



The Planning Inspectorate  
Yr Arolygiaeth Gynllunio

The Planning Act 2008

## **THE LOWER THAMES CROSSING**

Examining Authority's Report  
of Findings and Conclusions  
and

Recommendation to the  
Secretary of State for Transport

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## **APPENDICES TO THE REPORT**

20 MARCH 2024

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## APPENDIX A: THE EXAMINATION PROCESS

This Appendix provides access to information about the processes used by the Examining Authority (ExA) to conduct the pre-examination and the Examination, and the procedural decisions (PDs) which underpinned those processes. It also provides access to tables recording the final agreed versions of Statements of Common Ground (SoCGs) and Principal Areas of Disagreement Summaries (PADS).

### The Pre-Examination and Examination Process

Pre-examination and Examination procedure is managed by the ExA making and communicating PDs to the Applicant and Interested Parties (IPs). A comprehensive log of all PDs was maintained throughout the pre-examination and Examination periods [[PD-007](#)] and is linked here. PDs that are administrative in nature and relate to the expected implementation of pre-examination and Examination processes are made without the provision of written statements of reasons. PDs that requested by and/or address the specific concerns of individual IPs or groups of IPs are provided with statement of reasons, indicating the basis for the decision and the information considered by the ExA when making it.

Initial PDs were made during the pre-examination period to:

- 1) characterise the issues raised in relevant representations (RRs);
- 2) develop proposals for an Examination to test those issues and any other important and relevant issues that arose (the Examination design); and
- 3) engage with the Applicant and Interested Parties (IPs) to refine and apply the Examination design.

Functions 1 and 2 were discharged in a letter prepared under Rule 6 of the EPR [[PD-013](#)] (Annexes B and D).

Function 3 was discharged through the means of:

- written consultations [[PD-005](#)] [[PD-010](#)], [[PD-011](#)], [[PD-012](#)] on matters bearing on the timing of the Examination, including local authority resourcing and a Written Ministerial Statement (WMS) on the delivery timescale for the Proposed Development;
- a statutory programming meeting held in public and attended by the Applicant and local authority IPs (an “other meeting”) to discuss resourcing and measures to underpin fair Examination participation, in circumstances where project timing changes had been announced by the SoST and where some local authorities were reviewing budgets, funding, capabilities and commitments to the Examination process and timescale; and
- the Preliminary Meeting (PM), held with the Applicant and all IPs.

Details of the other meeting can be found in the Rule 6 Letter [[PD-013](#)] (Annex C) [EV-001 to 007]. Details of the PM can be found in the Rule 6 Letter [[PD-013](#)] (Annex A) [EV-008 to 012].

The Lower Thames Crossing application is one of the largest applications ever to have been considered using the PA2008 NSIP process. It was important to the ExA to ensure that it designed an Examination process that secured procedurally fair and effective participation for all IPs, having regard to the scale of the material under consideration. The ExA had regard to the establishment and financial readiness for participation of the host local authorities who play an important role as representatives of their local communities.

On 19 December 2022 [\[PD-005\]](#), the ExA sought information from the Applicant about local authority participation in the pre-examination and Examination processes, asking for the identification of all Planning Performance Agreements (PPAs) in force and in preparation that might be relevant to participation and so to Examination process design.

On 2 September 2022, the Secretary of State for Levelling Up, Housing and Communities announced intervention at Thurrock Council under s15 of the Local Government Act 1999 in order to respond to financial and budgetary concerns arising from investment activity and external borrowing. On 24 January 2023 the SoSLUHC had decided to appoint a 'Managing Director Commissioner' taking extensive financial management powers over that Council, likely to extend for a considerable period of time. The period for making relevant representations in relation to the Application closed on 24 February 2023 and it became apparent that Thurrock Council had not registered as an IP. On 3 March 2023 [\[PD-010\]](#), PDs were made to seek information about participation in the pre-examination and Examination stages by Thurrock Council and seeking further information on Thurrock Council's access to PPA funds. The ExA noted that the effects of the special financial measures applicable to Thurrock Council on the management of planning services and participation in the Examination were not fully understood at this time. The ExA needed information about and to consider the effects of the process on Examination participation by Thurrock Council as a host local authority.

On 9 March 2023, the SoST made a WMS identifying that the LTC project would be subject to a two-year capital rephasing. On 13 March 2023 [\[AS-084\]](#) and in the light of the WMS, Thurrock Council sought a delay to the commencement of the Examination of at least three months, with a commencement date no earlier than 1 September 2023. Tonbridge and Malling Borough Council made a similar request on 4 April 2023 [\[AS-087\]](#).

A further PD of 21 March 2023 [\[PD-011\]](#) addressed a request from the Applicant to make changes to the Application, whilst also providing the Applicant with an opportunity to respond to information provided and the request made by Thurrock Council.

Information arising from multiple PDs was then used to make an initial decision on the timing and design of the Examination on 6 April 2023 [\[PD-012\]](#) in which all relevant matters were taken into consideration. The ExA resolved to target the commencement of the Examination into a window extending from mid-June to early July 2023, but subject and without prejudice to discussions to be held at a Programming Meeting to review local authority resourcing and readiness in the round and to a full discussion about procedural arrangements at the PM. A full statement of reasons is appended to PD 12, but can be summarised as follows:

- That there is substantial public interest in the maintenance of pace and expedition in decision-making for Nationally Significant Infrastructure Projects (NSIPs) overall, as is demonstrated by the Government's NSIP reform programme.
- That the SoST's WMS of 9 March 2023 has not given rise to specific proposals for any changes of substance to the Proposed Development or to the timing of its Examination by the Applicant.
- That there are negative consequences that may flow from any delay in both the delivery of and the prolongation of uncertainty about a major proposed development, including but not limited to the prolongation of adverse effects of existing conditions that the Proposed Development is proposed to mitigate or improve, and the exacerbation of uncertainty affecting decisions around property (including that affected by a Compulsory Acquisition or Temporary Possession

request), investment, jobs and the environment within the area affected by the proposed development. It is in the public interest that all such effects be minimised to the extent practicable.

- That in general terms, an application for NSIP development made to the Planning Inspectorate is deemed ready for Examination and that the pre-Examination period should be as short as practicable, ensuring time for the fair and proper organisation of an Examination but no more. A period of two months is cited in relevant guidance as being the normal period from the receipt of Relevant Representations and the commencement of an Examination. Delays may be agreed by an ExA for good reasons but should not normally be for longer than three months (see DCLG Examination Guidance – March 2015).
- That whilst Thurrock Council area would host a considerable element of the Proposed Development, there are other host authorities and a wide range of other statutory parties, Interested Parties and Affected Persons who have not sought a delay and whose interests in the retention of a procedure close to typical timescales must also be taken into account. Affected Persons subject to a Compulsory Acquisition or Temporary Possession request have a particular interest in limiting the duration to which they are subject to the uncertainty that arises before a decision can be made.
- That in circumstances where the registration of IPs closed on 24 February 2023, a PM would normally have been held in April 2023. Taking all of the above factors into account, that preparations should continue for an Examination commencing in (broadly) July 2023 unless other weighty reasons for further delay were to emerge.

The Programming Meeting [[PD-013](#)] (Annex C) held in public on 16 May 2023 provided a full opportunity for matters relating to local authority resources, readiness and timing to be discussed. Whilst Thurrock Council had remaining concerns about an Examination commencing before September 2023, these were to a substantial degree counterbalanced by concerns arising from other IPs about the effects and costs that could arise due to a delay. The Programming Meeting was an information gathering process and no formal procedural decisions were taken at or following that meeting.

In line with normal NSIP procedure, a full opportunity was provided to discuss all procedural arrangements at the PM which opened on 6 June 2023 [[PD-013](#)] (Annex C) and to which the facts identified in the Programming Meeting were brought. Following an opportunity for both physical and virtual participants to make written submissions on questions of procedure and timing raised at the PM, it was closed in writing on 20 June 2023 and the Examination was commenced. The Rule 8 Letter sets out all of the PDs which then came into effect [[PD-020](#)].

The initial PDs recorded above were augmented before [[PD-013](#)] and during the Examination to address the following functions:

- statutory notification of all Examination events (hearings and accompanied site inspections);
- consideration and acceptance for Examination of requests from the Applicant for changes to the application (See Appendix B: Table B2);
- consideration and acceptance for Examination of an additional land and rights request from the Applicant (See Appendix B: Table B3);
- consideration and acceptance of certain additional submissions (referred to individually in this report as required): and
- ongoing review of Examination procedure, with timetable amendments prepared as necessary to ensure fair and effective participation by the Applicant and all IPs throughout.

The Examination was delivered with reference to an Examination Timetable (the 'timetable') prepared under Rule 8 of the EPR. The timetable as initially brought into force is set out in the Rule 8 Letter [\[PD-020\]](#) (Annex A).

The timetable is recorded in its final (as fully delivered) form on the National Infrastructure Planning website, at the following hyperlink:

[Lower Thames Crossing | National Infrastructure Planning | Examination Timetable \(planninginspectorate.gov.uk\)](#)

Examination participants and members of the public with questions were assisted throughout the pre-examination and Examination processes by reference to the ExA's frequently asked questions documents (FAQ), found at the following hyperlink:

[Lower Thames Crossing | National Infrastructure Planning | FAQ \(planninginspectorate.gov.uk\)](#)

A consolidated table of all PDs made throughout the pre-examination and Examination period and whether these were discharged or remained in force can be found in the Procedural Decisions Log [\[PD-007\]](#). To the extent that there was contention about any of the PDs made, the ExA made them following consultation with the Applicant and IPs, and the final PDs set out reasons for the decisions that were made.

All PDs relating to the conduct of the Examination were broadly complied with and there are no substantial matters of a procedural nature to which the SoST needs to have regard.

Having regard to the matters recorded above that arose in the pre-examination period, it is relevant to note that the ExA undertook specific consultations and engagement processes designed to ensure that the timing and all other procedures in the Examination were conducted fairly and efficiently, with full regard to the positions of all IPs who wished to become involved in the making of procedural decisions.

### Statements of Common Ground

The ExA requested [\[PD-013\]](#) (Annex F PD 13) that the Applicant should prepare and submit Statements of Common Ground (SoCGs).

Table A1 Records all SoCGs that were signed by both parties as 'Final Agreed'<sup>1</sup> statements, recording agreements between the Applicant and the relevant signatory party.

**Table A1: Final Agreed Statements of Common Ground**

Deadline	Final Agreed Statement of Common Ground	EL Ref
D3	Deadline 3 Submission - 9.51 Final Agreed Statement of Common Ground between (1) National Highways and (2) Global Mutual (c.o Lakeside Centre Limited) v2.0 clean	<a href="#">[REP3-138]</a>

<sup>1</sup> SoCGs marked as 'Final Agreed' have all been signed by both parties in the versions recorded in this table. A number of SoCGs marked as 'Final' have not been signed by both parties and cannot be accorded the same weight as representing agreement between the parties. They are not recorded in this table.

Deadline	Final Agreed Statement of Common Ground	EL Ref
D5	Deadline 5 Submission - 5.4.1.3 Final Agreed Statement of Common Ground between (1) National Highways and (2) Historic England v3.0	<a href="#">[REP5-036]</a>
D6	Deadline 6 Submission - 9.37 Final Agreed Statement of Common Ground between (1) National Highways and (2) Sevenoaks District Council v3.0	<a href="#">[REP6-066]</a>
D8	5.4.3.8 Final Agreed Statement of Common Ground between (1) National Highways and (2) EXA Infrastructure v3.0	<a href="#">[REP8-016]</a>
D8	5.4.3.15 Final Agreed Statement of Common Ground between (1) National Highways and (2) ITS Technologies v3.0	<a href="#">[REP8-018]</a>
D8	5.4.3.16 Final Agreed Statement of Common Ground between (1) National Highways and (2) Openreach Limited v3.0	<a href="#">[REP8-020]</a>
D8	5.4.3.18 Final Agreed Statement of Common Ground between (1) National Highways and (2) Southern Gas Networks plc v4.0	<a href="#">[REP8-022]</a>
D8	5.4.3.21 Final Agreed Statement of Common Ground between (1) National Highways and (2) UK Power Networks v3.0	<a href="#">[REP8-024]</a>
D8	5.4.3.22 Final Agreed Statement of Common Ground between (1) National Highways and (2) Verizon UK Ltd v3.0	<a href="#">[REP8-026]</a>
D8	5.4.3.23 Final Agreed Statement of Common Ground between (1) National Highways and (2) Virgin Media Limited v3.0	<a href="#">[REP8-028]</a>
D8	5.4.3.24 Final Agreed Statement of Common Ground between (1) National Highways and (2) Vodafone Limited v3.0	<a href="#">[REP8-030]</a>
D8	5.4.4.2 Final Agreed Statement of Common Ground between (1) National Highways and (2) Brentwood Borough Council v4.0	<a href="#">[REP8-032]</a>
D8	5.4.4.3 Final Agreed Statement of Common Ground between (1) National Highways and (2) Dartford Borough Council v4.0	<a href="#">[REP8-034]</a>
D8	5.4.5.1 Final Agreed Statement of Common Ground between (1) National Highways and (2) Cobham Parish Council v3.0	<a href="#">[REP8-036]</a>
D8	5.4.5.3 Final Agreed Statement of Common Ground between (1) National Highways and (2) Higham Parish Council v4.0	<a href="#">[REP8-040]</a>
D8	5.4.5.5 Final Agreed Statement of Common Ground between (1) National Highways and (2) Thames Chase Trust v3.0	<a href="#">[REP8-042]</a>
D8	9.27 Final Agreed Statement of Common Ground between National (1) Highways and (2) Anglian Water v2.0	<a href="#">[REP8-094]</a>
D8	9.32 Final Agreed Statement of Common Ground between National (1) Highways and (2) Southern Water Services Limited v2.0	<a href="#">[REP8-096]</a>



<b>Deadline</b>	<b>Final Agreed Statement of Common Ground</b>	<b>EL Ref</b>
D8	9.33 Final Agreed Statement of Common Ground between National (1) Highways and (2) Thames Water Utilities Limited v2.0	<a href="#">[REP8-098]</a>
D8	9.34 Final Agreed Statement of Common Ground between National (1) Highways and (2) Dover District Council v3.0	<a href="#">[REP8-100]</a>
D8	9.40 Final Agreed Statement of Common Ground between National (1) Highways and (2) Meopham Parish Council v2.0	<a href="#">[REP8-102]</a>
D8	9.43 Final Agreed Statement of Common Ground between (1) National Highways and (2) North Kent Marshes Internal Drainage Board v3.0	<a href="#">[REP8-104]</a>
D8	9.50 Final Agreed Statement of Common Ground between (1) National Highways and (2) Luddesdown Parish Council v2.0	<a href="#">[REP8-107]</a>
D9A	5.4.1.1 Final Agreed Statement of Common Ground between (1) National Highways and (2) the Environment Agency v5.0	<a href="#">[REP9A-006]</a>
D9A	5.4.1.2 Final Agreed Statement of Common Ground between (1) National Highways and (2) the Forestry Commission v3.0	<a href="#">[REP9A-008]</a>
D9A	5.4.1.4 Final Agreed Statement of Common Ground between (1) National Highways and (2) Kent Downs AONB Unit v4.0	<a href="#">[REP9A-010]</a>
D9A	5.4.1.5 Final Agreed Statement of Common Ground between (1) National Highways and (2) the Marine Management Organisation v3.0	<a href="#">[REP9A-012]</a>
D9A	5.4.1.6 Final Agreed Statement of Common Ground between (1) National Highways and (2) Natural England v6.0	<a href="#">[REP9A-014]</a>
D9A	5.4.1.7 Final Agreed Statement of Common Ground between (1) National Highways and (2) Port of London Authority v2.0	<a href="#">[REP9A-016]</a>
D9A	5.4.2.1 Final Agreed Statement of Common Ground between (1) National Highways and (2) DP World London Gateway v3.0	<a href="#">[REP9A-018]</a>
D9A	5.4.2.3 Final Agreed Statement of Common Ground between (1) National Highways and (2) Thurrock Flexible Generation Ltd (formerly Thurrock Power Limited) v3.0	<a href="#">[REP9A-020]</a>
D9A	5.4.3.10 Final Agreed Statement of Common Ground between (1) National Highways and (2) High Speed 1 Limited v4.0	<a href="#">[REP9A-022]</a>
D9A	5.4.3.17 Final Agreed Statement of Common Ground between (1) National Highways and (2) Royal Mail v2.0	<a href="#">[REP9A-026]</a>

Deadline	Final Agreed Statement of Common Ground	EL Ref
D9A	5.4.3.2 Final Agreed Statement of Common Ground between (1) National Highways and (2) Barking Power Limited v2.0	<a href="#">[REP9A-028]</a>
D9A	5.4.3.3 Final Agreed Statement of Common Ground between (1) National Highways and (2) Cadent Gas Limited v3.0	<a href="#">[REP9A-032]</a>
D9A	5.4.3.6 Final Agreed Statement of Common Ground between (1) National Highways and (2) Essex & Suffolk Water v2.0	<a href="#">[REP9A-034]</a>
D9A	5.4.3.9 Final Agreed Statement of Common Ground between (1) National Highways and (2) the Health and Safety Executive v3.0	<a href="#">[REP9A-036]</a>
D9A	5.4.4.1 Final Agreed Statement of Common Ground between (1) National Highways and (2) Basildon Council v3.0	<a href="#">[REP9A-038]</a>
D9A	5.4.4.10 Final Agreed Statement of Common Ground between (1) National Highways and (2) Medway Council v3.0	<a href="#">[REP9A-040]</a>
D9A	5.4.4.11 Final Agreed Statement of Common Ground between (1) National Highways and (2) Transport for London v5.0	<a href="#">[REP9A-042]</a>
D9A	5.4.4.12 Final Agreed Statement of Common Ground between (1) National Highways and (2) Thurrock Council v4.0	<a href="#">[REP9A-044]</a>
D9A	5.4.4.13 Final Agreed Statement of Common Ground between (1) National Highways and (2) Tonbridge & Malling Borough Council v5.0	<a href="#">[REP9A-046]</a>
D9A	5.4.4.5 Final Agreed Statement of Common Ground between (1) National Highways and (2) Essex County Council v5.0	<a href="#">[REP9A-048]</a>
D9A	5.4.4.6 Final Agreed Statement of Common Ground between (1) National Highways and (2) Gravesham Borough Council v4.0	<a href="#">[REP9A-050]</a>
D9A	5.4.4.7 Final Agreed Statement of Common Ground between (1) National Highways and (2) Kent County Council v5.0	<a href="#">[REP9A-052]</a>
D9A	5.4.4.8 Final Agreed Statement of Common Ground between (1) National Highways and (2) London Borough of Havering v5.0	<a href="#">[REP9A-054]</a>
D9A	5.4.5.2 Final Agreed Statement of Common Ground between (1) National Highways and (2) Forestry England v4.0	<a href="#">[REP9A-056]</a>

<b>Deadline</b>	<b>Final Agreed Statement of Common Ground</b>	<b>EL Ref</b>
D9A	5.4.5.4 Final Agreed Statement of Common Ground between (1) National Highways and (2) Shorne Parish Council v4.0	<a href="#">[REP9A-058]</a>
D9A	9.104 Final Agreed Statement of Common Ground between (1) National Highways and (2) The Master, Fellows and Scholars of the College of Saint John the Evangelist in the University of Cambridge v2.0	<a href="#">[REP9A-062]</a>
D9A	9.121 Final Agreed Statement of Common Ground between (1) National Highways and (2) NHS Mid and South Essex Integrated Care Board v2.0	<a href="#">[REP9A-064]</a>
D9A	9.151 Final Agreed Statement of Common Ground between (1) National Highways and (2) NHS Kent and Medway Integrated Care Board v2.0	<a href="#">[REP9A-066]</a>
D9A	9.154 Final Agreed Statement of Common Ground between (1) National Highways and (2) Maidstone Borough Council v2.0	<a href="#">[REP9A-068]</a>
D9A	9.182 Final Agreed Statement of Common Ground between (1) National Highways and (2) DeGiorgio Holdings Limited (Inn on the Lake Hotel) v2.0	<a href="#">[REP9A-076]</a>
D9A	9.28 Final Agreed Statement of Common Ground between (1) National Highways and (2) Emergency Services and Safety Partnership Steering Group (ESSP SG) v3.0	<a href="#">[REP9A-080]</a>
D9A	9.30 Final Agreed Statement of Common Ground between (1) National Highways and (2) National Grid Electricity Transmission plc v2.0	<a href="#">[REP9A-082]</a>
D9A	9.31 Final Agreed Statement of Common Ground between (1) National Highways and (2) National Gas Transmission plc v2.0	<a href="#">[REP9A-084]</a>
D9A	9.36 Final Agreed Statement of Common Ground between National Highways and (2) Kent and Medway Economic Partnership v3.0	<a href="#">[REP9A-086]</a>
D9A	9.39 Final Agreed Statement of Common Ground between (1) National Highways and (2) Cuxton Parish Council v2.0	<a href="#">[REP9A-088]</a>
D9A	9.41 Final Agreed Statement of Common Ground between (1) National Highways and (2) Essex Police v3.0	<a href="#">[REP9A-090]</a>
D9A	9.42 Final Agreed Statement of Common Ground between (1) National Highways and (2) Kent Police v3.0	<a href="#">[REP9A-092]</a>

Deadline	Final Agreed Statement of Common Ground	EL Ref
D9A	9.44 Final Agreed Statement of Common Ground between (1) National Highways and (2) NHS North East London Integrated Care Board v2.0	<a href="#">[REP9A-094]</a>
D9A	9.46 Final Agreed Statement of Common Ground between (1) National Highways and (2) Cole Family v3.0	<a href="#">[REP9A-096]</a>
D9A	9.68 Final Agreed Statement of Common Ground between (1) National Highways and (2) John and Elizabeth Gressier v3.0	<a href="#">[REP9A-098]</a>
D9A	9.69 Final Agreed Statement of Common Ground between (1) National Highways and (2) Harlex Haulage and (3) J & B Martin (Crayford & Fawkham) Limited v3.0	<a href="#">[REP9A-100]</a>
D9A	9.91 Final Agreed Statement of Common Ground between (1) National Highways and (2) E and K Benton Ltd v2.0	<a href="#">[REP9A-102]</a>
D9A	9.92 Final Agreed Statement of Common Ground between (1) National Highways and (2) Melville Mott & Family v2.0	<a href="#">[REP9A-104]</a>
D10	5.4.2.2 Final Agreed Statement of Common Ground between (1) National Highways and (2) Port of Tilbury London Limited v3.0	<a href="#">[REP10-008]</a>

## Principal Areas of Disagreement

The Inspectorate has been testing measures designed to enhance the efficient consideration of matters raised between the Applicant and IPs in Examinations. A tracker recording Principal Areas of Disagreement in Summary (a PADS Tracker) was used in the A66 Examination on a trial basis and the ExA carried this tool forward into the LTC Examination.

In its PD2 [\[PD-005\]](#) the ExA decided that PADS Trackers should be prepared by the parties participating in the Statement of Common Ground (SoCG) process and in turn tracked by the Applicant. A PADS Tracker provides a record of principal issues of disagreement emerging from SoCGs. It is updated alongside the SoCGs as appropriate throughout the Examination, with the expectation that a revised PADS Tracker should be submitted at every Examination deadline by the Applicant, but in agreement with participating parties.

The ExA considered that preparations for the Examination would benefit from the early identification of the principal areas of disagreement. This would only be a summary position at the pre-examination stage. The ExA anticipated that matters would be expanded upon within each local authority's Local Impact Report and in all relevant IP's Written Representations or oral submissions during Examination.

With this in mind, the ExA requested each party engaged in the SoCG process to prepare and submit a PADS with the Applicant and for the positions reached to be recorded in a PADS Tracker.

The PADS Tracker was requested to be in a table format (equivalent to a Scott Schedule used in some civil litigation) to address the following matters:

- the principal issue in question between the applicant and the particular party;
- the brief concern held by the party (which should be included in a Relevant Representation and reported on in full in a Local Impact Report/ Written Representations or oral submissions);
- what in the view of the party needs to change/ be amended/ included, so as to overcome the disagreement; and
- in the opinion of that party, the likelihood of the concern being addressed during the Examination stage.

PADS submitted in Examination are primarily a monitoring tool which assist the ExA's case management decisions. The final PADS submitted by IPs do however provide additional insight into those issues which the IPs viewed as being outstanding at the end of the Examination. They have been taken into account in the reasoning in this report. Table A2 provides access to those final PADS.

**Table A2: Final Principal Areas of Disagreement Summaries**

Deadline	Final PADS	EL Ref
D9A	Gravesham Borough Council - Final PADS	<a href="#">[REP9A-106]</a>
D9A	Kent County Council - Final PADS	<a href="#">[REP9A-110]</a>
D9A	London Borough of Havering - Final PADS	<a href="#">[REP9A-112]</a>
D9A	Shorne Parish Council - Final PADS	<a href="#">[REP9A-116]</a>
D9A	Natural England - Comments on Applicant's submissions at D8, Addendum to Natural England Deadline 9 response, Comments on the final documents submitted by the Applicant at D9, Final SoCGs, Final PADSSs, Any further information requested by the ExA under Rule 17 of the EPR	<a href="#">[REP9A-122]</a>
D9A	Transport for London - Final PADS	<a href="#">[REP9A-124]</a>
D9A	DP World London Gateway (DPWLG) - Final PADS	<a href="#">[REP9A-128]</a>
D9A	Northumbrian Water Limited, operating as Essex & Suffolk Water - Final PADS	<a href="#">[REP9A-138]</a>
D10	Port of Tilbury London Limited - Final PADSS	<a href="#">[REP10-039]</a>

## Changes to the Application

The Applicant made three formal changes to the Application as submitted:

- Change Request 1 (CR1) notified on 16 March and formally submitted on 2 August 2023;
- Change Request 2 (CR2) notified on 3 July and formally submitted on 8 September 2023; and
- Change Request 3 (CR3) notified on 2023 and formally submitted on 23 October 2023.

Each Change Request and its supporting documents can be accessed in Table A3.

**Table A3: Change Request Documents**

Users of this table should note that documents submitted to the ExA in connection with change requests during the Examination are set out in the EL with references commencing with CR, denoting their association with a change request. For this reason, summary links are provided here and users seeking descriptions of documents should refer to the EL. Change Request 1 was submitted during the pre-examination period and for that reason the initial request documents are recorded as additional submissions (AS).

Document	EL Reference
<b>Applicant's first change request CR1</b>	
Initial Change Request Notification	<a href="#">[AS-082]</a> <a href="#">[AS-083]</a> Changes recorded by the Applicant as MRC-01, MRC-02 and MRC-03
ExA Procedural Decision on Handling	<a href="#">[PD-011]</a> PD11: Agreement to requirement for a change process and to proposed consultation method and timing
Change Request Cover Letter	<a href="#">[CR1-001]</a> (formerly <a href="#">[AS-092]</a> )
Proposed Changes Application Report	<a href="#">[CR1-002]</a>
Change Request supporting documents	<a href="#">[CR1-003]</a> <a href="#">[CR1-004]</a> <a href="#">[CR1-005]</a> <a href="#">[CR1-006]</a> <a href="#">[CR1-007]</a> <a href="#">[CR1-008]</a> <a href="#">[CR1-009]</a> <a href="#">[CR1-010]</a> <a href="#">[CR1-011]</a> <a href="#">[CR1-012]</a> <a href="#">[CR1-013]</a> <a href="#">[CR1-014]</a> <a href="#">[CR1-015]</a> <a href="#">[CR1-016]</a> <a href="#">[CR1-017]</a> <a href="#">[CR1-018]</a> <a href="#">[CR1-019]</a> <a href="#">[CR1-020]</a> <a href="#">[CR1-021]</a> <a href="#">[CR1-022]</a> <a href="#">[CR1-023]</a> <a href="#">[CR1-024]</a> <a href="#">[CR1-025]</a> <a href="#">[CR1-026]</a> <a href="#">[CR1-027]</a> <a href="#">[CR1-028]</a> <a href="#">[CR1-029]</a> <a href="#">[CR1-030]</a> <a href="#">[CR1-031]</a> <a href="#">[CR1-032]</a> <a href="#">[CR1-033]</a> <a href="#">[CR1-034]</a> <a href="#">[CR1-035]</a> <a href="#">[CR1-036]</a> <a href="#">[CR1-037]</a> <a href="#">[CR1-038]</a> <a href="#">[CR1-039]</a> <a href="#">[CR1-040]</a> <a href="#">[CR1-041]</a> <a href="#">[CR1-042]</a> <a href="#">[CR1-043]</a> <a href="#">[CR1-044]</a> <a href="#">[CR1-045]</a> <a href="#">[CR1-046]</a> <a href="#">[CR1-047]</a> <a href="#">[CR1-048]</a> <a href="#">[CR1-049]</a> <a href="#">[CR1-050]</a> <a href="#">[CR1-051]</a> <a href="#">[CR1-052]</a> <a href="#">[CR1-053]</a>
ExA Procedural Decisions on Compliance with <a href="#">AN16</a>	<a href="#">[PD-031]</a> <a href="#">[PD-032]</a> PD33 and PD34: Decisions to accept changes MRC-01 and MRC-02 for Examination purposes.  PD35 Decision to accept change MRC-03 for Examination purposes subject to a procedure under the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 (the CA Regs)

Document	EL Reference
	because the change sought additional interests in land.
ExA Procedural Decision on Acceptance	Taken during the reporting period and set out in this report.
<b>Applicant's second change request CR2</b>	
Initial Change Request Notification	<a href="#">[CR2-001]</a> <a href="#">[CR2-002]</a> Changes recorded by the Applicant as EC-01 and EC-02.
ExA Procedural Decision on Handling	<a href="#">[PD-022]</a> PD31 and 32: Agreement to requirement for a change process and to proposed consultation method and timing.  Advice that these changes would be within the remit of the CA Regs unless consented to by relevant APs.
Change Request Cover Letter	<a href="#">[CR2-003]</a>
Proposed Changes Application Report	<a href="#">[CR2-002]</a>
Change Request supporting documents	<a href="#">[CR2-004]</a> <a href="#">[CR2-005]</a> <a href="#">[CR2-006]</a> <a href="#">[CR2-007]</a> <a href="#">[CR2-008]</a> <a href="#">[CR2-009]</a> <a href="#">[CR2-010]</a> <a href="#">[CR2-011]</a> <a href="#">[CR2-012]</a> <a href="#">[CR2-013]</a> <a href="#">[CR2-014]</a> <a href="#">[CR2-015]</a> <a href="#">[CR2-016]</a> <a href="#">[CR2-017]</a> <a href="#">[CR2-018]</a> <a href="#">[CR2-019]</a> <a href="#">[CR2-020]</a> <a href="#">[CR2-021]</a>
ExA Procedural Decision on Compliance with <a href="#">AN16</a>	<a href="#">[PD-039]</a> PD39: Decisions to accept changes EC-01 and EC-02 for Examination purposes subject to a procedure under the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 (the CA Regs) because the changes sought additional interests in land.
ExA Procedural Decision on Acceptance	Taken during the reporting period and set out in this report.
<b>Applicant's third change request CR3</b>	
Initial Change Request Notification	<a href="#">[CR3-001]</a> Changes recorded by the Applicant as EC-03 and EC-04.
ExA Procedural Decision on Handling	<a href="#">[PD-030]</a> PD36: Agreement to requirement for a change process for both changes and advice on consultation method and timing for EC-04.
Change Request Cover Letter	<a href="#">[CR3-002]</a>



Document	EL Reference
Proposed Changes Application Report	<a href="#">[CR3-002]</a>
Change Request supporting documents	<a href="#">[CR3-003]</a> <a href="#">[CR3-004]</a> <a href="#">[CR3-005]</a> <a href="#">[CR3-006]</a> <a href="#">[CR3-007]</a> <a href="#">[CR3-008]</a> <a href="#">[CR3-009]</a> <a href="#">[CR3-010]</a> <a href="#">[CR3-011]</a> <a href="#">[CR3-012]</a> <a href="#">[CR3-013]</a>
ExA Procedural Decision on Compliance with <a href="#">AN16</a>	<a href="#">[PD-045]</a> : PD42: Decisions to accept changes EC-03 and EC-04 for Examination purposes.
ExA Procedural Decision on Acceptance	Taken during the reporting period and set out in this report.

## Planning Agreements and Obligations

The ExA has considered the following Agreements and Unilateral Undertakings under s106 of the Town and Country Planning Act 1990 as amended.

**Table A4: Agreements and Unilateral Undertakings**

Deadline	Status of Agreement or Unilateral under TCPA s106	EL Ref
D9	Signed Section 106 Agreement - Gravesham Borough Council v2.0	<a href="#">[REP9-266]</a>
D10	Signed Section 106 Agreement – Brentwood Borough Council v3.0	<a href="#">[REP10-010]</a>
D10	Signed Section 106 Agreement – Essex County Council v3.0	<a href="#">[REP10-012]</a>
D10	Concluded Section 106 Unilateral Undertaking – Kent County Council v3.0	<a href="#">[REP10-014]</a>
D10	Final Section 106 Agreement – London Borough of Havering v3.0	<a href="#">[REP10-016]</a>
D10	Signed Section 106 Agreement – Thurrock Council v3.0	<a href="#">[REP10-018]</a>

## Relevant Side and Commercial Agreements

The ExA has considered side and commercial agreements made between the Applicant relevant parties to resolve matters in dispute that would otherwise have been important and relevant considerations. The main summary sources of information about such agreements are as follows:

- The Consents and Agreements Position Statement [\[REP9-111\]](#), updated at each relevant deadline pursuant to the ExAs PD 27 ([\[PD-020\]](#) at Annex B);
- Agreements under s106 TCPA 1990 or equivalents (including unilateral obligations), listed in Table A4 above;
- Matters secured in the dDCO [\[REP10-005\]](#) as Protective Provisions;



- Agreements formed as commitments in the Register of Environmental Actions and Commitments (REAC) (see REAC Table 7.1 in the Code of Construction Practice (CoCP) Chapter 7 [\[REP9-184\]](#));
- Agreements formed as commitments in the outline Landscape and Ecology Management Plan (oLEMP) [\[REP9-207\]](#);
- Agreements in relation to environmental effects, mitigation and compensation, including :
  - Letters of No Impediment (LoNIs) from relevant regulatory bodies, copied into Appendix A of the Consents and Agreements Position Statement [\[REP9-111\]](#);
  - An agreement with Thurrock Council (TC) in relation to wetland creation at Coalhouse Point (in progress) [\[REP9-111\]](#) (see Chapter 14 of this Report);
  - Agreements in relation to pedestrian crossing improvements in Strood, Tilbury and Gravesend (in progress) [\[REP9-111\]](#); and
  - Development of Hole Farm Community Woodland pursuant to planning permission from Brentwood Borough Council and agreement with Forestry England [\[REP9-111\]](#) (see Chapter 14 of this Report);
- Species habitat and translocation side agreements for mitigation measures outside the Order limits [\[REP9-111\]](#), including:
  - Water vole translocation with Essex Wildlife Trust (EWT);
  - Barn owl habitat mitigation with EWT;
  - Dormouse habitat mitigation with Kent County Council (KCC);
  - Reptile translocation with Enover and other private landowners; and
- Highways side agreements as recorded in the outline Traffic Management Plan for Construction (oTMPC) [\[REP9-235\]](#) and/ or secured in the dDCO Protective Provisions [\[REP10-005\]](#).

Individual agreements (or the absence of agreements) are only recorded here:

- if the Applicant and relevant IP(s) have relied upon them to demonstrate to the ExA that an aspect of the performance of the Proposed Development that is relevant and necessary to secure compliance with law or policy has or has not been secured; and
- they are not found in one or more of the sources of security recorded above.

Where agreements are contractual and commercial in nature (as opposed to statutory agreements within the broad framework of public and administrative law) they are typically commercially confidential. Where that is true, the ExA has (if necessary) asked for a representation to be provided to it, which demonstrates the existence of an agreement by recording that parties to the agreement have subscribed to it and that the agreement resolves relevant listed matters. Those documents are not individually listed here. The ExA does not receive or publish confidential agreements.

Planning Performance Agreements (PPAs) are agreements between the promoter of proposed major development and relevant local planning authorities (LPAs) which make provisions in relation to the project management and costs of specific additional functions which may arise for the LPAs during the consultation, consent or implementation processes. The ExA has inquired into and discussed these with the Applicant and relevant LPAs, primarily in the pre-Examination period, to assure itself of the resources available to support LPA participation in the pre-Examination and Examination process. These agreements are procedural in nature and do not bear on the merits of the decision by the SoST. They are not recorded here.

Chapter 4 and Annex B (the Schedule of negotiations) of the Statement of Reasons (SoR) [\[REP9-114\]](#) record discussions between the Applicant and land interest holders to acquire land or rights over land by agreement. Given the extent of the

CA and/ or TP request by the Applicant, there were 1,034 such separate processes of negotiation underway or complete by the end of the Examination. The ExA has considered the progress recorded there. Individual land and/ or rights agreements are not set out in this table.

**Table A5: Side and Commercial Agreements and related matters**

Documents recorded as AS are Additional Submissions received other than in the Examination Deadline process.

Deadline	Type and Status of Agreement	EL Ref
AS	Eastern Power Networks plc and South Eastern Power Networks – proof of agreement	<a href="#">[AS-096]</a>
D10	Final submission of Network Rail on protective provisions (no agreement reached)	<a href="#">[REP10-027]</a>

## APPENDIX B: REFERENCE TABLES

This Appendix provides access to tabulated information referred to in this Report by the Examining Authority (ExA).

Information is provided in the following tables:

- Table B1: Summary of Relevant Legislation;
- Table B2: Summary of National Policy Statements (NPSs);
- Table B3: Summary of Marine Policy Statements and Plans;
- Table B4: Summary of Other Relevant National Policies;
- Table B5: Summary of Relevant Local Policies;
- Table B6: Documents comprising the Environmental Statement (ES);
- Table B7: Additional Land and Rights Request Documents;
- Table B8: Made Development Consent Orders referred to;
- Table B9: List of Control Documents; and
- Table B10: List of Abbreviations used in this Report

### Table B1: Summary of Relevant Legislation

Relevant legislation is not recorded in the Examination Library (EL). The ExA and the SoST have regard to all applicable legislation in force. References are summarised here for ease of reference.

Legislation	Summary of Provisions
General applicability	
<b>Planning Act 2008</b> (PA2008)	The Planning Act (PA2008), regulations made under it and related procedure rules provide the legislative framework for the preparation, consultation, submission, acceptance, examination, reporting and decision-making processes for NSIP applications.
Infrastructure Planning (Decisions) Regulations 2010.	These Regulations provide specific decision-making considerations for the SoST, translating legal duties from disapplied legislative regimes into the NSIP system. Of particular relevance for listed buildings, conservation areas and ancient monuments (Regulation 3), coastal protection (Regulation 4) and biodiversity (Regulation 7).
Infrastructure Planning (Environmental Impact Assessment) Regulations 2017	The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (EIA Regulations) provide the basis for the practice of EIA for NSIP development.
<b>Commons Act 2006</b>	The Act protects common land and town or village greens, reinforcing existing protections against abuse, encroachment, and unauthorised development. It provides that the protection of common land must be proportionate to the harm caused and enables specified works to be carried out without the need

<b>Legislation</b>	<b>Summary of Provisions</b>
	for consent. The Act enables the release of land where suitable replacement land is provided and so also bears on aspects of the compulsory acquisition of land and rights.
<b>Commons Registration Act 1965</b>	This legislation creates a system for the registration and protection of common land and town and village greens and is relevant with reference to aspects of compulsory acquisition of land and rights.
<b>Control of Pollution Act 1974</b>	Section 61 of the Control of Pollution Act 1974 sets out procedures for those undertaking works to obtain 'Prior Consent' for construction works within agreed noise limits.
<b>Countryside and Rights of Way Act 2000 (CROW Act)</b>	This legislation includes powers amending UK law in respect of nature conservation and site protection (the SSSI system). Section 82 confirms that the primary purpose of AONB (now National Landscapes) designation is to conserve and enhance the natural beauty of the area. During the tenure of the Examination Section 85 placed a statutory duty on all relevant authorities to seek to further the purpose of AONBs when coming to decisions or carrying out their activities relating to or affecting land within these areas. This was amended by the LURA 2023 commencing on 26 December 2023 to require all relevant authorities to further the purpose of the designation. Section 92 provides the following definition of natural beauty: 'Any reference in this Part to the conservation of the natural beauty of an area includes a reference to the conservation of its flora, fauna and geological and physiographical features'. The Act also provides for the registration and protection of public footpaths, bridleway and byways, and provides measures to improve public access to the open countryside and common land. See also the National Parks and Access to the Countryside Act 1949, the NERC Act and WACA1981.
<b>Environment Act 2021</b>	The Act provides the main legal framework for environmental governance in the UK and establishes measures for the improvement of the environment in relation to waste, resource efficiency, air quality (including setting particulate matter targets (PM), water, nature and biodiversity, and conservation. Amongst other matters it provides for the delivery of statutory Biodiversity Net Gain (BNG), but NSIP developments (including the Proposed Development) remain in a transitional position.
Environmental Permitting (England and Wales) Regulations 2016	These regulations standardise environmental permitting and compliance in England and Wales to protect human health and the environment. This includes permitting waste and recovery operations in construction and at offsite third-party facilities receiving waste. These regulations implement the Landfill Directive and the Groundwater Directive.
<b>Environmental Protection Act 1990</b>	The Act contains the regulatory regime for the management of waste (including placing a duty of care on all persons managing waste) and the identification and remediation of contaminated land using a risk based approach (the

Legislation	Summary of Provisions
	identification of hazards, pathways and receptors). It provides the legislative framework relating to noise, vibration and statutory nuisances. It empowers regulations and statutory guidance.
<b>Equality Act 2010</b>	Section 149 establishes the Public Sector Equality Duty (PSED) to eliminate discrimination, advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not. The PSED applies to the ExA in the conduct of this Examination and reporting and to the SoS in decision-making. The ExA had regard to the PSED procedurally, holding blended in-person/ virtual meetings, producing guidance on holding those meetings, ensuring participants were provided with hard copy correspondence, where requested, and in our conduct of site inspections to ensure full appreciation of the potential impacts of the Proposed Development on persons with protected characteristics. The PSED also applies to consideration of outcomes affecting persons who share a protected characteristic and has been taken into account in relevant reasoning and the recommendation to the SoST.
<b>Human Rights Act 1998</b>	This Act gives domestic legislative force to the European Convention on Human Rights (ECHR). Examination procedure and the compulsory acquisition or temporary possession of land or rights can engage various relevant articles under this Act. The implications of this are considered in Chapter 22 of this report.
<b>Land Compensation Act 1973</b>	This Act is applicable in relation to aspects of the compulsory acquisition of land and rights. It provides also for compensation to be paid to owners of land or property which has experienced a loss in value caused by the use of public works, such as new or improved roads (injurious affection).
<b>Marine and Coastal Access Act 2009</b> (MACAA 2009)	The Act provides the framework for strategic marine planning (including the UK Marine Policy Statement (MPS) and Marine Plans, aimed at efficient, sustainable use and protection of marine resources. Part 4 of the Act puts in place a marine licensing system, and the dDCO includes a deemed Marine Licence. The Act enables the designation of Marine Conservation Zones (MCZs) in the territorial waters adjacent to England and Wales and of a coastal public right of way (the England Coast Path) which interfaces with the Proposed Development in certain locations.
<b>National Parks and Access to the Countryside Act 1949</b>	Sets out the legislative framework for the designation and protection of the UK's nationally designated landscapes and includes the Kent Downs Area of Outstanding Natural Beauty (AONB) (Now National Landscapes). AONBs are designated for their landscape qualities, for the purpose of conserving and enhancing their natural beauty, to secure their permanent protection against development that would damage their special qualities. See also the CROW Act, the NERC Act and WACA1981.

Legislation	Summary of Provisions
<b>Natural Environment and Rural Communities Act 2006</b> (NERC Act)	This legislation provides a general 'duty to conserve biodiversity' on public authorities, including the ExA and SoST (the NERC Act duty). It frames habitats and species of principal importance for biodiversity conservation in England. It defines 'natural beauty' to include wildlife and cultural heritage. Natural beauty may consist of or include ' <i>land used for agriculture or woodlands, land used as a park, or any other area whose flora, fauna or physiographical features are partly the product of human intervention in the landscape</i> '. It recognises the opportunities nationally protected landscapes provide for the public to understand and enjoy an area's special qualities. See also the CROW Act, the National Parks and Access to the Countryside Act 1949 and WACA1981.
<b>Wildlife and Countryside Act 1981</b> (WACA1981)	Sets out the legislative framework for sites and species protection and licensing (including the establishment and notifications of sites in the SSSI system in Part 2 (sections 28 to 33)); establishes aspects of the duties of what is now Natural England (NE); provides for the designation and protection of landscapes (see also the National Parks and Access to the Countryside Act 1949, the NERC Act and the CROW Act).
<b>Air quality</b>	
Directive 2008/50/EC on Ambient Air Quality and Cleaner Air for Europe  Air Quality Standards Regulations 2010  The Air Quality (Amendment of Domestic Regulations) (EU Exit) Regulations 2019	The 2008 Air Quality Directive (2008/50/EC) sets limits for concentrations of specific air pollutants.  The Air Quality Standards Regulations 2010 implement the Directive and apply in UK legislation as 'retained EU law'.  The 2019 amendment regulations amend the Air Quality Standards Regulations 2010 to reflect the UK's departure from the EU.
Air Quality (England) Regulations 2000/2002	The Air Quality (England) Regulations 2000 and the Air Quality (England) (Amendment) Regulations 2002 set national air quality objective levels for local authorities to meet in England.
<b>Biodiversity</b>	
Agreement on the	The UK is a party to this marine agreement which aims to promote cooperation between countries in order to achieve

<b>Legislation</b>	<b>Summary of Provisions</b>
Conservation of Small Cetaceans of the Baltic, North East Atlantic, Irish and North Seas 1994 (ASCOBANS)	and maintain a favourable conservation status for small cetaceans within the agreement area.
Convention on Biological Diversity 1992	The Convention on Biological Diversity (CBD) or Rio Convention was ratified by the UK in 1993. It has three main goals: the conservation of biological diversity, the sustainable use of its components, and the fair and equitable sharing of benefits arising from genetic resources.
Convention on the Conservation of European Wildlife and Natural Habitats (Bern Convention 1979)	The Bern Convention was ratified by the UK in 1982 and is given legislative effect by WACA 1981. It aims to ensure conservation of vulnerable wild flora and fauna species and their habitats, specified in the appendices to the Convention. Post 2018, the Bern Convention provides the framework of international law under which the UK continues to manage former European Sites as a national site network within the UK.
Convention on the Conservation of Migratory Species of Wild Animals (Bonn Convention 1979)	The Bonn Convention was ratified by the UK in 1985 and is given legislative effect by WACA 1981. It aims to ensure conservation of migratory species and their habitats by providing protection for endangered migratory species (Appendix I); through multilateral agreements for the conservation and management of migratory species which require or would benefit from international cooperation (Appendix II), and by undertaking research.
Convention on Wetlands of International Importance especially as Waterfowl Habitat 1971 (the Ramsar Convention)	Wetlands of international importance are designated under the Convention. Ramsar sites are recognised as sites of international importance. UK Government policy affords Ramsar sites the same level of protection as Special Protection Areas (SPA) and Special Areas of Conservation (SAC) comprising the former European Sites national site network within the UK.
<b>Conservation of Seals Act 1970</b>	An Act to protect seals.
<b>Salmon and Freshwater Fisheries Act 1975</b>	The Act consolidates the Salmon and Freshwater Fisheries Act 1923 and other enactments. It protects salmon and trout from commercial poaching, migration routes, prevents vandalism and neglect of fisheries, ensures correct licensing and approval of actions affecting fisheries.

Legislation	Summary of Provisions
<b>Protection of Badgers Act 1992</b>	The Act consolidates legislation (including the Badgers (Further Protection) Act 1991). It makes an offence to kill, injure or take a badger, or to damage or interfere with a sett unless a licence is obtained from a statutory authority.
Conservation of Habitats and Species Regulations 2017	The Conservation of Habitats and Species Regulations 2017 (as amended), transpose the Habitats Directive (Council Directive 92/43/EEC) on the conservation of natural habitats and of wild flora and fauna (the Habitats Directive). These regulations also transpose certain elements of the Wild Birds Directive (Directive 2009/147/EC)
Eels (England and Wales) Regulations 2009	These Regulations set targets for the recovery of European eel stocks and a framework for management plans to achieve these targets.
Hedgerows Regulations 1997	These Regulations under the Environment Act 1995 were created to protect hedgerows.
See also The WFD Regulations	See Water environment. These Regulations are relevant to biodiversity.
<b>Climate</b>	
United Nations Framework Convention on Climate Change (UNFCCC) (1992)	The UNFCCC was ratified by the UK in 1993. Its objective is to achieve stabilisation of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system within a time frame sufficient to allow ecosystems to adapt naturally and to enable economic development to proceed in a sustainable manner. Decisions implementing the objective are taken by the Conference of the Parties (COP) to the framework convention. The UK makes a Nationally Determined Contribution (NDC) to global carbon emissions reduction, broadly as provided for in Carbon Budgets (see the Climate Change Act 2008 and Carbon Budget Orders).
<b>Climate Change Act 2008</b>	This Act (as amended by the Climate Change Act 2008 (2050 Target Amendment) Order 2019) (CCA2008) established a long-term, legally binding framework to manage the effects of climate change through the control of atmospheric greenhouse gas (GHG) emissions. It sets statutory climate change projections and carbon budgets. A key provision is the setting of legally binding GHG emission reductions in the UK of at least 100% by 2050 ("Net Zero"), provided for in the June 2019 amendment order.
Carbon Budget Orders	Carbon budgets are approved by Parliament and published as Carbon Budget Orders. The carbon budgets for the carbon budgetary periods relevant to the Proposed Development are as follows:



Legislation	Summary of Provisions
	<ul style="list-style-type: none"> <li>1,950 MtCO<sub>2</sub>e (The Carbon Budget Order 2011, fourth budget, 2023-2027)</li> <li>1,725 MtCO<sub>2</sub>e (The Carbon Budget Order 2016, fifth budget, 2028-2032)</li> <li>965 MtCO<sub>2</sub>e (The Carbon Budget Order 2021, sixth budget, 2033-2037)</li> </ul>
Cultural heritage	
<b>Ancient Monuments and Archaeological Areas Act 1979</b>	Disapplied by PA2008, this legislation nevertheless applies to pre-application and pre-commencement works and establishes principles and processes for assessment. See Regulation 3 of the Infrastructure Planning (Decisions) Regulations 2010.
<b>Planning (Listed Buildings and Conservation Areas) Act 1990</b>	Disapplied by PA2008, this legislation nevertheless applies to pre-application and pre-commencement works and establishes principles and processes for assessment. See Regulation 3 of the Infrastructure Planning (Decisions) Regulations 2010.
<b>Protection of Military Remains Act 1986</b>	This legislation protects the wreckage of wartime military aircraft and vessels. It describes a mechanism for obtaining a licence to remove such remains.
Habitats Regulations Assessment (HRA)	
<p>Conservation of Habitats and Species Regulations 2017</p> <p>Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019</p>	<p>The Conservation of Habitats and Species Regulations 2017 (the 2017 Regulations) have been amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019, which provide the governing regulatory framework for Habitats Regulations Assessment (HRA). Provisions applicable to HRA for the Proposed Development in the 2017 Regulations are not materially changed, beyond the protected site network becoming a UK nationally protected site network. HRA matters are considered in Appendix D and as relevant in the planning balance consideration of this report.</p>
Landscape and visual	
<b>European Landscape Convention (ELC) (2000)</b>	This Convention of the Council of Europe was ratified by the UK in March 2007. Its articles promote landscape protection, management and planning.
Noise	
<b>Directive 2002/49/EC Environmental Noise Directive</b>	The Directive requires noise maps and noise management action plans to be prepared for major roads (+ 3m vehicles per annum).

Legislation	Summary of Provisions
The Environmental Noise (England) Regulations 2006 (as amended 2008, 2009)	The Regulations implement the Environmental Noise Directive 2002/49/EC.
The Highways Noise Payments and Movable Homes Regulations 2000	The Regulations provide highways authorities with a discretionary power to provide a noise payment where new roads are to be constructed or existing ones altered. They apply to caravans and houseboats lawfully stationed within 300 metres of the new or altered carriageway.
Noise Insulation Regulations 1975 (NIR)	The Regulations (as amended in 1988) provide criteria for assessing the eligibility for noise mitigation or properties based on variations in traffic noise due to a new or improved road project.
Ports, harbours the River Thames	
<b>Port of London Act 1968</b>	This Act established the Port of London Authority and regulates ports and navigation in the River Thames. Under Section 66 of the Port of London Act 1968 (as amended), a river works licence is required for works in the River Thames, below the mean high water mark, including any works under the river or overhanging the river.
Social and economic considerations	
<b>Health and Social Care Act 2012</b>	This legislation places a duty of care to protect and improve public health on the Secretary of State for Health as well as other bodies directed by the Secretary of States such as local authorities, including Directors of Public Health and the NHS.
Waste and materials	
Directive 1999/31/EC on the landfill of waste (Landfill Directive)	The Landfill Directive establishes a framework for the management of waste. It defines certain terms, such as 'waste', 'recovery' and 'disposal', to ensure that a uniform approach is taken across the European Union.
Directive 2008/98/EC on Waste (Waste Framework Directive) (WaFD)	The Waste Framework Directive (WaFD) contains a definition of waste. Article 2 provides that 'uncontaminated soil and other naturally occurring material excavated in the course of construction activities where it is certain that the material will be used for the purposes of construction in its natural state on the site from which it was excavated', are excluded from the scope of the WaFD. The WaFD mandates the use of the waste hierarchy in waste management (prevention, preparation for reuse, recycling, other recovery and disposal). It sets a target to increase the recycling of non-hazardous construction and demolition waste to a minimum of 70%

Legislation	Summary of Provisions
	(measured by weight) by 2020 (Article 11). Annex III of Commission Decision of 18 November 2011, 'Establishing rules and calculation methods for verifying compliance with the targets set in Article 11(2) of Directive 2008/98/EC of the European Parliament and of the Council' (2011/753/EU), sets out the methodology implemented when calculating construction waste diversion from landfill.
Waste (England and Wales) Regulations 2011  Hazardous Waste (Miscellaneous Amendments) Regulations 2015	These regulations transpose the WaFD into English law. The regulations require businesses to confirm that they have applied the waste hierarchy, introduce a new waste hierarchy permit condition and a two-tier system for waste carrier and broker registration. They prohibit the mixing of hazardous and non-hazardous waste and require waste movements to be accompanied by a consignment note.
European Regulation (EC) No 1272/2008, Classification, Labelling and Packaging	Adopts and implements the United Nations global harmonised system of the classification and labelling of chemicals across the EU and the UK. The harmonised system supports the assessment of hazardous properties within wastes.
Water environment and drainage	
<b>The Flood and Water Management Act 2010</b>	This Act provides a flood risk management framework for people, homes and businesses. It encourages the use of sustainable drainage in new developments and redevelopments. (See Non-statutory Technical Standards for Sustainable Drainage Systems (SuDS) (Department for Environment, Food and Rural Affairs (Defra), 2015)
<b>The Land Drainage Act 1991</b>	This Act requires that ordinary watercourses are maintained by their owner so as not to impede the free flow of water. Works with the potential to block or obstruct flow are subject to consent from the relevant internal drainage board or local authority.
<b>The Water Acts 2003 &amp; 2014</b>	These Acts govern the control of water abstraction, discharge to waterbodies, water impoundment, conservation, and drought provision. See also the Floods and Water (Amendment etc.) (EU Exit) Regulations 2019.
<b>The Water Resources Act 1991</b>	The Act regulates water resources, water quality and pollution and flood defences. It establishes a criminal offence to knowingly permit any poisonous, noxious or polluting matter or any solid waste matter to enter any controlled waters. It aims to prevent and minimise pollution of water, which includes the release of silt from dewatering and dredging activities. Abstraction licences are administered by the Environment

Legislation	Summary of Provisions
	Agency. See also the Floods and Water (Amendment etc.) (EU Exit) Regulations 2019.
The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 (the WFD regulations)	These regulations transpose EU Directive 2000/60/EC (the WFD) and establish a legal framework to protect and restore clean water across England and Wales. The WFD sets out objectives which include improving the water environment to achieve Good Ecological Status or Potential (for 'heavily modified' and 'artificial' water bodies) and implementing mitigation to support the water environment at a catchment and water body scale. The WFD regulations are relevant to both biodiversity and water quality considerations.
Floods and Water (Amendment etc.) (EU Exit) Regulations 2019 (EU Exit Regulations)	Regulation 20 of the EU Exit Regulations provides for the amendment but broad continuation of the WFD regime.

**Table B2: Summary of National Policy Statements (NPSs)**

NPS	NPS Summary
NPSNN (January 2015)	<p><b>National Policy Statement for National Networks</b> (January 2015) sets out the need for, assessment principles and impacts of national road and rail networks development in England. It provides the primary basis for determining if development consent should be granted for NSIP development on the strategic road network.</p> <p>Footnote 3 of the NPSNN refers to the Ports NPS (2012) as being potentially relevant to NPSNN related decisions.</p>
dNPSNN (March 2023)	<p><b>Draft National Policy Statement for National Networks</b> (March 2023) remains a draft at the point of the submission of this report to the SoST. The transitional provisions in dNPSNN (January 2024) paragraph 1.16 provide that even if the dNPSNN were to be designated before the decision on this application was taken by the SoST, the January 2015 NPSNN will continue to have effect because it was accepted for examination before the designation of the dNPSNN. Paragraph 1.17 identifies that individual consideration should be given to circumstances in which policy changes from NPSNN (January 2015) might be important and relevant considerations under PA2008 s104 (2)(d)</p> <p>A revised draft of NPSNN was laid before parliament on 6 March 2024. This was after the close of the examination and therefore has not been considered by the parties.</p>

NPS	NPS Summary
NPS EN-1 (July 2011)	<p><b>Overarching National Policy Statement for Energy</b> (July 2011) sets out the need for, general principles and generic impacts to be taken into account in considering applications for energy NSIPs. All other energy NPSs sit within the policy framework provided by this NPS. It provides the primary basis for determining if development consent should be granted for energy development. Other energy NPSs are used together with this NPS. NPS EN-1 (July 2011) and NPS EN-4 (July 2011) and NPS EN-5 (July 2011) remain designed for the purposes of this application as a consequence of the transitional provisions in NPS EN-1 (2024) paragraph 1.6.2.</p>
NPS EN-4 (July 2011)	<p><b>National Policy Statement for Gas Supply Infrastructure &amp; Gas &amp; Oil Pipelines</b> (July 2011) details assessment criteria specific to oil and gas supply and storage proposals, including gas pipelines. The assessment criteria for gas pipelines include the consideration of good design, climate change adaptation, hazardous substances, and the control of major accident hazards; and of impacts relating to noise and vibration, biodiversity, landscape and visual, water quality and resources effects amongst others.</p> <p>Whilst the Proposed Development is not for a gas transmission development in-principle, it requires the stopping-up, diversion and replacement of gas pipeline infrastructure at sufficient scale for that development to constitute NSIP development. For that reason, the ExA considers NPS EN-4 to be applicable to the Proposed Development under PA2008 s104(2)(a).</p>
NPS EN-5 (July 2011)	<p><b>National Policy Statement for Electricity Networks</b> (July 2011) details assessment criteria specific to electricity networks development. The assessment criteria for electric lines include the consideration of good design, climate change adaptation, electric and magnetic fields (EMFs); and of impacts relating to biodiversity, geological conservation, landscape and visual, noise and vibration effects amongst others.</p> <p>Whilst the Proposed Development is not for an electric line development in-principle, it requires the removal, diversion and replacement of electric line infrastructure at sufficient scale for that development to constitute NSIP development. For that reason, the ExA considers NPS EN-5 to be applicable to the Proposed Development under PA2008 s104(2)(a).</p>
NPS EN-1 (January 2024)	<p><b>Overarching National Policy Statement for Energy</b> (January 2024) amends the general principles and generic impacts to be taken into account in considering applications for energy NSIPs. It was designated in January 2024. The transitional provisions in NPS EN-1 (January 2024) paragraph 1.6.2 provide that the July 2011 NPS EN-1, EN-4 and EN-5 continue to have effect in relation to this application because it was accepted for examination before the designation of NPS EN-1 (2024). Paragraph 1.6.3 identifies that individual consideration should be</p>

NPS	NPS Summary
	given to circumstances in which policy changes from NPS EN-1 (July 2011) might be important and relevant considerations under PA2008 s104 (2)(d).
NPS EN-4 (January 2024)	<b>National Policy Statement for Gas Supply Infrastructure &amp; Gas &amp; Oil Pipelines</b> (January 2024) amends National Policy Statement for Gas Supply Infrastructure & Gas & Oil Pipelines (July 2011). NPS EN-1 (January 2024) paragraph 1.6.3 identifies that individual consideration should be given to circumstances in which policy changes from NPS EN-4 (July 2011) might be important and relevant considerations under PA2008 s104 (2)(d).
NPS EN-5 (January 2024)	<b>National Policy Statement for Electricity Networks</b> (January 2024) amends National Policy Statement for Electricity Networks (July 2011). NPS EN-1 (January 2024) paragraph 1.6.3 identifies that individual consideration should be given to circumstances in which policy changes from NPS EN-4 (July 2011) might be important and relevant considerations under PA2008 s104 (2)(d).
NPSP (January 2012)	<p><b>National Policy Statement for Ports</b> (January 2012) details assessment criteria specific to ports development (NSIP development pursuant to PA2008 s24 – harbour facilities). It refers to the need for, location and flexible future development of ports and to the landside needs and effects of ports in relation to access, traffic and transportation.</p> <p>The Proposed Development affects operating ports and contains associated development within the area of the Port of Tilbury. However, this development is not ports NSIP development per se and so the NPSP does not have direct statutory effect under PA2008 s104(2)(a) for the purposes of the decision by the SoST. That being said, the effect of the Proposed Development on ports and on access to ports including navigation in the River Thames means that the ExA has considered NPSP as giving rise to important and relevant considerations under PA2008 s104(2)(d).</p>

**Table B3: Summary of Marine Policies and Plans**

Policy source	Policy Summary
UK MPS (2011)	<p><b>The UK Marine Policy Statement</b> (2011) is the framework for preparing Marine Plans and taking decisions affecting the marine environment. It contributes to the achievement of sustainable development in the United Kingdom marine area. It was prepared and adopted for the purposes of section 44 of the Marine and Coastal Access Act 2009 (MACAA 2009).</p> <p>PA2008 s104 (2) (aa) provides that in deciding the application, the SoST must have regard to relevant policy in the UK MPS.</p>

East Inshore Marine Plan (2021)	<p><b>The East Inshore Marine Plan</b> (2021) is the marine plan applicable to the tidal waters of the River Thames and adopted by the SOSEFRA under MACAA 2009 s51.</p> <p>PA2008 s104 (2) (aa) provides that in deciding the application, the SoST must have regard to relevant policy in East Inshore Marine Plan.</p>
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**Table B4: Summary of Other Relevant National Policies**

Policy source	Policy Summary
NIS 2020	<b>The National Infrastructure Strategy</b> (NIS) (HMT 2020) notes that infrastructure underpins the economy. Transport, digital, energy and utility networks are vital for jobs, businesses, and economic growth. But they also have a profound impact on people's daily lives. Investment in strategic roads is particularly identified. The Lower Thames Crossing is identified as a national commitment in terms of its contribution to connecting the regions and nations of the UK, creating a united and global Britain and as an investment in the South East.
RIS2 (2020)	<b>The Road Investment Strategy 2</b> (2020 – 2025) (DfT 2020) was published in March 2020. It sets a long-term strategic vision for the Strategic Road Network (SRN) with the funding needed to plan ahead. The Lower Thames Crossing is a specific commitment in RIS 2 ( <i>'the biggest roads project of the 21<sup>st</sup> century'</i> ) for the East of England (E30) with links to and benefits in Kent.
NPSE (2010)	<b>The Noise Policy Statement for England</b> (NPSE) (DEFRA 2010) applies to all forms of noise including environmental noise, neighbour noise and neighbourhood noise. The Government's noise policy vision is to promote good health and a good quality of life through the effective management of noise.
NZS (2021)	<b>The Net Zero Strategy: Build Back Greener</b> (NZS) (UK Government October 2021) has been prepared pursuant to s14 of the Climate Change Act 2008 to set out the UK Government's strategy to achieve net zero carbon emissions by 2050. See also the TDP 2021.
TDP (2021)	<p><b>Decarbonising Transport: A Better, Greener Britain</b> (The Transport Decarbonisation Plan) (TCP) (DfT 2021) sets out the Government's commitments and the actions needed to decarbonise the transport system in the UK.</p> <p>In September 2023, the UK Government amended the target date applicable to the cessation of the sales of new petrol and diesel cars from 2030 to 2035. The ExA consulted the applicant and IPs on this change and sought views on the degree to which a potential change in the pace at which the vehicle fleet is</p>

	decarbonised affected any EIA assessments or design assumptions embedded within the application .
NPPF (2023)	<p><b>The National Planning Policy Framework (NPPF)</b> sets out the Government's planning policies for England. The NPPF makes clear that its primary role is to guide plan making and development decision making under the Town and Country Planning system (TCPA1990). It does not contain specific policies for NSIPs which should be decided in accordance with the decision-making framework in the PA2008 and relevant NPSs, as well as any other matters that are important and relevant (which may include the NPPF, particularly in circumstances where NPSs refer to the NPPF or to its predecessor numbered Planning Policy Statement (PPSs) or Planning Policy Guidance notes.</p> <p>Paragraphs 1.17 to 1.20 of the NPSNN describe the relationship between the NPPF and the NPSNN. These paragraphs confirm that the overall strategic aim of the NPPF and the NPSNN are consistent, however, the two have differing but equally important roles to play. It states that the NPPF can be an important and relevant consideration in decisions on NSIPs, but only to the extent that it is relevant to a particular issues raised within a project.</p> <p>A new version of the NPPF was published on 19 December 2023, which was one day before the closure of this Examination.</p>
PPG	<b>Planning Practice Guidance (PPG)</b> sets out the Government's guidance on how NPPF policies are expected to be applied. In circumstances where a policy test from a NPS follows the approach taken by the NPPF, PPG guidance is relevant.

### Table B5: Summary of Relevant Local Policies

Relevant local policies include policies within the Development Plan (as adopted in the host and adjacent local authority areas), supplementary planning documents (SPD) and a range of local authority and joint body strategies. Draft development plan documents are capable of being relevant and acquire weight as they progress further along the path towards formal adoption. The ExA's starting point in considering all such documents has been to consider all such documents identified by the Applicant as relevant, and all such documents identified by Interested Parties IPs. Particular attention has been paid to documents identified as relevant in Local Impact Reports (LIRs) prepared by local authorities as the content of LIRs must be considered in decision-making by the SoST.

Policy or Plan	Policies
Brentwood Borough Council (2022) Brentwood Local Plan 2016-2033 (adopted March 2022)	<ul style="list-style-type: none"> <li>Strategic Policy MG02 Green Belt</li> <li>Policy BE01 Carbon Reduction and Renewable Energy</li> <li>Policy BE02 Water Efficiency and Management</li> <li>Policy BE05 Sustainable Drainage</li> </ul>



Policy or Plan	Policies
	<ul style="list-style-type: none"> <li>▪ Policy BE08 Strategic Transport Infrastructure</li> <li>▪ Policy BE09 Sustainable Means of Travel and Walkable Streets</li> <li>▪ Policy BE10 Sustainable Passenger Transport</li> <li>▪ Policy BE12 Mitigating the Transport Impacts of Development</li> <li>▪ Policy BE14 Creating Successful Places</li> <li>▪ Policy BE16 Conservation and Enhancement of Historic Environment</li> <li>▪ Policy MG05 Developer Contributions</li> <li>▪ Policy NE01 Protecting and Enhancing the Natural Environment</li> <li>▪ Policy NE02 Green and Blue Infrastructure</li> <li>▪ Policy NE03 Trees, Woodlands, Hedgerows</li> <li>▪ Policy NE04 Thames Chase Community Forest</li> <li>▪ Policy NE08 Air Quality</li> <li>▪ Policy NE09 Flood Risk</li> <li>▪ Policy NE10 Contaminated Land and Hazardous Substances</li> <li>▪ Policy NE11 Floodlighting and Illumination</li> <li>▪ Policy PC01 Safeguarding Employment Land</li> <li>▪ Policy E10 Codham Hall Farm</li> <li>▪ Policy E11 Brentwood Enterprise Park</li> </ul>
Brentwood Replacement Local Plan (Brentwood Borough Council, 2005)	<ul style="list-style-type: none"> <li>▪ Saved Policy C9 Ancient Landscapes and Historic Parks and Gardens</li> <li>▪ Saved Policy C14 Development Affecting Conservation Areas</li> <li>▪ Saved Policy C15 Demolition, Alterations or Extensions</li> <li>▪ Saved Policy C16 Development within the Vicinity of a Listed Building</li> <li>▪ Saved Policy C18 Ancient Monuments and Archaeological Sites</li> </ul> <p>NB, saved policies from this Local Plan were considered by the Applicant but it has been superseded by the Brentwood Local Plan 2016-2033 which the ExA has considered.</p>
Dartford Borough Council (2017) Corporate Plan 2017 – 2020	<ul style="list-style-type: none"> <li>▪ Objective ET1 Air Quality</li> <li>▪ Objective ET2 Ensure that development in Dartford is sustainable, with high standards of design, layout and energy efficiency</li> </ul>
Dartford Borough Council (2011) Dartford Core Strategy	<ul style="list-style-type: none"> <li>▪ Policy CS1 Spatial Pattern of Development</li> <li>▪ Policy CS8 Economic Change</li> <li>▪ Policy CS13 Green Belt</li> <li>▪ Policy CS16 Transport Investment</li> <li>▪ Policy CS21 Community Services</li> <li>▪ Policy CS22 Sports, Recreation and Culture Facilities</li> <li>▪ Policy CS26 Delivery and Implementation</li> </ul>

Policy or Plan	Policies
Dartford Development Policies Plan (Dartford Borough Council, 2017)	<ul style="list-style-type: none"> <li>Policy DP4 Transport Access and Design</li> <li>Policy DP5 Environmental and Amenity Protection</li> <li>Policy DP12: Dartford's Historic Environment Strategy</li> <li>Policy DP13: Designated Heritage Assets</li> </ul>
Dartford Draft Local Plan to 2037 (Dartford Borough Council, 2023)	<ul style="list-style-type: none"> <li>Policy M2 Environmental and Amenity Protection</li> <li>Policy S2 Infrastructure Planning Strategy</li> </ul> <p>NB this draft plan was in Examination during the Examination of the Proposed Development and may be adopted before the end of the decision-making period.</p>
Dartford and Gravesham Sustainable Community Strategy 2008 – 2011 (Dartford Borough Council and Gravesham Borough Council, 2008)	<ul style="list-style-type: none"> <li>ET1 – To reduce carbon emissions</li> <li>ET1(a) – Ensure all partner agencies reduce their organisational carbon footprint</li> <li>ET1(b) – Introduce appropriate planning policies and work with developers to reduce energy use.</li> </ul>
Adapting to climate change – Action Plan (Essex County Council, 2011)	<ul style="list-style-type: none"> <li>Relevant for actions relating to climate change adaptation in Essex</li> </ul>
Essex Biodiversity Action Plan	<ul style="list-style-type: none"> <li>Relevant for actions affecting terrestrial and aquatic biodiversity in Essex</li> </ul>
Essex County Council (2014) Essex Minerals Local Plan adopted July 2014	<ul style="list-style-type: none"> <li>Policy S1 Presumption in favour of sustainable development</li> <li>Policy S2 Strategic priorities for minerals development</li> <li>Policy S4 Reducing the use of mineral resources</li> <li>Policy S5 Creating a network of aggregate recycling facilities</li> <li>Policy S8 Safeguarding mineral resources and mineral reserves</li> <li>Policy S12 Mineral Site Restoration and After-Use</li> <li>Policy DM1 Development Management Criteria</li> </ul>
Essex Transport Strategy: The Local Transport Plan for Essex (Essex County Council, 2011)	<ul style="list-style-type: none"> <li>Priorities for strategic roads in Essex – Lower Thames Crossing</li> <li>Priority to support a productive agricultural sector</li> <li>Policy 5 Connectivity – Transport networks will be strengthened to support a vibrant, successful and sustainable future for Essex.</li> <li>Policy 9 The Natural, Historic and Built Environment</li> <li>Policy 10 Road Safety</li> </ul>

Policy or Plan	Policies
	<ul style="list-style-type: none"> <li>▪ Policy 14 Cycling</li> <li>▪ Policy 15 Walking and Public Rights of Way</li> <li>▪ Challenge – Enabling Essex residents to access further education, employment and other vital services (including healthcare, hospitals and retail)</li> <li>▪ Challenge – Encouraging and enabling healthier travel and leisure activities</li> </ul>
<p>Essex County Council Essex and Southend-on-Sea Waste Local Plan 2017 (Essex County Council, 2017)</p> <p>NB – this plan is also adopted by Brentwood Borough Council</p>	<ul style="list-style-type: none"> <li>▪ Policy SO1 Collaborative working for waste prevention</li> <li>▪ Policy SO2 Increase reuse, recycling and recovery</li> <li>▪ Policy SO3 Enhance existing waste infrastructure</li> <li>▪ Policy SO4 Self sufficiency</li> <li>▪ Policy SO6 Move waste up the hierarchy</li> <li>▪ Policy SO8 Suitable siting of waste infrastructure</li> </ul>
<p>Gravesham Borough Council, Gravesham Local Plan Core Strategy 2011-2018 (Adopted 2014)</p>	<ul style="list-style-type: none"> <li>▪ Policy CS02 Scale and Distribution of Development</li> <li>▪ Policy CS04 Gravesend Riverside East and North-East Gravesend Opportunity Area</li> <li>▪ Policy CS07 Economy, Employment and Skills</li> <li>▪ Policy CS10 Physical and Social Infrastructure</li> <li>▪ CS11 Transport</li> <li>▪ Policy CS12 Green Infrastructure</li> <li>▪ Policy CS13 Green Space, Sport and Recreation</li> <li>▪ Policy CS18 Climate Change</li> <li>▪ CS20 Heritage and Historic Environment</li> <li>▪ Policy CS19 Development and Design Principles</li> <li>▪ Policy CS20 Heritage and Historic Environment</li> </ul>
<p>Gravesham Local Plan First Review (Gravesham Borough Council, 1994)</p>	<ul style="list-style-type: none"> <li>▪ Saved Policy T1 Impact of Development on the Highway Network</li> <li>▪ Saved Policy T2 Channelling of Traffic onto the Primary and District Distributor Network</li> <li>▪ Saved Policy TC2 Listed Buildings</li> <li>▪ Saved Policy TC3 Conservation Areas</li> <li>▪ Saved Policy TC7 Other archaeology sites</li> </ul>
<p>Gravesham Management Plan Rural Conservation Area Appraisals SPD (2016)</p>	<ul style="list-style-type: none"> <li>▪ 'Thong Rural Conservation Area Appraisal SPD (2017)</li> <li>▪ Cobham Conservation Area Appraisal SPD (2017)</li> <li>▪ Shorne Conservation Area Appraisal SPD (2017)</li> </ul>

Policy or Plan	Policies
	<ul style="list-style-type: none"> <li>▪ Chestnut Green Conservation Area Appraisal SPD (2017)</li> </ul>
<p>Greater London Authority (2021) The London Plan, The Spatial Development Strategy for Greater London</p> <p>(Part of the Development Plan for the London Borough of Havering)</p>	<ul style="list-style-type: none"> <li>▪ Policy GG1 Building strong and inclusive communities</li> <li>▪ Policy GG3 Creating a healthy city</li> <li>▪ Policy GG5 Growing a good economy</li> <li>▪ Policy GG6 Increasing efficiency and resilience</li> <li>▪ Policy G1 Green infrastructure</li> <li>▪ Policy G2 London's Green Belt</li> <li>▪ Policy G3 Metropolitan Open Land</li> <li>▪ Policy G4 Open space</li> <li>▪ Policy G5 Urban greening</li> <li>▪ Policy G6 Biodiversity and access to nature</li> <li>▪ Policy G7 Trees and woodlands</li> <li>▪ Policy G9 Geodiversity</li> <li>▪ Policy HC 1 Heritage Conservation and Growth</li> <li>▪ Policy SD 1 Opportunity Areas</li> <li>▪ Policy SD3 Growth locations in the wider South East and beyond</li> <li>▪ Policy SI 1 Improving Air Quality</li> <li>▪ Policy SI 2 Minimising greenhouse gas emissions</li> <li>▪ Policy SI 3 Energy infrastructure</li> <li>▪ Policy SI 4 Managing heat risk</li> <li>▪ Policy SI 7 Reducing waste and supporting the circular economy</li> <li>▪ Policy SI 8 Waste capacity and net waste self-sufficiency</li> <li>▪ Policy SI 9 Safeguarded waste sites</li> <li>▪ Policy SI 10 Aggregates</li> <li>▪ Policy SI 12 Flood risk management</li> </ul>
Greater London Authority London Biodiversity Action Plan	<ul style="list-style-type: none"> <li>▪ Relevant for actions affecting terrestrial and aquatic biodiversity in Greater London</li> </ul>
Greater London Authority (2018) London Environment Strategy	<ul style="list-style-type: none"> <li>▪ Chapter 4 Air Quality</li> <li>▪ Chapter 5 Green Infrastructure</li> <li>▪ Chapter 6 Climate Change Mitigation and Energy</li> <li>▪ Chapter 8 Adapting to Climate Change</li> <li>▪ Chapter 9 Ambient Noise</li> </ul>
Greater London Authority, (2018) Mayor's Transport Strategy	<ul style="list-style-type: none"> <li>▪ Policy 1 Changing the Transport Mix</li> <li>▪ Policy 6 Air Quality</li> <li>▪ Policy 7 Zero Carbon</li> <li>▪ Policy 8 Local Environment</li> <li>▪ Initial Strategic Infrastructure Priority 8 Lower Thames Crossing (page 201)</li> <li>▪ Figure 49 Transport proposals</li> </ul>

Policy or Plan	Policies
Kent Biodiversity Action Plan Steering Group (1997) Kent Biodiversity Action Plan	<ul style="list-style-type: none"> <li>Relevant for actions affecting terrestrial and aquatic biodiversity in Kent</li> </ul>
Kent Design Guide (Kent Design Initiative, including Kent County Council, 2005)	<ul style="list-style-type: none"> <li>2.1 Understanding the Site</li> <li>2.2 Generating the Layout</li> </ul> <p>NB, this was considered by the Applicant but has been superseded by the Kent Design Guide 2021 which the ExA has considered.</p>
Kent Design Guide (website) (Kent County Council, 2021)  NB - this also forms part of the Gravesham Borough Council Development Plan	<ul style="list-style-type: none"> <li>Protecting our natural heritage</li> <li>Fit naturally into the surroundings</li> <li>Keep it specific</li> <li>Take cues from the surroundings</li> </ul>
Kent County Council (2016) Kent Environment Strategy	<ul style="list-style-type: none"> <li>Theme 3: Toward a sustainable future</li> <li>Priority 5: Conserve and enhance the quality and supply of the county of Kent's natural resources and assets</li> </ul>
Kent and Medway Energy and Low Emissions Strategy (Kent County Council / Medway Council, 2020); and Kent and Medway Energy and Low Emissions Strategy – Implementation Plan (Kent County Council / Medway Council, 2021)	<ul style="list-style-type: none"> <li>Vision 'by 2050 the county of Kent has reduced emissions to net-zero and is benefiting from a competitive, innovative and resilient low carbon economy, where no deaths are associated with poor air quality'.</li> <li>Priority 1 Emission Reduction pathways to 2050</li> <li>Priority 6 Transport, Travel and Digital Connectivity</li> <li>Priority 8 Green Infrastructure</li> </ul>
Local Transport Plan 4: Delivering Growth without Gridlock 2016- 2031 (Kent County Council, 2016)	<ul style="list-style-type: none"> <li>Strategic Priority: Provision of a new Lower Thames Crossing to the east of Gravesend</li> <li>Outcome 1 Economic growth and minimised congestion</li> <li>Outcome 2 Affordable and accessible door-to-door journeys</li> <li>Outcome 3 Safer Travel</li> <li>Outcome 4 Enhanced environment</li> <li>Outcome 5 Better health and wellbeing</li> </ul>
Kent County Council (2020) Minerals and Waste Local Plan 2013 – 30, planning for the future of minerals and waste in Kent (adopted 2020)  NB – this plan is also adopted by Gravesham Borough Council, Dartford Borough Council, Maidstone Borough Council;	<ul style="list-style-type: none"> <li>Policies CSM 1 and CSW 1 Sustainable Development</li> <li>Policy CSM 5: Land-won Mineral Safeguarding</li> <li>Policy CSW 2: Waste Hierarchy</li> <li>Policy CSW 3: Waste Reduction</li> <li>Policy CSW 4: Strategy for Waste Management Capacity</li> <li>Policy CSW 11: Permanent Deposit of Inert Waste</li> </ul>

Policy or Plan	Policies
Medway Council, and Tonbridge and Malling Borough Council	<ul style="list-style-type: none"> <li>Policy CSW 13: Remediation of Brownfield Land</li> <li>Policy DM 2: Environmental and Landscape Sites of International, National and Local Importance and</li> <li>Policy DM 7: Safeguarding Mineral Resources</li> <li>Policy DM 9: Prior Extraction of Minerals in Advance of Surface Development</li> </ul>
Vision for Kent 2012-2022 (Kent County Council, 2012)	This document was referred to by the Applicant but the ExA notes that it has now been replaced by Framing Kent's Future 2022-2026
Framing Kent's Future 2022-2026 (Kent County Council)	<ul style="list-style-type: none"> <li>Priority 1 Levelling up Kent</li> <li>Priority 2 Infrastructure for Communities</li> <li>Priority 3 Environmental Step Change</li> </ul>
Kent and Medway Growth and Infrastructure Framework (2018 Update) (Kent County Council)	<ul style="list-style-type: none"> <li>Motorways and Trunk Roads</li> </ul>
Drainage and Planning Policy Statement – a Local Flood Risk Management Strategy Document (2019) (Kent County Council)	<ul style="list-style-type: none"> <li>Policies for sustainable drainage</li> </ul>
Rights of Way Improvement Plan 2018-2028 (Kent County Council)	<ul style="list-style-type: none"> <li>Action - Active lifestyles</li> <li>Action - Evolution of the network</li> <li>Action - Knowing what's out there</li> <li>Action - Well-maintained network</li> <li>Action - Rights with responsibilities</li> <li>Action - Efficient delivery</li> </ul>
Plan Tree - KCC's Tree Establishment Strategy 2022-2023 (Kent County Council)	<ul style="list-style-type: none"> <li>Principle - Better management and protection of existing stock</li> <li>Principle - The right tree in the right place</li> <li>Principle - Deliver multiple benefits</li> <li>Principle - Ensure biosecurity of new tree stock</li> </ul>
Kent Downs AONB Management Plan 2021-2026 (Kent Downs AONB Unit, 2021)	<ul style="list-style-type: none"> <li>Section 3.6 Sustainable development principles - SD2, SD3, SD7, SD8, SD9, SD10, SD11, SD12 and SD13.</li> <li>Section 4.4 Landform and landscape character principles - LLC1 and LLC2.</li> <li>Section 5.5 Biodiversity principles - BD1, BD2, BD5, BD7, BD8 and BD9</li> <li>Section 7.5 Woodland and Trees principles - WT1, WT2, WT5, and WT6</li> <li>Section 8.5 Historic and cultural heritage principles - HCH1, HCH2 and HCH6</li> </ul>

Policy or Plan	Policies
	<ul style="list-style-type: none"> <li>Section 10.5 Geology and natural resources principles - GNR1</li> <li>Section 12.5 Access, enjoyment and understanding principles - AEU1, AEU2, AEU3, AEU4, AEU7, AEU11, AEU13 and AEU14</li> </ul>
Kent Downs AONB Landscape Character Assessment Update 2020 (Kent Downs AONB Unit)	<ul style="list-style-type: none"> <li>LCA 1A West Kent Downs</li> </ul>
Kent Downs AONB: Guidance on the selection and use of colour in development (Kent Downs AONB Unit, 2019)	<ul style="list-style-type: none"> <li>Guidance on colour.</li> </ul>
Kent Downs AONB Landscape Design Handbook (Kent Downs AONB Joint Advisory Committee, 2004)	<ul style="list-style-type: none"> <li>Design guidance to assist the conservation and enhancement of the special characteristics of the AONB and the distinctiveness of its individual character areas.</li> </ul>
Kent Downs AONB Setting Position Statement (Kent Downs AONB Joint Advisory Committee, 2022)	<ul style="list-style-type: none"> <li>Guidance on setting considerations.</li> </ul>
Kent Downs AONB Rural Streets and Lanes: A Design Handbook (Kent Downs AONB Unit, 2009)	<ul style="list-style-type: none"> <li>Design guidance for planning changes to highways, junctions and streetscapes in the AONB.</li> </ul>
London Borough of Havering (2021) Havering Local Plan 2016 - 2031	<ul style="list-style-type: none"> <li>Policy 12 Healthy Communities</li> <li>Policy 16 Social Infrastructure</li> <li>Policy 18 Open Space, Sports and Recreation</li> <li>Policy 22 Skills and Training</li> <li>Policy 23 Transport Connections</li> <li>Policy 27 Landscaping</li> <li>Policy 28 Heritage Assets</li> <li>Policy 29 Green Infrastructure</li> <li>Policy 30 Biodiversity and geodiversity</li> <li>Policy 31 Rivers and river corridors</li> <li>Policy 32 Flood Management</li> <li>Policy 33 Air Quality</li> <li>Policy 34 Managing pollution</li> </ul>
Havering Core Strategy and Development Control Policies (London Borough of Havering, 2008)	This document was referred to by the Applicant but the ExA notes that it has now been replaced by the 2016 – 2031 Local Plan
Heritage Supplementary Planning Document (London Borough of Havering, 2011)	<ul style="list-style-type: none"> <li>Heritage Supplementary Planning Document</li> </ul>

Policy or Plan	Policies
London Borough of Havering Joint Waste Development Plan for the East London Waste Authority Boroughs (East London Waste Authority, 2012)	<ul style="list-style-type: none"> <li>Policy W1 Sustainable waste management</li> <li>Policy W4 Disposal of inert waste by landfilling</li> <li>Policy W5 General Considerations with regard to Waste Proposals</li> </ul>
London Borough of Havering Climate Change Action Plan (London Borough of Havering, 2021)	<ul style="list-style-type: none"> <li>Climate change plan for London Borough of Havering</li> </ul>
Medway Council (2003) Medway Local Plan (Adopted 2003)	<ul style="list-style-type: none"> <li>Policy BNE1 General Principles for Built Environment</li> <li>Policy BNE6 Landscape Design</li> <li>Policy BNE18 Setting of Listed Buildings</li> <li>Policy BNE20 Scheduled Ancient Monuments</li> <li>Policy BNE21 Archaeological Sites</li> <li>Policy BNE22 Environmental Enhancement</li> <li>Policy BNE23 Contaminated Land</li> <li>Policy BNE24 Air Quality</li> <li>Policy L10: Public Rights of Way</li> <li>Policy T18 New Transport Infrastructure</li> <li>Policy T19 Road Schemes</li> <li>Policy CF1 Community Facilities</li> <li>Policy CF3 Sites for Local Healthcare Facilities</li> <li>Policy CF4 Primary Healthcare Facilities</li> <li>Policy S4 Landscape and Urban Design</li> <li>Policy S12 Kingsnorth</li> <li>Policy S13 Isle of Grain</li> </ul>
Medway Climate Change Action Plan (Medway Council, 2021)	<ul style="list-style-type: none"> <li>Climate change plan for Medway</li> </ul>
Maidstone Borough Council (2017) Maidstone Borough Local Plan 2011 - 2031	<ul style="list-style-type: none"> <li>Policy SS1 Maidstone Borough-wide Spatial Strategy</li> <li>Policy SP17 The Countryside</li> <li>Policy SP18 Historic Environment</li> <li>Policy SP23 Sustainable Transport</li> <li>Policy ID1 Infrastructure Delivery</li> <li>Policy DM1 Principles of Good Design</li> <li>Policy DM3 Natural Environment</li> <li>Policy DM4 Development affecting designated and non-designated heritage assets</li> <li>Policy DM5 Development on Brownfield Land</li> <li>Policy DM6 Air Quality</li> <li>Policy DM19 Open Space and Recreation</li> <li>Policy DM21 Assessing the Transport Impacts of Development</li> <li>Policy DM30 Design Principles in the Countryside</li> </ul>



Policy or Plan	Policies
Green and Blue Infrastructure Strategy (Maidstone Borough Council, June 2016)	<ul style="list-style-type: none"> <li>Theme 1: Mitigating and adapting to climate change</li> <li>Theme 2: Integrating sustainable movement and access for all</li> <li>Theme 3: Promoting a distinctive townscape and landscape</li> <li>Theme 4: Maintaining and enhancing biodiversity, water and air quality</li> </ul>
Maidstone Landscape Character Assessment Supplement 2012 (including saved sections of the Maidstone Landscape Character Assessment & Landscape Guidelines 2000) (Maidstone Borough Council, 2012)	<ul style="list-style-type: none"> <li>General landscape guidance</li> <li>Planting mixes for local character areas</li> </ul>
Tonbridge and Malling Borough Council Local Development Framework Core Strategy (Tonbridge and Malling Borough Council, 2007)	<ul style="list-style-type: none"> <li>Policy CP1 Sustainable development</li> <li>Policy CP2 Sustainable transport</li> <li>Policy CP7 Areas of Outstanding Natural Beauty</li> <li>Policy CP8 Sites of Special Scientific Interest</li> <li>Policy CP10 Flood Protection</li> <li>Policy CP14 Development in the Countryside</li> <li>Policy CP24 Achieving a High Quality Environment</li> <li>Policy CP25 Mitigation of Development Impacts</li> <li>Policy CP26 Safeguarding of Community Services and Transport</li> <li>Policy CC3 Sustainable Drainage</li> <li>Policy NE2 Habitat Networks</li> <li>Policy NE3 Biodiversity</li> <li>Policy NE4 Trees, Hedgerows and Woodland</li> <li>Policy SQ6 Transport related noise</li> </ul>
Tonbridge and Malling Borough Council (2010) Managing Developments and the Environment Development Plan Document	<ul style="list-style-type: none"> <li>Policy CC3 Sustainable Drainage</li> <li>Policy NE1 Local Sites of Wildlife, Geological and Geomorphological Interest</li> <li>Policy NE2 Habitat Networks</li> <li>Policy NE3 Biodiversity</li> <li>Policy NE4 Trees, Hedgerows and Woodland</li> <li>Policy SQ1 Landscape Character</li> <li>Policy SQ2 Locally listed buildings</li> <li>Policy SQ3 Historic Parks and Gardens</li> <li>Policy SQ4 Air quality</li> <li>Policy SQ6 Transport related noise</li> </ul>
Thurrock Council (2015) Core Strategy and Policies for Management of Development (Adopted 2015)	<ul style="list-style-type: none"> <li>Policy OSDP1 Promoting Sustainable Growth and Regeneration in Thurrock</li> <li>Policy CSSP2 Sustainable Employment Growth</li> </ul>

Policy or Plan	Policies
	<ul style="list-style-type: none"> <li>▪ Policy CSSP3 Sustainable Infrastructure</li> <li>▪ Policy CSSP4 Sustainable Green Belt</li> <li>▪ Policy CSSP5 Sustainable Greengrid</li> <li>▪ Policy CSTP3 Gypsies and Travellers</li> <li>▪ Policy CSTP5 Neighbourhood Renewal</li> <li>▪ Policy CSTP6 Strategic Employment Provision</li> <li>▪ Policy CSTP9 Well-being: Leisure and Sports</li> <li>▪ Policy CSTP10 Community Facilities</li> <li>▪ Policy CSTP11 Health Provision</li> <li>▪ Policy CSTP12 Education and Learning;</li> <li>▪ Policy CSTP13 Emergency Services and Utilities</li> <li>▪ Policy CSTP14 Transport in the Thurrock Urban Area</li> <li>▪ Policy CSTP15 Transport in Greater Thurrock</li> <li>▪ Policy CSTP16 National and Regional Transport Networks</li> <li>▪ Policy CSTP17 Strategic Freight Movement and Access to Ports</li> <li>▪ Policy CSTP18 Green Infrastructure</li> <li>▪ Policy CSTP19 Biodiversity</li> <li>▪ Policy CSTP20 Open Space</li> <li>▪ Policy CSTP21 Productive Land</li> <li>▪ Policy CSTP22 Thurrock Design</li> <li>▪ Policy CSTP23 Thurrock Character and Distinctiveness</li> <li>▪ Policy CSTP24 Heritage Assets and the Historic Environment</li> <li>▪ Policy CSTP25 Addressing Climate Change</li> <li>▪ Policy CSTP26 Renewable or low-carbon energy generation</li> <li>▪ CSTP27 Management and Reduction of Flood Risk</li> <li>▪ Policy CSTP28 River Thames</li> <li>▪ Policy CSTP29 Waste Strategy</li> <li>▪ Policy CSTP30 Regional Waste Apportionment</li> <li>▪ Policy CSTP31 Provision of Minerals</li> <li>▪ Policy CSTP32 Safeguarding Minerals Resources</li> <li>▪ Policy PMD1: Minimising Pollution and Impacts on Amenity</li> <li>▪ Policy PMD4 Historic Environment.</li> <li>▪ Policy PMD5: Open Spaces, Outdoor Sports and Recreational Facilities</li> <li>▪ Policy PMD6 Development in the Green Belt</li> <li>▪ Policy PMD7 Biodiversity, Geological Conservation and Development</li> <li>▪ Policy PMD9 Road Network Hierarchy</li> <li>▪ Policy PMD10 Transport Assessments and Travel Plans</li> </ul>

Policy or Plan	Policies
	<ul style="list-style-type: none"> <li>Policy PMD13 Decentralised, renewable and low-carbon energy generation</li> <li>Policy PMD14 Carbon neutral development</li> <li>Policy PMD15 Flood Risk Assessment</li> <li>Policy PMD16 Developer Contributions</li> </ul>
Essex County Council Minerals Local Plan First Review (Adopted 1996)	Saved policies from this plan are operational in the Thurrock Council area.
Thurrock Design Guide: Design Strategy (Thurrock Council, 2017)	<ul style="list-style-type: none"> <li>A. Understanding the Place</li> <li>B. Working with Site Features</li> <li>C. Making Connections</li> <li>D. Building in Sustainability</li> </ul>

**Table B6: Documents comprising the Environmental Statement (ES)**

The ES consists of:

- Chapters; supported by
- Appendices;
- Figures; and where changes to the application were submitted
- Change documents.

EL references are provided for the original application version of each document within the ES. Where amended versions and/ or changes were submitted during the Examination, EL additional submission or deadline references are also provided to the most recently submitted version of the document. All ExA consideration in this report is undertaken with reference to the most recently submitted document. Documents containing the most recent position are hyperlinked in the table.

ES Chapter/Figures/Appendices	EL Reference
Glossary and Acronyms for ES	<a href="#">[APP-138]</a>
<b>Chapter 1: Introduction</b>	<a href="#">[APP-139]</a>
<i>Appendices</i> Appendix 1.1: Competent Expert Evidence Appendix 1.2: Summary of Section 42 comments and National Highways responses Appendix 1.3: Assessment of proposed gas pipeline works for the purposes of section 20 of the Planning Act 2008	<a href="#">[APP-332]</a> <a href="#">[APP-333]</a> <a href="#">[APP-334]</a>
<b>Chapter 2: Project Description</b>	<a href="#">[APP-140]</a>

ES Chapter/Figures/Appendices	EL Reference
<i>Appendices</i> Appendix 2.1: CoCP First Iteration of the EMP Appendix 2.2 Annex A: CoCP - oSWMP- Appendix 2.2 Annex B: CoCP - oMHP Appendix 2.2 Annex C: CoCP - PWEMP	See <b>Table B9:</b> List of Control Documents
<i>Figures</i> Figure 2.1: Route Alignment and Order Limits Figure 2.2: Project Proposals Figure 2.3: Environmental Constraints Plan Figure 2.4: Environmental Masterplan (Sections 1 & 1A) Figure 2.4: Environmental Masterplan (Section 2) Figure 2.4: Environmental Masterplan (Section 3) Figure 2.4: Environmental Masterplan (Section 4) Figure 2.4: Environmental Masterplan (Section 9) Figure 2.4: Environmental Masterplan (Section 10) Figure 2.4: Environmental Masterplan (Section 11) Figure 2.4: Environmental Masterplan (Section 12) Figure 2.4: Environmental Masterplan (Section 13) Figure 2.4: Environmental Masterplan (Section 14) Figure 2.5: Construction Information	[APP-156] <a href="#">[REP9-124]</a> [APP-157] <a href="#">[REP9-126]</a> [APP-158] <a href="#">[REP9-128]</a> [APP-159] <a href="#">[REP9-130]</a> [APP-160] <a href="#">[REP9-132]</a> [APP-161] <a href="#">[REP9-134]</a> [APP-162] <a href="#">[REP9-136]</a> [APP-163] <a href="#">[REP9-138]</a> [APP-164] <a href="#">[REP9-140]</a> [APP-165] <a href="#">[REP9-142]</a> [APP-166] <a href="#">[REP9-144]</a> [APP-167] <a href="#">[REP9-146]</a> [APP-168] <a href="#">[REP9-148]</a> [APP-169] <a href="#">[REP9-150]</a>
<i>Change documents</i> Change Application Appendix A - Proposed amendments to Environmental Statement Chapter 2 Project Description	<a href="#">[CR1-003]</a>
<b>Chapter 3: Assessment of Reasonable Alternatives</b>	<a href="#">[APP-141]</a>
<i>No supplementary documents</i>	
<b>Chapter 4: EIA Methodology</b>	<a href="#">[APP-142]</a>
<i>Appendices</i> Appendix 4.1: The Inspectorate's Scoping Opinion and National Highways Response Appendix 4.2: Major Accidents and Disasters Long List Appendix 4.3: Major Accidents and Disasters Short List Appendix 4.4: Traffic and Transport Appendix 4.5: EIA Methodology Policy	<a href="#">[APP-340]</a> <a href="#">[APP-341]</a> <a href="#">[APP-342]</a> <a href="#">[APP-343]</a> <a href="#">[APP-344]</a>
<b>Chapter 5: Air Quality</b>	<a href="#">[APP-143]</a>

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<b>Chapter 6: Cultural Heritage</b>	<a href="#">[APP-144]</a> <a href="#">[REP4-116]</a>
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Appendix 6.7: Geophysical Survey Reports (1 of 2)	<a href="#">[APP-360]</a> <a href="#">[AS-051]</a>
Appendix 6.7: Geophysical Survey Reports (2 of 2)	<a href="#">[APP-361]</a>
Appendix 6.8: Trial Trenching Reports: Volume A (1 of 5)	<a href="#">[APP-362]</a>
Appendix 6.8: Trial Trenching Reports: Volume B (2 of 5)	<a href="#">[APP-363]</a>
Appendix 6.8: Trial Trenching Reports: Volume C (3 of 5)	<a href="#">[APP-364]</a>
Appendix 6.8: Trial Trenching Reports: Volume D (4 of 5)	<a href="#">[APP-365]</a>
Appendix 6.8: Trial Trenching Reports: Volume E (5 of 5)	<a href="#">[APP-366]</a>
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<b>Non-Technical Summary: NTS</b>	<a href="#">[APP-486]</a>
<i>No supplementary documents</i>	

**Table B7: Additional Land and Rights Request Documents**

Documents
<p>All Additional Land and Rights Request Documents are recorded in the table of Changes to the Application, found in Appendix A at Table A3</p>

**Table B8: Made Development Consent Orders**

Made Development Consent Orders
<ul style="list-style-type: none"> <li>▪ A1 Birtley to Coal House Development Consent Order 2021</li> <li>▪ A14 Cambridge to Huntingdon Improvement Scheme Development Consent Order 2016</li> <li>▪ A160/A180 (Port of Immingham Improvement) Development Consent Order 2015</li> <li>▪ A19/A1058 Coast Road (Junction Improvement) Development Consent Order 2016</li> <li>▪ A19 Downhill Lane Junction Development Consent Order 2020</li> <li>▪ A19/A184 Testo's Junction Alteration Development Consent Order 2018</li> <li>▪ A30 Chiverton to Carland Cross Development Consent Order 2020</li> <li>▪ A303 (Amesbury to Berwick Down) Development Consent Order 2023</li> <li>▪ A38 Derby Junctions Development Consent Order 2023</li> <li>▪ A428 Black Cat to Caxton Gibbet Development Consent Order 2022</li> <li>▪ A47 North Tuddenham to Easton Development Consent Order 2022</li> <li>▪ A556 (Knutsford to Bowdon Improvement) Development Consent Order 2014</li> <li>▪ A585 Windy Harbour to Skippool Highway Development Consent Order 2020</li> <li>▪ A63 (Castle Street Improvement, Hull) Development Consent Order 2020</li> <li>▪ Cleve Hill Solar Park Development Consent Order 2020</li> <li>▪ Drax Power (Generating Stations) Order 2019</li> <li>▪ Great Yarmouth Third River Crossing Development Consent Order 2020</li> <li>▪ Lake Lothing (Lowestoft) Third Crossing Order 2020</li> <li>▪ Lancashire County Council (Torrisholme to the M6 Link (A683 Completion of Heysham to M6 Link Road)) Order 2013</li> <li>▪ M1 Junction 10a (Grade Separation) Order 2013</li> <li>▪ M20 Junction 10a Development Consent Order 2017</li> <li>▪ M25 Junction 10/A3 Wisley Interchange Development Consent Order 2022</li> <li>▪ M25 Junction 28 Development Consent Order 2022</li> <li>▪ M4 Motorway (Junctions 3 to 12) (Smart Motorway) Development Consent Order 2016</li> <li>▪ M42 Junction 6 Development Consent Order 2020</li> <li>▪ M54 to M6 Link Road Development Consent Order 2022</li> <li>▪ Manston Airport Development Consent Order 2022</li> <li>▪ National Grid (Richborough Connection Project) Development Consent Order 2017</li> <li>▪ Network Rail (North Doncaster Chord) Order 2012</li> <li>▪ Silvertown Tunnel Development Consent Order 2018</li> <li>▪ Southampton to London Pipeline Development Consent Order 2020</li> </ul>
Other equivalent and related Acts and Statutory Instruments
<ul style="list-style-type: none"> <li>▪ Crossrail Act 2008</li> <li>▪ Dartford-Thurrock Crossing Act 1988 and associated regulations</li> <li>▪ M23 Motorway (Junctions 8 to 10) (Variable Speed Limits) Regulations 2020</li> </ul>

**Table B9: List of Control Documents**

Control Documents	EL References
Code of Construction Practice (CoCP) including REAC (1 <sup>st</sup> Iteration)	<a href="#">[REP9-184]</a>
CoCP Annex A Outline Site Waste Management Plan (oSWMP)	<a href="#">[REP9-186]</a>
CoCP Annex B Outline Materials Handling Plan (oMHP)	<a href="#">[REP9-188]</a>
CoCP Annex C Preliminary Works Environmental Management Plan (PWEMP)	<a href="#">[REP9-190]</a>
Draft Archaeological Mitigation Strategy and Outline Written Scheme of Investigation (AMS-oWSI)	<a href="#">[REP9-197]</a>
Outline Landscape and Ecology Management Plan (oLEMP)	<a href="#">[REP9-207, 209, 211 &amp; 213]</a>
Design Principles Document	<a href="#">[REP9-227]</a>
Framework Construction Travel Plan (fCTP)	<a href="#">[REP9-233]</a>
Outline Traffic Management Plan for Construction (oTMPfC)	<a href="#">[REP9-235]</a>
Carbon and Energy Management Plan (1 <sup>st</sup> Iteration)	<a href="#">[REP9-239]</a>
Stakeholder Actions and Commitments Register (SACR)e)	<a href="#">[REP9A-060]</a>

**Table B10: List of Abbreviations**

Abbreviation or usage	Reference
2009 EIA Regulations	Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (as amended)
2017 EIA Regulations	The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017
AA	Appropriate Assessment
AEoI	Adverse Effects on Integrity
AEP	Annual Exceedance Probability
AAP	Area Action Plan
AES (number)	Addendum to the Environmental Statement with a volume number
ALC	Agricultural Land Classification
AMS-oWSI	Draft Archaeological Mitigation Strategy and Outline Written Scheme of Investigation
ANCB	Appropriate Nature Conservation Body
AONB	Area of Outstanding Natural Beauty
AP	Affected Person
APFP Regulations	Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009
ARN	Automatic Road Network
AQA	Air Quality Assessment
AQD	Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe

Abbreviation or usage	Reference
AQMA	Air Quality Management Area
AQMP	Air Quality Management Plan
AQP2017	Air Quality Plan for NO <sub>2</sub> , DEFRA (2017)
AQS2007	Air Quality Strategy for England, Scotland, Wales and Northern Ireland (2007)
AQSE2023	The Air Quality Strategy for England (2023)
AQSR2010	Air Quality Standards Regulations 2010
ASI	Accompanied Site Inspection
ASNW	Ancient Semi-natural Woodland
AWS	Anglian Water Services
BBC	Brentwood Borough Council
BBH	Blue Bell Hill
BoR	Book of Reference
BMV	Best and most versatile land
BPM	Best Practicable Means
CA	Compulsory Acquisition
CAASPD	Conservation Area Appraisal Supplementary Planning Document
CAH	Compulsory Acquisition Hearing
CEPP	Climate Emergency Policy and Planning
CEMP	Carbon and Energy Management Plan
CCC	The Climate Change Committee
CoCP	Code of Construction Practice (1 <sup>st</sup> Iteration)
ComMA	Combined Modelling and Appraisal Report
CROW Act	Countryside and Rights of Way Act 2000
CTMP	Construction Transport Management Plan
D	Deadline
DAMS-OWSI	Draft Archaeological Mitigation Strategy and Outline Written Scheme of Investigation
DC	Dartford Crossing
DCLG	Former Department for Communities and Local Government, re-organised to form Ministry of Housing, Communities and Local Government (MHCLG) in January 2018. References to documents (eg Examination Guidance) or decisions taken by the former department are referred to using the abbreviation DCLG.
DCO	Development Consent Order
dDCO	draft Development Consent Order
DEFRA	Department for Environment, Food and Rural Affairs
DLUHC	Department for Levelling Up, Housing and Communities
DfT	Department for Transport
DMRB	Design Manual for Roads and Bridges
DM	Do Minimum
dNPS	Draft National Policy Statement
DS	Do Something
EA	Environment Agency
EA2021	The Environment Act 2021
ECC	Essex County Council
ECOW	Environmental Clerk of Works

Abbreviation or usage	Reference
EIA	Environmental Impact Assessment
EL	Examination Library
EPS	European Protected Species
ES	Environmental Statement
ESA	Environmental Statement Addendum
ESSPSG	Emergency Services and Safety Partners Steering Group
ESW	Northumbrian Water Limited, operating as Essex & Suffolk Water
EU	European Union
EPS	European Protected Species
ESSPSG	Emergency Services and Safety Partners Steering Group
ExA	Examining Authority
ExQ (number)	Written examination questions by the ExA
FCTP	Framework Construction Travel Plan
FLL	functionally linked land
FRA	Flood Risk Assessment
GBC	Gravesham Borough Council
GCN	Great Crested Newt
GHG	Greenhouse Gas
GI	Ground Investigation
GWDTE	Groundwater Dependent Terrestrial Ecosystem
GWT	Ground Water Table
HDV	Heavy Duty Vehicle
HE	Historic England
HEqIA	Health and Equalities Impact Assessment
HGV	Heavy Goods Vehicle
HILP	High impact low probability (event – risk management)
HLC	Historic Landscape Characterisation
HPC	Higham Parish Council
HRA	Habitats Regulations Assessment
HRAR	Habitats Regulations Assessment Screening Report and Statement
HSC	Hazardous Substances Consent
HSE	Health and Safety Executive
IAP	Initial Assessment of Principal Issues
IDB	Internal Drainage Board
IEIA Regulations	Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (2017/572)
IP	Interested Party
iRAP	International Road Assessment Programme
ISH (number)	Issue Specific Hearing and where followed by a number, the number is a reference to a specific ISH on a date in the examination timetable.
J	Junction
JNCC	Joint Nature Conservation Committee
km	kilometre

Abbreviation or usage	Reference
KCC	Kent County Council
KDAONB	Kent Downs Area of Outstanding Natural Beauty (see also Kent Downs National Landscape)
KDAONB Unit	Kent Downs AONB Unit
KDNL	Kent Downs National Landscape (see also Kent Downs Area of Outstanding Natural Beauty)
KWT	Kent Wildlife Trust
LBH	London Borough of Havering
LCRM	Land Contamination: Risk Management (Environment Agency, 2021)
LDV	Light Duty Vehicle
LEMP	Landscape and Ecology Management Plan
LGV	Large Goods Vehicle
LIR	Local Impact Report
LCA	Landscape Character Area
LLCA	Local Landscape Character Area
LLFA	Lead Local Flood Authority
LLP	Limited Liability Partnership
LoD	Limits of Deviation
LRN	Local Road Network
LTC	Lower Thames Crossing
LV	Limit value(s) – a regulatory limit expressed as a value above which a regulated substance should not be found in the environment and triggering action for pollution control.
LHA	Local Highway Authority
LPA	Local Planning Authority
LSE	Likely Significant Effects
LTAM	Lower Thames Area Model
LTC	Lower Thames Crossing
LTMR	Localised Traffic Modelling Report
LURA	Levelling Up and Regeneration Act 2023
LVIA	Landscape and Visual Impact Assessment
LWS	Local Wildlife Sites
m	metre
mph	miles per hour
made Order	A statutory Order providing development consent made by the relevant SoS under PA2008, use of this term signifies a reference to a DCO that has been decided.
MC	Medway Council
MDW	Multi-disciplinary Workshops
MMO	Marine Management Organisation
MMS	Monitoring and Mitigation Strategy
MHCLG	Ministry of Housing, Communities and Local Government
MWL	Mean Water Line
NE	Natural England
NERC2006	Natural Environment and Rural Communities Act 2006
NGET	National Grid Electricity Transmission

Abbreviation or usage	Reference
NG	National Grid
NGO	Non-governmental organisation
NHDRP	National Highways Design Review Panel
NMUs	Non-motorised users of the road and PRoW network
NO <sub>2</sub>	Nitrogen Dioxide
NOx	Nitrogen Oxide
NH	National Highways, generally referred to throughout as the 'Applicant'
NPPF	National Planning Policy Framework
NPS	National Policy Statement
NPSP	National Policy Statement for Ports
NatPS	Nationally protected species (UK)
NPS EN-1	Overarching National Policy Statement for Energy
NPS EN-4	National Policy Statement for Gas Supply Infrastructure and Gas and Oil Pipelines
NPS EN-5	National Policy Statement for Electricity Networks Infrastructure
NPSNN	National Policy Statement National Networks
dNPSNN	Draft National Policy Statement National Networks (2023)
NSIP	Nationally Significant Infrastructure Project
NTEM	National Trip End Model
NWL	Northumbrian Water Ltd operating as Essex and Suffolk Water
oCEMP	Outline Construction Environmental Management Plan
OCR	Orsett Cock Roundabout
OFH	Open Floor Hearing
oLEMP	Outline Landscape and Ecology Management Plan
oMHP	Outline Materials Handling Plan
oSWMP	Outline Site Waste Management Plan
oMHP	Outline Materials Handling Plan
oTMPfC	Outline Traffic Management Plan for Construction
PA2008	Planning Act 2008 (as amended)
PADS	Principle Areas of Disagreement
PAS	publicly available specification
PD	Procedural Decisions
PLA	Port of London Authority
PoTLL	Port of Tilbury London Limited
PES	Post-event submission
PIER	Preliminary Environmental Information Report
PINS	The Planning Inspectorate
PM	Preliminary Meeting
PM <sub>10</sub> and PM <sub>2.5</sub>	Particulate Matter 10/2.5 microns
PNPS	Ports National Policy Statement
PP	Protective Provisions
PPG	Planning Policy Guidance
PSED	Public Sector Equality Duty
PRoW	Public Right of Way
PWEMP	Preliminary Works Environmental Management Plan
R	Requirement
RBMP	River Basin Management Plan

Abbreviation or usage	Reference
rDCO	recommended Development Consent Order
REAC	Register of Environmental Actions and Commitments (ES Appendix 1.2)
REMF	Ron Evans Memorial Field
RIES	Report on the Implications for European Sites
RIS	Road Investment Strategy
RR	Relevant Representation
RT	River Thames
RVPs	Rendezvous Points
s (number)	Section of a statute and when followed by a number, a particular section number from a named statute
SAC	Special Area of Conservation
SACR	Stakeholder Actions and Commitments Register
Sch	Schedule
SEE	Skills, Education and Employment
SNCB	Statutory Nature Conservation Body
SoCG	Statement of Common Ground
SoR	Statement of Reasons
SoS	Secretary of State
SoS BEIS	... for Business, Enterprise and Industrial Strategy
SoS LUHC	... for Levelling Up, Housing and Communities
SoST	... for Transport
SPA	Special Protection Area
SPC	Shorne Parish Council
SRN	Strategic Road Network
SSSI	Site of Special Scientific Interest
SSTPs	Site-Specific Travel Plans
STIG	Silvertown Tunnel Implementation Group
SuDS	Sustainable Drainage System
SVGC	Southern Valley Golf Course
SW	Southern Water Services Ltd
SWCP	Shorne Woods Country Park
TA	Transport Assessment
TAG	Transport Appraisal Guidance
TAP	Tunnel Area Plan
TBM / TBMs	Tunnel Boring Machine / Tunnel Boring Machines
TC	Thurrock Council
TCAG	Thames Crossing Action Group
TCCF	Thames Chase Community Forest
TCPA1990	Town and Country Planning Act 1990
TDR	Tunnel Depth Report
TEMPro	Trip End Model Presentation Program
TfL	Transport for London
TLR	Tilbury Link Road
TLoDP	Tunnel Limits of Deviation Plans
ToR	Terms of Reference
TMBC	Tonbridge and Malling Borough Council
TMF	Traffic Management Forum
TMP	Traffic Management Plan



Abbreviation or usage	Reference
ToR	Terms of Reference
TP	Temporary possession
TPO	Tree Preservation Order
TTM	Temporary Traffic Management
UK	United Kingdom
UK BAP	United Kingdom Biodiversity Action Plan
UKCP	UK Climate Projections
UKPN	United Kingdom Power Networks
UNEP	United Nations Environment Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
USI (number)	Unaccompanied Site Inspection and where followed by a number, the number is a reference to a USI on a particular date.
UXO	Unexploded ordnance
VSC	Very Special Circumstances
WACA1981	The Wildlife and Countryside Act 1981
WaFD	Waste Framework Directive
WAR	Workers Accommodation Report
WCH	Walkers, Cyclists and Horse riders
WFD	The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017
WMS	Written Ministerial Statement
WNIMMP	Wider Network Impacts Management and Monitoring Plan
WR	Written Representation
WRAP	Waste Resources Action Plan
WRMP	Water Resources Management Plan
WSI	Written Scheme of (archaeological) Investigation
Zol	Zone of Influence

## **APPENDIX C: THE EXAMINATION LIBRARY**

This Appendix provides access to the Examination Library (EL) and to searches within the digital examination record.

The EL records and assigns a unique reference number to all documents submitted to and considered by the Examining Authority (ExA). All documents in the EL are held digitally by the Planning Inspectorate in its digital examination record. Documents providing the sources for positions recorded in this report are cited with their unique reference number in square brackets [REF-000]. Each reference is hyperlinked to the Planning Inspectorate's digital examination record, enabling it to be accessed and reviewed from the location in this report to which it is directly relevant.

A complete copy of the EL, recording all submitted documents in document type and deadline order can be found at the following hyperlink:

[Lower Thames Crossing | National Infrastructure Consenting | Documents | LTC Examination Library.pdf \(planninginspectorate.gov.uk\)](#)

Key word searches of document titles can be undertaken from the 'filter' dialogue on the documents tab on the National Infrastructure Planning website, at the following hyperlink:

[Lower Thames Crossing | National Infrastructure Consenting | Documents | \(planninginspectorate.gov.uk\)](#)

## **APPENDIX D: HABITATS REGULATIONS ASSESSMENT**

### **D.1 INTRODUCTION**

- D.1.1 This Appendix provides access to the Examining Authority's (ExA's) analysis of matters relating to Habitats Regulations Assessment (HRA).
- D.1.2 This Appendix contains section providing the following information:
- Section D2: the examination processes in relation to HRA matters;
  - Section D3: findings in relation to Likely Significant Effects (LSE) on the UK National Site Network and other European sites;
  - Section D4: Conservation Objectives for sites and features;
  - Section D5: Findings in relation to Adverse Effects on Integrity (AEoI); and
  - Section D6: HRA conclusions.
- D.1.3 In accordance with the precautionary principle embedded in the Habitats Regulations, consent for the Proposed Development may be granted only after having ascertained that it will not adversely affect the integrity of European Site(s) and no reasonable scientific doubt remains<sup>2</sup>.
- D.1.4 The term 'European Sites' includes Special Areas of Conservation (SACs) and Special Protection Areas (SPAs), proposed SACs, potential SPAs, Ramsar, proposed Ramsar, and any sites identified as compensatory measures for adverse effects on any of the above.

### **D.2 EXAMINATION PROCESSES IN RELATION TO HRA MATTERS**

#### **HRA implications arising from and for the Proposed Development**

- D.2.1 The Proposed Development is described in Chapter 1 of this Report which in turn relies upon the Application documents cited there. That material, description and reasoning is relied upon here to reach HRA conclusions.
- D.2.2 The Proposed Development is not directly connected with, or necessary to, the management of a European site (paragraph 2.2.4, [\[APP-487\]](#)). Therefore, the SoS must make an 'appropriate assessment' (AA) of the implications of the Proposed Development on potentially affected European sites in light of their Conservation Objectives.
- D.2.3 The Applicant's assessment of effects is presented in the following application document(s):
- Habitats Regulations Assessment Screening Report and Statement to inform an Appropriate Assessment [\[APP-487\]](#) (HRAR);
  - Habitats Regulations Assessment - Screening Report and Statement to Inform an Appropriate Assessment - Appendix E (Screening Matrices) [\[APP-488\]](#); and

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<sup>2</sup> CJEU Case C-127/02 Waddenzee 7 September 2004, Reference for a preliminary ruling from the Raad van State (Netherlands) in the proceedings: Landelijke Vereniging tot Behoud van de Waddenzee and Nederlandse Vereniging tot Bescherming van Vogels v Staatssecretaris van Landbouw, Natuurbeheer en Visserij.

- Assessment of the air quality effects on European sites following Natural England advice [[REP8-122](#)].

- D.2.4 The spatial relationship between the Proposed Development Order Limits and the European Sites within scope for this HRA process is shown in HRAR Figures 1 to 27 ([APP-487](#) pages 192 to 231). Readers of this appendix are referred to that document and to those figures.
- D.2.5 The HRAR [[APP-487](#)] sets out the Applicant's Evidence Plan process, undertaken with Natural England (NE) as the Appropriate Nature Conservation Body (ANCB), throughout the pre-application stage.
- D.2.6 Whilst IPs did raise issues, HRA matters were not widely referred to in submissions as matters of complex multi-party disagreement. The ExA needed to question the Applicant and NE on the positions reached in the Applicant's HRAR, but this was a process that was best carried out in writing. It follows that the ExA's main means of engagement with HRA matters was through written questions and then through a Report on the Implications for European Sites (RIES) [[PD-048](#)], which in turn raised further supplementary questions.
- D.2.7 In addition to considering the HRA information provided in the Application, the ExA asked the Applicant to submit numerous technical and advisory note documents that the ExA was aware had been or were being shared and developed with statutory bodies on HRA matters (ExQ1 [[PD-029](#)]). The ExA also asked for the Applicant to supply an updated HRAR to bring together all relevant information relating to the HRA. The Applicant supplied a list of technical notes pertinent to the HRA as an annex to its ExQ1 response at D4 [[REP4-194](#) to 199] (six documents) and noted that the Applicant considered its HRAR contained all the information i considered was required for the HRA process.
- D.2.8 The matter raised in questions and discussions between the Applicant and NE with the most substantial potential implications for HRA purposes was air quality. NE remained of the view that (for reasons discussed fully below) the air quality effects of the Proposed Development could lead to an AEoI on Epping Forest SAC. Two additional documents supplied information relevant to the subject matter of air quality effects for HRA as discussed with NE throughout the Examination:
- A without prejudice assessment of the air quality effects on European sites [[REP2-068](#)]; and
  - A Statement of Common Ground (SoCG) between the Applicant and NE: Annex C.7 Without prejudice consideration of mitigation for air quality effects on Epping Forest SAC [[REP9A-014](#)].
- D.2.9 It should be noted that the positions set out in these documents were not adopted into the HRAR by the Applicant, because that report set out an in-principle position that air quality effects did not lead to any AEoI. Noting however that that position could not be agreed with NE, the Applicant placed a prospective solution into the Examination that addressed NE's outstanding concern, for consideration by the ExA and the SoST.
- D.2.10 During the pre-examination and Examination, the Applicant submitted the change requests described in Chapter 1, Annex A (Table A3) of this Report. These changes were accepted by the ExA as described in Chapter 1. Relevant HRA screenings were undertaken for each change but no matters relevant to HRA arose from any of the change requests.

### **European sites within the UK National Site Network**

- D.2.11 The European sites and qualifying features that were considered in the Applicant's assessment are presented in Section 5 of the HRAR [APP-487]. They are:
- Thames Estuary and Marshes Special Protection Area (SPA);
  - Thames Estuary and Marshes Ramsar site;
  - Epping Forest Special Area of Conservation; and
  - North Downs Woodlands SAC.
- D.2.12 In ExQ1 [PD-029], the ExA queried the reference to the Southern North Sea SAC in the Environmental Statement [APP-147] as this site was omitted in the HRAR. In response, the Applicant [REP4-194] noted that this site had been discounted early in discussions on scoping for the HRA process with the agreement of NE. This was not disputed by NE or any other party during the Examination.
- D.2.13 At D4 [REP4-195], the Applicant provided a report on the possible drawdown effects on groundwater from tunnelling activities. This report identified that the disposal of water drawn into the tunnel during construction would be into ditches linked to the Medway Estuary and Marshes SPA and Medway Estuary and Marshes Ramsar site. Noting that this site has not been included in the submitted HRAR [APP-487], the ExA requested the Applicant to provide further clarification on impacts to both these sites in ExQ2 [PD-040] as neither site was considered for LSE in the Applicant's HRAR. The Applicant confirmed, [REP6-106] that there was no longer a requirement for disposal of water to ditches linked to either of these sites and so no impact was considered to arise.
- D.2.14 The ExA is satisfied that for these reasons, Southern North Sea SAC, Medway Estuary and Marshes SPA and Medway Estuary and Marshes Ramsar site were not erroneously omitted from the HRA screening process.
- D.2.15 NE in response [REP4-338] to ExQ1 [PD-029] agreed to the list of sites that the Applicant considered in its HRAR [APP-487].
- D.2.16 The Applicant did not identify any LSE on non-UK European sites in European Economic Area in its HRAR [APP-487] and/or within its ES [Chapter 8, Terrestrial Biodiversity, [REP9-120] and Chapter 9, Marine Biodiversity [APP-147]. Only UK European sites are addressed in this Report. No transboundary impacts were raised for discussion by any IPs during the Examination.
- D.2.17 It follows that the ExA is satisfied that the Applicant has considered all relevant sites within its assessment.

### **Summary of HRA Matters Considered During the Examination**

- D.2.18 The main HRA matters raised by the ExA, NE and other IPs and discussed during the Examination include:
- The Applicant's conclusions of no likely LSE and AEol from air quality on North Downs Woodlands SAC;
  - the Applicant's conclusions of no LSE from air quality on Thames Estuary and Marshes SPA and Thames Estuary and Marshes Ramsar site;
  - the Applicant's overall assessment methodology, including plans and projects considered, for air quality in-combination effects;

- the design and implementation of the Applicant's mitigation for effects on functionally linked land (FLL) to Thames Estuary and Marshes SPA and Thames Estuary and Marshes Ramsar site;
- the Applicant's conclusions of no AEoI to Epping Forest SAC and 'without prejudice' mitigation measures; and
- the age and appropriateness of baseline ecological data used to support the Applicant's HRAR.

D.2.19 These matters are discussed in the RIES [\[PD-048\]](#) and in the sections of this appendix below, as appropriate.

D.2.20 Kent County Council maintained [\[REP9A-052\]](#) that the environmental commitments integral to the project that the Applicant considered in its conclusions in relation to Thames Estuary and Marshes Ramsar site, needed to be appropriate and capable of ensuring the functionality of the marshes would not be affected during tunnel and road construction.

D.2.21 In its response, the Applicant pointed to its HRAR [\[APP-487\]](#) that provides its conclusions both of the efficacy of these commitments (Section 6.2) and the likelihood of their success (Section 7.1). No other IPs raised concerns in relation to this matter.

D.2.22 Matters which were undisputed by other IPs, including NE, were as follows:

- The sites and qualifying features considered by the Applicant in its assessment;
- The impact-pathways with potential for LSE on Thames Estuary and Marshes SPA and Thames Estuary and Marshes Ramsar site (with the exception of underwater noise, see paragraph D2.20 to D2.21 of this Appendix); and
- The impact-pathways and potential for LSE on Epping Forest SAC.

### **D.3 FINDINGS IN RELATION TO LIKELY SIGNIFICANT EFFECTS (LSE)**

D.3.1 Under Regulation 63 of the Habitats Regulations, the Competent Authority must consider whether a development will have LSE on a European site, either alone or in combination with other plans or projects. The purpose of the LSE test is to identify the need for an AA and the activities, sites or plans and projects to be included for further consideration in the AA.

D.3.2 The Applicant's HRAR sets out the methodology applied to determining what would constitute a 'significant effect' within Section 4.1 of the HRAR [\[APP-487\]](#).

D.3.3 The Applicant's conclusions in relation to LSE are presented in Section 6.4 of the HRAR [\[APP-487\]](#). The Applicant's project alone and in-combination screening conclusions were presented in Section 6.2. Tables 6.17 to 6.20 provide a summary of the HRAR screening conclusions.

D.3.4 The Applicant was requested at ExQ1 [\[PD-029\]](#) to supply all technical or advice notes that had been developed with the ANCBs into the Examination and that the Applicant supply an updated HRAR (ExQ1, [\[PD-029\]](#), ExQ2 [\[PD-040\]](#)) compiling all relevant information. The Applicant provided updated conclusions on LSE at Deadline (D) 2 [\[REP2-068\]](#) as a 'without prejudice' sensitivity test technical note on air quality and European sites. At D8 [\[REP8-122\]](#) the Applicant provided an update to the HRA conclusions in a further note on air quality but no longer on a 'without prejudice' basis. Documents that were pertinent to the ongoing discussion of matters not agreed or under discussion were also appended to the Applicant's response at D4 [\[REP4-194\]](#).

### Survey data

- D.3.5 During the course of the Examination, the Port of London Authority (PLA) raised general concerns [\[REP1-271\]](#) in relation to the age of the Applicant's baseline terrestrial and marine surveys used for the HRA. The PLA considered that these could be out of date and that it expected an updated baseline to be provided. The ExA explored this issue through ExQ1 noting the potential to affect the conclusions presented in both the HRAR [\[APP-487\]](#) and the ES. The Applicant responded [\[REP2-046\]](#) noting that pre-construction surveys would be used to update survey information and inform the detailed design. The PLA maintained its position at D5 [\[REP5-111\]](#) and at D8 [\[REP8-163\]](#) that survey limitations existed. No other party challenged the age of the baseline information in relation to the HRA.
- D.3.6 The ExA sought views on this matter in the RIES [\[PD-048\]](#) (QR1 and QR2) noting the Applicant's response and its proposed approach to update survey information at the pre-construction stage of the Proposed Development. NE responded [\[REP8-154\]](#) stating that it considered for a project the scale of the Proposed Development, and where some design elements would be decided at a further detailed design stage, that updating survey data at a later stage was an appropriate action.
- D.3.7 The PLA [\[REP8-163\]](#) also acknowledged that large projects would need to update surveys after consent was granted. However, the PLA maintained its position that the initial decision should be made on valid data, referring to estuarine habitats as particularly subject to rapid change.
- D.3.8 The ExA notes that pre-construction surveys are secured by the Applicant in its Code of Construction Practice [\[REP9-191\]](#) and within the draft DCO [\[REP10-005\]](#). The ExA considers that there are sufficient means to ensure that as the design develops, appropriate ecological surveys will be undertaken. This is secured in the draft DCO Schedule 2 Requirements [\[REP10-005\]](#).

### LSE from the Proposed Development Alone

- D.3.9 The Applicant identified potential impacts of the Proposed Development and considered these to have the potential to result in LSE alone as detailed in the HRAR Tables 6.1 to 6.4 [\[APP-487\]](#).
- D.3.10 The impacts considered by the Applicant to have the potential to result in LSE were:
- Thames Estuary and Marshes SPA
    - Land take from current FLL - terrestrial and aquatic environment;
    - change in air quality – construction on FLL;
    - change in surface water quality – construction / operation on FLL;
    - introduction / spread of invasive non-native species (INNS) on FLL;
    - species collision – operation on FLL;
    - noise and vibration - construction / operation on FLL;
    - visual disturbance - construction on FLL; and
    - recreational disturbance - operation.
  - Thames Estuary and Marshes Ramsar site
    - Changes in air quality – construction;
    - change in surface water quality / quantity – construction;
    - change in groundwater quality / quantity – construction;
    - land take of FLL and from the site itself (terrestrial and aquatic environment);
    - introduction / spread of Invasive Non-Native Species (INNS);



- species collision – operation;
- noise and vibration - construction / operation on site and FLL;
- visual disturbance - construction on site and FLL; and
- recreational disturbance – construction / operation on site and FLL.
- Epping Forest SAC
  - Air quality – vehicle emissions - operation.
- North Downs Woodlands SAC
  - Air quality – vehicle emissions – operation

D.3.11 The Applicant's conclusions in respect of Thames Estuary and Marshes SPA, Thames Estuary and Marshes Ramsar site and North Downs Woodlands SAC were disputed by IPs and examined by the ExA as described further in this Appendix below.

### **LSE from the Proposed Development In-Combination**

D.3.12 The Applicant describes in the HRAR [[APP-487](#), Section 4.3] that any project alone LSE identified as part of HRA screening would also therefore be considered to have a potential for in-combination LSE. Therefore, such sites and features were taken forward to assess the potential for effects on integrity of the site.

D.3.13 As such, no specific in-combination assessment methodology is presented in the HRAR [[APP-487](#)] for the screening stage.

### **LSE Assessment Outcomes**

D.3.14 In its Relevant Representation [[RR-0784](#)], NE noted its agreement with the conclusions of the Applicant's screening stage with the exception of:

- conclusions of no LSE from underwater noise on Thames Estuary and Marshes SPA birds;
- concerns with the approach to assessing air quality effects – whether the Lower Thames Crossing traffic model builds in the same data for in-combination development as that used for Local Plans; and
- conclusions of no LSE on North Downs Woodlands SAC.

D.3.15 The Applicant's conclusions in relation to underwater noise on Thames Estuary and Marshes SPA were also disputed by the PLA [[REP1-269](#)].

D.3.16 In addition, through the course of the Examination, the Applicant's LSE conclusions in relation to other impact-pathways were queried by IPs. The ExA therefore explored the following disputed matters through RIES Table 2.3 [[PD-048](#)]:

- Thames Estuary and Marshes SPA / Thames Estuary and Marshes Ramsar site;
  - Underwater noise and vibration – construction
  - Visual disturbance – construction
- Thames Estuary and Marshes Ramsar site;
  - Nitrogen deposition – operation
  - Air quality – construction
- North Downs Woodlands SAC;



- Air quality - operation

- D.3.17 The sites for which the Applicant concluded no LSE would occur from either the project alone or in combination with other projects and plans are presented in the RIES [\[PD-048\]](#).
- D.3.18 Clarification was sought (ExQ1, [\[PD-029\]](#)) from IPs to confirm that all potential impact-pathways that could lead to an LSE had been considered by the Applicant in its HRAR. NE responded [\[REP4-338\]](#) that while it considered that all impact-pathways had been included, that it disagreed with the Applicant's approach to the in-combination methodology for certain air quality pollutants and requested a further update by the Applicant on this matter at D5.
- D.3.19 Several other IPs queried the approach to the methodology for the in-combination air quality assessment and the approach to identifying plans and projects specifically in relation to the air quality assessments. These are relevant to the in-combination assessment of effects on integrity. Further details of the matters raised during the Examination and the ExA's conclusions are provided in Section below.
- D.3.20 The following sections discuss the matters that were disputed during the Examination in relation to LSE for each of the sites listed in Section D2 above.

**Thames Estuary and Marshes SPA and Thames Estuary and Marshes Ramsar site – underwater noise**

- D.3.21 The Applicant's assessment [\[APP-487\]](#) identified potential disturbance effects from tunnel construction beneath the River Thames to the majority of qualifying features of the SPA and Ramsar site and FLL (HRAR Tables 6.1 and 6.2). However, the Applicant's modelling, described in HRAR paragraphs 6.2.89 to 6.2.91 of [\[APP-487\]](#) concluded that both noise on underwater feeding birds and particle velocity (affecting invertebrate prey distribution) would not be affected by tunnel construction. The Applicant concluded that noise and vibration would not be perceptible in the water column above the tunnel during construction when considered against background noise and therefore that there would be no potential project alone or in-combination effects with other plans or projects.
- D.3.22 NE [\[RR-0784\]](#) and [\[APP-099\]](#) and the PLA [\[REP1-269\]](#) and [\[REP3-217\]](#) both disputed the Applicant's conclusions of no LSE from this impact pathway alone and in-combination. NE noted [\[RR-0784\]](#) that the Applicant's submission did not fully consider how noise can affect birds' hearing underwater, the PLA [\[REP1-269\]](#) and [\[REP3-217\]](#) also noted that different birds would exhibit different feeding behaviour.
- D.3.23 In a technical note [\[REP2-009\]](#), the Applicant provided further evidence to support its conclusions that as tunnel noise would not be heard above background levels, there was no possibility of an effect.
- D.3.24 The ExA requested NE in writing (ExQ1 [\[PD-029\]](#)) to confirm whether the additional evidence was sufficient to confirm a conclusion of no LSE from this impact-pathway.
- D.3.25 In response, NE [\[REP4-324\]](#) contested that if noise could breach background levels, a pathway would exist and should be explored through the AA process. Nevertheless, NE considered that there was no risk of AEoI, and that the matter was a procedural point rather than an ecological risk. NE also considered that the Applicant had provided sufficient information in its HRAR to be able to conclude that there would be no AEoI from this impact-pathway.

- D.3.26 The PLA's position at D6 [\[REP6-159\]](#) (paragraph 5.2) remained that it considered the Applicant had responded in relation to effects on invertebrate prey, but not bird feeding behaviour.
- D.3.27 The ExA investigated this matter further in the RIES [\[PD-048\]](#) (QR4) to establish from the PLA and NE what qualifying features were potentially affected and whether sufficient information had been supplied by the Applicant to support its conclusions. The PLA did not respond to this question, but NE responded [\[REP8-154\]](#) to confirm that they considered the LSE to be a potential impact on bird feeding behaviour on the waterbird assemblage qualifying feature. NE also noted that it continued to disagree with the Applicant whether there was a LSE on the SPA and Ramsar site from this impact-pathway.
- D.3.28 In response to QR3 and QR5 in the RIES [\[PD-048\]](#), the Applicant [\[REP8-120\]](#) did not provide any further information to support its conclusions on this impact-pathway, but reiterated it considered sufficient information had been supplied in its HRAR [\[APP-487\]](#) and subsequent technical note (Annex C.8, [\[REP7-106\]](#)) to allow the SoST to undertake its AA.
- D.3.29 In the final SoCG between the Applicant and NE, NE maintained that the matter was best addressed at the AA stage but nevertheless, it also considered that an AEoI was unlikely. The Applicant [\[REP9a-122\]](#) also maintained its position that no LSE would arise from underwater noise. In its response to the Applicant's comments on the RIES [\[REP8-120\]](#), the PLA [\[REP9-295\]](#) noted no new information on underwater noise and vibration from tunnelling had been provided by the Applicant and it deferred the matter to NE in its capacity as ANCB.
- D.3.30 Considering the information before us and the views of the ANCB and PLA, the ExA is content that the conclusions of the assessment are agreed, the matter outstanding is that of a procedural nature.

**Thames Estuary and Marshes SPA and Thames Estuary and Marshes Ramsar site – visual disturbance**

- D.3.31 This potential impact pathway was raised by the PLA [\[REP1-269\]](#) as an additional requiring assessment for LSE. The Applicant's response [\[REP2-046\]](#) noted that this impact pathway is considered within its HRAR [\[APP-487\]](#) at paragraphs 6.2.29 to 6.2.33 and 6.2.94 to 6.2.106. No further representations were received from the PLA or other IPs on this matter.
- D.3.32 In response to the ExA's question in the RIES [\[PD-048\]](#), QR6], the PLA noted that the Applicant's Register of Environmental Actions and Commitments (REAC) within the Code of Construction Practice, First iteration of Environmental Management Plan [\[REP7-123\]](#) requires a 3m high noise-attenuation barrier to be installed that would also provide visual screening. The Applicant's HRAR [\[APP-487\]](#) noted that false cuttings and noise attenuation barriers for human receptors are integral to the project and therefore there was no scope for visual disturbance to birds using the foreshore. With this mitigation in place, the PLA therefore considered that there would be no effect from working on the foreshore in winter. No other IPs raised concerns in relation to this matter.
- D.3.33 The ExA is therefore content, on the basis of the information supplied, that there is no potential for LSE from visual disturbance due to the design of the Proposed Development in the vicinity of the SPA and Ramsar site. The ExA is also satisfied that there are other relevant measures secured by the Applicant's final REAC

[[REP7-123](#)] which would minimise impacts to these European sites, but have not been relied upon to reach a conclusion of no LSE.

#### **Thames Estuary and Marshes Ramsar site – nitrogen deposition – operation**

- D.3.34 The PLA [[REP1-269](#)] raised nitrogen deposition during operation as an impact-pathway as requiring assessment for LSE. The Applicant's response [[REP2-046](#)] noted that there were no intertidal habitats within the area affected by nitrogen deposition (within 200m of the Affected Road Network) due to the road being in tunnel at this point. No further representations were received from the PLA or other IPs on this matter.
- D.3.35 In response to the ExA's questions in the RIES (QR7, [PD-048](#)), the PLA noted that the critical load for nitrogen deposition at Thames Estuary and Marshes Ramsar site has reduced in the latest available data on the Air Pollution Information System from May 2023. The PLA noted that projects at an advanced stage of determination, however, did not require assessment to these standards by NE. This position is supported in paragraph 4.1.3 of NE's D1 response [[REP1-262](#)].
- D.3.36 NE in its response to the ExA's questions in the RIES (QR8, [REP8-154](#)) stated that it was satisfied with the Applicant's rationale for screening out an LSE for operation.
- D.3.37 No other IPs submitted representations on this matter.
- D.3.38 For the reasons demonstrated by the Applicant and taking into account the view of NE as the ANCB, the ExA is satisfied with the conclusion of no LSE from this impact-pathway.

#### **Thames Estuary and Marshes Ramsar site – air quality – construction**

- D.3.39 The Applicant's initial assessment [[APP-487](#)] concluded that there would be no LSE on the Ramsar site's qualifying features from changes in air quality during construction. Control of dust at source, through the CoCP and other control documents is identified as a measure integral to the design of the Proposed Development (but not included to address impacts on European sites) and therefore concluded that no impact-pathway exists from dust. In relation to the drafting of the CoCP, the ExA queried the Applicant's use of the phrase 'where practicable' (ExQ1, [[PD-029](#)]) and is satisfied with the Applicant's response [[REP4-194](#)] that a combination of control at source, monitoring, and compliance procedures through the REAC [[REP7-123](#)] will ensure that there is no impact pathway. However, the ExA has reviewed the 'where practicable' caveat in the CoCP and there are individual instances where for this reason, it has recommended a change to clarify that there must not be an inadvertent change that could lead to an impact pathway where it is necessary to secure that there is none.
- D.3.40 In response to matters raised by NE ([[APP-099](#)] and [[REP1-262](#), Annex G]) on the method used for its air quality assessment, the Applicant provided a 'without prejudice' update on air quality at D2 [[REP2-068](#)]. This presented the results of a further air quality assessment for nitrogen pollutants using NE's methodological approach as a sensitivity test. Section 5 of the Applicant's 'without prejudice' assessment [[REP2-068](#)] demonstrated a potential LSE from construction vehicle nitrogen dioxide emissions (NO<sub>x</sub>) on Thames Estuary and Marshes Ramsar site. No LSE were identified for either NH<sub>3</sub> (ammonia) or nitrogen deposition at this site.
- D.3.41 At D4, NE [[REP4-324](#)] confirmed agreement with the conclusions of no LSE from NO<sub>x</sub>, but it did not agree with the conclusions of no LSE from nitrogen deposition or

NH<sub>3</sub>. At D5 [\[REP5-109\]](#), NE explained that it did not agree with the conclusions of this 'without prejudice' assessment [\[REP2-068\]](#) as it ruled out potential LSE from ammonia despite the Proposed Development contributing 7% of the critical level during construction. NE considered all three pollutants have potential to have an AEol.

- D.3.42 The Applicant's D6 response [\[REP6-118\]](#) concluded that the sensitivity test demonstrated no material difference with its original HRA conclusions.
- D.3.43 An HRA Addendum was prepared for D8 [\[REP8-122\]](#) to update the assessment of air quality effects from vehicle emissions in light of NE's D5 submissions. The Applicant confirmed that this updated HRAR was not on a 'without prejudice' basis. This concluded (paragraph 5.1.8 and 5.1.9, [\[REP8-122\]](#)) that there was potential for an LSE from all three air quality pollutants (NH<sub>3</sub>, NO<sub>x</sub> and nitrogen deposition) during construction both alone and in-combination with other plans and projects.
- D.3.44 The ExA is therefore satisfied with the conclusion that this impact-pathway could lead to an LSE on Thames Estuary and Marshes SPA and Thames Estuary and Marshes Ramsar site.

#### **North Downs Woodlands SAC – air quality – operation**

- D.3.45 The Applicant's HRAR [\[APP-487\]](#) concluded no LSE from the Proposed Development alone on any of the qualifying features of North Downs Woodlands SAC.
- D.3.46 Several IPs (NE [\[REP1-262\]](#), CPRE Kent [\[REP1-222\]](#) and Tonbridge and Malling Borough Council [\[REP1-299\]](#) disputed this conclusion. NE [\[REP1-262\]](#) in their representation also noted that this also meant disagreement with the conclusions of no in-combination LSE during operation. The IPs raised disagreement in relation to the Applicant's methodology for determining air quality effects on North Downs Woodlands SAC.
- D.3.47 NE [\[REP1-262\]](#) queried whether the Applicant had accounted for all allocated developments (including both consented and unconsented developments) from Local Plans in its traffic modelling, and the use of 'inconsequential' NO<sub>x</sub> in the air quality modelling as both affect the conclusions of no LSE on North Downs Woodlands SAC.
- D.3.48 NE also noted that whilst this would mean some projects could be included within the assessment that do not end up being developed, this represented a more precautionary approach to the assessment. NE requested revisions to the methodology and that further modelling be completed [\[REP1-262\]](#).
- D.3.49 CPRE Kent [\[REP1-222\]](#) disputed the Applicant's methodology for the air quality assessment and the Applicant's conclusions. CPRE Kent similarly queried the developments included in the traffic modelling and the use of national growth factors instead of local plans and projects.
- D.3.50 The Applicant responded at D2 with a technical note appended to its SoCG with NE and a 'without prejudice' sensitivity test technical note on air quality and European sites [\[REP2-068\]](#) to address NE's position on the methodology and modelling. The results of the 'without prejudice' assessment indicated an LSE on this site from this impact pathway.

- D.3.51 At D6 [\[REP6-118\]](#) and reiterated at D8 [\[REP8-122\]](#), the Applicant concluded that there was potential for an LSE both alone and in-combination with other plans and projects.
- D.3.52 Based on the information provided during the Examination, the ExA is satisfied that this matter has been addressed through the Applicant's inclusion of North Downs Woodlands SAC in a revised AA at D8 [\[REP8-122\]](#).
- In light of the amended conclusions provided by the Applicant at D8 [\[REP8-122\]](#), and taking into account the reasoning set out above, the ExA considers that the Proposed Development is likely to have a significant effect from the impacts identified in Table D1 below on the qualifying features of the European sites identified in Section D2 when considered alone, or in combination with other plans or projects.
- D.3.53 The impact-pathways considered to give rise to LSE are summarised in Table D1 below.
- D.3.54 Taking into account the reasoning set out above, the ExA considers that the Proposed Development is likely to have a significant effect from the impacts identified in Table D1 on the qualifying features of the European sites identified when considered alone and in combination with other plans or projects.

#### **D.4 CONSERVATION OBJECTIVES FOR SITES AND FEATURES**

- D.4.1 The conservation objectives for the three European sites for which an LSE was initially identified by the Applicant at the point of the DCO application are included within Section 5.2 of the HRAR [\[APP-487\]](#) and within the relevant sections of the screening matrices [\[APP-488\]](#).
- D.4.2 The conservation objectives for North Downs Woodlands SAC were provided by the Applicant at D2 (Table 4.1, [\[REP2-068\]](#)).
- D.4.3 The Applicant also makes reference in its assessment [\[APP-487\]](#) and again in [\[REP2-068\]](#) to NE supplementary advice supporting the relevant conservation objectives.
- D.4.4 The Applicant noted in its screening matrices (Table E.3 [\[APP-488\]](#)) that no conservation objectives were available for Thames Estuary and Marshes Ramsar Site. Given the site largely overlaps with the Thames Estuary and Marshes SPA, the Applicant considered that the SPA conservation objectives were sufficient to support the assessment for both sites.
- D.4.5 The ExA sought clarification from NE in the RIES (QR9, [\[PD-048\]](#)) as to whether the approach of using the conservation objectives for Thames Estuary and Marshes SPA for Thames Estuary and Marshes Ramsar site was appropriate. NE confirmed its agreement at D8 [\[REP8-154\]](#) on the basis that the two sites have overlapping qualifying features and in the absence of any stated site-specific objectives for the Ramsar site.
- D.4.6 No other IPs raised matters in relation to conservation objectives during the Examination.

**Table D1: European sites and features for which LSE could not be excluded**

European site(s)	Qualifying Feature(s)	LSE from:
<b>Thames Estuary and Marshes SPA</b>	<p>Internationally important populations of regularly occurring Annex 1 species:</p> <p><i>Avocet Recurvirostra avosetta</i></p> <p>Hen Harrier <i>Circus cyaneus</i>.</p> <p>Internationally important populations of regularly occurring migratory species:</p> <p>Ringed Plover <i>Charadrius hiaticula</i></p> <p>Grey Plover <i>Pluvialis squatarola</i></p> <p>Dunlin <i>Calidris alpina alpina</i></p> <p>Knot <i>Calidris canutus islandica</i></p>	<p>Changes in underwater noise and vibration – tunnel construction only</p> <p>Changes in light levels (construction / operation)</p> <p>(Species using functionally linked land)</p> <p>Changes in noise and vibration –construction and operation</p> <p>Changes in visual disturbance – construction</p> <p>Change in recreational pressure - construction</p> <p>Changes in visual disturbance – operation</p> <p>Change in recreational disturbance – construction and operation</p>

European site(s)	Qualifying Feature(s)	LSE from:
	<p>Black-tailed Godwit <i>Limosa limosa islandica</i></p> <p>Redshank <i>Tringa totanus totanus</i></p> <p>An internationally important assemblage of waterfowl.</p>	
<b>Thames Estuary and Marshes Ramsar site</b>	<p><u>Non-breeding Ramsar Criterion 5:</u></p> <p>Waterfowl assemblage</p> <p><u>Ramsar Criterion 6:</u></p> <p>Ringed plover <i>Charadrius hiaticula</i></p> <p>Black-tailed godwit <i>Limosa limosa islandica</i></p> <p>Grey plover <i>Pluvialis squatarola</i></p> <p>Red knot <i>Calidris canutus islandica</i></p>	<p>Changes in noise and vibration – construction</p> <p>Changes in visual disturbance – construction</p> <p>Changes in noise and vibration – operation</p> <p>Changes in recreational pressure - operation</p> <p>Land take from site</p> <p>Changes in surface water quality and quantity – construction</p> <p>Changes in noise and vibration – underwater / above ground – tunnel construction only</p>

European site(s)	Qualifying Feature(s)	LSE from:
	<p>Dunlin <i>Calidris alpina alpina</i></p> <p>Common redshank <i>Tringa totanus totanus</i></p> <p><u>Ramsar Criterion 2:</u></p> <p>The site supports one endangered plant species and at least 14 nationally scarce plants of wetland habitats. The site also supports more than 20 British Red Data Book invertebrates</p>	
<b>North Downs Woodlands SAC</b>	<p><i>Asperulo-Fagetum</i> beech forests</p> <p><i>Taxus baccata</i> woods of the British Isles</p>	Change in air quality - vehicle emissions - operation
<b>Epping Forest SAC</b>	<p>Atlantic acidophilous beech forests with <i>Ilex</i> and sometimes also <i>Taxus</i> in the shrublayer (<i>Quercion roboretum</i> or <i>IliciFagenion</i>)</p>	Change in air quality - vehicle emissions - operation



European site(s)	Qualifying Feature(s)	LSE from:
	Stag beetle <i>Lucanus cervus</i>	

## **D.5 FINDINGS IN RELATION TO ADVERSE EFFECTS ON INTEGRITY**

D.5.1 The European sites and qualifying features identified in Table D1 above were further assessed by the Applicant to determine if they could be subject to AEol from the Proposed Development, either alone or in-combination. The assessment of AEol was made in light of the conservation objectives for the European sites [[APP-487](#)] [[REP8-122](#)].

D.5.2 Based on the information provided and discussed above, the ExA is satisfied that the correct impacts have been assessed, leading the correct evaluations of AEol. This section discusses the conclusions with respect to AEol for each site.

### **Overall approach to in-combination air quality methodology**

D.5.3 The Applicant's approach to the in-combination air quality assessment was set out in Section 7.2 [[APP-487](#)] and subsequently updated in [[REP8-122](#)] following advice from NE.

D.5.4 Several IPs disputed the Applicant's approach to the methodology for the in-combination air quality assessment which is relevant to all sites considered in the Applicant's Stage 2 assessment.

D.5.5 The Applicant's approach states that projects included in the in-combination assessment were taken from ES Chapter 16: Cumulative Effects Assessment [[APP-154](#)]. The short list of projects used for the assessment is detailed in ES Appendix 16.2 [[APP-484](#)] and their locations are depicted on ES Figure 16.2 [[APP-330](#)]. The HRAR also describes how the Applicant included permitting information gathered from the Environment Agency (EA) in July 2020 to inform the list of projects and plans considered.

D.5.6 Several other IPs including Tonbridge and Malling Borough Council [[REP3-214](#)] and CPRE [[REP1-222](#)] also submitted representations on the Applicant's approach to determining which projects to include in the assessment. These concerns included that:

- traffic generating projects not operational at the opening year (2030) for the Proposed Development did not appear to be included and thus raised queries as to whether a worst-case year had been adopted for the assessment;
- the methodology used a general national growth figure for traffic rather than a more locationally specific growth including traffic figures for developments allocated for in Local Plans and as such may not be sufficiently precautionary; and
- the methodology excludes consideration of any non-road-based nitrogen emitting developments not controlled by an EA permit (such as small agricultural sites held on the local planning portal that could have locally important emissions).

D.5.7 Additionally, NE considered [[REP1-262](#)] that the air quality assessment [[APP-487](#)] had not considered NOx and ammonia separately in its assessment and had not addressed nitrogen deposition irrespective of NOx.

D.5.8 These matters were addressed in responses by the Applicant at D2, in the form of a technical note on air quality [Annex C.12, [REP2-008](#)], and a 'without prejudice' update to its air quality assessment [[REP2-068](#)].

- D.5.9 In light of the concerns raised on the approach to the selection of projects for the in-combination assessment, the ExA also asked the Applicant to confirm the list of projects used for the HRAR in ExQ1 [PD-029]. The Applicant responded [REP4-194] to explain that the approach to the selection of projects was governed by the spatial extent of the impact pathways and also listed those plans and projects considered to contribute to nitrogen deposition but not via vehicle emissions.
- D.5.10 NE provided a response to ExQ1 along with its review of the Applicant's technical note [REP2-008] and 'without prejudice' assessment at D5 [REP5-109].
- D.5.11 NE [REP5-109] considered that the Applicant's 'without prejudice' assessment provided at D2 [REP2-068] addressed the matter of pollutants, but concerns remained [REP5-109] about whether the approach overall to the in-combination assessment was suitably precautionary.
- D.5.12 The ExA requested that the Applicant supply an updated HRA document in ExQ2 [PD-040] to bring together all of the outstanding matters and to provide a plan to resolve them. This included, specifically, a review of the in-combination methodology and consequential conclusions. Noting that the Applicant was preparing further traffic modelling data for D6a, the ExA also requested in the RIES (QR10, QR11: [PD-048]) for the Applicant and local authorities to confirm whether any of the updates were likely to have a bearing on the HRA.
- D.5.13 Following NE's advice on the methodology provided at D5 [REP5-109], the Applicant's submissions at D8 [REP8-122] provided its final assessment of air quality.
- D.5.14 The Applicant's response [REP8-120] to the ExA's questions in the RIES [QR11, PD-048] confirmed that none of the transport modelling submitted to the Examination after D6 affected the assessment of effects within the HRA.
- D.5.15 The Applicant's conclusions for each site where this impact-pathway has potential for AEol are presented in Chapter 20 of this Report.
- D.5.16 NE's final comments on the Applicant's methodology were provided in its SoCG with the Applicant at D9a [REP9a-014]. This confirmed that NE deemed that the Applicant's approach to the non-traffic in-combination assessment was satisfactory, but that NE maintained its position that the Applicant's approach did not recognise the defined local plan allocations and was not as precautionary as required by the Habitats Regulations.
- D.5.17 [REP8-154] asserts that NE does not agree with the Applicant's approach and was unlikely to reach agreement on this point by the end of the Examination.
- D.5.18 Based on the findings of the Examination, the ExA is satisfied that an assessment of AEol from the Proposed Development in combination with other plans or projects can be based on this information and that no other plans or projects are required to be taken into account.

## **Mitigation**

- D.5.19 The Applicant's HRAR identified mitigation measures in Section 7.1 [APP-487], [REP8-122]. Mitigation to provide replacement functionally linked habitat is identified to meet the conclusions of no AEol for Thames Estuary and Marshes SPA and Thames Estuary and Marshes Ramsar site and this is described further below.

- D.5.20 Mitigation measures for effects to these sites are secured through two documents: a Register of Environmental Actions and Commitments (REAC) within the Code of Construction Practice [[REP9-184](#) to [REP9-196](#)] and, for the habitat enhancement areas for FLL, the Design Principles document [[REP9-227](#)].
- D.5.21 The Applicant asserted that mitigation was not required to reach the conclusions of no AEol from operational air quality on North Downs Woodlands SAC [[REP8-122](#)]. However, the Applicant has proposed 'without prejudice' mitigation measures in relation to Epping Forest SAC [[APP-487](#)]. These measures take the form of a speed reduction westbound between J27 and J26 of the M25. The examination of this matter is described further below.

### **Sites for which the Applicant concluded AEol can be excluded**

- D.5.22 The Applicant's HRAR [[APP-487](#)] [[REP2-068](#)] [[REP8-122](#)] concluded that the Proposed Development would not result in AEol from any impact-pathway for any of the European sites considered either alone, or in-combination with other plans and projects:
- Thames Estuary and Marshes SPA;
  - Thames Estuary and Marshes Ramsar site;
  - North Downs Woodlands SAC; and
  - Epping Forest SAC.
- D.5.23 Several of the Applicant's conclusions of no AEol in relation to these European Sites and their qualifying features were disputed by IPs and were discussed throughout the Examination. An account of the Examination of these matters is set out in the following paragraphs.

### **Thames Estuary and Marshes SPA and Thames Estuary and Marshes Ramsar site – air quality – construction**

- D.5.24 A description of the European site and its qualifying features, and the potential effects resulting from the Proposed Development, are provided in HRAR paragraphs 5.3.7 to 5.3.24 and Section 7.2 respectively [[APP-487](#)].
- D.5.25 The Applicant's HRAR provided an assessment which addressed the potential for AEol resulting from changes to air quality from vehicle emissions during construction. NE [[REP5-109](#)] accepts that this impact would occur from construction traffic only with no impact from operational traffic. The ExA agree with this position for both project-alone and in-combination impacts.
- D.5.26 The Applicant predicted [[REP2-068](#)] that an increase in NO<sub>x</sub> during the construction of the Proposed Development would result in an exceedance of the NO<sub>x</sub> critical level at both sites during the first two years of construction.
- D.5.27 Due to the limited time during which effects would occur and the small area of qualifying feature habitat involved, the Applicant concluded that the 'maintain' target for air quality for the SPA / Ramsar site would not be affected by the Proposed Development and therefore that the construction of the Proposed Development would not undermine the site's conservation objectives. The Applicant concluded that the Proposed Development either alone or in-combination with other plans or projects would not result in AEol.

- D.5.28 NE [\[REP5-109\]](#) did not agree to the Applicant's conclusions on ammonia and nitrogen deposition and therefore that both should be considered in the assessment of effects on integrity, alone and in-combination.
- D.5.29 The ExA also notes comments by NE in its D5 response [\[REP5-109\]](#), that the site is designated for its bird interest and that the consideration was therefore whether higher nitrogen would cause a shift in vegetation patterns at the site such that it was less favourable for use by these bird qualifying features. NE considered that other sources of nitrogen, such as sedimentation or grazing, were more likely to cause a change in vegetation than atmospheric nitrogen from the Proposed Development, particularly given the 5-year construction period duration. NE concluded therefore that provided further evidence of nitrogen deposition and NH<sub>3</sub> were provided in the assessment, that AEol from this impact pathway could be excluded. The ExA notes that the Applicant provided this additional assessment in light of NE's comments in [\[REP8-122\]](#).
- D.5.30 In response to the RIES [\[PD-048, QR12\]](#) on whether mitigation measures would be required to address AEol from air quality during construction on Thames Estuary and Marshes SPA and Thames Estuary and Marshes Ramsar site, the Applicant responded to highlight that its updated assessment [\[REP8-122\]](#) concluded no AEol for both sites and that mitigation measures are not necessary in drawing this conclusion.
- D.5.31 NE confirmed [\[REP9A-014\]](#) that it was satisfied with the Applicant's conclusions in relation to air quality effects on Thames Estuary and Marshes SPA and Ramsar site in light of the Applicant's revised assessment [\[REP8-122\]](#).
- D.5.32 No other IPs have commented on or disputed the conclusions of no AEol from this impact pathway.
- D.5.33 On the basis of the above information and taking into account the position of Natural England, the ExA is satisfied that this LSE pathway will not result in AEol to the European site from the Proposed Development alone or in-combination with other plans and projects.

**Thames Estuary and Marshes SPA / Thames Estuary and Marshes Ramsar site – project alone – construction and operation**

- D.5.34 A description of the European site and its qualifying features, and the potential effects resulting from the Proposed Development, are provided in paragraphs 5.3.7 to 5.3.24 and Section 7.2 respectively of the Applicant's HRAR [\[APP-487\]](#).
- D.5.35 The Applicant's HRAR [\[APP-487\]](#) provided an assessment which addressed the potential for AEol resulting from:
- changes in surface water quality and quantity (Ramsar site only); and
  - disturbance to key species using FLL (noise, recreational pressure, visual disturbance).
- D.5.36 The Applicant considered effects on the site itself and on FLL. Agreement on what should constitute FLL was reached through the Applicant's Evidence Plan process with NE, details of which were provided in Appendix C to the HRAR [\[APP-487\]](#), Appendix C, Paragraph C3.9]. No IPs disputed the definition of what was FLL during the course of the Examination.

- D.5.37 To address the potential for disturbance to Applicant has proposed mitigation [[APP-487](#)] in the form of two parcels of land within the Order Limits at Coalhouse Point and at the Metropolitan Police Firing Range to provide wetland habitat for qualifying bird species displaced from FLL by the Proposed Development. These were illustrated on the Environmental Masterplan [[APP-159](#) to [APP-168](#), [REP3-098](#) to [REP3-101](#), and [REP4-124](#) to [REP4-129](#)] and secured through the Design Principles document [[APP-516](#), [REP3-110](#), [REP4-146](#) and [REP6-046](#)].

***Comments on timing of wetland creation***

- D.5.38 Kent County Council [[REP1-243](#)] agreed with the Applicant's proposals for the firing range site subject to the timing of works being secured to avoid sensitive times of year for birds. Essex Wildlife Trust [[REP1-227](#)] and NE [[REP1-262](#)] also highlight construction timing as an important consideration. Essex Wildlife Trust [[REP1-227](#)] also noted that mitigation should be fully ecologically functional prior to construction of the Proposed Development.
- D.5.39 ExQ1 [[PD-029](#)] asked whether seasonal work restrictions would affect the creation of habitat. The Applicant [[REP4-185](#)] considered that if the over-wintering and breeding seasons were avoided then there would not be a sufficient time window to implement the habitat creation.
- D.5.40 NE [[REP5-109](#)] noted the difficulties in seasonal restrictions to work but advised it expected that phasing work to periods when disturbance would be less impactful on breeding and non-breeding birds should be further explored. NE's D6 response [[REP6-152](#)] identified that it had been discussing the wetland at Coalhouse Point and the timing of the works with the Applicant.
- D.5.41 The Applicant [[REP4-185](#)] considered that, in terms of implementing the habitat creation, once scrapes and ditches are filled they would be ecologically functional and referred back to the outline Landscape and Ecology Management Plan [[REP4-140](#)] for details of the management typologies. The ExA notes that these documents do not set out timeframes for such work to be undertaken and completed.
- D.5.42 [REP7-187](#) was submitted by the Applicant in response to NE's D6 response. In [REP8-154](#) NE stated that following the Applicant's D7 submission, they were content that previous concerns in relation to timings of works were resolved and '*Natural England is now satisfied that there is unlikely to be an adverse impact to breeding birds as a result of the proposed timing of mitigation measures*'. Breeding birds associated with the SSSI were not using the areas of the site in close proximity to the Milton Compound and as such adverse impacts were unlikely as a result of the proposed timing mitigation. This mitigation is detailed in HR002 of the REAC [[REP9-184](#)].
- D.5.43 [REP8-154](#) also noted NE's view that a period of 10 years is required for monitoring of the proposed mitigation location at Coalhouse Point. It noted that it is content with all other matters relating to Coalhouse Point. This was communicated through the final SoCG [[REP9a-014](#)].
- D.5.44 In response to the RIES [[REP8-120](#), QR13], the Applicant confirmed that the wetland habitat creation would be constructed prior to the main works at the North Portal site, as secured through commitment HR010 of the REAC. NE confirm their D9 submission and in their final SoCG [[REP9A-015](#)] that following a number of technical notes and meetings (as noted in the SoCG) that the information was '*sufficient to for it to be confident in the conclusions of the HRA on this matter*'.



[[REP9A-122](#)] noted the reasoning for the conclusion that AEoI can be ruled out include;

- The affected area is grazed land reducing potential for nitrophilic grasses to take over; and
- The impact is temporary, occurring during the construction phase only.

***Design of a water supply and control structure***

- D.5.45 The Marine Management Organisation (MMO) [[APP-098](#)] and Thurrock Council [[REP1-281](#)] both noted they were in discussion with the Applicant on the proposed water control structures required to provide water for the proposed wetland at Coalhouse Point.
- D.5.46 Provision for water control structures at Coalhouse Point is secured as part of the licensable marine activities in Schedule 15 of the draft DCO [[REP5-024](#)]. NE stated [[REP1-262](#)] that it was unable to agree with the conclusion of AEoI on FLL for Thames Estuary and Marshes SPA without further information on the deliverability and viability of Coalhouse Point.
- D.5.47 The EA [[REP1-225](#)] described how it has worked with the Applicant to secure a supply of water for a proposed tidal exchange structure at Coalhouse Point needed to create the required wetland habitat. It expressed a preference for the Applicant to use an existing drain for this water supply to avoid disturbance to existing flood defence embankments. NE [[REP3-193](#)] advised that water should be sourced from a tidal exchange structure in the sea wall to provide a saline water supply. At D5 [[REP5-034](#)] the choice of a water control structure was still a matter 'under discussion' with the EA.
- D.5.48 The Applicant supplied further information on the licensing route for this water supply in [[REP4-098](#)] and the proposed design of a new water level control inlet structure through the existing flood defences in Annex C.8 of its SoCG [[REP5-034](#)]. In [[REP4-194](#)] it considered this to be a feasible measure and noted that licensing would be determined as part of detailed design and informed by water demand estimates. It noted that the alternative of using existing infrastructure within Coalhouse Fort moat would require a legal agreement with Thurrock Council but that an agreement may not be achieved within the DCO timescales.
- D.5.49 The Applicant's Flood Risk Assessment at D6 [[REP6-102](#)] concluded that the new wetland would not have an adverse impact on flooding elsewhere, and noted that an inspection and maintenance plan would be devised at detailed design to address residual risks of the control structure failing. NE noted in its D6 response [[REP6-152](#)] that it continued to work with the Applicant on the mitigation proposals.
- D.5.50 In its D6 response, and to address actions raised following ISH9 [[EV-075](#)], NE noted that works to install the water control structure would have potential to disturb wintering SPA birds using the foreshore. It had indicated further amendments to existing mitigation measures (specifically REAC commitment HR011) are required.
- D.5.51 [[REP8-154](#)] submitted by NE noted the view that a period of 10 years is required for monitoring of the proposed mitigation location at Coalhouse Point for the ecological measures but that this should be extended beyond 10 years for the operation of the regulated tidal exchange gate. It noted that it is content with all other matters relating to Coalhouse Point.

- D.5.52 At D9, NE commented on the Applicants D8 submissions [REP9A-122], noting changes to REAC commitment HR011 regarding seasonality of works and confirmed no further comments on QR13 from the RIES. NE confirm in their final SoCG [REP9A-015] that following a number of technical notes and meetings (as noted in the SoCG) that the information was ‘*sufficient to for it to be confident in the conclusions of the HRA on this matter*’.
- D.5.53 On the basis of the information set out above and taking into account the position of Natural England, and the mitigation proposed, the ExA is satisfied that this LSE pathway will not result in AEoI to the European site from the Proposed Development alone or in-combination with other plans and projects.

#### **North Downs Woodlands SAC – vehicle emissions – operation**

- D.5.54 A description of the European site and its qualifying features is provided in paragraphs 4.3.9 to 4.3.11 of the Applicant’s assessment of air quality effects on European sites [REP8-122]. The Applicant provided an assessment of air quality AEoI on North Downs Woodlands SAC at D2 [REP2-068] and D8 [REP8-122].
- D.5.55 A description of the matters discussed during the Examination in relation to the Applicant’s overall approach to air quality assessment is relevant to the assessment of AEoI on North Downs Woodlands SAC and is covered above.
- D.5.56 The Applicant’s assessment [REP2-068, REP8-122] addressed the potential for AEoI resulting from changes to air quality from vehicle emissions during operation. NE [REP5-109] accepts that this impact would occur from operational traffic only with no impact from construction traffic. The ExA agrees with this position for both project alone and in-combination impacts.
- D.5.57 At D5 [REP5-109], NE stated it disagreed with the Applicant’s ‘without prejudice’ conclusions [REP2-068] as it considered:
- The full footprint of nitrogen deposition exceedance had not been calculated;
  - the impact of NH3 on integrity had not been assessed; and
  - the in-combination assessment did not address the full extent of traffic from in-combination plans and projects, or appropriately “non-road” developments.
- D.5.58 The ExA notes that NE nevertheless considered [REP5-109] that it was likely to be able to agree to a conclusion of no AEoI, because there are no SAC qualifying features present within 200m of the Affected Road Network (ARN) and no plans to extend SAC qualifying features (*Asperulo-Fagetum* beech forests and *Taxus baccata* woods) into this area of the SAC.
- D.5.59 The Applicant’s updated assessment at D8 [REP8-122] addresses NE’s concerns in providing an assessment for each nitrogen pollutant and in providing an in-combination assessment that considered non-road development, but maintained its position that its approach to the in-combination assessment was sufficiently precautionary. The Applicant concluded no AEoI would occur either alone or in-combination with other plans or projects.
- D.5.60 On the basis of the Applicant’s updated assessment at D8 [REP8-122], NE confirmed in its SoCG [REP9A-014] that while it still considered that the Applicant’s overall in-combination approach was not as precautionary as required under the Habitats Regulations, that the air quality information supplied by the Applicant was sufficient for it to agree with the conclusions of no AEoI either alone or in-combination with other plans and projects.



- D.5.61 On the basis of the above information and taking into account the position of NE, the ExA is satisfied that this LSE pathway will not result in AEol to North Downs Woodlands SAC from the Proposed Development alone or in-combination with other plans and projects.

### **Epping Forest SAC – vehicle emissions – operation**

#### ***Proposed Development alone***

- D.5.62 A description of the European site and its qualifying features is provided in paragraphs 5.3.25 to 5.3.27 and Appendix D of the Applicant's assessment of air quality effects on European sites [APP-487]. The Applicant provided an assessment of air quality effects on AEol on Epping Forest SAC in [APP-487], updated at D2 [REP2-068] and D8 [REP8-122].
- D.5.63 A description of the Applicant's overall approach to air quality assessment is relevant to the assessment of AEol on Epping Forest SAC and is covered above.
- D.5.64 The Applicant's assessment [APP-487, REP8-122] addressed the potential for AEol resulting from changes to air quality from vehicle emissions during operation. NE [REP5-109] accepts that this impact would occur from operational traffic only with no impact from construction traffic. The ExA agrees with this position for both project-alone and in-combination impacts.
- D.5.65 The Applicant used its air quality model to predict where increases of more than 1% of the critical level or load for the three pollutants identified as requiring assessment by NE (NO<sub>x</sub>, NH<sub>3</sub> and nitrogen deposition) were likely to occur.
- D.5.66 Concentrations of NO<sub>x</sub> and ammonia at Epping Forest were identified [REP8-122] as already exceeding the critical level without the Proposed Development in place. The Applicant's surveys also identified qualifying habitat (Atlantic acidophilous beech forests with *Ilex* and sometimes also *Taxus* in the shrub layer (*Quercion robori-petraeae* or *IlliciFagenion*) and stag beetle (*Lucanus cervus*)) was present within 200m of the ARN but did not identify any nitrogen sensitive species were present. The Applicant concluded that historically high concentrations of NO<sub>x</sub> and nitrogen deposition had led to a loss of nitrogen sensitive species in the areas within 200m of the ARN and thus that the area would be resilient to further degradation. No change in species composition were therefore considered to occur with the Proposed Development in place. The Applicant also noted that the Site of Special Scientific Interest (SSSI) unit for the area of SAC affected by the Proposed Development is considered by NE in its most recent condition assessment to be 'unfavourable recovering'.
- D.5.67 [REP8-122, Table 6.5] summarises the Applicant's conclusions in relation to Epping Forest SAC. It identifies that with the Proposed Development in place, exceedances of the critical level thresholds for NO<sub>x</sub>, NH<sub>3</sub> and nitrogen deposition will occur for a four-year duration. However, it noted that the conservative approach taken to the modelling, which assumes no change in nitrogen deposition between the base year (2016) and opening year (2030), did not take account of the anticipated improvements in vehicle technology and consequent reduction in emissions, and that the position with the Proposed Development in place is therefore likely to be better than predicted.
- D.5.68 [REP8-122], Table 6.6 identifies the proportions of the site considered to be affected by increases in NO<sub>x</sub>, NH<sub>3</sub> and nitrogen deposition and concludes the area affected would be very small (less than 1% of the SAC as a whole, between 0.17 and 1.10%

of the qualifying habitat) and the contribution of the project to the overall exceedance of the critical load also very small (0.5%) with the Proposed Development in place (the 'do something' scenario).

- D.5.69 As a result, no project alone AEoI were concluded from this impact pathway. This position was maintained in its final SoCG with NE at D9A [\[REP9A-014\]](#).

***Proposed Development In-combination with other plans and projects***

- D.5.70 The Applicant's in-combination assessment for Epping Forest SAC is summarised in Table 6.8 [\[REP8-122\]](#). This concludes that other plans and projects made no additional change to NO<sub>x</sub> or NH<sub>3</sub> and therefore the in-combination effect of these pollutants was the same as the project alone position.

- D.5.71 The Applicant therefore also concluded no AEoI on Epping Forest SAC in-combination with other plans and projects.

**Examination matters**

- D.5.72 In its HRAR [\[APP-487\]](#), the Applicant explained that NE disagreed with its conclusions for Epping Forest SAC. The Applicant submitted a 'without prejudice' mitigation proposal within its HRAR [\[APP-487\]](#) of a reduced speed limit on the M25 westbound between Junctions 26 and 27 for four years following completion of the construction phase and until the total emissions of NO<sub>x</sub> with the Proposed Development fall below the total emissions at opening year without the Proposed Development in place. It stated that NE considered that mitigation was needed to reach the conclusions of no AEoI but that this was not the position of the Applicant.

- D.5.73 NE's view [\[RR-0784, APP-099, REP5-109\]](#) is that the SAC, in its current condition, already exceeds the critical level for nitrogen deposition and the critical level for ammonia. The supplementary advice that supports the conservation objectives for the site is to:

*"Restore as necessary, the concentrations and deposition of air pollutants to at or below the site-relevant Critical Load or Level values given for this feature of the site on the Air Pollution Information System".*

- D.5.74 NE further considered that the reason for the low-quality habitat and lack of nitrogen sensitive species identified by the Applicant's surveys are a result of long-term pollution at the site. It further considered that this pollution is hindering the recovery of the SAC and thus its ability to meet its conservation objectives to 'restore' the site to below its critical levels or loads would be further affected with the addition of the Proposed Development.

- D.5.75 NE considered that the 'without prejudice' mitigation identified by the Applicant would be effective in addressing the effect on integrity, subject to securing the measure through the Applicant's REAC [\[APP-099, REP5-109\]](#). NE suggests that this mitigation, along with monitoring of NO<sub>x</sub> and NH<sub>3</sub> (and calculations of Ndep) in accordance with a monitoring plan, should also remain in place if concentrations remain above pre-operational values. With this in place, NE would agree to a conclusion of no AEoI on the qualifying features of Epping Forest SAC.

- D.5.76 In its DL5 response [\[REP5-109\]](#), NE also noted the uncertainty in the assessment arising from recent government announcements on the phasing out of petrol and diesel cars and that this could change the length of time that mitigation was required for all pollutants.

- D.5.77 In ExQ2 [\[PD-040\]](#), the ExA therefore asked the Applicant to confirm whether the government's proposed delay to the ban on petrol and diesel cars would affect the nature or duration of mitigation measures. The Applicant [\[REP6-117\]](#) responded that the changes would have no implications to its air quality modelling, conclusions or proposed monitoring. It continued to maintain that no mitigation was required to reach a conclusion of no AEol for this site [\[REP6-118\]](#).
- D.5.78 NE maintained [\[REP8-154\]](#) that its proposal for monitoring and feedback would provide the certainty required by the Habitats Regulations to conclude the project would not result in an adverse effect on the integrity of the Epping Forest SAC. It also noted that this approach would address concerns surrounding fleet composition and government policy.
- D.5.79 The ExA investigated the Applicant's position on the implementation of the mitigation through questions in the RIES. The ExA asked the Applicant [\[PD-048, QR21\]](#), what concerns it had in relation to the implementation of the speed limit measure. The ExA also asked [\[PD-048, QR22\]](#) whether the Proposed Development would prevent or slow the restoration of site-specific critical levels and critical loads with reference to the Dutch Nitrogen Case<sup>3</sup> and the implications for the Applicant's conclusions.
- D.5.80 The Applicant's response [\[REP8-120\]](#) was that it had no concerns with the implementation of a speed limit, other than it did not consider it to be necessary. It noted that if the SoST were to require the speed limit to be implemented, it could also require monitoring of ammonia and extension of the timeframe of the speed limit if agreement were not to be reached with NE.
- D.5.81 In relation to the Dutch Nitrogen Case, the Applicant [\[REP8-120\]](#) stated that NE advice was to consider each project on a case-by-case basis and it should not be assumed that all sites with existing exceedances should be considered as being subject to an adverse effect where a project predicts further exceedance.
- D.5.82 The final position of the Applicant and NE is set out in its SoCG at D9A [\[REP9A-014\]](#), showing the Applicant and NE did not agree a conclusion of no AEol, the need for mitigation measures or a monitoring plan.
- D.5.83 Taking the positions of both the Applicant and NE into account, ExA notes that the Applicant has not provided evidence that would entitle the SoST to dismiss NE's view that there would be an AEol at Epping Forest SAC arising from vehicle emissions in operation. The ExA also notes the Applicant's preparation of what appears in-principle to be an operable and effective mitigation measure. By reducing running speeds from 70mph to 60mph for four years between M25 Junctions 27 and 26 westbound, it is agreed between the Applicant and NE that an AEol can most likely be excluded. It is equally agreed with monitoring in place, any possibility that this control measure might need to be extended can also be provided for. A draft REAC measure is proposed as the means to implement this.
- D.5.84 The ExA recommends that the draft REAC measure broadly as proposed by the Applicant should be included in the REAC before the DCO is made and the means to achieve this is discussed further in the DCO Chapter of this Report. However, the ExA notes that it is possible that traffic emissions are changing as low emission vehicles become more widely represented in the road fleet mix and internal

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<sup>3</sup>C-293/17 and C-294/17 Coöperatie Mobilisation for the Environment UA and Others v College van gedeputeerde staten van Limburg and Others

combustion engine vehicles are withdrawn from service. The duration of the construction period is such that this dynamic position might reduce or remove the possibility of air quality effects on the Epping Forest SAC amounting to an AEol. For this reason, the ExA proposes minor changes to the draft REAC measure advanced by the Applicant, with a view to ensuring that that a reduced speed limit is not imposed if it is not required at the time and that the extent and duration of the proposed speed limit reduction is contained to the minimum extent. The ExA recommends an annual monitoring process to this end.

### **AEol Assessment Outcomes – Summary**

- D.5.85 The Applicant's HRAR [\[APP-487, REP8-122\]](#), concluded that AEol can be excluded on Thames Estuary and Marshes SPA and Thames Estuary and Marshes Ramsar site from the Proposed Development alone, or in-combination with other plans and projects. These conclusions were agreed with the ANCB [\[REP9a-014\]](#).
  
- D.5.86 The proposals for mitigation in the form of habitat creation at Coalhouse Point, for effects on Thames Estuary and Marshes SPA and Thames Estuary and Marshes Ramsar site were also agreed with the ANCB, PLA and EA. The agreement to these measures includes agreement to the size, location and principles for the water supply needed to provide the appropriate replacement habitat.
  
- D.5.87 Based on the findings of the Examination, the ExA is therefore satisfied that AEol on all qualifying features of Thames Estuary and Marshes SPA and Thames Estuary and Marshes Ramsar site can be excluded through the mitigation provisions contained within the REAC, CoCP [\[REP9-184 to REP9-196\]](#), Design Principles [\[REP9-227\]](#) and secured in the Deemed Marine Licence (Schedule 15, [\[REP10-005\]](#)).
  
- D.5.88 As described above, NE's position is that the Proposed Development would give rise to a LSE from underwater noise on the bird qualifying features of Thames Estuary and Marshes SPA and Thames Estuary and Marshes Ramsar site but that this would not result in AEol. The ExA agrees with NE that this is a procedural, not an ecological, matter and are therefore satisfied that this impact-pathway will not result in an AEol.
  
- D.5.89 The Applicant's assessment of air quality on European sites [\[REP8-122\]](#) also concluded that AEol could be excluded on North Downs Woodlands SAC (operation) and Thames Estuary and Marshes SPA and Thames Estuary and Marshes Ramsar site (construction) from the Proposed Development alone or in-combination with other plans and projects.
  
- D.5.90 The ExA notes the comments of NE in its final SoCG with the Applicant [\[REP9A-014\]](#) in relation to the Applicant's conclusions on these sites. NE maintains that while it is satisfied that the air quality information is sufficient alongside other evidence within the Applicant's assessment, it considered that the Applicant's approach does not sufficiently recognise the local importance of defined local plan allocations and is not as precautionary as would be required under the Habitats Regulations. Nevertheless, the ExA notes that in its final SoCG with the Applicant NE is satisfied that there is sufficient information in the Applicant's HRAR to agree to its conclusions of no AEol for Thames Estuary and Marshes SPA, Thames Estuary and Marshes Ramsar site and North Downs Woodlands SAC as there are other factors that mean AEol are unlikely to occur. The ExA therefore agrees with NE's position for the reasons that it states.

- D.5.91 The ExA has found that an AEoI from the Proposed Development cannot be excluded beyond reasonable scientific doubt for Epping Forest SAC. It considered however, that the 'without prejudice' mitigation identified by the Applicant will, with amendments to ensure that the extent and duration of controls are limited to that which is necessary at the time, ensure that there is no AEoI.

## **D.6 HRA CONCLUSIONS**

- D.6.1 The Proposed Development is not directly connected with, or necessary to, the management of a European Site, and therefore the implications of the project with respect to adverse effects on potentially affected sites must be assessed by the SoST.
- D.6.2 Four European Sites and their qualifying features were considered in the Applicant's assessment of LSE:
- Thames Estuary and Marshes SPA;
  - Thames Estuary and Marshes Ramsar site;
  - North Downs Woodlands SAC; and
  - Epping Forest SAC.
- D.6.3 The methodology and outcomes of the Applicant's screening for LSE on European sites were subject to discussion and scrutiny. However, the ExA is satisfied that the correct European Sites and qualifying features have been identified for the purposes of assessment. The ExA is also satisfied that all potential impacts which could give rise to LSEs have been identified.
- D.6.4 The ExA's findings are that, subject to the mitigation measures to be secured in the DCO, AEoI on Thames Estuary and Marshes SPA and Thames Estuary and Marshes Ramsar site from the Proposed Development when considered alone or in combination with other plans or projects can be excluded from the impact-effect pathways assessed.
- D.6.5 Turning to the North Downs Woodlands SAC and Epping Forest SAC and their qualifying features, matters in relation to air quality effects require to be addressed in these conclusions. The Applicant's methodology for assessing air quality effects has been subject to scrutiny during the Examination.
- D.6.6 In relation to the North Downs Woodlands SAC, the ExA notes the position of NE that there are no qualifying features close to the ARN that would be sensitive to nitrogen pollution. It follows that the ExA is satisfied that there is no potential for AEoI on North Downs Woodlands SAC either alone or in combination with other plans and projects.
- D.6.7 In relation to Epping Forest SAC and its qualifying features, the ExA finds that AEoI from air quality cannot be excluded without consideration of mitigation and monitoring.
- D.6.8 In terms of mitigation, the Applicant has offered without prejudice a 4-year operational speed reduction from 70 mph to 60mph in the westbound direction between Junctions 27 and 26 as a means to reduce traffic air emissions sufficiently to exclude this AEoI. Table 3.2 of SoCG Annex C7 [[REP9A-014](#)] frames a draft REAC commitment that provides for the operational delivery of this measure, based on an equivalent measure for air quality speed reduction between Junctions 3 and 4 of the M2 (TB025). The ExA is content in-principle to recommend this measure to the SoST to address the outstanding disagreement between the Applicant and NE

on this point. However, it will be important to ensure that the speed limit for this section of the M25 and for a 4-year period of operation is not imposed without a clear understanding of its necessity in the air quality context that is applicable at the relevant time. Further, it should not be applied for any greater geographic or temporal extent than is required to achieve the necessary outcome.

- D.6.9 In this regard, it should be noted that this AEol finding is made in relation to the data before the ExA now, but in a dynamic context. The motive power and emissions profile of the vehicle fleet using the strategic road network is changing as electric and low emission vehicles are added to it and internal combustion engine vehicles are removed from it. This is a change, the pace and effect of which, the Applicant does not directly control, but which may contribute towards a reduction in the adverse effects arising from traffic air emissions that have been considered in this Examination, during the time-period between consent for and commissioning of the LTC, or during the operational period, or both.
- D.6.10 It is possible that by the time of the first operational year of the LTC, a combination of air quality modelling and monitoring may lead to a conclusion that AEol from air quality in the Epping Forest SAC can be excluded at that time and that no reduction from the national speed limit is required, even though that is a conclusion which cannot currently be drawn. Equally, noting the dynamic context, even if an AEol cannot be excluded by the time of the first operational year, ongoing change may mean that its level and geographical extent can be reduced or that it can be removed in subsequent years prior to year 4.
- D.6.11 Taking these dynamic circumstances into account, the ExA considers that mitigation requires to be delivered within an adaptive management framework, where air quality monitoring and modelling is used through dialogue between the Applicant and NE to identify a threshold agreed and if necessary varied by SoST, setting a speed limit and the geographic extent of road over which it should apply until the next monitoring point. A regular (and the ExA recommends annual) review cycle should review the speed to be set and the geographic extent of the speed reduction.
- D.6.12 The means by which this can be achieved through a REAC measure is addressed in the DCO Chapter of this report. The ExA is content that the variation of the Applicant's draft without prejudice measure to achieve this adaptive management approach is consistent with the Applicant's starting point position, which is that there is no AEol and so no measure is required. On that basis, the ExA recommends that this change can be given effect to by the SoST without any further consultation with the Applicant or NE, because the recommended position is not adverse to the approach taken by either party.
- D.6.13 The ExA considers that there is sufficient information before the SoST to enable them to undertake an AA in order to fulfil their duty under the requirements of the Habitats Regulations.

## **APPENDIX E: COMPULSORY ACQUISITION AND TEMPORARY POSSESSION**

This Appendix sets out information relating to the ExA's consideration of the Applicant's request for the compulsory acquisition (CA) and/ or temporary possession of land and rights, and related matters. It supports Chapter 22 of this Report.

The main body of this Appendix is in landscape format commencing on the following page.

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## **APPENDIX E TABLES**

### **Compulsory Acquisition, Temporary Possession, Land and Rights Information and Consideration**

The tables in this Appendix support the reasoning in the Examining Authority's (ExA's) Recommendation Report Chapter 22, setting out:

- tracking of iterative processes of change to CA and TP supporting documents; and
- individual case summaries and reasoning for outstanding and withdrawn CA, TP, land and rights objections.

It contains eleven tables:

- Table E1: Updates to the Land Plan during the Examination;
- Table E2: Updates to the Crown Land Plan during the Examination;
- Table E3: Updates to the Special Category Land Plan during the Examination;
- Table E4: Updates to the draft DCO during the Examination;
- Table E5: Updates to the Explanatory Memorandum during the Examination;
- Table E6: Updates to the Statement of Reasons and Annexes A and B during the Examination;
- Table E7: Updates to the Book of Reference during the Examination;
- Table E8: CA and TP documents unrevised during the Examination;
- Table E9: a record of CA, TP, land and/ or rights objections by Affected Persons (APs) and other persons who requested to be heard orally, which were considered in combined written and oral (hearing) processes;
- Table E10: a record of CA, TP, land and/ or rights objections by Affected Persons (APs) and other persons who did not request to be heard orally, which were considered in a written process.
- Table E11: a record of CA, TP, land and/ or rights objections that have been formally withdrawn.



**Table E1: Updates to the Land Plan during the Examination**

Deadline	Documents
Deadline 1	[ <a href="#">REP1-006</a> to <a href="#">REP1-011</a> ]
Deadline 3	[ <a href="#">REP3-009</a> to <a href="#">REP3-014</a> ]
Deadline 4	[ <a href="#">REP4-010</a> to <a href="#">REP4-015</a> ]
Deadline 5	[ <a href="#">REP5-004</a> to <a href="#">REP5-009</a> ]
Deadline 7	[ <a href="#">REP7-006</a> to <a href="#">REP7-011</a> ]
Deadline 9	[ <a href="#">REP9-008</a> to <a href="#">REP9-013</a> ]

**Table E2: Updates to the Crown Land Plan during the Examination**

Deadline	Documents
Deadline 1	[ <a href="#">REP1-012</a> to <a href="#">REP1-017</a> ]
Deadline 3	[ <a href="#">REP3-015</a> to <a href="#">REP3-020</a> ]
Deadline 4	[ <a href="#">REP4-016</a> to <a href="#">REP4-021</a> ]
Deadline 5	[ <a href="#">REP5-010</a> to <a href="#">REP5-015</a> ]
Deadline 7	[ <a href="#">REP7-012</a> to <a href="#">REP7-017</a> ]
Deadline 9	[ <a href="#">REP9-014</a> to <a href="#">REP9-019</a> ]

**Table E3: Updates to the Special Category Land Plan during the Examination**

Deadline	Documents
Deadline 1	[ <a href="#">REP1-018</a> to <a href="#">REP1-023</a> ]
Deadline 3	[ <a href="#">REP3-021</a> to <a href="#">REP3-026</a> ]
Deadline 4	[ <a href="#">REP4-022</a> to <a href="#">REP4-027</a> ]
Deadline 5	[ <a href="#">REP5-016</a> to <a href="#">REP5-021</a> ]
Deadline 7	[ <a href="#">REP7-018</a> to <a href="#">REP7-023</a> ]
Deadline 9	[ <a href="#">REP9-020</a> to <a href="#">REP9-025</a> ]

**Table E4: Updates to the draft DCO during the Examination**

Deadline	Documents
Deadline 1	[ <a href="#">REP1-042</a> ]
Deadline 2	[ <a href="#">REP2-004</a> ]
Deadline 3	[ <a href="#">REP3-077</a> ]
Deadline 4	[ <a href="#">REP4-094</a> ]
Deadline 5	[ <a href="#">REP5-024</a> ]
Deadline 6	[ <a href="#">REP6-010</a> ]
Deadline 7	[ <a href="#">REP7-090</a> ]
Deadline 8	[ <a href="#">REP8-006</a> ]

Deadline	Documents
Deadline 9	[ <a href="#">REP9-107</a> ]
Deadline 10	[ <a href="#">REP10-005</a> ]

**Table E5: Updates to the Explanatory Memorandum during the Examination**

Deadline	Documents
Deadline 1	[ <a href="#">REP1-045</a> ]
Deadline 4	[ <a href="#">REP4-096</a> ]
Deadline 6	[ <a href="#">REP6-012</a> ]
Deadline 7	[ <a href="#">REP7-092</a> ]
Deadline 8	[ <a href="#">REP8-008</a> ]
Deadline 9	[ <a href="#">REP9-109</a> ]

**Table E6: Updates to the Statement of Reasons and Annexes A and B during the Examination**

Deadline	Documents
Deadline 1	[ <a href="#">REP1-049</a> ]
Deadline 3	[ <a href="#">REP3-081</a> ]
Deadline 4	[ <a href="#">REP4-100</a> ]
Deadline 5	[ <a href="#">REP5-028</a> ]

Deadline	Documents
Deadline 7	[ <a href="#">REP7-096</a> ]
Deadline 9	[ <a href="#">REP9-114</a> ]

**Table E7: Updates to the Book of Reference during the Examination**

Deadline	Documents
Deadline 1	<a href="#">[REP1-053]</a>
Deadline 3	<a href="#">[REP3-085]</a>
Deadline 4	<a href="#">[REP4-102]</a>
Deadline 5	<a href="#">[REP5-030]</a>
Deadline 7	<a href="#">[REP7-098]</a>
Deadline 9	<a href="#">[REP9-116]</a>

**Table E8: CA and TP documents unrevised during the Examination**

Document	Status
The Funding Statement	Unrevised
Annex C to the Statement of Reasons (land referencing methodology)	Unrevised

**Table E9: CA, TP, Land and/ or Rights Objections Considered in Written and Oral Processes**

Table E9 records Affected Persons (APs) and other persons with relevant objections to aspects of the Applicant's CA, TP, land or rights request whose objections were considered on the basis of both written submissions and a request to be heard orally. They are recorded in the order in which they were heard in Compulsory Acquisition Hearings, facilitating access to relevant Agendas, Recordings and Transcripts which can be found here:

- CAH1 into the Applicant's strategic case for CA and TP at Orsett Hall Hotel, Orsett, Essex and virtually on 15 September 2023 (morning) (Agenda [\[EV-047\]](#), Recording [\[EV-047B,C\]](#), Transcript [\[EV-047D\]](#)).
- CAH2 held into individual and site-specific objections to CA and/ or TP at Orsett Hall Hotel, Orsett, Essex and virtually on 15 September 2023 (afternoon) (Agenda [\[EV-048, 049\]](#), Recording [\[EV-049B,C\]](#), Transcript [\[EV-049D\]](#)).
- CAH3 held into individual and site-specific objections to CA and/ or TP at the Dartford Brands Hatch Mercure Hotel, Kent and virtually on 17 October 2023 (Agenda [\[EV-050\]](#), Recording [\[EV-051, 052, 053, 054\]](#), Transcript [\[EV-055\]](#)).
- CAH4 held into individual and site-specific objections to CA and/ or TP at the Dartford Brands Hatch Mercure Hotel, Kent and virtually on 18 October 2023 (Agenda [\[EV-057\]](#), Recording [\[EV-058, 059\]](#), Transcript [\[EV-060\]](#)).
- CAH5 held into individual and site-specific objections to CA and/ or TP at the London Tower Bridge Hilton Hotel, London and virtually on 22 November 2023 (Agenda [\[EV-083\]](#), Recording [\[EV-083B,C,D,E,F\]](#), Transcript [\[EV-083G\]](#)).

IP/ AP	Nature of objection		ExA Consideration
<b>E9-1</b> <b>Thurrock Council</b> (Douglas Edwards KC) [no RR]	<b>Interests:</b>	BoR Parts 1, 2 and 3.	Thurrock Council (TC) did not make a Relevant Representation (RR) during the registration period, as this period occurred before TC had clarified its participation, as a consequence of special financial measures applicable it. As a principal local authority for a large part of the site of the Proposed Development, TC is a statutory party which was entitled to elect to become an IP and did so. As an AP it was also entitled to bring its objections on CA and TP before the ExA and did so. The ExA's basis for the inclusion of TC in the Examination is set out in a Procedural Decision of 3 March 2023 <a href="#">[PD-</a>
	<b>Plots:</b>	CA of all interests and rights (land coloured pink on the land plan);  CA of rights (land coloured blue on the land plan); and  TP (land coloured green on the land plan)  over parcels listed in LIR Appendix H Annex 2 <a href="#">[REP1-289]</a> ,	

IP/ AP	Nature of objection	ExA Consideration
	<p>required for environmental works, utility works, highway works including PRow, and compensatory habitat.</p> <p>Plots at Brentwood Road (parcel 27074), Muckingford Road (parcel 17994), A13 (parcel 33682) and Orsett Cock roundabout (parcel 33682) are to be returned to TC, which accepted that these plots could not just be subject to TP because they will be permanently altered prior to return to the Council (paragraph 9.4.24 of <a href="#">[REP6-164]</a>).</p> <p>The following abbreviations have been used in Appendix H Annex 2 of Thurrock Council's LIR:</p> <ul style="list-style-type: none"> <li>▪ PA: permanent acquisition of all rights and interests – land coloured pink on the land plan;</li> <li>▪ PAR: temporary use but subject to acquisition of permanent rights – land coloured blue on the land plan; and</li> </ul>	<p><a href="#">010</a>] and all representations have been fully considered on that basis.</p> <p>This set of CA objections addresses multiple sources of concern by TC as follows.</p> <ul style="list-style-type: none"> <li>▪ <b>Concern in-principle about the compelling case</b> including a view that the planning merits of the Proposed Development are not made out and that the extent of its adverse effects in the Borough are too great, leading to a view that the land and rights sought are not required because on merit the scheme should not proceed.</li> <li>▪ Here, the ExA has found on balance that the Proposed Development should proceed. It has in its general review of the scope of land and rights sought by the Applicant found that the location and the extent of land sought are justified. There will be opportunities through the acquisition process and detailed design for reductions in the extent of land and rights to be taken: this is a normal component of major CA processes. It does not set aside the underlying justification for the taking of land and rights necessary to construct the Proposed Development and so to this extent the ExA does not support TC's objection.</li> <li>▪ This general finding addresses all of the specific concerns expressed by TC about individual plots. Having reviewed each instance of concern, the ExA is</li> </ul>

IP/ AP	Nature of objection	ExA Consideration
		<ul style="list-style-type: none"> <li>TP: temporary use only - land coloured green on the land plan.</li> </ul>
	<b>Objection:</b>	<p>Compelling case not made out; impact of loss of land interests (investment land, public open space, private roads and public highways) listed in LIR Appendix H Annex 2 <a href="#">[REP1-289]</a>, especially with uncertain timescales: basis for compelling case for land not required permanently is unclear; no binding commitment, timescale or guarantee of condition in respect of land to be returned, PP for drainage authorities <a href="#">[REP1-281]</a> and impact on operation and residents of Whitcroft Care Home <a href="#">[REP4-352]</a> <a href="#">[REP6-164]</a>.</p>
	<b>Status summary:</b>	<p>At CAH1 (action point 1), the ExA requested a joint site by site position statement from the Applicant and Thurrock Council (see para 9.4.27 of <a href="#">[REP6-164]</a>): this was not provided (see Appendix L at <a href="#">[REP6-168]</a>).</p> <p>Thurrock Council closing position is at <a href="#">[REP7-228]</a>, and <a href="#">[REP3-</a></p>
		<p>content that the normal process of land and rights refinement carried out in concert with the detailed design process will ensure that whilst the powers to take land are currently set at an appropriately precautionary extent to prevent unforeseen barriers to project delivery, reductions in the taking of both land and rights and refinements to address adverse effects will emerge in detailed terms.</p> <ul style="list-style-type: none"> <li><b>Concerns about specific land and rights requirements</b> including: <ul style="list-style-type: none"> <li>taking land that TC is willing to transfer or dedicate;</li> <li>public open space loss, specifically the Ron Evans Memorial Field (REMF);</li> <li>the timing for replacement of public open space land</li> <li>the notice period for TP;</li> <li>the duration of TP; and</li> <li>the condition of land on return from TP.</li> </ul> </li> <li>In relation to proposals to take land that TC is otherwise willing to transfer or dedicate, the ExA notes that there has been a long-established principle in the operation of CA and TP for major linear projects, which is that the promoters seek CA and or TP powers for the full extent of the land required for the alignment. This principle is addressed in the SoR and the CA guidance.</li> <li>The ExA has considered the open space facilities to be lost and the replacements offered. With the</li> </ul>



IP/ AP	Nature of objection	ExA Consideration
	<p data-bbox="808 363 1245 459"><a href="#">211</a>], <a href="#">[REP4-352]</a>, <a href="#">[REP4-354]</a>, <a href="#">[REP5-112]</a> and <a href="#">[REP6-164]</a> are also relevant.</p> <p data-bbox="808 488 1245 584">Thurrock Council outstanding issues (section 9 of <a href="#">[REP6-164]</a>) are:</p> <ul data-bbox="808 612 1245 1182" style="list-style-type: none"> <li>▪ Shortcomings in the latest SoR <a href="#">[REP5-028]</a>;</li> <li>▪ Ron Evans Memorial Field (REMF): replacement of this POS <a href="#">[APP-499]</a> will be less advantageous due to 5-year delay (not a reasonable time);</li> <li>▪ Temporary possession timescales (including REMF);</li> <li>▪ Land to be acquired permanently and returned – condition and timescale;</li> <li>▪ Land to be acquired permanently (plot 29-02) and dedicated (as PRow); and</li> <li>▪ Absence of non-statutory relief scheme.</li> </ul> <p data-bbox="808 1211 1245 1307">The final agreed SoCG is at <a href="#">[REP9A-044]</a>: outstanding issues are at items:</p> <ul data-bbox="808 1335 1245 1394" style="list-style-type: none"> <li>▪ 2.1.15: extent of PA (Art 28);</li> <li>▪ 2.1.16: time limit (Art 27);</li> </ul>	<p data-bbox="1328 363 2031 496">exception of the REMF, the ExA is content that the approaches proposed by the Applicant are justified and within the range of normal practice supported in multiple previous decisions of the SoST.</p> <ul data-bbox="1283 499 2031 1382" style="list-style-type: none"> <li>▪ In relation to the REMF, the ExA notes that there has been movement by the Applicant during the Examination. Stakeholder Actions and Commitments Register (SACR) commitment 014 <a href="#">[REP9A-061]</a> has been revised to address TC's initial and justified concerns about timely replacement expressed at paragraph 9.4.5 of <a href="#">[REP6-164]</a>. TC remain concerned about the high-level nature of the commitment made and seeks a more detailed and legally binding commitment to the provision of replacement land. However, in this regard the ExA notes that the commitment does now include a measure that the replacement land is provided before public access to specific open space plots is restricted. Performance of the SACR is secured by Article 61 of the DCO and hence is sufficiently legally binding in the ExA's view. In circumstances where public open space is lost by TP and replacement land is provided that is not laid out and landscaped as open space, there will be an inevitable difference in the standard of provision. The ExA observes however that in a TP context, what is proposed is on balance acceptable.</li> <li>▪ The ExA considers the notice period for TP to be precededented within other made Orders for equivalent purposes and does not consider that special circumstances to justify a change here have been</li> </ul>

IP/ AP	Nature of objection	ExA Consideration
	<ul style="list-style-type: none"> <li>▪ 2.1.17: power to maintain land (Art 36);</li> <li>▪ 2.1.18: delay in providing replacement land (Art 40);</li> <li>▪ 2.1.31: PP for drainage authorities (Sch 14 Part 3);</li> <li>▪ 2.1.37: Order land flexibility;</li> <li>▪ 2.1.54: notice period for TP (Art 35, Art 36);</li> <li>▪ 2.1.301: new restrictive covenants (Art 28);</li> <li>▪ 2.1.302: disapplication of provisions (Art 28);</li> <li>▪ 2.1.305: TP of REMF (Art 35);</li> <li>▪ 2.1.81: justification for TP powers eg at Fort Road, Tilbury; also PA of               <ul style="list-style-type: none"> <li>○ land to the west of Gammonfields Way;</li> <li>○ land at A13, Orsett/ Grays;</li> <li>○ public highway, footway and verge at Baker Street (B118);</li> </ul> </li> <li>▪ 2.1.324 REMF replacement land: new SACR commitment from the Applicant: see also revised Planning Statement at <a href="#">[REP7-136]</a> and Thurrock Council at <a href="#">[REP9A-119]</a>.</li> </ul>	<p>made out. In any case, the Applicant has developed and is strongly urged to maintain effective relationships with its AP stakeholders to ensure that the likely timings for entry onto TP are well known. Formal notice is only the final step in a long journey that should be well-communicated.</p> <ul style="list-style-type: none"> <li>▪ The duration of TP is a necessary product of the duration of works on what must be acknowledged to be a very large project. The works duration is justified and so the ExA is not minded to recommend any reduction to the duration of TP, observing only that the Applicant is urged always to operationally limit the duration of TP to the minimum required and to hand back land once the purpose for TP has ceased.</li> <li>▪ The ExA has made general findings in the CA &amp; TP Chapter about the custodianship of land under TP and its condition on return to landowners. Those observations are relevant to TC.</li> <li>▪ <b>Concerns about Whitecroft Care Home</b> and the prospect of the loss of care facility spaces to the Borough in the context also of the Borough's social care and housing duties.</li> <li>▪ Here the ExA has given careful consideration to a range of matters, including representations from the owners/ operators of that facility (see item E9-2 in this table). The ExA's response to that matter has taken concern about the welfare of residents, the Borough's duties to them, and the need for care accommodation settings in the Borough carefully into account.</li> </ul>

IP/ AP	Nature of objection		ExA Consideration
		The objection has not been withdrawn.	However, for reasons set out fully there, the ExA finds that it would not be appropriate for the care facility to remain operational during the period when it would be exposed to substantial disruption and adverse impacts (primarily arising from noise and related effects). Further discussion of the means of securing that outcome can be found in item E9-2 below.
<b>E9-2</b> <b>Birketts LLP</b> (Michael Bedford KC) for <b>Kathryn Homes Ltd</b> <a href="#">[RR-0544]</a> <b>Runwood Homes Ltd</b> <a href="#">[RR-0943]</a> and <b>Runwood Properties Ltd</b> <a href="#">[RR-0944]</a> <sup>4</sup>	<b>Interests:</b>	BoR Parts 1, 2 and 3.	The ExA’s starting point in respect of these objections is that they relate mainly to land that the Applicant did not seek to acquire because it was not directly required for proposed works. The question at hand is one of policy: whether there are circumstances in which the effect of a Proposed Development on land and on sensitive receptors on that land can be so substantial that the land should be subject to purchase, even if works will not take place on the land directly. The Plots recorded in the BoR and here as subject to CA and TP for works were not the main drivers of the objectors’ concerns.  The objectors are the current (Runwood) and intending (Kathryn) owners and operators of Whitecroft, an aged care facility (the facility) specialising in dementia and end-of-life care. The concern expressed by the representations made is that the facility would be
	<b>Plots:</b>	CA of all rights and interests (pink) over Plots 29-254 (part of the Whitecroft access), 29-260 (part of the Stanford Road frontage) and 29-261 (part of the rear open field):  CA of rights and interests (pink) in plots 29-253 and 29-259:  Temporary possession and permanent rights (blue) over Plots 29-258 and 28-08 (parts of the rear field);  Kathryn Homes Ltd not listed in BoR Part 2 but was a prospective	

<sup>4</sup> The persons recorded here are not all APs represented in the BoR. The care facility was undergoing a change of ownership during the Examination period. The ExA has invited and heard from persons with an interest or a prospective interest in land and rights and or occupation/ operation of this facility.

IP/ AP	Nature of objection	ExA Consideration
		<p>purchaser and so interested on that basis.</p> <p>Applicant proposes to re-provide access.</p>
	<b>Objections:</b>	<p>Inadequate assessment; unacceptable construction impacts on vulnerable persons and staff at Whitecroft Care Home, due to magnitude, duration and proximity of works (including mitigation bund); no effective mitigation; “life sentence” of unacceptable noise, dust, emissions, vibration, light intrusion and disturbance; PSED; also operational impacts due to changed highway network: Whitecroft Care Home closure reasonably foreseeable <a href="#">[REP1-366]</a> <a href="#">[REP1-367]</a> <a href="#">[REP1-368]</a> <a href="#">[REP1-369]</a> <a href="#">[REP1-370]</a> <a href="#">[REP1-371]</a> <a href="#">[REP1-372]</a> <a href="#">[REP1-373]</a>; also <a href="#">[REP4-380]</a> and <a href="#">[REP6-209]</a>.</p>
	<b>Status summary:</b>	<p>The Applicant submitted its position in respect of justification for CA of the Whitecroft care home (fails the s122 tests) at paragraph 3.2.6 of <a href="#">[REP4-178]</a></p>
		<p>completely surrounded by works relating to the construction of the proposed LTC/ A13/ A1089 intersection. Those works would be of such an extent, large scale relative to the size of the facility and extended duration, that any remaining residents of the care home would be exposed to unacceptable noise and disturbance. As a private operation, the effect of works was also identified as making the facility likely to be economically unviable during the works, as persons with reasonable discretion and choice about a care setting for person requiring it would be likely to deem the works too disruptive to place a person in the facility. Chapter 11 (noise and vibration) considers the main planning merits considerations underlying this position and they are relied upon for this reasoning but are not repeated here.</p> <p>Building on the position in Chapter 11, the ExA finds here for CA purposes that (NPSNN paragraph 5.188), its main concern is the duration and 360 degree nature of construction noise, the effect of which it considered commencing with a review of the Works Plans sheets 28, 29 and 32 (on the cut lines between which the relevant land is located) <a href="#">[REP9-042]</a>, locating the care facility on land excluded from the Order land and the works but surrounded by works. It has also carried out an ASI in the location.</p> <p>The are particular legal considerations in relation to this facility and the vulnerable elderly clientele who occupy it that need to be taken into account. The residents of the facility form the sensitive receptor that requires to be</p>

IP/ AP	Nature of objection	ExA Consideration
	<p>and made further submissions in response to submissions from Kathryn Homes and others in respect of the current position in respect of negotiations about the Whitecroft Care Home <a href="#">[REP8-109]</a>: in particular that the Applicant has made an offer to purchase on the basis that the residents are relocated to a replacement facility and so avoid the noise impacts, and the owners would prepare a valuation for the Applicant to consider.</p> <p>The objections have not been withdrawn.</p>	<p>protected from noise, but they have no interest in the land. They are understood to be licensees and no more. They are not in the BoR. None of them are APs and none were directly engaged in the Examination. The advanced age, poor health and disability of many of them would realistically have made such participation difficult or impossible. Nevertheless, they are a group of people with protected characteristics under the Equality Act 2010. They are beneficiaries of the public sector equality duty (PSED) under s149 (1) which binds both the ExA and the SoST to have due regard to the need to '<i>(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.</i>' Section 149(7) provides that age and disability are protected characteristics, one or both of which are found amongst most of the occupiers of the facility.</p> <p>Schedule 1 Part 1 Article 8 of the Human Rights Act 1998 protects the right to respect for private and family life and homes, which include care facilities. Here there is a fine balance to be struck, because by indicating in favour of a solution that leaves some residents potentially requiring to move to another facility, the ExA is strongly conscious of the harm that will cause to them. It is equally conscious of the general loss of aged care capacity within the Thurrock council area, but it considers that to require such persons to remain in situ during substantially disruptive and noisy works, which would extend far longer than the typical residence period in a facility such as this, would amount to exposure to unacceptable conditions and also to a breach of this general right. On balance the</p>

IP/ AP	Nature of objection	ExA Consideration
		<p>ExA prefers the view that the occupiers be relocated in the interests of the economic well-being of the UK fostered by the development of the LTC, than that they be left in situ, with a private and home life that would be deeply compromised by the proposed works.</p> <p>NPSNN paragraph 5.195 indicates that the SoST should not grant development consent unless satisfied that the Proposed Development will '<i>avoid significant adverse impacts on health and quality of life from noise</i>'; and '<i>mitigate and minimise other adverse impacts on health and quality of life from noise</i>'; in both instances here in relation to construction noise. There is an in-principle reason for refusing to grant development consent in relation to the circumstances of the facility, which can be satisfactorily managed by ensuring that the unacceptable effects of construction noise upon it as both a dwelling and a business are not brought to bear.</p> <p>NPSNN paragraph 5.199 makes clear that '<i>in extreme cases, the applicant may consider it appropriate to provide noise mitigation through the compulsory acquisition of affected properties in order to gain consent for what might otherwise be unacceptable development. Where mitigation is proposed to be dealt with through compulsory acquisition, such properties would have to be included within the development consent order land in relation to which compulsory acquisition powers are being sought.</i>' The Applicant has so far not taken this step and the care home is not in the BoR as subject to acquisition.</p>

IP/ AP	Nature of objection	ExA Consideration
		<p>In terms of the appropriateness of such a step, the ExA's attention was drawn by other APs and the Applicant to circumstances in which negotiations to purchase other similarly situated residential dwellings exposed to multi-directional noise and disturbance had either already concluded or were underway (see for example case E9-24 below and the Applicant's purchase of similarly proximate private dwellings at Orsett Heath). The Applicant has already used blight notice and/ or voluntary purchase processes to resolve the positions of other stakeholders who would be exposed to levels of construction noise and disturbance similar to those which would be experienced by the residents at the Whitecroft facility. In terms of the PSED, this indicates a need for an equivalent approach to be taken to the occupants, providing them (as persons with a protected characteristic) with consideration equivalent to private householders (persons who do not necessarily share that characteristic).</p> <p>The ExA finds that the facility is on its facts an 'extreme case' within the meaning of NPSNN paragraph 5.199. Whitecroft should (as that policy makes clear) have been included within the scope of the Order land and identified for Compulsory Acquisition in the Book of Reference. It has not been and (per the Infrastructure Planning (Compulsory Acquisition) Regulations 2010) it is now too late to do so and to examine a proposal for additional land acquisition, unless all persons with an interest in the land agree to its acquisition (PA2008 s123(3)), or an</p>

IP/ AP	Nature of objection	ExA Consideration
		<p>alternative form of acquisition is pursued (for example a Compulsory Purchase Order (CPO) under the Highways Act 1980 or the Town and Country Planning Act 1990). An agreement to purchase (in the form of a contract or option to purchase) may also be pursued by private law means.</p> <p>The Applicant has come to recognise the underlying merit of a voluntary purchase <a href="#">[REP8-114]</a> which the ExA would support. Through the later stages of the Examination the Applicant was working towards the conclusion of a voluntary agreement to acquire, but by the end of the Examination an agreement had not been concluded. The Applicant has also prepared without prejudice a form of amendment to Art 30 of the DCO which would have the effect of applying CA mechanisms to the facility on a voluntary basis, should the facility owners / operators elect to invoke it. The ExA does not prefer this suggested DCO amendment because:</p> <ul style="list-style-type: none"> <li>▪ If the CA of the facility is justified and necessary to enable the Proposed Development to proceed (and in the ExA's view it is necessary to at least secure that the facility is not operational and occupied during the works), then this should not be provided for in an elective provision which the facility owners/ operators may elect not to invoke, leaving elderly and vulnerable residents exposed to unacceptable effects.</li> <li>▪ It is novel drafting, making a detailed site-specific amendment to general CA provisions in an Article, when more conventionally and appropriately such site</li> </ul>



IP/ AP	Nature of objection		ExA Consideration
			<p>specific measures should be included in protective provisions. If this approach were to proceed, the ExA would recommend that it should be taken forward in a protective provision but notes that it had no such provision before it during the Examination in even early draft form that it could reasonably evaluate and recommend.</p> <p>For this reason, the ExA recommends the SoST to consult the Applicant and the owners and operators of the care facility during the decision period to be advised whether a voluntary purchase agreement has been concluded which places beyond doubt that the care facility will cease to be operational and occupied by residents before the commencement of works. Equally if this agreement is for a term of years, it must provide that the care home use must not recommence until the works are complete. If an agreement to purchase the freehold is in place, then the BoR may be amended (PA2008 s123(3)) to identify the land for purchase before the Order is made, and this would be the simplest outcome in the ExA's view.</p> <p>If such an agreement has not been reached, the SoST is recommended to take steps to secure the purchase of Whitecroft through another CPO mechanism and to have brought this to a point where the principle of acquisition is secure before the Order is made.</p>
	<b>Interests:</b>	BoR Parts 1, 2 and 3.	

IP/ AP	Nature of objection		ExA Consideration
<b>E9-3</b> <b>Lawson Planning Partnership for Mrs J Carver</b> <a href="#">[RR-0753]</a>	<b>Plots:</b>	CA of all rights and interests (pink) over Plots 44-21, 44-32:  CA of rights (blue) over Plots 44-09, 44-31, 44-44:  TP and use (green) of Plots 44-07, 44-16, 44-20.	<p>Mrs Carver is the owner and occupier of the historic and statutorily listed Franks Farm farmhouse accessed from St Mary's Lane, Upminster. The Carver property is to the west of and adjacent to part of the existing M25 that is affected by the proposed construction of an intersection between the LTC and the M25 south of Junction 29. In addition to the listed house (which is not directly affected), the property contains a number of curtilage listed and unlisted barns, set in large grounds and paddocks. Certain of the barns are leased for business uses.</p> <p>The ExA has conducted an accompanied site inspection in this location.</p> <p>The intersection works in this location require land to be acquired from plots in the Carver property on the eastern (M25) boundary of the property. The land is sought for the widening of a frontage road associated with the LTC intersection (Work 9D), for the reinstatement of landscaping and for the provision of multi-utility infrastructure to the north (MU84). The effect of the proposed works would also be to remove (in part) existing screening planting both within the Carver property and existing M25 operational land which assists in limiting the visual effect of the M25 on the setting of the listed farmhouse.</p>
	<b>Objection:</b>	<p>Extent of land take particularly for improvements to M25, and related questions about mitigation <a href="#">[REP1-389]</a> <a href="#">[REP1-390]</a> <a href="#">[REP2-107]</a>: unresolved objections with supporting documentation are detailed at <a href="#">[REP9A-134]</a> <a href="#">[REP9A-135]</a> and relate to</p> <ul style="list-style-type: none"> <li>▪ Replacement woodland planting;</li> <li>▪ Acoustic compensation (construction and operation);</li> <li>▪ Drainage pond land;</li> <li>▪ Treatment of felled trees, boundary, retaining wall;</li> <li>▪ TP: retention of vegetation; and</li> <li>▪ Replacement water treatment plant.</li> </ul>	

IP/ AP	Nature of objection		ExA Consideration
	<b>Status summary:</b>	<p>The Applicant has made four commitments in the SACR at <a href="#">[REP9A-060]</a> and the Applicant's latest position is at <a href="#">[REP10-020]</a>.</p> <p>The objection has not been withdrawn.</p>	<p>In sustaining her objection, Mrs Carver sought a range of possible benefits and/or betterments.</p> <p>On balance, having regard to the SACR commitments proffered by the Applicant, together with the Applicant's offer of ongoing engagement during the detailed design stage, the ExA does not consider that any further changes to the dDCO or Control Documents are required, and does not recommend any.</p> <p>The land sought for works is necessary for the Proposed Development and the ExA recommends that the requested CA and TP should proceed.</p>
<b>E9-4 Norton Rose Fulbright and Centro for Glenroy Estates</b> [no RR]	<b>Interests:</b>	BoR Parts 1, 2 and 3.	<p>Glenroy Estates did not make a RR. As an AP it was entitled to bring its objections on CA before the ExA and did so.</p> <p>Glenroy Estates' land is located at Folkes Farm, adjacent to the north-western quadrant of the existing M25/ A13 Southend Arterial Road intersection. The land contains a combination of existing farm buildings, grazing land and woodland. The land is also understood in part to have a history of unauthorised uses.</p> <p>The purpose of the Applicant's intended acquisition is for:</p>
	<b>Plots:</b>	CA of all rights and interests (pink) over Plots 45-56, 45-59, 45-61, 46-27:	
	<b>Objection:</b>	<p>CA of woodland not necessary, reduction in currently predicted nitrogen deposition means land acquisition is unnecessary, other publicly owned sites nearby, suggests an agreement under s253 Highways Act 1980 instead <a href="#">[REP1-347]</a> <a href="#">[REP4-369]</a> <a href="#">[REP4-370]</a> <a href="#">[REP6-191]</a>: also closing</p>	

IP/ AP	Nature of objection	ExA Consideration
	<p data-bbox="539 456 685 520"><b>Status summary:</b></p> <p data-bbox="801 363 1238 427">position re DCO and compelling case <a href="#">[REP8-176]</a>.</p> <p data-bbox="801 456 1238 587">Applicant's position is at <a href="#">[REP4-178]</a>, response re Folkes Farm is at <a href="#">[REP5-081]</a> and latest position is at <a href="#">[REP9-275]</a>.'</p> <p data-bbox="801 616 1160 679">The objection has not been withdrawn.</p>	<ul data-bbox="1283 387 2031 826" style="list-style-type: none"> <li>▪ Work 9K – Earthworks associated with improvements to the existing two-lane link road between M25 junction 29 roundabout and M25 northbound.</li> <li>▪ Work 9Y – Construction of a new Public Right of Way over the improved section of the A127 highway, including a new bridge to carry the new Public Right of Way over the A127 highway.</li> <li>▪ Work E49 – Implementation of environmental mitigation works to create a site for ancient woodland compensation planting.</li> <li>▪ Work MU91 – Utility works, including the installation or diversion of underground utilities within a multi-utility corridor.</li> </ul> <p data-bbox="1283 850 2031 1351">The main extent of the requirement and the main argument provided orally concerned ecological habitat creation (Work number E49), which would consist of the planting of woodland on the site for biodiversity mitigation and primarily compensation purposes. The new woodland would extend existing ancient woodland which lies between Folkes Farm and the M25 alignment and would (amongst other benefits) increase the extent of functionally linked woodland habitat in this location. It would (and this is the primary justification for the selection of this site) be closely adjacent to the Codham Hall Wood West SINC and designated ancient woodland which would suffer losses due to the project. The purpose of this acquisition is to compensate functionally for that loss, as close as is possible to the point of loss, which</p>

IP/ AP	Nature of objection	ExA Consideration
		<p>responds to NPSNN paragraph 5.20 and to relevant CIEEM guidance (2018).</p> <p>For reasons set out in Chapter 14 of the Report (biodiversity), the ExA has accepted the Applicant's case for the extent and location of land sought for biodiversity mitigation and compensation measures. The ExA notes the support offered by Natural England (NE), the Forestry Commission and the Woodland Trust for the approach which has led to the selection both of the quantity of land for the general purpose of biodiversity conservation and of this particular land for the specific purposes proposed upon it <a href="#">[REP5-081]</a>.</p> <p>The ExA has taken into account the landowner's concern that woodland planted in this location could be too close to the M25 and that nitrogen fall-out could limit the biodiversity value of woodland management on the land proposed to be acquired. It has taken into account views that soil translocation to assist in the establishment of woodland habitat on this land would not be successful.</p> <p>In relation to the history of unauthorised uses of the land, the ExA does not consider there to be a reasonable likelihood that the land is so contaminated that it cannot feasibly be placed into meaningful nature conservation management.</p> <p>The ExA has taken into account the fact that (amongst other potential outcomes) the existing landowners have proposed to plant and manage their own woodland in this location. It has considered submissions that such a</p>

IP/ AP	Nature of objection		ExA Consideration
			<p>woodland would deliver the same environmental outcomes as those proposed by the Applicant and so that CA is not required. It has considered the offer of a lease by the landowner. The difficulty that the ExA has with all of these proposed approaches is that if they were to be accepted then the landowner's woodland would not be secured on an enduring basis to provide the natural environment outcomes that are necessary to mitigate and/ or compensate for natural environment harms done by the Proposed Development, and/ or to provide for an appropriate measure of environmental and community gain. To achieve those objectives, the relevant outcomes need to be secured and this security does provide sufficient justification for the acquisition of this land.</p> <p>Turning to the other works (9K, 9Y and MU91), the ExA has reviewed these and considers their locations to be justified and there to be a sound basis for CA in relation to those matters too.</p> <p>Taking all of these findings together, the ExA concludes that there is a sound rationale for the CA sought by the Applicant in this location and that it should proceed.</p>
<b>E9-5</b> <b>Gravesham Borough Council (GBC)</b> (Michael Bedford KC) <a href="#">[RR-0368]</a>	<b>Interests:</b>	BoR Parts 1, 2 and 3.	<b>Viability of returned TP land</b> GBC's main outstanding concern is about the return and condition of land subject to TP located between what would become Chalk Park, the LTC alignment, the A277 and Thong Lane. This is land that requires to be restored to its (current) agricultural use, but the level of which will
	<b>Plots:</b>	CA of all rights and interests (pink) over Plots 13-03 and 13-09 at Cascades Leisure Centre pitch and putt course for proposed Chalk Park.	

IP/ AP	Nature of objection	ExA Consideration
		<p>The Applicant proposes a land swap to assist re-arrangement of the driving range use alongside a partial reinstatement of a golf course. This needs to address the concerns raised by Gravesham BC and by the golf driving range operator Swing Rite, who has a lease until 2036. The golf course is not currently in active use <a href="#">[REP6-130]</a> <a href="#">[REP6-087]</a>.</p>
	<b>Objection:</b>	<p>Disruption to Cascades Leisure Centre operation; loss of Southern Valley golf course <a href="#">[REP1-228]</a> <a href="#">[REP6-130]</a>.</p>
	<b>Status summary:</b>	<p>The Applicant responded at <a href="#">[REP6-087]</a>: the final agreed SoCG is at <a href="#">[REP9A-050]</a> with outstanding CA and TP matters relating to:</p> <ul style="list-style-type: none"> <li>▪ Viability of returned TP land;</li> <li>▪ Design and delivery of Chalk Park;</li> <li>▪ CA, TP and leisure/ recreational effects: <ul style="list-style-type: none"> <li>○ removal of Southern Valley golf course (confirming</li> </ul> </li> </ul>
		<p>have been raised prior to its return. It will also have become detached from the agricultural holding of which it is currently part. GBC questions whether it will still be viable agricultural land.</p> <p>The ExA notes the (normal and well precedented) provisions included in the dDCO at Art 35(5) requiring the undertaker returning land subject to TP to 'remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land' and Art 35(6) providing for compensation arising from loss or damage consequent on taking the land temporarily, in line with the Compensation Code. In the ExA's view, this is a generally adequate provision.</p> <p>To the extent that agriculture is no longer a viable use of this returned land, GBC will need to consider the best route forward for the land as it is readied for return. To the extent that there are losses and costs associated with its condition on return and the viability of continuing agricultural use, these are compensable matters. The ExA does not inquire into the specifics of compensation.</p> <p><b>Southern Valley Golf Course</b></p> <p>GBC remains concerned at the loss of this facility (which it has referred to as a loss without replacement). The context for this concern is the relationship between the golf course, the Swing-Rite golf driving range and the Cascades Leisure Centre, which taken together provide a substantial range of recreational facilities.</p>

IP/ AP	Nature of objection	ExA Consideration
	<p>that this has already been acquired); and</p> <ul style="list-style-type: none"> <li>○ effects on Cascades Leisure Centre and Swing-Rite golf.</li> </ul> <p>The objection has not been withdrawn.</p>	<p>The Applicant has already acquired the 18-hole Southern Valley Golf Course, which ceased operations as such in August 2022. It proposes to create a multi-functional public open space (Chalk Park) <a href="#">[REP7-136]</a>. Whilst this includes a replacement golf facility (and there would be opportunities to enable a combined driving range and golf operation to be developed, taking account of the ongoing Swing-Rite operation), it would not be an 18-hole facility.</p> <p>Consideration of the combination of the Cascades, Swing-Rite, former Southern Valley Golf Course and the proposed Chalk Park area through a hearing identified scope for a possible land swap which could lead to a consolidation of golf activities.</p> <p>The ExA has found that the proposal to create Chalk Park is necessary to enable the management of construction arisings (which is the primary driver and justification for the acquisition) and then to provide public open space. It must be acknowledged that the facilities proposed to be created will be different in character from the previous combination of an 18-hole golf course with the existing leisure and driving range facilities. Golf will form part of the future offer, but additional open space recreational opportunities will be provided for other users.</p> <p>On balance, the ExA is content that the CA and TP is justified and considers that the final resolution of leisure and recreational uses in the replacement land is a matter for final agreement between GBC and the Applicant.</p>



IP/ AP	Nature of objection		ExA Consideration
<b>E9-6</b> <b>Winckworth</b> <b>Sherwood LLP for</b> <b>Port of London</b> <b>Authority (PLA)</b> <a href="#">[RR-0862]</a>	<b>Interests:</b>	BoR Parts 1, 2 and 3.	<p>The PLA retains a concern that there should be no possibility of CA of its operational land in the riverbed, which it requires to control to maintain a navigable dredged channel for shipping.</p> <p>The Applicant retains an equally strong view that the land in the riverbed required for tunnelling must be subject to CA to safeguard the delivery of the Proposed Development. The absence of CA powers could lead to the emergence of unknown and un-extinguished third party interests, which could lead to blockage or delay in delivering the project. Reliance in such circumstances on an agreement alone could also result in disputes, again leading to blockage and delay.</p> <p>Art 33 regulates the acquisition of subsoil. The Applicant considers that the combination of Art 33(7) and Schedule 10 of the dDCO adequately defines the land to be taken by the undertaker. Subject to observations below, the ExA broadly agrees. In reaching this position, the ExA notes that Art 33(8) prevents the acquisition of new easements, rights or restrictive covenants on, over or under the bed of the River Thames by the undertaker and so provides a measure of the clarity over its rights and obligations that the PLA seeks.</p> <p>Art 48 subjects the PLA and others to a consent process for works above the tunnel within zones described in the River Restriction Plan <a href="#">[REP9-086]</a>. This is subject to an</p>
	<b>Plots:</b>	<p>CA of subsoil and rights including restrictive covenants (yellow) over Plots 15-10, 15-11, 15-12, 16-42, 16-43, 16-68:</p> <p>Temporary possession and use (green) of Plots 16-47, 16-64, 16-67, 16-69, 19-37:</p> <p>TP and use (category 2 rights) of Plot 15-02.</p>	
	<b>Objection:</b>	<p>Tunnel design, impacts on use of the river, existing and future capacity, operation and commercial viability, dredging for safe navigation, anchor and jack up barge penetration, tunnel cover, unexploded ordnance, scour protection, transfer of undertaking (Art 8), interference with the river (Art 18), TP of river bed (Art 35), temporary works on the foreshore (Art 35, 36), serious detriment to s127 undertaking, protective provisions, apparatus in the tunnel after maintenance period <a href="#">[REP1-269]</a>, <a href="#">[REP1-270]</a>, <a href="#">[REP6-160]</a>.</p>	

IP/ AP	Nature of objection	ExA Consideration
	<p><b>Status summary:</b></p> <p>Applicant responded at <a href="#">[REP6-087]</a>: the final agreed SoCG is at <a href="#">[REP9A-016]</a> and outstanding issues relate to the use of CA powers vs PLA powers, protective provisions, extent and limitations of CA (particularly re riverbed and dredging), compensation and valuation matters.</p> <p>The objection has not been withdrawn.</p>	<p>exemption enabling the PLA to carry out ‘<i>exempt second protection zone activities</i>’ which include the following:</p> <ul style="list-style-type: none"> <li>(a) <i>any dredging provided it does not result (either during the course of the dredging or on completion of the dredging) in the surface of the bed of the river Thames lying at a depth exceeding 12.5 metres below chart datum subject to the addition of any ‘over-dredge’ of 0.5 metres where this occurs in the course of a standard dredging methodology being employed;</i></li> <li>(b) <i>non-intrusive ground investigations, surface sampling, vibrocoring and surveys;</i></li> <li>(c) <i>shallow piling activities and excavations; and</i></li> <li>(d) <i>where such activities either alone or together do not lead to a concurrent load of 50kPA or more on the bed of the river Thames within the Order limits—</i> <ul style="list-style-type: none"> <li>(i) <i>the use of anchorages and placing of moorings and navigational marks and the grounding of a barge for any of these purposes;</i></li> <li>(ii) <i>the maintenance of groynes, mooring placements, navigational marks, scour protection, river walls and revetements and the grounding of a barge for any of these purposes;</i></li> <li>(iii) <i>mooring marine plant in connection with the activities in sub-paragraph (b) and sub-paragraphs (d)(i) and (ii)</i></li> </ul> </li> </ul> <p>The requirement for express consent under Art 48 is also subject to a deemed consent provision to ensure that the</p>

IP/ AP	Nature of objection	ExA Consideration
		<p>undertaker cannot delay PLA operations where express consent is needed.</p> <p>The ExA acknowledges the concern from the PLA that it is being subjected to controls and a consent provision in relation to the management of its waters, but the approach sought by the Applicant is precededented in relation to similar works beneath the riverbed.</p> <p>The River Restriction Plan also defines the Order limits within and beneath the River Thames, where it operates to a fixed datum. Whilst the drafting of relevant provisions is not the same, the approach taken in relation to DCO security, the River Restriction Plan and the rights of the PLA to undertake maintenance dredging and other relevant minor works to defined depth without consent is broadly the same as that taken in Art 52 of the made Silvertown Tunnel Order.</p> <p>The ExA is content that the River Restriction Plan establishes a fixed vertical relationship between the proposed tunnel works, the riverbed and the navigation channel, which will have the effect of ensuring that the tunnel works do not intrude vertically upwards into the area where the PLA will need to undertake maintenance dredging and other reasonable minor works defined as 'exempt'. It follows that the ExA is content that the acquisition of rights in the riverbed by the undertaker in this location will not unreasonably restrict the PLA's operations. The scope of exempt works and the deemed consent provision under Art 48 is sufficient to enable the</p>

IP/ AP	Nature of objection		ExA Consideration
			<p>PLA to undertake the works that it needs to ensure the operability of the navigation channel.</p> <p>In these circumstances a balance has to be struck between the necessity for the PLA to manage the river and shipping channel and for the LTC undertaker to manage its tunnel protection zone. The control measures in the dDCO and the River Restriction Plan are in the ExA's view an appropriate settlement of that balance, within the context of which the ExA concludes that there is a sound rationale for the CA and TP sought by the Applicant in this location and that it should proceed.</p>
<b>E9-7</b> <b>Pinsent Masons LLP</b> <b>for Port of Tilbury</b> <b>London Ltd (PoTLL)</b> <a href="#">[RR-0863]</a>	<b>Interests:</b>	BoR Parts 1, 2 and 3.	<p>The Applicant and PoTLL intend to conclude a legal agreement to address a range of matters including aspects of CA and TP. The agreement was not concluded by the close of the Examination and there are matters relating to CA and TP shown as under discussion in the final signed SoCG and matters shown as not agreed. <a href="#">[REP10-008]</a> The ExA has reached conclusions on both sets, as at the point of writing it cannot be assumed that the legal agreement will be concluded:</p> <p><b>Fort Road</b></p> <p>This matter is noted in the final signed SoCG as under discussion. PoTLL seek assurances that Fort Road will not be used as a primary construction haul road. The</p>
	<b>Plots:</b>	<p>CA of all interests and rights (pink) over Plots 16-37, 16-38, 20-52, 20-53, 20-62, 20-65, 20-68, 23-68:</p> <p>CA of rights (blue) over Plots 16-02, 16-04, 16-05, 16-18, 16-19, 16-20, 16-22, 16-30, 16-68, 20-06 to 20-09 inclusive, 20-11, 20-17, 20-23, 20-42, 20-47, 20-61, 21-13 to 21-16 inclusive, 21-20, 21-24, 21-33, 21-35, 21-36:</p>	

IP/ AP	Nature of objection	ExA Consideration
	<p>Temporary possession and use (green) of Plots 16-03, 16-06, 16-07, 16-13, 16-23, 16-25, 16-26, 16-28, 16-29, 16-35, 16-65, 16-66, 16.67, 16-69, 17-01 to 17-06 inclusive, 17-08, 17-09, 18-02, 18-03, 18-04, 18-06 to 18-10 inclusive, 20-02 to 20-05 inclusive, 20-26, 20-27, 20-30, 20-35, 20-39, 20-40, 20-46, 21-01 to 21-09 inclusive, 21-11, 21-18, 21-19, 21-30, 21-32, 21-34, 21-37, 23-43, 23-52:</p> <p>CA (category 2 rights) of Plots 16-12, 16-32, 16-36, 16-39, 16-44, 16-54, 16-70, 20-18, 20-25, 20-41, 20-45, 20-49, 20-50, 20-57, 20-58, 20-67, 20-69, 20-81, 23-30:</p> <p>TP and use (category 2 rights) of Plots 16-09, 16-15, 16-33, 16-34, 16-40, 20-33, 20-44, 20-54, 20-71, 20-72, 20-90.</p> <p>Plot 21-10 removed.</p>	<p>Applicant broadly agrees with this position, but seeks the retention of rights over this route on the basis that its use will occasionally be required, eg for abnormal indivisible loads such as TBM components. The ExA notes that Fort Road is not the sole means of construction access but considers that the rights sought are justified in order to manage large loads safely and effectively.</p> <p><b>Infrastructure Corridor</b></p> <p>This matter is noted in the final signed SoCG as under discussion. PoTLL supports the corridor but seeks a refinement down of the land requirement for it, to reduce the scope for interference with Port traffic and on the implementation of the consented Tilbury 2 DCO (specifically the Landscape and Ecology Management Plan (LEMP)). It has concerns about the implementation of Work no MU27 (multi-utility works).</p> <p>The ExA notes that the Applicant has reduced the extent of Order land within Tilbury2 for utility works and has confirmed that there is no impact on the Tilbury2 DCO within the infrastructure corridor; also that the protective provisions would provide further protection to POTLL. The ExA also notes that the Applicant considers that work no MU27 can be deliver within the provisions in the DCO for Substation Road.</p> <p>The ExA has considered POTLL concerns and the Applicant's proposals and considers that the rights sought by the Applicant are justified.</p>
	<p><b>Objection:</b></p> <p>Impacts on port operation and expansion. Use of the construction materials and</p>	

IP/ AP	Nature of objection	ExA Consideration
		<p><b>Permanently required land and overlapping requirements</b></p> <p>This matter is noted in the final signed SoCG as under discussion. PoTLL wishes to ensure that the permanent land take for the Proposed Development should facilitate and not preclude development of the Thames Freeport.</p>
	<p><b>Status summary:</b></p>	<p>The Applicant responded at <a href="#">[REP6-087]</a>: the final agreed SoCG is at <a href="#">[REP10-008]</a> and outstanding matters relate to:</p> <ul style="list-style-type: none"> <li>Fort Road as a potential haul route, infrastructure corridor, CA and TP re overlapping requirements including CMAT and UKPN connections, impacts on freeport/Tilbury 2, serious detriment;</li> <li>Tunnelling disputes and SoS power to overrule;</li> </ul> <p>The objection has not been withdrawn.</p> <p>The ExA notes that the Applicant has secured all necessary land interests (pink) within POTLL ownership by way of an option agreement.</p> <p>POTLL considers that the revised protective provisions go some way to alleviate concerns, but that further provisions are required to manage potential adverse impacts and serious detriment, including a consent provision.</p> <p>The ExA notes the POTLL position and that the Applicant has revised its proposals for Tilbury Fields, removing an area of environmental mitigation which was in conflict with the proposed Thames Freeport development.</p> <p>The ExA also notes the Applicant's submissions at CAH3 that a consent provision is unnecessary because POTLL already enjoys adequate control over the construction of the authorised development <a href="#">[REP6-087]</a>: in particular, the Applicant is required to secure POTLL approval before carrying out any specified work on port land or exercising any specified function in respect of port land; and that in discussion with POTLL the protective provisions have been further amended to give POTLL additional control,</p>

IP/ AP	Nature of objection	ExA Consideration
		<p>including the requirement that the Applicant must obtain approval of the proposed terms of any specified easement or property right which burdens port land.</p> <p>The ExA notes the parties' positions and considers that a general right of consent would place a disproportionate burden on the ability of the Applicant to deliver the Proposed Development.</p> <p><b>Temporarily required land and overlapping requirements - general</b>  The general element of this matter is noted as a matter not agreed. POTLL concerns that TP will interfere with the proposed Freeport development, particularly in respect of when the land is to be used, when it will be handed back, and how use of it is managed, is noted The ExA also notes that the proposed legal agreement between the parties will manage these issues and that pending such agreement POTLL has put forward protective provisions at Deadline 10 <a href="#">[REP10-038]</a></p> <p><b>Temporarily required land and overlapping requirements – Construction Materials and Aggregates Terminal (CMAT) and associated land</b>  The general element of this matter is noted as a matter under discussion.</p> <p>The Applicant proposes to construct a temporary conveyor between the Tilbury2 CMAT and associated rail sidings and the Proposed Development and the proposed works may interfere with operations and planned development, so POTLL requires commercial as well as</p>

IP/ AP	Nature of objection	ExA Consideration
		<p>statutory requirements to attach to its consent [<a href="#">REP10-038</a>].</p> <p>The ExA notes that this matter is covered in the proposed legal agreement to be entered into between the parties.</p> <p><b>Land associated with UKPN power connections at Substation Road</b></p> <p>This matter is noted as a matter under discussion. POTLL seeks to ensure that any rights or easements do not interfere with its existing rights and easements or affect existing operations or future development.</p> <p>The ExA notes that this is a matter which has been addressed in the Applicant's revised protective provisions.</p> <p>The ExA has considered all these outstanding matters carefully, and concludes that all are capable of agreement between the parties. The ExA recommends that the parties be encouraged to conclude the legal agreement.</p> <p>The ExA further concludes that a balance has to be struck between the PoTLL role as a statutory undertaker managing the Port of Tilbury and the ability of the LTC undertaker to construct the Proposed Development, that the inclusion of a consent or veto provision would upset that balance, and that the protective provisions in the dDCO [<a href="#">REP10-005</a>] are an adequate means to secure that balance.</p>



IP/ AP	Nature of objection		ExA Consideration
<b>E9-8</b> <b>Mr Colin Cottage on behalf of Orsett Golf Club</b> <a href="#">[RR-0804]</a>	<b>Interests:</b>	Parts 1, 2 and 3.	<p>This objection relates to the effect of the Proposed Development on Orsett Golf Club. The ExA agrees that the Applicant's case for the chosen alignment justifies the proposed CA and TP in this location, as does the need for utility diversions (gas).</p> <p>The 9<sup>th</sup> hole championship tee is on Order land which is required to divert a Cadent high pressure gas pipeline. Tree planting is proposed to the south of the golf course as compensation for nitrogen deposition.</p> <p>Orsett Golf Club had submitted at CAH1 <a href="#">[REP4-412]</a> that although meetings had been held during the previous 12 months no tangible progress had been made on an agreement to mitigate the impacts of the Proposed Development on golf club activities.</p> <p>The Applicant gave an update at Appendix C2 of <a href="#">[REP6-087]</a> to say that it had instructed specialist golf club advisors in respect of early tree planting to mitigate the visual impacts of the Proposed Development. A progress update <a href="#">[REP7-185]</a> recorded that:</p> <ul style="list-style-type: none"> <li>a specialist report had been shared with the Orsett Golf Club;</li> <li>it had been agreed that a s253 agreement be entered into regarding bat boxes and rabbit fencing;</li> </ul>
	<b>Plots:</b>	<p>CA of all rights and interests (pink) over Plots 28-114, 28-116:</p> <p>CA of rights (blue) over Plots 27-01, 27-45, 28-124, 28-144, 32-141, 32-168, 32-177, 32-178:</p> <p>TP and use (green) of Plot 28-145.</p>	
	<b>Objection:</b>	<p>Impact on environmental quality, amenity and enjoyment of golf course for users, particularly along the southern boundary, and hence reputation and value. Needs current valuation, all year round screen planting, irrigation and rabbit fencing, also an agreement re bat boxes. <a href="#">[REP6-197]</a>.</p>	
	<b>Status summary:</b>	The Applicant intends to minimise the impact of the Proposed Development, with particular reference to the diversion of a high pressure gas pipeline close to the 9th hole, and is not otherwise proposing to interfere	

IP/ AP	Nature of objection	ExA Consideration
		<p>with the safety or operation of the golf course. <a href="#">[REP6-087]</a>.</p> <p>The objection has not been withdrawn.</p> <ul style="list-style-type: none"> <li>▪ a site meeting had been arranged regarding the extent and type of early planting;</li> <li>▪ the Applicant had provided all the information it was able to at this stage; and</li> <li>▪ Mr Colin Cottage on behalf of Orsett Golf Club was satisfied with this current position subject to progress with discussions being maintained with a view to entering an agreement early in 2024.</li> </ul> <p>The anticipated agreement had not been concluded by the end of the Examination.</p> <p>The alignment in this location will adversely affect the utility and enjoyment of the golf course for members and players.</p> <p>The ExA notes progress made in discussions between the Golf Club and the Applicant on measures including advance screen planting, irrigation, appropriate fencing and biodiversity mitigation measures. The detail of these matters will resolve as the Proposed Development proceeds to the detailed design stage. It would be desirable that specific agreed mitigation measures were recorded in a formal and enforceable agreement but the fact that this has not concluded is not a barrier to the grant of development consent.</p> <p>The ExA recommends that the requested CA and TP proceeds in this location.</p>
	<b>Interests:</b>	BoR Parts 1, 2 and 3.

IP/ AP	Nature of objection	ExA Consideration
<p><b>E9-9</b>  <b>Holland Land and Property on behalf of the Mott family:</b>  <b>Melville Hamilton Lowe Mott</b> <a href="#">[RR-0688]</a>;  <b>C H L Mott and M Mott</b> <a href="#">[RR-0122]</a>; and  <b>Ben Mott</b> <a href="#">[RR-0095]</a></p>	<p><b>Plots:</b></p> <p>Melville Hamilton Lowe Mott only:</p> <p>CA of all interests and rights (pink) over Plots 16-36, 16-39, 16-50, 16-51, 19-13, 19-20, 19-31, 19-33, 20-45, 20-51, 20-60, 20-66, 20-67, 20-69, 20-82, 20-88, 20-94, 23-83, 23-84, 23-85:</p> <p>CA of subsoil and rights (orange) over Plot 16-70:</p> <p>CA of rights (blue) over Plots 16-44, 16-54, 16-55, 16-58, 16-62, 20-48, 20-49, 20-50, 20-56, 20-57, 22-25, 22-27, 22-30, 22-31, 22-34, 23-112, 23-127, 23-144, 23-148, 23-150, 23-154:</p> <p>Temporary possession and use (green) of Plots 16-33, 16-34, 16-40, 20-43, 20-44, 20-54, 20-71, 20-72, 20-95, 22-01, 22-11, 22-13, 22-19, 22-21 to 22-24 inclusive, 22-35, 22-47, 22-63, 22-75, 22-91, 23-164, 23-168:</p>	<p>The principal objections were put at CAH3 by Mr Holland on behalf of the Mott family interests at East Tilbury <a href="#">[REP6-183]</a> <a href="#">[REP6-184]</a> <a href="#">[REP6-186]</a>. Approximately 477 acres (75%) of the Mott family ownership would be affected by the Proposed Development.</p> <p>The affected land is currently used for land restoration, PFA extraction, translocation of invertebrates, promotion since 2003 for long term strategic housing development as part of Thurrock Council's Local Plan with Mulberry Strategic Land. It is required for ecological mitigation, replacement common land and a new WCH route and also TP for compound CA5.</p> <p>The Mott family issue with the land proposed for ecological mitigation is that they have managed this land for over 100 years and are competent to do so in the future, whereas the Applicant's case is that CA is needed to ensure that the land is managed properly by a competent authority for the lifetime of the project, and that a s253 agreement would suffice.</p> <p>The Mott family had also suggested a land swap for the ecological mitigation land in order to mitigate loss of farmland and development land, but the Applicant submitted that the land had been selected because it provided the most suitable replacement as close as practicable to Low Street Pit Local Wildlife Site and that</p>

IP/ AP	Nature of objection	ExA Consideration
	<p>CA/TP of category 2 rights (POTLL) over Plots 16-02 to 16-06 inclusive, 16-19, 16-22, 16-23, 16-26, 16-29, 16-35, 16-37, 16-38, 16-65, 16-66, 17-08, 17-09, 21-19, 21-20, 21-24, 21-30, 21-32 to 21-36 inclusive:</p> <p>Both Melville Hamilton Lowe Mott; and CHL Mott and M Mott:</p> <p>CA of all interests and rights (pink) over Plots 19-01, 19-07, 19-09, 19-17, 19-18, 19-23, 19-24, 19-29, 19-39, 19-45, 19-47, 20-64, 20-70, 20-73, 20-74, 20-81, 20-94, 22-26, 22-28, 22-40, 22-72, 22-92, 22-93, 22-101, 22-115, 23-86, 23-113, 23-117, 23-118, 23-172, 23-173.</p> <p>CA of rights (blue) over Plots 22-04, 22-05, 22-06, 22-08, 22-10, 22-14, 22-25, 22-30, 22-31, 23-108, 23-133, 23-135, 23-151, 23-153, 23-157, 23-161, 23-169:</p>	<p>moving it further away would require further consultation with Natural England.</p> <p>The ExA considers that the Applicant's case is made out as i); it is guarantees that the land will be managed properly in perpetuity; and ii) the land selected has already been agreed with NE as being as close as practicable to the land to be lost, whereas the land proposed would be further away, outside the Order limits and would result in further delay with no guarantee of NE agreement.</p> <p>In respect of the northern portal access track, the ExA accepts the Applicant's case that the land would be required to construct a permanent private means of access and that compensation and any future use of the land were not a consideration for this Examination.</p> <p>In relation to the rendezvous point, the ExA accepts that the location has been selected in consultation with the Emergency Services Group (ESG) and that there is a risk that the alternative location suggested by the Mott family may not be acceptable. The need for the facility is made out and no change is recommended to the location proposed by the Applicant.</p> <p>In respect of the Linford borehole and water pipeline, the ExA is satisfied that Article 37(5) of the dDCO <a href="#">[REP5-024]</a> requires the undertaker to extinguish the rights</p>

IP/ AP	Nature of objection	ExA Consideration
		<p>Temporary possession and use (green) of Plots 19-06, 19-10, 19-11, 19-14, 19-16, 19-21, 19-22, 19-26, 19-27, 19-35, 19-36, 19-38, 20-90, 20-92, 20-93, 22-02, 22-03, 22-07, 22-09, 22-12, 22-15 to 22-18 inclusive, 22-20, 22-61, 22-116, 23-124, 23-126, 23-155, 23-159, 23-166, 23-167, 23-174.</p>
	<b>Objections:</b>	<p>Loss of Mott family farmland and a significant effect on business viability: blight on existing property, impact on existing and future growth plans for south Essex, designation and alternative locations of common land and land for ecological mitigation, justification for loss of land for ecological mitigation and WCH routes, location of rendezvous point, proposed utility easements and sterilised land, access to land including jetty facilities, unauthorised access to land adjoining WCH routes, visual and noise impacts, impact of temporary water supply pipeline. <a href="#">[REP1-318]</a> <a href="#">[REP1-319]</a> <a href="#">[REP1-</a></p> <p>created to undertake the work once that work is complete.</p> <p>The issue of access to the River Thames jetties and wharf was raised by Mr Holland on behalf of the Mott family. The ExA notes the Applicant's responses in terms of ownership and use, and that the Thames Freeport development is expected to acquire the jetties and wharf, and considers that the Applicant's case is made out.</p> <p>The ExA is satisfied that a guarantee of access to Mott family land south of Station Road for development is not realistic at this stage and is content that the Applicant would use best endeavours and that it would consider a commitment to provide access prior to the design and build stage of the Project.</p> <p>The ExA is satisfied with the Applicant's response in respect of the need for CA of plots 20-70 and 23-17 for replacement public open space and that s131 PA 2008 requires that such land must vest with the owners of the public open space land being acquired.</p> <p>In respect of the new WCH routes, the Applicant is encouraged to pursue a tripartite agreement with the Mott family and the highway authority, but the ExA considers that the CA proposal should remain in the event of non-agreement.</p> <p>The ExA has considered all the concerns raised and is satisfied with the Applicant's responses and position in respect of each of them. The ExA therefore recommends</p>

IP/ AP	Nature of objection	ExA Consideration
		that the requested CA and TP proceed in respect of Mott family land.
	<p data-bbox="808 363 1256 464"> <a href="#">320</a>; also <a href="#">[REP1-354]</a> <a href="#">[REP1-357]</a> <a href="#">[REP1-360]</a> ; also <a href="#">[REP6-183]</a> <a href="#">[REP6-184]</a> <a href="#">[REP6-186]</a>.         </p> <p data-bbox="808 488 1256 652">           Impact on wildlife and habitats including ancient woodland <a href="#">[REP1-354]</a> <a href="#">[REP1-357]</a>; also <a href="#">[REP6-183]</a> <a href="#">[REP6-184]</a> <a href="#">[REP6-186]</a>.         </p> <p data-bbox="808 676 1256 815"> <b>Status summary:</b>            The Applicant responded at CAH3 to points put by Mr Holland on behalf of the Mott family: see Annex D of <a href="#">[REP6-087]</a>:         </p> <ul data-bbox="808 839 1256 1339" style="list-style-type: none"> <li>▪ Land proposed for ecological mitigation would result in loss of farmland and development land, and the land shown on Plate 13 of <a href="#">[AS-101]</a> should be used for ecological mitigation instead of Plot 22-40: the Applicant responded that Plot 22-40 provided the most suitable replacement as close as practicable to Low Street Pit Local Wildlife Site and that moving it further away would require further consultation with Natural England;</li> </ul>	

IP/ AP	Nature of objection	ExA Consideration
	<ul style="list-style-type: none"> <li>▪ Land being permanently acquired for the North Portal access track could eventually become part of the Tilbury Link Road, in which case the Mott family would lose out on the value of the land at that time: the Applicant responded that the land was required to construct a permanent private means of access and that compensation and any future use of the land were not a consideration for this Examination;</li> <li>▪ The rendezvous point should be in a different location: the Applicant said that it would be meeting the Emergency Services Group (ESG) shortly but that it understood that the ESG was not in favour of the location proposed by the Mott family;</li> <li>▪ Rights would have to be given up in relation to the CA of land and rights for the Linford borehole and water pipeline for the TBM: the Applicant explained that Article 37(5) of</li> </ul>	

IP/ AP	Nature of objection		ExA Consideration
		<p>the dDCO <a href="#">[REP5-024]</a> requires the undertaker to extinguish the rights created to undertake the work once that work is complete;</p> <ul style="list-style-type: none"> <li>▪ Access to the River Thames jetties and wharf: the Applicant responded that the jetties were not owned by the Mott family and the wharf had not been used since at least 1960, also the Thames Freeport development is expected to acquire the jetties and wharf;</li> <li>▪ A guarantee of access to Mott family land south of Station Road for development: the Applicant said that the draft SoCG says that the Applicant would use best endeavours and that it would consider a commitment to provide access prior to the design and build stage of the Project;</li> <li>▪ CA of plots 20-70 and 23-17 for replacement public open space: the Applicant explained that s131 PA 2008 requires that such land must vest with the owners of the public open</li> </ul>	



IP/ AP	Nature of objection	ExA Consideration
	<p>space land being acquired; and</p> <ul style="list-style-type: none"> <li>Concerns over WCH routes: the Applicant said that similar concerns had been raised by E and K Benton, and that the Applicant needed to retain the CA powers in case the proposed agreement whereby the landowner dedicated the land as a PRow were to fall through.</li> </ul> <p>In the final agreed SoCG the following matters remain outstanding and not agreed <a href="#">[REP9A-104]</a>:</p> <ul style="list-style-type: none"> <li>ecological mitigation land;</li> <li>use of the north portal access track and rendezvous point;</li> <li>WCH routes, including where they impact development opportunities;</li> <li>Replacement common land.</li> </ul> <p>The objections have not been withdrawn.</p>	
	<b>Interests:</b>	BoR Parts 1, 2 and 3.

IP/ AP	Nature of objection	ExA Consideration
<b>E9-10</b> <b>Holland Land and Property on behalf of E and K Benton Ltd</b> <a href="#">[RR-0278]</a>	<b>Plots:</b>	<p>CA of all interests and rights (pink) over Plots 35-18, 35-19, 38-05 to 38-08 inclusive, 38-11, 38-12, 38-17, 38-21, 38-26, 38-27, 38-30, 38-45, 39-34, 39-71, 39-75, 39-80, 41-21.</p> <p>CA of rights (blue) over Plots 35-01, 35-02, 35-05, 35-09, 35-12, 35-20, 38-01, 38-13, 38-14, 38-15, 38-20, 38-22, 38-24, 38-31, 38-32, 38-34, 38-35, 38-38, 38-41, 38-44, 38-46, 38-47, 38-59, 38-64, 39-54, 39-83, 41-02, 41-10, 41-11, 41-24, 41-40, 41-41, 41-44, 41-49.</p> <p>Temporary possession and use of Plots 38-02, 38-09, 38-10, 38-16, 38-18, 38-19, 38-23, 38-29, 38-36, 38-37, 38-39, 39-81, 39-84, 41-28, 41-39, 41-45, 41-47, 41-50, 41-51.</p> <p>CA/TP of category 2 rights (Veolia) over Plots 30-07, 34-01, 34-03 to 34-06 inclusive.</p>
	<b>Objection:</b>	<p>Loss of existing farmland, blight on existing property, impact on existing and future growth plans</p>

IP/ AP	Nature of objection	ExA Consideration
		<p>for south Essex, designation and alternative locations of replacement common land and land for ecological mitigation, justification for loss of land for permanent acquisition for NMUs, proposed utility easements and sterilised land, access to land including jetty facilities, unauthorised access to land adjoining NMUs, visual and noise impacts, impact of temporary water supply pipeline. <a href="#">[REP1-334]</a> <a href="#">[REP1-354]</a> <a href="#">[REP1-335]</a> <a href="#">[REP1-336]</a> <a href="#">[REP1-353]</a> <a href="#">[REP1-360]</a>; also <a href="#">[REP6-179]</a> <a href="#">[REP6-185]</a> <a href="#">[REP6-186]</a> <a href="#">[REP6-187]</a>.</p>
	<p><b>Status summary:</b></p>	<p>Applicant's response to WR is at <a href="#">[REP2-051]</a>; further submissions are at <a href="#">[REP6-087]</a>.</p> <p>The Applicant responded at CAH3 to points put by Mr Holland on behalf of E and K Benton: see Annex E of <a href="#">[REP6-087]</a>:</p> <ul style="list-style-type: none"> <li>Ecological mitigation areas should be by way of a s253 agreement rather than CA: the Applicant explained that this</li> </ul> <p>In respect of the interfaces between the Proposed Development and the proposed Medebridge solar farm on Benton land, the ExA is satisfied that the Applicant has an agreement with Ockendon Solar Farm to manage the interfaces, and is currently progressing an agreement with Medebridge Solar Ltd (and with Fen Lane Gridco who own the substation), covering the construction interface, installation of electrical wiring and permanent access rights. Furthermore, the ExA notes that direct access from the LTC would only be permitted in an emergency, for instance removal/replacement of a failed transformer, and it is anticipated that these agreements will be signed before the close of the Examination.</p> <p>In respect of WCH matters, the ExA notes comments made on behalf of E and K Benton about lack of consultation, the Applicant's explanation that the Design Principles requirements robust measures to deter anti-social and unauthorised use, and that it proposed to enter into a tripartite agreement with another AP which would allow for routes to be dedicated as highway by the landowner, but that the CA power was need in case such agreement was not reached or failed, citing Circular 02/97 and A303 Sparkford to Ilchester in support of its position.</p> <p>In respect of the new WCH routes, similar to the Mott family, the Applicant is encouraged to pursue a tripartite agreement with E and K Benton and the highway</p>

IP/ AP	Nature of objection	ExA Consideration
	<p>issue had been dealt with in CAH1 post hearing submissions <a href="#">[REP4-177]</a> and reiterated the need for high quality management of these areas;</p> <ul style="list-style-type: none"> <li>▪ A request for E and K Benton (as owner) and also EA Strategic Land to be represented on the Traffic Management Forum in respect of Medebridge Road: the Applicant's view is that access and traffic management will be properly governed through the outline Traffic Management Plan for Construction <a href="#">[REP5-056]</a> which would invite relevant stakeholders (expected to include Benton) to the Forum;</li> <li>▪ Issues relating to the proposed bridleway over Benton land: the Applicant suggested that this matter be deferred to ISH10 and said that, as previously explained, it is responding to NPSNN policies (for example at paragraphs 3.17 and 5.205)</li> </ul>	<p>authority, but the ExA considers that the CA proposal should remain in the event of non-agreement.</p> <p>The ExA notes the final position in the SoCG and recommends that the requested CA and TP proceeds in respect of E and K Benton land.</p>

IP/ AP	Nature of objection	ExA Consideration
	<p>which encourage enhance and improved NMU routes;</p> <ul style="list-style-type: none"> <li>▪ An alternative WCH route was put forward on behalf of E and K Benton Ltd for North Road, Ockendon – see plates 62 and 63 of <a href="#">[AS-101]</a>; the Applicant explained that it did not consider that the narrow footway shown was a suitable alternative option: this was discussed further at ISH10 <a href="#">[REP6-091]</a>;</li> <li>▪ Interfaces between the Proposed Development and the proposed Medebridge solar farm on Benton land: the Applicant said that it already has an agreement with Ockendon Solar Farm covering the interfaces between that project and the Proposed Development, and is currently progressing an agreement with Medebridge Solar Ltd (and with Fen Lane Gridco who own the substation), covering the construction interface, installation of electrical wiring</li> </ul>	

IP/ AP	Nature of objection	ExA Consideration
		<p>and permanent access rights, noting that direct access from the LTC would only be permitted in an emergency, for instance removal/replacement of a failed transformer: it is anticipated that these agreements will be signed before the close of the Examination;</p> <ul style="list-style-type: none"> <li>▪ Mr Holland submitted that there had been an absence of consultation on WCH matters: the Applicant responded that the WCH routes had been consulted on both in the 2020 supplementary consultation and in the 2022 Design Refinement consultation;</li> <li>▪ In response to concerns about enforcement in respect of the unauthorised use of bridleways, the Applicant explained that clause PEO.06 of the Design Principles <a href="#">[REP4-146]</a> requires robust measures to deter anti-social and unauthorised use;</li> <li>▪ E and K Benton objected to the CA of land for new PRow:</li> </ul>

IP/ AP	Nature of objection	ExA Consideration
		<p>the Applicant explained the form of agreement that it proposed to enter into with another AP (the Mott family), which would allow for routes to be dedicated as highway by the landowner, but that the CA power was need in case such agreement was not reached or failed, citing Circular 02/97 and A303 Sparkford to Ilchester in support of its position.</p> <p>In the final agreed SoCG the following matters remain outstanding and not agreed <a href="#">[REP9A-102]</a>:</p> <ul style="list-style-type: none"> <li>▪ ecological mitigation land;</li> <li>▪ flood compensation land;</li> <li>▪ WCH routes, including the need for freehold acquisition and where they impact development opportunities;</li> <li>▪ Replacement common land.</li> </ul> <p>The objection has not been withdrawn.</p>
	<b>Interests:</b>	BoR Parts 1, 2 and 3.

IP/ AP	Nature of objection		ExA Consideration
<b>E9-11</b> <b>Holland Land and Property on behalf of The Linford Land Group</b> <a href="#">[RR-1070]</a>	<b>Plots:</b>	CA/TP of category 2 rights (Ockendon): Plots 23-89, 23-90, 23-109, 23-177, 23-180, 24-89, 24-94, 24-95, 24-100, 24-118, 24-119, 24-125, 24-128, 24-130, 24-132, 24-134, 24-136, 24-138, 24-139, 24-140, 24-149, 24-153, 24-180, 24-182, 24-185, 24-191, 24-192, 24-194, 24-197, 24-199.	<p>The issues raised by the Linford Land Group have been considered above per the Mott family.</p> <p>The ExA notes that the outline application (reference 16/01232/OUT) was submitted to Thurrock Council in March 2023. The ExA further notes that the application is for development of land which is in designated greenbelt and is not allocated in any Local Plan document.</p> <p>The ExA agrees with the Applicant's position per the Mott family above. Noting also the local policy status of the land which is the subject of an outline application (reference 16/01232/OUT) (Green Belt, unallocated for development), the ExA does not view this land as having any particular policy support for future development potential justifying a reappraisal of the Applicant's proposals.</p> <p>Accordingly, the ExA recommends that the requested CA and TP proceeds as proposed by the Applicant.</p>
	<b>Objection:</b>	Loss of farmland and land earmarked for future growth including extant planning application 16/01232/OUT, significant effect on business, blight on existing property, impacts on East Tilbury and Linford which are strategic growth locations in the emerging Thurrock Local Plan, alternative locations for ecological mitigation <a href="#">[REP1-354]</a> <a href="#">[REP1-360]</a> <a href="#">[REP1-385]</a> ; also <a href="#">[REP6-180]</a> <a href="#">[REP6-181]</a> .	
	<b>Status summary:</b>	The Applicant responded to WR at <a href="#">[REP2-051]</a> and also to submissions by Linford Land Group at CAH3, firstly suggesting alternative mitigation land and	



IP/ AP	Nature of objection	ExA Consideration
	<p>secondly relating to the Linford borehole and TBM pipeline, per its response to the Mott family (see item 9 above). The Applicant's latest position is at <a href="#">[REP6-087]</a> <a href="#">[REP7-188]</a>.</p> <p>The objection has not been withdrawn.</p>	
<b>E9-12</b> <b>Holland Land and Property on behalf of Mulberry Strategic Land Ltd</b> <a href="#">[RR-0772]</a>	<b>Interests:</b>	BoR Parts 1, 2 and 3.
	<b>Plots:</b>	<p>CA/TP of plots with category 2 rights:</p> <p>(Watson): Plots 23-72, 23-79, 23-175, 24-123, 24-124, 24-193, 24-195:</p> <p>(Mott): Plots 19-01, 19-06, 19-07, 19-09, 19-11, 19-14, 19-16, 19-18, 19-22, 19-23, 19-26, 19-35, 19-36, 19-39, 20-64, 20-70, 20-73, 20-74, 22-02 to 22-10 inclusive, 22-12, 22-14 to 22-18 inclusive, 22-20, 22-26, 22-28, 22-40, 22-92, 22-93, 22-101, 22-115, 22-116, 23-86, 23-108, 23-113, 23-117, 23-118, 23-124, 23-126, 23-133, 23-135, 23-151, 23-153, 23-155, 23-157, 23-159,</p>
		<p>The issues raised by Mulberry Strategic Land have been considered above per the Mott family.</p> <p>The ExA notes that Mulberry Strategic Land holds the option to develop land owned by the members of the Linford Land Group and resubmitted an outline application to Thurrock Council in March 2023 (reference 16/01232/OUT). The ExA further notes that the application is for development of land which is in designated greenbelt and is not allocated in any Local Plan document.</p> <p>The ExA agrees with the Applicant's position per the Mott family above. Noting also the local policy status of the land which is the subject of an outline planning application (reference 16/01232/OUT) (Green Belt, unallocated for development), the ExA does not view this land as having any particular policy support for future development potential justifying a reappraisal of the Applicant's proposals.</p>

IP/ AP	Nature of objection		ExA Consideration
		<p>23-161, 23-166, 23-167, 23-169, 23-172, 23-173, 23-174:</p> <p>(Ockendon): Plots 23-89, 23-90, 23-109, 23-119, 23-125, 23-132, 23-136, 23-139, 23-177, 23-180, 24-86, 24-89, 24-94, 24-95, 24-100, 24-107, 24-113, 24-118, 24-119, 24-125, 24-128, 24-130, 24-132, 24-134, 24-136, 24-138, 24-139, 24-140, 24-149, 24-153, 24-180, 24-182, 24-185, 24-191, 24-192, 24-194, 24-196 to 24-199 inclusive:</p> <p>(March): Plots 23-144, 23-145:</p> <p>(Darby): Plots 23-147: and</p> <p>(Cheale Group): Plots 44-90, 44-92, 44-112.</p>	Accordingly, the ExA recommends that the requested CA and TP proceeds as proposed by the Applicant.
	<b>Objection:</b>	<p>Loss of farmland and impact on future growth plans, significant effect on business, blight on existing property, impacts on East Tilbury and Linford which are strategic growth locations in the emerging Thurrock Local Plan, alternative locations for ecological mitigation <a href="#">[REP1-354]</a> <a href="#">[REP1-355]</a> <a href="#">[REP1-356]</a> <a href="#">[REP1-360]</a> <a href="#">[REP1-</a></p>	

IP/ AP	Nature of objection	ExA Consideration
		<a href="#">361</a> ; also <a href="#">[REP6-178]</a> <a href="#">[REP6-180]</a> <a href="#">[REP6-181]</a> .
	<b>Status summary:</b>	<p>Mulberry Strategic Land holds the option to develop land owned by the members of the Linford Land Group and resubmitted an outline application to Thurrock Council in March 2023 (reference 16/01232/OUT) for development of land which is in designated greenbelt and is not allocated in any Local Plan document (Annex F.3 of <a href="#">[REP6-087]</a>. Consequently all submissions made on behalf of Mulberry at CAH3 were linked to Linford Land Group and the Mott family as reported on above and there are no new issues <a href="#">[REP6-087]</a> <a href="#">[REP7-188]</a>.</p> <p>The objection has not been withdrawn.</p>
<b>E9-13</b> <b>Holland Land and Property on behalf of EA Strategic Land LLP</b> <a href="#">[RR-0280]</a>	<b>Interests:</b>	BoR Parts 1, 2 and 3.
	<b>Plots:</b>	CA/TP of category 2 rights (E and K Benton): Plots 35-02, 35-09, 35-12, 35-18, 35-19, 38-01, 38-02, 38-05, 38-06, 38-07, 38-10, 38-22, 38-24, 38-26, 38-27,
	The ExA notes that EA Strategic Land holds category 2 rights in E and K Benton land, and is Benton's development partner for the South Ockendon Sustainable Urban Extension (paragraph 3.9.1. of <a href="#">[REP6-087]</a> .	

IP/ AP	Nature of objection	ExA Consideration
		38-29, 38-31, 38-32, 38-34 to 38-37 inclusive, 38-39, 38-40, 38-44, 38-47, 38-64, 39-34, 39-71, 39-80, 39-83, 39-84, 41-02, 41-10, 41-11, 41-21, 41-24, 41-39, 41-40, 41-44, 41-45, 41-50.
	<b>Objection:</b>	<p>Impact on planned sustainable urban extension to the north-east of South Ockendon, use of Medebridge Road and Mollands Lane during construction, access to South Ockendon Hall Farm, new footpath connection at North Road, South Ockendon.</p> <p>Summary and latest position  <a href="#">[REP1-337]</a> <a href="#">[REP1-354]</a> <a href="#">[REP1-359]</a> <a href="#">[REP1-360]</a>.</p>
	<b>Status summary:</b>	<p>Development partner for E and K Benton for the South Ockendon sustainable urban extension <a href="#">[REP2-051]</a> <a href="#">[REP6-087]</a>. See E and K Benton reported on at item 10 above.</p> <p>The objection has not been withdrawn.</p>
<p>The ExA also that the issues raised by Mr Holland are considered by the ExA in the context of the issues raised by E and K Benton Ltd.</p> <p>Accordingly, the ExA recommends that the requested CA and TP proceeds as proposed by the Applicant.</p>		

IP/ AP	Nature of objection		ExA Consideration
<b>E9-14</b> <b>Holland Land and Property on behalf of Mrs A Schatzmann and the A Schatzmann Discretionary Trust</b> <a href="#">[RR-0748]</a> <a href="#">[RR-1062]</a>	<b>Interests:</b>	BoR Parts 1, 2 and 3.	<p>These APs were represented by Holland Land and Property and their broad concerns were raised alongside those of other APs as shared concerns. They are summarised in the objection column.</p> <p>The Applicant has made a justified case for the location of the LTC and so, to the extent that this land is required for it, the ExA accepts that the requested CA and TP are also justified.</p> <p>The ExA has considered the underlying matters raised by equivalent objections above. It has noted the movement made by the Applicant in relation to the acquisition of land for new PRowS which partially addresses this objection. The ExA has made findings in relation to other objections about the value of managing PRow design to limit the scope for unauthorised incursion onto or antisocial behaviour on private land. It considers that acceptable arrangements are in place in relation to the use of Medebridge Road.</p> <p>Consequently, the ExA is satisfied with the Applicant's proposals, supports the CA and TP requested by the Applicant and does not recommend any change to the extent of land sought by the Applicant.</p>
	<b>Plots:</b>	<p>Mrs A Schatzmann:</p> <p>CA/TP of category 2 rights (E and K Benton): 30-07, 34-01, 34-03, 34-04, 34-05, 34-06, 35-01, 35-02, 35-05, 35-09, 35-12, 35-18, 35-19, 36-02 to 36-06 inclusive, 38-01, 38-02, 38-05 to 38-24 inclusive, 38-26, 38-27, 38-29, 38-31, 38-32, 38-34 to 38-40 inclusive, 38-44, 38-47, 38-64, 39-34, 39-71, 39-80, 39-81, 39-83, 39-84, 41-02, 41-10, 41-11, 41-21, 41-24, 41-39, 41-40, 41-44, 41-45, 41-50.</p> <p>A Schatzmann Discretionary Trust:</p> <p>CA of rights (blue) over Plots 35-01, 35-05, 36-01, 36-06, 38-08, 38-11, 38-12, 38-15, 38-18, 38-24.</p>	
	<b>Objections:</b>	Loss of existing farmland, blight on existing property, impacts on planned growth of South Ockendon, designation of land for	

IP/ AP	Nature of objection		ExA Consideration
		ecological mitigation and flood compensation, loss of land for new PRow and unauthorised access, use of Medebridge Road during construction, visual, noise and mitigation works at South Ockendon Hall Farm, access to land and property outside the Order limits.  Summary and latest position <a href="#">[REP1-354]</a> <a href="#">[REP1-359]</a> <a href="#">[REP1-360]</a> .	
	<b>Status summary:</b>	These APs were not directly discussed at CAH3 <a href="#">[REP6-087]</a> .  The objections have not been withdrawn.	
<b>E9-15</b> <b>Holland Land and Property on behalf of the Ockendon family</b> <a href="#">[RR-0640]</a> <a href="#">[RR-0674]</a> <a href="#">[RR-0952]</a>	<b>Interests:</b>	BoR Parts 1, 2 and 3.	This AP was represented by Holland Land and Property and its broad concerns were raised alongside those of other APs as shared concerns. They are summarised in the objection column.  The Applicant has made a justified case for the location of the LTC and so, to the extent that this land is required for it, the ExA accepts that CA and TP are also justified.
	<b>Plots:</b>	CA of all rights and interests (pink) over Plots 23-89, 24-86, 24-87, 24-89, 24-94, 24-97, 24-102, 24-106, 24-107, 24-108, 24-110, 24-114, 24-115, 24-117, 24-118, 24-119, 24-122, 24-132, 24-134, 24-135, 24-137, 24-138, 24-140,	

IP/ AP	Nature of objection		ExA Consideration
		24-141, 24-146, 24-149, 24-182, 24-185:  CA of rights (blue) over Plots 23-90, 23-105, 23-109, 23-132, 23-136, 23-139, 23-177, 24-91, 24-95, 24-96, 24-100, 24-103, 24-109, 24-113, 24-126, 24-129, 24-130, 24-136, 24-153, 24-160, 24-191, 24-192, 27-75, 27-78:  TP and use (green) of Plots 23-119, 23-125, 23-180, 24-125, 24-128, 24-139, 24-180, 24-194, 24-196 to 24-199 inclusive.	<p>The ExA notes that no submissions were made at CAH3 and that it had asked for submissions to be made in writing by or on behalf of the Ockendon family at Deadline 6, whereupon the Applicant would respond at Deadline 7.</p> <p>The ExA further notes that no such submissions were received.</p> <p>The ExA has considered the objections raised, which it considers have been considered above in relation to other parties represented by Mr Holland.</p> <p>Consequently, the ExA supports the CA and TP request by the Applicant in respect of the Ockendon family and recommends no change to the CA and TP proposals put forward by the Applicant.</p>
	<b>Objections:</b>	Loss of farmland and impact on future growth plans, significant effect on business, blight on existing property, impacts on East Tilbury and Linford which are strategic growth locations in the emerging Thurrock Local Plan, alternative locations for ecological mitigation <a href="#">[REP1-354]</a> <a href="#">[REP1-360]</a> .	
	<b>Status summary:</b>	The Applicant's latest position is at <a href="#">[REP6-087]</a> .  No submissions were made at CAH3 or received from the	

IP/ AP	Nature of objection		ExA Consideration
		Ockendon family at Deadline 6 and there was no further response from the Applicant. There is a relationship between this AP and Ockendon Solar Ltd but that body is not a land and/ or rights objector.  The objections have not been withdrawn.	
<b>E9-16</b> <b>Holland Land and Property on behalf of E W Ballard Holdings Ltd</b> <a href="#">[RR-0279]</a>	<b>Interests:</b>	BoR Parts 1, 2 and 3.	This AP was represented by Holland Land and Property and its broad concerns were raised alongside those of other APs as shared concerns. They are summarised in the objection column.  The Applicant has made a justified case for the location of the LTC and so, to the extent that this land is required for it, the ExA accepts that CA and TP are also justified.  The ExA notes that no submissions were made at CAH3 and that it had asked for submissions to be made in writing by or on behalf of the Ockendon family at Deadline 6, whereupon the Applicant would respond at Deadline 7.  The ExA further notes that no such submissions were received.
	<b>Plots:</b>	CA of all interests and rights (pink) over Plot 24-110.  CA of rights (blue) over Plot 24-105.	
	<b>Objection:</b>	Loss of farmland; significant effect on business; blight on existing property; further impacts on the planned growth of East Tilbury and Linford (one of the principal strategic growth locations in the developing Thurrock Local Plan)	
	<b>Status summary:</b>	The Applicant’s latest position is related to the Ockendon submissions at <a href="#">[REP6-087]</a> .	



IP/ AP	Nature of objection		ExA Consideration
		<p>No submissions were made at CAH3 or received from EW Ballard Holdings Ltd at Deadline 6 and there was no further response from the Applicant.</p> <p>The objection has not been withdrawn.</p>	<p>The ExA has considered the objections raised, which it considers have been considered above in relation to other parties represented by Mr Holland.</p> <p>Consequently, the ExA supports the CA and TP request by the Applicant in respect of E W Ballard Holdings Ltd. and recommends no change to the CA and TP proposals put forward by the Applicant.</p>
<b>E9-17</b> <b>Holland Land and Property on behalf of Cheale Group Ltd</b> <a href="#">[RR-0148]</a>	<b>Interests:</b>	BoR Parts 1, 2 and 3.	<p>Mr Holland made submissions at CAH3 seeking agreement from the Applicant to move the access route to utility apparatus.</p> <p>The ExA notes that the Applicant is content to enter into an agreement which would allow for flexibility in circumstances where a development does come forward <a href="#">[REP6-087]</a>.</p> <p>The ExA recommends that the Applicant be encouraged to enter in to such an agreement, but recommends no change to the CA and TP sought by the Applicant in the event that such an agreement does not materialise.</p>
	<b>Plots:</b>	<p>CA of rights (blue) over Plots 44-90, 44-112.</p> <p>TP of Plot 44-92.</p>	
	<b>Objection:</b>	<p>Objects to permanent rights over the land which is subject to an option agreement with a commercial developer due to its strategic location near the A127/M25 junction. Summary and latest position <a href="#">[REP1-354]</a> <a href="#">[REP1-360]</a> <a href="#">[REP6-178]</a>; also <a href="#">[REP6-182]</a>.</p>	
	<b>Status summary:</b>	<p>The Applicant is content to enter into an agreement which would allow for flexibility in circumstances where a</p>	

IP/ AP	Nature of objection		ExA Consideration
		development does come forward [REP6-087].  The objection has not been withdrawn.	
<b>E9-18</b> <b>Gateley Hamer on behalf of Tarmac Building Products Ltd [RR-1045] and Tarmac Cement and Lime Ltd [RR-1046]</b>	<b>Interests:</b>	BoR Parts 1, 2 and 3.	Tarmac Building Products Ltd (TBP) and Tarmac Cement and Lime Ltd (TCL) each have production sites affected by the Proposed Development.  The ExA has considered all the objections made and the Applicant's responses.  <u>In respect of TBP objections</u> , the ExA notes that: <ul style="list-style-type: none"><li>▪ TBP has safety and operational concerns with reference to temporary and permanent access;</li><li>▪ TBP questions the need for new powers to modify the UKPN/NGET high voltage electricity lines;</li><li>▪ the temporary and permanent access concerns are capable of resolution through the CTMP;</li><li>▪ existing wayleaves are not sufficient as they could cause problems in the future, so the Applicant is required to obtain new powers, and these are all in the dDCO;</li><li>▪ powers in relation to the TBP landfill area are unlikely to impact on the restoration works relating to planning conditions; and</li></ul>
	<b>Plots:</b>	<u>Tarmac Building Products Ltd (TBP):</u>  CA of all interests and rights (pink) over Plots 24-70, 27-31, 27-32 and 27-43:  CA of rights (blue) over Plots 24-69, 27-37, 27-39, 27-41, 27-44, 27-51, 27-53, 27-54, 27-67, 27-70, 27-71:  TP and use (green) of Plots 27-35, 27-40, 27-49, 27-52, 27-55, 27-56, 27-65, 27-66, 27-68, 27-72.  <u>Tarmac Cement and Lime Ltd (TCL):</u>  CA of all interests and rights (pink) over Plots 35-12, 35-18, 38-05, 38-06, 38-07, 38-21,	

IP/ AP	Nature of objection	ExA Consideration
	<p>38-26, 38-27, 39-34, 39-71, 41-21:</p> <p>CA of rights (blue) over Plots 27-68, 35-02, 35-09, 35-19, 36-01, 36-03, 38-01, 38-20, 38-22, 38-31, 38-32, 38-34, 38-35, 38-40, 38-44, 38-47, 38-64, 41-02, 41-10, 41-11, 41-24, 41-40, 41-44:</p> <p>TP and use (green) of Plots 27-65, 38-02, 38-10, 38-23, 38-29, 38-36, 38-37, 38-39, 39-80, 39-84, 41-25, 41-39, 41-45, 41-50:</p> <p>CA of category 2 rights over Plots 30-03, 30-07, 30-13, 34-01, 34-03, 34-05, 34-06, 35-01, 35-05, 36-02, 36-05, 36-06, 38-08, 38-11, 38-12 to 38-15 inclusive, 38-17, 38-24, 38-38, 39-83:</p> <p>TP and use of Plots 34-04, 36-04, 38-09, 38-16, 38-18, 38-19, 39-81, (category 2 rights).</p>	<ul style="list-style-type: none"> <li>TBP intends to extend its planning permission for the site, so the Applicant has drafted Article 68, which would disapply the Environmental Permitting Regulations 2016 where there is a conflict between the Proposed Development and the extant environmental permit conditions but would require a written scheme (produced in consultation with TBP and EA) to ensure the continuing safe operation of the site, continued access for monitoring and no impacts on the environment.</li> </ul> <p>The ExA has carefully considered all the submissions made and finds that</p> <ul style="list-style-type: none"> <li>TBP concerns in respect of access are capable of resolution through the CTMP and CoCP;</li> <li>existing powers are not adequate to secure the necessary rights to alter and subsequently to operate the realigned HV electricity lines; and</li> <li>the proposed powers are proportionate in relation to the safe operation of the landfill area, and are necessary to enable the Proposed Development to proceed.</li> </ul> <p>The ExA therefore finds that the powers sought in the dDCO are necessary and justified.</p> <p><u>In respect of TCL objections</u>, the ExA notes that the objections are similar to those raised by TBP which have</p>
	<p><b>Objections:</b></p> <p><u>Tarmac Building Products Ltd (TBP):</u></p>	

IP/ AP	Nature of objection	ExA Consideration
	<p>Impact on the operation of the TBP site, particularly in respect of</p> <ul style="list-style-type: none"> <li>▪ No clear justification for imposition of new permanent rights to carry out works to the UKPN and NGET apparatus on the Tarmac site;</li> <li>▪ Proposed utility diversion routes are unnecessarily intrusive;</li> <li>▪ CA and TP powers in the landfill area will hinder Tarmac re its EA monitoring and land restoration planning obligations. <a href="#">[REP6-203]</a>.</li> </ul> <p>Argues that existing powers NGET/UKPN powers should be used.</p> <p><u>Tarmac Cement and Lime Ltd (TCL):</u></p> <p>Impact on efficient deliveries of TCL construction materials and building products across the UK: impact on TCL sites in Kent due to impacts on local roads and networks, eg re Ham Hill asphalt and concrete plant (A228): also</p>	<p>been dealt with in respect of TBP above, and accordingly makes the same findings.</p> <p>The ExA therefore recommends no change to the powers sought by the Applicant, which it considers are necessary, proportionate and justified.</p>

IP/ AP	Nature of objection	ExA Consideration
		planning consent in Snodland (Kent County Council reference TM/98/7850 for a new cement works (A228): transport to from these sites not included in modelling work.
	<b>Status summary:</b>	<p><u>Tarmac Building Products Ltd (TBP):</u></p> <p>The Applicant's latest position regarding the TBP site is at Annex G of <a href="#">[REP6-087]</a>: in particular:</p> <ul style="list-style-type: none"> <li>▪ with reference to temporary and permanent access to the TBP site and the need for powers to modify the alignments of the NGET 400kV and UKPN 132kV overhead power lines (Work Nos OH4 and OH5), the Applicant proposes to install new infrastructure not covered by existing wayleaves. The NGET and UKPN positions are that (in order to avoid future arguments) it is for the Applicant to obtain the necessary powers (through the DCO) for NGET and</li> </ul>

IP/ AP	Nature of objection	ExA Consideration
		<p>UKPN in respect of new apparatus rather than relying on existing powers, and the Applicant does not wish to rely on existing deeds, so the DCO contains all the necessary powers;</p> <ul style="list-style-type: none"> <li>▪ powers in relation to the TBP landfill area are unlikely to impact on the restoration works relating to planning conditions; and</li> <li>▪ noting that TBP intends to extend its planning permission for the site, the Applicant has drafted Article 68, which would disapply the Environmental Permitting Regulations 2016 where there is a conflict between the Project and the extant environmental permit conditions but would require a written scheme (produced in consultation with TBP and EA) to ensure the continuing safe operation of the site, continued access for monitoring and no impacts on the environment.</li> </ul>

IP/ AP	Nature of objection	ExA Consideration
	<p>This position was unchanged at section 2.6 of <a href="#">[REP7-185]</a>.</p> <p>An update provided by TBP relating to the Linford blocks plant at <a href="#">[REP8-190]</a> states that the following matters remain unresolved:</p> <ul style="list-style-type: none"> <li>▪ Permanent and temporary rights to enable works to existing utilities;</li> <li>▪ Impact of CA and TP on existing planning conditions and EA permits.</li> </ul> <p><u>Tarmac Cement and Lime Ltd (TCL):</u></p> <p>An update provided by TCL at <a href="#">[REP7-264]</a> submits that the ExA should not take comfort in current negotiations. Matters not resolved relate to:</p> <ul style="list-style-type: none"> <li>▪ Temporary rights of access;</li> <li>▪ Planning;</li> <li>▪ Permits, including review mechanism and reliance on an EA agreement;</li> </ul>	

IP/ AP	Nature of objection		ExA Consideration
		<ul style="list-style-type: none"><li>▪ Concerns over the Applicant’s position at Deadline 6 in respect of<ul style="list-style-type: none"><li>○ Justification for permanent rights: existing agreements are considered adequate, and NGET/UKPN will undertake future maintenance;</li><li>○ Temporary rights of access will give rise to operational and safety issues.</li></ul></li></ul> <p>The objections have not been withdrawn.</p>	
<b>E9-19</b> <b>Savills on behalf of The Rochester Bridge Trust (RBT)</b> <a href="#">[RR-1078]</a>	<b>Interests:</b>	BoR Parts 1, 2 and 3.	Matters in relation to this objection divide broadly into two: <ul style="list-style-type: none"><li>▪ Site 1: land on the north side of Lower Higham Road, Shorne, Gravesend; and</li><li>▪ Site 2: land forming part of Great Clayne Farm, Chalk, Gravesend, proposed to form part of Chalk Park.</li></ul> <p>In relation to Site 1, the ExA understands the starting point concern from RBT about the limited detail</p>
	<b>Plots:</b>	CA of all interests and rights (pink) over Plot 13-02:  CA of subsoil and rights (yellow) over Plots 14-04, 14-05, 14-09, 14-15:  TP and use (green) of Plots 13-04, 14-01, 14-03, 15-08:	



IP/ AP	Nature of objection		ExA Consideration
		CA of category 2 interest in Plots 13-03, 13-09.	<p>supporting activities relevant to HRA mitigation by the Applicant. However, there is enough detail to be clear that Site 1 is required to provide HRA mitigation and is the only suitable location for it, as it is already functionally linked land (<a href="#">[APP-487]</a> <a href="#">[APP-488]</a>) and the mitigation is supported by NE. The ExA accepts this justification and supports this aspect of the request.</p> <p>The ExA expects greater specification and detail to emerge during the detailed design stage and hence for the approach to drainage works on this land to be refined. This is a normal process and does not indicate over acquisition at this stage. The location of the works is driven by a need to minimise repeated and/ or permanent effects on nearby Ramsar site land. Concerns about the extent of works and flooding were explored in the hearing and the ExA is content that neither of those issues gives rise to reasons to substantially amend or not proceed with the proposed works. The ExA notes progress towards agreement outlined in the post CAH4 submissions <a href="#">[REP6-088]</a> and RBT's PADS <a href="#">[REP7-275]</a>. But as things stand, the ExA supports this aspect of the request.</p> <p>In relation to Site 2 - the Chalk Park land, land is sought temporarily for the southern tunnel compound and soil storage. Land is also sought permanently to create Chalk Park.</p> <p>The temporary compound and storage justification is supported by the ExA, as this flows from more general</p>
	<b>Objection:</b>	<p>CA and TP of land for</p> <ul style="list-style-type: none"> <li>▪ southern entrance tunnel compound and storage (lack of detail);</li> <li>▪ creation of new public open space (Chalk Park) – lack of detail, no requirement as not replacement open space, so does not pass s122 or s131/132 tests; and</li> <li>▪ upgrade of footpath NG7 to bridleway – not required to facilitate, nor incidental, insufficient evidence of need for the number of access points to the proposed Chalk Park scheme, severance of farmland once upgraded, other powers exist.</li> </ul>	
	<b>Status summary:</b>	The Applicant responded to the RBT at <a href="#">[REP6-088]</a> and put its case with reference to	

IP/ AP	Nature of objection	ExA Consideration
	<ul style="list-style-type: none"> <li>▪ Site 1: land on the north side of Lower Higham Road, Shorne, Gravesend; and</li> <li>▪ Site 2: land forming part of Great Clayne Farm, Chalk, Gravesend, also known as land at Chalk Park, south of the A226 Rochester Road.</li> </ul> <p>The updated PADS submitted by RBT <a href="#">[REP7-275]</a> summarises the current position in respect of the following matters currently not agreed:</p> <ul style="list-style-type: none"> <li>▪ ecological mitigation land – the Applicant has offered to enter into an agreement under s253 Highways Act 1980: a draft has been provided to RBT which RBT agrees to in principle subject to final contract;</li> <li>▪ drainage pipe – the Applicant has provided RBT with a draft agreement which would obviate the need for permanent rights, and which RBT agrees to in principle subject to final contract; and</li> </ul>	<p>findings that the Proposed Development is appropriately located. If the alignments are justified (as they are) and it is accepted that the southern tunnel portal is located where it is in order to reduce landscape effects relevant to the Kent Downs National Landscape and also to prevent major works close to the water margin of the River Thames affecting a European Site, the location of the southern tunnel portal compound and soil storage area is also justified.</p> <p>The ExA notes RBT's concern that the creation of Chalk Park is not necessary for the Proposed Development and its hope that the land could be restored after works for agricultural use. The ExA has found elsewhere that the Proposed Development requires land permanently for biodiversity conservation, mitigation and compensation, to create public access and, critically, to manage tunnel and related construction arisings using means that substantially limit the transport of waste materials on public roads or the River Thames to more remote disposal locations, where both transport and disposal activities would create very substantial adverse effects including traffic congestion, noise and vehicle emissions. The design of a permanent park in this location enables the Applicant to take arisings that would constitute a very substantial environmental problem and transform them into an environmentally and socially beneficial parkland area, whilst limiting a broad range of other adverse outcomes.</p>

IP/ AP	Nature of objection	ExA Consideration
	<ul style="list-style-type: none"> <li>Chalk Park – matters cannot be agreed.</li> </ul> <p>The representation has not been withdrawn.</p>	<p>The Applicant cites the approach at Chalk Park as both necessary to minimise adverse outcomes and as an instance of good design required by NPSNN paragraph 4.31. The ExA agrees with this justification and supports the acquisition.</p> <p>It follows that the ExA supports the full CA and TP request by the Applicant in this location, and recommends no change.</p>
<b>E9-20</b> <b>Mr Dean Bradbrook and Ms Samantha Bradbrook</b> <a href="#">[RR-0243]</a> <a href="#">[RR-0954]</a>	<b>Interests:</b>	BoR Parts 1, 2 and 3.
	<b>Plots:</b>	<p>CA of all rights and interests (pink) over Plot 39-41:</p> <p>CA/TP of category 2 rights (Mee) over Plots 38-03, 38-04, 39-09, 39-15, 39-18, 39-19, 39-62 to 39-70 inclusive, 39-72, 39-73, 39-74, 39-77, 39-78, 39-79, 39-82, 41-01, 41-03.</p>
	<b>Objection:</b>	<p>No CA objection or WR: RR relate to merits and to health and welfare concerns re stream of heavy lorries, traffic pollution, young family, lack of consultation. No further written submissions but Mr Bradbrook spoke at CAH4 about the proposed compound</p>
		<p>The ExA notes that Mr Bradbrook does not object to CA but spoke at CAH4 about the proximity of the M25 compound and access road to their property, and put forward a suggested alternative route.</p> <p>The ExA further notes the Applicant's submissions that</p> <ul style="list-style-type: none"> <li>the compound was originally to have been located in fields identified by Mr Bradbrook, and that it had been moved due to being designated as a wildlife site; and</li> <li>construction traffic will only use the route close to the Bradbrook property until the haul road is built; and</li> <li>the construction traffic management plan has been modified to bring this forward <a href="#">[REP5-056]</a>.</li> </ul> <p>The ExA has considered all the submissions made and is satisfied that the Applicant's proposals for the siting of and access to the compound are necessary, proportionate and justified.</p>

IP/ AP	Nature of objection	ExA Consideration
		access close to his property and put forward a potential alternative route: the Applicant responded to say that the access would only be used until the haul road was built, and that the oTMPfC has been amended to bring this forward <a href="#">[REP6-088]</a> .
	<b>Status summary:</b>	The Applicant's final Schedule of CA and TP Objections <a href="#">[REP9-252]</a> records there being no outstanding objection to CA.  The representation has not been withdrawn.
<b>E9-21 Mr Francis Wilson and Ms Angela Dawn Wilson</b>  <a href="#">[RR-0320]</a> <a href="#">[RR1076]</a>	<b>Interests:</b>	Parts 1, 2 and 3.
	<b>Plots:</b>	CA of rights (blue) over Plot 33-273 (garden):  TP and use (green) of Plot 33-280 (garden).
	<b>Objection:</b>	New high pressure gas main on his property: domestic property blight. The Applicant provided a written response at <a href="#">[REP1-185]</a> and elaborated further in respect
		The ExA has considered the location of the proposed high-pressure gas main and views it as justified. It notes the submission of a blight application and encourages the Applicant to conclude negotiations.  The ExA supports the full CA and TP request by the Applicant in this location, and recommends no change.

IP/ AP	Nature of objection		ExA Consideration
		of the choice of gas pipeline route at <a href="#">[REP6-088]</a> .	
	<b>Status summary:</b>	A blight application for the property has been accepted by the Applicant and negotiations in respect of market value are proceeding <a href="#">[REP9-252]</a> .  The representation has not been withdrawn.	
<b>E9-22</b> <b>Winckworth</b> <b>Sherwood LLP for</b> <b>Northumbrian Water</b> <b>Ltd operating as</b> <b>Essex and Suffolk</b> <b>Water (ESW) <a href="#">[RR-0797]</a></b>	<b>Interests:</b>	BoR Parts 1, 2 and 3.	The main issue from which this CA and TP objection flows is the outstanding concern by ESW about the Applicant’s proposal to take rights over the Linford Borehole (or well), primarily as a source of process water for the proposed Tunnel Boring Machine (TMB) or machines, to be used in forming the Thames tunnel bores. The most recent SoCG between the Applicant and ESW shows that, notwithstanding detailed discussion in a CAH, key matters were still outstanding at the closure of the Examination <a href="#">[REP9A-034]</a> .  In relation to all diversions of ESW apparatus needing to be within the Order limits, the ExA shares the Applicant’s understanding that this is the case. A side agreement remains unconcluded, but there is no remaining concern arising from this issue which indicates against the conformation of CA and TP powers as currently sought.
	<b>Plots:</b>	CA of rights (blue) over Plot 24-133 (Northumbrian Water):  CA of category 2 rights over Plots 24-63, 24-64, 24-67, 24-69, 24-70, 27-32, 27-41, 27-43, 27-44, 27-51, 27-53, 27-54, 27-67, 27-70, 27-71, 28-55, 28-60, 28-64, 28-67, 29-54, 29-137, 29-139, 29-155, 29-195, 31-01, 31-03, 31-04, 31-11, 31-12, 31-23, 31-24, 31-25, 31-30, 31-33, 31-35, 32-10, 31-17, 32-20, 32-60, 32-154, 32-184, 32-185, 40-01, 40-02, 40-05, 40-10, 42-14, 42-15, 42-19, 42-31, 42-32, 42-66,	

IP/ AP	Nature of objection	ExA Consideration
		<p>42-67, 42-74, 42-86, 42-91, 42-102, 43-04, 43-06, 44-04, 44-07, 44-11, 44-16, 44-18, 44-20, 44-21, 44-32, 44-35, 44-36, 44-37, 44-41, 44-52, 44-66, 44-67, 44-68, 44-75, 44-81, 44-90, 45-80, 45-87, 45-89, 45-108, 45-110, 45-111, 45-112, 45-114 to 45-117 inclusive, 45-120, 45-121, 45-126, 45-134, 45-135, 45-138:</p> <p>TP and use (category 2 rights) of Plots 27-35, 27-40, 27-49, 27-52, 27-55, 27-56, 27-66, 27-72, 28-58, 28-62, 28-63, 28-68, 31-05, 31-06, 31-08, 31-13, 31-18, 31-19, 32-14, 32-57, 32-81, 32-175, 32-176, 32-180, 32-182, 32-183, 32-186, 44-92, 44-93, 44-94, 44-99, 44-112, 45-79, 45-88, 45-107, 45-132.</p>
	<b>Objection:</b>	<p>CA of plot 24-133 (the Linford Well) and associated risk of impact on water quality; diversions of other ESW apparatus: protective provisions <a href="#">[REP1-265]</a> <a href="#">[REP1-266]</a>.</p> <p>In relation to the Linford Borehole, there are outstanding concerns between the Applicant and ESW. The Applicant considers the matter resolved subject to conclusion of the un-concluded side agreement, but the ExA views matters as prospectively a little more complex. The purpose of CA in this location is to enable the abstraction of TBM process water from the well and the laying of a pipeline to move that water. As ESW pointed out in the CAH, acquisition of the borehole land does not bring with it an abstraction licence. It is not demonstrated to the ExA's satisfaction that the Applicant benefits from the right to abstract water here.</p> <p>The ExA recommends that, if CA for the borehole and pipeline is to proceed, the Applicant must demonstrate to the SoST's satisfaction that it enjoys a right to abstract from this borehole for the intended purpose and duration and further that any outstanding commercial agreement related to this is concluded. A consultation will be needed during the approval period to address this point. In this regard, the Applicant made submissions to the ExA that if the Linford Borehole is not available to it for TBM process water, that it would seek potable water from the general public water supply in the environs of the tunnelling compound. That approach is not infeasible in principle, as TBM process water is recycled, so the volumes taken are not in principle incompatible with a potable source. However, for CA purposes, in circumstances where the</p>

IP/ AP	Nature of objection	ExA Consideration
	<p><b>Status summary:</b></p> <p>The Applicant does not intend to use CA powers to ensure access to a water supply, but intends to use them in the absence of an agreement in respect of the proposed pipeline between the well and the TBM site <a href="#">[REP2-047]</a> <a href="#">[REP6-088]</a>. The final agreed SoCG is at <a href="#">[REP9A-034]</a>: the following matters remain outstanding:</p> <ul style="list-style-type: none"> <li>▪ All diversions of ESW apparatus to be within the Order limits;</li> <li>▪ Need to acquire rights over the Linford Well;</li> <li>▪ Linford borehole agreement;</li> <li>▪ Early works requirements;</li> <li>▪ Redundant new mains (option to buy);</li> <li>▪ Diversion of 900mm ST trunk main;</li> <li>▪ Long lead materials;</li> <li>▪ Protective provisions for existing assets.</li> </ul> <p>The representation has not been withdrawn.</p>	<p>Applicant cannot demonstrate to the SoST that it can abstract water from Linford for TBM process purposes, then the CA of the borehole and pipeline alignment is not justified. Subject to the outcome of the consultation recommended above, if it turns out that the Applicant would be using potable water for TBM process water then the borehole and pipeline land requirement should not be confirmed.</p> <p>The other outstanding matters subject to the uncompleted side agreement do not in the ExA's understanding run to the merits of the CA request.</p> <p>Consequently, the ExA recommends that the SoST consult the Applicant and be satisfied that the Applicant enjoys a right to abstract from the Linford Borehole for the intended purpose and duration and further that any outstanding commercial agreement related to this is concluded. A consultation will be needed during the approval period to address this point.</p>

IP/ AP	Nature of objection		ExA Consideration
<b>E9-23A</b> <b>Mr Peter Trevor Foster on behalf of the Thacker Family</b> <a href="#">[RR-0769]</a> <a href="#">[RR-0735]</a> <a href="#">[RR-1111]</a> & <a href="#">[RR-1134]</a>	<b>Status summary:</b>	Mr Peter Trevor Foster appeared on behalf of members of the Thacker family, who also spoke on their own behalf at a CAH and at other ISH and OFH events.	The ExA has considered and responds to all matters relevant to CA and TP arising from the Thacker family's represented and unrepresented oral and written submissions below (E9-23B).
<b>E9-23B</b> <b>Mrs Jacqueline Thacker</b> <a href="#">[RR-0769]</a> , <b>Mr Wayne Thacker</b> <a href="#">[RR-1111]</a> and <b>Mr John Thacker</b> <a href="#">[RR-0735]</a>	<b>Interests:</b>	BoR Parts 1 and 2.	<p>Mr Foster (a Chartered Surveyor) appeared for the Thacker family, and Mrs Jacqueline Thacker also spoke on behalf of Mr John Thacker and Mr Wayne Thacker.</p> <p>The Thacker family owns land and family members reside at a historic property located at the junction of Fen Lane and Stifford Clays Road, Baker Street. They have concerns about the effects of the Proposed Development addressed in planning merits chapters of this report. In land and rights terms, their objections relate to:</p> <ul style="list-style-type: none"> <li>▪ Work No.MU60 – multi-utility diversions within Stifford Clays Road;</li> <li>▪ Work No.MU22 – multi-utility diversions within Fen Lane;</li> <li>▪ Work No.G6 – a gas utility diversion crossing Fen Lane; and</li> <li>▪ Work No.CA10 – a construction compound proposed to be located north of Stifford Clays Road and to the west of the Thacker property</li> </ul>
	<b>Plots:</b>	CA of rights (blue) over Plots 33-81, 33-93, 33-100, 33-101, 33-104 (frontage land <i>ad medium filum</i> ).	
	<b>Objection:</b>	Loss of rights over frontage land, scale of, necessity for and effect of frontage street works, potential injurious affection in respect of nearby construction compound and gas diversion works <a href="#">[RR-0769]</a> <a href="#">[RR-0735]</a> <a href="#">[RR-1111]</a> <a href="#">[RR-1134]</a> <a href="#">[EV-060]</a> ; also <a href="#">[REP1-388]</a> <a href="#">[REP1-391]</a> <a href="#">[REP1-427]</a> <a href="#">[REP1-428]</a> <a href="#">[REP1-432]</a> ; also <a href="#">[REP6-193]</a> <a href="#">[REP6-194]</a> <a href="#">[REP6-195]</a> <a href="#">[REP6-196]</a> <a href="#">[REP6-206]</a> <a href="#">[REP6-207]</a> .	
	<b>Status summary:</b>	The Applicant responded to oral submissions at OFH1, OFH2 and	



IP/ AP	Nature of objection	ExA Consideration
	<p>CAH4 in respect of the construction compound at Stifford Clays and the use of Stifford Clays Road <a href="#">[REP6-088]</a>. The Thackers also made closing representations on a wider range of issues relating to the need for the project generally at <a href="#">[REP10-045]</a> <a href="#">[REP10-046]</a> <a href="#">[REP10-047]</a> <a href="#">[REP10-048]</a>.</p> <p>The objections have not been withdrawn.</p>	<p>for which the Applicant seeks permanent rights.</p> <p>The ExA has carried out site inspections at these locations and the environs of the Thacker property on both an accompanied and unaccompanied basis.</p> <p>The land and rights effects of Work Nos. MU60 and MU22 relate to the Thacker interests in land <i>ad medium filum</i>, to the centre-point of the roads fronting their property. Plot 33-81 relates to the property frontage to Stifford Clays Road and Plots 33-93, 33-100, 33-101 and 33-104 relate to the frontage to Fen Lane, a little-used minor road. Land within the enclosed curtilage of their dwelling would not be taken. The family's concerns related to the duration and effects of these works and the Applicant clarified that they amounted to limited re-siting of water pipes and cables already located in the frontage roads. The works themselves should be relatively short in duration and would be little different in effect to typical local utility works in a residential road or country lane.</p> <p>The Thacker family's broader concerns related to the access for and effects of gas alignment Work No.G6 and of the construction compound Work No.CA10. There, the Applicant clarified that access for the gas alignment and construction compound use would not pass down the narrow rural Fen Lane. Construction traffic to the compound would approach from the west and depart to the east and would not normally pass the Thacker's frontage. Whilst the Thacker property would be affected</p>

IP/ AP	Nature of objection	ExA Consideration
		<p>by the proximity of these works during the construction period, the effects have been reasonable minimised and the residual effects are justified <a href="#">[EV-060]</a>.</p> <p>The ExA appreciates the concern and distress that the changes to the setting of the Thacker residence arising from the Proposed Development have given rise to. The proposed LTC alignment and A13/ A1089 intersection at Baker Street would have a very substantial effect on residents of the whole village during construction and the effects of a nearby major road will endure. The proposed construction compound will particularly affect the outlook from, and the visual and acoustic environment of the Thacker property for the duration of the works. As inclusion in Part 2 of the BoR acknowledges, members of the Thacker family might be entitled to make a relevant claim as defined in section 57(6) of the 2008 Act: however the ability to make such a claim does not, in the ExA's judgment, having regard to NPS policy or the law and guidance applicable to CA and related matters, give rise to a reason why the works should not proceed.</p> <p>On the basis of the ExA's view that the planning merits of the Proposed Development have been established, and having had careful regard to local effects in Baker Street and agreeing that the Applicant's relatively limited frontage land and rights requests are necessary and justified for the delivery of the project, the ExA makes no findings and recommends no changes to the CA request</p>

IP/ AP	Nature of objection	ExA Consideration
		in this location.
<b>E9-24</b> <b>Mr Peter Trevor</b> <b>Foster on behalf of Mr</b> <b>John Anthony White</b> <a href="#">[RR-0733]</a>	<b>Interests:</b>	BoR Parts 1, 2 and 3.
	<b>Plots:</b>	<p>CA of all interests and rights (pink) over Plots 28-29, 28-32, 28-33, 28-36:</p> <p>CA of rights (blue) over Plots 28-30, 28-35, 28-45, 28-46, 33-252, 33-256:</p> <p>TP and use of Plots 28-31:</p> <p>CA/TP of category 2 rights (Cole) over Plots 28-01, 28-05, 28-06, 28-07, 28-16, 28-20, 28-25, 28-34, 28-38, 28-39 to inclusive, 28-47, 28-48, 28-65, 28-66, 29-265, 29-266, 29-268, 29-277, 29-281, 32-09, 32-25, 32-34, 32-36, 32-49, 32-53, 32-56, 32-61, 32-78:</p> <p>CA/TP of category 2 rights (Whitakers Nurseries Ltd) over Plot 29-242:</p>
	<b>Objection:</b>	Passage of transmission diversions (Works Nos. OH-6 and
		<p>Mr Foster for the objector sought the relocation of proposed overhead electricity transmission diversion works (OH-6 and OH-7) from air above the currently unused land in respect of which his client has an interest in possible future development (the site of the former Whitaker's Nursery) (Plot 29-242). His preference was to locate the alignments in adjacent land to the north. This land contains occupied dwellings and is excluded from the Order land. His rationale was that the Applicant has already purchased or is in negotiation to purchase some of these dwellings via blight processes. The ExA asked and was informed that Plot 29-242 is in the Green Belt and at present has not been allocated for residential development in the local plan.</p> <p>The ExA has carried out unaccompanied site inspections in this location.</p> <p>The Applicant made clear that a siting evaluation for OH-6 and OH-7 had been carried out and that alternatives had been considered, but that routing of the transmission diversions via Plot 29-242 remains the preferred option, principally because land in Orsett Heath to the north and the south of the plot already contains occupied dwellings. The plot remains the only substantial</p>

IP/ AP	Nature of objection	ExA Consideration
	<p data-bbox="539 456 685 520"><b>Status summary:</b></p>	<p data-bbox="808 368 1234 432">OH-7) limits scope for potential future development <a href="#">[REP6-198]</a>.</p> <p data-bbox="808 456 1234 520">The Applicant's latest position is at <a href="#">[REP9-252]</a>.</p> <p data-bbox="808 544 1234 608">The representation has not been withdrawn.</p> <p data-bbox="1279 368 2029 975">area of undeveloped land suitable for the alignments and was selected following engagement with National Grid, Thurrock Council and a Design Review process <a href="#">[APP-141]</a> (paragraph 3.28.2). The Applicant clarified that whilst it had purchased and was negotiating purchase of dwellings to the north of Plot 29-242, Sheet 29 of the Land Plan <a href="#">[REP9-012]</a> demonstrates the intention for these dwellings to remain outside the Order land, to be retained as dwellings and not to be demolished. It should not be assumed from the purchase agreements or processes that there was any intent or feasibility to relocate the transmission alignments into the air above dwellings that would be retained as such long-term. Finally, the Applicant notes in its final Schedule of CA and TP Objections <a href="#">[REP9-252]</a> that Mr White bought the former nursery site in full knowledge of the potential effect upon it of the Proposed Development. Mr Foster did not rebut that point orally or in writing.</p> <p data-bbox="1279 1007 2029 1374">The ExA has carefully considered the parties' positions and agrees with the Applicant's position. Noting also the local policy status of Plot 29-242 (Green Belt, unallocated for development), the ExA does not view this land as having any particular policy support for future development potential justifying a reappraisal of the proposed alignments for OH-6 or OH-7. It would not consider the relocation of transmission alignments into the air over occupied and retained dwellings to be in any manner a preferred outcome over their siting in currently unused and undeveloped land. It agrees that the</p>

IP/ AP	Nature of objection	ExA Consideration
		<p>transmission alignments have been well-chosen and justified by the Applicant and that the rights sought are needed to enable their delivery.</p> <p>The ExA therefore recommends no changes to the CA and TP request in this location.</p>
<b>E9-25</b> <b>Hogan Lovells</b> <b>International LLP for</b> <b>Veolia ES Landfill Ltd</b> <a href="#">[RR-1125]</a>	<b>Interests:</b>	BoR Parts 1, 2 and 3.
	<b>Plots:</b>	<p>CA of all interests and rights (pink) over Plots 38-08, 38-11, 38-12, 38-17,</p> <p>CA of rights (blue) over Plots 30-07, 30-11, 34-01, 34-03, 34-05, 34-06, 35-01, 36-02, 36-05, 36-06, 38-13, 38-14, 38-15, 38-24, 38-38,</p> <p>TP and use (green) of Plots 34-04, 35-05, 36-04, 38-09, 38-16, 38-18, 38-19, 39-81,</p> <p>CA of category 2 rights (E and K Benton/Tarmac Cement and Lime) over Plots 35-02, 35-09, 35-12, 35-18, 35-19, 36-03, 38-01, 38-05, 38-06, 38-07, 38-20, 38-21, 38-22, 38-26, 38-27, 38-31, 38-32, 38-34,</p> <p>The ExA notes that Veolia did not speak at CAH5, but that Veolia's objection had not been formally withdrawn pending formal agreement between the parties on all outstanding matters, and that agreement was at an advanced stage.</p> <p>The ExA also notes that, although the ExA had requested that Veolia set out in writing at Deadline 8 all matters agreed and not agreed, no submissions were received <a href="#">[REP8-109]</a>.</p> <p>The ExA has considered all the matters raised by Veolia and concludes that protective provisions are not required and that outstanding matters are capable of resolution by agreement, which appears to it to be close.</p> <p>The ExA recommends no change to the Applicant's CA and TP request in respect of Veolia in case an agreement is not concluded.</p>

IP/ AP	Nature of objection	ExA Consideration
		<p>38-35, 38-40, 38-44, 38-47, 38-64, 39-34, 39-71, 39-83, 41-02, 41-10, 41-11, 41-21, 41-24, 41-40, 41-44:</p> <p>TP and use of Plots 38-02, 38-10, 38-23, 38-29, 38-36, 38-37, 38-39, 39-80, 39-84, 41-39, 41-45, 41-50 (category 2 rights).</p>
	<b>Objection:</b>	<p>Use of existing Medebridge Road landfill site access as a haul road may give rise to traffic conflict, environmental permit security issues and impact the bridge over the Mardyke; impacts on landfill operations, landfill structures, groundwater and gas monitoring infrastructure; insufficient justification for powers sought, need for robust protective provisions (SACR inadequate), suggested protective provisions supplied. <a href="#">[REP1-430]</a>.</p>
	<b>Status summary:</b>	<p>The Applicant responded at <a href="#">[REP2-051]</a> to say that</p> <ul style="list-style-type: none"> <li>▪ It will review the protective provisions provided by Veolia in its WR at <a href="#">[REP1-430]</a>;</li> </ul>

IP/ AP	Nature of objection		ExA Consideration
		<ul style="list-style-type: none"><li>It agrees that access will be required for Veolia to undertake its environmental permitting duties and for safe operation of the landfill site.</li></ul> <p>The Applicant noted that Veolia no longer intended to speak at CAH5, and responded further to say that Veolia’s objection had not been formally withdrawn but that agreement between the parties on all outstanding matters was at an advanced stage: although the ExA had requested that Veolia set out in writing at Deadline 8 all matters agreed and not agreed, no submissions were received [REP8-109].</p> <p>The representation has not been withdrawn.</p>	
E9-26 Strutt & Parker on behalf of Bellway Homes Ltd [RR-0094]	Interests:	BoR Parts 1, 2 and 3.	Representations were made on behalf of Bellway Homes outstanding concerns at CAH5 in relation to noise, PRow, severed watercourse drainage and the decommissioning of the Barking Power gas pipeline.
	Plots:	TP and use of Plot 14-02.  CA/TP in respect of category 2 rights:	

IP/ AP	Nature of objection	ExA Consideration
		<p>(Rochester Bridge) Plots 14-01, 14-04, 15-08:</p> <p>(Mee) Plots 39-01 to 39-06 inclusive, 39-09, 39-13 to 39-19 inclusive, 39-22 to 39-25 inclusive, 39-27, 39-30, 39-46, 40-21, 40-22, 40-23, 42-104, 42-127, 42-128:</p> <p>(Padfield) over Plots 39-07, 39-08, 39-10, 39-11, 39-26.</p>
	<b>Objection:</b>	<p>Impact on delivery of housing – option over land with potential for large scale strategic growth per the emerging Thurrock Council Local Plan, including extant planning application 16/01232/OUT, significant effect on business, blight on existing property, impacts on East Tilbury and Linford which are strategic growth locations in the emerging Thurrock Local Plan, alternative locations for ecological mitigation <a href="#">[REP1-312]</a> <a href="#">[REP1-415]</a>.</p>
	<b>Status summary:</b>	<p>The Applicant responded at <a href="#">[REP2-051]</a>.</p>



IP/ AP	Nature of objection	ExA Consideration
	<p>Bellway has an option over land known as “Land at South Ockendon” owned by Messrs Mee and Padfield and by the Chelmsford Diocesan Board of Finance. The Thurrock Local Plan is at an early stage so there is uncertainty as to the development potential of this land (see Annex B.3 of <a href="#">[REP8-109]</a>. Part of the northern section of this land is subject to CA of all rights and interests for the main alignment, part is subject to CA of rights for utility works, and TP is required over part of the land during construction. The Applicant responded to submissions made by Strutt and Parker setting out Bellway’s concerns at CAH5 as follows <a href="#">[REP8-109]</a>:</p> <ul style="list-style-type: none"> <li>Noise: the proposed mitigation measures are not adequate to safeguard the potential residential development: the Applicant explained that the proposed earthwork bund introduced at the 2022 Local Refinement consultation and</li> </ul>	<p>Consequently, given the current status of the land, the ExA finds the Applicant’s proposals in respect of the existing land uses are reasonable and recommends no change.</p>

IP/ AP	Nature of objection	ExA Consideration
	<p data-bbox="853 360 1245 456">the use of low-noise surfacing would reduce the previous predicted increase in noise;</p> <ul data-bbox="808 464 1245 1375" style="list-style-type: none"> <li data-bbox="808 464 1245 1174">▪ Bellway objected to the proposed CA of land for the PRow as it does not believe that the PRow is necessary and that it would prejudice the construction of a new roundabout on North Road to serve the proposed development: the Applicant said that there is nothing precluding junction works in the future and noted that the submission were similar to those already raised by Mr Holland and the same arguments applied here in respect of offering tripartite agreements and keeping the CA powers in reserve in case of agreement not being concluded or failing;</li> <li data-bbox="808 1174 1245 1375">▪ In relation to Bellway's concerns that the Proposed Development will sever the existing watercourse drainage serving the northern parcel within its option land, the</li> </ul>	

IP/ AP	Nature of objection	ExA Consideration
		<p>Applicant referred to the Drainage Plans (Volume C, sheet 42) <a href="#">[REP7-076]</a> and said that a new culvert is proposed to provide drainage for the existing use of the land: there is no foul drainage and any future development would need to connect to a foul water network. The Applicant's view is that its proposals do not preclude this, and if Bellway is able to notify the Applicant before designing and implementing drainage works then both parties could collaborate;</p> <ul style="list-style-type: none"> <li>▪ Bellway asked about the existing gas pipeline: the Applicant said that its understanding <a href="#">[REP1-070]</a> was that Barking Power Ltd (BPL) would cap and remove the section through the Proposed Development, leaving the rest in place, and referred to the SoCG with Barking Power Ltd <a href="#">[APP-104]</a> which explains that the Applicant is seeking rights</li> </ul>

IP/ AP	Nature of objection		ExA Consideration
		<p>over the pipeline until it has been decommissioned.</p> <p>The respective positions of the parties are set out at Annex B.2 of <a href="#">[REP8-109]</a>.</p> <p>The objection has not been withdrawn.</p>	
<b>E9-27</b> <b>Pinsent Masons LLP</b> <b>for St Modwen</b> <b>Developments Ltd</b> <b>(SMDL)</b> <a href="#">[RR-1000]</a>	<b>Interests:</b>	BoR Parts 1, 2 and 3.	<p>Pinsent Masons made representations on behalf of St Modwen outstanding objections in respect of the planned Brentwood Enterprise Park (BEP) at CAH5 (section 3.6 of <a href="#">[REP8-109]</a>).</p> <p>The outstanding objections relate to B186 access, the timing of developments and the location of the NMU crossing over the A127 in relation to the proposed access to the BEP.</p> <p>The ExA notes the objections and the Applicant’s responses as detailed in the objections column, in particular that agreement between the parties is close and expected to be completed early in 2024, and considers that the Applicant’s CA and TP proposals are necessary and justified.</p> <p>Consequently, the ExA recommends that SoST encourages the parties to come to an agreement if they have not already done so, and meanwhile recommends</p>
	<b>Plots:</b>	<p>CA of category 2 interests (Padfield): Plots 44-11, 44-18, 44-67, 44-80, 44-87, 45-89, 45-108, 45-110, 45-111, 45-112, 45-114 to 45-117 inclusive, 45-120, 45-121, 45-126, 45-134, 45-135, 45-138:</p> <p>TP and use of Plots 44-04, 45-79, 45-88, 45-107, 45-132 (category 2 interests - Padfield).</p>	
	<b>Objection:</b>	<p>Impact on future plans (Brentwood Enterprise Park) – allocated under site allocation E11 in Brentwood Local Plan, extant application reference 22/00402/FUL, negotiating a Land and Works Agreement with the</p>	

IP/ AP	Nature of objection	ExA Consideration
		<p>Applicant, pending agreement main concerns are:</p> <ul style="list-style-type: none"> <li>▪ B186 access;</li> <li>▪ Timing of developments; and</li> </ul> <p>Location of NMU crossing over A127 (impact on proposed access to and layout of BEP). <a href="#">[REP1-396]</a> <a href="#">[REP1-397]</a>; also <a href="#">[REP6-202]</a> <a href="#">[REP9A-139]</a>.</p>
	<p><b>Status summary:</b></p>	<p>The Applicant responded at <a href="#">[REP2-051]</a>.</p> <p>The Applicant also noted <a href="#">[REP8-109]</a> that:</p> <ul style="list-style-type: none"> <li>▪ revised Works Plans had been submitted at Deadline 7 reflecting changes to the limits of deviation;</li> <li>▪ the shape of Plot 45-138 was due to uncertainty over the timing of the BEP and LTC projects; and</li> <li>▪ the agreement between the parties is almost in agreed form, it is anticipated that it will be completed early in 2024 and that St Modwen will inform the ExA.</li> </ul>
<p>no change to the Applicant's CA and TP proposals to enable the Proposed Development to go ahead if the agreement is not concluded.</p>		

IP/ AP	Nature of objection		ExA Consideration
		The objection has not been withdrawn.	
<b>E9-28</b> <b>DLA Piper UK LLP for HS1 Ltd</b> <a href="#">[RR-0396]</a>	<b>Interests:</b>	BoR Parts 1, 2 and 3.	<p>The ExA's ExQ1 15.1.4 sought information about statutory undertakers' rights and apparatus. The Applicant's response to that question <a href="#">[REP6-083]</a> <a href="#">[REP9-256]</a> records its view that all matters relevant to HS1 Ltd undertaker rights are agreed. The Applicant's Status of Negotiations with Statutory Undertakers <a href="#">[REP9-243]</a> suggests broad agreement on Protective Provisions for HS1 Ltd. However, as is clear from the HS1 response to the Applicant at D10 <a href="#">[REP10-031]</a>, the drafting of these is not fully agreed and HS1 considers that there is still unexcluded scope for detriment to its undertaking.</p> <p>The main outstanding issue is in relation to HS1's request that its consent should be sought (via a 'consent provision') before CA or TP of any land is commenced which interfaces with the operational railway. The Applicant in turn expresses concern at Protective Provisions drafted in a manner that would in effect provide HS1 with a veto right in respect of CA and TP which could put the delivery of the Project (a linear scheme) at unnecessary risk. It draws attention to a number of decisions in which the relevant SoS has resolved not to provide a general veto power over CA and TP to rail undertaker, despite requests to do so <a href="#">[REP9-279]</a>. Further reasoning on this point is provided in</p>
	<b>Plots:</b>	<p>CA of all rights and interests (pink) over Plots 03-05, 03-11, 03-22, 03-34, 03-37, 03-55, 03-70, 04-36, 04-64, 04-112, 04-127, 04-130, 04-158, 04-160, 04-169, 04-175, 04-178, 04-179, 04-191, 04-196, 04-198, 04-199, 04-201, 04-202, 04-205, 04-206, 04-207, 04-213, 04-230, 04-239, 04-260, 04-272, 04-273, 06-48, 06-62, 06-65, 06-68, 06-82, 06-141, 06-165, 06-169, 06-173, 06-182:</p> <p>CA of rights (blue) over Plots 03-07, 04-07, 04-16, 04-45, 04-61, 04-72, 04-101, 04-109, 04-122, 04-128, 04-154, 04-215, 04-229, 04-243, 04-259, 06-55, 06-64, 06-67, 06-117, 06-121, 06-188, 06-204:</p> <p>TP and use of Plots 03-08, 03-36, 04-46, 04-233, 04-258, 06-09, 06-135:</p>	

IP/ AP	Nature of objection	ExA Consideration
	<p>CA/TP of category 2 rights (SoST) over Plot 03-51:</p> <p>CA/TP of category 2 rights (National Highways) over Plots 03-05, 03-06, 03-12, 03-21, 03-31, 03-41, 03-42, 03-44, 03-48, 03-50, 03-57, 03-72, 03-103, 04-11, 04-21, 04-29, 04-33, 04-39, 04-52, 04-56, 04-59, 04-67, 04-69, 04-82, 04-115, 04-116, 04-121, 04-129, 04-131, 04-136, 04-146, 04-147, 04-150, 04-155, 04-159, 04-162, 04-164, 04-166, 04-170, 04-171, 04-173, 04-174, 04-182, 04-183, 04-185, 04-186, 04-187, 04-192, 04-197, 04-204, 04-209, 04-212, 04-232, 04-241, 04-242, 04-261, 04-262, 04-270, 04-271, 06-02, 06-04, 06-10, 06-12, 06-13, 06-16, 06-24, 06-26, 06-27, 06-36, 06-40, 06-42 to 06-45 inclusive, 06-47, 06-50, 06-52, 06-59, 06-66, 06-71, 06-88, 06-145, 06-170, 06-203, 07-07, 07-10, 07-13, 07-19, 07-32, 07-35, 07-44, 07-45 to 07-49 inclusive, 08-04, 08-05:</p>	<p>the dDCO Chapter of this report. It should be noted that the most recent SoCG between the Applicant and HS1 Ltd was submitted at D9A <a href="#">[REP9A-022]</a> in which this matter is not resolved. It is a matter on which the ExA presents an adjudicated position to the SoST.</p> <p>Taking its conclusions on the dDCO and the HS1 Protective Provisions into account, the ExA agrees with the Applicant. It declines to recommend what would amount to a veto power over CA and TP affecting HS1. It considers that the Applicant's request is justified and recommends no changes to it.</p> <p>Other matters not agreed relate to the taking of land for ancient woodland compensation, where the purpose of the land sought has been justified with reference to the need to provide connected habitat. The ExA has generally concluded that the location and extent of land for ancient woodland mitigation is appropriate and on that basis it supports the request for this land.</p> <p>In relation to the SIMD, the two underlying issues of concern are access (agreed at D9A) and the protection of the power supply for HS1 train running. Whilst this latter is not agreed and is relevant to the operation of the HS1 undertaking, the Applicant proposed to manage it as a detailed design consideration and take the view that it is</p>

IP/ AP	Nature of objection	ExA Consideration
		<p>not a matter that indicates against the CA and TP of land or rights sought.</p> <p>The ExA agrees and takes the view that no changes to the CA and TP request affecting HS1 are required.</p> <p>However, the ExA recommends that the SoST seek confirmation of a concluded agreement between the Applicant and Network Rail before the decision.</p>
	<p>CA/TP of category 2 rights (Kent County Council) over Plots 03-27, 03-30, 03-33, 03-35, 03-47, 04-91, 04-111, 04-117, 04-120, 04-132, 04-208, 06-03, 06-08, 06-14, 06-15, 06-21, 06-25, 06-28, 06-31, 06-54, 06-57, 06-76, 07-41:</p> <p>CA/TP of category 2 rights (Booth/Young) over Plots 04-12, 04-17, 04-25, 05-04, 06-171:</p> <p>CA/TP of category 2 rights (Booth) over Plots 04-30, 04-53, 06-199:</p> <p>CA/TP of category 2 rights (Body) over Plots 06-81: and</p> <p>CA/TP of category 2 rights (BP Oil Uk Ltd) over Plots 07-26, 07-38.</p> <p><b>Objection:</b> Restriction on the Applicant's CA powers without HS1 consent, in the form of protective provisions <a href="#">[REP1-362]</a> <a href="#">[REP6-173]</a>. The Applicant noted that it was agreed at CAH5 that if protective provisions could not be agreed by Deadline 8 then HS1 Ltd would</p>	



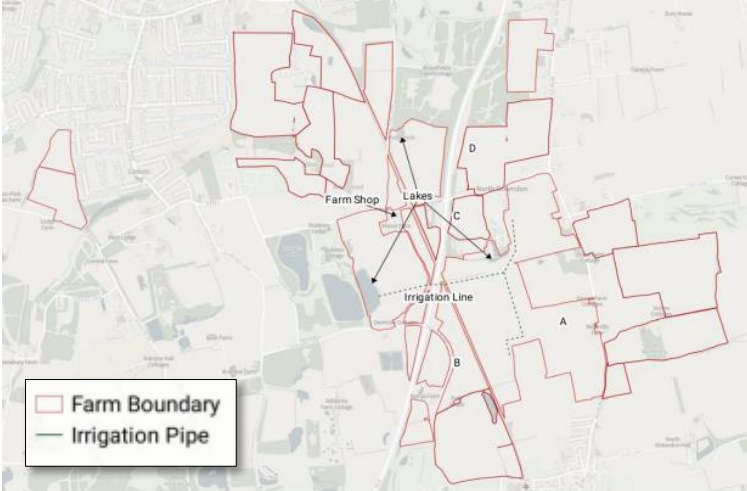
IP/ AP	Nature of objection	ExA Consideration
		submit its preferred form for the Applicant to respond to by Deadline 9 <a href="#">[REP8-109]</a> .
	<b>Status summary:</b>	<p>The final position is in the signed SoCG at <a href="#">[REP9A-022]</a>: outstanding matters relate to.</p> <ul style="list-style-type: none"> <li>▪ Singlefield Infrastructure Maintenance Depot (SIMD) and associated critical infrastructure (power supply);</li> <li>▪ Terrestrial biodiversity;</li> <li>▪ Protective provisions and related matters; and</li> <li>▪ DCO and consents.</li> </ul> <p>The objection has not been withdrawn.</p>
<b>E9-29</b> <b>Gateley Legal</b> (Christiaan Zwart of Counsel) <b>for S and J Padfield and Partners LLP</b> <a href="#">[RR-0949]</a> <b>S and J Padfield Estates LLP</b> <a href="#">[RR-0950]</a> and	<b>Interests:</b>	BoR Parts 1, 2 and 3.
	<b>Plots:</b>	<p>S &amp; J Padfield and Partners LLP:</p> <p>CA of all rights and interests (pink) over Plots 39-07, 39-10, 39-11, 46-19, 46-20, 47-29, 47-34, 47-36:</p> <p>TP and use (green) of Plots 39-08, 39-26:</p>
<p>Codham Hall (the Padfield Land) is a historic farm estate located adjacent to Junction 29 of the M25.</p> <p>Land north and south of the A127 is liked by an accommodation bridge over that road and makes access to the M25 intersection roundabout. It originally formed a construction depot for the M25 and has over the passage of time become a formal and an informal business park. The Brentwood local plan process has formalised the</p>		

IP/ AP	Nature of objection	ExA Consideration
<b>Christopher Scott Padfield</b> <a href="#">[RR-0162]</a>	<p>Christopher Scott Padfield:</p> <p>CA of all rights and interests (pink) in Plots 44-67, 45-92, 45-93, 45-97, 45-106, 45-114, 45-115, 45-116, 45-125 to 45-129 inclusive, 45-131, 45-133, 45-134, 45-135, 45-138, 45-170, 46-35:</p> <p>CA of rights (blue) over Plots 45-89, 45-100, 45-108, 45-110, 45-112, 45-120, 45-121, 45-155, 45-171:</p> <p>TP and use of Plots 45-105, 45-107, 45-132, 45-180, 46-52:</p> <p>Category 2 rights (National Highways) over Plots 44-23, 44-58, 44-74, 45-102, 45-109, 45-118, 45-122, 45-123, 46-38, 46-49, 46-51:</p> <p>Category 2 rights (Essex County Council) over Plots 45-90, 46-53:</p> <p>Both Christopher Scott Padfield and S &amp; J Padfield and Partners LLP:</p>	<p>status of the land as the Brentwood Enterprise Park (BEP). See also E9-27 St Modwen above.</p> <p>The ExA has considered the objections and the Applicant's responses and its comment at CAH3 about use of control documents.</p> <p>The ExA finds in respect of the existing access that the earlier powers would be subject to the DCO powers and would be overridden.</p> <p>In respect of the Padfield position that the Proposed Development should incorporate the BEP vehicular bridge, the ExA agrees that the existing access to the current occupiers would be stopped up as part of BEP if it were to proceed, and that any time gap would be a matter for compensation should there be any loss, bearing in mind that a new access would be required for BEP. The ExA also notes that there is a tripartite land and works agreement which is nearing completion.</p> <p>The ExA therefore supports the Applicant's proposals and recommends no change.</p>

IP/ AP	Nature of objection	ExA Consideration
		<p>CA of all rights and interests (pink) over Plots 44-18, 45-80, 45-117:</p> <p>CA of rights (blue) over Plots 44-11, 45-87, 45-111:</p> <p>TP and use of Plots 44-04, 45-79, 45-88.</p>
	<b>Objection:</b>	<p>Lack of consultation, CA of means of access (M25 jc29) granted by CPO statutory instrument, impacts on the planned Brentwood Enterprise Park (St Modwen). <a href="#">[REP1-436]</a> <a href="#">[REP8-173]</a> <a href="#">[REP10-034]</a>.</p>
	<b>Status summary:</b>	<p>In response to concerns expressed by the Padfields at CAH3, the ExA said that these could potentially be dealt with through the control documents rather than through protective provisions; and the Applicant responded as follows <a href="#">[REP8-109]</a>:</p> <ul style="list-style-type: none"> <li>▪ In response to the Padfield position that the existing access was granted back in 1979 by way of statutory</li> </ul>

IP/ AP	Nature of objection	ExA Consideration
	<p>instrument and that this would need to be disapplied in the DCO, the Applicant said that the earlier powers would be subject to the DCO powers and would be overridden;</p> <ul style="list-style-type: none"> <li>▪ The Padfield position is that the Proposed Development should incorporate the BEP vehicular bridge: the Applicant resisted this and proposition, as the existing access to the current occupiers would be stopped up as part of BEP if it were to proceed: any time gap would be a matter for compensation should there be any loss, bearing in mind that a new access would be required for BEP: furthermore there is a tripartite land and works agreement which is nearing completion.</li> </ul> <p>The Applicant's latest position is at <a href="#">[REP9-276]</a>.</p> <p>The representations have not been withdrawn.</p>	

IP/ AP	Nature of objection		ExA Consideration
<b>E9-30</b> <b>Gately Legal</b> (Christiaan Zwart of Counsel) for Mr <b>Stuart Mee</b> and family <a href="#">[RR-1021]</a>	<b>Interests:</b>	BoR Parts 1, 2 and 3.	<p>Manor Farm (the Mee family land) is a large, irrigated farm, growing high value herbs and vegetable crops. The farm has already been subdivided into two main land areas, east and west, by the construction of the M25.</p> <p>The proposed LTC would additionally subdivide the eastern sector of the farm between a north-eastern and a south-eastern sector. The key challenges will be the retention of within-farm transport, movement and access, including for large and specialised machinery, and the retention of an operable irrigation system in which irrigation water is able to circulate beneath both the M25 and the LTC.</p> <p>The ExA conducted an accompanied site inspection which viewed farm access, irrigation, water storage and fishing use of the land.</p> <p><b>E9-30 Figure 1: Manor Farm</b></p>
	<b>Plots:</b>	<p>CA of all rights and interests (pink) over Plots 38-04, 39-03, 39-09, 39-19, 39-24, 39-36, 39-43, 39-47, 39-60, 39-62, 39-63, 39-64, 39-73, 39-76, 39-79, 40-14 to 40-20 inclusive, 40-23, 40-25, 42-15, 42-19, 42-20, 42-29 to 42-32 inclusive, 42-36, 42-65, 42-70, 42-74, 42-87, 42-91, 42-101, 42-102, 42-104, 42-109, 42-110, 42-114, 42-129, 43-04, 43-06, 43-20, 43-48, 43-50, 43-51, 43-52, 44-76, 44-83, 44-97:</p> <p>CA of category 2 rights only (pink) over Plots 40-05, 40-09, 40-10, 40-13, 42-35, 42-37, 42-39, 42-51, 42-67, 42-76, 42-79, 42-80, 42-83, 42-84, 42-86, 42-90, 42-103, 42-106, 42-108, 43-11, 43-12, 43-44:</p> <p>CA of rights (blue) over Plots 38-03, 39-04, 39-06, 39-13, 39-16, 39-17, 39-18, 39-23, 39-27, 39-30, 39-59, 39-65, 39-66, 39-67, 39-72, 39-78, 39-82, 40-22, 41-01, 41-03,</p>	

IP/ AP	Nature of objection		ExA Consideration
		<p>42-01, 42-02, 42-05, 42-06, 42-08 to 42-14 inclusive, 42-16, 42-17, 42-21, 42-115, 42-134, 42-139, 42-172, 42-173, 43-02, 43-03, 43-47, 43-53, 43-56, 43-57, 43-97, 43-98, 44-88:</p> <p>TP (green) of Plots 39-01, 39-02, 39-05, 39-14, 39-15, 39-22, 39-25, 39-26, 39-46, 39-68, 39-69, 39-70, 39-74, 39-77, 40-21, 42-04, 42-07, 42-75, 42-116, 42-127, 42-128, 42-135, 43-40, 43-46, 43-49, 44-85, 44-87.</p>	
	<b>Objection:</b>	<p>Impact on Manor Farm and farming business, severance of field irrigation, CA of land for environmental mitigation, programme for utilities diversion works unclear, acquisition of Hobbs Hole as replacement land, impact on development potential of land at South Ockendon. <a href="#">[REP1-437]</a> <a href="#">[REP1-438]</a> <a href="#">[REP5-125]</a> and final submissions at <a href="#">[REP10-035]</a>.</p>	<p>The Mee family shared some concerns raised above by Mr Holland on behalf of clients:</p> <ul style="list-style-type: none"><li>▪ that the Applicant should not facilitate unauthorised access to and anti-social behaviour on farmland;</li><li>▪ that the case for environmental mitigation land take was not made out;</li><li>▪ that the siting of the utilities diversions was not clearly justified; and</li><li>▪ that the taking of land would limit the scope for strategic development including new housing adjacent to South Ockendon.</li></ul>
	<b>Status summary:</b>	<p>Applicant's responses at <a href="#">[REP2-051]</a> and <a href="#">[REP7-191]</a>: The</p>	

IP/ AP	Nature of objection	ExA Consideration
	<p data-bbox="808 368 1238 464">Applicant's final position is in the unsigned SoCG at <a href="#">[REP9A-074]</a>: outstanding matters relate to</p> <ul data-bbox="808 488 1238 655" style="list-style-type: none"> <li>▪ Unauthorised access;</li> <li>▪ Land for ecological mitigation;</li> <li>▪ Replacement open space; and</li> <li>▪ Need for CA of land for tree planting and screening.</li> </ul> <p data-bbox="808 679 1238 743">Negotiations continue to reach a side agreement.</p> <p data-bbox="808 767 1238 831">The representation has not been withdrawn.</p>	<p data-bbox="1283 384 2007 488">The ExA conducted an accompanied site inspection which viewed farm access, irrigation, water storage and fishing use of the land.</p> <p data-bbox="1283 512 2007 775">The ExA has agreed that siting of and land take for the Proposed Development and for the utilities diversions is well justified and that the land proposed to be taken for biodiversity/ environmental mitigation and compensation is also justified. The matters raised in relation to access and anti-social behaviour and in relation to future development potential again do not indicate against the identification of the land for the Proposed Development.</p> <p data-bbox="1283 799 2029 1142">The ExA has most concern about action to ensure that the highly specialised irrigated agriculture pursued by the Mee family can be continued. For this to be the case, continued endeavours to finalise a side agreement between the Applicant and the Mee family are necessary. It is regrettable that this agreement was not concluded before the end of the Examination but having considered the question of the adequacy of justification for CA and TP of land and rights, the ExA is content that these are justified and should not be changed.</p> <p data-bbox="1283 1166 2018 1359">It is not necessary for the side agreement to be concluded before the granting of Development Consent. However, the ExA urges the Applicant to ensure that it is concluded, as effective agreements on farm access during works and the design and delivery of an effective irrigation system will ensure that the remaining farm</p>

IP/ AP	Nature of objection		ExA Consideration
			continues to be highly productive.
<b>E9-31</b> <b>Savills on behalf of St John's College, Cambridge</b> <a href="#">[RR-0999]</a>	<b>Interests:</b>	BoR Parts 1, 2 and 3.	<p>St John's College (SJC) <a href="#">[REP9-038]</a> expressed concerns that if Halfpence Lane (part of the Affected Road Network (ARN) for nitrogen deposition calculation purposes) were to experience a reduction in traffic due to the Proposed Development, then the justification for the location and extent of nitrogen compensation land within the SJC ownership might not be sound.</p> <p>The ExA observes that the methodological concerns expressed by SJC in relation to environmental mitigation land (and specifically to nitrogen deposition) have been reviewed by the Applicant <a href="#">[REP10-020]</a>. The Applicant has made submissions to the extent that if DMRB standard LA 105 is used to calculate the extent of land required, that the SJC land is still required. The Applicant has considered the application of a less precautionary approach than DMRB LA 105, which could be argued to reduce the nitrogen affected area of Shorne and Ashenbank Woods SSSI by approximately 5 ha.</p> <p>However, even if that approach were to be accepted, it remains the Applicant's position that a 5 ha reduction in the impacted area would not justify an overall reduction in the mitigation and compensation land or in its location. The extent of the land required is necessary to ensure that it is comparable in scale to the designated sites significantly affected. In terms of both location and extent, the land must provide new links to existing, retained high</p>
	<b>Plots:</b>	<p>CA of all interests and rights (pink) over Plots 09-01, 10-01, 10-12 to 10-16 inclusive, 11-72, 11-77:</p> <p>CA of rights (blue) over Plot 11-70:</p> <p>TP and use (green) of Plots 11-68, 11-71:</p> <p>CA of category 2 rights over Plots 10-07, 11-66, 11-73, 11-74, 12-02, 13-52, 13-65, 13-91:</p> <p>TP and use of Plots 10-02, 11-69, 11-75, 11-76, 12-01, 13-66, 13-69, 13-73, 13-77 (category 2 rights).</p>	
	<b>Objection:</b>	Justification for CA of land rather than private treaty; for environmental mitigation but brought forward late and availability of suitable land further from the project, selection of plot 11-77 for woodland planting, no compelling case in the public	



IP/ AP	Nature of objection	ExA Consideration
		<p>interest to justify CA of land and interference with rights pursuant to ECHR First Protocol: also re reduction in emissions due to reduction in speed limit and in use of fossil fuelled vehicles, consequent need for nitrogen compensation (Halfpence Lane), loss of BMV land <a href="#">[REP8-187]</a> <a href="#">[REP9-308]</a> <a href="#">[REP9A-126]</a>.</p>
	<p><b>Status summary:</b></p>	<p>The current position is in the final agreed SoCG at <a href="#">[REP9A-062]</a> and at <a href="#">[REP10-020]</a>: matters not agreed relate to</p> <ul style="list-style-type: none"> <li>▪ Nitrogen deposition: <ul style="list-style-type: none"> <li>○ Site selection methodology;</li> <li>○ Weighting of agricultural land;</li> <li>○ Compensation;</li> <li>○ Mitigation;</li> <li>○ Need for permanent acquisition;</li> <li>○ OLEMP; and</li> <li>○ Alternative design.</li> </ul> </li> <li>▪ Exclusion of HS1 trackbed from nitrogen deposition calculation; and</li> </ul> <p>The ExA has considered whether the exclusion of the HS1 track bed makes a material difference for the calculation of nitrogen management and concludes that as the track bed itself is limited in extent, it does not.</p> <p>The ExA has considered the overall approach to natural environment mitigation and compensation land, the land requirement in relation to compensating ancient woodland loss in relation to managing nitrogen impacts and the need to maintain a land resource that is of an appropriate overall scale and is assembled to strengthen and build high quality habitats at a landscape scale. If that design approach is employed, then the SJC land is still required. Alternative designs (if pursued) to retain active agricultural use of this land and other equivalent land would have the effect of fragmenting the natural environment mitigation and compensation measures, reducing the extent to which new links to existing, retained high quality habitats could be created, or the network of habitats within which the designated sites sit at a landscape scale could be strengthened or have resilience built in. The ExA judges that alternative designs avoiding parts of this land (and by analogy parts of other land in existing agricultural use and best and most versatile (BMV) agricultural land) would lead to a</p>

IP/ AP	Nature of objection	ExA Consideration
	<ul style="list-style-type: none"> <li data-bbox="808 368 1238 464">Ancient woodland compensation – land use justification.</li> </ul> <p data-bbox="808 488 1238 552">The representation has not been withdrawn.</p>	<p data-bbox="1283 368 2031 464">reduction in the effectiveness of the natural environment mitigation and compensation strategy such that it would be likely that additional land would be needed.</p> <p data-bbox="1283 488 2031 727">To the extent that SJC has raised a concern that taking its land may not accord with the protection for private property and possessions under the Human Rights Act 1998 Schedule 1 Part 2 Article 1 of the First Protocol, the provision of natural environment mitigation and compensation measures on land is controlling the use of property in accordance with the general interest.</p> <p data-bbox="1283 751 2031 879">The ExA agrees that permanent acquisition is required, as it is necessary for the LTC undertaker to control the management of land for the purposes of providing and securing relevant natural environment outcomes on it.</p> <p data-bbox="1283 903 2031 967">The ExA on balance agrees that the Applicant's requests for CA and TP in this location are justified.</p>

**Table E10: CA, TP, Land and/ or Rights Objections Considered in Written Processes**

Table E10 records APs with outstanding objections to aspects of the Applicant's CA, TP, land or rights request at the closure of the Examination. Names are recorded in this table in alphabetical order. Individual consideration by the ExA of their outstanding points of objection is set out in the right-hand column of the table.

IP/ AP	Nature of objection	ExA Consideration
<p><b>E10-1</b>  <b>AJA Booth Voluntary Settlement</b> (Trustees)  c/o Michael Booth  <a href="#">[RR-1114]</a> <a href="#">[REP1-310]</a></p>	<p>Compulsory Acquisition of Land  Compulsory Acquisition of Rights Over Land  Temporary Possession</p> <p>The representation seeks mitigation measures around Scalers Hill, Cobham, expresses concern about acquisition of land for biodiversity mitigation and particularly seeks the relocation of a badger sett to nearby public land and measures to restrict access and anti-social behaviour.</p>	<p>The Applicant's final Schedule of CA and TP Objections <a href="#">[REP9-252]</a> records extensive ongoing discussions, and expressed concerns that elements of the representor's requests seek betterment that is not justified having regard to the works that the Applicant proposes to carry out.</p> <p>The ExA is satisfied that the extent and location of land for biodiversity mitigation and compensation proposed by the application is appropriate. In terms of the geographical distribution of land acquired for that purpose, the ExA notes the intent of the Applicant to create the greatest and most efficient extent of functional linked land for species and habitats establishment and conservation purposes and is supported by NE in this objective.</p> <p>The ExA notes concerns about possible effects due to public access and anti-social behaviour and has made findings relation to the detailed design of Public Rights of Way (PRoWs), access for walkers, cyclists and horse-riders (WCH) and about the detailed design of boundaries, gates and fences.</p>

IP/ AP	Nature of objection	ExA Consideration
		In this context the ExA considers that the Applicant's land and rights request is justified and recommends no change.
<b>E10-2</b> <b>Anglian Water Services Ltd (AWSL)</b> <a href="#">[RR-0056]</a> <a href="#">[REP1-218]</a> <a href="#">[REP8-094]</a>	<p>Compulsory Acquisition of Land  Compulsory Acquisition of Rights Over Land  Temporary Possession</p> <p>The representations were concerned with the potential permanent or temporary acquisition of AWSL operational land. Protective Provisions were revised and agreement on all outstanding land matters is recorded in the Deadline 8 SoCG. AWSL is a statutory undertaker.</p>	<p>Whilst this objection is not formally withdrawn, a side agreement modifying the protective provisions has been agreed with the Applicant <a href="#">[REP1-218]</a>. The ExA considers that the land and rights dimensions of it have been settled to the satisfaction of the Applicant and AWSL <a href="#">[REP9-243]</a> <a href="#">[REP9-256]</a>.</p> <p>In this context the ExA considers that the Applicant's land and rights request is justified and recommends no change.</p>
<b>E10-3</b> <b>Avis House (Nominees) Limited</b> <a href="#">[RR-0082]</a>	<p>Compulsory Acquisition of Rights Over Land  Temporary Possession</p> <p>The representation is concerned with overhead line utility diversions and effects on potential future development potential. It seeks the retention/ diversion of wayleaves as preferable to permanent rights.</p>	<p>The ExA has considered the replacement overhead line alignments, noting evidence from the Applicant around the consideration of alternatives, and that National Grid agreements and a Design Review process have been undertaken <a href="#">[APP-141]</a> (paragraph 3.28.2). The ExA has noted and supported the principle of diverting utility alignments using permanent rights acquisition as being preferable to the use of wayleaves because it reduces uncertainty and potential delay to construction or ongoing asset maintenance.</p> <p>The ExA does not consider that this RR raises any specific issues which counter its general finding that the land and rights request for utility diversions are</p>

IP/ AP	Nature of objection	ExA Consideration
		appropriate. It recommends no change.
<b>E10-4</b> <b>Baylis Family</b> <a href="#">[RR-0091]</a>	<p>Compulsory Acquisition of Land Compulsory Acquisition of Rights Over Land</p> <p>The representation is concerned with gas utility diversions and the potential for a land swap to limit effects on their business near Thong Lane.</p>	<p>The representation alleges harm to business operations and possible redundancies due to the loss of land and buildings. This representation is not withdrawn and the ExA urges the Applicant's land agents to continue efforts to mitigate possibly avoidable economic losses and social harms.</p> <p>However, for reasons set out above in relation to the AJA Booth Voluntary Settlement (Trustees), the ExA has accepted the justification for the location and extent of land required for biodiversity mitigation and compensation measures. It accepts the justification for a green bridge at Thong Lane and is satisfied that land is required for this purpose, in turn affecting the width of acquisition and justifying the extent of land and rights sought by the Applicant. The ExA recommends no change.</p>
<b>E10-5</b> <b>C Rounce and M Smith</b> (the Residents) of Mill House, Mill Lane <a href="#">[RR-1077]</a> (Represented: Peter Trevor Foster)	<p>Compulsory Acquisition of Rights Over Land Temporary Possession</p> <p>The representation is concerned with gas utility diversions.</p>	<p>The Applicant indicated that is has accepted a blight notice and negotiations are understood to be ongoing <a href="#">[REP9-252]</a>. Matters relevant to these discussions were not placed before the Examination.</p> <p>For reasons set out in the response to Avis House (Nominees) Limited the ExA is content that the process to identify utility alignment diversions has been appropriate and the acquisition of rights is justified. The ExA</p>

IP/ AP	Nature of objection	ExA Consideration
		recommends no change.
<p><b>E10-6</b>  <b>Chelmsford Diocesan Board of Finance</b>  (CDBF)  <a href="#">[RR-0149]</a> <a href="#">[REP1-418]</a>  <a href="#">[REP2-051]</a><a href="#">[REP9-277]</a></p>	<p>Compulsory Acquisition of Land: Plot 42-111  Compulsory Acquisition of Rights Over Land: Plots 39-50, 42-115, 42-131  Temporary Possession of Plots 42-116, 42-136  Category 2 rights over Plots 31-32, 42-63, 42-66.</p> <p>The CDBF representation was concerned with the effect of land take for the Proposed Development on strategic housing growth in Thurrock: CDBF land holdings are included in the land undergoing strategic appraisal. Concerns akin to those raised for Bellway Homes and for clients by Mr Michael Holland relating to the effect of land and rights acquisition for WCH formation were expressed. CDBF land at North Ockendon Glebe is required for permanent acquisition for Works Nos. 9B and 9N (plot 42-111) and for both temporary possession (plot 42-116) and temporary possession with the permanent acquisition of rights for Work Nos. MU74 and MU76 (plot 42-115).</p>	<p>Also heard at OFH5.</p> <p>Table 1.2 of a final position statement submitted by the Applicant between the Applicant and CDBF records the land position between the parties to be agreed in respect of the land south of Ockendon Road (the North Ockendon Glebe) <a href="#">[REP9-277]</a>. However, Table 1.1 of this final position statement shows that CDBF has outstanding concerns in respect of operational noise, drainage , new WCH routes and decommissioning of the Barking Power Ltd gas pipeline in respect of its interests to the west of North Road, over which Bellway has an option: the final Schedule of CA and TP Objections <a href="#">[REP9-252]</a> records the objection as outstanding and not withdrawn.</p> <p>The ExA has accepted the LTC alignment as proposed by the Applicant and so land required for the alignment (including CDBF land under consideration for housing delivery) is accepted by the ExA as justified.</p> <p>The ExA recommends no change: however the ExA notes the Applicant's expressed willingness (see representations from Mr Michael Holland) to seek frontage agreements for the passage of WCH alignments as distinct from permanent rights acquisition that could affect future access and development potential. The ExA urges the Applicant to continue negotiations with CDBF</p>

IP/ AP	Nature of objection	ExA Consideration
		with that approach in mind.
<b>E10-7</b> <b>Christine Barnes</b> <a href="#">[RR-0156]</a>	<p>Compulsory Acquisition of Rights</p> <p>The representation concerns an ad medium filum request on the adjacent highway. The landowner is concerned about the impact of any excavation adjacent to their property and its potential to cause property damage.</p>	<p>The Applicant records that it has proposed an agreement to acquire rights under the adjacent highway <a href="#">[REP9-252]</a>.</p> <p>The ExA is content that the normal measures to protect adjacent property from damage during works are sufficient and the request is otherwise justified. It recommends no change.</p>
<b>E10-8</b> <b>Clearserve Ltd</b> <a href="#">[RR-0171]</a>	<p>Compulsory Acquisition of Land</p> <p>The representation supports LTC but relates to acquisition of quarry land and the ability to perform restoration obligations.</p>	<p>The IP anticipated completion of a SoCG which was not submitted before the end of the Examination. The Applicant anticipates concluding a voluntary agreement in 2024 <a href="#">[REP9-252]</a>.</p> <p>The ExA is content with the justification for the acquisition of land but notes the importance of ensuring that the beneficiary of a minerals consent subject to restoration conditions is able to honour those conditions or see that their discharge has been passed to the undertaker in an enforceable and accountable manner.</p> <p>The ExA recommends that the Applicant be requested to amend the REAC (as a Geology and Soils commitment) to provide that beneficiaries of minerals and waste consents are indemnified against non-performance of restoration and after-care conditions.</p>

IP/ AP	Nature of objection	ExA Consideration
<b>E10-9</b> <b>Cranham Golf Course Ltd</b> <a href="#">[RR-0194]</a> <a href="#">[REP1-309]</a>	<p>Compulsory Acquisition of Land</p> <p>The representation relates to replacement land for Thames Chase affecting the golf course and a solar farm. The golf course owns the solar farm site but has no interest in the generating business (other than a lease reversion). The golf course remains unconvinced that its land represents the best replacement land for Thames Chase and considers that the existing renewable energy generation use has not been adequately weighted by the Applicant when selecting this site.</p>	<p>The Applicant sets out reasons for the acquisition of the land in Annex B of the Statement of Reasons. The most recent response to the objection is in <a href="#">[REP2-051]</a> and the final Schedule of CA and TP Objections <a href="#">[REP9-252]</a> records no change to that position. The Applicant's case is that the replacement land enjoys the strong support of the Thames Chase Trust (TCT) and Forestry England, who seek land with a close physical and functional relationship to land already within the management of Thames Chase. It has particular value as great crested newt mitigation land. Other sites have been considered but are not seen as viable replacement land in community forest operational or biodiversity terms. The Applicant has negotiated with the Solar Farm operator and notes that it does not object to LTC or to the proposed acquisition.</p> <p>For reasons set out above in relation to the AJA Booth Voluntary Settlement (Trustees), the ExA has accepted the justification for the location and extent of land required for biodiversity mitigation and compensation measures. It notes the specific support for the acquisition of this land as replacement land for Thames Chase by TCT and Forestry England. It recommends no change to the proposed acquisition.</p>
<b>E10-10</b> <b>David Creamer - Foxhounds Riding</b>	<p>Compulsory Acquisition of Land.</p>	<p>The Applicant's final Schedule of CA and TP Objections <a href="#">[REP9-252]</a> records the outstanding concerns as relating to the safeguarding of vehicular and equestrian access</p>



IP/ AP	Nature of objection	ExA Consideration
<b>School &amp; Tack Shop</b> <a href="#">[RR-0218]</a> (Represented: Strutt & Parker)	The representation is primarily concerned with accommodation of riding school and tack shop business.	<p>and maintenance of the business during construction. There is an ongoing concern that the proposed WCH diversions would be suitable for general riders but not learners. The Applicant proposes to continue to engage with Mr Creamer to discuss detailed WCH design <a href="#">[REP2-051]</a>.</p> <p>The ExA is content that the main acquisition proposal is justified and agreed. It urges the Applicant to maintain contact with Mr Creamer to negotiate detailed WCH proposals that will be appropriate for learner use and so will assist to sustain this business in situ. No changes to the proposed acquisition are recommended.</p>
<b>E10-11</b> <b>David Malcolm South</b> <a href="#">[RR-0225]</a>	<p>Compulsory Acquisition of Land</p> <p>The representation relates to acquisition of land for nitrogen deposition compensation to which the landowner objects.</p>	<p>The Applicant's final Schedule of CA and TP Objections <a href="#">[REP9-252]</a> records the intent of Mr South to transfer ownership of the land to multiple persons. Negotiations to understand the positions of the current owners were ongoing at the end of the Examination.</p> <p>Irrespective of the changing ownership position, the ExA has considered this objection within the framework of the justification for land acquisition for nitrogen compensation which enjoys the support of Natural England and which the ExA accepts as justified in terms of the broad quantity, location and distribution of the land sought to be acquired. The ExA recommends no changes to the proposed acquisition.</p>

IP/ AP	Nature of objection	ExA Consideration
<p><b>E10-12</b>  <b>David Mott and Karin Misra</b> (the Owners) of Norrskken, East Tilbury  <a href="#">[RR-1075]</a></p>	<p>BoR Cat 3 Persons (Land outside the Order Limits) (Injurious affection)</p> <p>The representation raises general concerns about agricultural effects and business viability as raised for the Mott family more broadly, but the BoR (pages 5116 and 5267) identifies these APs as Category 3 Persons.</p>	<p>These APs made a RR. The ExA has reviewed these objections in the context of objections lodged on behalf of the Mott family by Mr Mike Holland.</p> <p>On review, the ExA finds that the representations are of a general nature and would relate to a possible claim for injurious affection, but no detail has been provided of the grounds for such a claim, which the ExA considers in any event does not prevent the Proposed Development going ahead in accordance with the Applicant's proposals.</p> <p>The ExA recommends no change.</p>
<p><b>E10-13</b>  <b>DeGiorgio Holdings Limited</b>  <a href="#">[RR-0251]</a></p>	<p>Compulsory Acquisition of Land  Temporary Possession  Compulsory Acquisition of Rights Over Land</p> <p>The representation relates to effects on the Inn on the Lake hotel business. The AP objects to utility (gas) diversion works which it contends will make the business inoperable during the construction period. CA will permanently remove a substantial area of car parking.</p>	<p>The Applicant has offered, and the AP acknowledges negotiations on the mitigation of effects of the Proposed Development on the business during construction and operation. A final agreed SoCG <a href="#">[REP9A-076]</a> however notes that matters around access during main construction works and business interruption remain not agreed.</p> <p>The ExA urges the Applicant to finalise negotiations on these matters, but notes that they relate to reaching commercial terms, operating arrangements during construction and/ or the amount of compensation payable. This no longer appears to be an objection to CA as such <a href="#">[REP9-252]</a>. The ExA considers that the Applicant's land and rights request in this location is justified and recommends no changes to it.</p>

IP/ AP	Nature of objection	ExA Consideration
<b>E10-14</b> <b>Department for Transport</b> <a href="#">[RR-0256]</a>	<p>Temporary Possession</p> <p>The representation purports to relate to proposed CA of DfT and HS1 land, Southern Valley Golf Course and numerous DfT and Crown land holdings. The BoR identifies only land associated with railway holdings (British Railways Board) subject to TP.</p>	<p>The Applicant's final Schedule of CA and TP Objections <a href="#">[REP9-252]</a> does not record any land interests of the Department or relevant bodies as being affected by a CA objection to the Proposed Development. Other bodies mentioned in the RR have made their own CA and TP objections that are considered separately in this report.</p> <p>The ExA notes the position and recommends no changes to the Applicant's land and rights request. The CA and TP Chapter considers the Crown land position. Any other outstanding matters are expected to be resolved in the decision period.</p>
<b>E10-15</b> <b>Derek William Boreham</b> (Boreham Family) <a href="#">[RR-1063]</a>	<p>Compulsory Acquisition of Land</p> <p>The representation relates to interests in land on both sides of Baker Street, but one parcel in the BoR is subject to CA. Concerns are raised about access to an accommodation business and an agricultural tenancy.</p>	<p>The objection is unwithdrawn. The Applicant's final Schedule of CA and TP Objections <a href="#">[REP9-252]</a> notes that agricultural and business access concerns have been addressed (in the SACR-005 <a href="#">[REP9A-060]</a> 'farm access during construction' and the oTMPC <a href="#">[APP-547]</a> (now <a href="#">[REP9-235]</a>) measures for temporary access).</p> <p>The ExA agrees and considers that the Applicant's land and rights request in this location is justified and recommends no changes to it.</p>
<b>E10-16</b> <b>Enovert South Limited</b> <a href="#">[RR-0297]</a>	<p>Compulsory Acquisition of Land</p> <p>The representation records a holding submission in relation to use of former landfill as a reptile reception</p>	<p>The objection is unwithdrawn. The Applicant's final Schedule of CA and TP Objections <a href="#">[REP9-252]</a> notes that the AP does not object to CA.</p>

IP/ AP	Nature of objection	ExA Consideration
	<p>area. Agreement was expected but not concluded when the representation was made.</p>	<p>For reasons set out above in relation to the AJA Booth Voluntary Settlement (Trustees), the ExA has accepted the justification for the location and extent of land required for biodiversity mitigation and compensation measures. It recommends no change to the proposed acquisition.</p>
<p><b>E10-17</b>  <b>Environment Agency</b>            (EA)  <a href="#">[RR-0298]</a> <a href="#">[REP1-225]</a></p>	<p>Compulsory Acquisition of Rights Over Land            Temporary Possession</p> <p>Aspects of the representations focus on EA's undertaker role and protective provisions, primarily in respect of access and works to main rivers, where rights are sought on an extensive basis to access, remove and amend flood defences.</p>	<p>This representation remains unwithdrawn in a context in which the EA RR addresses many matters in addition to CA and TP. The ExA's ExQ1 15.1.4 sought information about statutory undertakers' rights and apparatus. The Applicant's most recent response to that question <a href="#">[REP6-083]</a> records its view that all matters relevant to EA's undertaker rights on main rivers are agreed. The Applicant's Status of Negotiations with Statutory Undertakers <a href="#">[REP9-243]</a> records agreement on Protective Provisions for EA, as does the final signed SoCG between the Applicant and EA <a href="#">[REP9A-006]</a>.</p> <p>The ExA agrees and considers that the Applicant's request is justified and recommends no changes to it.</p>
<p><b>E10-18</b>  <b>Essex County Council</b>            (ECC)  <a href="#">[RR-0305]</a></p>	<p>Compulsory Acquisition of Land            Compulsory Acquisition of Rights Over Land            Temporary Possession</p> <p>The representation identifies extensive effects on land and rights. Those relevant to CA and TP include:</p>	<p>This representation remains unwithdrawn in a context in which the ECC RR and WRs address many matters in addition to CA and TP. The Applicant's final Schedule of CA and TP Objections <a href="#">[REP9-252]</a> notes that the ECC does not object to CA and the final SoCG between the Applicant and ECC <a href="#">[REP9A-048]</a> records CA and TP relevant matters as matters agreed.</p>

IP/ AP	Nature of objection	ExA Consideration
	<ul style="list-style-type: none"> <li>The status of Hole Farm community woodland;</li> <li>Access to and effects on Brentwood Enterprise Park; and</li> <li>Replacement land at Thames Chase.</li> </ul>	The ExA agrees and considers that the Applicant's request relating to ECC is justified and recommends no changes to it.
<b>E10-19</b> <b>Esso Petroleum Company Limited</b> <a href="#">[RR-0309]</a> (Represented: CBRE)	Compulsory Acquisition of Land Temporary Possession  The representation relates to effects on disused former A2 Cobham Services eastbound and potential contamination. Acquisition by agreement is sought.	The RR notes acquisition by agreement as 'stalled'. The Applicant's final Schedule of CA and TP Objections <a href="#">[REP9-252]</a> notes that conveyancing is now at an advanced stage.  The ExA agrees that the land is needed for the Proposed Development, considers that the Applicant's request is justified and recommends no changes to it.
<b>E10-20</b> <b>European Metal Recycling Limited</b> <a href="#">[RR-0310]</a>	Compulsory Acquisition of Land Compulsory Acquisition of Rights Over Land Temporary Possession  The representation is from a tenant occupier whose operational site is affected.	The Applicant's final Schedule of CA and TP Objections <a href="#">[REP9-252]</a> records that the freeholder does not object to CA but voluntary negotiations have not progressed. The Applicant has contacted the tenant representor and suggested that some concerns may be address at the detailed design stage through the oTMPC <a href="#">[REP9-235]</a> .  The ExA urges the Applicant to progress negotiations but agrees that the land is needed for the Proposed Development, considers that the Applicant's request is justified and recommends no changes to it.
<b>E10-21</b> <b>Gagg Family and Harlex Haulage</b>	Compulsory Acquisition of Land Compulsory Acquisition of Rights Over Land	The representor has unresolved design concerns relating to access to their business and WCH arrangements <a href="#">[REP9-252]</a> . The final SoCG between the Applicant and

IP/ AP	Nature of objection	ExA Consideration
<b>Service Ltd</b> <a href="#">[RR-0327]</a>	<p>The representation relates to land affected, the effects of WCH provision, potential anti-social behaviour and access at Park Pale Road.</p>	<p>Harlex <a href="#">[REP9A-100]</a> shows matters of detail unresolved, but no remaining disagreement in principle about the need for the land.</p> <p>In common with other representations raising concerns about WCH access and behaviour, the ExA urges the Applicant to continue to develop detailed design solutions which provide necessary access but minimise opportunities for anti-social behaviour and property damage. The ExA agrees that the land is needed for the Proposed Development, considers that the Applicant's request is justified and recommends no changes to it.</p>
<b>E10-22</b> <b>Gressier Family</b> <a href="#">[RR-0374]</a>	<p>Compulsory Acquisition of Land  Compulsory Acquisition of Rights Over Land  Temporary Possession</p> <p>The representation was concerned with CA for ancient woodland mitigation and public open space at Shorne. The AP intends to plant woodland of its own.</p>	<p>The representor disputes the need for CA for woodland planting on the basis that it intends to carry out its own woodland planting scheme. It also objects to public access/ WCH provision and is concerned about illegal parking and anti-social behaviour. A SoCG between the Gressier family and the Applicant <a href="#">[REP9A-098]</a> demonstrates that whilst boundary treatment for security purposes is agreed in principle, other matters relating to the need for and extent of the land sought have not been agreed.</p> <p>In common with other representation raising concerns about WCH access and behaviour, the ExA urges the Applicant to continue to develop detailed design solutions which provide necessary access but minimise opportunities for anti-social behaviour and property</p>

IP/ AP	Nature of objection	ExA Consideration
		<p>damage. The positive direction of travel in the SoCG is noted here.</p> <p>For reasons set out above in relation to the AJA Booth Voluntary Settlement (Trustees), the ExA has accepted the justification for the location and extent of land required for biodiversity mitigation and compensation measures. The ExA also accepts the Applicant's case for public open space land, noting the need to provide replacement land where existing public open space is lost. The ExA is content that appropriate alternatives to acquisition have been considered and notes the positions in the SoCGs between the Applicant and NE <a href="#">[REP9A-014]</a> and Forestry England <a href="#">[REP9A-056]</a> on these matters. The ExA recommends no change to the proposed acquisition.</p>
<p><b>E10-23</b>  <b>GRT Holdings Limited</b>  <a href="#">[RR-0375]</a></p>	<p>Compulsory Acquisition of Land</p> <p>The representation relates to CA at Southern Valley Golf Course.</p>	<p>By the closure of the Examination the Applicant had become the proprietor and occupier of the Southern Valley Golf Course and this position is noted in the BoR <a href="#">[REP9-116]</a>. Whilst the land is still subject to CA (to ensure the consistent passage of title for the Proposed Development), the ExA considers that this objection is resolved and recommends no change to the Applicant's proposals.</p>
<p><b>E10-24</b>  <b>Hill Residential Ltd.</b>  <a href="#">[RR-0393]</a> <a href="#">[REP1-352]</a></p>	<p>Compulsory Acquisition of Land</p> <p>The representation expresses concern about the taking of frontage land for WCH proposals and the</p>	<p>The representor is the beneficiary of a promotion agreement for development and is not the freeholder of the land. The land sought for a WCH alignment is</p>

IP/ AP	Nature of objection	ExA Consideration
	effect on potential housing development land (subject to the local plan process).	<p>proposed in the Applicant's Project Design Report for WCH <a href="#">[APP-512]</a>. The representor has suggested an alternative WCH alignment <a href="#">[REP1-352]</a>, but the Applicant does not agree that this offers equivalent functionality to its proposal. This objection has not progressed since the Applicant's response to WRs at D2 <a href="#">[REP2-051]</a>.</p> <p>The ExA recommends no change, but notes that, in response to representations by Mr Michael Holland for clients (see above), the Applicant in equivalent circumstances has agreed to investigate the use of agreements to form WCH alignments which may obviate the need for the permanent acquisition of frontage land, delivering greater flexibility for access on sites potentially being brought forward for development. The ExA urges progress on this work and recommends that if this approach is pursued for other APs that the Applicant should also offer an equivalent agreement on this land.</p>
<b>E10-25</b> <b>Hollycrest, Mill Lane</b> (obo residents of) <a href="#">[RR-1076]</a> (Represented: Peter Trevor Foster)	<p>Compulsory Acquisition of Rights Over Land Temporary Possession</p> <p>The representation expresses concern about utility diversion effects (high pressure gas pipeline).</p>	<p>The RR records initial negotiations with the Applicant on possible acquisition (a blight claim), but no progression that has been evidenced to the ExA so this objection is outstanding.</p> <p>The ExA is however content that the gas utility alignment selection process has been robust, and therefore that the rights sought are justified <a href="#">[APP-141]</a>, and recommends no change.</p>



IP/ AP	Nature of objection	ExA Consideration
<p><b>E10-27</b>  <b>Ingrebourne Valley Ltd</b>  <a href="#">[RR-0405]</a></p>	<p>Compulsory Acquisition of Land  Compulsory Acquisition of Rights Over Land  Temporary Possession</p> <p>The representation identifies the AP as the operator of a PFA (pulverised-fuel ash) extraction and supply business (from the former Tilbury power station PFA dump) and of a land remediation facility. The land is subject to proposed CA as north tunnel portal works site.</p>	<p>The Applicant's final Schedule of CA and TP Objections <a href="#">[REP9-252]</a> records that the representor does not specifically object to CA and that there had been constructive negotiations. However, it does go on to express a view that an agreed position would be achieved by the end of the Examination. No such position was provided. There was no WR from Ingrebourne Valley Ltd. There is no SoCG with this apparently important AP.</p> <p>The ExA's in-principle position is that as this land forms the location for the proposed northern tunnel portal works site, the granting of the land and rights and powers requested by the Applicant is fully justified. However, the ExA urges the Applicant to continue to engage with Ingrebourne Valley Ltd to secure agreement on the operational relationship between the Proposed Development and the complex ongoing works in train in the Ingrebourne Valley Ltd site.</p>
<p><b>E10-28</b>  <b>J A Ingram and K M Ingram</b> (the owners/occupiers) of Foxburrows  <a href="#">[RR-1072]</a></p>	<p>Compulsory Acquisition of Rights Over Land  Compulsory Acquisition of Land</p> <p>The representation raises concerns over M25 improvements and gas utility realignment at Berendens Lane, and objects to CA.</p>	<p>The Applicant's final Schedule of CA and TP Objections <a href="#">[REP9-252]</a> records that freehold of one of the plots (47-21) had been acquired by the end of the Examination. The other (47-24) remained to be acquired. Both plots are within the highway boundary fence of the existing M25.</p> <p>The ExA agrees that this land is required for M25 upgrade works. It considers that the Applicant's request is justified and recommends no changes to it.</p>

IP/ AP	Nature of objection	ExA Consideration
<b>E10-29</b> <b>Janet Vera Gray</b> <a href="#">[RR-0754]</a>	<p>Compulsory Acquisition of Land Compulsory Acquisition of Rights Over Land</p> <p>The representation objects to loss and demolition of residential property associated with the formation of the M25 intersection to the south of Thames Chase.</p>	<p>This request is for the acquisition to enable demolition of a residential property. The loss of a home is in all circumstances a major loss and the ExA has given careful consideration to all relevant matters, including the effects of HRA1998 Article 8 (respect for private and family life) and Article 1 of the First Protocol (protection of property) which are both engaged. The ExA has inspected this location.</p> <p>The Applicant's final Schedule of CA and TP Objections <a href="#">[REP9-252]</a> records that the representor does not object to CA, although that is not the position taken in the RR and there is no other formal evidence of the representor's position before the Examination. The Applicant continues to make clear that is has incited the representor to negotiate acquisition and states that should a blight notice be served it would not be resisted.</p> <p>The ExA urges the Applicant to engage with the representor with all due compassion. That being said, the property concerned falls within the main alignment of the LTC in its final approach to the M25 at Thames Chase, in a location where the ExA agrees with the Applicant that the loss of this residential property is unavoidable. The ExA considers that the Applicant's request is justified and recommends no changes to it.</p>
<b>E10-30</b> <b>Joanne Taylor</b> <a href="#">[RR-0472]</a>	<p>Compulsory Acquisition of Rights Over Land Temporary Possession</p>	<p>The Applicant's final Schedule of CA and TP Objections <a href="#">[REP9-252]</a> records that the representor does not object</p>

IP/ AP	Nature of objection	ExA Consideration
	The representation raises effect on the AP's home and surroundings. Part 3 of the BoR identifies plot 32-39 as affected.	<p>to CA. No other documents are available and there is no WR or SoCG.</p> <p>The ExA finds that this land is required. It considers that the Applicant's request is justified and recommends no changes to it.</p>
<b>E10-31</b> <b>John Anthony White</b> <a href="#">[RR-0501]</a>	<p>Compulsory Acquisition of Land  Compulsory Acquisition of Rights Over Land  Temporary Possession</p> <p>In addition to the land subject to oral representations by Mr Peter Trevor Foster, Mr White has interests in a further 45 Plots of land.</p>	<p>Mr White was represented orally by Mr Peter Trevor Foster in relation to land at former Whitaker's Nursery (29-242). Mr White has broader interests that were not the subject of oral representation and so have been considered in writing.</p> <p>The Applicant's final Schedule of CA and TP Objections <a href="#">[REP9-252]</a> records Mr White's ongoing objection in respect of the plot subject to oral representations. It makes no observations in respect of the remaining plots, but the RR is unwithdrawn.</p> <p>On that basis, the ExA has considered the RR to be an outstanding objection on all the plots. However, the ExA finds that this land is required. It considers that the Applicant's request is justified and recommends no changes to it.</p>
<b>E10-32</b> <b>John Bradley</b> <a href="#">[RR-0476]</a>	<p>Compulsory Acquisition of Land  Compulsory Acquisition of Rights Over Land</p>	<p>The Applicant's final Schedule of CA and TP Objections <a href="#">[REP9-252]</a> records that Mr Bradley continues to object to CA. It has informed him of the importance of appointing a chartered surveyor and has explained the</p>

IP/ AP	Nature of objection	ExA Consideration
	The representation identifies effects on the AP's home: this is not directly subject to CA, but it raises direct effects on multiple plots.	<p>blight procedure. No other documents are available and there is no WR or SoCG.</p> <p>The ExA agrees that this land is required. It considers that the Applicant's request is justified and recommends no changes to it.</p>
<b>E10-33</b> <b>John Gostling</b> <a href="#">[RR-0489]</a>	<p>Compulsory Acquisition of Land  Compulsory Acquisition of Rights Over Land  Temporary Possession</p> <p>The BoR identifies effects on multiple plots.</p>	<p>The Applicant's final Schedule of CA and TP Objections <a href="#">[REP9-252]</a> records that Mr and Mrs Gostling do not object to CA. No other documents are available and there is no WR or SoCG.</p> <p>The ExA finds that this land is required. It considers that the Applicant's request is justified and recommends no changes to it.</p>
<b>E10-34</b> <b>K Osborne and Janis Hayden</b> (the Owners and Occupiers) of Buxton, Princess Margaret Road  <b>Mark Osborne, Shaun Osborne and Ms J Bower</b> (the owners) of Rosenholme, Princess Margaret Road  <b>James Alexander</b>	<p>Compulsory Acquisition of Land  Compulsory Acquisition of Rights Over Land  Temporary Possession</p> <p>Representations raise concerns about business viability if land is acquired. The extent of land required for environmental mitigation works is disputed. Management agreement sought to enable land to continue to be managed if CA proceeds.</p>	<p>The Applicant's final Schedule of CA and TP Objections <a href="#">[REP9-252]</a> records that these representors continue to object to CA and TP.</p> <p>The ExA notes concerns about environmental mitigation as a justification for the land requirement. For reasons set out above in relation to the AJA Booth Voluntary Settlement (Trustees), the ExA has accepted the justification for the location and extent of land required for biodiversity mitigation and compensation measures. The extent of land and rights sought by the Applicant is justified. The ExA recommends no change.</p>

IP/ AP	Nature of objection	ExA Consideration
<p><b>Bower, Paul Leslie</b>  <b>Bower and the late</b>  <b>Raymond Louis</b>  <b>Osborne,</b></p> <p><a href="#">[RR-0623]</a> <a href="#">[RR-1065]</a>  <a href="#">[RR-1073]</a> <a href="#">[RR-1074]</a>  (Represented by:  Whirledge &amp; Nott)</p>		
<p><b>E10-35</b>  <b>Leigh Hughes</b>  <a href="#">[RR-0576]</a> <a href="#">[REP1-382, 383]</a></p>	<p>Compulsory Acquisition of Land</p> <p>The submitter is concerned that their property will not withstand vibration from construction.</p>	<p>Representation concerns ad medium filum request on adjacent highway. Landowner is concerned about impact of any excavation adjacent to their property and its potential to cause property damage.</p> <p>The Applicant's final Schedule of CA and TP Objections <a href="#">[REP9-252]</a> records that an agreement has been offered.</p> <p>The extent of land and rights sought by the Applicant is justified. The ExA recommends no change.</p>
<p><b>E10-36</b>  <b>Lesley Quigley</b>  <a href="#">[RR-0584]</a></p>	<p>Compulsory Acquisition of Land  Compulsory Acquisition of Rights Over Land  Temporary Possession</p> <p>The representation identifies loss of land and buildings in livery business, loss of access, issues with WCH accommodation.</p>	<p>The Applicant's final Schedule of CA and TP Objections <a href="#">[REP9-252]</a> records that the objection is ongoing, but that an agreement has been offered. There is no WR.</p> <p>The extent of land and rights sought by the Applicant is justified. The ExA recommends no change.</p>

IP/ AP	Nature of objection	ExA Consideration
<b>E10-37</b> <b>Linda Holland</b> <a href="#">[RR-0593]</a>	<p>Compulsory Acquisition of Land</p> <p>The representation relates to adjacent highway works.</p>	<p>Representation concerns ad medium filium request on adjacent highway.</p> <p>The Applicant's final Schedule of CA and TP Objections <a href="#">[REP9-252]</a> records that an agreement has been offered.</p> <p>The extent of land and rights sought by the Applicant is justified. The ExA recommends no change.</p>
<b>E10-38</b> <b>London Borough of Havering (LBH)</b> <a href="#">[RR-0605]</a>	<p>Compulsory Acquisition of Land</p> <p>Compulsory Acquisition of Rights Over Land</p> <p>Temporary Possession</p> <p>729 BoR references.</p> <p>LBH submitted a PADS tracker <a href="#">[AS-073]</a> which was updated throughout the Examination: the final PADS is at <a href="#">[REP9A-112]</a>.</p> <p>LBH submitted a LIR <a href="#">[REP1-249]</a> and WR <a href="#">[REP1-250]</a> <a href="#">[REP1-253]</a> and made submissions at ISH3, 4 and 6 <a href="#">[REP4-316]</a>, at ISH7 <a href="#">[REP4-318]</a>, at ISH8, 9 and 10 <a href="#">[REP6-145]</a> and at ISH 12 and 14 <a href="#">[REP8-146]</a>. Its main relevant concerns are in respect of</p> <p>The final signed SoCG is at <a href="#">[REP9A-054]</a>. Relevant outstanding matters relate to</p> <ul style="list-style-type: none"> <li>Road closures and diversions, particularly in respect of Ockendon Road, albeit reduced from 19 to 10 months, and the associated impact on</li> </ul>	<p>The Applicant's Schedule of CA and TP Objections <a href="#">[REP9-252]</a> states that the Applicant understands that LBH does not object to CA in relation to its interests.</p> <p>LBH had not signed the section 106 agreement, but the ExA understands that this is due to the LBH approval and completion process <a href="#">[REP8-148]</a>.</p> <p>The ExA notes from the signed SoCG that the Applicant is looking at ways to reduce the impact of closure of Ockendon Road and is in discussions with local funeral services.</p> <p>The ExA also notes the concerns around accessibility of the planned open space at Hole Farm, and is satisfied that it will be of a broadly equivalent standard overall.</p> <p>In respect of the proposal to acquire more land for improvement to PRoW and NMU routes at A127/Folkes Lane and A127/Moor Lane, the ExA considers that this is not necessary and recommends no change.</p>

IP/ AP	Nature of objection	ExA Consideration
	<p>services including Upminster cemetery <a href="#">[REP4-316]</a>;</p> <ul style="list-style-type: none"> <li>▪ Accessibility of the planned open space at Hole Farm, meaning that it will not be of an equivalent standard <a href="#">[REP4-316]</a> <a href="#">[REP6-145]</a>; and</li> <li>▪ Protective provisions and commuted sums re highways and LTC structures <a href="#">[REP4-318]</a>;</li> <li>▪ Monitoring and mitigation (the Silvertown Tunnel approach) <a href="#">[REP4-318]</a>; and</li> <li>▪ PRoW and NMU routes including location of A127 crossing and extension of Order limits to accommodate improvements to A127/Folkes Lane and A127/Moor Lane: also legal status, future maintenance and construction impacts <a href="#">[REP6-145]</a>;</li> </ul> <p>A section 106 agreement has been signed by the Applicant only <a href="#">[REP9-270]</a> with only very minor drafting points outstanding <a href="#">[REP8-148]</a>.</p>	
<p><b>E10-39</b>  <b>Lumen Technologies UK Limited (formerly CenturyLink)</b>  <a href="#">[RR-0618]</a></p>	<p>Compulsory Acquisition of Land  Compulsory Acquisition of Rights Over Land</p> <p>Operator of an electronic communication code network per the Communications Act 2003 and s138 SU.</p> <p>Impact arising on multiple plots in relation to fibre optic network cables.</p>	<p>The Applicant's Status of Negotiations with Statutory Undertakers <a href="#">[REP9-243]</a> anticipates agreement before the end of the Examination but this did not occur. Schedule 14, Part 2 of the draft Development Consent Order contains Protective Provisions for the Protection of Operators of Electronic Communications Code Networks, but the Applicant acknowledges the need for a separate side agreement to fully protect the representor's interests. That agreement remains unconcluded.</p>

IP/ AP	Nature of objection	ExA Consideration
		<p>The ExA notes from the RR that equivalent agreements were concluded in association with other highways made DCOs.</p> <p>It is a matter of concern to the ExA that this issue remains outstanding and therefore the ExA recommends that the Applicant should continue to engage with Lumen Technologies seeking agreement.</p> <p>The SoST is recommended to consult the Applicant and Lumen Technologies to assure itself that agreement has been reached before the decision is taken.</p>
<p><b>E10-40</b>  <b>Mayor's Office for Policing and Crime for London (MOPAC)</b>  <a href="#">[RR-0678]</a>  (Represented by: Knight Frank)</p>	<p>Compulsory Acquisition of Land  Compulsory Acquisition of Rights Over Land  Temporary Possession</p> <p>The representation raises concerns over TP and rights acquisition for the proposed Milton compound, which would be immediately adjoining the firing range (Milton Rifle Range) at the Metropolitan Police Service Training Centre Gravesend site on land leased from RSPB.</p> <p>The representation says that the Metropolitan Police Service (MPS) has been in touch with the Applicant with a view to signing a legal agreement regarding the conditions under which these works would be undertaken, and that MPS would register as an interested party: key issues for MPS relate to site</p>	<p>The Applicant's final Schedule of CA and TP Objections <a href="#">[REP9-252]</a> records that the representor objects to CA of land leased from RSPB. An agreement on mitigation was proposed before the end of the Examination and is said to be progressing, but the ExA has not been provided with evidence that this has been concluded. There are no WRs.</p> <p>The RR records that parts of the Milton site are used for police firearms training. If this use is to be sustained, then the agreement needs to provide for the safe and appropriate management of the part of the site the is used by the undertaker and the part that is used by MOPAC. Alternatively, MOPAC needs to have resolved a location at which firearms training can be conducted. The Applicant is urged to bring this agreement to a conclusion.</p>



IP/ AP	Nature of objection	ExA Consideration
	access (Plot 15-01), breach of the safety bund, proximity of the internal access road to the range building (Plots 15-09, 15-17, 15-21) and potential stray bullets. The MPS hopes to reach agreement with the Applicant before the end of the Examination but said that otherwise it would supply full evidence in respect of its concerns <a href="#">[RR-0678]</a> .	The SoST is recommended to consult the Applicant, MOPAC and the RSPB to assure itself that agreement has been reached on the continuing and future safe use of the firearms training facility before the decision is taken.
<b>E10-41</b> <b>RSPB</b> <a href="#">[RR-0942]</a> <a href="#">[REP1-278]</a>	<p>Compulsory Acquisition of Land Compulsory Acquisition of Rights Over Land Temporary Possession</p> <p>The representation is concerned with the temporary use and subsequent restoration <a href="#">[REP3-198]</a> of Milton Compound, which relates to land used by MOPAC as (amongst other uses) a firearms training facility.</p>	<p>The Applicant's final Schedule of CA and TP Objections <a href="#">[REP9-252]</a> records that the representor does not object in principle to CA, but the representation is not withdrawn.</p> <p>A tripartite agreement with MOPAC and the Applicant relating to land at Milton is sought.</p> <p>The SoST is recommended to consult the Applicant, the RSPB and MOPAC to assure itself that agreement has been reached ensuring the continuing and future safe use of the firearms training facility before the decision is taken.</p>
<b>E10-42</b> <b>National Gas</b> <b>Transmission (NGT)</b> <a href="#">[RR-0782]</a> <a href="#">[REP1-260]</a> <a href="#">[REP10-028]</a> (Represented: Bryan Cave Leighton Paisner LLP)	<p>Temporary Possession Compulsory Acquisition of Rights Over Land</p> <p>The representation seeks appropriate Protective Provisions and an approval power for NGT in relation of the acquisition of NGT land, rights or apparatus or acquisition of land or rights on behalf of NGT by the Applicant. A commercial agreement is sought.</p>	<p>The Applicant's Status of Negotiations with Statutory Undertakers <a href="#">[REP9-243]</a> identifies that Schedule 14, Part 6 of the dDCO contains agreed Protective Provisions. It did not identify any major outstanding matters but did not anticipate conclusion of a commercial agreement before the close of the Examination. A final SoCG between the Applicant and NGT <a href="#">[REP9A-084]</a> confirms that the location and extent of land subject to CA and TP powers</p>

IP/ AP	Nature of objection	ExA Consideration
		<p>is agreed, but a formal commercial agreement had not been concluded.</p> <p>At D10 <a href="#">[REP10-028]</a>, Bryan Cave Leighton Paisner for NGT confirmed progress on confidential commercial terms but stated that an agreement was still not formally concluded and so the objection is not withdrawn.</p> <p>The SoST is recommended to consult the Applicant and NGT to assure itself that agreement has been reached before the decision is taken.</p>
<p><b>E10-43</b>  <b>National Grid Electricity Transmission Plc</b>  (NGET)  <a href="#">[RR-0783]</a> <a href="#">[REP1-261]</a>  (Represented: Bryan Cave Leighton Paisner LLP)</p>	<p>Temporary Possession  Compulsory Acquisition of Rights Over Land</p> <p>The representation seeks appropriate Protective Provisions and an approval power for NGET in relation of the acquisition of NGET land, rights or apparatus or acquisition of land or rights on behalf of NGET by the Applicant. A commercial agreement is sought.</p>	<p>The Applicant's Status of Negotiations with Statutory Undertakers <a href="#">[REP9-243]</a> identifies that Schedule 14, Part 7 of the dDCO contains agreed Protective Provisions. It did not identify any major outstanding matters but did not anticipate conclusion of a commercial agreement before the close of the Examination. A final SoCG between the Applicant and NGET <a href="#">[REP9A-082]</a> confirms that the location and extent of land subject to CA and TP powers is agreed, but a formal commercial agreement had not been concluded.</p> <p>At D10 <a href="#">[REP10-029]</a> Bryan Cave Leighton Paisner for NGT confirmed progress on commercial terms but stated that an agreement was still not formally concluded and so the objection is not withdrawn.</p> <p>The SoST is recommended to consult the Applicant and NGET to assure itself that agreement has been reached</p>

IP/ AP	Nature of objection	ExA Consideration
		before the decision is taken.
<b>E10-44</b> <b>National Grid PLC</b> [no RR]-	<p>Gas transporter per the Gas Act 1986; and Electricity transmission per the Electricity Act 1989.</p> <p>Existing objection to the Order <a href="#">[REP9-256]</a>.</p> <p>Discussions continue in respect of separate confidential side agreements with NGT and NGET: points to be concluded include rights of access and maintenance; also where the Applicant intends to acquire land or rights or interfere with any NGT or NGET interests in land or apparatus then they will require proper protection.</p> <p>The agreements have not been concluded <a href="#">[REP10-028]</a> <a href="#">[REP10-029]</a>.</p>	<p>The interests of this body are understood to be represented by NGT (in respect of gas assets) and NGET (in respect of electricity transmission system assets).</p> <p>The SoST is recommended to consult the Applicant, NGT and NGET to assure itself that there is no relevant residual interest held by this body before the decision is taken.</p>
<b>E10-45</b> <b>Network Rail Infrastructure Limited</b> <a href="#">[RR-0787]</a> <a href="#">[REP1-074]</a> <a href="#">[REP1-264]</a>	<p>Compulsory Acquisition of Land            Compulsory Acquisition of Rights Over Land            Temporary Possession</p> <p>Network Rail objects to:</p> <ul style="list-style-type: none"> <li>• Compulsory Powers being used in relation to the Plots causing the NR interactions: and</li> <li>• the Scheme resulting in additional use of, and therefore damage and increased wear and tear/maintenance issues relating to existing overbridges and level crossings.</li> </ul>	<p>The Applicant's Status of Negotiations with Statutory Undertakers <a href="#">[REP9-243]</a> identifies that Schedule 14, Part 4 of the dDCO contains Protective Provisions. It did not identify any major outstanding matters but did not anticipate conclusion of commercial agreements before the close of the Examination. A final SoCG between the Applicant and Network Rail <a href="#">[REP9A-024]</a> identifies the continuing absence of agreement on the acquisition of interests in Network Rail land by the Applicant. Use of crossings and overbridges was not agreed and the form of the protective provisions was still under discussion.</p>

IP/ AP	Nature of objection	ExA Consideration
	<p>The Applicant is asked to provide additional information to Network Rail about the detail of the proposed works on and over the Plots and the intended use of existing NR assets.</p> <p>Agreement to standard Network Rail Protective Provisions is sought.</p>	<p>At D10 <a href="#">[REP10-027]</a> Addleshaw Goddard for Network Rail confirmed progress on commercial terms but stated that an agreement was still not formally concluded and so the objection is not withdrawn.</p> <p>The SoST is recommended to consult the Applicant and Network Rail to assure itself that agreement has been reached before the decision is taken.</p>
<p><b>E10-46</b> <b>Ockendon Solar Limited</b> <a href="#">[RR-0798]</a></p>	<p>Compulsory Acquisition of Land Compulsory Acquisition of Rights Over Land Temporary Possession</p> <p>Ockendon Solar Farm is currently under construction and expected to start in commercial operation in August 2023. Objections in relation to effects on operator access, ability of other parties to connect to the proposed substation, and impact of dust on performance of solar panels.</p>	<p>There is no WR or SoCG. The Applicant's final Schedule of CA and TP Objections <a href="#">[REP9-252]</a> records that the landowner does not object to CA. A formal interface agreement between the two projects was signed in October 2020.</p> <p>The ExA considers that the extent of land and rights sought by the Applicant is justified, and is capable of not interfering with construction or operation of the solar farm. The ExA recommends no change.</p>
<p><b>E10-47</b> <b>Orsett Fen Right Holders</b> <a href="#">[RR-0803]</a> (Represented: BTF)</p>	<p>Compulsory Acquisition of Land</p> <p>The representation was concerned about the extent of land take for biodiversity mitigation, the effects on the drainage regime of re-wetting the land and the prospect of encouraging additional public access.</p>	<p>There is no WR or SoCG. The Applicant's final Schedule of CA and TP Objections <a href="#">[REP9-252]</a> records that the landowner does not object to CA. There are outstanding concerns about replacement land and an agreement is in preparation. Thurrock Council's participation (as a rights holder) is sought.</p>

IP/ AP	Nature of objection	ExA Consideration
		<p>The extent of land and rights sought by the Applicant is justified. The ExA recommends no change.</p>
<p><b>E10-48</b>  <b>Orsett Showground</b>  <a href="#">[RR-0805]</a></p>	<p>Compulsory Acquisition of Land  Compulsory Acquisition of Rights Over Land  Temporary Possession</p> <p>The Interested Party has fundamental reservations about the viability of the use of the retained land during the construction (gas pipeline diversion) of the project and possible sterilisation of parts of the land in operation.</p>	<p>There is no WR or SoCG. The Applicant's final Schedule of CA and TP Objections <a href="#">[REP9-252]</a> records that the landowner does not object to CA. No further agreement is being progressed.</p> <p>The extent of land and rights sought by the Applicant is justified. The ExA recommends no change.</p>
<p><b>E10-49</b>  <b>Persimmon Homes Essex</b>  <a href="#">[RR-0835]</a></p>	<p>Compulsory Acquisition of Land  Compulsory Acquisition of Rights Over Land  Temporary Possession</p> <p>The representation expresses concern about the extent of biodiversity mitigation land and effects on future development potential.</p>	<p>There is no WR or SoCG. The Applicant's final Schedule of CA and TP Objections <a href="#">[REP9-252]</a> records that the landowner objects to CA. A substantial reduction of the proposed land take has been proposed by the Applicant in the design refinement, but the remaining permanent acquisition is deemed essential.</p> <p>For reasons set out above in relation to the AJA Booth Voluntary Settlement (Trustees), the ExA has accepted the justification for the location and extent of land required for biodiversity mitigation and compensation measures. The extent of land and rights sought by the Applicant is justified. The ExA recommends no change.</p>

IP/ AP	Nature of objection	ExA Consideration
<b>E10-50</b> <b>RK &amp; D Shearer</b> <a href="#">[RR-0807]</a> <a href="#">[REP1-394]</a>	<p>Compulsory Acquisition of Land  Compulsory Acquisition of Rights Over Land  Temporary Possession</p> <p>The representation is concerned with the extent and scale of CA and TP, farm severance, impact on farm access, permanent and temporary impact on farm buildings, loss of agricultural land and effect of NMU provision. Land is also subject to archaeological investigations.</p>	<p>There is no SoCG. The Applicant's final Schedule of CA and TP Objections <a href="#">[REP9-252]</a> records that a draft SoCG was not progressed. Negotiations over time have included an offer to purchase in advance of the Examination, but this was not progressed. The landowner objects to CA.</p> <p>The ExA notes the adverse effects raised by the representor but having accepted the alignment options and the design process undertaken by the Applicant (ES Chapter 3 Assessment of Reasonable Alternatives) <a href="#">[APP-141]</a>, it has concluded that the routeing decisions taken by the Applicant are justified. It follows that the ExA recommends no change to the land and rights sought in this location.</p>
<b>E10-51</b> <b>Rob Cox</b> <a href="#">[RR-0906]</a>	<p>Compulsory Acquisition of Rights Over Land  Representation expressed concerns over access and works compound adjacent to dwelling.</p>	<p>There is no WR or SoCG. The Applicant's final Schedule of CA and TP Objections <a href="#">[REP9-252]</a> records that the landowner does not object to CA. Outstanding concerns relate to the proximity of works and the Applicant continues to attempt to mitigate the impacts.</p> <p>The extent of land and rights sought by the Applicant is justified. The ExA recommends no change.</p>
<b>E10-52</b> <b>Robert Wynn</b> <a href="#">[RR-0921]</a> <a href="#">[REP1-402]</a> and	<p>Compulsory Acquisition of Land  Compulsory Acquisition of Rights Over Land  Temporary Possession</p>	<p>This land is co-owned. The RR and WR from Robert Wynn object to CA. An agreement to advance purchase 8 acres has been amended to leave the representor with a balance plot of 2 acres which they have no use for</p>

IP/ AP	Nature of objection	ExA Consideration
<b>Alec George Nelson</b> <a href="#">[RR-0014]</a>	Representation from Mr Wynn suggests dissatisfied with current state of negotiations with NH – a partial acquisition leaving a small area not taken. Mr Nelson does not object.	<a href="#">[REP1-402]</a> . The RR from Alec Nelson objects to the LTC on planning merits grounds but does not object to CA. The Applicant's final Schedule of CA and TP Objections <a href="#">[REP9-252]</a> records that whilst Mr Nelson is content to continue to own the balance plot, Mr Wynn is not. The Applicant has made multiple attempts to prepare a form of agreement for voluntary purchase, but the current position is that the landowners will await a compulsory process.  The extent of land and rights sought by the Applicant is justified. The ExA recommends no change.
<b>E10-53 Ruskin Landscapes Limited</b> <a href="#">[RR-0946]</a>	Compulsory Acquisition of Land Temporary Possession  Representation seeks reinstatement of original proposals to take land (currently excluded from application as a designated SINC – North Ockendon Pit)	There is no WR or SoCG. The Applicant's final Schedule of CA and TP Objections <a href="#">[REP9-252]</a> records that the landowner does not object to CA. Negotiations on a number of matters including a shared access continue. The Applicant does not expressly note its willingness to accede to the representor's request in relation to the SINC and the ExA would not consider it to be desirable in policy terms that that point were conceded, if (as the Applicant proposes) undesignated land can be used.  The extent of land and rights sought by the Applicant is justified. The ExA recommends no change.
<b>E10-54 Seventyholds Ltd</b> <a href="#">[RR-0975]</a> <a href="#">[REP1-404]</a>	Compulsory Acquisition of Land Compulsory Acquisition of Rights Over Land Temporary Possession	The WR <a href="#">[REP1-404]</a> summarises the effects of the Proposed Development on these extensive landholdings at Holford Road, Stanford Road, Orsett and at Blackshots Lane. Development proposals under consideration but

IP/ AP	Nature of objection	ExA Consideration
(Represented: Strutt & Parker)	<p>The representation refers to multiple land parcels and objects to loss of BMV agricultural land and to the loss of future development potential. Concerns are expressed over the siting of utility works - a gas substation (Cadent Gas) - and in relation to HGV access arrangements and confirmation of the temporary nature of a foul water outlet: also to the relationship with the Norwich to Tilbury scheme (a transmission system NSIP at pre-application stage).</p>	<p>affected by LTC include battery storage (in association with the proposed Norwich to Tilbury transmission alignment), commercial development (affected by gas utility diversions) and housing. The Applicant's final Schedule of CA and TP Objections <a href="#">[REP9-252]</a> records that the representor's objection is sustained, but that conversations have continued since 2020 to enable the representor and the Applicant to take account of each other's proposals.</p> <p>The ExA notes the concerns raised by the representor but, having accepted the alignment options and the design process undertaken by the Applicant (ES Chapter 3 Assessment of Reasonable Alternatives) <a href="#">[APP-141]</a>, it has concluded that the routeing decisions taken by the Applicant are justified. It follows that the ExA recommends no change to the land and rights sought in this location.</p>
<p><b>E10-55</b> <b>Southern Water Services Ltd (SW)</b> <a href="#">[RR-0997]</a> <a href="#">[REP1-280]</a></p>	<p>Compulsory Acquisition of Rights Over Land Compulsory Acquisition of Land</p> <p>Relevant Representation notes the potential for severe detriment to SW assets and that the submitted PP are inadequate, but that SW and the Applicant have been positively engaging in these matters and SW sees no reason why agreement should not be reached, and a SoCG will be submitted. WR gives more detail.</p>	<p>The Applicant provided a draft SoCG at <a href="#">[REP1-203]</a> and an updated SoCG at <a href="#">[REP8-096]</a>.</p> <p>SW provided an update on negotiations at the close of the Examination <a href="#">[REP10-040]</a> which confirmed that agreement had been reached but that formal agreement would not be completed before the close of the Examination so meanwhile the objection remains outstanding.</p> <p>The SoST is recommended to consult the Applicant and Southern Water to assure itself that agreement has been</p>



IP/ AP	Nature of objection	ExA Consideration
		reached before the decision is taken.
<b>E10-56</b> <b>Swing Rite Golf Ltd</b> <a href="#">[RR-1042]</a>	<p>Compulsory Acquisition of Rights Over Land Compulsory Acquisition of Land</p> <p>Representation relates to golf driving range adjacent to Southern Valley golf course; also to Gravesham Borough Council's oral representations considered above.</p>	<p>The ExA has referred to oral submissions for Gravesham Borough Council (GBC) and considered recreation and open space policy issues and the relationship between the driving range use, the existing Cascades Leisure Centre and open space uses which are under consideration by both GBC and the Applicant with reference to NPSNN para 5.174.</p> <p>The former Southern Valley Golf Club has now ceased operation and is owned by the Applicant. It follows that any reconfiguration of golf and broader recreation and open space uses will now need to take account of that change to the recreational offer in the locality, irrespective of the decision on the LTC application.</p> <p>The Applicant's final Schedule of CA and TP Objections <a href="#">[REP9-252]</a> records that the landowner does not object to CA and that there have been continuing discussions with the representor and GBC since 2021. The Environmental Masterplan <a href="#">[REP2-018]</a> (Sheet 1 – white land) includes provision for a relocated Par 3 golf course in association with the existing driving range and leisure facilities, although the Applicant remains open to discussions about alternative configurations for this replacement land and the land containing existing leisure uses.</p> <p>The ExA is content that sheet 13 of the land plan <a href="#">[REP9-010]</a> shows sufficient permanent acquisition of land in this location to meet the operational needs of LTC and to</p>

IP/ AP	Nature of objection	ExA Consideration
		<p>provide for replacement public recreational facilities. The precise arrangement of uses of the land, including the driving range and leisure centre site, may be amended further outside the DCO process and be subject to subsequent approvals. The ExA finds that it is sufficient at this stage to be clear that the DCO would provide sufficient suitable replacement land and the future open space and leisure uses in this locality would not be prejudiced. On that basis, the ExA recommends no change to the land and rights sought in this location.</p>
<p><b>E10-57</b>  <b>Tarmac Cement and Lime Ltd</b>  <a href="#">[RR-1046]</a> <a href="#">[REP7-264]</a></p>	<p>Compulsory Acquisition of Land  Compulsory Acquisition of Rights Over Land  Concerned about consequences of CA on business</p>	<p>The ExA notes the link in site occupancy at Linford with Tarmac Building Products Ltd <a href="#">[RR-1045]</a> which was orally heard and in some respects made representations on behalf of both entities. Tarmac Cement and Lime Ltd was not orally heard on its own account.</p> <p>The Applicant's final Schedule of CA and TP Objections <a href="#">[REP9-252]</a> records the objection of these two entities as common.</p> <p>The ExA notes their separate legal personalities and, having reviewed the representation of Tarmac Cement and Lime Ltd. records its view that that entity did not raise a CA or TP objection. The RR was concerned with the planning merits of the LTC, largely in relation to efficient road freight movements in Kent and the broader south east <a href="#">[RR-1046]</a>.</p> <p>Tarmac Cement and Lime Ltd WR <a href="#">[REP7-264]</a> addresses concerns in relation to the acquisition of permanent rights</p>

IP/ AP	Nature of objection	ExA Consideration
		<p>at Linford for overhead line diversions and these are responded to here. The ExA is content that whilst such works were in the past conducted using wayleaves, contemporary electricity transmission practice is to establish permanent rights for new alignments as these are deemed necessary for the installation and maintenance of towers and lines. These rights will benefit the energy undertaker and not the LTC undertaker, but in a context in which the Applicant is replacing lost energy infrastructure that approach is justified.</p> <p>The WR also raises concerns about temporary rights of access and, noting the active manufacturing at the site, the Applicant is urged to ensure that traffic circulation by temporary vehicles accords with traffic movement in the site. That is a matter that can be resolved through detailed design.</p> <p>On that basis, the ExA recommends no change to the land and rights sought in this location.</p>
<b>E10-58</b> <b>Thames Chase Trust</b> <a href="#">[RR1056]</a> <a href="#">[REP8-042]</a>	Compulsory Acquisition of Land Compulsory Acquisition of Rights Over Land Temporary Possession  Remaining CA and TP matters are shown as a matter agreed in SoCG D8 <a href="#">[REP8-042]</a>	There is no WR but a SoCG concluded at D8 <a href="#">[REP8-042]</a> records all outstanding CA and TP concerns as agreed. The representation is not withdrawn, but the ExA recommends no change to the land and rights sought in this location.
<b>E10-59</b> <b>Thames Water (TW)</b> <a href="#">[RR-1060]</a>	Compulsory Acquisition of Rights Over Land	The representation makes clear that Thames Water and the Applicant concluded an agreement before the commencement of the examination, the terms of which

IP/ AP	Nature of objection	ExA Consideration
		<p>allow its existence to be known to the SoS. There is no WR. A SoCG concluded at D8 <a href="#">[REP8-098]</a> and the Applicant's Status of Negotiations with Statutory Undertakers <a href="#">[REP9-243]</a> record Protective Provisions in Schedule 14, Part 1 of the dDCO as a matter agreed. Agreement is recorded as complete with no need for further action. The representation is not withdrawn, but in view of the agreement the ExA recommends no change to the land and rights sought in this location.</p>
<p><b>E10-60</b>  <b>Thamesview Camping</b>  <a href="#">[RR-1061]</a></p>	<p>Compulsory Acquisition of Land</p> <p>Representation concerned with the loss of existing biodiversity value of land proposed to be acquired for biodiversity mitigation, and adverse effect on the business.</p>	<p>The ExA notes that the final Schedule of CA and TP Objections <a href="#">[REP9-252]</a> records the camp site as holding interests in land where the landowner objects to CA. Mapping however indicates that the camp site operation includes land which the BoR indicates as being held by the Osborne and Bower families. The two may be associated, but the ExA has no evidence of this.</p> <p>For reasons set out above in relation to the AJA Booth Voluntary Settlement (Trustees), the ExA has accepted the justification for the location and extent of land required for biodiversity mitigation and compensation measures. It is noted that work has occurred in the campsite that is suggested to be of biodiversity value and in terms of the detailed design for this location, the ExA urges the Applicant to ensure that the extant biodiversity value of the site is taken into account. However, the extent of land and rights sought by the Applicant is justified. The ExA recommends no change, but does recommend that the Applicant assures the SoST that the</p>

IP/ AP	Nature of objection	ExA Consideration
		land interests recorded in the BoR <a href="#">[REP9-116]</a> and Land Plans <a href="#">[REP9-012]</a> (Sheet 22) in this location are correct.
<b>E10-61</b> <b>The Scout Association Trust Corporation &amp; Thurrock District Scout Council</b> <a href="#">[RR-1082]</a> <a href="#">[REP1-298]</a>	<p>Compulsory Acquisition of Land  Compulsory Acquisition of Rights Over Land  Temporary Possession</p> <p>The representation by the Scout Council is in relation to Condovers Scout Activity Centre (including a camp site) in East Tilbury. It states that the area of land within the Order limits is greater than the actual area required, and expresses concerns over the long term viability of the site.</p>	<p>The Applicant's final Schedule of CA and TP Objections <a href="#">[REP9-252]</a> records that the land sought in this location has been reduced, an outcome acknowledged in the D1 WR. The representation remains unwithdrawn.</p> <p>The ExA urges the Applicant to note the desirability of sustaining the use of the Condovers Scout Camp site.</p> <p>The ExA agrees that the reduced extent CA and TP of land and rights sought by the Applicant is justified. It recommends no change.</p>
<b>E10-62</b> <b>Warley Green Limited</b> <a href="#">[RR-1131]</a> <a href="#">[REP5-130]</a> <a href="#">[REP6-208]</a> <a href="#">[CARDL1-001]</a> <a href="#">[REP8193]</a> <a href="#">[REP9A-147]</a>	<p>Compulsory Acquisition of Rights Over Land  Temporary Possession</p> <p>Representations relate to a solar permission from Thurrock (21/00077/FUL) which would be affected by the Proposed Development as the solar farm is currently under construction. There are possible effects from Change Request 1 (CR1) that also need to be taken into account.</p>	<p>The Applicant's final Schedule of CA and TP Objections <a href="#">[REP9-252]</a> records that the representor does not object to the CA of its interests in principle, although the substantial body of representations demonstrates remaining concerns in relation to the effect of the Proposed Development on the operation of the solar farm.</p> <p>The ExA urges the Applicant to continue discussions with the object of limiting the effect of the Proposed Development on the solar project through the detailed design stage.</p>

IP/ AP	Nature of objection	ExA Consideration
		<p>The ExA agrees that the extent of land and rights sought by the Applicant is justified. It recommends no change.</p>
<p><b>E10-63</b>  <b>Woodland Trust</b>  <a href="#">[RR-1145]</a> <a href="#">[REP1-306, 307]</a></p>	<p>Compulsory Acquisition of Land  Compulsory Acquisition of Rights Over Land  Temporary Possession</p> <p>The representation objects to the Proposed Development on broad environmental grounds related to loss of ancient woodland and nitrogen deposition, but is concerned specifically with land take for the diversion of cycle route NCR177 through Ashenbank Wood.</p>	<p>The Woodland Trust objection to the routeing of the Proposed Development in a way that requires and affects land at Ashenbank Wood is sustained and underpins this objection. The Applicant's final Schedule of CA and TP Objections <a href="#">[REP9-252]</a> records this position.</p> <p>As the position taken by the Woodland Trust is a position of principle it is not likely to be resolved by negotiation. The ExA has considered the alignment options and the design process undertaken by the Applicant (ES Chapter 3 Assessment of Reasonable Alternatives) <a href="#">[APP-141]</a> and has concluded that the routeing decisions taken by the Applicant are justified. Flowing from that position, the ExA agrees that the CA and TP of Woodland Trust land at Ashenbank Wood is justified. The extent of land and rights sought by the Applicant is justified. It recommends no change.</p>
<p><b>E10-64</b>  <b>Yue Keung Stephen Lee and Lai Yu Cheung</b>  <a href="#">[RR-1069]</a></p>	<p>Compulsory Acquisition of Land  Compulsory Acquisition of Rights Over Land  Temporary Possession</p> <p>The representation objects to loss of arable land and future opportunity to operate a smallholding.</p>	<p>The Applicant's final Schedule of CA and TP Objections <a href="#">[REP9-252]</a> records that an offer for acquisition at a value assessed by the VOA has been made to the representors.</p> <p>The ExA notes concerns about environmental mitigation as a justification for the land requirement. The ExA has accepted the justification for the location and extent of</p>

IP/ AP	Nature of objection	ExA Consideration
		land required for biodiversity mitigation and compensation measures. The extent of land and rights sought by the Applicant is justified. It recommends no change.

**Table E11: CA, TP, Land and/ or Rights Objections Formally Withdrawn**

Table E11 records the position of APs who commenced the Examination with objections to aspects of the Applicant's CA, TP, land or rights request but who formally withdrew those objections. Names are recorded in this table in alphabetical order.

IP/ AP	Nature of objection	Status
<b>E11-1</b> <b>Barking Power Limited</b> <a href="#">[RR-0085]</a>	Compulsory Acquisition of Land Compulsory Acquisition of Rights Over Land Temporary Possession	SoCG <a href="#">[REP9A-028]</a> Withdrawn formally <a href="#">[AS-116]</a>
<b>E11-2</b> <b>Cadent Gas Limited</b> <a href="#">[RR-0125]</a>	Compulsory Acquisition of Rights Over Land	SoCG <a href="#">[REP9A-032]</a> Withdrawn formally <a href="#">[AS-094]</a>
<b>E11-3</b> <b>David Attwood</b> <a href="#">[RR-0211]</a>	Compulsory Acquisition of Land Compulsory Acquisition of Rights Over Land	Withdrawn formally <a href="#">[AS-117]</a>
<b>E11-4</b> <b>Malthurst South East Limited</b> (MFG) <a href="#">[RR-0633]</a>	Compulsory Acquisition of Land	Withdrawn formally <a href="#">[AS-115]</a>
<b>E11-5</b> <b>Southern Gas Networks</b> <a href="#">[RR-0996]</a>	Compulsory Acquisition of Land Compulsory Acquisition of Rights Over Land Temporary Possession	Withdrawn formally <a href="#">[AS-095]</a>
<b>E11-6</b> <b>Thurrock Power Limited</b> aka Thurrock Flexible Generation <a href="#">[RR-1083]</a>	Compulsory Acquisition of Rights Over Land	Withdrawn formally <a href="#">[AS-118]</a>



IP/ AP	Nature of objection	Status
<b>E11-7</b> <b>United Kingdom Oil Pipelines Ltd</b> c/o British Pipeline Agency <a href="#">[RR-1119]</a>	Compulsory Acquisition of Land Compulsory Acquisition of Rights Over Land	Withdrawn formally <a href="#">[AS-114]</a>

## **APPENDIX F: THE RECOMMENDED DCO AND SATISFACTION TABLE**

This Appendix sets out the draft Development Consent Order (dDCO) which forms the basis for the recommendation by the Examining Authority (ExA), inclusive of the changes that the ExA has recommended. This version is referred to in this report as the recommended Development Consent Order (rDCO). It also includes a table of matters on which the SoST may wish to satisfy themselves.

**APPENDIX F1: The rDCO**

**APPENDIX F2: The Satisfaction Table**