

A12 Chelmsford to A120 widening scheme

TR010060

9.29 Written submission of oral case for Compulsory Acquisition Hearing

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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[]

Written submission of oral case for Compulsory Acquisition Hearing

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1 Applicant's responses to Representations made Compulsory Acquisition Hearing: Wednesday 1 March 2023

1.1 Introduction

- 1.1.1 The Compulsory Acquisition Hearing 1 (CAH1) 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 3.15pm
- 1.1.2 The Examining Authority (ExA) invited the Applicant to respond to matters raised at the Hearing but also in writing following CAH1.
- 1.1.3 This document summarises the responses made at CAH1 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 Compulsory Acquisition Hearing (CAH)

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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 speak about whether the scheme has a compelling case in the public interest. | <p>Section 122(2) of the Planning Act 2008 has three conditions. The land must be:</p> <p>(a) required for the development to which the development consent relates</p> <p>(b) required to facilitate or incidental to that development; or</p> <p>(c) replacement land given in exchange for order land under ss. 131 or 132 (commons, open space etc.)</p> <p>There is Government guidance in respect to each requirement.</p> <p>The Guidance gives the acquisition of land for landscaping</p> | The Applicant relies on its submissions made at the hearing and recorded in lines 2-6 of this document. |

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| | | | <p>as an example for S122(2)(b). There is suggestion that the relevant question is whether land is necessary to deliver the scheme to a satisfactory standard.</p> <p>The Applicant must show that land is needed, no more land is being taken than is reasonably necessary, and what is proposed is proportionate.</p> <p>Annex A of the Applicant's Statement of Reasons sets out why the Compulsory Acquisition (CA) powers are necessary on a plot by plot basis. As to "replacement land", the justification in respect of that is set out in Chapter 7 of the Statement of Reasons; see also Annex C; and the Replacement Land Statement is [APP-279]</p> <p>Further information was provided in our Response to ExQ1 – regarding temporary possession powers [REP2-025] The Applicant</p> | |

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| | | | <p>will be considering points of contention later on.</p> <p>In summary:</p> <ul style="list-style-type: none"> -No more land is being taken than is reasonably necessary and the land-take is also proportionate - Statement of Reasons 5.3.7: the land sought is the minimum required for safe and efficient construction, operation and maintenance of the Scheme, including what is necessary to mitigate the effects of the Scheme - The Statement of Reasons 5.3.4 [APP-042] explains that land is required for the proposed permanent works: the proposed new highway infrastructure; environmental mitigation; utilities (more detail on utilities in Statement of Reasons 5.3.5) - Land also required to create the temporary working space needed to construct the Scheme (see too Statement of Reasons 5.3.6) | |

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| | | | <p>- Statement of Reasons 5.3.4: we have sought to achieve a balance between minimizing land-take and securing sufficient land to enable the Scheme to be delivered</p> <p>The Guidance refers to taking no more than what is reasonably required and it is reasonable for the Applicant to minimise land-take as far as it can at this stage of the design process whilst not risking any potential prejudice to Scheme delivery by taking too little land. The applicant continues to review the extent of the land required.</p> | |
| 3. | | | <p>The Applicant stated that consideration had been given to all reasonable alternatives.</p> <p>The process through which the preferred route was arrived at is summarised in Section 2.5 and paras. 5.1.3 and 5.1.4 of the Statement of Reasons</p> | |

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| | | | <ul style="list-style-type: none"> • The process is described in detail in Chapter 3 of the ES [APP-070] • See also Chapter 3 of the Case for the Scheme [APP-249] <p>Statement of Reasons paragraph. 2.5.14 sets out that the Applicant's current route was assessed as presenting the best value for money and as providing the greatest economic return, compared to the other options</p> <p>Paragraph 2.5.11 of the Statement of Reasons explains how the scheme design has been altered to avoid / reduce environmental effects (including designing proposed Junction 22 to reduce impacts on operational Colemans Farm Quarry & prevent unnecessary sterilisation of mineral resources)</p> <p>2.5.15 of the Statement of Reasons sets out the significant</p> | |

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| | | | <p>changes that have been made in response to comments from landowners affected by the proposed land-take. 2.5.16 confirms that those changes have enabled the size of the land-take to be reduced</p> | |
| 4. | | | <p>The other alternative to CA is acquisition on a voluntary basis. Paragraph 25 of the Guidance states that applicants should seek to acquire land by negotiation wherever practicable. Negotiations continue.</p> <p>Of relevance at the outset in giving this overview is the latter half of paragraph 25, which explains that where proposals would entail the CA of many separate plots of land such as for long, linear schemes, it may not always be practicable to acquire by agreement each plot of land and so in those circumstances it is reasonable to include provision authorising</p> | |

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| | | | <p>compulsory acquisition covering all the land required at the outset". That is the approach that the Applicant has taken in accordance with the Guidance.</p> | |
| 5. | | | <p>Paragraph 8 of Guidance requires the Applicant to demonstrate that the CA and Temporary Possession (TP) is necessary and proportionate</p> <p>The geographical extent of the land sought is both necessary and proportionate.</p> <p>With regards to if the nature of the land-take necessary and proportionate - this is set out in Annex A, which is split into tables based on type of acquisition</p> <ul style="list-style-type: none"> • Permanent acquisition of all interests in land • Land to be used temporarily and permanent acquisition of new rights • Land to be used temporarily | |

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| | | | <ul style="list-style-type: none"> • Permanent acquisition of interests in airspace • Permanent acquisition of interests in subsoil <p>The specific purpose for which the specific plots in question are required is also detailed. Further information was provided in the Applicant's Response to ExQ1 – regarding temporary possession powers [REP2-025]</p> <p>The Applicant's position is that it has distinguished between different potential types of CA and has tailored the nature of the CA sought in a manner that it both necessary and proportionate. See Statement of Reasons 5.4.1: the Applicant has focused on identifying what CA powers are necessary to enable it to construct the scheme in a way that is both proportionate and in the public interest by reducing environmental impacts, minimising costs to the Applicant (and hence the public</p> | |

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| | | | <p>purse) and mitigating the impact on land interests.</p> | |
| 6. | | | <p>The next point to look at is whether there is a compelling case for the propose compulsory acquisition.</p> <p>Paragraph 13 of the CA Guidance states that there is a requirement is that there be compelling evidence that public benefits will outweigh private loss. The are other requirements in the Guidance that are relevant to the overall analysis.</p> <p>Paragraph 9 of the Guidance states that the Applicant “must have a clear idea of how they intend to use the land which it is proposed to acquire” – this is set out in Annex A to the Statement of Reasons, for each plot.</p> | |

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| | | | <p>Paragraph 9 of Guidance also states that the Applicant must “demonstrate that there is a reasonable prospect of the requisite funds for acquisition becoming available” – this is addressed in the Funding Statement [APP-043] and in the Applicant’s response to ExQ1.</p> <p>Para 19, application is rooted in any relevant NNPS – Case for the scheme. Requirement to take account of any other consent: consents and licences statement Manage potential risk of implementation of the scheme: NH is not aware of any matters.</p> <p>Paragraph 19 of Guidance states that:</p> <ul style="list-style-type: none"> ▪ It is “helpful to demonstrate that application is firmly rooted in any relevant NPS” – see the Appendices to the Case for the Scheme, APP-250 and APP-251; | |

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| | | | <ul style="list-style-type: none"> ▪ The Applicant must “take account of the need to obtain any other consents” – APP-041 Consents and Licenses Position Statement addresses this; ▪ The Applicant must properly manage any potential risks / impediments to implementation of the Scheme & take account of any other physical and legal matters – Statement of Reasons 7.4.1, the Applicant is not aware of any matters that should be regarded as impediments to Scheme delivery. <p>The Applicant's position is that the public benefits will outweigh private loss (drawing on the explanation set out in more detail in the Statement of Reasons):</p> <p>The public benefits are set out in full in Statement of Reasons. The main benefits are:</p> | |

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| | | | <ul style="list-style-type: none"> <li data-bbox="1043 316 1473 533">▪ The importance of this stretch of the A12 and the problems that it currently experiences are set out at Statement of Reasons 2.2.1 to 2.2.4 <li data-bbox="1043 576 1473 715">▪ The scheme will reduce congestion related delay – thus improving journey time reliability <li data-bbox="1043 758 1473 1347">▪ The scheme will increase overall transport capacity of A12 (see Statement of Reasons 2.2.8). This will support the housing and economic growth that is identified in Local Plans (see Statement of Reasons 2.2.8 – the scheme is needed to unlock both planned and long-term future growth – lack of capacity on this route will otherwise pose a barrier to planned economic growth) | |

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| | | | <ul style="list-style-type: none"> ▪ Statement of Reasons 5.4.5: paragraph 2.2 of the National Policy Statement for National Networks (NPS NN) identifies a "critical need" to improve the national networks to address road congestion and crowding on the railways to provide safe, expeditious and resilient networks that better support social and economic activity; and to provide a transport network that is capable of stimulating and supporting economic growth. ▪ Safety improvements, including: <ul style="list-style-type: none"> • Improving safety design (benefits both to road users and to road worker safety during maintenance operations) | |

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| | | | <ul style="list-style-type: none"> • Closing off existing private and local direct accesses onto the main carriageway • Alterations and improvements to existing non-vehicular routes along the A12 for walking, cycling, horse riding (WCH) – including addressing historic severance • The proposed scheme was a commitment in RIS (Road Investment Strategy) 1 in 2015; and Scheme is committed in RIS2 (2020) <p>There is more detail in the Case for the Scheme.</p> <p>With regards to private loss, paragraph 10 of Guidance states that purposes must be legitimate and sufficient to justify interfering with Human Rights. Section 6 of Statement of Reasons addresses</p> | |

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| | | | <p>this requirement and identifies the impacts on 21 residential properties within the Order Limits that will be affected by CA.</p> <p>Impacts on an extended range of Affected Persons (including community land assets, commercial premises, agricultural landholdings, WCH users, as well as residential landowners) are outlined in section 13.8 of ES Chapter 13 (Population and Human Health, [APP-080]), supported by detailed assessment of Land Use and Accessibility Tables in Appendix 13.3 [APP-155]. Also 8.13 of the Case for the Scheme [APP-249] sets out impacts on extended rage, such as agricultural land, Section 14.8 of chapter 13 ES.</p> <p>Overall, with regards to balance, that is summarised in section 2.3 of the Statement of Reasons and specifically the assessment that has been undertaken whereby the</p> | |

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| | | | <p>benefits and disbenefits of the Scheme have been monetised wherever possible. Consideration is also given to the impacts that cannot be monetised.</p> <p>The overall position is considered the requirement that there be compelling/clear evidence that public benefits outweigh private loss is plainly satisfied.</p> | |
| 7. | ExA | <p>The ExA asked for an update on the CA schedule and stated that looking at the representations, one of the common themes is that there has been a delay in the Applicant beginning negotiations. Detail design is yet to be developed. The scheme has been around for quite some time. The fact that the detail design is still to come through will cause difficulty. The ExA asked the Applicant to clarify where they have reached with negotiations.</p> | <p>The Applicant stated with regard to the update on the status of the negotiations that for blight and discretionary purchase 21 claims have been accepted. Nineteen properties have been acquired and 2 were still being negotiated. For acquisition by agreement, the Applicant had been in contact with 105 landowners and was in the process of making offers where possible.</p> <p>The CA schedule had been updated since Deadline 2. The Applicant provided the following</p> | <p>The Applicant relies on its submissions at the hearing. The updated CA Schedule will be provided at Deadline 4.</p> |

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| | | | <p>summary but stated that more information would be provided at deadline 4.</p> <p>31 offers are being prepared, 9 offers have been made with 1 accepted, 39 landowners are in discussions with the applicant, The applicant is waiting for a response from 21 landowners, 5 landowners have indicated that they are not interested in acquisition by agreement.</p> <p>The Applicant is looking to secure agreement in as many cases as possible by the end of Examination. The nature of the scheme makes it difficult to secure agreement with all parties.</p> | |

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| 8. | ExA | <p>The ExA noted that there are a lot of landowners and plots and that we are 6 weeks into a 26 week examination. The ExA urged the Applicant to press ahead with the negotiations. The more there are outstanding the more difficult the recommendation becomes.</p> | <p>The Applicant clarified that 'engagement' means spoken with, contacted, been in touch with rather than Heads of Terms being agreed. At the time of the application the Applicant had made contact with all the relevant landowners.</p> | <p>The Applicant has been having one to one meetings with landowners since the Preferred Route Announcements in 2019 and 2020, explaining the scheme, working collaboratively to understand how the land is used and what impact the scheme might have on the land and in a large number of cases making changes to the Order Limits and scheme design to reflect feedback received and to mitigate impacts as far as practicable.</p> <p>The changes as a consequence of this feedback are set out in section 2.5 of the Statement of Reasons [APP-042].</p> <p>All landowners have received letters inviting them to start negotiations by agreement. Where no response was received this was followed up with a second letter and subsequently an email.</p> <p>Detailed negotiations are ongoing with many landowners and the</p> |

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| | | | | <p>approach to compensation has been discussed, offers and draft Heads of Terms have been issued or are being prepared with a view to reaching agreement before the end of examination if landowners are in agreement.</p> |
| 9. | ExA | <p>The ExA asked when the Applicant was expecting to next make progress on the CA Schedule.</p> | <p>The Applicant stated that it had updated the CA schedule and that a lot has gone into it in the last few weeks.</p> <p>The Applicant is in a place of issuing offers to landowners and is</p> | <p>There has been positive engagement with landowners to outline the approach to acquisition by agreement, to further understand the nature of the land interests, the impacts of the scheme and discussions regarding values.</p> |

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| | | | <p>expecting that the pace will pick up. The Applicant stated that the CA schedule would next be submitted at Deadline 4.</p> | <p>Offers have been made to acquire by agreement and will continue to be made ahead of deadline 4 with a view to agreeing figures and reaching agreement before the end of the examination period.</p> |
| 10. | <p>Sarah Hodge, Addleshaw Goddard LLP on behalf of Network Rail</p> | <p>Network Rail stated that they were present to take questions from the ExA as requested in the agenda.</p> <p>Network Rail's written representation, Rep 2093, summarised its concerns.</p> <p>Network Rail's primary concern is restrictions to the access to the Great Eastern main line which will impact on Network Rail's ability to maintain that line.</p> <p>Network Rail is concerned about signal sighting - this could cause the drivers not to see the signals, that cannot be resolved by moving the equipment. It will</p> | <p>The Applicant stated that progress is being made and that it would provide a written response.</p> | <p>Meetings between the parties commenced on 12 February 2021 and since February 2022, fortnightly meetings took place.</p> <p>Since July 2022, a weekly meeting takes place with NR to progress matters and to ensure all issues can be resolved before the close of examination.</p> <p>In total fifty meetings have taken place with NR to progress this workstream.</p> <p>The Applicant does not believe the proposed scheme materially impacts on Network Rail's (NR) ability to</p> |

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| | | <p>require amendments to the design.</p> <p>Network Rail stated that the parties are talking regularly.</p> <p>Network Rail mentioned the impacts on Beaulieu Park station. This is an important redevelopment scheme. There are plots of land that Network Rail require access to the station for drainage and utilities. Network Rail hopes that the technical teams will resolve this.</p> <p>Network Rail is also concerned about the footbridge at Paynes Lane over the railway. Network Rail need to ensure that there is sufficient room underneath the bridge.</p> <p>Network Rail also noted that Boreham viaduct is close to the new station and that it needs to ensure that the works do not prevent access to the viaduct.</p> | | <p>safely maintain and operate its railway.</p> <p>The Applicant agrees not to interfere with NR's ability to access and maintain the railway line.</p> <p>Network Rail's concerns about signal sighting are new, having only been raised in their written representation. The Applicant will work with NR to better understand their concerns so that any NR signaling equipment would not be affected.</p> <p>The Applicant supplied the requested information to NR that NR had advised they needed for NR's Clearance processes on the 10th August 2022.</p> <p>The protective provisions included in the dDCO provide that the Applicant cannot take land belonging to Network Rail, or rights over Network Rail's land, or extinguish Network Rail's rights without their consent,</p> |

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| | | <p>Network Rail also comments that there is too much additional pressure on existing infrastructure – Junction 24, embankment stability, damage to railway embankment.</p> <p>Network Rail would like to have agreements in place to deal with the technical concerns so that there is sufficient protection. Network Rail is hoping to resolve this by the end of enquiry. Network Rail was waiting for more detail on what is happening at each plot. This has been received and the Statement of Common Ground will include an update on this.</p> | | <p>and it is difficult in these circumstances to see what detriment can possibly arise to Network Rail if the order is made in its current form.</p> <p>Nevertheless, the Applicant and Network Rail are discussing protective provisions and the Applicant is currently considering the terms of a legal agreement forwarded by Network Rail.</p> <p>The Applicant will share the required elements of the design with Network Rail prior to completion and has also shared current design and asked for minimum headroom clearances.</p> <p>The Applicant has liaised with Network Rail, Chelmsford City Council and Countryside Zest in developing the plans for the Paynes Lane Overbridge and amended the designs to accommodate bridge ramps, to minimize impacts on Network Rail's proposed overspill car park and so that the proposed</p> |

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| | | | | <p>bridge creates a route to the planned Beaulieu Park Station.</p> <p>The traffic impact on the overbridge at New Lane, Feering (near junction 24) is expected to be small, with around 20 to 50 additional vehicles per day predicted to use the bridge as a result of the proposed scheme.</p> <p>The Applicant notes Network Rail's position in relation protective provisions and a legal agreement. Negotiations are ongoing between the parties in this regard. The Applicant is also aiming to have documentation in place by the end of the Examination.</p> |

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| 11. | ExA | <p>The ExA asked the Applicant to set out briefly which draft DCO (dDCO) [APP-039] Articles engage CA and TP powers.</p> | <p>The Applicant stated that Part 5 of the dDCO deals with consent powers.</p> <p>The key article is article 27 which sets out the principal CA powers.</p> <p>Article 29 deals with time limits – it is standard for 5 years from when the order is made.</p> <p>Article 30 deals with compulsory acquisition of rights and imposition of restrictive covenants. The Applicant can acquire any form of rights as long as we list them in schedule 5 and explain the purpose. With restrictive covenants, the approach is that these are likely to be needed in relation to a protecting installed apparatus, particularly apparatus installed underground.</p> <p>Article 31 deals with private lands over land. Where the Applicant is securing land subject to existing private rights, the Applicant can</p> | <p>The Applicant has nothing further to add on this point.</p> |

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| | | | <p>either suspend or extinguish those rights. The default is for extinguishment, subject to process contained in article 31 (7).</p> <p>Article 32 applies to the Applicant's own land, where there are existing rights that the Applicant may need to remove.</p> <p>Article 33 deals with the disregard of certain interests and improvements.</p> <p>Article 34 is for set-off for enhancement in value of retained land.</p> <p>Article 35 deals prevents double recovery of sums to be paid to claimants.</p> <p>Article 36 contains standard modifications to the 1965 Act.</p> <p>Articles 37 and 38 details that the Applicant can elect to take only</p> | |

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| | | | <p>subsoil or airspace, in relation to streets, subject to exceptions.</p> <p>Article 40 allows the Applicant to exercise temporary powers over land for the purpose of construction.</p> <p>14 days' prior notice is to be given and the Applicant could exclude the owner for the duration of the works and up to 1 year after finalising.</p> <p>Land subject to temporary powers only is referenced in schedule 7 of the Order.</p> <p>There is power for a limited period to go to the land for maintenance. 5 years after works are completed, in article 41.</p> | |
| 12. | ExA | Article 27 provides the Applicant with the power to acquire "so much of the Order land as is required". The ExA asked the | The reason that "as is required" is used in 27 (1) is because between now and the implementation of CA powers, land may be secured by | The Applicant has nothing further to add. |

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| | | <p>Applicant to comment whether more certainty can be provided as to the precise extent of land to be taken.</p> | <p>agreement or potentially it could be that small areas of land are designed out of the scheme.</p> <p>The wording means the Applicant is not itself compelled to vest the land to bring the land into the Applicant's title. By the time the Order is made we could have reached agreements or with detail design there will be amendments and less land will be required.</p> <p>The Applicant is constantly looking at whether there are design refinements and looking to acquire by negotiation. The wording is in most recently made Orders and the Model Provisions.</p> | |
| 13. | | <p>The ExA asked the Applicant to confirm that Article 27 is in alignment with Advice Note 15 (Paragraph 23.4).</p> | <p>The Applicant stated that the provisions referred on in AN15 Paragraph 23.4 is not in article 27 but dealt with separately in article 31.</p> | <p>Advice Note 15, para 23.4 states:</p> <p><i>23.4 Where an applicant is seeking powers in the DCO to acquire land compulsorily, the drafting of the Article containing the powers should make it clear whether or not the Applicant is also seeking a power to</i></p> |

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| | | | | <p><i>clear the title of the land of all private rights. The Applicant should consider whether the Article should be subject to a power under a separate Article which would allow the Applicant to exclude a particular private right from the blanket extinguishment power.</i></p> <p>Rather than provide for the power in Article 27, the Applicant has included in Article 31 (Private rights over land) the ability to extinguish rights in land that is acquired compulsorily. The extinguishment would automatically occur upon freehold acquisition or if an existing right is incompatible with a new right secured by the powers in the Order. Particular rights may be excluded from the effect of the Article by way of prior notification to the beneficiary – See Article 31(7).</p> |
| 14. | ExA | The ExA noted that the National Farmers Union (NFU) will likely | | The Applicant has amended article 40 at Deadline 3 to refer to a 28 day prior notice period. |

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| | | <p>press the Applicant on Article 40 and the 14 day period.</p> <p>The Applicant had previously responded stating that this had been agreed on other DCOs. The ExA would like the Applicant to confirm why a 14 day period is justified.</p> | | |
| 15. | ExA | <p>The ExA asked the Applicant to speak to funding and specifically:</p> <ul style="list-style-type: none"> • Any further updates on the Funding Statement; • Whether adequate funding is likely to be available to enable the CA to proceed within the statutory period in the event of the dDCO being made. | <p>The Applicant stated that this has been picked up as a part of responses to ExQ1 in 3.1.2 and 3.1.6. There were no further updates.</p> | <p>The Applicant has nothing further to add.</p> |
| 16. | ExA | <p>The ExA stated that there were references to the National Audit Office. The NAO was surprised that some of the estimates were some way off.</p> <p>This is a big scheme but not huge scheme. The Applicant will be pressed very hard on the</p> | <p>The Applicant stated that it is aware of the report and suggested it could update the ExA on the topic in due course.</p> <p>The Applicant suggested that this issue is further dealt with at the</p> | <p>The Applicant has nothing further to add.</p> |

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| | | issue of funding. The ExA asked the Applicant to speak to the report. | next CA hearing and the ExA agreed. | |
| 17. | ExA | <p>The ExA asked the Applicant to provide:</p> <ul style="list-style-type: none"> • An update of progress in securing written consent under section 135(2) from the Crown Estate for inclusion of the Crown plots; and • Confirmation that the criteria in section 135(1)(a) have been met. <p>The ExA reminded the Applicant that The Crown Estate (TCE) will not be subject to CA so agreement will need to be reached.</p> | <p>The Applicant stated there are a number of Crown interests which s135 will apply to. The majority are usually historic easements, to which the Applicant may be the beneficiary rather than the Department for Transport, but the relevant title entries will not have been updated.</p> <p>There are ongoing discussions with the Department for Transport's legal advisors and the Applicant is making progress in securing consent.</p> <p>The Crown Estate (TCE) is a priority for the Applicant – it is in everyone's interest to secure agreement. There remains some detail to sort out. The Applicant is aiming to have this resolved by the end of the Examination.</p> | <p>The Applicant continues to liaise with the relevant Crown interests. The Criteria in S135(1)(a) have been met.</p> <p>The Applicant contacted the Government Legal Department on the 11 August 2022, seeking consent from the Crown Estate in relation to the plots owned by the Department for Transport and the Department for Environment, Food and Rural Affairs.</p> <p>The Applicant has been in detailed discussions with TCE since a first meeting in December 2019 and has made various changes to the Scheme including reducing land take at various locations and sharing information particularly on drainage, programme and construction phase access as requested by TCE. There</p> |

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| | | | | <p>is broad agreement on items such as extent of land take, timing of National Highway works, use of land in connection with the Scheme, access and footpaths.</p> <p>The Applicant has made substantial progress in dealing with TCE's concerns and specifically in areas such as North of the London Road, Threshelfords Bridge area, Domsey Brook and to the east of the existing A12 and is working through the design of the new Junction to the east of Feering where it is seeking a mutually acceptable solution for both projects.</p> <p>Heads of Terms have been exchanged between the parties and they are being updated to reflect the latest design information and agreed changes</p> <p>Both parties are in dialogue aiming to minimise impacts and collaborate, given the different maturity levels of both schemes and the next</p> |

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| | | | | <p>workshop is organized for 17th March 2023 to progress this. A meeting is also arranged with the land agent for TCE on 10 March 2023 to progress the compensation elements. The Applicant is confident that the S135 consent will be received from TCE by the end of the Examination period.</p> <p>The Applicant has drafted a SoCG with TCE [REP2-013].</p> |
| 18. | | Not Used | - | - |
| 19. | ExA | The ExA asked the Applicant to briefly explain the requirements for Special Category Land and where this is being located. | The Applicant stated that there had been discussions with parties relating to Special Category Land in the past 12 months. There are no reasons why this will not be resolved by the end of the Examination. | Recent meetings with Braintree District Council, Essex County Council and Witham Town Council led to collaborative discussions between the parties as to long term opportunities for joined up consideration and management of replacement land, combined with existing PROW and open space. |

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| | | | <p>The Applicant needs to ensure that it has the right allocation of replacement land in the Order.</p> <p>There are discussions going on in relation to replacement land and these are generally positive.</p> <p>The Applicant needs to ensure that the parcels are acceptable. One parcel is on part of the current A12 and will be turned into open space land for Braintree District Council. There have been some discussions with the District Valuer, Witham Town Council and Taylor Wimpey on valuations</p> <p>The Applicant is progressing Statements of Common Ground with Braintree District Council, Essex County Council and Copford Parish Council and Witham Town Council.</p> <p>There have been recent good discussions with Witham Town Council. Witham Town Council is</p> | <p>The following paragraphs summarise the areas of special category land as identified in the Replacement Land Statement [APP-279] Plate references refer to that report.</p> <p>Area 1 River Chelmer (Plate 2.1)</p> <ul style="list-style-type: none"> • Temporary powers with Permanent Rights - no replacement land is required. <p>Areas 2 to 4 – Olivers Drive and Gershwin Boulevard (Plate 2.2)</p> <ul style="list-style-type: none"> • The Applicant intends to acquire the plots to take on the ongoing open space responsibility from Gooding and Witten. Discussions ongoing, subject to agreements and opportunities to minimise impacts on associated planned development being reviewed in detailed design. • Small plot owned by Essex County Council – included in Area 5 – see below. |

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| | | | <p>not happy with one of the suggested areas of replacement land but the Applicant is comfortable that it meets the test.</p> <p>There is an opportunity to extend Whetmead further north.</p> <p>The Applicant will engage with Witham Town Council to explore whether there are other suitable alternatives for this area of replacement land.</p> <p>Witham Town Council's concerns are mainly in relation to access as the location is a little removed from the existing Whetmead open space area. Access over the Applicant's land can be provided to the location.</p> | <ul style="list-style-type: none"> • Plots owned by Braintree District Council (BDC) – very positive site meeting held on 26th February 2023 – discussions related to the opportunity and how BDC might wish the plot to be landscaped. • For the Plots owned by Taylor Wimpey, the owner has agreed to negotiate with the District Valuer acting for the Applicant. The Applicant intends to acquire the parcel and take on the open space responsibility. • Replacement land is proposed to be provided in plots to west of Maldon Road. <p>Area 5 – Blackwater Rail Trail (Plate 2.3) (and country park by the golf course)</p> <ul style="list-style-type: none"> • Essex County Council – has reacted positively regarding the proposals for replacement land. |

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| | | | | <ul style="list-style-type: none"> • The Proposed replacement Land is between Blackwater Rail Trail and the River Brain Walk. <p>Area 6 – Land north of Market Lane Witham (plate 2.4)</p> <ul style="list-style-type: none"> • This is a small area of open space owned by BDC – positive discussions have taken place. • Replacement Land provided as part of the larger plot to west of Maldon Road. <p>Area 7 and at Maldon Road Crossing of River Brain (Plate 2.5)</p> <ul style="list-style-type: none"> • Small area owned by BDC – positive discussions have taken place. • Replacement Land provided as part of larger plot to west of Maldon Road <p>Area 8 River Brain (Plate 2.6)</p> <ul style="list-style-type: none"> • Small areas now held by Witham Town Council (WTC) |

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| | | | | <p>but in the process of being registered with HM Land Registry</p> <ul style="list-style-type: none"> • Special Category Land Plans, Replacement Land Statement and BOR, to be updated following registration of WTC's freehold interest. <p>Area 9 and 10 Whetmead Nature Reserve (Plate 2.7)</p> <ul style="list-style-type: none"> • WTC 'excited' about Plot 9/1a, but discussions continue regarding Plot 9/1h. • The Applicant maintains that the plot is suitable as replacement land and no less advantageous. • Access can be provided to the northern plot from the southern one. • The Applicant will continue to look at alterations to the proposed access. • Additionally, The Applicant will review whether there are other opportunities within the |

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| | | | | <p>order limits, that meet the necessary criteria (See response to REP2-131).</p> <p>Area 11 – Freebournes Road Witham (Plate 2.8)</p> <ul style="list-style-type: none"> • Productive meeting with BDC took place 27/2/23. • There is a desire to provide a path to link to Freebournes Road. • Replacement land is either side of a footway/cycleway, with 'pic-nic' opportunity for local industrial areas. • Landscaping design is to be progressed. <p>Area 12 – Station Road Marks Tey</p> <ul style="list-style-type: none"> • Open space owned by National Highways. • Replacement land is to be provided by the proposed A120 junction to link up with existing green areas (land plan plots 18/1v, 18/1h and 19/1i). |

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| | | | | <ul style="list-style-type: none"> • The remainder of the area of replacement required to be provided adjacent to the nearby residual area by London Road (land plan plot 18/1u). <p>Area 13 – Copford Recreation Ground</p> <ul style="list-style-type: none"> • Area of existing open space woodland required to divert the Roman River • Positive discussions have taken place with Copford with Easthorpe Parish Council, and a Statement of Common Ground is being prepared to record progress on replacement land • Heads of Terms are also being prepared. • Replacement Land proposed is an adjacent woodland which is currently privately owned. |

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| 20. | | Not used | | |
| 21. | Roger Moore, Lambert Smith Hampton on behalf of Essex County Council | <p>The scheme project impacts on Essex County Council's on land they own and land they are highways authority over.</p> <p>Essex County Council would like the ExA to note its representations and would like to further respond in the future.</p> <p>Where Essex County Council is the landowner: temporary and permanent acquisition under plot 7 series and plot 8 series. The Applicant is offering replacement land to maintain connectivity.</p> <p>There is detail that has not been agreed. The council wants to reserve rights to make further representations if details cannot be agreed.</p> | | <p>The Applicant wrote to the Interested Party in 2022 offering a meeting to commence negotiations for a private agreement to secure the land and rights required for the project. No response was received to this letter.</p> <p>The Applicant followed this up with an email on 26.01.23 again offering the option to commence negotiations. To date, no response has been received. Follow up contact will be made.</p> <p>The Applicant notes the County Council is reserving its position and the Applicant will look to resolve remaining areas of concern with the County Council. The Applicant's position on de-trunking is dealt with in its responses to the issues raised at ISH2.</p> |

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| | | <p>In its capacity as highway authority, much of the Essex County Council's interest has been dealt with in other hearings. There is significant impacts where existing highway is proposed to be de-trunked.</p> <p>The conditions under which the Applicant wishes to retain are not clear and future liability is not yet resolved.</p> <p>There are some areas which are to be restored and it is not clear how land will be returned to Essex County Council. Essex County Council would like to reserve its ability to make further representations when the detail can be assessed. The Council is seeking to protect its interest from the future impacts of the scheme.</p> | | |

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| 22. | NFU | <p>[NFU to provide confirmation in relation to members being represented]</p> <p>Raised the issue relating to notice period where land is required for temporary possession [Article 40 of the draft DCO]. Their position is that the proposed 14-day period prior to taking entry is not sufficient to make any arrangements and that a 28-days' notice period has been used in similar projects.</p> | <p>The Applicant notes the NFU's comments and looks forward to receiving details of the parties it represents.</p> <p>Until 2016 14-days' notice was sufficient for permanent acquisition of land by way of notice to treat and notice of entry.</p> <p>If the main issue is crop loss, the impact on crops is a product of the calendar rather than the need for temporary possession by NH and compensation is available to deal with losses if it is not possible to mitigate them through providing or a longer notice period.</p> | <p>The Applicant has amended article 40 at Deadline 3 to refer to a 28 day notice period.</p> |

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| 23. | NFU | <p>The NFU raised the issue in relation to land required on a permanent basis where landowners will be affected by borrow pits</p> <p>NH has advised NFU's members that, where possible this can be negotiated under voluntary agreements.</p> <p>Discussions are progressing very slowly and if a voluntary agreement is not reached NH will rely on CA powers therefore any current discussions will not be taken into account. The NFU would like to see some progress.</p> | - | <p>Discussions and meetings have taken place with the four landowners whose land is required for borrow pit purposes. The Applicant has outlined a mechanism that could be progressed by agreement, which would allow ownership of these areas to be retained by the landowners. The approach to compensation has been discussed and draft Heads of Terms are currently being prepared with a view to reaching agreement before the end of the examination period if landowners are in agreement.</p> <p>The provisions regarding the restoration of land in Article 40 (4) prevents the Applicant relying on temporary powers for the extraction of materials from land used as borrow pits. The permanent change in condition of the land means that permanent acquisition is appropriate, if powers in the Order are to be relied on because agreement has not been secured.</p> |

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| 24. | NFU | <p>The NFU raised the issue in relation to and taken for environmental mitigation: NH have advised that this land will be acquired permanently which is NH's longstanding practice. This could instead be facilitated by implementing a management agreement.</p> | <p>In terms of land required for environmental mitigation, NH has significant ongoing monitoring and management obligations in the Requirements and Register of Environmental Actions and Commitments which the Applicant must be able to fulfil. This is made possible by taking the land permanently.</p> <p>Experience is such that management agreements take a long time to conclude and if the freehold is not secured then the inability to force a reluctant owner to fulfil its contractual obligations may leave the applicant in some difficulty with the local planning authority in terms of enforcement. Enforcement of a DCO is by way of criminal procedures.</p> <p>In terms of returning land, this may be possible but only through negotiation. Under Article 40 of the dDCO the restoration obligations (in terms of the condition that land is to be handed back) means it</p> | <p>It is the Applicant's long held position, from experience, that the freehold of land required for embedded and essential mitigation must be acquired by the Applicant.</p> <p>Such land is required to be secured on a permanent freehold basis so that the Applicant is able to ensure the effectiveness of the mitigation in the long-term.</p> <p>Control over the land is required permanently to enable the mitigation provided to be managed, maintained and monitored. National Highways' long-standing practice has been to acquire and retain the land used for essential mitigation rather than to offer back the land required subject to a positive covenant to maintain the land in a certain condition/to a set standard via a management agreement as proposed in the representation.</p> |

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| | | | <p>would be possible to hand back land in a condition required by that Article following the winning of materials from the borrow pit.</p> | <p>This is because any disposal of essential mitigation land would expose the Applicant to a breach of the made DCO and to potential criminal sanction if the landowner failed to maintain the mitigation.</p> <p>In such circumstances, the Applicant's only remedy would be to seek to enforce the management agreement against the landowners in the civil courts, whilst facing criminal liability itself.</p> <p>The Applicant is not able to accept such an 'imbalance of consequence' whereby it would face greater liability than the actual party in breach.</p> |
| 25. | Mr. Mahoney | <p>Issue raised in relation to the temporary footbridge proposed to be placed in his garden at Hatfield Peverel.</p> <p>Mr Mahoney sought confirmation that what has been agreed up to</p> | <p>The ExA suggested that NH should set out what has been agreed in a draft land position statement.</p> | <p>Mr Mahoney's title would be subject temporary possession over a strip of land at the left hand side of his property and over the drive to the front. This is to facilitate a temporary pedestrian/cycle crossing of the A12 whilst Station Road, Hatfield Peverel</p> |

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| | | <p>this point with Costain is secured.</p> <p>The plans produced show the bridge positioning but there is no detail in relation to the period of time this will be there.</p> <p>In addition to this, there is a section of land which is Crown Land.</p> | <p>The Applicant said that it appears that the Secretary of State for Transport has the benefit of restrictive covenants but the Applicant does not have more information than that.</p> <p>The land was acquired by Mr. Mahoney from the Applicant or its predecessor that is why there is a restriction on the title.</p> <p>The Applicant is currently drafting a position statement which include the plan referred to by Mr Mahoney showing the positioning of the temporary bridge and the temporary works on Mr Mahoney's land.</p> | <p>is closed for demolition and reconstruction. This temporary route would allow the community to access the south of the A12 and properties and railway station to the north of the A12.</p> <p>The Applicant has been in constructive discussions with Mr Mahoney for two years or longer and has agreed illustrative details for the temporary works. Mr Mahoney will need to make significant changes at his property temporarily ahead of the works progressing. Mr Mahoney is keen to get a formal agreement with the Applicant agreeing these details.</p> <p>The Applicant will formalise what has been agreed in discussions to date with Mr Mahoney in a position statement. Further meetings will be held on site with Mr Mahoney to discuss the land affected by the scheme and any consequential impacts with a view to reaching an overall agreement.</p> |

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| | | | | <p>The footprint of the temporary works is shown in the Land Plans [AS-009] as permanent acquisition. The Applicant has confirmed that it does not intend to acquire the property but, should Mr Mahoney's circumstances change and he wish to move then National Highways can consider the purchase of the property by way of a statutory blight process, without the constraints and lack of certainty associated with discretionary purchase.</p> <p>The District Valuer has made contact with Mr Mahoney to initiate discussions relating to temporary possession and compensation.</p> |
| 26. | Mr. and Mrs Lindsay | <p>Mr. Lindsay raised issues in relation to their property located in Kelvedon, Inworth.</p> <p>Their property is close to the propose junction 24. Issues raised in relevant</p> | <p>The Applicant noted that they are in the process of arranging a meeting in the coming days to provide them with the relevant information and for the land team to consider this.</p> | <p>The Applicant will continue to assist Mr. and Mrs. Lindsay and will provide an update in the next CA Schedule and at the next CA Hearings.</p> |

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| | | <p>representations in relation to dust, noise, air quality were reiterated.</p> <p>They noted that following the second consultation in 2017 they had not been not informed of the proposed widening scheme. The design that accommodated the Garden Community showed the redline boundary over their property.</p> <p>There have been numerous meetings discussing mitigation measures but no certainty has been provided in relation to noise impact.</p> <p>They noted that they have been left with no alternative except to move out of their property, which is currently proving difficult due to the value.</p> <p>They pointed out that two nearby properties failed to sell but have received discretionary purchase.</p> | | |

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| | | <p>However, they are concern that they may not be eligible for discretionary purchase.</p> | | |
| 27. | Mr. Wacey | <p>Mr. Wacey noted that whilst NH has confirm that bight has been accepted, they have been unable to get the county valuer due to the lack of availability of surveyors. They have one confirmed to come around in 2 months.</p> <p>They have requested that the valuation carried out by the Valuation Officer is shared.</p> <p>A distinction was made between the residential element of their property and the recording studio.</p> | <p>The Applicant confirmed that the blight application has been accepted.</p> <p>However, the applicant must have received an itemised claim before the Valuation Officer can be instructed.</p> | <p>A blight notice has been served in respect of the property known as Wishingwell Farm. The blight notice has been reviewed and accepted by the Applicant and the next stage is for a claim to be submitted by the landowner. The Valuation Office Agency will then be instructed to negotiate and agree the claim.</p> |

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| 28. | Mr. Siggers and Parker Strategic Land | <p>Comments were made in relation to 3 documents:</p> <ol style="list-style-type: none"> 1. Borrow Pits report 2. Borrow Pits Supplementary Technical Note; and 3. Chapter 11 on Material Assets and Waste of the Environmental Statement. <p>The affected party questioned whether there is a need and whether proper scrutiny of alternatives has been carried out.</p> <p>The position is that there is not a need, or if there is one there has not been a proper consideration of alternatives.</p> <p>The land sought to be acquired compulsorily is for ecological mitigation, for the widening works and, mainly, for borrow pits.</p> | The Applicant asked to come back in writing by Deadline 3. | <p>The need for the borrow pits is set out in the Borrow Pits Report [APP-278] Section 2.4 which summarises that several design constraints have resulted in a highway alignment with a shortage of earthworks material required to construct the proposed scheme.</p> <p>A number of options for sourcing the deficit material were assessed and concluded that using borrow pits within the proposed scheme Order Limits is the only feasible option.</p> <p>By using borrow pits within the proposed scheme Order Limits a source of suitable construction material, close to the areas of deficit is secured, ensuring the proposed scheme programme and budgetary constraints can be met.</p> <p>Additionally borrow pits provide a local area for unsuitable (e.g. wet or silty) material to be deposited, rather than exporting it to landfill, as well as making material haulage for the</p> |

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| | | <p>In relation to whether there is a need for borrow pits, they raised the following issues:</p> <p>The applicant states in the Borrow Pits Report that there is a deficit of earthwork material in the order of 600,000m³. Everything in the Borrow Pits Report flows from that figure. The breakdown for that figure it is not set out.</p> <p>However, Chapter 11 of the environmental statement the applicant states that they cannot quantify the precise material requirements for the scheme.</p> <p>That figure of 600,000m³ does not account for the potential for Coleman's Quarry. In paragraph 11.6.17 of Chapter 11 there is an assumption that the operators of the quarry will backfill their own quarry. Given how critical this is there is a requirement that the</p> | | <p>proposed scheme more efficient, reducing construction traffic on the public road network and similarly reducing fuel use and greenhouse gas emissions.</p> <p>Further detail on the work presented in this section of the Borrow Pits Report [APP-278] is given in the Borrow Pits Supplementary Technical Note [REP1-011] which includes:</p> <ul style="list-style-type: none"> • Summary results of the volume modelling work which identifies that there is an overall deficit of general earthworks fill material for the proposed scheme, as well as where that deficit exists. • An explanation of the assessment undertaken of potential sources of general earthworks fill material for the proposed scheme. • An explanation of the assessment undertaken of the potential borrow pit locations for the proposed |

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| | | <p>applicant can do this themselves.</p> <p>The need for 600,000m³ could be met by what the applicant are already accounting for at Coleman's Quarry. If the quarry does not require backfilling then this is will not be required. There is no evidence as to whether Brice Aggregates will backfill the quarry themselves. The position is therefore that the need is not justified.</p> <p>In relation to the consideration of alternatives: The Borrow Pits Supplemental Technical Note states that there are 3 reasons why it is not viable to go to alternative sources. However, the following comments are made: 1. It is not clear why the applicant cannot rely on external sources.</p> | | <p>scheme which used the criterion described in the A12 Chelmsford to A120 Widening Scheme Borrow Pits Report [APP-278].</p> <p>The breakdown for the earthworks deficit figure of 600,000m³ is provided in the Borrow Pits Supplementary Technical Note [REP1-011] Section 3, which details how the volume was calculated from three-dimensional volume modelling and further supplementary calculations, giving calculated volumes for the construction elements that are combined to determine the deficit amount. There can be confidence in the figures produced because they are a product of a significant amount of calculation, undertaken by experts with significant experience in earthworks volume modelling with consideration given to appropriate assumptions to ensure they are as accurate as possible at this stage of design refinement.</p> |

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| | | <p>2. In relation to alternatives, the Borrow Pits Report states that the rate of import required to suit the embankment fill would be unlikely available to be from local resources. It is not clear what "local resources" are.</p> <p>The Borrow Pits Supplementary Technical Note contradicts this and accepts that there is availability. Table 4.1 provides a list of local quarries which have been scrutinised to some degree.</p> <p>Their first supplier identified, indicate that they can meet the daily requirements and in terms of material they have 314,900,000 million tons. Conversion factor of 2.0. A name for the supplier is not provided .</p> <p>In terms of this not being guaranteed is it not for lack of availability,</p> | | <p>As stated in the response to relevant representation RR-027, Section 5 of Chapter 11 of the Environmental Statement [APP-078] states that there is limited information available at this stage regarding the precise material requirements and waste quantities associated with constructing the proposed scheme. The information presented in this chapter is considered to represent an appropriate level of detail, in line with the available design information, to ensure that adequate information is available to inform the DCO determination in accordance with the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (as amended).</p> <p>To clarify the position regarding Coleman's Quarry, an additional 950,000m³ of fill material may be required to backfill Colemans Farm Quarry in the event that the quarry operators cannot perform this task in advance of construction works in</p> |

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| | | <p>It is outside the order limits but there is no compelling reason due to the fact that they are located 5 km away from the scheme, being a negligible distance.</p> <p>In relation to costs, the Borrow Pits Report provides no information in relation to costs. The Borrow Pits Supplemental Technical Note provides with a table. However, there is not sufficient information to justify the figures (table 4.3).</p> | | <p>this area. In this event, the intention would be to import 650,000m³ of inert material from offsite and source 300,000m³ of non-granular fill material from Borrow Pits.</p> <p>Terms of agreement for the backfilling of Coleman's Quarry have been reached between the Applicant and the Quarry Operator. The Applicant understands that the planning permission to undertake the backfilling operation is resolved to be granted subject to a Section 106 agreement being completed. The issue of planning permission will enable the work to commence, prior to the start of construction of the proposed scheme.</p> <p>As stated in the response to relevant representation RR-027, the contingency import of 650,000m³ of general fill material for Coleman's Farm Quarry is provided for in the event it is not possible for the Colemans Quarry operator to source material for backfill in a timescale</p> |

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| | | | | <p>that allows the proposed scheme to be constructed in accordance with the pressing timescales for construction of the A12 scheme. The environmental and traffic impacts of importing this volume of material by road from numerous sources would be outweighed by using local scheme borrow pits.</p> <p>If the borrow pits were to be deleted and Coleman's Farm Quarry was not able to be backfilled by the operator, over 1.2Mm³ of material would need to be imported to the proposed scheme (the quarry backfill plus the scheme requirement), which would have a significant detrimental effect on carbon generation and traffic levels on both the strategic and local road network.</p> <p>In either event, should Colemans Farm Quarry need backfilling or not, the Applicant still maintains that winning the material from the borrow pits is the most economically and</p> |

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| | | | | <p>environmentally viable option as, described in Section 2.4 of the Borrow Pit Report [APP-278] and confirms that Borrow Pit I has been identified to supply materials to form the embankments of J22 due to its proximity and material suitability.</p> <p>With the contractual arrangement and planning permission in place, the backfill volume of the quarry should decrease month on month up to the point of starting construction. Further to this the Quarry Operator has confirmed that a volume of approximately 350,000m³ of suitable material is already available within the quarry limits to backfill the void, further reducing the reliance on the road import element of the contingency.</p> <p>The Borrow Pits Supplementary Technical Note [REP1-011] Section 4 details the work undertaken to assess external sources for supplying the deficit volume of earthworks materials. The sources</p> |

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| | | | | <p>assessed are considered 'local resources' because they fall within the 'maximum likely import radius for the proposed scheme' and include national aggregate suppliers with quarries local to the proposed scheme and a snapshot of local construction schemes that will have a potential earthworks programme overlap with this proposed scheme.</p> <p>The report concludes that these external sources are not viable for the following reasons:</p> <ul style="list-style-type: none"> • The volumes of material required cannot be guaranteed at this stage because these are live quarries that are drawing down on their volume stocks month by month and the local construction projects are still in their own planning phases, meaning their surplus material figures are not guaranteed. • The rate of import required to meet the proposed scheme |

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| | | | | <p>programme cannot be met due to the restrictions of road hauling material in from outside of the Order Limits. This is based on historical performance of material import to similar road schemes and the logistics of managing the significantly larger number of road lorries required to meet the demand.</p> <ul style="list-style-type: none"> • The cost of importing material from external sources is significantly more expensive than winning and processing material from borrow pits within the proposed scheme Order Limits and in some cases will be an inappropriate use of a quarried mineral resource. <p>In regard to Table 4.1 and the volumes of material stated from the relevant suppliers, some context for the source and nature of the materials proposed is provided in</p> |

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| | | | | <p>the 'Notes' column for each assessed source location.</p> <p>Names for the suppliers have not been given to keep any commercially sensitive information out of the public domain. Specific reference has been given in this hearing to the combination of sources from Supplier No1. In the Borrow Pits Supplementary Technical Note [REP1-011]. The first two sources are sand and gravel quarries within a suitable distance of the proposed scheme, the third source is a granite quarry in Norway. The only reason this is considered as a local source is because the quarried material from Norway can be stockpiled at Tilbury, which lies within the maximum likely import radius for the proposed scheme.</p> <p>Whilst the sand and gravel quarries may produce a suitable Class 1 (granular) fill material, this has not yet been confirmed by testing and is an expensive option in comparison</p> |

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| | | | | <p>to a Class 2 (cohesive) fill material which is preferred, as stated in the Borrow Pits Supplementary Technical Note [REP1-011] paragraph 4.1.3. The quarry in Norway is an even more costly option from both a commercial and carbon generation standpoint requiring a mining operation, plus shipping overseas to the port of Tilbury, then road hauling to this proposed scheme material fill areas. Using crushed granite for general earthworks fill is considered to be an unsuitable use of a higher quality resource.</p> <p>When considering the statement provided by the supplier that they can meet the proposed scheme's daily volume requirement, it should be borne in mind that this Nationally Significant Infrastructure Project will feature in the supplier's commercial plans. Therefore, some statements made need to be put into context and a calculated assessment made on its veracity. This is why the</p> |

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| | | | | <p>statement has been clarified with the fact that 'the supplier has not provided any evidence to support this'. As previously stated above, based on historical performance of suppliers importing material to similar road schemes, the target import rates cannot be met due to physical constraints of tipping enough lorries on site within a shift and varying traffic implications from day to day.</p> <p>The fact that a local site is outside of the proposed scheme Order Limits is not a reason given in either of the two borrow pit reports for it to be discounted as a viable source. Local sites have been discounted for the combination of reasons mentioned above. In reference to Supplier No.1 with two quarries located 5km from the proposed scheme, the distance stated is a direct 'as the crow flies' distance measurement. The actual driven distance for a road lorry would be a 28km or 32km round trip. This is not considered to be a</p> |

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| | | | | <p>'negligible' distance, especially when compared to the approximate 4km round trip haul distance for Borrow Pit I.</p> <p>These external import distances will need to be made by both the local and strategic road networks and is one of the main factors, along with lorry carrying capacity, for driving the large number of lorries required to meet a suitable daily import volume. The use of off-road articulated dump trucks requires a smaller number of vehicles that do not add to traffic volumes on the local and strategic road network.</p> <p>The Borrow Pits Supplementary Technical Note [REP1-011] presents cost data for comparing the import of the deficit volume of earthworks material from the three sources considered. These are given in Table 4.3. These figures have been generated from a bottom up, order of magnitude cost assessment using</p> |

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| | | | | <p>market supplied rates to inform the key values.</p> <p>The justification for the values stated in Table 4.3 has been provided at Deadline 3.</p> <p>The Applicant has engaged in respect of acquisition by agreement with the landowner and in the latest meetings 16.02.23 and 24.02.23 the borrow pit land has been discussed in detail. Proposals have been put forward in terms of a mechanism that would allow the landowner to retain ownership of the borrow pit areas and those discussions will be progressed subject to the agreement of the landowner.</p> |
| 29. | Michael Harman, Holmes & Hill, on behalf of the Bunting Family | Mr. Bunting's representatives pointed out that whilst there have been numerous meetings no offer or proposed heads of terms have been presented in relation to voluntary acquisition of their land. | <p>The Applicant confirmed that these issues had been addressed in responses to relevant representations.</p> <p>In relation to the issue raised in connection with lack of engagement from the applicant,</p> | There has been significant engagement with the Bunting family and their agents including meetings at the farm and separately with their agents Stanfords. An offer is being prepared in respect of acquisition by agreement and Heads of Terms relating to the borrow pit land are |

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| | | <p>They raised all issues in their relevant representations, the main focus being on the need to for borrow pit J and whether reasonable alternatives have been considered.</p> <p>Their position is that other quarries can provide the material but that borrow pit J was chosen based on the central location in relation to the scheme. Even though in comparison borrow pit L evidences a better performance.</p> <p>So far as attenuation ponds, their position is that there are other reasonable alternatives or modifications which will not unreasonably impact on the farm holding. This has an impact on the proposed housing scheme.</p> <p>They believe that there are other alternatives and have invited NH to dialogue. Information in</p> | <p>NH would like to point out that this is not accurate. There have been numerous meetings, the latest one on the 31 January 2023 with one scheduled for the 14 March 2023.</p> <p>The Valuation Officer stated that progress is also being made to the compensation elements.</p> | <p>also to be issued. A draft side agreement has also been produced to deal with various practical matters on the ground such as farming accesses and regular meetings are being held to progress matters. It is envisaged that significant progress will be made ahead of the next Compulsory Acquisition Hearing.</p> <p>The Applicant has properly assessed reasonable alternatives to using borrow pits, including Borrow Pit J, for the proposed scheme as set out in the above response (Ref 28.) of this written response to the compulsory acquisition hearing.</p> <p>The reasons for choosing Borrow Pit J are given in the Borrow Pits Report [APP-278] Section 6.4 and the Borrow Pits Supplementary Technical Note [REP1-011] Table 5.4 and are summarized as follows:</p> <p>Borrow Pit J is best suited to provide the proposed scheme with granular engineering fill material owing to its</p> |

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| | | <p>relation to the justification of the figures provided in the Borrow Pits Report was requested but this request has been denied.</p> <p>As a final issue they raised was in relation to severance of their landholdings and the need for appropriate access to be guaranteed.</p> | | <p>location, quality, and quantity of material available when compared to Borrow Pits H and K (two of original 18 options).</p> <p>When considering the material quantity, Borrow Pits H and K have better potential quantity of granular material within their footprint when compared to Borrow Pit J. However, the size of Borrow Pit J can provide a larger quantity of the material required in a single location. This is preferred because of the costs involved in setting up multiple material processing plants to gain the required quality of material. Borrow Pit J can facilitate this in a single area involving only one set up. Especially with its relatively central location along the scheme compared to Borrow Pits H and K.</p> <p>The environmental impacts assessed for Borrow Pits K, J and H do not differentiate the locations from each other and therefore do not guide the decision making for selecting this borrow pit.</p> |

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| | | | | <p>Borrow Pit L is not a suitable alternative to Borrow Pit J, which is evidenced in Table 5.2 of the Borrow Pits Supplementary Technical Note [REP1-011]. Borrow Pit L was a late addition to the list of potential borrow pits for meeting the general earthworks fill deficit at the proposed Junction 21.</p> <p>Assuming that Mr Bunting's representative meant to reference Borrow Pit K as the suitable alternative, the above text and Table 5.4 of the Borrow Pits Supplementary Technical Note [REP1-011] explains why Borrow Pit J is the most suitable option for the proposed scheme requirement.</p> <p>Regarding the requests for detailed scheme information, the response to relevant representation RR-007 details why the Freedom of Information Act requests were not able to be met.</p> |

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| | | | | <p>The Applicant intends to share all relevant survey results with the land owner where requested and where it is practical to do so and has recently sent ground investigation survey information for the land owner's affected plots to them for consideration.</p> <p>See Relevant Representations response RR-007-015 and RR-007-018 [REP1-002] for a comprehensive response in relation to the need for attenuation ponds and their proposed locations.</p> <p>Through engagement with the landowner and taking into account their feedback, the location of accesses to retained land has been included in the application and is shown by the Streets, Rights of Way and Access Plans Part 2 [AS-030]. Also see Relevant Representations response RR-007-047 [REP1-002] for a detailed response in relation to specific accesses to plots.</p> |

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| 30. | Prested Hall/Pegasus (Prested) Investment | <p>Issues raised at relevant representations RR034.</p> <p>They noted that there has been a lack of engagement.</p> <p>Prested Hall is a wedding and event hire business, private members health club and a spa.</p> <p>The works required to carry out the scheme will affect access to the venue for weddings. The uncertainty and timing for works are causing problems in terms of future bookings.</p> <p>The new proposed access is not direct and convoluted which has an impact on spa visitors.</p> <p>They raised concerns in relation to the increase of traffic and noise vibration which will affect the nature of the business.</p> <p>They seek to engage with NH to consider alternative options that could have a less negative impact to their business.</p> | <p>A full response will be provided in writing.</p> <p>NH maintains that there has been significant engagement with Prested Hall and that numerous meetings have taken place discussing the main issues raised as well as drainage and flooding.</p> | <p>The Applicant has held meetings with the Interested Party on 17th September 2020, 25th November 2020, 14th June 2021 and 23rd June 2022. These meetings provided scheme updates to the Interested Party and an opportunity to express any concerns. The feedback received led to the reduction in permanent land take as shown by plots 15/13b, 15/13c and 15 13d on the Land Plans [AS-009].</p> <p>The Applicant wrote to the interested party on 29.07.22 offering a meeting to commence discussions towards a private agreement but no response was received. This was followed up by an email to the interested parties on 17.01.23 which was accepted.</p> <p>Meetings have been held in 2023 to discuss the acquisition of land by agreement and potential impacts on the property. An offer is to be made in respect of the land acquisition in order that agreement can be</p> |

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| | | <p>They are also seeking a confirmation in relation to the timetable for construction works and that access will be secured appropriately and that appropriate signage will be placed to mitigate the economic impact the works will cause to their business.</p> | | <p>reached before the end of the examination period. Any impacts on the property will not be able to be assessed fully until the scheme is constructed and in use.</p> <p>A further meeting has been arranged for 16th March 2023 to address concerns raised at the Compulsory Acquisition Hearing and in the Written Representation.</p> <p>The Applicant notes the Interested Party's concerns about access to Prested Hall becoming more convoluted and creating longer journey times. However, the Applicant does not consider that access would significantly worsen as a result of the proposed scheme. For travellers approaching from the A12 southbound, they can currently access Prested Hall via the junction 24 slip-roads. Under the proposed scheme, those travellers would instead exit the A12 at junction 25, and travel down along the de-trunked section of road (the current</p> |

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| | | | | <p>A12 carriageway) towards the new Prested Hall access. This is not expected to result in any significant change in journey times, other than due to the de-trunked section of road having a lower speed limit than the current A12.</p> <p>For travellers approaching from the A12 northbound, they can currently leave the A12 at junction 23 and travel through Kelvedon to access Prested Hall via the junction 24 slip roads. Under the proposed scheme, they would instead exit at the new proposed junction 24 and travel into Feering then toward the new Prested Hall access. This is likely to result in slightly shorter journey times than travelling through Kelvedon. For local trips not using the A12, there would be no significant change in access routes.</p> <p>In order to mitigate the impact on the Interested Party's business, the Applicant has included proposals to</p> |

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| | | | | <p>introduce individual trees along the new access to recreate the avenue that is being lost along with groups and individual trees to mitigate views of the proposed scheme and reinforce the parkland nature of the approach to Prested Hall. Where unaffected by the proposed scheme, trees lining the existing access would be retained. Tree loss and retention are shown on the Retained and Removed Vegetation Plans Part 2 Sheet 15 [AS-017] and planting proposals are illustrated on Environmental Statement Figure 2.1 Environmental Masterplan Part 3 Sheet 15 [APP-088].</p> <p>The Applicant predicts a reduction in noise of 1.7 dB(A) (minor) at Prested Hall. Although the predicted increase in traffic (flow and speed) and the alignment change could lead to a predicted noise increase around this location, this is offset at Prested Hall by the planned resurfacing of the concrete surface on the A12 with low noise surfacing.</p> |

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| | | | | <p>The noise change is shown on sheet 9 of Figure 12.8 [APP-235]. Some impacts are expected on the access of Prested Hall during construction. The Applicant will work closely with the Interested Party to fully understand the site operations and how this relates to the construction programme in order to minimise impacts on business continuity where possible.</p> <p>The construction phasing is being developed to maintain access to Prested Hall as far as possible, see the Outline Construction Traffic Management Plan (OCTMP) [REP2-003] Sections 2.11.3 and 9.21. There would be, on limited occasions, activities such as the tie in points to the new Prested Hall access where access may need to be managed and may cause some disruption.</p> |

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| 31. | Edmundson Electrical Limited (EEL)/ Royal London UK Real Estate Fund (RLUK) | <p>EEL operates as distribution business and has a leasehold interest and there are various rights that the applicant is seeking to acquire. RLUK is the freehold owner.</p> <p>The interested parties noted that whilst there have been ongoing discussions, there is a significant amount of information has not yet been provided by NH.</p> <p>Summary of the issues raised:</p> <p>1. Gas diversion provisional route:</p> <p>The purpose for access is to provide sufficient space for the utility diversion works undertaken by Cadent who own the adjacent site.</p> <p>There are roadways which go over the Cadent site and it is, therefore, not clear why Cadent cannot use their land to divert the pipes. Cadent has objected</p> | <p>NH will provide a full response in writing by Deadline 3.</p> <p>However, some issues were responded orally at the hearing:</p> <p>1. In relation to the gas diversion route, Cadent's existing operating main is required to be diverted to enable works to be carried out at Junction 19 and extending onto the slip road.</p> <p>The limits of deviation and works plans allow for the gas main to be diverted to either side of the existing and is subject to detail design by Cadent.</p> <p>2. In relation to the alternatives considered for access, a number were considered prior to the application being made on the left hand side of EEL's main building and is considered the least disruptive route.</p> <p>Other alternatives were dismissed due to the need for significant</p> | <p>A gas main needs to be diverted (work no U2) as well as an 11kV overhead powerline (work no U2A) to extend across the widened A12 and in particular the southbound entry slip road. Access is needed to both construct the works and facilitate the connections to the existing main.</p> <p>1. Gas diversion provisional route.</p> <p>The Applicant has previously responded to the Interested Party with regards to the proposed installation of Work No. U2 in RR-032-003 Deadline 1 Submission - Applicant's Response to Relevant Representations - Rev 2 [REP1-002]. However, for convenience this has been summarised below.</p> <p>This is an existing gas asset which needs to be diverted, the options for its diversion are very limited. Alternatives were looked to the east and west but it is anticipated that the route to the east is more suitable</p> |

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| | | <p>and a response from them would be welcomed.</p> <p>There has been a lack of detail as to that diversion and an optioneering report has been requested to confirm that this is the optimal route. Nothing received yet.</p> <p>Cadent relevant representation states that they have not reached detailed design detail stage.</p> <p>Access route require overhead lines to be diverted but there is not sufficient information in relation to this.</p> <p>An issues was raised in relation traffic and transport and the estimated vehicles movements and whether the this was considered in the OCTMP.</p> <p>2. Alternatives: They believe that if the gas pipe needs to be redirected, they are not satisfied</p> | <p>traffic management from the A12. Any traffic management will be undesirable.</p> <p>3. In relation to the compulsory acquisition of plots in the car park, the Applicant will answer fully in writing but this is merely required to drive through to access the work site.</p> <p>The Applicant confirmed that the level of transit proposed to go through the car park will be low.</p> <p>In addition, the Applicant noted that whilst a representation was made by Cadent this was not in relation to this particular location.</p> | <p>due to the existing watercourse and overhead powerlines.</p> <p>Work No. U2 is currently under detailed design by Cadent. There would be no exclusion zones that would disrupt EEL's day to day running or the health and safety of its employees.</p> <p>2. Alternatives</p> <p>The Applicant notes the comments raised and has been engaging with the Interested Party. During the discussions the Applicant has explained in detail the reasons why access is required through plots 1/10f and 1/10g, and why other alternatives have been discounted. These reasons have been summarised below using the references shown on Plate 5: Alternative Options within the documentation provided by the Interested Party [REP2-100].</p> <p>Ref 1</p> |

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| | | <p>that all reasonable alternatives have been considered.</p> <p>3. Compulsory Acquisition issues:</p> <p>They do not consider that Section 122 has been satisfied and that sufficient evidence has been put forward to justify there is a compelling case.</p> <p>In conclusion, they are unclear as to whether this could work in practice and continue to have concerns over the proposals. It is not clear that the gas diversion is necessary at this location or, if that is the case whether further consideration of alternatives should be given.</p> | | <p>The Applicant has had further discussion with Cadent about the access through Cadent's Above Ground Installation and have been informed that they have identified that the existing access road does have high-pressure pipework traversing under it at shallow depths in multiple locations. There is also shallow ducting for electrical cables and flow and return water piping. In its current state, access is only suitable for light vehicular access through the Above Ground Installation for sporadic maintenance purposes only, therefore making Ref 1 an unsuitable route.</p> <p>Ref 2</p> <p>Ref 2 is not a suitable access route due to it running on top of the existing high pressure gas main that feeds the Above Ground Installation. Additionally there are overhead 11kV powerlines and a watercourse.</p> |

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| | | | | <p>Ref 3</p> <p>Due to the level differences between the works area and the A12 northbound carriageway, there would be the requirement for substantial temporary works to construct a safe and suitable access to the works area. This would require multiple HGV movements to remove part of the embankment, move the material off site and additional movements to then transport suitable material to create a sloped access, this would put additional HGV's in an already busy area of the A12.</p> <p>For safe access and egress temporary traffic management would be required on the A12 carriageway. The traffic management would have to run along the A12 mainline and the junction 19 northbound exit slip, towards the junction. The reason for this is that works traffic would not be able to safely egress from the traffic management, as this would be in the</p> |

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| | | | | <p>weaving zone for traffic looking to exit the A12 at this junction. During peak traffic hours traffic currently queues from the junction 19 northbound exit slip onto the A12 mainline, by putting traffic management on the A12 and exit slip at this location would reduce the capacity of the junction, thus making queuing on the A12 mainline worse.</p> <p>Ref 4</p> <p>Access would be required to both sides of the existing A12 carriageway for the gas diversion connections, therefore Ref 4 is already one of the Applicant's proposed options to access the diversion.</p> <p>Compulsory Acquisition Issues</p> <p>The Applicant notes the Interested Party's concerns on safety and security and the Applicant looks forward to engaging on site on 8th March 2023 with Edmunson</p> |

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| | | | | <p>Electrical with regards to suitable security measures.</p> <p>The Applicant awaits the Interested Party's commercial impact assessment but would expect any impacts to be minimal as the order limits have been designed not to encroach on any of the parking bays within the limits of land plot 1/10f. The powers sought will be solely for access only, and no construction vehicles related to the proposed scheme would park or obstruct this area. The Applicant would not take exclusive possession of the area.</p> <p>Liaison with the freehold owner and tenant will occur well in advance of the works commencing to ensure adequate time is given for any arrangements that may be required. A direct point of contact would be provided from the Community Liaison Team as detailed in Section 3 of the Outline Construction Traffic Management Plan [App-272].</p> |

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| | | | | Those controlling construction vehicles associated with the proposed scheme would be told to not park on the local road network or obstruct any businesses within the vicinity of the works. |