

**LOWER THAMES CROSSING
DEVELOPMENT CONSENT ORDER**

**RESPONSE TO THE SECRETARY OF STATE'S
LETTER DATED 10 MAY 2024**

on behalf of

KATHRYN HOMES LTD: Unique Reference 20035583

RUNWOOD HOMES LTD: Unique Reference 20035580

RUNWOOD PROPERTIES LTD: Unique Reference 20035582

INTRODUCTION

1. This Response is 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 this Response in order to provide the SoS with a final update on relevant matters as requested by the SoS at paragraph 8 of the SoS letter dated 10 May 2024.
2. This response follows the earlier updates provided both by the Objectors and by the Applicant in their respective responses dated 9 May 2024 in response to the earlier request for an update by the SoS dated 19 April 2024.

UPDATE ON THE NEGOTIATIONS

3. With regard to the response provided by the Applicant in its letter dated 9 May 2024, the Objectors note the Applicant’s suggestions (in para 1.3.2) that “*both parties are working closely together to maintain progress*” and “*that good progress is being made*”, but are unable to share that positive characterisation of the Applicant’s approach to the negotiations.
4. Without rehearsing all of the past history, the Objectors would point out that at a meeting between the Objectors and the Applicant in September 2019 (over

3 years prior to the making of the LTC application) the Objectors made it clear to the Applicant that a relocation of Whitecroft to new premises was the only way forward if the LTC was to proceed (see para 5 of REP3-178). The Objectors also made it clear that this was likely to be a lengthy process due to the probability that any new premises (whether by conversion or by new build) would need to go through the planning process. The Applicant did not respond positively at that stage and the LTC application as submitted for Examination did not include any proposals for the acquisition of the main site of Whitecroft. The Objectors therefore made their respective Relevant Representations and participated fully in the Examination in order to explain the issues to the Examining Authority and why there was a clear need for the Applicant to facilitate the relocation of Whitecroft if the LTC was to proceed.

5. Nonetheless, it was not until 21 November 2023 (at CAH5), no doubt influenced by the Examining Authority's repeated and firmly expressed concerns about the impacts of the LTC on the vulnerable residents of Whitecroft, that the Applicant indicated that it was willing to acquire Whitecroft (as an acquisition by agreement outside of the DCO process) and that was followed by a conditional written offer as an initial proposal from the Applicant on 27 November 2023 (as set out at para 3 of REP8-180). That was over five months ago.
6. During those five months there has been ample time for negotiations on an acquisition by agreement to be concluded and for a contract to have been entered into. However, the negotiations have not materially progressed, and even now there are not agreed Heads of Terms in place (albeit proposed Heads of Terms were first sent to the Applicant in December 2023). The Applicant has not responded to the Objectors' offers to arrange a meeting with the Objectors' solicitors to progress drafting of a legal agreement. The Objectors therefore are unable to see that the course of events since the Applicant accepted in November 2023 that it should purchase Whitecroft represents "*good progress*" towards reaching a concluded agreement to achieve that outcome.

7. However, it remains the Objectors' position that, if the Applicant was willing to adopt a more dynamic approach and actively pursue the task of an acquisition by agreement, there is no good reason why, even now, a concluded agreement could not be in place by 20 June 2024.

UPDATE IN THE EVENT THERE IS NO CONCLUDED AGREEMENT

8. The Objectors' position remains as set out in paras 12 and 13 of its representations dated 9 May 2024, plus the additional point set out at para 14 below.
9. The Objectors note that the Applicant has repeated (at para 1.3.3 of its letter dated 9 May 2024) its proposal for the amendment of Article 30 of the draft DCO to provide a mechanism for the Objectors to compel a purchase of Whitecroft once "*any part of the authorised development has begun*", albeit the Applicant continues to describe this as a mechanism showing "*how Article 30 of the draft Development Consent Order could be amended, if considered necessary*" rather than something that should be included in any made DCO.
10. The Objectors repeat all of their previous submissions as to why this mechanism is an essential requirement for any made DCO, coupled with the provisions already set out (in para 8 of REP9-306 and repeated in para 11 of the Objectors' Post Examination Submissions dated 26 March 2024) to bring all of the Objectors' land at Whitecroft into the compulsory acquisition, in order that the SoS can be satisfied as to the PSED and that there is a compelling case in the public interest for taking any part of the Objectors' frontage land.
11. As the Objectors have pointed out (more than once), on a point of drafting detail, the amendment proposed by the Applicant should refer to Article 30 sub-paragraph (6) and not (5), because there is already an Article 30(5).
12. More substantively, the amendment to Article 30 uses, as its trigger for the service of a notice by the Objectors (to require the acquisition of Whitecroft), the beginning of any part of the authorised works. The terms "*begin*" and "*begun*" are defined by Article 2(1) of the draft DCO and include any

“preliminary works” (as defined by paragraph 1(1) of Schedule 2 to the draft DCO) where the undertaking of those works would constitute a *“material operation”* within s.56(4) Town & Country Planning Act 1990.

13. The Objectors agree that it is necessary for the trigger to be at the earliest stage of the commencement of the project, in order to allow the maximum time for a relocation of Whitecroft to be arranged. The Objectors note that it is envisaged in Appendix D of the Environmental Statement Addendum (REP2-040) that the preliminary works will be undertaken during the 12 months preceding the commencement of the main construction works for the LTC. Given the scale and the geographic extent of the LTC, including works both north and south of the River Thames and underneath it, and the fact that qualifying preliminary works may be relatively modest in extent, the Objectors do not at present have any ready means of establishing when the trigger in the proposed amendment to Article 30 will have been reached. It is important that the Objectors have clarity on this matter, in order that they have the ability to require an acquisition of Whitecroft as soon as construction of any part of the LTC begins, in order to allow time for the necessary relocation of Whitecroft as a functioning care home, which is likely to entail securing planning permission for an alternative site to be used as a care home (whether by converting existing buildings or by constructing new ones). Necessarily, such a relocation process will take a considerable amount of time.

14. To address this, a provision that the Applicant must give notice to the Objectors of the carrying out of the first *“material operation”* within 7 days of that event could be added to Article 30 or, alternatively, the SoS could make it clear in any decision to approve the making of the DCO that the SoS expects the Applicant, as a responsible public body which is itself subject to the PSED, to provide such notice in order that the PSED can be discharged in relation to the vulnerable residents of Whitecroft.

23 May 2024