

**M25 junction 28 improvement scheme
TR010029**

**9.70 Applicant's response to London
Borough of Havering Deadline 4 Submissions**

Rules 5(2)(q)

Planning Act 2008

Infrastructure Planning (Examination Procedure) Rules 2010

Volume 9

April 2021

Infrastructure Planning

Planning Act 2008

Infrastructure Planning (Examination Procedure) Rules 20210

M25 junction 28 improvement scheme Development Consent Order 202[x]

9.70 Applicant's response to London Borough of Havering Deadline 4 submissions

Regulation Number:	Regulation 5(2)(q)
Planning Inspectorate Scheme Reference	TR010029
Application Document Reference	TR010029/APP/7.2
Author:	M25 junction 28 improvement scheme project team, Highways England

Version	Date	Status of Version
0	13 April 2021	Deadline 5

Table of contents

Chapter	Pages
1. Purpose and structure of responses to written representations	4
1. REP4-029 Request for additional Requirements for Draft DCO	5
2. REP4-030 LONDON BOROUGH OF HAVERING DEADLINE 4 SUBMISSION - RESPONSE TO DEADLINE 3B SUBMISSIONS	9
3. REP4-031 London Borough of Havering Written summary of oral submissions put at the Hearings held the week commencing 1 March 2021	11

1. Purpose and structure of responses to written representations

- 1.1.1 This document provides the comments of the applicant, Highways England, in response to the three documents submitted by the London Borough of Havering (LBH) to the Planning Inspectorate on or before deadline 4 (17 March 2021) namely:
- Request for additional requirements for draft DCO (Rep4-029)
 - Response to Deadline 3b submissions (Rep4-030)
 - Written summary of oral submissions put at the hearings held the week commencing 1 March 2021 (REP4-031)
- 1.1.2 Highways England has sought to provide comments where it is helpful to the Examination to do so, for instance where a representation includes a request for further information or clarification from Highways England or where Highways England considers that it would be appropriate for the Examining Authority (ExA) to have Highways England's views in response to a matter raised by an Interested Party in its representations. Where issues raised within a representation have been dealt with previously by Highways England, for instance in response to a question posed by the ExA in its first round of written questions or within one of the application documents submitted to the Examination, a cross reference to that response or document is provided to avoid unnecessary duplication. The information provided in this document should, therefore, be read in conjunction with the material to which cross references are provided.
- 1.1.3 Highways England has not provided comments on every point made within the representation (for instance, Highways England has not responded to comments made about the adequacy of its pre-application consultation given that Highways England has already provided a full report of the consultation it has undertaken as part of its application for the Development Consent Order (DCO)) and the Planning Inspectorate has already confirmed the adequacy of the pre-application consultation undertaken when the application was accepted for Examination. In some cases, no comments have been provided, for instance, because the written representation was very short, or because it expressed objections in principle to the Scheme or expressions of opinion without supporting evidence.
- 1.1.4 For the avoidance of doubt, where Highways England has chosen not to comment on matters raised by Interested Parties, this is not an indication Highways England agrees with the point or comment raised or opinion expressed.

1. REP4-029 Request for additional Requirements for Draft DCO

Response reference:	IP response	Highways England Response
REP4-029-01	Following on from the submission for Deadline 3B, LB Havering wishes to reiterate its suggestion that an additional Requirement is drafted to provide surety that residents are protected from noise during construction. It is Havering's opinion that the Applicant has not provided surety from its responses through the Examination that the matter of noise disruption during construction has been adequately dealt with.	Highways England provided a response at Deadline 4 to the London Borough of Havering's deadline 3b submission (see point REP3B-006-9 of document REP4-010) and maintains the position that a separate requirement in the draft DCO is not necessary. As noted by Highways England at the Issue Specific Hearing 2 (ISH2) on 5 March 2021, a substantial outline CEMP (REP3A-010) has been provided and the final CEMP must, under Requirement 4, reflect the mitigation measures set out in the REAC which include noise mitigation during construction. There is a high level of scrutiny of the CEMP and management plans (including Dust, Noise and Nuisance Management Plan) as the Secretary of State (SoS) must approve the documents and would only do so if they thought appropriate to do so. The London Borough of Havering will be consulted on the CEMP and these comments, as well as those received from other consultees, would be fully taken into account by the SoS and will be sent to the SoS in full as set out in the amendment to Requirement 18 (previously Requirement 17) as submitted at Deadline 4 (REP4-002).
REP4-029 - 02	LBH also seeks an additional Requirement to secure trial trenching, pre commencement of the scheme, to ensure that the Archaeological Management Plan is effective in dealing with archaeological sensitive areas that have not been assessed through baseline field work for this scheme.	Highways England has been in detailed discussions with the London Borough of Havering and the Greater London Archaeology Advisory Service (GLAAS) regarding the archaeological trenching programme and the content of the outline Archaeological Management Plan (AMP). The position agreed with regards to trial

Response reference:	IP response	Highways England Response
		<p>trenching is set out in Highways England's response to Action 7 in the Applicants response to action points from Issue Specific Hearing (ISH1) (REP4-021). An archaeological programme was presented at the meeting on 10 March 2021 to the London Borough of Havering and GLAAS. It was agreed that this work would provide an adequate baseline to determine if the DCO design would result in substantial harm to as-yet unknown archaeological remains and provide an opportunity to address the need for preservation in situ if nationally significant archaeological remains are found. For further details see pages 28 and 29 of the Statement of Common Ground (SoCG) with the London Borough of Havering (REP4-004) submitted at Deadline 4.</p> <p>Highways England does not agree that an additional requirement in the dDCO is necessary and that the need for an AMP to be approved by the Secretary of State under Requirement 9(1) will suffice.</p> <p>Notwithstanding this, an updated Outline AMP (TR010029/EXAM/9.45(2)) is submitted at Deadline 5. Paragraph REP4-031-12 of this response details the updates which have been made to the outline AMP.</p>
REP4-029 - 03	LBH supports the proposal by the Examining Authority (ExA) at the Issue Specific and draft DCO Hearing's that there should be two additional Requirements to secure 1) the inter-green and 2) the implementation (construction) of a proposed wider NMU route in the vicinity of M25 junction 28. LB Havering is of the view that including such requirements will go some way to	Highways England accepts that a requirement to deal with the operation of the traffic signals on the circulatory to mitigate the impacts on Brook Street can appropriately be included in the DCO and a draft Requirement (no.14) appears in the draft DCO submitted at Deadline 5 (TR010029/APP3.1(4)). In relation to the suggestion of an additional requirement for a wider NMU route, as noted in

Response reference:	IP response	Highways England Response
	<p>the scheme being policy compliant with LDF Policies CP9 Reducing the need to travel and CP10 Sustainable Transport and Local Plan Policy 23 Connections.</p>	<p>response to Action 9 of Highways England's to action points from ISH2 (see REP4-026), Highways England's position is that the appropriate approach is to deal with the cycle provision link as part of the wider corridor of upgrades to pedestrian and cycle facilities between Harold Hill and Brentwood, not as part of the Scheme. The designated funds scheme is specifically aimed at providing these additional benefits alongside Highways England's primary responsibility for the maintenance and upgrade of the Strategic Road Network(SRN). Highways England considers that this is more appropriate, and a more efficient use of resources, than including isolated improvements for NMUs at junction 28 in this DCO application.</p> <p>Notwithstanding, how a requirement could be phrased in respect of this matter is included in response to ExA WQ2 TA 2.7 (TR010029/EXAM/9.69)</p>
<p>REP4-029 - 04</p>	<p>LBH supports the Examining Authority's proposal to remove the word "substantially" from Requirement 4 so that the Full CEMP would be in accordance with the REAC. LB Havering is of the view that this word should also be removed from Requirement 9 so that the final Archaeological Management Plan is in accordance with the Outline Archaeological Management Plan.</p>	<p>Highways England has previously responded on the need to retain the word 'substantially' in Requirement 4 to allow some degree of flexibility to the contractor in developing the CEMP and to allow for the potential for slight variations as a result of detailed design. There is a high level of scrutiny of the CEMP as the SoS must approve it and would only do so if they thought it was in compliance with the Requirement and was substantially in accordance with the outline CEMP. The London Borough of Havering will be consulted on the CEMP and these comments, and others as consultees, would be fully taken into account by the SoS and will be sent to the SoS in full as set out in the amendment to Requirement 18 (previously</p>

Response reference:	IP response	Highways England Response
		<p>Requirement 17) as submitted at Deadline 4 (REP4-002). Therefore, were the London Borough of Havering unhappy with anything within the CEMP that they did not consider was 'substantially' in accordance with the outline CEMP the SoS would be aware of that.</p> <p>The phrase 'substantially in accordance with' is well precedented in development consent orders and has been included in the recently made A38 Derby Junctions DCO (2021), A1 Birtley to Coal House DCO (2021) and A303 Sparkford to Ilchester Dualling DCO (2021). Lastly, the Secretary of State in his decision letter on the A1 Birtley to Coalhouse Scheme commented at paragraph 34 on the merits of "substantially in accordance with" against "in accordance with" and agreed with Highways England to the use of the term "substantially in accordance with" noting that it "achieves the desired aims of both parties by providing an appropriate amount of certainty and flexibility given the potential for slight variations at detailed design".</p> <p>https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010031/TR010031-001347-210119%20FINAL%20LETTER.pdf</p>
REP4-029 - 05	<p>If this is secured, and should all consultation responses from LBH be submitted in full to the Secretary of State, then LBH would be in a position to remove its objection to the current drafting of Requirements 4 and 10.</p>	<p>This requirement is now Requirement 18 in the dDCO submitted at Deadline 5 (TR010029/APP/3.1(4)) and was revised at Deadline 4 (REP4-002) and discussed at the ISH2 on 5 March to include that copies of any representations made by a consultee will be provided to the Secretary of State (REP4-002).</p>

2. REP4-030 LONDON BOROUGH OF HAVERING DEADLINE 4 SUBMISSION - RESPONSE TO DEADLINE 3B SUBMISSIONS

Reference	IP Response in REP4-030	Highways England further Response
REP4-030-01	With regards to the response to REP3A-042-1, HE does not appear to recognise the interdependencies between these management plans. Havering would wish to see this matter addressed through the preparation of a sign posting document that demonstrates the interdependencies between the subject matters and how these interdependencies will be addressed through action plans.	In response to the Examining Authority's Further Written Questions GQ 2.2 and TA 2.1, Highways England has prepared a signposting document which clearly sets out the interdependencies between the outline Construction Environmental Management Plan (CEMP), the Register of Environmental Actions and Commitments (REAC) and the management plans and builds upon what is demonstrated in Figure 2.1 of the outline CEMP (REP3A-010).
REP4-030-03	With regards to the response to REP3A – 042-3, Havering wishes to retain its stance that it would wish to be fully engaged in the discharge of Requirements that are relevant to Havering in its capacity as a Local Planning Authority.	This issue remains one where Highways England and London Borough of Havering do not agree. This is reflected in paragraph 13.2.2 of the Statement of Common Ground between the two parties (REP4-004).

Reference	IP Response in REP4-030	Highways England further Response
REP4-030-04	<p>With regards to the HE response to REP3A-041 -3, Havering notes the Applicant's response regarding the closure of the A12 Eastbound off slip and that this full closure is deemed necessary due to full depth construction of the northern tie-in into the roundabout as well as resurfacing and painting of road markings. Havering seeks reassurance as to how emergency access will be provided and that the emergency services are in agreement with this approach.</p>	<p>For clarity, Highways England has assumed the London Borough of Havering is referring to REP3A-041-1 of document REP3B-003, rather than REP3A-041-3 of document REP3B-003.</p> <p>During the construction stage, when there are proposed to be road closures, the Principal Contractor would provide advance notice to the emergency services. As part of that advance notice, the emergency services would be advised that in the event that access is required through the works, the emergency services would be advised to report to the traffic management vehicle at the start of the closure. The construction supervisor will authorise the access, advise the workforce and a traffic management vehicle would guide the emergency service vehicle through the site.</p> <p>In the event that access is blocked, for example with a crane blocking the road, the Principal Contractor's communication teams would advise accordingly in the advance notice.</p> <p>The outline Traffic Management Plan submitted at Deadline 4 (REP4-013) also identifies emergency services as key stakeholders with whom liaison would take place.</p>

3. REP4-031 London Borough of Havering Written summary of oral submissions put at the Hearings held the week commencing 1 March 2021

Response reference:	Representation Issue	Highways England Response
REP4-031-04	<p>ISSUE SPECIFIC HEARING ONE</p> <p>Traffic and Transport</p> <p><u>2.1 Baseline Data presented in the Transport Assessment Report (APP-089) and Transport Assessment Supplementary Information Report submitted at Procedural Deadline B (PDB-003)</u></p> <p>LB Havering is concerned that the traffic modelling deployed by the Applicant does not take into account Sub-Regional growth, and in particular growth that is set out in the now adopted London Plan. LB Havering would like to see sensitivity testing carried out by the Applicant so that the impact on the network of the proposed development once this growth has been taken into account can be fully understood.</p> <p>LB Havering is not suggesting that the model itself is wrong, but simply that Havering would like to get a more complete understanding of the impact the scheme will have on the road network when sub regional growth has been fully taken into account.</p> <p>Furthermore, the Council is of the view that the Microsimulation model covers a narrow stretch of the network, taking into account M25/J28 and the A12 up to but not including Gallows</p>	<p>Please refer to the position set out in Table 3-1 (paragraph 3-4) of Highways England's comments on Local Impact Report submitted by London Borough of Havering (REP3A-020).</p>

Response reference:	Representation Issue	Highways England Response
	<p>Corner Junction. It does not include the traffic signals at the Gubbins Lane Junction of the A12 or Squirrels Heath Road and Gubbins Lane. LB Havering would like to see the model extended so that the impact of the scheme on these roads can be better understood.</p> <p>LB Havering is not suggesting that the applicant should cater for or mitigate against the growth that LB Havering has identified be delivered through its emerging Local Plan. LB Havering is aware of its responsibilities as set out in the 2004 Traffic Management Act to maintain the movement of traffic both on its own and other road networks.</p>	
REP4-031-05	<p><u>2.2 Whether an Assessment on the Proposed Development at Gallows Corner is required and if so, the likely effects the Proposed Development would cause.</u></p> <p>The Council would like to see the Microsimulation model extended to include Gallows Corner junction. Whilst it is noted that the strategic model used by the Applicant covers this junction, this only looks at the junction from a traffic flow perspective and not how the junction will operate in future years. LB Havering would like to see the microsimulation model extended to include Gallows Corner.</p>	<p>Please refer to paragraph REP3B-006-11 of Highways England's response to the London Borough of Havering Deadline 3b submission (REP4-010).</p>
REP4-031-06	<p><u>2.3 Extended inter-green signalling at Brook Street presented within the Transport Assessment Supplementary Information Report (PDB-003)</u></p>	<p>Highways England accepts that a requirement to deal with the operation of the traffic signals on the M25 Junction 28 roundabout to mitigate the impacts on Brook Street can appropriately be included</p>

Response reference:	Representation Issue	Highways England Response
	<p>LB Havering offered no comments during the Issue Specific Hearing concerning this matter. Following a review of the evidence presented during the ISH1, LB Havering has no further comments to make, other than to say that LBH supports the ExA suggestion that the inter-green signalling should become a requirement of the DCO</p>	<p>in the DCO and a draft Requirement (no.14) appears in the draft DCO submitted at Deadline 5 (TR010029/APP3.1(4)).</p>
<p>REP4-031-08</p>	<p><u>2.5 Matters concerning connectivity to non – vehicular traffic and community severance following the Applicant's response to WQ TA 1.11 and TA 1.12.</u></p> <p>LB Havering is concerned that the scheme as it currently stands does not adequately cater for pedestrians and cyclists. Specifically Havering is concerned that the scheme does not provide adequate provision for pedestrians or cyclists to safely navigate around the Brook Street roundabout.</p> <p>There are a number of uncontrolled crossing points, particularly on the M25 southbound on-slip and the A12 westbound on-slip, which are very dangerous.</p> <p>LB Havering is of the view that without such NMU provision being made, the scheme is not compliant with the Council's LDF Core Strategy CP9 Reducing the need to travel, CP Sustainable Transport and emerging Local Plan Policy 23 Connections policies.</p> <p>Furthermore, the scheme does not comply specifically with paragraph 3.17 of the National Networks National Policy Statement (NN NPS).</p>	<p>In relation to the suggestion of an additional requirement for a wider NMU route, as noted in response to Action 9 of Highways England's response to action points from ISH2 (see REP4-026), Highways England's position is that the appropriate approach is to deal with the cycle provision link as part of the wider corridor of upgrades to pedestrian and cycle facilities between Harold Hill and Brentwood, not as part of the Scheme. The designated funds scheme is specifically aimed at providing these additional benefits alongside Highways England's primary responsibility for the maintenance and upgrade of the SRN. Highways England considers that this is more appropriate, and a more efficient use of resources, than including isolated improvements for NMUs at junction 28 in this DCO application.</p> <p>In regard to the comment on the closure of the A12 off-slip, please refer to paragraph 22.2.1 of the Applicant's comments on Local Impact Report submitted by London Borough of Havering (REP3A-020).</p>

Response reference:	Representation Issue	Highways England Response
	<p>LB Havering notes the comments provided by the Applicant that they are exploring a new cycle route between Harold Hill and Brentwood via the Brook Street roundabout, but Havering is concerned that this is being progressed through Highways England's designated funds programme, which brings uncertainty as to whether the project will be delivered.</p> <p>LB Havering welcomes the suggestion by the ExA for the Applicant to consider including it as a Requirement within the DCO and looks forward to hearing the Applicant's response to this request at Deadline 4.</p> <p>LB Havering is concerned with the impact any closure of the A12 Eastbound off-slip will have on the local residents of Woodstock Avenue and Kenilworth Avenue. Should the A12 Eastbound off-slip require a full night time closure, this would mean that residents would have to travel to Junction 12 of the A12 simply to turn around and travel west. This would require a 14 km detour for residents which Havering considers unacceptable.</p> <p>LB Havering notes the comments made by the Applicant that this would result in an 11 minute diversion. However, Havering is of the view that it could be longer than that.</p>	<p>Regarding the length of any proposed diversions, Table 2-8 of the outline Traffic Management Plan (REP4-013) submitted at Deadline 4 indicates the proposed time implications.</p>
REP4-031-11	<p>3. Historic Environment</p> <p><u>3.1 The Adequacy of the baseline data and assessment of Tyler's Hall Farm and the Grove.</u></p>	<p>The position is reflected in the latest SoCG with London Borough of Havering submitted at Deadline 4 (REP4-004).</p>

Response reference:	Representation Issue	Highways England Response
	<p>LB Havering raised concerns within its Local Impact Report with regards to the effects of the scheme on Tylers Hall Farm which Havering did not feel had been evidenced.</p> <p>Since the submission of the Local Impact Report at Deadline 1, this has been discussed with the applicant and has reached a satisfactory conclusion</p> <p>It is considered that due to the distance from the site and the nature of the works taking place along the M25 to the south of the site, the settings of the listed buildings at Tylers Hall Farm are not impacted and their significance remains unharmed.</p> <p>An additional form of words has been agreed with the Applicant and will be included in a progressed Statement of Common Ground that the Applicant will submit at Deadline 4.</p> <p>LB Havering has also reached an agreement with the Applicant in reference to the concerns LB Havering expressed in its Local Impact Report (paras 13.1.13 – 13.1.17) concerning the collections of buildings at The Grove.</p> <p>The explanation that the Applicant has provided for excluding the buildings at The Grove from any further assessment and reconsidering their identification within the DBA as non-designated heritage assets is considered to be fair and proportionate. It is acknowledged that their setting is already heavily compromised and is limited in its contribution to any low significance the buildings may have.</p> <p>A form of words has been agreed with the Applicant and is included as part of the progressed Statement of Common</p>	

Response reference:	Representation Issue	Highways England Response
	Ground that the applicant will submit at Deadline 4. LB Havering considers this matter now resolved	
REP4-031-12	<p><u>3.2 The Applicant to summarise the contents of the outline Archaeological Management Plan, submitted by the Applicant at Deadline 3A (REP3A-029).</u></p> <p>GLAAS is providing advice to the London Borough of Havering on Archaeological matters on the M25/J28 DCO. GLAAS has an in principle policy issue with the approach in the AMP and with the approach to providing information to inform the DCO decision.</p> <p>The key matter revolves around an archaeological discovery in 2018 immediately south of the scheme site at the Gardens of Peace cemetery. Gardens of Peace is separated from the scheme site by the A12 which follows the line of the Roman Road from London to Colchester. At the application scheme location, the Roman road is also crossed by the Ingrebourne River.</p> <p>In 2018, at the northern edge of the Gardens of Peace site, closest to the A12, was found an early to middle Saxon occupation or activity site, dating AD 450 to 650. Although the insertion of the major gas main along the northern edge of the site had damaged it, visible features still indicated possible structures.</p> <p>The work also recovered a small sample of earlier, Roman pottery from the Saxon features. The results post-date the</p>	<p>Highways England is aware of the archaeological investigations at Gardens of Peace, which was interpreted in the post-excavation assessments of the results as the footing or foundation of a single light building structure. Whilst the findings of the excavation suggest that there is evidence of early Saxon activity in the area, the identification of the site as a 'settlement' is questionable. As such, there is little evidence to support the claim that these remains related to schedulable-quality archaeological remains nearby.</p> <p>In addition, whilst the A12 follows the line of the Roman road between London and Colchester, no previous work in the vicinity has identified the preserved remains of either the road itself or any roadside activities or settlements.</p> <p>Highways England does not agree that the findings from the Gardens of Peace site are sufficient to presume as-yet unknown nationally-significant and schedulable quality archaeological remains are present within the DCO boundary and that the Scheme would result in substantial harm to those remains. No other archaeological remains of such quality are known within the Site boundary or the wider study area used for the ES nor did the archaeological watching brief conducted during geotechnical ground investigations identify anything suggesting such remains are present within the Scheme DCO boundary.</p>

Response reference:	Representation Issue	Highways England Response
	<p>2017 archaeological assessment prepared to accompany the application</p> <p>Roman and later Saxon settlement sites are often located at Roman road river crossings – Romford, Stratford, Old Ford in Tower Hamlets all have their roots in similar settings.</p> <p>There is therefore a testable hypothesis here that a possible Roman and Saxon settlement site straddles the A12 at the application scheme location and is present, potentially in a better preserved state, within the southern edge of the application site.</p> <p>Historic England's Scheduling Selection Criteria Guide for Settlement Sites to AD1500 is the key secondary guidance here in ascribing significance to a site like this.</p> <p>It advises that all early Saxon settlements are candidates for national importance and implies strongly that sites that preserve a transition from Roman to Saxon are also unusual enough to merit consideration for national importance. This is because they preserve evidence of both continuity and change between the two periods.</p> <p>The ExA will be aware of NPSNN 5.124 which confirms that undesignated archaeological heritage assets of demonstrable significance to scheduled monuments should be treated as designated heritage assets in decision making, i.e. that harm to them from a consented scheme should be exceptional, if not in fact wholly exceptional.</p>	<p>To test the hypothesis that the Scheme may have impacts on hitherto unknown Roman and Saxon settlement of national importance near the junction of the Roman road and the Ingrebourne River, a programme of targeted trial trenching has been developed to be implemented during the Examination period. Further information on this can be found on pages 28 and 29 of the Statement of Common Ground with the London Borough of Havering (REP4-004), submitted at Deadline 4.</p> <p>The Outline Archaeological Management Plan (AMP) does not specify when the work would be done, and can be used to guide both pre- and post-consent archaeological works which incorporates the overarching methodologies for identification and evaluation of archaeological remains, as well as the mitigation of impacts caused by the Scheme. The AMP in both outline and final form is designed to describe the management of the archaeological process for the Scheme, and not necessarily only to manage the known archaeology. The Outline AMP (TR010029/EXAM/9.45(2)) to be submitted at Deadline 5 has been revised to provide additional details on the methodologies for dealing with nationally significant remains that may warrant preservation in situ, as well incorporating approaches for community engagement, communications, and opportunities for public benefit. As such, the Outline AMP provides compliance with NPS NN through its requirements to identify, evaluate, and record significant archaeological remains, including the development of a procedure to identify and treat schedulable</p>

Response reference:	Representation Issue	Highways England Response
	<p>It is the view of GLASS on behalf of LB Havering that the applicants have not assessed this potential, or any other archaeological potential at the site, using appropriate measures and that field survey work should inform a decision according to the process set out in NPSNN 5.127</p> <p>Instead, the applicant has submitted an incomplete plan for post-consent archaeological recording, something which would not permit the appropriate management of significant archaeological remains as policy requires.</p> <p>The AMP is not informed by fieldwork, it does not show why its proposed approach has been adopted in favour of other management techniques and it also currently omits any firm undertakings on public benefit.</p> <p>It is Havering's view that archaeological fieldwork should inform the DCO decision and also the content of any AMP, if only to understand and manage the significance of any further part of the Gardens of Peace archaeological site.</p> <p>LB Havering welcomes the Applicant's comment that they would look to see if trenching can be carried out during the Examination and LB Havering notes the challenges the Applicant has had with getting access to the necessary land.</p> <p>Following the Hearing LB Havering has had a further meeting with the Applicant to try and agree a way forward. LB Havering welcomes the intention by the Applicant to undertake some targeted trenching on the site.</p>	<p>quality remains through preservation in situ or proportionate recording.</p> <p>Highways England does not agree that an additional requirement to the dDCO is necessary and that Requirement 9(1) as proposed will suffice.</p> <p>The NPS NN requires the applicant to assess whether there are any likely significant heritage impacts as part of the Environmental Assessments (NPS NN 5.126). This assessment was recorded in the Chapter 11 of the ES (APP-033).</p> <p>The NPS NN does not require field evaluations as part of the assessment, though they are noted as being used "where appropriate" (NPS NN 5.127). Evaluation trenching to support the Environmental Impact Assessment was not considered appropriate due to the issues regarding vegetation clearance and land access, as well as the relatively low potential for highly significant remains identified during the desk-based assessments and archaeological monitoring of the geotechnical ground investigations.</p> <p>As more information has come to light recently, regarding the findings at the Gardens of Peace site, a programme for evaluation trenching to be conducted during the DCO examination period has been developed to test for the presence of potentially nationally-significant archaeological remains dating to the early Saxon period. These measures provide compliance with the policies of the NPS NN.</p>

Response reference:	Representation Issue	Highways England Response
	<p>For surety, LBH also seeks an additional Requirement to secure trial trenching, pre commencement of the scheme, to ensure that the Archaeological Management Plan is effective in dealing with archaeological sensitive areas that have not been assessed through baseline field work for this scheme.</p> <p>Information on the current position (post hearing) between LB Havering and the Applicant on this matter can be found in the progressed Statement of Common Ground that will be submitted by the Applicant at Deadline 4.</p>	<p>A revised Outline AMP with additional detail has been prepared and submitted to the Greater London Archaeology Advisory Services, who has confirmed via email (dated 9 April 2021) that the content of the revised Outline AMP is satisfactory. The updated OAMP (TR010029/EXAM/9.45(2)) is submitted into the examination at Deadline 5. This will be reflected in the updated SOCG with London Borough of Havering to be submitted at Deadline 6.</p>
REP4-031-14	<p><u>4.2The Applicant's approach to management and mitigation of trees and the adequacy of the Arboriculture Management Plan submitted with the outline Construction Environmental Management Plan submitted at Deadline 3A (REP 3A-010).</u></p> <p>LB Havering welcomes that an outline Arboricultural Method Statement (AMS) has been included as part of an Updated Outline CEMP. LB Havering welcomes that an Ecological Clerk of Works (ECoW) will be appointed by the Principal Contractor. This will provide an opportunity for LB Havering to ensure that tree protection measures are appropriate and protect trees considered to be at risk by the Local Planning Authority. LB Havering would like the ECoW to be a qualified arboriculturalist.</p> <p>LB Havering would recommend that where the outline AMS seeks either the ECoW or the Arboriculturalist, that the text</p>	<p>An updated version of the Outline Arboricultural Method Statement (AMS) is submitted at Deadline 5 (TR010029/EXAM/9.64) to address London Borough of Havering's comments which were raised after the Outline AMS was submitted at Deadline 3A and as part of the Issue Specific Hearing 1 (ISH1) on 4 March 2021.</p> <p>The roles and responsibilities outlined in the Outline AMS have been updated to note that a suitably qualified arboriculturalist (see section 2.2 of the updated Outline AMS) is required to supervise the construction works.</p> <p>Section 5 of the updated Outline AMS covers the bats. Highways England notes that the protection of bats will be dealt with in the CEMP (see REAC (TR010029/APP/7.3(3)), BD1.6, page 29) secured under Requirement 4 of the dDCO.</p> <p>The veteranising of trees is covered in section 6.2 of the updated Outline AMS submitted at Deadline 5.</p>

Response reference:	Representation Issue	Highways England Response
	<p>clarifies if this is sufficient or that agreement from both is needed to avoid any disagreement or misunderstanding.</p> <p>Despite our recommendation for cross referencing to be made in outline CEMP to checks for bat roost features in any trees to be removed for management or safety requirements, there appears to be no reference to bats in section 5 (tree works) in the outline AMS.</p> <p>LB Havering also notes that there appears to be no reference to the tree works to veteranising younger trees as compensation for losses within the site boundary.</p>	
REP4-031-15	<p><u>5. People and Communities</u></p> <p><u>5.1 The effects of the proposed Development on the living conditions of the occupiers of Grove Farm.</u></p> <p>The mitigation measures set out in the Outline CEMP include a noise barrier to be installed. LB Havering is of the view that this should be solid with no penetrations, fully sealed with the ground and should be a minimum of 2m above working ground height.</p> <p>With regards to work taking place at night time for the tie-in of the loop road and the A12 Eastbound off slip, LB Havering would expect this work to take place in the early part of the contractor's night shift to reduce the impact it would have on the local residents.</p>	<p>The noise barrier which is to be provided would be a temporary noise barrier to mitigate construction works as they take place across the site. The temporary barrier will be fully sealed with no gaps or penetrations and be at least 2m above working ground height. Commitment NV0.1 in the REAC (TR010029/APP/7.3(3)) requires that the noise mitigation measures are in alignment with the guidance detailed in British Standards (BS) 5228: 2009+A1:2014 - Part 1: Noise 'Code of Practice for noise and vibration control on construction and open sites', Part 1: Noise and Part 2: Vibration (see paragraph 12.8.1) and best practicable means (BPM) in accordance with the Control of Pollution Act 1974.</p>
REP4-031-16	<p><u>5.2 The effects of the proposed development on the operations of Maylands Golf Course.</u></p>	No response required

Response reference:	Representation Issue	Highways England Response
	<p>LB Havering had no comments to make on this matter at ISH1 Continued. Having reviewed the evidence presented at the Hearing, LB Havering has no further comments.</p>	
<p>REP4-031-17</p>	<p><u>6. Matters for Clarification</u> <u>7.1 Whether the IP's are generally content with the outline Construction and Environmental Management Plan submitted at Deadline 3A, and the inclusion of the outline Dust Noise and Nuisance Management Plan and the outline Surface Water Management Plan, and London Borough of Havering to expand on its comments on those other Environmental Plans as listed in the draft Development Consent Order.</u></p> <p>LB Havering is concerned that the commitment which is set out within the REAC may not be adhered to by the Principal Contractor if changes need to be made to the Final CEMP that do not make it consistent with the Outline CEMP.</p> <p>LB Havering is further concerned that the Final CEMP and the associated documents to be included within it will be approved by the Secretary of State for Transport following only consultation with relevant local authorities and consent being granted for the Development Consent Order. LB Havering is of the view that such documents should be agreed with the Local Authorities prior to being submitted to the Secretary of State.</p> <p>LB Havering notes in the Outline CEMP that the contractor would be required to discuss Section 61 agreements with the Local Authority. LB Havering would expect night time working to be part of a Section 61 agreement.</p>	<p>As noted by Highways England at the ISH2 on 5 March 2021 an outline CEMP (REP3A-010) has been provided and the final CEMP must, under Requirement 4, reflect the mitigation measures set out in the REAC and be substantially in accordance with the Outline CEMP. There is a high level of scrutiny of the CEMP and management plans as the Secretary of State (SoS) must approve the documents and would only do so if he thought appropriate to do so. The London Borough of Havering will be consulted on the CEMP and these comments, and others as consultees, would be fully taken into account by the SoS and will be sent to the SoS in full as set out in the amendment to Requirement 18 (previously Requirement 17) as submitted at Deadline 4 (REP4-002).</p> <p>The hours of working are outlined in section 5.3 of the Outline CEMP (REP3A-010). Any works proposed to take place outside of these hours would be subject to a Section 61 consent to be agreed with London Borough of Havering as set out in Appendix A of the Consents and Agreements Position Statement (APP-017).</p>

Response reference:	Representation Issue	Highways England Response
REP4-031-26	<p><u>3.3 London Borough of Havering to outline concerns for Articles 13, 18, 19, and 22 of the draft DCO.</u></p> <p>The Council's key concern with regards to these articles is that of "Deemed Consent". LBH would seek to amend the clause to allow for a period of 10 working days to review the draft documentation that the Applicant would be seeking approval for to ensure that all the correct documentation is in place. LBH would seek a further 10 working days in which to request any further information from the Applicant should any information be missing. Following this, a period of 28 days would then begin for the Local Authority to process the request from the Applicant.</p> <p>LB Havering is not seeking to have Deemed Consent removed from the Articles, Havering is simply seeking additional time to be included as part of the process.</p> <p>LB Havering is of the view that Article 13 should be restricted specifically to the Order limits. As the Article is currently worded Havering is of the view that the Article is too broad with the phrase in point (1) "use of any street" particularly concerning.</p> <p>With regards to Article 18 point (2c) the article refers to the creation of car parking on the carriageway. LBH would like to understand more about what is intended in terms of creating on street parking that may affect LBH Streets potentially beyond the order limits.</p>	<p>With regard to the principle of 'deemed consent' please see paragraph 4.1.5 of the written submission of Highways England's case put orally at ISH2 on the dDCO held on 5 March 2021 (REP4-017).</p> <p>With regard to article 13 please see paragraph 4.1.4 of the written submission of Applicant's case put orally at ISH2 on the DDCO held on 5 March 2021(REP4-017).</p> <p>With regard to article 18(2)(c) please see paragraph 4.1.7 of the written submission of Highways England's case put orally at ISH2 on the dDCO held on 5 March 2021(REP4-017) and Action point 2 of Highways England's response to action points from ISH2 (REP4-026).</p>

Response reference:	Representation Issue	Highways England Response
	<p><u>3.4 London Borough of Havering and Applicant to confirm whether or not Part 5, Articles 35 relates to highway land.</u></p> <p>With regards to Article 35, if this article does indeed refer to Highways land, LB Havering would like some additional working inserted into this clause that the “highway land should be reinstated to the Local Highway Authority’s satisfaction”.</p> <p>LB Havering notes that the Applicant suggested at the Hearing that Highway Land in respect to other local authorities would be relevant to this article. Havering’s position on an amendment to the article remains.</p>	<p>Please refer to paragraph 4.1.8 of the written submission of Highways England’s case put orally at ISH2 on the draft dDCO held on 5 March 2021 (REP4-017).</p>
REP4-031-27	<p><u>3.5 Whether requirement 4 as worded is adequate</u></p> <p>LB Havering is of the view that the Requirement as drafted is not adequate.</p> <p>The main concern that LB Havering has is with regards to the extent of the management plans that are being scrutinised in the Examination.</p> <p>Some management plans such as the Outline Archaeological Management Plan, Dust Noise and Nuisance Management Plan and Arboriculture Management Plans have been submitted at Deadline 3A which is welcome.</p> <p>However, a number of the plans set out in Requirement 4 will only be produced by the Principal Contractor once consent has been granted. LB Havering is concerned that any comments that it offers on these documents may not be taken seriously</p>	<p>Please refer to paragraph 4.1.10 – 4.1.11 of the Written submission of Highways England’s case put orally at ISH2 on the dDCO held on 5 March 2021 (REP4-017).</p>

Response reference:	Representation Issue	Highways England Response
	<p>once the broader scheme has receive Consent from the Secretary of State.</p> <p>LB Havering would suggest that a number of the management plan documents have interlinkages, for example the Ecological Habitats and Species Plan and Invasive Species Management Plan with the Arboricultural Method Statement.</p> <p>LB Havering is of the view that it would be better for stakeholders to have the opportunity to review them now and to be able to input into them at this stage. Whilst Havering notes that it will have the opportunity to comment on them through consultation, it is considered that comments will have more weight during the Examination stage then in a post consent phase.</p>	
REP4-031-28	<p><u>3.6 The Consultation parties to be applied to Requirements 3,4,5,6,8 and 10.</u></p> <p>LB Havering did not offer any comments at the Hearing but welcomes the comment made by the Applicant that it would be the intention to submit stakeholders' comments made on the various Requirements through consultation in a full report to the Secretary of State.</p> <p>This is something that LB Havering strongly welcomes. LB Havering also welcomes the comments by the ExA that the Applicant may wish to consider making that clearer within the wording of the draft DCO.</p> <p>Should a clear commitment regarding consultation comments be included within the draft DCO, this would address LB</p>	<p>The relevant highway authority has been added as a consultee to Requirements 3, 5, 6 and 8 of the dd DCO. Requirement 18 (previously Requirement 17) has been amended so that copies of any representations made by a consultee will be provided to the SoS. These updates were included in the version of the dDCO submitted at Deadline 4 (REP4-002).</p>

Response reference:	Representation Issue	Highways England Response
	Havering's concerns with regards to consultation and approval of relevant plans.	
REP4-031-31	<p><u>4.2 The need for section 106 agreements as indicated by London Borough of Havering.</u></p> <p>At the Examination Hearing the London Borough of Havering set out the specific obligations it was seeking as detailed in section 25 of its Local Impact Report. Following the Hearing, further consideration has been given to the specific obligations LB Havering is seeking and these have been set out below</p> <ul style="list-style-type: none"> • In order to support emerging Local Plan Policy 22 Skills and Training, LB Havering requires the Applicant to prepare, for its approval, a Local Training Skills and Brokerage Strategy. • To support the delivery of Local Development Framework CP9 Reducing the need to travel and CP 10 Sustainable Transport, the Council is seeking a financial contribution of £100k per annum over a three year period to support the continued delivery of free cycle training for school children and local residents. • To mitigate the impacts of Traffic re-routing during construction, the Council is seeking a contribution to support the Council's sustainable, active travel and road safety agenda of £200k per annum over a three year period. 	<p>Please refer to paragraph REP3B-006-15 of Highways England's response to the London Borough of Havering Deadline 3b submission (REP4-010).</p> <p>Moreover, in regard to paragraph 56 of the NPPF, the Scheme and the associated mitigation measures proposed are sufficient to make the Scheme acceptable in planning terms as explained in section 5.20 of the Case for the Scheme (APP-095). In addition, paragraph REP3B-006-15 of Highways England's response to the London Borough of Havering Deadline 3b submission (REP4-010) demonstrates that the policies quoted by London Borough of Havering are not directly relevant to the Scheme. The request for financial obligations therefore do not meet the tests set out in paragraph 56 of the National Planning Policy Framework (NPPF).</p>

Response reference:	Representation Issue	Highways England Response
	<ul style="list-style-type: none"> • LB Havering is seeking a contribution of £100k from the applicant to enable Electric Vehicle Charging Points to be delivered in the vicinity of the scheme, to be paid to the Council when the scheme becomes operational. • Installation of a real-time PM10 Continuous monitoring station to provide accurate information on air quality outputs given the uncertainty of the air quality data sets that have been used. • To monitor the delivery of the CEMP and also Environmental Control Plans, the Council is seeking a contribution for the Council to employee 1FTE post at a cost of £59,376. <p>LB Havering is of the view that the above obligations comply with Planning conditions and obligations paragraphs 56 and 57 of the NPPF.</p> <p>The Planning Obligations that LB Havering is seeking meet paragraph 56 of the NPPF for the following reasons:</p> <ol style="list-style-type: none"> a) LB Havering is seeking the contribution to make sure that the development is acceptable from a planning policy perspective. LB Havering set out in its Local Impact Report (REP1-030) that the proposed development does not comply with Local Plan Policy 22 Skills and Training, Local Development Core Strategy CP9 and CP10. The obligations are directly related to the development as the planning obligations would not 	

Response reference:	Representation Issue	Highways England Response
	<p>be sought for LBH if the development was not to go ahead.</p> <p>b) The obligations are reasonably related in scale and kind in terms of cost. LB Havering is seeking a total contribution of just over £1m, which is comparable to the overall scheme cost which is currently expected to be in the regional of £124m (paragraph 2.1.1 of Funding Statement APP-020). Furthermore, the Council is of the view that the BCR for the proposed scheme is not adversely affected. LB Havering is of the view that the BCR will still remain above 2 which is the level required by the Department for Transport to make the proposed scheme acceptable in monetary terms.</p> <p>LB Havering would also invite the ExA to consider paragraph 5.2.11 of the NN NPS when considering the above obligations. This is set out below:</p> <p>“The Examining Authority and the Secretary of State should give due consideration to impacts on local transport networks and policies set out in local plans, for example, policies on demand management being undertaken at the local level”.</p>	

© Crown copyright (2021).

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence:

visit **www.nationalarchives.gov.uk/doc/open-government-licence/**

write to the Information Policy Team, **The National Archives, Kew, London TW9 4DU**,

or email **psi@nationalarchives.gsi.gov.uk**.

Printed on paper from well-managed forests and other controlled sources.

Registered office Bridge House, 1 Walnut Tree Close, Guilford GU1 4LZ

Highways England Company Limited registered in England and Wales number 09346363

