

Maldon District Council (MDC)

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

MDC Speakers – Matthew Winslow, Jackie Longman, Annie Keen

Issue Specific Hearing 5 Draft Development Consent Order and Environmental Matters

27 June 2023

1 Draft Development Consent Order - Agenda Item 3

- 1.1 In respects of Article 46 - Felling & Lopping of Trees and Rural Hedgerows & 47 – Trees subject to Tree Preservation Orders, the ExA referred to MDC's Deadline 6 Representation (REP6-102) that it was waiting for arboricultural advice in connection with these articles. At the Hearing, Matthew Winslow for MDC responded that the Council was in the process of receiving the arboricultural advice and that it was MDC's intention to submit that in writing to the ExA and Applicant after ISH5. He indicated that within the draft advice was suggestions that NH approach does not go far enough in respects of Root Protection Areas. The ExA requested that MDC send to NH as soon as possible given the approaching conclusion of the Examination.

- 1.2 In respects of Articles concerning highways and traffic management, MDC has consistently raised concern throughout the Examination and in Written Submissions [most recently set out in REP6-102], that Maldon District residents, businesses and visitors are disadvantaged by the Project's closure of Junction 20a and the existing poor Level of Service D (LoS D) at the Maldon Road junction with the Duke of Wellington mini roundabout on the LRN to connect to the new Junction 21, whether travelling northbound or southbound on the SRN.

- 1.3 For ease of reference to earlier Written Submissions, the Maldon Road junction with the Duke of Wellington mini roundabout is the closest of only two roads on the LRN (B1019 to Junctions 20a and 20b and A414 to Junction 18) that connect the Maldon District to the SRN for all modes of transport (HGVs, LGVs, vans, cars and motorcycles). The B1019 Maldon Road junction at the Duke of Wellington mini roundabout is 4 miles from the district's main strategic housing and employment growth allocations at Maldon and Heybridge. In contrast, the A12/A414 Junction 18 is 8 miles from Maldon and Heybridge.
- 1.4 MDC supports ECC's draft text on the dDCO [REP6-097] Section 3 Updated Requirement Matrix, page 8, referencing 'Monitoring' (Requirement 17) for an 'Impact Monitoring and Mitigation Scheme' as set out at (1). MDC supports ECC's Monitoring and Mitigation Technical Note [REP6-100], Table 2.1 that identifies 29 monitoring sites including Site 2 – Maldon Road junction with the Duke of Wellington mini roundabout. The 'rationale' for monitoring at Site 2 supports MDC's 'local concerns' and the 'uncertainties' in the Transport Assessment where forecasting cannot predict 'driver behaviour' and challenging if the current poor level of service (LoS D) can be maintained in the short term with Junction 20a closing and 87% [data from REP6-109, page 1, '2. J21/Dow junction of B1137 and B1019 in Hatfield Peverel – Southbound access to A12, (g), Boreham Conservation Society] of traffic at the Maldon Road junction with the Duke of Wellington mini roundabout predicted by the Applicant in their Transport Assessment to turn right to the new Junction 21, whether travelling southbound or northbound on the SRN.
- 1.5 At the Hearing, Jackie Longman for MDC, responded to the exchange regarding Requirement 17 Monitoring between one of the Applicant's barristers from Womble Bond & Dickenson stating the Applicant "*was not in agreement with the consequences of the operational monitoring*" and "*the ability to apportion "blame"*" [visual quotation marks] *for what the monitoring may show*" and ECC's barrister responding that: "*Transport Assessment realities should be mitigated by National Highways*". MDC cites the above exchange as representative of the Project's lack of integration of the LRN with the SRN at the Maldon Road junction with the Duke of Wellington mini roundabout as set out in MDC's previous and ongoing Written Submissions. More importantly, that this fundamental disagreement at local and national levels will ultimately (and in reality) impact the road user who does not

distinguish between the LRN and SRN and merely needs to and seeks to get from A-B efficiently.

- 1.6 MDC maintains its position that the Project disadvantages Maldon District residents, businesses and visitors by closing Junctions 20a and 20b and, as a result of those closures, MDC challenges the Applicant's reliance on the prediction in the transport modelling that road users will turn right (when they will still have the ability to turn left towards Junction 19 on the B1137/Main Road through Boreham village) at the Maldon Road junction with the Duke of Wellington mini roundabout to the new Junction 21 whether travelling southbound or northbound on the SRN. This is a huge assumption to make, which will have unmitigated consequences.
- 1.7 MDC strongly supports ECC's position at ISH5 concerning 'mitigation for the Transport Assessment realities' and in ECC's draft text in the dDCO [REP6-097] Section 3 Updated Requirement Matrix, page 8, 'Key difference at Deadline 6' where ECC maintain that: *a workable plan is possible and that if there is a change to predicted flows [at the Maldon Road junction with the Duke of Wellington mini roundabout] then there should be "a mechanism for future agreement on mitigation measures"*.
- 1.8 MDC also strongly supports ECC's position raised at ISH5 concerning Proposed New Requirement 18 Junction 21 and detailed in ECC's drafting on the dDCO [REP-097] Section 4 Commentary on updated draft Requirement Matrix, page 23 where ECC '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.'
- 1.9 MDC contends that in consideration of Agenda Item 4 below, had the issues debated at ISH5 in paragraph 1.4 above regarding Requirement 17 Monitoring and the new Requirement 18 (Junction 21) been progressed, some of MDC's 'issues in disagreement' as a final position for the SoCG, might have progressed to being

resolved and in agreement. In this regard, the Applicant has left MDC's and ECC's very real concerns raised very early on in the Project's development through Preliminary Discussions and Preliminary Design stage about the closure of J20a and J20b and the poor LoS D at the Maldon Road junction with the Duke of Wellington mini-roundabout 'out to dry' and quite frankly ignored.

2 Statement of Common Ground - Agenda Item 4

- 2.1 MDC note the ExA's reference to signed Statements of Common Ground (SoCG) given weight by PINs and unsigned SoCG given 'little weight' by PINs. As a post ISH5 update, MDC have agreed to have a signed SoCG with NH, at the latest, by Deadline 8, giving NH enough time to respond to the matters in correspondence sent to them in a letter (Ref: MDC/A12/PINS/28/06/23) dated 28 June 2023 which set out arboricultural concerns at Blue Mills Nature Reserve. This letter was cc'd into the Examining Authority at the request of Mr Hunter who had asked MDC to expedite the information before Deadline 7, due to the end of the Examination approaching.
- 2.2 The Applicant (via Mr Nuno Fernandez) referenced MDC as having outstanding 'issues in disagreement' in its Statement of Common Ground with National Highways concerning the Duke of Wellington mini roundabout, Junction 21 and Maldon Link Road. Whilst there was no discussion around these issues, MDC feel it is important to outline there are however 7 separate 'issues in disagreement' (below and numbered as appearing in SoCG between National Highways and MDC) and explain their discrete elements and why they are not amalgamated to the Applicant's identification of only 3 'issues in disagreement' at ISH5 (Appendix B of Deadline 7 Submissions will clarify further):

3.1 Maldon Road/Options for Maldon Link Road

National Highways worked up options with ECC for a Maldon Link Road linking to the new Junction 21 at Pre-application Stage. It appeared to be recognised by the local and national highway and transport authorities that the operation of the Duke of Wellington mini roundabout's poor LoS D on the LRN was an inadequate juncture (being a painted circle on tarmac) for all modes of transport to turn right and pass each other from Maldon Road to the new northern arm to connect to the Project's upgraded J21 on the SRN and vice-

versa from J21 on the northern arm to access Maldon Road over the new 2-way Duke of Wellington bridge.

3.2 Junction 20b / Duke of Wellington (DoW) mini roundabout

National Highways have confirmed that their Transport Modelling does not forecast driver behaviour and local knowledge. The modelling is scientific therefore and not the reality. The ASI showed the Examining Authority (photographic evidence provided in [REP3-051], pages 4 and 5) that HGVs and LGVs already cannot pass each other over the mini roundabout. Awaiting ExQ3 response from Applicant (Deadline 7) if the 2019 Transport Modelling data should have been updated after Covid in line with DfT guidance.

3.3 LRN traffic modelling/Level of Service at DoW mini roundabout

What prohibits the road user turning left to access Junction 19 via Boreham village (with J20a closing). How do HGVs pass each other at the mini roundabout without one having to give way, causing queue lengths to increase and traffic patterns to change that could ultimately and negatively affect the stated Level of Service D?

2.2 J21 / LRN - DoW mini roundabout

The Project closes J20a. Traffic modelling predicts the road user will turn right at the Maldon Road junction with DoW m/r to J21 whether travelling northbound or southbound. Traffic modelling cannot forecast driver behaviour and is not representative of local knowledge

2.3 LRN/Omission of Maldon Link Road/Hatfield Peverel Bypass

MDC was not made aware at Pre-Application Stage of the 'serious challenges to feasibility, including significant carbon, land, environmental construction and cost impacts' when the options were tested for a Maldon link road before the DCO was submitted.

2.4 DoW mini roundabout / design of mini roundabout

National Highways must recognise this is a mini roundabout on the LRN (although it is in the Project's red line boundary) and not a roundabout. Junctions 20a and 20b that are currently accessible from the DoW mini

roundabout are closing due to safety concerns. The Project upgrades the DoW bridge to 2-way traffic connecting to the northern arm to the new Junction 21 but the mini roundabout is a fixed element (painted circle on tarmac) on a residential street in a village. Notwithstanding its 'current' poor level of service D, is it a safe junction for 2 HGVs or LGVs to pass each other?

2.5 Duke of Wellington Bridge / 2-way traffic and operation of DoW mini roundabout

The upgrade of the Duke of Wellington Bridge to 2-way traffic will impact on the operation of the DoW mini roundabout with 'changing traffic patterns' and 'increased queue lengths' stated from the traffic modelling. Notwithstanding Reality vs Science (traffic modelling to turn right over the bridge vs size of vehicles) the plans submitted do not show the integration of the LRN with the SRN at this juncture [REP6-004], Permanent Works Plan, Sheet 6 of 21. The integration of the DoW mini roundabout with the upgraded DoW bridge to 2-way traffic is an important consideration of the Project. MDC feels this should be designed-in now and as part of the dDCO. .

3 Gas Pipeline - Agenda Item 6

- 3.1 At the hearing, Annie Keen for MDC informed the Inspectors that an area of concern and therefore uncommon ground currently "In Discussion" in the draft SoCG between the parties, was the treatment afforded to protected trees within the preferred route of the Cadent gas main diversion. MDC therefore stated the *'Council remain concerned about the level of protection afforded to the roots of the Black Poplar within the Blue Mills Nature Reserve, which National Highways own assessment determines is a Veteran Tree'* and posed the question to National Highways *'to confirm the distance of the root protection area being given to the Black Poplar to ensure it comes to no harm during the gas pipeline's rerouting operation?'*.
- 3.2 As noted in 1.1, the Examining Authority noted from its Deadline 6 submission that MDC was seeking arboricultural advice regarding the wording of the dDCO in relation to trees at Blue Mills Nature Reserve and requested MDC submit this advice to National Highways and the ExA before Deadline 7. MDC sent a letter outlining the advice to National Highways and the ExA on 28 June 2023.