

Lower Thames Crossing

**Thurrock Council Comments on Applicant's Submissions at Deadline 7 (D7)
and Deadline 8 (D8)**

11 December 2023

Thurrock Council

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Thurrock Council Comments on Applicant's Submissions at Deadline 7 (D7) and Deadline 8 (D8)
Lower Thames Crossing

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Executive Summary

Section 1 – Introduction

1. This Deadline 9 submission responds to the applicant's Deadline 7 (specifically those documents not able to be dealt with in the short period between D7 and D8) and to the D8 submission documents that were uploaded to the PINS website on 7 December 2023, whether new or in tracked changes. Some submitted documents do not require Council comments and so do not form part of this submission.
2. The Council would like to note that in many instances within the applicant's documents covered by this submission, there is no further analysis, evidence, documentation or response that addresses the Council's points made in its submissions. This is particularly relevant as the Examination closes on 20 December 2023 and yet very little progress has been made on many significant issues, which is most unusual. Normally issues are increasingly resolved during the Examination process, but this has not been the case with this applicant.
3. **SoCG Update Progress:** the Council, since D7, has continued to work with the applicant and will jointly submit a final SoCG at D9 and although a number of matters have been agreed, many have not. There are a total of 311 issues covered in the Final SoCG, of which 95 issues are 'Matter Agreed' and 216 issues are 'Matter Not Agreed', i.e. some 70% of all matters.
4. **Council Views on Applicant's Approach to Technical Engagement and the Examination Process:** the Council has been concerned about technical engagement and other aspects of consultation for several years now and those concerns were set out in its Adequacy of Consultation submission ([AoC-018](#)) dated 16 November 2022. In the Council's view, some of these concerns have continued and have hampered the successful operation of the Examination. The Council has serious concerns about the applicant's approach to technical matters, and particularly the following ten issues: refusal to provide technical information or provide it in a timely manner; delays in providing responses/information; signposting which does not provide adequate answers to reasonable questions; refusal to consider or deal positively to technical proposals from IPs; lack of provision of key evidence to substantiate a technical position; refusal to change position on many issues; the final SoCG which has two thirds of issues as 'Matter Not Agreed'; many technical matters left to the ExA to determine; success measures by number of meetings or documents exchanged rather than resolution of issues; and, many significant matters remain outstanding, e.g. agreement on and use of localised modelling. Examples for each of these concerns are given.
5. The applicant's approach is contrary to its stated policy position within its recently issued '**Planning for the Future: A Guide to working with National Highways on Planning Matters**' published in October 2023. There are two principles from this guidance which, in the Council's opinion, have not been used effectively by the applicant during the LTC Pre Application, Pre Examination and Examination stages of this DCO process – '**seek consensus with IPs**' and '**provide sufficient detail to allow assessment of the impact of their proposals**'.

Section 2 – Control Document Changes at D7 and D8

6. **Code of Construction Practice, First Iteration of Environmental Management Plan (CoCP) (v7 and v8):** the Council welcomes the strengthening of REAC Table 7.1 measure HR011 and measure TB031, where the applicant has produced a 'Heat Map' to inform detailed design to avoid impacts on terrestrial biodiversity. Other details have been ignored and the Council has outstanding concerns regarding PH002, as do the NHS Mid and South Essex ICB. The Council welcomes the strengthened commitments to ensure essential drainage infrastructure is constructed prior to when it will be needed to serve the development. However, the Council believes that the general commitment to manage exceedance flow based on existing regime and

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topography may not be sufficient for the Infiltration Basins that are confined within the Junction A13/A1013 and the artificially high embankments.

7. **Outline Traffic Management Plan for Construction (oTMPfC) (v7 and v8):** the Council welcomes the changes to Table 2.3 but seeks further clarity in the wording of the arrangements. The further clarity for arrangement for construction of M25 accesses is welcomed. Other details have been ignored. The Council notes that the applicant has ignored the detail within the ExQ1 Q4.6.4 ([REP4-353](#)).
8. **Framework Construction Travel Plan (FCTP) (v4 and v5):** the Council welcomes the additional prospective mitigation interventions related to non-local worker and visitor estimates, but the Council is concerned that the applicant's mitigation strategy is left to the contractor to define post-grant. Other details have been ignored, particularly the detail within the ExQ1 Q4.6.4 ([REP4-353](#)).
9. **Outline Materials Handling Plan (oMHP) (v4):** the Council will make further submissions at D9A following the applicant's update at D9.
10. **Outline Landscape and Ecology Management Plan (oLEMP) (v6):** a new point 3 has been inserted, which confirms that the undertaker must carry out, and maintain, each relevant part of the authorised development in accordance with the oLEMP and this is supported by the Council.
11. **Design Principles (v6):** the Council supports the retention of the reworded Design Principle for WCH facilities. The Council supports the inclusion of two new Design Principles for Structures and one new Design Principle for Lighting.
12. **Draft Archaeological Mitigation Strategy and Outline Written Scheme of Investigation (v5):** the Council supports the inclusion of an additional section on indirect heritage impacts. There are further minor improvements to the ASI-OWSI and there will be a further iteration at Deadline 9.
13. **Carbon and Energy Management Plan (C&EMP) (v3):** the Council considers the lack of: basic management procedures within the C&EMP; transparency in the consistency and comparison of project calculated emissions to national budgets; secondary impact assessment on LTC on Government meeting their net zero obligations, as required by Schedule 4 Regulation 14(2) of the Infrastructure Planning (EIA) Regulations 2017; and, all these issues means that the C&EMP requires further significant development, despite the lack of Examination time remaining.
14. **Stakeholder Actions and Commitments Register (SAC-R) (v6):** there are three new SAC-R commitments. **SACR-020** – this has been discussed with the Council and is not agreed as the Council set out its reasons for additional funding, which the applicant has refused to accept. **SACR-021** – this has been discussed with the ESSPSG (of which the Council is part) and there is a confusion between this commitment to a new location that is south of Muckingford Road (and not near the North Tunnel Portal). If this confusion persists the applicant and contractors have different proposed locations within the DCO with no resolution. **SACR-024** – although this commitment maybe acceptable it is at variance with the Order Limits what are shown to include part of the Star Dam.
15. **Statement of Commonality (v9):** the Council's views on this document remain the same as set out in its D6, D7 and D8 submissions and it is clear that the applicant has made no attempt to discuss the Council's comments with the Council or to amend its document to accommodate those comments.

Section 3 – Draft Development Consent Order Matters

16. **Draft Development Consent Order Changes (v10) and Schedule of Changes (v8):** overall the applicant has proposed a number of improvements to the dDCO. However, as set out in the Council's Deadline 8 submission ([REP8-165](#)), there remains a considerable number of

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opportunities to improve the dDCO, so that it provides increased public benefit. This is without prejudice to the Council's wider concerns about the design of LTC and the assumptions made as part of the modelling of its impact.

17. **Comments on Explanatory Memorandum Changes (v6):** the Council has reviewed the changes to the Explanatory Memorandum and primarily these do not introduce new issues. However, the Council does need to comment on the amendments to page 79 of the Explanatory Memorandum. This concerns the identification of the Discharging Authority for the purposes of the Requirements, which the Council has previously identified as a concern. The Council wishes to state, in the strongest possible terms, that its engagement with the proposed requirements was on a without prejudice basis to its principal concern regarding the Discharging Authority. The applicant is aware that the issue of Discharging Authority remains an area which is a 'Matter **not Agreed**' with the Council in the SoCG. The Council suggests that the Explanatory Memorandum is amended so that the joint statement ([REP6-163](#)) is not used to support the contention about support for the Secretary of State being the Discharging Authority.
18. **Applicant's response to Interested Parties comments on the dDCO at D7:** the Council has repeatedly requested specific comments on the dDCO. However, the applicant has decided to assert that it has 'appropriately addressed' our concerns without explaining why. It is not sufficient to keep referring back to previous responses, when specific concerns in relation to those responses have been raised. The Council strongly disputes the applicant's statement that the outstanding suggestions from the Council '*are highly novel and will be detrimental not just to the delivery of this Nationally Significant Infrastructure Project, but to delivery of UK infrastructure generally*'. The Council has raised legitimate concerns, e.g. securing of certain documents, and they neither highly novel or are going to have a detrimental effect on the delivery of a Nationally Significant infrastructure Project. The Council respectfully requests that these questions are asked by the ExA to the applicant. In relation to the comments on the Council's proposed new Housing Requirement (as originally proposed by Gravesham), worker housing remains an area of great concern to the Council.
19. **Council Comments on Applicant's Comments on IPs Commentary on dDCO:** overall the Council still has numerous concerns as set out in [REP8-166](#) and which are further supplemented within Appendix A of this D9 submission.
20. **Council Comments on Updated Requirements:** the Council and other interested parties await the applicant's comments on the Deadline 8 submissions. However, the Parties have been discussing the most appropriate Requirement 18 and have received the applicant's latest version. As a result an 'Updated Joint Position Statement on Orsett Cock Interchange Requirement' is presented in Appendix B offering a jointly agreed more appropriate Requirement 18 for the ExA's consideration.
21. **Council Comments on Applicant's Submissions on ISH14:** ISH14 related to the dDCO and the Council considers that there are still a number of significant issues with the dDCO that would impact upon its effective functioning. The Council is concerned with the negative practical implications on local residents, if the dDCO is confirmed in its current form.

Section 4 – Land and Compulsory Acquisition Matters

22. The concept proposed within the draft SAC-R remains acceptable to the Council provided the wording can be agreed, but the Council needs to better understand the detail of what is being provided as is demonstrated, in part, by the Council's commitment to engage on this matter in a very tight timescale. The request is not unreasonable. The applicant's intransigence on this matter is plain to see and somewhat frustrating for the Council, bordering on being unprofessional when consider it is dealing with compulsory acquisition matters with which the Council needs more certainty.

Section 5 - Applicant's Comments on Traffic and Transport Matters

23. **Council Comments on Applicant's Comments on IP Submissions at D6A: Orsett Cock: Summary of Council's Position:** the applicant agrees that the information presented by the applicant to the Examination in Appendix N of Localised Traffic Modelling ([REP6A-004](#)) does show an increase in traffic through Orsett Village, as a result of LTC. The applicant then makes a series of assertions about the modelling of the junction without evidence, which are not accepted by the Council. Even at this late stage in the Examination, there remains a very low degree of confidence in the applicant's modelling (strategic and microsimulation). In particular, the applicant has to date failed to produce sufficient modelling, converged/iterated to an appropriate degree, to show (a) that the Orsett Cock interchange will function (the Council's v3.6T shows that it will not); (b) that LTC will not have likely significant environmental effects in Orsett Village (the applicant's own sensitivity tests and v3.6 shows that there will be); and (c) that LTC will not seriously adversely impact the ports' operations. It is for this reason, low confidence in the modelling even at the effective close of the Examination, that the Council, PoTLL, DPWLG and TEP jointly consider that it is important that the draft Requirement for Orsett Cock Junction is clear on what objectives the criteria against which measures are judged are seeking to achieve and provides a clear decision-making framework for those objectives to be monitored and mitigated where breached.
24. **Wider Network Impacts:** the Council and the applicant continue to disagree about the effects of LTC on the operation of the wider local road network in Thurrock. There are no agreed base or forecast models of the localised models of the wider network impacts and in the case of two of the six junctions within Thurrock, no modelling has been provided by the applicant for the area of concern raised by the Council. The Council reiterates the point that this is wholly unacceptable and is unique in this respect for an NSIP at this state of Examination. Given the outstanding issues with localised modelling at this late stage in the Examination and that the ExA has requested that no further modelling is submitted, the Council has worked jointly with PoTLL, DPWLG and TEP to draft a Requirement for the mitigation and monitoring of wider network impacts.
25. **Tilbury Junction:** the Council and the applicant continue to disagree about the importance of including Tilbury Link Road (or passive provision for Tilbury Link Road) as part of LTC. In summary, an adequate explanation has not been provided of why Tilbury Link Road was removed from the scheme and its inclusion would provide greatly improved access to public transport services for Thurrock residents and enable the Orsett Cock Junction to be significantly reduced in size.
26. **Council Comments on Applicant's Comments on IP Submissions on Wider Network Impacts: Response to Section 2.3:** the applicant has misrepresented the Council's submission at Deadline 7 ([REP7-228](#)). The Council supports a 'vision led' approach rather than a 'predict and provide' approach. The applicant has adopted a 'predict and provide' approach (that is in effect the strategic justification for LTC, according to the applicant) rather than a 'vision-led' approach, but it has predicted the future traffic demand and then stopped short of providing capacity for the predicted flows. The Council's position is that had a vision-led approach had been adopted, it would have entirely undermined the justification for the current LTC scheme. The applicant states that they have assessed changes in journey times and found that 'the net effect of the Project is a substantial improvement' (paragraph 2.3.3). The applicant does not state where this improvement is found on the road network and the applicant is misleading in its description of the economic analyses provided in Appendix D - Economic Appraisal Package: Economic Appraisal Report ([APP-526](#)).
27. The economic analysis provided by the applicant clearly shows that for Level 1 benefits based around journey time the Benefit Cost Ratio is 0.48:1, i.e. LTC delivers fewer benefits than costs when assessed against 'well-established' transport benefits. LTC can only be justified in economic terms through the inclusion of less well-established' Level 2 benefits based on reliability and

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agglomeration. The applicant then goes on to present details of how the Council approaches the assessment of changes in traffic flows due to new developments or other changes. This is the standard approach for a local highway authority. The applicant is implying that this approach to the mitigation of issues on the transport network is sufficient to address the impacts of LTC. The Council disagrees with the implications of the applicant's statements. The Council maintains its view that an adequate version of Requirement 18 is required to ensure that impacts at Orsett Cock Junction are mitigated if they occur and that funding is provided by the applicant to cover the potential cost of these mitigation measures (and that the funding implications of such a requirement are factored into the scheme's BCR appraisal)..

28. **Response to Section 3.2:** at this late stage in the Examination the applicant and the Council will not meet on their respective opinions on the Wider Network Impacts Requirements. It is therefore incumbent on the ExA to determine what is appropriate to recommend into any granted DCO.
29. **Council Comments on Applicant's Submission on ISH12:** the Council is satisfied with the proposed quantity and quality of the land replacement at Ron Evans Memorial Field but, the Council would like to reiterate its concerns regarding the timing of the reprovision of POS by Ron Evans Memorial Field for a period of not less than 5 years.
30. Regarding paragraph 3.2.2, the Council reiterates that £1.89 million over 7 years is insufficient and deems £3.75 million over seven years to be a more appropriate figure based on benchmarking. The Council has concerns over the EMP2s, the EMS, the implementation of the waste hierarchy, carbon budgets, and why the applicant is not prepared to separate out the REAC.
31. **Council Comments on Applicant's Submission on ISH13: VISSIM inputs:** the Council has set out which VISSIM parameters were changed by the applicant in v3.6 with no agreement or knowledge from the Council. The Council also sets out in ([REP8-167](#)) why the changes to the parameters are not accepted and contrary to best practice and guidance. There is a disconnect between the LTC design and the VISSIM modelling, which should be consistent. To confirm, the Council's v3.6T has not made any changes to the applicant's modelled merge length of 200m. This does not mean that the Council agrees with the length of the merge and it remains an area of disagreement between the applicant and the Council.
32. **Traffic effects at Orsett Cock:** the applicant provides further examples of where different driver parameters have been used in VISSIM. Though the Council accepts that the default VISSIM parameters can be amended in principle, the Council does not accept that this is a justifiable approach to modelling the Orsett Cock Junction for two reasons: need for alignment between forecast year parameters and the validated base year model; and, the need for adherence to industry guidance and best practice. The applicant has provided no justification that the driving behaviour at Orsett Cock Junction will change with the LTC opening and therefore v3.6 model results are not acceptable. NPSNN paragraph 3.10 provides that *'scheme promoters are expected to take opportunities to improve road safety, including introducing the most modern and effective safety measures where proportionate.'* The applicant's approach to driver behaviour runs wholly counter to that policy imperative.
33. **Journey times to/from Ports:** the Council disagrees with the applicant's analysis and contends that there is not a reliable evidence base before the Examination based on LTAM as set out in the Council's Comments on Traffic Modelling (D6A) ([REP6A-013](#)) and in the Council's Post Hearing Written Submissions (CAH5 and ISH11 – ISH14) ([REP8-167](#)).
34. **Impact of v3.6 on Scheme BCR and Environmental Assessments:** the Council accepts an error in the previously submitted analysis concerning the cost of delays at Orsett Cock Junction. There are several ways to undertake this type of calculation and to assist the ExA rather than challenge the applicant's approach the Council considers it more helpful to accept the applicant's calculations. The most important point for the ExA is that the applicant has conceded that there are traffic disbenefits at Orsett Cock Junction, which have not been including in the economic appraisal of LTC. The applicant then states that these disbenefits are small and therefore not

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relevant. This is the same approach has taken to the other disbenefits (or reduced benefits), which have been identified during the Examination (e.g. accidents, use of NTEM 8, updated assessment of inflation for construction costs, updated cost of carbon).

35. The critical question is whether cumulatively these effects change the economic appraisal of the scheme. The Council's view, as summarised in the Council's D7 submission based on analysis by Professor Phil Goodwin, shows that the appraisal is highly sensitive to changes in assumptions and the appraisal should be re-run to capture updated assumptions and latest guidance concerning Common Analytical Scenarios. The Council has provided further analysis and commentary of the economic case for the scheme. This analysis shows that the economic case for LTC starts as 'LOW', i.e. a BCR between 1.0: 1 and 1.5:1 and that the evidence provided during the Examination makes it likely that the actual BCR is 'POOR', i.e. BCR less than 1:1. Given the sensitivity of the economic appraisal to different assumptions the Council considers that the ExA has insufficient evidence on which to make a robust determination of LTC.
36. **Differences of LTAM outputs:** the applicant explains that it is not LTC traffic that is routing through Orsett Village, but other traffic. The Council contends that as a result of LTC, traffic will be displaced from Orsett Cock Junction and re-route through Orsett Village. This is inappropriate for the reasons set out in the Council's Post Hearing Written Submissions (CAH5 and ISH11 – ISH14) ([REP8-167](#)) and has not been assessed in the applicant's EIA.
37. **Comments on 3.6T model run:** the Council considers that it is not realistic that the Council would not provide a low-cost intervention like a Pegasus Crossing in response to increase congestion on the local road network. The applicant has compared a Do Minimum model with no mitigation and consequential high levels of queuing and delay with a Do Something model with minor mitigation and concluded that because the level of delay is not significantly greater than the unmitigated Do Minimum, the impacts of LTC are acceptable. This is not a realistic comparison as it has not isolated the true impact of LTC. The Council's 3.6T model corrects this error and provides a more realistic assessment of the impact of LTC.
38. **ACTION POINTS:** in responding to the Action Points from ISH13, the Council also challenges the applicant's assumption concerning lane changing in model v3.6 on two factors: road safety and feasibility. The applicant's flawed model artificially increases capacity within the model on the approaches to the exit to Brentwood Road (South) and therefore under-represents congestion and delay. To resolve this inadequate proposal, the Council has proposed a revised lane designations, which smooths the lane transition as it passes around the circulation. The Council's assumptions on lane allocation have aimed to replicate a safer driving environment for drivers, which can be aligned with the design.

Section 6 – Environmental Matters

39. **ES Addendum:** a section of the Transport Assessment has been adjusted by the applicant to **reduce the significance** of impact from 'moderate adverse' to 'minor adverse' between the Orsett Cock Junction and The Manorway for no apparent reason and **increase** its forecast from no perceived impact to 'moderate adverse' through Stanford-le-Hope and Corringham and at A1089 Asda roundabout. These changes should have been reflected in the assessment of effects and reflected by mitigation for the moderate adverse impacts and the applicant's argument put forward for the reduction in impacts on A13. As requested by the ExA, the applicant stated at ISH10 that it would not be submitting any further modelling updates to the Examination. To have made these adjustments in its forecast of effects, the applicant must have rerun its LTAM since its first submission or to have noted errors in its earlier assessments. Either scenario should have been reported to the Examination to allow proper exploration of the changes. This approach by the applicant is of significant concern to the Council.
40. **Population and Human Health:** although the ES Addendum ([REP8-093](#)) contains updates to the Population and Human Health Chapter, neither a clean or tracked changed version of this chapter

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has been published as part of Deadline 8. An update to reflect the suggested updated REAC commitment PH002 regarding mitigation for healthcare services in relation to the construction workforce is a 'Matter Not Agreed'. The impact on Whitecroft Care Home remains a 'Matter Not Agreed' with the Council, due to the ongoing concerns with the applicant regarding construction impacts and the need for this service within the Borough.

41. **Road Drainage, Water Environment and Flooding:** the applicant's statement in the updated Environmental Statement: to establish overland flow paths during future design stages, fails to address the concern raised for the specific location of the Infiltration Basins to the north of Orsett Heath.
42. **Council Comments on Applicant's Submission on ISH11:** the Council previously provided comments at D8 and adds that comments relating to Star Dam and Coalhouse Point are satisfactory.
43. **Noise Barriers Update:** the Council considers that the lack of a change to the applicant's position is disappointing

Section 7 – Council Comments on Various Applicant's D8 Submissions

44. **Council Comments on Applicant's Comments on IP Submissions at D7:** the Council finds it surprising that the applicant has only provided a single response concerning Infiltration Basins to the Council's D7 submission. The applicant has provided signposting to other documents, which relate to the dDCO and Wider Network Impacts, but the Council's D7 document contained many other issues on which there has been no response (e.g. detailed comments on Traffic and Transportation in Section 9.3).
45. **Road Drainage, Water Environment and Flooding:** the Council do not believe that the applicant has adequately responded to the concerns raised about the infiltration basins specifically within the A13/A1013 Junction north of Orsett Heath. In addition, the Council request that the existing watercourses in the Coalhouse Point area are shown within an updated Coalhouse Point FRA ([REP6-102](#)). Finally, the Council maintains its objection to the fact that Drainage Plans are only illustrative and not secured by the DCO.
46. **Council Comments on Applicant's Responses to ExQ3: Geology and Soils:** for Q6.1.1 the Council notes that requirements to be achieved, the implementation and the verification of acceptability are all provided as self-policing activities. For Q6.1.2 the Council considers that revised wording is required. For Q6.1.6 the Council expects to have to secure the investigation of land away from the North Portal through review of the applicant's contaminated land management plan prepared to support EMP2.
47. **Traffic and Transportation:** for Q4.2.1 on haul roads, the Council notes and welcomes the applicant's intentions to connect its compounds to the SRN, as soon as possible within the contract period to deter the use of the LRN by construction traffic. However, the Council notes that the access routes are not compulsory for worker travel and that HGV movements will only be managed using unenforceable HGV good will restrictions. The applicant has provided inconsistent responses to the access arrangements for Stifford Clays Road East and West compounds and asserts access 'direct' access from the SRN for some compounds when this is not possible. The applicant continues to be only prepared to commit to importing 35% of bulk aggregates to the project by non-road transport.
48. For Q4.2.2 on river access and jetties for construction the Council considers the commentary relating to 93% of project materials being the subject of a possible multi-modal (implied non-road) initiative is misleading. The applicant's commitment is to move 35% of bulk aggregate by river. The applicant makes no references to other opportunities that the PLA and the Council and other parties have sought the applicant to appraise for non-road transportation into or away from the

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project. The Council continues to consider that the applicant and its contractors should be subject to a more rigorous control process within a robust oMHP framework. The Council is not convinced that the appointed contractors will be minded to or incentivised to minimise the use of road to the beneficial use of river and rail as part of the project.

49. **Cultural Heritage:** for Q12.1.1 the applicant's actions to contact alternative custodian bodies and assist in finding a suitable location for the rebuilding of Thatched Cottage, Baker Street is fully supported. For Q12.1.3 the applicant's proposed further changes defining how work on unassessed area will be secured are considered appropriate.
50. **Biodiversity:** for Q11.1.8 the Council notes that from a utilities perspective reasonable details on the reasoning behind the location of routing near ancient woodland has been provided.
51. **Road Drainage, Water Environment and Flooding:** for Q10.1.1 on Flood Risk Assessment the applicant has not yet addressed the Council's previous concerns relating to the maintenance responsibility of Star Dam and the impact of the scheme on the operation and maintenance of the Wetland. Requests for report relating to residual risk of flooding have not been provided. The Council expects the applicant to respond to the Council's specific concerns on the Council's response to ExQ3 ([REP8-165](#)), in the Deadline 9A submission.
52. For Q10.1.6 on Culvert Design: the applicant has addressed the ExQ3 Q10.1.6, however, the Council expects the applicant to respond to the Council's specific concerns that adoption and maintenance responsibilities for proposed drainage features are not clearly defined in the applicant's Deadline 9A submission.
53. For Q10.1.11 and Q10.1.12 relating to the Water Framework Directive the applicant has substantially addressed the ExA ExQ3 in relation to minimising the number and length of new culverts in line with the Water Framework Directive. However, the Council's request for information on proposed measures to ensure safe access and maintenance for long culverts remains outstanding.
54. For Q10.1.14 on the definition of ditches and other watercourses in general, the Council considers that the future adoption and maintenance responsibilities for proposed surface water management features are not currently clearly defined. The Council also requests an update to the cross-sections ([REP5-092](#)), to show a section through the proposed Infiltration Basin and also to show consistent terminology with the Drainage Plans and referencing of Work No. for each drainage feature.
55. **Council Comments on Applicant's Submission on CAH5:** the Council will await the applicant's response at D9 and respond accordingly at D9A.
56. **Council Comments on Applicant's Submission on OFH5:** the Council has no further comments.
57. **Council Comments on CoCP/REAC EMP Annex E – Heat Map:** the applicant's new REAC commitment TB031 makes it a requirement for the applicant to use this 'Heat Map' to inform detailed design to avoid and/or minimise impacts on these areas. The Council supports the provision of this additional REAC commitment. The Council suggests the wording in the REAC be changed to '**areas of highest value habitat**' to reflect potential delays in commencing construction.
58. **Council Comments on CoCP/REAC Community Liaison Groups Initial ToR:** the information provided at Deadline 8 by the applicant is agreed with the Council and the Council is satisfied with the Community Liaison Group's initial Terms of Reference.

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59. **Draft Section 106 Agreement Comments and Progress Update and Explanatory Note:** the Council has exchanged correspondence and discussions since the D8 submission on 5 December 2023 and has now received the applicant's final draft S106 Agreement offer. Under the S114 notification it is necessary to seek the Council's governance and guidance in determining its response to this final offer. Consequently, a detailed Technical Report and recommendations was prepared and is being considered under Council governance. There are four areas outstanding in the wording of the draft S106: definition of 'Input Date'; notice provided by the applicant for the 'Input Date'; no provision for front-loading payments for certain posts if workload requires it; and, definition of 'Order Land' required. In addition, the applicant's offer equates to 83% of the Council 'ask' with a net shortfall per annum or over 6.5 to 8.5 years. The applicant is fully aware of all these matters and the current status of the Council's governance.
60. Notwithstanding the above shortfalls and issues with the draft S106, in the process of Council governance it has been determined that the Council will, in fact, sign the S106 Agreement and the following statement has been sent to the applicant:
- 'Further to our recent discussions I would like to confirm that agreement has been reached between National Highways and Thurrock Council with regards to the Section 106 Agreement. The Council has agreed the wording in the Section 106 agreement and is currently undertaking its formal signatory process. It is planned that the signed Section 106 agreement will be submitted to the Examining Authority at Deadline 10'.*
61. The Council will now endeavour to honour that statement and provide the necessary documentation at Deadline 9A or 10

1 Introduction

1.1.1 This Deadline 9 submission responds to the applicant's Deadline 7 (specifically those documents not able to be dealt with in the short period between D7 and D8) and to the D8 submission documents that were uploaded to the PINS website on 7 December 2023, whether new or in tracked changes. Some submitted documents do not require Council comments and so do not form part of this submission. Further details of the relevant sections are set out below.

1.1.2 The Council would like to note that in many instances within the applicant's documents covered by this submission, there is no further analysis, evidence, documentation or response that addresses the Council's points made in its submissions. This is particularly relevant as the Examination closes on 20 December 2023 and yet very little progress has been made on many significant issues, which is most unusual. Normally issues are increasingly resolved during the Examination process, but this has not been the case with this applicant.

1.1 Context

1.1.3 There were a total of 194 submissions at D8 and of that total the applicant made 123 submissions at D8 of which 52 were in track changes (and hence 52 clean versions were not reviewed) and the remainder were new documents or there were many documents that did not require Council review. Consequently, it is this overall total of just 29 track changed and relevant new documents that have been assessed within this submission, to determine if the Council needed to comment.

1.2 Structure of this Submission

1.2.1 This document provides comments on the relevant and necessary submitted documents, as set out below

- a. Control Document changes at D7 and D8
- b. Draft Development Consent Order Matters
- c. Land and Compulsory Acquisition Matters
- d. Applicant's Comments on Traffic and Transport Matters
- e. Environmental Matters
- f. Council Comments on Various Applicant's D8 Submissions

1.3 SoCG Update Progress

1.3.1 The Council, since D7, has continued to work with the applicant and will jointly submit a final SoCG at D9 and although a number of matters have been agreed, many have not. The final SoCG will only contain two categories – 'Matter Agreed' and 'Matter Not Agreed'. Final numbers are, as follows:

- a. There are a total of 311 issues covered in the Final SoCG, of which
- b. 95 issues are 'Matter Agreed'
- c. 216 issues are 'Matters Not Agreed'.

1.4 Council Views on Applicant's Approach to Technical Engagement and the Examination Process

- 1.4.1 The Council has been concerned about technical engagement and other aspects of consultation for several years now as those concerns were set out in its Adequacy of Consultation submission ([AoC-018](#)) dated 16 November 2022. In the Council's view some of these concerns have continued and have hampered the successful operation of the Examination.
- 1.4.2 Since then the Council stood down for several months from late-December 2022 until April 2023 in view of the notification of its S114 status. However, since April 2023 and throughout the Examination process the Council has serious concerns about the applicant's approach to technical matters, which can be summarised as the following 10 issues:
- a. Refusal to provide adequate technical information or provide it in a timely manner. This was amply demonstrated by refusing to include in DCOv1 in late 2020 a number of key Control documents until PINS, in its meeting note dated 26 November 2020 (Ref. No.00029-1-201126), recommended these be included and these are now part of the current DCO;
 - b. Delay in providing responses or information. This point and the one above were amply evidenced in the Council's LIR ([REP1-281](#)) in Section 6.4 and again in the Council's D8 submission ([REP8-166](#)) in Section 10;
 - c. Signposting to other documentation that, when checked, does not provide adequate answers to reasonable questions. This occurs throughout every applicant document to an excessive degree when responses are required;
 - d. The refusal to consider or deal positively to technical proposals put to the applicant by IPs. This has happened continuously over several years until the applicant is 'forced' to reconsider its position and then it sets a new baseline until the next challenge;
 - e. The lack of provision of key evidence to substantiate a technical position, although occasionally and only if requested by the ExA, then such evidence has only then been provided to IPs;
 - f. The refusal to change its position of many issues even simple ones, such as separating out the REAC from the CoCP. This is despite the history of doing so on selected matters, only if required by the ExA;
 - g. The final SoCG, which is now a process that has been negotiated with the Council for over five years, contains approximately two thirds of its total of 216 issues as 'Matter Not Agreed' (i.e. 70% of all matters), thereby demonstrating the lack of conciliation between the parties, which the Council contends largely rests with the applicant;
 - h. Many technical matters have been deliberately left to the Examination and for the ExA to determine in its recommendations. For this Council, there are 216 in the SoCG and many other issues contained in each of the Council's submissions;
 - i. The applicant often demonstrates its successful technical engagement by reference to the number of meetings or documents exchanged, rather than through the resolution of issues; and,
 - j. Although the applicant has conceded on a range of less significant matters, largely these are minor or less impactful matters, but the significant matters remain outstanding. An example is the undertaking and then use of localised modelling – it took the applicant almost a year to produce the Orsett Cock Vissim model and it refused many times to include it within the DCO documentation until the EXA required it; and, since then it has not been resolved or agreed between all the parties.
- 1.4.3 The purpose in setting out these concerns at this late stage in the Examination process is to demonstrate to the ExA of an endemic problem with the applicant's approach that is contrary to

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its stated policy position within its recently issued ***'Planning for the Future: A Guide to working with National Highways on Planning Matters'*** published in October 2023 (and as set out below in **Appendix C**).

- 1.4.4 National Highways deals with its statutory engagement for NSIPs in paragraphs 99 – 102 and these principles are supported by the Council, however, in practice it is a different story, with the LTC project. In particular, paragraphs 100 and 101 bear setting out below.

100. Promoters are encouraged to seek consensus with interested parties, including us where applicable, in order to satisfy the Planning Inspectorate that full and thorough pre-application consultation with interested parties has been carried out. Where possible, we will work towards agreeing a Statement of Common Ground at an early stage so that this can be an input to the examination.

101. In any case, when submitting the application and draft submission to the Planning Inspectorate (known as a Development Consent Order), promoters must provide sufficient detail to allow the assessment of the impact of their proposals on the SRN, and the suitability and deliverability of their proposed transport arrangements, including means of access.

- 1.4.5 There are two principles, which in the Council's opinion, have not been used effectively by the applicant during the LTC Pre Application, Pre Examination and Examination stages of this DCO process – ***'seek consensus with IPs'*** and ***'provide sufficient detail to allow assessment of the impact of their proposals.'***

2 Control Document Changes at D7 and D8

2.1 Introduction

2.1.1 This section covers the Council's comments made to the applicant's 10 updated Control documents for the scheme (within its D8 submission), as set out below. The relevant applicant submission documents are annotated in each sub-heading title for ease of reference

2.2 Code of Construction Practice, First Iteration of Environmental Management Plan (CoCP) (v7 and v8) (REP7-123 and REP8-045)

2.2.1 Further minor editing and formatting updates are shown in the CoCP EMP ([REP8-045](#)), which have no significant impact and the Council does not have any comments regarding them.

2.2.2 The Council welcomes the strengthening of REAC Table 7.1 measure HR011, where the applicant provides further clarity and commitment for the proposed time period for undertaking water inlet works (1 April – 30 August). The Council welcomes measure TB031, where the applicant has produced a 'Heat Map' to inform detailed design to avoid impacts on terrestrial biodiversity.

2.2.3 The Council notes that the applicant has ignored the detail within the ExQ1 Q4.6.4 ([REP4-353](#)).

2.2.4 The Council's outstanding concerns regarding PH002 are set out below in Section 6.1.12.

2.2.5 RDWE034 relating to Infiltration Basins, RDWE035 relating to Retention Ponds and RDWE048 relating to Detention Basins have been updated with principally the same additions. First, where proposed features are serving the development, there is a strengthened commitment to ensure that the feature will be constructed prior to being required to serve the development. Second, that exceedance flows from the features will be guided by the prevailing topography and based on existing overland flow routes. Exceedance flow rates and volumes would not be appreciably greater than under existing conditions.

2.2.6 The Council welcomes the strengthened commitments to ensure essential drainage infrastructure is constructed prior to when it will be needed to serve the development. However, the Council believes that the general commitment to manage exceedance flow based on existing regime and topography may not be sufficient for the Infiltration Basins that are confined within the Junction A13/A1013 and the artificially high embankments. This issue is discussed again in **Sections 6.2** and **7.2** below.

2.2.7 A new commitment has been added to the REAC as TB031 and the Council has reviewed this commitment and its associated 'Heat Map' ([REP8-047](#)) and its positive response is set out below in Section 7.6, with a slight amendment to the wording of TB031.

2.3 Outline Traffic Management Plan for Construction (oTMPfC) (v7 and v8) (REP7-149 and REP8-087)

2.3.1 The Council welcomes Table 2.3 measure Healthcare Facilities, Local Surgeries, and Hospitals and the deletion of 'with exception of night-time and weekend closures' in regard to ensuring suitable diversion routes are in place. The Council would wish to see additional clarity of this through the following wording, ***'including night-time and weekends where out of hours access is essential'***.

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- 2.3.2 The applicant has amended the flow layout of Plate 3.3 Traffic Management Planning, this has been discussed at ISH14 and the Council does not have any further comments regarding these amendments.
- 2.3.3 The Council welcomes the additional clarity in paragraph 4.2.12, where the contractor would be required to define when the M25 accesses are planned to be constructed and set out measures, which reduce the M25 temporary access construction time. This matter affects the road network in the LB Havering, but assurance should be provided that the planning should not impact the network within Thurrock.
- 2.3.4 The Council notes that the applicant has ignored the detail within the ExQ1 Q4.6.4 ([REP4-353](#)).

2.4 Framework Construction Travel Plan (FCTP) (v4 and v5) (REP7-147 and REP8-087)

- 2.4.1 Further minor editing and formatting updates are shown in the FCTP ([REP8-085](#)), which have no significant impact and the Council does not have any comments regarding them.
- 2.4.2 The applicant has updated the plate legend colours in Plate 5.1, 5.2, and 5.3 and updated 'Project Construction Compounds' to 'Main Works Construction Compounds'. The Council does not have any comments regarding these updates.
- 2.4.3 In paragraph D.4.15 and D.4.16, the applicant has added that Contractors must implement further interventions if non-local worker and visitor estimates exceed WAR estimates. This may include proportionate financial contribution to increase accommodation availability and/or support for the local authority's statutory housing service. The Council welcomes these prospective mitigation interventions, but the Council is concerned that the applicant's mitigation strategy is left to the contractor to define post-grant. The security of mitigation is therefore absent from the assessment of the impacts of the scheme and the Council has little surety that the effects will be managed.
- 2.4.4 The Council notes that the applicant has ignored the detail within the ExQ1 Q4.6.4 ([REP4-353](#)).

2.5 Outline Materials Handling Plan (oMHP) (v4) (REP7-126)

- 2.5.1 The Council has responded to the applicant's D7 submission in its D8 submission ([REP8-166](#)) in Section 2.5 and sets out further updates to the current position within Section 7.3.9 – 7.3.15 below. The Council will make further submissions at D9A following the applicant's update at D9.

2.6 Outline Landscape and Ecology Management Plan (oLEMP) (v6) (REP8-081)

- 2.6.1 Most changes are typographical corrections. Paragraph 2.2.2 adds a reference to the ES Addendum and the need to follow the latest version.
- 2.6.2 Paragraph 2.1.5 includes Requirement 5 of the current draft DCO. A new point 3. has been inserted, which confirms that the undertaker must carry out, and maintain, each relevant part of the authorised development in accordance with the LEMP. This expansion of the requirement is supported by the Council.

2.7 Design Principles (v6) (REP8-083)

- 2.7.1 Design Principle PEO.05 has been retitled WCH facilities (previously WCH Hubs). It is understood that following changes to proposals at Shorne Wood, there is no provision within the scheme for a specific Hub. The Design Principles still requires the applicant to provide waymarking and other facilities including seating and cycle parking to make PRow accessible and visible. The Council supports the retention of this reworded Design Principle.
- 2.7.2 Two new Design Principles have been added in the Structures section. STR.18 relates to central reserve emergency crossing points and STR.19 to emergency access roads. The Council supports the inclusion of these new Design Principles.
- 2.7.3 A new Lighting Design Principle has been added. LST.04 relates to lighting on green bridges and addresses concerns raised regarding the potential effects on lighting on the habitat features on the green bridges. The Council supports the inclusion of this new Design Principle.
- 2.7.4 S6.03 is a new Design Principle addressing Tunnel fire-fighting systems. The other additional Design Principles north of the Thames relate to how STR.18 and STR.19 are incorporated within the scheme.

2.8 Draft Archaeological Mitigation Strategy and Outline Written Scheme of Investigation (v5) (AMI-OWSI) (REP8-049)

- 2.8.1 Within the Executive Summary an additional section has been added (1.1.2, sub section e) which relates to the indirect heritage impacts of the scheme. This is important especially in the area of the setting of built heritage and historic landscapes. The inclusion of this is supported.
- 2.8.2 Paragraph 6.4.20 **Geophysical survey** – proposals to use geophysics as well as other remote sensing methods techniques on the deeper deposits present on the scheme have been added. The use of more than one technique is supported.
- 2.8.3 A.4.6 part aims to expand the outreach activity to engage a younger audience that that more traditionally addressed. This is also identified in A.1.8.
- 2.8.4 Section A.3.8 identifies the audiences that the outreach could comprise is supported but would benefit from the museums on both sides of the river being included.
- 2.8.5 An additional Annex has been added as Annex C (page 194) comprising the Palaeolithic Written Scheme of investigation. This has also been circulated separately to the archaeological advisors and Historic England with a final version expected at D10. This will form an important part of the OWSI as it deals with the earliest, and potentially the deepest deposits identified on the proposed scheme.
- 2.8.6 **These are further improvements to the OWSI. There will still be a further iteration at the next deadline as the Palaeolithic appendix needs further editing and additions. All but one of the areas of archaeological deposits in Thurrock that will be affected have the methodology agreed and the final one will be agreed this week. The additions in this version will secure appropriate mitigation if the application is approved.**

2.9 Carbon and Energy Management Plan (C&EMP) (v3) (REP8-089)

Management Procedures

- 2.9.1 There are existing standards, such as ISO 50001 Energy Management Systems, that provide the required management procedures for management plans. Carbon and energy management planning is not an unprecedented activity and forms part of normal procedures in many businesses in the UK.
- 2.9.2 The update to the C&EMP continues to miss basic management procedures expected of an environmental management plan including:
- a. Clear and transparent breakdown of GHG emission targets based on phasing to ensure that any design changes within the phases by the contractor are captured and decisions of compliance against budgets are adhered to, rather than pushed to later phases to be addressed.
 - b. Appropriate use of mitigation to reduce emissions, for example, the purchase of commercial renewable energy tariffs does not count towards claims of carbon reduction, which the applicant is using to justify decarbonisation. For example, in the UK Government's Streamlines Carbon and Energy Reporting Guidelines requiring location based emission reporting.
 - c. Definitions of non-conformity to the management plan.
 - d. All corrective procedures that will be implemented if non-conformities occur.
 - e. The management procedures relating to the delivery of the physical infrastructure required for GHG reduction measures against the environmental parameters set within the EIA.
 - f. Management procedures that will support host communities.
 - g. Procedures for independent regulation of compliance beyond the contractual relationship between the applicant and the contractor.
- 2.9.3 The C&EMP has inefficient detail when compared to typical environmental management planning procedures.
- 2.9.4 The Council notes the applicant's approach to dealing with the climate impacts cannot be considered 'pathfinder' in the way it disregards the severity of the emissions the project will cause.
- 2.9.5 As identified in the Council's LIR ([REP1-292](#)), through the SoCG ([REP6-031](#)) and within the Council's representations, including [REP3-206](#), the approach taken by the applicant does not meet the basic requirement of transparency including:
- a. Not meeting the basic requirements of the Greenhouse Gas Project Protocol (WRI 2005) in defining consistent boundaries and calculation methods when comparing project emissions to targets and budgets.
 - b. Use the good practice defined by the Institute of Environmental Management, Assessing Greenhouse Gas Emissions and Evaluating their Significance (IEMA, 2022), in comparing project emissions against local and sectoral budgets.
 - c. The approaches defined with the applicant's Sustainability Report (REP1-325) has not followed any national or independent guidance for framing and reporting sustainability. Due to the lack of relevant and recognised framework and structure the LTC Sustainability Report does not appear to cover full transparency requirements expected of such a report. The report also presents evidence and data that may not be consistent with infrastructure planned within DCO and therefore not secured.

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2.9.6 The Council has also identified within the LIR ([REP1-292](#)) that the applicant has not assessed the secondary impacts of LTC on the Council's ability to meeting the obligations set by National Government on Local Government to deliver net zero goals. This leads Chapter 15 Climate Change of the EIA ([APP-153](#)) not to be compliant with Schedule 4 Regulation 14(2) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017, in addressing the secondary impacts of the project.

2.9.7 **The Council considers the lack of:**

- a. basic management procedures within the C&EMP;
- b. transparency in the consistency and comparison of project calculated emissions to national budgets;
- c. secondary impact assessment on LTC on Government meeting their net zero obligations, as required by Schedule 4 Regulation 14(2) of the Infrastructure Planning (EIA) Regulations 2017; and,
- d. Requires further significant consideration.

2.10 Stakeholder Actions and Commitments Register (SAC-R) (v6) (REP8-091)

2.10.1 It is noted that **SACR-020 – SACR-024** have been added as new commitments and the Council has no further comments on SACR-022 and SACR-023, as these are located south of the River Thames and the others are commented on below.

2.10.2 **SACR-020** – this has been discussed with the Council and is not agreed as the Council set out its reasons for additional funding which the applicant has refused to accept. This commitment, however, does not specify the total amount of funding and this is required to be secured by the DCO and requests the applicant provide where this is covered. Furthermore, as with the Officer Support Contributions in Part 2 of the SAC-R the amount allocated to staff on-costs and redundancy is insufficient.

2.10.3 **The Council's response to this matter in the SoCG (Item 2.1.209)** is set out below to provide the ExA with further informative detail of the Council's position on this matter.

'Following further refinement of the SAC-R mitigation (with the final position from the applicant received on the 5 December 2023) this matter remains a 'Matter Not Agreed'. This is because the points raised with the applicant regarding the adequacy of this offer to achieve the outcomes associated with the suggested mitigation (listed in the HEqIA mitigation received from the applicant on the 21 November 2023 as community awareness raising and capacity building) are unlikely to be fully realised due to the role type suggested and the timeframe over which the funding covers. Additionally, these factors have subsequent impacts on limiting the legacy, evaluation and therefore sustainability of these positions. Therefore, significantly reducing the potential positive impact of this additional mitigation as laid out in the Council's original proposals. This is explained in the bullet points below:

- a. *Engagement Officers alone would not introduce sustainability to the project, the project either needs to either employ the officers for the full 6-year construction period (or now 8.5 years in the latest S106 offer). Alternatively, there needs to be a more senior role in post or a combination of the two to ensure that the work with the local community can be done to capacity build and enable application to the LTC Community Fund and other funding routes.*
- b. *Monitoring and evaluation, within this offer it is not clear that the proposal built in sufficient monitoring and evaluation, which would reduce the efficacy of these positions reducing any benefits or learning that can be reported.*

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- c. *The Council has suggested to the applicant that options encompassing the above would cost 50% more than the applicant is offering. The Council are happy to work internally with the applicant to look at these in more depth.*

Whilst this is to remain a 'Matter Not Agreed', it is understood that this funding will remain in the SAC-R and the Council would look to have further discussion with the applicant on what can realistically be delivered with this level of funding in future stages of this project if consented.'

- 2.10.4 **SACR-021** – this has been discussed with the ESSPSG (of which the Council is part) and there is a confusion between this commitment to a new location that is south of Muckingford Road (and not near the North Tunnel Portal) (which it is understood is acceptable to the ESSPSG, if it is correctly shown on a drawing for approval and referred to accurately in Schedule 1 and in the Design Principles) and that shown on the specific General Arrangement Drawing, referred to as Work No. 3F and referred to within Design Principles S.9.21 and S.10.16 – this is set out in the ESSPSG SoCG in Item 2.1.25.
- 2.10.5 If this confusion persists the applicant and contractors have different proposed locations within the DCO with no resolution. Furthermore, seeking to obtain a subsequent TCPA planning application to secure this new location is not appropriate and potentially 'salami slicing' of a provision that should be within the DCO. It is understood that the ESSPSG will be making a submission at D9 on this matter in more detail and within its final SoCG.
- 2.10.6 **SACR-024** – although this commitment maybe acceptable it is at variance with the Order Limits what are shown to include part of the Star Dam. The Council has made a submission on this matter in its D7 submission ([REP7-228](#)) on page 95 and in the Council's Post Event Submission ([REP7-167](#)) on page 12. The Council is therefore unsure if this confusion is material and requests more clarity from either the applicant or ExA.

2.11 Statement of Commonality (v9) (REP8-011)

- 2.11.1 The Council's views on this document remain the same as set out in its D6 submission ([REP6-164](#)) within Section 2.10 (and, indeed, in previous submissions too) and in its D7 submission ([REP7-228](#)) in Section 2.13. It is clear that the applicant has made no attempt to discuss the Council's comments with the Council or to amend its document to accommodate those comments. It is clear from Table 4.2 within [REP7-101](#) and in the same table in [REP8-011](#) that many of the topics for the Council remain red, i.e. Matter Not Agreed'.

3 Draft Development Consent Order Matters

3.1 Draft Development Consent Order Changes (v10) and Schedule of Changes (v8) ([REP8-007](#) and [REP8-106](#))

3.1.1 The Council has submitted an updated DCO (v10) at Deadline 8 and its accompanying Schedule of Changes (v8). The Council's comments on key amendments are, as follows:

Table 3.1: Outstanding Council DCO Concerns

Article/paragraph	Comment
Article 27	Without prejudice to the Council's primary position that the time limits within Article 27 are excessive, the Council considers that the proposed amendments to Article 27(3) provides greater clarity than the previous wording.
Article 35	The Council is happy with the updated wording in Article 35(g). However, as raised during our D8 submission (REP8-166), the Council would like to see further updates to Article 35 in order to provide greater certainty for those impacted.
Schedule 2 – paragraph 1. Definition of Code of Construction Practice	The update of this definition to include reference to the REAC is welcomed. However, the Council still considers the usability of the REAC would be enhanced if it was separated entirely from the Code of Construction Practice.
Requirement 13	The Council agrees with the updated wording to Requirement 13.
Requirement 17	The updated wording does not address the Council's concerns regarding this Requirement. The Council supports the wording submitted by the Port of Tilbury London Limited in its Deadline 8 submission (REP8-164)
Requirement 18	The Council considers that the current drafting of Requirement 18 does not address the significant and extensive evidence regarding the ineffective modelling of the Orsett Cock Junction and the impact that this is going to have on future development within Thurrock. In particular, it is critical (given the low confidence that the Council has with the applicant's modelling) that the Requirement makes provision for post-opening monitoring and mitigation. Please see below for the Council's comments in relation to updates to this Requirement.

3.1.2 **Overall, the applicant has proposed a number of improvements to the dDCO. However, as set out in the Council's Deadline 8 submission ([REP8-165](#)), there remains a considerable number of opportunities to improve the dDCO, so that it provides increased public benefit. This is without prejudice to the Council's wider concerns about the design of LTC and the assumptions made as part of the modelling of its impact.**

3.2 Comments on Explanatory Memorandum Changes (v6) ([REP8-009](#))

3.2.1 The Council has reviewed the changes to the Explanatory Memorandum and primarily these do not introduce new issues. However, the Council does need to comment on the

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amendments to page 79 of the Explanatory Memorandum. This concerns the identification of the Discharging Authority for the purposes of the Requirements. This is an area that the Council has been raising as a concern since ([REP1-281](#)) and was raised as an area of principal concern in the Council's D8 Submission ([REP8-166](#)). The applicant refers to the joint submission between the Port of Tilbury London Limited, DP World, Thames Enterprise Park and the Council submitted as [REP6-163](#), as an example of drafting which has been proposed where the Secretary of State is the discharging authority. This is used to support its position that parties are happy with the Secretary of State being the Discharging Authority. The Council wishes to state, in the strongest possible terms, that its engagement with the proposed requirements was on a without prejudice basis to its principal concern regarding the Discharging Authority.

3.2.2 The Council has engaged positively throughout the Examination process and has been working with all parties to create the best version of the DCO. This has meant that the Council has engaged with drafting, even when to do so is contrary to its principled position.

3.2.3 The applicant is aware that the issue of Discharging Authority remains an area which is a 'Matter **not Agreed**' with the Council in the SoCG. The Council suggests that the Explanatory Memorandum is amended so that the joint statement ([REP6-163](#)) is not used to support the contention about support for the Secretary of State being the Discharging Authority.

3.3 Applicant's response to Interested Parties comments on the dDCO at D7 ([REP8-114](#))

3.3.1 In [REP8-114](#) the applicant purports to respond to the detailed submissions of the Council at [REP7-228](#), which refers back to our comments at [REP5-112](#). The Council has repeatedly requested specific comments (for example in relation to what is included within environmental effects within the definition of 'materially new or materially different environmental effects in comparison with those in the Environmental Statement', and why it is in the public interest to avoid the non-material amendment procedure by adding the tailpiece provision in Requirement 3).

3.3.2 However, the applicant has decided to assert that it has 'appropriately addressed' our concerns without explaining why. It is not sufficient to keep referring back to previous responses, when specific concerns in relation to those responses have been raised.

3.3.3 An example is the Council's concerns regarding the extent of environmental effects. The Council has stated that further explanation as to the meaning of 'materially new or materially different environmental affects' in comparison with those reported in ES is required, including:

- a. Is that everything in the Environmental Statement or just certain things?
- b. When considering matters, such as business impact, how are new business treated?
- c. How do we know what the impacts are considering the limited publication/consultation requirements?

3.3.4 The applicant's response is 'a well understood and widely used phrase' without offering any further explanation. It also suggests that it has answered the Council's questions, which is not the case.

3.3.5 The Council strongly disputes the applicant's statement that the outstanding suggestions from the Council *'are highly novel and will be detrimental not just to the delivery of this Nationally Significant Infrastructure Project, but to delivery of UK infrastructure generally'*. The Council has raised legitimate concerns, including about how certain documents are secured, the impact of disapplying statutory regimes, such as the non-material amendment process, providing further information to landowners about the condition of land returned to them and how disputes in relation to authorised traffic works are to be resolved.

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3.3.6 These are neither highly novel or are going to have a detrimental effect on the delivery of a Nationally Significant Infrastructure Project. As it appears that the applicant is not willing to answer the questions raised by the Council at Deadline 5, or indeed many other points put to the applicant throughout the Examination and prior to submission, the Council respectfully requests that these questions are asked by the ExA to the applicant. These questions were not intended to be major issues, however, the applicant's continued refusal to answer them is both concerning and contrary to the objective of the Examination process and this unhelpful approach is referred to in Section 1.4 above.

3.3.7 In relation to the comments on the Council's proposed new Housing Requirement (as originally proposed by Gravesham), worker housing remains an area of concern to the Council. Please see Council comments in relation to the updated wording contained in the Framework Construction Travel Plan (FCTP) ([REP8-085](#)) as set out above in Section 2.4 – the need for this additional Requirement was set out in the Council's D7 submission (REP7-228) in Section 4.5 and Appendix B and the Council's maintains its need for this additional provision, as the measures within the FCTP are not considered sufficient.

3.4 Council Comments on Applicant's Comments on IPs Commentary on dDCO ([REP8-117](#))

3.4.1 Document [PD-047](#) sets out the Examining Authority's commentary on the dDCO. The Council responded to this at Deadline 8 ([REP8-117](#)). The Council's response to the applicant's comments is set out in **Appendix A**. This seeks to add information not contained within our Deadline 8 response.

3.4.2 Overall, the Council still has numerous concerns, as set out in [REP8-166](#) in Section 3 and Appendices A and B.

3.5 Council Comments on Updated Requirements

3.5.1 At Deadline 8 ([REP8-166](#)) the Council submitted a joint response with the Port of Tilbury London Limited, DP World and Thames Enterprise Park ([REP8-166](#) on page 190 in Appendix D). These included commentary on Orsett Cock Junction, Passive Provision for Tilbury Link Road, Wider Network Impacts and Air Quality (with the comments on Asda roundabout and Tilbury Link Road linking back to the Port of Tilbury's Deadline 8 submission ([REP8-164](#))).

3.5.2 The Council and other interested parties await the applicant's comments on these comments. The Council has, however, received updated wording in relation to Requirement 18 - Orsett Cock. However, the Council has been jointly considering this with the other IPs and has set out its joint position, together with PoTLL, DPWLG and TEP, in a further 'Updated Joint Position Statement on Orsett Cock Interchange Requirement', which is set out in **Appendix D** of this submission. This Updated Joint Position Statement contains a marked-up and clean version of the Parties preferred Requirement 18. This is because the 'Parties' still do not consider the applicant's version to be adequate or sufficiently detailed.

3.6 Council Comments on Applicant's Submissions on ISH14 ([REP8-114](#))

3.6.1 ISH14 concerned the drafting of the DCO. As set out during the Hearing and in the Council's Post Event submissions, the Council remains concerned about significant elements of drafting (see [REP8-114](#)). There are numerous areas where the Council has raised specific concerns and these have not been addressed.

3.6.2 The applicant's Post Event Submission for ISH14 are largely an accurate record of what was discussed. However, the Council would like to raise a number of clarifications.

Materially new or materially different

- 3.6.3 In paragraph 3.1 the applicant discusses the interpretive provision on 'materially new and materially different'. Whilst the Council's primary concern is not the wording of the interpretive provision, the Council is concerned about how the words 'materially new or materially different' in comparison with those reported in the Environmental Statement are to be interpreted. The applicant has frequently asserted that these are widely used and commonly understood. Accordingly, the Council is unclear why the applicant has not responded to our specific queries ([REP8-166](#) and [REP8-167](#)). The Council's specific queries are:
- a. Is 'materially new or materially different in comparison with those reported in the Environmental Statement' everything in the Environmental Statement or just certain things which are considered environmental?
 - b. When considering matters, such as business impact, how are new business treated?
 - c. How do we know what the impacts are considering the limited publication/consultation requirements?
- 3.6.4 These questions are to help all parties understand how wide powers, such as Article 6 and Requirement 3 are understood.

Begin and commence

- 3.6.5 The Council has articulated its concerns regarding the use of the concept of 'begin' in order to preserve the DCO with minimal work undertaken. The Council will not reiterate its concerns here. However, during ISH14 the Council set out that despite the High Court judgement in the Swansea Lagoon case the A248 Black Cat to Caxton Gibbet DCO was made. The Council highlighted during the hearing that the Court of Appeal judgement came out after the decision on the A248 Black Cat to Caxton Gibbet DCO. The applicant states that this makes no difference their position, however, it is the comments of the Court of Appeal, which the Council has been quoting.
- 3.6.6 Whilst it is correct that the Court of Appeal confirmed the judgement of the High Court, it is the specific commentary within the Court of Appeal judgement which is of interest. For example, paragraph 10 (Tidal Lagoon (Swansea Bay) PLC v Secretary of State for Business, Energy and Industrial Strategy, Welsh Ministers, the Council of the City and County of Swansea [2022] EWCA Civ 1579), which, when referring to the begin and commence arguments, states:
- 'We were initially attracted by the Company's argument that, when the DCO took the trouble to define what "commence" meant and set a time limit for commencement that was different from the time limit for the development to be "begun" under section 154(1) , it must have been intended to create two different time periods: one to decide when the DCO lapsed under section 154(2) and the other to decide the time by which the development had been commenced. Ultimately, however, we concluded that this argument proves too much. It creates a dysfunctional planning situation that has never been intentionally created either in infrastructure development projects or in planning permissions more generally. No other development consent order that we have been shown had a similar effect. Even the National Infrastructure Planning Handbook 2015 (written, with others, by Mr Michael Humphries KC, counsel for the Company) did not go so far as to suggest that two time limits were appropriate. The consequences of the construction proposed by the Company would be undesirable. DCOs could be left on the stocks for years, inhibiting future development and placing landowners at potential risk of delayed compulsory purchases'.*
- 3.6.7 Accordingly, it is not agreed that the Court of Appeal judgement makes no difference to the argument. The Council invites the applicant to consider this further and address why they consider their proposed wording is in the public interest.

Worker housing

- 3.6.8 Worker housing remains an area of concern to the Council. Please see Council comments in relation to the updated wording contained in the Framework Construction Travel Plan (FCTP) ([REP8-085](#)) as set out above in Section 2.4 – the need for this additional Requirement was set out in the Council's D7 submission (REP7-228) in Section 4.5 and Appendix B and the Council's maintains its need for this additional provision, as the measures within the FCTP are not considered sufficient.

Removal of temporary works

- 3.6.9 The Council raised the issue of temporary works being left on the site by agreement, even when they did not have planning consent. This has now been addressed by the Council's amendments to the dDCO v10.
- 3.6.10 **In conclusion, the Council considers that there are still a number of significant issues with the dDCO that would impact upon its effective functioning. The Council is concerned with the negative practical implications on local residents, if the dDCO is confirmed in its current form.**

4 Land and Compulsory Acquisition Matters

4.1 Introduction

- 4.1.1 It is only possible to provide an update on the Land and Compulsory Acquisition Negotiations here, as the applicant did not provide any updated documentation at D8 on these matters.

4.2 Update on Land Negotiations

- 4.2.1 Further to the referred meeting in Section 4.8.2 of the Council's Deadline 8 Submission - Comments on Applicant's Submissions at Deadline 6A and Deadline 7 ([REP8-166](#)), it has now been held with the applicant. At that meeting on 6 December 2023 the applicant advised that it was intending to insert a SAC-R commitment to address the Council's concerns regarding provision of, and updates to, a works programme both prior to and during construction. Draft wording was provided to the Council that day, i.e. immediately following that meeting (albeit the Council was advised, for reasons unknown, it had not had '*... DCO team and Legal review...*'). The Council was chased for a response later that afternoon and responded the following morning.

- 4.2.2 The applicant responded at lunchtime of the same day (7 December 2023) with revised wording, noting in its covering email that:

'This is what has been agreed with our Legal team and through NH Governance. We need to get this into the SAC-R today as it is going into Production. Are you happy with this.'

- 4.2.3 As it transpired the Council was not agreed to this revised wording and following a further chaser from the applicant, responded at later that afternoon (in less than 2 hours) and offered to meet. The applicant responded the following morning (8 December 2023) with revised wording. In its covering note it noted '*... please see attached our final mark up of what we are prepared to accept on this commitment – this has been through another round of Governance etc.*' and, notably, declined to provide an example of a document it referenced within its revised SAC-R wording and which it claimed to have provided previously.

- 4.2.4 The Council expressed its concerns in three bullet points (set out below in Section 4.2.5 d) in an email timed that same afternoon. The applicant responded later noting:

'I have sought views and we are not prepared to move on the proposed wording any further we feel this is enough comfort for the Council. Ultimately National Highways will be having programme discussions with all landowners as part of the ongoing engagement. I am really not sure now what the issue is. I understood from our discussions this was around a 'legally binding' commitment to share a programme and I know Thurrock in meetings has said they are aware this will be subject to change and be revised etc as time goes on. This is what is reflected within this commitment. We are not prepared to go any further on this.'

- 4.2.5 The following points arise:

- a. It is not clear when, or indeed whether, the applicant would have responded to the email referenced in Section 4.8.2 of the Council's Deadline 8 Submission - Comments on Applicant's Submissions at Deadline 6A and Deadline 7 ([REP8-166](#)) had the Council not chased a response.
- b. It is unclear why, if it intended proposing a SAC-R, it waited until two days before its self-imposed deadline to propose wording. The fact that the initial version was issued prior to DCO team and Legal review suggests it was an after thought.

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- c. In order to progress matters the Council sought clarity, in the email referenced at paragraph 4.2.4 above, as to the form of documentation referenced within the SAC-R, which the applicant says it has provided previously. It is mystifying why the applicant is unwilling to remove doubt/assist by providing something it claims to have previously provided.

4.2.6 The outstanding issues for the Council within this new SAC-r commitment ARE:

- a. Paragraph 3 – the Council needs a deadline and suggested two weeks but are open to a discussion on this issue. As soon as reasonably practicable is far too vague and incapable of being policed, given only the applicant will know when a variation has been made and only the applicant has control over what is reasonably practicable.
- b. Paragraph 4 – the word 'illustrative' is not acceptable. The programme is the programme and the Council require that detail and not an unreliable variation of it. The SACR recognises that this will vary and flex over time; and,
- c. Paragraph 4 – the applicant has suggested that the Council has been provided with examples of such work schedules. Please re-provide the example you refer to, so it can be reviewed and determined if acceptable.

4.3 Conclusions

- 4.3.1 **The concept proposed within the draft SAC-R remains acceptable to the Council provided the wording can be agreed, but the Council needs to better understand the detail of what is being provided as is demonstrated, in part, by the Council's commitment to engage on this matter in a very tight timescale. The request is not unreasonable. The applicant's intransigence on this matter is plain to see and somewhat frustrating for the Council, bordering on being unprofessional when consider it is dealing with compulsory acquisition matters with which the Council needs more certainty.**

5 Applicant's Comments on Traffic and Transport Matters

5.1 Introduction

5.1.1 This section provides the Council response to the applicant's comments at Deadline 8 on documents submitted at Deadline 6A ([REP8-118](#)) and to the applicant's further submissions on Wider Network Impacts ([REP8-121](#)) and comments following ISH12 ([REP8-111](#)) and ISH13 ([REP8-113](#)).

5.2 Council Comments on Applicant's Comments on IP Submissions at D6A ([REP8-118](#))

Orsett Cock: Summary of Council's Position

- 5.2.1 The applicant agrees that the information presented by the applicant to the Examination in Appendix N of Localised Traffic Modelling ([REP6A-004](#)) does show an increase in traffic through Orsett Village, as a result of LTC.
- 5.2.2 The applicant then goes on to say that this analysis is 'unrepresentative' because of an 'unbalanced model effect'. The applicant then refers to the use of a 'manipulated' model and that a 'manipulated model' should be used for both the Do Minimum and Do Something.
- 5.2.3 The applicant then makes assertions that if the assessment had been undertaken differently, 'it is highly likely' that there would be beneficial effects and 'it is quite possible that the Project would lead to a reduction in the flows through Orsett Village'. However, there is no evidence at all to support these assertions. Instead, the only evidence from which the ExA can make judgements from is that presented by the applicant ([REP6A-004](#)), which the applicant accepts shows an increase in traffic through Orsett Village, which has not been assessed in the ES.
- 5.2.4 The applicant has cast doubt on its own evidence base, which only goes to demonstrate the unreliability of the assessment of the Orsett Cock Junction submitted by the applicant to the Examination from which the ExA is being asked to make judgements on. In particular, the applicant has to date failed to produce sufficient modelling, converged/iterated to an appropriate degree, to show (a) that the Orsett Cock interchange will function (the Council's v3.6T shows that it will not); (b) that LTC will not have likely significant environmental effects in Orsett Village (the applicant's own sensitivity tests and v3.6 shows that there will be); and (c) that LTC will not seriously adversely impact the ports' operations.
- 5.2.5 It is for this reason, low confidence in the modelling even at the effective close of the Examination, that the Council, PoTLL, DPWLG and TEP jointly consider that it is important that the draft Requirement for Orsett Cock Junction is clear on what objectives the criteria against which measures are judged are seeking to achieve, and provides a clear decision-making framework for those objectives to be monitored and mitigated where breached. The Joint Position Statement included as Appendix D of the Council's Comments on Applicant's Submissions at D6A and D7 ([REP8-166](#)) includes a clear set of objectives for the Orsett Cock Requirement, which includes 'avoiding significant adverse impacts to Orsett Village'.
- 5.2.6 Without such robust drafting, the Council remains extremely concerned that LTC will have a significant adverse impact on Orsett Village, which has neither been assessed in the applicant's EIA nor mitigated.

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Impact on Economic Appraisal of using VISSIM Results rather than LTAM Results

5.2.7 The Council's response is provided in Section 5.5 below.

Wider Network Impacts

5.2.8 The Council and the applicant continue to disagree about the effects of LTC on the operation of the wider local road network in Thurrock. The Council has clearly set out at each deadline of the Examination what the status of the local modelling is, which the latest status summarised in the Council's Comments on Traffic Modelling (D6A) ([REP6A-013](#)). There are no agreed base or forecast models of the localised models of the wider network impacts and in the case of two of the six junctions within Thurrock, no modelling has been provided by the applicant for the area of concern raised by the Council.

5.2.9 Given the outstanding issues with localised modelling at this late stage in the Examination and that the ExA has requested that no further modelling is submitted, the Council has worked jointly with PoTLL, DPWLG and TEP to draft a Requirement for the mitigation and monitoring of wider network impacts. The Joint Position Statement included as Appendix D of the Council's Comments on Applicant's Submissions at D6A and D7 ([REP8-166](#)) sets out the latest position on the 'Wider Highway Network Monitoring and Mitigation' Requirement.

Tilbury Junction

5.2.10 The Council and the applicant continue to disagree about the importance of including Tilbury Link Road (or passive provision for Tilbury Link Road) as part of LTC. The Council presented its position in Section 7 of its Deadline 6A submission ([REP6A-013](#)).

5.2.11 In summary, an adequate explanation has not been provided of why Tilbury Link Road was removed from the scheme and its inclusion would provide greatly improved access to public transport services for Thurrock residents and enable the Orsett Cock Junction to be significantly reduced in size.

5.2.12 Notwithstanding the Council's position on Tilbury Link Road as set out in the LIR ([REP1-281](#)), the Council has drafted a Requirement for the readiness and compatibility of the Tilbury Link Road as set out in Appendix B of the Council's Comments on the applicant's Submissions at D6 (D6A) ([REP7-228](#)).

5.3 Council Comments on Applicant's Comments on IP Submissions on Wider Network Impacts (REP8-123)

Response to Section 2.3

5.3.1 The applicant has misrepresented the Council's submission at Deadline 7 ([REP7-228](#)). The Council supports a 'vision led' approach rather than a 'predict and provide' approach.

5.3.2 A 'predict and provide' approach forecasts or 'predicts' future traffic flows based on population and employment growth and economic development and provides highway capacity to cater for the predicted traffic flows.

5.3.3 A 'vision led' approach would define a vision and then develop and test the measures required to achieve the desired outcomes or vision, taking account of uncertainty.

5.3.4 The applicant has adopted a 'predict and provide' approach rather than a 'vision-led' approach, but it has predicted the future traffic demand and then stopped short of providing capacity for the predicted flows. Instead, the applicant has relied on planning policy, such as

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within the NPSNN, for why it only needs to do one half of 'predict and provide' – predict the flows, but not mitigate for the impacts.

- 5.3.5 Had the applicant adopted a vision-led approach, there would have been a vision for the Project and a number of scenarios tested for various options, including consideration of multi-modal options, to determine how best to deliver the desired outcome. The Council's position is that had a vision-led approach had been adopted, it could have entirely undermined the justification for the current LTC scheme.
- 5.3.6 The applicant states that they have assessed changes in journey times and found that 'the net effect of the Project is a substantial improvement' (paragraph 2.3.3). The applicant does not state where this improvement is found on the road network and the applicant is misleading in its description of the economic analyses provided in Appendix D - Economic Appraisal Package: Economic Appraisal Report ([APP-526](#)).
- 5.3.7 The economic analysis provided by the applicant clearly shows that for Level 1 benefits based around journey time the Benefit Cost Ratio is 0.48:1, i.e. LTC delivers far fewer benefits than costs when assessed against 'well-established' transport benefits.
- 5.3.8 LTC can only be justified in economic terms through the inclusion of less well-established' Level 2 benefits based on reliability and agglomeration. The Council has disputed the approach to these calculations (which have not been discussed at Issue Specific Hearings or through Written Questions). The Council provides further comments on economic analysis in Section 5.5 below.
- 5.3.9 The applicant then goes on to present details of how the Council approaches the assessment of changes in traffic flows due to new developments or other changes.
- 5.3.10 This is the standard approach for a local highway authority for assessing new developments and then seeking through mitigation through the planning process. It is also the standard approach for a highway authority to take action following changes to the operation of the network.
- 5.3.11 The applicant is implying that this approach to the mitigation of issues on the transport network is sufficient to address the impacts of LTC. The Council disagrees with the implications of the applicant's statements.
- 5.3.12 LTC is an £8bn-9bn scheme that will impose significant impacts on Thurrock. The detailed operational modelling of Orsett Cock Junction shows that LTC will cause increases in queues and delays. These impacts are currently forecast and have been identified through the Examination process. The applicant is not willing to mitigate these impacts or provide funding to mitigate these impacts in the future.
- 5.3.13 The Council maintains its view that an adequate version of Requirement 18 is required to ensure that impacts at Orsett Cock Junction are mitigated if they occur and that funding is provided by the applicant to cover the potential cost of these mitigation measures.

Response to Section 3.2

- 5.3.14 The applicant rebuts the Council position provided in its D6 response at ([REP6-092](#)).
- 5.3.15 Clearly, at this late stage in the Examination the applicant and the Council will not meet on their respective opinions on the Wider Network Impacts Requirements. It is therefore incumbent on the ExA to determine what is appropriate to recommend into any granted DCO. The Council does, of course, contend that its approach is the more robust and is supported by a number of Interested Parties rather than the unilateral approach adopted by the applicant.

5.4 Council Comments on Applicant's Submission on ISH12 ([REP8-111](#))

- 5.4.1 Regarding paragraph 3.1.13, the Council is satisfied with the proposed quantity and quality of the land replacement at Ron Evans Memorial Field but, the Council would like to reiterate its concerns regarding the timing of the re-provision of POS by Ron Evans Memorial Field for a period of not less than 5 years. The Council wishes to know whose professional judgement has been relied on to conclude that the replacement of POS outweighs the 5-year delay. Further comments are set out in the Council's D7 submission ([REP7-228](#)) in Section 4, which have not been addressed by the applicant.
- 5.4.2 Regarding paragraph 3.2.2, the Council reiterates that £1.89 million over 7 years is insufficient. The Council disputes the method of the applicant's benchmarking analysis and up-scaling that results in an inaccurate figure of £1.89 million. The Council deems £3.75 million over seven years to be a more appropriate figure based on careful benchmarking analysis.
- 5.4.3 In paragraph 4.2.14, regarding the Council's involvement if the DCO is granted, the applicant has missed the point raised by the Council. The Council is raising concerns over the EMP2s and the subsequent amendments that can be approved in accordance with Requirement 4 and 19.
- 5.4.4 The Council notes in paragraph 4.2.15 the applicant's response regarding the EMS, but this is not secured through the DCO.
- 5.4.5 In paragraph 4.6.2 the applicant has expressed language in the two particular commitments, Gammon Field travellers' site (SACR-008) and Ron Evans Memorial Field (REMF) (SACR-014), that is in clear terms, for both commitments it does secure absolute obligation and the Council is satisfied.
- 5.4.6 The Council is concerned in paragraph 4.8.1 that the waste hierarchy is not implemented fully. The Council requests that the contractor should set individual targets for each individual point of the hierarchy (reuse, recycling, and recovery) based on their priority in the hierarchy. The applicant's current approach of combining the three hierarchy points and assigning a target does not encourage the hierarchy to its full extent.
- 5.4.7 Regarding paragraph 4.9.1, the applicant agreed on 6 December 2023 that the wording would be replaced from 'environmentally better' to 'environmentally equivalent' at D9. The Council welcomes this amendment.
- 5.4.8 The Council disputes paragraph 4.11.11 that local budgets have no basis in respect of target decisions. Whilst carbon emissions are not purely a local issue, they have an impact on the local environment and local residents and therefore should have partial influence over the target decisions.
- 5.4.9 For matters in Annex B – B.3, B.4, B.5 and B.8, it is clear that the applicant has not changed its position and the Council's comments on each are set out below.
- a. **B3** – the signposting referred to by the applicant is not considered evidence and will be referred to below in Section 7.8 regarding the latest update on the S106 Agreement.
 - b. **B4** – this is confirmed and acceptable to the Council, notwithstanding and without prejudice to the Council's overall position of the S106 Agreement.
 - c. **B5** – no comments from the Council, however, the detail has not yet been accepted or agreed.
 - d. **B8** – these are welcomed and now acceptable to the Council.

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- 5.4.10 In regard to section C.2 regarding the Mitigation Route Map, the Council will respond to C.2 after Deadline 9.
- 5.4.11 The Council is unclear from paragraph C.3.7 as to why the applicant is not prepared to separate out the REAC. The applicant's solution of renaming the CoCP does not address the concern regarding ease of use. The Council requests that the REAC should become its own document, so that it can be maintained as a register and updated independently of the EMP1 as the construction process progresses.
- 5.4.12 Regarding paragraph C.4.5, the Council reiterates that in paragraph 2.3.1 of the oTMPfC the TMP will include all planned works during the construction period including enabling works and site establishment. In regard to EMP iterations, the CoCP is unclear in how the EMP2s will be iterated, the CoCP only mentions that the EMP2s will be developed.
- 5.4.13 The Council maintains from paragraph C.5.2 that 'reflect' as a commitment is not absolute and may allow the applicant flexibility to deviate from Requirement 4 of the dDCO in relation to the REAC and EMP (2nd Iteration).
- 5.4.14 The Council notes the applicant's proposal at Section C.6 with regards to the application of enforcement roles across the DCO and associated Articles, Schedules and Requirements. Table C.1 identifies when the Council is proposed to be consulted on the development and discharge of Requirements, but the ongoing enforcement of agreed controls, compliance and performance will need to be clearly stated within the finalised detailed control environment where the functions of the Local Planning Authority and the Local Highway Authority/Street Authority/Traffic Authority could be misconstrued from the non-DCO control environment, e.g. in locations where the Undertaker will assume Highway Authority jurisdiction for the period of construction on local roads, whilst the Local Highway Authority will retain a role for non-project related activities; or, for the coordination with the Undertaker where non-project related Town & Country Planning activities are required within the Order Limits during the construction period. Where enforcement or compliance matters require resolution outwith the Order Limits the associated project period working groups will need to collaborate to agree which body assumes responsibility for resolution activities, such as associated with worker accommodation or noise and air quality compliance.

Applicant's Response to new Energy NPSs

- 5.4.15 The Council notes that the applicant has responded to Actions Points from Issue Specific Hearing 12 (ISH12) on 23 November 2023 ([EV-085a](#)) Action Number 23, within their Cover Letter and Submissions for D8 ([REP8-001](#)), noting that 'This will be responded to by the applicant at Deadline 9'.
- 5.4.16 As noted in the Council's Deadline 8 Submission – Comments on Applicant's Submissions at Deadline 6A and Deadline 7 ([REP8-166](#)), Action Point 23 of ISH12 (Part 1) ([EV-085a](#)) requests that the applicant provide comments on the most recent suite of draft Energy NPSs in respect of any matters considered by the applicant to be important and relevant to this development. This is to be provided as part of the Deadline 9 submission.
- 5.4.17 Action Point 23 of ISH12 (Part 1) ([EV-085a](#)) also requests that the applicant must 'if the suite of Energy NPSs are designated prior to the close of the Examination, provide any updated comments in respect of the designated versions of the NPSs.' This is to be provided as part of the Deadline 10 submission.
- 5.4.18 Also included within Action Point 23 of ISH12 (Part 1) ([EV-085a](#)) is a request that in providing comments at both Deadlines 9 and 10, the applicant must have regard to the transitional arrangements in the NPSs and indicate what weight the applicant considers should be given to the new NPSs compared to the current policy framework.

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- 5.4.19 Whilst the Council looks forward to receiving these comments from the applicant as part of their Deadline 9 and 10 submissions, it should be noted that this gives very little time for review by the Council, given the short time period for the D9 and D10 submissions.

5.5 Council Comments on Applicant's Submission on ISH13 (REP8-113)

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

- 5.5.1 Within the Council's Post Hearing Written Submissions (CAH5 and ISH11 – ISH14) ([REP8-167](#)), the Council has set out which VISSIM parameters were changed by the applicant in V3.6 with no agreement or knowledge from the Council. The Council also sets out in ([REP8-167](#)) why the changes to the parameters are not accepted and contrary to best practice and guidance.
- 5.5.2 At paragraph 3.1.4 of ([REP8-113](#)) the applicant provides confusing and incorrect information about the modelling of the merge between traffic coming off A13 EB off-slip and LTC off-slip. To be clear, the general arrangement of the Orsett Cock Junction shows a merge length of 90m, but the VISSIM modelling prepared by the applicant (all versions submitted by the applicant to the Examination, including the latest v3.6) extended the merge length from 90m to 200m to respond to queuing and delay on this part of the network.
- 5.5.3 The Council contends that the modelling shows that the merge length should be greater than 200m, but notwithstanding this, there is a disconnect between the LTC design and the VISSIM modelling, which should be consistent.
- 5.5.4 To confirm, the Council's v3.6T has not made any changes to the applicant's modelled merge length of 200m. This does not mean that the Council agrees with the length of the merge, and it remains an area of disagreement between the applicant and the Council.

Agenda Item 3(a)(ii) what does the version 3.6 modelling ([REP6A-004 – 8](#)) tell us about the likely traffic effects at Orsett Cock?

- 5.5.5 The applicant was required to provide evidence that the 200m merge is fully deliverable within the Order Limits and Limits of Deviation. As summarised by the applicant in paragraph 3.1.7, this has been provided by the applicant in response to the ISH13 Hearing Action Point 1 at Section A.2 of Annex A ([REP8-113](#)) and the Council's response is summarised at the end of this Section 5.5 in response to the Action Points.
- 5.5.6 The applicant proceeds to provide a summary of how it has modelled driver behaviour in the VISSIM model of the Orsett Cock Junction (paragraphs 3.1.9 to 3.1.12). The Council has set out its position on the driver behaviour parameters used by the applicant in the Council's Post Hearing Written Submissions (CAH5 and ISH11 – ISH14) ([REP8-167](#)) and does not wish to repeat that evidence here.
- 5.5.7 The applicant states at paragraph 3.1.12 that further examples of where different driver parameters have been used in VISSIM, including the urban(merge) behaviour, are provided at Section A.10 of Annex A. The applicant concludes that *'it is not uncommon in the industry to amend default VISSIM parameters and create a set of driver behaviour parameters that reflect realistic driver behaviour <...>. Therefore, the use of the urban merge driver behaviour on the circulatory at Orsett Cock is considered appropriate and aligns with industry best practice and accepted by authorities, including for made DCOs.'*
- 5.5.8 Though the Council accepts that the default VISSIM parameters can be amended in principle, the Council does not accept that this is a justifiable approach to modelling the Orsett Cock

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Junction. There are two key reasons for this (fully explained in the Council's Post Hearing Written Submissions (CAH5 and ISH11 – ISH14) ([REP8-167](#)):

- a. **Alignment of forecast year parameters with the validated base year model:** the aggressive 'urban merge' driving behaviour has been adopted by the applicant in the future year (Do Minimum and Do Something) models. However, this driving behaviour has replaced the driving behaviour to which the base year model was validated, based on observed traffic conditions. The Council's stance is that such approach to modelling has created a misalignment between the validated base year and future year (Do Minimum and Do Something) models by completely ignoring the base year model validation. No evidence has been presented by the applicant to justify why drivers would suddenly behave differently in the future compared to the observed conditions used to build the validated base year model. The application of alternative driving behaviour parameters in other models and studies does not justify the use of the alternative 'urban merge' driving behaviour within the Orsett Cock Junction forecast models.

The applicant states at paragraph 3.1.11 that 'typically, a modeller should align the driver behaviour within the model to the behaviour that is seen on site.' This is precisely the issue raised by the Council with the applicant's VISSIM v3.6 model of the Orsett Cock Junction. The applicant has made changes to driver behaviour parameters in the future year Do Minimum and Do Something models that were defined in a validated base model of the junction based on observed traffic conditions.

- b. **Adherence to industry guidance and best practice:** the Council's stance is that using the bespoke 'urban merge' behaviour in the circulatory lanes is not appropriate and does not follow industry accepted modelling standards and industry set best practices. TfL's Transport modelling Guidelines V4.0 in Section 7.6 states that:

'..... the Proposed model should be implemented in the base model (or future base model if the Three Stage Modelling Process is being followed, (...)) by only modifying elements which will change as part of the scheme, including any signal timing changes. Adjusting other elements, which will not change on street, 'to make it work better' is not acceptable. If the Proposed model will not work without additional changes, then this is a sign that either the proposed design is not viable or the base model was not fit for purpose and should be revisited.'

- 5.5.9 The differences in results between the v3.6 (the applicant) and v3.6T (the Council) models clearly show that the driving behaviour change implemented by the applicant has greatly enhanced the performance of the applicant's v3.6 model. The applicant has provided no justification that the driving behaviour at Orsett Cock Junction will change with the LTC opening and therefore v3.6 model results are not acceptable. NPSNN paragraph 3.10 provides that *'scheme promoters are expected to take opportunities to improve road safety, including introducing the most modern and effective safety measures where proportionate.'* The applicant's approach to driver behaviour runs wholly counter to that policy imperative.

Agenda Item 3(a)(iii) Does the version 3.6 modelling affect the Applicant's earlier work on journey times to/from the Ports?

- 5.5.10 At paragraph 3.1.15 the applicant states that v3.6 is similar to v1 and v2, but the Council disagrees as set out in the Council's Comments on Traffic Modelling (D6A) ([REP6A-013](#)). The results of v3.6 differed noticeably from v1 and v2 of the VISSIM model of Orsett Cock.
- 5.5.11 At paragraphs 3.1.18 to 3.1.22 the applicant sets out its modelling of lane allocation on the Orsett Cock circulatory carriageway. The Council's position on this provided in response to the applicant's response to Action Point 4 arising from ISH13 ([EV-087g](#)) and included in **Appendix B** of this submission.

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- 5.5.12 The applicant sets out at paragraph 3.1.30 that LTC provides betterment to the Orsett Cock Junction. The Council strongly disagrees with this statement. The Council has set out its position of the significant adverse impacts of the applicant's v3.6 model in the Council's Post Hearing Written Submissions (CAH5 and ISH11 – ISH14) ([REP8-167](#)), as well as the significant adverse impacts of LTC on Orsett Cock Junction of the Council's v3.6T model in the Council's Comments on Traffic Modelling (D6A) ([REP6A-013](#)).
- 5.5.13 The applicant goes on to state at paragraph 3.1.37 that the exercise of inputting VISSIM parameters into LTAM 'did not lead to a significant change in the wider movements across the traffic model.' The Council disagrees with this statement and the Council's review of the sensitivity tests are set out in the Council's Comments on Traffic Modelling (D6A) ([REP6A-013](#)). The sensitivity test showed that traffic from Orsett Cock is forecast to re-route to other local roads, which are often unsuitable for the level of traffic choosing to use them. An example is Conway's Road leading to Orsett Village from the north, which in Test 3 (2045 PM) is forecast to see an increase in the two-way traffic flow of 550 passenger car units (PCUs).
- 5.5.14 With regards to journey times to and from the Port, the Council contends that there is not a reliable evidence base before the Examination based on LTAM as set out in the Council's Comments on Traffic Modelling (D6A) ([REP6A-013](#)) and in the Council's Post Hearing Written Submissions (CAH5 and ISH11 – ISH14) ([REP8-167](#)).

Agenda Item 3(iv) What, if any, impact does the version 3.6 modelling have on the Scheme's BCR and Environmental Assessments?

- 5.5.15 The Council notes the applicant's comments on the high-level assessment of the impact of including the forecast delays for the Orsett Cock Junction in the economic appraisal of LTC.
- 5.5.16 The applicant is correct that the annualization factors taken from Table A.6 and Table A.10 were misinterpreted because the tables combined values for one hour peak and two hour peak without explanation or clear labelling.
- 5.5.17 The Council notes the applicant's other comments concerning the calculations. There are several ways to undertake this type of calculation and to assist the ExA rather than challenge the applicant's approach the Council considers it more helpful to accept the applicant's calculations.
- 5.5.18 The most important point for the ExA is that the applicant has conceded that there are traffic disbenefits at Orsett Cock Junction, which have not been including in the economic appraisal of LTC.
- 5.5.19 The applicant then states that these disbenefits are small and therefore not relevant.
- 5.5.20 This is the same approach has taken to the other disbenefits (or reduced benefits), which have been identified during the Examination (e.g. accidents, use of NTEM 8, updated assessment of inflation for construction costs, updated cost of carbon).
- 5.5.21 The critical question is whether cumulatively these effects change the economic appraisal of the scheme. The Council's view, as summarised in the Council's D7 submission based on analysis by Professor Phil Goodwin, shows that the appraisal is highly sensitive to changes in assumptions and the appraisal should be re-run to capture updated assumptions and latest guidance concerning Common Analytical Scenarios.
- 5.5.22 To assist the ExA the Council has prepared the graph presented in **Figure 5.1** to demonstrate the build-up of benefits/disbenefits and costs.

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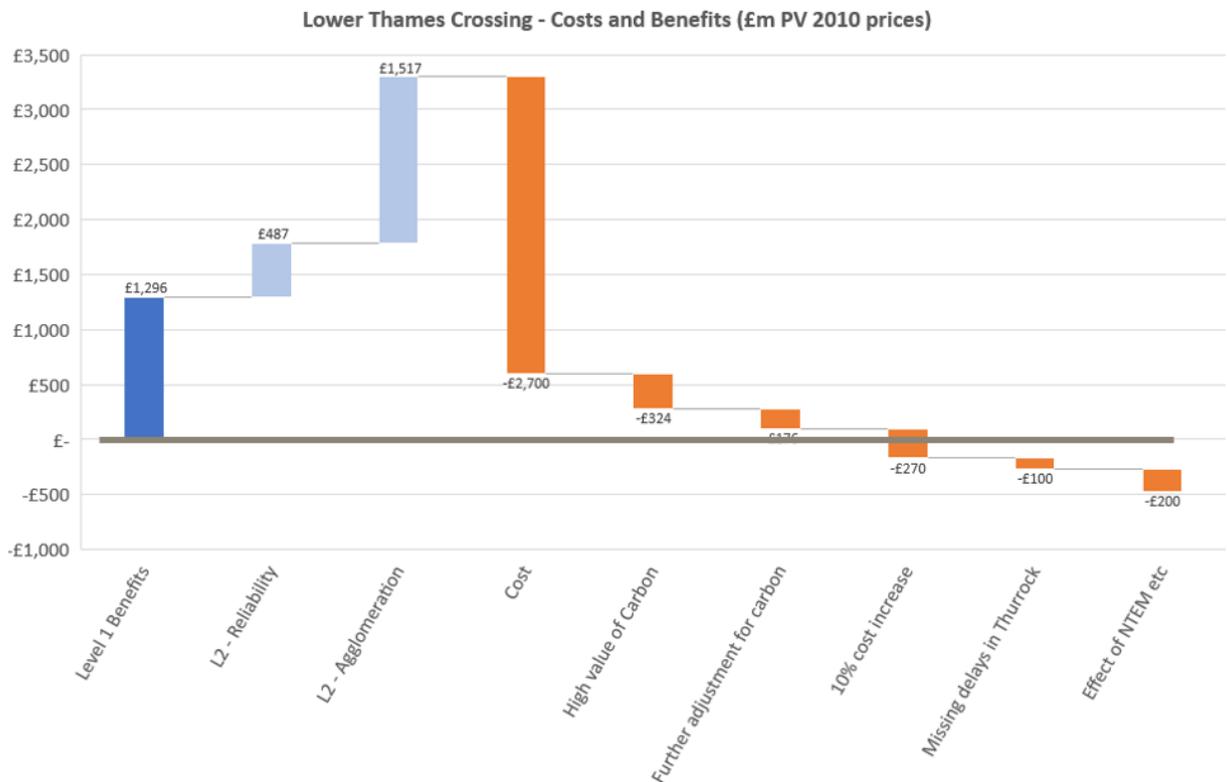


Figure 5.1: Analysis of Benefits and Costs for LTC

- 5.5.23 This graph is fundamental to the economic case for LTC.
- 5.5.24 If the orange costs and disbenefits reduce the scheme benefits below £0 then the scheme has more costs than benefits and the scheme cannot be justified in economic terms.
- 5.5.25 The applicant will argue that not all of the disbenefits and additional costs will occur. This may be possible, but the graph shows that the low level of initial benefits mean that it is not necessary for all of the identified disbenefits to occur to bring the overall benefits to less than £0.
- 5.5.26 Conversely, the applicant has argued consistently argued that all the Level 1 and Level 2 benefits (including reliability and agglomeration) will occur.
- 5.5.27 Throughout the Examination, the Council has provided evidence to demonstrate why the applicant's view of benefits (always occurring) and additional disbenefits (not considered relevant) is overly positive. **Table 5.1** below summarises the issues with each element of the appraisal as presented in **Figure 5.1**.

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Table 5.1: Commentary on Economic Appraisal

Item	Value	Comment
Level 1 Benefits	£1,296m	<p>These are treated as 'well-established' benefits based on journey time savings and include all the calculated time savings at Dartford Crossing and elsewhere on the network due to LTC. They cover less than half of the assumed 'most likely' costs. For the benefits to occur as forecast:</p> <ol style="list-style-type: none"> 1. LTAM predicted traffic flows must materialise in reality and not the delays and traffic congestion predicted by VISSIM. 2. Funding for schemes to address the Wider Network Impacts caused by LTC is found (increasing the costs) and mitigation implemented, so that LTC does not simply displace congestion elsewhere. 3. The seconds of journey savings per vehicle associated with LTC are put to productive use by the occupant to ensure that the economic benefit of the journey time saving is realised <p>This estimate does not include effects of NTEM 8, LGV/HGV growth, inconsistencies in traffic growth assumptions.</p>
Level 2 Benefits (Reliability)	£487m	<p>The applicant agrees these are 'less well-established' benefits but they are assumed constant for all scenarios, even those with less congestion. There has been no analysis of the robustness of this estimate during the Examination. Any increase in delays at Orsett Cock Junction or elsewhere will tend to reduce reliability benefits.</p>
Level 2 Benefits (Agglomeration)	£1,516m	<p>The applicant agrees these are not 'well-established benefits', but they are assumed to be constant for all possible future traffic growth scenarios, at such a high level that they are greater than the congestion benefits treated as 'well established'. Without these poorly evidenced benefits it would not be possible for the scheme to show any positive net benefit at all. They are assumed to occur without any additional production of goods or services that would generate extra traffic. The Council has raised significant issues concerning the robustness of this estimate of agglomeration of Wider Impacts given the age of the data used to generate the values and the changes in the economy in recent years due to improvements in technology and more home working, etc. (see Section 7 of Council's LIR (REP1-281)).</p>
Cost	-£2,700m	<p>This is the assumed 'most likely' case based on Q1 2019 estimates. A test published by the applicant of the effect of 'high' costs using the (then) DfT method showed that the 'high' costs would have a higher negative effect on value for money than any other risk factor, giving an overall benefit of only 80% of the costs as a result of this factor alone. Any increase in costs due to recent inflation above that predicted by the applicant would have a significant impact on overall scheme viability. Given the applicant has used an inflation forecast from February 2022 (i.e. before Ukraine war and recent run of high inflation) (see Section 6 from APP-526), this seems highly likely. Recent downward pressure on estimated benefits gives much less headroom than previously to absorb even small increases in cost and provide more benefits than costs.</p>
High Level of Carbon	-£324m	<p>Carbon (along with other greenhouse gases) is treated as a Level 1 effect (i.e. negative, but 'well established'). It was estimated that LTC will generate an extra 6.6m tonnes of carbon (Section 8.5.7 of Economic Appraisal Report (APP-526)). This only relates to the</p>

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Item	Value	Comment
		assessed money value for use in appraisal, not the substantial issue of the contribution to climate change policy. The direction of carbon price has been upwards and the appraisal should use the latest DfT value.
Prospective value of carbon	-£176m	The expectation is that the price of carbon will go up further, hence leading to increased disbenefits associated with 6.6m tonnes of carbon that LTC will generate (Section 8.5.7 of the applicant's Economic Appraisal Report (APP-526)). The increase of £324m associated with the High Level of Carbon and the £176m associated with the prospective value of carbon sums to the £500m described in Table 9.1 of the Council's D8 submission (REP8-166).
10% cost increase	-£270m	<p>A 10% cost increase would not be unexpected for a scheme of this size and in fact an increase of £270m is a relatively small change in cost give the P90 cost would equate to an increase of £1,440m from the central case. It is especially likely that costs will increase further in scenarios with higher traffic growth due to higher economic growth and/or lower fuel costs, since the current design does not allow for this higher traffic.</p> <p>For the scheme to meet its current central case cost estimate, it is assumed that inflation will be brought under control, the proposed new low carbon construction techniques and methods must not add to the scheme cost and there is no additional provision (with associated additional costs) to meet mitigation, additional capacity, and design improvements.</p>
Missing delay disbenefits at junctions in Thurrock	-£100m	<p>The applicant has admitted that disbenefits of £15.8m are missing from the appraisal. This value is just for Orsett Cock Junction and excludes delays at weekends and holidays. Similar missing disbenefits are expected at the Asda Roundabout, Manorway, Five Bells, Daneholes, A126 Marshfoot Road and A1012/Devonshire Road junctions. An overall estimate of £100m for these disbenefits is plausible. The applicant will argue that the disbenefits are less, but they are forecast to exist and the information provided in the graph shows the sensitivity of the appraisal to incremental changes in disbenefits.</p> <p>The following also needs to be true for the scheme to meet its estimate of disbenefits in Thurrock:</p> <ol style="list-style-type: none"> 1. No closures of the A13 at any stage during the six-year construction period. 2. Speed restrictions and narrow lane running during construction cause no traffic congestion or network reliability issues. 3. Accident propensity does not increase during construction. 4. Construction period does not increase beyond six years due to any unforeseen circumstances. 5. The applicant's estimate of additional disbenefits is a realistic estimate of the unquantified impact of an average 7% increase in traffic across the local road network <p>The Council considers that some or all of these issues could occur and hence lead to an increase in the economic impacts of traffic delays in Thurrock associated with LTC.</p>
Effect of NTEM, LGVs / HGVs and including	-£200m	The Council's analysis shows that if NTEM 8 were to be used then traffic growth between 2016 and 2045 would be 17.9% less and hence overall scheme benefits would be expected to reduce by a similar amount (see Table 7.4 of Local Impact Report (REP1-281)).

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Item	Value	Comment
accident benefits		Given that overall benefits are £3,299.5m then an estimate of a reduction of £200m is plausible and at the lower end of the forecast change associated with using NTEM 8. The applicant will argue that their analysis shows a much lower impact of using NTEM 8. However, the applicant's analysis is only focused on cross-river traffic flows at Dartford Crossing and not across the whole transport network which is used for the basis of the appraisal.

- 5.5.28 Further important issues relating to the appraisal include that the applicant has assumed that Covid has only a temporary effect and the full original forecast traffic levels and growth will be swiftly restored. The applicant has ignored DfT calculations in the one DfT scenario for which a full estimate of long term Covid effects has been made, which shows that Covid in combination with other observed behavioural trends produces a much lower rate of traffic growth over the entire forecasting period.
- 5.5.29 For alternative DfT traffic scenarios the applicant has refused to reveal its calculations assessing the effect of the different scenarios on congestion, costs and benefits. It is likely that the various low traffic growth scenarios will show a much lower level of benefit as defined in the appraisal (because there will be less congestion and carbon in the 'without LTC case), giving negative overall net benefit, and great opportunities for the delivery of cheaper alternatives (not appraised by the applicant) to solve remaining problems.
- 5.5.30 It is likely that the various high traffic growth scenarios would give a higher value for money calculation, but with a substantially increased level of congestion requiring additional costs to provide sufficient capacity to cope.
- 5.5.31 Thus, the alternative assessments are either lower value for money for the existing scheme, or additional capacity requiring extra costs for an even more expensive scheme. These two problems overlap in the central case assumed by the applicant, which overestimates the benefits and underestimates the costs.
- 5.5.32 This analysis shows that the economic case for LTC starts as 'LOW', i.e. a BCR between 1.0:1 and 1.5:1 and that the evidence provided during the Examination makes it likely that the actual BCR is 'POOR', i.e. BCR less than 1:1.
- 5.5.33 Given the sensitivity of the economic appraisal to different assumptions the Council considers that the ExA has insufficient evidence on which to make a robust determination of LTC.

Agenda Item 3(v) How do the revised LTAM outputs differ from those presented in the Transport Assessment and what are the potential impacts at Orsett Village?

- 5.5.34 At paragraph 3.1.56 the applicant provides commentary on traffic routing through Orsett Village as a result of LTC. The applicant explains that it is not LTC traffic that is routing through Orsett Village, but other traffic. The Council contends that as a result of LTC, traffic will be displaced from Orsett Cock Junction and re-route through Orsett Village. This is inappropriate for the reasons set out in the Council's Post Hearing Written Submissions (CAH5 and ISH11 – ISH14) ([REP8-167](#)) and has not been assessed in the applicant's EIA.
- 5.5.35 The impact of LTC on Orsett Cock has also been responded to in Section 5.2 of this submission.

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Agenda Item 3 vi – the Applicant's response to Thurrock Council's 3.6T model run (REP6A-013) will be sought. Are there any significant issues that emerge from this?

- 5.5.36 The applicant has responded to the submissions made by the applicant on this agenda item in the Council's Post Hearing Written Submissions (CAH5 and ISH11 – ISH14) ([REP8-167](#)).
- 5.5.37 The applicant has provided further commentary in Annex A.5 and Annex A.10 of ([REP8-113](#)), which the Council has responded to below under the relevant Action Points.

Agenda Item 3(vii) Whether Requirement 18 of the dDCO is capable of securing the necessary level of mitigation at Orsett Cock or should the approaches set out in the draft Requirements proposed by POTLL [REP6-163] et al be more appropriate

- 5.5.38 This matter is dealt with above in Section 3.5.

ACTION POINTS

Annex A: Post-hearing submissions on Agenda Item 3 Final Positions on Port Access and Bluebell Hill

A.2: Hearing Action Point 1: Orsett Cock – Additional weave length and General Arrangement Plans

- 5.5.39 Within Annex A part A.2, the applicant provides a response to Action Point 1 on additional weave length and if it can be accommodated within the Limits of Deviation and Order Limits. The applicant has provided Plate A.1.1 (Order Limits) and Plate A.1.2 (Limits of Deviation).
- 5.5.40 It would appear from the information provided that it may be possible to deliver a 200m merge within the horizontal Limits of Deviation, but the evidence provided does not demonstrate that it is possible within the vertical Limits of Deviation.
- 5.5.41 It should also be noted that 200m is the merge length that the applicant has included in the VISSIM model but, as demonstrated by the applicant's v3.6 and the Council's v3.6T of the Orsett Cock Junction VISSIM models, this merge length is not sufficient and should be extended, given the extensive queues on this arm of the junction, particularly in the PM peak period.
- 5.5.42 In addition, the Council submitted indicative mitigation proposals in the Council's Comments to Applicant's Submissions at Deadline 6 ([REP7-228](#)), which demonstrated that if the LTC off-slip and A13 eastbound off-slip were swapped over in the LTC scheme design, then the weaving element of traffic would reduce from 2,195 PCUs to 350 PCUs. This would lead to a reduction in delays on the A13 EB off-slip arm of the junction. It is therefore the Council's view that significant updates to the design of the Orsett Cock Junction will be required.

A.3: Hearing Action Point 3: roundabout route and lane name convention (diagram)

- 5.5.43 The Council does not make any comments on the diagrams submitted by the applicant to illustrate the naming convention for the Orsett Cock Junction.

A.4: Hearing Action Point 4: Orsett Cock – Roundabout route modelling assumptions

- 5.5.44 The Council's response to the applicant's response to Action Point 4 is provided as Appendix B of this submission.

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A.5: Hearing Action Point 5: Orsett Cock – Model 3.6T

- 5.5.45 The Council has provided a response to the applicant's v3.6 and the Council's v3.6T of the VISSIM model of Orsett Cock Junction in the Council's Comments on Traffic Modelling (D6A) ([REP6A-013](#)) and in the Council's Post Hearing Written Submissions (CAH5 and ISH11 – ISH14) ([REP8-167](#)) and does not wish to repeat these submissions.
- 5.5.46 The Council notes in paragraph A.5.15 that the applicant considers it unrealistic for the Council to have included the Pegasus Crossing within the v3.6T Do Minimum (DM) model as they are not aware of any committed plans to provide a crossing. As set out at ISH13 by the Council, the applicant has included traffic growth in the Do Minimum models, but with no mitigation included. It is not considered realistic that the Council, as local highway authority, would allow the level of growth included by the applicant within the Do Minimum model to come forward with the consequential level of queuing and delay with no intervention (either through mode shift measures or physical highway improvements), particularly given the low level intervention required.
- 5.5.47 The applicant has compared a Do Minimum model with no mitigation and consequential high levels of queuing and delay with a Do Something model with minor mitigation and concluded that because the level of delay is not significantly greater than the unmitigated Do Minimum, the impacts of LTC are acceptable. This is not a realistic comparison, as it has not isolated the true impact of LTC. The Council's v3.6T model has sought to provide a realistic comparison of impacts of with and without LTC.

A.6: Hearing Action Point 7: Thames Freeport (ywo national Ports, Ford Motor Co. Ltd and Thurrock Council): Collaborative development of draft Requirement 18

- 5.5.48 The Council's position on draft Requirement 18 is set out in Section 3.5 and Appendix D (with PoTLL, DPWLG and TEP) of this submission.

A.7: Update to Port journey times shown in Comments on WRs Appendix E – Ports (REP2-050) to provide journey times from the “manipulated” LTAM run

- 5.5.49 The Council has provided a response to journey times to the Ports Council's Comments on Traffic Modelling (D6A) ([REP6A-013](#)) and in the Council's Post Hearing Written Submissions (CAH5 and ISH11 – ISH14) ([REP8-167](#)).

A.8: Applicant's comments on Thurrock Council's economic appraisal calculations using VISSIM outputs

- 5.5.50 The Council's response to the applicant's comments on the Council's economic appraisal calculations using VISSIM outputs is set out in Section 5.5 of this submission under Agenda Item 3(iv).

A.10: VISSIM driver behaviour

- 5.5.51 The Council's response on VISSIM driver behaviour is provided in Section 5.5 under Agenda Item 3(a)(ii).

6 Environmental Matters

6.1 Introduction

6.1.1 This section deals with the Council's comments on the latest version of the ES Addendum (v8), the Council Comments on Applicant's Submission on ISH11, Council Comments on Air Quality Assessment Effects on European Sites and further comments on the Council's responses regarding additional noise barriers in its D7 submission ([REP7-228](#)) in Section 8.2

6.2 ES Addendum (v8) (REP8-093)

6.2.1 As reported with the Council's D8 submission at paragraphs 6.7.3 to 6.7.8 ([REP8-166](#)) Plate 1.3 of document '7.9 Transport Assessment – Appendix D – Scale of Impacts Maps' ([REP7-143](#)) was adjusted by the applicant to **reduce the significance** of impact from 'moderate adverse' to 'minor adverse' between the Orsett Cock junction and The Manorway for no apparent reason and **increase** its forecast from no perceived impact to 'moderate adverse' through Stanford-le-Hope and Corringham and at A1089 Asda roundabout. For convenience, extracts taken from the latest ([REP7-143](#)) and former ([APP-533](#)) submissions of the applicant's documents are provided at **Plates 6.2.1 and 6.2.2** of this submission.

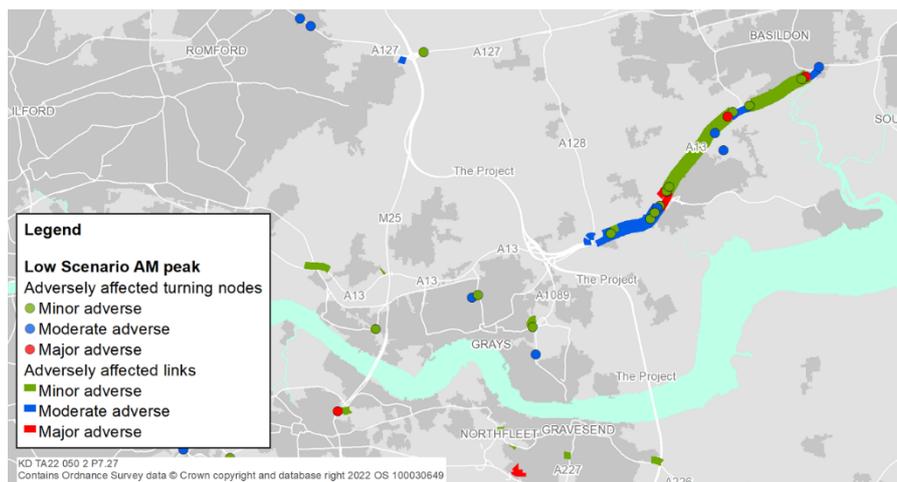


Plate 6.2.1: Extract from APP-533 7.9 Transport Assessment – Appendix D – Scale of Impacts Maps - Plate 1.3

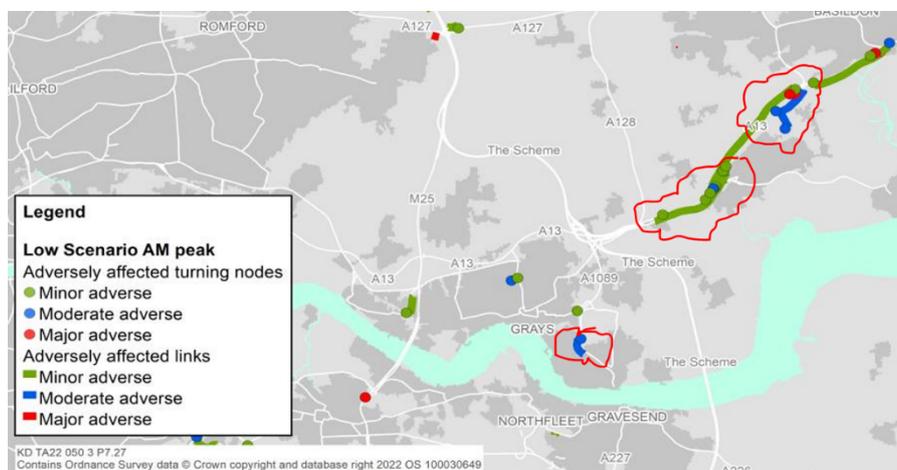


Plate 6.2.2: Extract from REP7-142/143 7.9 Transport Assessment – Appendix D – Scale of Impacts Maps - Plate 1.3

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- 6.2.2 This was presented in the applicant's submission at D7 and reported within the Council's submission at D8, but no changes have been made in the TA or ES at D8. These changes should have been reflected in the assessment of effects and reflected by mitigation for the moderate adverse impacts and the applicant's argument put forward for the reduction in impacts on A13.
- 6.2.3 As requested by the ExA, the applicant stated at ISH10 that it would not be submitting any further modelling updates to the Examination. To have made these adjustments in its forecast of effects, the applicant must have rerun its LTAM since its first submission or to have noted errors in its earlier assessments. Either scenario should have been reported to the Examination to allow proper exploration of the changes.
- 6.2.4 This change in forecasting without reflection in the assessment does not provide the Examination with a consist or open evaluation of impacts and is not explained as to why the changes have been made. The Council can only assume that this is because the applicant has rerun its strategic LTAM and derived an alternative outcome but without reflecting that across its evidence base. Furthermore, this raises the question of how many other amendments have been made without reporting those to the Examination and Interested Parties.
- 6.2.5 The increase in severity at the Five Bells interchange and at the A1089 Asda Roundabout substantiates the Council's opinion, and that of other IPs', that there are adverse effects that should be mitigated. Those opinions have been expressed throughout the Examination, e.g. the Council's LIR ([REP1-281](#)) and many other locations.
- 6.2.6 The decrease in severity on A3 between the Orsett Cock Junction and The Manorway is challenged by the Council and would require explanation by the applicant.
- 6.2.7 This approach by the applicant is of significant concern to the Council.

Population and Human Health

- 6.2.8 Although the ES Addendum ([REP8-093](#)) contains updates to the Population and Human Health Chapter, neither a clean or tracked changed version of this chapter has been published as part of Deadline 8.
- 6.2.9 The ES addendum ([REP8-093](#)) states that the Population and Human Health has been updated has been updated at Deadline 8 to reflect an update to the REAC commitment regarding invasive species being identified prior to construction and removed or treated. There are no comments on this from a human health perspective.
- 6.2.10 The ES addendum ([REP8-093](#)) states that the Population and Human Health has been updated to remove a row related to FP30 in relation to incorrect referencing. It is unclear from the update within the ES Addendum what the new nature of effect is expected to be.
- 6.2.11 The ES addendum ([REP8-093](#)) states that the Population and Human Health has been updated to reflect the suggested updated REAC commitment PH002 regarding mitigation for healthcare services in relation to the construction workforce. This remains as a 'Matter Not Agreed' within the Council's Statement of Common Ground, due to ongoing issues with the provision of adequate reassurance that this mitigation will be sufficient to cover the impacts on a range of healthcare provision that may be impacted by the project. This also supports the ICB NHS Mid and South Essex's position. This is supported as the Council has been in correspondence with the ICB and they have confirmed that this matter is unagreed with the applicant. The Council, in alignment with NHS Mid and South Essex ICB, remain concerned that as the provision of medical and healthcare services to be provided on site will not be known until a later date and it will not be possible to provide some healthcare services onsite,

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further mitigation may be required for the construction workforce than are covered through PH002. Therefore, the matter is not agreed within the final SoCG (Item 2.1.209).

- 6.2.12 An updated has been included in the ES Addendum ([REP8-093](#)) regarding an additional paragraph to be included in the Population and Human Health Chapter should the purchase of Whitecroft Care Home by the applicant be agreed, stating that if this should be the case a non significant slight adverse effect would be expected. The impact on Whitecroft Care Home remains a 'Matter Not Agreed' with the Council, due to the ongoing concerns with the applicant regarding construction impacts and the need for this service within the Borough.

Road Drainage, Water Environment and Flooding

- 6.2.13 Updates to text in paragraph 14.5.15 bullet points d, f and g have been made to update REAC commitments RDWE034, RDWE035 and RDWE048 to remain consistent with the changes made in the Code of Construction Practice. This was actioned in response to ExQ3 Q10.1.7 - and requests for information ([PD-046](#)). The ExA raised the question regarding commitments for infiltration basins: to ensure that they are constructed and operational before being required to operate to serve the development.
- 6.2.14 Additionally, the ExA suggested that there should be a requirement to make certain any overland flows from a new asset will flow on an existing route and be of no greater volume or rate than may be currently expected to occur. The applicant has stated that overland flow paths shall be established to manage exceedance flows from retention ponds, guided by the prevailing topography and based on existing overland flow routes. This issue is also discussed in **Section 7.2** below. The infiltration basins appear to be confined within the junction and the artificially raised embankments appear to prevent any feasible exceedance route.
- 6.2.15 **The applicant's statement in the updated Environmental Statement: to establish overland flow paths during future design stages, fails to address the concern raised for the specific location of the Infiltration Basins to the north of Orsett Heath.**

6.3 Council Comments on Applicant's Submission on ISH11 (REP8-110)

- 6.3.1 The Council has provided written responses at D8 to ISH11 and therefore has little further to add as [REP8-113](#) was prepared before these were issued. Two points, however, were covered and are considered below.
- 6.3.2 Annex B2 relates to Star Dam and distribution of temporary acquisition/permanent acquisition of the structure. The applicant has confirmed it has no works planned for the dam and will enter into a SAC-R commitment not to compulsorily acquire the structure. The Council is satisfied that this issue has been sufficiently addressed.
- 6.3.3 Annex B.4 confirms that REAC HR011 has been modified to include a requirement to minimise any works to install to the inlet at Coalhouse Point outside of April-August, as was requested by the Council in its response to ISH11 point 12. The Council is satisfied that this additional wording addresses its concerns.

6.4 Council Comments on Air Quality Assessment Effects on European Sites (REP8-122)

- 6.4.1 This report does not relate to any sites within Thurrock. The Council therefore have no comments to make on the document.

6.5 Noise Barriers Update

- 6.5.1 Further to the Council's strong recommendations in its D7 submission (REP7-228) in Section 8.2, it is noted that there has been no change in the applicant's position and these highly necessary noise barriers are not proposed to be installed – there is no update included as part of the ES Addendum ([REP8-093](#)). This is disappointing.
- 6.5.2 The Council welcomes the additional assessments undertaken to mitigate noise levels to the relocated Gammonfields traveller site. The assessment has reviewed noise barriers of 1m, 2m and 3m height on top of the earth bund to the east of the traveller site. It is noted that with this mitigation noise levels are likely to improve by only 1dB. This is not likely to be perceptible and therefore, it is agreed that this is not a viable mitigation option given the limited acoustic benefit.

7 Council Comments on Various Applicant's D8 Submissions

7.1 Introduction

- 7.1.1 This Section covers the Council's comments on the following updated documents and plans, as necessary and only includes commentary of importance:
- a. Council Comments on Applicant's Comments on IP Submissions at D7
 - b. Council Comments on Applicant's Responses to ExQ3
 - c. Council Comments on Applicant's Submission on CAH5
 - d. Council Comments on Applicant's Submission on OFH5
 - e. Council Comments on CoCP/REAC EMP Annex E – Heat Map
 - f. Council Comments on CoCP/REAC Community Liaison Groups Initial ToR
 - g. Draft Section 106 Agreement Comments and Progress Update and Explanatory Note (previously [REP7-178](#) and [REP7-193](#))

7.2 Council Comments on Applicant's Comments on IP Submissions at D7 (REP8-119)

- 7.2.1 The Council finds it surprising that the applicant has only provided a single response concerning Infiltration Basins to the Council's D7 submission. The applicant has provided signposting to other documents, which relate to the dDCO and Wider Network Impacts, but the Council's D7 document contained many other issues on which there has been no response (e.g. detailed comments on Traffic and Transportation in Section 9.3).

Road Drainage, Water Environment and Flooding

- 7.2.2 **Section 9:** there are four issues addressed related to Road Drainage, Water Environment and Flooding. The applicant has submitted this in response to issues raised in the Council Comments on Applicant's Submissions at Deadline 6 (D6) ([REP7-228](#)), in which the Council has requested the applicant to address the residual risks associated with the Infiltration Basins and Exceedance routing, the issue related to the number and location of proposed outfalls and the North Portal Tunnel entrance treatment provisions, and identification of all watercourses.
- 7.2.3 The applicant has affirmed their position that there are no additional risks of overtopping attributed to the infiltration basins that are proposed to serve the Project during its operation. The applicant has stated that exceedance flow paths would be established as part of the detailed drainage design. The Council do not believe that the applicant has adequately responded to the concerns raised about the infiltration basins specifically within the A13/A1013 Junction north of Orsett Heath. The infiltration basins appear to be confined within the junction and the artificially raised embankments appear to prevent any feasible exceedance route.
- 7.2.4 The applicant has stated that there are no known constraints that would lead to variation in the number and location of proposed drainage outfalls. The Council accept this position and do not require any further information on this issue.

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- 7.2.5 In relation to the North Portal Junction treatment provisions, the applicant has addressed the issues during meetings with the Council on the 9 and 24 November 2023.
- 7.2.6 The Council has requested that all known watercourses are shown in updated Drainage Plans within the Order Limits. This is particularly relevant at Coalhouse Point, where there is a proposed wetland development. The applicant's response states that the only watercourses shown within the Drainage Plans are those which are either crossing the 'Project' or receiving operational drainage from the Project. The Council observe that the proposed wetland at Coalhouse Point is also part of the Project and also is proposing to modify existing watercourses. There could also be an impact to watercourses adjacent to the proposed wetland area.
- 7.2.7 The Council maintains its objection to the fact that Drainage Plans are only illustrative and not secured by the DCO, as stated in the Council's D8 submission ([REP8-166](#)) in Sections 3.6 and 6.3
- 7.2.8 **The Council do not believe that the applicant has adequately responded to the concerns raised about the infiltration basins specifically within the A13/A1013 Junction north of Orsett Heath. In addition, the Council request that the existing watercourses in the Coalhouse Point area are shown within an updated Coalhouse Point FRA ([REP6-102](#)). Finally, the Council maintains its objection to the fact that Drainage Plans are only illustrative and not secured by the DCO.**

7.3 Council Comments on Applicant's Responses to ExQ3 (REP8-115)

- 7.3.1 **Geology and Soils: Q6.1.1** – the question relates to soil management and the applicant has responded to the question 'Who is to determine the reconditioning requirement and when is it to be determined; and where is that secured?'. The Council notes that the requirements to be achieved, the implementation and the verification of acceptability are all provided as self-policing activities.
- 7.3.2 **Geology and Soils: Q6.1.2** – the applicant responds to the question about aftercare periods by directing to the oLEMP [REP7-132](#). The Council considers that the wording of commitment GS014 in the CoCP [REP7-122](#) should be re-worded as follows: *'Following soil reinstatement there would be a five-year aftercare period where restoration is to agricultural use. Where restoration is to support habitat creation the aftercare periods and requirements are defined in the oLEMP'*.
- 7.3.3 **Geology and Soils: Q6.1.6** – historically filled land (contamination). The applicant has responded to the questions which are framed around contamination at the North Portal. The Council notes that there are many other areas of filled ground that the applicant identified as potentially contaminated but has not undertaken investigation of. In the D7 Submission report in response to **ExQ2 Q6.1.2**, the Council that it considers that there is a need to secure the investigation of contamination sources that the applicant identifies as low-risk. The applicant only commits to undertaking further investigation of site identified as medium and high risk. Currently, the Council expects to have to secure this investigation through review of the applicant's contaminated land management plan prepared to support EMP2.
- 7.3.4 **Traffic and Transportation: Q4.2.1 'Connection of haul roads to the SRN: access and timing'**: the Council notes and welcomes the applicant's intentions to connect its compounds to the SRN, as soon as possible within the contract period to deter the use of the LRN by construction traffic. That approach will not, however, have a noticeable change to the impacts in roads in Thurrock that are to be used for construction access, such as A1013, Brentwood Road, Buckingham Hill Road/Muckingford Road and Stifford Clays Road. The applicant has noted that the access routes indicated within the oTMPfC are not compulsory for worker travel and that HGV movements will only be managed using unenforceable HGV good will

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- restrictions. The applicant has refused to set parameters for the movement of vehicles associated with its compounds and as such the aspiration to establish access to compounds from the SRN has limited comfort to the Council. It would be extremely interesting to see which compounds the applicant includes within its 11 of 18 compounds that are to be accessed directly from the SRN.
- 7.3.5 In discussions with representatives of the applicant, such as during the ASI Day 2 on 13 September 2023, contrary to the statement made in its response to the question it was noted that access to the Stifford Clays Road East and West compounds would continue to be taken from Stifford Clays Road for the duration of the project and not transfer to an internal access route, via the Medebridge Road private road. The applicant is therefore overstating the effects of establishing access corridors from Medebridge Road.
- 7.3.6 Furthermore, the applicant does not have direct access from the SRN to the proposed private road of Medebridge Road. That connection passes through the North Stifford interchange and uses the High Road / Stifford Clays Road priority junction, which is approximately 65m from the busy circulation of the main interchange. The applicant proposes to introduce temporary traffic signals at the current priority junction, but has provided no evidence as to the effects of that proposal on the junction and interchange. The applicant is therefore not able to rely on the assertion of access 'direct' from the SRN for any of the compounds accessed using the Medebridge Road corridor.
- 7.3.7 The applicant's wording is somewhat misleading when it commences its response to **ExQ3 Q4.2.1** by reference to a multi-modal strategy as part of its impact mitigation. This topic has been the subject of many items of correspondence and evidence, in which the applicant has only been prepared to commit to importing 35% of bulk aggregates to the project by non-road transport.
- 7.3.8 Within Thurrock this approach should alter the access arrangements for very few compounds. Where access is taken from the A1013 those access points are challenging and close to the accesses to schools. That situation will be unchanged during the project. It remains to be seen as to the usefulness of collecting 'real time data' on construction traffic.
- 7.3.9 **Traffic and Transportation Q4.2.2 River access and jetties for construction:** in its response to **ExQ3 4.2.2** regarding the use of riparian facilities the applicant implies that it will use riparian facilities on the south bank of the river, but in conversation has intimated that it does not foresee any use of those facilities.
- 7.3.10 The Council considers the commentary relating to 93% of project materials being the subject of a possible multi-modal (implied non-road) initiative is misleading. The applicant's commitment is to move 35% of bulk aggregate by river. Any reference to the Better than Baseline 'commitment' or its contractors to 'seek' to adopt a multi-modal strategy are only recently slightly strengthened by the inclusion within the oMHP ([REP7-127](#)) and do not constitute a commitment and can therefore not be relied upon in mitigating impacts. The wording at paragraph 1.3.6 of the oMHP, is an example of the carefully caveated approach 'may also be considered'.
- 7.3.11 Irrespective of the percentages of the total for each group of materials or plant and equipment the applicant makes no references to other opportunities that the PLA and the Council and other parties have sought the applicant to appraise for non-road transportation into or away from the project, such as bulked cement or steel or waste.
- 7.3.12 The proposal for the contractors to report on its review of options to adopt non-road transportation is a welcome addition to the oMHP ([REP7-127](#)), but this leaves the review of that process to strained negotiations by the Council and PLA with the undertaker and contractor at the 'toothless' TMF sub-group. That process should have been supported by

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- greater rigour earlier in the preparation of the DCO evidence with suitably strong parameters set within a more robust framework of an oMHP, rather than being deferred to the finalised details to be presented by the contractors.
- 7.3.13 The applicant should have adopted a position where it stated within a robust oMHP framework that its contractors should start from a position where it should assume a range of materials, plant and equipment are to be moved to or from the project by river or rail unless demonstrated that alternative environmentally preferable or lower risk and lesser impact solutions are available. This would have given a clear lead in the better environmental and risk averse principles of the project and require the contractors to demonstrate why not rather why to do something positive for marine transport.
- 7.3.14 The applicant has stated at a meeting with the PLA and the Council on 6 December 2023 that it proposes to adjust the wording with paragraph 8.3.3 of the oMHP to introduce a term based on encouraging the contractor to consider 'environmentally neutral or better' opportunities to use the river rather than only 'environmental better'. That wording is to be submitted to the Examination at D9. The Council will respond on that wording once received.
- 7.3.15 There is substantial distance between the Council's view of a robust and stretching framework for the outline Materials Handling Plan and that proposed by the applicant. The Council is not convinced that the appointed contractors will be minded to or incentivised to minimise the use of road to the beneficial use of river and rail as part of the project.
- 7.3.16 **Cultural Heritage: Q12.1.1** – the applicant's response to is positive. The applicant's actions to contact alternative custodian bodies and assist in finding a suitable location for the rebuilding of Thatched Cottage, Baker Street is fully supported. **Q12.1.3** – asking applicant's to define how work on unassessed areas will be secured. The applicant's have responded that this is covered within the AMS OWSI and that these methods will be used on sites, such as the Nitrogen deposition sites. As long as they do this would seems appropriate.
- 7.3.17 **Biodiversity: Q11.1.8** – this asks the applicant for further explanation on the need to remove component elements of ancient woodland and other protected site for utility diversions. The applicant has responded to this in detail for each relevant ancient woodland site and local wildlife site, which has provided more detail than previous in their submission documents. The Council notes that from a utilities perspective reasonable details on the reasoning behind the location of routing has been provided.
- 7.3.18 **Road Drainage, Water Environment and Flooding: Q10.1.1 Flood Risk Assessment, locationally specific provisions** – the applicant has stated that there are no other locations where non-standard flood risk considerations need to be assessed. In the Council's response to ExQ3 ([REP8-165](#)) the Council requested an Addendum to the Coalhouse Point FRA ([REP6-102](#)) to address the concerns related to maintenance responsibility of Star Dam, impact of proposals on watercourses and any updates that may be required to the Order Limits to ensure access for operation and maintenance of the Wetland. The applicant has not yet addressed this request in their response to ExQ3.
- 7.3.19 In addition, the Council requested the applicant to submit reports to address residual risks at two specific locations: an additional report has been requested that quantifies the residual risk of flooding at the North Portal Tunnel entrance as well as the residual risk of flooding associated with the infiltration basins in the junction north of Orsett Heath (A13 and A1013 Junction). The applicant has not yet addressed this request in their response to ExQ3.
- 7.3.20 **The applicant has addressed the Examiners Question ExQ3 Q10.1.1, however, the Council expects the applicant to respond to the Council's specific concerns on the Council's response to ExQ3 ([REP8-165](#)), in the Deadline 9A submission.**

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- 7.3.21 **Q10.1.6 Culvert Design** – the question raised by the ExA relates to the consultation for the design and approval of culverts and whether other Drainage Authorities should be consultees, in addition to the Environment Agency. The applicant points to Part 3 of Schedule 14 of the draft Development Consent Order (DCO) ([REP7-090](#)), which will ensure consultation/design approval role to the Local Lead Flood Authorities (LLFA) for works on all ordinary watercourses for which the LLFA is the 'Drainage Authority'.
- 7.3.22 In the Council's response to ExQ3 ([REP8-165](#)), the Council raised the additional concern that adoption and maintenance responsibilities for proposed drainage features are not clearly defined. The REAC commitment RDWE014 describes the standards applicable for inspection and maintenance of Culverts. The Council would like clarification from the applicant whether all proposed culverts will be adopted and maintained by the applicant or if the responsibility for maintenance will only apply to the culverts directly serving the Project proposed surface water system.
- 7.3.23 **The applicant has addressed the ExQ3 Q10.1.6, however, the Council expects the applicant to respond to the Council's specific concerns and the Council's response to ExQ3 ([REP8-165](#)), in the Deadline 9A submission.**
- 7.3.24 **Q10.1.11 and Q10.1.12** – these are both related to Water Framework Directive: culverting. In the Council's response to ExQ3 ([REP8-165](#)), the Council requested that the applicant consider whether the longest proposed Culvert which is 178m long and could be reduced in length. The Council also requested the applicant to provide information on additional measures that will be required for safe access and maintenance for long culverts.
- 7.3.25 The applicant has considered the possibility of a perpendicular culvert to reduce length, however, the applicant has discounted this approach in order to reduce the effects on flow regime and the potential for scouring that such an abrupt change in channel alignment would cause and to help maintain the existing channel gradient.
- 7.3.26 **The applicant has substantially addressed the ExA ExQ3 in relation to minimising the number and length of new culverts in line with the Water Framework Directive. However, the Council's request for information on proposed measures to ensure safe access and maintenance for long culverts remains outstanding.**
- 7.3.27 **Q10.1.14 Definition of ditches and other watercourses** – the ExQ3 question relates to definitions of water features, but draws specific attention to the Whitecroft Care Home cross sections ([REP5-092](#)). The applicant has clarified that there are some swales in the cross sections that are incorrectly labelled as ditches. In the Council's response to ExQ3 ([REP8-165](#)), the Council requested that the cross sections are updated to show the proposed Infiltration Basin, which is confined within the junction: A1013, the Project Alignment and the A13 earth mound. Cross referencing to a Work No. will also be needed. This will also help in the response to ExQ3 Q10.1.1 regarding the question about Residual Risks and Exceedance routing for the Infiltration features. Furthermore, the cross-sections need to be updated to use the same terminology as the Drainage Plans, which need to be secured in the dDCO.
- 7.3.28 **Q10.1.14** – this also included a question to the applicant regarding proposed future maintenance and adoption responsibilities for the proposed watercourses, swales, ditches and ponds. The applicant has stated that proposed ditches that drain National Highways infrastructure, will be operated and maintained by National Highways, as detailed in and secured by commitment RDWE012 within the Register of Environmental Actions and Commitments ([REP7-122](#)) and those that form part of the local highway drainage infrastructure will be operated and maintained by the relevant overseeing authority.
- 7.3.29 In the Council's response to ExQ3 ([REP8-165](#)) regarding Q10.1.14, the Council requested clarification on what watercourses, control structures and SuDS associated assets will be

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adopted by the Highways Authority and what specific assets are proposed for adoption by others. Whilst the applicant's response does clarify that drainage ditches at the toe of the Project Road embankment will be the applicant's maintenance responsibility. However, the response did not clearly define where the extents of adoption would be. The Council would like to understand which of the proposed new water features will be proposed for adoption by the local highways authority.

- 7.3.30 **In general, the Council considers that the future adoption and maintenance responsibilities for proposed surface water management features are not currently clearly defined. The Council also request an update to the cross-sections ([REP5-092](#)), to show a section through the proposed Infiltration Basin and also to show consistent terminology with the Drainage Plans and referencing of Work No. for each drainage feature.**

7.4 Council Comments on Applicant's Submission on CAH5 (REP8-109)

- 7.4.1 There is no reference to the Council's submission at D8 (REP8-167) in Section 1, regarding to Bellway Homes Ltd in Agenda item 3 b. The Council will await the applicant's response at D9 and respond accordingly at D9A.

7.5 Council Comments on Applicant's Submission on OFH5 (REP8-112)

- 7.5.1 The Council has reviewed Section 2 of the applicant's submission and consider it accurate and have no further comments.

7.6 Council Comments on CoCP/REAC EMP Annex E – Heat Map (REP8-047)

- 7.6.1 The CoCP Annex E – Heat Map ([REP8-047](#)) has been provided to illustrate the most important invertebrate habitats that have been identified within the Order Limits close to the North Portal. This is based on survey results already presented by the applicant; however, it seeks to better represent where the areas of highest importance are located. Much of this area has been subject to land raising and other works over the previous decade, so it is accepted that the best quality habitat is associated with watercourses and boundary features, which were not subject to these recent works.
- 7.6.2 The new REAC commitment TB031 makes it a requirement for the applicant to use this 'Heat Map' to inform detailed design to avoid and/or minimise impacts on these areas. The Council supports the provision of this additional REAC commitment. It would raise the point regarding the emphasis of the wording. The proposed wording refers to '*a heat map showing areas of high value habitat for terrestrial invertebrates*'. The works on this area have largely stopped meaning that new open mosaic/early successional habitat is starting to re-establish. In time this will become high value habitat, if there is a delay in commencing construction. The Council suggests the wording in the REAC be changed to '**areas of highest value habitat**' in recognition of this issue.

7.7 Council Comments on CoCP/REAC Community Liaison Groups Initial ToR (REP8-046)

- 7.7.1 The information provided at Deadline 8 by the applicant is agreed with the Council and the Council is satisfied with the Community Liaison Groups initial Terms of Reference provided.

7.8 Draft Section 106 Agreement Comments and Progress Update and Explanatory Note (previously REP7-178 and REP7-193)

- 7.8.1 The Council has exchanged correspondence and discussions since the D8 submission on 5 December 2023 and has now received the applicant's final draft S106 Agreement offer. Under the S114 notification it is necessary to seek the Council's governance and guidance in determining its response to this final offer. Consequently, a detailed Technical Report and recommendations was undertaken and is being considered under Council governance.
- 7.8.2 Essentially, there are several points of difference between the Council and applicant, which are briefly set out below for the convenience of the ExA.
- 7.8.3 **Draft S106 Agreement wording** – this has four matters outstanding:
- a. The Council contends that the definition of 'Input Date' should include Preliminary Works, as officer time is likely to be required for many of these works, especially in relation to the major works for the main northern compound (an advance compound area), for example, particularly in respect of the erection of any temporary means of enclosure, receipt and erection of plant and equipment, diversion and laying of underground apparatus, accesses and vegetation clearance. Currently any officer time spent on these Preliminary Works is not funded. The applicant disagrees that the Preliminary Works will involve substantial input from the local authorities and so it is not intending to change the definition as set out for the 'Input Date';
 - b. Clause 12 sets out that the applicant will provide no less than 3 months notice of the 'Input Date' and the Council contends that this is insufficient to recruit the necessary posts and requested 6 months notice. This was refused by the applicant and 3 months was provided as a compromise from their initial period of just 2 months;
 - c. There is no provision for the possibility of front loading of payments for certain posts if the workload requires it and whilst not included it was verbally agreed to provide for its subsequent agreement between the parties, which has not been accepted or provided; and,
 - d. There should be a definition of 'Order Land', which links back to the draft Development Consent Order.
- 7.8.4 **Shortfall in Officer Support Contribution** – the applicant's offer equates to **83%** of the Council 'ask' with a net shortfall per annum or over 6.5 – 8.5 years. The applicant has indicated that should the Council not accept the 2 December 2023 offer and therefore if a Unilateral Undertaking would be required, then the Unilateral Undertaking will be based on their earlier offer of late November. The earlier late November applicant offer equates to **79%** of the Council's 'ask' and is a further shortfall or over 6.5 – 8.5 years. The applicant is effectively seeking to incentivise the Council to accept the 2 December 2023 offer through the inclusion of an extra **amount** of a specific officer funding per annum.
- 7.8.5 The applicant is fully aware of all these matters and the current status of the Council's governance.
- 7.8.6 Notwithstanding the above shortfalls and issues with the draft S106, in the process of Council governance it has been determined that the Council will, in fact, sign the S106 Agreement and the following statement has been sent to the applicant:

'Further to our recent discussions I would like to confirm that agreement has been reached between National Highways and Thurrock Council with regards to the Section 106 Agreement. The Council has agreed the wording in the Section 106 agreement and is

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currently undertaking its formal signatory process. It is planned that the signed Section 106 agreement will be submitted to the Examining Authority at Deadline 10'.

- 7.8.7 The Council will now endeavour to honour that statement and provide the necessary documentation at Deadline 9A or 10.

Appendix A Council's Comments on Applicant's Responses to ExA's Commentary on dDCO

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and Deadline 8 (D8)**

**Appendix A: Council Comments to Applicant's responses to
Examining Authority's commentary on draft DCO**

11 December 2023

Thurrock Council
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Thurrock Council Comments on Applicant's Submissions at Deadline 7 (D7) and Deadline 8 (D8) – Appendix A: Council Comments to Applicant's responses to Examining Authority's commentary on draft DCO

Lower Thames Crossing

Document Control Sheet

Project Name: Lower Thames Crossing

Report Title: Thurrock Council Comments on Applicant's Submissions at Deadline 7 (D7) and Deadline 8 (D8) – Appendix A: Council Comments to Applicant's responses to Examining Authority's commentary on draft DCO

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Date: 11 December 2023

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Appendix A: Council Comments to Applicant's responses to Examining Authority's commentary on
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A.1 Council Comments to Applicant's responses to Examining Authority's commentary on draft DCO

Table A1.1: Council Comments to Applicant's responses to Examining Authority's commentary on draft DCO

Ref. No	Provision	Proposed change (where applicable)	ExA Question	Applicant Comment	Thurrock Council comment
QD1	Title of dDCO	Not applicable	Do any IPs have any submissions to make on the title of the dDCO?	The applicant shares the ExA's view that the title of the dDCO (Document Reference 3.1 (10)) is a clear and accurate description of the purpose of the dDCO.	Please see Council response at Deadline 8 (REP8-166) in Appendix A. The Council does not have any submissions to make on the title of the dDCO.
QD2	General	Not applicable	Do any IPs have any submissions to make on the structure or broad function of the provisions in the dDCO?	The applicant notes that this question is directed to IPs and therefore has no comments at this stage. As requested by the ExA, where appropriate the applicant will provide a response to any comments made by Interested Parties in relation to this question, at Deadline 9 in the Examination timetable.	Please see Council response at Deadline 8 (REP8-166) in Appendix A. The Council does not have any submissions to make on the structure or broad function of the provisions within the DCO.
QD3	Schedule 16 (documents to be certified)	Include Mitigation Route Map in Schedule 16	Are there any documents that have been submitted to the Examination that should be certified but are not recorded in the dDCO?	Having reviewed, the applicant considers that the list of documents included in Schedule 16 to the dDCO (REP7-090) is complete, but proposes to (1) include the Mitigation Route Map (REP4-203); (2) amend the title of the Code of Construction Practice to improve the visibility of the REAC and (3) remove the Interrelationship with other Nationally Significant Infrastructure Projects and Major Development Schemes (APP-550).	Please see Council response at Deadline 8 (REP8-166) in Appendix A, which states: <i>'The Council is broadly happy with the manner in which most of the certified documents and Control documents are secured. However, the Council considers that the use of flexible words such as</i>

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				<p>As set out in the Explanatory Memorandum (EM) (REP7-092), the purpose of Schedule 16 and the certification process under Article 62 of the dDCO is to identify the plans and documents to be certified as true copies, if the Order is made by the Secretary of State. This is so that there can be no doubt about which document or plan was correct, should a question arise to that effect later.</p> <p>As the ExA notes, the list of documents in Schedule 16 comprises plans and documents identifying the land and works forming part of the Project, as well as those which secure mitigation for the effects of the Project, or which are relevant to the assessment of those effects. Broadly, these are the criteria which have been applied by the applicant in selecting the documents and plans for inclusion in Schedule 16.</p> <p>In relation to the Mitigation Route Map (REP4-203) referred to specifically by the ExA, the document was submitted to assist the ExA and IPs in understanding how mitigation relied upon in the Environmental Statement (ES) and related documents is secured by the dDCO (REP7-090). As set</p>	<p><i>'reflect' and 'substantially in accordance with' are not appropriate when securing outline documents, which themselves contain significant flexibility (see pages 35-37 of REP6- 164)'.</i></p> <p>QD4 below and in the Council's D8 QD4 response sets out the outstanding concerns regarding the remaining unsecured plans.</p> <p>The Council welcomes confirmation that the Mitigation Route Map is to be included in Schedule 16 but maintains that this should include definitions of the advance notice for submissions of documents for consultation and engagement, in order to assist with the management by the consultee of the feedback required of those documents. These would not be the subject of deemed consent and should be</p>

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				<p>out in paragraph 1.2.1 of the Mitigation Route Map, the document does not have a formal status. In particular, it does not secure mitigation for the effects of the Project, nor does it speak to the assessment of the Project's effects, which is addressed in the ES.</p> <p>Nonetheless, the applicant does propose to list the Mitigation Route Map in Schedule 16 to the dDCO, in order to ensure it is part of the suite of documents which interested parties may find helpful and which is proposed to be certified. As noted, the applicant is content more broadly that the list of documents and plans in Schedule 16 is accurate and complete.</p>	<p>strengthened by agreed and collaborative Local Authority buy-in.</p> <p>Whilst the Council considers that the amendments to the title of the CoCP to include the REAC is positive, usability going forward would have been assisted if the two had been separated.</p> <p>As set out in Council response at Deadline 8 (REP8-166) in Appendix A, the CoCP (EMP First iteration) indicates the preparation of Construction Logistics Plans – these are not separately secured within Schedule 2 and are not listed within Schedule 16. These should be secured through an addition to Requirement 4(3), with reference to the Construction Logistics Plans after the reference to the REAC.</p>

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QD4	Schedule 16 (documents to be certified)	Not applicable	Are there any documents recorded in the dDCO as to be certified but which are superfluous?	<p>The applicant does not consider that any of the documents included in the dDCO (REP7-090) are superfluous and / or should be removed with the exception of the Interrelationship with other Nationally Significant Infrastructure Projects and Major Development Schemes (APP-550). The list has been and will continue to be kept under review until the close of the Examination to ensure that all version references are correct.</p> <p>The applicant, therefore, agrees with the ExA's proposal not to delete any documents from the proposed set of certified documents and control documents.</p>	It remains the Council's position that the Structure Plans, Temporary Works Plans and Drainage Plans should remain certified and should also become secured (i.e. become secured within the dDCO or be part of a Control document) within the dDCO with additional provisions or part of other Control documents. Please see Council response at Deadline 8 (REP8-166) in Appendix A for more detail and further comments on these specific documents
QD5	Schedule 16 (documents to be certified)	Restructuring of Schedule 16	Should Schedule 16 be restructured to set out the proposed certified documents in functional groupings?	The applicant has considered the ExA's suggested functional grouping at paragraph 3.3.7 of its commentary on the dDCO (PD-047) and has reflected this in the revised dDCO submitted at Deadline 8 (Document Reference 3.1 (10)).	<p>Please see Council response at Deadline 8 (REP8-166) in Appendix A.</p> <p>The Council considers that the restructuring of Schedule 16 has aided usability.</p>
QD6	Schedule 16 (documents to be certified)	Register of environmental actions and commitments to be	Should the REAC be individually identified in Schedule 16 (certified documents)?	Notwithstanding the applicant's view that the approach previously proposed was clear and accurate, the applicant has modified the dDCO at Deadline 8 to improve the visibility of the Register of	Please see Council response at Deadline 8 (REP8-166) in Appendix A and comment above at QD3.

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		individually identified		Environmental Actions and Commitments (REAC) in Schedule 16 to the dDCO (Document Reference 3.1 (10)).	
QD7	Schedule 16 (documents to be certified)	Include Mitigation Route Map in Schedule 16	Should the Mitigation Road Map be included as part of the REAC, as a separate CD or certified document or not at all?	<p>See the applicant's response to QD3. The applicant proposes to include the Mitigation Route Map (REP4-203) in Schedule 16 to the dDCO (REP7-090).</p> <p>It should be noted that the Mitigation Route Map refers to all of the controls which exist to secure environmental mitigation. The REAC is one important aspect of this. However, mitigation is contained in a number of other control documents, as detailed in Plate 2.1 and throughout the Mitigation Route Map. To append the Mitigation Route Map to the REAC in the manner suggested could therefore be misleading and lead to unintended consequences thereby increasing confusion about what measures are secured, and under which provision.</p>	<p>The Council agrees that the Mitigation Road Map should be secured as a separate document, that can be agreed as a first iteration prior to any DCO grant and maintained and updated during the construction period to inform the process and progress with discharging consents and control documentation.</p> <p>Please see Council response at Deadline 8 (REP8-166) in Appendix A for further details on changes that the Council believes are necessary.</p>
QD8	Schedule 16	Not applicable	Do any IPs have any further submissions to make on the manner in which certified documents and specifically CDs are recorded in the dDCO?	The applicant notes that this question is directed to IPs and therefore has no comments at this stage. As requested by the ExA, where appropriate the applicant will provide a response to any comments made by Interested Parties in relation to	Please see Council response at Deadline 8 (REP8-166) in Appendix A. This restates the Council's view that the use of flexible words, such as 'reflect' and 'substantially in accordance with' are not

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				this question, at Deadline 9 in the Examination timetable.	appropriate when securing outline documents, which themselves contain significant flexibility (see pages 35-37 of REP6-164).
QD9	General	Not applicable	Are there any further matters that have been raised in the Examination that should be provided for in an Article but which are not? If so, please provide reasons and evidence for your position.	The applicant does not consider that there are further matters which should be provided for in an article of the dDCO and considers that all matters raised have been addressed comprehensively through the iterative updates made to the dDCO during the course of the Examination. These are set out in detail in the schedule of updates to the dDCO, the latest version of which is submitted at Deadline 8 (Document Reference 9.47 (8)) alongside the revised dDCO (Document Reference 3.1 (10)).	It should be noted that the Council has proposed additional Requirements and Protective Provisions, as well as making suggested amendments to various articles. Please see Council response at Deadline 8 (REP8-166) in Appendix A for further details on further matters.
QD10	General	Not applicable	Are there any matters provided for in an Article which are superfluous? If so, please provide reasons and evidence for your position.	The applicant does not consider that there are any matters provided for in an article of the dDCO (REP7-090) which are superfluous. The justification and need for each article of the dDCO is set out in detail in the EM (REP7-092), which has been supplemented during the course of the Examination in response to the ExA's and IPs' observations on the dDCO.	Please see Council response at Deadline 8 (REP8-166) in Appendix A. In summary, the Council agrees that no articles have been identified as superfluous.
QD11	General	Not applicable	Are there Articles that the ExA has not yet commented on in respect of which a change in	The applicant understands this question is directed primarily to Interested Parties and does not therefore propose to comment	There are a number of amendments that are sought to the Articles. Please see

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			<p>drafting is sought? If so, please provide reasons and evidence your position.</p>	<p>substantively at this stage. The applicant would, however, note that it has responded in detail during the course of the Examination to IPs' submissions and suggestions in relation to the dDCO. The Applicant would refer in this regard to (REP2-077), (REP3-144), (REP4-212), (REP5-089) and (REP6-085) as well as its equivalent submission at Deadline 8.</p>	<p>Council response at Deadline 8 (REP8-166) in Appendix A.</p>
<p>QD12</p>	<p>General</p>	<p>Not applicable</p>	<p>All prospective consenting bodies subject to deemed consent provisions with a time-limit are asked to consider the appropriateness of a provision for deemed consent and of the time limit. If these are not considered to be appropriate, then they are asked to explain why and how these provisions might be varied.</p>	<p>The applicant notes that this question is directed specifically to consenting bodies subject to deemed consent provisions under the dDCO and so does not propose to respond substantively on this point at this stage.</p> <p>The applicant would, however, refer to its response to IP comments made on the draft DCO at Deadline 1 (REP2-077), which sets out in detail the applicant's position regarding the widely precedented approach to the use of deemed consent provisions.</p>	<p>This remains an area of significant concern for the Council.</p> <p>The primary position of the Council is that deemed consent does not work in the public interest, as a failure of a public body to grant consent can lead to consent being granted without scrutiny. It is difficult to see how this is in the public interest. Equally delays to large projects, such as LTC, may incur significant costs. As the road is being funded by the public purse, delays are clearly not in the public interest. Please see Council response at Deadline 8</p>

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					<p>(REP8-166) in Appendix A for further details.</p> <p>The Council notes the ExA's comments and the response submitted at Deadline 8 (REP8-166) sets out a preferred way forward, being mindful of discussions to date..</p>
QD13	Article 2 (interpretation)	Not applicable	The Applicant is requested to explain more fully the inter-relationship between this provision, A27, Schedule 2 R1 and R2. Is there an argument for a simplified and harmonised approach to the relevant time limits for development and for CA?	<p>As the ExA notes, the applicant has incorporated two distinct definitions for "begin" (defined in article 2,) and "commence" (defined in Requirement 1) in the dDCO (REP7-090). The key distinction between the two is that "begin" includes material operations, including the preliminary works (defined in the dDCO), and "commence" does not. On the face of the dDCO, the Applicant has used the word "commence" and "begin" in relation to specific Requirements.</p> <p>To be clear, the time limits for the exercise of authority to acquire land compulsorily under article 27 are subject to separate timescales. The definitions of "begin" in article 2 (now Requirement 2) and "commence" in Requirement 1 do not apply in that context. The justification for those time limits is set out in the EM</p>	<p>As stated previously (for example REP1-295 page 9) the Council remains concerned about this point. The main point for the Council is that it is not in the public interest to amend the DCO in the manner suggested by the applicant. The applicant has not responded to this point and accordingly the Council is unclear as to why the change from the more conventional position serves the public interest. The Council considers that adequate explanation has not been provided (as required by</p>

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				<p>(REP7-092) and is further articulated in response to QD29 and QD30 below.</p> <p>In relation to the term "begin", that term is used on two occasions in Schedule 2, in circumstances where it would not be appropriate for the pre-commencement requirements applicable to the discharge of Requirements more generally under Schedule 2 to be engaged. Those instances are Requirements 2 and 7, because the Applicant considers that, for the purposes of Requirement 2, the carrying out of a material operation – whether it relates to a preliminary work or not – should be sufficient for the purposes of discharging the requirement on time limits. The Applicant explained its position in this regard in its post-event submissions, including written submission of oral comments, for ISH2 (REP1-184). The term "begin" is also used in Requirement 7 as a way of ensuring that prior to carrying out any works – whether they are preliminary works or not – pre-construction surveys must be carried out.</p> <p>On the other hand, "commence" is used in Schedule 2 where a Requirement must be discharged before the relevant works can</p>	<p>paragraph 1.5 of Advice Note 15).</p>

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				<p>commence. The term “commence” is employed in relation to Requirements 4(2), 8, 9, 10(2), 11, 13, 16 and 18.</p> <p>The Applicant does not agree that there is scope for interpretational uncertainty due to the use of the terms “begin” and “commence” in the manner proposed in the dDCO. In fact, in <i>Tidal Lagoon (Swansea Bay) Plc v Secretary of State for Business, Energy and Industrial Strategy (2022)</i> EWCA Civ 1579, it was in essence because those two terms had not been employed in the manner proposed in the dDCO that litigation subsequently ensued, with delay and uncertainty created for all parties as a result. The Applicant's position on that case is set out in response to Action Point 1 of ISH7 contained in (REP5-089).</p> <p>It should be noted that there is a further scenario: where preliminary works are carried out, they are caught by the Preliminary Works EMP / REAC under Requirement 4(1), and the preliminary traffic management plan under Requirement 10(1). Whilst the concept of a “preliminary works EMP” which is secured at the point of the Order being made is</p>	

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				<p>precedented (see e.g. M42 Junction 6 DCO, A303 Stonehenge DCO), the Applicant's approach to securing a "preliminary works" Traffic Management Plan goes above and beyond the precedented strategic road network DCOs. This approach of being able to carry out preliminary works without having to discharge the Requirements is, in the Applicant's view, appropriate in light of the relative significance of the works, and the fact that the controls are secured. This is explained in greater detail in the Applicant's post-event submissions, including written submission of oral comments, for ISH2 (REP1-184).</p> <p>Where the term "commence" is used in Requirements 4(2), 8, 9, 10(2), 11, 13, 16 and 18, the Applicant must have submitted and received approval for the relevant control plan required. In contrast to the preliminary works, these are comparatively more significant works; management plans would accordingly need to be produced based on outline documents and therefore it is appropriate that these are subject to a 'pre-commencement' condition preventing the works from starting.</p>	

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				<p>In the Applicant's view, the drafting is clear in using "begin" where preliminary works should be considered (because it is sufficient for the development to have carried out a material operation to satisfy the time limit requirement), and "commence", which excludes the preliminary works, where controls must be secured prior to starting the relevant works. The Applicant has also, in connection with the preliminary works, ensured that appropriate controls are in place.</p> <p>The Applicant therefore considers that the relationship between the definitions of "begin" and "commence" in the dDCO is clear and appropriate. The Applicant does not consider the definitions are at odds with each other but instead believes that they operate in a complementary way to ensure that the Schedule 2 requirements can function in a coherent manner. The Applicant does not therefore propose to modify the dDCO in relation to this aspect of the drafting.</p>	
QD14	Article 2 (interpretation)	Not applicable	The Applicant is asked to explain more fully why it is necessary to employ a definition of 'begin' as opposed	The Applicant refers to its response to QD13. The term "begin" should be considered specifically in the context of Requirements 2 and 7 of the dDCO	Please see comments in relation to QD13 above.

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			to the more conventional approach of defining 'commence' with a carve-out for 'preliminary works'	(REP7-090) and has been included to ensure that those provisions can operate in the intended manner. A definition of "commence", which includes a standard carve-out for preliminary works, has also been included and applies to many of the Schedule 2 Requirements, such that where those requirements are engaged commencement would be contingent on the production of detailed management plans for the approval of the Secretary of State.	
QD15	Article 2 (interpretation)	Not applicable	The Applicant is requested to review the basis for and the relationship between the definitions of 'begin' in A2 and 'commence' and 'preliminary works' in Schedule 2 R1, to assure the ExA that apparent circularity has been removed. Could re-basing these definitions on s155 PA2008 assist this task?	<p>The Applicant refers to its response to QD13. The Applicant does not consider that there is circularity between the respective definitions, each of which has been included to fulfil a specific purpose.</p> <p>The Applicant would note that utilising the definition in the Town and Country Planning Act 1990 provides further specificity in relation to the works which would constitute "beginning" development. This is heavily precedented across the Applicant's DCO.</p>	Please see comments in relation to QD13 above.
QD16	Article 2 (interpretation)	Not applicable	What would be the effect for the Proposed Development of a return to the more conventional drafting approach	The Applicant would first note that the definition of "commence" in Requirement 1 already includes a carve- out for preliminary works.	Please see comments in relation to QD13 above and the Council response at Deadline 8 (REP8-166) in

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			<p>of defining 'commence' with a carve-out for 'preliminary works' in A2, with all subsequent references in the dDCO amended as necessary?</p>	<p>Nevertheless, the primary effect of the ExA's suggestion would be to link Requirement 2 and Requirement 7 of Schedule 2 to the commencement of the authorised development as opposed to beginning the authorised development.</p> <p>This approach would undermine the Applicant's intention that the carrying out of any material operation should be sufficient to satisfy the time limits in Requirement 2 and by doing so, avoid the scenario which arose in the <i>Tidal Lagoon</i> case referred to above. The effect of this would be a risk that the requirement would not be discharged notwithstanding that material operations had been carried out. Similarly, this approach would also conflict with the Applicant's intention that final pre-construction survey work should be required under Requirement 7 before any material operation is carried out over land. If commencement was instead the trigger under Requirement 7, then the preliminary works would in principle be authorised in the absence of such surveys. This would erode the protections which the Applicant has sought to build into the dDCO.</p>	<p>Section 6.13.3 b and in Appendix A, particularly in respect of the Council's concerns about certain significant works being included in the definition of Preliminary Works. The Council does not consider that a return to more conventional drafting would erode the protections within the dDCO. Whilst it is appropriate that preliminary works can be carried out in accordance with specific Control documents, it is unclear why the effect of these preliminary works need to be to preserve the dDCO. The Council is concerned that the intention is to minimise the works needed to preserve the DCO as it does not intend to progress the DCO within the 5-year period, which is of concern to the Council due to the uncertainty it causes.</p>

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					<p>The applicant refers to the Town and Country Planning Act 1990. The Council is concerned that the approach of the applicant is, to explain it in terms of permission granted pursuant to the Town and Country Planning Act 1990, to allow the permission to be implemented prior to discharging pre-commencement conditions. It is difficult to see how this is in the public interest.</p>
<p>QD17</p>	<p>Article 2 (interpretation)</p>	<p>More specific group of definitions of a watercourse</p>	<p>The Applicant, the Environment Agency (EA) and other water environment and industry stakeholders are asked to consider whether a more specific group of definitions of a watercourse would be justified and the possible drafting benefits of making such a change.</p>	<p>The Applicant considers that the term “watercourse” – which as the ExA notes is well precedented – is appropriately defined in article 2 of the dDCO (REP7-090).</p> <p>The definition relates to the Applicant's powers in relation to watercourses under articles 18, 19 and 21 of the dDCO and is intended to ensure that the Applicant can implement the Project insofar as it relates to or requires measures to be taken in relation to any watercourses that might be encountered on a scheme of this scale. The Applicant does not consider that an alternative grouping or categorisation of watercourses which would fall within the</p>	<p>The Council has no concern on the definition of watercourse. It appears to utilise the same definition as the Land Drainage Act 1991.</p>

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				<p>definition would change the scope or meaning of those powers. For example, it is not the Applicant's intention that the powers should operate in one way for certain watercourses and in another way for others.</p> <p>To the extent that water quality and biodiversity considerations are relevant to any watercourse which would be subject to the exercise of these powers, those considerations are addressed by other mechanisms in the dDCO, including the REAC. The Applicant would also specifically highlight article 19(10) of the dDCO, which provides that "... <i>nothing in this article overrides the requirement for an environmental permit under regulation 12(1)(b) ... of the Environmental Permitting (England and Wales) Regulations 2016</i>".</p> <p>For these reasons, the Applicant does not consider that an alternative definition of the term would be justified or that there would be benefits in making such a change.</p>	
<p>QD18</p>	<p>Article 6 (limits of deviation)</p>	<p>Inclusion of a caveat limiting the downwards vertical limits of deviation</p>	<p>The Applicant and relevant statutory undertakers are asked to consider the effect of the remaining 'limitless' downwards vertical limits of deviation. Should these be</p>	<p>The Applicant does not consider such a caveat to be necessary.</p> <p>As set out in paragraph 2.2.21 of Environmental Statement Chapter 2 – Project Description (APP-140): "This ES</p>	<p>The Council has no comment on the 'limitless' downwards vertical Limits of Deviation. However, the Council does have other concerns regarding the Limits of</p>

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			<p>subject to a caveat limiting the materially adverse effects of downward variation to that assessed within the ES?</p>	<p><i>and the assessments within it are based on the works proposed in the DCO application and the Order Limits (i.e., the maximum area of land anticipated as likely to be required, <u>taking into account the LOD proposed for the Project and the flexibility of detailed design provided for in the DCO</u>" (emphasis added).</i></p> <p>Therefore, where any of the works set out in article 6 of the dDCO (REP7-090) are subject to 'limitless' downwards vertical limits of deviation, which is the case for the works described in articles 6(2)(f), 6(2)(g), 6(2)(h) and 6(2)(i) of the dDCO, the implications of this have already been considered by the Applicant and the Applicant has then satisfied itself through the assessment process that the ability to carry out those works to an as yet unspecified and (theoretically) unlimited depth would not give rise to effects which have not been assessed in the ES.</p> <p>To caveat the operation of article 6 in the manner suggested by the ExA would not therefore materially change the effect of the provision and is therefore considered to be unnecessary.</p>	<p>Deviation, please see our Deadline 8 submission REP8-166 in Appendix A.</p>

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				Leaving aside the Project-specific justification provided above, the Applicant would further note this approach in relation to utilities assets is precedented (see, for example, the Thorpe Marsh Gas Pipeline Order 2016 and the River Humber Gas Pipeline Replacement Order 2016 in connection with gas pipeline works, and the National Grid (Richborough Connection Project) Development Consent Order 2017 in connection with overhead line works).	
QD19	Article 6 (limits of deviation)	Not applicable	The Applicant and the PLA are asked to clarify the latest position on the drafting of the upwards limits of deviation for tunnelling beneath the Thames.	Paragraph 99 and 100 of Schedule 14 to the dDCO (REP7-090) secure the agreed depths. Paragraph 99 is cross-referred to in the relevant parts of article 6. The Applicant is pleased to confirm that these paragraphs are agreed with the PLA, with the exception of one outstanding matter (paragraph 99(6)). The Applicant's position on this is set out in the Applicant's responses to comments on the dDCO at Deadline 7, which is submitted at Deadline 8 alongside this submission (Document Reference 9.193).	The Council has no comment on upwards Limits of Deviation. However, the Council does have other concerns regarding the Limits of Deviation, please see our Deadline 8 submission (REP8-166) in Appendix A.
QD20	Article 10 (construction and maintenance)	Not applicable	Are the Local Highway Authorities content that A10 adequately provides for the maintenance of Green	The Applicant notes that this question is addressed to the local highway authorities.	Please see Council response at Deadline 8 (REP8-166) in Appendix A.

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Ref. No	Provision	Proposed change (where applicable)	ExA Question	Applicant Comment	Thurrock Council comment
	of new, altered or diverted streets and other structures)		Bridges? If full agreement has yet to be reached then final submissions on drafting for comment between the parties should be made.	The Applicant would nevertheless highlight for clarity that specific provision is made for green bridges in article 10 of the dDCO (REP7-090). In particular, article 10(8) confirms that so much of each bridge as comprises highway within the meaning of the Highways Act 1980, would be maintained by the local highway authority in accordance with the general provision for the maintenance of new streets under article 10 of the dDCO. However, the planting and vegetation on either side of the highway would be maintained by the undertaker in accordance with the provisions of a landscape and ecology management plan approved under Requirement 5 of Schedule 2 to the dDCO.	
QD21	Article 12 (temporary closure, alteration and restriction of use of streets and private means of access)	Not applicable	The Applicant is asked to explain more fully why this power needs to apply to streets outside the Order limits. Could the power be limited to land within the Order limits and what would the effect of such a change be?	The Applicant will need to take access to streets within and outside the Order Limits in order to access the authorised development for the purposes of construction. A "street" in this context includes any highway (see the definition in section 48 of the New Roads and Street Works Act 1991, to which article 2 of the dDCO (REP7-090) refers), so would encompass the wider road network in the area which will be used by construction vehicles to access construction work sites.	The Council is concerned about the impact of LTC on the local road network. See concerns in REP1-295 (page 24) and REP6-030 (page 19). As the Council's powers in relation to timing have been disapplied, the Council is concerned about how conflicts (especially with pre-approved works) will be managed. Please see REP8-166 in Appendix A.

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				<p>The power in article 12, therefore, ensures that a mechanism exists pursuant to which the Applicant can effectively respond to challenges which may arise on the wider road network which could present a danger to road users and / or impede the delivery of the authorised development. This could, for example, include a temporary restriction on the type of vehicles using a given street.</p> <p>If the power were not included in the dDCO, the Applicant would need to resort to existing statutory regimes, such as the Road Traffic Regulation Act 1984, to seek the powers instead. The Applicant considers it is preferable and more appropriate to include the powers in the dDCO, given the Project's national significance and that the overarching purpose of the Planning Act 2008 was to provide a one stop shop for the consenting of Nationally Significant Infrastructure Projects.</p> <p>The Applicant's Response to Issue Specific Hearing (ISH) 2 draft DCO (AS-089) explained the safeguards which are drafted into article 12 of the dDCO to</p>	<p>Accordingly, the Council would prefer the power in Article 12 to be limited to the Order Limits, in order to limit the disruption caused to the wider road network.</p>

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				<p>ensure that the exercise of the power is subject to appropriate controls.</p> <p>Notably, this includes the need to seek the consent of the relevant street authority under article 12(5)(b).</p> <p>The application of this provision to streets located outside the Order Limits is well precedented and has been approved by the Secretary of State on a number of occasions. Recent examples include the A47 Wansford to Sutton Development Consent Order 2023 (see article 16) and the A57 Link Roads Development Consent Order 2022 (see article 14).</p> <p>Accordingly, the Applicant does not consider that it would be appropriate to limit the application of the provision to streets and private means of access located within the Order Limits.</p>	
<p>QD22</p>	<p>Article 12 (temporary closure, alteration and restriction of use of streets and private</p>	<p>Not applicable</p>	<p>IPs who are street authorities are asked whether a 28-day deemed consent provision in A12(8) is reasonable. If not, please propose and justify an appropriate alternative provision.</p>	<p>The Applicant notes that this question is directed to street authorities.</p> <p>The Applicant would, however, refer the ExA to paragraph 5.72 of the EM (REP7-092), which sets out the justification for the inclusion of a deemed consent provision</p>	<p>The Council notes both the applicant's justification for deemed consent and the ExA's thoughts on this and has set out a suggested approach, as further explored in the response above relating to QD12 and within</p>

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	means of access)			and the extensive precedent which exists in support of this approach.	the Council's response at Deadline 8 (REP8-166) in Appendix A. In relation to the notice being given for diversions and for the coordination of the closures with other works, the scale of LTC gives greater scope for multiple diversions, which could be ongoing for a significant period of time and will interface with other non-LTC works. This makes it essential that they are properly coordinated and the Council remains of the view that both (i) the standard 3-month period is required; and, (ii) this would not lead to delay, provided the applicant and contractors effectively plan works in accordance with standard practice.
QD23	Article 12 (temporary closure, alteration and restriction of use of streets and private	Not applicable	Traffic authorities and emergency services bodies (consultees) are asked whether the deemed consent period of 28 days in A17(11) is appropriate and, if not, to propose and justify and	<p>The Applicant notes that this question is directed to traffic authorities and emergency services bodies.</p> <p>The Applicant would, however, refer the ExA to its response to IP comments made on the draft DCO at Deadline 1 (REP2-</p>	The applicant continues to maintain that 28 days is appropriate, without giving further justification, whereas the Council has provided detailed justification for why the standard 3-month period

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	means of access)		appropriate alternative provision.	077), which set out the Applicant's response to the London Borough of Havering's concern that the period of 28 days in article 12 was too short. The Applicant remains of the view that the period of 28 days is appropriate in the context of this Order.	is required. Please see comments above on QD22 and QD12, as well as the Council's response at Deadline 8 (REP8-166) in Appendix A.
QD24	Article 18 (powers in relation to relevant navigations or watercourses)	Not applicable	The Port of London Authority (PLA), Port of Tilbury London Ltd (POTLL), DP World London Gateway Port (LPG) and any other IP operating vessels on the Thames are asked for final positions on this drafting.	The Applicant notes that this question is directed to Interested Parties and therefore has no comments at this stage. As requested by the ExA, where appropriate the Applicant will provide a response to any comments by Interested Parties in relation to this question, at Deadline 9 in the Examination timetable. The Applicant would note that the provision is now agreed with the PLA following amendments made to this provision.	The Council has no comment on this question.
QD25	Article 18 (powers in relation to relevant navigations or watercourses)	Not applicable	The Applicant is asked to identify whether this power actually does or could apply to a houseboat mooring. Could a caveat to the power be added to limit its effect on a residential mooring and what would the effect of such a change be?	Whilst it is the Applicant's position that article 18 could apply to a houseboat mooring, the Applicant would stress there is no evidence of any houseboat mooring being located within the Order Limits. The PLA confirmed at ISH14 that such an eventuality is extremely unlikely given the environment of the river in this location. The Applicant would further note that the PLA has confirmed that they would not grant a mooring licence in this location. To	The Council has no comments on this question.

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				the extent it were to prove necessary to remove such a mooring in connection with the carrying out or maintenance of the authorised development under article 18, compensation would be payable to any person who suffers loss or damage as a result in accordance with the Land Compensation Act 1961.	
QD26	Article 19 (discharge of water)	Not applicable	The Applicant is asked whether the consenting power under A19 should include seeking consent from or consulting the appropriate drainage authority.	Article 19(3) already requires the Applicant to seek the consent of the owner of any watercourse, public sewer or drain. This article is also well preceded in Strategic Road Networks DCOs and the Secretary of State has not required further consent or consultation, nor is the Applicant aware that the drainage authorities have previously sought this. The drainage authorities also benefit from the Protective Provisions in Schedule 14 Part 3 of the draft DCO (REP7-090).	The Council has no comments on this question.
QD27	Article 19 (discharge of water)	Not Applicable	The Applicant and any prospective consenting bodies are asked whether the deemed discharge consent period of 28 days under A19 is appropriate and, if not, what an appropriate period might be.	The Applicant's position regarding the 28-day period specified in article 19 is set out in the EM (REP7-092). The Applicant considers the period to be appropriate and proportionate given the scale of pre-application engagement with parties and is necessary to ensure the Project can be delivered in a timely fashion. The deemed consent provision should also be read	Please see Council's response above on QD12 and the more detailed response at Deadline 8 (REP8-166) in Appendix A. It should be noted, however, that the Council suggests that there could be benefit from considering a different

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				alongside the safeguard included at article 19(9).	approach for construction phase and final commissioning of the proposed design /operational phase.
QD28	Article 21 (authority to survey and investigate the land)	Not Applicable	The Applicant and any prospective consenting bodies are asked whether the deemed trial hole consent period of 28 days under A21 is appropriate and, if not, what an appropriate period might be.	The Applicant's position regarding the 28-day period specified in article 21 is set out in the EM (REP7-092) and the Applicant's response to IP comments made on the draft DCO at Deadline 1 (REP2-077). The Applicant considers the period is appropriate and proportionate given the scale of pre-application engagement with parties and is necessary to ensure the Project can be delivered in a timely fashion. The deemed consent provision should also be read alongside the safeguard included at article 21(8).	Please see Council response at Deadline 8 (REP8-166) in Appendix A, as well as the response to QD12. The applicant refers to the 'safeguard included at article 21(8)'. This requires a statement that the deemed consent provisions apply. This is not considered by the Council to effectively safeguard against the risk that decisions, which have not been scrutinised are deemed to be approved. This is not in the public interest.
QD29	Article 27 (time limit for exercise of authority to acquire land compulsorily)	Not Applicable	The Applicant is asked to provide a full justification for the extended time period of 8 years. What would be the effect of returning this to the standard 5 year period?	The eight-year time limit reflects the scale of the development and is preceded for other significant, complex and large linear schemes (cf. article 45 of the Thames Water Utilities Limited (Thames Tideway Tunnel) Order 2014 which includes a 10-	The Council has responded to the applicant position on multiple occasions (see for example page 30 of REP6-030 and REP8-166) in Appendix B in Annex 1. The

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	Article 28 (Compulsory acquisition of rights and imposition of restrictive covenants)		Alternatively, if the scale and complexity of the project justifies an extended period for CA, should this be harmonised with the time limit for the authorised development to begin of 5 years, set in Schedule 2 R2?	<p>year period, and article 21 of the National Grid (Hinkley Point C Connection Project) Order 2016 which permits an eight-year period). The Applicant initially proposed a 10-year period but following discussions with stakeholders, reduced the period to eight years. As set out in the EM (REP7-092), an extension to this time period is precedented in DCOs of comparable complexity.</p> <p>The Applicant notes that the "Planning Act 2008: Guidance related to procedures for compulsory acquisition" recognises that, for long linear schemes, the acquisition of many separate plots of land may not always be practicable by agreement. The construction period of the Project is approximately six years. This includes establishing 18 site compounds, 15 Utility Logistics Hubs, building new structures and making changes to existing ones (including two tunnels, bridges, buildings, tunnel entrances and viaducts) and the diverting of three gas high-pressure pipelines and an overhead power line diversion that qualify as NSIPs in their own right. The complexity of these works necessitates the eight-year limit for the acquisition of land proposed.</p>	applicant's comments here do not alter or amend the Council's previous responses referred to above.

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				<p>As a public body, the Applicant considers maximising public benefit in its decisions and ensuring value for public money. The Applicant considers the proposed extended time limit a method in which to accord with these principles. Imposing the standard five-year limit for the acquisition of land would negatively impact the public.</p> <p>The extended time period ensures the Applicant is able to identify areas of opportunity to reduce the amount of permanent acquisition land required. It would also allow</p> <p>General Vesting Declarations to be served based upon the actual land required once this is known, as various elements of the Project are completed, enabling a reduction in permanent land take, rather than acquiring land early. This would also ensure that public money is being spent in the most effective way possible, achieving value for money.</p> <p>The Applicant does not consider it necessary to amend the time frame in Schedule 2, Requirement 2 to eight years. This requirement sets out that the</p>	

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				<p>authorised development must begin no later than the expiration of five years beginning with the date that this Order comes into force. The Applicant is confident that this is achievable and refers the ExA to the justification provided in relation to Article 2 which sets out the definition of "begin".</p> <p>The Applicant does not consider it necessary to loosen this requirement to an eight-year period. The Applicant considers that the certainty provided to the public with this shorter time frame is appropriate in this context.</p>	
<p>QD30</p>			<p>The Applicant is asked to provide a full justification for re-basing the start of this period to the end of any legal challenge period or the end of any legal challenge. What would be the effect of returning this to the standard provision where time runs from the making of the Order?</p>	<p>The Applicant acknowledges that this article differs from other DCOs as it sets out that the eight-year period starts to run from the later of the expiry of the legal challenge period under section 118 of the Planning Act 2008, or the final determination of any legal challenge under that provision.</p> <p>The Applicant has considered the ExA's concern. The Applicant remains of the view that the possibility of legal challenge should be incorporated into this article but has made some amendments to the drafting of article 27 to ensure that there is</p>	<p>Without prejudice to the Council's position as set out in response to QD29 above, the Council prefers the new wording proposed by the applicant a Deadline 8.</p>

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				<p>a higher level of certainty in relation to when the eight-year period starts to run.</p> <p>The amended article retains the principle that where no challenge to the Order is made, the eight-year period starts the day after the period for legal challenge expires. In the event of a legal challenge, the Applicant has amended the dDCO so that the eight-year time period commences at the earlier of either the day after final determination of the legal challenge or the day after the one-year anniversary of the date of the expiry of the period for legal challenge. This amendment ensures that there is certainty as to when the eight-year period starts and ends.</p> <p>This amendment is set out in detail in the schedule of updates to the dDCO, the latest version of which is submitted at Deadline 8 (Document Reference 9.47 (8)) alongside the revised dDCO (Document Reference 3.1 (10)).</p> <p>The delaying of the start of the CA powers period to reflect any judicial review challenge brought by a third party is necessary following recent experience of legal challenges to made DCOs, which may delay the exercise of compulsory</p>	

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				<p>acquisition powers and in so doing reduce the length of time within which those powers may be exercised, if the period relates (as it does usually) to the date on which the Order is made.</p> <p>If the standard provision is used, instead of the Applicant's proposed wording, the risk of inefficient use of public money is increased. With the standard wording, the trigger for the eight-year period would be when the DCO was initially made. If judicial review proceedings are brought, the time period would not be paused. This increases the probability that the Applicant would need to apply for a change to the DCO to extend the eight-year time period, following the completion of any post-decision proceedings. The Applicant considers this to be an unnecessary risk to public funds. A change to the dDCO for this reason would needlessly take resources from the Planning Inspectorate and the Applicant.</p> <p>As a public body, National Highways must seek to ensure value for public money. It is therefore considered appropriate that the time period for the exercise compulsory acquisition powers should begin once the</p>	

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				<p>legal challenge period has expired or the earlier of either the day after final determination of the legal challenge or the day after the one-year anniversary of the date of the expiry of the period for legal challenge.</p>	
<p>QD31</p>		<p>Not Applicable</p>	<p>The Applicant is asked to provide a full justification for the broad extent of this power, or alternatively to find a means of limiting it to more precisely defined locations. What would be the effects of removing this power?</p>	<p>This article allows for rights/restrictive covenants over land to be acquired as well as (or instead of) the land itself, and also for new rights to be created over land. It provides for such rights and restrictive covenants as may need to be acquired by the Applicant over land which it is authorised to acquire under article 25 (compulsory acquisition of land).</p> <p>The Applicant has considered the ExA's request to limit this power to more precise defined locations and does not consider any further limitations to be in the public benefit.</p> <p>The Applicant has sought to identify all of the plots which are to be subject to the acquisition or creation of rights and has set these out in the Book of Reference (REP7-098), Land Plans (REP7-006 to REP7-010) and Schedule 8 of the Order (REP7-090). However, the flexibility of this Article maximises public benefit, as it ensures that</p>	<p>The applicant seeks powers to secure undefined rights for undefined purposes over an extensive area.</p> <p>Given how draconian the power to acquire an interest from its rightful owner is, it is rightly the case that when powers are sought there must be a compelling case in the public interest.</p> <p>Rather than identifying the compelling case for this power; or, (assuming that there is a compelling case) how the public interest is served.</p> <p>The case made is that the ability to do this is '<i>in the public interest</i>'. Merely being in the public interest is not a</p>

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				<p>the Applicant retains the flexibility to acquire or create rights/restrictive covenants over land where that land might otherwise have to be acquired outright.</p> <p>The Applicant considers that there are sufficient caveats to this power within the Article. The general power is subject to paragraph (2) which limits the power of acquisition to only acquire rights and impose restrictive covenants over the land listed in Schedule 8 and shown in blue on the land plans for the purposes stated in that Schedule. When taken together with article 28(2), the power to acquire rights or impose restrictive covenants under article 28(1) is limited to land which the Applicant seeks authorisation to acquire outright and ("pink land" in the land plans).</p> <p>This power to acquire rights or impose restrictive covenants over the "pink land" is justified on this project because it may be the case that the Applicant could achieve its aim through an alternative means, through the exercise of a lesser power to acquire rights or impose restrictive covenants, instead of acquiring the "pink land" outright and depriving the owners of that land wholly and permanently. Such a</p>	<p>compelling case, much less so when the public interest is not identified.</p> <p>The desire for flexibility, whilst understood, undermines the case, highlighting that the applicant knows neither:</p> <ul style="list-style-type: none"> • What rights it requires; nor, • Over what land. <p>The caveats identified are as broad as they could be drafted without extending over an area outside the Order Limits boundary.</p> <p>That the approach may have been adopted, possibly unchallenged, elsewhere does not create either a compelling case or meet the public interest test.</p> <p>That the applicant is unable to say what rights are required over what interests</p>

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				<p>determination cannot be made at this juncture because of the stage of design development. As the Project is designed in further detail, there may be scope to delineate the rights and restrictions that it could acquire instead of outright acquisition. Having the flexibility to exercise its powers in this way, and to offer an alternative strategy to landowners where appropriate, would allow the Applicant to take this proportionate approach should the opportunity arise. The general power in article 28(1) would enable this more proportionate exercise of powers as an alternative to acquisition at a later date. Without this provision the Applicant would have no alternative but to acquire the land outright if an alternative agreement could not be reached by agreed private treaty. Alternatively, the Applicant would have to acquire the land outright, and then re-sell it back to the owner subject to the necessary rights and restrictive covenants leading to an administrative burden. This approach would also benefit preserving public funds in connection with the Project.</p> <p>Paragraphs (3) and (4) provide for the exercise of the powers in paragraph (1) by</p>	<p>in land is a product of the early stage of design – something wholly within its control. That it has not chosen to advance the design further than at present does not create a reason to burden affected parties, parties who might not know the extent of the burden (if any) for many years.</p>

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				<p>statutory undertakers with the Applicant's prior written consent. These provisions provide a mechanism allowing those persons to benefit from the rights acquired for their benefit. The intention behind the drafting is that the liability to pay compensation to the owners and occupiers of the land burdened by the new rights or restrictive covenants would remain with the Applicant, notwithstanding that the benefit of the rights acquired would be enjoyed by parties other than the Applicant.</p> <p>There are particular circumstances which justify following this approach in the Project dDCO: for example, subject to detailed design the Applicant may seek to acquire only the land required to accommodate a viaduct but impose restrictions necessary to protect the viaduct embankments, together with the necessary rights to access the embankment for maintenance purposes, over the land on the surface that is crossed by the viaduct. This very approach is identical to the approach endorsed by the Secretary of State in the A47/A11 Thickthorn Junction Development Consent Order 2022, the Lake Lothing (Lowestoft) Third Crossing Order 2020 and the Great Yarmouth Third River Crossing</p>	

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				Development Consent Order 2020 (all of which are Orders which have been made following the M4 Junctions 3-12 project).	
QD32	Articles 53 (disapplication of legislative provisions, etc) and 55 (application of local legislation, etc)	Not applicable	Does any IP have any concern that the draft provisions unreasonably or inappropriately seek to disapply or modify other applicable legislative provisions? If so, what changes are sought to this provision or the dDCO more generally and why?	The Applicant notes that this question is directed to IPs and therefore has no comments at this stage. As requested by the ExA, where appropriate the Applicant will provide a response to any comments by Interested Parties in relation to this question, at Deadline 9 in the Examination timetable.	Please see Council response at Deadline 8 (REP8-166) in Appendix A. The Council does note, however, that the applicant has not provided a detailed analysis of the potential impact of disapplication of specific legislative provisions (the concept that the DCO should take precedence over other legislation is not under dispute, but it is important to understand what the impact is so that this can be mitigated if needed). Whilst the Council has not identified any concerns at present, for good administration, such justification should be made available.
QD33	Article 58 (defence to proceedings in statutory nuisance)	Not applicable	Does any IP have any concern that the proposed defence unreasonably seeks to safeguard the undertaker against poor or inappropriate	The Applicant notes that this question is directed to IPs and therefore has no comments at this stage. As requested by the ExA, where appropriate the Applicant will provide a response to any comments	The Council remains concerned about this Article departing from established positions on other large projects. Please see Council

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			practices or insufficient mitigation in either construction or operation? If so, what changes are sought to this provision and why?	by IPs in relation to this question, at Deadline 9 in the Examination timetable.	response at Deadline 8 (REP8-166) in Appendix A; and, the Council looks for further justification from the applicant on the position proposed in the current version of the dDCO.
QD34	Articles 64 (arbitration) and 65 (appeals to the Secretary of State)	Not applicable	Does any statutory body with formal decision-making powers have any concern that the proposed arbitration mechanism unduly affects their statutory role or powers? If so, what changes are sought and why?	The Applicant notes that this question is directed to IPs and therefore has no comments at this stage. As requested by the ExA, where appropriate the Applicant will provide a response to any comments by IPs in relation to this question, at Deadline 9 in the Examination timetable.	Please see Council response at Deadline 8 (REP8-166) in Appendix A.
QD35	Articles 64 (arbitration) and 65 (appeals to the Secretary of State)	Not applicable	What does the undertaker do if the SoST refuses to grant the discharge of a Requirement and there is no means of dispute resolution? One answer is that the decision of the SoST is final and that must suffice, but is that the intended position?	Article 64 governs what happens when two parties disagree in the implementation of any provision of the Order except where this is expressly provided for (e.g., Schedule 12 relating to the road user charge). The ExA is correct to say that a decision of the Secretary of State, under this Article, will be final and will not be subject to arbitration but would be reviewable on normal public law grounds. The Applicant would also stress that it has not required a matter to be referred to arbitration to reach agreement with Secretary of State in respect of the	The Council has no comments on this question.

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Ref. No	Provision	Proposed change (where applicable)	ExA Question	Applicant Comment	Thurrock Council comment
				<p>discharge of a requirement on any of its previous schemes.</p> <p>Article 65 establishes an appeal process in relation to article 12, 17, 21, Requirement 13, permit schemes or under the documents secured under article 61 or Schedule 2 (i.e., provisions where a local authority has an approval role) and where a local authority issues a notice under section 60 or does not grant consent or grants conditional consent under section 61, of the Control of Pollution Act 1974.</p> <p>Under this article, the Secretary of State must appoint a person to consider the appeal. The decision of the appointed person on an appeal is final and binding on the parties, and a court may entertain proceedings for questioning the decision only if the proceedings are brought by a claim for judicial review.</p>	
<p>QD36</p>	<p>Article 66 (power to override easements and other rights)</p>	<p>Not applicable</p>	<p>The Applicant is asked to provide a full justification for the broad extent of this power, or alternatively to find a means of limiting it to more precisely defined locations. What would be the effects of removing or</p>	<p>The Applicant's detailed and full rationale for including this provision is set out in its response to ISH 2 on the draft DCO (AS-089). The Applicant does not consider that it would be appropriate to remove or otherwise restrict the operation of this article, which is (as set out in document AS-089) intended to address a lacuna</p>	<p>Please see Council's response in REP1-295 (page 11).</p>

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			reducing the scope of this power?	that would not be filled by other provisions of the dDCO.	
QD37	Schedules	Not applicable	Are there any further matters that have been raised in the Examination that should be provided for in a Schedule, but which are not? If so, please provide reasons and evidence for your position.	The Applicant would refer to its response to QD10 of the ExA's commentary on the dDCO above. The Applicant does not consider that there are matters raised during the course of the Examination which are required to be provided for in an additional Schedule to the dDCO. All relevant Schedules are already included in the dDCO and the justification for their inclusion is set out in the EM (REP7-092).	Please see Council response at Deadline 8 (REP8-166) in Appendix A.
QD38	Schedules	Not applicable	Are there any matters provided for in a Schedule which are superfluous? If so, please provide reasons and evidence for your position.	The Applicant does not consider that there are any matters provided for in a Schedule to the dDCO which are superfluous. The justification and need for each Schedule to the dDCO (REP7-090) is set out in the EM (REP7-092). To remove any of the Schedules would undermine the operation of the dDCO as a coherent whole.	Please see Council response at Deadline 8 (REP8-166) in Appendix A. In summary, the Council agrees that no matters provided for in a Schedule that have been identified as superfluous.
QD39	Schedules	Not applicable	Are there Schedules that the ExA has not yet commented on in respect of which a change in drafting is sought? If so, please provide reasons and evidence for your position.	The Applicant understands this question is directed primarily to IPs and does not, therefore, propose to comment substantively at this stage but will if appropriate provide a further response at Deadline 9.	Please see Council response at Deadline 8 (REP8-166) in Appendix A, which confirms that the Council is seeking a number of amendments to the Schedules.
QD40	Schedule 1 – suggested	In relation to those ancillary	Does the Applicant agree?	The Applicant agrees with the ExA's suggestion and has made this change in	The Council has no comment on this section.

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	minor drafting amendments	works, the ExA suggests a minor drafting revision for clarity: '(f) or the purposes of or in connection with the construction of any of the works and other development in the Order limits, ancillary or related <u>works and other</u> development...' (Underlined text proposed to be added.)		the revised dDCO submitted at Deadline 8 (Document Reference 3.1 (10))	
QD41		Not applicable	Do IPs have any further and final observations on the drafting of this Schedule including on the description of the individual numbered Works and their relationship with the Works Plans?	The Applicant understands that this question is directed to IPs and, therefore, has no comments at this stage. As requested by the ExA, where appropriate the Applicant will provide a response to any comments by IPs in relation to this question, at Deadline 9 in the Examination timetable.	Please see Council response at Deadline 8 (REP8-166) in Appendix A, which identifies four areas to be addressed: (i) amendments required to the Authorised Works description for Works No.7; (ii) the works required to

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					resolve the concerns relating to the poor performance of Orsett Cock Junction; (iii) Works associated with the Asda Roundabout; and (iv) the inclusion of Temporary Works Plans Utilities in Schedule 1. The Council awaits the applicant's further comments on these key points.
QD42	Schedule 1 – re-provision of a travellers' site and associated landscaping	Not applicable	The Applicant is requested to provide legal submissions on this point.	The Applicant has prepared a note in response to this question, which is appended as Appendix A to this document.	The Council agrees with the applicant's legal submissions, as set out during ISH14 and within the Council's Post Event Submission for ISH14 (REP8-167).
QD43	Schedule 2 – security for the REAC	Not applicable	Local Planning and Highway Authorities, Port Authorities and Operators, Natural England, the Environment Agency and the Marine Management Organisation as asked whether the REAC commitments are sufficiently secured. If not, what specific additional references to the REAC are required in any of	<p>The Applicant notes that this question is directed to IPs and therefore has no comments at this stage, however the Applicant is firmly of the view that the REAC commitments are sufficiently and appropriately secured by the dDCO, principally via Requirement 4 (REP7-090).</p> <p>As requested by the ExA, where appropriate the Applicant will provide a response to any comments by IPs in</p>	Please see Council response at Deadline 8 (REP8-166) in Appendix A. The Council remains concerned that in both Requirements 4 and Requirement 8 the burden placed on the applicant is to 'reflect' the mitigation measures in the REAC. It is the Council's opinion that this needs to be stronger, for

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			the existing draft Requirements, or are any additional Requirements sought (and if so reasons for their inclusion and drafts should be provided)?	relation to this question, at Deadline 9 in the Examination timetable.	example, should 'implement' or 'be in accordance with' the mitigation measures within the REAC
QD44	Schedule 2 – security for other CDs	Not applicable	Local Planning and Highway Authorities, Port Authorities and Operators, Natural England, the Environment Agency and the Marine Management Organisation as asked whether the other CDs are sufficiently secured? If not, what specific additional references to specific CDs are required in any of the existing draft Requirements, or are any additional Requirements sought (and if so reasons for their inclusion and drafts should be provided)?	<p>The Applicant notes that this question is directed to IPs and therefore has no comments at this stage, however the Applicant is firmly of the view that the REAC commitments are sufficiently and appropriately secured by the dDCO, principally via Requirement 4 (REP7-090).</p> <p>As requested by the ExA, where appropriate the Applicant will provide a response to any comments by IPs in relation to this question, at Deadline 9 in the Examination timetable.</p>	<p>Please see Council response at Deadline 8 (REP8-166) in Appendix A and the Council's response to QD4 above.</p> <p>A number of key points have been raised in the Council's submission referred to above, including: (i) The Council considers that it would be in the public interest to amend Requirement 4(3), so that the Construction Logistics Plan is referred to after the REAC. This would add details and governance to the control and enforcements process. The Construction Logistics Plans should supplement and complement the Traffic Management Plans; (ii) there should be a specific Requirement regarding noise</p>

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					<p>mitigation to reinforce commitments within the REAC. Proposed wording is included in REP8-166; (iii) additional requirements have been sought by the Council in relation to Asda Roundabout, Wider Network Impacts and Clean Air Quality. Please refer to the Council's D8 submissions and the D8 submissions of the Port of Tilbury in relation to the joint position on Asda Roundabout; and (iv) further submissions will be made about Wider Network Impacts within this submission at Deadline 9.</p>
QD45	Schedule 2 – interpretation of “commence” and “preliminary works”	Not applicable	The Applicant is requested to review and harmonise its responses to each of the questions in relation to A2 with reference to this provision also. What if any drafting changes are necessary to simplify and harmonise the drafting on interpretation and definitions?	The Applicant refers to its response to QD13 – QD16. As noted in those responses, the distinction made between the terms “begin” and “commence” throughout the dDCO is deliberate and serves to ensure that each of the Schedule 2 Requirements is subject to the appropriate trigger event. The Applicant does not consider that changes are necessary to simplify and harmonise the dDCO drafting.	Please see comments above in relation to QD13.

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QD46			What approach do other IPs consider should be taken to these definitions and why?	The Applicant notes that this question is directed to IPs and therefore has no comments at this stage. As requested by the ExA, where appropriate the Applicant will provide a response to any comments by IPs in relation to this question, at Deadline 9 in the Examination timetable.	The Council has considered the detailed comments of the ExA and agree with the conclusions reached. The Council continues to strongly advocate for a return to the more conventional drafting approach in relation to the drafting of these definitions. Please see Council response at Deadline 8 (REP8-166) in Appendix A, which also reflects on the views of the ExA being aligned with the Court of Appeal in the Swansea Bay case, which is more recent than the example project that the applicant has used to support its position.
QD47	Requirement 2 – time limits (for the authorised development)	Not applicable	Should time limits applicable to beginning/ commencing the Proposed Development and time limits for the exercise of CA powers be harmonised?	As set out in response to related questions within the ExA's commentary, the Applicant would stress that there is no particular relationship between the time periods applicable to the compulsory acquisition of land under article 27 of the dDCO and the time limits for development to begin under Requirement 2. The purpose of the former	Whilst the Council notes the comments provided by the applicant, the time limits for the exercise of compulsory acquisition powers is a key part of the DCO. If this time period expires then it becomes very difficult to implement the DCO. Please see Council response at

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				<p>is to ensure that persons with an interest in land affected by the Project can be certain that no land can be taken by compulsion beyond the relevant date, which in this case is eight years following the “start date” defined in article 27(3) of the dDCO. The Applicant has set out in detail why the period of eight years provided for in article 27 is specifically justified in this case. This can be found in the EM (REP7-092), the Applicant's response to Issue Specific Hearing (ISH) 2 draft DCO (AS-089) and the Applicant's response to IP comments made on the draft DCO at Deadline 1 (REP2-077).</p> <p>The purpose of the latter – the time limits under Requirement 2 – is to ensure that the Applicant must take certain steps towards the implementation of the Project within the relevant period, which in this case is five years, failing which the development consent granted by the Order will lapse. The period of five years is very widely precedented in DCOs. The Applicant considers the period is appropriate in this case and is not seeking consent for a longer period in line with the precedents cited by the ExA. The provision ensures the powers to carry out the</p>	<p>Deadline 8 (REP8-166) in Appendix A for details of the Council's views on the points referred to by the applicant.</p>

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				<p>development do not endure indefinitely, which would otherwise create uncertainty for all those potentially affected by the Project. This is quite separate to the compulsory acquisition of land. Indeed, it would theoretically be possible for the Applicant to comply with the time limits under Requirement 2 of the dDCO but then for its powers to acquire land compulsorily under article 27 to elapse.</p> <p>For these reasons, the Applicant has not approached the drafting of these provisions with the objective of harmonising the time periods applicable in each case.</p> <p>There is a separate and distinct justification for each, and the Applicant considers that the correct balance has been achieved.</p>	
QD48			<p>Is there a justification for time limits of longer than 5 years? What is that justification?</p>	<p>The Applicant understands this question relates to Requirement 2 of the dDCO. However, the Applicant is not seeking time limits of longer than five years under Requirement 2, nor does it consider there would be a compelling justification for longer time limits. This is, as noted in response to QD48, a separate matter to the time limits applicable to the compulsory</p>	<p>Please see Council response at Deadline 8 (REP8-166) in Appendix A on both QD47 and QD48, which relate to the relevant timescales and the link between these. It remains the Council's strong view that no justification has been provided for a time period of greater than 5 years</p>

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				<p>acquisition of land under article 27 of the dDCO (REP7-090).</p>	<p>and as explored under QD47 there is a clear link between the time limits applicable to beginning/commencing the Proposed Development and time limits for the exercise of CA powers.</p>
<p>QD49</p>	<p>Requirement 3 – detailed design</p>	<p>Not applicable</p>	<p>Are the design principles guiding the Proposed Development adequately secured and do any of the principles need to be amended? If amendments are sought, why are they required?</p>	<p>The Applicant considers the Design Principles (Document Reference 7.5 (6)) are appropriately secured by Requirement 3 of the dDCO, which provides that <i>“the authorised development must be ... carried out in accordance with the design principles document ...”</i>. The Design Principles are listed in Schedule 16 (documents to be certified) of the dDCO and will be certified in accordance with the process set out in article 62 of the dDCO (REP7-090).</p> <p>The Applicant has introduced amendments to the Design Principles as the Examination has progressed.</p> <p>As regards the suggested amendments to the Design Principles put forward by Gravesham Borough Council at Deadline 6 (REP6-135), the Applicant set out why it did not consider this to be necessary in its</p>	<p>The Council is satisfied that the Design Principles are secured within the DCO; but remains concerned that the methods of securing the Design Principles are not adequate/sufficient, due to the flexibility allowed in both Requirements 3 and 5.</p> <p>The Council has provided additional text to strengthen PEO.01 - PEO.06 (D6 Submission – Comments on Applicant Submissions at D4 and D5 REP6-164) to ensure that they better align with LTN1/20 and Active Travel England guidance to help maximise future use of the WCH routes. The Council awaits the applicant's</p>

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				<p>responses to Interested Parties' comments on the dDCO at Deadline 6 (REP6-085).</p>	<p>responses to those recommended amendments</p> <p>Please see Council response at Deadline 8 (REP8-166) in Appendix A.</p>
QD50	Requirement 4 – construction and handover environmental management plans	Not applicable	<p>Is the iteration and approval process sufficiently clear? Does it provide adequate security for initial stage commitments and for the REAC? If amendments are sought, why are they required?</p>	<p>The Applicant considers that Requirement 4, which follows a standard and widely precedented format, is appropriate and sufficient to ensure that the three iterations of the Environmental Management Plan (EMP) are appropriately secured.</p> <p>As regards the requirement under Requirement 4(1) for all preliminary works to be carried out in accordance with the preliminary works EMP, the Applicant notes the ExA's observation that there is no reference to the REAC in that context. The Applicant does not consider that the inclusion of such a reference is necessary. This is because references to the "preliminary works EMP" in Requirement 4(1) are to be construed in accordance with Requirement 2, which defines that document as "... Annex C of the Code of Construction Practice <i>and includes the preliminary works REAC</i>" (emphasis added). In the context of Requirement 4(1), therefore, reference should be made to the</p>	<p>The Council remains of the strong view that the iteration, consultation and approval process is not sufficiently clear. Please see Council response at Deadline 8 (REP8-166) in Appendix A, which sets out in more detail the Council's specific concern with the approval process for the EMP (Third Iteration).</p> <p>The Council notes the applicant's reference to the proposed approach being a 'widely precedented format'. However, the approach advocated by the Council was proposed by the Secretary of State on a separate DCO and this illustrates that this is a process that the Secretary of</p>

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				preliminary works REAC, which is secured by virtue of its inclusion within the definition of the preliminary works EMP under Requirement 2.	State does have an open mind on.
QD51			Should any specific consultations prior to approval by the SoS be secured?	The requirement for specific consultation is already secured by Requirement 4(2), which confirms that the second iteration of the EMP must be submitted to and approved in writing by the Secretary of State, following consultation by the Applicant with the relevant planning authorities, relevant local highway authorities and bodies identified in Table 2.1 of the Code of Construction Practice to the extent that the consultation relates to matters relevant to their respective functions.	Please see Council response at Deadline 8 (REP8-166) in Appendix A and QD50 above.
QD52	Requirement 5 – landscaping and ecology	Not applicable	Is the approval process sufficiently clear? Does it provide adequate security for initial stage commitments and for the REAC? If amendments are sought, why are they required?	The Applicant agrees with the ExA's comments within its Commentary on the draft Development Consent Order (dDCO) (PD-047) that the measures provided for by Requirement 5 are robust. The Applicant also considers that the approval process in respect of any landscape and ecology management plan (LEMP) under Requirement 5 is sufficiently clear; Requirement 5 makes clear that the LEMP must be submitted to and approved in writing by the Secretary of State prior to	The Council notes the ExA's and applicant's position and agrees that the approval process is, indeed, sufficiently clear. However, for the process to provide adequate security, Requirement 5 needs to set out that the LEMP will be in accordance with the REAC, not just 'reflect' it. Please see Council response at

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				<p>the opening of the part of the authorised development to which that LEMP relates.</p> <p>All initial stage commitments are detailed in the outline LEMP (REP7-134) and the REAC, which are in turn secured by Requirement 5(2). Commitments relevant to the initial establishment stage of any planting to be implemented as part of the authorised development are therefore legally secured.</p>	Deadline 8 (REP8-166) in Appendix A.
QD53			Should any specific consultations (and the timing for these consultations) prior to approval by the SoS be secured?	This is already provided for by Requirement 5(1), which states that a LEMP must be submitted to and approved in writing by the Secretary of State, following consultation by the undertaker with the bodies listed in Table 2.1 of the outline LEMP on matters related to their respective functions. Table 2.1 is in the Applicant's view a comprehensive list of the stakeholders with an interest in the development and implementation of the LEMP.	Please see Council response at Deadline 8 (REP8-166) in Appendix A.
QD54	Requirements 6,7,8 and 9 – contaminated land and groundwater, protected	Not applicable	Do the Environment Agency, Natural England and Historic England consider that the approval process is sufficiently clear? Does it provide adequate security for initial	The Applicant notes that this question is directed to IPs, however the Applicant does consider that the approval process relating to the matters addressed by Requirements 6 – 9 (inclusive) is	The Council has no comments on this question.

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	species, surface and foul water drainage and historic environment		stage commitments and for the REAC? If amendments are sought, why are they required?	<p>sufficiently clear and does not require amendment.</p> <p>As requested, where appropriate the Applicant will provide a response to any comments by IPs in relation to this question, at Deadline 9 in the Examination timetable.</p>	
QD55	Requirement 13 – re-provision of Gammonfields Travellers' Site in Thurrock	Not applicable	R13 appears to provide for the development of a replacement Travellers' site but the ExA is not clear that it also adequately provides for the lawful ongoing use of the site or ensures that use or development not expressly contemplated in clause S11.12 of the Design Principles document can be adequately managed.	The Applicant has prepared a note in response to this question, which is appended as Appendix A to this document.	The Council is happy with the position as set out in ISH14 and within the Council's Post Event Submission for ISH14 (REP8-167). .
QD56			Does R13(3) (which provides security for the carrying out of works to provide the replacement Travellers' site) provide any security for the ongoing use of the operational site as provided?		The Council is happy with the position as set out in ISH14 and within the Council's Post Event Submission for ISH14 (REP8-167). .
QD57			Could a new R13 (4) (with renumbering thereafter)		The Council is happy with the position as set out in ISH14

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			<p>provide that on completion of Work No.7R the land must be used as a Travellers' site and the development must be maintained generally in accordance with any plans or details submitted and approved under R13 (2)?</p>		<p>and within the Council's Post Event Submission for ISH14 (REP8-167). .</p>
<p>QD58</p>			<p>Is there argument to include another new provision that, notwithstanding the process for obtaining consent for operational development for a Travellers' site provided under R13, any subsequent application for change of use, new development or any further enforcement proceedings or appeals in relation to any of these should proceed under relevant provisions of the TCPA, with the consent for use and development provided under the made Order being deemed to be a conditional lawful use or a planning permission for the purposes of TCPA decision- making, subject to a need to consult the LTC</p>		<p>The Council is happy with the position as set out in ISH14 and within the Council's Post Event Submission for ISH14 (REP8-167). .</p>

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			<p>undertaker on any such application, proceeding or appeal? The aim of such a change would be to use the DCO regime to re-provide the site, but not to govern its operation. Could such a provision form part of A56 or should it be dealt with in R13 or another new Article and or Requirement? The Applicant is requested to provide a drafted response.</p>		
QD59	Requirement 15 – carbon and energy management plan	Not applicable	IPs final submissions are sought. Reasons for any proposed changes must be provided.	The Applicant notes that this question is directed to IPs and, therefore, has no comments at this stage. As requested by the ExA, where appropriate the Applicant will provide a response to any comments by IPs in relation to this question, at Deadline 9 in the Examination timetable.	The Council has provided detailed comments on this Requirement, including reasons and justifications for the changes being requested and the factors that need to be reflected. Please see Council response at Deadline 8 (REP8-166) in Appendix A. The Council looks forward to receiving a detailed response and justification from the applicant to each point raised in the Deadline 8 (REP8-166) submission soon.

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QD60	Schedule 3 – temporary closure, alteration, diversion and restriction of use of streets and private means of access	Not applicable	Final submissions on the appropriateness and/ or accuracy of the proposed descriptions, extents and representation of temporary restrictions on plans identified in Schedule 3 are sought from Local Highway Authorities and IPs affected by the proposals. Reasons for any requested amendments must be provided	The Applicant notes that this question is directed to IPs and, therefore, has no comments at this stage. As requested by the ExA, where appropriate the Applicant will provide a response to any comments by IPs in relation to this question, at Deadline 9 in the Examination timetable.	Please see Council response at Deadline 8 (REP8-166) in Appendix A.
QD61	Schedule 4 – permanent stopping up of streets and private means of access	Not applicable	Final submissions on the appropriateness and/ or accuracy of the proposed descriptions, extents and representation of permanent stopping up on plans and of the proposed substitutes(s) identified in Schedule 4 are sought from Local Highway Authorities and IPs affected by the proposals. Reasons for any requested amendments must be provided.	The Applicant notes that this question is directed to IPs and, therefore, has no comments at this stage. As requested by the ExA, where appropriate the Applicant will provide a response to any comments by IPs in relation to this question, at Deadline 9 in the Examination timetable.	The Council is satisfied that there is sufficient detail regarding the permanent closures and diversions to the rights of way network in Thurrock. However, please see Council response at Deadline 8 (REP8-166) in Appendix A. This includes a request for plans to be better colour coded and concerns with the lack of alternative routes within the surrounding areas until the scheme is completed.
QD62			Final submissions on the appropriateness and/ or accuracy of the proposed	The Applicant notes that this question is directed to IPs and, therefore, has no comments at this stage. As requested by	The Council raises no further comments on the inclusion and extents of the roads

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Ref. No	Provision	Proposed change (where applicable)	ExA Question	Applicant Comment	Thurrock Council comment
			descriptions, extents and representation of permanent stopping up on plans identified in Schedule 4 are sought from Local Highway Authorities and IPs affected by the proposals. Are individual proposals to stop up without substitution appropriate? Reasons for any requested amendments must be provided.	the ExA, where appropriate the Applicant will provide a response to any comments by Interested Parties in relation to this question, at Deadline 9 in the Examination timetable.	subject to permanent stopping up as set out in the Council's response at Deadline 8 (REP8-166) in Appendix A.
QD63	Schedule 5 – classification of roads, etc.	Not applicable	Final submissions on the reclassification of certain bridleway PRowS are sought from Mr Mike Holland for clients, Mr Tom Benton, and Mr Jeremy Finnis for client. With reference to Schedule 5 Part 6 and to the Classification of Roads Plans, please identify each Bridleway proposed to be differently classified, what its revised proposed classification would be and a summary reason for the change.	The Applicant notes that this question is directed to IPs and, therefore, has no comments at this stage. As requested by the ExA, where appropriate the Applicant will provide a response to any comments by IPs in relation to this question, at Deadline 9 in the Examination timetable.	The Council has no comments on this question.
QD64			Applicant, Local Highway Authorities and IPs affected by the proposals are invited to	The Applicant notes the request and will provide a response at Deadline 9 to any comments from Interested Parties in respect of QD63.	Please see Council response at Deadline 8 (REP8-166) in Appendix A, which sets out that the Council's position in

Thurrock Council Comments on Applicant's Submissions at Deadline 7 (D7) and Deadline 8 (D8) – Appendix A: Council Comments to Applicant's responses to Examining Authority's commentary on draft DCO

Lower Thames Crossing

Ref. No	Provision	Proposed change (where applicable)	ExA Question	Applicant Comment	Thurrock Council comment
			respond at the following deadline.		principle is that it wants all affected routes to be upgraded to bridleway to enhance the network.
QD65	Schedule 6 – traffic regulation measures	Not applicable	Final submissions on the appropriateness and/ or accuracy of the proposed descriptions and extents of the proposed speed limits, clearway provisions and TRO amendments in Schedule 6 are sought from Local Highway Authorities and IPs affected by the proposals. Reasons for any requested amendments must be provided.	The Applicant notes that this question is directed to IPs and, therefore, has no comments at this stage. As requested by the ExA, where appropriate the Applicant will provide a response to any comments by IPs in relation to this question, at Deadline 9 in the Examination timetable.	Please see Council response at Deadline 8 (REP8-166) in Appendix A. Whilst the Council raises no further comments on the current inclusion and extent of the road speed limits, there may need to be some adjustment to reflect future development of the detailed design and the development of proposals at the Orsett Cock Junction and Asda Roundabout. These amendments would be agreed as part of the discharging of Requirement 3.
QD66		Not applicable	Without prejudice to submissions on HRA and effects of European Sites more generally, the Applicant is invited to indicate whether (and if so how) relevant air quality impact reductions might be secured by speed limits.	The speed limits on M25 are controlled and regulated under a variable speed limit variation. This allows for a variation of the speed limit on the M25 in the event that the Secretary of State considers the without prejudice mitigation is required. The relevant speed limit would not be inserted into Schedule 6 to the dDCO (REP7-090),	The Council has no comments on this question.

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Ref. No	Provision	Proposed change (where applicable)	ExA Question	Applicant Comment	Thurrock Council comment
			Would such controls be given effect to in this Schedule and if so, how would the Schedule be changed?	<p>but would instead be required under the REAC secured under Requirement 4.</p> <p>The Applicant has addressed how the REAC would be updated in response to ExQ1_Q11.11.2, which can be found in (REP4-194).</p>	
QD67	Schedule 7 – trees subject to tree preservation orders	Not applicable	Final submissions on the appropriateness and/ or accuracy of the proposed descriptions, extents and effects of the proposed tree works in Schedule 7 are sought from Local Authorities. Reasons for any requested amendments must be provided.	The Applicant notes that this question is directed to IPs and, therefore, has no comments at this stage. As requested by the ExA, where appropriate the Applicant will provide a response to any comments by IPs in relation to this question, at Deadline 9 in the Examination timetable.	Please see Council response at Deadline 8 (REP8-166) in Appendix A, the Council confirms that it agrees with the provisions on Tree Preservation Orders.
QD68	Schedule 8 – land of which only new rights etc. may be acquired	Not applicable	Final submissions on the appropriateness and/ or accuracy of the proposed descriptions, extents and purposes of the proposed acquisitions in Schedule 8 are sought from Affected Persons. Reasons for any requested amendments must be provided.	The Applicant notes that this question is directed to IPs and, therefore, has no comments at this stage. As requested by the ExA, where appropriate the Applicant will provide a response to any comments by IPs in relation to this question, at Deadline 9 in the Examination timetable.	Please see Council response at Deadline 8 (REP8-166) in Appendix A, which confirms that it is not seeking any further amendments.
QD69	Schedule 9 – modification of	Not applicable	Final submissions on the appropriateness and effect of	The Applicant notes that this question is directed to IPs and, therefore, has no	Please see Council response at Deadline 8 (REP8-166) in

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Lower Thames Crossing

Ref. No	Provision	Proposed change (where applicable)	ExA Question	Applicant Comment	Thurrock Council comment
	compensation and compulsory purchase enactments for creation of new rights and imposition of restrictive covenants		the proposed modifications in Schedule 9 are sought from Affected Persons. Reasons for any requested amendments must be provided.	comments at this stage. As requested by the ExA, where appropriate the Applicant will provide a response to any comments by IPs in relation to this question, at Deadline 9 in the Examination timetable.	Appendix A, the Council has no further comments on Schedule 9.
QD70	Schedule 10 – land in which only subsoil or new rights in and above subsoil and surface may be acquired	Not applicable	Final submissions on the appropriateness and/ or accuracy of the proposed descriptions, extents and purposes of the proposed acquisitions in Schedule 10 are sought from Affected Persons. Reasons for any requested amendments must be provided.	The Applicant notes that this question is directed to IPs and, therefore, has no comments at this stage. As requested by the ExA, where appropriate the Applicant will provide a response to any comments by IPs in relation to this question, at Deadline 9 in the Examination timetable.	As per the Council's response at Deadline 8 (REP8-166) in Appendix A, the Council has no further comments on Schedule 10.
QD71	Schedule 11 – land of which temporary possession may be taken	Not applicable	Final submissions on the appropriateness and/ or accuracy of the proposed descriptions, extents and purposes of the proposed TP in Schedule 11 are sought. Reasons for any requested amendments must be provided.	The Applicant notes that this question is directed to IPs and, therefore, has no comments at this stage. As requested by the ExA, where appropriate the Applicant will provide a response to any comments by IPs in relation to this question, at Deadline 9 in the Examination timetable.	As per the Council's response at Deadline 8 (REP8-166) in Appendix A, the Council has no further comments on Schedule 11.

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Lower Thames Crossing

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QD72	Schedule 12 – road user charging provisions for use of the Lower Thames Crossing	Not applicable	Is the ExA correct in assessing the basis for this provision as avoiding differential approaches to charging which might differentially attract vehicles to one or the other crossing?	This is correct, as is more fully explained in the Road User Charging Statement (APP-517).	Please see Council response at Deadline 8 (REP8-166) in Appendix A.
QD73			Are IPs content that the proposed charging regime is within the powers of a DCO (with reference to PA2008 s120 and Schedule 5)? If not, please explain why not.	The Applicant notes that this question is directed to IPs but the Applicant's firm position is that the proposed charging regime is within the powers of a DCO, for the reasons set out in the EM (REP7-092). In particular, paragraph 18 of Schedule 5 to the Planning Act 2008 specifically provides that the matters for which provision may be made by a DCO include ' <i>charging tolls, fares (including penalty fares) and other charges</i> '. As requested by the ExA, where appropriate the Applicant will provide a response to any comments by IPs in relation to this question, at Deadline 9 in the Examination timetable.	In line with the applicant's comments, the Council is content that the proposed charging regime is within the powers of the DCO. This is set out in in the Council's response at Deadline 8 (REP8-166) in Appendix A.
QD74			Are there any final observations on the operation of Payments for local residents (para 5)?	As requested by the ExA, where appropriate the Applicant will provide a response to any comments by IPs in relation to this question, at Deadline 9 in the Examination timetable.	No further comments as confirmed in the Council response at Deadline 8 (REP8-166) in Appendix A.
QD75			Are there any final observations on the effect of	The Applicant notes that this question is directed to IPs and therefore has no	No further comments as confirmed in the Council's

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Ref. No	Provision	Proposed change (where applicable)	ExA Question	Applicant Comment	Thurrock Council comment
			the balance of these provisions? Responses to these questions are specifically sought from the host Local Authorities for the proposed LTC. Reasons should be provided for any changes sought.	comments at this stage. As requested by the ExA, where appropriate the Applicant will provide a response to any comments by IPs in relation to this question, at Deadline 9 in the Examination timetable.	response at Deadline 8 (REP8-166) in Appendix A.
QD76	Schedule 13 – Lower Thames Crossing byelaws	Not applicable	Are IPs content that all of the proposed byelaws are within the powers of a DCO (with reference to PA2008 s120 and Schedule 5)? If not, please explain why not.	The Applicant notes that this question is directed to IPs and therefore has no further substantive comments at this stage but is nevertheless content that all of the proposed byelaws are within the powers of a DCO by virtue of section 120(3) and paragraph 32A of Schedule 5 to the Planning Act 2008. As requested by the ExA, where appropriate the Applicant will provide a response to any comments by IPs in relation to this question, at Deadline 9 in the Examination timetable.	In line with the applicant's comments, the Council is content that the proposed byelaws are within the powers of the DCO. This is set out in in the Council's response at Deadline 8 (REP8-166) in Appendix A.
QD77			Are there any final observations on the effect of these provisions? Responses to this question are specifically sought from the host Local Authorities for the proposed LTC. Reasons should be provided for any changes sought.	The Applicant notes that this question is directed to IPs and therefore has no comments at this stage. As requested by the ExA, where appropriate the Applicant will provide a response to any comments by IPs in relation to this question, at Deadline 9 in the Examination timetable.	No further comments as confirmed in the Council's response at Deadline 8 (REP8-166) in Appendix A.

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QD78	Schedule 14 – protective provisions	Not applicable	Are the named beneficiaries of the Protective Provisions content that the provisions drafted for their benefit are appropriate, and correct? If not, please explain why not.	The Applicant notes that this question is directed to IPs and therefore has no comments at this stage. As requested by the ExA, where appropriate the Applicant will provide a response to any comments by IPs in relation to this question, at Deadline 9 in the Examination timetable.	Please see Council response at Deadline 8 (REP8-166) in Appendix A and the jointly agreed Protective Provisions, with commentary, submitted by the LB Havering at D8 and by the Council..
QD79			Further to changes to the structure of the National Grid group of companies, should the beneficiary of Part 6 be National Gas?	The Applicant can confirm that references to National Grid Gas Plc in the dDCO were amended to National Gas Transmission Plc in the version of the dDCO submitted at Deadline 7 (REP7-090).	The Council have no comments on this question.
QD80			Do any other IPs and specifically statutory undertakers affected by the Proposed Development consider that they should benefit from Protective Provisions? If so, why and what ought the provisions to contain?	The Applicant notes that this question is directed to IPs and therefore has no comments at this stage. As requested by the ExA, where appropriate the Applicant will provide a response to any comments by IPs in relation to this question, at Deadline 9 in the Examination timetable.	Please see Council response at Deadline 8 (REP8-166) in Appendix A.
QD81			Are there any other requests for amendments to Protective Provisions? If so what changes are sought and why?	The Applicant continues to negotiate the terms of protective provisions with third parties and is hopeful that agreement will be reached with the majority of third parties in due course. The Applicant will set out its final position in relation to negotiations with third party undertakers at Deadline 9.	Please see Council response at Deadline 8 (REP8-166) in Appendix A and the updated version of the Protected Provisions submitted by the Council and LB Havering at D8.

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Ref. No	Provision	Proposed change (where applicable)	ExA Question	Applicant Comment	Thurrock Council comment
					<p>The Council is concerned that there are no Protective Provisions or mechanisms to secure the funding of undue maintenance due to the extraordinary weight from LTC construction traffic causing wear and damage to the Local Road Network during the construction period by the Undertaker's contractors construction vehicles. This should be secured through the preparation of before and after condition surveys with commitments to fund remedial works, where excess wear or damage is determined to be as a result of the construction of LTC. This commitment is in line with the undertaking within the Highways Act, 1980 Part IV, Section 59.</p>
<p>QD82</p>	<p>Schedule 15 – deemed marine licence</p>	<p>Not applicable</p>	<p>Are there any final observations on the form or effect of the DML? Responses to this question are specifically sought from the MMO.</p>	<p>The Applicant considers the Deemed Marine Licence (DML) now agreed, subject to the outstanding points below:</p>	<p>The Council has no comments on this question.</p>

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Ref. No	Provision	Proposed change (where applicable)	ExA Question	Applicant Comment	Thurrock Council comment
			Reasons should be provided for any changes sought.	<ul style="list-style-type: none"> Paragraph 20 of the DML (Further information regarding return): The MMO do not agree to the deemed consent provisions within para 20(2) of the DML. The Applicant seeks inclusion of deemed consent provisions to ensure that there are no delays to its ability to implement the scheme. 30 business days to request further information is considered a reasonable period. Deemed consent provisions such as those in para 20 have been included in DMLs in other DCOs, for example The Great Yarmouth Third River Crossing DCO 2020. Paragraph 22 of the DML (Notice of determination): The MMO do not agree to determine applications within 30 business days. The Applicant considers this a reasonable period of time to make a decision, particularly given the limited nature of works in the marine area. Paragraph 22(3) also permits the MMO to make a decision later than 30 business days if it cannot reasonably make an earlier decision. The Applicant therefore considers this drafting reasonable. The Applicant's approach is 	

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				<p>in line with that on the Silvertown Tunnel Order 2018.</p> <ul style="list-style-type: none"> Paragraph 24(3) of the DML (Changes to the Deemed Marine Licence), Article 8 DCO (Consent to transfer benefit of the Order): The MMO disagree with the Applicant's interpretation of this DML paragraph and believe that sections 72(7) and (8) of the Marine and Coastal Access Act 2009 should continue to apply, even to transfers of the DCO unconnected to the MMO's remit. The Applicant has supplied a technical note to the MMO to clarify its position but it seems that the parties are unable to reach an agreement. The Applicant's preferred drafting appears in Schedule 11 (Deemed Marine Licence under the 2009 Act – Generation Assets), Part 1, para 7 of The Hornsea Four Offshore Wind Farm Order 2023. <p>The Applicant is considering further amendments to the DML. A meeting is set up with the MMO to go over these amendments.</p> <p>In summary, the Applicant is seeking the following amendments:</p>	

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Ref. No	Provision	Proposed change (where applicable)	ExA Question	Applicant Comment	Thurrock Council comment
				<ul style="list-style-type: none"> Self-service marine licensing: The Applicant will discuss a potential amendment to clarify that works which involve removing sediment are to be incorporated within the DML. The Applicant does not consider such works to be dredging and so any such work would ordinarily be consented by the self-service marine licensing route. The Applicant considers this necessary to ensure there is clarity on which works are included within the scope of the DML. <p>Should an amendment be agreed with the MMO, it will form part of an updated DML to be submitted at a later deadline.</p>	
<p>QD83</p>		<p>Not applicable</p>	<p>The MMO is asked whether the REAC commitments or other CDs are sufficiently secured. If not, what specific additional references to the REAC or to specific CDs are required in any of the existing draft Requirements, or are any additional Requirements sought (and if so reasons for their inclusion and drafts should be provided)?</p>	<p>The Applicant notes that this question is directed to the MMO and therefore has no comments at this stage but is content that all commitments are sufficiently secured by the DML or other controls referred to in the dDCO (REP7-090).</p> <p>As requested by the ExA, where appropriate the Applicant will provide a response to any comments by IPs in relation to this question, at Deadline 9 in the Examination timetable.</p>	<p>The Council has no comments on this question.</p>

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Ref. No	Provision	Proposed change (where applicable)	ExA Question	Applicant Comment	Thurrock Council comment
QD84	Control documents	Not applicable	Do any IPs have any final concerns about the functions of and relationships between the proposed certified documents and the CDs as a subset of them? Are the proposed iterations clear and justified? If any changes are sought, please explain these.	The Applicant notes that this question is directed to IPs and therefore has no comments at this stage. As requested by the ExA, where appropriate the Applicant will provide a response to any comments by IPs in relation to this question, at Deadline 9 in the Examination timetable.	<p>The Council does have concerns about (i) which documents are secured; and (ii) the use of words such as 'reflect' and "substantially in accordance with' to secure further iterations of key documents. In relation to point (ii), the Council has suggested alternative terminology to address these concerns and has not received any justification on why using 'implement' and 'in accordance with' cannot be agreed as a suitable in relation to securing further iterations of the Control documents.</p> <p>Further details are set out in the Council's response at Deadline 8 (REP8-166) in Appendix A, as well as in the comments made during ISH14 Hearing and the ISH7 Hearing (REP4-352) and below in relation to QD85.</p>

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Ref. No	Provision	Proposed change (where applicable)	ExA Question	Applicant Comment	Thurrock Council comment
QD85			<p>QD85: Do any IPs have any final submissions to make on the CDs and their content?</p> <p>Is there superfluous content that could be removed?</p> <p>Is there additional content that should be added?</p> <p>Are there any other documents that should be certified and should form part of the CDs?</p> <p>Any responses to this question should be accompanied by an explanation of the changes sought and the reasons for them.</p>	<p>The Applicant notes that this question is directed to IPs and therefore has no comments at this stage. As requested by the ExA, where appropriate the Applicant will provide a response to any comments by IPs in relation to this question, at Deadline 9 in the Examination timetable.</p>	<p>Please see Council response at Deadline 8 (REP8-166), which sets out specific details and concerns, as well as solutions, which it believes should be reflected in the DCO. This response furthermore explains why each proposed change is considered necessary. The Council looks forward to receiving comments from the applicant on each of the points made.</p>

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Appendix A: Council Comments to Applicant's responses to Examining Authority's commentary on
draft DCO

Lower Thames Crossing

Appendix B Orsett Cock Circulatory – Modelling Assumptions Related to Lane Allocation

Lower Thames Crossing

**Thurrock Council Comments on Applicant's Submissions at Deadline 7 (D7)
and Deadline 8 (D8)**

**Appendix B: Orsett Cock Circulatory – Modelling Assumptions Related to Lane
Allocation**

11 December 2023

Thurrock Council Comments on Applicant's Submissions at Deadline 7 (D7) and Deadline 8 (D8) –
 Appendix B: Orsett Cock Circulatory – Modelling Assumptions Related to Lane Allocation
 Lower Thames Crossing

Document Control Sheet

Project Name: Lower Thames Crossing

Report Title: Thurrock Council Comments on Applicant's Submissions at Deadline 7 (D7) and
 Deadline 8 (D8)– Appendix B: Orsett Cock Circulatory – Modelling Assumptions
 Related to Lane Allocation

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Date: 11 December 2023

	Name	Position	Signature	Date
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Appendix B: Orsett Cock Circulatory – Modelling Assumptions Related to Lane Allocation
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B.1 Orsett Cock Circulatory – Modelling Assumptions Related to Lane Allocation

Planning Inspectorate Request

- B.1.1 *'Please use version of the diagrams referred to in Action 3 to illustrate the differences between applicant v3.6 modelling and the Thurrock Council v3.6T modelling assumptions. Further to discussion at ISH13, this should be taken as an opportunity to explain the modelling that is already before the ExA, but not to amend it. Thurrock Council may comment in responding submissions at D9.'*

B.2 Lane Changing Assumptions in v3.6 and v3.6T Models

- B.2.1 The council has been undertaking a thorough review of the applicant's Orsett Cock gyratory VISSIM model. The Council does not agree with the applicant's VISSIM model v3.6 assumptions and has included its comments within D6a ([REP6A-013](#)) and the Council's post-Hearing submissions as contained with the Council's response at Deadline 8 on ISH13 ([REP8-167](#) and [REP8-168](#)).
- B.2.2 The applicant and the Council have reached an agreement on the modelled lane allocation for almost all movements at the Orsett Cock junction, except for movements from A1013 West, A13/LTC (eastbound off-slip), and A128 (i.e. Brentwood Road (North)) to Brentwood Road (South). The main disagreement lies in the assumptions the applicant made in VISSIM v3.6, which the Council considers unreasonable for the allocation of lanes for traffic flow travelling from the A13/LTC EB off-slip to Brentwood Road (South).
- B.2.3 The applicant provided their interpretation of the lane change behaviour modelled in its VISSIM v3.6 model and the Council's corrected V3.6T model within Deadline 8 Submission - 9.190 Post-event submissions ([REP8-113](#)), Appendix A.2, plates A.2.1 – A.2.5. The Council does not agree with the graphical interpretation of the VISSIM lane changing behaviour presented by the applicant. To help clarify the assumptions taken, **Figure B.2** provides the screenshots directly from VISSIM models v3.6 (i.e. the applicant's model) and v3.6T (the Council's model).
- B.2.4 **Figure B.1** shows the difference between the modelled lane allocation for all the movements to Brentwood Road (South) between the applicant's v3.6 (left) and the Council's v3.6T (right) microsimulation model. Traffic lanes that vehicles can use for this movement within each model are coloured light and dark green, while lanes that are modelled as being prohibited from use by this movement are coloured pink. The dark green lanes are the most desirable for this movement, and the light green lanes are less so. Within the models, vehicles in the light green lanes will attempt to switch to the dark green lanes within the section of circulation where that light green first appears.
- B.2.5 On the approach to the exit to A1013 (E), the applicant assumes in its VISSIM v3.6 model that traffic in the circulatory can use the middle and offside lanes¹, and are prohibited from using the nearside lane. Having passed A1013 (E), vehicles in the offside lane are permitted within the model to change lanes twice on a short, 40 metre section of the road to leave the roundabout towards Brentwood Road (South) using the nearside lane. The applicant is advocating that the connection from Brentwood Road (South) would be changed to a signal controlled arm. As such vehicles would be permitted within v3.6 to change lanes twice whilst approaching the rear of a queue waiting at the stop line at the arm of the circulation. The modelled lane allocation does not align with the indicated allocation as presented in the

¹ The offside lane is the furthestmost lane of the carriageway from the footway, in this case the inner lane of the junction circulatory

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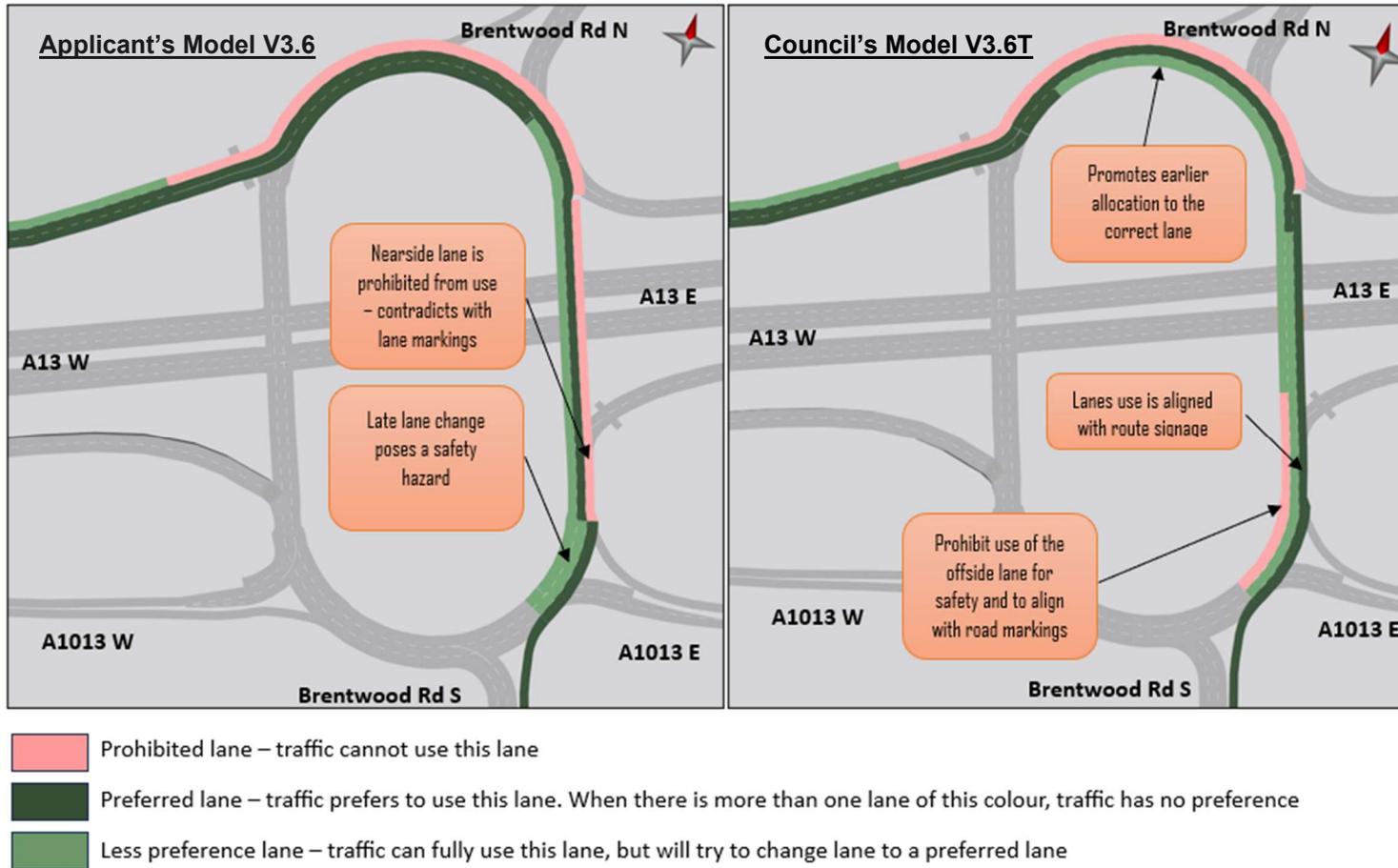


Figure B.2: Applicant's (left) Model V3.6 and Thurrock Council's (right) Model V3.6T lane allocation for traffic leaving the circulatory towards Brentwood Road (South)

B.3 Best Practice Approach to Lane Allocation and Road Markings

- B.3.1. In any highway improvement project, including the Lower Thames Crossing (LTC), lane allocation and road markings are designated for motorists based on their travel direction in accordance with best practice and guidance including Department for Transport's (DfT's) Traffic Signs Manual², with Chapter 5 relating to Road Markings. This is done to ensure a safe road configuration, with vehicle flow through the circulation moving smoothly between lanes in advance of its exit point. This can be by way of concentric spiral or spiral markings, which are typically associated with lane drops and/or directing circulatory lanes into the exit lane. The lane designations are indicated on the road surface and can also be displayed on overhead signs. Although it is not against the law for motorists to use lanes not assigned to the movement they wish to use, it is fundamental to allocate and mark lanes in the design and subsequently on the ground to direct traffic smoothly through the circulation so as to promote the safe and efficient use of the junction. This must be reflected in the transport models as it is to be marked on the road and would be the subject of Road Safety Audit reviews (Stages 1 and 2) of the detailed designs prior to construction. If required, the modelling should be iterated to reflect observations and recommendations and design adjustments resulting from the Road Safety Audits on matters such as lane allocation and expected lane discipline.
- B.3.2. The layout as proposed by the applicant for its v3.6 has not been the subject of a Road Safety Audit, which would have identified the problem of the late lane changes after the A13 East arm to reach the exit at Brentwood Road (South).

B.4 Why is the Applicant's Modelled Lane Allocation Challenged?

- B.4.1. The Council challenges the network coding the applicant adopted in its VISSIM v3.6 model for two reasons:
- a. The network coding assumptions made in the applicant's VISSIM v3.6 are unsafe; and,
 - b. Drivers are unlikely to undertake this manoeuvre in practice.

B.5 The Safety Aspect

- B.5.1. The applicant's model assumptions create an unsafe road environment for traffic. The v3.6 of the model allows for vehicles to change lanes from the offside lane to the nearside lane in a short, 40 metre section on a bend, which represents a hazard to:
- a. Vehicles using the circulatory carriageway in the middle and nearside lanes; and,
 - b. Vehicles joining the circulatory carriageway from a1013 east.
- B.5.2. The hazard points in v3.6 are shown in Error! Reference source not found. and Error! Reference source not found..

² [Traffic signs manual - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

Thurrock Council Comments on Applicant's Submissions at Deadline 7 (D7) and Deadline 8 (D8) – Appendix B: Orsett Cock Circulatory – Modelling Assumptions Related to Lane Allocation Lower Thames Crossing

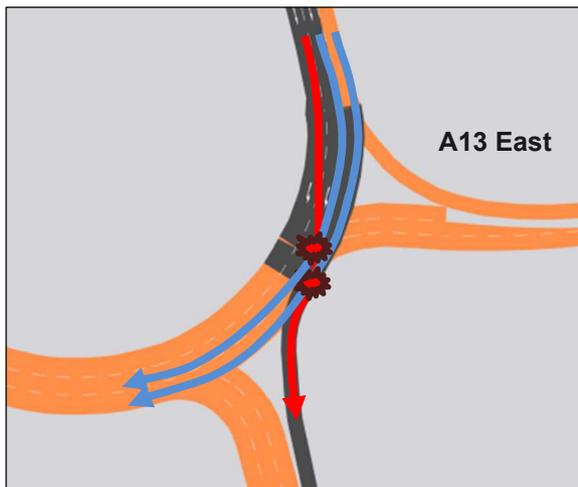


Figure B.3: Hazard points with the middle and nearside lanes

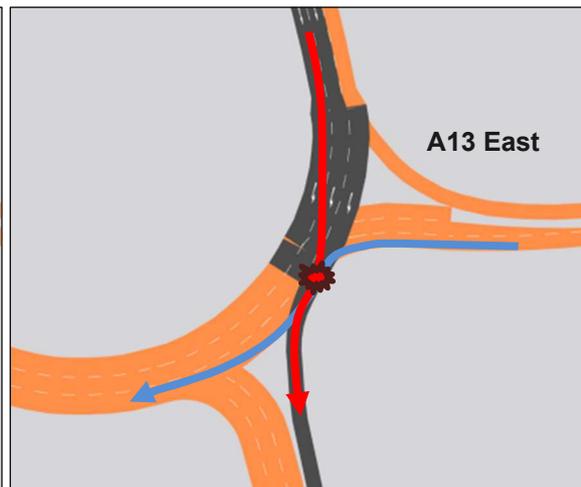


Figure B.4: Hazard points with vehicles joining the circulatory carriageway from A1013 East

B.5.3. The applicant's model assumptions are against the DfT's Traffic Signs Manual, Chapter 5 'Road Markings'³, which at paragraph 6.6.2 clearly states that '*Markings should be designed to create flowing paths around the junction for all movements, avoiding sharp turns and providing a smooth alignment between entry and exit markings. Lane markings are always provided when the roundabout is under signal control, with the route through the junction designed to avoid lane changing on the immediate approach to a Stop line.*'

B.5.4. The applicant's road marking and lane allocation assumptions have increased modelled capacity but compromised on safety, which if implemented in practice can increase the following types of accidents on the Orsett Cock roundabout:

- a. Side-to-side collisions on the circulating carriageway; and,
- b. Collisions between circulating vehicles and vehicles entering the roundabout from the a13 east approach.

B.6 The Practicality Aspect

B.6.1. Even if the lane changing could be carried out in a safe manner, the model's allocation of the middle and offside lanes for traffic heading towards Brentwood Road (South), but not the nearside lane is unlikely to accurately represent actual driving behaviour. It is common sense that drivers will prefer to use the nearside lane when approaching the roundabout's exit onto Brentwood Road (South) and would stay in the nearside lane. Therefore, the assumption made in the applicant's model, which prevents traffic from using the nearside lane on the approach to the exit is likely to be incorrect.

B.7 The Importance of Modelling Lane Allocations Accurately

B.7.1 The Orsett Cock Do-Something scenario model is particularly sensitive to lane allocation assumptions. Changes to the lane allocation have significant impacts on the model results, and consequently the performance of the junction.

³ [traffic-signs-manual-chapter-05.pdf \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/36222/traffic-signs-manual-chapter-05.pdf)

Thurrock Council Comments on Applicant's Submissions at Deadline 7 (D7) and Deadline 8 (D8) –
Appendix B: Orsett Cock Circulatory – Modelling Assumptions Related to Lane Allocation
Lower Thames Crossing

- B.7.2 The southbound circulatory carriageway is forecast to be one of the most congested parts of the model, especially in the PM peak period, where the most prominent traffic movements are from A13 West towards Brentwood Road (South) and from the A1013 East. Having modelled inaccurately the lane allocation, the applicant's model shows higher model throughput, less congestion and ultimately less delays at the junction.
- B.7.3 It is fundamental to have robust and safe modelling assumptions regarding the lane allocation to ensure that the proposed design is safe for drivers and that the model can be used as reliable evidence for decision making.
- B.7.4 The Council has therefore aimed to correct v3.6 model coding in its v3.6T version. The Council's assumptions on lane allocation has aimed to replicate a safer driving environment for drivers, which can be aligned with the design.

Thurrock Council Comments on Applicant's Submissions at Deadline 7 (D7) and Deadline 8 (D8) –
Appendix B: Orsett Cock Circulatory – Modelling Assumptions Related to Lane Allocation
Lower Thames Crossing

Appendix C National Highways: 'Planning for the Future – A Guide to working with National Highways on Planning Matters, October 2023'

Lower Thames Crossing

**Thurrock Council Comments on Applicant's Submissions at Deadline 7 (D7)
and Deadline 8 (D8)**

Appendix C: National Highways – Planning for the Future (Oct 2023)

11 December 2023

Thurrock Council

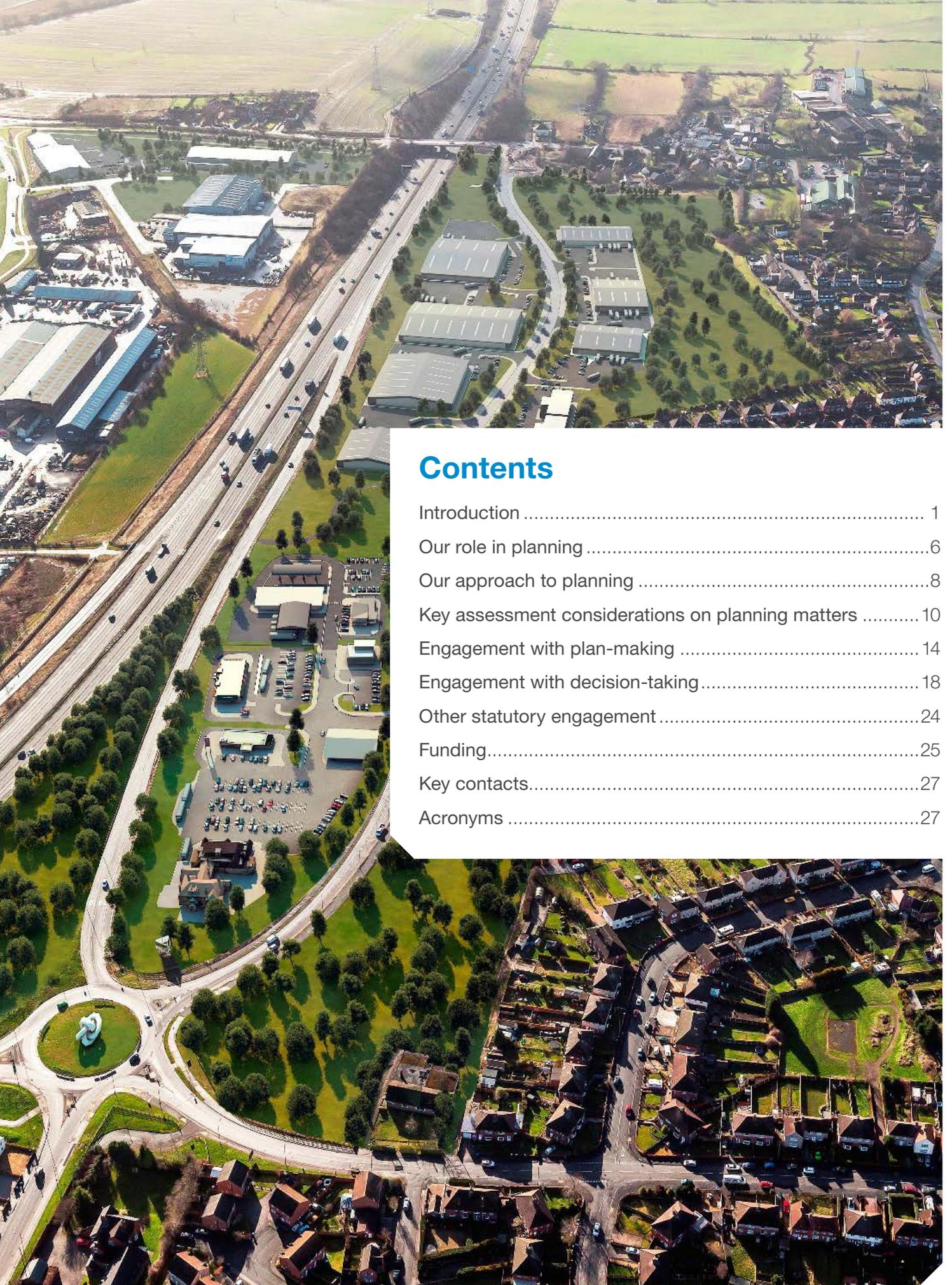
 **thurrock.gov.uk**



Planning for the future

A guide to working with
National Highways on
planning matters

October 2023



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Introduction

1. This document, our planning guide¹, describes the approach we take to engaging in the planning system and the issues we look at when considering draft planning documents and planning applications. It should be read in conjunction with the Department for Transport (DfT) Circular 01/2022²: *Strategic road network and the delivery of sustainable development*, which explains how National Highways will engage in the planning system and sets out the policy of the Secretary of State for Transport in relation to the strategic road network (SRN).
2. The guide provides further advice on the information we would like to see included in a planning proposal and outlines the support we can offer at every stage of the planning process. Like DfT Circular 01/2022, it is aimed at development promoters and their consultants, strategic policy-making authorities, local highway authorities, sub-national transport bodies, local enterprise partnerships, community groups and others involved in development proposals which may result in any traffic or other impact on the SRN.
3. This guide is written in the context of statutory responsibilities as set out in our operating licence and in planning legislation, and in support of Government policy including the *National Planning Policy Framework (NPPF)* and the DfT Circular 01/2022.

The role of the SRN in supporting a net zero Britain

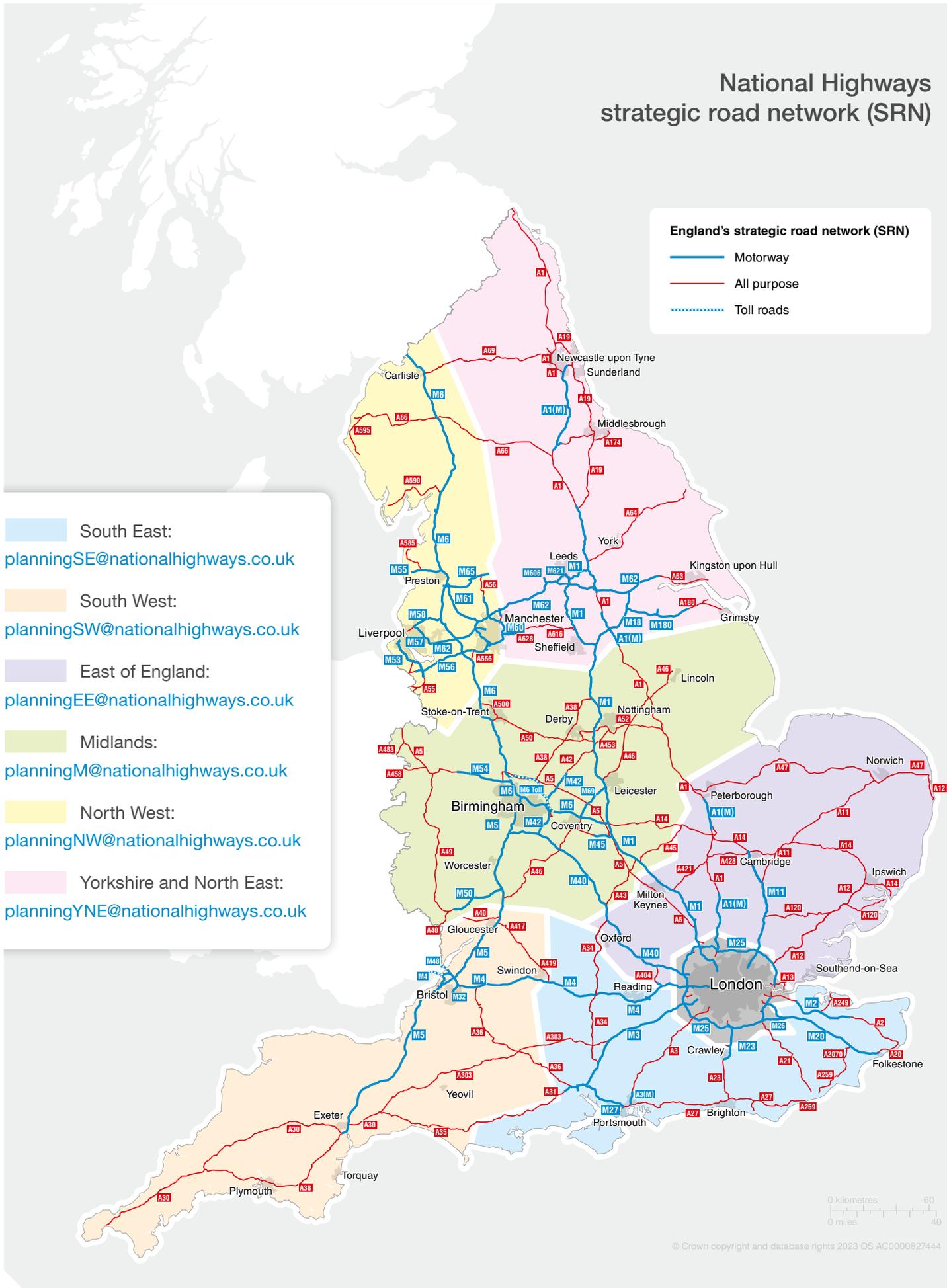
4. The SRN is arguably the biggest and single most important piece of infrastructure in the country (at 31 March 2022, the assets we hold were valued at £144.2 billion). The trunk motorways and all-purpose trunk roads that comprise the SRN are the most heavily used part of the national road network; they carry a third of all traffic and two-thirds of all freight.



1 This version replaces the initial Planning Guide published in 2015.

2 <https://www.gov.uk/government/publications/strategic-road-network-and-the-delivery-of-sustainable-development>

Figure A: SRN and regional spatial planning areas



5. As set out in the *Road investment strategy 2: 2020 to 2025*³, the principal purpose of the SRN is to enable safe, reliable, predictable, efficient, often long distance journeys of both people (whether as drivers or passengers) and goods in England between:
 - main centres of population
 - major ports, airports and rail terminals
 - geographically peripheral regions of England
 - chief cross-border routes to Scotland and Wales
6. The SRN therefore provides critical links between our cities and other urban areas, serves as a gateway to global markets and travel destinations, connects our communities with families and job opportunities, and binds and strengthens our union. It drives productivity and prosperity by unlocking growth, encouraging trade and attracting investment, and plays a vital role in levelling up the country.
7. As set out in *Connecting the country: our long-term strategic plan to 2050*⁴, National Highways' 2050 vision is for the SRN to be part of a seamlessly-integrated transport system that meets our customers' needs by connecting the country safely and reliably, delivering economic prosperity, social value and a thriving environment.
8. Today, however, roads are seen by many to work against the ambitions of a zero carbon economy. Yet to deliver a net zero economy, our roads have to be net zero too. This is why:
 - **Britain relies on roads today** - roads and cars are an integral part of our transport system.
 - **Road travel will decarbonise fast** - while road travel represents a higher carbon way to travel in the UK today, this is changing fast.
9. For more information see *Net zero highways: our 2030 / 2040 / 2050 plan*⁵ which aims to ensure our roads support the social and economic goals of our nation, while making sure we do so in an environmentally sound way.
- **A new zero Britain will still travel by road in 2050** - while we support investment in all zero carbon transport options, investment in other forms of transport, such as rail, will make only a limited impact on how Britain moves.
- **Investment in Britain's roads supports a thriving net zero economy** - today every £1 investment in the SRN returns over £2 to the economy. Our roads directly support sectors which employ 7.4 million people in the UK and contribute £314 billion Gross Value Added to the economy. The industries that rely on the road network are expected to grow by 35% by 2030, which will generate an additional £110 billion of UK growth.



³ <https://www.gov.uk/government/publications/road-investment-strategy-2-ris2-2020-to-2025>

Working with us - early engagement

10. National Highways is a statutory consultee in the planning system. In discharging this responsibility, we act as a proactive partner. This guide aims to help you get the best out of your relationship with us and to show what you can expect from us. It sets out our approach to planning and what we look for when preparing and making decisions on plans and development proposals. The pages that follow explain our position, providing guidance and clarity on the matters that we shall have regard to, and what we are likely to find acceptable and unacceptable, to help you shape your proposals and ensure that they are sustainable in every sense.
11. This guide sets out how we, along with those acting on our behalf, will work to help you to assess and successfully manage the relationship between your proposed development and the SRN. We encourage all parties promoting and preparing plans or planning applications that could have an impact on the SRN to engage with us as early as possible.
12. Engaging with us early helps to ensure that issues which may take time to analyse and resolve are identified as soon as possible. We can then work together to establish a shared vision for the plan or proposed development, including:
 - considering the most appropriate locations for development
 - assessing the potential impact of development proposals on the SRN
 - enabling appropriate sustainable development (including considering how best to deliver the development, and any associated mitigation works, whilst minimising the adverse impacts that it might give rise to)
 - promoting journeys made by a range of modes other than private car, for example, by considering public transport, walking and cycling routes, whilst

- maintaining the safety and efficiency of the SRN

Contacting us

13. Our response to planning enquiries is locally led through regional spatial planning teams who know and understand the SRN in their areas (see Figure A). This enables us to provide:
 - a) strong intelligence, evidence and an understanding of how the SRN and surrounding local transport networks operate
 - b) information on relevant local factors
 - c) named contacts who are able to establish positive and productive relationships with all involved in the planning process
14. We would advise local stakeholders – planning officers, highways officers and development promoters – to focus their engagement with us via our regional spatial planning teams:
 - **South-East:**
planningSE@nationalhighways.co.uk
 - **South-West:**
planningSW@nationalhighways.co.uk
 - **East of England:**
planningEE@nationalhighways.co.uk
 - **Midlands:**
planningM@nationalhighways.co.uk
 - **North-West:**
planningNW@nationalhighways.co.uk
 - **Yorkshire and North-East:**
planningYNE@nationalhighways.co.uk
15. We also have a national spatial planning policy team who lead our corporate approach around supporting growth and our engagement with the planning system, including the writing of this guide. You can contact us at: spatialplanning@nationalhighways.co.uk.

16. In certain circumstances our Third Party Infrastructure team leads on our engagement with a given project. This is typically for Nationally Significant Infrastructure Projects (NSIPs) where the scale of the application itself or impact on the SRN requires a more strategic approach and longer-term, more resource-intensive engagement. Where this is the case, we will clearly communicate this with the development promoter and other relevant parties.

Limitations of this document

17. While this document sets out general principles by which we seek to engage and support the planning process, it cannot provide answers to all the questions that might arise. If you are uncertain about how to engage with us, or how we might approach a particular issue, please contact us at the email addresses provided.



Our role in planning

18. National Highways was appointed by the Secretary of State for Transport as a strategic highway company under the provisions of the Infrastructure Act 2015. We are responsible for operating, maintaining and improving the strategic road network (SRN) in England, in accordance with our operating licence issued by the Secretary of State for Transport, and Government policies and objectives.
19. Paragraph 7 of the Department for Transport (DfT) Circular 01/2022 establishes three overarching objectives for us when engaging in the planning system:
 - To enable the delivery of sustainable development.
 - To support the needs of the freight and logistics sector.
 - To mitigate the impact of growth on the natural environment.
20. In exercising our function as a statutory consultee in the planning system, we must co-operate as reasonably practicable with other parties with regards to highways or planning⁶. We must also have regard to the environment and the safety of our road users. Consequently, we are obliged to consider all proposals received and to provide appropriate, timely and substantive responses to the local planning authority as the decision maker.
21. Our desire to be a proactive planning partner goes beyond just our statutory role and follows the spirit of our operating licence which stipulates that we should support local and national economic growth and regeneration. We would therefore strongly encourage you to engage with us as early as possible when considering planning matters that might have an impact on the SRN.

22. We also commit to co-operating with local highway authorities and recognise that we have a responsibility to support and develop a more coordinated approach to planning on the SRN and the local highway network, as well as with neighbouring jurisdictions and other key infrastructure providers.

Road Investment Strategy funding

23. The Road Investment Strategy (RIS) programme is the Government's primary means of investing significantly in the SRN. It provides 5-year programmes of funding to enable National Highways to operate, maintain and enhance the SRN in the context of the key priorities set out in each RIS. The ambitions for our network over the 5-year periods are set out in our *Strategic business plan*⁷ with our *Delivery plan*⁸ detailing how we will invest our funding.
24. Route strategies are one of the key steps of initial research in the development of a RIS - in May 2023 we published our Route Strategy Initial Overview Reports⁹. National Highways has produced route strategies since 2015 and these have guided the vision, performance expectations and investment plans for the SRN. In developing the latest route strategies, we have set out:
 - A planned set of future requirements for the network that is responsive to environmental needs; that accounts for the performance of today as well as the challenges and opportunities of the future.
 - Actions and investment that improve the performance of our roads for future road periods that are grounded in evidence and informed by interested parties and road user input.

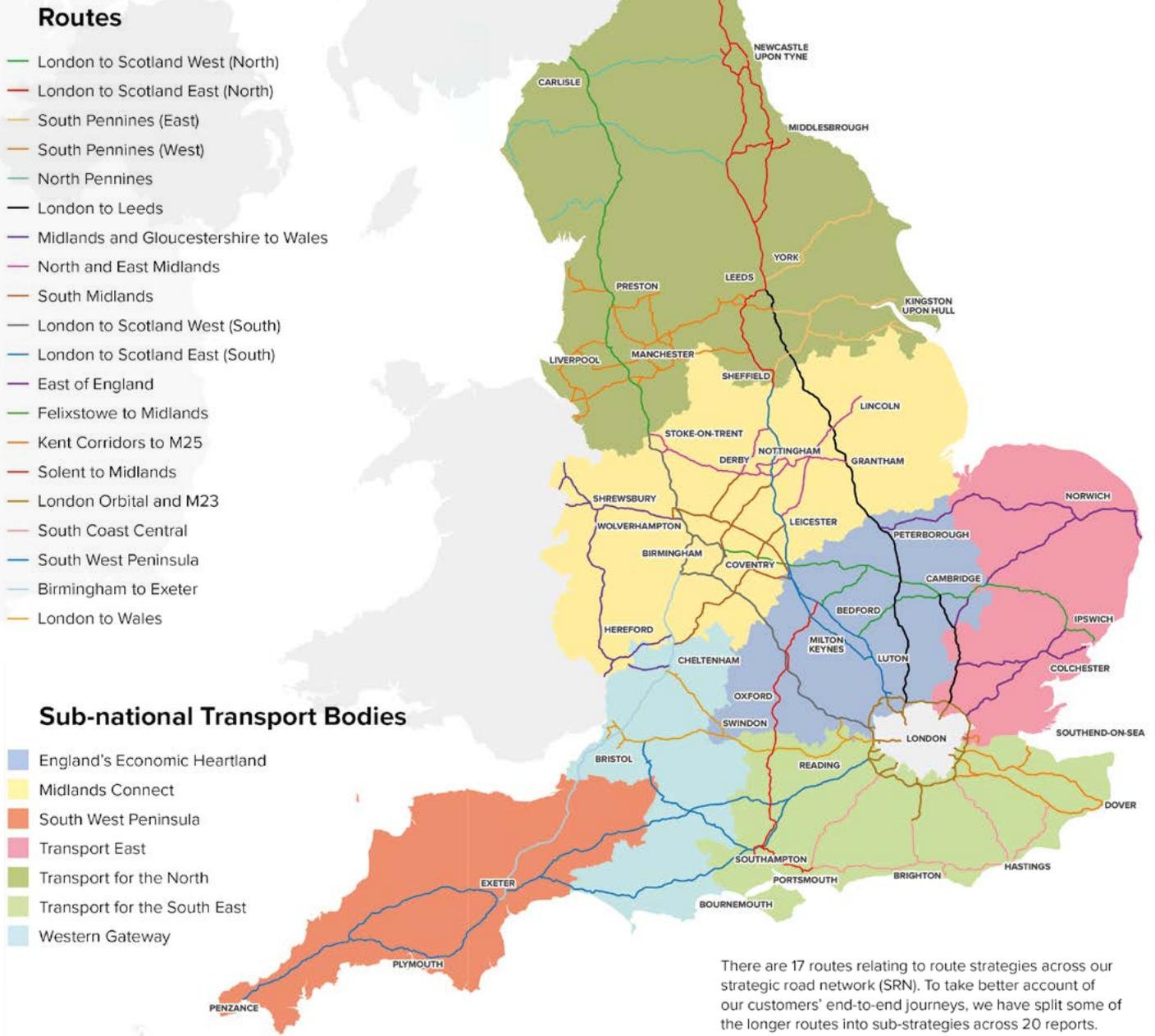
6 Section 5 of the Infrastructure Act 2015

7 <https://nationalhighways.co.uk/strategic-business-plan/>

8 <https://nationalhighways.co.uk/delivery-plan/>

9 <https://nationalhighways.co.uk/our-roads/our-route-strategies/>

Figure B: Route Strategies



- Opportunities for investment and integrated interventions that benefit the performance of our roads and meet wider connectivity needs of communities and economies.
25. In particular, we have identified future requirements for each route through collaboration with interested parties and road users, balancing the strategic need of our roads with the local needs of those using or living alongside them through:
- relevant local plans and priorities concerning local roads and other transport networks, wider socio-economic developments, and government policy
 - the need for effective integration with the rest of the transport system, including carrying out joint studies with other organisations where it benefits the SRN
 - the needs of each place contributing to connecting communities and supporting their growth aspirations
 - the views of relevant national and local interested parties and road users

Our approach to planning

Planning values

26. We are committed to six values that describe how we will always try to work when we engage in the planning system. We will:



Maintain safety

- We want everyone who uses and works on our roads to get home safe and well. By planning and designing roads that meet the highest levels of safety, we can reduce the number of fatal or serious injuries.

Engage early

- We encourage all parties promoting and preparing plans or planning applications that may have an impact on the strategic road network (SRN) to engage with us as early as possible so we can work together to deliver positive outcomes as quickly as possible. Our pre-application engagement service is offered in confidence¹⁰.
- Engaging early, such as through a pre-application process, gives all parties maximum time to understand the impacts of proposed development on the SRN, the level of assessment required to understand impacts, and to agree the most appropriate actions required as a result to help ensure the development proposal is sound and deliverable.

Work openly

- We are committed to being a proactive partner and will, at the earliest opportunity, assign a named officer who will work openly and collaboratively with you as you develop your plan or development proposal.

Share evidence

- Our *Route strategy initial overview reports*¹¹ set out our mid to long term strategies and needs for the SRN. Each report includes information on:
 - route characteristics
 - engagement with customers and neighbours
 - network collaboration
 - challenges and issues
 - initial route objectives
 - locational areas for consideration and potential collaboration
 - next steps

¹⁰ It should be noted that the Levelling-up and Regeneration Bill includes the following clause: “Power of certain bodies [including National Highways] to charge fees for advice in relation to applications under the planning Acts”.

¹¹ <https://routestrategies.nationalhighways.co.uk/>

- In addition, we collect and analyse significant amounts of information about the SRN and how it interacts with the local road network. This can be found on our Open Data website¹² and includes:
 - automated traffic count information, which is made available online through Webtris¹³
 - speed and flow information, which we can provide on request where it is available
 - several validated traffic models¹⁴ and land use models for certain areas of the network, which can be used by local authorities and development promoters to support decision-making and forecast the highways-related impact of future development
 - accident data
 - information on known local environmental issues
- We can provide access to other information and intelligence we hold about our network, where this is available, relevant to the development or proposal, and where we are legally entitled to do so.
- We can advise on how information should be used to identify and analyse potential highways-related impacts of your plans or proposed development, and to support the development of a robust transport evidence base for your plan or proposal.
- Where data needs to be extracted through a re-run of an existing model, we may make a reasonable charge for providing this and will provide quotes to those seeking such data at the earliest opportunity.
- Where the relevant data and models are not available, we work with the local planning authority, local highway authority and the development promoter to scope the work required.

Share knowledge and experience

- Our teams are highly experienced and knowledgeable about the complex issues of traffic management, driver behaviour, and the processes involved in the development, design and delivery of traffic schemes. We willingly share this knowledge and experience to help you ensure your plans and proposals are robust, appropriate and deliverable.

Work collaboratively

- We respond formally to consultations in a timely manner and with full regard to statutory requirements, as required at each stage of the planning process, whether this is for local plans, other statutory plans or planning applications.
- We also work with local authorities and other plan-making bodies prior to and between formal consultation periods to contribute to their thinking on the relevant plan, and support the analysis of options and development of robust plans and proposals that take full account of highways issues.



12 [REDACTED]

14 Models are released under licence and may have limitations.

Key assessment considerations on planning matters

Principles of sustainable development¹⁵

27. In accordance with our operating licence, we will act in a manner which conforms to the principles of sustainable development and fulfil our role as a statutory consultee in the planning system.
28. New development should be facilitating a reduction in the need to travel by private car and focused on locations that are or can be made sustainable. Developments in the right places and served by the right sustainable infrastructure delivered alongside or ahead of occupancy must be a key consideration when planning for growth in all local authority areas.
29. Where developments are located, how they are designed and how well delivery and public transport services are integrated has a huge impact on people's mode of travel for short journeys. It is also important to ensure that associated business uses and infrastructure are well sited – for example, employment space or the location of freight and logistics facilities. We will therefore expect those responsible for preparing local and neighbourhood plans to only promote development at locations that are or can be made sustainable and where opportunities to maximise walking, wheeling, cycling, public transport and shared travel have been identified.
30. The Government has recognised, however, that local planning and highway authorities need help when planning for sustainable transport and developing innovative policies to reduce car dependency. One of the ways the Department for Transport (DfT) has addressed this is by publishing a toolkit to provide advice to local authorities on planning and taking measures to reduce carbon emissions from transport¹⁶. More recently the Government has established Active Travel England¹⁷.

31. Another includes moving away from transport planning based on predicting future demand to provide capacity ('predict and provide') to planning that sets an outcome communities want to achieve and provides the transport solutions to deliver those outcomes (vision-led approaches including 'vision and validate,' 'decide and provide' or 'monitor and manage'). We will support local authorities in achieving this aim through engagement at both plan-making and decision-taking stages, while recognising the varying challenges that will be presented by certain sites based on their land use, scale and/or location.

Vision-led approaches

32. Approaches such as 'decide and provide' involve two important elements: being vision-led and accommodating uncertainty. Both of these have been central in the creation of our long-term *Connecting the country*¹⁸ plan where we recognise that the future is uncertain and have adopted a 'decide and provide' approach where we have a clearer sense than ever before of our preferred vision for the future and the steps needed to make this a reality.
33. In broad terms, a vision-led approach can be summarised as follows:
 1. Establish a vision - understand the relevant national and local policy context; identify the drivers of change/key external factors acting on the plan or proposed development; set-out a place-based vision statement with associated outcomes that supports the principles of sustainable development.
 2. Develop scenarios - develop plausible future scenarios that help to understand the uncertainties that may impact on the ability to deliver the vision.

¹⁵ See paragraphs 11 to 17 in DfT Circular 01/2022.

¹⁶ <https://www.gov.uk/government/collections/transport-decarbonisation-local-authority-toolkit>

¹⁷ <https://www.gov.uk/government/organisations/active-travel-england>

¹⁸ [REDACTED]

3. Generate options – generate, sift and prioritise options that can help achieve the vision.
 4. Test options – test how the prioritised options perform in each of the plausible future scenarios (for example, is every option effective in all scenarios or are some less resilient and have some significant risks?).
 5. Produce a vision strategy – produce a strategy for realising the vision that accounts for the identified uncertainty and includes a ‘monitor and manage’ approach to identify and address when the vision is unlikely to be achieved.
34. The vision-led approach is relevant to both the plan-making and decision-taking stages (proportionate to the scale, sensitivity and complexity of the development proposal).
 35. The DfT has addressed future uncertainty in the transport system in its *TAG Uncertainty Toolkit*¹⁹ and it is anticipated that further guidance on vision-led approaches will be forthcoming in due course, including in the Local Transport Plan Guidance due to be published by the DfT in late 2023. In the interim, there is relevant advice in the public domain including from TRICS Consortium Ltd²⁰ and Mott Macdonald/University of the West of England²¹.
 36. In engaging with local authorities and development promoters, we will seek to use our *Connecting the county* plan and relevant route strategy/strategies²² to help inform the vision for a local plan or development proposal.

Ensuring highways issues are addressed

37. Chapter 9 of the *National Planning Policy Framework* (NPPF) states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. The policy test on whether the residual cumulative impacts on the SRN would be ‘severe’ will be assessed on a case-by-case basis. This will take into account the performance and character of the relevant link or junction of the SRN, and the predicted effects of the development on its safe operation.
38. In terms of infrastructure provision to support the freight and logistics sector, the NPPF further states that planning policies and decisions should recognise the importance of providing adequate overnight lorry parking facilities, taking into account any local shortages, to reduce the risk of parking in locations that lack proper facilities or could cause a nuisance.
39. Transport assessments should be carried out in line with prevailing government guidance and industry standards in agreement with us, through pre-application and scoping²³. Where modifications to the SRN are proposed, schemes must be subject to road safety, environmental and any other relevant assessment. Local authorities and developers also need to ensure that their proposals comply with requirements for access, design and audit as set out in the *Design Manual for Roads and Bridges* (DMRB)²⁴.

19 <https://www.gov.uk/government/publications/tag-uncertainty-toolkit>

20 [REDACTED]

23 See also paragraphs 47 to 54 in DfT Circular 01/2022.

24 [REDACTED]

40. Although identification of the scale and nature of action required to support a particular development is the responsibility of the development promoter, we will advise on options for this and share with you any relevant information we hold to help you make informed decisions. The issues can be complex and take some time to work through, so we encourage engagement with us at the earliest opportunity.
41. It is important to note that the continued safe operation of the SRN will remain our primary consideration, even where proposals would not result in capacity issues.

New connections and capacity enhancements²⁵

42. We recommend any third party looking to propose works on the SRN engage with us as early as possible. This is so we can establish whether the principle of proposed works is acceptable, or what is needed to determine this, and to identify the potential impacts of any schemes on the SRN.
43. Where relevant, planning conditions will be recommended to the local planning authority to ensure any third party works on the SRN are delivered as agreed.
44. Where third party works are proposed as part of a Nationally Significant Infrastructure Project (NSIP) this may be subject to additional guidance and processes. For more information on NSIPs please see the 'Other statutory engagement' section.

Environmental impact²⁶

45. Development promoters will need to provide sufficient environmental information to satisfy the relevant local planning authority, and any other consenting authorities, that all environmental implications of the proposals have been appropriately considered.
46. We will expect to see measures implemented that fully mitigate all environmental impacts arising from and relating to the interaction between developments and the SRN. There are four aspects to this:
 - The environmental impacts arising from the temporary construction works.
 - The environmental impacts of the permanent transport solution associated with the development.
 - The environmental impacts of the road network upon the development itself (for example, vehicle emissions).
 - The environmental impacts of any decommissioning phase.
47. To assist in this process, we will willingly participate in the screening and scoping processes to help identify any significant transport-related environmental impacts of proposals.
48. To avoid potential delay or challenge, transport assessments and environmental statements should be mutually consistent and pay due regard to each other.
49. If a development promoter wishes to use land within the highway boundary (including landscaped areas) for the storage of construction materials or other such reasons, they should discuss this at the earliest opportunity with the relevant regional spatial planning team.

²⁵ See paragraphs 18 to 25 in DfT Circular 01/2022.

²⁶ See paragraph 55 in DfT Circular 01/2022.

Physical impact of development on the SRN²⁷

50. There may be development proposals that the relevant local planning authority is not statutorily required to consult us on, but which nonetheless have the potential to impact the SRN. Examples include where there are considerations relevant to fire hazard, glint and glare, stability of embankments and cuttings, integrity of structures, water run-off, air quality, highway schemes on the local road network, or visibility of traffic signs. Development promoters and local authorities are encouraged to identify such potential risks and discuss these with us at the earliest opportunity so they can be quantified and addressed as necessary and appropriate.

Roadside facilities²⁸

51. We recognise the importance of roadside facilities for the safety and welfare of road users. We also recognise that lorry parking and adequate facilities are key to enabling the freight and logistics sector to operate safely and efficiently.

52. New and existing roadside facilities are subject to the provisions in DfT Circular 01/2022 which sets the framework for local planning authorities to consider the planning proposals for such developments and requirements for which operators must comply in order to be signed from the SRN.

53. Local planning authorities, development promoters and operators are encouraged to discuss with us at the earliest opportunity any proposals to develop new roadside facilities or to alter and/or sign existing sites. All such proposals should be referred to: roadsidefacilities@nationalhighways.co.uk.

Special types of development²⁹

54. The DfT Circular 01/2022 provides policy advice in relation to the following 'special types of development':

- advertisements
- gateway structures and public art
- electronic communications apparatus
- on-shore wind turbines
- developments with solar reflection

55. Other 'special types of development' will be kept under review where they have the potential to impact on the SRN.



27 See paragraphs 57 to 59 in DfT Circular 01/2022.

28 See paragraphs 71 to 112 and Annex A in DfT Circular 01/2022.

29 See paragraphs 60 to 70 in DfT Circular 01/2022.

Engagement with plan-making³⁰

General principles

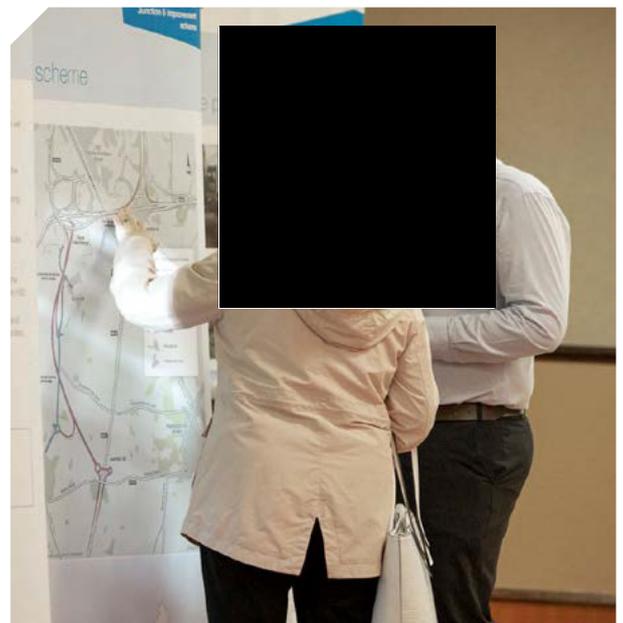
- 56. Local plans and spatial development strategies set out policies and allocations to guide development in a locality, including proposals for specific sites to meet the housing, employment, environmental and social needs of the area. The suitability of sites for any of these uses depends on several factors, including local traffic flow, road and transport connections, and options for sustainable travel.
- 57. The preparation of plans and strategies provides an opportunity to support developments that reduce the need to travel, minimise journey lengths, encourage sustainable travel, and promote accessibility for all. This can contribute to the achievement of net zero carbon objectives and reduce the cost to the economy arising from the environmental, business and social impacts associated with traffic generation and congestion.
- 58. For all these reasons, we are keen to contribute to the development of local plans and spatial development strategies. We can help you identify the most suitable locations for development that make best use of the capacity on the strategic road network (SRN); so, we encourage plan-making authorities to engage with us from the earliest stages of preparation. Figure C, at the end of this section, sets out how we see ourselves engaging with plan-making authorities.

Evidence base

- 59. Paragraphs 31 to 33 of the Department for Transport (DfT) Circular 01/2022 set out the key considerations relating to the transport evidence base that should inform decisions at the plan-making stage. This includes the expectation that this process will explore all options to reduce a reliance on the SRN for local journeys including a reduction in the need to travel and integrating land use considerations with the need to maximise opportunities for walking, wheeling, cycling, public transport and shared travel.
- 60. We will support evidence base work where we are able to, as well as share evidence that we have, and input our knowledge and experience of the SRN.

Location of development

- 61. Development should be promoted at locations that are or can be made sustainable, that facilitate the uptake of sustainable transport modes, support wider social and health objectives, and which support existing business sectors as well as enabling new growth.
- 62. We will work with plan-making authorities, highway authorities and development promoters to identify opportunities to introduce travel reduction and demand management measures through the plan-making process.



30 See paragraphs 26 to 38 in DfT Circular 01/2022.

Site allocations

63. When a local plan or spatial development strategy proposes site-specific allocations, we will want to ensure that all relevant transport impacts and requirements are considered. To this end, we will work with plan-making authorities to:
- identify the impact that the proposed allocations are likely to have on the SRN on an individual and, insofar as is necessary, a cumulative basis, factoring in the demands arising from development planned in adjacent authorities where appropriate
 - assess the impact of the SRN on the development potential of sites that are proposed to be allocated (for example, vehicle emissions, light pollution and noise)
 - consider travel plan, travel demand and off-network improvements
 - as necessary, identify the infrastructure requirements and delivery of strategic infrastructure for the proposed allocations
64. Whilst allocating land for particular uses is a matter ultimately for plan-making authorities, we will provide comment on the suitability of locations where there is potential impact on the SRN, including from a safety, congestion, amenity and carbon emissions perspective. Certain allocations should also recognise the importance of providing and retaining adequate provision of lorry parking facilities, particularly in relation to proposals for new or expanded goods distribution centres and roadside facilities.

New connections and capacity enhancements (local plans)

65. Paragraphs 19 and 29 of DfT Circular 01/2022 set out that new connections and capacity enhancements to the SRN which are necessary to deliver strategic growth should be identified as part of the plan-making process. Where all reasonable options to deliver modal shift, promote active travel and public transport use, and locate development in areas of high accessibility have been exhausted, we will work with plan-making authorities in identifying funding mechanisms for planned works to the SRN.

Summary of local plan considerations

66. When formally consulted on development plan documents we will seek to provide a recommendation as to the appropriateness of proposed policies and allocations in relation to their interaction with the SRN. Where we have been engaged in the development of the plan or strategy, this process should be straightforward.
67. The list below highlights matters which we are likely to have particular interest in when engaging in the plan-making process, which is grouped into four categories:

Sustainability

- The **sustainability of policies** including how they have addressed the principles of sustainable development³¹ and support a place-based vision-led approach (informed by our Connecting the County³² plan and relevant route strategy/strategies³³).
- The **economic, social, and environmental benefits** of development plan policies and proposed site allocations.

31 See paragraphs 11 to 17 in DfT Circular 01/2022.

32 <https://nationalhighways.co.uk/our-roads/future-roads/connecting-the-country/>

33 <https://nationalhighways.co.uk/our-roads/our-route-strategies/>

Integration with other plans and strategies

- **Proposed works** to the transport network, including measures relating to sustainable travel infrastructure and delivery plans, including the anticipated costs and funding source(s) as well as the forecast outcome of the enhancement(s).
- **Our investment priorities** as identified in our *Delivery plan*³⁴ and route strategies³⁵.
- The **consistency** between the policy approach being promoted in the plan or strategy and any associated evidence base documents such as infrastructure delivery plans, where these would impact the SRN.
- The relationship between the plan or strategy and the relevant Sub-national Transport Body's **Strategic Transport Plan**.

Impacts

- The way in which the size, type and location of development proposals **impact on the operation of the SRN**.
- The **cumulative impacts** on the SRN associated with any known development sites within the plan area and in adjacent areas.
- Any **residual impacts** arising from the proposals that will not be mitigated by new connections or capacity enhancements.

Robustness and consistency

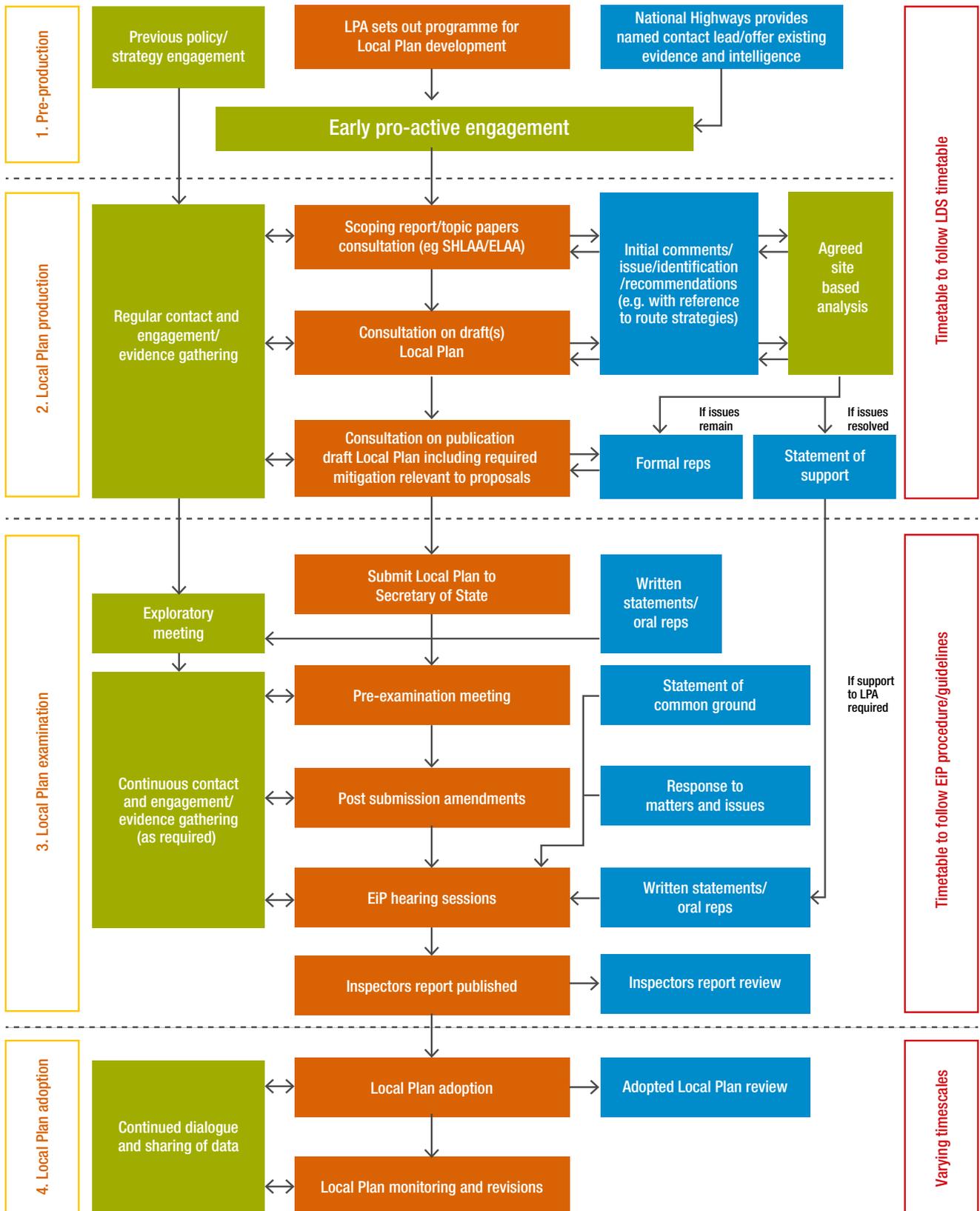
- The **robustness of the evidence base** that has informed decisions.
- The **methodology** used to determine the quantities, locations, likely phasing and mix, and viability of housing and employment development.
- The **accessibility** of sites that are proposed to be allocated.

68. Where appropriate, we will seek to participate in the plan examination.
69. We would wish to be advised of the publication of the Inspector's Report as soon as is practicable so we can consider the implications of the recommendations in a timely manner, and then work with the plan-making authority on modifications as necessary.
70. Once development plan documents are adopted, we will continue to work with plan-making authorities to ensure that relevant National Highways teams are fully cognisant of their policies and proposals, to confirm that up-to-date information about the SRN is used when such plans are reviewed, and to support the delivery of development.

34 <https://nationalhighways.co.uk/delivery-plan/>

35 <https://nationalhighways.co.uk/our-roads/our-route-strategies/>

Figure C: National Highways engagement with plan-making authorities



Key:

- The **blue boxes** identify what we will do.
- The **orange boxes** identify the key stages in the plan-making process from the perspective of the plan-making authority.
- The **green boxes** identify actions for both parties and relate mainly to engagement between ourselves and the plan-making authority.

Engagement with decision-taking³⁶

General principles

- 71. We encourage stakeholders to talk with us as early as possible where we are likely to be consulted on a planning application. This allows time for us to guide applicants and their consultants on preparing all the information we will need to fully consider the proposed development. Effective pre-application engagement is essential in meeting statutory deadlines later in the planning process. Figure D, at the end of this section, sets out how we engage with development proposals.
- 72. Where we are made aware that significant development proposals are being prepared that might impact the strategic road network (SRN), and we have not been engaged in pre-application discussions, we may contact the applicant through the local planning authority and invite them to scope the submission with us.
- 73. Paragraph 48 of the Department for Transport (DfT) Circular 01/2022 states that where a transport assessment is required, this should start with a vision of what the development is seeking to achieve and then test a set of scenarios to determine the optimum design and transport infrastructure to realise this vision. Where such development has not been identified in an up-to-date development plan (or an emerging plan that is at an advanced stage), developers should demonstrate that the development would be located in an area of high accessibility by sustainable transport modes and would not create a significant constraint to the delivery of any planned improvements to the transport network or allocated sites.



- 74. In submitting a planning application, the development promoter should provide all the information we will need to fully consider the interaction of the development with the SRN, and the suitability of any related actions proposed.
- 75. We will provide the relevant authority with our response to the assessed transport impact in line with DfT Circular 01/2022, the principles in this document and our statutory requirements. Our advice will reflect our conclusions on the likely impact of the proposal, as a result of assessing the transport-related information provided with the application, and drawing on our own expertise, knowledge and experience of the SRN and transport issues.
- 76. Where appropriate, we will recommend that planning conditions be attached to any planning permission granted, in order to address or reduce the effects that are predicted to occur. Wherever possible, we will make this recommendation in discussion with the applicant and local planning and highway authorities, as appropriate.

36 See also paragraphs 39 to 59 in DfT Circular 01/2022.

Pre-application stage

77. The *Town and Country Planning (Development Management Procedure) (England) Order 2015* sets out the legal requirements for local planning authorities to consult with us at application stage. However, we would encourage development promoters to engage with us earlier and to think more broadly than these minimum thresholds.
78. Pre-application discussions are an effective means of gaining a good, early understanding of the development, its benefits, its likely impacts and its infrastructure needs. Engaging with us at pre-application stage will ensure that the transport assessment is appropriately scoped and based on the most relevant and up-to-date data. It will also ensure that the development promoter is made aware of, and can take account of, any SRN issues that might have a bearing on how the development is planned and/or delivered. This, in turn, helps to avoid abortive work being undertaken.
79. When contacted in respect of any development proposal, we will engage in line with our planning principles. Specifically, we will:
- **Acknowledge** within 7 days to a request for initial discussion.
 - Provide a **named contact** for discussions, which will be someone with knowledge and experience of the area.
 - Advise the promoter whether the development proposal is likely to be **of interest** to us.
 - Advise the promoter of **known potential constraints** to the development, and jointly explore **potential solutions** within the context of a **vision-led approach** that facilitates a reduction in the need to travel by private car.
 - **Share** data and models relevant to the proposal, where this is available, and where we are legally entitled to do so.
- Review, comment on and, where acceptable, agree the **methodology** for assessing the likely impacts of the proposed development, as relevant to the SRN and net zero carbon considerations.
 - Review, comment on and, where acceptable, agree the principles of the scale and nature of **mitigation** required.
 - Review, comment on and, where appropriate, agree the principles of the **monitor and manage** strategy.
 - Discuss any other elements of the development or its likely impact that might be of interest to us.
80. Where it is likely that a proposal will be considered unacceptable in terms of its impact on the SRN, we will provide guidance as to what, if any, steps could be taken to address the concerns that we have.
81. Depending on the nature of the site and the proposed development, the development promoter may submit a written scoping report or arrange a meeting with us. Where a meeting is arranged, we would encourage other relevant parties to attend as necessary, including the local planning and highway authorities; we would particularly recommend this for larger and more complex sites.
82. If a scoping report is to be prepared, we would advise this includes:
- **details of the development**, such as location, access arrangements, use class, size or number of units, likely phasing, number of parking spaces and any other relevant information
 - a proposed methodology for the **vision-led approach** (including a monitor and manage strategy) that facilitates a reduction in the need to travel by private car
 - a proposed methodology for estimating the **vehicular trip generation** and distribution on the SRN, and resulting trip generation figures

- a proposed methodology for assessing the **impact** of this trip generation on the SRN and our assets
 - a proposed methodology for assessing the **environmental consequences** of the transport impacts of the development, and proposals to address net-zero carbon considerations
83. We will allow local authorities and development promoters access to all relevant data and models that we hold where this is readily available, free of charge. However, usage of data and models may be restricted at later stages in the process by our need to assess a proposed development within statutory timeframes.

Travel plans

84. In support of the principles of sustainable development and a place-based vision-led approach, we expect development promoters to bring forward sites in highly accessible locations and support initiatives that reduce the traffic impact of proposals. This is particularly necessary where the potential impact is on sections of the SRN that could experience capacity problems in the foreseeable future.
85. Early engagement enables us to support this thinking, and we will work with development promoters and local planning authorities to identify appropriate measures to facilitate the delivery of sustainable development.
86. The preparation, implementation, monitoring and updating of a robust travel plan that promotes the use of sustainable transport modes (such as walking, wheeling, cycling and public transport) can be an effective means of managing the impact of development on the road network, and reducing the need for major transport infrastructure. This contributes to the ongoing effectiveness of the SRN in ensuring swift connections nationally and regionally, minimising delays and congestion. Retaining some network capacity within the SRN also facilitates the provision for further developments.

87. We will cooperate with local planning authorities, local highway authorities, Active Travel England and development promoters in the creation of travel plans that identify opportunities to introduce route-based and/or area-wide travel plan measures that will support sustainable transport. We expect such plans to be supported by robust performance indicators which can be effectively monitored.
88. However, quite often the implementation of travel plan measures alone will not be sufficient to reduce the traffic demand of proposed developments to acceptable levels. In such instances we will work with relevant authorities to determine whether the implementation of other measures (e.g. more direct demand management measures) could regulate traffic flows. This will support the delivery of the travel plan outcomes and maximise efficient use of available capacity on the SRN.

New connections and capacity enhancements (planning applications)

89. As stated previously, paragraphs 19 and 29 of DfT Circular 01/2022 set out that new connections and capacity enhancements to the SRN which are necessary to deliver strategic growth should be identified as part of the plan-making process. Paragraph 43 adds that we expect development promoters to enable a reduction in the need to travel by private car and prioritise sustainable transport opportunities ahead of capacity enhancements and new connections on the SRN.
90. Where the principle of such works is accepted, we will work with a developer's transport consultant and other key stakeholders to establish the mitigation that is needed to appropriately support the scale and type of development. In circumstances where there is insufficient information to determine whether there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe, we will recommend that the application is not approved until further assessment work has

been carried out, allowing for a more definitive recommendation.

91. Where physical changes to the SRN are proposed to support a planning application, a Walking, Cycling & Horse-Riding Assessment and Review, and a Stage 1 Road Safety Audit should be prepared before planning permission is applied for. Pre-application engagement with us is particularly important in this situation.
92. Measures to address a development's impact upon the SRN will normally be delivered by means of a funding agreement between the development promoter(s) and ourselves, such as an agreement under Section 278 of the Highways Act.

Preliminary design requirements

93. The design elements that are considered essential and that should be provided prior to planning permission being granted, to enable us to properly assess the impact of proposals on the SRN, are as follows:

General Arrangement drawings

- General Arrangement drawings should include the existing and proposed road or site layout, drainage outfalls and any proposed attenuation, any environmental mitigation such as noise barriers or landscaping, and visibility splays for any proposed development access from our network. Depending on the scale and complexity of the proposals, development promoters may also be required to provide us with other drawings, such as land ownership, proposed cross section/levels and the existing ground levels.

Statement of compliance with Design Manual for Roads and Bridges (DMRB) standards

- Development promoters should provide a clear statement identifying which standards have been used in the development of the design and evidence of any discussions around departures from standards. Where proposals include a departure from

standards, they will need to be shown on the General Arrangement drawings.

Traffic Regulation Order

- Where development promoters have agreed a Traffic Regulation Order with the relevant local highway authority, or have a proposed Traffic Regulation Order not yet agreed, these should also be provided. Any agreed speed limits, parking restrictions, weight limits, one-way streets and prohibited turns should also be identified on the General Arrangement drawings.

Drainage strategy

- For developments adjacent to the SRN, a document should be provided identifying the site-specific drainage strategy and discharge requirements. This should include, but is not limited to, how the development meets drainage regulations, proposed outfalls and discharge rates, proposed attenuation requirements, surface and sub-surface water collection methodology and maintenance, pipe network methodology and maintenance and flood modelling results.

Lighting strategy

- This should identify all areas of proposed lighting compliant with the methodology set out in the DMRB, specifically TA 501, and allow us to assess the environmental impact of proposals. Lighting should also be clearly identified in the General Arrangement drawings.

94. Each scheme is different, and these are general guidelines for the information we need to progress our response to planning application consultations. Detailed design guidance is provided in the DMRB, and for larger and more complex schemes our team will provide more tailored guidance and advice as to what design elements are essential at the planning application stage.

95. On occasion we may also require the following, but this will be on an as-needed basis or subject to planning conditions. These are as follows:

- Highway engineering details
- Geotechnical investigation or design
- Approval in principle or technical approval of structures
- Detailed drainage design and specification
- Road lighting designs
- Glint and glare assessment
- Detailed traffic management proposals
- Detailed technical specification



Our formal responses to local planning authorities

96. Within the statutory consultation period for a planning application, we will respond in writing to local planning authorities with a formal recommendation that will take one of the following four forms:

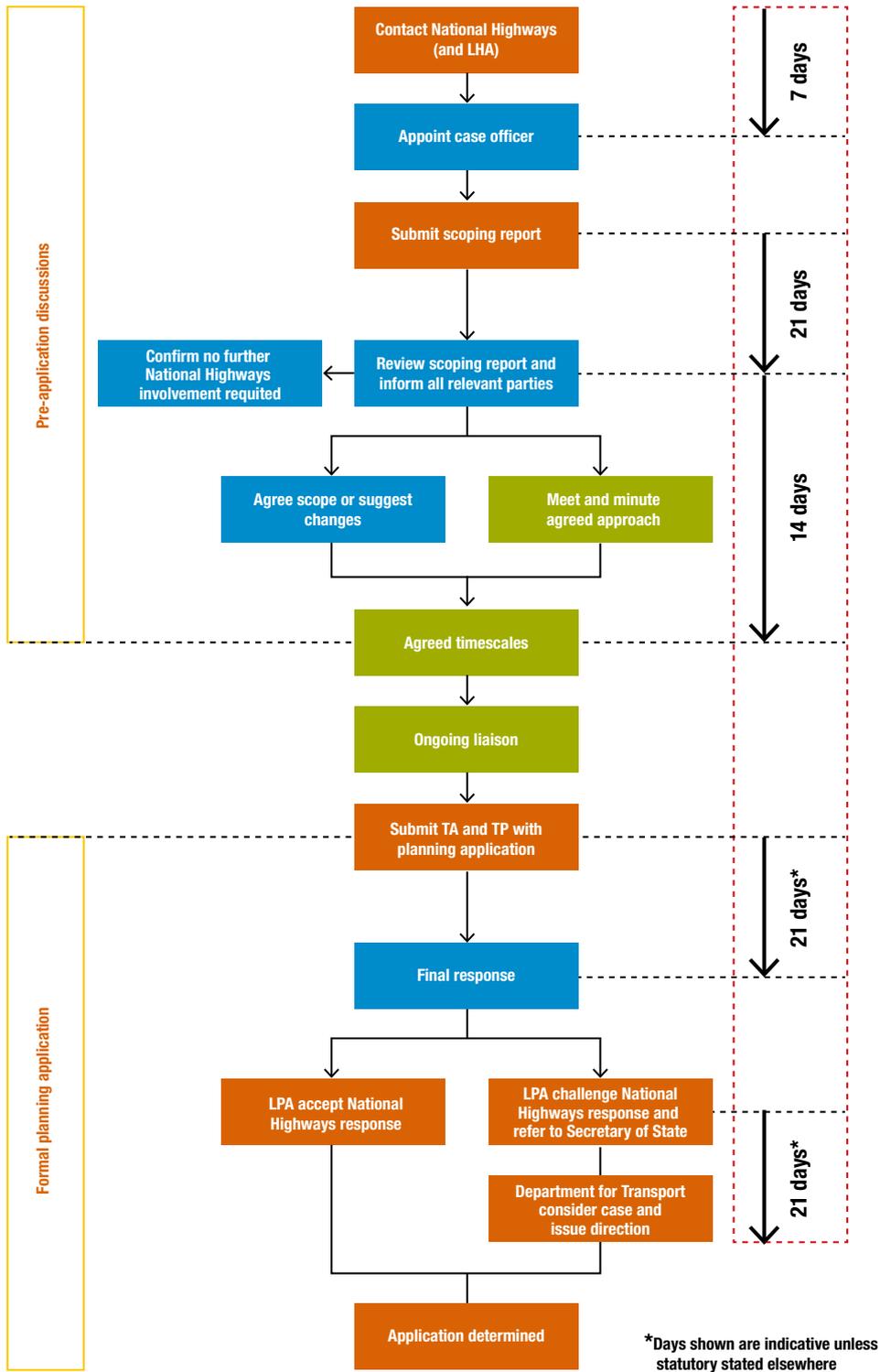
- a. Offering no objection to the development.
- b. Recommending conditions that should be attached to any planning permission that may be granted by the local planning authority.
- c. Recommending that permission not be granted for a specified period, usually to allow for the provision of any missing information or to allow for negotiations with the development promoter.
- d. Recommending refusal.

97. For all the above we will provide the local planning authority with a statement explaining our position and the assessment and analysis behind it. As per the conditions of our licence, we will also copy these responses to the Secretary of State for Transport.

98. Where a local planning authority decides that it does not wish to accept our recommendation, they must refer the case to the Secretary of State for Transport as soon as practicable³⁷. The decision of the Secretary of State will be binding on all parties.

³⁷ <https://www.gov.uk/guidance/development-affecting-trunk-roads-how-local-planning-authorities-can-challenge-a-national-highways-recommendation>

Figure D: How we engage with development proposals



Key:

- The **blue boxes** identify what we will do.
- The **orange boxes** identify the key stages in the decision-taking process from the perspective of the development promoter or local planning authority.
- The **green boxes** identify actions for both parties and relate mainly to engagement between us and the local planning authority.
- The flow chart indicates a desired maximum duration for these stages to be completed, unless longer timescales are agreed beforehand by the relevant parties, such as on large or complex applications.

Other statutory engagement

Nationally Significant Infrastructure Projects

- 99. As a statutory consultee in respect of Nationally Significant Infrastructure Projects (NSIPs), the promoters of such developments are required to consult with us where their proposals are likely to affect road or transport operations and/or planning on roads for which we are the highway authority. As with other planning matters, we recommend that you enter discussions with us at the earliest opportunity.
- 100. Promoters are encouraged to seek consensus with interested parties, including us where applicable, in order to satisfy the Planning Inspectorate that full and thorough pre-application consultation with interested parties has been carried out. Where possible, we will work towards agreeing a Statement of Common Ground at an early stage so that this can be an input to the examination.
- 101. In any case, when submitting the application and draft submission to the Planning Inspectorate (known as a Development Consent Order), promoters must provide sufficient detail to allow the assessment of the impact of their proposals on the SRN, and the suitability and deliverability of their proposed transport arrangements, including means of access.
- 102. Where necessary we will make representations on proposals and seek to ensure that requirements we deem essential are incorporated in the Development Consent Order. These actions will be carried out based on discussions held and the information provided to us.

Local Development Orders and Neighbourhood Development Orders

- 103. Local Development Orders and Neighbourhood Development Orders will be assessed in the same manner as planning applications. The relevant processes allow for compliance conditions to be imposed by the body making the Order. Should we consider that compliance conditions must be applied to mitigate the anticipated impact of development, we will work with the body making the Order with the intention of agreeing the inclusion of appropriate conditions. This might include conditions on the timing, scale or design of development.

Other development plans

- 104. Neighbourhood Development Plans and associated Orders³⁸ also have the potential to impact the strategic road network (SRN). Therefore, we will work proactively and collaboratively with parish councils and neighbourhood forums in the development and implementation of their proposals, applying the approach described above.



38 Including Community Right to Build Orders.

Funding

105. Where a landowner or development promoter proposes changes to the strategic road network (SRN) to serve a particular development, they are usually required to enter into an agreement with us to make these changes. Funding is often required to resource these interventions, but the scale of funding required will vary from case to case.
106. With this in mind, this document does not comprehensively cover each funding mechanism or scenario. Instead, we set out our general approach, having particular regard to the process under Section 278 of the Highways Act, the most common mechanism used for procuring works.
107. We will support proposals for third party investment into transport and highways schemes that enable sustainable development whilst maintaining the safe and efficient movement of goods and people on the SRN.
108. Our teams are experienced in exploring funding options and in delivering funding agreements for transport schemes and will be able to advise on the specific requirements of a particular scheme. As with other stages of the planning process, we encourage engagement with us as early as possible. Where public funding is sought to support schemes, we expect to be consulted and may contribute towards the application process.
109. Where a Section 278 agreement is appropriate, a named officer will be identified as the development promoter's main point of contact for all matters related to the delivery of the agreement and works. This may be different from the individual leading on our involvement in the planning application process. Where this is the case, we will ensure a joined-up approach and that where necessary, any handover is comprehensive.
110. In order to enable the scheme to be delivered expediently, the development promoter may seek to progress the detailed design and draft the Section 278 agreement in parallel with the planning process rather than delaying this work until planning approval is given. Nonetheless, the Section 278 agreement cannot be entered into and works cannot commence until planning permission for the development is in place and any relevant conditions have been satisfactorily discharged.
111. A programme for reporting on progress will be agreed and an 'open book' approach taken to the assessment of scheme costs. Our administrative costs will be based on the published schedule; the development promoter will be required to meet all costs associated with the development and delivery of the Section 278 agreement.
112. Depending on the form of agreement and the likely cost of the scheme, payment(s) may be made in stages, unless agreed otherwise. Under normal circumstances further work will only be undertaken when: we have received money from the promoter to cover the costs of that work; or an Abortive Cost Undertaking backed by a financial undertaking has been entered into by the promoter.
113. Underspend(s) left over at the end of each task or stage can be rolled over to meet costs of the next stage or repaid to the development promoter. Any money which has been paid to us that has not been spent in delivering the scheme will be repaid to the development promoter once the scheme is complete or cancelled.
114. Where possible, in situations where the Section 278 agreement involves both us and local highway authorities, a single agreement will be proposed with all the respective highway bodies working collaboratively on the agreed mitigation.
115. For further information about third party funding for mitigation, development promoters are encouraged to contact the relevant regional spatial planning team.

Third party funding agreements

109. Where a Section 278 agreement is appropriate, a named officer will be identified as the development promoter's main point of contact for all matters related to the delivery of the agreement and works. This may be different from the individual leading on our involvement in the planning application process. Where this is the case, we will ensure a joined-up approach and that where necessary, any handover is comprehensive.
110. In order to enable the scheme to be delivered expediently, the development promoter may



Key contacts

Location based planning enquiries:

South East:

planningSE@nationalhighways.co.uk

South West:

planningSW@nationalhighways.co.uk

East of England:

planningEE@nationalhighways.co.uk

Midlands:

planningM@nationalhighways.co.uk

North West:

planningNW@nationalhighways.co.uk

Yorkshire and North East:

planningYNE@nationalhighways.co.uk

Other planning enquiries:

Roadside Facilities:

roadsidefacilities@nationalhighways.co.uk

This document, as well as strategic planning issues: spatialplanning@nationalhighways.co.uk

Acronyms

DfTDepartment for Transport

DMRBDesign Manual for Roads and Bridges

EiPExamination in Public

ELAAEmployment Land Availability Assessment

LHALocal Highway Authority

LPALocal Planning Authority

NPPFNational Planning Policy Framework

NSIPNationally Significant Infrastructure Project

RISRoad Investment Strategy

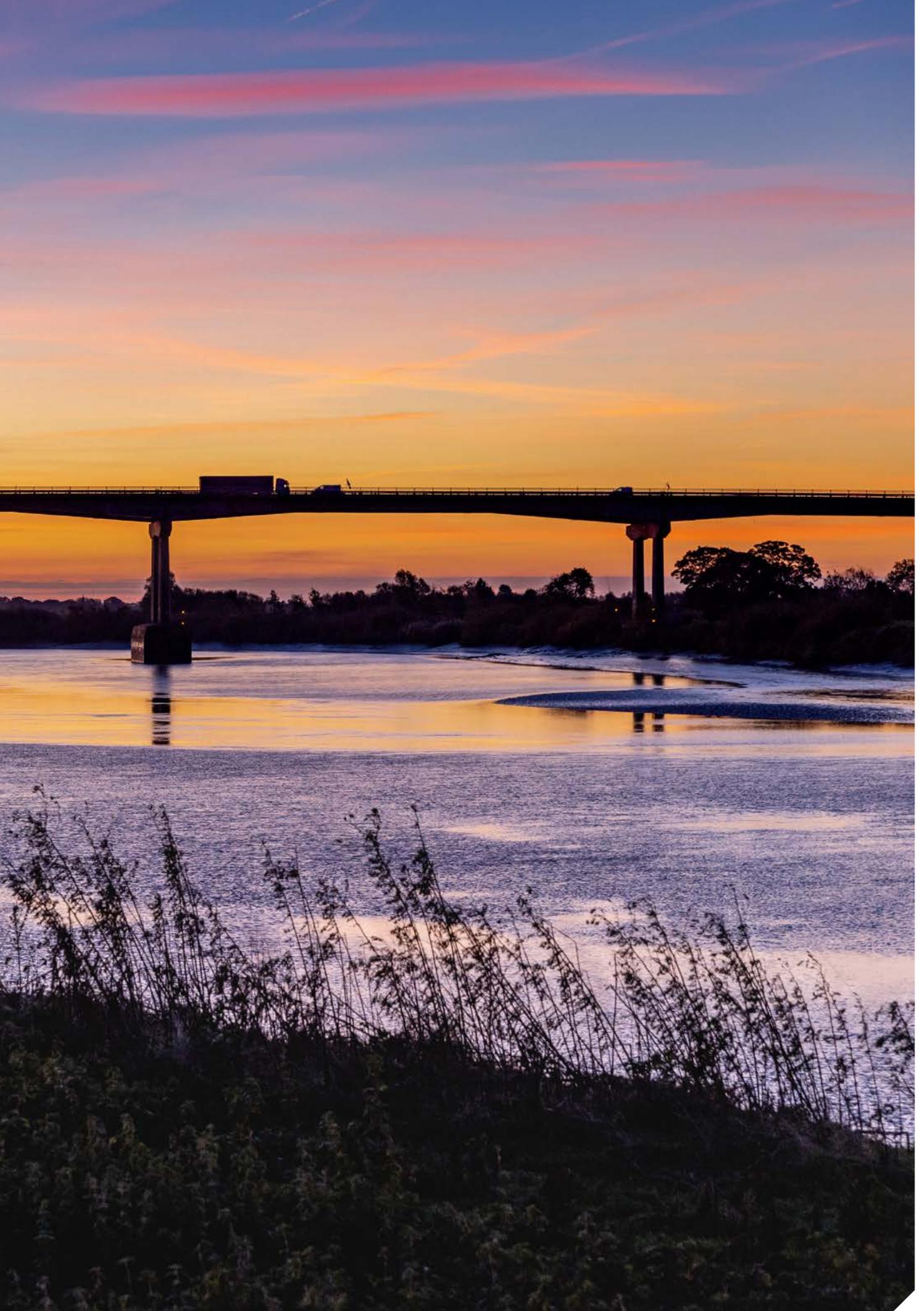
SHLAAStrategic Housing Land Availability Assessment

SRNStrategic Road Network

TATransport Assessment

TPTravel Plan





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Thurrock Council Comments on Applicant's Submissions at Deadline 7 (D7) and Deadline 8 (D8 –
Appendix C: National Highways – Planning for the Future (Oct 2023)
Lower Thames Crossing

Appendix D Updated Joint Position Statement on Orsett Cock Interchange Requirement

Lower Thames Crossing

**Thurrock Council Comments on Applicant's Submissions at Deadline 7 (D7)
and Deadline 8 (D8)**

**Appendix D: Updated Joint Position Statement on Orsett Cock
Interchange Requirement**

11 December 2023

Thurrock Council

 **thurrock.gov.uk**

**UPDATED JOINT POSITION STATEMENT ON
ORSETT COCK INTERCHANGE REQUIREMENT**

BETWEEN



DEADLINE 9

Introduction

1. At Deadline 8, Port of Tilbury London Limited (**PoTLL**), Thurrock Council (**the Council**), DP World London Gateway and Thames Enterprise Park (**the Parties**) submitted an updated Joint Statement in respect of proposed draft Requirements that all of the Parties agreed should be included in the DCO for LTC [REP8-166 Appendix D].
2. In respect of the Asda Roundabout and Wider Networks Requirement, the position remains as at Deadline 8. In respect of the Tilbury Link Road requirement, PoTLL has made submissions at Deadline 9 in respect of Natural England and the Applicant's changes at Deadline 8, but the form of drafting preferred by the Council and PoTLL remains as per the Deadline 8 Joint Statement.
3. This further Updated Joint Statement therefore provides an update to the position on the Orsett Cock Requirement.
4. In particular, this Joint Statement referenced draft Requirements relating to Orsett Cock roundabout and wider highway network monitoring and mitigation. The Parties are key stakeholders that may be most affected by impacts at the Orsett Cock roundabout, and each having a wider interest in the proper functioning of the wider road network in the area north of the river Thames.

Orsett Cock

5. In and around Deadline 8 and Deadline 9, the Parties have exchanged a number of emails and held a meeting with National Highways in respect of this draft Requirement and it is understood that the Applicant has submitted an updated form of this draft Requirement for Deadline 9.
6. The Parties have had sight of this Deadline 9 Applicant's form of Requirement (**Applicant Preferred Version**) and it is understood that this is likely to be the Applicant's final position on this matter.
7. Whilst the Parties welcome that the Applicant has been prepared to make some amendments to this Requirement that go some way to addressing the concerns that have been raised (particularly in respect of process), they have three fundamental concerns that they consider are not addressed with the Applicant Preferred Version:
 - a. Issue 1: There is not a clear starting point against which the acceptability of the 'scheme' put forward under this Requirement can be judged. Whilst the Applicant Preferred Version provides for the measures that form the scheme to 'ensure and optimise the performance of the roundabout', this does not deal with ensuring that the process by which the measures are developed is on the basis of ensuring that the starting point is met (such as what the modelling considers) and there is no mechanism by which it is tested that this will be achieved.
 - b. Issue 2: There is no oversight of the modelling to be undertaken, to ensure it is focused on the issues that are of importance and relevance to the Parties (and particularly the Council). Furthermore, in light of the submissions made by the Applicant that the LTAM strategic model is of prime importance, it is vital that the roundabout is shown to work in both strategic and local modelling terms; and
 - c. Issue 3: The Applicant Preferred Version does not provide for specific post-opening monitoring and mitigation, instead relying on the mechanisms in Requirement 14. Notwithstanding that the Parties consider that Requirement 14 is insufficient, the Parties consider that there should be a specific process for Orsett Cock Roundabout. This is in the context that the Parties' submission clearly demonstrate the sensitivity of the traffic models at this location, meaning that even if a pre-opening measure is put in place, there are strong concerns that further work may be needed. Furthermore, in contrast to Wider Networks matters more generally, all parties, including the Applicant, have recognised that this is a key junction affected by LTC. As such, it is right that specific consideration is given to this junction post-opening, rather than relying on a wider process. At present there is (for reasons already canvassed at length in the examination) a very low degree of confidence in the modelling for this critical junction, and in

that context it is critical to commit the applicant to a scheme of monitoring for 5 years post-opening. This is an inevitable consequence of the intransigent and lackadaisical approach to microsimulation modelling of this key junction to date.

8. In light of the above and their previous submissions, the Parties still consider that the version of the Orsett Cock Requirement submitted at Deadline 6 [REP6-163] would be the best form of Requirement to deal with the issues at Orsett Cock (**Parties Deadline 6 Version**).
9. However, in an effort to try and narrow the gap between the Parties and the Applicant, the Parties have, without prejudice to the Parties Deadline 6 Version, focused here on improvements to the Applicant Preferred Version, to seek to suggest the best form of the Applicant Preferred Version.
10. This improved version of the Applicant Preferred Version (**APV Parties Version**) would be acceptable to the Parties if the Secretary of State does not accept the Parties Deadline 6 Version.
11. Appendix 1 to this Statement set out the Parties' mark-up of the Applicant Preferred Version. Appendix 2 sets out the APV Parties Version in clean, accepting that mark-up.
12. The APV Parties Version has drafted the provisions dealing with Issue 3 in such a way that if the Secretary of State considers that the Applicant's approach to post-opening monitoring and mitigation is preferred, those provisions can be removed without affecting the drafting of the rest of the APV Parties Version. These provisions are highlighted in yellow.

Appendix 1

Mark up of Applicant Preferred Version

Operation of the Orsett Cock ~~roundabout~~interchange

1. —(1) No part of Work No. 7F is to commence until a scheme for the Orsett Cock ~~roundabout~~interchange has been submitted to and approved in writing by the Secretary of State, following consultation by the undertaker with the Orsett Cock consultees. ~~the relevant highway authority, the Port of Tilbury London Limited, DP World London Gateway and Thames Enterprise Park~~

(2) The scheme submitted under sub-paragraph (1) must—

(a) be based on, and informed by—

- (i) appropriate pre-construction monitoring data following the consultation required under sub-paragraph (3); and
- (ii) an assessment, which must include microsimulation and may include strategic modelling, of the ~~likely traffic impacts on ability of~~ the Orsett Cock ~~roundabout interchange arising from the authorised development to meet the objectives~~ during the operation of the authorised development; and

(b) include details, and a programme for the implementation, of—

- (i) the proposed design, and construction of improvements to the Orsett Cock ~~roundabout~~interchange; and
- (ii) any measures as may be that are reasonably necessary to ensure that the objectives are met; and

(c) include details of a programme for post-opening monitoring which monitors the extent to which the scheme approved under sub-paragraph (1) meets the objectives (“the monitoring programme”).

(aa) ~~minimise delays for traffic arising as a result of the operation of the authorised development;~~
~~and~~

(bb) ~~ensure and optimise the performance of the Orsett Cock roundabout.~~

(3) The undertaker must consult the relevant highway authority on the methodology proposed for monitoring under sub-paragraph (2)(a)(i), and such consultation must include details of the proposed—

(a) locations to be monitored;

(b) time periods to be monitored; and

(c) method by which the monitoring data will be collected.

(4) The undertaker must consult the relevant highway authority on the modelling to be undertaken and submitted in accordance with sub-paragraph (2)(b) and such consultation must include the provision of the underlying modelling data, including the assumptions made and the reasons for those assumptions.

(5) The Orsett Cock ~~interchange~~roundabout must be included as a location for monitoring in the scheme submitted under paragraph 14 of this Schedule.

(6) The authorised development must be carried out in accordance with the approved ~~plan~~scheme referred to in sub-paragraph (1) and the undertaker must implement the monitoring programme forming part of that scheme.

(7) In considering a scheme submitted for approval under sub-paragraph (1), the Secretary of State must take into account—

(a) any representations provided pursuant to paragraph 22(1)(d) of this Schedule;

(b) any representations which the undertaker must have duly considered pursuant to paragraph 22(1)(c) of this Schedule but which are not reflected in the scheme submitted for approval; and

(c) whether the scheme submitted ~~ensures and optimises the performance of the Orsett Cock roundabout for approval gives effect to the objectives.~~

(8) Following the opening of the tunnel for public use, the undertaker must—

(a) implement the monitoring programme; and

(b) annually submit to the Secretary of State, following consultation with the Orsett Cock consultees, a report setting out the results of the monitoring programme for the preceding year.

(9) Following consideration of the report submitted under sub-paragraph (8), the Secretary of State may require the undertaker to submit to the Secretary of State for approval, following consultation by the undertaker with the Orsett Cock consultees, a scheme (including a programme for its implementation) setting out the measures which it considers are reasonably necessary in order to—

- (a) give effect to the objectives; or
- (b) any other objective or matter considered relevant to the Secretary of State.

(10) If the Secretary of State approves a scheme under sub-paragraph (9), the undertaker must—

- (a) implement, or secure the implementation of, those measures in accordance with that scheme; and
- (b) update the monitoring programme approved under sub-paragraph (2)(c).

(11) In this paragraph—, “ensure and optimise the performance” is to be construed to include improving reliable and efficient traffic journeys through the Orsett Cock roundabout having due regard to avoiding impacts on Orsett Village, journeys from the Port of Tilbury and London Gateway port to the strategic road network and the importance of the Orsett Cock roundabout for port operations.

(a) “the monitoring programme” means the programme approved under sub-paragraph (2)(c) or, if modified under sub-paragraph (10)(b), the programme as so modified;

(b) “the objectives” means—

- (i) the avoidance of significant adverse impacts to Orsett village;
- (ii) the minimisation of traffic delays on the wider Orsett Cock interchange;
- (iii) the avoidance of significant highway safety issues, including the provision for and safe and efficient passage of movement for cyclists and pedestrians; and
- (iv) the maintenance of efficient traffic flows to and from the Port of Tilbury and London Gateway port via the A13 (including the Manorway junction) having regard to their reasonable operational requirements and their need to maintain operating efficiency;

(c) “the Orsett Cock consultees” means the relevant highway authority, Port of Tilbury London Limited, DP World London Gateway and Thames Enterprise Park; and

(d) “the Orsett Cock interchange” means

- (i) the Orsett Cock roundabout at the intersection of the A13, A1089 and A1013; and
- (ii) the existing highways and those parts of the authorised development that will fall within the limits of deviation of Work No. 7.

Appendix 2

APV Parties Version

Operation of the Orsett Cock interchange

1. —(1) No part of Work No. 7 is to commence until a scheme for the Orsett Cock interchange has been submitted to and approved in writing by the Secretary of State, following consultation by the undertaker with the Orsett Cock consultees.

(2) The scheme submitted under sub-paragraph (1) must—

(a) be based on, and informed by—

- (i) appropriate pre-construction monitoring data following the consultation required under sub-paragraph (3); and
- (ii) an assessment, which must include microsimulation and may include strategic modelling, of the ability of the Orsett Cock interchange to meet the objectives during the operation of the authorised development; and

(b) include details, and a programme for the implementation, of—

- (i) the proposed design, and construction of improvements to the Orsett Cock interchange; and
- (ii) any measures that are reasonably necessary to ensure that the objectives are met; and

(c) include details of a programme for post-opening monitoring which monitors the extent to which the scheme approved under sub-paragraph (1) meets the objectives (“the monitoring programme”).

(3) The undertaker must consult the relevant highway authority on the methodology proposed for monitoring under sub-paragraph (2)(a)(i), and such consultation must include details of the proposed—

- (a) locations to be monitored;
- (b) time periods to be monitored; and
- (c) method by which the monitoring data will be collected.

(4) The undertaker must consult the relevant highway authority on the modelling to be undertaken and submitted in accordance with sub-paragraph (2)(b) and such consultation must include the provision of the underlying modelling data, including the assumptions made and the reasons for those assumptions.

(5) The Orsett Cock interchange must be included as a location for monitoring in the scheme submitted under paragraph 14 of this Schedule.

(6) The authorised development must be carried out in accordance with the approved scheme referred to in sub-paragraph (1) and the undertaker must implement the monitoring programme forming part of that scheme.

(7) In considering a scheme submitted for approval under sub-paragraph (1), the Secretary of State must take into account—

- (a) any representations provided pursuant to paragraph 22(1)(d) of this Schedule;
- (b) any representations which the undertaker must have duly considered pursuant to paragraph 22(1)(c) of this Schedule but which are not reflected in the scheme submitted for approval; and
- (c) whether the scheme submitted for approval gives effect to the objectives.

(8) Following the opening of the tunnel for public use, the undertaker must—

- (a) implement the monitoring programme; and
- (b) annually submit to the Secretary of State, following consultation with the Orsett Cock consultees, a report setting out the results of the monitoring programme for the preceding year.

(9) Following consideration of the report submitted under sub-paragraph (8), the Secretary of State may require the undertaker to submit to the Secretary of State for approval, following consultation by the undertaker with the Orsett Cock consultees, a scheme (including a programme for its implementation) setting out the measures which it considers are reasonably necessary in order to—

- (a) give effect to the objectives; or
- (b) any other objective or matter considered relevant to the Secretary of State.

(10) If the Secretary of State approves a scheme under sub-paragraph (9), the undertaker must—

- (a) implement, or secure the implementation of, those measures in accordance with that scheme; and
- (b) update the monitoring programme approved under sub-paragraph (2)(c).

(11) In this paragraph—

- (a) “the monitoring programme” means the programme put forward under sub-paragraph (2)(c) or, if modified under sub-paragraph (10)(b), the programme as so modified;
- (b) “the objectives” means—
 - (i) the avoidance of significant adverse impacts to Orsett village;
 - (ii) the minimisation of traffic delays on the wider Orsett Cock interchange;
 - (iii) the avoidance of significant highway safety issues, including the provision for and safe and efficient passage of movement for cyclists and pedestrians; and
 - (iv) the maintenance of efficient traffic flows to and from the Port of Tilbury and London Gateway port via the A13 (including the Manorway junction) having regard to their reasonable operational requirements and their need to maintain operating efficiency;
- (c) “the Orsett Cock consultees” means the relevant highway authority, Port of Tilbury London Limited, DP World London Gateway and Thames Enterprise Park; and
- (d) “the Orsett Cock interchange” means—
 - (i) the Orsett Cock roundabout at the intersection of the A13, A1089 and A1013; and
 - (ii) the existing highways and those parts of the authorised development that will fall within the limits of deviation of Work No. 7.

Thurrock Council Comments on Applicant's Submissions at Deadline 7 (D7) and Deadline 8 (D8) –
Appendix D: Updated Joint Position Statement on Orsett Cock Interchange Requirement
Lower Thames Crossing
