2.23 **Post-hearing note:** The Applicant responded to the points raised by Bellway in Comments on WR – Appendix F – Landowners [[REP2-051](#)].
- 3.2.24 **Post-hearing written submissions:** These are contained within Annex B and include:
- a. Annex B.2 Joint position statement between the Applicant and Bellway Homes
 - b. Annex B.3 The Applicant’s comments regarding Regulation 18

3.3 Item 3(d) Malthurst South East Ltd/ MFG re Cobham Services

- 3.3.1 This party did not appear at the hearing.
- 3.3.2 AT noted that there is an agreement between the parties which is expected to be completed imminently. The party did not object to the Project, but the agreement will address matters that are relevant to the proposed compulsory acquisition of their land.
- 3.3.3 **Post-hearing note:** the agreement was completed on 28 November 2023.

3.4 Item 3(e) Kathryn Homes Ltd and Others

- 3.4.1 Michael Bedford KC (MBKC) was representing Kathryn Homes Ltd and Others (KHL).
- 3.4.2 A meeting had taken place between the parties on 23 October 2023.
- 3.4.3 AT noted that there had been ongoing negotiations between the Applicant and the owners/operators of Whitecroft care home which has resulted in the Applicant making an offer to purchase the care home on the basis that the residents to be relocated to a replacement facility and so avoid the identified noise impacts.
- 3.4.4 AT explained that the Applicant had a phone call with the Agent acting on behalf of the owners of the care home on 16 November 2023 and both parties have agreed, subject to contract, to discuss acquisition by agreement of the care home. Negotiations will continue and it was agreed that the care home would prepare a valuation claim for the Applicant to consider. This offer has been made by the Applicant in the context of the continuing nature of the Public Sector Equality Duty (PSED). Once the claim has been quantified, it will be considered by the Applicant.

- 3.4.5 The ExA noted it would want an update from the parties as to whether the claim was agreed or not.
- 3.4.6 The ExA queried the public interest dimension which it noted may stand above the proprietary interest. In relation to the aged care facility capacity in the area, if the care home business was to be removed, the ExA asked what if any measures might it be reasonable to take to try and secure equivalent capacity within broadly the same catchment.
- 3.4.7 AT responded to the ExA's query, noting that any loss of bed spaces may be short term and temporary depending on the timescales for providing the replacement facility in relation to the Project construction programme.
- 3.4.8 SC explained that the South Essex Housing Needs Assessment (June 2022) identifies that there is a need for 169 extra care spaces between 2020-2040. This is in addition to that already provided at Whitecroft Care Home. The total need would therefore be 225 spaces with the temporary removal of Whitecroft to 2040. While the needs assessment identifies a shortfall in provision to 2040, there are known to be a number of proposals emerging for new care home provision in the Thurrock Council area to provide for that need over the next 17 years to 2040 as set out below:
- a. Planning permission reference 19/01662/FUL proposes redevelopment of Langdon Hills Golf and Country Club, including provision of a 64-bed residential care home with dementia facilities (Use Class C2). The application was approved on 21 September 2022. Once operational this would notionally provide more bed spaces than those temporarily removed at Whitecroft care home, with a remaining need for 161 spaces by 2040.
 - b. Application reference 23/00853/FUL proposes a residential development which also includes a 77-bed care home which is currently awaiting determination (as at 30 November 2023). If the application is approved, it would leave a notional need for a further 84 spaces by 2040.
 - c. SC explained that with the provision of a facility to replace Whitecroft Care Home with at least 56 spaces, it would leave a notional need for a further 28 bed spaces to be provided to meet the need to 2040 as identified in the South Essex Housing Needs Assessment, June 2022. **Post-hearing note:** whilst a further planning application awaiting determination (as at 17 November 2023) (23/00786/FUL) for a further 66 beds was referred to at the hearing, this was withdrawn on 28 November 2023.
- 3.4.9 In view of the situation described above, with Whitecroft Care Home being relocated and other proposals coming forward, the Applicant's conclusion is that the Project would not materially affect the provision of care home bed spaces being met in the period between 2020 and 2040 as identified in the South Essex Housing Needs Assessment (June 2022).
- 3.4.10 KHL was concerned there may not be adequate mitigation measures for the construction of the proposed bund and for the management of general construction noise affecting bedrooms at night, noting it had responded to

material which had been submitted by the Applicant at Deadline 6 [REP6-111] in KHL's most recent Deadline 7 submission (which had not been published as at CAH5). In summary, KHL did not consider that material submitted by the Applicant was sufficient to address construction impacts on the Whitecroft care home.

- 3.4.11 BF responded to points in relation to the one-hour data and L_{Max} on behalf of the Applicant. The assessment which has been undertaken is appropriate for the current phase in the planning process with regard to the construction techniques that will be undertaken. The Applicant confirmed that it would consider KHL's Deadline 7 submissions in relation to noise and vibration and respond in writing. The ExA noted it would want to understand what the appropriate measure in terms of protection is of undisturbed sleep in bedrooms, as that issue is potentially the most difficult.
- 3.4.12 AT confirmed that the Applicant considers that the application of BS 5228 for night-time is an appropriate measure for healthcare facilities which is why it was used. This sets out the thresholds that are set out in Responses to the Examining Authority's ExQ2 Appendix E – 9 Noise & Vibration [REP6-111].
- 3.4.13 In response to points made in relation to controls and reference to a 300m limit (Table 6.1 in [REP6-111]), AT noted that was a misprint. The Applicant confirmed that the information set out in the Code of Construction Practice (CoCP) [REP7-122] is correct but noted that [REP6-111] has a typo on page 12.
- 3.4.14 In relation to how problems are dealt with at a particular time, AT noted that there is a Noise and Vibration Management Plan (NVMP) which will govern reporting and addressing issues, as well as the section 61 process. AT confirmed that the NVMP will address responsiveness and monitoring, which is not expected to be a cumbersome process.
- 3.4.15 The Applicant agreed to respond to the point of low noise road surfacing by Deadline 8 and this is included in Annex B.
- 3.4.16 **Post-hearing written submissions:** These are contained within Annex B and include:
- a. Annex B.4 Whitecroft Care Home – Clarification on monitoring and maintenance of low noise road surfacing
 - b. Annex B.5 Whitecroft Care Home – local resilience and capacity

3.5 Item 3(f) HS1 Ltd

- 3.5.1 Ian Graves (IG) of DLA Piper was representing HS1 Ltd (HS1).
- 3.5.2 HS1 was seeking a restriction on the Applicant's compulsory acquisition powers without HS1's consent in the form of Protective Provisions (PPs).
- 3.5.3 AT noted that a voluntary agreement between the parties was being progressed in parallel and that there had been several tripartite discussions with the DfT in relation to the land interests. The Applicant understands that the mechanics of how the Applicant would have access to land on a temporary basis, temporary and permanent rights and also permanent acquisition has been agreed in principle and is the subject of the draft legal agreement. AT confirmed that a

meeting to discuss and progress this matter had taken place on 20 November 2023.

- 3.5.4 It was agreed that if PPs cannot be settled between the parties by Deadline 8, HS1 will submit its preferred form of PPs, which the Applicant will respond to at Deadline 9.

3.6 Item 3(c) St Modwen Developments Ltd

- 3.6.1 Tom Rowberry (TR) of Pinsent Masons was representing St Modwen Developments Ltd (SMDL).
- 3.6.2 SMDL has three concerns with the proposed DCO in relation to the proposed Brentwood Enterprise Park (BEP). In summary, the points relate to access to the site, the window of time when BEP would be able to bring forward access being currently unknown, and a query with regards to the class of powers sought over plot 45-138 (permanent acquisition rather than temporary possession).
- 3.6.3 The ExA queried SMDL's assertion that the land could be sterilised by the LTC Project, noting its understanding that what was being dealt with was an issue regarding the detail of specific timings of delivery, and seeking to ensure that the Applicant would facilitate relevant access to the BEP site at relevant stages of development. Therefore, the medium to long-term position seems like an enduring uncertainty rather than sterilisation.
- 3.6.4 SMDL agreed but noted that BEP is an expensive scheme so needs to have sufficient certainty.
- 3.6.5 The Applicant noted that it had been engaging with SMDL regarding the proposed BEP for several years.
- 3.6.6 A Land and Works Agreement is being progressed between the Applicant, SMDL and the landowner (Mr Padfield) and is almost in final form. The parties are having regular meetings to finalise the terms of the agreement and it is likely that it will be signed early in 2024. The most recent meeting between the parties took place on 17 November 2023.
- 3.6.7 The Applicant noted it has made several changes to the design of the Project over the years to mitigate or remove impacts and interfaces with the BEP proposals. Details of these changes and the interfaces between the two projects are outlined on page 55 of Comments on WRs Appendix F – Landowners [[REP2-051](#)]. This is because the Applicant recognises that this is an allocated site and one of the Project's main aims is to support economic growth.
- 3.6.8 Since the DCO application was submitted, a change has been accepted by the ExA (EC03) to increase the limits of deviation (LoD) in relation to a WCH structure over the A127 to the east of the M25 junction 29. This was to avoid conflict with a BEP bridge proposed adjacent to it.
- 3.6.9 Furthermore, the two Design Principles [[REP7-140](#)] which relate to BEP were updated at Deadline 6 to reflect the positions agreed in the Land and Works Agreement. The principles are:

- a. S14.19 – in relation to access for the Project and BEP from the B186 (Work No. 9P).
 - b. S14.22 – in relation to the design interfaces at the A127 WCH bridge to the east of M25 junction 29 (Work No. 9Z).
- 3.6.10 The Applicant submitted updated Works Plans at Deadline 7 [[REP7-030](#) to [REP7-040](#)] which reflect the changes to the LoD.
- 3.6.11 TG responded on behalf of the Applicant to SMDL’s submissions regarding the compulsory acquisition powers being sought over plot 45-138. TG noted that the Applicant has been discussing the BEP proposals for several years and that following those discussions, it increased the Order Limits over the area of land where the BEP access is to be located with the agreement of SMDL. This was with the intention and understanding at the time that it was likely that BEP would come forwards before LTC. The land was therefore included within the Order Limits to allow an access and maintenance track to be constructed and link into BEP’s B186 access that was due to be constructed.
- 3.6.12 The design was uncertain at that time hence the shape of the plot which SMDL had queried. The Applicant noted that BEP could potentially still be in place first, in which case it would link into the access. The Applicant explained that the understanding between the parties was that a Land and Works Agreement would be entered into to manage the construction interfaces and, where necessary, acquire land under the terms of that agreement. The ability of the Applicant to permanently acquire land needs to be retained should there be a need to cleanse title to extinguish any third-party rights.
- 3.6.13 The Applicant noted that SMDL’s point regarding the window of time for BEP coming forward was still under discussion. The Applicant has been working with its contractor to understand the different dates required for the agreement and intends to provide the dates to SMDL within the week following CAH5, which could be inserted into the agreement; this should enable completion to take place as soon as possible.
- 3.6.14 **Post-hearing note:** The dates have been provided and the agreement is almost in agreed form. It is anticipated that it will be completed early in 2024, the Examining Authority will be informed by SMDL.

3.7 Item 3(g) Partners LLP and S&J Padfield Estates LLP

- 3.7.1 Christiaan Zwaart (CZ) was representing Padfield Estates LLP (PE).
- 3.7.2 In response to PE’s request for specific PPs within the DCO, the ExA suggested that there may be an alternative solution which could provide adequate certainty to PE without needing to be as substantial as PPs or an additional Requirement in the DCO. For example, the concerns could potentially be dealt with through one of the control documents.
- 3.7.3 PE’s representative set out a detailed background in relation to the existing access arrangements to Codham South from the south-east quadrant of the M25 junction 29. It was asserted that, as the existing rights had been granted by transport ministers in a Statutory Instrument (a Compulsory Purchase Order

from 1979), the DCO should expressly disapply the relevant provisions. It was also asserted that the Project should incorporate the BEP vehicular bridge.

- 3.7.4 The Applicant noted it would resist the proposition that the Project should incorporate the BEP vehicular bridge access. The existing access to the current occupiers will be stopped up as part of BEP should it proceed. The Applicant understands that this is because the BEP vehicular bridge is necessary for the BEP in its own right, rather than by reason of the LTC project.
- 3.7.5 AT stated that the Applicant does not consider it to be proportionate or appropriate for that beneficial element of the BEP project to fall upon the Applicant in connection with its promotion of its Project. Insofar as there is any gap between the BEP project starting and the closure of the existing access, that would be a matter for compensation, assuming there is any loss at all, bearing in mind that a new access is required in any event for the BEP project.
- 3.7.6 In relation to PE's arguments regarding the need to disapply the earlier Statutory Instrument, AT noted that those earlier powers would be subject to the subsequent DCO powers and so are effectively superseded. So far as earlier provisions of access which were granted through the compulsory purchase order (CPO), those provisions have been spent and the access provided. Whilst the access can continue to be used and maintained, the CPO is not a fresh power that can be implemented from time to time.
- 3.7.7 AT continued that the earlier CPO power would be subject to a fresh power (the DCO) to implement new works, which supersedes it. If DCO applicants were required or sought to identify every CPO power and private means of access, that would be an extensive exercise in circumstances where there would be no particular benefit in doing so. It would therefore be disproportionate. The relevant point is that the new power, which would be granted through the DCO, would supersede the earlier power, for example in the CPO referred to.
- 3.7.8 In response to a query from the ExA regarding the dynamic situation of BEP and the potential emergence of a planning permission, AT stated that there is a tripartite Land and Works Agreement that is almost in a final form (see the summary above on SMDL). One of the outstanding points on the agreement has been the respective timings, on which clarity is expected within the week following CAH5. Subject to confirmation on the timing point, there is no reason why the agreement should not be concluded.
- 3.7.9 AT confirmed that there is provision in the draft Order for the necessary stopping up and acquisition. Article 14 provides for the permanent stopping up of streets and private means of access and part 4 of schedule 4 sets out the points between which the private means of access is to be stopped up at junction 29 of the M25, that being between 41(h), 41(k) and 41(j) on sheet 45 of the Rights of Way and Access Plans [[REP7-046](#)]. Article 25 provides for the acquisition of the equivalent plots (45-101, 45-104 and 45-106) as shown on the Land Plans [[REP7-010](#)] which form that access and which are already owned by the Applicant.
- 3.7.10 **Post-hearing written submissions:** These are contained within Annex B and include:
- a. Annex B.6 Partners LLP and S&J Padfield Estates – Progress of agreement

b. Annex B.7 Partners LLTP and S&J Padfield Estates – CPO

3.8 Item 3(h) Mr Stuart Mee and Family

- 3.8.1 CZ was also representing Mr Stuart Mee (SM) and raised concerns related to access to the farm and consequent issues regarding the operation of the farm and irrigation issues.
- 3.8.2 A plan which had not been submitted to the Examination previously was presented to the ExA by Mr Mee's representatives. The plan was said to show how the land is pieced together and how it would be impacted by the proposed compulsory acquisition powers.
- 3.8.3 The ExA asked that in its Deadline 8 written submissions, the Applicant addresses the disagreement between the parties regarding the accuracy of the water measuring device. This is within Annex B.8 of this document. SM asserted that there are times when the device (which sits at the bottom of a culvert) gets covered with material which gives rise to an inaccurate measure.
- 3.8.4 AT requested clarification from SM's representatives as to the suggestion that a contractor cannot be appointed at this stage in the DCO process. SM's representative referred to National Highways' project control framework which says the Applicant cannot proceed to appoint a contractor until a later stage of the Project and would therefore be in breach of its own handbook. Further information is within Annex B.10 of this document.
- 3.8.5 In response to points raised regarding the assessment of agricultural holdings, AT referred to ES Chapter 13: Population and Human Health [[APP-151](#)] where this was set out. It was noted that loss was considered, as was severance and accessibility issues in relation to retained land. It also looked at and assessed change, which incorporates the access issue.
- 3.8.6 AT noted that there is a side legal agreement which has been drafted between SM and the Applicant to give additional comfort on all points which had been raised. The agreement is at a reasonably advanced stage.
- 3.8.7 In relation to the points which had been raised regarding irrigation, the Applicant noted the Register of Environmental Actions and Commitments (REAC) within the Code of Construction Practice contains firm commitments, which are secured through the DCO via Requirement 4. RDWE016 on page 99 of [[REP7-122](#)] requires a new supply route across the Project road to be provided unless otherwise agreed with the landowner, with the achievement criterion of continued provision of irrigation water at this location, which is carried through via Requirement 4 into the EMP2.
- 3.8.8 AT noted there is also an associated REAC commitment (RDWE038) (which would also carry over into the EMP2 by virtue of Requirement 4) which relates to measures to reduce groundwater drawdown, and the achievement criterion of no detriment to groundwater supply in the areas identified.
- 3.8.9 AT confirmed in response to a query from the ExA that the commitments referred to above are specific to the circumstances of SM. The first relates to the existing ditch network and SM's water irrigation network in North Ockendon. The second is very specific in its locations including Hall Farm, Hobbs Hole, Thames Chase Forest and St Cedd's Holy Well. The Applicant confirmed that

whilst the locations extend outside land directly controlled by SM, they relate to the issues that SM is concerned about.

- 3.8.10 AT noted that the draft side agreement referred to is intended to give further comfort in relation to the above points, and the irrigation exercises that have been undertaken have looked at the best solution to achieve that. However, the principle of the outcome is firmly locked into the DCO.
- 3.8.11 In relation to concerns regarding access to SM's land, AT confirmed that the Stakeholder Actions and Commitments Register (SACR) [REP7-152] is secured by the DCO through article 61, the wording of which had been strengthened at Deadline 7 [REP7-090] so that it is no longer "reasonable endeavours", but a blanket requirement.
- 3.8.12 SACR-005 on page 10 of the SACR [REP7-152] relates to farm access during construction, which applies to SM's fields: '*Where access to a significant area of the landowner's farmland is severed by a construction works, contractor should ensure that farmer is provided with controlled access to their retained land, and the contractor shall discuss with the landowner their reasonable access requirements and use reasonable endeavours to agree such access*'.
- 3.8.13 In addition, there is the Outline Traffic Management Plan for Construction (oTMPfC) [REP7-148] which has the traffic management forum and the measures, with the engagement that that involves in looking at construction. This matter is also addressed in the side agreement.
- 3.8.14 AT also responded to points which had been made in relation to access to the farm shop. SACR-007 limits the road closure in question to no more than 10 months. The OTMPfC identifies one illustrative diversion route during the 10-month period at plate 4.13, but the Applicant noted there were others. The Applicant has expressly considered potential diversion routes.
- 3.8.15 RS responded to points raised regarding engagement between the parties on behalf of the Applicant. The Applicant has had regular contact over last four years with SM and his agent, Mr Cole. The contact would sometimes vary from week to week and month to month but has been regular. As an example, the parties have had a number of specific meetings on the irrigation and water resources issue including on the 07 July 2023, 09 October 2023 and the 30 November 2023 at which both the side agreement and the water issue were discussed. .
- 3.8.16 The ExA queried if the Applicant recognised SM's concerns regarding the accuracy of the measurement of water volumes for irrigation purposes. RS responded that there are ongoing discussions between the Project team and Mr Mee's representatives to agree the water balance and irrigation arrangements.
- 3.8.17 RS stated that the commitment from the Applicant is that it will provide a solution which is equivalent to what is there at the moment. It was noted that this is an ongoing technical issue which is not easy to resolve, and it may not be possible to reach a final agreed design by the end of the Examination but that a commitment to such is included in the side legal agreement.
- 3.8.18 **Post-hearing written submissions:** These are contained within Annex B and include:

- a. Annex B.8 Mr Stuart Mee and Family – Provide clarity on water monitoring issue
- b. Annex B.9 Mr Stuart Mee and Family – signpost to agricultural impact assessment and review economic appraisal document to see if there is assessment on land use
- c. Annex B.10 Mr Stuart Mee and Family – Provide Clarify on PCF process
- d. Annex B.11 Mr Stuart Mee and Family – Access to Hobb Hole
- e. Annex B.12 Mr Stuart Mee and Family – Response on why requirements which fixes route and timing isn't possible.

3.9 Item 3(i) St John's College, Cambridge

- 3.9.1 Daniel Smyth (DS) of Savills was representing St John's College (SJC).
- 3.9.2 SJC was objecting to the permanent acquisition powers sought by the Applicant for nitrogen deposition mitigation and ancient woodland compensation. SJC does not object to the temporary possession powers sought by the Applicant.
- 3.9.3 SJC does not consider that the methodology employed in the Applicant's Project Air Quality Action Plan (PAQAP) [APP-350] is sufficiently robust to justify the compulsory acquisition of its land and made submissions in that regard.
- 3.9.4 In response to points raised by SJC, RC noted that the significant effects from nitrogen deposition have been established in ES Chapter 8: Terrestrial Biodiversity [APP-146] and the compensation proposed to respond to those significant effects, including proposals for compensation, is reported in the PAQAP [APP-350].
- 3.9.5 RC explained that the assessment of significant impacts from nitrogen deposition is presented in ES Chapter 8: Terrestrial Biodiversity [APP-146] and ES Appendix 8.14: Designated Sites Air Quality Assessment [APP-403 to APP-406] which goes through individual sites to identify significant impacts.
- 3.9.6 RC noted that the methodology for assessment on designated sites and habitats follows the Applicant's and Natural England's guidance on the assessment of air quality effects. Natural England has shown strong support for the approach taken by the Applicant with regard to nitrogen deposition. The Applicant has set dual objectives for the compensation within the PAQAP, in consultation with Natural England.
- 3.9.7 RC explained that all mitigation measures, for example speed limits, are set out in the PAQAP [APP-350]. Speed limits reduce emissions and therefore the nitrogen deposition, and is therefore a potential mitigation measure. However, certain measures need to be in place for that to be effective; the reduction of speed only significantly reduces emissions in certain speed bands, for example bringing the limit down from 70 to 60mph. If the traffic is already only travelling at 60mph, then bringing it down to 50 would not give rise to a significant reduction in emissions. It is not a linear relationship between speed and emissions. The Applicant confirmed that it would submit a graph to demonstrate

this at Deadline 8. Annex A.2 of this document responds to the associate Hearing Action Point on this matter.

- 3.9.8 In response to a query regarding why cut and cover was not considered to be appropriate mitigation, RC noted it is not recognised as a mitigation option in the relevant guidance. Further, the suggestion that it should be considered was not brought up during consultation by Natural England or other interested parties. All options identified in the PAQAP are based on the relevant guidance.
- 3.9.9 The Applicant explained that this measure would be similar to putting barriers up. Physical barriers were assessed by the Applicant, and it looked at the entire network to check for opportunities to use them, but they were discounted (e.g. due to unacceptable landscape impacts).
- 3.9.10 AT confirmed that the Applicant has not withdrawn from negotiations with SJC, and that these are ongoing, including in relation to potential voluntary acquisition of land.
- 3.9.11 In response to SJC's assertion that the agricultural impacts may be understated, RC confirmed that is not the case. ES Chapter 10: Geology and Soils [APP-148] acknowledges that by end of the construction phase, once reinstatement has taken place, there is a large impact on best and most versatile (BMV) land which is significant and permanent.
- 3.9.12 In response to points raised by SJC in relation to looking at sites which could be acquired voluntarily rather than by compulsion for the purpose of nitrogen deposition compensation, RC noted that the PAQAP expressly includes that as a factor. For example, page 56 indicates that not having to compulsorily acquire land was a differentiator where equally suitable options were available on ecological and constraints bases.
- 3.9.13 The ExA queried whether the Design Manual for Roads and Bridges (DMRB) guidance and comments from Natural England, which the Applicant had used for nitrogen deposition, was all that was considered and if that was the appropriate measure to use, or was there some other guidance that should have been used.
- 3.9.14 RC responded that the Applicant's starting point for the assessment is DMRB (LA105). The Applicant engages with bodies such as Natural England about the assessment. The Applicant has also followed Natural England's approach to advising competent authorities on the assessment of road traffic emissions under the Habitats Regulations¹. The Applicant has consulted closely with Natural England, and they are fully supportive of the approach taken with regard to the nitrogen deposition compensation assessment.
- 3.9.15 RC noted that as consideration of compensation measures progresses, there is further guidance from Defra² on how competent authorities must decide whether a plan can go ahead. The Defra guidance also talks about other matters including the comparability of the compensation against the impact and

¹ Natural England (2018). Approach to advising competent authorities on road traffic emissions and HRAs. NEA001 Guidance Report.

² Department for Environment, Food and Rural Affairs, Natural England, Welsh Government and Natural Resources Wales, 2021. Habitats regulations assessments: protecting a European site.

additionality, which the Applicant has considered. Therefore, the Applicant has not followed its own DMRB guidance only.

- 3.9.16 A question was raised by SJC regarding whether the HS1 track bed land had been included in its calculations. The Applicant has provided detail on this, together with points raised by SJC, in Annex A and Annex B, these include:
- a. Annex A.3 Hearing Action Point 3 – Nitrogen Deposition
 - b. Annex B.13 St Johns College Cambridge – responding to comments within the hearing
 - c. Annex B.14 St Johns College Cambridge – Applicants clarification in response to comments on engagement and without prejudice discussions.

4 Next steps and closing remarks

4.1.1 The Applicant did not make any submissions under this Agenda item.

References

Chartered Institute of Ecology and Environmental Management (2018). Guidelines for Ecological Impact Assessment in the UK and Ireland: Terrestrial, Freshwater and Coastal. 2nd edition. Winchester: CIEEM.

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

Department for Transport (2021). Secretary of State Decision Letter. Accessed October 2023. <https://infrastructure.planninginspectorate.gov.uk/projects/south-west/a303-sparkford-to-ilchester-dualling/>.

Planning Inspectorate (2019). A303 Sparkford to Ilchester Dualling – Examining Authority’s Report of Findings and Conclusions and Recommendation to the Secretary of State for Transport. Accessed October 2023. <https://infrastructure.planninginspectorate.gov.uk/projects/south-west/a303-sparkford-to-ilchester-dualling/>.

Glossary

| Term | Abbreviation | Explanation |
|--|----------------|---|
| A122 | | The new A122 trunk road to be constructed as part of the Lower Thames Crossing project, including links, as defined in Part 2, Schedule 5 (Classification of Roads) in the draft DCO (Application Document 3.1) |
| A122 Lower Thames Crossing | Project | A proposed new crossing of the Thames Estuary linking the county of Kent with the county of Essex, at or east of the existing Dartford Crossing. |
| A122 Lower Thames Crossing/M25 junction | | New junction with north-facing slip roads on the M25 between M25 junctions 29 and 30, near North Ockendon. |
| A13/A1089/A122 Lower Thames Crossing junction | | Alteration of the existing junction between the A13 and the A1089, and construction of a new junction between the A122 Lower Thames Crossing and the A13 and A1089, comprising the following link roads: <ul style="list-style-type: none"> • Improved A13 westbound to A122 Lower Thames Crossing southbound • Improved A13 westbound to A122 Lower Thames Crossing northbound • Improved A13 westbound to A1089 southbound • A122 Lower Thames Crossing southbound to improved A13 eastbound and Orsett Cock roundabout • A122 Lower Thames Crossing northbound to improved A13 eastbound and Orsett Cock roundabout • Orsett Cock roundabout to the improved A13 westbound • Improved A13 eastbound to Orsett Cock roundabout • Improved A1089 northbound to A122 Lower Thames Crossing northbound • Improved A1089 northbound to A122 Lower Thames Crossing southbound |
| A2 | | A major road in south-east England, connecting London with the English Channel port of Dover in Kent. |
| Application Document | | In the context of the Project, a document submitted to the Planning Inspectorate as part of the application for development consent. |
| Construction | | Activity on and/or offsite required to implement the Project. The construction phase is considered to commence with the first activity on site (e.g. creation of site access), and ends with demobilisation. |
| Design Manual for Roads and Bridges | DMRB | A comprehensive manual containing requirements, advice and other published documents relating to works on motorway and all-purpose trunk roads for which one of the Overseeing Organisations (National Highways, Transport Scotland, the Welsh Government or the Department for Regional Development (Northern Ireland)) is highway authority. For the A122 Lower Thames Crossing the Overseeing Organisation is National Highways. |
| Development Consent Order | DCO | Means of obtaining permission for developments categorised as Nationally Significant Infrastructure Projects (NSIP) under the Planning Act 2008. |

| Term | Abbreviation | Explanation |
|--|------------------------|---|
| Brentwood Enterprise Park | BEP | A proposed employment development to the south east of the M25 junction 29 |
| Development Consent Order application | DCO application | The Project Application Documents, collectively known as the 'DCO application'. |
| Environmental Statement | ES | A document produced to support an application for development consent that is subject to Environmental Impact Assessment (EIA), which sets out the likely impacts on the environment arising from the proposed development. |
| M2/A2/Lower Thames Crossing junction | | New junction proposed as part of the Project to the east of Gravesend between the A2 and the new A122 Lower Thames Crossing with connections to the M2. |
| M25 junction 29 | | Improvement works to M25 junction 29 and to the M25 north of junction 29. The M25 through junction 29 will be widened from three lanes to four in both directions with hard shoulders. |
| National Highways | | A UK government-owned company with responsibility for managing the motorways and major roads in England. Formerly known as Highways England. |
| National Planning Policy Framework | NPPF | A framework published in March 2012 by the UK's Department of Communities and Local Government, consolidating previously issued documents called Planning Policy Statements (PPS) and Planning Practice Guidance Notes (PPG) for use in England. The NPPF was updated in February 2019 and again in July 2021 by the Ministry of Housing, Communities and Local Government. |
| National Policy Statement | NPS | Set out UK government policy on different types of national infrastructure development, including energy, transport, water and waste. There are 12 NPS, providing the framework within which Examining Authorities make their recommendations to the Secretary of State. |
| National Policy Statement for National Networks | NPSNN | Sets out the need for, and Government's policies to deliver, development of Nationally Significant Infrastructure Projects (NSIPs) on the national road and rail networks in England. It provides planning guidance for promoters of NSIPs on the road and rail networks, and the basis for the examination by the Examining Authority and decisions by the Secretary of State. |
| Nationally Significant Infrastructure Project | NSIP | Major infrastructure developments in England and Wales, such as proposals for power plants, large renewable energy projects, new airports and airport extensions, major road projects etc that require a development consent under the Planning Act 2008. |
| North Portal | | The North Portal (northern tunnel entrance) would be located to the west of East Tilbury. Emergency access and vehicle turn-around facilities would be provided at the tunnel portal. The tunnel portal structures would accommodate service buildings for control operations, mechanical and electrical equipment, drainage and maintenance operations. |
| Operation | | Describes the operational phase of a completed development and is considered to commence at the end of the construction phase, after demobilisation. |
| Order Limits | | The outermost extent of the Project, indicated on the Plans by a red line. This is the Limit of Land to be Acquired or Used (LLAU) by the Project. This is the area in which the DCO would apply. |

| Term | Abbreviation | Explanation |
|---------------------------------------|--------------|---|
| Planning Act 2008 | | The primary legislation that establishes the legal framework for applying for, examining and determining Development Consent Order applications for Nationally Significant Infrastructure Projects. |
| Project road | | The new A122 trunk road, the improved A2 trunk road, and the improved M25 and M2 special roads, as defined in Parts 1 and 2, Schedule 5 (Classification of Roads) in the draft DCO (Application Document 3.1). |
| Project route | | The horizontal and vertical alignment taken by the Project road. |
| St Modwen Developments Limited | SMDL | The developers of the proposed Brentwood Enterprise Park. |
| South Portal | | The South Portal of the Project (southern tunnel entrance) would be located to the south-east of the village of Chalk. Emergency access and vehicle turn-around facilities would be provided at the tunnel portal. The tunnel portal structures would accommodate service buildings for control operations, mechanical and electrical equipment, drainage and maintenance operations. |
| The tunnel | | Proposed 4.25km (2.5 miles) road tunnel beneath the River Thames, comprising two bores, one for northbound traffic and one for southbound traffic. Cross-passages connecting each bore would be provided for emergency incident response and tunnel user evacuation. Tunnel portal structures would accommodate service buildings for control operations, mechanical and electrical equipment, drainage and maintenance operations. Emergency access and vehicle turn-around facilities would also be provided at the tunnel portals. |

Annexes

Annex A Hearing Actions

A.1 Introduction

A.1.1 This section provides the hearing actions [[EV-083a](#)] from Compulsory Acquisition Hearing 5 (CAH5) on 21 November 2023 for the A122 Lower Thames Crossing (the Project).

A.2 Hearing Action Point 1: Final positions

A.2.1 Action Point 1 requests “To set out matters that are agreed between the parties and matters that remain under discussion”.

A.2.2 A draft Protective Provisions side agreement is being prepared by the parties which covers Veolia’s concerns. It is near-final and both parties are confident that the agreement will be completed by the end of Examination. Once completed, there will be no outstanding matters under discussion and Veolia would be prepared to retract their objection.

A.3 Hearing Action Point 3: Nitrogen Deposition

A.3.1 Action Point 3 requests “Provide graph showing emissions curve in relation to Nitrogen Deposition and physical barriers/speed reduction discussion”.

A.3.2 The following section provides a response to the Hearing Action Point 3, the emission curve has been provided in a bar chart form to illustrate the change in emissions for the various speed bands used in the air quality modelling undertaken in accordance with Design Manual for Roads and Bridges LA 105 (Highways England, 2019).

A.3.3 The change in Nitrogen Deposition is directly related to the change in emissions as a result of changes in traffic flow (including total flow, traffic composition and speed) as a result of the Project.

A.3.4 The traffic flows obtained from the traffic model are input into the National Highways speed band emission tool which generates the emission factors that are used in the air quality model. This is described in Environmental Statement (ES) Chapter 5 Air Quality [[APP-143](#)] paragraphs 5.3.79 to 5.3.81. These speed bands are based on the latest version of the Defra Emission Factor Toolkit (EFT) Version 11 (Department for Environment, Food & Rural Affairs, 2021).

A.3.5 A description of the Speed bands can be found within the DMRB LA105 Standard in Appendix A. The description of each of the speed bands used in the air quality model within Appendix A of DMRB are presented below.

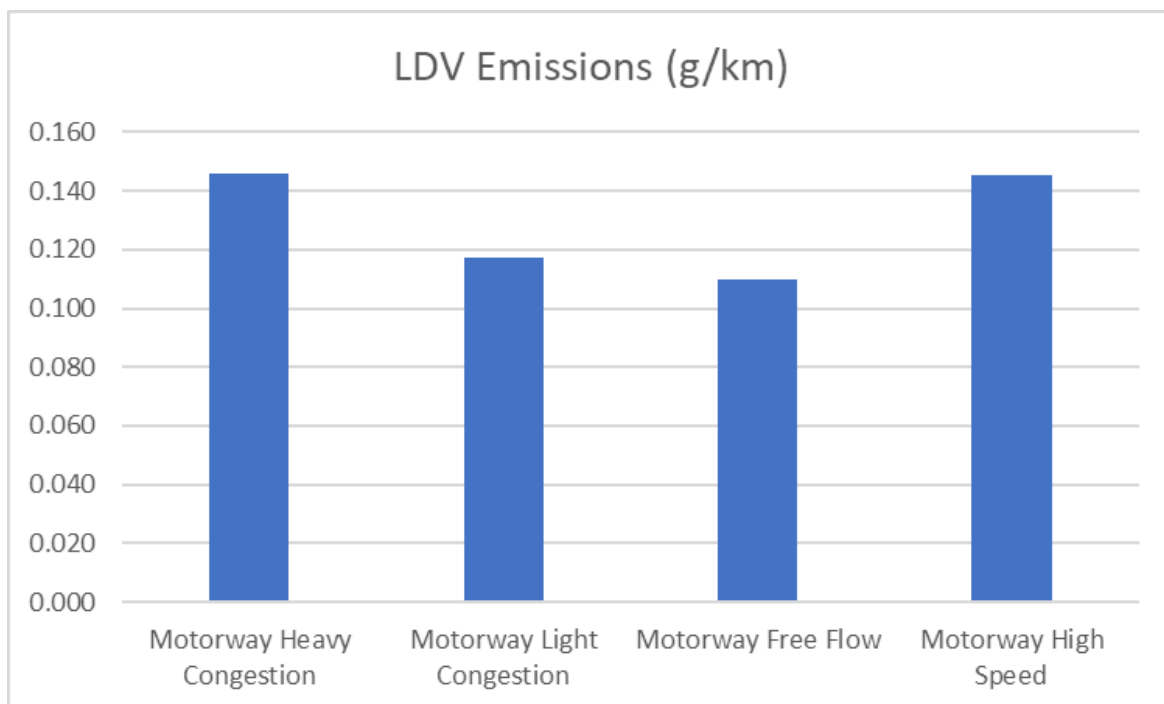
Table A.1 Motorway speed bands

| Category | Speed range (kph) | General Description |
|------------------|-------------------|---|
| Heavy congestion | 5 - 48 | Traffic with a high degree of congestion and stop: driving behavior, junction merges, slip roads with queuing traffic. |
| Light congestion | 48 - 80 | Traffic with some degree of flow breakdown, typical volume/capacity (v/c) >80%. Normal operation on slip roads. |
| Free flow | 80 -96 | Motorway generally free flow driving conditions with little or no flow breakdown. Motorway busy but not congested, v/c <80% |
| High speed | 96 - 140 | Motorway unconstrained, typical of overnight conditions when traffic light. |

A.3.6 In addition to these speed bands there are two additional bands that are utilised to assess the impact on vehicle emissions as a result of speed-related mitigation options, 60mph and 70mph enforced. These speed bands were generated based on the change in driver behaviour due to enforcement of speed limits, where there is a sufficient proportion of Light Duty Vehicles (LDV) (which comprise cars and vans) travelling in excess of the 70mph speed limit.

A.3.7 A graph of the speed bands for 2030 for LDV³ is presented in Plate A.1, as these are the vehicles where speed control will result in a change in emissions (heavy duty vehicles being constrained in terms of speed).

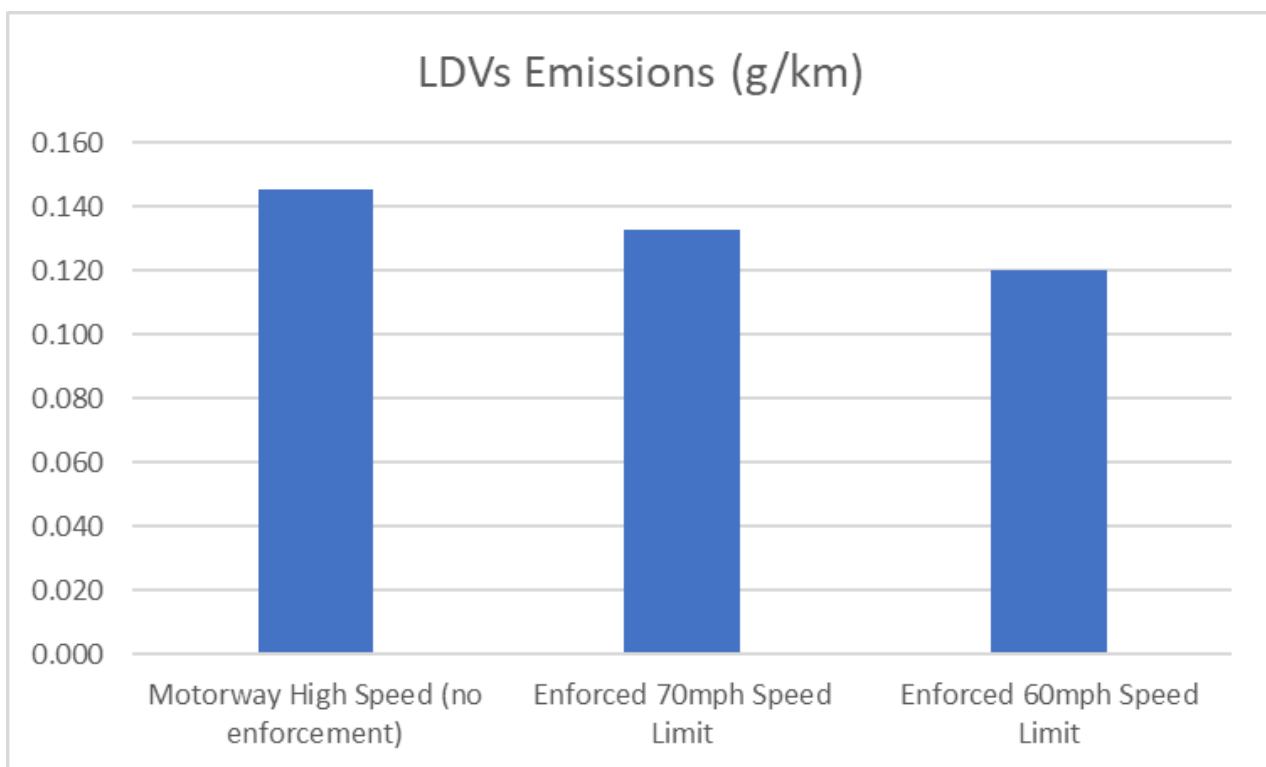
Plate A.1 Light Duty Vehicles (LDV) Emissions in g/km



³ Light Duty Vehicles (LDV) refers to a passenger car or passenger car derivative with capacity to seat 12 people or fewer.

- A.3.8 As can be seen from Plate A.1 the speed band emission factors for LDVs are highest under heavy congestion and high speed conditions, i.e. when vehicles are either heavily constrained by congestion or where vehicles are unconstrained and can travel at high speed.
- A.3.9 Where speed limits are considered to be a viable mitigation option as described in the Project Air Quality Action Plan (PAQAP) [APP-350] paragraphs 6.2.5 to 6.2.20, the assessment of the change in emissions (and hence pollutant concentrations including N Deposition) can be undertaken using the 60mph or 70mph enforced speed bands.
- A.3.10 The speed bands for Motorway High Speed (which contain allowance for higher emissions for a proportion of vehicles travelling above the 70mph speed limit in line with Department for Transport (DfT) statistics) and speed band emissions for the speed control scenarios of 60mph and 70mph enforced (which contain an allowance for the improvement in proportion of vehicles that comply with the speed limit due to enforcement) are presented in Plate A.2.

Plate A.2 Light Duty Vehicles (LDV) Emissions for High Speed and Speed Control in g/km



- A.3.11 As can be seen from Plate A.2 emissions reduce between High speed and 70mph, with 60mph enforced resulting in the lower emission rate.

- A.3.12 Based on National Highways research (which includes use of data from vehicle emissions and surveys of vehicle dynamics on the motorway) reducing the speed limits below 60mph to for example 50mph would not result in a reduction in emissions further and therefore is not considered a viable mitigation option on roads operating at 70mph on the strategic road network.

Annex B Post-hearing submissions

B.1 Introduction

- B.1.1 This section provides the post-hearing submissions from Compulsory Acquisition Hearing 5 (CAH5) on 21 November 2023 for the A122 Lower Thames Crossing (the Project).
- B.1.2 These are provided in order of the agenda, however it is acknowledged that this is not the order of proceedings on the day of the hearing.

B.2 Bellway Homes Ltd - position statement

- B.2.1 At Compulsory Acquisition Hearing 5 on 22 November 2023 the Applicant and Bellway Homes Limited ('Bellway') agreed to provide an update on the position in relation to matters raised.
- B.2.2 Table B.1 below sets out the agreed final position between Bellway and the Applicant. At Deadline 2 the Applicant has responded in detail to all the matters raised by Bellway, this can be found in Comments on WR – Appendix F – Landowners [[REP2-051](#)] pages 6-9. Since Deadline 2 the Applicant has offered the dedication agreement in relation to WCH routes to affected landowners and has provided an update in relation to the decommissioning of Barking Power pipeline. In relation to all other matters the Applicant's position remains unchanged. The reference to Bellway's Written Representation is [[REP1-312](#)].

Table B.1 Agreed final positions

| Item | The Applicant's position | Bellway's position |
|--------------|--|---|
| Noise | <p>The proposed earthwork bund introduced at Local Refinement Consultation in 2022 would provide additional screening to the surrounding area, reducing the predicted increase in noise compared to the previous proposals. The opening year noise change contour (see ES Figure 12.7: Opening Year Noise Change Contour (DSOY minus DMOY) [APP-315]) shows the predicted change in noise levels. The ES Figure 12.6: Operational Road Traffic Noise Mitigation [APP-314] (sheet 4) presents the embedded earthworks noise mitigation considered in the noise model and the low noise road surfacing proposed.</p> <p>There are no acoustic barriers proposed in this section of the new</p> | <p>Bellway's concerns remain over the effects of the noise associated with the operational stage of the LTC upon the Bellway option land. This, if unmitigated, will likely limit the extent of residential development in some areas (principally the north of the land) and increase construction costs associated with the need to mitigate the noise levels. National Highways has responded to Bellway on this point, however, this remains a concern. Additional mitigation in the form of acoustic barriers has been discounted by National Highways as being unnecessary in this area.</p> <p>Bellway Homes Ltd needs to be satisfied that sufficient noise mitigation will be delivered, in order to prevent the LTC from prejudicing Thurrock</p> |

| Item | The Applicant's position | Bellway's position |
|-----------------|---|---|
| | <p>road; several barrier options were considered in ES Appendix 12.10: Road Traffic Noise Mitigation and Cost Benefit Analysis [APP-450] (see options 16, 17, 18 and 19) but were not appropriate due to landscape and visual, and cultural heritage constraints.</p> <p>The Bellway option land is not considered in the ES Chapter 12: Noise and Vibration [APP-150] as assessments have been made to the nearest existing receptors, hence why Barrier Option 19 was scoped out of the ES Appendix 12.10: Road Traffic Noise Mitigation and Cost Benefit Analysis [APP-450]. The development was considered in ES Appendix 16.2: Short List of Developments [APP-484], pages 123–125, however no detailed information was available on the proposed development at the time of the Development Consent Order (DCO) submission and the development had no planning status, therefore it was not possible to draw any firm conclusions. The Bellway development currently still has no planning application or formal allocation in the Thurrock Local Plan. However, the Applicant is proposing all feasible steps to mitigate the noise impacts of the new road in this section.</p> | <p>Council's housing growth aspirations for South Ockendon, particularly in relation to the Bellway Homes option land. We welcome further assurances from National Highways to ensure Bellway are satisfied that the noise impacts will not impact development of this land and understand that National Highways will consider providing additional noise mitigation should Bellway's proposed Scheme continue to advance and become more certain in the time up to the start of construction of the LTC.</p> <p>As the Bellway Option land is proposed as a site to be allocated for housing and associated uses in Thurrock Council's draft local plan, this demonstrates that Bellway's Scheme is becoming ever more certain. Subsequently, Bellway requests that National Highways proposes additional noise mitigation for Bellway's consideration. On this point Bellway requests a Land Works Agreement, to be made between Bellway and National Highways with a view to ensuring that both Schemes can come forward with as little negative impact upon the other as possible.</p> |
| Drainage | <p>Regarding the drainage of the option land area to the north of the Project and to the west of North Road, the 'northern parcel', the Drainage Plans (Volume C) [REP7-076] (Sheet 42) outlines the drainage proposed in this area where a new culvert is proposed, Work No. 9W (see the draft DCO [REP7-090]), to provide appropriate drainage. Further engagement with the landowner in relation to this element of the works is ongoing and detailed issues would be considered by the Contractors in due course.</p> <p>There is no foul water pipeline along this section of North Road; it would be for a future development to undertake works to connect to a foul water network.</p> | <p>The LTC, as it is currently proposed, will sever the existing watercourse drainage that serves the northern parcel within Bellway's option land. This currently drains via a number of ditches and drains in a southerly direction under the proposed LTC. Therefore, to prevent the northern parcel being completely sterilised, suitable surface water and foul drainage must be provided by National Highways to ensure that its existing uses can continue and to allow for its future development.</p> <p>Also, appropriate legal rights must be granted over any land that is to be transferred to National Highways to facilitate this drainage and to ensure its ongoing maintenance. Subsequently</p> |

| Item | The Applicant's position | Bellway's position |
|---|--|---|
| | <p>The Applicant, via engagement with both Anglian Water and Thames Water understands that there is no existing foul water network located within North Road at the point the A122 intersects. As such no provisions for foul water diversions have been made. The Applicant does not believe its own proposals would preclude the installation of a suitable network to be developed and installed as part of a future Bellway development. If Bellway design their foul and storm water networks and notify the Applicant in advance of the A122 and North Road works commencing, the projects could collaboratively work together to undertake those interfacing works.</p> | <p>Bellway requests that National Highways provides an assurance that they will provide the landowners within Bellway's option with the necessary legal rights.</p> <p>National Highways has since confirmed their intention for the ditch alongside the LTC to take surface water flows from the "northern parcel" of the site and that further engagement with the landowner is expected to occur. However, Bellway remains concerned that the discharge rate of the existing land may not have been taken into account within the design of the drainage ditch. Therefore, confirmation is required that the ditch can take the predicted flows and allow for drainage from the northern parcel and that suitable conduits will be provided under the LTC to allow for both surface and foul water flows in the future as there are thought to be no suitable alternative surface water discharge points or foul sewer networks north of the proposed LTC route.</p> <p>Bellway does welcome National Highways confirmation that they will work collaboratively with Bellway in relation to any interface between the two projects and will develop proposals for surface and foul water drainage for the proposed development of their Option site in due course, which will be shared with National Highways to enable this to take place.</p> |
| <p>New route for walkers cyclists and horse riders (WCH)</p> | <p>The proposed WCH route to the east of North Road is located on land not subject to the Bellway option. However, the Applicant is aware of development proposals promoted on that land by others and of the design interface between the two proposals. The Applicant has offered a WCH dedication agreement to the affected landowner and will work with all parties to avoid any issues with ownership of such routes impacting on future development proposals.</p> | <p>As outlined above, Thurrock Council proposes to allocate the Bellway Option land and therefore Bellway objects to National Highways proposed permanent acquisition of land to deliver a Public Right of Way between the LTC and the northern edge of the existing built-up area of South Ockendon, as they do not believe it is necessary and it could prevent the delivery of housing on the Bellway Option site as well as the land promoted by EASL which is proposed as a reasonable alternative site for housing by Thurrock Council. To</p> |

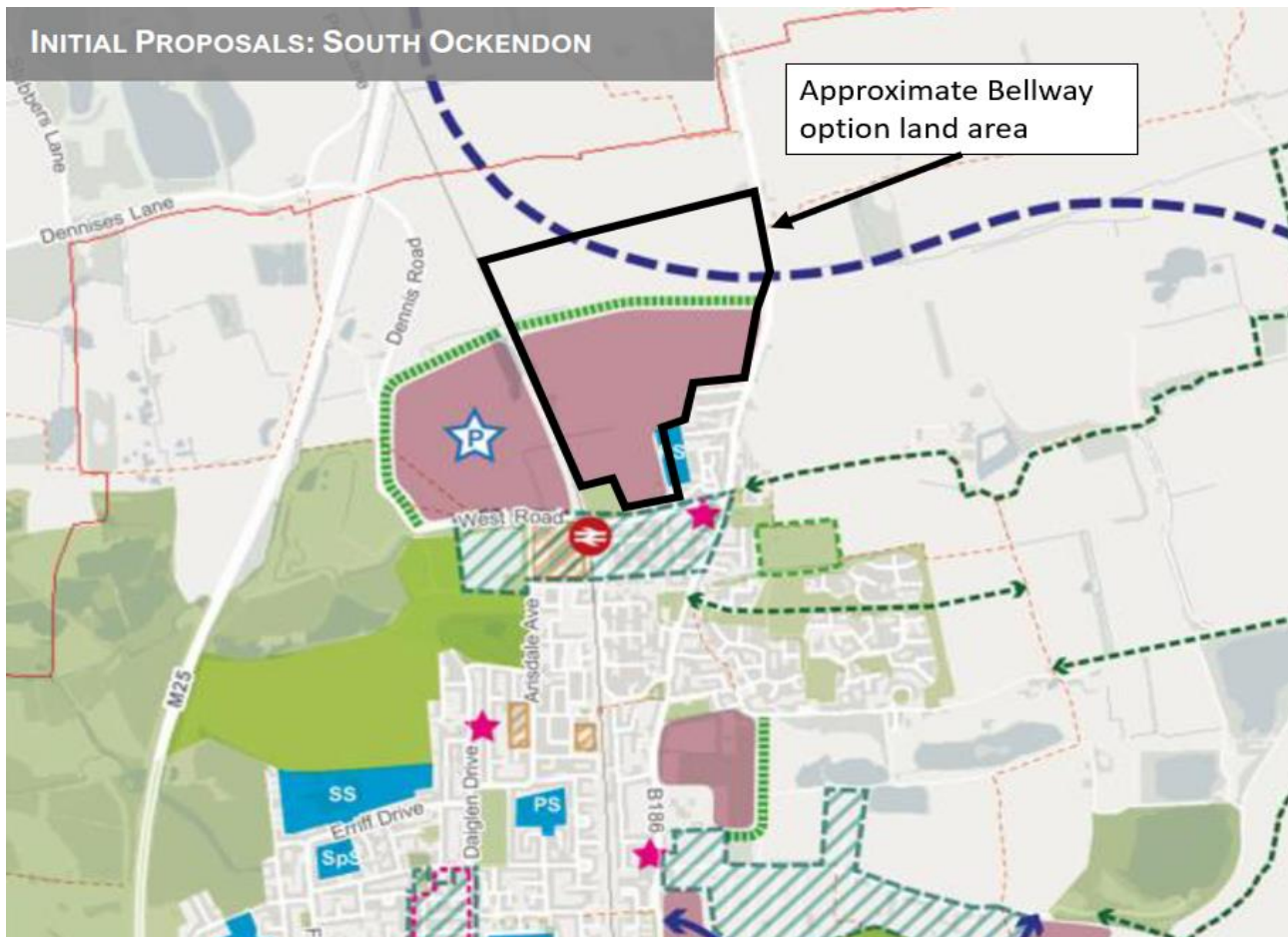
| Item | The Applicant's position | Bellway's position |
|--|--|--|
| | | <p>summarise, the proposed PROW would prejudice the construction of the new roundabout that is proposed to be constructed on North Road to serve significant housing-led developments to the west and east of North Road.</p> <p>If the PROW is to be approved and the land for the PROW has to be compulsorily acquired by National Highways, appropriate legal rights must be granted to the landowners for them to divert the PROW and to construct the proposed new roundabout and associated infrastructure that is needed to serve these developments and to maintain, transfer and dedicate the Roundabout and diverted PROW to the Highway Authority.</p> <p>In this regard Bellway welcomes National Highway's offer of a voluntary agreement to ensure that these future developments are not prejudiced. However, it is critical that this is secured by agreed Statements of Common Ground well in advance of Planning Permission being granted for the LTC.</p> |
| <p>Barking Power Limited gas pipeline</p> | <p>The Applicant understands that the section of gas pipeline in this section of the Project has been filled with grout this summer. There has been no official notice that the pipeline has yet been fully decommissioned. The Applicant will liaise with Bellway when this notification has been received.</p> | <p>We understand from National Highways that Barking Power Limited (BPL) expected to grout fill and complete the abandonment of BPL Gas Pipeline themselves in summer 2023 but that it has not yet officially been decommissioned. We also understand that National Highways proposed to cap the gas pipeline at the locations within the order limits and to remove it. Bellway would be grateful for a progress update on these from National Highways as soon as possible.</p> <p>Bellway also request that any diverted Gas Pipeline is provided with upgraded encasing so that consultation zones can be minimised to allow for the most efficient use of potential development land. Confirmation on this from National Highways would be much appreciated.</p> |

| Item | The Applicant’s position | Bellway’s position |
|-------------------------------|---|--|
| Northern Parcel Access | <p>Current accesses to the parcel of land to the north of the Project, west of North Road would be retained in their existing locations.</p> <p>It would be for Bellway to develop and secure permissions for any accesses proposed in the future that would require an intensification of use.</p> <p>The Applicant notes that the Northern Parcel was not included in the Regulation 18 initial proposal or alternative option published by Thurrock Council on 30 November 2023 (see B.3 below).</p> | <p>National Highways has verbally confirmed that access to the northern parcel from North Road will not be compromised by their proposed land ownership rights relating to Multi-Utility Corridors in this area. Bellway thanks National Highways for this and requests written confirmation/assurance for this as soon as possible.</p> |

B.3 Bellway Homes Ltd – The Applicant’s comments regarding Regulation 18

- B.3.1 Thurrock Council published a document titled Local Plan - Initial Proposals Consultation (Regulation 18), (Thurrock Council, 2023a) as part of the proposed Regulation 18 consultation process on the 30 November for consideration by Full Council on the 6 December 2023. In Appendix A – Thurrock Local Plan Initial Proposals (Thurrock Council, 2023b) a plan on page 82 illustrates the initial proposals for South Ockendon.
- B.3.2 Plate B.1 below shows an illustrated extract of the plan, which identifies a proposed ‘New Neighbourhood’ shaded dark pink within part of the Bellway option land area, which is outlined approximately by a black line.

Plate B.1 Illustrated extract from Thurrock's Local Plan Initial Proposals



B.3.3 It should be noted that the Local Plan is at an early stage and therefore there remains a high degree of uncertainty relating to the development potential of the site. It is further noted that the potential Local Plan allocation (shaded dark pink) is to the south of the proposed A122 and excludes the 'Northern Parcel' of Bellway's option land area as referred to in Table B.1 above.

B.4 Whitecroft Care Home – Clarification on monitoring and maintenance of low noise road surfacing

B.4.1 The Applicant's previous response regarding monitoring and maintenance of low noise road surfacing was set out in ExQ1_Q9.4.8 within Deadline 4 Submission - 9.89 Responses to the Examining Authority's ExQ1 Appx E - 9. Noise & Vibration [[REP4-192](#)].

B.4.2 The Applicant's response regarding surface renewal and monitoring of its noise emission performance is set out in 9.196 Applicant's comments on Interested Parties' submissions at D7 [**Document Reference 9.196**] submitted at Deadline 8.

B.5 Whitecroft Care Home – Local resilience and capacity

- B.5.1 Without prejudice to the Applicant’s position that the construction of the Project does not require the closure of Whitecroft Care Home, should the Applicant purchase Whitecroft Care Home from Kathryn Homes Ltd by agreement, any residents of the care home would be relocated. The Applicant understands that the owner’s intention is for the reprovision of the capacity provided at Whitecroft Care home. In the event that the 56 bed spaces at Whitecroft Care Home are permanently lost, this would be offset by the new care home bedspaces proposed in Thurrock, detailed below.
- B.5.2 The South Essex Housing Needs Assessment (Turley, June 2022) identifies a need for 169 new care home bedspaces (Table 7.4) in the Thurrock Council area for the period 2020-2040.
- B.5.3 There are already several known proposals for new care home provision in Thurrock that would substantially help to meet the identified need for new care home bedspaces over the period 2020-2040, noting it is only 2023.
- B.5.4 Application reference 19/01662/FUL proposes a 64-bed residential care home with dementia facilities (Use Class C2) at the Langdon Hills Golf and Country Club. The application was approved 21 September 2022. Application reference 23/00853/FUL proposes a residential development including a 77-bed care home which is currently awaiting determination. These applications, summarised in Table B.2 below, would provide a total of 141 new care home bedspaces in Thurrock.

Table B.2 Summary of care home planning applications and approvals

| Reference | Description | Location | Applicant | No. of care home beds | Date Application Received | Status |
|------------------------------|--|----------------------------|-------------------------|-----------------------|---------------------------|--------------------------------------|
| 19/01662/FUL | Hybrid application for the redevelopment of Langdon Hills Golf and Country Club including a 64-bed residential care home with dementia facilities (Use Class C2) | Bulphan, RM14 3TY | Rishco Leisure Ltd | 64 | 7 November 2019 | Approved 21 September 2022 |
| 23/00853/FUL | Residential development comprising 97 dwellings (Use Class C3), a care | North Stifford Grays Essex | Clowes Developments Ltd | 77 | 7 July 2023 | Awaiting Decision Determination date |

| Reference | Description | Location | Applicant | No. of care home beds | Date Application Received | Status |
|-----------|---|----------|-----------|-----------------------|---------------------------|---------------|
| | home (Use Class C2), new access, landscaping, parking, SuDS, public open space, children's play area and associated works | | | | | December 2023 |

B.6 Partners LLP and S&J Padfield Estates - Progress of agreement

B.6.1 A draft legal agreement was shared with Mr Padfield's legal representative on 30 October 2023 in relation to Mr Padfield's non-Brentwood Enterprise Park (BEP) matters. No comments or feedback have yet been received as progress has been focused on the St Modwen / BEP agreement. A meeting is scheduled for 6 December 2023 to progress and it is hoped that terms can be agreed and the agreement signed early in 2024. The Examining Authority would be informed once the agreement has completed.

B.7 Partners LLP and S&J Padfield Estates - consider legal arguments on amending previous CPOs

B.7.1 The Applicant responded to legal arguments regarding the existing access from junction 29 of the M25 in Comments on WR – Appendix F – Landowners [[REP2-051](#)] pages 78-80.

B.8 Mr Stuart Mee and Family - Provide clarity on water monitoring issue

B.8.1 The Applicant has undertaken a detailed water balance study to understand the source of water at the Manor Farm Irrigation reservoir and to estimate water inflows and outflows to determine the overall monthly and annual changes in storage within the reservoir.

B.8.2 In the development of the scope of this workstream, the Applicant carried out consultation with both the Environment Agency and with the Mee Family's independent irrigation specialist consultant advising the landowner on these matters (Sustainable Water Solutions). As part of the assessment, a flow meter was installed within the exit of an existing culvert under the M25, near Pea Lane. This meter allowed the recording of the flow rate of water flowing from east to west towards the Manor Farm storage reservoir and represented an

acceptable position to capture all land drainage to the east of the M25. The location and instrument type were specifically agreed by the landowner's irrigation advisor in an email to the Applicant dated 28 October 2022.

- B.8.3 The Applicant will continue to engage proactively with the landowner and their representatives on flow monitoring matters. This has previously included sharing the outcome of the technical studies (e.g. the 'Manor Farm Water Balance Report' and 'Manor Farm Options Report' (both currently non application documents) and addressing feedback. This approach was confirmed in a joint statement from the Mee Family and the Applicant to the Examining Authority at Deadline 5 [\[REP5-125\]](#) stating that the parties were in broad agreement with the content of the 'Manor Farm Water Options Report'.

B.9 Mr Stuart Mee and Family - Signpost to Agricultural impact assessment & review economic appraisal document as regards to assessment on land use

- B.9.1 Within ES Chapter 10: Geology and Soils [\[APP-148\]](#), the Applicant assesses the likely significant effects of the Project on soil resources and agricultural land quality, including Best and Most Versatile (BMV) (Grades 1, 2 and 3a) land. Within ES Chapter 13: Population and Human Health [\[APP-151\]](#), the Applicant assesses the potential impacts of the Project on businesses and agricultural land holdings in line with Section 3 of DMRB LA 112 - Population and human health (Highways England, 2020). Consideration has been given to the type, location and number of agricultural holdings from which land will be required or access affected; issues relating to severance / accessibility restrictions; and the level of use of agricultural holdings and assets within the study area.
- B.9.2 Mr Mee's landholding is identified as GRP023 in ES Chapter 13 - Population and Human Health [\[APP-151\]](#) (Tables 13.21, 13.62, and 13.63), and is shown within 6.2 Environmental Statement - Figure 13.5 - Agricultural Landowners [\[APP-321\]](#). Mr Mee's landholding (GRP023) would be affected temporarily during construction and permanently (once land required temporarily has been reinstated). In both instances, the magnitude of impact is considered to be moderate, resulting in a slight adverse effect. However, multiple parcels of arable land would be accessed from the local highway network and farm access tracks, therefore the impact of severance and the extent to which the land remains accessible is not considered to be significant.
- B.9.3 Mitigation in relation to farm access during construction is set out within the 7.21 Stakeholder Actions and Commitments Register (SAC-R) v4.0, where SAC-R commitment 005 requires *"Where access to a significant area of a landowner's farmland is severed by construction works, the Contractor shall ensure that the farmer is provided with controlled access to their retained land."*

The Contractor shall discuss with the landowner their reasonable access requirements and use reasonable endeavours to agree such access”.

- B.9.4 The Project’s appraisal of impacts that are expressed in monetary terms and included in the Benefit-Cost Ratio (BCR) assumes fixed land use i.e. there is assumed to be no change in land use due to the Project.
- B.9.5 However, the appraisal also includes impacts of the Project on landscape. These impacts are expressed in monetary terms but, in line with Transport Analysis Guidance (DfT, 2023a), are not included in the BCR and are qualitatively appraised. The appraisal also includes evidence about the potential for Wider Economic Impacts based on changes in land use.
- B.9.6 The Combined Modelling and Appraisal Report Appendix D: Economic Appraisal Package: Economic Appraisal Report [[APP-526](#)] includes a monetised appraisal of landscape impacts (Section 10.6). This includes the impact of the Project on existing land types, in terms of length and area, and applies monetary values for different land types (green belt, forested land, agricultural land etc) to the areas impacted.
- B.9.7 The Combined Modelling and Appraisal Report Appendix D: Economic Appraisal Package: Appraisal Summary Table Report [[APP-524](#)] includes a qualitative appraisal of landscape impacts. This considers includes a range of existing landscape features (which are described in terms of their pattern, tranquillity, cultural associations and landcover) and for each landscape feature the appraisal assesses its scale, rarity, importance, substitutability and the impact of the Project on that feature including mitigations.
- B.9.8 In terms of Wider Economic Impacts, the appraisal includes a range of socio-economic contextual evidence about the potential for Wider Economic Impacts based on changes in land use. However, the nature and scale of any land use change is not assessed or quantified.

B.10 Mr Stuart Mee and Family - Provide clarity on PCF process

- B.10.1 The Project Control Framework (PCF) is an accepted National Highways and DfT approach, designed to set out how National Highways manages and delivers Major infrastructure projects developed collaboratively between internal and external stakeholders. The framework is designed to be flexible and where justifiable, activities can be brought forward or moved back to enable projects to prioritise and manage risk more effectively. For the avoidance of doubt, PCF is internal guidance only.
- B.10.2 Stage gate assessment reviews provide basic assurance that the stage is complete within tolerance of time, cost and quality and is ready to proceed to

the next stage, considering risks at that time subject to investment authorisation.

- B.10.3 It is best practice to appoint a principal contractor early, prior to notice to proceed and commencement of the construction phase (stage 6) to allow time to plan the works and appoint a principal designer for the remainder of their appointment for the purposes of designing, planning, managing, monitoring, and coordinating the pre-construction phase (stage 5).

B.11 Mr Stuart Mee and Family - Access to Hobbs Hole

- B.11.1 The ponds (covering approximately 0.7 hectare) are located outside the Order Limits to north of Hobbs Hole Field (Plot 43-04) and to the south of Forestry England land at Thames Chase Forest Centre (Broadfields Farm). They will be retained by Mr Mee and are currently accessed across the top of Plot 43-04 from a nearby public road called Pike Lane.
- B.11.2 The Project requires Plot 43-04 for the dual purposes of ecological mitigation and replacement open space. As such, the freehold of the land will be transferred to Forestry England as open space land under the provisions of s131 Planning Act 2008.
- B.11.3 Mr Mee's ponds would therefore become 'severed' from his holding and all public access routes. There is currently no provision for such access within the draft DCO.
- B.11.4 In light of the above, the Applicant is willing to reserve a right of access in favour of Mr Mee along the existing route from Pike Lane. The Applicant is confident that such a right would not make the land 'less advantageous' in the context of s131 of the Planning Act 2008. Forestry England is, in principle, in agreement with this approach, subject to detailed design and heads of terms of any easement.

B.12 Mr Stuart Mee and Family – Applicant's position on construction timing and temporary road closures

- B.12.1 The Applicant has engaged in consultations with Mr. Mee on multiple occasions to understand his requirements and determine the best ways to minimise the Project's impact. A side agreement has been drafted, outlining access arrangements during construction in alignment to what is secured in the DCO application. For the construction activities that will affect access to Mr. Mee's land, to maintain his farming operations, the Applicant is committed to providing controlled access to the farm's land affected by the Project's construction works. This commitment is secured in the Stakeholder Actions and Commitments Register under SACR-005 [\[REP7-152\]](#). In instances where existing access might be severed by construction activities, an alternative

access will be provided, potentially involving the creation of new land entrances as part of the Project's proposed works. The specifics of when access would be severed and alternative access provided will be developed during the construction phase, once the detailed design and associated construction methodology are known.

- B.12.2 Concerning Mr. Mee's farm shop, which will be affected by the closure and temporary traffic management required on Ockendon Road, the Applicant has committed to ensuring a suitable diversion route is in place. At this stage, the Applicant has proposed a diversion route, illustrated in Plate 4.13 of the outline Traffic Management Plan for Construction [[REP7-148](#)], which ensures continued access to Mr. Mee's farm shop. The final determination of the diversion route will be made through discussions with the local highway authority closer to the time, considering various factors such as other works in the nearby area that may be external to the Project. In addition, the Applicant has committed in the side agreement with Mr Mee to providing controlled access for farm operations during the closure of Ockendon Road.
- B.12.3 Formal engagement on this matter will occur through the Traffic Management Forum, where Mr. Mee, as a major landowner, will be invited to consult on Traffic Management Plans related to access impacts on his land or shop, aligning with the provisions outlined in the side agreement. Additionally, there will be other channels of engagement to address day-to-day matters, including for the controlled access for farm operations during the closure of Ockendon Road, and will be outlined in the Engagement and Communication Plan and detailed in Section 5.2 of the Code of Construction Practice [[REP7-122](#)].

B.13 St John's College Cambridge - Responding to comments within the hearing

- B.13.1 St John's College's representative raised a number of points during the hearing. The Applicant has attempted to address each point below.
- B.13.2 *Potential mitigation measures have not been fully considered (e.g. the use of speed controls; barriers; site management to remove biomass), and compensation is not considered appropriate (e.g. individual site-based measures versus landscape-scale habitat creation).*
- B.13.3 Regarding potential measures which might mitigate adverse effects of nitrogen deposition on designated sites, the Applicant considers mitigation to be measures which would avoid or lessen the impact from nitrogen deposition. Where mitigation isn't possible, any measures proposed to offset an impact would be considered as compensation.
- B.13.4 DMRB LA 105 (Highways England, 2019) clearly sets out the mitigation measures available to address increased nitrogen deposition on designated

sites. These were considered by the Applicant and are detailed with the Project Air Quality Action Plan [[APP-350](#)], section 6, together with other proposals for potential mitigation measures which were raised by the Applicant or in discussion with Natural England. Table 6.1 summarises these measures and provides consideration of their effectiveness as mitigation. This includes consideration of speed limit reduction and speed enforcement measures at paragraphs 6.2.5 – 6.2.33 inclusive.

- B.13.5 Regarding targeted management measures at individual sites, the principal requirement for these would be that they should be in addition to the standard management requirements of the site to be considered as addressing the adverse effects of nitrogen deposition. Measures such as appropriate grazing or cutting regimes to either remove biomass or prevent target species being outcompeted by non-target species, management of recreational pressures and control of invasive species would be considered standard management requirements and so would not be appropriate to offset adverse effects.
- B.13.6 Although the suggestion for constructing the section of A2 as it runs adjacent to Shorne and Ashenbank Woods SSSI using a cut and cover technique was not included within Section 6 of the Project Air Quality Action Plan, it is acknowledged that it would provide a barrier effect for nitrogen deposition. However, it would have significantly greater adverse effects on both the SSSI, associated ancient woodland habitat and the Kent Downs AONB than the current design. It would also significantly increase carbon emissions during construction. It was therefore discounted as a mitigation option.
- B.13.7 Regarding compensation measures to offset adverse effects of nitrogen deposition on designated sites, these are considered in detail in Section 7 of the Project Air Quality Action Plan, which assesses the efficacy of three possible approaches:
- a. Measures employed at the adversely affected sites to address specific site-based impacts.
 - b. Measures employed on land immediately adjacent to affected sites to offset specific site-based impacts.
 - c. Measures employed at a landscape scale to create comparable habitats to those affected and use this to build resilience within the ecological network of habitats within which the affected sites are located.
- B.13.8 Following lengthy discussions with Natural England, it was agreed that a landscape-scale approach was the most appropriate in terms of providing assurance around the adequacy and efficacy of the compensation. This is recorded in the Statement of Common Ground between the Applicant and Natural England [[REP5-039](#)] at Item 2.1.98. Given this is the Applicant's

position, and supported by Natural England, it is not necessary or appropriate to include a clause within the DCO which makes the compulsory acquisition of land for nitrogen deposition compensation purposes dependent on demonstrating that measures to manage individual sites, which have already been considered and discounted within the Project Air Quality Action Plan due to concerns around their effectiveness, are indeed ineffective.

- B.13.9 *Halfpence Lane: what is the change in traffic volume along Halfpence Lane, and what is the absolute value of nitrogen deposition there?*
- B.13.10 The change in nitrogen deposition in the area of Halfpence Lane are as a result of the changes in traffic flows and construction of additional roads as a result of the Project. Traffic flows on Halfpence Lane in 2030 are predicted to be around 6,000 Annual Average Daily Traffic (AADT) without the Project and predicted to reduce to around 4,000 AADT as a result of the Project.
- B.13.11 However, given the much higher traffic flows on the A2 and the A2/M2/A122 Lower Thames Crossing junction (around 200,000 AADT) and the additional/realigned roads, these roads would be the dominant source of emissions in the area and therefore have a greater influence on changes in nitrogen deposition. The maximum change in nitrogen deposition modelled within that area being 0.44kg/N/Ha/yr, which exceeds the threshold for further ecological assessment as set out in DMRB LA 105 (Highways England, 2019).
- B.13.12 *With future trends in nitrogen deposition predicted to decrease, why is the Project considered to have adverse effects on designated sites? Also explain how the extent of a designated site was calculated given there is no gradient of effect shown and some sites such as Shorne and Ashenbank Woods SSSI include areas of hardstanding / development within their boundary.*
- B.13.13 It is recognised that as the fleet transitions to electric, particularly cars and vans, this will mean that emissions of NO_x and NH₃ from road transport will continue to reduce in the future, and therefore the roads contribution of nitrogen deposition on designated sites will decrease over time. The designated sites air quality assessment [[APP-403](#); [APP-404](#); [APP-405](#); [APP-406](#)] considers the change from the Do Minimum scenario (i.e. without the Project) to the Do Something scenario (with the Project) in recognition of the fact that, although future trends are predicted to see a decrease in nitrogen deposition, the Project contribution would see a delay in this decrease. The duration of this delay, and the possible reversibility of the impact, is therefore one of the factors taken into account when considering the characterisation of the impact of Project-related nitrogen deposition on all designated sites screened in for ecological assessment. This is detailed in [[APP-403](#)], Section 2.7. Durations of 15 years or more are considered permanent and irreversible impacts on a designated site and are assessed accordingly.

- B.13.14 The characterisation of impacts also includes as assessment of the extent of the nitrogen affected area at each site. This was calculated using modelled transects perpendicular to the Affected Road Network extending 200m into the designated site. For each transect, the first point at which nitrogen deposition fell below the threshold value of 0.4kg N/ha/yr was identified and an affected area created parallel to the relevant road section. This was used to calculate the extent of the site affected by increased nitrogen deposition as part of the impact characterisation process.
- B.13.15 In calculating the extent of the nitrogen affected area the published boundary data for each site was employed. It is recognised that some sites' boundaries will include areas that aren't semi-natural habitats such as hardstanding, tracks and, in some cases such as Shorne and Ashenbank Woods SSSI and Ockendon Railsides SINCR, a railway line. These areas were not excluded from the calculation of extent as they form part of the designated site and may provide some ecological function within the site, for example the aggregate used as track bedding may function as shelter or hibernating sites for amphibians, reptiles and invertebrates associated with the site. However, it is recognised they form a very small percentage of the overall area of a designated site and so their inclusion is considered appropriate.
- B.13.16 In terms of the magnitude of impact, this took the highest measure of nitrogen deposition within the nitrogen affected area and used that as part of the impact characterisation rather than considering a gradient of decreasing nitrogen deposition with distance from the road. This approach was considered suitably precautionary to inform the magnitude element of impact characterisation.
- B.13.17 *The Applicant has employed inadequate weighting to impacts on best and most versatile agricultural land as part of their analysis of suitable compensation sites.*
- B.13.18 The Applicant identifies the presence of Agricultural Land Classification Grades 1 and 2 as constraints to site selection in the Project Air Quality Action Plan (paragraph 7.4.20 and Table 7.5). Where areas of higher grade land have been included in the site selection, Chapter 10 – geology and soils [[APP-148](#)] fully assesses the potential adverse effects on best and most versatile agricultural land.
- B.13.19 *Explain what it is that the quantum of land the Applicant seeks to acquire achieves as distinct to the objective of connectivity.*
- B.13.20 As reported in the Project Air Quality Action Plan [[APP-350](#)], the two key principles for the compensation strategy are:
- a. The creation of new wildlife-rich habitats, predominantly woodland and grassland, to provide an area comparable to that which is adversely

affected as a result of nitrogen deposition on designated sites. This acts to offset the degradation of these designated habitats.

- b. The establishment of newly created wildlife-rich habitats in locations which link into and join up existing semi-natural habitats. This acts to build resilience and coherence into the ecological network.

- B.13.21 The landscape-scale strategy proposed by the Applicant for mitigation and compensation measures aligns with the provisions of the Environment Act 2021. The associated Environmental Improvement Plan promotes Nature Recovery Networks to support the aim of creating wildlife-rich habitats outside protected sites which expand the buffers on those sites and connect up these areas allowing populations to move and thrive; the joint principles of more habitats that are better connected. Paragraph 5.20 of the National Policy Statement for National Networks (Department for Transport, 2014) also promotes similar objectives through habitat connectivity as it seeks to provide biodiversity gain through establishing more coherent ecological networks which are more resilient to future pressures.
- B.13.22 These two principles are therefore not mutually exclusive. The value of the compensation proposal comes from achieving both in tandem: new high quality habitats which build resilience in the ecological network. Creating isolated pockets of new habitat or just strengthening existing links between retained habitats would not be sufficient to adequately compensate the adverse effects from the Project. This approach has been developed in discussion with Natural England and they record their support for it in their Statement of Common Ground with the Applicant at Item 2.1.62 [[REP7-106](#)] (Document updated at Deadline 7).
- B.13.23 The SJC land offers the potential to create an area of wildlife-rich habitat that would provide connections into retained woodland habitats to the north (The Warren), the east (Court Wood and Cole Wood), the south (Starmore Wood and Cole Wood) and to the west (unnamed woodland which links into Fen Wood further west). The connectivity the SJC provides not only connects those woodlands, building resilience into the network of ecological habitats at a landscape-scale, but creates further links between Shorne and Ashenbank Woods SSSI and Great Crabbles Wood SSSI, strengthening the network of SSSIs. The connectivity at SJC land is reported in the Project Air Quality Action Plan at Plate 7.19 [[APP-350](#)].
- B.13.24 *Can the Applicant explain why it won't implement clean air zones, low emission zones or changes to management of roads on its local network under its DCO powers?*
- B.13.25 The Applicant has no existing powers to implement measures that would require charges to be imposed for the use of the strategic road network such as

the management of air quality via a Charging Clean Air Zone or low emission zone, where not in connection with a local authority-led CAZ charging scheme.

- B.13.26 Moreover, there is no policy support for using charging in this way in the existing National Policy Statement for National Networks (DfT, 2014), nor in draft revised National Networks National Policy Statement for National Networks (DfT, 2023).
- B.13.27 Enforcement of driving offences on the strategic road network such as speeding is managed and enforced by the police, including the issuing of any charges.
- B.13.28 As the Applicant has no existing powers to manage and execute any form of charging, inclusion of such a provision in the DCO for the Project would not be appropriate, nor deliverable.
- B.13.29 *Ongoing discussions on voluntary acquisition of St John's College land*
- B.13.30 The Applicant is happy to continue discussions with St John's College around voluntary acquisition of its land to form part of the nitrogen deposition compensation requirements of the Project and has issued its standard voluntary agreement Heads of Terms for consideration.

B.14 St John's College Cambridge - Applicant's clarification in response to comments on engagement

- B.14.1 St Johns College (SJC) made submissions that there had been limited recent engagement with the Applicant. The Applicant does not agree with this characterisation. The Statement of Common Ground [[REP4-282](#)] sets out a more detailed timeline of engagement at item 2.1.9, with a summary below.
- B.14.2 The Applicant has been directly engaging with SJC since February 2020. The Applicant accommodated a design request from SJC and modified its Order Limits to move the majority of ancient woodland compensation from north of Shorne Ifield Road to the south of Shorne Ifield Road, being plots 10-01 and 11-77 which are contiguous with Shorne Woods Country Park.
- B.14.3 Since the introduction of Nitrogen Deposition land at Swillers Farm, the Applicant has met the landowner's representatives on five occasions to explain its approach to site selection and its Project Air Quality Action Plan, and to discuss a voluntary agreement for the Swillers Farm land.
- B.14.4 As part of those discussions, the Applicant has considered whether alternative compensation proposals at Swillers Farm would be acceptable, including a counter proposal made by SJC in July. The Applicant has ultimately concluded that an alternative layout involving less land is not possible because any reduction of land would affect the quality of connection between the currently

severed habitats and ultimately compromise the stated objectives. The Applicant communicated this decision to SJC on 15 November 2023.

- B.14.5 The Applicant had a further meeting with SJC on 30 November 2023 to discuss the prospect of a voluntary option agreement in relation to their land within the Order Limits. The Applicant is awaiting a response from SJC on the headline terms of the proposed option.

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