

Lower Thames Crossing

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9)

15 December 2023

Thurrock Council

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Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9)
Lower Thames Crossing

Document Control Sheet

Project Name: Lower Thames Crossing

Report Title: Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9)

Doc Ref: FINAL

Date: 15 December 2023

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Executive Summary

Section 1 – Introduction

1. This Deadline 9A submission responds to the applicant's Deadline 9 documents made available on 11 December 2023, whether new or in track 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:** since the Council's D9 submission there have been minor additions and changes to the SoCG, which has affected the overall total of issues slightly, but overall, there remain approximately 70% of all issues as 'Matters Not Agreed'. The jointly signed version will contain the exact numbers of issues in the two remaining categories.
4. **Summary of Council's Major Concerns:** since Deadline 7 the Council has finalised the Section 106 Agreement with the applicant. This leaves the Council with 19 major concerns with the scheme. To help provide a clear summary of the Council's major concerns and aid the ExA in understanding these concerns three figures are provided which show: how the seven objectives for LTC are not achieved; a simple summary of 19 concerns; and an overall summary provided in a style accessible to a non-technical reader.
5. **Further Commentary on Economic Appraisal:** the Council provides further commentary to its previous comments on the economic appraisal and in particular requests that the ExA formally states whether it considers that sufficient evidence has been provided to deliver the confidence essential to the answer the three 'key questions' specified in the Department for Transport's Transport Appraisal Guidance on Uncertainty (in terms of both Value for Money and effectiveness under 'high demand assumptions', 'low demand assumptions' and a 'wide range of possible futures').
6. The Council considers that the ExA should find that insufficient evidence has been provided by the applicant and therefore the application is not in compliance with TAG, because the applicant has declined to submit evidence on these matters relating to Uncertainty to the Examination. The applicant proposes to do so only as advice to the Secretary of State after the proposed project is approved. This denies the ExA and Interested Parties the opportunity to consider, scrutinise or challenge the evidence. This lack of transparency is wholly inappropriate and has prevented the ability of the Examination process to properly consider the application. It also means that important and relevant considerations are being withheld from the Examination and accordingly, it is not possible for a lawful decision to be taken, since at present these matters are not in Examination evidence.
7. This approach and the Council's analysis of the evidence that has been submitted means that the ExA does not have sufficient evidence necessary to make a determination of the application.

Section 2 – Control Documents Changes at D9 (Final Documents)

8. **Code of Construction Practice, First Iteration of Environmental Management Plan (CoCP and REAC) (v9):** no changes of consequence have been made and the Council's residual concerns with the robustness of the CoCP remain unresolved.

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9. **Outline Traffic Management Plan for Construction (oTMPfC) (v9):** no changes of consequence have been made and the Council's residual concerns with the robustness of the oTMPfC remain unresolved.
10. **Framework Construction Travel Plan (FCTP) (v6):** no changes of consequence have been made and the Council's residual concerns with the robustness of the FCTP remain unresolved.
11. **Wider Network Impacts Management and Monitoring Plan (WNIMMP) (v2):** the applicant has made no changes of consequence to the WNIMMP and the Council's residual concerns with the WNIMMP and the overarching approach to wider network impact resolution remain unresolved.
12. **Outline Materials Handling Plan (oMHP) (v5):** the Council welcomes the additional wording relating to the potential use of marine transport, but continues to express its concern that the overarching framework of the oMHP is too narrow (i.e. concentrating only on imported bulk material and primarily aggregates), and with too much flexibility and too little control to represent a robust foundation for subsequent detailed MHPs or the governance of the construction process.
13. **Preliminary Works EMP (v4):** no changes of consequence have been made and the Council's residual concerns with the robustness of the PWEMP remain unresolved.
14. **Draft Archaeological Mitigation Strategy and Outline Written Scheme of Investigation (v6) (AMI-OWSI):** the draft mitigation strategy and Outline Written Scheme of Investigation has had a large amount of additional detail added at this late stage. Overall, the additions improve the document and in the case of the detailed maps within Annex D provide clarification on the agreed areas of mitigation. All of the additions have been discussed with the Local Authority advisors and are supported. It is disappointing that it is so late in the day these have been submitted.
15. **Stakeholder Actions and Commitments Register (SAC-R) (v7):** the applicant has added two additional commitments which are relevant to the Council. **SACR-027** offers to provide, on request, air quality and noise existing pre-construction baseline monitors to relevant local authorities, following completion of construction, that such monitors remain in situ. It assigns all costs, responsibilities and permissions associated with such equipment to the relevant local authorities but requires handover of all data and an explanation of the use of such data. This is a typically one-sided arrangement, and the Council will need to consider this 'so-called' 'commitment' further. **SACR-033** is in lieu of a legal agreement requested by the Council over 18 months ago and was briefly discussed with the Council over the last two weeks. In the Council's view this was not agreed with the Council, is unspecific regarding the nature and content of the programme and leaves all control with the applicant.
16. **Consents and Agreements Position Statement (v8):** there are a number of minor and other changes that are not of any significance to the Council.

Section 3 – Draft Development Consent Order Matters

17. The Council have raised various matters in relation to the dDCO. The Council is concerned that these have not been addressed by the applicant and as a result there is uncertainty about the impacts of the dDCO. The Council requests that the ExA considers our concerns and takes these into account when making recommendations in relation to LTC.
18. **Draft Development Consent Order Changes (v11) and Schedule of Changes (v9):** although the Council and other IPs have made many suggested improvements to the dDCO the applicant has made relatively few amendments to the dDCO. The amendment to Requirement 13 (Gammonfields) is agreed, but the Council disagrees with the applicant's version of Requirement 18 (Orsett Cock Junction). The Council's proposed Requirement sets out clear objectives, using language firmly rooted in the relevant applicable policy tests and provide a clear monitoring and decision-making framework and ought to be recommended as Requirement 18 to the Secretary of

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State. For Part 11 of Schedule 14, the Council endorses the joint response submitted by the LB Havering at D9A.

19. **Comments on Explanatory Memorandum Changes (v7):** the Council have reviewed the Explanatory Memorandum, and have no comments except to signpost the comments in the joint submission on Orsett Cock submitted at Deadline 9 ([REP9-299](#)) in Appendix D.
20. **Council Comments on Applicant's Comments on IPs Commentary on dDCO at D8:** the Council considers that the concerns of the Council have not been taken into account. The fact that responses to relatively simple requests, which are designed to allow all parties to better understand the impact of the dDCO, have not been addressed is concerning. The Council suggests that this uncertainty is taken into account when considering the impact of the dDCO and the amount of flexibility it is appropriate in any decision to grant the application.
21. The Council has expressed serious concerns regarding a number of the key documents (Requirements, Wider Network Impacts, Worker Accommodation), which underpin the application for LTC. The impact of this is that there is significant uncertainty about the level of impact caused by LTC, particularly on the local highway network. The Requirements proposed are a necessary way of increasing the confidence of all parties in the impacts of LTC. That the applicant either rejects the Requirements or seeks to weaken them is of concern, especially given the significant amount of flexibility already given to the applicant.

Section 4 – Land and Compulsory Acquisition Order Matters

22. **Statement of Reasons (v8):** the Council has indicated that the Schedule of Negotiations is deficient and/or inaccurate and, therefore, '*at best misleading*' (see paragraph 4.2.2 of Deadline 8 Submission - Comments on Applicant's submissions at Deadline 6A and Deadline ([REP8-166](#))). The applicant has, regrettably, failed to use its D9 submission to correct the deficiencies and inaccuracies and this needs to be addressed.
23. **Post Event Submissions:** the applicant has not acknowledged the Council's Deadline 8 submission let alone sought to address the concerns raised in relation to replacement Public Open Space at the Ron Evans Memorial Field.
24. **Status of Negotiations:** further to the Council's submission at Deadline 9, the Council has not heard further from the applicant.
25. **ExQ1 15.1.1 (v5):** the applicant continues to incorrectly assert that the Council objects to the Compulsory Acquisition of their interests. The Council is pleased to note that the applicant notes '*National Highways confirmed that these discussions can continue post close of Examination*'.
26. **ExQ1 15.1.3 (v5):** the Council's previous comments have not been addressed and still require a response. The Council notes that 12 Statutory Undertakers still have objections to the Order.
27. **ExQ1 15.1.4 (v3):** the updates provided by the applicant are not clear and the Council requires further details with a list of relevant Statutory Undertakers and their position on the dDCO. The Council notes that 12 Statutory Undertakers still have objections to the Order.
28. **Status of Negotiations with Statutory Undertakers (v5):** the Council notes that agreements between the applicant and 12 Statutory Undertakers are still to be reached.

Section 5 – Transport and Engineering Plans

29. No changes have been made to the Plans and therefore the Council has no further comments.

Section 6 – Environmental Matters

30. **Coalhouse Point Flood Risk Assessment:** the Council would like to understand if the proposed wetland levels will cause the existing ditch water levels to remain artificially high, preventing the normal discharge of the Lower Moat. The Council request the applicant to confirm impact on ditch water levels and assess if this could have a hydraulic impact to the Lower Moat ability to discharge.
31. **Terrestrial Biodiversity (v2):** it is noted that 'The Wilderness is now listed as an 'ancient woodland' and its significance has been amended as a result. What the applicant has not done is to apply the mitigation hierarchy whereby the first step should be to avoid harm. The Council has requested previously ([REP7-228](#)) in Section 8.3 that the applicant provide a detailed response to justify why the route has not been realigned to avoid the ancient woodland, when there appears to be scope to adjust the route slightly, so that it runs into the adjacent landfill site. On that basis the Council does not consider that the applicant has satisfactorily addressed NPSNN paragraph 5.3.2, justifying why the alignment that results in the destruction of the ancient woodland has been selected rather than the alternative.
32. **HEqIA Screening Template (v2):** there are a number of updates to the HEqIA Screening Template to reflect updated positions and also minor modifications. The Council continues to remain cautious concerning the approach to the relocation of Whitecroft Care Home. The HEqIA Screening Template has been updated relating to the funding of community engagement activities and this remains a 'Matter Not Agreed'. Furthermore, the Council understands that no agreement has been reached and only Heads of Terms have been presented to the owner by the applicant, which is reflected in the owner's D9 submission ([REP9-316](#)).

Section 7 – Planning and Policy Matters

33. **Planning Statement (v2): Whitecroft Care Home:** the additional text provided by the applicant is disputed as is the assertion that this would result in not materially affecting the provision of care home bedspaces, as there is currently no guarantee that the replacement facility would be within the borough of Thurrock. Additionally, the response does not set out how the temporary removal of bedspaces will be mitigated or set out contingency plans if the planning permission referenced does not get approved – also refer to paragraph 32 above.
34. **Wider Network Impacts:** the Council continues to contest that the applicant's approach to assessing, analysing and mitigating wider network impacts is not compliant with either the current or draft NPSNN. The severe design shortcomings of the interface between LTC and the Council's Orsett Cock Junction have been widely aired at the Examination and the applicant has finally accepted that the resolution of this shortcoming must be achieved, prior to the construction of the scheme and is not a wider network impact, albeit the Council and other Interested Parties are not able to agree to the applicant's proposed Requirement that deals with that resolution. This, however, does not address the wider network impacts on other junctions within Thurrock, including Manorway, Five Bells interchange, Marshfoot Road interchange, Devonshire Road and the Asda Roundabout.
35. **Local Plan:** the Council acknowledges that the Local Plan is at an early stage. However, LTC would have a major systemic impact on Local Plan future growth delivery and viability and indeed it is the uncertainty created by LTC that is in fact causing the Council's inability to progress more detailed plans at the present point in times. The Council has made previous submissions relating to Local Plan impacts.
36. **November 2023 Published Energy NPSs:** the applicant has provided comments on these new documents. However, regarding utilities NSIPs for the project, the applicant does still not appear to have taken on board the Council's comments in Sections 12.2.14 and 12.5.1 of the Council's LIR ([REP1-281](#)) and further information has still not been provided to allay the Council's concerns.

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37. **Planning Statement Appendix E: Green Belt (v2):** this document provides very limited new information, which is simply signposting other documents in the DCO application relating to 'any other harm' and does not provide any further changes to justify 'very special circumstances'. The lack of new information means there is no change in the Council's position on the applicant's inadequate Green Belt assessment of harm and on the applicant's lack of demonstration of 'very special circumstances'.
38. **Planning Statement Appendix C: Local Authority Policy Review (v2):** the applicant has provided an additional response at Deadline 9 regarding policy Thurrock Local Policy CSTP11 'Health Provision' and the proposed acquisition of Whitecroft Care Home. The Council continues to question the accuracy behind the applicant's claim that the potential replacement of the care bed spaces would result in a non-material effect on bed space provision, when the location of the replacement facility is not confirmed. In terms of the Local Plan, the Council acknowledges that the Local Plan is at an early stage, however, LTC would have a significant impact on Local Plan future growth delivery and viability and this remains a concern for the Council.
39. **Planning Statement Appendix A: NPSNN Accordance Table (v2):** this document remains largely unchanged from the document submitted with the DCO application. As would be expected, the applicant continues to claim that it has suitably responded during the development of its proposals and during the Examination, to the requirements of those paragraphs in the NPSNN, as it similarly asserts it has responded to equivalent paragraphs within the draft NPSNN. The Council cannot agree with the applicant that it has suitably observed the requirements within NPSNN paragraphs 5.206 and 5.216. Both relate to the assessment of effects on the wider transport network and the need to respond to forecast negative effects. They require the applicant to adequately assess the effects and to mitigate those negative impacts. The adequacy of the assessment of effects has been roundly questioned during the Examination and as a consequence there is little reliability in the forecasting of effects.
40. The Council is not adverse to adopting a monitor and manage approach, where there is an absence of certainty over the forecast impacts, however, that approach must have secured funding on which all affected bodies can draw as required. That approach or strategy is not before the Examination and is not secured through the DCO.
41. **Policy Accordance Assessment against draft NPSNN (v2): draft NPSNN Paragraph 2.24 – Carbon:** the applicant continues to fail to follow the basic principles of transparency set by the Paris Agreement and International Guidance on greenhouse gas (GHG) emission reporting in their assertions on the percentage impact of LTC and significance testing. Project compliance to the draft NPSNN should be based on the impact of the project on the strategic road network, not the national budget, to ensure a transparent approach to appraising significance of infrastructure.
42. **Draft NPSNN Paragraphs 4.4 and 4.9 – Requirements:** the applicant's view of the adequacy of certain Requirements is at variance with the Council and several key IPs that are directly affected by the outcomes of such Requirements.
43. **Draft NPSNN Paragraphs 5.266 and 5.280 – Wider Network Impacts:** the applicant seeks to assert that it has collaboratively engaged with the Council, other Local Authorities and Interested Parties during the development of its proposals. The Council entirely contests this assertion. Throughout the pre-submission process the applicant resolutely defended its proposals and was not prepared to take into consideration the judgement of harm to its local communities and its Local Road Network that the Council was raising. This is evident through the many matters that are not agreed between the parties within the final SoCG. The applicant has not entered 'discussions' on the transport impacts, which would imply collaboration, but has instead taken the stance of presenting its proposals with no intention of adaptation or resolution of effects.
44. The Council therefore is of the opinion that the applicant has not entered into 'discussions' on the transport impacts but has taken a stance of defence and refusal to acknowledge impacts.

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45. The applicant has therefore not 'taken reasonable steps to mitigate' the impacts of the proposals on 'surrounding transport infrastructure' and does not provide 'resilience on the wider network'. The Secretary of State should therefore note that the application is not compliant with paragraphs 5.266 and 5.280 of the draft NPSNN.
46. **Planning Statement Appendix B: Energy NPS Accordance Table (v2):** regarding utilities NSIPs for the project, the applicant does still not appear to have taken on board the Council's comments in Sections 12.2.14 and 12.5.1 of the Council's LIR ([REP1-281](#)) and further information has still not been provided to allay the Council's concerns. Since the utility diversions that have been determined as NSIPs are not associated development, the NSIPs should therefore be assessed separately, including having separate Environmental Statements and the need for separate utilities documents. In addition, here are a number of rather key, specific policy requirements that the applicant does not appear to have responded to or incorporated into the scheme.
47. **Council Comments on Applicant's Responses to ExA ISH12 Action Point 23 on new Energy NPSs:** the Council is in disagreement with the applicant's view that the Energy NSIPs are associated development, a subsidiary of LTC and as such the applicant should consider the new or amended policies, rather than imply that they are not relevant.

Section 8 – Council Comments on Applicant's Comments on IP Submissions at D8

48. **Approach to Transport Modelling:** the Council stands by its comments specifically related to the approach of the applicant to transport modelling. The simple fact that there is an unprecedented number of serious matters not agreed across all affected local authorities (including 216 issues for the Council in its SoCG) is testament to the wholly inadequate approach consistently adopted by the applicant.
49. The applicant could have, and should have, resolved transport modelling matters prior to its submission. It chose not to because it recognised that an admission of error on this matter would fundamentally undermine the integrity of the applicant.
50. This is not a simple disagreement on a small modelling matter as the applicant would prefer to portray. It is a structural crack in the foundations of the application, which has ramifications for the scheme and all technical work based on it.
51. The applicant could have brought Orsett Cock Junction into its jurisdiction as part of the LTC scheme. It chose not to. Instead, the applicant decided to make the Council responsible for the operation of a crucial part of its scheme.
52. The Council has a responsibility as Local Highway Authority to ensure it is not left with yet another legacy of traffic issues that will take decades of time and effort to resolve, as happened with the last Dartford Crossing.
53. **Asda Roundabout:** despite requests over many years from the Council, the applicant chose not to prepare any localised modelling of the construction period or operational impacts on the A1089/Asda Roundabout. The applicant then submitted a VISSIM model at Deadline 3 only for this modelling approach to be discarded at Deadline 6 and for ARCADY to be used.
54. The Council raised serious concerns with the applicant's ARCADY modelling in the Council's Comments on Applicant's Submissions at Deadline D6A and D7 ([REP8-166](#)). Despite the absence of validity or adequacy of the applicant's modelling, the applicant's assertion that its construction period control documents would mitigate these delays at the Asda roundabout junction are completely implausible. The applicant's models forecast delays of in excess of 900 seconds (15 minutes). The construction period controls are not adequate to mitigate that level of

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delay, however, effective the applicant believes its controls will be. It is therefore not appropriate that the applicant dismisses the need for further mitigation at this junction to mitigate impacts during the construction phase.

55. **VISSIM Model Parameters:** the parameters should be consistent between Do Minimum and Do Something models and there is no justified reason why the applicant has made changes between model scenarios. This artificially skews results and disguises the true impacts of LTC. The applicant has without justification made the future year models work better and moved significantly away from a validated base model.
56. **Comments on VISSIM Video:** the Council has provided a robust method for preparing the videos of the VISSIM models. The applicant's approach to calculating queues in VISSIM model results is incorrect, as previously highlighted by the Council. The applicant's approach significantly underreports queue lengths.

1 Introduction

- 1.1.1 This Deadline 9A submission responds to the applicant's Deadline 9 documents made available on 11 December 2023, whether new or in track changes. Some submitted documents do not require Council comments and so do not form part of this submission.
- 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 316 submissions at D9 and of that total the applicant made 279 submissions at D9 of which 134 were in track changes (and hence 134 clean versions were not reviewed) and the remainder were new documents or there were many documents that did not require Council review. Consequently, an overall total of just 131 track changed and relevant new documents that have been assessed within this submission, to determine if the Council needed to comment.
- 1.1.4 It should be noted that despite there being both tracked changed and clean versions of the various plans, the applicant confirmed to the Council on 14 December 2023 that *'We can confirm that all of our plans submitted at D9 had no changes from previous submission so no revision clouds needed'*. It is puzzling to understand why both versions were necessary to be submitted at D9 when there are no changes?
- 1.1.5 The Council considers it important to note that only a very short timescale has been provided for the review of these documents between their receipt on 12 December 2023 and the finalisation of this document on 15 December 2023.

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 D9 (Final Documents)
 - b. Draft Development Consent Order Matters
 - c. Land and Compulsory Acquisition Matters
 - d. Transport and Engineering Plans
 - e. Environmental Matters
 - f. Planning and Policy Matters
 - g. Council Comments on Applicant's Comments on IP Submissions at D8

SoCG Update Progress

- 1.2.2 Since the Council's D9 submission there have been minor additions and changes to the SoCG, which has affected the overall total of issues slightly, but overall, there remain approximately 70% of all issues as 'Matters Not Agreed'. The jointly signed version will contain the exact numbers of issues in the two remaining categories.

1.3 Summary of Council's Major Concerns

- 1.3.1 The Council provided a summary of the Council's 20 major concerns in Section 2 of the Council's Deadline 7 submission ([REP7-228](#)). Since that submission the Council has finalised the Section 106 Agreement with the applicant. This leaves the Council with 19 major concerns with the scheme.
- 1.3.2 The Council is aware that there have been multiple documents and analyses provided to the Examining Authority and so the Council has prepared **Figure 1.1**, **Figure 1.2** and **Figure 1.3** to help provide a clear summary of the Council's major concerns and aid the ExA in understanding these concerns.
- 1.3.3 **Figure 1.1** provides a summary of the Council's assessment of how LTC meets the stated objectives for the scheme. This is based on the analysis provided in the Council's Local Impact Report ([REP1-281](#)) together with updates provided through further information provided during the Examination.
- 1.3.4 **Figure 1.2** provides a summary of the Council's 19 major concerns summarised in Section 2 of the Council's Deadline 7 submission ([REP7-228](#)).
- 1.3.5 **Figure 1.3** provides a further high-level summary of the Council's assessment drawing out the key issues in an accessible way. The Council considers that this style of presentation is useful in explaining the impacts of the scheme to a non-technical audience.

1.4 Further Commentary on Economic Appraisal

- 1.4.1 The Council provides the following further commentary to its previous comments on the economic appraisal of the scheme provided in Sections 5.1.15 to 5.5.33 of the Council's Deadline 9 submission ([REP9-299](#)) and Section 9.3 of the Council's Deadline 8 submission ([REP8-166](#)).
- 1.4.2 The Council requests that the ExA formally states whether it considers that sufficient evidence has been provided to deliver the confidence essential to the answer the three 'key questions' specified in the Department for Transport's Transport Appraisal Guidance (TAG) on Uncertainty (in terms of both Value for Money and effectiveness under 'high demand assumptions', 'low demand assumptions' and a 'wide range of possible futures').
- 1.4.3 These Council has set out these requirements in Section 9.3.23 of the Council's Deadline 8 submission ([REP8-166](#)).
- 1.4.4 The Council considers that the ExA should find that insufficient evidence has been provided by the applicant and therefore the application is not in compliance with TAG.
- 1.4.5 This is because the applicant has declined to submit evidence on these matters relating to Uncertainty to the Examination. The applicant proposes to do so only as advice to the Secretary of State after the proposed project is approved. This is a deliberate action by the applicant intended to deny the ExA and Interested Parties the opportunity to consider, scrutinise or challenge the evidence. This lack of transparency is wholly inappropriate and has prevented the ability of the Examination process to properly consider the application. It also means that important and relevant considerations are being withheld from the Examination and accordingly, it is not possible for a lawful decision to be taken, since at present these matters are not in Examination evidence.
- 1.4.6 Submissions by the Council to the Examination have demonstrated that the applicant has prepared the information required to answer the three 'key questions' specified in the DFT's TAG on Uncertainty. Whilst the evidence clearly exists it is being unreasonably withheld by

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the applicant because it does not suit their narrative. Scrutiny of this evidence is specified by the DfT's TAG as a proper and essential matter throughout the Examination, including in the Outline Business Case.

- 1.4.7 Review of the information that the applicant has provided has shown that, prima facie, the answers to the three key questions relating to Uncertainty are negative (see Section 9.3.32 to 9.3.41 of the Council's Deadline 8 submission ([REP8-166](#))).
- 1.4.8 This analysis shows that ExA does not have sufficient evidence necessary to make a determination of the application.

Figure 1.1: Performance of LTC against Scheme Objectives

Lower Thames Crossing Objectives

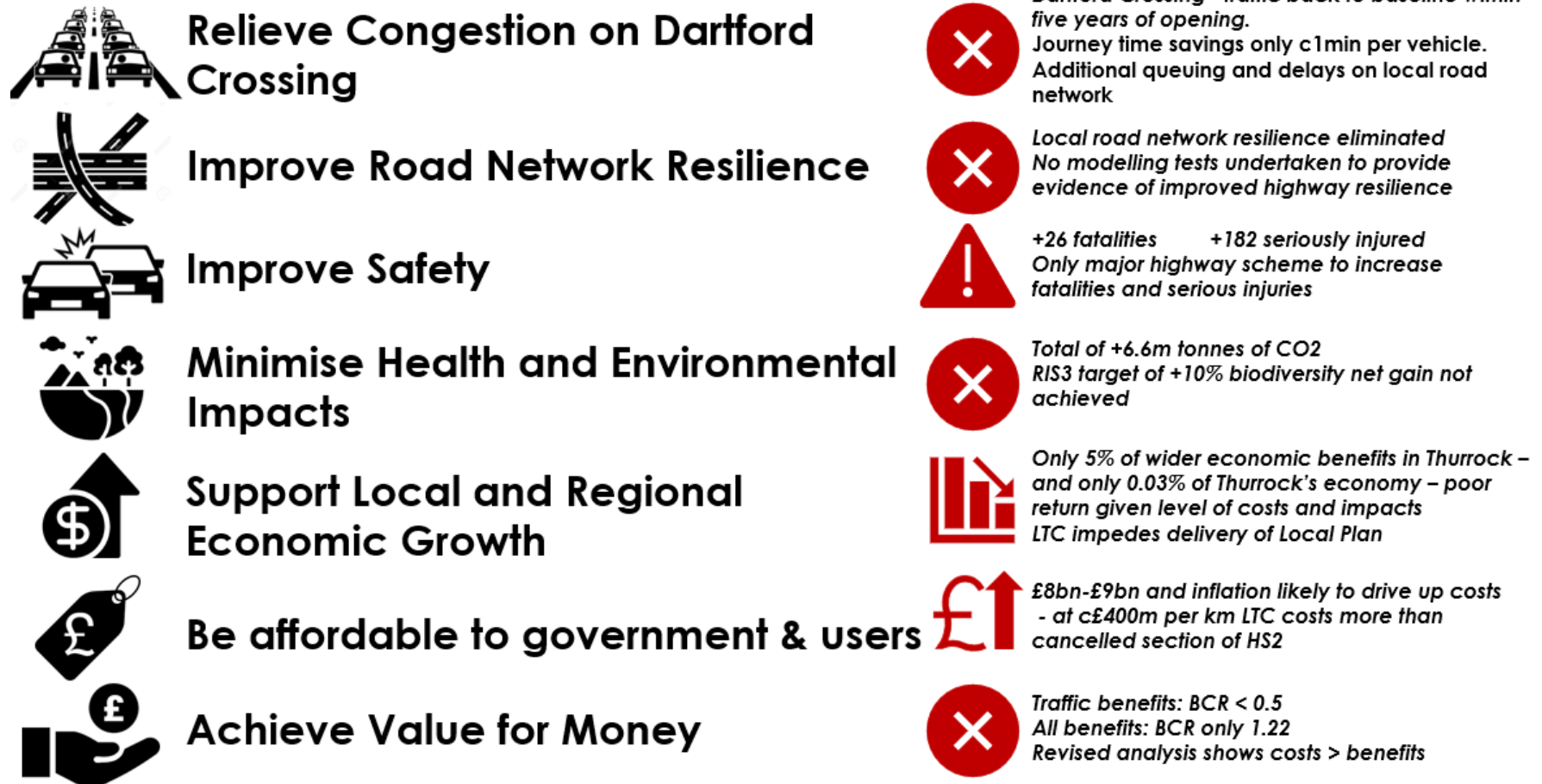





















Figure 1.2: Summary of Council's Major Concerns

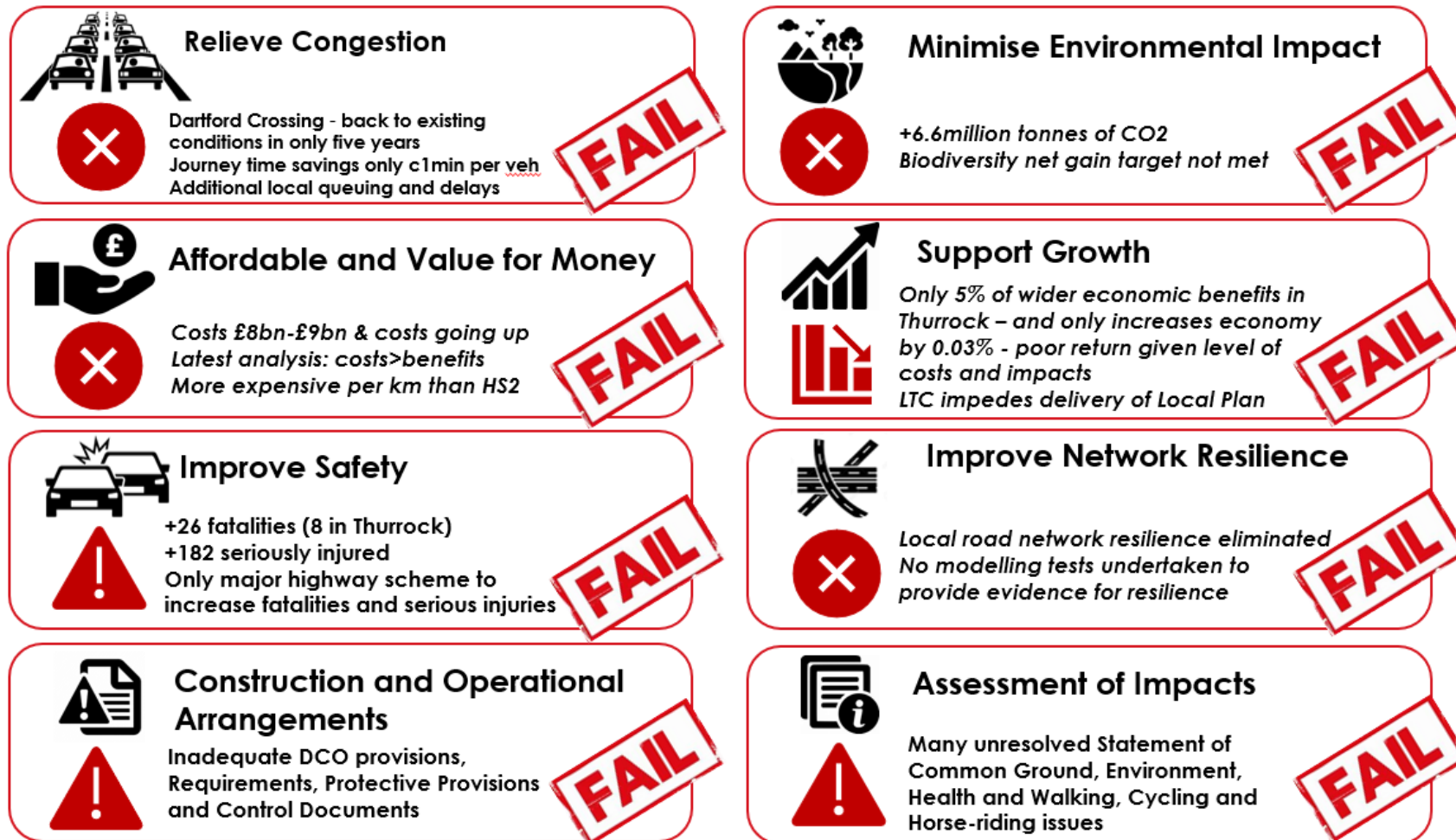
Summary of Thurrock Council's Major Concerns

Lack of Evidence/Missing Info:
e.g. transport modelling, Green Belt assessment etc

-  A. Remaining DCO drafting issues
-  B. Land, Compulsory Acquisition and Statement of Reasons issues
-  C. Need for LTC and so-called 'relief' to Dartford Crossing
-  D. Issues with almost all localised traffic models
-  E. Unresolved Wider Network Impacts
-  F. Disbenefits of the scheme, low BCR and not meeting seven scheme objectives
-  G. Requirements and collective Protective Provisions not agreed
-  H. Inadequate control documents
-  I. Environmental issues: road drainage; water; geology; soils; waste; landscape; climate; policy compliance
-  J. Significant negative air quality and noise impacts
-  K. HEqIA and specific health issues
-  L. Inadequate SEE Strategy and unambitious targets
-  M. Unclear Walking, Cycle and Horse-riding related closures/diversions and mitigations
-  N. Utility plans and impacts – lack of clarity and inadequate assessment
-  O. Untested emerging Local Plan scenarios
-  P. Statement of Common Ground - 216 issues 'Not Agreed'
-  Q. Inadequate legacy provision
-  R. Lack of consideration for alternative modes and layout
-  S. Inadequate provision and involvement of emergency services

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Figure 1.3: High-level Summary of Council's Scheme Assessment



2 Control Document Changes at D9 (Final Documents)

2.1 Introduction

2.1.1 This section covers, as necessary, the Council's comments made to the applicant's 14 updated Control documents for the scheme (within its D8 submission), as set out below. Although the 14 documents were submitted very few contained any changes of any consequence or none at all. 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 and REAC) (v9) (REP9-185)

2.2.1 The applicant has made no changes to the CoCP and REAC of consequence to the Council. The Council's residual concerns with the robustness of the CoCP remain unresolved. Those concerns are set out in response to the ExA Q1 Q4.6.4 ([REP4-353](#)).

2.3 Outline Traffic Management Plan for Construction (oTMPfC) (v9) (REP9-236)

2.3.1 The applicant has made no changes of consequence to the oTMPfC. The Council's residual concerns with the robustness of the oTMPfC therefore remain unresolved. Those concerns are set out in response to the ExA Q1 Q4.6.4 ([REP4-353](#)).

2.4 Framework Construction Travel Plan (FCTP) (v6) (REP9-234)

2.4.1 The applicant has made no changes of consequence to the FCTP. The Council's residual concerns with the robustness of the FCTP therefore remain unresolved. Those concerns are set out in response to the ExA Q1 Q4.6.4 ([REP4-353](#)).

2.5 Wider Network Impacts Management and Monitoring Plan WNIMMP) (v2) (REP9-232)

2.5.1 The applicant has made no changes of consequence to the WNIMMP. The Council's residual concerns with the WNIMMP and the overarching approach to wider network impact resolution remain unresolved and are reported elsewhere in this document, such as Sections 7.2, 7.5 and 7.6 below.

2.6 Outline Materials Handling Plan (oMHP) (v5) (REP9-189)

2.6.1 The applicant has amended paragraph 8.3.3 of its oMHP to reflect that the Port of London Authority has proposed that the wording for assessment of the prospect to use marine transport is 'environmentally equivalent or better'. The wording in that and other paragraphs, however, retains caveats and flexible wording that undermines the strengthening of the additional wording.

2.6.2 The Council therefore welcomes the addition of that wording, but continues to express its concern that the overarching framework of the oMHP is too narrow (i.e. concentrating only on imported bulk material and primarily aggregates) and with too much flexibility and too little

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control to represent a robust foundation for subsequent detailed MHPs or the governance of the construction process.

- 2.6.3 This view has been aired through the Examination, including in the Council's LIR ([REP1-281](#)) Section 15, various other written evidence and at hearings such as during ISH12 and ISH14 (reported at [REP8-167](#)). The detail concerns are set out in response to the ExA Q1 Q4.6.4 ([REP4-353](#)).

2.7 Preliminary Works EMP (v4) (REP9-191)

- 2.7.1 The applicant has made no changes to the PWEMP of relevance to the Council. The Council's residual concerns with the absence of clarity of definition between Preliminary Works at advance compounds and associated utilities works and those work which must be included within site establishment and mobilisation for the works compounds remain unresolved. The significant scale of site establishment and mobilisation works must be covered by detailed control documents including EMP2 (including the construction logistics planning), TMP, MHP, SWMP and SSTP.

2.8 Draft Archaeological Mitigation Strategy and Outline Written Scheme of Investigation (v6) (AMI-OWSI) (REP9-198) and Figures 6.1 (3no.) (REP9-153, REP9-155 – REP9-157)

- 2.8.1 The draft mitigation strategy and Outline Written Scheme of Investigation has had a large amount of additional detail added at this late stage. The main addition is Annex D, which provides details and a location map of each of the mitigation areas.
- 2.8.2 Within paragraph 6.4.2 the number of listed buildings that are potentially impacted have significantly increased from 11 to 60 across the scheme. This has stemmed from the recent discussion on the potential of vibration damage to designated and non-designated heritage assets. The applicant's specialists have discussed with the local authority advisors the criteria used for this and agreed the buildings to be included.
- 2.8.3 Tables 9.4 and 9.5, which provide lists of the designated and non-designated heritage assets potentially affected by vibration, have been inserted. As per paragraph 6.4.14, it is expected that the buildings listed in the tables will have condition surveys completed before the relevant aspect of the work begins. These condition surveys will provide an appropriate baseline from which any potential vibration impacts can be identified and managed.
- 2.8.4 Throughout the document there is increased references to the consultation of Historic England and their science advisors during the mitigation phases of the project. This will add support and guidance available to the heritage contractors undertaking the mitigation.
- 2.8.5 Annex C, Palaeolithic Written Scheme of Investigation, has been updated from the previous version with comments from the Local Authority Advisors and Historic England addressed. This has provided more detailed information that was missing from the previous version, which first appeared at Deadline 7.
- 2.8.6 Annex D is a new addition to this iteration of the OWSI comprising detailed plans, description, scheme impact and mitigation of each of the proposed pieces of archaeological work being proposed as mitigation. Part D 3 relates to the 154 areas of archaeological interest in Thurrock. This information adds to the detail of the OWSI and is supported.
- 2.8.7 Overall, the additions improve the document and in the case of the detailed maps within Annex D provide clarification on the agreed areas of mitigation. All of the additions have been discussed with the Local Authority advisors and are supported. It is disappointing that it so late in the day these have been submitted.

2.9 Stakeholder Actions and Commitments Register (SAC-R) (v7) (REP9-242)

- 2.9.1 It is noted that there have been no changes to Parts 2 and 3 dealing with the SEE Strategy and Community Fund and therefore the Council's comments set out in its D8 submission ([REP8-166](#)) in Section 2.11 and in earlier submissions as noted in the Council's D7 submission ([REP7-228](#)) in Section 2.13.
- 2.9.2 Within Part 1 it is notable, even at this late stage, that an additional 9 commitments (SACR-025 – SACR-033, have been added. However, only two are relevant to the Council and commentary on each is set out below.
- 2.9.3 **SACR-027** – this offers to provide, on request, air quality and noise existing pre-construction baseline monitors to relevant local authorities, following completion of construction, that such monitors remain in situ. Although this was discussed with the Council some six months ago, it is a surprise to see this commitment appear now without further discussion. It assigns all costs, responsibilities and permissions associated with such equipment to the relevant local authorities but requires handover of all data and an explanation of the use of such data. This is a typically one-sided arrangement, and the Council will need to consider this so-called 'commitment' further.
- 2.9.4 **SACR-033** – this commitment is in lieu of a legal agreement requested by the Council over 18 months ago (and set out in the Council's previous submissions, such as D9 in Section 4 ([REP9-299](#)) and D8 ([REP8-166](#)) in Section 4.8 and was briefly discussed with the Council over the last two weeks. In the Council's view this was not agreed with the Council, is unspecific regarding the nature and content of the programme and leaves all control with the applicant.

2.10 Consents and Agreements Position Statement (v8) (REP9-112)

- 2.10.1 There are a number of minor and other changes that are not of any significance to the Council, although it does note that the S106 Agreement has been agreed with the Council.

3 Draft Development Consent Order Matters

3.1 Introduction

- 3.1.1 The Council have raised various matters in relation to the dDCO. The Council is concerned that these have not been addressed by the applicant and as a result there is uncertainty about the impacts of the dDCO.
- 3.1.2 The Council requests that the Examining Authority considers our concerns and takes these into account when making recommendations in relation to LTC.

3.2 Draft Development Consent Order Changes (v11) and Schedule of Changes (v9) (REP9-108 and REP9-251)

- 3.2.1 The applicant has submitted an updated DCO (v11) at Deadline 9, and its accompanying Schedule of Changes (v9). The Council has reviewed these documents and notes, as a general point, that considering the considerable volume of suggested improvements from the Council and other Interested Parties, the applicant has made relatively few amendments to the dDCO.
- 3.2.2 On the amendments that the applicant has made the Council as the following comments:
- a. The amendment to Requirement 13 (Gammonfields) is agreed.
 - b. In relation to Requirement 18 (Orsett Cock Junction) the Council's position is set out in the joint submission between PoTLL, DP World, TEP and the Council ([REP9-299](#)), Appendix D). The Council disagrees with the statement from the applicant that the wording proposed by the applicant 'has clear parameters when considering the scheme submitted'. This is not the case, as it is unclear what the objectives of the scheme are, except to 'ensure and optimise the performance' of the Orsett Cock Junction. The Requirement needs a process whereby the Secretary of State considers representations as to the objectives of the improvements and then representations on how best to achieve those objectives. This is proportionate and reasonable and does not try to set the objectives at this stage. It also needs to be clear that the applicant consults upon the monitoring to be undertaken. The Council's proposed requirement sets out clear objectives, using language firmly rooted in the relevant applicable policy tests, and provide a clear monitoring and decision-making framework and ought to be recommended as req.18 to the Secretary of State.
 - c. Part 11 of Schedule 14 sets out the Protective Provisions for Local Highway Authorities. The Council endorses the joint response submitted by the London Borough of Havering at D9A.

3.3 Comments on Explanatory Memorandum Changes (v7) (REP9-110)

- 3.3.1 The Council have reviewed the Explanatory Memorandum, and have no comments except to signpost the comments in the joint submission on Orsett Cock submitted at Deadline 9 ([REP9-299](#)) in Appendix D.

3.4 Council Comments on Applicant's Comments on IPs Commentary on dDCO at D8 (REP9-275)

Joint Submission on Local Highway Authority Protective Provisions

- 3.4.1 The Council supports the response submitted by the LB Havering in their Deadline 9 submissions. In particular, the Council wishes to emphasise that the Council has not 'acknowledged that many of the amendments sought were inappropriate'. The Council, along with the other local highway authorities, have sought to reach a compromise position in order to try and reduce the number of outstanding issues. The Council has been requesting a degree of flexibility from the applicant, so that an agreed position can be reached.
- 3.4.2 The Council also wishes to highlight its concerns about local operating agreements, and the refusal by the applicant to use best endeavours to agree one. One of the primary concerns about LTC is the impact that it will have on the local road network. The Council has raised concerns regarding disapplication of key parts of its permitting powers (for works on the local highway network) and to a large extent is reliant on an effective local operating agreement being in place. The Council is concerned about the approach being taken by the applicant. The applicant states that the change is 'unacceptable and has the potential to introduce significant delays to be delivered with the Project and runs a serious risk of cutting across the Applicant's licence obligations to ensure value for money'.
- 3.4.3 The applicant provides no reasons why having a best endeavours obligation would have the results it suggests. It is plainly reasonable that the applicant should be required to make every effort to enter into the local operating agreement; only frustrated by reasons outside of its control. The Council is also a public body, which is required to act to ensure that the local highways network works effectively both for the applicant when undertaking LTC and other road users.

Unanswered Queries

- 3.4.4 In its Deadline 7 ([REP7-228](#)), Deadline 8 ([REP8-166](#)) and Deadline 9 ([REP9-299](#)) submissions the Council raises a number of concerns. The applicant has decided not to engage with these concerns and instead signpost back to submissions which 'it considers addresses the matters' (see paragraph 12 of [REP9-275](#)). The Council's queries are raised as a result of the responses received and accordingly it is not appropriate to simply signpost back to those earlier responses. However, this has been the position taken by the applicant.
- 3.4.5 The applicant invites the ExA to review the signposting to earlier responses and the Council also invites the ExA to do the same. The uncooperative and entrenched position adopted by the applicant concerns the Council, especially considering the significant flexibility given to the applicant should the DCO be granted in its current form.
- 3.4.6 The Council addresses the applicant's comments below:
- a. **Use of the term 'substantially in accordance with' in securing the Requirements.**
 The applicant is focused on whether use of this phrase is lawful. However, the Council's concern is how this works in practice, considering the uncertainty caused by securing what is already an outline document (for example the Outline Traffic Management Plan for Construction). The concern relates to what is actually being consented and the confidence in which the Council has in relation to how potential issues have been resolved.
 - b. The need for **passive provision for the Tilbury Link Road (Requirement 17)** was commented on by the Council on its joint submission with PoTLL, DP World and TEP ([REP8-166](#) on page 190 in Appendix D). It was also commented on during ISH14 (see

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Council's comments in [REP8 –162](#)). The Council adopted during ISH14 an approach designed to enable agreement on this requirement, by accepting the wording suggested by the applicant, with one exception. The Council agrees that if certain specific criteria (see Requirement 17, paragraph 3(a)-(c)) are met then this gives sufficient certainty for the passive provision to be provided. However, absent these criteria being met, there is a balancing exercise to be undertaken between adequate provision for future growth in Thurrock, including the ports and the cost to the applicant.

The applicant suggests that it is the correct party to make the final decision on this, whereas the Council considers that the Secretary of State is much better placed due to the conflicted position that the applicant would be in, due to the need to balance potentially conflicting positions. This is something that the Secretary of State is experienced in doing and accordingly would be in the public interest. The Council therefore requests that the ExA adopts the wording agreed put forward by the PoTLL at Deadline 8 ([REP8-164](#), pages 5-6).

- c. The Council has put forward a joint submission at Deadline 9 with PoTLL, DP World, TEP ([REP9-299](#)) in Appendix D, which proposes **updated wording for Orsett Cock Junction in Requirement 18**. The Council remains concerned that the current wording suggested by the applicant is not sufficiently certain.
- d. The Council supports the **joint position statement being submitted by the LB Havering at Deadline 9A on the Protective Provisions** (Part 11 of Schedule 14).
- e. The Council is still of the opinion that it is best placed to be the **discharging authority in relation to a number of the Requirements**, for the reasons previously set out (see for example [REP1-281](#) pages 220,221, [REP1-295](#) page 40, and [REP4-352](#), page 334). The applicant's position is that the Secretary of State always wishes to be the discharging authority. The reference to the A66 project highlights that the Secretary of State has an open mind in relation to this, and therefore so should the applicant. The Council considers that the characteristics of LTC (for example the large percentage of the project within the area of two local highway authorities and the integral use of parts of the local highway network as part of LTC) mean that the applicant should consider more closely the Council's request to be the discharging authority for specific requirements.
- f. The arguments in relation to **'begin' and 'commence'** are well rehearsed (for example see [REP1-295](#) page 8, and [REP4-352](#), page 321). The Council understands the applicant's position (that it wants a material operation, even if it is part of the preliminary works, to preserve the DCO). This is a departure from usual practice and has been addressed by the Council at Deadline 9 ([REP9-299](#) on page 22). However, the effect is that it allows very little work to be done to preserve the DCO. The Council's position, and the position of the Court of Appeal in *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*, is that this is not desirable, because DCOs are more likely to be left 'on the stocks for years, inhibiting future development and placing landowners at potential risk of delayed compulsory purchases' (paragraph 10 of the Swansea case). The applicant has not responded to this point.
- g. In relation to **Article 6(3) (Limits of Deviation which potentially exceed the Order Limits)**, the applicant has again signposted back to previous submissions and asserts, without basis, that they address the Council's concerns. In summary, the applicant's position appears to be that a) there is precedent for their approach; b) CPO powers do not apply outside of the Order Limits; and c) the Secretary of State needs to approve the extension of the Limits of Deviation. The applicant has not responded to why it is not appropriate to limit this power to the Order Limits. The applicant has also not responded to the specific queries raised by the Council on the interpretation of 'materially new and materially different environmental effects in comparison with those reported in the environmental statement' (see [REP9-299](#)) in Section 3.6.3. These queries were raised in order to better understand how Article 6(3) (and Requirement 3) would work in practice.

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- h. The applicant states that they have specifically responded to the Council's questions on the meaning of 'materially new and materially different' on page 25 of [REP7-190](#). Their response on page 25 of [REP7-190](#) states:
- 'The Applicant considers the request for a definition of 'environmental effects' to reflect a failure to understand what has now become widely understood and utilised successfully in the context of DCOs and the Examining Authority is requested to give no weight to these representations.'*
- i. The Council submits that this does not respond to the questions raised by the Council and does not advance the understanding of the ExA or Secretary of State as to how Article 6(3) will operate in practice. This is typical of the responses that have been received from the applicant and it is frustrating that even at this late state the applicant is not trying to work productively with the Council to narrow areas of dispute. This dismissive position to the valid concerns of another public body is not in the public interest (the delivery of LTC in a cost efficient manner is not the only public interest which needs to be considered).
- j. In relation to **Requirement 3, the Council has similar concerns as in relation to Article 6(3)** (see page 29 of [REP8-166](#)). These are primarily uncertainty regarding whether the non-material amendment procedure would be more appropriate, the meaning of 'materially new and materially different environmental effects in comparison with those reported in the environmental statement'. Whilst the applicant has responded to this, it is the Council's position that the fact that this is approved by the Secretary of State does not address the Council's concerns. The Council is concerned about the less defined consultation and publication requirements.
- k. The Council has raised at [REP9-299](#) on page 63 and in response to the ExA's comments on the DCO ([REP8-166](#) – Appendix A) **concerns regarding specific documents**. It is a response to these specific queries that the Council is requesting. It is unclear why the applicant is unwilling to address them.
- l. In relation to a **new Requirement on Air Quality**, please see Council comments below.

Rationalisation of Concerns

- 3.4.7 Appendix B of [REP8-166](#) sets out the Council's rationalisation review. The Council was seeking to use this as an opportunity to highlight key areas of concern to allow these to be subject of further comments prior to the end of the Examination. Unfortunately, the applicant has not decided to take this opportunity and has decided to primarily signpost back to previous responses. Whilst the Council agrees with the use of signposting where appropriate, when the Council has indicated that this would benefit from further discussion it is concerning that this opportunity has largely not been taken.

Table 3.1: Rationalisation of Concerns

Matter	Comment
Discharging authority	Please see comments above.
Article 9 and Traffic Management Forum	The Council is concerned about the impact of LTC on its ability to manage the local highway network. Article 9 removes powers in relation to timing of works (even though this is usually a key part of the permitting process). The Council's discussions with the applicant have highlighted that the Traffic Management Forum will help ensure coordinated approach to different works being undertaken.

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Matter	Comment
	The Council's concern was what happens when proposed works by the applicant conflict with pre-authorise permits (which is not, as suggested by the applicant, an 'unparticularised' claim about the Traffic Management Forum. This does not appear to be dealt with in the responses provided. It is unclear why the applicant is not prepared to elaborate on this.
Article 35 – returned land	The Council agrees with wording inserted in relation to planning permission in Article 35(5), in response to the issue raised by the Council during ISH14.
Article 35 – notice period	It remains the Council position that this should be a more extensive notice period for taking temporary possession of land. As noted by the applicant, it is agreed that there has been the opportunity for landowners to take part in the Examination process. The Council also agree that if approved, LTC should be delivered expeditiously. However, it is unclear why the Council's proposal is not consistent with the expeditious delivery of LTC. It is designed to manage the expectations of landowners and allow them to plan to minimise the financial impact, and therefore minimise the compensation paid from the public purse.
EMP3 – consultation and approval	The applicant has not engaged with our comments on this issue. Their primary position appears to be that their approach is precedented. However, as mentioned previously, the fact that an approach is precedented, does not mean that it has to be followed. The Council considers that its approach would be beneficial. As demonstrated by the comments on the A66 Northern Trans-Pennine Project, the Secretary of State has an open mind in relation to this, therefore it is appropriate for the applicant also to have an open mind.

- 3.4.8 The applicant notes that much of what has been submitted has been duplicated from other submissions. Whilst the Council does not want to create duplication, the Council is also concerned that the applicant has not engaged in many of the points raised. It is this failure to engage which causes the Council concern, both in relation to ensuring that all the relevant information is available to the ExA and in subsequent working with the applicant, if the LTC DCO is granted.
- 3.4.9 Many of the provisions within the dDCO give significant discretion to the applicant, and the Council is concerned that without the necessary checks and balances (which the applicant refers to as 'processes and administrative burdens'), there are going to be avoidable negative impacts on residents, both during construction and operation.
- 3.4.10 To state that the Council's proposals 'present a material risk' not only LTC, but UK infrastructure generally is plainly false (and is not supported by any evidence provided by the applicant). The Council is genuinely confused as to why the applicant has repeatedly refused to answer questions about how the processes will work in practice (for example, Article 6(3) and how conflicts are resolved in permitting). LTC is a major project, that has the ability to have significant impacts for many decades to come (it could take over a decade to construct).

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Balancing the anticipated benefits of the scheme (which the Council is concerned about) against the likely harm is an important part of the role of the Examining Authority.

- 3.4.11 This is made significantly more difficult by the flexibility requested by the applicant, as the exact impacts are more difficult to quantify. So, to be in a position whereby the applicant is refusing to respond to questions as to how this will operate in practice create further uncertainty, which needs to be taken into account by the Examining Authority.

Responses to Comments on the ExA's Commentary on the dDCO

- 3.4.12 The Council has responded to the questions raised by the Examining Authority ([PD-047](#)) at Deadline 8 ([REP8-166](#)). At Deadline 9, the Council responded to the comments of the applicant at Deadline 8 on PD-047 ([REP9-299](#)). The Council now responds to the applicant's response to [REP8-166](#). This is set out in Appendix B. The Council has replicated the table produced by the applicant at [REP9-299](#) [doc number 3.213] and inserted its comments beneath each question. The signposts back to our earlier responses where necessary.
- 3.4.13 Overall, the Council still has numerous concerns, as set out in [REP8-166](#) and [REP9-299](#).
- 3.4.14 **In summary, the Council considers that the concerns of the Council have not been taken into account. The fact that responses to relatively simple requests, which are designed to allow all parties to better understand the impact of the dDCO is concerning. It is unclear why the applicant feels the need to close down discussion of this aspect. The Council suggest that this uncertainty is taken into account when considering the impact of the dDCO and the amount of flexibility it is appropriate to grant the applicant.**

3.5 Council Comments on Updated Requirements

- 3.5.1 The Council wishes to set out where its most recent position on various updated requirements can be found, so that the ExA can consider these in comparison with the versions submitted by the applicant.
- 3.5.2 It is positive that updated requirements in relation to Orsett Cock Junction and Passive Provision for Tilbury Link Road have been added. They were initially strongly resisted by the applicant, who has been slow to recognise the serious concerns that the Council and other interested parties have, in particular about the impact on the local highway network.
- 3.5.3 However, the requirements proposed still require additional improvements. The 'Parties' have moved as much as possible to work with the drafting proposed by the applicant, in order to make it easier for the ExA to see the differences and evaluate our concerns.

Requirement 18 – Orsett Cock Junctions

- 3.5.4 The Council submitted a joint response with the Port of Tilbury London Limited, DP World and the Thames Enterprise Park ([REP8-166](#), page 190) and an updated provision for Orsett Cock Junction at [REP9-299](#) in Appendix D. [REP8-166](#) has been responded to by the applicant at [REP9-275](#)).
- 3.5.5 The Council requests the ExA to prefer the wording jointed submitted by the Port of Tilbury London Limited, DP World and the Thames Enterprise Park ([REP9-299](#)) in Appendix D).
- 3.5.6 The applicant continues to rely on the word 'optimisation', which the Council does not consider appropriate. It needs to be clear that the purpose of the Requirement is to correct what the Council considers to be the flaws in the current modelling, to ensure that the junction is effective.

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Optimisation suggests more minor amendments, without reference to a clear and objective optimisation parameter/metric and is therefore not acceptable.

- 3.5.7 The Council also requests that the Requirement applies during the first 5 years of operation. The operation of the junction is fundamental to the delivery of the benefits that LTC purports to deliver. The failure of the junction would have a significant adverse impact on the business case for LTC and accordingly it is appropriate to include measures to give comfort that it will operate as anticipated. The Council's proposed requirement sets out clear objectives, using language firmly rooted in the relevant applicable policy tests, and provide a clear monitoring and decision-making framework and ought to be recommended as req.18 to the Secretary of State.

Asda Roundabout

- 3.5.8 At Deadline 8 ([REP8-166](#)) the Council submitted a joint response with the Port of Tilbury London Limited, DP World and the Thames Enterprise Park ([REP8-166](#), page 190). This included provisions about the control of construction traffic at the Asda Roundabout. A draft Requirement can be found at Appendix 3 to the Port of Tilbury London Limited Deadline 6 submission ([REP6-163](#)) as amended by the Port of Tilbury London Limited's Deadline 8 submission ([REP8-164](#)). The Council supports these submissions.
- 3.5.9 The comments of the applicant at Deadline 9 ([REP9-275](#)), (doc 9.213) do not address the concerns raised by the Council. The Asda Roundabout has been identified as an area of key concern and it is appropriate that it has its own Requirement.

Requirement 17 – Passive Provision for Tilbury Link Road

- 3.5.10 At Deadline 8 ([REP8-166](#)) the Council submitted a joint response with the Port of Tilbury London Limited, DP World and the Thames Enterprise Park ([REP8-166](#), page 190). This included provisions about the Passive Provision for Tilbury Link Road, which referred to the submissions of the Port of Tilbury London Limited at Deadline 8 ([REP8-164](#)). The Council supports these submissions.
- 3.5.11 Please see comments above which address the applicant's comments.

Wider Network Impacts

- 3.5.12 In [REP8-166](#) on page 192 the Council suggested jointed suggested, along with Port of Tilbury London Limited, DP World and the Thames Enterprise Park, a new requirement in relation to Wider Network Impacts. This is to provide greater certainty about the operation of the local highway network, which the Council and other IPs have significant (and evidenced) concerns about. The parties have suggested an approach that was agreed in the Silvertown DCO. However, in order to assist the reaching of an agreed position this has been amended to reflect wording proposed in relation to Orsett Cock Junction.
- 3.5.13 The applicant does not appear to have responded to this suggestion (despite the text of [REP9-275](#)) suggesting it would be dealt with at paragraph 11.1), which is surprising given its clear importance to the Council, Port of Tilbury London Limited, DP World and the Thames Enterprise Park. The ExA is requested to consider the wording proposed and recommend an amendment to the dDCO to include the proposed Requirement.

Air Quality

- 3.5.14 At Deadline 8 the Council commented on the need for a new Requirement on Air Quality ([REP8-166](#), paragraph 3.4). This referred back to the Council's D7 submission ([REP7-228](#) in

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Appendix B). The Council's position is that air quality monitoring should take place, even though current assessments indicate that air quality is not expected to be a problem. This is due to the importance of air quality on public health and the ease with which monitoring can be undertaken. In response to our concerns, the applicant has signposted back to its Deadline 7 submissions. This response simply states their position that they are *'not proposing to monitor NO₂ during construction as the air quality modelling and assessment work assesses that the construction of the Project would not result in significant air quality effects. The air quality assessment has concluded there are no significant air quality effects during the operational stage, and consequently there is no requirement for mitigation monitoring'*.

- 3.5.15 Whilst this is understood, the Council has not had a response to its comments that the importance of air quality mean that it is still appropriate for air quality to be monitored (both during construction and operationally). This is especially true when monitoring of air quality will be undertaken and accordingly it would not be disproportionate to leave there is monitoring positions in situ, rather than handover responsibilities to local authorities, as set out in SACR-033. This is considered to be in the wider public interest.

Worker Accommodation

- 3.5.16 At [REP7-228](#) the Council proposed a Requirement for Housing Impact due to the applicant's provisions for worker accommodation. Despite the comments of the applicant, the Council considers that this is still a very real problem, that is best addressed through the proposed requirement. This is because it provides a clear structure for remedying issues with the work accommodation.
- 3.5.17 **Overall Summary: the Council has expressed serious concerns regarding a number of the key documents which underpin the application for LTC. The impact of this is that there is significant uncertainty about the level of impact caused by LTC, particularly on the local highway network. The Requirements proposed are a necessary way of increasing the confidence of all parties in the impacts of LTC. That the applicant either rejects the requirements or seeks to weaken them is of concern, especially given the significant amount of flexibility already given to the applicant.**

4 Land and Compulsory Acquisition Matters

4.1 Statement of Reasons (v8) (REP9-115)

- 4.1.1 The Council has indicated, including at Section 4.2.2 of its Deadline 8 Submission - Comments on Applicant's submissions at Deadline 6A and Deadline ([REP8-166](#)), that the Schedule of Negotiations is deficient and/or inaccurate and, therefore, '*at best misleading*' (see paragraph 4.2.2 of Deadline 8 Submission - Comments on Applicant's submissions at Deadline 6A and Deadline ([REP8-166](#))).
- 4.1.2 The applicant has, regrettably, failed to use its D9 submission to correct the deficiencies and inaccuracies.
- 4.1.3 **The applicant to update the Schedule of Negotiations to give an accurate representation of the position.**

4.2 Post Event Submissions

- 4.2.1 In Section 3 a ii in its Deadline 8 Submission – Post Event Submissions, including written submission of oral comments made at the Hearings held 20 to 28 Nov 2023 ([REP8-167](#)), the Council highlighted a myriad of issues with the applicant's proposal in relation to replacement Public Open Space at the Ron Evans Memorial Field. The applicant has not acknowledged the submission let alone sought to address the concerns raised.

4.3 Status of Negotiations

- 4.3.1 Further to the narrative at paragraph 4.2 of Thurrock Council's Comments on Applicant's Submissions at Deadline 7 (D7) and Deadline 8 (D8) ([REP9-299](#)), the Council has not heard further from the applicant.

4.4 Book of Reference (BoR) (v8) (REP9-117) and Schedule of Changes to BoR (v6) (REP9-249) and Appendix A (v6) (REP9-250)

- 4.4.1 There are no changes of consequence to the Council in these documents.

4.5 Land Plans (v8) (REP9-009, REP9-011 and REP9-013), Crown Land Plans (v8) (REP9-015, REP9-017 and REP9-019), Special Category Land Plans (v7) (REP9-021, REP9-023 and REP9-025) and Agricultural Landowners Figure 13.5 (v2) (REP9-183)

- 4.5.1 There are no changes of consequence to the Council in these documents.

4.6 ExQ1 15.1.1 (v5) (REP9-253) and 15.1.2 (v5) (REP9-255)

- 4.6.1 At paragraph 5.22. of Thurrock Council's Comments on Applicant's Submissions at Deadline 6 (D6) ([REP7-228](#)), the Council noted that within page 324 of the document Deadline 6 Submission - 9.77 ExQ1 Q15.1.1 Schedule of CA and TP Objections v3.0 (Tracked changes) ([REP6-078](#)), the applicant continued to assert that the Council objects to the CA of their interests and that this remained incorrect (having been addressed at paragraph 9.3.2 of Thurrock Council's Comments on applicant's Submissions at Deadline 4 (D4) and Deadline 5 (D5) ([REP6-164](#))).

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- 4.6.2 Whilst the applicant continues to incorrectly assert (at page 459 of ExQ1.15.1.1 Schedule of CA and TP Objections ([REP9-253](#)) that the Council objects it does, correctly, note that *'The Applicant is engaging with the Council on this issue' and 'Discussions are on going'*.
- 4.6.3 The Council is pleased to note that the applicant further notes *'National Highways confirmed that these discussions can continue post close of Examination'*.

4.7 ExQ1 15.1.3 (v5) (REP9-257)

- 4.7.1 The Council wishes to note that their comments regarding the applicant's submission of ExQ1 Q15.1.3 PA2008 s127 Statutory Undertakers' Land-Rights – LTC v2.0 ([REP5-076](#)), v3.0 ([REP6-082](#)) and v4.0 ([REP7-172](#)) have not been addressed and still require a response.
- 4.7.2 The amendments to Table 1.1 of the ExQ1 Q15.1.3 PA2008 s127 Statutory Undertakers' Land-Rights – LTC v5.0 ([REP9-257](#)) include the references to the updated draft Development Consent Order v11.0 ([REP9-107](#)). The Council assumes that those Statutory Undertakers who have withdrawn or have no objection have been given the opportunity to review the amended draft Development Consent Order and make any comments. The Council, therefore, require further detail with a list of relevant Statutory Undertakers and their position on the dDCO.
- 4.7.3 The amendment to item number 4 and 11 in Table 1.1 of the ExQ1 15.1.3 PA2008 s127 Statutory Undertakers' Land Rights – LTC v5.0 ([REP9-257](#)) in relation to Essex and Suffolk Water Limited and Northumbrian Water Limited is regarding changes to the status of objection. The applicant has noted that following a meeting with Essex and Suffolk Water Limited, the latest updated version of the agreement is under discussion and that the applicant believes that matters relating to Linford Well have reached or are close to reaching agreement. The applicant states that they are confident that agreement on all matters will be concluded prior to 20 December 2023 (close of Examination). The Council looks forward to receiving this update when complete.
- 4.7.4 The 'Status of Objection' for each Statutory Undertaker included within Table 1.1 of the ExQ1.15.1.3 PA2008 s127 Statutory Undertakers' Land-Rights – LTC v5.0 ([REP9-257](#)) has been amended for item numbers 5 – HS1 Limited and 10 – Network Rail Limited. The applicant has amended to state that they believe that there are no outstanding substantive issues, however, these agreements will not be concluded prior to 20 December 2023 (close of Examination), but they are confident that these will be agreed during the recommendation stage.
- 4.7.5 The 'Status of Objection' for each Statutory Undertaker included within Table 1.1 of the ExQ1.15.1.3 PA2008 s127 Statutory Undertakers' Land-Rights – LTC v5.0 ([REP9-257](#)) has been amended for item numbers 7 – National Gas Transmission PLC, 8 – National Grid Electricity Transmission PLC, 9 – National Grid PLC, 12 – Port of London Authority Limited, 16 – Southern Water Services Limited, and 18 – Thurrock Flexible Generation Limited. The applicant has amended to state that they are confident that agreement on all matters will be concluded prior to 20 December 2023 (close of Examination).
- 4.7.6 The amendment to item number 13 in Table 1.1 of the ExQ1 15.1.3 PA2008 s127 Statutory Undertakers' Land Rights – LTC v5.0 ([REP9-257](#)) in relation to Port of Tilbury London Limited is regarding changes to the status of objection. The application has noted that they believe that there are no outstanding substantive issues regarding s127(3) and S127(6) and is actively engaging with Port of Tilbury London Limited to conclude agreements within the Examination period (20 December 2023).

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- 4.7.7 The amendment to item number 17 in Table 1.1 of the ExQ1 15.1.3 PA2008 s127 Statutory Undertakers' Land Rights – LTC v5.0 ([REP9-257](#)) in relation to Thames Water Utilities Limited is regarding changes to the status of objection. This objection has now been withdrawn.
- 4.7.8 The Council notes that within Table 1.1 of the ExQ1.15.1.3 PA2008 s127 Statutory Undertakers' Land-Rights – LTC v5.0 ([REP9-257](#)) the following Statutory Undertakers still have objections to the Order:
- a. Environment Agency
 - b. Essex and Suffolk Water Limited
 - c. HS1 Limited
 - d. National Gas Transmission PLC
 - e. National Grid Electricity Transmission PLC
 - f. National Grid PLC
 - g. Network Rail Limited
 - h. Northumbrian Water Limited
 - i. Port of London Authority Limited
 - j. Port of Tilbury London Limited
 - k. Southern Water Services Limited
 - l. Thurrock Flexible Generation Limited

4.8 ExQ1 15.1.4 (v3) (REP9-259)

- 4.8.1 The amendments within Table 1.1 of ExQ1 Q15.1.4 PA2008 S138 Statutory Undertakers' Rights and Apparatus – LTC v3.0 ([REP9-258](#)) predominantly consist of the references to updated documents, including the draft Development Consent Order v11.0 ([REP9-107](#)) and the Book of Reference v8.0 ([REP9-117](#)). The Council assumes that those Statutory Undertakers who have withdrawn or have no objection have been given the opportunity to review the amended draft Development Consent Order and make any comments. The Council, therefore, require further detail with a list of relevant Statutory Undertakers and their position on the dDCO.
- 4.8.2 The amendment to item number 4 and 12 in Table 1.1 of ExQ1 Q15.1.4 PA2008 S138 Statutory Undertakers' Rights and Apparatus – LTC v3.0 ([REP9-258](#)) in relation to Essex and Suffolk Water Limited and Northumbrian Water Limited is regarding changes to the status of objection. The applicant has noted that following a meeting with Essex and Suffolk Water Limited, the latest updated version of the agreement is under discussion and that the applicant believes that matters relating to Linford Well have reached or are close to reaching agreement. The applicant states that they are confident that agreement on all matters will be concluded prior to 20 December 2023 (close of Examination).
- 4.8.3 The 'Status of Objection' for each Statutory Undertaker included within Table 1.1 of ExQ1 Q15.1.4 PA2008 S138 Statutory Undertakers' Rights and Apparatus – LTC v3.0 ([REP9-258](#)) has been amended for item numbers 5 – HS1 Limited and 11 – Network Rail Limited. The applicant has amended to state that they believe that there are no outstanding substantive issues, however, these agreements will not be concluded prior to 20 December 2023 (close of Examination), but they are confident that these will be agreed during the recommendation stage.
- 4.8.4 The 'Status of Objection' for each Statutory Undertaker included within Table 1.1 of ExQ1 Q15.1.4 PA2008 S138 Statutory Undertakers' Rights and Apparatus – LTC v3.0 ([REP9-258](#))

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has been amended for item numbers 7 – Lumen Technologies UK Limited, 8 – National Gas Transmission PLC, 9– National Grid Electricity Transmission PLC, 10 – National Grid PLC, 13 – Port of London Authority Limited, 17 – Southern Water Services Limited, and 19 – Thurrock Flexible Generation Limited. The applicant has amended to state that they are confident that agreement on all matters will be concluded prior to 20 December 2023 (close of Examination).

- 4.8.5 The amendment to item number 14 in Table 1.1 of ExQ1 Q15.1.4 PA2008 S138 Statutory Undertakers' Rights and Apparatus – LTC v3.0 ([REP9-258](#)) in relation to Port of Tilbury London Limited is regarding changes to the status of objection. The application has noted that they believe that there are no outstanding substantive issues regarding s138 and is actively engaging with Port of Tilbury London Limited to conclude agreements within the Examination period (20 December 2023).
- 4.8.6 The amendment to item number 18 in Table 1.1 of ExQ1 Q15.1.4 PA2008 S138 Statutory Undertakers' Rights and Apparatus – LTC v3.0 ([REP9-258](#)) in relation to Thames Water Utilities Limited is regarding changes to the status of objection. This objection has now been withdrawn.
- 4.8.7 The Council notes that within Table 1.1 of ExQ1 Q15.1.4 PA2008 S138 Statutory Undertakers' Rights and Apparatus – LTC v3.0 ([REP9-258](#)) the following Statutory Undertakers still have objections to the Order:
- a. Environment Agency
 - b. Essex and Suffolk Water Limited
 - c. HS1 Limited
 - d. Lumen Technologies UK Limited
 - e. National Gas Transmission PLC
 - f. National Grid Electricity Transmission PLC
 - g. National Grid PLC
 - h. Network Rail Limited
 - i. Northumbrian Water Limited
 - j. Port of London Authority Limited
 - k. Port of Tilbury London Limited
 - l. Southern Water Services Limited
 - m. Thurrock Flexible Generation Limited

4.9 Status of Negotiations with Statutory Undertakers (v5) (REP9-244)

- 4.9.1 The Status of Negotiations with Statutory Undertakers v5.0 ([REP9-244](#)) has been amended, with all key amendments in the 'Negotiations summary' and 'Status of Negotiations' column of Table 2.1.
- 4.9.2 Within item number 3 of Table 2.1 of the Status of Negotiations with Statutory Undertakers v5.0 ([REP9-244](#)), the applicant had previously reached an agreement with Cadent Gas Ltd. However, Cadent Gas Ltd. has '*subsequently sought further commitments and assurances with regard to the process to be adopted by the applicant in seeking to negotiate the voluntary grant of rights by third parties for Cadent's benefit, prior to acquiring those rights compulsorily.*' The applicant has confirmed that further agreement is expected to be concluded within the recommendation stage and will therefore not be agreed by the close of the Examination (20 December 2023).

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- 4.9.3 Under items number 8, 11, 12 and 13 within Table 2.1 of the Status of Negotiations with Statutory Undertakers v5.0 ([REP9-244](#)) in relation to High Speed One Ltd. and National Gas Transmission PLC, National Grid Electricity Transmission PLC and Network Rail Infrastructure Ltd., the applicant has provided an update that whilst they believe that there are no outstanding substantive issues the agreement will not be concluded prior to 20 December 2023 (close of Examination). The applicant has confirmed that they are confident that an agreement will be reached during the recommendation stage.
- 4.9.4 Within item numbers 10, 14, 16, 19 and 21 of Table 2.1 of the Status of Negotiations with Statutory Undertakers v5.0 ([REP9-244](#)) concerning Lumen Technologies UK Ltd., Northumbrian Water Ltd – trading as Essex and Suffolk Water, Port of London Authority Ltd., Southern Water Services Ltd. and Thurrock Flexible Generation Ltd., the applicant has stated that they are confident that an agreement will be reached prior to 20 December 2023 (close of Examination).
- 4.9.5 Within item number 26 of Table 2.1 of the Status of Negotiations with Statutory Undertakers v5.0 ([REP9-244](#)) concerning Zayo Group UK Ltd., the applicant has amended the status of negotiations to confirm that no further action is expected with regard to Protective Provisions during Examination.
- 4.9.6 The status of negotiations has also been amended for item numbers 27 – Essex County Council, 28 – Kent County Council and 29 – North Kent Marshes Internal Drainage Board. The applicant has confirmed that agreement relative to Protective Provisions is complete and that no further action is required.
- 4.9.7 The Council notes that within Table 2.1 of the Status of Negotiations with Statutory Undertakers v5.0 ([REP9-244](#)) agreements between the applicant and the following Statutory Undertakers are yet to be reached:
- a. Cadent Gas Ltd.
 - b. High Speed One Ltd.
 - c. Lumen Technologies UK Ltd.
 - d. National Gas Transmission PLC
 - e. National Grid Electricity Transmission PLC
 - f. Network Rail Infrastructure Ltd.
 - g. Northumbrian Water Ltd. – Trading as Essex and Suffolk Water
 - h. Port of London Authority Ltd.
 - i. Port of Tilbury London Ltd.
 - j. Southern Water Services Ltd.
 - k. Thurrock Flexible Generation Ltd. (formerly known as Thurrock Power Ltd.) (part of Statera Energy)

5 Transport and Engineering Plans

5.1 Introduction

- 5.1.1 It should be noted that despite there being both tracked changed and clean versions of the various plans, the applicant confirmed to the Council on 14 December 2023 that *'We can confirm that all of our plans submitted at D9 had no changes from previous submission so no revision clouds needed'*. It is puzzling to understand why both versions were necessary to be submitted at D9 when there are no changes?
- 5.1.2 Consequently, although the various plans submitted are listed below, the Council has no further comments as no changes have been made.

5.2 Transport Plans

Traffic Regulation Measures Plans (v5) (REP9-073, REP9-075 and REP9-077)

Classification of Roads Plans (v6) (REP9-079)

Tunnel Area Plan (v2) (REP9-081)

Tunnel LoD Plan (V3) (REP9-089)

River Restrictions Plan (v3) (REP9-087)

Rights of Way and Access Plans (v5) (REP9-045, REP9-047 and REP9-049)

Streets Subject to Temporary Restrictions of Use Plans (v5) (REP9-051, REP9-053 – REP9-055)

5.3 Engineering Plans

Structures Plans (v3 and v5) (REP9-083 and REP9-085)

Drainage Plans (v5) (REP9-091, REP9-093 and REP9-095)

- 5.3.1 The Drainage Plans Volume A, B and C have been updated. The applicant has stated that the plans have been updated for Deadline 9 to include all agreed proposed changes and amendments throughout Examination. The Council observe that each drawing has been reissued, however, no other changes have been observed. Notwithstanding this, the Council still reiterates its comments in its D9 submission ([REP8-166](#)) in Section 3.6 that Drainage Plans should be secured within the DCO.

Works Plans (v5) (REP9-039, REP9-041 and REP9-043)

Temporary Works Plans (v5) (REP9-097, REP9-099 and REP9-101)

General Arrangement Plans (v5 and v7) (REP9-027, REP9-029 and REP9-031)

Engineering Drawings and Sections (v6) (REP9-057, REP9-059, REP9-065 and REP9-067)

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 (v9) and Health, Equalities and Wellbeing Matters. This is because all other documents submitted relating to the Environment either have no changes or changes are minor or do not have significance for the Council.

6.2 ES Addendum (v9) (REP9-246)

Coalhouse Point Flood Risk Assessment

6.2.1 Page 60 and Page 68 of the ES Addendum (v9) ([REP9-246](#)) has been updated for Deadline 9 to address comments in relation to flood risk at Deadline 6 and with reference to 9.147 Coalhouse Point Flood Risk Assessment ([REP6-102](#)).

6.2.2 The applicant asserts that their interpretation of the hydraulic modelling results demonstrates that the proposed wetland area will not have an adverse impact on flood risk elsewhere.

6.2.3 The Council accept in broad terms, that the Coalhouse Point Flood Risk Assessment demonstrates that the proposed wetland area will not effect flood risk elsewhere. However, the Council have raised a concern in paragraph 7.2.6 of Thurrock Council's Deadline 9 submission (([REP9-299](#)) and in ISH11 Post Hearing Note Environmental Matters - Agenda Item 4 a ii ([REP8-167](#)). The Council note that the existing lower moat has a controlled discharge to the watercourse in the south of the wetland area.

6.2.4 **The Council would like to understand if the proposed wetland levels will cause the existing ditch water levels to remain artificially high, preventing the normal discharge of the Lower Moat. The Council request the applicant to confirm impact on ditch water levels and assess if this could have a hydraulic impact to the Lower Moat ability to discharge.**

6.3 ES Topics Updates

Terrestrial Biodiversity (v2) (REP9-121) and Figures 8.1, 8.32 and 8.33 (REP9-169, REP9-171 and REP9-173)

6.3.1 It is noted that 'The Wilderness is now listed as an 'ancient woodland' and its significance has been amended as a result. Subsequently, the Council notes the ExA's Procedural Decision (PD-048) issued on 8 December 2023, requires a response from the applicant, which has been provided in its updated ES Chapter ([REP9-121](#)) in Table 8.33 on pages 178-179; and, in Table 8.39 on page 251.

6.3.2 In its Procedural Decision 45 ([PD-048](#)) Rule 17 – Request for Further Information, the ExA has requested that the applicant provide further information regarding the loss of ancient woodland at The Wilderness. The Council's position is set out below.

6.3.3 ES Chapter 8 ([REP9-121](#)) has been amended to acknowledge that part of The Wilderness is ancient woodland. **Table 8.39 – Terrestrial ecology impact summary table** considers this loss as Nationally significant as it is irreplaceable habitat. The level of impact would be Major an the effect Large Adverse and Significant. **Table 8.33 – Construction effects on non-statutory designated sites north of the River Thames** sets out how the proposed mitigation and compensation measures that would be applied.

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- 6.3.4 What the applicant has not done is to apply the mitigation hierarchy whereby the first step should be to avoid harm. The Council has requested previously ([REP7-228](#)) in Section 8.3 the applicant provide a detailed response to justify why the route has not been realigned to avoid the ancient woodland, especially when there appears to be scope to adjust the route slightly so that it runs into the adjacent landfill site.
- 6.3.5 On that basis the Council does not consider that the applicant has satisfactorily addressed NPSNN paragraph 5.3.2, justifying why the alignment that results in the destruction of the ancient woodland has been selected rather than the alternative.

6.4 Health, Equalities and Wellbeing

HEqIA Screening Template (v2) (REP9-230)

- 6.4.1 There are a number of updates to the HEqIA Screening Template to reflect updated positions and also minor modifications. The following is noted in relation to previously stated Council positions either within the Deadline 8 submission or as part of the Statement of Common Ground process.
- 6.4.2 Paragraph E on page 20 of the HEqIA Screening Template notes that there are ongoing negotiations between the applicant and the owner/operators of the Whitecroft Care Home resulting in the applicant making the provision to purchase the Care Home. The Council understands that no agreement has been reached and only Heads of Terms have been presented to the owner by the applicant.
- 6.4.3 The Council's position of this has been laid out at Deadline 8 ([REP8-166](#)) in Section 4.9, within the Statement of Common Ground and within Appendix A of this D9A submission and remain concerned regarding the potential negative impact on provision in the Borough. This is also referenced within the HEqIA Screening Template update in relation to noise and vibration, with the applicant stating that this will resolve the remaining issues regarding noise, and also reduce potential equalities impacts. The Council remain cautious about this approach due to the potential negative impacts of relocation and the potential removal of key services from the Borough.
- 6.4.4 The HEqIA Screening Template has also been updated to state that 'Further SAC-R commitments commit to contributing to the funding of community engagement activities targeted at specific wards and communities during the construction period in Thurrock (SACR-020) and Kent (SACR-023) (the Council commented on SACR-020 in its D9 submission ([REP9-299](#)) in Section 2.10), specifically in relation to use of areas of open space and the promotion of physical activity'. It is important to note that this additional mitigation remains a 'Matter Not Agreed' within the Council's Statement of Common Ground due to the level of funding provided within this mitigation and the suggested roles that this mitigation would cover not meeting the needs of the Council.
- 6.4.5 The HEqIA Screening Template updates include reference to the Initial Terms of Reference for the Community Liaison Groups (CLG ToR (v2) ([REP9-194](#))), which the Council is in agreement with.

7 Planning and Policy Matters

7.1 Introduction

- 7.1.1 There are only a few changes to the applicant's Planning Statement (v2) ([REP9-216](#)) and Appendices A - E at Deadline 9 submission documents.
- 7.1.2 The Council submitted responses to Planning Statement (v1) ([APP-495](#)) and Appendices A - E (APP-496 – APP-504) at Deadline 1 in the Council's LIR (REP1-281 – REP1-293). These are signposted in the relevant sections below and remain the Council's position on the applicant's Planning Statement (v2) ([REP9-216](#)) and Appendices A - E at Deadline 9 submission documents.
- 7.1.3 The section below sets out the Council's response to the few changes made to the applicant's Planning Statement (v2) ([REP9-216](#)) and Appendices A - E at Deadline 9 submission documents.

7.2 Planning Statement (v2) (REP9-216)

- 7.2.1 The applicant has made just a few changes to the Planning Statement (v2) ([REP9-216](#)) at Deadline 9. The majority of the document is the same as Planning Statement (v1) ([APP-495](#)) submitted as part of the DCO application. Council's response to Planning Statement (v1) ([APP-495](#)) was submitted at D1 is within the Council's LIR ([REP1-281](#)) and this remains the Council's position on the DCO Planning Statement.
- 7.2.2 The Council's response to the changes to the Planning Statement (v2) ([REP9-216](#)) is set out below.

Whitecroft Care Home

- 7.2.3 New text in Planning Statement (v2) ([REP9-216](#)) para 6.5.304 *'During the course of the Examination hearings a noise issue has arisen in respect of the Whitecroft Care Home in terms of the potential impact of construction of the Project on residents of the care home which provides end-of-life dementia support. There has been ongoing negotiation between the Applicant and the owners/operators of the care home which has resulted in the Applicant making provision to purchase the care home which will allow the residents to be relocated to a replacement facility and so remove the potential noise issue.'*
- 7.2.4 New text in Planning Statement (v2) ([REP9-216](#)) para 7.13.41 *'Policy CSTP11: Health Provision is relevant in the consideration of the impacts of the Project on the Whitecroft Care Home. The Applicant considers that, although the offer to acquire the care home may potentially result in a short term temporary loss in bedspaces, it will not result in any permanent change in provision and will not impact on the ability of the Council to meet the totality of the identified need for care home bedspaces identified in the South Essex Housing Needs Assessment in the period to 2040.'*
- 7.2.5 The logic set out by the applicant that this would result in not materially affecting the provision of care home bedspaces is disputed, as there is currently no guarantee that the replacement facility would be within the Borough. Additionally, the response does not set out how the temporary removal of bedspaces will be mitigated or set out contingency plans, if the planning permission referenced does not get approved. Furthermore, the Council understands that no agreement has been reached and only Heads of Terms have been presented to the owner by the applicant

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- 7.2.6 Additional text has also been added to the applicant's Planning Statement Appendix C: Local Authority Policy Review (v2) ([REP9-221](#)), as set out in Section 7.4 below and Appendix A.

Wider Network Impacts

- 7.2.7 The applicant has added new text in its Planning Statement (v2) ([REP9-216](#)) in paragraph 6.5.332 that states: *'In response to the Examining Authority's consideration of wider network impacts at the examination hearings, specifically ExA Actions Points 3, 5 & 6 arising from Issue Specific Hearing 10, the Applicant's Deadline 6 submission 9.134 Wider Network Impacts Position Paper [REP6-092] supplements the WNIMMP in respect of potential wider network impacts at four specified locations raised by Interested Parties. These locations being the Blue Bell Hill corridor, the A13 corridor, the A2/M2 corridor and the Asda roundabout.'*
- 7.2.8 The Council continues to contest that the applicant's approach to assessing, analysing and mitigating wider network impacts is not compliant with the current or draft NPSNN and is:
- a. Not reliable or proportionate;
 - b. Does not secure mitigation through the DCO; and,
 - c. Off-sets the burden of resolution to the local authorities.
- 7.2.9 The wider network impact has been robustly reported to the Examination by the Council within its LIR ([REP-281](#)), particularly at Section 9, and through many other aspects of its evidence including in oral and written evidence at ISH10 (reported at [REP6-166](#)) and ISH13 (reported at [REP8-167](#)). Other evidence (although not exhaustive) from the Council on the absence of resolution to the Wider Network Impacts matters were represented at:
- a. D3 submission ([REP3-211](#)) – Sections 14, 18.8 and 22 and Appendix E;
 - a. D4 submission ([REP4-354](#)) – Sections 10 and 11 and Appendices A and B;
 - b. D5 submission ([REP5-112](#)) – Sections 3 and 4 and Appendices A – C;
 - c. D6 submission ([REP6-164](#)) – Sections 4.3, 11, 12.3, 12.19 and Appendices A and B; and,
 - d. D6A submission ([REP6A-013](#)) – Section 6 and Appendices A – G.
- 7.2.10 The applicant cannot exempt itself from its requirement to mitigate the wider network impacts, furthermore, the locations identified in its Wider Network Impacts Position Paper ([REP6-092](#)) capture only part of the forecast impacted areas – this neglecting communities, such as Stanford-le-Hope, Corringham, Orsett and Chadwell St Mary. All of those communities will be negatively affected by the proposed operation of the LTC, but the applicant has continually refused to acknowledge or resolve the harm on those communities or the associated affected local transport network.
- 7.2.11 The severe design shortcomings of the interface between LTC and the Council's Orsett Cock Junction have been widely aired at the Examination and the applicant has finally accepted that the resolution of this shortcoming must be achieved, prior to the construction of the scheme and is not a wider network impact, albeit the Council and other Interested Parties are not able to agree to the applicant's proposed Requirement that deals with that resolution. This, however, does not address the wider network impacts on other junctions within Thurrock, including:
- a. The Manorway;
 - b. The Five Bells interchange;
 - c. Marshfoot Road interchange;
 - d. Devonshire Road; and

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- e. The Asda Roundabout (albeit this is recognised but not secured in the applicant's Wider Network Impact Position Paper ([REP6-092](#))).

Emerging Local Plan

- 7.2.12 New text in Planning Statement (v2) ([REP9-216](#)) para 7.13.54 *'Thurrock Council has issued a number of iterations of Issues & Options consultation documents in 2016 and 2018 and has recently (6 December 2023) secured a Council resolution to undergo a further Local Plan; Initial Proposals consultation. However, as Regulation 18 consultations, each of these consultation documents do not contain firm proposals and are at such an early stage in the preparation of a replacement Thurrock Local Plan that they can be afforded little, if any, weight in the decision-making process.'*
- 7.2.13 The Council acknowledge that the Local Plan is at an early stage. However, LTC would have a major systemic impact on Local Plan future growth delivery and viability and indeed it is the uncertainty created by LTC that is in fact causing the Council's inability to progress more detailed plans at the present point in time. The Council has made previous submissions relating to Local Plan impacts, including within the Council's LIR ([REP1-281](#)) in Sections 4.4.6 – 4.4.12; at Deadline 3 ([REP3-211](#)) in Section 18.3; and at Deadline 7 ([REP7-228](#)) in Section 10. This remains the Council's position on the Council's emerging Local Plan update and major concerns with LTC, especially noting that its Regulation 18 consultation will begin in December 2023.

Deleted Images/Figures from the Planning Statement

- 7.2.14 The applicant has deleted a number of images and figures from the Planning Statement (v2) ([REP9-216](#)), submitted at Deadline 9, listed below:
- a. Plate 3.4 – Lower Thames Crossing 'host' local authorities
 - b. Plate 4.1 – Traffic using the Dartford Crossing
 - c. Plate 5.1 – Six locations investigated in the 2009 study
 - d. Plate 5.10 – Shortlisted routes
- 7.2.15 These figures clearly showed the broad scale and location of the scheme within Thurrock, which is important in the Planning Statement as the overall document bringing the DCO application documents together and providing the planning balance.

November 2023 Published Energy NPSs

- 7.2.16 The Government published the latest Energy NPS EN-1, EN-4 and EN-5 policies on 22 November 2023, which will come into force early 2024.
- 7.2.17 Action Point 23 of ISH12 (Part 1) 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. The Council notes that the applicant has formulated a response within the Planning Statement v2.0 ([REP9-216](#)), Planning Statement Appendix B National Policy Statements for Energy Infrastructure Accordance Tables v2.0 ([REP9-219](#)) and Applicant's response to ExA ISH12 AP23 on Suite of Energy National Policy Statements ([REP9-274](#)).
- 7.2.18 Action Point 23 of ISH12 (Part 1) 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. The Council notes that the applicant has formulated a response within the Planning Statement v2.0 ([REP9-216](#)), Planning Statement Appendix B National

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Policy Statements for Energy Infrastructure Accordance Tables v2.0 ([REP9-219](#)) and Applicant's response to ExA ISH 12 AP23 on Suite of Energy National Policy Statements (REP9-xxx).

- 7.2.19 Also included within Action Point 23 of ISH12 (Part 1) 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. The Council notes that the applicant has formulated a response within the Planning Statement v2.0 ([REP9-216](#)), Planning Statement Appendix B National Policy Statements for Energy Infrastructure Accordance Tables v2.0 ([REP9-219](#)) and Applicant's response to ExA ISH12 AP23 on Suite of Energy National Policy Statements ([REP9-274](#)).
- 7.2.20 However, regarding utilities NSIPs for the project, the applicant does still not appear to have taken on board the Council's comments in Sections 12.2.14 and 12.5.1 of the Council's LIR ([REP1-281](#)) and further information has still not been provided to allay the Council's concerns.
- 7.2.21 Of particular note is the Post Written Submission for ISH2 ([REP1-184](#)), which contains a 'note on overlap between Nationally Significant Infrastructure Projects and associated development under the Planning Act 2008', which concludes that utility works that constitute NSIPs in their own right cannot also be associated development. Since the utility diversions that have been determined as NSIPs are not associated development, the NSIPs should therefore be assessed separately, including having separate Environmental Statements and the need for separate utilities documents.
- 7.2.22 It is evident within the Planning Statement v2.0 ([REP9-216](#)) that the applicant's view is that the Energy NSIPs are associated development, which is counter to the Post Written Submission for ISH2 ([REP1-184](#)). This is evident in paragraph 6.6.6. The Council therefore sees the applicant's view as incorrect and should amend the submission documents to suit.
- 7.2.23 Paragraph 6.5.309 of the Planning Statement v2.0 ([REP9-216](#)) has been amended to include the following sentence: '*Where noise issues have been identified solutions have been proposed to mitigate those impacts*' with the applicant going on to state that it can therefore be concluded that the Project would meet the requirements of the Energy NPSs. The Council would have expected the applicant to either identify these solutions within the Planning Statement or provide a reference to the document(s) where these solutions are described.
- 7.2.24 The applicant also states within paragraph 6.7.6 of the Planning Statement v2.0 ([REP9-216](#)) that they have considered the final version of the future Energy NPSs EN-1, EN-4 and EN-5, published November 2023, but believes that the Energy NPSs are not considered to raise any new matters relevant to the Energy NSIP elements of LTC and therefore require no further comment or response. The Council disagrees with this view, notably with regard to matters that the applicant believes not to be relevant since they believe the Energy NSIPs are associated development, rather than NSIPs in their own right.
- 7.2.25 Further discussion on the above matter is outlined in Sections 7.7 and 7.8 below.

7.3 Planning Statement Appendix E: Green Belt (v2) (REP9-224)

- 7.3.1 The applicant has made minor changes to the Planning Statement Appendix E Green Belt ([REP9-224](#)) at Deadline 9.
- 7.3.2 The new document states that it is supplemented by the applicant's response to ExQ2 Q13.1.3 Green Belt Harm Assessment ([REP7-181](#)) and the applicant's response to ExQ2 Appendix I – 13 Social, Economic & Land-Use Considerations ([REP6-116](#)) questions Q13.1.2 Green Belt: applicability of 'inappropriate development'. The document does not contain any

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new information and does not provide any new text on the assessment of harm to the Green Belt openness or to Green Belt purposes.

- 7.3.3 Planning Statement Appendix E Green Belt ([REP9-224](#)) does provide very limited new information, which is simply signposting other documents in the DCO application relating to 'any other harm' (new paragraphs E6.27 and E6.28).
- 7.3.4 Planning Statement Appendix E Green Belt ([REP9-224](#)) does not provide any further changes to justify 'very special circumstances'.

Council's Response

- 7.3.5 The applicant is proposing to construct LTC, of which some 70% of the route will be within the Council's area, which takes approximately 10% of Borough's overall land area and approximately 11% of all of the Green Belt in Thurrock would be lost, if LTC is granted.
- 7.3.6 As the applicant's Planning Statement Appendix E Green Belt ([REP9-224](#)) at Deadline 9 has not included any substantive changes, the Council's previous responses remain the Council's position, as listed below:
- a. LIR Appendix L (Annex 1 provided the overall response from the Council) ([REP1-293](#));
 - b. Council's response to ExQ1 Q13.1.20 ([REP4-353](#));
 - c. Council's response to ExQ2 Q13.1.2 ([REP6-167](#)); and,
 - d. Council's response at Deadline 8 in Section 7 ([REP8-166](#)).
- 7.3.7 Council's LIR Appendix L ([REP1-293](#)) sets out the Council's response on:
- a. Green Belt Policy and Guidance (Annex 1 L.2.1 – L.2.25);
 - b. Thurrock Strategic Green Belt Assessment (2019) (Annex 1 L.2.26 – L.2.36 and Annexes 3 and 4); and,
 - c. 'Very Special Circumstances' is not Demonstrated for LTC (Annex 1 L3).
- 7.3.8 The Council maintain that the applicant's Green Belt Assessment ([REP7-181](#)), submitted in response to ExQ2 Q13.1.3, is inadequate and too simplistic. The Council's response to the applicant's Green Belt Assessment ([REP7-181](#)) was submitted at Deadline 8 in Section 7 ([REP8-166](#)).
- 7.3.9 The Council's previous responses, set out above, remain the Council's position on the applicant's inadequate Green Belt assessment of harm and on the applicant's lack of demonstration of 'very special circumstances'. Therefore, these previous submissions should be read in conjunction with this Section of this Deadline 9A submission.

7.4 Planning Statement Appendix C: Local Authority Policy Review (v2) (REP9-222)

- 7.4.1 Planning Statement Appendix C: Local Authority Policy Review (v2) ([REP9-222](#)) was submitted at Deadline 9 by the applicant. It is largely unchanged from the original submitted Planning Statement Appendix C: Local Authority Policy Review ([APP-498](#)), which the Council responded to in its Deadline 1 LIR submission ([REP1-281](#)) in Section 4.
- 7.4.2 The applicant has only made two new substantive amends to the Planning Statement Appendix C: Local Authority Policy Review (v2) ([REP9-222](#)), which are relevant to the Council. The Council's response to these changes is provided below and in Appendix A (Table A.1).

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Thurrock Policy CSTEP11 Health Provision

- 7.4.3 The applicant has provided an additional response at Deadline 9 regarding policy Thurrock local policy CSTEP11 'Health Provision'. The applicant's response refers to the proposed acquisition of Whitecroft Care Home, in Thurrock. In light of this, the applicant notes that consideration needs to be given to policy CSTEP11 due to the effect of this on care home provision. The Council's full response at Deadline 9A can be found in Appendix A (Table A.1). This includes questioning the accuracy behind the applicant's claim that the potential replacement of the care bed spaces would result in a non-material effect on bed space provision, when the location of the replacement facility is not confirmed. As well as highlighting the need to mitigate against the temporary loss of bed spaces whilst the suggested relocation is managed.
- 7.4.4 Additionally, the Council notes that policy criteria in policy CPST11 provides wider criteria, than social care homes, which the applicant's response does not address. This is set out in Appendix A (Table A.1).

Thurrock Local Plan Initial Proposals (December 2023)

- 7.4.5 In Planning Statement Appendix C: Local Authority Policy Review (v2) ([REP9-222](#)) the applicant states in Table C.13 page 125, in its review of the Thurrock Local Plan Initial Proposals (December 2023), that *'In view of its early stage in the development plan process and its lack of firm policies or proposals, there remains a high degree of uncertainty relating to development proposals. Therefore, the Applicant considers that this consultation document can be afforded little, if any, weight in the decision-making process. The Initial Proposals do, however, proactively plan for the Project route and acknowledges it as a constrain in allocating land for development. The Initial Proposals indicate that the Council is able to meet the development needs of the authority, whilst taking account of the Project which demonstrates that the two are not incompatible.'* The Council disagrees with this final sentence, which is incorrect.
- 7.4.6 The Council acknowledge that the Local Plan is at an early stage. However, LTC would have a significant impact on Local Plan future growth delivery and viability. In its current form, the LTC DCO would restrict the potential planned growth from coming forward. The Council has made previous submissions relating to Local Plan impacts, including within the Council's LIR ([REP1-281](#)) in Sections 4.4.6 – 4.4.12; at Deadline 3 ([REP3-211](#)) in Section 18.3; and at Deadline 7 ([REP7-228](#)) in Section 10. This remains the Council's position on the Council's emerging Local Plan update and major concerns with LTC.

7.5 Planning Statement Appendix A: NPSNN Accordance Table (v2) (REP-218)

- 7.5.1 Planning Statement Appendix A: NPSNN Accordance Table (v2) ([REP9-218](#)) was submitted by the applicant at Deadline 9. It is largely unchanged from the original document submitted with the DCO application Planning Statement Appendix A: NPSNN Accordance Table ([APP-496](#)). The Council has previously commented on ([APP-496](#)) throughout the Council's LIR ([REP1-281](#)), and this submission remains the Council's position.
- 7.5.2 The applicant has only made two new amendments to the Planning Statement Appendix A: NPSNN Accordance Table (v2) ([REP9-218](#)), which are relevant to Thurrock, relating to paragraphs 5.206 and 5.216.
- 7.5.3 As would be expected, the applicant continues to claim that it has suitably responded during the development of its proposals and during the Examination, to the requirements of those paragraphs in the NPSNN, as it similarly asserts it has responded to equivalent paragraphs within the draft NPSNN on which the Council comments in Section 7.6 below.

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- 7.5.4 The Council's response to the applicant's latest submission is provided in Appendix A (Table A.2) to this document, but in summary, the Council does not concur with the applicant that it has suitably observed the requirements within NPSNN paragraphs 5.206 and 5.216.
- 7.5.5 Both relate to the assessment of effects on the wider transport network and the need to respond to forecast negative effects. They require the applicant to adequately assess the effects and to mitigate those negative impacts. The adequacy of the assessment of effects has been roundly questioned during the Examination and as a consequence there is little reliability in the forecasting of effects. Where operational period negative impacts have been indicated the applicant's approach is to propose monitoring, but to leave any subsequent mitigation to other bodies and processes, either through the uncertain RIS process for current or future SRN routes or for other funding sources for the local communities and LRN.
- 7.5.6 The Council is not adverse to adopting a monitor and manage approach, where there is an absence of certainty over the forecast impacts, however, that approach must have secured funding on which all affected bodies can draw as required. That approach or strategy is not before the Examination and is not secured through the DCO.

7.6 Policy Accordance Assessment against draft NPSNN (v2) (REP9-261)

- 7.6.1 The applicant's Policy Accordance Assessment Against Draft NPSNN (v2) ([REP9-261](#)) was submitted at D9A. The changes to the document are mainly signposting to other DCO documents. This is an updated version of the applicant's document Policy accordance assessment of the Project against the Consultation draft NPSNN (published March 2023) ([REP4-209](#)). The applicant has only made two substantive new changes between the two versions.
- 7.6.2 Previously, the Council submitted a response to the applicant's initial assessment of LTC against the draft policies in the merging Draft NPSNN published for consultation in March 2023 ([REP4-209](#)). The Council submitted its response at Deadline 7 ([REP6-168](#)) in Appendix B and this submission remains the Council's position.
- 7.6.3 In terms of the applicant's two new amendments to the Policy Accordance Assessment Against Draft NPSNN (v2) ([REP9-261](#)), the Council's response is set out below.

Draft NPSNN Paragraph 2.24 - Carbon

- 7.6.4 The applicant continues to fail to follow the basic principles of transparency set by the Paris Agreement and International Guidance on greenhouse gas (GHG) emission reporting in their assertions on the percentage impact of LTC and significance testing.
- 7.6.5 As explained within the Council's LIR ([REP1-281](#)), the applicant has not used consistent and comparable boundaries in comparing the emissions calculated and presented within Chapter 15 of the EIA ([APP-153](#)).
- 7.6.6 The application establishes its percentage impact of the construction and operation of the scheme against the total national GHG emission budgets. The national budgets account for sectoral emissions, which are not relevant to the strategic road network, i.e. within influence and therefore scope and boundary of the strategic road network (for example aviation, agriculture and domestic).
- 7.6.7 The principles of transparency set within the Paris Agreement calls for consistency, comparability, completeness and accuracy in GHG emission reporting. The principles of international guidance, such as the WRI's Greenhouse Gas Protocol Project Emission Reporting, calls for consistency and comparability when establishing baselines in GHG emissions reporting.

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- 7.6.8 It is not comparable to assess the emission of a single strategic road project to the total national budget as the emission boundaries (i.e. what constitutes the total volume of emissions) is not consistent.
- 7.6.9 Paragraph 2.24 of the draft NPSNN '*carbon emissions from construction and operation of the strategic road network represented around 2% of the total emissions that year.*
- 7.6.10 The applicant's response to compliance to this statement is to compare the emissions of their project back to the National budgets, not the additional contribution of the project emissions over and above the 2% as stated in the draft NPSNN.
- 7.6.11 Project compliance to the draft NPSNN should be based on the impact of the project on the 2% relating to the strategic road network, not the national budget to ensure a transparent approach to appraising significance of infrastructure.

Draft NPSNN Paragraphs 4.4 and 4.9 - Requirements

- 7.6.12 Regarding Paragraph 4.4, the applicant states that the Requirements within the dDCO provide for the detailed design in general accordance with the Works Plans. Notwithstanding this, the applicant's view of the adequacy of certain Requirements is at variance with the Council and several key IPs that are directly affected by the outcomes of such Requirements. These can be listed below, setting out which IP support the alternative Requirements.
- a. **Requirement 17 (Tilbury Link Road)** – agreed by PoTLL and the Council and different to that of the applicant.
 - b. **Requirement 18 (Orsett Cock Interchange)** – agreed by PoTLL, DPWLG, TEP and the Council and very different to that of the applicant.
 - c. **Wider Network Impacts Requirement** – agreed by PoTLL, DPWLG, TEP and the Council and the applicant has refused to provide this or any alternative.
 - d. **Asda Roundabout Requirement** – agreed by PoTLL and the Council and the applicant has refused to provide this or any alternative.
 - e. **Housing Impact Requirement** – agreed by Gravesham BC and the Council, although with different wording appropriate to each local authority and the applicant has refused to provide this or any alternative
 - f. **Air Quality Requirement** – provided by the Council and the applicant has refused to provide this or any alternative.
- 7.6.13 Regarding Paragraph 4.9, the draft NPSNN has only provided a minor change to this provision that is not applicable to this scheme or the Council.

Draft NPSNN Paragraphs 5.266 & 5.280 – Wider Network Impacts

- 7.6.14 In its response in pages 438-439 of the Policy Accordance Assessment Against draft NPSNN (v2) ([REP9-261](#)), when considering the draft paragraph 5.266, the applicant seeks to assert that it has collaboratively engaged with the Council, other Local Authorities and Interested Parties during the development of its proposals. The Council entirely contests this assertion. Throughout the pre-submission process the applicant resolutely defended its proposals and was not prepared to take into consideration the judgement of harm to its local communities and its Local Road Network that the Council was raising. This is evident through the many matters that are not agreed between the parties within the SoCG related to this topic.
- 7.6.15 The applicant has not entered into 'discussions' on the transport impacts, which would imply collaboration, but has instead taken the stance of presenting its proposals with no intention of adaptation or resolution of effects.

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- 7.6.16 The Council has continually questioned the basis for the applicant's analysis of impacts and the applicant has demonstrated within the Examination its inability to provide suitable modelling assessment, to resolve fundamental flaws in its application relating to network and community harm. Furthermore, the applicant has taken the stance that it is exempt from resolving wider network impacts, as is shown through its Wider Network Impacts Management and Monitoring Plan ([APP-545](#)) and the subsequent Wider Network Impacts Position Paper ([REP6-092](#)). The latter being the place where the applicant decides to express falsely that the Council and other Interested Parties have not engaged with the applicant. That is simply not the case, the Council has always sought to engage with the applicant but has consistently met the resolute resistance from the applicant. Furthermore, the Wider Network Impacts Position Paper does not even recognise the full extent of the forecast impacted areas, such as Orsett Village, Five Bells and Stanford-le-Hope/Corringham or Chadwell St Mary.
- 7.6.17 In fact, the Council held many monthly meetings with the applicant during 2021 – 2022 to discuss Wider Network Impacts, however, these resulted in no improvements or changes from the applicant to their current position on this significant issue.
- 7.6.18 The Council therefore is of the opinion that the applicant has not entered into 'discussions' on the transport impacts but has taken a stance of defence and refusal to acknowledge impacts.
- 7.6.19 The applicant continues to mislead the ExA in pages 445-446 of its Policy Accordance Assessment Against draft NPSNN (v2) ([REP9-261](#)). In its consideration of compliance with paragraph 5.280 of the draft NPSNN, the applicant states that it '*has taken reasonable steps to mitigate the impacts of the Project including in terms of improving network resilience*'. Plainly, it has not.
- 7.6.20 The Council has provided evidence within its LIR ([REP1-281](#)) in Section 7 that the applicant's proposal does not achieve the network resilience that it claims. Any 'resilience' provided at the Dartford Crossing is quickly eroded through the induction of new traffic to the network. This evidence has been revised during the Examination in written and oral evidence.
- 7.6.21 Over the many years during the pre-submission process, the applicant has been informed of the many areas of negative effect that the proposals have on the Council's communities and transport network, as such the applicant has been given every opportunity to adjust its proposals and the geographic coverage of the DCO application (i.e. increasing the Order Limits) or the scope of the proposals. The applicant has opted to ignore the feedback and advice of the Council and has therefore entered the submission and Examination with a poorly conceived proposal, that has required many months of stolid but ill-informed defence without resolution. The applicant has concluded that it is exempt from mitigation of wider network impacts on its unsubstantiated claimed that the proposals provide a net benefit to the region.
- 7.6.22 The applicant has therefore not 'taken reasonable steps to mitigate' the impacts of the proposals on 'surrounding transport infrastructure' and does not provide 'resilience on the wider network'. The Secretary of State should therefore note that the application is not compliant with paragraphs 5.266 and 5.280 of the draft NPSNN. As a result the DCO should not be made.

7.7 Planning Statement Appendix B: Energy NPS Accordance Table (v2) (REP9-220)

- 7.7.1 The Government published the latest Energy NPS EN-1, EN-4 and EN-5 policies on 22 November 2023, which will come into force early 2024. This has been noted by the applicant in paragraph B.1.12 in the Planning Statement Appendix B National Policy Statements for Energy Infrastructure Accordance Tables v2.0 ([REP9-220](#)).

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- 7.7.2 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.
- 7.7.3 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.
- 7.7.4 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.
- 7.7.5 However, regarding utilities NSIPs for the project, the applicant does still not appear to have taken on board the Council's comments in Sections 12.2.14 and 12.5.1 of the Council's LIR ([REP1-281](#)) and further information has still not been provided to allay the Council's concerns.
- 7.7.6 Of particular note is the Post Written Submission for ISH2 ([REP1-184](#)), which contains a 'note on overlap between Nationally Significant Infrastructure Projects and associated development under the Planning Act 2008', which concludes that utility works that constitute NSIPs in their own right cannot also be associated development. Since the utility diversions that have been determined as NSIPs are not associated development, the NSIPs should therefore be assessed separately, including having separate Environmental Statements and the need for separate utilities documents.
- 7.7.7 The applicant appears to have disregarded the Post Written Submission for ISH2 ([REP1-184](#)), notably in paragraph B.1.2 of the Planning Statement Appendix B National Policy Statements for Energy Infrastructure Accordance Tables v2.0 ([REP9-220](#)), such that the applicant has confirmed that they have responded in terms of LTC as a whole rather than to the Energy NSIPs (Work Nos. OH7, G2, G3 and G4) regarding design, impacts, mitigation measures and relevant controls.
- 7.7.8 The applicant's summary within paragraph B.1.18 of the Planning Statement Appendix B National Policy Statements for Energy Infrastructure Accordance Tables v2.0 ([REP9-220](#)) that "the newly published Energy NPSs are potentially capable of carrying some weight in the decision-making process, that degree of weight is less than that to be afforded the designated 2011 Energy NPSs, those reasons being the subsidiary nature of the Energy aspects of the Project and the fact that transitional arrangements exist which clearly give primacy to the designated NPSs", also appears to disregard the Post Written Submission for ISH2 ([REP1-184](#)).
- 7.7.9 The Council does, however, acknowledge that the applicant appears to have reviewed and compared the designated 2011 Energy NPSs, the draft NPSs and the newly published November 2023 Energy NPSs.
- 7.7.10 The applicant has noted within paragraph B.1.19 that the key changes between the three versions of the Energy NPSs appear only marginally relevant to LTC. This is something that the Council comments further on in Section 7.8 of this report.
- 7.7.11 Within Table B.1, paragraph 4.8.5 of the Planning Statement Appendix B National Policy Statements for Energy Infrastructure Accordance Tables v2.0 ([REP9-220](#)) the applicant has amended the 'Project Response' stating that the 'impacts of climate change and subsequent climate variability have informed the design and environmental assessment for all aspects of the project.' The Council, within Section 12.2.8 of their Local Impact Report ([REP1-281](#))

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commented that the applicant had referenced Chapter 15 – Climate of the Environmental Statement ([APP-153](#)). As described in Section 12.3.6 the ES is for the whole of LTC and does not specifically look at the OH7 NSIP. Effects of wind and storms on overhead lines and higher average temperatures leading to increased transmission losses are also not covered. Therefore, this means that consideration has not been given regarding the local impact of climate change adaptation, by means of an increased risk to the resilience of the infrastructure, i.e. risk of damage to the local area by infrastructure collapse, a power outage to the local and wider communities and regular maintenance the infrastructure then being required. Furthermore, the latest amendments to the Environmental Statement Addendum v9.0 ([REP9-246](#)) do not appear to have covered the Council's concerns on this matter.

7.8 Council Comments on Applicant's Responses to ExA ISH12 Action Point 23 on new Energy NPSs (REP9-274)

- 7.8.1 As previously noted, the Government published the latest Energy NPS EN-1, EN-4 and EN-5 policies on 22 November 2023, which will come into force early 2024.
- 7.8.2 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.
- 7.8.3 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.
- 7.8.4 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. This is noted by the applicant in paragraph 1.1.1 of the Applicant's response to ExA ISH12 AP23 on Suite of Energy National Policy Statements ([REP9-274](#)).
- 7.8.5 The Council wishes to note that within Section 12.2, notably Sections 12.2.5 and 12.2.12, of the Council's LIR submission ([REP1-281](#)), the Council acknowledged that the applicant had reviewed the draft Energy NPS EN-1, EN-4 and EN-5 policies that had not yet been formally issued at the time.
- 7.8.6 The applicant's conclusion, as noted in paragraph 1.1.2 and 2.1.3 of the Applicant's response to ExA ISH 12 AP23 on Suite of Energy National Policy Statements ([REP9-274](#)) is that *'while the newly published Energy NPSs are potentially capable of carrying some weight in the decision-making process, that degree of weight is less than that to be afforded to the designated 2011 Energy NPSs'*. The Council has concerns over this, since the newly published NPS EN-1 and EN-5 includes the Government's conclusion that there is a critical national priority (CNP) for the provision of nationally significant low carbon infrastructure, of which the project identified NSIPs would qualify. Within the Council's area, the OH7 diversion NSIP is of relevance.
- 7.8.7 Within paragraph 3.1.2 of the applicant's response to ExA ISH 12 AP23 on Suite of Energy National Policy Statements ([REP9-274](#)) the applicant considers the identified Energy NSIPs of LTC to be subsidiary to the primary road element, and as such constitute associated development. This is also further reiterated in paragraph 9.1.3.
- 7.8.8 The Council refers the applicant to the Post Written Submission for ISH2 ([REP1-184](#)), which contains a *'note on overlap between Nationally Significant Infrastructure Projects and*

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associated development under the Planning Act 2008, which concludes that utility works that constitute NSIPs in their own right cannot also be associated development. Since the utility diversions that have been determined as NSIPs are not associated development, the NSIPs should therefore be assessed separately, including having separate Environmental Statements and the need for separate utilities documents.

- 7.8.9 The Council takes note of the applicant's comment in paragraph 8.1.1 that Section 1.6 of the Transitional Provisions, following review of the newly published NPS EN-1 considers that the 2011 suite of the NPSs should be the relevant NPSs in respect of applications accepted prior to the designation of the newly published Energy NPSs, which is likely to be early 2024. However, the applicant has noted that at the Secretary of State's discretion the draft and newly published NPSs are capable of being important and relevant to be considered.
- 7.8.10 The applicant notes within paragraph 9.1.7 of the applicant's response to ExA ISH12 AP23 on Suite of Energy National Policy Statements ([REP9-274](#)) that the mitigation hierarchy, the circular economy and 'dark skies' initiative are already addressed in other NPS accordance tables already submitted to the Examination and updated at D9, which includes Planning Statement Appendix B National Policy Statements for Energy Infrastructure Accordance Tables v2.0 ([REP9-274](#)), comments of which have been included by the Council in Section 7.7 above.
- 7.8.11 Within paragraph 10.1.5 and 10.1.6 of the applicant's response to ExA ISH12 AP23 on Suite of Energy National Policy Statements ([REP9-274](#)), the applicant has again used their view that the Energy NSIPs are subsidiary to LTC and therefore associated development, such that the CNP for low carbon infrastructure is not relevant to the project energy NSIPs. As stated above in Section 7.8.8 above, the Energy NSIPs should be classed as NSIPs in their own right, rather than associated development and therefore the CNP for low carbon infrastructure would be relevant.
- 7.8.12 The applicant in paragraph 10.1.7 of the applicant's response to ExA ISH12 AP23 on Suite of Energy National Policy Statements ([REP9-274](#)) references the Carbon and Energy Management Plan ([REP9-240](#)), however, this is plan produced for LTC as a whole, rather than specifically considering the Energy NSIPs. The Council believe this does not cover the requirements of the CNP low carbon infrastructure well enough for the Energy NSIPs.
- 7.8.13 Within Section 5.10 'Landscape and Visual' of NPS EN-1 an update to the previous policy includes that the applicant should carry out a landscape and visual impact assessment, reported in the ES, which includes the effects on landscape components and character during construction and operation. The Council wishes to know whether the applicant will be providing an update to ensure that the Energy NSIPs landscape and visual impacts are detailed and covered.
- 7.8.14 Within Section 5.12 'Noise and Vibration' the applicant is expected to take all reasonable steps taken to mitigate and minimise potential adverse effects on health and quality of life. The Council is interested to understand how this has been covered for the identified Energy NSIPs.
- 7.8.15 Also, within the new NPS EN-5 the Government notes that the applicant should consider Section 11A of the National Parks and Access to the Countryside Act 1949 (as amended by Section 62 of the Environmental Act 1995) and should note amendments to provisions contained in Section 245 of the Levelling Up and Regeneration Act 2023. There is also an expectation that transmission and distribution licence holders are required under Schedule 9 of the Electricity Act 1989 to produce and publish a statement setting out how they propose to perform this duty. The Council welcomes the applicant's comments on this in relation to LTC.

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- 7.8.16 The new NPS EN-5 has an additional paragraph noting that for overhead lines applicants should consider measures to make lines more visible, such as bird flappers and diverters, which are covered in more detail in paragraphs 2.10.3 and 2.10.4 of NPS EN-5. The Council wishes to know whether these have already been considered and are being implemented on the diverted overhead lines.
- 7.8.17 Under 'Landscape and Visual Impact' of the NPS EN-5 policy there is a requirement for a landscape, seascape and visual impact assessment for relevant NSIPs and that the applicant should demonstrate that they have given due consideration to the costs and benefits of feasible alternatives to the overhead line. The assessment is not something that the applicant has produced for LTC at present.
- 7.8.18 The Council notes that the section of 'Sulphur Hexafluoride' is one that the applicant had already considered within their dDCO submission as part of their review of the (at the time) draft NPS EN-1, EN-4 and EN-5. Sections 6.6.49 – 6.6.52 of the Planning Statement Volume 7 ([APP-495](#)) provides further detail of the NPS EN-5 requirement, with Section 6.6.52 saying that 'National Grid Electricity Transmission has confirmed in writing that the Project would not involve the use of SF6.' However, although it should be part of the evidence towards NPS policy compliance, this piece of evidence is not included within the DCO.
- 7.8.19 To conclude, the Council is in disagreement with the applicant's view that the Energy NSIPs are associated development, a subsidiary of LTC and as such the applicant should consider the above new or amended policies, rather than imply that they are not relevant.
- 7.8.20 The Council wishes to note that within Section 12.2, notably Sections 12.2.5 and 12.2.12, of the Council's LIR submission ([REP1-281](#)), the Council acknowledged that the applicant had reviewed the draft Energy NPS EN-1, EN-4 and EN-5 policies that had not yet been formally issued at the time.

8 Council Comments on Applicant's Comments on IP Submissions at D8 (REP9-276)

8.1 Introduction

8.1.1 This section provides the Council's comment on the applicant's comments on IP submissions at Deadline 8 ([REP9-276](#)).

8.2 Approach to Local Traffic Modelling

8.2.1 To say that the Council is disappointed in having to consistently provide observations on this critical matter throughout a challenging DCO process, is a huge understatement.

8.2.2 Repeatedly, the applicant has demonstrated a 'contempt' for the local authorities that has stymied any serious ability for the public sector to work collaboratively to optimise outcomes for the local communities.

8.2.3 Numerous times throughout the gestation of the project the applicant has attempted to reset its engagement approach in recognition of its failures. Each time, the applicant has failed and has reverted to behaviours commonly acknowledged as being out of touch with the needs of contemporary society. The Council has evidenced a catalogue of concerns regarding the engagement of the applicant on transport modelling matters (see Section 6 of the Council's Deadline 6A submission ([REP6A-013](#)) particularly Table 6.1).

8.2.4 The applicant has consistently refused to address the matters raised and has instead insisted on forcing the ExA into wholly inappropriate position of jury on complex technical issues that have been outstanding unresolved, often for several years.

8.2.5 A largely imperious and arrogant approach has been displayed throughout the applicant's engagement on transport modelling, attempting to use superior funding, access to legal representation and special status to exempt them from the rigour that they themselves would apply should they be on the receiving end of an application.

8.2.6 Throughout many years of technical engagement, the Council has frequently raised its concerns that the extensive programme of meetings with stakeholders has been unable to elicit meaningful, common-sense alterations to the proposed scheme.

8.2.7 The simple fact that there is an unprecedented number of serious matters not agreed running into the hundreds, across all affected local authorities (including 216 issues for the Council in its SoCG) is testament to the wholly inadequate approach consistently adopted by the applicant.

8.2.8 The Council is not alone amongst the local authorities, who are frankly exasperated by the behaviour of the applicant throughout the DCO (as often expressed verbally at monthly meetings).

8.2.9 The Council stands by its many and various comments specifically related to the approach of the applicant to transport modelling.

8.2.10 The applicant could have, and should have, resolved transport modelling matters prior to its submission. It chose not to because it recognised that an admission of error on this matter would fundamentally undermine the integrity of the DCO application.

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- 8.2.11 This is not a simple disagreement on a small modelling matter as the applicant would prefer to portray. It is a structural crack in the foundations of the application, which has ramifications for the scheme and all technical work based on it. The applicant has had to remain dogmatic in its stance because it had left itself no option to move from its position without risking further challenge to its application. A classic catch-22 situation.
- 8.2.12 The serious divergence on transport modelling matters that remains is a stark and obvious reflection of the unreasonable approach adopted by the applicant.
- 8.2.13 It would normally be entirely possible and reasonable to agree on transport modelling matters. It is, however, the serious implications of doing so that has required the applicant to resort to technical trickery and distraction. The applicant got itself into an untenable position where it found it was unable to agree any version of the modelling that does not align with LTAM.
- 8.2.14 The Council is confident that, given the freedom to work independently and with integrity, the applicant's technical modelling team would align with the Council on modelling matters. Indeed, the microsimulation modelling for critical junctions, such as Orsett Cock Junction, should have been undertaken prior to fixing the scheme for statutory consultation. This was not undertaken at the appropriate time.
- 8.2.15 It was a grave error from the applicant to wait over five years to respond to the Council's requests concerning modelling and force such a serious issue into the last weeks of the Examination.
- 8.2.16 The Orsett Cock Junction is the applicant's 'black elephant': *A looming and obvious threat or risk that was not adequately addressed or acknowledged; A situation where the potential negative consequences are significant, the probability of occurrence is high, and yet there is a collective reluctance or denial to confront and deal with the issue.*
- 8.2.17 Failure to recognise and address this 'black elephant' meant that the applicant was unprepared when the risks materialised, leading to severe consequences where this application is unable to be approved.
- 8.2.18 The applicant could have brought Orsett Cock Junction into its jurisdiction as part of the LTC scheme. It chose not to. Instead, the applicant decided to make the Council responsible for the operation of a crucial part of its scheme.
- 8.2.19 The Council has a responsibility as Local Highway Authority to ensure it is not left with yet another legacy of traffic issues that will take decades of time and effort to resolve, as happened with the last Dartford Crossing.
- 8.2.20 The applicant has ferociously and nervously resisted the legally binding commitment necessary to ensure it is held accountable to address traffic issues that result from its scheme. If it seriously believes it has acted with professional integrity on this matter, then this commitment really should not have been in question.

8.3 Asda Roundabout

- 8.3.1 In spite of concerns being raised prior to the DCO v1 and v2 submission by the Council and the Port of Tilbury London Limited (PoTLL), the applicant chose not to prepare any localised modelling of the construction period or operational impacts on the A1089/Asda Roundabout.
- 8.3.2 Following on-going pressure and an action being set by the ExA, the applicant has initially submitted a VISSIM model for ASDA roundabout during the Examination at Deadline 3. The Council provided its response on the inadequacies of that modelling in Appendix A of the Council's Comments on the Applicant's Submissions at D3 ([REP4-354](#)). The Council's review

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of the base year model identified critical issues, which were required to be addressed before comments could be provided on the forecast models and the results of that modelling. Therefore, the base VISSIM modelling was not approved by the Council and as such neither the operational or the construction forecast modelling were considered ready for review.

- 8.3.3 However, the applicant at Deadline 6 abandoned the VISSIM modelling to assess the construction impacts and submitted a new assessment based on ARCADY. The applicant considered that the process proposed by the Council and PoTLL would be 'complex and time consuming' ([REP6-123](#) paragraph 2.1.2), however, that process was an appropriate and proportionate process that the applicant should have adopted prior to submission, such that the applicant would then not have been so constrained by the Examination programme.
- 8.3.4 As a consequence of not having sufficient time to undertake a robust assessment, the applicant justified the use of ARCADY to model numerous construction tests in a short timeframe. However, in the context of assessing the LTC on the LRN, this approach is unacceptable. The ARCADY assessment models the Asda Roundabout in isolation from other junctions, ignoring inter-junction interactions and the potential for a blocking back effect on other junctions.
- 8.3.5 Despite the very late change in modelling approach from VISSIM to ARCADY, the Council raised serious concerns with the applicant's ARCADY modelling in the Council's Comments on Applicant's Submissions at Deadline D6A and D7 ([REP8-166](#)). The Do Minimum ARCADY modelling shows queues of over 3km long on A1089 Dock Road and similar levels of delay are forecast for all construction phases. These queues and delays are not included in the LTAM modelling of the road network, which again highlights a significant discrepancy between LTAM and local modelling.
- 8.3.6 Despite the absence of validity or adequacy of the applicant's modelling, the applicant's assertion that its construction period control documents would mitigate these delays at the Asda Roundabout junction are completely implausible. The applicant's models forecast delays of in excess of 900 seconds (15 minutes). The construction period controls are not adequate to mitigate that level of delay, however, effective the applicant believes its controls will be.
- 8.3.7 It is therefore not appropriate that the applicant dismisses the need for further mitigation at this junction to mitigate impacts during the construction phase.

8.4 VISSIM Model Parameters

- 8.4.1 The parameters should be consistent between Do Minimum and Do Something models and there is no justified reason why the applicant has made changes between model scenarios. This artificially skews results and disguises the true impacts of LTC.
- 8.4.2 The Council asserts that the applicant has without justification made the future year models work better and moved significantly away from a validated base model.

8.5 Comments on VISSIM Video

- 8.5.1 The two submitted videos, Orsett Cock v3.6 (applicant) and Orsett Cock v3.6T (the Council) versions were recorded for the same seed (i.e. model run) and for the same scenario (2030 PM Do Something) and the same time period, starting from 17:53:20. This provides a like for like comparison of the v3.6 and v3.6T models.
- 8.5.2 It is not possible to provide videos of an average of 20 model seeds. Therefore, the modelling seed used for the videos of V3.6 and V3.6T was 'seed 5', which was randomly picked, and not artificially selected to show congestion in the model as that would be highly inappropriate.

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- 8.5.3 The applicant's approach to calculating queues in VISSIM model results is incorrect, as previously highlighted by the Council. The maximum queues are reported by the applicant as the average (of seeds) of the average (of 5 minutes intervals) of maximum queues, which is incorrect. The average and the maximum queue length should be independent from the evaluation interval (whether it is 1 minute, 5 minutes or 1 hour) therefore it should be reported as the average (of seeds) of the maximum (of 5 minutes intervals) of the maximum queue length. The applicant's approach significantly under-reports queue lengths.

Appendix A Planning and Policy Matters

Lower Thames Crossing

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9)

Appendix A: Planning and Policy Matters

15 December 2023

Document Control Sheet

Project Name: Lower Thames Crossing

Report Title: Thurrock Council Submission at Deadline 9A (D9A) Appendix A: Planning and Policy Matters

Doc Ref: FINAL

Date: 15 December 2023

	Name	Position	Signature	Date
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A.1 Council Response to Applicant's Review of Policy CSTP11 Health Provision at D9

CSTP11 Health Provision	Applicant's Response at D9	Council's Response at D9A
<p>1. Health Care Provision</p> <p>The Council will work with partners to deliver:</p> <p>I. A healthy, strong and vibrant sustainable community by ensuring the delivery of health care infrastructure within Thurrock through a tiered model for health care provision.</p> <p>II. A significant reduction in health inequalities between different groups within the Borough, and between the Borough and the region, in line with national and regional NHS objectives.</p> <p>III. Health care facilities that are located according to need, and which are accessible to all people in the Borough, including by public transport, cycling or walking.</p> <p>IV. Health care facilities that meet existing and future community needs, including those needs arising from the new housing and employment that will be developed in the Borough over the lifetime of the plan.</p> <p>V. Improved access to General Practitioners within West Thurrock and Purfleet where an existing deficit has been identified.</p> <p>2. Tier 3 – A Community Hospital – Offering High level Intermediate Services</p> <p>I. The Council supports the development of a New Generation Community Hospital (NGCH) in Hogg Lane, Grays with an anticipated built completion date of late 2013. This will be the</p>	<p>The acquisition of Whitecroft Care Home on Stanford Road (A1013) in the Thurrock Council area is being discussed with the owners/operators.</p> <p>Consideration therefore needs to be given to the effect on capacity of care home provision. Should a loss of capacity occur, this could be inconsistent with Policy CSTP11 which seeks to facilitate an increase in care provision to meet identified needs. The Applicant's offer to purchase the care home has been made on the basis that the residents will be relocated to a replacement facility.</p> <p>The South Essex Housing Needs Assessment (June 2022) identifies that there is a need for 169 extra care spaces between 2020-2040. This is in addition to that already provided at Whitecroft Care Home. The total need would therefore be 225 spaces with the temporary removal of Whitecroft to 2040. While the needs assessment identifies a shortfall in provision to 2040, there are known to be a number of proposals emerging for new care home provision in the Thurrock Council</p>	<p>The Council is aware of ongoing conversations with the Whitecroft Care Home regarding acquisition and replacement. As noted in the Council's response at Deadline 8 (Section 4.9) (REP-166) and the Council's SoCG issue 2.1.231, this was an unexpected development given the refusal from the applicant to countenance any acquisition on this issue for several years. The Council understands that no agreement has been reached and only Heads of Terms have been presented to the owner by the applicant.</p> <p>The logic set out by the applicant that this would result in not materially affecting the provision of care home bedspaces, is disputed as there is currently no guarantee that the replacement facility would be within the borough of Thurrock. Additionally, the response does not set out how the temporary removal of bedspaces will be mitigated or contingency plans if the planning permission referenced does not get approved.</p> <p>Therefore, as noted by the applicant this approach risks being inconsistent with Policy CSTP11.</p> <p>Additionally, policy CSTP11 covers wider healthcare provision issues relevant to the</p>

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CSTP11 Health Provision	Applicant's Response at D9	Council's Response at D9A
<p>highest tier health care facility in Thurrock, and will be supported by secondary and tertiary care facilities outside the Borough.</p> <p>II. The Council supports the provision of a wide range of health and social care services for local people through the NGCH. Services are anticipated to include a GP surgery, x-ray, ultrasound, endoscopy, a minor injuries unit, primary care assessment and outpatient facilities.</p> <p>3. Tier 2 - Health Centres with Community and Extended Services I. The Council supports the development of Tier 2 health care infrastructure in Thurrock, with each facility providing a range of specialist health services for a population of approximately 30,000 people. They are anticipated to be delivered at the following locations:</p> <p>i. Purfleet – Over the next ten years the population of Purfleet is expected to increase due to proposed housing developments. An increase in health care services will be provided to meet increasing needs in Purfleet as the area is developed. The level of these facilities and timing of construction will depend on the phasing of the proposed development.</p> <p>ii. Grays Town Centre – New GP-led health care facilities at the Equitable Access Centre. This service will be available in 2010 and will lead to a requirement for four additional Whole Time Equivalent (WTE) GP's in 2010, and one further WTE GP by 2014.</p> <p>iii. Tilbury – Proposed new modern health care facilities to address the deficit in provision in Tilbury following a strategic review and public engagement during 2009. It is anticipated that this will lead to a requirement for three additional WTE</p>	<p>area to provide for that need over the next 17 years to 2040 as set out below:</p> <ul style="list-style-type: none"> • Planning permission reference 19/01662/FUL proposes redevelopment of Langdon Hills Golf and Country Club, including provision of a 64-bed residential care home with dementia facilities (Use Class C2). The application was approved on 21 September 2022. Once operational, this would notionally provide more bed spaces than those temporarily removed at Whitecroft care home, with a remaining need for 161 spaces by 2040. • Application reference 23/00853/FUL proposes a residential development which also includes a 77 bed care home which is currently awaiting determination (as at 30 November 2023). If the application is approved, it would leave a notional need for a further 84 spaces by 2040. • With the provision of a facility to replace Whitecroft Care Home with at least 56 spaces, it would leave a notional need for a further 28 bed spaces to be provided to meet the need to 2040 as identified in the South Essex 	<p>application, this includes CSTP11, 1.ii-- 1.v, CSTP 5, and CSTP8.</p> <p>It is unclear how the applicant has complied with these CSTP11 priorities, given the ongoing matters unagreed within the Council's Statement of Common Ground which reflect these priorities. These include:</p> <ul style="list-style-type: none"> - Issue 2.1.230: this outlines the Council's position regarding the lack of information about how mitigations will reduce health inequalities. - Issue 2.1.219: this outlines the Council's position regarding the lack of information regarding the monitoring of health and equalities outcomes, which would include the need for partnership work. - Issue 2.1.236: this outlines the Council's position regarding impact of construction workers on health and other services and inadequacy of the current commitment within the REAC (PH002) regarding mitigation.

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CSTP11 Health Provision	Applicant's Response at D9	Council's Response at D9A
<p>GP's by 2012. iv. The Council will work with health partners to plan for additional facilities in Thurrock Urban area if need is identified from any future assessments.</p> <p>4. Tier 1 – Local Service Providers in fit for purpose premises offering a range of services The Council supports the provision of new and improved tier one services, particularly in areas where a deficiency is identified. There is currently a deficit in tier 1 services across the Borough that will be affected further by the increase in population and employment envisaged in the Regional Spatial Strategy.</p> <p>5. Partnership Working</p> <p>The Council and NHS South West Essex are committed to working closely with partners to respond to local population changes. NHS SWE will ensure good communication with partners and Thurrock's local community to ensure that health care infrastructure development is responsive to patients' needs.</p> <p>6. Adult Social Care</p> <p>I. The Council will support the development of adult social care facilities that allow people to stay in their own homes for as long as possible, rather than providing more space in care homes and nursing homes.</p> <p>II. Where alterations to residential property are required to allow people to retain independence and stay in their home, the Council will support them subject to the normal controls on</p>	<p>Housing Needs Assessment, June 2022.</p> <p>In view of the situation described above, with Whitecroft Care Home being relocated and other proposals coming forward, the Applicant's conclusion is that the Project would not materially affect the provision of care home bed spaces being met in the period between 2020 and 2040 as identified in the South Essex Housing Needs Assessment (June 2022).</p>	

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CSTP11 Health Provision	Applicant's Response at D9	Council's Response at D9A
<p>design and layout of residential properties and protection of neighbouring amenity.</p> <p>III. The Council will only support the development of specialist care facilities in small units, to provide facilities for members of the community who cannot be cared for at home. These will include facilities for specialist areas such as autism, profound physical and learning disabilities, where there is no local provision.</p> <p>IV. The Council will look to expand the provision of extra care housing and will be working with Housing colleagues to identify sites that can be developed as an alternative to long term residential care.</p> <p>7. Private Sector Provision</p> <p>The Council supports, in principle, the provision of hospice accommodation at a location to be set out in the Site Specific Allocations and Policies DPD. The Council will give consideration to allowing enabling development if it can be demonstrated that this is essentially required.</p> <p>8. Developer Contributions</p> <p>Any significant new developments that will have an adverse impact on the current accessibility and capacity of health care services will be required to contribute towards the community needs generated by the development and address any identified deficiencies in the locality that they generate or exacerbate.</p>		

A.2 Council Response to Applicant's Review of NPSNN Paragraph 5.206 and 5.216

NPSNN Paragraph Number	Requirement of the NPSNN	Applicant's Response at D9A (new text in red text below)	Council's Response at D9A
5.206 NPSNN	For road and rail developments, if a development is subject to EIA and is likely to have significant environmental impacts arising from impacts on transport networks, the applicant's environmental statement should describe those impacts and mitigating commitments. In all other cases the applicant's assessment should include a proportionate assessment of the transport impacts on other networks as part of the application.	<p>An EIA was carried out for the Project, which identifies and assesses the impacts arising from the Project and the proposed mitigation measures, the results of which are reported in the ES (Application Document 6.1). The Transport Assessment (Application Document 7.9) sets out an assessment of the transport impacts on the strategic and local road network as a result of the Project. This has in turn been informed by the Lower Thames Area Model (LTAM) which assesses:</p> <ul style="list-style-type: none"> • existing traffic and transport conditions; • future baseline • forecast traffic and transport conditions with the Project • forecast impacts of the completed Project on all modes of transport; and • forecast impacts of construction and construction traffic <p>Mitigating and/or monitoring commitments include:</p>	<p>The applicant has shown through its assessment of effects that there are locations within the Local Road Network (LRN) that are forecast to be the subject of significant negative effects, as a consequence of traffic being generated along those routes or reassigning within the network both during the construction period of LTC and once LTC is operational.</p> <p>To provide its evidence the applicant relies on the use of its LTAM strategic model for basic forecasts. It does not provide scenario testing, but instead presents a prospective opening year of 2030 and a forecast year of 2045, all of which is based on adjusted data from as long ago as 2016. That modelling has been the subject of substantive examination. The reliability of the forecasting has been questioned by the Council and many other Interested Parties. The problems with the modelling has been illustrated by the comparative analysis of localised modelling at the LTC/A13/A1013/Orsett Cock interchange, where the localised modelling has not aligned with the forecasts within the LTAM.</p> <p>The applicant has recently amended part of its evidence on the significance of local impacts at REP7-143 '7.9 Transport Assessment Appendix D Scale of Impacts Maps v2.0', in which it now indicates sections of the LRN in Stanford-le-Hope and on the SRN at A1089. It has also downgraded its</p>

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NPSNN Paragraph Number	Requirement of the NPSNN	Applicant's Response at D9A (new text in red text below)	Council's Response at D9A
		<ul style="list-style-type: none"> • Wider Network Impacts Management and Monitoring Plan (Application Document 7.12) • The Framework Construction Travel Plan (Application Document 7.13) • Outline Traffic Management Plan for Construction (Application Document 7.14) • Outline Materials Handling Plan (ES Appendix 2.2 Application Document 6.3) • Traffic and Transport (ES Appendix 4.4 Application Document 6.3) • In addition, the Project recognises the potential for long linear projects measures are required to address the impact of severance for local communities especially for walking cycling and horse riding (WCH) routes, these impacts have been assessed in Chapter 13 Population and Human Health (Application Document 6.1) and in response the Project proposed 46km of new or improved WCH routes resulting in an improvement to the network. <p>In response to the Examining Authority's consideration of wider network impacts at the Examination hearings, specifically ExA Actions Points 3, 5 and 6 arising from Issue Specific Hearing 10, the Applicant's Wider Network Impacts Position Paper [REP6-092] supplements the WNIMMP in respect of</p>	<p>assessment of impacts on A13, without justification. These changes have not been captured within the broader Transport Assessment or other evidence.</p> <p>Irrespective of the validity and inconsistency of the applicant's modelling and reporting of the assessment that has been put before the ExA, the assessment shows impacts on the LRN during construction and operation that are not mitigated.</p> <p>The applicant relies on the suite of Control documents to set the framework for the development of a governance, monitoring and management process during the construction period. The Council has provided evidence on the flaws and weaknesses within that suite of documents and has indicated how the applicant cannot therefore rely on its stated mitigation that is proposed to be developed through that framework.</p> <p>The Council contends that the applicant would not mitigate its construction period impacts.</p> <p>The applicant has provided a Wider Network Impacts Management and Monitoring Plan (APP-545) and its Wider Network Impacts Position Paper (REP6-092). The former indicates how the applicant proposes to collect pre and post-opening data and how it will then not implement any required mitigation, but instead pass the burden to the affected Local Highway Authority. The latter document presents outputs from LTAM strategic modelling that indicate areas of forecast network impact derived through the</p>

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 Lower Thames Crossing

NPSNN Paragraph Number	Requirement of the NPSNN	Applicant's Response at D9A (new text in red text below)	Council's Response at D9A
		<p>potential wider network impacts at four specified locations raised by Interested Parties. These locations being the Blue Bell Hill corridor, the A13 corridor, the A2/M2 corridor and the Asda roundabout.</p>	<p>operation of LTC, but no mitigation is proposed. Instead, the applicant proposes what it considers to be a 'monitor and manage' approach, but is in effect a mechanism to collate data that will be provided to the relevant Local Highway Authorities, such that that body can then apply for funding. This provides no commitment by the applicant to resolve its forecast impacts and does not secure funding for others to resolve the problems induced by applicant's proposals.</p> <p>The applicant believes that the policy base within NPSNN effectively exempts the applicant from mitigating the impacts of its proposals. It seeks to apply a balance of impacts and benefits, but has not substantiated how minor reduction in traffic flow on the LRN are outweighed by substantive increases in traffic flow, delays and congestion on sensitive parts of the LRN within Thurrock.</p>
5.216 NPSNN	<p>Where development would worsen accessibility such impacts should be mitigated so far as reasonably possible. There is a very strong expectation that impacts on accessibility for non-motorised users should be mitigated.</p>	<p>Section 4 of the HEqIA (Application Document 7.10) sets out the proposed mitigation to minimise potential impact on accessibility. The measures identified include: Construction:</p> <ul style="list-style-type: none"> • Project designed to reduce land take • Construction compounds located away from PRoW's, National Trails and cycle routes where feasible • Measures to reduce visual and noise impacts 	<p>The Council's opinion on the absence of effective mitigation of general traffic impacts is outlined above in response to paragraph NPSNN 5.206 compliance.</p> <p>When considering the specific mitigation that should be provided in relation to impacts on accessibility for non-motorised users, the Council contends that the applicant has not properly assessed the impacts within a number of communities within Thurrock and has not provided mitigation.</p> <p>Whilst connections across LTC have been largely agreed within the Authorised Works and the</p>

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9) – Appendix A: Planning and Policy Matters
Lower Thames Crossing

NPSNN Paragraph Number	Requirement of the NPSNN	Applicant's Response at D9A (new text in red text below)	Council's Response at D9A
		<ul style="list-style-type: none"> • Maintaining access to existing areas of open space during construction <p>Operation:</p> <ul style="list-style-type: none"> • Provision of replacement, where appropriate, equal or greater in size than the land required for the Project • Creation of green bridges to maintain and enhance connectivity for WCH • Re-linking of all PRoWs, bridleways and cycle routes crossed by the Project • Creation of new routes for WCH • Ensuring footbridges, green bridges and underpasses would be accessible to all users • Measures to reduce visual and noise impacts <p>Also see responses in paragraphs 3.17, 3.19 and 3.20.</p> <p>The Project has carried out an assessment of the potential wider impacts on local roads, the evidence is presented in the Traffic Assessment (Application Document 7.9) and the application is accompanied by a monitoring plan that would identify unintended impacts and provide evidence to inform decision making in relation to future interventions (Wider Network Impacts</p>	<p>reconnection of severed routes is proposed, the resolution of severance within the wider network has not been accepted or mitigated by the applicant. Those communities within which harm and severance remains to be resolved include Stanford-le-Hope / Corringham; Chadwell St Mary and Orsett village, during the operation period.</p> <p>This opinion has been expressed many times within the Council's written and oral evidence and were initially introduced to the Examination with the Council's LIR Section 9.4 (REP1-281).</p> <p>The absence of reliability and consistency of the applicant's evidence raises the question of whether other impacts are not forecast but would require mitigation.</p>

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9) – Appendix A: Planning and Policy Matters
 Lower Thames Crossing

NPSNN Paragraph Number	Requirement of the NPSNN	Applicant's Response at D9A (new text in red text below)	Council's Response at D9A
		<p>Management and Monitoring Plan (Application Document 7.12)).</p> <p>In response to the Examining Authority's consideration of wider network impacts at the Examination hearings, specifically ExA Actions Points 3, 5 and 6 arising from Issue Specific Hearing 10, the Applicant's Wider Network Impacts Position Paper [REP6-092] supplements the WNIMMP in respect of potential wider network impacts at four specified locations raised by Interested Parties. These locations being the Blue Bell Hill corridor, the A13 corridor, the A2/M2 corridor and the Asda roundabout.'</p>	

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9) – Appendix A: Planning and Policy Matters
Lower Thames Crossing

Appendix B Responses to Applicant's Comments on IP Comments at D9 on the ExA Commentary on the dDCO

Lower Thames Crossing

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9)

**Appendix B: Responses to Applicant's Comments on IP Comments at D9 on
the ExA Commentary on the dDCO**

15 December 2023

Thurrock Council

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Document Control Sheet

Project Name: Lower Thames Crossing

Report Title: Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9) –
 Appendix B: Responses to Applicant's Comments on IP Comments at D9 on the
 ExA Commentary on the dDCO

Doc Ref: FINAL

Date: 15 December 2023

	Name	Position	Signature	Date
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Approved by:	Tracey Coleman	Interim Chief Planning Officer, Thurrock Council	TC	15 December 2023

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Responses to Applicant's Comments on IP Comments at D9 on the ExA Commentary on the dDCO

Ref. No	Provision	ExA question	Applicant's response to ExA	Thurrock Council's previous response D9	Applicant's response to Thurrock Council comments
QD1	Title of dDCO	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 (11)] 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.	No comments given on Council's previous response.
Thurrock Council comment at Deadline 9A The Council has no further comments on this question.					
QD2	General	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.	No comments given on Council's previous response.
Thurrock Council comment at Deadline 9A The Council has no further comments on this question.					
QD3	Schedule 16 (documents to be certified)	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	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,</i>	The Applicant has included the Mitigation Route Map as a Certified document in Schedule 16 but given that document is an explanation of the control framework, which is already secured, it is

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9) – Appendix B: Responses to Applicant's Comments on IP Comments at D9 on the ExA Commentary on the dDCO Lower Thames Crossing

Ref. No	Provision	ExA question	Applicant's response to ExA	Thurrock Council's previous response D9	Applicant's response to Thurrock Council comments
			<p>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]. 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.</p> <p>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><i>the Council considers that the use of flexible words such as '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 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</p>	<p>not appropriate to secure that document. As noted, a number of matters are signposted in that document, or replicated for ease of explanation. Such a proposal would lead to confusion about which document had the relevant obligation. In relation to Construction Logistics Plans, these are clearly required and set out under the CoCP, which is secured under Requirement 4(2).</p>

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9) – Appendix B: Responses to Applicant's Comments on IP Comments at D9 on the ExA Commentary on the dDCO Lower Thames Crossing

Ref. No	Provision	ExA question	Applicant's response to ExA	Thurrock Council's previous response D9	Applicant's response to Thurrock Council comments
			<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 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>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>	

Thurrock Council comment at Deadline 9A

The Council notes the applicant's response in relation to both the Mitigation Route Map and construction plans and welcomes the inclusion of the Mitigation Route Map as a certified document. However, for the reasons set out in the response at Deadline 8 ([REP8-166](#)) in Appendix A, and Deadline 9 ([REP9-299](#)) in Appendix A, the Council maintains the view that (i) the mitigation route map should include definitions of the advance notice for submissions of documents

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9) – Appendix B: Responses to Applicant's Comments on IP Comments at D9 on the ExA Commentary on the dDCO Lower Thames Crossing

Ref. No	Provision	ExA question	Applicant's response to ExA	Thurrock Council's previous response D9	Applicant's response to Thurrock Council comments
<p>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 strengthened by agreed and collaborative Local Authority buy-in; and (ii) as set out in Council response at Deadline 8 (REP8-166) in Appendix A and Deadline 9 (REP9-299) 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>					
QD4	Schedule 16 (documents to be certified)	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	The Applicant is grateful for the confirmations provided. The Applicant's position is set out on page 143 of (REP4-212). The Applicant has explained that it has sought to secure the relevant documents under the relevant Requirements. That is appropriate for this Project. Please also see the Applicant's response to Action Point 3 of ISH12 (Part 2) in the Deadline 9 Hearing Actions, submitted at Deadline 9 [Document Reference 9.222]. The Applicant would add that this was the subject of detailed explanation and justification in the pre- application period. The Applicant notes that the Council has previously asked for documents to be secured where they are not realistically capable of being secured (e.g., the request to 'secure' the Book of

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9) – Appendix B: Responses to Applicant's Comments on IP Comments at D9 on the ExA Commentary on the dDCO Lower Thames Crossing

Ref. No	Provision	ExA question	Applicant's response to ExA	Thurrock Council's previous response D9	Applicant's response to Thurrock Council comments
					Reference or Crown Land Plans). Please see the specific response to TC on this matter in the document above at Section 12.
<p>Thurrock Council comment at Deadline 9A The Council notes the applicant's previous response on this point but does not believe that this adequately addresses the outstanding concerns, nor has specific justification been provided in relation to the documents that the Council has requested are both certified and secured. As per the Council's response at Deadline 9 (REP9-299) in Appendix A, 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.</p>					
QD5	Schedule 16 (documents to be certified)	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 (REP8-006).	<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>	In response to all IP comments, the Applicant adopted the ExA's proposed restructuring in the dDCO submitted at Deadline 8 (REP8-006).
<p>Thurrock Council comment at Deadline 9A The Council has no further comments on this question.</p>					
QD6	Schedule 16 (documents to be certified)	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 Environmental Actions and Commitments (REAC) in Schedule 16 to the dDCO (REP8-006).	Please see Council response at Deadline 8 (REP8-166) in Appendix A and comment above at QD3.	In response to IP comments advocating that the REAC should be individually identified in Schedule 16, the Applicant amended the definition of the Code of Construction Practice in the dDCO at Deadline 8 (REP8-006) to give greater visibility to the REAC. The REAC

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Ref. No	Provision	ExA question	Applicant's response to ExA	Thurrock Council's previous response D9	Applicant's response to Thurrock Council comments
					<p>remains part of the CoCP, however, and the CoCP (including the REAC) is a certified document under Schedule 16 to the dDCO. The Applicant has adopted this approach to avoid any unintended consequences which may arise from a disaggregation as a result of other documents referencing the CoCP as it currently stands. The Applicant also notes that its approach is consistent, and required by, LA120 (DMRB).</p>
<p>Thurrock Council comment at Deadline 9A The Council made comments on this point at Deadline 8, but these are not referred to in this commentary. Please see Council comment above at QD3 and its response at Deadline 8 (REP8-166) in Appendix A and Deadline 9 (REP9-299) in Appendix A.</p>					
QD7	Schedule 16 (documents to be certified)	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</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</p>	<p>In response to GBC's, Kent County Council's, TfL's and Thurrock Council's comments, the Applicant updated Schedule 16 to the dDCO at Deadline 8 (REP8-006) to include reference to the Mitigation Road Map. The Applicant agrees with GBC and TfL's view that the Mitigation Road Map need not form part of the REAC, for the reasons set out in the</p>

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Ref. No	Provision	ExA question	Applicant's response to ExA	Thurrock Council's previous response D9	Applicant's response to Thurrock Council comments
			<p>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>Appendix A for further details on changes that the Council believes are necessary.</p>	<p>Applicant's response to the ExA at Deadline 8 [REP8-117].</p> <p>The Applicant has included the Mitigation Route Map as a certified document in Schedule 16 but given that document is an explanation of the control framework, which is already secured, it is not appropriate to secure that document itself. As noted, a number of matters are signposted in that document, or replicated for ease of explanation. Such a proposal would lead to confusion about which document had the binding obligation.</p> <p>The applicant has had a well-trodden path of securing, establishing relevant processes, and implementing the existing framework and is concerned about the risk of unintended consequences by introducing an "overarching" secured document – originally provided merely to signpost, summarise and explain – into the process.</p>

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9) – Appendix B: Responses to Applicant's Comments on IP Comments at D9 on the ExA Commentary on the dDCO Lower Thames Crossing

Ref. No	Provision	ExA question	Applicant's response to ExA	Thurrock Council's previous response D9	Applicant's response to Thurrock Council comments
					<p>The applicant notes there is no SRN, nor transport DCO, as far as it is aware, that has secured such a signposting document. In liaison with members of the team who worked on Thames Tideway (including senior members who were unaware of its existence), the Applicant confirms there is nothing from that project which affects its position.</p>
<p>Thurrock Council comment at Deadline 9A 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. Whilst the Council notes the applicant's most recent response, it maintains the position set out in the response at Deadline 8 (REP8-166) in Appendix A.</p>					
QD8	Schedule 16	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 this question, at Deadline 9 in the Examination timetable.	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 appropriate when securing outline documents, which themselves contain significant flexibility (see pages 35-37 of REP6-164).	<p>The Applicant has justified its use of "substantially in accordance with" in Section 4.3 of Applicant's Responses to IP's comments on the draft DCO at Deadline 5 (REP6-085). Please see further the response to Thurrock Council above on this issue at Section 12.</p> <p>The Applicant's position on the use of precedent is set out in Section 8.2 of REP4-</p>

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9) – Appendix B: Responses to Applicant's Comments on IP Comments at D9 on the ExA Commentary on the dDCO Lower Thames Crossing

Ref. No	Provision	ExA question	Applicant's response to ExA	Thurrock Council's previous response D9	Applicant's response to Thurrock Council comments
					212]. The Applicant considers the provisions are extensive, and effective, for the reasons set out in the Explanatory Memorandum.
<p>Thurrock Council comment at Deadline 9A The applicant has correctly summarised that the Council's outstanding concerns relate to the use of flexible words, such as 'reflect' and 'substantially in accordance with'. The Council has provided detailed reasons for these concerns and does not view the response provided as sufficient to address these concerns in full. The use of such flexible terminology when securing outline documents, which themselves contain significant flexibility (see pages 35-37 of REP6-164), is not appropriate.</p>					
QD9	General	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 [REP8-106] alongside the revised dDCO [REP8-006] .	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.	In relation to the comment about consultation, consultation is already secured under the relevant provisions.
<p>Thurrock Council comment at Deadline 9A The Council notes, and welcomes, the applicant's view that consultation is already secured, although the Council maintains its position as set out at Deadline 8 (REP8-166) in Appendix A on this, and other, points relevant to this question. It is also relevant to note that the Council has proposed additional Requirements and Protective Provisions, as well as making suggested amendments to various Articles.</p>					
QD10	General	Are there any matters provided for in an Article which	The Applicant does not consider that there are any matters provided for in an article of the dDCO [REP7-	Please see Council response at Deadline 8 (REP8-166) in Appendix A. In summary, the	No comments given on Council's previous response.

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9) – Appendix B: Responses to Applicant's Comments on IP Comments at D9 on the ExA Commentary on the dDCO Lower Thames Crossing

Ref. No	Provision	ExA question	Applicant's response to ExA	Thurrock Council's previous response D9	Applicant's response to Thurrock Council comments
		are superfluous? If so, please provide reasons and evidence for your position.	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.	Council agrees that no articles have been identified as superfluous.	
<p>Thurrock Council comment at Deadline 9A The Council has no further comments on this question.</p>					
QD11	General	Are there Articles 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 your position.	<p>The Applicant understands this question is directed primarily to Interested Parties and does not therefore propose to comment 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.</p> <p>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>	There are a number of amendments that are sought to the Articles. Please see Council response at Deadline 8 (REP8-166) in Appendix A.	No comments given on Council's previous response.
<p>Thurrock Council comment at Deadline 9A Whilst the Council has not identified any Articles that are superfluous, there are a number of amendments that are sought to the Articles. Please see Council responses at Deadline 8 (REP8-166) in Appendix A and Deadline 9 (REP9-299) in Appendix A.</p>					

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<p>QD12</p>	<p>General</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 (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>	<p>In response to TC and TCAG, please see Section 6.3 of the Applicant's response to IP comments made on the draft DCO at Deadline 1 [REP2-077] which justifies the use of the well-precedented deemed consent provisions. The Applicant notes that TC are suggesting a 3 month period for extension. No DCO contains such a protracted process and the Applicant considers such a period for extension would detract from making expeditious decisions to the detriment of the local community, as well as to the Applicant's requirement to ensure taxpayers money is used in a manner consistent with value for money. An application could simply be refused if the relevant authority is not content, and the Applicant would have to re-submit the relevant application or utilise the appeal process. TC makes the unsubstantiated that this is route is "less efficient" on the mistaken belief that an application could not be determined sooner than the 28 day period in the event of a re- application.</p>
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Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9) – Appendix B: Responses to Applicant's Comments on IP Comments at D9 on the ExA Commentary on the dDCO Lower Thames Crossing

Ref. No	Provision	ExA question	Applicant's response to ExA	Thurrock Council's previous response D9	Applicant's response to Thurrock Council comments
<p>Thurrock Council comment at Deadline 9A</p> <p>This remains an area of significant concern for the Council and does not believe that the justification and reasoning put forward by the applicant to date satisfactorily addresses the various points the Council has been raising through this process. 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 responses at Deadline 8 (REP8-166) in Appendix A and Deadline 9 (REP9-299) in Appendix A for further details. 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)	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</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 services the public interest. The Council considers that adequate explanation has not been provided (as required by paragraph 1.5 of Advice Note 15).	<p>The Applicant's position is that the use of "begin" in Schedule 2 is appropriate and justified for the reasons which have been the subject of significant examination, and explained in REP1-184, AS-089, and its response to Action Point 1 of ISH7 in the Applicant's responses to IP's comments on the dDCO at Deadline 4 (REP5-089).</p> <p>This matter was also raised in the Examining Authority's commentary on the dDCO, and the Applicant refers to its responses to QD13 to QD16 on this matter submitted at Deadline 8 (as shown in column 4).</p> <p>The Applicant would note that it is simply not correct to say that "minor works" would</p>

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			<p>set out in the EM [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].</p> <p>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>discharge the relevant requirement – please see the Applicant's response to Thurrock Council above at Section 12.</p>

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			<p>On the other hand, "commence" is used in Schedule 2 where a Requirement must be discharged before the relevant works can commence. The term "commence" is employed in relation to Requirements 4(2), 8, 9, 10(2), 11, 13, 16 and 18. 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</i> [2022] 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</p>		

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			<p>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 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]. 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</p>		

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			<p>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. 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</p>		

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			propose to modify the dDCO in relation to this aspect of the drafting.		
<p>Thurrock Council comment at Deadline 9A The Council remains concerned regarding this question (see Section 3.4.6 of the Council's D9A submission). Whilst it is true that that a material operation would be needed to preserve the DCO, the introduction of the concept of 'begin' rather than 'commence' in this context is plainly to make it easier to preserve the DCO, without having to substantially discharge requirements and therefore reduce the amount of works needed. The applicant has not explained how this is in the public interest. It is the Council's opinion that it is not. This is supported by the comments of the Court of Appeal in the Swansea case (see Section 3.4.6 of the Council's D9A submission).</p>					
QD14	Article 2 (interpretation)	The Applicant is asked to explain more fully why it is necessary to employ a definition of 'begin' as opposed to the more conventional approach of defining 'commence' with a carve-out for 'preliminary works'	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 [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.	Please see comments in relation to QD13 above.	The Applicant has made extensive submissions in relation to this matter during the course of the examination, most recently in response to QD13 above at Deadline 8 [REP8-117] . The Applicant has no further comments to make in support of the drafting approach adopted in the dDCO.
<p>Thurrock Council comment at Deadline 9A The Council has no further comments on this question.</p>					
QD15	Article 2 (interpretation)	The Applicant is requested to review	The Applicant refers to its response to QD13. The Applicant does not	Please see comments in relation to QD13 above.	The Applicant has provided extensive submissions in

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		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>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>		relation to this matter during the course of the examination, most recently in response to QD13 above at Deadline 7. The Applicant has no further comments to make in support of the drafting approach adopted in the dDCO.
<p>Thurrock Council comment at Deadline 9A The Council has no further comments on this question.</p>					
QD16	Article 2 (interpretation)	What would be the effect for the Proposed Development of a return to the more conventional drafting approach of defining 'commence' with a carve-out for 'preliminary works' in A2, with all subsequent references in the dDCO amended as necessary?	The Applicant is grateful to TfL for its confirmation.	<p>Please see comments in relation to QD13 above and the Council response at Deadline 8 (REP8-166) in 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.</p> <p>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</p>	No comments given on Council's previous response.

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				<p>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> <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>Thurrock Council comment at Deadline 9A The Council made comments on this point at Deadline 8, but these are not referred to in this commentary. The Council strongly advocates for a return to the more conventional drafting approach and does not consider that a return to more conventional drafting would erode the protections within the dDCO. Please see comments in relation to QD13 above and the Council responses at Deadline 8 (REP8-166) in Section 6.13.3 b and in Appendix A and Deadline 9 (REP9-299) in Appendix A, particularly in respect of the Council's concerns about certain significant works being included in the definition of Preliminary Works.</p>					

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QD17	Article 2 (interpretation)	<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 preceded – 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 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</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>	<p>Given the overarching contentment of the interested parties, the Applicant considers the definition of "watercourse" to be sufficient as drafted for the reasons set out in its response to the Examining Authority's commentary on the dDCO. The extension of the definition to ponds is not appropriate as the purpose of defining "watercourse" is to protect the flow of water/drainage of land, so the definition focuses on features through which water passes, rather than static bodies of water like lakes and ponds.</p>

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			<p>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>". 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>Thurrock Council comment at Deadline 9A The Council has no further comments on this question.</p>					
QD18	Article 6 (limits of deviation)	The Applicant and relevant statutory undertakers are asked to consider the effect of the remaining 'limitless' downwards vertical limits of deviation. Should these be subject to a caveat limiting the materially adverse effects of downward	The Applicant does not consider such a caveat to be necessary. As set out in paragraph 2.2.21 of Environmental Statement Chapter 2 – Project Description [APP-140]: "This ES 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, taking into account the LOD proposed for the Project and the flexibility of detailed	The Council has no comment on the 'limitless' downwards vertical 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.	No comments given on Council's previous response.

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		<p>variation to that assessed within the ES?</p>	<p>design provided for in the DCO" (emphasis added).</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>Leaving aside the Project-specific justification provided above, the Applicant would further note this approach in relation to utilities assets is precedented (see, for</p>		

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			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).		
Thurrock Council comment at Deadline 9A The Council has no further comments on this question.					
QD19	Article 6 (limits of deviation)	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 [REP8-116] .	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.	No comments given on Council's previous response.
Thurrock Council comment at Deadline 9A The Council has no further comments on this question.					

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QD20	Article 10 (construction and maintenance of new, altered or diverted streets and other structures)	Are the Local Highway Authorities content that A10 adequately provides for the maintenance of Green Bridges? If full agreement has yet to be reached then final submissions on drafting for comment between the parties should be made.	<p>The Applicant notes that this question is addressed to the local highway authorities.</p> <p>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.</p> <p>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.</p>	Please see Council response at Deadline 8 (REP8-166) in Appendix A.	No comments given on Council's previous response.
<p>Thurrock Council comment at Deadline 9A The Council has no further comments on this question.</p>					
QD21	Article 12 (temporary closure,	The Applicant is asked to explain more fully why this	The Applicant will need to take access to streets within and outside the Order Limits in order to access	The Council is concerned about the impact of LTC on the local road network. See concerns in REP1-	No comments given on Council's previous response.

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	alteration and restriction of use of streets and private means of access)	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?	<p>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.</p> <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. 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</p>	<p>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.</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>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 ensure that the exercise of the power is subject to appropriate controls. 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.</p> <p>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). Accordingly, the Applicant does not consider that it would be appropriate to limit the application of the provision to</p>		

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			streets and private means of access located within the Order Limits.		
Thurrock Council comment at Deadline 9A The Council has no further comments on this question.					
QD22	Article 12 (temporary closure, alteration and restriction of use of streets and private means of access)	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.	The Applicant notes that this question is directed to street authorities. 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 and the extensive precedent which exists in support of this approach.	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 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.	Please see the Applicant's response to IP comments made on the draft DCO at Deadline 1 [REP2-077] which justifies the use of the well-precedented deemed consent provisions. The Applicant notes that TC and KCC are suggesting a 3 month period for extension. No DCO contains such a protracted process and the Applicant considers such a period for extension would detract from making expeditious decisions to the detriment of the local community, as well as to the Applicant's requirement to ensure taxpayers money is used in a manner consistent with value for money. An application could simply be refused if the relevant authority is not content, and the Applicant would have to re-submit the relevant

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					application or utilise the appeal process.
<p>Thurrock Council comment at Deadline 9A The comments from the applicant do not alleviate the Council's concerns regarding the 28-day deemed consent period. Whilst the Council acknowledge the need to unnecessarily delay the delivery of LTC if approved, it is also important that decisions are made correctly. If insufficient time is given this risks decisions being rushed, which can lead to further delays. This would result in the 28-day time period being a false economy in relation to saving time.</p>					
QD23	Article 17 (traffic regulation – local roads)	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 appropriate alternative provision.	<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 [REP2-077], 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.</p> <p>The Applicant remains of the view that the period of 28 days is appropriate in the context of this Order.</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 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.	In response to KCC, TfL and TC, please see directly above.
<p>Thurrock Council comment at Deadline 9A Please see comments above on QD22 and QD12, as well as the Council's response at Deadline 8 (REP8-166) in Appendix A, which should all be read together.</p>					
QD24	Article 18 (powers in relation to relevant	The Port of London Authority (PLA), Port of Tilbury London Ltd (PoTLL), DP	The Applicant notes that this question is directed to Interested Parties and therefore has no comments at this stage. As	The Council has no comment on this question.	No comments given on Council's previous response.

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Ref. No	Provision	ExA question	Applicant's response to ExA	Thurrock Council's previous response D9	Applicant's response to Thurrock Council comments
	navigations or watercourses)	World London Gateway Port (LPG) and any other IP operating vessels on the Thames are asked for final positions on this drafting.	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.		
<p>Thurrock Council comment at Deadline 9A The Council has no further comments on this question.</p>					
QD25	Article 18 (powers in relation to relevant navigations or watercourses)	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 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	The Council has no comments on this question.	No comments given on Council's previous response.

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9) – Appendix B: Responses to Applicant's Comments on IP Comments at D9 on the ExA Commentary on the dDCO Lower Thames Crossing

Ref. No	Provision	ExA question	Applicant's response to ExA	Thurrock Council's previous response D9	Applicant's response to Thurrock Council comments
			loss or damage as a result in accordance with the Land Compensation Act 1961.		
Thurrock Council comment at Deadline 9A The Council has no further comments on this question.					
QD26	Article 19 (discharge of water)	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 precedented 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.	No comments given on Council's previous response.
Thurrock Council comment at Deadline 9A The Council has no further comments on this question.					
QD27	Article 19 (discharge of water)	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	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.	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 approach for construction phase and final commissioning of	In response to the EA, KCC and TC, please see response to QD27. The Applicant is dismayed at the statement that there should be an amendment to "allow more time to assess Discharge Consent applications" given the

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9) – Appendix B: Responses to Applicant's Comments on IP Comments at D9 on the ExA Commentary on the dDCO Lower Thames Crossing

Ref. No	Provision	ExA question	Applicant's response to ExA	Thurrock Council's previous response D9	Applicant's response to Thurrock Council comments
		appropriate period might be.	The deemed consent provision should also be read alongside the safeguard included at article 19(9).	the proposed design /operational phase.	council are in fact suggesting a 3 month period. Suggestions such as these are in the Applicant's view wholly inconsistent with clear Government policy (see Getting Great Britain Building Again (DLUHC, 2023)).
<p>Thurrock Council comment at Deadline 9A The Council does not view the suggestions made as being 'wholly inconsistent' with Government policy and refers the ExA to the 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 approach for construction phase and final commissioning of the proposed design /operational phase and the purpose of this Examination process is to properly examine and explore such matters.</p>					
QD28	Article 21 (authority to survey and investigate the land)	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.	The Applicant is grateful for the confirmation that the Interested Parties are content with this Article.
<p>Thurrock Council comment at Deadline 9A The Council has no further comments on this question.</p>					

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9) – Appendix B: Responses to Applicant's Comments on IP Comments at D9 on the ExA Commentary on the dDCO Lower Thames Crossing

Ref. No	Provision	ExA question	Applicant's response to ExA	Thurrock Council's previous response D9	Applicant's response to Thurrock Council comments
QD29	Article 27 (time limit for exercise of authority to acquire land compulsorily)	<p>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?</p> <p>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>	<p>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-year period, and article 21 of the National Grid (Hinkley Point C Connection Project) Order 2016 which permits an eight-year period).</p> <p>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 preceded in DCOs of comparable complexity. 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</p>	<p>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 applicant's comments here do not alter or amend the Council's previous responses referred to above.</p>	<p>The Applicant has set out its position in relation to this matter fully during the course of the examination: see in particular (AS-089), (REP2-077), (REP4-212) and most recently the Applicant's response to QD29 of the ExA's commentary on the dDCO. The Applicant has no further comments to make in response to GBC's submissions at D8.</p>

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9) – Appendix B: Responses to Applicant's Comments on IP Comments at D9 on the ExA Commentary on the dDCO Lower Thames Crossing

Ref. No	Provision	ExA question	Applicant's response to ExA	Thurrock Council's previous response D9	Applicant's response to Thurrock Council comments
			<p>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> <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. 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 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</p>		

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9) – Appendix B: Responses to Applicant's Comments on IP Comments at D9 on the ExA Commentary on the dDCO Lower Thames Crossing

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			<p>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 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". 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>		

Thurrock Council comment at Deadline 9A

As highlighted in our previous comments (included [REP9-299](#)), the Council remains concerned about this aspect. The comments of the applicant have not altered the opinion of the Council that 8-years is too long a period for the potential exercise of CPO rights. The flexibility for the applicant comes at the expense of uncertainty and disruption for those potentially impacted by the use of CPO powers.

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9) – Appendix B: Responses to Applicant's Comments on IP Comments at D9 on the ExA Commentary on the dDCO Lower Thames Crossing

Ref. No	Provision	ExA question	Applicant's response to ExA	Thurrock Council's previous response D9	Applicant's response to Thurrock Council comments
QD30		<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 a higher level of certainty in relation to when the eight-year period starts to run. 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</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>	<p>No comments given on Council's previous response.</p>

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9) – Appendix B: Responses to Applicant's Comments on IP Comments at D9 on the ExA Commentary on the dDCO Lower Thames Crossing

Ref. No	Provision	ExA question	Applicant's response to ExA	Thurrock Council's previous response D9	Applicant's response to Thurrock Council comments
			<p>of the period for legal challenge. This amendment ensures that there is certainty as to when the eight-year period starts and ends. 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 [REP8-106] alongside the revised dDCO [REP8-006].</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 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</p>		

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9) – Appendix B: Responses to Applicant's Comments on IP Comments at D9 on the ExA Commentary on the dDCO Lower Thames Crossing

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			<p>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.</p> <p>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 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>Thurrock Council comment at Deadline 9A 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>					

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9) – Appendix B: Responses to Applicant's Comments on IP Comments at D9 on the ExA Commentary on the dDCO Lower Thames Crossing

Ref. No	Provision	ExA question	Applicant's response to ExA	Thurrock Council's previous response D9	Applicant's response to Thurrock Council comments
QD31	Article 28 (Compulsory acquisition of rights and imposition of restrictive covenants)	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>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 [Document Reference 4.2 (8)], Land Plans [Document Reference 2.2 (8)] and Schedule 8 of the Order [REP7-090]. However, the flexibility of this Article maximises public benefit, as it ensures that the Applicant retains the flexibility to acquire or create rights/restrictive covenants over land where 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 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. 	No comments given on Council's previous response.

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9) – Appendix B: Responses to Applicant's Comments on IP Comments at D9 on the ExA Commentary on the dDCO Lower Thames Crossing

Ref. No	Provision	ExA question	Applicant's response to ExA	Thurrock Council's previous response D9	Applicant's response to Thurrock Council comments
			<p>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</p>	<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 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>	

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9) – Appendix B: Responses to Applicant's Comments on IP Comments at D9 on the ExA Commentary on the dDCO Lower Thames Crossing

Ref. No	Provision	ExA question	Applicant's response to ExA	Thurrock Council's previous response D9	Applicant's response to Thurrock Council comments
			<p>a 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>		

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9) – Appendix B: Responses to Applicant's Comments on IP Comments at D9 on the ExA Commentary on the dDCO Lower Thames Crossing

Ref. No	Provision	ExA question	Applicant's response to ExA	Thurrock Council's previous response D9	Applicant's response to Thurrock Council comments
			<p>Paragraphs (3) and (4) provide for the exercise of the powers in paragraph (1) by 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</p>		

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9) – Appendix B: Responses to Applicant's Comments on IP Comments at D9 on the ExA Commentary on the dDCO Lower Thames Crossing

Ref. No	Provision	ExA question	Applicant's response to ExA	Thurrock Council's previous response D9	Applicant's response to Thurrock Council comments
			<p>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 Development Consent Order 2020 (all of which are Orders which have been made following the M4 Junctions 3-12 project).</p>		
<p>Thurrock Council comment at Deadline 9A</p>					
<p>The applicant has not provided any substantive response to this question. Please see the Council's response on page 93 of REP9-299.</p>					
QD32	<p>Articles 53 (disapplication of legislative provisions, etc) and 55 (application of local legislation, etc)</p>	<p>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?</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 Interested Parties 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. 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.</p>	<p>No comments given on Council's previous response.</p>

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9) – Appendix B: Responses to Applicant's Comments on IP Comments at D9 on the ExA Commentary on the dDCO Lower Thames Crossing

Ref. No	Provision	ExA question	Applicant's response to ExA	Thurrock Council's previous response D9	Applicant's response to Thurrock Council comments
<p>Thurrock Council comment at Deadline 9A Whilst the Council did not raise any substantial comments on this provision at Deadline 8, it did note that the applicant has 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) (REP8-166). Whilst the Council has not identified any concerns at present, for good administration, such justification should be made available.</p>					
QD33	Article 58 (defence to proceedings in statutory nuisance)	Does any IP have any concern that the proposed defence unreasonably seeks to safeguard the undertaker against poor or inappropriate practices or insufficient mitigation in either construction or operation? If so, what changes are sought to this provision 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 remains concerned about this Article departing from established positions on other large projects. Please see Council 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.	<p>In response to GBC's and TC's comments, the Applicant has set out in detail the justification for the provisions contained in article 58 of the dDCO. In particular, the rationale for and response to GBC's comments on articles 58(2) and 58(3) can be found in (AS-089), (REP2-077) and (REP4-212). The Applicant would note that TC have fundamentally misunderstood the effect of the provision – there is already an exemption against statutory nuisance in the Planning Act 2008, the effect of Article 58 is to in fact curtail its application in relation to claims under section 82.</p> <p>The Applicant has repeatedly provided a detailed justification to TC for this provision and has only ever received the same text back.</p>

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9) – Appendix B: Responses to Applicant's Comments on IP Comments at D9 on the ExA Commentary on the dDCO Lower Thames Crossing

Ref. No	Provision	ExA question	Applicant's response to ExA	Thurrock Council's previous response D9	Applicant's response to Thurrock Council comments
<p>Thurrock Council comment at Deadline 9A</p> <p>The Council remains concerned about this Article departing from established positions on other large projects. Please see Council response at Deadline 8 (REP8-166) in Appendix A. The Council's has continued to repeat its request for further justification from the applicant on the position proposed in the current version of the dDCO, because it does not consider the justification provided to date is sufficient and the applicant has repeated failed to provide further reasoning for its departure from the position adopted on other large projects.</p>					
QD34	Articles 64 (arbitration) and 65 (appeals to the Secretary of State)	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.	No comments given on Council's previous response.
<p>Thurrock Council comment at Deadline 9A</p> <p>As noted in the Council's response at Deadline 8 (REP8-166) in Appendix A, the Council has worked with the applicant to ensure that when exercising formal decision-making powers, any disagreement as to the Secretary of State on appeal pursuant to Article 65. It is the Council's strong opinion the disagreement over the exercise of statutory powers should be resolved by the Secretary of State, rather than an arbitrator, as this is more likely to be the expectation of Parliament.</p>					
QD35	Articles 64 (arbitration) and 65 (appeals to the Secretary of State)	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	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	The Council has no comments on this question.	No comments given on Council's previous response.

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9) – Appendix B: Responses to Applicant's Comments on IP Comments at D9 on the ExA Commentary on the dDCO Lower Thames Crossing

Ref. No	Provision	ExA question	Applicant's response to ExA	Thurrock Council's previous response D9	Applicant's response to Thurrock Council comments
		that must suffice, but is that the intended position?	<p>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 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. 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>Thurrock Council comment at Deadline 9A The Council has no further comments on this question.</p>					

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9) – Appendix B: Responses to Applicant's Comments on IP Comments at D9 on the ExA Commentary on the dDCO Lower Thames Crossing

Ref. No	Provision	ExA question	Applicant's response to ExA	Thurrock Council's previous response D9	Applicant's response to Thurrock Council comments
QD36	Article 66 (power to override easements and other rights)	<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.</p> <p>What would be the effects of removing or reducing the scope of this power?</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 that would not be filled by other provisions of the dDCO.</p>	<p>Please see Council's response in REP1-295 (page 11).</p>	<p>No comments given on Council's previous response.</p>
<p>Thurrock Council comment at Deadline 9A Please see Council's response in REP1-295 (page 11); no further comments are made.</p>					
QD37	Schedules	<p>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.</p>	<p>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].</p>	<p>Please see Council response at Deadline 8 (REP8-166) in Appendix A.</p>	<p>No comments given on Council's previous response.</p>
<p>Thurrock Council comment at Deadline 9A Whilst the Council does not consider that there are further matters that should be provided for in a Schedule, but which are not currently, the Council does have suggestions for amendments to the Schedules and these are considered below.</p>					

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9) – Appendix B: Responses to Applicant's Comments on IP Comments at D9 on the ExA Commentary on the dDCO Lower Thames Crossing

Ref. No	Provision	ExA question	Applicant's response to ExA	Thurrock Council's previous response D9	Applicant's response to Thurrock Council comments
QD38	Schedules	Are there any matters provided for in a Schedule which are superfluous? If so, please provide reasons and evidence for your position.	<p>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].</p> <p>To remove any of the Schedules would undermine the operation of the dDCO as a coherent whole.</p>	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.	The Applicant is grateful for the confirmations provided by IPs.
<p>Thurrock Council comment at Deadline 9A The Council has no further comments on this question.</p>					
QD39	Schedules	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.	No comments given on Council's previous response.
<p>Thurrock Council comment at Deadline 9A The Council has no further comments on this question.</p>					
QD40	Schedule 1 – suggested minor drafting amendments	Does the Applicant agree?	The Applicant agrees with the ExA's suggestion and has made this change in the revised dDCO submitted at Deadline 8 [REP8-006] .	The Council has no comment on this section.	No comments given on Council's previous response.
<p>Thurrock Council comment at Deadline 9A The Council has no further comments on this question.</p>					

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9) – Appendix B: Responses to Applicant's Comments on IP Comments at D9 on the ExA Commentary on the dDCO Lower Thames Crossing

Ref. No	Provision	ExA question	Applicant's response to ExA	Thurrock Council's previous response D9	Applicant's response to Thurrock Council comments
QD41		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 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.	<p>The Applicant disagrees. The ancillary works, which can be carried out in connection with Work No. 7, include the relevant works. In addition, Schedule 1 should not be looked at in isolation.</p> <p>The relevant works to the roundabout are secured under Requirement 3 by reference to the General Arrangements, and Design Principles (see in particular, Design Principle Clause S.11.14). The council's suggestion is therefore superfluous. In relation to the temporary works plans, these are deliberately not secured – please see responses to Thurrock Council on Schedule 16 above and below.</p>
<p>Thurrock Council comment at Deadline 9A 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 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. Whilst some of these matters are picked up elsewhere, the Council retains its position on these points.</p>					

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9) – Appendix B: Responses to Applicant's Comments on IP Comments at D9 on the ExA Commentary on the dDCO Lower Thames Crossing

Ref. No	Provision	ExA question	Applicant's response to ExA	Thurrock Council's previous response D9	Applicant's response to Thurrock Council comments
QD42	Schedule 1 – re-provision of a travellers' site and associated landscaping	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 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).	No comments given on Council's previous response.
<p>Thurrock Council comment at Deadline 9A As confirmed at Deadline 8 (REP8-166) in Appendix A, 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).</p>					
QD43	Schedule 2 – security for the REAC	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 the existing draft Requirements, or are any additional Requirements sought (and if so reasons for their inclusion and drafts	<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>	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 example, should 'implement' or 'be in accordance with' the mitigation measures within the REAC	<p>The Applicant is grateful for the confirmations provided.</p> <p>In relation to "reflect", The use of the word "reflect" is highly precedented and the Applicant's position on this is set out in Annex C.5 of the 9.188 Post-event submissions, including written submission of oral comments, for ISH12. "Reflect" does not mean any lesser level of security, and merely reflects the fact that specific measures may not be relevant to all of the relevant works.</p> <p>Indeed, TC's own suggested noise requirement (in QD44) uses the word "reflect". The Applicant stresses that the</p>

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9) – Appendix B: Responses to Applicant's Comments on IP Comments at D9 on the ExA Commentary on the dDCO Lower Thames Crossing

Ref. No	Provision	ExA question	Applicant's response to ExA	Thurrock Council's previous response D9	Applicant's response to Thurrock Council comments
		should be provided)?			relevant plans will be the subject of consultation so if a stakeholder considers something has not been incorporated, it will be appropriately considered and subject to independent approval from the Secretary of State.
<p>Thurrock Council comment at Deadline 9A Whilst the Council welcome's the applicant's justification on this point, it respectfully disagrees with the suggestion that 'reflect' does not mean any lesser level of security. 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 example, should 'implement' or 'be in accordance with' the mitigation measures within the REAC. Please see Council response at Deadline 8 (REP8-166) in Appendix A.</p>					
QD44	Schedule 2 – security for other CDs	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	<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</p>	<p>The Applicant is grateful for the confirmations provided.</p> <p>The Applicant further refers to its response to Thurrock Council (above) on this matter in this document.</p> <p>In relation to the Construction Logistics Plan, please see the response on QD4 above. In relation to the noise requirement, the Applicant already has appropriate noise- related measures in the REAC. The Applicant notes that the specific matters covered (e.g. low</p>

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9) – Appendix B: Responses to Applicant's Comments on IP Comments at D9 on the ExA Commentary on the dDCO Lower Thames Crossing

Ref. No	Provision	ExA question	Applicant's response to ExA	Thurrock Council's previous response D9	Applicant's response to Thurrock Council comments
		are any additional Requirements sought (and if so reasons for their inclusion and drafts should be provided)?		Management Plans; (ii) there should be a specific Requirement regarding noise 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.	noise surfacing and acoustic barriers) are already secured. No other IP has requested this provision, and the Applicant considers it to be wholly superfluous.

Thurrock Council comment at Deadline 9A

The absence of other parties requesting a provision does not, in itself, make a request by the Council 'wholly superfluous'. The Council has set out its justification for seeing a noise requirement and the applicant has failed to provide a complete rationale for not considering this further/including one.

Please see Council response at Deadline 8 ([REP8-166](#)) in Appendix A and the Council's response to QD4 above for all matters relating to this question. As summarised at Deadline 9 in Appendix A ([REP9-299](#)), 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 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 were made about Wider Network Impacts at Deadline 9.

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9) – Appendix B: Responses to Applicant's Comments on IP Comments at D9 on the ExA Commentary on the dDCO Lower Thames Crossing

Ref. No	Provision	ExA question	Applicant's response to ExA	Thurrock Council's previous response D9	Applicant's response to Thurrock Council comments
QD45	Schedule 2 – interpretation of “commence” and “preliminary works”	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.	No comments given on Council's previous response.
<p>Thurrock Council comment at Deadline 9A Please see comments above in relation to QD13.</p>					

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9) – Appendix B: Responses to Applicant's Comments on IP Comments at D9 on the ExA Commentary on the dDCO Lower Thames Crossing

Ref. No	Provision	ExA question	Applicant's response to ExA	Thurrock Council's previous response D9	Applicant's response to Thurrock Council comments
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.	In response to the comments of both Kent County Council, TCAG, TC and GBC, the Applicant refers to its response to QD13 – QD16 above. 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. The Applicant's position on this matter is no different from the usual operation of section 154/155 of the Planning Act – please see further the Applicant's response to Action Point 1 of ISH7, as well as its further commentary in response to Thurrock Council in Section 12 above.
<p>Thurrock Council comment at Deadline 9A</p> <p>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.</p>					

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9) – Appendix B: Responses to Applicant's Comments on IP Comments at D9 on the ExA Commentary on the dDCO Lower Thames Crossing

Ref. No	Provision	ExA question	Applicant's response to ExA	Thurrock Council's previous response D9	Applicant's response to Thurrock Council comments
QD47	Requirement 2 – time limits (for the authorised development)	Should time limits applicable to beginning/commencing the Proposed Development and time limits for the exercise of CA powers be harmonised?	<p>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 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]. The purpose of the latter – the time limits under Requirement 2 – is to ensure that the Applicant must take certain steps towards the</p>	<p>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 Deadline 8 (REP8-166) in Appendix A for details of the Council's views on the points referred to by the applicant.</p>	<p>In response to GBC's and TC's comments, the Applicant has set out its position in relation to the appropriateness of and justification for the CA time period under article 27 in response to QD29 above. The Applicant has no further submissions to make in this regard.</p>

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9) – Appendix B: Responses to Applicant's Comments on IP Comments at D9 on the ExA Commentary on the dDCO Lower Thames Crossing

Ref. No	Provision	ExA question	Applicant's response to ExA	Thurrock Council's previous response D9	Applicant's response to Thurrock Council comments
			<p>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 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. There is a separate and distinct justification for</p>		

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9) – Appendix B: Responses to Applicant's Comments on IP Comments at D9 on the ExA Commentary on the dDCO Lower Thames Crossing

Ref. No	Provision	ExA question	Applicant's response to ExA	Thurrock Council's previous response D9	Applicant's response to Thurrock Council comments
			each, and the Applicant considers that the correct balance has been achieved.		
<p>Thurrock Council comment at Deadline 9A 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. The Council do not view the justification offered by the applicant to date as sufficient to address each concern that has been raised. Please see Council response at Deadline 8 (REP8-166) in Appendix A for details of the Council's views on the points referred to by the applicant.</p>					
QD48		Is there a justification for time limits of longer than 5 years? What is that justification?	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 acquisition of land under article 27 of the dDCO (REP7-090).	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 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.	In response to KCC's, GBC's and TC's comments on the CA time period under article 27, the Applicant has set out its position in relation to the appropriateness of and justification for that time period in response to QD29. The Applicant has no further submissions to make in this regard.
<p>Thurrock Council comment at Deadline 9A 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 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>					

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9) – Appendix B: Responses to Applicant's Comments on IP Comments at D9 on the ExA Commentary on the dDCO Lower Thames Crossing

Ref. No	Provision	ExA question	Applicant's response to ExA	Thurrock Council's previous response D9	Applicant's response to Thurrock Council comments
QD49	Requirement 3 – detailed design	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>The Applicant considers the Design Principles [Document Reference 7.5 (7)] are appropriately secured by Requirement 3 of the dDCO, which provides that “the authorised development must be ... carried out in accordance with the design principles document ...”. 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 responses to Interested Parties' comments on the dDCO at Deadline 6 [REP6-085].</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 responses to those recommended amendments</p> <p>Please see Council response at Deadline 8 ([REP8-166]) in Appendix A.</p>	<p>The Applicant considers appropriate standards and guidance are already provided. In addition, works to the Local Highway Network will be subject to agreement with the relevant Highway Authority thereby securing further input. In addition, the design principles go further in PRO.07 which secures unprecedented input.</p> <p>The issue of using “reflect” is addressed above. On the Design Principle, relevant standards are already referenced so no further change is required.</p>
Thurrock Council comment at Deadline 9A					

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9) – Appendix B: Responses to Applicant's Comments on IP Comments at D9 on the ExA Commentary on the dDCO Lower Thames Crossing

Ref. No	Provision	ExA question	Applicant's response to ExA	Thurrock Council's previous response D9	Applicant's response to Thurrock Council comments
<p>The Council notes that the applicant's summary in the commentary table has slightly simplified the Council's outstanding concerns expressed at Deadlines 8 and 9 on this point. 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. Please see Council response at Deadline 8 (REP8-166) in Appendix A.</p>					
QD50	Requirement 4 – construction and handover environmental management plans	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>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 and</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 State does have an open mind on.</p>	In relation to EMP3, the Applicant has set out its position at ISH14. It is not appropriate for the EMP3 to be subject to approval. The Applicant is a strategic highways authority appointed by the Secretary of State, and operational matters fall within its day to day operational responsibilities. Insofar as the road is a local highway, this will be handed back to the relevant highway authority. The position adopted is consistent with a long line of precedents (see Requirement 4(6) of the M42 Junction 6 Development Consent Order 2020, Requirement 4(4) of the A63 (Castle Street Improvement, Hull) Development Consent Order 2020, Requirement 4(5) of the A585 Windy Harbour to Skippool Highway

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9) – Appendix B: Responses to Applicant's Comments on IP Comments at D9 on the ExA Commentary on the dDCO Lower Thames Crossing

Ref. No	Provision	ExA question	Applicant's response to ExA	Thurrock Council's previous response D9	Applicant's response to Thurrock Council comments
			includes the preliminary works REAC" (emphasis added). In the context of Requirement 4(1), therefore, reference should be made to the preliminary works REAC, which is secured by virtue of its inclusion within the definition of the preliminary works EMP under Requirement 2.		Development Consent Order 2020, Requirement 4(16) of the A303 (Amesbury to Berwick Down) Development Consent Order 2023). The Project does not give rise to any materially distinguishing features which justify departing from that precedented approach. TC's comment on consultation is addressed above.
<p>Thurrock Council comment at Deadline 9A</p> <p>The Council notes the position of the applicant and appreciates that the applicant is a strategic highways authority. However, the Council does have specific concerns (see appendix A of REP8-166). Whilst the precedent provided by the applicant is useful, it should be noted that Secretary of State does not have a closed mind in relation to this (see comments made in relation to the A66 in appendix A of REP8-166). LTC significantly impacts the local highway network (including using part of the local highway network (Orsett Cock Junction) and as an integral part of it. It is therefore not appropriate to allow only one interested party (i.e. the strategic highways authority) to decide on how it should operate, because to do so risk the balance unfairly impacting the local highway network. It is for this reason that the Secretary of State is the most appropriate party to approve the EMP Third Iteration.</p>					
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	Please see Council response at Deadline 8 (REP8-166) in Appendix A and QD50 above.	No comments given on Council's previous response.

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Ref. No	Provision	ExA question	Applicant's response to ExA	Thurrock Council's previous response D9	Applicant's response to Thurrock Council comments
			matters relevant to their respective functions.		
Thurrock Council comment at Deadline 9A Please see response to QD50 above.					
QD52	Requirement 5 – landscaping and ecology	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?	<p>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 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 [Document Reference 6.7 (7)] 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</p>	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 Deadline 8 (REP8-166) in Appendix A.	The Applicant's position on the use of the word "reflect" is addressed above.

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9) – Appendix B: Responses to Applicant's Comments on IP Comments at D9 on the ExA Commentary on the dDCO Lower Thames Crossing

Ref. No	Provision	ExA question	Applicant's response to ExA	Thurrock Council's previous response D9	Applicant's response to Thurrock Council comments
			authorised development are therefore legally secured		
<p>Thurrock Council comment at Deadline 9A 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 Deadline 9, REP9-299)</p> <p>As previously noted, the Council does not consider the flexibility justified, especially when the LEMP itself contains significant flexibility. The combined flexibility in the LEMP and Requirement 5 creates significant uncertainty.</p>					
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.	No comments given on Council's previous response.
<p>Thurrock Council comment at Deadline 9A The Council does not consider that additional wording in relation to consultation is required.</p>					
QD54	Requirements 6, 7,8 and 9 – contaminated land and groundwater, protected	Do the Environment Agency, Natural England and Historic England consider that the approval process is	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.	No comments given on Council's previous response.

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9) – Appendix B: Responses to Applicant's Comments on IP Comments at D9 on the ExA Commentary on the dDCO Lower Thames Crossing

Ref. No	Provision	ExA question	Applicant's response to ExA	Thurrock Council's previous response D9	Applicant's response to Thurrock Council comments
	species, surface and foul water drainage and historic environment	sufficiently clear? Does it provide adequate security for initial stage commitments and for the REAC? If amendments are sought, why are they required?	sufficiently clear and does not require amendment. 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.		
Thurrock Council comment at Deadline 9A The Council has no further comments on this question.					
QD55	Requirement 13 – re-provision of Gammonfields Travellers' Site in Thurrock	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 to the Deadline 8 submission [REP8-117] .	The Council is happy with the position as set out in ISH14 and within the Council's Post Event Submission for ISH14 (REP8-167).	The Applicant is grateful for the confirmation.
Thurrock Council comment at Deadline 9A The Council has no further comments on this question.					

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9) – Appendix B: Responses to Applicant's Comments on IP Comments at D9 on the ExA Commentary on the dDCO Lower Thames Crossing

Ref. No	Provision	ExA question	Applicant's response to ExA	Thurrock Council's previous response D9	Applicant's response to Thurrock Council comments
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).	As above
Thurrock Council comment at Deadline 9A The Council has no further comments on this question.					
QD57		Could a new R13 (4) (with renumbering thereafter) 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)?		The Council is happy with the position as set out in ISH14 and within the Council's Post Event Submission for ISH14 (REP8-167).	As above
Thurrock Council comment at Deadline 9A The Council has no further comments on this question.					
QD58		Is there argument to include another new		The Council is happy with the position as set out in ISH14 and	As above.

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9) – Appendix B: Responses to Applicant's Comments on IP Comments at D9 on the ExA Commentary on the dDCO Lower Thames Crossing

Ref. No	Provision	ExA question	Applicant's response to ExA	Thurrock Council's previous response D9	Applicant's response to Thurrock Council comments
		<p>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 undertaker on any such application,</p>		<p>within the Council's Post Event Submission for ISH14 (REP8-167).</p>	

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9) – Appendix B: Responses to Applicant's Comments on IP Comments at D9 on the ExA Commentary on the dDCO Lower Thames Crossing

Ref. No	Provision	ExA question	Applicant's response to ExA	Thurrock Council's previous response D9	Applicant's response to Thurrock Council comments
		<p>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>			
<p>Thurrock Council comment at Deadline 9A The Council has no further comments on this question.</p>					
QD59	Requirement 15 – carbon and energy management plan	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	The Applicant is grateful for the confirmations provided. In response to TC, the Applicant addressed these matters in ISH12 (REP8-111), and considers no amendment is required for its ground breaking and pathfinding approach. The Applicant has comprehensively addressed the comments from TC in its

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9) – Appendix B: Responses to Applicant's Comments on IP Comments at D9 on the ExA Commentary on the dDCO Lower Thames Crossing

Ref. No	Provision	ExA question	Applicant's response to ExA	Thurrock Council's previous response D9	Applicant's response to Thurrock Council comments
				Deadline 8 (REP8-166) submission soon.	response to TC's LR (see, in particular, (REP2-062) and (REP2-064).
<p>Thurrock Council comment at Deadline 9A The Council remains concerned about the Carbon and Energy Management Plan (see comments in REP8-166 in Section 2.9 and REP8-167 in Agenda item 4 j on pages 43-47). The changes sought by the Council have not been agreed. The Council considers that the current plan does not address carbon and energy control adequately. Accordingly, it is not correct to say that the applicant has comprehensively addressed the Council's concerns, as the Council considers that the current plan does not address carbon and energy control adequately.</p>					
QD60	Schedule 3 – temporary closure, alteration, diversion and restriction of use of streets and private means of access	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.	The Applicant is grateful for the confirmations provided.
<p>Thurrock Council comment at Deadline 9A The Council has no further comments on this question.</p>					
QD61	Schedule 4 – permanent	Final submissions on the	The Applicant notes that this question is directed to IPs and,	The Council is satisfied that there is sufficient detail regarding the	The Applicant considers there is adequate scope to

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9) – Appendix B: Responses to Applicant's Comments on IP Comments at D9 on the ExA Commentary on the dDCO Lower Thames Crossing

Ref. No	Provision	ExA question	Applicant's response to ExA	Thurrock Council's previous response D9	Applicant's response to Thurrock Council comments
	stopping up of streets and private means of access	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.	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.	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.	<p>amend the precise scope as article 14(1) is permissive in that it allows stopping up 'to the extent' set out. This allows a 'shorter' stopping up. The Applicant has set these limits to an extent which reflects the preliminary scheme design. This flexibility is confirmed in article 14(3) which refers to streets being "wholly or partly" stopped up.</p> <p>The Applicant is grateful for the confirmation. The Applicant notes that comments are also made about the construction period. The Applicant is confident reasonable mitigation has been provided in the oTMPfC which sets out commitments in relation to the construction period. The Applicant would refer to (REP7- 179) which sets this out in further detail.</p>
<p>Thurrock Council comment at Deadline 9A The applicant has not fully addressed the Council's concerns regarding colour coding on plans.</p>					
QD62		Final submissions on the appropriateness	The Applicant notes that this question is directed to IPs and, therefore, has no comments at this	The Council raises no further comments on the inclusion and extents of the roads subject to	The Applicant is grateful for the confirmations provided.

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9) – Appendix B: Responses to Applicant's Comments on IP Comments at D9 on the ExA Commentary on the dDCO Lower Thames Crossing

Ref. No	Provision	ExA question	Applicant's response to ExA	Thurrock Council's previous response D9	Applicant's response to Thurrock Council comments
		and/ or accuracy of the proposed 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.	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.	permanent stopping up as set out in the Council's response at Deadline 8 (REP8-166) in Appendix A.	
<p>Thurrock Council comment at Deadline 9A The Council has no further comments on this question.</p>					
QD63	Schedule 5 – classification of roads, etc.	Final submissions on the reclassification of certain bridleway PRowWs are sought from Mr Mike Holland for clients, Mr Tom Benton, and Mr Jeremy Finnis for client. With	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.	The Applicant is providing a substantial betterment to the non- motorised user network across the Order limits, including the provision and upgrading of a number of routes to bridleway. In limited instances permissive paths have been proposed and this

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9) – Appendix B: Responses to Applicant's Comments on IP Comments at D9 on the ExA Commentary on the dDCO Lower Thames Crossing

Ref. No	Provision	ExA question	Applicant's response to ExA	Thurrock Council's previous response D9	Applicant's response to Thurrock Council comments
		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.			has been explained in Section 4.1 of (REP6-091).
Thurrock Council comment at Deadline 9A The Council has no further comments on this question.					
QD64		Applicant, Local Highway Authorities and IPs affected by the proposals are invited to respond at the following deadline.	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 principle is that it wants all affected routes to be upgraded to bridleway to enhance the network.	No comments given on Council's previous response.
Thurrock Council comment at Deadline 9A The Council has no further comments on this question.					
QD65	Schedule 6 – traffic regulation measures	Final submissions on the appropriateness and/ or accuracy of the proposed descriptions and	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	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	The Applicant is grateful for the confirmations provided. In relation to the 30mph speed limit, there is provision in the dDCO (see article 17) and the outline Traffic

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9) – Appendix B: Responses to Applicant's Comments on IP Comments at D9 on the ExA Commentary on the dDCO Lower Thames Crossing

Ref. No	Provision	ExA question	Applicant's response to ExA	Thurrock Council's previous response D9	Applicant's response to Thurrock Council comments
		<p>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.</p>	<p>comments by IPs in relation to this question, at Deadline 9 in the Examination timetable.</p>	<p>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.</p>	<p>Management Plan for Construction to deal with any further measures which are required.</p>
<p>Thurrock Council comment at Deadline 9A The Council has no further comments on this question.</p>					
QD66		<p>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. Would such controls be given effect to in this Schedule and if so, how would the</p>	<p>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], but would instead be required under the REAC secured under Requirement 4. The Applicant has addressed how the REAC would be updated in</p>	<p>The Council has no comments on this question.</p>	<p>No comments given on Council's previous response.</p>

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9) – Appendix B: Responses to Applicant's Comments on IP Comments at D9 on the ExA Commentary on the dDCO Lower Thames Crossing

Ref. No	Provision	ExA question	Applicant's response to ExA	Thurrock Council's previous response D9	Applicant's response to Thurrock Council comments
		Schedule be changed?	response to ExQ1_Q11.11.2, which can be found in [REP4-194] .		
Thurrock Council comment at Deadline 9A The Council has no comments on this question.					
QD67	Schedule 7 – trees subject to tree preservation orders	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.	No comments given on Council's previous response.
Thurrock Council comment at Deadline 9A The Council has no further comments on this question.					
QD68	Schedule 8 – land of which only new rights etc. may be acquired	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	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.	No comments given on Council's previous response.

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9) – Appendix B: Responses to Applicant's Comments on IP Comments at D9 on the ExA Commentary on the dDCO Lower Thames Crossing

Ref. No	Provision	ExA question	Applicant's response to ExA	Thurrock Council's previous response D9	Applicant's response to Thurrock Council comments
		Persons. Reasons for any requested amendments must be provided.			
Thurrock Council comment at Deadline 9A The Council has no further comments on this question.					
QD69	Schedule 9 – modification of compensation and compulsory purchase enactments for creation of new rights and imposition of restrictive covenants	Final submissions on the appropriateness and effect of the proposed modifications in Schedule 9 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, the Council has no further comments on Schedule 9.	The Applicant is grateful for the confirmations provided.
Thurrock Council comment at Deadline 9A The Council has no further comments on this question.					
QD70	Schedule 10 – land in which only subsoil or new rights in and above subsoil and surface may be acquired	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	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.	The Applicant is grateful for the confirmations provided.

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9) – Appendix B: Responses to Applicant's Comments on IP Comments at D9 on the ExA Commentary on the dDCO Lower Thames Crossing

Ref. No	Provision	ExA question	Applicant's response to ExA	Thurrock Council's previous response D9	Applicant's response to Thurrock Council comments
		Persons. Reasons for any requested amendments must be provided.			
Thurrock Council comment at Deadline 9A The Council has no further comments on this question.					
QD71	Schedule 11 – land of which temporary possession may be taken	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.	No comments given on Council's previous response.
Thurrock Council comment at Deadline 9A The Council has no further comments on this question.					
QD72	Schedule 12 – road user charging provisions for use of the Lower Thames Crossing	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.	No comments given on Council's previous response.

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9) – Appendix B: Responses to Applicant's Comments on IP Comments at D9 on the ExA Commentary on the dDCO Lower Thames Crossing

Ref. No	Provision	ExA question	Applicant's response to ExA	Thurrock Council's previous response D9	Applicant's response to Thurrock Council comments
Thurrock Council comment at Deadline 9A The Council has no further comments on this question.					
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 'charging tolls, fares (including penalty fares) and other charges'. 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.	The Applicant is grateful for the confirmations provided.
Thurrock Council comment at Deadline 9A The Council has no further comments on this question.					
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.	No comments given on Council's previous response.
Thurrock Council comment at Deadline 9A The Council has no further comments on this question.					

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9) – Appendix B: Responses to Applicant's Comments on IP Comments at D9 on the ExA Commentary on the dDCO Lower Thames Crossing

Ref. No	Provision	ExA question	Applicant's response to ExA	Thurrock Council's previous response D9	Applicant's response to Thurrock Council comments
QD75		Are there any final observations on the effect of 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.	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.	The Applicant is grateful for the confirmations provided.
Thurrock Council comment at Deadline 9A The Council has no further comments on this question.					
QD76	Schedule 13 – Lower Thames Crossing byelaws	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.	The Applicant is grateful for the confirmations provided.
Thurrock Council comment at Deadline 9A The Council has no further comments on this question.					

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9) – Appendix B: Responses to Applicant's Comments on IP Comments at D9 on the ExA Commentary on the dDCO Lower Thames Crossing

Ref. No	Provision	ExA question	Applicant's response to ExA	Thurrock Council's previous response D9	Applicant's response to Thurrock Council comments
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.	The Applicant is grateful for the confirmations provided.
Thurrock Council comment at Deadline 9A The Council has no comments on this question.					
QD78	Schedule 14 – protective provisions	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.	The Applicant has responded to this joint submission in this document (see Section 2 above).
Thurrock Council comment at Deadline 9A The Council agrees with the submissions of the LB Havering on this, submitted at Deadline 8 (REP8-150) and in its Deadline 9A submission.					
QD79		Further to changes to the structure of the National Grid	The Applicant can confirm that references to National Grid Gas Plc in the dDCO were amended to	The Council have no comments on this question.	No comments given on Council's previous response.

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9) – Appendix B: Responses to Applicant's Comments on IP Comments at D9 on the ExA Commentary on the dDCO Lower Thames Crossing

Ref. No	Provision	ExA question	Applicant's response to ExA	Thurrock Council's previous response D9	Applicant's response to Thurrock Council comments
		group of companies, should the beneficiary of Part 6 be National Gas?	National Gas Transmission Plc in the version of the dDCO submitted at Deadline 7 [REP7-090] .		
Thurrock Council comment at Deadline 9A The Council has 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.	The Applicant is grateful for the confirmations provided.
Thurrock Council comment at Deadline 9A The Council has no further comments on this question.					

Thurrock Council Comments on Applicant's Submissions at Deadline 9 (D9) – Appendix B: Responses to Applicant's Comments on IP Comments at D9 on the ExA Commentary on the dDCO Lower Thames Crossing

Ref. No	Provision	ExA question	Applicant's response to ExA	Thurrock Council's previous response D9	Applicant's response to Thurrock Council comments
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.	<p>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.</p> <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>	No comments given on Council's previous response.
<p>Thurrock Council comment at Deadline 9A The applicant makes no reference to our comments regarding the additional maintenance costs on the local highway network caused by LTC. The Council remains concerned regarding this element.</p>					
QD82	Schedule 15 – deemed marine licence	Are there any final observations on the form or effect of the	The Applicant considers the Deemed Marine Licence (DML)	The Council has no comments on this question.	No comments given on Council's previous response.

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		<p>DML? Responses to this question are specifically sought from the MMO. Reasons should be provided for any changes sought.</p>	<p>now agreed, subject to the outstanding points below: 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</p>		

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			<p>approach is in line with that on the Silvertown Tunnel Order 2018.</p> <p>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> <p>The Applicant is considering further amendments to the DML. A meeting is set up with the MMO to go over these amendments. In summary, the Applicant is seeking the following amendments:</p>		

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			<p>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> <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>Thurrock Council comment at Deadline 9A The Council has no comments on this question.</p>					
QD83		<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</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]. As requested by the ExA, where appropriate the Applicant will provide a response to any</p>	<p>The Council has no comments on this question.</p>	<p>No comments given on Council's previous response.</p>

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		Requirements, or are any additional Requirements sought (and if so reasons for their inclusion and drafts should be provided)?	comments by IPs in relation to this question, at Deadline 9 in the Examination timetable.		
<p>Thurrock Council comment at Deadline 9A The Council has no comments on this question.</p>					
QD84	Control documents	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</p>	These are addressed in this document, and in particular, Section 12 which provides a specific response to Thurrock Council.

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Hearing (REP4-352) and below in relation to QD85.					
<p>Thurrock Council comment at Deadline 9A As set out earlier in this document, the Council remains concerned about this issue and does not consider that the applicant's response adequately explains the significant flexibility caused by flexible outline documents secured by wording such as 'substantially in accordance with' and 'reflect'.</p>					
QD85		QD85: Do any IPs have any final submissions to make on the CDs and their content? Is there superfluous content that could be removed? Is there additional content that should be added? Are there any other documents that should be certified and should form part of the CDs? Any responses to this question should be accompanied by an explanation of the changes sought and the reasons for them.	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), 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.	These are addressed in this document, and in particular, Section 12 which provides a specific response to Thurrock Council.
<p>Thurrock Council comment at Deadline 9A The Council notes the response in QD3 and QD4. However, the Council is still concerned that the Construction Logistics Plan, Structures Plans, Temporary Works Plans and Drainage Plans are not effectively secured.</p>					

