

# **A12 Chelmsford to A120 widening scheme**

**TR010060**

## **9.72 Applicant's Comments on Information received at Deadline 6**

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(Examination Procedure) Rules 2010

**A12 Chelmsford to A120 widening scheme**

Development Consent Order 202[ ]

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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 6 of the Examination. It also includes comments on Additional Submissions accepted at the discretion of the Examining Authority after Deadline 6.

## 2 Applicant's Comments on Information received at Deadline 6

<b>Chelmsford City Council</b>	<b>REP6-097-001</b>
<b>Sub-Part</b>	
<p>Application by National Highways for an Order Granting Development Consent for the A12 Chelmsford to A120 widening scheme. Further to the publication of the Examining Authority's schedule of proposed changes to the draft Development Consent Order (dDCO) issued on Monday 22 May 2023, Chelmsford City Council (CCC) submits the following:</p>	
R10 – Detailed design	
<p>10.—(1) Subject to the provisions of this Order,.... Insert ;and at end of (b) and insert new (c) - The proposed insertion in the opening line is to correct a typographical error. In relation to the proposed insertion of paragraph (c), notwithstanding the Page   8 Ref No. Provision Proposed change ExA Reasoning (c) the design principles set out in the scheme design approach and design principles, Insert new paragraph (3) – (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— (a) the undertaker has engaged with relevant stakeholders on refinements to detailed design for that part of the authorised development; (b) the undertaker has had regard to the relevant stakeholders' comments; and (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>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 4.35, it is necessary that the Design Principles should be referenced in this Requirement. 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</p>	

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 the delivery of good design across the whole of the proposed development.

CCC welcomes the introduction of the amended wording to include new paragraph (3). CCC has no objection to the proposed wording.

#### New R15 – Boreham operation phase traffic mitigation measures

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.

As stated in its draft Statement of Common Ground with National Highways, Deadline 6, reference 2.9. CCC welcome the proposed traffic mitigation measures in Boreham. CCC note that National Highways are not proposing the associated road narrowing as proposed by Essex County Council (ECC), CCC and other interested stakeholders. CCC raise no objections in principle to requirement 15 but would prefer if the associated road narrowing was implemented as requested. However, CCC defer to the ExA and ECC on the final wording of the requirement and the provision of road narrowing measures.

### **Applicant's Response**

#### R-10

The Applicant notes the Interested Party's support for the Examining Authority's proposed amended wording to include a new paragraph (1)(c) and new paragraph (3). The Applicant maintains its support for the inclusion of the proposed paragraph (1)(c), however it 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. This is consistent with the Applicant's full response to the

proposed change within Ref No. DCO-PC16, 9.67 Applicants Response to The Examining Authority's commentary on the draft Development Consent Order [AS-103] that was submitted at Deadline 6.

### New R15

The Applicant notes the Interested Party's comments and acknowledges the ongoing discussions between the Applicant and Essex County Council regarding the wording of Requirement 14 (previously 15) in the Draft DCO [REP6-036].

Regarding road narrowing within the village of Boreham, the Applicant maintains that observed speeds within the village are in line with the proposed reduced speed limit and measures to reinforce the reduced speed limits are not required. Nevertheless, the Applicant has agreed with Essex County Council to provide a system of average speed cameras, a controlled crossing and road safety posters to ensure adherence to the proposed speed limit as is documented in Requirement 14 of the Draft DCO [REP6-036]. The Applicant is not proposing to introduce ancillary hazards in the form of road narrowings along the B1137 in Boreham village or remove the central reserve hatching to further reinforce the proposed reduced speed limit as average speed cameras have been acknowledged by the Interested Parties including Essex County Council to be effective and to be largely self-enforcing. ECC's expert witness confirmed at Issue Specific Hearing 3 that average speed cameras would be an effective measure in keeping people to speed limits [Ref 3.3, REP5-020].

The requests for road narrowing by Essex County Council, Chelmsford City Council and other Interested Parties includes the provision of advisory cycle lanes to narrow the road. Counter-intuitively, advisory cycle lanes, as proposed by the Interested Party, do not provide improved safety for cyclists. A recent research study undertook a thorough evaluation of the outcomes of many different types of cycle infrastructure. It was shown that mandatory (solid-edged) cycle lanes had no benefit in terms of reduced cyclist injury rate compared to no cycle facilities at all. Advisory (broken lines) cycle lanes were associated with an injury rate more than 30% worse than with no cycle facilities. [REDACTED]

[REDACTED]

It is therefore likely that removing the central hatching and installing cycle lanes will have no benefit and will actually increase cyclist injury rate. An additional threat would be introduced if such a remodelling of road space is undertaken before the road is next resurfaced. This is because at night and/or in low sun or wet conditions, road markings are hard to see, and removed markings can be as visible as the replacement markings, creating a 'tramline' appearance with 4 lines across the carriageway confusing drivers about where to position their vehicle. It is therefore inappropriate to remodel the road-space to provide cycle lanes denoted by road markings but no physical protection from motor vehicles. The large number of vehicular access and junctions present a challenge to providing protected cycle route options such as stepped tracks, or kerb-separated lanes.

For these reasons, the Applicant considers the most appropriate approach to improving safety for all road user groups within the Boreham village area is to introduce a tripartite package relying on the introduction of speed enforcement within Boreham as defined by the extent of the 30mph speed limit, and between Boreham and Hatfield Peverel as defined by the extent of the 40mph speed limit, the proposed crossing in the vicinity of the Boreham Co-op and the use of softer measures such as road safety posters]. This approach is reflected within the Applicant's Requirement 14 in the Draft DCO [REP6-036].



<b>Merwin Man / Essex County Council</b>	<b>REP6-098-001</b>
<b>Sub-Part</b>	
<p>1. Introduction This document sets out Essex County Council's (the Council) response to the draft Development Consent Order (dDCO) and details the progress that has been made between National Highways (the Applicant) and the Council since Deadline 5.</p> <p>2. Response to ExA's commentary on draft Development Consent Order [PD-014]</p> <p>See Link for table: <a href="https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010060/TR010060-002691-%20Essex%20County%20Council%20-%20Comments%20on%20the%20dDCO.pdf">https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010060/TR010060-002691-%20Essex%20County%20Council%20-%20Comments%20on%20the%20dDCO.pdf</a></p>	
<b>Applicant's Response</b>	
<p>The Applicant submitted its response to the Examining Authority's commentary on the draft DCO [AS-103] at Deadline 6.</p> <p>With regard to the council's table in section 2 of their submission, the Applicant notes that the council has provided comments on several articles in the table. In addition, it has provided comments on the Requirements, and provides more comments on section 4.</p> <p>The Applicant below has provided its response to the council's comments on Articles 14, 15, 16, 18 and 23.</p> <p><b>Article 14 - Construction and maintenance of new, altered or diverted streets and other structures:</b> It is the Applicant's view that article 14 simply sets out what happens when a highway is de-trunked (by reference to Section 265 of the Highways Act 1980). The Applicant, therefore, does not consider that this drafting would need to be amended as a result of any of the discussions relating to de-trunking.</p>	

The Applicant's view remains that the main provision effecting detrunking is at article 15, and has amended the Deadline 6 DCO to include the wording proposed for Article 15(7) by the ExA in its Commentary on the dDCO.

**Article 15 – Classification of Roads:** The Applicant has amended the Deadline 6 DCO to include the wording proposed for Article 15(7) by the ExA in its Commentary on the dDCO. The Applicant is content with the position under the terms of article 15(7) and if ECC objects, it will be for the SoS to make a determination between the parties, which the Applicant views as the appropriate mechanism for any such dispute to be settled.

**Article 16 – Speed Limits:** The Applicant was not aware that ECC had any objections to the wording in article 16.

There are ongoing discussions between the parties covering speed limits, and the monitoring of speed limits, however these discussions relate to requirements requested by ECC and the terms of Schedule 3 of the DCO, as opposed to the wording of article 16 itself.

Amendments are being made to certain speed limits in Schedule 3, Part 6 in the Deadline 7 dDCO [Applicant reference TR010060/APP/3.1 rev 8].

**Article 18 – Street Works:** The Applicant responded to the ExA's suggested amendments to article 18 in the Applicant's Response to the ExA's Commentary on the dDCO [AS-103] at DCO-PC10.

The Applicant remains firmly of the view that this drafting should not be included.

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.

Article 18(2) invokes the first of these scenarios, since it provides that the works would be carried out pursuant to a statutory right.

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.

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.

It follows that the proposed paragraph (3) is a duplication and provides an unnecessary administrative burden on the Applicant. 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.

**Article 23 – Traffic Regulations:** Under article 23, the Applicant can impose speed limits, but only by revoking, amending or suspending any order made under the 1984 Act. However, these orders cannot be made without the consent of ECC.

The Applicant was not aware that ECC had any issue with the wording, nor have ECC proposed any amendments to be made to article 23.

<p>There are substantive discussions ongoing in relation to speed limits, but they do not concern the wording of article 23. Amendments are being made to certain speed limits in Schedule 3, Part 6 in the Deadline 7 dDCO [[Applicant reference TR010060/APP/3.1 rev 8]. ], however those speed limits do not relate to Article 23.</p> <p>With regard to the council's comments on requirements 10, 14, 15 16 and 17, and de-trunking and Junction 21, the Applicant has responded to these in detail in the sections below.</p>
<p><b>REP6-098-002</b></p>
<p><b>Sub-Part</b></p>
<p>3. Updated draft Requirement matrix The table below provides an updated position outlining the key differences between the Applicant and the Council following meetings on 18<sup>th</sup> May and 1st June 2023. Amendments made from the previous agreed Deadline 5 version [REP5-034] are shown in red text and further detailed commentary from the Council on specific requirements can be found in Section 4. See Link for table: <a href="https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010060/TR010060-002691-%20Essex%20County%20Council%20-%20Comments%20on%20the%20dDCO.pdf">https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010060/TR010060-002691-%20Essex%20County%20Council%20-%20Comments%20on%20the%20dDCO.pdf</a></p>
<p><b>Applicant's Response</b></p>
<p>The Applicant discussed the contents of the Requirements Matrix at length with Essex County Council, prior to submission. The Applicant and Essex County Council submitted the same matrix and notes [REP6-088].</p> <p>As noted in the Applicant's response REP6-098-001, the Applicant has provided substantive responses to the council position on requirements below.</p>
<p><b>REP6-098-003</b></p>
<p><b>Sub-Part</b></p>

4. Commentary on updated draft Requirement matrix Approval of Requirements (general comment) The Council reaffirms that it is still appropriate for the Council, in its capacity as the local highway authority, to be the approving authority for requirements that have a direct impact on the local highway network, as explained in our Deadline 5 submissions [REP5-033 and REP5-034].

Furthermore, in the Applicant's targeted consultation report [AS-077], other Interested Parties expressed their desire to ensure that the Council, as the Local Highway Authority, accepts the updated design for Junction 19 and Junction 25. This aligns with the Council's stance on matters affecting the local highway. Requirement 10 - Detailed design The Council welcomes the Applicant's acceptance of the ExA's proposed change to add Requirement 10(1)(c) 'the design principles set out in the scheme design approach and design principles' to their dDCO. Checks must be undertaken to ensure that this is the formal name of the document, and if so, it should be capitalised, defined in the interpretation provision, and included as a Certified Document in Schedule 12.

The Council also notes that the Applicant has not accepted the ExA's remaining proposed change to include new Requirement 10(3). As a result, the Council's additional points raised in ISH2 [REP3-05] and ISH4 [REP5-033] have still not been addressed. If the Applicant accepts the ExA's proposed changes to Requirement 10, it will address the Council's concerns. Requirement 14 – Walking, cycling and horse-riding provision Although, the Applicant has now proposed a table within Appendix B of their Design Principles, setting out the principles it intends to follow in the design of Walking, Cycling and Horse-riding (WCH) infrastructure, the Council considers that this is not sufficient to ensure that the design of the WCH infrastructure will accord with the DfT's LTN1/20 Guidance.

Throughout the DCO process, the Council has consistently requested specific changes to the DCO design to ensure that it accords with LTN1/20. These specific requirements are clearly set out in the Council's WCH Infrastructure Specification Matrix (Appendix B). If this Matrix only becomes an appendix to the Design Principles document, it is not clear if this will be binding on the Applicant and there is a significant risk that the importance of each specific requirement will be lost during the detailed design process, and that the final design will not address the changes needed.

The Council maintains that the inclusion of a specific WCH infrastructure requirement is essential, to guarantee the delivery of each important change set out in the Council's WCH Infrastructure Specification Matrix. This would provide assurance that the design of key WCH infrastructure meets the required standards. Requirement 15 – Boreham Mitigation The Council recognises and acknowledges that the Applicant has included a Boreham operation phase traffic mitigation requirement within the DCO submission and is pleased to see many of the Council's recommended mitigation measures included. The Applicant has not, however, agreed to include minor road narrowing at three key locations on Main Road.

The Council maintains that the provision of average speed cameras should be in combination with other measures, to visually reinforce the need to travel at lower speeds. The proposed road narrowings are a key part of an overall package of measures and should be included within the requirement. Requirement 16 – Messing and Inworth Mitigation The Council recognises and acknowledges the inclusion of this new requirement for Messing and Junction 24 and confirms that it is the most appropriate decision-making body for measures having an impact on the Local Road Network.

A fundamental difference between the Council's proposed requirement and the Applicant's is around the timing of the installation of the mitigation measures. The Applicant's version of the requirement states that '...no part of the authorised development is to open to traffic until a scheme of operation phase traffic mitigation for Messing has been submitted to and approved by the Secretary of State'. However, to give surety that the mitigation measures are implemented before the opening of the A12 scheme, the Council maintains that the wording for this requirement should state that '...no part of the authorised development is to open for public use until the approved scheme has been implemented'.

In addition, the mitigation measures proposed by the Applicant and the Council vary significantly. The Applicant has only proposed to provide two of the measures the Council has identified, and these measures alone will be insufficient for adequately mitigating the impacts of the new junction on the local road network. The Council's Inworth, Messing & Tiptree Mitigation Options Technical Note [REP3-033] provides detail reasons to why each mitigation is required. Similar to the principles applied at Boreham, it is the Council's view that these mitigations should be in combination with each other to effectively reduce the impact of traffic flow changes in the vicinity of Messing, Inworth and Tiptree Requirement 17 – Operational phase monitoring and mitigation Forecasting the effects of a scheme of this nature when operational is inherently difficult. It is possible that some of the actual effects will be materially different to those forecasted and in some cases the effects will have a significant detrimental

impact on the performance of the local road network. For this reason the Council strongly believes a robust monitoring and mitigation process should be put in place to ensure the actual effects post-opening can be identified, and a mechanism is required for addressing material adverse unanticipated effects. To support this key area of work the Council has prepared a Monitoring and Mitigation Plan Technical Note and submitted it to the ExA at Deadline 6. This technical note outlines the location, type and rationale for monitoring to be undertaken at 29 key sites along the extent of the scheme. It is acknowledged that when reviewing the output data gathered in the monitoring programme there will need to be:

- Thresholds at which impacts that differ from those predicted in the A12 DCO Transport Assessment require further investigation.
- Sufficient data to identify whether the A12 widening scheme is a material contributor to those impacts.

Figure 4-1 within the Monitoring and Mitigation Plan Technical Note describes in detail the process by which mitigation should be put in place if thresholds are breached.

The Technical Note represents the culmination of several meetings with the Applicant on monitoring and representations made throughout the examination hitherto; it is the Council's view based on this that a workable solution for identifying and agreeing post-opening mitigation does exist and therefore that our proposed wording for Requirement 16 is appropriate, justified and proportionate. The Council urges the Applicant and the ExA to adopt the Council's proposed wording for this requirement.

## **Applicant's Response**

### **Approval of Requirements (general comment)**

The Applicant remains forcefully of the opinion that the SoS should be the approving authority. The Applicant has set out in detail six critical reasons supporting its view, in row DCO-PC18 (pages 15-19) of the Applicant's Response to the ExA's Commentary on the dDCO at [AS-103], in response to DCO-PC18.

### **Requirement 10 - Detailed design**

As stated in the Applicant's Response to The Examining Authority's commentary on the draft Development Consent Order [AS-103] the Applicant has accepted the change proposed by the ExA. In the Deadline 7 dDCO [Applicant reference TR010060/APP/3.1 rev 8] the Applicant has defined "design principles" in Article 2 of the dDCO and ensured that the wording

used in requirement 10 and Schedule 12 align with that definition. Statutory drafting conventions do not provide for the capitalisation of the first letter of defined terms (this differs from contract drafting conventions).

As stated in Applicant's Response to The Examining Authority's commentary on the draft Development Consent Order [AS-103] 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. The proposed 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.

**Walking, Cycling and Horse-riding provision (Deadline 5 Requirement 14. Deadline 6 – not a requirement. Now Requirement 20 at Deadline 7)**

Throughout the DCO process the Applicant has consistently responded to the requests of the council to provide further enhancements to the WCH proposals which across the scheme represent a considerable enhancement to the existing provision. The extent of these WCH facilities that the scheme is committed to deliver can be found in Appendix B of the Design Principles.

It is unclear why the council has concerns about the table of WCH improvements being included in the Design Principles document. The Design Principles document is referenced in Requirement 10 and is to be a certified document. The approach of providing a table also follows the request made by the council in Draft requirement matrix with National Highways [REP5-034]. Nevertheless, to provide the council with the additional reassurance they are seeking, the DCO submitted at Deadline 7 [Applicant reference TR010060/APP/3.1 rev 8] includes a specific WCH Requirement. This is new Requirement 20.

More generally, the proposed improvements 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 and five new WCH bridges with one improved walking and cycling bridge. Overall, there would be 20km of additional WCH provision. The proposed scheme is also bringing over 3.5km of existing facilities up to compliance with current guidance such as LTN1/20.

**Boreham mitigation (Deadline 5 Requirement 15, Deadline 6 Requirement 14. Now Requirement 14 at Deadline 7)**



The Applicant has agreed to provide average speed cameras within Boreham as defined by the extent of the 30mph speed limit and between Boreham and Hatfield Peverel as defined by the extent of the 40mph speed limit, a new controlled pedestrian crossing on the B1137 in the vicinity of the Boreham Co-op and softer measures in the form of road safety posters in the vicinity of Orchard Cottages, Boreham Recreation Ground and outside of the Little Hedgehogs day nursery.

The Applicant does not believe that minor additional road narrowing is either appropriate or required for the following reasons;

- Build-outs to narrow the carriageway can push cyclists who are riding on the road into the path of motor vehicles. There are no cycle routes in this area away from the carriageway so all cyclists must ride in the road in this area. The approach to build outs can be tapered to reduce the suddenness of the realignment, but this does not reduce the conflict at the place where the road is narrowed.
- The Highway Code Rule 72 commends a riding position to the left of the lane, a minimum of 0.5m from the kerb. Kerb build outs move the kerb into cyclists' path, requiring them to steer around the build-out, or ride closer to the channel.
- If they steer out into the lane around a build-out, a cyclist is more likely to be hit by a car overtaking them.
- If they remain closer to the kerb, the cycle wheel is more likely to clip the kerb of the build-out resulting in loss of control. The cycle also passes through the debris that typically accumulates in the channel, which may result in punctures.
- Blocked gullies and standing water in the channel also present hazards to cyclists, especially in winter when water freezes. It is common for build-outs to affect rainfall reaching drainage systems and can cause standing water, further adding to this hazard. LTN 1/20 Para 7.6.4 notes that road narrowing can be hazardous to cyclists and that cycle bypasses should be provided to protect riders from the conflict. Design and/or maintenance actions are noted to prevent the debris accumulation described above.
- LTN 1/20 recommends avoidance of road widths that are too narrow for safe overtaking but wide enough that drivers will attempt to pass cyclists. Table 7-2 on page 76 advises against lane widths between 3.2m and 3.9m (two-way road widths of 6.4 and 7.8m) for this reason. The current B1137 road width in Boreham is in the range

between 6.4m and 8.12m. This means that it is already mainly in the range where cycle risk is elevated, and localised narrowings would therefore further add to the risk.

The Applicant would reiterate that the council's own expert witness at Issue Specific Hearing 3 confirmed that average speed cameras would be an effective measure in keeping people to speed limits [Ref 3.3, REP5-020].

### **Messing and Inworth mitigation (Deadline 5 Requirement 16, Deadline 6 Requirement 15. Now Requirement 15 at Deadline 7)**

The Applicant's Messing and Inworth Requirement provides the following:

- Gateway features for signage and speed limit roundels at Lodge Road, Harborough Hall Road and Kelvedon Road, marking the extents of the existing 30mph speed limit.
- "Unsuitable for heavy goods vehicles" signage at the junction of the B1023 and Yewtree Farm Road, the junction of Harborough Hall Road and B1022, the junction of the B1023 and Oak Road, and the junction of the B1022 and Oak Road.

There are various other items that the council has requested be undertaken by the proposed scheme. The Applicant's response to these can be found in reference 3.17 of the Applicant's Written submission of oral case for Issue Specific Hearing 3 [REP5-020]. In short, cumulatively the additional interventions would result in unacceptable significant effects for local residents.

### **Operational phase monitoring and mitigation (Deadline 5 Requirement 17, Deadline 6 Requirement 16. Now Requirement 16 at Deadline 7)**

At Deadline 6, the Council submitted any further information requested by the ExA [REP6-100] which provided further information on its monitoring and mitigation proposals. This has been responded to in Traffic Monitoring Report provided in Appendix A of this document.

<p>This has been summarised in the response to REP6-100-001 in this document.</p>
<p style="text-align: right;"><b>REP6-098-004</b></p>
<p><b>Sub-Part</b></p>
<p>Proposed New Requirement - De-trunking As stated throughout the examination thus far the Council, whilst supporting the overall scheme, has significant concerns about the approach currently proposed by the Applicant to the sections of the A12 which will be bypassed with new provision; namely the Rivenhall End and Feering to Marks Tey sections. This remains the aspect of the scheme on which the Council and the Applicant is furthest apart.</p> <p>As noted in Section 3 of this document the Council welcomes the ExA's proposed text changes to the draft DCO as a step forward on this matter. Unfortunately the wording put forward by the Applicant only represents a holding position insofar as it provides the Council or other stakeholders with no assurance that material changes to the design of the de-trunked sections will be actually made – just that more information will be provided on the Applicant's approach in due course.</p> <p>The Council has voiced concerns over the course of the examination that the current proposals do not align with policy both at national and local levels, and represent significant highway over-provision that will be an unnecessary maintenance burden for the Council as outlined in REP3-082. The final requirement needs to go further by stipulating that the following features must be included as part of the de-trunking proposed scheme:</p> <ul style="list-style-type: none"> <li>• The conversion of one carriageway into an active travel corridor, not accessible to motorised traffic of than for access to local properties and maintenance</li> <li>• Re-greening of part of this carriageway through breaking up of sections and covering them with earth/top soil, and provision of suitable planning to increase biodiversity 22.</li> <li>• Conversion of the other carriageway into a single carriageway road with one lane in each direction; and</li> <li>• Measures to encourage compliance with the speed limit on the single carriageway To reiterate the Council's position, at a national level when looking at the existing and emerging National Policy Statement for National Networks (NPSNN).</li> </ul>

Existing NPSNN The Council believes that the Applicant has not fully considered all reasonable opportunities to support other transport modes as required specifically:

(5.205) Applicants should consider reasonable opportunities to support other transport modes in developing infrastructure. As part of this, consistent with paragraph 3.19-3.22 the application should provide evidence that as part of the project they have used reasonable endeavours to address any existing severance issues that act as a barrier to non-motorised users.

Emerging NPSNN The emerging National Policy Statement for National Networks also stresses the need to maximise opportunities for active and sustainable modes such that:

(5.261) Government is committed to sustainable development through facilitating a modal shift to active travel and public transport, and reducing transport emissions including through delivering the infrastructure needed to support a transition to alternative fuels including electric vehicles. The impact of construction traffic on local networks needs to be minimised, the distance travelled by construction and goods vehicles needs to be reduced, and developments need to be accessible by various modes of transport.

(5.2.64) Applicants should seek to offer an integrated transport outcome, significantly considering opportunities to support other sustainable transport modes, as well as improving local connectivity and accessibility in developing infrastructure. The needs of pedestrian and other vulnerable road users should be considered, where appropriate, in line with the principles of the road user hierarchy.

Also, of relevance from the emerging NPSNN are the following excerpts concerning giving due consideration to impacts on local transport networks and the development of measures to mitigate any negative

(5.275) Mitigation measures may relate to the design, lay-out or operation of the scheme, or any support or funding to the immediate surrounding area of the scheme.

(5.277) The Examining Authority and the Secretary of State should give due consideration to impacts on local transport networks and policies set out in existing and emerging local plans and Local Transport Plans, during both construction and operation.

(5.280) Where a development negatively impacts on surrounding transport infrastructure including connecting transport networks, the Secretary of State should ensure that the applicant has taken reasonable steps to mitigate these impacts. This could include the applicant increasing the project's scope to avoid impacts on surrounding transport infrastructure and providing resilience on the wider network. In particular, this should recognise the importance of providing adequate lorry parking facilities, taking into account any local shortages, to reduce the risk of parking in locations that lack proper facilities or could cause a nuisance. The applicant may increase the project's scope to avoid impacts on the surrounding transport infrastructure and improve network resilience. Where the proposed mitigation measures are insufficient to reduce the impact on the transport infrastructure to acceptable levels, the Secretary of State should expect applicants to accept requirements and/or obligations to fund infrastructure or mitigate adverse impacts on transport networks.

Given that the network in the areas of de-trunking will be significantly altered the Council firmly believes that more should be done to support the needs of vulnerable road users given that these will be the predominant mode along these routes. The Council is extremely concerned, based on the position put forward by National Highways hitherto and the limited progress that has been made on resolving this matter, that that unless the changes listed above are stipulated by the requirement they will not be incorporated in the final scheme and the Council as local highway authority will be left with assets which are not fit for purpose or in accordance with policy. The Council would remind the ExA that in the case of the former A12 running through Copdock the local highway authority (Suffolk County Council) is still trying to address issues with speeding vehicles as a result of the approach taken by the strategic highway authority several decades ago when this stretch of the A12 was de-trunked.

## Applicant's Response

### De-trunking proposal

The Applicant has been engaged in ongoing discussions with Essex County Council regarding the Applicant's proposal for de-trunking of the existing A12 in Rivenhall End and between Feering and Marks Tey and the inclusion of a requirement in the Draft DCO. The Applicant acknowledges the council's concerns and has assessed the council's alternative proposal to convert the northbound carriageway into an active travel corridor in the A12 Technical Note on De-trunking Proposals - Rev 2 [REP4-057].

In this assessment, the Applicant thoroughly considered the feasibility of the solution suggested by ECC in line with the NNNPS paragraph 5.205 to consider reasonable opportunities to support other transport modes in developing infrastructure. The technical note explains in detail the challenges that would be faced by the Applicant if it was to introduce ECC's proposed changes. This includes practical issues such as the extent of the works required to construct new accesses to properties who currently access the northern (northbound) 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 a Nationally Significant Infrastructure Project, and has not been assessed, it would require a new Transport Assessment and Environmental Statement. This assessment also included a high-level cost estimate which indicated that ECC's proposal for the de-trunked sections of the A12 would cost significantly more than the Applicant's proposed design in the DCO application.

Adopting ECC's proposal would also require the withdrawal and resubmission of the current application for development consent. This would be expected to delay the delivery of the proposed scheme by approximately two years. The additional costs due to increased works and caused by the ensuing delay are disproportionate to the benefits expected to be realised from the enhancements.

The Applicant maintains that Essex County 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 proposed scheme would lead to

significant additional costs and a lengthy delay to the provision of a modern trunk road between Chelmsford and Colchester and are not considered to represent a reasonable opportunity in accordance with the National Networks National Policy Statement (NNNPS), specifically paragraph 5.205.

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's proposed enhancements to the WCH, as described in the Design & Access Statement [APP-268] 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 de-trunked 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.

Following representations during examination, as well as the culmination of extensive engagement, the Applicant has included a new requirement, Requirement 19, in the draft DCO [REP6-036], which confirms that the relevant local highway authority, which

includes Essex County Council, will be consulted on the final de-trunking proposals before submission to the Secretary of State for consent.

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 [REP6-058] 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].

**REP6-098-005**



<p><b>Sub-Part</b></p>
<p>Proposed New Requirement - Junction 21 The drafting provided by the Council for this proposed new requirement seeks to secure the design elements National Highways has indicated it intends to include within the new junction 21 as per the Applicant's letter of intent dated 24 April 2023 [AS-060]. The requirement, including a general arrangement drawing, is requested to provide the Council 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.</p>
<p><b>Applicant's Response</b></p>
<p>The Applicant has responded to the matters raised in an updated document, National Highways and Essex County Council -Draft Requirements Matrix submitted at Deadline 6 [REP6-088] and where appropriate made changes to the dDCO [REP6-036]. As far as the Applicant is aware, the final request from the council was to provide a General Arrangement drawing to them confirming the detailed design. This was provided on 27 June 2023 and this item is now agreed in the Statement of Common Ground submitted at deadline 7 (Applicant Reference: Final Statements of Common Ground (SoCG) - Essex County Council [TR010060/EXAM/8.12 rev 4].</p>
<p><b>REP6-098-006</b></p>
<p><b>Sub-Part</b></p>
<p>5. Commentary on ongoing issues Traffic Modelling It recently became apparent to the Council, after further discussions with the Applicant during their Targeted Consultation, that more detailed traffic modelling is still required to satisfy concerns about the some of the proposed junction designs, specifically matters relating to:</p> <ul style="list-style-type: none"> <li>• splitter islands,</li> <li>• any crossings which are incorporated into these,</li> <li>• the positioning of stop lines and how this would affect vehicles queuing back into and around the circulatory systems of the junctions.</li> </ul>

These concerns were originally noted in the Council's Local Impact Report (LIR) [REP2-055 Paragraph 8.3.87 and 8.3.90] at various junctions along the route whilst also still an ongoing issue within the Statement of Common Ground under "Item 2.1 Traffic Modelling".

For example, the arrangement of crossings on the northern roundabout of the main junction 19 design (as shown in AS-073 – see image below) requires pedestrians and cyclists to cross over to the central roundabout area and then cross back over the junction to reach the route over the railway line via the re-aligned Beaulieu Park distributor Road. In addition to the issues with the positioning of the stop lines for the crossing over the distributor road itself, there is also very little space on the roundabout between the two sets of signals required to control pedestrian and cycle crossings to and from the centre of the northern roundabout; vehicles stopped here will not only block the movement from the northern to the southern roundabouts, but the Council estimate that once more than 4 or 5 vehicles are queuing, this would extend across the second crossing point and potentially further around the north side of the roundabout, which could result in further delays and extension of queues on other arms of the roundabout. As mentioned above, the Council need to see from the modelling whether these queues do create disruption and to check that this does not affect wider movements around the junction – this is relevant to the Council because if wait times are made too long for pedestrians and cyclists in order to keep traffic moving, this risks people trying to cross inappropriately. It is notable that the southern roundabout at junction 19 takes a different design approach and moves the whole cycle crossing away from the roundabout entry to the southbound on-slip, with a separate pedestrian crossing on the western side of the junction which is able to take up less space as it does not need to also accommodate cyclists.

#### Snapshot of the J19 General Arrangement from Map Book 1- Junction 19 Slip Road [AS-070]

To progress this matter, the Council would like to be provided with the VISSIM Models for the junctions so we can look at each area of concern and make a judgement as to what specific impacts the current design will have in relation to the issues identified. If the Applicant is unwilling to provide the requested junction models, the Council requests the following information: • Any and all outputs which can be provided which show the queuing and delay at internal stoplines • Confirmation of which ped/cycle crossings are programmed into the models and how often they are called • Confirmation of the signal timings (i.e. which arms run

in each stage so that we can see where the current splits in the staggered crossings are being used to increase overall capacity, or reduce queuing elsewhere in the model

This issue further emphasises the importance of local highway authority being fully consulted as part of detailed design prior to any next of works. See link for image <https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/TR010060/TR010060-002691-%20Essex%20County%20Council%20-%20Comments%20on%20the%20dDCO.pdf>

### **Applicant's Response**

Further to the detailed traffic modelling results already shared with Essex County Council throughout and prior to the examination process, the Applicant subsequently provided the following data to Essex County Council on Monday 26 June:

- Outputs showing the queuing and delay at internal stoplines.
- Confirmation of which pedestrian / cycle crossings are programmed into the traffic models and how often they are called.
- Confirmation of the signal timings used in the traffic models.

This is in line with the list of data requested by Essex County Council. The information was provided for A12 junctions 19 and 25, based on the Vissim modelling reported in the Transport Assessment [APP-253] for junction 19 and in the Transport Assessment Addendum [AS-071] for junction 25. The data provided shows that the queues at the internal stoplines within each junction are not significant.

Since the Deadline 2 submission of the Statement of Common Ground there has been a holding point "under discussion" on traffic modelling (ref 2.1). As noted in the deadline 7 submission of the Statement of Common Ground, this matter is now agreed.

Of course, the Applicant recognises that the local highways authority may have further requests for information related to the proposed scheme and is committed to responding to those requests in a collaborative and timely manner if they arise.

**REP6-098-007**

### **Sub-Part**

Speed Limits The Council is disappointed to report insufficient progress has been made by the Applicant around Article 16 Speed Limits since our concerns were first raised at Issue Specific Hearing 2 [REP3-035] and further detailed in our Deadline 4 submission [REP4-075]. The lack of detailed rationale and justification places the Council in a difficult position as we would have wished to assist the ExA at Deadline 6 by presenting specific agreed mitigations and speed limits that would have resolve our concerns.

A speed limit workshop took place on 5 May 2023 as mentioned by the Applicant in REP5- 002 Page 37, however, the matters and actions that arose from that workshop were only addressed by the Applicant in writing on 8 June following the Council's requests for a further meeting, which took place on June 7, 2023. Unfortunately, we still did not agree that the Applicant's proposed speed limit changes is in accordance with the Council's Speed Management Strategy (SMS), or the Department for Transport's guidance Circular 01/2013 (Setting local speed limits) despite what the Applicant stated in REP5-002. The Council's concern is about the level of compliance with the posted speed limit without enforcement measures and the scheme's inconsistent approach to setting speed limits with the rest of the County.

The Council's SMS is largely based upon Circular 01/2013 which states the underlying aim should be to achieve a 'safe' distribution of speeds. The key factors that should be taken into account in any decisions on local speed limits are:

- history of collisions
- road geometry and engineering
- road function
- composition of road users (including existing and potential levels of vulnerable road users)

- existing traffic speeds
- road environment.

While these factors need to be considered for all road types, they may be weighted differently in urban or rural areas. The impact on community and environmental outcomes should also be considered. The minimum length of a speed limit should generally be not less than 600 metres to avoid too many changes of speed limit along the route. Speed limits should not be used to attempt to solve the problem of isolated hazards, such as a single road junction or reduced forward visibility, for example, at a bend.

The Council has not been provided with the requested details, made during the 5<sup>th</sup> May 2023 workshop, to ascertain why the road geometry has been set to fit the proposed speed limits, and considers that a number of the speed limits could be more appropriate with a different design ethos. The environment of most of the County Council roads approaching the scheme is rural with little frontage development and national speed limits, the roads to be provided to the Council by the Applicant have a similar environmental character and objectively “better” design however significantly lower speed limits. The Applicant displays an inconsistent approach to similar roads across the scheme with proposed speed limits varying up to 30mph. Isolated hazards such as signal controlled junctions or roundabouts have lower speed limits proposed in direct contradiction of 01/2013.

To progress matters at this of the examination, and in the absence of the above-mentioned information, the Council has listed some changes that we would find acceptable. This can be found in Appendix A. Alternative mitigations, although less desirable, includes National Highways demonstrating compliance as part of Requirement 10 Detailed Design and, monitoring and mitigating speed flows as part of Requirement 17.

### **Applicant's Response**

The Applicant, since Deadline 6, has held two further workshops with ECC to discuss speed limits which were on 22 and 23 June 2023. While the Applicant maintains the proposed speed limits are in accordance with the guidance in the Department for Transport's Circular 01/2013 (Setting local speed limits), it acknowledges that this guidance is up to interpretation and has listened to ECC's views on the speed limits where they will be the adopting authority on these roads. The Applicant has proposed a number of changes to the proposed speed limits, these changes have been validated against the strategic traffic model which

was brought into the examination at Deadline 6 as part of the change application [AS-071], and there are no further changes to strategic traffic model.

Please see Appendix B (Speed Limits Narrative) of this document for Deadline 4 to Deadline 7 speed limit narrative table.

**REP6-098-008**

**Sub-Part**

Construction Impacts Drafting has been provided by the Council in our Deadline 5 submission [REP5-033] and repeated below to address our concerns associated with the construction impact of this scheme, which is anticipated to take 3+ years. This means it is vitally important to agree a framework to continually reduce adverse impacts on local communities and keep the highway network safe; any agreement must be in place prior to the start of construction.

To ensure safety and operational performance of the local road network remains acceptable during construction, the Council needs roles and responsibilities to be clarified and confirmed when the Applicant begins to undertake works affecting the local highway network. Furthermore, pre and post condition surveys of the local roads must be carried out where the Applicant has proposed to use them as construction traffic route or diversion routes. It is common that construction traffic, for large infrastructure projects, will cause local roads to deteriorate faster than normal hence a specification of the condition in which the local highway will be returned after the occupation has finished should be agreed prior to construction work commencing.

**Applicant's Response**

The Applicant notes the Interested Party's comments on the Detailed Local Operating Agreement (DLOA) and confirms this is included in the Section 5.22 of the Outline Construction Traffic Management Plan (OCTMP) [REP6-054]. Record of condition requirements is detailed in Section 5.23 of the OCTMP.

The Applicant responds to the concerns relating to deterioration of the highway at REP6-098-010 below.

REP6-098-009

**Sub-Part**

In recent discussions, the Council welcomes the Applicant's acceptance to the principle of entering into a Detailed Local Operating Agreement (DLOA), undertaking pre and post condition surveys of the local roads and giving us access to their site. However, the details to how these items will be implemented hasn't been agreed hence why the Council remains of the view that these needs to be new Requirements. Proposed new requirement: Detailed Local Operating Agreement 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;

<p>(i) incidents;</p> <p>(j) traffic management: provides the key activities to be undertaken with regard to the design, installation, maintenance and removal of Traffic Management; and</p> <p>(k) claims made by and against the undertaker.</p> <p>(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.</p> <p>(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).</p>
<p><b>Applicant's Response</b></p>
<p>The Applicant has provided appropriate wording within Section 5.22 of the Outline Construction Traffic Management Plan [REP6-054].</p> <p>The DLOA has been agreed with Essex County Council in the Statement of Common Ground.</p>
<p style="text-align: right;"><b>REP6-098-010</b></p>
<p><b>Sub-Part</b></p>
<p>Proposed new requirement: 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:</p>



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**

National Highways has agreed to carry out pre and post use condition surveys of local highway authority roads where they are proposed for use as construction traffic routes or diversion routes. National Highways will not be responsible for any remedial actions identified and deemed required prior to commencement of the Works.

National Highways will be responsible for remedial actions should vehicles associated with the works be directly responsible for damage local to those works, as an example, damage to kerbs where turning in/out of a site entrance.

These commitments have been made in the OCTMP (Chapters 4.4 and 5.23) [REP6-054].

Whilst National Highways is not in principle opposed to the concept of pre and post condition surveys, National Highways does not consider that it is possible for a post-condition survey to properly attribute causation to any damage which may have arisen to the local highway network during the period of the works when open and in general use by "ordinary" traffic, construction traffic and/or traffic on diversion. It cannot therefore accept the requirement proposed by ECC which provides that if there is damage to a highway asset and it is attributable to construction traffic then NH must deliver a scheme to remediate the damaged asset.

National Highways will not agree to be responsible for general wear and tear to a highway (where it is not the highway authority) or any increased rate of deterioration due to increased use of that highway, be that for construction traffic, traffic on a diverted route or any other scheme related purpose. The local highway authority is under a statutory duty under Section 41 of the Highways Act 1980 to maintain the highway and Section 329(1) makes it clear that this duty includes "repair". The standard of that duty is set out in the common law: such a state as to be safe and fit for ordinary traffic (*Burgess v Northwich Local Board* (1880) 6 Q.B.D. 264). The use of the highway by construction traffic falls into the category of "ordinary traffic". The local highway authority receives funding to allow it to comply with that duty and may not abrogate that duty to a third party. If a highway becomes out of repair following use by ordinary traffic, then the local highway authority is under a duty to repair it and any member of the public can enforce that duty under Section 56 of the Act.

Further clarity has been provided to the chapters in the OCTMP that deal with this (Chapters 4.4 and 5.23) [REP6-054].

National Highways will not agree to be responsible for any damage associated with a road traffic incident or similar on the local highway, be that relating to a construction vehicle or personnel, or persons using the highway as a diversion route required as a result of the proposed works. The management of any such incident, repairs and recovery of any associated losses from insured parties must remain the responsibility of the local highway authority (unless otherwise agreed in the DLOA) as is the case for any other highway.

Should National Highways occupy ECC highway, then this would be subject to the usual permitting procedures (street works permits) already mandated by and operated by ECC, which would cover all the matters requested by ECC in their proposed requirement.

Therefore any requirement in the DCO would be both duplicative and unnecessary.

Where National Highways seeks to use its powers under Article 19 to prohibit the use of a local road and use it as a temporary working site it would need the consent of the street authority who may attach reasonable conditions to such consent. ECC as street Authority would therefore be in a position to require condition surveys and to secure the repair of any damage caused by National Highways during the period of its occupation.

Save to the extent of the provisions already included in the OCTMP National Highways does not believe that the proposed requirement is either necessary or appropriate.

**REP6-098-011**

### **Sub-Part**

Proposed new requirement: 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**

National Highways confirms that during construction officers appointed by ECC may, subject to any Health and Safety restrictions and Principal Contractor requirements, inspect any part of the authorised development which is in, over, under or adjacent to any local highway or that may affect any local highway or any other property of the local highway authority.

National Highways will provide such an officer all reasonable facilities for such inspection.

National Highways will test materials used in any new local highways at its own expense and in accordance with the Manual of Contract Documents for Highway Works Appendix 1/5 (Specification for Highway Works).

National Highways will make available, on request, the results of such testing.

The local highway authority may also test at its own expense the materials used or proposed to be used in any works to the local highway. In addition, National Highways will provide relevant building information modelling (BIM) models, Construction Design and Management records, Operation and Maintenance manuals, and other data relating to the ongoing operation and maintenance of local highways which are to be handed to the local authority post construction.

National Highways has written separately to ECC to confirm these arrangements and therefore does not believe that the additional requirement is required.

**REP6-098-012****Sub-Part**

Road Safety Audit Safety concerns raised during the A12 DCO examination have highlighted to the Council the importance of the Road Safety Audit (RSA) process. According to the NNNPS, the Applicant 'should undertake an objective assessment of the impact of the proposed development on safety' and 'put in place arrangements for undertaking the road safety audit process' (paragraphs 4.61 and 4.62). The Applicant utilises the RSA process as outlined in the GG119 Design Manual for Roads and Bridges (DRMB). However, this design standard does not mandate the inclusion of the local highway authority in the RSA team. It is crucial for the Council to be part of the RSA team, especially considering that the A12 design will have an impact on the local highway network, and that any safety concerns should be addressed appropriately. A requirement is needed to ensure that the Council is allowed to contribute to all parts of the RSA process, including reviewing the RSA briefs, and any recommended works identified within an RSA report are appropriately discussed with the relevant stakeholders.

Proposed new requirement: Road Safety Audit 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 36 is as follows:

(1) The undertaker must procure that an appropriately qualified safety auditor undertakes road safety audit stages 3 and 4 on the Works including any Works to local highways in accordance with the Design Manual for Roads and Bridges ("DMRB") Volume 5

Section 2 Part 2 (GG 119) or any replacement or modification of that standard and must provide copies of the reports of such audits to the local highway authority.

(2) The local highway authority must be invited to participate in the stage 2, 3 and 4 road safety audits conducted under sub-paragraph (1).

(3) Where the report of the stage 3 road safety audit identifies any recommended works to the local highway, the undertaker must use reasonable endeavours to agree with the local highway authority which works or alternative proposals require to be implemented, provided that no works may be implemented which would give rise to any new or materially different environmental effects in comparison with those identified in the Environmental Statement.

(4) Where the report of the stage 4 road safety audit identifies any recommended works to the local highway, the undertaker must use reasonable endeavours to agree with the local highway authority which works or alternative proposals require to be implemented. "(5) Any works which the undertaker considers are required to be carried out to the local highway in accordance with the report of the stage 3 or stage 4 road safety audit, which works may not give rise to any new or materially different environmental effects in comparison with those identified in the Environmental Statement, must be undertaken by and at the expense of the undertaker to the reasonable satisfaction of the local highway authority.

(6) The undertaker must use reasonable endeavours to agree with the local highway authority a programme for any works to be carried out under sub-paragraph (5), which programme must include timing of any closures of any part of the highway, traffic management arrangements, signage and diversion routes where required.

(7) The carrying out of works under sub-paragraph (5) are to be taken to be works carried under this Order.

(8) Where, agreement cannot be reached under this paragraph, the terms of the Detailed Local Operating Agreement will be resolved by arbitration under article 45 (arbitration). "

### **Applicant's Response**

The Applicant welcomes the opportunity of Essex County Council (ECC) being involved in the Road Safety Audit (RSA) process and at Stages 2 and 3 audits, and it would welcome a representative to attend each audit. The audit brief and supporting documents would be supplied in advance, and the representative would be invited to submit queries and potential safety issues to the RSA team in advance of the site visit, and to meet the RSA team on site to discuss arising issues and reporting, including appropriate recommendations. Concerns raised by the ECC representative at each stage would be included in the RSA report. The same would apply to concerns raised by other parties attending the RSA such as maintaining organisation and Police, as set out in GG119.

The Stage 4 audit (undertaken once 12 months of post-completion collision data is available) follows a different process, and does not necessarily involve a site visit, but on a scheme of this size, it is almost certain to be part of the audit. In any event, the input of ECC is welcomed, as the Applicant recognises that ECC will have valuable information relating to the operational experience of the amended highway network.

Regarding issues arising from road safety audits, the RSA Team have final discretion of whether an issue is reported as a 'Problem' as defined in GG119. However, all concerns raised by parties to the audit will be recorded in the RSA report, either as Problems, or for example as 'road safety concerns reported to the RSA team' depending on the final view of the appointed RSA team named in the RSA Brief. This reporting of all concerns raised will include all issues raised by ECC at all future stages (Stages 2, 3 and 4), and Police and maintaining organisation representative views at the Stage 3 [post-construction] audit. Under GG119, it is the Overseeing Organisation's duty to respond to all issues in the road safety audit report.

Where the RSA Report makes recommendations to amend elements of the local road network, the Applicant would consult with ECC regarding the proposed changes to agree an acceptable solution. The implementation of any changes resulting from the

<p>RSA, within the proposed scheme's area of intervention and not constituting betterment, is the responsibility of National Highways, both the cost of the works and any required evaluation of the environmental impact.</p>
<p><b>REP6-098-013</b></p>
<p><b>Sub-Part</b></p>
<p>Appendix A - ECC Deadline 6 Speed Limit Proposals This table sets out the Council's initial proposals to what is required to demonstrate compliance with the Council's Speed Management Strategy. This proposal was made based on the limited information received from the Applicant and may change if new information becomes available. See Link to Appendix : <a href="https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010060/TR010060-002691-%20Essex%20County%20Council%20-%20Comments%20on%20the%20dDCO.pdf">https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010060/TR010060-002691-%20Essex%20County%20Council%20-%20Comments%20on%20the%20dDCO.pdf</a></p>
<p><b>Applicant's Response</b></p>
<p>Please see Appendix B (Speed Limits Narrative) of this document for Deadline 4 to Deadline 7 speed limit narrative table</p>
<p><b>REP6-098-014</b></p>
<p><b>Sub-Part</b></p>
<p>Appendix B – WCH Infrastructure Specification matrix This table sets out the Council's proposed changes to the latest version of the Applicant's WCH Infrastructure Specification matrix Appendix B of the Design Principle document as outlined in Section 3 and explained in Section 4. Proposed deletions to the Applicant's version are shown as strikethrough and with proposed additions shown in red text.</p> <p>See Link to Appendix : <a href="https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010060/TR010060-002691-%20Essex%20County%20Council%20-%20Comments%20on%20the%20dDCO.pdf">https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010060/TR010060-002691-%20Essex%20County%20Council%20-%20Comments%20on%20the%20dDCO.pdf</a></p>
<p><b>Applicant's Response</b></p>



The Applicant has reviewed the changes proposed by Essex County Council to the WCH Infrastructure Specification matrix.

In consultation with Essex County Council, the Applicant has agreed to adopt 4m minimum internal radii on the entry and exit to ramps at Paynes Lane bridge and Marks Tey bridge, and 5m minimum external radii at the entry and exit to ramps at Little Braxted Lane bridge, Snivellers Lane bridge, Potts Green bridge and Gershwin Boulevard bridge.

The Applicant does not accept the segregation between walking and cycling facilities and 5.5m minimum width between parapets on Paynes Lane and Marks Tey bridges. The Applicant maintains that the proposed 4m width is sufficient to provide a 3m shared use path with 0.5m offset on either side. This complies with LTN1/20 guidelines and provides adequate capacity for the expected future active transport growth.

The Applicant has proposed revised text for the At Grade Crossings section of the matrix. The latest text can be found in Appendix B of the Design Principles document submitted at Deadline 7 [Applicant Reference TR010060/APP/7.10].

The Applicant has accepted the changes to the text for the Wellington Bridge parallel crossing.

The Applicant does not accept the addition of the text regarding the Rivenhall End single stage cycle crossing, due to the level difference between the northbound and southbound carriageways.

The Applicant does not accept the addition of the text regarding the WCH links between Feering and Marks Tey. The Applicant maintains that the existing shared use walking/cycling facilities in this location are of sufficient width.

The Applicant has proposed revised text for the junction 24 WCH Links section of the matrix. The latest text can be found in Appendix B of the Design Principles document submitted at Deadline 7 [Applicant Reference TR010060/APP/7.10].

<b>Merwin Man / Essex County Council</b>	<b>REP6-100-001</b>
<b>Sub-Part</b>	
Please see Link: <a href="https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010060/TR010060-002692-%20Essex%20County%20Council%20-%20Any%20further%20information%20requested%20by%20ExA.pdf">https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010060/TR010060-002692-%20Essex%20County%20Council%20-%20Any%20further%20information%20requested%20by%20ExA.pdf</a>	
<b>Applicant's Response</b>	
<p>As stated in the response to REP5-033-010 with the Applicant's Comments on information received at Deadline 5 [REP6-090], 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].</p> <p>Regarding the Interested Party's technical note on monitoring and mitigation submitted at Deadline 6 [REP6-100], the Applicant's response to this is provided in Appendix A of this document. A summary of this response is provided below.</p> <p>Essex County Council's (ECC) technical note includes suggested locations and survey specifications for monitoring surveys. The Applicant considers that the scope of these surveys is disproportionate compared to typical monitoring undertaken by National Highways on local roads. The Applicant also notes that ECC's list of suggested monitoring locations has grown from seven sites in its Local Impact Report, to 29 sites in the most recent technical note.</p> <p>ECC set out proposals to help identify whether any traffic changes seen on local roads are attributable to the proposed A12 scheme itself. The Applicant remains of the view that the large number of proposed housing developments close to the roads that would be affected by the proposed A12 scheme make it impossible to definitively attribute flow changes to the proposed scheme. The Applicant notes that the Interested Party themselves have not identified a way to definitively attribute flow changes to the proposed scheme.</p>	

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

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 causation to be attributed to the A12 scheme and therefore responsibility for funding or delivering mitigation.

In addition, given that the proposed scheme results in an overall reduction of traffic on Essex's local road network (LRN), any suggestion that the Applicant should in principle be expected to monitor and bear all impacts on the LRN arising from the scheme would involve a significant and problematic extension of National Highways' role in delivering improvements to the strategic road network (SRN), through both the RIS process and under the terms of National Highways' Licence, which authorises National Highways in respect of the SRN only .

Lastly, the Applicant considers it to be entirely inappropriate for ECC to suggest the project holds a £20 million fund for undefined mitigation schemes to be delivered from 2033 at the earliest.

**Feering Parish Council**

**REP6-101-001**

**Sub-Part**

1) Inworth Road, Feering including Hinds Bridge & Gore Pit corner Feering Parish Council fully support the submissions requiring the widening of Hinds Bridge – specifically ECC's response at deadline 4 & before [REP4- 075 page 23] that..... "ECC remains of the view that Hinds Bridge should be widened so that it can accommodate two large vehicles passing in opposite directions. By 2042 there is predicted to be an increase in peak hour traffic and incidents are most likely to occur at these busier times." As noted before, Hinds Bridge is a historic brick bridge that takes Inworth Road over the Domsey Brook. Crown Estates Land and the

BDC Local Plan LPP21 “Feering Strategic Growth Location” development - which will total 1000 dwellings together with business, retail and leisure uses - is on the north (Feering) side of Domsey Brook and will straddle the Inworth Road. As previously stated, Feering Parish Council are seriously concerned that the extra domestic, business & HGV traffic that will be generated by this doubling in size of Feering, including an up to 4ha employment site, is not taken into account in the Development Consent Order and that there is no safe active travel provision in this area. A general recognition of economic trends and housing developments across Braintree District does not take into account the fact that housing growth in the BDC Local Plan 2013-2033 has been deliberately focussed on the A12 corridor, with its adjacent mainline railway links. Both Feering Parish Council [REP3-041 at deadline 3] and Cllr Paul Thorogood [REP4-081 at deadline 4] have required that the following Feering locations are included in the traffic monitoring sites: 1. Inworth Road – specifically including Hinds Bridge, the narrow brick bridge with no footway over Domsey Brook 2. Gore Pit corner aka Blue Anchor junction: Junction of Inworth Road B1023 and London Road / Feering Hill B1024 and Rye Mill Lane. Feering Parish Council were assured by ECC in an email of 11 April that... “ECC intend to seek inclusion of locations 1 and 2 within the (traffic) monitoring programme”. Feering Parish Council request that the above sites are indeed included.

### **Applicant's Response**

The Applicant notes the Interested Party's comments however maintains its position that Hinds Bridge does not need to be widened as a result of the proposed scheme. 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 as documented in the Transport Assessment [APP-253]. 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.

With respect to the Interested Party's comments regarding the Feering Strategic Growth Location development and traffic modelling, the Applicant confirms that the Scheme's traffic model includes the first phase of development at the Feering strategic growth location, containing 162 dwellings. However, the second phase of 835 dwellings is not included as, despite being identified in the Braintree District Council Local Plan, no planning application had been submitted for this development when the traffic model was developed in May 2021. Only developments classified as 'Near Certain' or 'More than Likely' (i.e., those with planning

applications) were included within the Scheme's forecasts and is consistent with the Department for Transport's approach to modelling future traffic flows, as set out within Unit M4 of the Department's Transport Analysis Guidance. This remains consistent with the Applicant's previous response which can be found at reference 43 in the Applicant's Written Submission of Oral Case for Issue Specific Hearing 1 [REP3-012] and reference 3.26 in the Applicant's Written Submission of Oral Case for Issue Specific Hearing 3 [REP5-020].

As explained in response to Cllr Paul Thorogood in response to REP4-081 [REP5-002], monitoring of traffic flows after the proposed scheme would be open would be undertaken as a part of National Highways' standard post-opening evaluation process. Nevertheless, to provide additional assurance to Essex County Council and others, the Applicant has included within the Draft DCO under Requirement 16 which will provide traffic monitoring at the following locations:

1. B1137 Main Road, Boreham;
2. The Street/Maldon Road (Duke of Wellington) junction, Hatfield Peverel;
3. Little Braxted Lane, Little Braxted;
4. Braxted Road/Braxted Park Road;
5. B1023 Kelvedon Road, Inworth;
6. Kelvedon Road, Messing; and
7. B1023 Church Road, Tiptree.

The locations outlined above fully accord with the request provided by Essex County Council in paragraph 8.2.36 of its Local Impact Report and as such the Applicant is not proposing additional locations but will continue to liaise with the County Council on this matter.

**REP6-101-002**

<p><b>Sub-Part</b></p>
<p>2. Severing of Prested Hall Drive and Feering FP 15 As noted in Feering Parish Council's submissions at deadline 2 [REP2-059 at 13 February 2023] and deadline 3 [REP3-041 at 9 March 2023], National Highways DCO proposals cut both Prested Hall drive and Feering PROW 15 to the east. These routes are used together with the current Threshelfords PROW &amp; farm accommodation bridge over the current A12 as a convenient and semi-rural circular route. Prested Hall drive provides a direct attractive route for pedestrians and cyclists from the north-east end of Feering to the leisure facilities at Prested Hall. It is requested that National Highways provide a public WCH crossing and route over the new A12 in the general area of Prested Hall Drive / Feering PROW 15 to maintain this north-south connectivity.</p>
<p><b>Applicant's Response</b></p>
<p>The Applicant notes the Interested Party's comments. 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 solely 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.</p> <p>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.</p>
<p style="text-align: right;"><b>REP6-101-003</b></p>
<p><b>Sub-Part</b></p>

3. De-trunking of the A12 north-east of Feering Feering Parish Council are broadly supportive of Essex County Council's proposal for the green infrastructure and walking/ cycling/ horse riding provision on the northern carriageway. It is not clear at present whether users of properties with access onto the to-be-detrunked A12 will be able to turn both left and right out of their properties or whether they will have to go to a roundabout to turn round. Similarly with entering the properties. In the interests of sustainable transport, bus stops must be re-instated on the de-trunked A12 especially by: - the garage, shops & hotel. - Domsey Chase, which has several residential & business properties. The relocated Easthorpe Road turning will also be in this area. There must be no conflict between buses pulling into- & out-of bus-stops and users of walking/cycling/horse riding provision along the de-trunked A12.

### **Applicant's Response**

The Applicant is proposing to retain the dual carriageway arrangement of the existing A12 between Feering and Marks Tey as shown on the Streets, Rights of Way and Access Plans [REP6-014]. This means that access to and from properties along the de-trunked A12 will remain as left-in, left-out movements and the proposed roundabouts at Easthorpe Road and Wishingwell Farm will allow drivers to access the north or southbound directions. This is an improvement on the current arrangement which requires traffic to travel to junction 24 or 25 to turn around. The Applicant is not proposing to adopt Essex County Council's single carriageway arrangement. The Applicant has included a requirement in the Draft DCO, Requirement 19, to address de-trunking.

The Applicant acknowledges the Interested Party's comments regarding sustainable transport. A review of public transport routes would need to be undertaken by Essex County Council and operators reflecting the new network form. Once routes are identified, bus stop locations and form can then be determined, and this would form part of the detailed design process. This would be subject to both independent Road Safety Audit (to the Design Manual for Roads and Bridges (DMRB) GG 119), and Walking, Cycling and Horse-Riding Review (to DMBR GD 142).

<p><b>Maldon District Council</b></p>	<p><b>REP6-102-001</b></p>
<p><b>Sub-Part</b></p>	
<p>Dear Sirs,</p> <p>RE: 20033123 - PROCEDURAL DEADLINE 6 SUBMISSIONS</p> <p>I write on behalf of Maldon District Council (MDC) with regards to Deadline 6 and its request for the above.</p> <p>Response to ExQ3 MDC welcomes the questioning of the traffic modelling data and would like to re-emphasise its position previously set out in written submissions [REP2-068, REP3-051, REP4-077] and the most recent written submission [REP5-043]. ISH3, Agenda Item 4 specifically sought to 'progress with a plan for monitoring and management of wider impacts on the local highway network'. MDC has focussed on the current Level of Service D at the Maldon Road junction with the Duke of Wellington mini roundabout in Hatfield Peverel based on the 2019 traffic modelling data and if the current Level of Service D can be sustained in the short term. Coupled with the project's 'changing traffic patterns' and 'increased queue lengths' at the Maldon Road junction with the Duke of Wellington mini roundabout, MDC feels there is a justifiable need for traffic monitoring at this specific location on behalf of its residents, businesses and visitors who use this junction, but in acknowledgement of ECC as the highway authority, who will carry out the monitoring and evaluation.</p>	
<p><b>Applicant's Response</b></p>	
<p>The Applicant confirms that it has now agreed to a programme of traffic monitoring which has locations and timescales aligned to the request contained within Essex County Council's Local Impact Report. This is reflected in the new Requirement 17 of the draft DCO [REP6-036] and includes traffic monitoring at the B1019 Maldon Road / B1137 The Street (Duke of Wellington) junction.</p>	
<p style="text-align: right;"><b>REP6-102-002</b></p>	



<p><b>Sub-Part</b></p>
<p>Comments on the dDCO? As stated in MDC's deadline 5 submission [REP5-043], MDC is awaiting specific arboricultural advice regarding the powers afforded to National Highways through the dDCO concerning trees. MDC remains concerned that the broad treatment of trees in the dDCO that are subject to a Tree Preservation Order within Blue Mills Nature Reserve, in particular the female Black Poplar, could be negatively impacted through lopping and pruning, particularly to any root systems determined as necessary for the diversion of the Cadent Gas Pipeline.</p>
<p><b>Applicant's Response</b></p>
<p>The Applicant notes Maldon District Council are awaiting specific arboricultural advice in relation to the powers afforded to National Highways through the dDCO concerning trees.</p> <p>Work to be carried out to trees subject to Tree Preservation Orders, including the woodland subject to Maldon District Council TPO 07/22 Blue Mills, are detailed within Schedule 9, Part 4 of the draft DCO [REP6-036]. As per row 8 of the table within Schedule 9, Part 4, TPO 07/22 Blue Mills would only be subject to felling, pruning and lopping of branches. No works to any roots are permitted.</p> <p>In accordance with REAC commitment LV5 [REP6-052], works to Tree Preservation Orders, veteran, ancient and notable trees would be supervised by the Ecological Clerk of Works (ECoW) and supported by an experienced arboriculturist. In the event tree canopy pruning is required to facilitate the works, this would be undertaken by qualified and competent staff working to BS 3998:2010 Tree work – Recommendations.</p>
<p style="text-align: right;"><b>REP6-102-003</b></p>
<p><b>Sub-Part</b></p>

<p>MDC re-emphasises its Deadline 5 submission [REP5-043] in support of ECC's Deadline 4 submissions [REP4-044], paragraph 2.9 that the dDCO should ensure monitoring at 'specific locations' on the local highway network, including the Maldon Road junction with the Duke of Wellington mini roundabout.</p>
<p><b>Applicant's Response</b></p>
<p>See response to REP6-102-001.</p>
<p><b>REP6-102-004</b></p>
<p><b>Sub-Part</b></p>
<p>Any Further Comments Blue Mills Nature Reserve MDC would like to draw the ExA's attention to the individual component parts within Blue Mills recommended Local Wildlife Site (LoWS), as stated and annotated within REP5-048, elements of which are included in the LoWS citation in Annex K of MDC's LIR [REP2-068]. These component parts form the 'ecological value' (to reference the term used by the ExA in ExQ2 – Q2.7.1) of the site and highlight the seven primary habitat types within the nature reserve as detailed in National Highway's Supplementary Botanical Report [REP2-027] which are:</p> <ul style="list-style-type: none"> <li>• Aquatic Marginal Vegetation;</li> <li>• Other Swamp;</li> <li>• Other Neutral Grassland;</li> <li>• Wet Woodland (UK Biodiversity Action Plan priority habitat);</li> <li>• Other broadleaved woodland types;</li> <li>• Line of trees; and</li> <li>• Built linear features.</li> </ul> <p>In addition, the Report notes them to be in a 'moderate condition' and makes a specific reference to the female black poplar in the northwest of the nature reserve, which MDC has previously drawn to both the Applicant and the ExAs' attention through a Tree Preservation Order survey and Local Wildlife Site review. The Report also notes mature oaks being present along the eastern</p>

boundary and two hedgerows which both qualify as Hedgerows priority habitat; the latter which are of national importance to biodiversity.

### **Applicant's Response**

The Applicant notes the council's comments and confirms this is information reported in the Applicant's Supplementary Botanical Report [REP2-027].

The Supplementary Botanical Report [REP2-027] concludes that all seven habitat types identified during the survey were classified as moderate condition in accordance with condition assessment criteria in the Defra Biodiversity Metric 3.1 (Natural England, 2022). These were:

- f2d aquatic marginal vegetation
- f2f other swamp
- g3c other neutral grassland
- w1d wet woodland
- w1g7 other broadleaved woodland types
- w1g6 line of trees
- u1e built linear features

Wet woodland is also a UK Biodiversity Action Plan (BAP) priority habitat and therefore considered of National value in line with Table 2.22 of Chapter 9: Biodiversity [APP-076].

As per paragraph 1.1.5 of the Supplementary Botanical Survey Report [REP2-027], of particular significance was a female black poplar in the north-west of the site. The arboricultural survey confirmed the tree to be a potential veteran (defined by the Applicant as a tree not formally designated but assessed as part of the A12 field surveys to qualify as a veteran tree) and it is therefore considered to be of National value in line with DMRB LA 108.

In addition, mature oaks were identified along the eastern boundary of the survey area. The Applicant also confirms the finding of two hedgerows within the survey area that both qualify as priority habitat. In accordance with DMRB LA 108 these are assessed as being of National importance for biodiversity.

**REP6-102-005**

**Sub-Part**

Little Braxted Lane – Signage MDC notes the Outline Construction Traffic Management Plan (OCTMP) published on the 8th June 2023 [AS-093] aims to reduce the impact of construction on the businesses and residents of Little Braxted and reduce the likelihood of HGV's/unsuitable vehicles from using Little Braxted Lane. This is welcomed and has been an area of active discussion with the Statement of Common Ground (SOCG) process. It is however noted that whilst paragraph 2.7.7 of the OCTMP outlines the techniques proposed to be used to achieve this, the signage will be considered under the Temporary Traffic Regulations Order through the dDCO and therefore any signage provided will only be for the duration of construction. MDC have raised continuously through its SoCG with National Highways that significant improvements to signage at the Junction 22 access to Little Braxted Lane are also required to deter HGV's/unsuitable vehicles from accessing the narrow lane with 2m width restrictions, Grade II listed bridge and 3T weight restricted bridge once the scheme is in operation as well. MDC do not consider temporary signage to be adequate as there would be no deterrent to drivers of HGV's/unsuitable vehicles from accessing the lane post construction and therefore the locale is not getting any betterment locally despite Junction 22, which is very close by, facing significant remodelling

**Applicant's Response**

The Applicant notes the comments from the Interested Party.

The measures outlined in the Outline Construction Traffic Management Plan [REP6-054] deal with the construction phase. In addition to these measures the Applicant has confirmed in the Statement of Common Ground with Maldon District Council submitted at Deadline 6 [REP6-068] that National Highways is 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, while recognising that this would 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 [REP6-069].

**REP6-102-006****Sub-Part**

SoCG MDC continue to engage with National Highways on the SoCG to meet deadlines and to address areas that currently remain as 'under discussion' and 'in disagreement', with a view of moving as many into 'agreement' as is possible.

ISH5 MDC officers have registered to speak at ISH5 on the 27th June and await the ExA's agenda with interest.

The Council trusts this information is to your satisfaction.

Yours sincerely,

Paul Dodson Director of Strategy, Performance & Governance

**Applicant's Response**

A12 Chelmsford to A120 widening scheme

Applicant's Comments on Information received at Deadline 6

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The Applicant similarly continues to engage with MDC and aims to continue providing the necessary information and assurances, where appropriate, to enable matters to progress to 'agreement'.

<b>MIAG</b>	<b>REP6-103-001a</b>
<b>Sub-Part a</b>	
<p>Messing and Inworth Action Group Ltd and Messing-cum-Inworth Parish Council</p> <p>A12/A120 Widening Scheme Junction 24</p> <p>The intention of this document is to demonstrate to the Planning Inspectors (PI) and the Examining Authority (ExA), for the above designated Draft Development Consent Order (dDCO) enquiry submitted by National Highways (NH), the position of Messing and Inworth Action Group (MIAG), and the Messing-cum-Inworth Parish Council (McIPC), 12th June, 2023.</p>	
<b>Applicant's Response a</b>	
The Applicant notes in the Interested Party's comments.	
<b>REP6-103-001b</b>	
<b>Sub-Part b</b>	
MIAG and McIPC believe; A valid alternative exists to NH plans for Junction 24, the 'Main Alternative';	
<b>Applicant's Response b</b>	
The Applicant has provided a detailed response to this point in its response to REP6-103-002.	
<b>REP6-103-001c</b>	

<b>Sub-Part c</b>
NH have failed in their legal obligations and duty to consult in a fair and reasonable manner;
<b>Applicant's Response c</b>
The Applicant has provided a detailed response to this point in its response to REP6-103-007.
<b>REP6-103-001d</b>
<b>Sub-Part d</b>
NH have failed in their duty to fully consider other alternatives, and have demonstrated both confirmation bias and created a false narrative throughout the Examination of the dDCO;
<b>Applicant's Response d</b>
As explained in response to REP6-103-002, the Applicant undertook a detailed assessment of the Main Alternative as well as a bypass option without the northern arm connection and a scenario with widening along the B1023 rather than a bypass. This assessment is documented in the Environmental Statement Appendix 3.3 Junction 24, Inworth Road and Community Bypass Technical Report [APP-095]. The assessment found that while the Main Alternative bypass option with a southern and northern link reduces the traffic in Inworth Village and Messing, this option increases traffic in Tiptree, Feering and the B1023 to the north of junction 24. A bypass would create issues in other locations, to other communities, resulting in a greater number of receptors with a significant negative impact in the other communities when compared with the impacts on Inworth Village and Messing. In addition to this, a bypass would add an additional approximate cost of £10 million to the proposed scheme budget and require significantly more land to construct the bypass compared to the land that is required to widen the B1023 to facilitate the anticipated traffic levels. At the time of the original DCO submission, this amounted to 40% more land required to construct the bypass. (It should be noted the margin of difference in the areas of land required has significantly increased following the reduction in land now required along the B1023 following the Applicant's changes to the submitted scheme).



Following the assessment of the alternative scheme proposed by MIAG, the Applicant did not include the Main Alternative in the DCO application. Instead, the Applicant proposed localised widening at pinch points along the B1023 in Inworth to improve safety for pedestrians at those locations. This reduces the likelihood of vehicles overhanging or over-running the footway to pass oncoming vehicles. The Applicant has also proposed measures to improve both the surface water drainage and overland flood storage adjacent to the B1023 Inworth Road currently, to help mitigate seasonal flooding problems that have been reported throughout the preliminary design of the proposed scheme.

During the examination period, the Applicant has reviewed each submission from Interested Parties regarding the Main Alternative. The Applicant is of the position that no new information has been submitted into the examination that would change the outcome of the options assessment undertaken in the Junction 24, Inworth Road and Community Bypass Technical Report [APP-095].

The Applicant has also provided comments in REP6-103-004 on alternatives, as well as REP6-103-003 on the interested party's accusations of "confirmation bias".

**REP6-103-001e**

**Sub-Part e**

NH have failed in their duty to provide a legal dDCO. The document is incorrect, unintelligible and wrong; • NH submitted a dDCO that was inadequately prepared and researched, and has constantly been amended as NH failings have been exposed; • NH are in breach of planning laws by not submitting the 'new road' build (of 7kms between Kelvedon and Marks Tey), as a separate and identifiable Nationally Significant Infrastructure Plan (NSIP), DCO;

**Applicant's Response e**

The Applicant entirely refutes that it has failed to provide a legal draft DCO. It is entirely usual practice that the draft DCO should change and evolve throughout the Examination in response to comments from Interested Parties, and indeed the Examining

Authority itself. This is in accordance with every other DCO Examination that has taken to date and is no reflection on the quality of the draft DCO as submitted by the Applicant.

MIAG raised the issue of the classification of the proposed scheme under the Planning Act 2008 in its written representation at Deadline 2 and oral case at ISH2. It is asserted that the whole of the A12 scheme does not constitute an alteration proposal under s22(1) of the 2008 Act. In particular, MIAG contends that the section proposed between Kelvedon and Marks Tey not only consists of the construction of a new highway but should also be treated as an NSIP in its own right. It is MIAG's contention, repeated above, that the Applicant has misinterpreted s22 of the 2008 Act and should have submitted two highway NSIPs.

The Applicant's response at Deadline 3 Applicant's Comments on the Written Representations [REP3-009, page 267] considers the distinction made between 'alteration' and 'construction' to be artificial. The Applicant takes the view, as stated in its Written Submission of Oral Case for Issue Specific Hearing 2 [REP3-013], that this is a large-scale DCO application which could have fallen within any of the limbs of section 22 of the 2008 Act (construction, alteration or improvement) and that the criteria for construction or alteration in s22 are essentially the same. The Applicant opted to categorise the proposed scheme as alteration, which was accepted by the Planning Inspectorate, on the basis that it involves more alteration than construction, even though the thresholds for construction and/or alteration could be met.

In addition, the Applicant's Deadline 3 submission Applicant's Comments on the Written Representations [REP3-009, page 268] drew attention to s31 of the 2008 Act, which establishes that development consent is required for development to the extent that the development is, or forms part of, an NSIP – the effect of this being that one or more NSIPs can be included in one consent. The reason why the Cadent gas pipeline adjacent to the A12 scheme has been treated as a separate NSIP is because the pipeline application is referred to a different Secretary of State and is subject to a different National Policy Statement.

As such, there has been no breach of the Planning Act 2008 as suggested by the Interested Party.

The Applicant would also direct the Interested Party to its response REP6-103-009 and REP6-103-017.

<b>REP6-103-001f</b>
<b>Sub-Part f</b>
NH have failed in their duty to ensure the safety of all road users;
<b>Applicant's Response f</b>
<p>As set out in following paragraphs, the design process has included thorough evaluation of the effects of the proposed scheme design and operation on all road users and road workers on strategic and local roads.</p> <p>In addition, the effect of the scheme proposals on non-motorised user groups has also been fully evaluated through 'Walking Cycling and Horse-Riding Assessment and Review' activities as set out in the guidance GG 142 in the Design Manual for Roads and Bridges. All road user groups – including those non-motorised groups, and all motorised modes of transport – have been evaluated through 'Road Safety Audit' processes described in the Design Manual for Roads and Bridges GG 119 which will continue in detailed design and post-construction.</p> <p>All issues raised to date by those processes have been responded to by the design team and Overseeing Organisation (National Highways) and future arising issues will be similarly addressed. Essex County Council will be involved in Road Safety Audits in detailed design and post-construction stages to address any additional arising issues. This is in addition to the Road Safety Audit set out in National Highways' requirements document GG 119, and demonstrates the openness of the Applicant to the identification and response to any road safety issues.</p> <p>The Applicant would direct the Interested Party to its response regarding the B1023 roundabout in REP6-103-014, Hinds Bridge in REP6-103-015, and a response on Inworth and Messing in REP6-103-016.</p>
<b>REP6-103-001g</b>

<p><b>Sub-Part g</b></p>
<p>NH have failed to prove the case for their plan, and have relied on confirmational bias and false narrative;</p>
<p><b>Applicant's Response g</b></p>
<p>The proposed scheme has been developed in line with the requirements set out in the National Networks National Policy Statement (NNNPS) (Department for Transport (DfT), 2014).</p> <p>Chapter 2 of the Case for the Scheme [APP-249] sets out the national policy support as well as the sub-regional economic, development planning and transport context that provides the strategic case for the proposed scheme. The proposed scheme was identified in the DfT's Road Investment Strategies RIS1 and RIS2 and was subject to consideration of alternatives as part of the investment decision-making process that informed its inclusion as a committed scheme in those documents.</p> <p>Chapter 3 of the Case for the Scheme [APP-249] summarises the consideration of alternatives and the design development of the proposed scheme. This optioneering and development process was undertaken in line with Treasury Green Book guidance and the DfT's Transport Analysis Guidance (such as through the use of their Early Assessment and Sifting Tool). It summarises the design options considered and how the design has evolved.</p> <p>Chapter 6 of the Case for the Scheme sets out the economic case for the proposed scheme, produced in line with DfT's TAG guidance on economic appraisal.</p> <p>The Applicant, in its response to REP6-103-003 has provided a response to the interested party's accusations of "confirmation bias" and has provided comments Alternatives and case for scheme REP6-103-004.</p>
<p style="text-align: right;"><b>REP6-103-001h</b></p>

<b>Sub-Part h</b>	
NH have failed to recognise and evaluate the consequences in financial, human and environmental terms of their plan;	
<b>Applicant's Response h</b>	
<p>The Applicant strongly disagrees with the comments made by the Interested Party. The Applicant has undertaken a detailed and robust environmental assessment in line with relevant legislation and the policy requirements of the NNNPS, reported in the Environmental Statement, which has identified the likely significant effects from the proposed scheme on the environment, people and communities. Mitigation measures have been proposed where feasible to avoid or reduce the likely significant effects. Where mitigation has not been feasible, the residual significant effects have clearly been stated in the Environmental Statement, and these will be a material consideration for the Examining Authority and Secretary of State when deciding whether consent should be granted for the proposed scheme.</p> <p>The Applicant refers the Interested Party to the responses to REP6-103-005 and REP6-103-006 with regards to the financial aspects of the proposed scheme.</p>	
	<b>REP6-103-001i</b>
<b>Sub-Part i</b>	
NH have failed to acknowledge that their plan for Junction 24 will destroy the community of Inworth and seriously harm that of Messing;	
<b>Applicant's Response i</b>	
<p>The Applicant has clearly identified the likely significant effects in Inworth and Messing from the proposed scheme in the Environmental Statement and various responses to the Interested Party throughout the Examination. While likely significant effects will be a material consideration for the Examining Authority and Secretary of State, the Applicant strongly disagrees that</p>	

the proposed new junction 24 will 'destroy' the community of Inworth and 'seriously harm' the community of Messing. The key issues are summarised below.

### **Inworth**

As set out in the Applicant's Written Submission of Oral Case for Issue Specific Hearing 1, reference 5 [REP3-012], traffic is predicted to increase on the B1023 through Inworth by 30-40% as more traffic from Tiptree would use the proposed junction 24 to access the A12 southbound instead of travelling via Braxted Park Road. The design proposals shown in the DCO documentation (General Arrangement Plans Sheets 14 and 20/21 [REP6-020 and REP6-021]) are the proposed mitigation for this additional flow, including easing of pinch points in Inworth village to reduce the likelihood of vehicles, especially larger vehicles, over-running the footway in order to pass oncoming vehicles.

Along Inworth Road there are four dwellings where the absolute noise level would be just above the Significant Observed Adverse Effect Level (SOAEL) and there would be up to a 1.3dB(A) (minor) increase in noise, which are significant adverse effects due to the absolute noise level being above the SOAEL. Predicted noise levels at these four dwellings are already above the SOAEL without the proposed scheme (see paragraph 12.11.44 of Environmental Statement Chapter 12 [APP-079]). However, at some dwellings within Inworth that are not directly alongside the B1023, there are predicted to be significant beneficial effects due to the resurfacing of the concrete road surface on the A12 (seven dwellings would have significant beneficial effects in Inworth, and a further nine dwellings around the new junction 24, as shown on Environmental Statement Figure 12.5 [APP-232]).

There would be no significant effects from air quality, as explained in response to REP2-036-004 in the Applicant's Comments on Written Representations [REP3-009].

As set out in the response to RR-168-010 in the Applicant's Response to Relevant Representations [REP1-002], the widening of the B1023 would require the enlargement of the lay-by in front of the All Saints Church Grade I listed building (Asset 708), which may result in the removal of trees. The construction activities for the associated earthworks would result in harm from associated noise and dust, plus visual intrusion from construction machinery and traffic. The magnitude of impact would be moderate on a high value asset resulting in a moderate adverse significance of effect. Mitigation would include replanting of the church boundary

and adjacent field boundary plus standard considerate contractor measures and noise mitigation measures applied during construction through the Register of Environmental Actions and Commitments, which is part of the first iteration Environmental Management Plan [REP6-052]. During operation there would be no significant effects on the All Saints Church Grade I listed building.

The proposed scheme includes flood mitigation and drainage measures along the B1023. The proposals both mitigate the impact of additional impermeable surfacing due to the proposed scheme (through improvements to the existing drainage network) and mitigate the existing surface water flood risk to the road (by the provision of flood storage areas) for events up to a 1% (1 in 100) plus an allowance for climate change magnitude. As such, the proposed drainage and flood mitigation works at Inworth would lead to a very large significant beneficial effect on flood risk.

### **Messing**

As set out in response to REP2-085-009 in the Applicant's Comments on Written Representation [REP3-009], the Applicant acknowledges that there are predicted to be significant adverse effects within Messing due to an increase in noise caused by an increase in traffic flow through Messing during the highest peak hour as a result of the proposed scheme. The proposed scheme's traffic model predicts an increase in flow from less than one vehicle per minute to two vehicles per minute. This would result in significant adverse effects for 71 receptors in the village. Paragraph 12.11.47 of Environmental Statement Chapter 12: Noise and vibration [APP-079] explains why mitigation measures would not be practicable in this location. The Applicant disagrees that the impacts would be 'severe' as the Interested Party has previously suggested. While the change in noise is within the moderate (3 to 5 dB(A)) or major (>5 dB(A)) magnitude category in accordance with DMRB LA 111, the absolute noise level at all dwellings and other sensitive receptors within Messing would remain below the SOAEL, which is the level above which significant adverse effects on health and quality of life occur.

The Applicant has responded previously in the Examination as to why there would be no likely significant effects in Messing for other topics, including vibration, cultural heritage, biodiversity, and air quality (see, for example, responses to REP3-059-001, REP3-064-001, REP3-066-001, and REP3-070-001 in the Applicant's Comments on Information Received at Deadline 3 [REP4-056] and responses to MIAG in the Applicant's Comments on Other's Responses to ExQ2 [REP5-003]).

**Additional mitigation**

As explained in response to D6-004-003, the Applicant maintains that the forecast increase in traffic in Messing as a result of the proposed scheme is within the capacity of the existing road network and a bypass of Inworth is not required. Analysis, including microsimulation of the road, has confirmed that the Applicant's proposed widening along the B1023 would address both the historic issues caused by the existing pinch points along the B1023 as well as those caused by the projected increase in traffic.

However, following further discussions with Essex County Council and Interested Parties, the Applicant has considered additional mitigation measures in the villages of Inworth and Messing to reduce vehicle speed and discourage rat running through the villages.

Remaining conscious that any changing of traffic routing from what is presented in the Environmental Statement could give rise to the additional significant environmental effects, such as increased noise levels, that were presented in the Junction 24, Inworth Road and Community Bypass Technical Report [APP-095], the Applicant has agreed to provide the following additional measures in Messing:

- Gateway features for signage and speed limit roundels at Lodge Road, Kelvedon Road and Harborough Hall Road, marking the extents of the existing 30mph speed limit; and
- "Unsuitable for heavy goods vehicles" signage at the junction of the B1023 and Yewtree Farm Road, the junction of Harborough Hall Road and B1022, the junction of B1023 and Oak Road, and the junction of the B1022 and Oak Road.

These measures are secured in Requirement 15 of the Draft DCO [REP6-036].

**REP6-103-001j****Sub-Part j**



NH have not been compelled to justify costs, instead avoided explanation by claiming the information is 'commercially sensitive';
<b>Applicant's Response j</b>
The Applicant has provided a detailed response to this point in its response to REP6-103-005.
<b>REP6-103-001k</b>
<b>Sub-Part k</b>
The ExA has allowed too great a latitude to NH, and has failed to hold them sufficiently to account;
<b>Applicant's Response k</b>
The Applicant notes that this is a comment directed to the ExA. The Applicant has however provided some comments which can be found in its response to REP6-103-002.
<b>REP6-103-001l</b>
<b>Sub-Part l</b>
MIAG and McIPC do not consider that the current NH proposals meet the relevant policy tests in the National Networks National Policy Statement, (NNNPS). In particular this is in reference to; - avoiding significant adverse impacts on health and quality of life from noise and vibration; - increasing safety for all road users; - proper evaluation and consideration of alternatives; - the scheme design, for both functionality and aesthetics; - the design process was conducted with effective engagement with communities and stakeholders;
<b>Applicant's Response l</b>

The Applicant has produced several accordance tables which demonstrate how the proposed scheme meets the policy tests in the National Networks National Policy Statement (NNNPS) and relevant energy National Policy Statement's (NPS):

- Appendix A: National Networks National Policy Statement Accordance Table [APP-250]
- Appendices B, C, D, E: NNNPS and Energy Accordance Tables [APP-251]
- Appendix G: Draft National Networks National Policy Statement Accordance Table [REP4-062]
- Appendix H & I Energy NPS Accordance Tables [REP5-017]

In respect the particular points listed by the Interested Party, the following text summarises how the Applicant has met the requirements set out in the NPSs mentioned above.

### **Health, Noise and Vibration**

Opportunities to limit adverse impacts on health and maximise benefits have been identified within Chapter 13: Population and human health, of the Environmental Statement (ES) [APP-080]. This chapter also references other relevant aspect chapters, including Chapter 6: Air quality [APP-073], Chapter 8: Landscape and visual [APP-075], Chapter 12: Noise and vibration [APP-079], and Chapter 15: Climate [APP-082] of the ES which include impacts on human health. Mitigation related to noise and vibration is contained in the Register of Environmental Actions and Commitments (REAC) Appendix A to the first iteration of the Environmental Management Plan [REP6-052]. The Applicant's environment impact assessment and Environmental Statement were prepared in accordance with the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 and relevant standards such as the Design Manual for Roads and Bridges.

The Applicant has provided further comments in relation to the assessment of the scheme above in its response to REP6-103-001i.

### **Road Safety**

Section 5.6 of the Case for the Scheme (CftS) [APP-249] provides an assessment of the impact of the proposed scheme on road safety, in accordance with TAG and National Highways guidance. The proposed safety objectives and safety governance requirements for the scheme are set out in the National Highways safety governance documents. These include addressing existing operational safety issues and mitigating worker and user safety impacts associated with the operation and maintenance of the proposed scheme.

The CftS [APP-249] provides an accident analysis of the proposed scheme and the expected level of savings in terms of casualties prevented and monetised benefits. The proposed scheme objectives include rate-based and frequency-based casualty reduction targets. These are based on fatal and weighted injuries, which give highest priority to the highest severity of injury. These are set out in the scheme safety governance documents for internal National Highways approval. The application of Design Manual for Roads and Bridges (DMRB) GD 300 Level 3 technology will provide assurance of meeting these casualty reduction targets. The proposed scheme is subject to all safety governance processes including a Road Safety Audit.

As noted in the Applicant response REP6-103-001f, the Applicant would direct the Interested Party to its response regarding the B1023 roundabout in REP6-103-014, Hinds Bridge in REP6-103-015, and a response on Inworth and Messing in REP6-103-016.

### **Alternatives**

Chapter 3: Assessment of alternatives, of the Environmental Statement [APP-070] sets out the main alternatives considered by the Applicant and how the preferred option was determined through consideration of environmental effects at different stages in the design development process. This is in line with the requirements of the EIA Regulations. The Consultation Report [APP-045] also sets out the options on which the public were consulted.

The Applicant has also provided comments in REP6-103-004 on alternatives

### **Scheme design**

The proposed scheme has been subject to an iterative design process from the outset. The CftS [APP-249] sets out how the design of the proposed scheme has evolved, while Chapter 3: Assessment of alternatives, of the Environmental Statement [APP-070] describes the other options considered.

The design of the proposed scheme has been informed by analysis of existing landscape and visual constraints, iterative impact assessments and mitigation proposals, and taking account of stakeholder input. Efficient use of materials and the controlled production and disposal of waste during construction of the proposed scheme have also been considered. Design, mitigation and enhancement measures are described in Chapter 8: Landscape and visual, of the Environmental Statement [APP-075]. Chapter 2: The proposed scheme, of the Environmental Statement [APP-069] also explains that the proposed scheme has been designed in accordance with the standards set out in the DMRB and National Highways' safety governance procedures.

The Design Principles [REP5-012] explains that the proposed scheme has been informed by the ten principles for good design as set out in National Highways' The Road to Good Design. Sustainable infrastructure that is sensitive to place, efficient use of natural resources and energy used in construction, and good design aesthetics are all embedded within the design principles of the proposed scheme, which are discussed in Section 1.4 of the Design Principles [REP5-012].

The Applicant prepared and has updated throughout the examination the Design Principles [REP5-012] to demonstrate how the proposed scheme accords with the adopted relevant NPS criteria for "good design". Additionally, the Applicant reissued 7.10 Design Principles [REP6-058] at Deadline 6 as a certified document in accordance with the proposed text added by the Examining Authority within the Examining Authority's commentary on the Draft DCO [PD-015].

### **Stakeholder and community engagement**

The Applicant has provided a detailed response to this point in its response to REP6-103-007.

**REP6-103-001m**

<p><b>Sub-Part m</b></p>
<p>The views of Interested Parties and all Stakeholders have been misrepresented, curtailed, ignored and marginalised by NH;</p>
<p><b>Applicant's Response m</b></p>
<p>The Applicant completely refutes this suggestion. The views of Interested Parties have been submitted by the Interested Party themselves either in writing or verbally at the various hearings. Indeed, the Interested Party, as is its right, has taken the opportunity to provide submissions over 30 times, and appear at the hearings to have their voice heard by the Examining Authority on a wide range of topics.</p> <p>With regard to those stakeholders who have not registered as an Interested Party, the responses received to consultations have been captured in the Consultation Report Annex N [APP-062], as well as the Applicant's position on those responses. The Consultation Report [APP-045], within which Annex N sits was included as part of the application for Development Consent and has been available on the Planning Inspector's website since 26 August 2022.</p>
<p style="text-align: right;"><b>REP6-103 -002</b></p>
<p><b>Sub-Part</b></p>
<p>MIAG and MclPC herewith fully explain all details, facts and information for the assistance of the ExA and to help in reaching a recommendation in regard to Junction 24:</p> <p>The villages of Messing and Inworth established the MIAG to work alongside MclPC to support and champion the Main Alternative. This plan was prepared after consultation with the residents of the villages and other interested and concerned parties, and then drawn up with expert and professional help. The object of the campaign has been clearly stated throughout the ExA hearings and supported by substantial written submissions;</p>

These submissions form the basis of all the statements here, and the position taken by MIAG and McIPC is robustly justified and explained. At no point has MIAG or McIPC challenged the need for the A12/A120 widening scheme or suggested that it does not need remedial action. The entire position has been that whilst such action may be necessary, it is absolutely not necessary to destroy the village of Inworth and seriously damage the village of Messing. These damages are not just physical - the roads, properties and historic monuments cannot be adequately protected - they are also mental and environmental. The concern and anxiety already caused by the actions of NH and their determination to push ahead with their flawed plan, will intensify and get substantially more serious as the project attempts to proceed;

National Highways, (NH), have caused great mental harm and angst to everyone in both villages;

Evidence has been provided and substantiated concerning the disruption to wildlife, their habitat and the effect on migratory birds;

MIAG and McIPC, together with local politicians and local MP, all believe that there has been insufficient examination of the proposed and supported Main Alternative. This would have reduced, removed and/or substantially mitigated all the matters and issues that have consumed the months of enquiry concerning Junction 24;

NH have further failed to demonstrate why this locally supported, politically supported and engineer proven Main Alternative was not fully and properly investigated and costed;

MIAG/McIPC maintains that the NH plan for Junction 24 is entirely unnecessary, and the Main Alternative addresses all the needs of Junction 24 without the irreparable harm of the NH plan;

NH have failed to fairly and reasonably investigate the viability of the Main Alternative. NH have ignored their own failures surrounding the NSIP case for a tunnel at Stonehenge, which led to the Judicial Review finding against NH, the SoS and the Department for Transport. This judgement was made as a result of inadequate consideration of alternatives;

## Applicant's Response

The Applicant acknowledges the comments from the Interested Party and their concerns regarding the impact of the proposed scheme on the villages of Inworth and Messing. The Applicant also acknowledges the Main Alternative proposed by MIAG and our response to the main alternative can be found on Junction 24, Inworth Road and Community Bypass Technical Report APP-095.

The Applicant has previously responded to the Interested Party on this issue at Deadlines 1 to 6, Open Floor Hearing 1, Issue Specific Hearing 1 and 2, and in response to the Examiner's second round of questions at Deadline 4.

The Applicant has previously explained to the Interested Party that prior to the submission of the Development Consent Order (DCO) application, the Applicant undertook a detailed assessment of the Main Alternative as well as other possible bypass configurations. This assessment is documented in the Environmental Statement Appendix 3.3 Junction 24, Inworth Road and Community Bypass Technical Report [APP-095]. The assessment found that while the Main Alternative bypass option with a southern and northern link reduces the traffic in Inworth Village and Messing, this option increases traffic in Tiptree, Feering and the B1023 to the north of junction 24. While a bypass does solve issues of traffic in some locations, it would create the same issues in other locations, to other communities, and in fact create worse noise effects in another community when compared with the impacts on Inworth Village and Messing.

The Applicant cannot justify relocating the forecast traffic from Inworth and Messing villages to Tiptree, Feering and the B1023 north of junction 24 where the Main Alternative would result in more adverse significant impacts to Tiptree community. While the Applicant appreciates that the action group may wish to direct traffic to another community, our assessment has concluded that is not the correct thing to do.

In addition to this, a bypass would add an additional approximate cost of £10million to the proposed scheme and require significantly more land to construct the bypass road alone when compared to the land required to widen the B1023 to facilitate the proposed traffic increase as presented in the revised DCO submission.

The Applicant has reviewed each submission from the Interested Party regarding the Main Alternative in detail. The Applicant is of the position that no new information has been submitted into the examination that would change the outcome of the options assessment undertaken in the Junction 24, Inworth Road and Community Bypass Technical Report [APP-095].

Regarding the judicial review of the A303 scheme, it is not correct to assert that the court found that National Highways did not appraise alternatives correctly. The Court found that the Secretary of State did not consider alternatives in his decision letter. There was no criticism of National Highways' alternatives process. This was explained to the interested party in response to the first Open Floor Hearing.

**REP6-103 -003**

**Sub-Part**

It has been repeatedly shown and proven that NH have used inaccurate, wrong and confirmational bias figures to prove a case they had predetermined was the only one they would assess. This attitude has led to contradictory emails from senior officers of NH. These emails have been obscured and deflected by a barrage of ever-changing numbers and figures that NH fail to adequately explain or justify;

**Applicant's Response**

As explained in Appendix OFH1A of the Applicant's Response to Open Floor Hearing 1 [REP1-009], traffic data presented to stakeholders before November 2021 was from an earlier revision of the traffic model. However, the traffic figures presented during the examination itself have been from a consistent traffic model.



<p>The Applicant has presented the traffic data in a consistent manner throughout the examination. However, as noted in Appendix OFH1A, due to the complex nature of the data, there could potentially be differences in the presentation of data, often at the request of a stakeholder. For example, traffic data has usually been presented as 'total vehicles' (i.e. all cars, vans, HGVs combined). Occasionally requests were received to break this down further by vehicle type. This data was provided where requested.</p> <p>The Applicant notes MIAG's continued assertion of "confirmation bias," but have not identified anything in the Applicant's assessment which indicates confirmation bias; rather, MIAG have simply disagreed with parts of that assessment. Such disagreement does not amount to consultation bias.</p>
<p><b>REP6-103 -004</b></p>
<p><b>Sub-Part</b></p>
<p>NH have failed to adequately demonstrate why the simple widening at certain points of the A12 – for which land acquisition and plans have already been drawn up - would not be sufficient;</p>
<p><b>Applicant's Response</b></p>
<p>The Applicant has documented the development of the proposed scheme, including the options identification, assessment and shortlisting of options for consultation, in the Case for the Scheme report [APP-249] and Chapter 3 of the Environmental Statement: Assessment of Alternatives [APP-070]. The initial options identification phase included an online widening only option. The Applicant used the Department for Transport's Early Assessment and Sifting Tool (EAST) to reduce the long list of options to a short list of six strategic options. One of the six shortlisted options included online widening and junction improvements. Ultimately, this option did not meet the Road Investment Strategy (RIS1) commitment to delivering a three-lane highway and was not taken forward for further assessment.</p>
<p><b>REP6-103 -005</b></p>
<p><b>Sub-Part</b></p>

Further, it is the strong belief of MIAG and McIPC that the anticipated costs, currently in excess of £1.4bn for just 25km of road, is a totally unnecessary. Much of the existing A12 between Kelvedon and Marks Tey can be simply widened with land already acquired for the failed 'Marks Tey Development';

The total costs which are now conveniently hidden by NH for 'sensitive economic reasons' – which MIAG/McIPC do not accept as valid – is only minimally altered by the adoption of the Main Alternative. This valid alternative has not been costed accurately or properly by NH, whose attitude in this regard, as all others, and has conformed to their pattern of inadequate responses and false narrative; NH have proffered no justification for a 25km stretch of road to cost, as an estimated minimum, £1.4bn, despite the matter being raised at Issue Specific Hearings by MIAG and McIPC and other Interested Parties. NH are attempting to withhold vital public interest information about all costs and associated provisions, including their use of highly paid Kings Counsellors, legal advisors and other paid experts. All these costs are ultimately borne by taxpayers, and it is an egregious misuse of falsely assumed powers to attempt to prevent proper enquiry and scrutiny;

In matters of cost the clear intention and strategy of NH, and its legal representatives, has been to foolishly waste money on what was described by them as 'legal ping pong'. This is an egregious waste of raised funds (as well as taxpayer monies), and clearly points to an attitudinal approach by NH that is both arrogant and inappropriate as an agency of the Government. Their failure to address the upset, angst and distress caused by their plans is evident;

NH have failed in their duty to be open and transparent and have insisted that all financial information is 'sensitive' and/or 'commercial'. This position is untenable given that this is a public enquiry to investigate and substantiate claims and statements made by NH. It is inconceivable that any 'commercial' secrets will be exposed as, by definition, NH is a government agency working under The Department for Transport (DfT), and there are no counter bids to their inflated self-serving costings and estimates;

### **Applicant's Response**

It appears that the Interested Party may have mis-interpreted the discussions that have taken place during examination regarding the cost information for borrow pits and in that they have not been able to be published in full.

For clarity, cost information relating to the assessment of sources for supplying the proposed scheme earthworks fill material deficit (under the subject of 'Borrow Pits') was submitted to clarify cost figures entered into examination.

It was not possible to present the complete cost generation spreadsheets prepared to inform commercial assessments because they contained commercially sensitive information for the Applicant, its delivery partner and their supply chain. The disclosure of such information would be detrimental to those parties' ability to enter into future commercial negotiations and would be potentially both anti-competitive and unfair. Therefore, the cost generation work was redacted to provide the summary output (rather than complete information), with any commercially sensitive information removed.

Discussions have taken place at subsequent Hearings as to whether or not the 'gist' of the cost information was legally sufficient to allow the level of redaction presented. It has since been agreed (as recently as CAH3) that the gist of the cost information has sufficiently been provided.

With regard to the general cost estimate of the scheme, this is developed by the National Highways estimating department in conjunction with the supply chain and is assured by an independent external consultant to reflect the design at the relevant stages of the scheme. The estimate continues to be reviewed, updated and assured in line the maturity of the scheme design and this enables a realistic assessment of the scheme cost to be established.

The interested party submission has a few factual errors that need to be corrected. These are:

- The Scheme budget is between £1.045 billion to £1.268 billion, this figure has not changed since the preferred route announcement.
- The land between Feering and Marks Tey has not been acquired either for development, or for widening of the existing A12. The scheme is proposing to acquire land on that area as is shown by the Land Plans [REP6-015] and Book of Reference [REP6-042] for the relevant area.

**REP6-103 -006**

<p><b>Sub-Part</b></p>
<p>It is the belief of MIAG and McIPC that vast sums of money have been wasted without due and proper scrutiny. This includes property purchases that are now not required, and land purchases for stretches of road that are not needed or are outside the NSIP provisions of the flawed dDCO;</p>
<p><b>Applicant's Response</b></p>
<p>The Applicant refers MIAG and McIPC to its updated Funding Statement [AS-021] and, in particular, to paragraph 3.1.4: "The A12 forms part of the [Government's second Road Investment Strategy] RIS 2 scheme and it is anticipated that the Chief Secretary of Treasury will review the request and approve the funding prior to Start of Works between December 2023 and February 2024, which is within RIS2."</p> <p>A comprehensive list of all land to be acquired for the Scheme including a full account of the purpose for which compulsory acquisition powers have been sought in relation to each plot is set out in updated Annex A to the Statement of Reasons [AS-080]. For each plot the Applicant must show a compelling case in the public interest and demonstrate why the plots are required. Where land has been secured in addition to land within Order limits it will have been due to a successful application for a discretionary purchase; because severance or injurious affection requires the acquisition of such land; or due to blight that was demonstrated to apply at the time the application for statutory blight was made.</p> <p>Detailed responses on the extent and validity of the DCO were provided in the Applicant's Comments on Written Representations at Deadline 3 [REP3-009] and in the Applicant's Written Submission of Oral Case for Issue Specific Hearing 2 [REP3-013].</p>
<p style="text-align: right;"><b>REP6-103 -007</b></p>
<p><b>Sub-Part</b></p>
<p>MIAG and McIPC maintain that the entire process undertaken by NH for this project has been deeply flawed and biased. Throughout the enquiry, and in the months leading up to it, NH have failed to consult in a reasonable or openminded manner, as required by law, and at least in the minimum, by the Gunning Principles;</p>

## Applicant's Response

The Applicant has carried out both statutory and non-statutory consultations in regard to the A12 Chelmsford to A120 widening scheme. This includes the following main consultations:

- Non-Statutory options consultation junctions 19 – 25 (23 January 2017 – 3 March 2017)
- Non-Statutory options consultation junctions 23 – 25 (21 October 2019 – 1 December 2019)
- Statutory consultation (22 June 2021 – 16 August 2021)
- Supplementary consultation (9 November 2021 – 19 December 2021)
- DCO change application consultation (13 April 2023 – 14 May 2023)

A Statement of Community Consultation (SoCC) was prepared, as prescribed by Section 47 of the PA 2008, by the Applicant setting out how it proposed to consult people living near the land that would be affected by the scheme. The SoCC can be found in Annex F of the Consultation Report [APP-052].

The Applicant's preparation of the SoCC took into account the DCLG's (2015) guidance on pre-application process, and advice and guidance from the Planning Inspectorate.

The Applicant consulted with Essex County Council, as the lead Highway Authority and the local planning authorities, Braintree District Council, Chelmsford City Council, Colchester City Council and Maldon District Council on the content of the SoCC.

The final SoCC was made available at locations along the proposed route, as prescribed by Section 47(6) of the PA 2008, alongside statutory consultation materials.

On the 12 September 2022, the Planning Inspectorate decided to accept the application for Examination. As a matter of law, the Planning Inspectorate could only accept the application if it were satisfied that at the Applicant had complied with Chapter 2 of Part 5 (pre-application procedure) (see s55(2)(e) of the 2008 Act. Thus, the application could only have been accepted if the consultation process with the local community accorded with the statutory requirements. The planning inspectorate concluded

<p>that the applicant has complied with Chapter 2 of Part 5 of PA2008 and thus that the statutory consultation requirements had been met.</p>
<p><b>REP6-103 -008</b></p>
<p><b>Sub-Part</b></p>
<p>NH have blundered ahead with substantial land and property acquisitions that are now proven to be unnecessary. The over-estimate of land needed for this was by a margin of error in excess of 50%. This includes land purchased for attenuation and flooding provisions that are now found to be 'not needed'. Had NH exercised proper professional control and monitoring systems, the dDCO would not, and should not, have been presented in such a poor state of unreadiness;</p>
<p><b>Applicant's Response</b></p>
<p>The area of land which would have been subject to compulsory acquisition has reduced due to the rationalised level of intervention associated with flood mitigation and surface water drainage.</p> <p>As is common in engineering projects, as further information becomes available, designs are refined to reflect that information. Further information (from additional drainage, utility and topographical surveys) has subsequently become available allowing for refinement of the design as part of the ongoing detailed design of the proposed scheme. Given that this additional information allows for significant reduction in required mitigation it is considered appropriate to make this change within DCO examination. Details of the results and further explanation of the changes made are available in the Flood Risk Assessment Addendum [AS-096] which was submitted as part of the Change Application.</p>
<p><b>REP6-103 -009</b></p>
<p><b>Sub-Part</b></p>
<p>NH have failed to explain why the dDCO was submitted to the ExA as one project, when it has been clearly demonstrated that the creation of an entirely new section (which is not needed anyway), was not the subject of its own NSIP dDCO. Lawyers representing NH have been evasive and dismissive of the genuine concerns and arguments raised by all stakeholders and have</p>

failed to answer and justify themselves; The attitude of senior executives at NH, none of whom have attended a single meeting, is highly discourteous and disrespectful. Indeed, it once again proves the absence of respect and consideration due to the affected residents, Interested Parties and other Stakeholders.

### **Applicant's Response**

Detailed explanations as to why the DCO was submitted for Examination as a single project were given in the Applicant's Comments on Written Representations at Deadline 3 [REP3-009] and in the Applicant's Written submission of Oral Case for Issue Specific Hearing 2 [REP3-013].

An online widening option was consulted on (see section 6 of the Applicant's 2017 Option Consultation Brochure [APP-046]) but was discarded in favour of the current proposals because of impacts on frontages, private means of access and existing highway access on to the current alignment of the A12. As noted in Reference 3 of Written Submission of Oral Case for Issue Specific Hearing 1 [REP3-012], the assessment of the four 2017 consultation options, which concluded overall route 2 would be the preferred route can be found in the Scheme Assessment Report and the Scheme Assessment Report Addendum which is available on the National Highway's scheme website. In short, route 2 was concluded to provide the most resilience, be the safest for road users and road works and have the greatest lengths of segregated WCH provision, it was also of course the most supported option at the 2017 consultation.

The proposal before the Secretary of State was fully consulted on under S42 and 47 of the Planning Act 2008. All landowners and the wider community would have been able to access plans showing the proposals and the proposal for which development consent is sought has been clearly and thoroughly consulted on. There can be no doubt that this application is for a nationally significant infrastructure project under S14 of the Planning Act 2008 and the thresholds for the 2008 Act to apply have been met, whether the application is for construction of a highway, alteration of a highway or a combination. The purpose of S22 is to set a threshold to ascertaining the applicable consenting regime - the Town and Country Planning Act 1990 or the Planning Act 2008. By any consideration, and whatever the limb of S22(1) is considered, this application is for a nationally significant infrastructure project.

The suggestion that the principal works to the A12 need to be sub-divided as proposed by MIAG is unnecessary once the relevant threshold in S22 has been passed. The proposal for changes to the A12 between junction 19 and 25 is clearly a single highway infrastructure project which has been fully consulted on and fully examined. There can be no question of any party having any misconception of what the project is. The Order itself is not drafted so as to make any subdivision between the different elements of the overall scheme, and no division is specified between the nationally significant infrastructure project and associated development. Further, there is no artificial subdivision between the element of the overall project that is of itself a separate nationally infrastructure project falling to be assessed under the National Policy Statements applicable to energy and to gas pipelines. There is no purpose or relevance to the distinctions between the separate sub paragraphs of S22 (1) in describing the individual works for which development consent is sought.

The Applicant sought to progress a Statement of Common Ground with Messing and Inworth Action Group Ltd (MIAG) and Messing-cum-Inworth Parish Council. The meeting agenda was specific to the items proposed for consideration in the draft Statement of Common Ground. A National Highways team lead by a Senior Project Manager was due to attend this meeting. The meeting was cancelled by MIAG at short notice. National Highways had assembled an experienced project team whose members were suitably qualified to speak to the specific matters on the agenda. MIAG had requested to record the meeting and this unusual request was willingly agreed to by the Applicant. MIAG has provided the relevant correspondence to the ExA and the ExA and Secretary of State will be able to review that correspondence accordingly.

National Highways does not believe that a lack of respect and consideration has been shown to MIAG at any time. National Highways has sought to comply with MIAG's requests and has engaged on a professional basis throughout.

More generally, the Applicant has sought to engage with the parish council, and indeed met with them on several occasions in the past. The Applicant has held many meetings with parishes up and down the route since the statutory and supplementary consultation. More recently meetings with the Messing cum Inworth Parish Council and MIAG have proved difficult to arrange, although there have been over 70-email exchanges between the Applicant and members of MIAG over the last 12 or so months.



<p>The Applicant would note that the Interested Party has fully engaged in the examination and the ExA will be able to report fully on MIAG's position.</p>
<p><b>REP6-103 -010</b></p>
<p><b>Sub-Part</b></p>
<p>It is of enormous concern that the dDCO was allowed by the ExA, even at that early stage, to continue, despite these breaches of process. Documents presented have included new, deleted, and non-existent clauses which are vital to the actual legality of the dDCO;</p> <p>It is therefore clear that the dDCO could not be adequately examined;</p>
<p><b>Applicant's Response</b></p>
<p>With regard to the adequacy of consultation, the Applicant refers MIAG Ltd and Messing-cum-Inworth Parish Council to the Consultation Report [AS-077] and the Consultation Report Annexes [AS-075], as well as REP6-103-007 above.</p> <p>As stated in the response provided at REP6-103-006: "A comprehensive list of all land to be acquired for the Scheme including a full account of the purpose for which compulsory acquisition powers have been sought in relation to each plot is set out in updated Annex A to the Statement of Reasons [AS-080]". The Applicant also refers MIAG and Messing-cum-Inworth Parish Council to the Statement of Reasons [REP6-040] Chapter 2 (The Proposed Scheme) paragraph 2.5.17: "The Applicant believes all of the Land in the Order Limits is necessary to deliver the proposed scheme. The Applicant will continue to seek to acquire only land and interests in land it believes are required and will seek to minimise the effects on land interests". In so doing, as set out in Chapter 5.2 of the Statement of Reasons [REP6-040] (The statutory conditions and CA Guidance), the Applicant is satisfied that the requirements of section 122 of the Planning Act 2008 and those of the Compulsory Acquisition Guidance have been met in that the land to be acquired will be no more than is reasonably required for the purposes of the proposed scheme.</p>

<p>The submission to the Examination of draft documents with tracked changes (showing new or deleted wording) demonstrates the iterative process of establishing final versions for consideration by the Examining Authority. The fact that amendments are made – and are shown to have been made – during Examination does not call into question the legality of the DCO or other application documents.</p> <p>With regard to the design of junction 24, and the Inworth Road roundabout, the Applicant has taken account of representations made by the local highway authority by making changes to the roundabout design by removing the segregated left-hand turn.</p> <p>Further investigations of the adequacy of drainage and the condition of existing highway drainage allowed refinement to the Applicant's proposals for drainage on the B1023 in the vicinity of Inworth, lessening the impact of the Scheme on the land in the vicinity of Inworth.</p> <p>The Applicant has therefore demonstrated a willingness to consider representations made on its proposals and to continue to consider (and, where possible, reduce) the extent of land required for the Scheme as a result of additional information made available to it.</p> <p>It is the purpose of the Examination to fully examine the drafting of the dDCO and this has been carried out through review by the Applicant, scrutiny by Interested Parties and through comments by the Examining Authority. This occurs in every examination of a proposal for development consent.</p>
<p><b>REP6-103 -011</b></p>
<p><b>Sub-Part</b></p>
<p>NH attitude of denial and arrogance even extended to denying knowledge of a terminally ill and disabled child, whose parents had repeatedly raised concerns to NH about the plan for Junction 24. They had been ignored until MIAG exposed NH at the OFH in Witham for their lack of response and concern;</p>
<p><b>Applicant's Response</b></p>

<p>The family's circumstances were raised in detail by MIAG at the OFH held on the 12 January 2023. Following this, a meeting was held with members of the Applicant's team, the Interested Party and the child's mother at Messing Village Hall on Monday 13 March 2023.</p>
<p><b>REP6-103 -012</b></p>
<p><b>Sub-Part</b></p>
<p>Essex Highways, (EH), have been heavily critical of NH in their reports, yet NH continue to repeat the false mantra that they are in productive 'discussion'. This is to dissemble and obfuscate – NH have reached no substantive agreements with EH or Essex County Council, (ECC), and the King's Counsellor for ECC continues to dissect, dismantle and destroy NH arguments;</p>
<p><b>Applicant's Response</b></p>
<p>The Applicant recognises that Essex County Council, as the statutory authority for local roads, has a role not just in representing a technical view on the proposed scheme, but also in representing local concerns. The Applicant further acknowledges that the County Council has made several representations asking for interventions in the Inworth and Messing area, as well as regarding the design rationale for the roundabout on the B1023.</p> <p>The Applicant has included within the draft DCO [REP6-036] measures in Requirement 15 of Schedule 2 which provides certain interventions within the Messing and Tiptree area. The County Council in addition proposed further measures and reasons why the Applicant has not agreed to these additional measures can be found in the Applicant's response to ExQ2 question 2.17.1 [REP4-055].</p> <p>It is possible to have productive 'discussion', but ultimately for the parties to agree some elements and not agree others. This is precisely what has happened with the County Council and the Applicant has reflected that accurately by describing the discussions as productive.</p>

<b>REP6-103 -013</b>
<b>Sub-Part</b>
<p>There have been many attempts to arrange a 'face to face' meeting to discuss a 'Statement of Common Ground' (SOCG), with MIAG and MclPC. Throughout these attempts to agree a format for this meeting, MIAG and MclPC believe NH have been unwilling to recognise that whilst they are paid employees of profit-based contractor organisations, all members of both MIAG and MclPC are volunteers giving their own time.</p> <p>Following the refusal of NH to agree to suggestions to amend the agenda, and repeated refusals to send attendees who had appropriate authority, the latest meeting, scheduled for 25th May, did not go ahead. NH refused to allow the Main Alternative to be included on the agenda, refused to submit an updated and accurate SOCG and predetermined the outcome of the meeting through various categoric statements from their lawyers. MIAG and MclPC felt this to be grossly unreasonable, and in consultation determined that the meeting should not proceed. At all times the ExA has been fully apprised of this;</p>
<b>Applicant's Response</b>
<p>The Applicant would refer to the Interested Party's Additional Submission published on 25 May 2023 [AS-065] which gives and overview of the email exchanges that took place in relation to the proposed meeting.</p> <p>The meeting in question was to discuss the progress of a draft statement of common ground. The Main Alternative, as an item in the SOCG, would have been discussed as part of the SOCG but did not of itself require being a separate agenda item for what was intended to be a meeting focused on the draft SOCG. The Applicant assembled a senior team able to deal with the principal points likely to arise in the discussion of the SOCG including a senior project manager from the Applicant. The meeting would have been outside of working hours to assist the members of the Parish Council and MIAG and was to be held in Messing.</p>
<b>REP6-103 -014</b>
<b>Sub-Part</b>

NH have misled the ExA, MIAG and McIPC about statements from ECC, and have consistently denied that NH invented scenarios and statements. This has been proven to be false by documented evidence from the Leader of ECC, who has made categorical assurances that he said no such things or gave no such instruction; MIAG and McIPC concerns about the safety of the design and planning of Junction 24 have been treated with disdain and contempt by NH, who then disregarded them. This is despite several clear instances showing that these concerns have eventually resulted in tangible and obvious changes to the NH plan. These dangers were repeatedly drawn to their attention, and even now changes to their roundabout redesign, which had resulted directly from technical shortcomings MIAG and McIPC highlighted, is still severely flawed. Even though NH have belatedly amended part of their plan at the roundabout, by removing the Segregated Le# Turn Lane, (SLTL), severe dangers in shortened sight lines, approach speeds and angles all still dominate this entirely mis- designed junction;

This was clearly shown at the OFH and ISH, and in all written submissions from MIAG and McIPC on the entire roundabout and approach road design, as well as in specific regard to the SLTL.

This dangerous and ill designed part of the NH plan has now been abandoned. This is as a direct result of the Technical Engineering Report about the Junction 24 NH design, commissioned by MIAG, and still without acknowledgement from NH. This is a failure to confront their many obvious and dangerous errors. NH have used and promulgated various unproven and unjustified traffic figures, incorrect road descriptors for both sight lines and speed requirements. They have also made false statements about ECC's position and instructions.

It is apparent that NH do not heed advice and expert detail that does not conform to their confirmational bias. They have created an entirely false narrative surrounding the feasibility of their plan and have resolutely turned against any rational and accurate counter argument until they are exposed and forced to accede to that which can no longer be denied;

The design of the entire Junction 24 is fatally flawed, whilst the Main Alternative offers solutions to all the issues and matters that afflict the design from NH;

<p><b>Applicant's Response</b></p>
<p>Regarding the removal of the Segregated Left Turn Lane (SLTL), the Applicant has previously explained the detailed design development process in response to REP3-063-002 at Deadline 4 [REP4-056].</p> <p>The Applicant does not agree with the Interested Party's claims that the design of junction 24 and the Inworth Road roundabout is fatally flawed. As previously explained at Deadline 4 [REP4-056], the Inworth Road roundabout has been designed in accordance with Manual for Streets design guidance as this is appropriate to reinforce the nature of the significance of roads in the area which should take place on the exit of the roundabout rather than along the B1023. This has previously been explained in response to REP2-083-007 in the Applicant's Comments on Information Received at Deadline 2 [REP3-015], and in correspondence between National Highways and the Messing Inworth Action Group on 4 August 2022. Although reference to DMRB visibility splays was made for the benefit of Essex County Council, the Applicant maintains that appraisal of the link road design against the Design Manual for Roads and Bridges, both in terms of stopping sight distance and superelevation, is not relevant considering the Applicant's continued rationale that the roundabout acts as a traffic calming feature and has been designed in accordance with Manual for Streets design guidance.</p> <p>The Applicant has stated its position on the Main Alternative in response to REP6-103-002.</p>
<p style="text-align: right;"><b>REP6-103 -015</b></p>
<p><b>Sub-Part</b></p>
<p>NH have repeatedly refused to consider the consequences to public safety and the danger their plan will create at Hinds Bridge. It is apparent, even to the ExA, after its site visits, that this bridge simply will not be able to cope with the predicted traffic flows. Predictions that NH then amend and alter with no validation or justification, simply to suit their position. Having failed to adequately explain these changes, NH have simply abandoned the whole matter to EH/ECC. This abrogation of responsibility is not only inexcusable, it is potentially life threatening;</p>
<p><b>Applicant's Response</b></p>
<p>The Applicant has thoroughly assessed the traffic forecast to use Hinds Bridge when the Scheme is in operation. As explained in response to reference 3.24 at Issue Specific Hearing 3 [REP5-020], even though the scheme is predicting a 9% increase in traffic</p>

in the worst peak across Hinds Bridge, after running swept path vehicle tracking analysis, considering the bridge is on a straight, the exercise concluded that there are no geometric issues with two cars passing one another. The existing width seems to only force the vehicles into a priority situation if an HGV is involved. The worst-case 9% increase in total traffic predicted for 2042 is in the PM peak. This is when HGV traffic is at its lowest point across the day anyway. For example, a traffic survey undertaken on this road in 2016 counted 26 HGVs in the AM peak hour, 20 HGVs in an average hour in the middle of the day, and 8 HGVs in the PM peak hour. The number of times a car would meet an HGV is therefore lowest in the PM peak. The proposed scheme is predicted to decrease the number of HGVs in the PM peak hour even further (46% reduction). For example, the observed count of 8 HGVs an hour would mean one crossing the bridge every 7.5 minutes on average. Reducing the number of HGVs by 46% would mean one crossing the bridge approximately every 15 minutes instead. This would have a larger impact on reducing the number of car/HGV interactions than slightly increasing the amount of cars. The situation is therefore ameliorated by the proposed scheme.

**REP6-103 -016****Sub-Part**

NH have abandoned any responsibility for the traffic design through the village of Inworth, with admissions that any proposed traffic measures will be inadequate. NH admit there is no solution nor remedy to the consequences of their plan. EH/ECC cannot take over this situation, and NH have simply turned away. The obvious resolution to this is to adopt the Main Alternative;

**Applicant's Response**

The Applicant has undertaken extensive analysis to understand the impact of traffic as a result of the proposed scheme as explained on the Applicant's Junction 24, Inworth Road and Community Bypass Technical Report [APP-095]. The proposed scheme includes localised widening at pinch points along the B1023 in Inworth to improve safety for pedestrians at those locations. This reduces the likelihood of vehicles overhanging or over-running the footway to pass oncoming vehicles. The Applicant has also proposed measures to improve both the surface water drainage and overland flood storage adjacent to the B1023 Inworth Road currently, to help mitigate seasonal flooding problems that have been reported throughout the preliminary design of the proposed scheme.

Analysis, including microsimulation of the road, has confirmed that the Applicant's proposed widening along the B1023 would address both the historic issues caused by the existing pinch points along the B1023 as well as those caused by the projected increase in traffic.

The Applicant maintains that further traffic calming measures are not required within the villages of Inworth or Messing. Regardless of this, following feedback from the Interested Party and Essex County Council, the Applicant has included a requirement, Requirement 15, in the draft DCO to provide gateway features and speed limit roundels at Lodge Road, Kelvedon Road and Harborough Hall Road to mark the extents of the existing 30mph speed limit and "Unsuitable for Heavy Goods Vehicles" signage at the junction of the B1023 and Yewtree Farm Road, junction of Harborough Hall Road and B1022, junction of the B1023 and Oak Road and the junction of the B1022 and Oak Road.

**REP6-103 -017**

### **Sub-Part**

The ExA has allowed NH great latitude in the presentation of inadequate and error strewn documentation. This has been poorly, and improperly, amended with a mixed and jumbled version being 'shared' at the most recent ISH, making it impossible for any Interested Party to track changes and to challenge the entirety of the dDCO.

The ExA has allowed NH to present documentation (for example, the roundabout design), at OFH that no other Stakeholder, Interested Party or even lawyers representing NH, had seen;

It is also the case that the ExA had not seen these 'revised' plans;

NH had no explanation for their failings beyond the excuse of blaming their computer system.



It is of equally great concern to MIAG and MclPC, that whilst our presentations at the initial OFH were cut short, the ExA has allowed such flagrant abuse from NH to go uncriticised and unchallenged;

It is clear to MIAG and MclPC that the presentation of the dDCO was premature, ill-conceived and wrong. It is of concern that the ExA simply did not dismiss the entire process as a result of NH failings, inadequacies, errors and breaches;

MIAG and MclPC urge the ExA and the Planning Inspectorate to send the NH plans for Junction 24 back, and to recommend that further research, consultation and consideration be given to all viable alternatives, with especial focus on the Main Alternative.

### **Applicant's Response**

During the ISH4 the Applicant was asked to briefly highlight what changes had been made to the dDCO and reasons. The presentation made at the hearing can be found in the Applicant's the Written Submissions of Oral Representations made at Hearings [REP5-020] submitted to examination at Deadline 5.

At the hearing, the Applicant explained that the Schedule of Changes to draft DCO [REP4-054] submitted at Deadline 4, and every other deadline where amendments were made to the dDCO, clearly set out changes made to the draft order, reasons for the changes and precedent orders (where applicable) for the proposed drafting.

Due to formatting issues resulting from the order validation process the comparison document illustrating changes from the dDCO submitted at Deadline 3 [REP3-003] showed formatting changes as well as substantive changes to the dDCO. Interested Parties could still see what had changed in the dDCO by reading the Schedule of Changes submitted at Deadline 4 [REP4-054] Further changes to the dDCO made at Deadlines 5 and 6 can be easily identified in the tracked version of the dDCO as well as the up to date Schedule of Changes.

The Applicant provided the Examining Authority with a thorough explanation of any amendments to the draft Order during every round of ISH and has responded to ExQ as well as any representations made in relation to the draft Order to assist Interested Parties in the understanding of what the Applicant proposes to change in the Order.

With regard to the roundabout referred to above, the Applicant does not recognise the comment about the computer system. As noted in refence 46 of Written Submission of Oral Case for Issue Specific Hearing 1 [REP3-012], the updated and emerging design was provided to Essex County Council on 16 January 2023, and the Applicant told the County Council on 21 February 2023 the drawing could be shared with MIAG if the council wished to do so. The proposed change is as a result of ongoing detailed design being carried out by the Applicant on which the Applicant is fully engaging with Essex County Council.

As the Interested Party will be aware, the Applicant consulted on this change between 13 April 2023 and 14 May 2023.

Lastly, the Applicant notes that the Interested Party has made comments about how the examination has been run. The Applicant believes the Examination has been conducted fairly, reasonably and with each party given appropriate opportunity to present its case.

**REP6-103 -018**

**Sub-Part**

Attached hereto is a complete list of all papers and reports submitted by MIAG and/or MclPC and/or experts and other Interested Parties relevant to NH Junction 24 Plans. These papers demonstrate the catastrophic effects of the plans on the villages of Messing and Inworth. The list is exhaustive and complete. It is intended to cover all matters raised by the dDCO, 'The Statement of Common Ground', and all other relevant submissions.

Please see link to list: <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010060/TR010060-002737-Messing%20and%20Inworth%20Action%20Group%20Limited%20-%20Responses%20to%20ExQ3.pdf>

**Applicant's Response**

The Applicant notes the Interested Party referring to its previous submissions and has commented on those at the appropriate time.

<p><b>Environment Agency</b></p>	<p><b>REP6-105-001</b></p>
<p><b>Sub-Part</b></p>	
<p>Submitted via portal APPLICATION BY NATIONAL HIGHWAYS FOR AN ORDER GRANTING DEVELOPMENT CONSENT FOR THE A12 CHELMSFORD TO A120 WIDENING Please find below comments from the Environment Agency on document 9.57 Pre-commencement Plan [REP5-016]. We note that paragraphs 2.3.31 &amp; 3.8.1 both refer to Requirement 6 of the draft DCO submitted at Deadline 5. We would highlight that the text included in these paragraphs does not fully match the wording of that Requirement, most significantly in relation to part (2). These paragraphs should be amended. We welcome the reference at paragraph 3.5.22 to the need to ensure that safe and unimpeded otter passage is maintained up and down riverbanks at all times during works to avoid harming or interfering with these protected species. Otters are protected under the 1981 Wildlife and Countryside Act (as amended). With reference to paragraph 3.7.42, we would highlight the need to consider any permitting requirements if there is a proposal to discharge treated foul water into the environment. Advice and guidance can be obtained from the pre-application service at: Get advice before you apply for an environmental permit - GOV.UK (<a href="http://www.gov.uk">www.gov.uk</a>)</p>	
<p><b>Applicant's Response</b></p>	
<p>The Applicant notes the comments regarding the wording of sections 2.3.31 and 3.8.1. and will update these paragraphs in line with requirement 6 of the dDCO [REP6-036] at Deadline 7.</p> <p>The Applicant notes the other comments on paragraphs 3.5.22 and 3.7.42 and will continue to engage with the Environment Agency in respect to permitting requirements.</p>	
<p><b>Environment Agency</b></p>	<p><b>REP6-106-001</b></p>
<p><b>Sub-Part</b></p>	
<p>Submitted via portal APPLICATION BY NATIONAL HIGHWAYS FOR AN ORDER GRANTING DEVELOPMENT CONSENT FOR THE A12 CHELMSFORD TO A120 WIDENING Please find below Deadline 6 comments from the Environment Agency in</p>	

response to statements made within the Applicants Written submissions of oral representations made at Hearings (ISH3) [REP5-020].

**Applicant's Response**

The Applicant notes the Interested Party's comments.

**REP6-106-002**

**Sub-Part**

Table 1.2. Post-hearing submissions in response to matters raised at Issue Specific Hearing 3 (ISH3) Reference 5.4 "The Applicant also notes that the EA have not adopted the approach they are taking on this Scheme anywhere else in the country." With regards to the Environment Agency position on the use of culverts and main rivers, our approach is consistent with our long-standing culverting policy, and is an approach applied to proposals across England. A copy of our culverting policy was submitted to this Examination at Deadline 5 [REP5-030]. We would highlight that the Environment Agency has raised an objection on a similar basis to the use of a culvert as part of the National Highways Lower Thames Crossing scheme proposals. "In the interim, the Environment Agency have offered to provide details of the A47, another National Highways' scheme where culverts have been introduced successfully." As highlighted in our Responses to ExQ2 [REP4-074], we were actually referring to the approved National Highways A47 North Tuddenham to Easton dualling scheme in Norfolk (TR010038), where a clear span bridge, not a culvert, with a 5m m "No further issues were raised regarding biodiversity net gain and the Environment Agency are going to look into the difference in approach to the proposed scheme compared with the Lower Thames Crossing." This is addressed in our response to document 9.52 Applicant's Comments on Others' Responses to ExQ2 [REP5-003] minimum riparian buffer each side is being provided to cross the River Tud.

**Applicant's Response**

National Highways is aware that the Environment Agency has its own internal policies on culvert provision, which have been raised on previous schemes. National Highways commented on the Agency's policies at Deadline 6 in Applicant's Comments on Information received at Deadline 5 [REP6-090] and the Technical Note on Proposals for Main River Crossings [REP6-095] in Section 2.5.

With regards to the A47 North Tuddenham to Easton improvement scheme, all the Main Rivers were crossed by clear span bridges and culverts were used on other watercourses (streams and ditches). The River Tud is about 5m wide at the crossing point which also incorporated a 5m wide bank on both sides of the river to help maintain a more natural channel.

As explained in REP6-107-002 in this document, while the River Tud is a useful example to have sight of, the channel setting, the floodplain setting, the degree of modification, type of modification and overall space around the channel differ from the channels crossed by the A12. In particular, for the A47 North Tuddenham to Easton improvement the typology and overall character differ in that there is a wider floodplain corridor with opportunities for wider buffer strips, and the chalk stream character is more obvious. In summary, the geology differs for the A47 Tuddenham scheme and so too the hydrology. There is not a direct comparison with the A12.

The River Tud is an important ecological resource where an open span bridge crossing was warranted and a culvert was never considered for this crossing. The Applicant also notes that while the River Tud is a priority habitat and is considered to be of National importance in accordance with DMRB LA 108, the river crossings on the A12 scheme do not qualify as priority habitats at the current time.

Similar discussions in relation to culverts have been held between the Environment Agency and National Highways on the Lower Thames scheme. Initially, the Agency clearly stated that culverts on the Lower Thames scheme should be avoided. However, National Highways' team has provided justification to the Agency that culverts are appropriate in several locations for the Lower Thames scheme, and this is a position which the Agency has since accepted.

**REP6-106-003****Sub-Part**

Reference 5.5 "We are seeking to understand what the legal and/or policy basis is for EA's position that reasonable and practicable alternatives have to be examined in relation to culverting. At present, our position is that there is no legal or policy

requirement to look at open span crossings, this approach is not being adopted elsewhere in the country with the EA relating to other road schemes.” As highlighted above, our approach is consistent with our national culverting policy [REP5-030]. We have further addressed the need to consider alternatives in our Deadline 5 submission [REP5-031]. Additionally, the Applicant makes a number of points about the appropriateness of the mitigation proposed. We have made comment on some of those points in our Deadline 6 response to document 9.52 Applicant's Comments on Others' Responses to ExQ2 [REP5-003], our Reference AE/2022/127507/10-L01.

### **Applicant's Response**

The comments made by the Environment Agency in their referenced submission at Deadline 6 [REP5-003] related to:

- The A47 scheme
- Biodiversity Net Gain (BNG) Approach
- Loss of riparian habitat and vegetation
- Use of culverts and mammal and wildlife passage
- Habitat connectivity
- Design of culverts (CIRIA C786)
- Consideration of alternatives
- Eel passage
- River Brain Crossing
- Ashman's Bridge crossing

### **The A47 scheme**

Please refer to our response to REP6-107-002 in this document where we set out our views on the comparison to the A47 scheme. Essentially while the reference to the River Tud is a useful example, it does not bear direct comparison to the A12 due to differing characteristics.

### **Biodiversity Net Gain (BNG) Approach**

The Applicant confirms that the Biodiversity Net Gain metric has been applied in the same way for both the proposed scheme and the Lower Thames Crossing (LTC) scheme, albeit a much larger net gain is being predicted for rivers and streams on the proposed scheme compared with LTC.

The Applicant is aware that the Environment Agency has previously raised issues with the fact that the rivers element only achieves 0.36% gain. However, as per our previous response on page 139 in the Applicants Comments on Written Representations [REP3-009] the Applicant has applied the metric in accordance with Natural England's methodology and it would not be appropriate to deviate from that. However, separate figures for the rivers and ditches elements were provided to the Examining Authority for transparency.

Despite the fact there is no legal requirement to provide biodiversity net gain for Nationally Significant Infrastructure Projects (NSIP), the Applicant is predicting net gains of 28.40% of habitats, 34.49% of hedgerows and 156.73% of rivers [AS-098], figures which are significantly higher than the 10% biodiversity net gain which would be mandated for NSIPs in the future.

The predicted net gain of habitats would include 197.38ha of grassland, 43.19ha of woodland and forest (including wet woodland) and 27.61km of hedgerows (as per Table 9.1 of the Environmental Statement Addendum [AS-098]), all of which would provide additional habitat for protected species including bats, badgers and great crested newt, as well as for species of principal importance (brown hare, hedgehog and polecat). The Applicant is also proposing the creation of 20 ecological mitigation areas as reptile receptor sites across the proposed scheme. These sites would be created in advance of construction where practicable and would total 48.67ha [REP3-010], comprising grassland, scrub, woodland, ponds and ditches (note the grassland and

woodland areas are already reflected in the total habitat areas stated at the beginning of this paragraph). A ditch and pond complex is also proposed to be created within ecological mitigation areas near junction 19 and adjacent to the River Brain which would provide additional habitat for water vole to accommodate future recolonisation of this species should local mink eradication efforts be successful (as shown on Sheet 1 of the Part 1 of the Environmental Masterplan [REP6-043]).

Whilst the Applicant acknowledges there is a significant adverse effect on Perry's Wood Local Wildlife Site and Ancient Woodland due to nitrogen deposition, this would be offset by the creation of an area of broadleaved woodland habitat (7.4ha), and the Applicant does not predict any significant adverse effects on any other biodiversity receptors as a result of the proposed scheme.

Therefore, it is the Applicant's view that on the whole the proposed scheme would provide environmental improvements which accords with paragraph 5.33 of the NNNPS which requires the Applicant to maximise biodiversity opportunities.

### **Loss of riparian habitat and vegetation**

Losses in riparian vegetation and other habitats (and the vegetation they support) has been measured using the 3.0 Biodiversity net gain metric. As stated within the Environmental Statement Addendum [AS-098] the Applicant predicts a net gain of 28.40% of habitats, 34.49% of hedgerows and 156.73% of rivers and streams although it is acknowledged that the percentage for rivers alone is only slightly above no net loss.

### **Use of culverts, mammal and wildlife passage, and habitat connectivity**

The Applicant's position on the impact of the proposed Main River crossings on mammals and wildlife passage is set out in our Technical Note on Proposals for Main River Crossings submitted at Deadline 6 [REP6-095].

### **Design of culverts (CIRIA C786)**

The proposed scheme has been designed in accordance with National Highways Design Manual for Roads and Bridges (DMRB). Document CD529 of the DMRB covers the design of outfall and culvert details and states that "The guidance on the hydraulic



design of culverts, as given in Chapter 12 of CIRIA C786, shall be used in the design of culverts.” The CIRIA Culvert, screen and outfall manual (C786), CIRIA 2019, provides guidance on the design of culverts to allow infrastructure to cross a watercourse. Section 1.2 of the guidance states: “The manual covers all forms of culvert construction and materials, and all sizes from 0.45m to 8.0 diameter or width. There is no upper limit to the length of a culvert covered by this manual”. Therefore the Applicant considers that this is a suitable guide for the design of culverts on the proposed scheme.

### **Consideration of Alternatives**

The Environment Agency has sought an assessment of the alternative options from the Applicant, considered to justify the inclusion of culverts within the proposed scheme. The Applicant does not consider that there is a justification for such a comparative exercise in either law or policy. Further detail of the Applicant's position is set out in Section 4.5 of our Technical Note on Proposals for Main River Crossings (REP6-095).

### **River Brain Crossing**

The Applicant intends to review opportunities to enhance the crossing of the River Brain where practicable during the detailed design process. Please see our response to REP6-107-013 in this document.

### **Ashman's Bridge crossing**

The Applicant notes the Environment Agency's response and will continue to review opportunities to retain natural banks at the River Brain crossing through the detailed design process

<p><b>Environment Agency</b></p>	<p><b>REP6-107-001</b></p>
<p><b>Sub-Part</b></p>	
<p>APPLICATION BY NATIONAL HIGHWAYS FOR AN ORDER GRANTING DEVELOPMENT CONSENT FOR THE A12 CHELMSFORD TO A120 WIDENING</p> <p>Please find below Deadline 6 comments from the Environment Agency in response to statements made within document 9.52 Applicant's Comments on Others' Responses to ExQ2 [REP5-003]. The statements from the Applicant are in italics.</p>	
<p><b>Applicant's Response</b></p>	
<p>The Applicant notes the Interested Party's comments, and has responded to the comments in response to REP6-107-002 to REP6-107-013 of this document.</p>	
<p style="text-align: right;"><b>REP6-107-002</b></p>	
<p><b>Sub-Part</b></p>	
<p>Q2.18.5</p> <p>"The Environment Agency referred to the A47 scheme, another National Highways' scheme where they considered that culverts have been introduced successfully."</p> <p>As highlighted in our Responses to ExQ2 [REP4-074], we were actually referring to the approved National Highways A47 North Tuddenham to Easton dualling scheme in Norfolk (TR010038), where a clear span bridge, not a culvert, with a minimum 5- metre riparian buffer each side is being provided to cross the River Tud.</p>	

## Applicant's Response

In previous representations the Applicant has outlined its reasons for the use of culverts instead of clear span bridges, most recently and comprehensively in the Deadline 6 Submission - Technical Note on Proposals for Main River Crossings [REP6-095].

A full assessment of the effects on road drainage and the water environment (RDWE) was reported in Chapter 14 of the Environmental Statement [APP-081]. This is supported by the following appendices:

- Appendix 14.1: Water Quality Assessment Report [APP-158]
- Appendix 14.2: Water Environment Regulations (WFD Regulations) Compliance Assessment [APP-159]
- Appendix 14.3: Hydromorphology Assessment [APP-160]
- Appendix 14.4: Groundwater Assessment [APP-161]
- Appendix 14.5: Flood Risk Assessment [APP-162]
- Appendix 14.6: Surface Water Drainage Strategy [APP-174]

The RDWE assessment concluded that there would be no significant adverse effects on the water environment from the proposed scheme with the application of proposed mitigation measures (as set out in Section 14.10 and 14.11 of Chapter 14 [APP-081]).

The Environment Agency has raised concerns over the potential impacts on species, particularly in terms of mammal passage for otter, water vole and in-channel passage for fish and eels. As explained in the Technical Note on Proposals for Main River Crossings [REP6-095]), the Applicant does not consider the Main River crossings to be a barrier to fish and eel passage. In addition, the invert of the proposed new Main River culverts would be buried beneath the natural bed of the watercourse to allow the continuation of sediment conveyance and reduce the impact on local flow dynamics (as committed to in RDWE 39 in the Register of Environmental Actions and Commitments (REAC) [REP6-052]). This would replicate the natural stream bed material within the structure to aid permeability to fish and eels.

While the River Tud is a useful example to have sight of, the channel setting, the floodplain setting, the degree of modification, type of modification and overall space around the channel differ from the channels crossed by the A12. The typology and overall character differ in that there is a wider floodplain corridor with opportunity to put in wider buffer strips, the chalk stream character is more obvious, the geology differs and so too the hydrology. There is not a direct comparison with the A12.

**REP6-107-003**

**Sub-Part**

“Additionally, the Applicant raised a query regarding the consistency of approach in relation to BNG (biodiversity net gain), in particular consideration of BNG on the Lower Thames Crossing scheme which in that case results in a negative River and Streams unit score and has been accepted by the Environment Agency.”

The scale of the Lower Thames Crossing scheme has caused some difficulties in applying the BNG calculator, and this has been raised with Natural England. Discussions with the promotor of the Lower Thames Crossing scheme (National Highways) have satisfied the Environment Agency that although the BNG metric calculation has produced negative figures the actual environmental improvements are in reality greater than the loss. A scheme that truly has a negative impact would not be acceptable.

**Applicant's Response**

The Applicant confirms that the Biodiversity Net Gain metric has been applied in the same way for both the proposed scheme and the Lower Thames Crossing (LTC) scheme, albeit a much larger net gain is being predicted for rivers and streams on the proposed A12 scheme compared with LTC .

The Applicant is aware that the Environment Agency has previously raised issues with the fact that the rivers element only achieves 0.36% gain, however, as per our previous response (page 139) [REP3-009] the Applicant has applied the metric in accordance with Natural England's methodology and it would not be appropriate to deviate from that. However, separate figures

for the rivers and ditches elements were provided to the Examining Authority for transparency. In comparison, the Lower Thames Crossing scheme is predicting a negative score for rivers, albeit this is accepted by the Environment Agency.

Despite the fact there is no legal requirement to provide biodiversity net gain for Nationally Significant Infrastructure Projects (NSIPs), the Applicant is predicting net gains of 28.40% of habitats, 34.49% of hedgerows and 156.73% of rivers [AS-098], figures which are significantly higher than the 10% biodiversity net gain which would be mandated for NSIPs in the future.

The predicted net gain of habitats would include 197.38ha of grassland, 43.19ha of woodland and forest (including wet woodland) and 27.61km of hedgerows (as per Table 9.1 of the Environmental Statement Addendum [AS-098]), all of which would provide additional habitat for protected species including bats, badgers and great crested newt, as well as for species of principal importance (brown hare, hedgehog and polecat). The Applicant is also proposing the creation of 20 ecological mitigation areas as reptile receptor sites across the proposed scheme. These sites would be created in advance of construction where practicable and would total 48.67ha [REP3-010], comprising grassland, scrub, woodland, ponds and ditches (note the grassland and woodland areas are already reflected in the total habitat areas stated at the beginning of this paragraph). A ditch and pond complex is also proposed to be created within ecological mitigation areas near junction 19 and adjacent to the River Brain which would provide additional habitat for water vole to accommodate future recolonisation of this species should local mink eradication efforts be successful (as shown on Sheet 1 of the Environmental Masterplan [REP6-043]).

While the Applicant acknowledges there is a significant adverse effect on Perry's Wood Local Wildlife Site and Ancient Woodland due to nitrogen deposition, this would be offset by the creation of an area of broadleaved woodland habitat (7.4ha), and the Applicant does not predict any significant adverse effects on any other biodiversity receptors as a result of the proposed scheme.

Therefore, it is the Applicant's view that on the whole the proposed scheme would provide environmental improvements which accords with paragraph 5.33 of the NNNPS which requires the Applicant to maximise biodiversity opportunities.

**REP6-107-004**

**Sub-Part**

“In accordance with the mitigation hierarchy, the Applicant has also sought to avoid impacts by retaining existing vegetation (including riparian habitat) as far as reasonably practicable and will continue to do so as the detailed design develops. This is committed to in LV4 in the Register of Environmental Actions and Commitments (REAC) [REP4-023] and shown on the Retained and Removed Vegetation Plans [APP-035 and REP4-007]. Where it has not been possible to avoid loss of vegetation, mitigation measures have been proposed. The measures of most relevance to this response are provided below, with full details available in Section 9.10 of Environmental Statement Chapter 9: Biodiversity [APP-076].”

Riparian habitat and vegetation will be lost in sections where culverts and culvert extensions are imposed on watercourses. This detrimental long-term impact is avoidable if clear span bridges with bridge abutments set back from river bank edge are used instead. Aquatic wildlife relies on in-channel, marginal and riverbank vegetation for the basis of the ecosystem. Clear span bridges are seen as a better ecological choice of road crossing design which allow natural river systems to coexist with sustainable development. Culverts, particularly long dark ones such as these proposed here are generally devoid of plants and allow very little insect life to the detriment of a healthy ecosystem.

Fish and invertebrates rely on in-channel vegetation to hide, feed and, in many species, breed in. Juvenile fish and elvers rely on aquatic vegetation for refuge, food and to migrate through as they pass upstream in higher flows. Culverts do not permit these natural habitats to exist.

### **Applicant's Response**

Losses in riparian vegetation and other habitats (and the vegetation they support) has been measured using the 3.0 Biodiversity net gain metric. As stated within the Environmental Statement Addendum [AS-098] the Applicant predicts a net gain of 28.40% of habitats, 34.49% of hedgerows and 156.73% of rivers and streams although it is acknowledged that the percentage for rivers alone is only slightly above no net loss.

The Applicant notes the concerns raised by the Environment Agency and refers the Environment Agency to the Technical Note on Proposals for Main River Crossings [REP6-095], specifically Section 4.3 which sets out that there is no legal or policy requirement for the Applicant to assess alternative options to culverts.

For the two new crossings at Domsey Brook (east) and Rivenhall Brook, wide span bridge structures would be possible to construct, however, the additional capital and operational costs combined with the increase in programme, embodied carbon, technical complexity and construction disruption are not considered to justify the construction of bridges in preference to the proposed culvert solutions (as stated in paragraph 5.1.3 of the Technical Note on Proposals for Main River Crossings [REP6-095]).

The Applicant has developed proposals for the Main River crossings which do not lead to significant adverse effects on ecology and the water environment and therefore accord with the NNNPS. There is therefore no need for alternatives to be assessed and no duty upon the decision maker to consider whether a yet more acceptable alternative can be identified.

Nevertheless, the review of the engineering designs contained in the Technical Note on Proposals for Main River Crossings [REP6-095] demonstrates that either the replacement of existing bridges is not required for environmental reasons or that the option of providing a bridge instead of a culvert would not lead to significantly better environmental outcomes given in particular the low lying nature of the terrain, but also the opportunities to provide mammal ledges and natural substrate in the culverts to benefit movement of riparian mammals and fish. Replacing the proposed Main River crossings with open span bridges would be disproportionate in terms of whole life cost, embodied carbon, and adverse construction impacts compared with any environmental gains manifest during the operational phase.

Regarding juvenile fish and invertebrates (and as noted in sub-part REP6-107-008 of this response), the importance of macrophytes to provide cover during high flows is acknowledged, however, with the implementation of mitigation such as the introduction of sediment to reduce changes in local flow dynamics (as per commitments RDWE39 and RDWE42 of the REAC [REP6-052]), no adverse changes in flow velocities are predicted as a result of the proposed culvert extensions or proposed new culverts. Where proposed, the effects of new and extended structures are mitigated through the adoption of the most current best

practice available. The adoption of best practice in culvert design will ensure that river flows (dictated by gradient and depth) will reflect those in the wider catchment. Successful adoption of best practice guidance will therefore not adversely increase flow velocities beyond those found in the adjacent catchment areas.

Furthermore, as noted in the Applicant's response to Q3.3.5 from the Environment Agency in Applicant's Comments on Others' Responses to ExQ3 [TR010060/EXAM/9.73], the Applicant confirms that there are no proposals to remove macrophytes from any watercourses across the proposed scheme.

**REP6-107-005****Sub-Part**

“While the Applicant acknowledges the potential adverse impacts associated with habitat loss and fragmentation (as stated in paragraph 9.9.5 of Chapter 9: Biodiversity [APP-076]) due to extending existing culverts and culverting of watercourses, the biodiversity assessment concludes that the implementation of standard and embedded mitigation measures would reduce these impacts to not environmentally significant (Section 9.11 of Chapter 9: Biodiversity [APP-076]).”

The proposed use of culverts can be seen to be introducing unnecessary adverse impacts. Our position remains that the proposed crossings will cause avoidable environmental damage. Widening the road crossings with clear span bridges would appear to be physically possible at each of the locations. The use of clear span bridges for the new crossings of the Domsey and Rivenhall Brooks would allow the natural vegetation and natural river bank habitat to remain. Even if (as has been suggested by the Applicant) bridge height may need to be compromised the extra width has the potential to deliver significant improvements to the crossings over the current proposals.

With natural bank and in channel vegetation fish passage would be easier, insects could continue to fly in lighter open sections and channel oxygenation would be healthy and more natural.

Mammal and other wildlife passage would be able to continue along the banks in the connected riparian zone. Fragmentation of the linear habitat would be completely avoided. The Lawton report (Making Space for Nature, 2010) principles (of bigger, better



and more joined up ecological networks), which have informed the government's 25 Year Environment Plan (2018) and subsequent Environmental Improvement Plan (2023) would be sensibly followed and the mitigation hierarchy would be seen to dictate the optimum design for people, landscape and wildlife.

As highlighted in our Deadline 5 response [REP5-031] at paragraph 1.6, we are working with partners to actively remove barriers to species movement, such as culverts, in Essex and across the country.

**Applicant's Response**

The Applicant refers the Environment Agency to the Technical Note on Proposals for Main River Crossings [REP6-095], specifically paragraph 5.1.3 which explains why clear span bridges are not considered a viable alternative to culverts at the two new crossings on Domsey Brook (east) and Rivenhall Brook.

By way of clarification, Paragraph 9.9.5 of Chapter 9: Biodiversity [APP-076] is a general statement about the potential impacts associated with construction. It does not convey a specific concern about culverting.

It should be noted that the proposed widening of existing culverts and proposed new culverts are not assessed as giving rise to significant adverse impacts on biodiversity. In fact with the implementation of mitigation measures including the provision of mammal ledges (as per commitment BI32 of the REAC [REP6-052), otter fencing and introduction of sediment to support flow regulation (as per commitment RDWE42 of the REAC [REP6-052]), it is considered that the proposed scheme would remain permeable to wildlife.

**REP6-107-006**

**Sub-Part**

“Landscape planting has been designed to increase connectivity across the landscape and avoid fragmentation of habitats, as well as connecting to existing wildlife corridors (paragraph 9.10.14 of Chapter 9: Biodiversity [APP-076]). In addition, paragraphs 9.10.117 to 9.10.120 of Chapter 9: Biodiversity [APP-076] detail proposed enhancement measures for Boreham Brook, Domsey Brook and Rivenhall Brook and include the implementation of a 10m buffer zone (either through fencing, where practicable, or

landscaping (leaving the area to rewild) to allow for a natural riparian zone and habitat creation. Buffer zones of this design can be as effective, if not more so, than planting and would result in an improvement on baseline conditions, where riparian vegetation is largely restricted by agriculture.”

Whilst we support all these principles, the proposals risk damaging the connectivity of habitats permanently which is why we are seeking measures such as clear span bridges to protect connectivity and avoid fragmentation in the first place. New transport links should not be cutting off or compromising connectivity along river catchments by confining long sections into concrete box culverts.

**Applicant's Response**

The Applicant acknowledges the concerns raised by the Environment Agency and welcomes their support of the mitigation principles.

The Applicant refers the Environment Agency to the responses provided earlier in sub-parts REP6-107-004 and REP6-107-005 of this response regarding the consideration of alternatives for culverts.

**REP6-107-007**

**Sub-Part**

“As stated in paragraph 9.10.74 of Chapter 9: Biodiversity [APP-076], where practicable fragmentation impacts across the wider proposed scheme for otter would be mitigated through the provision of mammal ledges and landscape planting would be designed to guide mammals to these features. The Applicant is producing a figure demonstrating how the proposals for each watercourse crossing would either not change or would provide an improvement with respect to permeability for otters. This figure will be submitted at Deadline 6.”

We support the installation of mammal ledges through existing road crossings where there are no other alternative options. This is not the case here where the scheme proposes new crossings. Clear span bridges with natural in river or along river-bank options for mammals should be prioritised over culverts.

The proposals plan for retrospective mitigation for unnecessary ecological impacts resulting from the choice of river crossing design. Mammal ledges on well-designed new structures should not be necessary.

**Applicant's Response**

The Applicant notes the concerns raised by the Environment Agency and refers the Environment Agency to the responses provided earlier in sub-parts REP6-107-004 and REP6-107-005 of this response regarding culverting proposals.

Continuity of wildlife passage has been taken into account during the design of the proposed scheme and new culverts have been designed in accordance with CIRIA C786 (Culvert, screen and outfall manual). Baseline surveys undertaken by the Applicant recorded evidence of otters either side of existing culverts (such as the Boreham Brook culvert), suggesting that these structures are currently permeable too, and successfully used by otters, and would continue to be so once the proposed scheme has been constructed.

As clear span bridges are not a viable option for the proposed scheme (for reasons explained in Section 5.1 of the Technical Note on Proposals for Main River Crossings [REP6-095]), the Applicant has opted to provide mammal need ledges to maximise the permeability of the culverts to otters.

**REP6-107-008**

**Sub-Part**

“With respect to freshwater fish (including macro-invertebrates and macrophytes), 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]).” CIRIA culvert design best practice is generally focussed on drains and very small watercourses rather than Main Rivers.

Invertebrates and fish rely on aquatic plants (macrophytes) which will not be present in long dark culverts. Many juvenile fish especially young eels rely on macrophytes to shelter in and weave between as they cannot tolerate fast flows in their upstream migration.

### **Applicant's Response**

The Applicant recognises the potential for adverse effect on aquatic receptors from the use of culverts. The Applicant responds to the Environment Agency's concerns over the suitability of the CIRIA C786 guidance in our response to REP6-107-003 below.

Culverts have been proposed where alternative options (such as clear span crossings) are either assessed as not feasible or where the additional costs combined with the increase in programme, embodied carbon, technical complexity and construction disruption associated with bridge structures are not considered justifiable as an alternative to culverts (as per Section 5.1 of the Technical Note on Proposals for Main River Crossings [REP6-095]). Where proposed, the effects of new and extended structures are mitigated through the adoption of the most current best practice available. The adoption of best practice in culvert design will ensure that river flows (dictated by gradient and depth) will reflect those in the wider catchment. Successful adoption of best practice guidance will therefore not adversely increase flow velocities beyond those found in the adjacent catchment areas. The importance of macrophytes to provide cover during high flows is acknowledged, however, with the implementation of mitigation such as the introduction of sediment to reduce changes in local flow dynamics (as per commitments RDWE39 and RDWE42 of the REAC [REP6-052]), no adverse changes in flow velocities are predicted as a result of the proposed culvert extensions or proposed new culverts.

Furthermore, the biodiversity assessment as presented in Environmental Statement Chapter 9 [APP-076] concludes no significant adverse effects on freshwater fish, macro-invertebrates or macrophytes.

**REP6-107-009**

**Sub-Part**

“As stated in paragraph 9.11.119 of Chapter 9: Biodiversity [APP-076], while there would be an overall loss of 230m of river through creation of the proposed new alignments, the realigned sections would improve the condition and therefore the river condition score (Appendix 9.14 Biodiversity Net Gain Report [APP-138]) of each of the rivers (those being Domsey Brook, Roman River and Rivenhall Brook) under the Water Framework Directive. Enhancement measures for Boreham Brook, Domsey Brook and Rivenhall are also proposed and are described earlier in this response.”

This complete loss of habitat would be most effectively reduced by not introducing new long dark culverts. Enhancement of habitat elsewhere does not resolve the fundamental connectivity problems which the culverts will create.

**Applicant's Response**

The Applicant recognises the potential for adverse effects on habitat loss from the extension of existing culverts and the proposed two new culverts. As stated in our response to sub-part REP6-107-008 of this response, culverts have been proposed where alternative options (such as clear span crossings) are either assessed as technically not feasible, or where the additional costs combined with the increase in programme, embodied carbon, technical complexity and construction disruption associated with bridge structures are not considered justifiable as an alternative to culverts (as per Section 5.1 of the Technical Note on Proposals for Main River Crossings [REP6-095]).

Connectivity across the proposed scheme would be achieved through implementation of the following mitigation measures with respect to culverts:

- Retrofitting of mammal ledges within existing culverts and provision of mammal ledges within new culverts (as per REAC commitment BI32 [REP6-052])
- Where practicable, landscape planting would be designed to guide mammals to culvert entrances (as per commitment BI32 of the REAC [REP6-052])
- New culverts to include culvert diameters that match that of the natural channel

- The invert level of new culverts would be buried beneath the natural bed of the watercourse to allow the continuation of sediment conveyance and reduce the impact on local flow dynamics (as per commitment RDWE39 of the REAC [REP6-052])

The Applicant refers to the response provided in sub-part REP6-107-004 above in relation to losses in riparian vegetation and other habitats.

**REP6-107-010**

**Sub-Part**

“With reference to the Environment Agency’s request for full exploration of alternative options, the Applicant refers to responses to ExQ2 2.18.5 and ExQ2 2.18.6 in the Deadline 4 Submission – Applicant’s Responses to ExQ2 – Rev 2 [REP4-055]. The Applicant does not consider that there is a justification for a comparative exercise in either law or policy. As a matter of law, a decision maker can choose to have regard to a potential alternative to a scheme where the scheme is identified as having conspicuously harmful effects and where the scheme seeks to overcome such harm by reference to countervailing public interest benefits. Since the Applicant’s assessment does not identify any “conspicuously harmful effects” arising from the proposed culverts, no duty arises as a matter of law for the Secretary of State to consider alternative proposals to them.

The only other means by which the Secretary of State could be required to consider alternatives would be if this was required by adopted policy. The Applicant is not aware of any such policy requirement in the NPSNN, the NPPF or the relevant adopted developments.”

We have addressed these points in our Deadline 5 response [REP5-031] at paragraph 1.12.

**Applicant’s Response**

<p>The Applicant notes the comments from the Environment Agency and draws their attention to Section 4.5 Consideration of Alternatives of the Technical Note on Proposals for Main River Crossings [REP6-095] submitted by the Applicant at Deadline 6 and to the Applicant's Comments on Responses to ExQ2 (pages 86 – 94 [REP5-003]). The mitigation hierarchy applies once significant harm has been identified; that is not the case in relation to the proposed scheme.</p>
<p><b>REP6-107-011</b></p>
<p><b>Sub-Part</b></p>
<p>“Eel passage - Enhancements of existing culverts on Roman River, Domsey Brook West, and Brain Bridge include the introduction of sediment substrate along the riverbed to act as natural flow regulation and provide overall channel heterogeneity. In addition, at each of the box culverts the invert would be buried beneath the natural bed of the watercourse to allow the continuation of sediment conveyance and reduce the impact on local flow dynamics (as committed to in RDWE 39 in the REAC [REP4-023]). While the culverts would be longer, the low gradient would not adversely increase flow velocities above that already experienced through the existing structures (due to REAC commitment RDWE 39, see above). However, juvenile eels migrate along the bed and therefore the condition of the river substrate is of greater importance than flow velocity to early life stages. The proposed habitat improvements through the inclusion of bed material would improve conditions for migration.”</p> <p>Juvenile eels migrate upstream and benefit from vegetation. In places they rely on the roughness of the channel and on vegetation to alternately rest and propel themselves upstream. Adding bed material to a long culvert is an enhancement that will make a hostile environment slightly less bad, the underlying problem will not be resolved. More open clear span extensions to these existing crossings or replacement would solve this problem rather than extending the life of damaging structures.</p>
<p><b>Applicant's Response</b></p>
<p>The Applicant refers the Environment Agency to the Technical Note on Proposals for Main River Crossings [REP6-095] with respect to our position on culverts and the consideration of alternatives (such as clear span crossings) and also the responses provided earlier in sub-parts REP6-107-008 and REP6-107-009 above.</p>

The Applicant recognises the potential for adverse effects on habitat fragmentation from the extension of existing culverts and the proposed two new culverts. However, these effects are not considered significant with the implementation of mitigation measures as described in our response to sub-part REP6-107-009 of this response, and as concluded in Environmental Statement Chapter 9: Biodiversity [APP-076].

None of the existing structures is identified as a priority barrier for eel or coarse fish as per the Environment Agency's Prioritised Obstruction Database (last updated in June 2019). While it is acknowledged that absence from the Priority Obstructions Database does not confer unrestricted fish passage, taken with records of migratory species reported upstream, this indicates that the existing culverts do not pose an obstruction to migration, and that fish passage is occurring under certain flow conditions. As stated earlier within sub-part REP6-107-008 of this response, no adverse changes in flow velocities are predicted as a result of the proposed culvert extensions or proposed new culverts and therefore fish passage would be maintained.

Finally, the Applicant recognises that the extension of a culvert has the potential to reduce habitat connectivity of low priority barriers. The commitment to design culvert extensions to current best practice (as per commitment RDWE42 of the REAC [REP6-052]) and implementation of the mitigation measures as described in sub-part REP6-107-009 of this response would ensure no reduction in permeability of the structure.

**REP6-107-012**

**Sub-Part**

"Mammal ledges are proposed on four crossings (Rivenhall Brook, Domsey Brook (west), Domsey Brook (east) and Roman River) and would be positioned at least 150mm above the 1% (1 in 100) Annual Exceedance Probability event peak water level with at least 600mm headroom. Ledges would also be at least 500mm wide with ramps to provide access from the bank. These specifications have been designed to ensure there are safe routes of passage, including during a flood event and are consistent with the dimensions presented in the Environment Agency's Policy Regarding Culverts (1999) (paragraph 4.3). As stated in the Applicant's response to REP2-053-004 in the Deadline 3 submission – 9.24 Applicant's Comments on Written Representations [REP3-009], a commitment (BI49) was added to the REAC submitted at Deadline 4 [REP4-023] to undertake post- construction monitoring of the structures with mammal ledges to determine whether the ledges are used by wildlife, including otters, for safe



passage under the A12. Data collected would be used to inform the design of river crossings for future National Highways schemes.

Regarding the length of the culverts (particularly for Rivenhall Brook and Domsey Brook (east)), the Applicant acknowledges that empirical data to support or refute the idea culverts are an effective mitigation measure for mammal passage (notably otter and water vole) are not available. The Water Vole Mitigation Handbook suggests that culverts up to 35m are known to be effective. However, while this information is useful, it does not mean by omission that culverts of a different (longer) length are ineffective. A publication from The Otter Consultancy (Blackbridge: Otter Surveys and Mitigation Report, 2017) reports evidence of otters using a 116m long culvert without mammal ledges. This is significantly longer than the longest proposed culvert for the proposed scheme (Domsey Brook East, 60m), suggesting that the length of culverts being proposed would not pose a barrier to the movement of otter.”

We have addressed these points in our Deadline 5 response [REP5-031] at paragraph 1.4 & 1.5. In our view the use of ledges does not mitigate the effects of the proposals on these main rivers. The alternative provision of clear span bridges would negate this extra risk to ecology and allow the river ecosystems to function without constraint. We would welcome further monitoring and research on the use and effectiveness of mammal ledges, but this should be conducted on existing culverts elsewhere rather than introducing additional risks to the environment as part of this scheme.

<p><b>Applicant's Response</b></p>
<p>The Applicant notes the points raised by the Environment Agency and confirms the commitment to post-construction monitoring of mammal ledges as per commitment BI49 of the REAC [REP6-052]. This would include monitoring of both mammal ledges installed at new crossings and existing crossings where it is proposed to retrofit mammal ledges.</p> <p>With regard to alternatives to culverts, the Applicant refers the Environment Agency to the Technical Note on Proposals for Main River Crossings [REP6-095] as well as responses provided earlier within sub-parts REP6-107-004 and REP6-107-005 of this response.</p>
<p><b>REP6-107-013</b></p>
<p><b>Sub-Part</b></p>
<p>“River Brain crossing - Potential enhancements to the existing River Brain crossing were discussed at the meeting of 5 May 2023. As part of the detailed design for the scheme the Applicant would investigate potential opportunities for improvements to this crossing, such as the creation of rock rolls. The Applicant welcomes ongoing engagement with the Environment Agency on this matter.</p> <p>Ashman’s Bridge - The Applicant acknowledges the Environment Agency’s comments relating to Ashman’s Bridge and will consider opportunities through the detailed design stage to retain natural banks where practicable, as well the application of innovative design measures where appropriate to maximise delivery for biodiversity.”</p> <p>We welcome the commitments to improve those crossings and look forward to reviewing the detailed design proposals from the Applicant.</p>

### **Applicant's Response**

The Applicant welcomes the response of the Environment Agency and confirms it will review opportunities to enhance the Brain crossing and Ashman's Bridge where reasonably practicable during detailed design. A meeting was held between the parties on 26 June to discuss matters recorded as 'under discussion' in the SOCG. The position of both parties on this matter has not changed in light of that meeting.

**Addleshaw Goddard LLP on behalf of Network Rail  
Infrastructure Limited**

REP6-108-001

**Sub-Part**

Dear Examining Authority

We are instructed by Network Rail Infrastructure Limited and note that you have asked for an updated draft Statement of Common Ground between the Applicant and Network Rail today (12 June 2023). Network Rail and the Applicant have continued to have constructive discussions about the significant number of interfaces between the Applicant's scheme and railway infrastructure including the new Network Rail Beaulieu Station. Following those discussions, we sent to the Applicant on Friday at 14.32, an updated draft SoCG. We received an updated draft from the Applicant at 17.54 that was significantly different from the version we had sent them earlier in the day and which introduced a number of new points. The Network Rail team has not had the opportunity to consider the new points introduced by the Applicant on Friday and is, therefore, unable to agree to the statement.

However, we do take this opportunity to provide an amended version of the protective provisions for Network Rail's benefit which Network Rail's asks are included in the Order. Network Rail notes that the version included in the latest draft of the Order departs from Network Rail's standard protective provisions in a number of material respects.

If it would be helpful to the Examining Authority, we suggest that we provide to you a position statement at the next deadline that summarises the interfaces between Network Rail and the Applicant and the position reached in relation to each one.

Please do let us know should the ExA have any questions for the Network Rail team.

Kind regards  
 Marnix  
 Marnix Elsenaar Partner

**Applicant's Response**

The Applicant sent the current draft of the SoCG to the Interested Party on 25 May 2023 for review. Following this, there was a SoCG meeting on 6 June 2023 between the Applicant and Interested Party to discuss the document. The Applicant received the SoCG back from the Interested Party on 9th June and responded on the same day. On 12th June Addleshaw Goddard acting on behalf of the Interested Party responded to say that they were seeking instructions and made submissions to the ExA.

The Applicant has reviewed the protective provisions that were submitted by the Interested Party at Deadline 6. Following this review, the Applicant has made a number of amendments to the Deadline 7 draft Development Consent Order [TR010060/APP/3.1 Revision 8] where amendments may be agreed. The table below sets out the amendments which National Highways does not accept, and explains why they are unacceptable.

NH DCO PPs (red shows the amendments sought by NR)	NH Rationale for not agreeing/accepting the proposed amendment
<p>Insertion of a new paragraph 76(8)</p> <p><u>(8) the undertaker shall not allow the use or operation of the authorised development in a manner that has caused or will cause EMI until measures have been taken in accordance with this paragraph to prevent EMI occurring.</u></p>	<p>The Applicant does not agree to this wording being inserted. This drafting may be appropriate for other infrastructure schemes such as electricity cables or gas mains where the undertaker causes use and operation by causing electricity to flow, and has the power to turn the power off.</p> <p>However, because the authorised development is a highway, National Highways does not in the same sense “allow the use or operation” of the highway and is constrained in its actions by the ambit of its statutory powers and duties. A highway carries a public right and if the Applicant</p>

		<p>attempts to interfere with that right without lawful authority a criminal offence will be committed.</p> <p>National Highways may only therefore restrict the "use or operation" of the highway in circumstances where it has a statutory power to do so. In particular in exercising its powers under the Road Traffic Regulation Act 1984 it must have regard to its duties under Section 122 of the Act and balance the factors specifically set out in that Act: it cannot fetter its statutory discretion in that regard, as that would be unlawful and open any action it took to judicial or statutory review. Equally there is no power to permanently stop up the strategic road network on the basis of EMI being caused.</p> <p>In these circumstances the Applicant considers that Network Rail's proposed wording is unacceptable and simply does not work in the context of a highway scheme. Network Rail may instead rely on paragraphs 70 and 74 of the protective provisions which allow Network Rail to require protective works to be carried out at the Applicant's expense.</p>	
	<p><b>Paragraph 80.</b>—(1) The undertaker must pay to Network Rail all reasonable costs, charges, damages and expenses not otherwise provided for in this Part of this Schedule (<del>but subject always to the remaining provisions of this paragraph and</del> to article 35 (no double recovery)) which may be occasioned to or reasonably incurred by Network Rail—</p>	<p>National Highways considers that this clarification is required to protect its interests. Network Rail is not prejudiced by this wording.</p>	

	<p><b>Paragraph 80.</b>—(2) Network Rail must –</p> <p>(a) give the undertaker reasonable written notice <del>(and in any event not less than 7 days)</del> of any such claims or demands</p> <p>(b) <del>not admit any liability or make any offer to settle or</del> any settlement or compromise of such a claim or demand without the prior consent of the undertaker <del>(which, if it withholds such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand); and</del></p> <p><del>(c)</del>take such steps as are within its control and are reasonable in the circumstances to mitigate any liabilities relating to such claims or demands;  <del>and</del>(3) The sums payable by the undertaker under sub paragraph (1) shall if relevant include a sum equivalent to the relevant costs</p> <p><del>(d) keep the undertaker informed in relation to the progress of any such claims and demands and pay due regard to the undertaker's reasonable representations in relation to them.</del></p>	<p>This provision follows on from National Highways' obligation to pay these costs under paragraph 80(1) and provides a number of safeguards as to how that obligation is to work in practice.</p>	
	<p><b>Paragraph 80.</b>—(3) <del>The undertaker is not liable under sub paragraph (1) for any indirect or consequential loss or loss of profits except that the sums payable by the undertaker under that sub paragraph include a sum equivalent to the relevant costs in circumstances where;</del></p> <p><del>(a) Network Rail is liable to make payment of the relevant costs pursuant to the terms of an agreement between Network Rail and a train operator; and</del></p> <p><del>(b) the existence of that agreement and the extent of Network Rail's liability to make payment of the</del></p>	<p>The Applicant considers that the losses which are recoverable should be limited to "direct" losses. That means the natural result of the breach in the usual course of things and will essentially include foreseeable loss.</p> <p>Network Rail's clause does not include the word "direct" and would expose the Applicant to "indirect" (or consequential) losses. This is essentially unforeseeable loss due to the special circumstances of the case.</p>	

	<p><del>relevant costs pursuant to its terms previously disclosed in writing to the undertaker, but not otherwise.</del></p>	<p>The Applicant does not consider that it should be made liable for these special losses under the protective provisions.</p> <p>The Applicant acknowledges Network Rail's specific relationship with train operating companies ("TOCs"). Accordingly, if the Applicant is made aware of an agreement with a TOC under which Network Rail could become liable to make a payment to them for indirect losses, The Applicant agrees that such losses could be recovered.</p> <p>It is understood that this provision is not in Network Rail's protective provisions as their wording would automatically include such indirect losses.</p>	
	<p><b>Paragraph 80.</b>— (6) In this paragraph—          “the relevant costs” means the costs, <b>direct</b> losses and expenses (including loss of revenue) reasonably incurred by each train operator as a consequence of any specified work including but not limited to any restriction of the use of Network Rail’s railway network as a result of the construction, maintenance or failure of a specified work or any such act or omission as mentioned in subparagraph (1); and</p>	<p>As stated above, the Applicant considers that the losses which are recoverable should be limited to "direct" losses. That means the natural result of the breach in the usual course of things and will essentially include foreseeable loss.</p> <p>Network Rail's clause does not include the word "direct" and would expose the Applicant to "indirect" (or consequential) losses. This is essentially unforeseeable loss due to the special circumstances of the case.</p> <p>The Applicant does not consider that it should be made liable for these special losses under the protective provisions.</p>	



<b>Boreham Conservation Society</b>	<b>REP6-109-001</b>
<b>Sub-Part</b>	
<p>The Applicant has excluded BCS from the Statement of Common Ground (SOCG) processes. BCS thank their elected local government representatives and their officials for updating the Society on their policies regarding unresolved issues. BCS appreciate their inclusive approach to seeking an agreed, community-based, policies. BCS has made many detailed submissions regarding southbound access to the A12 between the villages of Hatfield Peverel and Boreham, the split of traffic between Junction 21 and the B1137, the volume of additional traffic through Boreham and on its local roads and the capacity of those roads to cope with such traffic. These submissions are on record and do not need detailed repetition. In summary BCS's "SOCG" is as follows:</p>	
<b>Applicant's Response</b>	
<p>As part of the process in creating Statements of Common Ground there are a number of parties, including the local highway authority and local planning authorities, with whom the Applicant is required to produce a Statement of Common Ground. Alongside this, the Examining Authority requested that the Applicant produce a Statement of Common Ground with Boreham Parish Council, which includes elected representatives from that community.</p> <p>The Applicant did not exclude the Interested Party from the statement of common ground process, but was unaware that the Boreham Conservation Society wished to participate in drafting a Statement of Common Ground. If the Applicant had been made aware in the early stages of the examination process of this request, then the Applicant would have been happy to consider the request, although would reaffirm that all elected bodies that cover the area of Boreham do have SOCGs with the Applicant. The Applicant would lastly confirm that the item of reconstructing junction 20a is "in disagreement" in the final submission of the SOCG with Boreham Parish Council and as such the Decision Maker will be aware of this.</p> <p>The Applicant is pleased to note that Boreham Parish Council has shared details of the content of the Statement of Common Ground with the Interested Party.</p>	

REP6-109-002

**Sub-Part**

1. Traffic Mitigation Measures within Boreham Village a) BCS acknowledges and welcomes the mitigation measures accepted so far by the Applicant as necessary for the B1137 and the villages of Boreham and Hatfield Peverel. BCS request the ExA to ensure that these measures are implemented from the start of the construction phase.

b) BCS adds its support to Essex County Council, Chelmsford City Council and Boreham Parish Council in their request that the B1137, through Boreham, be narrowed for safety and to reflect that the character of the road has changed from an "A" specification to that of a 30- mph limit "B" road through a rural, residential, environment. The proposal by Boreham Parish Council, that "hatching" be removed would reinforce this change for motorists and help provide space for cycling lanes. BCS would add that such lanes would provide an additional barrier between pedestrians and traffic through the village.

c) BCS request that enforcement by Average Speed Cameras on the B1137, be extended to cover the B1137 between Boreham and Junction 19. It seems illogical to exclude this stretch of road and irresponsible to remove enforcement on the approach to the Paynes Lane Bridge, entrances to Boreham House, The Grange and Hotel together with the traffic lights at Junction 19

**Applicant's Response**

a) The Applicant welcomes the Interested Party's support for the proposed traffic calming measures along the B1137 within Boreham village and between Hatfield Peverel and Boreham. It is proposed to introduce these measures for the operational phase of the proposed scheme.

b) The Applicant maintains that observed speeds within the village of Boreham are in line with the proposed reduced speed limit and measures to reinforce the reduced speed limits are not required. Nevertheless, the Applicant has agreed with Essex County Council and Boreham Parish Council to provide a system of average speed cameras, a controlled crossing and road safety posters to encourage adherence to the proposed speed limit. The Applicant is not proposing to introduce ancillary hazards in the form of road narrowings along the B1137 in Boreham village or remove the central reserve hatching to reinforce further the proposed reduced speed limit as the use of average speed cameras are widely acknowledged to be self-enforcing. ECC's expert

witness confirmed at Issue Specific Hearing 3 that average speed cameras would be an effective measure in keeping drivers to speed limits.

Advisory cycle lanes, as proposed by the Interested Party, do not provide improved safety for cyclists. A recent research study undertook a thorough evaluation of the outcomes of many different types of cycle infrastructure. It was shown that mandatory (solid-edged) cycle lanes had no benefit in terms of reduced cyclist injury rate compared to no cycle facilities at all. Advisory (broken lines) cycle lanes were associated with an injury rate more than 30% worse than with no cycle facilities. (see

It is therefore likely that removing the central hatching and installing cycle lanes will have no benefit and may actually increase cyclist injury rate. An additional threat would be introduced if such a remodelling of road space is undertaken before the road is next resurfaced. This is because at night and/or in low sun or wet conditions, road markings are hard to see, and removed markings can be as visible as the replacement markings, creating a 'tramline' appearance with 4 lines across the carriageway confusing drivers about where to position their vehicle. It is therefore inappropriate to remodel the road-space to provide cycle lanes denoted by road markings but no physical protection from motor vehicles. The large number of vehicular access and junctions present a challenge to providing protected cycle route options such as stepped tracks, or kerb-separated lanes. For these reasons, speed enforcement and introduction of the proposed crossing and softer measures are the most appropriate package to improve safety for all road user groups in the village.

c) As mentioned in response to point b), the Applicant does not believe that average speed cameras are required to enforce speed limits within and around Boreham. The Applicant maintains the position shared at Deadline 5 - due to the proposed toucan crossing, an 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 in length and accordingly contrary to the guidance in paragraph 37 of the Department for Transport Circular 01/2013 (<https://www.gov.uk/government/publications/setting-local-speed-limits/setting-local-speed-limits>). The Applicant believes that the proximity of the toucan crossing to Boreham village, is sufficient to ensure adherence to the proposed 40mph speed limit.

**REP6-109-003**

**Sub-Part**

2. Junction 21 / Duke of Wellington junction of the B1137 and B1019 in Hatfield Peverel / Southbound Access to the A12. a) BCS do not contest the Applicant's predictions of traffic volumes or traffic mix. b) BCS do not contest the estimated journey Times quoted by the Applicant. c) BCS do not contest that an estimated journey time "advantage" of one minute of the Junction 21 route over the B1137 route may, if replicated in sat nav's, attract some visitors to use that route. d) BCS do contest that this potential "attraction" will have a material impact on regular commuters who know the characteristics of their possible routes to and from work. e) BCS do not contest that the crucial factor is the number of motorists who choose the Junction 21 route to Junction 19. f) BCS do not contest that the Applicant has followed the mathematics of the model used by Department for Transport to predict route choice. g) BCS do know that in any model, rubbish in produces rubbish out. The Applicant has not responded to requests for the data / assumptions it has fed into the model. BCS continue to contend that the modelled output of an 87% choice of the Junction 21 route is so extreme as to defy belief. The Applicant may be able to look in the mirror and reflect that the correct model was used. BCS's fear is that residents will be able to look out their windows and know that the model's inputs and outputs were wrong. h) BCS contend that residents know that if the dDCO is approved as drafted there is no available recourse; residents must stick and suffer. The Applicant will move on without a thought of the misery they will have created for hundreds, if not thousands of residents. The ExA know that BCS believe that, at best, 50% may choose the Junction 21 route and this is what drives our implacable opposition to the removal of southbound access other than if a "Maldon Link Road" was constructed. Everything rests upon the ExA's assessment of the efficacy of the Applicant's inputs and assumptions fed into the Department for Transport's formula. i) On a practical level, BCS do not have data on elapsed journey times from home(s) to Hatfield Peverel nor do we have data on onward journey times from Hatfield Peverel to place of work. However, the minimum commute involving travel from Hatfield Peverel to Junction 19, will be by a resident of Hatfield Peverel. The Applicant predicts a journey time via Junction 21, of 9m 59 sec (say 10.00 minutes) to Junction 19 and BCS predict a further 15 minutes to central Chelmsford; a total commute time of 25 minutes. The predicted saving of one minute is 4.6% of the commute; for the majority with much longer commutes e.g., from Maldon the percentage saving will be much less than 4%. Therefore, BCS contend that it is simply not credible that a one-minute difference (less than 4% of the journey time) results in 87% of drivers choosing the Junction 21 route. In the court of public opinion BCS contend that this would be laughed out of court. If BCS are correct then the traffic flow through Hatfield Peverel and subsequently Boreham, will be significantly greater than predicted. Accordingly, while maintenance of southbound access may not benefit Hatfield Peverel it should not greatly disadvantage them but would greatly benefit Boreham and those resident in /to the west of Hatfield Peverel who would continue to be able to access the A12 at a southbound access before Boreham. j) BCS do not contest the Applicant's data regarding HGV journey times between the junction of the B1137 and Maldon Road in Hatfield

Peverel, to Junction 19. The Applicant's data confirm our concern regarding the volume of HGV's that, denied southbound access between the villages, will continue on the B1137 through Boreham to Junction 19 for the A12. BCS request the Applicant to provide the following data for the am & pm peaks and in the IP together with the daily total numbers: a) The number of HGV's that currently use the B1137 to access the A12 via Junction 20a. b) The number of HGV's in a) above, should Junction 20a / southbound access be removed, that are predicted to use Junction 21 to access the A12. c) The number of HGV's in a) above, should Junction 20a / southbound access be removed, that are predicted to use the B1137 through Boreham to access the A12 at Junction 19. The ExA know the current route and have the plans for the new proposed Junction 21 route. It is probable the three members of the ExA are motorists. BCS believe that if the ExA envisage piloting a HGV on both routes, they will reach the same conclusion as BCS namely that HGV's will choose the direct route on the B1137 and happily forgo a potential saving of 30 seconds to avoid the torturous route from the Maldon Road to Junction 21. The Applicant's assertion that there will be a reduction in HGV traffic is not credible, whatever the "model" may say. k) BCS note that the Applicant now states the Junction 21 route "is not subject to the congestion and hazards related with driving through two villages, as well as an overall faster route ". BCS believe many motorists would choose "the congestion and hazards related with driving through two villages" (in other words driving in normal peak time conditions in Essex) rather than join a lookalike smart motorway with high speeds, 3 lanes, no hard shoulder nor traffic cameras and which has both collision and delay risks. The Applicant may wish to overlook the dangers of "smart motorways", ordinary folk do not. 3. Southbound Access between Hatfield Peverel and Boreham. a) BCS have requested the Applicant to provide their prediction of the number of motorists, from the west of Hatfield Peverel, who would be forced to use the B1137 through Boreham should southbound access be closed. A response is awaited.

### **Applicant's Response**

Regarding the points of agreement the Applicant notes BCS is not contesting the points listed in subheading "2" parts a, b, c, e, f and j.

Regarding the points of disagreement listed in subheading "2" parts d, g, h, i and k, the Applicant notes the Interested Party's concerns about the traffic model predictions. The Applicant is content that the traffic modelling has been undertaken in line with Department for Transport requirements and refers the ExA to the extensive discussion on this topic in previous submissions.

The Applicant also notes that, as outlined in new Requirement 17 submitted at Deadline 5 of A12 Chelmsford to A120 Widening DCO at D5 (clean) [REP5-004], it has agreed to a programme of traffic monitoring and that the locations and timescales for this align with the request of Essex County Council within its Local Impact Report. This includes traffic monitoring on the B1137 Main Road in Boreham.

Regarding the request for information on HGV traffic made in subheading "2" part j, the following predictions are taken from the traffic model representing 2027. Traffic flows shown are HGVs per hour (or per day). They are based on traffic from B1019 Maldon Road heading to the A12 southbound or to Chelmsford.

	AM peak	Interpeak	PM peak	Daily total
Number of HGVs from B1019 who use J20a southbound onslip	8	7	1	66
Number of HGVs from B1019 who use J19 to access A12 southbound or Chelmsford	6	4	1	42
Number of HGVs from B1019 who use J21 to access A12 southbound or Chelmsford	0	0	0	0

AM peak Interpeak PM peak Daily total Number of HGVs from B1019 who use J20a southbound onslip 8 7 1 66 Number of HGVs from B1019 who use J19 to access A12 southbound or Chelmsford 6 4 1 42 Number of HGVs from B1019 who use J21 to access A12 southbound or Chelmsford 0 0 0 0

<p>As the table shows, no HGVs are predicted to use the proposed new J21 to join the A12 southbound or to access Chelmsford. Instead the HGVs are predicted to travel on the B1137 through Boreham.</p> <p>However, as noted in the Applicant's response to REP4-070-004 sub-part Ref 5 (d) in the Applicant's Comments on Information received at Deadline 4 [REP5-002], overall there is predicted to be a reduction of two HGVs per hour in the AM peak. This is because, despite HGVs which previously used the J20a onslip starting to travel via Boreham instead, other HGVs which currently travel through Boreham would move to different routes with the proposed scheme in place.</p> <p>Regarding the request for information made in subheading "3" part a, the Applicant provided this information for the AM peak in its response to REP5-025-002 in the Applicant's Comments on Information received at Deadline 5 [REP6-090]. This stated that the 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. The equivalent number for the PM peak is around 120 vehicles per hour.</p>
<p><b>REP6-109-004</b></p>
<p><b>Sub-Part</b></p>
<p>b) BCS continue to strongly contest the proposed closure of southbound access between the villages of Hatfield Peverel and Boreham. The ExA are fully aware of the cases made by BCS and the Applicant and so these do not require repetition. c) BCS conclude that despite the absolute necessity and merit of their case, the Applicant having, planned the construction of a new "all movement" Junction 21 and banked the 2019 descope savings in time and money, was never going to voluntarily agree to the retention of southbound access between the villages. Accordingly, the Applicant has successfully shifted the decision and responsibility for the outcomes to the ExA.</p>
<p><b>Applicant's Response</b></p>
<p>The Applicant notes the comments from the Interested Party. As documented in previous responses, the Applicant has undertaken reasonable steps to assess the reinstatement of junction 20A following feedback from Interested Parties and remains of the view that the junction 20A southbound on slip should not be reinstated. Instead, the Applicant has proposed traffic calming features between Hatfield Peverel and Boreham and in Boreham village as has been acknowledged in REP6-109-002.</p>

<p>The Applicant is not deferring the decision to reinstate junction 20A to the Examining Authority and maintains that the proposal presented in the DCO application to close the junction is the correct one.</p>
<p><b>REP6-109-005</b></p>
<p><b>Sub-Part</b></p>
<p>4. Paynes Lane Bridge BCS register their support for the points made by CCC and BPC regarding the design, appearance and surrounding infrastructure of the Bridge.</p>
<p><b>Applicant's Response</b></p>
<p>The Applicant notes the Interested Party's view and directs them to the Paynes Lane Technical Note [REP6-096] for further details provided on the design development and proposed next steps for detailed design.</p>
<p><b>REP6-109-006</b></p>
<p><b>Sub-Part</b></p>
<p>5. Junction 19 a) BCS thank the Applicant for the clarification confirming that it is not proposing to create a dedicated access lane avoiding the General's Farm dumbbell from the B1137 to the southbound A12. b) BCS request the Applicant to confirm that the proposed new, northbound on slip meets the DMRB standards for weaving distances.</p>
<p><b>Applicant's Response</b></p>
<p>The Applicant confirms that the revised design of the junction 19 northbound on-slip 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. Further information has been provided in response to REP5-024 at Deadline 6 [REP6-090].</p>



<b>REP6-109-007</b>
<b>Sub-Part</b>
<p>6. Noise Suppression a) BCS contest that it is not necessary to lay an enhanced mitigation surface on both carriageways and note that this is being done elsewhere. Given that the section between Junction 21 and Junction 19 will be one of the busiest if not the busiest section, this omission seems odd. b) BCS contest the non-renewal of sound barriers the length of Boreham. Non-renewal has been justified on the ground of vegetation loss. BCS contend that vegetation will grow back, just as it did after the current barriers were installed many years ago. c) BCS contest the Applicant's implication that additional noise is acceptable if it is from the same source (traffic) at the same location (a Boreham resident's home). BCS point out that the Applicant constructed the A12 and now proposes a widening scheme that will increase traffic and noise on the A12 and, by closing Junction 20a southbound, would deliberately increase traffic and noise on the B1137. Boreham is recorded in the Doomsday Book; traffic noise came later and from the Applicant's actions. The Applicant must accept responsibility and implement the measures requested.</p>
<b>Applicant's Response</b>
<p>The Applicant has presented its reasons for not laying the enhanced mitigation surface on both carriageways between junction 19 and the existing junction 20a within its response to ExQ1 15.0.4 in the Deadline 2 Submission - Applicant's Response to the Examining Authority's First Round of Written Questions [REP2-025]. Resurfacing just one carriageway with the enhanced mitigation surface was found to be sufficient to remove the significant adverse noise effects at the dwellings alongside the A12 at Boreham.</p> <p>The Applicant has presented its reasons why the provision of noise barriers was discounted alongside the A12 at Boreham within its response to ExQ1 15.0.5 [REP2-025], and the justification did not solely focus on the vegetation loss that would occur if barriers were to be installed. The first mitigation measure examined was to reduce the noise at source through the use of improved surfacing. As stated above, this option of using improved surfacing was found to remove the identified significant adverse effects for receptors alongside the A12, and therefore noise barriers would not be required to reduce significant adverse noise effects. The justification was also in terms of the likely need for land take, the possible damage to the roots of existing trees in residents' gardens, and the potential adverse effects on ecology. In some places the current vegetation is mature and would</p>

take approximately 15 years to grow back to this same height and density. This vegetation provides a valuable screen for the houses from the traffic using the A12.

The Applicant was not implying that additional noise where noise already exists is acceptable. The statement is referring to the fact that the context of the noise would not change and that the minor increase is likely to be less noticeable than if the noise moved to another side of the house.

**Essex Local Access Forum (ELAF)**

**REP6-111-001**

**Sub-Part**

1. Coleman’s Cottage Fishery and Witham FP 103 [PROW 121-103] ELAF continue to make the case for a link between Witham footpath 103 [PROW 121-103] and the Whetmead Nature Reserve and Witham footpath 101 [PROW 121-101] along the “country” (south) side of the A12. ECC’s support for this proposal [page 24 of REP4-075] is very welcome. It does not seem reasonable for National Highways to negate this proposal on the basis that creating such a footpath connection “may have the unintended consequence of providing a simpler route for the unauthorised use of land for trail bikes.” It is noted that it is illegal to ride a bike on a footpath.

**Applicant’s Response**

The Applicant can confirm that in light of comments from and consultation with Essex County Council (ECC), Essex Local Access Forum (ELAF), and the landowners, the Applicant has removed 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 maintenance access tracks 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 revised Streets, Rights of Way and Access Plans [REP6-014] 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. This new proposed alignment will provide a better facility by reusing the existing footpath network and connecting footpaths on a north south direction. This footpath would also enable circular walks

between Whetmead Local Nature Reserve and Little Braxted Road, it will also provide a woodland walk along the A12 to the community of Witham. This footpath would accord with paragraph 5.184 of the National Network National Policy Statement and paragraph 100 of the National Planning Policy Framework as it would improve access to the countryside and connect two existing Public Rights of Way.

**REP6-111-002**

**Sub-Part**

2. Gershwin Boulevard bridge and Witham FP 95 [PROW 121\_95] National Highways acknowledgement of its obligations under section 136 of the Planning Act 2008 to provide a suitable alternative crossing of the to-be-widened A12, where pedestrians & cyclists are prohibited, is welcomed. National Highways note on page 126 of their deadline 5 response [REP5-002] that... "There is not expected to be a discernible difference in cost between the Applicant's (NH) proposal and the alternative proposal." ELAF continue to support ECC's proposals as per page 24 of REP4-075 for a slightly relocated bridge and a PROW link between the bridge landing on the south side of the A12, Witham footpath 95 & the replacement land connecting with Maldon Road. See ELAF's deadline 5 representation [REP5-035].

**Applicant's Response**

Section 136 of the Planning Act 2008 does not impose a duty on the Applicant. Rather it is a power for the Secretary of State to make a development consent order which extinguishes public rights of way. Before exercising that power the Secretary of State must be satisfied that either an alternative right of way will be provided or that an alternative right of way is not required. The draft Order therefore contains a list of public rights of way which may be stopped up without an alternative being provided (Part 1 of Schedule 4) and a list of public rights of way which may only be stopped up where an alternative has been provided (Part 2 of Schedule 4). Where the power to stop up a highway is contained Part 2 of Schedule 4 the Applicant must under Article 20 provide a new highway before the existing highway can be stopped up. In relation to public right of way 121\_95, the Applicant has proposed Gershwin Boulevard bridge as a reasonable alternative to the existing right of way to be stopped up.

The Applicant acknowledges the Interested Party's comments and notes a response to REP5-035 has been provided at Deadline 6 [REP6-090]. As explained in this response, Essex County Council stated in REP5-033 at Deadline 5 that the council has no objection to the Applicant's proposed location of the Gershwin Boulevard bridge.

The Applicant has considered each concern raised by residents regarding the location of Gershwin Boulevard bridge in detail to look for ways to improve the proposed scheme where possible. These concerns are summarised in the Gershwin Boulevard Issue Summary Note [REP6-094] submitted at Deadline 6. The Applicant has assessed the alternative proposal presented by the Interested Parties and found that the alternative proposal does not resolve the concerns raised by some of the Interested Parties and does not reduce the visual impact, it simply relocates the impacts on the receptors to a different area.

The Applicant is firmly of the position that the most appropriate location for the bridge is that presented in the DCO application. This provides minimal diversion to the existing footpath 121\_95 across the A12 and provides onwards connections north into Witham or south towards footpaths 121\_96 and James Cooke Woods and east to Blue Mills Hill and the Blackwater Rail Trail and beyond. The Applicant's proposed Replacement Land increases public space in the vicinity of the bridge from 0.35ha lost to the bridge footprint to 2.1ha of new green space. The proposed Gershwin Boulevard bridge provides connections to this open space and facilitates onwards journeys to Witham River Walk, the Blackwater Rail Trail via Blue Mills Hill, Whetmead Nature Reserve and onwards to Little Braxted Lane.

**REP6-111-003**

**Sub-Part**

3. Rivenhall footpath 36 [PROW 105\_36] – severed by the new off-line A12 As noted briefly in ELAF's submissions [RR-026 & REP2-058], there is still poor WCH connectivity across the A12 between Rivenhall End in the south-west and Kelvedon south / Cranes Lane in the north-west with the only crossing being the new Snivellers Lane WCH bridge by the Essex Fire and Rescue Centre. Rivenhall footpath 46 [PROW 105\_46], on the north side of the current A12, is due to be extinguished. Rivenhall footpath 45 [PROW 105\_45] will stop as now at north side of the current (will be de-trunked) A12. Rivenhall footpath 36 [PROW 105\_36] currently stops at the south side of the current (will be de-trunked) A12 between footpaths 46 & 45 on the north side. Currently, although it is legally possible to cross the A12 to connect between Rivenhall footpath 45 & footpath 36, in practice this cannot be achieved safely as it involves crossing 4 lanes of traffic and scaling the central reservation barrier. Both footpaths are therefore currently not really used. With the by-passing of and de-trunking this section of the A12 by the new off-line A12, it will become

possible to cross what will be a local road, so restoring the north-south off-road footpath connectivity between the crossing of the river Blackwater at Great Braxted Mill to the south-east and the settlement of Rivenhall End to the north-west.

However, the current DCO proposals do NOT restore this connectivity but make it worse. The north end of Rivenhall footpath 36 is shown as being extinguished due to an attenuation pond and the new off-line A12. National Highways proposal is to loop the footpath back east along the south side of the new A12 to the entrance of the Fire & Rescue centre and Kelvedon footpath 32 [PROW 92\_32] – a loop that can already be achieved more pleasantly away from the A12. As noted in previous submissions, NPPF paragraph 100 says that: 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. Also, as referenced by National Highways, section 136 of the Planning Act 2008 states that: An order granting development consent may extinguish a public right of way over land only if the Secretary of State is satisfied that— (a) an alternative right of way has been or will be provided. ELAF contend that the DCO proposal for Rivenhall footpath 36 is not “protecting & enhancing PROWs” and is not an “alternative” as it takes the footpath east not north-west to Rivenhall End. ELAF propose an alternative route across the new A12 that WILL maintain the PROW network and the NW- SE connectivity. Slightly to the west of the northern section of Rivenhall FP36, that National Highways are proposing to extinguish, and within the order limits, is Rivenhall Brook. National Highways are currently proposing to culvert this and other watercourses. Environment Agency representations [most recently REP5-030 & -031 & -032] are that the new A12 should cross Rivenhall Brook amongst others by clear span bridges and not culverts. ELAF request that the clear span bridge under the A12 / over Rivenhall Brook should be constructed to be suitable for human animals as well as other mammals and wildlife. Such a bridge would provide a suitable alternative route for Rivenhall FP36 to continue to the to-be-detrunked A12 and on to footpath 45 on the north side of the

### **Applicant's Response**

The Public Rights of Way (PROW) referred to below can be found on sheets 10, 11 and 12 of the Streets, Rights of Way and Access Plans [REP6-013 and REP6-014].

The only existing route across the A12 at present in the vicinity of Rivenhall End – via Henry Dixon Road – is retained, and supplemented with the new bridge over the realigned A12 route so connectivity between residential and commercial properties as well as leisure activity is maintained. This includes connectivity to bridleway 29 (PROW 105\_29) which leads to footpath 63

(PROW 121\_63) and footpath 103 (PROW 121\_103) and the new cycletrack which connects to the proposed Little Braxted Bridge and to Witham.

For users travelling between Rivenhall End and Kelvedon, there would be an enhanced cycle and pedestrian route segregated from the carriageway. The road they are alongside is the local single carriageway road and would be lightly trafficked.

Rivenhall footpath 46 (PROW 105\_46), is parallel to footpath 45 (PROW 105\_45), and connects to it at the level crossing. There is no apparent use of this footpath at present, based on substantial overgrowth alongside the A12 where it connects to the footpath alongside the A12 on the northwest side. There is no loss of amenity in the extinguishing of this route, and no journeys would be longer as a result.

For Rivenhall footpath 45 (PROW 105\_45), the existing route is retained and a short connection added which also links to the new Rivenhall East roundabout, and from there to the upgraded walking/cycling route to Kelvedon.

With regard to the point made about Rivenhall footpath 36 [PROW 105\_36] and Section 136 of the Planning Act 2008, that section allows a DCO to stop up a public right of way, but provides that a replacement should be provided unless the Secretary of State is satisfied that it should not be provided. An "alternative" right of way could, but does not necessarily need to, have the same commencement and termination points, and usually at least one of these points will differ. The key issue for the Secretary of State is whether the route provides a reasonable alternative which allows the public to pass between the commencement and termination points of the existing highway using the new "replacement" highway and the existing highway network.

Rivenhall footpath 36 (PROW 105\_36) will be connected to a new route via access tracks, the re-purposed A12 southbound carriageway which will be a quiet access road to the Fire & Rescue HQ and either Sniveller's WVH bridge or via Crane's Bridge (currently carrying the southbound A12 slip under A12) to connect to Kelvedon.

The realigned A12 does sever a possible connection between footpath 45 (PROW 105\_45) and footpath 36 (PROW 105\_36), but as both lead to remote areas, it seems likely that these would be leisure rather than utility uses.

Footpath 36 [PROW 105\_36] connects to footpath 32 (PROW 92\_32) and continues north to footpath 17 (PROW 146\_17) leading east away from the A12. Users wishing to walk between footpath 45 (PROW 105\_45) and footpath 19 (PROW 246\_19) could use Sniveller's Lane bridge, which would be only a short diversion on the route.

Circular use of footpath 32 (PROW 92\_32), footpath 36 [PROW 105\_36] and footpath 27 (PROW 92\_27) is possible at present, but uses a section alongside the A12 and that section would abut the quiet cul-de-sac serving the Fire and Rescue. Similarly, a

further circular option is provided to the south via footpath 32 (PROW 92\_32), footpath 36 [PROW 105\_36] and the new access track connecting to the Fire and Rescue access road.

The extinguishing of this route does not remove amenity as stated above, because there is no connection across the A12 at present. Walkers can cross the A12 via Braxted Road Overbridge to the south or Sniveller's Lane to the north, and given the leisure rather than utility nature of usage, the net effect is an improvement in options for routes.

The scheme is providing 30km of new and/or improved routes, which is greater than the length of improved A12 carriageway. The Applicant believes that this more than meets the requirement to protect and enhance rights of way and access.

As above, alternative routes have been provided for all journeys.

The extinguishing of part of footpath 36 (PROW 105\_36) does not reduce access because it does not connect to Rivenhall End at present. As such, extinguishing part of that route but adding connecting routes east of A12 does constitute an enhancement for leisure use.

Given the leisure nature of the usage of footpath 36 [PROW 105\_36], users would currently reach the extinguished section having walked from FP 246\_17. From there, a route via footpath 27 (PROW 92\_27) or footpath 32 (PROW 92\_32) and Sniveller's Lane bridge is not an extensive diversion for those travelling to Rivenhall End, Kelvedon or Sniveller's Lane and bridleway 34 (PROW 92\_34).

The Applicant understands the appeal of an additional right of way. However, as it is very difficult to use the existing right of way across A12, and alternative provision is made, the substantial additional cost could not be justified for a lightly-used leisure route.

The Applicant maintains that these aspects of the proposed scheme together represent a clear improvement on current provision.

Finally with regard to the issue of culverts as opposed to clear span bridges, the Applicant's case is set out in its Technical Note on Main River Crossings [REP6-095], in particular section 4.3.

**REP6-111-004**

**Sub-Part**

4. Prested Hall & Feering FP 15 [PROW 78-15] & Feering FP 18 [PROW 78-18] ELAF expressed their concern at the severance by the new A12 of Feering footpath 15 and the direct wide tree-lined driveway to Prested Hall. ELAF contend that the severance of this north-south connection between the north-east end of Feering (London Road & New Lane & the strategic growth location on both sides of London Road) and facilities at Prested Hall and the footpath link to Messing are against NPPF paragraph 100 and National Highway's own objectives of... " *improving accessibility for walkers, cyclists, horse riders, and public transport users.*" An East Anglian Farm Ride whose west end is at the A12 sliproad end of Prested Hall Drive, will also be severed.

### **Applicant's Response**

The Applicant notes the Interested Party's comments. As explained in response to REP5-035-006 at Deadline 6 [REP6-090], the Applicant has considered the function provided by the existing public rights of way in this area and determined reasonable alternatives in the assessment of the overall walking, cycling and horse riding strategy for the proposed scheme against the National Networks National Policy Statement (NNNPS) and the National Planning Policy Framework (NPPF). 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 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, which improves accessibility for WCH users. 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.

Regarding the East Anglian Farm Ride (EAFR), this is part of a private subscription service for horse riders and as such is treated as a business and private amenity, not an affected public right of way. The Applicant has contacted EAFR who advise that this is a lesser used route that may often be closed at the discretion of the landowner, during for example, shooting season. The



Applicant will remain in contact with EAFR to advise of any restrictions well in advance to minimise, where practicable, any disruption through the construction phase.	
<b>Stanfords on behalf of J A Bunting &amp; Sons</b>	<b>REP6-112-001</b>
<b>Sub-Part</b>	
Submission ID: 17193	
<p>This submission at deadline 6 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.</p> <p>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, and a response was not received until 18th May. Whilst progress is being made and we are close to reaching agreement on a number of points, there are many fundamental parts of our objection which are yet to be resolved and for many we are still somewhat apart from reaching an agreement. Tracked changes to the draft Heads of Terms for the side agreement were provided to National Highways/Ardent w/c 22nd May and we are currently awaiting a response. Discussions with the District Valuer remain stalled pending agreement of Heads of Terms for a side agreement. Our current position remains that we maintain our objection to the elements detailed in our original relevant representation for the reasons specified.</p> <p>The second part of this submission provides a response to the Examining Authorities Questions 3 (EXQ3) that are relevant to us. The format below includes the Examining Authority's question followed by our response in italics:</p>	
<b>Applicant's Response</b>	
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. A response to the draft Heads of Terms was provided by the Applicant on 12 June 2023 and they are agreed in principal. The Applicant's legal team have been instructed to progress an agreement on this basis. The Applicant continues to work with the Interested Party with a view to reaching agreement.

**Mark East**

**REP6-117-001**

**Sub-Part**

Dear Mark, Thank you for your email regarding the A12 Widening Scheme, for attaching the SOCG between the Parish Council and National Highways, and for your comments on the air quality impacts of the proposed scheme. While the scheme is has been welcomed in principle across much of the area, I do recognise there are various issues that National Highways needs to address. Modelling traffic flows and pollution can be complex and involve multiple factors. For example, one advantage of the A12 being widened is that this should reduce congestion and delays, but it could encourage more traffic and vehicles using the road. Assumptions also need to be made about the advances in technology, such as increased electric vehicle use, which could also lead to some positive benefits to air quality. However, it is important that data is made available and more clarity is provided about air quality impacts. I will raise this matter with National Highways and with the Secretary of State for Environment, Food and Rural Affairs. When I receive their replies I will forward them to you and we can take matters further from there. Yours sincerely, Rt Hon Priti Patel

**Applicant's Response**

The Applicant notes the letter from Rt Hon Priti Patel in regards to the Hatfield Peverel Parish Council Statement of Common Ground and more particularly, air quality.

Discussions on the Statement of Common Ground between the Applicant and Hatfield Peverel Parish Council have continued, and a final version has now been submitted [Applicant Reference TR010060/EXAM/8.19 rev 3].

The Applicant will continue to provide any further information required regarding this issue.

**Mark East**

**REP6-118-001**

<b>Sub-Part</b>	
<p>Submission ID: 17300 Hatfield Peverel Parish Council are in negotiations with NH but are hampered by outstanding ministerial guidance on Air Quality in particular the appropriate position on PM 2.5 and its recognised connection to public health issues. Comment and direction from DEFRA has been sought from the local MP and I respectfully request that no conclusion should be reached until such comment from DEFRA has been received.</p>	
<b>Applicant's Response</b>	
<p>Following the closure of the Examination into the A12 Chelmsford to A120 Widening Scheme and receipt of the Examining Authority's report, the Secretary of State will consider all of the information provided to him, including that in respect of air quality standards, and ensure that the decision on whether to grant the Development Consent Order or not is made in accordance with section 104 of the Planning Act 2008.</p> <p>The Applicant's response to PM2.5 has been clearly defined.</p> <p>The results of the assessment with regards to PM2.5 are reported in the Environmental Statement Chapter 6: Air quality assessment [APP-073]. Further clarification of the Applicant's position is provided in the Applicant's comments on responses to ExQ2 [REP4-055], which records that the UK Air Quality Standards for particulates (i.e. 40 µg/m<sup>3</sup> and 20 µg/m<sup>3</sup> for PM10 and PM2.5 respectively) are the applicable standards and have been applied in the Environmental Statement Chapter 6: Air quality assessment [APP-073] for the determination of significant effects.</p> <p>In respect of the Environment Act 2021, the Environmental Targets (Fine Particulate Matter) (England) Regulations 2023 and the UK Government's Environmental Improvement Plan, the Applicant explains its position in Applicant's comments on responses to ExQ2 [REP4-055] that since the proposed Scheme will not affect emissions at a monitoring station location to which the 2023 Regulations apply, the PM2.5 concentration targets and the interim target do not have any implications for the proposed Scheme.</p> <p>On this basis, the Secretary of State can be satisfied that the 2023 Regulations and the interim PM2.5 target do not have any material implications for his decision making.</p>	
<b>Roger Wacey</b>	<b>REP6-119-001</b>

**Sub-Part**

Roger Wacey (unique ref A12C-AFP726), Wishing Well Farm, Marks Tey At the meeting of 27th April 2023 Mr Gorst asked the District Valuer the status of our compulsory acquisition claim. The district valuer stated that our application had been green lighted and negotiations were imminent, as shown on the Status of Negotiations Compulsory Acquisition Schedule REP4-065. However, on Document REP5-019 published on 10th May the status has now been revised to a red light and the process has not moved forward since 27th April 2023. We are not aware of any issues which would have caused this change in status and thus we do not understand why this has happened. An enquiry was made to a helpful member of the Inspectorate staff who stated that this might have been caused by comments made by Highways to the Inspectorate regarding an objection by the residents of Wishing Well Farm stating that they are refusing to move. This is totally incorrect and misleading, we have been trying to get Highways to agree to our blighted situation over the past three years, as can be proved by numerous emails and attendance at meetings with Highways. It is seriously concerning that due to past actions by Highways/Costains within the vicinity of Wishing Well Farm and the trauma and anxiety caused by them that the residents desperate need to move has now been further delayed by the above, resulting in repeated mental harm caused by the pressure this is putting on the residents financial position and their need to find a suitable replacement property which would give them the seclusion they currently enjoy, and where they can run their businesses without any interference Highways are fully aware of the protected characteristics of the residents of Wishing Well Farm and the need for clear, and concise communications to alleviate anxiety which unfortunately has not been evident throughout this process.

**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

A12 Chelmsford to A120 widening scheme

Applicant's Comments on Information received at Deadline 6

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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. The claim is therefore progressing.

### 3 Applicant's Comments on Additional Submissions accepted by the Examining Authority after Deadline 6

<b>Forestry Commission</b>	<b>AS-102-001</b>
<b>Sub-Part</b>	
Dear Sir or Madam,	
Thank you for consulting the Forestry Commission with regard to the proposed A12 Chelmsford to A120 widening scheme. Having compared the Highways England maps of the proposed route against our mapping system, which indicates woodland cover, it has been found that the proposed route does not impact upon any woodland. Therefore, the Commission has no comments to make.	
Yours sincerely, Neil Jarvis	
<b>Applicant's Response</b>	
The Applicant thanks the Forestry Commission for responding.	

<b>CMS LLP on behalf of CMS LLP</b>	<b>AS-107-001</b>
<b>Sub-Part</b>	
<p>Our ref HNP/CAP/132415.00075 20 June 2023</p> <p>To whom it may concern Withdrawal of Objection on behalf of National Grid Electricity Transmission plc ("NGET") A12 Chelmsford to A120 Widening Development Consent Order (the "Order") We write on behalf of NGET. NGET is an interested party in the examination of the Order. The Promotor and NGET have agreed protective provisions for NGET's benefit and the Promotor will secure these in the Order. On the basis that the protective provisions are included on the face of the Order (save for any grammatical, formatting or cross-referencing changes which may be required), NGET's hereby withdraws its objection to the Order. Yours faithfully</p> <p>CMS Cameron McKenna Nabarro Olswang LLP</p>	
<b>Applicant's Response</b>	
<p>The Applicant acknowledges that NGET has withdrawn its objection and confirms that the protective provisions agreed between the parties (with relevant updates to correct any cross-referencing or other minor errors as necessary) will be included in the final version of the draft DCO submitted into the examination.</p>	

<b>Tim Hancock Associates Ltd on behalf of Lynfield Properties Ltd</b>	<b>AS-108-001</b>
<b>Sub-Part</b>	
<p>Dear Sirs</p> <p>Whilst written representations made on behalf of Lynfield Properties (Interest Party Reference A12C-AFP347) under Deadline 5 on 10th May 2023 still stand, a site meeting took place on 5th June 2023 between the Applicant and the owners of Lynfield Properties and the parties are attempting to find a mutually beneficial solution through design. These discussions are ongoing.</p> <p>Regards Oliver</p> <p>Oliver Fitzwater Tim Hancock Associates Ltd Chartered Surveyors</p>	
<b>Applicant's Response</b>	
<p>The Applicant is actively developing the detailed design of the petrol station egress to seek a mutually beneficial solution.</p> <p>The Applicant has shared a preliminary design for the Private Means of Access that would form the HGV egress from the petrol station. The Applicant has confirmed that this would work in the case of the new roundabout layout proposed by Countryside for their development being constructed or not.</p>	
<b>Anglian Water</b>	<b>AS-109 -001</b>
<b>Sub-Part</b>	



Dear Sir / Madam, Application by National Highways for an Order Granting Development Consent for the A12 Chelmsford to A120 Widening Scheme Issue Specific Hearing 5 – Anglian Water written submission in lieu of attendance

Thank you for the invitation from the Examining Authority (ExA) to speak at Issue Specific Hearing 5 (ISH5). It is noted that Anglian Water is listed as a party that the ExA would find helpful to attend the hearing. Unfortunately, Anglian Water representatives are unable to contribute to the hearing in person, however, we have reviewed the agenda and would like to offer our comments in writing on the agenda items we consider to be of relevance. Anglian Water is happy to address any further points in writing at Deadlines 7 and 8.

Agenda Item 3: Draft Development Consent Order (DCO) Whilst it is for the Applicant to update the ExA on updates to discussions with Anglian Water on the progress on protective provisions, Anglian Water can confirm that the matter raised at ISH4 regarding updating the stand-off distances in Schedule 11 Part 3 Paragraph 27 (7), for the protection of our piped assets is remains unresolved at the point of making this submission. This issue is identified as a matter under discussion in the Statement of Common Ground between National Highways and Anglian Water [REP6-074].

It is understood that the Applicant has sought feedback from their contractor on the proposed distances outlined in our Deadline 5 submission [REP5-023], which outlines our reasoning for the requested change to the draft DCO. As highlighted in our submission, the revised distances do not prevent any works taking place within these limits, but they do provide us with increased oversight when the project is being delivered.

### **Applicant's Response**

The protective provisions included for the benefit of Anglian Water in Schedule 11 of the draft DCO [REP6-036] are agreed save in relation to one issue. The only outstanding issue between the parties, is the stand-off distances to be set out in Schedule 11, Part 3, Clause 27 (Retained Apparatus) Para. (7).

The Applicant is prepared to consider Anglian Water's concerns further, however:

(1) The wording which the Applicant has included in the dDCO reflects previous precedent in the A47 Blofield, Tuddenham, Thickthorn and Wansford orders.

(2) The wording in the Applicant's dDCO also reflects the larger of the two sets of "easement distances" set out in the Anglian Water document Cross Sector Infrastructure Access Statement (March 2019) available from their website.

[REDACTED]

(3) Anglian Water has stated in REP5-023 that the wording in the draft DCO is not sufficient because "a number of shortcomings hav 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".

However Anglian Water has not set out what those shortcomings are, or details of scenarios where this has caused them problems. The Applicant does not therefore consider that sufficient justification has been provided for it to accept this departure from the precedent protective provisions.

Anglian Water's proposed stand-off distances present a significant increase in distances from those proposed by National Highways and would therefore be likely to pose a significant increase in the administrative burden on National Highways in terms of the extent of consultation and the works which may be caught by requirements which may be imposed by Anglian Water under the terms of the protective provisions. It therefore has the potential to have significant effects on programme

If further justification can be provided the Applicant will consider this further, and whether the amendments may be justified. [Anglian Water has agreed to provide further details to the Applicant and discussions will continue after the signing of the Statement of Common Ground TR010060/EXAM/8.18]].

In the event that agreement is not reached by the end of the examination, the Secretary of State will need to adjudicate on whether to accept the Applicant's or Anglian Water's stand-off distances.

**AS-109 -002**

**Sub-Part****Agenda Item 4: Statements of Common Ground (SoCG)**

Anglian Water recognise this matter is for the Applicant to update the ExA. However, we can confirm that Anglian Water has, and continues to proactively liaise with National Highways to resolve the remaining items under discussion in the SoCG [REP6-074] between the two parties. It is acknowledged that the majority of items raised through the consultation process have been resolved through the examination period following regular engagement with the Applicants representatives.

Anglian Water remains optimistic that the items remaining under discussion, which include the requested change to the protective provisions for Anglian Water, can be resolved by the submission of the final SoCG at Deadline 7. However, if these cannot be agreed, Anglian Water will submit a representation on these matters for the ExA's consideration.

I trust this information is helpful to the Examining Authority. Yours sincerely, Phil Jones

**Applicant's Response**

The Applicant will actively communicate with Anglian Water to address the remaining matters being discussed in the SoCG [REP6-074] between the two parties. It is recognised that the majority of issues raised during the consultation process, initiated by Anglian Water Services located at Lancaster House, Lancaster Way, Ermine Business Park, Huntingdon, Cambridgeshire, PE29 6XU, have been resolved through regular engagement during the examination period.

Should Anglian Water submit further information at Deadline 7 justifying greater distances the Applicant will consider these accordingly with the intention of reaching agreement. However, if an agreement is not reached by the end of the examination, the Secretary of State will have to decide whether to accept the distances proposed by the Applicant or Anglian Water

<p><b>Right Honourable Priti Patel - Member of Parliament for Witham</b></p>	<p><b>AS-110-001</b></p>
<p><b>Sub-Part</b></p>	
<p>Thank you for the invitation to attend the meeting on 1 July 2023. Due to an existing longstanding commitment I am not able to attend. However, attendees of the meeting and the community in Messing and Inworth can be assured of my ongoing support for their aims to address the adverse impacts of the proposals for junction 24 of the A12 Widening Scheme with a community proposed alternative bypass. Since the designs for junction 24 came forward, I have been making representations to National Highways and the Government to convey to them in the strongest terms the concerns that the local community has. I have also raised this matter in Parliament.</p>	
<p><b>Applicant's Response</b></p>	
<p>The Applicant acknowledges the comments from the Interested Party regarding the communities' concerns. The Applicant addresses these concerns in Sub-Part AS-110-002.</p> <p>The representations made from the Interested Party to the Applicant regarding the communities of Messing and Inworth have been responded to separately.</p>	
<p><b>AS-110-002</b></p>	
<p><b>Sub-Part</b></p>	
<p>The pressures on these villages and along the Inworth Road are already significant and I have been clear in my views that the A12 Widening Scheme should be designed in a way to alleviate local pressures. This is a once in a lifetime opportunity to not only upgrade the strategic highways network in Essex, but to also address some of the traffic and congestion challenges on local roads that are key connections to the A12. That is why I have been working closely with Essex County Council, including Council Leader Cllr Kevin Bentley, and local communities along and in the vicinity of the A12 to engage with National Highways and the Department for Transport on these plans. I welcome the actions that the local community in Messing and Inworth have taken and the innovative and practical solution found with the community bypass proposal. This plan will assist in alleviating congestion on Inworth Road and having a new bypass as proposed will be a safer road to connect Tiptree and other areas to the A12 than</p>	

relying on the Inworth Road. The community bypass has clear and demonstrable benefits. The costs of the bypass also seem reasonable and these costs are small in the context of the estimated £1.2 billion overall cost of the A12 Widening Scheme. I have put forward the case for the community bypass to the Secretary of State for Transport and to National Highways and I share the frustration felt that National Highways have not revised their proposals to reflect local concerns and have decided not to adopt the community bypass alternative. They have instead put forward their plans to the Planning Inspector to consider as part of the Development Consent Order process to make recommendations to the Secretary of State for Transport. We know that these plans do not fully mitigate or address the traffic pressures that could be caused and the ability to find design solutions on the existing local highways network are limited, especially compared to the benefits of a new purpose built bypass being constructed.

### **Applicant's Response**

The Applicant acknowledges the comments from the Interested Party. The Applicant has undertaken extensive assessments of the impact of the proposed A12 scheme on the surrounding local road network, including within Inworth and Messing.

Prior to the submission of the Development Consent Order (DCO) application, the Applicant undertook a detailed assessment of the Main Alternative (also referred to as the 'community bypass') as well as a bypass option without the northern arm connection and a scenario with widening along the B1023 rather than a bypass. This assessment is documented in the Environmental Statement Appendix 3.3 Junction 24, Inworth Road and Community Bypass Technical Report [APP-095]. The assessment found that while the Main Alternative bypass option with a southern and northern link reduces the traffic in Inworth Village and Messing, this option increases traffic in Tiptree, Feering and the B1023 to the north of junction 24. While a bypass does solve issues of traffic in some locations, it would create the same issues in other locations, to other communities, resulting in a greater number of receptors with a significant negative impact in the other communities when compared with the impacts on Inworth Village and Messing.

Whilst there is a forecast increase in traffic along the B1023 in Inworth, the Applicant's analysis of the road, including microsimulation, has confirmed that the Applicant's proposed widening along the B1023 would address both the historic issues caused by the existing pinch points along the B1023 as well as those caused by the project increase in traffic.

The proposed scheme's traffic model predicts an increase in traffic as a result of the scheme to a total flow of two vehicles per minute through Messing during the highest peak hour. The Applicant maintains that this forecast increase in traffic in Messing is within the capacity of the existing road network and a bypass of Inworth and Messing is not required.

Whilst the Interested Party believes the Main Alternative would provide clear and demonstratable benefits at a reasonable cost, the Applicant cannot justify relocating the forecast traffic in Inworth and Messing villages to Tiptree, Feering and the B1023 north of junction 24 where this will have a worse impact on the community. The Applicant does not consider this additional cost to the scheme to provide any overall additional benefit.

Essex County Council has also considered the case for and against the bypass and has reached the conclusion that the disbenefits in traffic terms to the network in Tiptree and Kelvedon would outweigh the benefit of reducing traffic flow through Inworth and Messing. The Council's position is documented in REP4-075 submitted at Deadline 4.

Following further discussions with Essex County Council, Messing-cum-Inworth Parish Council and the Messing and Inworth Action Group (MIAG), the Applicant has considered additional mitigation measures in the villages of Inworth and Messing to reduce vehicle speed and discourage rat running through the villages. Remaining conscious that any changing of traffic routing from what is presented in the proposed scheme could give rise to the additional significant environmental effects, such as increased noise levels, that were presented in the Junction 24, Inworth Road and Community Bypass Technical Report [APP-095], the Applicant has agreed to provide the following additional measures in Messing:

- Gateway features for signage and speed limit roundels at Lodge Road, Kelvedon Road and Harborough Hall Road, marking the extents of the existing 30mph speed limit; and
- "Unsuitable for heavy goods vehicles" signage at the junction of the B1023 and Yewtree Farm Road, the junction of Harborough Hall Road and B1022, the junction of B1023 and Oak Road, and the junction of the B1022 and Oak Road.

These measures are secured in Requirement 15 of the Draft DCO [TR010060/APP/3.1].

**AS-110-003**

### **Sub-Part**

I have followed the examination and inquiry process and I know that a strong and robust case has been put forward in favour of the community bypass and criticising the current designs for junction 24 that National Highways put forward to them. The Planning Inspector will consider these points and forward a report and recommendations to the Secretary of State for Transport to consider before he will make a final decision. I will continue to support the local community and the bypass proposal by pressing

A12 Chelmsford to A120 widening scheme

Applicant's Comments on Information received at Deadline 6

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the Secretary of State to consider it. I will carry on highlighting to the Secretary of State the benefits of the community bypass and take opportunities to raise this in Parliament. The A12 Widening Scheme should be a successful project to improve our infrastructure and we need the community bypass to maximise those benefits and address congestion and safety concerns on local roads.

**Applicant's Response**

The Applicant notes the comments from the Interested Party.

<b>Burges Salmon LLP on behalf of The Crown Estate Commissioners</b>	<b>AS-111-001</b>
<b>Sub-Part</b>	
<p>Dear Sirs</p> <p>Re: A12 Chelmsford to A120 Widening Scheme</p> <p>We are instructed by the Crown Estate Commissioners in relation to the application for an Order Granting Development Consent for the A12 Chelmsford to 120 Widening Scheme.</p> <p>We are currently in the process of negotiating terms of an agreement which, once completed, would enable section 135 consent to be issued by the Crown Estate Commissioners. We can confirm that the agreement is at an advanced stage at the time of writing, and discussions are ongoing. We would be grateful if this note could be forwarded to the Panel of Examining Inspectors for their consideration and information.</p> <p>Regards, Matthew Tucker</p>	
<b>Applicant's Response</b>	
<p>The Applicant is grateful to the Crown Estate Commissioners for their helpful update to the Panel. The Applicant will continue to work with the Crown Estate Commissioners to secure the required S135 consent to provide to the Panel by the close of the Examination.</p>	



**Holmes and Hills LLP on behalf of Prested Hall - Pegasus  
Prested Investments Ltd**

AS-112-001

**Sub-Part**

Representations have been made previously by Holmes and Hills LLP on behalf of the Pegasus Prested Investments Ltd group ('The Pegasus Group') which owns and operates the following businesses from Prested Hall; -  Wedding and event hire  Serviced apartments  Private members health club  Spa The most recent update on status of negotiations- compulsory acquisition schedule (rep 6-080) provides in relation to the objection of Bluemoor Properties Limited (a member of the Pegasus Group) that;- Status of Objection The Applicant has responded to the points raised through the relevant representation and written representation through the documents submitted at Deadline 1 and Deadline 3 respectfully, 'The Applicant's Response to Relevant Representations' [REP1-002] and 'The Applicant's Comments on Written Representations' [REP3-009]. The following matters remain under discussion: • Business impact mitigation. • Compensation mechanisms. A meeting was held with the Interested Party on 28.03.23 to discuss these issues. A further meeting was held with the Interested Party on 01.06.23 to present more detail on timings, mitigation proposals and to discuss in more detail the compensation mechanisms. The Applicant is hopeful this provided some reassurance and will continue to engage with the Interested Party on these matters.

Meetings have indeed taken place on 28 March and 1 June 2023, but various actions remain outstanding/ progress has been stalled in the following ways:- National Highways had previously indicated they would bring along someone to the meeting on 1 June 2023 with experience in business blight. The District Valuer was in attendance; it is not clear whether he was there in the capacity of a business blight expert. National Highways did not agree to the costs of both our clients' surveyor and solicitors attending this meeting. National Highways said they would prepare a glossy brochure which our client could share with clients to help reassure them of the proposed access arrangements during construction. This does not yet appear to have materialised. Our client is currently struggling to get wedding/event guests to confirm bookings as a result of uncertainty around the widening scheme. There was confusion about the likely start date of the works affecting Prested Hall. Our client was told at the 1 June 2023 meeting that this would happen in second quarter 2024 at the earliest and yet the National Highways website still refers to 2023-2024 (in line with original consultation

documents). This is confusing for all, including potential wedding/event customers who are seeking certainty before committing for a booking. Information on the impact on journey times for those accessing Prested Hall was promised after the meeting in March 2023. It is not apparent that this has yet been made available to our client.

### **Applicant's Response**

The District Valuer attended the meeting on 1 June 2023 to deal with matters relating to land and compensation and the Interested Party had their own compensation advisor in attendance. The District Valuer has experience of claims relating to land acquisition, blight, disturbance and related compensation matters and dealt with those queries in the meeting. While the surveyors present deal with compulsory purchase and compensation across a range of properties including leisure properties, it was discussed that dependent on how any claim is ultimately framed that it may require valuations of the retained trading property and that it would be likely to require the input of leisure property specialists on either side who would need to review the accounts, the business trading profile relevant to that specific market sector. Those aspects would however need to be framed in terms of the statutory compensation code and related principles.

The Applicant would usually only pay one set of professional advisor's fees in attending Interested Party meetings, generally the compulsory purchase and compensation surveyors fees in discussing land and compensation matters, unless there was a specific requirement for legal input. The Interested Party's solicitor was asked if there were any specific legal issues to be addressed and it was stated it could be discussed further with the Applicant if it was felt that the case should be distinguished in terms of needing a legal advisor present. The response from the Interested Party's solicitor was a confirmation that the Interested Party's surveyor would attend the meeting to represent their mutual client.

Also during the meeting on the 1 June 2023, the Applicant shared detailed phasing of the construction within the vicinity of Prested Hall and detailed mitigation measures to reduce impacts on the business. This information was well received by the Interested Party. Additionally, to this the Applicant proposed to create a brochure of the detailed construction phasing which could be used as information for prospective customers to provide assurance, around timings of construction work. This is currently being produced and will be provided to the Interested Party.

As far back as 2019 National Highways (Highways England as it was) documentation has shown the start of construction to be in 2023-2024 and this remains consistent on the National Highways website. As the proposed scheme has progressed, and once start of Examination was likely to be in 2023, new materials including Volume 2 of the Environmental Statement have indicated a Start of main Works as Q2 2024.

The Applicant appreciates that during the construction phase impacts on the business could be associated with the proposed scheme and will work with the Interested Party, where practical.

The Applicant will also provide timings to travel to Prested Hall from various routes but reiterates its previous points made in Applicant's Comments on Written Representations [REP3-009] that changes in journey times to the site will be negligible and for ease of reference has been detailed below.

The Applicant notes the Interested Party's concerns about access to Prested Hall becoming more convoluted and creating longer journey times. However, the Applicant does not consider that access would significantly worsen as a result of the proposed scheme. For travellers approaching from the A12 southbound, they can currently access Prested Hall via the junction 24 slip-roads. Under the proposed scheme, those travellers would instead exit the A12 at junction 25, and travel along the de-trunked section of road (the current A12 carriageway) towards the new Prested Hall access. This is not expected to result in any significant change in journey times, other than due to the de-trunked section of road having a lower speed limit than the current A12. For travellers approaching from the A12 northbound, they can currently leave the A12 at junction 23 and travel through Kelvedon to access Prested Hall via the junction 24 slip roads.

Under the proposed scheme, they would instead exit at the new proposed junction 24 and travel into Feering then toward the new Prested Hall access. This is likely to result in slightly shorter journey times than travelling through Kelvedon. For local trips not using the A12, there would be no significant change in access routes.

**AS-112-002****Sub-Part**

Finally The District Valuer has stated that he is willing to engage on the issue of business disturbance now; however he is not in a position to make any commitment on behalf of National Highways towards costs in this regard ahead of vesting. Our client is suffering business loss now through lost bookings ahead of the confirmation of powers of compulsory acquisition and needs professional advice as regards the disturbance claim and how to best mitigate losses in the context of the complex corporate structure in place. Our client is not in a position to incur professional costs in this regard and the position taken by National Highways has prevented effective engagement on this issue to date, at a time when our client still has the opportunity to take action to mitigate his losses. Confirmation was provided on 27 June that National Highways will meet some limited costs in this regard – but not the full amount.

<b>Applicant's Response</b>	
<p>Discussions have been undertaken with the Interested Party and their agent to understand the business and the impacts and the mitigation measures that can be put in place. The last meeting was 1 June 2023 and in addition to practical mitigation measures outlined by the construction team, the District Valuer discussed compensation and outlined the advance payment process in terms of an early route to compensation subject to a claim and evidence of loss. It has been discussed that a request for an advance payment can be made subject to a confirmed DCO and particulars of the claim being provided. A payment of compensation can then be made in advance of any settlement of a final claim and additional advance payments can be requested, which may assist the business. The District Valuer has discussed the approach to compensation with the Interested Party's agent, has made an offer of compensation in respect of the permanent land acquisition and lesser right requirements and will continue to engage in respect of any other aspects of compensation or any information provided by the Interested Party's agents in respect of this case.</p> <p>In addition to reimbursing the costs of a compulsory purchase surveyor, the Applicant has agreed to reimburse the costs of some further legal advice in this case. This follows a conversation between the Interested Party's solicitor and the District Valuer on 16 June 2023 in which a request was made that the Applicant reimburse the cost of obtaining barristers advice owing to the complexities of the case and the issues involved. The Applicant subsequently requested on 20 June 2023 that the Interested Party's solicitor set out the specific requirement and nature of the advice sought. That additional information was provided on 26 June 2023 and the reimbursement of the costs was approved 27 June 2023. The reimbursement of these costs was based on a figure provided by the interested party's solicitor.</p>	
<b>Rosemary Woodgate</b>	<b>AS-113-001</b>
<b>Sub-Part</b>	
<p>Please pass to the Inspectors deciding on the issue , and prior to the meeting in 27.6.23. I read a document recently in which the applicant concluded that the 2 potential routes for the bridge were so similar that it was not worth changing to the alternative site. What they seemed to have deliberately ignored was 1. The distance from the closest housing and 2. The comparative height between the bridge and houses . In its original position the bridge would have to be a lot higher and therefore obtrusive because the A12 is steeply banked at that point - so that from the houses nearby the traffic is at first floor level. The applicant seems very</p>	

keen that walkers in South Witham be able to walk to Maldon Road and that seems to be a key reason due sticking to the original route. What they seem to ignore is that we can already walk to Maldon Rd by walking up Ashby Close , along Pondholton Drive turning onto Maltings Lane and then onto Maldon Road - less than a 5 minute walk. The alternative site would actually add something as it would be a safer point to cross Maldon Rd and then onto James Cooke Woods. The applicant seems to throw doubt on the engagement of the owner of Oliver's garden centre but this is not accurate . The Inspectors will need to satisfy themselves on this rather than believing the Applicant , before deciding. We seem to be suffering from the decision of the Applicant to purchase rights to use one parcel of land but not the other, and then not wanting the hassle of having to change . It is this extra work that seems to be driving them to overlook the very obvious differences between the impacts of the 2 sites.

### **Applicant's Response**

The Applicant disagrees with the Interested Party's statement that "the applicant concluded that the 2 potential routes for the bridge were so similar that it was not worth changing to the alternative site". The Applicant has investigated the alternative location of Gershwin Boulevard bridge as suggested by Interested Parties which has been documented in the Gershwin Boulevard technical note [REP3-011] and the Gershwin Boulevard Summary Note [REP6-094]. Both of these technical notes explain that 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 and the landscape and visual effects of a bridge in either location would likely be comparable. The Applicant acknowledges that there would be a greater distance between residential properties at Gershwin Boulevard and a bridge at the suggested alternative location, when compared to residential properties at Olivers Drive and the Applicant's proposed bridge location.

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 available space for mitigation due to the presence of the Gershwin Boulevard and the 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.

Regarding the onwards connectivity, the Applicant's proposal for the Gershwin Boulevard bridge provides an opportunity to connect Witham to onward circular routes south of the A12 such as the Witham River Walk and Witham Rail Trail via footpath 121\_95 and Maldon Road to enhance the public right of way network. The Applicant does not consider the suggested location at

Howbridge Hall Road to provide enhancement to the existing local Public Right of Way network as it would connect to a section of Maldon Road remote from any built up area with no clear onward facility that offers no benefit to users compared to footpath 121\_95.

The Applicant has consulted with the landowner of Olivers Nurseries regarding the permissive footpath that some Interested Parties are suggesting from the junction of Howbridge Hall Road and Maldon Road, adjacent to the eastern verge of Maldon Road and running south to the James Cooke Woods. At a meeting held on Friday 21 April 2023, the landowner stated they would consider a permissive path but did not say that they would accept one.

The Applicant maintains that the most reasonable location for the Gershwin Boulevard bridge is that which has been proposed by the Applicant and included in the DCO application.

<p><b>Maldon District Council</b></p>	<p><b>AS-114-001</b></p>
<p><b>Sub-Part</b></p>	
<p>RE: ARBORICULTURAL CONCERN AT BLUE MILLS NATURE RESERVE, WICKHAM BISHOPS, MALDON I write on behalf of Maldon District Council (MDC) with regards to the matter above. Following the request of both the Examining Authority (ExA), as well as National Highway’s representatives at the Issue Specific Hearing 5 on 27 June 2023, the Council is expediting its comments on this matter in advance of Deadline 7, given the Examination is nearing completion. As advised in previous correspondence in respects of Deadline 6, Maldon District Council engaged specific professionally qualified arboricultural specialists to advise on trees impacted by the scheme in general and specifically a female Black Poplar (identified in 9.16 Supplementary Arboricultural Survey Report [REP3008] as T2077) which is sited in the northern extent of the Blue Mills Nature Reserve in Wickham Bishops, Maldon, Essex. This advice has considered national policy and its recognition of the contribution of all trees to the landscape character, mitigating for and adapting against climate change and the role of veteran trees as irreplaceable habitats. In addition, it has considered the England Trees Action Plan 2021-20241 which seeks to protect trees outside of woodlands and to the retention and protection of ancient and veteran trees. Advice to the Council has reviewed the Supplementary Arboricultural Survey Report [REP3-008] and its findings and has concluded as follows:</p>	
<p><b>Applicant’s Response</b></p>	
<p>The Applicant notes the comments made by Maldon District Council. Please refer to the subparts below for responses on the specific issues raised.</p>	
<p><b>AS-114-002</b></p>	
<p><b>Sub-Part</b></p>	
<p>The Arboricultural Impact Assessment (AIA) of August 2022 [APP-122] outlines some of the arboricultural impacts that will occur because of the scheme. It outlines that the survey has identified five Category A individual trees, 63 Category B individual trees and 19 Category C individual trees. It is imperative that all the potential veteran trees at Blue Mills Nature Reserve, regardless of category, that are within the Order Limits are suitably surveyed to confirm their status as either veteran trees or ancient trees.</p>	

<p><b>Applicant's Response</b></p>
<p>The Applicant can confirm that all trees within the study area (which comprises the Order Limits plus a 15m buffer) have been surveyed and assessed against veteran or ancient tree criteria to assess their status. The Arboricultural Impact Assessment (AIA) of August 2022 [APP-122] Appendix 8.4 of the Environmental Statement was undertaken prior to the tree preservation order at Blue Mills. The trees listed by Maldon District Council are included in the Supplementary Arboricultural Survey [REP3-008].</p> <p>As stated with paragraph 9.11.58 of Chapter 9: Biodiversity [APP-076], the term 'potential veteran' has been used by the Applicant to describe trees not listed on the Ancient Woodland Inventory but assessed to be of sufficient quality to be considered of veteran status. As per Table 9.22 of Chapter 9 [APP-076], the Applicant has valued potential veteran trees as being of National value (the same value as verified veteran trees – i.e., trees which are formally designated as veteran trees on the Ancient Woodland Inventory).</p> <p>An explanation of the survey methodology for veteran trees is covered in detail under 9.2.1 - 9.2.16 (pages 40 to 43) of The Applicant's Response on Essex County Council's Local Impact Report [REP3-021].</p>
<p style="text-align: right;"><b>AS-114-003</b></p>
<p><b>Sub-Part</b></p>
<p>One of the five potential veteran trees, which is the female Black Poplar, has the potential to be impacted by the tunnelling methods for the Cadent gas pipeline diversion operation affecting what should be land within the full extent of its (Root Protection Area) RPA. Should this be permitted, permanent loss of habitat could result which should be avoided at all costs.</p>
<p><b>Applicant's Response</b></p>
<p>Measures to avoid impacts to the roots of the black poplar potential veteran tree are secured by commitment BI50 of the Register of Environmental Actions and Commitments (REAC) [REP6-052]. BI50 stated at Deadline 6 (NB this commitment has been amended, see Sub-Part AS-114-006): <i>"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</i></p>



*grid reference TL 83264 1361, and transitional veteran trees T2045 and T2078 as identified in the Supplementary Arboricultural Survey Report [REP3-008]. “*

Please also refer to Sub-Part AS-114-004 below with respect to the RPA of the potential black poplar. It is generally accepted that tree roots occupy the top 600mm of soil, which is significantly above the depth of the directional drilling (which is 1.5m below the hard bed of the main river for at least 5m either side of the banks of the river [as per commitment RDWE58 of the REAC [Applicant Reference TR010060/APP/6.5]). The launch and retrieval pits of the drill will be located outside of the RPA of the veteran and transitional veterans and therefore it is not anticipated the drilling operations will have any negative impact on the trees.

**AS-114-004**

**Sub-Part**

National Highway’s report (9.16 Supplementary Arboricultural Survey Report [REP3-008], p7) confirms that the Black Poplar already meets the requirements of being classed as a veteran tree and is therefore not a potential veteran. Knowing this, National Highways should increase the buffer zone it is proposing around the specimen, and the final design of the gas pipeline’s routing should allow for full clearance of the RPA. National Highway’s report instead seems to propose to provide veteran trees with an RPA of 12 times stem diameter, which is the incorrect clearance for veteran trees which should be 15 times as outlined in Government guidance

2. The extract below is from the 9.30 Supplementary Arboricultural Survey Report (January 2023) p34. Based on the multiplier discussed for veteran trees, the RPA should be 20.4m (1.36m (1360mm stem diameter) x 15m), however as can be seen, the tree has only been given an RPA of 16.3m, which is the sum of 1.36m x 12m, which is the incorrect multiplier.

**Applicant’s Response**

As stated above in Sub-Part AS-114-003, the term potential veteran has been used by the Applicant to describe trees not listed on the Ancient Woodland Inventory but assessed to be of sufficient quality to be considered of veteran status.

<p>The Supplementary Arboricultural Report [REP3-008] contained an error in which the RPA was calculated as per the standard BS5837:2012 methodology. The Applicant can confirm that the RPA should be 20.4m (1360mm stem diameter multiplied by 15). This will be corrected and updated via the Errata before the end of examination.</p>
<p><b>AS-114-005</b></p>
<p><b>Sub-Part</b></p>
<p>With 63 Category B trees, any impact or loss to these specimens has the added potential to still have a significant local visual, environmental and ecological loss, given that the collective canopy cover/habitat these trees provide is extensive.</p>
<p><b>Applicant's Response</b></p>
<p>The Applicant has provided an assessment of effects on visual impacts and biodiversity within Chapter 8 Landscape and Visual and Chapter 9 Biodiversity of the Environmental Statement respectively [APP-075 and APP-076].</p> <p>Landscape effects are assessed within Appendix 8.2: Landscape effects schedule, of the Environmental Statement [APP-120], where the gas main diversion is assessed as part of the wider proposed scheme. The gas main diversion largely falls within landscape sub area A9A. The Environmental Statement has concluded that there would be likely significant adverse effects on local landscape character area sub area A9A at all assessment timeframes (see Appendix 8.2: Landscape effects schedule, of the Environmental Statement [APP-120]). Visual effects are assessed within Appendix 8.3: Visual effects schedule, of the Environmental Statement [APP-121]. Representative viewpoint 35 assesses visual effects from public right of way (PRoW) 268_23, east of woodland along the River Blackwater. The assessment concludes that there would be significant visual effects during construction and during operation in year 1, although this would reduce to not significant by year 15.</p> <p>The landscape and visual effects that would be caused by the gas main diversion are considered within the Applicant's responses during examination, including within 6.9 - 6.9.8 of the Applicant's Comments on Maldon District Council's Local Impact Report [REP3-018].</p> <p>Chapter 9: Biodiversity of the Environmental Statement [APP0-076] did not identify any significant effects associated with construction of the gas main.</p>

Retention of any category B trees within TPO 07/22 is secured by commitment BI50 of the REAC [REP6-052] which requires the use of no-dig techniques through the TPO. BI50 stated at Deadline 6 (NB this commitment has been amended, see Sub-Part AS-014-006): “*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 following commitments would minimise the effects of removal of any trees outside the TPO:

- Commitment LV13 - Routes of final utility diversions and the gas main diversion and methods of construction to be refined to retain as much existing vegetation as practicable, in particular mature vegetation and woodland.
- Commitment LV15 - Working width for the installation of the gas main diversion would be reduced as far as reasonably practicable through woodland and where the gas main diversion crosses through hedgerow field boundaries. All main river crossing(s) would be installed using trenchless techniques, such as horizontal drilling. Directional drilling would be considered where practicable.
- Commitment LV14 - 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.

The Applicant recognises that the trees provide valuable habitat however the proposed scheme would lead to a net gain of 43.19ha of woodland across the Order Limits [AS-098].

<b>AS-114-006</b>
<b>Sub-Part</b>
<p>Where underground apparatus is to pass within the RPA, detailed plans showing the proposed routeing should be drawn up in conjunction with the Project's Arboriculturist and discharged effectively by the Ecological Clerk of Works (ECOW). In such cases, trenchless insertion methods should be used with entry and retrieval pits being sited outside the RPA, provided that roots can be retained in accordance with the British Standard 5837:2012 Trees in relation to Design, Demolition and Construction Recommendations.</p>
<b>Applicant's Response</b>
<p>The Applicant is working with Cadent to develop the detailed design of the gas main. The Applicant acknowledges the point made by Maldon District Council with respect to entry and retrieval pits and as a consequence Commitment BI50, which secures protection of TPO 07/22 has been amended for Deadline 7 as follows (key new text underlined):</p> <p><i>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. The line, depth and <u>locations of temporary works required to install the pipe including the launch and receptor pits</u> 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]. which would include siting of entry and retrieval pits outside the woodland. In order for the gas main to cross the River Blackwater at least one of the two pits would be west of the River Blackwater and therefore outside of the TPO.</i></p> <p>In addition, the Applicant can confirm that an arboriculturist and ecologist will work with Cadent to:</p> <ul style="list-style-type: none"> <li>• determine the most appropriate route for the underground apparatus, including entry and retrieval pits, with reference to British Standard 5837:2012</li> <li>• to draw up detailed plans of the pipeline route in relation to the trees present and their respective root zones with a view to minimising impacts on the most valuable trees (as set out in REAC clause LV4).</li> </ul>

<b>AS-114-007</b>
<b>Sub-Part</b>
<p>Furthermore, advice on the Project's Register of Environmental Actions and Commitments (REAC) has also been provided to Maldon District Council. This raises the following observations with regards to Trees: LV6 outlines how an Arboricultural Method Statement (AMS), and Tree Protection Plan will be prepared by the Principal Contractor pre-construction. At present, the AIA has not been finalised and although the AMS does not need to be prepared in advance of consent, the AIA does need to be agreed prior to the development of the AMS. It is recommended that a previous action in the REAC is to consider finalising of the AIA to ensure that all impacts can be suitably mitigated for, but the timing of this must precede LV4.</p>
<b>Applicant's Response</b>
<p>This point has been covered in detail in The Applicant's Comments on Essex County Council's Local Impact Report [REP3-021]. In summary, the detail available at preliminary design is not sufficiently mature to make a definitive conclusion on the impact of the proposed scheme on certain trees.</p> <p>Preliminary design involves outline design work which often lacks the necessary detail to make a full, detailed assessment of tree removal. Therefore, the retention category of certain trees remains 'at risk' until fixed detail design is available. While it is often possible to retain at risk trees during detailed design, the use of the 'at risk' category allows the assessments to present a 'worst case' arboricultural impact of the scheme to the examining body. Therefore, the Impact presented in the AIA is precautionary and likely to be more adverse than will actually be experienced once detail design is completed. Following the completion of detailed design, definitive tree and vegetation removal plans will be produced which will clearly illustrate the impact of the proposed scheme as described in the First Iteration Environmental Management Plan (EMP) [APP-184].</p> <p>Information within the AIA relating to ancient and veteran trees would be used to inform the Arboricultural Method Statement (AMS) and Tree Protection Plan (TPP) that would be prepared during the detailed design phase. Where appropriate, the AMS will contain detailed specifications for the protection and management of all identified veteran trees through the construction process. Design principles relating to veteran trees, based on standing advice from Natural England and Forestry Commission, are</p>

presented in the Design Principles document [REP2-006], compliance with which is secured via requirement 10 in the draft DCO [REP6-036].

The Applicant can confirm that the AMS (as committed to in LV6 of the REAC [REP6-052]) would be prepared in advance of site clearance (which is committed to in LV4 of the REAC [REP6-052]).

Measures to avoid impacts to the roots of the black poplar potential veteran tree are secured by commitment BI50 of the REAC [REP6-052].

**AS-114-008**

**Sub-Part**

There does not seem to be any reference to a veteran tree assessment or management. Whilst there is reference to mitigation (BI17), which acknowledges that veteran trees cannot be fully replaced, it does not give guidance on the strategy or give suitable efforts to try to replace the habitat that will be lost. In order to suitably manage this, a full veteran tree survey must be carried out.

**Applicant's Response**

The Applicant has undertaken an arboricultural assessment for the full extent of the Order Limits as evidenced by Appendix 8.4: Arboriculture Impact Assessment [APP-122] and the Supplementary Arboricultural Survey Report [REP3-008].

These surveys have identified multiple veteran and potential veteran trees within the Order Limits and this information was used to refine the design of the proposed scheme in order to avoid impacts to the trees (as evidence on page 24 of Chapter 3: Assessment of Alternatives of the Environmental Statement [APP-070] in relation to the Junction 24 to 25 alignment).

As stated in paragraph 9.10.38 of Chapter 9 of the Environmental Statement [APP-076], and secured by commitment BI17 of the REAC [REP6-052], where potential ancient and veteran trees are unavoidably removed to accommodate the proposed scheme, their loss would be partially compensated (acknowledging that features such as ancient and veteran trees are considered irreplaceable and therefore cannot be fully compensated) as per the latest guidance from Natural England and the Forestry Commission (2022):

- Young trees of the same species as that which is removed would be planted with sufficient space around them to encourage development of an open crown.
- Where practicable, trees would be planted close to the trees they are replacing, taking into account post construction air quality levels.
- Where practicable and safe to do so, the intact hulk of the potential ancient or veteran tree would be left where it is (preferably standing) to benefit invertebrates and fungi. Where this is not possible, the hulk would be moved near to other unimpacted potential ancient or veteran trees or parkland in the area.

**AS-114-009**

**Sub-Part**

Once this has been done, there needs to be a suitable mitigation strategy in line with national policy to ensure that all loss of ancient and veteran trees is suitably mitigated for. As with the finalised AIA, there must be an actual impact identified prior to determination to ensure that all trees that can be successfully retained will be included in the final design layout and therefore it must precede any work on site (including tree felling – LV4). There will be a need to veteranise suitable trees through pruning methods to offset some of the habitat loss, and suitable trees should be included in the veteran tree report recommended earlier.

**Applicant's Response**

Please refer to Sub-Part AS-114 -008 above with respect to the proposed mitigation measures for ancient and veteran trees. However, it should be noted that the NNNPS differs from the NPPF in not specifically requiring mitigation for impacted veteran trees.

Please refer to Sub-Part AS-114 -007 above with respect to the Arboricultural Impact Assessment (AIA).

The NNNPS requires justification for the removal of veteran trees but does not specifically mandate mitigation. Standing government advice (and that of the Woodland Trust) does not currently recommend the use of veteranisation as a mitigation technique for potential mitigation for damage to veteran` trees. With the onset of ash die back in the ash population there will be a significant supply of veteran features in the short medium term and works considered to create additional features is considered

excessive. The proposed scheme has proposed significant mitigation in line with government advice including the retention of deadwood and new tree planting including connectivity between habitats as set out in Sub-Part AS-114 -008 above. It should also be noted that with regard to the REAC commitments detailed within this response there would be no effects on veteran or potential veteran trees within Maldon District.

**AS-114-010**

**Sub-Part**

This specific matters in this letter also relate to an outstanding matter in the draft Statement of Common Ground between National Highways and Maldon District Council, last updated for Deadline 6 on 12 June 2023. If the Council can get the assurances being sought to veteran trees and the Black Poplar T2077 at Blue Mills Nature Reserve, the corresponding RPAs changed for veteran trees from a distance of 12m to 15m and changes to the REAC, then subject to seeing the specific agreement wording on the matter from National Highways, Maldon District Council is agreeable to moving this issue from "Under Discussion" to "Agreed" by Deadline 7.

**Applicant's Response**

The Applicant trusts that the responses provided in the sub-parts above will provide the assurances required by the Council. As stated in Sub-Part AS-114 -004, the RPAs for the black poplar T2077 are 15 times the diameter of the tree and the Supplementary Arboricultural Report [REP3-008] (to 20.4m) will be corrected in a revision of the Errata to be submitted before the end of Examination.



## Appendix A - Response to Essex County Council's Traffic Monitoring and Mitigation Plan Technical Note

### A.1 Introduction

A.1.1 At Deadline 5, the Applicant presented a draft requirement around monitoring within the draft DCO [REP5-004] (requirement 17). Essex County Council also presented their own suggested text for a draft requirement. The text for this draft requirement was:

*X.—(1) No part of the authorised development is to commence until written details of an impact monitoring and mitigation scheme has been submitted to and approved in writing by the local highway authority.*

*(2) The 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 A12;*

*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.*

A.1.2 In its Written submission of oral case for Issue Specific Hearing 3 [REP5-020], the Applicant reiterated that although it is prepared to undertake monitoring surveys, it does not believe that the results of that monitoring could be used to require the Applicant to help resolve future adverse effects. This is because of the difficulties in proving that changes in traffic flows are attributable to the proposed scheme.

A.1.3 Further to this, Essex County Council (ECC) presented a slide deck to the Applicant on 23 May 2023 which set out their initial proposals on a monitoring and mitigation programme for the A12 widening project. At deadline 6, Essex County Council then submitted a 'Monitoring and Mitigation Plan Technical Note' [REP6-100].

- A.1.4 This report represents the Applicant's response to ECC's technical note. It concludes that although the Applicant agrees to undertake monitoring in the locations suggested by ECC which were listed in the Applicant's draft requirement submitted at Deadline 5, the Applicant still considers it unreasonable for the results of that monitoring to be used to require the Applicant to help resolve future adverse effects. This is because of the difficulties in proving that changes in traffic flows are attributable to the proposed scheme.

## **A.2 2 National Highways response to ECC proposals – monitoring requirements**

### **Location and types of traffic monitoring**

- A.2.1 In their Local Impact Report [REP2-055], ECC provided a list of seven suggested monitoring locations. In their presentation of May 2023, this list grew to 15 locations. In the technical note submitted at deadline 6, this grew further to 29 sites.
- A.2.2 The scale of monitoring suggested in ECC's most recent technical note is disproportionate and goes beyond the level of monitoring typically undertaken by National Highways on local roads.
- A.2.3 The Applicant remains committed to the monitoring of the locations outlined in ECC's LIR, and has included this commitment as requirement 17 within the draft DCO submitted at Deadline 5 [REP5-004].
- A.2.4 ECC also suggested a proposed list of survey types, including automatic traffic counts, video surveys, and GPS speed surveys. They also proposed details on the specification of these surveys, e.g. their timing and frequency.
- A.2.5 The Applicant again considers that the level of monitoring suggested is disproportionate, for example the installation of permanent counters to take continuous traffic readings rather than the discrete two-week temporary count sites used in the development of the traffic model. The Applicant also does not consider that monitoring of junction queue surveys or turning counts is appropriate, given the difficulty in comparing these to model outputs.

### **Separating traffic growth caused by housing developments and traffic growth caused by the proposed A12 scheme**

- A.2.6 In their Deadline 6 technical note, ECC outlined some principles on how to identify the traffic changes caused by the proposed scheme compared to those caused by changes in general background growth or changes which can be traced back to local development sites. This involves using traffic

surveys on other nearby roads which should be unaffected by the A12 scheme as 'control sites'.

A.2.7 However, the Applicant considers that given the sparse local road network it is not possible to fully separate these changes. This is because of the difficulty in finding independent control sites if the roads used by new housing developments are also affected by the A12 scheme. For example, consider the situation where a housing development comes forward with access onto the B1023, opening at a similar time to the A12 scheme. As the B1023 would be used by development traffic and also affected by the proposed scheme, the B1023 cannot be used as an independent control site. If the majority of the development traffic uses the B1023, then no other roads would be suitable to use as control sites as they would not fully reflect the traffic changes caused by the development. It would therefore not possible to fully separate how much of an observed change on the B1023 is due to the housing development and how much is due to the proposed A12 scheme.

A.2.8 Other more general reasons also make it difficult to attribute observed traffic changes to the proposed A12 scheme. For example, if the baseline surveys are affected by unusual traffic patterns. This could be due to roadworks either on local roads themselves on the strategic road network (e.g. the current rebuilding of the A12 between junction 25 and junction 26 due for completion in early 2024). If traffic levels are lower than usual during the baseline surveys, this would affect any comparisons with surveys undertaken post-A12 opening.

### Comparing observed traffic changes with modelled traffic changes

A.2.9 Essex County Council proposed a potential methodology for monitoring:

- Potential methodology:
  - For each monitoring location, calculate modelled opening year *change* in traffic flow.
  - Add modelled change to observed pre-construction flow to create 'adjusted forecast flow' (AFF).
  - Compare observed post construction flow (PCF) with AFF
  - Threshold for investigation has been reached, if:
    - a) AM or PM peak PCF is more than 120 vehicles (2-way) higher than equivalent AFF, **and**;
    - b) 24-hour weekday PCF is at least 10% higher than equivalent AFF
- Threshold a) prevents small increases on low flow roads from triggering mitigation unnecessarily.
- Threshold b) ensures that relatively low increases on high flow roads do not trigger mitigation.

A.2.10 The Applicant notes that this methodology is proposed to understand how well the traffic flows changes observed during monitoring compare with those predicted by the traffic model. However:

- There would be a period of at least four years between pre-construction and post-opening surveys. This gives a large

“unknown” element of traffic growth which needs to be factored into the analysis. This traffic growth could be significant given the large number of local developments, and ongoing changes in post-pandemic traffic patterns.

- As described above, using general background traffic growth factors or local ‘control sites’ may not be appropriate at the level of individual roads due to the impact of new housing developments.

### **Uncertainty in confirming the proposed scheme as the reason for traffic changes**

- A.2.11 The issues described above not unique to the proposed A12 scheme. They are not issues which make it impossible to monitor and analyse the impact of the proposed A12 scheme. However, they do result in a level of uncertainty around the extent to which the proposed scheme is responsible for observed changes. While this level of uncertainty is acceptable (and inevitable) for a monitoring report that focuses on trying to understand the impacts of the scheme, it does not allow definitive causation to be attributed to the A12 scheme. It is not, therefore, a sound basis on which to base responsibility for funding or delivering mitigation.

### **Use of thresholds to trigger mitigation requirements**

- A.2.12 The traffic flow thresholds for investigation proposed by Essex County Council would only reflect that observed traffic changes are higher than the modelled changes. They do not take into account whether or not the observed increase is actually considered to be a problem that requires mitigation. This would be another area of uncertainty.
- A.2.13 For changes in traffic speed, delay and collisions, Essex’s technical note acknowledges that thresholds are more difficult to define, and would need to be agreed on a case-by-case basis through discussion and agreement between Essex County Council and National Highways.

## **A.3 National Highways response to ECC proposals – mitigation requirements**

### **Principles of mitigation**

- A.3.1 ECC’s technical note states that the principle of traffic monitoring has been accepted by National Highways on other DCO schemes, as has the provision of reasonable and appropriate mitigation should monitoring show that there is a significant adverse impact due to the scheme.
- A.3.2 It is notable that ECC does not provide details of the DCOs in which National Highways is said to have “accepted” traffic mitigation and

monitoring. The Applicant has considered other recent made DCOs where National Highways is the applicant.

- For the A428 Black Cat to Caxton Gibbet Road Improvement Scheme, the requirement for a scheme to monitor traffic flows was included within the DCO. However, the DCO did not include any requirement around future mitigation as a result of that monitoring. Paragraph 25 of the Secretary of State Decision Letter states that “The Secretary of State notes that there is little evidence to suggest what, if any, intervention would be necessary on the local road network as a result of the traffic monitoring and whether any changes could be demonstrated to be solely as a result of the Proposed Development (ER 6.4.103, 6.4.158, 21.2.20). The Secretary of State therefore agrees with the ExA’s conclusion that it is not appropriate for the Applicant to provide surety of funding for any such subsequent, undefined intervention (ER 6.4.104, 21.2.15). However, the Secretary of State agrees that the operational traffic monitoring secured in requirement 23, along with local highway authorities’ routine monitoring, would assist in demonstrating any need for intervention on the local road network (ER 6.5.12).”
- For the A303 Sparkford to Ilchester Dualling DCO, there is a requirement to undertake traffic monitoring on Sparkford High Street and agree a mechanism for the future approval of mitigation measures together with a programme for their implementation. The relevant requirement was not included in National Highways’ Deadline 8 dDCO, but appears to have been included by the Secretary of State as an unusual (and unique in National Highways DCOs) departure from normal practice. It is also clear that National Highways did strongly resist the imposition of this condition (see paragraph 103 of the Secretary of State’s decision letter on the A303 Sparkford DCO). It is not therefore correct to say that National Highways has “accepted” this wording. It should also be noted that this situation is different than in the proposed A12 scheme, in that the requirement is for a single location where the likely mitigation measures are already known. The ExA’s Recommendation Report notes that the likely mitigation measures are “likely to include traffic calming measures, such as chicanes, alterations to traffic light phasing and perhaps changes to road surface materials. Such Works would be within the public highway and therefore the ExA does not consider that there is an impediment to the delivery of these measures”.

A.3.3 In neither case did National Highways “accept” traffic mitigation.

- A.3.4 Unlike private developers who may cause an additional contribution to road traffic in a single area, the Applicant's scheme redistributes rather than adds to the pressures on the Local Road Network (LRN). Overall, the proposed scheme would reduce traffic on Essex's local network, with more roads experiencing a decrease in traffic than would experience an increase. No developer would be expected to fix all the problems on the LRN and neither should the Applicant be required to do so, particularly when the scheme delivers long term benefits to the LRN generally.
- A.3.5 Further, in circumstances where National Highways does not ask Local Highway Authorities (LHAs) for contributions towards addressing impacts arising on the strategic road network (SRN) from decisions and events which take place in their areas, any suggestion that it should in principle be expected to monitor and bear all impacts on the LRN arising from a scheme would involve a significant and problematic extension of National Highways' role in delivering improvements to the SRN, through both the RIS process and under the terms of National Highways' Licence, which authorises National Highways in respect of the SRN only.

### **Funding of mitigation**

- A.3.6 ECC's technical note states that they consider it "appropriate for National Highways to allow for at least £20 million (at 2033 prices) for potential post opening mitigation measures that may be required in connection with the scheme". This is based on the typical cost of previous highways schemes in Essex, allowing for a likely construction date of 2033 following 3 years of post-opening monitoring.
- A.3.7 The Applicant considers it entirely inappropriate for ECC to suggest the project holds a £20 million fund for undefined mitigation schemes to be delivered from 2033 at the earliest.

## **A.4 Summary**

- A.4.1 ECC have provided a technical note on traffic monitoring and mitigation as part of their deadline 6 submission. This sets out their proposals on a monitoring and mitigation programme for the A12 widening project.
- A.4.2 It includes suggested locations and survey specifications for monitoring surveys. The Applicant considers that the scope of these surveys is disproportionate compared to typical monitoring undertaken by National Highways on local roads. The Applicant also notes that ECC's list of suggested monitoring locations has grown from seven sites in its Local Impact Report, to 29 sites in the most recent technical note.
- A.4.3 ECC set out proposals to help identify whether any traffic changes seen on local roads are attributable to the proposed A12 scheme itself. The

Applicant remains of the view that the large number of proposed housing developments close to the roads that would be affected by the proposed A12 scheme make it impossible to definitively attribute flow changes to the proposed scheme. The Applicant notes that the Interested Party themselves have not identified a way to definitively attribute flow changes to the proposed scheme.

- A.4.4 ECC also set out proposals for how to compare observed traffic flow changes with modelled traffic flow changes. The Applicant notes this methodology, but considers that the gap of at least four years between pre-construction and post-opening traffic surveys adds considerable uncertainty.
- A.4.5 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 and therefore responsibility for funding or delivering mitigation.
- A.4.6 In addition, given that the proposed scheme results in an overall reduction of traffic on Essex’s LRN, any suggestion that the Applicant should in principle be expected to monitor and bear all impacts on the LRN arising from the scheme would involve a significant and problematic extension of National Highways' role in delivering improvements to the SRN, through both the RIS process and under the terms of National Highways' Licence, which authorises National Highways in respect of the SRN only. The Applicant considers it entirely inappropriate for ECC to suggest the project holds £20 million fund for undefined mitigation schemes to be delivered from 2033 at the earliest.

A.4.7

## **Appendix B – Speed Limits Narrative**



Road	Speed Limit Proposed by National Highways	Design Standard adopted by National Highways	ECC Position (REP-075)	NH Commentary (DS)	ECC Deadline 6 Proposal	NH Consideration of Proposal for Deadline 7	Grouping
B1137 From Generals Farm Roundabout to Boreham Village	Change from National Speed Limit (NSL) to 40mph	DMRB (2/18-2/20) remainder unclassified	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 unclassified 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 advice intervention levels for 40mph.	The Applicant believes that due to the proposed toucan crossing, an 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 40mph, it would be below 600m and contrary to the guidance in Department for Transport Circular 01/2013.	Ensure that design of B1137 encourages adherence to 40mph speed limit by widening the shared use footway/cycleway into the general carriageway, between Payne Lane and Boreham village.	NH maintain the position shared at Deadline 5 due to the proposed toucan crossing, an 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 40mph, it would be below 600m and contrary to the guidance in Department for Transport Circular 01/2013. We believe that the proximity of the toucan crossing to Boreham village, is sufficient to ensure adherence to the proposed 40mph speed limit.	
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 speed limit.	The Applicant has proposed additional measures including average speed cameras and traffic calming to ensure speeds are within the threshold of the proposed limit.	Include average speed cameras and road narrowings to ensure that 30mph feels more natural, rather than inappropriately slow.	Boreham already has good compliance with proposed limit, average speed camera is now proposed, which supersedes the need for road narrowings. The Applicant is not introducing ancillary features or narrowings to further reinforce this speed limit as average speed cameras are widely acknowledged to be self-enforcing. Indeed, the Applicant notes that an ISH 3 the council's own expert witness confirmed that average speed camera would be an effective measure in keeping people to speed limits.	Main Road
B1137 Boreham Village to Hatfield Peverel	Change from NSL/50mph to 40mph	DMRB (4/2-5)	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 30mph 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 30mph speed limit reductions with no apparent justification.	The Applicant has proposed average speed cameras to ensure speeds are within the threshold of the proposed limit.	Include average speed cameras to enforce lower speed limit	Speed cameras are proposed in DCO	
Link Road from Hatfield Peverel to J21	30mph Restricted Road	Manual for Streets	Single access from junction with The Street (The Vineyards), nothing about the environment suggests 30mph is the appropriate speed limit. Change in environment to the approach 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 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.	Change speed limit to 40mph, between Vineyards and new in 21, and design accordingly.	NH to make this section of Hatfield Peverel link road 40mph	
J21 Roundabouts	30mph Restricted Road	Manual for Streets	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 VES etc but are considering the geometric changes required to bring 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.	Increase speed limit to National, at J21 roundabouts, and design accordingly	NH can match design speed/limit narrative to slip roads i.e. 70mph and sign at NSL	J21
Cokchester Road, Witham from J21 northbound	40mph	DMRB	This is designed to DMRB, yet approaches a roundabout designed to M5 and links into Witham.	DMRB Signposts have been provided an approach/level of roundabout in accordance with relevant standards	Amend roundabout approach from Witham to be compliant with DMRB standards for 40mph (if not already designed to DMRB 40mph)	This is already in the design - no change proposed	
Realigned Kennel Access	30mph	M5	An improved cul-de-sac with no access 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.	Change proposed speed limit to National	NH to make new this length of access road NSL	
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 Brated 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 at Witham.	Increase proposed speed limit to 50mph, between J22 and Riverhall End. Increase proposed speed limit to National, on Little Brated Lane Approach to J21, and design accordingly.	J22 to Riverhall End has a number of frontages - NH believe 40mph is appropriate. J22 to make new section of improved carriageway at Little Brated Lane NSL	J22
Brated Road	30mph Restricted Road	Unclassified	New road construction, realigned away from frontage development, NSL on approach to a short 40mph section that is no longer necessary due to newly reduced traffic flows on the side roads, 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 alignment 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 prepares drivers for the proposed signalled junction, and links in to 30mph on Henry Dean Road towards Riverhall End. The Applicant will consider tweaks to the cross-section of Brated Road to ensure compliance with the proposed limit.	Amend design of Brated Road approach to Henry Dean Road junction, to encourage natural adherence to 30mph. This length is c400m which is contradictory to NH's previous comments.	In principle NH are happy to amend the cross-section of the road to encourage natural adherence.	
Detrunked A12 Riverhall End	40mph	DMRB	Not compliant with national guidance. Remaining a dual carriageway with no new access/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 by employing relatively short lengths between roundabouts, frontage accesses, improved pedestrian and cycleway facilities including a toucan crossing.	Redesign proposals for de-trunked A12 to ensure that nature of road encourages travel at 40mph (as per ECC's alternative de-trunking proposals)	This proposal remains within the de-trunking interface. NH maintain proposed nature with roundabouts either side (and left to 40mph)	De-trunking
B1024 Link Road	40mph	DMRB	New construction with no access 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 Riverhall End to Kellendon, and the proposed toucan crossing linking this facility to the proposed Silver 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 30mph. If this is changed it will be brought into examination by Deadline 7 in consultation with ECC.	Redesign proposals for B1024 Link Road to ensure that nature of road encourages travel at 40mph	In principle NH are happy to amend the cross-section of the road to encourage natural adherence.	
Link to Fire & Rescue Headquarters	30mph	M5	Extends the current restricted road at Kellendon to an area with no frontages or access currently, the southbound on slip & A12 Southbound carriageway at NSL, no frontages or access, not compliant with Circular 01/2013.	The Applicant is proposing a significant change in form of the existing Junction 21/22 access lane arrangement which maintains westwards the eastern extension of the existing 30mph limit in Kellendon 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 going 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.	Increase proposed speed limit to National and design accordingly	NH to make new section of improved carriageway NSL and provide advice signposts from side Farm	Essex F&R
J24 Roundabouts & Link to Inworth Road	40mph	DMRB	All approaches from 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.	Increase proposed speed limit to National and design accordingly	NH road	
Realigned Inworth Road North	30mph	M5	50mph between this section and the 30mph speed limit in Fearing. Speeds currently in excess of 40mph.	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.	Extend 30mph speed limit from Fearing to new Inworth Road roundabout. Amend design of Inworth Road (north) to ensure that 30mph feels more natural, rather than inappropriately slow. Install fixed speed camera on approach to new Inworth Road Roundabout from north.	NH have previously provided a response on the need for a fixed speed camera to control speed where the geometry of the proposed road is appropriate for this lower speed. The cross-section of the remainder of the Inworth Road is already narrow, and the proposed scheme is not introducing additional frontages, so NH is unclear what additional measures to fill the gap of 50mph between Inworth and Fearing would be required, but NH is happy to support the principle of change on the ECC network.	J24
B1023 Inworth Road South	Change from 50mph to 30mph	M5	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 included). This is "correct" to 30mph then in excess to 30mph 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 SN and LNH. This length of 30mph 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.	Amend design of Inworth Road (south) to ensure that 30mph feels more natural, rather than inappropriately slow. Install average speed camera on this section of highway.	There is already good compliance with 30mph and NH is proposing to engineer the road to improve safety. NH is unsure what "amend design" means in this context. NH have previously provided a response on the need for average speed cameras given this context.	
Realigned Fearing Road & Fearing East Roundabout	30mph	M5	Currently NSL, roundabout added, need detail to determine if 30mph is appropriate as no access or frontages.	As with Inworth Road Roundabout, this roundabout is proposed to act as a delineating feature, rather than this occur mid-link. There is a number of access/frontages as quick succession.	No change to DCO proposal	Isolated	
Prested Hall/Threshalfords Access	NSL	M5	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.	No change to DCO proposal	Isolated	
Detrunked A12	NSL	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 Easthope 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 "watercut" effect on walking/cycling corridor.	Redesign proposals for de-trunked A12 to ensure that nature of road encourages travel at 40mph (as per ECC's alternative de-trunking proposals)	This proposal remains within the de-trunking interface. NH maintain proposed nature with roundabouts either side (and left to 40mph/50mph, but proposed to amend the changeover to 50mph to occur at Easthope Road Roundabout as a clear delineating feature.	De-trunking
Wishingwell Bridge and Easthope Farm Access	DMRB	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 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.	No change to DCO proposal	Isolated	
London Road Roundabout	30mph Restricted Road	DMRB	A12 NSL, detrunked 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 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.	Increase speed limit to 50mph, at London Road Roundabout, and design accordingly	Asset is NH road, sightlines on entry are appropriate for approach speed limit.	
New London Road	30mph Restricted Road	DMRB	Link between a roundabout & a signalised junction, no access 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.	Increase speed limit to 30mph, at London Road Roundabout, and design accordingly	Asset is NH road, sightlines on entry are appropriate for approach speed limit	
Marks Toy 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.	No change to DCO proposal	Isolated	J25