



Department for Transport

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To: The Applicant, Natural England, Network Rail, the Mee Family, Hill Residential Ltd., MOPAC the RSPB, and the owners and operators of Whitecroft Care Home

10 May 2024

Dear Sir/Madam

Planning Act 2008 and the Infrastructure Planning (Examination Procedure) Rules 2010

Application by National Highways (“the Applicant”) Seeking Development Consent for the Proposed Lower Thames Crossing Scheme

Consultation seeking comments from the Applicant, Natural England, Network Rail, the Mee Family, Hill Residential Ltd., MOPAC, the RSPB and the owners and operators of Whitecroft Care Home

Amendment of section 85 of the Countryside and Rights of Way (CRoW) Act 2000

1. The Secretary of State notes the [comments](#) from the Applicant in their response to the [consultation letter](#) issued by the Secretary of State on the 28 March 2024.
2. The Secretary of State also notes the [comments](#) from Natural England in response to the Secretary of State’s [consultation letter](#) of 19 April 2024, regarding compliance with the duty set out in the above Act.
3. The Secretary of State requests that the **Applicant** and **Natural England** should seek to agree a position on this and, if an agreed position is possible, to set out what, if any, amendments they agree should be made to the Development Consent Order to address the enhanced duty. Where an agreed position cannot be reached, the Secretary of State invites both parties to set out their respective views on what is needed to meet the enhanced duty.
4. The Secretary of State also notes the comments from the [Kent Downs National Landscape Team](#), [Gravesham Borough Council](#) and [Thames Crossing Action Group](#) regarding the enhanced duty, and invites the **Applicant** to respond.

Outstanding Agreements

5. The Secretary of State notes the responses from the [Applicant](#), [Network Rail](#), and [the Mee Family](#) in response to the [consultation letter](#) issued by the Secretary of State on the 28 March 2024. The Secretary of State did not receive a response from Hill Residential Ltd., MOPAC and the RSPB.
6. The Secretary of State requests an update on the outstanding agreements from the **Applicant** and **Network Rail**, **the Mee Family**, **Hill Residential Ltd.**, **MOPAC** and the **RSPB**.

Whitecroft Care Home

7. The Secretary of State notes the request from Birketts Ltd., on behalf of the owners and operators of Whitecroft Care Home, to publish their post-examination response dated 26 March 2024. This is attached at **Annex A**.
8. The Secretary of State invites the **Applicant** and the **owners and operators of Whitecroft Care Home** to provide an update on their respective positions, and whether an agreement has been, or is expected to be, reached.

Deadline for Response

The deadline for response is 23 May 2024.

Submissions sent by post may be subject to delay therefore your response on the information requested above should be submitted to the Case Team, if possible, by email to LowerThamesCrossing@planninginspectorate.gov.uk

If you will have difficulty in submitting a response by the consultation deadline, or difficulty in submitting a response by email, please inform the Case Team.

Responses will be published as soon as possible after the deadline on the Lower Thames Crossing project page of the National Infrastructure Planning website at: <https://national-infrastructure-consenting.planninginspectorate.gov.uk/projects/TR010032>

This letter is without prejudice to the Secretary of State's decision on the Lower Thames Crossing Application, and nothing in this letter is to be taken to imply what that decision might be.

Yours faithfully,

Transport Infrastructure Planning Unit

**LOWER THAMES CROSSING
DEVELOPMENT CONSENT ORDER**

POST-EXAMINATION REPRESENTATIONS

on behalf of

KATHRYN HOMES LTD: Unique Reference 20035583

RUNWOOD HOMES LTD: Unique Reference 20035580

RUNWOOD PROPERTIES LTD: Unique Reference 20035582

1. These Post-Examination Representations are submitted to the Secretary of State for Transport (“the SoS”) on behalf of Kathryn Homes Ltd, Runwood Homes Ltd, and Runwood Properties Ltd (“the Objectors”). Each of the Objectors is a registered Interested Party and has separately made Relevant Representations but they share common interests and so have combined together to make these joint Post-Examination Representations in order to provide the SoS with an update on relevant matters since the close of the Examination on 20 December 2023.
2. It is assumed that the SoS will receive the Examining Authority’s Report with recommendation on 20 March 2024 but the contents of that Report are, obviously, not known to the Objectors at the present time.
3. The Objectors own and operate the Whitecroft Care Home, Stanford Road (A1013), Orsett, Thurrock. The Care Home is located in close proximity to the major Baker Street intersection of the Lower Thames Crossing (“LTC”) with the A13 and the A1089 and it provides 56 bedspaces catering primarily for persons suffering from dementia and other cognitive impairments. For most residents, Whitecroft is their final home and therefore caters for their ‘end of life’ needs. A typical stay at Whitecroft will be between 6 months and 48 months. As at July 2023, there were 48 residents at Whitecroft and of those, 34 residents (71%) were living with some form of dementia-related condition. The position as at March 2024 is essentially unchanged.

4. The effects on Whitecroft of the construction and subsequent operation of the LTC project (including the various highways that are to be altered in conjunction with the LTC (A122) itself), by reason of their proximity, magnitude, intensity, and duration, are such that if the project secures development consent it is likely that Whitecroft has no realistic future as a care home catering for vulnerable elderly people. Notwithstanding the Applicant's attempts to provide mitigation measures, the Objectors do not consider that the residual effects are compatible with a continuance of a care home operation. The juxtaposition of the LTC and the Care Home is unacceptable.

5. The Objectors' position, setting out its objections and the technical evidence relied on to support those objections, was fully set out in a series of representations to the Examination:
 - REP1-373 (Written Representations), REP1-366 (OFH Post-Hearing Submissions), REP1-367 (acoustic report), REP1-368 (transport report), REP1-370 (psychiatric report), REP1-372 (air quality report), REP1-371 (heritage report);
 - REP2-104 (Written Representations);
 - REP3-178 (Written Submissions), REP3-177 (acoustic report);
 - REP4-380 (Post-Hearing Submissions), REP4-382 (Response to ExQ1s, including acoustic report);
 - REP5-119 (Written Submissions);
 - REP6-209 (Written Submissions);
 - REP7-270 (Written Submissions, including acoustic report);
 - REP8-180 (Post-Hearing Submissions);
 - REP9-306 (Written Submissions), REP9-316 (acoustic report);
 - REP9A-143 (Written Submissions).

6. By the end of the Examination, the Objectors' position remained (as set out at paragraph 3 of REP9-306) that *"unless there are arrangements in place to enable the Whitecroft Care Home to be relocated prior to the commencement of the construction of the LTC, it will not be possible for the ExA to*

recommend to the [SoS] that the Public Sector Equality Duty (“PSED”) can be discharged.” The Objectors’ main submissions on the PSED were set out in REP1-373 (paras 43 to 47), in REP4-380 (paras 17 to 18), and in REP9A-143 (paras 8 and 9).

7. The Applicant’s final position (as set out in its Closing Submissions [REP10-021]) appears in a number of places but can be summarised as:

“7.1.8 In relation to Whitecroft Care Home the Applicant is in active negotiations with the owner (Runwood Homes Ltd) regarding a voluntary acquisition of the property. See section A.8 of the Post-event submissions, including written submission of oral comments, for ISH14 [REP8-114]...

9.8.7 Heads of Terms for an Acquisition by Agreement of the Care Home site have been submitted to the Care Home’s agent for their consideration. This option would allow them to relocate away from any potential impacts of construction. Discussions between the Applicant and the Whitecroft Care Home are ongoing...

9.8.8 The Applicant set out how the draft Development Consent Order makes provision that if appropriate the Care Home could be acquired with a view to relocation (see Annex A.8 of the Applicant’s post hearing submissions for ISH14 [REP8-114]). In response to this the Care Home owners have stated at Deadline 9A that they agree that this achieves the outcome they seek [REP9A-143].”

8. Similar statements are made at paras 9.8.25a, 9.8.26a, 9.9.22, 9.9.23, 9.9.24, and 9.9.25 of REP10-021. It is clear from what is said at paras 9.9.22 and 9.9.25 that the Applicant relies on the arrangements for a relocation (either by voluntary agreement or by the mechanism of the DCO) to satisfy the PSED.
9. Nonetheless, the final draft DCO as submitted to the Examination [REP10-006] does not include, in Article 30, the text proposed by the Applicant in para A.8.7 of REP8-114. Without that text being added to Article 30, the Applicant

is unable to assure that the outcome of a relocation will be achieved, and unless there is a relocation, the SoS cannot be satisfied that the PSED will be met.

10. Subsequent to the close of the Examination, dialogue between the Applicant and the Objectors on the terms of an acquisition of the Whitecroft Care Home by agreement has continued (and is continuing). However, it is disappointing to note that that dialogue has not reached a satisfactory conclusion, even on agreeing Heads of Terms, and (as at the time of writing) little substantive progress has been made. The Objectors are therefore concerned that it may not be possible to resolve matters by agreement (but its own efforts in that regard are continuing and a further meeting with the Applicant is to be held in early April 2024).
11. Consequently, the Objectors' objections remain outstanding and, unless matters are resolved by agreement in the near future, the SoS will need to address the matter by the provisions of the DCO itself. The SoS has two routes by which that can be done: (a) the route suggested by the Applicant of adding additional provisions to Article 30 of the DCO so as to enable the Objectors to require a purchase of the whole of Whitecroft if any part of the authorised development is begun, or (b) the route suggested by the Objectors at para 8 of REP9-306 of including the whole of the Whitecroft site within Article 25(1) of the DCO and its identification as being within the Order Land on the Land Plans and in the Book of Reference, together with the addition of wording to Article 30 of the DCO (as suggested by the Applicant) so as to achieve the result that the Applicant was not merely authorised to acquire Whitecroft but would be compelled to do so if the LTC was to proceed.
12. The SoS already has a plan showing the extent of the Whitecroft title in REP4-386 that would be added to the Objector's land interests in the Plots already forming part of the Order Land (which are described in the revisions to Article 30 proposed by the Applicant, namely Plots 28/08, 29/253, 29/254, 29/258, 29/259, 29/260 and 29/261).

13. On a point of detail, the revised wording for Article 30 put forward by the Applicant in REP8-114 (at para A.8.7) suggests that this would be done by a new subparagraph (5) being added to Article 30. However, in the final draft DCO [REP10-006], Article 30 already contains a subparagraph (5), and so the Objectors suggest that the Applicant's revised wording in REP8-114 would become subparagraph (6) of Article 30.
14. The SoS is therefore requested to ensure that no DCO is made for the LTC project unless either route (a) or route (b) in paragraph 11 above is followed in relation to the final terms of the DCO. In summary, it is the Objectors' clear position that unless there are secure arrangements in place for the acquisition of Whitecroft, there should be no doubt that the PSED cannot be discharged by the SoS because of the unacceptable impacts of the LTC on the vulnerable residents of Whitecroft. The Objectors also repeat their position (as set out in REP4-380) that it would also be the case, in the absence of such arrangements for the acquisition of Whitecroft, that the compulsory acquisition test in s.122(3) PA 2008 would not be met for Plots 29/254, 29/260, and 29/261 for all the reasons set out in REP4-380. As the SoS will be aware, these are the parcels of the Objectors' land required for the realignment of Stanford Road (A1013), which is a necessary and integral part of the LTC project. If those parcels are not acquired, the LTC is not deliverable.

26 March 2024