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for Transport

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National Highways  
Woodlands,  
Manton Lane,  
Bedford,  
Bedfordshire  
MK41 7LW

Dear Sir or Madam,

## **Planning Act 2008**

### **Application for the Proposed A12 Chelmsford to A120 Widening Scheme Development Consent Order**

1. I am directed by the Secretary of State for Transport ('the Secretary of State') to say that consideration has been given to:
  - The report dated 12 October 2023 ("the Report") of the Examining Authority ("ExA"), comprised of Adrian Hunter BA (Hons) BTP MRTPI, Max Wiltshire BSc, MSc, CEng, MICE and Jon Gorst LLB (Hons) who conducted an Examination ("the Examination") into the application made by National Highways ("the Applicant") for the A12 Chelmsford to A120 Widening Scheme ("the Proposed Development") under section 37 of the Planning Act 2008 ("the PA2008") on 15 August 2022 [ER 1.1.1];
  - The responses to the further consultations of 27 October and 20 November 2023 undertaken by the Secretary of State in respect of the Application following the close of the Examination; and
  - Late representations received by the Secretary of State following the close of the Examination.
2. This letter is the statement of reasons for the Secretary of State's decision for the purposes of section 116(1)(a) of the PA2008 and regulation 37(2) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017.
3. Published alongside this letter on the Planning Inspectorate website is a copy of the ExA's Report of Findings and Conclusions and Recommendation to the Secretary of State ("the Report"). All "ER" references are to the specified

paragraph in the Report. Paragraph numbers in the Report are quoted in the form “ER XX.XX.XX”. Additional references to [Examination Library](#) documents are set out in the form used in that library.

4. This decision was delegated by the Secretary of State to the Minister of State, Huw Merriman. While this decision has not been taken by the Secretary of State, by law, it must be issued in the name of the Secretary of State. All references to the Secretary of State are therefore to the Minister of State acting on behalf of the Secretary of State.

## The Application

5. The Application was accepted for Examination on 12 September 2022. The Examination began on 12 January 2023 and was completed on 12 July 2023. The Examination was conducted on the basis of written and oral submissions submitted to the ExA and by a series of hearings. The ExA undertook unaccompanied site inspections on 11 January 2023 and 16 June 2023 [ER 1.4.10] and an accompanied site inspection on 2 March 2023 [ER 1.4.11].
6. The Development Consent Order (“the DCO”) as applied for would allow for the construction and operation of works to improve the A12 between Junction 19 (Boreham Interchange) and Junction 25 (Marks Tey Interchange).
7. The elements comprising the scheme (collectively referred to as “the Proposed Development”) are:
  - Widening the A12 to three lanes between Hatfield Peverel (J20a) and Marks Tey (J25)
  - A new three-lane bypass at Rivenhall End (J22 to J23)
  - A bypass between J24 to J25;
  - Improvements to J19 and J25;
  - Three new junctions (J21, J22, J24) constructed to replace the existing J20a, J20b and J23;
  - New and improved walking, cycling and horse-riding routes; and
  - The diversion of a high-pressure gas pipeline, operated by Cadent Gas Limited, which is a Nationally Significant Infrastructure Project in itself.
8. On 30 May 2022 the Applicant made a request to allow six design changes to the Application [AS-081 (Additional Submission - Accepted at the discretion of the Examining Authority - Change Application Cover Letter)]. The Applicant noted that the need for the changes to the Proposed Development was a result of a variety of factors such as requests from Interested Parties (“IP”), stakeholder feedback and the identification of opportunities to further reduce the impacts of the Proposed Development [ER 2.2.2].
9. The Secretary of State agrees with the ExA that the following changes should be allowed because, individually and cumulatively, they are not so substantial that they would constitute a materially different project and the proposed changes are not considered to lead to the project being different in nature or substance to that

which was originally applied for. The proposed changes sought by the Applicant were:

- re-design of the proposed north-bound on-slip road at J19;
- the exclusion of the proposed Anglian Water pumping station from land proposed for compulsory acquisition at Hatfield Peverel;
- changes to the provision of proposed replacement land at Whetmead, plus additional consequential changes to reflect a change of ownership for open space in the Witham area that occurred subsequent to the submission of the DCO application;
- changes to the proposed drainage works associated with proposed works along the B1023 Kelvedon Road at Inworth;
- removal of the proposed segregated left turn lane at proposed J24/Inworth Road B1023; and
- removal of the proposed signalised crossroads and partial signalisation of the existing roundabout at J25/A120 [ER 2.2.3].

## **Summary of the ExAs Recommendations**

10. The principal issues considered during the Examination on which the ExA reached conclusions on the case for development consent are set out in the Report under the following broad headings:

- Legal and Policy Context
- The Need for the Proposed Development
- Air Quality and Emissions
- Biodiversity and the Natural Environment
- Climate Change
- Geology and Soils
- Design
- Historic Environment
- Land Use
- Landscape and Visual
- Material Assets and Waste
- Noise and Vibration
- Population and Human Health
- Socio-Economics
- Traffic and Transport
- Road Drainage, Flood Risk and Water
- Diversion of High-Pressure Gas Main

- Cumulative Effects
  - Habitats Regulations Assessment
  - The case for Development Consent
  - Compulsory Acquisition and related matters
  - Draft Development Consent Order and related matters.
11. For the reasons set out in the Report, the ExA recommended that the Secretary of State should make an Order granting development consent for the Proposed Development [ER 10.3.3] subject to the following points which the ExA recommended that the Secretary of State may wish to further examine:
- to consider the changes made in September 2023 to the 2030 targets for the sale of petrol and diesel vehicles;
  - to seek clarification from the Applicant on the exact nature of the works to be carried out within the area subject to Tree Preservation Order 07/22, as set out in Schedule 8, Part 3 of the Order recommended by the ExA (“the recommended Order”);
  - to consult with IPs on the wording for requirement 22 of the recommended Order;
  - to consider seeking the views of the Applicant and Essex County Council in relation to the proposed speed limits identified in Part 6 of Schedule 3 of the recommended Order; and
  - to consider seeking the views of the Applicant and Cadent Gas Limited in relation to the Protective Provisions contained within Schedule 11 of the recommended Order [ER 10.3.2].
12. The Secretary of State is satisfied that all matters listed above have been resolved, as described below.

### **Summary of Secretary of State’s Decision**

13. The Secretary of State has decided under section 114 of the PA2008 to make with modifications an Order granting development consent for the proposals in this Application.

### **Summary of Secretary of State’s Consideration**

14. The Secretary of State’s consideration of the Report, responses to his consultations of 27 October and 20 November 2023, representations received after the close of Examination and all other material considerations are set out in the following paragraphs. Where consultation responses are not otherwise mentioned in this letter, it is the Secretary of State’s view that these representations do not raise any new issues that were not considered by the ExA and do not give rise to an alternative conclusion or decision on the DCO.
15. Where not otherwise stated in this letter, the Secretary of State can be taken to agree with the findings, conclusions and recommendations as set out in the

Report and the reasons given for the Secretary of State's decision are those given by the ExA in support of the conclusions and recommendations.

16. The Secretary of State is content that the Proposed Development is a Nationally Significant Infrastructure Project in accordance with section 14(1)(h) and section 22(1) to (3) of the PA2008 for the reasons set out at ER 1.1.9 – 1.1.11, and that section 104(2) of the PA2008 has effect in relation to the Proposed Development [ER 3.2.2]. Furthermore, the Proposed Development requires the diversion of a gas pipeline, which in itself is a Nationally Significant Infrastructure Project under section 20 of the PA2008 and it is also an application to which section 104(2) is applicable because it is subject to policy in the designated NPS for Overarching Energy (NPS EN-1) and Oil and Gas Supply and Storage (NPS EN-4) [ER 3.2.3]. In determining this Application, the Secretary of State must therefore have regard to any relevant National Policy Statements (“NPS”), and Local Impact Report (“LIR”) submitted, any matters prescribed in relation to development of the description to which the Application relates, and any other matters the Secretary of State considers to be both important and relevant to the decision [ER 3.2.4]. Under section 104(3) of the PA2008, the Secretary of State must decide this Application in accordance with any relevant NPS which in this case is the National Policy Statement for National Networks (“NPSNN”), subject to any of the exceptions in section 104(4) to (8) of the PA2008 applying [ER 3.2.5].
17. The Secretary of State does not consider any of the exceptions apply to this case. The Secretary of State has also had regard to the environmental information associated with this scheme as defined in regulation 3(1) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017. In making the decision, the Secretary of State has complied with all applicable legal duties and has not taken account of any matters which are not relevant to the decision.
18. With regard to the NPSNN, in a Ministerial Statement issued on 22 July 2021, the Secretary of State advised that a review of the NPSNN would begin in 2021. The Department for Transport published a draft revised NPSNN on 14 March 2023 for consultation, which closed in June 2023. While the review is undertaken, the 2015 NPSNN remains relevant government policy and has effect for the purposes of the PA2008. The NPSNN will, therefore, continue to provide a proper basis on which the Planning Inspectorate can examine, and the Secretary of State can make decisions on, applications for development consent.
19. The Secretary of State has had regard to the LIRs prepared by Essex County Council, Chelmsford City Council, Colchester City Council, Braintree District Council and Maldon District Council [ER 3.8.1 - 3.8.2] and their respective Local Plans [ER 3.9.1 – 3.9.6], as well as the Essex Transport Strategy [ER 3.9.7 – 3.9.12]. The Secretary of State also notes the ExA's assessment, set out in section 3 of the Report, regarding Assimilated Law and related UK Regulations, other relevant legal provisions, previous DCOs, transboundary effects and other relevant policy statements and agrees these are matters to be considered in deciding this Application.

## Principle of the Proposed Development

### *Need for the Development*

20. The need for the Proposed Development set out by the Applicant in its case for the Proposed Development [ER 5.2.6- 5.2.16] identifies the following:

- the A12 is an important economic link in Essex and across to the East of England, being the main south-west/north-east route through Essex and Suffolk connecting Ipswich to London and to the M25;
- the A12 is an important commuter route between Chelmsford and Colchester (Junction 19 to Junction 25), but current congestion often affects drivers' average speed during the morning commute, which has an average speed of 40mph compared to the speed limit of 70mph. This section carries high volumes of traffic, with up to 90,000 vehicles every day;
- the route is an important freight connection, with between 9% and 12% of traffic being heavy goods vehicles ("HGVs"), linking London and the South East to Felixstowe and the Haven Ports;
- taking into consideration the predicted growth in jobs and housing in the area, the A12 will continue to act as a vital strategic route in the future, and if improvements are not undertaken, the A12 will act as a barrier to economic growth, as road users' delays worsen and journey times become even more unreliable. Traffic levels on the A12 will increase to such a level that the entire two-lane section of the route will be close to or above capacity;
- fatal and slight casualty rates for the A12 are comparable with the COBALT (software used to calculate the impact on accidents as part of the economic appraisal for a road scheme) default rates, but the observed rate for serious casualties is much higher. Overall, the total casualty rate is higher on the A12 than the national default; and
- traffic modelling shows that, without intervention, congestion, journey times, delays and accidents currently experienced on the route would increase in future years, as would 'rat running' on local roads. [ER 5.2.8 – 5.2.9, 5.2.12 and APP-249 (7.1 Case for the Scheme), paragraphs 1.4.2 – 1.4.4].

21. The Proposed Development is identified in Road Investment Strategy 2 ("RIS2"). [ER 5.2.10]. This is further examined in the Applicant's [East of England Route Strategy Report](#), which highlights congestion around Chelmsford, and its effect on efficient east-west freight movements along the A12 [APP-249, Table 1.2 and paragraph 2.2.6]. The Secretary of State agrees with the ExA that the benefits of the additional highway capacity would help to support housing and economic development, along with providing improved links within the wider region and beyond [ER 5.2.29].

22. The Secretary of State notes that the ExA observed that there was evidence that there are issues of highway safety along the current route and, in terms of the number of the severity of casualties, it was predicted that over the 60- year appraisal period there would be two fewer fatal, 200 fewer serious and 496 more slight casualties. The Secretary of State agrees with the ExA that, although the Proposed Development would result in an increase in slight casualties, it would seek to address overall highway safety issues by delivering fewer fatal and serious casualties, and that on balance the Proposed Development would serve to improve highway safety in general [ER 5.2.13 and 5.2.30].

23. Paragraph 2.2 of the NPSNN identifies a critical need to improve the national networks to address road congestion and provide resilient networks that support economic activity. Paragraphs 2.12 to 2.14 of the NPSNN highlight the importance of the Strategic Road Network in providing critical links between areas, enabling safe and reliable journeys and the movement of goods in support of national and regional economies. The Secretary of State notes the importance of the A12 to users in Essex, the east and south-east of England and that it is a key national and regional corridor in the movement of goods and people. The Secretary of State is satisfied that there is a presumption in favour of granting development consent for national network Nationally Significant Infrastructure Projects that fall within the need for infrastructure established in the NPSNN (paragraph 4.2) and that the Proposed Development represents such a project.

#### *Benefits to Cost Ratio*

24. In its 'Case for the Scheme', the Applicant set out its economic appraisal of the Proposed Development over its lifetime, which is used to demonstrate whether a scheme is likely to represent value for money. The appraisal estimated the monetised benefits and disbenefits expected from the Proposed Development and compared them to the costs of the Proposed Development and presented them in terms of a Benefit to Cost Ratio ("BCR") [ER 5.2.6 and APP-249, paragraph 6.1.1]. The ExA recorded that the Proposed Development has an adjusted Benefit to Cost Ratio of 1.7, with a present value of benefits of £775.4 million and a present value of costs of £452.1 million, and that the Applicant concluded that this constitutes a medium value for money scheme [ER 5.2.15 - 5.2.16 and APP-249, paragraph 6.3.15].
25. The Secretary of State notes the Applicant's responses to questions from the ExA about whether the monetised benefits of the Proposed Development had been reviewed in light of changes to the economic climate [ER 5.2.20 - 5.2.24]. He has also considered the representations from IPs on whether the Proposed Scheme represents value for money, including the concerns raised by Dr Boswell of Climate Emergency Planning and Policy (CEPP) regarding the omission of construction stage emissions from the BCR calculation [ER 5.5.30].
26. The Secretary of State notes that the Applicant submitted a Technical Note titled 'Inclusion of construction and operational maintenance-related greenhouse gas emissions within the BCR' in February 2023. This Technical Note sets out the Applicant's sensitivity test where estimated greenhouse gas emissions from both construction and operation are included in the BCR, and also sets out the impact this has on the Applicant's overall value for money conclusions. The Applicant concluded that BCR would reduce from 1.72 to 1.62, which would still constitute medium value for money for the Proposed Development [ER 5.5.43 and REP2-032, paragraphs 2.3.1 and 2.3.2]. The Secretary of State sees no reason to disagree with this conclusion.
27. The Secretary of State also notes that paragraph 4.3 of the NPSNN states that the Secretary of State, in considering any proposed development and in particular when weighing its adverse impacts against its benefits, "should take into account: its potential benefits, including the facilitation of economic development, including job creation, housing and environmental improvement, and any long-term or wider benefits; and its potential adverse impacts, including

any longer-term and cumulative adverse impacts, as well as any measures to avoid, reduce or compensate for any adverse impacts". BCR is a component of a business case used to inform investment decisions on a proposed development, but is only one element of the needs case considered when determining an Application. The Secretary of State's consideration of the benefits against the potential impacts are considered further in the planning balance section below.

### *Alternatives*

28. The Applicant's Assessment of Alternatives is set out in Chapter 3 of its Environmental Statement ("ES") [APP-070 (6.1 Environmental Statement - Chapter 3: Assessment of Alternatives)] and outlines the alternative design options that were considered during the preparation of the Application [ER 4.5.2]. The Secretary of State notes from paragraph 3.1.3 of Chapter 3 of the ES that the Applicant shortlisted four potential options which were taken forward to public consultation in 2017 [ER 5.15.13 – 5.15.14]. The Secretary of State notes from paragraphs 3.2.10, 3.2.12-3.2.14 of Chapter 3 of the ES that the preferred option was the most popular option from the 2017 public consultation and received the support of 49% of respondents. As set out in the ES, the Applicant further refined the preferred option and considered alternative ways of delivering the Proposed Development to avoid or reduce environmental impacts where practicable [ER 5.15.15].
29. The Secretary of State therefore agrees with the ExA that the Applicant's ES gives enough consideration of alternatives to the Proposed Development [ER 4.7.13, fourth bullet] and sets out the reasons for the selection of the preferred option, taking into account the environmental effects and has conducted a robust, detailed and proportionate options appraisal [ER 5.15.142, first and second bullets]. The Secretary of State is satisfied that the Applicant has considered reasonable alternatives suggested by IPs, [ER 5.15.142, third bullet], and he has considered this in detail in the 'Traffic and Transport' section below. The Secretary is also satisfied that the Proposed Development has been subject to an options appraisal process, in line with paragraph 4.27 of the NPSNN.

### *Need for Gas Main Diversion*

30. The construction of the new road impacts on an existing gas main which, as a result, is proposed to be diverted. The Secretary of State agrees that this element should be treated as a Nationally Significant Infrastructure Project in its own right as it meets the threshold set out in sections 14(1)(f) and 20 of the PA2008 [ER 5.2.17 and 5.17.5].
31. The need for the diversion is because the pipeline runs parallel along the southbound carriageway of the A12. The Proposed Development cannot widen to the north as it would impact on Witham residential and business properties and the scale of the proposed earthworks and piling activities to construct retaining walls would not be safe or permissible if the gas main remained where it is [ER 5.2.18]. The Secretary of State therefore accepts there is a need to divert the pipeline. Alternative routes for the diversion and the policy need for new gas transmission infrastructure are considered in the section headed 'Diversion of the High-Pressure Gas Main' below, but the Secretary of State concludes that there is a need for the pipeline to be diverted.



## The Secretary of State's Conclusion on Need

32. The Secretary of State notes that the principle of the Proposed Development was supported in the LIRs from all host authorities [ER 5.2.25] and that while the majority of other representations expressed issues with specific elements of the Proposed Development, they predominantly supported the overall principle of the Proposed Development, subject to resolution of specific concerns [ER 5.2.27]. The Secretary of State has considered the location specific concerns raised by IPs and potential alternative routes at these locations further in the 'Traffic and Transport' section below. The Secretary of State agrees with the ExA that the Proposed Development is fully in accordance with the compelling need case for the provision of new national network infrastructure established in accordance with the requirements of the NPSNN and reinforced by other relevant national policies and strategies. As set out above, the Secretary of State agrees with the ExA that the Applicant has sufficiently considered alternative options for the Proposed Development which have been adequately tested by the Applicant. He therefore also agrees that substantial positive weight should be attached in the planning balance to the need for the Proposed Development [ER 5.2.35 and 7.3.12-7.3.13].

## Air Quality and Emissions

33. The Secretary of State notes that impacts from the Proposed Development on air quality and from emissions are considered in Chapter 6 of the Applicant's ES and are summarised by the ExA at ER 5.3.15 – 5.3.30. The Secretary of State notes that the Applicant's assessment of the impacts on and from the Proposed Development on air quality was undertaken in accordance with the Design Manual for Roads and Bridges ("DMRB") LA 105 Air Quality and associated Interim Advice Notes [ER 5.3.16]. The Secretary of State also notes that in examining the potential impacts, the ExA has had particular regard to the relevant requirements within the NPSNN in considering the effects of the Proposed Development in relation to air quality and the relevant sections of the Air Quality Directive, the Air Quality Standards, the Clean Air Strategy and to the relevant local plans and policies [ER 5.3.73].

34. The Secretary of State notes that during the Examination the ExA considered the expected impacts from the Proposed Development on a number of Air Quality matters including:

- Baseline conditions, assessment methodology, modelling and legislative changes;
- Construction effects; and
- Operational effects [ER 5.3.31].

### *Baseline conditions, assessment methodology, modelling and legislative changes*

35. The Secretary of State has noted the ExA sought clarification and explanation regarding the Applicant's position of a worst-case scenario and the Applicant's NO<sub>2</sub> diffusion survey and whether the approach had been agreed with the local planning authorities and has considered the representations made on this matter set out in ER 5.3.32 – 5.3.66 of the Report. He has also had regard to the Applicant's response set out at ER 5.3.67 – 5.3.72 where the Applicant's position

was that while there would be an increase in annual mean NO<sub>2</sub>, PM<sub>2.5</sub> and PM<sub>10</sub> at a number of locations across the study area, with the exception of three exceedance all others would fall below the UK Air Quality Standards [ER 5.3.67] and in relation to the identified exceedances the Applicant's position was that while exceedance of the Air Quality Objectives was predicted it did not trigger a significant effect [ER 5.3.69]. The Secretary of State notes that the ExA was satisfied with the Applicant's assessment of the potential air quality impacts expected as a result of the Proposed Development. In particular, the Secretary of State notes that the ExA was satisfied with the Applicant's response on the impact of the uptake of low-emissions vehicles and accepted that the Applicant's assessment is likely to represent a conservative scenario because the assessment does not take into account the ban on sales of petrol and diesel cars [ER 5.3.40 and 5.3.76]. The Secretary of State agrees with the ExA that the Applicant's assessment takes a robust position in relation to the use of low-emissions vehicles and Government policy towards petrol and diesel vehicles [ER 7.3.21].

36. The Secretary of State has had regard to the lack of substantive concerns from the relevant pollution control authorities and the UK Health Security Agency and therefore considers that no evidence has been submitted to the ExA to demonstrate that any required consents or licences would not be granted in due course should they be required. The Secretary of State therefore agrees with the ExA that paragraphs 4.55 and 4.56 of the NPSNN are satisfied [ER 5.3.74].
37. In response to concerns raised by IPs on the Applicant's use of the DMRB and the recently published World Health Organisation air quality guidelines and a question on this from the ExA, the Applicant stated that it has assessed air quality impacts against the legally binding UK Standards, which are set for the protection of human health and the environment. As the WHO guidelines are not part of UK legislation or policy, the NPSNN requires no assessment against them. The Applicant was of the view that they therefore carry little weight in decision making [ER 5.3.42]. The ExA considered that in relation to concerns expressed about the Applicant's use of the DMRB no substantive evidence was submitted during the Examination to bring the Applicant's approach into doubt and it was further noted by the ExA that it was agreed as a suitable approach with the relevant local planning authorities [ER 5.3.77]. The Secretary of State agrees.
38. The Secretary of State is aware that during the Examination, new UK targets for PM<sub>2.5</sub> were announced in a Ministerial Statement in December 2022. The Environmental Improvement Plan, published in January 2023 and during the Examination, required the Secretary of State to set a long-term targets for air quality, and a target for the annual average concentrations of PM<sub>2.5</sub> in the air in accordance with the Environmental Targets (Fine Particulate Matter) (England) Regulations 2023. It is noted that the new legally binding target for PM<sub>2.5</sub> annual average concentrations is set at 10 µg/m<sup>3</sup> to be reached by 31 December 2040. There is also an interim target of 12 µg/m<sup>3</sup> by 31 January 2028.
39. The Secretary of State is aware that the Environmental Targets (Fine Particulate Matter) (England) Regulations 2023 were made on 30 January 2023 and came into effect on 31 January 2023. This introduces an annual mean concentration target of 10µg/m<sup>3</sup> and a population exposure reduction target of at least 35% to be achieved by the end of 2040. Submissions during the Examination questioned

the impact of the construction and operation of the Proposed Development on its compliance with the new targets set for PM<sub>2.5</sub>. The annual mean concentration target is met by 31 December 2040 if, at every relevant monitoring station, the annual mean level of PM<sub>2.5</sub> in ambient air, calculated in accordance with the regulations, is equal to or less than the target level in the year 2040. The Applicant pointed out that the nearest such monitoring station is at Southend on Sea, some way from the Proposed Development. The Applicant confirmed that it had used the UK Air Quality Standards for particulates (i.e. 40 µg/m<sup>3</sup> and 20 µg/m<sup>3</sup> for PM<sub>10</sub> and PM<sub>2.5</sub> respectively) in their assessment for the determination of significant effects [ER 5.3.44]. The Secretary of State would point out that Government policy on how the 2040 target will be achieved is still emerging and therefore the Limit Values in the Air Quality Standards Regulations 2010 remain in force and are the most relevant limit for the purposes of this decision.

### *Construction Effects*

40. The Secretary of State has considered the concerns raised in relation to impacts from dust during the construction phase on a number of receptors. The Secretary of State notes that the ExA was satisfied that the Dust Management Plan which would be secured through the Register of Environmental Actions would mitigate construction dust to an acceptable level [ER 5.3.82]. The Secretary of State also notes that all host local authorities confirmed that the Dust Management Plan complied with the latest guidance and that they were satisfied that it included the necessary measures to monitor mitigation effectiveness [ER 5.3.46]. The Secretary of State is satisfied that the Applicant has in place sufficient measures to manage potential risks to air quality on sensitive receptors.
41. The Secretary of State has also considered the concerns regarding the impacts from vehicles seeking alternative routes to avoid construction works on the Maldon and Danbury Air Quality Management Area would have the potential to impact on existing poor air quality and contribute to poor air quality in Hatfield Peverel and Boreham [ER 5.3.48]. The Secretary of State agrees with the ExA that it is possible that some drivers may seek to avoid construction works and could result in additional traffic seeking access to the A12 via Danbury. The Secretary of State notes, however, that the ExA considers that such activity would be temporary and that it found no robust evidence to suggest that this would be at level that would result in an adverse effect on the Air Quality Management Area. The Secretary of State notes that the Applicant's Outline Construction Management Plan provides mitigation to ensure that such traffic movements are kept to a minimum ensuring that the majority of drivers remain on the designated routes [ER 5.3.83].

### *Operational Effects*

42. The Secretary of State is aware that in a number of locations, air quality is predicted to improve as a result of the Proposed Development due to changes in traffic flows or as a result of the re-alignment of the main carriageway [ER 5.3.70 and 5.3.87]. The Secretary of State notes that the ExA's conclusions that while there would be an increase in annual mean NO<sub>2</sub> and PM<sub>2.5</sub> and PM<sub>10</sub> at a number of locations in the study area as a result of the Proposed Development with the exception of three receptors set out in further detail in the paragraph below, all others would fall below UK Air Quality Standards thresholds [ER

5.3.85]. The Applicant concluded that there would therefore be no significant effects to human health during the construction and operation of the Proposed Development [ER 5.3.67] and the Secretary of State has no reason to disagree with this conclusion.

43. During the Examination, the ExA sought further clarification from the Applicant on the air quality impacts on two residential dwelling receptors (R189 and R193) located within the Lucy Lane North Air Quality Management Area in Colchester and on a property in Boreham (R225) [ER 5.3.53 - 5.3.54]. This was because the Applicant predicted that Air Quality Standards thresholds would be exceeded at these locations [ER 5.3.55]. The ExA accepted that while an exceedance of the Air Quality Objective was predicted at these locations, the Applicant had modelled a conservative assessment scenario [ER 5.3.68 and 7.3.25] and that these modelled exceedances were not likely to result in a significant air quality effect in relation to EIA or that it would require the designation of further Air Quality Management Areas [ER 5.3.6, 5.3.86 and 7.3.25]. The Secretary of State notes that the Applicant has committed to undertaking additional monitoring at these three locations and that this had been agreed with the relevant local authorities as confirmed in the Statement of Common Ground (“SoCG”) between them and the Applicant [ER 5.3.68].
44. In relation to impacts on Messing, the Secretary of State notes that the ExA found that while air quality may decline as a result of additional traffic once the Proposed Development is operational, it considered, based on the evidence that had been submitted, these effects would not be significant [ER 5.3.88].
45. On air quality impacts from the operation of the Proposed Development overall, the ExA concluded that while there would be worsening of air quality for some receptors during operation, they would not give rise to any significant effects upon air quality and found the operational impacts to be acceptable. The ExA was also content that as no significant effects were identified, no further mitigation measures were required [ER 5.3.90].

#### The Secretary of State’s Conclusion on Air Quality and Emissions

46. The Secretary of State agrees with the ExA’s overall conclusion that while there would be localised net worsening in local air quality within the Applicant’s study area as a result of construction of the Proposed Development, this would be limited and localised in nature and unlikely to result in any significant air quality effects [ER 5.3.91]. The Secretary of State notes that as a result of the Proposed Development, there would also be improvements to air quality at a number of locations due to either changes in traffic flows or as a result of the re-alignment of the main carriageway [ER 5.3.70]. The Secretary of State agrees with the ExA that in considering the likely effects on air quality, the Applicant has followed national guidance and policy and has complied with paragraphs 5.3 to 5.15 of the NPSNN [ER 7.3.26]. Like the ExA, the Secretary of State is also content with the Applicant’s consideration of measures to mitigate against potential effects and notes that these measures are secured in the DCO and the first iteration Environmental Management Plan (“EMP”) which includes the Register of Environmental Actions [ER 7.3.23]. The ExA, having considered the wider policy aims of seeking to improve air quality, considered that the localised net worsening in local air quality weighs negatively against the granting of the DCO

[ER 7.3.29]. The Secretary of State has considered this further in the Planning Balance section of this letter.

### Biodiversity and the Natural Environment

47. The Applicant's assessment of the effect of the Proposed Development on biodiversity and the natural environment is contained in Chapter 9 of the ES. The main biodiversity issues considered during the Examination included:
- the assessment methodology and overall approach;
  - effect of Proposed Development upon flora and fauna; and
  - Biodiversity Net Gain [ER 5.4.54].
48. The Secretary of State is aware that during the Examination, further information was submitted including:
- Supplementary Bat Survey Report;
  - Dormouse Survey Report;
  - Technical Note on Ecological Mitigation; and
  - Biodiversity Net Gain Metric [ER 5.4.18].
49. The Applicant concluded that during construction there would be temporary adverse effects on several biodiversity features, but that with the implementation of the measures to mitigate against these effects the impact would be neutral to slight adverse and therefore would not be significant [ER 5.4.42]. The Applicant also concluded that with the implementation of their proposed mitigation measures, there would be potential for slight beneficial effect upon other habitats and protected species [ER 5.4.43].
50. The Applicant also concluded that during operation, a significant adverse impact is predicted for Perry's Wood Local Wildlife Site and Perry's Wood Ancient Woodland due to an increase in nitrogen deposition which the Applicant considered would have an effect on site integrity, the significance of which is large adverse [ER 5.4.45]. The Applicant also found that slight adverse effects are predicted on Whetmead Local Wildlife Site and Local Nature Reserve, Braxted Park Local Wildlife Site, Boreham Road Gravel Pits Local Wildlife Site and on veteran and potential veteran and ancient trees. These effects were not considered to be significant [ER 5.4.46]. The Secretary of State has taken account that overall, the Applicant considered that its mitigation and compensation proposals provide sufficient essential mitigation for protected species [ER 5.4.47].
51. The Secretary of State notes that a number of concerns in relation to biodiversity and the natural environment were raised during the Examination [ER 5.4.72] including those relating to loss of habitat, bat habitat connectivity and impacts on protected species.
52. By the close of Examination, the concerns raised by Witham Town Council on the loss of habitat in the Whetmead Local Nature Reserve and the adequacy of the proposed replacement land [ER 5.4.65], and the concerns raised by Essex County Council regarding impacts to flora and fauna were resolved [ER 5.4.66].

53. On habitat loss as a result of construction, the Secretary of State is aware that while construction would result in a loss of 44.78ha of lowland mixed deciduous woodland and 15.81km of hedgerows, the landscape mitigation proposals include replanting of replacement woodland and the creation of hedgerows with an overall net gains of 42.52ha and 26.34ha respectively [ER 5.4.75].
54. The Applicant stated that the loss of five potential veteran trees cannot be avoided nor mitigated [ER 5.4.76], and that it was not possible to mitigate against the impact on Perry's Wood Local Wildlife Site and ancient woodland [ER 5.4.77]. The Applicant has proposed offsetting through the creation of 7.4ha of broadleaved woodland habitat as part of the restoration of borrow pit F. The Applicant also set out measures, such as ensuring replanting, would reflect the same species composition typical of Perry's Wood and other ancient woodlands in the local area [ER 5.4.77]. Given the size of the loss, the ExA concluded that although these losses in the short term were adverse, it was satisfied that the proposed mitigation measures would provide more than sufficient compensatory habitat of equal or potentially better habitat [ER 5.4.95].
55. The connectivity of bat habitat, potential impact on biodiversity and habitat loss was considered by the ExA [ER 5.4.68-5.4.75]. In relation to bat habitat, the Applicant confirmed that discussions had taken place with key stakeholders regarding their bat survey work and that no objections were made in relation to the deviation from the Bat Conservation Trust guidance [ER 5.4.69]. The Secretary of State notes that the Applicant considered that the connectivity of bat habitat would be maintained through a number of ways including the retention of unaffected bridges, provision for widened bridges and retention of linear navigational features on either side of the Proposed Development. In addition, mitigation and enhancement would reconnect severed commuting and foraging routes and increase foraging and resources for bats, once habitats have matured [ER 5.4.70]. The Applicant confirmed that Natural England will be consulted on the monitoring and reporting arrangements. The Applicant also confirmed that monitoring of the bat crossing points during and after construction are commitments in the Register of Environmental Actions and Commitments and that monitoring proposals will be developed further in the second and third iteration EMP [ER 5.4.71].
56. The ExA concluded that little evidence to support the concerns regarding impacts on specific species was submitted during the Examination [ER 5.4.96] and that by the end of the Examination there were no substantive issues in relation to bats, badgers or great crested newts. The Secretary of State notes that the Register of Environmental Actions and Commitments requires the Applicant to undertake pre-construction surveys for protected species including bats, badger, barn owl, otter, water vole, and reptiles [ER 5.4.78]. In addition, the Secretary of State is aware that by the close of Examination, the Applicant had obtained an 'Impact Assessment and Conservation Payment Certificate' through Natural England's District Level Licensing for great crested newt and had also obtained Letters of No Impediment for both badger and bats [ER 5.4.79].

#### The Secretary of State's conclusions on Biodiversity and the Natural Environment

57. The Secretary of State agrees with the ExA that the Applicant has undertaken a thorough and detailed assessment of biodiversity matters that would be affected

by the Proposed Development, both directly and indirectly [ER 5.4.91]. The ExA recorded that the local planning authorities and Natural England were also satisfied with the Applicant's assessment methodology and overall approach [ER 5.4.55], and that Natural England also confirmed that they were generally satisfied that the relevant legislation and national policy relating to biodiversity had been identified and that, where relevant, their Standing Advice had been followed [ER 5.4.56].

58. The Secretary of State considers that the loss of five veteran trees and the significant adverse effect on Perry's Wood Local Wildlife Site and Perry's Wood Ancient Woodland would weigh against the Proposed Development but that positive effects on certain habitats and species mean that the harm should be afforded limited weight [ER 5.4.102 – 5.4.105]. The Secretary of State has considered this further in the Planning Balance section. The Secretary of State has also had regard to the matters mentioned in regulation 7 of the Infrastructure Planning (Decisions) Regulations 2010 and note that the ExA were content that the Proposed Development accords with the aims of the United Nations Environmental Programme Convention on Biological Diversity of 1992 [ER 10.2.10].

## Climate Change

### *Background*

59. Section 104 of the PA2008 states that the Secretary of State must decide an application for a national networks Nationally Significant Infrastructure Project in accordance with the NPSNN unless he is satisfied that one or more of the following exceptions contained in section 104(4) to (8) apply: doing so would lead to him being in breach of any duty imposed on him by or under any enactment; doing so would be unlawful by virtue of any enactment; the adverse impact of the proposed development would outweigh its benefits; or doing so would lead to the UK being in breach of its international obligations [ER 5.5.2].
60. The UK's international obligations include its obligations under the Paris Agreement, which was ratified by the UK Government in 2016, after the NPSNN was designated in 2014 [ER 5.5.4]. This is translated in the UK by way of the carbon budgets set under the Climate Change Act 2008. In June 2019, the Government announced a new carbon reduction 'Net Zero target' for 2050 which was given effect by the Climate Change Act 2008 (2050 Target Amendment) Order 2019 [ER 3.5.17]. This is a legally binding target for the Government to cut carbon emissions to net zero, against the 1990 baseline by 2050.
61. The Climate Change Act requires five-yearly carbon budgets to be set 12 years in advance so as to meet the 2050 target. Six carbon budgets have been adopted. The time periods covering the third ('3CB'), fourth ('4CB'), fifth ('5CB') and sixth ('6CB') carbon budgets are 2018-2022, 2023-2027, 2028-2032 and 2033-2037 respectively. Achieving net zero will require future greenhouse gas ('GHG') emissions to be aligned with these and any future new or revised carbon budgets that may be set out by Government to achieve the 2050 target. Compliance with the Climate Change Act 2008 (as amended) would provide a route towards compliance with Nationally Determined Contributions as set out in the Paris Agreement.

62. The Secretary of State notes that the impact assessment methodology applied by the Applicant is set out in Design Manual for Roads and Bridges (DMRB) LA 114 Climate ("DMRB LA 114") as updated in June 2021, which requires the calculation of estimated carbon emissions from the construction and operation of the scheme and assessment of these against the carbon budget period in which they arise.
63. DMRB LA 114 requires that climate change impacts of the scheme are assessed against the latest United Kingdom Climate Change Projections published by the Met Office. The Applicant's assessment used the latest available projections (i.e. UK Climate Projections 2018). [ES Chapter 15: Climate]

*Assessing the Impacts of the Proposed Development*

64. The Applicant's assessment of the impact of the Proposed Development impact on Climate is outlined at ER 5.5.12- 5.5.25 with table 6 setting out an assessment of GHG emissions compared to UK carbon budgets (assessed as carbon dioxide equivalent emissions and referred to here as carbon emissions) with regard to construction and operational effects of the Proposed Development.
65. The Applicant estimates that that total carbon emissions that will result from the construction phase over the carbon budget period 427,801tCO<sub>2</sub>e with the total operational emissions over this period estimated to be 7,577,097 tCO<sub>2</sub>e [ER 5.5.18]. The Secretary of State notes that the Applicant's assessment accounts for embodied carbon within materials used, carbon used in transport during construction and operation and changes in land use affecting the storage of carbon [ER 5.5.17].
66. The net carbon emissions would equate to 0.024% of CB4, 0.009% of CB5 and 0.015% of CB6 [ER 5.5.18]. This means contributions in any of the carbon budgets are expected to be a maximum of 0.024%. The Secretary of State notes that this identifies the impact of the emissions of the Proposed Development itself. The Secretary of State also considers that this is an acceptable way to approach an assessment of the in combination impacts of the Proposed Development for the reasons set out more fully below.
67. The Applicant states that the ES assessment is conservative because the vehicle fleet projections used do not yet account for more recent government plans to decarbonise the UK vehicle fleet (in particular heavy goods vehicles) [APP-082]. The Applicant also provided two sensitivity tests which seek to reflect the impact of the Transport Decarbonisation Plan in Table 15.24 of the ES. These sensitivity tests show that, using the upper bound of the emissions reductions anticipated from the TDP, the impact of the Proposed Development against carbon budgets would be lower: 0.002% of CB4, 0.008% of CB5 and 0.009% of CB6.
68. The Applicant concluded that the Proposed Development is estimated to result in an increase in carbon emissions during both construction and operation but considered the impact on climate to be not significant as the Applicant considered it unlikely to have a material impact on the ability of Government to meet its carbon reduction targets [ER 5.5.22]. The ExA highlighted that the Applicant did not consider the emissions from the proposed gas main diversion as part of the assessment as the information required was not available but the Applicant considered that these were negligible in comparison to the Proposed



Development [ER 5.5.23]. The Secretary of State notes that no concerns were raised by the ExA on this and has no reason to disagree with this.

69. The Secretary of State has also had regard to paragraphs 3.8 and 5.17 of the NPSNN. Paragraph 3.8 sets out that the impact of road development on aggregate levels of emissions is likely to be very small and that the impacts of road development need to be seen against significant projected reductions in carbon emissions as a result of current and future policies to meet the Government's legally binding carbon budgets. Paragraph 5.17 sets out that it is very unlikely that the impact of a road project will, in isolation, affect the ability of Government to meet its carbon reduction plan targets.
70. The Secretary of State considers that there is no set significance threshold for carbon but as set out in paragraph 5.18 of the NPSNN, an increase in carbon emissions is not a reason to refuse development unless any increase is so significant that it would have a material impact on the ability of Government to meet its carbon reduction targets. The question of whether there is a material impact is a judgement to be made by the decision maker. In this case, the Secretary of State is satisfied with the assessment of the Proposed Development's impact on carbon emissions (including cumulative effects), that it complies with the requirements of paragraphs 5.16, 5.17 and 5.18 of the NPSNN and, noting the predicted impact on carbon budgets as set out above, is satisfied that the Proposed Development would be unlikely to materially impact the ability of the Government to meet its carbon reduction targets. As set out in more detail below, the Secretary of State also considers that the Applicant's assessments represent a conservative assessment and therefore, as recognised by paragraph 5.18 NPSNN, he considers that the impacts may ultimately be lower than those assessed given the range of non-planning policies adopted by Government which seek to reduce carbon emissions from road transport, as set out in the Applicant's TDP sensitivity assessment.

#### Examination issues

71. The Secretary of State notes that objections on this matter were put forward by Climate Emergency Planning and Policy ("CEPP") as summarised at ER 5.5.30.
72. CEPP considered that no assessment of the impact of cumulative carbon emissions had been undertaken in the ES thus breaching the EIA Regulations [ER 5.5.30]. The Secretary of State has taken account of the Applicant's response that the criticism of the assessment is founded on a mis-reading of the EIA Regulations and that these Regulations require an ES to consider the effects of the proposed development itself in combination with other existing and/or approved projects. [ER 5.5.45]. The ExA highlighted that the case of R (Boswell) v Secretary of State for Transport [2023] EWHC 1710 confirmed that the same approach taken by the Applicant is lawful with regard to assessing the cumulative carbon emissions and the approach taken to the assessment of likely significant cumulative effects as part of the EIA is appropriate and in line with relevant policy and legislation [ER 5.5.56]. The Secretary of State acknowledges that the approach and methodology adopted by the Applicant for the Proposed Development is the same as that adopted for the A47 road schemes that were considered in the Boswell case. While the Secretary of State appreciates that this case is subject to appeal, the position of the Secretary of State is that the decision of the High Court in that case currently supports the legitimacy of his

overall view that the Applicant's assessments and methodology are reasonable and provide a sufficient basis for reaching a conclusion on the likely significant effects of the Proposed Development when taken together with other existing and/or approved projects on climate. The Secretary of State remains of the view there is no single prescribed approach to assessing the cumulative impacts of carbon emissions and there may be a number of ways such an assessment can acceptably be undertaken but the approach adopted by the Applicant is acceptable and enables an assessment to be undertaken. The Secretary of State notes that for the impact and effect of carbon emissions on climate change, unlike other environmental topics, there is only a single receptor impacted by carbon emissions (the atmosphere) and it is a global one.

73. The Secretary of State considers that as carbon budgets and the 2050 target relate to the whole of the UK economy and society and are legally binding, they reflect what the UK's impact will be on this receptor as they set out what carbon levels can reasonably be expected to occur in the future (because they represent a legal limit on what can be emitted). It is therefore considered that as legally binding budgets they provide a reasonable reference point for considering the effects of carbon from the Proposed Development where these legally binding budgets are relevant to a consideration of cumulative effects of the Proposed Development in that they represent the limit of the emissions that are legally permitted overall within each carbon budget period from the range of sectors including transport. Given the global nature of the impacts of carbon, and the nature of the legally binding budgets, the Secretary of State considers that an alternative approach of seeking to assess the impact of the Proposed Development with other local schemes, or with other road schemes, against the cumulative carbon budget would be arbitrary. This is because the nature of carbon emissions is that their impact will not be local, or sector specific, meaning assessing local schemes only, or sector specific schemes, will provide limited additional information and selecting one scheme to include over another (regardless of its sector or location) would again be arbitrary. Further, if a local or sectoral approach was to be adopted, this would only provide a partial picture of the cumulative impact of the proposed development in any event. By contrast, the purpose of the carbon budgets is to ensure the cumulation of emissions from a range of sectors across the UK do not exceed those budgets. How Government compensates for emissions from one sector through reductions in another and the policies that are put in place to meet carbon budgets are outside the scope of consideration for this application, but the Secretary of State notes that there are processes in place for Government to monitor whether it is on track to meet carbon budgets and there is a legal duty under section 13 of the Climate Change Act 2008 for the Secretary of State for Energy Security and Net Zero to prepare such proposals and policies as they consider will enable carbon budgets to be met on a whole-economy basis. The Secretary of State therefore considers that the Applicant's approach which takes account of these carbon budgets for the purposes of its cumulative assessment is reasonable, proportionate, and accords with the principles set out in the Institute of Environmental Management and Assessment ("IEMA") guidance that a) GHG emission impacts are global rather than affecting one localised area and b) there is no basis for selecting one or more particular cumulative projects for assessment over any other(s).

74. In its Deadline 2 submissions CEPP criticised the Applicant's assessment of cumulative effects on the basis that the emissions from other existing and/or proposed development within the traffic model was treated as part of the baseline. However, for the reasons set out above, the Secretary of State considers that the Applicant's approach is appropriate and provides sufficient information on the cumulative effects of the Proposed Development. The Secretary of State notes that CEPP did not suggest any specific alternative methodology for cumulative assessment nor any local or sectoral target to assess the impact of the Proposed Development against.
75. CEPP raised concerns that the Department for Transport's Decarbonisation Plan sensitivity test included in the Applicant's assessment is not based on any standard or documented guidance [ER 5.5.30]. The Applicant however responded that the results of the test in the ES were provided for contextualisation only and had not been used as the basis for the assessment of significance of the impact of the Proposed Development on climate [ER 5.5.37]. As set out above, the Secretary of State has considered the impacts of the Proposed Development as assessed by the Applicant in reaching his overall conclusion on carbon emissions, although he has noted the sensitivity test carried out and further notes that it shows the impacts of the scheme are assessed as a lower percentage of carbon budgets if the TDP policies are taken into account.
76. CEPP also argued that the Applicant's assessment does not follow the IEMA guidance as there is no contextualisation of the greenhouse gas emission assessment against local, regional and sectoral targets and instead makes a sole assessment of significance against the entire UK economy carbon budget. CEPP also raised concerns that Essex already has much greater emissions from transport than the East of England or the UK and the Proposed Development will result in large construction emissions and introduce new emissions into Essex from 2027 that are so significant that they would have a material impact on the ability of the Government to meet its carbon reduction targets [ER 5.5.30]. The Secretary of State agrees with the Applicant that the only statutory carbon budgets are those at a national level and that there are no sectoral targets or targets set at a subnational geographical scale [ER 5.5.38] (in contrast to what appears to be stated in the final sentence of ER 5.5.57 as carbon budgets are not set by sector). Noting that there are no sectoral targets and that the only statutory carbon budgets are those at a national level and that the impact of carbon emissions is not limited to a specific geographic area or sector, the Secretary of State is satisfied that an appropriate assessment against the statutory carbon budgets has been undertaken and that paragraph 4.4 of the NPSNN has been complied with. The Secretary of State is therefore satisfied that the ES is adequate and there is no requirement to consider local or regional targets.
77. CEPP also raised concerns that the benefit cost ratio ("BCR") omitted construction carbon emissions and that the value of cumulative operational carbon emissions from the Proposed Development had not been used in the benefit side of the BCR because no cumulative assessment had been carried out [ER 5.5.30]. The Applicant responded that these had not been included, in line with guidance at the time the assessment was undertaken, but that when the

economic assessment is next updated as part of the funding approval process, the monetised impacts of construction carbon emissions will be included [ER 5.5.39]. While the Secretary of State has considered the BCR, its primary purpose is as a component of a business case used to inform investment decisions on a proposed development. The Secretary of State has therefore taken into account the wider information in the ES, the representations of interested parties and the Report in his consideration of the benefits and the impacts of the Proposed Development. The ExA also noted that a technical note describing the sensitivity test for the Proposed Development that estimated monetised construction and operational emissions in a BCR showed that the scheme remained medium value for money [ER 5.5.43]. The Secretary of State has not seen any evidence which causes him to disagree with the ExA's assessment but the Secretary of State is satisfied that funding decisions are subject to a separate process in any event and the Secretary of State has not solely relied on the Applicant's assessment of the BCR when considering the impacts of the Proposed Development or in reaching his conclusions on the overall planning balance.

78. CEPP set out that they considered that no scheme increasing carbon emissions which will have a material impact on Government's ability to meet the UK carbon reduction targets can be justified in the planning balance [ER 5.5.30]. The Secretary of State has had regard to the Applicant's response that whilst the Proposed Development will result in an increase in GHG emissions, the magnitude of this increase is considered to be not significant [ER 5.5.41]. The Secretary of State considers that this is a matter of judgement. As noted by the ExA, the Secretary of State considers that the Net Zero Strategy: Build Back Greener', published by Government in October 2021 and the Carbon Budget Delivery Plan published in March 2023 (together referred to as the 'Net Zero Strategy') as well as the Transport Decarbonisation Plan set out a range of non planning policies and how the UK will deliver on the Climate Change Act 2008 and as such provide a framework to support the achievement of net zero through the use of the legally binding carbon budgets [ER 5.5.58]. CEPP submitted that the "delivery risk" in the proposals set out in the Net Zero strategy should be taken into account. The Secretary of State notes that the Carbon Budget Delivery Plan sets out the quantified impact of policies and proposals across all sectors with respect to meeting carbon budgets and also relies on unquantified policies, which together form the basis of the Secretary of State for Energy and Net Zero's conclusion that they have in place policies and proposals which will enable carbon budgets to be met. The Secretary of State considers that it is appropriate for him to take into account the Net Zero Strategy and that the question of delivery risk does not affect his conclusions on the impacts of the Proposed Development. The CBDP records in Appendix D that the Government has reasonable to high confidence in the delivery of the commitments in the Transport Decarbonisation Plan in any event. Further, the ExA concluded that the principle of constructing new roads did not conflict with the Net Zero Strategy or Transport Decarbonisation Plan [ER 5.5.58 and 5.5.59]. The Secretary of State is satisfied that in light of the net construction and operation emissions that have been identified, that consenting the Proposed Development will not affect the delivery of the Net Zero Strategy, or net zero in principle, nor will it have a material impact on the ability of Government to meet the national carbon budgets and it will not

lead to a breach of the UK's international obligations in relation to the Paris Agreement or any domestic enactments or duties.

79. The Secretary of State also notes the objections raised by the Transport Action Network ("TAN") and the request that regard be given to the recommendations of the Climate Change Committee ("CCC") submitted to Parliament on 23 June 2023 and that the ExA should note that they considered that the proposed scheme would lock in unsustainable levels of traffic growth and that the proposed scheme would increase traffic growth, not reduce it [ER 5.5.34]. The Secretary of State notes that the CCC's advice is directed at the issue of achieving compliance with carbon budgets overall and the CCC has not set out any recommendations with respect to individual planning decisions or development consent applications. The approach to development consent applications is set out in the NPSNN and the CCC's advice is not planning policy but simply advice to Government, which Government is free to accept or reject. The Government responded to the CCC's report on 26 October 2023 and to the particular recommendations raised by TAN, stating in particular that National Highways already provide environmental impact assessments to allow consenting authorities to take decisions that are consistent with environmental policy and legislation and that, as set out in the TDP, the Government will continue to adapt and take further action if needed to decarbonise transport. The Secretary of State does not consider that there is anything in the Government's response to the CCC report that alters his consideration of this application.
80. The ExA noted that the Secretary of State may wish to give consideration to the changes in September 2023 to the 2030 target for the sale of new petrol and diesel vehicles. This relates to the Prime Minister's announcement on 20 September 2023 to postpone the ban on the sales of new petrol and diesel cars from 2030 to 2035. The Secretary of State notes that the Zero Emission Vehicle Mandate, which sets out the percentage of new zero emission cars and vans manufacturers will be required to produce up to 2030 is now in force which means that 80% of new cars and 70% of new vans sold in Britain will need to be zero emission by 2030, increasing to 100% by 2035. The Secretary of State invited the Applicant on 27 October to confirm if any update is needed to the carbon assessment or any other assessment that supports the application was required as a result of the announcement. The Applicant responded on 9 November 2023 stating that this did not affect the air quality modelling or assessment of greenhouse gas emissions as the road traffic forecasts published in DfT's TAG Databook, which were used in the development of the Emissions Factor Toolkit v11 (published by Defra) ("EFT") used to assess the Proposed Development's impacts do not currently allow for the introduction of the Zero Emissions Mandate. Therefore, the proposed delay to the ban to 2035 would not affect the traffic fleets in the TAG Databook, which in turn would not affect the fleets in the EFT and consequently nor would it affect the precautionary modelling undertaken for the Proposed Development. The Applicant, therefore, considered that it did not need to update its carbon assessment or any other assessment that supported the DCO Application. Comments were sought on this in the consultation letter dated 20 November 2023. One respondent to the consultations queried the impact of the delay on air quality.

81. The Secretary of State accepts the Applicant's position that the postponement of the ban on the sales of new petrol and diesel cars to 2035 does not impact any conclusions on the assessment of greenhouse gas or other emissions in relation to this Application.

#### Climate resilience

82. The ExA noted that the Applicant undertook to submit a sensitivity test to reflect the latest values for climate change allowances for rainfall intensity and that the results would inform the detailed design of the scheme [ER 5.5.61]. The ExA set out that whilst the sensitivity test was not provided, the EA confirmed they were broadly satisfied with the FRA and raised no concerns on its absence and that given this and that measures are secured in the DCO to mitigate flood risk they were satisfied the Applicant had given consideration to potential changes to the risk of flooding should more radical changes in climate occur and had complied with paragraph 4.43 of the NPSNN [ER 5.5.62 - 5.5.63]. The Secretary of State agrees with the ExA's conclusions. Flood risk is further considered in the Road Drainage, Flood Risk and Water section of this letter.

#### The Secretary of State's Conclusion on Carbon

83. The Secretary of State is content that the Applicant has adequately assessed the likely significant effects of the Proposed Development on climate and its cumulative impacts on climate taking account of both construction and operation of the Proposed Development as required by the 2017 Regulations and this information has been taken into consideration when assessing whether development consent should be granted. Like the ExA the Secretary of State is also satisfied that appropriate mitigation measures have been proposed to reduce carbon emissions in terms of design and construction [ER 5.5.64]. The Secretary of State agrees with the ExA that with regard to design and construction, the effects of the Proposed Development neither weighs for nor against the DCO being made [ER 5.5.65].

84. The ExA considered that the relevant requirements in the NPS EN-1 and NPS EN-4 (including the draft updated versions) relating to this matter regarding the EIA of the gas main diversion works are not materially different to those set out in the NPSNN [ER 5.5.66]. The Secretary of State has no reason to disagree and is content that the relevant requirements of the NPSNN and NPS- EN1 and NPS EN4 have been met.

85. Overall, the Secretary of State considers that the information provided by the Applicant on the impact of the Proposed Development on carbon emissions (including the cumulative effects of carbon emissions from the Proposed Development with other existing and/or approved projects in relation to construction and operation) is sufficient to understand the impact on carbon emissions, to assess the effect of the Proposed Development on climate matters and represents the information that the Applicant can reasonably be required to compile having regard to current knowledge and in light of the information about the national carbon budgets.

86. The Secretary of State therefore considers that: over time the net carbon emissions resulting from the Proposed Development's operation will decrease as measures to reduce emissions from vehicle usage are delivered; the magnitude of the increase in carbon emissions resulting from the Proposed

Development is predicted to be a maximum of 0.024% of any carbon budget and therefore very small; and that there are a range of non-planning policies which will help to reduce carbon emissions over the transport network as a whole over time, such as, the Transport Decarbonisation Plan and the policies and proposals set out in the Net Zero Strategy which are designed to help to ensure that carbon reduction commitments are met. The Secretary of State is satisfied that the Proposed Development is compatible with these policies and that the very small increase in carbon emissions that will result from the Proposed Development can be managed within the Government's overall strategy for meeting net zero and the relevant carbon budgets. The Secretary of State considers that the Proposed Development will not materially impact the Government's ability to meet its net zero targets.

87. The Secretary of State is satisfied that the Proposed Development complies with the NPSNN and will not lead to a breach of any international obligations that result from the Paris Agreement or Government's own policies and legislation relating to net zero. The Secretary of State has also considered the policies in the draft NPSNN, including changes in wording of the policies from the existing NPSNN, relating to climate change and carbon emissions and does not consider that the emerging policy requires any materially different approach to his consideration of the Proposed Scheme, particularly as the draft NPSNN also recognises that granting consent for road schemes which give rise to residual carbon emissions can be consistent with meeting carbon budgets [ER 5.5.9-5.5.11].

88. The Secretary of State is aware that all emissions contribute to climate change and therefore agrees with the ExA that this matter weighs against the DCO being made but also agrees with the ExA that as emissions are likely to decrease over the lifetime of the Proposed Development, this is attributed limited weight in the planning balance [ER 5.5.68].

### Geology and Soils

89. The Secretary of State notes the Applicant's assessment of Geology and Soils as set out in Chapter 10 of the ES which has been undertaken in accordance with DMRB LA 109 Geology and Soils and DMRB LA 113 Road Drainage and the Water Environment in relation to land contamination issues [ER 5.6.9 - 5.6.10]. The Applicant identified:

- Potential Construction Impacts [ER 5.6.16 – 5.6.18];
- Potential Operation Impacts [ER 5.6.19];
- Design Mitigation and Enhancement Measures [ER 5.6.20 – 5.6.22]; and
- Residual Effects [5.6.23 – 5.6.27].

90. The ExA reports that matters relating to impacts on geology and soils that were considered during the Examination gave rise to little discussion, and that the ExA considered that its questions and those raised by IPs have been addressed through the Examination [ER 5.6.46]

### *Best and Most Versatile Land*

91. In respect of agricultural land, the Secretary of State notes that the Applicant's Agricultural Land Classification Survey found the land affected by the Proposed Development to be predominantly of Subgrade 3a and 3b quality, with local areas of Grade 2. Beyond the survey area, the assessment considered that 'unsurveyed agricultural land' was likely to be Grade 2 to Subgrade 3b [ER 5.6.13]. During construction, the Secretary of State notes that approximately 471ha of agricultural land would be permanently lost, including over 306ha of land classed as Grade 2 and Subgrade 3a Best and Most Versatile ("BMV") agricultural land, and that a further 87ha of agricultural land would be temporarily acquired for construction [ER 5.6.23].

92. The Secretary of State notes the ExA's conclusions on the various issues raised by a number of IPs and set out in ER 5.6.28 – 5.6.44 on the potential impacts from the Proposed Development on land. The ExA considered that:

- the Proposed Development would result in the loss of substantial areas of BMV agricultural land [ER 5.6.47];
- in terms of temporary loss, matters raised in respect of mitigation and the process of returning temporary land to agricultural use were adequately addressed and that the outstanding matters raised by Natural England ("NE") can be dealt with through the Second Iteration of the EMP, upon which NE are a consultee. Whilst there will be some impact during construction, this will be temporary and can be adequately mitigated [ER 5.6.48];
- while a scheme which did not include the construction of new off-line sections would be likely to have a lesser impact upon agricultural land than the current proposal, given the nature of surrounding agricultural land quality, along with the linear nature of the Proposed Development, an effect upon agricultural land is inevitable. Those areas which are not BMV agricultural land may well have other environmental constraints or may be located closer to sensitive receptors and the ExA considered that it would not be entirely possible to avoid the use of higher quality agricultural land without causing other potential environmental impacts [ER 5.6.49];
- the Applicant has sought to both minimise agricultural land take and avoid the use of higher-grade land where possible [ER 5.6.50]; and
- no substantive evidence was submitted to suggest that the Applicant's figures in respect of the potential impact on food production are incorrect, and that the benefits expected as a result of the Proposed Development more than outweigh the small impact on food production [ER 5.6.51];
- there was no reason to disagree with the Applicant's acceptance that due to permanent loss of agricultural land, the Proposed Development would result in a significant residual effect, and that this weighs against the making of the DCO [ER 5.6.52]

#### The Secretary of State's Conclusion on Geology and Soil

93. The Secretary of State is satisfied that the Applicant has sought to both minimise agricultural land take and avoid the use of higher-grade land where possible [ER 5.6.50]. He is also satisfied that the Applicant's assessment of impacts to geology and soils has been undertaken in accordance with current guidance and accords



with the requirements in the NPSNN [ER 5.6.45]. The Secretary of State agrees with the ExA that the permanent loss of BMV agricultural land weighs negatively against the Proposed Development, and that this loss should be attributed moderate weight in the planning balance [ER 5.6.53].

## Design

94. The Applicant's approach to detailed design is summarised at ER 5.7.4 to 5.7.8, and the main issues raised and considered by the ExA in the Examination were:

- compliance of the draft DCO with the Design Principles;
- indicative examples for bridges, fences, noise barriers etc; and
- locations where other considerations are likely to outweigh those relating to cost [ER 5.7.10].

95. The Secretary of State has taken account that the Design Principles document sets out the approach to guide the detailed design process and to ensure that 'good design' remains an integral element of the Proposed Development [ER 5.7.5], and the Design and Access Statement sets out how good design will be integrated in the walking, cycling and horse riding, landscape and structural proposals [ER 5.7.4]. In addition, the Secretary of State has observed that the Proposed Development has not yet been fully designed and so as to allow for some flexibility in design following the detailed design stage, the Applicant has used the Rochdale Envelope approach in its assessments within the ES and has set Limits of Deviation for both the horizontal and vertical alignment of aspects of the Proposed Development [ER 4.7.6]. Requirement 10 of the DCO requires that the detailed design for the Proposed Development must be carried out in accordance with the Design Principles document which are also controlled by certified plans and drawings to which the Proposed Development must be designed in accordance with requirement 10 and Schedule 12 of the DCO [ER 5.7.8].

96. The ExA considered that, given the importance of the Design Principles to the detailed design and the importance of delivering good design in accordance with paragraphs 4.28 to 4.35, of the NPSNN, it was necessary that the Design Principles should be referenced in requirement 10 (detailed design) [ER 5.7.11]. The ExA also recommended that to address the concerns raised by Chelmsford City Council, Essex County Council and others in relation to the final design and appearance of the Proposed Development and in particular a number of the proposed structures, a new subparagraph (3) should be inserted in requirement 10 to add precision to that requirement and is necessary to ensure the delivery of good design across the whole of the Proposed Development [ER 5.7.12].

97. The Secretary of State has considered requirement 10 as revised by the ExA. He notes the concerns of IPs about the design of specific features of the Proposed Development and, in terms of requirements, he considers it generally preferable that consultation on post-consent design work, where necessary, should be focussed on the specific issues of most concern to IPs. The Secretary of State notes that requirement 10(3) has been drafted in broad terms and, while its implementation may not delay the delivery of the Proposed Development, it could result in the utilisation of resources on issues where there is no real

difference between the parties in terms of detailed design. While he acknowledges that a similar requirement has been included in a previous DCO, he does not consider that that sets a precedent. Nonetheless, the Secretary of State accepts the ExA's proposed changes to requirement 10 but would emphasise that this does not set a precedent for future DCOs. He would expect future examinations to identify any specific key design issues where further consultation would be beneficial and to propose specific requirements as necessary.

98. The Secretary of State notes that various IPs including Essex County Council, Chelmsford City Council and Maldon District Council raised other issues on good design in relation to land use and traffic and transport which are detailed in ER 5.7.14 – 5.7.16. The Secretary of State has considered these issues in the corresponding sections below.

#### The Secretary of State's Conclusion on Design

99. The ExA was satisfied that that the Design and Access Statement and the Design Principles document demonstrates how the Proposed Development integrates 'good design' [ER 7.3.45]. Overall, the ExA concluded that the Proposed Development meets the 'good design' requirements of the NPSNN and that design has been an integral consideration [ER 5.7.24]. The ExA concluded that design weighs neither for nor against the Proposed Development and attributes this neutral weight in the planning balance [ER 5.7.26]. The Secretary of State agrees with this conclusion.

#### Historic Environment

100. The Secretary of State notes that the Historic Environment is considered by the ExA in Section 5.8 of the Report, and that the Applicant's assessment is contained within Chapter 7 of the ES and associated documents and its approach is summarised by the ExA in ER 5.8.12 – 5.8.19. The Secretary of State notes that the Applicant's assessment considered the known heritage baseline and the impacts on heritage assets that may occur during construction and operation of the Proposed Development and the resultant potential effects [ER 5.8.12].

101. During the examination, the ExA considered the expected impacts from the Proposed Development on a number of heritage assets including:

- Church of St Nicholas [ER 5.8.57]
- Messing Village Conservation Area [ER 5.8.58]
- Boreham House and Gardens [ER 5.8.59]
- Archaeology [ER 5.8.60]
- Scheduled Monuments [ER 5.8.61]

#### *Church of St Nicholas and Nearby Heritage Assets*

102. The Secretary of State notes the concerns raised by Maldon District Council about the impacts on the Grade I listed Church of St Nicholas, Grade II listed monument located west of St Nicholas Church, and other heritage assets in the Parish of Little Braxted [ER 5.8.34]. The Applicant's assessment in Appendix 7.9 of the ES confirmed that during construction HGVs would not be able to use this

route so there would be no impact on the nearby heritage assets in Little Braxted Lane from vehicles passing. The ExA also noted that the Applicant's assessment concluded that there were no predictions of any impacts on the setting on the Church of St Nicholas during construction or operation of the Proposed Development. [ER 5.8.49]. Like the ExA, the Secretary of State accepts the findings of the Applicant's assessment [ER 5.8.57].

103. The Secretary of State also notes Maldon District Council raised concerns regarding the 3 tonne weight restriction and 2 metre width restriction on the listed bridge located by the Mill House, Little Braxted Lane [ER 5.8.36 and REP2-068 (Deadline 2 Submission - Local Impact Report (LIR)), paragraph 6.7.4]. The Secretary of State notes that the SoCG agreed between Maldon District Council and the Applicant confirms that Little Braxted Lane would primarily be used by Cadent as a maintenance access and for inspections of their assets. The SoCG also confirms that the route would not be used for construction vehicles, noting both the weight and width restrictions [REP8-008 (Deadline 8 Submission - 8.11 Statement of Common Ground with Maldon District Council), reference number 2.6].

#### *Messing Village Conservation Area*

104. The Secretary of State notes concerns regarding impacts from noise and vibration on the Messing Village Conservation Area raised by a number of IPs including from Messing and Inworth Action Group [ER 5.8.43]. The ExA accepted the Applicant's response that there would be no impact on the Conservation Area in view of its distance from the Order Limit and that indirect impacts from increased traffic noise through Messing would not result in a loss of the main heritage value of the Conservation Area [ER 5.8.58]. The Secretary of State agrees with the ExA that the Proposed Development would not harm the character or appearance of the Conservation Area.

#### *Boreham House and Gardens*

105. The Secretary of State notes the concerns raised by Chelmsford City Council regarding potential impacts from proposed works at J19 Boreham Interchange on The Generals Grade II listed building, Grade I listed Boreham House and its Grade II listed park and gardens. The ExA noted that the Applicant defined the impacts on the three assets as moderate during construction and slight during operation [ER 5.8.23-5.8.24]. The impacts relate to the Applicant's 'worst-case' scenario assessment which listed of a group of trees subject to a tree preservation order to the east of The Generals, trees and vegetation to the east and west of the entrance to Boreham House including one horse chestnut tree subject to a tree preservation order, and trees along the main road at risk of being removed [REP7-025 (Deadline 7 Submission - 8.10 Statement of Common Ground with Chelmsford City Council), reference number 2.1].

106. The Secretary of State notes that in their SoCG with the Applicant, Chelmsford City Council indicated that they still had some residual concerns in the absence of detailed plans and drawings showing the extent of tree removal and mitigation. Chelmsford City Council also wanted reassurance that the proposed landscaping to mitigate against the impacts on Boreham House and its Registered Park and Garden will be sufficient [ER 5.8.59].

107. The ExA noted that the Applicant accepted that the trees west of Boreham House subject to a tree preservation order can be retained, and that it was the Applicant's intention, as set out in the Register of Environmental Actions and Commitments ("REAC"), to retain, if practicable, the trees along the north-eastern boundary of Boreham House that are listed as at risk of removal [ER 5.8.59].

108. The ExA also considered that this commitment would be closely monitored by Chelmsford City Council. The Secretary of State is therefore satisfied with the ExA's overall conclusions on these heritage assets [ER 5.8.63 – 5.8.66].

### *Archaeology*

109. The Secretary of State notes that Essex County Council took the lead on matters relating to the protection of heritage assets [ER 5.8.29]. In their LIR, Essex County Council set out that the Proposed Development would result in adverse impacts on archaeological remains in and close to the Order limits. The Secretary of State also notes that the East of England is recognised as an internationally important area for the study of the Palaeolithic Period and Essex County Council's concerns included potential impacts on Palaeolithic and palaeoenvironmental remains [REP2-055 (Deadline 2 Submission - Local Impact Report (LIR)), paragraph 9.7.4].

110. The ExA recorded that Essex County Council set out appropriate steps for mitigating any impacts on heritage assets in its LIR, and that these suggestions had largely been adopted by the Applicant [ER 5.8.32]. The Secretary of State notes that the Applicant had committed to provide a written scheme of investigation for archaeological mitigation during the detailed design, as set out in the REAC and secured by requirement 7 of the DCO. The Secretary of State notes that requirement 7 states that the written scheme must be prepared in consultation with the relevant planning authority and agreed with the County Archaeologist and also states that the Proposed Development must be carried out in accordance with the Archaeological Mitigation Strategy and the written scheme of investigation. The Secretary of State notes that Essex County Council considered the scope of the non-intrusive evaluation works set out in chapter 7 of the Applicant's ES and appendices were extensive [ER 5.8.30] and provides a good understanding of the archaeological potential within the Order limits.

111. However, the ExA recorded that in terms of Palaeolithic (and palaeoenvironmental) field evaluation, Essex County Council considered that the Applicant's assessment omitted areas including areas of known high potential and significance and therefore pressed for a wider coverage be undertaken [ER 5.8.30]. The Secretary of State is aware that Essex County Council's concerns regarding impacts on Palaeolithic and palaeoenvironmental remains were also highlighted during the Examination [ER 5.8.46].

112. In response to a question from the ExA, the Applicant confirmed that they had engaged a specialist with extensive experience. The Secretary of State is aware that the Applicant met with relevant historic environment stakeholders on 29 June 2023 to discuss outstanding issues related to Palaeolithic archaeological remains with the aim to revising the Archaeological Mitigation Strategy [ER 5.8.53]. However, the ExA's report recorded this issue as still being under

discussion at the close of the Examination, and that a revised mitigation strategy would be forthcoming [ER 5.8.60].

### *Scheduled Monuments*

113. The Applicant considered the impacts from the Proposed Development on the significance of Scheduled Monuments. The ExA confirmed that Historic England were broadly content with the Applicant's conclusions contained in the cultural heritage chapter of the ES and limited its comments to the two Scheduled Monuments, which are the Neolithic long mortuary enclosure at Appleford Farm and the medieval moat at Marks Tey Hall [ER 5.8.38-5.8.39]. The Secretary of State notes that Historic England consider harm would occur to these two protected assets although it identified that this harm would be less than substantial [ER 5.8.39 and 5.8.48]. The Secretary of State is aware that despite considerable engagement between the Applicant and Historic England which is evidenced in their SoCG [ER 5.8.40] the impacts on the setting of the Scheduled Monuments remained an area of outstanding disagreement at the close of the examination.

114. The Secretary of State also notes that while the Applicant and Historic England disagree on the level of harm that would result in the setting of these two assets. It was agreed that while there would be some impact on the setting the impacts amounted to less than substantial [ER 7.3.49]. The ExA agreed with the Applicant that further mitigation or compensation outside of the Order limits is not necessary since the assessment concludes that the effect is already reduced to slight adverse [ER 5.8.61]. The Secretary of State agrees with the ExA's conclusion.

### The Secretary of State's Conclusion on Historic Environment

115. The Secretary of State notes that overall, the ExA noted 45 residual significant effects on heritage assets during construction and six during operation, after mitigation has been applied. However, none of the identified effects were assessed as equating to substantial harm [ER 5.8.64]. The ExA concluded that the Proposed Development would result in harm to identified heritage assets, but that this harm would be less than substantial on the historic landscape during construction, and on archaeology and the historic landscape during operation [ER 5.8.65 – 5.8.66]. The Secretary of State agrees with the ExA's conclusions on the Historic Environment. The Secretary of State notes that, in respect of the areas forming part of the Applicant's archaeological evaluation, there was agreement between the Applicant and Essex County Council that construction of the Proposed Development would have a moderate adverse effect on archaeology. He also notes Essex County Council's observation that the significance of potential Palaeolithic sites has not yet been established through the fieldwork undertaken and its view that any identified Palaeolithic sites would be considered of high significance [APP-074 (6.1 Environmental Statement - Chapter 7: Cultural Heritage), Table 7.10 and REP2-055 (Deadline 2 Submission - Local Impact Report (LIR)), paragraphs 9.7.16 – 9.7.17].

116. Because there would be less than substantial harm to the significance of those designated historic assets mentioned above, paragraph 5.134 of the NPSNN requires the Secretary of State to weigh that harm against the public benefits of the proposal. This is considered in the section on planning balance [ER 5.8.86].

## Land Use

117. The ExA describes the land use of the 15 mile stretch between Chelmsford and Colchester on the existing A12 route that will be upgraded by the Proposed Development as primarily arable land with several commercial plots in various towns [ER 5.9.1]. The impacts on land use identified by the ExA in the initial assessment of principal issues concerned the construction and operational phase effects of the Proposed Development; the approach to land use; and the proposed mitigation [ER 5.9.2]. In the Report issues that the ExA focused on included impacts from the Proposed Development on: walkers, cyclists, horse riders and on public rights of way [ER 5.9.51-5.9.54]; Colemans Fisheries [ER 5.9.55]; Paynes Lane Bridge [ER 5.9.56]; Gershwin Bridge Boulevard [ER 5.9.58]; and Prested Hall [ER 5.9.62].
118. The Secretary of State notes that, the Proposed Development includes significant improvements for walkers, cyclists and horse riders and will result in a net gain of 4,765m of Public Rights of Way, 490m of bridleway, 12,007m of cycleway and 3,291m of footway. This overall gain was viewed by the ExA as a significant benefit [ER 5.9.52]. It would also address the existing severance issues [ER 7.3.53]. While the ExA concluded that there would be a number of existing Public Rights of Way that would be impacted during construction, the Secretary of State agrees that this harm would be temporary and that the Applicant has included mitigation to address such impacts where possible. The Secretary of State agrees with the ExA that this harm would be outweighed by the improvements delivered as part of the Proposed Development [ER 7.3.55], and that this matter weighs positively in favour of the granting of the Proposed Development [ER 7.3.56].
119. The Secretary of State acknowledges there will be adverse effects on land use during the construction of the Proposed Development, however he notes that the Applicant has sought to reduce the impacts on walkers, cyclists and horse riders as far as possible and these effects will be temporary [ER 5.9.53]. As regards to public access the Secretary of State notes that the Applicant is planning a phased construction and the provision of safe and segregated diversions where practicable for affected accessways to minimise disruptions during the construction period [ER 5.9.14]. The Secretary of State therefore agrees with the ExA that the benefits from the overall connectivity as a result of the Proposed Development outweighs the temporary impacts from construction [ER 5.9.65].
120. The representations regarding the design of the proposed footpath at Coleman's Cottage Fisheries raised concerns that the proposed footpath alignment created a semi enclosed corridor footpath [ER 5.9.36]. The ExA recorded that the Applicant had responded to concerns and had amended the route, so was satisfied that that this delivers benefits that avoids harm to the fisheries [ER 5.9.55]. The Secretary of State agrees with the ExA's conclusion that the revised route accords with paragraph 5.184 of the NPSNN and is consistent with paragraph 100 of the National Planning Policy Framework [ER 5.9.44].
121. The proposed Paynes Lane Bridge will cross the A12 and the Main Line Railway and is considered by the relevant local planning authorities to be of considerable logistical importance for connectivity for walkers, cyclists and horse riders in the surrounding area. It would address historic severance of the public

right of way across the A12 and would also connect walkers, cyclists and horse riders with the proposed Beaulieu Park Station and wider Chelmsford area from the village of Boreham without the need to negotiate junction 19 on the A12 [ER 5.9.27]. The Secretary of State agrees with the ExA that the principle of the bridge in this location is acceptable and is a benefit that weighs in favour of the Proposed Development [ER 5.9.56]. The ExA noted that lengthy discussions had occurred between the Applicant and Chelmsford City Council to finalise the design and aesthetic appearance of the bridge and integrate it within the Chelmsford Garden Community and adjoining new railway station. [ER 5.9.25] While the Secretary of State is mindful that an agreement is yet to be reached between the Applicant and Network Rail, like the ExA, he is satisfied that requirement 10 of the DCO provides control over detailed design and will therefore ensure that relevant stakeholders can continue to input to the design [ER 5.9.57].

122. The Secretary of State's consideration of the representations in relation to landscape and visual issues on the Gershwin Boulevard Bridge [ER 5.9.31 - 5.9.33] is set out in detail in the Landscape and Visual Impact section of this letter. As set out in that section, while there would be a large adverse visual effect on nearby properties during construction, this effect would reduce to medium adverse after 15 years following construction due to the establishment of mitigation planting [ER 5.9.45]. As also set out below in the Landscape and Visual section of this letter, the Secretary of State agrees with the ExA and the Applicant that there is greater scope for landscape and visual mitigation at the location proposed by the Applicant [ER 5.10.26 - 5.10.27].

123. Concerns were raised during the examination about access and longer journey times to the Prested Hall drive and severance of the nearby Feering Footpath 15 as a result of the Proposed Development [ER 5.9.38]. As summarised at ER 5.9.48–5.9.49, the Applicant's position is that access would not significantly worsen as a result of the Proposed Development and that a crossing in the location of the Feering Footpath 15 is not required. Following an unaccompanied site visit, the ExA concluded that the current access arrangements at the entrance to Prested Hall to be less than direct and agreed with the Applicant's proposed alternative access route [ER 5.9.62]. On the severance of Feering Footpath 15, the ExA also agreed with the Applicant that the alternative route the Proposed Development will deliver is suitable [ER 5.9.62].

#### The Secretary of State's Conclusion on Land Use

124. Overall, the ExA concluded that the significant improvements, including new footways, cycleways and bridges that will be implemented as part of the Proposed Development will address existing severance issues and deliver significant benefits [ER 7.3.54]. The Secretary of State agrees with the ExA that the harm to a number of existing public rights of way during construction would be temporary and mitigated as far as possible [ER 7.3.55], and that in addressing existing issues of severance the Applicant has complied with paragraph 5.205 of the NPSNN [ER 7.3.53]. The Secretary of State is satisfied with the ExA's conclusion that land use is a matter that weighs positively in favour of granting the DCO, and the Secretary of State considers this matter should have moderate positive weight [ER 7.3.56] and this is considered further in the Planning Balance section below.

## Landscape and Visual Effects

125. The Secretary of State has considered the ExA's findings on landscape and visual effects which are set out in ER 5.10, and the Applicant's approach set out at ER 5.10.4-5.10.14, The Secretary of State notes that the key issues highlighted in the LIRs were impacts on users of the PRowS and tree removal [ER 5.10.16]. The ExA recorded that the key issues that were raised during the Examination related to the Gershwin Boulevard Bridge and the gas main diversion [ER 5.10.17].

### *Gershwin Boulevard Bridge*

126. Gershwin Boulevard Bridge is a new bridge for walkers proposed by the Applicant to provide a safe crossing point over the Proposed Development and to remove the existing severance of an existing footpath (footpath 121-95) [ER 5.9.18, second bullet].

127. The Secretary of State is aware of the concerns were raised by IPs regarding the visual impact that would be caused by the proposed location for the Gershwin Boulevard Bridge and that a suggested alternative location was put forward [ER 5.10.18], and that the Applicant assessed the impacts expected from the Gershwin Boulevard Bridge as having a very large adverse visual effect at the representative viewpoints presented in Appendix A of its Visual Impact Assessment, during construction and in year 1. The Secretary of State notes that the Applicant assessed that this would reduce to a moderate adverse visual effect by year 15 when mitigation planting had established [ER 5.10.21]. The Applicant advised that visual effects at the alternative suggested location for the new bridge could not be assessed in the absence of a proposed design of the structure and details relating to loss of vegetation and mitigation planting. However, in Section 3.4 of its 'Technical Note Gershwin Boulevard Bridge' [REP3-011] the Applicant considered the likely landscape and visual effects that would be caused by a bridge at the alternative suggested location, based on professional judgment, to allow comparison between the two locations [ER 5.10.22]. The Applicant concluded in the Technical Note that whether the proposed Gershwin Boulevard Bridge is provided in the proposed location or at the suggested alternative location, a similar amount of vegetation would need to be removed [ER 5.10.23]. The ExA agreed with the Applicant that the landscape and visual effects of a bridge in either location would be comparable and that there is greater scope for landscape and visual mitigation at the location proposed by the Applicant [ER 5.10.26].

### *Gas Main Diversion*

128. The Secretary of State has taken note of the representations made regarding the landscape and visual impacts that would be caused by the loss of vegetation along the gas main diversion [ER 5.10.19]. This is considered further in the section titled 'Diversion of High-Pressure Pipeline' below.

## The Secretary of State's Conclusion on Landscape and Visual Effects

129. The ExA concluded that the Proposed Development complies with paragraphs 5.149, 5.156 and 5.157 of the NPSNN [ER 5.10.27 - 5.10.29]. The Secretary of State agrees. The Secretary of State also agrees with the ExA that significant residual adverse effects will remain after mitigation on local landscape character,



and that these effects weigh against the Proposed Development. He agrees that the residual impacts should be attributed limited weight in the planning balance [ER 5.10.30].

### Material Assets and Waste

130. The Secretary of State has considered section 5.11 of the Report which sets out the ExA's consideration of material assets and waste. The ExA records that the Applicant's assessment of material assets and waste impacts expected from the Proposed Development is contained within Chapter 11 of the ES submitted in support of the Application [ER 5.11.9]. The Secretary of State notes that the Applicant's assessment considered:

- material assets to be used during the construction phase including site remediation, preparation and earthworks, demolition and construction, including the use of borrow pits;
- the potential sterilisation of mineral sites; and
- waste generation during the construction phase including site remediation, preparation and earthworks, demolition and construction [ER 5.11.11].

131. The Applicant's assessment concluded that there would be no likely significant construction effects on material assets and waste in constructing the Proposed Development [ER 5.11.25]. The Applicant's assessment also concluded that no significant materials consumption or waste generation is expected during operation of the Proposed Development and that there would be no likely significant effects [ER 5.11.27].

132. The Secretary State notes that during Examination, the ExA considered the impacts from the Proposed Development on the two relevant Mineral Safeguarding Areas, and the impact on the existing operations at Coleman's Farm Quarry, and the proposed use of borrow pits.

### *Coleman's Farm Quarry*

133. The Secretary of State notes that the Applicant proposes to extract from this location and backfill it before construction and, as a result, relocation of some quarry infrastructure would be required, but the Applicant's assessment of these measures has concluded that there would be no significant effects on the quarry and minerals allocations [ER 5.11.21]. Concerns raised by Brice Aggregates Limited included impacts on the quarry operations and adjacent land and site access. The ExA recorded that by the end of examination, matters were agreed between both parties on these issues [ER 5.11.40]. In respect of quarry restoration, the Secretary of State consulted on the status of a section 106 agreement between the Brice Aggregates Limited and Essex County Council, on 27 October 2023. The Secretary of State notes from the [response](#) submitted on behalf of Brice Aggregates Limited on 3 November 2023, that as of 31 October 2023, there was a draft agreement between the two parties in respect of applications related to the quarry site. A final document was expected to be issued for signature shortly. The Applicant in their consultation response dated 9 November 2023 set out that they had consulted Essex County Council who confirmed that the drafting of the agreements is ongoing but they were unable to provide a forecast date for completion of the agreement. Nevertheless, the

Applicant further stated that in relation to the two planning applications that relate to proposals to vary the previously approved restoration scheme and to extend the quarry area to the west towards Little Braxted Lane, should the consents not receive permission, the proposed DCO contains all of the required powers and land to construct the A12 project. The ExA also records that the Applicant completed a commercial backfill agreement with Brice Aggregated Limited in April 2023 [ER 5.11.43].

### *Borrow Pits*

134. The Secretary of State has taken account that the Applicant proposes to source earthworks materials for the construction of the Proposed Development from four borrow pits in the vicinity of the Proposed Development to reduce the need to import material from external sources [ER 5.11.26]. The ExA records that, during the Examination, a number of IPs submitted representations registering concerns regarding potential impacts from the use of borrow pits [ER 5.11.45 – 5.11.54]. The Secretary of State has noted that there was some confusion in relation to the proposed amounts of fill material to be extracted from the borrow pits and the overall contingency figure for Coleman's Farm Quarry [ER 5.11.52]. In addition, the ExA initially found the Applicant's justification for using the borrow pits lacking in detail and unconvincing but, as the Examination progressed, and with the submission of further justification and more explanation the ExA fully understood the Applicant's overall approach and accepted the Applicant's position as to the requirement for additional fill material. No submissions were received from IPs that cast doubt on the need for such material to support the construction of the Proposed Development [ER 5.11.76-5.11.78].

135. The ExA concluded that the proposed use of the borrow pits would result in some adverse environmental effects including:

- loss of agricultural land;
- impacts on biodiversity;
- the loss of important hedgerows and trees;
- potential impacts on ground water; and
- potential noise and air quality issues.

136. The ExA also set out that the development of the borrow pits would also have a landscape and visual impact associated with both the works and the retained landscape once completed [ER 5.11.85].

137. The ExA was satisfied that during the Examination, the information submitted by the Applicant [ER 5.11.55 – 5.11.72] provided clarity and sufficient explanation on the Applicant's proposed use of the borrow pits [ER 5.11.77]. The ExA concluded that there are no alternative approaches to the Applicant's proposed use of borrow pits that would be better than those contained within the Application [ER 5.11.83]. In relation to restoration of the borrow pits, the ExA concluded that, despite the loss of land permanently to agricultural use, environmental benefits would be likely to be delivered by the implementation of environmental design principles in the restoration plan and that those measures would be in the Register of Environmental Actions and Commitments which is in the first iteration of the EMP, secured by requirements 3 and 4 in the DCO. The

ExA found that this was adequate [ER 5.11.87]. The ExA concluded that on balance the benefits of the use of borrow pits, such as those associated with transport of imported fill, would outweigh the potential harm from their development and which are proposed to be mitigated as much as possible [ER 5.11.88].

### *Waste Generation*

138. In terms of waste, the ExA recorded that the relevant Minerals and Waste Planning Authority, Essex County Council, agreed with the conclusions in the Applicant's Waste Infrastructure Assessment and considered that safeguarded waste management infrastructure sites were unlikely to be affected by the Proposed Development and was satisfied that the Proposed Development would not result in any significant effects [ER 5.11.37 – 5.11.38]. The ExA was satisfied that impacts from the Proposed Development would be adequately mitigated through the site waste management plan which would be secured in the DCO, and that the Proposed Development therefore accords with the requirements set out in the NPSNN and relevant legislation policy in this respect. [ER 5.11.73]

### The Secretary of State's Conclusion on Material Assets and Waste

139. The Secretary of State notes that the Applicant's assessment as regards Material Assets and Waste was undertaken in accordance with DMRB LA 104 (Environmental assessment and monitoring) and DMRB LA 110 (Material Assets and Waste) [ER 5.11.11].

140. The Secretary of State notes that the SoCG agreed between the Applicant and Essex County Council confirms that Essex County Council was content with the Applicant's Minerals Infrastructure Assessment and Waste Infrastructure Assessment and the conclusions contained within them. The Secretary of State also notes that the SoCG confirmed that there were no areas of outstanding disagreement between the Applicant and Essex County Council on this subject matter [ER 5.11.34 and 5.11.37, [REP7-027](#)].

141. Overall, the ExA concluded that impacts from the Proposed Development on material assets, and waste impacts, carry neutral weight in the planning balance [ER 7.4.15]. The Secretary of State agrees with the ExA's conclusions.

### Noise and Vibration

142. Paragraph 5.195 of the NPSNN states that the Secretary of State should not grant development consent unless satisfied that the proposals will meet the following aims, within the context of Government policy on sustainable development:

- Avoid significant adverse impacts on health and quality of life from noise as a result of the new development.
- Mitigate and minimise other adverse impacts on health and quality of life from noise from the new development.
- Contribute to improvements to health and quality of life through the effective management and control of noise, where possible [ER 5.12.5].

### *Overall Approach*

143. The Secretary of State agrees with the ExA that the Applicant's approach and methodology for the assessment of noise and vibration is satisfactory. It is noted that none of the statutory bodies consulted by the ExA raised any issues with the Applicant's approach [ER 5.12.89].

### *Construction Effects*

144. The Secretary of State notes the issues raised by several IPs regarding the adverse effects created throughout the construction phase of the Proposed Development. Colchester City Council raised concerns [ER 5.12.47] that three groups of receptors in their area would experience noise levels above the Significant Observed Adverse Effect Level ("SOAEL") – two being Wishingwell Farm and Doggetts, during the daytime, owing to earthworks, and one being in the vicinity of 121 London Road, during the night-time, caused by sheet piling [REP2-045a (Deadline 2 Submission - D2 Colchester City Council LIR February 2023), paragraphs 11.4 and 11.17].

145. The ExA received comments from a number of residents who said they would be affected by the construction noise particularly from the residents of Columbine Cottage and Wishingwell Farm. [ER 5.12.49]. The Secretary of State notes that the Applicant has committed to developing a Noise and Vibration Management Plan, which would adopt a range of industry standard good practice to address construction noise, including consideration of the installation of noise insulation or provision of temporary rehousing if it was not practical to mitigate construction noise onsite or reduce construction noise to tolerable levels [APP-195 (6.5 First Iteration Environmental Management Plan - Appendix K: Noise and Vibration Management Plan), section K.6].

146. The Secretary of State notes the submissions provided by Mr and Mrs Lindsay, of Columbine Cottage, and that several changes were made by the Applicant throughout the Examination process to minimise the impact of disruption to their property [ER 5.12.56 – 5.12.57].

147. The Secretary of State notes the submissions provided by Mr Roger Wacey, of Wishingwell Farm in relation to construction noise. The Applicant confirmed that the daytime SOAEL would be exceeded during the earthworks stage in the construction process, although no night-time effects were reported. Furthermore, a significant adverse impact is predicted to be experienced at the recording studio on Wishingwell Farm, causing a commercial impact [APP-079 (6.1 Environmental Statement - Chapter 12: Noise and Vibration), paragraph 12.9.29]. Despite these effects being reported in the construction phase, and therefore being temporary in nature, these effects, even with mitigation measures, would have a significant adverse effect on the recording studio [ER 5.12.95].

148. The Secretary of States notes Colchester City Council's representation that, during the night closures of the A12 required for construction works, there would be significant adverse effects at 266 dwellings within 25m of the planned diversion route [ER 5.12.47 – 5.12.48]. This is because the diversionary route would be used for approximately 500 nights over the 4-year construction period, therefore exceeding the temporal threshold of 40 nights in any consecutive six-month period which is set out in DMRB 111 [REP3-012 (Deadline 3 Submission - 9.27 Written Submission of Oral Case for Issue Specific Hearing 1), paragraphs

12.9.36 and 12.11.23]. The ExA was content with the agreements reached between the Applicant and the relevant local authorities to manage and mitigate these works, including the measures secured for notification and, where necessary, prior approval. It was also satisfied that Action G1 within the EMP [REP7-015] is sufficient to deliver this [ER 5.12.92].

149. The Applicant stated that full closure of the carriageway is necessary even when carrying out localised works, as a safe working environment cannot be guaranteed under single carriageway operation of the A12 [ER 5.12.51]. However, the Applicant has set out within its REAC a commitment to reduce the number of carriageway closures where possible, by aiming to carry out multiple works with planned carriageway closure periods [REP7-015, Reference no. NV8].

150. The Secretary of State agrees with the ExA that the Applicant has found the correct balance between delivery of the Proposed Development, and minimising the potential for significant effects, with scope for further consultation on the inclusion of commitments for mitigation. He further agrees with the ExA that the most efficient way for the Applicant to achieve balancing construction with the need to protect the safety of road users is through the use of night-time closures to create a safe working environment [ER 5.12.91 – 5.12.92]. However, it is noted that several dwellings will be affected adversely throughout the construction phase of the Proposed Development.

#### *Operational Effects*

151. The Secretary of States notes that the Proposed Development would result in significant beneficial reductions in operational traffic noise at 806 dwellings and 18 other significant receptors, as a result of improved mitigation and re-alignment of the existing A12 [ER 5.12.29]. However, there would be adverse noise effects at 123 dwellings and four other receptors during the operational phase [5.12.27].

152. The Secretary of State notes the issues that would be experienced at properties on Main Road, Boreham, which will experience an increase of between 1 and 3 dB(A), due to the increased level of traffic caused by the Proposed Development. Whilst this was not considered to be a significant increase by the Applicant due to the proximity of some sensitive receptors to Main Road, the absolute noise level for those receptors would be above the SOAEL and as a result, those receptors were classed as experiencing a significant adverse effect [ER 5.12.63]. The Secretary of State agrees with the Applicant that a reduction in the speed limit on Main Road from 40mph to 30mph would help mitigate some of these effects, but that it would not be possible to remove these significant effects in their entirety [ER 5.12.98 and REP1-002 (Deadline 1 Submission - 9.3 Applicant's Response to Relevant Representations - Rev 2)].

153. The Secretary of State notes that the Applicant decided to pursue neither the implementation of an enhanced low noise surface on the northern carriageway of the A12 between Junction 19 and 21 nor the insertion of a noise barrier. The Applicant initially assessed the resurfacing of only the southern carriageway with enhanced low noise material and found this was sufficient to remove the significant adverse effects of the Proposed Development. As this would reduce the level of noise in Boreham to the level it would be without the Proposed Development [ER 5.12.64–5.12.65]. The Applicant considered that the

enhancement of both carriageways would provide only a minor beneficial effect to residents [ER 5.12.64]. Similarly, the Applicant considered a noise barrier unnecessary as the enhanced low noise surface delivered the necessary mitigation without the landscape impacts [ER 5.12.65]. The ExA concluded that the mitigation of noise at source was preferable to a barrier and, whilst it would be “nice to have” advanced noise reduction surface on the northbound carriageway, it would not remove the residual significant effects on the affected receptors [ER 5.12.99]. In this respect, the Secretary of State is satisfied that the Applicant has complied with the NPSNN paragraph 5.195 to avoid significant adverse impacts on health and quality of life from noise because of the Proposed Development.

154. The Secretary of States notes the concerns raised by the residents of Messing and Inworth Action Group, and their preference for a community bypass that they estimated to alleviate 66% of the total adverse noise effects if adopted [ER 5.12.67]. This is further discussed in the Traffic and Transport, Alternatives section of the decision letter.

155. The Secretary of State notes the ExA’s assessment concludes that there would be significant adverse effects at 71 dwellings and 3 other sensitive receptors along the route from Inworth Road to the B1022 [ER 5.12.69]. Further to this, the Applicant identified that there were 4 dwellings along the B1023 where the absolute noise level would be just above the SOAEL [ER 5.12.71]. In the case of the Inworth Road to B1022 dwellings, the Applicant has assessed potential mitigation, considering the implementation of low noise surfacing and noise barriers along the respective routes. However, due to the low-speed nature of the road, a low noise surface would not be effective in reducing overall traffic noise, and the installation of noise barriers would potentially block visibility and access for residents [ER 5.12.70]. Similar considerations applied in the case of the B1023 dwellings [ER 5.12.71]. Therefore, no mitigation was proposed by the Applicant to address the significant adverse impacts that would affect the residents of Messing and Inworth. The ExA agreed with the Applicant that mitigation measures are not deliverable in either location and as a result, considered that the Proposed Development would give rise to significant noise effects in Messing and Inworth [ER 5.12.101].

156. As noted by the ExA, the Applicant has agreed to the inclusion of several measures (in requirement 15 of the dDCO) aimed at discouraging traffic through Messing, although the ExA noted that it had seen no evidence to suggest that these would have an impact on reducing traffic noise [ER 5.12.103]. This led the ExA to conclude that the Proposed Development would give rise to significant noise effects both within Messing and Inworth.

157. The Secretary of State notes the concerns raised by Mr Andrew Watson, who set out that his 16<sup>th</sup> century, Grade II listed property would be particularly susceptible to vibration created by vehicles, due to its lack of modern insulation and glazing. The Applicant confirmed that there would be an increase in traffic as a result of the Proposed Development, and although the overall level of vibration generated by a single passing vehicle will not change with the introduction of the Proposed Development, there will be more instances of vehicles passing that will generate noticeable levels of vibration. The Secretary of State notes that in the ES scoping exercise, it was agreed by the Planning

Inspectorate that significant vibration effects during operation are unlikely to arise and that the matter could be scoped out of the Applicant's Environmental Statement. This is in accordance with the Design Manual for Roads and Bridges LA 111, which sets out that "Operational vibration is scoped out of the assessment methodology as a maintained road surface will be free of irregularities as part of project design and under general maintenance, so operational vibration will not have the potential to lead to significant adverse effects" [APP-079, paragraph 12.3.6].

158. The Secretary of States notes the concerns raised by Mr Roger Wacey, whose property is currently situated 530m away from the A12 but would be 22m away from the realigned section of the Proposed Development [ER 5.12.82]. The Applicant set out mitigation measures to remove the likely significant adverse effect at source, with the use of a surface with enhanced noise reducing properties, as well as between the source and receptors through the use of a noise barrier. Despite the implementation of these, Mr Wacey's dwelling would still be impacted by a significant increase in noise, as would a recording studio that a family member operates at the property (and which is classified as a sensitive receptor). Whilst the daytime absolute noise level at Wishingwell Farm would not exceed the SOAEL, the increase in noise would still result in a significant adverse effect and the Applicant confirmed that no further mitigation measures were considered feasible [ER 5.12.83].

159. In respect of four dwellings on Braxted Road, the Applicant acknowledged that there is predicted to be significant adverse effects and that is due to a predicted increase in noise of over 3dB(A) due to an increase in traffic flow on Braxted Road. However, the daytime absolute noise level at these dwellings would be between 60 and 64dB(A), which is below the SOAEL. Mitigation was not possible as a low noise surface would not be effective due to low vehicle speeds and noise barriers would potentially block visibility and access. The ExA agreed with these conclusions [ER 5.12.80 – 5.12.21 and 5.12.106].

#### Operational Monitoring

160. The Secretary of State notes the Applicant's commitments to mitigating the significant adverse effects generated during the operational stage of the Proposed Development, as set out in the REAC.

161. The Secretary of State notes the explanation provided by the Applicant for the lack of operational noise monitoring: that monitoring based on ambient noise levels on the ground is impacted by many factors, with any measurement only representing a snapshot of the noise environment. Instead, the applicant used the approach in DMRB LA 111 to ensure that the installed mitigation measures meet the performance assumed in the noise assessment [ER 5.12.85–5.12.87]. The Secretary of State notes the commitment in the First Iteration EMP that all mitigation measures would be delivered to required design standards subject to his approval and agrees with the ExA that no operational noise monitoring at specific receptor points would be necessary [ER 5.12.108].

#### The Secretary of State's Conclusion on Noise and Vibration

162. The Secretary of State notes the work the Applicant has undertaken to try to mitigate significant adverse impacts on health and quality of life from noise, as a result of the Proposed Development, in line with paragraph 5.195 of the NPSNN. The Secretary of State is satisfied with the Applicant's approach to noise assessment, and that any adverse or beneficial effects from the Proposed Development have been identified.
163. The Secretary of State notes that likely significant adverse effects are predicted at 266 dwellings in the construction stage arising from the use of the diversionary route the Applicant has chosen and that other receptors would be affected by construction noise [ER 5.12.22 - ER 5.12.26].
164. The Secretary of State notes the significant beneficial reductions in operational traffic noise at 806 dwellings and 18 other sensitive receptors, as a result of improved mitigation and re-alignment of the existing A12 brought about by the Proposed Development [ER 5.12.112]. He also notes that night closures of the A12 required for construction works would cause significant adverse effects at 266 dwellings within 25m of the planned diversion route [ER 5.12.25] and that that there would be 123 significant adverse effects at dwellings and four at other sensitive receptors once operational, with the majority of these due to an increase in traffic volume on the road network away from the A12; 78 of these are predicted to experience moderate or major increases in noise, with the remainder predicted to experience a minor increase in noise where the absolute noise level is above SOAEL [ER 5.12.27 and APP-079, paragraph 12.3.4]. The Secretary of State accepts that in some cases, mitigation at source and mitigation between the source and receptor is not feasible, and that in some cases significant adverse impacts have been unable to be addressed. However, the Secretary of State notes the Applicant's commitment to undertake a full assessment of likely eligibility for noise insulation, in accordance with the Noise Insulation Regulations 1975 (Reference no. NV7 in the REAC [REP7-015]).
165. The Secretary of State agrees with the ExA that opportunities to minimise and mitigate noise and vibration levels have been identified. A number of receptors would experience positive benefits, but others would experience adverse effects which cannot be mitigated. He agrees that overall, negative weight should be given to making the DCO in respect of noise and vibration but, since some improvements to the noise environment would also be delivered, the harm should be attributed limited negative weight in the planning balance.

#### Population and Human Health

166. The Applicant's assessment of the impacts from the Proposed Development on population and human health is set out in Chapter 13 of the ES [ER 5.13.6]. The Secretary of State notes that this assessment was undertaken in accordance with DMRB LA 112 Population and Human Health as well as guidance produced by the Institute of Environmental Management and Assessment and the International Association of Impact Assessment and European Public Health [ER 5.13.8]. The ExA noted that the Applicant's findings were not disputed by the UK Health Security Agency or the Environmental Health departments of the relevant



Local Authorities and found that the Proposed Development would comply with paragraphs 4.79 to 4.81 of the NPSNN [ER 5.13.35].

167. The Secretary of State has considered the points made during the Examination which are summarised by the ExA in ER 5.13.17 – 5.13.33 of the Report. The ExA was satisfied that the conclusions in the Applicant's ES were reasonable, and that where necessary, adequate measures to mitigate against potential adverse effects had been secured in the DCO [ER 5.13.36]. In respect of the concerns raised regarding impacts from construction, the ExA considered that the effects would be short term and therefore limited in nature. Furthermore, the Applicant has looked to mitigate these through the Construction EMP, and the other measures set out in the EMP and REAC. [ER 5.13.39] On the representations raising concerns about severance as a result of increased traffic, the ExA concluded that such impacts would be localised in their nature and would not be significant [ER 5.13.42].

#### The Secretary of State's Conclusions on Population and Human Health

168. The ExA concluded that the Applicant has considered, minimised and mitigated human health impacts from construction and operation as far as possible [ER 5.13.45]. The Secretary of State agrees with the ExA that the Applicant has given appropriate consideration to human health matters in accordance with paragraphs 4.79 to 4.82 in the NPSNN [ER 5.13.36]. The Secretary of State notes, however, while the ExA considers that there will be positive health benefits [ER 15.13.43], it also identified negative health impacts which are listed at ER 15.13.44.

169. The Secretary of State agrees with the ExA that while there will be some positive effects, there are a significant number of adverse effects in relation to human health, in particular in relation to the health effect of noise, along with effects upon visual amenity [ER 5.13.45] and that this weighs negatively against making the DCO. He agrees this harm should be given limited weight in the overall planning balance [ER 5.13.46].

#### Social and Economic Effects on Individuals and Communities

170. The Secretary of State has noted the ExA's consideration of socio-economic impacts from the Proposed Development which are set out in section 5.14 of the Report and the approach taken by the Applicant to assess socio-economic effects [ER 5.14.9 – 5.14.24]. The Secretary of State is aware that the socio-economic effects of the Proposed Development were identified as a principal issue and the following were considered during Examination:

- social and economic effects on individuals and communities;
- effect of the Proposed Development on living conditions during the operational and construction phase.

171. The ExA identified that that there is projected population growth in Essex and that it is experiencing employment growth as a result of major port developments and expansion at Stansted Airport [ER 7.3.74]. The ExA also identified that the local authorities along the route have set out ambitious targets for housing and employment growth in their Local Plans [ER 7.3.75]. The Secretary of State notes

that the LIRs and representations made by the relevant local authorities outlined the positive economic impact that the Proposed Development would have on their communities. The Secretary of State also notes that Essex County Council emphasised the opportunities that the Proposed Development would bring to the two local universities and concentrations of high skilled jobs [ER 5.14.26], Braintree District Council highlighted the scheme's importance in improving access to employment opportunities in the region [although it did raise a caveat that it did not know if the loss of agricultural land would result in loss of employment] [ER 5.14.27], and Chelmsford City Council considered the scheme beneficial to the growth of the Beaulieu development and Chelmsford Garden Community [ER 5.14.28]. The Colchester City Council highlighted that they were broadly positive about the scheme's implementation [ER 5.14.29].

172. The Secretary of State is aware that the aim of the Proposed Development is to reduce congestion [ER 7.3.4] and that the Applicant has argued this is necessary as existing conditions along the route will inhibit further business investment and limit the amount of housing which can be permitted [ER 7.3.74]. The Secretary of State agrees with the ExA that one of the main objectives of the Proposed Development is to improve journey times, increase journey reliability and address longstanding issues of safety and this would enable economic development and efficiency [ER 5.14.16 and 7.3.76].

173. The National Farmer's Union, on behalf of a number of IPs, and several other IPs, raised concerns regarding construction impacts including severance and access issues [ER 5.14.31]. Impacts from the prohibition of slow-moving vehicles on the A12 on agricultural businesses were also raised with the Applicant. The Applicant explained it was approaching the issue by balancing the safety risk for all road users [ER 5.14.42]. The ExA noted that while there may be disruption during the period of construction, the Proposed Development will deliver improved junction arrangements which will allow suitable and safer means of access. During the construction phase, impacts will be managed through the Outline Construction Traffic Management Plan and the Applicant has committed to work with businesses that are potentially affected through an Agricultural Liaison Officer who the Applicant will appoint prior to the commencement of the Proposed Development [ER 5.14.55]. The Secretary of State notes that the Applicant confirmed for slow-moving vehicles that it will evaluate safety through a detailed Safety Risk Assessment during the detailed design stage which will consider all aspects of safety including affected routes, vehicles used by affected agricultural businesses [ER 5.14.42 and REP1-002 (Deadline 1 Submission - 9.3 Applicant's Response to Relevant Representations - Rev 2), sub-part reference RR-025-010] and alternative routes. The Applicant will take a final decision as to whether to prohibit slow-moving vehicles from the A12 following this assessment.

174. The Secretary of State notes the representations [ER 5.14.25–5.14.29] from several concerned businesses regarding the impact of the Proposed Development on their commercial operations as set out by the ExA in paragraphs [ER 5.14.31 to 5.14.40]. The Secretary of State notes that some of the concerns raised will be addressed through the Outline Construction Traffic Management Plan which is secured through Requirements 3 and 4 of the DCO. The Secretary of State also notes that the Applicant will appoint a Community Liaison Officer,

who will continue to engage with IPs as the Outline Construction Traffic Management Plan is developed [ER 5.13.13]. The Secretary of State is satisfied that the Applicant has included measures to mitigate against any potential impacts where possible. In relation to potential impacts to a nearby fisheries business during construction, the Secretary of State notes that the Applicant accepted that lost profits could form part of a claim for disturbance compensation [ER 5.14.49].

175. The Secretary of State has considered the representations from various emergency services regarding accessibility to the A12 during the construction period. The ExA recorded that considerable engagement took place between the Applicant and these services [ER 5.14.56] and the Secretary of State is satisfied that disruption to operations will be minimised as much as possible, through ongoing discussion on the development of the Outline Construction Traffic Management Plan. The Secretary of State notes the representation from Essex Police dated 12 July 2023 confirms that the discussions concerning funding of the Traffic Management Officer post, which they considered critical to the management of communications, operational planning and liaison with residents affected by the project works, was continuing [ER 5.14.56].

176. The Applicant accepts that there would be an impact on Wishingwell Farm and the recording studio located at this property due to the increase in noise as a result of the Proposed Development even with the proposed mitigation measures. The ExA recorded that discussions between the Applicant and this business had progressed to a blight claim which has been accepted by the Applicant [ER 5.14.47].

#### The Secretary of State's Conclusion on Socio-Economic Effects

177. The Secretary of State agrees with the ExA that while the Proposed Development will impact some business during the construction period, they will continue to be able to operate [ER 5.14.67] and therefore this harm carries little weight in the planning balance. The Secretary of State agrees with the ExA that harm to local businesses needs to be balanced against the economic benefits that are expected as a result of the Proposed Development through improved journey times and increased reliability and therefore would support economic development [ER 5.14.68]. The Secretary of State accords these substantial economic benefits substantial positive weight and considers they outweigh the harm to local business to which he attributes low weight. Overall, he agrees with the ExA that socio-economics matters carry substantial positive weight in the planning balance. This is considered further in the Planning Balance section of this decision letter.

#### Traffic and Transport

178. The Secretary of State notes that the main issues raised during the Examination and by the ExA are summarised at ER 5.15.16 and 5.15.18. The ExA noted that on transport and traffic, the local authorities' primarily deferred in their LIRs to Essex County Council as the local highway authority [ER 5.15.19]. Matters raised by IPs are summarised at ER 5.15.22 - 5.15.46.

#### Junction 24

179. The Secretary of State notes that representations were made about the option of a bypass at junction 24 [ER 5.15.42 – 5.15.43]. As set out in the Need section of this letter, the Secretary of State is satisfied that the Applicant has undertaken an assessment of alternatives and in doing so has considered reasonable alternatives and has justified the reasons for selecting the route of the Proposed Development. This includes the option for a bypass in the location of junction 24 [ER 5.15.47]. There were also criticisms of the Applicant's traffic modelling [ER 5.15.44]. The Applicant concluded that, similar to the outcome of a previous study conducted by Essex County Council, the disbenefits of creating a new a link road through rural countryside outweighed the benefits [ER 5.15.55]. In respect of its traffic modelling, the Applicant accepted that there were inherent uncertainties attached to any traffic model, but the approach it had taken “follows national guidance and provides the required level of certainty needed to assess the proposed scheme, inform the design decisions taken and ensure that those decisions and the effects of the scheme are robustly assessed”, adding that the models remained valid despite the impact of Covid [ER 5.15.55 – 5.15.58]. The Secretary of State agrees with the Applicant that the option to provide a bypass at Maldon Road in Hatfield Peverel is not preferred, and notes that Essex County Council has not presented a case which supports a bypass [ER 5.15.111 and 5.15.113]. The Secretary of State agrees with the ExA's overall conclusions on this matter [ER 5.15.110 – 5.15.113] and is satisfied that the Applicant has considered reasonable alternatives in respect of the options for junction 24. He further agrees with the ExA that the Applicant has followed appropriate national guidance to provide the required level of certainty needed to assess the Proposed Development and that the accounting for Covid-19 in transport modelling is appropriate [ER 5.15.108 – 5.15.109].

#### Maldon Bypass

180. The Secretary of State has also considered the discussion during the Examination on the alternatives to address traffic capacity issues at the Duke of Wellington mini roundabout in Hatfield Peverel [ER 5.15.40 and 5.15.60 - 5.15.66]. The Secretary of State is aware that a number of IPs suggested a link road at this location to Maldon [ER 5.15.63 – 5.15.66]. On the question of alternatives, the Secretary of State agrees with the ExA that the Applicant has adequately considered alternatives at this location and that the Proposed Development will not worsen the existing situation [ER 5.15.114].

181. The Secretary of State notes that the Applicant and Essex County Council agreed a requirement (requirement 18) to widen the proposed junction 21 slip roads to limit the amount of construction work that would need to be undertaken on the Strategic Road Network to allow for the delivery of a bypass to Maldon in the future and outside of the Proposed Development [ER 5.15.62]. The Secretary of State agrees with the ExA that requirement 18 of the DCO sufficiently allows for the delivery of future road enhancement at this location [ER 5.15.115].

#### Inworth Bypass

182. The Secretary of State notes that Messing cum Inworth Parish Council and Messing and Inworth Action Group made representations about the option of a bypass at Inworth as an alternative route from junction 4 to Tiptree and Feering

(known as “the Main Alternative”) [ER 5.15.42 and 5.15.67]. The Secretary of State also notes that the option of a bypass at this location was considered by the Applicant at pre-examination and the Applicant’s detailed assessment of this option is contained in Appendix 3.3 of the ES. This assessment concluded that while this option would reduce traffic through Inworth village and Messing, there would be increases in traffic in Tiptree, Feering and on the B1023 north of A12 J24. This option would also require 40% more land for the bypass and would add an additional cost of approximately £10 million [ER 5.15.68]. The Secretary of State notes that Essex County Council also reviewed the case for and against a bypass at this location, and reached the conclusion that the disbenefits to the traffic network in Tiptree and Kelvedon would outweigh the benefit of reducing traffic flow through Messing and Inworth [ER 5.15.72]

183. The ExA concluded that the Applicant had justified its assessment that the Main Alternative would relocate the forecast traffic from Inworth and Messing villages to Tiptree, Feering and the B1023 north of J24, resulting in more adverse significant impacts to the Tiptree community, including worse noise effects, compared with the impacts on Inworth village and Messing [ER 5.15.117]. The ExA was satisfied that the additional land required, additional costs and effects on other communities do not outweigh the benefits [ER 5.15.128]. The Secretary of State agrees. The Secretary of State notes that the Applicant has agreed measures to reduce vehicle speed and discourage rat running through the villages of Inworth and Messing [ER 5.15.74] and considers these appropriate.

#### Junction 20a and Boreham

184. The Secretary of State has considered the concerns raised during the Examination on the impacts of the proposed closure of junction 20a on the residents of Boreham [ER 5.15.75]. The Secretary of State notes that although the Applicant found that there would be an increase in traffic on the roads in this area [ER 5.15.81 – 5.15.82], the roads would not be operating above their maximum capacity [ER 5.15.83]. In addition, the Applicant concluded that whilst alternatives retaining the junction may reduce traffic on Main Road, the significant impacts would outweigh the benefits [ER 5.15.76 – 5.15.77]. The Secretary of State notes that as an outcome of discussions between the Applicant, Essex County Council, Chelmsford City Council, Boreham Parish Council and other IPs, the Applicant has agreed to implement traffic calming measures within Boreham village and between Boreham and Hatfield Peverel to reaffirm the reduced speed limits proposed by the Applicant. This is secured in requirement 14 of the DCO, although the Applicant resisted requests for road narrowing as it considered that removing the central hatching and installing cycle lanes would have no benefit and would actually increase cyclist injury rate [ER 5.15.78 – 5.15.79]. The Secretary of State agrees with the ExA that the Applicant has adequately justified its proposal not to reinstate the southbound slip road on this junction, and that the proposed traffic calming measures to reaffirm the reduced speed limits, including the road narrowings, which are secured through requirement 14 of the DCO, are appropriate [ER 5.15.119 – 5.15.124].

#### Messing, Inworth and Tiptree

185. As set out above, the Secretary of State is satisfied that the benefits of a Main Alternative bypass at Inworth do not outweigh the disbenefits elsewhere. The ExA recorded that Essex County Council put forward measures to mitigate impacts on Messing, Inworth and Tiptree [ER 5.15.90 – 5.15.91 and 5.15.129]. The Secretary of State notes that the Applicant has agreed mitigation measures following discussions with Essex County Council and other IPs which include reduced vehicle speed, additional gateway features and signs in Messing and Tiptree which are secured through Requirement 15 of the DCO [ER 5.15.74 and 5.15.93].

186. The Secretary of State notes that Essex County Council and Tiptree Parish Council consider that widening of the Appleford Bridge is required to accommodate increased traffic on the B1023 Church Road in Tiptree. The Applicant stated that the Proposed Development would result in reduced traffic over Appleford Bridge and therefore widening of it is not justified [ER 5.15.95]. The Secretary of State agrees with the ExA that the Applicant has justified that widening of Appleford Bridge is not required [ER 5.15.132].

### Hinds Bridge

187. The Secretary of State notes the issues highlighted by Essex County Council regarding Hinds Bridge [ER 5.15.30 and 5.15.96]. Essex County Council consider this to be an existing pinch point and have argued for the widening of this bridge in light of the predicted increase in traffic in the peak traffic hour by 2042 so that it can accommodate two large vehicles passing in opposite directions. Essex County Council also consider that widening would minimise traffic disruption during any future maintenance work on the bridge.

188. The Secretary of State has considered the Applicant's response [ER 5.15.97] and notes that the issue set out by Essex County Council would only arise where at least one heavy goods vehicle ("HGV") is involved, that the worst-case scenario of a 9% increase in total traffic predicted for 2024 is in the PM peak period, and the Proposed Development is predicted to reduce the flow of HGVs by 46% in the PM peak period. Given that there will be an overall reduction in the number of instances where a car would meet an HGV, the Secretary of State agrees with the ExA that the Proposed Development would not worsen the existing position, and that the wording proposed by Essex County Council relating to the widening of Hinds Bridge for including in Requirement 15 is not required [ER 5.15.134].

### Detrunking

189. The Secretary of States notes the issues raised by Essex County Council regarding the detrunking of the A12 in the vicinity of Rivenhall End, and between Feering and Marks Tey [ER 5.15.28]. The Secretary of State is aware that Braintree District Council also listed detrunking for communities in Witham, Rivenhall End and Feering as an area of disagreement in their SoCG with the Applicant [ER 5.15.37].

190. As a result of the Proposed Development, it is proposed that these two sections on the existing A12 route would be detrunked and handed to Essex County Council as the local highway authority. Essex County Council raised concerns

regarding the Applicant's detrunking proposals and submitted an alternative detrunking proposal [ER 5.15.99 – 5.15.100]. The Secretary of State notes that the Applicant assessed this proposal [ER 5.15.101] and concluded that adopting it would require the withdrawal and resubmission of the Application in order to subject the proposal to Environmental Impact Assessment procedures which would delay the Proposed Development by two years [ER 5.15. 102], and that this proposal would result in an additional cost of approximately £5.4 million [ER 5.15.103].

191. The Secretary of State notes that during the Examination, the Applicant included a provision (article 15(7)) to ensure that the roads cannot be detrunked until the detailed design of the roads to be detrunked are given consent by the Secretary of State, in consultation with Essex County Council. The Applicant also included a new requirement (Requirement 19) which ensures that the Secretary of State's consent must not be sought until written details have been approved by the Secretary of State, in consultation with the relevant local highway authority on various matters, and ensuring that any proposals would not give rise to any new or materially different environmental effects in comparison to those already assessed [ER 5.15.104]. Essex County Council stated that it should not be mandated to maintain the detrunked sections of the A12 and that the maintenance responsibility for these sections of road should be retained by the Applicant or, in the alternative, that requirement 19 be amended to require the Applicant to provide sufficient funds for the local highway authority to implement and deliver the approved de-trunking scheme [ER 5.15.105 and REP6-088 (Deadline 6 Submission - 9.59 National Highways and Essex County Council – Draft Requirements Matrix), pages 6-7]. The ExA concluded that the Applicant's draft wording of requirement 19 be amended to reflect the fall-back wording proposed by Essex County Council in REP7-049 (Deadline 7 Submission - Summary of Essex County Council's position) [ER 5.15.136]. The Secretary of State agrees but has amended sub-paragraph (1) [REP7-043 (f) to ensure that the agreement of Essex County Council is not unreasonably withheld.

### Speed Limits

192. The Secretary of State notes the representations made by Essex County Council on speed limits and is aware that at the close of Examination, it had not confirmed whether the additions and amendments to the Traffic Regulation Measures Speed Limits Plans submitted by the Applicant in July 2023 [[REP7-002](#) (Deadline 7 Submission - 2.3.1 Traffic Regulation Measures Speed limits)] addressed their concerns [ER 5.15.137]. The Secretary of State therefore conducted a [consultation](#) on 27 October 2023 during the decision-making stage to seek the Council's views on the updated document. The responses received from [Essex County Council](#) (dated 9 November and 1 December 2023) and the [Applicant](#) (dated 9 and 24 November 2023) set out that while there had been some progress in this area, there remains a disagreement over the proposed speed limits at several locations.

193. Essex County Council's response set out that five key sections of highway of the Proposed Development, totalling around eight kilometres in length, would have their speed limits set too low for the character of the road. Their argument was that, as the local highway authority, they would be responsible for future

safety problems and enforcement, and the speed limits set in these locations would conflict with the Council's wider policy as set out as part of the Speed Management Strategy, based on the Department for Transport Circular 01/2013.

194. The Secretary of State notes from the consultation responses that there remains some disagreement between the Applicant and Essex County Council. He notes that both parties agree that the Road Safety Audit, which will be undertaken prior to construction, is an appropriate mechanism to consider these issues. He further notes that the Applicant has accepted Essex County Council's request to be included as an observer at the Stage 2 Road Safety Audit, and that Essex County Council would be able to feed their comments and observations to the auditor at that time. The Secretary of State expects the Applicant to liaise with Essex County Council before agreeing or discounting any recommendations from the Audit that impact the local highway network but does not consider a requirement is necessary to secure such liaison.

#### *Discharge of Requirements*

195. In respect of the discharge of requirements affecting the local road network, the Secretary of State agrees with Essex County Council that it is appropriate that it should be the discharging authority. He notes the Applicant has referred to the Secretary of State being the discharging authority in previous DCOs [REP7-043 (Deadline 7 Submission - 9.70 Written submission of oral case for Issue Specific Hearing 5), reference 3.10] but that is not the case in every DCO, each case needs to be considered on its own merits and in this case, Essex County Council has raised concerns that discharge of these requirements falls within their remit as the local highways authority. The Secretary of State notes the arguments put forward by the Applicant in REP7-043 and its consultation responses but, as the requirements relate to local roads matters, considers in the case of this DCO that Essex County Council is the relevant authority to discharge these requirements. He further considers that the discharge of requirements should be dealt with in a timely manner and has included the proposed provisions to ensure this happens. However, he notes that the significant differences in the positions of the Applicant and Essex County Council in respect of detrunking. Given those differences, he concludes that it would be appropriate for the Secretary of State to be the authority responsible for the discharge of requirement 19.

196. The Secretary of State has therefore amended Requirements 9, 14, 15, and 16 accordingly and retained the additional requirements 22 and 23 agreed by Essex County Council and the Applicant to ensure timely consideration of any request for discharge [ER 9.4.137- 9.4.141 and REP7-049 (Deadline 7 Submission - Summary of Essex County Council's position)]. Similar to the discharge arrangements for requirements in previous DCOs, the Secretary of State does not consider this sets a precedent for the discharge of requirements in future DCOs.

#### *Operation Phase Local Traffic Monitoring*

197. The Secretary of State notes that requirement 16 provides for the monitoring of local traffic at seven locations identified by Essex County Council. The Secretary of State is aware that subsequently, the Council asked for monitoring at a further 22 locations. The Secretary of State notes that the Applicant agreed with the



seven locations but considered the 22 other locations to be disproportionate [ER 9.4.113 – 9.4.114]. Additionally, the Secretary of State notes that there was disagreement between the Applicant and Essex County Council on the survey types and methodology which the Applicant also considered to be disproportionate. The Secretary of State is satisfied with the approach proposed by the Applicant summarised at ER 9.4.115. The Secretary of State agrees with the Applicant and the ExA that the additional locations would be likely to cause a delay to the delivery of the Proposed Development [ER 9.4.116]. The ExA considered that there is justification for a provision in the DCO to allow for monitoring at any other locations that are agreed between parties and amended requirement 16(1) of the draft DCO to reflect this [ER 5.15.141 and 9.4.119]. The Secretary of State sees no reason to disagree.

#### The Secretary of State's Conclusion on Traffic and Transport

198. The Secretary of State is satisfied that in assessing the traffic impacts of the Proposed Development, the Applicant has complied with the requirements set out in the NPSNN [5.15.144 – 5.15.145]. The Secretary of State also agrees that while there may be an increase in traffic on the local road network, the mitigation measures proposed by the Applicant and additional measures agreed during the Examination are proportionate, reasonable and mitigate as far as possible against any expected harm. The Secretary of State also agrees that any increase in traffic that may occur as a result of the Development is outweighed by the overall transport benefits expected as a result of the Proposed Development [ER 5.15.149]. The Secretary of State agrees with the ExA that those benefits should be accorded substantial weight in the planning balance [ER 5.15.151]. This is considered further in the Planning Balance section in this letter.

#### Road Drainage, Flood Risk and Water

199. The ExA's consideration of this matter is set out in paragraphs 5.16.33 – 5.16.54 of the Report, and the Applicant's assessment of impacts from the Proposed Development on road drainage, flood risk and the water environment is contained within Chapter 14 of the ES. The ExA recorded that the assessment contained within Chapter 14 of the ES was prepared in accordance with the requirements of the DMRB including LA 113 Road Drainage and the Water Environment, in liaison with statutory and non-statutory consultees and stakeholders, including the Environment Agency and Lead Local Flood Authority, in this case Essex County Council [ER 5.16.17].

200. The Applicant's Assessment identified potential impacts on surface water quality and groundwater from construction and operation, the potential for increased volume and rate of surface water runoff as a result of the Proposed Development and any resulting flood risk impacts; the potential for changes to surface water drainage patterns, and effects on hydraulic process and hydromorphology of potentially affected water bodies [ER 5.16.18].

201. The ExA identified and examined the following main issues [ER 5.16.32]:

- flood risk;
- drainage strategy;
- water quality and implications for the Water Framework Directive (“WFD”); and

- disapplication of Flood Risk Activity Permits.

## Flood Risk

202. Essex County Council, as the Lead Local Flood Authority, confirmed in its LIR that it was satisfied with the level of information submitted to support the Applicant's conclusion that during operation the risk of flooding from surface water, groundwater and from ordinary watercourses would not increase as a result of the Proposed Development [ER 5.16.36].
203. The Secretary of State has taken account that the Proposed Development is mostly located within Flood Zone 1, but there are parts of it that lie within Flood Zones 2 and 3 [ER 5.16.20], and that the Applicant therefore considered the Sequential and Exception Tests as part of their Flood Risk Assessment [ER 5.16.6]. The ExA concluded that the Applicant has considered reasonable alternatives and justified the reasons for selecting the preferred option [ER 5.15.143, third bullet]. The ExA was satisfied that the parts of the Proposed Development located within Flood Risk Zone 3 areas could not be re-located to an area with a lower flood risk. The Secretary of State agrees with the ExA that the Sequential Test is met [ER 5.16.51].
204. Paragraph 5.108 of the NPSNN states that the Exception Test for development to be located within a Flood Risk Zone 3 area requires that:
- it must be demonstrated that the project provides wider sustainability benefits to the community that outweigh flood risk; and
  - a Flood Risk Assessment must demonstrate that the project will be safe for its lifetime, without increasing flood risk elsewhere and, where possible, will reduce flood risk overall.
205. The ExA states that the Environment Agency was broadly satisfied with the Applicant's Flood Risk Assessment. In relation to several of the proposed main river crossings, the Environment Agency considered that there would be a loss of flood storage in the 5% (1 in 20) Annual Equivalent Probability event. The ExA recorded that the Environment Agency stated that this would not be in accordance with paragraph 5.109 of the NPSNN which requires no net loss of flood storage in Flood Risk Zone 3b [ER 5.16.38]. The Environment Agency records the Applicant as explaining that the volume lost has been redistributed across the wider floodplain and there is no increased flood risk. The Environment Agency were satisfied with this response [REP2-053 (Deadline 2 Submission - Written Representations (WR) and summaries), paragraph 2.1.4].
206. The Secretary of State is aware that given the timing of the publication of the Environment Agency's updated guidance on the United Kingdom Climate Change Projections 2018, the Applicant was not able to consider it in the assessments submitted in support of the Application. However, it was proposed that the guidance would be considered post submission by way of a sensitivity test that would report the implications of the new guidance on the assessments undertaken to date. The Applicant stated that the results of the sensitivity test would be submitted to the Examination and would, as necessary to reflect any updates, be the basis for the detailed design of the Proposed Development, should consent be granted (paragraph 1.6.1 of 6.3 Environmental Statement, Appendix 14.5 Flood Risk Assessment) [ER 5.16.53]. The ExA records that the

sensitivity test taking into account the updated guidance and the new values for climate change allowances for rainfall intensity was not provided to the Examination. The ExA stated that the Environment Agency did not raise any concerns regarding the absence of the sensitivity test [ER 5.16.54].

207. At the end of the Examination, the ExA considered that the majority of matters relating to Flood Risk has been agreed between the Applicant and the Environment Agency [ER 5.16.39]. However, the ExA recorded that the following issues remained unresolved:

- Rivenhall Brook increased water levels and flood flows– awaiting acceptance from landowner;
- increased flood risks at haul road at Witham needs to be agreed with affected landowner;
- risk of flooding of Proposed Development in extreme 0.1% event in vicinity of Ordinary Watercourse 7, the FRA had not clarified whether there was a need for the Proposed Development to remain operational during such events; and
- de-watering effects upon Ordinary watercourse 10 require acceptance from landowner.

208. The Secretary of State has considered the ExA's conclusions on the above matters set out in ER 5.16.46 – 5.16.54. The ExA recorded that neither the Environment Agency nor the Lead Local Flood Authority disputed the conclusions of the Applicant's Sequential and Exception Tests [ER 5.16.50]. The ExA was satisfied that the Applicant's Flood Risk Assessment is appropriate and that the Proposed Development has passed the Sequential and Exception Tests [ER 5.16.120, second bullet]. The Secretary of State notes that overall, the ExA concluded that the Proposed Development would result in a low-level residual flood risk, which would be safely managed through measures secured in the first iteration EMP and certified documents [ER 5.16.120, third bullet]. The Secretary of State sees no reason to disagree with the ExA's conclusions.

### Drainage Strategy

209. The Secretary of State has noted the ExA's observations that there were a number of issues regarding the overall strategy that needed to be addressed but no evidence was presented to the Examination to suggest that the design of the sustainable drainage systems would not comply with the relevant standards as required by paragraph 5.100 of the NPSNN and that these matters can be appropriately dealt with during the detailed design stage. Like the ExA, the Secretary of State considers that on this basis the usage of sustainable drainage systems as part of the Proposed Development complies with paragraphs 5.110-111 of the NPSNN [ER 5.16.64].

210. The Secretary of State notes that Essex County Council expressed serious concerns regarding the discharge of polluted runoff into the water environment during the operation of the Proposed Development. As the lead local flood authority, it considered that it would not be safe to discharge runoff from the Proposed Development into the water environment, and doing so would further deteriorate Essex's water features [ER 5.16.37]. The Secretary of State notes in relation to the Surface Water Drainage Strategy, the proposal would provide

adequate surface water storage and attenuation capacity to ensure that the peak rate and total volume discharged from the site would not exceed the existing rates and volumes [ER 5.16.65]. The ExA stated that the Applicant had confirmed that any discharges to surface water courses would follow the appropriate legislation and would obtain the appropriate consents or would follow the appropriate exemptions and that best practice guidance measures to control sediment runoff would be followed during construction of the Proposed Development [ER 5.16.61]. The Secretary of State is satisfied that this would address the concerns raised by Essex County Council.

#### Water Quality and Implications for Water Framework Directive

211. The Secretary of State notes that this issue was considered in detail by the ExA during the Examination and in the Report [ER 5.16.66 – 5.16.112]. The Secretary of State is aware that the Proposed Development will result in increasing the length of existing culverts and the construction of new ones which will create additional dark areas. As a result the amount of light that will be able to penetrate these areas will be reduced and will have the potential to impact water quality which flows through the rivers and have an impact on the quality of the water from a biodiversity perspective. The ExA also noted that there is potential for impacts on mammals arising from construction works and from the extended existing and new culverts, resulting in the loss of habitat along riverbanks [ER 5.16.101]. Paragraph 5.222 of the NPSNN sets out that for those projects that are improvements to the existing infrastructure, such as road widening, opportunities should be taken, where feasible, to improve upon the quality of existing discharges where these are identified and shown to contribute towards WFD commitments.
212. The ExA noted that the Applicant proposed a number of mitigation measures to address adverse impacts identified in its assessments. The Applicant's WFD assessment concluded that following mitigation, the Proposed Development would not result in a deterioration in classification and/or prevent the water quality elements from either achieving good classification or achieving their River Basin Management Plan objective. The ExA also noted that the Applicant's ES assessment concluded that, after mitigation, no likely significant effects upon receptors sensitive to changes in the water environment, including protected species as a result of construction or operation of the Proposed Development are predicted [ER 5.16.104].
213. The Secretary of State notes that the Environment Agency raised significant concerns during the Examination in relation to the design approach taken by the Applicant towards the use of culverts, their potential impact upon water quality, and implications for WFD compliance [ER 5.16.66]. The ExA set out the position of the Environment Agency in ER 5.16.79 to 5.16.88, with particular emphasis on the extension of the existing concrete riverbed of the river Brain provided [ER 5.16.83], as the current structure leading to the channel almost dries out in the summer months. In its final position statement, the Environment Agency identified issues relating to six parts of the Proposed Development. Four of those parts involved proposed new or extensions to existing culverts and the other two involved extensions to existing river bridge crossings [ER 5.16.81]. The Environment Agency's view was that the new and extended culverts were likely to have a severe detrimental impact on invertebrates, vegetation, fish and entire

biodiversity elements across the whole river catchment, where they would act as a barrier to species movement [5.16.86].

214. The ExA referred to the Environment Agency's policy opposing the use of culverts, for reasons including their potential for adverse ecological effects. The Environment Agency considered that the Applicant had not followed this policy and considered that the use of clear span bridges or similar open structures was more appropriate [ER 5.16.84]. The Environment Agency was therefore of the view that the Applicant had not demonstrated that the Proposed Development could not be delivered using less environmentally damaging design [ER 5.16.85].
215. For the above and other reasons, the Environment Agency was unable to agree with the conclusions of the Applicant's Water Environment Regulations Compliance Assessment, which in its view undervalued the significant damage and risk of deterioration to the waterbodies. The Environment Agency considered that the proposed new and lengthened culverts risk waterbody scale deterioration across multiple waterbodies and a range of WFD elements: biological quality; chemical and physicochemical quality and hydromorphological quality [ER 5.16.88].
216. The ExA set out the position of the Applicant at ER 5.16.89-5.16.99. The Applicant's position was that the Proposed Development accords with the relevant environmental objectives of the Anglian RBMP and WFD objectives [ER 5.16.89] and it disagreed with effects identified by the Environment Agency submitting that the culverts were small at the river basin scale and had been assessed as not having any likely significant effect on habitats at this level [ER 5.16.90]. Mitigation and enhancement measures were described [ER 5.16.91-5.16.94] and reasons were given in a technical note as to why the replacement of existing bridges was not required and why providing bridges instead of culverts would not lead to significantly better environmental outcomes [ER 5.16.97]. The ExA noted that no substantial concerns were raised in relation to the overall scope and methodology of the Applicant's WFD assessment [ER 5.16.100]. The ExA found that the Applicant has proposed mitigation measures and enhancement measures to ensure that the Proposed Development does not result in a worsening of the existing situation. The ExA therefore concluded on the basis of the evidence before it that the Applicant's use of culverts is an acceptable design approach and that the mitigation provided through the DCO including commitments within the REAC along with the existing legal permitting system provides practicable and proportionate safeguards. The ExA concluded that the effects of the Proposed Development on the water environment in terms of water quality, though negative, would be unlikely to be significant and that in summary the Proposed Development would be unlikely to have a significant harmful effect on water quality [ER 5.16.107-5.16.109]. The ExA found that the Proposed Development meets the requirements of paragraphs 5.222, 5.223, 5.226 and 5.227 of the NPSNN [ER 5.16.110].
217. The Secretary of State consulted on this issue in the second consultation [letter](#) published on 20 November 2023, having been made aware of ongoing discussions between the Applicant and Environment Agency regarding several main river crossings, as referred to in Section 3 of the Applicant's response dated 9 November 2023 to the Secretary of State's consultation [letter](#) of 27 October 2023. The Applicant provided several revised engineering drawings and a

revised REAC to the Environment Agency, which as the Applicant set out in its consultation [response](#) dated 24 November 2023, would not lead to a deterioration in water quality, and thus would comply with the environmental objective of the Anglian River Basin Management Plan.

218. The Secretary of State notes the email [response](#) provided by the Environment Agency dated 24 November 2023, which set out that they are now satisfied with the proposals put forward by the Applicant and the updated drawings and REAC taken forward, will not lead to a deterioration under the Water Environment (Water Framework Directive) Regulations 2017 and that justification under regulation 19 of those Regulations is no longer considered necessary. The Secretary of State is therefore content that the Proposed Development would be unlikely to have a significant harmful effect on water quality and agrees with the ExA that it meets the requirements of paragraphs 5.222, 5.223, 5.226 and 5.227 of the NPSNN [ER 5.6.110].

219. The Secretary of State also notes from the letter from the Environment Agency dated 24 November 2023 that further improvements on Essex rivers, including the River Ter, would be discussed between the Applicant and the Environment Agency.

#### Disapplication of Flood Risk Activity Permits

220. The Secretary of State notes that the Applicant sought to include provision in the DCO for the disapplication of regulation 12 of the Environmental Permitting (England and Wales) Regulations 2016 (“the 2016 Regulations”). This was in relation to the requirement for environmental permits for the carrying on of a flood risk activity or a water discharge activity. Section 150 of the PA2008 allows for the disapplication of a prescribed consent or authorisation only if the body responsible for granting the consent or authorisation agrees to the disapplication. The Secretary of State is aware that at the end of Examination, the Applicant had not reached an agreement with the Environment Agency on this matter, and therefore the provision was removed from the draft DCO [ER 5.16.113 and ER 9.4.7-9.4.8]. The Secretary of State notes that the Applicant is therefore required to apply for an environmental permit for flood risk activity under the 2016 Regulations.

#### The Secretary of State’s Conclusion on Road Drainage, Flood Risk, Water Quality and Implications for the Water Framework Directive

221. The Secretary of State has considered the ExA’s conclusions at ER 5.16.120, as well as the consultation responses provided by the Applicant and the Environment Agency. The Secretary of State is satisfied that the initial concerns raised by the Environment Agency, in particular with regards to water quality and the requirements of the WFD, have been addressed. Therefore, the Secretary of State is satisfied that there is sufficient mitigation in place to resolve adverse effects to road drainage, flood risk and water quality created by the Proposed Development. He therefore agrees with the ExA [ER 5.16.121] that in respect of the impact on the water environment, the matter weighs neither for nor against the making of the DCO.

#### Diversion of the High-Pressure Gas Main

222. The Proposed Development includes the diversion of a high-pressure gas pipeline (“the gas main”) currently operated by Cadent Gas Limited (‘Cadent’) [ER 5.17.1]. The current gas main runs parallel with the southbound carriageway of the A12 between Maldon Road Bridge and Colemans Bridge and runs under residential back gardens and parallel to the Whetmead Local Nature Reserve [ER 5.17.2] and the corridor of the proposed diversion would run close to residential properties around Maldon Road between the Witham disused railway linear country park and Bluemills Golf course car park [ER 5.17.3 and Figure 3 of the ExA’s Report].

223. The Applicant’s assessment of the gas main diversion is included within the ES with the diversion assessed as an integral part of the Proposed Development and a summary of likely significant effects for each environmental aspect of the gas main diversion is provided in Table 2.1 in Appendix 5.2: Gas Main Diversion Screening Assessment [ER 5.17.11]. The Secretary of State notes that during the Examination, the Applicant provided further clarification and a further table to signpost relevant chapters and sections of the ES where the gas main diversion was considered [ER 5.17.12].

224. The Applicant’s assessment concluded that there would be no likely significant effects resulting from the gas main diversion on air quality, cultural heritage, biodiversity, geology and soils, material assets and waste, noise and vibration, population and health, road drainage and the water environment, and climate. However, the Secretary of State notes that the Applicant found that the diversion would give rise to likely significant adverse impacts upon landscape and visual receptors [ER 5.17.13].

#### Department for Energy Security and Net Zero Consultation

225. The joint letter from the Department for Transport and the Department for Business, Energy and Industrial Strategy (now the Department for Energy Security and Net Zero (“DESNZ”)) dated 30 July 2021<sup>1</sup> sets out the handling arrangements for applications for transport DCOs that include nationally significant energy infrastructure projects. This letter confirms that where a transport application includes the diversion of energy infrastructure that meets the PA2008 threshold for nationally significant energy infrastructure projects, such applications can be decided by the Secretary of State for Transport, in consultation with the Secretary of State for Energy Security and Net Zero (“ESNZ”). At the request of the ExA, the Applicant sought confirmation from DESNZ that the arrangement set out in the letter of 30 July 2021 remained in place, and the Applicant received a response confirming that this was still the case on 12 June 2023 [ER 5.17.7].

226. Accordingly, the Secretary of State consulted the Secretary of State for ESNZ on the ExA’s recommendation in relation to the gas main diversion on 30 October 2023. The response confirmed that the Secretary of State for ESNZ is satisfied that any outstanding concerns regarding biodiversity, landscape and visual

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<sup>1</sup> <https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/2021/08/DfT-BEIS-TR010044-TR010032-Transport-DCOs-with-energy-elements.pdf>

impacts created by the diversion of the gas main have been addressed, and had no other comments to make in relation to the gas main.

227. Having reviewed the submitted details from the Applicant, the ExA was content that the gas main diversion would comprise a Nationally Significant Infrastructure Project under the PA2008. No substantive comments were received during the Examination to the contrary [ER 5.17.6]. The Overarching National Policy Statement for Energy (NPS EN-1) sets out in section 3.8 the need for nationally significant gas infrastructure and the National Policy Statement for Gas Supply Infrastructure and Gas and Oil Pipelines (NPS EN-4) sets out that it contains policies that are additional to those on the generic impacts contained in EN-1 and do not replace them (both set out the need for this type of infrastructure). The Secretary of State has had regard to the policy requirements in NPS EN-1 and NPS EN-4 that are not included in the NPSNN but which are relevant for the assessment of the gas main diversion and set out in ER 5.17.9.

#### Consideration of the Gas Pipeline Diversion by the ExA

228. The issues considered by the ExA during the Examination were:

- need for the gas main diversion, consideration of alternatives and final alignment [ER 5.17.22 – 5.17.36];
- landscape and visual impacts from tree removal [ER 5.17.66 – 5.17.72];
- impact upon Biodiversity, in particular the Blue Mills local nature reserve [ER 5.17.37 - 5.17.65];

229. In taking his decision, the Secretary of State notes that the latest NPS EN-1 and NPS EN-4 were published by DESNZ in November 2023. These policy documents recognise that gas is a primary fuel and an internationally traded commodity, with an unavoidable need to be transported from where it is sourced to the markets where it is consumed. They also recognise the need for a diverse gas infrastructure including gas pipelines to respond effectively to changes in demand. The Secretary of State notes the response from the Secretary of State for ESNZ post-dates publication of these NPSs and is content that the gas-pipeline diversion continues to conform to policy as set out in NPS EN-1 and NPS EN-4.

230. In taking his decision, the Secretary of State notes that the 2011 suite of energy NPS remain in force until early 2024 and have effect in relation to this application, because the application was accepted for examination before designation of the amendments to them, published in November 2023.

231. Paragraph 3.8. of the 2011 NPS EN-1 states that there is a need for a diverse mix of gas storage and supply infrastructure to respond effectively in future to the large daily and seasonal changes in demand and paragraph 3.4.4 of the 2023 NPS EN-1 states that there is a need for “a diverse mix of gas supply infrastructure including pipelines in order to meet our energy objectives”.

232. The Secretary of State is aware that during the Examination, the ExA sought clarification and justification from the Applicant about the various options it had considered for the gas main diversion and why they had been discounted. Following an accompanied site visit, the ExA also sought details of alternative options that would avoid or mitigate impacts on Blue Mills local nature reserve



[ER 5.17.23]. The Applicant set out that it had considered five corridors for the route of the gas main diversion discounting corridors 1 and 3 as they would divert the gas main through the historic landfill at Whetmead local nature reserve and discounting corridors 2 and 5 due to strong objections during the supplementary consultation from local residents and councillors because of the loss of trees and hedgerows lining Blue Mills Hill and Ishams Chase. Corridor 4 was chosen as the preferred option although the Applicant acknowledged that this would result in loss of woodland where it crosses the River Blackwater but following its selection the route had been amended to avoid woodland on its east bank [ER 5.17.29 – 5.17.31].

233. The ExA considered that given the location of the gas main in relation to the Proposed Development and the response from Cadent Gas that this gas main would be affected, the gas main diversion was necessary for the delivery of the Proposed Development as without the diversion the Proposed Development as submitted cannot be implemented [ER 5.17.32]. The Secretary of State has taken account that the ExA agreed with the Applicant in the consideration of the alternative routes and found that a sufficiently robust exercise had been undertaken to identify the most appropriate route although accepting that the preferred corridor is not without environmental impacts but that from the evidence presented to the Examination, the ExA were content that it represented the best technical solution [ER 5.17.33]. The ExA concluded that no substantive evidence was submitted to lead them to conclude that there was a more appropriate alternative corridor to the one preferred by the Applicant [ER 5.17.34]. The ExA was also satisfied that the Applicant's approach in discounting the alternative routes was reasonable and logical [ER 5.17.33-5.17.34]. The Secretary of State agrees.

234. The ExA accepted the Applicant's reasons for identifying a preferred corridor rather than an exact route for the pipeline [ER 5.17.35–5.17.36] which was necessary because further detailed and technical work was required before the final design could be confirmed. While the Secretary of State understands why a lack of clarity on the exact route of the gas main was a source of frustration for IPs, he agrees that identifying a corridor and assessing the impacts on that corridor is acceptable.

#### *Impact on Biodiversity*

235. The Secretary of State notes the careful consideration that the ExA has given on the impact of the proposed gas main diversion on biodiversity and in particular the Blue Mills local nature reserve where the ExA undertook a site visit and was shown the Order Limit and its interaction with the local nature reserve along with the key ecological features within it. Maldon District Council raised a number of issues regarding the impact of the gas main diversion upon Blue Mills local nature reserve and, by the close of the Examination, the impact upon the trees within the local nature reserve had been agreed with Maldon District Council [ER 5.17.38-5.17.39]. Mr Mark Cathcart, the landowner of Blue Mills local nature reserve, made a number of submissions during the Examination highlighting the area as an area of exceptional ecological interest [ER 5.17.42 - 5.17.43]. The ExA sought details on the determination of the scope of the survey effort for the gas main diversion and the Applicant confirmed that a suite of surveys had been undertaken to assess the effects of the gas main diversion. The Applicant

confirmed that the gas main diversion would be subject to the standard and embedded mitigation measures detailed in section 9.10 of Chapter 9: Biodiversity and that the Applicant would also seek to avoid and minimise impacts within the preferred corridor through a number of additional commitments in the Register of Environmental Actions and Commitments [ER 5.17.45-5.17.53]. While the Secretary of State notes the ExA's conclusions on the alternative route put forward by Maldon District Council and Mr. Mark Cathcart [ER 5.17.25 - 5.17.27], he accepts that, as set out above, before the Applicant can confirm the exact route of the diversion, further detailed technical work is required. However, he draws the Applicant's attention to the ExA's comments on this matter [ER 5.17.62].

236. The ExA concluded that the measures to mitigate against any impacts includes a number of bespoke mitigation measures to specifically address the impact upon the Blue Mills local nature reserve. The ExA was satisfied that the REAC is a suitable mechanism for the delivery of the mitigation measures that have been included to avoid and minimise impacts within the preferred corridor. The ExA was therefore satisfied that, with this mitigation in place, the impact upon Blue Mills LNR and its features, including the Black Poplar, along with other protected trees and species that use the area, will be as assessed by the Applicant [ER 5.17.61]. The Secretary of State agrees that the measures proposed by the Applicant to mitigate against any impacts would adequately protect other ecological features including Barn Grove local wildlife site [ER 5.17.65]. Potential impacts from the felling of trees is considered in the section below.

#### *Landscape and visual impacts from tree removal*

237. The adverse impacts on landscape and visual receptors are set out by the Applicant in the ES Chapter 8 – Landscape and Visual, and the mitigation of these (and other) impacts is discussed in paragraphs 5.17.19 – 20 of the Report. The Secretary of State notes that landscape and visual impact was an issue that was raised by a number of IPs throughout the Examination [ER 5.17.66].

238. As part of his [consultation](#) initiated on 27 October 2023, the Secretary of State asked the Applicant for clarity on the exact nature of the works to be carried out in the area of the veteran black poplar tree situated within the Blue Mills Woodlands tree preservation order area which is subject to the powers of article 47 of the DCO. The Applicant confirmed in its [response](#), issued on 9 November 2023, that the selected alignment will avoid the black poplar within the tree preservation order area site and that consequently it is no longer anticipated that any vegetation would need to be removed within the Blue Mills Woodland tree preservation area. The Applicant has also confirmed that it has sought the powers on a precautionary basis to permit localised removal or trimming of vegetation but that this would not affect the Black Poplar.

239. The ExA considered that the provision of a corridor for the gas main diversion would result in the potential loss of a considerable number of trees and hedgerows which are important features and part of the defining characteristics of the area and their loss would be a noticeable feature once operational and whilst its impact would be reduced by year 15 there would still be a negative impact. As a result the Secretary of State has noted that the ExA found the gas

main diversion would have a significant adverse effect from a landscape and visual perspective [ER 5.17.70].

240. The Secretary of State has also taken account of the ExA's conclusion that the provision of mitigation in the form of re-planting and avoidance would to some degree help to minimise the overall impact but that the ExA did not consider this to be of such a level as to remove the significant effect. The ExA viewed the lack of an exact route as further compounding the harm making it difficult to effectively judge the suitability of the mitigation [ER 5.17.71]. Overall the ExA found that the gas main diversion would have a significant landscape and visual effect which it regarded as weighing negatively against the DCO and was attributed moderate weight in the planning balance [ER 5.17.72].

#### The Secretary of State's Conclusion on the Diversion of the High Pressure Gas Main

241. The Secretary of State agrees with the ExA that the diversion of the gas main is necessary to the delivery of the development, that there remains a continuing need for gas pipeline infrastructure of this type and that the Applicant has undertaken a thorough assessment of the alternative corridors that the gas main could be diverted to in selecting its preferred corridor. The ExA concluded that with the mitigation measures secured by the DCO and associated documents, the gas main diversion would not result in any significant effects on ecological receptors or on Blue Mills local nature reserve or Barn Grove local wildlife site [ER 5.17.73]. However, the ExA concluded that due to the level of tree loss and the uncertainty with regard to the level of mitigation planting, a short and long term significant adverse landscape and visual effect would occur [ER 5.17.74]. The Secretary of State agrees with the ExA's conclusion and further considers this significant adverse effect in the Planning Balance section below.

#### Cumulative Effects

242. The Secretary of State has had regard to the Applicant's cumulative assessment as set out in Chapter 16 of the ES [ER 5.18.5]. The Report sets out the significant cumulative effects, after mitigation, identified in the ES [ER 5.18.8 – 5.18.13]. The Applicant did not propose any further mitigation or monitoring for those effects beyond the measures set out in Chapters 6 to 15 of the ES [APP-083 (6.1 Environmental Statement - Chapter 16: Cumulative Effects Assessment)].

243. During the Examination, the Secretary of State notes that the ExA and IPs raised matters in connection with cumulative effects including on the accumulation of the several Nationally Significant Infrastructure Projects in the local region, and the cumulative impacts on local services, housing and the labour market [ER 5.18.14 – 5.18.16]. The Applicant argued that these impacts were not significant to require further mitigation as part of the Proposed Development [ER 5.18.17 – 5.18.21].

#### The Secretary of State's Conclusion on Cumulative Effects

244. The Secretary of State agrees with the ExA that the Applicant has considered the cumulative and combined effects of the Proposed Development as required by paragraphs 4.16 and 4.17 of the NPSNN and in accordance with policy and legislation. The ExA highlighted [ER 5.18.25] that whilst there were negative

effects that have been identified of the Proposed Development in combination with other existing and/or approved projects, these effects are mainly temporary, occurring during the construction phase. The Secretary of State agrees with the ExA's conclusion. While these negative effects weigh against the making of the DCO, the Secretary of State attributes them limited weight in the planning balance. This matter is considered further in the planning balance section below.

### Habitats Regulations Assessment

245. Under regulation 63 of the Conservation of Habitats and Species Regulations 2017, as amended ("the Habitats Regulations"), the Secretary of State as the competent authority is required to consider whether the Proposed Development (which is a project for the purposes of the Habitats Regulations) would be likely, either alone or in combination with other plans and projects, to have a likely significant effect on a European site forming part of the National Site Network. The purpose of the likely significant effects test is to identify the need for an Appropriate Assessment and the activities, sites or plans and projects to be included for further consideration in the Appropriate Assessment.

246. The Applicant submitted a 'Habitats Regulations Assessment: No Significant Effects Report' as part of its Application. The Secretary of State notes that Natural England in its Relevant Representations and Written Representation dated 9 February 2023 agreed with the Applicant's scope and conclusions [REP2-091]. The ExA recorded that no other party submitted any evidence or comments against this and therefore a Report on the Implications for European Sites ("REIS") would not be required [ER 6.1.6]. The Secretary of State agrees with this decision.

247. The Secretary of State notes that the Applicant screened in sixteen sites in the assessment of likely significant effects [ER 6.2.4] and that Natural England agreed that these sites were relevant to the application [ER 6.2.6]. These sites are:

- Abberton Reservoir Special Protection Area ("SPA") and Ramsar
- Alde-Ore Estuary SPA and Ramsar
- Blackwater Estuary (Mid-Essex Coast Phase 4) SPA and Ramsar
- Colne Estuary (Mid-Essex Coast Phase 2) SPA and Ramsar
- Crouch and Roach Estuaries (Mid-Essex Coast Phase 3) SPA and Ramsar
- Dengie (Mid-Essex Coast Phase 1) SPA and Ramsar
- Essex Estuaries Special Area of Conservation ("SAC")
- Outer Thames Estuary SPA, and
- Stour and Orwell Estuaries SPA and Ramsar.

248. The impacts from the Proposed Development that were considered to have a potential to result in Likely Significant Effects alone (during construction and operation) were the reduction of habitat area; disturbance; and changes in hydrology [ER 6.2.7]. The Applicant's HRA Report concluded no likely significant effects from the Proposed Development alone on any of the qualifying features

of the identified European sites. The ExA examined each of these impact pathways in its Report [ER 6.2.11 - 6.2.45] and concluded there would be no likely significant effect alone from habit loss on the qualifying features of the sites referenced, and Natural England agreed with the conclusion of no likely significant effects [ER 6.2.21]. The Applicant's HRA Report concluded there would be no likely significant effects as a result of disturbance on the sites set out in ER 6.2.26. Furthermore, waterbirds which have been recorded using Coleman's Reservoir and are qualifying features of the sites listed in ER 6.2.27 were assessed as being unlikely to form part of the European site populations [ER 6.2.28]. As a result of the clarification the ExA sought from the Applicant [ER 6.2.31 - 6.2.33], Natural England confirmed that it remained content with the conclusion of no likely significant effects on any of the European sites considered in the assessment [ER 6.2.34]. The ExA was satisfied, taking into account the information provided and the view of Natural England, that there would be no likely significant effects on the qualifying sites identified as a result of disturbance during construction or operation of the Proposed Development [ER 6.2.37]. The Applicant's HRA Report identified hydrology connectivity between the Proposed Development and the Blackwater Estuary (Mid-Essex Coast Phase 4) SPA and Ramsar, Colne Estuary (Mid-Essex Coast Phase 2) SPA and Ramsar, and Essex Estuaries SAC via the watercourses set out in ER 6.2.40. The HRA Report stated that that given the size of the Estuaries and the distance downstream, any pollution would be diluted to such an extent that there would be no likely effects on any of the European site qualifying features [ER 6.2.41 – 6.2.42] and the ExA was satisfied that there would be no likely significant effects as a result of changes in hydrology during construction or operation [ER 6.2.43].

249. The Secretary of State notes that the ExA confirmed that the Applicant completed an assessment of potential in-combination effects that might arise from the Proposed Development and addressed potential effects arising from disturbance and changes in hydrology [ER 6.2.46 - 6.2.50]. No impact pathways were identified that would lead to likely significant effects as a result of the Proposed Development in combination with other plans and projects on any of the National Site Network sites identified above and their qualifying features. This was not disputed by Natural England or any other interested party during the Examination [ER 6.2.48].

#### The Secretary of State's Conclusion on the Habitats Regulation Assessment

250. The Secretary of State agrees with the Applicant and Natural England that there would be no likely significant effects arising from the Proposed Development, either alone or in combination with other plans or projects on the National Site Network sites identified above [ER 6.4.6]. In the light of this, the Secretary of State also agrees with the ExA that an Appropriate Assessment is not required [ER 7.4.18].

#### Planning Balance

251. The ExA concluded that the need for the Proposed Development has been met and the benefits that are expected as a result of this scheme carry substantial weight in favour of the granting of the DCO. These benefits include [ER 7.4.4]:

- improvements to the strategic road network in the context of the projected national growth in traffic levels;

- supporting the delivery of a national network to meet the country's long-term needs that would support economic growth. In particular the improved journey times and increased reliability that will occur as a result would support economic growth;
- reduction in existing congestion along the A12 between Chelmsford and Colchester, improving journey times;
- delivery of highway safety improvements through the application of a consistent standard of design along the route and the removal of direct accesses onto the road;
- delivery of additional highway capacity that would facilitate long-term housing and economic development and growth; and
- reduction of operational noise at 806 dwellings and 18 other sensitive receptors [ER 5.12.112].

252. In addition, new and improved non-motorised routes and crossings for walkers, cyclists and horse riders carries moderate weight in favour of the granting of the DCO [ER 5.9.65 and 7.3.56].

#### *Traffic and transport*

253. The ExA concluded that while the Proposed Development could potentially result in an increase in traffic on the local road network and impact on a number of villages, any potentially negative impacts that might arise would be outweighed by the wider transport benefits expected as a result of the Proposed Development which include those listed above [ER 5.15.149]. The ExA also found that while some harm would be caused to local businesses during the construction, this is outweighed by the benefits to the local economy that would be delivered as a result of the Proposed Development [ER 5.14.66]. The ExA therefore considered that the Proposed Development delivers several important benefits from a transport perspective, which has been attributed substantial weight in the planning balance [ER 7.3.90]. The Secretary of State agrees.

254. The ExA concluded that the impact of the Proposed Development on the following matters weighs neither for nor against the making of the DCO:

#### *Design*

255. The ExA was satisfied that the Applicant had met the "good design" requirements of the NPSNN and that design had been an integral consideration in the scheme's development [ER 5.7.24]. The ExA concluded that design weighs neither for nor against the Proposed Development and attributes this neutral weight in the planning balance [ER 5.7.26 and 7.3.46]. The Secretary of State agrees with this conclusion.

#### *Material assets and waste*

256. The ExA concluded that the measures outlined in the Site Waste Management Plan [APP-196] and Materials Management Plan [APP-194], the proposals for waste management and the use of material assets would be satisfactory and accord with the requirements of the NPSNN [ER 7.3.62]. The ExA highlighted the use of the proposed borrow pits, which whilst acknowledging there would be some environmental impacts from their development and usage, the benefits,

along with the proposals for their restoration, would outweigh the harm caused [ER 7.3.63]. The ExA therefore concluded that this issue carries neutral weight in the planning balance [ER 7.3.64]. The Secretary of State agrees.

#### *Water environment*

257. The ExA's concludes at ER 5.16.120 that the Applicant's approach to drainage run-off rates and the maintenance of drainage infrastructure for the Proposed Development is satisfactory, and that the Proposed Development passes both the sequential and the exception tests in assessing the flood risk. Low level residual flood risks would be safely managed through measures outlined in the EMP and Flood Risk Assessment certified documents. It further concludes that Drainage Strategy and that the DCO and REAC contain adequate provisions to ensure that the proposed surface water drainage system would be properly implemented and maintained for the lifetime of the Proposed Development, and that it has been designed to accommodate any future climate change effects [ER 7.3.92]. Following consultation with the Environment Agency on water quality and the Proposed Development's compliance with the WFD, the Secretary of State is satisfied that there is sufficient mitigation in place to address any adverse impacts to water quality. The Secretary of State, therefore, agrees with the ExA [ER 5.16.121 and 7.3.94] that in respect of the impact on the water environment, that matter weighs neither for nor against the planning balance for the making of the DCO and considers that they have neutral weight in the planning balance.

258. The following are the considerations that the ExA has weighed against the Proposed Development:

#### *Carbon*

259. The ExA concluded while the Proposed Development would result in an increase in carbon emissions, this would not result in significant effects in EIA terms [ER 5.5.68]. Taking into account the Government's carbon reduction targets, and the direction of national and international policy to reduce carbon emissions, the ExA gave the expected increase limited weight against the granting of the DCO [ER 7.4.10]. The Secretary of State considers that this increase would be unlikely to have a material impact on the ability of the Government to meet its carbon reduction targets, but agrees that the increase in emissions as a result of the Proposed Development carries limited negative weight.

#### *Geology and Soils including agricultural land*

260. The Applicant identified that the permanent loss of 395ha of agricultural land would result in a significant residual effect, and the ExA concluded that this weighs against the making of the DCO [ER 5.6.52]. The Secretary of State notes that the Applicant has sought to both minimise agricultural land take and avoid the use of high-grade land where possible and would comply with the NPSNN [ER 5.6.50] and proposes to return to agricultural use 109ha of the 504ha of arable farmland that would be lost to the Proposed Development during the construction phase [ER 5.6.41]. The Secretary of State agrees with the ExA that the permanent loss of 395ha of agricultural land weighs against the granting of the DCO, and also agrees with the weight that the ExA has recommended should

be given to this harm. The Secretary of State has therefore given this moderate negative weight in the planning balance [ER 7.3.44].

#### *Landscape and visual impacts*

261. The Applicant concluded that, even with mitigation, there would be significant residual adverse effects on the local landscape character and visual amenity as a result of the Proposed Development [ER 5.10.30]. The Secretary of State is satisfied that the Applicant has considered the landscape and visual impacts of the proposed Gershwin Boulevard Bridge and alternative locations suggested by IPs and has included measures to minimise landscape and visual harm as a result [ER 7.3.58]. The ExA considers that the Applicant has sought to minimise harm to the landscape, providing reasonable mitigation where possible and appropriate [ER 7.3.59]. The Secretary of State agrees. The ExA recommended that landscape and visual impacts should carry limited negative weight in the planning balance [ER 7.3.61]. The Secretary of State agrees.

#### *Diversion of High Pressure Gas Main*

262. The ExA also concluded that the proposed diversion of the gas main pipeline would also have a significant landscape and visual effect due to the potential loss of a considerable number of trees and hedgerows [ER 5.17.72]. The Applicant has proposed mitigation planting, but the ExA noted that this is not possible along the whole width of the corridor [ER 5.17.71] and the lack of an exact route for the diversion means that there is uncertainty regarding the level of mitigation that could be achieved [ER 5.17.74]. The ExA therefore concluded that while the impacts would have reduced by year 15 when the mitigation planting has established, there would remain a negative impact [ER 5.17.70]. The Secretary of State agrees and has given the landscape and visual impacts of the diversion of the gas main moderate negative weight in the planning balance. The ExA considers that the mitigation proposed with regard to the River Blackwater and Blue Mills Nature Reserve would adequately mitigate the potential consequences on ecological receptors. The Secretary of State agrees and has given the biodiversity impacts of the diversion of the gas main neutral weight in the planning balance.

#### *Heritage assets*

263. The Applicant identified that once mitigation had been applied, there would be 45 residual significant effects on designated heritage assets during construction and 6 during the operation of the Proposed Development. The Secretary of State notes that the Applicant and Historic England agreed that the impacts to the setting of two Scheduled Monuments would amount to less than substantial harm and also that additional mitigation would not reduce these effects [ER 7.3.49]. The ExA concluded that the less than substantial harm that would occur to the two Scheduled Monuments, designated and non-designated heritage assets would be outweighed by the public benefits of the Proposed Development [ER 7.4.11]. In considering heritage assets, the Secretary of State has had regard to his duties under regulation 3 of the Infrastructure Planning (Decisions) Regulations 2010. The Secretary of State has given the less than substantial harm that would occur moderate negative weight in the planning balance.

#### *Noise and vibration [ER 5.12.106].*



264. As set out above, the ExA considered that there would be a reduction of operational noise at 806 dwellings and 18 other sensitive receptors as a result of improved mitigation and realignment of the existing A12 brought about by the Proposed Development, and this weighs in favour of the granting of the DCO [ER 5.12.112]. However, the ExA also identified that there would be adverse effects at a number of locations due to construction works, increase traffic due to works and night-time closures. The ExA also concluded that there would be adverse effects at 116 dwellings and four other receptors during operation [ER 5.12.113]. The Secretary of State is satisfied that the Applicant has sought to mitigate against such impacts through measures that are secured through Requirement 4 in the DCO [ER 7.3.67]. However, the Secretary of State notes that while significant adverse operation noise effects remain at the receptors identified by the ExA, these significant effects would be below the SOAEL [ER 7.3.69] and the ExA therefore recommended that these noise and vibration impacts should carry limited negative weight against the granting of the DCO [ER 7.3.70]. The Secretary of State agrees.

#### *Cumulative effects*

265. The ExA concluded that negative cumulative effects would occur as a result of the Proposed Development in combination with other developments identified in the Applicant's Cumulative Effects Assessment which is summarised by the ExA in Table 10 in the Report [ER 5.18.6]. The Secretary of State agrees with the ExA that that these potential effects are mainly temporary, occurring during construction [ER 5.18.25]. The Secretary of State also agrees with the ExA that given the mainly temporary nature of the effects, these carry limited negative weight in the planning balance [ER 7.3.97].

#### *Population and human health*

266. The ExA identified a number of population and human health benefits that would occur as a result of the Proposed Development [ER 5.13.43]. It also identified some adverse effects [ER 5.13.44] including potential impacts from noise, severance and on visual amenity but was satisfied that these had been considered, minimised and mitigated as much as possible [ER 7.3.72]. The impacts on health of noise, severance and visual disruption are considered separately in this section, and given a limited, negative weight due to the localised nature of the impacts from the Proposed Development.

267. Overall, the Secretary of State agrees with the ExA's assessment [ER 5.13.46] that the impacts of the Proposed Development on human health weigh against the making of the DCO and he considers this harm should be given a limited negative weight in the planning balance.

#### *Air quality*

268. The ExA considered that the worsening in local air quality at some locations during the operation of the Proposed Development weighs against the making of the DCO. However, the ExA noted that this would not give rise to any significant effects and that the operational effects are acceptable [ER 5.3.90]. The ExA considered that, in light of the direction of policy travel towards achieving further improvement to air quality, this weighs against the making of the DCO. However, this should carry limited negative weight against making the DCO given the

limited and localised nature of the impact [ER 7.3.29]. The Secretary of State agrees with the ExA on this aspect of the planning balance.

### *Biodiversity and habitats*

269. The ExA concluded that the impact from construction on hedgerows, woodland and the loss of other habitat carries limited negative weight against the DCO [ER 7.3.31]. The Secretary of State notes that the Applicant has included measures to mitigate against the impacts from the Proposed Development and that, once this mitigation planting has established, more than sufficient compensatory habitat of equal or potentially better quality would be provided [ER 5.4.95]. The Secretary of State agrees with the ExA and has given these temporary construction effects limited negative weight in the planning balance.

270. The Proposed Development would also result in the loss of five veteran trees for which neither mitigation nor compensation can be provided [ER 5.4.94]. The Secretary of State notes that the Applicant intends to retain the majority of identified ancient and veteran trees, and that the ExA considered that while the overall amount of veteran trees to be lost is small, their loss nonetheless weighs against the Proposed Development. The Secretary of State agrees with the ExA's suggested weight to be placed on this loss and has given this moderate negative weight against the granting of the DCO [ER 7.3.32].

271. The ExA considered that the predicted increase in nitrogen deposition during operation, which is considered to have a significant adverse effect on Perry's Wood Local Wildlife Site and Perry's Wood Ancient Woodland, weighs against the granting of the DCO [ER 7.3.33]. The Secretary of State notes that the Applicant is proposing offsetting through the creation of 7.4ha of broadleaved woodland habitat as part of the restoration of borrow pit F, and this would reflect the species found in Perry's Wood and other ancient woodlands in the local area [ER 5.4.77]. The ExA accepted that the effects would decrease over time, but considered this harm to be significant and recommended that it should carry moderate negative weight against the granting of the DCO. [ER 7.3.33]. The Secretary of State agrees.

272. The Secretary of State considers that there would be no likely significant effects arising from the Proposed Development either alone or in combination with other plans or projects on any National Site Network sites [ER 7.3.19] and that an Appropriate Assessment is not required. He therefore considers that Habitats Regulations matters do not weigh against the granting of the DCO [ER 7.4.18].

### The Secretary of State's Conclusions on Planning Balance

273. The Secretary of State is satisfied that the need for the Proposed Development is established and he places considerable weight both in terms of the additional highway network capacity that would help to support economic development, and improved links within the wider region and beyond. The Secretary of State also places weight on the socio-economic and other benefits highlighted by the ExA [ER 7.4.6] and set out above, and considers these benefits carry substantial weight in the planning balance. Having carefully weighed these benefits of the Development against the adverse effects of the Development as set out above, the Secretary of State is of the view that the potential negative impacts are substantially outweighed by the benefits of the Proposed Development.

## Compulsory Acquisition

274. The Secretary of State notes that ER 8.2.1 sets out the compulsory acquisition and temporary possession powers sought for the Proposed Development and that a full description of the extent and existing nature of land required for construction, operation and maintenance is set out in the Applicant's Statement of Reasons and the Book of Reference and, in general terms, at ER 8.2. The Secretary of State has noted the legislative requirements and national guidance set out by the ExA at ER 8.4.

## Legislative Requirements

275. Section 122 of the PA2008 provides that an Order granting development consent may include provision authorising the compulsory acquisition of land only if the land is required for the development to which the development consent relates or is required to facilitate or is incidental to that development or is replacement land to be given in exchange [ER 8.4.2] and there is a compelling case in the public interest for the land to be acquired compulsorily [ER 8.4.3]. Section 123 of the PA2008 sets out that one of three procedural conditions must be met by an application. In this case, the ExA notes that the first of these conditions, that the application includes a request for compulsory acquisition to be authorised, is met [ER 8.4.4 – 8.4.5]. Consideration must also be given to the "Guidance Related to Procedures for the Compulsory Acquisition of Land", DCLG, September 2013 ("Compulsory Acquisition Guidance") issued by the former Department for Communities and Local Government [ER 8.4.1 and 8.4.6 – 8.4.7].

## Individual objections

276. The Secretary of State notes that there were 48 outstanding objections to the compulsory acquisition and temporary possession powers sought by the Applicant from persons that are an owner, lessee, tenant, or occupier of the land over which such powers are sought ("category 1 landowners") [ER 8.5.20]. The ExA's consideration of these outstanding objections are set out in paragraphs 8.5.21 to 8.5.155 in the Report and the Secretary of State is satisfied that the ExA has considered all the objections received. The Secretary of State also notes the further representations made by Mr and Mrs Cathcart during the post-examination consultation. The Secretary of State notes that in all of these cases, the ExA concluded that the Applicant has made a compelling case for compulsory purchase powers over land and rights over land, that they are required to enable implementation of the Proposed Development and there is a compelling case in the public interest. The ExA was also satisfied that the temporary possession powers sought by the Applicant are required to facilitate or are incidental to the Proposed Development. The Secretary of State agrees with the ExA in its conclusion, in relation to the Applicant's general case for compulsory acquisition and temporary powers in the DCO, that none of those powers should be changed in any way.

## Generic objections – National Farmers' Union

277. The Secretary of State notes the objections put forward by the National Farmers' Union, which whilst not being a landowner directly affected by the Proposed Development, represented the interests of 14 families located near the

Proposed Development. The concerns raised by the National Farmers' Union are summarised by the ExA in ER 8.5.159 – 8.5.161 and the ExA's consideration of these are found at ER 8.5.163. The Secretary of State notes that these concerns included the speed of the progression of voluntary agreements and the proposed permanent acquisition of land to be used for ecological mitigation.

278. The Secretary of State has considered the Applicant's response on these issues [ER 8.5.162]. He notes the commitment for the appointment of an Agricultural Liaison Officer who would act as a primary contact for ongoing engagement on a number of issues relating to agricultural land. He also notes that the Applicant proposed the permanent acquisition of the land required for environmental mitigation so that it can ensure the mitigation secured through the DCO is maintained in accordance with the requirements in the DCO. The Secretary of State notes that the ExA was eventually persuaded that compulsory powers were required for mitigation because of the practical implications involved in agreeing and undertaking environmental mitigation with each of the landowners [ER 8.5.163]. The Secretary of State is also persuaded by this and in particular the need for certainty in establishing and maintaining mitigation that permanent powers of acquisition ultimately provide, should an agreement not be reached. The Secretary of State is therefore satisfied with the Applicant's approach on this matter.

#### Four Borrow Pits

279. The Secretary of State notes the significance of the issues during the Examination regarding the compulsory acquisition of land for borrow pits [ER 8.5.164 – 8.5.186]., The Secretary of State also notes that the borrow pits are important for delivering the scheme due to their contribution in reducing the environmental impacts, reducing costs and securing sufficient quality and quantity of material in the construction phase of the project. The Secretary of State agrees with the ExA's conclusion that the Applicant has considered all reasonable alternatives in the 'initial Borrow Pits Report' and the 'Borrow Pits Supplementary Report' [ER 8.5.187].

280. The Secretary of State is aware that extensive discussions took place between the landowner (The Bunting Family) and the Applicant regarding borrow pit J and notes the powers sought would result in the acquisition of a major part of the farm currently farmed by the family. He notes that while Heads of Terms between the two parties had been substantially agreed [ER 8.5.184], the ExA mentioned a concern regarding the lack of a SoCG between the parties and a specific commitment on the restoration strategy for borrow pit J. The Secretary of State also notes the REAC commitment action LV17 highlighted by the ExA relating to landscape proposals and which covers the restoration of all of the borrow pits [ER 8.5.185].

281. The Secretary of State agrees with the ExA that the requirement for Borrow Pits E, F, I, and J is proportionate and that there is a compelling case for the need and extent of the extraction proposed by the Applicant [ER 8.5.197].

#### Statutory Undertakers

282. Section 127 of the PA2008 contains provisions about the acquisition of Statutory Undertakers' land or rights over such land. If a Statutory Undertaker

has made a representation that has not been withdrawn before the end of the Examination, then compulsory acquisition powers may only be granted if one of two criteria can be satisfied [ER 8.6.2 - 8.6.3]. Section 138 of the PA2008 says that a DCO can only include provision for the extinguishment of the rights, or the removal of the apparatus of Statutory Undertakers if the Secretary of State is satisfied that the extinguishment or removal is necessary for the purpose of carrying out the development to which an Order relates [ER 8.6.4 – 8.6.5].

283. The ExA was satisfied that the Applicant had engaged with all Statutory Undertakers that might be affected by the Proposed Development and on the representations made by them where section 127 or section 138 of the PA2008 apply [ER 8.6.7]. The ExA considered impacts on Statutory Undertakers in ER 8.6.8 – 8.6.16 and recorded that the representations from Network Rail, Anglian Water Services Limited and AWG Land Holdings Limited and Cadent Gas Limited remained outstanding at the close of Examination. However, the ExA noted that while the representations had not been withdrawn, SoCG between each of these parties and the Applicant were agreed [ER 8.6.11, 8.6.14 and 8.6.17]. In respect of both Anglian Water Services Limited / AWG Land Holdings Limited and Cadent Gas Limited (“Cadent”) the SoCG demonstrated that the number of outstanding issues had reduced although, in the case of Network Rail, a number remained.

284. The Secretary of State notes disagreement during the Examination between the Applicant and Cadent over whether the protective provisions in Part 5 of Schedule 11 to the DCO are sufficient for the protection of Cadent’s undertaking [ER 8.6.15 – 8.6.16 and 9.4.171 – 9.4.173]. This has not been resolved since the Examination, as outlined in the consultation responses from Cadent dated 19 December 2023 and the Applicant dated 24 November and 18 December 2023. The Secretary of State notes the ongoing engagement between the Applicant and Cadent and that the relevant protective provisions can be varied by agreement and so does not consider this outstanding issue precludes him from making the Order.

285. Overall, in relation to acquisition of Statutory Undertakers’ land, the ExA accepted the Applicant’s submission that there is no serious detriment [ER 8.6.11, 8.6.14 and 8.6.17]. The ExA also concluded that the DCO includes provisions to authorise necessary interference with the apparatus of Statutory Undertakers, in connection with the delivery of the Proposed Development [ER 8.6.18]. In cases where existing rights have been or will be interfered with, the Applicant will acquire and provide new permanent rights over land for the benefit of these Statutory Undertakers for the carrying out of their undertakings. The ExA was therefore satisfied that subsections 127(3) and/or 127(6) are met. The Secretary of State agrees [ER 8.6.19]. The Secretary of State also agrees with the ExA that that the extinguishment of the rights of these Statutory Undertakers, and the removal of their apparatus is necessary for the purpose of carrying out the Proposed Development, and that section 138(4) is also satisfied [ER 8.6.20].

#### Gas Main Diversion

286. While the Secretary of State notes the objections made regarding the lack of certainty regarding the exact route of the proposed gas pipeline, he notes that the 100m wide corridor is required to enable, at detailed design stage, changes

of direction or to enable alternative methods of construction (including directional drilling for river crossings). He also notes that Cadent has not yet undertaken a detailed design study in respect of the Gas Main Diversion [ER 8.5.188]. The Secretary of State agrees with the ExA that section 122 of the PA2008 and the tests in the Compulsory Acquisition Guidance have been met. Further, he concurs with the ExA that all of the land subject to compulsory acquisition and temporary possession powers for the gas main diversion is necessary to construct, operate, maintain and mitigate the Proposed Development and that the extent of the land sought is reasonable and proportionate [ER 8.5.189].

#### Land to which no Objection has been received

287. The ExA noted that there are a number of category 1 landowners whose land would be subject to CA, TP with permanent rights or TP and who have not raised any objections to the Proposed Development. These landholders include some who have not sent any correspondence [ER 8.5.190]. Ron Elliston on behalf of Hatfield Peverel Feoffees responded on 29 October and 1 and 22 December 2023 during post-examination consultation in respect of Plot 6/14b. The Secretary of State notes the response but agrees with the Applicant's response dated 24 November, which states that there are existing statutory processes that may be relied upon by the landowner in relation to material detriment and injurious affection to retained land.

288. Like the ExA, the Secretary of State is satisfied that the land is required for the development to which the development consent would relate or is required to facilitate or is incidental to the Proposed Development, and there is a compelling case in the public interest for the land to be acquired compulsorily. The Secretary of State also agrees with the ExA that the same considerations apply to the land which is subject to temporary possession. [ER 8.5.191].

#### Crown Land

289. The Secretary of State notes that there are Crown interests identified in the Book of Reference and that the appropriate consent has been given in accordance with section 135 of the PA2008 [ER 8.7.4]. The ExA concluded that this land and interests are required for the Proposed Development, there is a compelling case in the public interest for compulsory acquisition of the land and the rights of temporary possession sought are for a purpose and timescale which has been identified [ER 8.6.21]. The Secretary of State agrees.

#### Special Category Land

290. The Secretary of State is aware that the Applicant is seeking compulsory acquisition powers over special category land and rights over such land, more specifically over open space, meaning that sections 131 and 132 of PA2008 are engaged. As regards the compulsory acquisition of open space land, section 131(3) of the PA2008 provides that the DCO would be subject to special parliamentary procedure unless the Secretary of State is satisfied that one of subsections (4) to (5) applies, and section 132(2) of the PA2008 makes similar provision in relation to the acquisition of rights over open space land. [ER 8.6.22].

291. The Secretary of State is aware that the Applicant proposes to permanently acquire special category open space land comprising 7687m<sup>2</sup>, and 19,123m<sup>2</sup>

where permanent rights are required for maintenance or access. This includes land at the Whetmead Nature Reserve [ER 8.6.24]. The Secretary of State is also aware that as part of its change application submitted to the ExA on 30 May 2023, the Applicant made changes to the provision for replacement land at Whetmead which was considered by Witham Town Council to be acceptable [ER 8.6.24] and this matter was listed as an area where agreement had been reached in the SoCG agreed between these parties.

292. The Secretary of State agrees with the ExA that the land and interests are required for the Proposed Development and there is a compelling case in the public interest for Compulsory Acquisition of the land and the rights of temporary possession sought are for a purpose and timescale which has been identified [ER 8.6.26].

293. The Secretary of State notes the Applicant's assertion that the replacement land will be no less in area than the DCO Land which is being acquired by it, is no less advantageous to the persons entitled to any rights over the land and to the public and the location of the replacement land which is close to the existing Whetmead Local Wildlife site [ER 8.6.23 - 8.6.24]. He also agrees with the ExA's acceptance of these points [ER 8.6.27]. As such, the Secretary of State is satisfied that, in the case of the open space land which is subject to compulsory acquisition, that section 131(4) applies. In the case of open space land over which rights are to be acquired compulsorily, the Secretary of State is satisfied that section 132(3) of the PA2008 applies because when burdened with the rights, the open space land will be no less advantageous than it was before. Therefore special parliamentary procedure does not apply in respect of any of this land [ER 8.6.27 – 8.6.28].

#### Funding

294. The Secretary of State agrees with the ExA that there is a reasonable prospect of the required funding as explained in the Applicant's funding statement [ER 5.5.15 – 8.5.19 and 8.7.7]. The Secretary of State is therefore satisfied that there is nothing to suggest that the necessary funds would not be available to finance the Proposed Development.

#### The Secretary of State's Conclusion on Compulsory Acquisition

295. The Secretary of State agrees with the ExA's overall conclusion on Compulsory Acquisition and Temporary Possession set out at ER 8.7.1 – 8.7.7 and 8.8.1 – 8.8.2. The Secretary of State is satisfied that the powers sought by the Applicant are necessary, there is a compelling case in the public interest, and the land that the Applicant will acquire through these powers is required to implement the Proposed Development. The Secretary of State is therefore satisfied that the tests set out in section 122 of the PA2008 are met. The Secretary of State is also satisfied that the test in section 123 of the PA2008 has been met because the Application included a request for compulsory acquisition powers [ER 8.4.5]. The Secretary of State also considers that, for the reasons given at ER 8.8.3, the conditions set out in the Compulsory Acquisition Guidance are met.

## **Draft Development Consent Order and Related Matters**

296. The Secretary of State has made a number of minor textual amendments to the DCO in the interests of clarity, consistency and precision. Further to the textual amendments the Secretary of State also makes the following modifications:

- In the preamble, paragraph 16 of Schedule 5 to the 2008 Act has been cited as the Proposed Development includes the diversion of watercourses.
- In article 2 (interpretation):
  - the definition of “highways engineering section drawings” has been amended to “engineering section drawings” to match the document in the examination library and consequential amendments have been made throughout the Order, including in Schedule 12 (documents to be certified);
  - paragraph (9) has been amended with additional text being inserted for “Rochdale Envelope” purposes;
  - paragraph (10) has been omitted as there is no justification in the Explanatory Memorandum (“EM”) outlining why the customary drafting is inadequate.
- Article 3 (disapplication of legislative provisions) – paragraphs (2) and (4) have been omitted as there is no explanation in the EM justifying why the identified provisions need to be excluded and, in the case of paragraph (4), why this is necessary for the purposes of operation or maintenance.
- Ex-article 9 (existing powers and duties of the undertaker) has been omitted as there is no explanation in the EM justifying why an article included sparingly in previous highways DCOs is considered “essential” in the circumstances of the Proposed Development.
- Article 9 (limits of deviation) – paragraph (6) has been amended to include an obligation to consult the local highway authority in respect of highways other than a special roads or trunk roads.
- Article 11 (consent to transfer benefit of Order) - the final clause of paragraph (3) plus paragraph (4) have been removed as the Secretary of State is concerned about the transfer of powers to unknown parties without his approval and is not persuaded by the justification in the EM; and a new paragraph (4) has been substituted to ensure compensation is paid for land taken. The references to “or a related or subsidiary company of” in the definitions in both articles 1 and 11 have been omitted due to the same concerns.
- Article 12 (application of the 1991 Act) – paragraphs (8) to (12) and the definition of “permit scheme” in article 2 has been omitted as there is no explanation in the EM outlining why permit scheme provisions that were specific to the M25 Junction 28 Development Consent Order 2022 are relevant to the Proposed Development.
- In article 15 (speed limits):
  - a new paragraph (4) based on article 48(3) of the A303 (Amesbury to Berwick Down) Development Consent Order 2023 has been inserted to identify when a section of road is subject to a variable speed limit;
  - definitions of “speed limit sign” and “variable message sign” have been inserted to follow the approach in the Traffic Signs Regulations and General Directions 2016;



- the drafting of paragraphs (7) and (8) has been simplified using precedented drafting.
- In articles 16 (power to alter layout etc. of streets), 18 (temporary alteration, diversion, prohibition and restriction of the use of streets), 23 (traffic regulation), 24 (discharge of water), and 26 (authority to survey and investigate the land), paragraphs have been inserted requiring the Applicant to include in an application to the relevant authority to which a deeming provision applies, notification that the application will be deemed as being consented to if the authority does not notify the Applicant of its decision before the end of the relevant specified period.
- In articles 18 (temporary alteration, diversion, prohibition and restriction of the use of streets), 19 (permanent stopping up and restriction of the use of streets and private means of access), 25 (protective work to buildings), 26 (authority to survey and investigate the land), 31 (private rights over land), 39 (rights over or under streets), 40 (temporary use of land for carrying out the authorised development), 41 (temporary use of land for maintaining the authorised development), 47 (trees subject to tree preservation orders, etc.), 53 (use of private roads for construction), and 56 (use of land between Bury Lane and Station Road, Hatfield Peverel), “as if it were a dispute” is inserted to improve clarity.
- Article 19 (permanent stopping up and restriction of use of streets and private means of access) – paragraphs (5) and (6) have been moved to a new article 20 (public rights of way) in accordance with customary drafting; with paragraph (3) of that new article giving effect to Part 3 of Schedule 4.
- In article 22 (clearways, prohibitions and restrictions):
  - the reference in paragraph (6)(b)(iv) to the repealed definition within the Postal Services Act 2011 is replaced with the current legislative definition;
  - paragraphs (10) to (14) have been omitted as they address matters already covered by the Traffic Management Act 2004 and regulations made pursuant to it;
  - the previously undefined terms “civil enforcement officer”, “disabled person’s badge”, “in the relevant position”, “parking disc” and “traffic officer” have been defined in a new paragraph (13).
- Article 24 (discharge of water) – paragraph (8) has been inserted as it is a provision common to the vast majority of recent highways DCOs and, given the lack of explanation in the EM, it appears to have been omitted in error;
- Article 27 (compulsory acquisition of land) – in paragraph (2) the cross-reference to article 30 (compulsory acquisition of rights and imposition of restrictive covenants) has been corrected to refer to paragraph (2).
- Article 30 (compulsory acquisition of rights and imposition of restrictive covenants) - paragraphs (2) and (3) have been removed as the Secretary of State is concerned about the transfer of powers to unknown parties which circumvents the application of article 12.
- Article 31 (private rights over land) – paragraph (10) has been removed, as while the Secretary of State notes the explanation in the EM it is unclear in the circumstances of this Scheme that such a provision is necessary. A new paragraph (10) has also been inserted to give effect to Part 5 of Schedule 4.
- Article 37 (application of the 1981 Act) – the Secretary of State has noted the inclusion of paragraph (9) which makes provision for the overpayment of

compensation. It has only been included in one DCO and the Secretary of State is unclear whether there is an issue that needs to be addressed. In the absence of any explanation in the explanatory memorandum it is the view of the Secretary of State that this provision is not needed and so has been removed.

- Ex-article 51 (appeals relating to the Control of Pollution Act 1974) – this provision has been removed. While the Secretary of State appreciates this provision was accepted in two recent Orders, it remains the Secretary of State’s position that there are appeal procedures available within the court justice system and this provision is therefore viewed as being unnecessary.
- In Schedule 2, Part 1 (requirements):
  - paragraphs 14 (Boreham operation phase traffic mitigation measures), 15 (Messing operation phase traffic mitigation measures), 16 (operation phase local traffic monitoring) and 18 (junction 21) have been modified to provide for approval by the local highway authority, as outlined at paragraphs 178 to 198 above;
  - paragraphs 21 (approvals and amendments to approved details), 22 (applications made under requirements), 23 (further information) and 24 (register of requirements) have been modified as a consequence of the modifications above, with the new defined term “approving authority” being substituted for “the Secretary of State”.
  - in paragraphs 26 (timing of consultation), sub-paragraph (3) has been omitted after being made unnecessary by modifications to sub-paragraph (2);
- Schedule 3 (classification of roads, etc.):
  - in Part 6 (speed limits) - the 10<sup>th</sup> row of “Traffic regulation measures speed limits plans – Sheet No. 14” and the 6<sup>th</sup> row of “Traffic regulation measures speed limits plans – Sheet No. 16 (and 17)” have been modified to be in accordance with those plans to include a 40mph speed limit.
  - in Part 12 (revocations & variations of existing traffic regulation orders) - the 6<sup>th</sup> row of “Revocation of existing traffic orders plans – Sheet No. 18” has been omitted as it duplicates part of the 4<sup>th</sup> row and the 1<sup>st</sup> and 2<sup>nd</sup> rows of “Revocation of existing traffic orders plans – Sheet No. 19” have been omitted as they were removed by version 2 of those plans as submitted at deadline 6.
- Schedule 8 (special category land):
  - in Part 3 (special category (rights) land for which replacement land is not provided) for the entry in relation to sheet 1 plot reference 1/11g is not shown in Part 5 of the book of reference (deadline 7 submission); and
  - in Part 4 (replacement land) for the entry in relation to sheet 9 plot reference 9/1o is not shown in Part 5 of the book of reference (deadline 7 submission).
- Schedule 9 (hedgerows and trees) – the applicant should note that some of the Work No. references may be incorrect. In Part 1 (removal of important hedgerows) should the entry ‘244 (North of Latneys)’ refer to Work No. 21A rather than 21(a); the entry ‘209 (North-west of Benton Hall)’ refers to Work No. 24(f) which is shown as unused; and should the entry ‘994 (West of Inworth Hall)’ refer to Work No. 76A rather than 76(a). In Part 2 (removal of

other hedgerows) should the entry '139 (East of hedgerow 144)' refer to Work No. 50A rather than 50(a); and should the '129 (South-west of Koorbaes Cottages)' refer to Work No. 60A rather than 60(a).

**Schedule 12 (documents to be certified) – the applicant should note that some of the listed documents are referred to as 'plans' but the document title does not include the word 'plan'. These documents are revocation of existing traffic orders plans; traffic regulation measures movement restrictions plans; traffic regulation measures speed limits plans; and utility diversion plans.**

## **Late Representations**

297. Following the close of the Examination, the Secretary of State received late representations and responses to his consultation questions (that were outside of the questions posed). The Secretary of State has treated this correspondence as late representations and has published them as such alongside this letter on the Planning Inspectorate website.

298. Unless addressed above, the Secretary of State considers that these late representations do not raise any new issues that are material to the decision on the Proposed Development. As such, the Secretary of State is satisfied that there is not any new evidence or matter of fact in these late representations that need to be referred again to IPs under Rule 19(3) of the Infrastructure Planning (Examination Procedure) Rules 2010 before proceeding to a decision on the Application.

## **The Secretary of State's Consultations**

299. The Secretary of State consulted the Applicant and a number of IPs on 27 October and 27 November 2023 on a number of matters that remained outstanding at the end of the examination. The responses to his consultation were published on the Planning Inspectorate project pages for the Proposed Development.

## **General Considerations**

### Public Sector Equality Duty

300. The Equality Act 2010 established the Public Sector Equality duty, which requires public authorities to have due regard in the exercise of their functions to the need to eliminate unlawful discrimination, harassment and victimisation and any other conduct prohibited under that Act; advance equality of opportunity between people who share a protected characteristic and those who do not; and foster good relations between people who share a protected characteristic and those who do not in respect of the following "protected characteristics": age; gender; gender reassignment; disability; marriage and civil partnerships; pregnancy and maternity; religion and belief; and race.

301. The Secretary of State notes that in examining the Application, the ExA gave full regard to Public Sector Equality Duty [ER 3.5.14]. In considering the ExA's report, the representations submitted following the close of the Examination and

in the taking of his decision, the Secretary of State also considered whether the Proposed Development and mitigation proposed by the Applicant would harm the interests of persons with a protected characteristic or have an adverse effect on the relationships between such persons and any persons who do not have a projected characteristic and concludes it would not. The Secretary of State is satisfied that the Public Sector Equality Duty is discharged.

#### Natural Environment and Rural Communities Act 2006

302. The Secretary of State, in accordance with the duty in section 40(1) of the Natural Environment and Rural Communities Act 2006 as amended by section 102 of the Environment Act 2021, has had regard to the purpose of conserving and enhancing biodiversity and, in particular, to the United Nations Environmental Programme on Biological Diversity of 1992. The Secretary of State notes that the ExA has had regard to the Natural Environment and Rural Communities Act 2006 and biodiversity duty in the relevant sections of the Report [ER 3.5.9]. The Secretary of State is aware that Essex County Council referred to the Natural Environment and Rural Communities Act 2006 and the need to ensure that non-significant impacts were mitigated, as required under Section (s)40 of the Act [ER 5.4.7]. The Secretary State notes that by the end of Examination, matters relating to the Natural Environment and Communities Act has been resolved and formed part of the SoCG agreed by the Essex County Council and the Applicant [ER 5.4.58].

303. In reaching a decision to grant development consent, the Secretary of State has had due regard to the duty of conserving and enhancing biodiversity.

#### Human Rights Act 1998

304. The Secretary of State considers that the ExA's procedural decisions gave the owners/occupiers of the properties affected by the Proposed Development a fair opportunity to participate in the Examination. The Secretary of State agrees with the ExA's conclusion, that in relation to human rights, the Examination has ensured a fair and public hearing and the requirement of Article 6 of the European Convention on Human Rights, as incorporated in the Human Rights Act 1998 is met [ER 7.2.7 and 8.8.3].

305. The ExA recorded out of the 22 residential properties within the Order limits for which the Applicant has either completed the purchase or has received and accepted a blight notice. Out of these 22 properties, the ExA noted that 10 transactions have been completed, 9 owners wish to remain in their properties but with mitigation provided and 2 of these owners will be rehoused temporarily. As to the remaining 3 properties, the ExA confirmed that statutory blight has been accepted [ER 8.6.31].

306. The Secretary of State agrees with the overall conclusions of the ExA set out in paragraph 8.8.3 in the Report and in particular that:

- adequate and secure funding would be available for CA.
- in examining the Application, the ExA has ensured a fair and public hearing.

- that any interference with human rights arising from implementation of the Proposed Development would be for a legitimate purpose that would justify such interference in the public interest and to a proportionate extent.
- demonstrated that compensation would be available for quantifiable loss; and
- shown there would be no disproportionate or unjustified interference with human rights that would conflict with the provisions of the Human Rights Act 1998.

## **Secretary of State's Overall Conclusion and Decision**

307. For all the reasons set out in this letter, the Secretary of State has decided to grant development consent, subject to the changes in the Order mentioned above. The Secretary of State is satisfied that none of these changes constitutes a material change and is therefore satisfied that it is within the powers of section 114 of the PA2008 for the Secretary of State to make the Order as now proposed.

## **Challenge to Decision**

308. The circumstances in which the Secretary of State's decision may be challenged are set out in Annex A of this letter.

## **Publicity for the Decision**

309. The Secretary of State's decision on this Application is being publicised as required by section 116 of the PA2008 and regulation 31 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017.

Yours faithfully,

Gareth Leigh,  
Transport Infrastructure Planning Unit

## ANNEX A

### LEGAL CHALLENGES RELATING TO APPLICATIONS FOR DEVELOPMENT CONSENT ORDERS

Under section 118 of the Planning Act 2008, an Order granting development consent, or anything done, or omitted to be done, by the Secretary of State in relation to an application for such an Order, can be challenged only by means of a claim for judicial review. A claim for judicial review must be made to the High Court during the period of 6 weeks beginning with the day after the day on which the Order is published. Please also copy any claim that is made to the High Court to the address at the top of this letter.

The A12 Chelmsford to A120 Widening scheme Development Consent Order 2023 (as made) is being published on the Planning Inspectorate website at the following address:

<https://infrastructure.planninginspectorate.gov.uk/projects/eastern/a12-chelmsford-to-a120-widening-scheme/>

These notes are provided for guidance only. A person who thinks they may have grounds for challenging the decision to make the Order referred to in this letter is advised to seek legal advice before taking any action. If you require advice on the process for making any challenge you should contact the Administrative Court Office at the Royal Courts of Justice, Strand, London, WC2A 2LL (020 7947 6655).