

Lower Thames Crossing DCO

Gravesham Borough Council

(IP ref: 20035747)

Deadline 8 (D8)

For receipt by the ExA of:

- Post-event submissions, including written submission of oral comments made at the hearings held 20 to 28 Nov 2023 (if held)
- Comments on RIES (if issued)
- Comments on ExA's DCO/Commentary (if issued)
- Responses to further ExQ (if issued)
- Applicant's submission of updated s106 agreement(s) and any other updated legal agreements
- Updated SoCGs (if updated)
- Updated PADSs (if updated)
- Applicant's submission of documents requested
- Comments on Applicant's submissions at D7
- Comments on any information requested by the ExA and received by D7 or CA Regs D2
- Any further information requested by the ExA under Rule 17 of the EPR

Note: The Kent Downs AONB has been rebranded as Kent Downs National Landscape. For consistency with previous submissions the old name has been used given the late stage in the process to avoid confusion.

ISH Submissions

ISH11 Environmental Issues

Items 4, 5, 8 & 14 – agenda item 3 points except as below

Appendix 1a Responses to points 4, 5 & 14

Appendix 1b Response to point 8

Appendix 1c Green Bridge Design Principles

Note: These also cover responses to EXQ_11.1.5-11.1.7

3)b)ii. Are there any areas across the Proposed Development where operational lighting would have a significant landscape effect and are there any mitigation measures that could minimise the effect? The 'Environmental Lighting Zones' document [APP-199] may prove useful to aid this part of the discussion

A2/M2 is already lit, as are the urban roads within Gravesend. It is reasonable to assume that the direct street lighting, using the latest technology, will be no worse than what is already present along the A2, and may indeed be better. Stray light from vehicles will increase as a result of the increased traffic from Marling Cross eastwards. A122 and its junction with the A2 will produce a significant new light intrusion from both lighting of the road itself and vehicles, though east of Thong Lane it is in an ever deepening cutting.

3)b)v. The ExA would like an update on the draft S106 Agreement with Kent County Council comprising a 'compensatory enhancement fund' for the Kent Downs AONB Unit (as per the Applicant's Response to EXQ1 12.2.9b [REP4-200] and as referenced in Item No. 2.1.62 of the Statement of Common Ground with Gravesham Borough Council [REP6-025]).

The Council's position is set out in the Issue Specific hearing that it welcomes the sum of money that has been obtained (and in the KCC section 106 agreement) and would expect most of it to be spent in Gravesham. The ExA will have noted the formal status of the AoNB unit as representing all the Local Authorities with part of the Kent Downs AoNB area.

Agenda item 4 – no comment

Agenda item 5

5)a) Nitrogen Deposition and other Woodland Compensation/ Mitigation

Three issues for Gravesham:

- Appropriate ecological, landscape and archaeological surveys should be carried out to establish the suitability of the sites proposed in Gravesham
- A process to determine the appropriate design for these sites to take individual site characteristics into account and how the compensation and mitigation measures work together as a unit rather than a set of individual sites
- Whether sufficient provision has been made south of the river for Nitrogen deposition impacts south of the river

6 Potentially contaminated land

- a) Southern Valley Golf Course – see below in ISH12

ISH12 Social Economic Issues and Control Documents

Item 2: Southern Valley Golf Course

The Council wishes to ensure that neither as potential future landowner and nor in pursuit of its Environmental Health duties that there are any significant contamination issues arising from this site. More detailed soil sampling will show whether there is actually an issue and it will be for the Applicant to determine the best means of dealing with the matter along the lines they have set out.

The wider issue is the loss of an open recreation facility (a golf course) and the fact that no replacement is being provided. Chalk Park will provide an open space for recreation with a network of paths. When taken with the Thong Lane North Green Bridge it does provide for circular walks, albeit around a deep cutting with 6 lanes of traffic in it. The Council understands that it closed because of the threat of acquisition for the scheme (known since the 2017 route choice) and the difficulty of retaining staff given the uncertain future of the facility. See further below.

Item 3: Recreational/Sports Facility Replacement

- **Whether Chalk Park is a suitable replacement for the impact to sports facilities in the Gravesham area, specifically the lost Southern Valley Golf Course and the impact on the Swing Rite facilities (noting that we do not need to replay the discussion held at CAH3)?**
- **The ExA would like an update from the Applicant and Gravesham Borough Council on the proposed 9-hole golf course land at the rear of Cascades Leisure Centre in light of Gravesham's D6 submission [REP6-125] following CAH3 discussion.**

The proposal is to provide what will be a new area of open space, but predominantly it's an area of open space for passive recreation. It will be possible to, clearly, walk and potentially to run in that open space, but there is no provision of active sports facilities, whereas the current position is that the recreational resort in the vicinity of Chalk Park comprises the Southern Valley golf course. That is obviously now a closed facility, but in terms of recreational provision, that was a resource within the borough. It was, albeit a private club, open to the public who were prepared to pay a fee to gain access to it. It wasn't a membership club; it was a facility that you could turn up and play, provided that you're prepared to pay the fee. So far as the borough council is concerned, we don't have significant facilities for public active sport in the form of golf. Whilst we are certainly happy to consider alternative forms of active sport provision – so it doesn't have to be replaced by golf – it's a case that we would like to see active sport provision provided. Now, whether that is done through the provision of some form of active sport facility within the Chalk Park arrangements, or whether, effectively, it becomes a commuted sum to enable the borough to consider either providing or improving active sports facilities elsewhere in the borough, that's a matter for further discussion. But the position that we adopt is that, as matters stand, we're not satisfied that the Chalk Park proposal as currently envisaged would amount to equivalent replacement for the loss of active sport recreational facility, which is currently available, at least in terms of this part of the borough.

In response to questions from the ExA (Inspector Young) GBC indicated that GBC had particular issues with the levels of participation in active recreation in the Borough and would provide data on that in its Post Hearing Submissions. GBC also indicated that active recreation could include the provision of a Park Run facility within Chalk Park, if a suitable 5 km length trail could be provided, and that this would be an inclusive and free type of recreational provision.

Post Hearing Note:

- Prevalence of reception children (ages 4-5), at risk of being overweight (including obesity) is 24% in Gravesham, compared to 20.1% regionally and 21.30% nationally
- Prevalence of Year 6 children (ages 10-11), at risk of being overweight (including obesity) is 38.2% in Gravesham, compared to 33% regionally and 36.6% nationally
- Percentage of adults (ages 18+) classed as overweight or obese is 68.3% in Gravesham, compared to 62.7% regionally and 63.8% nationally.
- The percentage of physically active adults (participating in 150+ minutes per week) is 61.5% in Gravesham compared to 70.5% regionally (Gravesham is the third lowest district in the whole South East region) and 67.3% nationally
- The percentage of physically inactive adults (undertaking less than 30+ minutes per week) is 28.8% in Gravesham compared to 18.8% regionally (Gravesham is the 3rd most inactive district in the whole South East region) and 22.3% nationally

Sources:

Overweight/obesity statistics taken from Public Health Outcomes Framework, April 2023, published by the Office of Health Improvement and Disparities (an Office within the Department of Health and Social Care).

Activity/inactivity statistics taken from Active Lives Adults Survey, November 2022, published by Sport England.

Gravesham have provided a draft commitment relating to active leisure and it is contained in its list of proposed changes to control documents submitted at D8

Cascades

On the loss of the nine-hole golf course at the rear of the Cascades site, the applicant has made a second offer to the Council which is more acceptable. Precise terms and heads of terms are still being worked out, which will include consideration of the lease to Swing Rite Ltd. GBC will include a further update at Deadline 9.

3)a)iii) Review of Open Space Delivery The ExA would like to hear the latest positions from the Applicant and Local Planning Authorities in relation to the timing, form, and function of any open space replacement/new provision and whether the National Policy Statement's tests for replacement land have been met. National 2 Highways submissions [REP3-109] and [REP6-097] may assist this discussion, along with the various responses provided to EXQ1 Q13.1.10.

The Council is broadly content with the proposals made by National Highways. In a recent development some additional land has been offered to compensate for the public access land that surrounds the nine-hole golf course. The precise location of this is tied up with boundaries for the replacement land and will be agreed in that context.

Post-Hearing Note

GBC has now seen the Applicant's proposals for the replacement of the informal linear recreation route comprised within Plot 13-03 with the proposed new linear route within the land of the former Southern Valley Golf Course, as shown in paras D.5.30 to D.5.33 and Plates D.3 and D.4 of the updated Appendix D to the Planning Statement [REP7-137] and considers that these are reasonable

3)b)i Community funds The ExA would like to discuss the following:

- **Whether the quantum of Community Funds identified in the S106 Heads of Terms document [REP4-145] are sufficient;**
- **Whether the value of the fund should be fixed at the point of a signed agreement or appropriately indexed, and if indexed what index is suggested, e.g. Retail Price Index (RPI), the Consumer Price Index (CPI), the Building Cost Information Service (BCIS);**
- **Whether the fund should be split into identified amounts for each local authority area affected by the route alignment, and if so what percentage split is appropriate;**
- **What types of schemes may be funded;**
- **Should the remit of the fund be expanded**

In relation to the issue of the community fund, as far as the quantum is concerned, the Borough Council is broadly content with the sum that is identified in the Gravesham context. So far as the issue of indexing, we are firmly of the view that it ought to be appropriately indexed. As to the nature of the index, we can see that there is, as it were, room for discussion because the projects which might come forward for grant approval under the scheme, some of them may be projects which have a capital element to them, in which case it would seem to us that the BCIS index would probably be the most appropriate, but there will be other projects which come forward for funding where that wouldn't seem to be the best vehicle. I don't think we have an enormous view as to between RPI and CPI. I think

we would suggest that CPI is probably better. That seems to be the one that is more regularly used by government for other purposes.

If we had to choose anything – if there was to be only one measure – our measure would be BCIS. But we certainly think the principle of indexing, given the seven years over which the fund is available, is an important component. As to the question of split, we certainly think that it's appropriate that there should be a geographic split. We don't take any issue with the way that the split has been done. One could finesse it but we're not raising any issue about that. As to the type of schemes that may be funded, again, we're content with the headlines that are described in the SACR. I think at some stage in the past there had been discussion about whether it would be helpful, possibly by way of examples, to give more examples of what types of things the SACR part 3 recognises would fall under the umbrella of those headings, because that might help community groups and so on.

And then should the remit of the fund be expanded? In a sense it's slightly related, but we haven't identified anything to be dealt with by the community fund that we would want to add. As you know, we've got separate issues about things which are outside of the SACR and currently outside of the 106.

There is one small point which, if anything, possibly relates to the third bullet point. It's on split, but it's not really about the apportionment of funds. It's more about the apportionment of governance. It's a very small point, but in appendix – in part 3 of the SACR in section three, under the awarding panels, and 3.2 deals with the Kent community fund, and 3.2.1 deals with the composition of the panel, and it amounts – under the A, B, C and D – it amounts to a panel of nine parties, and the Borough Council is one of the three local authority representatives in item C.

We don't raise any issue about that, but if you look at item D – these are the representative bodies from the local community, and at the moment it's worded as at least one member representing Kent, one member representing Medway, and one member representing Gravesham, so there is a floating fourth member. Conversely, if you just go back to paragraph 2.5, which is the proportionate split, and 2.5.1, the split within Kent, is Gravesham 75, Medway 25. So we would suggest – and we don't think, from having liaised with Medway, that they have a problem with this – we think that it ought to be that item D is two from the Gravesham communities, one from Medway, one from Kent, which we think is a closer fit to the proportionality. We don't think it would throw out the working of the community panel. We also note, in terms of governance – if you just go over 8 to 3.2.2 – there is a panel of nine people, but in any event, in the event of a split 9 vote, it's the chair that has the casting vote, so we would hope that we're not in a sense thought to be shoehorning our way into dominating the organisation, but we just think there's a fairer split. So that's our point on governance. So those were our points on the community fund.

In its list of amendments to control documents submitted at D8, the Council has put forward amendments to the community fund commitments in the SACR reflecting the above issues (community fund panel and indexation).

3)b)ii) S106 – Current Heads of Terms and Omissions The ExA would like to hear from the Applicant and the Local Authorities on the status of discussions on s106 Agreements (separate to the discussion on item b) i) above). The ExA is specifically interested to understand the matters which are settled and agreed between the parties and the matters which remain outstanding or not agreed and the reasons for the lack of agreement. Document [REP4-145] will assist this discussion

See separate section below on section 106

4)a)i The ExA will ask the Applicant to provide an overview of the operation of the proposed Control Documents with reference to the Lower Thames Crossing Mitigation Route Map [REP4-203] (MRM). It will be asked to explain it's in-principle approach to the Control Document set and to set out:

- **Documents submitted with the application or in Examination;**
- **Documents to be submitted subsequently; and**
- **Managing stages – the iteration process;**
- **Whether there are any other documents that need to be discussed in addition to those identified in the MRM in order to understand the operation of the Control Document set?**

This item is to inform subsequent discussions and the ExA will not be seeking submissions about the merits of individual documents at this stage.

Key Gravesham point is the use of the phrase 'if reasonably practical' or equivalent in the various control documents. Whilst some flexibility is needed this is an open door to allowing the applicant/contractor to respond by just saying whatever is asked for is impractical. Fits with our point about who the determining authority is (GBC is a consultee only) as rehearsed in separate submissions on the terms of the draft DCO.

4)b)i The ExA will ask the Applicant about the relationship between the CoCP and dDCO: what is the basis for security for this document?

- **Are relevant IPs clear about security?**
- **Is security viewed as appropriate?**

This is the Council's understanding of the position:

The CoCP [REP5-048, updated at D7] is to be a certified document, listed in Schedule 16. It is currently set out as Appendix 2.2 to Chapter 6.3 of the ES and is described in R.1(1) as the first iteration of an EMP (which is reflected in the title of the current version).

In accordance with the definitions set out in R.1(1), appended to the CoCP are the outline materials handling plan (this is Appendix A to the CoCP) and the outline site waste management plan (Appendix B). The preliminary works EMP and preliminary works REAC are Annex C to the CoCP, and the main REAC is contained in the CoCP (r1(1)).

The preliminary works must be carried out in accordance with preliminary works EMP (R4(1)). There are to be no further iterations of that document.

No part of the authorised development is to commence until a EMP (Second Iteration), substantially in accordance with the Code of Construction Practice (i.e. the first iteration EMP), for that part has been submitted to and approved in writing by the Secretary of State, following consultation by the undertaker with the relevant planning authorities (R4(2)). So the CoCP in its current form will be carried through (though may be modified).

In turn, in R.4(3), the EMP (Second Iteration) must "be written in accordance with ISO14001, reflect the mitigation measures set out in the REAC" and must include measures or plans for the management of certain matters which are listed in R4(3).

The only query here is we think there may possibly be an error in the drafting of requirement 4(3), in that it should say that the 2nd iteration EMP should also be in accordance with the CoCP. Otherwise it appears 4(3) is somewhat circular as the REAC is to be "contained in" the

CoCP (i.e. the 1st iteration EMP) and the 2nd iteration EMP must “reflect the mitigation measures contained in the REAC”.

The amendment suggested would reflect what the CoCP itself says at paragraph 1.4.2:

“As explained in Section 2.3.1 of this document, the EMP (second iteration) (EMP2) **must be substantially in accordance with this CoCP** and must reflect the mitigation measures set out in the REAC.”

2.3.1 then repeats this:

“As a minimum, in accordance with Requirement 4 of Part 1 of Schedule 2 of the DCO, the EMP2 will be compliant with ISO 14001, **be substantially in accordance with this CoCP** and reflect the mitigation measures set out in the REAC.

The construction of the relevant part of authorised development must be carried out in accordance with the EMP (Second Iteration) approved for that part (R.4(4))

R4(6) says the EMP (third iteration) must address the matters set out in the EMP (Second Iteration) that are relevant to the operation and maintenance of the authorised development and must, except where contained in a LEMP, contain certain information listed in R4(6). The authorised development must be operated and maintained in accordance with an EMP (Third Iteration).

Apart from the point on the second iteration, there are no significant concerns about the process.

4)b)iii The ExA will ask IPs about the content of the CoCP

- **Is content appropriate?**
- **Are any revisions sought?**
- **How should the REAC be managed – should it become a free-standing control document?**

Might help clarity if was a separate document

4)b)iv With reference to the framework questions asked in relation to the CoCP, the ExA will ask equivalent questions for the oTMPfC [REP6-048]

Appendix C Travel Plan Working Group TOR para C3.1 Does not list planning authorities (not changed in D7 version)

Minor point update point Table 6.3 Off-peak services to Gravesend are currently:

- 2 tph to St Pancras, 2 Faversham (one extended to Ramsgate) – High Speed
- 2 tph Charing Cross via Sidcup
- 2tph Canon Street Via Woolwich (from summer 2024 will be Victoria via Bexleyheath)
- 2 tph Luton, 2 tph Rainham (Kent) - Thameslink

Table 6.4 on bus services needs updating as well (reductions in services have occurred and impact of A226 Galley Hill collapse)

4)b)v. The ExA will ask about non-compliance and enforcement

- **What is the anticipated role of the local authorities in this and how can they best deliver it?**

The Council remains concerned over the burden that may be imposed on Local Planning Authorities in its enforcement role. It is not, it is hoped, that there will be multiple examples of breaches. Past experience with the building of Channel Tunnel Rail Link (now HS1) and the A2 widening that issues if they are found can be dealt with speedily through liaison with National Highways and the contractors. It is much more that complaints from the public, from Members and passed on by the contractors because they are not related to the scheme construction, all need to be investigated and appropriate action taken (or not) as the case may be. It is noted that applicant is proposing that calls go to the national number and a response is provided in 10 days. The General Public will expect a dedicated number (where those answering know where Thong Lane is for example) and email address and a much faster response time. The net effect will potentially be a significant additional burden on the Council.

4)e) With reference to the framework questions asked in relation to the CoCP, the ExA will ask equivalent questions for the SACR [REP6-05]

The Council is pleased to see that v.9 of the dDCO has been amended, at last, so that there is now an outright commitment to comply with the measures contained in the SACR. The Applicant had previously rejected Council's submissions on this point.

Although the Council received a copy of the D7 version of the SACR in the afternoon of 17 November, it has yet to examine the provisions in detail to ensure they reflect what was originally in the s106 but will make any comments at D8. See the earlier comments on the community fund.

The D7 version contains for the first time the provisions about the community fund and the SEE which had previously been contained in the draft s106 agreement. The Council does not have a concern with that in principle, because any breach will be enforceable under PA2008.

4)l) With reference to the framework questions asked in relation to the CoCP, the ExA will ask equivalent questions for the AMS-oWSI [REP6- 044]

Archaeological advice is provided by the KCC Archaeological unit to both Councils. Gravesham understands that significant progress has been made on the technical details of this document but that a number of matters remain to be resolved. The Council is content for the Archaeological Unit to continue to resolve any outstanding matters

Item 7: s.106 Agreement

See at the end of the document

Item 14: Agenda item 3.c) Local Plan commitments

As previously explained the Local Plan Review is at the Regulation 18 stage and awaiting the completion of additional transport modelling work requested by National Highways before going forward to Regulation 19. Potentially there may be a significant difference between the allocations that may be made as a result of a LTC or non LTC world.

On existing Local Plan allocations most have planning permission or have been constructed

Update on those listed in the Gravesham LIR para 1.63 [REP1-228](#)

1. *Northfleet Embankment and Swanscombe Peninsula East* - a large scale mixed use application, Northfleet Harbourside, was submitted for development in the Stonebridge Road area in October 2022 and is still currently under consideration.
2. *Gravesend Riverside East and North East Gravesend* – An application, Albion Waterside, was permitted, subject to a s.106 agreement in late 2022. The section 106 has not been entered into due to concerns over viability.
3. *Gravesend Town Centre* – the building firm constructing The Charter (not the developer) went bankrupt, but this scheme is now back on track. Clifton Slipways site developer has been granted a variation on their s.106 and details are being sorted out.
4. *Ebbsfleet (Gravesham)* – the application for Ebbsfleet Central is expected to go to the EDC planning committee in the spring of 2024.

Item 23: Energy NPSs

No comments

ISH12 resumed

Item 1: Control Documents

Item 6: REAC – GS021

Technical issue primarily concerning the Northern Portal, however as a general principle where significant preliminary works are involved it would be logical to expect them to follow a consistent approach.

ISH13

No additional comments at this stage. General view on transportation issues to be covered in final submissions

3)a)i. With reference to [REP5-084], to what extent were the inputs into the latest Vissim modelling (version 3.6) agreed beforehand?

GBC has had no input to this technical question (only supplied commitments information for the LTAM model)

3)a)ii-v

Not a matter for GBC. Overarching comments on traffic modelling made in GBC's submissions at D6A [REP6A-010]

3)a)vi

GBC considers that the PoTLL version in REP6-163 (Appendix 4), which is jointly agreed by Thurrock Council, DP World, and Thames Enterprise Park is likely to be more effective than the Applicant's version but could accept either (provided that in the case of the PoTLL version GBC was identified as a member of the LTCIG).

3)a)vii The Applicant and KCC are to be asked whether a smaller improvement scheme could be implemented at Blue Bell Hill should the Local Large Majors (LLM) scheme fail to come forward?

GBC is not the local highway authority but has consistently maintained that the LTC needs to address the issues at Blue Bell Hill, which its TA identifies as Major Adverse. GBC is supportive of KCC's LLM scheme. The suggested Requirement 24 as put forward by GBC in REP4-302 (and resubmitted in its list of amendments to the DCO at D8) is flexible enough to allow that scheme to come forward prior to the opening of LTC if it secures further approvals

beyond SOBC but also allows KCC (as LHA) or the Secretary of State to take a different approach if that scheme is not to be progressed.

ISH14

3)a) The ExA will provide an opportunity for IPs to seek guidance on dDCO

Commentary Matters

Matters flagged by IPs as being unclear or in dispute may be discussed

The Council's separate response on the ExA's commentary is contained in

Gravesham Appendix 2 ISH14 Response to commentary on DCO

Gravesham Appendix 2a Appendix 2 to commentary on DCO

Some points were highlighted at the hearing in this agenda item (though that does not lower the importance of the other points that the Council has on the DCO. Most of its points have been picked up in its list of proposed amendments to the DCO submitted at D8 (some of which were also submitted at D4). The highlighted points were:

- Joining other LAs in asking that the LPAs and LHAs be the discharging authority [[REP5-099](#)]
- The geographical extent of the ancillary works – currently the DCO allows them to be carried out outside the Order limits
- Publication electronically of the certified documents, including the REAC and SACR (and not just the requirements)
- The Council also offered the facility to hold physical copies of documents for inspection. The Council waits to hear from the Applicant as to the likely volume of those documents first, so has not included a requirement for this to happen in its amendments.

4)a). The definition of the term 'commence' excludes 'preliminary works', whereas submissions on the term 'begin' have suggested that intentionally it does not, but yet this division does not appear to be clear on the face of the dDCO as drafted.

Clarity about the effect of these terms is important in terms of understanding the inception of works for the purposes of the Control Documents (CDs)

Are any further drafting refinements proposed by the Applicant?.

At the hearing, the Applicant explained its position by saying the word "commence" is intended to ensure that works are subject to the relevant controls in Schedule 2; and the word "begin" is merely preserving the position that exists under the Planning Act, section 154 and 155, on when development must start.

This does not address the main concern which the Council expressed at the hearing and which has been expressed throughout the Examination, which is very minimal works under the preliminary works heading can be sufficient to "begin" the development, and therefore, for that purpose, enable the DCO to endure in terms of complying with its time limit. Uncertainty is then cast over other developments that may be happening in the locality exists from that point onwards. But in the meantime, the applicant is not committed to the project.

So, the Council's concern is that its residents and businesses get all the uncertainty, the shadow of the project, but without there being any real commitment by the applicant to delivering it. The Council does not think that is in the public interest; it thinks it's unhelpful; and it thinks it compromises good planning, particularly in the Borough of Gravesham, which is in the process of going through a development plan preparation process.

Reference is made to GBC's ISH7 post-hearing submissions for a fuller explanation of this point. [\[REP4-301\]](#).

The Council also supports point made by other IPs about the confusion that is caused by having different time limits for different types of development.

The Council notes that the Applicant will be coming forward with amendments to the compulsory acquisition time limits at D8, and reserves its position on that.

3)c. Procedure for discharge of Requirements (Sch 2 Part 2)

What happens if the SoS refuses a discharge application?

There is no procedure in Part 2 of Schedule 2 for cases where a discharge application is refused.

Article 64 (arbitration) does not apply to decisions made by the Secretary of State (see paragraph (2) of that article. Therefore, it would seem the only recourses available to the Applicant would be (a) to make a modified application, taking into account the reasons for refusal or (b) apply for a judicial review of the decision.

This brings into focus again GBC's request that the discharging authority should be the local planning authority, for two reasons.

The first is that the Secretary of State may be discouraged to refuse applications, more than he would have done had an appeal mechanism been available, given the consequences that follow for the Applicant without one and the second one is that if the local planning authority were the discharging authority then of course it would accept that there should be an appeal mechanism, as there is in most, if not all, DCOs not promoted by National Highways.

3)e) The ExA will seek views on Gravesham BC's draft requirement in relation to worker housing

[\[REP6-132\]](#) - Item 6: Worker Housing

Reason for the requirement

At the hearing, the Council's Head of Housing Solutions explained the conditions in Gravesham which underlie the Council's request for a new requirement to be added to the DCO.

The Council currently has 1,000 households on the housing register with an identified housing need. It has around 250 lets a year, and we are constantly losing homes through 'right to buy'. An average wait for a three-bed can be up to three years.

Gravesham is one of the smallest boroughs in Kent, and the housing option service sees an increase year on year of those households presenting, stating they're homeless or in threat of being homeless. The Council predicts by 2024, it will have a 12% increase, and this year already it has had 1,131 households make presentations for support and advice.

The biggest pressure for Gravesham financially is households in temporary accommodation. It has 230 households in accommodation temporarily residing there until the Council can find a solution for them. Thirty-nine of these are placed outside of the borough because there isn't provision locally.

The reliance on expensive nightly paid is a real issue for the Council, and 65% of those placements are in that type of accommodation. It is forecast that Gravesham will spend nearly £2 million net on temporary accommodation, which is unsustainable as a council.

The Council has considerable other pressures around asylum, with Ukraine host placements coming to an end, Afghan/Syrian schemes and the ceasing of bridging hotels. Gravesham

also hosts a bridging hotel within Northfleet which offers up to 70 bed spaces. We're already seeing the impact of presentations when their determination for asylum applications are made, so this is a new burden to Gravesham Borough Council. In addition, there is a new consultation out around new safe and legal routes, which is again for local authorities to make commitments to find accommodation for asylum seekers.

Being on the outskirts of London, there are additional pressures because London authorities are quite clearly expensive to find accommodation for vulnerable people, and therefore, there are placements locally within the borough. The Council already had 51 section 208 temporary accommodation notifications, and that is just from local authorities and excludes organisations such as probation, Home Office and social services. It also doesn't demonstrate the number of placements we're receiving as there was no obligation to notify us if they find privately rented.

To import new residents into the borough will cause a considerable impact for the Council. It will have impact on local schools and GPs and health services, and schools are oversubscribed already. Rightmove, is only advertising 53 private rented properties within the whole borough.

Over the last decade, the scale of the challenge has grown significantly, and Gravesham are looking at all options possible to alleviate the financial burdens that the Council is placed with. However, the Council is more than mindful it will take years of work.

The Council is reliant on ensuring the borough's position is clear and the pressures of representing the challenges that it faces. There needs to be greater efforts by the Applicant to provide general provision for worker accommodation to ensure the project does not exacerbate these local pressures. Using the private rented sector would impact Gravesham Council greatly, especially within the homelessness and our efforts to prevent homelessness.

As mentioned in response to a question by the ExA, there is an interaction between the demand for affordable housing, and the available supply and cost, which is pushed up as the demand increases.

The Council's suggested requirement

The requirement is based heavily on a precedent contained in the deed of obligation for the Sizewell C DCO. It is important to note that it requires the Applicant or its contractor only to take measures if a housing problem is identified.

The requirement would require a Gravesham Accommodation Resilience Scheme ("GARS") to be prepared by the Applicant, and submitted to the SoS for approval following consultation with the Council.

The GARS would provide for the establishment of a Working Group made up of representatives from National Highways (NH) and the Council, which would exist from before construction starts and throughout construction.

The Working Group would agree on measures to be carried out by the undertaker (including reimbursement of reasonable admin costs of the Council) having regard to information provided by the Council that shows housing market stress (in a number of different respects) which may be reasonably related to the effects of the LTC workforce.

There is protection for NH in that there must be agreement by the Working Group about whether there is such stress and that it is caused by the LTC workforce. Furthermore, there are a number of matters which the Working Group would need to take into account when deciding on what measures need to be carried out, in particular whether they would be effective and provide value for money (see paras (4)(a) and (c)). Also, through the GARS, the Council would be under an obligation to provide the group with information necessary or convenient for it to carry out its functions.

The “measures” to be carried out might include increasing bedspace numbers in accordance with a Private Housing Supply plan (PHSP) or providing support to the Council’s housing services through Housing and Homelessness Services Resilience Measures.

The PHSP would need to be approved by the working group. Further details of what the PHSP is intended to be and what measures it could include are in paragraph (10) and again there are safeguards for NH about measures needing to be value for money. The measures include rent and deposit guarantee schemes, equity loan provisions and bringing empty homes back into use.

Housing and Homelessness Services Resilience Measures are also defined in paragraph (10) by reference to a number of illustrative examples, and which again, importantly, are only to be provided or funded where there is evidence of increased housing market stress impacting the level of demand on this service which may reasonably be related to the effects of the construction of the authorised development.

As mentioned at the hearing, the Council would be open to a solution which is a hybrid of its suggested requirement and the Applicant’s proposals which are dealt with next.

The Applicant’s Proposals and the Council’s response

The key features of the Applicant’s existing approach (secured by the FCTP [REP5-054]) are:

- Accommodation Helpdesk
- Accommodation database
- Workforce Accommodation Working Group
- Visitor accommodation utilisation
- Collaboration opportunities

The Council do not consider that the above approach is satisfactory. On the contrary, some of the measures proposed could worsen the position. An accommodation helpdesk and database could encourage workers to take some of the sparsely available accommodation, making matters worse, by decreasing the supply and increasing rents. The Council remains strongly of the view that if a problem is identified then the provision of additional housing by the Applicant is the preferred option.

At the hearing, the Applicant read out some draft wording that it proposes to add to the **Framework Construction Travel Plan**, specifically to **Appendix D** - the Workers Accommodation Working Group Terms of Reference, at Deadline 8. The Applicant’s additional text is shown in red below and the Council’s suggested changes are in blue.

*D.4.14 Formal monitoring secured in the FCTP would be reported monthly and provided in a suitable format for review two weeks prior to each WAWG meeting. This monitoring would enable pro-active management of interventions. The WAWG would review the Project’s non-local workforce in the Private Rented Sector (PRS) and visitor accommodation at a local authority scale alongside 6-12-month forward look information and, if anticipated to exceed estimates set out in the Workers Accommodation Report (WAR) [APP-551], the Contractor must implement further interventions **which, if agreed by the WAWG, may include proportionate financial contribution or direct delivery of housing to increase the availability of accommodation supply and/or provide measures to support the resilience of a Local Authority’s statutory Housing Service where pressure may be increased. These measures would not include the direct delivery of new housing or permanent officer posts.***

*D.4.15 Any financial contribution **or direct delivery of housing** must be supported by evidence (including agreed ‘triggers’) and be deliverable and proportionate [and compliant with Managing Public Money (HM Treasury, 2023) and the National Highways licence agreement (Department for Transport, 2015)] [NB: the preceding words are square bracketed by the Council, pending confirmation from the Applicant that there is nothing in either of those documents that in their view would prevent the provision of direct*

~~delivery of new housing], and may only be applied if reasonable interventions provided by the Contractor to manage the workforce in-line with paragraphs 5.4.13 and 5.4.14 of this FCTP have been exhausted.~~

In addition, the Council considers that the above measures should be located in the body of the FCTP, to reflect their importance and (as it was put at the hearing) to give the measures teeth.

The Council's proposal is for the following paragraph to be added to paragraph 5.4.13

f. Proportionate financial contribution or direct delivery of housing - to increase the availability of accommodation supply and/or provision of measures to support the resilience of a Local Authority's statutory Housing Service where pressure may be increased. These measures would not include new permanent officer posts.

Any financial contribution or direct delivery of new housing must be supported by evidence (including agreed 'triggers') and be deliverable and proportionate [and compliant with Managing Public Money (HM Treasury, 2023) and the National Highways licence agreement (Department for Transport, 2015)] [NB: the preceding words are square bracketed by the Council, pending confirmation from the Applicant that there is nothing in either of those documents that in their view would prevent the provision of direct delivery of new housing].

Additional background information will be found in:

Appendix 3a ISH14 Housing Pressures in Gravesham

Appendix 3b ISH14 HOUSING Temporary Accommodation

The ExA will seek views on the approach to managing the decommissioning and restoration of construction compounds and whether any additional provision is required in the dDCO?

At the hearing, there were exchanges with the ExA about the possibility, because of article 35(5) of the DCO, that permanent structures could be left on land which is taken temporarily. This is a particular concern for the Council, illustrated in the example below.

At D7, the Applicant changed its position in relation to the Thong Lane compound to remove the permanent retention of the car park which had been a subject of concern to the Council. The Council is concerned to ensure that, given the greenbelt location of that site, the land will be returned to a green and open condition.

Some of the land which was to be used for the car park (plot 04-276 on Sheet 4 of the Land Plans [\[REP7-009\]](#) has now been designated as "temporary possession only" so will be subject to article 35 of the DCO.

The ExA mentioned the possibility of the local planning authority having some input on restoration of land under article 35. This is what happens on the largest infrastructure scheme in the country – HS2. In paragraph 5 of [Schedule 16](#) to the Phase One Act, for example, there are provisions for schemes to be agreed with the landowner and the local planning authority for land restoration. The Council is not necessarily saying that the same provisions should apply for LTC, but instead it suggests that where the land is located within the green belt, or within an AONB, the Council should be consulted on the restoration proposals. An amendment to article 35(5) is included in the Council's list, but for ease of reference is:

"(5) Before giving up possession of land of which temporary possession has been taken under this

article, the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land ([in consultation with the relevant local planning authority, if the land in question is green belt land or is in an area of outstanding natural beauty](#)); but the undertaker is not required to—"

In relation to Thong Lane, the Council is seeking confirmation that no permanent works other than the substations and access are to be constructed at the site and that access on the access road will be controlled.

5)aj). With reference to the implications for the dDCO of submissions at D6A and to discussion of these in ISH13, the ExA will wish to review the drafting of:

- **R10 – Traffic management**
- **R11 – Construction travel plans**
- **R17 – Passive provision for Tilbury link road**
- **R18 – Operation of the Orsett Cock roundabout**
- **Any other provision in the dDCO for Ports and local access**

These are not requirements which the Council has commented on previously, deferring to KCC.

At the hearing, the Council confirmed that it agreed with the ExA's suggestion of a further iteration of a preliminary outline traffic management plan before the commencement of preliminary works.

The Council has suggested a new requirement for Blue Bell Hill. This is set out in its list of amendments. It recognises it is not the highway authority, but it considers that its drafting is simpler, and contains more flexibility than the KCC version, to cater for the position should funding for Blue Bell hill fall away, or KCC change its priorities for example.

The Council also said at the hearing that it would take a view on which of the 3 variants (including its own) of the "Silvertown" requirement it preferred. It considers that either of the versions put forward by the Port of Tilbury and Thurrock, and by the Applicant, with the amendments proposed by the London Borough of Havering, would be acceptable. It does have some drafting observations on the Havering amended requirement, but they are not significant. The important thing for the Council is that it is involved in the process under whichever is chosen. It would be so involved under the Applicant's version, and it would ask the ExA to ensure that it would be a member of the consultative group in the final version of the PTOL alternative, if selected.

EXQ3

ExQ3_5.1.1 Air quality and sales of petrol/diesel vehicles

The Emissions Factors toolkit has been used by the applicant to determine future emissions. The applicant has stated that the latest version of the Emissions Factors Toolkit (EFT) does not account for the current 2030 ban of petrol and diesel cars due to the base information contained within this. While this is true and accepted, there is a new version of the EFT due to be released shortly. We would expect any modelling as part of changed traffic flows to use this latest version and will look to clarify how it predicts future policy and fleet mix changes.

ExQ3_11.1.2 Compensatory planting

Logically any areas of compensatory planting for biodiversity or landscape reasons were provided for a reason. In the case of HS1 in Gravesham this was to soften the area between the A2 and the railway. As will have been seen from ASI1 in broad terms since 2003 this has worked as intended given the physical constraints. The area where it has not worked well is the steep bund east of Brewers Road which was a late addition to prevent the possibility of vehicles coming off the highway on to the railway, as happened in the 2001 Selby rail crash.

The current proposals largely remove this landscaping to make way for highway in one form or another between M2 J1 and Marling Cross. As the photomontages show the net result is

that HS1 becomes part of the visual transport corridor in a way that it is not at present, especially when combined with the loss of the central reservation in the Kent Downs AoNB. It performs a biodiversity function as well, depending on the species. Given that HS1 cannot be moved and the need to ensure that it remains stable for trains travelling at up to 186 mph this should have constituted a major constraint on the project design. The applicant does not appear to have taken this into account and been led by an engineering solution.

ExQ3_11.1.4 Wildlife pond provision

The Borough Council does not have ecological expertise. However as a matter of logic whilst the primary function of some ponds may be for Great Crested Newts, it is desirable in so far as is possible for other species to be attracted and accommodated.

ExQ3_11.1.5 Green bridges and habitat connectivity

ExQ3_11.1.6 Green bridges and habitat connectivity

ExQ3_11.1.7 Green Bridges

See ISH11 submissions

ExQ3_11.1.9 Shorne Woods SSSI and Car Park

The Council understands that as a result of the KCC position this will not now be provided. This is shown by the change between REP4-031 and REP7-027 General arrangement Drawings Vol B Sheet 4 and REP7-116 sheets 2 & 19, and 6.2 ES Figure 2.4 - Environmental Masterplan Section 2 (2 of 10) v 4.0. The Council welcomes this change and will expect the area, once the construction site use has finished, to be restored in line with the surrounding landscaping.

ExQ3_12.1.2 Vibration and heritage assets

The obvious properties in Gravesham that may benefit from vibration monitoring are the LCC cottages at Thong. Those located on the north side of the village and do are close to a deepening cutting, a major new structure (Thong Lane Green Bridge north) and major utility diversions (overhead lines and high pressure gas mains).

ExQ3_16.1.3 Green Bridges serving multiple objectives

ExQ3_11.1.5 and 11.1.6 refer to the functions of the proposed Green Bridges in relation to biodiversity and habitat connectivity. However, evaluation of the proposed Green Bridges requires consideration of their performance in terms of multiple objectives and outcomes, including but not limited to: •Biodiversity •Habitat connectivity •The provision of non-motorised user (NMU) routes for people •Landscape and landscape mitigation, in general terms and (with reference to the Kent Downs) to AONB landscapes.

With reference to these objectives but also to such other functions and outcomes as are considered relevant, please provide your summary assessment of the effectiveness of each Green Bridge proposed within your area of interest. If objectives and outcomes appear to be in competition or to pull in different directions, please indicate the particular objectives considered to be the most important and why.

The Council recognises that the Green Bridges proposed within its area must service multiple purposes, which include mitigation for the project for biodiversity and landscape impacts and maintaining existing highway and WCH access.

There is scope for the green bridges to serve multiple objectives and provide an essential component of a mitigation strategy. This is supported by The Landscape Institute's Technical Guidance which also notes how the design of green bridges can respond to a range of drivers, one of which is the severance of landscape – be it historic landscape or its setting, or feature of importance to landscape character.

Depending on local circumstances there may be different ideal layouts for these that may not sit comfortably with one another.

There are three green bridges proposed by the project for the Gravesham area: Thong Lane south and Brewers Road – both within the KDAONB and to replace existing highway bridges; and Thong Lane north, which will be a new bridge on the LTC route.

Thong Lane south and Brewers Road green bridges

Thong Lane south and Brewers Road green bridges are both in the KDAONB and will be located over the widened A2 corridor. In this respect the functions required of them, and their objectives are similar. Their important roles as local landmarks and signalling entry into the Kent Downs AONB for drivers have been commented on previously.

Given the scale of severance and fragmentation of landscape that will result from the Project, it is our view that a key function of the green bridges over the A2 should be to provide **landscape mitigation at a landscape scale**.

Wide tracts of woodland planting will be needed on the bridges, linked in to wooded areas to the south and north. This would connect the landscape across the A2 corridor, reducing landscape severance, and reinforcing the wooded skyline. It would provide landscape continuity and help maintain the landscape character of the KDAONB.

There would be **benefits to biodiversity** by providing wildlife corridors and connecting habitats. By maximising the width of the bridges and planting woodland, the bridges would also better accommodate the other required **functions of highway and WCH routes**.

By taking a landscape approach, with thick wooded planting on both the east and west sides of the bridges, bridge users would be protected from the noise and visual effects of the widened road and – in the case of Thong Lane south – the multi-levelled A2 junction.

Other benefits would include strengthening the important historical connection with the wider Darnley Estate, which was managed as a unit. Whilst the land ownership has fragmented over the years the area has none the less has retained its overall character.

We recognise that the current restricted width of these two bridges would not provide the flexibility to accommodate the range of functions needed, or deliver the outcomes required.

It has been suggested (at ISH 11) that the Park Pale overbridge be developed into a Green Bridge. The benefits of this have been outlined (at ISH 11) and are supported by the KDAONB Unit and NE. A green bridge at Park Pale would complement the Brewers Road green bridge, and be better located to provide the landscape, biodiversity and WCH connectivity across the widened A2 corridor.

See the Council's proposed amendments to the design principles in the Council's list of amendments to the control documents submitted at D8 and Appendix 1c.

Thong Lane north green bridge

The Thong Lane north green bridge is to be a 'Project Enhanced Structure' and situated on the LTC route. The Design Principles provide a range of functions, including connecting woodland habitat, lessening the visual impact of the M2/A2/A122 Lower Thames Crossing junction, enhancing the user experience, and maintaining east-west connectivity between Gravesend and Thong/Shorne Woods Country Park, connecting woodland to the east and west to provide a habitat corridor for mammals, as well as providing off-road routes for WCH users away from the main road, and providing crossings. The design principles also include the requirement to 'make people feel safe' when crossing the bridge.

It is not clear from the documents whether the Thong Lane north green bridge meets the standards in the LI Technical Guidance. However, this is a new-build structure with few restrictions on its size and method of construction. In this respect the design should have the flexibility to provide adequately for all functions listed.

For all three bridges in Gravesham, we anticipate that the detailed design process will provide the opportunity to optimise the design.

ExQ3_17.1.1 Habitats Regulations Assessment

Content to leave this to Natural England

Examining Authorities Comments on draft DCO

Examining Authorities Comments on draft DCO

See Gravesham responses to the ExA's commentary on the DCO and its revised list of DCO amendments and previous amendments to Schedule 2 which set out changes to the then existing version of the DCO as respects the identity of the discharging authority [[REP5-099](#)].

D6 Documents

See below re REP6-036

D7 Documents

Response to Green Belt report [REP7-181](#) 9.172 Applicant's response to ExQ2 Q13.1.3 - Green Belt Harm Assessment can be found in:

Gravesham Appendix 4 Response to REP7-181 on Green Belt

Response to [REP7-189](#) 9.179 Computer Generated Views from Thong Lane green bridge south and [REP6-036](#) 7.19 Photomontages Winter Year 1 and Summer Year 15. 231204 D8 Comments on Visuals can be found in:

Gravesham Appendix 5 Response to REP6-036 and REP7-189

REP7-148 - 7.14 Outline Traffic Management Plan for construction v 7.0

At page 14 - see also paragraph 3.3.13 that they expect people to complain through the National Highways normal complaints line with 10 days for a response. Should have a dedicated complaints line for the project with a far quicker response time.

S.106

There have been a long series of exchanges between the applicant and the Council on the section 106 agreement. Some items, e.g. Housing, are now being dealt with elsewhere. The amounts of funding for a planning, environmental and functions other have now been agreed with reluctance. The Council had previously asked for several other posts that have not been accepted, neither has a provision that allows for the matter to be easily pursued if resources are not available at the time the applicant needs them. The Council is still seeking a provision for a mechanism to allow claims to be made for staff time, by agreement, where this becomes necessary.

The Applicant has refused to include provision in relation to healthcare and wellbeing in the s.106 or to agree to a blue pencil clause, so the Council has proposed a new commitment for the SACR, which is included in its list of amendments to control documents submitted at D8.

On worker housing, the Council has resubmitted its proposed requirement in its list of amendments and as a second best alternative has submitted proposed amendments to the proposed updated provision for worker housing in the Outline Framework Construction Travel Plan.

Following the hearing, the Applicant confirmed that it would not alter the provision for additional officer costs reimbursement calculated on a time basis. This comes as a great disappointment to the Council. The Council is considering its options and may address the issue in D9 submissions.