

# Maldon District Council (MDC)

## Appendix A - Written Submissions on Oral Representations made at Issue Specific Hearings

MDC Speakers – Ms Ruchi Parekh (Barrister)

### Issue Specific Hearing 3 Environmental Matters

26 April 2023

- 1 Traffic and Transport with specific reference to Agenda Item 3  
(Bullet Point 4 – *Progress with a plan for monitoring and management of wider impacts on the local highway network* (with a focus on Deadline 4 submissions))
  - 1.1 At the Hearing, MDC’s Counsel, Ruchi Parekh, explained that MDC’s concerns have been set out in its various written submissions **[REP2-068, REP3-051, REP4-077]** and the ExA will be aware that our concern, in transport terms, has focused on the Maldon Road junction with the Duke of Wellington mini roundabout.
  - 1.2 It is common ground that the Duke of Wellington mini roundabout operates at Level of Service (LoS) D and 85% capacity at off peak and over 85% capacity on peak. This is based on the Transport Assessment model data taken at 2019 (Transport Assessment **[APP-253-APP-260]** and accompanying Appendices, including predicted traffic flows **[APP-260]**).
  - 1.3 At the Hearing, MDC’s Counsel, Ruchi Parekh, reiterated MDC’s concerns that the Traffic Assessment is modelled on 2019 data that has not been updated, and therefore MDC does not consider it reflects the reality of accelerated planned housing growth since that time.

1.4 The Applicant has consistently stated that the Project will not make the current LoS D at the Duke of Wellington mini roundabout any worse than the poor level of service it currently has, for all transport modes (HGVs, LGVs, vans, cars, motorbikes) originating from the Maldon District.

1.5 The Applicant's transport forecasting has made various assumptions and predictions challenged in MDC's Deadline 4 submission [REP4-077] and most concerning is the Applicant's response in their ISH oral representations [REP1-012] on page 8, first bullet point (referencing: the impact on local junctions, modelled in more detail to make delays more accurate in Boreham and Hatfield Peverel, is summarised in their Transport Assessment, Appendix A [APP-254]):

**"Duke of Wellington Junction between B1019 Maldon Road and B1137 The Street in Hatfield Peverel.** No proposal to change to this junction is included as part of the proposed scheme, but traffic patterns will change at the junction as more traffic from B1019 Maldon Road would turn right to use the new junction 21 to join the A12 southbound, instead of turning left to junction 20a. There would also be a significant reduction in traffic arriving from junction 20a to turn right for the B1019 Maldon Road. Overall, there is predicted to be a slight improvement in junction performance. However, the B1019 Maldon Road arm is predicted to have an increase in its average queue from 45m to 62m. Detailed queue information is provided in chapter G.1 of Transport Assessment - Appendix G [APP-260])."

1.6 At the Hearing, MDC's Counsel Ruchi Parekh, referenced the Applicant's position that the Project will not make the current LoS D, which is poor, at the Duke of Wellington mini roundabout junction with Maldon Road, any worse. However, at the same time the Applicant has stated in REP1-012 that the average queue at the B1019 Maldon Road is predicted to increase from 45 metres to 62 metres. This very much suggests that the issue will worsen.

1.7 At the Hearing, MDC's Counsel Ruchi Parekh, said that given this inconsistency and MDC's outstanding concerns, there is clear justification for the Applicant to commit to monitoring of the junction from construction stage. This will ensure that the Applicant's assumptions and predictions are borne out and that the Maldon District's residents, businesses and visitors are not disadvantaged in this regard.

- 1.8 At the Hearing, MDC's Counsel Ruchi Parekh, referred to a related concern at the Maldon Road junction at the Duke of Wellington mini roundabout in relation to management of traffic issues. This relates to MDC Deadline 4 submission **[REP4-077]** referencing Transport Assessment Appendix G **[APP-260]** 2019 model data summaries at tables G1-17 and G1-19, that traffic at the Maldon Road junction with the Duke of Wellington mini roundabout currently turns left towards junction 20a onslip in the AM Peak. In the PM Peak traffic from junction 20a offslip turns right at The Street junction at the Duke of Wellington mini roundabout to access Maldon Road.
- 1.9 At the Hearing, MDC's Counsel Ruchi Parekh, stated the Applicant's reliance '*on traffic patterns changing*' at the Maldon Road junction with more traffic turning right towards the new Junction 21 (to join the A12 southbound and northbound). MDC's Counsel Ruchi Parekh added that the Applicant cannot forecast or model driver behaviour, especially those with local knowledge of finding 'alternative routes' and have used the Maldon Road / Duke of Wellington mini roundabout for years. There is no 'right turn only' signage [to the new Junction 21] at the Maldon Road junction with the Duke of Wellington mini roundabout or 'junction changes' to prohibit turning left at the Maldon Road junction with the Duke of Wellington mini roundabout, included in the Project.
- 1.10 MDC's Deadline 4 concerns **[REP4-077]** are that driver behaviour will continue to utilise the left turn at the Maldon Road junction with the Duke of Wellington mini roundabout and access the SRN via Boreham village at Junction 19. Similarly, driver behaviour will leave the SRN at Junction 19 and access Maldon Road junction with the Duke of Wellington mini roundabout via the LRN through Boreham village. The Applicant's predictions and assumptions in its traffic flow modelling for the Maldon Road junction with the Duke of Wellington mini roundabout is simplistic and not realistic.
- 1.11 At the Hearing, MDC's Counsel Ruchi Parekh, stated that MDC has set out in its various written submissions **[REP2-068, REP3-051, REP4-077]** its concerns at the Project maintaining the current poor level of service (LoS D) at the Maldon Road junction with the Duke of Wellington mini roundabout. MDC has set out in its written

submissions how this will lead to increased queue lengths and consequent delays, especially accounting for larger vehicles navigating the Duke of Wellington mini roundabout. The Applicant's forecasting does not account for driver behaviour, relying on local knowledge of 'alternative routes' and simply turning left at the Maldon Road junction with the Duke of Wellington mini roundabout and journeying through Boreham instead and thereby exacerbating the situation there. MDC does not consider that signage alone, at the Maldon Road junction with the Duke of Wellington mini roundabout will be sufficient to address the Applicant's assumptions and predictions in its traffic modelling.

- 1.12 At the Hearing, MDC's Counsel Ruchi Parekh, requested to understand what the Applicant intends to put in place to properly ensure that all modes of transport at the Maldon Road junction with the Duke of Wellington mini roundabout, turn right only and thereby avoid the problems MDC have identified.
- 1.13 Regarding the points raised in 1.11 and 1.12 above, MDC endorse ECC's submissions, as the highway authority responsible for the LRN, on this agenda item, that there are suitable mechanisms to introduce further monitoring at justified locations. MDC is insistent that the Maldon Road junction with the Duke of Wellington mini roundabout is a justified location for monitoring.

## 2 Air Quality (from Traffic and Transport) – Impact of construction and route diversion on A414 AQMAs at Maldon and Danbury

- 2.1 At the Hearing, MDC's Counsel Ruchi Parekh, reiterated our Deadline 4 submission – Appendix B 'Additional Comments' **[REP4-077]** setting out MDC's concerns that the Applicant scoped out any further assessment of construction and operational impact at Maldon and Danbury AQMAs in the Environmental Statement Ch 6 – Air Quality, Section 6.7.2 – 6.7.6 **[APP-073]**.
- 2.2 At the Hearing, MDC's Counsel Ruchi Parekh, reiterated those concerns that, during the construction phases of the Project, driver behaviour and local knowledge, in response to congestion and disruption, will find alternative routes. The A414 is an alternative route from the Maldon District to Junction 18, avoiding the construction phases affecting the B1019 route at Hatfield Peverel (phased closure of Junctions

20a and 20b, upgrade of Duke of Wellington Bridge to 2-way traffic [lengthening and widening] and construction of new Junction 21). This development will take some time. The A414 has two AQMAs at Danbury and Maldon.

- 2.3 The Applicant's response **[REP3-012]**, pages 6-9 to MDC LIR **[REP2-068]**, acknowledges our concerns '*that some traffic is likely to flow via Main Road in Boreham and the A414 to bypass the construction works around junctions 20a and 20b*' [in Hatfield Peverel] and '*if traffic emissions and subsequent concentrations did change as a result of the closures, the temporary nature of the construction phase would not significantly affect air quality within the Maldon and Danbury AQMAs*'.
- 2.4 At the Hearing, MDC's Counsel Ruchi Parekh, stated that the construction phase of the Project could be up to 3 years and therefore there is no justified basis to dismiss the impacts over that period. We consider it would be justified to monitor air quality in the Maldon and Danbury AQMAs from commencement through the construction phase and, if issues are recorded, we would like to see a funding mechanism to benefit each of the relevant local authorities which would then be used to support air quality related improvements in those areas.
- 2.5 Therefore, MDC does not consider the Applicant's response at the Hearing to be satisfactory. We are not confident that driver behaviour in seeking alternative routes to avoid congestion and disruption, has been appropriately accounted for. We also do not consider that there are any legal or practical matters that would prevent the Applicant from committing to this monitoring, bearing in mind that it would only require to be in place for the construction phase, and noting the significant disadvantages caused by the Project to Maldon District residents, businesses and visitors.

### 3 Biodiversity

#### *Environmental Impact and Mitigation*

- 3.1 MDC shares the ExA's frustration at the lack of detail provided for the Cadent Gas Main diversion. MDC has consistently raised concerns within its LIR **[REP2-068]** and within its deadline 4 submission **[REP4-077]** regarding the detailed route of the

Cadent Gas Main through the Blue Mills Nature Reserve. MDC understands that the proposed width of the corridor through the Nature Reserve presented in the submission documents is a *worst-case scenario*, due to the absence of the gas pipeline's detailed design and the benefit of all survey work. Based on this MDC accepts there is potential for the resultant scale of impact on the Nature Reserve to be reduced. However, MDC considers the ecological impacts on the Nature Reserve, as a result of tree loss and disturbance to habitats and wildlife, would be significant. Additionally, the proposed route of the Cadent Gas Main would form a permanent scar on the landscape which would be visible from the public viewpoints, including footpaths, impacting on the public amenity of this location.

- 3.2 At the Hearing, MDC's Counsel, Ruchi Parekh, highlighted that MDC welcomes the steps that have been taken by the Applicant in respect of the Blue Mills Nature Reserve in recognising the recommended designation of the site as a Local Wildlife Site (LoWS) and categorising the Black Poplar trees to be affected by the scheme as veteran trees.
- 3.3 At the Hearing, MDC's Counsel, Ruchi Parekh, questioned what mitigation for the disruption to the habitat of the Blue Mills Nature Reserve was to be provided within the Maldon District as compensation. MDC emphasise that it is not considered satisfactory that mitigation or BNG is to be applied on a blanket scale across the whole scheme. At the Hearing, MDC's Counsel Ruchi Parekh referenced MDC's Local Plan Policy N2, which reflects the mitigation hierarchy and requires any new or replacement habitat to be delivered as close to the proposed development as possible, '*in order to maintain a viable population locally and to avoid incremental and accumulative impact on local ecology*'.
- 3.4 At the Hearing, MDC's Counsel, Ruchi Parekh, expressed MDC's policy requirement of its N2 policy principle being applied in respect of any impact on the Blue Mills Nature Reserve if compensation is required.
- 3.5 At the Hearing, the Environment Agency (EA) emphasised the impact of the proposed culverting of waterways, in particular the main river catchments, and its impact on the travel of Otters. An Otter holt has been reported to be within the locality of the northern most Black Poplar tree and Otters have been reported at the Museum

of Power in Langford, which is connected to Blue Mills Nature Reserve via the River Blackwater. The EA highlighted that the culverting of the waterways would restrict the movement and be detrimental to Otters and riparian species that use the waterway. The EA emphasised the first consideration should be avoidance of the use of culverts. MDC strongly supports the EA's position as expressed at the Hearing.

### *Botanical Surveys*

- 3.6 As submitted within MDC's Deadline 4 submission **[REP4-077]**, it is acknowledged that the Applicant has now established through botanical surveys that part of the woodland at Blue Mills Nature Reserve is 'wet woodland'. This is considered a priority habitat of moderate condition and parts of it are within the coverage of the proposed LoWS. It is welcomed that the Applicant has confirmed the Project has now amended its consideration of the wet woodland component as being of national value in accordance with DMRB LA 108.
- 3.7 At the Hearing, MDC's Counsel Ruchi Parekh, questioned the recent botanical surveys that have been undertaken at Blue Mills Nature Reserve and whether the relevant documents, including the *Biodiversity Important Habitats Sheet* **[APP-223]**, showing the location of important habitats and the veteran trees, are to be updated. At the Hearing the Applicant stated they had no intentions of updating the documents and plans submitted. MDC are of the opinion this would not be in the best interests of Blue Mills Nature Reserve as a recommended LoWS and its ecological value would not be accurately represented on the plans submitted as part of the DCO application.

### *Blue Mills Nature Reserve Local Wildlife Site Designation*

- 3.8 At the Hearing, MDC's Counsel Ruchi Parekh, posed the question as to how the sensitive habitat within the Blue Mills Nature Reserve would be safeguarded during the construction and operation of the Cadent Gas Main diversion.
- 3.9 MDC's Counsel, Ruchi Parekh, highlighted that MDC are aware the DCO would confer broad powers that allow for root pruning of trees, if considered reasonably necessary during the construction and future maintenance of the gas pipeline. MDC's Counsel Ruchi Parekh added MDC would want to see details of how those broad powers will be managed in respect of the gas pipeline, bearing in mind the acknowledged importance of the habitats at Blue Mills nature Reserve.

3.10 At the Hearing, MDC noted the information provided thus far has been extremely high level and vague, such that MDC cannot yet be confident about the absence of significant effects on Blue Mills Nature Reserve. MDC would like the Applicant to provide further details as to its mitigation plans.