

A12 Chelmsford to A120 Widening

Response to DfT
Consultation Letter dated
27 October 2023

9 November 2023

Introduction

This document provides Essex County Council's (the Council's) response to the letter dated 27 October 2023 requesting additional information in connection with National Highways' application for development consent for the proposed A12 Chelmsford to A120 Widening Scheme. The two items on which the Council is requested to provide a response are the proposed new Requirement 22 and proposed speed limits.

Requirement 22 – Timings of consultation

The Council is pleased that the Applicant, National Highways, has acknowledged our concerns shared on Page 22 of REP7-049 and inserted a new requirement that will give greater transparency to the overall consultation process. The Council is content with the wording suggested by the Applicant and can confirm it is not dissimilar to the one currently proposed in the draft DCO for Lower Thames Crossing.

Our agreement with Requirement 22 and Requirement 23 does not change the Council's preferred position, which is for the Council, as the local highway authority, to be the approving body for the requirements which concern the local (as opposed to strategic) highway network, namely:

1. Requirement 9 – Traffic Management
2. Requirement 14 - Boreham operation phase traffic mitigation measures
3. Requirement 15 – Messing operation phase traffic mitigation measures
4. Requirement 16 – Operation phase local traffic monitoring
5. Requirement 19 – De-trunking

To address any concern that were the Council to be the approving authority for some requirements this could lead to an unreasonable delay in discharging the requirements, the Council would be content for a new article, following the same principles of Requirement 22, to be included in the DCO. This would set out that approval must not be unreasonably withheld and allows for deemed consent in the event that no response is provided within 28 days. If an approval cannot be reached, then the terms of the approval could be resolved by arbitration under Article 62 (arbitration).

Speed Limits

The Council welcomes the Applicant's continued engagement with us regarding their proposed speed limits on roads for which we are the highway authority, as identified in Part 6 of Schedule 3 of the DCO [REP8-002], following the conclusion of the examination. Whilst we can report some progress has been made, the Applicant and Council remain in disagreement over the proposed speed limits at a number of key locations.

On 10 August 2023 we received a detailed schedule of road classifications which included the Applicant's latest proposed speed limits and typical cross-sections across the whole scheme. Although some of the speed limit changes requested by the Council had been incorporated into this schedule, five key sections of local highway remained of concern. Subsequently we held two meetings, on 26 September 2023 and 2 October 2023, to discuss our comments with the Applicant.

The Applicant has explained that, in some locations, the existing or proposed vertical and horizontal alignment and/or cross-sections of the road will affect the characteristics of the road (which is not comprehensible from the General Arrangement drawings we have seen hitherto) in a way which encourages speed limit compliance. However, detailed alignment information demonstrating this has not yet been shared with the Council. Furthermore, the Applicant has agreed to provide the rationale for their proposed speed limits at the locations where the Applicant and Council remain in disagreement, and to develop potential mitigations to encourage speed limit compliance should this be deemed necessary. We are still awaiting this information.

As it stands, the Council maintains that the speed limits have been set too low for the character of road on five key sections of highway (totalling around eight kilometres in length):

- The de-trunked A12 from Witham to Rivenhall End (East)
- Braxted Road (south of the junction Henry Dixon Road, Rivenhall End)
- The new B1024 Link Road between Rivenhall End and Kelvedon
- The new Essex County Fire and Rescue Service Access Road
- The de-trunked A12 between Feering and Marks Tey

Once the A12 Scheme is open, the Council will become responsible for the operation and maintenance of these roads and we are concerned that the speed limits proposed by the Applicant could lead to the following issues:

1. Where there is poor driver compliance and an associated safety problem, safety improvements are likely to be required for which there is no budget or identified additional resource.
2. Where there is poor driver compliance but no identified effect on KSIs, the Council is still likely to come under pressure from local stakeholders to enforce the lower vehicle speeds that had been set as part of the A12 scheme. Again, there is no budget identified for this.
3. In other locations remote from the scheme local stakeholders may expect similar speed limits and measures to those set by the DCO, contrary to our own Speed Management Strategy and Department for Transport Circular 01/2013. This would set a precedent that the Council would find difficult to manage.

We have explained the reasons why we believe the speed limits are inappropriate in our Deadline 6 submission, REP6-098, under 'Speed Limits' on pages 25 and 26, and our summary provided in REP7-049 on pages 3 to 5.

The Council would like to re-emphasise the importance of the Road Safety Audit (RSA) process, as explained in paragraphs 4.62 and 4.63 of the NPSNN. It was unfortunate that the Council was not invited to participate in Stage 1 of the RSA process, which was completed in March 2022. However, the Council has now reviewed the RSA Stage 1 report and note that it identified a potential speed limit problem, stating *'Inappropriate speed limits could result in excess vehicle speeds, increasing the potential for a range of collisions, including loss of control.'*

The independent road safety auditors recommended that ***'where the characteristics of the carriageway are not consistent with the proposed speed limits, the carriageway should be altered to promote compliance with the speed limit. This could include alterations to lane widths and alignments, the introduction of speed-reducing features, or the use of technology'***.

This recommendation was accepted by the Applicant and their design partner, and they took actions to clarify the cross-sections, lane widths, layouts, speed-reducing features, and provisions of technology during the detailed design phase. As mentioned above, we are still awaiting this information, and our concerns are increasing due to the Applicant's timetable to complete the majority of their detailed design by March 2024. As the design progresses, the cost and programme impact of any design amendment increases.

At this point the Council is unclear whether further changes will be made to the speed limits or highway design by the Applicant to address the Council's concerns. If insufficient changes are made to address our concerns during detailed design, we consider it reasonable and justifiable for an appropriate amount of ringfenced funding to be made available by National Highways should in the Council's view the need arise post-opening for the mitigation of issues arising from excessive speed limit non-compliance. The Council has given thought to what may be an appropriate amount of funding for this purpose and how such a fund could be administered, and is happy to share our position on this with the DfT and National Highways should this be useful. We believe this should be secured through the DCO as a new requirement and are willing to provide proposed drafting for such a requirement if needed.

Council's proposed changes to the Applicant's DCO

As the local highway authority, the Council maintains that, if inadequate changes are made to the speed limits or highway design for the highway sections in question, the following requirements should be included in the DCO, as we stated in REP7-049, to enable our views to be known to the Secretary of State (SoS) following DCO consent:

1. The insertion of Requirement 10(3) as per ExA's draft wording ref no. DCO-PC16 within document ref PD-015, to ensure we have been formally consulted and our detailed views shared with the SoS for consideration prior to the SoS giving approval to the Applicant to commence with the authorised development.

2. The insertion of Requirement 10(4) as per our wording on page 8 of REP7-049. This is to ensure that the Applicant fully takes into consideration our views as the highway authority for these roads.
3. The wording of Requirement 16 (operation phase local traffic monitoring and mitigation) should be as prescribed on page 14 and page 15 of REP7-049. This is to ensure there is a mechanism to assess and mitigate any adverse effects observed through monitoring post-opening.
4. The insertion of a Requirement titled Road Safety Audit as explained on page 21 and 22 of REP7-049. This is to ensure the Applicant uses best endeavours to implement any recommendations from the road safety audits at their expense, whether speed limit related or not. If an agreement cannot be reached whether a recommendation should be implemented, the Council's view is that it should go to arbitration. The Council requests for our updated Requirement Road Safety Audit wording below to be adopted into the DCO. The updates have been highlighted in bold text and are only considered as minor changes because it only clarifies the inclusion of RSA Stage 2 (Detailed Design) into this requirement.

Road Safety Audit

*(1) The undertaker must procure that an appropriately qualified safety auditor undertakes road safety audit stages **2, 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 **2 and 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 **2, 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 **Road Safety Audit Detailed Local Operating Agreement** will be resolved by arbitration under article 62 (arbitration).*

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