

A12 Chelmsford to A120 widening scheme

TR010060

9.61 Applicant's Comments on Information received at Deadline 5

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1 Introduction

- 1.1.1 The Development Consent Order (DCO) application for the A12 Chelmsford to A120 widening scheme (the proposed scheme) was submitted by National Highways to the Secretary of State for Transport via the Planning Inspectorate on 15 August 2022 and accepted for Examination on 12 September 2022.
- 1.1.2 The purpose of this document is to set out the Applicant's comments on submissions made by Interested Parties at Deadline 5 of the Examination. It also includes comments on Additional Submissions accepted at the discretion of the Examining Authority after Deadline 5.

2 Applicant's Comments on Information received at Deadline 5

Allan J Baker	AS-054-001
Sub-Part	
<p>Hello and a good day to you all We as Residents were wondering if the Inspectorate had had a Chance and visited in Witham To see where the Proposed Bridge Be Built And we were also wondering if it is possible for one or Two Home owners may be able to tag alongside the Inspectors to give a Local view As This Bridge will have a major impact on our Homes With Regards for your position Alan & Neighbours</p>	
Applicant's Response	
<p>The Applicant notes the Interested Party's comments which are directed at the Examining Authority.</p>	
Colchester Cycling Campaign	AS-063-001
Sub-Part	
<p>TO THE PLANNING INSPECTORATE Dear Sir or Madam, Please find below Colchester Cycling Campaign's response to the A12 Change Consultation held by Highways England (the webinar was last night). I am copying this to you as HE's commitment to active travel within the scheme is increasingly questionable. This is alarming when the government (see and subsequent updates) recognises the need for people to change their everyday travel habits. The A12 scheme provides a once in a generation opportunity to provide good infrastructure for active travel both in and across this corridor but it is in danger of being missed. We have asked HE to fund an independent review of cycling and walking provision for the entire scheme. I have bolded up the key paragraph in our response and I hope you are able to support that call. Yours sincerely, Will _____ William Bramhill Vice-secretary Colchester Cycling Campaign _____</p> <p>_____ Dear Sir or Madam, I attended the Highways England webinar on May 2 and posed a series of questions. Earlier that day I asked for drawings for the section covering the Marks Tey junction. I would still appreciate sight of</p>	

these but please regard this email as my submission unless any issues come to light. In such an event, I will send an amendment before the consultation deadline. Several of my questions were the result of HE "indicative materials" being inaccurate and/or lacking detail. Some of the illustrations did not have North compass arrows. An example is below, which I have laid over an OS map. It took me time to realise that the label for Marks Tey station is not the station itself, which is 300m to the east; also the proposed new pedestrian bridge is 70m west of where it actually is (and where you say it will remain). Because of manpower issues, Colchester Cycling Campaign is limiting its detailed comment to the Marks Tey junction and possible funding (from HE but separate to the core A12 scheme) for a cycleway link between Marks Tey and Tollgate roundabout in Stanway. During the webinar, however, it occurred to me that one of our proposals – for an independent audit covered in the following three italicised paragraphs – should apply to the entire scheme. I made mention of the possibility of an HE-funded independent audit of cycle facilities at Marks Tey by either Active Travel England or a consultancy such as Phil Jones Associates. Please regard this submission as an official request for that to happen for the entire scheme. While I recognise that HE employees are experts, the agency deals primarily with large-scale issues from a motor vehicle perspective. The addition of high-quality, detailed cycle infrastructure such as that specified by LTN 1/20 is new: a second set of eyes and a fresh imagination would ensure not only compliance but it would also maximise the opportunities to achieve the best result for active travel. At one stage towards the end of the webinar, mention was made of the Inworth to Feering Road. This appears to have been looked at entirely from a motor vehicle perspective, in fact an HE representative acknowledged that the route would not only become busier but the speed of throughput would increase. There is a lack of clarity of how cyclists would navigate the roundabout. I doubt that the current road would meet LTN 1/20 standards as it is. It is alarming that it will become worse and that no separate facilities for cyclists are planned, especially with the reasons (public health, road danger reduction and climate change) that are behind the thrust for active travel. In my view, if HE is altering any part of a highway as part of a major scheme (in this instance drainage), that should include new cycling infrastructure. I am disappointed that HE has been so unambitious that it has not attempted to envisage/design and/or fund a one-stage bridge that crosses both the A12 and the A120 at Marks Tey. While I appreciate that ground levels are uneven and that more generous alignments and a one-stage crossing of the A120 are planned, this once-in-60-years scheme presents an opportunity to do far better than replace like with like. I will flag this to the inquiry inspector. Anticipating a cycleway from Marks Tey to Stanway, the A12 scheme at Marks Tey should include a toucan crossing over the B1406 and also the installation of a protected cycleway on the south side of the Prince of Wales roundabout. This would protect cyclists from Stanway who want to access the railway station via the bridge, and vice versa. Finally it is unclear from the indicative materials what happens to cycle facilities at various points, such as the section between the old A12 and the Marks Tey A120 roundabout; the eastern landing point of the crossing over the A120 to the station, and between Marks Tey old village and Hall Chase. Clarification would be welcome. Yours sincerely Will Bramhil

Applicant's Response	
The Applicant notes that this submission is a copy of Colchester Cycling Campaign's response to the Development Consent Order Change Application Consultation. The Applicant has responded to this submission in Annex F to the Change Application Consultation Report [AS-075].	
Messing and Inworth Action Group Limited and Messing-cum-Inworth Parish Council	AS-064-001
Sub-Part	
Please see original document, below is the link: https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/TR010060/TR010060-002462-MIAG-McI%20PC%20full%20response%20to%20NH%20SOCG.pdf	
Applicant's Response	
The Interested Party submitted Draft Statement of Common Ground [REP2-083] at Deadline 2 and they have now submitted the same documents again [AS-064] at Deadline 5.	
The Applicant provided a full response to the Interested Party's comments at Deadline 3 in 9.31 Applicant's Comments on Information received at Deadline 2, response to REP2-083-001 [REP3-015].	
Lynfield Properties Limited	AS-066-001
Sub-Part	
I am writing to you to express my dismay in the Applicant's written response [Point 3.10 in Rep5- 021] to our oral representation made at the ISH4 on 27th April 2023. The Applicant states that my previous representations [Rep3-049 and Rep1-036] are inconsistent. I do not agree that this is the case. My representations have evolved over time as advice has been taken from	

experts and new information has come to light. Surely the planning process should be an organic one for the benefit of the residents, employers and employees of the area being development. We are not opposed to the scheme in principal we just wish to protect the interests of: the customers who visit our site, our tenant's, the employees of our tenants and our interest too. We will continue to highlight to the applicant the adverse effects of the scheme on our site, so that they are aware and hopefully so that they can work with us to mitigate the negative effects. I would be most grateful if my email could be published on the PINS website as a point of record.

Applicant's Response

At Issue Specific Hearing 4, the Applicant responded to the Interested Party's submissions by stating it had not received a submission from the Interested Party to this level of technical detail and wished to come back in writing. This is what was meant by the written summary - it was not meant as a criticism. The Applicant has since reviewed the detailed submission from the Interested Party, including the technical assessment provided by Tim Hancock Associates, and provided a response at Deadline 6 in this document [REP5-039]. The Applicant will continue to work with the Interested Party to discuss the Interested Party's concerns regarding potential effects of the A12 scheme.

Nathan Wacey

AS-067-001

Sub-Part

Submission to the ExA for the A12 Chelmsford to A120 National Highways scheme. Written by Deborah Allen, Case Manager, Planning Inspectorate on behalf Nathan Wacey, an Affected Person for plots 18/9a, 18/6a, 18/6b, 18/6g, following a phone call on 2 June 2023. The use of first person 'I' refers to Mr Nathan Wacey.

Submission Why is there a document published on the NI website which states that I (Mr Wacey) have objected to compulsory acquisition of my property and land? I wish to buy another property to secure a future for myself and my family. This is being held up by National Highways, who are refusing to contact me or my family. Our neighbours have been bought out why are we not being engaged with? In November we put a blight injunction on them to force them to buy, how can they say we are objecting? In January, the Applicant submitted document - 9.8 Status of Negotiations Compulsory Acquisition Schedule Rev 1 30 January 2023. It states that an objection has been made by the Wacey family and refers to document RR-061, and the Applicant's response in document 9.3 Applicant's Response to RRs, pages 542-545, date Jan 2023. This representation is a description of

concerns regarding the project. These concerns are not an objection to the selling of our property. At Deadline 5 on 10 May 2023 the Applicant submitted an updated document 9.8 Status of Negotiations Compulsory Acquisition Schedule Rev 3 10 May 2023. It states that the blight application has been accepted by the Applicant. The Applicant's valuer was instructed to start negotiations on 24 April 2023, and an email sent on 4 May 2023. This email was not received, and the Applicant/ their representatives have not responded to any of our solicitor's attempts to engage them. During the Examination we have made 10 written submissions*. It seems they are using these submissions to state that we are objecting to the compulsory acquisition. We do not object to the purchase of our home and seeing a document published on the National Infrastructure website which states differently is fraudulent. On 27 April at the Compulsory Acquisition Hearing Mr Gorst asked the Applicant to continue negotiations with our family, this is five weeks ago. Despite six attempts by our solicitor to contact NH there has been no contact. I want further and stronger action to be taken because the Applicant is lying to the Examination. We would like to be in contact with the Applicant and their representatives so that we can work towards a settlement.

Appendix *Written submissions by members of the Wacey family in regards to these plots.

The document 9.8 Status of Negotiations Compulsory Acquisition Schedule Rev 3 10 May 2023 lists the following documents. Reference numbers are taken from the Planning Inspectorate's Examination Library. RR-061 AS-037 Rep1-060 REP1-061 REP1-062 REP1-063 REP1-064 REP1-065 REP2-101 REP3-078

Applicant's Response

The Applicant has accepted a blight notice in respect of Wishing Well Farm and is progressing this. An update was provided at deadline 5 [REP5-022]. The Applicant's valuer on 04 May 2023 corresponded with the claimant's solicitor to confirm a point of contact for inspection. The Applicant also requested by separate e-mail a copy of the claimant's valuation supporting the claim. The claimant's solicitor confirmed their understanding that the valuation report would be available imminently. The claimant's solicitor also confirmed in an email the same day that he had spoken to Mr Nathan Wacey regarding the case. The statement that the Applicant or its representatives have not responded to any attempts by the claimant's solicitors to engage them is therefore not accepted. The case has been actively progressed and the claimant's professional team has been kept updated.

An email was sent 23 May 2023 to the claimant's solicitor requesting the claimant's valuation so that all of the evidence could be reviewed. The valuation report was provided by return of e-mail 23 May 2023. Having reviewed the valuation report and considered further evidence the Applicant's Valuer emailed the claimant's solicitor 05 June 2023. A discussion also took place with the claimant's valuer the same day and a meeting was arranged to discuss further. That meeting took place 07 June 2023 and the position remains that subject to the building condition report the claim is likely to be resolved.

Anglian Water

REP5-023-001

Sub-Part

Anglian Water is seeking a change to the Protective Provisions for Anglian Water, set out in the draft DCO Schedule 11 Part 3 Paragraph 27 (7), in relation to revised stand-off distances to our pipe assets. This is outlined in the draft statement of common ground between Anglian Water and National Highways as a matter under discussion [REP4-048],.

Anglian Water has revised the stand-off distances for piped assets, which include water supply, wastewater, combined sewers and surface water sewers. The reasons for the revised distances concern a number of shortcomings that have arisen through experiences in addressing our own maintenance and repairs to our assets and from previous nationally significant infrastructure projects that interfaced with our assets. Consequently, the stand-off distances in historic DCOs were based on our assessment at those times for assets within those Order limits, and not at this time for assets within this Order's limits. The revisions we are seeking are to ensure that Anglian Water has safe access to repair pipes if they fail, including as a result of work by National Highways contractors, as well as for essential maintenance. Anglian Water has requested a change to Schedule 11 of the draft DCO as follows:

27.(7) For the purposes of sub-paragraph (1) and without prejudice to the generality of the principles set out in that sub-paragraph, works are deemed to be in land near Anglian Water's apparatus (where it is a pipe) if those works fall within the following distances measured from the medial line of such apparatus: (a) 4 metres where the diameter of the pipe is less than 250 millimetres; (b) 5 metres where the diameter of the pipe is between 250 and 400 millimetres, and (c) 12 metres where the diameter of the pipe exceeds 400 millimetres.

These stand-off distances are intended to provide a sufficient working area should our assets need to be repaired or worked on, given the variance on typology of our assets, the diameter, the liquid type, the pressure rating, and the depth from the surface. For example, the stand-off distances in the Draft DCO do not account for wider working areas needed to access deeper pipes.

As discussed with the Applicant, we have revised our previous request for a distance to be agreed on a case-by-case basis where the diameter of the pipe exceeds 400 millimetres, to state a 12 metre distance each side of the medial line. This is based on the largest piped asset within the Order Limits which is a 1200mm surface water sewer which given the size would need a sufficient working area to access and undertake any works.

The stand-off distances do not prevent any working within them, but they do provide us as the statutory water and sewerage undertaker with increased oversight when the project is delivered.

Applicant's Response

The stand-off distances in the Protective Provisions are still under discussion with Anglian Water. The distances currently included in the draft DCO reflect the distances included in previous DCOs in favour of Anglian Water, in the A47 DCOs at Blofield, Tuddenham and Thickthorn. They also reflect the wider enhanced standard easement widths (ie where development is proposed in the local plan) as set out in the table on page 6 paragraph 5.1 of "Anglian Water's Cross Sector Infrastructure Access Statement" of March 2019. Standard easement widths are what Anglian Water refer to as stand-off distances here. Although discussions are ongoing, for the moment Anglian Water have not provided the Applicant with any justification for substantially widening all distances across all pipe sizes or for departing from Anglian Water's stated policy and the standard protective provisions in the above orders. Subject to the outcome of those discussions, the Applicant maintains that the distances set out in the Protective Provisions of the draft DCO are therefore the appropriate distances.

Boreham Conservation Society

REP5-024-001

Sub-Part

My name is Charles Martin and I have submitted, in conjunction with the Boreham Conservation Society (Bill Kyle), several items to the ExA re Jn 20A.

I note recently that the Applicant is considering changes to the northbound slip road onto the A12 from Jn19.

I have two concerns about this proposed change:- 1. The Applicant has on many occasions argued that my proposal for retaining junction 20A southbound will produce problems for traffic entering the A12 southbound from the proposed Jn21 clashing with traffic entering southbound from my proposed Jn20A due to the weaving lengths between the end of the jn21 merge and the jn20A nosing being too short. I estimate this weaving length is somewhere between 1000m to 1200m.

With the Applicant's revised proposal for the Jn19 slip northbound, I estimate that the distance between the proposed northbound merge and the existing slip nosing will be some 250m to 350m.

I fail to see how the Applicant's argument re the weaving length being too short for the area around Hatfield Peverel between Jn. 21 and my proposed 20A is valid and I request that this argument is ignored.

2. The Applicant's initially submitted proposal to merge the two northbound slip roads from Jn19 into one before entering the A12 main line indicated that Beaulieu Bridge traffic wishing the travel onto the A12 northbound would have a dedicated left only slip avoiding the Generals Roundabout signalised junction. If this idea is now to be abandoned, how will traffic enter the A12 northbound from Beaulieu in the interim period between the completion of Beaulieu Bridge/ Radial Relief Road. If the proposal is to make this traffic wait at the roundabout signals, circulate around the roundabout and enter the existing northbound slip onto the A12; I can see this will create some unforeseen capacity problems on the Generals Roundabout. This needs to be assessed in detail to ensure that no capacity reduction is produced. We have waited long enough for the Beaulieu Radial Relief Road and Jn19 capacity improvements to come on stream and we do not wish to see this improvement eroded almost immediately.
Charles Martin Member of Boreham Conservation Society

Applicant's Response

The Applicant acknowledges the Interested Party's comments and previous submissions. It would also reiterate that the change to the design on junction 19 proposed as part of the consultation to which he refers will only proceed if that part of the change application is accepted by the examining authority.

Regarding the first point raised by the Interested Party, the Applicant's concerns regarding the successive merge at junction 20A are in relation to the introduction of an additional conflict point between junction 21 and junction 19 without a justified need for this merge. The Applicant acknowledges that whilst every merge introduces a conflict point, the successive merge at junction 19 allows for traffic travelling from Beaulieu Park Road towards the A12 northbound to bypass the Generals Lane roundabout to prevent traffic queuing along the Chelmsford North-East Bypass and across upstream roundabouts. Allowing traffic to bypass Generals Lane roundabout improves performance of this roundabout. For these reasons, the use of a successive merge can be justified in this location at junction 19.

The change application proposal to provide a direct link to the A12 northbound replaces the offside merge as previously included in the DCO application.

The proposed change included in the change application has arisen from the Applicant's continual design refinement to optimise the design and reduce departures from standards. The revised design of junction 19 conforms with the DMRB guidance for successive merges outlined in CD 122 Geometric design of grade separated junctions. The minimum distance between the noses of successive merges has been satisfied in accordance with Clause 3.36 of CD 122.

Regarding junction 20A, the Applicant has assessed reinstating the junction based on a number of factors including operational safety, impact on natural and built environment, walking, cycling and horse riding connectivity, cost and carbon increases, construction and drainage challenges and impact on land take. The concerns regarding the introduction of an additional conflict point between junction 21 and junction 19 is not the sole reason for discounting the reinstatement of junction 20A, but one of many factors that were considered to reach this conclusion. The Applicant maintains that the significant impacts listed in the

Junction 20A Southbound Merge Assessment of Alternatives Report [Appendix B, REP1-002] outweigh the benefits of reinstating junction 20A .

Regarding the second point, the Applicant is not abandoning the proposals for Generals Lane roundabout as shown in the DCO application and the concerns regarding a reduction in capacity on the roundabout raised by the Interested Party are not expected to arise. The link from Beaulieu Park Road to the A12 northbound includes a dedicated left turn movement to bypass Generals Lane roundabout. The dedicated left turn movement will link Beaulieu Park Road to the A12 northbound via the new slip road to the A12, rather than connecting to the existing junction 19 northbound on slip. This has been proposed to improve the safety of vehicles merging to the northbound A12 from Beaulieu Park Road by amending the merge arrangement into a more conventional layout so that vehicles enter the carriageway from the left-hand side, rather than the right-hand side as was previously shown in the DCO application.

Boreham Conservation Society

REP5-025-001

Sub-Part

BCS welcome the Applicant's agreement to the traffic calming measures proposed by Essex County Council (ECC) in respect of the B1137 through Boreham Village, although the Applicant has omitted any reference to the remainder of the B1137.

Applicant's Response

The Applicant welcomes the Interested Party's support of the Applicant's agreeing to provide traffic calming measures in the village of Boreham. As explained in response to reference 3.1 in the Applicant's Written Submissions of Oral Case for Issue Specific Hearing 3 [REP5-020], the Applicant is proposing to install average speed cameras, a new controlled pedestrian crossing on the B1137, and softer measures including road safety posters. A system of speed cameras is also proposed between Boreham and Hatfield Peverel. Further details of the traffic calming measures, and the proposed locations are included in Requirement 15 of the Draft DCO submitted at Deadline 5 [REP5-004].

Requirement 15 states that average speed cameras will be installed on the B1137 for the extent of the 30mph speed limit within Boreham, and the extent of the 40mph speed limit between Hatfield Peverel as shown on Sheets 2 to 4 of the Traffic Regulation

Measures Speed Limits plans [APP-010]. These additional measures to secure the speed limit between Hatfield Peverel and junction 19 have been developed in consultation with Essex County Council, Chelmsford City Council and Boreham Parish Council.

REP5-025-002

Sub-Part

BCS support the comments made today by ECC regarding the Applicant's use of ECC data to seek to support the Applicant's contention that Average Speed Cameras (ASC) are not necessary to enforce the lower speed limits proposed for either side of Boreham Village; in particular, the use of averages rather than the more relevant mean numbers. The Applicant is requested to provide the mean speed numbers. Additionally, it was pointed out that a speed monitor in the area of the Church Road junction in Boreham would almost certainly record the lowest speeds, on Main Road, within Boreham. The Applicant's statements do not become fact simply by being made by the Applicant. Should Junction 20a be closed, mitigation will be the prime concern for Boreham residents. In fact, should southbound access between Hatfield Peverel and Boreham be closed, ASC are the only practicable mitigation available as, Once southbound access is closed it will not be reinstated no matters how large the actual increases in traffic may be The Link Road solution may not be built The B1137 is an Emergency Diversion Route, physical barriers / speed bumps are inappropriate The Applicant's position regarding ASC seems to be derived from a combination of factors. a) Current observed speeds are near to the proposed lower speed limits, so no further mitigation nor enforcement is necessary. b) Lower speeds mean longer journey times. c) Lower speeds mean less noise. BCS have doubts regarding a) above and it is only if a) is correct that b) and c) apply to the B1137. BCS contend that speed measurements are dependent on when and where speed it is measured. As to "where" the measurements were taken, the Applicant is requested to advise the location and number of speed sensors between Hatfield Peverel and Junction 19. As to "when" the measurements were taken, the Applicant states this to be in a "non-peak" period but does not define "non-peak" and BCS request that it does so. BCS contend that it is traffic speed and consequential noise nuisance, after the pm peak and before the am peak that is the issue. Inter- peak is not generally an issue due where speed is impacted by social pressure. BCS also contend that, especially during the night, it is HGV speed and noise that is the problem. BCS ask the Applicant to provide the HGV data to which they used.

Given the characteristics of the former Roman Road, and former A12 that is now the B1137, BCS do not agree with the Applicant's assumption that drivers will voluntarily observe the reduction in speed limits between the villages of Hatfield Peverel

and Boreham. The Applicant states (REP1-002) that “the traffic model indicates a change in vehicle speed influences driver behaviours about which route to take”. BCS agree that an actual reduction in speed increases journey time. However, without enforcement, speeds on the B1137 are unlikely to reduce and the direct route via the B1137 will be a more attractive and quicker route than the Junction 21 route. Without enforcement to really reduce traffic speed, the actual traffic through Boreham will be much greater than the Applicant predicts. BCS record surprise at the average speed recorded; anecdotally BCS members trying out the proposed 40 mph, found it an uncomfortable experience with other drivers pushing to go faster. There are no physical changes on this road and without enforcement BCS contend drivers are unlikely to be persuaded to drop their speed by a third from the current 60mph to the proposed 40 mph. BCS pointed to those from the west of Hatfield Peverel, who currently access the A12 via Junction 20a but, as the Applicant states following closure of that Junction, will be diverted back on to the B1137 through Boreham, and will be expected to drive on the B1137 (parallel to the A12) at 40mph while those on their former route – the A12 – at 70 mph; perhaps an understandable, but not acceptable, reason for speeding. BCS requested the Applicant to provide their estimate of the number from the west of Hatfield Peverel who will be impacted. The responsible road authority, Essex County Council (ECC) oppose lowering the speed limits between the villages of Hatfield Peverel and Boreham, reference REP4 -044 “ECC does not support the proposed speed limit reduction on the stretch of the B1137 between Boreham and Hatfield Peverel to 40mph, because the nature of this road is such that compliance with a 40mph speed limit is likely to be an issue.” ECC (in common with CCC, Essex Police, Boreham Parish Council and BCS) advocate Average Speed Cameras REP4-056 “ • Average speed cameras covering the section of Main Road from the southern end of Boreham village to the existing A12 Junction 20a on-slip”. BCS has common ground with ECC, CCC, Maldon and District Council, Boreham Parish Council, Essex Police and the East of England Ambulance Service, that enforcement is necessary. This point has been made repeatedly to the Applicant. It has been ignored. The Applicant continues to rely upon theoretical assumptions having universal application; they do not. The Applicant continues to ignore the specific, local knowledge of ECC, CCC, Essex Police and the like together with residents. BCS hope that the ExA, when assessing the dDCO proposals, will, as did the ExA for the Lower Thames Crossing, decide that actual local knowledge trumps theoretical assumptions and rule that ASC’s must be provided. BCS welcome the support expressed at the meeting, by East of England Ambulance Service, for the installation of ASC. It could reasonably have been anticipated that the Applicant would support ASC’s to seek to shore up its assertions that 88% of traffic will use Junction 21 and consequently there is no need to maintain southbound access between the villages of Hatfield Peverel and Boreham. This is so especially as the Applicant will be installing ASC’s for the construction phase. BCS join with Essex Police in requesting that the installed cameras be retained after the construction phase has been completed.

The reality is that the Applicant will not accept that ASC's are essential. It will need the ExA to recognise reality, protect the quality of life for potentially thousands of residents and rule that either: Preferably, BCS's roundabout solution be implemented (and the 3-lane highway and the 2019 Value Engineering savings secured) Or Should southbound access be closed at Junction 20a, without replacement, permanent ASC's are installed to the B1137 between Hatfield Peverel and Junction 19.

Applicant's Response

As explained in response to reference 3.1 in the Applicant's Written submission of oral case for Issue Specific Hearing 3 [REP5-020], the Applicant has now agreed to the installation of average speed cameras, a new controlled pedestrian crossing on the B1137, and softer measures including road safety posters. A system of speed cameras is also proposed between Boreham and Hatfield Peverel. The Applicant's commitment to this can be found in Requirement 15 included within A12 Chelmsford to A120 Widening DCO at D5 (clean) [REP5-004].

Information on the traffic speed information used by the Applicant, including the source and time period of those traffic speeds, was provided in the Applicant's response to comment references 3.2, 3.3 and 3.5 in the Applicant's Written Submission of oral case for Issue Specific Hearing 3 [REP5-020].

The Interested Party also requested information on the number of people from the west of Hatfield Peverel who would be affected by the closure of the Junction 20a southbound access onto the A12. The Applicant's traffic modelling predicts that there would be around 175 vehicles per hour in the AM peak from the west of Hatfield Peverel that would use J20a to access the A12 southbound if the proposed scheme is not built but would travel through Boreham to access junction 18 or 19 if the proposed scheme was built.

Braintree District Council

REP5-026-001

Sub-Part

Dear Sirs, Thank you for allowing the district Council to submit it in response to accompany the oral response made at Issue Specific Hearing (ISH3) on Environmental Matters on 26th April 2023. This response covers two topics: 1) Gershwin Boulevard

Bridge, and 2) Detrunking existing sections of the A12 First Gershwin Boulevard bridge which would reconnect footpath 121_95. The link in this location is supported by the Council as it would allow post construction increased opportunities for residents to access the open countryside and undertake circular walks with related health and green infrastructure benefits for the local population. We identified in our local impact report that there is a missed opportunity here to reduce the number of successful foldbacks to improve route attractiveness to cyclists, but we understand that remediation of these feedbacks would result in a slightly more adverse landscape impact. A bridge here would also help mitigate the negative operational disincentives of an unattractive 200m diversion following the removal of Latney's bridge.

Applicant's Response

The Applicant welcomes the support from the Interested Party to provide a safe crossing of the A12 at this location along the route of footpath 121_95 via the Gershwin Boulevard bridge.

REP5-026-002

Sub-Part

In our local impact report, we have identified that large areas of trees will need to be removed to facilitate widening and that the removal of large tree groups in quick succession will cause a significant change in the perception of the landscape adjacent to the road. Remove of large tree groups will lead to significant visual change despite the trees not being recognised as trees of status. This is also true for the construction of new pedestrian bridges. We have also identified that the assessments of effects by year 15 within some landscape character areas such as the Blackwater River Valley is likely to experience some of the greatest change due to the installation of new physical structures. Gershwin Boulevard bridge is such a new piece of physical infrastructure that would be difficult to fully mitigate the visual impact of. It is our opinion that by year 15 there is not enough time for landscape mitigation to have established sufficiently in these areas, such that the significance of landscape

effect will remain at large adverse rather than moderate adverse. We believe establishment is more likely to be a 15 to 20 year time period however, even this is heavily dependent on the successful management and maintenance of proposed mitigation planting. Overall, there is likely to be large adverse impact for a long period up to 2050. National highway's submitted document 9.26 TECHNICAL NOTE GERSHWIN BOULEVARD BRIDGE states that: At year 15 when mitigation planting has established

this would reduce to a moderate adverse visual effect. And for the reasons outlined above, we disagree with both the timescale and the significance of effect.

Applicant's Response

Existing vegetation within the Order Limits including temporary works areas would be retained where reasonably practicable, in accordance with mitigation LV4 of the Register of Environmental Actions and Commitments, appended to the first iteration of the Environmental Management Plan [APP-185]. In relation to Gershwin Boulevard Bridge, loss of existing vegetation is shown on sheet 8 of the Retained and Removed Vegetation Plans [APP-035].

Year 15 is the design year for assessment required by the Design Manual for Roads and Bridges (DMRB) LA 107 Landscape and Visual Effects, Revision 2 (Highways England, 2020), based on the industry standard Guidelines for Landscape and Visual Impact Assessment, Third Edition (GLVIA3) (Landscape Institute and Institute of Environmental Management and Assessment, 2013), 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 9.41 Applicant's 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.

Justification for the magnitude and significance of visual effects of the proposed scheme in the vicinity of Gershwin Boulevard Bridge is provided in Table A5.1 of Appendix A within 9.26 Technical Note Gershwin Boulevard Bridge [REP3-011]. Conclusions on the sensitivity of landscape receptors and the magnitude of landscape effect are based on the criteria presented within DMRB LA 107. Conclusions on the significance of landscape effect have been determined by combining the sensitivity of a receptor and the magnitude of an effect, in accordance with the significance matrix contained within DMRB LA 104 Environmental Assessment and Monitoring (Highways England, 2020), Table 3.8.1. The matrix suggests a range of conclusions for consideration because the assessment of significance is not formulaic and professional judgement has been used to ascertain the overall level of significance of effect. This is in line with GLVIA3, which advises that, 'Professional judgement is a very important part of landscape and visual impact assessment. While there is some scope for quantitative measurement of some relatively objective matters ... much of the assessment must rely on qualitative judgements...'

Evidence is provided within the description of effect column of Table A5.1 to support the reporting of a single significance category where there is a choice. Combined with the effectiveness of mitigation planting once established during operation in year 15, the location of Gershwin Boulevard Bridge within the context of the A12 and the residential edge of Witham has been considered in the overall conclusions. The assessment acknowledges that Gershwin Boulevard Bridge would form a new permanent feature in the view and, although mitigation planting would reduce the visual effects once established, the assessment concludes that visual effects would remain significant (moderate adverse) during operation in year 15.

The Landscape and Ecology Management Plan, which is appended to the first iteration Environmental Management Plan [APP-193], presents how landscape and ecological features would be protected during construction, and how landscape and ecological mitigation would be implemented, monitored and maintained.

REP5-026-003

Sub-Part

The proposal submitted to relocate this bridge west by 300m. On this issue, the we can confirm our position is neutral. Any proposals to relocate the bridge should be accompanied with a public consultation.

Applicant's Response

The Applicant notes the Interested Party's position on the location of Gershwin Boulevard bridge. The Applicant is not proposing to relocate the bridge to the alternative location suggested by some Interested Parties as this does not resolve the concerns raised by the community but simply relocates the impacts to other receptors while increasing the diversion of the public right of way by 550 to 600m. The Applicant maintains that the proposal presented in the DCO application is the most appropriate way to divert and reconnect footpath 121_95. As the Applicant is not proposing to relocate the bridge, additional public consultation on the alternative location has not been proposed.

REP5-026-004

Sub-Part

Our second topic concerns detrunking, and in particular, the sections between Witham and Rivenhall End, and north of Feering. DCO plans currently shows that a dual carriageway as currently exists in situ will remain, post construction. The Council agrees with ECC and Colchester City Council, and is a co-signatory of a letter dated March 21st which highlights our significant concerns. It would not represent good placemaking and it would be a missed opportunity to improve walking and cycling facilities, green infrastructure and support biodiversity, net zero or reduce flooding. These proposals are unacceptable as it would leave a poor legacy for Rivenhall End, it would be incompatible with the character of a small rural hamlet of just 177 people. There would be ongoing road safety and enforcement concerns related to speeding at both detrunked sections with little hope of redress without further funding. There has been a lack of progress on this issue, and it would seem that National Highways have sought to 'go slow' on detrunking until it is too late so that we are stuck with dual carriageway as it currently exists. The District Council first formally raised a problem with a lack of detailed proposals to tackle detrunking in the PIERS consultation of October 2021. Only a handful of meetings and workshops held with National Highways in the intervening 2 years have covered detrunking - presumably there have been more meetings between NH and ECC but the District Council has not been involved. There is little in terms of firm alternative proposals to comment on and the whole approach so far has been quite unsatisfactory.

Applicant's Response

The community of Rivenhall End currently has the A12 passing through it. This includes the passage of around 6,000 vehicles during the morning peak using the road. The Applicant is proposing that Rivenhall End is to be bypassed by the proposed scheme. This is expected to reduce the traffic passing through the community by nearly 5,000 vehicles during the morning peak. As a result of the scheme, there will be improvements to social severance, air quality and noise effects caused by the A12 today; this is expanded upon in much greater detail in the proposed scheme's Environmental Statement [APP-068 though APP-082].

With regard to WCH provision, the Applicant has considered its obligations under the NNNPS. Once strategic traffic has been removed from Rivenhall End via the bypass, the existing walking and cycling facilities in the Rivenhall End area will improve. That said, the Council will be aware that at Deadline 5 the Applicant submitted National Highways and Essex County Council – Draft Requirements Matrix [REP5-018]. This included a requirement, provided Without Prejudice, on de-trunking and the Applicant is continuing engagement on this matter with Essex County Council.

Lastly, the Applicant does not accept that it has sought to “go slow” on detrunking discussions. Indeed, as noted in Section 5 A12 Technical Note on De-trunking Proposals [REP4-057], extensive engagement has taken place on de-trunking and this included the issuing of draft Heads of Terms in November 2021 to the local highway authority. At all junctures the Applicant has provided responses to the position expressed by stakeholders and has sought to deal with detrunking in a proportionate and reasonable manner, in accordance with the relevant policy considerations.

Chelmsford City Council

REP5-027-001

Sub-Part

Written summary of oral representations made to Issue Specific Hearing 3 (ISH3) from Ruth Mabbutt on behalf of Chelmsford City Council

Chelmsford City Council's concerns regarding traffic are set out within its Local Impact Report REP2 – 107 – LIR.

Chelmsford City Council support Essex County Council's position that requirements in relation to design and deliverability need to be clarified.

Regarding mitigation, Chelmsford City Council supports Essex County Council's position that average speed cameras should be installed along the B1137 (Main Road) through the settlement of Boreham. This position has been set out in the Council's Local Impact Report above.

Chelmsford City Council defers to Essex County Council as the Highways Authority regarding the acceptability of the technical modelling and data.

Chelmsford City Council's position is that there needs to be a mechanism to enforce lower speeds and reduce traffic flows within Boreham. There is also a clear need for road speeds within Boreham to be consistent. The proposed figures and modelling need to account for human nature.

As seen on the Examining Authorities site visit, Boreham is a busy linear residential settlement. The roadside is flanked by predominantly residential development, interspersed with commercial uses. Residential gardens face towards the roadside. The public rights of way (footpaths) that flank either side of the B1137 are well used by pedestrians and cyclists resulting in modest footfall. Pedestrian movements and activity are higher at key areas / crossings such as the Co-op. There is a need to protect the safety of these users.

Average speed cameras are a mechanism to ensure that consistently lower speeds will occur within Boreham, which in turn will protect highway users; particularly pedestrians and will result in highway safety benefits. Chelmsford City Council maintains its position that average speed cameras should be provided by National Highways in consultation with Essex County Council as a mechanism to protect highway and pedestrian safety.

Applicant's Response

The Applicant notes the Interested Party's comments.

The Applicant maintains that the proposed scheme does not adversely affect speeds in Boreham. Despite the existing 40mph limit, current speed levels are typical of a 30mph speed limit as recorded by 'Vehicle speed compliance statistics for Great Britain: 2021', Published 16 June 2022.

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.

The Applicant does, however, acknowledge the concerns expressed by Interested Parties during Issue Specific Hearings, written submissions and further engagements, and the Applicant understands that reaffirming the speed limits through additional measures could provide an enhancement.

At Issue Specific Hearing 3 [Reference 3.1, REP5-020], the Applicant confirmed its commitment to the installation of average speed cameras, a new controlled pedestrian crossing on the B1137, and softer measures including road safety posters. This will be secured through the new Requirement 15 of the Draft DCO.

As noted in the Deadline 6 submission of the Statement of Common Ground [TR010060/EXAM/8.10] with Chelmsford City Council, row 2.9, this matter has now been agreed with the council who will defer to Essex County Council.

Chelmsford City Council

REP5-028-001

Sub-Part

Written summary of oral representations made to Issue Specific Hearing 4 (ISH4) from Ruth Mabbutt on behalf of Chelmsford City Council

Chelmsford City Council has substantive concerns regarding the design of Paynes Lane Bridge which are set out in its Local Impact Report REP2 – 107 – LIR.

The Council is concerned that there is limited reference to design within Schedule 2, Requirements of the draft Development Consent Order (dDCO).

Applicant's Response

Paynes Lane bridge will address historic severance across the A12 and the Great Eastern Mainline, connecting existing Public Rights of Way's currently severed. The proposed Paynes Lane bridge will also connect the existing community of Boreham to the proposed Beaulieu Park Station and associated Beaulieu development to avoid the current assumption of directing WCH users around junction 19. As a north south WCH provision has not been proposed as part of the Beaulieu Park development or junction 19 improvement scheme, Paynes Lane bridge will provide more connectivity to both the existing Boreham community and future Beaulieu Park residents.

The Applicant has worked closely with Essex County Council to maximise LTN 1/20 compliance on Paynes Lane Bridge and has agreed to a Requirement on the delivered design.

With regard to the finishing of Paynes Lane bridge, the Applicant has responded to the local authority design concerns in the Applicant's Response to the ExA's First Round of Written Questions [REP2-025] and produced 9.69 Paynes Lane Technical Note [TR010060/EXAM/9.69] which details the proposed design and the elements of detailed design which are outstanding.

With regards to the Interested Party's concern with Schedule 2 of the dDCO, the Applicant has reissued 7.10 Design Principles [TR010060/APP/7.10] at Deadline 6 as a certified document as request by the ExA.

REP5-028-002

Sub-Part

Chelmsford City Council supports Essex County Council in their submissions regarding requirements.

In relation to Boreham, Chelmsford City Council is in discussion with National Highways and other interested parties regarding the proposed design of Paynes Lane Bridge and wishes to have an appropriate mechanism in place to ensure that any associated changes to the bridge design/finish or landscaping are secured within the dDCO.

<p>Chelmsford City Council welcomes the commitment of Essex County Council and National Highways to work together on the dDCO. However, Chelmsford City Council wishes it noted that National Highways will also need to engage with Chelmsford City Council and other Host Authorities, in addition to Essex County Council regarding any proposed changes to the dDCO that may affect their jurisdiction.</p>	
<p>Applicant's Response</p>	
<p>The Applicant will seek to engage with the Interested Party with regards to any proposed changes to the dDCO [REP5-004].</p> <p>The Applicant will continue to engage with the Interested Party, Essex County Council, Network Rail and Countryside to finalise Paynes Lane Footbridge design.</p>	
<p>Chelmsford City Council</p>	<p>REP5-029-001</p>
<p>Sub-Part</p>	
<p>Written summary of oral representations made to Issue Specific Hearing 3 (ISH3) from Tim Savage on behalf of Chelmsford City Council</p> <p>Both Chelmsford City Council and Colchester City Council have had good discussions with the applicant regarding NO2 monitoring which has been offered for two of the three receptors. Monitoring at R193 has already been commenced by Colchester City Council. Both Councils have accepted the proposed monitoring.</p>	
<p>Applicant's Response</p>	
<p>The Applicant acknowledges acceptance of the offer to monitor the air quality at receptors R225 (Chelmsford) and R189 (Colchester) over a 12-month period. The Applicant will commence the monitoring when the necessary permissions have been received from the occupiers of the relevant receptors.</p>	

Environment Agency

REP5-030-001

Sub-Part

Audience: All Environment Agency staff, particularly those involved in designing, permitting or responding to works on watercourses. This Internal Policy and the associated Guidance 170 19 should be used for internal works and be used to provide advice to local planning authorities, lead local flood authorities, internal drainage boards, drainage and highways authorities, developers, consultants, landowners and the general public.

Purpose In implementing this Internal Policy we will: • provide clarity with respect to culverting in a single statement for internal and external use; • demonstrate how we will take action to protect the continuity and integrity of watercourses; • recommend this approach to all drainage authorities in England and provide guidance for developers and landowners; • make staff aware of our position and ensure a nationally consistent approach to culverting.

Policy Wording We are opposed to the culverting of any watercourse because of the adverse ecological, flood risk, geomorphological, human safety and aesthetic impacts. Watercourses are important linear features of the landscape and should be maintained as continuous corridors to maximise their benefits to society. We will normally object to proposals to build over existing culverts because of health and safety considerations, increased maintenance costs and complexities and because future options to restore the watercourse may be precluded. We will, where we deem appropriate, take possible cumulative impacts into account when making decisions. We will actively pursue the restoration of culverted watercourses to open channels. This Internal Policy and the associated Guidance 170 19 should be complied with when developing Environment Agency projects, when assessing and determining Flood Risk Activity Permit applications, and when providing advice to local planning authorities on development proposals involving culverting.

Culverting permit and planning applications Applicants will be expected to demonstrate why culverting is both necessary and the only reasonable and practicable alternative. Alternatives could include open span bridges, revisions to site layout or diversion of the watercourse. Where it has been robustly demonstrated that the culverting is both necessary and the only reasonable

practicable alternative, the length of any culvert should be restricted to the minimum necessary to meet the applicant's objective. Applicants should provide appropriate assessments to demonstrate that culverting will not increase flood risk elsewhere and will not result in an unacceptable impact on channel stability and the habitat(s) and species present. They should demonstrate that mitigation and compensation measures will be put in place to reduce or nullify any impacts to our satisfaction. When designing the culvert, the applicant should take into account the predicted impacts of climate change (using an allowance for climate change), natural channel geomorphology and any future development planned in the catchment. All mitigation measures should be incorporated within the design and the work should be carried out using best working practice to minimise environmental impacts.

Culverting without permission If a culvert is constructed (or altered) on a main river without permission, the Environment Agency may remove, alter or pull down the work and recover its expenses from the person who carried it out. Alternatively the Environment Agency could request the installer to remove or alter the culvert at their own expense. If a culvert is constructed (or altered) on any watercourse in such a way which causes a breach of planning control, as defined in section 171 A of the Town and Country Planning Act 1990, the local planning authority have a range of powers to take proportionate enforcement action in the public interest.

Applicant's Response

The Culverting Watercourses Guidance: 170_19 supplements Internal Policy 169_19 to provide advice to Environmental Agency staff involved in designing, permitting or responding to works on watercourses. This guidance is internal to the Environment Agency.

The Applicant notes that the Environment Agency is a developer in its own right, as it is responsible for the construction of works such as flood defences. As such the EA is free to adopt these policies for their own projects. However, these policies are not adopted by Government and they do not reflect the approach in the NPSNN. In essence they require assessment of alternatives in every case i.e. even if a culvert would not cause harm at all. Accordingly they are not reflective of legal authorities either. The Applicant is not aware as to whether these policies have been the subject of consultation with the public or government. As such, the Applicant's view is that these policies should have little or no weight in the infrastructure planning process.

Further information on the Applicant's position is provided in the Technical Note on Proposals for Main River Crossings submitted at Deadline 6 [Applicant's document number TR010060/EXAM/9.68].

Environment Agency

REP5-031-001

Sub-Part

1.1 Following the biodiversity discussion at Issue Specific Hearing 3 (ISH3) on Environmental Matters, we wish to provide a further update in respect of our position regarding the proposed main river crossings, including the use of culverts. We would also like to comment on the Applicants response to Q2.18.5 within document 9.41 Applicant's Responses to ExQ2 - Rev 2 (REP4-055).

Applicant's Response

The Applicant acknowledges the points raised by the Environment Agency and addresses these in sub-parts REP5-031-002 to REP5-031-015 of this response.

REP5-031-002

Sub-Part

1.2 Further discussion with the Applicant on the issue of the proposed main river crossings took place on 5 May 2023. This was the first meeting on this topic since 2 February 2023. As part of this discussion, the Applicant re-stated that they do not believe that the additional crossings will affect the passage of fish and eels or introduce further barriers to water voles and otters due to the mitigation measures proposed

Applicant's Response

As the Environment Agency made clear their concerns on culverts at the meeting on 2 February 2023, the Applicant suggested that this topic was removed from the agenda for regular meetings to allow progress to close out other matters, and that instead it was made subject to a specific meeting to see what progress could be made. This approach was accepted by the Environment

Agency. Once the Environment Agency's position crystallised through the course of the Examination a further meeting was held on 5 May to address the Environment Agency's concerns.

The details of the 5 May meeting are summarised within the Deadline 5 submission - Applicant's Comments on Other's Responses to ExQ2 [REP5-003] (page 86). A further meeting was held after Deadline 5, on 6 June 2023 to discuss the provision of further information from the Applicant to the Environment Agency related to flood risk matters, and that is reflected in the updated SoCG submitted at Deadline 6 [TR010060/EXAM/8.2]. The Applicant welcomes ongoing engagement with the Environment Agency.

The Applicant notes the concerns raised by the Environment Agency and addresses these in sub-part REP5-031-003 of this response.

REP5-031-003

Sub-Part

1.3 We cannot agree with this position. The proposals include the introduction of two new culverts for the new sections of highway, one 60 metres long on Domsey Brook, and one 46 metres long on Rivenhall Brook. In each case the culverts associated with the current A12 will remain in place. A further existing crossing of Domsey Brook and a crossing of the Roman river, which we know through observation cause problems for ecology, are being extended based on the existing designs. It is also proposed to extend the current bridge crossing of the river Brain, replicating the existing design, which we know adversely affects flows in summer with consequences for fish and eels (the Applicant has now agreed to consider design options for improving the River Brain crossing). We cannot accept that the Applicant has demonstrated that these works will not introduce further barriers to species movement on these watercourses.

Applicant's Response

The Applicant is submitting the Technical Note on Proposals for Main River Crossings at Deadline 6 [the Applicant's reference TR010060/EXAM/9.68], which includes a plan that has been produced to help visualise the changes proposed with respect to culverts. The plan presents the proposed changes at each of the Main River crossings within the context of each of the three

operational river catchments and identifies where mitigation measures (such as the provision of mammal ledges) are proposed. The plan also allows for a comparison of the proposed new culverts compared to those already *in situ*.

Additional detailed responses have been provided previously in relation to the assessment of impacts of culverting on riparian mammals and fish which can be found in the following documents:

- Applicant's Comments on Written Representations [REP3-009] (pages 115-130)
- Applicant's Comments on Other's Responses to ExQ2 [REP5-003] (pages 86 – 94).

The Applicant confirms it has agreed to consider modifications to the proposed design for the Brain Bridge during detailed design.

REP5-031-004

Sub-Part

1.4 The Applicant also detailed some of the proposed mitigation measures, including the provision of natural substrate to aid fish and eel passage, and ledges for mammals. While we do not disagree with the specific design of these measures, it is our view that they are wholly inadequate in serving to mitigate the effects of the proposals on these main rivers.

Applicant's Response

As detailed in the Applicant's Comments on Responses to ExQ2 (pages 86 – 94) [REP5-003], the Applicant considers that the implementation of standard and embedded mitigation measures (Section 9.10 of Environmental Statement Chapter 9: Biodiversity [APP-076]) would reduce any potential adverse impacts associated with the extension of existing culverts and construction of new culverts to a level that is not environmentally significant.

Of the eight Main River crossings on the new A12 alignment, there would be no changes to the structures on the Boreham Brook and River Ter and so there would be no change to the permeability to otters or fish. Ashmans Bridge (River Blackwater) would be extended; however the Applicant understands from previous representations (Environment Agency's response to ExQ2 [REP4-074]) that the Environment Agency is generally supportive of the proposed extension of this bridge.

Regarding the remaining five crossings (River Brain, Rivenhall Brook, Domsey Brook (east and west), and Roman River, please refer to the Technical Note on Proposals for Main River Crossings [Applicant's reference TR010060/EXAM/9.68], which describes the proposed design for each of the crossings, the environmental impacts, and the challenges in providing an alternative design and associated environmental impacts. This Technical Note includes a plan to help visualise the changes proposed. The plan presents what the proposed changes are at each of the crossing locations and identifies where mitigation measures (such as the provision of mammal ledges) are proposed.

Two existing crossings on the de-trunked sections of the A12, Rivenhall Brook culvert and Domsey Brook (east) culvert, would remain unaltered.

With respect to freshwater fish, culverts have been designed in line with CIRIA culvert design best practice (Culvert, Screen and Outfall Manual, C786) to minimise the length of newly created culverts and to include natural substrate in culvert beds, thus ensuring no increase in flow velocity. Such mitigation measures are considered to negate any impacts of fragmentation and barriers to the free movement of fish as well as macro-invertebrates and macrophytes (paragraphs 9.11.361 and 9.11.368 of Chapter 9: Biodiversity [APP-076]). As stated in REP5-003 (page 94), the Applicant has agreed to investigate potential opportunities for improvements to the River Brain crossing (Brain Bridge).

Otter and freshwater fish have been valued as County importance in line with DMRB LA 108 (see Table 9.22 of Chapter 9: Biodiversity [APP-076]). It is the Applicant's view that with the proposed mitigation, the extent, magnitude, frequency, and/or timing of an impact does not affect the integrity or key characteristics of the resource. Construction effects would therefore be minor adverse (otters) or neutral (fish) and are therefore not significant in accordance with DMRB LA 108.

The Applicant considers that in the optional phase of the scheme, the provision of mammal ledges in culverts on the Roman River, Domsey Brook (east), Domsey Brook (west) and Rivenhall Brook would reduce impacts associated with direct mortality to otter by allowing safe passage beneath the road, providing a slight beneficial (not significant) effect. Operational effects on fish are assessed as neutral as the use of CIRIA best practice culvert design to minimise the length of newly constructed culverts, and to include natural substrate in culvert beds, would result in no increase in flow velocity. It is therefore considered that with the application of embedded mitigation, these impacts are negated.

REP5-031-005

Sub-Part

1.5 While it may be the case that some mammals will utilise long culverts, evidence from studies (including Grogan, A., Philcox, C. & Macdonald, D. 2001. Nature conservation and roads: Advice in relation to otters. Wildlife Conservation Research Unit, Oxford, as cited by the Cardiff University otter project 2012 referred to in our written representation REP2-054) has shown that river crossings designed as clear span bridges result in fewer mammal deaths as they provide much more natural and varied options for a range of mammals. It is our expert opinion that the proposed crossings will cause unnecessary and avoidable environmental damage, and the Applicant has failed to demonstrate conclusively otherwise.

Applicant's Response

The Applicant does not agree that the proposed crossings will cause unnecessary and avoidable environmental damage.

The Applicant's assessment as presented in Environmental Statement Chapter 9: Biodiversity [APP-076] concludes no significant adverse effects on riparian mammals (those being otter and water vole) during either construction or operation of the proposed scheme, and that there would be no significant adverse effects on protected or notable habitats or species as a result of culverting.

As noted in our response to the Environment Agency's Written Representations (page 116 [REP3-009]) the Applicant acknowledges the study presented by Wilkinson and Chadwick; however, the study is limited by the lack of culvert dimensions in order to draw conclusions about which length of culverts are or are not effective. In addition, Patterns of otter *Lutra lutra* road mortality in Britain (Philcox, C.K. & Grogan, D.W., 1999), concludes:

- No significant difference in the number of casualties located within 100m of a watercourse between culverts, bridges or where no road crossing occurred.
- The optimal approach to road crossing design is to maintain continuous, and where possible, natural bank above the level of high flows, using either wide-span bridges, over-sized culverts or artificial ledges.

As referenced in earlier sub parts to this response, the Applicant has submitted a plan to help visualise the changes proposed with respect to culverts, please see Technical Note on Proposals for Main River Crossings [Applicant's reference TR010060/EXAM/9.68].

REP5-031-006

Sub-Part

1.6 A copy of the Environment Agency's culverting policy and associated guidance has been provided along with this submission. As highlighted at ISH3, the policy represents a long-established position in place for over 20 years. The current version was published in 2019. The policy emphasizes that culverts can have significant adverse effects on the ecology of a watercourse, which is a key reason why they should be avoided and only used where it can be shown that there are no alternative crossing options, and where there will be no adverse impacts on habitats or species. The Environment Agency are working with partners including the Essex and Suffolk Rivers Trust, and the Essex Wildlife Trust to actively remove barriers to species movement from main rivers, and these proposals represent a significant backwards step in that respect.

Applicant's Response

The Applicant notes the Environment Agency's internal culverting policy and associated guidance as submitted at Deadline 5 [REP5-030 and REP5-032] and has reviewed it in the Technical Note on Proposals for Main River Crossings [Applicant's

reference TR010060/EXAM/9.68]. The internal policy is not adopted by Government and does not reflect the approach in the NPSNN or legal authorities. The Applicant is not aware as to whether these policies have been the subject of consultation with the public or government. As such these policies should be given little or no weight in the infrastructure planning process.

As stated in response to Reference 5.5 in the Deadline 5 Submission - Written submissions of oral representations made at Hearings [REP5-020], the Applicant's position is that there is no legal or policy requirement to look at alternatives comprising open span crossings. This is explained further in the Technical Note on Proposals for Main River Crossings [Applicant's reference TR010060/EXAM/9.68]. This approach to provide open span crossings instead of culverts is not being adopted elsewhere in the country with other road schemes, nor is National Highways aware of this happening, and for the A12 the LLFA has not expressed any concern with the proposals for culverts on the 30 Ordinary Water crossings for which they are responsible. The Applicant is committed to exploring alternatives where significant effects are predicted (as stated on page 98 of the Deadline 4 Submission - Applicant's Responses to ExQ2 - Rev 2 [REP4-055] and as explained in the Technical Note on Proposals for Main River Crossings), however, neither of the assessments presented in Environmental Statement Chapter 9: Biodiversity [APP-076] or Chapter 14: Road drainage and the water environment [APP-81] conclude that there would be likely significant adverse effects as a result of culverting.

REP5-031-007

Sub-Part

1.7 The draft National Policy Statement for National Networks (NNNPS) (March 2023) includes the requirement to apply the mitigation hierarchy, defined at paragraph 4.21 as the principle that environmental harm resulting from a development should as a first option be avoided, then adequately mitigated, or, as a last resort, compensated for. This is further detailed in paragraph 5.43 and 5.51. We note that the Applicants Deadline 4 Submission - 9.48 Appendix G: Draft National Networks National Policy Statement Accordance Table - Rev 1 (REP4-062) states that this approach has been complied with. It is our view that the Applicant has not demonstrated that this approach has been followed in respect of the design of the proposed main river crossings. The use of culverts should be viewed as the least favoured option, as they do not avoid environmental harm.

Applicant's Response

<p>The Applicant refers to the response provided in the Deadline 5 submission - Applicant's Comments on Other's Responses to ExQ2 [REP5-003], specifically pages 86 – 94 and the Technical Note on Proposals for Main River Crossings submitted at Deadline 6 [Applicant's reference TR010060/EXAM/9.68].</p>
<p>REP5-031-008</p>
<p>Sub-Part</p>
<p>1.8 We also note that in respect of paragraphs 5.46-47, 5.51 and 5.63 of the draft NNNPS the Applicant has sought to highlight the biodiversity gains of the proposals by referring to “an overall net gain of ... 157% for rivers”. However, that figure in respect of ‘rivers’ has been slightly misquoted. The figure of 157% relates collectively to rivers and streams. As stated in the Biodiversity Net Gain Report (Ref: APP-138. Doc 6.3 Environmental Statement - Appendix 9.14) the ‘rivers and streams’ habitat type was separated into rivers and ditches. The report shows a net gain of 293.29% for ditches, and a very small gain only of 0.36% in respect of river habitat. While we contend that this assessment does not capture the impacts on the wider river ecosystems resulting from the loss in connectivity caused by the proposed main river crossings, we thought it appropriate to highlight the correct figures in relation to river habitats.</p>
<p>Applicant's Response</p>
<p>The Applicant notes the comments raised by the Environment Agency and confirms the numbers presented in the Biodiversity Net Gain Report [APP-183] are correct. The rivers and streams metric (Natural England Metric 3.0) does not identify ‘trading rule’ issues (i.e. where the proposed scheme does not achieve the minimum habitat creation and enhancement requirements to compensate for losses specific to habitat distinctions (up to the point of no net loss). Therefore, ditches and rivers and streams were split out within Footnote 11 [APP-138] to demonstrate that there is a predicted gain in both habitat distinctions. The Applicant confirms the overall net gain for rivers and streams is 157%. The information provided within Footnote 11 is based on a percentage of the baseline information provided for each habitat.</p> <p>To provide some additional context, biodiversity net gain only considers change within the Order Limits and not the wider river catchment or ecosystem.</p>

<p>The biodiversity net gain metric that was submitted at Deadline 3 [REP3-022] has been resubmitted at Deadline 6 to include the Rivers and Stream data, which were missing from the original submission (as raised by the Environment Agency at ISH3).</p>
<p>REP5-031-009</p>
<p>Sub-Part</p>
<p>1.9 In our Written Representation (REP2-054) we highlighted that if fish passage is adversely affected, the proposals risk catchment scale deterioration in the Water Environment (Water Framework Directive) Regulations 2017 (WER) (formerly the Water Framework Directive (WFD)). We do not currently agree that the Applicant's WFD compliance assessment (APP-159) has demonstrated that this will not be the case. When making a decision, the draft NNNPS at paragraph 5.257 states that the Secretary of State (SoS) should "give additional weight to impacts where a project would have adverse effects on the achievement of the environmental objectives established under the Water Framework Regulations."</p>
<p>Applicant's Response</p>
<p>The Applicant notes the position of the Environment Agency in relation to the conclusions of the WFD compliance assessment [APP-159].</p> <p>With reference to Paragraph 5.227 of the NNNPS, the proposed scheme includes measures to mitigate the potentially adverse effects of these crossings resulting in a residual minor adverse (not significant) effect as assessed in section 14.11 of Environmental Statement Chapter 14: Road Drainage and Water Environment [APP-081]. These mitigation measures include:</p> <ul style="list-style-type: none"> • Incorporation of gravels to improve sediment substrate of the riverbed and overall channel heterogeneity (commitments RDWE 39 and RDWE 42 in the Register of Environmental Actions and Commitments (REAC) [REP4-023]). At each of the box culverts, the invert is to be embedded by sediment (0.3m deep).

- Where practicable, in-channel works would be avoided for Main Rivers during freshwater fish spawning and migration periods (October to May inclusive) (commitment BI4 of the REAC [REP4-023]).
- Where sections of watercourses are to be isolated as part of construction work, fluming would be used to protect any fish species present, preventing direct mortality of fish migrating from downstream (commitment BI42 in the REAC [REP4-023]).
- Improved planting along the floodplain and local measures to improve water quality such as planting (RDWE 39, RDWE 40, and RDWE 42 in the REAC [REP4-023]). Riparian vegetation and trees to be added at the entrance and exit of crossing structures (Rivenhall; Domsey Underbridge; Domsey East).

The Applicant considers that once the proposed mitigation measures are included as reported in the WFD assessment, the impact of the proposed scheme would not result in the deterioration of status of any WFD water body and/or deterioration of the water body at the catchment scale as the Environment Agency has suggested would be the case. The Environment Agency has not provided any evidence as to why it has reached a different conclusion, but if they can provide a commentary as to why they do not agree, and any assessment which is relied upon the Applicant will be able to consider this further.

REP5-031-010

Sub-Part

1.10 European eel, water vole and otter are all protected species affected by the proposed crossings. The Applicant has highlighted to us that Natural England are not currently objecting on the basis of impacts to protected species. It is our understanding that the comments from Natural England in respect of these proposals arise from standing advice which is not site specific. We are liaising with Natural England to highlight our concerns regarding the potential severance of species populations across the catchments.

Applicant's Response

<p>The Applicant notes the comments from the Environment Agency. To date, the Applicant has received no objection from Natural England regarding the impacts on protected species, particularly riparian mammals and fish which are of relevance to this response.</p>
<p>REP5-031-011</p>
<p>Sub-Part</p>
<p>1.11 In their response to ExQ2 (REP4-055), the Applicant has outlined some specific points for the Environment Agency to respond to. These include asking which evidence we rely upon to establish that the proposed culverts give rise to conspicuously harmful effects. We would re-iterate that it is the responsibility of the Applicant to accurately assess and show that there will be no adverse effects on ecology, including protected species, as a result of the proposals. It should also be shown that there will be no deterioration in respect of the Water Framework Directive. Our culverting policy states that “Applicants will be expected to demonstrate why culverting is both necessary and the only reasonable and practicable alternative”, and that “Applicants should provide appropriate assessments to demonstrate that culverting will not ... result in an unacceptable impact on the habitat(s) and species present.” We’ve previously detailed, and outlined above, why we do not believe that this has been adequately demonstrated.</p>
<p>Applicant’s Response</p>
<p>The Applicant has undertaken an impact assessment of the proposed scheme on riparian ecological features and the water environment and concluded in the Environmental Statement (specifically Chapter 9: Biodiversity [APP-076] and Chapter 14: Road, Drainage and the Water Environment [APP-081]) that there would be no significant adverse effects on the environment as a result of the proposed extensions to existing culverts or proposed new culverts. In addition, the proposed scheme is compliant with the environmental objectives of the WFD Regulations, as set out in Table 6.7 of Environmental Statement Appendix 14.2: Water Environment Regulations (WFD Regulations) Compliance Assessment [APP-159].</p> <p>Should the Environment Agency wish to dispute the conclusions of the assessments as presented in the Environmental Statement the Applicant would welcome further information from the Agency to support its opinion so that this can be considered.</p>

The Applicant notes the Environment Agency's comments regarding alternatives to culverts and comments on this later within sub-part 012 of this response.

The culverts policy and guidance presented by the Environment Agency at Deadline 5 [REP5-030 and REP5-032] are internal documents. The internal policy is not adopted by Government and does not reflect the approach in the NPSNN or legal authorities. The Applicant is not aware as to whether these policies have been the subject of consultation with the public or government. As such these policies should be given little or no weight in the infrastructure planning process.

Internal Policy 169_19 Culverting Watercourses states "We are opposed to the culverting of any watercourse because of the adverse ecological, flood risk, geomorphological, human safety and aesthetic impacts." The policy is not restricted to proposed culverts where significant adverse effects are predicted. The internal policy goes on to state that "Applicant will be expected to demonstrate why culverting is both necessary and the only reasonable and practicable alternative."

Internal Guidance 170_19 Culverting Watercourses provides guidance on Internal Policy 169_19. The guidance states "We will consider each environmental permit application to culvert or extension of a culvert on a main river on its own merits and in accordance with our risk-based approach to permitting. We will normally only grant such a permit application if there is no reasonably practicable alternative, and we think the detrimental effects would be so minor that a more costly alternative would not be justified or there are reasons of overriding public or economic interest." This policy is more restrictive than EIA Regulations and the NNNPS as it sets the test at minor detrimental effects which would have to be outweighed by costs or public or economic interests, rather than a significant adverse effect. The Applicant refers to the Technical Note on Proposals for Main River Crossings which sets out the proposals for each crossing, the environmental impacts, the challenges with providing a clear span bridge at each location and the associated environmental impacts. The Applicant considers that it has complied with the Environment Agency's Internal Policy. Furthermore, as stated above, the Applicant considers that the Examining Authority should give little or no weight to these internal policies.

REP5-031-012

Sub-Part

1.12 The Applicant has also asked whether the Environment Agency is claiming that the SoS has a legal duty to consider alternatives and has cited case-law relating to the consideration of alternative sites. We are not suggesting that the SoS consider alternative routes but are advising on the significant adverse effects that can result from the use of culverts compared to potentially less damaging alternative designs such as clear span bridges. Our position is that amendments to the scheme could be made to reduce the amount of harm that will be caused to the environment. This is a material consideration for the SoS when making a decision. The policy requirement for the consideration of alternative designs is contained within the draft NNNPS, notably at paragraphs 5.43 and 5.51 (mitigation hierarchy).

Applicant's Response

Chapter 9: Biodiversity of the Environmental Statement [APP-076] concludes no significant adverse effects resulting from the proposed culverting of watercourses. Chapter 14: Road Drainage and the Water Environment [APP-081] concluded a slight adverse significance of effect for all culverts, which is not environmentally significant. Furthermore, Chapter 9 concludes no significant adverse effects on riparian mammals or aquatic species either during construction or operation of the proposed scheme.

The environmental assessment has been undertaken in accordance with the National Networks National Policy Statement (see NNNPS Accordance Tables [APP-251]) and in line with the mitigation hierarchy as presented in DMRB LA 104, whereby the Applicant has sought to avoid impacts where possible. As detailed in Environmental Statement Chapter 3: Assessment of Alternatives [APP-070], the refinement of Option 2 for the proposed scheme provided environmental benefits including reducing potential development within the floodplain. By using the existing crossing of the River Blackwater (Ashmans Bridge), potential effects from severance of the river from construction of a new structure were avoided.

The Applicant notes the references to the draft NNNPS paragraphs 5.43 and 5.51. Although the NNNPS remains in force as the primary basis for making decisions on development consent applications, the draft NNNPS has now been published for consultation and is potentially capable of being an important and relevant consideration in the decision-making process. The

Applicant has therefore previously provided an assessment of how the scheme complies with the draft NNNPS in Appendix G: Draft National Networks National Policy Statement Accordance Table [TR010060/EXAM/9.48].

Paragraph 5.43 states that to avoid harm in line with the mitigation hierarchy the Applicant should demonstrate *inter alia* that the development is designed to avoid the risk of harm. The Applicant believes that it has demonstrated that the proposed Main River crossings, incorporating the mitigation proposed, does not lead to significant environmental effects.

Paragraph 5.51 states that if significant harm to biodiversity cannot be avoided, mitigation needs to be considered, and where significant harm cannot be avoided or mitigated, it should be compensated for. The Applicant considers that its designs for the Main River crossings including mitigation results in no significant adverse effects, so that further mitigation in the form of alternative Main River crossings such as open span bridges is not required under the draft NNNPS.

The draft NNNPS paragraphs 5.43 and 5.51 are a relevant consideration for the Secretary of State, however the Applicant considers that the scheme fully complies with its requirements.

REP5-031-013

Sub-Part

1.13 With regard to the alternative designs that should have been assessed, we've repeatedly stated throughout our pre-application engagement with the Applicant that main river crossings should be as wide and light as possible, retaining a natural channel and natural bank margins. We have highlighted the problems caused by the existing crossings and emphasised the importance of not replicating those designs. In accordance with the aforementioned mitigation hierarchy, we would have expected to have been involved in a consideration of alternative design options for the main river crossings during the pre-application stage.

Applicant's Response

The Applicant notes the comments made by the Environment Agency. A detailed response explaining the Applicant's position on assessment of alternatives to culverts is provided within the response to ExQ2 2.18.5 [REP4-055]. Further discussion is provided in the Technical Note on Proposals for Main River Crossings submitted at Deadline 6 [see Applicant's reference TR010060/EXAM/9.68].

The Applicant considers that there is no legal or policy requirement to provide alternative designs where the proposed design does not result in significant adverse effects. See the response to sub-part 011 of this response and the Technical Note on Proposals for Main River Crossings submitted at Deadline 6 [see Applicant's reference TR010060/EXAM/9.68].

REP5-031-014

Sub-Part

1.14 The Applicant has sought to disapply the Environmental Permitting (England and Wales) Regulations 2016 which provides that the culverting which the Applicant is promoting requires flood risk activity permits (FRAPs). We have indicated that due to our concerns over the nature of the Applicant's proposals we are not prepared to consent to such disapplication and so require the Applicant to submit applications for flood risk activity permits separately for the culverting. (S150 Planning Act 2008 provides that no disapplication may take place in these circumstances unless the Environment Agency consents to it). We will consider the applications for FRAPs when received and may consider it appropriate to refuse the applications on the basis that the culverting is environmentally damaging. Paragraph 5 of Part 1 of Schedule 25 to the EPR provides that we must exercise our functions in permitting FRAPs for the purposes of (a) managing flood risk (b) managing impacts on land drainage (c) environmental protection. In determining applications for FRAPs we must also secure compliance with the Water Framework Directive.

Applicant's Response

The Applicant acknowledges (and has previously acknowledged) that under Section 150 of the Planning Act 1980, FRAPs may not be disapplied without the consent of the Environment Agency. The Applicant has left the drafting in the dDCO while discussions have proceeded with the Environment Agency and will update the dDCO to reflect the final position before the end of the examination.

In the event that the Secretary of State makes the DCO in its current form that would include the culverts to which the Environment Agency has objected, the Applicant does not consider that it would then be open to the Environment Agency to act inconsistently with the Secretary of State's independent factual judgment on the issue by refusing to grant a FRAP on the basis that open span bridges should have been used instead of culverts. Those arguments would have been fully heard and rejected, and the Environment Agency would not retain the right to maintain and act upon its original opinion (*R. v Warwickshire CC Ex p. Powergen Plc* (1998) 75 P. & C.R. 89). The principle of that development would have been established by the grant of development consent.

Based on the three reasons given by the Environment Agency above for permitting FRAPs, the Applicant does not consider that there would be grounds for refusal:

1. The Flood Risk Assessment (FRA) [APP-162] sets out that the culverting proposals would not increase flood risk for the lifetime of the development.
2. Again, the FRA sets out the impacts to land drainage.
3. The environmental effect of the proposed culverts on watercourses and biodiversity was fully assessed and reported in Chapter 9: Biodiversity of the Environmental Statement [APP-076] and Chapter 14: Road Drainage and Water Environment of the Environmental Statement [APP-081]. The Environmental Statement concluded a slight adverse significance of effect for all culverts, which is not environmentally significant, as detailed in Table 14.16 of Chapter 14 [APP-081]. As stated in Section 6.4 of the WFD compliance assessment [APP-159], there would be no change to waterbody status and there would be compliance under the WFD. Consequently, the Applicant does not consider that the proposed scheme would be environmentally damaging. The proposed crossings include mitigation measures in the Register of Environmental Actions and Commitments, specifically commitments RDWE 39, 41, 42 [REP4-023], and as discussed in previous examination responses:

<ul style="list-style-type: none"> • Deadline 3 Submission - Applicant's Comments on Written Representations [REP3-009] (responses to Sub-Parts REP2-053-002, REP2-053-003, REP2-053-004, REP2-053-006, REP2-053-007, REP2-053-013) • Deadline 4 Submission - Applicant's Responses to ExQ2 - Rev 2 [REP4-055] (response to ExQ2 2.18.5).
<p>The Applicant has reviewed the Environment Agency's internal culverting policy as submitted at Deadline 5 [REP5-030 and REP5-032]. The internal policy is not adopted by Government and does not reflect the approach in the NPSNN or legal authorities. The Applicant is not aware as to whether these policies have been the subject of consultation with the public or government. As such these policies should be given little or no weight in the infrastructure planning process.</p>
<p>REP5-031-015</p>
<p>Sub-Part</p>
<p>1.15 We would be happy to discuss this issue further should the Examining Authority deem it necessary.</p>
<p>Applicant's Response</p>
<p>The Applicant notes the Environment Agency's comment.</p>
<p>Environment Agency</p>
<p>REP5-032-001</p>
<p>Sub-Part</p>
<p>Culverting Watercourses Guidance: 170_19 Published: 10/06/2019</p> <p>Audience: All Environment Agency staff, particularly those involved in designing, permitting or responding to works on watercourses. This Guidance and the associated Internal Policy 169 19 should be used to provide advice to local planning authorities, lead local flood authorities, internal drainage boards, drainage and highways authorities, developers, consultants, landowners and the general public.</p>

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Why is guidance on culverting watercourses required? Watercourses are valuable features of the landscape for people and wildlife. We have legal duties under the Environment Act 1995, the Water Environment (Water Framework Directive) Regulations 2017 and the Natural Environment and Rural Communities Act 2006 which aim to ensure that they are protected and enhanced for the benefit of present and future generations. Naturally functioning rivers and coasts provide vital benefits including; flood storage, sustainable natural flood management and increased resilience to drought and climate change. They also provide vital water resources and recreational assets for people, help drain agricultural and urban land, ameliorate urban heating and are the foundation for the diversity, coherence and connectivity of wildlife habitats. The Flood and Water Management Act 2010 defines a culvert as “a covered channel or pipe which prevents the obstruction of a watercourse or drainage path by an artificial construction”. Culverting works against the natural processes of watercourses. It can exacerbate the risk of flooding and increase maintenance cost and complexity. It can also destroy wildlife habitats, hinder fish passage, reduce amenity value, interrupt the continuity of the linear corridor of a watercourse and can affect channel stability. It can also significantly reduce resilience to the effects of drought, floods and pollution. We will therefore take this into account in our decision making. This guidance provides the background information to support the Environment Agency Internal Policy 169 19 on culverting watercourses. What are the detrimental effects of culverting? Detrimental effects of culverting watercourses can include: • increased likelihood of flooding due to their limited capacity and propensity for blockage, both of which can result in obstructions to flow, and loss of floodwater storage; • exacerbating the nature of flooding by increasing flow velocities and speed of onset; • loss of and adverse effects on morphology, fisheries and wildlife habitat including substrate; • if present, adverse effects on protected species; • the creation of barriers to fish passage through increased water velocities, behavioural deterrent, shallow depths, darkness, oxygen depletion and eroded culvert entrances; • increased geomorphological risk including changes to channel stability, river bank and bed erosion and increased deposition around the culverted sections; • greater difficulties in providing for drainage connections; • increased liabilities and costs due to the need to maintain, repair and replace culverts or to manage upstream and downstream risks; • increased health and safety hazards, notably for workers clearing blockages and for children in urban areas; • locally reduced groundwater recharge; • increased difficulty in detecting the origins of pollution and in monitoring water quality; •

reduced resilience for communities and wildlife to the effects of extreme weather events, climate change and acute pollution. What are the benefits of removing culverts? In addition to avoiding the detrimental effects of new culverting listed above, the restoration of river corridors by removing or opening sections of existing culverting and restoring natural river beds and banks can have wider benefits, including: • providing habitat for wildlife and improving its connectivity; • providing additional flood storage capacity and slowing flows; • ameliorating the urban heat island effect; • providing areas for recreational use; • improving amenity, health and educational opportunities; • increasing property prices and their desirability; • reducing maintenance costs and improving safety.

What is the legal framework? Any culverting of a watercourse, or the alteration of an existing culvert: • on main rivers, requires a flood risk activity permit from the Environment Agency under the Environmental Permitting Regulations 2016. Conditions can be imposed on such permits. • on all other watercourses, except within the district of an internal drainage board (IDB), requires a land drainage consent under Section 23 of the Land Drainage Act 1991 from the Lead Local Flood Authority (LLFA). • in an IDB district, is likely to require the consent of the IDB under the Land Drainage Act 1991. • Highway authorities are also required under Section 339 Highways Act 1980 to seek the consent of the drainage authority before carrying out any works affecting a watercourse.

The Environmental Permitting Regulations 2016: Flood Risk Activities states, in paragraph 5 of Part 1 of Schedule 25, that the Environment Agency must exercise its relevant functions for the purposes of achieving the following objectives - (a) managing flood risk; (b) managing impacts on land drainage; (c) environmental protection.

Planning permission under the Town and Country Planning Act 1990 is also likely to be required. In determining or advising on the above permits, consents or relevant planning applications, The Environment Agency must: • secure compliance with the WFD.

Other relevant public bodies have a duty to: • have regard to the relevant River Basin Management Plan. • have regard to the purpose of conserving biodiversity.

What is the Environment Agency role in permitting and planning? We have a direct regulatory role under the Environmental Permitting Regulations in relation to the culverting of main rivers and we have an advisory role on planning applications as a statutory consultee where proposals are in proximity to main rivers. We are not however a statutory consultee purely because proposals are in proximity to ordinary watercourses, but we will often be consulted in these cases as such proposals often lie within Flood Zones 2 or 3, for which we are a statutory consultee. We also have an advisory role as a statutory consultee on the preparation of Local Plans, Spatial Development Strategies and their associated Strategic Environmental Assessments, so have the opportunity to influence policies and land allocations in relation to culverting. We also have a strategic overview role for all sources of flooding.

How will we consider environmental permit applications for culverting? We will consider each environmental permit application to culvert or extension of a culvert on a main river on its own merits and in accordance with our risk-based approach to permitting. We will normally only grant such a permit application if there is no reasonably practicable alternative, and we think the detrimental effects would be so minor that a more costly alternative would not be justified or there are reasons of overriding public or economic interest. In all cases where we believe it to be necessary, applicants should provide measures based on applying a hierarchy: • Acceptable avoidance measures. • Where this is not possible, the appropriate mitigation. • Where this is not possible, the appropriate compensation measures

Applicants should also robustly secure the responsibility for future maintenance and public safety liability. The cumulative impact of any culvert proposal will be taken into consideration if other culverts are pre-existing on the same watercourse or if a precedent may be set which could result in unacceptable damage. We will be unlikely to grant permit applications for proposals to build over existing main river culverts because of health and safety considerations, increased maintenance costs and complexities, and because future options to restore the watercourse may be precluded.

How will we consider planning applications involving culverting? The Environment Agency is a statutory consultee for planning applications on land in or within 20m a main river or land in flood zone 3 or 2 under Schedule 4 to the Town and Country Planning (Development Management Procedure) Order 2015. Therefore, we will normally be consulted by local planning authorities for advice on development proposals which include new culverting or built development on top of existing culverts. We will consider such development proposals on their own merits and provide advice in the context of the planning policies and

guidance relevant at the time. We will only support such planning applications if there is no reasonably practicable alternative, and we think the detrimental effects would be so minor that a more costly alternative would not be justified or there are reasons of overriding public or economic interest. In all cases where we believe it to be necessary, applicants will also be expected to accept sole ownership and responsibility for future maintenance and public safety liability. Planning conditions or obligations should be used to ensure any necessary measures, including future maintenance, are robustly secured. Where such culverting is proposed on an ordinary watercourse, we will work with the relevant Lead Local Flood Authority or Internal Drainage Board to ensure our respective advice is aligned. We are unlikely to support planning applications for proposals to build over existing main river culverts because of health and safety considerations, increased maintenance costs and complexities, and because future options to restore the watercourse may be precluded. Where development proposals present opportunities for the restoration of culverted watercourses to open channels, we will actively pursue this through our statutory consultee role, provided doing so would not increase flood risk elsewhere or cause other unacceptable environmental impacts.

Opening up culverts can also help developers meet wider planning policy objectives such as to achieve environmental and biodiversity net gains, and create and strengthen networks of multifunctional green infrastructure. Our ability to provide bespoke advice across the full range of potential issues associated with culverting, will always be subject to the prioritisation applied by any external or internal screening tools or standing advice, valid at the time. We should also provide this advice, where appropriate, when consulted for pre- application advice.

How will we respond to spatial planning policy consultations? Planning policy requires new development and spatial plans to ensure proposed new development is safe from flooding and does not increase flood risk elsewhere, taking climate change into account. It also encourages use of opportunities provided by new development to reduce the causes and impacts of flooding, including natural flood management techniques. It is also a requirement to recognise the wider benefits from natural capital and ecosystem services and plan for the enhancement of natural capital at a catchment or landscape scale across local authority boundaries; this could include the opening of culverts. The Environment Agency is also a statutory consultee for strategic planning documents including Spatial Development Strategies, Local Plans and Neighbourhood Plans, including their associated Strategic Environmental Assessments (SEA) and Sustainability Appraisals. We are also often consulted on related evidence base and background documents such as Strategic Flood Risk Assessments and Water Cycle Studies. When we are consulted on such strategic planning documents, their associated SEA and Sustainability Appraisals and on relevant evidence base and background documents we should take the opportunity to:

- Advocate for planning policies and allocations which resist proposals

for new culverting • Advocate for planning policies and allocations which encourage the restoration of culverted watercourses to open channels • Advise when it is unlikely a permit will be granted for any new culverting, culvert extension or development on top of existing culverting on main rivers • Advise on compliance with River Basin Management Plan objectives including the Water Framework Directive 'no deterioration' objective • Explain the detrimental effects of culverting and the benefits of removing culverts How will we manage the interface between permitting and planning? For developments that require both planning permission and an environmental permit, the focus of planning decisions should be on whether the proposed development is an acceptable use of the land. Planning permissions should not duplicate controls that are subject to separate regulatory regimes. Whilst the two regimes are legally separate, in order to prevent conflict between the two regimes, we should look to identify any issues which may be material to the granting of either application and provide a substantive planning response so that it may be considered during the application assessment. We should look to avoid situations where planning permission is granted but we then refuse a permit application, causing the applicant to have to apply for a new planning permission. Similarly, if a permit is applied for and granted first, we should not be raising objections at planning applications stage, on issues which have already been considered as part of the permit determination. Local Planning Authorities will assume that the regulatory regime will operate effectively, however, they will need to know the scope of matters a permit can control. Where such measures to control impacts could have implications for planning, such as building location, layout, design or scale, we should recommend that applicants parallel track their permit and planning applications to allow all issues to be considered together. However, we cannot insist on this. We may be asked by the Local Planning Authority whether we see any impediment to being able to grant an environmental permit application. We should be cautious in our planning responses and make sure we are not seen to pre-determine a permit application. We will need to consider any permit application on its own merits and will need to follow due process in assessing and determining any such application.

How does culverting impact on delivering the Water Framework Directive and the 25 Year Environment Plan? Water Framework Directive The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 (WFD regulations) applies to surface waters (including some coastal waters) and groundwater (water in underground rock). These regulations set out requirements, to prevent deterioration of aquatic ecosystems and protect, enhance and restore water bodies to 'good' status. Culverting can result in adverse impacts on water bodies, which could instigate their deterioration or prevent their achievement of good status (or potential, for artificial and heavily modified water bodies) under the WFD regulations. Under the WFD regulations the Environment Agency must exercise its functions so as to secure compliance with the requirements of the WFD. We can therefore only grant a permit for a culvert if it meets the requirements of the WFD (including the Article 4.7 exemption). Applicants should assess the impact of proposed culverts on water bodies and the objectives in the relevant River Basin

Management Plan. If culverting results in deterioration of the WFD water body status or prevents it from meeting 'good' status, the applicant will have to demonstrate the development meets the requirements of Article 4.7 of the Water Framework Directive as transposed by the WFD regulations. Further guidance can be found in 'Guiding principles to follow when considering exemptions under Article 4.7 of the Water Framework Directive' 25 Year Environment Plan The government's 25 Year Environment Plan (25YEP) has a target of improving at least three quarters of our waters to be close to their natural state as soon as is practicable. Physical modification, which includes culverting, is the top pressure affecting England's water environment preventing the achievement of Water Framework Directive objectives. The Culverting Watercourses Internal Policy 169 19 is a key document in helping deliver for both the 25YEP and Water Framework Directive drivers. Other Environmental Considerations Some habitats and species which may or may not be designated are more valuable or more vulnerable than others. For example habitats of principal importance under NERC require more scrutiny due to their value. Rivers, such as chalk rivers, are particularly vulnerable to disruption by culverts. More than ever, it is vital to get expert advice on these from FBG when dealing with culverts so that a reasonable decision on culverting can be taken based on the merits of each case. What other documents relate to this guidance?

Flood and Water Management Act 2010 The Environmental Permitting Regulations 2016 Owning a watercourse Natural Environment and Rural Communities Act 2006 Land Drainage Act 1991 Environment Act 1995 634 08 Flood and Coastal Risk Management - conserving, enhancing and restoring biodiversity 325 07 Conservation screening: taking nature conservation into account for permits, consents, licences and our works

Guiding principles to follow when considering exemptions under Article 4.7 of the Water Framework Directive 488 10 Protecting and improving the water environment - Water Framework Directive compliance of physical works in rivers 1340 16 Supporting implementation of river basin management plans 1340 16 SD01 Implementation of the river basin management plans position statement 659 16 Flood risk assessments: climate change allowances - guidance for Sustainable Places and Partnerships and Strategic Overview teams

Applicant's Response

The Culverting Watercourses Guidance: 170_19 supplements Internal Policy 169_19 to provide advice to Environmental Agency staff involved in designing, permitting or responding to works on watercourses. This guidance is internal to the Environment Agency.

The Applicant notes that the Environment Agency is a developer in its own right, as it is responsible for the construction of works such as flood defences. As such the Environment Agency is free to adopt these policies for their own projects. However, these policies are not adopted by Government, and they do not reflect the approach in the NPSNN. In essence they require assessment of alternatives in every case i.e., even if a culvert would not cause harm at all. Accordingly, they are not reflective of legal authorities either. The Applicant is not aware as to whether these policies have been the subject of consultation with the public or government. As such, the Applicant's view is that these policies should have little or no weight in the infrastructure planning process.

Further information on the Applicant's position is provided in the Technical Note on Proposals for Main River Crossings submitted at Deadline 6 [Applicant's document number TR010060/EXAM/9.68.

Essex County Council

REP5-033-001

Sub-Part

1. Issue Specific Hearing 3 Set out below are summaries of the oral representations made by Essex County Council (the Council) representatives at the examination hearing on 26 April 2023. Traffic and Transport – Boreham Witness: Mark Stubbs, Associate Director Transport Planning

The Applicant has reaffirmed its position that additional interventions are not required to ensure compliance with the proposed reduced speed limit within Boreham Village and between Main Road and Boreham Village. During the hearing, the Applicant quoted average speeds for these sections of road, however, this does not take account of the variation in traffic speed along the length of the route.

The Council's year-round GPS based traffic speed monitoring (as set out in Figures 3 & 4 of REP3-034) shows that: • Through Boreham village, average peak hour speeds currently vary between 20mph and 40mph • Between Boreham and Hatfield Peverel, average peak hour speeds vary between 35pmh and 50mph

This variation in traffic speed is an important consideration, because the additional traffic attracted to the B1137 due to the A12 scheme in the AM peak will increase the risk of collisions, if speeds are not reduced.

The DCO scheme does not include any measures to encourage a reduction in speed on the B1137, other than the proposed speed limit reduction. However, there is no guarantee that this will result in a consistently lower speeds - particularly on those sections of road where the existing average speed is around 10 miles per hour higher than the proposed one.

In ongoing discussions with the Council, the Applicant has indicated that it is considering the possibility of providing road narrowings, a new zebra/signalised pedestrian crossing and locally designed road signs within the A12 DCO scheme. However, the Council has been given no assurance that these will actually be delivered.

The Council would respond as follows: • Main Road is long and straight, with a uniform width; its physical nature doesn't help to discourage speed limit exceedances. • Simply reducing the speed limit (even in combination with occasional road narrowings) is unlikely to bring about a consistent reduction in speed along the whole length of Main Road - which is what needs to be achieved to prevent Main Road from attracting more traffic from Maldon Road than has been forecast by NH. • Average speed cameras are the key element of the package of measures necessary to ensure better adherence to the proposed speed limit reductions on the B1137. This is especially so between Boreham village and Hatfield Peverel. As such, the Council maintains that all elements of the proposed speed mitigation measures put forward by the Council should be included in the DCO scheme, including speed cameras.

In response to a question from the Examining Authority, the Council explained that Essex Police are responsible for enforcing speed limits in Essex (note this includes the back-office processing of offences detected by safety cameras.) The Safer Essex Roads Partnership (SERP) is responsible for the ongoing maintenance of safety camera systems. The SERP has its own budget and comprises highway authorities and emergency services in Essex, including Essex Police and Essex County Council.

Applicant's Response

The Applicant has responded to the points made by Essex County Council at Issue Specific Hearing 3 around speeds in Boreham in the Applicant's Written submission of Oral Case for Issue Specific Hearing 3 [REP5-020]. In particular, in response reference 3.2 and 3.3.

In addition, as explained in response to reference 3.1 the Applicant has now committed to the installation of average speed cameras, a new controlled pedestrian crossing on the B1137, and softer measures including road safety posters.

The Applicant notes that within ISH 3 on 26 April 2023 the Council's expert witness confirmed that average speed cameras were an effective measure for keeping people to speed limits.

REP5-033-002

Sub-Part

Traffic and Transport – De-trunking section of the A12 Witness: Sean Perry, Transport Planning Manager

As discussed at previous hearing sessions the issue of de-trunking is still the item the Council remains furthest apart from the applicant on in terms of common ground, however the Council notes and acknowledges the applicants technical note (REP4-057) for which there are several key points criticising the alternative scheme as presented by Essex County Council in its technical note REP3-082 and REP3-081 namely Policy, Safety DCO processes and Costs. The following text responds to each

of the aspects as above as well as a re- iteration of the policy alignment which the council believes with its proposed alternative represents a closer alignment.

Applicant's Response

The Applicant notes the Interested Party's comments.

REP5-033-003

Sub-Part

Policy Alignment The Applicant has claimed that the Council's alternative proposals for the de-trunked sections of the A12 are not justified in policy terms and present significant and unnecessary costs. However, the Council is firmly of the view that improvements to the DCO proposal are necessary, because the de-trunked sections does not align with the County Council's placemaking agenda, or its policies and strategies that place an emphasis on enhancing place and quality of resident's lives (such as Everyone's Essex Corporate strategy, the Essex Green Infrastructure Strategy and the existing and emerging Local Transport Plan). In fact, it is felt that the current DCO proposals do not align with National Highways own Sustainable Development Strategy (2017) or conform to several the key principles set out in The Road to Good Design (Highways England, 2018) or National Highways' Strategic Design Panel 2 Progress Report (2018). The DCO scheme in its current form does not:

- Reduce barriers to access and participation
- Fit in with the context and aesthetic in relation to where it passes
- Enhance a sense of place
- Make an important contribution to the conservation and enhancement of the natural and built environment

The DCO proposals for the de-trunked sections do not align with wider Government Policy, including the emerging updated National Policy Statement for National Networks (NPSNN) which places significantly greater emphasis on sustainability, net zero principles and improved environmental outcomes. In addition, they do not accord with the latest LTN1/20 guidelines, an important feature and requirement for other parts of the DCO application. Finally, the proposals under the current DCO add significantly to the Council's burden on maintenance programmes for the local highway network.

Applicant's Response

The Applicant acknowledges the Interested Party's comments on local and national policy.

The Applicant has responded to the local and national policy points in the Deadline 4 Submission - Responses to ExQ2 and comments on other matters at Deadline 4 [REP4-075]. The Applicant also responded to these points on pages 43 and 44 of the Deadline 5 Submission - Comments on any further information received [REP5-002]. Below is a summary as to how the Applicant has shown compliance with national and local planning policy:

- The Applicant prepared and has updated throughout the examination the Design Principles [REP5-012] and the National Policy Statement for National Networks (NPSNN) Accordance table [APP-250] and the Draft NPSNN Accordance table [REP4-062]. The NPSNN Accordance table demonstrates how the proposed scheme accords with the adopted relevant National Policy Statements in full.

In regard to the Design Principles, it was written to capture the key policies and principles such as the Essex Green Infrastructure Strategy (2020) and Road to Good Design that have shaped the design thus far. It also makes a commitment that these will be maintained and developed in the future detailed design and delivery phases of the proposed scheme in accordance with NPSNN (Department for Transport, 2014).

The Applicant therefore argues that the proposed scheme design including the de-trunked sections has a layout that accords with the Road to Good Design but also complies with Design Principles for National Infrastructure and Essex Green Infrastructure Strategy.

The Design Principles are supported by the Design Access Statement [APP-268] where at point 4.6 the document addresses the road layout and WCH provision [APP-269] and chapter 7 of the Case for the Scheme [APP-249] where it addresses National Planning Policy Framework and Local Planning Policy.

The Applicant has reissued 7.10 Design Principles [TR010060/APP/7.10] at Deadline 6 as a certified document in accordance with the proposed text added by the ExA within the Examining Authority's commentary on the Draft DCO [PD-015].

In regard to the bullet points raised on reduction of barriers, access and participation, the Applicant believes that the proposed de-trunked A12 between Junction 22 and Junction 23 will improve accessibility and reduce segregation between both sides of Rivenhall End and connect to Essex Fire and Rescue employment centre and Witham. The reduction in traffic will improve the sense of place along the communities along the de-trunked sections between Junction 22 (Witham north) and 23 (Kelvedon south) and between junction 24 (Kelvedon north) and junction 25 (Marks Tey Interchange).

In regards to the bullet points on the context of where it passes, sense of place, conservation and enhancement of natural and built environment, the Applicant's view is that:

- the proposed A12 alignment has been designed to avoid heritage assets and listed buildings. The proposed scheme includes essential mitigation which would comply with Biodiversity Net Gain objectives.
- The proposed scheme design has been refined throughout where practicable to avoid impacts on trees protected by TPOs and trees identified as meeting ancient, veteran and category A criteria.
- The landscape and visual effects that would be caused by the proposed scheme, including the de-trunked sections, are assessed in the Applicant's Environmental Statement Chapter 8 [APP-75].
- Landscape mitigation, which has been developed to avoid or minimise harm to the landscape and views, is illustrated on the Environmental Masterplan on Figure 2.1 [APP-086, APP-087 and REP4-015].
- Design principles, which consider conserving and reinforcing landscape character and features in line with relevant local and national policy, are presented in the Design Principles document [REP5-012]. These were used to inform the development of the proposed scheme design, including the Environmental Masterplan.

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The Applicant would also point out that within the Applicant's Response to the Examining Authority's commentary on the draft Development Consent Order [TR010060/EXAM/9.67], the Applicant is willing for a Requirement on de-trunking to be included in the draft DCO but only on the basis that the requirement wording is that proposed by the Applicant, as the ExA has set out in DCO-PC23 of the Examining Authority's commentary on the draft Development Consent Order [PD-015] [TR010060/EXAM/9.67].

The Requirement accepted by the Applicant has several parts including demonstrating how the proposals maintain a safe and reliable highway network.

In regard to compliance with LTN1/20 and that LTN 1/20 is a hierarchical guidance. Regarding the existing walking and cycling infrastructure on the de trunked A12 is around 2.5m wide and 0.5m of green verge in some places which is considered to be safe and fit for purpose infrastructure. The Applicant submitted updated Streets, Rights of Way and Access plans at Deadline 4 to include limits of deviation (LoD) for the walking, cycling and horse-riding facilities [REP4-003 and REP4-004] to enable LTN1/20 compliance across the proposed scheme. These matters are currently in discussion with ECC, and the Applicant has proposed that these refinements are secured by way of a new requirement 14 within Schedule 2 of the Draft DCO [REP5-005] which was submitted at Deadline 5.

Lastly, regarding the maintenance burden, the Applicant will continue discussions with ECC to agree the transfer of the de-trunked asset. To note that without ECC agreeing with the Applicant's proposed de-trunking strategy, the maintenance regime cannot be resolved. The Applicant would reiterate, as noted in the A12 Technical Note on De-trunking Proposals - Rev 2 [REP4-057], that in November 2021 the Applicant provided Draft Heads of Terms to ECC. The Draft HoT provided a section on maintenance liability.

REP5-033-004

Sub-Part

The Applicant states that it will hand over the de-trunked sections in a safe and serviceable condition. However, this still represents a significant missed opportunity to address some long running issues of poor walking, cycling and equestrian provision as well missing an opportunity to improve the local environment with a safer, greener and healthier local network following the implementation of the A12 widening scheme.

It is felt therefore that the alternative proposal as presented by the Council within the Deadline 3 submission (REP3-081 and REP3-082) has a much stronger alignment to these more updated policies and agendas.

Applicant's Response

The Applicant's de-trunking proposal provides a safe and serviceable dual carriageway that offers:

- Resilience for the overall highway network;
- A safe alternative route for slow moving vehicles which does not impede other vehicles' movement;
- A high-quality route for emergency access;
- public transport route reinstatements; and
- An improved walking/cycling route segregated from the carriageway.

However, as noted in REP5-033-003 of this document, the Applicant is willing to include its Requirement on de-trunking in accordance with the Applicant's comments provided in the Applicant's Response to the Examining Authority's commentary on the draft Development Consent Order [TR010060/EXAM/9.67]. Such a Requirement includes demonstrating how the proposals maintain a safe and reliable highway network.

With regard to WCH facilities, de-trunking itself will remove traffic, particularly Heavy Goods Vehicles (HGV), from this stretch of road and inherently enhance the safety of the existing walking, cycling and horse-riding provisions. The Applicant refutes the Interested Party's claim that the Applicant's de-trunking proposal is a significant missed opportunity. The Applicant has considered the alternative proposal from ECC as documented in the Technical Note on De-trunking Proposals [REP4-057] and deemed that the enhancements suggested by ECC are not considered to represent a reasonable opportunity in accordance with the National Networks National Policy Statement (NNNPS), specifically paragraph 5.205. The Applicant maintains that the Council's proposed enhancements are not justified in policy terms and present significant and unnecessary costs, as well as disruption to frontage owners. Their inclusion in the A12 scheme would lead to significant additional costs and a lengthy delay to the provision of a modern trunk road between Chelmsford and Colchester.

The Applicant's proposed enhancements to the WCH network along the de-trunked A12 include:

- In Rivenhall End, a new 3m wide shared use cycle track is proposed to the north of the de-trunked A12, connecting with the existing cycle tracks and the proposed Snivellers Lane Bridge. A new crossing of the detrunked A12 is also proposed to connect with Oak Road (south) to address severance issues.
- In Feering, a new 3m wide shared use cycle track is also proposed to connect the existing cycle track to the north of the de-trunked A12 to Prested Hall Overbridge.
- In Marks Tey, new cycle tracks and footways are proposed at junction 25, including the Marks Tey Bridge replacement and crossing points at London Road roundabout, Coggeshall Road and Old Rectory Junction.

These proposed enhancements improve the connectivity of the WCH network in Rivenhall End and from Feering to Marks Tey and is considered reasonable in accordance with paragraph 5.205 of the NNNPS. Given the proposed scheme retains shared walking and cycling provision adjacent to the de-trunked A12 and removes the current barrier to non-motorised users undertaking journeys between Witham, Rivenhall End, Kelvedon, Feering and Marks Tey, the Applicant considers that the policy tests are met.

REP5-033-005**Sub-Part**

Safety The Applicant has stated that the dual carriageway proposed to be retained on the de- trunked sections of the A12 provides a higher inherent safety level compared to a single carriageway as it separates opposing traffic flows and removes right-turns at accesses.

However, the Council (as stated at ISH 1 on 28

th February 2023 – EV-015) and Essex Police (as stated in REP4-050) strongly believe that the long straight sections of dual carriageway, as proposed in the DCO, would result in higher speeds and the potential for increased exceedances of stated speed limits, due to the much lower predicted traffic flows. There would also be an increased risk of anti-social behaviour and potentially higher numbers of road traffic collisions given the low use. The introduction of roundabouts to assist in mitigating these risks, as proposed in the DCO, may also compound the issue of increasing collisions due to higher speeds and lower use.

In response to access arrangements, the Council have given this careful consideration and with the proposed enablement of single carriageway working this would reduce the overall level of traffic speed and reduce the potential for conflict with traffic accessing properties (right in, right out) i.e traffic needing to cope with traffic from one direction under the Councils alternative

single carriageway proposal as opposed to coping with traffic from two directions under the DCO and/or making long diversions to access properties if road restraint systems are left in situ.

In response to the points raised at ISH 3 on 26

th April 2023 regarding diversionary routes, emergency access and better resilience, the main premise of the A12 widening project to three lanes is to provide a safer more resilient network therefore reducing the need for traffic to divert onto the de-trunked sections during times of incident. Given this objective it is felt that the resultant number of lanes i.e. 10 lanes (including 4 lanes of which will be de-

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trunked) in the vicinity of Kelvedon to Marks Tey section, in particular, is over provision and not required.

Applicant's Response

The Applicant notes the response made and recognises the concern regarding potential for excessive speed following de-trunking.

The Applicant believes the proposed roundabouts being approximately 1.5km apart will act as traffic calming features and discourage traffic from driving in excess of the speed limit on the stretch of de-trunked road between Feering and Marks Tey.

As noted within the Applicant's Response to the Examining Authority's commentary on the draft Development Consent Order [TR010060/EXAM/9.67], the Applicant is willing for a Requirement on de-trunking to be included in the draft DCO but only the basis that the requirement wording is that proposed by the Applicant, as the ExA has set out in DCO-PC23 of the Examining Authority's commentary on the draft Development Consent Order [PD-015] [TR010060/EXAM/9.67].

<p>The Requirement accepted by the Applicant has several parts including demonstrating how the proposals maintain a safe and reliable highway network.</p>
<p>REP5-033-006</p>
<p>Sub-Part</p>
<p>DCO Process The Applicant has stated that, assuming the alternative de-trunking proposals put forward by the Council would be associated development linked to the A12 Nationally Significant Infrastructure Project and applied for as part of the overall A12 scheme, that the Applicant would be required to withdraw the current DCO application. They consider that withdrawing the current application and submitting a new scheme could mean a two-year delay to the consenting process.</p> <p>It is unclear why the Applicant believes that the current DCO application would need to be withdrawn and re-submitted. One approach option could be to provide the changes as part of the DCO process much like the Applicant is currently doing with their targeted consultation. The DCO has not been withdrawn and is continuing through the process with the design and assessment of the changes being made in parallel.</p> <p>In addition, the Council does not accept that there is no other mechanism to incorporate changes to their de-trunking proposals and that the Applicant is forced to withdraw their DCO application. This was discussed further during Issue Specific Hearing 4 under Agenda Item 3 which can be found here: New requirement – A scheme for de-trunking.</p>
<p>Applicant's Response</p>
<p>It is important that this issue is properly contextualised. Although it has generally been described by ECC as relating to de-trunking proposals, ECC's justification for these changes has been predicated on NPSNN and whether the proposed scheme is in compliance with policy in relation to the improvement of facilities for non-motorised users and to reduce severance. The Applicant's firm position is that the enhancements proposed by the Council go well beyond what would be considered a reasonable opportunity in the context of paragraph 5.205 of the NNNPS. This is further described in response to REP5-033-004</p>

in this document which sets out the new measures the Applicant is proposing for Rivenhall End, Feering and Marks Tey which remove the current barriers to non-motorised users undertaking journeys between Witham, Rivenhall End, Kelvedon, Feering and Marks Tey.

The Applicant has submitted 9.43 A12 Technical Note on De-trunking Proposals [REP4-057] which responds to ECC's alternative proposals. Section 6 of that document sets out a detailed consideration of the alternative proposals, and explains in detail the challenges which would be faced by the Applicant if it was to introduce those changes. This includes practical issues such the extent of the works required to construct new accesses to properties who currently access the northern (eastbound) carriageway, level differences and permissible gradients for driveways and ECC's proposed cycle track and the need for new drainage infrastructure. More fundamentally, because this would be a significant piece of associated development linked to an NSIP, and has not been assessed, it would require a new Transport Assessment and Environmental Statement. The DCO and application plans (including the Land Plans), the Book of Reference and Statement of Reasons would also have to be substantially redrafted and further consultation would have to be carried out. Moreover the estimated costs of the alternative proposal would be significant and is not considered to be a reasonable amendment given that the Applicant considers the application to already be policy compliant. The conclusion of the technical note is that the changes are so fundamental that they could not be made during the Examination and would require the withdrawal and resubmission of the application.

ECC's proposals bear no relationship in scope and extent to the relatively modest changes proposed by the Applicant in its forthcoming Change Request Application. The 2 year timescale for the resubmission process is explained in Section 6.5 of the technical note. Applicant cannot simply include a requirement in the DCO which obliges it to carry out works which have not been properly assessed in its Transport Statement and Environmental Statement and in respect of which the environmental effects and effects on traffic flows and traffic safety are not known.

REP5-033-007

Sub-Part

Cost The Applicant in their technical note REP4-057 (Table 61, Page 16) identified a high level cost estimate based on a similar design to the Council's alternative proposal, albeit with less green infrastructure, stating that it would cost an additional £5.4

million over and above the original DCO proposal for the de-trunked sections. Based on the Applicants own cost estimates and with an overall scheme cost of £1bn - £1.2bn the provision of the Council's own estimate would only amount to a 0.5% increase in the overall cost of the scheme. It is therefore the view of the Council that this is entirely appropriate and should have been included from the outset given the Council's sustained and consistent view on the de-trunking proposals as presented in the DCO and is also well within normal contingency allowances for projects of this size.

Applicant's Response

The Applicant acknowledges the Interested Parties' comments but has a remit to ensure the project objectives are met within constraints of the project brief. This includes ensuring works scope, land take, consenting parameters and legislation, environmental impacts, etc meet the needs of the project and do not go beyond. The Applicant is therefore not able to include additional scope to solve wider issues, or for the benefit of other parties, and would fail under scrutiny over this via the governance process and by key stakeholders.

As the Interested Party has been unable to provide a detailed design of their alternative de-trunking proposals, the Applicant produced a concept design which an Order of Magnitude cost estimate was prepared against. Notwithstanding the above comments about works scope, by its nature this initial cost estimate has a high likelihood to increase as the design develops and risks are realised.

REP5-033-008

Sub-Part

Summary In summary the Council supports the overall scheme however it cannot support the proposals for de-trunking as they currently stand. The Council has consistently raised concerns with the Applicant's approach to de-trunking (this is demonstrated in Appendix B, which summarises the Council's comments on this aspect of the scheme at various stages in the scheme development). The Applicant's suggestion that the Council has only recently raised concerns is therefore frustrating and incorrect. Work on developing our alternative proposals only commenced in mid-2022, however these proposals have only been developed because the Council considered that the Applicant wasn't giving due regards to our legitimate concerns on this aspect of the project. The fact is the Applicant has known about our concerns on de-trunking for several years and has had ample time

to work with us to address them – the limited time now left before the end of the examination shouldn't be a justification for not progressing appropriate proposals.

The Council's position remains that we will continue to engage in good faith working collaboratively on wording of any further requirements written into the DCO as presented.

Applicant's Response

As noted in the Deadline 4 Submission - 9.43 A12 Technical Note on De-trunking Proposals - Rev 2 [REP4-057] section 5 the Applicant agrees that engagement has been extensive on de-trunking and the timeline provided by the Council broadly aligns with that which was included within [REP4-057].

While this is not covered in the Council's submission it is important to acknowledge that the Applicant has consistently responded to the Council's position throughout the development of the proposed scheme, including proposing as noted by the Council a draft heads of terms. Of further note was the Applicant's response to the Council's March 2022 letter which can be found in Appendix A of the Applicant's Response to Relevant Representations [PDA-004].

The Applicant maintains as a matter of fact, as it has stated at various hearings and is included in REP4-057, that it was half a year after the statutory consultation before the Council provided any real detail on its aspirations for the de-trunked road, and only during the Examination that a clear proposal, albeit still embryonic was provided.

That said, the Applicant remains committed to reaching a suitable resolution to this matter. ASs noted within the Applicant's Response to the Examining Authority's commentary on the draft Development Consent Order [TR010060/EXAM/9.67], the Applicant is willing for a Requirement on de-trunking to be included in the draft DCO but only on the basis that the requirement wording is that proposed by the Applicant, as the ExA has set out in DCO-PC23 of the Examining Authority's commentary on the draft Development Consent Order [PD-015] [TR010060/EXAM/9.67].

REP5-033-009

Sub-Part

Traffic and Transport – Messing and Inworth Witness: Billy Parr, Head of Network Development

The Council note the acknowledgement from NH that they will deliver some of the measures we have proposed for mitigating the impacts of the new junction 24 on the local road network, namely 'village entry' treatments and 'unsuitable for HGV' signs. This is the first time the Council have heard this.

These two measures are from a list of eight measures that the Council stated in our LIR [REP2-055] should be investigated further. These measures were based on our assessment of potential mitigation measures, as detailed in the Inworth, Messing and Tiptree mitigation technical note [REP3-033]. The Applicant has unilaterally decided what the measures should be without engagement with the Council as the local highway authority. As is the case for the B1137, the Council believe speed cameras on Inworth Road amongst other measures are also required.

To reiterate, the Council has three main concerns with the current proposals for junction 24: the design of the new Inworth Road roundabout, the need for additional measures on Inworth Road to accommodate the forecast increase in traffic (42% increase in AM peak to 1,111 vehicles/hour) and the need for measures to reduce the likelihood of traffic routing to/from the junction via inappropriate routes (or rat running).

As the Council indicated in our Deadline 4 submission [REP4-075], with regards to the new roundabout we believe the land constraint issues are driving the design and that Manual for Streets is not the standards that would typically be used for a roundabout of this nature. The Council do understand the desire to minimise the impacts on residential properties (as can be seen north and south of the proposed roundabout in General Arrangement plan sheet 14 of 21 in AS-012), but believe as a direct

result additional measures are needed (most effective of which will be speed cameras) to ensure vehicles travel and approach the roundabout at safe speeds.

Therefore, the Council's position remains that the Applicant need to go further in terms of the measures that are implemented to mitigate the impacts of junction 24 as far as possible.

Applicant's Response

As explained in response to reference 3.17 in the Applicant's Written Submission of Oral Case for Issue Specific Hearing 3 [REP5-020], the Applicant has considered additional mitigation set out in ECC's Local Impact Report [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].

The Applicant has committed to providing village entry gateway features for Messing village and "unsuitable for HGVs" signage on Kelvedon Road and Harborough Hall Road as detailed in Requirement 16 of the Draft DCO [REP5-004].

The Applicant has considered other measures requested by ECC, such as narrowing of the entries to Oak Road, a 20mph speed limit on Oak Road, improved signage at either end of Oak Road, and does not consider these interventions to be appropriate for inclusion in the proposed A12 widening scheme. This is 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 which would consequently change the traffic from what is presented in the Environmental Statement as explained above.

With regard to widening of pinch points on the B1023 between Perrywood Garden Centre and the B1022, the Applicant is not proposing widening in this area. The Applicant has proposed pinch-point widening in Inworth to reduce the likelihood of wide vehicles overrunning onto pedestrian footways in the village where pedestrian use is high.

It is not proposed for further existing pinch-point widening to be included in the proposed scheme south of the Perrywood Garden Centre because the likelihood of encountering pedestrians in this 50mph section without footpath is less likely compared to within the village. The pedestrian footway in Tiptree is set-back from the carriageway in sections where the carriageway is narrow, further reducing the risk of vehicle overrunning onto pedestrian footways.

Regarding average speed cameras on the B1023 to the south of the new Inworth Road roundabout to increase the likelihood of adherence to the proposed speed limit in both directions, 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 proposed scheme.

Finally, regarding a fixed speed camera on the southbound approach to the new Inworth road roundabout, the roundabout acts as a very apparent traffic calming feature which can be seen from the proposed start of the 30mph speed 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 proposed scheme.

For these reasons, the Applicant is not proposing to include these additional measures requested by the Council in the proposed scheme.

Regarding the design of the Inworth Road roundabout, the Applicant maintains that that the design of the roundabout in accordance with Essex County Council's Highways Technical Manual and Manual for Streets is appropriate for this context.

REP5-033-010

Sub-Part

Traffic and Transport – Monitoring and management of wider impact on the local highway network Witness: Billy Parr, Head of Network Development

For the reasons the Council set out at ISH 1 on 28 February and within the Council's LIR [REP2-055], we believe there is a need for the actual traffic and in some cases air quality impacts to be monitored at a number of specific locations across the local highway network.

The Council set out our proposed locations in section 8.2.36 of the LIR. Following recent engagement with Feering Parish Council, we think there is a case for monitoring to be undertaken at an additional two locations. Other stakeholders may have additional suggested locations. The Council note the acknowledgement by the Applicant that they will consider additional monitoring locations where they are 'clearly justified', but what constitutes clear justification needs to be determined and this shouldn't just be up to the discretion of the Applicant.

The Council were expecting further detail from the Applicant at Deadline 4 on their proposed approach to monitoring, as indicated in their response to our LIR [REP3-021]. The Council understand the Applicant have not been able to provide this but are intending to discuss this with us at an upcoming meeting. The Council will continue engagement on this, and we do consider that a requirement like Requirement 17 of the A14 DCO could cover a lot of what we believe is necessary.

The Council note the Applicant's resistance to a Requirement involving working with the Council to investigate and, if necessary, implementing suitable mitigation should monitoring indicates an adverse effect, on the basis that it will be difficult to determine that a change in conditions is a direct result of the scheme. However, Requirement 17 of the A14 includes this, at (2)(ix) – a mechanism for the future agreement of mitigation measures – and the Council would like to agree such a mechanism for this scheme. This was discussed further during ISH4 during agenda item 3 - New requirement – Monitoring and managing wider impacts on the local highway network

Applicant's Response

The Applicant has agreed to undertake a programme of monitoring and this is confirmed in Requirement 17 submitted at Deadline 5 in the Draft DCO [REP5-004]. The Requirement aligns with the locations for monitoring and the timetable for monitoring proposed by the Council in its Local Impact Report [REP2-055].

With regard to future mitigation, the Applicant met with the Council on 23rd May 2023, where the topic of monitoring traffic flows was discussed. The Council presented their initial proposals on a monitoring and mitigation programme in that meeting, and subsequently provided the Applicant with the content of this presentation on 24th May 2023.

This included suggested locations and survey specifications for monitoring surveys. The Applicant will consider these in detail and will respond accordingly, but its initial view is that the scope of the surveys is disproportionate compared to typical monitoring undertaken by National Highways on local roads. The Applicant further notes that the Requirement as drafted includes all the locations requested by Essex County Council in their Local Impact Report, as well as the timescale for monitoring.

ECC also set out proposals for how to compare observed traffic flow changes with modelled traffic flow changes. The Applicant notes the methodology proposed, but that the gap of at least four years between pre-construction and post-opening traffic surveys adds considerable uncertainty.

The Applicant also remains of the view that, due to the large number of proposed housing developments close to the roads affected by the proposed scheme, it is not possible to fully separate the traffic growth caused by the housing developments from growth caused by the proposed scheme.

Overall, the Applicant accepts that while it is possible to monitor and analyse the impact of the proposed scheme, there is a level of uncertainty around the extent to which the proposed scheme is responsible for observed changes. While this level of uncertainty is acceptable for a monitoring report that focuses on trying to understand the impacts of the scheme, it does not allow

definitive “blame” to be placed on the A12 scheme for traffic changes and therefore responsibility for funding or delivering mitigation.

This was the Applicant's position outlined in comment reference 3.20 in the Applicant's Written submission of oral case for Issue Specific Hearing 3 [REP5-020], and the Applicant has not identified any reason to change from that position.

REP5-033-011

Sub-Part

Traffic and Transport – Hinds Bridge widening Witness: Billy Parr, Head of Network Development

The Council's position remains as set out in our Deadline 4 submission [REP4-075], namely that the bridge should be widened so that it can accommodate two large vehicles passing in opposite directions as it is an existing pinch point.

By 2042 there is predicted to be an increase in peak hour traffic (circa 80 vehicles in the AM peak hour, a 9% increase) and incidents are most likely to occur at these busier times. NH has said that it expects the proportion of heavy/wide vehicles to decrease, though we haven't seen the detail of this and would welcome it. The load-bearing capacity of the bridge is not a concern; it underwent strengthening works in summer 2018 and it doesn't have a weight restriction. The closure of the bridge to undertake these works resulted in significant disruption to the local road network and we are concerned that the new junction 24 arrangement would result in greater disruption overall when works are required at the bridge in future (noting also that widening of the bridge could enable single lane working to minimise disruption).

We would also like to draw attention to our request for the Grade II Appleford Bridge to be widened (8.3.54 to 8.3.56 of our LIR [REP2-055]). This bridge is on Braxted Road, a parallel route to Inworth Road for trips between Tiptree and the A12. It is narrower than Hinds Bridge and has there is less visibility on the approaches, so it is subject to a high number of bridge strikes.

While NH forecasts do not suggest a material change in traffic flows on Braxted Road, we have noted in previous submissions our concerns with the modelling of this part of the network and believe there is justification for the widening of this bridge also.

Applicant's Response

The Applicant has provided a response to the Interested Party's REP4-075 submission in the Applicant's Comments on Information Received at Deadline 4 [REP5-002]. The Applicant also provided further information at Issue Specific Hearing 3 in the Written Submission of Oral Case for Issue Specific Hearing 3 [REP5-020].

Under the proposed scheme, Hinds Bridge will no longer be on the route for vehicles wishing to join the A12 from the south or leaving the A12 to reach destinations south of junction 24. This arrangement is expected to result in a 2% increase in traffic in the AM peak, a 9% increase in the PM peak and an overall reduction of 2% in the Annual Average Daily Traffic (AADT) in 2042. While there is a forecast increase in traffic in the PM peak, this is the time when HGV traffic is at its lowest point across the day. The overall daily traffic over Hinds Bridge and the volume of heavy goods vehicles is predicted to be reduced by the proposed scheme. Swept path analysis of the bridge indicates that two cars can safely pass one another.

Structural capacity has been raised as a concern by a number of Interested Parties during the Examination. The Applicant agrees with the Interested Party that this is not a concern as the bridge has been confirmed to be strengthened for an SV80 vehicle (being a 6-axle 80 tonne vehicle) within the last 5 years.

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.

REP5-033-012

Sub-Part

Land Use Witness: Shirley Anglin, Public Right of Way (PRoW) Officer

At ISH 3, NH made reference to conversations with landowners regarding location, width and boundary features of the PROW around the severances of FP 93 Witham, Gershwin's Boulevard Bridge, and Footpath 103 Witham, Colemans Cottages Fisheries. This has given rise to a conversation between the Council's PROW Team and the Applicant outside of the inquiry and we would like to draw your attention to the following points in addition to our submission at deadline 4:

Footpath 95 Witham, Gershwin Bridge: The Council have no objection to the proposed bridge staying as per original proposal and built in compliance with LTN1:20. However, NH design is a structure built to facilitate cyclists and connects not to the footpath but to highway off Gershwin's Boulevard north of the A12. A connection to Howbridge Hall Road would be of significant benefit to the public wanting to access cycle routes out of Witham for leisure to the south as well as addressing the severance for walkers using the southern section of Footpath 95 Witham. The Council would welcome this cycle connection.

Footpath 103 Witham, Colemans Cottages: The Council has been made aware of mitigation discussed with the landowners in respect of providing security and space to the fisheries business that will result in what is likely to be a semi-enclosed corridor footpath with high fencing on one side and a 5m revetment on the other. This is not the optimum design for a public footpath created through development and not in line with the Council's guidelines for developers. Considering these details around the design for the footpath, the Council object to the proposed alignment as it is presented in the supporting documents for the DCO. The Council's preferred option is now to have a connecting footpath south along the A12 to join Footpath 101 Witham within the Whetmead nature reserve.

The Council and the Applicant are to attend a site visit to look in detail at the options at both sites on Monday 13

th May.

Applicant's Response

The Applicant thanks the Interested Party for the constructive site visit.

Footpath 95 Witham, Gershwin Boulevard Bridge – The Primary purpose of Gershwin Boulevard Bridge is to reconnect Footpath 95 which has been severed in practical terms by the A12 Witham Bypass. Whilst the Applicant acknowledges potential further enhancement of the network that could be brought about by a connection from the southern ramp of the bridge to Howbridge Hall road, this has the potential for introducing a new conflict point for non-motorised users along Maldon Road and the Applicant is not proposing to dedicate a connecting route as part of the proposed scheme.

Footpath 103 Witham, Colemans Cottages – The Applicant will remove the proposed footpath connection from the severed Footpath 121_103 to Little Braxted Lane behind the fishing ponds.

In its place, the Applicant is now proposing to connect footpath 121_103 to footpath 121_101 on the southern side of the A12. Footpath 121_101 crosses under the A12 via the Brain Bridge and continues to Maldon Road. This new connection would provide an enhanced public right of way for users in Witham, with the proposed Little Braxted Lane bridge acting as the diversion route for the legally closed crossing of the A12.

The proposed footpath would sit on the alignment of the private means of access (PMA) shown on the Streets, Rights of Way and Access Plans [TR010060/APP/2.6] submitted at Deadline 6 starting on sheet 8 with 8/C continuing over 9/B on sheet 9, and on land proposed to be retained by National Highways.

REP5-033-013

Sub-Part

Any other matters Witness: Michael Humphries KC (MHKC), Counsel for Essex County Council (the Council)

<p>MHKC identified three other matters that the Council wishes to seek discussed at future ISHs, if not agreed beforehand.</p>	
<p>1. As per our REP4-075 submission we are continuing to discuss the proposed speed limit changes with the Applicant, however, concerns remain regarding their current approach. This is also impacting our discussions with the Applicant's concurrent Stage 5 detailed design, as the outcome will impact design standards.</p>	
<p>Applicant's Response</p>	
<p>The Applicant has provided a narrative of the proposed speed limits to allay concerns raised by the Interested Party in Appendix A (Speed Limits Narrative) of this document. The Applicant maintains that whilst the proposed speed limits are in line with relevant guidance, useful further engagement with the Interested Party has taken place since the submission of the DCO application, namely a series of workshops on 5th May 2023 and 7th June 2023. Further consultation is ongoing and should changes to the proposed speed limit plans be agreed between the Applicant and the Interested Party these will be submitted prior to the close of Examination to allow them to be examined.</p>	
	<p>REP5-033-014</p>
<p>Sub-Part</p>	
<p>2. Construction Impacts at per paragraphs 8.2.38 to 8.2.40 of the Council's LIR [REP2- 055]. The first traffic management forum took place on 25 April 2023 and would welcome if construction impacts is examined in future hearings.</p>	
<p>Applicant's Response</p>	
<p>The Applicant has no objection to the construction impacts listed in paragraphs 8.2.38 to 8.2.40 in REP2-055 to be discussed in future traffic management forums with the interested party and other relevant stakeholders. Topics for future hearings are at the discretion of the Examining Authority.</p>	

REP5-033-015

Sub-Part

3. Ongoing discussions between the Council and the Applicant have led to potential improvements being proposed by the Applicant for the WCH bridges across the A12. These are summarised in a Letter of Intent sent to the Council on 24 April 2023, We are keen to review these proposals in detail. However, the Applicant has still not provided evidence to confirm that they can, or will, improve the cycle facilities in a number of key locations, to accord with the Govts LTN 1/20 guidelines. In particular, the Council have still not been provided with:

- Plans to demonstrate that WCH crossing facilities can be designed to accord with LTN1/20 at 7 key junctions
- Traffic Modelling to demonstrate the impact of providing the above and a commitment to including them in the A12 scheme
- Confirmation of proposed WCH overbridge widths or ramp gradients.

Applicant's Response

The Applicant has discussed the above matter with the Interested Party at the recent Statement of Common Group meeting on 23rd May 2023 and proposes to secure the details above by way of requirements, namely requirement 14 of the dDCO [TR010060/APP/3.1].

REP5-033-016

Sub-Part

2. Issue Specific Hearing 4 Counsel for Essex County Council (the Council), Michael Humphries KC (MHKC) made the following points at the examination hearing on 27 April 2023 on the draft DCO: Agenda Item 2: Articles and Schedules of the dDCO Article 14 (Construction and maintenance of new, altered or diverted streets and other structures) MHKC referred to the Council's summary of its oral submissions at ISH2 on 1 February 2023 (REP3-035).

MHKC again explained that this articles imposes very significant new burdens on the Council, a the local highway authority, to maintain at its own expense the new, altered and de- trunked roads and other structures (other than trunk roads) within the DCO.

This is particularly so, bearing in mind that some of the assets may not be in good condition. Importantly, Article 14(5) requires the Council to maintain at its own expense those sections of the A12 that are to be de-trunked.

Unless National Highways is prepared to agree to implement a scheme for de-trunking that broadly accords with the Council's proposals set out in REP3-081, the Council sees no reason why it should be required to take on the financial liability for the continued maintenance of the de-trunked sections of the A12 and is not currently minded to accept such a substantial liability under art.14.

This liability would only be acceptable to the Council if (a) any de-trunking can only happen with the consent of the Secretary of State in consultation with the Council (see comments on art.15 below), and (b) there is a requirement for a de-trunking scheme that retains one carriageway for two-way traffic and converts the other carriageway for WCH purposes (see comments on new de-trunking requirement below).

Article 15 (Classification of roads etc) At ISH2 MHKC had pointed out that art.15(5) refers to the 'local planning authority', whereas it should more appropriately refer to the 'local highway authority'. This has now been corrected.

During ISH 3 on traffic and transport, MHKC referred to paragraph 4.1.4 of the National Highways Technical note on De-Trunking Proposals (REP4-057) which says that, as far as National highways is aware, the A14 Cambridge to Huntingdon Improvement DCO is the only improvement scheme which bypasses dual carriageways and that this did not involve substantial physical alterations to the bypassed routes. MHKC explained that he was not making a point about the extent of physical alterations for the A14 project, but about the mechanisms that the ExA and Secretary of State introduced to address Cambridgeshire CC's concerns relating to de-trunking. MHKC pointed to: • The A14 National Highways Updated position statement on de-trunking, traffic monitoring and mitigation (REP15-033 of the A14 examination); • The A14 ExA Report (11 February 2016) at paras 8.2.29-8.2.33, 8.4.82, and 8.10.1- 8.10.5; • The Secretary of State's decision letter (11 May 2016) at para 75; and • The A14 DCO at art.12(5) and requirement 17. During ISC 4 on DCO drafting, MHKC explained that in the A14 DCO the Secretary of State had introduced a new art.12(5) in the following terms

“(5) The undertaker may only make a determination for the purposes of paragraph (4) with the consent of the Secretary of State, who must consult the local highway authority before deciding whether to give that consent.”

This provision requires the Secretary of State, in consultation with the relevant highway authority, to give consent before National Highways may ‘determine’ under art.12(4) that certain roads may be de-trunked.

MHKC suggested that such a provision would be appropriate in the current A12 DCO and would become art.15(7). The new provision in art.15 should be:

“(7) The undertaker may only make a determination for the purposes of paragraph (6) with the consent of the Secretary of State, who must consult the local highway authority before deciding whether to give that consent.”

The Council asks that the ExA recommends to the Secretary of State that this provision be inserted into the DCO.

Applicant's Response

The Applicant has responded to the concerns raised about maintenance of the de-trunked asset in REP5-033-003 in this document.

At Deadline 5 the Applicant submitted the National Highways and Essex County Council – Draft Requirements Matrix (REP5-018).

As explained in that document, draft requirement wording on the matter of de-trunking (amongst other matters) was shared between the Applicant and Essex County Council on 3 May 2023. Both parties met on 4 May 2023 to discuss the parties' respective wording, and a further meeting was held on 18 May 2023.

As noted within the Applicant's Response to the Examining Authority's commentary on the draft Development Consent Order [TR010060/EXAM/9.67], the Applicant is willing for a Requirement on de-trunking to be included in the draft DCO but only the basis that the requirement wording is that proposed by the Applicant, as the ExA has set out in DCO-PC23 of the Examining Authority's commentary on the draft Development Consent Order [PD-015].

In relation to Article 15, the Applicant has accepted the inclusion of the wording proposed by the ExA in its comments on the draft DCO PD-015. A new Article 15(7) has therefore been inserted into the draft DCO to be submitted at Deadline 6 as follows:

The undertaker may only make a determination for the purposes of paragraph (6) with the consent of the Secretary of State, who must consult the local highway authority before deciding whether to give their consent.

REP5-033-017

Sub-Part

Article 16 (Speed limits) As MHKC pointed out at ISH2, Article 16(1) makes provision for the imposition of various speed limits as set out in in Part 6 of Schedule 3. MHKC made clear that the Council does not agree with all of the speed limits proposed in that Part on its local roads. At ISH1 Mr Parr, on behalf of the Council, had explained that the local highway authority has raised this previously with National highways, but to no avail. At REP3-035 Appendix C the Council has set out an appendix with comments on its views concerning National Highways proposed speed limit. The Council will continue to discuss these concerns, but it is important that this issue is brought to a head so that any amended speed limits may be reflected in Schedule 3.

It is clearly important that speed limits are not imposed on local roads that the responsible local highway authority does not agree with. MHKC also, again, mentioned the relationship between this article and art.23 that was discussed later.

Applicant's Response

The Applicant has responded to the points made about speed limits in its response to Sub-Part REP5-033-013.

REP5-033-018

Sub-Part

Article 18 (Street works) Again, as explained at ISH2, this article gives National Highways significant powers to carry out works to any streets within the Order Limits. Those works include the breaking up of streets, tunnelling under streets and the placing of apparatus in streets, but the nature and location of any such proposed works is not identified in the dDCO.

MHKC suggested that where such works are proposed (other than ontrunk roads), the relevant street authority should have a power of prior approval. At ISH2, MHKC referred to a similar provision in the Silvertown Tunnel DCO where art.6(3) provides that:

“(3) TfL must not carry out works to any street under paragraph (1) for which it is not the street authority without the consent of the street authority, which may attach reasonable conditions to any consent.”

This should be adapted for the A12 DCO as follows and inserted in art.18:

“(3) The undertaker must not carry out works to any street under paragraph (1) for which it is not the street authority without the consent of the street authority, which may attach reasonable conditions to any consent.”

The Council asks that the ExA recommend that the Secretary of State impose this provision on the A12 DCO.

National Highways seeks to resist the insertion of this provision on the basis that it is not precedented in any of National Highways previous DCOs. That is not an adequate answer and it is clear from the Secretary of State's decision on the Silvertown Tunnel DCO that he does regard this as a proper protection for local highway authorities.

Applicant's Response

There are examples of drafting in accordance with the Applicant's dDCO REP5-004 such as the recent A47 Blofield to North Burlingham Development Consent Order, which was made in 2022.

The Applicant acknowledges that there are examples of DCOs being made containing the drafting found in the Silvertown Tunnel DCO including that order, which was made in 2018. The Applicant is not in a position to comment on what specific circumstances led to the inclusion of ECC's preferred drafting in the Silvertown Tunnel DCO, since the Applicant for that scheme was Transport for London who included the wording in the draft submitted with the application.

However the Applicant's argument is not solely that there is precedent for the drafting it is putting forward. It is that most of the powers contained in Article 18 are ones which fall within the definition of "street works" in the New Roads and Street Works Act 1991, and was ones which a statutory undertaker may exercise in a street after having served notices and without obtaining consent from the street works authority. The Applicant therefore considers that it would be excessive for it to be required to obtain consent from the street authority before exercising these powers.

REP5-033-019

Sub-Part

Article 20 (Permanent stopping up and restriction of use of streets and private means of access) MHKC explained that the Council's PROW unit is continuing to discuss PROW with National Highways. See the Council's Deadline 5 ISH3 summary of representations on Land Use above

Article 23 (Traffic Regulation) As MHKC explained at ISH2 (see summary in REP3-035), this article gives National Highways power to make various traffic regulations on roads in respect of which it is not the traffic authority; in other words, the county highway network.

As is clear from the quotations from the Explanatory Memorandum on this provision in REP3-035, the purpose of the provision is, in part, to allow National Highways to align the speed limits on roads outside the Order Limits (i.e. the Council's roads) with those within the Order Limits. As MHKC explained, this is another reason why it is so important that the speed limits to be imposed under art.16 should be agreed with the Council, which they are not.

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In their current forms articles 16 and 23 are, therefore, unsatisfactory and will require amendment. This may, however, be resolved by National Highways agreeing to amend some of the proposed speed limits in Schedule 3. As the moment, therefore, the Council has not proposed alternative wording for arts.16 and 23.

Applicant's Response

Article 20

Discussions in relation to PROW are ongoing.

Article 23

ECC does not appear to have an in-principle objection to the inclusion of Article 23 in the dDCO, and acknowledges that its consent is required before powers under this article can be exercised. Rather its concerns about this Article appear to be based

upon its concerns about the speed limits being imposed by the DCO on local roads under Article 16. The Applicant's response to ECC's comments in relation to Article 16 are above at REP5-033-017.

The Applicant's position on Article 23 is that it provides a helpful power to allow the Applicant to help ECC to deal with any unforeseen traffic regulation issues which might arise on its highway rather than the Council itself having to promote orders under the Road Traffic Regulation Act 1984. The Council is in full control of the process because it may simply refuse consent for an order to be made.

REP5-033-020

Sub-Part

Article 24 (Discharge of water) This article relates to the discharge of water into watercourses, public sewers or drains. Some of these will be the Council facilities. Article 24(3) provides that the undertaker may not discharge into such watercourses etc without the consent of the person to whom it belongs with consent not to be unreasonably withheld. Article 24(4)(b) again requires consent of the person to which any a public sewer or drain if the undertaker wishes to make any opening into such a public sewer or drain.

Article 24(6) provides that if the person who receives any such application for consent under paragraph (3) or (4)(b) has not notified the undertaker of its decision within 28 days of receiving and application consent is deemed to have been granted.

As the Council's watercourses, sewers and drains are public infrastructure serving the wider community this 28 day period is inadequate to determine whether water discharged from the new A12 improvements may properly discharge into existing watercourses etc. The Council has suggested that 56 days is a more appropriate period and asks to ExA to so recommend to the Secretary of State. This extended period will not delay construction etc if National Highways makes its discharge application sufficiently early which, as its engineers and contractors will be designing the scheme, should be perfectly possible.

Applicant's Response

The Applicant has confirmed that it will continue discussions with ECC on this matter. However, the Applicant must ensure that progress in the implementation of the proposed scheme is not delayed by consenting issues.

The 28 day time period has been accepted in most of National Highways DCOs for this reason. For example, the 28 day period was accepted in the A47 Tuddenham to Easton Scheme in Article 20, A19/A1058 Coast Road Junction Improvement Scheme in Article 15, A14 Cambridge to Huntington Improvement Scheme in Article 17, A417 Missing Link Article 21 and the A428 Black Cat Article 20.

REP5-033-021

Sub-Part

Article 60 (Certified Documents) MHKC again pointed out that it may be necessary to have additional 'certified documents' in Schedule 12 and that these may include: • Any scheme for de-trunking sections of the A12, or at least the principles against which any scheme for future approval would have to be considered; and • A plan for the monitoring and management of wider impacts on the local highway network.

Applicant's Response

As noted within the Applicant's Response to the Examining Authority's commentary on the draft Development Consent Order [TR010060/EXAM/9.67], the Applicant is willing for a Requirement on de-trunking to be included in the draft DCO, but only the basis that the requirement wording is that proposed by the Applicant, as the ExA has set out in DCO-PC23 of the Examining Authority's commentary on the draft Development Consent Order [PD-015] [TR010060/EXAM/9.67].

With regard to monitoring, the Applicant response to this can be found in REP5-033-010 in this document.

In light of the above it is not considered that the documents referred to should be listed as certified documents.

REP5-033-022

Sub-Part

Agenda Item 3: Schedule 2 of the dDCO – Requirements Requirement 1 (Interpretation) and Requirement 2 (time limits) At ISH2, as summarised in REP3-035, MHKC made extensive submissions about the interrelationship of the requirement 1 definition of 'commence' and the original dDCO time limit which related to the term 'begin'. REP3-035 suggested alternative drafting that would resolve a potential issue highlighted by the Swansea Bay Tidal Lagoon decision in the Court of Appeal.

In the rev3 version of the dDCO the term 'begin' in requirement 2 was changed to 'commence', but this still leaves some legal uncertainty that should be cleared up. At ISH4, Reuben Taylor KC said that National Highways would look again at this issue, which is clearly capable of resolution.

Applicant's Response

The Applicant substantially revised the approach to commencement a in the Deadline 5 dDCO (see REP5-005 for tracked change version of the dDCO).

This introduced provision for pre commencement activities and a pre commencement plan, as well as providing for commencement being relevant only in schedule 2 of the dDCO (requirements) Commence is now relevant to determining whether a part of the development has commenced, with the provisions of S155 of the Planning Act 2008 being the test to be referred to in relation to all questions regarding whether or not the authorised development has begun. Pre-commencement activities as defined in Schedule 2 (Requirements) of the dDCO will begin the authorised development for the purposes of section 155 of the 2008 Act but will not equate to commence in respect of pre commencement requirements.

REP5-033-023

Sub-Part

Requirement 10 (Detailed design) MHKC said that the Council has a number of concerns about the detailed design of the new and amended highways in the dDCO. The Council's witnesses explained a number of these points in ISH1 on 28 February 2023 and they are also set out in sections 8.2 and 8.3 of its Local Impact Report (REP2-055).

The Applicant is clearly sympathetic to a number of these points and, indeed, has sent the Council a 'Letter of Intent' relating to some of its concerns.

In addition, however, MHKC explained at ISH2 (see REP3-035) that it is appropriate that the Council should have the power to approve the detailed design of highways for which it will be the local highway authority. This is not currently reflected in requirement 10.

Furthermore, requirement 10 currently states that the detailed design 'must' accord with the 'preliminary scheme design' shown on the works plans (APP-005/9) and the principles in the 'environmental masterplan' (APP-086/8) and this would appear to preclude later refinements to reflect the Council's points. Whilst the detailed design may depart from the design those documents where 'agreed in writing' by the Secretary of State, only the Applicant (not the Council) may seek such agreement. Thus the Applicant would have the ability to prevent any mitigation that was not in the 'preliminary scheme design' shown on the works plans and the principles in the 'environmental masterplan' by simply not applying to depart from those documents.

Requirement 10 needs to be amended to reflect these concerns and the Applicant has proposed that the words "Subject to the other requirement in this Schedule," be inserted at the start of requirement 10(1). That appears to be a neat solution to the departure from design documents issue and the Council asks that these words are inserted into requirement 10(1).

Applicant's Response

The Applicant provided further amendments to the wording of Requirement 10 in the revised draft DCO submitted at Deadline 5 (REP5-005) to address concerns raised by ECC during the Issue Specific Hearing into the DCO.

The new wording introduced to Requirement 10 makes it clear that the provisions within Requirement 10, i.e. the need for the detailed design of the scheme to accord with the preliminary scheme design shown on the works plans, the engineering drawings and sections and the principles set out in the environmental masterplan, is subject to the provisions of the Order and therefore is subject to the various other requirements which contain the matters that ECC wishes to see delivered as part of the design of the proposed scheme. The Applicant has referred to 'subject to the provisions of this Order' rather than just the 'subject to the other requirements in this schedule' for completeness.

The Applicant maintains that it is not appropriate for ECC to be the approving authority under Requirement 10, as opposed to the Secretary of State. It has been standard practice across the majority of National Highways DCOs for the Secretary of State to be the approving body under the requirements since The A14 Cambridge to Huntingdon Improvement Scheme Development Consent Order 2016. That is the approach taken in all the other requirements within the draft DCO and there is no justification for departing from that standard practice here.

Furthermore, the Applicant is of the view that the Secretary of State should be the only body to discharge any of the requirements under the DCO for the following reasons:

- a) The Secretary of State is the appropriate discharging authority for requirements given the scheme's national network status and in line with the tested and accepted approach for national network DCOs, which have been approved by the Secretary of State. It is the Applicant's view that ECC seeking a role as discharging authority diverges from established and tested DCO provisions.
- b) The Secretary of State's internal team deals with National Highways schemes across the whole of England and is experienced in dealing with a wide variety of circumstances.
- c) The request by ECC to share responsibilities with the Secretary of State for the discharge of certain requirements is both inappropriate and impractical. It would simply result in a 'double approval' process which would unnecessarily lengthen the time

taken to discharge requirements. The Secretary of State's role as discharging authority is well-established in National Highways DCOs and there are no exceptional circumstances which justify any deviation from that for this scheme.

d) The Applicant does not agree that it is appropriate to have more than one discharging body for separate elements of the proposed scheme and feels strongly that this creates a risk of conflict. The Applicant does not consider that it is practical to split the scheme into elements to be approved at the local level and at the Secretary of State level. The various elements of the scheme are intrinsically linked and the separation suggested is artificial and impractical. The scheme has been designed as a whole and changes to one part will have consequences for another. Changes cannot be made to the local highway sections without considering the impact of those on the trunk road sections and vice versa. It is therefore artificial and unhelpful to attempt to separate out elements of the scheme for differing methods of discharge under requirements.

e) The Applicant does not consider it practical, helpful or reasonable to have two discharging authorities for a DCO, especially given that the underpinnings of the DCO regime include an objective of reducing the number of consenting authorities from which a single scheme needs to obtain consents. The DCO regime streamlines consenting in part to help to prevent conflicts between the requirements of different authorities, not to create new ones.

As the Secretary of State is the decision maker for the application seeking development consent it is appropriate that they are also the decision maker in discharging requirements. The Secretary of State will have the benefit of consultation responses from various parties depending on the requirement. In this way the local authorities are able to input and potentially influence the Secretary of State's decision in the discharge of requirements on matters related to their function.

REP5-033-024

Sub-Part

New requirement – A scheme for de-trunking As explained by the Council at ISH1, the Council has considerable concerns about National Highways proposals for the de-trunked sections on the A12 and the Council has produced its own proposals for de-

trunking, as can be seen in REP3-081. At ISH3 Mr Perry explained further the Council's concerns about the Applicant's de-trunking proposals and responded to the Applicant's deadline 4 response (REP4-057); see the Council's ISH3 summary above

In REP3-035 MHKC proposed a new requirement along the following lines:

"[XX]. (1) No part of the authorised development is to open for public use until a written scheme for the de-trunking of the sections of the A12 between [LOCATION 1] and [LOCATION 15

2] and also between [LOCATION 3] and [LOCATION 4] has been submitted to and approved by the local highways authority.

(2) The said de-trunking scheme must include: (a) [CRITERION A] (b) [ETC]

(3) The undertaker shall implement the approved de-trunking scheme at its own expense within [XX] months of the first opening of the authorised development for public use."

A de-trunking scheme requirement did not appear in rev3 or rev4 of the dDCO. At ISH4 National highways indicated that it was prepared to discuss the wording of such a requirement with ECC. ECC is happy to discuss appropriate wording and did not, therefore, put forward text during ISH 4 (or this summary of oral submissions), subject to the following.

MHKC makes two points in relation to the wording of such a requirement: 1. It is important to emphasise that ECC seeks a scheme that, broadly, reflects the preferred scheme in its de-trunking technical note (REP3-081); that is, any such scheme should provide for one carriageway for two-way traffic and convert the other carriageway for WCH purposes; and 2. The scheme under the requirement should be approved by ECC. If it is said that the such scheme should not to be approved by ECC, but

(say) by the Secretary of State, then that simply reinforces the need to the requirement to be explicit about what the scheme should seek to achieve.

At section 3.1 of its de-trunking proposals technical note (REP3-081) ECC explained its concerns about National Highways proposed de-trunking proposals. These included, as well as its concerns about speed limits, anti-social behaviour and safety, that it does not regard the additional maintenance burden on ECC to be acceptable ('Concern 4'). It is not acceptable that National Highways can create a substantial additional maintenance burden on ECC by handing over a de-trunked dual carriageway with a capacity that is way beyond that required for a local road. This relates back to the ECC's comments on articles 14/15 above.

It is clear that National Highways does have power within the DCO as drafted to undertake the works that ECC seeks as part of its de-trunking proposals. As MHKC pointed out during ISH 4, the 'Other Associated Development' in Rev4 to the dDCO (REP4-009 p.88) includes powers to carry out a wider range of relevant works (see paras (a), (f), (g), (h), (q), (s) and (t)). Furthermore, ECC has additional powers to undertake works pursuant to the Highways Act 1980.

National Highways has expressed concerns about the environmental effects of any such de-trunking works, but these would be modest and there is no reason to conclude that there would be materially new or materially different environmental effects. This can be seen from section 5 of the ECC de-trunking proposals Technical Note (REP3-081)

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The Council has set out a number of reasons why there should be a more appropriate de-trunking scheme for the bypassed sections of the A12 dual carriageway. The justification for such a scheme relate to speed, safety and sustainability issues, but also to the burden of maintaining an unnecessary dual carriageway that will otherwise fall on ECC. ECC has long urged National Highways to promote more appropriate de-trunking proposals, without success.

It should not be the case that National Highways failure to bring forward its own appropriate de-trunking scheme is now used as justification for not doing anything. The Council has engaged in good faith on this issue and seeks the ExA's support for a more appropriate solution to be delivered through a requirement.

The Council will continue to engage in good faith, including on the wording of any such requirement.

Applicant's Response

At Deadline 5 the Applicant submitted the National Highways and Essex County Council – Draft Requirements Matrix (REP5-018).

As explained in that document, draft requirement wording on the matter of de-trunking (amongst other matters) was shared between the Applicant and Essex County Council on 3 May 2023. Both parties met on 4 May 2023 to discuss the parties' respective wording, and further meetings were held on 23 May 2023 and 1 June 2023.

As noted within the Applicant's Response to the Examining Authority's commentary on the draft Development Consent Order [TR010060/EXAM/9.67], the Applicant is willing for a Requirement on de-trunking to be included in the draft DCO but only the basis that the requirement wording is that proposed by the Applicant, as the ExA has set out in DCO-PC23 of the Examining Authority's commentary on the draft Development Consent Order [PD-015] [TR010060/EXAM/9.67].

In relation the two points on the wording of the detrunking requirement made by ECC in its representation, the Applicant responds as follows:

1. It is not appropriate for the scheme to be required pursuant to any detrunking requirement that may be included in the draft DCO to reflect ECC's preferred detrunking scheme. As the Applicant has previously explained, most recently in its Written submission of oral case for Issue Specific Hearing 3 (REP5-020) at 3.11, ECC have not presented a detrunking scheme, but generalised ideas for a scheme:

- no designs for ECC's proposed scheme have been presented;
- 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. ECC has no basis for claiming that any environmental effects from their proposals are likely to be modest, as no appraisal has been undertaken. Without ECC presenting a full environmental appraisal of their proposed detrunking scheme it cannot be determined that the proposal would not result in materially new or materially different environmental effects to those presented in the Environmental Statement for the proposed scheme; and
- ECC's proposals have not been subject to a Road Safety Audit.

As such, insufficient information has been presented by ECC for the detrunking proposals to be given adequate consideration during the Examination and as such they cannot be required to be provided by way of any detrunking requirement. It is for these reasons why the ECC's detrunking scheme cannot be delivered under the draft DCO and ECC's reference to the ancillary works powers under Schedule 1 does not change that position.

2. It is not appropriate for any approval to be required under the detrunking requirement to be given by ECC, as opposed to the Secretary of State. It has been standard practice across all National Highways DCOs for the Secretary of State to be the approving body under the requirements since The A14 Cambridge to Huntingdon Improvement Scheme Development Consent Order 2016. That is the approach taken in all the other requirements within the draft DCO and there is no justification for departing from that standard practice here.

As noted in response to REP5-033-004 in this document, the Applicant has considered the alternative proposal from ECC as documented in the Technical Note on De-trunking Proposals [REP4-057] and deemed that the enhancements suggested by ECC are not considered to represent a reasonable opportunity in accordance with the draft NPSNN. The Applicant's proposal to retain the dual carriageway provides:

- Resilience for the overall highway network;
- A safe alternative route for slow-moving vehicles which does not impede other vehicles' movement;
- A high-quality route for emergency access;
- Public transport route reinstatements; and
- an improved walking/cycling route segregated from the carriageway.

A complete remodelling of de-trunked sections to meet ECC's aspirational place agenda would be disproportionate, because with reduced traffic flow following de-trunking, and the beneficial features described above, the A12 scheme would provide an improvement in active travel. The introduction of roundabouts on the de-trunked sections will also mitigate the potential hazard of excess speeds. Regarding the maintenance burden, the de-trunked sections will be handed over following any maintenance necessary to provide a period of maintenance-free operation.

REP5-033-025

Sub-Part

New requirement – Monitoring and managing wider impacts on the local highway network At ISH1 on 28 February 2023 ECC's witnesses explained their concerns about modelling uncertainty and the impacts of the proposed project on the wider highway network for which it is responsible.

During ISH 2, MHKC mentioned requirements in the A428 Black Cat DCO and the draft Lower Thames Crossing DCO; both National Highways projects. These provisions were reproduced in REP3-035.

During ISH 3 and ISH 4 MHKC introduced a further example of such wording that had arisen on the A14 DCO in the context of de-trunked sections of dual carriageway (see the references above to the A14 ExA Report and Secretary of State's decision letter). The wording in requirement 17 of the A14 DCO is as follows:

“(1) No part of the authorised development is to commence until written details of a traffic impact monitoring and mitigation scheme has been submitted to and approved in writing by the highway authority.

(2) The traffic impact monitoring and mitigation scheme must include— (i) a before and after survey to assess the changes in traffic; (ii) the locations to be monitored and the methodology to be used to collect the required data; (iii) the periods over which traffic is to be monitored; (iv) the method of assessment of traffic data; (v) control sites to monitor background growth; (vi) the implementation of monitoring no less than 3 months before the implementation of traffic management on the existing [A14]; (vii) agreement of baseline traffic levels; (viii) the submission of survey data and interpretative report to the highway authority; and (ix) a mechanism for the future agreement of mitigation measures.

(3) The scheme approved under sub-paragraph (1) must be implemented by the undertaker.”

Requirement 17 does refer to mechanisms for the future agreement of mitigation measures. This is clearly an advance on the A428 Black Cat DCO and draft Lower Thames Crossing DCO provisions in REP3-035 and it clearly more appropriate. If monitoring reveals that the traffic effects of the A12 improvements on the wider highway network are not as forecast by National Highways' traffic modelling, it is clearly appropriate that National Highways should carry out appropriate mitigation at its own expense.

ECC will discuss such a provision with National Highways and seek to agree appropriate wording.
Applicant's Response
The Applicant's position on monitoring was provided in response REP5-033-010.
REP5-033-026
Sub-Part
<p>New requirement – village specific mitigation During ISH 3 ECC continued to press for additional village specific mitigation, including average speed cameras on Main Road, Boreham. These points are set out in ECC's summary of its ISH 3 oral submissions.</p> <p>Shortly before ISH 3 National Highways sent ECC a letter dated 24 April 2023 and headed "LETTER OF INTENT – A12 Chelmsford to A120 proposed scheme: Main Road, junction 21 and, walking cycling and horse-riding (WCH) overbridges". This letter was not available to the ExA during ISH 3, but was then send to the ExA.</p> <p>The Letter of Intent proposes various additional mitigation measures in and around local villages. Whilst ECC welcomes these measures, it considers that they do not go far enough; as was discussed during ISH 3.</p> <p>During ISH 4, MHKC made the point that, in any event, these and any other mitigation measures will need to be secured through the DCO requirement.</p> <p>These matters are to be discussed between the parties with the objective of agreeing as much as possible and then presenting the ExA with alternative text on anything now agreed.</p>
Applicant's Response

As confirmed within the draft DCO [REP5-004] submitted at deadline 5 the Applicant has agreed, and provided requirements, covering the following:

- a new controlled pedestrian crossing on the B1137 in the vicinity of Boreham Co-op (grid reference 575330, 210021);
- road safety posters in the vicinity of Orchard Cottages (grid reference 576394, 210658), Boreham Recreation Ground (grid reference 575848, 2103190) and outside of the Little Hedgehogs Day nursery (grid reference 575444, 210081);
- installation of average speed cameras on the B1137 (excluding ongoing operation, maintenance/calibration and enforcement) within Boreham as defined by the extent of 30mph speed limit shown between reference A.010 and A.011 on the traffic regulation measures speed limit plans; and
- installation of average speed cameras (but not including provision for their ongoing operation, maintenance /calibration and enforcement) on the B1137 between Boreham and Hatfield Peverel defined by the extent of 40mph speed limit shown between reference A.011 and A.012 on the traffic regulation measures speed limit plans
- gateway features for signage in accordance with Traffic Signs Manual Chapter 3: Figure 8-21, and speed limit roundels in accordance with the 2016 Regulations and Directions diagram 1065 at Lodge Rd (grid reference 589938, 219356), Kelvedon Rd (grid reference 589511, 218861) and Harborough Hall Road (grid reference 590233, 218566) marking the extents of the existing 30mph speed limit; and
- “Unsuitable for heavy goods vehicles” signage in accordance with the 2016 Regulations and Directions diagram 820 at the junction of the B1023 and Yewtree Farm Road (grid reference 587881, 218631), the junction of Harborough Hall Road and B1022 (grid reference 590573, 218228), the junction of the B1023 and Oak Road (grid reference 588820, 21)
- Traffic monitoring at:
 - B1137 Main Road, Boreham
 - The Street/Maldon Road (Duke of Wellington) junction, Hatfield Peverel;
 - Little Braxted Lane, Little Braxted;
 - Braxted Road/Braxted Park Road;

- B1023 Kelvedon Road, Inworth;
- Kelvedon Road, Messing; and
- B1023 Church Road, Tiptree

At deadline 6, the Applicant has reaffirmed the above, and also included within the updated draft DCO Requirements covering:

- De-trunking
- Junction 21

Lastly, the Applicant has provided a table within appendix B of the Design Principles [TR010060/APP/7.10] commitments underpinned by updated Requirement 10 on the following footbridges:

- Paynes Lane
- Marks Tey
- Little Braxted Lane
- Snivellers Lane
- Potts Green
- Gershwin Boulevard

As well as the following at grade crossings

- Eastways/Colchester Road
- Henry Dixon Road/ Braxted Road
- A120 Coggeshall Road (on approach to Old Rectory Junction)

- New London Road (on approach to Old Rectory Junction)
- A120 Dumbbell Link (A12 Jn 25)

And;

- Junction 19 (Generals Lane splitter island)
- Wellington Bridge parallel crossing

It is the view of the Applicant that the above measures as secured by the dDCO do go far enough and address a number of the Council's concerns.

REP5-033-027

Sub-Part

Any other matters ECC proposes the following suggested text for discussion with National Highways.

The issues are, briefly:

1. The need for a Detailed Local Operating Agreement (DLOA) prior to the start of works, which defines roles and responsibilities for management of the local highway network during construction

Suggested wording taken from A303 Sparkford to Ilchester Dualling Development DCO Schedule 8 (Protective provisions) Part 4 for the protection of the local highway authority regarding vehicular highways at para 32 is as follows:

“(1) Before commencing the construction of, or the carrying out of any work authorised by this Order which involves interference with a local highway (including interference with the use by the public of a local highway and temporary or permanent stopping up of any part of a local highway), the undertaker must use reasonable endeavours to agree with the local highway authority a Detailed Local Operating Agreement covering the following— (a) communications and customer care: communication with stakeholders and identification of which party is responsible for each activity; (b) operational areas – scheme operational areas: definitions and scheme extents for the works areas, zone of influence and Free Recovery Area; 94 (c) asset handover: describing the scheme existing assets and activities to be undertaken to enable commencement and completion of Works, and the party responsible for each; (d) asset inspection; (e) routine maintenance and repair; (f) winter maintenance and severe weather; (g) continuity of technology; (h) occupancy management; (i) incidents; (j) traffic management: provides the key activities to be undertaken with regard to the design, installation, maintenance and removal of Traffic Management; and (k) claims made by and against the undertaker.

(2) Any agreement completed under sub-paragraph (1) must continue in force until the completion of the Works or the removal of the undertaker from all local highways, whichever is the earlier.

(3) Where agreement cannot be reached under sub-paragraph (1), the terms of the detailed local operating agreement will be resolved by arbitration under article 45 (arbitration).

Applicant's Response

The Outline Construction Traffic Management Plan (OCTMP) has been updated and submitted at Deadline 6 [TR010060/APP/7.7]. The comments raised by the interested party have been addressed in Section 5.22. As such, the Applicant is of the view that Protective Provisions on this matter are unnecessary as the comments are addressed in the OCTMP.

REP5-033-028

Sub-Part

2. Pre- and post-construction surveys of local diversion routes during construction to allow a proper assessment on impacts on diversion routes

Suggested wording taken from A303 Sparkford to Ilchester Dualling Development DCO Schedule 8 (Protective provisions) Part 4 for the protection of the local highway authority regarding vehicular highways at para 33 is as follows:

(1) Before commencing the construction of, or the carrying out of any Works the undertaker must provide to the local highway authority the Design Detailing and the Other Detailed Information relating to those Works. (2) The undertaker must not commence construction of, or the carrying out of the Works in question until approval has been given by the local highway authority to the Other Detailed Information or the Other Detailed Information has otherwise been agreed in writing between the undertaker and the local highway authority. (3) The Works must not be constructed except in accordance with the Other Detailed Information as may be approved or agreed in accordance with sub-paragraph (2). (4) If within 28 days after the Other Detailed Information has been submitted the local highway authority has not approved or disapproved it or it has not been otherwise agreed, the local highway authority is deemed to have approved it as submitted. And from the definitions in para 30: "Other Detailed Information" relating to any Works, means— (a) a schedule of timings for the Works, including dates and durations of any closures of any part of a local highway; (b) traffic management proposals, including any diversionary routes and any Detailed Local Operating Agreement; (c) a schedule of condition of the affected local highway within the Order limits; and (d) where the local highway is occupied under this Order in connection with the Works but Works are not undertaken on, to or under the local highway, a specification of the condition in which the local highway will be returned after the occupation has finished;

Applicant's Response

The Outline Construction Traffic Management Plan (OCTMP) has been updated and a revised version is to be submitted at Deadline 6. The comments raised by the interested party have been addressed in Section 5.23. As such, the Applicant is of the view that Protective Provisions on this matter are unnecessary as the comments are addressed in the OCTMP.

REP5-033-029

Sub-Part

3. Power for ECC to inspect works that affect its local highway network during construction.

Suggested wording taken from A303 Sparkford to Ilchester Dualling Development DCO Schedule 8 (Protective provisions) Part 4 for the protection of the local highway authority regarding vehicular highways at para 35 is as follows:

(1) Any officer of the local highway authority duly appointed for the purpose may at all reasonable times, subject to any necessary and reasonable health and safety restrictions imposed by the undertaker, enter upon and inspect any part of the authorised development which— (a) is in, over, under or adjacent to any local highway, or (b) may affect any local highway or any property of the local highway authority, during the carrying out of the Works, and the undertaker must give to such officer all reasonable facilities for such inspection.

(2) The testing of materials used in any Works affecting local highways must be carried out at the expense of the undertaker in accordance with the Manual of Contract Documents for Highway Works Appendix 1/5 (Specification for Highway Works). The local highway authority must receive copies of all test certificates and results which have been requested by it in writing as soon as reasonably practicable. Notwithstanding the foregoing, the local highway authority has full power to test all or any materials used or proposed to be used in any work to the local highway at its own expense and the undertaker must provide such information and materials as is reasonably necessary to facilitate such testing.

(3) The undertaker must not alter, disturb or in any way interfere with any property of the local highway authority on or under any local highway, or the access thereto (except to the extent authorised under the powers conferred by this Order), without the prior written consent of the local highway authority.

Applicant's Response

The Applicant is happy in principle with the requests made by Essex County Council (ECC) to inspect the works that affect the local highway network during construction and will work with ECC to find a suitable mechanism to enable this.

REP5-033-030

Sub-Part

Appendix A – Essex County Council response to REP4-057

Applicant's Response

The Applicant has reviewed the Council's response to the Technical Note on De-Trunking Proposals submitted by the Applicant at Deadline 4 [REP4-057] and provides the following response to each point raised. It is noted that a number of points are a repetition of matters that have been responded to in earlier sub-sections of this response.

1 The Scheme Assessed

The alternative proposal presented in the Technical Note on De-Trunking Proposals [REP4-057] Section 6.2 to 6.6 is the Applicant's interpretation of the request from Essex County Council as stated in correspondence to the Applicant on 31st October 2022. ECC's most recent proposal as submitted to the Examination at Deadline 3 has been considered in Section 6.7 of that Technical Note.

2 Traffic and Safety

As explained in response to REP5-033-005, the Applicant believes the proposed roundabouts being 1.5km apart will act as traffic calming features and discourage traffic from driving in excess of the speed limit on the stretch of de-trunked road between Feering and Marks Tey. The Applicant is also willing for a Requirement on de-trunking to be included in the draft DCO with wording proposed by the Applicant.

3 Cost Estimate

As explained in response to REP5-033-007, The Applicant acknowledges the Interested Parties' comments but has a remit to ensure the project objectives are met within constraints of the project brief. This includes ensuring works scope, land take, consenting parameters and legislation, environmental impacts, etc meet the needs of the project and do not go beyond. The Applicant is therefore not able to include additional scope to solve wider issues, or for the benefit of other parties, and would fail under scrutiny over this via the governance process and by key stakeholders.

4 DCO Process and Potential Delay

As explained in response to REP5-033-006, the Applicant has submitted 9.43 A12 Technical Note on De-trunking Proposals [REP4-057] which responds to ECC's alternative proposals. Section 6 of that document sets out a detailed consideration of the alternative proposals, and explains in detail the challenges which would be faced by the Applicant if it was to introduce those changes. The conclusion of the technical note is that the changes are so fundamental that they could not be made during the Examination and would require the withdrawal and resubmission of the application. This was on the basis of the effect on access to the de-trunked A47 by properties on the north side of the road,

ECC's proposals bear no relationship in scope and extent to the relatively modest changes proposed by the Applicant in its forthcoming Change Request Application. The 2 year timescale for the resubmission process is explained in Section 6.5 of the technical note. The Applicant cannot simply include a requirement in the DCO which obliges it to carry out works which have not been properly assessed and which it considers would be likely to have significant environmental effects and effects on traffic flows and traffic safety.

5 Walking, Cycling and Horse Riding Facilities

As explained in response to REP5-033-004, the Applicant has considered the alternative proposal from ECC as documented in the Technical Note on De-trunking Proposals [REP4-057] and deemed that the enhancements suggested by ECC are not considered to represent a reasonable opportunity in accordance with the National Networks National Policy Statement (NNNPS), specifically paragraph 5.205. The Applicant maintains that the Council's proposed enhancements are not justified in policy terms and present significant and unnecessary costs, as well as disruption to frontage owners. Their inclusion in the A12 scheme would lead to significant additional costs and a lengthy delay to the provision of a modern trunk road between Chelmsford and Colchester.

6 Severance

The Applicant notes the Interested Party's comments and does not agree that the alternative proposals by the Council reduce the number of junctions to cross. The setback of the existing provision adjacent to the A12 corridor is already compliant with LTN 1/20 and therefore the Applicant cannot agree that reconfiguring the cross-section of the A12 itself to increase this setback is a reasonable means of reducing severance.

The Applicant does not agree that changing the form of the de-trunked A12 from its existing dual-carriageway form rectifies north-south severance when compared to the proposed scheme's controlled crossings.

Whilst the width of the existing walking and cycling corridor is not fully compliant with LTN 1/20 guidance throughout its whole length of the de-trunked scheme, the Applicant maintains that it in and of itself is not a barrier for active travel. The significant reduction in speed and volume of traffic adjacent to the walking and cycling corridor is expected to rectify any extant severance issue.

7 Property Accesses

The Applicant notes the Interested Party's comments.

8 Policy

As explained in response to REP5-033-003, the Applicant has responded to a question in regards to the local and national policy in response to REP4-075-007 in Comments on any Further Information Received at Deadline 4 [REP5-002]. A summary as to how the Applicant has shown compliance with national and local planning policy is included in response to REP5-033-003.

REP5-033-031

Sub-Part

Appendix B - De-trunking timeline

Applicant's Response

The Applicant has provided a response to this within REP5-033-008.

Essex County Council

REP5-034-001

Sub-Part

1. Introduction This document sets out progress that has been made since the Issue Specific Hearings on 26 and 27 April 2023 to develop suggested draft DCO requirements that Essex County Council (the Council) considers are required in connection with the A12 widening scheme. This document should be read in conjunction with the Council's summary of oral representations made by Michael Humphries KC at the ISH 4 on 27 April 2023, which is also being submitted to the examination at Deadline 5.

The draft requirement wording set out in the table that follows is that which has been produced by National Highways and the Council and shared between both parties on 3 May 2023. This was preceded by agreement on the list of topics on which we would draft suggested new requirements on 28 April 2023, namely:

- Monitoring of scheme impacts
- Local road interventions – B1137 Main Road and measures in connection with junction 24
- De-trunking
- Walking, cycling and horse-riding

In addition, National Highways has put forward a suggested change to the draft wording of the current requirement 10 and the Council has put forward a new requirement relating to the design of junction 21. The Examining Authority is requested to note that the new suggested requirements referred to above do not represent all the new requirements (or changes to current proposed requirements) that the Council believes are necessary; please refer to the Council's summary of oral representations made at ISH 4 for further detail.

The Council acknowledges that some of the suggested requirements put forward by National Highways are done so on a 'without prejudice' basis; that is, 'without prejudice' to National Highways position that such a requirement may not be appropriate. We remain of the view that suitable requirements are required on all these topics to ensure the scheme is acceptable to the Council and to safeguard the Council's interests.

In the period leading up to Deadline 6, the aim is to merge the draft wording for each requirement where possible, making clear where each party has a different view on specific wording as necessary. A further meeting has been arranged for 18 May 2023 between the Council and National Highways for this purpose. If it is not possible to agree merged drafting, it is suggested that the Examining Authority will have two suggested versions of each respective requirement for consideration.

Specific comments on the suggested requirements are set out in section 3 of this note.

Applicant's Response

The Applicant notes the comments from the Interested Party regarding the draft requirement matrix with National Highways [REP5-034].

The Applicant has been working collaboratively with the Interested Party in producing this document and the Applicant submitted 9.59 National Highways and Essex County Council – Draft Requirements Matrix [REP5-018] at Deadline 5.

The Applicant looks forward to continued discussions on the draft requirement matrix.

Regarding the use of “without prejudice” within REP5-018 on the detrunking and junction 21 requirements, the Council is correct that the Applicant does not agree such requirements should be included within the DCO. The Applicant notes however within the Examining Authority’s commentary on the draft Development Consent Order [PD-015] that it has proposed a change to the draft DCO to include a requirement on junction 21. As confirmed in the Applicant’s Response to the Examining Authority’s commentary on the Draft DCO, [TR010060/EXAM/9.67]

the Applicant does not object to the inclusion of this requirement and has also accepted the inclusion of a requirement on detrunking based on the wording proposed by the Applicant as accepted by the Examining Authority in its Commentary on the draft DCO PD-015.

REP5-034-002

Sub-Part

2. National Highways and Essex County Council – draft requirements matrix The table below sets out draft requirement wording shared between the Applicant and Essex County Council on 3 May 2023. Both parties met on 4 May 2023 to discuss the respective wording, and a further meeting is planned on 18 May 2023. The aim will be to merge the draft wording for each requirement where possible, while making clear where each party has a different view. ~# SEE TABLE IN ORIGINAL DOCUMENT REP5-034#~

Applicant’s Response

The Applicant notes the comments from the Interested Party regarding the Draft requirement matrix with National Highways [REP5-034].

The Applicant has been working collaboratively with the interested party in producing this document and the Applicant submitted 9.59 National Highways and Essex County Council – Draft Requirements Matrix [REP5-018] at Deadline 5. The Applicant, on 18 May 2023 discussed merging the requirements, but concluded this would not provide clarity to the ExA. Instead, an updated Requirements Matrix has been submitted [TR010060/EXAM/9.59] which includes guidance to the ExA on the key differences.

The Applicant looks forward to continued discussions.

REP5-034-003

Sub-Part

3. Specific ECC comments The Council is grateful to National Highways for providing suggested wording for each of the proposed requirements and we are hopeful of reaching agreement on wording where possible. Specific comments on the suggested requirements are detailed below.

Approval of requirements (general comment) The Council considers that it is appropriate that the Council in its capacity as local highway authority should be the approving authority for requirements which that have a direct bearing on the local highway network, on the basis that the Council is best placed to understand the detail of what is required and what the impacts of any changes are likely to be. This is precedented within other National Highways previous DCOs, namely the A14 Cambridge to Huntingdon Requirement 17 Traffic Monitoring and Mitigation, and A303 Sparkford to Ilchester Dualling Requirement 17 Traffic Monitoring and Mitigation. Furthermore, Silvertown Tunnel, a non-National Highways DCO, involved many Requirements which needed the approval of the relevant local authority. In all cases we understand the Applicant considers that the approving authority should be the Secretary of State, in some cases following consultation with the local highway authority.

To address any concern that were the Council to be the approving authority for some requirements this could lead to an unreasonable delay in discharging the requirements, the Council would be content for a new article to be included in the DCO which sets out that approval must not be unreasonably withheld and allows for deemed consent in the event that no response is received within a set time period. This would be preferable to the Council on the basis that it ensures the Council will receive the information necessary and have the ability to shape elements of the scheme which concern the local highway network and are subject to requirements.

As a minimum, if the approving authority is to be the Secretary of State the Council considers it essential that the Applicant should be required to consult the Council prior to submission and provide the Council's comments on the same within the submission to the Secretary of State for consideration when applications to discharge the requirements are submission.

Applicant's Response

The Applicant maintains that it is not appropriate for ECC to be the approving authority under Requirement 10, as opposed to the Secretary of State. It has been standard practice across all National Highways DCOs for the Secretary of State to be the approving body under the requirements since The A14 Cambridge to Huntingdon Improvement Scheme Development Consent Order 2016. That is the approach taken in all the other requirements within the draft DCO.

The examples that ECC refers to were discrete requirements within Order where it was deemed acceptable to National Highways for approval to sit with the local authority for reasons specific to those schemes and the particular matters in question. However, the Applicant does not deem such an approach to be acceptable in this case and does not believe there is any justification for departing from the standard practice here.

The Applicant is of the view that the Secretary of State should be the only body to discharge any of the requirements under the DCO for the following reasons:

a) The Secretary of State is the appropriate discharging authority for requirements given the scheme's national network status and in line with the tested and accepted approach for national network DCOs, which have been approved by the Secretary of

State. It is the Applicant's view that ECC seeking a role as discharging authority diverges from established and tested DCO provisions.

b) The Secretary of State's internal team deals with National Highways schemes across the whole of England and is experienced in dealing with a wide variety of circumstances.

c) The request by ECC to share responsibilities with the Secretary of State for the discharge of certain requirements is both inappropriate and impractical. It would simply result in a 'double approval' process which would unnecessarily lengthen the time taken to discharge requirements. The Secretary of State's role as discharging authority is well-established in National Highways DCOs and there are no exceptional circumstances which justify any deviation from that for this scheme.

d) The Applicant does not agree that it is appropriate to have more than one discharging body for separate elements of the proposed scheme and feels strongly that this creates a risk of conflict. The Applicant does not consider that it is practical to split the scheme into elements to be approved at the local level and at the Secretary of State level. The various elements of the scheme are intrinsically linked and the separation suggested is artificial and impractical. The scheme has been designed as a whole and changes to one part will have consequences for another. Changes cannot be made to the local highway sections without considering the impact of those on the trunk road sections and vice versa. It is therefore artificial and unhelpful to attempt to separate out elements of the scheme for differing methods of discharge under requirements.

e) The Applicant does not consider it practical, helpful or reasonable to have two discharging authorities for a DCO, especially given that the underpinnings of the DCO regime include an objective of reducing the number of consenting authorities from which a single scheme needs to obtain consents. The DCO regime streamlines consenting in part to help to prevent conflicts between the requirements of different authorities, not to create new ones.

As the Secretary of State is the decision maker for the application seeking development consent it is appropriate that they are also the decision maker in discharging requirements. The Secretary of State will have the benefit of consultation responses from

various parties depending on the requirement. In this way the local authorities are able to input and potentially influence the Secretary of State's decision in the discharge of requirements on matters related to their function.

Indeed, given that there remain outstanding areas of disagreement between the Applicant and ECC on certain matters, the Applicant is of the view that it is more appropriate for approval to be given by an independent third party i.e. the Secretary of State, following consultation with ECC, which is already provided for in the drafting of the requirements.

REP5-034-004

Sub-Part

Location of interventions (general comment) Where the Council considers that specific interventions are required, for example a monitoring site or mitigation measure, a description of the location is currently included within the Council's suggested drafting. The Council is happy to provide more specific locations for these proposed interventions (for example X metres distance from X junction, grid references etc) if that is preferable.

Applicant's Response

The Applicant notes the Council's comments. Within the Applicant's new Requirement's 15 and 16 in Deadline 5 Submission – 3.1 A12 Chelmsford to A120 Widening DCO at D5 (clean) [REP5-004] and it has provided Ordinance Survey National Grid references to provide clarity on the locations.

REP5-034-005

Sub-Part

Impact monitoring and mitigation Please see section 2 of the Council's summary of oral representations made at ISH 4 on 27 April 2023. The Council's suggested draft wording is based on a requirement for the A14 DCO as this refers to a mechanism for the future agreement of mitigation measures and we think is therefore more appropriate in the context of this scheme.

The Council is currently giving further thought to the monitoring plan, include monitoring locations and methods of data collection. We intend to discuss this with National Highways on 18 May 2023 and expect to be able to provide more specific suggestions for the impact monitoring and mitigation scheme for Deadline 6.

Applicant's Response

The Applicant has responded to this point in response to Q2.5.5 in [REP5-003] Deadline 5 Submission – Comments on responses to ExQ2. For ease of reference this response is repeated below:

The Applicant agreed to undertake a programme of monitoring and this is confirmed in Requirement 17 submitted at Deadline 5 in the Draft DCO [REP5-004]. The Requirement aligns with the locations for monitoring and the timetable for monitoring proposed by the Council in its Local Impact Report [REP2-055].

With regard to future mitigation Tthe Applicant met with Essex Countythe Council on 23rd May 2023, where the topic of monitoring traffic flows was discussed. Essex CountyThe Council presented their initial proposals on a monitoring and mitigation programme in that meeting, and subsequently provided the Applicant with the content of this presentation on 24th May 2023.

This included suggested locations and survey specifications for monitoring surveys. The Applicant will consider these in detail and will respond accordingly, but its initial view is that the scope of the surveys is disproportionate compared to typical monitoring undertaken by National Highways on local roads. The Applicant further notes that the Requirement as drafted includes all the locations requested by Essex County Council in their Local Impact Report, as well as the timescale for monitoring.

ECC also set out proposals for how to compare observed traffic flow changes with modelled traffic flow changes. The Applicant notes the methodology proposed, but that the gap of at least four years between pre-construction and post-opening traffic surveys adds considerable uncertainty.

The Applicant also remains of the view that, due to the large number of proposed housing developments close to the roads affected by the proposed scheme, it is not possible to fully separate the traffic growth caused by the housing developments from growth caused by the proposed scheme.

Overall, the Applicant accepts that while it is possible to monitor and analyse the impact of the proposed A12 scheme, there is a level of uncertainty around the extent to which the proposed scheme is responsible for observed changes. While this level of uncertainty is acceptable for a monitoring report that focuses on trying to understand the impacts of the scheme, it does not allow definitive “blame” to be placed on the A12 scheme for traffic changes and therefore responsibility for funding or delivering mitigation.

This was the Applicant’s position outlined in comment reference 3.20 in the Applicant’s Written submission of oral case for Issue Specific Hearing 3 [REP5-020], and the Applicant has not identified any reason to change from that position. A12 widening [REP5-020]

REP5-034-006

Sub-Part

Detailed design – requirement 10 The Council is currently reviewing this proposed amend to the wording of this requirement. We do consider that further changes are needed – beyond that that appears to have been agreed as summarised in section 2 of the Council’s summary of oral representations made at ISH 4 on 27 April 2023, and also REP3-035 (page 10).

The outstanding issue is that the Council remains of the view that it is appropriate that the Council should have the power to approve the detailed design of highways for which it will be the local highway authority. This is not currently reflected in the draft requirement 10 and we request National Highways amend this requirement accordingly.

Applicant’s Response

The Applicant provided further amendments to the wording of Requirement 10 in the revised draft DCO submitted at Deadline 5 (REP5-005) to address concerns raised by ECC during the Issue Specific Hearing into the DCO. The Applicant awaits ECC's further comments on the wording proposed.

The Applicant maintains that it is not appropriate for ECC to be the approving authority under Requirement 10, as opposed to the Secretary of State as explained in its response to 003 above.

REP5-034-007

Sub-Part

B1137 Main Road mitigation The Council welcomes the suggested drafting provided by National Highways and the proposed mitigations included therein, albeit we consider that the scheme should be agreed by the local highway authority rather than the Secretary of State (as noted above). Based on the work the Council has undertaken we believe the measures should include minor road narrowings and place making / safety signs and this is not currently included in the Applicant's suggested wording.

Applicant's Response

The Applicant has considered the traffic calming measures proposed by the Interested Party in Boreham to help reinforce the assumptions made in the strategic traffic model to encourage traffic from Maldon Road to join the A12 southbound via junction 21 rather than routing through Boreham to join at junction 19.

The Applicant has provided a response as part of sub question REP5-034-003 regarding the in principle point of the approving authority of requirements of the Proposed Scheme.

As was included in the submission of the Deadline 5 Submission - 9.59 National Highways and Essex County Council – Draft Requirements Matrix [REP5-018], the Applicant has proposed a system of average speed cameras, as well as road safety posters and a proposed controlled crossing to ensure adherence to the proposed speed limit. The Applicant is not introducing

ancillary hazards in the form of road narrowings to further reinforce this speed limit as average speed cameras are widely acknowledged to be self-enforcing. Indeed, the Applicant notes that at ISH 3 the council's own expert witness confirmed that average speed camera would be an effective measure in keeping people to speed limits.

REP5-034-008

Sub-Part

Junction 24 mitigation Currently the drafting provided by National Highways only commits to two of the mitigation measures the Council has indicated should be taken forward, both of which are in or on the approaches to Messing village. Based on the work the Council has undertaken we believe that additional measures are needed, including measures to help ensure that vehicles approach the new Inworth Road roundabout at a safe speed and to minimise the impacts on Oak Road in Tiptree. These measures are set out in the Council's suggested drafting for this requirement.

Applicant's Response

The Applicant acknowledges the request from the Interested Party and the draft wording set out by Council for Requirement 16 of the Draft DCO.

As explained in response to reference 3.17 in the Applicant's Written Submission of Oral Case for Issue Specific Hearing 3 [REP5-020], the Applicant has considered additional mitigation set out in ECC's Local Impact Report [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].

The Applicant has committed to providing village entry gateway features for Messing village and "unsuitable for HGVs" signage on Kelvedon Road and Harborough Hall Road as detailed in Requirement 16 of the Draft DCO [REP5-004].

The Applicant has considered other measures requested by ECC, such as narrowing of the entries to Oak Road, a 20mph speed limit on Oak Road, improved signage at either end of Oak Road, and does not consider these interventions to be appropriate for inclusion in the proposed A12 widening scheme. This is 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 which would consequently change the traffic from what is presented in the Environmental Statement as explained above.

With regard to widening of pinch points on the B1023 between Perrywood Garden Centre and the B1022, the Applicant is not proposing widening in this area. The Applicant has proposed pinch-point widening in Inworth to reduce the likelihood of wide vehicles overrunning onto pedestrian footways in the village where pedestrian use is higher.

It is not proposed for further existing pinch-point widening to be included in the proposed A12 widening scheme south of the Perrywood Garden Centre because the likelihood of encountering pedestrians in this 50mph section without footpath is less likely compared to within the village. The pedestrian footway in Tiptree is also set-back from the carriageway in sections where the carriageway is narrow, further reducing the risk of vehicle overrunning onto pedestrian footways.

Regarding average speed cameras on the B1023 to the south of the new Inworth Road roundabout to increase the likelihood of adherence to the proposed speed limit in both directions, 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.

Finally, regarding a fixed speed camera on the southbound approach to the new Inworth Road roundabout, the roundabout acts as a very apparent traffic calming feature which can be seen from the proposed start of the 30mph speed 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.

For these reasons, the Applicant is not proposing to include these additional measures in the proposed scheme.

REP5-034-009

Sub-Part

De-trunking Please see section 2 of the Council's summary of oral representations made at ISH 4 on 27 April 2023 for our position on a potential de-trunking requirement.

The Council acknowledges National Highways' suggested wording for this requirement and that this is provided on a without prejudice basis. However, whilst the wording as it stands requires the Applicant to submit a scheme for de-trunking to the Secretary of State for approval the Council has no assurance that this will include any of the measures the Council considers are necessary; indeed, National Highways has made clear it does not think the Council's requests on de-trunking are justified.

The suggested wording put forward by the Council takes account of the current position and seeks to detail what the Council considers are the essential elements for a de-trunking scheme in the context of this project. Importantly, as noted above, the Council considers that it should be the approving authority for a requirement of this nature.

Applicant's Response

At Deadline 5 the Applicant submitted the National Highways and Essex County Council – Draft Requirements Matrix (REP5-018).

As explained in that document, draft requirement wording on the matter of detrunking (amongst other matters) was shared between the Applicant and Essex County Council on 3 May 2023. Both parties met on 4 May 2023 to discuss the parties' respective wording, and a further meeting was held on 18 May 2023.

As noted within the Applicant's Response to the Examining Authority's commentary on the draft Development Consent Order [

TR010060/EXAM/9.67]

, the Applicant is willing for a Requirement on de-trunking to be included in the draft DCO but only on the basis that the requirement wording is that proposed by the Applicant, as the ExA has set out in DCO-PC23 of the Examining Authority's commentary on the draft Development Consent Order [PD-015].

It is not appropriate for the scheme to be required pursuant to any detrunking requirement that may be included in the draft DCO to reflect ECC's preferred detrunking scheme. As the Applicant has previously explained, most recently in its Written submission of oral case for Issue Specific Hearing 3 (REP5-020) at 3.11, ECC have not presented a detrunking scheme, but generalised ideas for a scheme:

- no designs for ECC's proposed scheme have been presented;
- 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. ECC has no basis for claiming that any environmental effects from their proposals are likely to be modest, as no appraisal has been undertaken. Without ECC presenting a full environmental appraisal of their proposed detrunking scheme it cannot be determined that the proposal would not result in materially new or materially different environmental effects to those presented in the Environmental Statement for the proposed scheme; and
- ECC's proposals have not been subject to a Road Safety Audit.

As such, insufficient information has been presented by ECC for the detrunking proposals to be given adequate consideration during the Examination and as such they cannot be required to be provided by way of any detrunking requirement. It is for these

reasons why the ECC's detrunking scheme cannot be delivered under the draft DCO and ECC's reference to the ancillary works powers under Schedule 1 does not change that position.

It is also not appropriate for ECC to be the approving authority under the requirement, as opposed to the Secretary of State for the reasons given in response to 003 above.

REP5-034-010

Sub-Part

Walking, cycling and horse-riding (WCH) provision The drafting provided by the Council for this potential requirement seeks to secure the changes National Highways have indicated it intends to make to WCH overbridges within the letter of intent dated 24 April 2023 [AS-060]. In addition the Council has drafted this potential requirement such that provision for WCH users at at-grade crossings affected by this scheme and other principles agreed with the Council around WCH provision are secured, in line with government guidance (LTN 1/20). The Council considers this is necessary because whilst the Applicant has explained that it can make these requested changes within the parameters of the DCO (including but not limited to requirement 10), the Council currently has no assurance that the changes will be made.

Rather than setting out all of this detail within the wording of the requirement, the Council suggests that a simplified version of a document that the Applicant and the Council have jointly been developing (referred to as the walking and cycling matrix) is produced, and that this document is certified as part of the DCO and referenced within this requirement. A suggested simplified version of the walking and cycling matrix is included within this document as Appendix A. Again, the Council considers that it should be the approving authority for this requirement.

Applicant's Response

The Applicant has discussed the above matter with the Interested Party at the recent Statement of Common Group meetings on 23May 2023 and 21 June 2023 proposes to secure the details above by way of requirements in a form similar to the Appendix

described by the Interested Party. The Applicant would refer to the Updated Requirements Matrix [TR010060/EXAM/9.59] for further information.

The Applicant maintains that the Secretary of State is the appropriate approving authority for these matters for the reasons explained above in response to 003.

REP5-034-011

Sub-Part

Junction 21 design As for the requirement above, the drafting provided by the Council for this potential requirement seeks to secure the design elements National Highways has indicated it intends to include within the new junction 21 within the letter of intent dated 24 April 2023 [AS- 060]. The requirement is requested to provide the Council will assurance that the new junction will be designed in such a way that it can accommodate provision of a new link road to Maldon Road should this be delivered as a separate project at a later date.

Applicant's Response

As has been outlined to the council at many meetings, most recently on 4 May 2023, the additional works at junction 21 have not been included in the proposed scheme as the proposed scheme does not adversely impact the performance of the Duke of Wellington mini-roundabout, nor does it preclude a future bypass coming forward, and as such a Requirement should not be considered as part of the development consent order.

That said, at Deadline 5 the Applicant provided without prejudice a draft requirement on this matter within 9.59 National Highways and Essex County Council – Draft Requirements Matrix [REP5-018] if the examining authority is minded to provide one.

The Applicant notes within the Examining Authority's commentary on the draft Development Consent Order [PD-015] that it has proposed a change to the draft DCO to include a requirement on junction 21. As confirmed in the Applicant's Response to the Examining Authority's commentary on the Draft DCO, [TR010060/EXAM/9.67

] the Applicant does not object to the inclusion of this requirement if the ExA is minded to include it.

REP5-034-012

Sub-Part

Appendix A: Suggested simplified walking and cycling matrix ~# SEE ORIGINAL DOCUMENT REP5-034#~

Applicant's Response

The Applicant acknowledges the table contained within the Appendix and has provided a response in REP5-034-010. The Applicant has considered this approach to the WCH Requirement and has provided its response in [TR010060/EXAM/9.59] .

Essex Local Access Forum (ELAF)

REP5-035-001

Sub-Part

"Essex Local Access Forum (ELAF) deadline 5 submission (10 May 2023) Interested Party ref 2033138 As noted in ELAF's representation REP3-037, National Highways WCH proposals, mitigation of past & current practical severances and the proposed improvements to the WCH network is considered to fall short of that required by NPPF paragraph 100 – ELAF bold: Planning policies and decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails ELAF note that National Highways objectives for the proposed scheme, as set out in Environment Statement – Chapter 2: The Proposed Scheme [APP-069] and summarised on page 54 of National Highway's REP4-055 response to the ExA's questions include: • Proposed scheme reduces the impact of severance of communities along the route • Proposed scheme improves accessibility

for walkers, cyclists, horse riders, and public transport users As stated by National Highways, WCH users will in future be legally banned from using or crossing the widened A12, so alternative routes must be provided to compensate for this reduction in the available network. Whilst the proposed DCO scheme does mitigate the historic severance/ inability of WCH users to safely cross the A12 in several places, there are still several instances where the network remains severed – see ELAF's written submissions RR-026 and REP2-058."

Applicant's Response

The National Policy Statement for National Networks (NNNPS) is the relevant NPS for this scheme and is the primary policy document against which the scheme must be determined by the SoS, in

accordance with section 104 of the Planning Act 2008.

Paragraph 1.18 of the NNNPS states that:

"The NPPF is also likely to be an important and relevant consideration in decisions on nationally significant infrastructure projects, but only to the extent relevant to that project."

The NPPF states at paragraph 5:

"The Framework does not contain specific policies for nationally significant infrastructure projects. These are determined in accordance with the decision-making framework in the Planning Act 2008 (as amended) and relevant national policy statements for major infrastructure, as well as any other matters that are relevant (which may include the National Planning Policy Framework).

Paragraph 100 of the NPPF is consistent with the approach to public rights of way set out in the NNNPS but does not appear to include any requirements over and above those in set out in paragraphs 3.17, 3.22, 5.184 and 5.205 of the NNNPS.

The Applicant has noted in response to the Interested Party's Relevant Representation RR-026 [REP1-002] and written submission REP2-058 [REP3-009] that the proposed scheme includes substantial proposed improvements to walking, cycling and horse riding facilities. To reaffirm the improvements, the proposed scheme submitted for development consent would include:

- A total of 30km of new and/or improved WCH facilities
- Six road bridges with walking and cycling provision, five of which would be new or upgraded provision
- Five road bridges with walking provision
- Five new WCH bridges, and one improved walking and cycling bridge to address severance across the A12

Overall, there would be 20km of additional WCH provision. The project is also bringing over 3.5km of existing facilities up to compliance with current guidance. The Applicant maintains that these improvements protect and enhance public rights of way and access and provide better facilities for users, including additional links to existing rights of way in accordance with the requirements of the NNNPS and also in accordance with NPPF paragraph 100 to the extent that it is relevant to the project.

The Applicant has addressed the concerns raised by the Interested Party in RR-026 and REP2-058 in the Applicant's Response to Relevant Representations [REP1-002] and the Applicant's Comments on Written Representations [REP3-009].

REP5-035-002

Sub-Part

"re: WCH bridges – construction and usage It is noted that, regarding WCH bridges, National Highways have stated that ...
 "Bridges crossing the A12 with no bridleway connection are not yet bridleways but are nonetheless all future proofed for

equestrian use (with a higher parapet) with the exception of the Marks Tey replacement bridge". This was the position as understood by ELAF so it was very concerning to read on page 54 in REP4-055 (National Highways response to ExA questions) that... "The term WCH, short for Walkers, Cyclists and Horse Riders is a generic term that refers typically to non-motorised users. The description of a route, or structure, being 'WCH' does not necessarily mean that it will be designated for use by all of those user groups". Also to read and to hear, at the recent ISH, that the proposed Gershwin Boulevard WCH Bridge would be for pedestrians only. At what point and on whose authority would this bridge for example become available for use by cyclists and equestrians? Similarly the proposed WCH Little Braxted Lane WCH bridge is designated for use by pedestrian and cycle use only despite bridleways being in the vicinity and the bridge connecting to public vehicular highways at either end. As stated previously, ELAF are concerned with Access for All, so routes / structures labelled WCH (for walkers cyclists and horseriders) must genuinely be designed for and be available for use by walkers, cyclists and horse-riders together with people with dogs / buggies, runners & mobility or visually impaired users."

Applicant's Response

The statement made on page 54 in REP4-055 was a clarifying response intended to explain why all bridges for users other than motorised vehicles are referred to as "WCH bridges" even if they are not intended to be dedicated as cycleways or bridleways upon scheme opening. As stated in the response referred to by the Interested Party, all bridges are future-proofed for equestrian use subject to the wider dedication of surrounding routes.

Regarding the specific situation at Gershwin Boulevard bridge, whilst the northern connection of the bridge is shared use cycle-footway alongside Gershwin Boulevard, the southern connection is footpath 121_95 across third party land. Should the existing landowner wish to dedicate the stretch of footpath 121_95 as a cycle track, then the bridge itself could be dedicated as a cycle track. Should both the northern and southern routes be dedicated as bridleway by the relevant third parties then the bridge could be dedicated as such.

The case is similar for Little Braxted Lane bridge, which as shown in the legend on the Streets, Rights of Way and Access Plans [AS-028] is classified as cycle track (for pedestrians and cyclists). Whilst Little Braxted Lane itself appears to be suitable for equestrians in the context of scheme opening, and Bridleway 105_29 exists to the west of the proposed cycleway running

parallel to Little Braxted Lane, the Applicant is not aware of any routes suitable for equestrian use north of the bridge until the railway crossing north of Motts Lane.

The Interested Party has responded to the point made about access for all in its response to Sub-Part RR-026-002 in 9.3 Applicant's Response to Relevant Representations - Rev 2 [REP1-002].

REP5-035-003

Sub-Part

"Re: Ashman's Bridge and Kelvedon FP 30 / Great Braxted FP 19 ELAF made suggestions regarding this re-located bridge and adjacent PROWs in REP3-037. ELAF fully support ECC's REP4- 075 submission page 3-4 that..... "We ask that National Highways additionally seek to provide improvements for horse riders through dedication of a bridleway over footpaths 30 (Kelvedon) and 19 (Great Braxted), a distance of <600m, and provision of a bridleway bridge (Ashman's Farm footbridge) instead of replacing the current footbridge. This will connect our network of bridleways north to those south of Kelvedon. The scheme already requires that the footpath and footbridge are moved so upgrade to a bridleway is considered reasonable. ELAF fully support ECC's REP4-075 submission page 24 that.. "both Marks Tey and Paynes Lane overbridges provide an attractive, pleasurable experience that will encourage future growth in active travel, they should

be redesigned as segregated walking cycling bridges." However, as previously noted Paynes Lane WCH bridge connects bridleways so this bridge should be a full WCH bridge from the start including equestrians use."

Applicant's Response

The Applicant notes the Interested Party's comments.

Regarding the dedication of a bridleway over footpaths 92_30 and 246_19, the Applicant is proposing to relocate the existing Ashman's Farm footbridge which is not geometrically or structurally appropriate to dedicate as a bridleway bridge as the parapets are not of suitable height for equestrian use. The Applicant is not proposing to construct a new bridge. The existing

location and proposed realignment of footpath 92_30 does not connect to any onward bridleway facilities, and horses could not therefore access the bridge.

Regarding Marks Tey and Paynes Lane bridges, the Applicant maintains that the proposed 4m path width on Paynes Lane bridge and Marks Tey bridge is sufficient to provide a 3m shared use path with 0.5m offset on either side. This complies with LTN 1/20 guidelines and provides adequate capacity for the expected future active transport growth.

Paynes Lane bridge is dedicated as a bridleway as is shown on Sheet 2 of the Streets, Rights of Way and Access Plans [AS-027].

REP5-035-004

Sub-Part

Re: Coleman's Cottage Fishery and Witham FP 103 [PROW 121-103] National Highways propose to mitigate the current legal, but practically unsafe, crossing of the A12 by Witham FP 103 by looping Witham FP 103 back to the Little Braxted Lane and bridge along a route squeezed between the widened A12 and the private fishing lake. However, the existing off-road cycleway, and hence also pedestrian connection, along Little Braxted Lane between Witham FP 103, and Rivenhall Bridleway 29, and the existing bridge over the A12 (Coleman's Bridge) can be used now if people wish to cross the A12 in this vicinity. So National Highways proposal is not enhancing the network to any significant extent – especially as the Witham FP 103 on this “country” side of the A12 will be primarily used for leisure purposes and not for direct active travel. The ELAF proposal to link Witham FP103 [PROW 121-103] with the Whetmead Nature Reserve and Witham FP 101 [PROW 121-101] along the “country” (south) side of the A12 is within National Highways red line boundary and so does not require any additional land take. As stated, it would provide a circular leisure route for the people from Witham linking two A12 crossing points – the re-configured Little Braxted Lane bridge and the existing Witham FP 101 underpass. It would fill a network gap as there are no PROW /WCH routes between Little Braxted Lane and the WhetMead Nature Reserve (open public access) so would meet the NPPF paragraph 100 criteria and ECC's ROWIP. ECC's support and preference expressed on page 27 of REP4-075 for ELAF's proposal is welcome. The plan from ECC's document REP4-075 page 27 is included below to be read together with ECC's text that to...”create a path south instead, linking footpath 103 with footpath 121, a route that would follow alongside the A12 within the red line boundary

(indicated by pink dots in the plan extract below). This would be our preferred outcome. We would be happy for these paths to follow vehicle access tracks / maintenance tracks once the build is complete.”

Applicant's Response

In light of comments from and consultation with Essex County Council (ECC), Essex Local Access Forum (ELAF), and the landowners, the Applicant is proposing to remove the proposed footpath connection from the severed Footpath 121_103 to Little Braxted Lane behind the fishing ponds. The Applicant is now proposing to connect footpath 121_103 to footpath 121_101 via the proposed private Means of Access (PMA's on the southern side of the A12. Footpath 121_101 crosses under the A12 via the Brain Bridge and continues to Maldon Road. This new connection will provide an enhanced public right of way for users in Witham, with the proposed Little Braxted Lane bridge acting as the diversion route for the legally closed crossing of the A12. This proposal is shown on the Streets and Rights of Way Access Plans submitted at Deadline 6 TR010060/APP/2.6.

REP5-035-005

Sub-Part

re: Gershwin Boulevard WCH bridge and Witham FP 95 [PROW 121-95] ELAF welcomes and supports ECC's comments on page 26 of REP4-075 that... "The council has no issue in principle with the bridge being constructed further to the west as has been requested by some stakeholders. In fact, we consider that there could be a small overall network benefit insofar as it could provide a more direct route for cyclists." ELAF support ECC's requirement that there is a link on the "country" (southern)

side of the A12 between Howbridge Hall Road / the bridge landing and the southern end of Witham FP 95 as has previously been requested by ELAF. The plan from ECC's document REP4-075 page 26 is included below.

Applicant's Response

The Applicant notes the comments from the Interested Party. In the latest submission from Essex County Council at Deadline 5, the council has no objection to the Applicant's proposed location of the Gershwin Boulevard bridge. Refer REP5-033 for further information.

The Applicant maintains that the location of Gershwin Boulevard bridge as submitted in the DCO application is the most reasonable alternative diversion route for footpath 121_95.

The Applicant has considered the alternative location proposal presented by some of the Interested Parties. This assessment is documented in the Gershwin Boulevard Technical Note submitted at Deadline 3 [REP3-011]. In summary, the Applicant does not believe the alternative proposal should be taken forward because:

- it does not create a route to the proposed Replacement Land south of the A12 and the wider rights of way network
- the land required to deliver the bridge in the alternative location is outside of the current Order Limits
- the alternative proposal does not resolve the concerns raised by the community but instead relocates the impacts on the receptors while increasing the diversion length of the public right of way that is being diverted

A summary of the matters raised relating to the Gershwin Boulevard bridge has been prepared in 9.66 Gershwin Boulevard Issue Summary Note submitted at Deadline 6 [TR010060/EXAM/9.66]

REP5-035-006

Sub-Part

"Re: Prested Hall & Feering FP 15 [PROW 78-15] & Feering FP 18 [PROW 78-18] National Highways propose replacing two existing bridges over the A12 at the north end of Feering with one bridge (ref: sheet 15 of Streets, Rights of Way & Access Plans Part 2 REP4-004). This is a diminution of the WCH network and is not in keeping with NPPF paragraph 100, ECC's ROWIP and also not in keeping with National Highway's own objectives of... "improving accessibility for walkers, cyclists, horse riders, and public transport users." The Feering FP 15 and Prested Hall Drive will be severed; Threshelfords FP 18 / farm accommodation bridge will be demolished and will be replaced by Prested Hall Bridge, a road bridge with a cycleway along one side; Feering FP 18 will become a foot-cycle-way in part and will follow a longer convoluted route. The owners of Prested Hall, a listed building, and the Leisure centre have also expressed their concerns about the removal of the direct access afforded by Prested Hall Drive with it's wide grass verges and mature trees. The new 6-lane A12 will decimate the drive and its mature trees. National

Highway's description on page 59 of REP4-055 of Prested Hall Drive as a route with.... "no walking or cycling facilities so users must walk in the road or grass verge" paints a misleading picture.

Prested Hall Drive: view south towards the Hall in the vicinity of where the drive will be crossed by the A12

Removal of two bridges and replacement by one, means that local people will no longer be able to undertake a short circular walk over Threshelfords Bridge, along FP 18 and then returning along the drive of FP 15. As there will be 1000 new homes in this area of Feering, the loss of a circular leisure route is deplored. The East Anglian Farm Ride that connects at the north end of Prested Hall Drive will also be negatively affected. ELAF repeat their request for a WCH bridge over the new A12 to enable continued direct access to Prested Hall & its leisure facilities and the by local residents."

Applicant's Response

The Applicant notes the Interested Party's comments.

The proposed route to replace footpath 78_18 is a suitable alternative via the proposed Prested Hall overbridge for walkers wishing to travel between Inworth Road and Prested Hall. Whilst the proposed route from Inworth Road to Prested Hall is slightly longer than the existing route, the proposed bridge provides a more direct link for walkers from London Road to Prested Hall and avoids walkers needing to traverse the existing junction 24 arrangement. The Prested Hall overbridge also provides direct access for vehicles and pedestrians travelling from Feering and the de-trunked A12 to Prested Hall and the leisure facilities.

In the assessment of the overall walking, cycling and horse riding strategy for the proposed scheme, the Applicant has considered the function provided by the existing public rights of way in this area and determined reasonable alternatives. Whilst Prested Hall Drive and footpath 78_15 are severed by the A12 and Threshelfords Bridge provides a direct link between Prested Hall and Feering, the Applicant does not believe that it is reasonable to provide a second bridge to allow for a short circular route as currently exists. A longer circular route which avoids interaction with the trunk road is provided via Easthorpe Road bridge further east.

The Applicant notes the Interested Party's comment regarding the East Anglian Farm Ride. The Applicant has contacted the East Anglian Farm Ride (EAFR) who advise this is a lesser used route may often be closed at the discretion of the landowner, during for example, the shooting season. The Applicant will remain in contact with the EAFR to advise of any restrictions well in advance and to minimise, where practicable, any disruption through the construction phase.

Historic England

REP5-036-001

Sub-Part

Dear A12 Chelmsford to A120 Case work Team

Deadline 5 (ISH3) written submission

Please find below Historic England's Deadline 5 response relating to Issue Specific Hearing 3, Agenda Item 8, Cultural Heritage.

Historic England still has concerns in terms of the impact of two proposed offline sections - on the Scheduled Monuments known as 'Neolithic long mortuary enclosure at Appleford Farm, Rivenhall End' and 'Medieval moat at Marks Tey Hall'.

We set out a reasoned assessment in our Deadline 2 submission. We have also considered REP2-060-006 and REP2-060-007 submitted by the applicant. We have considered our position and it remains unaltered from that set out in our submission.

We consider the significance of effect on both highly-graded designated heritage assets would be moderate adverse and thus material in the decision-making process.

The assessment of the level of harm, however, is a matter of professional judgement – and we acknowledge the applicant's understanding is different to ours.

We do not believe additional on-site mitigation is possible at these locations to reduce the level of harm (in terms of the significance of effect) to the highly-graded designated heritage assets that we have identified.

We have suggested to the applicant on 16 March 2023 that off-site mitigation – relating to the enhancement of the two affected Scheduled Monuments, i.e. 'Neolithic long mortuary enclosure at Appleford Farm, Rivenhall End' and 'Medieval moat at Marks Tey Hall', should be investigated to offset the harm that we have identified – and because we do not believe additional on-site mitigation is possible.

This work might include:

Removal of the Scheduled Monument at Appleford Farm, Rivenhall End, could be removed from intensive arable cultivation.

Repairs to secure the Grade II* Listed Marks Tey Hall South Barn, which is currently on the Heritage at Risk Register.

In both cases, we consider this would provide important and real public benefit for these highly- graded designated heritage assets that would go some way to addressing the harm that we have identified to these assets by the scheme.

We would like to see a commitment to this work from the applicant and we would be pleased to explore this further with the applicant.

If you would like further clarification in relation to our advice, please contact us.

Yours sincerely, Jess Tipper

Applicant's Response

For the reasons set out in the Deadline 3 Submission - Applicant's Comments on Written Representations [REP3-009, sub-questions REP2-060-006 and REP2-060-007], the Applicant considers its assessment of the effect of the proposed scheme on the settings of the scheduled monument of Neolithic long mortuary enclosure north of Appleford Farm and medieval moat at Marks Tey Hall to be accurate, and that the proposed mitigation, which includes landscape planting, noise bunds, and enhanced low noise surfacing (shown on sheets 11 and 18 of the Environmental Masterplan [TR010060/APP/6.2]), would result in residual effects of slight significance on both assets during construction and operation of the proposed scheme.

The Applicant is in agreement with Historic England that additional mitigation within the Order limits would not further reduce the effects of the proposed scheme on the setting of the affected assets. Historic England has requested mitigation or compensation measures outside the Order limits to offset the effects on the scheduled monuments. However, the Applicant continues to maintain that such mitigation is not necessary given the assessment that the residual effects would already be reduced to slight significance.

The power to impose requirements pursuant to s120 of the Planning Act 2008 will be subject to similar constraints as to its scope as the power to impose conditions on the grant of planning permission. In other words, requirements can only be imposed where they are for a "planning purpose", where they are reasonably related to the development proposed and where they are reasonable in all other respects (see Newbury case – [1981] A.C. 578).

Paragraph 4.9 of the NPSNN states that:

“The Examining Authority should only recommend, and the Secretary of State should only impose, requirements in relation to a development consent, that are necessary, relevant to planning, relevant to the development to be consented, enforceable, precise, and reasonable in all other respects.”

Both the Applicant and Historic England recognise that the proposed development will cause harm to the significance of the Scheduled Monument at Appleford Farm.

There is disagreement as to the degree of harm that would be caused. The Applicant has set out in full an explanation of its assessment of the degree of harm to significance. Whilst the Applicant has appraised the extent the setting contributed to the significance of the Scheduled Monument, Historic England has not presented any such reasoned position – as a result, in contrast to the Applicant, the rationale for Historic England’s position has not been explained by reference to an assessment process which is compliant with policy or the guidance set out in GPA3. This is explained in the Applicant’s Comments on responses to Q2 [REP5-003], and specifically in the responses given to Q2.11.3 and 2.11.4. The Applicant’s appraisal of the impact of the proposed scheme and its commentary on HE’s position is also provided in the Applicant’s Written Submissions of Oral Case for Issue Specific Hearing 3 [REP5-020]. The Applicant considers that in the absence of a reasoned position which is founded upon an assessment process which is compliant with policy and guidance, Historic England’s position cannot safely be accepted – rather the fully reasoned and justified position of the Applicant and its expert consultants is to be preferred.

Notwithstanding the above, whilst there is a dispute regarding the degree of that harm, both the Applicant and Historic England agree that the harm is to be categorised as less than substantial harm.

As a result, paragraph 5.134 of NPSNN is engaged. This provides:

“Where the proposed development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.”

Great weight is to be given to the conservation of the significance of the Scheduled Monument (NPSNN paragraph 5.131).

The Applicant considers that the public benefits of the proposed development are so significant that they outweigh the harm to the significance of the Scheduled Monument even on the basis of the degree of harm identified by Historic England.

Historic England has suggested that the Applicant could either:

- a) Remove the land around the Neolithic long mortuary enclosure Scheduled Monument from intensive agricultural use; or
- b) Secure repairs to the South Barn at Marks Tey Hall.

The Applicant considers that a requirement to deliver either of these could not be imposed for a number of reasons.

Cessation of Cultivation at the Neolithic long mortuary enclosure

The cessation of cultivation of the land around the Scheduled Monument is not necessary to ensure that the proposed development is acceptable. A requirement cannot thus be imposed to deliver this (see NPSNN paragraph 4.9).

Since the Applicant does not have an interest or rights over the land in question it would not have the ability to comply with such a requirement. In these circumstances, the imposition of such a requirement would not be reasonable.

Even if the cessation of cultivation of the land were deliverable, this would take out of production valuable agricultural land. This would leave the land with no beneficial land use. In the absence of agricultural use, the land would lie fallow and unmanaged. Fallow, unmanaged land would itself be out of character with the surrounding landscape which has been intensively farmed for many hundreds of years.

Further, since the contribution the setting makes to the significance of the Scheduled Monument is limited (see [REP5-002]), the cessation of agricultural use is unlikely to enhance the significance of the asset in any material way – certainly not to a degree which would be material to the balance that paragraph 5.134 of the NPSNN requires to be struck. As a consequence, the

Applicant does not consider that it would be lawful or compliant with policy to impose a requirement to deliver Historic England's suggested cessation of agricultural use.

South Barn at Marks Tey Hall

In relation to the South Barn at Marks Tey Hall ("the Barn"), again, since the proposed development is compliant with paragraph 5.134 of NPSNN without them, these works are not necessary to ensure that the proposed development is acceptable. A requirement cannot thus be imposed to deliver this (see NPSNN paragraph 4.9). Since the Applicant does not have an interest or rights over the barn it would not have the ability to comply with such a requirement. In these circumstances, the imposition of such a requirement would not be reasonable.

Notwithstanding the above, the Applicant is happy to explore with Historic England whether designated funds may be available in the future to deliver the suggested or other heritage benefits.

Stanfords on behalf of J A Bunting & Sons

REP5-037-001

Sub-Part

This submission at deadline 5 is made on behalf of The Bunting Family. It relates to the proposed A12 Chelmsford to A120 widening scheme being promoted by National Highways by way of an application for a Development Consent Order.

Firstly, we will provide a brief update on the status of our objection and the progression of discussions with National Highways to overcome these objections. Draft Heads of Terms for a side agreement were drafted by us and sent to National Highways/Ardent at the beginning of April, to date we have not received a response to these. More positive engagement has been ongoing with the District Valuer, but these have stalled pending a response to the draft Heads of Terms for a side agreement. Our current position is we maintain our objection to the elements detailed in our original relevant representation for the reasons specified.

Applicant's Response

A response to the Heads of Terms for a side agreement was sent to the representatives of the Buntings on 18 May 2023 and a meeting held to discuss matters on 22 May 2023. Following the meeting, further detailed information was provided on 30 May 2023 to further inform the draft Heads of Terms and move agreement forward.

REP5-037-002

Sub-Part

The second part of this submission provides a written submission of the points raised at Agenda item 6 of Issue Specific Hearing Session 4 with regards to Borrow Pits. This session was attended by our representative, Alex Dent (B.Sc. M.Sc. EurGeol C.Geol FGS) of WSP. The following points were raised by Alex and National Highways confirmed they would respond in writing following the session:

1. Why was the 445 000m³ of Selected Fill omitted from the original Borrow Pits report? 2. Is the volume of Select Fill needed 445 000m³ as per presentation verbally or 300 000m³ as indicated in the slide presented? 3. What measures are being considered to reduce the volume of selected fill from Borrow Pit J (e.g. soil treatment of materials arising from the main works by use of additives such as lime/cement to form sub-base and capping and geogrids to minimise need for selected granular fill etc)? 4. Allied to 3 “ the responses to queries to date indicate high sulphate concentrations - Has heave testing been done? Have alternative additives been considered to address this? 5. Can NH confirm that Burrow Pit J will only be used for selected fill not general fill? 6. One of NH's main arguments in favour of borrow pits is an economic one “ can NH confirm that the costings include for dewatering and confirm what has been assumed here bearing in mind the shallow groundwater level, the permeable strata and the proximity of R. Blackwater.? 7. Can NH confirm that perishable materials such as stumps, logs, peaty materials etc will not be used to backfill Burrow Pit J? 8. Can NH confirm how the operator of Colemans Quarry is to be incentivised to prevent the being a programme issue requiring use of overburden from Burrow Pit J? 9. Can NH limit excavation at Borrow Pit J to above the water table? 10. If not, can NH backfill to above the water table to a mutually agreed and suitable specification?

Applicant's Response

This has been responded to in detail in the Applicant's written submissions of oral representations made at ISH4 [REP5-021] section 6.2, 6.4, 6.9 and 6.10.

For completeness the responses are summarised here:

1.

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.

2.

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. As stated in the Borrow Pits Report [APP-278] paragraph 1.1.4, there is also a requirement for higher 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 445,000m³ total required (including that available on site and that needing to be imported).

3.

With the information currently available from the scheme specific surveys (which have been made available to the Interested Party), chemical tests have been undertaken of the soils encountered to determine the Total Potential Sulphate (TPS) and Oxidisable Sulphate (OS). 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 and OS with a significant number of results >1%

Sulphate (SO₄). 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.

In summary, attempting to treat or stabilise the general fill material excavated and used in the proposed scheme carries a significant risk of ground heave underneath the new road pavement because of the chemical reactions that take place by combining the treatment additives and the naturally occurring substances within the soil.

Therefore, seeking to stabilise the general fill material is not an acceptable approach in this location with the materials available.

4.

Heave testing has not been undertaken for the reasons given in point 3 above. The volume of testing required would outweigh any benefit gained from attempting to design a solution and the risk of ground heave would remain high.

5.

Regarding the use of materials from Borrow Pit J, the intention is for the material to be used as a Class 6 granular fill. The overburden may also be used as backfill material to Coleman's Farm Quarry should the contingency event occur.

6.

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. This is presented in the Borrow Pits Cost Information [REP3-023] Appendix B, Table 4.4, item 100.01 under the subtitle 'Temporary Works'.

7.

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.

8.

The Applicant has agreed commercial terms with the quarry operator to ensure the quarry is backfilled in a timely manner. The details are confidential and cannot be published. However, ahead of construction commencing the quarry operator has the opportunity to both sell any won aggregates that would otherwise be sterilised by the proposed scheme and the opportunity to offer a disposal site at commercial rates which would act as an incentive to the quarry operator.

9.

As stated in the Borrow Pits Report [APP-278] paragraph 6.1.12, the intention is to win earthworks material in borrow pits above the groundwater table as far as practicable in order to minimise impacts and avoid the need to mitigate against displacing groundwater. However, as stated by Mr Dent in question 6 of this representation the fact that the earthworks material that needs to be excavated from Borrow Pit J is a permeable strata and with its relative proximity to the river Blackwater, achieving the volume of material required is likely to mean that excavation will have to take place below the groundwater table.

10.

In the unlikely event that the 300,000m³ of overburden is required to backfill Coleman's Farm Quarry under the proposed junction 22 the material would not be available, however it is anticipated that the 300,000m³ of overburden material in Borrow Pit J would be used to partially backfill the void in Borrow Pit J.

The Applicant is in discussions with the Interested Party relating to temporary possession of the Borrow Pit through a lease arrangement, and is keen to continue discussions with the landowners of Borrow Pit J to explore the possibilities of excavating above the water table, or considering options whereby parts of the borrow pit that are most advantageous to the Interested Party are restored to levels above the water table.

REP5-037-003

Sub-Part

We remain keen to continue to engage with National Highways to try to resolve the principles of our objection, but our current position is we strongly object to the proposed Order.

Applicant's Response

The Applicant remains keen to reach agreement. A number of requests for detailed design information, small changes to the design and reductions to the permanent land acquisition have been requested by the Interested Party, which has added to the complexity and timescales to make progress.

The Applicant continues to work with the Interested Party with a view to reaching agreement.

Keith Lomax	REP5-038-001
Sub-Part	
<p>Introduction I am a resident of , having lived there since . One of the factors that attracted my family to purchase this house was the open space that separates the estate from the A12. This open space includes a gently sloping bank, some 5 to 6 metres high, and topped with mature trees, that acts as a noise barrier from traffic on the A12.</p>	
Applicant's Response	
<p>The Applicant notes the Interested Party's comments.</p>	
REP5-038-002	
Sub-Part	
<p>Lack of Consultation Since the early days of the widening project, I have been following the progress as much as I could, of particular interest to me originally was to understand whether the extra width would be built to the North or South of the A12 or balanced evenly. The first round of consultations was very high level and did not include any of this detail.</p> <p>In Autumn 2021 I was notified of a consultation and reviewed the documents on the website. This turned out to be a supplementary consultation revising a few details that had changed since a previous (second?) consultation earlier that year, about which neither myself nor any neighbours that I have spoken to, had been notified. Had we been notified about this consultation, any issues could have been discussed, and potentially resolved, earlier in the project.</p> <p>Despite there being no detailed plans at this stage, in the section relating to the Summer 2021 consultation, there were some "fly through" videos showing how the development should look, and it was at this stage that I found out about the proposed bridge, labelled as Multi Use Bridge, and which I subsequently found out would be erroneously called the Gershwin Boulevard Bridge. I</p>	

submitted a response to the supplementary consultation but referring back to the main consultation, which was not considered as I had missed the original deadline.

I did attend a meeting with one of the Highways engineers in late January, but this was a presentation of the bridge as a fait accompli, and also gave further erroneous information, such as referring to the Ecological Mitigation Area as a Nature Reserve, which was used as a justification for the proposed location.

Myself and Mr Baker asked for the location to be included in the accompanied site visit in March this year, but were told that the schedule was already too tight to accommodate this. The schedule did include a stop to the South of the A12, from which the relevant locations are not visible. Obviously, we don't know if the inspectors have subsequently visited the area but the invitation is still open should you wish to do so.

Applicant's Response

The Applicant has carried out various consultations for the proposed scheme.

In June 2021, the statutory consultation ran for eight weeks and included six public events, six webinars and a virtual exhibition available 24 hours a day during the consultation period. An extensive letter drop took place, advertising the consultation to over 33,000 households in the area. The bridge was shown on the plans illustrating the proposal in map books which were available online and at the 14 pick-up points along the route which detailed plans of the proposed scheme.

In November 2021, a supplementary consultation was held for a duration of 6 weeks and included three public events. An extensive letter drop again took place, writing to over 33,000 households, three webinars were held and a virtual exhibition was made available 24 hours a day during the consultation period. Under the supplementary consultation, the proposals for Gershwin Bridge were included in the updated General Arrangement Plans and was noted as one of the Category 3 changes annotated within these plans, due to a more developed ramp geometry being shown. These plans were available through the consultation scheme website and from 15 pick-up points along the route.

Residents of Gershwin Boulevard, Olivers Drive and the surrounding area were part of the distribution area advertising both the statutory and supplementary consultation.

All responses received by the Applicant during each consultation, including the response received from the Interested Party to the supplementary consultation, were considered and responded to in Annex N of the Consultation Report [APP-062]. Further information on the consultation process and methods used, including details of map book locations, can be seen in the Consultation Report [APP-045].

The Applicant refutes the statement that erroneous information was given in the meeting of 27 January 2023. 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.

The Applicant acknowledges the request for an additional site visit in the vicinity of the proposed bridge and notes the ExA's intent to carry out an unaccompanied site inspection in Q3.8.1 of the Examining Authority's Third Written Questions [PD-014].

REP5-038-003

Sub-Part

The Proposed Bridge Despite being called "the Gershwin Boulevard Bridge", the proposed location is opposite to Olivers Drive, and partly behind houses in the adjoining road Halfacres. The Northern side including extensive access ramps, will be built at the top of the previously mentioned bank, and fill around one third of the space between the A12 and the closest houses. This latest information was only found in a slightly blurry image contained within one of the documents (9.41) that the applicant has submitted in defence of their proposal. It is proposed to plant screening trees between the bridge and the bottom of the field,

further reducing the amenity space. It will take at least 15 years for these trees to grow to even half the height of the bridge which will be an imposing structure overshadowing around twenty houses.

Applicant's Response

The Applicant notes the Interested Party's comments. The image included in response to Question 2.13.2 in 9.41 Applicant's Comments on Responses to ExQ2 [REP4-055] is a copy of Environmental Statement Figure 2.2 Illustrative Cross Sections – Sheet 5 which was included in the DCO application and is available in the examination library [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.

REP5-038-004

Sub-Part

The Examining Authority should also note that those closest houses lie within a Noise Important Area, presumably due to their proximity to the existing road. DEFRA's "Noise Action Plan - Roads" from July 2019 places an obligation on National Highways to "mitigate and minimise adverse impacts on health and quality of life" for residents of such Areas. Removal of any more trees than are absolutely necessary for the road itself in order to make space for the proposed bridge is in direct conflict with this requirement - even if a reduced noise surface is used, tyre noise only contributes part of the overall noise from traffic. The mature trees also provide an effective barrier from pollution.

Applicant's Response

The area around Halfacres / Ashby Road and then east towards Olivers Bridge is classed as a DEFRA Noise Important Area (NIA) and is shown on Figure 12.1: Noise study areas, noise important areas and noise monitoring location, of the Environmental Statement [APP-228]. This is NIA 5415 and has been classified as an NIA since these were defined in 2011 following the first round of strategic noise mapping in 2007.

The Applicant is proposing mitigation measures in this area to minimise adverse impacts on human health and quality of life. A noise barrier is proposed and this is shown on sheet 8 of the Environmental Masterplan [APP-086]. In addition to the noise barrier, the Applicant is proposing noise mitigation in the form of enhanced road noise surfacing, which is proposed along all of the Witham bypass. This is described within paragraph 12.10.16 of Chapter 12: Noise and vibration, of the Environmental Statement [APP-079] and the extent is shown on sheet 2 of Figure 12.4: Additional noise mitigation, of the Environmental Statement [APP-231]. Within Figure 12.4 the enhanced surface is referred to as AMS3.

The enhanced surface would be effective at reducing the noise from the carriageway since at the traffic speeds on the A12 the dominant noise source is that from tyre/road noise. Other noise generating mechanisms, such as mechanical noise, contribute very little to the level of traffic noise at such speeds as those found on the A12 on the Witham bypass.

The effect of these two noise mitigation measures at reducing the noise is shown on sheet 4 of Figure 12.8: Noise change contour map (opening year 2027), of the Environmental Statement [APP-235]. This shows a widespread reduction in noise of between 1 and 2.9 dB(A) at receptors along the Witham bypass, with a greater reduction within the NIA. The decrease in noise within the NIA is reported in Table 12.33 of Chapter 12: Noise and vibration, of the Environmental Statement [APP-079].

REP5-038-005**Sub-Part**

The reason given by National Highways for this location is to reinstate the "historically severed footpath 95". Historic Ordnance Survey maps show that this footpath has existed at least since the late 1900s. The footpath runs approximately North West to South East from a point on Howbridge Hall Road to a bend on Maldon Road just outside the current built-up area of Witham. Approximately 150 metres South of the Maldon Road end of this footpath is the Northern End of footpath 96 which runs between the buildings of Olivers Nursery and onwards to Wickham Bishops and then Maldon. In order to use footpath 95 one would need to cross the open space, negotiate a 45 degree muddy slope dropping back to the original height of the field, when it was farmland, and then climb some overgrown concrete steps up the next bank to the A12, and cross this via a gap in the central reservation crash barrier. Clearly this is not something that many, if any people have done since the current A12 was constructed in the mid 1960s, or the houses were built in the early 1980s.

Both footpaths 95 and 96 are designated as footpaths, not bridleways or byways. Despite this, the bridge is proposed to be built to "multi use" standards, and the documents on the planning portal indicate that this is to provide the possibility for footpath 95 to be upgraded to bridleway or cycle path status should the council wish to do so. However, due to the path of footpath 96 through Olivers Nursery, that is not suitable to being upgraded to anybody exiting footpath 95 onto Maldon Road would have no logical onward route.

Applicant's Response

The Applicant notes the Interested Party's comments. As explained in the Gershwin Boulevard Technical Note [REP3-011] and in response to submissions from the Interested Party at Deadline 4 AS-059 [REP5-002], the purpose of the Gershwin Boulevard bridge is to divert the existing legal right of way for pedestrians between footpath 121_95 either side of the A12 to provide a safe location to cross the A12.

Owing to the nature of the proposed scheme, the standards for its design require that pedestrians are prohibited from the altered A12. This would effectively confirm the current practical severance of the existing right of way owing to the volume of traffic and the safety concerns for pedestrians along with other classes of road user as described in DMRB GD300 who try to use the current legally permissible route. While this prohibition is primarily related to preventing pedestrians walking alongside the A12, it would also have the effect of prohibiting use of the current crossing of the A12 via the provided steps and central reserve barrier gap. Under the Planning Act 2008, where a public right of way is proposed to be extinguished, the Applicant is obligated to provide a reasonable alternative right of way, unless re-provision is not required. The Applicant has proposed the position of Gershwin Boulevard bridge as the most reasonable alternative diversion route.

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 and onward routes to include cyclists and horse riders.

REP5-038-006

Sub-Part

Howbridge Hall Road At the same time as footpath 95 was effectively severed, so was Howbridge Hall Road. Historically this road formed a link from the Western Side of Witham to join Maldon Road some 300 metres South West of the end of footpath 95. The Northern 400 metres of this road (approximately half of the original length) still exists and provides access to eight recently constructed houses in two small adjoining developments between the Gershwin Boulevard and Olivers Drive estates. The next quarter of the road no longer exists, having been built over by the current A12, and later by the end house of Olivers Drive and part of the screening bank. The Southern quarter (approximately) serves as access to a farmhouse and small number of business units in the farm building, that lie to the South of the A12 and west of Howbridge Hall Road. As it is still a road, no changes would be necessary to allow either horse or cycle use of this Southern section.

James Cook Wood Around 300 meters South of the junction of Howbridge Hall Road and Maldon Road is the North West Corner of James Cook Wood. This is a community space developed by the people of Witham in the 1990s and now owned and managed by Witham Town Council. It provides a pleasant space to walk, and also to exercise dogs. However it can only be reasonably accessed by car. Footpath 96 runs alongside the Eastern boundary of the wood, but there is currently no access between the two. The land between Maldon Road and the Wood is part of the Olivers Nursery complex.

This is relevant because the owner of Olivers Nursery has told Mr Baker that, should the location of the bridge be moved to link to Howbridge Hall Road, he would be prepared to grant "Permissive Access" along the edge of his land to allow access to the wood, from where it would not be difficult to provide a link to footpath 96.

Alternative Proposal As the Inspectorate is aware, earlier this year myself, Mr Baker, and a number of other local residents have suggested that a better location for this bridge would be to link from the South Eastern corner of Gershwin Boulevard to the Northern end of the Southern section of Howbridge Hall Road. This would immediately reinstate this historically severed road for all users except motorised vehicles, which must surely be advantageous compared to only reinstating a footpath.

When we suggested this to the previous issue Specific Hearings, a subsequent speaker representing the Essex Local Access Forum stated that they supported our proposal, and this has also been supported in a submission from the Essex branch of the Ramblers Association, who are another consultee.

Applicant's Response

The Applicant notes the Interested Party's comments. The Applicant has considered the alternative proposal submitted by the Interested Parties mentioned, with an assessment of the alternative location included in the Gershwin Boulevard Technical Note [REP3-011]. This alternative location west of the location proposed by the Applicant would ultimately connect to a section of Maldon Road remote from any built-up area and no clear onward facility, and would not be considered by the Applicant to provide enhancement to the existing local right of way network. The Applicant maintains that the correct position for the bridge which reconnects the severed footpath is before the Examining Authority.

With regard to James Cooke Woods, the Applicant can see a benefit of linking the footpaths to the woods. A meeting was held on Friday 21 April 2023 with the landowner of Oliver's Nurseries (on land south of the Gershwin Boulevard bridge). The landowner stated they would consider a permissive path, but did not say that they would accept one. 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 Howbridge Hall road heading south to north. 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 and is not part of the DCO application.

REP5-038-007

Sub-Part

National Highways Response Since we first made this alternative proposal, both National Highways and their consultants have attempted to strengthen their case for the proposed location whilst diminishing the alternative proposal. National Highways appear reluctant to make any changes.

Document 9.26 - Technical Note Gershwin Boulevard Bridge admits that the visual impact in the proposed location would be severe at the time of construction and moderate after fifteen years. In my opinion, even after 15 years the screening trees would not have reached any more than half of the height of the bridge so it would still be dominant in the landscape.

The same document says that if the alternative proposal was to be implemented it would have a corresponding impact on houses on Gershwin Boulevard. However there is no detailed analysis. This is flawed for a number of reasons:

Firstly the houses referred to are at least three times the distance from the alternative location than the closest houses would be to the proposed locations, and separated by a fenced in drainage lake and a busy road;

Secondly, the houses concerned are physically several meters higher so the bridge would not form such a dominating impact on the landscape;

Thirdly, the A12 at this point lies slightly lower than the proposed location to the alternative bridge could be lower by an equivalent amount;

And finally, the space where the Northern end would be constructed is more open so the access ramp could be aligned approximately North-South rather than zig-zagging East-West which would be less visually obtrusive to houses to the North of the location.

In this document, National Highways have identified an indicative location for the bridge in one of the pictures, which is not in the location that I and others have proposed.

Document - 9.42 Applicant's Comments on Information received at Deadline 3. This response to many of the comments submitted for Deadline 3 includes several in relation to the proposed bridge. This repeated states that they consider the proposed location to be the better one.

Document - 9.41 Applicant's Comments on Responses to ExQ2. This states that a larger area of land than that lost from near to Olivers Drive is being provided to replace the lost amenity space so the bridge has to be in the proposed location in order to access the new space. Given that the main use of this space is people exercising themselves and their dogs, and local children playing (such as informal football games), I would contend that people are unlikely to cross the bridge just to access that space.

The same document say that the alternative location ... "Cannot now be delivered within the programme for the scheme as land outside of the current order limits would be required to deliver the alternative proposal". Had National Highways consulted properly on their plans at an earlier phase of the project, the order limits could have been implemented to accommodate this. I do not claim to be in any way experienced in this field, but it appear to me that the land outside the current order limits primarily relates to an island of excluded land between the South East Corner of Gershwin Boulevard and the A12 itself. This island of land contains only trees that were planted in the Summer of 2006 as part of the screening of that estate from the A12. Surely a minor amendment to the order limits would not be difficult to achieve?

Applicant's Response

The Applicant notes the Interested Party's comments on the documents submitted to the Examining Authority. The Applicant has provided a response to each comment below.

Response to IP's comments on Document 9.26 - Technical Note Gershwin Boulevard:

Year 15 is the design year for assessment required by DMRB LA 107 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 9.41 Applicant's 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.

The visual impact assessment within Appendix A of 9.26 Technical Note Gershwin Boulevard Bridge [REP3-011] acknowledges that Gershwin Boulevard Bridge would form a new permanent feature in the view and, although mitigation planting would reduce the visual effects once established, the assessment concludes that visual effects would remain significant (moderate adverse) during operation in year 15.

Visual effects at the alternative suggested location for the new footbridge cannot be assessed from illustrative viewpoints GB-VPA and GB-VPB in the absence of a proposed design of the structure, details relating to loss of vegetation and mitigation planting. However, likely landscape and visual effects that would be caused by a footbridge at the alternative suggested location have been considered to allow comparison between the two locations in Section 3.4 of 9.26 Technical Note Gershwin Boulevard Bridge [REP3-011], based on professional judgement.

Whether the proposed Gershwin Boulevard Bridge is provided in the proposed location or at the suggested alternative location, a similar amount of vegetation that screens the A12 would need to be removed.

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 of the new bridge and the A12.

Whilst 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.

The alternative location of Gershwin Boulevard Bridge shown by the Applicant on the images in the Gershwin Boulevard Technical Note [REP3-011] is indicative. The arrows on the images are in the vicinity of the alternative location (extent not defined) proposed by the Interested Party in their deadline 3 submission [REP3-046].

Response to IP's comments on Document 9.42 - Applicant's Comments on Information received at Deadline 3:

The Applicant acknowledges the Interested Party's comments and maintains that the proposal before the Examining Authority is the most appropriate way to divert and reconnect footpath 121_95.

Response to IP's comments on Document 9.41 - Applicant's Comments on Responses to ExQ2:

The Applicant has proposed the bridge location to minimise the diversion from the existing right of way footpath 121_95 across the A12. The replacement land proposed south of the A12 is a replacement for the area lost between the A12 and Olivers Drive to accommodate the bridge and the proposed planting and screening as shown on the Environmental Statement Figure 2.1: Environmental Masterplan Sheet 8 [APP-087]. The bridge footprint is not proposed to occupy the entire space between the A12 and Olivers Drive and an area of land will still be available for public use in the vicinity of the bridge. The footpath proposed from Olivers Drive to Gershwin Boulevard will provide access to this space.

Regarding consultation, as the Applicant explained to the Interested Party at Issue Specific Hearing 3 reference 4.1 [REP5-020], the Applicant wrote to over 33,000 properties near the proposed scheme during the statutory consultation in June 2021 and this included residents of Olivers Drive, Halfacres, Maldon Road, Gershwin Boulevard and the surrounding area. The Applicant

directs the Interested Party to the Applicant's Written Submission of Oral Case for Issue Specific Hearing 3 reference 4.1 [REP5-020] for further information regarding consultation.

Regarding changing the Order Limits, the Applicant does not believe there is a compelling case to acquire additional land near Gershwin Boulevard as described by the Interested Party.

REP5-038-008

Sub-Part

What am I asking of you? If you have not already done so, I would ask the Examining Authority to visit the proposed and alternative locations for the bridge from the North side. If your protocol allow, I would like the opportunity to meet with you at that time, so that I can point out the features, and give a historical context to the location.

Only once this has been done, and if they agree with my points and those of others who have submitted representations through the portal on this matter, would the Examining Authority be in a position to refer this part of the project back to National Highways for the requisite changes to be made.

Applicant's Response

The Applicant notes the Interested Party's comments which are directed at the Examining Authority.

Lynfield Properties Ltd

REP5-039-001

Sub-Part

Dear Sirs Lynfield Properties Limited – Lynfield Service Station and associated Premises, London Road, Witham, Essex CM8 1ED (“the Service Station”) – A12 to A120 Widening Scheme (Junctions 19 to 25) (“the Scheme”) Development Consent Order (“the DCO”)– Written Representations for Deadline 5 This written representation is submitted in accordance with the Planning

Inspectorate DCO application process protocols which accommodate an Additional Submission by National Highways ("the Applicant"). Responses from Interested Parties are requested by Deadline 5, being 10

th May 2023.

This written representation is submitted on behalf of Lynfield Properties, the Interested Party under Interest Party Reference A12C-AFP347, owner of the freehold interest in Lynfield Service Station and the adjoining property located fronting Hatfield Road in Witham and close to the existing northbound slip road of Junction 21 of the A12 trunk road.

This representation deals with two principal areas of concern which I outlined to the Examining Authority at the Issue Specific Hearing 4 (ISH4) and the Compulsory Acquisition Hearing (CAH2) on 27

th April 2023. The first issue relates to a concern over the referencing arrangements and the desire of the interested Party to record the fact that it claims the freehold interest in land identified within the updated Book of Reference as forming highway verge owned by the Applicant.

The second issue concerns the absence of justification for the closure and stopping up of the existing northbound slip road at the existing Junction 21 of the A12 and consequently, the absence of any need to interfere with the existing southern access to the Service Station, which currently provides access onto this slip road. As a further point, it is noted that in the event that it was ultimately demonstrated that the stopping up of the slip road was justified (which the Interested Party denies on the basis of the expert advice it has received) then the proposed arrangements to create a Private Means of Access between the southern access of the Service Station and the public highway at Hatfield Road is unworkable and would be commercially ineffective and unacceptable.

Applicant's Response

The Applicant has responded to the first issue relating to the Book of Reference in the response REP5-039-002 below.

The Applicant does not agree that the stopping up-of the existing northbound junction 21 is unjustified and maintains that the proposed HGV egress from the site is geometrically appropriate. It has responded in detail regarding these matters in the following Sub-Parts.

REP5-039-002

Sub-Part

Land Acquisition

1 The Interested Party considers that there is an inaccuracy in the Book of Reference requiring correction and considers that the parcel of land originally designated as Plot 7/3a (27 square metres) which forms part of a grassed landscaping area adjoining the HGV forecourt is part of the Service Station. The Interested Party has maintained this grassed area for some 40 years and it forms part of a larger landscaped area on which picnic tables are located, together with the electricity transformer for the site. It is not accepted that this land forms part of the highway verge and it has not been maintained by the highway authority.

2 Although the Interested Party's property lies in close proximity to the works required by the Scheme, diligent inquiries were not made to ascertain the Interested Party's land interests. For example, the Interested Party did not receive requests for information as part of the land referencing exercise carried out and so it was reasonably assumed that there was no intention to acquire any land from the Interested Party.

3 A review of the Book of Reference by the Interested Party when this was first published on 28

th August 2022 did not identify any land owned by the Interested Party as being required for the Scheme.

4 Following my instructions in March 2023, I reviewed the Book of Reference and asked the Interested Party to specifically consider whether Plot 7/3a, that was noted as being unregistered and in respect of which no ownership was identified, did in fact lie within land controlled by Service Station.

5 The Interested Party was able to confirm the long-standing control and maintenance of this land and also noted that the position in relation to the western boundary to the Service Station was long established and that there had been no changes as far back as the 1970s. It was also noted that the eastern extent of the Applicant's ownership was clearly defined by the adjoining registered plot, referenced as plot 7/1a. This left a clearly identifiable but narrow strip of land between the Applicant's ownership and the western boundary of the Service Station, which had been identified in the referencing exercise as plot 7/3a.

6 Having been alerted to this situation, I wrote to the District Valuer on 10

th March 2023, setting out details relating to the Service Station in general and in particular confirming the Interested Party's claim to the freehold interest in plot 7/3a. A copy of this letter is attached to this representation.

7 No written response to this letter has been received to date, although I was able to arrange meetings at which the District Valuer and representatives of the Applicant were in attendance on 16

th March 2023 and subsequently on 17th April 2023, at which issues relating to the Service Station in general and the boundary and Plot 7/3a were discussed.

8 On 12

th April 2023 it was noted that a further iteration of the Book of Reference and corresponding land acquisition plans had been published under Deadline 4, despite the statements made in my letter dated 10

th March 2023 to the District Valuer concerning the ownership of Plot 7/3a. The reference to Plot 7/3a had been deleted and the land comprised within this plot redesignated as Plot 7/1d. The land is now described as being within the ownership of the Applicant, having been registered within title number EX818299. This is the same title under which Plot 7/1a is registered.

9 In summary, the Interested Party disputes this registration and claims ownership to the freehold interest in the land. Consequently, it asserts that the Book of Reference and Land Acquisition Plans are factually inaccurate and will require correction.

10 Whilst it is acknowledged that this is a small plot of land, the Interested Party considers that it is appropriate for its claim to this land to be drawn to the attention of the Examining Authority. 11 The Interested Party is consulting with its solicitors in relation to detailed evidence in respect of this matter.

Applicant's Response

The Applicant has relied on the information from Land Registry as a basis for the Book of Reference and land plans. At the time of the submission of the application for development consent the parcel of land in question was unregistered. A further land registry refresh before Deadline 4 informed the Applicant this land was within the title for which National Highways is the registered proprietor. The A12 Scheme team did not request this change. The Book of Reference reflects the position shown by the Land Registry, which is statutorily guaranteed.

The Applicant sent a Request for Information to the Interested Party as part of the diligent enquires on 12 February 2021. That request was responded to by the Interested Party initially by phone call on 18 February 2021 and then by return of the form included in the request on 25 February 2021.

REP5-039-003

Sub-Part

The Scheme and the Private Means of Access 12 The Service Station is a modern high quality facility serving motorists and commercial traffic, including HGVs from a separate dedicated fuel forecourt, with high-speed fuel dispensers, a modern branded retail offer and customer parking.

13 The Service Station provides facilities for road users, including in particular northbound traffic using the A12 trunk road. This traffic finds the existing access arrangements highly convenient and effective. For HGV traffic as well as cars heading north having refuelled, the existence of the rear southern access leading directly onto the northbound A12 entry slip road facilitates a very quick and direct return to the trunk road.

14 The southern access to the Service Station was designed to allow this direct and convenient egress for all vehicles, including HGVs, to leave the facilities and immediately join the slip road by a straightforward manoeuvre involving a gentle left-hand turn.

15 Consequently, the Service Station makes a significant contribution to meeting the needs of road users on the northbound carriageway of the A12 trunk road. It fulfils the policy objectives in Department for Transport's Circular 02/2013, principally those of road safety and the welfare of road users.

16 The Scheme as currently promoted will seriously and adversely affect the Service Station. Firstly, it will interfere with the rear access arrangement by rendering this ineffective through the stopping up of the slip road. Secondly, changes in the surrounding road patterns, particularly the construction of a new Junction 21 a substantial distance to the west of the existing junction, will considerably increase the detour required to access the Service Station which will no longer effectively serve northbound A12 traffic. HGVs in particular will find the new access arrangements unacceptable.

Applicant's Response

The existing traffic movements served by junction 20a, 20b and 21 are proposed to be combined into the new junction 21, primarily for safety reasons, to reduce weaving conflict between junctions 20b and 21, and to reduce the number of merges onto the A12 which act as individual conflict points. The proposed location for junction 21 has been chosen to reduce impact on properties in Witham and Hatfield Peverel and also to encourage drivers to use it rather than junction 19.

The service station is currently only accessible either from Witham or the northbound A12, and HGVs can only leave onto the northbound A12. These movements are still possible in the context of the proposed scheme, but due to the all-movements junction 21 proposed the service station is also accessible from the southbound A12 and journeys are possible from the service station onto the southbound A12.

A safe turning arrangement, which has been validated by swept path analysis for HGVs to leave the site back towards the B1389, has been included within the DCO materials. This arrangement has gradual vertical and horizontal alignment and appropriate for the nature of the PMA. The Applicant already owns land to the south and west of the proposed PMA which will allow flexibility to develop the design during the detailed design stage. A productive site visit took place on 5th June, and the Applicant continues to liaise with the interested party regarding the engineering detail.

REP5-039-004**Sub-Part**

17 The Interested Party has obtained expert advice in relation to the justification provided by the Application for the closure of the existing northbound slip road at Junction 21, from Mr Devenish of SCP Transport Limited. Mr Devenish has produced a technical note relating to this matter, which also considers issues relating to the new Private Means of Access that the Application is proposing to construct as part of the Scheme. This technical note is attached to this representation.

18 Mr Devenish has considered the previous response of the Applicant in relation to the representations made by the Interested Party at Deadline 1. These responses were firstly that the retention of the existing slip would require significant realignment of

the A12 widening scheme and secondly that the distance between the existing merge lane and the proposed merge lane is too close at 400m to satisfy relevant technical criteria.

19 In respect of both of these findings Mr Devenish finds the statements of the Applicant to be factually inaccurate.

20 Firstly, he considers that any realignment required would not be significant within the context of the proposed Scheme, which does not in any event deviate from its existing alignment at this point, and he notes that ample land would be controlled by the Applicant for any minor realignment that would be needed to accommodate the retention of the slip road.

21 Secondly, and based upon a design speed of 120 kph (75 mph) he notes that the minimum distance that needs to be achieved between the tips and noses of the junctions, having regard to Design Manual for Bridges, is in fact 450 metres. Furthermore, he has carried out a measurement of the achievable distance between the tips and the noses of the existing and proposed merge lanes and has concluded that the requirement would be achievable if the existing slip road was retained.

22 Consequently, he has concluded that it is not necessary to stop-up the slip road as part of the Scheme. He notes that this stopping-up would have a detrimental impact on the operation of the Service Station.

Applicant's Response

17

The Applicant acknowledges the assessment of retaining the existing junction 21 northbound on-slip undertaken by the Interested Party's consultant. The principal point remains that each merge point onto the A12, or any high-speed trunk road, is a potential conflict point which needs to be justified. There is no traffic capacity reason to retain the existing junction 21 northbound on-slip in the context of the proposed all-movements junction 21.

18, 19 & 21

Turning to the Interested Party's more detailed comments, if the existing northbound on-slip were to be retained (tip of nose at chainage 18500), there would only be 440m between successive merges, rather than the 450m quoted and required in DMRB CD122 clause 3.36 as the tip of nose at the proposed junction 21 is at chainage 18060. The tip of the nose at the proposed junction 21 is dictated by the vertical geometry between the junction 21 northern roundabout and the A12 mainline it joins, and, as has previously been stated, junction 21 is as far west as practical to encourage drivers to use it to join the A12 southbound from Maldon Road.

Additionally, a compliant length of "near straight" is not provided by the existing on-slip (57m compared to the required 85m in DMRB CD122 cl 5.8). The proposed junction 21 provides the movement for northbound vehicles to join the A12 northbound without these departures from standard, and as such the retention of this existing departure from modern standards cannot be justified in the context of junction 21 being provided.

20

The Applicant has proposed to typically widen the A12 symmetrically to limit the disruption caused by construction in this area, this brings the nearside running lane closer to the service station, overlapping the existing slip road . Further, the Applicant is proposing that as part of the delivery of the scheme, land south of the A12 in this area would form part of a borrow pit, and widening the A12 to the south would require additional land purchase. Providing a replacement slip road at this location would require the acquisition of permanent title from the Interested Party including potential demolition of the southern corner of the commercial building, and acquisition of land from other parties.

22

The Applicant maintains that the existing junction 21 slip road, from a geometric perspective, cannot reasonably be retained, and from a safety and strategic perspective, should not be retained.

REP5-039-005

Sub-Part

23 I would also note that it has been stated by the Applicant in response to the Interested Party's representations that an effect of the Scheme will be to allow the Service Station to serve southbound traffic on the A12 by means of the new Junction 21. This assertion is not accepted. It is assessed that the detour that will be required to visit the Service Station for southbound A12 traffic will be some 3km and would involve crossing both carriageways before heading north-east back towards Witham. It is not considered that traffic will take this route and therefore it is considered that this source of trade would not make a material contribution to offset the damage caused by the Scheme.

Applicant's Response

As has been described in the response to REP5-039-003, the Applicant maintains that with the proposed scheme there would be a suitable access route for traffic to reach the service station from the southbound A12.

The Applicant has calculated the additional length of southbound vehicles to use the Service Station and re-join the A12 southbound to be approximately 1.8km.

REP5-039-006

Sub-Part

24 Additionally, the Scheme will adversely affect the internal design and layout of the Service Station. All traffic faces south towards the southern exit when refuelling. Private cars are aligned en-echelon on the pump islands of the motorists' forecourt to give easy access to the southern exit and HGVs also face this egress when refuelling. With the effective loss of the southern exit, traffic needs to turn 180 degrees within the site but there is no space to accommodate this manoeuvre. Private cars will still

be able to exit the site using the north- western crossover, although those seeking to travel northbound on the A12 will face a considerable detour to reach the new Junction 21. For HGVs however, the situation is more critical because this traffic cannot exit the Service Station.

Applicant's Response

As has been stated previously in the response to Sub-Part REP5-039-003, a means of egress suitable for HGVs and private cars is proposed, whilst retaining the existing northern egress. Additionally, the Applicant views this proposed egress as more attractive for drivers compared to the existing situation as it provides access to all routes on exit, rather than only to the northbound A12 which is the existing situation.

REP5-039-007

Sub-Part

25 In his technical note Mr Devenish has also considered the solution proposed by the Applicant to the stopping up of the existing slip road. He notes that the proposed arrangement has not been given due regard and would require a sharp right-hand turn, compared with the comfortable left hand turn that traffic currently makes. He notes also the practical difficulties caused by the camber across the access and the considerable works that would be required to accommodate such an arrangement, even if it could be technically achievable.

26 I would further note that in my opinion, as a surveyor specialising in the development, management and valuation of service stations and service areas since the 1980s, the arrangements proposed will be commercially inadequate to mitigate the substantial damage to trade at the Service Station caused by the Scheme.

27 The solution proposed by the Applicant is to provide a new Private Means of Access to allow traffic to turn around and exit onto Hatfield Road using, to a substantial degree, part of the old slip road. No detailed design information has been provided by the Applicant. HGV drivers in particular, will be deterred from using the new egress due to the very tight turn required to negotiate the egress. Even if issues of levels and surfacing can be addressed on land outside the Service Station, works will be needed inside the Service Station to accommodate this manoeuvre and the required powers have not been sought. Such an

arrangement may produce conflicts of traffic between HGVs seeking to exit the site at the northern end of the new Private Means of Access with other HGVs seeking to enter the site, which generally takes place at present through the western crossover. These internal works will compromise the internal layout by interfering with the dry stock loading arrangements and customer parking on the side of the building.

Applicant's Response

25-26

The Applicant has provided a preliminary design of the proposed Private Means of Access as part of the DCO, as explained previously in Sub-Part REP5-039-003, and will continue to liaise with the Interested Party as the detailed design of the scheme is developed.

27

The proposed preliminary design of the Private Means of Access sites its junction at its northern end onto the B1309 to be physically distinct from the Service Station's western access. This arrangement is shown on the Streets, Rights of Way and Access Plans [AS-028]. Vehicle tracking has confirmed that HGVs will not need to turn left onto the raised parking/loading areas to safely undertake the right turn to exit the Service Station via the Private Means of Access, and that all classes of vehicles will be able to leave the site from the south as they do today without internal reconfiguration of the Service Station.

REP5-039-008

Sub-Part

28 As also noted by Mr Devenish in his technical note, a further complication relates to the Vistry Group housing scheme. This scheme has the benefit of planning permission and involves the construction of a new roundabout junction on the frontage of the Service Station. It has not been demonstrated that the Private Means of Access Proposals can accommodate these potential changes. The Scheme must be effective whether or not this housing scheme is implemented.

<p>Applicant's Response</p>
<p>The Applicant has included land within the proposed order limits to allow for the reconfiguration of the existing junction 21 roundabout should the Vistry Group housing scheme not be delivered. It has been included not only to allow the Private Means of Access to remain deliverable but also the wider Junction 21 route due to the closure of the southbound merge at this location. The Applicant maintains that this ensures these changes will be effective in either mentioned scenario.</p>
<p>REP5-039-009</p>
<p>Sub-Part</p>
<p>29 In conclusion therefore the Interested Party considers firstly that there is an inaccuracy in the Book of Reference and it claims title to the freehold interest in the plot now originally referred to as lot 7/3a and now referred to as Plot 7/1d. Secondly, and on the basis of professional advice, it considers that there is no justification for the stopping up of the existing slip road at Junction 21 and that in any event, the Applicant's proposals for mitigating the adverse effects of the Scheme through the provision of a Private Means of Access as currently proposed are unworkable and unsatisfactory in both technical and commercial terms.</p>
<p>30 The Interested Party remains prepared to continue discussions with the Applicant in relation to the Scheme. I would be grateful if this representation could be acknowledged.</p>
<p>Applicant's Response</p>
<p>The Applicant has responded to issue relating to the BoR in the response REP5-039-002. This matter would need to be raised with Land Registry.</p>
<p>Whilst the Applicant disagrees with the Interested Party and maintains that the proposed arrangement mitigates the closure of the existing northbound junction 21 slip road, the Applicant welcomes further discussion on this matter.</p>
<p>REP5-039-010</p>

Sub-Part

INTRODUCTION

1. SCP have been instructed by Lynfield Properties Limited as an Interested Party to the Issue Specific Hearing, to provide transport consultancy services in relation to their premises at London Road, Witham, Essex CM8 1ED (“the Service Station”) and the effects of the proposed A12 to A120 Widening Scheme (Junctions 19 to 25) (“the Scheme”).

2. Representations were made regarding the wider issues relating to this matter by Tim Hancock of Tim Hancock Associates at Issue Specific Hearing 4 on 27

th April 2023 and Mark Devenish of SCP was registered to speak specifically regarding transport issues. Following Tim Hancock’s representations, the Inspector requested that the representations regarding transport were submitted in writing following the hearing.

3. This Technical Note sets out the transport issues relating to the effects of the Scheme on the Service Station. This is broadly covered by two headings, which are as follows: Proposed Closure of the Eastbound Entry Slip Road at the Existing J21 Proposed Replacement Private Access to the Service Station Site

PROPOSED CLOSURE OF THE EASTBOUND ENTRY SLIP ROAD AT THE EXISTING J21

4. The Interested Party made representations at the earlier Deadline 1 stage requesting clarification on whether the proposed closure of the slip road was necessary, included at Appendix A together with the subsequent National Highways response. National Highways responded, advising that the closure was necessary, giving two reasons:

- the retention of the slip road would require the significant realignment of the A12 widening scheme and;
- the distance between the existing and proposed merge lanes is too close at 400m.

5. Both of these reasons have been reviewed and it is clear that the widening scheme does not significantly deviate from the existing alignment and that any realignment required would not be significant in the context of the proposed scheme. 6. Furthermore, it is clear from the land plans accompanying the application, that ample land is available for any minor realignment that would be required to retain the slip road.

7. National design standards on spacing between successive merges and diverges is provided at paragraph 3.36 of CD122 'Geometric Design of Grade Separated Junctions' of the Design Manual for Bridges, which states:

"The minimum spacing between the tips of the noses of successive merges, successive diverges or a diverge followed by a merge shall be $3.75V$ metres, where V is the design speed of the mainline or connector road."

8. Based on a design speed of 120kph (75mph) the minimum distance between the tips of the noses of the junctions is 450m and the proposed distance meets this requirement as shown on the plan at Appendix B.

9. It is therefore not necessary to stop up the slip road as part of the DCO, which would have a detrimental impact on the operation of the Service Station as detailed in relation to the subsequent replacement private access arrangements.

PROPOSED REPLACEMENT PRIVATE ACCESS TO THE SERVICE STATION SITE

10. The applicant advises that a replacement private access is to be provided, using part of the current slip road, however it does not appear that due regard has been given to this proposal.

11. Instead of direct access onto the slip road via a comfortable left turn from the service station site, HGVs would be required to make a sharp right turn, being problematic both on plan and also in terms of the camber of the access, which slants in the opposite direction to the slip road and would be uncomfortable for HGVs to navigate, as shown on drawing SCP/230272/D01 and an accompanying image showing the camber at Appendix C.

12. Amendments to the nearside kerb-line may be required to facilitate these manoeuvres, however there is visibly significant statutory undertaker apparatus in this area (see the image at Appendix D) which may not be feasibly relocated or if diversions are possible, the costs could be prohibitively expensive. Some trees would also need to be removed and their status is unknown. 13. Notwithstanding the first point that the closure of the slip road would be detrimental and is unnecessary, the proposed private access does not take any account of the committed roundabout scheme along the site frontage to be constructed to serve the proposed Vistry housing development opposite the site on Hatfield Road, which will render the private access arrangements proposed by the applicant redundant and the service station inaccessible to HGVs. A plan showing the layout of the proposed roundabout scheme is included at Appendix E.

14. It is understood that the roundabout proposals are making progress and are likely to be constructed in advance of the proposed widening scheme.

CONCLUSION

15. In summary the proposed stopping up of the slip road and subsequent private access is unworkable as proposed and needs to be reconsidered.

Applicant's Response

The Applicant acknowledges the Technical Report provided by the Interested Party's consultation.

Items 4-9 have been responded to in Sub-Part REP5-039-004

Regarding Items 10-12, the Applicant maintains that all land required to provide a safe egress for HGVs has been included within the proposed Order limits, and that as such all required environmental assessment of this proposal has been undertaken as part of the Application.

Items 13 and 14 have been responded to in Sub-Part REP5-039-008.

The Applicant for the reasons stated, principally in the responses to Sub-Parts REP5-039-003, REP5-039-004, REP5-039-006, REP5-039-007 & REP5-039-008 does not accept the Interested Party's assertion that the stopping up of the existing slip road is unjustified or that the proposed Private Means of Access is unworkable.

Maldon District Council

REP5-040-001

Sub-Part

Dear Sirs, RE: 20033123 - PROCEDURAL DEADLINE 5 SUBMISSIONS I write on behalf of Maldon District Council with regards to Deadline 5 and its request for the above. The authority submits the following appendices as responses to the deadline; submitted as separate Appendices to assist with uploading to the online portal: • Appendix A - Written Submissions on Oral Representations made at Issue Specific Hearings 3 & 4 • Appendix B - Comments on draft Statements of Common Ground & Statement of Commonality • Appendix C - Comments on responses to EXQ2 • Appendix D - Comments on any further information received at Deadline 4 The Council trusts this information is to your satisfaction. Yours sincerely, Paul Dodson
Director of Strategy, Performance & Governance

Applicant's Response

The Applicant has responded to the Appendices referenced by the Interested Party in the following sections of this document:

- Appendix A - Written Submissions on Oral Representations made at Issue Specific Hearings 3 & 4 – REP5-044
- Appendix B - Comments on draft Statements of Common Ground & Statement of Commonality – REP5-042
- Appendix C - Comments on responses to EXQ2 – REP5-041
- Appendix D - Comments on any further information received at Deadline 4 – REP5-043

Maldon District Council

REP5-041-001

Sub-Part

MDC acknowledge the Applicant's response. MDC would however like to draw the ExA's attention to ISH3 and specifically the EA's comments on culverting main rivers and the impact on riparian species and habitats that support the ecological value of Blue Mills Nature Reserve.

In previous written submissions MDC has acknowledged the Applicant's approach in recognising Blue Mills Nature Reserve as a Local Wildlife Site (LoWS), the status of the Black Poplars as veteran trees, and the 'next generation veteran trees' for their public amenity value within the landscape.

Applicant's Response

The Applicant acknowledges the comments made by the Interested Party.

Blue Mills proposed Local Wildlife Site is adjacent to the River Blackwater and its confluence with the River Brain. The proposed scheme would require the widening of a single structure on each of these main rivers, the Brain Bridge (on the River Brain) and Ashman's Bridge (on the River Blackwater).

The Applicant has assessed that the proposed extension of Ashman's Bridge would not result in any effects on wildlife, and the Environment Agency have commented within their Written Representation [REP2-053] that 'replicating the existing structure will not create a barrier to fish or mammals'.

The Applicant has presented information (previously submitted to the Examination) as a set of drawings to help third parties understand the proposals in relation to culverts [TR010060/EXAM/9.68]. The proposals for the Brain Bridge include the widening of the structure by approximately 7m to the east and 5m to the west. The span of the bridge would remain at 28.7m. The large span and height of the structure would continue to support movement of mammals such as otters and water vole and so it would not present a barrier to movement of these species. Enhancements of the existing Brain Bridge include the introduction of sediment substrate along the riverbed to act as natural flow regulation and provide overall channel heterogeneity therefore ensuring there is no barrier to migration of fish and eels. As part of the detailed design for the proposed scheme, the Applicant will investigate potential opportunities for further improvements to this crossing, such as the creation of rock rolls.

REP5-041-002

Sub-Part

There are two strands to MDC's concern: a) the Project's impact from the diversion of the Gas Main Pipeline with access for Gas Main construction and maintenance vehicles via Little Braxted Lane and, b) direct access to Junction 22 via Little Braxted Lane for all transport modes (not connected to construction or maintenance of the gas main).

An incident did occur in October 2022 where an 18T construction vehicle crossed the 3T limit bridge with 2m width restrictions on Little Braxted Lane and a listed bridge (Mill House bridge) adjacent. Whilst MDC acknowledges Little Braxted Lane is an excluded route for the Project 'on paper' there are no physical restrictions at Junction 22 end or the Lea Lane end to prohibit HGVs or oversized LGVs from accessing Little Braxted Lane either from Junction 22 or at the Lea Lane end. Little Braxted Lane, as a direct access and exit for all transport modes to and from Junction 22 should have appropriate signage at both ends to deter any HGVs or oversized LGVs using Little Braxted Lane for access to and from Junction 22.

Applicant's Response

The Applicant recognises the Interested Party's concerns and reiterates the position expressed in their responses to previous submissions and in their statement of common ground with Maldon District Council [AS-053].

No impacts are expected on the Little Braxted Mill and Mill House including the attached Mill Bridge (Asset 346) on Little Braxted Lane during construction of the proposed scheme. Little Braxted Lane is shown on the Outline Construction Traffic Management Plan Appendix B [REP2-004] Sheet 10 as an excluded route. The Applicant can confirm that this extends south to the junction of Little Braxted Lane with Lea Lane, and therefore past the church. Therefore, no construction HGVs would be using the road past grade I listed Church of St Nicholas, and therefore there would be no impacts on its setting.

It has now been agreed within the Statement of Common Ground with Maldon District Council that this will not be a construction route and that only LGVs will use this route in future for maintenance and inspections

Following construction, the route would primarily be used by Cadent as a maintenance access and for inspections of their assets. Access from the north of Little Braxted Lane has a weight limit of 3 tonnes at the bridge. Access from the south of Little Braxted Lane has a width restriction of 2m. Cadent could therefore not use a vehicle greater than these restrictions.

The above matters of construction and maintenance access have been agreed within the Maldon District Council Statement of Common Ground [TR010060/EXAM/8.11].

With regard to HGVs generally using Little Braxted Lane, the Applicant does appreciate that there have been instances in the past of HGVs using this local road. These existing issues are best directed to Essex County Council as the local highways authority.

However, the Applicant while constructing new junction 22 will reaffirm the inappropriate nature of Little Braxted Lane for HGVs that may be using that junction, bar the ones accessing the quarry. To that end the Applicant is working with Essex County

Council to design the northern end of Little Braxted Lane in a manner that deters HGV's and oversized vehicles from travelling southwards from the A12 beyond the access to Colemans quarry. This might include a series of design elements including highway geometry and cross section, signage and road markings, street furniture, including advance signage.

REP5-041-003

Sub-Part

MDC draws the ExA's attention to the fourth paragraph, bullet point 3 of the Applicant's response:

"Uncertainty about driver behaviour when traffic conditions change. For example, if congestion increases, to what extent would drivers prefer to sit in a queue compared to finding alternative routes."

MDC has consistently raised concerns in its written submissions [REP2-068, REP3-051, REP4-077] regarding 'uncertainties' in the baseline traffic flow data:

a) The 2019 data has not accounted for accelerated housing growth in the Maldon District. b) How can the existing poor level of service at the Maldon Road junction with the Duke of Wellington mini roundabout be sustained with the Applicant's statements of 'increased queue lengths' and 'changing patterns' of traffic flow at the junction causing congestion. c) Encourage driver behaviour at the Maldon Road junction with the Duke of Wellington mini roundabout to turn right only to the new Junction 21 for both southbound and northbound journeys.

The ExA witnessed the 'reality' of these 'uncertainties' at the Maldon Road junction with the Duke of Wellington mini roundabout at the ASI in March 2023. These uncertainties will make the 'reality' worse.

The Applicant's response also supports MDC's consistent points made in written submissions [REP2-068, REP3-051, REP4-077] that driver behaviour will 'find alternative routes' if routes are congested elsewhere. The Maldon District has two routes out of the District to connect to the SRN at Junction 18 from the A414 via Danbury and at Junctions 20a and 20b from the B1019 at Hatfield Peverel.

MDC has consistently raised a concern regarding the existing poor level of service at the Maldon Road junction with the Duke of Wellington roundabout on the B1019. The Project 'encourages' traffic to turn right at this junction for southbound and northbound journeys via the new Junction 21 but there is nothing to prohibit driver behaviour from turning left through Boreham village to access Junction 19 as another 'alternative route'.

The 'alternative route' to connect to the SRN is via the A414 to Junction 18. The A414 has 2 existing AQMAs at Maldon and Danbury. MDC is concerned at the impact of 'alternative route' traffic on those AQMAs.

MDC support's ECC's request for monitoring at specific locations [ISH3] from commencement of the Project at the Maldon Road junction with the Duke of Wellington mini roundabout. This is due to the 'uncertainty' in the traffic modelling stated by the Applicant.

Similarly, for monitoring of the AQMAs at Danbury and Maldon from commencement of the Project in response to the Applicant's statement on driver behaviour seeking 'alternative routes'.

Applicant's Response

As also noted in the Applicant's response to ExQ2 2.17.3 in the Deadline 4 Submission - Applicant's Responses to ExQ2 - Rev 2 [REP4-055], the uncertainties discussed are common to all traffic model forecasts as highlighted in the Department for Transport's Transport Analysis Guidance Unit M4. While acknowledging the inherent uncertainty within forecasting the future, the Applicant's core traffic model represents the 'most likely' predictions of future traffic levels.

Regarding the points made by the Interested Party around the treatment of housing growth in Maldon District within the traffic modelling, the Applicant previously responded to this in response 13 within the Applicant's Written Submission of Oral Case for Issue Specific Hearing 1 [REP3-012]. In summary, this concluded that the traffic model flows used within the proposed scheme's assessment take full account of existing and committed future traffic emerging from Maldon District in line with Department for Transport modelling guidance and assesses the impact that the scheme would have on that traffic.

The Interested Party raises concern in their response about how the Applicant would encourage traffic from the B1019 to turn right at the Duke of Wellington mini roundabout to use the new junction 21 instead of travelling through Boreham village to access junction 19. As explained in response to reference 3.1 in the Applicant's Written submission of oral case for Issue Specific Hearing 3 [REP5-020], the Applicant has now committed to the installation of average speed cameras, a new controlled pedestrian crossing on the B1137, and softer measures including road safety posters. These measures would help to discourage drivers from travelling through Boreham village to access junction 19.

Regarding the impact on the A414, traffic from Maldon and surrounding villages trying to access the A12 towards London can currently travel on the A414 via Danbury to A12 junction 18, or via Hatfield Peverel to A12 junction 20a. The proposed scheme would not physically affect the route via Danbury. However, it would slightly alter the route via Hatfield Peverel, with traffic using the new junction 21 instead of junction 20a. Based on the Applicant's traffic modelling – which takes into account changes in delays at junctions – the proposed scheme is not predicted to cause an increase in traffic travelling on the A414 via Danbury.

Regarding the monitoring of traffic flows, the Applicant can confirm, as outlined in new Requirement 17 submitted at Deadline 5 of A12 Chelmsford to A120 Widening DCO at D5 (clean) [REP5-004] that the Applicant has agreed to a programme of traffic monitoring and the locations and timescales for this align with the request of Essex County Council within their Local Impact Report. This includes traffic monitoring at Maldon Road/ The Street junction.

Regarding the potential impact on emissions within the Danbury and Maldon AQMA's. The Applicant stands by its position made in the Deadline 5 submission - Applicants Comments on Information received at Deadline 4 [REP5-002, REP4-077-002], which in turn reiterates a similar position in Page 61 (ref. 70) of the Deadline 3 submission - Written Submission of Oral Case for Issue

Specific Hearing 1 [REP3-012] and in response to points 6.2.11 and 6.2.12 in the Applicant's Comments on Maldon District Council's Local Impact Report [REP3-018].

In summary:

- The assessment follows objective scoping criteria prescribed in Section 2 of the DMRB LA 105.
- A conclusion of no significant effect was reached in relation to the impact of the proposed scheme at the project level. This conclusion applied the approach set out in DMRB LA 105 Table 2.92 whereby, for a given magnitude in predicted increase in NO₂ concentration, no significant effect at a project level was determined based on the number of individual properties suffering a worsening of an existing exceedance and creation of a new exceedance. The numbers of receptors with medium and small exceedances predicted for the proposed scheme are well within the ranges provided in DMRB LA 105 Table 2.92.
- Given the above, there was no requirement to assess emission impacts or evaluate outcomes within the Danbury and Maldon AQMAs.
- The Applicant notes that air quality monitoring is currently ongoing by the relevant LPA within the Danbury and Maldon AQMAs.
- The Applicant reinforces the statement on Page 61 (ref 70) of the Deadline 3 submission – Written Submission of Oral Case for Issue Specific Hearing 1 [REP3-012] that the impact, if any, would be temporary and would not significantly affect air quality. Junction 20b would be operational until it is connected to the new junction 21 in quarter four of 2025 over a weekend closure and junction 20a would be operational until quarter 1 2026, when the new junction 21 would be complete in all directions.

Maldon District Council

REP5-042-001

Sub-Part

Appendix B - Comments on draft Statements of Common Ground & Statement of Commonality

MDC submitted a revised draft SoCG to National Highways (NH) on 3 April 2023 as requested by the Applicant to enable Deadline 4 submission. However, it was not submitted by the Applicant for Deadline 4, but we understand from NH the draft SoCG (with NH responses) has now been submitted as a late submission on 24 April 2023.

The following paragraph numbers, headings and references relate to those in the 24

th April 2023 version of the SoCG between NH and MDC. At paragraphs 2.7, 2.8, 2.9, 3.1 and 3.7 the heading text in brackets has been added by MDC for clarity of Issue.

Table 4.3 - Issues 'under discussion'

Engagement 2.1 MDC is excluded from the Issues pertinent with the Applicant where they are the responsibility of ECC as the Local Highway Authority. MDC support the principle of the Project for its benefit to the SRN.

Traffic and Transport 2.2 LRN – Duke of Wellington mini roundabout Whilst MDC acknowledges the Applicant's comments about 'the performance of a future Junction 21', if a Hatfield Peverel bypass/Maldon Link Road were constructed, this does not address MDC's concerns in terms of the current LoS D performance of the Duke of Wellington mini roundabout to take all modes of transport to and from the new Junction 21 (with Junctions 20a and 20b closing). The Applicant refers to 'the safety of the Duke of Wellington [mini] roundabout' but MDC's concerns are regarding its current performance and whether this can be maintained at a poor level of service in the short term? MDC does welcome the Applicant's 'noting of the congestion that occurs at the Duke of Wellington roundabout'. The Applicant's reference to a 'roundabout' is misleading and MDC must again reiterate, as in previous written submissions, that the junction is a mini roundabout i.e., a painted circle on the tarmac. The Applicant must refrain from just using the word 'roundabout' when referencing the Duke of Wellington mini roundabout in this SoCG and other examination documents and hearings.

Applicant's Response

The Applicant notes the interested party's comments regarding topics that are under discussion within the Statement of Common Ground (SoCG). An updated Statement of Common Ground with Maldon District Council has been submitted at Deadline 6 [TR010060/EXAM/8.11].

The Applicant is looking forward to continuing discussions on these matters ahead of the final submission at Deadline 7.

The Applicant notes the comments made regarding the Duke of Wellington mini roundabout and will update the wording within the SoCG to reflect this.

The Applicant has responded to comments on the performance of the Duke of Wellington mini roundabout in REP5-042-002. A response regarding a Maldon Link Road can be seen in Section 6.12-6.12.13 of the Applicant's comments on Maldon District Council Local Impact Report [REP3-018].

With regard to the engagement comment at paragraph 2.1, the Applicant cannot speak to the engagement taking place between the council, and local highways authority. However, it can confirm that it has met with the Interested Party several times in recent months and on every occasion the Maldon Link Road and Duke of Wellington mini roundabout were discussed at length. The Statement of Common Ground has been updated to reflect this.

REP5-042-002

Sub-Part

Traffic Modelling 2.3 LRN – omission of bypass MDC has consistently raised the question if the Duke of Wellington mini roundabout can maintain its current poor level of service to funnel all traffic modes to and from the new Junction 21, whether travelling northbound or southbound on the SRN. MDC has compared the LRN upgrades elsewhere in the Project (to connect to the new Junction 24 at Inworth) to the lack of upgrade on the LRN in Hatfield Peverel to connect to the new Junction 21. NH supports a Hatfield Peverel bypass/Maldon Link Road to connect to the new Junction 21 because: a) NH tested options for a

bypass/link road prior to submitting the DCO and b) NH are committed to designing the new Junction 21 to accommodate the bypass/link road option as part of the DCO.

The Applicant refers to 'several steps to encourage use of J21 for northbound and southbound journeys' by turning right at the Maldon Road junction with the Duke of Wellington mini roundabout and, that journey times will be quicker than turning left and accessing Junction 19 southbound through Boreham village. MDC is not convinced. Appendix A Written Submissions of oral representations at ISH3 in MDC's Deadline 5 written submissions, references the Applicant's traffic flow predictions that the Maldon Road junction with the Duke of Wellington mini roundabout will have increased queue lengths. This appears contradictory to 'quicker journey times' from the Maldon Road junction with the Duke of Wellington mini roundabout if turning right to journey southbound or northbound? MDC is not convinced that signage or the predicted quicker journey times (1-2 minutes) will encourage driver (including HGV driver, LGV driver, van driver, car driver, motorcyclist) behaviour to turn right at the Maldon Road junction with the Duke of Wellington mini roundabout. Thus, Maldon District residents, businesses and visitors that rely on the Maldon Road junction with the Duke of Wellington mini roundabout to connect to the SRN from the LRN, are disadvantaged by the Project.

2.4 Duke of Wellington mini roundabout The Applicant states the Project (as forecasted) 'will not affect the roundabout in any discernible way'. However, the Applicant has also stated that 'traffic patterns will change, and queue lengths will increase' at the Maldon Road junction with the Duke of Wellington mini roundabout. The 'forecasting' in the submitted Transport Assessment [APP-253 - APP- 260] relies on 2019 data and does not account for accelerated housing growth in the Maldon District since that date or employment growth through planned regeneration of the Maldon District's largest employment area in Maldon and Heybridge (MDC LIR [REP2-068]). The Applicant's response that 'the overall performance of the roundabout (see comments at 2.2 - please refrain from referring to a mini roundabout as a roundabout – there is a technical difference) is made worse by the Project' is contradictory because: a) queue lengths are forecasted to lengthen and b) traffic patterns will change

These points will both lead to congestion and increased waiting times at the Maldon Road junction with the Duke of Wellington mini roundabout. MDC has set out in written submissions [REP3-051] the difficulty for HGVs and LGVs individually navigating the mini roundabout and passing together over the mini roundabout to and from Maldon Road junction. This was witnessed by the ExA at the ASI at the Duke of Wellington mini roundabout on the 2 March 2023. Monitoring the performance of the Duke of Wellington mini roundabout is essential from commencement of the Project to ensure the poor level of service is maintained and does not worsen in the short term and when the Project is operational.

2.5 Duke of Wellington Bridge The Project upgrades the Duke of Wellington Bridge from 1-way traffic to 2-way traffic to allow northbound and southbound traffic to access the SRN via the new northern arm to the new Junction 21. MDC has no concerns with the Project lengthening the Duke of Wellington Bridge across the widened carriageway. NH changed the design of the Duke of Wellington Bridge at Supplemental Consultation Stage (November 2021) when the southern arm from the new Junction 21 was removed from the design (the southern arm would have left the Duke of Wellington Bridge as 1-way). MDC's concerns are the impact of 2-way traffic on the upgraded Duke of Wellington bridge integrating with the poor level of service at the Duke of Wellington mini roundabout: a) the change in traffic patterns and b) the increased waiting times at the mini roundabout to turn right over the upgraded 2-way bridge.

As set out in MDC's written submissions [REP2-068, REP3-051, REP4-077], the 2019 data used to inform the Transport Assessment at the Duke of Wellington Bridge (Point 7) will see 'a significant increase in traffic' taking all modes of traffic to and from the new northern arm to the new Junction 21. The Applicant has confirmed that the traffic flows at Point 9 Maldon Road, south of Church Road and Point 7 Duke of Wellington Bridge, originate from the Maldon District. 12% of this traffic is HGVs and LGVs. MDC is yet to see the detailed design of the widened Duke of Wellington Bridge and how it will integrate with the existing Duke of Wellington mini roundabout. The Applicant states: 'the additional cost to widen the Duke of Wellington Bridge [to 2-way traffic] is negligible compared to the cost of a Maldon Link Road'. This does not address MDC's point of discussion in the SoCG i.e. The Council questions the cost benefit ratio of an upgraded Duke of Wellington Bridge, a northern link to Junction 21 from the Duke of Wellington mini roundabout against the cost of a Maldon Link Road directly linking to Junction 21 from the B1019 Maldon Road, thus avoiding Hatfield Peverel village centre and the Duke of Wellington mini roundabout.

Applicant's Response

The Applicant responds to each of the Interested Party's points in turn below.

2.3 LRN – omission of bypass

The 'quicker journey times' referred to by the Applicant in previous submissions (for example in response number 7 to Maldon District Council in the Applicant's Written submission of oral case for Issue Specific Hearing 1 [REP3-012] refers to journeys from Maldon Road to the A12 being quicker via junction 21 than via junction 19. This takes into account changes in junction delays with the proposed scheme in place.

The Interested Party states their concerns that signage or predicted quicker journey times would not encourage drivers from Maldon Road to turn right at the Duke of Wellington mini roundabout towards junction 21 instead of driving through Boreham to reach A12 junction 19. As explained in response to reference 3.1 in the Applicant's Written submission of oral case for Issue Specific Hearing 3 [REP5-020], the Applicant has now committed to the installation of average speed cameras, a new controlled pedestrian crossing on the B1137, and softer measures including road safety posters. A system of speed cameras is also proposed between Boreham and Hatfield Peverel. All of these measures will control the speed limits along the B1137 (Main Road) that encourage traffic from Maldon Road to turn right at the Duke of Wellington mini roundabout.

2.4 Duke of Wellington mini roundabout

The Applicant has responded to these points in response REP5-044-001. For ease of reading, this response has been summarised below.

Regarding the use of 2019 traffic model, the development of a 'base year' traffic model which is validated against observed traffic conditions is standard practise within traffic models developed across the country. For the proposed scheme, the Applicant has used a base year of 2019 across all its traffic modelling work.

Traffic models of future conditions with and without the proposed scheme were then developed, again in line with standard traffic modelling practise. This takes into account the impact of housing and employment growth between 2019 and the future assessment years. The Applicant previously described its approach to the treatment of future housing growth within traffic

modelling in its response to comment 13 from Maldon District Council in the Applicant's Written Submission of Oral Case for Issue Specific Hearing 1 [REP3-012].

Regarding the predicted changes in junction performance at the Duke of Wellington mini roundabout, as stated in the text quoted in Maldon District Council's response, there is predicted to be a slight overall improvement to the performance of the mini roundabout because of the proposed scheme. This is based on the change in the average level of delay across all arms of the junction. However, as also noted, the average queue on the B1019 Maldon Road arm is predicted to increase from 45 metres to 62 metres in the AM peak. This is shown in chapter G.1 of the Transport Assessment – Appendix G [APP-260], comparing Table G1-8 (queues and delays in 2027 without the proposed scheme) with Table G1-10 (queues and delays in 2027 with the proposed scheme).

Although this does represent a longer average queue, Tables G1-8 and G1-10 also show that the corresponding increase in average vehicle delay on this arm is only 2 seconds in the both the AM and PM peaks.

Regarding the monitoring of traffic flows, the Applicant's latest position on this is set out in its response to Essex County Council in REP3-033-010.

2.5 Duke of Wellington bridge

Regarding the Interested Party's concerns about the waiting times at the Duke of Wellington mini roundabout to turn right over the upgraded 2-way bridge, the Applicant has responded to this point in response to point 2.4 above.

Regarding the comments about the cost benefit ratio of an upgraded northern link to Junction 21 from the Duke of Wellington mini roundabout against the cost of a Maldon Link Road directly linking to Junction 21 from the B1019 Maldon Road, the Applicant maintains that the cost of the widened Duke of Wellington bridge is negligible compared to the cost of the Maldon Link Road. Regardless of whether the Maldon Link Road is built, a northern link is required from Hatfield Peverel to junction 21 to

provide access to the A12 and to The Vineyards north of the A12. If the Maldon Link Road was built and the northern link over the Duke of Wellington Bridge did not exist, drivers would have to travel along Maldon Road or Church Road through Hatfield Peverel to reach the southern origin of the Maldon Link Road. In this scenario, a northern link from junction 21 would be required to be built to provide access to The Vineyards. The Applicant maintains that the proposal for junction 21 included in the DCO application is the most suitable arrangement to provide access between Hatfield Peverel and the A12.

The Applicant has also confirmed that the proposed scheme can provide a two-lane exit from both the junction 21 northern roundabout to the A12 northbound slip road, and from the junction 21 southern roundabout to the A12 southbound slip road. This would minimise later works required to the A12 slip roads at junction 21 should a Maldon Link Road come forward.

REP5-042-003

Sub-Part

2.6 Little Braxted Lane MDC acknowledges the Applicant's commitment to improve driver information at the Junction 22 end of Little Braxted Lane to deter HGVs and oversized vehicles travelling southwards from Junction 22 beyond the access to Coleman's Quarry. However, MDC remains concerned that the other end of Little Braxted Lane (Old School Lane/Kelvedon Road end) requires the same driver information to deter HGVs and oversized vehicles accessing Junction 22 to connect to the SRN. If the Applicant, working with ECC as the Highway Authority, commit to the driver information at both ends of Little Braxted Lane, this issue could be resolved. MDC is not concerned with archaeological remains in Little Braxted. MDC is only concerned with those heritage assets that are component parts of the local highway network of Little Braxted Lane, that is, the weak Mill House bridge (Grade II listed) with width restrictions and the weak bridge with the 3T limit.

Applicant's Response

The Applicant notes the concerns raised by the interested party.

In a further Statement of Common Ground discussion with the interested party on 18 May 2023, the Applicant confirmed that it was working with Essex County Council to design Little Braxted Lane in a manner that deters HGV's and oversize vehicles from travelling southwards from the A12 beyond the access to Colemans quarry, whilst recognising that this will remain an Essex

Highways asset. This might include a series of design elements including highway geometry and cross section, signage and road markings, street furniture, including advance signage. This is outlined in the Statement of Common Ground with Essex County Council [TR010060/EXAM/8.12].

As discussed in the meeting on 18 May 2023, the Applicant considers additional signage towards Kelvedon Road to be a local highway matter and, at this stage, will not be providing signage at this location. However, it has raised this matter with the local highways authority.

REP5-042-004

Sub-Part

2.7 Cadent Gas Main (Maintenance) MDC acknowledge the Applicant's OCMP and that Little Braxted Lane is an excluded route for Construction HGVs. Subject to 2.6 above this issue could be resolved.

2.8 Cadent Gas Main (Diversion) No further comment to make on National Highways comment dated 24

th April 2023.

2.9 Cadent Gas Main (Tree and Vegetation Loss) No further comment to make on National Highways comment dated 24

th April 2023.

2.10 Groundwater As noted by National Highways MDC has deferred to the Essex County Council as the Lead Local Flood Authority (LLFA), the Environment Agency and Anglian Water.

Applicant's Response
The Applicant notes the Interested Party's comments.
REP5-042-005
Sub-Part
<p>Table 4.4 - Issues 'in disagreement'</p> <p>3.1 Maldon (Link) Road MDC maintains a Hatfield Peverel Bypass/Maldon Link Road would relieve the Duke of Wellington mini roundabout, on the LRN, of its capacity issues and poor level of service for all transport modes to connect to the SRN. Most of the traffic causing the overcapacity issues and the modes of transport navigating the mini roundabout, originate from the Maldon District as detailed in the Applicant's Transport Assessment [APP-253-APP-260]. There remains a level of uncertainty if the Duke of Wellington mini roundabout can maintain its poor level of service in the short term. It is uncertain if the Applicant's predictions and assumptions within the Transport Assessment modelling will influence driver behaviour to turn right only at the Maldon Road junction with the Duke of Wellington mini roundabout. The Applicant is supportive of a Hatfield Peverel Bypass/Maldon Link Road and has designed Junction 21 to facilitate its connection in the future. MDC maintains the Maldon Link Road should be part of the Project.</p>
Applicant's Response
<p>The Applicant notes the interested party's comments.</p> <p>In a Statement of Common Ground discussion with the interested party on 18 May 2023, it was concluded that this matter would remain to be one where parties are in disagreement.</p> <p>The Applicant would like to reaffirm its position as set out in the Applicant's Comments on Maldon District Council's Local Impact Report [REP3-18] and in comment reference 7 in its Written Submission of Oral Case for Issue Specific Hearing 1 [REP3-012].</p>

The Applicant has carried out a detailed assessment regarding the Maldon Road and Hatfield Peverel bypass [APP-094]. This assessment of potential bypass options found serious challenges to feasibility, including significant carbon, land, environmental, construction and cost impacts, which outweigh the benefits that may accrue. Accordingly, a bypass has not been included as part of the proposed scheme.

Furthermore, the Applicant notes in the Examining Authority's commentary on the draft Development Consent Order [PD-015] it proposed to include a requirement related to junction 21 and the Maldon Link Road. The Applicant's maintains that such a requirement is unnecessary, but if the ExA is minded to include one then the Applicant does not have an objection to that.

REP5-042-006

Sub-Part

3.2 Junction 20b Junction 20b is closing both on and off slips. The Preliminary Design Stage (June 2021) designed the new Junction 21 with a northern arm and southern arm. The southern arm was removed at Supplemental Design Stage (November 2021) as a Category 1 change. This caused the significant design change to the Duke of Wellington Bridge becoming 2-way to take all traffic modes on a northern arm only to the new Junction 21. MDC maintains, with such a significant change to the design of Junction 21, that impacts on access to and from the SRN via the Duke of Wellington mini roundabout, should have been considered before the DCO was submitted. The Applicant has recognised the pattern of traffic flows will change with increased traffic across the new 2-way Duke of Wellington Bridge and increased queue lengths at the Maldon Road junction with the Duke of Wellington mini roundabout. MDC maintains that the poor level of service at the Duke of Wellington mini roundabout cannot be maintained especially with the Applicant's reliance on driver behaviour and 'encouraging' driver behaviour to turn right whether journeying northbound or southbound on the SRN.

Applicant's Response

The Applicant notes the Interested Party's comments.

The Applicant undertook a detailed assessment of the impact of the proposed junction 21 arrangement on the Duke of Wellington mini roundabout prior to submitting the DCO application. This is detailed in Appendix G of the Transport Assessment – Junction Modelling Technical Notes – Local Road Junctions [APP-260].

The Applicant maintains that the proposed scheme is not worsening the performance of the Duke of Wellington mini roundabout or changing the strategic function of the mini roundabout.

The Applicant has explained the signage strategy to direct drivers to the A12 in response to REP5-044-004.

REP5-042-007

Sub-Part

3.3 LRN – traffic modelling MDC maintains the traffic modelling does not account for accelerated housing growth since 2019. The 722 jobs forecasted for employment growth only considers 'additional car trips associated with these additional jobs' whereas HGVs and LGVs account for 12% of the modelled traffic at the Maldon Road junction with the Duke of Wellington mini roundabout. MDC has referenced in written submissions the types of employment sites where HGVs, LGVs, vans and cars are typical modes of transport to support employment land uses (MDC LIR [REP2-068]). HGVs and LGVs take up more space in a queue than a car. It was witnessed by the ExA at the ASI at the Duke of Wellington mini roundabout, that HGVs and LGVs cannot easily navigate the mini roundabout or pass each other, causing further delays through oncoming traffic giving way to them. 3.4, 3.5, 3.6, Cadent Gas Main No further comment to National Highways comment dated 24

th April 2023. As requested by the ExA at ISH3 the detailed design of the Cadent Gas Main diversion is still awaited.

Applicant's Response

The Applicant previously described its overall approach to the treatment of future housing and employment growth within the traffic modelling in response 13 within the Applicant's Written Submission of Oral Case for Issue Specific Hearing 1 [REP3-012].

The Interested Party is correct that the site-specific growth at housing and employment sites in the traffic model includes car trips only. For LGV and HGV trips, growth was applied consistently across all zones in the traffic model. The growth factors applied were based on the Department for Transport's Road Traffic Forecasts 2018 (RTF18) derived from its National Transport Model. Full information on the growth factors used are provided in section 5.11 of the Combined Modelling and Appraisal Report – Appendix C: Transport Forecasting Package Report [APP-264].

This approach is consistent with the Department for Transport's TAG Unit M4 guidance on forecasting changes in freight traffic which recommends applying a single growth factor for the whole model based on National Transport Model growth.

REP5-042-008

Sub-Part

3.7 Cadent Gas Main (Biodiversity) The two female Black Poplars at Blue Mills Nature Reserve are known to be the only female Black poplars in Essex. MDC welcomes the recognition of the Black Poplar as a veteran tree and the treatment of the Blue Mills Nature Reserve as a designated LoWS. However, MDC consider further discussion is required regarding the limitations of the Black Poplar trees in relation to provisions of works to protected trees within the DCO.

It is noted the powers of the DCO would allow for root pruning of protected trees. MDC are seeking further information from its Arboriculturist as to the impacts of root pruning on the Black Poplar tree and its future health.

Applicant's Response

The Applicant welcomes Maldon District Councils' comments with respect to the potential veteran tree and Blue Mills proposed Local Wildlife Site.

The Applicant is liaising with Cadent regarding gas pipeline, Work No. U69. The applicant has made a commitment in the Register of Environmental Actions and Commitments (REAC)(BI50) to install the pipeline (work U-69) using no-dig techniques underneath the River Blackwater and the woodland subject to Tree Preservation Order 07/22 at Blue Mills. The line and depth would be selected to minimise impacts to the woodland protected by the Tree Preservation Order, the proposed Blue Mills Local Wildlife Site, the black poplar and otter holt at grid reference TL 83264 1361, and transitional veteran trees T2045 and T2078 as identified in the Supplementary Arboricultural Survey Report [REP3-008].

The Applicant notes Maldon District Council are seeking further information from their arborist and welcome any further comments or discussion on this matter.

REP5-042-009

Sub-Part

Statement of Commonality

The Statement of Commonality (SoC) issued by the Applicant aims to capture all of the topics raised by the host authorities, consultees and interested parties with which the Applicant has a SoCG. A table has been produced highlighting the topics of concern for each authority/organisation. It is noted that air quality has not been shown to be of concern to MDC, however whilst there is no separate air quality section within MDC's SoCG, concerns regarding air quality feature throughout MDC's SoCG in relation to the traffic and transport Principal Issue.

Whilst the SoC is brief, simply listing the topics of interest for each party, it shows areas of joint concern between MDC, ECC and BDC being traffic, Junction 21 and air quality. Whilst air quality does not feature specifically on the list for MDC it is mentioned within the SoCG and within MDC's LIR [REP2-068] and was an issue raised by MDC at the Issue Specific Hearing 1 (ISH) on the 1 March 2023 and at ISH3 on 27 April 2023.

A draft SoCG was shared with MDC on 30 March 2023. The Applicant received a response to the draft from MDC on 3 April 2023. Due to timescales the Applicant did not have the opportunity to respond to the further information provided by MDC for the Deadline 4 submission. However, a meeting was organised with MDC to go through the draft SoCG on 18 April 2023. An updated SoCG was not submitted at Deadline 4, but the Applicant has requested a late submission of the draft SoCG to Deadline 4. The key issues under discussion are: • Cadent Gas Main (construction) • Cadent Gas Main (diversion) • Cadent Gas Main (maintenance) • Junction 21 (design) • Traffic and Transport (Duke of Wellington mini roundabout) • Air Quality (Danbury and Maldon AQMAs)

Applicant's Response

The Applicant notes the interested party's comments.

The Statement of Commonality (SoC) produced at Deadline 4 [REP4-047] highlighted the key topics within the Statement of Common Ground (SoCG). The Applicant has included Air Quality as an area of discussion within the SoCG issued at Deadline 6 [TR010060/EXAM/8.17] which will be reflected in the deadline 6 Statement of Commonality.

The Applicant is continuing discussions on the SoCG with the interested party ahead of the final submission at deadline 7.

Maldon District Council

REP5-043-001

Sub-Part

1. Draft DCO Schedule 9, Hedgerow and Trees, Part 3, Trees Subject to Tree Preservation Orders, page 15

1.1 MDC would like to draw the ExA's attention to the recognition of Blue Mills Nature Reserve as a Local Wildlife Site (LoWS) and the status of the Black Poplars as veteran trees and the Applicants recognition of the 'next generation veteran trees' for their public amenity value within the landscape from Public Rights of Way (PRoW).

1.2 MDC are currently awaiting specialist Arboricultural advice regarding the impact of root pruning (powers that could be conferred on the Applicant through the dDCO) on the Black Poplar trees within the Blue Mills Nature Reserve that form part of the Woodland TPO Order (07/22) that was confirmed on the 12

th July 2022.

Applicant's Response

The Applicant notes the Interested Party's comments and recognises the woodland subject to Tree Preservation Order 07/22. The Applicant refers Maldon District Council to the text provided later within this response regarding a new REAC commitment (BI50) that includes proposed protection measures for this woodland along with other ecologically sensitive features.

As stated on page 12 of the Applicant's Comments on Maldon District Council's Local Impact Report [REP3-018], the Applicant acknowledges that Maldon District Council has previously provided a citation for the proposed Blue Mills Local Wildlife Site, some of which is also subject to a Woodland Area Tree Preservation Order. The Council does not have a date for when the Board will sit to consider the proposed designations. However, in the interim, the Applicant will treat the proposed site as if it is a confirmed Local Wildlife Site.

The Applicant is liaising with Cadent regarding gas pipeline, Work No. U69. The Applicant has made a commitment in the Register of Environmental Actions and Commitments (REAC)(BI50) to install the pipeline (work U-69) using no-dig techniques underneath the River Blackwater and the woodland subject to Tree Preservation Order 07/22 at Blue Mills. The line and depth would be selected to minimise impacts to the woodland protected by the Tree Preservation Order, the proposed Blue Mills Local Wildlife Site, the black poplar and otter holt at grid reference TL 83264 1361, and transitional veteran trees T2045 and T2078 as identified in the Supplementary Arboricultural Survey Report [REP3-008].

REP5-043-002

Sub-Part

1.3 MDC note the A12 Chelmsford to A120 Widening Targeted Design Consultation April 2023 (consultation closes 14 May at 23:59) and specifically the Explanatory Memorandum. Article 47 Trees subject to Tree Preservation Orders, etc paragraphs 4.197 - 4.199 on page xxxv, refers to the powers to be conferred on the Applicant regarding felling or lopping of trees. Whilst MDC acknowledge the six changes within the Consultation are targeted to six specific sites which are located outside of Blue Mills Nature Reserve. MDC would like to draw the ExA's attention to the draft DCO page 268, Part 4 Trees Subject to Tree Preservation Orders, as it relates to Blue Mills Nature Reserve. Therefore, MDC requests the ExA only accept changes to the draft DCO that only affect the six sites in the Consultation and not a blanket change that would then affect the lopping and felling of trees within the Blue Mills Nature Reserve.

Applicant's Response

On 30 May 2023, the Applicant submitted a Change Application requesting that the Examining Authority consider accepting six changes to the proposed scheme into the Examination of the DCO application.

The Applicant has submitted as part of its Change Application a clean and tracked changed version of the draft DCO showing each proposed change. The draft DCO submitted with the Change Application [TR010060/APP/3.1] is based on the most recent version of the draft DCO submitted into the examination at deadline 5. The Applicant confirms that there are no amendments required as a result of the Change Application to Part 4 of Schedule 9 of the draft DCO (Trees Subject to Tree Preservation Orders). The Applicant further confirms that it has only requested amendments to the draft DCO that are required in respect of the six proposed changes. The proposed changes to the draft DCO submitted with the Change Application do not therefore affect the lopping and felling of trees within the Blue Mills Nature Reserve.

There have been no changes to the Explanatory Memorandum as a result of the six proposed changes to the DCO Application.

Maldon District Council

REP5-044-001

Sub-Part

1 Traffic and Transport with specific reference to Agenda Item 3 (Bullet Point 4 – Progress with a plan for monitoring and management of wider impacts on the local highway network (with a focus on Deadline 4 submissions) 1.1 At the Hearing, MDC's Counsel, Ruchi Parekh, explained that MDC's concerns have been set out in its various written submissions [REP2-068, REP3-051, REP4-077] and the ExA will be aware that our concern, in transport terms, has focussed on the Maldon Road junction with the Duke of Wellington mini roundabout. 1.2 It is common ground that the Duke of Wellington mini roundabout operates at Level of Service (LoS) D and 85% capacity at off peak and over 85% capacity on peak. This is based on the Transport Assessment model data taken at 2019 (Transport Assessment [APP-253-APP-260] and accompanying Appendices, including predicted traffic flows [APP-260]). 1.3 At the Hearing, MDC's Counsel, Ruchi Parekh, reiterated MDC's concerns that the Traffic Assessment is modelled on 2019 data that has not been updated, and therefore MDC does not consider it reflects the reality of accelerated planned housing growth since that time. 1.4 The Applicant has consistently stated that the Project will not make the current LoS D at the Duke of Wellington mini roundabout any worse than the poor level of service it currently has, for all transport modes (HGVs, LGVs, vans, cars, motorbikes) originating from the Maldon District. 1.5 The Applicant's transport forecasting has made various assumptions and predictions challenged in MDC's Deadline 4 submission [REP4-077] and most concerning is the Applicant's response in their ISH oral representations [REP1-012] on page 8, first bullet point (referencing: the impact on local junctions, modelled in more detail to make delays more accurate in Boreham and Hatfield Peverel, is summarised in their Transport Assessment, Appendix A [APP-254]): "Duke of Wellington Junction between B1019 Maldon Road and B1137 The Street in Hatfield Peverel. No proposal to change to this junction is included as part of the proposed scheme, but traffic patterns will change at the junction as more traffic from B1019 Maldon Road would turn right to use the new junction 21 to join the A12 southbound, instead of turning left to junction 20a. There would also be a significant reduction in traffic arriving from junction 20a to turn right for the B1019 Maldon Road. Overall, there is predicted to be a slight improvement in junction performance. However, the B1019 Maldon Road arm is predicted to have an increase in its average queue from 45m to 62m. Detailed queue information is provided in chapter G.1 of Transport Assessment - Appendix G [APP-260]." 1.6 At the Hearing, MDC's Counsel Ruchi Parekh, referenced the Applicant's position that the Project will not make the current LoS D, which is poor, at the Duke of Wellington mini roundabout junction with Maldon Road, any worse. However, at the same time the Applicant has stated in REP1-012 that the average queue at the B1019 Maldon Road is predicted to increase from 45 metres to 62 metres. This very much suggests that the issue will worsen.

Applicant's Response

Regarding the use of 2019 traffic model, the development of a 'base year' traffic model which is validated against observed traffic conditions is standard practise within traffic models developed across the country. For the proposed scheme, the Applicant has used a base year of 2019 across all its traffic modelling work.

Traffic models of future conditions with and without the proposed scheme were then developed, again in line with standard traffic modelling practise. This takes into account the impact of housing and employment growth between 2019 and the future assessment years. The Applicant previously described its approach to the treatment of future housing growth within traffic modelling in its response to comment 13 from Maldon District Council in the Applicant's Written Submission of Oral Case for Issue Specific Hearing 1 [REP3-012].

Regarding the predicted changes in junction performance at the Duke of Wellington mini roundabout, as stated in the text quoted in Maldon District Council's response, there is predicted to be a slight overall improvement to the performance of the junction because of the proposed scheme. This is based on the change in the average level of delay across all arms of the junction. However, as also noted, the average queue on the B1019 Maldon Road arm is predicted to increase from 45 metres to 62 metres in the AM peak. This is shown in chapter G.1 of the Transport Assessment – Appendix G [APP-260], comparing Table G1-8 (queues and delays in 2027 without the proposed scheme) with Table G1-10 (queues and delays in 2027 with the proposed scheme).

Although this does represent a longer average queue, Tables G1-8 and G1-10 also show that the corresponding increase in average vehicle delay on this arm is only 2 seconds in both the AM and PM peaks. Given these small changes in delay and the fact that on average there is a reduction in delay when considering all arms of the junction, the Applicant considers that this does not represent a worsening of the mini roundabout performance overall.

REP5-044-002**Sub-Part**

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

Applicant's Response

Regarding the monitoring of traffic flows, The Applicant's latest position regarding the monitoring of traffic flows is set out in its response to Essex County Council in REP5-033-010 in this document. In summary, the Applicant agreed to undertake a programme of monitoring and this is confirmed in Requirement 17 submitted at Deadline 5 in the Draft DCO [REP5-004]. The Requirement aligns with the locations for monitoring and the timetable for monitoring proposed by Essex County Council in its Local Impact Report [REP2-055], and includes monitoring of The Street / Maldon Road (Duke of Wellington) junction.

However, the Applicant considers that while it is possible to monitor and analyse the impact of the proposed scheme, there is a level of uncertainty around the extent to which the proposed scheme is responsible for observed changes. While this level of uncertainty is acceptable for a monitoring report that focuses on trying to understand the impacts of the scheme, it does not allow definitive "blame" to be placed on the proposed scheme for traffic changes and therefore responsibility for funding or delivering mitigation.

REP5-044-003

Sub-Part

1.8 At the Hearing, MDC's Counsel Ruchi Parekh, referred to a related concern at the Maldon Road junction at the Duke of Wellington mini roundabout in relation to management of traffic issues. This relates to MDC Deadline 4 submission [REP4-077] referencing Transport Assessment Appendix G [APP-260] 2019 model data summaries at tables G1-17 and G1-19, that traffic at the Maldon Road junction with the Duke of Wellington mini roundabout currently turns left towards junction 20a onslip in the AM Peak. In the PM Peak traffic from junction 20a offslip turns right at The Street junction at the Duke of Wellington mini roundabout to access Maldon Road.

1.9 At the Hearing, MDC's Counsel Ruchi Parekh, stated the Applicant's reliance 'on traffic patterns changing' at the Maldon Road junction with more traffic turning right towards the new Junction 21 (to join the A12 southbound and northbound). MDC's Counsel Ruchi Parekh added that the Applicant cannot forecast or model driver behaviour, especially those with local knowledge of finding 'alternative routes' and have used the Maldon Road / Duke of Wellington mini roundabout for years. There is no 'right turn only' signage [to the new Junction 21] at the Maldon Road junction with the Duke of Wellington mini roundabout or 'junction changes' to prohibit turning left at the Maldon Road junction with the Duke of Wellington mini roundabout, included in the Project.

1.10 MDC's Deadline 4 concerns [REP4-077] are that driver behaviour will continue to utilise the left turn at the Maldon Road junction with the Duke of Wellington mini roundabout and access the SRN via Boreham village at Junction 19. Similarly, driver behaviour will leave the SRN at Junction 19 and access Maldon Road junction with the Duke of Wellington mini roundabout via the LRN through Boreham village. The Applicant's predictions and assumptions in its traffic flow modelling for the Maldon Road junction with the Duke of Wellington mini roundabout is simplistic and not realistic.

1.11 At the Hearing, MDC's Counsel Ruchi Parekh, stated that MDC has set out in its various written submissions [REP2-068, REP3-051, REP4-077] its concerns at the Project maintaining the current poor level of service (LoS D) at the Maldon Road junction with the Duke of Wellington mini roundabout. MDC has set out in its written submissions how this will lead to increased queue lengths and consequent delays, especially accounting for larger vehicles navigating the Duke of Wellington mini roundabout. The Applicant's forecasting does not account for driver behaviour, relying on local knowledge of 'alternative routes' and simply turning left at the Maldon Road junction with the Duke of Wellington mini roundabout and journeying through Boreham instead and thereby exacerbating the situation there. MDC does not consider that signage alone, at the Maldon Road junction with the Duke of Wellington mini roundabout will be sufficient to address the Applicant's assumptions and predictions in its traffic modelling.

Applicant's Response

Regarding the Interested Party's comment that there are no proposals to prohibit turning left at the Maldon Road junction with the Duke of Wellington mini roundabout, the Applicant can confirm that this is true. As described in the Applicant's response to

Maldon District Council's comments on ExQ2.17.2 in the Applicant's Comments on Others' Responses to ExQ2 [REP5-003], the Applicant has ruled this out because of increased traffic on Church Road or New Road / Remembrance Avenue.

Regarding the Interested Party's comments that the Applicant's predictions and assumptions are simplistic and not realistic, the Applicant also responded to this in response to Maldon District Council's comments on ExQ2.17.2 in the Applicant's Comments on Others' Responses to ExQ2 [REP5-003].

The Interested Party states their concerns that signage alone is not enough to discourage drivers from Maldon Road turning left at the Duke of Wellington mini roundabout and journey through Boreham to reach A12 junction 19. As explained in response to reference 3.1 in the Applicant's Written submission of oral case for Issue Specific Hearing 3 [REP5-020], the Applicant has now committed to the installation of average speed cameras, a new controlled pedestrian crossing on the B1137, and softer measures including road safety posters. All of these measures will control the speed limits along the B1137 (Main Road) that encourage traffic from Maldon Road to turn right at the Duke of Wellington mini roundabout.

REP5-044-004

Sub-Part

1.12 At the Hearing, MDC's Counsel Ruchi Parekh, requested to understand what the Applicant intends to put in place to properly ensure that all modes of transport at the Maldon Road junction with the Duke of Wellington mini roundabout, turn right only and thereby avoid the problems MDC have identified.

Applicant's Response

The Applicant confirms that the existing signage at the Maldon Road junction will be replaced to reflect the proposed change to the strategic route for traffic wishing to access the A12. The replacement of signage and other advanced direction signage across the proposed scheme is included as lettered works in Schedule 1 of the Draft DCO [REP5-004]. The details of this signage will be developed in consultation with Essex County Council.

Further to this, the Applicant has proposed additional measures in the village of Boreham to deter traffic from turning left at the Maldon Road junction and using the B1137 Main Road to access the A12 from junction 19, rather than junction 21. This is secured in new Requirement 15 of the Draft DCO [REP5-004].

REP5-044-005

Sub-Part

1.13 Regarding the points raised in 1.11 and 1.12 above, MDC endorse ECC's submissions, as the highway authority responsible for the LRN, on this agenda item, that there are suitable mechanisms to introduce further monitoring at justified locations. MDC is insistent that the Maldon Road junction with the Duke of Wellington mini roundabout is a justified location for monitoring.

Applicant's Response

The Applicant notes Maldon District Council's endorsement of Essex County Council's submissions on monitoring and request for the Maldon Road junction with the Duke of Wellington mini-roundabout to be considered as a location for monitoring. As noted in the response to paragraph 1.7 above, the Applicant agreed to undertake a programme of monitoring and this is confirmed in Requirement 17 submitted at Deadline 5 in the Draft DCO [REP5-004]. The Requirement aligns with the locations for monitoring and the timetable for monitoring proposed by Essex County Council in its Local Impact Report [REP2-055], and includes monitoring of The Street / Maldon Road (Duke of Wellington) junction.

REP5-044-006

Sub-Part

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

2.1 At the Hearing, MDC's Counsel Ruchi Parekh, reiterated our Deadline 4 submission – Appendix B 'Additional Comments' [REP4-077] setting out MDC's concerns that the Applicant scoped out any further assessment of construction and operational impact at Maldon and Danbury AQMAs in the Environmental Statement Ch 6 – Air Quality, Section 6.7.2 – 6.7.6 [APP-073].

2.2 At the Hearing, MDC's Counsel Ruchi Parekh, reiterated those concerns that, during the construction phases of the Project, driver behaviour and local knowledge, in response to congestion and disruption, will find alternative routes. The A414 is an alternative route from the Maldon District to Junction 18, avoiding the construction phases affecting the B1019 route at Hatfield Peverel (phased closure of Junctions 20a and 20b, upgrade of Duke of Wellington Bridge to 2-way traffic [lengthening and widening] and construction of new Junction 21). This development will take some time. The A414 has two AQMAs at Danbury and Maldon.

2.3 The Applicant's response [REP3-012], pages 6-9 to MDC LIR [REP2-068], acknowledges our concerns 'that some traffic is likely to flow via Main Road in Boreham and the A414 to bypass the construction works around junctions 20a and 20b' [in Hatfield Peverel] and 'if traffic emissions and subsequent concentrations did change as a result of the closures, the temporary nature of the construction phase would not significantly affect air quality within the Maldon and Danbury AQMAs'.

2.4 At the Hearing, MDC's Counsel Ruchi Parekh, stated that the construction phase of the Project could be up to 3 years and therefore there is no justified basis to dismiss the impacts over that period. We consider it would be justified to monitor air quality in the Maldon and Danbury AQMAs from commencement through the construction phase and, if issues are recorded, we would like to see a funding mechanism to benefit each of the relevant local authorities which would then be used to support air quality related improvements in those areas.

2.5 Therefore, MDC does not consider the Applicant's response at the Hearing to be satisfactory. We are not confident that driver behaviour in seeking alternative routes to avoid congestion and disruption, has been appropriately accounted for. We also do not consider that there are any legal or practical matters that would prevent the Applicant from committing to this monitoring, bearing in mind that it would only require to be in place for the construction phase, and noting the significant disadvantages caused by the Project to Maldon District residents, businesses and visitors.

Applicant's Response
<p>The Applicant stands by its position made in TRO010060 - 9.51 Applicants Commitments on Information received at Deadline 4 [REP4-077-002], which in turn reiterates a similar position in Page 61 (ref. 70) of the Deadline 3 submission - Written Submission of Oral Case for Issue Specific Hearing 1 [REP3-012] and in response to points 6.2.11 and 6.2.12 in the Applicant's Comments on Maldon District Council's Local Impact Report [REP3-018].</p> <p>In summary;</p> <ul style="list-style-type: none"> • The assessment follows objective scoping criteria prescribed in Section 2 of the DMRB LA 105. • Given the above there was no requirement to assess emission impacts or evaluate outcomes within the Danbury and Maldon AQMAs. • The Applicant notes that air quality monitoring is currently ongoing by the relevant LPA within the Danbury and Maldon AQMAs. The longevity of the existing monitoring also allows the LPA to study trends which would not otherwise be accommodated by expanding the current monitoring campaign. • The Applicant reinforces the statement on Page 61 (ref 70) of the Deadline 3 submission - Written Submission of Oral Case for Issue Specific Hearing 1 [REP3-012] that the impact, if any, would be temporary and would not significantly affect air quality. Junction 20b would be operational until it is connected into the new junction 21, expected to be in quarter four of 2025 over a weekend closure and junction 20a would be operational until quarter 1 2026, by when the new junction 21 is expected to be complete in all directions
REP5-044-007
Sub-Part
3 Biodiversity

Environmental Impact and Mitigation 3.1 MDC shares the ExA's frustration at the lack of detail provided for the Cadent Gas Main diversion. MDC has consistently raised concerns within its LIR [REP2-068] and within its deadline 4 submission [REP4-077] regarding the detailed route of the Cadent Gas Main through the Blue Mills Nature Reserve. MDC understands that the proposed width of the corridor through the Nature Reserve presented in the submission documents is a worst-case scenario, due to the absence of the gas pipeline's detailed design and the benefit of all survey work. Based on this MDC accepts there is potential for the resultant scale of impact on the Nature Reserve to be reduced. However, MDC considers the ecological impacts on the Nature Reserve, as a result of tree loss and disturbance to habitats and wildlife, would be significant. Additionally, the proposed route of the Cadent Gas Main would form a permanent scar on the landscape which would be visible from the public viewpoints, including footpaths, impacting on the public amenity of this location.

3.2 At the Hearing, MDC's Counsel, Ruchi Parekh, highlighted that MDC welcomes the steps that have been taken by the Applicant in respect of the Blue Mills Nature Reserve in recognising the recommended designation of the site as a Local Wildlife Site (LoWS) and categorising the Black Poplar trees to be affected by the scheme as veteran trees.

Applicant's Response

The Applicant notes the comments made by the Interested Party. As stated in ISH1 and as reflected in the written submission of oral case [REP3-012], Order Limits have been drawn for the diversion at a width greater than 30m to enable Cadent to determine the appropriate route for the gas main, taking into consideration sensitive environmental receptors and ground conditions, as is the usual procedure when consenting such infrastructure. By having a wider Order Limits there is greater flexibility in the design for this purpose.

The Applicant welcomes Maldon District Council's acknowledgement that the proposed corridor presents a worst-case scenario and that there is potential for the scale of impact to be reduced.

To update the Council, the current position with respect to the gas main is that Cadent have expressed that they also believe trenchless installation is the most favourable methodology of construction in this location. The exact route and the location of the

trenchless crossing or crossings are however yet to be determined. We expect Cadent to confirm their preference as detail designs progress over the coming months.

Additionally, a new commitment has been added to the Register of Environmental Actions and Controls (REAC) at deadline 6 [TR010060/APP/6.5]. This states that '*The Cadent gas pipeline, Work No. U69, would be installed using no-dig techniques underneath the River Blackwater and the woodland at Blue Mills (see Figure 1,). The line and depth would be selected to minimise impacts to the woodland protected by the Tree Preservation Order, the proposed Blue Mills Local Wildlife Site, the black poplar and otter holt at grid reference TL 83264 1361, and transitional veteran trees T2045 and T2078 as identified in the Supplementary Arboricultural Survey Report [REP3-008].*' This new commitment, while it does not apply to the entire boundary of the Blue Mills proposed Local Wildlife Site, does apply to the woodland subject to TPO, which accounts for a considerable area of the proposed LWS and therefore further minimises impacts associated with habitat loss as a result of construction of the gas main diversion.

The Applicant notes that Maldon District Council considers the impacts on Blue Mills proposed Local Wildlife Site (LWS) would be significant. The Applicant disagrees with this conclusion. The assessment of effects on biodiversity has been undertaken in accordance with DMRB LA108. The value of the proposed LWS has been assessed as being of County value in accordance with DMRB LA108. Assuming (worst-case) open cut construction of the gas main through the potential LWS, there would be temporary removal of up to a 30m corridor of vegetation. This would be mitigated through replanting as per commitment LV14 of the Register of Environmental Actions and Commitments (REAC) [REP4-008] which states that 'replanting along the easement of the gas main diversion would be carried out in accordance with 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. Where tree lines and tree belts are lost and cannot be replaced due to the restrictions of utility easements, native hedgerow planting would be used in line with the relevant utility company's guidance.'

Following implementation of the mitigation and with time for vegetation to mature, in the long term there would remain a narrow corridor of grassland through the woodland. In the Applicant's view this would effectively create a ride through the woodland. This will increase the diversity of habitats, providing open areas which may benefit some plant and insect species. Whereas

other insects and plants, as well as birds and mammals, could benefit from the woodland edge habitat. It is therefore assessed that the adverse impact caused from constructing the pipeline is temporary and would not affect the integrity of the resource in the long term. In accordance with Table 3.11 DMRB LA 108, the level of impact is assessed as negligible adverse because the impact is temporary for the period of construction and maturation of vegetation and does not affect the integrity or key characteristics of the resource as the diversity of habitats would be improved.

In accordance with Table 3.13 of DMRB LA108, the residual significance of effect of a negligible adverse impact on a County value receptor is neutral or slight. Significant effects are assessed as those with a moderate significance of effect or above, and therefore the effects on Blue Mills proposed LWS would be assessed as not significant.

The Applicant responded to Maldon District Council's concerns regarding the gas main diversion and landscape and visual effects within Section 6.9 – 6.9.8 of the Applicant's Comments on Maldon District Council's Local Impact Report [REP3-018]. In summary, the Applicant is committed to refining routes of final utility diversions and the gas main diversion and methods of construction to retain as much existing vegetation as practicable, in particular mature vegetation and woodland (as per commitment LV13 of the REAC [REP4-023]). A new commitment has been added to the REAC (BI50, which forms part of the Deadline 6 submission) [TR010060/APP/6.5], whereby the Cadent gas pipeline would be installed using no-dig techniques underneath the River Blackwater and woodland subject to TPO 07/22 at Blue Mills. The line and depth would be selected to minimise impacts to sensitive ecological features including the woodland protected by the Tree Preservation Order, the Blue Mills proposed Local Wildlife Site and the black poplar. This therefore further minimises any impacts on landscape and biodiversity at the proposed Local Wildlife Site.

The Applicant notes that Maldon District Council welcome our recognition of both the proposal to designate Blue Mills as a local wildlife site, and that the black poplar would meet veteran tree criteria.

REP5-044-008

Sub-Part

3.3 At the Hearing, MDC's Counsel, Ruchi Parekh, questioned what mitigation for the disruption to the habitat of the Blue Mills Nature Reserve was to be provided within the Maldon District as compensation. MDC emphasise that it is not considered satisfactory that mitigation or BNG is to be applied on a blanket scale across the whole scheme. At the Hearing, MDC's Counsel Ruchi Parekh referenced MDC's Local Plan Policy N2, which reflects the mitigation hierarchy and requires any new or replacement habitat to be delivered as close to the proposed development as possible, 'in order to maintain a viable population locally and to avoid incremental and accumulative impact on local ecology'.

3.4 At the Hearing, MDC's Counsel, Ruchi Parekh, expressed MDC's policy requirement of its N2 policy principle being applied in respect of any impact on the Blue Mills Nature Reserve if compensation is required.

Applicant's Response

As stated within the Written Submission of Oral Case for Issue Specific Hearing 3 [REP5-020], in accordance with the mitigation hierarchy the Applicant has sought to try and avoid impacts to Blue Mills, hence the ongoing conversations with Cadent. As stated above the current position is that Cadent have expressed that they also believe trenchless installation is the most favourable methodology of construction in this location. The exact route and the location of the trenchless crossing or crossings are however yet to be determined. We expect Cadent to confirm their preference as detailed designs progress over the coming months. There are measures in the Register of Environmental Actions and Commitments (REAC) [REP4-023] that contribute towards this, specifically:

- 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.

In addition, there is a new commitment that has been added and will feature in the updated REAC as submitted as Deadline 6 [TR010060/APP/6.5], which states:

- BI50, the Cadent gas pipeline, Work No. U69, would be installed using no-dig techniques underneath the River Blackwater and the woodland subject to Tree Preservation Order 07/22 at Blue Mills (see Figure 1). The line and depth would be selected to minimise impacts to the woodland protected by the Tree Preservation Order, the proposed Blue Mills Local Wildlife Site, the black poplar and otter holt at grid reference TL 83264 1361, and transitional veteran trees T2045 and T2078 as identified in the Supplementary Arboricultural Survey Report [REP3-008]. The line and depth would be selected to minimise impacts to the woodland protected by the Tree Preservation Order, the proposed Blue Mills Local Wildlife Site, the black poplar and otter holt at grid reference TL 83264 1361, and transitional veteran trees T2045 and T2078 as identified in the Supplementary Arboricultural Survey Report [REP3-008].

These measures would all be undertaken within Maldon District.

The construction of the gas main does not affect the extent of the Blue Mills proposed Local Wildlife Site, and as such there is no proposal to provide any additional mitigation land either within or outside of Maldon District. As stated in sub-question REP2-069-007 of the Applicant's Response on Written Representations [REP3-009], and 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 may lead to a loss of trees, it would effectively create a ride through the woodland. This would increase the diversity of habitats, providing open areas which may benefit some plant and insect species. In addition, other insects and plants, as well as birds and mammals, could benefit from the woodland edge habitat. It is also useful to note that the new REAC commitment BI50 covers the woodland subject to TPO 07/22, (which is a considerable area of the Blue Mills proposed Local Wildlife Site) and therefore further minimises the loss of habitats associated with the construction of the gas main.

There is no legal requirement for Biodiversity Net Gain at a scheme-wide scale, nor at a district level. However, in line with the requirements of the NPPF (and NPSNN), the Applicant aspires to maximise biodiversity delivery of the proposed scheme. The Applicant notes Maldon District Council's comments with regards to biodiversity net gain at a district level, however calculations have been done at a scheme-wide level and the Applicant does not propose to undertake them at a district level. In addition, it would not be possible to achieve further net gain within Maldon District without further permanent land take. Land cannot be compulsory purchased for the purpose of biodiversity net gain alone.

The Applicant notes the third party's comments with respect to delivering new or replacement habitat as close to the proposed development as possible. With the exception of great crested newt mitigation which would be delivered by Natural England at a strategic level in order to maximise the benefits for this species, all ecological mitigation is being delivered within the Order Limits and so is close to the proposed development. Reptile mitigation sites are located along the length of the proposed scheme and would be connected in the long term through suitable habitat such as the verges of the new highway and would ensure maintenance of the reptile populations across the site. Mitigation of badgers and bat roosts is being delivered close to the setts and roosts affected, in locations agreed with Natural England. Mitigation for Whetmead Local Nature Reserve and Local Wildlife Site is being provided immediately south of the existing site. Offsetting for Perry's Wood has been sited to provide a benefit for connectivity with existing woodland, and ensuring the habitat is located outside of the Affected Road Network where it may be subject to nitrogen deposition.

With respect to the application of Policy N2 to Blue Mills proposed Local Wildlife Site, the Applicant's position is that as the area of the local wildlife site is not being affected, and that impacts would be mitigated through implementation of REAC commitment LV14 (replanting of the easement) there would be no requirement to provide compensation.

REP5-044-009

Sub-Part

3.5 At the Hearing, the Environment Agency (EA) emphasised the impact of the proposed culverting of waterways, in particular the main river catchments, and its impact on the travel of Otters. An Otter holt has been reported to be within the locality of the northern most Black Poplar tree and Otters have been reported at the Museum of Power in Langford, which is connected to

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

Applicant's Response

The Applicant acknowledges the potential otter holt within the black poplar at Blue Mills and the presence of otters in general along the River Blackwater. The Applicant notes Maldon District Council's comment with respect to otter at the Museum of Power in Langford, however this record is approximately 6km downstream of the Order Limits and would not be directly affected.

The Environment Agency have confirmed within their written representation [REP2-053] that 'replicating the existing structure will not create a barrier to fish or mammals' with respect to the proposed works to Ashman's Bridge which is the only crossing of the River Blackwater.

The confluence of the River Brain and the River Blackwater is approximately 50m from the potential otter holt with the black poplar. Proposed works to the Brain Bridge include widening of the structure, however the Applicant's assessment is that the widened structure would continue to be permeable to otters (see pages 120 and 121 of The Applicants Response to Written Representations [REP3-009]). The Applicant acknowledges the points made by Maldon District Council and refers them to Section 4.2 of the Technical Note on Proposals for Main River Crossings submitted at Deadline 6 [the Applicant's reference TR10060/EXAM/9.68]. In summary, evidence of otters was recorded east and west of Brain Bridge (as shown on Sheet 2 of Figure 2 within Appendix 9.10 Riparian Mammal Survey Report [APP-134]), suggesting this structure is currently permeable to otters and is therefore not a barrier to movement. The proposed widening of the structure would not reduce its permeability to otter (and other riparian mammals) – its large span and height would continue to support movement of these species.

REP5-044-010

Sub-Part

Botanical Surveys 3.6 As submitted within MDC's Deadline 4 submission [REP4-077], it is acknowledged that the Applicant has now established through botanical surveys that part of the woodland at Blue Mills Nature Reserve is 'wet woodland'. This is considered a priority habitat of moderate condition and parts of it are within the coverage of the proposed LoWS. It is welcomed that the Applicant has confirmed the Project has now amended its consideration of the wet woodland component as being of national value in accordance with DMRB LA 108.

3.7 At the Hearing, MDC's Counsel Ruchi Parekh, questioned the recent botanical surveys that have been undertaken at Blue Mills Nature Reserve and whether the relevant documents, including the Biodiversity Important Habitats Sheet [APP-223], showing the location of important habitats and the veteran trees, are to be updated. At the Hearing the Applicant stated they had no intentions of updating the documents and plans submitted. MDC are of the opinion this would not be in the best interests of Blue Mills Nature Reserve as a recommended LoWS and its ecological value would not be accurately represented on the plans submitted as part of the DCO application.

Applicant's Response

Figure 9.2 Biodiversity Important Habitats [APP-223] shows habitats of importance to biodiversity, including priority habitats. The woodland at Blue Mills is shown on this figure as 'lowland mixed deciduous woodland' and, as stated by the Interested Party, since undertaking botanical surveys, the Applicant has now confirmed that a portion of this habitat would qualify as 'wet woodland'. As priority habitats, both lowland mixed deciduous woodland and wet woodland are assessed as being of equal (National) value within the assessment (page 118 of REP2-025).

However, the Applicant does not propose to update Figure 9.2 Biodiversity Important Habitats [APP-223] as the reclassification of this habitat is documented through information submitted formally to the Examination including the Supplementary Botanical Report [REP2-027]. In addition, the purpose of APP-223 is to provide information, and it does not secure protection of habitats which is achieved through Register of Environmental Actions and Commitments (REAC).

The measures in the REAC [REP4-023] that contribute towards protection of habitats at Blue Mills are:

- 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.

In addition, and as mentioned earlier in sub-part 008 of this response, there is a new commitment (BI50) that has been added and will feature in the updated REAC as submitted as Deadline 6 [TR010060/APP/6.5] that further minimises impacts ecologically sensitive features within Blue Mills proposed Local Wildlife Site

REP5-044-011

Sub-Part

Blue Mills Nature Reserve Local Wildlife Site Designation 3.8 At the Hearing, MDC's Counsel Ruchi Parekh, posed the question as to how the sensitive habitat within the Blue Mills Nature Reserve would be safeguarded during the construction and operation of the Cadent Gas Main diversion.

3.9 MDC's Counsel, Ruchi Parekh, highlighted that MDC are aware the DCO would confer broad powers that allow for root pruning of trees, if considered reasonably necessary during the construction and future maintenance of the gas pipeline. MDC's Counsel Ruchi Parekh added MDC would want to see details of how those broad powers will be managed in respect of the gas pipeline, bearing in mind the acknowledged importance of the habitats at Blue Mills nature Reserve. 3.10 At the Hearing, MDC noted the information provided thus far has been extremely high level and vague, such that MDC cannot yet be confident about the absence of significant effects on Blue Mills Nature Reserve. MDC would like the Applicant to provide further details as to its mitigation plans.

Applicant's Response

The Applicant has provided details to confirm how habitats within the Blue Mills proposed Local Wildlife Site would be safeguarded during construction and operation of the gas main diversion within the Written Submission of Oral Case for Issue Specific Hearing 3 [REP5-020].

Work to be carried out to trees subject to Tree Preservation Orders including Maldon District Council TPO 07/22 Blue Mills are detailed within Part 4 of the draft DCO [TR010060/APP/3.1]. As per row 8 of the table, TPO 07/22 Blue Mills would only be subject to felling, pruning and lopping of branches. No work to roots are permitted.

The Applicant has provided a detailed explanation of why the construction of the gas main would not lead to significant effects on the Blue Mills proposed Local Wildlife Site within the response to sub-question REP5-044-007 above, including details on new REAC commitment BI50 [TR010060/APP/6.5]. The text below provides cross references and/or further explanation to each of the other components of Blue Mills.

Lowland mixed deciduous woodland priority habitat

Please refer to the response provided in sub-part 007 of this response.

Wet woodland priority habitat

As noted in REP3-018 (Applicant's comments on Maldon District Council's Local Impact Report), the botanical survey identified wet woodland UK BAP Priority Habitat within the Blue Mills proposed Local Wildlife Site (Supplementary Botanical Survey Report [REP2-027]). There is potential for effects on this site resulting from a loss of wet woodland and changes in hydrology. However, with the implementation of standard mitigation, and through implementation of commitment LV14 of the REAC [REP4-023] with respect to replacement planting along the easement of the gas main diversion, the effects are assessed as not significant. As per paragraph 9.11.91 in Chapter 9 [APP-076], there would be a net gain of 42.52ha of woodland habitat across the proposed

scheme, of which 8.93ha would be wet woodland. The working width for the installation of the gas main diversion would also be reduced as far as reasonably practicable through the woodland as per commitment LV15 of the REAC [REP4-023] and the routes of final utility diversions and the gas main diversion, and methods of construction, will be refined to retain as much existing vegetation as practicable, in particular mature vegetation and woodland as per commitment LV13 of the REAC [REP4-023].

Otters

Signs of otter activity were recorded within the survey area along the River Blackwater, including a potential holt, confirmed sprainting site, a potential couch, a potential slide, feeding signs and camera trap sightings. Evidence from Essex Wildlife Trust also suggests the black poplar is a potential otter holt. Depending on the alignment of the gas main diversion, there is potential for impacts to otters if using the potential holt at the time of construction.

It is anticipated that the trenchless crossing of the River Blackwater (LV15 in the REAC [REP4-023]) would avoid impacts to otters. Disturbance impacts would be temporary and of short duration. With mitigation, it is considered that there would be no long-term or significant impacts on the conservation status of otters within the proposed scheme or the wider Order Limits and therefore no change to the assessment presented within Chapter 9: Biodiversity [APP-076] is required.

The standard and embedded mitigation measures are detailed within Section 9.10 of Chapter 9: Biodiversity [APP-076] (and as committed to in the REAC [REP4-023]) of relevance to otters in particular:

- Pre-construction surveys using current best practice guidance would be undertaken for otter (commitment BI11 of the REAC [REP4-023]) due to the potential for wildlife to create new holts. These data would be used to inform mitigation licences where required.
- Ecological Clerks of Work (ECoW) would be employed where relevant to the works being undertaken (commitment BI2 of the REAC [REP4-023]).

- Following inspection by the ECoW, clearance of habitats within the construction area would be conducted under appropriate supervision where there is potential for impacts to protected species (commitment BI5 of the REAC [REP4-023]).
- Works would be timed to avoid sensitive periods for protected species where reasonably practicable and appropriate (commitment BI4 of the REAC [REP4-023]).
- Buffer zones around sensitive features such as confirmed otter holts would be implemented as directed by the ECoW (commitment BI9 of the REAC [REP4-023]).

Potential veteran black poplar

The botanical survey identified a mature female black poplar within the Order Limits [REP2-027]. The arboricultural survey confirmed that the mature black poplar qualifies as a potential veteran tree (i.e., a tree not formally designated as a veteran tree by the Woodland Trust, but assessed to qualify as a veteran tree) and as such would be assessed as a Nationally important receptor in accordance with DMRB LA 108 (note this supersedes the assessment of the tree being of County value based on the rarity of the black poplar as stated in the response to Examiners' Questions reference ExQ1 7.0.3 [REP2-025]). As per commitment BI48 of the REAC [REP4-023], the results of the arboricultural survey will be used to inform an appropriate control, whereby a combination of route and construction methodology would be designed to minimise the impacts on the black poplar and other sensitive features in this area. In addition, as per new REAC commitment BI50 subject to Tree Preservation Order 07/22 subject to Tree Preservation Order 07/22], the line and depth of the Cadent gas pipeline would be selected to minimise impacts on the black poplar. It is therefore considered that impacts to the black poplar would be avoided and are therefore assessed as not significant.

Mitigation plans

Commitment BI50 [TR010060/APP/6.5] to install the Cadent gas pipeline using no-dig techniques would avoid loss of trees within the woodland and proposed Blue Mills Local Wildlife Site and therefore there would be no impact to mitigate.

Mary Ann Lindsay**REP5-045-001****Sub-Part**

TR010060 – A12 Chelmsford to A120 widening scheme Mary Ann Lindsay and John Chilcott Lindsay Unique reference nos.: A12C-AFP653 and A12C-AFP654 Columbyne Cottage, Kelvedon Road, Inworth. CO5 9SH Title number EX525948 A transcript of our presentation to the ExA at CAH2 on 27

th April 2023 and supplemental to our

previous submissions. All of the comments in our response to Q2.5.7 still apply. However, we wish to emphasise that we remain extremely concerned and anxious about the effects of the scheme on our quality of life and our physical and mental health. Columbyne cottage is one of the most adversely affected residential properties. We are to be completely surrounded by National Highways' activities as the Examining Authority will have observed for themselves on their site inspection. We would like confirmation that our long established and maintained hedge along the B1023 will not be affected by the scheme. A recent trip along the A12 past the construction works for the new Margaretting Bypass made us realise the immense scale of the earthworks, the haul roads, the "laying down" areas and the huge machines that are involved in the scheme. We returned home feeling completely overwhelmed by the prospect. It seems that we are caught between two equally unwelcome and daunting prospects. Either, we wait to see if it is possible for us to tolerate the immense disruption and, if it proves too much, try to sell our house in the middle of a major road scheme. Or, we try to find a property now that equates to what we currently have and then navigate our way through the complicated and uncertain process of Discretionary Purchase. However, until we know what National Highways considers a fair value for Columbyne Cottage, we will not know what we can afford. Our meeting with National Highways' Senior Property Advisor was helpful in that it highlighted the various issues that need to be addressed but left us feeling that National Highways hold all the trump cards when it comes to negotiation unless we are prepared to engage, and pay for, agents to negotiate on our behalf. Discretionary Purchase therefore raises the prospect of yet more uncertainty, lengthy negotiations and also expense. Clearly, there is no straightforward solution to our problem but we ask that the Examining Authority reiterates our unfortunate position to National Highways and requires it to mitigate as much as possible the effects of the works and also to consider concessions with regard to the procedures governing discretionary purchase should the need

arise. On a more general note, as I said yesterday, I seriously question the reasons for building a completely new stretch of road parallel to the existing A12 between J24 (Kelvedon) and J25 (Marks Tey). The current A12 could be widened and improved within the footprint of the existing road thus saving a great deal of public money.

Thank you for giving me the opportunity to raise our concerns.

Applicant's Response

The Applicant met with the Interested Party on 15 March 2023 including with the National Highways lands team to explain the discretionary purchase process and to exchange contact details should the Interested Party have any questions or issues with the process in the future.

Parliament has given National Highways the ability to purchase properties that are outside of the Order Limits (offline) under Section 246 of the Highways Act 1980 where the owners have a pressing need to sell their property and are unable to do so except at a significantly reduced price as a result of a proposed road scheme. When selling to National Highways under discretionary purchase the owner / occupier normally pays their own surveyor's costs, legal fees and moving expenses.

The legislation set out in Section 246 of the Highway Act 1980 is applied to all National Highways road schemes in England. It is imperative that there is a consistent approach to the policy being applied across the country. The completion of a discretionary purchase application form is relatively straightforward and can be completed by the Interested Party without the need for specialist advice. It's only if / when the application is accepted by National Highways that specialist advice would be required to value the property and submit a claim.

The Applicant's Response to Relevant Representations RR-103-008 [REP1-002] states the Applicant will endeavour to avoid any interference with the hedgerow as it offers visual screening to the property. From an engineering perspective, it appears unlikely that the hedge would need to be disturbed. The Applicant will review the developing detailed design, with the intent, if practicable, of maintaining the hedgerow.

The Applicant acknowledges comments made by the Interested Party. Further details of the Applicant's responses to the Interested Party can be found in National Highways Deadline 5 Submission - Comments on responses to ExQ2 [REP5-003], in Q2.5.7.

The Applicant has prepared an Assessment of Alternatives, reported in Chapter 3 of the Environmental Statement [APP-070]. That document goes through the scheme history in choosing between online and offline widening back in the 2017 consultation through to the 2021 statutory consultation and subsequent consultations. All consultation reflects an evolution on design and alignments based on consultation responses. All responses to feedback received at consultation have been answered in Annex N of the Consultation Report [APP-062], to demonstrate how the Applicant has listened and evolved the design of the proposed scheme in accordance with suggested alternatives.

The A12 Chelmsford to A120 widening junctions 23 to 25 Preferred route announcement explains that two of the four options (Route 1 and 3) that went to consultation were to widen the existing carriageway between junction 24 and junction 25 and details that route 1 and 3 were not selected for the below reasons:

Route 1 followed and widened the existing A12 to three lanes in each direction between junctions 19 and 25. While there are some environmental benefits to widening the existing A12, by reducing impacts on previously undisturbed land, there were many concerns about the impact on local businesses and residents in Rivenhall, as this route would not provide a bypass. In addition, there were concerns that this route would not handle traffic and congestion as well as route 2, nor be as safe to construct. This route was only supported by 30% of respondents, as opposed to the 53% that supported route 2.

Route 3 widened the existing A12 between junctions 19 and 22 to three lanes in each direction. At junction 22, it left the existing corridor and created a new three-lane bypass in each direction to the south, running parallel with the existing A12 until junction 23 where it re-joined the current corridor. It then followed the existing A12 between junctions 23 to 25 where it widened to three lanes in each direction. While this route would have provided the popular bypass at Rivenhall, there were concerns it would not address the problems with private access onto the A12 between junctions 24 and 25. In addition, there were concerns that this

route would not handle traffic and congestion as well as route 2, nor be as safe to construct. This route was only supported by 12% of respondents, as opposed to the 53% that supported route 2.

Link to the A12 Chelmsford to A120 widening junctions 23 to 25 Preferred route announcement:

[a12chelmsfordtoa120wideningjunctions23to25-prabrochure.pdf \(citizenspace.com\)](#)

Mary Ann Lindsay

REP5-046-001

Sub-Part

A postscript to our presentation to the ExA at CAH2 on 27

th April 2023 and supplemental to our

previous submissions. We would like to reiterate our appreciation of the time and attention given by the Examining Authority to our case and the opportunities afforded to us to speak at the various hearings. Unfortunately we were not reassured by, or satisfied with, the response of the Applicant's representatives to our request for adequate mitigation measures to protect our home from the devastating effects of the scheme. The refusal to relocate the haul road means that we shall be subjected to constant noise and visual intrusion. The location of the lay-down area immediately opposite our cottage will mean visual intrusion, noise and disruption. We remain extremely concerned and anxious about the effects of the scheme on our quality of life and our physical and mental health.

Applicant's Response

The Applicant acknowledges the comments made by the Interested Party. Further details of the Applicant's responses to the Interested Party can be found in National Highways Deadline 5 Submission - Comments on responses to ExQ2 [REP5-003] in Q2.5.7.

The Applicant has provided more information in the First Iteration Environmental Management Plan Appendix C: Construction Compound Management Plan [REP4-025] at Deadline 4 which includes the standard layout of a laydown area as they would typically be planned on the proposed scheme. This is to give the Interested Party a visual aid of the mitigation measures that would be implemented at the Park Bridge laydown. This standard layout can be found in section C.4.1.

The Applicant will endeavour during detailed design to investigate further means of mitigating against the construction impacts on the Interested Party.

REP5-046-002

Sub-Part

With regard to our point about incurring fees should we feel compelled to apply for Discretionary Purchase and your question on this to the Applicant at Compulsory Acquisition Hearing (CAH2), we have had the following unsympathetic response from the Applicant's Senior Property Advisor, showing no recognition of our unique and very disadvantaged situation: "I know that there was a query concerning fees at last week's CA hearing. This is covered in the attached application form information the extract I have copied below for your convenience." We ask again that the Examining Authority requires the Applicant to mitigate as much as possible the effects of the works during and after completion of the scheme and also to reconsider concessions with regard to the procedures governing Discretionary Purchase should the need arise.

Thank you once again for giving us the opportunity to raise our concerns.

Applicant's Response

When selling to National Highways under discretionary purchase the owner / occupier normally pays their own surveyor's costs, legal fees and moving expenses. However, where the application is accepted under: Section 246 (offline property) on the grounds that the owner, or a dependant living with the owner has a pre-existing medical condition that will be severely

aggravated by the physical effects of the scheme, National Highways would reimburse reasonable surveyor's costs, legal fees and a disturbance payment in line with entitlements under the Compensation Code.

The legislation set out in Section 246 of the Highway Act 1980 is applied to all National Highways road schemes in England. It is imperative that there is a consistent approach to the policy being applied across the country. The completion of a discretionary purchase application form is relatively straightforward and can be completed by the Interested Party without the need for specialist advice. It is only if / when the application is accepted by National Highways would specialist advice be required to value the property and submit a claim.

Messing and Inworth Action Group Limited

REP5-047-001

Sub-Part

Messing and Inworth Action Group A12 Chelmsford to A120 Widening Scheme Application for Development Consent Consultation on proposed changes to the draft Development Consent Order Application. Reference; TR010060/Change Application Letter Response date; 17th April, 2023 MIAG are in receipt of the letter confirming the requests for the proposed changes to the submitted dDCO. Paragraph one. It is disputed and not agreed that the original dDCO is adequate and holds power to create an entirely new stretch of road between Feering and Marks Tye. MIAG firmly believes the original dDCO is incorrect and has no merit. It therefore follows that the opening paragraph is incorrect and not agreed in any form by the Examining Authority. MIAG believes and has illustrated that the creation of this entirely new stretch of road requires and separate NSIP and thus a separate DCO. Paragraph two. It is disputed and not agreed that there has been any 'consultation' that adequately addresses the concerns raised by individuals and stakeholders. Meetings arranged by the Applicant have been to tell any attendees what is going to happen, and at no time have the Gunning Principles established for proper consultation been followed by the Applicant. Paragraph 3. The Applicant advises they are seeking 6 changes. In this general statement the Applicant 'is not seeking to acquire additional land'. What does the Applicant propose to do with land and property it has already acquired and now no longer needs? What is the anticipated loss from the purchase and subsequent sale of blighted property? The relevant issues from the list of 6 are; Junction 24/Inworth Road B1023 – Removal of segregated left turn lane; MIAG believes that this is an inadequate, although probably life-saving, admission of error on the part of the Applicant. MIAG has repeatedly stated and proved the failings of the original design which the Applicant maintained had undergone full and detailed

review and was an integral part of the original design. MIAG asks what has changed for the Applicant, and why it has taken 24 months of pressure from MIAG for the Applicant to fail to admit its error? In admitting this error of design, MIAG firmly believes that all statistics, designs and justifications used by the Applicant for this roundabout, and its position, should be recalculated and reappraised. This must be done without confirmation bias and in the proper spirit of consultation as detailed in the Gunning principles. The Applicant has consistently failed to take account and acknowledge its failings. MIAG further states that this re-design removes the largely redundant Segregated Left Turn Lane (SLTL), which did not comply with Design Manual for Roads and Bridges standards in any case. There is also a variation in the geometry of the Inworth Road north approach arm. The centreline horizontal radius of 67.5 m has been increased to 75.0 m compared to the design submitted in the DCO application. Where is the notification of this change made apparent? Visibility; the Applicant has previously stated that Inworth Road Roundabout arms (except the new link to Junction 24), have been designed to Manual for Street Standards (MfSS), with regard to horizontal radii and stopping sight distance (SSD). The reason given for this is in order to give road users the impression that they are entering a village environment and will therefore drive more cautiously. MIAG are of the view that MfS standards are not appropriate for roundabout approach roads in this rural location where there are open fields, and with no built frontage that would give road users the impression of being in a village. Essex Highways are also of the view that the Design Manual for Roads and Bridges (DMRB) is the appropriate standard to be used for the roundabout approach road designs in this case. It is expected that Essex Highways will adopt this roundabout (except the link road to Junction 24), and therefore the correct design standards to be used should be those of The Essex Design Guide. The Essex Design Guide refers to other design standards, including MfS and DMRB. There are however some supplemental requirements in The Essex Design Guide which modify the requirements of the other documents referenced. One of these requirements relates to the use of the Table 7.1 "Derived SSDs for Streets" from MfS. Due to the very short lengths of SSD given by Table 7.1, The Essex Design Guide states that for any layout promoting these values they should be accompanied by appropriate speed restraint measures. No such speed restraint measures appear to have been proposed in the Applicant design for Inworth Road Roundabout. MIAG are concerned about the low values of SSD on the approach to and exit from the roundabout. The arm connecting to Inworth Road north of the roundabout is of particular concern and MIAG do not feel confident that even the value of 43m SSD has been achieved for this arm. In fact, the proposed back of verge and earthworks appear to encroach into the Park Farm boundary. Inadequate SSD checks carried out by the Applicant only continue as far as the tie in of the new works with the existing Inworth Road. This does not show the full effect of the new works on SSD. If SSD checks are continued further along Inworth Road a 43m SSD line would be obscured by the existing brick wall on the boundary of Park Farm. Over this length, visibility values at 5m intervals were measured, the results were as follows: 40.5m, 37.2m, 34.2m, 32.3m, 33.2m. This would indicate a length of about 30m of the alignment where the claimed 43m SSD is not achieved. What makes this even more worrying for MIAG is that there is an entrance to Park Farm immediately following this reduction in available visibility. This would make access and egress extremely hazardous for residents of Park Farm when

vehicles approaching after leaving the roundabout will have very little forward visibility. Exit visibility for Kelvedon Road, the eastern arm of the roundabout, does not seem to have been considered at all. In this case, values of SSD would fall to as low as 26m, with the 43m long visibility line crossing the DCO boundary into the adjacent property. Oddly for approach roads that are supposedly designed to MfS standards for visibility, the Applicant have shown what at first sight appear to be DMRB standard forward visibility lines on the approach to the give way lines. Forward visibility lines of approximately 70m length (suitable for a 50kph design speed), have been shown for the Inworth Road arms to the north and south of the roundabout and for the Kelvedon Road approach. This degree of visibility would not be compliant with DMRB standards. MIAG believes the Applicant has not applied consistent logic or approach and is using convenient and inappropriate design standards to justify their flawed design. Even this length of forward visibility would not be available from 1.5 x SSD distance in advance of the give way lines for these arms, as required by CD 109 paragraph 2.13 (6) (DMRB). MIAG believes the reason for showing this information is to re-create the false narrative surrounding the viability of this design and to obscure its failings. The Applicant does not appear to have related the design to any particular or recognisable consistent standard. MIAG therefore challenges not only the amendment requests contained in the Application Consultation but fundamentally challenges the original design of this roundabout. Drainage works associated with B1023 Kelvedon Road at Inworth; What additional information has been discovered by the Applicant? Why has it taken so long to discover this and what are the various findings and details of those research activities? The Applicant does not detail any findings and resorts to sweeping assertions and biased confirmations of the decisions made. MIAG is aware of this constant confirmation bias in all the actions of the Applicant, and requests clarification and justification for a proposed fifty per cent reduction (4 to 2) in Drainage Ponds and a reduction of just under fifty percent (in quantum) of Flood Mitigation Areas? The reduction in size of the 2 of the remaining ponds is also challenged as effectively creating over fifty percent net in reduction in this mitigation. This is of such substantial scale as to be questioned in the original design, and that reliance on those original surveys calls into question all subsequent statistics and designs based on erroneous input. (See also the notes on the contradictory evidence contained in the Applicants Technical notes and maps (below)). MIAG wishes to see the original justification for these mitigations on a comparative assessment chart with the 'new' requirements. MIAG can see no rationale at this stage for the action of the Applicant. MIAG also wishes the Applicant to clarify why the original dDCO was submitted with such wildly inaccurate and misleading statistics. ** It is also of note that the substance and materiality of the changes is being handled by the Applicant in just four and a half hours of webinar and with no other planned presentations. This is dismissive of the importance of the entire dDCO process, and further endorses the view that this is not 'consultation' but merely an exercise in instruction. ** Consultation documents specifically addressed in the proposed changes letter. Map Book 4. Flood Mitigation and Damage; This is simply diagrammatical illustrations of what the Applicant proposes. It serves no other purpose than to justify a decision the Applicant appears to have before any 'consultation'. See extensive written representations from stakeholders including MIAG about all 'consultations' undertaken by the Applicant and all breaches

associated thereto. Flood Mitigation and Drainage Technical Note; This document outlines several types of survey and the rationale to use them. MIAG questions why this was not done in the preceding 24 months of survey and investigation work. This is of special significance regarding failing existing drainage routes. These have been consistently brought to the attention of the Applicant through detailed diagrams, plans and photographs, and equally consistently ignored. There is no detail of the results and no attempt to explain the failings of the original design and the changes made. Again, the document seeks to justify a decision apparently already made, but with no technical and comparative information. It is of note that the Applicant uses as justification the 'reduced impermeable pavement' which means that mitigation can be equally reduced. However, in direct contradiction of this, the Applicant also notes there is 'only a slight decrease in the final footprint'. This is contradictory and false justification used to enforce the confirmation bias from the Applicant. The design remains fatally flawed. Map Book 5: B1023 Roundabout; This series of maps makes no attempt to be anything other than justification for the determination to drop the SLTL. This has been advocated by MIAG in the face of considerable opposition from the Applicant. MIAG now considers that all statistics and information used by the Applicant are called into question as this fundamental design flaw and perilous safety hazard was ignored for at least 14 months by the Applicant. (See the extensive notes above about the continuing flaws and errors in design and design standards and overall operational assumptions made by the Applicant). B1023 Roundabout Technical Note; This technical note continues the theme of confirmation bias and shows no engagement with the errors in design standards used (qv above), shows no recognition of SSD faults (qv above) and, amongst many other assumptive assertions, fails to recognise the fatal flaws in the mixed use of various design standards and the incorrect application of those standards to the overall design. MIAG has consistently pointed to the errors in this design, and the removal of the SLTL indicates that the original design, and all associated statistics, are invalid, and the design should be dismissed. The Applicant avows that the overarching determinant for the design of this roundabout is that it 'operates safely'. MIAG has demonstrated the multiple failings of design, multiple failings to heed safety warnings and multiple failings to reasonably consult, which have led to this botched, fatally flawed and absolutely NOT safe design. Prepared by MIAG. Submitted to the Examining Authority Sent to national Highways 'The Applicant'

Applicant's Response

The Applicant notes that this submission is a copy of Messing and Inworth Action Group's response to the Development Consent Order Change Application Consultation. The Applicant has responded to this submission in Annex F of the Consultation Report to the consultation [AS-075].

Mr Mark David Cathcart

REP5-048-001

Sub-Part

Your ref: PINS ref TR010060 Our ref: Interested Party number 20033024 Letter served via portal

Dear Sirs

Submission to the Planning Inspectorate in respect of the proposed Cadent gas pipeline diversion near Witham (TR010060 A12 Chelmsford to A120 Widening Scheme – Gas Pipeline Diversion) Procedural Deadline 5 – Comments on further information received – 10 May 2023

Further to a site meeting at Blue Mills between ourselves and Cadent's technical design officer, environmental officer and tunnelling specialist on 22 March 2023, we write to express our support for the route corridor and tunnelling construction method proposed by Cadent for this section of route. We understand it to be Cadent's preferred option. The route corridor surveyed crosses the river Blackwater to the north of the Blue Mills nature reserve (area of Local Wildlife Site citation) and passes between the veteran black poplar otter holt and the confluence of the Brain and the Blackwater. This is illustrated in Figure 1 below. It coincides with the preferred routing we put forward in our deadline 2 submission.

FIGURE 1 ~-##SEE ORIGINAL DOCUMENT FOR IMAGE##~- REP5-029

We support this route corridor because it safeguards the following ecological assets in the Blue Mills Local Wildlife Site citation area:

- The veteran black poplar

1 with an otter holt2 in the hollow at its base. The Black Poplar is assessed to be of national importance and otters are a European Protected Species.

- The wet woodland area

3, which is a UK Biodiversity Action Plan priority habitat, and is assessed to be of national importance. • The strip of mature predominantly oak woodland to the east of the area, assessed as Category A woodland

4. • All transitional veterans, notable trees and category A trees noted in the Arboricultural Report for Blue Mills

5. Some of the oak trees in the woodland are estimated to be 350-400

years old

6, the tallest reaching a height of 23 metres7. • The area of reed and sedge-bed

8 in the centre of the Local Wildlife Site citation area which straddles the southern edge of the DCO corridor. • The tall mature oak nest trees of a breeding pair of red kites

9. We also support this route corridor as it avoids cutting through the strip of Category A woodland, (also assessed 'a high quality arboricultural feature'

10), thereby avoiding any visual impact on the

nearby Ishams Chase footpath.

We support the tunnelling construction method proposed as it narrows the width of the route corridor required, causes negligible vegetation loss, and minimises disturbance to wildlife, most notably in respect of the otter holt.

Applicant's Response

The purpose of the site visit was for Cadent to assess trenchless installation feasibility/constructability only. Numerous routes were considered between the Cadent team members at the site visit, all being confirmed as feasible from the visual survey carried out.

Cadent have expressed that they also believe trenchless installation is the most favourable methodology of construction in this location and are opposed to an open cut method of construction. The exact route and the locations of the trenchless crossing or crossings are however yet to be determined. We expect Cadent to confirm their preference as detail designs progress over the coming months.

Additionally, a new commitment has been added to the Register of Environmental Actions and Controls (REAC) at Deadline 6 [TR010060/APP/6.5]. This states that 'The Cadent gas pipeline, Work No. U69, would be installed using no-dig techniques underneath the River Blackwater and the woodland subject to Tree Preservation Order 07/22 at Blue Mills proposed LWS (see Figure 1 - Woodland TPO at Blue Mills proposed LWS). The line and depth would be selected to minimise impacts to the woodland protected by the Tree Preservation Order, the proposed Blue Mills Local Wildlife Site, the black poplar and otter holt at grid reference TL 83264 1361, and transitional veteran trees T2045 and T2078 as identified in the Supplementary Arboricultural Survey Report [REP3-008].'

The Applicant notes that the area of the Blue Mills proposed Local Wildlife Site shown within Figure 1 of the Interested Parties' representation [REP5-048] reflects the initial site boundary proposed by Maldon District Council, however the Applicant has recently confirmed with the Council that the boundary has been revised and we enclose a copy of the revised citation with Appendix B (Blue Mills proposed Local Wildlife Site boundary) of this document.

Nigel Free	REP5-049-001
Sub-Part	
<p>Dear Highways</p> <p>(A12 Chelmsford to A120 widening Scheme TR010060 9.43 TECHNICAL NOTE ON DE-TRUNKING PROPOSALS)</p> <p>I wish to raise a point in relation to the de trunking of the A12 North/South bound between Feering and Marks Tey. Having received information regarding the re purposing of the old A12 to segregated footway and cycle track on the existing northbound carriageway and then the south bound side to become single carriageway with the proposed roundabouts removed and replaced with T junctions.</p> <p>You state there is there are six private property accesses, one business with separate entry and exit accesses and one local road (Domsey Chase) that connect with the northern side of the existing travel corridor between Feering and Marks Tey. My concerns is we may have been missed of the plans as we are the next set of property's north bound from the services which is made up of the Esso, Burger king etc. We are a large farming business with large amounts of vehicle in and outs made up of HGV and agriculture movements. There is in fact four private dwellings down our lane from the A12 including our farm.</p>	
Applicant's Response	
<p>The Applicant acknowledges the Interested Party's concerns. The de-trunking proposals referenced are not those proposed by the Applicant or included within the application for Development Consent. As proposed by the Applicant, access for properties fronting on to the section of the A12 that is to be detrunked will be very similar to the current situation. The main change is that access will be on to a route that no longer forms part of the strategic road network.</p> <p>The de-trunking proposals referred to are those that are being suggested by Essex County Council.</p>	

REP5-049-002

Sub-Part

My concerns are very strong on how we will connect to the south bound part of the de trunked A12? There is little information making it clear if we will have our access opened up opposite the farm lane entrance and we will cross the pedestrian part or be made to travel along the north bound side until reaching a turn point. I am quite sure we will not be accepted in the later use with cycles, pedestrian and horse user.

Yours sincerely

Mr N Free

Applicant's Response

As explained in response to REP5-049-001, the Applicant is not proposing to convert the de-trunked A12 into a single carriageway with active travel corridor. The purpose of the Technical Note on De-trunking Proposals [REP4-057] is to assess the proposal put forward by Essex County Council for repurposing part of the existing dual carriageway. The Applicant maintains that the Applicant's proposal to retain the dual carriageway as shown on the De-Trunking and Stopping Up Plans [APP-026] and to hand over the de-trunked A12 to ECC in a safe and serviceable condition is the most appropriate solution, for reasons including that such an approach reduces impacts on those accessing this length of the existing A12.

In the Applicant's proposals, access to the Interested Party's property will not be significantly affected as the existing northbound carriageway will remain as a dual carriageway. The existing left-in left-out movement will remain to provide access from the property on to the de-trunked A12. The Applicant is proposing a roundabout at the junction with Easthope Road which the Interested Party can use to access the de-trunked road to travel southbound towards Feering rather than driving to Marks Tey to access the southbound carriageway as is necessary today.

**Shoosmiths LLP on behalf of
Parker Strategic Land and
Henry Robert Siggers**

REP5-050-001

Sub-Part

1. INTRODUCTION 1.1. This summary is provided on behalf of Henry Siggers (“Mr Siggers”) and Parker Strategic Land Limited (“Parker”). It relates to the proposed A12 Chelmsford to A120 widening scheme (the “Scheme”) being promoted by National Highways (“NH”) by way of an application for a Development Consent Order (the “Order”).

1.2. We refer to our Written Representations which outline our clients’ interests in the Order land and their serious concerns with the Scheme and our written comments submitted at Deadline for [REP4-095]. The central theme of our submissions to date is that the Applicant has failed to make a sound case for compulsorily acquiring our client’s land for use as borrow pit I either permanently or at all.

1.3. The Applicant has had a number of opportunities to make good this case and relevant documents to date include:

1.3.1. The Borrow Pit Report [APP-278] 1.3.2. The Borrow Pit Supplementary Technical Note Rev 1 [REP1-011]; and 1.3.3. Borrow Pits Costs Information [REP3-023].

1.4. The ExA rightly noted that the Applicant’s case on the need for borrow pits and the extent of such required further elucidation and this featured as Agenda Item 6 at ISH3.

1.5. Our case is that the Applicant has still failed to make a sufficiently clear or compelling case to justify the compulsory acquisition of this land.

Applicant's Response
The Applicant notes the Interested Party's comments.
REP5-050-002
Sub-Part
<p>2. SUMMARY OF ORAL CASE AT ISH3 2.1. Compulsory acquisition of land should be demonstrably a measure of last resort. Having reviewed all information to date, the Applicant has not made out this case in relation to the borrow pit sites and Site I in particular.</p> <p>2.2. The sums do not demonstrate that there is any need to acquire this land. The stated need for materials is 600,000m³ (without needing to backfill Coleman Farm Quarry) [REP1-011 para 4.1.1]. However, the Applicant proposes to acquire sufficient land to generate some 900,000m³ across four borrow pits, with an additional 300,000 available in borrow pit J [APP-278 para 6.4.14] leading to a total of 1,200,000m³ – double the stated need for materials [APP-278 paras 6.1.12, 6.2.11, 6.3.13 and 6.4.14]</p> <p>1.</p> <p>2.3. Considering the figures proposed within the Applicant's submitted written materials to date, Borrow Pit J alone is capable of meeting the entire need for the development.</p> <p>2.4. Even with an allowance for a contingency to be supplied by borrow pits, compulsory acquisition of all four sites far outstrips a reasonable supply and demonstrates an absence of need to acquire all relevant land within the order.</p>

2.5. The Applicant's approach also assumes all need would be met from borrow pits alone, however, this principle is not supported by robust need evidence either. Our previous written representations have already highlighted the Applicant's own willingness to secure 650,000m³ from the open market as part of the planned approach to backfilling the quarry, also confirmed by the Applicant's comments to ExQ2 [9.41, REP4-055 p.31]. This establishes the principle that materials can reasonably be sourced from outside the order limits. Whilst the Applicant does not prefer this as an option, it is still an option which could equally provide for a contingency should the Applicant require one over and above those materials to be won from Pit J.

2.6. The Applicant's alternatives assessments [REP1-011] and the Borrow Pit costs Report [REP3-023] both take an "all or nothing" approach to assessing supply of materials and do not consider a balance to be struck between on-site pits – acquired compulsorily- and open market supply. A balanced approach has the potential to provide the Applicant with certainty and lower costs whilst minimising compulsory land take to that which is demonstrably necessary and proportionate.

2.7. In so far as cost is a good reason alone for preferring borrow pits, the submitted information does not justify this approach at all. The Costs Report [REP3-023] falls far short of clear evidence to demonstrate that external suppliers would be prohibitively expensive as in that document, all costs from external suppliers are redacted, rendering the report all but meaningless. As all external cost lines are redacted there is simply no information on how much this would cost and so no meaningful comparison can be drawn between open market costs and on-site costs, nor can IPs interrogate the accuracy of cost assumptions made.

2.8. The Applicant asserts that the report provides "the gist", however, it demonstrably does not. The "gist" should allow the reader to establish that one option is more or less costly than another. By redacting all figures from the open market options the reader has no information at all on this as an option so no comparison can be made. Whether the Applicant is required to publish this information for the purposes of EIR or FOI regulations is not the only angle to consider this. The Applicant seeks to persuade the ExA that the costs of open market supply are so high that it can justify instead interference with property rights by compulsory acquisition. However, unless costs for open market supplies are actually provided, it simply cannot evidence this argument, leading inexorably to the conclusion that the Applicant has not established its case for compulsory acquisition.

2.9. The Applicant's approach to alternatives focuses upon whether the approach is sound in environmental terms i.e. it is approached this issue from an EIA perspective. This is fine in so far as it goes but this approach falls short of demonstrating that all of the land is truly required so that compulsory acquisition can be justified. To the contrary, the Applicant appears to have approached the acquisition of land for borrow pits as a first choice rather than as a last resort.

2.10. Nor has permanent acquisition been justified. Temporary rights would secure access to the necessary minerals, after which the land is not required for the operational phase of the scheme. The Applicant has persistently stated that it would be open to temporary acquisition but no amendment to the draft DCO has been proposed and no meaningful engagement has been made towards reaching a private agreement on this point.

Applicant's Response

The summary of the oral case brought by Shoosmiths LLP on behalf of Parker Strategic Land and Henry Robert Siggers has been responded to in the Applicant's written submission of oral case for Issue Specific Hearing 3 [REP5-020] in sections 6.3 and 6.11.

The Applicant responds using the Interested Parties' numbering:

2.1

The Applicant has demonstrated the need for the borrow pits across the several reports entered into examination and that they have a genuine purpose connected with delivering the proposed scheme as efficiently as possible to secure the benefits of the scheme. This is set out in the Borrow Pits Report [APP-278] Section 2.4.

At a strategic level all reasonable alternatives have been fully explored as set out in the Borrow Pits Supplementary Technical Note [REP1-011] Section 4, which has led to the selection of borrow pits to deliver the identified earthworks material deficit.

Section 5 of the same report includes the assessment of potential borrow pit locations to determine the most suitable locations from a range of alternative sites demonstrating a thorough and robust approach to site selection.

Borrow pits are needed to deliver the benefits of the scheme, in order to construct it in a way that is both proportionate and in the public interest by:

- reducing environmental impacts during construction
- minimising the cost to the Applicant (and hence the public purse)
- mitigating the impact on affected land interests

The benefits of the scheme are detailed in the Case for the Scheme [APP-249].

Achieving these benefits within the proposed scheme budget and programme maximises the intended outcomes for the public benefit, outweighing the private loss of farming activities or any potential future development prospects which may appear following the delivery of the proposed scheme.

The compulsory acquisition of land for borrow pits is necessary:

- To reduce the cost of the construction of the scheme
- To secure the quality and quantity of material required to construct the proposed earthworks
- To deliver certainty of the scheme programme (linked with cost, Open for Traffic date and design year)
- To minimise the traffic impacts from construction activities and its related environmental impacts such as greenhouse gas emissions.

The extent of land take required is proportionate with the quantity of material that is required to be won to meet the scheme earthworks deficits, allowing sufficient space to extract the material, process it and mitigate impacts associated with its extraction.

The borrow pits are located specifically to suit the deficit areas identified within detailed volume calculation activities and have been honed down to an essential number/location of borrow pits. Therefore, no more land than is needed is being subject to compulsory acquisition. For example, land has not been acquired specifically for the contingency backfilling event at Coleman's Farm Quarry.

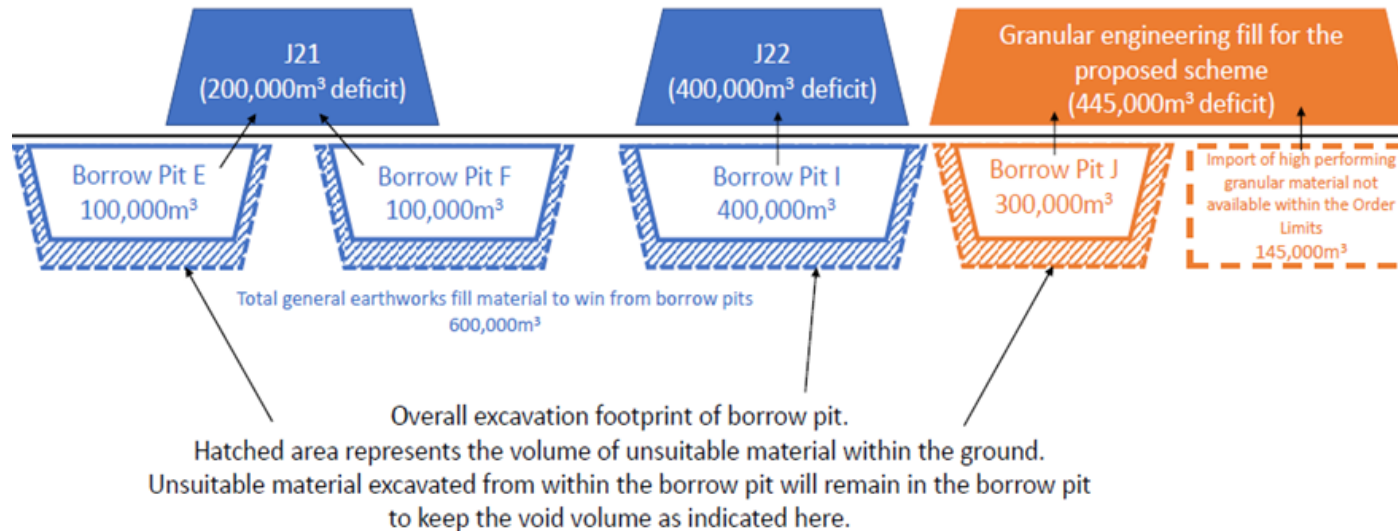
The Applicant is in the process of negotiating acquisition of the land needed for borrow pits by agreement, but this has not yet been reached. Furthermore, the Applicant has sufficient funds available to acquire the land and compensate landowners in the event that compulsory acquisition is required.

LEGITIMATE REASON FOR BORROW PITS

Several design constraints have resulted in a highway alignment with an imbalance of earthworks material required to construct the proposed scheme embankments. Specifically, this constitutes an earthworks material deficit in the order of 600,000m³ of general earthworks material, shown to exist at the proposed junctions 21 and 22, as well as a need for 445,000m³ of granular engineering fill material needed throughout the scheme.

The deficit and its recovery plan can be broken down as follows:

Plate 2.2 A12 Proposed Scheme Earthworks Deficit Plan



BORROW PITS ARE NECESSARY FOR DELIVERING THE SCHEME

Without borrow pits the proposed scheme earthworks materials deficits would have to be met by importing material from external sources. The most reliable of these sources are existing quarries with the available material quantity, being within a suitable distance to road haul the material tempered by the availability of haulage vehicles to meet the needs of the scheme as well as the quarry business. A less reliable option is to import construction and demolition wastes from other local schemes.

As demonstrated in the Borrow Pits Supplementary Technical Note [REP1-011] Section 4, external construction project sources cannot be relied upon to secure the quantity and quality of material required or ensure it is available exactly when required. Whilst the quarries could be relied upon, the feasibility of using these as key sources of fill material for the proposed scheme are uncertain because of the availability of the target material, coupled with the cost and the rate at which it can be supplied to the deposition location. This carries a significant risk to the proposed scheme programme with substantial cost risk from delays that could be incurred.

Relying on these sources increases costs associated with the import of earthworks materials significantly (by as much as £25M) because of the cost of procuring the material from the market and the indirect construction costs associated with transportation and placing of material, including the necessary construction mitigation to make this option achievable. This will have a direct bearing on the costs for the proposed scheme. See the updated cost information in the Borrow Pits Summary Report [REP5-015] Section 5. Further to this point the slower rate of import will lengthen the proposed scheme programme duration increasing the risk of failing to meet the Open for Traffic (OfT) dates published and the assessed design year.

Relying on operational quarries, supplying primary aggregates, for the supply of earthworks material will underutilise the quarried mineral for a significant portion of the required deficit, which goes against one of the key principles for transitioning to a circular economy.

A significant portion of excavated material that does not meet the engineering requirements for use on the scheme (geotechnically unsuitable materials) will have to be exported as construction waste, most likely to landfill. Landfill is a finite resource, and the disposal of waste to landfill results in a continued need to expand existing, and develop new, landfill facilities resulting in adverse impacts on the natural environment. Disposing of this material to landfill would conflict with the Principal Contractor's duty under the Waste (England and Wales) Regulations 2011 to, on the transfer of waste, take all such measures that are available to it as are reasonable in the circumstances to apply the following waste hierarchy as a priority order – prevention, preparing for reuse, recycling, other recovery and disposal.

The traffic impacts associated with this scale of import/export from external sources would further detriment road users from increased HGV movements accessing construction areas directly from the A12 affecting journey time reliability, increasing the risk of road traffic collisions and increasing other associated health and safety risks to the workforce and general public. It also carries environmental impacts from increased greenhouse gas emissions associated with the greater distances road haulage lorries are required to travel to win the material.

COMPULSORY ACQUISITION IS PROPORTIONATE

Land required for excavating and managing a borrow pit is discussed in the Borrow Pits Report [APP-278] in Section 3 and further developed in the Borrow Pits Summary Report [REP5-015] in Section 2.2. The Applicant has determined the land required in consultation with earthworks specialists to ensure suitable land is available to manage borrow pit activities including the environmental impacts on receptors such as groundwater. Land is only being acquired to meet the material deficit identified (600,000m³ general earthworks fill material and 300,000m³ of locally available granular engineering fill material) in the areas required to meet it as efficiently as possible. Land has not been acquired specifically for the low risk contingency event of backfilling Coleman's Farm Quarry.

As the borrow pits cannot be restored to existing ground levels, the inability to restore the worked areas to their former ground levels means the use of temporary possession powers in the Development Consent Order (DCO) would not be possible. This then requires the land to be compulsorily acquired, unless agreement can be reached with the owner that restoration to existing levels is not necessary.

2.2

The volumes justifying the need for the land for borrow pits has been graphically represented in the Borrow Pits Summary Report [REP5-015] in Plates 2.1 and 2.2 to further clarify the figures that have been stated in the earlier submissions. The stated need of 600,000m³ of general earthworks fill material is correct, as shown in Plate 2.1. However, when totalling the volume of material

to be won from borrow pits on the proposed scheme, it is important to note the further (separate) need for granular engineering material of 445,000m³ (300,000m³ of which is to be won from Borrow Pit J and 145,000m³ of high performing aggregates that are not available within the Order Limits are to be imported).

Ignoring the contingency need to backfill Coleman's Farm Quarry, as mentioned by the Interested Parties representative in question 2.2, the need from borrow pits therefore totals 900,000m³ (600,000m³ general earthworks material and 300,000m³ of granular engineering material) as demonstrated in Plate 2.2.

Plate 2.2 demonstrates how the 900,000m³ need will be met by the borrow pits:

- 100,000m³ – Borrow Pit E (general earthworks fill)
- 100,000m³ – Borrow Pit F (general earthworks fill)
- 400,000m³ – Borrow Pit I (general earthworks fill)
- 300,000m³ – Borrow Pit J (granular engineering fill)

The additional 300,000m³ of material referred to in paragraph 6.4.14 of the Borrow Pits Report [APP-278] is part of the contingency plan to backfill Coleman's Farm Quarry (as the paragraph states) which is separate to the above need and is not required for the general fill or granular engineering fill material need described above.

In summary the total volume required from borrow pits is 900,000m³ and the land required within the Order Limits allows for 900,000m³ of material to be extracted.

2.3

Borrow Pit J alone is not a suitable replacement for removing other borrow pits on the proposed scheme. As stated in the above response to 2.2 and 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. Refer to Appendix A in 'Written submission of oral case for Issue Specific Hearing 3 (ISH3) [REP5-020] for clarity. 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 (if not required for Coleman's Farm Quarry), but as the Applicant has described in the response to REP4-095-003 within Applicant's Comments on information received at Deadline 4 [REP5-002], 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 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 junction 21.

2.4

The Applicant has shown that based on the volumes calculated, the land required for borrow pits is justified as presented in Appendix A in Written submission of oral case for ISH3 [REP5-020].

- 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.

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 earthworks fill material and granular engineering material and where these deficits lie on the proposed 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.

2.5

As explained in section 2.3 above, Borrow Pit J is required for granular engineering material (and for the restoration of Coleman's Farm Quarry, if necessary) and therefore would not meet the requirement for general earthworks fill material. This makes redundant the Interested Parties' point because if only Borrow Pit J was used, additional material would need to be imported from external sources. It is wrong to suggest material additional to Borrow Pit J would only be required for a contingency event.

The Applicant's approach to supplying the earthworks material deficit comes as a result of an extensive assessment to determine the best way to construct the scheme that is both proportionate and in the public interest by:

- reducing environmental impacts during construction
- minimising the cost to the Applicant (and hence the public purse)
- mitigating the impact on affected land interests

This has led to the selection of borrow pits as the most suitable option. The planned approach, and the contingency allowance made for backfilling Coleman's Farm Quarry is summarised in Plate 2.3 of the Borrow Pits Summary Report [REP5-015] included here to clarify the volumes:

In regard to the contingency volume being used as a planned approach to supplying the earthworks deficit, this is covered in detail in the Applicant's response to ExQ3.5.10, which summarises that:

- The alternative sources of supply for the required material are either not reliable, or are expensive and considered as an inappropriate use of primary aggregates, and therefore cannot guarantee that the proposed scheme could be delivered if relied upon solely.
- The impact on local traffic and the climate would be significantly adversely affected by the volume and frequency of road import lorries required to meet the proposed scheme deficit.
- The cost of the proposed scheme would be significantly increased, by as much as £25M.

2.6

The Applicant did consider pursuing a 'blended' approach and given the significant additional cost and environmental impact difference between using borrow pits and importing from external market sources, it was concluded a 'blended' approach would only increase cost and traffic/environmental impacts from a solution solely using borrow pits. For example, in its most basic form in regard to cost:

- 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 would not change

much at all because it is predominantly driven by the high cost of procuring (including transport) the material from the suppliers.

- 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, for example

50% Borrow Pits at £35/m³

50% External road import at £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.

Similarly, from the greenhouse gas (GHG) emissions calculated in the Applicant's Comments on Responses to ExQ2 - Rev 2 [REP4-055] part 2.14.1, it can be seen the emissions calculated for external road import are so much higher than those for using borrow pits. There will not be a better scenario than that provided by using borrow pits on the proposed scheme. 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. 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 journey.

Using the above example of 50% of material to be won from borrow pits and 50% to be won from external sources, the average return haulage distances from source to deposition location could be 4km and 100km respectively. This increases the overall mass haul distance by over 25 times (from circa 150,000km to over 3.8 million km) for this material.

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. Furthermore an increasing reliance on road import from external sources will:

- 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.

Therefore considerable mitigation would likely be required to avoid a consequential delay to the delivery of the proposed scheme, making it more expensive to deliver the earthworks, with associated increases in overall preliminary costs.

2.7 and 2.8

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 the Borrow Pits Summary Report [REP5-015] Section 5 and presents 'the gist' of how the final cost figures have been reached clearly demonstrating the cost benefits of using borrow pits within the Order Limits to meet the material deficits presented.

The borrow pit cost information presents the factors involved in generating the cost for each option considered. It is not impossible for the Interested Party's representative to gain approximate market cost rates of supply to establish that the costs presented are fair and reasonable. It should also be noted that it is not solely the costs of open market supplies that leads the cost of import from external sources to be significantly more expensive than the preferred option. The information presented in Appendices A and B of the Borrow Pits Summary Report [REP5-015] shows that the indirect construction costs of preliminaries and other overheads are significantly greater than those of the borrow pits option. This represents, in part, the programme impacts of having to rely on road import from external sources. Physical constraints such as access and egress from the road network and the number of road lorries available on a day-to-day basis contribute to the slower rate of import that is borne through this import option.

Similarly, the Contractor's risk allowance and the Applicant's portfolio risk inclusions are also significantly higher than that presented for the borrow pits option. This represents the cost impact of not being able to secure the material within the DCO and the allowance for factors outside of reasonable control, such as the vagaries of supply of imported material and availability within the market.

The Applicant has therefore justified that the overall cost of open market supply as well as other potential external sources of supply are significantly more expensive than the proposed use of borrow pits and this provides a clear and compelling case to justify the use of compulsory acquisition powers.

2.9 and 2.10

The acquisition of land for borrow pits to meet the proposed scheme earthworks deficit has come as a result of an extensive assessment to determine the best way to construct the proposed scheme as described in the response to question 2.5 above. The options to meet the earthworks volume deficit were considered in the early stages of delivery strategy development, which determined that borrow pits are necessary for delivering the proposed scheme. Hence, it is not a question of 'first choice' or 'last resort', but is the most efficient and effective method (considering all facets of cost/programme/environmental impact) for meeting the deficit. Judgements of this nature are required when planning the delivery of a Nationally Significant Infrastructure Project.

The compulsory acquisition of land has been justified by the compelling case given in the response to 2.1 above. The Applicant has demonstrated a genuine purpose for the land, connected with the scheme, as well as defining the need from the calculated deficit volumes and assessment of alternatives. The above response also clarifies why the four borrow pits selected are required to meet the proposed scheme need and that the land take applied for is justified for the activities of excavating materials, based on the ground investigation information.

Temporary acquisition of borrow pit land is not immediately suitable under the DCO as the ground levels will be substantially changed by borrow pit activities, which is why permanent acquisition is sought through the DCO. However, the Applicant remains keen to negotiate a voluntary agreement to temporarily use the land.

REP5-050-003

Sub-Part

3. SUMMARY OF ORAL CASE AT CAH2 3.1. Mr Siggers and Parker continue to strongly object to the proposed compulsory acquisition of their land for use as borrow pit I either permanently or at all.

3.2. The reasons for our objection have been previously set out in our client's written representations and oral submissions at CAH1 and ISH3. We refer you to those submissions here.

3.3. However, we would also make the following points: 3.3.1. Little consideration has been given to the fact that the proposed Scheme will sterilise our client's site; which is valuable farm land with development potential. We refer to our Relevant Representations submitted on 4 November 2022 which highlighted the in principle support for employment development in this area in the Braintree Section 1 Local Plan and the Braintree Section 2 Local Plan. Regard must be had to this development potential and a balanced approach between on-site pits and open market supply.

3.3.2. The Applicant has stated at CAH2 that they propose to temporarily acquire the borrow pits through agreement with the landowners. The Applicant also confirmed that it does not need borrow pit I for essential scheme mitigation and therefore permanent acquisition is not necessary. Accordingly, there is no basis for including permanent acquisition powers for borrow pit I in the draft DCO. 3.3.3. If the site is acquired temporarily, then its development potential must also be taken into consideration as part of any restoration scheme. As a minimum, the land must be reinstated to a level which is above the water table and in engineered levels that could be built on in the future. No meaningful engagement has been made towards reaching a private agreement on any temporary acquisition and restoration plan.

3.4. In summary, the Applicant has had ample opportunities to make good the case for compulsory acquisition of the site for borrow pit I yet it still fails to do so. There is no justification for the compulsory acquisition of this land. In any event, the Applicant's engagement with our clients towards reaching a private agreement has been lacking.

Applicant's Response

The Applicant responds using the Interested Parties' numbering:

3.1

The Applicant has demonstrated there is a compelling case in the public interest for compulsory acquisition and that the borrow pit land is required. In the absence of negotiating a voluntary agreement with the landowner, powers for permanent acquisition of the land are required. The exercise of temporary powers pursuant to the Order is not appropriate, because the land would not be restored to its previous condition.

3.3

Regarding the Interested Parties' further representations:

3.3.1

The land would need to be acquired compulsorily if agreement is not reached. The landowner would be entitled to compensation for the freehold value of the land for that acquisition. The loss of farm land to the proposed scheme generally has been considered in the Applicant's environmental statement and it is the Applicant's case that the overriding national interest in the A12 being brought up to modern standards is a compelling factor meaning that the public gain offsets the private interest of the landowner caused by the loss of the land for farming, for which compensation would be paid in accordance with the compensation code.

The Applicant notes the land is not currently allocated for development in Braintree Local Development Plan Sections 1 and 2. The Interested Party on previous representations [RR-027] notes that Braintree Local Plan Section 1 policy SP3 provides policy support in principle "for employment development in this area in the Braintree Section 1 Local Plan and the Braintree Section 2 Local Plan". The Applicant believes that statement to be a misrepresentation of the goal of Strategic Policy SP3. Policy SP3 of Braintree Local Plan Section 1 establishes that new development should be accommodated within or adjoining settlements in accordance with their scale, sustainability and character of the area. It also establishes that new development should avoid coalescence between settlements, should have an objective to reuse previously developed land and should be accessible in accordance with sustainable development principles. It then states that each local authority will set out the allocations for

employment and development areas within Section 2 of its Local Plan. The Interested Party land is not allocated land within Braintree Local Plan Section 2, as such the in principle support claimed has not been assessed or confirmed by the Local Plan.

Policy LPP 2 of Section 2 of the Local Plan, demonstrates that Braintree has identified 42.1 ha of new employment land allocations. This is against an identified baseline requirement for 20.9 hectares and a high growth scenario of 43.3 hectares required within Braintree, as noted in Policy SP 5. Policy LPP 3, 4, 5 and 6 identify existing sites that can expand their area or are under construction. The combination of new, expansion and under construction sites will provide more employment space than the need identified in SP5 for the plan period. Both SP 5 and LPP 2 to 6 demonstrate that the allocated employment area in Braintree is sufficient to cover the local plan need for employment space and thus any employment areas put forward outside of the allocated areas could be considered unsustainable and refused for non-compliance with the local plan. The Applicant does not believe that the development potential of the land that exists outweighs the imperative and overwhelming need for the proposed scheme to be delivered as quickly as possible whilst minimising the impact of scheme construction on the local and wider area. The benefits of the borrow pits strategy on reducing transport impacts and emissions, whilst reducing uncertainty and cost for the A12 Scheme have been set out in previous parts of this response.

3.3.2

The Applicant has previously explained that the DCO does not permit the use of temporary powers unless land would be restored to its previous condition, which is not the case for the borrow pits. If voluntary agreement can be negotiated with the owners for a lease of the borrow pit, without the land being restored to its previous levels, then the Applicant is willing to negotiate to consider such terms. Until such agreement is in place then compulsory acquisition powers are required.

3.3.3

The Applicant does not anticipate that agreement can be reached with the Landowners at this location because the land would not be restored to its existing level, or above the water table across the whole site, as has been requested by the Interested

Parties. Until this point of principle has been resolved then it is unlikely that a negotiated solution between the parties will be found. No response has been received on the Draft Heads of Terms sent to the Landowners representative on 26 April 2023. However, a further meeting took place on 19 May 2023 and as requested, detailed information regarding the profile of the restored borrow pit, potential lease area plan, borehole data, topographical plan and the draft Heads of Terms were provided again on 30 May 2023.

3.4

The Applicant believes it has demonstrated a compelling case for each of the borrow pits and it has taken a consistent approach to its justification with all of the relevant parts of the Order land. The Applicant is committed to continue working with the Interested Party with a view to reaching agreement if they are prepared to accept the land cannot be re-instated to the current levels.

Pat Dunphy

REP5-051-001

Sub-Part

Submission ID: 16192

I am concerned about the traffic situation which will be caused by closing the slip roads at Hatfield Peverel. Traffic may choose to travel through Boreham to pick up the A12 rather than take the recommended route which takes them towards Witham. This traffic has on occasion been observed to travel at too high a speed through the village of Boreham. The traffic in Maldon Road Hatfield Peverel has become heavier too. The slip roads should remain open.

Applicant's Response

The Applicant is proposing to close the existing junctions 20A and 20B as they are both considered substandard junctions in accordance with modern design standards. This is due to the tight geometry of the turn onto the junction 20A slip road from Main Road, and junction 20B's close proximity to the existing junction 21. The proposed junction 21 seeks to combine the existing

traffic movements at junctions 20a, 20b and 21 into one all movement junction that will be constructed to modern safety standards.

The decision not to re-open junction 20A was revisited following feedback from the Statutory Consultation. The proposed scheme's response to the Statutory Consultation can be found in Annex N of the Consultation Report [APP-062] which was submitted as part of The Application. In light of further comments received during Relevant Representations, a detailed technical note has been produced to assess the possibility of reinstating junction 20A. This can be found in Appendix B of the Applicant's Response to Relevant Representations [REP1-002].

While reinstating the on-slip may reduce the traffic on Main Road in Boreham, the technical note found that the significant impacts on road user safety, natural and built environment, walking, cycling and horse riding connectivity, cost and carbon increases, construction and drainage challenges and increased land take required to construct a compliant junction outweighs these benefits.

Regarding traffic through Boreham, a traffic model was developed to support the design of the proposed scheme and understand its impacts. This traffic model predicts which routes drivers would take, taking into account both travel time and distance. The travel times estimated by the model include delays caused at busy junctions.

The traffic model predicts that, of traffic on the B1019 Maldon Road heading towards either Chelmsford or the A12 southbound towards London, 87% would turn right at the Duke of Wellington mini-roundabout and join the A12 at the proposed new junction 21. Only 13% would travel through Boreham to junction 19. Even though the route via junction 21 is a longer distance than via Boreham, it is predicted to be over one minute quicker.

To further encourage drivers to use junction 21 to access the A12, the Applicant has committed to provide traffic calming measures in the village of Boreham. The Applicant is proposing to install average speed cameras, a new controlled pedestrian crossing on the B1137, and softer measures including road safety measures to control vehicle speeds through the village. A

system of speed cameras is also proposed between Boreham and Hatfield Peverel. Further details of the traffic calming measures and the proposed locations are included in Requirement 15 of the Draft DCO submitted at Deadline 5 [REP5-004].

**Raymond Ian Terry
STRUDWICK**

REP5-052-001

Sub-Part

Written submission of Mr Ray Strudwick (interested party ref. No. 20032945) meeting participation representing Messing & Inworth Action Group at the Specific Hearing 3 (ISH3) held at Kingsland Church, Lexton 26th April:- Agenda item 2. Change request: Drainage work associated with B1023 Kelvedon Road at Inworth. On behalf of Messing & Inworth Action Group, I raise the concerns over the reduction of flood compensation attenuation ponds from 4 to 2 and the flood mitigation areas from 7 to 4, an overall reduction of approx. 50%, which is very surprising considering that the environmental changes in world weather conditions implies that we are going to suffer increased sporadic heavy rainfall. I have lived in Messing for 9 years and have noticed a dramatic increase in the flooding of the field / natural flood plan at the bottom of Lodge Road. I would have thought that National Highways having already purchased this land would take full advantage and provided as much mitigation as possible for future climatic weather change as supported by the Environmental Agency. Agenda item 3. Traffic and Transport: De-trunking sections of the A12 On behalf of Messing & Inworth Action Group, I raise the following concerns: - The new access route from the village of Easthorpe to the to be de-trunked A12 will not provide access for any motorised vehicles. This access crosses over the new A12 between Feering and Marks Tey that is to be newly constructed, located south of the existing A12. In addition to this new road requiring its own separate DCO as a newly constructed road, it is ridiculous for the access between the village of Easthorpe and the de-trunked A12 to be non-motorised. This will mean that up to 800 truck movements across harvest time will be attracted to route south west down single track routes via Messing village or Blind lane to the B1022 and B1023. These roads are not designed to carry such truck volumes or payloads. These roads are already in a perilous and unsafe state with many long-term potholes, unrepaired by Essex Highways. It is essential that any design properly provides for unrestricted motorised access between Easthorpe and the detrunked A12 as use of the detrunked A12 between Feering and Marks Tey will have the capacity and provides a much safer route than the rural route alternatives. It is not realistic to assume that all Easthorpe traffic will route via Copford to J25 at Marks Tey. School Road is already very congested and dangerous at peak times due school drop-off and extensive on-road parking, that leaves insufficient visibility to drive past these stationary cars safely.

Applicant's Response

In addition to the submission from Messing and Inworth Action Group (MIAG) to the examination at deadline 5 provided above, it has also responded to the consultation on the change application to which the Applicant has replied in the Consultation Report Annexes, submitted as part of the change application on 30 May. [AS-075]

The predicted impact of climate change (based on United Kingdom Climate Projections 2018) has been taken into account in the design of flood mitigation and drainage in accordance with Environment Agency guidance (<https://www.gov.uk/guidance/flood-risk-assessments-climate-change-allowances>).

It should be noted that National Highways has not already purchased the land in question. Provision of mitigation is based on meeting the requirements of the National Networks National Policy Statement for the proposed scheme, as well as other relevant policies and standards as referred to in the Flood Risk Assessment (APP-162). The drainage design would mitigate the impact of additional impermeable areas as a result of the proposed scheme, while the flood mitigation areas would reduce the existing flood risk to the road such that it would remain operational in a 1% (1 in 100) plus climate change flood event (the design standard required by National Planning Practice guidance). Provision of additional mitigation to prevent flooding in higher magnitude storm events is not required by the National Networks National Policy Statement and would result in an over-engineered design and unjustifiable land requirements.

Regarding the closure of the access between Easthorpe Road and the de-trunked A12 to motorised traffic, the Applicant previously provided summarised its reasons for this in response reference 59 in its Written Submission of Oral Case for Issue Specific Hearing 1 [REP3-012].

REP5-052-002

Sub-Part

Agenda item 3. Traffic and Transport: De-trunking sections of the A12 On behalf of Messing & Inworth Action Group, I raise the following concerns: - In 2017 at the time of the West Tey Garden Village examination, National Highways were investigating 4 possible options (A, B, C & D) to route from existing junction 23 to junction 25. We were advised that if the West Tey Garden

Village didn't go ahead, the original plan to widen the existing A12 would be implemented. I was under the impression that some of the properties along the existing A12 had already been purchased. As the West Tey Garden Village programme has since been scrapped, why is National Highways are still progressing an alternative route, when the rest of the A12 is purely widened, and the existing infrastructure utilised? The cost to the environment, wildlife habitat, and de-trunking of the existing A12 is an expenditure that is not required and the country should not be burdened to pay during a recessive financial crisis.

Applicant's Response

This topic was discussed at Issue Specific Hearing 1, details of which are included in the Applicant's Written Submission of Oral Case for Issue Specific Hearing 1 [REP3-012].

A detailed response to this issue was also provided to the interested party at Deadline 2 in Applicant's Comments on information received at Deadline 1 [REP2-030] which stated the following.

"As noted by the Interested Party, alternative routes were presented, options A to D, which accounted for the proposed Colchester Braintree Borders Community. The Applicant notes the consultation associated was in 2019, not 2017. The Applicant stated in the 2019 consultation that, if the proposed Colchester Braintree Borders Garden Community did not go ahead, the route between junctions 23 and 25 would be based on the previous 2017 consultation which presented option 1 to 4. As such, the Preferred Route announced was based on Option 2 from the 2017 consultation. More information on the consultations held can be found in the Consultation Report [APP-045].

Turning to the comment made by the Interested Party on acquiring land, Compulsory Acquisition cannot occur until the Development Consent Order is made. The Applicant then has to notify all parties with interests in the Order land that the Order has been made. The Applicant may only commence compulsory acquisition when the Order comes into force, and will serve notice to an owner informing them of the compulsory acquisition of their land. Applications for Discretionary Purchase and Blight can be submitted and considered by National Highways and mediated by the Valuation Office Agency, after the preferred route announcement in October 2019.

The Interested Party has provided comments on the impact on wildlife. Chapter 9 Biodiversity of the Environmental Statement [APP-076] provides a comprehensive assessment of the potential effects on protected and notable species in accordance with the Design Manual for Road and Bridges LA 108 Biodiversity (Highways England, 2020). The assessment is based upon the survey data contained within the numerous technical appendices to Chapter 9, which include Appendix 9.3 Barn Owl Report [APP-127], Appendix 9.5 Breeding Bird Report [APP-129] and Appendix 9.12 Wintering Bird Survey Report [APP-136]. Section 9.8.44 to 9.8.137 of Chapter 9 summarises the baseline information upon which the assessment has been made. It includes 90 species of birds identified during breeding bird surveys, 42 species recorded during wintering birds surveys and further species identified through the desktop survey.

Impacts on barn owl, breeding and wintering birds are assessed within paragraphs 9.11.199 to 9.11.216 of Chapter 9 Biodiversity [APP-076]. Mitigation for birds is detailed within paragraphs 9.10.85 and 9.10.98 of Chapter 9 [APP-076], and are committed to in the Register of Environmental Actions and Commitments [APP-185] within the first iteration Environmental Management Plan [APP-184], for example:

- Commitment B14 to avoid sensitive periods for protected species.
- Commitment B15 vegetation checks by an ecological clerk of works. • Commitment B19 use of buffer zones around sensitive features such as birds' nests.
- Commitment B138 provision of bird nesting boxes.
- Commitment B139 pre-construction surveys for barn owl.

Other protected and notable species of wildlife including otter, hares and amphibians including common toad and great crested newts are also assessed within Chapter 9 [APP-076]. Impacts to these species are assessed within section 9.11 of the chapter.

Chapter 9 [APP-076] concludes no likely adverse significant effects on protected and notable species. Table 9.33 of Chapter 9 Biodiversity [APP-076] summarises the significant residual effects for biodiversity during the construction and operational phases of the proposed scheme. During the construction phase of the proposed scheme there would be no significant adverse effects and there would be a moderate beneficial (significant) effect on water vole due to habitat gain. During operation of the proposed scheme there would be a large adverse (significant) effect on Perry's Wood Local Wildlife Site and ancient woodland, however offsetting would be provided through planting of woodland habitat within an area of the Order Limits unaffected by changes in nitrogen deposition."

The above was reaffirmed by the Applicant at Deadline 3 in the Applicant's Comments on Written Representations [REP3-009].

REP5-052-003

Sub-Part

Agenda item 3. Traffic and Transport: Messing and Inworth. Progress on agreement of provision of additional mitigation. On behalf of Messing & Inworth Action Group, I raise the following concerns: - Firstly, on behalf of MIAG and the residents of Messing and Inworth, I would like to remind the Examining Authority that National Highways has still made no serious attempt to evaluate the 'Main Alternative' proposed by Messing & Inworth Parish Council and MIAG which is fully supported by our MP and our local council officials including Kevin Bentley the leader of Essex County Council. I would further like to remind the Examining Authority and National Highways that the failure by National Highways and the Secretary of State for Transport to fully consider alternatives, led to a judicial review finding against the preferred scheme; we already highlighted this at the open floor hearings at the Witham Public Hall in January. We would repeat that it would be in everyone's interests to avoid another judicial review.

Applicant's Response

As explained to the Interested Party and the Messing and Inworth Action Group (MIAG) on numerous occasions in response to RR-168-003 at Deadline 1 [REP1-002], REP1-058 at Deadline 2 [REP2-030], REP2-085-002 [REP3-009], REP2-083 [REP3-015] and in the Applicant's written response to Issue Specific Hearing 1 [REP3-012] at Deadline 3, REP3-063-002 [REP4-056] at Deadline 4 and most recently in response to REP4-089 and REP4-090 [REP5-002], and in the Applicant's Written submission of oral case for Issue Specific Hearing 3 [REP5-020] at Deadline 5, 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.

**Martin Woodgate on behalf of
Rosemary Woodgate**

REP5-053-001

Sub-Part

Dear Sir / Madam, Objection to the Position of the Gershwin Boulevard Bridge I just wanted to take this opportunity to raise my objection to the creation of the proposed Gershwin Boulevard footbridge which will span the A12 at Witham from the green space near Olivers Drive / Halfacres on the north side, to a field on the south side. The proposed footbridge appears to have been situated to almost exactly reinstate a footpath which was, to all intents and purposes, blocked in the 1960's when the Witham bypass part of the A12 was built, and I have a number of problems with the proposal.

Applicant's Response

The Applicant acknowledges the Interested Party's objection. The Applicant has provided a response to the concerns raised by the Interested Party in the subsequent Sub-Parts.

REP5-053-002

Sub-Part

Firstly, do we need it or is this merely an exercise to place a tick in the "reinstate footpath" box? Are you really going to spend hundreds of thousands of pounds building a bridge to recreate a footpath that no one has used for 60 plus years or is there public appetite for that kind of spend? There is a well established legal process for removing or adjusting the route of public rights of way (which I understand this path has already been subject to some years ago) and I have no doubt that those options would run to considerably less than the cost of a brand new footbridge.

Applicant's Response

The Applicant is proposing to divert the existing right of way for pedestrians between footpath 121_95 either side of the A12 with the new bridge providing a safe location to cross. To facilitate the widening of the A12 in this location, the existing steps and central reserve barrier gap are proposed to be removed and a length of footpath 121_95 would need to be stopped up. Owing to the nature of the proposed scheme, the standards for its design require that pedestrians are prohibited from the altered A12. This would effectively confirm the current practical severance of the existing right of way owing to the volume of traffic and the safety concerns for pedestrians, along with other classes of road user as described in DMRB GD300 who try to use the current legally permissible route. While this prohibition is primarily related to preventing pedestrians walking alongside the A12, it would also have the effect of prohibiting use of the current crossing of the A12 via the provided steps and central reserve barrier gap.

Under the Planning Act 2008, where a public right of way is proposed to be extinguished, the Applicant is obligated to provide a reasonable alternative right of way unless re-provision is not required. The Applicant has proposed the position of Gershwin Boulevard bridge as the most reasonable alternative diversion route in accordance with paragraphs 2.9 and 5.205 of the National Policy Statement for National Networks (NNNPS). The proposed Gershwin Boulevard bridge removes the current barrier to non-motorised users wishing to cross the A12 and provides a safe, enhanced connection to undertake journeys from Witham to areas south of the A12. The Applicant therefore considers that the Planning Act 2008 and NNNPS policy tests are met.

REP5-053-003**Sub-Part**

Secondly, to build a footbridge in the location proposed, you'd be ruining a beautiful green space enjoyed by people from all over Witham; it is regularly frequented by dog walkers and families with children alike who feel comfortable with it being shielded from the A12. To build the footbridge will require the removal of a considerable number of mature trees which separate the green space and the residential properties that adjoin it from direct exposure to the traffic on the A12. Not only will this provide direct line of sight and access to traffic, the "Environmental Scoping Report TR010060" produced by Highways England 21/10/20, already stipulates that part of this green space falls into a designated "Noise Important Area" (NIA) (figure 12.1 page 352 of 569.) Ripping out trees at the west end of the green space to accommodate the bridge will massively affect the NIA at the east end every bit as much, as the trees are the only things providing any sort of noise and pollution protection. Removing the trees to

accommodate this structure is wholly unfair on the residents when attempts should be being made to decrease resident's exposure to noise and pollution levels, not wilfully removing what little protection they have.

Applicant's Response

The Applicant has considered the loss of open space, including north of the proposed Gershwin Boulevard Bridge, in the Replacement Land Statement [TR010060/APP/7.9]. For each of the open space areas being lost to the proposed scheme, Replacement Land is being offered. The open space north of the proposed Gershwin Boulevard bridge is described as Areas 2-4 within the Replacement Land Statement [TR010060/APP/7.9]. Whilst this small area of land (approximately 0.35ha) is required to construct and mitigate the proposed bridge, replacement land for Areas 2-4 is situated south of the A12 at the proposed Gershwin Boulevard bridge, and this land would also provide a connection to Maldon Road via a much larger area of open space (approximately 2.1ha).

The area around Halfacres / Ashby Road and then east towards Olivers Bridge is classed as a DEFRA Noise Important Area (NIA) and is shown on Figure 12.1: Noise study areas, noise important areas and noise monitoring locations, of the Environmental Statement [APP-228]. This is NIA 5415 and has been classified as an NIA since these were defined in 2011 following the first round of strategic noise mapping in 2007.

The removal of some of the trees to accommodate the proposed Gershwin Boulevard bridge would not increase the noise in this area. The use of shrubs or trees to reduce noise has been shown to be effective only if the foliage is at least 10m deep, dense, and consistent for the full height of the vegetation. This is not the case for the majority of the vegetation between the dwellings and the A12 at Witham.

The Applicant is proposing mitigation measures in this area to minimise the adverse impact of the Proposed Scheme. A noise barrier is proposed in this location, and this is shown on sheet 8 of the Environmental Masterplan [TR010060/APP/6.2]. In addition to the noise barrier, the Applicant is proposing noise mitigation in the form of enhanced road noise surfacing, which is proposed along all of the Witham bypass. This is described within paragraph 12.10.16 of Chapter 12: Noise and vibration, of the Environmental Statement [APP-079] and the extent shown on sheet 2 of Figure 12.4: Additional noise mitigation, of the Environmental Statement [APP-231]. Within Figure 12.4 the enhanced surface is referred to as AMS3.

The surface would be effective at reducing the noise since at the traffic speeds on the A12 the dominant noise source is that from tyre/road noise. Other noise generating mechanisms, such as mechanical noise, contribute very little to the level of traffic noise at such speeds as those found on the A12 on the Witham bypass.

The effect of these two noise mitigation measures at reducing the noise is shown on sheet 4 of Figure 12.8: Noise change contour map (opening year 2027), of the Environmental Statement [APP-235]. This shows a widespread reduction in noise of between 1 and 2.9 dB(A) at receptors along the Witham bypass, with a greater reduction within the NIA. The decrease in noise within the NIA is reported in Table 12.33 of Chapter 12: Noise and vibration, of the Environmental Statement [APP-079].

The concerns regarding the removal of trees are further addressed in REP5-053-004.

REP5-053-004

Sub-Part

Thirdly, due to the visual damage, the increased pollution, the increased noise, the loss of current amenity, there will no doubt be a negative impact to house prices. This, (and the plethora of “blight” claims that would no doubt ensue,) is wholly avoidable.

Applicant's Response

Visual impacts that would be caused by the proposed scheme in the vicinity of Gershwin Boulevard Bridge are assessed within Appendix A of 9.26 Technical Note Gershwin Boulevard Bridge [REP3-011]. Representative viewpoint GB-VP3 assesses the view from publicly accessible amenity land, south of housing at Halfacres, north of the A12 facing south-west. The assessment notes that during operation in year 15, mitigation planting including woodland planting of trees and shrubs would have established to reinstate the filtered view towards the widened A12 corridor and to soften views of Gershwin Boulevard Bridge. The assessment acknowledges that Gershwin Boulevard Bridge would form a new permanent feature in the view and, although mitigation planting would reduce the visual effects once established, the assessment concludes that visual effects would remain significant (moderate adverse) during operation in year 15.

Whilst some acquisition of open space will be required for the bridge approach on the land adjacent to Olivers' Drive, this will be replaced by new open space land on the other side the A12, linked by the new bridge, whilst the land being taken will remain publicly available in any event.

Under Part I of the Land Compensation Act 1973 ('the Act'), compensation can be claimed by people who own and also occupy property that has been reduced in value by more than £50 by physical factors caused by the use of a new or altered road. The physical factors are noise, vibration, smell, fumes, smoke and artificial lighting and the discharge on to the property of any solid or liquid substance. The cause of the physical factors must be the new or altered road in use. For example, if a road is altered, the noise and other adverse effects must arise from the traffic using the altered stretch of road.

The removal of trees to accommodate the proposed Gershwin Boulevard bridge would not change the reported outcomes of the air quality assessment for localised sensitive receptors as reported in Environmental Statement Appendix 6.5: Air Quality Modelling Results [APP-104]. The dispersion model does not permit the inclusion of vegetation barriers. This is because air and pollutants can still flow through the trees (i.e. a permeable barrier) unlike solid barriers. The modelled results reported are therefore representative of a scenario without the vegetation present.

While the Applicant acknowledges the importance of trees and vegetation for their visual and landscaping effects, the assessment of air quality does not consider trees and vegetation to have beneficial effects. The benefits of trees as a method for reducing air quality concentrations from sources such as roads is limited. As such trees are not typically considered as an air quality mitigation measure.

REP5-053-005

Sub-Part

If it is found that there is actually justification for spending a huge amount of money on building a bridge to a field on the south side of the A12, moving the proposed location of the Gershwin Boulevard bridge 100 meters west so that it is in Gershwin

Boulevard and not in a cul-de-sac in a quiet residential street would eliminate the need to interfere with a "Noise Important Area" and ruin a beautiful space currently enclosed on 3 sides. Furthermore, the bridge would then be placed on a wide spine road which was purpose built to carry additional traffic and footfall prior to its residential development. Best wishes, Martin Woodgate.

Applicant's Response

The Applicant has considered the alternative location proposal presented by the Interested Party. This assessment is documented in the Gershwin Boulevard Technical Note submitted at Deadline 3 [REP3-011]. In summary, the Applicant does not believe the alternative proposal should be taken forward because:

- it does not create a route to the proposed Replacement Land south of the A12 and the wider rights of way network
- the land required to deliver the bridge in the alternative location is outside of the current Order Limits
- the alternative proposal does not resolve the concerns raised by the community but instead relocates the impacts on visual and ecological receptors elsewhere while increasing the diversion length of the public right of way that is being diverted

As explained in response to REP5-053-003, the proposed location of the Gershwin Boulevard bridge is not interfering with the Noise Important Area as the removal of some vegetation does not influence the propagation of noise. As has been explained earlier, the proposed noise mitigation measures in this area will reduce the level of noise within the Noise Important Area.

Replacement land is also being offered to provide an area of green space south of the A12 at the proposed Gershwin Boulevard Bridge, and this land would also provide a connection to Maldon Road via a much larger area of open space (approximately 2.1ha).

A summary of the matters raised relating to the Gershwin Boulevard bridge has been prepared in 9.66 Gershwin Boulevard Issue Summary Note submitted at Deadline 6 [TR010060/EXAM/9.66].

Terling and Fairstead Parish Council	REP5-055-001
Sub-Part	
<p>The Parish Council has continuing concerns as to the traffic management plans through the Terling Settlement and surrounding roads which have been detailed in our previous submissions to the Examining Authority.</p> <p>These country roads presently have a 60mph speed limit, apart from through the Terling village where it is 30 mph.</p> <p>At a recent webinar, National Highways advised it was continuing to work with Essex County Council (ECC) Highways on traffic management plan and consideration of speed restrictions during the reconstruction of the Station Road bridge in Hatfield Peverel. We have yet to see any proposals by National Highways or ECC Highways.</p> <p>We continue to request the Examining Authority places a condition(s) relating to speed on the roads previously identified in any approval granted to the DCO application.</p>	
Applicant's Response	
<p>The Applicant has previously responded to the Interested Party with regards to temporary reduction in speeds limits on the diversion route for when Station Road is closed in 9.24 Applicant's Comments on Written Representation [REP3-009], REP2-121-005.</p> <p>The Applicant has committed to undertake a risk assessment on all proposed diversion routes. If the risk assessment deemed a reduction in speed limits beneficial, a temporary reduction in speed would be considered. This is detailed in paragraph 5.9.41 of the Outline Construction Traffic Management Plan [REP4-034].</p>	

The current construction programme, which is subject to on-going review, does not anticipate the closure of Station Road until 2025. The Applicant will undertake a risk assessment on the proposed diversion route for the Station Road closure prior to the implementation of the Station Road closure and will consider whether a temporary speed limit is required in collaboration with the local highway authority.

Appendix A Speed Limits Narrative

Road	Speed Limit Proposed by National Highways	Design Standard adopted by National Highways	ECC Comment	NH Commentary	Location
B1137 From Generals Farm Roundabout to Boreham village	Change from National Speed Limit (NSL) to 40mph	DMRB (2/18-2/20) remainder unaltered	The 40mph for Boreham interchange has been extended to the east side of Boreham House due to sign clutter and Boreham House being listed, not for speed limit policy reasons. The remainder of Main Road to Boreham Village is physically unaltered yet there is a proposed reduction in the speed limit from NSL to 40mph. Without a change in the environment, there is a significant risk that speeds will remain above police intervention levels for 40mph.	The Applicant believes that due to the proposed toucan crossing, a eastward extension of the existing 40mph speed limit to the east of the crossing is warranted. Should the remainder of Main Road which is currently National Speed Limit stay at 60mph, it would be below 600m and contrary to the guidance in Department for Transport Circular 01/2013	Main Road
B1137 Boreham Village	Change from 40mph to 30mph	N/A	ECC is concerned that merely changing the speed limit will not be sufficient and the nature of the road is such that additional measures (including average speed cameras and traffic calming) are required to encourage compliance with the new speed limit	The Applicant has proposed additional measures including average speed cameras and traffic calming to ensure speeds are within the thresholds of the proposed limit	
B1137 Boreham Village to Hatfield Peverel	Change from NSL/50mph to 40mph	DMRB (4/3-5/1)	As above. It should be noted that the current 50mph stretch is in place because of a collision issue at Junction 20a. As this junction is being removed, the speed limit here could actually be increased to NSL. A 20mph reduction from NSL to 40mph represents a significant reduction without appropriate measures in place to support this. An inconsistent message to drivers & creates expectation elsewhere in the County of 20mph speed limit reductions with no apparent justification.	The Applicant has proposed average speed cameras to ensure speeds are within the thresholds of the proposed limit	
Link Road from Hatfield Peverel to J21	30mph Restricted Road	Manual for Streets (MFS)	Single access from junction with The Street (The Vineyards), nothing about the environment suggests 30mph is the appropriate speed limit. Change in environment is on the approach the The Street not at The Vineyards.	The Applicant maintains that the existing link is subject to a 30mph today, apart from when it becomes the A12 slip road at the Vineyards. Due to the High Quality cycle walking route from Hatfield Peverel the Applicant doesn't want to encourage anything faster and doesn't want over provision of safety barriers etc but is considering the geometric changes required to bring the the junction 21 arrangement up to 40mph, which would allow this link to be 40mph between the Vineyards and Junction 21 itself. If this is changed it will be brought into examination by Deadline 7 in consultation with ECC	J21
J21 Roundabouts	30mph Restricted Road	Manual for Streets (MFS)	Approaches from A12 are NSL, new junction with nothing to suggest that 30mph is appropriate.	The Applicant maintains that the existing link is subject to a 30mph today, apart from when it becomes the A12 slip road at the Vineyards. Due to the High Quality cycle walking route from Hatfield Peverel we don't want to encourage anything faster and don't want over provision of VRS etc but are considering the geometric changes required to bring the the junction 21 arrangement up to 40mph, which would allow this link to be 40mph between the Vineyards and Junction 21 itself. If this is changed it will be brought into examination by Deadline 7 in consultation with ECC	
Colchester Road, Witham from J21 northbound	40mph	DMRB	This is designed to DMRB, yet approaches a roundabout designed to MFS and links into Witham.	DMRB Sightlines have been provided on approach/exit of roundabout in accordance with relevant standards	
Realigned Kennel Access	30mph	MFS	An improved cul-de-sac with no accesses along it and some properties at the end. Not suitable for 30mph.	The Applicant is considering providing 60mph speed limit on this link, but design speed will remain the same. If this is changed it will be brought into examination by Deadline 7 in consultation with ECC	J22
J22 & all non A12 approaches	40mph	DMRB	The northern side of this junction is the old A12 dual carriageway, whilst there is a new roundabout, the road remains straight & dual carriageway in part. It is unclear why the speed limit has been reduced by 30mph. The realigned section of Little Braxted Lane on the approach to J22 has been designated as 40mph. However, the physical nature of the road is an improvement over the rest of the existing road, which is NSL.	The Applicant maintains that the proposed 40mph limit is consistent with existing junctions on the A12 in this area, and offers a suitable buffer for traffic transitioning from A12 speeds to the 30mph limit in Witham	
Braxted Road	30mph Restricted Road	Unclear	New road construction, realigned away from frontage development, NSL on approach to a short 40mph section that is no longer necessary (due to vastly reduced traffic flows on the side road), then 30mph the A12 overbridge. Not compliant with national guidance.	The Applicant has proposed a speed limit 30mph over the bridge to avoid impact on reservoir. If the vertical sightlines of the bridge were increased there would be a significant increase of fill material which is likely to conflict with the reservoir. This proposal also prepare drivers for the proposed signalised junction, and links in to 30mph on Henry Dixon Road towards Rivenhall End. The Applicant will consider tweaks to the cross-section of Braxted Road to ensure compliance with the proposed limit.	
Detruncked A12 Rivenhall End	40mph	DMRB	Not compliant with national guidance, Remaining a dual carriageway with no new accesses/frontage development to indicate why the speed limit should be reduced to 40mph.	Without prejudice to the Applicant's de-trunking proposals in this location, it is proposing significant change of form/function of this road in by employing relatively short lengths between roundabouts, frontage accesses, improved pedestrian and cycleway facilities including a toucan crossing.	De-trunking
B1024 Link Road	40mph	DMRB	New construction with no accesses or frontages, not compliant with national guidance, little to suggest to drivers that 40mph is appropriate.	Due to the High Quality cycle walking route from Rivenhall End to Kelvedon, and the proposed toucan crossing linking this facility to the proposed Snivellers Lane bridge the Applicant doesn't want to encourage anything faster and doesn't want over provision of safety barriers etc. The Applicant is considering changing the proposed limit on this link to 50mph. If this is changed it will be brought into examination by Deadline 7 in consultation with ECC.	
Link to Fire & Rescue Headquarters	30mph	MFS	Extends the current restricted road at Kelvedon to an area with no frontages or accesses currently the southbound on slip & A12 Southbound carriageway at NSL, no frontages or accesses, not compliant with Circular 01/2013.	The Applicant is proposing a significant change in form of the existing Junction 23/Cranes Lane arrangement which it maintains warrants the eastern extension of the existing 30mph limit in Kelvedon to the south west of Cranes Bridge. At peak times the Fire and Rescue access is expected to be busy and the Applicant maintains that 30mph is appropriate for the context of this junction. Whilst the Applicant acknowledges there is little frontage between Cranes Bridge and the Fire and Rescue access junction, the Applicant is proposing all cycling to take place on-carriageway, and any change in speed limit between these two areas would be below 600m and contrary to the guidance in Department for Transport Circular 01/2013	Essex F&R/Hole Farm
J24 Roundabouts & Link to Inworth Road	40mph	DMRB	All approaches form the A12 are NSL, therefore no reason for junction or link road to be 40mph.	The proposed arrangement is proposed to be Trunk Road and as such Essex County Council will not be the adopting authority for these assets	J24
Realigned Inworth Road North	30mph	MFS	50mph between this section and the 30mph speed limit in Feering. Speeds currently in excess of 45mph.	The Applicant Maintains observed speeds are currently in line with proposed speed and additionally the Applicant is proposing roundabout to act as a delineating feature between Strategic Road Network and Local Road Network.	
B1023 Inworth Road to Brick Kiln Farm	Change from 50mph to 30mph	MFS	ECC is concerned that the rural nature of this road is such that a reduction to 30mph is not appropriate unless additional measures are implemented (including speed cameras) to encourage compliance with the new speed limit. Speed surveys indicate speeds well in excess of 40mph & non-compliance with existing 30mph (which is not intuitive). If this is "correct" to be 30mph then Inworth to Tiptree should be 30mph too, this does not meet the consistent messages suggested by Circular 01/2013.	Observed speeds are currently in line with proposed speed limit and geometry, additionally applicant is proposing roundabout to act as a delineating feature between SRN and LRN. This length of 30m is to provide a safe buffer to the roundabout from the north, the geometry of the road beyond the 30mph will indicate to the driver that there is a change of form and 50mph is no longer appropriate.	
Realigned Feering Road & Feering East Roundabout	30mph	MFS	Currently NSL, roundabout added, need detail to determine if 30mph is appropriate as no accesses or frontages.	As with Inworth Road Roundabout, this roundabout is proposed to act as a delineation feature, rather than this occur mid-link. There a number of accesses/frontages in quick succession.	Isolated
Prested Hall/Threshelfords Access	NSL	MFS	These are realigned private accesses although proposed to be ECC unclassified roads, inconsistent with Fire & Rescue Access (restricted road) or Kennel access (30mph).	The Applicant is considering providing 60mph speed limit on this link, but design speed will remain the same. If this is changed it will be brought into examination by Deadline 7 in consultation with ECC	Isolated
Detruncked A12	Change from NSL to 40mph then 50mph	DMRB	Dual carriageway retained, straight road with few accesses. Proposed speed limit change from NSL to 40mph then 50mph with no change in environment. This does not comply with Circular 01/2013.	The Applicant is considering changing the where the speed limit changes from 40 to 50 mph to occur at Easthorpe Road Roundabout. There are a good number of frontage accesses here that would benefit from speed reduction, roundabouts at modest spacings and we wish to avoid "vacuum" effect on walking/cycling corridor.	De-trunking
Wishingwell Bridge and Easthorpe Farm Access	NSL	DMRB	These are realigned private accesses, although proposed to be ECC unclassified roads. Inconsistent with Fire & Rescue Access (restricted road) or Kennel access (30mph).	The Applicant has proposed these roads to be ECC unclassified roads as they serve a number of properties. The Applicant has provided a narrative above as to why the Fire and Rescue/Hole Farm access is proposed to be 30mph, and the Applicant is considering changes to other accesses to ensure consistency across the proposed scheme.	Isolated
London Road Roundabout	30mph Restricted Road	DMRB	A12 NSL, detruncked A12 50mph, this roundabout is not the gateway to a built up area but to a number of signalised junctions & further roundabouts. Speed will be controlled by the signals/congestion the 30mph is not intuitive as it is a set of improvements	The proposed arrangement is proposed to be Trunk Road and as such Essex County Council will not be the adopting authority for these assets. The section of A12 proposed to be de-trunked has appropriate sight lines on approach to the roundabout for its proposed speed limit.	J25
New London Road	30mph Restricted Road	DMRB	Link between a roundabout & a signalised junction, no accesses or frontages, 30mph appears too low a speed limit.	The proposed arrangement is proposed to be Trunk Road and as such Essex County Council will not be the adopting authority for these assets	
Marks Tey Bridge	30mph Restricted Road	DMRB	Currently 40mph. No clear reason for speed limit reduction	The proposed arrangement is proposed to be Trunk Road and as such Essex County Council will not be the adopting authority for these assets	

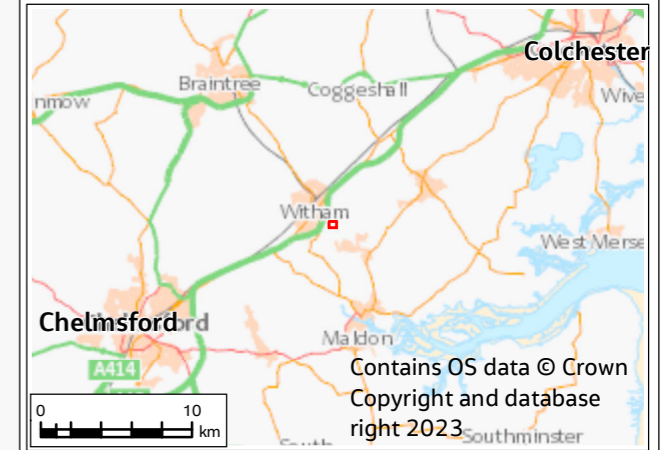
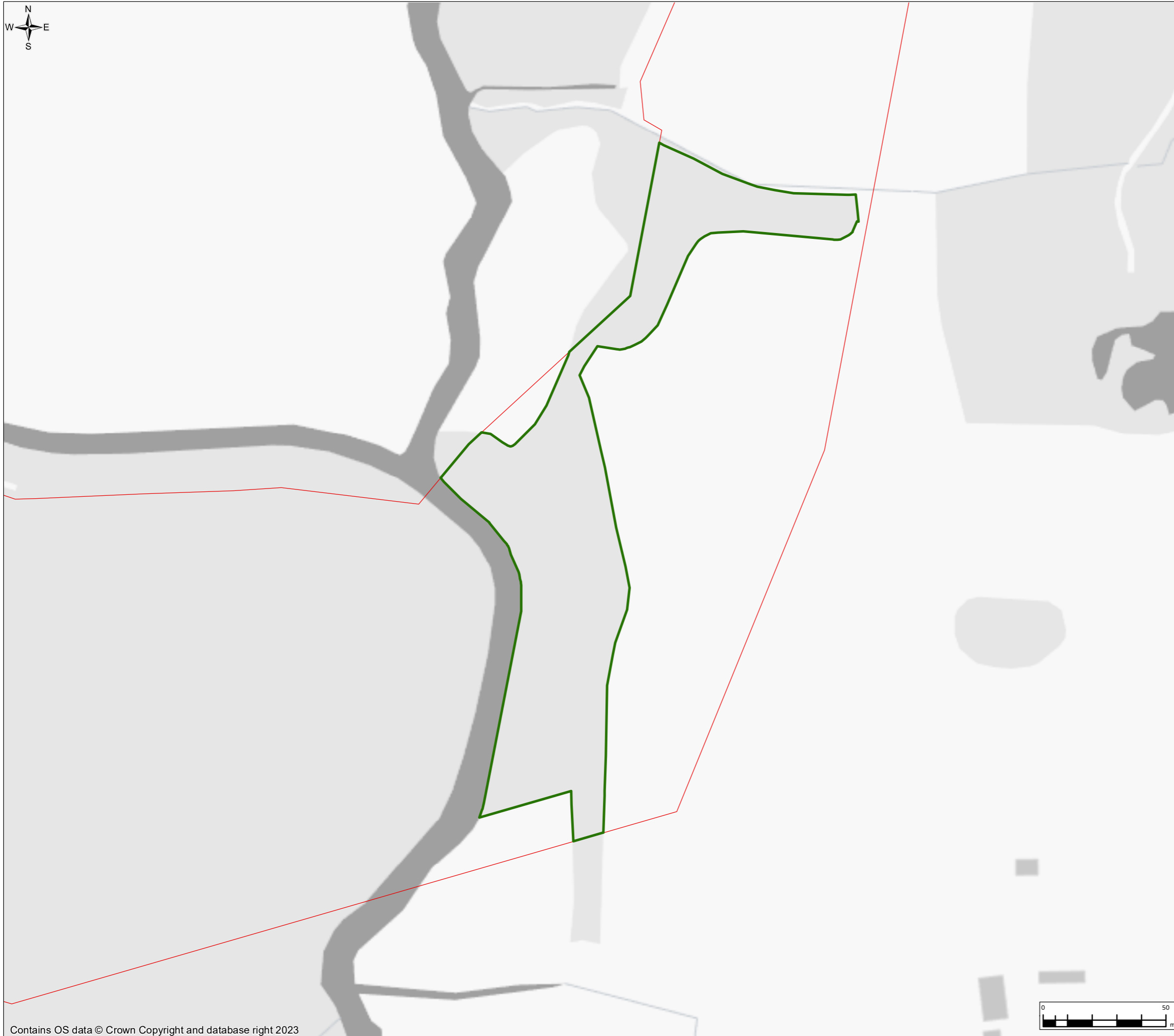
Appendix B Blue Mills proposed Local Wildlife Site Boundary



FIGURE 1

Legend

- Order Limits
- Blue Mills proposed Local Wildlife Site



P01	12/6/2023	FINAL	JC	LW	AJ	SL
Rev.	Rev. Date	Purpose of revision	Drawn	Check'd	Rev'd	Appr'd

Client

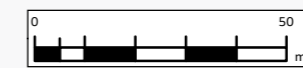
Project
**REGIONAL DELIVERY PARTNERSHIP
 A12 CHELMSFORD TO A120 WIDENING SCHEME**

Drawing Title
BLUE MILLS PROPOSED LOCAL WILDLIFE SITE

Drawing Status
S4 – SUITABLE FOR STAGE APPROVAL

Scale @ A3	1:1500	DO NOT SCALE
Jacobs No.	B36601D4	
Client No.	HE551497	Rev P01

Drawing Number
HE55 1497-JAC-EBD-5_SCHME-SK-LE-0010



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