

A12 Chelmsford to A120 widening scheme

TR010060

3.3 Consents, Licences and Agreements Position Statement

APFP Regulations 5(2)(q)

Planning Act 2008

Infrastructure Planning (Applications: Prescribed
Forms and Procedure) Regulations 2009

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**The Infrastructure Planning
(Applications: Prescribed
Forms and Procedure)
Regulations 2009**

A12 Chelmsford to A120 Widening Scheme

Development Consent Order 202[x]

TR010060/APP/3.3 CONSENTS AND LICENCES POSITION STATEMENT

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CONSENTS AND LICENCES POSITION STATEMENT

Signed.....

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Project Manager

On behalf of National Highways

Date: March 2023

CONTENTS

1	Introduction	5
1.1	Purpose of this document	5
2	Strategy	5
2.1	National Highways' Consents Strategy	5
3	Consents and Licences	6
3.1	Consents	6
3.2	Agreements	7
	APPENDICES	8
	APPENDIX A: CONSENTS AND LICENCES TABLE	9

1 Introduction

1.1 Purpose of this document

1.1.1 This Consents and Licences Position Statement (this “Statement”) relates to an application made by National Highways (the “Applicant”) to the Secretary of State for Transport via the Planning Inspectorate (the “Inspectorate”) under the Planning Act 2008 (the “2008 Act”) for a Development Consent Order (DCO). If made, the DCO would grant consent for the A12 Chelmsford to A120 Widening Scheme (the “Scheme”). A detailed description of the Scheme can be found in Chapter 2, The Scheme of the Environmental Statement (ES) (**Document Reference: 6.1**).

1.1.2 The purpose of this Statement is to set out what consents, licences and agreements are expected to be needed for the Scheme, along with the Applicant’s intended strategy for obtaining those consents, licences and associated agreements.

1.1.3 This Statement has been prepared and submitted in compliance with Regulation 5(2)(q) of the Infrastructure Planning (Prescribed Forms and Procedure) Regulations 2009 (the “2009 Regulations”), which states that the application must be accompanied by

“...(q) any other documents considered necessary to support the application”

2 Strategy

2.1 National Highways’ Consents Strategy

2.1.1 The basis of National Highways’ consents strategy is that:

- A DCO must be sought as the principal consent for the works (under the “2008 Act”) and to provide the necessary land acquisition and temporary possession powers;
- The intent of the 2008 Act and Government policy is to enable development and construction-related consents to be included within the DCO. Therefore, where possible and practicable, other necessary consents have been included within the DCO;
- The Scheme benefits from the intent of the 2008 Act and Government policy as most of the consents required for the construction of the Scheme will be in place at the point of the making of the DCO. This minimises the need for any further approvals before the works covered by the DCO can commence; and
- The Scheme has and will be developed on the basis of strong collaboration between key stakeholders, and agreements are expected to be secured at key stages of the Scheme development as necessary. The progress on these items will be reported to the Examining Authority, with a summary of the current situation reported in **Section 3** and **Appendix A** of this Statement.

3 Consents and Licences

3.1 Consents

3.1.1 The principal consent for the Scheme will be a DCO. The DCO process provides development consent for the works and enables land acquisition and temporary possession of land, along with other consents and powers to be dealt with at the same time.

3.1.2 However, the DCO application may need to be supplemented by other consents, licences and agreements because:

- a) A specific consent cannot be contained in the DCO;
- b) A consenting authority declines to allow a consent to be contained within the DCO; or
- c) It is not desirable, or it is inappropriate, to include a consent within a DCO due to the stage of design development meaning the detail required is unavailable.

3.1.3 At this point of the DCO application (submission of the DCO application) the majority of consents and all the powers required have been included, or addressed, within the DCO as permitted by the relevant provisions of the 2008 Act. These fall into the following categories:

- Authorisation of all permanent and temporary works;
- Compulsory Acquisition of land and / or rights over land such as easements, restrictive covenants and the temporary possession of land;
- Consent to carry out street works and to stop up highways permanently or temporarily;
- Highways matters such as designating and classifying types of highway;
- Traffic regulation matters (such as speed limits, clearways and restrictions on use);
- Consent to stop and divert public and private rights of way;
- Consent to carry out tree works (including works to trees subject to a Tree Preservation Order);
- Consent to remove hedgerows (including any 'important hedgerows');
- Powers to carry out utility diversions (subject to protective provisions); and
- Consent to carry out any required utility diversion (subject to protective provisions).

3.1.4 In addition, the draft Order proposes to disapply the Chelmer and Blackwater Navigation Act 1793, as well as specific byelaws applying to the River Chelmer. Byelaws applying to the Blackwater Rail Trail in Witham, made by Essex County Council under Section 41 of the Countryside Act 1968, with respect to country parks, are also to be disapplied in part. See Articles 55 and 56 of the draft Order.

3.1.5 The consents, licences and agreements that may need to be sought separately from the DCO are identified in **Appendix A**.

- 3.1.6 The content of **Appendix A** is largely dependent on the final detailed design, the detailed construction site set up and methodologies, and discussions with the consenting authorities from whom consents may be required. These are not sufficiently developed at this stage to confirm the requirements and therefore it is not practicable to include them within the DCO.
- 3.1.7 A number of the consents included in the DCO are prescribed in the Infrastructure Planning (Interested Parties and Miscellaneous Provisions) Regulations 2015. As a result, under Section 150 of the PA 2008, the relevant consenting body must agree to the inclusion (i.e. disapplication) of these consents within the DCO. Discussions between National Highways and these consenting bodies are ongoing, and National Highways' aim is that agreement for inclusion of disapplication will be provided during the examination of this application. These specific consents are identified and included in **Appendix A** as consent has not yet been obtained.

3.2 Agreements

- 3.2.1 Agreements with relevant stakeholders may be required in parallel to the DCO process and may take a variety of forms.
- 3.2.2 A fundamental part of the DCO process is the preparation and agreement of Statements of Common Ground (SoCG) with a variety of relevant stakeholders to identify the matters on which parties agree and disagree, to narrow the focus for examining the application concerned and to make the examination process more efficient.
- 3.2.3 These will be progressed by National Highways where appropriate and will be accompanied by a Statement of Commonality setting out the SoCG being prepared, the progress with each and the common issues on which each party agreed. A Statement of Commonality will be submitted when there is sufficient progress with the SoCG for this to add value to the process.
- 3.2.4 Progress on finalising any SoCG or other forms of agreement, along with updated / final documents, will be reported to the Examining Authority as part of the examination process
- 3.2.5 Other possible forms of agreement alongside SoCG are legal agreements regulating land and works powers, undertakings, memoranda of understanding and letters of comfort. Again, these will be progressed by National Highways where appropriate.

APPENDICES

APPENDIX A: Consents and Licences Table

APPENDIX A: CONSENTS AND LICENCES TABLE

**PART 1
CONSENTS AND LICENCES THAT THE APPLICANT IS NOT SEEKING TO DISAPPLY THROUGH THE DRAFT DCO**

Issue	Consent / Licence / Permit / Agreement	Consenting Authority	Legal Reference	Requirement	Status of Negotiations	Relationship to dDCO	UPDATE for DCO Hearing 1 March 2023
Archaeology & Heritage	Licence for removal of human remains or burial grounds affected	Home Office & Local Authority	Disused Burial Grounds (Amendment) Act 1981	Works where human remains are to be removed or burial grounds affected	To submit application for licence for removal of human remains or burial grounds affected if required.	Not seeking to disapply with the dDCO but Article 52 of the dDCO deals with removal of human remains.	-
Acquisition of land or rights in Crown land	Crown consent/ Section 135 Consent	Crown Estate	Section 135 of the Planning Act 2008	Consent is required from the relevant consenting authority for the acquisition of land or rights in which the Crown Estate holds an interest. This will likely be provided in the form of a letter from the Crown Estate.	An application for Crown consent has been submitted to the relevant consenting authority at the date of submission.	Protection for the Crown interests is contained in Article 53 of the DCO. Article 53 requires prior consent of the relevant authority before exercising compulsory acquisition powers under the DCO. Not seeking to disapply this within the dDCO.	Discussions will continue.
Acquisition of land or rights in Crown land	Crown consent/ Section 135 Consent	Secretary of State for Transport	Section 135 of the Planning Act 2008	Consent is required from the relevant consenting authority for the acquisition of land or rights in which the Secretary of State for Transport holds an interest. This will likely be provided in the form of a letter from the Secretary of State for Transport.	An application for Crown consent has been submitted to the relevant consenting authority at the date of submission.	Protection for the Crown interests is contained in Article 53 of the DCO. Article 53 requires prior consent of the relevant authority before exercising compulsory acquisition powers under the DCO. Not seeking to disapply this within the dDCO.	Discussions will continue.
Acquisition of land or rights in Crown land	Crown consent/ Section 135 Consent	Secretary of State for Environment, Food and Rural Affairs	Section 135 of the Planning Act 2008	Consent is required from the relevant consenting authority for the acquisition of land or rights in which the Secretary of State for Environment, Food and Rural Affairs holds an interest. This will likely be provided in the form of a letter from the Secretary of State for Environment, Food and Rural Affairs.	An application for Crown consent has been submitted to the relevant consenting authority at the date of submission.	Protection for the Crown interests is contained in Article 53 of the DCO. Article 53 requires prior consent of the relevant authority before exercising compulsory acquisition powers under the DCO. Not seeking to disapply this within the dDCO.	Discussions will continue.
Ecology - Invasive Non Native Species	Agreement to use herbicides in or near water	Environment Agency	Food and Environment Protection Act 1985 Control of Pesticides Regulations 1986, as amended	Use of herbicides within 8m of a watercourse (e.g. if Himalayan Balsam is found at a culvert location and requires to be sprayed).	To be discussed with the Environment Agency if required.	Not seeking to disapply this consent within the dDCO.	No update on previous status

Issue	Consent / Licence / Permit / Agreement	Consenting Authority	Legal Reference	Requirement	Status of Negotiations	Relationship to dDCO	UPDATE for DCO Hearing 1 March 2023
Ecology Arboriculture - Trees	Consent / licence for the felling of trees.	Local Authority / Forestry Commission	Felling Licence - The Forestry Act 1967	Powers for the removal of trees for the construction of the Scheme including trees protected by Tree Protection Orders are sought within the DCO. <u>However, trees that are felled for purposes other than construction e.g. ecological enhancement may require approval from the Forestry Commission under a Felling Licence.</u> This involves notifying the Forestry Commission in advance of felling additional trees. Certain tree felling can be carried out under an exemption however limitations apply to area of size and so a felling licence may be required.	Discussions will take place with the Forestry Commission post consent, once the precise requirements for a Felling Licence have been established.	Not seeking to disapply this within the dDCO.	No update on previous status
Materials & Waste	Waste exemptions for operations such as U1 (import of waste for use in construction) and T15 (crushing of aerosols to minimise hazardous waste) (if exemption limits can be met)	Environment Agency	Environmental Permitting (England and Wales) Regulations 2016 Pollution Prevention and Control Act 1999	A waste exemption may be required for the storage, treatment, use or disposal of limited quantities and types of material during construction of the proposed scheme. This will be dependent on the nature of the activities taking place during the construction phase. Whilst an exemption is provided for temporary storage of waste at the place of production (Non Waste Framework Directive (NWFd) exemption NWFd 2), this does not need to be registered with the Environment Agency. Though all limits and conditions must still be complied with.	Post DCO consent, the Environment Agency will be informed of the intention by National Highways to seek such exemptions prior to the start of construction activities in the location where these exemptions are required. Should the activities not be exempt, a Standard Rules Permit (SRP) would be required.	Not seeking to disapply this consent within the dDCO.	No update - Post DCO consent, that will be gained if/when required during construction phase. Requirements for these will fall out of Detailed design and detailed construction planning.
Materials & Waste	Environmental Permit - Part B Local Authority Pollution Prevention and Control	Local Authority	Local Authority Pollution Prevention and Control Act, 1999 Environmental Permitting (England and Wales) Regulations 2016	A Part B Local Authority Environmental Permit may be required from the Local Authority to operate mobile plant for crushing, grinding, screening, grading or mixing, with machinery designed for that purpose of: bricks, tile or concrete or any designated mineral. This may also apply where demolition material is screened by machine prior to crushing, and to any other pre-treatment activity and the screening of the product. This permit would be required if subcontractor without a mobile plant permit is used.	Post DCO consent, discussions will take place with the Local Authority in advance of construction works requiring crushing and mobile plant permits to determine the need for these permits.	Not seeking to disapply this consent within the dDCO.	No update - Post DCO consent, that will be gained if/when required during construction phase. Requirements for these will fall out of Detailed design and detailed construction planning.

Issue	Consent / Licence / Permit / Agreement	Consenting Authority	Legal Reference	Requirement	Status of Negotiations	Relationship to dDCO	UPDATE for DCO Hearing 1 March 2023
Materials & Waste	Environmental Permit - Mobile Treatment Plant Permit and Deployment	Environment Agency	Environmental Permitting (England and Wales) Regulations 2016 Pollution Prevention and Control Act 1999	A mobile plant permit for crushing operations or site permits will be required if not using a subcontractor with their own mobile licences	Post DCO consent, discussions will take place with the Environment Agency in advance of construction works requiring crushing and mobile plant permits to determine the need for these permits.	Not seeking to disapply this consent within the dDCO.	No update - Post DCO consent, that will be gained if/when required during construction phase. Requirements for these will fall out of Detailed design and detailed construction planning.
Materials & Waste	Environmental Permit - Waste operation	Environment Agency	Environmental Permitting (England and Wales) Regulations 2016 Pollution Prevention and Control Act 1999	A Standard Rules or Bespoke Environmental Permit may be required for the storage, treatment, use, recovery or disposal of waste where not already authorised through an appropriate exemption, regulatory position statement or low risk waste position.	Post DCO consent, discussions will take place with the Environment Agency in advance of construction works resulting in the use, storage, treatment or disposal of waste to determine the need for these permits.	Not seeking to disapply this consent within the dDCO.	No update - Post DCO consent, if deemed necessary following detailed design/detailed construction planning then engagement with the EA will start at the earliest possible opportunity.
Materials & Waste	Environmental Permit - Waste operation	Environment Agency	Environmental Permitting (England and Wales) Regulations 2016 Pollution Prevention and Control Act 1999	An Environmental Permit may be required if the borrow pits cannot be restored under the CL:AIRE Definition of Waste: Development industry Code of Practice (DoWCoP). Relevant permits may include those authorising the deposit of waste for recovery operations.	Post DCO consent, it is currently envisaged that the borrow pits will be restored using excavated material arising, that passes re-use acceptability criteria (based on findings of quantitative risk assessment), for the proposed scheme and the associated land use of the restored borrow pits. It is therefore anticipated that this permit will not be required. However, this will be kept under review during the detailed design phase in consultation with the Environment Agency.	Not seeking to disapply this consent within the dDCO.	No update – Still anticipated that this will not be required. This will remain under review during detailed design.

Issue	Consent / Licence / Permit / Agreement	Consenting Authority	Legal Reference	Requirement	Status of Negotiations	Relationship to dDCO	UPDATE for DCO Hearing 1 March 2023
Materials & Waste	Materials Management Plan (or Earthworks Plan)	Environment Agency	n/a	<p>Use of excavated materials within the proposed scheme will be undertaken in accordance with the principles of the Contaminated Land: Applications in Real Environments (CL:AIRE) (2011). The Definition of Waste: Development Industry Code of Practice (DoWCoP) Version 2.</p> <p>A Material Management Plan (or earthworks plan) will cover the reuse of uncontaminated soil and other materials excavated during the works, for example for earthworks and borrow pit restoration, within the Order Limits.</p> <p>CL:AIRE (2011) DoWCoP should be used for reuse of any soils which contain contamination (i.e. non-natural concentrations) that needs treatment or use of waste from the A12 on another nearby site.</p>	The DCO includes reuse of uncontaminated soils within the scheme including backfilling of borrow pits for restoration. Post DCO consent, agreement will be sought from the Environment Agency that they are satisfied that the DoWCoP route is acceptable for the earthworks proposed at the site and that the correct procedures have been followed.	Not seeking to disapply this consent within the dDCO.	No Update from previous status. Indicative programme to begin works on the Materials Management Plan in Q3 2023 as detailed design progresses.
Materials & Waste	Licence to work with Asbestos	Health and Safety Executive	Control of Asbestos Regulations 2012	Required for any work with asbestos.	Given the age of the buildings to be demolished it is possible that asbestos will be encountered, as such a licence may be needed. If required, a licence will be sought by the contractor prior to work taking place.	Not seeking to disapply this consent within the dDCO.	No update from previous status.
Materials & Waste	Minerals Resource Assessment, Mineral Infrastructure Assessment and Waste Infrastructure Assessment	Minerals and Waste Planning Authority (Essex County Council)	Essex Minerals Local Plan 2014 and Essex and Southend-on-Sea Waste Local Plan 2017	To establish the (a) the existence, or otherwise, of a mineral resource capable of having economic importance within the Order Limits. Where the Scheme has the potential to result in the sterilisation of mineral resources, the environmental, social and economic viability of prior extraction will be considered such that the resource is not sterilised; and (b) to ensure that existing and allocated mineral and waste infrastructure, in proximity to the provisional Order limits, is protected from inappropriate developments that may prejudice their continuing efficient operation. An MRA, MIA and WIA is being produced to demonstrates compliance with the minerals and waste planning policy.	Scope of the MRA, MIA and WIA agreed with the Minerals and Waste Planning Authority as part of the scoping opinion and other pre-application discussions. Assessments to be submitted post dDCO consent.	Not seeking to disapply this consent within the dDCO.	No update from previous status

Issue	Consent / Licence / Permit / Agreement	Consenting Authority	Legal Reference	Requirement	Status of Negotiations	Relationship to dDCO	UPDATE for DCO Hearing 1 March 2023
Noise and vibration during the construction stage	Section 61 consent if proposed by the contractor	Braintree District Council Colchester Borough Council Chelmsford City Council Maldon Borough Council	Section 61 of the Control of Pollution Act 1974	Section 61 consent offers National Highways protection from any subsequent action by the Local Authority under Section 60 of the Control of Pollution Act 1974 or under Section 80 of the Environmental Protection Act 1990 to impose further controls on noise from the site.	Discussions to be held within the project team to identify potentially noisy activities and determine need and approach to Section 61 agreement with the relevant local authority.	Not seeking to disapply this consent within the dDCO.	Engagement with the Local Authorities has already taken place regarding previous survey works. As detailed design progresses, the Local Authorities will be consulted regarding the need for Section 61's for the main construction works. Indicative programme for initial engagement regarding the consents required for the main works is Q3 2023.
Replacement Land	Consent for disposal of National Highways land acquired for the Witham Bypass scheme	Department for Transport	Crichel Down Rules (2015)	Specific Ministerial Authority will be sought under paragraph 15(2) for disposal of land to Witham Town Council as replacement land for land to be acquired at Whetmead Nature Reserve without offering back the relevant land to the former owner	Application for specific ministerial authority to be sought in parallel with application for development consent	Land is included for compulsory acquisition of freehold in the application for development consent, in the event that a disposal to the former owner is required.	Application is in course of preparation
Protected Species	Great crested newts: Conservation of Habitats and Species Regulations Licence	Natural England	Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019	Activity that affects a protected species e.g. disturb or remove wildlife, or damage habitats.	Discussions with Natural England have taken place on the potential impact of the proposed scheme and the requirement for a licence post DCO consent. A temporary District Level Licence (DLL) was obtained for the archaeological trial trenching work for the proposed scheme. An Impact Assessment and Conservation Payment Certificate (IACPC) has been obtained from Natural England to agree the DLL for the main construction phase post DCO consent.	Not seeking to disapply this consent within the dDCO.	No update on previous status – An Impact Assessment and Conservation Payment has been secured and the licence will be issued post DCO.
Protected Species	Bats: Conservation of Habitats and Species Regulations Licence	Natural England	Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019	Activity that affects a protected species e.g. disturb or remove wildlife, or damage habitats. A European Protected For the disturbance or removal of bat roosts in the Order Limits prior to the commencement of construction.	Discussions with Natural England have taken place on the potential impact of the proposed scheme and the requirement for an European Protected Species Mitigation (EPSM) licence post DCO consent. A draft licence application is being prepared and has been included within the Environmental Statement (Appendix 9.16, APP-140). Natural England are in agreement	Not seeking to disapply this consent within the dDCO.	The draft bat licence has been amended following Natural England's review and comments. This is going through internal review before being issued to back to Natural England for agreement.

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					with the principals for mitigation for bat roosts. We will be working with Natural England to secure a Letter of No Impediment.		
Protected Species	Badgers: licence to interfere with setts (dens)	Natural England	Protection of Badgers Act 1992, s. 10	Badgers have been observed within the Order limits. It will be necessary to undertake permanent closure and destruction of confirmed badger setts during the construction of the proposed scheme.	Discussions with Natural England have taken place on the potential impact of the proposed scheme and the requirement for a European Protected Species Mitigation (EPSM) licence post DCO consent. A draft licence application is being prepared and has been included within the Environmental Statement (Appendix 9.17, APP-141). Natural England have agreed the locations for the two artificial badger setts required. Natural England issued a Letter of No Impediment with respect to badgers on 17 January 2023.	Not seeking to disapply this consent within the dDCO.	A 'letter of no impediment' has been secured which states some caveats for the final license. License to be issued post DCO.
Protected Species	Environmental Permits for Fish Consent to move live fish to or from fisheries (rivers, canals, drains and still waters)	Environment Agency	Salmon and Freshwater Fisheries Act 1975, s. 30	For use of electrofishing equipment. FR2 Application for authorisation to use fishing instruments other than rod and line in England SP1 Permission to move live fish to or from a fishery.	A permit application would be made at the construction stage once the timing of works is confirmed for each crossing requiring a fish rescue. No update surveys are considered necessary at this time.	Not seeking to disapply this consent within the dDCO.	No update – Post DCO permit that will be gained during the construction phase.
Sewage Discharge	Environmental Permit - standard facilities permit/bespoke permit for discharge of secondary treated domestic sewage	Environment Agency	Environmental Permitting (England and Wales) Regulations 2016	Discharge of secondary treated domestic sewage. Standard rules (SR2010No3) discharge to surface water: secondary treated domestic sewage with a maximum daily volume between 5 and 20 cubic metres per day.	Discussions will take place with the Environment Agency in advance of construction once detailed information is known on the requirement for discharge of treated sewerage effluent to surface water during the construction phase.	Not seeking to disapply this consent within the dDCO.	No update on previous status.
Sewage Discharge	S106 Water Industry Act connection	Anglian Water	Section 106 of The Water Industry Act 1991	Foul water connection for site compounds.	Discussions will take place with Anglian Water in advance of construction once detailed information is known on the requirement for foul water connections during the construction phase.	Not seeking to disapply this consent within the dDCO.	No update on previous status.

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Trade Effluent Discharge	Trade Effluent / Groundwater Discharge Licence	Anglian Water	Water Industry Act 1991 (Section 119) Consent to discharge trade effluent	Consent to carry out water discharge activities for contaminated water (incl. silt) /surface water/groundwater discharged to the sewer.	n/a	Not seeking to disapply this consent within the dDCO.	No update on previous status.
Water - Flood Risk Activities	Environmental Permit - Flood Risk Activity - standard permit/bespoke permit for <u>temporary flood risk</u> associated with the construction of the proposed scheme	Environment Agency	Environmental Permitting (England and Wales) Regulations 2016	Works within 8m of a main watercourse (16 for tidal watercourses) or flood defences. Consent to carry out flood risk activities for <u>temporary</u> structures altering water levels in main rivers e.g. temporary headwall, bridge, culvert, works within the floodplain, temporary storage in a flood plain, dewatering within a flood plain and the temporary diversion of a watercourse.	Multiple consents will be required. Discussions regarding the consents required are planned to take place with the Environment Agency. Following consultation applications for consents will be prepared and submitted.	Not seeking to disapply this consent within the dDCO.	Indicative programme is that consultation with the Environment Agency will begin in Q3 2023, as detailed design develops.
Water - Ordinary Watercourses	Ordinary Watercourse Consent for temporary changes including for discharge to Ordinary Watercourse during construction (i.e. this does not apply to operational discharges from the highway)	Essex County Council Local Flood Authority (LLFA)	Water Resources Act 1991 Land Drainage Act 1991	Consent application will be required to allow for any temporary works that will affect the flow of water or cross-sectional area of an ordinary watercourse. For example. this consent would be required to carry out activities such as: • obstruct ordinary watercourses • temporary crossings • structures (if they encroach into the channel); • diversions; and • realignment; and • Discharge to Ordinary Watercourses	Multiple consents will be required. Discussions regarding the consents required are planned to take place with the LLFA. Following consultation applications for consents will be prepared and submitted.	Not seeking to disapply this consent within the dDCO.	Indicative programme is that consultation with Essex Lead Local Flood Authority will begin in Q3 2023, as detailed design develops.
Water Abstraction	Form WR32: Water abstraction: application for a consent to investigate a groundwater source. To inform an Abstraction licence application. (Including Hydrogeological Impact Assessment)	Environment Agency	Water Resources Act 1991 (as amended by the Water Act 2003) Water Abstraction and Impounding (Exemptions) Regulations 2017 Environment Act 1995	Required to carry out water abstraction activities such as investigate a groundwater source e.g. pump test. To inform rates required under a full abstraction permit.	Ongoing discussion with the Environment Agency regarding pump tests planned for 2022.	Not seeking to disapply this consent within the dDCO.	Ongoing discussion with the Environment Agency regarding Groundwater Investigation Consent with consent from the Environment Agency for Borrow Pit I pump tests expected on gained on 3 rd March 2023. This will inform the main works abstraction licences.

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Water Abstraction	Abstraction Licence - Full or Temporary Licence <u>during construction</u>	Environment Agency	Section 24 of the Water Resources Act 1991 (as amended by the Water Act 2003) Water Abstraction and Impounding (Exemptions) Regulations 2017	Consent to carry out water abstraction activities: <u>Full Abstraction Licence</u> for abstraction which lasts more than 6 consecutive months and more than 20 cubic metres of water a day, for dewatering of underground strata and abstractions of surface waters to prevent interference with building or engineering works, subject to restrictions. <u>Temporary Abstraction Licence</u> for abstraction from a watercourse or groundwater of more than 20 cubic metres of water per day for less than 28 consecutive days.	Ongoing discussion with the Environment Agency regarding abstraction licences.	Not seeking to disapply this consent within the dDCO.	The Environment Agency Pre application consultation service will be used in early Q2 2023, with the indicative programme being to submit the full licence applications in early Q3 2023.
Water Abstraction	Abstraction Licence - Full Licence for <u>permanent works</u>	Environment Agency	Section 24 of the Water Resources Act 1991 (as amended by the Water Act 2003) Water Abstraction and Impounding (Exemptions) Regulations 2017	Full Abstraction Licence would be needed for most types of water abstraction over 20 cubic metres a day.	Ongoing discussion with the Environment Agency regarding abstraction licences.	Not seeking to disapply through the DCO	No update on previous status
Water Abstraction	Exemption for passive dewatering – permanent works	N/A	Applies to abstractions that were exempt under section 29(1) of the Water Resources Act 1991 (before section 5 of the Water Act 2003 was published).	Prevent flooding to road cuttings (construction or maintaining the operational life) only through passive dewatering – where groundwater is discharged or drained by gravity.	If needed this will be applied for once additional GI and detailed design is complete.	Not seeking to disapply this consent within the dDCO.	No update on previous status
Water Transfer	Transfer Licence <u>during construction</u>	Environment Agency	Section 24 of the Water Resources Act 1991 (as amended by the Water Act 2003) Water Abstraction and Impounding (Exemptions) Regulations 2017	Diversion of watercourses / dewatering of ponds <u>Water Transfer Licences</u> are required or the diversion of a watercourse where more than 20 cubic metres of water a day is moved from one source to another without intervening use.	Discussions with the Environment Agency have not yet taken place in respect of this consent. Following consultation applications for consents will be prepared and submitted where required.	Not seeking to disapply this consent within the dDCO.	No update on previous status
Water Transfer	Transfer Licence <u>during operation</u>	Environment Agency	Section 24 of the Water Resources Act 1991 (as amended by the Water Act 2003) Water Abstraction and Impounding (Exemptions) Regulations 2017	Diversion of watercourses / dewatering of ponds <u>Water Transfer Licences</u> are required or the diversion of a watercourse where more than 20 cubic metres of water a day is moved from one source to another without intervening use.	The Environment Agency is to confirm is a licence would be required for the diversion of watercourses during the operation of the proposed scheme.	Not seeking to disapply this consent within the dDCO.	No update on previous status

Issue	Consent / Licence / Permit / Agreement	Consenting Authority	Legal Reference	Requirement	Status of Negotiations	Relationship to dDCO	UPDATE for DCO Hearing 1 March 2023
Water Discharge	Environmental Permit - bespoke water discharge activity and groundwater (point source) environmental permit <u>during construction</u> (i.e. this does not apply to operational discharges from the highway)	Environment Agency	Environmental Permitting (England and Wales) Regulations 2016	A Water Discharge Activity Permit is required for discharge or entry of any poisonous, noxious or polluting matter, waste matter, trade or sewage effluent into an inland freshwater, coastal waters or relevant territorial waters. It also permits disturbance of existing sediments being held back by a structure or the cutting or uprooting of a substantial amount of vegetation in any inland freshwaters, or so near to any such waters that it falls into them, where it is not reasonable to take steps to remove the vegetation from these waters. The permit will be required for run off associated with construction works and the dewatering of excavations.	Multiple consents will be required. Discussions regarding the consents required are planned to take place with the Environment Agency. Following consultation applications for consents will be prepared and submitted.	Not seeking to disapply this consent within the dDCO.	The Environment Agency Pre application consultation service will be used in early Q2 2023, with the indicative programme being to submit the full licence applications in early Q3 2023.

APPENDIX A – PART 2
CONSENT TO BE DISAPPLIED IN THE DRAFT DCO

Issue	Consent / Licence / Permit / Agreement	Consenting Authority	Legal Reference	Requirement	Status of Negotiations	Relationship to dDCO	Update for DCO Hearing 1 March 2023
By laws Blackwater Rail Trail	Consent for disapplication of byelaws	Essex County Council	Section 150 Planning Act 2008; Section 41 Countryside Act 1968	Consent is required from the consenting authority for the disapplication of certain byelaws in the dDCO.	Discussions regarding disapplication of byelaws ongoing	Proposed disapplication of bylaw provisions included in dDCO at Articles 3, 55 and 56 and Schedule 10 of the dDCO.	The Applicant is not aware that Essex CC objects to the proposed disapplication.
Bylaws River Chelmer	Consent for disapplication of byelaws	The Company of Proprietors of the Chelmer & Blackwater Navigation Limited / Essex Waterways Limited	Section 150 Planning Act 2008; Chelmer and Blackwater Navigation Byelaws 1994	Consent is required from the consenting authority for the disapplication of certain byelaws in the dDCO.	Discussions regarding disapplication of byelaws ongoing	Proposed disapplication of bylaw provisions included in dDCO at Articles 3, 55 and 56 and Schedule 10 of the dDCO.	Discussions will continue with the navigation authority.
Ecology - Hedgerows	Consent to remove hedgerows (including any 'important hedgerows').	Local Authority	Hedgerow Regulations 1997	Vegetation clearance. Removal of hedgerow, including important hedgerows and hedgerow trees.	Hedgerow report to be provided to local authorities, potentially with retained/lost vegetation drawings. Update with status.	Provisions to provide consent for works to hedgerows contained within the dDCO.	No further update.
Navigation	Licence for any new surface outfall	The Company of Proprietors of the Chelmer & Blackwater Navigation Limited / Essex Waterways Limited	Chelmer and Blackwater Navigation Byelaws 1994	Details of any new surface water outfall will need to be agreed with Chelmer & Blackwater Navigation and subject to licence.	Discussions regarding disapplication of byelaws ongoing.	Seeking to disapply this within the dDCO. See Articles 3, 55 and 56 and Schedule 10 of the dDCO.	Discussions will continue with the navigation authority
Water - Ordinary Watercourse	Ordinary Watercourse Consent for <u>permanent changes including for permanent discharge to Ordinary Watercourse during operation</u>	Essex County Council Local Flood Authority (LLFA)	Water Resources Act 1991 Land Drainage Act 1991	Consent application will be required to allow for any permanent works that will affect the flow of water or cross-sectional area of an ordinary watercourse. For example, this consent would be required to carry out flood risk activities such as: <ul style="list-style-type: none"> • obstruct ordinary watercourses • permanent crossings of Ordinary Watercourses • structures (if they encroach into the channel); • diversions; and • realignment 	Discussion planned with the LLFA to agree disapplication.	Seeking to disapply this consent within the dDCO. See Article 3(4)(a) of the dDCO.	Discussions will continue with the LLFA
Water - Flood Risk Activities	Environmental Permit - Flood Risk Activity - standard permit/bespoke permit for <u>permanent flood risk associated with the operation of</u>	Environment Agency	Environmental Permitting (England and Wales) Regulations 2016	Works within 8m of a main watercourse (16 for tidal watercourses) or flood defences. A Flood Risk Activity Permit is required for the <u>permanent flood risk</u> associated with e.g. permanent headwall, bridge, culvert, and	Discussion needed with Environment Agency to agree disapplication.	Seeking to disapply this consent within the dDCO. See Article 3(4)(a) of the dDCO.	Discussions ongoing with the Environment Agency through the Statement of Common Ground.

Issue	Consent / Licence / Permit / Agreement	Consenting Authority	Legal Reference	Requirement	Status of Negotiations	Relationship to dDCO	Update for DCO Hearing 1 March 2023
	the proposed scheme			permanent diversion of a watercourse.			
Water Discharge	Environmental Permit - bespoke water discharge activity and groundwater (point source) environmental permit <u>during operation</u>	Environment Agency	Environmental Permitting (England and Wales) Regulations 2016	A Water Discharge Activity Permit is required for discharge or entry of any poisonous, noxious or polluting matter, waste matter, trade or sewage effluent into an inland freshwater, coastal waters or relevant territorial waters. It also permits disturbance of existing sediments being held back by a structure or the cutting or uprooting of a substantial amount of vegetation in any inland freshwaters, or so near to any such waters that it falls into them, where it is not reasonable to take steps to remove the vegetation from these waters.	Discussion planned with the Environment Agency to agree disapplication.	Seeking to disapply this consent within the dDCO. Provision dealing with this is contained in Article 3(4)(a) of the dDCO.	Discussions ongoing with the Environment Agency through the Statement of Common Ground.

