

A12 Chelmsford to A120 widening scheme

TR010060

9.53 Written submission of oral case for Issue Specific Hearing 3

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

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1 Applicant's responses to Representations made at Issue Specific Hearing 3 held on Wednesday 26 April 2023 at 10.00am

1.1. Introduction

- 1.1.1 The third issue specific hearing (ISH3) for the A12 Chelmsford to A120 Widening Scheme Development Consent Order (**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 26 April 2023, commencing at 10.00am.
- 1.1.2 The Examining Authority (**ExA**) invited the Applicant to respond to matters raised at the Hearing but also in writing following ISH3.
- 1.1.3 This document summarises the responses made at ISH3 by the Applicant and also seeks to address fully 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 Issue Specific Hearing 3 (ISH3)

Ref:	Comment/ Representation by:	Questions/Issues Raised at the ISH3	Applicant's Response
2.		Change Request	
2.1		<p>Change request</p> <ul style="list-style-type: none"> • The ExA will ask the Applicant to briefly outline its request for a change to the application; and • The ExA may ask questions on this matter. 	<p>The Applicant is seeking to introduce six changes to the design of the Scheme, as explained in its submission to the Examination on 30 March 2023.</p> <p>As part of the Applicant's reflection on the matters discussed at the first set of issue specific hearings and documents received at Deadline 3, as well as continuing engagement with Interested Parties, it is considered that some changes to the Scheme before the examination can be made in order to deal with some issues raised at those hearings.</p> <p>Whilst the Applicant is content that it has sought powers for a scheme that is implementable and can be built, it is possible to make some refinements that deal with some of the points that other parties have raised.</p> <p>In addition, a design change is proposed at junction 19 of the A12 which would provide for an improved connection to the A12 from junction 19.</p> <p>The proposals outlined below do not represent changes to the Scheme so significant that in effect a new scheme is being applied for, either when considered individually or collectively. They reflect both that the Applicant is listening to what is being said by Affected and Interested Parties, and also reflect outcomes of design evolution, as a result of detailed design progressing in parallel with the application. No additional compulsory acquisition powers over land are required.</p> <p>As there are in effect six changes being proposed, the Applicant</p>

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			<p>believes it is appropriate to carry out targeted consultation before formally applying for the changes. That consultation was launched on 13 April 2023, for a period of 30 days. Following the close of the consultation, a report of that consultation will be issued to the Examining Authority alongside the change application.</p> <p>The Applicant considers that none of the proposed changes, either individually or cumulatively would have the potential to give rise to any new likely significant effects beyond those reported in the environmental statement. The Applicant further confirms that the only change to the significant effects reported in the environmental statement is beneficial and is the removal of 7 significant adverse effects as a result of the changes at junction 25.</p> <p>Junction 19 – Slip Road</p> <p>Change description</p> <ul style="list-style-type: none"> The new design of junction 19 has the northbound slip road for traffic from the Beaulieu Park distributor road joining the A12 directly via its own slip road. This will be far enough from the existing slip road to ensure that overall the new design will improve safety for road users. There are no changes to the arrangement for walkers, cyclists or horse riders. <p>Reason for the change</p> <ul style="list-style-type: none"> As part of the detailed design process, which is happening in parallel with the DCO examination, the configuration of the northbound slip road at junction 19 has been refined to allow traffic to merge directly with the A12. This new design improves the

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			<p>safety for road users when joining the A12 northbound at junction 19.</p> <p>Anglian Water Pumping Station</p> <p>Change description</p> <ul style="list-style-type: none"> To facilitate the implementation of the approved planning application for the demolition of existing farm building and 4 no. houses and erection of 50 no. dwellings with associated parking, landscaping, estate roads, public open space, associated external works and access from Bury Lane (planning reference 19/01803/FUL). The Applicant is now removing a small section of ecological mitigation. As the project was above the requirements for reptile habitat creation in the DCO application, this small loss of habitat does not need to be replaced. The area of ecological mitigation lost decreases the reptile mitigation across the Scheme by 0.4%, the impact of which is negligible to the overall mitigation being provided. <p>Reason for the change</p> <ul style="list-style-type: none"> A small area that was identified for acquisition for ecological mitigation purposes in the DCO application, comprises land that has been allocated for a small pumping station to be operated by Anglian Water Limited by way of a separate planning permission (Ref: 19/01803/FUL). After submission of the DCO application, the existing landowner has requested that the land be excluded from Order powers to allow the pumping station to come forward as approved. The proposed change has been made following

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			<p>discussions with Bellway Homes and Braintree District Council and will ensure that a planning permission on the neighbouring land would not be affected by the proposed scheme in this regard.</p> <p>Replacement Land South of Witham</p> <p>Change description</p> <ul style="list-style-type: none"> • A new plot of land (within existing Order land) south of the River Brain will be provided to Witham Town Council to replace two areas of land being lost as part of the proposed scheme. The land is close to Whetmead Nature Reserve and surrounds the proposed drainage pond. • There are also changes required to the replacement land to reflect the transfer of the freehold from Braintree District Council to Witham Town Council. <p>Reason for the change</p> <ul style="list-style-type: none"> • As a result of ongoing engagement with Witham Town Council, the Applicant has taken the opportunity to alter slightly the location of the replacement land proposed to be provided to Witham Town Council. The land now proposed is near to the existing Whetmead Local Nature Reserve. • The Applicant has also been made aware of a transfer of the freehold of parts of the open space land identified as being in Braintree District Council's freehold ownership, with the land being transferred to Witham Town Council. The transfer has not been

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			<p>registered at HM Land Registry as yet.</p> <p>B1023 (Inworth Road) Flood Mitigation and Drainage</p> <p>Change description</p> <ul style="list-style-type: none"> As a result of new information available to the project, such as from site surveys and investigations, the Applicant is now able to present an updated design for the drainage ponds and flood mitigation areas alongside the B1023. <p>Reason for the change</p> <ul style="list-style-type: none"> Subsequent to the submission of the DCO Application in August 2022, additional surveys and site investigations have been undertaken as part of the design development process. The new design has been developed using this additional information to refine the highway drainage and flood mitigation proposals in the vicinity of the B1023 near Inworth. The additional information and the design refinement work undertaken includes the following. Site surveys, in particular of the existing drainage network (referred to as “post-submission drainage surveys” hereafter), but also topographic and utilities surveys. Hydraulic modelling of watercourses. A lack of available information on the existing drainage network meant that the hydraulic modelling of watercourses was not undertaken for the design submitted in August 2022, which was accordingly based on a worst case approach. With the additional information received, a hydraulic model has been built and used to refine the design of the

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			<p>proposed flood mitigation measures.</p> <ul style="list-style-type: none"> • The post-submission drainage surveys improved the understanding of the existing highway drainage. The surveys have been used to refine the highway drainage design and proposed attenuation ponds submitted with the DCO application in August 2022. • Relevant representations identified the extensive land take for the flood mitigation measures and attenuation ponds for the design submitted in August 2022 as being of concern and therefore further assessment has been undertaken to attempt to address these concerns. • The new design takes account of the location of an existing high pressure gas main that crosses the B1023 road. The design submitted in August 2022 included flood mitigation storage areas that would have required excavation over this gas main, the location of which was unknown at DCO design. The location of other underground services along the B1023 was also made available post-submission of the DCO and used for the new design. The highway drainage attenuation storage ponds and watercourse flood mitigation storage areas have been adjusted in the new design to minimise the impact on the existing foul sewer that crosses and runs alongside the B1023. • The post-submission drainage surveys confirmed that there is an existing damaged manhole chamber within the highway drainage network along the B1023 road. The damage to this chamber means the existing highway drainage is not functioning as it should. The post-submission drainage survey information enabled a hydraulic model to be built such that, when the damaged manhole

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			<p>was represented, it generated existing scenario results that better matched reports of flooding received from stakeholders. The hydraulic model has therefore been used to represent the baseline scenario and gives an improved understanding of the existing flood risk than was available for the design submitted in August 2022. The new baseline modelling resulted in a reduction of flood water reaching the B1023 road near Inworth compared to that calculated for the design submitted in August 2022. Furthermore, the new baseline modelling also shows that a greater conveyance of flood water away from the road would be possible with a repaired highway drainage system than had previously been assumed, while keeping the highway drainage system separate from the watercourse.</p> <p>B1023 (Inworth Road) Roundabout Design</p> <p>Change description</p> <ul style="list-style-type: none"> The Applicant is proposing to remove the segregated left turn lane (SLTL) from the arrangement of the B1023 roundabout. Traffic from Inworth village will instead join the link road to junction 24 via the B1023 roundabout. This will require traffic to give way to traffic already on the roundabout. <p>Reason for the change</p> <ul style="list-style-type: none"> This SLTL was proposed to alleviate the potential queuing of traffic wishing to turn left from the B1023 south of the roundabout, by removing the conflict of this movement with drivers wishing to turn right at the roundabout from the B1023 north of the roundabout.

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			<ul style="list-style-type: none"> Discussion took place at Issue Specific Hearing 1 (ISH1) regarding the changed design to the roundabout on the B1023 linking to the approach to the newly proposed junction 24. Through design refinement in the parallel detailed design process and validation against the strategic traffic model presented as part of the DCO Application, its inclusion is not required for the roundabout to perform acceptably in the proposed scheme's design year of 2042. Further to this, the proposed removal of the SLTL helps reinforce the local nature of the existing B1023 in this area, reduces the area of impermeable pavement and therefore the drainage burden in the immediate vicinity. <p>Junction 25 – Roundabout Design</p> <p>Change description</p> <ul style="list-style-type: none"> The new proposals see the Old Rectory roundabout retained, which will become a partially signalised roundabout. This will use the existing infrastructure in the design and minimise tree loss within the Old Rectory roundabout island. <p>Reason for the change</p> <ul style="list-style-type: none"> In Marks Tey, the Applicant has received representations from the Parish Council to request that the existing roundabout remain rather than it being replaced by a signalised all movements crossroads. Through further design refinement as part of the detailed design process is happening in parallel with the DCO examination, the traffic signal phasing for the signalised junction has been refined and an optimal solution has been identified which would allow a partially signalised roundabout design to be

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			<p>implemented. This would also allow the proposals to satisfy the request of Marks Tey Parish Council to retain as many trees within the existing Old Rectory Junction roundabout where practicable.</p>
2.2	ExA	<p>The ExA asked the Applicant whether the proposed design changes would affect the conclusions of the habitat regulations assessment. They noted they are required to produce the REIS by 22 May 2023.</p>	<p>As discussed during ISH3 (26 April 2023), and in response to the ExA's question regarding the potential impact of the proposed Development Consent Order (DCO) changes on the Habitats Regulations Assessment (HRA), the Applicant confirms that the conclusions of the Habitats Regulations Assessment No Significant Effects Report [APP-201] remain valid and would not change as a result of the proposed DCO changes. There would be no changes to the Order Limits and therefore the proposed changes would not introduce any new European Sites in addition to those already assessed in the HRA.</p> <p>The main potential for impacts as assessed in the HRA are 1) hydrological changes due to connectivity between the proposed scheme and the European sites, and 2) the possible disturbance of birds on Colemans Reservoir. Although there is hydrological connectivity, the proposed changes to drainage and flood mitigation along the B1023 at Inworth would not give rise to any new impacts due to the distance downstream. In the unlikely event of incidents (such as pollution incidents), the distance is such that there would still be no effect on the integrity of any of the European sites. Furthermore, there would be no change in the impacts predicted on bird populations at the reservoir. In summary, the proposed DCO changes would not result in any new impact pathways and there would therefore be no change to the</p>

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			<p>conclusions of the HRA [APP-201].</p> <p>In a letter to the Applicant date 21 April 2023, Natural England responded to the change consultation, stating:</p> <p><i>"We are satisfied that the Technical Notes confirm that the proposed changes to the DCO will not significantly change the construction and operational effects reported in the Environmental Statement, including Section 9.11 of Chapter 9: Biodiversity [APP-076]. On this basis Natural England has no further comments to make."</i></p> <p>A copy of that letter is provided at Appendix B.</p>
2.3	ExA	The ExA asked whether there is any intention of any more changes coming forward.	The Applicant is mindful of the time remaining as part of the Examination. No further changes to the Application are planned at this time.
2.4	Messing & Inworth Action Group (MIAG)	MIAG expressed their surprise at the reduced area requiring flood mitigation as their representative Mr Stradwick has personally seen huge increase in water flow causing flooding. They raised the point that National Highways have the opportunity to do something.	<p>The justification for each of the changes is detailed within the consultation material.</p> <p>As set out in the consultation, the Applicant has been able to rationalise the mitigation proposals for flood risk and drainage whilst still achieving the same objectives as set out in the DCO i.e. mitigate pre-existing surface water flood risk for the road to remain operational in a 1 in 100 flood event plus allowance for climate change.</p>

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3.		Traffic and Transport	
3.1		Traffic and Transport <ul style="list-style-type: none"> • Boreham – update on provision of average speed cameras requested by ECC, Essex police and other IPs; including the need for inclusion of requirement in DCO. • Update on provision of the other traffic calming interventions including softer measures requested by ECC and other IPs. 	<p>Regarding average speed cameras (ASC), there are relatively low current speed levels. Despite the existing 40mph limit, current speed levels are typical of a 30mph limit, as recorded by 'Vehicle speed compliance statistics for Great Britain: 2021', Published 16 June 2022.</p> <p>There would be an additional benefit resulting from the proposed speed limit reduction from 40mph down to 30mph. The 'Department for Transport Circular 01/2013 Setting Local Speed Limits (Updated 18 January 2013)' notes that where speeds are already low relative to the existing speed limit, signed-only changes are appropriate and likely to have a small but beneficial effect.</p> <p>Therefore, the Scheme does not adversely affect speeds in Boreham. That said, acknowledging the concerns expressed by Interested Parties during Issue Specific Hearings, written submissions and further engagement, the Applicant understands that reaffirming the speed limits through additional measures could provide an enhancement. As such, within the new requirement 15 of the Draft DCO, the Applicant has committed to the installation of average speed cameras, a new controlled pedestrian crossing on the B1137, and softer measures including road safety posters.</p>

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3.2	ExA	<p>The ExA sought both the data and a reference to support the Applicant's claims that traffic is already travelling at an average of around 30mph.</p> <p>They asked whether this was just peak hours data.</p>	<p>Mr Foley explained that several speed surveys have been undertaken over recent years. These include surveys undertaken by ECC themselves. Average speeds have been recorded at various single points and also averaged across longer stretches of road.</p> <p>Speed data from a single-point survey on the B1137 in Boreham village show a daily average speed of 30-31mph. This is shown in Figure 3 of Essex County Council's B1137 Main Road Boreham Technical Note [REP3-034], along with data from a single-point survey at a point between Boreham village and A12 junction 19.</p> <p>Figures 3 and 4 of that report also show speeds taken from year-long surveys calculated using GPS tracking of vehicles. This shows average speeds in the AM and PM peak hour for many separate sections of the B1137, which vary between 20mph and 50mph.</p> <p>The average speeds used to inform the traffic modelling are similarly based on GPS tracking of average speeds in 2019. Although speeds do vary along the route depending on local conditions as shown in Figures 3 and 4 referenced above, the traffic modelling work is based on average speeds over longer sections of the route.</p> <p>The average speeds over the entire stretch of the B1137 between the B1019 Maldon Road and A12 junction 19 are shown in Table 7.1 of the Transport Assessment – Appendix A [APP-262], in the row "Route ID 14". This shows the following speeds in the AM peak hour (0730-0830), Interpeak (1000-1600 average) and PM peak hour (1700-1800):</p> <table border="1" data-bbox="1160 1201 1697 1315"> <thead> <tr> <th></th> <th>AM</th> <th>IP</th> <th>PM</th> </tr> </thead> <tbody> <tr> <td>Northbound</td> <td>34mph</td> <td>35mph</td> <td>28mph</td> </tr> </tbody> </table>		AM	IP	PM	Northbound	34mph	35mph	28mph
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Ref:	Comment/ Representation by:	Questions/Issues Raised at the ISH3	Applicant's Response				
			<table border="1" data-bbox="1167 400 1697 456"> <tr> <td>Southbound</td> <td>32mph</td> <td>35mph</td> <td>35mph</td> </tr> </table> <p>These are average speeds over a stretch of road that includes sections with speed limits of 40mph, 50mph and 60mph.</p>	Southbound	32mph	35mph	35mph
Southbound	32mph	35mph	35mph				
3.3	<p><i>Essex County Council (ECC)</i></p> <p><i>Michael Humphries KC</i></p> <p><i>Mark Stubbs</i></p>	<p>ECC clarified that although some measures have been discussed and put forward, they have not yet been included in the DCO. Whatever measures are agreed or imposed, ECC requested that they are either within the DCO or within another document controlled by the DCO to ensure that they are implemented.</p> <p>They explained that there are two sources of speed surveys:</p> <ol style="list-style-type: none"> 1) Fixed location surveys (south of Boreham, either side of the junctions); and 2) Year-long surveys based on GPS locations of vehicles. <p>These show that traffic flows vary along the length. Within Boreham, it varies between 20mph and 40mph on average at different sections. It is not consistent. Between Boreham and Hatfield Peverel it varies between 35 – 50 mph on average. They argued that there is a need for average speed cameras if we want a consistently low speed. They emphasised the need for consistency.</p>	<p>The Applicant explained that it is happy to assist the Panel by providing draft wording. These matters are currently in discussion with ECC and draft wording was provided to them prior to a meeting on 4 May 2023. The Applicant will provide the Examining Authority with a copy of the drafting once those discussions have progressed, so that the Applicant can provide as agreed a position as possible.</p> <p>Mr Foley confirmed that the traffic data taken across the whole year that ECC referred to as "year-long surveys" were included in the Applicant's traffic modelling.</p> <p>There are sections that have higher and lower speeds, but the traffic modelling is based around average speeds. As shown in the response in section 3.3 above, average speeds on the stretch of B1137 between B1019 Maldon Road and A12 junction 19 vary between 28mph and 35mph, depending on the direction and the time of day.</p> <p>Mr Parr suggested that the Applicant's position needs to change. The Applicant has already demonstrated that it is willing to make changes where they believe it is justified, for example, as is happening currently in Boreham. The Applicant's position here is that it is not justified. However, the Applicant will continue to engage in discussions with ECC.</p>				

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		<p>ECC put to the Panel that if the speed does not come down based on the smaller measures such as signs it will become more attractive than the traffic modelling is showing, and people will reroute to it.</p> <p>They noted that at the 85th percentile at the fixed locations, speeds were generally 5mph faster than the average speed. ECC expect it to be the same across the full length. They stated that, in general, speeds exceed proposed speed limits in a number of locations.</p> <p>ECC do not believe the additional smaller measures to be adequate. They highlighted that it is a straight road, with no physical restrictions to lead drivers to naturally drive at 40mph. ECC confirmed they have had no assurance on any physical speed reduction measures to be implemented, only discussions. Further, they emphasised that even if they are delivered they would only be visual reminders.</p> <p>Overall, they feel that to implement average speed cameras is reasonable, and the most important measure to ensure variability of speed does not happen.</p> <p>The ExA asked ECC if they believed average speed cameras were an effective measure. ECC said yes. The ExA then asked if the speed surveys were provided to National Highways. ECC responded that they were provided in</p>	

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		<p>technical note REP3-034.</p> <p>ECC emphasised that they are keen to ensure that their requests are secured in the DCO by draft wording.</p>	
3.4	<p><i>Chelmsford City Council (CCC)</i> <i>Ruth Mabbott</i></p>	<p>CCC confirmed their support for ECC, particularly regarding traffic highway safety. They defer to ECC regarding the technicalities. CCC are keen to ensure the measures proposed are deliverable and that there is an appropriate mechanism agreed to secure it.</p> <p>Regarding speeding, CCC acknowledged that they are not the highway authority. They emphasised that they believe the key objective here is to achieve consistency of low speed. If speed cameras are the best way to secure this then CCC support their inclusion.</p>	<p>The Applicant notes the Interested Party's comment.</p>
3.5	<p><i>Boreham Conservation Society (BCS)</i> <i>Bill Kyle</i></p>	<p>BCS appreciated that additional measures have now been agreed.</p> <p>They believe that the key issue here is the period and method of measurement. They requested that speed data are published.</p> <p>They submitted that the speed at peak times is not the issue, instead believing that speed before morning, after morning, and at night are where the issue lies, particularly regarding HGVs.</p>	<p>In response to the Interested Party's assertion that the Applicant had 'cherry-picked the survey locations to support its own case', the Applicant confirmed that it has not chosen the locations or times for the monitoring of speed data. The data are collected by ECC who choose the locations and other data collection factors.</p> <p>Average speed information, including for the middle of the day between peak hours, is provided in the response at section 3.3 above. This covers the period between 7.00am and 7.00pm. Although some sections of the B1137 have speeds lower or higher than this, the traffic modelling work is based on average speeds across longer sections of</p>

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		<p>BCS noted that the B1137 between Boreham and Hatfield Peverell was formerly a Roman Road, and is therefore straight, wide, and consequently fast.</p> <p>Bill Kyle disagreed that the average speed is around 40mph, offering anecdotal experience.</p> <p>They requested that the traffic data that the Applicant had on the community of commuters from Hatfield Peverell be released.</p> <p>BCS emphasised the number of stakeholders in support of these speed cameras. They stated it is the only mitigation available if NH's traffic predictions that 88% of people will use the A12 are incorrect.</p>	<p>the road.</p> <p>The proposed monitoring of traffic flows will provide assurance of outcomes which can be compared to modelled flows, noting that it is not possible to determine the cause of any change, whether more or less than forecast, because flows change over time in response to many complex inter-connected factors.</p>
3.6	<p><i>ExA</i> <i>Billy Parr</i></p>	<p>The ExA asked ECC who enforces the Applicant's application, and who will enforce with speed cameras.</p> <p>Billy Parr representing ECC clarified that it is the Safer Essex Roads Partnership made up of various partners including ECC and Essex Police.</p>	
3.7	<p><i>Mr & Mrs Carter</i></p>	<p>Mr & Mrs Carter stated their full support for average speed cameras.</p> <p>They agreed with BCS that this is the only mitigation available for residential areas when people start coming off the A12. Speed cameras</p>	

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		would act as a deterrent to prevent that in the event of accidents on the A12 etc.	
3.8	<i>East of England Ambulance Trust</i>	<p>The Ambulance Trust expressed their support for speed cameras.</p> <p>They also requested reassurance that the measures don't include speed bumps as they damage the ambulances and can impact on-the-road emergency care.</p>	The Applicant confirmed that no speed bumps are being proposed as highway mitigation.
3.9		<p>Traffic and Transport – Detrunking sections of the A12.</p> <ul style="list-style-type: none"> Response to ECC's Deadline 4 submission [REP4-075], and SoCG with Essex police [REP4-050]; inclusion of a new requirement in Schedule 2 of the DCO as detailed in REP3-035 (page 13). Support of ECC's proposals for detrunking in revised draft National Policy Statement for National Networks (NPSNN) as detailed in REP4-075 (page 18). 	<p>ECC's position is noted. Detrunking has complex effects on the affected sections, and all options for treatment of detrunked sections have a combination of beneficial and adverse effects, on factors including accessibility; resilience; sustainability (of works and operation) and safety.</p> <p>The draft amended NPSNN 5.272 states "Mitigation measures for schemes should be proportionate and reasonable, focussed on facilitating journeys by active travel, public transport, and cleaner fuels". The Applicant explained that the revised wording does not materially change the policy background compared with the current NPSNN.</p> <p>The Scheme proposes retention of the dual carriageway form which provides:</p> <ul style="list-style-type: none"> - resilience for the overall highway network; - a safe alternative route for slow-moving vehicles which does not

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			<p>impede other vehicles' movement;</p> <ul style="list-style-type: none"> - a high-quality route for emergency access; - public transport route reinstatements; and - an improved walking/cycling route segregated from the carriageway. <p>A complete remodelling of detrunked sections to meet ECC's aspirational place agenda would be disproportionate, because with reduced traffic flow following detrunking, and the beneficial features described above, the A12 scheme would provide an improvement in active travel.</p> <p>Cleaner fuels are outside scope of the Scheme.</p> <p>The concerns around excess speed following detrunking are noted. The introduction of roundabouts on the detrunked sections will mitigate this potential hazard.</p> <p>Regarding the maintenance burden, the detrunked sections will be handed over following any maintenance necessary to provide a period of maintenance-free operation.</p> <p>While there are locations where remodelling has been undertaken following detrunking, there are many others where this is not the case. For example on A14 Cambridge to Huntingdon and A428 Black Cat to Caxton Common – in both cases no substantive remodelling was required for sections separate from the realigned major route.</p> <p>The Applicant notes ECC's comments that the solution to this issue need not be defined in the DCO, but should be resolved in the detailed design period.</p> <p>The Applicant is keen to explore the possibility of a requirement to</p>

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			<p>address this. However the one that has been provided is not acceptable as:</p> <ul style="list-style-type: none"> - The drafting currently requires approval by ECC as opposed to the mechanism now standard across all National Highways DCOs for approval by the Secretary of State. There is no basis for moving away from this well-established precedent and National Highways does not agree that approval by ECC is necessary in this instance. - The drafting proposed by ECC does not recognise that there are constraints on the decision making process in terms of matters that can be introduced into the design of the Scheme that have not been appraised. The wording in the draft requirement needs to reflect that any detrunking scheme proposed must not result in any materially new or different environmental effects from those that have been assessed in the Environmental Statement.
3.10	<p><i>Essex County Council (ECC)</i> <i>Michael Humphreys</i></p>	<p>ECC noted that at Deadline 4, the Applicant submitted a technical note REP 4-057. At paragraph 4.1.4 the note stated the following:</p> <p>"The Applicant is not aware of any precedent of existing D2AP routes being substantially physically altered when bypassed by DCO schemes, indeed the Applicant is only aware of one DCO which bypassed existing dual carriageways, namely the A14 Cambridge to Huntingdon Improvement Scheme; this did not include substantial physical alterations to the bypassed routes."</p>	<p>The Applicant explained that it was keen to explore an appropriate requirement. These matters are currently in discussion with ECC and draft wording was provided to them prior to a meeting on 4 May 2023. We will provide the Examining Authority with a copy of the drafting once those discussions have progressed, so that the Applicant can provide as agreed a position as possible. A draft requirements matrix has been submitted at Deadline 5 [Applicant Reference TR010060/EXAM/9.59]</p> <p>ECC took the ExA in some detail to matters relating to the A14, ending with some criticism of the Applicant. It is important when looking back at words to note the context of the wording in the Applicant's detrunking technical note. It stated that the Applicant is only aware of one DCO that bypasses existing schemes, and noted that this DCO did not include</p>

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		<p>ECC then looked at the A14 Scheme. They noted that, during examination, detrunking was a live issue. Michael Humphreys KC on behalf of ECC specifically referenced REP15-033, a Handover Agreement that is no longer on PINS. Two associated provisions were inserted in the case this Agreement was not signed at Article 12 (the equivalent of Article 15 in the A12 dDCO) and requirement 17.</p> <p>At Article 12.4 the following wording was inserted:</p> <p>"only with consent of the SoS who should consult the local highway authority"</p> <p>Requirement 17 covered traffic monitoring and required a traffic impact and monitoring scheme report to be submitted to the Highway Authority. ECC noted that this is not the SoS as RT submitted.</p> <p>They noted that as this side agreement was not submitted by the end of examination, requirement 17 was retained. This requirement was drafted by the Panel.</p> <p>ECC noted that the previous requirement on detrunking submitted by Michael Humphreys KC on behalf of ECC has been rejected by the Applicant.</p>	<p>substantial physical alterations to the bypass route. The point made in the detrunking technical note is that of a dual carriageway being bypassed. It cannot include substantial physical alterations.</p> <p>Detrunking can be addressed in DCOs in many ways. It is important to note that what the A14 example does not show is a scheme along the lines of what ECC is proposing to be secured, either by Articles or requirements.</p> <p>Regarding the mention of the A66, the Applicant is unclear of the relevance as it is not aware of any detrunking proposed as part of that scheme.</p> <p>The Applicant discussed the possibility of a draft requirement with ECC outside of the hearings and will continue to liaise with them regarding the form of a draft requirement.</p>

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		<p>They proposed, as an alternative, that a requirement and Article of this kind should be used in the A12 dDCO. ECC submitted that this provides a mechanism and precedent by which changes to a detrunked road could happen outside the ambit of the DCO, but secured through mechanisms within the DCO.</p> <p>ECC emphasised that this was a mechanism and a change to an Article that was imposed on NH by the SoS.</p>	
3.11	<p><i>Essex County Council (ECC)</i> <i>Sean Perry (SP)</i> <i>Michael Humphreys (MH)</i></p>	<p>ECC wished to respond to points raised in REP4-057 that ECC's proposal would require withdrawal and resubmission of the DCO, and would cause delays of two years.</p> <p>Sean Perry representing ECC submitted opinions from several perspectives:</p> <p>From a policy perspective, ECC believe the Applicant's DCO proposal as submitted does not align with local and national policy.</p> <p>From a walking and cycling perspective, ECC believe it is not in accordance with LTN 1/20, and further submitted that their proposals at REP3-081 and REP3-082 are in alignment with LTN 1/20.</p> <p>From a safety perspective, they feel that their</p>	<p>The Applicant explained that the simple issue here is that ECC have not presented a detrunking scheme, but generalised ideas for a scheme. As pointed out by BDC, the Applicant has not seen any designs for ECC's proposed scheme:</p> <ul style="list-style-type: none"> - there has there been no acknowledgment of the scale of construction required to deliver the detrunking scheme proposed, the change to drainage design or utility diversions that would be required, or the impacts that that construction would result in; - there has been no transport appraisal carried out; - there has been no environmental appraisal by ECC of the Scheme which it is proposing; and - the proposed scheme has not been subject to a Road Safety Audit, as Mr Parr for ECC explained during the hearings. <p>As such, insufficient information has been presented by ECC for the</p>

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		<p>proposals are safer as a dual carriageway is being reduced to a single carriageway in each direction. They emphasised that there are green infrastructure elements, WCH facilities, and a consequential reduction in the speed of traffic and speed perception. They submitted that a dual carriageway would encourage speeding and anti-social behaviour. ECC did note that their proposal is still subject to a road safety audit, and is presented as a proof of concept.</p> <p>ECC feel that their proposals are within the redline boundary, and that the environmental impact of their proposal is not expected to go over and above. They suggested that the impact would be recorded in an addendum rather than requiring a whole ES change.</p> <p>They presented that they see no reason why their proposal should delay delivery of the main scheme.</p> <p>ECC noted that the aforementioned technical note suggested that the cost would amount to £5.4m. They submitted that their alternative will cost only 0.5% more.</p> <p>Michael Humphreys KC representing ECC submitted that, should the Panel agree with ECC, wording needs to be agreed. He suggested this should be put forward by Deadline 5 at the latest.</p>	<p>detrunking proposals to be given adequate consideration during the Examination.</p> <p>The Applicant's technical note on detrunking has tried to create designs to allow them to be appraised to assist the ExA. These were considered in the Applicant's Technical Note on Detrunking [REP4-057], which demonstrated that ECC's proposals do not provide any benefits above the DCO proposals, and in many cases, result in a disbenefit.</p> <p>If ECC had identified in detail during the Statutory Consultation stage what the detrunking proposal should look like, and had appraised it as identified above, then the position would be different, but it remains the case that it has not done so. Nor is there sufficient time remaining in the Examination for this exercise to be presented by ECC now, even were that possible.</p> <p>The reality is, it is impossible to deliver what they are seeking in this DCO. The Applicant will not be presenting the appraisal that would be required on the undeveloped design that has been proposed. The Applicant has presented its justifications and is happy to explore the imposition of a DCO requirement that will enable a scheme to be worked up, to the extent that it is justified.</p> <p>ECC's detail has only come forward during this examination. That is the position. We are happy to talk and aim to agree. If not, each side will have to make their submissions accordingly.</p> <p>There were a number of points made regarding LTN 1/20 and safety. LTN 1/20 states that solutions need to reflect conditions, constraints and usage. It notes examples of design parameters that are desirable but also recognises that constraints mean these are not always possible. As</p>

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		<p>The ExA asked ECC how long the safety audit process takes.</p> <p>ECC responded that it involved preliminary, stage 1, design, during, and post audits.</p> <p>The ExA asked where the cost estimates came from.</p> <p>ECC responded that the Applicant put the £5.4m figure in their technical note REP4-075 section 6.6 at Table 61 on page 16.</p>	<p>such, compliance with LTN 1/20 does not mean that every aspect of a design accords with ideal provision in every instance, but that in all cases it accords with at least the minimum criteria set out.</p> <p>For the A12 scheme, the desirable criteria have been achieved where practicable and the minimum criteria complied with in cases where ideal provision is not practicable. The design of the A12 scheme is, therefore, compliant with LTN 1/20.</p> <p>The Applicant notes the position stated by ECC that its stance on this issue has not changed since the earliest stages of the application, including during Statutory Consultation. Mr Humphreys asserted that the only reason that the detail came through earlier this year is due to the lack of engagement / response that ECC were getting from the Applicant. Mr Humphreys submitted that as ECC had received no detail from NH, they had to put that detail in themselves. He believed this was covered at ISH1.</p> <p>The Applicant does not accept that summary of the history. Extensive engagement has taken place with Essex County Council on detrunking. An overview of the engagement was provided in section 5 of A12 Technical Note on Detrunking Proposals - Rev 2 [REP4-057].</p> <p>Regarding Road Safety Audit (RSA), unlike ECC's proposals, the Scheme has been subject to all RSA to date in full compliance with GG 119, the relevant standard in Design Manual for Roads and Bridges. Further RSA is programmed for the end of detailed design (referred to as Stage 2 RSA); following construction (Stage 3 RSA) and once 12 months' post-completion road traffic collision data is available (Stage 4 RSA).</p>

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3.12	<i>Colchester County Council (CC)</i>	<p>CCC expressed their support for ECC's position. ECC noted that they raised their concerns about detrunking in their LIR. They believe that pace making is needed. They submitted that for the communities around Marks Tey, the extent of carriageway convergence would be 'regrettable'.</p> <p>They submitted that this is a missed opportunity to deliver green infrastructure that will support the council' commitment to net zero.</p>	
3.13	<i>Messing & Inworth Action Group (MIAG)</i>	<p>MIAG questioned why a parallel road is being built as opposed to widening the existing A12.</p> <p>They later brought up the closure of Easthorpe Road. MIAG expressed their opposition to the proposals that the new access road from Easthorpe will not provide access for motorised vehicles. They submitted that this will result in harvest vehicles being redirected to rural roads that are not designed for those trucks. They stated that it was unrealistic to believe that all traffic will redirect via Copford.</p>	<p>The justification for the alignment of the route and retaining the dual carriageway is outlined in the Case for the Scheme [APP-250]. This matter was also discussed in ISH1 and is addressed in 9.27 Written Submission of Oral Case for Issue Specific Hearing 1 [REP3-012] – Agenda Item 2.2.</p>
3.14	<i>Mary Lindsay - Resident</i>	<p>Mrs Lindsay echoed the point MIAG raised and questioned why we could not utilise existing infrastructure and upgrade the current A12.</p>	

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3.15	<p><i>Braintree District Council (BDC)</i></p> <p><i>Gary Sun (GS)</i></p>	<p>BDC supported ECC's detrunking proposals. They confirmed they were a signatory of the letter in support.</p> <p>BDC stated their support for a single carriageway with an access travel corridor between Witham and Kelvedon. They noted that they haven't historically been a part of detrunking discussions, and that there has been little dialogue between BDC and NH on the matter.</p> <p>They submitted that there is a missed opportunity here, and that the placemaking agenda has not been taken at the heart of this.</p> <p>The ExA asked BDC whether they were saying the items requested by ECC do not contain items that BDC want. Mr Sun representing BDC clarified that there are things that they have not had the opportunity to comment on.</p>	<p>The Applicant acknowledges BDC's support of ECC's proposals for a re-engineered detrunked A12 corridor. The Applicant has explored the suggestion made by ECC and maintains that the existing walking and cycling provision adjacent to the A12, once strategic traffic has been diverted onto the new A12, does not act as a barrier to non-motorised users, and the suggested re-engineering by ECC does not represent a reasonable opportunity under the National Policy Statement for National Networks.</p> <p>The Applicant remains in discussion with ECC regarding reasonable opportunities for enhancement of the detrunked A12 corridor and expects ECC will seek input from BDC and other relevant councils.</p>
3.16	<p><i>Essex Local Access Forum (ELAF)</i></p> <p><i>Katherine Evans (KE)</i></p>	<p>ELAF echoed MIAG's concerns about the new access road from Easthorpe being non-motorised. KE stated that Feering Parish Council have also spoken against the closure of Easthorpe Road to vehicle traffic. Ms Evans further expressed concerns that there is no access for horse riders as it is walking and cycling only. ELAF submitted that a wide WCH route should be sought.</p> <p>ELAF further submitted that no specific details or</p>	<p>Regarding the bus stops in Rivenhall End which have fallen into disuse due to safety concerns made by the bus operator, the Applicant refers to its response to ELAF's comment RR-026-008 in Applicant's Response to Relevant Representations [REP1-002]. The Applicant's position has not changed and it maintains that the bus routes on the improved highway network, and subsequently the stop locations, will have to be determined by Essex County Council in conjunction with Transport Operators.</p> <p>The existing bus shelters and bus laybys are not proposed to be</p>

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		<p>commitment has been made by NH to re-provide the bus stops that have been removed along the detrunking section. She submits that they do not feel this is a detailed design item, and would like to see bus stops put back into the detrunking section.</p> <p>ELAF submit that the frontages along the detrunking section require clarity over whether they will be able to turn both left and right, emphasising that their preference would be that they are able to turn both ways.</p>	<p>removed as part of the detrunking works and due to the reduced conflicting vehicle movements and speeds, the Applicant anticipates that the operator's safety concerns be reduced, but the decision on whether these assets are used will remain with the public transport operators.</p> <p>The existing dual-carriageway sections of detrunked A12 are proposed to remain as dual-carriageway, as such, right turns will remain prohibited. Frequent roundabouts will facilitate right turn movements.</p>
3.17		<p>Traffic and Transport - Messing and Inworth.</p> <ul style="list-style-type: none"> Progress on agreement of provision of additional mitigations to minimise the impacts on local communities as set out in ECC's LIR [REP2-055] and other submissions to the examination. 	<p>The Applicant has considered additional mitigation set out in ECC's LIR [REP2-055] but has remained conscious that any changing of traffic routing from what is presented in the Environmental Statement could give rise to the additional significant environmental effects that were presented in the Inworth Road and Community Bypass Technical Report [APP-095] that were discussed at previous hearings.</p> <ul style="list-style-type: none"> <i>Village entry gateways for Messing village</i> <p>Although the Applicant does not consider that the forecast change in traffic flow of 1-2 vehicles per minute requires the provision of village entry gateways, the Applicant does not object to providing them on the grounds that they may help to reinforce positive driver behaviour. For example, the traffic model assumes that drivers know speeds will be low through the village, which might be reinforced by village gateway signs.</p> <ul style="list-style-type: none"> <i>"Unsuitable for HGVs" signage on Kelvedon Road and Harborough Hall Road.</i>

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			<p>The Applicant is prepared to provide this measure. It is technically possible and may help to reinforce positive driver behaviour.</p> <ul style="list-style-type: none"> • Narrowing of the entries to Oak Road (both the eastern and western ends), through tightening of entry radii and appropriate landscaping. • A 20mph speed limit on Oak Road and associated side roads, with traffic calming measures, as appropriate • Improved signage at either end of Oak Road to guide through-traffic to the B1022/B1023 junction. <p>The Applicant does not consider the above three interventions to be appropriate for inclusion in the proposed A12 widening scheme. They are likely to dissuade traffic from using Oak Road (including traffic currently using the road) and lead to that traffic re-routing to use the B1022/B1023 junction and the B1023 through Tiptree. This change in traffic routing from what is presented in the Environmental Statement could give rise to the additional significant noise environmental effects that were presented in the Inworth Road and Community Bypass Technical Report [APP-095] that were discussed at previous hearings.</p> <ul style="list-style-type: none"> • B1023 Widening of pinch points between Perrywood Garden Centre and the B1022 to a minimum carriageway width of 6.1m in line with approach to other pinch point widening proposals <p>The Applicant has proposed pinch-point widening in Inworth to reduce the likelihood of wide vehicles overrunning onto pedestrian footways. Although technically possible, it is not proposed for further existing pinch-point widening to be included in the proposed A12 widening scheme because the likelihood of encountering pedestrians in the 50mph section without footpath is less likely compared to within the</p>

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			<p>village, and the pedestrian footway in Tiptree is set-back from the narrow section of carriageway.</p> <ul style="list-style-type: none"> • Average speed cameras on the B1023 to the south of the new Inworth Road roundabout, to increase the likelihood of adherence to the proposed 30mph speed limit in both directions <p>Speed of existing traffic in this location is already in good compliance with the limit, so there is no evidence that additional traffic increases likely speed and/or risk associated with that speed. Therefore, while cameras may be considered beneficial by stakeholders, there is not a case to support their provision by the A12 Scheme.</p> <ul style="list-style-type: none"> • A fixed speed camera on the southbound approach to the new Inworth Road roundabout <p>At this location there is a very apparent traffic calming feature, the Inworth Road Roundabout, which can be seen from the proposed start of the 30mph limit. As well as this, advanced direction signage telling the drivers they are approaching a roundabout will be provided. Therefore, while cameras may be considered beneficial by stakeholders, there is not a case to support their provision by the A12 Scheme.</p>
3.18	<i>Messing and Inworth Action Group (MIAG)</i>	MIAG submitted that NH have failed to fully consider the alternatives as a potential.	The Applicant has undertaken a detailed consideration of the proposed alternative suggested by MIAG, which was submitted as part of the Development Consent Order: 6.3 Environmental Statement - Appendix 3.3: Junction 24, Inworth Road and Community Bypass Technical Report [APP-095]. Since the submission of this report, the Applicant maintains that no further information undermining the findings of this report has come to light.

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3.19	<p><i>Essex County Council (ECC)</i></p> <p><i>Billy Parr (BP)</i></p> <p><i>Michael Humphreys (MH)</i></p>	<p>ECC submitted that this is the first time that they have had acknowledgement that the Applicant will implement some J24 measures, and welcome this. However, they submitted that they believe this needs to go further. ECC submitted that the Applicant has unilaterally decided which measures are appropriate. Mr Parr representing ECC outlined three main concerns regarding J24:</p> <p>1) Design of Inworth Road Roundabout</p> <p>Mr Parr submitted that ECC believe there is insufficient land there, with residential properties north and south of the roundabout. BP referred to REP4-005 and Sheet 14 of AS-012. They submitted that, due to those constraints, and the decision to locate the junction 24 there, more measures need to be implemented to ensure vehicles approach Inworth Road Roundabout at an appropriate speed.</p> <p>2) Traffic created through Inworth</p> <p>Mr Parr noted the predicted 24% increase in 2027.</p> <p>3) Measures required to reduce 'rat running'</p> <p>Michael Humphreys KC also representing ECC noted that ECC were also keen to ensure these are properly secured.</p>	<p>These matters are currently in discussion with ECC and draft wording was provided to them prior to a meeting on 4 May 2023. We will provide the Examining Authority with a copy of the drafting once those discussions have progressed, so that the Applicant can provide as agreed a position as possible.</p>

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3.20		<p>Traffic and Transport – Monitoring</p> <ul style="list-style-type: none"> Progress with a plan for monitoring and management of wider impacts on the local highway network. 	<p>As noted in Appendix A of the Applicant's response to relevant representations [PDA-004], and reaffirmed in its response to Essex County Council's Local Impact Report [REP3-021] page 22, as part of the standard evaluation process that National Highways projects are subject to, the Applicant plans to undertake 'baseline' traffic surveys in autumn 2023.</p> <p>The exact detail of these surveys, including their location, would be defined during spring to summer 2023. The specification of post-opening traffic surveys in the same location will also be defined.</p> <p>The Applicant notes Essex County Council's suggested locations for traffic monitoring and will take these into consideration when defining the baseline and post-opening traffic survey locations during spring to summer 2023. The Applicant will consider further the potential for a commitment to monitoring at specific locations where the Applicant is predicting an increase in traffic in its modelling. The Applicant will not commit to additional post scheme commitments beyond clearly justified monitoring at specific locations.</p> <p>With regard to whether the monitoring could be used to validate the projected flow or not and as such be used to require the Applicant to help resolve future adverse effects, the Applicant does not believe this would be the case. There are many factors that could influence future flows on the network which would not be attributable to the proposed A12 scheme itself. For example:</p> <ul style="list-style-type: none"> - Changes in background traffic growth due to the national economy performing better or worse than current government predictions. - Local housing and employment developments being different to those assumed in the model, including whether or not they are built, how much traffic they generate, the timescale of their

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			<p>opening, etc.</p> <ul style="list-style-type: none"> - Impact of other unforeseen road schemes being built or other roadworks. - Unexpected congestion in other areas of the road network meaning traffic diverts to roads being monitored here. <p>Overall, if there is a difference between the outturn and the output of the model after the Scheme comes into operation, it would not be possible to prove that that difference was attributable to the Scheme.</p> <p>This point was expressly noted in the Secretary of State's decision letter on the A428 Black Cat DCO, at paragraph 25.</p>
3.21	<p><i>Essex County Council (ECC)</i></p> <p><i>Michael Humphreys</i></p> <p><i>Billy Parr</i></p>	<p>Michael Humphreys KC representing ECC submitted that there is both a mechanism and a technical side to monitoring.</p> <p>ECC noted that a mechanism was proposed for wider monitoring, or at least, some examples were proposed in REP3-035 on pages 13-15. MH then reiterated his earlier proposal that requirement 17 that the ExA drafted on the A14 scheme is the sort of requirement he would have thought to be appropriate here.</p> <p>Mr Parr also representing ECC noted that ECC's position remains as set out in their LIR and as at ISH1. He notes that they set out their proposed locations then.</p> <p>ECC then submitted that since then, they have</p>	<p>These matters are currently in discussion with ECC and draft wording was provided to them prior to a meeting on 4 May 2023. We will provide the Examining Authority with a copy of the drafting once those discussions have progressed, so that the Applicant can provide as agreed a position as possible.</p>

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		<p>had discussions with other IPs and have identified additional locations that they will set out in their Deadline 5 submissions.</p> <p>Mr Parr noted that RT would be willing to consider alternatives where they are clearly justified. He submitted that the two parties have different interpretations of 'clearly justified'.</p> <p>ECC were hoping that NH would provide more detail as to monitoring in their Deadline 4 submissions.</p> <p>Mr Parr noted that they hope to discuss this in their next meeting.</p> <p>He then reiterated MH's point that requirement 17 would tick a lot of their boxes. He further noted that within that requirement, at subsection 2.9, it requires a mechanism for future agreement. ECC submitted that if there is an unexpected impact, measures should be put into place. ECC appreciated that this is difficult to do, and difficult to prove that it is the A12 scheme having this impact, but provided anecdotal experience that it is possible to define parameters and thresholds.</p>	
3.22	<i>Boreham Conservation Society (BCS)</i>	<p>BCS note the local unanimity on this point.</p> <p>BCS also expressed their opposition to the Applicant stating that they cannot predict what will</p>	<p>The traffic predictions used to develop and assess the proposed scheme design are based on traffic model forecasts of the future. These traffic model forecasts were developed in line with the same guidance</p>

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	<i>Bill Kyle</i>	happen after the Scheme has been consented, stating that this contradicts the fact the Applicant is able to predict what will happen in 2042 where it supports their application.	and best practice used by road schemes across the country. However, they are still underpinned by many assumptions which are outside the Applicant's control. For example, the future level of economic growth, which housing developments are built and how much traffic they generate, the impact of increased electric vehicles, changes in the level of home-working over time etc.
3.23	<i>Maldon District Council (MDC)</i> <i>Vanessa Bell</i>	<p>MDC reiterated that their stance has already been set out, and is focused on the Duke of Wellington mini roundabout. They submit that this would be a clearly suitable location for monitoring as the data is from 2019 so they do not feel that it reflects the reality.</p> <p>They further noted that the Applicant has agreed there will be a problem for the Maldon Road arm, and MDC think the Applicant can commit.</p> <p>Ms Bell representing MDC submitted that the applicant relies on traffic changing to use the new junction 21. MDC do not believe it fully accounts for driver behaviour. Instead, they submit that drivers will use their local knowledge to turn left instead of right. MDC submit that the current proposed signage is insufficient, and would like to see more.</p>	<p>The Applicant does not accept that there is a problem with the Maldon Road arm. As stated in response to comment reference 5 in the Applicant's Written Submission of Oral Case for Issue Specific Hearing 1 [REP3-012] there is predicted to be an overall improvement at the Duke of Wellington mini-roundabout, albeit with a slight increase in average queue on the B1019 Maldon Road arm in the AM peak hour from 45m to 62m.</p> <p>The modelling of whether drivers approaching the Duke of Wellington junction from B1019 Maldon Road would turn right towards junction 21 or left towards Boreham was undertaken in line with standard traffic modelling guidance provided by the Department for Transport. Further information on this was provided by the Applicant in comment reference 7 in its Written Submission of Oral Case for Issue Specific Hearing 1 [REP3-012].</p> <p>The Applicant's position on monitoring is set out in the response in section 3.20 above.</p>
3.24		Traffic and Transport - Need for Hinds Bridge widening.	The issue of the existing situation regarding Hinds Bridge can be split in terms of structural capacity and of traffic capacity.

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		<ul style="list-style-type: none"> Response to ECC's Deadline 4 submission [REP4-075]. 	<p>Regarding structural capacity, a number of Interested Parties have raised concerns about the bridge's ability to withstand heavy loading. Whilst the Scheme is forecasting a slight increase of general traffic, this is not related to the structural capacity of the bridge, which has been confirmed to be strengthened for an SV80 vehicle (being a 6-axle 80 tonne vehicle) within the last 5 years.</p> <p>Regarding the traffic capacity of Hinds Bridge - even though we are predicting a 9% increase in traffic in the worst peak across Hinds Bridge, after running swept path vehicle tracking analysis, considering the bridge is on a straight, the exercise concluded that there are no geometric issues with two cars passing one another. The existing width seems to only force the vehicles into a priority situation if an HGV is involved.</p> <p>The worst-case 9% increase in total traffic predicted for 2042 is in the PM peak. This is when HGV traffic is at its lowest point across the day anyway. For example, a traffic survey undertaken on this road in 2016 counted 26 HGVs in the AM peak hour, 20 HGVs in an average hour in the middle of the day, and 8 HGVs in the PM peak hour. The number of times a car would meet an HGV is therefore lowest in the PM peak.</p> <p>The proposed scheme is predicted to decrease the number of HGVs in the PM peak hour even further (46% reduction). For example, the observed count of 8 HGVs an hour would mean one crossing the bridge every 7.5 minutes on average. Reducing the number of HGVs by 46% would mean one crossing the bridge approximately every 15 minutes instead. This would have a larger impact on reducing the number of car-HGV interactions than slightly increasing the amount of cars. The situation is therefore ameliorated by the proposed scheme.</p>

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			<p>Whilst there are “road narrows ahead signage” in place, this is the case in numerous aspects of the local road network, and no priority system such as on Chipping Hill Bridge over the River Brain in Witham is in place. There have been no recorded Personal Injury Collisions in the previous 5 years, and the Applicant is unclear as to why ECC is suggesting that, at this location where the proposed scheme is forecasting a reduction in the wide vehicles that cannot pass one another across this bridge, it is responsible for resolving this historic bottleneck.</p>
3.25	<p><i>Essex County Council (ECC)</i> <i>Billy Parr</i></p>	<p>Mr Parr representing ECC reiterated that ECC's position is set out in the LIR and at Deadline 4 in REP4-075.</p> <p>ECC requested more details on the heavy vehicle use in relation to the increase in traffic forecasted for the future. They noted that they have no concerns about the bridge's load-bearing capacity.</p> <p>They submitted that their concerns lie within the risk of the bridge being struck. ECC submitted that, when works are required on the bridge, it causes significant disruption to the local highway network. They submitted that this will be exacerbated by the proposed works at junction 24.</p> <p>Mr Parr noted that, for the same reasons, they think Appleford Bridge should be widened as part of the Scheme. They referenced their LIR [REP2-055] at s8.4.54 to 8.4.56. ECC took issue with the</p>	<p>Regarding the risk of the bridge being struck, the proposed scheme reduces the number of HGVs using the bridge and therefore reduces the risk. Information on the predicted change in usage by HGVs is provided in response to comment reference 3.24 above.</p> <p>Regarding Appleford Bridge, the Applicant has responded to this point in comment reference 8.3.53 to 8.3.58 in the Applicant's Comments on Essex County Council's Local Impact Report [REP3-021]. This provided additional information on the traffic modelling undertaken and confirmed that the proposed scheme is predicted to reduce traffic on Appleford Bridge, The Applicant therefore does not consider that it is necessary to widen the bridge as part of the proposed scheme.</p>

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		modelling undertaken here. They acknowledge that Appleford Bridge is Grade II listed, but feel there is justification for this request.	
3.26	<p><i>Feering Parish Council (FPC)</i></p> <p><i>Katherine Evans</i></p>	<p>FPC feel that there is a lack of safe cycle crossings. They noted that this is a historic concern.</p> <p>FPC also expressed their concerns about monitoring and management. Ms Evans representing FPC submitted that she did not realise there was a distinction between issues caused by the A12 and issues caused by others. KE questioned whether the extra traffic caused by developments that do not yet have their planning applications are not taken into account.</p>	<p>The traffic model does take into account growth in traffic caused by new housing developments.</p> <p>As the Applicant has stated in several previous responses, such as the response to comment reference 40 in the Applicant's Written Submission of Oral Case for Issue Specific Hearing 1 [REP3-012], developments with submitted planning applications which are over a certain size threshold are included within the traffic model forecasts. This is in accordance with Unit M4 of the Department for Transport's Transport Analysis Guidance.</p> <p>As confirmed in response to comment 43 from Feering Parish Council in that document, this means that developments without planning applications such as the second phase of the Feering Strategic Growth Location development are not specifically included in the traffic model, even though they are identified in Local Plan documents. Developments which are not specifically modelled are instead accounted for by general background traffic applied at a local authority level, but this traffic growth is not focussed in the actual location of those developments.</p> <p>As noted in the response as section 3.20 above, a difference between the developments assumed in the traffic model and those developments which are actually built is one reason for potential differences between traffic model forecasts and the traffic counts undertaken during later monitoring.</p>
4		Land Use – Gershwin Boulevard Bridge	The Applicant has appraised the alternative location for Gershwin

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		<p>Focusing principally upon the following:</p> <ul style="list-style-type: none"> The position of the Gershwin Boulevard Bridge. An alternative has been suggested and the Applicant responded to this possibility in their reply at paragraph 2.13.2 of REP4-055. 	<p>Boulevard Bridge in a Technical Note which was submitted at Deadline 3 [REP3-011], with supplementary responses provided at Deadline 4 [REP4-055]. In short, the Applicant is cognisant that under the 2008 Planning Act, Section 136, development consent will not be granted for the extinguishing of the existing right of way over the A12 without either providing a suitable alternative or demonstrating that such an alternative is not required.</p> <p>Due to the need to provide a safe crossing of the A12, the gradients and alignment of the ramps provided result in the existing Public Right of Way being diverted by approximately 230m if the proposed ramps are used rather than the steps. The alternative location suggested by a number of Interested Parties does not resolve the concerns raised, but simply relocates the impacts on the receptors whilst further increasing the diversion of the Public Right of Way in the range of 550m to 600m depending on a finalised location and footbridge ramp arrangement by relocating this crossing approximately 300m west of its current position. Whilst it is appreciated that the existing route is not well used, that is due to the severance caused by the A12 Witham bypass physically, if not legally implemented in 1963, and the proposed bridge is the most appropriate way to reconnect this footpath in a manner fit for 2023.</p>
4.1	<i>Keith Lomax</i>	<p>Several concerns still remain:</p> <ol style="list-style-type: none"> Lack of consultation – the Applicant has stated that I was consulted which is not true. Myself and neighbours did not receive the documents National Highways claim to have sent out in the summer of 2021. The meeting held on 27 January 2023 was not a consultation meeting but instead a 	<p>As part of the statutory consultation in June 2021, and as outlined in the Statement of Community Consultation [APP-052] the Applicant wrote to over 33,000 properties near the proposed scheme to notify of the consultation and this included residents of Gershwin Boulevard and the surrounding area. The consultation ran for a period of 55 days.</p> <p>As part of this consultation, press releases were issued to 16 local and national news outlets and notices were published in both local and national newspapers across two weeks. A virtual event space was set-</p>

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		<p>presentation of fact (which contains errors such as ecological mitigation)</p> <p>2) The re-instatement of the historically severed footpath – when A12 severed this, they also severed Howbridge Hall Road (north of A12 access and another to the south access to electricity substation, a farm house and a business area). I invite the Panel to a site visit to show the impacts in person and what the alternatives could achieve.</p> <p>Howbridge Hall Road was accessible as WCH. If the road is re-instated it would give access to everything but motorised vehicles. The footpath status would need to be changed. Our proposed relocation (shown in REP3-046) does not align with the Applicant's proposals in their Technical Note (the Applicant going further west). In the event that the bridge is relocated to the opposite road, there will be less visual detriment, even with proposed mitigation, due to the distance and height.</p>	<p>up on the National Highways website where stakeholders could view consultation material and provide comment 24 hours a day.</p> <p>The Applicant also had 14 deposit locations across the Scheme, including Witham Library, where consultation materials were made available. Six online webinars were held during the consultation period along with six public information events, including two in Witham. The consultation, along with the individual events, were advertised via the National Highways social media pages and the Scheme website.</p> <p>The preliminary proposals for Gershwin Boulevard Bridge were shown in the flyover video, which was available on the Scheme website. These proposals are also shown in A12 Chelmsford to A120 Widening Scheme Preliminary Design Map Book 1 General Arrangements 2 or 3 June 2021, which is also available on the Scheme website.</p> <p>This consultation also included press releases, news publications and social media advertisements.</p> <p>A Supplementary Consultation was held in November 2021, with the same circulation and methods of consultation as the Statutory Consultation. Similarly, the proposed Gershwin Boulevard Bridge was included in these consultation materials.</p> <p>The Applicant can confirm that it did receive comments from residents local to this area regarding Gershwin Boulevard Bridge during the Supplementary Consultation, the responses to which can be found in section 2.3 of Consultation Report - Annex N: Tables evidencing regard had to consultation responses (in accordance with section 49 of the Planning Act 2008) [APP-062].</p> <p>In regard to Mr Lomax's concern about motorcyclists, the Applicant can confirm that it is proposed that the bridge will be for pedestrian use only.</p>

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			<p>The Applicant refutes the statement that factual errors were made in the meeting of 27 January. The Applicant's lead representative at that meeting, Mr Goodwin, is fully aware of the nature of the proposed scheme and of the early ecology mitigation areas. It is possible however, that in trying to explain the purpose of the proposed early ecology mitigation areas and particularly how it is the intention to create habitat for reptiles, that attendees misunderstood this to mean that the Applicant is proposing a nature reserve.</p> <p>The status of the existing footpath south of the A12 and west of Maldon Road is proposed to remain, and unlawful vehicular access will remain possible from Maldon Road for certain motor vehicles. The Applicant does not agree that the proposed bridge will increase the likelihood of unlawful motorised vehicle access to the field previously described. Due to the need to facilitate mobility scooters, etc. physical measures to prevent unlawful use of the bridge remain challenging. However, the Applicant will continue to discuss best practice to strike this balance with ECC's Public Right of Way officers.</p> <p>There would be a greater distance between residential properties at Gershwin Boulevard and a bridge at the Interested Party's suggested alternative location, when compared to residential properties at Olivers Drive and the Applicant's proposed bridge. The Applicant, however, considers there would be greater scope for landscape and visual mitigation at the location proposed by the Applicant. At the suggested alternative location, there would be limited opportunity to replace lost vegetation and mitigate open views across the lake that would be experienced by residents in this area. This is due to the presence of the Gershwin Boulevard and a lake north of it. The Applicant's proposed location is adjacent to amenity land where it is proposed to provide tree and shrub planting to offset the lost vegetation and help mitigate views</p>

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			<p>of the new bridge and the A12.</p> <p>While the landscape and visual effects of a bridge in either location would likely be comparable, there would be greater scope for landscape and visual mitigation at the location proposed by the Applicant.</p> <p>The relationship between the proposed bridge and housing is shown on Illustrative Cross Section DD Figure 2.2 Part 1 of the Environmental Statement [APP-089]. Planting is illustrated to reflect the anticipated height it would have reached 15 years after opening. Vegetation establishes at different rates depending on species, size of stock at the time of planting and local growing conditions. The Applicant states in 9.41 Applicant's Comments on Responses to ExQ2 [REP4-055], in response to ExQ2 2.13.2, that during detailed design, the inclusion of evergreen species, larger stock and fast-growing species would be considered to provide early establishment and screening.</p>
4.2	<i>Keith Lomax</i>	The Applicant has stated in representations that land outside of the boundary would be required. In my view, I can only see this applying to small island, all containing trees and an Anglian Water pumping station. In terms of other changes, why cannot this be included in the change application?	<p>The Applicant maintains that the correct position for the bridge which reconnects the severed footpath is before the Examining Authority, as such it has not consulted landowners of additional third party land which would be required to construct the bridge at the proposed alternative location. None of the changes within the Applicant's current change consultation require additional land outside the current Order Limits, and in many cases reduce the permanent land acquisition required to deliver the proposed scheme.</p> <p>It should be noted that the Land Plans [REP4-005] sheet 7 in the area that Mr Lomax refers to show plot 7/19g as permanent acquisition but plot 7/19c as temporary possession. Subject to a detailed design, it is anticipated that the bridge structure and/or its associated ramps would</p>

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			<p>land in plot 7/19c.</p> <p>Additionally, the Replacement Land Statement [APP-279] Plate 2.2 shows that 7/19c is assessed to be open space. Therefore, any encroachment into plot 7/19c with permanent acquisition, for either the structure or to dedicate the right of way, may necessitate an increase in replacement land being needed.</p>
4.3	<i>ExA</i>	In the applicant's response, the existing footpath being still in existence was a concern. Does the Interested Party have any thoughts on the existing footpath and whether it should be extinguished?	
4.4	<i>Keith Lomax</i>	The existing footpath is basically unusable. I think it would be easy to produce a footpath along the mitigation area and the improved A12 which would allow access to James Cooke Wood which can currently only be accessed by car. The owner of the field separating the two have said if the bridge were moved to that location, he would grant access.	<p>The existing footpath is unattractive for walkers because it necessitates crossing the A12. The footpath running between the A12 and Maldon Road crosses a field and is available for the public to lawfully pass and repass over on foot. The Applicant refers Mr Lomax to its opening summary of the issue made at this hearing where its obligations under the 2008 Planning Act were stated.</p> <p>The Applicant can see a benefit of linking the footpaths to James Cooke Woods. A meeting was held on Friday 21 April 2023 with the landowner of Oliver's Nurseries (on land south of the GBB). The landowner stated they would consider a permissive path, but did not say that they would accept one.</p> <p>Works would need to be carried out to facilitate this which are outside of the Order Limits. The Applicant has not carried out an assessment of this route, but is initially concerned that, without the removal of existing hedgerow, it may not be possible to establish a safe crossing point of Maldon Road for pedestrians crossing Maldon Road at its junction with</p>

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			<p>Howbridge Hall road heading south to north.</p> <p>As part of the discussions that the Applicant is having with ECC and also with Braintree District Council relating to the parcel of replacement land for BDC and access thereto, the Applicant will consider whether public access can be facilitated between Howbridge Hall Road and the replacement land along the pond access track. This would need to be agreed with the party that ultimately owns / maintains the track.</p>
4.5	<i>Mr Baker</i>	<p>Maldon Road only came to light this year. The Applicant is justifying these proposals by accommodating horses but nobody in the area owns one. The only people who will be using that is motorcyclists who will be going fast and using the field inappropriately. If the landowner grants access to the field, as addressed by Mr Lomax, there would be access to James Cooke Wood and to the rest of the footpath network. This is a dangerous path and it would be ridiculous to re-instate it. The Applicant has considered mitigation but it lacks the human aspect. The trees which are proposed for mitigation will take too long to grow to be sufficient. The Applicant needs to move the bridge further up.</p>	<p>The Applicant is proposing to designate Gershwin Boulevard Bridge for use by pedestrians and wheelchair users only. The nature of the bridge design allows for the bridge to be easily adapted by others in the future for use as a cycleway and/or bridleway. This would be a matter for Essex County Council should they wish to change the dedication of the bridge to include cyclists and horse riders.</p> <p>The existing length of Maldon Road acting as a link between footpath 121_95 north and south of Olivers Farm is not proposed to be changed by the Scheme.</p> <p>Visual effects are assessed in 9.26 Technical Note Gershwin Boulevard Bridge [REP3-011]. The proposed Gershwin Boulevard Bridge is assessed as having a very large adverse visual effect on the representative viewpoints presented in Appendix A Visual Impact Assessment of the technical note during construction and in year 1. At year 15 when mitigation planting has established this would reduce to a moderate adverse visual effect.</p> <p>Year 15 is the design year for assessment required by the Design Manual for Roads and Bridges LA 107 Landscape and Visual based on the industry standard Guidelines for Landscape and Visual Impact Assessment Third Edition, not when trees would be mature. Vegetation</p>

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			<p>establishes at different rates depending on species, size of stock at the time of planting and local growing conditions. The Applicant states in REP4-055 that during detailed design the inclusion of evergreen species, larger stock and fast-growing species would be considered to provide early establishment and screening.</p> <p>The extent of tree loss at the proposed and alternative locations would be similar and much of this loss is due to the widening of the A12 regardless of the location of the bridge. Vegetation loss for the proposed scheme is shown on the Retained and Removed Vegetation Plans Part 1 Sheet 8 [APP-035].</p> <p>Regarding the potential use of the bridge by motorcycles, this would be addressed in the detailed design to ensure lawful access by pedestrians including those with disabilities, but to minimise the likelihood of access by motorised vehicles in consultation with ECC.</p>
4.6	<i>Essex Local Access Forum</i>	<p>The ELAF have previously suggested that the bridge should connect to Howbridge Hall Road to give access to all. If this is done, ELAF would like to see the connection maintained across the ecological mitigation area and the open space area.</p> <p>ELAF are not aware of the exchange of land as noted by Mr Lomax but would welcome this access to James Cook Wood.</p> <p>Just because the footpath is not easily accessed, this is not a good reason to extinguish it. ELAF are supportive of the proposal to connect the bridge to Howbridge Hall Road if the bridge is to</p>	<p>The Applicant has considered this proposal which was previously raised as AS-044-006, and has responded in 9.42 Applicant's Comments on Information received at Deadline 3 - Rev 1 [REP4-056].</p> <p>In summary, the suggested location at Howbridge Hall Road is not considered by the Applicant to provide enhancement to the existing local Public Right of Way network as it would connect to a section of Maldon Road remote from any built-up area with no clear onward facility that offers no benefit to users compared to footpath 121_95. However, as noted in 4.4 above, the Applicant will liaise with ECC and BDC on this matter.</p>

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		be non-motorised.	
4.7	<i>Essex County Council (ECC)</i>	In ECC's response at Deadline 4, ECC commented on this issue (at page 26). ECC have no objection with the bridge but have listed consequential points that would need to happen if the SoS are minded to accept.	The Applicant has responded to pages 26-28 of ECC's submission (Section 4 of REP4-075) in sections REP4-075-11 to REP4-075-13 of the Applicant's Comments on Information Received at Deadline 4 [Applicant Reference TR010060/EXAM/9.51].
4.8	<i>Braintree District Council (BDC)</i>	<p>BDC would like to reiterate that its position is neutral regarding the position of the bridge (either to the west or east). A bridge in the current location would have beneficial impacts for green infrastructure; would encourage walking and access to the countryside; and would help with planned open space and replacement land.</p> <p>It is unclear whether there will be public access to the ecological mitigation area, to be retained by the Applicant to the west of BDC replacement land. There is no plan in place to say that local access will be granted (would need to re-connect) if there was a shorter access with a bridge to the west.</p> <p>Also, on landscape and visual impacts, in the LIR and within comments on wider cultural comments, the impacts of immediate construction will result in significant loss of trees and the impact on biodiversity and character and mitigation is heavily based on trees to be planted before the Scheme</p>	<p>The Applicant notes that BDC's position is neutral on the location of the bridge, and agrees with the potential that it provides for increased access to the countryside with the associated benefits, combined with access to the replacement open space.</p> <p>The Applicant cannot currently commit to providing public access to ecological mitigation areas. It should be noted that for the area specifically discussed, replacement land has been provided to the south of Gershwin Boulevard Bridge (see Sheet 8 or 21 of the Environmental Masterplan Part 1 [APP-086]) and so there is not a lack of publicly accessible land in this area.</p> <p>Landscape effects are assessed in Chapter 8 of the Environmental Statement [APP-075]. Gershwin Boulevard Bridge is located in local landscape character area A9 Blackwater River Valley. The overall assessment of the landscape effect on this landscape character area is assessed as large adverse during construction and during operation in year 1, and moderate adverse during operation in year 15 [APP-120].</p> <p>Visual effects are assessed in 9.26 Technical Note Gershwin Boulevard Bridge [REP3-011]. The proposed Gershwin Boulevard Bridge is assessed as having a very large adverse visual effect on the representative viewpoints presented in Appendix A - Visual Impact</p>

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		<p>completes but this will take 15 years (according to the Applicant's data). This timescale takes the impact to minor impacts by year 15 but Braintree would like to note that we are not confident that there will be moderate impacts. The physical changes will cause more significant effects that the Applicant has reported. With relation to comments on LIR, the Applicant needs to look at location issues of trees and to have an implementation programme to further mitigate further impacts at this location and Braintree look forward to working with the Applicant to get a plan to mitigate impacts.</p> <p>In summary, Braintree accept a bridge is required and is not concerned with the location.</p>	<p>Assessment of the Gershwin Boulevard Bridge technical note [REP3-011] during construction and in year 1. At year 15 when mitigation planting has established this would reduce to a moderate adverse visual effect.</p> <p>Year 15 is the design year for assessment required by the Design Manual for Roads and Bridges LA 107 Landscape and visual based on the industry standard Guidelines for Landscape and Visual Impact Assessment Third Edition, not when trees would be mature. Vegetation establishes at different rates depending on species, size of stock at the time of planting and local growing conditions. The Applicant states in REP4-055 that during detailed design the inclusion of evergreen species, larger stock and fast-growing species would be considered to provide early establishment and screening.</p> <p>The extent of tree loss at the proposed and alternative locations would be similar and much of this loss is due to the widening of the A12 regardless of the location of the bridge. Vegetation loss for the proposed scheme is shown on the Retained and Removed Vegetation Plans Part 1 Sheet 8 [APP-035].</p>
4.9	ELAF	<p>Land Use – Fisheries</p> <p>ELAF have suggested that instead of the proposed footpath at the Fisheries at Coleman's Cottages looping back on itself back to Little Braxted Road, it would be more beneficial to go south towards the Whetmead Nature Reserve. It would seem to the ELAF that this would be a more useful active leisure route for Witham residents. ELAF do not expect or require the Applicant to deliver a bridge.</p>	<p>The Applicant has provided responses to the Landowners and the Examining Authority on this matter, and has made submissions in its Deadline 4 Submission – 9.41 Applicant's Comments on Responses to ExQ2 [REP4-055] at section 2.13.1.</p> <p>The Applicant is aware of its obligation under Section 136 of the 2008 Planning Act. Today walkers are afforded a pleasant route to the west of the fisheries and it is the 1963 provision of the Witham Bypass that discourages them from continuing towards Freebournes Road. The Applicant has sympathy for the disruption the provision of the alternative route proposed towards Little Braxted Bridge between the lake and the</p>

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		<p>Can the Applicant confirm how many bridges, other than that at Gershwin Boulevard, that have been labelled as walking, cycling, horseback (WCH) bridges in plans are now going to change to pedestrian only status?</p>	<p>A12 itself, but has allowed for a suitable alternative right of way. If this is deemed to not be required, then we will not provide it, but as has been previously stated, it is not the dedication of the footpath governing the extent of title acquisition in this location, but the provision of safely maintainable earthwork slopes facilitating the A12 widening.</p> <p>In relation to the suggestion to move the route south towards the Whetmead Nature Reserve, the Applicant has made commitments to the landowner of the Fisheries at Coleman's Cottages to minimise the impacts of the footpath as shown on current plans relating to future and ongoing access/maintenance and security.</p> <p>Therefore the Applicant does not agree with ELAF's representation that the footpath be moved, for the proposed footpath to head towards Whetmead instead of towards the Little Braxted Bridge, and notes that a change has been made at Deadline 4 allowing flexibility which will allow slight changes to the footpath (so it would be possible, if necessary, to move the footpath slightly further away from the existing lake).</p> <p>Whilst the Applicant believes the proposed route is the preferred option, it should be noted that the Applicant is currently consulting on a number of non-material amendments, which includes a new replacement land strategy. Once the consultation has closed, in lieu of any warranted objection, the Applicant will submit an application to bring in these proposed changes. Should the proposed change to replacement land for the benefit of Witham Town Council be accepted into the application by the ExA, then the plot 9/1h would no longer be dedicated as open space.</p> <p>The Applicant's response to REP2-030-004, in Deadline 3 Submission - Applicant's Comments on Written Representations [REP3-009], refers to 'a series of interventions that could enable future opportunities, by others, outside of the DCO which cannot be realised at this time'. One</p>

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			<p>of these interventions may have been to create a permissive path over land to be retained by National Highways (and also co-incident to the Private Means of Access (PMA) that would have been for the benefit of Witham Town Council) to link parcels 9/1a and 9/1h (from north of Whetmead to South of Colemans Fishery. As the PMA would no longer be needed, nor would 9/1h be needed as replacement land, so the opportunity outside of the DCO to link the Whetmead Nature Reserve to the rights of way over Little Braxted Bridge is reduced. However, land would remain within the Order Limits over which a future Permissive Path or Right of Way could be granted.</p> <p>The Streets, Rights of Way and Access Plans show the classifications of footpaths and the Applicant would be happy to meet with ELAF to clarify this. The designs also include consideration of wheelchair users in terms of gradient as well as headroom for horseback.</p>
4.10	<i>ExA</i>	The ExA notes that the Applicant has had further discussions with ECC and has requested that the Letter of Intent be incorporated into the examination.	The Applicant issued a Letter of Intent on Monday 24 April 2023, which was submitted to the Examination on 28 April 2023 [AS-060].
4.11	<i>ExA</i>	The ExA notes ECC's submission regarding LTN 1/20. Can the Applicant come back on this submission and provide an explanation on its non-compliance with specific regard to the allowance of an adequate turning space.	LTN 1/20 is hierarchical guidance, and the Applicant recognises the need to strike a balance between the attractiveness of bridges to cyclists regarding their alignment, and the visual intrusion that these bridges may cause. The Applicant maintains the preliminary design accords with the minimum standards contained within this guidance and acknowledges that there is potential to meet higher standards contained within LTN 1/20 within the limits of deviation already contained in the Order.

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			<p>The Applicant has submitted a Letter of Intent to ECC [AS-060] regarding improvements to proposed walking, cycling and horse-riding bridges that have developed during detailed design.</p> <p>These matters are currently in discussion with ECC and draft wording was provided to them prior to a meeting on 4 May 2023. We will provide the Examining Authority with a copy of the drafting once those discussions have progressed, so that the Applicant can provide as agreed a position as possible.</p>
4.12	<i>Keith Lomax</i>	The Applicant has previously stated that pedestrian-only footbridges are to be constructed so to allow upgrades should the authorities wish to do so. Can it be confirmed whether such footbridges are to be built in accordance with WCH design.	Mr Alves-Greenland explained that structurally it is often the case that pedestrian only bridges, and those also for cycling or horse-riding, take the same form due to the gradient required to enable use by disabled users, whereby the maximum gradient is 1:20, as governed by the Design Manual for Roads and Bridges. The Applicant can confirm that this footbridge has been designed to allow future use by ridden horses and as such has 1.8m high parapets rather than the 1.15m if designed without future-proofing for other users.
5		The ExA requested that the Applicant provide an update on the Applicant's alternative route discussions with Cadent gas.	Discussions with Cadent are ongoing on the detailed design and those discussions are progressing well. A lot of technical detail is being worked through at the moment – particularly with regards to no drilling under both the river and the woodland at Blue Mills. The Applicant expects to be able to update the Examination on this issue shortly and hopes to be in a position to provide a REAC commitment on this matter by Deadline 5. However, the Applicant's ability to do so is dependent on reaching agreement with Cadent.

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5.1	<i>Maldon District Council (MDC)</i>	<p>MDC welcomes the steps that have been undertaken in respect of Blue Mills as that was our main area of concern. We appreciate the Applicant has recognised the recommendation for this to be an LWS. We have three main points to note.</p> <p>1. We would like to understand what mitigation is going to be provided within Maldon district itself in terms of the impacts on the nature reserve. We do not consider that mitigation in terms of compensation and biodiversity net gain can be provided on a blanket basis across the overall scheme but rather it needs to be site specific.</p> <p>2. The Applicant has undertaken botanical surveys etc. and we would like clarification as to when the relevant documents (biodiversity important habitats sheet etc.) would be updated.</p> <p>3. How will the habitats be safeguarded during construction and operation? MDC would like some assurances to understand how protection will be afforded to habitats.</p>	<p>1. In accordance with the mitigation hierarchy we have sought to try and avoid impacts, hence the ongoing conversations with Cadent. There are measures in the Register of Environmental Actions and Commitments (REAC) [REP4-023] that contribute towards this, specifically:</p> <ul style="list-style-type: none"> • LV13, to retain as much existing vegetation as practicable; • LV14, to replant along the easement in accordance with the utility company's guidance and best practice; • LV15, to reduce the working width as far as reasonably practicable through woodland and where the gas main diversion crosses hedgerow field boundaries and use trenchless techniques for all main river crossings; • BI38, to minimise impacts on the black poplar; and • RDWE38, to use trenchless techniques under the River Blackwater. <p>The construction of the gas main does not affect the extent of the potential Blue Mills Local Wildlife Site, and as such there is no proposal to provide any additional mitigation land. As stated in sub-question REP2-069-007 of the Applicant's Response on Written Representations [REP3-009], as per commitment LV14 of the REAC [APP-185], loss of woodland habitats would be partly mitigated through replanting along the easement of the gas main diversion and the works would be carried out in accordance with the utility company's guidance and best practice standards. Where woodland vegetation is lost and trees cannot be replaced in situ due to the restrictions of utility easements, native shrub planting would be used in line with the relevant utility company's guidance. Although construction of the pipeline would lead to a loss of trees, it is effectively creating a ride through the woodland. This will increase the diversity of habitats, providing open areas which may</p>

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			<p>benefit some plant and insect species. Whereas other insects and plants, as well as birds and mammals, could benefit from the woodland edge habitat.</p> <p>2. At Deadline 2 the Applicant submitted the botanical survey report [REP2-027], with a Phase 1 Habitat Plan (Figure 1) but is not proposing to update any further drawings.</p> <p>3. Mitigation would be safeguarded through different REAC commitments, specifically:</p> <ul style="list-style-type: none"> • LV4, existing vegetation would be retained as far as possible; • LV5, supervision of works to trees protected by a Tree Preservation Order; • LV6, an arboricultural method statement and tree protection plan; • LV13, routes of utility diversions would seek to retain as much vegetation as possible; • LV14, replanting along the easement of the gas main diversion; • LV15, reduction in the working width of the gas main diversion; • LV16, development and implementation of the Landscape and Ecology Management Plan; • BI1, ECoW during construction; • BI2, exclusion zones;

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			<ul style="list-style-type: none"> • BI4, timing of works to avoid sensitive periods; • BI5, inspection and clearance of habitats with potential to support protected species under supervision of ECoW; • BI9, buffer zones around sensitive features including watercourses; • BI11, preconstruction surveys; and • BI48, appropriate controls to minimise impacts on the black poplar and potential otter holt.
5.2	<i>ExA</i>	Can the Applicant confirm that all commitments are to be secured through the REAC?	The Applicant can confirm that this is correct.
5.3	<i>Essex Country Council (ECC)</i>	In terms of bats, ECC thanks the Applicant for submitting Figure 1 Barbastelle Bat Activity [REP3-021]. ECC have also checked the information in relation to roosting bats and are now happy to agree and include in the SoCG. ECC are still not in agreement as to whether the proposed planting and possible bat hopovers would be effective, and so welcome further discussion with the Applicant's team.	<p>Discussions are to continue and hopefully the Applicant and ECC can reach an agreed position, to be reflected in the Statement of Common Ground.</p> <p>The Applicant notes that a revised bat licence was submitted to Natural England on the 23 March 2023. It is the Applicant's view that the revised document addresses the minor comments received from Natural England on the Draft Bat Licence, submitted to the examination as part of the original submission [APP-140]. The Application is awaiting further comment from Natural England but is hopeful the revised document would lead to the issue of a Letter of No Impediment with respect to bats. Once the Letter of No Impediment has been issued the Applicant understands items 1.11 and 5.2 in the Statement of Common Ground with Natural England [REP4-035] would move to 'agreed'.</p>

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5.4	ExA	The ExA requested an update on discussions with the Environment Agency (EA) with regards to issues associated with the proposed use of culverts.	<p>Deadline 4 (ExQ2, question 18.5) [REP4-055] outlined the Applicant's position with regards to culverts. The Applicant submits that since the culverts do not give rise to any likely significant impacts they are acceptable in policy terms and do not require further justification. The Applicant considers that there is no legal or policy requirement for the Secretary of State to consider alternatives to the culverts proposed. The overall position has not changed since.</p> <p>The Applicant also notes that the EA have not adopted the approach they are taking on this Scheme anywhere else in the country.</p> <p>The Applicant has had regular meetings with the EA over a significant period of time to discuss culverts and other issues, the most recent of which was on 5 May 2023. Topics discussed during this meeting included culverts, eel and mammal passage and biodiversity net gain. The Applicant presented information which is being submitted within Deadline 5 response reference C2-023, and overall, the Environment Agency were supportive of the Applicant's rationale for mitigation proposals for eels and mammals within existing/modified crossings, although further discussions are needed to progress the matter of new culvert crossings. In the interim, the Environment Agency have offered to provide details of the A47, another National Highways' scheme where culverts have been introduced successfully. No further issues were raised regarding biodiversity net gain and the Environment Agency are going to look into the difference in approach to the proposed scheme compared with the Lower Thames Crossing.</p>
5.5	<i>Environment Agency (EA)</i>	The EA's position has not changed since the Relevant Representations and Written Representations. Namely that we do not believe the Applicant has demonstrated that there will not	In our Applicant's Response to ExQ2 (page 98) [REP4-055] in response to the EA's stated position, we have said that we have to look at alternatives where there are significant effects. We are seeking to

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		<p>be adverse impacts on habitats and species as a result of the new main river crossing and extensions to the existing crossings. This is the principle issue. The main river crossings would require a Flood Risk Activity Permit (FRAP) from a separate team within the EA, and when we consider applications for FRAPs where culverts are proposed, it has to be demonstrated why culverting is necessary and the only other option. We need to see an assessment to demonstrate that culverting will not result in an unacceptable impact on habitats and species present, and mitigation in place to nullify those impacts.</p>	<p>understand what the legal and/or policy basis is for EA's position that reasonable and practicable alternatives have to be examined in relation to culverting. At present, our position is that there is no legal or policy requirement to look at open span crossings, this approach is not being adopted elsewhere in the country with the EA relating to other road schemes. We have not yet received a response to what we have said in our responses to ExQ2 [REP4-055] and are looking forward to exploring it further to understand the duty for alternatives to be pursued. The Applicant would like to be provided with copies of the policies relied upon and supporting evidence as to the approach taken by the EA which requires the Applicant to look at alternatives.</p>
5.6	<i>ExA</i>	What mitigation is the Applicant proposing?	<p>The Applicant proposed as part of the Water Framework Directive Assessment [APP-159] and within Chapter 14: Road Drainage and the Water Environment [APP-081] that sediment within the riverbed would be provided for naturalisation, to facilitate passage of species and to provide mitigation for denaturalisation during extensions of culverts. The Applicant's submission in REP3-009 details the provisions being made in relation to mammal ledges for otters.</p>
5.7	<i>Environment Agency (EA)</i>	<p>The EA's initial concern is that the mitigation hierarchy was not followed in the beginning, there has been no avoidance of the impacts. We are less concerned with culverts over Ordinary Watercourses but have real concerns about treating our main river catchments as field drains (as seems to be the case here). The impacts should have been avoided in the first instance.</p>	<p>The Applicant notes two conflicting positions from the EA. The EA's representatives mentioned policies that have been in place for decades. The Applicant welcomes copies of such policies and would be happy to review these closely. The Applicant is sure that the EA can provide copies of these quickly so as to facilitate discussions.</p> <p>In terms of the suggestion the Scheme has been designed on the cheap, that is refuted absolutely. The Scheme has been designed with</p>

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		<p>We never had any evidence of any avoidance plans or designs. Several years ago, when we were first invited to a meeting, it was made clear that EA would not accept culverting (under the Environment Act 1995). The EA has a legal duty to conserve and enhance the environment in everything we do. When issuing permits, we have to show there is enhancement through the process. Clearly culverting main rivers is not something we agree to. The EA has had a long standing culverting policy in place for Ordinary Watercourse and Main Rivers for over 25 years. We can provide the latest copy of that. Clear span bridges are a useful option that deliver the avoidance of negative impacts. Otter ledges are expected as an absolute minimum. The Applicant has recently offered to carry out some monitoring but admit there's little evidence that otters will travel to the depths proposed. This is an extraordinary scheme which has been designed on the cheap. We are concerned it is not being done properly. The enhancements proposed are small additions that are not going to undo the overall negative impacts of long, dark culverts. Also, the point of Biodiversity Net Gain (BNG) which may or may not be delivered by this Nationally Significant Infrastructure Project (NSIP). As some calculations have been done on it, we assume National Highways would like to deliver BNG. If that is the case, we would like to see the calculations done to the current BNG</p>	<p>the input of professional experts to progress a design that has been assessed closely and is acceptable when appraised against the NNNPS. The Examination has the benefit of the Applicant's assessment, but does not have one from the EA.</p> <p>In line with the mitigation hierarchy, the Applicant has sought to avoid impacts where possible. As detailed within Chapter 3 Assessment of Alternatives [APP-070] the refinement of Option 2 for the proposed scheme at PCF Stage 2 provided environmental benefits including reducing potential development within the floodplain. By utilising the existing crossing of the River Blackwater (Ashman's Bridge) potential effects from severance of the river from construction of a new structure were avoided.</p> <p>As also detailed within Chapter 3 Assessment of Alternatives [APP-070], value engineering of the refined Option 2 enabled retention of the River Ter Bridge width, avoiding potential effects from widening of the structure.</p> <p>In accordance with the mitigation hierarchy the Applicant has also sought to avoid impacts by retaining existing vegetation (including riparian habitat) as far as reasonably practicable and will continue to do so as the detailed design develops. This is committed to in LV4 in the Register of Environmental Actions and Commitments (REAC) [REP4-023] and shown on the Retained and Removed Vegetation Plans [APP-035 and REP4-007]. Where it has not been possible to avoid loss of vegetation, mitigation measures have been proposed. The measures of most relevance to this response are provided below, with full details available in Section 9.10 of Chapter 9 [APP-076].</p> <p>To avoid loss of habitats with importance to wildlife, an Ecological Clerk of Works (ECoW) would be available during the phase of site clearance to assess and advise on retention of habitats (as committed to in B11 in</p>

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		<p>metric and using the rivers and watercourse metric as well, as we do not believe it is delivering properly for BNG or the WFD or for protected species like water voles or otter. Putting a ledge in a dark tunnel is ensuring that if a mammal makes it through there, they will have to go along the same unnatural ledge at height through a long, dark, concrete noisy tunnel, forcing predators and prey together. We have had similar issues elsewhere with National Highways but not with Essex Highways, or other local highways. [Recent example provided of a National Highways scheme in Norfolk] where the EA insisted that we needed to have a better, wider bridge across the river and National Highways took that on board and provided a 10m span and natural buffer strip of riverbank on either side. Culverts also do not serve fish well either – for example, eels struggle to get up narrow culverts against the velocity of fast flow.</p>	<p>the REAC [REP4-023]).</p> <p>While the Applicant acknowledges the potential adverse impacts associated with habitat loss and fragmentation (as stated in paragraph 9.9.5 of Chapter 9 Biodiversity [APP-076], the biodiversity assessment [APP-076] concludes that the implementation of standard and embedded mitigation measures would reduce these impacts to not significant (Section 9.11).</p> <p>Guidance on the 4.0 metric states ‘users of previous versions of the Biodiversity Metric should continue to use that metric (unless requested to do otherwise by their client or consenting body) for the duration of the project it is being used for’. It is the Applicant’s view that a full update of the Metric to version 4.0 would be disproportionate, particularly considering that there is no national legislation which mandates Biodiversity Net Gain.</p> <p>With respect to the use of the metric for calculating the net gain in rivers and streams, please refer to the Applicant’s response to sub-question REP2-053-012 within the Applicant’s Response to Written Representations [REP3-009]. In summary, the Applicant has undertaken the biodiversity net gain assessment in accordance with the defined methodology which requires calculations for ditches and rivers to be combined into a single figure (and this remains the case in metric 4.0). The footnote associated with Table 3 in Environment Statement Appendix 9.14: Biodiversity Net Gain Report [APP-138] is to provide transparency, detailing Biodiversity Net Gain scores for each habitat type selected in the River and Streams Metric. Despite what is noted as a 0.36% net gain in the habitat type for the rivers and streams metric</p>

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			referred to as 'other river and stream', the rivers and streams metric has calculated a net gain of 156.73% and therefore does show a clear delivery of Biodiversity Net Gain.
6	ExA	<p>Material Assets and Waste Borrow Pits The ExA will ask the Applicant to provide a brief overview and justification for the use of borrow pits, focusing on the following:</p> <ul style="list-style-type: none"> • Clarification of the total amount of material required across the Proposed Development; • What alternatives have been considered and why they have been discounted; and • The benefits of the use of borrow pits as opposed to off-site sources. <p>Update the ExA on the current position with regards to Colemans Quarry and how this impacts upon the strategy with regards to borrow pits.</p>	<p>Amount of material required across the proposed development</p> <p>The Applicant refers to the A12 Proposed Scheme Earthworks Deficit Plan [Appendix A in 9.53 Applicant's Response to ISH3].</p> <p>The requirement for borrow pits on the proposed Scheme is explained in the Borrow Pits Report [APP-278] in Section 2.4, which states that several design constraints have resulted in a highway alignment with an imbalance of earthworks material required to construct the proposed scheme embankments.</p> <p>The imbalance was calculated using a considerable amount of volume modelling work and mass haul scheduling by earthworks specialists, using industry best practice. This determined an earthworks material deficit in the Order of 600,000m³ shown to exist at the proposed junctions 21 and 22. This is summarised in the Borrow Pits Supplementary Technical Note [REP1-011] in Section 3.</p> <p>It is also worth noting that the volume modelling has calculated that a further 445,000m³ of Class 6 granular engineering fill material is required for engineering purposes.</p> <p>Table 3.2 in the Borrow Pits Supplementary Technical Note [REP1-011] summarises the cut and fill volumes calculated across the proposed development. The headline figures are:</p> <ul style="list-style-type: none"> • 1.3Mm³ of suitable cut material generated from excavating the

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			<p>proposed alignment / ponds / drainage and structures.</p> <ul style="list-style-type: none"> • 1.9Mm3 of fill material required to construct the proposed embankments. <p>This therefore leaves a shortfall of 0.6Mm3 to be sourced.</p> <ul style="list-style-type: none"> • 445,000m3 of granular engineering fill for higher performance requirements around structures and pavement foundations. <p>300,000m3 of this is proposed to be sourced from Borrow Pit J, with 125,000m3 of higher-grade materials to be sourced from the market.</p> <p>Alternatives that have been considered</p> <p>The options considered for meeting the calculated deficit are also detailed in the Borrow Pits Supplementary Technical Note [REP1-011] in Section 4. These are:</p> <ul style="list-style-type: none"> • Sourcing material from the market such as aggregate suppliers and local quarries, including the use of local railheads. • Sourcing material from other local construction projects. • And from borrow pits within the proposed scheme Order Limits. <p>The report notes that the preference is to use a cohesive (Class 2) material because it is more readily available within the ground, and is a more economically and environmentally viable way of meeting the earthworks specification.</p> <p>For example, using the available cohesive material is considered more resource efficient than using an equivalent granular (mineral) aggregate material that is of a higher specification than is required for the</p>

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			<p>construction of proposed scheme's earthworks.</p> <p>Mineral aggregates are typically reserved for higher value construction applications (e.g. for use in sub-base, capping, drainage, asphalt and concrete etc).</p> <p>Ensuring that materials and products are used at their highest utility and value at all times is one of the key principles for transitioning to a circular economy.</p> <p>Section 4.6 of the report summarises that sourcing the required volume of material from the market, or other local sources is not viable due to:</p> <ul style="list-style-type: none"> • The availability of volumes of material required cannot be guaranteed at this stage. • The rate of import required to meet the proposed scheme programme cannot be met due to the restrictions of road hauling material in from outside of the Order Limits • The cost of importing material from external sources is significantly more expensive (by as much as £25M) than winning and processing material from borrow pits within the proposed scheme Order Limits. • The GHG emissions associated with the road hauling activity are significantly more than from borrow pits within the proposed scheme Order Limits. <p>Benefits of the use of borrow pits</p> <p>The benefits of the use of borrow pits as opposed to off-site sources include:</p> <ul style="list-style-type: none"> • They are necessary for securing the quantity and quality of

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			<p>material required to meet the proposed scheme need ensuring it is available exactly when required.</p> <ul style="list-style-type: none"> • Borrow pits are the least impactful option in environmental aspects assessed and the mitigation of construction impacts can be suitably controlled. • Borrow pits are the most cost effective and efficient solution to meeting the proposed scheme's earthworks volume deficit ensuring the programme and budget can be achieved. • Borrow pits have reduced road traffic and health and safety risks. • Similarly, the borrow pits are not subject to the vagaries of external market factors that can have significant impacts on the delivery of proposed scheme earthworks affecting the programme duration and overall cost of the Scheme. <p>Therefore, including borrow pits within the proposed scheme Order Limits is the most suitable option available.</p> <p>Colemans Quarry Contingency</p> <p>The allowance for backfilling Coleman's Quarry is a contingency event to provide 950,000m³ of quarry backfill material from various sources (up to 300,000m³ from Borrow Pit J overburden, plus up to 650,000m³ from external import) with an assessed low likelihood of occurrence. 350,000m³ of this 650,000m³ is expected to be available immediately adjacent to the proposed scheme at the quarry site, but outside Order Limits.</p>

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			<p>The Applicant could not justify further Compulsory Acquisition of land to meet the quarry deficit of 950,000m³ because it is anticipated not to be needed. However, should the low risk event occur, the Applicant has assessed the environmental impacts of importing material from external sources, as it would not be appropriate to include for all of this low level contingency event from the Borrow Pits. Whilst the materials could be delivered within the HGV movements capped by the forecast in the peak year of 2025, any increase in imported materials will result in;</p> <ul style="list-style-type: none"> • an increase in vehicles using the roads, • increased haulage distances and movements <p>with an associated increase in;</p> <ul style="list-style-type: none"> • cost, • carbon, • road traffic and health and safety risks • measures needed to be implemented to minimise programme risk <p>and associated decrease in;</p> <ul style="list-style-type: none"> • certainty of supply • certainty of materials meeting required specification <p>It should also be noted that should this low risk event occur, it would do so in a range somewhere between the theoretical minimum of 1m³ and the maximum of 950,000m³. With the above mitigation in place, should it occur, the Applicant would expect the risk event to be at the lower end</p>

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			<p>of the scale.</p> <p>The Applicant is therefore not anticipating importing material from the external open market because it has mitigated already against this event through the combination of the material already available at the quarry, outside of Order Limits, and at Borrow Pit J.</p> <p>In relation to the importation of external resources, the issues surrounding Coleman's Quarry relate to risk. The relevant planning permission has not yet been granted due to delays by ECC's legal department in completing a Section 106 Agreement, but is expected soon. The risk relates to the risk of the quarry failing and so is small and thus it is the level of risk that is acceptable.</p> <p>In terms of temporary possession issues, the Applicant can confirm that discussions continue and progress is being made (please see document 9.55, written submission of oral case for Compulsory Acquisition Hearing 2, section 3.1 for more details).</p>
6.1	ECC	The planning permission relating to Colemans Quarry was granted, on January 2023, subject to a section 106 agreement and is currently awaiting comments from ECC's legal team and so cannot provide a comment on timescales. ECC note that it has been determined that such planning permission will require an environmental statement. The ECC will submit the Committee Report.	The Applicant notes that ECC have submitted the committee report for the Colemans Quarry planning applications to the Examination as AS-056.
6.2	<i>J & A Bunting and</i>	The A12 Proposed Scheme Earthworks Deficit Plan [Appendix A in 9.53 Applicant's Response to	Borrow Pit J Volumes

Ref:	Comment/ Representation by:	Questions/Issues Raised at the ISH3	Applicant's Response
	Sons (<i>Bunting</i>)	<p>ISH3] suggests that there is 300,000m³ of material required. Bunting note that previously over 400,000m³ was mentioned.</p> <p>Can the Applicant confirm the correct figures and clarify how the quarry operator is being incentivised to minimise the risk of not meeting (the backfill) programme?</p> <p>In addition, can the Applicant clarify what would happen to the 300,000m³ overfill from Borrow Pit J?</p>	<p>The calculated granular engineering material deficit for the proposed scheme is provided as a rounded figure of 445,000m³, given in the Borrow Pits Supplementary Technical Note [REP1-011] paragraph 1.1.5. This figure was not included in the previous Borrow Pit Report because it focussed on the volumes to be won from the four borrow pits and excluded materials expected to be won from offsite, which are not available from within the Borrow Pits. The Supplementary Technical Note was then submitted to provide more context on the need for borrow pits, and subsequently included the above volumes.</p> <p>The granular engineering material volume required from Borrow Pit J is 300,000m³ as stated in the Borrow Pits Report [APP-278] paragraph 6.4.14.</p> <p>As stated in the Borrow Pits Report [APP-278] paragraph 1.1.4, there are high quality aggregates that are not available from within the proposed scheme borrow pits. These will need to be imported from outside of the proposed scheme Order Limits, which explains the difference between the 300,000m³ (available on site) and the 425,000m³ (total required (including available on site and needing to be imported)).</p> <p>The Borrow Pits Report [APP-278] paragraph 6.4.17 states that the material won from Borrow Pit J will preferably be used as a Class 6 granular fill, and that it could also be used as a Class 1 fill if required.</p> <p>Coleman's Quarry Operator Incentivisation</p> <p>The Applicant has a commercial agreement with the quarry operator to ensure the quarry is backfilled in a timely manner. The contents of this private commercial agreement are confidential and cannot be publicised. However, ahead of construction commencing the quarry operator has the opportunity to both sell any won aggregates that would</p>

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			<p>otherwise be sterilised by the proposed scheme and the opportunity to offer a disposal site at commercial rates.</p> <p>If the 300,000m³ of overburden material in Borrow Pit J is not used for the quarry contingency event, it will be used to partially backfill the void in Borrow Pit J.</p>									
6.3	<p><i>Parker Strategic Land and Henry Robert Siggers ('Siggers and Parker')</i></p>	<p>The figures in the A12 Proposed Scheme Earthworks Deficit Plan [Appendix A in 9.53 Applicant's Response to ISH3] differ from those contained in the Borrow Pits Report [APP-278] paragraph 5.4.4. Can the Applicant confirm which volumes are now required?</p> <p>Siggers note that if the Applicant dug down rather than outwards, less land would be required and Borrow Pit I would no longer be required.</p>	<p>Plan Area (m2) and volume (m3)</p> <p>The figures in the A12 Proposed Scheme Earthworks Deficit Plan [Appendix A in 9.53 Applicant's Response to ISH3] do not differ from those contained in the Borrow Pits Report [APP-278]. The figures provided in paragraph 5.4.4, as suggested, are approximate land plot <u>area measurements</u> for each of the borrow pits. This is identifiable by the unit of measurement being in metres squared (m²). These are therefore <u>not volumes</u>.</p> <p>The volumes are provided in different sections of the report. The specific report references to the volumes stated are given here:</p> <table border="1" data-bbox="1160 970 1765 1348"> <thead> <tr> <th>Element</th> <th>Volume (m³)</th> <th>Reference</th> </tr> </thead> <tbody> <tr> <td>J21 deficit</td> <td>200,000</td> <td>The Borrow Pits Report [APP-278] paragraph 2.4.6</td> </tr> <tr> <td>J22 deficit</td> <td>400,000</td> <td>The Borrow Pits Report [APP-278] paragraph</td> </tr> </tbody> </table>	Element	Volume (m ³)	Reference	J21 deficit	200,000	The Borrow Pits Report [APP-278] paragraph 2.4.6	J22 deficit	400,000	The Borrow Pits Report [APP-278] paragraph
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					2.4.6
			Borrow Pit E	100,000	The Borrow Pits Report [APP-278] paragraph 6.1.12
			Borrow Pit F	100,000	The Borrow Pits Report [APP-278] paragraph 6.2.11
			Borrow Pit I	400,000	The Borrow Pits Report [APP-278] paragraph 6.3.12
			Borrow Pit J	300,000	The Borrow Pits Report [APP-278] paragraph 6.4.14
			Coleman's Quarry deficit	950,000	The Borrow Pits Report [APP-278] paragraph 2.4.9

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			Coleman's Quarry Planned Works, material available in quarry for backfill	350,000	The Applicant's written submission of oral case for Compulsory Acquisition Hearing [REP3-014] reference 28
			Coleman's Quarry Contingency, Borrow Pit J overburden	300,000	The Borrow Pits Report [APP-278] paragraph 6.4.14
			Coleman's Quarry Contingency, Road Import	650,000	The Borrow Pits Report [APP-278] paragraph 2.4.9
			<p>Excavation size</p> <p>As stated in the Borrow Pits Report [APP-278] the intention is to win earthworks material above the groundwater table as far as practicable in order to minimise impacts and avoid the need to mitigate against displacing groundwater. Combining this with natural variations of the target material within the ground and the potential presence of palaeolithic archaeology, has driven the land requirement size (footprint</p>		

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			<p>– m²) for each borrow pit. The proposed land requirement includes space for temporary soil storage, groundwater management, processing of excavated materials and welfare areas.</p> <p>The Applicant is willing to discuss winning the required volume of material from a smaller plan footprint within the borrow pits provided the impacts from displaced groundwater do not exceed that which has been assessed in the Environmental Statement.</p>
6.4	<p><i>J & A Bunting and Sons (Bunting)</i></p>	<p>The initial borrow pits report [APP-278] did not include mention of the [445,000m³ class 6 material] and Bunting consider that it will be in a supplementary report and thus there is a lack of confidence in the Applicant. It is unclear whether the impacts/use of Borrow Pit J can be minimised, by using stabilisation with additives for example.</p> <p>Can the Applicant confirm whether any heave testing has been carried out to determine sulphate risks and if there are any risks, what is being done to minimise such risks?</p> <p>Can the Applicant also confirm that none of the materials from Borrow Pit J will be used as a Class 1 material</p>	<p>Please see response above in 6.2 for clarity on volumes stated.</p> <p>Borrow Pit J and Material Stabilisation</p> <p>In response to the assessment of sulphate risks raised by the Interested Party's representative, the Applicant can confirm that, with the information currently available from the Scheme specific surveys (which have been made available to the Interested Party), the presence of principal sulphate bearing strata along the route, has been investigated from chemical tests undertaken to determine the Total Potential Sulphate (TPS). This enabled an initial assessment to be undertaken to determine the potential risk of chemical heave of stabilised cohesive material. The tests indicated highly variable TPS with a significant number of results >1% TPS. Given the higher values and variability, the Applicant considered the risk of long term isolated chemical heave of a stabilised capping / ground improvement layer (including using other additives to attempt to control the risk) to be sufficiently high to discount its use on the Scheme for this purpose.</p> <p>As mentioned above, regarding the use of materials from Borrow Pit J, the preference is for the material to be used as a Class 6 granular fill, but it could also be used as a Class 1 fill if required.</p>

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6.5	ExA	Can the Applicant confirm whether it will still be relying on section 43 of the Freedom of Information Act 2000 as a justification for the redactions within Borrow Pits Cost Information [REP3-023]	<p>The Applicant can confirm that it continues to rely on section 43 of the Freedom of Information Act 2000. The Applicant has been given very specific information by commercial operators and the Applicant would, if submitted into the examination, be revealing commercially confidential information. There is no legal obligation to release such information and this position is supported by case law. The judgment held in R (Holborn Studios) v London Borough of Hackney (No 2) 2020, does not apply in this case as the case is specific to the provisions of the NNPF to which there is no equivalent here. The law prior to this case can be found in R (Bedford & Clare) v. Islington LBC & Arsenal FC [2002] EWHC 2044 Admin which provides that the duty of public engagement is satisfied where the 'gist' of the information has been given. The Applicant has provided the 'gist' of the information within the Borrow Pits Cost Information [REP3-023] to allow objectors to engage to a level which is legally sufficient.</p> <p>The Applicant has revised the presentation of the data with the intention of being able to show more clearly how the differing totals have been calculated without sharing commercially confidential information. From this it can clearly be seen that:</p> <ul style="list-style-type: none"> • for external import options, all land costs and borrow pit operating costs have been excluded from the estimates, costs for disposal of unsuitable materials have been included; and • for borrow pit options, dewatering has been included along with other operating costs as well as lands costs.
6.6	ExA	Can the Applicant confirm that it is relying on the correct exemption and not an Environmental Information Regulations exemption?	Please refer to the Applicant's response at item 6.7.

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6.7	ExA	<p>In relation to the Holborn case as noted by the Applicant, the ExA notes that Mr Justice Dove came down heavily and affirmed that it should only be applied in exceptional circumstances. The ExA considers it to be difficult for the public and objectors to understand the material due to the volume of redactions.</p>	<p>The Applicant will review the content to ensure the Panel and Interested Parties are able to understand the 'gist' of the information.</p> <p>The Freedom of Information Act 2000 provides at section 43(2) that “Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it).”</p> <p>The financial information provided to the Applicant by aggregate operators was provided on the basis that it was commercially confidential and should not be disclosed to third parties. Since it sets out the rate that they would charge, it would be hugely commercially advantageous to the competitors of those operators if this information were released in the public domain and would obviously prejudice the commercial interests of those operators.</p> <p>It would also be prejudicial to the commercial interests of the Applicant and indeed to the public interest. If the material were disclosed it will adversely affect the ability of the Applicant in future to obtain relevant costs information in relation to other road schemes, since disclosure in this process would inhibit operators from providing this information again in the future. This means that the Applicant would not be able to develop real-world costs assessments for its schemes going forward. This would hamper its ability to assess the appropriate alternative means of constructing schemes and could adversely affect its ability to negotiate contracts with suppliers. Given that the Applicant's role is to deliver road schemes in the public interest this would have significant consequences which would be against the public interest.</p> <p>For these reasons, the Applicant considers that in all the circumstances of the case, the public interest in maintaining the confidentiality of that information outweighs the public interest in disclosing it.</p>

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			<p>In addition to the Freedom of Information Act 2000, the provisions of the Environmental Information Regulations 2004 are relevant. Regulation 12(1) provides:</p> <p>“(1) Subject to paragraphs (2), (3) and (9), a public authority may refuse to disclose environmental information requested if–</p> <ul style="list-style-type: none"> (a) an exception to disclosure applies under paragraphs (4) or (5); and (b) in all the circumstances of the case, the public interest in maintaining the exception outweighs the public interest in disclosing the information.” <p>At Regulation 12(5) of the EIR, it is stated that:</p> <p>“For the purposes of paragraph (1)(a), a public authority may refuse to disclose information to the extent that its disclosure would adversely affect–</p> <p>...</p> <ul style="list-style-type: none"> (e) the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest; (f) the interests of the person who provided the information where that person– <ul style="list-style-type: none"> (i) was not under, and could not have been put under, any legal obligation to supply it to that or any other public authority; (ii) did not supply it in circumstances such that that or any other public authority is entitled apart from these Regulations to disclose it; and

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			<p>(iii) has not consented to its disclosure.”</p> <p>The financial information provided to the Applicant by aggregate suppliers was provided on the basis that it was commercially confidential and should not be disclosed to third parties.</p> <p>Toulson LJ in <i>Napier v Pressdram</i> [2010] 1 WR 934 at [42] said, for a duty of confidentiality to be owed (other than under a contract or statute), “the information in question must be of a nature and obtained in circumstances that any reasonable person in the position of the recipient ought to recognise that it should be treated as confidential.”</p> <p>In <i>R(Perry) v LB of Hackney</i> [2014] EWHC 3499 (Admin) paragraph 49 the Court concluded that an affordable housing viability assessment which contained assumptions about build costs, sales costs and residual values which were “matters of the utmost commercial sensitivity” fell within the category of confidential information identified by Toulson LJ.</p> <p>The Applicant considers that the information provided to it by operators which discloses the price that those operators would charge for the supply of aggregates is self-evidently commercially confidential and was provided on a confidential basis.</p> <p>As such it is information in respect of which “confidentiality is provided by law to protect a legitimate economic interest”. As a result, it is exempt by virtue of 12(5)(e) of the EIR subject to the public interest in maintaining the exception outweighing the public interest in disclosing the information.</p> <p>Further and in any event, Regulation 12(5)(f) of the EIR also applies in that disclosure of the information would adversely affect the interests on those operators in circumstances where:</p>

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			<p>(i) the operator was not under, and could not have been put under, any legal obligation to supply the information provided to the Applicant or any other public authority;</p> <p>(ii) the operator did not supply it in circumstances such that that or any other public authority is entitled apart from these Regulations to disclose it; and</p> <p>(iii) the operator has not consented to its disclosure.</p> <p>As a result, is the Applicant is exempt from disclosure by virtue of 12(5)(f) of the EIR subject to the public interest in maintaining the exception outweighing the public interest in disclosing the information.</p> <p>As noted above, there is a clear public interest in maintaining the exception here. If the material is disclosed it will adversely affect the ability of NH in future to obtain relevant costs information in relation to other road schemes, since it would inhibit operators from providing this information. This means that NH would not be able to develop real-world costs assessments for its schemes going forward. This would hamper its ability to assess the appropriate alternative means of constructing schemes and could adversely affect its ability to negotiate contracts with suppliers. Given that the Applicant's role is to deliver road schemes in the public interest this would have significant consequences which would be against the public interest.</p> <p>The Fairness Point</p> <p>It has been argued that it is unfair for the material not to have been disclosed.</p> <p>The issue of common law fairness was dealt with by Ouseley J in the case of R (Bedford & Clare) v. Islington LBC & Arsenal FC [2002] EWHC 2044 Admin. That dealt with circumstances in which the claimant</p>

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			<p>was wanting to see a Financial Viability Assessment prepared by DTZ, chartered surveyors. The refusal to disclose the document to the objectors was said to be unfair. Having set out that the question of what is fair depends on the context and circumstances, Ouseley J noted that the councillors taking the decision were not better off than the objectors as, they too, did not have the DTZ report because it contained references to Arsenal FC's confidential business plan. He then continued:</p> <p>"99. Moreover, fairness in the planning process is not confined to a consideration of the interests of the objectors. It also needs to respect the confidentiality of the applicant because it is to its figures rather than to DTZ's general appraisal that the claimants' point is addressed. It has the gist of the appraisal. It is this actual appraisal, and within that Arsenal FC's figures, that the claimants want. This is emphasised by their constant references to a £50 million funding gap drawn from an e-mail in which that is referred to. But it would be unfair to Arsenal FC for the Local Planning Authority to be made to reveal what was handed to its advisers in confidence in the clear expectation that it would have a very carefully restricted circulation.</p> <p>100. A planning authority needs to be able to examine matters in a confidential manner with applicants, as was done here, and for that purpose to use independent consultants to whom disclosure of the relevant information is made in confidence. This is the same process that the GLA went through. If a local planning authority cannot do that, it will be hindered in its negotiations with developers over the content of publicly beneficial packages such as the extent of affordable housing and other legitimate benefits related to the value of the development and its funding. The public interest would be harmed.</p> <p>101. It is quite clear that the information is confidential and disclosure of</p>

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			<p>it would be in breach of confidence. There is nothing unfair in the non-disclosure of that document, with the gist of the DTZ appraisal being available.</p> <p>102. Finally, I consider that s.100D(4)(a) provides for a local planning authority to be able to comply with its duties of openness without a breach of confidence. A specific statutory provision provides for non-disclosure of this document and is applicable in this context. Even if (which I doubt) there is scope for a common law duty of fairness to supplant rather than supplement that regime, that regime is a very powerful indicator as to the content of the common law duty of fairness. There is nothing arguably procedurally unfair here in the non-disclosure of that document.”</p> <p>Those words are of direct application here. The gist of the conclusions of the report founded upon the confidential financial information provided has been set out [9.56 Borrow Pits Summary Report]</p> <p>It must be recalled that fairness in the planning process is not one way. It must apply to all participants. The Applicant, acting in the public interest, must not be hampered in its ability to assess alternatives, promote schemes and secure the best price for aggregates in the construction of its schemes by having to disclose the confidential information supplied to it. To make disclosure an absolute requirement would hamper all of these things and thus the delivery of the public interest.</p> <p>What constituted the 'gist' of information was considered in R (on the application of English) v East Staffordshire Borough Council and National Football Centre Ltd [2010] JLP 586.</p> <p>Although the case was a judgment on an oral renewal hearing for permission the court heard detailed argument. Again, a central point</p>

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			<p>was whether a financial report containing highly sensitive information provided to the Council on a confidential basis should be disclosed to any third party. Flaux J, having set out references to Ouseley J's judgment in Bedford continued on the topic of the gist of the appraisal as follows:</p> <p>"It is fairly clear no more than that the conclusion had been that the residential development would fill a substantial proportion of the identified funding gap and that that conclusion had been independently verified. In my judgment the position is no different here."</p> <p>Flaux J went on to consider the suggestion that the claimant and his advisors should have been told that the residential development there proposed could fill as much as 85% of the funding gap to enable them to run an additional and indeed opposite argument to the one that they were running. That was rejected on the basis that it was a submission to the effect that "if only I had seen all the confidential information, there are arguments I could have run" which had been rejected by Ouseley J in Bedford. Flaux J did not consider there was anything in the claimant's contentions that non-disclosure of the financial report and the DVE review were unfair.</p> <p>The Applicant has in [9.56 Borrow Pits Summary Report] set out an appraisal which provides the gist of its conclusions founded upon the confidential information.</p> <p>Reference has been made to the Holborn Studios case. It is submitted that that case is confined to its specific context.</p> <p>In that Case Dove J concluded that a failure to disclose confidential information in a viability report submitted to support an application for planning permission was in breach of the statutory duty contained in section 100D of the Local Government Act 1972.</p>

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			<p>His reasoning for so concluding turned upon the contents of the NPPF and the NPPG. He explained at paragraph 63</p> <p>“In my view there are some clear principles set out in the Framework and the PPG to which it refers. Firstly, in accordance with the Framework viability assessments (where they are justified) should reflect the approach set out in PPG, and be made publicly available. Secondly, and in following the approach recommended in the Framework and the PPG, standardised inputs should be used including, for the purpose of land value, a benchmark land value based upon existing use value plus as described in the PPG. Thirdly, as set out in the PPG, the inputs and findings of a viability assessment should be set out “in a way that aids clear interpretation and interrogation by decision-makers” and be made publicly available save in exceptional circumstances. As the PPG makes clear, the preparation of a viability assessment “is not usually specific to that developer and thereby need not contain commercially sensitive data”. Even if some elements of the assessment are commercially sensitive, as the PPG points out, they can be aggregated in a published viability assessment so as to avoid disclosure of sensitive material.” (emphasis added)</p> <p>It can be seen that Dove J is not stating that commercially sensitive information must be disclosed; indeed, he expressly states that aggregation can be used to avoid this.</p> <p>The fact that the reasoning depended upon the NPPF and the NPPG can also be seen from the passage where he distinguishes the earlier case of R(Perry) v BL of Hackney at paragraph 65:</p> <p>“I appreciate that this is a different approach from that taken by Patterson J in the case of Perry. However, at the time of her considering the issues in that case neither the Framework nor the PPG existed in the terms in which they do at present, and the judgments which she</p>

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			<p>reached in relation to whether or not the viability assessments in that case were exempt information were arrived at in a materially different context in which the question of the public interest under paragraph 10 of schedule 12 of the 1972 Act was not informed to the extent as now by any relevant policy or guidance framing the question of what the public might expect to be provided with in connection with a planning application where viability was advanced as a reason for exemption from contributions or obligations underpinned by planning policy. The circumstances of this case are therefore significantly different from those which had to be evaluated by Patterson J in Perry." (emphasis added)</p> <p>The Applicant therefore submits that Holborn Studios does not give rise to any obligation to disclose the commercially confidential information in the context of this Examination.</p> <p>The provisions of the Local Government Act 1972 do not apply. The parts of the NPPF relating to disclosure for affordable housing viability assessments do not apply and neither does the guidance in the NPPG.</p> <p>What is required then is disclosure of the gist of the assessment. That is what the Applicant has more than provided.</p>
6.8	ExA	Restoration has not been defined. Can the Applicant confirm how this is going to be secured and who will be consulted?	<p>The Applicant has addressed the scope of restoration in the Borrow Pits Report [APP-278]. Section 4 covers the general design principles which apply and states that the principles are contained in the REAC [REP4-023] commitment LV17.</p> <p>The Applicant's Environment Manager will be responsible for ensuring that the borrow pits are restored in compliance with the Soil Handling Management Plan, Landscape Design Principles and ecological mitigation proposals. The Environment Manager will liaise with the</p>

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			<p>relevant planning authorities and the Environment Agency on the Second and Third Environmental Management Plans, which includes Appendix A REAC and Appendix M Soil Handling Management Plan, as secured in the dDCO Requirements 3 and 4.</p> <p>Both requirement 3 and requirement 4 require 'consultation with the relevant planning authority and the Environment Agency on matters related to its functions'.</p>
6.9	<i>J & A Bunting and Sons (Bunting)</i>	The Borrow Pits Report [APP-278] suggests that Borrow Pit J is to be backfilled with Class U1A material. The Applicant has confirmed that it is working with the landowner to reduce the backfill. Bunting would welcome a suitable specification for this backfill	<p>Backfilling of Borrow Pit J</p> <p>The Applicant continues to engage in discussions with the landowners of Borrow Pit J and are keen to narrow any issues.</p> <p>As described in the Borrow Pits Report [APP-278] paragraphs 1.1.3 and 2.4.3 the borrow pits will provide an area to deposit material considered unsuitable for engineering purposes, with the aim of minimising the requirement for export out of the proposed scheme Order Limits. The Applicant can confirm that this could include materials specified as U1A within the Manual of Contract Documents for Highway Works (MCHW), Specification for Highway Works (SHW) Volume 1.</p> <p>The Applicant is keen to continue discussions with the landowners of Borrow Pit J to explore the possibilities of excavating above the water table or restoring part of the borrow pit area above the water table.</p>
6.10	<i>J & A Bunting and Sons (Bunting)</i>	Can the Applicant confirm that the costs assessments in relation to Borrow Pit J includes provisions for excavation below the water table?	The Applicant can confirm that the costs calculated for the extraction, processing and use of granular engineering material from Borrow Pit J does include the need to dewater excavation works.

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			This is presented in the Borrow Pits Cost Information [REP3-023] Appendix B, Table 4.4, item 100.01 under the subtitle 'Temporary Works'.
6.11	<i>Siggers and Parker</i>	<p>As noted in Deadline 4 submission [REP4-095], the Applicant has not made a case for acquisition of the borrow pits. The supporting figures stated by the Applicant do not add up to the required land take subject to compulsory acquisition. Borrow Pit J can meet the required figures alone and whilst Siggers and Parker accept the need for a contingency, there is an absence of need to require all four borrow pits.</p> <p>In relation to alternatives, the assessment taken by the Applicant has adopted an all or nothing approach in terms of using material from borrow pits and using materials from the open market. The Applicant has previously demonstrated its willingness to use the open market to meet the need, although have affirmed it cannot justify obtaining all the material this way due to cost and road haulage. The Applicant's assessment focuses on whether the proposal if environmentally sound but have not considered the need to justify the acquisition of all the land. The Applicant needs to demonstrate that it has approached the acquisition of land for borrow pits as a last resort rather than it being the first choice. In relation to costs, the information does not</p>	<p>The Applicant has made a compelling case for including borrow pits within the proposed scheme across the three reports already submitted into examination.</p> <p>The Applicant has also prepared 9.56 Borrow Pits Summary Report to summarise the information provided for the compelling case and to present in a simpler manner the volumes calculated that have driven the need for the volumes required from borrow pits and therefore the area of proposed Compulsory Acquisition.</p> <p>Suitability of Borrow Pit J for the full scheme earthworks deficit</p> <p>Borrow Pit J alone is not a suitable replacement for removing other borrow pits on the proposed scheme. As stated in the Borrow Pits Report [APP-278], Borrow Pit J's purpose is to supply granular engineering material for the proposed scheme, which is a separate deficit requirement to the general earthworks fill material deficit which Borrow Pits E, F and I would meet. Please see Appendix A in 9.53 Applicant's Response to ISH3 for clarity.</p> <p>The proposal for Borrow Pit J is to win 300,000m³ of granular engineering material up to a depth of 7m. The layer of overburden to Borrow Pit J (also with a volume of 300,000m³) could be used as general earthworks fill material, but as the Applicant has described in the response to D4-008-003, this will only provide half of the general earthworks fill deficit of 600,000m³ and would require a significant amount of on-road haulage of the fill material to the nearest area of need (junction 22). Note that Borrow Pit I is connected directly to</p>

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		<p>warrant a rationale for compulsory acquisition and the vast majority of information in the Borrow Pits Cost Information [REP3-023] is redacted. Even if the Applicant is only required to provide the 'gist' of the information, this is currently not achieved. Siggers and Parker cannot fully understand the information due to the redactions and the absence of such detail does not assist the Applicant in justifying the need for compulsory acquisition. The Applicant is seeking to permanently acquire land and this is not justified. Temporary possession would be adequate. The Applicant has previously stated its willingness to consider temporary possession but there has been no amendments or any meaningful engagement on this point.</p>	<p>junction 22 via a haul road (Work No. T26) and a temporary bridge over the A12 (Work No. T31) shown on the Temporary Works Plans [AS-004], and Borrow pits E and F are immediately adjacent to the intended deposition locations at J21.</p> <p>The Applicant has demonstrated in the Borrow Pits Cost Information [REP3-023] that road hauling material adds significant cost to the earthworks and traffic volumes on the road network. Similarly, the environmental impact of the increased traffic volumes from road-hauling earthworks is demonstrated in the response to the Applicant's Comments on Responses to ExQ2 - Rev 2 [REP4-055] part 2.14.1.</p> <p>Therefore, the statement made that 'Borrow Pit J can meet the required figures alone' is inaccurate.</p> <p>Land Required for Borrow Pits</p> <p>The Applicant has shown that based on the volumes calculated, the land required for borrow pits is justified as presented in Appendix A in 9.53 Applicant's Response to ISH3</p> <ul style="list-style-type: none"> • The volumes gained from Borrow Pits E, F and I total 600,000m³, which is the same as the general earthworks fill deficit. • The volume of granular engineering fill to be gained from Borrow Pit J is 300,000m³ which minimises the volume of road import required to meet the calculated deficit of 445,000m³. <p>The need for all four borrow pits is justified as described in the Borrow Pits Report [APP-278] and the Borrow Pits Supplementary Technical Note [REP1-011] in as far as confirming that the proposed scheme has an earthworks volume deficit for both general fill material and granular engineering material and where these deficits lie on the proposed</p>

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			<p>scheme. An assessment has been undertaken demonstrating that winning the material from borrow pits minimises environmental impacts associated with the haul of earthworks material, whilst also being the most cost-effective method. This is achieved by locating the borrow pits as close to the area of deficit as possible. The Applicant has also carried out an assessment, to identify alternative locations, and based on a robust set of criterion identified the locations of the proposed borrow pits as being the best overall locations. The use of borrow pits also guarantees the source and cost of suitable material for the proposed scheme to avoid the challenges associated with procuring from the open market, as well as providing an area for placing unsuitable materials.</p> <p>'Blending' the approach to meeting the earthworks material deficit</p> <p>It was suggested that pursuing a 'blended' approach to winning deficit material should be considered. The Applicant did consider this and given the significant cost and environmental impact difference between using borrow pits and importing from external market sources, a 'blended' approach will only increase cost and traffic/environmental impacts from solely using borrow pits. For example, in its most basic form in regard to cost:</p> <ul style="list-style-type: none"> • Changing the strategy to 50% provided by borrow pits and 50% by external road import, the unit costs given in the Borrow Pits Supplementary Technical Note [REP1-011] Table 4.3 General fill material import rates, will change slightly. • The cost of winning material from borrow pits may increase by a small percentage due to land and temporary works costs forming a larger portion of the overall rate. Whereas the cost of importing material from the open market will not change much at all because it is predominantly driven by the high cost of

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			<p>procuring (including transport) the material from the suppliers.</p> <ul style="list-style-type: none"> • These figures would then have to be averaged to provide the approximate cost of a 'blended' approach to winning fill material e.g. Using 100% Borrow Pits = £29/m³ Or 50% Borrow Pits = £35/m³ (figure is an example and is not calculated) 50% External road import = £71/m³ Total for 'blended' 50/50 approach = $(35 + 71) / 2 = £53/m^3$ • Therefore, the 'blended' approach will increase the cost by varying degrees depending on the 'blended' split ratio. The cost will never reduce. <p>Similarly with the greenhouse gas (GHG) emissions calculated in the Applicant's Comments on Responses to ExQ2 - Rev 2 [REP4-055] part 2.14.1, the emissions calculated for external road import are so much higher than those for using borrow pits there will never be a better scenario than that provided by using borrow pits on the proposed scheme.</p> <p>Considering the above information, attempting to 'blend' the approach for winning earthworks deficit material (or use one of the alternative options for that matter) will unnecessarily increase the environmental impact on local receptors because of the effect it will have on construction traffic volumes.</p> <p>The deficit material required will need to be driven on the road network in lorries that will have to travel longer distances to complete the</p>

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			<p>journey. The limited size of the lorries and the distance they need to travel will mean that significant numbers of lorries will be required every day to move the earthworks material to attempt to maintain an efficient earthworks operation. This will mean that the peak construction traffic and environmental impacts associated with large scale import from external sources may be experienced over a longer period of time, bringing unnecessary detriment to the local receptors.</p> <p>Furthermore an increasing reliance on road import from external sources will:</p> <ul style="list-style-type: none"> • increase construction risks to the project, through reduced certainty (in sourcing and quality of material, plus the import rate achieved), which may lead to an increased import duration that would need to be mitigated through inefficient working (ie through winter). • Cause a necessity to rely on higher grade materials to ensure the project remains on programme, which is both a costly and inappropriate use of such materials. • Increase the temporary works elements required to facilitate a different earthworks strategy, of increasing the number of work fronts and using road-going vehicles. As mentioned in the Borrow Pits Supplementary Technical Note [REP1-011], this could include factors such as more and longer aggregate built haul roads and more construction plant to double/treble-handle the imported material. • Increase the safety hazards associated with the earthworks operations, including the logistics of merging the construction traffic with the road network traffic. <p>Therefore considerable mitigation would likely be required to avoid a</p>

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			<p>consequential delay to the delivery of the proposed scheme, making it more expensive to deliver the earthworks, with associated increases in overall preliminary costs.</p> <p>Suitably of using the Coleman's Quarry contingency to fulfil the general earthworks deficit</p> <p>Please see the response to the recent Parker/Siggers representation [D4-008-002] for the response to why using the contingency volume of 650,000m³ of general fill material is not a suitable substitute for replacing any of the volume won from borrow pits as well as the response to section 6 above.</p> <p>Suitability of the borrow pits cost information</p> <p>With regard to the cost information, the Applicant has reviewed the presentation of the information and has re-ordered how some of it is shown. This means more information can be revealed without compromising specific commercially sensitive rate information. This updated cost information can be found in 9.56 Borrow Pits Summary Report.</p> <p>The Applicant is continuing to engage with the Landowner's representatives to work towards an agreement on what can be achieved in regard to acquiring land temporarily.</p>
7	ExA	Air Quality The ExA will ask the Applicant and relevant IPs	The Applicant is discussing with the Interested Parties as to how to achieve the proposal set out in the Applicants Response to Question

Ref:	Comment/ Representation by:	Questions/Issues Raised at the ISH3	Applicant's Response
		<p>questions in relation to:</p> <ul style="list-style-type: none"> The approach towards predicted NO2 levels at R189, R193 and R225, in particular the potential for future monitoring; and 	<p>2.2.1 in the Applicant's Response on Responses to ExQ2 [REP4-055] and is hopeful that a conclusion can be reached.</p> <p>On the 24 April outline air quality monitoring plans were forwarded to the Interested Parties. The next step is for the Applicant to confirm the detailed plans with the Interested Parties subject to getting agreement from landowners. The Applicant will update the Interested Parties, and the Examining Authority, on progress as soon as possible after securing permissions from the landowners.</p>
7.1	<i>Chelmsford City Council and Colchester City Council</i>	Chelmsford and Colchester City Councils have had good discussions with the Applicant and are happy with monitoring that has been offered at 2 of the 3 locations. Monitoring has already begun at R193.	
7.2	<i>Maldon District Council ('MDC')</i>	MDC are concerned that traffic will be diverted during construction as a result of drivers looking to avoid disruption. The Applicant has previously responded that the temporary nature would not significantly impact air quality. MDC notes that the construction phase of the Scheme may be up to 3 years so do not consider that such impacts would be insignificant. MDC require monitoring from the AQMA phase through to the construction phase. MDC will submit further details in writing	<p>The Applicant acknowledges the issues raised by MDC. The assessment undertaken in line with the requirements of DMRB did not identify any issues on those links. As this is based on the screening outcome there is no methodology to include those in the assessment. The Applicant does not recognise any issues within the AQMA as a result of the Scheme.</p> <p>The Applicant reinforces the statement that the impact, if any, would be temporary and would not significantly affect air quality. Junction 20B will be operational until it is connected to the new junction 21 in quarter four of 2025 over a weekend closure and junction 20A will be operational until quarter 1 2026, when the new junction 21 will be complete in all directions.</p>

Ref:	Comment/ Representation by:	Questions/Issues Raised at the ISH3	Applicant's Response
7.3	ExA	<p>What is the Applicant's approach towards PM2.5 and PM10.</p>	<p>New regulations have come into force which includes new rules which are different to the Air Quality Standards of 2010 due to European Union Directives. The Applicant explained in its Comments to Responses on ExQ2 in response to question 2.2.3 that it does not apply on the basis that it only applies to designated monitoring locations. PM2.5 cannot be modelled or measured in relation to the Scheme but in any event there are no significant effects in 2040 even when applying such values.</p> <p>In the Applicant's Comments to Responses to ExQ2 [REP4-055] in response to question 2.2.3, the Applicant has explained in detail how the interim target operates and notes that the nearest such monitoring station is located at Southend-on-Sea and will not be affected by emissions associated with this scheme. As such, the PM2.5 value for 2040 and the interim policy target does not have implications for the Scheme due to the way in which the rules are formulated.</p>
7.4	ExA	<p>Cultural Heritage</p> <p>The impact on Scheduled Monuments.</p> <p>Historic England (HE) has concerns on the impacts on scheduled monuments at two locations, being Appleford Farm, Rivenhall End and the Medieval moat at Marks Tey Hall.</p> <p>Historic England [REP4-037] still considers that the proposed development will result in moderate adverse impacts on these monuments as opposed to the "slight adverse" effect assessed by the Applicant.</p>	<p>The Applicant notes that there is a difference in approach with Historic England.</p> <p>The Applicant notes the Interested Party's response but reiterates that they assess the significance of residual effect on the setting of the Neolithic long mortuary enclosure at Appleford Farm, Rivenhall End, and the medieval moat at Marks Tey Hall to be slight adverse. The Applicant's assessment of these assets is in line with Historic England guidance contained in GPA3 as set out under Refs. 7.5 and 7.6 below.</p>

Ref:	Comment/ Representation by:	Questions/Issues Raised at the ISH3	Applicant's Response
		<p>HE's position is that the moderate adverse impacts would be material in the decision making process.</p>	
7.5	<p><i>Historic England (HE)</i></p>	<p>HE acknowledged that, with regards to the Neolithic long mortuary enclosure at Appleford Farm, the assessment is a matter of judgement and accepts differences with the Applicant. HE does not accept the mitigation proposed and suggested off-site mitigation on the basis that on-site mitigation is not appropriate in terms of compensation. HE requires a commitment and not just a letter of intent.</p>	<p>The following text sets out the Applicant's assessment of the effects of the proposed scheme on the Neolithic long mortuary enclosure at Appleford Farm, Rivenhall, following Historic England's guidance (Good Practice Advice 3, The Setting of Heritage Assets, Historic England, 2017), to justify the conclusion of a slight adverse effect on setting.</p> <p>Assessment of heritage value</p> <p>Although no longer visible on the surface, the Neolithic long mortuary enclosure at Appleford Farm, Rivenhall End is of evidential value because archaeological excavation and aerial photographs indicate that it survives well as a buried monument. It is considered to have good archaeological potential and could provide valuable evidence about its construction and use, as well as environmental information about the contemporary landscape. This evidence also contributes to its historical value as part of a relatively rare group of monuments, of which it is one of 35 known examples, most of which are located in Essex and Suffolk.</p> <p>Contribution of setting</p> <p>The Applicant considers that the visual element of the setting of the Neolithic long mortuary enclosure within the modern farming landscape and close to the existing A12 contributes little to its heritage value. Traffic noise from the A12, and transient noise from farming, as well as the visual impact of the existing highway are all negative, or at best neutral, factors. In contrast, the careful topographic positioning of the</p>

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			<p>Neolithic long mortuary enclosure on an imperceptible area of high ground within the floodplain of the River Blackwater close to its confluence with the Domsey Brook is a strong positive contributor to its heritage value. Positioning close to watercourses is a common feature of this type of monument and contributes to the understanding of its function and the influence of the landscape to the choice of location made by its builders. Furthermore, the association with non-designated subsurface archaeological remains defined by cropmarks to the east, south-east and south, including a possible small henge (Asset 391), hint at the presence of a possible ritual landscape associated with the Neolithic long mortuary enclosure. Continuing south, there are a number of similar cropmark sites also on higher ground west of the River Blackwater. While these are unlikely to all be contemporary with the Neolithic long mortuary enclosure, they illustrate the importance of intangible associations with the topography and other landscape features to its heritage value.</p> <p>Assessment of impact</p> <p>The mainline of the proposed scheme would be located approximately 330m west of the monument at its closest point and approximately 60m closer than the existing A12. The Order Limits extend further and would be approximately 200m west of the monument where they would encompass an attenuation pond and an area of ecological mitigation comprising grassland and woodland planting, and groups of individual trees.</p> <p>Construction effects</p> <p>There would be no physical impact on the scheduled monument during construction of the proposed scheme, and therefore there would be no impact on its evidential value. The introduction of the new raised section of highway, and creation of a balancing pond and ecological mitigation</p>

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			<p>ponds, would be a noticeable permanent change in its setting. There would also be a temporary impact from noise and movement from construction machinery. The effect of construction on setting was assessed in Environmental Statement Appendix 7.10: Cultural Heritage Impact Summary Tables [APP117] as being of no change magnitude and neutral significance on a high value asset. Construction of the proposed scheme would not affect the relationships between the Neolithic long mortuary enclosure and either the River Blackwater and its topographic setting, or the non-designated subsurface archaeological remains.</p> <p>In light of Historic England's comments, the impact of construction of the proposed scheme on the Neolithic long mortuary enclosure has been re-assessed and revised. The impact of construction has been re-assessed to be minor, leading to an effect of slight adverse significance (not significant) on the setting of the Neolithic long mortuary enclosure. The predicted impacts of construction of the proposed scheme on the setting of the scheduled monument would not affect the evidential or historic value of the monument.</p> <p>Operation effects</p> <p>Once mature, the proposed landscape mitigation including grass verges planted with hedgerows and individual trees, as well as the planting proposed around the attenuation pond and ecological mitigation area (as shown on sheet 11 of the Environmental Masterplan, part 2 [APP-087]), would reduce the visual impact of the proposed scheme on the setting of the Neolithic long mortuary enclosure. Changes in noise near the asset during operation are predicted to be in the region of +0.1 to +0.9dB (see noise change plans in Figure 12.8 of the Environmental Statement, sheet 6 [APP-235]). This change would not be perceptible in the context of the existing setting of the mortuary enclosure. It should be</p>

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			<p>noted that this section of the new A12 would have a road surface with better noise reducing properties than a conventional low noise road surface, as secured by Commitment NV10 in the Register of Environmental Actions and Commitments (REAC) [APP-185]. The operation effect on setting was assessed in Appendix 7.10 of the Environmental Statement [APP-117] as being of no change magnitude and neutral significance.</p> <p>Having reassessed the operational impact in light of the comments received from Historic England and taking the proposed mitigation measures into account, the impact of operation of the proposed scheme has been re-assessed to be of minor magnitude on an asset of high value, leading to an effect of slight adverse significance (not significant) on the setting of the Neolithic long mortuary enclosure. The predicted impacts of operation of the proposed scheme on the setting of the scheduled monument would not affect the evidential or historic value of the monument. The Applicant is confident that once mature, the proposed landscape planting would help to integrate the proposed scheme into the landscape, reducing the effect of its presence on the setting of the Neolithic long mortuary enclosure. These measures would be secured through the commitments contained in the REAC and embedded mitigation shown on the Environmental Masterplan [APP087], as discussed above [APP-185]. Although the above would be a change from the assessment of impact during operation of the proposed scheme presented in Chapter 7: Cultural Heritage [APP-074] of the Environmental Statement, the residual effect is still not significant and therefore not a material change. The revised residual significance of effect would also be of less than substantial harm as defined in Paragraph 7.5.19 of Chapter 7: Cultural Heritage [APP-074] of the Environmental Statement.</p> <p>The Applicant is happy to continue discussions but is yet to accept that</p>

Ref:	Comment/ Representation by:	Questions/Issues Raised at the ISH3	Applicant's Response
			it would be appropriate to provide mitigation off-site. The Applicant is keen to explore this issue further and would be happy to move forward and reach agreement but notes this can only be achieved where the mitigation is justified.
7.6	<i>Historic England ('HE')</i>	Medieval moat at Marks Tey Hall (Asset 818)	<p>The following text sets out the Applicant's assessment of the effects of the proposed scheme on the Medieval moat at Marks Tey, following Historic England's guidance (Good Practice Advice 3, The Setting of Heritage Assets, Historic England, 2017), to justify the conclusion of a slight adverse effect on setting.</p> <p><u>Assessment of heritage value</u></p> <p>The moated site at Marks Tey Hall (Asset 818) is one of approximately 6000 medieval moated sites recorded nationally. Despite the relatively large number of known sites, many are scheduled because of their evidential value derived from the ability of waterlogged moat deposits to preserve organic finds and ecofacts, as well as their historic value as the locations for high status dwellings and their ability to contribute to our understanding of the distribution of wealth in the countryside during the medieval period. In the case of Marks Tey, its historic value is derived from its well documented associations with the Merk and de Tey families whose names became associated with the nearby settlement of Marks Tey. Like many such sites, the moated site at Marks Tey Hall is believed to have been constructed between the mid-13th and mid-14th centuries.</p> <p>Associated with the moated site are three listed buildings: Marks Tey Hall (Asset 819) and the Barn north-west of Marks Tey Hall (Asset 817) both grade II listed buildings, and the Marks Tey Hall south barn (Asset 816) which is grade II* listed. All three listed buildings were assessed to be of high value in the Environmental Statement, and full details of</p>

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			<p>these and the scheduled moated site can be found in the Cultural Heritage Gazetteer [APP-106]. The three listed buildings are of evidential value as historic buildings, and of aesthetic value as examples of high status vernacular structures. All three buildings are considerably later than the moated site; the earliest being the south-west barn which is believed to be of early 15th century date; and Marks Tey Hall and the north barn being of respectively 16th and 17th century date. The group of buildings, despite not being contemporary with the moat, are likely to be replacements for earlier buildings fulfilling similar functions. To that end they illustrate the longevity of the site as a high-status farm, maintained by wealth generated from the agricultural land surrounding it and contributing to the evidential and historic value of the group.</p> <p>Contribution of setting</p> <p>The moat itself survives as a partial water-filled circuit surrounding a rectangular platform where the house stands in its south-west corner. The two barns stand a short distance outside the moat near its north-west corner. The circuit of the moat is defined by tall mature trees which serve to visually screen the house from the barns, although their functional relationship as part of a farm is clearly legible when viewed in plan. The field boundaries surrounding the group are also made up of tall mature trees and other vegetation, which serves to screen them from views from the outside as well as providing a strong element of visual protection from external intrusive elements, like the existing A12. The proximity of the listed buildings and scheduled monument to one another and the internal and external screening provided by the mature trees within, and surrounding, the farm all contribute to an inward-looking setting for the group which in turn contributes to the evidential</p>

Ref:	Comment/ Representation by:	Questions/Issues Raised at the ISH3	Applicant's Response
			<p>and aesthetic value of the monument.</p> <p>Marks Tey Hall farm is set back approximately 300m south from the existing A12 and reached by its own access track. Although a large adjoining field to the north is now occupied by a caravan storage facility, it is still possible to appreciate the site as an historic grouping surrounded by associated farmland. When viewed from the existing A12, the farm is visible mainly as a prominent area of vegetation, with only glimpses of the roofs of the house and barns.</p> <p>This topographic setting is typical of many farms within the study area, including Hammer Farm, Wishingwell Farm and Easthorpe Green Farm to the south-west, and contributes to its historic value.</p> <p>The existing traffic noise from the A12, and transient noise from farming, are negative factors in the setting of the group of assets, as is the presence of a group of large modern agricultural buildings south-west of the moated site, although the latter do provide additional visual screening from the A12.</p> <p>Assessment of impact</p> <p><i>Construction effects</i></p> <p>No physical impacts have been predicted for any of the designated heritage assets making up the Marks Tey Hall farm group. The mainline of the proposed scheme would diverge south-west of its current alignment a short distance west of existing junction 25. Construction of a new access to Marks Tey Hall farm would require the realignment of an approximately 120m long section of Hall Chase immediately south of the existing A12. During the construction period, it is proposed to use the field immediately north- west of Marks Tey Hall farm as a temporary</p>

Ref:	Comment/ Representation by:	Questions/Issues Raised at the ISH3	Applicant's Response
			<p>compound and materials lay down area.</p> <p>Without mitigation, there would be a noticeable increase in noise from the operation of plant machinery, as well as effects from dust during the construction of the proposed scheme. It is proposed to mitigate this impact through the adoption of good construction working principles and considerate working practices to avoid, as far as practicable, the effects of noise, vibration, dust and construction traffic. The proposed acoustic bund south of Hall Chase (shown on sheet 18 of the Environmental Masterplan, part 3 [APP-088]) would be built as early as practicable in the construction phase, so that it can begin to reduce the impacts of noise during construction. These measures would be secured through Commitments AQ1, LV2 and NV1 of the Register of Environmental Actions and Commitments (REAC) [APP-185].</p> <p>Realignment of Hall Chase at its junction with the existing A12 would change the approach to Marks Tey Hall farm and be noticeable when viewing the site in plan compared to the existing straight road. It would, however, still be possible to appreciate the site's relationship with the surrounding farmland, and its historic connection with the main road to the north would still remain legible.</p> <p>Temporary lighting during construction may be required at the lay down area and would be positioned with care to avoid impacting heritage assets and other sensitive receptors. This measure would be secured through commitment LV11 of the REAC [APP-185].</p> <p>The mature vegetation within and surrounding the moated site and Marks Tey Hall Farm would be retained, and would continue to screen views to, and from, the designated heritage asset during construction of the proposed scheme. This vegetation falls outside of the Order Limits and would therefore be retained.</p>

Ref:	Comment/ Representation by:	Questions/Issues Raised at the ISH3	Applicant's Response
			<p>The impact during construction of the proposed scheme on the setting of the moated site at Marks Tey Hall (Asset 818) has been assessed to be of minor magnitude on an asset of high value, leading to an adverse effect of moderate significance. Taking the mitigation measures proposed for construction impacts into account, the residual significance of effect was assessed to be slight, and therefore there is no change to the conclusions presented in Appendix 7.9: Cultural Heritage Impact Assessment Summary Tables [APP-117] of the Environmental Statement.</p> <p>There would be no physical impact on the scheduled monument during construction of the proposed scheme, and therefore there would be no impact on its evidential value. Realignment of the junction between Hall Chase and the A12 would have a slight effect on the setting of the monument when considered in plan, although it would not affect the ability to understand the relationship between the monument and the main road.</p> <p><i>Operation effects</i></p> <p>Permanent lighting is proposed for the new roundabout and realigned section of Hall Chase. This would be provided by embedded mitigation in the form of light-emitting diode luminaires designed to reduce light spill into adjacent areas, as described in Paragraph 2.5.71 of Chapter 2: The Proposed Scheme [APP-069]. The impact of lighting would be further reduced by filtering from the mature vegetation surrounding the Marks Tey Hall farm group. This vegetation falls outside of the Order Limits and would therefore be retained.</p> <p>Retention of the mature vegetation surrounding the moated site and Marks Tey Hall Farm would screen views in, and out of, the site, as can</p>

Ref:	Comment/ Representation by:	Questions/Issues Raised at the ISH3	Applicant's Response
			<p>be seen in the photomontage from Viewpoint 24 on Figure 8.5 of the Environmental Statement [APP-220]. Screening would be further enhanced by proposed woodland planting around the acoustic bund west of Hall Chase, and individual tree planting adjacent to the realigned section of Hall Chase and hedgerow and intermittent tree planting south of the proposed attenuation pond once mature (shown on sheet 18 of the Environmental Masterplan, part 3 [APP-088]).</p> <p>Changes in noise near the asset during operation are predicted to be in the region of +0.1 to +0.9dB (see noise change plans in Figure 12.8 of the Environmental Statement, sheet 11 [APP-235]). This change would not be perceptible in the context of the existing setting of the asset. The effects of noise from traffic using the realigned section of the A12 would be reduced by the proposed acoustic bund south of Hall Chase, and the use of road surfacing with better noise reducing properties than a conventional low noise road surface. These measures would be secured through Commitments LV2 and NV10 of the REAC [APP185].</p> <p>The impact during operation of the proposed scheme on the moated site at Marks Tey Hall (Asset 818) has been assessed to be of negligible magnitude on an asset of high value, leading to an adverse effect of slight significance. Because the setting of the asset would not be identical to its state before construction of the proposed scheme, the residual significance of effect was also assessed to be slight, and therefore there is no change to the conclusions presented in Appendix 7.9: Cultural Heritage Impact Assessment Summary Tables [APP-117] of the Environmental Statement.</p> <p>Summary</p> <p>The moated site at Marks Tey Hall (Asset 818), and the associated</p>

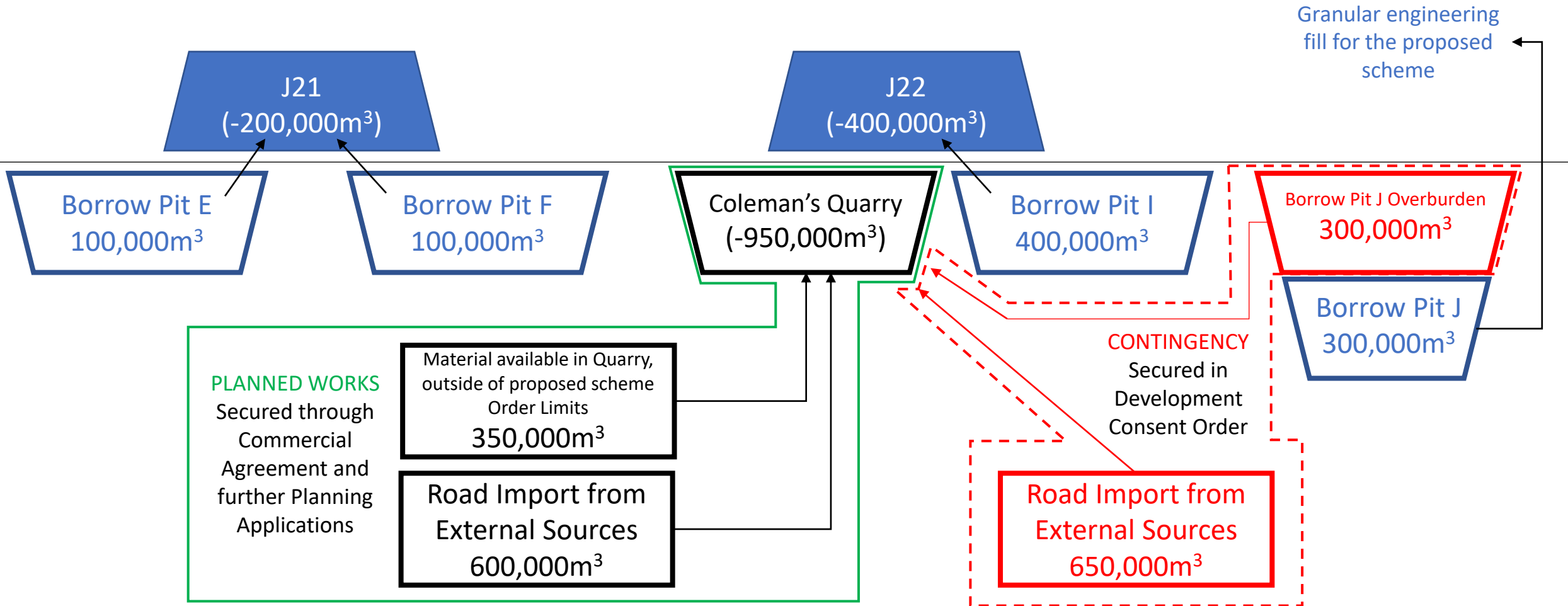
Ref:	Comment/ Representation by:	Questions/Issues Raised at the ISH3	Applicant's Response
			<p>group of listed buildings comprising Marks Tey Hall (Asset 819), the Barn north-west of Marks Tey Hall (Asset 817), and Marks Tey Hall south barn (Asset 816) are all designated heritage assets, assessed to be of high value for their significant archaeological, architectural and historic interest, and their group value as the descendants of a high-status medieval farm.</p> <p>The setting of the monument is formed of two parts. The group of buildings and the moated site have an inward-facing setting defined by their proximity to one another, and the mature trees both within and surrounding the farm which isolate them visually from their surroundings. The site also has a wider setting formed by its geographical position as an island surrounded by farmland, connected to a main road by a single access route.</p> <p>Construction and operation of the proposed scheme would introduce new elements of infrastructure into the wider setting of Marks Tey Hall farm and create noise and visual impacts on the asset. Despite the changes to the alignment of the A12 and Hall Chase, it would still be possible to appreciate the setting of the moated site at Marks Tey Hall, its relationship with the listed buildings within it and the farmland and main road beyond, and its contribution to its significance. Although a greater residual significance of effect was assessed on the setting of the individual listed buildings, the applicant contends that the proposed scheme would not affect the ability to appreciate the significance of the medieval moated site, the contribution of the listed buildings to its setting, or the contribution of its setting to its significance during construction or operation.</p> <p>The predicted impacts of operation of the proposed scheme on the setting of the scheduled monument would not affect the evidential or historic value of the monument.</p>

Ref:	Comment/ Representation by:	Questions/Issues Raised at the ISH3	Applicant's Response
			<p>Taking the proposed mitigation measures into account, the residual significance of effects on the asset have been assessed to be slight adverse at both construction and operation of the proposed scheme, and therefore there is no change to the conclusions presented in Chapter 7: Cultural Heritage [APP-074] of the Environmental Statement.</p> <p>The Applicant is confident that the mitigation measures proposed during construction and operation of the proposed scheme would successfully deliver the residual effects described above. These measures would be secured through the commitments contained in the REAC [APP-185] and embedded mitigation shown on the Environmental Masterplan [APP-088].</p> <p>In line with the definition presented in Paragraph 7.5.19 of Chapter 7: Cultural Heritage [APP-074], the Applicant believes that the effect of the proposed scheme would amount to less than substantial harm for the purposes of Paragraph 1.134 of the NPSNN 2014.</p> <p>The Applicant is happy to continue discussions but is yet to accept that it would be appropriate to provide mitigation off-site. The Applicant is keen to explore this issue further and would be happy to move forward and reach agreement but notes this can only be achieved where the mitigation is justified.</p> <p>Both monuments are outside the Order Limits and the Applicant is unable to offer off-site measures to further offset harm to the setting of the monument.</p> <p><u>Historic England's Assessment</u></p> <p>Historic England presented an assessment of the impact of the proposed scheme on both scheduled monuments in their Written</p>

Ref:	Comment/ Representation by:	Questions/Issues Raised at the ISH3	Applicant's Response
			<p>Representation (specifically REP2-060-006 and 007) at Deadline 2.</p> <p>Historic England's assessment covers the five steps listed in GPA3, although it does not identify specific mitigation measures (step 4). The Applicant considers, however, that it places a disproportionate emphasis on those elements that contribute to their setting that would be negatively affected by the proposed scheme, and does not consider those that would not be affected.</p> <p>Historic England's assessment of the contribution of setting to the heritage value of each monument from the Applicant's in their assessment of the contribution of certain elements of their setting. For instance Historic England states that the "rural landscape surrounding the Neolithic long mortuary enclosure makes a positive contribution" to its setting. In this case, the Applicant does not disagree that it makes a positive contribution, but also considers that it contributes less to the heritage value of the monument, than elements such as topography and its relationship with nearby archaeological sites, none of which would be affected by construction or operation of the proposed scheme.</p> <p>As another example, reconfiguration of Hall Chase near the medieval moat at Marks Tey Hall would be a noticeable change, but would not change the relationship between the scheduled monument and the existing A12 and would still result in a site that is clearly isolated from the main road at the end of a long access track.</p>

Appendix A - Proposed Scheme Earthworks Deficit Plan

A12 Proposed Scheme Earthworks Deficit Plan



Appendix B - Natural England response to the design change consultation

Date: 21 April 2023
Our ref: 429285
Unique Reference: 20032607
Your ref: TR010060 / change application letter



A12 Chelmsford to A120 Widening Scheme Project – Case Team
National Infrastructure Planning

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Electra Way
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T 0300 060 3900

BY EMAIL ONLY

Dear Ms Harvey

Consultation: TR010060 - A12 Chelmsford - A120 Widening Project - Application for Development Consent Consultation on proposed changes to the Development Consent Order Application

Thank you for your consultation on the above which was received by Natural England on 12 April 2023

Natural England has reviewed the consultation documents detailing the proposed changes to the Development Consent Order. We are satisfied that the Technical Notes confirm that the proposed changes to the DCO will not significantly change the construction and operational effects reported in the Environmental Statement, including Section 9.11 of Chapter 9: Biodiversity [APP-076]. On this basis Natural England has no further comments to make.

If you have any queries relating to the advice in this letter please contact me on 02080268326.

Yours sincerely

Camilla Davidge

Lead Advisor – Land Use Planning
West Anglia Area Team