



Norwich To Tilbury

Nationally Significant Infrastructure Project (NSIP) (“the NSIP”)

Braintree District Council



Submission:

Closing Statement

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Glossary of Abbreviations

BDC – Braintree District Council
BNG – Biodiversity Net Gain
B2T – Bramford to Twinstead
CoCP – Code of Construction Practice
DCO – Development Consent Order
DESNZ – Department for Energy Security and Net Zero
ECC – Essex County Council
ES – Environmental Statement
ExA – Examining Authority
LPA – Local Planning Authority
LOD – Limits of Deviation
MWC – Main Works Contractor
NSIP – Nationally Significant Infrastructure Project
NVMP – Noise and Vibration Management Plan
REP – Examination Library Reference
RVAA – Residential Visual Amenity Assessment
SoCG – Statement of Common Ground
TB – Tower Reference

2 Executive Summary

2.1 Overview

2.1.1 This Closing Statement summarises Braintree District Council's final position on matters considered during the Examination of the Norwich to Tilbury NSIP.

2.1.2 Whilst the Council acknowledges the progress made during the Examination and the resolution of many matters through ongoing engagement with the Applicant, important areas of disagreement remain.

2.2 Areas of Disagreement

2.2.1 The Council's strategic concerns regarding the need for, timing of and form of the proposed development remain as recorded in the Statement of Common Ground (SOCG) (REP7-110 items 3.3.1 - 3.2.5), and previous Examination submissions. Whilst these matters have been examined during the Examination, the Council remains concerned that the Applicant has not adequately demonstrated the urgency of reinforcement, fully justified the predominantly overhead line solution, or sufficiently explored alternative approaches.

2.2.2 Notwithstanding the Council's strategic concerns, if the ExA is minded to recommend that a Development Consent Order be made, the Council considers that several detailed matters remain unresolved and require careful consideration.

2.2.3 The Council considers the following to be the principal outstanding issues:

- *Construction working hours including linked issues relating to construction noise, vibration and residential amenity impacts*
- *Adequacy of landscape mitigation, landscape compensation and the effects on Residential Visual Amenity*
- *Timescales for discharge of requirements*

2.2.4 The Council also maintains concerns regarding:

- *Arboricultural impacts and the adequacy of the Arboricultural Impact Assessment*
- *Ecology and biodiversity matters, including habitat recovery assumptions and the approval of Biodiversity Net Gain assessments*
- *Agriculture and soils*
- *Compliance monitoring, validation procedures and post-consent oversight*
- *Certain detailed draft Development Consent Order provisions and associated control mechanisms*

2.2.5 The Council respectfully requests that the ExA gives careful consideration to these outstanding matters when making its recommendation to the Secretary of State and, where appropriate, considers whether additional amendments to the draft DCO and associated control documents are necessary to address the concerns identified in this Closing Statement.

3 Introduction

3.1 Purpose of Report

- 3.1.1 This report comprises Braintree District Council's ("the Council") closing statement for the Norwich to Tilbury Nationally Significant Infrastructure Project (NSIP).

3.2 Format and Content of Response

- 3.2.1 This submission does not raise any new issues or objections. Rather, it provides a summary of matters previously raised by the Council throughout the Examination which remain unresolved to the Council's satisfaction.
- 3.2.2 The purpose of this Closing Statement is to assist the Examining Authority ("ExA") by identifying the principal matters that remain outstanding at the close of the Examination and setting out the Council's final position on those matters.
- 3.2.3 It first deals with the overarching position of the Council, then sets out the critical outstanding matters, significant outstanding matters and other unresolved matters recorded within the Statement of Common Ground.
- 3.2.4 This Closing Statement should be read alongside the Council's previous Examination submissions including:
- *REP1-148 Local Impact Report*
 - *REP1-149 Suggested locations for site inspections*
 - *REP2-033 Comments on D1 submissions*
 - *REP3-090 Comments on D2 submissions*
 - *REP3-091 Responses to ExQ1*
 - *REP4-323 Written post-hearing submissions*
 - *REP5-232 Responses to ExQ2*

- *REP6-139 Written post-hearing submissions & Rule 17 Letter*
- *REP7- 545 Further Rule 17 letter response*
- *REP7-110 Statement of Common Ground.*

4 Overall Position of the Council

4.1 Introduction

- 4.1.1 This section of the report sets out the overall position of the Council regarding the Norwich to Tilbury NSIP project.

4.2 Principle of Development & Need Case

- 4.2.1 The Council's concerns regarding the need case, project timing, alternatives appraisal, and technology choice remain as set out in the Statement of Common Ground and previous examination submissions. Whilst the Council continues to question whether the Applicant has adequately demonstrated the urgency of reinforcement or sufficiently explored alternative solutions, the Council recognises that these matters have been examined during the Examination.
- 4.2.2 In particular, the Council remains concerned that the Applicant has not adequately justified the predominantly overhead line approach when considered against potential alternative solutions, nor demonstrated that the scale and timing of the proposed reinforcement is the only reasonable means of meeting the identified need. The Council's position on these matters is fully set out in the Statement of Common Ground and earlier submissions and is not repeated in detail within this Closing Statement.
- 4.2.3 Notwithstanding the Council's strategic concerns in relation to the principle and form of the proposed development, the Council considers that if a Development Consent Order is to be made, there remain a number of important detailed matters that require further consideration and resolution. These are set out in the report below.

5 Critical Outstanding Matters

5.1 Introduction

- 5.1.1 This section identifies those matters which the Council considers to be of greatest significance and which remain unresolved to the Council's satisfaction at the close of the Examination.
- 5.1.2 The Council considers that these matters are important because they relate directly to the ability of the Development Consent Order ("DCO") and associated control documents to adequately manage and mitigate the likely effects of the proposed development. Should the ExA be minded to recommend that a DCO is made, the Council considers that these matters warrant particular scrutiny.

5.2 Construction Noise, Vibration and Residential Amenity

- 5.2.1 Throughout the Examination the Council has consistently raised concerns regarding the assessment and management of construction noise and vibration effects. Whilst progress has been made through amendments to the Outline Noise and Vibration Management Plan, the Outline Code of Construction Practice and associated DCO controls, the Council remains unconvinced that the Environmental Statement has demonstrated that significant adverse construction effects can be avoided.
- 5.2.2 The Council's concerns are reflected in SoCG matters 3.7.5, 3.7.7, 3.7.10 and 3.13.2 (REP7- REP7-110).
- 5.2.3 The Council's primary concern is that the assessment relies heavily upon assumptions regarding the future application of Best Practicable Means ("BPM"), contractor-led mitigation measures and detailed assessments that will not be prepared until after consent. Whilst the Council acknowledges that detailed mitigation measures are often refined post-consent, the Council remains concerned that the Examination has not been provided with sufficient evidence to demonstrate that the significant reductions in

construction noise assumed within the Environmental Statement can be consistently achieved in practice.

- 5.2.4 Furthermore, the Council is not satisfied that the Environmental Statement clearly presents or assesses the reasonable worst-case noise effects that could arise in the absence of those assumed mitigation measures, including during weekends, Bank Holidays and other sensitive periods. In the Council's view, this limits the ability of the ExA to fully understand the scale of the potential impacts before reliance is placed upon post-consent mitigation and management measures.
- 5.2.5 The Council is similarly concerned that a significant proportion of the mitigation strategy is dependent upon measures that will only be developed by the Main Works Contractor following consent through the detailed Noise and Vibration Management Plan. Whilst the Council welcomes the Applicant's acceptance that the detailed Noise and Vibration Management Plan should be approved by the relevant planning authority, the Council remains concerned that the conclusions of the Environmental Statement rely upon mitigation which is not yet defined or assessed in detail.
- 5.2.6 The Council remains particularly concerned regarding the construction working hours proposed by the Applicant. Requirement 7 of the draft DCO would permit construction activities between 07:00 and 19:00 Monday to Friday and between 07:00 and 17:00 on Saturdays, Sundays, Bank Holidays and Public Holidays, together with additional allowances for start-up and close-down activities and certain works outside core hours.
- 5.2.7 In the Council's view, the proposed construction hours would provide insufficient respite for residents and other sensitive receptors, particularly during weekends and Bank Holidays when people would reasonably expect a greater degree of protection from construction-related disturbance. The Council remains of the view that the proposed construction envelope has

not been adequately justified and that the likely effects on residential amenity have not been fully assessed.

5.2.8 The Council also remains concerned that the Environmental Statement has not fully demonstrated the likely construction noise effects associated with working outside what would traditionally be regarded as core weekday construction periods. Whilst the Council recognises that flexibility may be required to construct a project of this scale, it remains incumbent upon the Applicant to demonstrate the likely impacts arising from those activities and how any significant effects would be avoided or mitigated. The Council's position remains that the likely worst-case effects arising from evening, weekend, Bank Holiday and other sensitive periods have not been sufficiently assessed or quantified during the Examination.

5.2.9 Taken together, the Council remains unconvinced that the Examination has demonstrated that significant adverse construction noise and vibration effects can be avoided. The Council's concern is not simply the adequacy of future mitigation measures, but that the likely worst-case impacts have not been sufficiently assessed or quantified before reliance is placed upon post-consent controls. The Council also remains concerned that the construction hours sought by the Applicant would provide insufficient respite for residents and other sensitive receptors, particularly during weekends and Bank Holidays. Whilst the Council acknowledges the improvements made to the control framework during the Examination, it remains concerned that matters fundamental to understanding the scale and significance of likely construction effects are being deferred to the post-consent stage.

5.3 Landscape Mitigation, Landscape Compensation and Residential Visual Amenity

5.3.1 Throughout the Examination the Council has consistently raised concerns regarding the scale of the landscape and visual effects arising from the

proposed development and the extent to which those effects can be adequately mitigated. Whilst the Council welcomes the additional mitigation, compensation and control measures secured during the Examination, it remains concerned that significant adverse landscape and visual effects would remain.

- 5.3.2 The Council acknowledges that landscape mitigation has evolved significantly during the Examination and welcomes the Applicant's commitment to additional planting, the proposed off-site planting framework, replacement tree planting proposals and ongoing discussions regarding landscape compensation measures.
- 5.3.3 The Council also notes the ongoing discussions regarding landscape compensation measures and supports the position advanced by Essex County Council in relation to this matter. Whilst the Applicant continues to question the need for such measures, the Council considers that appropriate provision should remain within the DCO framework to allow landscape compensation measures to be secured having regard to the residual effects of the proposed development.
- 5.3.4 Notwithstanding this progress, the Council remains concerned that the mitigation package is unable to fully address the substantial and long-term landscape and visual effects arising from the construction and operation of a predominantly overhead line scheme of this scale. The Council's position remains that significant adverse effects would continue to be experienced across parts of the District, notwithstanding the mitigation proposed.
- 5.3.5 The Council is also concerned that portions of the mitigation strategy rely upon planting and landscape measures that will take many years to mature, during which time communities will experience the full extent of the visual effects associated with the development. Whilst the Council welcomes the commitment to replacement planting and landscape management, it does

not consider that these measures wholly offset the residual landscape and visual harm identified throughout the Examination.

- 5.3.6 In relation to Residential Visual Amenity, the Council continues to disagree with the conclusions of the Applicant's Residential Visual Amenity Assessment. As set out in the Council's previous Examination submissions (including REP6-139), the Council considers that receptors E7 (West Ford Farm Cottage) and E8 (Whiteheads Farm) would experience visual effects that are both "unpleasantly encroaching" and "inescapably dominant" and that, when properly assessed, the threshold for a breach of Residential Visual Amenity is exceeded at these locations.
- 5.3.7 The Council is further concerned that the flexibility afforded by the proposed Limits of Deviation has the potential to increase visual impacts beyond those assessed during the Examination. Whilst the Council maintains its position that unacceptable Residential Visual Amenity effects would arise in any event, it has consistently sought amendments to commitment GG34 within the Outline Code of Construction Practice to fix the location of towers TB93 and TB94 in the vicinity of receptor E7 and towers TB97 and TB98 in the vicinity of receptor E8. The Council considers that this amendment would provide greater certainty and reduce the potential for Residential Visual Amenity effects to be exacerbated through the exercise of the authorised design envelope.
- 5.3.8 Taken together, the Council remains concerned that the residual landscape and visual effects of the proposed development would be substantial and long-lasting and that the mitigation and compensation measures currently proposed do not fully address those effects. This is particularly the case given the time required for landscape mitigation planting to establish and the Council's continuing concerns regarding Residential Visual Amenity effects at individual receptors. Whilst recognising the progress achieved during the Examination, the Council considers that landscape mitigation,

landscape compensation and Residential Visual Amenity remain important unresolved matters for the ExA to consider.

5.4 Discharge of Requirement Timescales

- 5.4.1 Throughout the Examination the Council has consistently raised concerns regarding the proposed arrangements for the discharge of Requirements, in particular the period afforded to local planning authorities to determine applications submitted under Schedule 4 of the draft DCO. Whilst progress has been made on a number of procedural matters during the Examination, including discussions regarding validation requirements and discharge procedures, this matter remains unresolved (SoCG reference 3.13.4).
- 5.4.2 The Applicant proposes a determination period of 25 working days for applications submitted to discharge Requirements. The Council remains of the view that this timeframe is insufficient having regard to the scale, complexity and technical nature of the applications that are likely to be submitted following any grant of development consent.
- 5.4.3 As set out in the Council's previous Examination submissions, including its response at Deadline 4 (REP4-323), the determination of Requirement discharge applications frequently involves a number of procedural stages including validation, consultation with specialist advisers and statutory consultees, technical assessment, drafting of recommendations and formal decision making. The Council's experience is that such processes cannot always be undertaken robustly within the shortened timescales proposed by the Applicant.
- 5.4.4 The Council's position is informed by direct experience of discharging Requirements under the Bramford to Twinstead DCO. Whilst that Order provides a longer determination period than is currently proposed for Norwich to Tilbury, the Council's experience has been that even those arrangements can prove challenging in practice due to the technical complexity of submissions and the volume of supporting information

provided. Applications frequently require input from specialist advisers, many of whom are simultaneously engaged on multiple Nationally Significant Infrastructure Projects.

- 5.4.5 The Council is concerned that an unrealistically short determination period may undermine the ability of local planning authorities to undertake proportionate scrutiny of submissions and could inadvertently increase procedural uncertainty. Experience from other projects has demonstrated that where insufficient time is available, extensions of time are routinely sought in order to enable issues to be properly resolved. Such an approach benefits neither the Applicant nor the determining authority.
- 5.4.6 The Council remains of the view that a determination period of 40 working days would provide a more realistic and proportionate balance between the efficient delivery of nationally significant infrastructure and the need for lawful, robust and defensible decision making. The Council notes that similar or longer determination periods have been adopted on other major infrastructure projects and considers that such an approach is justified in the circumstances of this application and more consistent with the likely scale and complexity of future discharge submissions.
- 5.4.7 The Council also notes the ongoing discussions regarding the proposed DESNZ Requirement Discharge Unit. Whilst the Council supports a mechanism whereby applications may be called in or recovered by the Secretary of State where appropriate, it remains of the view that any future determining authority should be afforded sufficient time to properly consider often lengthy and technically complex submissions. The proposed 40 working day period would therefore provide a robust and future-proof mechanism regardless of the eventual discharge arrangements.
- 5.4.8 The Council welcomes ongoing discussions regarding a validation checklist for discharge submissions and continues to support the principle of such a mechanism. The Council considers that ensuring applications are

accompanied by complete and accurate information at the outset would improve efficiency and assist all parties. However, the existence of a validation process does not remove the need for a realistic determination period once an application has been accepted as valid.

- 5.4.9 Taken together, the Council remains concerned that the proposed 25 working day determination period would place unnecessary pressure on local planning authorities, technical consultees and the Applicant's own project team, potentially to the detriment of effective post-consent decision making. Whilst the Council supports the timely delivery of nationally significant infrastructure, it remains of the view that a 40 working day determination period represents a more appropriate and proportionate approach and should be secured within the DCO.

6 Significant Outstanding Matters

6.1 Introduction

- 6.1.1 This section identifies those matters which remain unresolved to the Council's satisfaction at the close of the Examination and which the Council considers to be of ongoing importance in the determination of the application.
- 6.1.2 Whilst the Council does not consider these matters to be of the same significance as the critical outstanding matters identified above, they nevertheless relate to important environmental effects, mitigation measures and post-consent controls associated with the proposed development.
- 6.1.3 In a number of these areas, constructive engagement between the Council, its technical advisers and the Applicant has resulted in progress being made during the Examination. However, the Council remains of the view that further amendments, clarification or safeguards are required in order to provide greater certainty regarding the implementation of mitigation measures and the management of impacts.
- 6.1.4 The Council therefore respectfully requests that the ExA gives careful consideration to the matters set out below and, where appropriate, considers whether additional amendments to the DCO, associated management plans or other control documents are necessary to address the concerns identified.

6.2 Arboricultural Impacts

- 6.2.1 Throughout the Examination the Council has worked constructively with the Applicant in relation to arboricultural matters. Unfortunately, arboricultural matters remain unresolved to the Council's satisfaction (SoCG references 3.2.6 and 3.3.17).
- 6.2.2 The Council remains concerned regarding the adequacy of the Arboricultural Impact Assessment and the extent to which it fully identifies

and assesses the likely effects of the proposed development on trees, hedgerows and other arboricultural features both during construction, operation and over the longer term. Whilst the Council acknowledges that mitigation measures have been proposed, it remains of the view that a number of uncertainties persist regarding the assessment methodology, the extent of impacts and the effectiveness of the proposed mitigation measures.

- 6.2.3 In particular, the Council remains concerned that the assessment has not fully demonstrated that impacts upon important and higher-value trees have been avoided wherever possible. Given the substantial extent of the proposed development and the scale of construction activity proposed across the District, the Council considers that a precautionary approach should be adopted where uncertainty remains regarding potential arboricultural impacts.
- 6.2.4 The Council also continues to maintain concerns regarding impacts upon the veteran oak tree known as "Henry" and the associated landscape setting and amenity value. Whilst the Council acknowledges that the Applicant has sought to avoid direct impacts to the tree, concerns remain regarding the adequacy of the assessment undertaken and the potential for indirect effects arising during construction and operation.
- 6.2.5 The Council notes that mature trees and hedgerows form an important component of the District's landscape character, biodiversity resource and visual amenity. The loss of, or damage to, mature trees can take many decades to replace and therefore the Council considers that appropriate weight should be given to the long-term implications of any residual arboricultural impacts.
- 6.2.6 Taken together, the Council remains concerned that uncertainties remain regarding the assessment and management of arboricultural effects. The Council therefore considers that arboricultural impacts, including the

adequacy of the Arboricultural Impact Assessment, the protection of important trees and hedgerows and the potential effects on the veteran oak known as "Henry", remain unresolved matters that warrant careful consideration by the ExA.

6.3 Ecology and Biodiversity Including BNG

6.3.1 Throughout the Examination the Council has worked constructively with the Applicant and its ecological advisers to resolve ecology and biodiversity matters. Whilst significant progress has been made and a large number of ecological matters have been agreed, certain matters remain unresolved to the Council's satisfaction (SoCG references 3.3.6 and 3.3.16).

6.3.2 The Council acknowledges that the Applicant has developed a comprehensive package of ecological mitigation measures and that amendments have been made to supporting documents during the course of the Examination. Nevertheless, the Council remains concerned regarding a number of key assumptions which underpin the ecological assessment and the mechanisms proposed to secure Biodiversity Net Gain.

6.3.3 In particular, the Council remains concerned regarding the Applicant's assumption that habitats affected by the proposed development can be reinstated and recover within a period of five years. The Council does not consider that a blanket five-year recovery period appropriately reflects the likely timescales required for all habitats and ecological features to successfully re-establish following construction. Given the scale of disturbance associated with the proposed development, the Council considers that longer recovery periods may be required in certain circumstances and that the ecological assessment should adopt a more precautionary approach where uncertainty exists.

6.3.4 The Council remains concerned that the use of a five-year assumption risks understating the duration and significance of ecological effects, particularly

where habitats require longer periods to recover their ecological function, species composition or structural characteristics. The Council therefore remains unconvinced that the ecological assessment fully reflects the likely worst-case position in relation to habitat reinstatement and recovery.

- 6.3.5 The Council welcomes the inclusion of Requirement 11 relating to Biodiversity Net Gain within the draft DCO and supports the Applicant's overall objective of delivering at least a 10% biodiversity net gain across the Order land. The Council also acknowledges that the proposed interim and final assessment approach is a pragmatic solution for a project of this scale. However, the Council remains concerned that the requirement does not provide an adequate mechanism for review, approval or agreement by the relevant planning authority.
- 6.3.6 As currently drafted, compliance with Requirement 11 could be determined solely by the undertaker through submission of biodiversity net gain assessments and any associated biodiversity offsetting scheme. The Council considers that the interim biodiversity net gain assessment, final biodiversity net gain assessment and any biodiversity offsetting scheme should instead be submitted to and approved by the relevant planning authority. This would provide greater certainty, transparency and accountability and ensure that any concerns regarding biodiversity metric calculations, habitat condition assessments, offsetting proposals or underlying assumptions can be properly considered before the requirement is discharged.
- 6.3.7 Taken together, whilst recognising the considerable progress made during the Examination, the Council remains concerned regarding the assumptions adopted in relation to habitat recovery and the absence of an appropriate approval mechanism for Biodiversity Net Gain assessments and any associated offsetting proposals. The Council therefore considers that ecology and biodiversity matters remain unresolved and warrant careful consideration by the ExA.

6.4 Agriculture and Soils

- 6.4.1 Throughout the Examination the Council has engaged constructively with the Applicant regarding agriculture and soils matters and acknowledges that amendments have been made to the Outline Soil Resource Plan in response to comments from the Council and its technical advisers. Nevertheless, a number of matters remain unresolved to the Council's satisfaction (SoCG references 3.6.5 to 3.6.12).
- 6.4.2 The Council recognises the importance of the proposed Soil Resource Plan in ensuring that soil resources are appropriately characterised, protected and restored throughout the lifecycle of the proposed development. Given the extensive areas of agricultural land that would be affected by construction activities, the Council considers that robust baseline information, appropriate handling methodologies and clearly defined restoration objectives are essential.
- 6.4.3 Whilst the Outline Soil Resource Plan has evolved during the Examination, the Council remains concerned that aspects of the proposed survey methodology, baseline assessment and restoration framework lack sufficient clarity. In particular, the Council considers that greater distinction is required between the proposed Soil Resource Surveys and Soil Health Assessments, including a clearer explanation of how each will inform soil handling, storage, restoration and verification processes.
- 6.4.4 The Council also remains concerned that the Outline Soil Resource Plan does not sufficiently identify the baseline conditions against which restoration success will be measured. In the Council's view, it is important that pre-construction soil characteristics, soil resources, structure, condition and agricultural land quality are appropriately recorded so that post-construction reinstatement can be objectively assessed and verified.
- 6.4.5 The Council considers that reinstated land should be restored to a condition equivalent to its pre-construction state, including restoration of the pre-

construction Agricultural Land Classification grade where applicable and restoration of soil structure and condition sufficient to support the intended future land use. However, the Council remains concerned that the Outline Soil Resource Plan does not yet provide sufficient clarity regarding the criteria against which successful reinstatement will be measured or how compliance with those criteria will be demonstrated.

6.4.6 The Council is also concerned that the proposed aftercare and monitoring provisions do not yet provide sufficient certainty regarding how successful soil restoration will be demonstrated over time. Given the long-term importance of soil resources to agricultural productivity, landscape character and wider environmental objectives, the Council considers that restoration outcomes should be capable of being independently assessed and verified against clearly defined objectives.

6.4.7 Taken together, whilst acknowledging the progress made during the Examination, the Council remains concerned that further clarification is required regarding soil survey methodologies, baseline conditions, restoration criteria and aftercare arrangements. The Council therefore considers that agriculture and soils remain unresolved matters that warrant careful consideration by the ExA.

6.5 Monitoring, Validation and Enforcement

6.5.1 Throughout the Examination the Council has consistently sought to ensure that the controls secured through the DCO can be effectively monitored, enforced and reviewed throughout the construction phase of the proposed development. Whilst progress has been made in a number of areas, including the proposed use of validation checklists and improvements to monitoring provisions within the Outline Noise and Vibration Management Plan, certain matters remain unresolved to the Council's satisfaction (SoCG references 3.13.12 and 3.13.13).

- 6.5.2 The Council considers that effective monitoring and enforcement arrangements are an essential component of the DCO framework. Given the scale, duration and geographical extent of the proposed development, local communities must have confidence that commitments made during the Examination can be appropriately monitored and, where necessary, enforced throughout the construction period.
- 6.5.3 The Council welcomes the ongoing discussions regarding the use of validation checklists for applications submitted to discharge Requirements and continues to support the principle of such a mechanism. The Council considers that a comprehensive validation process would improve the quality and consistency of submissions, reduce the need for subsequent information requests and provide greater certainty for all parties involved in post-consent decision making.
- 6.5.4 The Council also acknowledges that substantive improvements have been made to the monitoring and approval arrangements contained within the Outline Noise and Vibration Management Plan and associated DCO controls. In particular, the Council welcomes the Applicant's commitment for detailed monitoring proposals, thresholds, trigger levels and exceedance procedures to be agreed with the relevant planning authority through the detailed Noise and Vibration Management Plan. This has substantially improved the control framework compared with earlier versions submitted during the Examination.
- 6.5.5 Notwithstanding this progress, the Council remains concerned that the DCO framework does not yet provide sufficient clarity regarding the ongoing management of compliance monitoring, investigation of non-compliances, reporting procedures and liaison arrangements between the undertaker and enforcing authorities, including how identified non-compliances are reported, investigated, escalated and resolved. The Council has consistently advocated for a more comprehensive and

transparent compliance framework to be secured through the Outline Code of Construction Practice.

- 6.5.6 In the Council's view, an effective compliance framework should include clear mechanisms for monitoring performance against approved documents, recording and reporting non-compliances, investigating complaints, maintaining comprehensive audit trails and ensuring appropriate communication with relevant planning authorities. Such arrangements would assist both the Applicant and enforcing authorities by providing clarity regarding responsibilities, escalation procedures and the resolution of issues where they arise.
- 6.5.7 The Council is particularly concerned that, in the absence of a clearly defined compliance and enforcement strategy, there is a risk that local planning authorities may be expected to fulfil enforcement responsibilities without sufficient visibility of monitoring data, complaints records or identified non-compliances. The Council considers that greater transparency and more formalised reporting arrangements would improve public confidence and assist in the timely resolution of issues during construction.
- 6.5.8 Taken together, whilst recognising the progress made during the Examination, the Council remains of the view that additional safeguards are required in relation to compliance monitoring, validation procedures and enforcement arrangements. The Council therefore considers that these matters remain unresolved at the close of the examination and warrant careful consideration by the ExA to ensure that the mitigation and controls secured through the DCO can be effectively implemented and enforced throughout the lifetime of the Project.

7 Other Outstanding Matters

7.1 Introduction

- 7.1.1 The preceding sections identify those matters which the Council considers to be of greatest significance and which remain unresolved to the Council's satisfaction at the close of the Examination.

7.2 Consideration of Other Matters "Not Agreed"

- 7.2.1 In addition, a number of other matters remain recorded as "Not Agreed" within the final Statement of Common Ground. Whilst the Council does not consider these matters to be of the same significance as those identified in this Closing Statement, they nevertheless remain unresolved:

- *Definition of Relevant Planning Authority – drafting concerning successor authorities and local government reorganisation.*
- *Associated Development drafting provisions.*
- *SoCG 3.2.11 – Community benefits.*
- *SoCG 3.13.5 – Further information procedures and associated discharge of requirement processes.*
- *SoCG 3.13.9 – Design and layout plan approval mechanisms.*
- *SoCG 3.13.10 – Approval arrangements relating to the design of permanent buildings and structures.*
- *SoCG 3.13.11 – Decommissioning provisions and associated drafting.*
- *Various other detailed DCO drafting and interpretation provisions (in Appendix A of the SOCG) discussed throughout the Examination.*

- 7.2.2 The Council has previously set out its position on these matters through the Examination and the SOCG and does not repeat those submissions here.
- 7.2.3 Whilst the Council maintains its position on the above matters, it does not consider them to be of the same significance as the issues identified in Sections 4 and 5 of this Closing Statement. The Council therefore respectfully leaves these matters to the ExA's planning judgement when considering whether any further amendments to the draft DCO or associated control documents are necessary.

8 Conclusion

8.1 Overall Position

8.1.1 The Council's strategic concerns regarding the need for, timing of and form of the proposed development remain as recorded within the Statement of Common Ground and the Council's previous Examination submissions as listed in Paragraph 3.2.4 above.

8.1.2 Whilst the Council acknowledges the considerable progress made during the Examination and the constructive engagement undertaken by the Applicant, a number of matters remain unresolved to the Council's satisfaction at the close of the Examination.

8.2 Critical Outstanding Matters

8.2.1 The Council considers the following matters to be of greatest significance:

- *Construction noise, vibration and residential amenity, including construction working hours.*
- *Landscape mitigation, landscape compensation and Residential Visual Amenity.*
- *Discharge of Requirements determination periods.*

8.2.2 The Council considers that these matters warrant particular scrutiny by the ExA as they relate directly to the adequacy of the Environmental Statement and control framework proposed through the DCO and associated control documents.

8.3 Significant Outstanding Matters

8.3.1 The Council also maintains concerns regarding:

- *Arboricultural impacts*
- *Ecology and biodiversity matters*

- *Agriculture and soils*
- *Monitoring, validation and enforcement arrangements*

8.4 Final Remarks

- 8.4.1 Whilst the Council recognises that many issues have been successfully resolved during the course of the Examination, the matters identified within this Closing Statement remain unresolved to the Council's satisfaction.
- 8.4.2 Should the ExA be minded to recommend that a Development Consent Order is made, the Council respectfully requests that careful consideration is given to the matters identified within this Closing Statement and whether additional amendments to the draft DCO and associated control documents are necessary to address them.
- 8.4.3 The Council thanks the ExA, the Applicant and all Interested Parties for their engagement throughout the Examination.