

A12 Chelmsford to A120 widening scheme

TR010060

9.67 Applicants Response to The Examining Authority's commentary on the draft Development Consent Order

8(1)(c)(ii)

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

**Applicants Response to The Examining Authority's commentary on the
draft Development Consent Order**

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1 Applicant's Responses to The Examining Authority's commentary on the draft DCO

Ref No.	Provision	Proposed change	ExA Reasoning	Applicant Comment
PC01	Whole dDCO	<ol style="list-style-type: none"> 1. Please check internal references, statutory citations and references and legal footnotes and update as required. 2. Please review additions to the dDCO ensuring that the titles and numbering of all provisions remains consistent throughout and with the Table of Contents. Also please undertake a check to ensure spelling and punctuation is correct throughout. 3. Ensure dDCO follows best practice in Planning Inspectorate Advice Notes 13 and 15 and (as relevant) guidance on SI drafting from the Office 	To ensure accuracy of the final dDCO.	The Applicant notes this comment from the Examining Authority and will ensure that all matters are checked before submission of the final draft DCO to the Examination. Certain small typographical errors and formatting issues have been addressed in the draft DCO to be submitted at Deadline 6 but have not been listed in full due to the minor, non-substantive, nature of the changes such as correcting spelling and removing excess double full stops.

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		of the Parliamentary Counsel (June 2020).		
DCO-PC02	Page 4 – first paragraph	The application was examined by a Panel of three members (“the Panel”) (appointed by the Secretary of State) in accordance with Chapter 4 of Part 6 of the 2008 Act and the Infrastructure Planning (Examination Procedure) Rules 2010(c).	To reflect the make-up of the ExA.	The Applicant can confirm that that this change has been reflected in the draft DCO submitted at Deadline 6.
DCO-PC03	Page 4 – second paragraph	The P anel, having considered the representations made and not withdrawn and the application together with the accompanying documents, in accordance with section 74 (2) of the 2008 Act has submitted a report and recommendation to the Secretary of State.	To reflect the make-up of the ExA.	The Applicant can confirm that that this change has been reflected in the draft DCO submitted at Deadline 6.
DCO-PC04	Page 4 – third paragraph	The Secretary of State, having considered the representations made and not withdrawn, and the	To reflect the make-up of the ExA.	The Applicant can confirm that that this change has been reflected in the draft DCO submitted at Deadline 6.

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		report and recommendation of the P anel....		
DCO-PC05	Page 5 – fifth paragraph	The Secretary of State, having considered the report and recommendation of the P anel...	To reflect the make-up of the ExA.	The Applicant can confirm that that this change has been reflected in the draft DCO submitted at Deadline 6.
DCO-PC06	Art 2 – Secretary of State	Given the inclusion of the NSIP in relation to the relocation of the existing gas pipeline, should this definition also include SoS for Energy Security and Net Zero?	For clarification.	The Applicant does not accept this suggestion. Where the Secretary of State is mentioned in the Order it is intended to refer to the Secretary of State for Transport as the decision-maker and certifier. No further changes are required to the draft Order in relation to this.
DCO-PC07	Art 14 – Construction and maintenance of new, altered or diverted streets and other structures.		No specific change is proposed by the ExA at this stage on the basis that we propose the inclusion of a new Requirement in relation to de-trunking. However, should the Applicant not agree with this proposed Requirement, then the ExA welcomes submissions from both	The Applicant notes that with regard to de-trunking, Article 14(3) simply sets out what happens when a highway is de-trunked (by reference to Section 265 of the Highways Act 1980). The Applicant does not consider that this drafting would need to be amended as a result of any of the discussions relating to de-trunking.

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			the Applicant and ECC on the final wording of this Article to address the concerns of ECC.	
DCO-PC08	Art 15 – Classification of roads etc	Insert new article 15(7) between existing articles 15(6) and 15(7), as follows: (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 their consent.	At DL5 suggested text was put forward by ECC [REP5-034] in relation to changes they consider necessary. The submission also included draft text from the Applicant that was provided on a without prejudice basis to aid the ExA and ultimately the SOS. Notwithstanding the position of the Applicant [REP5-021], having considered the submission made by ECC, we consider that it is appropriate to add in this additional clarification.	The Applicant is content to accept this wording in lieu of that previously proposed and can confirm that that this change has been reflected in the draft DCO submitted at Deadline 6.

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			<p>For the purposes of this document, the ExA has included ECC's proposed wording, however we would welcome further discussions between the parties to agree a single suggested insertion, whilst still respecting the position of the without prejudice position of the Applicant.</p>	
DCO-PC09	Art 16 – Speed Limits		<p>The ExA is aware that this Article is the subject of on-going discussions between the Applicant and ECC, along with potential consequential changes to Sch3. Therefore, the ExA does not propose any changes at this stage in advance of the</p>	<p>The Applicant is not aware that ECC has any objections in relation to the wording of Article 16, and it would seem more likely that any dispute would in fact relate to the speed limits imposed under Schedule 3 of the DCO.</p>

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			conclusion of those discussions.	
DCO-PC10	Art 18 – Street Works	Insert new paragraph - “(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.”	Notwithstanding the position of the Applicant on this suggested insertion as set out at ISH4 [REP5-021], the ExA consider that such wording should be inserted into the dDCO to address the concerns expressed to the Examination by ECC.	<p>The Applicant remains firmly of the view that this drafting should not be included.</p> <p>Section 48 of the New Roads and Street Works Act 1991 (the "1991 Act") envisages two scenarios for the carrying out of street works: works which are carried out "in pursuance of a statutory right" and works which are carried out under a street works license.</p> <p>Article 18(2) invokes the first of these scenarios, since it provides that the works would be carried out pursuant to a statutory right.</p> <p>Usually provisions of the 1991 Act provide that advance notice must be served by the person with a statutory right before undertaking the works and provides that the street authority can impose "requirements" which must be complied with.</p> <p>However it is understood that ECC's area is instead subject to a "permit scheme" which provides an alternative mechanism under which a person with a statutory right must apply for a permit to occupy the highway. Article 13 provides that the permit scheme will apply to street works under the DCO.</p>

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				<p>It follows that the proposed paragraph (3) is a duplication and provides an unnecessary administrative burden on the Applicant.</p> <p>In the Applicant's submission, if paragraph (3) is to be included in the DCO it would be necessary for ECC to agree to disapply the duplicate permit scheme controls, and for such disapplication to be included in Article 3 of the DCO. It would further be necessary to delete paragraphs 8-10 of Article 18.</p>
DCO-PC11	Art 23 – Traffic Regulations		<p>The ExA is aware that this Article is the subject of on-going discussions between the Applicant and ECC, along with potential consequential changes to Sch3. Therefore, the ExA does not propose any changes at this stage in advance of the conclusion of those discussions.</p>	<p>Article 23 would allow the Applicant to impose speed limits on local highways, but only by way of revoking, amending or suspending an existing speed limit order. Such an order cannot be made except with the consent of Essex County Council as local traffic authority.</p>

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DCO-PC12	R1 – Interpretation - 'European protected Species	“European protected species” has the same meaning as in regulations 4042 (European protected species of animals) and 4446 (European protected species of plants) of the Conservation of Habitats and Species Regulations 2017(b);	To ensure accuracy.	The Applicant can confirm that that this change has been reflected in the draft DCO submitted at Deadline 6.
DCO-PC13	R3 – Second Iteration EMP	3.—(1) No part of the authorised development is to commence Not to commence any part of the authorised development until the Second Iteration EMP in relation to that part has been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority, and the Environment Agency, and Natural England on matters related to its their functions.	The EXA consider that the change to the opening line is required to improve legibility and provide clarity and precision. Whilst the Applicant's response to ExQ1 Q6.1.2 [REP2-025] is noted, the ExA considers that, given the nature and content of the EMP, NE should be included as a consultee.	<i>Dealing with parts</i> This issue is dealt with in PC24 below. <i>Addition of Natural England</i> The Applicant did not understand that Natural England had requested to be a consultee in relation to this requirement. It has asked Natural England. Natural England stated that it does not wish to be a consultee. The Applicant therefore has not made this change to the draft DCO submitted at Deadline 6.

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DCO-PC14	R4 – Third Iteration EMP	4.—(1) Following completion of construction of the authorised development the Third Iteration EMP must be submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority, and the Environment Agency, and Natural England on matters related to its their functions.	Whilst the Applicant's response to ExQ1 Q6.1.2 [REP2-025] is noted, the ExA considers that, given the nature and content of the EMP, NE should be included as a consultee.	<p>The Applicant can confirm that that this change has been reflected in the draft DCO submitted at Deadline 6.</p> <p>However, the Applicant is not aware that Natural England has requested to be a consultee in relation to this requirement.</p>
DCO-PC15	R5 - Landscaping	Any A part of the authorised development must not commence until a landscaping scheme for that part has been submitted to and approved in writing by the Secretary of State following consultation with the relevant planning authority on matters related to its functions.	The ExA understand that the proposed development, if granted, would be developed in parts. However, considering the Applicant's response to ExQ1 6.1.3 [REP2-025], identifying that those individual parts have yet to be determined, the ExA considers that this Requirement	This issue is dealt with in PC24 below.

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			is not sufficiently precise, therefore requires further clarity.	
DCO-PC16	R10 – Detailed design	<p>10.—(1) Subject to the provisions of this Order,....</p> <p>Insert ; and at end of (b) and insert new (c) -</p> <p>(c) the design principles set out in the scheme design approach and design principles,</p> <p>Insert new paragraph (3) –</p> <p>(3) - No part of the authorised development is to commence until, for that part, a report has been submitted to, and, following consultation with the relevant local planning authority, approved by the Secretary of State, demonstrating that—</p> <p>(a) the undertaker has engaged with relevant stakeholders on</p>	<p>The proposed insertion in the opening line is to correct a typographical error.</p> <p>In relation to the proposed insertion of paragraph (c), notwithstanding the Applicant's response to questions during ISH4 [REP5-021] and subsequent changes to the Design Principles [REP5-012], the ExA consider that given the importance of these principles to the detailed design and the importance of delivering good design as established in the NNNPS at paragraphs 4.28 to</p>	<p>The Applicant accepts the change proposed by the Examining Authority in relation to minor typographical errors and the insertion of a new (c) in relation to design principles, which has also been included in the list of documents to be certified in Schedule 12. These changes have been reflected in the draft DCO submitted at Deadline 6. However, the wording of sub-paragraph (c) has been amended slightly to refer to 'as set out in the scheme design principles' as that is the name of the document where the design principles are set out and as included in the list of certified documents in Schedule 12.</p> <p>However, the Applicant does not accept the proposal to add a new paragraph (3) on the basis that it is not necessary or appropriate and would delay the delivery of a Nationally Significant Infrastructure Project.</p> <p>The propose scheme's detailed design is already constrained by the provisions of requirement 10 of the draft DCO such that further Secretary of State approval of the detailed design is not necessary.</p>

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		<p>refinements to detailed design for that part of the authorised development;</p> <p>(b) the undertaker has had regard to the relevant stakeholders' comments; and</p> <p>(c) any refinements to the detailed design for that part of the authorised development arising as a result of that engagement should accord with the scheme design approach and design principles.</p>	<p>4.35, it is necessary that the Design Principles should be referenced in this Requirement.</p> <p>With regards to the proposed insertion of new paragraph (3), the ExA consider this addition is required to address concerns raised by CCC and ECC, amongst others, in relation to the final design and appearance of the proposed development and, in particular, a number of the proposed structures. The proposed change is considered to be relevant to the proposed development, to add precision to the Requirement and is necessary to ensure</p>	<p>Requirement 10, as currently drafted, provides numerous controls on the detailed design of the proposed thereby ensuring that the detailed design accords with:</p> <ul style="list-style-type: none"> a) the preliminary scheme design shown on the works plans and the engineering drawings and sections; b) the principles set out in the environmental masterplan; and c) the scheme design principles, following the proposed change by the ExA suggested above and which has been accepted by the Applicant. <p>This ensures that the proposed scheme is designed in a manner that is consistent with the plans and measures that have already been the subject of scrutiny and consultation during the Examination. As such, it is only where the detailed design seeks to depart from those measures that the Applicant is required to seek approval from the Secretary of State. In that case, the Applicant is already required by the provisions of requirement 10(1) to consult with the relevant local planning authority and relevant local highway authority on those proposed amendments.</p>

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			the delivery of good design across the whole of the proposed development.	The amendments proposed by the ExA depart from precedented practice on highways DCOs, which do not require such steps to be taken and would cause significant delay and cost to the scheme, as well as imposing a large administrative burden on the Applicant and the Secretary of State.
DCO-PC17	New R14 – Walking, cycling and horse-riding bridges		The ExA is aware that discussions are on-going to agree the precise wording of the new Requirement. Therefore, the ExA does not propose to suggest any changes at this stage in advance of the conclusion of those discussions. However, we would welcome further comments and discussions between the parties to agree a single suggested insertion by the close of the Examination.	<p>As noted in the Updated Requirement Matrix [TR010060/EXAM/9.59] the Applicant has agreed to the approach suggested by the County Council to create a WCH matrix. This matrix is found in appendix B of the Design Principles document, which is now secured by reference to Requirement 10.</p> <p>As noted in the Applicant's response to DCO-PC16 above, the Applicant is content for the Design Principles to be a certified document under Schedule 12. As a result, the Applicant has deleted Requirement 14 from the Draft DCO as these matters are now secured via Requirement 10.</p>
DCO-PC18	New R15 – Boreham		The ExA is aware that discussions are on-	The Applicant has continued discussions with ECC in relation to this requirement. However, there

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	operation phase traffic mitigation measures		going to agree the precise wording of the new Requirement. Therefore, the ExA does not propose to suggest any changes at this stage in advance of the conclusion of those discussions. However, we would welcome further comments and discussions between the parties to agree a single suggested insertion by the close of the Examination.	<p>remain to two substantive areas of disagreement between the parties.</p> <ol style="list-style-type: none"> 1. ECC maintains that narrowing is required to be included as part of the mitigation measures listed. However, the Applicant does not consider that widening is required. As noted by the Council's expert witness at ISH 3 on 26 April 2023 average speed cameras are considered an effective measure for keeping people to speed limits. Whilst road safety posters will help reinforce the safety benefits of reduced speed to drivers, and the proposed pedestrian crossing will help permeability of Main Road, the Applicant is of the view that localised road narrowing can increase conflict between motorised vehicles and on-carriageway cyclists and in the context of average speed cameras has limited benefit. 2. The Applicant maintains that the requirement should be discharged by the Secretary of State and not ECC for the reasons explained below. <p>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:</p> <ol style="list-style-type: none"> a) The Secretary of State is the appropriate discharging authority for requirements given

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				<p>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.</p> <p>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.</p> <p>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.</p> <p>d) The Applicant does not agree that it is appropriate to have more than one</p>

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				<p>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.</p> <p>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</p>

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				<p>requirements of different authorities, not to create new ones.</p> <p>f) 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.</p>
DCO-PC19	New R16 – Messing operation phase traffic mitigation measures		The ExA is aware that discussions are ongoing to agree the precise wording of the new Requirement. Therefore, the ExA does not propose to suggest any changes at this stage in advance of the conclusion of those discussions. However,	<p>The Applicant has continued discussions with ECC in relation to this requirement. However, there remain two substantive areas of disagreement between the parties.</p> <ol style="list-style-type: none"> 1. ECC maintains that it should be the approving body under the requirement. The Applicant does not agree for the reasons given under DCO-PC18 above. 2. ECC wishes to see additional measures added to the requirement as follows, which the Applicant maintains are not necessary for the

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			<p>we would welcome further comments and discussions between the parties to agree a single suggested insertion by the close of the Examination.</p>	<p>reasons stated in ref 3.17 of the Written submission of oral case for Issue Specific Hearing 3: [REP5-020] unless otherwise expanded upon below:</p> <ul style="list-style-type: none"> a) The scheme must include an assessment of improvements to the B1023 or another suitable corridor for walking, cycling and horse riding users, to help off-set the impacts of increased traffic on this route. – The Applicant has considered improvements to walking, cycling and horse-riding as part of the Walking, Cycling, Horse-riding Assessment Report process and maintains it has provided significant enhancements to assets for non-motorised users. These enhancements are described in ref 27 of the Applicant's Written submission of oral case for Issue Specific Hearing 1 [REP3-012]. b) An average speed camera system covering the B1023 between Inworth Road roundabout and the existing 30mph terminal on the northern approach to Tiptree, and a fixed speed camera covering the southbound carriageway north of the Inworth Road roundabout; c) widening of pinch points between Perrywood Garden Centre and the B1022 to a minimum carriageway width of 6.1m in line with the

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				<p>approach to other pinch point widening proposals;</p> <p>d) measures to improve provision for walking, cycling and horse riding users, as identified in the assessment under sub-paragraph (2); As stated in response to a), the Applicant maintains that suitable enhancement measures have been provided as part of the Proposed Scheme.</p> <p>e) narrowing of the entries to Oak Road (both the eastern and western ends, through tightening of entry radii and appropriate landscaping; and</p> <p>f) priority narrowing measures on Oak Road.</p>
DCO-PC20	New R17 – Operation phase local traffic monitoring		The ExA is aware that discussions are on-going to agree the precise wording of the new Requirement. Therefore, the ExA does not propose to suggest any changes at this stage in advance of the conclusion of those discussions. However,	<p>The Applicant notes the Examining Authority's comments.</p> <p>The Applicant agrees with the principle of monitoring but is not in agreement with ECC on the consequences flowing from any monitoring that may be undertaken.</p> <p>ECC provided a presentation to the Applicant on 23 May 2023 which set out their initial proposals on an</p>

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			<p>we would welcome further comments and discussions between the parties to agree a single suggested insertion by the close of the Examination.</p>	<p>operational phase monitoring and mitigation programme.</p> <p>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.</p> <p>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 the gap of at least four years between pre-construction and post-opening traffic surveys adds considerable uncertainty.</p> <p>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.</p>

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				<p>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.</p> <p>This is now dealt with at requirement 16 in the Deadline 6 dDCO</p>
DCO-PC21	New R18 – Pre-commencement works		<p>The ExA is aware that discussions are on-going to agree the precise wording of the new Requirement. Therefore, the ExA does not propose to suggest any changes at this stage in advance of the conclusion of those discussions. However, we would welcome</p>	<p>The Applicant notes the Examining Authority's comments in relation to this but is not aware of any discussions in relation to this proposed new requirement.</p> <p>The purpose of this requirement is to ensure that the “pre-commencement works” are appropriately controlled by the “pre-commencement plan” and that all necessary controls are secured for any works that, due to the definition of “commencement”, could occur at an earlier stage.</p>

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			further comments and discussions between the parties to agree a single suggested insertion by the close of the Examination.	Note this requirement is now requirement 17 in the dDCO submitted at deadline 6.
DCO-PC22	New R – Junction 21	<p>Junction 21</p> <p>(1) Requirement 10 (detailed design) is to be read subject to the provisions of this requirement.</p> <p>(2) The detailed design for junction 21 must contain the revised design detail specified in sub-paragraph (3) of this requirement and submitted to the Secretary of State following consultation with the local highway authority.</p> <p>(3) Subject to sub-paragraph (5) the detailed design for junction 21 must include a two-lane exit from both the junction</p>	<p>At DL5 suggested text was put forward by ECC [REP5-034]. The submission also included draft text from the Applicant that was provided on a without prejudice basis to aid the ExA and ultimately the SOS.</p> <p>For the purposes of this document, the ExA has included the Applicant's proposed wording, however we would welcome further discussions between the parties to agree a single suggested insertion, whilst still respecting</p>	The Applicant has continued discussions with ECC in relation to this requirement. The Applicant maintains that the wording proposed by the Examining Authority is appropriate and is happy to include this wording on the draft DCO on the basis of the drafting proposed. This is now draft requirement 18,

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		<p>21 northern roundabout to the A12 northbound slip road and from the junction 21 southern roundabout to the A12 southern slip road.</p> <p>(4) Junction 21 must be constructed in accordance with the approved details</p> <p>(5) No application for approval of the scheme under sub-paragraph (2) may be made in respect of proposals which would give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement.</p>	<p>the position of the Applicant.</p> <p>The ExA consider that the addition of the new Requirement would ensure that the measures outlined by the Applicant in their Letter of Intent [AS-060] in relation to Junction 21 are secured through the DCO. The Requirement adds precision and clarity to the DCO and is therefore a necessary addition.</p> <p>The ExA therefore includes the insertion of the new Requirement as a proposed change.</p>	
DCO-PC23	New R – De-trunking	X.—(1) The consent of the Secretary of State pursuant to Article 15(7) must not be sought until written details of the	At DL5 suggested text was put forward by ECC [REP5-034]. The submission also included draft text	The Applicant has considered the ExA's comments on the wording of a possible detrunking requirement and is willing to include such a requirement in the draft DCO. However, this is only on the basis that the requirement wording is that proposed by the

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		<p>proposals for the roads to be de-trunked as identified in Part 14 of Schedule 3 has been submitted and approved in writing by the Secretary of State following consultation with the relevant highway authority and relevant planning authority, such scheme to include:</p> <p>a) drawings and plans showing the proposals;</p> <p>b) demonstrating how the proposals maintain a safe and reliable highway network;</p> <p>c) the provision made for non-car transport modes;</p> <p>d) demonstrating how existing accesses will retain access to the de-trunked road;</p> <p>e) demonstrating how existing utilities will be safeguarded; (f)</p>	<p>from the Applicant that was provided on a without prejudice basis to aid the ExA and ultimately the SOS.</p> <p>For the purpose of this document, the ExA has included the Applicant's proposed wording, however we would welcome further discussions between the parties to agree a single suggested insertion, whilst still respecting the position of the Applicant.</p> <p>The ExA consider that the addition of the new Requirement is necessary to address the concerns raised by ECC, amongst others, in relation to the Applicant's approach towards de-</p>	<p>Applicant, as set out by the ExA. The Applicant does not accept that ECC's proposed wording is acceptable for the reasons previously explained during the Examination in Applicant's Response to Relevant Representations - Rev 2 [REP1-002], Applicants Response to Open Floor Hearing 1 - Rev 1 [REP1-009], Statement of Common Ground with Essex County Council [REP2-018], Written Submission of Oral Case for Issue Specific Hearing 1 [REP3-012], Applicant's Comments on Essex County Council's Local Impact Report [REP3-021], Statement of Common Ground with Essex County Council [REP4-044], Applicant's Comments on Information received at Deadline 3 - Rev 1 [REP4-056], A12 Technical Note on De-trunking Proposals - Rev 2 [REP4-057], Comments on any further information received [REP5-002], and Written submissions of oral representations made at Hearings [REP5-020].</p> <p>This is requirement 19 in the dDCO submitted at Deadline 6.</p>

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		<p>landscaping and planting details;</p> <p>f) drainage details; and</p> <p>g) a timetable for implementation of the proposals.</p> <p>(2) No application for approval of the scheme under sub-paragraph (1) may be made in respect of proposals which would give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement.</p> <p>(3) The scheme approved under sub-paragraph (1) must be implemented by the undertaker and in accordance with the approved timetable for implementation, unless otherwise agreed in writing with the Secretary of State following consultation with the</p>	<p>trunking. The proposed change is relevant to the proposed development, adds precision to the Requirement and is necessary to ensure the delivery of good design.</p> <p>The ExA therefore includes the insertion of the new Requirement as a proposed change.</p>	

Ref No.	Provision	Proposed change	ExA Reasoning	Applicant Comment
		relevant highway authority.		
DCO-PC24	R7,9,11,13,	Each requirement should start with - Any part, rather than A part.	At this stage the Applicant has yet to define the individual parts of the proposed development. Therefore, it is considered that these Requirements are not sufficiently precise as currently drafted and further clarity is required.	<p>The Addition of pre-commencement provisions in Schedule 2 at Deadline 5 impacted on the drafting of pre commencement provisions for relevant requirements in Schedule 2. The further changes proposed by the ExA would have the effect that (a) the pre commencement provision were of no effect; and (b) all of the details for the entire scheme would have to be dealt with before commencement.</p> <p>The Applicant anticipates this is not what was proposed by the ExA. The Applicant has reverted to precedented drafting, to be found in a number of recent National Highways Orders, for pre commencement requirements. This wording also allows for the pre commencement works drafting to apply. In the context of the 2008 Act, the authorised development would begin with pre commencement works starting, but commencement for a part would be subject to the pre commencement requirement for that part being fulfilled. The relevant requirements have therefore been amended as follows:</p>

Ref No.	Provision	Proposed change	ExA Reasoning	Applicant Comment
				“No part of the authorised development is to commence until for that part”
DCO-PC25	EXPLANATORY NOTE	In relation to the location of the Certified Plans, should there not also be a location closer to the Proposed Development, along with an option for the documents to be held/viewed electronically?		The Applicant has reviewed other recently made DCOs and can confirm there is no precedent to require certified documents to be digitally accessible or to be held in a location proximate to the scheme. The Explanatory Note is consistent with other recently made orders such as the A47/A11 Thickthorn Junction Development Consent Order 2022 and the A417 Missing Link Development Consent Order 2022.