

# **A12 Chelmsford to A120 widening scheme**

**TR010060**

## **9.28 Written submission of oral case for Issue Specific Hearing 2**

Rule 14(3)

Planning Act 2008  
Infrastructure Planning (Examination Procedure)  
Regulations 2010

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Infrastructure Planning

Planning Act 2008

The Infrastructure Planning  
(Examination Procedure) Rules 2010

**A12 Chelmsford to A120 widening scheme**  
**Development Consent Order 202[ ]**

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**Written submission of oral case for Issue Specific Hearing 2**

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| <b>Regulation Number</b>                      | Rule 14(3)                             |
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# **1 Applicant's responses to Representations made Issue Specific Hearing 2: 1 March 2023, commencing at 1.00 pm.**

## **1.1 Introduction**

- 1.1.1 ISH2 for the A12 Chelmsford to A120 Widening Scheme (**DCO**) application was held virtually on Microsoft Teams and in person at First Floor, Kingsland Church, 86, London Road, Lexden, Colchester, CO3 9DW on Wednesday 1 March 2023, commencing at 1.00pm.
- 1.1.2 The Examining Authority (**ExA**) invited the Applicant to respond to matters raised at the Hearing but also in writing following ISH2.
- 1.1.3 This document summarises the responses made at ISH2 by the Applicant and also seeks to fully address the representations made by Affected Parties, Interested Parties and other parties attending.
- 1.1.4 The Applicant has responded to the topics raised by each of the attending parties in the sequence that the ExA invited them to speak and provides cross-references to the relevant application or examination documents in the text below.
- 1.1.5 Where it assists the Applicant's responses, the Applicant has appended additional documentation to this response document.

## 1.2 Post-hearing submissions in response to matters raised at ISH2

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| 1.   | ExA                        | The ExA detailed the formal purpose and arrangements for the hearing and made introductions. The ExA also ran through the agenda. |  |  |
| 2.   | ExA                        | The ExA asked the applicant to provide a brief overview of the draft Development Consent Order ( <b>dDCO</b> ).                   | <p>The dDCO consist of seven parts and twelve schedules.</p> <p>A number of precedents were used, mainly reflecting the most recently made Orders at the time of the drafting of the dDCO.</p> <p>Part 1 contains preliminary provisions such as citation, interpretation and maintenance of the constructed works.</p> <p>Part 2 is entitled the principal powers. It deals with the consent for the physical works and its relationship with the Town and Country Planning Act 1990.</p> <p>It also deals with the parameters of the consented works in terms of limits of</p> | The Applicant relies on its response at the hearing. |

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|      |                                |                                     | <p>deviation, their ongoing maintenance and who has the benefit of the Order powers.</p> <p>Part 3 deals with street works and impacts on the existing highway network. Provisions such as speed limits, classification of roads, stopping up of highways and private means of access are dealt with in this part as is traffic regulation.</p> <p>Part 4 covers supplemental matters such as discharge of water and powers to carry out surveys and protective works to buildings.</p> <p>Part 5 deals with compulsory acquisition – this is covered later but included power to acquire land, rights and restrictive covenants over land and to make temporary use of land. There is also a power to extinguish or suspend existing rights over land acquired or to suspend such rights over and being used temporarily by the undertaker. Particular provision is made in relation to statutory undertakers' land and apparatus. Open space and replacement land is also dealt with in article 46.</p> |                              |

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|      |                                |                                     | <p>Part 6 covers operations including works to trees and hedgerows.</p> <p>Finally, Part 7 deals with a number of largely administrative issues such as:</p> <ul style="list-style-type: none"> <li>- Defence to statutory nuisance processes;</li> <li>- Crown land;</li> <li>- Removal of human remains;</li> <li>- Works in consecrated ground; and</li> <li>- Amendments to local bye laws applying to the Chelmer and Blackwater Navigation and the Blackwater rail trail.</li> </ul> <p>The individual works are listed, in three sections at Schedule 1 – permanent, utilities and temporary works – given the volume of the works it was felt better to separate them for clarity.</p> <p>Schedule 2 deals with requirements imposed on the scheme which together with the Environmental management plan, through requirement 3, impose the controls on the authorised development required by</p> |                              |

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|      |                                |                                     | <p>the conclusion on the Environmental statement.</p> <p>Schedule 3 deals with road classification and schedule 4 deals with stopping up of highways and private means of access.</p> <p>Schedules 5 and 7 deal with land in which new rights and temporary uses may be taken and Schedule 6 modifies certain provisions of the Compensation Code to reflect the power to take new rights over land.</p> <p>Schedule 8 lists special category – that is open space land and schedule 9 covers hedgerows and Tree Protection Order (TPO) trees.</p> <p>Schedule 11 provides protective provisions for utilities and schedule 12 lists documents that will be certified documents of record and in effect annexed to the order if the Order is made.</p> |                              |



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| 3.   | ExA                            | The ExA asked about the status of updates to the dDCO and whether these would come in at Deadline 3. | The Applicant had planned to put in an updated dDCO at Deadline 2 but at that point it was thought best to wait until this hearing to allow other changes to be included. The plan after this hearing is to update the schedule of changes to the dDCO provided at Deadline 2 and add any other changes. This will be submitted at Deadline 3 along with an updated copy of the dDCO in pdf and word versions. Validation did not happen when the application was first submitted, it has been done. The Applicant is hoping that the next version will be validated for Deadline 3. | The Applicant relies on its response at the hearing. |
| 4.   | ExA                            | The ExA asked if the changes are likely to be merely administrative.                                 | The Applicant confirmed this was the case.   | The Applicant relies on its response at the hearing. |

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| 5.   | Stephen Humphreys, Ashfords LLP on behalf of the Messing and Inworth Action Group (MIAG) | MIAG stated that the scheme does not constitute an alteration under the Planning Act. It consists of a new highway being constructed. Part of the proposed works are therefore outside of the current application. | <p>The Applicant stated that they will respond in writing, but they do not agree.</p> <p>This is a large development consent order application which could have fallen within any of the limbs of section 22 of the Planning Act 2008.</p> <p>The scheme is either within the 2008 Act or not. Section 22 provides further guidance specific to highway projects and defines 'construction', 'alteration' and 'improvement'.</p> <p>The Applicant took the view that there is more alteration than construction and applied accordingly. The scheme is either "through the gate" of being a highways NSIP or not.</p> <p>It would be artificial to work out in a scheme as complex as this one what is alteration or construction. It is not necessary.</p> <p>The scheme is within the 2008 Act and it was accepted for examination. The Town and Country Planning Act 1990 and Highways Act 1980 are not open to the</p> | <p>The Applicant relies on its response at the hearing.</p> <p>In addition, the Applicant submits the criteria for construction or alteration in S22 of the 2008 Act are essentially the same. The Proposed scheme would meet the thresholds for either (or both) of construction or alteration. Once one of the thresholds is met then an application is an NSIP. There is no need nor purpose to either sub-divide the application in to separate highway related NSIPS or to make a separate application for each limb of S22 of the 2008 Act. This would be confusing for the public and interested parties and would make for an unnecessarily complex application or set of applications. The Applicant has intentionally not sought to divide the works description between the NSIP element and associated development because of the scheme being a single comprehensive scheme and it believes the same approach</p> |

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|      |                                |                                     | <p>scheme. It is a scheme to be tested in policy terms by the National Networks National Policy Statement.</p> <p>The Application has two Nationally Significant Infrastructure Projects (<b>NSIP</b>) only because we have a gas NSIP which needs to be considered by a different Secretary of State and a different National Policy Statement.</p> | <p>is justified in respect of the separate limbs of S22.</p> <p>The Applicant notes the content of the "Planning Act 2008- application form guidance" dated 3 June 2013 issued by Department for Communities and Local Government. The relevant paragraph reads:</p> <p><i>16. Part 3 of the Planning Act sets out the circumstances in which an infrastructure development proposal requires development consent under the Planning Act. In Box 4, the applicant must give a brief statement which explains why its proposal fulfils this criteria, <u>including giving reference to the relevant section of Part 3 of the Planning Act.</u> Where applicable, the statement should include the capacity of the proposed development, with respect to the relevant threshold requirements for that development which are set out in Part 3. For harbour facilities, this must also include the appropriate equation as set out in section 24(5) of Part 3. (Emphasis added)</i></p> |

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|      |   |  |   | <p>The Guidance does not refer to a subsection, but a section. The application was made under sections 14 and 22 (and section 20 for the pipeline diversion) and further division of the application to sub paragraphs if the relevant sections is not needed.</p>   |
| 6.   | <p>Stephen Humphreys , Ashfords LLP on behalf of MIAG</p> | <p>MIAG stated that it is no surprise that the Applicant does not agree. MIAG believe that there has been a misreading of section 22.</p> <p>The Explanatory Memorandum and Application Form acknowledge that the options are mutually exclusive.</p> <p>The Applicant has amalgamated the two limbs. MIAG argued that there should be two NSIPs.</p> <p>Section 15 deals with generating stations and the</p> | <p>The Applicant stated that they do not agree with this. The other examples given are not linear schemes and a linear scheme is very different. It is not possible to separate a scheme like this one.</p> | <p>Nothing is to be gained from looking at S15 or S19 of the 2008 Act. Indeed it is to be noted that S15 refers in S15(1) to “Construction or extension” of a generating station, whereas S19 provides for construction and alteration of gas reception facilities in separate sub sections. For each example cited by MAIG the NSIP would not be a linear scheme consisting of many separate elements but would be in a single location.</p> <p>The Applicant has discharged its S42 and S47 pre application consultation duties in full and has complied with its obligations under S56- 59 of the 2008 Act regarding the accepted application. It has consulted</p> |

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|      |                                | <p>different types each constitute a separate NSIP.</p> <p>Section 19 deals with the construction and alteration of gas reception facilities. They are treated differently.</p> <p>Construction and alteration are clearly separate and the Planning Act treats them as separate options. The impacts of construction and the impacts of alteration will be very different and engage the public in a different manner.</p> <p>MIAG's main concern is in relation to the 5km stretch of road south of Feering running towards Marks Tey.</p> <p>It is important from the public perception and from the point of view of publication and notification.</p> |                                  | <p>in accordance with its Statement of Community Consultation. It is inconceivable that any person has misapprehended the nature and extent of this Application. The Applicant believes it would be far more confusing to look to divide up the separate elements of this comprehensive scheme in to parts comprising construction and parts comprising alteration. The single comprehensive approach taken is far more logical and comprehensible, and fully in accordance with the 2008 Act.</p> |

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|      |                                | <p>If land is being taken it is important to know what this is for.</p> <p>There is an extensive amount of detrunking.</p> <p>The scheme have to make a judgement call in this.</p> <p>The A428 was a construction scheme and the A38 was alteration of an existing highway. Alteration is dealing with something of similar alignment.</p> |  |  |
| 7.   | ExA                            | <p>The ExA raised comments on a number of articles.</p> <p>The ExA queried the reference to permanent work plans within the definition of 'temporary works' in Article 2.</p>   | <p>The Applicant stated that they were grateful to MIAG for pointing out this error. It should be 'temporary works plans' and the dDCO would be amended to reflect this.</p> | <p>This has been corrected for Deadline 3.</p> |

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| 8.   | ExA                        | The ExA asked the Applicant to clarify, with regards to Article 5 (2), the meaning of adjacent and how close it would be. | The Applicant that stated it is not a precise measurement. It is directly adjacent to the development. The provision is included to prevent the provisions of other Acts that apply to lands close to the Order limits providing a restriction on the development of the proposed scheme. For instance, there are lands subject to historic railway and Canal Acts, for example in the Chelmer and Blackwater Navigation, close to Order limits and the proposed scheme should not be restricted by any provisions in those Acts that could impact on the implementation of the proposed scheme. | The Applicant relies on its submissions at the Hearing. |
| 9.   | ExA                        | The ExA asked for clarification on what 'open to traffic' means in Article 16 (1).  | The Applicant stated that 'open to traffic' has precedent in other DCOs. The term is not defined within the dDCO, but has an obvious meaning. It refers to the throwing open of the road to traffic.   |   |

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| 10.  | ExA                            | The ExA asked how notification of the above would happen. | <p>In terms of notification of speed limits, this is something that happens on roads all the time.</p> <p>Drivers are expected to look for traffic signage and lighting which might also influence speed limits.</p> <p>People drive on roads that they are unfamiliar with all the time and look for signage indicating the speed limit.</p> | <p>The Applicant does not consider that this issue presents any practical problem.</p> <p>Article 16 is concerned with the coming into force of speed limits. Signage will be erected on the roads to notify drivers of the speed limit in accordance with the Applicant's duty under Section 85 of the Road Traffic Regulation Act 1984. The public will know that speed limits are in effect in the way that they would know on any other road – due to the display of traffic signs indicating the speed limit, the presence of street lighting indicating that the road is a restricted road with a 30mph speed limit, or the absence of signage or street lighting indicating that the national speed limit applies.</p> |



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| 11.  | ExA                            | The ExA asked what adjacent means in Article 26 (1) (b). | <p>The Applicant stated that there were no precise parameters. This relates to surveying of land.</p> <p>It is precededented in the Model Provisions. It enables surveys outside of the Order limits. The Applicant is otherwise confined to the Order limits while things which it may need to survey will not be similarly confined. For example, badgers or similar receptors may need to be surveyed outside of the Order land as they forage within Order land. Similar consideration may apply relating to a need to carry out noise or other surveys at a nearby building or to check the final outfall for a drainage run outside of Order limits. The power will be used sparingly but is standard and also considered necessary to allow the scheme to proceed without unnecessary delay.</p> | The Applicant relies on its submissions at the Hearing. |

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| 12.  | ExA  | Articles 46, 47 and Schedule 9 - question regarding the gas pipeline. How do the results of the arboricultural survey feed in the dDCO?   | The Applicant stated that they would respond in writing. The survey will feed into the dDCO but may require additional drafting. | Additional provision has been made in Part 3 of Schedule 9 to the dDCO regarding the proposed works to trees in the Blue Mills area.   |
| 13.  | Michael Humphries KC on behalf of Essex County Council | <p>Essex County Council commented on a number of articles.</p> <p>Article 14 deals with construction and maintenance. 1 and 2 relate to the construction of new roads and alteration and diversion of new roads. These are to be maintained at the expense of the local highway authority.</p> <p>The highways are to be constructed to the reasonable satisfaction of the local highway authority, this does not extend to the design of the local roads. Essex County</p> | The Applicant will come back in writing.   | <p>All bridges are designed to the standards set out in the Design Manual for Roads and Bridges (DMRB). All roads are designed to the standards set out in the DMRB and/or the Essex Design Guide – Highways Technical Manual dependent on the strategic purpose of the road.</p> <p>Under requirement 10 of the dDCO the scheme must accord with the Highways Engineering Section Drawings and the Structures Engineering Drawings and Sections. In particular, sections and elevations of bridges are set out in considerable detail the Structures Engineering Drawings and Sections.</p> <p>If any changes are required to those designs, those changes must be approved</p> |

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|      |                            | <p>Council is concerned that roads that will be county roads, but that the Council will have little input in the design and will still receive the liability.</p> <p>14(3) deals with de-trunking. We discussed this yesterday. The entire detrunked section of the A12 will become Essex County Council's responsibility but the Council have very little input on how they are detrunked and the greening.</p> <p>Essex County Council is concerned with the condition of the road and over-provision.</p> <p>The Council is being given liability over something they have very little input on.</p> <p>14(5) deals with bridges. It is not sufficient for Essex County Council to have to accept</p> |                                  | <p>by the Secretary of State, following consultation with the local planning authority and the local highway authority.</p> <p>If Essex County Council have any comments on the design of the local roads and bridges, they should set them out in detail to the Applicant in order that the Applicant can consider whether any amendments are required to the Highways Engineering Section Drawings and the Structures Engineering Drawings and Sections.</p> |

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|      |                                | liability without having some involvement.   |   |  |
|      |                                | Article 14(6) deals with streets which are not intended to be public highways. Essex County Council would like to know what these streets are. | The Applicant stated that the reference in article 14(6) is to the street authority as opposed to Essex County Council in particular. | <p>The term "street" is broader than highway, and it includes "any other road to which the public has access".</p> <p>Having further considered the streets which are to be provided under the dDCO in light of the Council's comment, the Applicant does not believe that there are any streets which fall within this category in the Application and therefore intends to delete Article 14(6) from the next iteration of the dDCO. Unfortunately, it has not been possible to include this change to the dDCO at Deadline 3.</p> |

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| 14.  | Michael Humphries<br>KC on behalf of Essex County Council | <p>Article 15 deals with the classification of roads.</p> <p>15(5) relates to footpath cycleways and bridleways.</p> <p>The requirement is that unless agreed in writing with the relevant 'planning authority' but some of these may be adjoining the highway and will have an impact on the highways authority. Essex County Council would like provisions made for agreement with the highways authority too, at least consultation if not agreement.</p> | The Applicant confirmed that the dDCO should say the highway authority. | The Applicant relies on its submissions at the Hearing and will make this amendment in the next dDCO. |

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| 15.  | Michael Humphries KC on behalf of Essex County Council | <p>Article 16 deals with speed limits and Schedule 3 Part 6 sets out various speed limits. Essex County Council would like to understand the position - some of the speed limits are not agreed by Essex County Council. These are speed limits on what would be Essex County Council's roads.</p> <p>16(8) is to have effect as if made under the 1984 Act and that may be varied or revoked, meaning that Essex County Council can in the future amend this, but it is still important that the speed limits are set at an appropriate speed.</p> <p>A related point is the relationship between this and article 23, this is the article that sets out speed limits for roads.</p> | <p>The Applicant asked the Council to indicate where it does not agree with the speed limits set out in Part 6 of Schedule 3 of the dDCO and the Council confirmed that it would do so.</p> | <p>Article 23 would allow the Applicant to impose speed limits on local highways, but only by way of revoking, amending or suspending an existing speed limit order. Such an order cannot be made except with the consent of Essex County Council as local traffic authority.</p> |

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| 16.  | Michael Humphries KC on behalf of Essex County Council | <p>Article 18 deals with street works. It gives the Applicant powers to undertake works including on streets that are Essex County Council's streets.</p> <p>18(2) is a statutory right for the purposes of the 1991 act.</p> <p>Essex County Council would like to see something that makes it clear that Essex County Council roads are not to be broken up or other action taken as detailed in article 18 (1) without the Council's consent. In article 6 of Silvertown Tunnel DCO, this provision was made.</p> <p>Article 6(2) the Secretary of State thought it appropriate to impose a third paragraph. The strategic authority was TfL.</p> | Due to time constraints, the Applicant indicated at the hearing that it would respond in writing. | Article 18 largely deals with matters which constitute "street works" within the meaning of Section 48 of the New Roads and Street Works Act 1991 and creates a "statutory right" of the type enjoyed by statutory undertakers. Statutory undertakers are not required under the New Roads and Street Works Act 1991 to seek the consent of the street authority before they carry out works and there is no reason why National Highways should be treated any differently. Where National Highways undertakes works under Article 18 they would be required to reinstate the highway under Section 70 of the New Roads and Street Works Act 1991 in the normal way. |

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|      |  | <p>'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.'</p> <p>That form of wording would be appropriate here.</p> |                                  |   |
| 17.  | Michael Humphries KC on behalf of Essex County Council | <p>Art 20 (5) allows for Public Rights of Way to be permanently extinguished, Essex County Council is still discussing with the Public Rights of Way team whether they have any comments.</p>   |                                  | The Applicant awaits further comments (if any) from the County Council. |



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| 18.  | Michael Humphries KC on behalf of Essex County Council | <p>Article 23 is about traffic regulation.</p> <p>It applies to roads in respect of which the undertaker is not the traffic authority.</p> <p>Reference is made to The Explanatory Memorandum paragraphs 4.105, 4.107 and 4.109.</p> <p>This is giving the Applicant the powers to alter speed limits outside of their own roads.</p> <p>Essex County Council would like to raise a number of points.</p> <p>Article 23 does not limit itself in the way that 4.109 says.</p> <p>It does not set out that it is aligned with those sections. The way it is drafted, allows the Applicant to make all sort of changes to Essex County</p> | <p>Due to time constraints, The Applicant indicated at the hearing that it would respond in writing.</p> | <p>The wording in the Explanatory Memorandum uses the words “inter alia”. It is clear that the amendment of speed limits adjacent to the Order land, which is referred to in paragraph 4.09, is only an example of the type of provision which may be made under Article 23, more details being contained in paragraph 4.105 of the Explanatory Memorandum.</p> <p>The power in Article 23 is subject to the Applicant obtaining the consent of the County Council as traffic authority to make the changes. In exercising its functions to give consent the traffic authority will be bound by its duties under Section 122 of the Road Traffic Regulation Act 1984 including to secure the expeditious, convenient and safe movement of traffic and the provision of suitable and adequate parking facilities on and off the highway. It is important therefore that the Applicant retains the flexibility provide for measures to be provided both within and outside the Order limits in order to ensure that the</p> |

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|      |                                | <p>Council's roads. If that is not the intention, that needs to be reflected in the drafting of the article.</p> <p>Essex County Council is concerned about the speed limits within the order limits but if those are imposed contrary to Essex County Council's, in effect it will make it very difficult to resist any speed limits outside the order limits. The positions in relation to roads outside the order limits is affected.</p> <p>It does not tell what changes will be necessary outside the order limits. There are no geographical restrictions. This is a matter of concern.</p> |                                  | <p>County Council's requirements can be satisfied in the event that they consider amendments and adjustments are required beyond the Order limits.</p> |

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| 19.  | Michael Humphries KC on behalf of Essex County Council | <p>Article 60 relates to certified documents.</p> <p>Essex County Council will be seeking from the Secretary of State a requirement relating monitoring and managing of highways and impact (Lower Thames Crossing has a separate document explaining what this should be), that document is a certified document and should be listed here.</p> <p>Essex County Council is not satisfied with proposals for de trunking, and will be seeking for measures for greening</p> <p>The Applicant is to submit a scheme for approval, that should also be a certified document.</p> <p>There is a substantial document in the application</p> | <p>The Applicant said that if documents don't exist and it doesn't believe they should exist they would not be included.</p> <p>The Applicant said that it would be useful to have the list from Essex County Council, to which the Applicant may respond by Deadline 4. Essex County Council is happy to provide such a document.</p> <p>The Applicant said that Essex County Council mentioned that the highway authority was not happy with proposed speed limits. The Applicant asked to be provided with a list of what those speed limits are, to be able to come back in writing.</p> | <p>The Applicant will respond fully at Deadline 4 when it has seen ECC's proposals but does not believe that the approach taken in the draft Lower Thames Crossing Order needs to be applied to this scheme as the current scheme is modernizing an existing part of the strategic road network (SRN) and is not providing a wholly new part of the SRN The Applicant in any event will not be providing funding for remedial post construction modifications to the local highway network.</p> <p>The revised Design Principles submitted at deadline 2 [REP2-006] demonstrates how each design Principle is secured through already certified documents or through industry standards such as the Design Manual for Roads and Bridges (DMRB). It does not of itself require certification.</p> |

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|      |  | <p>called Design Principles. Currently it does not seem to appear anywhere in the DCO and therefore is not a certified document. The things being sought in relation to improvements of the road should be reflected on the design principles.</p> |   |   |
| 20.  | Michael Humphries KC on behalf of Essex County Council | Essex County Council have been in discussion with the Applicant to put their additional drafting proposals in writing at Deadline 3.   | The Applicant raised concerns that the dDCO submitted at Deadline 3 has the potential to become very quickly redundant. | The Applicant will provide revised draft Orders at Deadline 3 and Deadline 4. |

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| 21.  | Stephen Humphreys, Ashfords LLP on behalf of MIAG | <p>MIAG is supportive of the Main Alternative. MIAG does not agree with the changes on speed limits as well as the new plan for Inworth Road.</p> <p>MIAG would like to have this included.</p> <p>REP2-085 covers the points.</p> <p>MIAG is confused about what the responses mean - what does "open to traffic" mean?</p> <p>Article 2 and article 6, relate to maintenance and give powers which are too extensive. They are linked to what is 'unlikely' to cause 'environmental effects'.</p> <p>MIAG suggests amending to 'no impact' and 'significant effects'.</p> <p>The definition also refers to 'reconstructing' or 'replacing'.</p> | <p>The Applicant will respond in writing but does not agree.</p> <p>The Applicant asked for a list of precedents has been provided. MIAG confirmed that it has not been provided but it is happy to do so.</p> | <p>The Applicant relies on its responses above in relation to the words "open to traffic".</p> <p>The applicant has amended the definition of maintain in Article 2 of the Deadline 3 version of the dDCO.</p> <p>The Applicant does not believe that additional provisions regarding consultations are required beyond adding in provision for the Environment Agency in requirements 3 and 4 which have been altered at Deadline 3.</p> <p>Article 15(6) is precedented drafting and the wording has been retained in the deadline 3 dDCO.</p> |

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|      |                                | <p>MIAG would like to know how that would that work in practice. There are notification points around highways and the need for consultation.</p> <p>MIAG echoes what Essex County Council said and would like the opportunity to be consulted.</p> <p>Article 15(6) says nothing around consultation with the relevant highway authority on the satisfactory standard.</p> <p>"adjacent" is used in a number of places – MIAG would like more clarity on this on how it would work in practice. Some of the plans not clear on where the limits on the ground are. MIAG would like clarification on this.</p> <p>MIAG's suggested changes have been taken from other</p> |                                  | <p>The Applicant relies on its submissions given above in relation to the use of the word "Adjacent".</p> |

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|      |  | consented DCOs which are listed in their written submissions.  |   |  |
| 22.  | Alex Sharlot on behalf of the National Farmers Union (NFU) | <p>The NFU raised concerns about the word "adjacent". Landowners and occupiers need to be aware of what this means.</p> <p>The NFU is also concerned about the notice period - 14 day notice period is included for surveying where land is affected. The NFU would like to see 28 days.</p> | <p>The Applicant has not seen the requested list of what the NFU would like included.</p> <p>With regards to the NFU's concern regarding Rural Payments Agency, without prejudice to the determination of individual claims, a party affected by the survey powers is entitled to compensation for loss or damage if such powers are exercised.</p> <p>14 days' notice for the exercise of survey powers is normal. Reference Housing and Planning Act 2016, Sections 172 and 174 for comparable time periods of 14 days' prior notice for survey powers.</p> | <p>The Applicant repeats his submission above regarding the word "adjacent".</p> <p>The Applicant repeats that the provision for 14 days' notice in Article 26 is appropriate notice for the exercise of survey powers, as is provided for in the similar power for parties possessing compulsory purchase powers, in ss 172-174 of the Housing and Planning Act 2016.</p> |

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| 23.  | Alex Sharlot on behalf of the National Farmers Union (NFU) | The NFU would like to suggest that further paragraph is included at the end of paragraph 2 of Article 26 to allow for further information on the nature of the survey that the Applicant intends to carry out. Also, who will be entering, for how long and the size of equipment. This is important to enable them to comply with health and safety regulations. | The Applicant suggested that as we have a Statement of Common Ground, we could narrow down the issues between the parties.   | <p>The Applicant received the suggested additional notification topics on 8 March 2023. Given there is precedent for the current drafting in a number of recently made orders the Applicant does not propose to include NFU's suggested additions in Article 26. The Applicant refers also to Page 17 of the Applicant's First Iteration Environmental Management Plan [APP-198], where the items proposed by NFU are included as responsibilities of the Agricultural Liaison Officer.</p> <p>The content of the EMP means that the point is covered in the EMP and need not be repeated in the dDCO.</p> |
| 24.  | Stephen Humphreys, Ashfords LLP on                         | <p>MIAG is happy to accept things before the deadline to enable engagement in advance.</p> <p>Reference to Schedule 2 of requirements and associated development in Schedule 1.</p>   | <p>The Applicant stated that detail will come forward to the County Council in relation to ongoing discussion on requirement 10.</p> <p>The Applicant will respond in writing.</p> | The Applicant does not believe the additional processes requested by MIAG are proportionate or justified. The Applicant has set out in the Environmental Statement - Appendix 3.3: Junction 24, Inworth Road and Community Bypass Technical Report   |



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|      | behalf of MIAG                          | The communities in Messing and Inworth have been provided with a level of detail of the works and the associated development could allow a degree of deviation<br><br>MIAG would like the Applicant to provide comfort on how in practice this will come forward. |                                  | [APP-095] the proposed works. The proposal is described as Widening Option 2 and a description is given in the document starting at page 33. |
| 25.  | ExA                                     | The ExA stated that there is likely to be another hearing on dDCO to take comments from third parties.  | -                                | -  |
| 26.  | Michael Humphries KC on behalf of Essex | Schedule 2 requirement 1, Essex County Council notes the definition of commence.<br><br>It carves out important works. "other than", works that take  | -                                | The Applicant has amended the dDCO at deadline 3 to reflect the points made by Essex County Council regarding the Swansea Bay litigation.    |

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|      | County Council                 | <p>place before commencement is trigger.</p> <p>Note that commence has that particular definition. Requirement 2 is on time limits. Every other DCO would say "cannot commence" this one refers to "begin" instead. This is not the same as commence, this went to the Court of Appeal on the Swansea Bay DCO to gain an understanding the effect of these words.</p> <p>The word 'beginning' relates to sections 154 and 155 of the Planning Act 2008.</p> <p>From the date the Order is made, or another period. In the order is for when the order comes into force. This is technically an amendment of section 154.</p> |                                  |                              |

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|      |                                | <p>Any operation other than the marking out of the road.</p> <p>The effect is that if you begin within 5 years, the Order will not have effect. No period is set within which the Order must commence.</p> <p>With regard to requirements, the dDCO contains pre commencement requirements. It does not tell you when 'to commence' means so that you don't have a time limit to actually implement.</p> <p>'The authorised development must not commence later than _____'</p> <p>It must commence within the same period of the carve out provisions so that the order does not become empty and no one commences.</p> |                                  |                              |

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| 27.  | Michael Humphries KC on behalf of Essex County Council | Essex County Council would like a new requirement on detrunking and monitoring and management in the form of the Lower Thames Crossing DCO requirement 14   | -                                | The Applicant does not agree such a provision is necessary. The Applicant will continue to discuss detrunking with the County Council.                              |
| 28.  | Ruth Mabbutt on behalf of Chelmsford City Council      | Chelmsford City Council has raised substantive concerns in its Local Impact Report in relation to Paynes Lane bridge<br><br>With regards to Requirement 10 and the design, it does not appear to provide for any design evolution. Chelmsford City Council would like to agree design changes to the proposals. Chelmsford City Council is concerned about how this can be discharged given that the Local Planning | -                                | The Applicant has responded to the City Council's Local Impact Report. The Applicant does not believe additional wording is required to be added to requirement 10. |

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|      |  | <p>Authority will need to sign this off.</p>  |  |  |
| 29.  | <p>Nick Mansell, Pinsent Masons LLP, on behalf of Edmunds on Electrical Limited (EEL) and Royal London UK Real Estate Fund</p> | <p>EEL and Royal London have three new proposed requirements.</p> <p>The evidence is not appropriate to justify access over client interest.</p> <p>Construction Traffic Management Plan (req 9) should be a new works specific, U2 and U2a gas diversion. There is not sufficient protection.</p> <p>EEL and Royal London would like a change to the exercise of land powers, preventing the Applicant to commencing</p> | <p>The Applicant did not accept what has been put forward for EEL and Royal London – it is out of proportion for a temporary access to a car park. The Applicant will come back in writing on this and other points.</p> | <p>The Applicant has set out its position in its responses to EEL and Royal London at CAH1.</p> <p>The Construction Traffic Management Plan and requirement 9 contains sufficient protection for highway users and the degree of specificity suggested by EEL and Royal London is not necessary.</p> <p>It is also not appropriate to use requirements for restricting compulsory or temporary powers over land at this location, if the Applicant otherwise demonstrates a compelling need for those powers. The disruption caused to the wider Springfield and Boreham areas will be significantly increased by lane</p> |

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|      | <b>(Royal London)</b>                             | <p>works U2 and U2a and exercising Compulsory Acquisition powers unless an agreement has been entered into to regulate the Compulsory Acquisition powers over the land.</p> <p>EEL and Royal London would like to introduce a new requirement on detail design for diversion of gas pipe to be approved by the Secretary of State and in consultation with Local Planning Authority and relevant landowners.</p> |                                  | <p>closures on the A12 Carriageway and north bound slip road off the A12 at junction 19 that would be required if the proposed access across EEL and Royal London's land is not available. The detailed design of the gas pipeline diversion is a matter for the Applicant and Cadent in accordance with the provisions of the Order. The Applicant will seek to reach agreement with EL and Royal London but sees no need or purpose in the requirements suggested by EL and Royal London.</p> |
| 30.  | Stephen Humphreys, Ashfords LLP on behalf of MIAG | With regard to 'commence', MIAG echoes the Essex County Council concerns, and the extent of the works that can be undertaken is too extensive.   | -                                | The Applicant relies on its response to Essex County Council on this point. The Applicant has responded in writing to MIAG's points on the dDCO.  |

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|      |                                | MIAG has proposed amendments to this.  |                                  |                              |
| 31.  | ExA                            | <p>The ExA said that Protective Provisions will be dealt with in writing.</p> <p>There will be other iterations and this will be picked up in another hearing.</p> | -                                | -                            |