

**LOWER THAMES CROSSING
DEVELOPMENT CONSENT ORDER EXAMINATION**

WRITTEN SUBMISSIONS at DEADLINE 9

on behalf of

KATHRYN HOMES LTD: Unique Reference 20035583

RUNWOOD HOMES LTD: Unique Reference 20035580

RUNWOOD PROPERTIES LTD: Unique Reference 20035582

1. These Written Submissions are made on behalf of Kathryn Homes Ltd, Runwood Homes Ltd and Runwood Properties Ltd (“the Objectors”) at Deadline 8. Each of the Objectors is a registered Interested Party and has separately made Relevant Representations but they share common interests and so have combined together to make these joint Written Submissions setting out their position at Deadline 9.

Response to Action Point 11 following Issue Specific Hearing 14

Whitecroft Care Home

If there is no agreement between the Applicant and the Owners/Operators of the Care Home by Deadline 8, at Deadline 9 please provide final submissions on any measures that the ExA should recommend to the Secretary of State (including dDCO provisions) to ensure that the public sector equality duty (PSED) can be discharged.

2. Whilst the Objectors and the Applicant have been in productive discussions, the negotiations on an acquisition by agreement remain ongoing and (at the present time) it cannot yet be assumed that they will have reached a conclusion by the close of the Examination on 20 December 2023.
3. It is the Objectors’ Final Position (as it has been throughout the Examination) that, unless there are arrangement in place to enable the Whitecroft Care

Home to be relocated prior to the commencement of the construction of the LTC, it will not be possible for the ExA to recommend to the Secretary of State (“SoS”) that the Public Sector Equality Duty (“PSED”) can be discharged.

4. The Objectors do not propose to rehearse the detail of their earlier submissions, supported by technical evidence, including detailed acoustic evidence (in REP1-367, REP3-177, REP4-382, and REP7-270 Annex A) and the only medical evidence provided to the Examination (in REP1-370), which set out why the Applicant’s proposals fail to adequately address the needs of the residents of Whitecroft as vulnerable persons with protected characteristics. The Objectors’ main submissions on the PSED can be found in REP1-373 (paras 43 to 47), and in REP4-380 (paras 17 to 18).
5. The Objectors do not accept that the further commentary provided by the Applicant in REP8-119 in response to the Objectors’ submissions at Deadline 7 provides an adequate answer to the Objectors’ concerns. Further comment on REP8-119 is set out separately below.
6. In short, the Objectors do not consider that the material which has been presented to the Examination by the Applicant is sufficient to allow the SoS to be appropriately informed of the impacts of the LTC on the residents of Whitecroft with protected characteristics and that, as a result, the Applicant’s assessment does not allow the SoS to properly discharge the PSED when making a decision on the application.
7. The measures that the ExA could recommend to address this state of affairs are limited because (for the reasons already set out in earlier submissions) there is no sensible means of mitigating the impacts of constructing (and then operating) the LTC on the vulnerable community at Whitecroft. The inclusion of additional Requirements in the dDCO to require further mitigation would not therefore suffice because there is no certainty that any effective scheme of mitigation could be devised to maintain the therapeutic environment that residents need if the Care Home were to remain in situ.

8. The only measure that is potentially available to the ExA in terms of the dDCO would be to recommend the compulsory acquisition of Whitecroft (in order to facilitate relocation of the Care Home), which would require the inclusion of the main site of Whitecroft in Article 25(1) of the dDCO and its identification as being within the Order Land on the Land Plans and in the Book of Reference. The ExA's report would also need to make it clear to the SoS that the acquisition and relocation of Whitecroft, prior to the commencement of works, was needed to ensure the effective discharge of the PSE, so that it was clear that the Applicant was not merely authorised to acquire Whitecroft but would need to do so if the LTC was to proceed.
9. However, a procedural issue should also be noted. In order to satisfy s.123(1) PA 2008, the SoS would need to be satisfied that all interests in Whitecroft consented to its inclusion within the compulsory acquisition so as to comply with the condition in s.123(3) PA 2008. This would be a formality, as regards the Objectors (as they have already made plain at CAH2 and at CAH5), but there is also a mortgagee whose consent would be needed. Whilst this is unlikely to be a substantive problem, it would require steps to be taken to secure that consent. The SoS would therefore need to provide an opportunity for that to happen prior to making a decision on the application.
10. An alternative option for the ExA would be to invite the SoS to seek an update from the parties on the progress of their negotiations for an acquisition by agreement. This would, of course, not require any amendment to the application documentation. For their part, the Objectors would be willing to continue to progress the negotiations during the post-Examination period.
11. However, unless there are secure arrangements in place for the acquisition of Whitecroft, there should be no doubt that the Objectors' position is that the PSED cannot be discharged. The Objectors also repeat their position that it would also be the case, in the absence of such arrangements for the acquisition of Whitecroft, that the compulsory acquisition test in s.122(3) PA 2008 would not be met for Plots 29-254, 29-260, and 29-261 for all of the reasons set out in REP4-380. As the ExA will be aware, these are the parcels

of the Objectors' land required for the realignment of Stanford Road, which is an integral part of the LTC project. If those parcels are not acquired the LTC is not deliverable.

Objectors' Response to the Applicant's Comments on IPs' Submissions at D7 [REP8-119]

12. At section 8 of REP8-119 the Applicant comments on the material presented by the Objectors in REP7-270. Much of the commentary goes over the ground of the parties' previous disagreements and the Objectors see no need to provide a line-by-line response. However, some key matters can be noted:

- (i) The Applicant has accepted (Points 19 and 20) that measuring construction noise on an hourly basis and setting limits accordingly is possible but argues that it would be unreasonable to expect that to be done at this stage of Project Design. Given the sensitivities of Whitecroft, the Objectors do not accept that stance. A bespoke assessment would have been appropriate and should have been considered, in accordance with DMRB LA111 (as set out at para 3.1.2 of REP1-367). The Objectors' case on this is clearly set out, both in REP1-367 (paras 3.13 to 3.2.4) and in REP4-382 (section 4).
- (ii) The Applicant argues (Point 24) that there is no robust methodology to predict general construction vibration but this does not excuse the failure to undertake any vibration assessment in the vicinity of Whitecroft, given the scale of construction activity proposed, or to put in place effective measures to preclude disturbance to vulnerable people. The Objectors have set out in previous submissions their concerns about the Applicant's reliance on BPM and a process subsequent decision-making. Nowhere has the Applicant committed delivering measures that will preclude exceedances of set limits nor to halting works which are found to exceed either vibration or noise limits.
- (iii) The Applicant's response (in Points 14 and 16) fails to address the impacts of the proposed 4-metre high screens during the extensive

construction period and focuses instead on the operational period. This misses the point.

- (iv) The Applicant's response (in Point 18) does not address the duration of the construction period of the earthworks bund immediately adjacent to Whitecroft.
- (v) The Applicant has confirmed (in Point 3) that there is no commitment to monitoring the noise reducing performance of low noise road surfacing and no commitment to replacing it if its performance degrades before it would be otherwise replaced by reference to wear and usage.
- (vi) The Applicant has confirmed (in Point 3) that its noise assessment, as presented in the ES Chapter 12, does not include any allowance for the loss of performance of low noise road surfacing.

13. The Objectors consequently maintain their concerns about the adequacy of the mitigation proposed by the Applicant and therefore the need for there to be a relocation of the Care Home if the LTC is to proceed.

Objectors' response to the Applicant's Post-event Submissions for CAH5

14. The Objectors welcome the Applicant's offer to purchase the Care Home (as referenced at para 3.4.4) on the basis that the residents could be relocated to a replacement facility and so avoid the identified noise impacts. The Objectors would add that the adverse impacts are not limited just to matters of noise.

15. The Objectors also note that the offer has been made by the Applicant (para 3.4.5) in the context of the continuing nature of the PSED. The Objectors have set out their Final Position on the PSED in answer to AP11 following ISH14 above.

11 December 2023

