

A12 Chelmsford to A120 Widening Project

Deadline 3– Summary of oral
representation made at hearings

9 March 2023

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1. Summary of oral representations made at hearings on 28 February and 1 March

Set out below are summaries of the oral representations made by Essex County Council (ECC) representatives at the examination hearings on 28 February and 1 March 2023. Short biographies for each representative can be found in Appendix A. A summary of the technical notes referred to during the hearings can be found in Appendix B.

Issue Specific Hearing 1 – Traffic and transport

General traffic issues

Witness: Michael Humphries KC (MHKC), Counsel for Essex County Council (ECC)

ECC supports the principle and need for the scheme.

But fundamentally, we do consider that some substantive changes to the scheme are required to mitigate our highways and traffic-related concerns in order to make it acceptable to ECC. In particular, the scheme needs to include:

- Conversion of the de-trunked dual carriageway sections to single carriageway plus green active travel corridor
- Improvements to the proposed WCH facilities in line with the DfT's LTN1/20 Guidelines, to better encourage active travel
- Further mitigation of the impact of scheme related traffic on local roads

Junction 20a/20b – Boreham/Hatfield Peverel

Witness: Billy Parr, Head of Network Development

We support the creation of the new Junction 21 and understand the reasoning for closure of Junctions 20a and 20b. However, we are concerned that the proposed new speed limits on the B1137 (Main Road) will not be adhered to without further measures to reinforce them.

If the speed limits are not adhered to, more vehicles than currently forecast are likely to use Main Road which would:

- Increase delay for local residents,
- Negatively affect vulnerable road users, and
- Adversely affect road safety

We agree with Maldon District Council that the provision of a new Maldon Road link road / bypass of the Duke of Wellington junction could have significant benefits and would be supportive of this being delivered as part of the A12 widening scheme. It is not clear to ECC however that this is justified in planning terms based on the assessment provided.

Witness: Mark Stubbs, Associate Director Transport Planning

We have assessed a range of potential measures to reinforce the proposed speed limit reductions and believe that the following should be implemented as part of the DCO scheme:

- Average speed cameras covering the section of Main Road from the southern end of Boreham village to the existing A12 Junction 20a on-slip
- A new signalised pedestrian crossing with road narrowing in the vicinity of Boreham Co-op
- Road narrowing at three key locations within Boreham Village
- Softer measures, such as locally designed signage, at three appropriate locations

On their own, the physical measures (signalised pedestrian crossing, width restrictions and signage) would not be sufficient to reinforce the proposed speed limit reductions. Main Road is wide and straight, having formerly been the A12, and drivers would find it easy to increase their speed between the width restrictions. Average speed cameras are required to ensure that speeding up between physical measures is minimised. As such, they are an essential element of the package, also supported by Chelmsford City Council, Boreham Parish Council and Essex Police.

The proposed measures are set out in a technical note that was shared with NH on 7 February 2023, and referred to in REP2-018 Appendix E. [Post hearing note: This technical note is being submitted to the examination at Deadline 3 as requested].

In addition, we believe that NH should commit to monitoring the actual impacts of the scheme at a number of agreed locations on the local highway network and making the monitoring data available to interested parties. If this monitoring indicates the scheme is having a material adverse and unanticipated impact at the agreed locations, even with the measures outlined above in place, NH should commit to working with ECC as the local highway authority to investigate and address the impact.

Witness: Michael Humphries KC (MHKC), Counsel for Essex County Council (ECC)

We understand that the design of Junction 21 will be amended to ensure it is compatible with future plans. We are keen to ensure that these amendments are appropriately secured and are in discussion with National Highways. We will raise this during the examination if necessary.

Proposed Junction 24 – Messing/Inworth/Tiptree

Witness: Billy Parr, Head of Network Development

We are content that an 'all movements' junction is appropriate for Junction 24. However, we have three main ongoing concerns regarding the applicant's proposals:

- a. The design of the new Inworth Road roundabout: Should have been designed to DMRB 50mph standards but has been designed to 'Manual for Streets' 30mph standard, which will require additional measures to ensure that approach speeds are appropriate.
- b. The lack of sufficient measures on Inworth Road to ensure the B1023 is able to safely accommodate the expected increase traffic.
- c. The need for further measure to reduce the potential for 'rat-running' on local roads.

We have assessed a range of potential measures to address the above concerns and believe that the following should be implemented as part of the DCO scheme:

- Average speed cameras to the south of Inworth Road Roundabout and a fixed speed camera to the north
- The widening of Hinds Bridge
- Further improvements on the B1023 for walking, cycle and horse riding users
- Widening of pinch points between Perrywood Garden Centre and the
- Village entry gateways for Messing village and "Unsuitable for HGVs" signage on Kelvedon Road and Harborough Hall Road
- A 20mph speed limit, physical width restrictions and revised signage to help prevent inappropriate through traffic on Oak Road Tiptree

These measures are set out in a technical note that was shared with NH on 7 February 2023, and referred to in REP2-018 Appendix E. [Post hearing note: This technical note is being submitted to the examination at Deadline 3 as requested].

Other traffic matters – Approach to de-trunking

Witness: Sean Perry, Transport Planning Manager

The issue around de-trunking is the issue that Essex County Council considers to be one that it is furthest apart on with National Highways. At present the County Council does not find the de-trunking proposals as part of the applicant's scheme to be acceptable for the following reasons:

- a. ECC believes the applicant has not fully considered all reasonable opportunities to support other transport modes as required by NPSNN paragraphs 3.15-3.17 on sustainable travel and the need for the applicant to address the needs of cyclists and pedestrians with identified opportunities to invest but also paragraph 5.205 requiring the applicant to provide evidence that they have used reasonable endeavours to address existing issues. The de-trunked proposals are also at odds with ECC's place making agenda and wider policies to take proactive steps to introduce green infrastructure and promote active and sustainable travel.
- b. National Highways' modelling of the de-trunked sections with the scheme in place show that the dual carriageway arrangement is significant over-provision with a

volume/capacity ratio of between 0.13-0.22 (with adequate capacity being classed as 0.85) as detailed in the Local Impact Report (REP2-055) for the traffic flows predicted.

- c. NH is proposing a 40mph and 50mph speed limit at the Rivenhall section and Feering to Marks Tey section, respectively however we believe due to the nature of the old roman road (being a long straight carriageway) there would be increased prevalence of high-speed antisocial and dangerous driving with potential for a high number of drivers not complying with stated speed limits proposals leading to future unsafe road conditions for ECC to manage as the Highways Authority.
- d. The applicant is proposing to transfer a large number of existing assets to ECC which are not prepared to adopt for example the Henry Dixon Overbridge. The quantity and condition of these assets are not fully understood and will be dependent on the Applicant's ability to secure maintenance funding through their RIS3 period

ECC has for several months been giving consideration to what it believes is a better alternative to the current proposals for de-trunking, and shared this work with National Highways on 16 January 2023. This could be found in Appendix 2 of the Council's LIR (REP2-055). ECC has also produced a technical note on this matter which the council is happy to share with the examination. [Post hearing note: This technical note is being submitted to the examination at Deadline 3 as requested].

Witness: Michael Humphries KC, Counsel for ECC

In response to the applicant's representation on de-trunking, MHKC stated that it is not acceptable for NH to simply pass over the de-trunked sections in a safe and servicable state. The NPSNN makes it clear schemes should be developed, and options considered, in the light of relevant local policies and local plans. Mitigation measures for schemes should be proportionate and reasonable and focused on promoting sustainable development. In respect of ECC's alternative proposals for de-trunking, we are assisting, we hope, National Highways to make this a scheme which is compliant with policy.

Issue Specific Hearing 1 – Environmental matters

Air Quality

Witness: Billy Parr, Head of Network Development

While the district authorities are the respective air quality authorities for the area impacted by the scheme, ECC acknowledges that the transport sector is a significant contributor to air pollution and the council is currently producing an air quality strategy. This emerging strategy notes that further air quality monitoring is required to improve our collective understanding of air quality issues.

While tackling air quality issues is challenging the means of doing so can include encouraging mode shift to more sustainable modes and increasing green infrastructure (both of which ECC will be supported through the council's alternative proposals for de-trunking). We support the district authorities in their requests for air quality monitoring at locations of

concern, and set out within section 8.2.36 of our LIR (REP2-055) where we think as a minimum air quality monitoring should be provided.

Design (not discussed during ISH1)

This topic was not discussed at the ISH1 hearings due to time pressures, hence the ExA asked if summaries of the points which would have been made are in writing in this response.

Design is one of the golden threads running through planning legislation, the emphasis being on providing well designed spaces, establishing design principles, complying with local

Within the DCO submission the applicant has submitted a a Design and Access Statement, the Examination Library having the reference to the same at APP-268.

The structures which will cross the A12 and as are proposed to take both traffic and non-motorised users across the A12 proposal will be highly visible. At Section 7 of APP-268 the form of these structures is set out and the elevation of the proposed structures in terms of the choices made. The bridges as proposed are, ECC concludes, simple, formulaic and functional in their designs, with at best a neutral impact on the development. What isn't proposed are designs which exhibit design betterment, which and on balance, could benefit the development and explore ways in which the same could contribute to quality designs to significantly improve the look of this infrastructure development.

At ISH1 discussion was had as to other DCO proposals and their relevance to this submission respective to the proposals. ECC has been involved in the Lower Thames DCO, at which a large semi elevated structure in the form of a viaduct proposed across the Mardyke Valley, the design of which was referred to the Design Council for comment. ECC has not been involved in similar discussions on the bridges across the A12 so no forum has been established to discuss the designs for bridges as chosen in this case.

Cultural heritage

Witness: Teresa O'Connor, Historic Environment Consultant and David Sorapure, Built Heritage Consultant

Teresa raised the issue of the Palaeolithic DBA not providing full coverage of the proposed works. This was being addressed by the applicant and a report on the remainder of the route is expected to be produced, however the timetable for this is unknown.

The approach and results of the archaeological investigations are acceptable and we are happy with the approach, the mitigation is agreed in part however there are revisions to the proposed mitigation which is being dealt with in the forthcoming WSI (Written Scheme of Investigation)

The proposed mitigation for Palaeolithic archaeology is not considered comprehensive or acceptable and there is not enough confidence to 'remove' areas from further investigation at this point. At this point the mitigation proposed for Palaeolithic archaeology is not agreed and will need revising before the determination of the application.

Biodiversity

Witness: Sue Hooton, Principal Ecological Consultant

In response to the applicants' comments to the ExA Sue indicated that ECC still was awaiting details of the impact of the development on protected species, in particular Barbastelle bats and Hazel Dormouse, ECC will need to review the bat information when it is available on the PINS website, however, there remains general uncertainty on the adequacy of the mitigation measures as may be proposed at this time.

Witness: Mark Woodger, Principal Planner

In respect of biodiversity, it is noted that the DCO only proposed net neutral in terms of biodiversity. The benefits of biodiversity on both the environment, the scheme and on the human receptors in terms of their physical and mental wellbeing, are significant, and the lack of the A12 DCO from securing uplift, which at this time is not set out as being necessary within DCO submissions, but we consider this is highly likely to change, is hugely disappointing. Discussions at the Hearing session have seen both the applicant and ECC refer to other NSIP proposals and it is correct that in discussions on the Grid connection projects we are responding to, including the Bramford to Twinstead and East Anglia Green NSIP proposals, a 10% biodiversity uplift is proposed to the schemes benefit.

Land use

Witness: Shirley Anglin, Public Right of Way (PRoW) Officer

The Applicant has clearly sought to address the historic severance of PRoW's throughout most of this development. They have considered connectivity, providing new links, circular routes and overbridges. Overall the PRoW team are pleased that such consideration has been taken.

However, none of the walking, cycling and horse riding (WCH) overbridges have been designed in full accordance with the recommendations outlined in LTN1/20. The overbridges in the General Arrangement drawings all have zig-zag ramps on one or both sides, which are inherently indirect, and turning radii that are too tight to allow cyclists to maintain momentum or for horses to turn. The applicant has not demonstrated that other ramp arrangements more in line with LTN1/20 have been thoroughly investigated, or provided suitable evidence to justify ruling other options out.

We have set our recommendations as to how each WCH overbridge should be amended Section 8.3 of our Local Impact Report.

We further ask that the Dept of Transport Inclusivity Guide to Best Practice on access to Pedestrian and Transport Infrastructure is followed in all locations. Disabled access to the countryside is increasing as mobility vehicles technology develops and as access information improves for users. Regardless of the onward journey, this best practice should be implemented with all new infrastructure.

Considering future usage of our network is key to ECC, with this in mind ECC would like to have confirmation that all bridges will be built to provide safe passage for horses. This will provide us the ability to increase the bridleway network in the future through opportunities provided by developments and public path orders adjacent to the red line boundary. This is an aim of the ECC Rights of Way Improvement Plan, Theme D : A more continuous network.

The scheme sees an improvement to a severed network but we would ask that the applicant also seek further enhancements to our network by provision of a bridleway bridge (Ashman's Farm bridge) and dedication of a bridleway over footpath 30 Kelvedon and footpath 19 Great Braxted. This will connect a network of bridleways north to those to the south of Kelvedon.

Issue Specific Hearing 2 – Draft DCO

Counsel for Essex County Council (ECC), Michael Humphries KC (MHKC) made the following points:

Agenda item 2 – Articles and schedules of the dDCO

Article 14 (Construction and maintenance of new, altered or diverted streets and other structures)

MHKC explained that this articles imposes very significant new burdens on ECC, a the local highway authority, to maintain at its own expense the new, altered and de-trunked roads and other structures (other than trunk roads) within the DCO. This is particularly so, bearing in mind that some of the assets may not be in good condition.

Whilst the article does provide that these roads etc “must be completed to the reasonable satisfaction of the local highway authority”, the DCO does not give the local highway authority any approval on the design or specification of those roads or structures. This is clearly inappropriate and the local highway authority should be given the ability in the DCO Schedule 2 ‘requirements’ to approve the detailed design of the highways for which it will have to undertake maintenance responsibilities.

Article 14(5) also requires ECC to maintain at its own expense those sections of the A12 that are to be de-trunked. As made clear at ISH 1 on 28 February 2023, ECC objects strongly to National Highways proposals to simply de-trunk sections of the A12 and leave the local highway authority with long, straight sections of dual carriageway that will become a local road. Not only is this a complete over-provision of highway capacity that may encourage the breaking of speed limits, but it is also a huge burden on ECC in terms of maintenance for a dual carriageway that it does not want to adopt. ECC suggests that there should be a new requirement in Schedule 2 that requires National Highways to bring forward and implement a more appropriate form of de-trunking that reduces the road to two lanes and makes provision for greening and sustainable transport on the redundant carriageways.

MHKC emphasised that, even with a de-trunking scheme, the DCO still leaves ECC with a substantial maintenance liability for the de-trunked sections of the A12. ECC sees no reason why National Highways should not retain liability for the continued maintenance of the de-trunked sections of the A12 and is not currently minded to accept such a substantial liability under art.14.

Article 15 (Classification of roads etc)

MHKC pointed out that art.15(5) refers to the ‘local planning authority’, whereas it should more appropriately refer to the ‘local highway authority’.

Article 16 (Speed limits)

Article 16(1) makes provision for the imposition of various speed limits as set out in in Part 6 of Schedule 3. MHKC made clear that ECC does not agree with all of the speed limits proposed in that Part on its local roads. Mr Parr, on behalf of ECC, explained that the local highway

authority has raised this previously with National highways, but to no avail. It is clearly important that speed limits are not imposed on local roads that the responsible local highway authority does not agree with. At the request of the Examining Authority a list of the speed limit changes that National Highways are proposing on local roads which are or may be of concern to ECC as the local highway authority can be found in Appendix C.

As was pointed out during ISH1 on 28 February 2023, the speed limits on the local highway network are a direct input to the modelling reported in the Transport Assessment and it is important, therefore, that appropriate speed limits are assumed.

MHKC also mentioned the relationship between this article and art.23 that was discussed later.

Article 18 (Street works)

This article gives National Highways significant powers to carry out works to any streets within the Order Limits. Those works include the breaking up of streets, tunnelling under streets and the placing of apparatus in streets, but the nature and location of any such proposed works is not identified in the dDCO.

MHKC suggested that where such works are proposed (other than in trunk roads), the relevant street authority should have a power of prior approval. MHKC referred to a similar provision in the Silvertown Tunnel DCO where art.6(3) provides that:

“(3) TfL must not carry out works to any street under paragraph (1) for which it is not the street authority without the consent of the street authority, which may attach reasonable conditions to any consent.”

This could clearly be adapted to refer to *“the undertaker”* in place of TfL.

Article 20 (Permanent stopping up and restriction of use of streets and private means of access)

MHKC explained that ECC’s PROW unit was looking at the PROW that it is proposed to stop up or divert and that the County would come back with any comments.

Article 23 (Traffic Regulation)

This article gives National Highways power to make various traffic regulations on roads in respect of which it is not the traffic authority; in other words, the county highway network.

As para 4.109 of the Explanatory Memorandum makes clear *“It is anticipated that this article will be used inter alia to allow National Highways to amend the speed limits on sections of the public highways adjacent to and connecting to the Order land for which the County Council is the Highway Authority and traffic authority.”* Thus, this power is not confined to land within the Order Limits, but to roads generally.

Paragraph 4.109 does say, however, that *“These amendments are required to align the existing speed limits with those to be imposed on the altered stretches of highway within the proposed scheme to which they connect.”*, but this restriction on the power is not made in the article itself, which is therefore unrestricted.

Paragraph 4.107 does say that *“Implementation of any of the measures is subject to the prior approval of the traffic authority in whose area the roads are situated.”*, but as MHKC pointed out, if the purpose is to align the speed limits on roads outside the Order Limits with those within the Order Limits then ‘the pass would already have been sold’.

This is another reason why it is so important that the speed limits to be imposed under art.16 should be agreed with ECC, which they are not.

Article 60 (Certified Documents)

MHKC pointed out that it may be necessary to have additional ‘certified documents’ in Schedule 12 and that these may include:

- Any scheme for de-trunking sections of the A12, or at least the principles against which any scheme for future approval would have to be considered
- A plan for the monitoring and management of wider impacts on the local highway network

Agenda item 3 – Schedule 2 of the dDCO – Requirements

Requirement 1 (Interpretation)

MHKC drew attention to the definition of the term ‘commence’ which means the beginning of any ‘material operation’ (as defined in s.56(1) of the Town and Country Planning Act 1990), but then excludes a number of operations. This means that those excluded operations may be undertaken before National Highways has discharged the various ‘pre-commencement’ requirements in Schedule 2 (e.g. requirements 3, 5 and 7).

This restricted meaning of the word ‘commence’ is important when considering the ‘time limit’ in requirement 2.

Requirement 2 (Time limit)

Requirement 2 provides as follows: *“The authorised development must not begin later than the expiration of 5 years beginning with the date on which this Order comes into force.”* (underlining added)

MHKC drew attention to a number of points.

First, section 154 of the Planning Act 2008 provides as follows:

“(1) Development for which development consent is granted must be begun before the end of—

*(a) the prescribed period, or
(b) such other period (whether longer or shorter than that prescribed) as is specified in the order granting the consent.*

(2) If the development is not begun before the end of the period applicable under subsection (1), the order granting development consent ceases to have effect at the end of that period.”

(emphasis added)

Second, section 154(1) clearly relates to when development is ‘begun’ (it does not use the term ‘commence’) and the ‘material operations’ to begin development is set by s.155 that says:

“(1) For the purposes of this Act (except Part 11) development is taken to begin on the earliest date on which any material operation comprised in, or carried out for the purposes of, the development begins to be carried out.

(2) ‘Material operation’ means any operation except an operation of a prescribed description.”

The ‘operations of a prescribed description’ are set out in regulation 7 of the Infrastructure Planning (Interested Parties and Miscellaneous Provisions) Regulations 2015 (‘the 2015 Regulations’) and comprises *“The measuring or marking out of a proposed road ...”*. Thus, any ‘material operation’ (s.155(1)), apart from the measuring and marking out of a proposed road, will ‘begin’ development for the purposes of s.154(2), but the ‘excluded’ operations will not ‘commence’ development because of the requirement 1 definition.

Third, the ‘prescribed period’ referred to in s.154(1)(a) is set out in regulation 6(1) of the 2015 Regulations as follows: *“Development for which development consent is granted must be begun before the end of a period of five years beginning on the date on which the order granting development consent is made.”* (emphasis added)

Requirement 2 has, therefore, set an ‘other period’ under s.154(1)(b) in that the five years is set to run from when the DCO comes ‘into force’ and not from when it is ‘made’.

Fourth, requirement 2 has not set a time limit for when development must ‘commence’; only when it must be ‘begun’. Thus, if any material operation (apart from laying out a road) ‘began’ the development for the purposes of s.154(2) it would not cease to ‘have effect’ and, there being no time set within which it must ‘commence’, there would be no limit on when the undertaker could discharge its ‘pre-commencement’ requirements.

This situation arose in reverse in the Court of Appeal decision in Tidal Lagoon (Swansea Bay) plc v Secretary of State for Business, Energy and Industrial Strategy [2022] EWCA Civ 1579. There the relevant requirement gave a time limit for ‘commence’, but not ‘begin’, and the issue was whether works that were sufficient to ‘begin’ the development but not ‘commence’ the development meant that the DCO had not ceased to have effect.

MHKC suggested that requirement 2 be amended to read:

*“2. (1) The authorised development must not begin later than the expiration of 5 years beginning with the date on which this Order comes into force.
(2) The authorised development must not commence later than the expiration of 5 years beginning with the date on which this Order comes into force.”*

MHKC explained that this wording would remove any residual doubt about the effect of sections 154/155 and the time within which development must ‘commence’ (as defined) for the purpose of the pre-commencement requirements.

Requirement 10 (Detailed design)

MHKC said that ECC has a number of concerns about the detailed design of the new and amended highways in the dDCO. ECC’s witnesses explained a number of these points in ISH 1 on 28 February 2023 and they are also set out in sections 8.2 and 8.3 of its Local Impact Report [REP2-055].

ECC understand that National Highways is sympathetic to a number of these points, but it is important that any design refinements are secured through the DCO. To that end, ECC will continue to press National Highways to produce revised plans reflecting its points.

In addition, however, MHKC explained that it is appropriate that ECC should have the power to approve the detailed design of highways for which it will be the local highway authority. This is not currently reflected in requirement 10.

Indeed, requirement 10 currently states that:

*“(1) The detailed design for the authorised development must accord with:
(a) the preliminary scheme design shown on the works plans and the engineering drawings and sections; and
(b) the principles set out in the environmental masterplan,
(c) unless otherwise agreed in writing by the Secretary of State following consultation with the relevant local planning authority and relevant local highway authority on matters related to their functions, provided that the Secretary of State is satisfied that any amendments would not give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement.”*

[NB the ‘(c)’ (but not the text that follows it) should be deleted as this is clearly a typo.]

Thus as the detailed design ‘must’ accord with the ‘preliminary scheme design’ shown on the works plans and the principles in the ‘environmental masterplan’ this would appear to preclude later refinements to reflect ECC’s points, unless otherwise agreed in writing by the Secretary of State. ECC will be left with no assurance that any indications given during the examination of detailed design refinements will actually be delivered.

Requirement 10 needs to be amended to reflect these concerns.

New requirement – A scheme for de-trunking

As explained by ECC at ISH 1 on 28 February 2023, ECC has considerable concerns about National Highways proposals for the de-trunked sections on the A12 and ECC has produced its own proposals for de-trunking. A note which details these proposals will be submitted to the examination at Deadline 3.

MHKC suggested that there should be a new requirement in Schedule 2 that provides for National Highways producing a de-trunking scheme for ECC's approval that National Highways should then be required to implement.

MHKC did not have the time at ISH 2 to introduce such wording, but such a requirement could be drafted along the following lines:

"[XX]. (1) No part of the authorised development is to open for public use until a written scheme for the de-trunking of the sections of the A12 between [LOCATION 1] and [LOCATION 2] and also between [LOCATION 3] and [LOCATION 4] has been submitted to and approved by the local highways authority.

(2) The said de-trunking scheme must include:

(a) [CRITERION A]

(b) [ETC]

(3) The undertaker shall implement the approved de-trunking scheme at its own expense within [XX] months of the first opening of the authorised development for public use."

ECC is prepared to discuss its proposed wording with National Highways and will ask the Examining Authority to recommend to the Secretary of State that such a requirement be added to Schedule 2.

New requirement – Monitoring and managing wider impacts on the local highway network

At ISH 1 on 28 February 2023 ECC's witnesses explained their concerns about modelling uncertainty and the impacts of the proposed project on the wider highway network for which it is responsible.

MHKC mentioned requirements in the A428 Black Cat DCO and the draft Lower Thames Crossing DCO; both National Highways projects.

Requirement 23 of the A428 Black Cat DCO states:

"Operation phase local traffic monitoring

23. — (1) No part of the authorised development is to commence until an operation phase local traffic monitoring scheme has been submitted to, and following consultation with the relevant local highway authority, approved by the Secretary of State for the following locations—

(a) Great North Road, between A428 and Nelson Road;

(b) Cambridge Road, between Station Road and A428;

(c) Park Street East, Dry Drayton;

(d) Brook Lane, Coton; and

(e) St Neots Road, Sandy.

- (2) The operation phase local traffic monitoring scheme must include—*
- (a) a survey to assess baseline traffic levels at the locations listed in sub-paragraph (1)(a) to (e);*
 - (b) an operation traffic survey at the locations listed in sub-paragraph (1)(a) to (e) within the first year and fifth year following the date on which the authorised development is fully completed and open for traffic to assess the changes in traffic from the baseline;*
 - (c) the methodology to be used to collect the required data;*
 - (d) the periods over which operation traffic is to be monitored; and*
 - (e) proposals for the submission of the survey data collected and an interpretative report to be provided to the relevant local highway authority.*
- (3) The scheme approved under sub-paragraph (1) must be implemented by the undertaker unless otherwise agreed in writing with the Secretary of State following consultation with the relevant local highway authority.”*

This requirement was imposed on National Highways by the Secretary of State on the recommendation of the Examining Authority.

In the draft Lower Thames Crossing DCO, National Highways has volunteered the following requirement:

“Traffic monitoring

14. — (1) Before the tunnel area is open for traffic, the undertaker must submit written details of an operational traffic impact monitoring scheme substantially in accordance with the wider network impacts management and monitoring plan for approval by the Secretary of State following consultation by the undertaker with highway authority and where different, the relevant planning authority and other bodies identified in Table 2.1 of the outline traffic management plan for construction.

- (2) The scheme under paragraph (1) must include—*
- (a) details of a before and after survey to establish the baseline traffic levels and the changes in traffic;*
 - (b) the locations to be monitored;*
 - (c) the methodology to be used to collect the required data;*
 - (d) the periods over which operational traffic is to be monitored;*
 - (e) the method of assessment of traffic data;*
 - (f) a programme for the provision of the collected data to local highway authorities.*
- (3) The scheme approved under sub-paragraph (1) must be implemented by the undertaker unless otherwise agreed with the Secretary of State.”*

The “wider network impacts management and monitoring plan” accompanies the application and is a certified document in the DCO.

Paragraph 6.11.2 of the LTC Explanatory Memorandum states that *“Requirement 14 requires National Highways to submit a monitoring scheme to the Secretary of State prior to the opening of the Project. This monitoring strategy must be in accordance with the wider network impacts management and monitoring plan (Application Document 7.12). This is similar to a Requirement included in the A428 Black Cat to Caxton Gibbet Development Consent Order 2022 (see Requirement 24).”*

MHKC made clear that ECC wishes to see a similar provision in the draft A12 DCO and, in addition, wishes to be a mechanism by which National Highways will implement measures to mitigate any unforeseen traffic impacts revealed by the monitoring programme.

Compulsory Acquisition Hearing 1

Roger Moore from Lambert Smith Hampton (LSH), a firm of Chartered Surveyors and Property Consultants, acts on behalf of ECC on land and property matters. LSH are instructed to advise the Council in respect of this project.

The Project as currently proposed results in a number of impacts on the Council's land and property interests, in both its capacity as a landowner, and as the Highway Authority for the non-trunk road network in the county, and the Council would like the Inspector to note its current representations in respect of those interests, and the Council's wish to make further representations in the future.

The Council as third-party landowner

The Project requires the temporary and permanent acquisition of a number of plots of land which fall into two series in the Book of Reference: Plot 7 series (plots 7/17a-d); Plot 8 series (plots 8/3a, 8/6b, 8/6d-m, 8/25d).

A number of the plots required are classed as open space, and those in the Plot 8 series form part of a linear country park including public rights of way. National Highways is proposing to offer Replacement Land to maintain the level of open space and connectivity between retained land areas, but the proposals have not been outlined in detail or agreed by the Council.

Whilst the Council recognises the need for land to be taken for the Project, it wishes to reserve its ability to make further representations if the detailed proposals cannot be agreed.

The Council as local Highway Authority

Although much of the Council's interest as the local Highway Authority is being dealt with through other hearings and engagement with National Highways, two strands of that engagement also potentially impact on the Council's land and property interests.

Firstly, where existing highway is proposed to be de-trunked, responsibility for the highway and any associated land and property interests will pass to the Council. At present, the conditions under which National Highways propose to return the land are not clear, and the Council's future management of both the highway, and depending on the proposed future use, the Council's ability to maintain associated property interests, are yet to be resolved.

Secondly, there are some areas where former highway is proposed to be stopped up, and it is not clear whether land and property interests may be passed or returned to the Council.

Conclusion


The Council seeks to protect its property interests and the future impact on its assets, but at present has had limited engagement with National Highway on these matters, so wishes to

reserve its ability to make further representations once more detail is available, or where issues cannot be resolved or agreed.




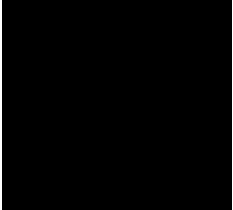


2. Appendices

Appendix A: Essex County Council's witness biographies

Representative	Role	Qualification	Overview
<p>Billy Parr</p> 	<p>Head of Network Development, Essex County Council</p>		
<p>Mark Stubbs</p> 	<p>Associate Director Transport Planning, Essex Highways</p>		

<p>Sean Perry</p> 	<p>Transport Planning Manager, Essex Highways</p>		
<p>Mark Woodger</p> 	<p>Principal Planning Officer, National Strategic Infrastructure Projects, Essex County Council</p>		
<p>Shirley Anglin</p> 	<p>Public Rights of Way Lead Officer, Essex Highways</p>		

<p>Merwin Man</p> 	<p>Network Programme Manager, Essex County Council</p>		
<p>David Sorapure</p> 	<p>Built Heritage Consultant, Place Services</p>		
<p>Teresa O'Connor</p> 	<p>Historic Environment Consultant, Place Services</p>		

<p>Sue Hooton</p> 	<p>Principal Ecological Consultant, Place Services</p>		
<p>Roger Moore</p> 	<p>Director, Compulsory Purchase, Lambert Smith Hampton</p>		

Note: Essex Highways is an integrated services contract which has been in place since April 2012, and provides Essex County Council with all Highways and Transportation services from highway maintenance to technical services for highways design and transport planning and as such supports Essex County Council in this regard.

Appendix B: Technical notes

During the hearings ECC representatives referred specifically to three technical notes that have been produced by the council in support of our position on several aspects of the project. These notes are amongst those listed in section 1.2.3 of the council's LIR (REP2-055) and are being submitted to the examination at Deadline 3. A short summary of each of the notes is set out below.

B1137 Main Road Boreham technical note (Essex Highways)

This note assesses the appropriateness of the National Highways proposed speed limit reductions to the B1137 and looks into additional measures that might be required to help ensure they are adhered to.

Inworth, Messing and Tiptree mitigation options technical note (Essex Highways)

This note was produced to review the multi-criteria assessment National Highways completed to compare the Inworth Road bypass options, and to consider potential measures for reducing the impact of traffic flow changes in the vicinity of Messing, Inworth and Tiptree as a result of the Junction 24 proposals. This note has informed the council's position on the additional measures we think are required in connection with the junction arrangement.

Alternative de-trunking proposals technical note (Essex Highways)

This note has been produced to consider the implications of National Highways proposals for the two section of the A12 which are planned to be de-trunked as part of the A12 widening project. The note sets out an alternative approach to these sections which the council considers is a better alternative to that proposed by National Highways. We have also produced a brochure which summarises our alternative proposals for de-trunking and this has also been submitted.

Appendix C: Essex County Council's view on speed limit changes

During the ISH 2 on the draft DCO, ECC stated that it has or may have concerns with some of the proposed changes to speed limits that National Highways are making to local roads, for which ECC is the local highway authority. It was agreed that ECC would provide a list of locations to the examination, herewith:

Road	From	To	Proposed change
B1137	Generals Farm roundabout	Boreham village	National Speed Limit (NSL) to 40mph
B1137	Boreham village		40mph to 30mph
B1137	Boreham village	Hatfield Peverel	NSL and 50mph to 40mph
B1023	Inworth village	Brick Kiln Farm	50mph to 30mph
B1137	A009-A111 (A12 Jn19)	Paynes Lane	Derestricted to 40
Bury Lodge Lane	Overbridge		30mph to restricted road
Station Road	Overbridge		30mph to restricted road
Hatfield Peverel Link Road to J21			Restricted Road
J21 roundabouts			Restricted Road
Realigned Kennel Access			Restricted Road
J22 & all non A12 approaches			40mph
Braxted Road			Restricted Road
Detrunked A12	Sheet 11		40mph
B1024 Link Road			40mph
Link to Essex County Fire & Rescue HQ			Restricted Road
J24 Roundabouts & Link to Inworth Road			40mph
Realigned North Inworth Road			30mph
Realigned Feering Road & Feering East Roundabout			30mph
Prested Hall/Threshelfords Access			NSL
Detrunked A12			40mph then 50mph
Wishingwell Bridge and Easthorpe Farm Access			NSL
London Road Roundabout			Restricted Road
New London Road			Restricted Road
Marks Tey Bridge			Restricted Road

The council is continuing to review the proposed changes and will provide reasoning for our concerns to National Highways and the examination (if necessary) shortly. As it stands many of the proposed changes do not comply with the council's Speed Management Strategy¹ or the relevant Highway Practice Notes, with some lower than we would expect. The key principle of the SMS is to ensure that the speed for any road is in keeping with its environment. The

¹ [REDACTED]

consequence of a speed limit which is not suited to the context of the road is that there could be poor compliance with the speed limit, which creates operational and road safety risks.

This information is issued by:
Essex County Council

Contact us:

 @essex.gov.uk

Essex County Council
County Hall, Chelmsford
Essex, CM1 1QH



Essex_CC





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